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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, June 16, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We praise You, O God, for all the blessings given to the people of our Nation. We thank You for the freedoms we enjoy and the opportunities to be of service to those who are in need. Even as we recall the gifts we have experienced we remember in our prayer the hostages whose birthright of freedom is denied. Be with them, O God, and may Your spirit give them comfort and the assurance of our concern and love. May they continue in faith knowing that Your providence transcends all earthly boundaries and that Your grace is sufficient for every need. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2443. An act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.; and

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3434) entitled "An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes."

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

TERMINATING AUTHORITY TO MAKE GRANTS TO LAS VEGAS VALLEY WATER DISTRICT

The Clerk called the bill (H.R. 3210) to terminate the authority to make grants to the Las Vegas Valley Water District under the act of August 27, 1954.

There being no objection, the Clerk read the bill as follows:

H.R. 3210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 27, 1954, entitled "An Act granting to the Las Vegas Valley Water District, a public corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada" (68 Stat. 864) is amended by adding the following new section at the end thereof:

"SEC. 4. No land may be granted under the provisions of this Act after December 31, 1979.".

SEC. 2. Nothing in the amendment made by the first section of this Act shall in any manner affect any grant made before December 31, 1979, under the Act referred to in such first section.

With the following committee amendment:

Page 1, line 3, strike all after the enacting clause and insert in lieu thereof the following:

That effective on the date of enactment of this Act, the Act of August 27, 1954, entitled "An Act granting to the Las Vegas Valley Water District, a public corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada" (68 Stat. 864) is hereby repealed.

SEC. 2. Nothing in this Act shall in any manner affect any grant made under the authority of the Act of August 27, 1954, prior to the effective date of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONVEYING CERTAIN INTERESTS IN PUBLIC LANDS TO CITY OF ANGELS, CALIF.

The Clerk called the bill (H.R. 6137) to convey certain interests in public lands to the city of Angels, Calif.

There being no objection, the Clerk read the bill as follows:

H.R. 6137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall convey to the city council of Angels, California (hereafter in this Act referred to as the "council"), or to a trustee (hereafter in this Act referred to as the "trustee") which the council may designate and which is satisfactory to the Secretary, all right, title, and interest of the United States in and to 601.51 acres of land in Calaveras County, California, further described as Mount Diablo meridian:

Township 3 North, Range 13 East

Section 28:
Lots 1 and 2,
North half southwest quarter,
Southwest quarter southwest quarter,
Section 29: East half southeast quarter,
Section 33:
Lots 1 through 4, 6, 16 through 18,
Northwest quarter northwest quarter,
Northeast quarter southeast quarter,
Section 34:
Lot 2,
Northwest quarter southwest quarter, including mineral surveys 356, 370, 479, 743, 1245, 1345, 2036, 2682, 3040, 3065, 3066, 3067, 3068, 3085, 3882, and 4449.

SEC. 2. The conveyance referred to in the first section of this Act shall be made without consideration, but shall be made upon the following conditions:

(1) The council or the trustee shall notify, within one year of the date of enactment of

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

this Act, all individuals or other legal entities which appear, as of the date of such notice, upon the secured tax rolls of Calaveras County, California, as the owners of lands referred to in the first section of this Act, or of interests in such lands—

(A) of the conveyance by the United States of its interests in such lands under the first section of this Act,

(B) of the possible defect in the title to such lands or interests resulting from such interests of the United States, and

(C) of the opportunity to remedy such defect under this Act.

(2) The council or the trustee shall convey the interests conveyed to it under the first section of this Act to individuals or other legal entities—

(A) which have submitted to the council or the trustee an application for such interests, and

(B) which appear, or which are the heirs, successors, or assignees of individuals or other legal entities which appear upon the secured tax rolls of Calaveras County California, as of July 1, 1978, as the owners of the lands or interests with respect to which such application was submitted.

(3) The conveyed property shall remain subject to all existing easements, servitudes, and rights of way.

Sec. 3. Any administrative or recording costs incurred with respect to any conveyance made by the council or the trustee under section 2(2) of this Act shall be borne by the party to whom such conveyance is made.

Sec. 4. Any of the interests conveyed under the first section of this Act which do not appear on the secured tax rolls of Calaveras County, California, as of July 1, 1978, shall be held or disposed of for the benefit of the city of Angels, California.

With the following committee amendment:

Page 1, line 3, strike all after the enacting clause and in lieu thereof insert the following:

Sec. 1. The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall convey by quitclaim deed, subject to the conditions in section 3 of this Act, to the city council of the city of Angels, California (hereafter in this Act referred to as the "council"), or, if the council so designates, to a trustee (hereafter in this Act referred to as the "trustee") which the council may designate pursuant to section 8 of this Act, all right, title, and interest, including any future interests described in sections 6 and 7 of this Act, of the United States in and to 601.51 acres of land in Calaveras County, California, further described as Mount Diablo meridian:

Township 3 North, Range 13 East
Section 28:
Lots 1 and 2,
North half southwest quarter,
Southwest quarter southwest quarter,
Section 29: East half southeast quarter,
Section 33:
Lots 1 through 4, 6, 16 through 18,
Northwest quarter northwest quarter,
Northeast quarter southeast quarter,
Section 34:
Lot 2,
Northwest quarter southwest quarter,

including mineral surveys 356, 370, 479, 743, 1245, 1345, 2036, 2682, 3040, 3065, 3066, 3067, 3068, 3085, 3882, and 4449.

Sec. 2. The council or the trustee shall notify within one year after the date of enactment of this Act, all individuals or other legal entities which appear, as of the date of such notice, upon the secured tax rolls of Calaveras County, California, as the owners of lands referred to in the first section of this Act, or of interests in such lands—

(a) of the conveyance by the United States of its interests in such lands under the first section of this Act,

(b) of the possible defect in the title to such lands or interests resulting from such interests of the United States,

(c) of the possible interests in such lands arising out of the mining laws of the United States, and identified pursuant to the operation of section 6 of this Act, and

(d) of the opportunity to remedy such defect under this Act.

Sec. 3. The conveyance referred to in the first section of this Act shall be made without consideration, but shall be made upon the following conditions:

(a) The council or the trustee shall convey, at any time after two years from enactment of this Act, the interests conveyed to it under the first section of this Act to individuals or other legal entities—

(1) which have submitted to the council or the trustee an application for such interests, and

(2) which appear, or which are the heirs, sucessors, or assignees of individuals or other legal entities which appear upon the secured tax rolls of Calaveras County, California, as of July 1, 1978, as the owners of the lands or interests with respect to which such application was submitted.

(b) The conveyed property shall remain subject to all encumbrances, if any, existing on the date of enactment of this Act, including easements, servitudes, leases, and rights-of-way, except those encumbrances that are related to interests in mining claims which may be extinguished pursuant to sections 6 and 7 of this Act.

(c) Conveyance of the conveyed property shall be conditioned upon and subject to the right of mining claimants whose rights and interests were initiated pursuant to the mining laws prior to entry and patent under the Townsite Act, 43 U.S.C. § 711 *et seq.* (repealed), and who initiate patent procedures pursuant to section 6 of this Act which result in the issuance of a patent under the mining laws.

Sec. 4. Any administrative or recording costs incurred with respect to any conveyance made by the council or the trustee under section 3 of this Act shall be borne by the party to whom such conveyance is made.

Sec. 5. Any of the interests conveyed under the first section of this Act which do not appear on the secured tax rolls of Calaveras County, California, as of July 1, 1978, shall be conveyed to the council, if held by the trustee, and held or disposed of by the council for the benefit of the city of Angels, California.

Sec. 6. (a) Any unpatented mining claim located within those lands described in the first section of this Act recorded pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701, for which the claimant has not made application for patent within two years after the date of the enactment of this Act shall be conclusively deemed to be abandoned and shall be void and all interests in such claim shall be deemed to have reverted to the United States for the purpose of this Act; *Provided, however*, that upon a showing that a mineral survey cannot be completed within said two-year period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, shall be acceptable for the patent application purpose of this section if all other applicable requirements under the general mining laws and other laws have been met and if the applicant subsequently prosecutes diligently to completion his application for patent.

(b) Final rejection of any patent application filed under section 6 of this Act shall cause to lapse and be void the condition imposed by section 3(c) of this Act in the grant to any person receiving conveyance of lands embracing all or part of the mining claim which was subject of the rejected patent application.

Sec. 7. For the purposes of this Act, any unpatented mining claim located within those lands described in the first section of this Act which on the date of enactment of this Act was not recorded pursuant to section 314 of the Federal Land Policy and Management Act of 1976, or which is not maintained by the annual filings required by section 314 of said Act, shall be conclusively deemed abandoned and shall be void in accordance with the provisions of section 314 of said Act, and all interests in such claim shall be deemed to have reverted to the United States upon such failure to record or annually file.

Sec. 8. The trustee designated by the council pursuant to section 1 of this Act shall be an individual, residing in Calaveras County, California, capable under the laws of that State to act in the capacity of trustee.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING EXCEPTION TO REQUIREMENTS OF ACT OF AUGUST 30, 1890, WITH REGARD TO CERTAIN LANDS IN RIVERSIDE COUNTY, CALIF.

The Clerk called the bill (H.R. 6317) to provide an exception to the requirements of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) with regard to certain lands in Riverside County, Calif.

There being no objection, the Clerk read the bill as follows:

H.R. 6317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in the paragraph entitled "FOR GENERAL EXPENSES OF THE GEOLOGICAL SURVEY:" in section 1 of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) shall hereafter be inapplicable to lands in section 18, township 2 south, range 4 east, San Bernardino meridian, Riverside County, California, that were conveyed by the United States by patent numbered 969694, patent numbered 844747, and patent numbered 657564.

Sec. 2. The reservation to the United States of rights-of-way for ditches and canals constructed by the authority of the United States, recited in patents listed in the first section of this Act shall be of no further force and effect with regard to lands covered by those patents.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the Consent Calendar.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

Mr. MYERS of Indiana reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

NUCLEAR FUEL SHIPMENTS TO INDIA SHOULD BE FORBIDDEN

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, recent reports indicate President Carter is about to authorize the shipment of 38 tons of nuclear fuel to India. This is in spite of a unanimous decision by the Nuclear Regulatory Commission to deny the license for export. It also flies in the face of strong congressional opposition.

As if India's previous record of nuclear weapons testing were not bad enough, we now hear that India is planning to cooperate with Iran to replace the embargoed goods resulting from the United States and Western allies economic sanctions.

Any reason to consider sending the enriched uranium fuel to India for foreign policy reasons should be immediately rejected especially if India is going to take actions to counter our country's own vital interests.

AUTHORIZING APPROPRIATIONS FOR SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4887) to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "That that" and insert "SECTION 1. (a) That".

Page 2, line 3, strike out "SEC. 2. (a)" and insert "(b) (1)".

Page 2, line 13, strike out "(b)" and insert "(2)".

Page 2, line 13, strike out "(a)" and insert "(b) (1)".

Page 2, after line 14, insert:

SEC. 2. Lands and waters and interests therein acquired by the Secretary of the Interior under the authority of the Migratory Bird Conservation Act (16 U.S.C. 718–718h; 48 Stat. 452), as amended, for inclusion in the Humboldt Bay National Wildlife Refuge, may be acquired subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public tust of the State.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I do that to give my chairman an opportunity to tell the House just what the action of the Senate is.

Mr. Speaker, I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague from New Jersey for yielding.

Mr. Speaker, on December 10, 1979, the House passed H.R. 4887 to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes. As passed by the House, H.R. 4887 increased the authorization for land and acquisition in the San Francisco Bay National Wildlife Refuge by $4.2 million to be available until 1983. The bill also included language to permit the Department of the Interior to acquire lands within the refuge subject to the interest of the State of California. This language was inserted to complete land acquisition and development of the San Francisco Bay Refuge. The acquisition of the refuge had been delayed because of the remaining State interests in the tidelands within the refuge. Justice Department regulations do not permit title clearance where there is a possible State claim remaining. The language adopted by the House permitted the Department of the Interior to purchase land within the refuge subject to the interest of the State.

The Senate considered and passed H.R. 4887 on May 6, 1980. They extended the language of the House bill permitting the acquisition of lands subject to the interests of the State to land within the Humboldt Wildlife Refuge in northern California. Acquisition of the lands in the Humboldt Refuge have been delayed by the same technicality that has hindered the acquisition of the San Francisco Bay area. The problem is simply that under State law the State cannot sell its interest in tidelands, and under the Federal regulations, the Department of the Interior, cannot acquire the lands unless the State does sell all of its interest. The language originally included in the House bill, and now extended in the Senate bill to the Humboldt Bay area, would resolve this legal technicality and permit the acquisitions to go forward subject to the interests of the States.

□ 1210

Mr. FORSYTHE. Mr. Speaker, I thank my committee chairman for his explanation.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I rise in support of the amendment to extend certain provisions of the San Francisco Bay National Wildlife Refuge Act to include Humboldt Bay which is in my congressional district about 300 miles north of San Francisco. Approval of this amendment will permit a more expeditious transfer of lands to the National Wildlife System. We now have a situation where we have a willing seller and a willing buyer. This legislation will make possible the transfer in a speedy manner to the satisfaction of all parties.

Mr. Speaker, I would like to take this opportunity to commend the distinguished chairman of the Subcommittee on Fisheries, Wildlife Conservation, and the Environment, the gentleman from Louisiana (Mr. BREAUX), as well as the ranking minority member, the gentleman from New Jersey (Mr. FORSYTHE), for their cooperation in bringing this amendment to the floor.

● Mr. BREAUX. Mr. Speaker, I support the request to concur in the Senate amendment to H.R. 4887, to increase the authorization for land acquisition in the San Francisco Bay National Wildlife Refuge.

The Senate has only made one small change in this bill. This amendment permits the acquisition of lands in the Humboldt Bay National Wildlife Refuge in northern California to be subject to the interests of the State of California. We considered the issue of a retained State interest in these refuge lands at some length in the subcommittee, and we determined that it adequately protects the Federal Government's interests. There are a number of landowners that have been seeking to sell the land to the Federal Government for some time, but they have been unable to do so because of the Justice Department regulations on this issue. It is unfair to these people to hold up these acquisitions on the basis of the Justice Department regulation which does not permit title clearance where there is a possible State claim remaining. This is especially true in this instance where the States retained public trust easement interest is entirely consistent with the administration of a national wildlife refuge. In addition, we received assurance that the State is willing to lease out their interests to the Federal Government at a nominal fee for an extended period.●

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GREAT DISMAL SWAMP NATIONAL WILDLIFE REFUGE AUTHORIZATION EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4889) to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, after line 7, insert:

SEC. 2. The Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended (16 U.S.C. 742a–742d, 742e–742j), is further amended by adding a new section 14 as follows:

"SEC. 14. Notwithstanding subsection 5901 (a) of title 5, United States Code (80 Stat. 508) as amended, the uniform allowance for each uniformed employee of the United States Fish and Wildlife Service may be up to $400 annually.".

Nothing in this section shall be construed as authorizing the enactment of new budget authority in fiscal year 1980.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I yield to the chairman of my committee so he may give us an explanation of this amendment.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, on December 10, 1979, the House passed H.R. 4889 to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge for an additional 3 years at the current authorization of $21 million. The Senate considered and passed the legislation on May 6, 1980 and added an amendment which increases the uniform allowance for Fish and Wildlife Service employees from $125 to $400 annually.

The uniform allowance of the Fish and Wildlife Service has not kept pace with the new uniform requirements required of all employees by the Fish and Wildlife Service. The Fish and Wildlife Service policy requires employees meeting the public as representatives of the Service to wear a uniform. This includes employees associated with the National Wildlife Refuge System, national fish hatcheries and law enforcement. The uniform required of these employees now runs up to as much as $600. Because the uniform allowance is limited to $125, employees have to pay the extra cost of the uniform out of their own pockets. The amendment added by the Senate would partially resolve this inequity by raising the uniform allowance to $400. This change will make the uniform allowance of Fish and Wildlife Service employees consistent with the existing uniform allowance for National Park Service employees.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I thank my chairman for his explanation. I also support the Senate amendment. I think it is only equity that these uniform allowances be made the same.

● Mr. BREAUX. Mr. Speaker. I support the request to concur in the Senate amendments to H.R. 4889. to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge for an additional 3 years.

The Senate has added an amendment to increase the uniform allowance for Fish and Wildlife Service employees. I support this change. Fish and Wildlife Service areas are becoming increasingly popular as national recreation areas. The level of public use on national wildlife refuges has increased dramatically over the last decade. Unfortunately. the recreation facilities of the refuges have not kept pace with this increase demand, nor have the various refuge employee policies adequately focused on serving this need.

The Service has now adopted a uniform policy which attempts to respond to the need to adequately serve the public. The uniform now required of these employees runs up to as much as $600. Refuge employees have to pay a large part of the cost of their uniform out of their own pocket, because the uniform allowance has not kept pace with the increased cost of the uniform. The amendment added by the Senate partially resolves this inequity by conforming the Fish and Wildlife Service uniform allowance to that already provided for National Park Service employees.●

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

ESTABLISHING TENSAS RIVER NATIONAL WILDLIFE REFUGE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6022) to establish the Tensas River National Wildlife Refuge, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(1) the great forests of hardwoods, which once covered vast acreages along the lower reach of the Mississippi River Valley, are rapidly being destroyed;

(2) the remaining forests constitute a unique ecological, commercial, and recreational resource, providing a combination of forest products, habitat for a diversity of fish and wildlife, and opportunities to the public for scientific research and for recreational activities such as hunting, fishing, hiking, boating, and wildlife observation;

(3) the area within which the Tensas River National Wildlife Refuge will be located contains one of the largest tracts of such forests in the Mississippi River Valley; and

(4) establishment of the refuge represents a significant action by the Federal Government for the preservation and development of the environmental resources in the basins of the Tensas, Bouef, and Red Rivers of the State of Louisiana.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "refuge" means the Tensas River National Wildlife Refuge that includes those lands and waters, and interests therein, located along the Tensas River in Franklin, Madison, and Tensas Parishes, Louisiana, that are depicted on the map entitled "Tensas River National Wildlife Refuge", dated February 1980, and on file at the United States Fish and Wildlife Service.

(2) The term "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) ACQUISITION.—Within four years after the date of the enactment of this Act—

(1) the Secretary shall acquire lands and waters, and interests therein, referred to in section 2(1) through donation, purchase with donated or appropriated funds, or exchange, or through any combination of the foregoing; and

(2) the Secretary of the Army shall acquire such of those lands and waters, and interests therein, referred to in section 2(1) as are not acquired under paragraph (1).

The Secretary of the Army shall transfer to the Secretary jurisdiction over all lands and waters, and interests therein, acquired under paragraph (2) and the Secretary shall include all such lands, waters, and interests in the refuge. The Secretary and the Secretary of the Army may only enter into contracts or incur obligations to purchase lands and waters, and interests therein with appropriated funds to the extent budget authority has been provided in advance in appropriation Acts.

(b) ESTABLISHMENT.—At such time as sufficient lands and waters, and interests therein, have been acquired under subsection (a) (1) and (2) to constitute an area that can be administered for refuge purposes, the Secretary shall establish the Tensas River National Wildlife Refuge by publication of notice to that effect in the Federal Register.

(c) ADJUSTMENTS.—The Secretary may make such minor adjustments with respect to the boundary of the refuge as may be necessary to facilitate the acquisition of lands and waters, and interests therein, for the refuge and to facilitate the administration of the refuge.

(d) ARMY ACQUISITIONS IN LIEU OF CERTAIN OTHER MITIGATION ACTIONS.—The land and waters and interests therein, which the Secretary of the Army is required to acquire under subsection (a) (2) of this section, shall when acquired in total be in lieu of and in satisfaction of the mitigation acquisitions which otherwise would be required for the following Corps of Engineers water resources projects and modifications thereof: the Tensas River project, the Tensas-Cocodrie Pumping Plant, the Sicily Island Levee, the Bushley Bayou Levee, the Below Red River Levee, and that portion of the Red River Waterway Project below River Mile 104. Should any of these projects not be authorized or implemented, the Secretary of the Army, in consultation with the Secretary, may substitute additional projects with similar mitigation requirements which may be authorized for construction in the future and which are located wholly within the State of Louisiana and within the area depicted on the Corps of Engineers map entitled "Tensas National Wildlife Refuge Mitigation Area" dated April 1980 and on file in the Office of the Chief of Engineers, which mitigation area includes the basins of the Tensas, Bouef, Ouachita and Black Rivers and the Red River basin below River Mile 104.

ADMINISTRATION

SEC. 4. (a) IN GENERAL.—The Secretary shall administer all lands and waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) to conserve the diversity of fish and wildlife and their habitat within the refuge; except that the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretative education, as he deems appropriate to carry out the purposes of the refuge. The Secretary shall give special consideration to the management of the timber on the refuge to insure continued commercial production and harvest compatible with the purposes for which the refuge is established and the needs of fish and wildlife which depend upon a dynamic and diversified hardwood forest.

(b) Flood Control.—The Secretary shall administer the refuge as part of an overall Federal management plan for the use of water and related land resources for the area. This Act shall not preclude the construction and maintenance of the Tensas River flood control project, authorized by the Flood Control Act of 1944, as amended, in such modified configuration as may be determined by the Secretary of the Army, in consultation with the Secretary. The Secretary shall assist the Secretary of the Army in this flood control project, including the provision of all lands and rights-of-ways necessary for project construction and maintenance within the refuge area as determined by the Secretary of the Army, in consultation with the Secretary. The establishment of the refuge shall not preclude any other public or private works, determined to be in the public interest, to relieve flooding along or adjacent to the Tensas River.

AUTHORIZATION OF APPROPRIATIONS

Sec. 5. For the purposes of carrying out this Act, there are authorized to be appropriated, beginning October 1, 1980—

(1) not to exceed $10,000,000 to the Department of the Interior; to remain available until September 30, 1985, and

If not to exceed $40,000,000 to the Department of the Army, to remain available until September 30, 1985.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I yield to my committee chairman for an explanation of the Senate amendment.

Mr. MURPHY of New York. Mr. Speaker, I am happy that my colleague, the gentleman from New Jersey (Mr. Forsythe) is concurring in this legislation, and I thank him for yielding.

Mr. Speaker, the House passed H.R. 6022, to establish the Tensas National Wildlife Refuge on May 5, 1980. This legislation authorized to be appropriated $10 million to the Department of the Interior for the establishment of the Tensas River National Wildlife Refuge.

The proposed refuge is located in northeastern Louisiana and is part of the Mississippi River flood plain. This region once contained over 25 million acres of bottomland hardwood habitat. In the last 20 years, over 18 million acres of this habitat type have been cleared and drained for agricultural purposes. The U.S. Fish and Wildlife Service estimates that we are losing bottomland hardwoods—to agricultural uses and other uses—at a rate of about 300,000 acres per year.

The tract proposed for acquisition in this legislation is currently owned by the Chicago Mill & Lumber Co. As I have indicated, the tract is noteworthy as the largest contiguous block of hardwoods remaining in this region. In fact, the proposed refuge has been termed the "redwoods of the South." The forest is essentially an island amid an expanse of intense agricultural production.

The Chicago Mill & Lumber Co. has indicated a willingness to sell approximately 50,000 acres of the land for refuge purposes. But they have also indicated that if the land is not purchased in the near future by the United States, the tract will be converted to agricultural uses.

On May 22 the Senate passed H.R. 6022 with an amendment. The amendment authorizes the Corps of Engineers to acquire 40,000 acres of the refuge for the mitigation of water projects within the area of the proposed refuge. The Fish and Wildlife Coordination Act requires Federal water development agencies to mitigate the adverse impact of the water development project on the fish and wildlife resources of the area. This required mitigation commonly occurs through the acquisition of wildlife management areas in the vicinity of the water project. Unfortunately, mitigation has not occurred in many cases for a variety of reasons, including the unavailability of suitable habitat.

The Senate amendment responds to this problem by authorizing the corps to acquire a portion of the refuge, and then permitting the corps to use the acquired land for designated water development projects in the area of the proposed refuge.

We believe that this is a reasonable compromise between the Department of the Interior's interest in preserving the unique habitat of the Tensas River and the corps' interest in the expeditious completion of their water development projects.

● Mr. BREAUX. Mr. Speaker, I support the request to concur in the Senate amendment to H.R. 6022, to establish the Tensas National Wildlife Refuge. We have an opportunity here to accomplish two important objectives. First, the legislation will establish an important new national wildlife refuge involving some 50,000 acres of bottomland hardwood habitat. The Fish and Wildlife Service testified before my subcommittee that this is a nationally unique wildlife area, and that in fact there is no other area quite like it. It is especially appropriate that the Federal Government purchase this area since, as has already been indicated, the proposed refuge faces an immediate threat of clearing for agricultural purposes.

The second important component of this bill is the establishment of a mitigation land bank for several water development projects in the area of the proposed refuge. As the chairman has indicated, despite the fact that the Fish and Wildlife Coordination Act requires the mitigation of fish and wildlife losses associated with water development activities, all too often the promise of the act has not been kept. This has resulted in some intense environmental conflicts over the development of important water projects.

The representative of the Corps of Engineers testified before the subcommittee that the corps has increasing difficulty purchasing land to offset or mitigate fish and wildlife losses as a result of corps projects. In many instances, there is simply no valuable fish and wildlife land left to be acquired in the vicinity of corps projects. This is the situation in this instance. The corps testified that they know of no other tract of land, other than the proposed refuge, which has the wildlife values of the Tensas tract, is within the vicinity of local corps projects, and as a seller willing to sell the property to the Federal Government.

I wholeheartedly support this effort to preserve this area and provide for the mitigation of designated corps water projects.●

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

ESTABLISHING BOGUE CHITTO NATIONAL WILDLIFE REFUGE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6169) to establish the Bogue Chitto National Wildlife Refuge, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

DECLARATION OF FINDINGS AND PURPOSE

Section 1. (a) The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers, and others; and

(3) the Bogue Chitto area is a bottomland hardwood swamp which harbors over one hundred fifty species of birds and many types of other wildlife, including several species imperiled with extinction.

(b) The purpose of this Act is to establish the Bogue Chitto National Wildlife Refuge.

DEFINITIONS

Sec. 2. For purposes of this Act—

(1) the term "refuge" means the Bogue Chitto National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters near the juncture of the Pearl River and its tributary, the Bogue Chitto, in Saint Tammany and Washington Parishes, Louisiana, and Pearl River County, Mississippi, depicted on the map entitled "Bogue Chitto National Wildlife Refuge, Selection Area," dated and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

Sec. 3. (a)(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately forty thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph 1(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property with the refuge.

(b) The Secretary is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

(c) The Secretary shall establish the Bogue Chitto National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

Sec. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretative education as he deems appropriate to carry out the purposes of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 5. There are authorized to be appropriated beginning October 1, 1980—

(a) $13,000,000 for the acquisition of lands and interests therein, to remain available until September 30, 1985.

(b) $1,000,000 for construction of the refuge headquarters and boat launching facilities and the accomplishment of boundary surveys, to remain available until September 30, 1955.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I yield to my committee chairman for an explanation of the Senate amendment.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague, the gentleman from New Jersey, for yielding.

Mr. Speaker, H.R. 6169 passed the House on May 5, 1980. It proposed the acquisition of 40,000 acres of bottomland hardwood habitat in southern Louisiana and Mississippi as the Bogue Chitto National Wildlife Refuge. The proposed refuge consists of an unusual backwater ecosystem of primarily bottomland hardwood habitat in the heart of the Bogue Chitto River Swamp. Bottomland hardwood habitat is being rapidly diminished in the South as a result of conversion to agricultural production and other uses. The legislation authorized appropriations of $13 million for acquisition and development of the refuge.

The Senate passed H.R. 6169 on May 13, 1980 with an amendment. The Senate amendment increased the authorization level by $1 million and made other technical changes in the bill. None of the provisions of the Senate amendment change the intent of or effect of the House-passed bill. The increase in the authorization level is simply intended to allow for minor changes in the estimated land acquisition costs.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I support this legislation. I think this is a good amendment that the Senate adopted because it does put a 5-year limitation on it, and that will keep this from just hanging around with an open-ended authorization.

● Mr. BREAUX. Mr. Speaker, I support the request to concur in the Senate amendment to H.R. 6169, to establish the Bogue Chitto National Wildlife Refuge. This acquisition has the full and complete support of the local Member, Bob Livingston, and of all the local people. In fact, the local citizens are the primary proponents of the legislation. They see the acquisition and establishment of the refuge as necessary to preserve this stretch of wildlife habitat which has been an important recreational resource to the people of the New Orleans metropolitan area. I support the request to concur in the Senate amendment.●

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, may I ask the Chair, has the Clerk been reading the entire text of the Senate amendments to these bills?

The SPEAKER. The Chair will answer that the Clerk has been reading scientifically; he has not been reading the entire text in each instance.

Mr. BAUMAN. The Clerk has been reading scientifically?

The SPEAKER. That is the Chair's response.

Mr. BAUMAN. I thank the Chair.

Mr. Speaker, further reserving the right to object, I assume, then, that the Clerk has not read all the amendments, and I would only like to ask the gentleman from New York (Mr. Murphy) about this.

The gentleman will recall that a year or two ago, on a similar wildlife refuge bill, Puget Sound was closed to all shipments of Alaskan oil when a full understanding of the amendment offered in the other body was not available to the House. I assume that none of the bills brought up by unanimous consent this morning approach that magnitude of importance?

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker the answer is "No." The magnitude of the bills to which the gentleman refers has been completely explained in each of these bills, and I made a particular effort to describe the effect of the Senate amendments. They did not change the intent of the House-passed bills, and, of course, we have considered these bills as close to noon as possible in order to satisfy the gentleman's objection.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

□ 1220

NATIONAL SEA GRANT PROGRAM AUTHORIZATION, FISCAL YEARS 1981, 1982, AND 1983

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6614) to althorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes, with the Senate amendment to the House amendments to the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments to the Senate amendment, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9 to the amendment of the Senate to the bill (H.R. 6614) entitled "An Act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.".

Resolved, That the Senate agree to the amendment of the House of Representatives numbered 10 to the amendment of the Senate with the following amendment: At the end of the Senate engrossed amendment, insert:

Sec. 4. (a) Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) applications for compensation under such Act, filed within 90 days after the date of enactment of this subsection shall be deemed to be timely filed.

(b) Section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) is amended by striking "sixty" and substituting "90".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Wright). Is there objection to the request of the gentleman from New York?

Mr. PRITCHARD. Reserving the right to object, Mr. Speaker, I will not object, but I would like the chairman to explain what we are doing here.

Mr. MURPHY of New York. If the gentleman will yield, Mr. Speaker, H.R. 6614 passed the full House of Representatives with amendments to the Senate amendment on June 5. The Senate promptly concurred with our amendments and passed one final amendment on June 6.

The Senate amendment creates a new section in H.R. 6614, in which the Fisherman's Protective Act of 1967 is amended.

Under current law, American fishermen were to be compensated for damages to their vessels or gear if caused by foreign or U.S. fishing activity within our 200-mile fisheries zone. This program was to begin January 1, 1979, however, due to administrative delays the actual program began last November. Within the law, the fishermen had a 60-day deadline in which to file their claims. Many fishermen who were eligible for compensation did not learn of the program until after their 60-day filing deadline had elapsed.

The amendment temporarily waives the 60-day filing requirement until after enactment of the amendment. The Senate has also changed the 60-day filing period to 90 days in order to further aid the fishermen.

The amendment was supported by the administration, as well as the national marine fisheries service. This amendment would be cost-free to the American taxpayer and to my understanding noncontroversial.

Mr. PRITCHARD. I thank the gentleman for his explanation, and I agree with the amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO PRINT IN THE RECORD A TABLE SHOWING CROSSWALK TO HOUSE COMMITTEES REFLECTING AGREEMENTS REACHED UNDER THE BUDGET RESOLUTION

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to print in the Record a table showing the crosswalk to House committees pursuant to section 302(a) of the Congressional Budget Act reflecting the agreements reached under the budget resolution that the House adopted last Thursday.

I further ask unanimous consent that this table be considered as meeting the requirements of section 302(a) of the Budget Act. That section requires that the managers' statement accompanying a conference report on a budget resolution allocate the total new budget authority and outlays specified in the resolution among all House and Senate committees with jurisdiction over spending bills.

This action is necessary to formalize the budget resolution crosswalks since, technically speaking, the House did not adopt a conference report, but rather an amendment to the House-passed resolution. The allocations, however, are basically the same as contained in the statement of managers accompanying the conference report on House Concurrent Resolution 307 which has been superseded by the House's action of last week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The table is as follows:

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1980

	Budget authority	Outlays
Appropriations Committee:		
050 National defense	144, 498, 288	136, 498, 331
150 International affairs	10, 908, 200	10, 942, 271
250 General science, space and technology	6, 197, 403	5, 897, 468
270 Energy	25, 253. 100	6, 453, 001
300 Natural resources and environment	14, 408, 635	15, 269, 170
350 Agriculture	4, 961, 746	1, 591, 622
370 Commerce and housing credit	6, 858, 541	4, 557, 665
400 Transportation	11, 147, 780	20, 633, 123
450 Community and regional development	9, 762, 939	9, 684, 397
500 Education, training, and employment	28, 834, 140	29, 886, 873
550 Health	31, 746, 955	31, 621, 371
600 Income security	63, 797, 405	44, 658, 490
700 Veterans benefits and services	20, 590, 891	20, 417, 091
750 Administration of justice	4, 304, 260	4, 408, 396
800 General government	7, 425, 572	7, 269, 234
850 General purpose fiscal assistance	7, 406, 410	7, 370, 523
900 Interest	0	525
Committee total	398, 102, 265	357, 219, 551
House Agriculture Committee:		
300 Natural resources and environment	260, 300	249, 731
350 Agriculture	100, 923	4, 371, 047
450 Community and regional development	52, 119	94, 247
850 General purpose fiscal assistance	283, 458	283, 458
Committee total	696, 800	4, 998, 483
House Armed Services Committee:		
050 National defense	−139, 554	−139, 597
(New entitlement authority)	(30, 000)	
400 Transportation	30	30
700 Veterans benefits and services	30	30
Committee total	−139, 494	−139, 537
House Banking, Finance and Urban Affairs Committee:		
150 International affairs	1, 341, 900	−490, 600
370 Commerce and housing credit	5, 056, 663	1, 762, 737
450 Community and regional development	37, 878	46, 438
500 Education, training, and employment	134	−4, 316
550 Health	0	−416
600 Income security	117, 635	6, 084
700 Veterans benefits and services	0	22, 168
800 General government	2, 800	2, 800
900 Interest	12, 124	12, 888
Committee total	6, 569, 134	1, 357, 783
House District of Columbia Committee:		
705 Administration of justice	8, 000	8, 830
850 General purpose fiscal assistance	20, 000	40, 000
Committee total	28, 000	48, 830
House Education and Labor Committee:		
500 Education, training, and employment	22, 206	19, 692
550 Health	0	19
600 Income security	9, 735	9, 033
Committee total	31, 941	28, 744
House Foreign Affairs Committee:		
150 International affairs	11, 628, 306	8, 726, 735
370 Commerce and housing credit	6, 850	6, 850
600 Income security	260, 845	147, 338
Committee total	11, 896, 001	8, 880, 923
House Government Operations Committee:		
800 General government	1, 183	1, 105
850 General purpose fiscal assistance	6, 854, 924	6, 862, 578
Committee total	6, 856, 107	6, 863, 683
House Administration Committee:		
250 General science, space, and technology	76	74
500 Education, training, and employment	5, 905	5, 364
800 General government	45, 750	75, 750
Committee total	51, 731	81, 188
House Interior and Insular Affairs Committee:		
270 Energy	12, 536	12, 635
300 Natural resources and environment	60, 502	35, 789
450 Community and regional development	388, 651	219, 626
800 General government	166, 104	165, 478
850 General purpose fiscal assistance	627, 002	634, 735
Committee total	1, 254, 795	1, 068, 263
House Interstate and Foreign Commerce Committee:		
300 Natural resources and environment	0	80
370 Commerce and housing credit	23, 320	23, 289
400 Transportation	454	454
550 Health	4, 620	4, 781
600 Income security	4, 632, 214	4, 905, 474
850 General purpose fiscal assistance	5, 387	5, 287
Committee total	4, 665, 995	4, 939, 365
House Judiciary Committee:		
300 Natural resources and environment	300	300
370 Commerce and housing credit	17, 293	21, 808
600 Income security	7, 373	2, 330
750 Administration of justice	0	−4, 966
800 General government	294, 019	321, 061
Committee total	318, 985	340, 533
House Merchant Marine and Fisheries Committee:		
300 Natural resources and environment	140, 122	116, 435
370 Commerce and housing credit	21, 679	12, 283
400 Transportation	308, 065	−26, 821
850 General purpose fiscal assistance	3, 700	4, 300
Committee total	473, 566	106, 197
House Post Office and Civil Service Committee:		
300 Natural resources and environment	0	330
370 Commerce and housing credit	8, 116	7, 830
550 Health	0	−28, 161

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1980—Continued

	Budget authority	Outlays
House Post Office and Civil Service Committee—Continued		
600 Income security	23,606,000	14,224,373
800 General government	7,867,984	7,867,984
Committee total	31,482,100	22,072,356
House Public Works and Transportation Committee:		
270 Energy	15,000,000	1,800,000
300 Natural resources and environment	46,979	45,003
400 Transportation	9,507,243	−3,214
450 Community and regional development	52,260	49,789
Committee tctal	24,606,482	1,891,578
House Science and Technology Committee:		
250 General science, space, and technology	5,719	5,656
300 Natural resources and environment	12,171	12,171
800 General government	5	5
Committee total	17,895	17,832
House Small Business Committee:		
450 Community and regional development	650	0
Committee total	650	0
House Veterans Affairs Committee:		
700 Veterans benefits and services	1,170,563	622,195
Committee total	1,170,563	622,195
House Ways and Means Committee:		
500 Education, Training, and Employment	749,458	4,230
550 Health	36,028,000	32,881,981
600 Income security	136,435,155	131,813,240
800 General government	4,340	4,340
850 General purpose fiscal assistance	309,005	309,005
900 Interest	76,198,000	76,198,000
Committee total	249,723,958	241,210,796
Unassigned to committees:		
050 National defense	−658,734	−658,734
150 International affairs	−8,678,406	−8,678,406
250 General science, space, and technology	−3,198	−3,198
270 Energy	−1,865,636	−1,865,636
300 Natural resources and environment	−2,329,009	−2,329,009
350 Agriculture	−62,669	−62,669
370 Commerce and housing credit	−292,462	−292,462
400 Transportation	−463,572	−463,572
450 Community and regional development	−294,497	−294,497
500 Education, training, and employment	−11,843	−11,843
550 Health	−7,979,575	−7,979,575
600 Income security	−4,066,362	−4,066,362
700 Veterans benefits and services	−561,484	−561,484
750 Administration of justice	−12,260	−12,260
800 General government	−11,307,757	−11,307,757
850 General purpose fiscal assistance	−6,959,886	−6,959,886
900 Interest	−11,110,124	−11,111,413
950 Undistributed offsetting receipts	−22,300,000	−22,300,000
Committee total	−78,957,474	−78,958,763
Grand total	658,850,000	572,650,000

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1981

[In thousands of dollars]

	Budget authority	Outlays
Appropriations Committee:		
050 National defense	171,326,600	154,526,952
150 International affairs	15,934,014	10,854,093
250 General science, space, and technology	6,598,153	6,098,349
270 Energy	8,582,048	6,682,078
300 Natural resources and environment	13,732,864	14,175,140
350 Agriculture	5,464,566	1,852,073
370 Commerce and housing credit	4,387,109	3,431,052
400 Transportation	12,616,353	19,401,080
450 Community and regional development	8,646,276	8,929,657
500 Education, training, and employment	30,863,860	29,481,973
550 Health	35,878,800	35,383,622
600 Income security	67,960,911	46,428,370
700 Veterans benefits and services	21,049,349	20,962,873
750 Administration of justice	4,205,370	4,610,106
800 General government	7,930,279	7,656,932
850 General purpose fiscal assistance	5,104,298	3,985,335
900 Interest	0	259
Committee total	420,280,850	374,459,944
House Agriculture Committee:		
300 Natural resources and environment	285,846	267,891
350 Agriculture	102,662	515,155
450 Community and regional development	34,154	215,412
850 General purpose fiscal assistance	320,000	320,000
Committee total	742,662	1,318,458
House Armed Services Committee:		
050 National defense	−192,200	−192,552
(New entitlement authority)	(−138,000)	
400 Transportation	30	30
700 Veterans benefits and services	12	12
Committee total	−192,158	−192,510
House Banking, Finance and Urban Affairs Committee:		
150 International affairs	6,449,999	−470,900
370 Commerce and housing credit	886,115	−3,262,298
450 Community and regional development	39,463	44,266
500 Education, training, and employment	179	1,492
550 Health	0	−13
600 Income security	294,621	0
700 Veterans benefits and services	0	1,972
800 General government	3,000	3,000
900 Interest	9,934	9,934
Committee total	7,683,311	−3,672,547
House District of Columbia Committee:		
750 Administration of justice	8,000	8,000
Committee total	8,000	8,000
House Education and Labor Committee:		
500 Education, training, and employment	24,007	21,253
(New entitlement authority)	(−350,000)	
600 Income Security	10,934	10,607
(New entitlement authority)	(−334,000)	
Committee total	34,941	31,860
House Foreign Affairs Committee:		
150 International affairs	12,343,667	10,244,487
(New entitlement authority)	(55,000)	
370 Commerce and housing credit	7,250	7,250
600 Income security	265,742	173,860
Committee total	12,616,659	10,425,597
House Government Operations Committee:		
800 General government	1,913	1,115
850 General purpose fiscal assistance	0	1,715,731
Committee total	1,193	1,716,846
House Administration Committee:		
250 General science, space, and technology	70	74
500 Education, training, and employment	5,085	4,461
800 General government	35,000	9,000
Committee total	40,155	13,535
House Interior and Insular Affairs Committee:		
270 Energy	14,903	14,873
300 Natural resources and environment	22,232	23,431
450 Community and regional development	350,419	279,530
800 General government	171,407	170,832
850 General purpose fiscal assistance	472,395	472,395
Committee total	1,031,356	961,061
House Interstate and Foreign Commerce Committee:		
270 Energy	−8,800	−8,800
300 Natural resources and environment	0	80
370 Commerce and housing credit	23,445	23,424
400 Transportation	400	400
550 Health	4,620	4,549
(New entitlement authority)	(−137,000)	
600 Income security	5,202,694	5,311,147
850 General purpose fiscal assistance	5,187	5,187
Committee total	5,227,546	5,335,987
House Judiciary Committee:		
300 Natural resources and environment	327	327
370 Commerce and housing credit	18,483	17,073
600 Income security	9,400	2,300
750 Administration of justice	0	−4,736
800 General government	152,021	152,012
Committee total	180,231	166,985
House Merchant Marine and Fisheries Committee:		
300 Natural resources and environment	156,886	131,859
370 Commerce and housing credit	0	6,504
400 Transportation	348,502	−34,488
850 General purpose fiscal assistance	3,700	6,932
Committee total	509,088	110,807
House Post Office and Civil Service Committee:		
370 Commerce and housing credit	9,283	8,680
550 Health	0	−45,340
600 Income security	25,978,000	16,192,166
(New entitlement authority)	(−500,000)	
800 General government	8,745,000	8,745,000
Committee total	34,732,283	24,900,506
House Public Works and Transportation Committee:		
270 Energy	0	2,000,000
300 Natural resources and environment	41,996	41,564
400 Transportation	9,747,620	−4,117
450 Community and regional development	49,734	51,831
Committee total	9,839,350	2,089,278

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1981—Continued

[In thousands of dollars]

	Budget authority	Outlays
House Science and Technology Committee:		
250 General science, space, and technology	5, 200	5, 000
300 Natural resources and environment	12, 908	12, 767
800 General government	5	5
Committee total	18, 113	17, 772
House Small Business Committee:		
450 Community and regional development	650	0
Committee total	650	0
House Veterans Affairs Committee:		
700 Veterans benefits and services	1, 215, 725	800, 229
(New entitlement authority)	(1, 274, 000)	
Committee total	1, 215, 725	800, 229
House Ways and Means Committee:		
500 Education, training, and employment	816, 048	0
550 Health	45, 676, 000	36, 716, 602
600 Income security	153, 086, 578	154, 740, 430
(New entitlement authority)	(−450, 000)	
800 General government	4, 600	4, 600
850 General purpose fiscal assistance	320, 200	320, 200
900 Interest	85, 108, 000	85, 108, 000
Committee total	285, 011, 426	276, 889, 832
Unassigned to committees:		
050 National defense	−634, 400	−634, 400
150 International affairs	−11, 127, 680	−11, 127, 680
250 General science, space, and technology	−3, 423	−3, 423
270 Energy	−1, 888, 151	−1, 888, 151
300 Natural resources and environment	−2, 553, 059	−2, 553, 059
350 Agriculture	−67, 228	−67, 228
370 Commerce and housing credit	−231, 685	−231, 685
400 Transportation	−612, 905	−612, 905
450 Community and regional development	−320, 696	−320, 696
500 Education, training, and employment	−9, 179	−9, 179
550 Health	−10, 359, 420	−10, 359, 420
600 Income security	−3, 308, 880	−3, 308, 880
700 Veterans benefits and services	−565, 086	−565, 086
750 Administration of justice	−13, 370	−13, 370
800 General government	−12, 442, 505	−12, 442, 505
850 General purpose fiscal assistance	−25, 780	−25, 780
900 Interest	−12, 917, 934	−12, 918, 193
950 Undistributed offsetting receipts	−24, 700, 000	−24, 700, 000
Committee total	−81, 781, 381	−81, 781, 640
Grand total	697, 200, 000	613, 600, 000

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 17, 1980.

CAMPECHE BAY OIL SPILL CLAIMS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5338) to amend the Federal Water Pollution Control Act to provide for the payment of claims resulting from the oil spill at Ixtoc I, Bay of Campeche, Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321 et seq.) is amended by adding at the end thereof the following new subsection:

"(s)(1) Any United States claimant, upon establishing to the satisfaction of the Secretary of the department in which the Coast Guard is operating that such claimant incurred (before, on, or after the date of enactment of this subsection) an economic loss described in paragraph (3) resulting from the oil spill at Ixtoc I, Bay of Campeche, Mexico, which began June 3, 1979, shall be eligible to recover from such Secretary the amount of such loss.

"(2) Any United States claimant whose claim under paragraph (1) is denied in whole or part by the Secretary of the department in which the Coast Guard is operating may file an action under subsection (n) of this section to recover from the funds authorized to carry out this subsection the amount of such claim which is denied.

"(3) Economic losses which are recoverable under this section are—

"(A) injury to, or destruction of, real or personal property;

"(B) loss of use of real or personal property;

"(C) loss of use of natural resources;

"(D) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(E) loss of tax revenue for a period of one year due to jury to real or personal property.

"(4) The United States shall be subrogated to the rights of any United States claimant with respect to any claim paid under this subsection to the extent of such payment.

"(5) For purposes of this subsection, the term 'United States claimant' means any person residing in the United States and the government of a State or a political subdivision thereof.

"(6) Assistance provided under this subsection shall be in addition to and not in lieu of any other assistance provided or action taken under this Act.

"(7) There are authorized to be appropriated to carry out this subsection not to exceed $80,000,000 for fiscal years beginning after September 30, 1980.".

SEC. 2. The amendment made by this Act shall take effect October 1, 1980.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that the chairman of the full committee be allowed to place his statement in the RECORD immediately following my remarks.

The SPEAKER pro tempore (Mr. BREAUX). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, H.R. 5338, as reported, amends section 311 of the Water Pollution Control Act to provide for compensation for certain defined losses resulting from the oilspill at Ixtoc, Bay of Campeche, Mexico. Any U.S. claimant who establishes to the satisfaction of the Secretary of the Department in which the Coast Guard is operating that economic losses described in the bill have been incurred is entitled to recover the amount of the loss from the Secretary.

Economic losses recoverable under the legislation are the following:

Injury to, or destruction of, real or personal property;

Loss of use of real or personal property;

Loss of use of natural resources;

Loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

Loss of tax revenue for a period of 1 year due to injury to real or personal property.

There are authorized to be appropriated to carry out the provisions of H.R. 5338 not to exceed $80,000,000 for fiscal years beginning after September 30, 1980.

The amendment at the desk strikes out the word "entitled" on page 4, line 16, and inserts in lieu thereof the word "eligible."

The purpose of this amendment is to make it clear that the bill does not create entitlements, and that any payments made will be provided for through the appropriations process.

I urge passage of the bill.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5338 and urge my colleagues to vote for its passage. I also wish to state that I concur with the proposed clarifying amendment that the gentleman alluded to in his opening remarks.

As the gentleman from Texas (Mr. ROBERTS) has explained, this bill provides funds to satisfy claims for economic damages arising out of the Campeche oil well blowout down in the Gulf of Mexico.

As most of our colleagues realize so well from the discussion of this catastrophe in the press, the Campeche blowout is perhaps the most serious oil pollution incident of recent times. Since June 3, 1979, when the well first blew out, between 10,000 and 30,000 barrels of crude oil have been discharged each day into the waters of the Gulf of Mexico. In fact, it is only recently that the well has been finally capped and the continued pollution from this incident brought to a stop.

At this point, no one can say with absolute certainty what the actual total damages will be from this incident. Nevertheless, I am told that approximately $350 million in lawsuits have been filed and more are expected in the future. In this regard I understand that, although the oil spill has not yet contaminated seafood or had a major impact on the fishing industry—as far as anyone has been able to discern thus far—Campeche may have a significant adverse effect on marine resources in the next 2 to 5 years. There is special concern that the oil, which is highly toxic to larval forms, will kill off shrimp larvae, disturb shrimp nursing grounds and result in reduced birth rate and survivability potentially for years to come.

The funds provided in H.R. 5338 are meant to help address these problems and minimize their adverse environmental consequences.

Mr. Speaker, one other point should be emphasized concerning this bill. It should be understood by all that H.R. 5338 subrogates the Federal Government to the rights of those claimants who receive recovery under the bill. This provision has been included to enable the Federal Government to attempt to recover from the liable discharging parties any moneys expended from the fund. I believe that it is essential that we take this approach. International law, case law, and conventional law argue that Mexico, despite its claims to the contrary, is liable for damage suffered by the U.S. coast from the Campeche spill. State Department and Coast Guard officials have testified to this effect and CRS research supports this conclusion. Thus, is it our sincere hope and expectation that all of the moneys paid out under this bill will ultimately be recovered by the Federal Treasury.

In summary, Mr. Speaker, I think my colleagues will agree with me that this is a much needed bill, and I urge our colleagues today to join those of us who are serving on the Public Works Committee who have the responsibility of trying to be responsive to this kind of a disaster to support the enactment of this legislation.

Mr. ROBERTS. Mr. Speaker, I want to say, the gentleman from Louisiana (Mr. BREAUX) and I jointly have tightened this thing up so there is no payment for pipe dreams that, "I might have made so much money if, if, if." This is to take care of provable losses only, and I strongly support the legislation.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I think the very fact that there is an authorization ceiling of $80 million is an indication that this committee is truly trying to assure that there will be a measure of control over what could otherwise get out of control if not closely monitored. Thus, both the authorizing and appropriations committees, will have a chance to continually monitor the administration of and future need for the authority provided in this bill.

Mr. Speaker, I commend the gentleman for bringing this bill to the floor.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the gentleman from Corpus Christi, Tex. (Mr. WYATT).

PERMISSION TO ADD NAME OF MEMBER AS COSPONSOR TO H.R. 5338

Mr. WYATT. Mr. Speaker, I ask unanimous consent to have my name added as a cosponsor to this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WYATT. Mr. Speaker, I rise today to speak in favor of H.R. 5338, which would provide for the payment of claims resulting from the blowout of Ixtoc I in the Bay of Campeche last June. While I had introduced a separate piece of legislation on this topic, I also fully support this measure.

One of the main differences between this legislation and that which I introduced is that H.R. 5338 presumes that damage to natural resources will be paid from the fund created in section 311(k) of the Federal Water Pollution Control Act Amendment of 1972 pursuant to the Clean Water Act of 1977. H.R. 5577 which I introduced would have provided payments for damages in a similar manner to the Outer Continental Shelf Land Act Amendments of 1978 with the money coming from the General Treasury as in H.R. 5338.

One other major difference is that H.R. 5577 would have provided a $6 million grant to the Texas Parks and Wildlife Department (to be subtracted from claims for damage to natural resources) to aid in replenishing the red drum population which had the highest immediate propensity for damage of the marine species in the area of impact in the United States.

It is my understanding that if damage to the marine resources can be proven, then the State would be able to apply through the on-scene coordinator for funding to restore the damaged resources. Therefore, it is possible for such a restoration or mitigation project to begin provided the damage can be proven. The major point of contention with such mitigation (33 U.S.C. 1321(b)(6)(C)) is that certain Federal agencies feel this should fund the assessment of damages since it makes little sense to provide mitigation without establishing what is to be mitigated.

It comes as no surprise that the administration opposes this legislation using the smokescreen of preferring a comprehensive system. The fact is that the administration testified before two subcommittees of the Merchant Marine and Fisheries Committee that it had no position concerning whether or not such a comprehensive system should be retroactive. The only difference between enacting such provisions now or waiting to make a comprehensive system retroactive is that the victims are left without compensation while Congress is deliberating on some very complex and complicated issues.

The administration has consistently turned a deaf ear to the problems encountered by the victims of this spill. Instead, the administration has negotiated with Mexico for the costs of clean-up only. Enacting H.R. 5338 will at least let the administration know the extent of the damage so that negotiations with the Republic of Mexico can include discussions of the true damages of the largest spill in history—something the administration has failed to do to this point.

This legislation has been pending since last September. It was introduced by Messrs. ROBERTS, BREAUX, and DE LA GARZA as a result of hearings held in Corpus Christi, Tex., earlier that month. I would like to take this opportunity to thank the full Merchant Marine and Fisheries Committee, especially Chairman JOHN MURPHY, and the Subcommittee on Water Resources of the Public Works and Transportation Committee for conducting those joint hearings which laid the groundwork for this legislation.

I would invite any Member to glance through the fine record developed at those hearings to see why this legislation is necessary and justified. I urge a positive vote on passage of H.R. 5338.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4338, a bill to provide for the payment of claims resulting from the oilspill at Ixtoc I, Bay of Campeche.

Ixtoc I, an oil well being drilled for the Mexican National Oil Co., Petroles Mexicanos (Pemex) approximately 50 miles offshore of Ciudad del Carmen, Mexico, in the Bay of Campeche, Gulf of Mexico, blew out and caught fire on June 3, 1979. Pemex estimated the initial flow from the blowout at 30,000 barrels of oil per day. The resulting oil slick covered thousands of square miles of the Gulf of Mexico, and eventually reached the beaches of Texas on August 7, 1979. Early efforts to cap the well, on June 24, 1979, failed because of damage to the wellhead that was caused by the collapsing platform, which effectively precluded any subsequent efforts to cap the well from the surface. The blowout was finally halted on March 23, 1980, after relief wells had been drilled to stop the flow of oil and gas and the runaway well was plugged with cement. According to Pemex's own estimates, approximately 140 million gallons of oil were spilled in the incident, making the spill double the size of that from the tanker *Amoco Cadiz* off the coast of France in 1978.

The total cost of the Ixtoc I blowout is unknown. The environmental damage caused by the spill most likely never will be known.

H.R. 5338 will provide for the payment of certain specified claims for damages in order to compensate victims of this oilspill for their economic losses.

I urge passage of the bill.●

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 5338, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REVIEW OF DISABILITY RETIREMENT DETERMINATIONS

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2510) to amend title 5, United States Code, to permit court review in cases involving employees separated under section 8347, title 5, United States Code, as amended.

The Clerk read as follows:

H.R. 2510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 8347(c) of title 5, United States Code, is amended by striking out "The decisions of the Office" and inserting in lieu thereof "Except to the extent provided under subsection (d) of this section, the decisions of the Office".

(b) Section 8347(d) of title 5, United States Code, is amended—

(1) by striking out "An" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection, an"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In the case of any individual found by the Office to be disabled in whole or in part on the basis of the individual's mental condition, and that finding was made pursuant to an application by an agency for purposes of disability retirement under section 8337(a) of this title, the procedures under section 7701 of this title shall apply and the decision of the Board shall be subject to judicial review under section 7703 of this title.".

(c) Section 7703(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting "or (3)" after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) A petition to review a final order or final decision of the Board with respect to a finding of disability which section 8347(d)(2) of this title makes reviewable under this section shall be filed in the United States district court for the district in which the petitioner resides or in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, any petition for review must be filed within thirty days after the date the petitioner received notice of the final order or decision of the Board.".

(d) Section 7703(c) of title 5, United States Code, is amended by inserting after "referred to in subsection (b)(2) of this section" the following: "or in the case of a finding of disability which is reviewable under subsection (b)(3) of this section".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to determinations made by the Office of Personnel Management on or after the first day of the first month beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield to the gentleman from Georgia (Mr. LEVITAS) for an inquiry.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Speaker, I thank the gentlewoman for yielding. I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEVITAS. Mr. Speaker, I notice we are now on suspension No. 4, H.R. 2510. According to the agenda that I have in front of me and as announced last week, H.R. 7018, the Federal Insecticide, Fungicide, and Rodenticide Extension Act comes ahead of it. Could the Chair please enlighten me?

The SPEAKER pro tempore (Mr. BREAUX). The Chair will state to the gentleman from Georgia that H.R. 7018, the bill to which the gentleman referred, will not be taken up now. H.R. 7018 will be the last suspension that we will take up today.

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, more than 150 years ago, Alexander Hamilton wrote that "the first duty of a free society is justice." I am sure all of us here would agree with that sentiment and, because we do, I hope we can join together in support of H.R. 2510. For all this bill seeks to do is remove a bar to justice—specifically, a bar to due process—that has existed in our civil service system for far too long.

Mr. Speaker, the need for this legislation became apparent during extensive oversight hearings held by my subcommittee several years ago on a controversial procedure that can lead to the forced retirement of civil servants on the basis of mental disability. The procedure is commonly referred to as the "psychiatric fitness-for-duty exam" and all H.R. 2510 would do is allow the courts to review Office of Personnel Management decisions to involuntarily retire employees based on these exams.

Why is this change needed? It may surprise many of my colleagues to hear that, currently, any Federal supervisor, for whatever reason, can order an employee to undergo a psychiatric fitness-for-duty examination to determine whether that employee is mentally competent to continue working. Refusal to undergo the exam is grounds for dismissal and the results of the exam can be used by the employee's agency to file an application for involuntary disability retirement with OPM.

MSPB's decision in these cases currently are final and not subject to court review.

During our subcommittee's hearings on psychiatric fitness-for-duty exams, we learned that, in many cases, employees are ordered to undergo these tests for disciplinary—rather than medical—reasons. We heard of cases in which employees were suddenly ordered to undergo psychiatric exams after they filed labor grievances or EEO complaints or after they "blew the whistle" on waste and inefficiency in their agencies. We even were told of cases in which mental exams were ordered because of job difficulties that amounted to nothing more than personal differences between employee and supervisor.

As though this were not bad enough, we discovered numerous other ways in which the rights of the employees subjected to these exams were not adequately protected. I have already alluded to some of them, such as the ability of an agency to terminate an employee if he or she refuses to undergo a supervisor-ordered mental exam. I recently became aware of the case of a northern Virginia woman who was fired from her State Department job for just this reason. Many would think she had a good excuse for not agreeing to the exam. Less than 3 months earlier, she had been found fit for duty when her supervisor ordered a previous mental exam.

The subcommittee also learned that OPM decisions to retire employees can be based on very brief examinations and that the reliability of these evaluations is often called into question. For example, one employee, after receiving several diagnoses from private psychiatrists attesting to her good health, was ordered to see an agency psychiatrist. The physician determined her to be unfit for duty based on one telephone interview. OPM later approved an agency-requested disability retirement for this woman. Imagine ruining a person's career—and even his life—on the basis of a phone conversation. It is happening today.

If these cases sound like something out of Nazi Germany or Soviet Russia, there is good reason for it. In my opinion, this procedure provides little more due process protection for the employee than the systems of justice under the Nazi or Soviet regimes. I, frankly, find it chilling to learn such things are going on in the United States, and especially within the U.S. Government, and with its full knowledge and support.

The fear of this procedure among employees is so great that sometimes just the threat of being subjected to a supervisor-requested mental exam is enough to stop an employee from rocking the boat. Last fall, our subcommittee heard of one case in which a group of civil servants were afraid to complain about being exposed to dangerous chemical fumes at their workplace for fear of being ordered to take mental exams by their supervisors.

H.R. 2510 would go a long way toward ending such abuses by allowing the U.S. district court to review MSPB disability retirement decisions in those cases involving agency-filed disability applications based on psychiatric fitness-for-duty exams. In and of itself, this legislation would not alter any of the questionable aspects of the fitness-for-duty exam procedure. But I cannot help thinking supervisors would be more careful about ordering these exams and OPM would be more careful about approving retirements based on totally inadequate exams if they knew the courts would be able to review MSPB's ultimate decisions in such cases.

We feel this is the absolute minimum we can do for the employees who, as a result of this procedure, face the prospect of being branded mentally incompetent for the rest of their lives. I am sure my colleagues can imagine the difficulties an employee retired on the grounds of mental disability has in obtaining subsequent employment, applying for credit or even renting an apartment. The northern Virginia woman I referred to earlier was never found to be anything but totally competent in three separate mental examinations. Yet she was fired for insubordination for refusing to take one exam and has had extreme difficulty finding work ever since. She receives no disability or retirement payment from the Government despite 10 years' Federal service. Perhaps I should have mentioned earlier that this woman contends all her on-the-job problems stem from a medical condition. She says tuberculosis caused her to be late for work on occasion and to sometimes become tired.

Mr. Speaker, it is true the administration opposes this bill but I would suggest we are not that far apart. OPM would support H.R. 2510 if the judicial review were limited to procedural questions involving these disability decisions rather than questions of both procedure and the medical facts of the case. It is also true that, currently, the only other such decisions that can be appealed on the grounds we seek here are those involving discrimination cases.

But quite simply, we feel the serious consequences of an adverse decision in a psychiatric fitness-for-duty case—the lifelong difficulty in locating employment after having been found mentally incompetent—more than justify the appeal authority the bill provides. OPM points out that a full review of these decisions—on grounds of both procedural errors and questions of medical fact—currently can be obtained from the Merit System Protection Board. While not seeking to slight that Board, we would suggest that it is still only a quasi-judicial body and that because of the uniquely damaging consequences of adverse decisions in the cases we have here, more protection of individuals' rights is needed.

OPM also objects to the legislation on the basis of cost. However, it estimates it receives only about 300 agency-filed disability applications a year. And, based on this figure, the Congressional Budget Office estimates, if all these cases were appealed to the district court, the maximum annual cost would be $500,000. The actual cost is certain to be far less, because the 300 disability applications include both mental and physical disability cases. The great majority of these are physical disability cases and, therefore, would not come under the provisions of this bill. In addition, despite the 300 case estimate, the actual number of OPM-approved, agency-filed disability applications in 1979 was only 160. And again, these are both mental and physical disability cases, and the great majority would not come under the provisions of this bill. Still, if all these cases had been appealed to the district court, the cost, according to CBO's formula, would have been approximately $256,000. The committee feels this is a small price to pay to guarantee due process to those who face potential lifetime injury as a result of OPM's decisions.

Mr. Speaker, I have taken a good deal of time laying out why we feel passage of this legislation is both necessary and important. But, in light of the seriousness of what we are dealing with, I feel it is time well spent. The procedure we are talking about has been compared to the very worst we saw in this country during the McCarthy era—and with good reason. It is both mind-boggling and frightening that this is going on—and has been going on—right under our noses, in our own civil service, and that—until now—nothing has been done about it. This bill is a necessary first step—in fact, it is a very big step—toward balancing the scales for employees forced to take psychiatric fitness-for-duty exams against their will. I strongly urge my colleagues to support it.

□ 1240

Mr. CORCORAN. Mr. Speaker, I yield myself such time as I may consume.

that a full review of these decisions—on

Mr. Speaker, I believe the gentlewoman from Maryland has done a good job of explaining the background on this legislation and the effect of this bill. H.R. 2510, should it be passed by the House and the other body, and ultimately approved by the President.

The problem we found in our subcommittee consideration of the question was that there have been several apparent abuses whereby an agency would move rather quickly to involuntarily retire some person as a result of questoning and getting evidence on the mental competency of that individual.

Under current practice the Merit System's Protection Board does provide a review of that kind of capricious action, and what we propose to do in this legislation is to provide a legal basis by introducing into the statutes an appeal procedure whereby that person who feels aggrieved can file for an appeal procedure with the Merit System Protection Board. That part of the legislation I enthusiastically support.

I do, however, have misgivings about that particular feature of the legislation to which the gentlewoman referred when she talked about the opposition of the administration and the Office of Personnel Management to this new wrinkle whereby in addition to the review that the Merit System's Protection Board would provide for an aggrieved former employee, there would also be the opportunity for that former employee to get judicial review on a de novo basis. This means not only a review of the procedural aspects of the case, similar to the judicial review that most other agency actions are subject to, but in this particular case would be extended to include a review of the facts as well. So we would, in effect, be reopening the case from the very beginning, and that could bring about a substantial increase in the cost to the Government, estimated by the Office of Personnel Management to be upward of $500,000.

So I would hope, through the course of the legislative process, this particular feature might be removed. But with respect to all other aspects of the legislation, I would support it.

Mr. Speaker, H.R. 2510 provides that any Federal employee who is involuntarily retired by an agency for reasons of mental health is entitled to a comprehensive review of the agency decision by the independent Merit Systems Protection Board. This review can include both procedural and factual questions. I have no objection to this provision. In fact, the General Counsel of the Office of Personnel Management already interprets the law as providing for such a review, and such cases are being processed by the board.

The problem with this bill, as I see it, lies with a provision permitting a trial de novo of the agency decision if it is upheld by the Merit Systems Protection Board. The district court could again review the agency decision on both procedural and factual grounds. I do not see the need for such a duplicative layer of review. As recommended by the Office of Personnel Management, limited review of involuntary disability cases would allow the court to set aside any decision that is arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law, obtained without required procedures, or unsupported by substantial evidence. I believe that allowing for a procedural review in addition to the comprehensive review provided by the Merit Systems Protection Board would be fully adequate.

A de novo review of the decisions of the Merit Systems Protection Board is unnecessary. This is an independent, quasi-judicial body charged with reviewing all cases of disability retirement upon appeal, and I believe that we should give it an opportunity to work before we conclude that there is need for a second review.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I would simply like to ask a couple of questions of the gentlewoman from Maryland about this legislation.

I think recourse to the courts is always available for wrongs that have been committed, but apparently this makes it a little easier for a judicial review of an employee-employer relationship decision. Is that correct?

Mrs. SPELLMAN. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I would like to explain to the gentleman from Arizona that unfortunately access to the courts is not available to these employees at this time.

Mr. RUDD. My question is that this legislation would expedite it, so to speak?

Mrs. SPELLMAN. Exactly. The gentleman is absolutely right.

Mr. RUDD. With the understanding that the courts are always available for wrongs that have been committed, for equity, for justice, with this addition to the legislation, would that be in the way of an intimidation to the employer, a Federal employer?

Mrs. SPELLMAN. No; I guess I did not make it clear. For employees today who are asked to take fitness-for-duty exams and are found to be unfit for duty, even based upon a telephone call with a psychiatrist, they do not have access to the courts. The law precludes them from having that access today. What we are attempting to do is treat them like citizens of the United States of America should be treated, opening up that review by the court.

Mr. RUDD. The courts are always available for wrongs that have been committed, are they not? My only question is: Is this new procedure going to be a great expenditure of taxpayers' funds? Will this procedure require an extension of the length of time that possibly we had not thought about in order to determine whether a wrong has been committed or not?

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If that is so, would this be an intimidating factor against an employer, or a supervisor, or an administrator, to prohibit the good, efficient operation of that department, for example?

Mrs. SPELLMAN. No, we are quite sure that that would not be the case. And if it is an inhibiting factor in the sense that it would make a supervisor think very carefully and not ask for a psychiatric review of an employee who merely disagrees on something, or who has pointed out waste in an agency—and we have seen that; waste has been pointed out and an attempt has been made to prove that the employee who is blowing the whistle is really unfit for duty—what it does is make the supervisor stick to asking for these reviews only in cases that are truly warranted. Then it will have served its purpose, and I think in the long run we will have saved money. There is no way at the moment to break down the exact costs because the Government does not keep track of those in separate columns of those who are psychiatrically fit for duty and those who have physical fitness-for-duty problems. But if we were to put them all together, the Congressional Budget Office's formula said, if all of them were appealed, it would have been approximately in 1979 $256,000. We know, of course, that they all would not have been appealed, and we know, of course, that most of those were physical exams and not the mental exams we are talking about.

Mr. RUDD. I thank the gentlewoman. My concern is that it is already extremely difficult, in some cases almost impossible, to dispense with the services of a nonproducing employee. I hope that this does not make that even more difficult.

Mrs. SPELLMAN. We have just had a Civil Service Reform Act. We learned a couple of things during hearings on that. One was that the administration had totally—totally—misrepresented the difficulty that it experiences itself in ridding itself of employees. We were told that it takes years, and then we found that it took years only if the Government dragged its feet, and that is what the Government did. It would attempt to wear these employees down. Actually an employee could have been fired within 30 days or for real serious cause within 30 seconds, and we learned that during the hearings. But we have just had the civil service reform which, of course, changes the procedures for firing employees and should make it a lot easier. On the other hand, we want to be very sure that nobody—nobody—is branded with a charge of being mentally unstable and unable to keep a job when he is really not, and when all that he or she is attempting to do is call attention to a serious wrongdoing of Government. Surely in the United States we do not want to use those kinds of tactics, and we want to make it possible for these people to have due process.

Mr. RUDD. I thank the gentlewoman.

I thank the gentleman from Illinois (Mr. CORCORAN) for yielding.

Mr. CORCORAN. I appreciate the gentleman's comments. Let me just point out that the legislation we are dealing with is directed exclusively to those people who have been removed from employment by the agencies with which they were formerly associated for reasons of mental health. We are not talking about any kind widespread additional court review, as any kind of widespread additional appeal procedure, but simply about these particular cases.

Mr. Speaker, I yield back the balance of my time.

Mrs. SPELLMAN. I thank the gentleman.

Mr. Speaker, I yield back the remainder of my time.

● Mr. DERWINSKI. Mr. Speaker, on April 24, the Post Office and Civil Service Commission on a voice vote, reported favorably on H.R. 2510, which permits judicial review of certain disability determinations made by Office of Personnel Management under the civil service retirement program. The bill is scheduled to be considered today under suspension of the rules.

I want to take this opportunity to share with all Members of this body information which was not available when the committee voted and which most certainly would have prompted me to oppose the amended version of H R. 2510. There are budgetary and policy questions which deserve serious consideration before we approve this legislation under a procedure which precludes perfecting amendments.

The Congressional Budget Office has estimated this bill could cost as much as $500,000. I assume this additional financial burden would fall on the Justice Department.

Alan K. Campbell, Director of the Office of Personnel Management, voiced his strong objections to the bill in a May 14 letter. At the same time, Campbell said the OPM would support enactment of H.R. 2510, if it could be amended to limit the scope of judicial review.

Campbell's detailed objections to the legislation are spelled out in his letter which I recommend to Members of this body and which I include in my remarks.

The letter follows:

Office of Personnel Management,
Washington, D.C., May 14, 1980.

Hon. James M. Hanley,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

Dear Mr. Chairman: By letter of December 4, 1979, we submitted our views to the Committee on H.R. 2510, a bill "To amend title 5, United States Code, to permit court review in cases involving employees separated under section 8347, title 5, United States Code." H.R. 2510, in its form at that time, would have removed the bar to judicial review of voluntary disability retirements and of disability and dependency decisions related to payment of benefits for children, in addition to removing it for involuntary disability retirements. We could not support enactment of a bill that would have allowed such sweeping judicial review.

H.R. 2510 has been recently amended, however, and we are writing to express our views on the bill as reintroduced on March 20, 1980. As amended, H.R. 2510 would remove the bar to judicial review of disability retirement decisions only in those cases where the finding of disability was made in response to an application filed by an agency for an employee's involuntary disability retirement (as opposed to an employee's voluntary application for disability retirement) and then only if the finding of disability is based, in whole or in part, on the employee's mental condition. OPM's dedecisions would become subject to review by review by the Merit Systems Protection Board under 5 U.S.C. 7701, and the Board's decision would become subject to review by U.S. district courts under 5 U.S.C. 7703.

We believe that it is reasonable and proper to restrict expanded judicial review to involuntary disability retirements. An employee who voluntarily applies for disability retirement seeks to establish title to a benefit granted by law; the Office of Personnel Management is the administrative agency charged under the law with the managerial function of adjudicating disability retirement claims. It is appropriate, therefore, that OPM decisions on voluntary applications be conclusive, reviewable only to determine whether there has been a substantial procedural error, misconstruction of governing legislation, or some like error going to the heart of the administrative determination.

On the other hand, involuntary disability retirements—those filed by an agency to separate an employee against his or her will—are adversarial actions based on an employee's performance and therefore merit the same degree of judicial review as removals under chapters 43 and 75 of title 5, United States Code, concerning performance appraisal and adverse actions, respectively.

The present bill would provide that OPM decisions on involuntary disability applications that involve the employee's mental condition would be subject to review by the MSPB under section 7701 of title 5. That section provides for a de novo review by the Board of both procedural and factual questions. The appellant has the right to a hearing and to be represented by an attorney or other representative. The Board may sustain a decision only if it is supported by a preponderance of the evidence; the decision may not be sustained if the employee shows harmful error in the application of the procedures in arriving at the decision, if the decision was based on a personnel practice prohibited under 5 U.S.C. 2302(b), or if the decision was not in accordance with law.

H.R. 2510, as amended, would also explicitly provide that the Board's decision in an involuntary disability case would be subject to judicial review under section 7703 of title 5, United States Code, and it would amend that section to provide that, as a present for discrimination cases, such a decision would be subject to trial de novo by the reviewing court.

We would not be opposed to limited review by the courts of these decisions as a further safeguard in these controversial cases, but we must oppose the provision of H.R. 2510, as amended, that would grant the right to have the facts subject to trial de novo by the reviewing courts. Since the Board is an independent, quasi-judicial body, and since the review provided is a demanding one, we think that employees would be well protected by access to MSPB for review of involuntary disability retirement decisions. Further, disability decisions are largely of a medical and technical nature, i.e., they are determinations as to whether a particular ailment disables an applicant for his or her position. It is essential to the efficient and equitable operation of the disability retirement program that a uniform standard be used in resolving such questions, and it is unlikely that such a uniform standard could operate in the judicial arena.

Given the full de novo review now provided before the Merit Systems Protection Board, we do not think that it is necessary to provide for a second de novo review by the court; nor, given the importance of a uniform standard of disability and a consistent line of disability decisions, do we think it is desirable to permit the courts to make what are essentially medical decisions outside of the context of the disability program. We propose, therefore, that the scope of judicial review be modified to that provided for other decisions based on performance under chapters 43 and 75 of title 5, United States Code. Section 7703 of title 5 provides that the court shall review and set aside any decision that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without required procedures; or unsupported by substantial evidence. (If the scope of review were thus limited, the appropriate judicial forum would be the Court of Claims or a U.S. court of appeals, rather than a district court.) Judicial review of this nature would provide adequate protection for an employee subject to an involuntary disability retirement without exposing the disability program to the vagaries of individual medical decisions by the courts.

If H.R. 2510 is further amended to limit the scope of judicial review as discussed above, the Office of Personnel Management would support its enactment, but we cannot do so in its present form.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely yours,

ALAN K. CAMPBELL,
Director.●

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 2510, as amended.

The question was taken.

Mr. **MILLER** of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. **SPELLMAN**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just considered, H.R. 2510.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

OCEAN THERMAL ENERGY CONVERSION AUTHORIZATIONS

Mr. **FUQUA**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7474) to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Research and Development Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized (ten- to forty-megawatt) pilot plants;

(5) the Federal ocean thermal energy conversion program has grown in size and scope over the past several years and many competent industrial groups have been involved in recent ocean thermal energy conversion research and development activity;

(6) it is in the national interest to accelerate efforts to develop ocean thermal energy conversion by building pilot demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion energy can potentially contribute at least one-tenth quad of energy per year by the year 2000.

(b) Therefore, the purpose of this Act is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstrate by 1986 at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstrate by 1989 at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achieve in the mid-1990's, in the gulf coast region of the continental United States, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources;

(4) establish as a national goal ten thousand megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999; and.

(5) provide for satisfactory cost-sharing arrangements when the Secretary deems appropriate.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 3. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. In addition, such plan shall identify a lead center responsible for technology support and project management.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth (with respect to each of the programs under this Act) any changes in—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program elements, management structure, and activities;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Ocean Thermal Energy Conversion Advisory Committee established under section 8, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) stationkeeping requirements; and

(4) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT DEMONSTRATION PLANTS

SEC. 5. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel pilot demonstration projects shall be competitively selected.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity or energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy product; and

(3) the continuous operation of each pilot demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall give full consideration to those projects which will provide energy to United States offshore States, territories, and possessions.

TECHNOLOGY APPLICATION

SEC. 6. (a) The Secretary shall, in consultation with the Administrator of the National Ocean and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Ocean Thermal Energy Conversion Advisory Committee established under section 8, prepare a comprehensive technology application and market development plan that will permit realization of the megawatt national goal by the year 1999. Such plan shall include at a minimum—

(1) an assessment of those Government actions required to bring about a two-hundred- to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 2(b)(2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 2(b)(3);

(3) an analysis of further necessary Government actions to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis.

(c) As part of the competitive procurement initiative for design and construction of the pilot demonstration projects authorized in section 10(b), each respondent shall include in its proposal (1) a plan leading to a full-scale, first-of-a-kind facility based on the proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goal.

PROGRAM SELECTION CRITERIA

SEC. 7. The Secretary shall, in fulfilling his responibilities under this Act, select programs and set priorities which are consistent with the following criteria:

(1) realization of energy prouction costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply; and

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this Act promotes the development of a United States domestic technology for ocean thermal energy conversion.

ADVISORY COMMITTEE

SEC. 8. (a) There is hereby established an Ocean Thermal Energy Conversion Advisory Committee, which shall, at a minimum, study and advise the Secretary with regard to—

(1) implementation and conduct of the programs established by this Act,

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(b) The Committee shall be composed of at least seven members appointed by the Secretary from industrial, academic, financial, environmental, and legal organizations and such other entities as he deems appropriate. The appointments shall be made within ninety days after enactment of this Act. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least four times annually notwithstanding section 10 (e) and (f) of Public Law 92-463, until such time as the demonstration program goals in section 5 are met.

(e) The Committee shall prepare and submit annually to the Secretary a report. Such report shall include at a minimum—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 3.

(f) The Secretary shall provide sufficient staff and other support as necessary to enable the Committee to carry out the functions described in this section.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat which is stored by the sun in the surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier such as ammonia, hydrogen, or molten salts used to transport ocean thermal energy conversion generated energy to shore for use in generation of electricity or as an energy-intensive commodity, and includes fresh water, nutrients for aquaculture, and other resulting commodities;

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(b) Funds are hereby authorized to be appropriated to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 82-ES-1, ocean thermal energy conversion pilot demonstration plans with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only, $15,000,000.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. LUJAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I want to thank the chairman of the Subcommittee on Energy Development and Applications, Mr. OTTINGER, the ranking minority member, Mr. FISH, and the subcommittee for the fine work they did in bringing this bill before us. Further, I would like to commend the author of this legislation, in the other body, the distinguished Senator from the State of Hawaii, SPARK MATSUNAGA, for successfully steering the Senate counterpart to this legislation (S. 1830) through the Senate and for the cooperation he has extended our committee during its consideration of this bill.

Mr. Speaker, I rise in support of H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act. This bill provides for the establishment of a focused, goal-oriented research, development and pilot demonstration plant program over the next 6 years relating to ocean thermal energy conversion systems. These systems offer great promise for providing significant portions of our future energy needs from an inexhaustible source, just off our shores; the ocean. By the end of fiscal year 1986, the programs H.R. 7474 establishes will result in the operation of at least two OTEC pilot plants of a combined capacity of 100 megawatts of electrical production. These pilot plants will prove beyond any shadow of doubt, the technical feasibility of OTEC systems and they will also give us a clear indication of the economic competitiveness of this promising technology.

I would like to very briefly give my colleagues a clearer understanding of the energy resource and technology which will be utilized and developed in the programs called for in this legislation.

The oceans are the Earth's largest continuously operating solar energy collectors. The energy collected is in the form of heat stored in the upper ocean layers. In tropical and subtropical waters, such as those adjacent to Hawaii, Puerto Rico, the Virgin Islands, Guam, and off our shores in the Gulf of Mexico, the temperature differential between the warmed surface layers and deep cold water is great enough to provide economic energy production by offshore ocean thermal powerplants. Thus, solar heating of the ocean provides the continuous, renewable source of baseload OTEC electricity, since the heat absorbed by the surface water is sufficiently abundant to permit 24-hour operation at constant power output. Electrical energy generated on floating OTEC powerplants can be transmitted to land and/or be utilized on board the plants themselves for energy-intensive processes, such as the manufacture of ammonia, hydrogen, and metals.

The principle of using ocean thermal gradients has been known for decades. Successful experiments have been carried out in the laboratory and at ocean sites. Development of OTEC technology for use in commercial plants was noncompetitive in the era of inexpensive electricity derived from depletable fuels, but the rise in energy costs since 1970 makes OTEC a potentially competitive renewable source for the production of baseload electricity. A Federal OTEC development program began in 1972 under the auspices of the National Science Foundation's research applied to national needs (RANN) program.

In early 1975, the OTEC program was transferred to the Energy Research and Development Administration, which later became part of the Department of Energy (DOE). To date, this program has been strictly a component R. & D. effort with no fully operational complete OTEC system to prove this technology. It is this void in the DOE program that this legislation addresses.

The Committee on Science and Technology has carefully drafted this legislation to contain the necessary elements for successful implementation. This committee has received testimony from the DOE, the OTEC system manufacturing industry, utilities, and Members of the House and Senate on the need of a strong Federal commitment to the development of ocean thermal energy conversion systems and markets. After much effort and deliberation, we have structured a piece of legislation that will specify an accelerated program for OTEC systems, leading to their widespread use in supplementing and replacing conventional methods for generating electricity and for producing energy intensive products, especially those methods based on imported oil. I believe that this legislation is responsive to these needs.

Mr. Speaker, I consider H.R. 7474 to be a responsible piece of legislation which deserves our support. We must continue to develop solar energy applications that show great promise for the future as well as serve our needs today. With this legislation, we will be able to develop OTEC systems in a rational and comprehensive manner. This will insure that the taxpayers' dollars are used in as efficient and effective a manner as possible. I urge passage of this bill.

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Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I will be happy to yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, it gives me great pleasure to rise in support of H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act. I am pleased to be a cosponsor of this legislation, and would like to take this opportunity to congratulate my distinguished colleague from Florida (Mr. FUQUA) for his outstanding effort on behalf of this promising alternative energy technology.

The global effort to find and develop new sources of energy encompasses not only the 30 percent of the Earth's surface covered by land but extends, as well, to the greater part covered by water. Not only do offshore regions offer resources in petroleum, natural gas, coal, and materials for fission or fusion, but the ocean environment can provide unique sources of renewable energy, holding out promise for augmenting conventional energy sources and for reducing dependence on imported fuels. In this regard, interest has heightened in the renewable energy resource potential of the world's oceans and the significance of the role they could play in easing the strain on U.S. energy resources.

Mr. Speaker, H.R. 7474 would authorize $75 million for fiscal 1982 to establish an accelerated OTEC R. & D. program in the Department of Energy. The legislation lists goals for OTEC development which I believe can be achieved with the Federal commitment we are making today. These goals are to demonstrate by 1986 at least 100 megawatts of electrical capacity from OTEC systems and by 1989, 500 megawatts of such capacity.

The national goal of 10,000 megawatts of electricity from OTEC by 1999 is also established and finally the legislation aims at bringing the cost of OTEC generated electricity in the gulf coast area of the United States down to levels competitive with conventional energy sources by the mid-1990's. If we are able to achieve the goals of this program, we could be generating some 2 percent of our national electrical needs with OTEC by the end of this century. That would mean at least 2 percent less OPEC oil we would have to import. If we are ever to break the hold of the OPEC cartel, development of ocean thermal energy is just one more step we should be taking.

Hopefully, the OTEC legislation we are discussing here today will lend some structure and goal orientation to the OTEC program at the Department of Energy. To date, OTEC, while having great potential as an energy source, has one of the smallest R. & D. budgets of any of the solar technologies. In 1980, the potential constraint on the OTEC R. & D. budget could be particularly damaging to this new technology. H.R. 7474 should lend some visibility to the OTEC program that it otherwise would not have received.

Again, let me take this opportunity to congratulate my distinguished colleague from Florida (Mr. FUQUA) for his efforts. I look forward to working with him and my other House colleagues for an OTEC program which will contribute significantly to our national energy future.

Mr. FUQUA. Mr. Speaker, I yield 1 minute to the delegate from Puerto Rico (Mr. CORRADO).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act.

This is a bill of great interest to me and my constituents for it provides for an accelerated research and development program for an alternate source of energy which holds great promise for Puerto Rico.

Our interest and involvement with OTEC is born not only out of our belief that this technology offers great promise but also out of our insular geographic location and critical energy problems. Situated in a strategic area of the Caribbean, Puerto Rico is blessed with abundant sun and balmy weather. Furthermore, the ocean depths and temperatures surrounding the Island offer the ideal location for an OTEC platform. The geographic advantage with regard to the development of OTEC and other solar techniques becomes critically important because of our dependency on foreign oil as a source of energy. We do not have the advantage of having natural resources such as oil and coal nor can we wheel in electricity from neighboring States being at a distance of more than 900 miles from the U.S. mainland.

In 1979, our expenditures for petroleum and products consumed within Puerto Rico exceeded $1 billion in an economy whose gross domestic product came to about $9 billion. In 1979, we consumed about 24 million barrels of oil for the generation of electricity. In that 1 year alone, this fuel to generate electric power cost us about $330.7 million.

The government of Puerto Rico feels that OTEC present a solid alternative and is very anxious to participate in an OTEC demonstration project as early as possible.

I would like to thank the chairman of the committee, Mr. FUQUA, for his leadership and to let him know that I am pleased at the fact that the committee accepted some of my recommendations such as including the offshore States, territories, and possessions as specific areas where pilot demonstrative plants may be located and also my recommendation that the combined capacity of the demonstration plants be increased from 50 to 100 megawatts. I am particularly appreciative of the efforts of Mr. OTTINGER and Mr. FISH.

Mr. Speaker, if we are serious in our commitment to renewable sources of energy, the approval and full funding of the Ocean Thermal Energy Conversion Research and Development Act should receive priority attention by Congress, and the administration.

I urge all my colleagues to support this legislation.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill H.R. 7474 as reported by the Committee on Science and Technology. This legislation clearly expresses the intent of the Congress that U.S. OTEC industry be permitted to move aggressively forward in solving the engineering problems related to OTEC energy. It also requires the beginning of the planning necessary for OTEC to make a meaningful energy contribution by the end of the century. U.S. industry is currently in the lead in this important technology, but several other governments are preparing to act aggressively on OTEC.

Mr. Speaker, if we act now and make this program law, we will have gone a long way toward making sure that OTEC is one area where U.S. industry retains world leadership. There are several reasons why the commercial deployment of OTEC will be important to us all.

First, OTEC will directly back out oil by supplying electricity in islands and other tropical locations which are currently dependent on diesel-generated electricity. Given the precarious nature of world oil supplies, any decrease in oil demands benefits us all.

Second, by tapping solar energy which is temporarily stored in the oceans, OTEC energy comes from a renewable source in an environmentally acceptable manner. It can even have pure water as a byproduct which incidentally is a scarce resource in some of the sites where OTEC is likely to be cost effective.

Third, OTEC can be a means of bringing economical electricity to some of our less developed friends. For instance, the Ivory Coast has a unique site with an abrupt dropoff of the continental shelf in warm waters which in theory would be an ideal commercial OTEC site. At full committee, we agreed that the Department of Energy should carefully begin considering international OTEC processes in the pilot demonstration phase of OTEC development which is contained in this legislation.

Fourth, options are available to produce ammonia, which is an essential fertilizer feedstock, rather than electricity.

Mr. Speaker, this legislation on the other hand does not commit the American taxpayers to footing the entire bill for OTEC development. The authorization commitment in the legislation does not go beyond R. & D. and design work. Furthermore, the Secretary of Energy is ordered to require cost-sharing of projects where feasible.

As a whole, I consider this legislation to be a big step forward for the OTEC program and I urge my colleagues to vote affirmatively on it.

Mr. Speaker, this bill would accelerate efforts to develop ocean thermal energy conversion by building a pilot demonstration facility and to begin planning for a commercial demonstration of ocean thermal energy conversion technology.

OTEC has at its base extraction of energy by using the temperature difference between the ocean's warm surface water and cold deep water. Goals are established for installed electrical generation capacity which is very necessary, Mr. Speaker.

Mr. Speaker, I have further requests for time and yield back the balance of my time.

Mr. FUQUA. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER), the chairman of the subcommittee, whom I would like to commend for the fine job he did as did the ranking minority member, the gentleman from New York (Mr. FISH), in crafting this legislation in subcommittee and getting it prepared to bring to the House floor today.

Mr. OTTINGER. Mr. Speaker, I want to thank the chairman of the committee, the gentleman from Florida (Mr. FUQUA), the sponsor of this legislation for his leadership in drafting and promoting this legislation and for the cooperation he has extended to my subcommittee during its consideration of it. I would also like to thank the ranking minority member of the subcommittee, the gentleman from New York (Mr. FISH), who has participated very actively in our deliberations on H.R. 7474, and has made an important contribution to the legislation that is before us today.

Mr Speaker, H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act, was reported unanimously from the Subcommittee on Energy Development and Applications and then from the full Committee on Science and Technology. The bill authorizes $75 million for fiscal year 1982 for accelerated research, development, and pilot demonstration plant programs on ocean thermal energy conversion.

The bill we are considering provides the Congress an opportunity to take positive action in the development of a renewable alternative energy source which can begin contributing to this Nation's growing domestic energy requirements during the next decade. It provides a commitment to a 6-year program that will bring OTEC systems and the OTEC systems industry, to maturity at the earliest possible date. This will be done by the demonstration by the end of 1986, of at least two independent OTEC pilot plants of a combined capacity of at least 100 megawatts. Beyond the achievement of this 1986 goal, the legislation establishes some additional goals for the OTEC program and technology. The second goal is to demonstrate by 1989, at least 500 megawatts of electrical capacity or energy produce equivalent from OTEC systems. The third goal for the technology is to achieve in the mid-1990's in the gulf coast region of the country an average cost of electricity produced by an OTEC system that is competitive with conventional energy sources. The final goal is the establishment as a national goal, 10,000 megawatts of electrical capacity or energy product equivalent from OTEC systems by the end of the century.

In order for the programs called for in H.R. 7474 to attain these aggressive goals, provisions have been incorporated in the bill which should assure their achievement. I would briefly like to outline these provisions.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

The bill contains the requirement that DOE prepare and present to Congress within 9 months, a detailed program management plan covering all aspects of the program, and what it is going to take to implement the program. It will address cost reduction goals, program cost by program element, program management structure including the designation of a lead center responsible for technology support and project management, and staffing requirements in headquarters and in the field.

The Secretary is further required as part of the annual budget submission to Congress, to update the plan and provide detailed justification for any changes which take place in the previous year's plan. This will allow DOE some flexibility, but holds them accountable for utilizing that flexibility.

This provision will allow DOE to gear up in an orderly and effective manner, in order to undertake the acceleration and expansion of the present OTEC program, necessary to have multiple pilot plants operational by the end of 1986.

TECHNOLOGY APPLICATION AND MARKET DEVELOPMENT PLAN

This provision requires DOE, in consultation with the Maritime Administration, NOAA, NASA, and the Ocean Energy Conversion Advisory Committee to prepare and present to Congress within 3 years, a comprehensive technology application and market development plan that will permit the realization of the long term goals of the bill, culminating in the achievement of the 10,000-megawatt national goal by the end of the century. The plan shall include the identification of the efforts necessary to establish a sufficient industrial infrastructure and an analysis of what additional Federal actions may be required. In this analysis of further Federal actions that might be required, DOE should pursue actions which minimize the impact on the Federal budget beyond fiscal year 1986.

The Ocean Thermal Energy Conversion Research and Development Act has received broad support from industry, the utilities, State and local governments and from various citizens' groups. It authorizes $75 million for fiscal year 1982 and was reported from the committee unanimously.

Mr. Speaker, I request support for this legislation.

□ 1310

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. FUQUA. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I think it is unfortunate that the administration did not request proceeding with a pilot plant at this time. It was the strong feeling of all the members of the subcommittee and the committee that we have a tremendous investment into this now. Industry is ready to go forward, and delay would only add to the cost; furthermore, it would create uncertainty in the industry that would cause some of their members to retreat from the investments they already have.

We are at a stage where we are either going to go ahead with the pilot program and prove this technology, or it should be abandoned. The halfway measures proposed by the administration seem to be ill-advised. The committee unanimously decided that we should go ahead. I think this is the sound thing to do, and I urge adoption of the bill.

● Mr. WINN. Mr. Speaker, I rise in support of the bill H.R. 7474 as reported by the Committee on Science and Technology. This legislation clearly expresses the intent of the Congress that U.S. OTEC industry be permitted to move aggressively forward in solving the engineering problems related to OTEC energy. It also requires the beginning of the planning necessary for OTEC to make a meaningful energy contribution by the end of the century. U.S. industry is currently in the lead in this important technology, but several other governments are preparing to act aggressively on OTEC. Mr. Speaker, if we act now and make this program law, we will have gone a long way toward making sure that OTEC is one area where U.S. industry retains world leadership. There are several reasons why the commercial deployment of OTEC will be important to us all.

First, OTEC will directly back out oil by supplying electricity in islands and other tropical locations which are currently dependent on diesel generated electricity. Given the precarious nature of world oil supplies, any decrease in oil demand benefits us all.

Second, by tapping solar energy which is temporarily stored in the oceans, OTEC energy comes from a renewable source in an environmentally acceptable manner. It can even have pure water as a byproduct which incidentally is a scarce resource in some of the sites where OTEC is likely to be cost-effective.

Third, OTEC can be a means of bringing economical electricity to some of our less developed friends. For instance, the Ivory Coast has a unique site with an abrupt drop-off of the Continental Shelf in warm waters which in theory would be an ideal commercial OTEC site. At full committee, we agreed that the Department of Energy should carefully begin considering international OTEC processes in the pilot demonstration phase of OTEC development which is contained in this legislation.

Fourth, options are available to produce ammonia, which is an essential fertilizer feedstock, rather than electricity.

Mr. Speaker, this legislation on the other hand does not commit the American taxpayers to footing the entire bill for OTEC development. The authorization commitment in the legislation does not go beyond R. & D. and design work. Furthermore, the Secretary of Energy is ordered to require cost-sharing of projects where feasible.

As a whole, I consider this legislation to be a big step forward for the OTEC program and I urge my colleagues to vote affirmatively on it.●

● Mr. STUDDS. Mr. Speaker, I strongly support passage of H.R. 7474 under suspension of the rules. Last year the Subcommittee on Oceanography, which I chair, held extensive oversight hearings on the state of development of ocean thermal energy conversion (OTEC) technology, and its potential for providing a major new source of renewable energy for the United States by the year 2000. After those oversight hearings we concluded that OTEC can indeed become a major new source of energy. Our estimate was that if the Department of Energy's program is significantly accelerated, OTEC could provide as much as 5 to 20 percent of the new baseload electrical capacity constructed in the United States by the year 2000.

Based on what we learned during the Oceanography Subcommittee's oversight hearings last year, two Federal actions are needed to make the potential of OTEC a reality: First, an acceleration of the Department of Energy's overly cautions program so that the technology is demonstrated in large scale systems promptly; and second, legislation to remove legal, regulatory, and other institutional uncertainties which will otherwise become barriers to the commercial construction of OTEC facilities and plantships. The first of these actions is accomplished by H.R. 7474, which the Committee on Science and Technology is presenting to the House today, and the second of those actions will be accomplished by H.R. 6154, which the Committee on Merchant Marine and Fisheries will present to the House in the near future. I believe enactment of both bills is necessary, and that the provisions of the two bills will work together in a complementary fashion.

Mr. Speaker, the Committee on Science and Technology has written a bill which will accelerate the Department of Energy's OTEC development program in the most cost-effective way possible, and I urge my colleagues to support passage of the bill.●

● Mr. FISH. Mr. Speaker, I rise in support of H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act. This bill will help us tap the potential of another promising solar application by providing for an aggressive program to utilize the energy stored in our ocean waters.

Mr. Speaker, we have all heard much about our energy problems. These problems, and our Nation's inability to come to grips with them, continues to haunt us. They seriously drain our financial strength and continue to threaten our national security. Because of this, I believe that it is imperative that we press forward now with the development of our renewable energy resources.

We have all heard about the promise of solar energy, and the many possible solar applications that can be used. The Subcommittee on Energy Development and Applications has held many hours of hearing on the potential of solar energy and the promise of obtaining 20 percent of energy needs from the Sun by the year 2000. We have also heard most emphatically about the need for a vigorous solar research and development program if we are to reduce our reliance on uncertain foreign oil supplies.

H.R. 7474 takes another important step in this direction. This legislation will allow us to begin to accelerate our efforts to develop the potential of ocean thermal energy. Ocean thermal energy conversion systems, or OTEC systems, show great promise for providing offshore U.S. States, territories, and possessions with significant amounts of electrical power. Recent studies have indicated that we can, in fact, reduce the costs of OTEC systems so that they will become economically competitive. After we have gained some experience with these systems, and their costs are reduced, OTEC systems will be attractive for the utilities along the gulf coast, and will contribute to the baseload electrical generation needs of the Southwestern and South Central United States.

I would like to commend the chairman of our committee, the distinguished gentleman from Florida (Mr. FUQUA), for his fine leadership on this bill. Through his efforts, I believe that we have structured an effective piece of legislation that will allow us to proceed vigorously to develop ocean thermal energy. I would also like to commend our distinguished subcommittee chairman, the gentleman from New York (Mr. OTTINGER), for his excellent work on this bill. Because of their efforts, this legislation enjoys the bipartisan support of our full committee. It has been further refined to insure that we provide the Federal support which is essential to the program, yet minimizing our budget impacts.

The bill which we are now considering will establish an accelerated research, development, and demonstration OTEC program. It authorizes the Secretary of Energy to develop a comprehensive program plan for his activities under this act, which include the design, construction, and operation of at least two independent parallel pilot OTEC demonstration projects. In my opinion, it is now time to move forward with hardware and construction activities to demonstrate OTEC's potential. It also authorizes the Secretary to develop a technology application and market development plan to permit the remaining barriers facing OTEC to be overcome. Finally, the bill establishes an Ocean Thermal Energy Conversion Advisory Committee to help guide the Secretary in his activities under this program.

With this legislation in place, I am confident that we can move forward to meet the goals of demonstrating an OTEC electrical and energy equivalent capacity of 100 megawatts by the year 1986, 500 megawatts by the year 1988, and 10,000 megawatts by the year 1999. Based on these estimates, it is clear that it is in our Nation's best interests to accelerate our efforts to develop OTEC technology. The resource for OTEC is extremely great. Although the domestic policy review projects that OTEC could contribute 0.1 quad by the year 2000, recent estimates indicate that much more can be obtained, possibly up to 2 quads by the year 2000.

Ocean thermal energy offers us another clean source of renewable energy. The committee has received testimony indicating that the industry is ready and willing to make commercial OTEC energy a reality now. Ocean thermal energy can be used not only for electrical production, but also for any one of several energy-intensive manufacturing processes. These can include ammonia manufacture, hydrogen production and aluminum refining.

Mr. Speaker, our Nation must make a firm commitment to our renewable resources if we are ever to become energy independent. H.R. 7474 embodies this commitment. It establishes a comprehensive program that will help us meet the national goal of deriving 20 percent of our energy needs by the year 2000 from the Sun. It will help us make ocean thermal energy competitive with conventional energy sources in the gulf coast region by the mid-1990's.

Our Nation anxiously awaits to see if we can meet the challenge of harnessing the great potential of the Sun. This legislation is a response to that challenge. For this reason, I urge that may colleagues vote for swift passage of this bill.●

● Mr. DORNAN. Mr. Speaker, I rise in support of the OTEC R. & D. Act of 1980. OTEC technology offers a unique energy opportunity to the warm water coastal areas of our country and the Nation.

The concept of OTEC is fairly simple. It uses the temperature differential between the warm waters at the surface of the ocean and the deep cold waters as a source of electricity or mechanical energy. However, it was not until 1972 that OTEC development in this country was taken seriously. At that point the National Science Foundation began what has grown into the major OTEC research program of the Department of Energy.

The mini-OTEC experiment which began producing net power in 1979 has shown us that the OTEC theory is a scientific reality. The time has therefore come to commit to the engineering phase of OTEC development so that by the turn of the century OTEC energy can be a major regional energy resource in this country and a major export product for U.S. industry.

As many of you know the double-digit inflation which has plagued the current administration has caused problems for cost estimates in the construction industry. OTEC is no exception. The OTEC I heat exchanger test bed which was developed by the Department of Energy came in a moderate amount over the budget, and this has caused the administration to be slow in committing to the major OTEC engineering project that was contained in last year's Department of Energy bill. Therefore, I think it is obvious that the administration needs a clear signal that OTEC technology is ready to make a big leap forward if the Federal Government is willing to give the technology the backing it deserves.

That is the clear intent and accomplishment of this legislation. It has very clear goals for the 1986, 1989, and 2000 for OTEC which are ambitious but clearly achievable if both the Federal Government and private industry give OTEC the attention it deserves. The bill calls for a detailed program management plan which if written and followed will help the Department of Energy to have an efficient, organized, and timely approach to OTEC engineering development. Equally important, is the market development and technology application plan which is required in 3 years under this legislation. If OTEC is to make a major contribution in 15 to 20 years. We must begin to think now about how to minimize the institutional and economic barriers that U.S. industry will face in maintaining and lengthening their lead in the OTEC technology.

In keeping with the congressional practice of authorizing energy research 1 year at a time, this OTEC legislation only addresses fiscal year 1982. Therefore, while the bill contains an increase in the authorization for OTEC operating funds, and commits to design of OTEC engineerings demonstration plants, the taxpayers of our country can count on an annual review of these projects during the construction phase to make sure that their money is well spent. Also, the Secretary of Energy is required to look for cost sharing for the projects as soon as the technology has progressed to the point where cost sharing becomes appropriate.

Mr. Speaker, I am convinced that this legislation is a major step forward for solar energy in this country and I urge the wholehearted support of all my colleagues.●

Mr. FUQUA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill (H.R. 7474), as amended.

The question was taken.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7474, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IRC AMENDMENTS FOR AIRWAY TRUST FUND

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7477) to amend the Internal Revenue Code of 1954 to provide a 3-month extension of the taxes which are transferred to the Airport and Airway Trust Fund, as amended.

The Clerk read as follows:

H.R. 7477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TAXES.

(a) TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of the Internal Revenue Code of 1954 (relating to termination of tax on fuel for noncommercial aviation) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

(b) TAX ON TRANSPORTATION BY AIR.—Sections 4261(e) and 4271(d) of such Code are each amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1980".

(c) TAX ON USE OF AIRCRAFT.—

(1) IN GENERAL.—Subsection (e) of section 4491 of such Code (relating to termination of tax on use of aircraft) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

(2) TRANSITIONAL RULE.—For the period beginning on July 1, 1980, and ending on October 1, 1980—

(A) subsection (a) of section 4491 of such Code shall be applied by substituting "$6.25" for "$25", "½ cent" for "2 cents", and "⅞ cent" for "3½ cents", and

(B) such section 4491 shall be applied by treating such period as a year.

(3) POSTPONEMENT OF DUE DATE FOR FILING RETURN.—The due date for filing any return of the tax imposed by section 4491 of the Internal Revenue Code of 1954 with respect to any use after June 30, 1980, shall not be earlier than October 31, 1980.

(d) EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by striking out "July 1, 1980" each place it appears and inserting in lieu thereof "October 1, 1980".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Louisiana (Mr. MOORE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under present law, the aviation-related excise taxes are scheduled either to expire or be reduced on July 1, 1980. For example, the 8-percent air passenger ticket tax would decline to 5 percent, and the 5-percent air freight tax would expire. H.R. 7477 provides for a 3-month extension of the present aviation excise taxes that are transferred to the Airport and Airway Trust Fund, or from July 1, 1980, through September 30, 1980. The revenues from the 3-month extension of the present aviation taxes, $111 million, are assumed in the fiscal year 1980 budget resolution as approved by the Congress.

This 3-month extension of the existing aviation taxes at present law rates is in order to provide additional time for the Congress to complete its consideration of the pending trust fund extension legislation, H.R. 6721. H.R. 6721, which has been reported by the Committee on Science and Technology and the Committee on Public Works and Transportation, provides airport and airway program authorizations from the trust fund for the fiscal years 1981–85.

The Committee on Ways and Means has approved a committee amendment, to be offered as a separate title II to H.R. 6721, which will extend the airport and airway trust fund through the fiscal year 1985, and will generally extend the present aviation excise taxes through September 30, 1985, with certain modifications.

Mr. Speaker, I urge adoption of the bill, H.R. 7477.

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority has no objection to this bill; indeed, it does support it. This bill is not intended in any way to delay or to prevent the coming to the House floor and ultimately passage by this and the other body into law H.R. 6721, which in fact makes some rather substantial and needed changes in the airport trust fund. Quite the contrary, it is recognized that that bill will not make it through the legislative process prior to changes that will be made in the law dealing with the airport trust fund, prior to the time that it will be passed into law, if something is not done.

• This bill is being supported by the Ways and Means Committee and by the minority of the Ways and Means Committee as something necessary to maintain the present fabric makeup of the airport trust fund until such time as H.R. 6721 eventually passes the Congress.

□ 1320

Three committees have already passed on this: the Committee on Public Works, the Committee on Science and Technology, and the Committee on Ways and Means. All three committees intend that the airport trust fund will continue. Without this legislation being passed today, that would not be the case.

So, Mr. Speaker, we urge the adoption of this bill.

Mr. ULLMAN. Mr. Speaker, I yield back the balance of my time.

Mr. MOORE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ROBERTS). The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill, H.R. 7477, as amended.

The question was taken.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION, 1981

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7115) to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 7, nays 0.

So the motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Louisiana (Mr. BREAUX) as Chairman of the Committee of the Whole and, in the absence of the gentleman from Louisiana, requests the gentleman from New York (Mr. WEISS) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7115, with Mr. WEISS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill we are considering today, authorizing appropriations to the National Science Foundation for fiscal year 1981, has been the subject of very careful review and deliberations by the Committee on Science and Technology. I am pleased to say that the bill we reported and are considering today had the unanimous support of the committee.

By its nature it is a bipartisan bill. We have appreciated the fine cooperation and assistance of Members on both sides of the aisle during the committee's consideration. I would like to thank the gentleman from New York (Mr. WYDLER), ranking minority member of the Committee on Science and Technology, and the gentleman from New Jersey (Mr. HOLLENBECK), ranking minority member of the Subcommittee on Science, Research, and Technology, for their support and guidance.

Especially, I would like to express my appreciation to the gentleman from California (Mr. BROWN), chairman of the Science, Research, and Technology Subcommittee, for his competent and thorough handling of the bill in subcommittee.

Six days of hearings were held, during which each segment of the National Science Foundation's budget was carefully examined and explored with NSF officials as well as with outside witnesses in some areas. This, together with regular, continuing oversight of the Foundation maintained by the subcommittee, and its review of the NSF Organic Act initiated during 1979, form the basis for the authorization we bring before you today.

The committee bill authorizes a total of $1,125.72 million. This is $22.28 million less than the President's original budget request for 1981 and an increase of $51.72 million over his late March revised figures. Compared to the Foundation's fiscal year 1980 level, this is a modest increase that hardly allows for inflation. The increase is distributed principally in engineering and applied science and science education.

In making these adjustments in the NSF budget request, the committee kept in mind the emphasis which the President's budget places on basic research.

The committee believes that the Science Foundation's basic research programs must be maintained as part of the Nation's effort to maintain world technological leadership. They are essential to provide the base for renewed efforts to strengthen domestic industrial innovation and productivity, and create a more favorable world trade position.

The committee also believes that applied science is equally as important to our innovation efforts—for example, as in providing technological assistance for small businesses and generic technology centers. Our proposed budget is aimed at maintaining these at an adequate level.

In addition, the committee has sought to reverse the continuing dangerous decline in support of science education programs. This is imperative if our country is going to keep pace with the need for an informed populace on scientific matters.

Mr. Chairman, the committee has worked hard and the result is a good bill, one aimed at providing adequate research and science education for the Nation but at the same time reflecting the need for restraint in this year's budget. I urge Members to vote for it.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, first I should like to thank the gentleman from Florida (Mr. FUQUA), chairman of the Science and Technology Committee, and the committee's ranking minority member, the gentleman from New York (Mr. WYDLER), for the constructive leadership they have provided during our consideration of the National Science Foundation's authorization bill.

I would also like to thank members of the Subcommittee on Science, Research, and Technology and in particular the ranking minority member (Mr. HOLLENBECK) for their assistance in preparing this bill. Members spent many hours in going over the NSF budget in order to come up with the bill before us today. I feel that the product is a carefully balanced one, illustrating a well-informed sense of priorities for the future as well as the current reality of needing to target limited resources in the most effective way.

I should now like to give an overview and point out the major features of this authorization bill. The administration's original budget request would have authorized a total figure of $1,148 million. The President's revised budget calls for $1,074 million. The committee bill authorizes new obligational authorization authority totaling $1,125.72 million. This total is apportioned among the NSF directorates and programs as follows and as shown in the table at the bottom of page 5 of the committee report:

Mathematical and physical sciences	$259,800,000
Astronomical, atmospheric, Earth, and ocean sciences	235,800,000
U.S. Antarctic program	61,400,000
Ocean drilling programs	17,500,000
Biological, behavioral and social sciences	187,510,000
Science education	92,200,000
Engineering and applied science	142,560,000
Scientific, technological and international affairs	30,450,000
Cross-directorate programs	33,200,000
Program development and management	59,800,000
Special foreign currency	5,500,000
Total	1,125,720,000

While the figures in the reported bill total about $22 million less than the President's January budget, they do represent an increase of about $51 million more than his later March request. The compromise figure was based on the result of detailed hearings which were guided by the emphasis and restraints in both requests. In the areas where changes were made, they were made after careful study of the facts at hand. These areas had been the subject of year-long oversight, including site visits to NSF facilities, in addition to the thorough attention accorded by the budget hearings.

Among those areas in which the committee supports the President is the emphasis on basic research. The National Science Foundation provides this country's principal nurturing of basic research, and as such must be kept strong in this mission.

The committee supports the President's revised request of $259.8 million for mathematical and physical sciences, as well as the total of $235.8 million for astronomical, atmospheric, Earth, and ocean sciences.

In engineering and applied science the total was increased by $22.96 million. Of that, $5 million would be for the establishment of a Center for Innovation Development to be located in an area of high employment. This center would assist small firms in developing promising innovations. Once well underway, it is expected that the program will be transferred to the Department of Commerce.

The bill provides that of funds included for engineering and applied science, $1.8 million is for three additional university based innovation centers. These centers, similar to those already supported by the Foundation, would provide education in invention and help establish new small businesses. The emphasis on the applied sciences represents the committee view that we must be sure to facilitate the transfer of our basic knowledge into benefits for society as a whole.

The programs to aid the handicapped are endorsed at the originally requested level of $2.1 million. In addition the committee directs that not less than $1 million of the funds authorized for the small business innovation program be utilized for research and development to aid the handicapped. This represents our continuing view that many of our technological developments may bring great benefits in helping the handicapped play the most constructive role possible in society.

The bill also instructs NSF to fund its appropriate technology programs in the engineering and applied science directorate at a level of $3 million. In addition, $1.5 is made available in the science education directorate to provide public education necessary to implement use of appropriate technology. The committee feels that the Foundation has been very slow in developing these important programs despite attention given the area of appropriate technology in the past several years during the authorization process. Science has many forms, and will be most effective in helping society when it is allowed to develop along many paths of appropriateness for varying conditions.

The committee was disappointed that Science Education was again severely underfunded, as it has been for a number of years, in the Foundation's budget request. During authorization hearings this year, the committee devoted an entire day of science education. The need for improvements in precollege science education, in public understanding of science, and in minority science education programs was brought out, as well as need for continued support of college-level programs.

The reported bill authorizes a $16.5 million increase over the revised budget request, for a total of $92.2 million.

The original budget request called for $85.7 million for science education. The committee authorized a $6.5 million increase over the figure, for a total of $92.2. The committee's intent is that the entire program originally requested be funded, as well as several additional programs.

The bill allocates $2.4 million of the funds authorized for science education to the science faculty fellowship program of the faculty improvement element, an existing program formerly called science faculty professional development. This amount is to provide year-long awards to experienced, full-time, primarily undergraduate, science teachers, to increase their competence in science.

In undergraduate education again, the bill allocates $2 million of funds authorized for the three basic science directorates and the engineering and applied science directorate to pay salaries of undergraduate faculty members on sabbatical from their home institutions and working full-time on a research project at a larger university or laboratory.

The committee directs the Foundation to establish one or more science teaching resource centers, each to serve a large school system or group of neighboring smaller systems. This precollege science education emphasis would be funded from the $2.1 million recommended increase provided for science education resources improvement.

The bill also provides an additional $500,000 to public service science centers. This would permit a slight expansion in this relatively new program, which provides citizens and citizens groups access to accurate, objective scientific information. In this connection, the committee also recognizes that science museums are an important resource in developing the public understanding of science. Although the science education directorate is the major Federal source of science museum support, in the Foundation's budget these programs are funded at the low level of around $2 million. It is intended that future budgets of this directorate will be planned to better benefit these programs.

The committee has directed the Director of the National Science Foundation, in partnership with the Secretary of the Department of Education, to develop a proposed joint science education program plan. It is expected that this coordinated planning will go a long way toward providing the Science Foundation with a well defined, long-term plan that will make optimal use of funds for science education.

The bill provides for an increase for the biological, behavioral, and social sciences directorate of $9,610,000, to maintain the strength of that area at a level comparable to that of the Foundation as a whole. The total figure of $187,510,000 is a 12.6-percent increase over the 1980 level. In our extensive hearings, we have realized that the work of this directorate represents many of those aspects of science most important to the future of this country. Hardly a week goes by that we do not hear of some new discovery in brain chemistry or in the understanding of genetic encoding.

The potential here is dramatic. The importance of this directorate is further emphasized when the behavioral and social sciences are considered, and it is appreciated how far and how rapidly these areas have progressed in the last decade or so. We have seen through the TMI accident and other events that understanding of human behavior is crucial to the functioning of our technological society with all the man-machine interactions it now requires. Interdisciplinary research at a high level is the hallmark of research in this directorate and should be encouraged to the extent possible within our budgetary limitations. The position of relative strength within the Foundation for these programs will be maintained in the bill we present.

The committee has also taken steps, at the request of the subcommittee's ranking minority member, Mr. HOLLENBECK, to head off unwarranted criticism of research grants because of arcane or silly-sounding titles. The Hollenbeck addition would require information in the title about the more general goal or purpose of the research, making these titles more understandable to the public.

The committee recognizes that women and minorities are underrepresented in scientific and technical employment as well as scientific and technical education. This failure to draw upon the talents of these segments of our population weakens our overall national science and technological capability. In addition, science and technology have substantial direct and indirect impacts on women and minorities. Therefore, the committee's bill directs the President, with the assistance of the Director of the Office of Science and Technology Policy and members of the Cabinet, to develop a comprehensive national policy with regard to women, minorities, science, and technology, before January 1, 1981.

In its fiscal year 1981 request the Foundation has proposed to begin an ocean margin drilling project which would last 10 years. The cost to NSF in fiscal year 1981 would be $5 million, and the total cost of the program would be $700 million over 10 years, of which NSF would pay half. After site visits and a special session devoted during the authorization hearings to the proposed ocean margin drilling project, the committee feels that inadequate information is available on which to base a decision for authorization of this project. The committee has, therefore, authorized only $500,000 for the project for fiscal year 1981 and requests the Foundation to prepare a justifying report by the end of December 1980.

I intend to offer, on behalf of the committee, one minor amendment to drop section 15 of the reported bill. That section was intended to direct that any deferral of appropriated fiscal year 1980 funds for research and related activities be applied in proportion to authorization priorities. Passage of H.R. 7115 will come rather late in the year for this provision to be very effective.

Mr. Chairman, that concludes my description of the main thrust of the committee's actions on the NSF authorization bill. I believe it is a good bill, and charts a wise investment for the future. I urge its favorable consideration and adoption.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7115, which authorizes appropriations to the National Science Foundation for fiscal year 1981. I wish to commend my colleagues, the chairman of our committee, the gentleman from Florida (Mr. FUQUA), and the chairman of the subcommittee, the gentleman from California (Mr. BROWN), as well as my colleague, the gentleman from New York (Mr. WYDLER), the ranking minority member of the full Science Committee, and the gentleman from New Jersey (Mr. HOLLENBECK), the ranking minority member of the subcommittee, for the hard work they have done in preparing this bill for our consideration today.

It has not been easy to arrive at a suitable bill which balances both the need for a strong program in science and the need for fiscal restraint in these difficult times; but I believe that they have done an excellent job in trying to strike the proper balance.

Mr. Chairman, the National Science Foundation has an excellent record extending back to the immediate postwar period as the leading supporter of basic research in this Nation. I think the tremendous advances of the Nation's scientific capabilities over the last three decades are testimony to its excellent leadership in programs. I wish it well over the coming years.

Mr. Chairman, this is a tight time economically and the foundation has been under some criticism for various research programs and grants which it has supported. Let me say, first of all, that I think the subcommittee has conducted extensive oversight of the programs to try to determine areas where research being undertaken is not genuinely in our long-term national interest. This is reflected in the bill before us. Aside from that oversight, it is, nevertheless, true that on occasion there has been substantial misunderstanding of purpose of specific research projects.

I do not think it is the business of Congress to put itself in the position of judging individual research projects; however, if the Nation is to have a strong science program, we can ill afford public misunderstanding of research objectives. I therefore commend the proposal of my colleague, the gentleman from New Jersey (Mr. HOLLENBECK), the ranking minority member of the subcommittee. As a result of his initiative, the bill requires that all grant titles should contain a brief statement in layman's language of the purpose of a research project. I believe this would serve two goals. No. 1, it would make plain the purpose of the research to the casual reader, and second, it may prompt the individual researcher to think a bit more carefully about the real purposes and significance of his research.

Mr. Chairman, given the decline in economic productivity that this Nation is experiencing, I am very pleased that the committee has emphasized to the foundation the importance of expanding its programs which address the improvement of industrial innovation. I think the foundation's programs of support for small business innovation has an excellent track record and I am glad to see the committee has strengthened that program this year.

I am also glad to see there are programs this year to increase cooperative research between universities and industries. In this connection, I would note that my colleague, the gentleman from New York (Mr. WYDLER), the ranking minority member of the full committee proposed that $1.8 million of the applied science budget should be used for the establishment and operation of three university based innovation centers which will seek to provide training in technological invention, as well as commercial and technical development and entrepreneurship.

Mr. Chairman, to conclude I would note that the committee's request was reduced, as the gentleman from California (Mr. BROWN) said, $52 million from its original recommendation to a figure which is some $23 million below the administration's request in January. I do believe that this represents a good example of the committee's desire to balance the need for fiscal restraint together with the maintenance of a strong program in basic and applied science. I urge my colleagues to join me in supporting H.R. 7115.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. WINN. I would be glad to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I rise in support of H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WINN. I would be glad to yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I am pleased to see that the committee has added a section to this authorization requiring the titles of grants to contain a brief statement of the purpose of the research being undertaken. As I know the committee is well aware, many of us not on the committee receive mail all the time about projects titled a certain way that are clearly misunderstood.

I wonder, is the gentleman convinced, or the chairman of the subcommittee, that this added section will really force the National Science Foundation to give greater consideration to the way they not only title a grant, but also what its true objective is?

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Mr. WINN. I am convinced. I would be glad to yield also to the chairman of the subcommittee, Mr. Brown. I am not on that subcommittee, but as I mentioned in my opening remarks, the gentleman from New Jersey (Mr. Hollenbeck) had initiated this idea that requires that all grant titles should contain a brief statement, in laymen's language, of the purpose of the research project. I think that confusing research titles are part of where the misunderstanding has been down through the years.

Mr. ROUSSELOT. There is no doubt about it.

I think the committee is to be complimented for doing this.

Mr. WINN. If I might just comment further, in a GAO report they point out, and I quote:

> The Foundation needs to do a better job of communicating to the Congress and the public why these grants are awarded.

So I think with the GAO report and the subcommittee and full committee requirements, the message should get through to the National Science Foundation.

Mr. ROUSSELOT. As a follow-on question, does the gentleman think his committee will now be able to have a better handle on the grants that are being undertaken and what they are really doing and their true purpose? Will the committee receive notification of these grants often enough to be able to do any good?

Mr. WINN. As I say, I am not on the subcommittee. I wonder if the gentleman from California (Mr. Brown) would answer the question of his colleague from California about these grants.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman.

Mr. ROUSSELOT. Mr. Chairman, I was just saying I am pleased to see section 14 in the bill that requires all grants of the National Science Foundation to contain a brief statement of purpose. I have looked at one of the most recent informational memorandums from the National Science Foundation describing one of these grant projects. Will the committee receive these in time to be able to exercise oversight if, in fact, they perchance got off on a tangent that they do not need to be on, or we should observe more carefully?

Mr. BROWN of California. Let me assure the gentleman that the committee and the Foundation have both become extremely sensitive to this matter. It is our mutual feeling that the future of a healthy basic research program in this country has been endangered by careless and sometimes irresponsible failure to provide understandable, clear, sensible titles and descriptions to these grants. I am very grateful, frankly, to the distinguished ranking minority member, Cap Hollenbeck, for taking the leadership and spelling out in an amendment to this act the importance of the change in this procedure.

The committee, the committee staff, and the people that we work with in the Foundation are all scrutinizing this process very carefully, and I want to assure the gentleman that we will make every effort to make sure in a timely fashion that the proper steps are being taken to rectify this difficulty.

Mr. ROUSSELOT. I appreciate knowing that. About how many grants are they now making a year?

Mr. BROWN of California. I am informed that it is in the neighborhood of 13,000 grants per year.

Mr. ROUSSELOT. Thirteen thousand grants per year?

Mr. BROWN of California. That is correct.

Mr. ROUSSELOT. In the oversight function of the committee, about how many of these would the gentleman say his committee reviews as to value and purposefulness?

Mr. BROWN of California. Obviously it is not possible to review that many grants. We do have staff review.

Mr. ROUSSELOT. I understand that. But does the gentleman's committee have a method and technique of going through enough of these so we can begin to assure our taxpayers that these grants generally have value and are purposeful?

Mr. BROWN of California. Yes, the grants are computerized.

Mr. ROUSSELOT. Does the National Science Foundation have these grants computerized?

Mr. BROWN of California. We have a systematic procedure for having staff analysis of this process or review of selected grant proposals and grants made in a sufficient number to make sure that we would pick up any problems that were to develop during this process.

Mr. ROUSSELOT. Do we as Members have access to that computer so we can pick up that information if we wanted to from our office?

Mr. BROWN of California. I am informed that we do have access to all of the necessary administrative data with regard to the grants, yes.

Mr. ROUSSELOT. Can the gentleman pull off of their computer the general title and description of each of those?

Mr. BROWN of California. That is correct. We could do that.

Mr. ROUSSELOT. I appreciate that. That information is available to us as individual Members?

Mr. BROWN of California. We would be happy to make that kind of information available to any Member who seeks that data.

Mr. ROUSSELOT. I am appreciative also of the fact that our colleague from New Jersey, the ranking Republican Member, has taken the time to assure that this is in the bill. I am hopeful that we can eliminate what in the past has appeared to be unfortunate titles and misunderstandings by the public and by other Members of Congress as to what the purpose of some of these research projects are. The gentleman is convinced that the National Science Foundation, which to many of us appeared to be rather insensitive to this problem for a long time, is now conscious of the necessity of keeping us adequately informed as to the real purpose?

Mr. BROWN of California. From a purely selfish standpoint, I am convinced that the Foundation is now acutely aware of the significance and importance of doing exactly what the gentleman suggests.

Mr. ROUSSELOT. I thank the gentleman and thank the gentleman for yielding.

Mr. WINN. I thank the gentleman for his inquiry and making this point on the floor. It is my understanding, too, that a group of noted scientists testified to the subcommittee that they believe the scientific community has an obligation to explain the purpose of its research to the public. So, I think the entire community is now well aware of the situation with regard to grant titles that prevails.

● Mr. HOLLENBECK. Mr. Chairman, I join my colleagues and rise in support of H.R. 7115, the National Science Foundation Authorization Act for fiscal year 1981.

Mr. Chairman, I would repeat what my colleague has stated regarding the tremendous importance of basic and applied research to the long-term health of our economy. On Wednesday, the Science Committee is sponsoring a symposium on economic productivity and research and development. Advance testimony by Prof. Edwin Mansfield of the University of Pennsylvania indicates that the average rate of return on investments in technological innovations has been on the order of 25 percent for the individuals making the investment, but society at large reaped an overall rate of return on the order of 50 percent.

The data itself suggests that we should not expect private industry to pick up the whole tab for funding basic and applied research, even if they could afford to, because a great deal of the return accrues to society. The testimony also indicates that for many innovations—at least a third—the social rate of return on the innovation was very substantial, but for the individual company making the investment, the rate of return was so low as to be unprofitable.

Mr. Chairman, I would like to commend my colleagues on the subcommittee and our subcommittee chairman, George Brown, for their initiative and hard work throughout the year and during this authorization. It was very difficult, but I think we succeeded in our effort to strengthen our commitment to basic research while at the same time beginning the new initiative in the area of industrial innovation to improve the long-run performance of our economy. Our subcommittee also took a very long and close look at the detailed programs of the National Science Foundation over the past year with particular oversight on some of the apparent trouble spots such as the biological, behavioral, and social sciences which have been of concern to the Congress.

Mr. Chairman, the subcommittee generally supported the President's request for fairly substantial increases in the three basic research directorates and the U.S. Antarctic program, but raised the biological, behavioral, and social sciences so that they were increased by the same percentage as the physical sciences. I heartily support the subcommittee's actions. While I think that the President's determination to strengthen the mathematical and physical sciences and the Earth sciences was commendable, I think the committee was entirely proper in emphasizing its commitment also to the biological behavioral social sciences.

Mr. Chairman, there is no more exciting area of research today than that going on in the field of biology. It is fully the equivalent of the situation of the electronic industry prior to the Second World War. We know the explosion that has occured in electronics in the last 35 years. I fully expect the same thing to happen in the biological and social sciences, and therefore I believe these areas should be strongly supported. For example, in the biological sciences, DNA techniques may open up whole new sectors in our economy. But we should not forget the behavioral social sciences as well. All too often, as for example at Three Mile Island, we have seen the near tragic results as well as the tremendous economic waste which occurs as we attempt to solve our economic problems from the point of view of hardware only. In retrospect, as the Kennedy Commission report makes clear, had the instrument panels been designed for better reading based upon research on human factors, then perhaps a lot of the confusion which occurred at the time of the Three Mile Island accident could have been avoided. These examples of course can be multiplied in many ways.

I think the point is clear that we make a grave mistake if we do not remember that technology is not hardware, it also involves people, people using technology. Technology has to be designed so that it works for people, not on them. If we fail to remember that lessen, we shall continue to have a repetition of Three Mile Islands in many ways and in many forms throughout our economy.

In sum, I strongly endorse the committee's support for the basic research directorates generally, including the biological, behavioral, and social sciences.

One point where I entirely agree with the committee's decision to cut $9.5 million is for the ocean margin drilling program involving the ship the *Glomar Challenger*. The committee only approved $500,000 for the Foundation and the National Academy of Sciences to study this program further and to evaluate the needs of marine Earth sciences generally.

Mr. Chairman, the other day in the Washington Post I read an article which indicated that the Japanese and the West Germans and Soviets have been involved in recent years over a very broadscale program to improve the general level of scientific and engineering literacy. This report, a draft study being prepared for the President on the status of engineering education, is I believe extremely significant because it suggests we must make a far greater attempt to support science education in this country if we are to retain our technological leadership. Not that we should expect for every citizen to become a scientist; however, increasingly, individual and public decisions involve awareness of technical possibilities and constraints. It is for this reason that I strongly support the committee's recommended increases of some $16 million in the science education directorate. I am particularly distressed that the administration saw fit to cut funding for that directorate $10 million, from $85 million to $75 million in the President's revised request.

Mr. Chairman, how can the President possibly pretend to be concerned about the status of science and engineering education in this country when he singles out science education for a cut of approximately 12 percent? That cut was proportionately greater than most other directorates. He made this requested reduction at the same time that he commissioned this report on the status of science education to be prepared by the National Science Foundation. To me it is a contradiction in terms. I am very glad that the Science Committee did not acceed to his requested reduction but instead held very close to its initial recommendation of $92.2 million or $14 million above the fiscal year 1980 funding level.

Mr. Chairman, the same criticism also applies to the President's reduction in engineering and applied science. The President last fall submitted what he termed a major package of proposals related to improving the industrial innovation capacity of the country. One of these specifically included a major increase in the National Science Foundation's small business and industrial technology program within the Engineering and applied science directorate. Yet this year, the President cut his funding request almost 50 percent in this one category alone. How can the President profess to be concerned about improving the innovative capacity of the country when he proposes such reductions? All rhetoric aside, let the figures speak for where his true heart lies. By his actions, the President is not, as far as I can make out, a committed supporter of the need to improve the national economic innovation.

It is equally important that we be aware of the impacts of some new technologies which we may be developing. Thus I was distressed to see that within the engineering and applied science directorate the problem focused research program would be reduced by nearly 20 percent or $6 million out of a program of about $30 million. This cutback eliminated entirely the integrated basic research program which supported efforts in subjects such as the exploration for deep mineral resources and the biochemical cycles of carbon, hydrogen, and sulfur.

Mr. Chairman, if we are to understand whether it is even feasible to continue to develop and use one of our major domestic resources, coal, we absolutely must know how the carbon and nitrogen and sulfur cycles work. How are we going to avoid the problem of acid rain if we cannot determine how sulfur travels throughout the system? How are we going to avoid the problem of climate change if we do not know how the carbon cycle works to know whether the increase of carbon dioxide in the atmosphere comes from the use of fossil fuels or from the deforestation of the tropics?

Mr. Chairman, this research either opens up or forecloses whole avenues of national development at a time when we must be changing the energy base of the economy. Cuts such as this one are nothing short of myopic and I am heartened that our committee did not go along with such political grandstanding as the President has pulled with the revised National Science Foundation's budget.

Mr. Chairman, I have spoken at length already and I will make only a few final remarks, namely to commend the other members of the committee for the extensive committee views which are contained in our report and which I wholeheartedly endorse. Some of these deal with a wide variety of topics, but perhaps the most significant are those dealing with international science, the need to support the social and behavioral sciences, and with the problem of increasing participation by women and minorities in science.

Mr. Chairman, as you may know, the Senate version of our bill includes a very comprehensive bill proposed by Senator KENNEDY on women in science. I agree strongly with the need to address this problem as well as the problem of minority participation in science, and I believe that special funds may have to be set aside ultimately in order to increase participation by these groups since we cannot afford to ignore the scientific potential of over half the population of this Nation. However, I do not believe the committee is in a position to endorse the women in science bill. We have proposed an alternative. It would mandate that by next year the President must present to the Congress a comprehensive national policy dealing with the participation of women and minorities in science. It must also address the impact of science and technology on women and minorities. Our bill would direct the President to present the beginnings of this policy to the Congress in time for consideration in connection with fiscal year 1982 authorizations. I strongly support this position of the committee and hope that the President will follow through and deliver to us a broad-based and carefully thought-out program.

Mr. Chairman, in conclusion let me say that once again I commend my colleagues on the subcommittee for all they have done to prepare this bill for our consideration today. I urge my colleagues to join me in supporting H.R. 7115.●

● Mr. RITTER. Mr. Chairman, I rise in support of H.R. 7115, the National Science Foundation Authorization Act for fiscal year 1981. I wish to say that it has been a pleasure working with my colleagues Chairman GEORGE BROWN and ranking member "CAP" HOLLENBECK on the Subcommittee on Science, Research.

and Technology in preparing this bill for consideration today.

Mr. Chairman, the bill recommends a total of $1,125,725,000 to be authorized for the programs of the National Science Foundation in fiscal year 1981. I am fully aware that this figure is somewhat above the President's budget but I wish to point out that the subcommittee reduced its initial recommendation by some $52 million when the deteriorating economy became apparent this winter. The committee's recommendation, I should note, is in fact some $23 million below the President's January request for the National Science Foundation. We did not feel we could go further because to do so would make it virtually impossible to undertake the initiatives which the President himself had recommended as related to engineering, applied sciences and industrial innovation.

I should note, Mr. Chairman, that the President unfortunately saw fit in his revised budget to make substantial cuts in those same programs which he and so many others have been recommending to improve the Nation's industrial innovation. We must provide the research and development which is so vital a part of increased production and productivity. That is a powerful tool to fight inflation.

For example, the President proposed a $9 million or 50 percent cut in his original request of $18 million for the small business innovation and industrial technology program within the engineering and applied science directorate. Small business is the essential element in the provision of new jobs, real jobs. And yet small business has gotten such a meager share of the Federal R. & D. support. Mr. Chairman, to my mind this is not the way to demonstrate one's commitment to improving the productivity of the Nation. While the major brakes on American technological and economic development derive from the tax, regulatory, and investment structures that tend to repress rather than promote innovation, NSF support for basic and applied work has also provided significant benefit to our economy over the past 30 years. The program described above represents one of the biggest initiatives in the industrial innovation package which the President presented to the Congress last fall.

Mr. Chairman, I rise in support of H.R. 7115. I think the committee did an excellent job under difficult circumstances. I do believe that we must continue to invest in basic science and engineering research to open up those new avenues which will increase the productivity of the Nation over the coming generation. The NSF's reputation in this area is unmatched. I urge my colleagues to join us in supporting this legislation.●

Mr. WINN. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

Mr. BROWN of California. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. BREAUX, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7115) to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. RITTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 7115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WHITE HOUSE CONFERENCE ON ENERGY CONSERVATION URGED

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKELTON. Mr. Speaker, in recent months, the President has convened White House conferences on topics of national concern, holding White House conferences for small business matters and for the family. I feel quite strongly that one of the most important problems facing the American people today is the need to become energy self sufficient, and conservation of our energy resources is the backbone of our effort. Thus, I am introducing, today, a resolution requesting that the President convene a White House Conference on Energy Conservation.

The purpose of this White House conference would be to develop, from the grassroots level, specific recommendations to increase public awareness of the importance of energy conservation. The conference would also identify problems and suggest legislative, administrative and private actions for encouraging conservation in our country. A White House Conference on Energy Conservation would give an opportunity to Americans, from all walks of life, to become involved in establishing a national strategy for meeting our energy conservation needs.

Today, I have written the President informing him of my resolution calling for this White House Conference on Energy Conservation. My letter to the President is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 16, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This morning, I introduced a Resolution in the House of Representatives requesting that you convene a White House Conference on Energy Conservation. The purpose of this White House Conference would be to develop, from the grass roots level, specific and comprehensive recommendations to increase public awareness of the importance of energy conservation; to identify the problems of achieving energy conservation; and to suggest legislative, executive, administrative and private actions for encouraging and maintaining energy conservation in the United States.

Americans have come to realize the strategic and economic importance of becoming energy independent. Efforts have been made to achieve energy self sufficiency through the development of domestic sources of oil and gas and alternative energy sources. All of these good efforts, however, must be matched by a commitment to conservation and better utilization of our energy sources. As we witnessed at the White House Small Business Conference earlier this year, American citizens are more than willing to put their thinking caps on and come up with viable and maginative solutions to our national problems. Inasmuch as our energy troubles are affecting Americans in all walks of life and in every thing they do, I believe that the public should be given an opportunity to become involved in establishing a national strategy for meeting our energy conservation needs.

I am enclosing a copy of this bill for your consideration. I am looking forward to the success of this legislation, and would appreciate your support.

With best regards,
Very truly yours,
IKE SKELTON,
Member of Congress.

Mr. Speaker, my resolution, calling for the White House Conference on Energy Conservation, is set forth as follows:

H. RES. 709

Resolution expressing the sense of the House of Representatives that the President should convene a White House Conference on Energy Conservation

Whereas the United States has recognized the strategic and economic importance of becoming energy independent;

Whereas energy self-sufficiency can be achieved in the United States through the development of domestic oil and gas and alternative energy sources;

Whereas, in addition to further developing such nonrenewable and alternative energy sources, a greater commitment to energy conservation, including the more efficient use of existing energy resources, is necessary;

Whereas the efforts of the Federal Government to promote energy conservation have fallen short of the desired goals;

Whereas, in seeking to achieve national energy independence, the people of this Nation should be better informed of the energy problems facing the United States and should be more involved in developing a national strategy for solving those energy problems; and

Whereas American ingenuity has been responsible for successfully solving difficult problems which have faced this Nation in the past: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should invite members of the general public to participate in a White House Conference on Energy Conservation—

(1) to identify the major obstacles preventing the United States from more effectively applying the principles of energy conservation in everyday life;

(2) to identify ways to achieve more widespread implementation of energy conservation measures by the people of the United States; and

(3) to prepare a list of recommendations for Government, private, and any other action which may be appropriate to the purposes of the conference.

LET CHILDREN PRAY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, let us give America's children the right to pray. The Senate passed S. 450 and we should be allowed the right to vote on it here in the House.

The Supreme Court in its decisions of 1962 and 1963 banned prayer in public schools.

The 1962 Supreme Court decision of Engel against Vitale objected to the New York State system where children began each school day with this prayer:

> Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country.

In 1962, the Supreme Court moved with a stronger ruling in Abington against Schempp in Pennsylvania schools. Pennsylvania law required the reading of any 10 verses out of the Bible each day. Usually this was followed by the Lord's Prayer. This was voluntary and no student was required to participate.

The present S. 450 bill would not overturn the rulings of Engel and Schempp. It would simply deprive the Federal Court system of jurisdiction over future cases involving "voluntary prayer." Engel and Schempp would continue to stand as controlling precedents in this area, binding on State court judges as they ruled on related cases.

Engel involved a prayer composed by a State body. Schempp involved recital of the Lord's Prayer as well as specified Bible readings. These cases would stand.

This new law relates only to "voluntary" prayer where subject matter is not structured and anyone may be excused from participating.

My own choice would be for State law to have no prayer system recommended. But it should allow any school, principal, teacher, PTA or any other group the right of prayer in a public place.

The third article of the Bill of Rights has been used in reference. Opponents of school prayer quote it only partially but the entire section provides the full thrust. "Congress shall make no law respecting an establishment of religion" and that is where they end quoting. But then article III continues and says "or prohibiting the free exercise thereof." The courts are prohibiting the free exercise of religion.

Congress has full authority to define specific jurisdictional issues for the Court. Congress is elected by the people, but Federal judges are political appointees. It is generally conceded and Court cases are in confirmation that Congress under artciles I and III has extensive control over the jurisdiction of lower courts.

Prayer has been a court target for the past 30 years. Many who believe in separation of church and State carry this belief to mean that religion is something for the church house and that religion begins and ends there.

Let me quote some of the court cases.

In 1965, a school case came from New York and concerned kindergarten students repeating these two prayers on a voluntary basis.

> God, is Great, God is Good, and We Thank Him for our food.
> Thank You for the world so sweet,
> Thank You for the food we eat,
> Thank You for the birds that sing,
> Thank You, God, for everything.

The Supreme Court refused to hear the case. That refusal had the legal effect of upholding the New York Court of Appeals decision to make the prayers illegal.

In DeKalb, Ill., kindergarten children repeated this poem before their morning snack:

> We Thank you for the flowers so sweet;
> We Thank you for the food we eat;
> We Thank you for the birds that sing;
> We Thank you for everything.

This poem does not mention God, but there is an implication that "you" represents God. In 1968, the U.S. Court of Appeals ruled that this poem could not be allowed even though the teacher testified that it was used in a program of good citizenship to teach social manners. Even though reciting the verse was prohibited, the Court stated that the "verse was innocuous insofar as constituting an imposition of religious tenets upon nonbelievers" and that "the plaintiffs have forced the constitutional issue to its outer limits."

In another case, a school district in Pennsylvania adopted a motion to "install Bible reading and some nondenominational mass prayer in the school district." Students read aloud verses from the Bible each day and joined in unison recital of the Lord's Prayer. Students not wishing to participate were excused. In 1971, a Federal District Court ruled against this practice and ordered it stopped.

Also, beginning in 1970 in West Virginia, a group of high school students began meeting on school premises prior to the beginning of each school day for group prayer. The meetings were initiated without the permission or knowledge of the faculty or principal and were not supervised or sponsored by any member of the faculty. In 1971, the courts found this practice in violation of the law.

In 1969, a New Jersey board of education directed that a daily "period for the free exercise of religion" be implemented in each school. All students who wished to do so were directed to congregate in the school gymnasium prior to the beginning of each school day to listen to a pupil volunteer read from the CONGRESSIONAL RECORD the "remarks" of the chaplain of either the U.S. Senate or House of Representatives. The student reader then added whatever personal comments he wished on such subjects as love of neighbor, brotherhood, and civic responsibility, and the assembled students were directed to meditate silently on the reading or anything else of concern to them. In 1971, the Court ruled this exercise a violation of the law.

Our forefathers intended our country to be a religious nation. The Constitution and our national heritage clearly point out this determination. In the present troubled times, it is even more important that we remember this and return to the guidelines set forth in the Constitution.

RESOLUTION TO "UNLOCK THE LANDS" SUPPORTED

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, it is with great pleasure that I join with my colleagues in support of House Joint Resolution 573, a resolution to "unlock the lands." The time has long since passed when America should have taken the action proposed in this resolution. The time has long since passed when America could afford the luxury of Federal lands rich in mineral and hydrocarbon wealth withdrawn, restricted, withheld, removed from the grasp of an economy, of a nation whose very survival lies dependent upon the availability of those resources.

It may well be too late to embark upon this course of action. We may have waited too long, deceived ourselves too often to be able now to embark upon this course in a timely and expeditious manner. The "unlocking" of the lands will not put gasoline at the pump next month nor indeed next year. It takes time to hypothesize, to explore, to discover, to drill, to refine and process, to transport before the American consumer pulls up to the pump. It is not months but years from the time the lands are opened to the time the coal beneath the land is utilized. Experts say it takes 8–10 years from the date the lands are leased until the date the mine is opened and then months after that before the coal is transported by slurry line or railroad car to burn beneath a boiler and before the first kilowatt of electricity surges through the industrial plant or the family home.

Americans function today—and we of of the Congress have fallen prey to the same unreality—as if the resources we need, the fuels we burn, are but a moment's grasp away. We of America so long removed from the farm, so very distant from our forefathers' recovery of that that they needed for survival, so spoiled by and suffering from a storeshelf mentality believe that all we must do to obtain the resources vital to our survival is make that call, place that order, pay that bill. It is not nearly enough. The resources we need which now lie beneath the land have been carefully buried and covered by God's handiwork. They are there, but it will take years to explore for, to locate and to produce them. It is my hope that we do not today begin too late on this search, but I fear we may well have.

America today, as everyone will agree, stands in the midst of a frightful energy crisis and a terrifying dependence on nations which do not necessarily share America's view of the way the world should be. We find ourselves, as everyone will admit, dependent upon a handful of nations whose growing appetite for profit has pushed America through an energy shock unimaginable less than a decade ago. Inflation, balance of payments, unemployment, monetary disarray and dependency are all aspects of the energy shock which has rippled through our Nation and our economy and we find ourselves moping, helpless, frustrated, lacking confidence about ourself and our future. Little wonder that our friends will not follow our lead, that our enemies find us lacking in resolve. Yet to the world we must present a most pathetic display. For we of America are not an energy poor nation but, in fact, an energy rich nation. Our oil and gas, our coal, our tar sands, our geothermal steam, our oil shale, our heavy crude make America the wealthiest of the world's energy producers. Yet we struggle along as if we do not know where the next barrel is coming from, waiting for that next jump in OPEC prices, for that next shudder in the dollar market, that next quantum leap in gold prices reflective of the uncertainty in our currency.

And where are those resources of which I speak? They are on America's lands in the truest sense of the word for they are found most often beneath lands owned by the Federal Government. The Federal Government owns one-third of America's land. Yet those lands hold, in many cases, two-thirds of the various energy resources. Nearly half of the Nation's coal lies west of the Mississippi. Eighty-four percent of the Nation's low-sulfur coal is in the West. Of that coal, the Federal Government owns or controls as a result of land ownership patterns, 80 to 90 percent. The Federal Government owns 60 percent of the Nation's geothermal steam resources and nearly two-thirds of America's oil shale. The Federal Government owns 60 percent of the Nation's tar sands resources and in excess of 80 percent of the highest quality tar sands.

Yet little positive action has been taken regarding these lands. America has been in the midst of a moratorium on the issuance of coal leases since 1971. For nearly a decade the U.S. Government has not isued a single new major Federal coal lease. Despite the growing interest in oil shale, no new oil shale leases have been offered since 1974. Despite the efforts of the Congress in 1960 to open up tar sands to Federal leasing, no tar sand leases have been issued for well over 15 years and the Department of the Interior now finds itself in a legal quagmire as a result of its own solicitor's opinion regarding its ability to lease tar sands. The Forest Service has had a shocking and dismal record in the processing of geothermal lease applications and, in fact, a Federal interagency task force has criticized the regulatory hurdles which have been placed before the geothermal steam industry thus preventing the use of one of America's most unusual yet productive resources.

The Federal Government has declared off limits to oil and gas exploration and development acre after acre of Federal land through BLM road area review, RARE II and numerous other reviews and policies. Recently, for example, the Forest Service rejected an application for crucial seismic work in a wilderness in Montana on the outrageous illegal grounds that 4(d)(3) of the Wilderness Act did not include seismic work as "exploration."

This failure to utilize America's energy resources is in part the result of cumbersome statutory schemes which the Congress has imposed on American industry. Yet that is but a small part of the problem today. For the executive branch has for years expanded upon and supplemented the laws enacted by Congress. While no one will dispute the need for care in the development of resources and in the need for the protection of the Nation's environment, this laudable goal has been twisted and fashioned into a weapon to prevent the development of the very resources crucial to our survival. No administration has made better use of that weapon than the one now in office. For it is the Carter administration, by its almost zealous approach to environmental protection, which has most failed the Nation in the development of our resources.

The President has appointed into key administrative positions no-growth, antibusiness, antienergy, environmental advocates who have used their positions to handicap energy development. President Carter has recommended and signed into law statute after statute increasing the burden on the private sector. His appointees have expanded, far beyond congressional intent, the regulations implementing these new laws. As well, by means of sweetheart lawsuits, Carter representatives have delayed and inhibited energy projects.

Perhaps the classic case of the Carter administration's approach to the Federal lands and energy development is the case of N.R.D.C. against Hughes. Filed during the previous administration, N.R.D.C. against Hughes was an effort by environmental groups to stop the leasing of Federal coal lands in the West. In mid-1977, a decision adverse to the administration was rendered by the U.S. District Court for the District of Columbia. Despite the fact that a similar case, also lost by the administration at the lowest level was reversed (in favor of the administration) by a unanimous Supreme Court, President Carter's appointees, who had originally filed the NRDC suit, chose not to appeal the decision. Instead they initiated a new environmental impact statement at a cost of millions of dollars so as to undertake an entirely new coal program. Today, nearly 3 years later, America is more than a year away from its first major new coal lease.

What is the nature of that new coal program? The Department of the Interior now proposed what is truly a "coal management" program. It can no longer be called "coal leasing," for the Department has rejected the market place for social planning. The Department obviously believes that the decisions made by bureaucrats in Washington, D.C., and throughout the West are better than any decision that the traditional market forces—regulated by carefully crafted statute—could possibly achieve.

The Department proposes to pass all coal lands through a variety of subjective screens and filters, judging and ranking the remaining tracts which may or may not ever be put out for lease depending on some bureaucratic decision regarding "regional productional goals." Even leased, such lands may never be mined since mining plans, reclamation plans, transportation provisions must all be completed.

What the Department of the Interior has proposed is a jerry-built, Rube Goldberg system which is guaranteed to significantly increase—not coal production—but the size of the bureaucracy. More planners, more lawyers, more geologists, more regulators will be needed to do the surveys, to make the land use plans, to screen out the environmental conflicts, to rank the tracts, to judge the rate of recovery and to write the reports. The administration has thus assured that very little of the Federal lands will be opened up. Yet at the same time it has assured that few energy resources will be produced.

Mr. Speaker, I shall not continue to discuss the other resources and the approach of this administration toward their development and utilization. Yet I am sure that it has become obvious to my colleagues from my brief discussion of the approach of the Carter administration toward the one resource which was to be the answer, if any one fuel resource can be the answer, that other energy alternatives have been similarly afflicted and abused. We can no longer allow a dreamy desire for another, quieter time to condemn America's vast Federal holdings to single purpose use.

If we "save" the lands for future generations and cause thereby an energy-starved nation to collapse internally, we will have saved nothing but will have instead lost everything. If we are indeed sincere in our desire to become energy independent, then we must make use of our resources. It is my hope that we are indeed sincere and that this resolution today will be the beginning of that wise and best use of America's mineral wealth upon the public lands.

TREASURY TO BEGIN GOLD MEDALLION SALES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on July 15, 1980, the Bureau of the Mint will begin to accept orders for the long-awaited American arts gold medallions. These medals will be available to the public at a price based on the daily spot price of gold plus a small premium to cover production and distribution costs. The medals will be available in half-ounce and 1-ounce sizes.

These medals were authorized by the American Arts Gold Medallion Act, which was passed in November, 1978. Their minting has been anxiously awaited by many Americans who wish to purchase these medallions rather than foreign gold pieces. In addition, this will be the first chance for the average Americans to buy American gold from the Treasury. Prior to this sale the Treasury has sold gold only at auction in 400-ounce bars. With gold around $600 per ounce, these bars cost near a quarter of a million dollars.

The half-ounce medallion has a portrait of singer Marian Anderson on the obverse of the medal. The reverse has a symbolic representation of her rendition of the famous spiritual "He's Got the Whole World in His Hands." The 1-ounce medallion portrays Grand Wood, the famous American painter. His most famous painting, "American Gothic," is reproduced on the reverse of the medallion. I would point out that the painting itself is owned by, and displayed at, the Art Institute of Chicago, located in my hometown.

People wishing to order the coins will be required to obtain each day's price by calling the toll-free number 800/368-5510 within the continental United States. Residents of Alaska, Hawaii, Puerto Rico, and the Virgin Islands can obtain the price by calling 800/368-5500. In the Washington, D.C., area the phone number is 783-3800.

Customers can order these medallions at any post office in the United States. Orders must be on official order forms that will be available at all 35,000 post offices beginning July 15. Payment by postal money order or certified or cashier's check will be required at the time the order is placed. Customers will receive their medallions by registered mail within 8 to 12 weeks.

To assure the maximum possible distribution of these medals, there will be a limit of three medallions of each size per purchaser. A total of 1 million half-ounce medallions and 500,000 1-ounce medallions will be minted.

Mr. Speaker, this is truly a historic and long-awaited sale. For the first time in nearly 50 years Americans will be able to obtain small gold pieces from their Government. I am sure that Americans will prefer to buy these medals and obtain a share of America's gold rather than buy the gold of foreign countries. While there have been many delays in bringing this sale to pass, I am certain that purchasers will find the final product worth the wait.●

AMERICANS FOR DEMOCRATIC ACTION ENDORSE HOUSE CRIMINAL CODE REVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, at its 33d annual convention in Washington this past weekend, Americans for Democratic Action (ADA) adopted a policy resolution in support of H.R. 6915, the Criminal Code Revision Act of 1980. This legislation, drafted by the Subcommittee on Criminal Justice, which I chair, is presently in markup before the House Judiciary Committee.

I am pleased to share with my colleagues the following resolution which was drafted by ADA's Civil Rights and Civil Liberties Commission and adopted on June 15, 1980, by the ADA:

AMERICANS FOR DEMOCRATIC ACTION,
Washington, D.C.

No. 603A

To: Convention.
From: Civil Rights and Civil Liberties Commission.
Subject: Reform of the Criminal Code—supersedes Reform of the Federal Criminal Code, adopted 1978, amended 1979.

ADA endorses the tireless efforts of Senator Kennedy and Congressman Drinan to reform and modernize the Federal Criminal Code along the lines of the Brown Commission recommendations. These two legislators, with unquestionable records of concern for civil liberties, are moving towards a code which embodies substantially the proposals put forward by ADA in its resolution of 1978, which was amended in 1979. Notably the new code would:

Repeal the Smith Act;

Repeal the Logan Act;

Repeal the provisions prohibiting interstate transportation of abortion information and paraphernalia;

Provide new protections for the press against judicial gag orders and Ellsberg-type prosecutions;

Provide new protections for civil rights demonstrators confronted by invalid judicial orders;

Provide a vastly improved federal civil rights statute by eliminating the requirement of specific intent to violate civil rights and by providing that the civil rights demonstration engaged in—unlike current law—need not be lawful;

Enact a new criminal sex discrimination law;

Provide a modern federal rape statute which eliminates the requirement of corroboration and prohibits inquiries into the past sexual history of the victim;

Spousal defense to rape eliminated;

Eliminates the 1968 Rap Brown interstate juridisctional base for riot; and

Provides major safeguards for offenders committed to mental institutions.

ADA further recognizes that many features of existing law which Kennedy and Drinan, as well as ADA, would like to see changed, may be presently out of reach as a matter of practical politics.

ADA's position on recodification of the Federal Criminal Code is to ensure the best possible codification, containing the absolute minimum of encroachment upon the civil liberties of citizens. ADA supports the thrust of the current House Judiciary Committee draft of the Drinan bill, H.R. 6915, which, with a few exceptions, meets the above standard. ADA opposes S. 1722 as currently drafted.

ADA is determined to continue its efforts on behalf of further reforms once the basis is laid by enactment of the Drinan bill. ADA is also aware that many of the important reforms that appear in the present bill could not be achieved except in the context of complete recodification. Accordingly, ADA rejects the tactics of those who oppose any reform code unless every item on the civil liberties agenda is included. That is a recipe for certain defeat of all progress. Defeating the Drinan bill would accomplsih nothing but the perpetuation of the following, among other, intolerable features of present law:

The Smith Act;

The Logan Act;

The archaic 19th century federal obscenity statute (the Comstock Act);

An unnecessarily broad conspiracy statute which encourages Ellsberg-type prosecutions;

The 1968 federal riot statute used to prosecute Rap Brown and the Chicago Seven;

Unnecessarily long maximum sentences of imprisonment; and

The absence of any new effective statutes to combat white collar crime and government corruption.

ADA further encourages support for H.R. 6915, and urges the House of Representatives to accept the efforts of the Drinan Subcommittee and the House Judiciary Committee without crippling amendments. If the Drinan Bill is weakened on the House floor, ADA will re-evaluate its position. ●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOPKINS) to revise and extend their remarks and include extraneous material:)

Mr. FORSYTHE, for 10 minutes, June 17, 1980.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FISH'S remarks to appear in the body of the RECORD during consideration and prior to the vote on H.R. 7474.

(The following Members (at the request of Mr. HOPKINS) and to include extraneous matter:)

Mr. SHUMWAY.
Mr. HOLLENBECK.
Mr. LENT.
Mr. ROUSSELOT in two instances.
Mr. MCCLORY.
Mr. CARTER in two instances.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. MOORHEAD of Pennsylvania.
Mr. GUARINI in five instances.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. HAWKINS.
Mr. CAVANAUGH.
Mr. MURPHY of New York in two instances.
Mr. SOLARZ.
Mr. STOKES in two instances.
Mr. SEIBERLING in 10 instances.
Mr. ADDABBO.
Mr. COELHO in two instances.
Mr. AMBRO.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3434. An act to establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes; and

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On June 11, 1980:

H.R. 2102. An act pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota; and

H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

On June 12, 1980:

H.R. 6285. An act to amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets; and

H.R. 6842. An act to protect the confidentiality of shippers' export declarations, and to standardize export data submission and disclosure requirements.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 17, 1980, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEVILL: Committee on Appropriations. H.R. 7590. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1093). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 7585. A bill to amend title 38, United States Code, to allow the Veterans' Administration to furnish outpatient medical services to any veteran exposed to ionizing radiation as a result of atmospheric testing of nuclear weapons; to the Committee on Veterans' Affairs.

By Mr. MOORE:

H.R. 7586. A bill to amend title 18 of the United States Code to make changes in and increase the penalties for certain firearms-related offenses; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 7587. A bill to repeal section 506 of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES:

H.R. 7588. A bill to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building"; to the Committee on Public Works and Transportation.

By Mr. ROYBAL:

H.R. 7589. A bill to amend the Small Business Act to increase to $110,000 the amount of a borrower's disaster loans eligible for a 3-percent interest rate; to the Committee on Small Business.

By Mr. BEVILL:

H.R. 7590. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. FORSYTHE (for himself, Mr. Rhodes, Mr. Lott, Mr. Stockman, Mr. Breaux, Mr. Lujan, Mr. Santini, Mr. Loeffler, Mr. Young of Alaska, and Mr. Brown of Ohio):

H.J. Res. 573. Joint resolution providing for the removal of restrictions that impede or constrain leasing of energy resources on public lands, the Outer Continental Shelf, and other lands that contain resources under the control of the Federal Government; jointly, to the Committees on Interior and Insular Affairs, Agriculture, and Merchant Marine and Fisheries.

By Mr. LEACH of Iowa:

H. Res. 708. Resolution expressing concern over the Kaohsiung incident in Taiwan; to the Committee on Foreign Affairs.

By Mr. SKELTON:

H. Res. 709. Resolution expressing the sense of the House of Representatives that the President should convene a White House Conference on Energy Conservation; to the Committee on Interstate and Foreign Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. Gudger, Mr. Quayle, Mr. Gingrich, Mr. Shumway, Mr. Mineta, Mr. Corman, and Mr. Panetta.

H.R. 5099: Mr. Luken and Mr. Hillis.

H.R. 5965: Mrs. Smith of Nebraska, Mr. Chappell, and Mr. Roe.

H.R. 6380: Mr. Barnes, Mr. Fithian, Mr. Rahall, and Mr. Weaver.

H.R. 7089: Mr. Fauntroy, Mr. Corrada, Mr. Patten, Mr. Leland, Mr. LaFalce, Mr. Kildee, Mr. Moffett, Mr. Addabbo, Mr. Mitchell of Maryland, Mr. Hubbard, Mr. Mazzoli, and Mr. Roe.

H.R. 7458: Mr. Ertel.

H.R. 7511: Mr. Lent.

H.J. Res. 508: Mrs. Fenwick.

H. Con. Res. 355: Mr. Pashayan, Mr. Lott, Mr. Burgener, and Mr. Gephardt.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6711

By Mr. MILLER of California:

—Page 45, line 14, strike out "and area vocational schools".

Page 55, beginning on line 21, strike out all of subsection (f) through line 13 on page 57.

Page 57, strike out lines 18 through 24 and insert in lieu thereof the following:

(1) such school provides secondary education, as determined by the State educational agency, to youth in grades seven through twelve; and

Page 77, beginning on line 19, strike out section 216 through line 11 on page 75 and redesignate the succeeding sections and confrom cross-references thereto accordingly.

Page 79, beginning on line 23, strike out subsection (c) through line 6 on page 80.

Page 84, line 12, strike out "(1)" and on page 85 strike out lines 1 through 5.

Page 86, beginning on line 20, strike out "the requirement that not less than 25 percent of each grant shall be used for programs of vocational education in designated schools, and".

Page 91, line 15, strike out "In any case" and everything that follows through line 19.

Page 93, line 22, strike out "(A)" and on page 94, strike out line 3 through 5.

Page 96, strike out lines 13, 14, and 15, and redesignate the succeeding paragraph accordingly.

—Page 56, beginning on line 2, strike out "equal to 25 percent" and insert in lieu thereof "not to exceed 25 percent".

—Page 56, line 21, insert "212(a)," immediately after "sections".

Page 85, beginning on line 3, strike out "that serves youth from among ages eleven through twenty-one" and insert in lieu thereof "that meets the requirements of section 212(a)".

—Page 71, line 20, strike out "Minimum" and insert in lieu thereof "Maximum"; and on line 22, strike out "not less than" and insert in lieu thereof "not more than".

H.R. 7115

By Mr. BROWN of California:

—Beginning on page 9, line 17, strike out all of section 15.

H.R. 7542

By Mrs. CHISHOLM:

—On page 42, after line 20, insert the following:

Additional Appropriations

For an additional amount to the "Supplemental Security Income Program"; $30,000,000; and for an additional amount (in addition to any other amount appropriated for such grants) for "Grants to States for Social and Child Welfare Services" under this act; $264,750,000.

By Mr. LEHMAN:

—Page 15, after line 11, insert the following new chapter:

Chapter III—FUNDS APPROPRIATED TO THE PRESIDENT

Special Migration and Refugee Assistance

For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, $100,000,000, to remain available until expended.

Redesignate the succeeding chapters accordingly.

By Mr. MILLER of Ohio:

—Page 101, after line 19, add:

Sec. 304. Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed five per centum.

SENATE—*Monday, June 16, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, source of all power and all wisdom, help us today and all the days just before us to live in fidelity to Thy law and under the guidance of Thy Spirit.

Help us, O Lord, to work and not to worry, to be energetic but not fussy; to guard confidences and cherish friendships, to make no promises we cannot keep; to be patient under provocation; composed under criticism; to be respectful to age, gentle to the weak, helpful to the fallen, sympathetic with the sad, courteous to all; to fear nothing but sin, hate nothing but hypocrisy, covet nothing but character and at last leave the world a little better because we have lived in it.

We especially beseech Thee to give Thy higher wisdom to the President, the Members of Congress, and to all who serve the Government of this Nation that the Nation may be served in the manner in which we have prayed.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 16, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. JOHNSTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

ORDER FOR THE SENATE TO CONVENE AT 9 A.M. FOR REMAINDER OF THE WEEK AND AT 10 A.M. ON MONDAY, JUNE 23, 1980

Mr. ROBERT C. BYRD. Mr. President, I anticipate a very heavy workload of legislation prior to the July 4 holiday and the break for the Republican Convention.

I would suggest that the Senate come in early and stay in reasonably late, and that it be in on Saturdays, if need be. Whether or not there is a necessity will depend upon the workload and the progress that is made, but there is plenty of work to do, enough to necessitate Saturday sessions between now and the July 4 break.

Therefore, Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, Wednesday, Thursday, and Friday, it stand in recess until the hour of 9 o'clock a.m., respectively, on Tuesday, Wednesday, Thursday, Friday, and Saturday, and that when the Senate convenes on Monday next it convene, following a recess, at the hour of 10 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE BUDGET TRENDS

Mr. ROBERT C. BYRD. Mr. President, Chairman STENNIS of the Senate Armed Services Committee announced last Thursday some of the principal decisions his committee has made on the fiscal year 1981 defense authorization bill, S. 2294. The committee's report on the bill will be filed soon.

Major decisions have been made by the committee on the MX missile; on military pay; on the Rapid Deployment Force; on procurement; and on military readiness. Chairman STENNIS has ably described these and other decisions made by the committee.

This bill will be considered during a critical period. Defense decisions that we make this year will determine much of the character of our defense structure for the coming decade because many defense programs require long leadtimes.

Our Nation is now grappling with defense problems that had their origins many years ago. The last pre-Vietnam defense budget was in 1965. The defense budget then rose dramatically, a full 30 percent in real terms, peaking in 1968. After 1968 it declined dramatically. During the downswing, the defense budget passed the pre-Vietnam level—in real terms—in 1972. It continued to decline until 1975, when defense spending was a full 10 percent below the 1965 pre-Vietnam level. Not until 1980 did the defense budget climb back to the pre-Vietnam level.

There are many forces behind the rise and fall of the defense budget, and they occurred over several administrations of both political parties. I make these observations to indicate the background against which we should judge the proposed defense budget, and the proposed defense authorization bill.

During the last 3½ years major new military preparedness initiatives have been undertaken. For example, almost every category of major Army weapons systems has undergone dramatic modernization. This includes new tanks, new ground troop carriers, new attack helicopters and troop-carrying helicopters, and a wide range of new missiles that together make up a new air defense system to protect an army in the field.

Procurement of major new equipment in the Navy and Air Force, is underway. In 1968 the Navy had 976 ships in active duty. After the Vietnam period, older ships were removed from active inventories until in 1972 there were 654 ships, and in 1976 there were 476 ships. The inventory bottomed out in 1978 at 453 ships, but planning had begun several years before for replacements, so that by the end of fiscal year 1980, there will be 462 active ships in the Navy. We have begun a period of steady growth in shipbuilding, putting more efficient vessels on the seas. The total number of ships will rise to 575 by 1984.

Similarly, there will be growth in the number of fighter aircraft. By the end of fiscal year 1980, the Air Force will have 516 F–15 fighter aircraft. In fiscal year 1976, it had 94. By the end of fiscal year 1980, the Air Force will have 158 F–16 fighter aircraft. In fiscal year 1976, it had only two.

In theater management, the United States has strengthened its presence in the Indian Ocean and in the Pacific. Four years ago there was talk of withdrawing from portions of the Pacific. Not only is that no longer the talk; we have actually bolstered and stabilized our Pacific forces. Moreover, our growing relationship with China has added a new and positive dimension to our presence in the Pacific. In the Indian Ocean, we have increased considerably our emergency stockpiles and equipment at Diego Garcia. The United States also is negotiating for air and ship facilities in Kenya and Somalia, and negotiations have been concluded with Oman for the use of facilities.

In Europe, major new initiatives by the United States in strengthening our partnership in NATO are successfully underway. President Carter, with the support of the Senate, took the lead in launching within NATO a program of equipment modernization and command coordination known as the long term defense program (LTDP). The President also successfully requested, from all members of NATO, a pledge to increase defense spending annually by 3 percent, after inflation.

Major advances have been made during the last 3½ years in our strategic force structure. The Minuteman program has been constantly updated, with a more recent missile (Minuteman III), an improved warhead (MK 12A), and strengthened silos to reduce vulnerability. Development is underway on the MX in mobile form, to further reduce vulnerability. The sea leg of the Triad is being strengthened as progress is made on the Trident submarine and missile, and on the retrofit of Trident I missiles in Poseidon submarines. In the air leg of the Triad, President Carter made the tough decision of not pursuing the B–1 bomber, with the result that we will have more security at less cost from the air-launched cruise missile program. The cruise missile is extremely accurate and marks a significant technological turn in strategic weaponry.

This list of achievements does not include some significant gains made during this Congress. In 1979, a dramatic breakthrough for stability in the Middle East was made with the signing of the Israeli-Egyptian peace treaty. Congress has backed the package of military and economic support necessary to sustain the Middle East peace process. Exhaustive hearings were held on SALT II, and while it has not been possible to proceed with consideration of the treaty, a valuable understanding of our overall defense posture emerged from the hearings. More recently, on February 4, 1980, the Senate voted to adopt the Nunn-Warner amendment to the military personnel authorization bill (H.R. 5168). That amendment would authorize $0.5 billion in additional pay and benefits for military personnel. Military compensation is an area of particular concern at the present time, due to the retention problems the services are currently experiencing. The Nunn-Warner amendment would be an important step toward solving our military pay problems. H.R. 5168 currently is awaiting conference.

The initiatives I have mentioned represent the careful expenditure of defense dollars on programs that can contribute the most to our defense strength. As we consider the defense authorization bill and other defense bills this session, we will want to keep these programs in mind. These initiatives constitute many of the building blocks of our defense structure in the 1980's, and we will want to be sure that actions we take this session maintain the momentum of these important initiatives.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

JUSTICE GEORGE BROWN

Mr. BAKER. Mr. President, I would like to take a few moments this morning to offer my congratulations to a distinguished Tennessean, the Honorable George Brown, on his appointment this past Friday to my home State's supreme court.

Justice Brown will succeed the late Joe Henry, chief justice of that court until his untimely death earlier this month.

George Brown is a fair man and a skilled lawyer, well qualified to be a member of Tennessee's supreme court. His leadership in his profession and service to the community of Memphis in which he resides will make him well suited for the heavy responsibilities of maintaining confidence in our system of justice in Tennessee.

I would further commend Gov. Lamar Alexander on his foresight in naming such a compassionate and thoughtful individual to my State's highest court.

Justice Brown's appointment to the court will expire in September, but it is my hope that the justice will seek popular election for a full term in the office he so richly deserves.

Mr. President, I have no further requirement for my time under the order, and I am prepared to yield it back unless there is a need for it by the majority leader, or others.

Mr. ROBERT C. BYRD. Mr. President, I will have no need for it. I thank the minority leader.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 870.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 450) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2727.

Mr. BAKER. Mr. President, I have no objection.

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 450) is as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2727, a bill to authorize additional appropriations for the Department of State in fiscal years 1980 and 1981 and for the Board for International Broadcasting in fiscal year 1981. Such waiver is necessary to allow the authorization of $14,514,000 in additional budget authority for fiscal year 1980 for international organizations and conferences. The amount previously authorized for this purpose, $502,945,000, has proven inadequate to fund the United States share of the assessed contributions to the United Nations.
>
> Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of the inability of the State Department to estimate the actual United States assessments to the various United Nations organizations. The reason it is so often necessary to request supplementals for this appropriation lies within the budget process itself.
>
> The Department of State prepares its budget for review by the Office of Management and Budget (OMB) and subsequent submission to Congress a full year and a half in advance of the calendar year budget cycles which are followed by most of the International Organization's (IO). Therefore, when the President submits his budget to Congress, the budgets of the IO's are in an embryonic stage. Consequently, the funding requested for assessed contributions to International Organizations is primarily based upon the result of informed and detailed analysis by personnel familiar with the various IO's, and a resultant knowledgeable estimate of what the approved budget for each IO's funding cycle will be.
>
> However, it must be mentioned that the budgets of the IO's are affected by inflation, exchange rate fluctuations, and so forth. Therefore, because their budgets are acted upon long after the Department of State has submitted its request, they reflect different factors. In these days of soaring wage and price increases this almost always means higher budget requests.
>
> In sum, the discrepancies between the funds included for International Organizations in the original President's budget and the updated request of the supplemental are largely a factor of time and the differences which exist between the budget cycle of the United States Government and the cycles followed by the International Organizations. In no case can these funds be diverted from this appropriation without the consent of Congress.
>
> The effect of defeating consideration of this supplemental authorization will be to place the United States in violation of its international treaty obligations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I do have one other matter I would like to bring to the attention of the Senate, if I might.

A WISH FOR THE MAJORITY LEADER

Mr. BAKER. Mr. President, it was with keen interest that I read an article by Mr. Martin Tolchin in the June 12 editions of the New York Times entitled, "Why Byrd Still Criticizes the Carter White House."

As the headline implies, Mr. President, the article sought to explain why the distinguished majority leader has, on occasion, been critical of the actions and policies of President Carter, a practice I and other Members from this side of the aisle find quite logical, I might add.

One theory advanced in that regard is that the majority leader believes President Carter's prospects in the upcoming general election are so bleak as to threaten the distinguished majority leader's "endangered species," those 22 Democratic Members of the Senate facing reelection. In all candor, I must confess that I do not view that circumstance as gloomily as does the majority leader, although, having examined the President's record, I can certainly understand his concern.

While I wish no Member of the Chamber, on either side of the aisle, any ill fortune at the polls this November, I am convinced many a new face will occupy the Senate next year, as well as at the White House.

All of which brings me to my second point, Mr. President. I must confess I was rather surprised to learn from that article that there are those on the White House staff who believe the majority leader poses a threat to President Carter's renomination and may, in fact, himself emerge as the Democratic nominee for President.

First, I would say to the White House staff that this very sort of mistrust of such a loyal and distinguished supporter as the majority leader has doubtless contributed to the political misfortunes of the President.

Second, while I have already made my preference for the Presidency known, or should I say my preference and my second preference, I would only say to the majority leader that both of those actions were taken before I was aware he might be available. Had I known then what I have learned from the New York Times, I might have done things differently.

For the Senate's loss would certainly be the White House's gain.

Finally, Mr. President, while I have unbounded respect for the majority leader's political acumen, I would only offer him this caution, as one who has tested that water and found it rather chilly.

While the Senator from Massachusetts (Mr. KENNEDY) and the Representative from Illinois (Mr. ANDERSON) are not yet convinced, I believe I speak for the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. PRESSLER), the Senator from Connecticut (Mr. WEICKER), and the Representative from Illinois (Mr. CRANE) in saying that Presidential politics has not proven to be overly rewarding to Members of Congress this year.

Nonetheless, I wish the distinguished majority leader well—not too well—just well.

Mr. President, if there is any time remaining, I yield it back.

Mr. ROBERT C. BYRD. I have no answer, Mr. President.

I thank the distinguished minority leader. I appreciate his fine statement.

Mr. President, I yield now to the Senator from Wisconsin.

POSTHARVEST FOOD LOSSES

Mr. PROXMIRE. Mr. President, I should like to direct the attention of the Senate for a moment to the problem of postharvest food losses, and to the tremendous value of grain and food products consumed by rats and other rodents around the world.

Although the full extent of the problem remains to be assessed, one expert, citing data from the U.N. Food and Agriculture Organization—FAO—has estimated annual world food losses to rodents at $8 billion. Grain losses alone are estimated to exceed $1 billion annually. This is not a problem only afflicting underdeveloped Third World countries. The Food and Drug Administration has estimated that rodents consume 10 percent of the entire U.S. grain crop annually, while contaminating an even larger portion.

Mr. President, sometimes we become so used to living with a problem that we fail to take note when the means for solving that problem are at hand. I am pleased to see that S. 2714, the foreign aid authorization bill for fiscal year 1981, which, I understand, we shall be acting on within a day or two, contains section 405, introduced by Senator PERCY, which seeks to focus the attention of the executive branch on the fact that we are very close to making a dramatic step forward in our ability to control destructive rodent populations and thereby achieve a tremendous decrease in the amount of food lost each year to these animals. Section 405 expresses the sense of the Congress that the President, acting through the Agency for International Development, should increase substantially the amount of funds devoted to the reduction of postharvest losses of food in developing countries.

I believe that this statement of the sense of the Congress is an especially timely one, coming as it does at a time when AID is reviewing the literature available on the subject of enhancing the attractiveness of rat bait and is in the process of recruiting a noted world authority on rodent control. I should like to have printed in the RECORD a letter I have recently received from AID which summarizes its current interest in this matter. I have been told by other interested parties that a testing program which would identify existing chemicals suitable for use as odor or flavor enhancers for rat bait could be carried out for a relatively small amount of money—perhaps only a few hundred thousand dollars.

At a time when we are spending millions to provide Public Law 480 assistance to needy countries, and additional millions to improve agricultural production and marketing systems in lesser developed countries, it seems that a program to improve the attractiveness of rat bait is long overdue. The fact that rats are also a major cause of domestic U.S. losses of grain means that the benefits of such a testing program would accrue to the American people as well.

I commend the wisdom of Senator PERCY and of the Foreign Relations Committee in drawing attention to this issue and in giving the Senate the opportunity to affirm the importance we attach to it. I hope that this statement of the sense of the Congress, once S. 2714 is passed, will prompt AID to review its current ordering of research priorities and other centrally-funded projects, to give serious consideration to finding a way to initiate work on this project in the very near future. The ultimate result would be a dramatic and tangible reduction in world food losses, much to the benefit of the world community, and to all Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to which I referred.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., June 11, 1980.

Hon. WILLIAM PROXMIRE,
Committee on Appropriations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: We appreciate your May 19 inquiry on the problem of food losses caused by rats in developing countries and share your concern that continued efforts be made to reduce them. The Agency for International Development has an active program designed to reduce postharvest food losses in the developing countries. Our food loss experts believe there is a need for a research effort to improve our ability to reduce food losses to rats by making existing poisons and rat baits more attractive and palatable to rats.

A recent computer search of agricultural data bases indicates relatively few reports of research on rat bait flavor enhancers. Some work has been done on rice flavor compounds, sugar, and salt to enhance the palatability of baits for greater acceptance by rats. The current literature is limited, sporadic, and does not report a comprehensive evaluation trial of compounds likely to attract rats.

Specifically in rodent control, the Agency has sponsored research and training through the United States Fish and Wildlife Service's Denver Wildlife Research Center. This research has focused on ways of reducing field losses caused by many species of rodents in tropical developing countries. The Denver program has not placed major emphasis upon enhancing the acceptance of rodent baits. In the late 1960's the Denver Center decided that comprehensive screening programs were not an effective approach to discovering toxicants, repellants, or attractants which had potential for registration by United States regulatory agencies as well as the necessary efficacy. Their program has involved a more selective approach in examining specific compounds under a number of criteria in addition to animal responses.

We are reviewing the Denver Wildlife program to determine if it should broaden its focus to address the question raised in your letter of the feasibility of testing bait enhancements. We are also in the process of recruiting a noted world authority on rodent control. It would seem logical for this specialist to act as program manager for any project which could possibly be developed in cooperation with the Denver Center and an appropriate flavor manufacturing firm. Between now and early January our food loss specialist will critically examine the issue and locate all relevant literature which would apply to the enhancing of rodent baits for greater acceptance by rats.

There is sufficient legislative authority to allow the Agency to fund such research. Current budgetary restraints, however, may make it impossible to undertake any effort at this time.

I would be happy to provide you with any further information you may request about this important grain-loss issue.

Sincerely,

DOUGLAS J. BENNET, JR.

GENOCIDE: THE HEROIC EXAMPLE OF KAROL KICINSKI

Mr. PROXMIRE. Mr. President, in occupied Poland, it was a capital offense to help a Jew escape the Gestapo. Despite this danger, many heroic Poles attempted to rescue their Jewish neighbors from the Nazi death camps. Karol Kicinski was one such individual.

Kicinski, a beggar, saved the lives of two Jewish women by hiding them in his Warsaw hovel. When they found a way to leave Poland, Kicinski sent them off with this farewell: "Please don't tell anyone I saved you. I fear for my life."

Kicinski defied genocide even at the cost of his own life. What do we fear? What compelling reasons do we have for repeatedly refusing to ratify the International Convention on the Prevention and Punishment of Genocide?

Surely, we do not fear for our lives.

The Genocide Convention offers the hope of a far better world—at no cost to the United States.

It will reaffirm and reassert in the plainest terms our unflagging resistance to the daily slaughter of innocent men, women, and children.

The Senate's list of objections to the treaty is cluttered with imaginary concerns and exaggerated fears. They are as unfounded today as they were 31 years ago, when the Senate first considered this vital piece of legislation.

Kicinski was restrained by no fears. He knew the importance of saving those women's lives.

What obstacle is formidable enough to interrupt our vital efforts on behalf of human rights? What obstacle is formidable enough to match the noose which Kicinski bravely defied? There are no such obstacles.

Mr. President, let us follow Kicinski's lead. Let us seek the enormous gains of this treaty. Kicinski could not afford to be caught saving the innocent. We cannot afford to let them die.

Let us ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business; that Senators may speak therein; and that the period not extend beyond 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHEMICAL WARFARE IN AFGHANISTAN

Mr. CHURCH. Mr. President, I have been concerned about the growing evidence that the Soviet Union is resorting to the use of chemical warfare in Afghanistan. As a result of my concerns, I wrote to President Carter on April 23 urging that the United States work for the establishment of an international investigation of this evidence, lest the Soviet leaders conclude that there are few, if any, restraints they must observe in their drive to suppress the Afghan people's struggle for national independence. I have received a reply to my letter from the State Department, which outlines the steps the U.S. Government is taking to stimulate an international investigation of reports of the use of chemical agents in Laos and Kampuchea as well as in Afghanistan. I am pleased that the administration is giving this matter a high priority, and urge it to continue to do everything possible to publicize and deter such uncivilized methods of warfare. I ask unanimous consent that my letter to the President and the administration's response be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 23, 1980.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The mounting evidence that the U.S.S.R. is resorting to the use of chemical warfare in Afghanistan is a matter of great concern to me, and to members of the Foreign Relations Committee. Reports of Soviet use of incapacitating and even lethal nerve agents have now become so numerous that they cannot be ignored. Use of such methods of warfare would violate recognized international standards of conduct, as well as international agreements the Soviets have ratified.

Under these circumstances, I believe it is imperative that an international investigation be carried out to gather and evaluate the evidence available, and make it known to the international community. If this is not done, the Soviet leaders probably will conclude that there are few if any restraints they must observe in their attempts to suppress the Afghan peoples' struggle for freedom. Perhaps this investigation could best be done by the International Committee of the Red Cross or the International Commission of Jurists.

While there may be disadvantages in the United States taking the public lead in calling for such an investigation, I think we should work actively through diplomatic channels to encourage others to do so. If the call for the investigation were issued by the Islamic Foreign Ministers Conference when it meets in mid-May, it would probably have a good chance of success. Pakistan would certainly be willing to cooperate and permit access to the Afghan refugees under such circumstances, which they might be reluctant to do if the United States were the sponsor. Therefore I suggest that you direct the State Department to urge friendly Islamic countries to press for such an investigation, lest Soviet leaders conclude that they can act against civilized norms in Afghanistan.

With best wishes.

Sincerely,

FRANK CHURCH,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., May 13, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The President has asked that I reply to your letter dated April 23 in which you expressed your concern and that of the Foreign Relations Committee about the reports and evidence indicating the Soviets may be resorting to chemical warfare in Afghanistan.

The Administration shares this concern and the view that it is imperative that an international investigation be conducted to ascertain the facts relating to the reported use of chemical warfare in Afghanistan, and in Laos and Kampuchea as well. We have already taken a number of steps in this regard which described recently by the Under Secretary of State for Security Assistance, Science and Technology during the April 24 joint hearings before the House Subcommittees on International Security and Scientific Affairs and Asian and Pacific Affairs. We have also consulted with a number of states in an effort to stimulate attention on this issue at the upcoming Islamic Conference.

As indicated in Under Secretary Nimetz' recent statement, we are continuing our efforts to promote serious international attention and action on the problem. As a next step, we are sending out an interagency team of officials to key European capitals to constult with Allies and neutral states about this problem and to gain their support and cooperation for an impartial international investigation, under appropriate auspices. In addition to these diplomatic moves, and those we will be taking in multilateral fora, we have also intensified our efforts in the regions in question to obtain further information and evidence pertaining to the reports of the use of chemical warfare in Afghanistan, Laos and Kampuchea.

We share your belief that the United States and the other civilized nations of the world must bear the responsibility for taking the necessary steps to bring the facts behind these reports to light. In this way it will be made clear that the world will not simply stand by and ignore such reports or allow any state to assume that it can, with impunity, gain its political objectives through resorting to actions prohibited by international law.

We appreciate your interest in this most serious problem and welcome your continued support and advice in this matter. And we will, of course, be pleased to keep you informed of the steps we are taking to meet this problem.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

THE DRAFT AND THE SENSE OF DUTY

Mr. RANDOLPH. Mr. President, for 7 legislative days over the last 2 weeks and including one all night session, the Senate of the United States considered House Joint Resolution 521 making additional funds available for the Selective Service System for fiscal year 1980. On Thursday, by a vote of 58 to 34, the Senate approved the measure reestablishing a registration of the young men of our Nation aged 19 and 20.

Mr. President, I hold in my hand the lead editorial of the Chicago Tribune of today. The heading on that editorial is "The Draft and the Sense of Duty."

In reading the editorial, I quote these words:

> It must be made clear that the abusive old system of conscription which allowed the wealthy and unprincipled to find a way out will never be revived. The law that would govern any reinstitution of the draft is much different from the one that led to the ugly opposition of the 1960s. A fair conscription plan puts everyone but true conscientious objectors at the same risk of being called, and it selects draftees by pure chance.

A second quote:

> The Nation must go through a rediscovery of the sad truth that its liberty and prosperity may require sacrifices.

A third quote:

> Registration can be part of the re-education the country needs. And the lines of young men at post offices this summer can serve as a reminder of both the importance and the cost of peace.

Mr. President, I ask unanimous consent that the editorial be printed in full in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Draft and the Sense of Duty

> Within the next couple of months, now that both the House and Senate have approved, all American men born in 1960 and 1961 will be required to go to a post office and register for a possible draft. Even though reinstitution of the draft itself is not now contemplated, this will not be a happy moment.
>
> Draft registration was a rite of passage for every young man in this country for more than three decades, until the draft fell victim to the movement against the Viet Nam War. The memory of that war is alive in the new registrants who grew up during the years of controversy. It is alive in their parents. There is little belief left in what World War I poet Wilfred Owen called "the old lie," *dulce et decorum est pro patria mori,* the glory of dying for one's country. While older generations may have been deceived by the bravado of John Wayne and other celluloid heroes, the present draft-age generation learned its lessons from the insane colonels in "Apocalypse Now." That service to one's country is a game for madmen and fools, this may be the new lie.
>
> In itself, registration is not much of a burden to impose on the young: a few minutes' inconvenience, a small surrender of anonymity. But it opens all the old wounds connected with the draft and the war, and these must be treated if the registration effort is to succeed with as little divisiveness as possible.
>
> For one thing, it must be made clear that the abusive old system of conscription which allowed the wealthy and unprincipled to find a way out will never be revived. The law that would govern any reinstitution of the draft is much different from the one that led to the ugly opposition of the 1960s. A fair conscription plan puts everyone but true conscientious objectors at the same risk of being called, and it selects draftees by pure chance.
>
> This time around there will be no requirement that registrants carry a draft card around with them at all times. The hateful piece of paper never served much purpose except as a constant reminder of vulnerability and as a conveniently inflammable symbol of everything that seemed wrong about the war.
>
> The government will have to face a legal—and equitable—problem immediately. The new registration law exempts women, and this will undoubtedly be challenged in court. Whether the courts will find a principled basis for upholding this distinction in light of the developing constitutional prohibitions of sex discrimination remains to be seen. If it does find a way, there is the risk that the precedent will blight progress for women's rights in other areas. But the point will have to be settled, and it is better settled at a time when registration is all that is at issue, rather than at a time when the country in crisis is trying to raise an army.
>
> Most importantly, the nation must go through a rediscovery of the sad truth that its liberty and prosperity may require sacrifices. This is not to say that the old lie be revived. The glory of dying for one's country rarely survives the first exchange of gunfire anyway. But the new lie cannot be allowed to root itself too deeply. Service and defense are tragic necessities in a world that covets our material wealth and does not universally share our values.
>
> Opportunists ranging from yesterday's aging radicals to today's ambitious politicians such as Ronald Reagan will no doubt seek to focus attention on the immediate discomforts of draft registration for their own ends. Their view is tragically narrow. Registration can be part of the re-education the country needs. And the lines of young men at post offices this summer can serve as a reminder of both the importance and the cost of peace.

Mr. RANDOLPH. Mr. President, I recognize, understand, and appreciate, the differences in the viewpoints that Members of this body expressed on the final rollcall. This was not a vote for the draft. It was a vote addressing itself to the manpower which would be available, if we had a conflict which involved the security of the United States. I pray every day that these young men would not be called up. However, we must be prepared to respond. I recall, too vividly, the tragedy of Pearl Harbor.

Mr. President, I repeat, I respect and understand the conviction and the conscience and the commitment of Members of the Senate to the United States of America.

Mr. President, I feel that from time to time, that which was not spoken in the Senate itself during extended debate, but that which appears as does this editorial in the Chicago Tribune, is helpful to all, as we assess the actions taken in carrying forward our legislative duties.

Mr. President, I emphasize that the Chicago Tribune editorial is well reasoned.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF STATE AUTHORIZATIONS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2727, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 2727) to authorize additional appropriations for the Department of State for the fiscal years 1980 and 1981 and for the Board of International Broadcasting for fiscal year 1981, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CHURCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CHURCH. Mr. President, during the past year, we have seen the U.S. Embassy in Islamabad under armed attack, and U.S. diplomatic personnel in Tehran seized and held hostage in contravention of all the tenets of international law and civilized conduct. The events of the last 12 months have placed severe strains and stresses on the American diplomatic community.

Mr. President, I believe it is imperative that we, the Senate, give strong support to those individuals within our Government, who are vested with the grave responsibility of promoting peace and cooperation through diplomatic initiative. It is with this concern in mind that I urge my Senate colleagues to support the funding contained in S. 2727, a bill authorizing additional appropriations for the Department of State and the Board for International Broadcasting for the fiscal year 1981.

The primary purpose of this legislation is to authorize the following supplementary appropriations for fiscal 1981:

First, $136,925,000 for the operations of the Department of State;

Second, $17 million for the continuation of the Inter-American Foundation;

Third, $12,048,000 for the Board for International Broadcasting; and

Fourth, $4,100,000 for the activities of the Asia Foundation.

Mr. President, in considering these increases, the Senate should be fully aware that the Foreign Relations Committee cut approximately $58.7 million from the administration's request. These are the lowest figures the committee could responsibly authorize and still insure the effective and efficient conduct of our Nation's foreign policy. The Senate should, also, note that $45.8 million of the increases requested for the State Department are programed to upgrade the security and protection of diplomatic personnel and sensitive information at critical posts abroad in the face of continued international unrest.

Mr. President, I ask unanimous consent that a table detailing these increases be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

FISCAL YEAR 1981 AUTHORIZATION SUMMARY

[Dollar amounts in thousands]

	Authorization (P.L. 96-60, P.L. 96-110)	Administration request for additional authorization	Committee action	Total fiscal year 1981 authorization
DEPARTMENT OF STATE				
Administration of foreign affairs	$1,009,815			$1,009,815
Buying power maintenance		$20,000		
Budget revisions May 31, 1980		−17,800	−$17,800	−17,800
Budget revisions Apr. 11, 1980		35,800	45,800	45,800
Subtotal, this category	1,009,815	38,000	28,000	1,037,815
International organizations and conferences	525,082	90,015	90,015	615,097
International commissions	26,081	−500	−500	25,581
Subtotal, above 3 categories	1,560,978	113,001	103,001	1,663,979
Ceiling on above 3 categories	[1] (1,547,778)	(113,001)	(103,001)	(1,650,779)
Migration and refugee assistance	457,798	59,411	57,411	515,209
United States-Yugoslavia Science and Technology Agreement	1,400			1,400
Subtotal, Department of State	2,020,176	172,412	160,412	2,180,588
Excess authorization without ceiling cut by committee			−38,001	−38,001
Total, Department of State	2,020,176	172,412	136,925	2,157,101
Asia Foundation			4,100	4,100
Inter-American Foundation		17,000	17,000	17,000
International Communication Agency	465,944			465,944
Board for International Broadcasting	86,787	12,048	12,048	98,835

[1] Sec. 102(b) placed an aggregate ceiling of $1,547,778 on the appropriations for fiscal year 1981 for the following 3 categories: administration of foreign affairs, international organizations and conferences, and international commissions. The committee repealed this subsection.

Mr. CHURCH. Mr. President, in addition to the funding increases I have just described, S. 2727 contains a number of policy amendments including provisions which:

First, repeal the authorization ceiling of Public Law 96–60 for fiscal year 1980; second, increase by $250,000 the amounts that shall be made available to the American Institute in Taiwan; third, provide legal authority to pay arrearages in the U.S. assessments for the International Institute for the Unification of Private Law and the Hague Conference on Private International Law; fourth, extend the duration of passports; fifth, grant authority to the Secretary of State to raise the passport fee; sixth, enable the United States to provide payments for ceremonial gifts to international organizations of which the United States is a member; seventh, establish the position of the U.S. Representative to the International Organizations in Vienna; eighth, enable the United States to make payments for the expenses of the United Nations peacekeeping forces wherever they are sent; ninth, authorize funds to meet the U.S. share of the assessed contributions to the International Labor Organization; tenth, prohibit the use of funds authorized by this act to close seven posts abroad and earmark $1.7 million for their continued operation; eleventh, earmark $0.5 million for the Belgium American Educational Foundation; twelfth, create an Assistant Secretary for Refugee Affairs; thirteenth, provide various administration authorities for the International Communication Agency; and fourteenth, earmark $4.5 million for the relocation of various elements of Radio Free Europe/Radio Liberty from Germany.

In conclusion, I ask that my colleagues support the passage of this bill. The Foreign Relations Committee in reporting this legislation has succeeded in exercising budgetary restraint and has, in fact, reduced the overall administration request by 26 percent.

I urge the Senate to pass this bill.

UP AMENDMENT NO. 1145

(Purpose: Technical amendments of committee)

Mr. President, I send to the desk a technical amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 1145:

On page 2, strike lines 11 and 12. On line 14, strike "$600,583,000" and insert "$615,097,000".

On page 2, on line 25, strike "$2,141,187,000" and insert "$2,155,701,000".

Mr. CHURCH. Mr. President, this amendment reads:

On page 2, strike lines 11 and 12. On line 14, strike "$600,583,000" and insert "$615,097,000."

On page 2, on line 25, strike "$2,141,187,000" and insert "$2,155,701,000".

The purpose of this amendment is to change the fiscal year 1980 supplemental request of $14,514,000 for international organizations to a fiscal year 1981 request. It is my understanding that this technical amendment will satisfy the concerns of the Budget Committee and I urge my colleagues to approve it.

Mr. President, I am informed that Senator HAYAKAWA is on his way to the Chamber to assist me in the management of the bill.

Inasmuch as no Republican member of the Foreign Relations Committee is currently present in the Chamber, I think it would be inappropriate to ask for passage of this technical amendment at this time. Accordingly, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I urge my colleagues to vote favorably on S. 2727, to authorize fiscal 1981 appropriations for the Department of State and the Board for International Broadcasting. I am particularly pleased to recommend to my colleagues legislation which amounts to a 26-percent reduction in the funds originally requested by the administration. With any luck, this sort of reduction will become habit-forming.

Mr. CHURCH. Mr. President will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. CHURCH. I simply wish to join in that remark and point out that if all other committees manage to do as well in cutting back on administration requests, we will have no difficulty in keeping the budget balanced for 1981.

Mr. HAYAKAWA. I thank the Senator from Idaho.

Several other aspects of the bill are especially noteworthy and commendable. It designates an additional $250,000 for the American Institute in Taiwan, the unofficial entity through which our relations with the government and people on Taiwan are now conducted. This represents a partial restoration of the funds originally requested by the Department of State to run AIT. Considering that our representation on Taiwan was reduced by almost 50 percent following derecognition while trade has continued to grow, the committee felt that AIT should not be cut back even further and that it could make good use of these funds for the conscientious implementation of the Taiwan Relations Act. In that connection, I might also note that the committee report mentions several areas in which the implementation of the Taiwan Relations Act has been something less than ideal—in particular, the decision not to allow Taiwan to maintain the same number of offices in this country as it had prior to derecognition.

A second notable provision of this legislation is the designation of $45.8 million for the improvement of security in our embassies abroad. Obviously, this is a great necessity. Our diplomatic posts are increasingly becoming the object of violence and outright seizure; we must make every effort to protect our people and to reduce the temptations for terrorists and extremists to invade our facilities overseas. This is another case in which the committee disagreed with OMB's reduction in the funds originally requested by the Department of State and moved to restore some of them.

In this connection, Mr. President, I call attention to the fact that we are not alone in confronting this danger in our embassies. The Embassy of France in Monrovia, Liberia, was attacked over the weekend; and the eldest son of former President Tolbert was seized, over the protests of the French Government.

This sort of rough stuff going on within embassies, which are supposed to be out of bounds for any such behavior, continues to go on. So this is a very important designation of funds for security in our embassies.

Finally, Mr. President, I wish to note

the provision of $4,100,000 for the Asia Foundation, one of the oldest and most successful institutions of its kind. For nearly 30 years, the Asia Foundation has been sponsoring research and exchange programs of the highest quality. It currently supports nearly 1,000 individual projects in some 14 different Asian countries. Although the Foundation does receive substantial contributions from Asian countries and from private sources, its principal source of funds have always been a general grant from the U.S. Government. It is one expenditure from which we get a lot for our money.

Mr. President, this bill received the unanimous support of the Committee on Foreign Relations, including all our Republican members. Since it involves no change in the overall figures authorized we are also prepared to accept the chairman's proposal to transfer the original fiscal 1980 supplemental funds to the fiscal 1981 authorization. I recommend passage of S. 2727 at this time.

Mr. CHURCH. Mr. President, I commend the distinguished Senator from California for his statement. I thank him for it.

Mr. President, at the desk is the pending amendment, which I have explained heretofore. I have discussed it with Senator HAYAKAWA, and I believe we are ready now to proceed with a vote.

Mr. BAKER. Mr. President, I am certain that is so. I am aware of one other amendment, which is to be offered to the bill by the distinguished Senator from North Carolina (Mr. HELMS), who is absent from the floor at this time. I have no idea that he has a particular interest in the pending amendment; but I wonder whether the chairman will be willing to postpone consideration of the amendment for about 2 or 3 minutes, while I check with the Senator from North Carolina.

Mr. CHURCH. I will be happy to do so. Meanwhile, the distinguished chairman of the Budget Committee is here and wishes to press a couple of technical amendments. So I ask unanimous consent that the pending amendment be laid aside temporarily, in order that we may proceed to the consideration of the amendments to be offered by the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. EXON). Is there objection? The Chair hears none. and it is so ordered.

Mr. HOLLINGS. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

UP AMENDMENT NO. 1146

(Purpose: To modify appropriation forcing provision in the bill)

Mr. HOLLINGS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1146:

On page 13 line 24 before "$500,000," insert "not to exceed".

On page 14 line 10 after "which" insert "not to exceed".

Mr. HOLLINGS. Mr. President, this is a technical amendment. I have talked with the distinguished chairman of the committee. It was not intended to actuate as an appropriation, but the language reads that the amount authorized in the $500,000 shall be available. That has been construed heretofore as an appropriation, and it properly should read "not to exceed $500,000."

Again, on page 14, where they have $4.5 million available, on line 10, it should read that the $4.5 million shall not exceed that amount.

Technically, the amendment changes it to make clear the intent that it be authorizing and not an appropriation measure.

Mr. President, both of the Committees on Budget and Appropriations object to such provisions that earmark funds in advance in appropriations bill. While the sums provided in this bill are small compared to the amounts usually encountered in such entitlement provisions, they still should be modified to maintain our general policy.

The first of these provisions deals with the Belgian-American Educational Foundation on page 13, line 14. As the committee's report indicates, this is a new authorization for public funding due to an apparent lack of funds in the foundation's endowment. We should not provide that $500,000 come right off the top of the appropriation to the International Communication Agency until we have had a chance to measure the need against the other requirements of the agency.

Similarly, there is language on page 14, line 10 that earmarks $4,500,000 of the appropriation for the Board for International Broadcasting for the transfer of Radio Free Europe and Radio Liberty personnel from Germany to the United States. We are generally sympathetic to this proposal, but once again I believe that it should be authorized on a "not-to-exceed" basis to allow proper discretion to the Appropriations Committee.

Mr. CHURCH. Mr. President, the Senator has correctly stated the matter. The amendments he offers are fully acceptable to me.

Mr. HAYAKAWA. They are acceptable to me.

Mr. CHURCH. They also are acceptable to the Senator from California. Therefore, they are acceptable to the committee, and I hope we can proceed to their adoption.

Mr. HOLLINGS. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, we are waiting now for the distinguished Senator from North Carolina (Mr. HELMS). I am told he is on his way.

Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1145

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Idaho.

Mr. HELMS. Is this the technical amendment, I might ask the Senator?

Mr. CHURCH. Mr. President, I have had opportunity to explain the amendment to the distinguished Senator from North Carolina. He has no objection to it. So, in order to clear the way for consideration of his own amendment, I would hope that we could move now to passage of the pending amendment.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1147

(Purpose: To designate certain radio broadcasts to Cuba as "Radio Free Cuba.")

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1147.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 18, add the following:

RADIO FREE CUBA

SEC. 404. Any program of the United States Government involving radio broadcasts to Cuba for which funds are authorized to be appropriated under this Act or any other Act shall be designated as "Radio Free Cuba".

Mr. HELMS. Mr. President, I shall be very brief.

This amendment speaks for itself. It would require that:

> Any program of the United States Government involving radio broadcasts to Cuba for which funds are authorized to be appropriated under this Act or any other Act shall be designated as "Radio Free Cuba".

Mr. President, the intent is to let the people of the United States and the people in Cuba who yearn for freedom know that Congress supports freedom in Cuba not only with words but with action.

Mr. President, this Senator feels that the time is long past due for us to stop trying to paper over the existence of a

Communist regime in our own hemisphere but start doing something about it.

We would not now have the refugee problem in Florida if the Cuban people could live in freedom in their own land.

So this amendment is simply to send a continuous signal not only to the people in Cuba, but also to others who may hear the broadcasts that this country stands for freedom in Cuba.

Mr. President, I yield the floor.

Mr. CHURCH. Mr. President, as I recall, the distinguished Senator offered this amendment in the committee and the discussion of the amendment at that time made clear that the Senator was not contemplating the establishement of a new or different or independent governmental broadcasting system but rather sought to name those broadcasts that are now being transmitted to Cuba, through the Voice of America, Radio Free Cuba.

Mr. HELMS. That is correct.

Mr. CHURCH. I certainly have no objection to this amendment and I think that it should be adopted.

Mr. HELMS. I thank the distinguished chairman of the committee.

Mr. HAYAKAWA. Mr. President, I thank the Senator from Idaho for his support of Senator Helms' amendment, and I agree that since this cost no money but nevertheless has a certain semantic impact on the world, I also rise in support of the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished Senator from California.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

UP AMENDMENT NO. 1148

(Purpose: To require the Secretary of State to designate coal export officers, and for other purposes)

Mr. ROBERT C. BYRD. Mr. President, at this time I send to the desk an amendment on behalf of Mr. Bayh, and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) on behalf of Mr. Bayh proposes an unprinted amendment numbered 1148.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 18, add the following:

UNITED STATES COAL EXPORT OFFICER

Sec. 404. (a) For each country in which the United States has a diplomatic mission, the Secretary of State shall designate a member of the respective diplomatic mission as a United States coal export officer. Each United States coal export officer, with respect to the country to which such officer is assigned, shall monitor the requirements of such country for imported coal and the ability of such country to import United States coal.

(b) The Secretary of State, together with the Secretary of Energy and the Secretary of Commerce, shall prepare and transmit not later than 6 months after the date of enactment of this Act, and semiannually thereafter, to the Congress a report setting forth the level of United States exports of coal to each country referred to in subsection (a) during the preceding 6 months, in the case of the first report, or during the period since the transmittal of the preceding report, in the case of a report required thefearter.

(c) This provision of law shall not apply with respect to the Union of Soviet Socialist Republics and the Republic of South Africa.

Mr. ROBERT C. BYRD. Mr. President, Mr. Bayh has asked me to call up this amendment on his behalf, and I ask unanimous consent that I may be a cosponsor of the amendment. I believe I am already a cosponsor but, in any event, I ask unanimous consent that I be named a cosponsor.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the amendment by Mr. Bayh, of which I am a cosponsor, would require the Secretary of State to designate in each of our diplomatic missions abroad a coal export officer. I am reading now from Mr. Bayh's statement, and I ask unanimous consent that this statement by Mr. Bayh appear in the Record in full at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Bayh on Coal Export Officer Amendment

Today I am offering an important amendment to the Department of State Authorization bill which will require the Secretary of State to designate in each of our diplomatic missions abroad a "Coal Export Officer." This would not necessarily involve any increase in the size of U.S. Embassies or other posts. It would, however, be a functional directive from the Congress to the Department that we believe the "age of U.S. Coal" is coming and that we should be prepared to assist U.S. coal exporters—small, medium and large coal producers—to develop the vast potential for U.S. coal exports.

The amendment would also require of the Secretary of State together with the Secretary of Commerce and the Secretary of Energy a semi-annual report on levels of U.S. coal exports to each of the countries where Coal Export Officers are designated. The amendment would not require the Secretary to designate such officers within our missions in the U.S.S.R. and South Africa. In addition to each of these countries being self sufficient in coal and themselves exporters, even though the Soviets are running into severe difficulties in terms of satisfying their domestic demand, I do not believe inclusion of nations engaged in foreign invasions at this time serves a useful signal when the United States is attempting to convince them that such action is not without a high price. Of course, nothing in this amendment would prevent the Secretary from making such designations of foreign service staff in Moscow or Pretoria.

The Report of the World Coal Study has given us a glimpse of the bright energy future which can be ours even though our present economic fortunes appear increasingly dim. One of the seven principal conclusions of that Study found:

"Coal will supply between one-half and two-thirds of the additional energy needed by the world during the next 20 years, even under the moderate energy growth assumptions of this Study. To achieve this goal, world coal production will have to increase 2.5 to 3 times, and the world trade in steam coal will have to grow 10 to 15 times above 1979 levels."

For the United States, this finding is tremendously significant since it could mean U.S. exports of steam coal increasing from 5 million tons of coal equivalent (mtce) in 1977 to 65–280 mtce in the year 2000. Only Australia in addition to our country appears to be in a position to export significantly above the 100 mtce per year level during this century, with 85 mtce being steam coal. Canada is estimated to export 44 mtce in steam coal by the year 2000.

In addition to the tremendous increase anticipated for steam coal used in power plants, the world demand for high quality coking coals is also projected to increase. Moderate growth in needs is estimated for the Organization for Economic Cooperation and Development (OECD) countries. However, growing steel industry requirements in the countries outside of the OECD such as Taiwan, South Korea, and Brazil could result in a tightening of this market. Coal requirements for OECD industrial markets by the World Coal Study are anticipated to range from 225 million to 400 million tons by the year 2000, compared to 90 million tons in 1977.

In connection with this point, I would also like to call the attention of my colleagues to the strong relationship between U.S. coal export potential and the situation we now find ourselves in where this country is actually importing coke for use in steel blast furnaces. As the WOCOL Report notes:

". . . concern has lead to intensive research efforts in many countries to commercialize formed coke production which would allow use of non-coking or weakly coking coals for the manufacture of coke. About 10 different processes are now under development in pilot plants throughout the world . . ."

U.S. success in these R&D efforts could result not only in continuing high levels of export of metallurgical grade coal but a new, high-value export market for formed coke as well. At the present time, the Department of Energy is reviewing two projects in this area, the coke pellet process and a proposal for a formed coke demonstration and commercialization project to be located at the site of a major integrated steel mill. It seems to me that our country can ill-afford not to support industrial research in this area when the benefits are so obvious both in terms of the domestic benefits to steel and coal industries in this country as well as the enhancement of our competitive position in the world coal and coke markets.

Finally, Mr. President, I hope this amendment will serve as a signal loud and clear to those who really believe or say they do that "America's era is over." It has been seven years since the time of the OPEC oil embargo

> and the quadrupling of energy prices which has sent shock waves through the American economy. Every OPEC price increase since that time has produced even greater uncertainty and more economic dislocation in the greatest economy in the history of the world, so much so that some seem now to doubt our ability to recover and reestablish our credentials as the world's greatest economic power. But what we are doing today in the passage of this amendment is to defy such a view. What the WOCOL Report has done is to give us the opportunity to see the first rays of the sunlight of a bright, new dawn. Of course, the realization of the potential growth of U.S. coal trade estimated by that Report will involve much, much more than the amendment today. It will involve removing barriers to U.S. exports except in the case of national security interests. It will involve developing the right kind of transportation system and a shipping capacity to meet the requirements for transporting coal tonnages efficiently and competitively. It will involve keeping the peace and making certain that shipping lanes to export markets are secure. But it cannot involve doubt or hesitation in the development of the vast resource under our feet which is truly a bridge to the future which leads the way to energy self-sufficiency for our country and a resurgent America no longer held hostage to the pricing whims of the sheiks, ayatollahs and other oil barons of the world.
>
> I would also take this opportunity to urge President Carter, since he is scheduled to depart for the Venice Economic Summit, to put the matter of coal exports high on the agenda of issues to be discussed. It is clearly in our interests for the world to understand that the utilization of this can also lessen the impulse to drastically expand reliance on nuclear power and reduce the chances for nuclear weapons proliferation in the developing world.
>
> Total U.S. coal exports for this year have been put at 66 million tons for all categories of coal. It is, therefore, apparent that we are racing to catch the potential which the WOCOL study has indicated for the next 20 years. This should give us all encouragement, but that encouragement can be sustained through the help of an organized and systematic review of U.S. coal export opportunities in our diplomatic missions overseas and that is what the amendment I am proposing intends to do.
>
> I move that the amendment be adopted.

Mr. ROBERT C. BYRD. I read these excerpts:

> The amendment will require the Secretary of State to designate in each of our diplomatic missions abroad a "Coal Export Officer." This would not necessarily involve any increase in the size of U.S. Embassies or other posts. It would, however, be a functional directive from the Congress to the Department that we believe the "Age of U.S. Coal" is coming and that we should be prepared to assist U.S. coal exporters—small, medium and large coal producers—to develop the vast potential for U.S. coal exports.
>
> The amendment would also require of the Secretary of State together with the Secretary of Commerce and the Secretary of Energy a semiannual report on levels of U.S. coal exports to each of the countries where Coal Export Officers are designated. The amendment would not require the Secretary to designate such officers within our missions in the U.S.S.R. and South Africa. In addition to each of these countries being self sufficient in coal and themselves exporters, I do not believe inclusion of nations engaged in foreign invasions at this time serves a useful signal when the United States is attempting to convince them that such action is not without a high price. Of course, nothing in this amendment would prevent the Secretary from making such designations of foreign service staff in Moscow or Pretoria.

That completes the excerpt from Mr. BAYH's statement.

Mr. President, we are entering a new era of energy development. Increased supplies of oil, which have been the basis for worldwide economic growth in the past few decades, are not expected to be available in the future. Building a bridge to the energy sources and supply systems of the next century—whatever they may be—is of crucial importance. At the very least, coal will be that transition fuel with the potential to play a vital role in the long-term future.

America's coal has been rediscovered. The Arab oil embargo and the startling realization of this Nation's dangerous dependence on foreign oil signaled the public's rediscovery of coal. Adjusting the disparity between our coal resources and current coal use has become a national policy of the highest priority. Soon the Senate will debate a bill to mandate the conversion of 84 electrical powerplants from oil to coal. This legislation, to be reported by the Committee on Energy and Natural Resources, will decrease oil use by 300,000 barrels per day, representing a savings of $3.5 billion per year which we would otherwise pay for imported oil. The dollars invested to convert these utilities will stay here at home and the coal industry and energy consumers will both benefit.

Other Western industrialized countries are awakening to the potential of coal as well. The world coal study, conducted with the participation of 16 major coal-using nations, predicts that coal will have to supply between one-half and two-thirds of the additional energy needed by the world during the next 20 years, even under the most moderate energy growth assumptions. To achieve this goal, world coal production will have to increase two to three times, and the world trade in steam coal will have to grow 10 to 15 times above 1979 levels.

These estimates hold tremendous potential for America's coal industry. The United States is the Persian Gulf of coal, possessing about 27 percent of the Earth's coal reserves. The U.S. Geological Survey projects identified U.S. coal resources at 1.7 trillion tons. The United States has enough coal for at least the next 100 years and perhaps much longer. Only two other countries—the Soviet Union and the People's Republic of China—possess coal reserves which approach American capacity. For the free world, the United States will become the major line of supply for a vitally needed resource. We must take every step to facilitate the growth of a free and competitive international coal trade.

The distinguished Senator from Indiana (Mr. BAYH) has authored an amendment to S. 2727, the State Department Supplemental Authorization bill, which recognizes the urgent international need for coal and represents determined action to make it available to every country that requires it for economic growth and development. The amendment would require the Secretary of State to designate a coal export officer in every American diplomatic mission abroad, except the Soviet Union and South Africa. The officer would monitor that country's ability to import coal from the United States. The amendment would also require the administration to submit reports to the Congress every 6 months on coal export opportunities.

I am extremely pleased to cosponsor this amendment. The presence of an American coal officer in every Embassy abroad will help to stimulate coal exports. It would increase our expertise in the coal export market and dramatize American awareness of the vital role coal can play in supplying world energy needs. It will emphasize our commitment to finding alternative sources of energy to reduce international dependence on OPEC oil. This is the kind of constructive and tangible leadership America must exercise as we and all our trading partners seek a less oil-dependent energy future.

I congratulate the distinguished Senator from Indiana on his creativity and initiative.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it is my understanding this amendment would require the appointment of no additional personnel, that its purpose is merely to assign to one of the existing officials at each embassy the responsibility of encouraging the importation of American coal.

Mr. ROBERT C. BYRD. The distinguished manager of the bill is correct, Mr. President. I am advised that this amendment would have no economic impact and would, indeed, require the assignment of no additional personnel but personnel already in the Embassy would be assigned this title and this function.

Mr. CHURCH. On that basis, Mr. President, I am prepared to support the amendment. Obviously, any increased exportation of American coal would be helpful in redressing the deficit in our balance of payments, and also in reducing to some extent the present overdependence of the world on petroleum.

Thus, it tends in the direction of tempering the price of the petroleum that the United States itself must import from abroad. Therefore, I think the objective is altogether worthy, and I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from California.

Mr. HAYAKAWA. Mr. President, I wonder if I might ask the distinguished majority leader if he would answer some questions for clarification?

Mr. ROBERT C. BYRD. I will try to.

Mr. HAYAKAWA. The last paragraph of the amendment states:

> This provision of law shall not apply with respect to the Union of Soviet Socialist Republics and the Republic of South Africa.

We do not sell coal to those nations, do we, at the present time? Are they not pretty well self-sufficient with their own coal?

Mr. ROBERT C. BYRD. Yes, they are. They are self-sufficient.

Mr. HAYAKAWA. Is this not sort of a gratuitous slap at them without any reason at all?

Mr. ROBERT C. BYRD. Not in my judgment. Mr. Bayh explained that his reason for not including these nations, for including this language, however, was because these two nations were at the present time in invasions of other countries. But he also stated that they are self-sufficient at this point in regard to coal, but that this would not prevent the Secretary from making such designations of foreign service staff in Moscow or Pretoria.

Mr. HAYAKAWA. Will the Senator repeat that very last statement, that it would not prevent——

Mr. ROBERT C. BYRD. It would not prevent the Secretary from making such designations of foreign staff in Moscow or Pretoria.

Mr. HAYAKAWA. It would not. So there would be a coal officer in Moscow and Pretoria.

Mr. CHURCH. As I understand the effect of the amendment it would be left to the discretion of the Secretary as to whether or not there was a need to designate anyone in Pretoria or Moscow for this purpose. But it would lay a requirement on the Secretary to designate some official in each of the other American Embassies.

Mr. HAYAKAWA. I understand that, and I have no objection to that aspect of it. I was just curious as to whether or not, as I suggested earlier, they are not going out of their way to make an insulting remark to South Africa and the Soviets.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to say that the amendment states, in part:

> For each country in which the United States has a diplomatic mission, the Secretary of State shall designate a member of the respective diplomatic mission as a United States coal export officer.

But with respect to the two countries to which the distinguished Senator from California has alluded, it would leave it to the discretion, rather than making it mandatory, of the Secretary of State as to whether, in those two countries, either of them or both, a member of the diplomatic mission would be designated as a U.S. coal export officer.

For my part, as far as I am concerned, I would not have excepted those two nations. But it is not my amendment. It is Mr. Bayh's amendment. At the moment, he cannot be here to speak to it. I would hope that Senators would accept the amendment as Mr. Bayh offered it.

Mr. CHURCH. Mr. President, I say to the Senator that, in that event, he can be assured that we will reconsider the propriety of this particular sentence when the bill goes to conference.

Mr. HAYAKAWA. Mr. President, I am grateful for that.

Mr. President, I yield whatever time the Senator from North Carolina (Mr. Helms) deems necessary on this matter.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am just as sorry as I can be, but it is not acceptable to me if the Republic of South Africa is on there. I am going to move to modify the amendment to strike the reference to the Republic of South Africa. Standing alone, the inference can be drawn that these two countries are similar.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Bayh, I modify the amendment to delete that provision which relates as follows:

> This provision of law shall not apply with respect to the Union of Soviet Social Republics and the Republic of South Africa.

The PRESIDING OFFICER. If the Chair understands, the Senator is deleting the last two lines. Is that correct?

Mr. ROBERT C. BYRD. Yes; I so modify the amendment.

The amendment was modified.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. Bayh, that this amendment, as modified, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the bottom of page 18, add the following:

UNITED STATES COAL EXPORT OFFICER

Sec. 404. (a) For each country in which the United States has a diplomatic mission, the Secretary of State shall designate a member of the respective diplomatic mission as a United States coal export officer. Each United States coal export officer, with respect to the country to which such officer is assigned, shall monitor the requirements of such country for imported coal and the ability of such country to import United States coal.

(b) The Secretary of State, together with the Secretary of Energy and the Secretary of Commerce, shall prepare and transmit not later than 6 months after the date of enactment of this Act, and semiannually thereafter, to the Congress a report setting forth the level of United States exports of coal to each country referred to in subsection (a) during the preceding 6 months, in the case of the first report, or during the period since the transmittal of the preceding report, in the case of a report required thereafter.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a letter from Senator Bayh dated June 16, 1980, which was addressed to his colleagues in connection with the amendment.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C., *June 16, 1980.*

Dear Colleague: During the Senate's consideration of S. 2727, the State Department Authorization bill, I plan to offer an amendment which will require the Secretary of State to designate a member of each of our diplomatic missions abroad as a United States coal export officer. It would be the duty of such officers to monitor the requirements of countries to which they are assigned for imported coal and the ability of such countries to import United States coal.

The amendment also requires a semi-annual report to the Congress setting forth the level of U.S. coal exports to each country. The amendment would not require such officers to be designated in the USSR and South Africa.

The Report of the World Coal Study released on May 12 listed among its seven principal conclusions that:

"Coal will supply between one-half and two-thirds of the additional energy needed by the world during the next 20 years, even under the moderate energy growth assumptions of this Study. To achieve this goal, world coal production will have to increase 2.5 to 3 times, and the world trade in steam coal will have to grow 10 to 15 times above 1979 levels."

For the United States, this conclusion is particularly significant since the same report projects a potential growth in U.S. steam coal exports from 5 million tons of coal equivalent (mtce) in 1977 to 65-280 mcte in the year 2000! Much in addition to the small step called for by my amendment must be done to realize this potential. But I am sure you are concerned as I am that our diplomatic missions overseas become familiar with U.S. coal export potential in an organized and systematic way.

It is possible that this amendment may be called up soon after the Senate takes up S. 2727 this afternoon. If you wish to cosponsor please have a member of your staff call Chris Aldridge in my office at x48741. On the reverse side of this letter is the text of my amendment.

Sincerely,

Birch Bayh.

COAL EXPORT OFFICER AMENDMENTS TO S. 2727

Mr. Bayh for himself and Mr. Byrd of West Virginia.

At the bottom of page 18, add the following:

UNITED STATES COAL EXPORT OFFICER

Sec. 404. (a) For each country in which the United States has a diplomatic mission, the Secretary of State shall designate a member of each respective diplomatic mission as a United States coal export officer. Each United States coal export officer, with respect to the country to which such office is assigned, shall monitor the requirements of such country for imported coal and the ability of such country to import United States coal.

(b) The Secretary of State, together with the Secretary of Energy and Secretary of Commerce, shall prepare and transmit not later than 6 months after the date of enactment of this Act, and semiannually thereafter, to the Congress a report setting forth the level of the United States coal exports of coal to each country referred to in subsection (a) during the preceding 6 months, in the case of the first report, or during the period since the transmittal of the preceding report, in the case of a report required thereafter.

(c) This provision of law shall not apply with respect to the Union of Soviet Socialist Republics and the Republic of South Africa.

Mr. CHURCH. Mr. President, I believe all argument concerning the amendment has been settled. We are ready to proceed to a vote. I move the adoption of the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, it is my understanding that the distinguished junior Senator from South Dakota (Mr. Pressler) has an amendment to offer to the bill at this time.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1149

(Purpose: To require in the annual report on foreign assistance information on the level of foreign assistance provided by certain foreign countries)

Mr. PRESSLER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an unprinted amendment numbered 1149.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 18, add the following:

ANNUAL REPORT

SEC. 404. Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following:

"(6) the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotics control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

"(7) the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6) and (B) the budget of the government of such country; and".

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. PRESSLER. Yes.

Mr. CHURCH. Mr. President, I want very much to hear an explanation of the amendment. It may very well be that it is perfectly acceptable. But I do raise the question with the Senator as to whether it would not be more appropriate for this amendment to be added to the Foreign Assistance Act of 1961 at the time that the bill comes before the Senate later in the week, rather than to be added to this bill, the State Department authorization bill?

Mr. PRESSLER. Mr. President, in answering that, let me say that it was my feeling that perhaps it would be more appropriate here, although I certainly am open to discussion.

My purpose here is to get a report on the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotics control assistance provided by each government of a country which is a member of the Organization for Economic Cooepration and Development or of the Organization of Petroleum Exporting Countries.

The reason for that is my desire, in discussing foreign aid with my constituency—and I do support a certain level of foreign aid, to assure my constituents that the United States is not doing more than its fair share; that other rich nations in the world are doing their fair share.

Let me say that last year I had an amendment attached to the supplemental security assistance bill that urged the President to urge other nations to give more to protect peace in the Middle East.

I am trying to find some parity, some solid basis to determine if some of the wealthy nations of Europe are doing their share compared to us, and if the OPEC countries are doing their fair share; some good numbers are needed. We seem to have a great debate about the numbers. Some countries figure it out on a per capita gross national product basis; some other countries do it in such a fashion that security assistance is included with aid, and so forth.

So my objective is to come up with a good dollar comparison of what we are doing, as compared to what other countries are doing. And that would be a basis to complain if we had a good knowledge of the basis. So that is what I am trying to do.

Mr. CHURCH. Will the Senator yield further?

Mr. PRESSLER. Yes.

Mr. CHURCH. Mr. President, I agree with the Senator's objective I think it would be helpful for us to have this information reported to Congress, and it would give us a basis upon which to draw comparisons between the effort being made by the United States in extending various kinds of foreign aid with that being made by other developing countries.

I do, however, take note of the fact that most of the aid referred to in the Senator's amendment is administered through the provisions of the Foreign Assistance Act. We will have that bill before the Senate either tomorrow or the next day. I think the Senator's amendment would be more appropriate if offered to that bill rather than to the bill we are now considering.

Mr. PRESSLER. Mr. President, I may agree with the Senator after a couple more questions.

A year ago I supported the Middle East peace agreement, but I had an amendment attached to the Security Assistance bill that asked the President to ask other wealthy nations to make a financial contribution to Middle East peace and development. On checking 6 months later, I learned that the administration provided a very brief report on this subject. In the President's speeches there have been allusions to other good-natured nations of the world willing to help us out in paying the Middle East bills, but I do not think any of them did.

What I really had in mind when I drafted that amendment was to have the President actually write them a letter or make a formal request.

What is underlying my effort here today, and will be underlying it whether this amendment is offered or attached to this bill or attached to the bilateral development assistance bill, is that I am going to keep working at strengthening the realization that the United States is not as rich as it once was, comparatively speaking, and, although we have responsibilities in foreign aid, other nations also have responsibilities.

Recently, I attended the International Parliamentary Union meeting in Oslo, Norway, and served on a refugees committee. It was my observation that our country, quite appropriately, takes in refugees and makes them citizens in a period of 2 to 3 years; whereas, many European countries take in refugees only on a work permit basis.

The point is, I think that we should see some leadership, not only in fulfilling our responsibilities, but in asking some of the other wealthy nations of Europe and the OPEC countries, and Japan, to help out more in some of these areas.

If the chairman of the Foreign Relations Committee feels strongly that I can accomplish my objective by attaching this to the bilateral aid bill, I will certainly wait. However, it struck us that the State Department is a central agency and the Secretary of State would have primary responsibility in overall foreign assistance and why would not this more properly fall under the Department of State.

Mr. CHURCH. I think there are presently some reporting requirements in the law having to do with bilateral aid. I am not satisfied that these requirements go as far or give us the kinds of comparative information that the Senator seeks through his amendment.

I want to be of some help in getting this amendment adopted. I would suggest in order to make certain that we get the kind of information I believe the Senator seeks, it might be advisable to have the staff of the Foreign Relations Committee review the amendment with the Senator and his staff.

For one thing, the United States is furnishing today a substantial amount of military assistance to certain foreign governments. I have often seen comparisons made to the disadvantage of the United States which omit the value of military assistance.

I think if we are to have the sort of comprehensive report that will give us an accurate comparison of what the United States is striving to do in connection with all of its foreign aid contributions, whether economic or military, as against what other governments are doing, then it may be that the Senator himself would like to see the language of this amendment somewhat revised.

I would want to help him in that. I would extend to him and to his staff the expert services of the Foreign Relations Committee. Then when the Foreign Assistance Act comes up we will be certain that we have an amendment acceptable to me and to the committee that will accomplish fully the objectives sought by the Senator from South Dakota.

If that will be satisfactory with the Senator. I would hope he would withdraw the amendment at this time from this bill. We will do all we can to assist him in drafting another amendment that will accomplish his objective and embrace every form of American foreign aid in it.

Mr. PRESSLER. Mr. President, I am inclined to accept that offer. I will be offering an amendment to the foreign assistance bill very similar to this after our staffs have worked on it. The foreign assistance bill will be before us later this week, or at least that is the intention.

Let me say that I shall persist in following this subject and maybe we will prove that the United States is a lesser light, that we are giving less than some other countries. I do not think that will be the case. I do think that our leadership in the Congress and particularly the administration should be aware of the growing feeling across the country that Americans want to do their share, but we also want some of the wealthy nations of Europe, the Middle East, and also Japan to do their share also. That is my theme.

I thank the chairman of the Foreign Relations Committee and the minority manager, Senator HAYAKAWA. I am prepared to withdraw the amendment. I ask unanimous consent to do so.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment is withdrawn.

Mr. CHURCH. I thank the Senator very much for withdrawing his amendment. I look forward to cooperating with him in the adoption of a substitute amendment when the Foreign Assistance Act is before us.

Mr. DOLE. Mr. President, is there a time agreement on the bill?

The PRESIDING OFFICER. There is no time agreement on the bill.

Mr. DOLE. Mr. President, the Senator from Kansas does not have an amendment but I would like to make a short statement which touches on foreign policy.

THE MAJORITY LEADER'S CONFUSION OVER FOREIGN POLICY

Mr. DOLE. Mr. President, over the weekend the Senator from Kansas took note of the remarks the distinguished majority leader made in his regular Saturday morning news conference concerning the future foreign policy of the future President Reagan. This early attack on Mr. Reagan, who is not yet the official nominee of the Republican Party, seems to suggest great concern about Mr. Reagan's chances of winning the November election. Needless to say, the pessimistic outlook by the Senator from West Virginia on the chances for election of the Democrat nominee were surprising to the Senator from Kansas—although entirely in agreement with this Senator's own realistic projections of the results on November 4.

The majority leader's remarks were obviously a sneak preview of the attack Governor Reagan can expect to receive in the upcoming Presidential campaign. These remarks were a little premature, I believe, coming as unilateral charges in a closed forum. If the Senator from West Virginia is going to debate putative foreign policy issues with Mr. Reagan, then maybe we ought to have a foreign policy debate, and here in the Senate would be a more appropriate place to have it. This week there are scheduled several foreign policy bills, and it is perhaps a most convenient time not only to discuss this administration's deplorable conduct of foreign policy, characterized by Mr. Carter's famous but incalculable flip-flops, but also the disregard for the provisions of the law the Senate has written which the administration has chosen not to endorse.

FOREIGN POLICY CHARACTERIZED BY EXPEDIENCY

The Senator from West Virginia chose to lead off his attack by questioning the results of our policy toward Communist China and the Republic of China on Taiwan should Mr. Reagan be elected. Surely, there is no better example of the expediency which has characterized Mr. Carter's pursuit of foreign policy. His first move was to abrogate the Mutual Defense Treaty with the Republic of China without the advise and consent of the Senate that many feel is the constitutional duty of the Chief Executive. He additionally violated the provisions of the Dole-Stone amendment, passed by the Senate in a 96-to-0 vote, and signed into law only 3 months previously, that required him to consult with the Senate over any actions that might affect the Mutual Defense Treaty.

This course of defiance of the Senate, the Constitution, and the laws of the land was blithely taken by the President in the days just before Christmas 1978, in order to score a short-term victory in the polls at a time when the Middle East peace talks he had staked his prestige on were faltering. Recognition and official relations with the People's Republic of China were bought with the perfidious jettisoning of our longtime, faithful ally, Taiwan. No one disagreed with the President's right to recognize mainland China, nor indeed disagreed with the need for closer ties with the most populous nation on Earth. It had been Republican administrations who had made the opening with Peking and gradually evolved the conditions for closer relations. But, Jimmy Carter's grandstanding threw all this away when he made his surprise announcement. The United States made all the concessions, the People's Republic made none, and Taiwan paid the price.

Congress did a great deal to ameliorate the damage in the Taiwan Relations Act we rewrote last year, and later today, when we further discuss the State Department authorization bill in depth, I shall criticize at length the administration's attempts to circumvent the letter and spirit of this law.

CONFUSION IN FOREIGN POLICY

So the Taiwan issue is a particularly appropriate place to start in discussing the probable differences in foreign policy by the Carter and Reagan administrations. The Senator from Kansas does not know what President Reagan's approach to the government in Taipei may be, but it is obvious his policy will be based on principle, rather than expediency, and with a view toward long-term geopolitical strategy and a comprehensive world view, rather than the splintered, haphazard approach we have seen in the last 3½ years.

The sudden zig-zags of our foreign policy have left our allies confused and bewildered. The countless flip-flops we have witnessed, like the recent U.S. vote against Israel that Mr. Carter later repudiated, are testimony to the fact that the President has sacrificed foreign policy time and again to the exigent requirements of his domestic standing in the polls. The Senator from West Virginia has referred to "the kind of confusion that would occur in U.S. foreign policy if Reagan is elected." But, surely confusion is confusion, no matter the source, and we have had 3½ years of confusion and reversals under Mr. Carter. Not only is it time for a change, we must pray for it.

COUNT ON IT

The Senator from Kansas looks forward to next January when, once again, the United States and its foreign policy will be dependable, coherent, strong, and consistent. It will be based on firm principles of U.S. strategic purpose and anchored in honorable commitments to our treaties and our allies. It will be based on reason and not temporary standings in the polls. The era of confusion will be over. The United States will continue to face danger and uncertainty on the world scene in the 1980's. But we can do so with a new resolve, as our friends and enemies begin to learn we mean what we say again, and the respect for American commitments is restored. And, you can count on that.

If the distinguished majority leader is confused on Mr. Reagan's foreign policy, then let me reassure him: There will be a change after November 4 and the confusion will come to an end. And, you can count on that.

Mr. President, I yield the floor.

DEPARTMENT OF STATE AUTHORIZATIONS

The Senate continued with consideration of the bill.

UP AMENDMENT NO. 1150

Mr. LEAHY. Mr. President, I am introducing today, on behalf of myself and my senior colleague from Vermont, Senator ROBERT T. STAFFORD, an amendment which is long overdue. Our colleagues in the House of Representatives, Representative BINGHAM and Representative JEFFORDS, introduced legislation similar to this amendment which was passed by the House earlier this year, in the form of H.R. 5737. I commend them for their work in this area. Our amendment, like the House legislation, is designed to amend the International Claims Settlement Act of 1949 to enable the Foreign Claims Settlement Commission to begin registering and processing the losses of U.S. citizens incurred in Vietnam.

I want to make one fact perfectly clear. This amendment in no way seeks to prejudge or alter the relations of the U.S.

Government with the Socialist Republic of Vietnam, nor does it presuppose any developments in either diplomatic dialog or any international formality. The sole purpose of this amendment is to establish the necessary mechanism between the U.S. Government and its citizens to ascertain the number and merit of outstanding claims against Vietnam. It just sets out the manner and means to accomplish this.

These claims must be registered in a timely way, for the simple reason that our State Department should know what the extent of American business and private losses are. Since the experience in similar claims settlements has proven to involve a very lengthy process, it is important to commence the registration soon. All too often, U.S. citizens have lost considerable sums because the registration process was begun too late and many of those who were directly involved passed away or pertinent records were no longer available. Thus the likelihood of ever adjudicating the actual claims themselves can become well near impossible unless they are registered and processed.

I have brought this matter to the attention of the Senate Foreign Relations Committee and the Department of State. Both feel that the language of the House bill is sound as well as necessary. I hope that the Senate will act favorably on the amendment today so that the Foreign Claims Settlement Commission can commence its work soon. I know that the Commission is anxious and able to take on this task.

We know the sad legacy of Vietnam. The recent suffering of countless refugees in Southeast Asia brings it all home once again. I do not pretend to address the role of Vietnam in this new tragedy. This amendment is merely a necessary step forward on the part of American citizens.

Mr. President, whatever the future holds for United States/Vietnam relations, this amendment is necessary. It will give our representatives information that they will need—however our Government decides to proceed. Without acting prematurely, the amendment will enable the United States to weigh an important factor should this ever become necessary. I trust and hope that my colleagues in the Senate will support this endeavor.

Mr. President, I ask unanimous consent that Robert Paquin of my staff be granted the privilege of the floor throughout debate and votes today or any succeeding days in this matter before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have not sent the amendment to the desk yet but I am about to.

Mr. CHURCH. Has the Senator offered his amendment?

Mr. LEAHY. I have not yet offered it.

Mr. CHURCH. Is there some reason that the Senator does not wish to offer the amendment?

Mr. LEAHY. I wish to offer it, but I am just checking the form. I want it to be exactly the same language as H.R. 5737, which has passed the House previously. I think we are in the process, I say to the distinguished chairman, of some quick drafting in the rear of the Chamber. As soon as that is done, I shall be very happy to introduce the amendment.

Mr. CHURCH. While that drafting proceeds, I might make a statement of my own relative to the amendment, if the Senator will yield to me for that purpose.

Mr. LEAHY. Of course.

VIETNAM CLAIMS AMENDMENT

Mr. CHURCH. Mr. President, I commend Senators Leahy and Stafford for taking the initiative in this matter. U.S. nationals, through no fault of their own, lost sizable amounts of property when the Socialist Republic of Vietnam nationalized all private U.S. property following the takeover of South Vietnam. The best estimate now available is that there are approximately 1,000 potential claimants—individuals and business firms—that lost approximately $110 million when their property was nationalized.

If they are to have any realistic hope of recovering their losses, the process of inventorying the U.S. private property taken over should begin. It is already 5 years since such property was nationalized. As time passes, it will be harder for claimants to provide the appropriate evidence and witnesses necessary to validate their claims. Thus it is important that we proceed in a timely fashion on this matter.

To do this, we must add a new title to the International Claims Settlement Act of 1949 so that the Foreign Claims Settlement Commission can survey and, where appropriate, validate the claims of U.S. nationals concerning private property nationalized by the Socialist Republic of Vietnam. However, I want to stress two points. First, this legislation does not commit the U.S. Government to pay for such claims. That is the responsibility of the authorities in Hanoi. In this connection, the United States' bargaining position will benefit from the fact that the U.S. Government has frozen approximately $140 million of Vietnam's assets in this country.

Second, and even more important, this legislation does not in any way imply, and should not be construed as authorizing or endorsing diplomatic recognition of the Government of the Socialist Republic of Vietnam. Nor does it provide any basis for lifting or weakening the U.S. economic embargo of Vietnam. These are totally separate matters. The sole purpose of this amendment is to provide a means whereby U.S. nationals can verify their claims to property nationalized by Vietnam, and thus improve their chances for future compensation.

The Foreign Claims Settlement Commission, the Department of the Treasury and the Department of State all favor this bill.

Once again, Mr. President, I commend the distinguished Senator from Vermont, my good friend (Mr. Leahy) and his colleague (Mr. Stafford) for taking the initiative in this matter. I declare my full support for the amendment that they have offered.

Mr. LEAHY. I thank the distinguished Senator, Mr. President, and I shall have the amendment here in just a moment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I congratulate the Senators from Vermont (Mr. Leahy and Mr. Stafford) for their introduction of this amendment. This looks to the future, when relations between this country and the Socialist Republic of Vietnam will be on a different basis than they are now. We have frozen some of their assets, they have frozen many of ours. Therefore, this looks forward to the future settlement of these claims as they are brought before an international tribunal of some kind that undertakes problems of this kind.

We have precedent for this from the past in settling claims after the cessation of hostilities with China, with Hungary, with Poland, and, therefore, we have every reason to move on this. Therefore, from our side of the aisle, we have no objections, whatsoever, to the amendment offered by the Senators from Vermont (Mr. Leahy and Mr. Stafford).

Mr. LEAHY. Mr. President, I send the amendment to the desk and ask that it be stated on behalf of myself and Mr. Stafford.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Leahy) for himself and Mr. Stafford proposes an unprinted amendment numbered 1150.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following section:

That the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII

"PURPOSE OF TITLE

"Sec. 701. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against Vietnam which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"DEFINITIONS

"Sec. 702. As used in this title—

"(1) the term 'national of the United States' means—

"(A) a natural person who is a citizen of the United States; and

"(B) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity;

"(2) the term 'Commission' means the Foreign Claims Settlement Commission of the United States;

"(3) the term 'property' means—

"(A) any property, right, or interest, including any leasehold interest,

"(B) any debt owed by Vietnam or by any enterprise which has been nationalized, expropriated, or otherwise taken by Vietnam, and

"(C) any debt which is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam;

"(4) the term 'Vietnam' means—

"(A) the Government of the Socialist Republic of Vietnam,

"(B) any predecessor governing authority operating in South Vietnam on or after April 29, 1975, including the Provisional Revolutionary Government of South Vietnam,

"(C) the Government of the former Democratic Republic of Vietnam, and

"(D) any political subdivision, agency, or instrumentality of any of the entities referred to in subparagraphs (A), (B), and (C); and

"(5) the term 'Claims Fund' means the special fund established in the Treasury of the United States composed of such sums as may be paid to or realized by the United States pursuant to the terms of any agreement settling those claims described in section 703 that may be entered into between the Governments of the United States and Vietnam.

"RECEIPT AND DETERMINATION OF CLAIMS

"SEC. 703. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after the date of the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

"OWNERSHIP OF CLAIMS

"SEC. 704. A claim may be favorably considered under section 703 of this Act only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"CORPORATE CLAIMS

"SEC. 705. (a) A claim under section 703 of this Act based upon an ownership interest in any corporation, association, or other entity which is a national of the United States may not be considered. A claim under section 703 based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico may be considered only if such debt or other obligation is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam.

"(b) A claim under section 703 based upon a direct ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 703 based upon an indirect ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States or if, at the time of the loss, nationals of the United States in fact controlled the corporation, association, or entity, as determined by the Commission.

"(d) The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by the corporation, association, or other entity, with respect to which the claim is made, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

"OFFSETS

"SEC. 706. In determining the amount of any claim under this title, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed.

"CERTIFICATION; ASSIGNED CLAIMS

"SEC. 707 (a) The Commission shall certify to each claimant who files a claim under this title the amount determined by the Commission to be the loss suffered by the claimant which is covered by this title. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in making that determination.

"(b) In any case in which a claim under this title is assigned by purchase before the Commission determines the amount due on that claim, the amount so determined shall not exceed the amount of actual consideration paid by the last such assignee.

"CONSOLIDATED AWARDS

"SEC. 708. With respect to any claim under section 703 of this Act which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled to the award, which award shall indicate the respective interests of such claimaints in the award, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"CLAIMS FUND

"SEC. 709. (a) The Secretary of the Treasury may establish in the Treasury of the United States the Claims Fund for the payment of unsatisfied claims of nationals of the United States against Vietnam, as authorized by this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"SEC. 710. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 703 of this Act.

"(b)(1) Upon certification of each award made pursuant to section 703, the Secretary of the Treasury shall, out of the sums covered into the Claims Fund, make payments on account of such awards as follows, and in the following order of priority:

"(A) Payment in the amount of $2,500 or the principal amount of the award, whichever is less.

"(B) Thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the Claims Fund available for distribution at the time such payments are made.

"(2) After payment has been made in full of the principal amounts of all awards pursuant to paragraph (1), pro rata payments may be made on account of any interest that may be allowed on such awards.

"(c) Payments or applications for payments under subsection (b) shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

"SETTLEMENT PERIOD

"SEC. 711. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years after the final date for the filing of claims as provided in section 703 of this Act.

"TRANSFER OF RECORDS

"SEC. 712. The Secretary of State, the Secretary of the Treasury, and the Secretary of Defense shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1980, such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title. Amounts appropriated under this section may remain available until expended.

"FEES FOR SERVICE

"SEC. 714. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER PROVISIONS OF THE ACT

"SEC. 715. (a) To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act shall be applicable to this title: subsections (b), (c), (d), (e), and (h) of section 4 and subsections (c), (d), (e), and (f) of section 7. Any reference in such provisions to 'this title' shall be deemed to be a reference to those provisions and to this title.

"(b) Except as otherwise provided in this title and in those provisions of title I referred to in subsection (a), the Commission shall comply with the provisions of subchapter II of chapter 5, and the provisions of chapter 7, of title 5, United States Code.

"SEPARABILITY

"Sec. 716. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of this title or the application of such provision to other persons or circumstances shall not be affected.".

Mr. LEAHY. Mr. President, I am prepared to yield back all my time on the amendment.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I move the immediate adoption of my amendment.

Mr. HAYAKAWA. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (UP No. 1150) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the distinguished floor managers (Mr. Church and Mr. Hayakawa) for their consideration and help in this matter.

Mr. CHURCH. I assure the Senator that it was our pleasure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I had intended to offer an amendment that would go to the language proficiency of Foreign Service personnel, including, and most especially, Ambassadors.

I have a very strong feeling that anyone who is going to represent the United States abroad should have the capacity to deal with the host country nationals in their own language.

I should like to put the Senate and the administration on notice that next year I am going to do that.

They should be given time to prepare, perhaps, a response and an approach—but (a) in terms of language requirements and (b) in terms of training and particular skills that go beyond the next post or next assignment.

So, next year, when this particular issue comes up, those amendments will be offered.

I understand that a letter has gone from the committee to the administration asking for their position on these kinds of issues, and at some point I will put that letter in the Record.

I just want the administration—whichever administration—to be on notice that that will be coming up next year.

UP AMENDMENT NO. 1151

Mr. CHURCH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Bradley). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. Church), on behalf of Mr. Pell and Mr. Kennedy, proposes an unprinted amendment numbered 1151.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, after line 12, add the following new section:

Sec. (a) Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end thereof the following new paragraph:

"(9) (A) The requirement of paragraph 26(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly in the case of an alien who is—

"(i) applying for admission as a nonimmigrant visitor for business or pleasure for a period not exceeding ninety days; and

"(ii) is a national of a country which extends, or is prepared to extend, reciprocal privileges to United States citizens and nationals and which is described in subparagraph (B) of this paragraph.

"(B) (i) For the period beginning on the effective date of this paragraph and ending on the last day of the first fiscal year which begins after the effective date of this paragraph, a country shall be considered to be within the purview of subparagraph (A) (ii) of this paragraph if, in the last fiscal year preceding the effective date of this paragraph, such country had a nonimmigrant visa refusal rate, as determined by the Secretary of State in such manner as he shall by regulations prescribe, of less than two percent.

(ii) For each fiscal year following the period specified in subparagraph (B) (i), a country considered to be within the purview of subparagraph (A) (ii) during such period shall not be considered to remain within the purview of subparagraph (A) (ii) unless, in the fiscal year immediately preceding such fiscal year, it had a rate of exclusion and withdrawal of application for admission and a rate of violation of nonimmigrant status, as determined in both cases by the Attorney General in such manner as he shall by regulations prescribe, which did not exceed one percent.

(iii) If, in any fiscal year following the period specified in subparagraph (B) (i), a country not previously considered within the purview of subparagraph (A) (ii) shall have a nonimmigrant visa refusal rate, as determined in the manner provided for in subparagraph (B) (i), of less than 2 percent such country shall be considered to be within the purview of subparagraph (A) (ii) for the next following fiscal year and shall thereafter be treated in the manner specified in subparagraph (B) (ii)."

(b) Section 214(a) of the Immigration and Nationality Act (8 U.S.C. 1184(a)) is amended by changing the period at the end thereof to a colon and by adding thereto the following:

"*Provided*, That no alien admitted to the United States without a visa pursuant to section 212(d) (9) shall be authorized to remain in the United States as a temporary visitor for business or pleasure for a period exceeding ninety days from the date of his admission."

(c) Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; (3) an alien admitted in transit without visa under section 212(d) (4) (C); or (4) an alien admitted as a temporary visitor for business or pleasure without a visa under section 212(d) (9)."

(d) Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended by inserting after the word "except" the following:

"an alien admitted as a temporary visitor for business or pleasure under section 212 (d) (9),".

Mr. CHURCH. Mr. President, I am offering this amendment on behalf of the Senator from Rhode Island (Mr. Pell) and the Senator from Massachusetts (Mr. Kennedy).

Senator Kennedy has prepared a statement in explanation and in support of the amendment, and I ask unanimous consent that his statement be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Kennedy

I am pleased, once again, to join the distinguished Senator from Rhode Island, Senator Pell, in cosponsoring the pending amendment to provide an authority in the Immigration and Nationality Act for visa waivers to certain tourists and businessmen entering the United States. Last year I joined in cosponsoring a similar amendment which was adopted by the Senate but was unfortunately dropped in conference.

I do so again without prejudice to the Judiciary Committee's jurisdiction—and despite the fact the Committee now has before it a similar proposal, which I am confident will soon be reported to the Senate as part of S. 1763, "The Immigration and Nationality Efficiency Act of 1980."

But given the uncertainties of the Senate calendar, and the fact this legislative vehicle is now before us, I support action now to help assure that this visa waiver will be enacted into law this Session.

I believe the merits of the pending amendment are compelling. The Judiciary Committee has held hearings on this proposal, and there is no question but that it will save millions in taxpayer's funds every year. Our Committee has fully considered the Administration's proposal to implement this waiver on a trial basis, carefully monitoring its results, before it moves ahead.

In support of this amendment, I should like to have printed in the Record, at this point, language from the draft report prepared by the Judiciary Committee accompanying this amendment in the context of S. 1763.

(Excerpt from draft report of Judiciary Committee, to accompany S. 1763)

Visa Waiver Requirement—Selective Visa Waiver for Nonimmigrants

This amendment to Section 212(d) of the Immigration and Nationality Act of 1952 would authorize the Secretary of State and the Attorney General jointly to waive the nonimmigrant visa (NIV) requirement for nationals of certain countries visiting the United States for 90 days or less for business or pleasure. (Such an amendment would extend the coverage of a blanket waiver authority which is granted already to nationals of Canada and the Bahamas, to British nationals resident in Bermuda, the Cayman Islands and the Turks and Caicos Islands.) The countries to which this additional waiver provision would apply would be selected on the basis of reciprocity and of data showing that applicants from those nationals pose the lowest risk of becoming public charges or of violating their status as temporary visitors.

Countries initially eligible for the benefits of this waiver proposal would be those which (1) did not require a visa of United States citizen tourists and business visitors, or were prepared to abolish such a requirement; and (2) had a nonimmigrant visa refusal rate of not more than 2 percent in the last fiscal year before the proposal became effective. After the initial period, continuing eligibility for this benefit would be based upon rates of formal or informal denial of entry and of violation of nonimmigrant status after entry. Thus, if experience with the waiver provision showed that it resulted in a meaningful increase in attempted or successful entry by unqualified aliens from one or more beneficiary countries, the entitlement of those countries would be cut off automatically and potential threats to the integrity of our system for controlling aliens would be prevented. Provision is made in the proposal for according this benefit at a later date to countries which did not qualify initially, but subsequently were determined to have become eligible.

Twenty-nine countries now meet all requirements. Japan and Brazil presently require visas of U.S. visitors, but there is reason to believe that both will lift the requirement if the USG indicates readiness to do the same for their citizens. Visitors admitted under the proposed amendment would be required to accept certain requirements, such as purchase of a round-trip, nonrefundable ticket, completion of a new Immigration and Naturalization Service (INS) form, and routine namechecks at the port of entry.

PROCEDURES

Implementation of the proposal for short term business and pleasure visits by nationals of the countries jointly designated by the Attorney General and the Secretary of State will entail the institution of procedures to ensure that (1) eligible alien visitors without visas are aware of the conditions and limitations governing their visit, and (2) adequate entry and departure controls are maintained for aliens entering without visas. These procedures will be primarily a matter of extending the existing contractual relations between the Immigration and Naturalization Service and the international carriers. It is anticipated that the following arrangements would prove satisfactory to both INS and the carriers:

Entry without visa would be available (as at present) only to aliens transported to the U.S. on carriers which have entered into a contractual agreement with INS requiring the carrier to:

(1) Refuse to accept for passage to the United States any nonimmigrant visitor without a visa or a completed INS card.

(2) Remove without expense to the U.S. Government, to the foreign port from which the alien embarked, any alien brought to the U.S. under the visa waiver and found ineligible for admission by an immigration officer at the port of entry.

(3) Make no refunds or partial refunds on the return portion of a round-trip, nonrefundable ticket to be held by each alien entering the U.S. under the visa waiver, or accept for transportation a person other than the one in whose name the ticket was issued as presently required.

(4) Honor unconditionally the return portion of the round-trip ticket when presented for return passage.

The carrier would be responsible for ensuring that the alien was aware of the limitations governing his entry under the visa waiver.

The carrier would provide an INS form to the alien, at time of purchase or embarkation containing:

(1) A statement that the alien understands that he is not permitted to engage in employment in the U.S., and cannot have his temporary visitor status changed or his stay extended beyond 90 days.

(2) A Statement that the alien is not ineligible for admission under one or more of the categories described in section 212(a) of the Act. The alien would sign this form and present it to the immigration inspector at the port of entry, together with his passport and nonrefundable return ticket.

Notwithstanding the fact that the alien had signed this form (which would contain a caveat that entry was not guaranteed), the determination as to his admissability would rest solely with INS at the port of entry. If found ineligible, the carrier would be obliged to return the alien to his port of embarkation, his country of origin, or a third country to which he is eligible for admission, using the round-trip or ongoing trip portion of the alien's ticket.

The INS form issued to the alien by the carrier prior to his arrival would serve as an entry and departure document when properly endorsed by the inspecting officer. The form would be in duplicate, the alien retaining the original and INS retaining the copy as a control document. The alien would surrender his form when he departed the U.S. for collation with INS's control copy. If INS received no record of departure, the alien would be regarded as an overstay and referred for investigation. To avoid expensive and time-consuming INS efforts to verify departure, the carrier would be responsible for lifting the alien's form and returning it to INS, as is done now with Form I-94.

An alien who remained beyond the 90-day limit or otherwise failed to maintain status would be subject to deportation proceedings, with the alternative of voluntary departure if the alien established that he was ready, willing, and able to depart the U.S. promptly or that his inability to depart promptly was due entirely to circumstances beyond his control.

Although these procedures ostensibly place on the carrier the responsibility and the financial burden for removing aliens found ineligible at the port of entry, it should be noted that the requirement for the alien to have a round-trip ticket in his possession saves the carrier from financial loss in the event the alien is found ineligible. It is this provision that has induced the carriers to support, indeed to promote, earlier visa waiver proposals. It should be further noted that the requirement for a contractual agreement between INS and the carrier, and the carrier responsibility for distribution and collection of the INS eligibility/control form, are not departures from, but merely extensions of, procedures already used to comply with Sections 238, 240, 293 and related provisions of the Immigration and Nationality Act. Based on previous carrier concurrence in this procedure, it is anticipated that the carriers would find it in their own interest to undertake these obligations under the visa waiver proposal.

Discussion

In 1978, Foreign Service posts issued approximately 4.5 million nonimmigrant visas—three times the annual total of ten years ago. Of these, about half will be issued in the 31 countries for which the proposal would apply initially—and three-fourths of these to short term business and pleasure visitors. In the next two years, total issuances will increase by at least an additional million annually, with reduced air fares providing the possibility of even higher increases.

During a period when the Department's personnel resources are being cut back, it will simply not be possible to continue to provide prompt visa services in countries which supply the bulk of legitimate travelers as well as to screen fraudulent applications adequately in countries where there are the greater risks. The proposed amendment would enable the Department to concentrate its limited resources on the areas which pose the greatest problems.

At the same time, enactment of the proposed amendment would give a positive sign to the world of the Administration's commitment to greater freedom of travel, as expressed in the Helsinki Final Act of the CSCE.

The Department estimates that implementation of the proposal would initially save 121 positions and $3.13 million by FY-82.

Summary

Implementation of the proposal would provide substantial present and future personnel and money savings for the Department of State with virtually no added resource impact on domestic agencies. Short-term tourists and business persons from low-fraud countries would find it simpler to travel to the United States and might well be encouraged to do so in greater numbers by the elimination of the NIV requirements, which would help our balance of payments situation. It would provide a concrete signal of the Administration's commitment to the freedom of international travel and will accord to many of our friends the same treatment they have been providing U.S. nationals, some for many years. By enabling the Department of State to strengthen visa screening operations in countries which are the source of most illegal applicants for U.S. entry, the proposal would make possible the improved use of Departmental funds and personnel during a period of diminishing resources.

In supporting this amendment, I do so with the clear understanding and recognition by the Senator from Rhode Island (Mr. PELL) and other members of the Foreign Relations Committee, that it is a matter within the jurisdiction of the Judiciary Committee. However, as we have cooperated in the past, I welcome this opportunity to work together again, to help assure that this needed legislation is adopted in this session of Congress.

Mr. CHURCH. Mr. President, the purpose of this amendment is to eliminate the need for issuing visas to certain countries that presently require no visas of American visitors. The amendment has to do with nonimmigrant visas exclusively.

As I recall, the Senate adopted such a provision last year, and it was dropped in conference with the House of Representatives, not because the conferees of the House objected to the provision on its merits but, rather, because the House Foreign Affairs Committee had had no opportunity to conduct hearings on the matter. It is my understanding that since that time, the House Foreign Affairs Committee, or its appropriate subcommittee, has conducted hearings; and I am optimistic that if we take this matter in the Senate and incorporate it in the pending bill, it will prove acceptable this year to the House conferees.

The arguments for the amendment are many. First of all, in addition to its two cosponsors, Senator KENNEDY and Senator PELL, it also has the endorsement of the administration, and it is heartily supported by the Secretary of State.

The amendment builds on Senator PELL's proposal which passed the Senate last year. It would eliminate duplicative processing, would streamline Government operations, and would save approximately $3.2 million a year by fiscal year 1982.

It would be tangible evidence of our goal of freedom of international travel and a concrete manifestation of our commitment to the Helsinki Accords of the Conference on Security and Cooperation in Europe.

It would promote increased tourism to this country, creating employment in the travel industry, without compromising essential security. It would improve our balance-of-payments posture.

This proposal would apply only to countries which do not require visas of American business and tourist visitors.

It contains objective, quantitative criteria based on a country's proven performance to determine to which nations it would apply. It would apply only to short-term visitors. All other types of nonimmigrants—that is, students, diplomats, and the like—would continue to be issued visas by our embassies abroad.

It would eliminate only one step of the present process. Final screening of visitors still would be performed by the Immigration and Naturalization Service inspectors at the port of entry.

In other words, anyone coming to this country as a tourist still would be subject to the scrutiny of our Immigration and Naturalization Service inspectors, as they are today. Thus, the amendment in no way compromises the security interests of the United States.

The amendment would give analogous treatment to those who qualify under its terms as we presently are providing the citizens of Canada.

For all these reasons, Mr. President, it seems to me to be an acceptable amendment.

In order to furnish all the information available to Senators, a list of countries whose nationals would be eligible under the amendment has been prepared. It is a preliminary list, and it is possible that a revised list should be offered for the RECORD at a later time. But this list is sufficiently accurate, so far as the committee knows, to be included here in the RECORD. On that basis, I ask unanimous consent that the preliminary list of countries affected by the amendment be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PRELIMINARY LIST OF COUNTRIES

Andorra.
Austria.
Belgium.
Botswana.
Brazil.
Denmark.
Finland.
France.
Germany (FRG).
Iceland.
Ireland.
Italy.
Japan.
Liechtenstein.
Luxembourg.
Malawi.
Malaysia.
Malta.
Monaco.
Morocco.
Netherlands.
New Zealand.
Norway.
San Marino.
Spain.
Swaziland.
Sweden.
Switzerland.
Tunisia.
United Kingdom.
Venezuela.

Mr. CHURCH. Mr. President, the staff of the committee has also prepared a more detailed explanation of the amendment as to how it would work. I think that, also, should be incorporated at this point in the RECORD, and so I ask unanimous consent for that purpose.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SELECTIVE NONIMMIGRANT VISA WAIVER PROPOSAL

This amendment to Section 212(d) of the Immigration and Nationality Act of 1952 would authorize the Secretary of State and the Attorney General jointly to waive the nonimmigrant visa (NIV) requirement for nationals of certain countries visiting the United States for 90 days or less for business or pleasure. (Such an amendment would extend the coverage of a blanket waiver authority which is granted already to nationals of Canada and the Bahamas, to British nationals resident in Bermuda, the Cayman Islands and the Turks and Caicos Islands.) The countries to which this additional waiver provision would apply would be selected on the basis of reciprocity and of data showing that applicaants from those countries pose the lowest risk of violating their status as temporary visitors.

Countries initially eligible for the benefits of this waiver proposal would be those which (1) did not require a visa of United States citizen tourists and business visitors, or were prepared to abolish such a requirement; and (2) had a nonimmigrant visa refusal rate of not more than 2 percent in the last fiscal year before the proposal became effective. After the initial period, continuing eligibility for this benefit would be based upon rates of formal or informal denial of entry and of violation of nonimmigrant status after entry. Thus, if experience with the waiver provision showed that it resulted in a meaningful increase in attempted or successful entry by unqualified aliens from one or more beneficiary countries, the entitlement of those countries would be cut off automatically and potenial threats to the integrity of our system for controlling aliens would be prevented. Provision is made in the proposal for according this benefit at a later date to countries which did not qualify initially, but subsequently were determined to have become eligible.

Twenty-nine countries now meet all requirements. Japan and Brazil presently require visas of U.S. visitors, but there is reason to believe that both will lift the requirement if the USG indicates readiness to do the same for their citizens. Visitors admitted under the proposed amendment would be required to accept certain requirements, such as purchase of a round-trip, nonrefundable ticket, completion of a new Immigration and Naturalization Service (INS) form, and routine namechecks at the port of entry.

PROCEDURES

Implementation of the proposal for short term business and pleasure visits by nationals of the countries jointly designated by the Attorney General and the Secretary of State will entail the institution of procedures to ensure that (1) eligible alien visitors without visas are aware of the conditions and limitations governing their visit, and (2) adequate entry and departure controls are maintained for aliens entering without visas. These procedures will be primarily a matter of extending the existing contractual relations between the Immigration and Naturalization Service and the international carriers. It is anticipated that the following arrangements would prove satisfactory to both INS and the carriers:

Entry without visa would be available only to aliens transported to the U.S. on carriers which have entered into a contractual agreement with INS requiring the carrier to:

(1) Refuse to accept for passage to the United States any nonimmigrant visitor without a visa or a completed INS card.

(2) Remove without expense to the U.S. Government, to the foreign port from which the alien embarked, any alien brought to the U.S. under the visa waiver and found ineligible for admission by an immigration officer at the port of entry.

(3) Make no refunds or partial refunds on the return portion of a round-trip, nonrefundable ticket to be held by each alien entering the U.S. under the visa waiver, or accept for transportation a person other than the one in whose name the ticket was issued.

(4) Honor unconditionally the return portion of the round-trip ticket when presented for return passage.

The carrier would be responsible for ensuring that the alien was aware of the limitations governing his entry under the visa waiver.

The carrier would provide an INS form to the alien, at time of purchase or embarkation containing:

(1) A statement that the alien understands that he is not permitted to engage in employment in the U.S., and cannot have his temporary visitor status changed or his stay extended beyond 90 days.

(2) A statement that the alien is not ineligible for admission under one or more of the categories described in section 212(a) of the Act. The alien would sign this form and present it to the immigration inspector at the port of entry, together with his passport and nonrefundable return ticket.

Notwithstanding the fact that the alien had signed this form (which would contain a caveat that entry was not guaranteed), the determination as to his admissibility would rest solely with INS at the port of entry. If found ineligible, the carrier would be obliged to return the alien to his port of embarkation, his country of origin, or a third country to which he is eligible for admission, using the round-trip or ongoing trip portion of the alien's ticket.

The INS form issued to the alien by the carrier prior to his arrival would serve as an entry and departure document when properly endorsed by the inspecting officer. The form would be in duplicate, the alien retaining the original and INS retaining the copy as a control document. The alien would surrender his form when he departed the U.S. for collation with INS's control copy. If INS received no record of departure, the alien would be regarded as an overstay and referred for investigation. To avoid expensive and time-consuming INS efforts to verify departure, the carrier would be responsible for lifting the alien's form and returning it to INS, as is done now with Form I-94.

An alien who remained beyond the 90-day

limit or otherwise failed to maintain status would be subject to deportation proceedings, with the alternative or voluntary departure if the alien established that he was ready, willing, and able to depart the U.S. promptly or that his inability to depart promptly was due entirely to circumstances beyond his control.

Although these procedures ostensibly place on the carrier the responsibility and the financial burden for removing aliens found ineligible at the port of entry, it should be noted that the requirement for the alien to have a round-trip ticket in his possession saves the carrier from financial loss in the event the alien is found ineligible. It is this provision that has induced the carriers to support, indeed to promote, earlier visa waiver proposals. It should be further noted that the requirement for a contractual agreement between INS and the carrier, and the carrier responsibility for distribution and collection of the INS eligibility/control form, are not departures from, but merely extensions of, procedures already used to comply with Sections 238, 240, 293 and related provisions of the Immigration and Nationality Act. Based on previous carrier concurrence in this procedure, it is anticipated that the carriers would find it in their own interest to undertake these obligations under the visa waiver proposal.

DISCUSSION

In 1978, Foreign Service posts issued visas—three times the annual total of ten years ago. Of these, about half will be issued in the 31 countries for which the proposal would apply initially—and three-fourths of these to short term business and pleasure visitors. In the next two years, total issuances will increase by at least an additional million annually, with reduced air fares providing the possibility of even higher increases.

The screening of legitimate travelers from countries with low refusal rates is an unproductive use of scarce personnel resources.

Enactment of the proposed amendment would give a positive sign to the world of the Administration's commitment to greater freedom of travel as expressed in the Helsinki Final Act of the CSCE.

The Department estimates that implementation of the proposal would initially save 121 positions and $3.13 million in fiscal year 1982.

SUMMARY

Implementation of the proposal would provide substantial present and future personnel and money savings for the Department of State with virtually no added resource impact on domestic agencies. Short-term tourists and business persons from low-fraud countries would find it simpler to travel to the United States and might well be encouraged to do so in greater numbers by the elimination of the NIV requirements, which would help our balance of payments situation. It would provide a concrete signal of the Administration's commitment to the freedom of international travel and will accord to many of our friends the same treatment they have been providing US nationals, some for many years. By enabling the Department of State to strengthen visa screening operations in other countries the proposal would make possible the improved use of Departmental personnel during a period of increased budgetary stringency.

Mr. CHURCH. Mr. President, I believe that completes my argument for the amendment. I wish to defer to my distinguished colleague, the Senator from California.

Mr. HAYAKAWA. Mr. President, I am grateful to the Senator from Idaho for introducing this amendment. It certainly is a move in a sensible direction to facilitate entry of tourists and businessmen on short visits to this country.

The American tourist up to now has been a very, very fortunate individual in that he is welcome in most places in the world with very, very little formality. The list that the Senator from Idaho just turned in of the countries that do not require visas of American tourists is now before the Senate. It is a very considerable list. We have continued to require visas of people from those countries.

American business has been welcome, of course, because America has been an extremely rich nation for a long, long time. The situation has changed very, very much; that is, the American dollar is at an all-time low. A trip to the United States by a, let us say, Japanese tourist or a German or French tourist used to be a very expensive proposition. Now it is a great bargain. As we can see in Los Angeles and San Francisco in all the gift shops around there, there is an enormous inpouring of Japanese tourists.

The elimination of the requirement of visas to facilitate the entry of tourists and businessmen in the country, therefore, will be very good from the standpoint of international trade.

Foreigners will spend their money here. As we know very well in San Francisco and Los Angeles, the Japanese tourists in particular spend fantastic amounts of money in the United States. They do this also in Honolulu, and when they get as far as Chicago and New York they continue to blow their money pretty recklessly in our eyes, but of course very profitably from our point of view. All that spending does a lot to restore to some degree the unfavorable balance of trade that we have suffered from for so long.

The elimination of redtape, then, has many economic side effects all to the good. But it is a two-sided benefit. That is the tourist and the businessman from abroad would be as happy about this as our own business people who profit from that trade.

There will be a smaller cost in the processing of these tourists from the point of view of our own Government. There will be more dollar income for our national economy.

As the distinguished Senator from Idaho has already pointed out, those who are excluded from the United States for security reasons will continue to be excluded and, furthermore, it can be added that the President has the power to remove a country from this list if we find ourselves in a state of animosity or unfriendliness toward that country or that country is in a state of unfriendliness or animosity toward us. This list is not fixed forever.

Therefore, Mr. President, I am happy to concur with the majority manager of this bill in recommending its passage.

Mr. CHURCH. Mr. President, I thank the Senator, and if there is no further debate on the pending amendment, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I believe the distinguished Senator from South Dakota has an amendment to offer at this time.

UP AMENDMENT NO. 1152

Mr. PRESSLER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an unprinted amendment numbered 1152:

At the end of the bill add the following new section:

SEC. 404. (a) It is the sense of the Congress of the United States that the President should negotiate to achieve a reduction of the United States' percentage share of assessed contributions to the United Nations Organization and to other international organizations; and

(b) the Executive Branch of the Government of the United States shall report to the Congress at the time of the submission of the fiscal year 1982 budget on the nature and the results of any efforts to conduct the negotiations referred to in subsection (a) of this section.

Mr. PRESSLER. Mr. President, this amendment is essentially included in the report language of the committee, and indeed I feel that this report language should be elevated to the weight of an amendment. Certainly if the committee wishes that this be in the report language, it would seem logical that we should elevate it to the level of an amendment or a sense of the Congress resolution.

I realize there is somewhat of a constitutional problem here in that Congress cannot direct the President to negotiate in certain areas, but I think that this is an appropriate area for us to express the sense of Congress to the President.

Part of the thinking and reasoning here goes back to what I said earlier. We do have responsibilities to the United Nations, and I say that as a member of a local United Nations Association chapter in South Dakota. I am a supporter of the United Nations and other international organizations, and will continue to vote in such a fashion to support them. But also I have been concerned that some of the other wealthy nations of the world have not been increasing their percentage of support proportionate to their growing affluence, and there is a feeling that maybe the United States is bearing too much of the burden.

This does not say that the United States will cut off support. It merely says that the President should formally negotiate, to raise the issue, to see if we could achieve a reduction of the U.S. percentage of assessed countributions.

I noted in the Foreign Relations Committee report that the total fiscal 1980 and 1981 recommended authorization increase for U.S. assessed contributions to international organizations is over $90 million.

Mr. President, this is almost an 18-percent increase over the level authorized in Public Law 96–60 and it would put total authorization for U.S. assessments to world organizations at over $600 million.

I also note on page 6 of the report that the committee urges the executive branch to "make effort consistent with the United Nations charter to negotiate a reduction in our assessed contribution to the United Nations below 25 percent."

The report also goes on to say that the executive branch shall report back to Congress on those efforts in the President's fiscal year 1982 budget submission.

I strongly approve of the Foreign Relations Committee position that the U.S. share of U.N. assessed contributions should be reduced, but I wonder if the committee has been assured by the executive branch that the required report will be forthcoming.

Indeed, as I said earlier, I had an experience last year on the Middle East peace agreement in which the administration did not take steps that I thought were required or that I thought were necessary.

So, that is the purpose of the amendment which I am offering at this time and I thank the Senator.

Mr. CHURCH. Mr. President, the amendment in its original form would have laid the requirement upon the President to undertake negotiations for the stated purpose. I do believe that Congress lacks the constitutional authority to require the President to negotiate since that falls within the purview of his own office.

However, it is certainly within the prerogative of Congress to express its own opinion, and that is normally done through a sense of Congress resolution or through an amendment of this kind.

As revised, the amendment would read:

> It is the sense of the Congress of the United States that the President should negotiate to achieve a reduction of the United States' percentage share of assessed contributions to the United Nations organization and to other international organizations.

That is the first part of the amendment. I should say for the record that the Government of the United States has, in fact, been involved in a series of negotiations in recent years designed to reduce the proportion being paid by the United States for the maintenance and operation of the United Nations and other international organizations.

This is altogether appropriate inasmuch as the American share reflected the predominant economic position enjoyed by the United States in the years that followed the Second World War.

The world has changed since then. The countries of Western Europe and Japan, in particular, have enjoyed a tremendous resurgence in their economic strength, and today are very effectively competing against the United States for a growing share of the international market.

Moreover, the richest nations in the world are today the oil-producing nations of the Middle East, countries that have accumulated an enormous treasury as a result of the success of the OPEC cartel in increasing the price of oil 1,200 percent since November of 1973.

There is no doubt at all but what these extraordinarily rich governments could bear a larger proportion of the cost of maintaining the United Nations and its affiliated organizations.

So I favor the purpose of the amendment. I think the United States should continue to negotiate for a reduction in the American share and for an adjustment in the contributions of other countries that more accurately reflect their present capabilities to pay.

With regard to the United Nations itself, prior to 1974 the United States contributed 31.2 percent to the assessed budget of the UN. Since 1974 our contribution has been reduced and is presently at 25 percent of the assessed budget.

I think we can do better particularly with reference to some of the voluntary contributions we make to the various international institutions associated with the U.N., and I note that the Senator's amendment takes those institutions into account.

So I fully agree with the thrust of the amendment and its objective. I take note of the fact that the second part of the amendment reads as follows:

> The executive branch of the Government of the United States shall report to the Congress at the time of the submission of the fiscal year 1982 budget on the nature of the results of any effort to conduct the negotiations referred to in subsection (a) of this section.

This is simply a reporting requirement to keep the Congress apprised of the success or lack thereof concerning particular negotiations looking toward a reduction in the American contribution to the various international organizations in which we have membership.

I have no objection to the amendment in this form, and I hope it will be approved.

Mr. HAYAKAWA. Mr. President, the amendment offered by the distinguished Senator from South Dakota appears to me to be eminently desirable. The United States is no longer the rich uncle with unlimited funds. We cannot afford to be as generous to the rest of the world as we were during the years of the Marshall plan and other years following the end of World War II.

We all know that the distribution of wealth, especially as a result of OPEC and the success of Japan, Taiwan, and South Korea, for example, has shifted tremendously. It is only fair that the new rich nations should start paying their fair share of expenses of international organizations and of the humanitarian demands made upon international organizations by situations of misery, hunger, and illness that exist throughout the world. So I am very happy to support the Senator from South Dakota in his amendment and I urge its passage.

Mr. CHURCH. I thank the Senator very much. That appears to make it unanimous. If there is no further debate on the amendment, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (putting the question).

The amendment was agreed to.

Mr. CHURCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, my understanding is that the Senator from Florida (Mr. STONE) is on his way to the Chamber for the purpose of offering an amendment.

I am advised that there has been a change of signals. The able Senator from Montana (Mr. BAUCUS) is here to offer the amendment instead, so I yield the floor to the Senator from Montana.

UP AMENDMENT NO. 1153

Mr. BAUCUS. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Montana (Mr. BAUCUS), proposes an unprinted amendment numbered 1153.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Add the following new section 404 on page 18 after line 11:
>
> "EXTENSION OF PERIOD FOR EVACUATION PAYMENTS
>
> "SEC. 404. (a) Section 5523(a) of Title 5, United States Code, is amended by deleting the phrase 'covering a period of not more than 60 days' in paragraph (1) and by deleting the last sentence of the subsection.
>
> "(b) The amendments made by this section shall have effect as of May 1, 1980."

Mr. BAUCUS. Mr. President, as the Senator stated, Mr. STONE was to offer the amendment but is unable to do so at this time. It covers the following situation. Following the takeover of the American Embassy in Tehran our personnel have been evacuated in other sensitive posts around the world, and when such personnel are transferred temporarily due to the particular circumstances at the time they are then entitled to receive what is called special cost-of-living allowances covering their expenses while they have been evacuated. Under current law Foreign Service personnel are entitled to receive such funds only for a 180-day period. The situation in Tehran and other sensitive posts around the world has not yet been normalized, but the 180-day period has run and, therefore, these Foreign Service personnel who have been evacuated, and their dependents in particular, have to pay additional out-of-pocket expenses because their status and assignment to other places have not been stabilized and they are unable to receive the benefit of the special cost-of-living allowance funds.

This amendment, very simply, would delete that 180-day limitation so that personnel in this evacuation status and their dependents would be entitled to continue to receive funds from this particular program.

It would give the Secretary discretion

to provide such funds so long as the personnel are in evacuation status. So it does allow that discretion to the Secretary. It is a safeguard there.

The estimate is that this will cost the grand total of $37,000, and no more.

Therefore, Mr. President, I suggest that the amendment be adopted. I believe it has been cleared with the majority side. I have not yet had time to consult with the minority side, but I hope that we can very quickly adopt the amendment to relieve some of the financial burden that our Foreign Service personnel are facing due to the world situation as triggered by the takeover of the American Embassy in Tehran.

Mr. CHURCH. Mr. President, I have no objection to this amendment. As I understand it, this amendment will extend similar treatment to our diplomatic families, who find themselves in this particular status, as we are currently extending to the military. I think that it is wholly justified and that the amendment, therefore, should be adopted.

Mr. HAYAKAWA. Mr. President, may I ask the distinguished Senator from Montana: Does this apply to the people presently living under these conditions or does it apply beyond this point?

Mr. BAUCUS. It applies to those personnel who have been transferred due to present circumstances. It could potentially apply to other Foreign Service personnel, should similar circumstances arise again; that is, it applies only to personnel who are evacuated from certain posts.

Mr. HAYAKAWA. The words "future personnel," would that have to be relegislated?

Mr. BAUCUS. Mr. President, I did not understand the Senator.

Mr. HAYAKAWA. Mr. President, if it were to apply to people not now in this position but finding themselves in the situation in future days, would the subject legislation have to be relegislated in order to maintain them, or is it limited to those present under this condition?

Mr. BAUCUS. The answer, I say to the Senator from California, is, "No, it would not require additional legislation." This amendment would cover those situations; that is, cover those personnel who are on evacuation status, even if such status were to occur in the future for different personnel.

Mr. HAYAKAWA. And the Senator said the total cost of all of this is going to be $37,000?

Mr. BAUCUS. The estimates that I have received from the State Department—and I guess everybody has estimates—is $37,000.

Mr. HAYAKAWA. Well, I cannot object to it. I have never heard a figure that small mentioned around this Chamber since I came here.

Mr. CHURCH. Mr. President, on that basis, I think we should seize the amendment. Therefore, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana (Mr. BAUCUS).

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, if there are no further amendments—and I am aware of none—I would hope we could go to the third reading.

Mr. ROBERT C. BYRD. Mr. President, S. 2727 deals with a number of programs that affect the implementation of American foreign policy. We are more and more conscious of the ways in which foreign affairs impinge upon our daily lives. Informed and considered debate on these issues contributes to this Nation's welfare and security.

I would like to congratulate the managers of the bill, the distinguished Senator from Idaho (Mr. CHURCH), Chairman of the Foreign Relations Committee, and the distinguished Senator from California (Mr. HAYAKAWA) on their able handling of this important measure. Their careful preparation has been evident throughout the debate.

THE STATE DEPARTMENT'S RECORD ON TAIWAN

● Mr. DOLE. Mr. President, it had been the intention of the Senator from Kansas and a few of his colleagues to attach an amendment to the State Department authorization bill concerning the failure of that Department to live up to the letter and spirit of the Taiwan Relations Act, which was passed just last year. Congress received the Taiwan Relations bill from Mr. Carter shortly after his surprise recognition of the People's Republic of China, and in order to preserve the safety, integrity, and honor of our old and trusted ally, the Republic of China on Taiwan, and our relationship with it, the Senator from Kansas and several others heavily amended the bill. When the Taiwan Relations Act passed Congress, it had been largely rewritten to express the will of the Congress and also, I believe, the will and sentiment of the people as it was expressed at the time in many forms of debate and opinion. The President, however reluctantly, accepted this new act and signed it into law.

Ever since that time, however, the administration through the State Department has chosen to prove to the Communist government on the Asian mainland its worthiness as a diplomatic partner by engaging in a series of humiliating and harassing actions against Taiwan, petty in the extreme and demeaning to the people of the United States. These actions range from bureaucratic pettifoggery to more serious attempts to breach the spirit, if not the words of the Taiwan Relations Act.

CUSTOMS OF THE LAND

The latest example of this deplorable behavior, and the one to which the Senator from Kansas, the Senator from Oklahoma (Mr. BOREN), the Senator from Arizona (Mr. GOLDWATER), and others were prepared to remedy through an amendment to this bill, was the attempt by the State Department to urge the Customs Service to issue a new ruling on April 28, 1980. That ruling would have banned all imports into the United States from Taiwan if the words "Republic of China" or the letters "ROC" were a part of the marketing.

Not only is such action by the preeminent superpower of the world petty in the extreme, it is extremely deleterious to the morale of Taiwan and our other allies. The world has been watching us—ever since our shabby treatment of the Republic of China when Mr. Carter unilaterally abrogated the Mutual Defense Treaty—particularly our smaller allies, and such actions harm our larger and longer-range foreign policy goals.

If this action had been an isolated instance, its contemptuous small-mindedness might have been seen as an absurd aberration of the large bureaucracy in a great power. But, it was not an isolated occurrence. From the moratorium on new arms sales in 1979, the refusal to sell certain modern weapons even now, the termination of the 1946 Civil Air Agreement, to helping bar the Republic of China from the winter Olympics at Lake Placid and more, the administration has sought to politically repudiate a faithful ally whose most grevious fault was to maintain allegiance to a nation that gave greater priority to expedience than it did to loyalty.

Just a few months ago Taiwan was expelled from the ranks of the International Financial Organization so necessary to any modern country's continued economic prosperity. Yet, the Taiwan Relations Act was specifically amended so that the United States was charged with doing all in its power to prevent this blackball from happening. The United States did little, however, under the instructions of this administration, to prevent Taiwan's expulsion, and in such a manner that the expulsion was assured and the Taiwan Relations Act flagrantly breached.

GOING TOO FAR

The actions of the State Department have been unconscionable. The administration has continued its policy of limiting the number of consulate-type offices allowed to Taiwan in the United States disregarding section 10(b) of the act which requested the President "to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated" prior to derecognition. This has meant that Taiwan's desire to reopen offices in Kansas City, Boston, and Guam have been illegally denied by our Government.

Fortunately, the State Department has not been entirely successful in its efforts to prove its machismo to the People's Republic by punishing little Taiwan. Although Congress restored the Twin Oaks Embassy property to Taiwan, there was an attempt by State last year to thwart this provision by holding up the sale of some property necessary to provide funds for the upkeep of Twin Oaks. Finally, the administration recognized the absurdity of its customs request by allowing "ROC" to continue to appear on goods if the word "Taiwan" was also present: An ironic, if belated, recognition of the fact that most items were already marked Taiwan to begin with.

If it were not for this new accommodation, this authorization bill would have had to reflect the Senate's dissatisfaction with the administration's record on Taiwan. Such unworthy methods should no longer be tolerated as a means of enforcing a global policy. Our friends in other parts of the world still believe in the sanctity and value of honorable relations with the United States. It is the intention of this Senator, and I believe the Senate and Congress as a whole, to keep America's commitments in full faith and lasting trust. If the United States does not keep its word, who then, in a world of Soviet imperialism and aggression, will?●

INTERNATIONAL TELECOMMUNICATIONS CONFERENCES

● Mr. SCHMITT. Mr. President, I thank the committee for including section 113 of S. 2727 which deals with private sector representatives in U.S. delegations to international telecommunications meetings and conferences in this bill. It is my understanding that an identical provision is contained in H.R. 7305, the House version of S. 2727.

Section 113 exempts from certain conflict of interest provisions of the Ethics in Government Act private sector representatives who are asked to serve on U.S. delegations to certain international telecommunications meetings and conferences. The need for this provision became evident during preparations for the World Administrative Radio Conference (WARC) early last year. Certain provisions of the Ethics in Government Act would discourage private sector representatives from participating in telecommunications conferences and seriously restrict their actions when participating.

The committee noted in their report on S. 2727 that these private sector representatives "provided needed technical expertise" and that "decisions made at the international level in the area of communications are of direct concern to the U.S. private sector."

Last year I offered an amendment to the State Department authorization bill which provided an exemption, similar to section 113, for the WARC. The committee accepted that provision. Last fall's WARC demonstrated the wisdom of the committee action. Virtually all observers of the WARC agreed that U.S. interests were better served because of the participation of private sector representatives who have the technical expertise which may be lacking in the Federal Government. It must, however, be stressed that these private sector representatives act only in accordance with U.S. policy and serve at the discretion of the Secretary of State or his designee.

Because of the success of this procedure at the WARC, I proposed last fall that a permanent exemption be enacted. Due to the urgency on the situation, this provision was added to two armed services bill H.R. 5168 and H.R. 5235. The House accepted the amendment on H.R. 5235, a bill which was later vetoed by the President for reasons unrelated to this provision. While I had preferred to include this provision on appropriate legislation, a number of important conferences and meetings were to take place prior to congressional consideration of this bill.

I have kept the Foreign Relations Committee informed of my activities in this regard as well as my continued interest. I appreciate their support for this measure. The experience of the WARC indicates that in the highly technical area of telecommunications, the interests of this Nation will be better served by this provision which will allow our Department of State to more effectively utilize the expertise of our private sector telecommunications industry.●

● Mr. CRANSTON. Mr. President, I wish to commend the Senate Foreign Relations Committee for its thorough work on S. 2727, the authorization bill for the Department of State, and to take note of one of the important amendments to this bill which was adopted in the authorizing committee. Section 402 of S. 2727 is an amendment proposed by Senators Church, Javits, and Percy which will help to insure continued funding for the programs of the Asia Foundation, a privately governed, but publicly supported, grant-making foundation.

The Asia Foundation has had limited Government support since its inception in 1951. From 1969 through 1980, this funding was provided through AID. This year program administration was transferred to the Department of State at the request of Congress. However, due to disagreements over the handling of the Foundation's $4.1 million request for the coming fiscal year, no request for continuing this program was forthcoming from OMB. Nevertheless, the program continues to enjoy strong support within the executive branch here in Washington and from our Ambassadors and mission directors in Asia.

The Asia Foundation operates one of the most effective quasi-Government programs which the United States has in the Far East. The Foundation has consistently put forward imaginative and constructive programs which support ties between the peoples of Asia and the United States. In the coming year, Foundation grants will go to such diverse and meaningful efforts as the largest American-supported human rights program in Asia—Indonesia—an extensive educational exchange with the People's Republic of China—including training of Chinese trade officials—and a number of meaningful exchange programs involving important Islamic institutions in Asia. The Foundation also will continue its existing program on Taiwan.

These and other opportunities would have been lost had not the Congress acted to restore Foundation funding. It is my understanding that Members on the House side have indicated a willingness to accept this authorizing amendment in conference and that prospects for affirmative action on an appropriations request are promising. It is my hope that after positive congressional action this year, future funding for the Foundation as an integral part of the State Department's annual request can be insured.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Ohio (Mr. Metzenbaum), the Senator from North Carolina (Mr. Morgan), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Missouri (Mr. Danforth), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Percy), the Senator from Alaska (Mr. Stevens), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Pryor). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 10, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—69

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Lugar
Matsunaga
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—10

Byrd, Harry F., Jr.
Garn
Goldwater
Humphrey
Jepsen
Laxalt
Long
McClure
Melcher
Proxmire

NOT VOTING—21

Bayh
Bellmon
Cranston
Danforth
Eagleton
Gravel
Hart
Javits
Kassebaum
Kennedy
Magnuson
Mathias
McGovern
Metzenbaum
Morgan
Pell
Percy
Stevens
Talmadge
Williams
Young

So the bill (S. 2727), as amended, was passed, as follows:

S. 2727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1980 AND 1981

SEC. 101. (a) Section 102(a) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, is amended—

(1) in paragraph (1), by striking out "$1,009,815,000" and inserting in lieu thereof "$1,037,815,000";

(2) in paragraph (2), by striking out "$525,082,000" and inserting in lieu thereof "$615,097,000";

(3) in paragraph (3), by striking out "$26,081,000" and inserting in lieu thereof "$25,581,000"; and

(4) in paragraph (4), by striking out "$457,798,000" and inserting in lieu thereof "$515,209,000".

(b) Section 102(b) of such Act is amended to read as follows:

"(b) The aggregate amount appropriated under paragraphs (1) through (4) of subsection (a) may not exceed $2,155,701,000, for the fiscal year 1981.".

AMERICAN INSTITUTE IN TAIWAN

SEC. 102. (a) Section 16 of the Taiwan Relations Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(b) Of the amounts authorized to be appropriated for the fiscal year 1981 by section 102(a)(1) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, as amended by section 101 of this Act, $6,532,000 shall be available only for necessary expenses to carry out the Taiwan Relations Act.

PASSPORT FEES AND DURATION

SEC. 103. (a) The first sentence of section 1 under the heading "FEES FOR PASSPORTS AND VISAS" of the Act of June 4, 1920 (22 U.S.C. 214), is amended to read as follows: "There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport.".

(b)(1) Section 2 of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 217a), is amended to read as follows:

"SEC. 2. (a) Except as provided in subsection (b), a passport shall be valid for a period of ten years from the date of issue.

"(b) The Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.".

(2) The amendment made by this subsection applies with respect to passports issued after the date of enactment of this Act.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 104. Section 2 of the joint resolution entitled" A joint resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor", approved December 30, 1963 (22 U.S.C. 269g-1), is amended—

(1) by inserting "after 1978" immediately after "any year"; and

(2) by striking out "7" immediately after "exceed" and inserting in lieu thereof "10".

CEREMONIAL GIFTS

SEC. 105. The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2696), is amended by adding at the end thereof the following new section:

"SEC. 25. Funds authorized to be appropriated for the Department of State for a fiscal year for the 'International Organizations and Conferences' account may be used from time to time for payments by the United States for ceremonial gifts to international organizations of which the United States is a member.

INTERNATIONAL LABOR ORGANIZATION

SEC. 106. Of the amounts authorized to be appropriated for the fiscal year 1981 by section 102(a)(2) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, as amended by section 101 of this Act, $50,605,000 shall be available for payment of the United States assessed contributions to the International Labor Organization for calendar years 1980 and 1981.

TRANSFER OF REFUGEE ACTIVITIES

SEC. 107. (a) Of the amounts authorized to be appropriated by section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, as amended by section 101 of this Act, $69,000,000 shall be available for refugee activities under section 495F and chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and 2346 et seq.). Funds appropriated for refugee activities under section 459F and Chapter 4 of part II of the Foreign Assistance Act of 1961, which are available for such activities on the date of enactment of this Act, are authorized to be transferred to the Department of State to carry out such activities.

(b) Of the amount made available for refugee activities for the fiscal years 1980 and 1981 under subsection (a), not less than $52,000,000 shall be available only for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees, except that any amount by which such contributions exceed $52,000,000—

(1) shall be available only for maintaining the existing level of educational services for Palestinian refugees; and

(2) may be obligated only if the President certifies to the Congress that such amount has been matched by equivalent contributions by other donor countries, and that such contributions of other donor countries are available only for maintaining the existing level of educational services for Palestinian refugees.

ASSISTANT SECRETARY FOR REFUGEE AFFAIRS

SEC. 108. (a) There shall be in the Department of State an Assistant Secretary of State for Refugee Affairs who shall be responsible to the Secretary of State for matters pertaining to refugee affairs in the conduct of foreign policy.

(b) Section 624(f) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out in paragraph (1) "refugees, prisoners of war," and inserting in lieu thereof "prisoners of war"; and

(2) by striking out in paragraph (2) "refugees, prisoners of war," and inserting in lieu thereof "prisoners of war".

(c) Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of State (13)" and inserting in lieu thereof "Assistant Secretaries of State (14)".

CONSULAR POSTS

SEC. 109. Section 108 of the Department of State Authorization Act, Fiscal Years 1980 and 1981, is amended by adding the following new subsection:

"(c)(1) No funds authorized to be appropriated under this Act shall be available to close or render inoperable the consular posts referred to in subsection (a) of this section.

"(2) Of the amounts authorized to be appropriated by section 102(a)(1) of this Act for the fiscal years 1980 and 1981, $1,700,000 shall be available for each such fiscal year only for expenses to operate and maintain consular posts at Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.".

UNITED STATES REPRESENTATIVE TO INTERNATIONAL ORGANIZATIONS IN VIENNA

SEC. 110. Section 2 of the United Nations Participation Act of 1945 (22 U.S.C. 287) is amended by adding at the end thereof the following new subsection:

"(h) The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct.".

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

SEC. 111. (a) The Act entitled "An Act to authorize United States payments to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes", approved June 19, 1975 (89 Stat. 216), is amended—

(1) in the first section by striking out "the United Nations peacekeeping forces in the Middle East" and inserting in lieu thereof "United Nations peacekeeping forces"; and

(2) in the title of the Act by striking out "the United Nations peacekeeping forces in the Middle East, and for other purposes" and inserting in lieu thereof "United Nations peacekeeping forces".

(b) The amendments made by this section shall take effect on October 1, 1980.

INTER-AMERICAN FOUNDATION

SEC. 112. (a) The first sentence of section 401(s)(2) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(s)(2)) is amended by striking out "$25,000,000 for each of the fiscal years 1979 and 1980" and inserting in lieu thereof "$17,000,000 for the fiscal year 1981".

(b) The amendment made by this section shall take effect on October 1, 1980.

PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

SEC. 113. (a) Sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interest of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State or his designee certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

(b) As used in this section, the term "international telecommunications meeting or conference" means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

ADMINISTRATIVE AUTHORITIES OF THE INTERNATIONAL COMMUNICATION AGENCY

Sec. 201. (a) Title III of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1451–1453) is amended by striking out "citizen of the United States" each of the three places it appears and inserting in lieu thereof "person".

(b) Section 802 of such Act (22 U.S.C. 1472) is amended—

(1) by inserting "(a)" immediately after "Sec. 802."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of five years when—

"(A) appropriations are available and adequate for payment for the first fiscal year; and

"(B) the Director of the International Communication Agency determines that—

"(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

"(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

"(iii) such method of contracting will not inhibit small business participation.

"(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

"(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to radio transmission and reception, newswire services, and the distribution of books and other publications in foreign countries.".

(c) Paragraph (16) of section 804 of such Act (22 U.S.C. 1474(16)) is amended by inserting "and security vehicles" immediately after "right-hand drive vehicles".

(d) Title VIII of such Act (22 U.S.C. 1471–1475b) is amended by adding at the end thereof the following new section:

"ACTING ASSOCIATE DIRECTORS

"Sec. 808. If an Associate Director of the International Communication Agency dies, resigns, or is sick or absent, the Associate Director's principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.".

(e) Section 804 of such Act (22 U.S.C. 1476) is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(20) purchase motion picture, radio, and television producers' liability insurance to cover errors and omissions or purchase similar insurance coverage for the protection of interests in intellectual property.".

BELGIAN-AMERICAN EDUCATIONAL FOUNDATION

Sec. 202. Section 202 of the International Communication Agency Authorization Act, Fiscal Years 1980 and 1981, is amended—

(1) by inserting "(a)" after "Sec. 202."; and

(2) by adding at the end thereof the following:

"(b) Of the amount authorized to be appropriated under subsection (a) for the International Communication Agency for the fiscal year 1981, not to exceed $500,000 shall be available only for the Belgian-American Educational Foundation.".

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1981

Sec. 301. Subparagraph (A) of section 8 (a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended to read as follows:

"(A) $81,917,000 for the fiscal year 1980 and $98,835,000 for the fiscal year 1981, of which not to exceed $4,500,000 shall be available only for the purpose of transferring RFE/RL, Incorporated, positions to the United States in accordance with recommendations of the Board for International Broadcasting; and".

TITLE IV—MISCELLANEOUS PROVISIONS

CHINA CLAIMS

Sec. 401. Section 8 of the International Claims Settlement Act of 1949 is amended—

(1) in subsection (e), by striking out "The" after "(e)" and inserting in lieu thereof "Except as provided in subsection (f), the"; and

(2) by adding at the end thereof the following:

"(f)(1) Out of sums covered after May 11, 1979, into the special fund created pursuant to this section to receive funds paid by the People's Republic of China, the Secretary of the Treasury is authorized and directed to make payment on account of awards certified by the Commission pursuant to this title with respect to claims included within the terms of the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, signed on May 11, 1979, concluded pursuant to section 4(a) of this title, in the following order of priority:

"(A) Payment in the amount of $1,000 or the principal amount of the award, whichever is less.

"(B) Thereafter, except as provided in paragraph (2), to the extent there remain unpaid principal balances on awards, payments from time to time on account of the unpaid principal balance of each remaining award which bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards.

"(C) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which bear to such unpaid balance of interest the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

"(2)(A) In the case of any claimant which was, on the date of nationalization or other taking of property, an incorporated business enterprise, and to which a deduction in determining Federal income tax liability was allowed for losses upon which such claims are based, the sum of the amounts which would otherwise be payable (but for this paragraph) under subparagraph (B) of paragraph 1 shall be reduced by the amount of such deduction, but not below an amount equal to payments made to such incorporated business enterprises before the date of enactment of this subsection. Such sum of the amounts which would otherwise be payable but for this paragraph are not paid to such incorporated business enterprises shall be aggregated, and the Secretary of the Treasury is authorized and directed to make payments out of such aggregated sums in accordance with subparagraph (B).

"(B) To the extent that there remain unpaid principal balances on awards to claimants which were, on the date of nationalization or other taking of property, nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes (after payments made to such nonprofit organizations pursuant to subparagraphs (A) and (B) of paragraph 1 are taken into account), the Secretary of the Treasury is authorized and directed to make payments from time to time on account of the unpaid principal balance of each remaining award to such nonprofit organizations which bear to such unpaid principal balance the same proportion as the total sums aggregated pursuant to subparagraph (A) at the times such payments are made bear to the aggregate unpaid principal balance of all such awards to nonprofit organizations.".

THE ASIA FOUNDATION

Sec. 402. There are authorized to be appropriated, in addition to funds otherwise available, $4,100,000 for The Asia Foundation in furtherance of the purposes of the Foundation as described in its charter. Such funds are to be made available to the Foundation by the Department of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Department of State and The Asia Foundation. Funds appropriated under this section are authorized to remain available until expended.

TECHNICAL AMENDMENTS RELATING TO CURRENCY FLUCTUATIONS

Sec. 403. (a) Section 24(b) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2696(b)), is amended by striking out "preceding" and inserting in lieu thereof "calendar year preceding the enactment of the authorizing legislation for such".

(b) Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended by striking out "preceding" and inserting in lieu thereof "calendar year preceding the enactment of the authorizing legislation for such".

(c) Section 8(a)(2) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2287(a)(2)) is amended by striking out "preceding" in the first sentence and inserting in lieu thereof "calendar year preceding the enactment of the amendments to paragraph (1) which provide the authorization for such".

(d) The amendments made by this section shall take effect on October 1, 1980.

UNITED STATES COAL EXPORT OFFICER

Sec. 404. (a) For each country in which the United States has a diplomatic mission, the Secretary of State shall designate a member of the respective diplomatic mission as a United States coal export officer. Each United States coal export officer, with respect to the country to which such officer is assigned, shall monitor the requirements of such country for imported coal and the ability of such country to import United States coal.

(b) The Secretary of State, together with the Secretary of Energy and the Secretary of Commerce, shall prepare and transmit not later than six months after the date of enactment of this Act, and semiannually thereafter, to the Congress a report setting forth the level of United States exports of coal to each country referred to in subsection (a) during the preceding six months, in the case of the first report, or during the period since the transmittal of the preceding report, in the case of a report required thereafter.

CLAIMS AGAINST VIETNAM

Sec. 405. The International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new title:

"Sec. 701. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against Vietnam which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property of nationals of the United States.

This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"DEFINITIONS

"Sec. 702. As used in this title—

"(1) the term 'national of the United States' means—

"(A) a natural person who is a citizen of the United States; and

"(B) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity;

"(2) the term 'Commission' means the Foreign Claims Settlement Commission of the United States;

"(3) the term 'property' means—

"(A) any property, right, or interest, including any leasehold interest,

"(B) any debt owed by Vietnam or by any enterprise which has been nationalized, expropriated, or otherwise taken by Vietnam, and

"(C) any debt which is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam;

"(4) the term 'Vietnam' means—

"(A) the Government of the Socialist Republic of Vietnam,

"(B) any predecessor governing authority operating in South Vietnam on or after April 29, 1975, including the Provisional Revolutionary Government of South Vietnam,

"(C) the Government of the former Democratic Republic of Vietnam, and

"(D) any political subdivision, agency, or instrumentality of any of the entities referred to in subparagraphs (A), (B), and (C); and

"(5) the term 'Claims Fund' means the special fund established in the Treasury of the United States composed of such sums as may be paid to or realized by the United States pursuant to the terms of any agreement settling those claims described in section 703 that may be entered into between the Governments of the United States and Vietnam.

"RECEIPT AND DETERMINATION OF CLAIMS

"Sec. 703. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after the date of enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

"OWNERSHIP OF CLAIMS

"Sec. 704. A claim may be favorably considered under section 703 of this Act only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"CORPORATE CLAIMS

"Sec. 705. (a) A claim under section 703 of this Act based upon an ownership interest in any corporation, association, or other entity which is a national of the United States may not be considered. A claim under section 703 based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico may be considered only if such debt or other obligation is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam.

"(b) A claim under section 703 based upon a direct ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 703 based upon an indirect ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States or if, at the time of the loss, nationals of the United States in fact controlled the corporation, association, or entity, as determined by the Commission.

"(d) The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by the corporation, association, or other entity, with respect to which the claim is made, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

"OFFSETS

"Sec. 706. In determining the amount of any claim under this title, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed.

"CERTIFICATION; ASSIGNED CLAIMS

"Sec. 707. (a) The Commission shall certify to each claimant who files a claim under this title the amount determined by the Commission to be the loss suffered by the claimant which is covered by this title. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in making that determination.

"(b) In any case in which a claim under this title is assigned by purchase before the Commission determines the amount due on that claim, the amount so determined shall not exceed the amount of actual consideration paid by the last such assignee.

"CONSOLIDATED AWARDS

"Sec. 708. With respect to any claim under section 703 of this Act which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled to the award, which award shall indicate the respective interests of such claimants in the award, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"CLAIMS FUND

"Sec. 709. (a) The Secretary of the Treasury may establish in the Treasury of the United States the Claims Fund for the payment of unsatisfied claims of nationals of the United States against Vietnam, as authorized by this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"Sec. 710. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 703 of this Act.

"(b)(1) Upon certification of each award made pursuant to section 703, the Secretary of the Treasury shall, out of the sums covered into the Claims Fund, make payments on account of such awards as follows, and in the following order of priority:

"(A) Payment in the amount of $2,500 or the principal amount of the award, whichever is less.

"(B) Thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the Claims Funds available for distribution at the time such payments are made.

"(2) After payment has been made in full of the principal amounts of all awards pursuant to paragraph (1), pro rata payments may be made on account of any interest that may be allowed on such awards.

"(c) Payments or applications for payments under subsection (b) shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

"SETTLEMENT PERIOD

"Sec. 711. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years after the final date for the filing of claims as provided in section 703 of this Act.

"TRANSFER OF RECORDS

"Sec. 712. The Secretary of State, the Secretary of the Treasury, and the Secretary of Defense shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 713. There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1980, such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title. Amounts appropriated under this section may remain available until expended.

"FEES FOR SERVICES

"SEC. 714. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER PROVISIONS OF THE ACT

"SEC. 715. (a) To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act shall be applicable to this title: subsections (b), (c), (d), (e), and (h) of section 4 and subsections (c), (d), (e), and (f) of section 7. Any reference in such provisions to 'this title' shall be deemed to be a reference to those provisions and to this title.

"(b) Except as otherwise provided in this title and in those provisions of title I referred to in subsection (a), the Commission shall comply with the provisions of subchapter II of chapter 5, and the provisions of chapter 7, of title 5, United States Code.

"SEPARABILITY

"SEC. 716. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of this title or the application of such provision to other persons or circumstances shall not be affected.".

ADMISSION OF ALIENS

SEC. 406. (a) Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182 (d)) is amended by adding at the end thereof the following new paragraph:

"(9) (A) The requirement of paragraph 26 (B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly in the case of an alien who is—

"(i) applying for admission as a nonimmigrant visitor for business or pleasure for a period not exceeding ninety days; and

"(ii) is a national of a country which extends, or is prepared to extend, reciprocal privileges to United States citizens and nationals and which is described in subparagraph (B) of this paragraph.

"(B) (i) For the period beginning on the effective date of this paragraph and ending on the last day of the first fiscal year which begins after the effective date of this paragraph, a country shall be considered to be within the purview of subparagraph (A) (ii) of this paragraph if, in the last fiscal year preceding the effective date of this paragraph, such country had a nonimmigrant visa refusal rate, as determined by the Secretary of State in such manner as he shall by regulations prescribe, of less than 2 percent.

"(ii) For each fiscal year following the period specified in subparagraph (B) (i), a country considered to be within the purview of subparagraph (A) (ii) during such period shall not be considered to remain within the purview of subparagraph (A) (ii) unless, in the fiscal year immediately preceding such fiscal year, it had a rate of exclusion and withdrawal of application for admission and a rate of violation of nonimmigrant status, as determined in both cases by the Attorney General in such manner as he shall by regulations prescribe, which did not exceed 1 percent.

"(iii) If, in any fiscal year following the period specified in subparagraph (B) (i), a country not previously considered within the purview of subparagraph (A) (ii) shall have a nonimmigrant visa refusal rate, as determined in the manner provided for in subparagraph (B) (i), of less than 2 percent such country shall be considered to be within the purview of subparagraph (A) (ii) for the next following fiscal year and shall thereafter be treated in the manner specified in subparagraph (B) (ii).".

(b) Section 214(a) of the Immigration and Nationality Act (8 U.S.C. 1184(a)) is amended by changing the period at the end thereof to a colon and by adding thereto the following: "*Provided*, That no alien admitted to the United States without a visa pursuant to section 212(d) (9) shall be authorized to remain in the United States as a temporary visitor for business or pleasure for a period exceeding ninety days from the date of his admission.".

(c) Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; (3) an alien admitted in transit without visa under section 212 (d) (4) (C); or (4) an alien admitted as a temporary visitor for business or pleasure without a visa under section 212(d) (9).".

(d) Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended by inserting after the word "except" the following: "an alien admitted as a temporary visitor for business or pleasure under section 212(d) (9),".

REDUCTION OF UNITED STATES SHARE TO INTERNATIONAL ORGANIZATIONS

SEC. 407. (a) It is the sense of the Congress of the United States that the President should negotiate to achieve a reduction of the United States percentage share of assessed contributions to the United Nations Organizations and to other international organizations.

(b) The executive branch of the Government of the United States shall report to the Congress at the time of the submission of the fiscal year 1982 budget on the nature and the results of any efforts to conduct the negotiations referred to in subsection (a) of this section.

RADIO FREE CUBA

SEC. 408. Any program of the United States Government involving radio broadcasts to Cuba for which funds are authorized to be appropriated under this Act or any other Act shall be designated as "Radio Free Cuba".

EXTENSION OF PERIOD FOR EVACUATION PAYMENTS

SEC. 409. (a) Section 5523(a) of title 5 United States Code, is amended by deleting the phrase "covering a period of not more than sixty days" in paragraph (1) and by deleting the last sentence of the subsection.

(b) The amendments made by this section shall have effect as of May 1, 1980.

Mr. CHURCH. Mr. President, there is an amendment at the desk to change the title of the bill so that it would read:

A bill to authorize additional appropriations for the Department of State and for the Board for International Broadcasting for the fiscal year 1981, and for other purposes.

Mr. CHURCH. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the title is amended.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BRETTON WOODS AGREEMENTS ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 852.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2271) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment on page 2, line 9, strike "to such extent or in such amounts as are provided in appropriation Acts" and insert "limited to such amounts as are appropriated in advance in appropriation Acts"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to $4,202.5 million Special Drawing Rights, limited to such amounts as are appropriated in advance in appropriation Acts.".

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Has S. 2271 been laid before the Senate?

The PRESIDING OFFICER. It has been laid before the Senate.

Mr. CHURCH. I thank the Chair.

Mr. President, today the Senate will consider S. 2271, a bill authorizing an increase of $5.4 billion in the U.S. quota in the International Monetary Fund. This 50-percent increase in the U.S. quota is part of a 50-percent increase in all members' quotas. These quota increases will become effective when member countries having not less than 75 percent of the total IMF quotas have consented to the increase.

As Senators know, Mr. President, the IMF performs a vital role in the world economy as its central monetary institution. Its articles of agreement constitute the formal rules by which the world's trading system is kept functioning smoothly. The IMF both monitors compliance with the international monetary system's rules and also plays a vital secondary function of providing short-term balance-of-payments financing for those countries in temporary balance-of-payments difficulties.

The IMF is not an aid institution for developing countries but a vital source of temporary financial assistance for all nations. I might note in this regard that the nations which have made the most use of IMF resources have not been the so-called Third World countries but the highly industrialized nations of the world, including the United States. The single largest user of IMF resources is the United Kingdom, followed by the United States, Italy, and France.

For the United States in particular, the IMF played a crucial role in November 1978, when the United States was forced to borrow $3 billion from the Fund as part of President Carter's dollar-support effort, bringing U.S. total borrowing from the Fund to $7.5 billion. Since a member's ability to borrow from the Fund is based upon its quota size, the United States will receive greater access to the Fund as a result of the increase, which will bring our quota to $16 billion.

Mr. President, during hearings by the Committee on Foreign Relations on S. 2271, careful consideration was given to whether or not world economic circumstances justified a 50-percent increase in IMF quotas. With a projected OPEC surplus of $120 billion in 1980 alone—a surplus which will result in deficits of $70 billion for the developed world and $50 billion for the developing world—and the possibility of even larger deficits in the future, the increase in IMF quotas appears clearly justified. Even with an increase in quotas, the IMF will only be able to provide financial assistance for a small portion of the current account deficits which will require financing. However, the additional resources should give the IMF the necessary leverage to encourage deficit countries to begin the unpleasant process of economic adjustment.

For all these reasons, the Committee on Foreign Relations voted unanimously, by a vote of 12 to 0, to recommend that the Senate consider favorably S. 2271.

Mr. President, I might note in closing that in this time of budget austerity and attempts by this Congress to balance the budget, S. 2271 will in no way contribute to the budget deficit. While S. 2271 authorizes the full appropriation of $5.4 billion, our transactions with the IMF rarely result in net outlays and, therefore, no negative impact on the Federal deficit will result.

Mr. President, I urge my colleagues to support this bill—it makes good economic sense.

Mr. President, the bill has been reviewed not only by the Senate Committee on Foreign Relations but also by the Committee on Banking, Housing, and Urban Affairs. The able Senator from Illinois (Mr. STEVENSON), who presided over that committee's hearings, has furnished me with a statement of his endorsement and support and that of the committee itself. So the bill comes to the floor of the Senate with the approval of both the Foreign Relations Committee and the Committee on Banking, Housing and Urban Affairs.

I ask unanimous consent that the statement by Mr. STEVENSON be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. STEVENSON

S. 2271, which authorizes U.S. participation in an expansion of the International Monetary Fund, is required to strengthen the Fund and preserve the role of the United States within the international monetary system. The 50 percent increase in all member countries' quotas was recommended by the IMF Board of Governors two years ago out of concern that the Fund's resources were insufficient relative to the growing volume of world trade. Events of the past year have made that concern look prescient, and make strengthening the IMF a matter of urgency.

Major oil price increases have drawn the world again into a pattern of massive payment imbalances. The OPEC current account surplus this year may exceed $120 billion—compared to $5 billion in 1978. This surplus will mean corresponding deficits of about $70 billion for industrialized countries and over $50 billion for the non-oil developing countries. Further oil price increases could make these figures conservative.

The world economy must cope with these strains by recycling OPEC surpluses back to industrial producers and developing countries. As in 1973–74, this will mean some combination of OPEC imports and petrodollar deposits in multinational banks. A number of factors, however, suggest the process will be considerably more precarious this time around. Already serious inflation in the major industrial countries; a deepening recession in the United States; the continuing threat of energy supply disruptions; evidence of strains among commercial banks; all these factors present disturbing indications that both the short-term financing of external deficits and the longer-term adjustment of national economies will be significantly more difficult over the coming years than in 1973–74.

OPEC imports are not likely to increase as much as after the 1973 round of oil price hikes, and the direct flow of OPEC funds to U.S. banks is reduced by the Iranian assets freeze and U. S. policy toward Palestinians. In addition, most major international banks have far larger foreign loan exposures relative to their capital than in earlier rounds of OPEC surplus recycling. The severity of impending payments deficits and the riskiness of lending in generally stagnant world economic conditions may significantly dampen the willingness and ability of commercial banks to undertake major new lending. Restrictive monetary conditions in OECD countries have caused banks to tighten liquidity which further inhibits large-scale lending, and the financial position of non-oil developing countries is more tenuous today, after a decade of heavy borrowing, than at the time of earlier OPEC price increases.

As in 1973, the non-oil developing countries are expected to be relatively hardest hit by major OPEC price increases, but existing LDC debt levels cause concern among international bankers and banking authorities about the wisdom of additional large-scale private lending.

Since 1973 the debt of non-OPEC developing countries has more than tripled and estimates have placed the total outstanding in early 1980 at over $350 billion. The past 6 years have also seen a significant relative increase in the amount of LDC debt owed to private banks rather than official institutions; private banks claim 60% of developing countries' debts today, as compared with 47% in 1973. This shift has meant higher annual interest installments and principal repayments, and has contributed to the increasing debt service burden of non-OPEC developing countries; in 1980, the percentage of export earnings LDCs must use for interest and principal payments on existing loans will exceed 20%.

It has been estimated that non-OPEC developing countries may need as much as $150 billion from private banks this year in order to finance deficits and to service existing debts. Yet the Chairman of the Federal Reserve and other U.S. banking regulatory authorities have begun to pressure U.S. banks to limit their exposure in LDCs. Similar concerns in Europe and Japan produced a 40 percent drop in Eurodollar loans to LDCs in the first quarter of 1980, compared to 1979.

Major banks' exposure in a handful of heavy LDC borrowers is very high. These countries, notably Brazil, Mexico, Chile and Argentina, have debt service burdens so high as to leave them extremely vulnerable to oil price increases, commodity price shifts, international credit conditions, and other external phenomena. In Brazil, for example, foreign debt payments consume 60 percent of export earnings. Even while drawing down some $2 billion of its international reserves, the country will be forced to borrow an additional $12–15 billion this year to cover rising import costs and debt service.

With serious potential financing problems among LDCs, the private sector less flexible and the international economy less buoyant, the prospects for smooth adjustment to major balance-of-payments dislocations expected in 1980 and 1981 will depend in large measure on the strength of the International Monetary Fund, the adequacy of its resources, and its capacity to play a greater role in the recycling process.

As the central monetary institution for the world economy, the IMF performs two related functions—general oversight of the international monetary system and provision of temporary balance of payments financing to member nations. Yet the institution's ability to perform these functions has declined seriously over the past decade, as the ratio of quota resources to member countries' aggregate current account deficits fell by two-thirds between 1971 and 1978. This situation was ameliorated somewhat by creation of the Supplementary Financing Facility, known as the Witteveen Facility, which provided for a temporary expansion of IMF resources by SDR 7.4 billion. However, the Witteveen Facility, scheduled to expire by 1982, was intended only as a bridging mechanism to enable the IMF to meet financing obligations over the next few years until a longer-term replenishment of Fund resources, via a quota increase, could be accomplished.

Because IMF voting rights and borrowing authority are proportional to quota sizes, there is intense competition among countries for expanded quotas in the event of general quota increases. At present, the United States' holding of SDR 8.4 billion represents 21.5% of the Fund's subscriptions. Maintaining this share, and our preeminent voting authority, is essential. The benefits to the United States from participation in the IMF and from a stable system of international payments are direct and substantial.

Over the years, the United States has been the second largest "recipient" of IMF short-term financing assistance; we have drawn on the Fund 25 times, for a total of $7.5 billion (SDR 5.8 billion.) Without the availability of IMF reserves, major dollar support operations such as those of November 1978 would have been impossible. On countless occasions, the IMF has smoothed payments adjustments of the U.S. and its trading partners, making possible the rapid expansion of world trade which has given us all a generation of sustained growth and prosperity.

As the single largest trading country, this nation gains more than any other from strong global institutions of finance and trade. If we meet the challenges of the next decade, sharpen our international competitiveness, and export our goods the world over, our reliance on the effective operations of the IMF can only increase. No individual country and no other institution can perform its functions in providing short-term balance of payments assistance, guiding the longer-term adjustment of countries, and maintaining confidence in the international monetary system.

That system would be undermined by a failure to ensure that IMF resources are commensurate with world balance of payments financing needs. I urge the Members to support U.S. participation in a 50% expansion of International Monetary Fund quota resources.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. CHURCH. Mr. President, I understand that Senator HELMS has an amendment he wishes to offer to the bill. He is on his way to the Chamber for that purpose, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1154

(Purpose: To provide for a study of United States policy concerning the role of gold in domestic and international monetary systems)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1154.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 2. (a) The Secretary of the Treasury shall establish and chair a commission consisting of—

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisors, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations no later than one year after the date of enactment of this Act.

(c) Sums appropriated pursuant to section 5(a) of Public Law 95–612, as amended, shall be available to the Commission to carry out its functions.

Mr. HELMS. Mr. President, I have discussed this amendment with the leadership and I understand that there are no objections to the amendment.

The amendment is a simple one. It directs the Secretary of the Treasury to appoint a commission composed of representatives from the private sector, from Congress, from the Federal Reserve System, and from the Council of Economic Advisers, to study present U.S. policy toward gold and its role in domestic and international monetary systems.

The commission would not require additional funds. Its expenses would be taken from the general administrative budget of the Treasury Department.

The report and recommendations of the commission would be provided to Congress 1 year from the date of enactment of the IMF bill.

The consideration of the bill to increase the U.S. quota with the International Monetary Fund brought to my mind the congressional deliberations that focused on the sales of gold by the International Monetary Fund over the past several years. The IMF liquidated about 25 million ounces of gold and returned about 25 million ounces of gold to IMF members. The Jamaica Agreement which amended the Charter of the International Monetary Fund, formally divorced gold from the international monetary system. The agreement, which Congress ratified in 1976, set down rules which excluded the use of gold for the settlement of international payments and prevented the acquisition of gold by central banks for a period of time.

The formal divorce of gold from the international monetary system was made necessary by the action by the United States to unilaterally suspend the convertibility of dollars into gold in 1971, and the subsequent collapse of the Smithsonian Agreement. For the first time since World War II, the world was without a monetary "anchor"—the U.S. dollar—which helped act as a restraint on inflation and acted as a universally acceptable medium of exchange.

It is no coincidence that inflation of the dollar which precipitated the final break with gold, accelerated after the last vestige of gold's discipline was removed.

Since that break—the closing of the gold window—the Treasury Department has been crusading against gold in the monetary system. It has been as if, somehow, the monetary chaos that has resulted following the closing of the gold window, was somehow caused by the rising price of gold or the growing attachment of people to gold as a hedge against inflation.

I think the position the Treasury Department has taken in the past is clear, but it is a position that has "grew'd like Topsy." Congress has ratified innumerable pieces of legislation which have contained endorsements of the so-called "demonetization of gold." Some of these endorsements have been tacit; some explicit. But one thing that does become clear is that Congress has never thoroughly studied U.S. policy toward the role of gold.

Some might say that Congress has been afraid of getting involved with monetary policy, and has left it to the experts. Others might say that this is something that Congress should not get involved with.

I think that the present state of the disorder of the international monetary system—and the disorder of the domestic economy—have made it incumbent on Congress to start the process that will result in a broad-based analysis of money and a review of the proper role of gold in our monetary system.

Another reason that the legislation before us today should carry the requirement of a reassessment of the role of gold is the fact that the International Monetary Fund still has about 100 million ounces of gold. If, as the charter now states, that gold is not to be used for settlement purposes, then there is some question as to what to do with it. In one statement, a Treasury Department official said that it would be "supportive" of continued demonetization of gold, to use some of the IMF gold in backing the substitution account proposal which has now been set aside. In other words, somehow using gold as part of the IMF's new monetary facilities is demonetizing gold.

Obviously, there is some need for a clarification of U.S. policy.

But there are deeper reasons for looking at the role of gold that have to do with our relationships with our allies and trading partners, and with the state of the art of economics.

First, our allies and trading partners are not at all in full agreement concerning our present policy toward gold. The United States has been the only major nation to sell off some of its gold reserves. Many nations have taken their gold reserves and revalued them to near the market price of gold.

The European Monetary System set up 2 years ago is based on contributed reserves from the member nations. Gold reserves form a cornerstone of that system.

In addition, it is a sad indictment of

the United States that we have allowed our dollar to depreciate through massive inflation which has disrupted trade, wiped out the value of billions of dollars of dollar-denominated central bank reserves, and contributed to the disruptive inflations in dozens of our trading partners.

The U.S. role in contributing to the monetary instability of other nations has to do not only with the depreciation of the dollar, but with the policies of the International Monetary Fund as well.

The Fund, like the U.S., has followed traditional Keynesian methods of treating monetary disorder, and along with the difficulty of matching reality with Keynesian theory, new viewpoints are now in the forefront of the discussion of monetary matters. Obviously, monetarism, as the school of thought headed by Dr. Milton Friedman, is a widely respected school which finds criticism of recent monetary policy, while sharing some of the skepticism of the Keynesians to a strong role of gold in the monetary system.

The classical economists are producing important documents which criticize current monetary disorder and see the only proper response as reforms which take into account the changing demand for currencies, and the stability of the value of the unit of exchange. Rather than the supply of money being a key to good monetary policy, as the monetarists believe, the neoclassical economists focus on the value of each unit. As one of the leaders of this school, Prof. Arthur Laffer, pointed out the purpose of the monetary authority is to regulate the value of the unit of currency, not the number produced. The means of regulating the value is to guarantee that the supply of dollars does not exceed that demanded by the marketplace at a given price.

I would expect that the commission would report to the Congress that there is little unanimity among the experts. I would expect, however, that the Keynesian view, the monetarist view, and the neoclassical view will be examined fully, the implications of each will be analyzed, and recommendations will be made on the basis of the best judgment of the commission members.

Mr. CHURCH. Mr. President, it is my understanding that the study to assess and make recommendations with regard to the policy of the U.S. Government concerning the role of gold in domestic and international monetary systems is one that would not require an additional appropriation. The amendment would authorize the commission to make the study, but the money would come from the international account of the Treasury.

Mr. HELMS. That is correct.

Mr. CHURCH. That being the case, since the objective is certainly a worthy one, I am happy to accept the amendment.

Mr. HELMS. Mr. President, I thank the distinguished manager of the bill.

Mr. HAYAKAWA. Mr. President, there is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, we are trying to ascertain whether any other Member of the Senate has an amendment to offer to this bill. It will take just a few minutes to make that determination.

Mr. HELMS. Mr. President, if the Senator will yield, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 2422, THE INTERNATIONAL DEVELOPMENT ASSOCIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader (Mr. Baker). I ask unanimous consent that upon the disposition of the pending bill, the Senate then proceed to the consideration of Calendar Order No. 752, S. 2422, the International Development Association bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HAYAKAWA. I wish to acknowledge the distinguished Senator from Massachusetts who wants some 10 minutes.

Mr. TSONGAS. I would inquire of the Senator from California whether it would disrupt the proceedings to speak for 10 minutes on an extraneous issue.

Mr. HAYAKAWA. No, it will not.

BRETTON WOODS AGREEMENTS ACT AMENDMENTS OF 1980

The Senate continued with the consideration of S. 2271.

Mr. CHURCH. Mr. President, I believe, with the agreement of the Senator from Massachusetts, we can proceed now to a rollcall vote on the bill, and I ask that we proceed with the yeas and nays.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and the bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Missouri (Mr. Danforth), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Percy), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER (Mr. Heflin). Are there any other Senators desiring to vote?

The result was announced—yeas 55, nays 25, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—55

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Lugar
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stennis
Stevenson
Stewart
Stone

Tsongas
Weicker
Williams
Zorinsky

NAYS—25

Armstrong
Byrd,
  Harry F., Jr.
Byrd, Robert C.
DeConcini
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Jepsen
Laxalt
McClure
Melcher
Pressler
Proxmire
Randolph
Roth
Schweiker
Simpson
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—20

Baker
Bayh
Bellmon
Cranston
Danforth
Dole
Eagleton
Gravel
Hart
Hatfield
Javits
Kassebaum
Kennedy
Magnuson
Mathias
McGovern
Pell
Percy
Stevens
Talmadge

So the bill (S. 2271), as amended, was passed as follows:

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, limited to such amounts as are appropriated in advance in appropriation Acts.".

SEC. 2. (a) The Secretary of the Treasury shall establish and chair a commission consisting of—

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisors, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations no later than one year after the date of enactment of this Act.

(c) Sums appropriated pursuant to section 5(a) of Public Law 95–612, as amended, shall be available to the commission to carry out its functions.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION AND THE AFRICAN DEVELOPMENT BANK

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2422, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2422) to provide for increased U.S. participation in the International Development Association, to provide for U.S. participation in the African Development Bank, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 2, beginning with line 17, insert the following:

"(c) Payment of the first installment of the United States contribution to the sixth replenishment of the Resources of the Association shall not exceed $939,600,000.".

On page 7, line 3, strike "last" and insert "seventh"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 101. The International Development Association Act, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

"SEC. 17. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $3,240,000,000 as the United States contribution to the sixth replenishment of the Resources of the Association: *Provided, however,* That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $3,240,000,000 for payment by the Secretary of the Treasury.

"'(c) Payment of the first installment of the United States contribution to the sixth replenishment of the Resources of the Association shall not exceed $939,600,000.".

TITLE II—AFRICAN DEVELOPMENT BANK

SEC. 201. This title may be cited as the "African Development Bank Act".

SEC. 202. The President is hereby authorized to accept membership for the United States in the African Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.

SEC. 203. (a) The President, by and with the advice and consent of the Senate, shall appoint a governor and an alternate governor of the Bank. The term of office for the governor and the alternate governor shall be five years, subject at any time to termination of appointment or to reappointment. The governor and alternate governor shall remain in office until a successor has been appointed.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a governor or alternate governor, except for reasonable expenses to attend meetings of the Board of Governors.

SEC. 204. (a) The governor, or in the governor's absence the alternate governor, on the instructions of the President, shall cast the votes of the United States for the director to represent the United States in the Bank.

(b) The director or alternate director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, will not exceed those authorized for a Chief of Mission, class 2, within the manning of the Foreign Service Act of 1946, as amended.

SEC. 205. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Bank under paragraphs (5) and (6) of section 4 of said Act, as amended, shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Bank.

SEC. 206. Unless authorized by law, neither the President, nor any person nor agency shall, on behalf of the United States—

(a) subscribe to additional shares of stock of the Bank;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(c) make a loan or provide other financing to the Bank, except that funds for technical assistance may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 207. Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 208. (a) The President is authorized to agree to subscribe on behalf of the United States to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank: *Provided, however,* That the subscription shall be effective only to such extent or in such amounts are are provided in advance in appropriations Acts.

(b) There is hereby authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the initial United States subscription to twenty-nine thousand eight hundred and twenty shares of the capital stock of the African Development Bank, $359,733,570.

(c) Any payment or distributions of moneys from the Bank to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 209. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in title 28, section 460, United States Code, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may at anytime before the trial thereof, remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

SEC. 210. The agreement, and particularly paragraph 5 of article 49 and articles 50 through 59, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration as provided in article 64 paragraph 3 of the agreement that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to United States citizens or nationals.

SEC. 211. The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is further amended by striking the word "or" after the words "the Inter-American Development Bank" and inserting a comma in lieu thereof, and by inserting after the words "the Asian Development Bank" the words "or the African Development Bank".

SEC. 212. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 9 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 7, paragraph 4(a), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of paragraph (a)(2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a)(12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

SEC. 213. Section 701(a) of Public Law 95–118 (22 U.S.C. 262d), is amended by striking the word "and" following the words "the African Development Fund" and inserting the words ", and the African Development Bank," following the words "the Asian Development Bank".

SEC. 214. Section 801(a) of Public Law 95–118 (22 U.S.C. 262f) is amended by striking the word "and" following the words "the African Development Fund" and inserting the words ", and the African Development Bank," following the words "the Asian Development Bank".

SEC. 215. Section 51 of Public Law 91–599, as amended (22 U.S.C. 276c–2) is further amended by striking the word "and" following the words "the Asian Development Bank" and inserting the words ", and the African Development Bank," following the words "the African Development Fund".

TITLE III—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND ASIAN DEVELOPMENT BANK

SEC. 301. Section 27(a)(2) of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286e–1f), is further amended by striking "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated." and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts."

SEC. 302. Section 22(a) of the Asian Development Bank Act, as amended (22 U.S.C. 285s), is further amended by striking "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated." and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.".

TITLE IV—EFFECTIVE DATE AND AVAILABILITY OF FUNDS

SEC. 401. This Act shall take effect upon enactment, except that funds authorized to be appropriated by any provision contained in titles I or II are not available for use or obligation prior to October 1, 1980.

Mr. CHURCH. Mr. President, we begin consideration of this year's foreign aid legislation with S. 2422, a bill authorizing continued U.S. participation in the International Development Association (IDA) and authorizing U.S. membership in the African Development Bank. The bill also changes the budgetary treatment of callable capital for multilateral banks.

Title I of the bill authorizes appropriation of $3.24 billion for the sixth replenishment of the International Development Association. The sixth replenishment covers the 3-year period from 1980 to 1983. If the committee amendment to this bill is adopted, a ceiling of $939.6 million will be placed on the fiscal year 1981 installment.

Title II of the bill authorizes U.S. membership in the African Development Bank. Title II also authorizes appropriation of $359.7 million over a 5-year period to purchase capital stock of the bank. Of that sum, $89.9 million will be in the form of paid-in capital requiring an outlay from Treasury. The remaining $270 million is callable capital. The executive branch intends to request appropriation of $18 million for fiscal year 1981.

Mr. President, the multilateral development banks have become key institutions in the international economic system. Development assistance from the banks has helped developing countries become the fastest-growing export market for goods and services from the United States. Today, our trade with the developing world is larger than with Europe and Japan combined. Continued economic growth will enable recipients of multilateral bank loans to buy more from us and that means more jobs for American workers and markets for American farmers. Investment in the multilateral banks is an investment in our own future as well as in the future of developing countries.

Mr. President, the multilateral banks not only provide benefits for the United States through trade with developing countries; our economy grows through bank procurement and other activities here. The Treasury Department has calculated that every dollar we contribute to the banks results in $1.57 being injected directly into our economy. Treasury also figures that the U.S. GNP increases by $3 for each dollar we contribute to the banks, and that GNP increase meant the creation of 50,000 jobs in this country during a recent year.

Mr. President, the multilateral banks represent one of the principal success stories of our aid effort. The International Development Association, which we consider today, was established largely as a result of an initiative by the U.S. Senate. IDA was intended to serve as a means by which European and other developed countries could share the burden of helping the world's poor nations.

Today, IDA is the principal source of concessional development lending for poor countries. About 90 percent of IDA lending goes to countries with annual per capita incomes below $300. IDA provides funds for projects which directly help the poorest people in the poorest countries.

More importantly, IDA has reduced the burden of aid on us. When IDA was established, the United States paid 42.3 percent of its cost. Our share of the Sixth Replenishment is 27 percent. Today, for every dollar we contribute to IDA, other governments donate about $3.

Mr. President, I must say that steady pressure from the Congress has contributed to a reduction in our share of IDA. Both the Committee on Foreign Relations and the Congress gave clear signals that U.S. negotiators must bring back an IDA VI agreement in which the U.S. share was reduced. Although IDA VI does not cut our share as much as we would like, U.S. negotiators did succeed in securing substantially increased participation by other nations and succeeded in reducing the overall level of the replenishment by 20 percent. For the first time in history, the combined shares of Germany and Japan exceed our own. Germany increased its share from 10.9 percent of IDA V to 12.5 percent of IDA VI. Japan increased its share from 10.3 percent to 14.7 percent.

If our negotiators had accepted the World Bank's original proposal for a $15 billion replenishment and had agreed to continue the U.S. share at 31 percent, the Sixth Replenishment could have cost us $4.65 billion. Instead, the replenishment was cut to $12 billion and our share cut to 27 percent, thus reducing our contribution by $1.4 billion.

Mr. President, although tough negotiating cut our share of IDA VI, the committee looked for ways to further reduce the fiscal year 1981 appropriations impact of this bill. I proposed, and the committee adopted, an amendment which limits our fiscal year 1981 contributions to $939.6 million, the minimum required by the terms of the IDA VI agreement. This sum is $140 million less than the executive branch requested for fiscal year 1981.

The committee has examined the IDA VI agreement carefully. Recognizing the severe strains on our budget, we placed a ceiling on new budget authority for fiscal year 1981. We cut bilateral aid by over $400 million. If we could have reduced the cost to the United States further and stayed within the terms of the IDA VI agreement which was reached after 20 months of negotiations, we would have done so. Any further reductions in the authorization requested by the executive branch would require renegotiation of the IDA VI agreement.

The committee recommends the adoption of title I of the legislation, as amended.

Mr. President, in addition to participation in IDA VI, the bill authorizes the United States to become a member of the African Development Bank. The African Development Bank was created in 1963 with an initial membership of 33 African countries. Now, the members of the Bank are opening the institution to nonregional membership.

The proposed U.S. capital subscription authorized in this bill totals $360 million or 5.68 percent of the African Development Bank's total capital. The committee recommends U.S. participation in the African Development Bank and adoption of title II of the bill.

Mr. President, in addition to the authorizations included in the bill, S. 2422 would change the budgetary treatment of callable capital. Callable capital is used by the multilateral development banks to back up paid-in subscriptions. Callable capital would be used only to meet obligations to bondholders in the highly unlikely event that the banks' other resources are insufficient to meet those obligations. The banks have nearly perfect repayment records as well as large cash reserves. Therefore, we are unlikely to need to provide callable capital to the banks.

Nevertheless, in recent years we have been fully appropriating callable capital as if it were an ordinary expenditure instead of a contingent liability. The Congress has already approved changing the treatment of callable capital for the Inter-American Development Bank. This bill would complete the process by revising treatment of callable capital for the World Bank and Asian Development Bank. By shifting from full appropriations of callable capital to a program limitation, we can reduce fiscal year 1981 appropriations by $1.1 billion.

Mr. President, there are several sound economic reasons for continued support of multilateral development banks:

The banks contribute to the growth and development of nations which are increasingly important to us as trading partners and allies;

The banks are efficient and cost effective; and

The banks provide direct economic benefits to the United States. But the International Development Association, the African Development Bank and other multilateral institutions are more than conduits of money and technical advice. They are an important link between the developing world and the Western democracies. These institutions are a means by which we exert positive, global leadership and, as such, are important elements in the conduct of the foreign relations of the United States.

Providing leadership in this world is neither easy nor cheap. Mainly, we lead through the force of our ideals, by the continuing example of our working democracy in a world of dictators and totalitarian states. We lead by the strength of our economic system through which our farmers feed a substantial portion of the people on this planet and our industries supply the needs of nations around the world. We lead through our determination to maintain a strong national defense and support for our allies. And, Mr. President, we lead by helping the poorest nations and poorest people in their struggle against poverty, illiteracy and disease. This bill is part of the price of leadership.

Mr. President, the Committee on Foreign Relations has carefully considered this bill. We recommend that the Senate pass S. 2422 as amended.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I join with the esteemed chairman of the Foreign Relations Committee, the distinguished Senator from Idaho, in urging passage of Senate bill 2422 providing for increased participation by the United States in International Development Association and for U.S. participation in the African Development Bank.

Central to this whole question is a very simple issue, raised by the last three or four wars we have engaged in, back to World War I: Are we a part of the larger world or are we a nation isolated in itself?

Senator Church and Senator Javits, the distinguished ranking minority member of the committee, and I agree that we are part of the world. We do have responsibilities to the rest of the world.

The purpose of this bill, as Senator Church explained, is to appropriate something over $3 billion for payment by the Secretary of the Treasury to the International Development Association as a U.S. contribution to its replenishment; second, it authorizes the President to accept membership for the United States in the African Development Bank, and authorizes appropriation of $359 million to purchase shares of the capital stock of this African Development Bank.

The United States participates in four multilateral development banks. These are the International Bank for Reconstruction and Development, or World Bank; the InterAmerican Development Bank, joined in 1959; the Asian Development Bank, which we joined in 1966; and the African Development Fund, which we joined in 1976.

The International Development Association is the result of an international initiative by the United States that had the strong support of the Congress. The International Development Association was established in 1960 as an affiliate of the World Bank. IDA benefits from the same highly competent international staff and management as the World Bank itself—it has the same board of governors and the same board of directors. IDA is the world's largest source of multilateral development assistance on concessional terms. Its loans for economic projects must measure up to the rigorous standards for loans offered by the World Bank itself and have to demonstrate high economic rates of return and compatability with sound development.

IDA finances development projects and programs in the poorest countries in the world by providing long-term credits at highly concessionary rates (50-year repayments after a 10-year grace period with a service charge of .75 percent to cover administrative costs). No country with a per capita income above $600 is eligible to borrow from IDA.

This means that we are really dealing with poor countries.

Ninety percent of its lending goes to countries with a per capita income below $300, mostly the extremely poor areas of Africa and South Asia. In addition, IDA's lending policy stresses projects which directly benefit the poorest 40 percent of the income earners in the borrowing country. Without IDA, these poor countries would be unable to finance the projects that are critically needed to improve the nutrition, health and lives of the world's poorest people.

During 19 years of operation through 1979, IDA has lent $16.7 billion to poor countries without any defaults. These loans are paid back.

Its operations have emphasized agriculture and rural development and transportation with the heaviest concentration of its lending in South Asia and sub-Saharan Africa. To these poor countries of Africa and Asia, IDA represents the main hope of changing their conditions. These countries are unable to attract capital from private sources and, consequently, are dependent upon concessional aid. Their domestic infrastructures are so limited that they have little potential in the near term for attracting foreign investment or for developing rapidly growing exports to pay for their import requirements.

In terms of purposes of the lending agreement was reached that IDA's main thrust will continue to be on agriculture and rural development. What makes a backward country less backward as time goes on? Obviously, rural development and agriculture, which are the basis of the superstructure of industry that may follow. The proportion of IDA lending going to these sectors will further increase to 29 percent by fiscal year 1983. Financing of energy projects will also expand to 10 percent of IDA lending by fiscal year 1983. The oil production resulting from these projects should increase world oil supplies, thus reducing pressure on price as well as reducing the financial burden on developing countries of oil imports.

The African Development Bank. Title II of this bill authorizes subscription of $360 million for U.S. membership in the African Development Bank, of which only $90 million is to be paid in. The other $270 million, callable capital, is unlikely ever to result in outlays. It is simply a guarantee which allows the Bank to go into private capital markets and borrow at prevailing rates. This institution was established in 1964 to make loans on near-market terms in economic and social development of its African members and to encourage regional cooperation. Up to the present, its membership has been limited to African countries. This is partly a result of sensitivity to previous colonial relationships with European countries. In 1974, the African countries took a first step toward multilateral cooperation with the industrial countries by establishing the African Development Fund to provide concessional aid to the poorest African countries. We joined the African Development Fund in 1976 with a contribution of $15 million.

In 1979, the Governors of the AfDB agreed to invite non-African countries to join the Bank. The proposed U.S. subscription would represent 5.7 percent of the Bank's capital and 17 percent of the share of nonregional members. For every dollar we put in, other non-African countries are putting in almost five. Japan is taking 14 percent, Germany has 11 percent, and France has 10 percent of the total nonregional subscriptions.

I believe that U.S. participation in the Bank is an important demonstration of our support for African development. This is a continuation of our efforts already underway in our bilateral aid programs and through IDA and the World Bank to increase our commitment to African development and to build upon the dramatic improvement in our relations with Africa that have taken place over the past several years.

Sub-Saharan Africa is politically volatile and economically extremely poor. The rapid expansion of the African Development Bank will stabilize the region by strengthening the economies of these countries, by promoting Pan-African cooperation and by increasing Africa's access to external capital. Sub-Saharan countries such as Zambia, Zimbabwe, Botswana, Malawi, and Tanzania have fantastic mineral resources. They have fantastic possibilities for agriculture of a highly diversified kind, because there are many climates.

I have been to central Africa, and I cannot help thinking how much can be done with it if one only had the capital to pour in—whether to explore for molybdenum, for copper, for chromium, for diamonds—for all kinds of things that the world needs, as well as for agricultural development.

The idea of having a huge ranch some day in Botswana is very attractive, because that is a great country for ranching. But they do not have the money to put into ranching.

These possibilities for development in sub-Saharan Africa always stir my imagination.

Insofar as the African Development Bank can make some of these dreams come true for the people of those countries, I am very much in support of such a bank.

Many of the African countries are too poor to be creditworthy on their own terms. The callable capital provided for in this bill provides a mechanism—the African Bank—that will allow private capital resources to be channeled into the African countries. These resources will be an important factor in assisting recipient countries to diversify their economies and to establish the basis for growth in the 1980's and 1990's.

Mr. President, IDA and the AfDB represent the types of multilateral institutions that are worthy of our strongest support. As a nation that is a citizen among other nations of the world, we owe it to the rest of the world, not only because of the economic growth they stimulate in recipient countries but also because of the very tangible benefits they bring to our own economy.

I urge my colleagues, therefore, to support the passage of S. 2422.

Mr. CHURCH. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Are there further amendments?

Mr. CHURCH. Mr. President, I do not know of any further amendments, but just to make certain on that score, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I have been informed by the staff representing both sides of the aisle that no Senator has notified us of any further amendments.

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Missouri (Mr. DANFORTH), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators desiring to vote?

The result was announced—yeas 53, nays 24, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—53

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Jackson
Johnston
Kassebaum
Leahy
Levin
Lugar
Matsunaga
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Pell
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stevenson
Stewart
Stone
Tower
Tsongas
Weicker
Williams

NAYS—24

Armstrong
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
DeConcini
Garn
Hatch
Helms
Humphrey
Jepsen
Laxalt
Long
McClure
Melcher
Proxmire
Randolph
Roth
Schweiker
Simpson
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—23

Baker
Bayh
Bellmon
Cranston
Danforth
Dole
Eagleton
Goldwater
Gravel
Hart
Hatfield
Inouye
Javits
Kennedy
Magnuson
Mathias
McGovern
Moynihan
Nelson
Percy
Stennis
Stevens
Talmadge

So the bill (S. 2422), as amended, was passed, as follows:

S. 2422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 101. The International Development Association Act, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

"SEC. 17. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $3,240,000,000 as the United States contribution to the sixth replenishment of the Resources of the Association: *Provided, however*, That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $3,240,000,000 for payment by the Secretary of the Treasury.

"(c) Payment of the first installment of the United States contribution to the sixth replenishment of the Resources of the Association shall not exceed $939,600,000.".

TITLE II—AFRICAN DEVELOPMENT BANK

SEC. 201. This title may be cited as the "African Development Bank Act".

SEC. 202. The President is hereby authorized to accept membership for the United States in the African Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.

SEC. 203. (a) The President, by and with the advice and consent of the Senate, shall appoint a governor and an alternate governor of the Bank. The term of office for the governor and the alternate governor shall be five years, subject at any time to termination of appointment or to reappointment. The governor and alternate governor shall remain in office until a successor has been appointed.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a governor or alternate governor, except for reasonable expenses to attend meetings of the Board of Governors.

SEC. 204. (a) The governor, or in the governor's absence the alternate governor, on the instructions of the President, shall cast the votes of the United States for the director to represent the United States in the Bank.

(b) The director or alternate director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, will not exceed those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.

SEC. 205. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Bank under paragraphs (5) and (6) of section 4 of said Act, as amended, shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Bank.

SEC. 206. Unless authorized by law, neither the President, nor any person nor agency shall, on behalf of the United States—

(a) subscribe to additional shares of stock of the Bank;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(c) make a loan or provide other financing to the Bank, except that funds for technical assistance may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 207. Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 208. (a) The President is authorized to agree to subscribe on behalf of the United States to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank: *Provided, however,* That the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) There is hereby authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the initial United States subscription to twenty-nine thousand eight hundred and twenty shares of the capital stock of the African Development Bank, $359,733,570.

(c) Any payment or distributions of moneys from the Bank to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 209. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in title 28, section 460, United States Code, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may at any time before the trial thereof, remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

SEC. 210. The agreement, and particularly paragraph 5 of article 49 and articles 50 through 59, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration as provided in article 64 paragraph 3 of the agreement that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to United States citizens or nationals.

SEC. 211. The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is further amended by striking the word "or" after the words "the Inter-American Development Bank" and inserting a comma in lieu thereof, and by inserting after the words "the Asian Development Bank" the words "or the African Development Bank".

SEC. 212. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 9 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 7, paragraph 4(a), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of paragraph (a)(2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a)(12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

SEC. 213. Section 701(a) of Public Law 95–118 (22 U.S.C. 262d), is amended by striking the word "and" following the words "the African Development Fund" and inserting the words ", and the African Development Bank," following the words "the Asian Development Bank".

SEC. 214. Section 801(a) of Public Law 95–118 (22 U.S.C. 262f) is amended by striking the word "and" following the words "the African Development Fund" and inserting the words ", and the African Development Bank," following the words "the Asian Development Bank".

SEC. 215. Section 51 of Public Law 91–599, as amended (22 U.S.C. 276c–2) is further amended by striking the word "and" following the words "the Asian Development Bank" and inserting the words ", and the African Development Bank," following the words "the African Development Fund".

TITLE III—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND ASIAN DEVELOPMENT BANK

SEC. 301. Section 27(a)(2) of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286e–1f), is further amended by striking "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated." and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts."

SEC. 302. Section 22(a) of the Asian Development Bank Act, as amended (22 U.S.C. 285s), is further amended by striking "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated." and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.".

TITLE IV—EFFECTIVE DATE AND AVAILABILITY OF FUNDS

SEC. 401. This Act shall take effect upon enactment, except that funds authorized to be appropriated by any provision contained in titles I or II are not available for use or obligation prior to October 1, 1980.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, does the Chair recognize the Senator from Massachusetts?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts.

Mr. President, the bills we have considered today—S. 2727, S. 2271, and S. 2422—deal with a number of programs that affect the implementation of American foreign policy. We are more and more conscious of the ways in which foreign affairs impinge upon our daily lives. Informed and considered debate on these issues contributes to this Nation's welfare and security.

I would like to congratulate the managers of the bills, the distinguished Senator from Idaho, Mr. CHURCH, chairman of the Foreign Relations Committee, and the distinguished Senator from California, Mr. HAYAKAWA, on their able handling of these important measures. Their careful preparation has been evident throughout the day and their expertise in debating these measures has expedited the Senate's work.

I would like to thank other Senators

who have participated in the debate and the staff members whose work contributed to these bills by the Senate today.

Mr. President, I have seen the time when these measures would have taken several days. I think that the fact that the measures have been expedited today in such a manner indicates the very thorough work that is done in the Foreign Relations Committee preliminarily, which reduces the friction and the controversy on the floor.

I congratulate the distinguished chairman of the committee for his comprehensive treatment of these measures in committee. I also want to thank him on behalf of the Senate and express my appreciation at the same time to Mr. JAVITS, the ranking member of the committee, on the fact that the work done in committee has a very telling and beneficial effect on the floor work when the measures are taken up.

Mr. CHURCH. Mr. President, I thank the Senator very much for his remarks.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Massachusetts will continue to yield, I, on behalf of Mr. KENNEDY, ask unanimous consent that H.R. 5200, a message from the House, be read twice and placed on the calendar.

Mr. GARN. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

The bill, therefore, will have its first reading.

The assistant legislative clerk read as follows:

H.R. 5200. An act to amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, will the Chair state what happens to the bill?

The PRESIDING OFFICER. The bill, having received its first reading, will be held at the desk pending an adjournment of the Senate and its second reading.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, if the Senator will continue to yield, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 855, Senate Resolution 441, the waiver resolution, which will enable the Senate then to proceed to the consideration of Calendar Order No. 803, and I make the same request for it following the waiver reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 441) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5892.

Mr. GARN. Mr. President, on behalf of the minority, we have no objection to this calendar item.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

The resolution is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5892. Such waiver is necessary because H.R. 5892, the Wind Energy Systems Research, Development, and Demonstration Act of 1979, authorizes appropriations for fiscal year 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WIND ENERGY SYSTEMS COMMERCIALIZATION AND UTILIZATION ACT OF 1979

The PRESIDING OFFICER. The clerk will now report the next measure.

The assistant legislative clerk read as follows:

A bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Wind Energy Systems Commercialization and Utilization Act of 1979".

FINDINGS

SEC. 2. The Congress finds and declares that—

(a) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(b) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand on existing non-renewable fuel and energy supplies;

(c) the use of wind energy for certain applications has already proven feasibly economical;

(d) an aggressive commercialization program could provide an assured and growing market for wind energy during the next decade, and maximize the future contribution of wind energy to this Nation's future energy production;

(e) it is the proper and appropriate role of the Federal Government to undertake such a commercialization program in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies; and

(f) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment.

PURPOSE

SEC. 3. The purpose of this Act is to establish the following wind energy program objectives—

(a) to reach by fiscal year 1986, the installation to the maximum practicable, of the maximum megawatt capacity in the United States from wind energy systems which are life-cycle cost effective in comparison with conventional energy sources;

(b) to reduce by the end of fiscal year 1986, the average cost of electricity produced by installed wind energy systems to a level competitive with conventional energy sources;

(c) to accelerate the growth of a commercially viable and competitive industry to make wind systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(d) to reduce fossil fuels costs to the Federal Government; and

(e) to stimulate the general use within the Federal Government of methods for the minimization of life-cycle costs; and to develop performance data on wind systems.

DEFINITIONS

SEC. 4. For the purposes of this Act—

(1) the term "Secretary" means the Secretary of the Department of Energy;

(2) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others;

(3) the term "wind energy system" means a system of components, or a series of systems, which converts the kinetic energy of the wind into electricity or mechanical power, including all components necessary to provide electricity or mechanical power for individual, agricultural, commercial, industrial, or governmental use and use by utilities;

(4) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts at a wind speed of twenty miles per hour;

(5) the term "Federal facility" means any building, any commercial, agricultural, or industrial complex, or any device, and the land necessary for such building, complex or device, and includes facilities connected with programs administered by Federal agencies;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "cost-effective" means the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using noninflating dollars, marginal fuel costs as determined by the Secretary, and a real discount rate of 3 per centum per year. The marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 10 per centum of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the least cost new supply which would have been charged by the utility in the service area supplying the facility. Least cost new supply may, if appropriate, include externally purchased power and demand management. In the case where new capital is required the assumption shall be that the new capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

WIND ENERGY SYSTEMS COMMERCIALIZATION PROGRAMS

SEC. 5 (a) The Secretary shall establish such commercialization programs as the Secretary determines are necessary to meet the purposes of this Act, including programs—

(1) to promote and accelerate research, development, field experimentation, and commercialization of wind energy systems and components thereof; and

(2) to coordinate Federal efforts to accomplish the objectives outlined in section 3.

(b) In carrying out the provisions of this section, the Secretary shall establish a program to allow public or private entities wishing to install a wind energy system in conjunction with any new or existing facility or to undertake a project to facilitate the utilization of a wind energy system, to apply for Federal assistance in investigating, designing, fabricating, testing, purchasing, installing, and marketing such wind energy system.

(c) In carrying out the provisions of this section, the Secretary is authorized—

(1) to enter into agreements with any entity applying under subsection (b), based on the need to obtain scientific, technological, economic, market, environmental, and safety information from a variety of wind energy systems under a variety of circumstances and conditions, on land and offshore, for the investigation, design, purchase, fabrication, testing, installation, and commercialization of such a system, as well as the identification of suitable sites for wind installations;

(2) to provide as part of any agreement entered into under paragraph (1), loans to cover the estimated difference in costs between a wind energy system and available conventional power sources at the time the loan is to be made. Such estimated cost difference shall be determined in the following manner:

(A) In the case in which the wind energy system represents a displacement for conventional fuels, such difference in cost shall be considered to be the difference between the annual capital, operation, and maintenance costs of the wind energy system, which, for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system, and the annual cost of available conventional fuels;

(B) In the case in which the wind energy system represents base-load generating capacity, the difference in cost shall be considered to be the difference in power production costs between the power produced by the wind energy system, which for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system, and power produced by available conventional fuels;

(C) The percentage of the purchase and installation costs of such wind energy system covered by such loan shall be set as to cover the cost differential between the wind energy system and available conventional power sources as determined in paragraphs (A) and (B);

(D) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system is energized into the electrical system; and

(E) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

(3) to enter into such contracts and make such grants or cooperative agreements as may be necessary or appropriate for the development of wind energy systems including the field experimentation of prototype systems for commercial production and utilization, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906, 5907 and 5908) and with procedures established in conjunction with subsection (b);

(4) to enter into arrangements with appropriate Federal agencies to carry out such projects and activities with respect to Federal facilities as may be appropriate for the development, field experimentation, and commercialization of wind energy systems which are suitable and effective for use in Federal facilities; and

(5) to undertake other programs and activities which further the purposes of this Act.

(d) For the purposes of paragraphs (c)(3), (4), and (5), title to and ownership of the wind energy systems constructed or installed, or both, under the provisions of this section may be conveyed to purchasers of such systems under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of any such wind energy system for a period of five years and that such purchaser (including any subsequent owner of the system) shall regularly furnish the Secretary with such reports on such system as the agreement may require.

(e) For the purposes of this section, with the exception of subsections (c) (1) and (2), the Secretary shall terminate Federal subsidization of purchases of wind energy systems by profitmaking entities when the Secretary determines that wind energy systems have become competitive with conventional energy sources, or September 30, 1986, whichever occurs first.

CRITERIA FOR PROGRAM SELECTION

SEC. 6. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this Act and which are set in accordance with the following criteria:

(a) The construction, operation and maintenance of costs of wind energy systems shall be minimized;

(b) Programs established under this Act shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems; and

(c) Priority shall be given in the conduct of programs established under this Act to those projects in which funds are provided by private, industrial, agricultural, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING AND LIAISON

SEC. 7. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when appropriate) as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of section 3.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this Act are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure subject to 5 U.S.C. 552 and 18 U.S.C. 1905 that full and complete information with respect to any program, project, or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 8. The Secretary of Energy shall—

(a) initiate and conduct a "Federal applications study for Wind Energy Systems", cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems of specific Federal facilities; and this study shall—

(1) include an analysis which determined those sites that are currently cost-effective for wind energy systems as defined by section 4(6), as well as those which would be cost-effective at expected future market prices;

(2) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary.

(A) the Department of Defense;

(B) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(C) the Department of Commerce;

(D) the Department of Agriculture; and

(E) the Department of the Interior.

(3) provide a preliminary report to the Congress within nine months following the enactment of this Act; and

(4) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months following the enactment of this Act;

(b) initiate and conduct a study of the effects of the widespread utilization of wind energy systems on the existing electrical utility system;

(c) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(d) in carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject. The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or other Federal Agency with those required under this section to avoid any unnecessary duplication of effort or funding.

FEDERAL WIND UTILIZATION PROGRAM

Sec. 9. (a) There is hereby established a wind energy utilization program for the accelerated procurement and installation of wind systems for power production in Federal facilities.

(b) The program established by subsection (a) shall provide for the acquisition of wind systems by the Secretary or other Federal agencies under delegation from the Secretary for their use by Federal agencies. The acquisition of wind systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary or other Federal agencies under delegation from the Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

(c) The Secretary shall administer the program established under this section and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of wind systems pursuant to this section shall not interfere with defense-related activities;

(2) implement practices to monitor and assess the performance and operation of wind systems installed pursuant to this section; and

(3) report annually to the Congress on the status of the program.

(d) (1) The Secretary shall establish, within sixty days after the date of the enactment of the Act, a wind systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this Act. In acquiring wind energy systems under this section, the Secretary, or other Federal agencies under delegation from the Secretary, need not require that such systems be life-cycle cost effective at the time of purchase, but that, to the maximum extent practicable, by the making of the purchase there is a probability that they could become life-cycle cost effective in the future and shall schedule purchases in a manner which shall stimulate the early development of a permanent low-cost private wind production capability in the United States, and to stimulate the private sector market for wind systems.

(2) Nothing in the section shall preclude any Federal agency from directly procuring a wind system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall notify the Secretary before procuring such a system.

(e) (1) There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this section.

(2) Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

SMALL BUSINESS SET-ASIDE

Sec. 10. Not less than 30 per centum of the total dollar amount of all contracts and grants, awarded pursuant to sections 5 and 9 of this Act for the procurement of goods and services shall be reserved exclusively for small business concerns, unless the contracting officer is unable to obtain two or more small business concerns that are competitive in terms of the demands of any particular grant or contract.

AUTHORIZATION OF APPROPRIATIONS

Sec. 11. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980, the sum of $100,000,000 to be used for the programs authorized in this Act.

UP AMENDMENT NO. 1155

Mr. ROBERT C. BYRD. Mr. President. on behalf on Mr. Jackson, I offer several amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Mr. Jackson, proposes an unprinted amendment numbered 1155.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, lines 7 and 8 strike the words "In carrying out the provisions of this section, the Secretary is authorized—" and insert in lieu thereof the words "In carrying out the provisions of this section, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts—".

On page 25, in line 23 strike the words "made. Such" and insert in lieu thereof the words "made: *Provided*, however, that the Secretary in his sole discretion may provide loans for the total purchase and installation costs of wind energy systems providing in the aggregate up to three hundred and twenty megawatts peak generating capacity: *Provided further*, however, that at a minimum, thirty per centum of the amount of loans for such total costs shall be for small wind energy systems. The"

On page 26, in line 8 and in line 18 and 19 delete the words "which the Secretary determines is" and insert in lieu thereof the words "unless the Secretary determines it is not".

On page 36, line 11 strike the word "1980" and insert in lieu thereof the word "1981".

On page 36 after line 13 insert a new title embodying the text of S. 1830 as passed by the Senate on January 25, 1979, as follows:

TITLE II

That this Act may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act".

FINDING AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) a strong and innovative industry committed to the commercialization of ocean thermal energy conversion must be established; and

(5) it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion.

(b) Therefore the purpose of this Act is to—

(1) establish as a goal the demonstration of an electrical and energy product equivalent capacity of at least one hundred megawatts from ocean thermal energy conversion systems by 1986;

(2) establish as a goal the demonstration of an electrical and energy product equivalent capacity of at least five hundred megawatts from ocean thermal energy conversion systems by 1989;

(3) establish as a goal the reduction of the average cost of electricity and energy product equivalent produced by installed ocean thermal energy conversion systems to a level competitive with conventional energy sources by the end of fiscal year 1993;

(4) establish as a national goal an electrical and energy product equivalent capacity of ten thousand megawatts from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PLAN AND PROGRAM

Sec. 3. (a) The Secretary is authorized and directed to prepare a comprehensive plan and program for the conduct of the research, development, and demonstration activities under sections 4 and 5. Such plan and program shall include at a minimum—

(1) a detailed description of the functional organization of the program management;

(2) a presentation of the program strategy, including identification of milestones and critical paths, which will be used to achieve the purposes of this Act;

(3) a five-year program implementation schedule with associated budget and program management resources requirements;

(4) risk assessments;

(5) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(6) an analysis of the environmental acceptability of ocean thermal energy conversion facilities.

(b) The Secretary shall transmit such comprehensive plan and program to the Congress by June 30, 1980.

RESEARCH AND DEVELOPMENT

Sec. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) heat exchangers;

(2) interface requirements between the platform and cold water pipe;

(3) cold water pipe development techniques;

(4) control system simulation;

(5) stationkeeping testing; and

(6) energy delivery systems for electrical power and energy products.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

DEMONSTRATION

Sec. 5. (a) The Secretary is authorized and directed to initiate a program to design, construct, and operate ocean thermal energy conversion facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of an electrical and energy product equivalent operating capacity of at least one hundred megawatts with expansion capability to at least two hundred megawatts by the year 1986;

(2) the demonstration of an electrical and energy product equivalent capacity of at least five hundred megawatts from ocean thermal energy conversion systems by 1989;

(3) the delivery of baseload electricity to utilities located on land or other end use applications and the production of commercial quantities of energy product; and

(4) the continuous operation of each demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) To facilitate development of a strong industrial basis for the commercialization of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected to achieve the goals of this section.

COMMERCIALIZATION

Sec. 6. (a) The Secretary is authorized and directed to prepare a comprehensive commercialization plan that will permit realization of the ten thousand-megawatt national goal by 1999. Such plan shall include at a minimum—

(1) the identification of the efforts necessary to establish a sufficient industrial infrastructure to meet the national goal;

(2) analysis of the necessary government actions to aid the industry in minimizing and removing any legal and institutional barriers such as establishment of a single regulatory authority, designation of a lead agency, or other means; and

(3) an assessment of the necessary government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) As part of the competitive procurement initiative for design and construction of the demonstration projects authorized pursuant to section 11, each respondent shall include in its proposal (1) a plan leading to a full-scale, commercial facility based on the proposed demonstration system; and (2) a commercialization strategy which includes the respondent's plans for future participation toward meeting the national goal.

(c) The Secretary shall transmit such comprehensive commercialization plan to the Congress within six months after receipt by the Secretary of the proposals pursuant to subsection (b) of this section but in any event within two years after the date of enactment of this Act.

PROGRAM SELECTION CRITERIA

Sec. 7. The Secretary shall, in fulfilling his responsibilities under this Act, structure the program and set priorities consistent with the following criteria:

(a) Realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(b) Priority for proposals which demonstrate a viable, long-term commitment by the respondent to the development of ocean thermal energy conversion technology and intent to become an integral part of the industrial infrastructure necessary to meet the goals of this Act;

(c) Encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems; and

(d) Promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply.

ADVISORY COMMITTEE

Sec. 8. (a) There is hereby established an Ocean Thermal Energy Conversion Advisory Committee, which shall, at a minimum, study and advise the Secretary with regard to—

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(b) The Committee shall be composed of at least seven members appointed by the Secretary from industrial, academic, financial, legal, and labor organizations and such other entities as he deems appropriate. The appointments shall be made within ninety days after enactment of this Act. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least four times annually notwithstanding section 10 (e) and (f) of Public Law 92–463, until such time as the demonstration program goals in section 5 are met.

(e) The Committee shall prepare and submit annually to the Secretary a report. Such report shall include at a minimum—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the program mandated by this Act; and

(3) suggestions for improvements in the comprehensive plan and program described in section 3 and the commercialization plan described in section 6.

(f) The Secretary shall provide adequate staff and other support and shall insure that funds are available to enable the Committee to carry out its functions pursuant to this section.

REPORTS

Sec. 9. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95–91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) a current comprehensive plan and program for implementing this Act;

(b) an evaluation of the state of ocean thermal energy conversion system research and development in the United States;

(c) a description of the contracts and grants made under this Act;

(d) an analysis of the progress made in commercializing ocean thermal energy conversion system technology; and

(e) suggestions for improvements in ocean thermal energy conversion system research and development, including recommendations for legislation.

DEFINITIONS

Sec. 10. As used in this title, the term—

(a) "ocean thermal energy conversion" means a method of converting part of the heat which is stored by the sun in the surface layers of the ocean into electrical energy or energy product equivalent;

(b) "energy product equivalent" means an energy carrier such as ammonia, electrometals, hydrogen, or molten salts used to transport ocean thermal energy conversion generated energy to shore for use in generation of electricity or as an energy-intensive commodity; and

(c) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

Sec. 11. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $25,000,000 for operating expenses for the fiscal year ending September 30, 1981.

(b) Funds are hereby authorized to be appropriated to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81–ES–1, Ocean Thermal Energy Conversion Demonstration Plants with an electrical and energy product equivalent capacity of at least one hundred megawatts sites to be determined, conceptual and preliminary design activities only, $15,000,000.

● Mr. JACKSON. Mr. President, the amendments that I am offering relate to three separate issues. In keeping with the Budget Committee request, we have made two changes regarding the fiscal year 1980 authorization and the inclusion of a particular phrase pertaining to the Secretary's contract authority vis-a-vis appropriations acts.

Two amendments to the bill deal with loan programs under section 5(c)(2) of the bill. One amendment permits the Secretary to make loans for the total cost of purchase and installation of wind energy systems which in the aggregate would provide up to 320 megawatts of peak generating capacity. However, there is a limitation that 30 per centum or more of the amount of loans for the total cost of purchase and installation are to be set aside for small wind energy systems where small is intended to mean wind machines with a generating capacity of 100 kilowatts or less. Another change requires the Secretary to make a negative determination regarding inclusion of the costs of transmission systems in the cost of the wind energy systems.

Finally, Mr. President, I have amendments which add the text of S. 1830 as passed by the Senate to this bill and which amend the title to broaden the purpose of the bill. Hopefully, this step will insure an early conference on the OTEC legislation in the event that the companion bill in the House is not successfully considered.●

Mr. GARN. Mr. President, the minority has no objection.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I am extremely pleased that we are able to consider today H.R. 5892 pertaining to wind energy. We know, Mr. President, that the winds will blow for as long as the Sun shines, and, I might add, as long as the Senate will debate. Wind energy is one of the most promising renewable energy resources for early widespread use. The widespread use of wind energy systems can help us to replace oil-fired electric generating plants, which are becoming prohibitively expensive to operate. We as a nation must sever our umbilical dependence on OPEC at the earliest possible date. Major usage of our renewable resources can hasten that day.

Mr. President, the administration has conducted a domestic policy review of renewable energy resources to determine what contribution such resources could make by the year 2000. I am extremely pleased to note that the administration has determined that 20 percent of our total energy needs can be produced from renewable resources by the year 2000. I believe this is a truly achievable goal for the United States; however, I would be sorely disappointed if the State of Hawaii derived only 20 percent of its total energy from renewable resources by the year 2000.

It is my optimistic expectation, Mr. President, that the State of Hawaii will be the first in the Nation to become energy self-sufficient by use of renewable resources by the year 1900, or shortly thereafter. I hope that we can make the State of Hawaii a model for our Nation in our movement toward the use of renewable resources in place of oil. The Governor, the State Legislature and the people of Hawaii are fully committed to accept this role. As part of an integrated statewide plan, we have just completed construction of a 200 KW Mod-0-A wind turbine in Hawaii on the island of Oahu.

Mr. President, this is not the first time that the Senate is considering wind energy legislation. In fact, the Senate included title VIII, in S. 932, the Defense Production Act, when it passed the Senate on November 8, 1979, the bill before us today, H.R. 5892, as amended by the Energy and Natural Resources Committee, again contains the text of title VIII as it passed the Senate. With the inclusion of amendments, en bloc, which the minority of the committee has agreed to, and which I will offer shortly, I believe the Senate bill will offer positive incentives to the commercialization of both large and small wind energy systems.

The House passed H.R. 5892 on December 4, 1979. At the request of the House conferees on S. 932, title VIII was deleted from S. 932 in conference in order that the text of H.R. 5892 could be formally in conference with a Senate-passed version.

In the interest of comity, the Senate conferees agreed to drop title VIII, and it is for the purpose of achieving a separate conference on wind energy legislation that the Senate Energy Committee now brings H.R. 5892 to the floor. We hope for quick passage of this bill with a successful conclusion of a conference at an early date. Our aim is to insure that adequate incentives are provided to hasten the widespread use of our vast wind energy resources.

The committee amendment in the nature of a substitute contains several important incentives for both small and large wind energy systems. The Secretary is directed to establish a commercialization program. In particular, he is authorized to provide loans for the differential cost between a wind energy system and conventional power sources at a reduced interest rate. The Secretary is also authorized to enter into cooperative agreements and contracts and to make grants for the field demonstration of wind energy systems. Further, he is authorized to enter into interagency arrangements for utilization of wind energy systems in conjunction with Federal facilities.

Section 9 of the bill specifically establishes a detailed Federal wind energy utilization program for accelerated installation of wind energy systems at Federal facilities. The main objective of this program is to create a large enough market to achieve the "learning curve" production capability to bring the cost of wind energy systems down to a life cycle cost-effective price in relation to conventional energy sources.

Mr. President, I believe that with the amendments which I will offer shortly the Senate bill provides the requisite commercialization mechanisms to achieve the goal of widespread utilization of wind energy in the decade of the eighties. However, there are certain provisions of the House bill which we may want to adopt in conference once we have had them fully explained.

It is with enthusiasm that I look forward to enactment of this legislation. We must do all that we can as a country to reduce our national dependence on foreign oil, which is unstable in price and supply. It is imperative that we of the Congress assume a leadership role in providing the necessary incentives to make alternative energy sources, such as wind, a major component of our Nation's energy supply in the next 20 years.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (UP 1155) were agreed to, en bloc.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I send an amendment to the title to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> Amend the title so as to read: "An Act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes."

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment to the title was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS—CONFERENCE REPORT

Mr. ROBERT BYRD. Mr. President, of the Senator from Massachusetts will indulge me just 1 minute additionally, on behalf of Mr. HART, I call up the conference report on S. 562 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 4, 1980.)

Mr. HART. Mr. President, the conference report on the Senate bill (S. 562) authorizes appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1964, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended.

This conference report, with its many safety-related reforms of the nuclear regulatory process, represents the first congressional legislative response to the accident at the Three Mile Island nuclear plant.

The accident at Three Mile Island has subjected the commercial nuclear power program to the most searching scrutiny to date by industry, government, and the general public. Never before have policymakers undertaken such a critical reassessment of the role nuclear power should play in this Nation's energy future.

The accident not only cast doubt about whether nuclear power can serve as a panacea for the Nation's energy ills and free us from a debilitating dependence upon foreign sources of energy, it also altered the complexion of the nuclear debate, in several ways:

It brought the debate squarely before a general public that previously had seemed willing to leave the dialog to the so-called experts.

It further polarized the positions of the most extreme advocates and opponents of nuclear power who proclaimed that the accident conclusively proved their respective positions.

It forced a reexamination of whether the economics of nuclear power compares favorably with the economics of other energy sources.

Most important, however, it established a new area of consensus that even the most extreme adversaries in the debate can occupy: That for so long as this Nation must rely on nuclear power to meet its energy needs, the regulatory mechanism must protect public health and safety to the greatest possible extent.

A major part of the post-Three Mile Island debate has centered around the NRC authorization bill for fiscal year 1980. The authorization bill served as the logical vehicle for a comprehensive congressional response to many of the glaring deficiencies in the regulation of nuclear power that were revealed by the accident.

The conference agreement before us today represents many months of hard work by House and Senate conferees. Unanimously approved by the conferees, the agreement incorporates a carefully crafted and balanced compromise on the provisions responding to the Three Mile Island accident.

By approving this conference report, the Senate not only will fulfill its authorization responsibility, but also will provide greater assurance that the continued operation of nuclear plants will not endanger public health and safety. This conference agreement, if appproved, will be the first nuclear regulatory reform bill sent to the President since the accident.

Although it will not resolve the fundamental questions about the national commitment to commercial nuclear power, the conference agreement prescribes important interim steps to be taken while the Congress and the public continue their reassessment of the Nation's nuclear policies.

Indeed, many of the regulatory reforms required by this bill, as passed by the Senate and amended by the House, anticipated the recommendations arising out of the investigations of the Three Mile Island accident by the President's Commission and the NRC's special inquiry group.

Let me summarize some of the key provisions in the conference agreement.

First, the agreement contains a provision, substantially similar to the one passed by the Senate last July, that requires the NRC to condition the granting of a new operating license upon the existence of an adequate plan for evacuation or other emergency response in the event of a serious nuclear accident.

The provision acknowledges the harsh lesson taught by the Three Mile Island accident: That operation of a nuclear plant cannot be considered entirely safe if an adequate plan does not exist for responding to nuclear accidents, including evacuation of area residents, if necessary. Specifically, this provision prohibits the NRC from issuing a new operating license unless:

First, the applicable State or local emergency response plan complies with NRC requirements, or

Second, the NRC determines that the State, local, or utility plan (or a combination) provides "reasonable assurance" that operation of the new nuclear plant will not endanger public health and safety.

The provision also directs the NRC to issue upgraded standards for State emergency plans, to review and assess the adequacy of emergency plans in States with nuclear plants in operation or under construction, and "to encourage and assist" States to comply with these new standards.

The conference report modifies the provision in the Senate-passed bill that explicity directed the NRC to condition continued operation of an existing plant upon NRC approval of the applicable State emergency response plan. The conference agreement remains silent on that issue, but by directing the NRC to "encourage and assist" States to comply with the Agency's upgraded standards, it permits the NRC to fully exercise its existing statutory authority to protect public health and safety by assuring that existing plants will have applicable to them adequate State emergency response plans.

The conferees intend that every nuclear plant ultimately should have applicable to it a State emergency response plan that protects the public from a nuclear accident.

Mr. President, the early lead taken by Congress to require that the NRC consider the adequacy of emergency response plans in determining whether operation of a particular plant protects the public health and safety already has produced significant results. At the time of the Three Mile Island accident, 16 States with 41 nuclear plants had no NRC-approved emergency response plans. Today, only one State with five plants under construction has no emergency response plan at all, while many others have accelerated efforts to upgrade their plans to comply with current interim standards and, ultimately, the anticipated NRC regulations required by this conference agreement.

Second, the conference agreement corrects a gross inadequacy in existing law by increasing from $5,000 to $100,000 the maximum civil penalty assessable for each violation of an NRC regulation, order or license condition. The current limit on civil penalties fails to deter sufficiently major NRC licensees from operating plants in violation of NRC regulations or orders when faced with the high cost of shutting down a reactor and purchasing replacement power.

Third, the compromise directs the NRC to develop new strict siting regulations requiring the construction of nuclear plants away from densely populated areas. The new regulations will require the NRC, in approving a reactor site, to consider the feasibility of evacuation and other emergency responses in the event of a serious accident at the nuclear plant.

Fourth, the conferees agreed to two related provisions that respond to allegations made during the past year about irregularities in the construction of several new nuclear plants.

These allegations included both intentional violations of NRC regulations and orders for assuring quality control during construction of a plant, and assault or intimidation of quality control inspectors. Consequently, the conference agreement includes a modification of an important amendment to the Senate bill, offered by the distinguished Senator from Indiana, Senator BAYH, and skillfully advocated in conference by the esteemed chairman of the Committee on Environment and Public Works, Senator RANDOLPH, that criminalizes a knowing and willful violation of an NRC safety-related rule, regulation, order, or license condition. A related provision makes it a Federal crime to kill, assault, or intimidate inspectors of nuclear plants.

Fifth, the conference agreement directs the NRC to conduct a systematic safety evaluation of all nuclear plants to identify those safety-related rules and regulations with which each operating plant does or does not comply.

Sixth, the conference agreement includes a revised version of the amendment offered by the distinguished Senator from Virginia, Senator BYRD, that makes sabotage against various nuclear facilities and materials a Federal crime.

Mr. President, the conference agreement also contains several provisions that will improve the capability of the NRC to respond to future emergencies.

It directs the NRC to prepare a plan for its own response to emergencies at nuclear plants;

It directs the President to prepare a plan for coordinating the response of all appropriate Federal agencies to emergencies at nuclear plants;

It directs the NRC to prepare a plan for instantaneous, remote monitoring or other timely communication of key safety readings from all operating nuclear plants;

It requires, as a condition of an operating license, that the owner or operator of a nuclear plant immediately notify the NRC of an accident;

It includes an amendment offered by the distinguished Senator from Arizona, Senator DECONCINI, giving the NRC new authority in certain emergency situations to suspend an agreement with an agreement State, until the emergency has subsided, so that the NRC might take necessary actions to protect public health and safety; and

It accelerates NRC's program for putting full-time inspectors at all nuclear plants by authorizing funds to hire 146 additional resident inspectors.

The conference agreement also includes a significant provision, first proposed by the distinguished Senator from Ohio, Senator METZENBAUM, requiring the notification of Governors before nuclear waste is shipped through their States.

Mr. President, the fact that such important reforms enjoy the unanimous approval of a conference committee reflects the diligent efforts and creative thinking of many legislators. I wish to acknowledge the dedicated work of my distinguished colleague, the junior Senator from Wyoming, Senator SIMPSON, the ranking minority member on the Nuclear Regulation Subcommittee. He has consistently brought to these issues a nondoctrinaire freshness of thought and dedication to public health and safety assures the fair representation of all interests. In addition, much credit goes to two fellow members of the conference committee, the distinguished Senators from New York and from New Mexico, Senators MOYNIHAN and DOMENICI, who have contributed important perspectives on the nuclear issues and have helped immeasurably to fashion this legislation.

Finally, and most important, I must recognize the esteemed chairman of the Environment and Public Works Committee and a valued member of the Subcommittee on Nuclear Regulation (Senator RANDOLPH). Few Senators have exerted such effort in wrestling with the many complex energy issues, including nuclear issues, that confront this Nation. Indeed, the very fact that this bill has achieved such substantial regulatory reform is a tribute to his political acumen and support.

Mr. President, although this legislation takes a substantial step toward protecting the public against future Three Mile Islands, it does not exhaust the agenda of unresolved policy questions having profound implications for the future of commercial nuclear power in this country. Congress must now focus on these problems.

It must decide how best to assure that we do not leave to our children the problem of safely and permanently disposing of nuclear waste.

It must decide whether the nuclear industry needs the continued protection of the Price-Anderson Act, which imposes a $560 million limit on the liability of a utility for the damages caused by a nuclear accident, a limit not changed since 1957.

It must decide whether a regulatory philosophy that permits a utility and its contractors to conduct their own quality assurance/quality control programs adequately assures that nuclear plants under construction will comply with NRC safety specifications and regulations.

Most important, however, it must help to restore public confidence in Federal regulators charged with the weighty responsibility of protecting public health and safety. In the final analysis, the Congress can do no more, and the American people should expect no less.

Mr. President, the accident at Three Mile Island did not prove beyond doubt that nuclear power is either safe or unsafe. In the near future, at least, this country has little choice but to continue relying on nuclear power while it intensifies efforts to develop alternative energy sources and to promote energy conservation.

I do not entirely agree with science fiction writer Arthur C. Clarke that "Any sufficiently advanced technology is indistinguishable from magic." Nevertheless, the Three Mile Island accident does suggest a metaphor for our age: Can we control our technology or will it control us? Nuclear energy represents the most highly technical and sophisticated industry that modern science can produce. It poses unique challenges to our abilities to accurately quantify the risks society will accept. It forces us more precisely to define our moral obligations to future generations.

We must not move faster into the technological century than our human capacity to control technology will allow, else we risk losing human lives, doing incalculable damage to future generations and, at the very least, shattering the citizen's confidence in his ability to control his own destiny.

Mr. President, I urge my colleagues to approve the adoption of this conference agreement on the NRC authorization legislation for fiscal year 1980.

Mr. RANDOLPH. Mr. President, I commend two colleagues for extraordinary dedication and perseverance. Senators GARY HART and ALAN SIMPSON, chairman and ranking member of the Subcommitte on Nuclear Regulation, deserve the gratitude of this body for their 18-month effort to enact an NRC authorization bill for fiscal 1980.

The accident at Three Mile Island in March of last year made enactment of S. 562 exceedingly difficult. In the Senate and the House of Representatives, Members sought to address issues raised by the accident in the context of this bill.

I believe the product of this process successfully balances the need to expeditiously address certain questions with the need for a responsible and deliberate approach. The bill's treatment of emergency planning for a nuclear accident represents a distinct advance in this long-neglected area.

Reason itself suggests the urgent need for emergency preparedness equally applies to both new and existing commercial nuclear powerplants. Planning in both cases must proceed on the assumption that accidents of varying degrees or severity can indeed occur. The respective States must come to terms with this task.

The Nuclear Regulatory Commission has in the last year become increasingly aware of and responsive to the importance of emergency planning to its responsibility to assure protection of public health and safety. The conference report is not intended to limit the Commission's existing authority to attend to this important matter.

Mr. President, I commend another colleague, Senator BIRCH BAYH, for his early attention to the problem of irregularities in the construction of nuclear powerplants. A disturbing pattern of such problems appears to be emerging.

The Senate adopted Senator BAYH's amendment in July 1979, to extend the criminal penalties authority available to the NRC to instances of knowing and willful violation of safety standards. As approved by the conferees, this provision will serve as an important deterrent to such violations in connection with the construction of commercial nuclear powerplants and the fabrication and supply of structures, systems, components, and parts of such a facility. In the interest of the predictability essential to the operation of a criminal provision, I urge the Nuclear Regulatory Commission to promptly establish the limits called for in the definition of the term "basic component".

Mr. President, the conference report on S. 562 merits the support of this body.

Mr. SIMPSON. Mr. President, I would like to obtain a clarification of one point in the statement of managers accompanying S. 562 from the Senator from Colorado the chairman of the Nuclear Regulation Subcommittee. The statement of managers states that the increased limits on civil penalties provided for in section 234 of the Atomic Energy Act of 1954 are also intended to apply to violations of section 206 of the Energy Reorganization Act of 1974, which specifically references the limits in section 234. I assume that the application of the increased civil penalty limits to violations of section 206 is based upon the same underlying rationale as that described in the statement of managers for section 234.

Mr. HART. The Senator from Wyoming is correct. As the statement of managers indicates, the increased civil penalty limits are intended to provide a stronger deterrent against violations by large corporate entities such as major NRC licensees that might otherwise have an economic incentive to commit a violation and incur a relatively low civil penalty. The application of the higher civil penalty limits to violations of section 206 is intended to be consistent with this underlying rationale.

Mr. SIMPSON. The statement of managers also described several factors that the conferees expect the Commission will consider in setting the amount of civil penalty under section 234. These include the gravity of the violation, good faith, the history of previous violations, and the financial impact of the fine on the licensee. Are these same factors, including the financial impact of the fine, intended to apply to the Commission's decisions in setting the amount of civil penalty under section 206, particularly where the civil penalty may be imposed for violations by individuals as opposed to organizations?

Mr. HART. Yes. The Commission has discretion in setting the specific amount of any civil penalty within the overall limits established by the bill. The conferees intend that the Commission, in exercising that discretion under both sections, specifically consider the factors enumerated in the statement of managers. This should insure that the civil penalties imposed are fair and appropriate to the violation, and that the Commission's civil penalty authority will provide an effective deterrent against possible future violations.

Mr. SIMPSON. I thank the Senator from Colorado for that clarification.

Mr. BAKER. Mr. President, there is one matter I would like to raise with the Senator from Colorado regarding the provision in S. 562 imposing a criminal penalty for the sabotage of certain nuclear facilities and materials. The provision provides for a criminal penalty against any person who willfully and intentionally destroys or causes physical damage to a covered nuclear facility or material, or who willfully and intentionally attempts such actions. There was a recent incident at the Browns Ferry nuclear plant, owned and operated by the Tennessee Valley Authority, in which several plant workers allegedly willfully struck one of the plant's control panels with the alleged intent of shutting down the plant. I understand that as a result of these actions, one of the reactors shut down automatically and safely. No actual physical damage was done to the plant. However, as a result of the shutdown, TVA incurred losses of about $2.8 million in replacement power costs. TVA consumers will have to pay these additional costs.

As I read the provision in S. 562, should a similar situation occur once the bill is enacted, a criminal prosecution may not be possible because no damage would have been done to the plant itself, even though the utility would have suffered substantial economic harm in the form of replacement power costs. Is that a correct reading of the provision?

Mr. HART. The Senator is correct. The provision would not support a criminal prosecution unless there occurred actual physical damage to, or destruction of, part of the facility, or unless it could be shown the person willfully and intentionally attempted to cause such damage or destruction.

Mr. BAKER. Mr. President, the type of situation that occurred recently at the Browns Ferry plant is very disturbing to me, and I believe it would be worthwhile to examine whether the provision in S. 562 might be modified at some point in the future to address actions with intent to cause substantial economic harm to a utility. Would the chairman of the Nuclear Regulation Subcommittee be willing to consider such a modification, if one can be developed, perhaps as part of the Senate's consideration of the fiscal year 1981 NRC authorization bill?

Mr. HART. I share the Senator's concern about the type of situation he has described, and I would be willing to consider such a modification to this provision, particularly if such acts are not adequately covered by existing State or Federal statutes.

Mr. BAKER. I thank the Senator from Colorado.

Mr. GARN. Mr. President, the minority has no objection to the passage of S. 562. It has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPROPRIATIONS TO THE NUCLEAR REGULATORY COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate House Concurrent Resolution 359.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 359) directing the Secretary of the Senate to make corrections in the enrollment of S. 562.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Without objection, the concurrent resolution is considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY TO PRINT ADDITIONAL COPIES OF HOUSE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 360.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 360, which will be stated by title.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 360) providing for the printing of additional copies of House Report numbered 96-1035.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 360) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION OF S. 2714 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with Mr. BAKER, the minority leader.

Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 783, a bill to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 5:30 p.m. today, and the Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank Mr. TSONGAS for his courtesy and his patience.

Mr. TSONGAS. Mr. President, I yield to the distinguished Senator from North Carolina.

NO FURTHER ROLLCALL VOTES TODAY

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

SUPPLY-SIDE TAX CUTS WORK

Mr. HELMS. Mr. President, I have noted a number of articles recently which have tended to disparage tax-cut proposals. Some have appeared in prominent publications. Most of the articles have cleverly set up a strawman to be knocked down—not an especially intellectually honest way to debate the wisdom of tax reductions.

Some writers have, in fact, suggested that those of us who have faith in incentives are under the impression that all tax-rate cuts will increase Government revenue. In other words, they accuse us of promising pie-in-the-sky tax rate reductions that will not only reduce the penalties on effort, but will provide more Federal money for various programs.

That is not the case. The real case for supply-side tax cuts is that money spent by people is more productive than money spent by Government. The real case is that people are willing to work so they can buy more things they want and need. People are not anxious to work to pay taxes.

With more rewards, people will work more, invest more, produce more and have more. The entire economy will grow—and with it, the tax base. A larger tax base means greater Federal revenues at lower rates than would be the case in a stagnant economy.

A larger, growing tax base means fewer people dependent on Government, more job opportunities, and a higher standard of living for all constructive participants in the economy.

Paul Craig Roberts addressed this issue in a recent article in the Wall Street Journal. He begins with a brief analysis of a recent issue of the Bulletin of the Federal Reserve Bank of Minneapolis and ends with the following statement:

> In the final analysis economists—whatever their school tie—who deny that relative prices and incentives change with marginal tax rates are just old-fashioned Keynesians.

Mr. President, I ask unanimous consent that Dr. Roberts' article, "Caricatures of Tax Cutting," from the April 24, 1980, Wall Street Journal, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARICATURES OF TAX-CUTTING

(By Paul Craig Roberts)

The Federal Reserve Bank of Minneapolis has given over its annual report to an attack on a "popular tax-cut proposal" known as the Kemp-Roth bill. Called "The Tax-Cut

Illusion," the report's cover shows a magician holding tax forms in one hand and scissors in the other. It doesn't pull any punches on the inside either: "A tax cut is often touted as the magical solution to our economic problems," but the proposed tax cuts are "slick stagecraft" and "pleasant illusions" that actually change things for the worse.

In case you don't know, the Minneapolis Fed is an outfit that believes the economy would do better with more incentives, not less. So what are they doing on the "wrong" side of the tax-cut issue? Did the Minnie Fed fall prey to a horde of Keynesians over the week-end? Was it an April Fool's joke? With my attention sufficiently grabbed, I read on.

As I did, I was relieved to see that the Minnie Fed wasn't really attacking tax cuts; it was attacking tax cuts matched with spending increases. What has happened is that opponents of the tax-cut movement, and some of the movement's friends, have rewritten its history and turned it into a caricature of itself.

Between critics anxious to pillory the movement and advocates intent on selling it (and themselves), the Kemp-Roth tax cuts have been draped in the "Laffer curve." As a result, some of Kemp-Roth's proponents have seemed to suggest that the more tax cuts, the more revenues, the more spending. It is this caricature of the tax-cut movement that is under attack.

STATIC REVENUE ESTIMATES

The tax-cut movement in the Congress wasn't based on getting all of the revenues back so the government could keep on spending. Much less were tax cuts advocated as a revenue-raising measure. The issue was whether you got any revenues back as a result of incentive effects operating on the supply side of the economy. The Treasury's static revenue estimates and the econometric models used by the Congressional Budget Office both said no.

The official line was that taxes only affected the demand side of the economy. By causing a deficit (or surplus) in the government's budget, tax changes raised (or lowered) aggregate demand thus expanding (or contracting) the economy. This left tax cuts as a weak fiscal policy tool. The government spending multiplier was always higher than the tax cut multiplier because the government could be relied upon to spend all the money it got its hand on, whereas taxpayers would save part of any tax cut.

In 1975 supply-siders began challenging this Keynesian view that tax cuts affected the economy only by affecting spending. They argued that lower tax rates meant higher after-tax rewards or better incentives to work, save and invest. As people responded to these incentives, the tax base would grow, thus "feeding back" some of the lost revenues to the Treasury. The savings pool would also grow, helping to finance—through government borrowing—the deficit remaining after revenue feedbacks.

These opposing views collided in the fall of 1976 when the Democrats, returning victorious from the elections, called for a third budget resolution for the fiscal year that had begun a few weeks earlier. All of a sudden the budget they had passed in October prior to the election was not stimulative enough. A $50 rebate and more government spending were needed to widen the deficit and keep the economic recovery going.

The Democrats expected the Republicans to be true to form as the party of austerity and to oppose the handout of goodies, but they walked into an ambush. Okay, said House Republicans, you say the economy needs more stimulus. Fine, only let's provide it on the supply side by cutting tax rates.

By then Republicans in the House had come around to the view that deficits were a fact of life as long as the Democrats controlled the Congress. The important question was how to compete politically and improve economic policy at the same time. In offering tax rate reductions as an alternative to increases in government spending the Republicans weren't saying that the deficit was unimportant, just that a minority party couldn't get anywhere being tax collector for the other party's spending programs. They adopted tax cuts as the program of a political party, leaving the deficit problem in the hands of the government where it belonged.

That began a fight which left as casualties all of the policy guises that Democrats had used to justify their spending and transfer programs. The spending machine suffered more damage when it was revealed that the Keynesian models used by the Congressional Budget Office and the Office of Management and Budget predicted that investment and GNP would fall if corporate tax rates were reduced. It was all too apparent that this was special pleading and not economic modeling.

With the Keynesian biases of the econometric models used to formulate economic policy exposed, Democrats were forced to admit that their models neglected the supply side incentive effects of fiscal policy. With this admission, out went the fiction that the government spending multiplier was more powerful than the tax cut multiplier. If stimulus was the goal, there was no longer a "scientific" reason for preferring an increase in government spending to a reduction in tax rates.

Republicans never offered tax cuts as an alternative to a balanced budget. The Kemp tax cuts were usually offered by Republicans on the Budget Committee as a substitute to budget resolutions that contained spending deficits justified in fiscal policy terms. The Republicans argued that tax cuts would provide the desired employment effects with a smaller net deficit as a result of supply-side revenue feedbacks. Often they wedded tax cuts to reductions in the growth of spending, narrowing the deficit even further. The balanced budget didn't become a political issue until big spenders were backed into a corner by the politics of generalized tax cuts and began talking the austerity language of Republicans to cover up their votes against tax reduction.

It's true, of course, that Republicans didn't always emphasize the implied reductions in the growth of spending that their program entailed. Neither did the Democrats emphasize the increased taxes that their handouts implied. But that's just politics—something that economists often overlook when they design ideal policies in a perfect vacuum.

Economic policy would improve if economist spent less time constructing ideal rules that are not in any politician's interest to follow, and gave some thought to the political process. Those economists who are attacking the tax cut movement for not antagonizing every organized spending constituency in the country aren't exactly stupid, but they are naive.

Still, they are right that the question whether a tax cut is real or an illusion is important. Some economists, including Milton Friedman and those at the Minneapolis Fed, claim that the real tax burden is measured by the total amount of resources that the government removes from the private sector by taxing and borrowing. Therefore, they say, a tax cut that is not matched dollar for dollar with a spending cut just means the government takes by borrowing what it formerly took by taxing.

The total resources claimed by government is a better measure of the tax burden than tax revenues alone. But some economists let this adding up of concrete resources blind them to another measure of the real tax burden—the production that is lost to disincentives. It is difficult to see the production that doesn't take place because the government has made it unprofitable, but it is nevertheless a part of the tax burden.

CHANGES RELATIVE PRICES

From the viewpoint of this more complete measure of the tax burden, a tax cut can be real even if it is not matched dollar for dollar with a spending cut. That's because a reduction in marginal tax rates changes relative prices. It causes people to shift into work out of leisure and into investment out of current consumption. These shifts will occur even if people expect that in the future taxes might be raised to pay off any government debt incurred by cutting tax rates. In the meantime, however, the additional work and investment expands the tax base; to make good on the deficit, future tax rates would not have to be raised as much as they were cut—if they need to be raised at all. Moreover, if the government did need more tax revenues in the future to pay off debts, it could raise them by some other type of tax, such as a consumption tax, which does not have the disincentive effects of higher marginal income tax rates.

The importance of the Kemp-Roth bill lies in its claim that fiscal policy works through relative price changes or incentives. This claim is not an assertion of the "Laffer curve."

In the final analysis economists—whatever their school tie—who deny that relative prices and incentives change with marginal tax rates are just old-fashioned Keynesians.

ADDRESS BEFORE NATIONAL CONVENTION OF AMERICANS FOR DEMOCRATIC ACTION

Mr. TSONGAS. Mr. President, I would like to share with my colleagues the speech I gave on Saturday to the national convention of the ADA regarding the present political climate to those of us who consider ourselves to be liberals.

It is not popular these days to be a liberal. Every narrow, special interest in Washington is building and attacking our caricature. Liberals, supposedly, are the dreamers—idealogues making Rube Goldberg-type contraptions to regulate the citizen.

The facts refute this cartoon. In the last two decades, which shaped my own set of values, liberals have seen this Nation and the world as it was. We have made practical, realistic changes to make it work better.

Look at the civil rights movement, the great moral challenge of the 1960's. To us, equal opportunity is a crucial principle, but it battled inch by inch with other principles. Reactionaries fought a rearguard action, using the principles of States' rights and property rights. With the help of many people here today, it became an unequal contest. There was no way that this country could withstand the demand for equal rights. A house divided—by color—could not stand.

The principle was that we ought not remain divided; the reality was that we could not.

Look at the Great Society, which aimed to share growing U.S. prosperity among all our citizens. Health care, voting rights, job training, early schooling, and other social programs were pushed through the Congress to help make the ideal of equality a reality.

The Great Society displaced the rhetoric of individual initiative with real chances for self-help and security.

Look at the Peace Corps, an international expression of our commitment to human dignity. The Peace Corps is an expression of American principles—but the bottom line is that it works. I spent 3 years in the Peace Corps, and I see other volunteers here today who put their time into this fresh idea. It remains a practical, powerful investment in peace and better lives.

Look at the antiwar movement, a powerful rejection of the traditional cold war view that we would support repressive and corrupt regimes with our guns and our lives if only they would spout the necessary anti-Communist rhetoric. This legacy of John Foster Dulles remains a threat to U.S. foreign policy.

The world of the 1960's was well-suited to the rationale of liberalism. At home, we marched to achieve a just society, then voted to build a great society. Abroad, we volunteered to serve peacefully, then marched against a war. To someone choosing a personal set of values in the 1960's, liberals were raising the important issues and working toward practical solutions.

Most of us here today remember those exciting years. But in a way, it is a shame that there are not more of you who do not—who are too young to have been participants or even observers. Fewer young people are joining the liberal cause in 1980 than in the 1960's. Our case seems less compelling now. We must look at the world with fresh eyes, and understand why.

The fact is that liberalism is at a crossroads. It will either evolve to meet the issues of the 1980's or it will be reduced to an interesting topic for Ph. D.-writing historians.

In part, liberalism's difficulties reflect a natural cycle of resentment and retrenchment against the gains of the 1960's and, yes, there were some in the 1970's, too. There is an antipolitical, anti-Washington element that conservatives are exploiting. Many Americans are discouraged and confused about current problems in the economy and society. Conservative rhetoric is raising their hopes for a 20-mule-team march into the past.

If we are to mobilize a new generation to move forward with liberal leadership, we must understand that the average young American is just that—part of a new generation. A generation that never experienced the abuses and injustices that molded us. A generation that takes for granted the social equities that we had to fight for. In short, they have never known that anger that fed the liberal cause.

For example: They have not grown up reading about hungry poor people; they have grown up reading about abuses in the food stamp program.

They have not grown up reading about U.S. military adventurism in Vietnam; they have grown up reading about Soviet military adventurism in Afghanistan.

They have not grown up reading about the abuse of factory workers by management; they have grown up reading about union rules that place security over productivity.

They have not grown up reading about the ever expanding American economic pie; they have grown up reading about America's balance of payments problem and the demise of the auto industry's capacity to compete internationally.

This is a different generation. And if we do not speak to this generation in its terms, liberalism will decline. And if we do not meet these needs, liberalism should decline.

Energy and the economy are the center stage—they are about survival. They also share a fundamental complexity that contradicts the political wisdom: "Never adopt a program or philosophy that you can't put on a bumper sticker." But I believe that a growing number of citizens are aching to be treated as adults. They are ready for straight talk—a lot of it negative—on energy and the economy. They want liberals and conservatives to get past rhetoric and scapegoats on these basic problems. They want practical, tough decisions to end our drift and deterioration.

I submit that we have not addressed these issues.

For example: The energy crisis involves one basic fact—that oil is a finite and diminishing resource. Many liberals attack this issue by attacking the oil companies. Emotionally satisfying—yes. An answer to the problem—no.

The problem is U.S. consumption. Who led the fight against the 10-cent gasoline tax—the liberals. Why—to protect the consumer.

That's fine for today. In the long term, to protect the consumer from the reality of the energy crisis is to destroy him. JOHN ANDERSON talks about a 50-percent gasoline tax, and the young flock to his campaign.

For example: The pressing need of our economy is productivity. When was the last time you heard a union demand productivity gains as part of its contract? Look at the auto industry. Wonderful wage settlements—no talk about productivity and fuel-efficient cars. And now what? 300,000 union people out of work.

For example: If it is necessary, to revive our economy, to provide tax credit to industry as opposed to individuals, how will liberals respond? They will probably vote against it. They will vote for short-term relief and not long-term employment viability.

For example: We denounce nuclear power. No nuclear power means one certain result—massive reliance on coal. Any environmentalist who can accept the severe problems caused by massive coal-burning is not an environmentalist by my standards.

For example: Afghanistan is crushed by a raw exercise of Soviet military power. Where is the concern? Where is the outrage? Why should it be left to the conservatives to champion the cause of the Afghan freedom fighters?

The fact is that I believe that liberalism must extricate itself from the 1960's when we had the answers. We must move on to the pressing problems of the 1980's, and we must have the answers that seem relevant and appropriate to the generation of potential liberals.

Some will argue that if we do not, it does not matter. Nonsense.

I believe that there will be a desperate and crying need for the values of liberalism in the 1980's.

This country is eagerly searching for solutions, and many are looking to Ronald Reagan for leadership. And Congress is increasingly sounding like Ronald Reagan.

This potential return to a cold-war mentality is unacceptable. Do we have to learn the lesson of Vietnam all over again?

This potential return to totally unfettered private enterprise is unacceptable. How many Love Canals are enough?

This potential return to racial benign neglect is unacceptable. How many times must a city burn before we reawaken to the needs of our people?

I call upon the people who will be at the convention to work for a new liberalism—rooted in the sound values of the past but relevant to the all-too-real problems of the present and the future.

I think it means an evolution, but so be it.

We must respond. Because if we do not, we will leave the field to the champions of divisiveness. We will relinquish American leadership to those who are comfortable with exclusivity.

In an age of potential nuclear devastation, that prospect is not an academic one.

I, for one, do not wish that this world, this country—indeed, my family—be incinerated in an orgy of conservative, simplistic ideology.

We must provide the leadership if this country is to be man's last great hope.

I thank the Chair for his indulgence.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

THE RESIGNATION OF DR. DAVID MATHEWS, PRESIDENT, THE UNIVERSITY OF ALABAMA

Mr. HEFLIN. Mr. President, I was deeply saddened at the news last week that Dr. David Mathews was stepping down after a decade of service as president of the University of Alabama, my alma mater and the Capstone of higher education in the State of Alabama. I would like today to take a few moments to pay tribute to this great Alabamian, a dedicated public servant and a great American.

Dr. Mathews ascended to the presidency of the University of Alabama at the tender young age of 33—the youngest man ever to hold the position. While others his age might have been awed by such responsibility, or timid in the discharge of their duties, David Mathews grasped the reigns of leadership of Alabama's flagship educational institution with alacrity, energy, and vision.

For his age, David Mathews took to the office of the president a decade of experience. Elected to membership in Phi Beta Kappa, he received his P.A. in history and classical Greek, and an M.A. in education from the University of Alabama, and took his Ph. D. in the history of American education from Columbia University.

After serving his country as an infantry officer at Ft. Benning, Ga., David Mathews returned to the university for the first in a long string of posts. He served in the dean of men's office, was interim dean of men, a lecturer in the department of history, executive assistant to the president, executive vice president, and then, in 1969, he was named to succeed Dr. Frank Rose as president.

As president, David Mathews was an innovator, a man who anticipated problems and sought practical solutions. But he was not a radical; he was not for change merely for change's sake. As someone put it, he built sidewalks where the paths had been.

The Mathews years at the university, historians will record, were years of unprecedented growth and unparalleled vision. At a time when student enrollments were often declining nationwide, there were record numbers of students enrolling at the Capstone. By every objective measure—growth in physical plant and facilities, increases in both the quantity and quality of faculty, initiatives in the areas of financial management and development—these were years of progress, of breaking with the past, of forging ahead and plowing virgin ground.

"New College" became one of the Nation's greatest success stories in the area of nontraditional undergraduate learning. A college of community health sciences was established to concentrate on family practice medicine and increasing the delivery of medical services to Alabama's underserved rural communities. There were new buildings; the law school, from which I graduated, is now housed in the showcase facility for legal education in the United States. Innovative programs in career education were pioneered nationally at the Capstone. President Mathews made administrative and financial support for women's athletics a top priority. New faculty chairs were endowed. There were new, innovative curricular and degree offerings.

But the hallmark of David Mathews' tenure as president, in my opinion, was the vision he brought to that institution—a rare vision of shaping an institution to respond to, and meet, the critical needs of the State and the region in the seventies and the eighties.

David Mathews once stated.

> Hope is like vision. While too much of it creates mirages, too little leads to blindness.

David Mathews gave that institution both hope and vision. While not sacrificing its traditional emphasis on teaching and research, I am convinced, he provided a rare brand of leadership as the university, one of two comprehensive institutions of higher learning in the State, saw increasing demands placed upon it for service.

The Mathews years saw the university aiding Alabama farmers who needed advice on the application of estate and gift tax laws to transfers of farm land; small businessmen who needed marketing survey data from the Center for Business and Economic Research; Alabama producers who wanted help in establishing export markets in Japan; elementary school principals who needed consultative services for a host of problems; mental patients whose need for legal services did not end when they became institutionalized; State legislators desirous of achieving structural and procedural reforms of Alabama's legislative machinery, and many, many more.

David Mathews will be sorely missed because of his unique understanding of the relationship between institutions of higher learning and public policy. More recently, at his initiative, the University of Alabama has been in the forefront of nationwide efforts to increase citizen participation in the processes of government and policymaking.

David Mathews' commitment to public service—and, more importantly, the values which underlie it—come as no surprise. His forefathers tilled the sandflats and ridges of Clarke County soil in the tiny South Alabama town of Grove Hill—population 1,825. His grandfather and great grandfather served in the State legislature. His mother taught English, and his father served as superintendent of the public schools.

To understand David Mathews and to appreciate his greatness, one must understand from whence he comes. In the past, he has said that what he is was formed by his life in Grove Hill. The agrarian sense of place, the smalltown values and virtues of hard work, independence, self-reliance, and compassion for one's fellow man—this is David Mathews, from those summer jobs as a boy—painting, construction work, shoveling sand and gravel into a cement mixer—to the recognition of the importance of the University of Alabama's expanding service mission.

Like Jefferson, he glorifies the land and the people who work it, for the yeomen farmers of Clarke County gave David Mathews his inheritance, in which all Alabamians have shared. As he himself has said:

> If there is anything I learned in the little community where I grew up, it was to respect the proud independence that gave people spirit and ambition and dignity—a willingness to dare and to do.

That proud independence came from the soil—the same Alabama soil in which David Mathews grows his tomatoes, his turnip greens and his yellow beets. As one journalist has written, David Mathews "likes to sweat, to dig profusely in the dirt, to stand back and watch his handiwork grow, then bloom, then produce." As Dr. Mathews himself has put it,

> I grew up with people who believed that there was some relationship between morality and the soil. Those who worked it drew out a special strength.
>
> The land is a great teacher. From it we learn adversity and duty. The soil is the schoolmaster for diligence and self-reliance. For some plants live and some plants die. But if we are diligent and industrious, we can greatly affect that process.

The University of Alabama will miss the wisdom of this son of Clarke County. It was that same rare brand of agrarian wisdom that David Mathews sought to apply to the operation of the Federal bureaucracy, for, in 1975, Dr. Mathews left his first love, the university, to answer the call of his President. On August 8, Chief Justice Burger swore in David Mathews as the 11th Secretary of Health, Education, and Welfare. At the age of 39, he became Gerald Ford's youngest Cabinet member, and the only member from the Deep South. He presided over a Department of 140,000 people, with responsibility for over 350 programs and the expenditure of one-third of the total Federal budget.

As Secretary of HEW, David Mathews served with distinction. At a time when Republicans and Democrats alike were decrying the evils of excessive regulation and bureaucratic obfuscation, David Mathews was like a breath of fresh air as he sought to infuse regulations with a modicum of commonsense. He sought to make them readable. He reformed the process by which the Department issued its regulations, and opened the process to broad citizen involvement while regulations were in their formative stage. And he sought to involve those who would have to live under the regulations in the process of their drafting.

Federalism was also alive and well in the Mathews HEW Department. He worked to create new Federal-State relationships in the delivery of human services, to bring the States into a closer partnership with HEW in the administration of joint programs.

After his tenure in the Ford Cabinet, Dr. Mathews returned to the university—for he is an educator at heart. But throughout his public life, both as an educator and as a high Government official, he has always found time for his lovely wife, Mary, and his two daughters, Lucy and Lee Ann. Perhaps this is the greatest measure of any man—whether he cares about people, whether he takes time from his busy schedule for them. And David Mathews measures up.

I could go on in great detail about David Mathews' numerous honors, his professional activities, his extensive publications, his honorary degrees. I could say that he is an esteemed educator, a scholar, a capable administrator, lecturer and teacher, author, devoted family man—father and husband—and public servant. But most importantly, David Mathews is a humanist. He is concerned about the human condition, and he has dedicated his life to its improvement. As he once wrote,

> Our strength is not in our technology nor our inventiveness, as marvelous as that is. Our strength is not in the things that this country can produce, but in the people—their self-reliance, their pride in themselves, their commitment to each other, and, more importantly, their ability to build a human community.

Over the years, David Mathews has been a close friend of mine, and a great friend of all Alabamians. He has served his alma mater well as president, and he has rendered yeoman service to his country as soldier, teacher, administrator and Cabinet Secretary. And his days of dedicated service are not over. While I wish him and his family well in their future undertakings, I feel as if the University of Alabama has suffered a great loss.

In closing, I must recall a speech this great Southerner gave 8 years ago to the Huntsville, Ala., Chamber of Commerce. I mention it now because, in recent months, there has been much talk of our loss of national will, of our drifting off-course like a ship without a rudder—a nation suffering from, as President Carter has described it, "malaise." In that speech in 1972, David Mathews spoke of the values of the South, and of Southerners. It is a fitting tribute to him to offer his words which might provide comfort to what some see as a misguided people:

> Southerners have a unique sense of time and place, of belonging, of community. Southerners have roots. They have an identity. A Southerner—whatever his station, whatever his color—has a home. The Southern experience, for that reason, suggests to all of us the great value of being committed to some place and to some people, not merely by accident of birth but by decision. In a society that is highly mobile, industrialized, urban and too often impersonal, people experience what may well be termed an identity crisis. To what and to whom do we owe our consideration and our allegiance? Many serious thinkers are concerned that such a society breaks down individual creativity and resiliency. The lesson of the South is that our allegiance to some home is one available antidote to that malaise.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Jack Hood Vaughn, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development, which was referred to the Committee on Foreign Relations.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he has approved and signed the following acts:

On June 13, 1980:

S. 1786. An act to amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act; and

S. 2517. An act to rename certain buildings of the Library of Congress.

On June 14, 1980:

S. 1658. An act to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to States or local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

On June 16, 1980:

S. 2666. An act to authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.

MESSAGES FROM THE HOUSE

At 2:24 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2255. An act to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries; and

H.R. 5200. An act to amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 360. Concurrent resolution for the printing of additional copies of House Report No. 96–1035.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3434. An act to establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes; and

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. JOHNSTON).

At 4:32 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the bill (S. 390) to expedite and reduce the cost of antitrust litigation, and for other purposes, with an amendment; that the House insists on its amendment and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. SEIBERLING, Mr. MAZZOLI, Mr. VOLKMER, Mr. MCCLORY, and Mr. RAILSBACK were appointed as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 4887) to authorize appropriations for the San Francisco Bay National Wildlife Refuge.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4889) to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 6022) to establish the Tensas River National Wildlife Refuge.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 6169) to establish the Bogue Chitto National Wildlife Refuge.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the amendment of the Senate to the bill (H.R. 6614) to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 2255. An act to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Energy and Natural Resources, with an amendment:

S. 2470. A bill to reduce consumption of petroleum and natural gas by electric utilities, and for other purposes (together with additional and minority views) (Rept. No. 96–802).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS from the Committee on Labor and Human Resources:

The following-named persons to be Members of the Federal Council on the Aging:

Shimeji Kanazawa, of Hawaii; and

Charles J. Fahey, of New York.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 2832. A bill to establish a special magistrate with jurisdiction over Federal offenses within Indian country and to authorize tribal and local police officers to enforce Federal laws within their respective jurisdictions, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MELCHER (for Mr. McGovern):

S. 2833. A bill to establish a National Commission on Food Production, Processing, Marketing, and Pricing to study the food industry from the producer to the consumer; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 2834. A bill relating to access through the Back Bay National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. McCLURE (for himself, Mr. Hatfield, Mr. Tower, Mr. Thurmond, Mr. Bellmon, Mr. Helms, Mr. Goldwater, Mr. Domenici, Mr. Dole, and Mr. Wallop):

S.J. Res. 184. Joint resolution providing for the removal of restrictions that impede or constrain leasing of energy resources on public lands, the outer continental shelf, and other lands that contain resources under the control of the Federal Government; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 2832. A bill to establish a special magistrate with jurisdiction over Federal offenses within Indian country and to authorize tribal and local police officers to enforce Federal laws within their respective jurisdictions, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN RESERVATION SPECIAL MAGISTRATE AND LAW ENFORCEMENT ACT OF 1980

Mr. MELCHER. Mr. President, in March of this year the Select Committee on Indian Affairs held 3 days of hearings on jurisdictional issues affecting Indian reservations. The vast majority of the testimony was directed toward problems associated with law enforcement.

Among the proposals upon which we received testimony was the concept of the bill which I am today introducing. This bill, the Indian Reservation Special Magistrates Act of 1980, directs the President to appoint special magistrates to exercise jurisdiction over Federal offenses committed within Indian country. The concept of the bill received wide support from the witnesses who testified.

In many respects, this bill tracks existing law. It does not alter the existing law governing jurisdiction in Indian country. The United States already has jurisdiction over an ample number of offenses in Indian country. The bill adopts by reference many of the provisions in the existing Federal Magistrates Act in chapter 43 of title 28, United States Code. It also, however, provides special provisions designed to meet special concerns in Indian country.

In addition, this legislation need not result in a vast increase in the judicial or law enforcement machinery of the Government. There are already a large number of U.S. magistrates, either full time or part time, sitting throughout the United States, many either on or near Indian reservations.

Why then is this legislation necessary? It is needed because of a general lack of law enforcement through the structures now in place. This legislation is designed to strengthen those structures by providing a clear and simple procedure for processing and disposing of minor Federal offenses which now go unpunished for lack of Federal enforcement.

Mr. President, this bill is very brief and simple in its content. The bill directs the President, by and with the advice and consent of the Senate, to appoint a special magistrate to serve each Indian reservation over which the United States exercises criminal jurisdiction under existing law. Preferential consideration is to be given to persons who are already sitting as judicially appointed magistrates and who are reasonably available to the reservation they would serve. The remainder of the provisions relating to the character of service and compensation are taken from the exising Federal Magistrates Act.

The jurisdiction and powers conferred upon the special magistrate for criminal offenses occurring within the Indian country to which the magistrate is assigned are as full and complete as those powers which the Federal Magistrate Act now authorizes judicially appointed magistrates. This includes the authority to try minor offenses, and for any Federal offense, to issue summons and warrants of arrest, warrants for search and seizure, conduct preliminary hearings to determine whether there is probable cause to hold a defendant for further proceedings before a U.S. district court, and establish bail and provide for release of a defendant. The consent of the defendant shall not be required in order for the magistrate to exercise trial jurisdiction. In addition, the special magistrate is authorized to exercise any other power which the district court elects to delegate under the Federal Magistrate Act.

Practice and procedure in the trial of minor offenses or disposition of other matters will generally conform to rules of law currently applicable to proceedings before any U.S. magistrate. This includes the right to appeal to district courts. However, for cases arising within the Indian country, this bill specifically authorizes a defendant to be assisted by a lay spokesman of his or her choice and such assistance shall not be considered the practice of law. This bill does not include any provision regarding extradition in view of the fact the special magistrates' jurisdiction extends both within and without an Indian reservation.

There is a growing body of paralegal persons throughout the country, particularly in Indian country. In the case of Indian defendants, they may well feel comfortable with assistance from persons who have appeared in tribal courts and have generally oriented themselves toward problems on the reservation or are themselves Indian. Since the prosecution may be informally presented by nonlegally trained persons, there should be no objection to having the defense assisted by paralegals, particularly in cases where the defendant might not otherwise be entitled to court appointed counsel. On the other hand, when a person is charged with a major offense, he is constitutionally entitled to appointment of counsel. This bill will not waive this entitlement.

The provision in this section stating that the appearance of a lay spokesman shall not constitute the practice of law is necessary in order to assure that such persons will not be criminally prosecuted under State or Federal laws dealing with the unauthorized practice of law.

The bill further provides that jury panelists will be drawn from persons residing within the reservation in which the offense occurred and who are registered to vote in State, county, municipal, or tribal elections. The jury panel shall be composed of six persons. The list of potential jurors shall be composed of cooperation with the Indian tribal officials and officials of local municipal and county governments to assure a cross-section of Indian and non-Indian residents within the reservation.

Tribal police, BIA police, and Federal, State, and local police officers, acting within their respective jurisdictions, are authorized to execute any warrant for arrest, or warrant for search and seizure, or any other summons, subpena, or order which the special magistrate is authorized to issue. This will provide local police, both Indian and non-Indian, with the necessary authority to aid in the enforcement of Federal law and act as officers of the special magistrates court.

This may be the most important provision in this bill for purposes of implementing existing Federal jurisdiction. One of the most serious criticisms to emerge from our March hearing was the failure of Federal law enforcement authorities and Federal prosecutors to vigorously discharge those duties within existing law. Among other reasons given is an excessive caseload. This provision authorizes State and tribal police officers as well as Federal officers to initiate proceedings before the special magistrate. The provision contemplates that most of the minor offenses charged will be informally presented by police officials as in the current practice now for minor offenses in such Federal enclaves as national parks.

The remaining provisions of this bill are drawn from the Federal Magistrates Act and are of a housekeeping nature.

Mr. President, many of the complaints of Indians and non-Indians relate to lack of enforcement of laws or hardships imposed on defendants, witnesses, and families arising from the distance of Federal courts from reservation area. Federal investigators are many times slow to respond to requests for investigations; U.S. attorneys are reluctant to undertake prosecutions for offenses (particularly minor offenses) occurring miles from the courthouse, particularly when obtaining witnesses may be difficult; witnesses are reluctant to respond to subpenas which require them to travel great distances; obtaining juries which are representative of the community in which an offense occurs is not possible. Establishment of magistrate courts to sit in Indian country will not correct all of these problems, but it can go a long way to resolving many of the problems.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Reservation Special Magistrate and Law Enforcement Act of 1980".

SEC. 2. Title 28, United States Code, is amended by adding immediately after Chapter 43 thereof, the following new Chapter:

"Chapter 44—Indian Reservation Special Magistrates

"Sec.
"650. Appointment and tenure.
"651. Jurisdiction and powers.
"652. Remand of Custody.
"653. Practice and procedure.
"654. Contempt.
"655. Docket and forms; United States Code; Seals.
"656. Training.
"657. Authorization of appropriations.

"SEC. 650. APPOINTMENT AND TENURE.

"(a) the President, by and with the advice and consent of the Senate, shall appoint special magistrates as may be necessary to serve each Indian reservation and such additional areas as are within the Indian country as defined in section 1151, title 18, United States Code, and over which the United States exercises criminal jurisdiction under the provisions of chapter 53 of title 18, United States Code.

"(b) No person may be appointed or reappointed to serve as a special magistrate under this chapter unless such person is and has been for at least five (5) years a member in goodstanding of the bar of the highest court of the state (or one of the states) in which he or she is to serve.

"(c) In any case in which the President finds that a U.S. magistrate who meets the qualifications of this Act is already reasonably available, the President shall give preferential consideration to such sitting magistrate for appointment as special magistrate under this Act.

"(d) The appointment of any individual as a special magistrate shall be for a term of eight (8) years and his or her reappointment shall be subject to the requirements of subsection (a) with respect to the advice and consent of the Senate.

"(e) Upon appointment and confirmation, the special magistrate shall reside within the exterior boundaries of the reservation to be served or at some place reasonably adjacent thereto.

"(f) Persons appointed as special magistrates under this chapter shall be appointed as full-time magistrates and shall receive compensation at the rates fixed for full-time magistrates under section 634 of this title, *provided*, that whenever, in the discretion of the President, it is determined that the position to which the special magistrate is being appointed will not have a sufficient case load to warrant appointment as a full-time magistrate, then such special magistrate shall be appointed as a part-time magistrate and shall receive compensation at the rates fixed for part-time magistrates under section 634 of this title, the level of compensation to be determined by the President.

"(g) Except as otherwise provided herein, the provisions of sections 631(c), (g), (h), (i), and (k) of this title, relating to limitations on employment, oaths of office, recordation of appointment, removal from office, and leaves of absences shall apply to special magistrates appointed under this chapter.

"(h) Expenses of special magistrates shall be paid in the same manner as provided in section 635 of this title for payment of expenses for magistrates.

"(i) The provisions of section 632 of this title describing the character of service to be performed by full-time and part-time magistrates shall apply to any person appointed as a special magistrate under this section.

"SEC. 651. JURISDICTION AND POWERS.

(a) Each special magistrate serving under this chapter shall have, within the territorial jurisdiction prescribed by his appointment—

"(1) All powers and duties conferred or imposed upon United States commissioners by law or by the Rules of Criminal Procedure for the United States District Court.

"(2) The power to administer oaths and affirmations, impose conditions of release under section 3146, United States Code, of title 18, and take acknowledgements, affidavits, and depositions; and

"(3) The power to conduct trials under section 3401, title 18, United States Code, in conformity with and subject to the limitations of that section except that the special designation provided for in subsection 3401 (a) of title 18, United States Code, shall not be required, and the provisions of section 3401(b) of title 18, United States Code, extending to a defendant the right to refuse trial before a magistrate and elect to be tried before a judge of the district court for the district in which the offense was committed shall not be applicable to trials before the special magistrate.

"(b) Each such magistrate so serving under this chapter shall have any other duty or power which may be exercised by a U.S. magistrate in a civil or criminal case, to the extent authorized by the court for the district in which he serves.

"SEC. 652. REMAND OF CUSTODY.

"(a) If the special magistrate determines there is no Federal jurisdiction over an offense brought within his court, he may direct that custody of the defendant be remanded to the appropriate law enforcement officials.

"SEC. 653. PRACTICE AND PROCEDURE.

"(a) Except as otherwise provided in this section, the practice and procedure for the trial of cases before magistrates serving under this chapter, and the taking and hearing of appeals to the district courts, shall conform to that set forth in section 3401, title 18, United States Code, and in rules promulgated by the Supreme Court pursuant to section 3402 of title 18, United States Code, and section 636(c) of title 28, United States Code.

"(b) Any defendant appearing before a special magistrate may be assisted by a lay spokesman of his or her choice, and assistance by such spokesman, whether paid or voluntary, shall not be considered the practice of law. Assistance by such lay counsel shall not waive the right of the defendant to appointed counsel in any case in which he or she is entitled to such appointed counsel.

"(c)(1) In any case in which the defendant requests a trial by jury before the special magistrate, only persons who actually reside within the reservation in which the offense is alleged to have been committed shall be eligible to serve on the jury panel.

"(2) The special magistrate, in consultation with tribal authorities and county and municipal officials, shall develop and maintain for purposes of jury selection a list of persons residing within the reservation over which the special magistrate has jurisdiction. Such list shall be developed or compiled from lists of persons eligible or registered to vote in state, county, municipal or tribal elections. In developing such list, the special magistrate shall take care that such list fairly reflects a cross-section of the population within the reservation.

"(3) In any case in which the defendant requests a trial by jury before the special magistrate, such jury shall be composed of six persons whose names appear on the jury selection list prepared by the special magistrate.

"(4) Except as provided in this section, the rules of the district court pertaining to the selection of jurors and juror eligibility for trial before magistrates shall be applicable.

"(d) Tribal police officers, Bureau of Indian Affairs police officers, and federal, state and local law enforcement officers, acting within the geographic areas in which they have jurisdiction under the laws of their respective governments, are authorized to execute any warrant for arrest, or warrant for search and seizure, or any other summons, subpoena or order which the special magistrate is authorized to issue in criminal cases arising within the Indian country, or under the general rules of Federal Criminal Procedure or the Federal Rules of Procedure for the Trial of Minor Offenses before the United States Magistrates.

"(e) The provisions of the Court Interpreters Act of 1978 (P.L. 95–539; 92 Stat. 2040) shall apply to trials before the special magistrate.

"SEC. 654. CONTEMPT.

"(a) In a proceeding before a special magistrate, any of the acts or conduct described in section 636(e) of this title as constituting a contempt of the district court when committed before a magistrate shall constitute a contempt of court when committed before a special magistrate, and the procedures provided in section 636(e), of this title, for prosecution of such contempt shall govern prosecutions for contemptuous conduct when committed before a special magistrate.

"SEC. 655. DOCKETS AND FORMS; UNITED STATES CODE; SEALS.

"(a) The Director of the Administrative Office of the United States Courts shall furnish to United States special magistrates adequate docket books and forms prescribed by the Director. The Director shall also furnish to each such officer a copy of the current edition of the United States Code.

"(b) All property furnished to any special magistrate shall remain the property of the United States and, upon the termination of his or her term of office, shall be transmitted to the successor in office or otherwise disposed of as the Director orders.

"(c) The Director shall furnish to each United States special magistrate appointed under this chapter an official impression seal in a form prescribed by the conference. Each such officer shall affix his seal to every jurat or certificate of his official acts without fee.

"SEC. 656. TRAINING.

"(a) The periodic training programs and seminars conducted by the Federal Judicial Center for full-time and part-time magistrates as provided in section 637 of this title, shall also be made available to special magistrates appointed under this chapter. This shall include the introductory training program offered new magistrates which must be held within one year after their initial appointment. The cost of attending such programs shall be borne by the United States.

"SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

"(a) Beginning October 1, 1981, there is hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act."

By Mr. MELCHER (for Mr. McGOVERN):

S. 2833. A bill to establish a National Commission on Food Production, Processing, Marketing, and Pricing to study the food industry from the producer to the consumer; to the Committee on Governmental Affairs.

NATIONAL COMMISSION ON FOOD PRODUCTION, PROCESSING, MARKETING, AND PRICING

Mr. MELCHER. Mr. President, the Senator from South Dakota (Mr. McGovern) is unable to be present, so at his request I am introducing for him a bill to establish a National Commission on Food Production, Processing, Marketing, and Pricing.

I ask unanimous consent that a statement by Senator McGovern, together with the text of the bill and an editorial, be printed in the Record.

There being no objection, the statement and material were ordered to be printed in the Record, as follows:

Now Is the Time For a National Food Commission

(Statement by Senator McGovern)

Today I am introducing legislation to establish a National Commission on Food Production, Processing, Marketing and Pricing. Studies conclude that there is a substantial probability that monopoly marketing practices exist in cities where there is a concentration of the food market centered in one or two large food purveyors. A Joint Economic Committee study centers on the impact on consumers of market concentration in food retailing. Obviously, this is an important approach, though I feel that to fully justify our responsibilities to the American people a broader approach through the whole food chain is appropriate.

Senators will recall the original food commission study in 1964 and 1965. Though worthwhile and informative, it appears to me that the principal deficiency in the study was the lack of authorization to continue monitoring production, processing, marketing and pricing procedures after the commission's work was completed. This conclusion was reinforced in 1975 during the national food price inquiry of the Senate Select Committee on Nutrition and Human Needs, which held two days of hearings and has published several volumes of food industry studies. We need an accurate and full evaluation of the state of competition in the food industry today.

Lest anyone misunderstand the thrust of this legislation, let me assure everyone that its aim is to review every single production, processing and marketing and pricing practice in the industry. I start with no preconceived concepts of who are the saints or who are the sinners. Possibly there are none. I do feel that it is necessary and desirable to determine in the first instance where the spread is in food from the time it is produced by farmers to the time it reaches the dinner table, and in the second instance, I feel it to be in the public interest that the pitfalls of the first commission do not occur again by providing a monitoring mechanism to carry on the primary functions of the commission once its original authority lapses.

As a Senator from a State whose principal function in the food chain is one of production, I have first-hand knowledge and experience with the dissatisfaction producers have for what they consider their fair share of the food dollars. Those members of the body from the centers of population serve constituencies where processing, transportation and marketing contribute to the ultimate cost to consumers. In a very real sense, each member of the body serves that greatest constituency, the American people who express unrest at the checkout counter of the supermarket.

I say that we thus have a community of interest in everything that happens to what we all put in our daily diets. Absence of definitive studies in this area for over twelve years clearly indicates that such pursuits are desirable. We must start the investigative process now to determine what legislation is necessary. The life of the Commission under the legislation is limited to two years, with the important mandate to the Commission that its report indicate to the Congress its recommendations on where its primary monitoring functions for the purpose of maintaining current data will reside under the current organizational framework of the United States government. I feel that by the end of the study, the Commission itself will be the best judge of the appropriate Department, Commission, or Board where the functions it establishes will be best perpetuated. It is high time that this Congress act swiftly to allow the Commission to commence with its functions.

FARM-TO RETAIL SPREADS WIDEN

From the viewpoint of the producer the establishment of this Commission would be welcome. Figures from the May 1980 edition of Agricultural Outlook, a publication of the U.S.D.A., indicate that farmers now receive an all-time low of 36.7 percent of the "market basket" index of the American food dollar. The conclusion of this report is that this trend will be even lower by year's end. According to Agricultural Outlook:

"The spread between what farmers receive and consumers pay for a market basket of foods continues to widen, reflecting rising costs for processing, transporting, and retailing foods. From the fourth quarter of 1979 to the first quarter of 1980, the farm-to-retail spread increased 3.1 percent—accounting for nearly all of the 2-percent rise in retail prices for domestic farm foods during this period. The farm value of these foods averaged only 0.2 percent higher.

"In the first quarter, the farm-to-retail price spread was 3 to 5 percent wider for most foods than in the fourth quarter of 1979. It widened the most for eggs and poultry—10 and 8 percent, respectively.

"Further increases in the farm-to-retail price spread are expected for each remaining quarter of the year. However, after widening a projected 4 percent in the second quarter, the spread is likely to show much smaller increases in the second half of the year; this forecast assumes that expected increases in farm prices are not fully passed on at the retail level and that marketing cost increases will moderate in the second half. For the year, the farm-to-retail spread for the market basket may average about 11 percent above 1979.

"Farm-to-retail price spreads widen in response to increases in the cost of marketing farm foods. Marketing costs in the first quarter were 13 percent above a year earlier. Leading this increase were fuel and power charges, up 51 percent; prices of food containers and packaging, up 17 percent; and transportation rates, up 15 percent.

"Food industry profit rates—after trending upward for the past 2 years—probably will average lower this year, especially if business volume declines because of the recession."

More specifically, the spread is even more graphic. For purposes of brevity, I have excerpted certain data from the Farm-Retail Price Spreads to indicate how the producer fared in January, February and March of 1980. On the low end, let me point out that producers of ingredients for cereal and bakery products got only 14.5 percent of that food dollar in March of this year. This was happening at a time when cost of production for wheat was hovering at about $5.00 per bushel and farm gate prices were only slightly over $3.00 a bushel:

FARM-RETAIL PRICE SPREADS

The farm-retail spread, the difference between the retail price and the farm value, represents charges for assembling, processing, transportation, and distributing these foods:

Farm value/retail cost

[In percent]

	Jan. 1980	Feb. 1980	Mar. 1980
Market basket	37.5	37.9	36.7
Meat products	52.9	54.6	51.9
Dairy products	51.9	51.9	51.9
Poultry	54.2	52.1	50.2
Eggs	64.2	61.9	67.1
Cereal and bakery products	14.8	15.4	14.5
Fresh fruits	25.8	26.7	27.5
Fresh vegetables	25.4	23.4	24.4
Processed fruits and vegetables	19.1	18.8	18.5
Fats and oils	31.3	28.8	27.5
Beef, Choice	59	62	61
Pork	44	44	40

The need to establish a National Food Commission can no longer be ignored. The price of food is as integral a part of the nation's economy as any other single segment. Indeed, for the poor, the elderly and for those on fixed incomes it is the most important issue. On the inflation front, it factors heavily in where that index is going.

Americans have a right to know how their food dollar is divided. Because it is so complex, there are areas for unconscionable profits that are easily disguised within the complex food chain. For farmers and other producers it is a welcome vehicle to expose what many refer to as a national cheap food policy, at least in terms of what these producers receive for their product on the farm.

I am free to admit that the establishment of this Commission should be championed by producers and consumers. They should have a community of interest because producers know that they furnish raw material for the food chain at prices below their cost of production, and consumers are convinced that they are paying too high a price for the articles they buy in the supermarket. The Commission is fair, it is balanced, and it has every opportunity to give the American public an honest answer.

S. 2833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a National Commission on Food Production, Processing, Marketing, and Pricing (hereinafter referred to as the "Commission").

ORGANIZATION

Sec. 2. (a) The Commission shall be composed of fifteen members, none of whom may be employees of the Federal Government or Members of Congress, except as provided in paragraphs (1) through (4) of this subsection, including—

(1) one member of the majority party of the House of Representatives, to be appointed by the Speaker of the House of Representatives;

(2) one member of the majority party of the Senate, to be appointed by the President pro tempore of the Senate;

(3) one member of the most numerous minority party of the House of Representatives, to be appointed by the Speaker of the House of Representatives;

(4) one member of the most numerous minority party of the Senate, to be appointed by the President pro tempore of the Senate;

(5) three members to be appointed from among the public at large by the President pro tempore of the Senate;

(6) three members to be appointed from

among the public at large by the Speaker of the House of Representatives; and

(7) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated as the Chairman at the time of his appointment and who, by background, experience, and education, is particularly suited to the position.

A Vice Chairman shall be selected by a majority vote of the full Commision. The Commission members shall represent, as far as practicable: Producers, processors, and distributors of food products; labor; agricultural economists; antitrust practitioners, including lawyers and economists; and consumers, who shall be representatives of bona fide consumer organizations or individuals who are not paid employees or consultants of an organization engaged in food production or distribution.

(b) Any vacancy in the Commission shall not affect its powers, except the selection of a vice chairman, and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS

SEC. 3. Each member of the Commission, except members appointed pursuant to section 2 (a)(1) through (a)(4), may receive compensation at the highest rate of pay for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged upon the work of the Commission, and each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized under section 5703 of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 4. (a) The Commission shall study and appraise the economic and industrial structure of all segments of the food industry, including, but not limited to—

(1) the actual changes, since the National Commission on Food Marketing (established by Public Law 88–354, 78 Stat. 269) concluded its study in the various segments of the food industry;

(2) economic forecasts with respect to the persistence of economic concentration, integration, diversification, and centralization and anticompetitive actions by firms or groups of firms in the food industry;

(3) desirable structural changes in the various segments of the food industry to assure both efficiency and the benefits of the best economies of scale and coordination in the production, processing, and distribution of food while maintaining competition in price and adequate services to consumers and acceptable levels of competition in all segments of the industry from producer to consumer;

(4) changes, if any, in law or public policies, in the economic organization and operations of farming and of food assembly, processing, and distributions, to achieve the best levels of competition and lower prices for consumers;

(5) the effectiveness of the services, including dissemination of market news, and regulatory activities of the Federal Government in terms of present as well as probable future developments in the industry and the impact of such services upon the ultimate consumers;

(6) the effect of food imports and exports on producers, processors, and consumers in the United States;

(7) the effect of wages and other labor compensation provisions on the price of food;

(8) the effect of transportation on the availability, distribution, price, and cost of food; and

(9) the profitability of corporations and other organizations engaged in the food industry and the use of such profits.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings, conclusions, and legislative recommendations to the President and to the Congress not later than two years after the date of enactment of the Act.

(c) All books, papers, reports, memorandums, and all of the documents collected, produced, obtained, or in the custody or possession of the Commission shall be transmitted to a Department, Agency, or Commission of the Federal Government determined by the Commission as the Department, Agency, or Commission most appropriate to carry forth the future functions enumerated hereafter in the provisions of this Act, which Department, Agency, or Commission shall maintain them and make them readily available for public inspection and copying, except that any information so transmitted shall be held by such Department, Agency, or Commission in such status, with respect to confidentiality and privacy considerations, as this Commission deems appropriate.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission, or any three members thereof authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by a majority vote—

(1) to require all working papers, studies, interim reports, and the final report of the National Commission on Food Marketing established by Public Law 88–354 to be made available to the Commission;

(2) notwithstanding any provision of the Federal Reports Act, to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe and within such reasonable period and under oath or otherwise as the Commission may determine;

(3) to administer oaths;

(4) to require by subpena the attendance and testimony of witnesses in the production of all documentary evidence relating to the execution of its duties;

(5) in the case of disobedience to a subpena or order issued under subsection (a), to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(6) in any proceedings or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony in the production of evidence in the same manner as authorized under paragraphs (4) and (5); and

(7) to pay witnesses the same fees and mileages as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry under this Act is carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a), issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Notwithstanding any other provision of law, the Commission is authorized to require directly from the head of any executive department, agency, or independent establishment of the Federal Government available information deemed useful in the discharge of its duties, and all such departments, agencies, and establishments are authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission, except that any information so obtained shall be held by the Commission in the same status, with respect to confidentiality and privacy considerations, as such information was held by the furnishing department, agency, or independent establishment.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) Subject to the provisions of section 552 of title 5, United States Code, when the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair economic, business, or competitive advantage to any person and would not constitute a breach of any agreement or understanding between the Commission and any person providing such information with respect to the confidentiality of such information; it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held in confidence and shall not be disclosed by the Commission or its staff.

ADMINISTRATIVE ARRANGEMENTS

SEC. 6. (a) The Commission is authorized to appoint and fix the compensation of an executive director without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Executive Director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, except that no individual so appointed shall be paid at a rate in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Executive Director, with the approval of the Commission, is authorized to obtain the services of experts and consultants as provided under section 3109 of title 5, United States Code.

(c) The head of any executive department, agency, or independent establishment of the Federal Government is authorized to detail, on a reimburseable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those relating to budgeting and accounting, financial reporting, personnel, and procurement): shall be provided to the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commisison and the Administrator of General Services.

(e) Ninety days after submission of its final report, as provided in section 4(b), the Commission shall cease to exist.

ANNUAL REPORTS ON THE FOOD INDUSTRY

SEC. 7. (a) Not later than six months after the date of the filing of the final report required under section 4(b) and annually thereafter, the Federal Trade Commission, the Department of Justice, and the Department of Agriculture shall each separately submit to the Congress and shall each separately publish in the Federal Register, separate reports on the policy planning, budget allotments, investigations, complaints, indictments, litigation, and other actions of each such agency with respect to the enforcement of the antitrust laws on the various sectors of the food industry.

(b) Not later than one year after filing of the report required under section 4(b) and annually thereafter, that section of the Federal Government denominated in section 4(c) shall submit to the Congress and shall publish in the Federal Register, indices of the structure and the state of competition in the food industry, based on economic indicators available to or collected by the body referred to hereinabove. Such indices shall include an account of all major segments of the food industry by commodity as well as by line of business; indicating marketing structure, performance and trends, growth of horizontal and vertical integration, and possible monopoly overcharges; and be accompanied by an expository narrative explanation of all such indices together with specific recommendations to promote competition in the food industry.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) There is hereby authorized to be appropriated to the Second National Commission on Food Production, Processing, Marketing, and Pricing such sums, not in excess of $6,000,000, as may be necessary to carry out the provisions of this Act.

(b) There is hereby authorized to be appropriated to the successor body such sums not in excess of $1,000,000, as may be necessary to carry out the provisions of section 7. Such sums shall remain available for obligation until expended.

The Monopoly Component of Inflation

Inflation is one of America's most serious problems.

According to Neal Smith, Iowa representative, there are many supposed causes often advanced for inflation—excess demand, excess growth of the money supply, excess government spending, lagging productivity, excess wage demands, the high cost of imported oil, price decontrol, and monopoly power, to name a few. Focusing on monopoly power, an increasingly important cause of inflation, that I do not believe has received enough attention. In particular, the increased price spread between producers and consumers which results from the power of shared monopolies in the U.S. food manufacturing sector of our economy. Farmers are consistently getting less for the food they produce while consumers are consistently paying more. The shared monopolies are pocketing the difference, Smith points out.

Pure monopoly power is seldom found in the real world, just as the theoretical ideal of pure competition is seldom, if ever, degrees of monopoly power or degrees of competition. There are many examples of industries which have a few large sellers handling the majority of the product—the auto industry, aircraft manufacturing, food manufacturing, etc. Economists call these industries oligopolies. There are also examples of industries where a few large buyers such as grain exporters and meat packers buy the majority of the raw product. Economists call these industries oligopsonies. A more descriptive term which Smith uses is "shared monopolies." With respect to the potential for economic abuse, the distinction between pure monopoly and shared monopoly is only one of degree and not one of substance.

It is not a proposal that shared monopoly power is the sole cause of inflation. It is not proposed that eliminating shared monopoly power will completely solve the entire inflation problem overnight. However, he proposes that the observed inflation in food prices is caused, in part, by such power in the U.S food manufacturing sector. He proposes that it is the responsibility of the Congress and the Administration to face this issue directly and to take the action necessary to insure a timely and equitable solution.

In 1978, the year for which the U.S. Department of Agriculture has the most recent data, 23 states accounted for over 96 percent of the total fed cattle marketing. In these 23 states, which include South Dakota, the top four firms in each state averaged 66 percent of the total steer and heifer slaughter.

In South Dakota, there were 7 plants slaughtering steers and heifers in 1978, yet the top four firms accounted for 96.6 percent of the total. With these four firms slaughtering 279,618 head, it left 3 firms to compete for the remaining 9,752 steers and heifers. In South Dakota, the largest firm slaughtered 198,813 steers and heifers in 1978.

Monopoly power results in increased government regulation, but when markets are free of shared monopoly power, competition will minimize the need for the government to intervene in private decision-making to achieve the goals of price stability, full employment, and economic growth and will insure that necessary adjustments in production and consumption are rapidly and efficiently made in response to changes in demand and supply. It is toward this goal that we must strive.

By Mr. HELMS:

S. 2834. A bill relating to access through the Back Bay National Wildlife Refuge; to the Committee on Environment and Public Works.

FREE THE CURRITUCK HOSTAGES

Mr. HELMS. Mr. President, much of the world's attention has been focused on the American hostages in Iran—but there are 13 families in the tiny community of Corolla, N.C., who have reached the conclusion that they, too, are hostages. And they make a convincing case for their contention that they are being held prisoner by the U.S. Department of the Interior.

Mr. President, Corrolla is on the Currituck outer banks of my State. For years and years, those citizens living on those outer banks have traveled up the beach to the Tidewater area of Virginia, across an area known now as the Back Bay Wildlife Refuge. These citizens have gone to the Norfolk area to shop, to get medical attention, to attend sports events and entertainment.

But mostly the majority of them have been traveling to Norfolk to make a living. They work there.

But they are now being told by their Government that they can no longer travel that route to their jobs in Norfolk.

Now perhaps, Mr. President, we in Congress are not supposed to be concerned about just 13 families. But I am concerned, and that is why I am today introducing legislation to "free the hostages" on the Currituck outer banks. Government ought never to be unbending, unyielding in considering the best interests of its citizens—even a small number of them.

How did the full force of the Federal Government come to be focused on these 13 families? With the indulgence of the Senate, let me trace a bit of history. According to the Fish and Wildlife Service, which manages the Back Bay Wildlife Refuge, travel through the refuge increased dramatically in the late 1960's, and there was fear that permanent damage might be done to the beach and dunes area of the refuge. Therefore, the Service determined it was necessary to limit access through the Refuge by regulation—which it did in 1972. Since that time, access rules have changed several times, slowly limiting access to only permanent residents and owners of improved property on the banks.

Now, the Fish and Wildlife Service has issued new regulations, final on May 28, 1980, which allow limited access to families who can establish that they were residents of the banks prior to December 31, 1976. This eliminated the 100 or so people who own homes there, but who live there only a portion of the year. Twenty-three families qualify as permanent residents, but 13 families who moved there between 1976 and the end of 1979, and now live there full-time, are excluded.

Although I am not unmindful of the hardships imposed on the part-time residents who now have been denied access, it is the plight of the 13 families who live there which concerns me most. These are the people who must drive 125 miles each way to work, when their next-door neighbors can drive through the refuge, a total distance of 30 miles. My bill would merely help those 13 families by allowing them to cross the refuge along with the other 23 families. This is not unlimited access; it is restricted to a maximum of two round trips per day between the hours of 5 a.m. and 12 midnight.

Mr. President, although only 13 families are involved, to them the situation is truly critical.

One lady, Mrs. Carrie Smith, with whom I recently met, has a retarded daughter in Virginia who is trying to establish herself as an independent person. Of necessity, Mrs. Smith must check on her and assist her quite often. However, to do so, she must travel 125 miles around the refuge, each way. In addition, Jim Smith, her husband, has recently had open-heart surgery. Although improving, he is frail and the possibility of an emergency is obviously great. The Fish and Wildlife Service has granted the Smiths a permit for a limited number of trips through the refuge for a period of 6 months—in case of an emergency. Mr. Smith must take care not to have an emergency after the 6-months elapse.

Then, there is Judy White, who is co-owner of a beauty salon in Norfolk. She has no permit because she moved to the banks full-time after 1976. Because of her business, her working hours vary. Therefore, it is difficult to arrange a ride through the refuge. So, she has had to hitchhike, ride in the back of a pickup truck, and has even paid a permitholder to drive her across the refuge—a practice frowned on by the guards at the gates of the refuge. Some nights she stays in motels in Virginia, or with friends, because she has no way home—other than to drive 125 miles around the refuge. There have been cases where she was caught on the banks with no possibility of a ride and has violated the access rules by driving through the refuge.

She has been given tickets for these violations. She has asked for a hearing in the U.S. District Court; she vows to refuse to pay the fines and, instead, go to jail. She says she might as well be in prison in Virginia rather than a prisoner in Corolla.

Mr. President, these are only 2 of the 13 stories—each different but all of concern.

Now, if there were the possibility of significant damage resulting from 13 additional families crossing the refuge, I most likely would not offer this bill—but, Mr. President, there is no evidence to indicate any real harm.

The Department of the Interior has argued that the beach was being severely damaged in the early 1970's when, by Department estimates, up to 348,000 cars crossed the refuge in 1 year. Of course, I can imagine some injury to, what the Interior bureaucrafts call the "ecosystem along the refuge beach," from that number of trips. In addition to the large number of cars, much of the traffic was over the vulnerable dunes behind the beach. This clearly is not the situation now, when traffic has been reduced by a hundredfold and, under the regulations, travel must be on the beach, below the high tide mark—away from the dunes.

While the Department refers to 1971 conditions in its new regulations, it does not mention the current situation, except to say that it was necessary to further limit access to "reduce adverse impacts of vehicular traffic on the beach ecosystem."

Experts deny the existence of any damage. The president of the Virginia Wildlife Federation has stated that "not one case of documented degradation of the refuge has occurred during the limited access provided to permanent residents and improved property owners." I point out there were over 100 families who had permits as improved property owners.

In fact, Mr. President, there is evidence that the beach traffic is a benefit to the refuge.

A 1979 study by J. W. Cross and P. D. Crowley, for the Department of Geophysical Sciences at Old Dominion University states:

> The findings . . . indicate shear strength was significantly increased, in the vast majority of cases, by vehicular traffic within both study sites (Back Bay and False Cape State Park). The increase in shear strength would permit the beach sand to withstand higher shear stresses before displaying.

In addition, Randall Spencer, professor of geophysical sciences, Old Dominion University, in a letter last year to the president of the Virginia Wildlife Federation stated:

> Vehicular traffic within the Back Bay beach area is not causing the erosion of this beach. Rather, it is helping to slow down the process by more firmly compacting the beach, thereby making it more difficult for incoming wave energies to displace the sediment.

So, it seems to me that the Department of Interior would be happy to have a few more autos on the beach, to slow the erosion process.

In any event, I can see no real harm in extending the access privilege to include the 13 families presently denied permits.

Mr. President, it is important that everyone understand that I introduce this legislation today after exhausting all other avenues. When a change in the access regulations was proposed, I wrote to the Secretary of the Department of Interior expressing my support for continued access for all residents. After the proposed regulations were published, my staff and I contacted the Department several times, both by letter and telephone. In spite of assurances that the problem would "be taken care of" in the final regulations—when they were published, there was no solution presented. Before offering this bill, I met last week with Assistant Secretary of Interior Herbst, who oversees the Fish and Wildlife Service, in the hope that some solution could be found.

I understand Secretary Herbst has a mandate to protect the Refuge, however, his unwillingness to adjust a rule to individual circumstances, indicated in that meeting, both surprised and disappointed me.

Mr. President, in conclusion, the 13 families without permits at Corolla on the Currituck Banks are being severely penalized for no valid reason. I can see no significant harm in allowing them the same opportunities the other 23 families there have—the opportunity to work, to buy food and clothing, and to secure medical care.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) during any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue, to any eligible applicant, a renewable annual permit to enable the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this Act, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse.

(b) As used in this Act, the term—

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and

(3) "dwelling" means a residential structure occupied on a year-around basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this Act shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be restricted to between the hours of 5:00 a.m. and 12:00 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this Act shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed.

(e) The Secretary of the Interior may, subject to the foregoing provisions of this Act, issue such regulations as are necessary to protect the resources of the refuge.

By Mr. McCLURE (for himself, Mr. Hatfield, Mr. Tower, Mr. Thurmond, Mr. Bellmon, Mr. Helms, Mr. Goldwater, Mr. Domenici, Mr. Dole, and Mr. Wallop):

S.J. Res. 184. A joint resolution providing for the removal of restrictions that impede or constrain leasing of energy resources on public lands, the outer continental shelf, and other lands that contain resources under the control of the Federal Government; to the Committee on Energy and Natural Resources.

UNLOCKING AMERICA'S ENERGY RESOURCES

Mr. McCLURE. Mr. President, I introduce today, with my Republican colleagues, an energy initiative in the form of a Senate-House joint resolution. Carrying the theme that America has an abundance of energy resources, the objective of this legislation is to build an awareness and an appreciation of the contribution which energy resources on Federal lands can make toward decreasing our excessive oil import dependence.

Mr. President, I ask unanimous consent that the joint resolution submitted by Senators Hatfield, Tower, and myself and Congressmen Rhodes, Forsythe, and other Senate and House colleagues be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

Whereas, the timely development of America's energy resources, particularly those plentiful energy reserves controlled by the Federal Government, could promote employment at home, spur investment in U.S. industry, and create a climate for healthy economic growth in the 80's and beyond;

Whereas, our Nation's dependence on foreign oil is expected to continue for the next 25 years, and oil imports are expected to reach 60 percent of our consumption by the late 1980's;

Whereas, increased energy supplies from synthetic fuels, nuclear fission, solar, and other alternative energy technologies will not be available in sufficient quantities or commercially feasible in time to assist the United States through its energy crisis;

Whereas, the United States has proven oil reserves of approximately 27.5 billion barrels, but domestic consumption is approximately 6.7 billion barrels per year;

Whereas, the Federal Government has become the primary controller of domestic energy resources owning, in the name of the American people, one-third of the Nation's lands which contain 70 percent of all western coal resources, approximately 85 percent of the total oil resources in the United States (approximately 60 percent of which is contained in the outer continental shelf), 85 percent of the high grade tar sands, 80 percent of domestic oil shale resources, 40 percent of estimated natural gas supplies, and a significant portion of the Nation's uranium and geothermal resource base;

Whereas, the Federal Government, through a multitude of land-use restrictions, has withdrawn or constrained great acreages of America's energy resources, strategic materials, and other critical mineral resources, such that nearly two-thirds of the public lands are available to or severely restricted from development of energy resources under the provisions of the mining and mineral leasing laws;

Whereas, only 2.5 percent of the outer continental shelf of the United States is currently under lease while over 40 percent of the worldwide outer continental shelf of other nations involved in OCS minerals development is under lease, only 0.8 percent of the Federal coal lands are under lease and leasing has been at a virtual standstill since 1971, the Federal Government's total program for oil shale leasing amounts to the sale of two tracts, and other energy resources on Federal lands languish undeveloped while oil imports are expected to burgeon and reach 60 percent of total consumption by the late 1980s;

Whereas, the executive branch of the Federal Government, primarily by means of policy decisions and Executive orders, could unlock the domestic chest of energy wealth by greatly increasing the availability of publicly owned energy resources for exploration, development, and production and, at the same time, preserve the onshore and marine environment; and

Whereas, the opening of lands containing federally owned energy resources is a primary ingredient in eliminating the economic and strategic vulnerability unalterably linked to excessive import dependence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Unlocking America's Energy Resources Act".

Sec. 2. (a) The President shall immediately order the Secretary of the Interior and the Secretary of Agriculture to remove the administrative restrictions that are not specifically required by or pursuant to Federal statute or court order and that impede or constrain leasing of energy resources on Federal lands, particularly lands managed by the Bureau of Land Management and the United States Forest Service.

(b) The President shall, by Executive order if necessary, institute policies which will (1) provide, as a national priority, for the expeditious leasing of oil, natural gas, coal, oil shale, tar sands, and geothermal resources located on Federal lands, and (2) provide, in any case of multiple use planning decisions for Federal lands, increased priority for the development and production of energy resources on Federal lands.

(c) (1) The President shall identify any restriction that is required by or pursuant to Federal statute or the order of a court (such as an order resulting from a citizens' suit) and that impedes or constrains leasing of energy resources on Federal lands, and shall, within 6 months after the date of enactment of this joint resolution, submit a list of such restrictions to the panel established under section 4 of this joint resolution.

(2) The panel established under section 4 of this joint resolution shall, with the assistance of the Secretary of Energy and the cooperation of the Secretary of the Interior and the Secretary of Agriculture, review the list of restrictions submitted by the President under paragraph (1) of this subsection and any additional restrictions of such type that are identified by the panel. The panel shall, within six months after receipt of the list submitted by the President, submit a report to the Congress and the President setting forth its views on the reasonableness of the restrictions reviewed and its recommendations for appropriate legislative or administrative action to reduce or eliminate restrictions and impediments to leasing.

(d) (1) The Secretary of the Interior shall order substantial lease offerings within the National Petroleum Reserve in Alaska to begin immediately in large economic units. Any lease sale held pursuant to this subsection shall be for private development only, and may not be held prior to the expiration of the 60-day period beginning on the date that such lease sale is announced.

(2) Any civil action challenging any lease sale by the Secretary pursuant to this subsection shall be barred unless such action is commenced in the appropriate district court of the United States no later than 30 days after the date such lease sale is announced.

(3) Any lease sale by the Secretary pursuant to this section shall be exempt from the environmental impact statement requirements of the National Environmental Policy Act.

Sec. 3. (a) The President shall immediately order the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency to eliminate administrative requirements, activities, and decisions that are not specifically required by or pursuant to Federal statute or court order and that impede or delay leasing of oil, gas, and geothermal resources on the outer continental shelf.

(b) (1) The President shall identify any restriction that is required by or pursuant to Federal statute or the order of a court (such as an order resulting from a citizens' suit) and that impedes or constrains leasing of energy resources on the outer continental shelf, and shall, within 6 months after the date of enactment of this joint resolution, submit a list of such restrictions to the panel established under section 4 of this joint resolution.

(2) The panel established under section 4 of this joint resolution shall, with the assistance of the Secretary of Energy and the cooperation of the Secretary of the Interior and the Secretary of Agriculture, review the list of restrictions submitted by the President under paragraph (1) of this subsection and any additional restrictions of such type that are identified by the panel. The panel shall, within six months after receipt of the list submitted by the President, submit a report to the Congress and the President setting forth its views on the reasonableness of the restrictions reviewed and its recommendations for appropriate legislative or administrative action to reduce or eliminate restrictions and impediments to leasing.

(c) In light of the positive marine, human, and coastal environmental safety record of offshore leasing activities, the President shall immediately direct, by Executive order if necessary, that leasing priority be given to, and accelerated leasing occur on, the areas of the outer continental shelf that have the highest hydrocarbon potential and known hydrocarbon reserves, in order to increase potential production of oil and gas from the outer continental shelf.

(d) The Secretary of the Interior shall issue leases on the outer continental shelf in accordance with the following provisions:

(1) Deep water outer continental shelf areas in the Gulf of Mexico and in the Atlantic Ocean (850 feet of depth or greater), and areas of unusually difficult drilling conditions, shall be leased in large economic units.

(2) Entire outer continental shelf provinces (basins and reefs) shall be offered for nomination, and such provinces (basins and reefs) shall serve as the basis for environmental studies and shall be subject to the leasing requirements of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(3) The Secretary of the Interior shall invite nominations and conduct quarterly constituent sales in frontier areas of the OCS that are offered for nomination.

(4) Outer continental shelf areas of high potential and unusually difficult drilling conditions (such as the Chukchi Sea, the Beaufort Sea, and the deep water Atlantic Ocean) should be leased under a bonus, royalty, and work commitment bidding system, and such leases shall involve step-by-step engineering and environmental studies.

Sec. 4. (a) The President shall appoint an advisory panel for purposes of carrying out the responsibilities set forth in sections 2 (c) and 3(b) of this joint resolution. The panel shall consist of eight prominent United States citizens who have a working knowledge in the development and production of energy resources, four of whom shall be appointed from a list of qualified individuals submitted to the President by the Committee on Energy and Natural Resources of the Senate, and four of whom shall be appointed from a list of qualified individuals submitted by the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Interstate and Foreign Commerce, and Agriculture of the House of Representatives. The chairman and ranking minority member of each committee referred to in this subsection shall share equally in nominating individuals for the advisory panel. Nominations shall be submitted to the President no later than three months after the date of enactment of this joint resolution.

(b) While away from their homes or regular places of business in the performance of services for the panel, members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

Sec. 5. As used in this joint resolution—

(1) the term "Federal lands" has the meaning given such term in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(2) the term "outer continental shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

Mr. McCLURE. Mr. President, the Federal Government is the primary controller of energy resources in the United States. If my Republican colleagues and I can communicate only this single fact to the American public, through the joint resolution we introduce today, then we will have accomplished an important step toward a goal all Americans share—a nation self-sufficient in energy and minerals.

The timely development of America's energy resources, particularly those plentiful energy reserves controlled by the Federal Government, could promote employment at home, spur investment in U.S. industry, and create a climate for healthy economic growth in the 1980's and beyond.

ELEMENTS ESSENTIAL TO AN AWARENESS OF CONTROL BY THE FEDERAL GOVERNMENT OVER ENERGY RESOURCES

Three elements are essential to a raised consciousness of the contribution our Government owned lands could make toward decreasing import dependence:

Land ownership, the abundance of domestic energy resources on Federal lands, and the availability of those resources for development.

LAND OWNERSHIP

One-third of our Nation's lands are owned and administered by the Federal Government. It is understandably difficult for the people of New York or Iowa to appreciate the control exercised by Federal agencies over the lives of people in Idaho, Oregon, New Mexico, other Western States, and those States such as Texas with Outer Continental Shelf activities controlled by a myriad of Federal agencies. For, in the State of New York, Uncle Sam owns only about 1 percent of the land. In Idaho, however, the Government controls 64 percent of the total acreage.

The 11 Western States and Alaska face similar high percentages of land ownership by the Federal Government:

	Percent
Washington	29
Montana	30
New Mexico	34
Colorado	36
California	44
Arizona	45
Wyoming	48
Oregon	52
Utah	66
Nevada	86
Alaska	95

Yet, even these figures understate the control the Government has over land for two reasons. First, ownership is often not in contiguous blocks but rather in a checkerboard, where every other section, or square mile, is privately held or State owned. In locales where an energy resource, such as coal, is found in commercial quantities, the checkerboard ownership by the Government actually becomes a determinant for adjacent sections of land. If the Federal portion is declared off limits to mining, for whatever purpose, the adjacent section may become an uneconomic unit, regardless of the disposition of the private landowner to development.

And, second, approximately 63 million acres of mineral estate with privately held surface exist in the West. This split ownership adds a further dimension to an already complex land pattern. In North Dakota, for example, there are only 63,000 acres of federally owned surface land but 4.9 million acres of Federal mineral estate.

This significance of the vast Federal land ownership in the West as it pertains to domestic energy resources becomes obvious when one views the colocation of oil and gas, coal, oil shale, tar sands, uranium, and geothermal resources with Federal land ownership.

An Office of Technology Assessment review of minerals management on Federal lands supported a conclusion of the 1970 Public Land Law Review Commission report that:

> Present knowledge about the geology of mineralization in the United States, combined with the geographic pattern of established mining districts, indicates a strong probability that the public lands areas of the West generally hold greater promise for future mineral discoveries than any other region.

A 1977 report by the Comptroller General on Rocky Mountain energy resource development specifically addressed the relationship of western Federal ownership to domestic energy resource potential:

> Although a large percentage of the Nation's energy resources lies in the Rocky Mountain area, less than 15 percent of its energy production comes from the area. This is largely because most of the country's energy production has been in petroleum and natural gas, a relatively small portion of which is produced in the Rocky Mountain area. With the increasing emphasis on other forms of energy, the area will become increasingly important as an energy resource.

And from the summary of a March 1980 DOE policy study entitled, "The Use of Federal Lands for Energy Development," this quote:

> As private lands in the United States have been progressively explored, developed, and depleted of energy resources, the public domain has assumed growing importance as an energy supply source. In 1950, the proportion of domestic oil, gas and coal production originating on Federal lands was negligible. By 1978, the Federal share of production of these resources had risen to over 9, 14, and 26 percent, respectively. Furthermore, future energy production is likely to rely even more heavily on these lands, for several reasons. First, new oil and gas discoveries are expected to occur predominantly offshore, on Federal properties. Second, new clean air standards and the rising costs of underground relative to suface mining have resulted in a growing shift of coal production to the Western States where about 60 percent of coal resources are federally owned and another 20 percent is dependent on adjacent Federal coal for its commercial development. Finally, new energy resources, such as geothermal and oil shale, are located predominantly on Federal lands.

Total public lands, national forest, grasslands and other mineral estate controlled by the Bureau of Land Management, Forest Service and other Federal agencies amount to about 824 million acres. To that must be added the huge acreage of the Outer Continental Shelf.

Let me provide my colleagues with an example of what this ownership means in terms of control over mineral development: In 1968 about 17 percent of the 824 million acres available onshore for leasing were withdrawn from the mineral leasing laws. By 1974 that portion had increased to an astonishing 64 percent.

AN ABUNDANCE OF DOMESTIC ENERGY RESOURCES

The second element of this American energy theme is the abundance of domestic energy resources on Federal lands. Mr. President, I ask unanimous consent that a table illustrating the substantial control by the Government over oil, gas, coal, tar sands, oil shale, uranium and geothermal resources be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UNCLE SAM'S CONTROL OVER ENERGY RESOURCES

Resource	Total U.S. resources	Total on Federal land	Percent on Federal land
Oil (billion barrels)	144	122	85
Natural gas (trillion cubic feet)	1,975	740+	40
Coal (billion tons)	[1] 437	150	35
Oil shale (billion barrels)	122	88+	80
Tar sands			[2] 85
Geothermal (quadrillion Btus)	1,560	780	50
Uranium (million tons)	4.2	1.6+	40

[1] Demonstrated reserve base.

[2] Estimate.

Sources: USGS, DOE, University of Texas.

Mr. McCLURE. These are necessarily rough approximations given the macro view of the resources. DOE's Energy Information Administration, for example, says Federal control of uranium resources may be as high as 75 percent. And the Federal Trade Commission estimates Government ownership of geothermal resources at 56 percent.

Clearly, the Federal Government is the primary controller of domestic energy resources. The colocation of Federal lands and energy resources translates to a bargaining force able to mold market structures, change regional economic growth, inflate or deflate the price of mineral commodities, and able, with a flux in administrative discretion, to alter the course and the goals of local government.

THE AVAILABILITY OF FEDERALLY OWNED RESOURCES

The third element, and the premise for this joint resolution, is a review of the availability, or the unavailability, of federally owned resources for development. Mr. President, let me provide a number of examples of impediments and administrative encumbrances to the timely availability of energy minerals for development. Let me stress that these are not statutory constraints; rather they are wholly discretionary acts which have caused directly or indirectly a trend away from energy self-sufficiency.

Example 1: Coal. Although only 0.8 percent of the 100 million acres of Federal coal lands are under lease, no leases of any significance have been issued since 1971. The 9-year moratorium continues despite special legislation enacted in 1976, presumably to facilitate coal leasing. Leasing is not expected to resume until sometime in 1981, and, even then, only enough coal for two to four good-sized mines will be leased through the early 1980's, and no leasing is scheduled for New Mexico or North Dakota. In the west the Government owns about 70 percent of the resource, and numerous studies of future coal production cite the importance of western coal. The Department of Justice concludes that at least three times the planned amount should be leased to insure the development of competitive market structures. The Council on Wage and Price Stability has stated that the Department of the Interior's new coal management program may result in insufficient coal production by the late 1980's and that its marginal benefits "may be quite small, or even negative." The current absence of Federal coal leasing and the inadequate rate of leasing set for the next several years display discretion by the executive branch which has constrained the orderly formation of logical mining units and the development of markets for western federally owned coal.

Example 2: Geothermal resources. Four years after the geothermal steam act of 1970 was signed into law, implementing rules finally went into effect. The BLM has offered for lease only about half the lands available for competitive leasing under its jurisdiction. The forest service has offered for lease only 2 percent of its known geothermal resource areas. In California, where total KGRA acreage is highest, only 25 percent of BLM acreage and none of the Forest Service acreage has been offered. According to a DOE Federal lands policy study, "less than half of the tracts offered for sale received any bids at all, which the industry attributes to several factors. First, it is claimed that the most attractive tracts are not being offered, and second, that not all contiguous tracts are being offered." Over 7,000 noncompetitive geothermal lease applications have been filed since 1974, but nearly 2,000 are awaiting action. The DOE study concludes that, "there have been serious delays in issuing leases, with an average time lapse of about 2 years."

Another geothermal resource example occurred in 1979 when the Department of Energy recommended to the Forest Service that 11 very high development potential areas be excluded from land withdrawals under RARE II. The Forest Service response to these formal recommendations was to prohibit geothermal development in 9 of the 11 areas, place 1 into a "further planning" category, and one into a modified withdrawal classification.

A third, more generic geothermal resouce example of constraints to orderly development continues on lands covered by noncompetitive geothermal lease applications. In California, 9 out of 10 of these noncompetitive leases will never be developed because of insufficient heat values, reservoir strength, or a number of other technical, resource or economic reasons. Yet the Forest Service and BLM insist on requiring detailed environmental assessments prior to lease issuance on nearly every application. The agencies have the authority to utilize "phased environmental assessment" which would greatly decrease processing time and, in the 1 in 10 chance that development is desired, still permit the agency to prepare a detailed environmental assessment to protect the other resource values. But that authority has been put aside with a more cautious, and more constraining, path chosen instead.

Example 3: OCS oil and gas. Even with the demanding requirements of law concerning development of the Outer Continental Shelf, the Secretary of the Interior and other Federal agencies involved in permit approvals have substantial flexibility. The Secretary could, for example, assume a more ambitious role in OCS development through policies affecting the rate of leasing, the prioritization of lease sales, the procedures for nominating tracts for development, and the size of units to be offered for lease. These kinds of administrative actions to promote oil and gas production from the OCS have not been pursued.

A specific example of obstructionism by Federal, State, and local agencies on an OCS project involves Exxon's Santa Ynez unit in the Santa Barbara Channel in California. While the unit could produce 27,000 barrels of oil and 30 million cubic feet of natural gas per day, the project has been delayed by 3 environmental impact statements, 21 public hearings, 10 major governmental approvals, 51 related studies, and, at last count, 12 lawsuits. To date $300 million has been invested by the company and oil or gas has yet to be produced.

Example 4: Uranium. According to the Federal Trade Commission, virtually all commercial discoveries of mineable uranium are located in the Western States on lands which have been or are now federally owned. In 1974 over 54 percent of uranium production originated from mining claims on Federal lands, and another 21 percent is under Federal control. Given the application of the 1872 mining law to uranium, withdrawals become the key ingredient to impeding uranium exploration and development. An example of this kind of constraint is the "emergency" withdrawal by the BLM in the Deep Creek area surrounding west-central Utah which nullified uranium mining claims in an area surrounding three sections of State lands which had been leased by the State for uranium development. BLM's withdrawal effectively prevents uranium mining in Deep Creek.

In the White Mountain National Forest in New Hampshire, exploration discovered significant new uranium potential. The Forest Service determined, however, that exploration for uranium was inappropriate and so the extent and grade of the deposit remains unknown.

The two uranium examples provide a different twist on the same theme. First, State mineral leases and land use designations should perhaps be considered in a less cavalier fashion by Federal land management agencies. And second, it makes a great deal of strategic and managerial sense, protestations to the contrary by preservationists, to inventory the mineral resource base of an area before it is put in a "not suitable for development" area.

Example 5: Oil shale. The leasing and development of oil shale, between 72 and 80 percent owned by the Federal Government, is now behind the "worst case" scenario of project independence. The blueprint had assumed at least six leases would be well underway by now with an additional 15,000 acres leased in 1980. In actuality only 20,400 acres are under lease of the 9 million acres prospectively valuable for oil shale. Only two Federal oil shale leases in Colorado, known as C–a and C–b, are in active development.

Of interest in Alaska, south of the Brooks Range in the general vicinity of the Alaska pipeline, the U.S. Geological Survey has withdrawn an area for classification which contains samples of oil shale much richer than any shade so far tested in the lower 48. Colorado oil shale yielding 30 gallons per ton pales in comparison to double or triple that reading in the Alaska tests.

The examples cited for oil shale again reiterate the restrictive consequences of leasing discretion, when that discretion ends in very little leasing and very little development, and the constraining nature of some mineral segregation or withdrawals, however temporary they may be.

Mr. President, these examples demonstrate how bureaucratic delays and other discretionary activities by Federal agencies are constraining the development of publicly owned energy resources. The joint resolution I introduce today with my colleagues in both Chambers establishes a mechanism for identifying and reviewing the reasonableness of these kinds of administrative impediments to domestic energy resource development.

The opening of lands containing federally owned energy resources is a primary ingredient in eliminating the economic and strategic vulnerability unalterably linked to excessive import dependence. This joint resolution, unlocking America's energy resources, gives us the opportunity to move forward intelligently without denigrating the letter or the character of our land use planning and environmental framework.

Mr. President, I ask unanimous consent that the following documents be entered into the Record at this point: A summary table of the joint resolution, a section-by-section analysis, an OCS schedule proposed as a supplement to this joint resolution, a table displaying projected revenues from the proposed OCS schedule, and a table comparing production under the proposed OCS schedule and the DOI schedule.

There being no objection, the material was ordered to be printed in the Record, as follows:

JOINT RESOLUTION: UNLOCKING AMERICA'S ENERGY RESOURCES

	Onshore Federal lands	Outer Continental Shelf
Bureaucratic constraints removed	Interior and Agriculture remove nonstatutory constraints to leasing on BLM and Forest Service lands.	Interior, Energy, Transportation, Commerce, EPA remove nonstatutory constraints to leasing on the OCS.
Leasing expedited and priority increased.	Executive orders/policies to expedite onshore energy minerals leasing—national priority for energy resource development on Federal lands.	Executive order to accelerate leasing on OCS areas of highest potential and known reserves.
Statutory impediments forwarded to panel.	President identifies onshore leasing constraints for panel within 6 mo.	President identifies OCS leasing constraints for panel within 6 mo.
Panel recommendations to President and Congress.	Panel reviews and adds to list of impediments; reports within 6 mo. to President and Congress on legislative remedies.	
Other Federal leasing provisions	Interior conducts lease sales in NPRA with large economic units offered to private sector.	Large economic units offered for lease in deep water and difficult drilling areas. Entire basins and reefs offered for nomination and studied; frontier quarterly constituent sales in nominated areas; work commitment bidding in high potential and difficult drilling condition areas.

Unlocking America's Energy Resources—Section by Section Analysis

Section 2 directs the President to order the Secretary of the Interior and the Secretary of Agriculture to remove administrative restrictions which impede or constrain the leasing of coal, oil, gas, oil shale, geothermal resources, and tar sands on Federal lands, with particular emphasis on those lands managed by the Bureau of Land Management and the U.S. Forest Service.

The President is also directed to establish as a national priority (by Executive Order if necessary) the expeditious leasing of energy minerals on Federal lands.

The President is required to identify statutorily required or court ordered constraints to the leasing of energy resources, and within 6 months of enactment, submit a list of these restrictions to a bipartisan panel of prominent citizens for their review. The panel would, within 6 months, make their report to the Congress and the President stating its views on the reasonableness of these and other impediments to leasing and make recommendations for legislative or administrative action to reduce or eliminate unnecessary restrictions.

Another subsection requires the Secretary of the Interior to initiate immediately substantial lease offerings within the National Petroleum Reserve in Alaska to the private sector. Civil actions challenging any lease sale would be restricted to the 30 day period after the date the sale is announced. In addition, NPRA lease sales would be exempt from environmental impact statement requirements of the National Environmental Policy Act.

Section 3 directs the Departments of Commerce, Energy, Interior, and the EPA to eliminate procedures, policies, and orders not specifically required by law that either cause delay or add costs to energy development.

The President is directed to identify legal constraints and delays in OCS operations and to report these delays within six months to the panel created in Section 4. The section also provides that the panel may identify additional impediments to leasing and development. The panel then makes legislative recommendations to Congress and the President with the objective of eliminating identified delays.

The policy is established that areas of highest hydrocarbon potential and known hydrocarbon reserves shall be leased before areas of low potential are leased.

When leasing within OCS provinces, entire basins or reefs shall be offered for nomination (the entire Mid-Atlantic jurassic reef, as an example). Tracts receiving the most nominations would then be offered for sale.

These leasing procedures are to be applied to the entire basin or reef offered for nomination and, thereafter, quarterly "constituent sales" are to be held on these areas.

In areas such as the Chukchi Sea, Beaufort Sea, and deep water, large economic units made up of several tracts shall be offered for sale. In areas of unusual environmental conditions, leases shall be under a work commitment system with bonus bidding. The lessee and the Department of the Interior are to conduct environmental and engineering studies at each step of the work commitment to insure safe and orderly development (responsive to recent Robinson decision in the Beaufort Sea sale).

Section 4 requires the President to appoint an advisory, bipartisan panel of 8 prominent citizens who have a working knowledge in the development and production of energy resources to carry out the provisions of this joint resolution. Panel members are recommended to the President by Congress.

Proposed OCS leasing schedule under S.J. Res. 184

Year, month, and sale:	*Acreage to be leased*
1980	
August—Gulf of Mexico	600,000
October—Gulf of Alaska (eastern area)[1]	600,000
1981	
February—Gulf of Mexico	700,000
August—Gulf of Mexico	700,000
September—Cook Inlet[1]	600,000
October—Mid-Atlantic[1,2,3]	1,000,000
December—Beaufort Sea[1,2,3]	600,000
1982	
March—Gulf of Mexico	800,000
May—Southern California	600,000
June—Central & No. California	600,000
September—Navarin Basin[1,2]	600,000
October—Gulf of Mexico	800,000
December—St. George Basin[1,2,3]	600,000
1983	
February—Gulf of Mexico	800,000
April—Norton Sound[1,2,3]	600,000
August—Bristol Bay[1]	600,000
October—Gulf of Mexico	800,000
November—Hope Basin[1,2,3]	600,000
1984	
February—Southern California	600,000
June—Gulf of Mexico	800,000
September—Gulf of Mexico	800,000
October—North Atlantic[1]	600,000
1985	
January—Chuckchi Sea[1,2]	600,000
March—Eastern Gulf of Mexico and southeastern shelf[1]	600,000

[1] Entire basins and reefs will be open for nominations and subject to all provisions of the OCSLAA and quarterly "constituent sales."

[2] Work commitment and bonus bidding and step-by-step environmental and engineering studies.

[3] Large economic units.

REVENUES FROM RECOMMENDED OCS SALE SCHEDULE

[Billions of 1978 dollars]

	1980	1981	1982	1983	1984	1985
Revenues received from bonus and rental	2.2	10.5	12.2	6.9	7.6	2.2
Total revenues for life of program (includes production royalties through 1999)[1]	4.1	18.7	21.9	10.8	11.2	3.2

[1] Not adjusted for windfall profits tax.

Note: Only 2 sales proposed.

PRODUCTION COMPARISON

	Recommended schedule	DOI schedule
Total estimated production (using DOE model[1]).	6.2 billion bbl oil 16.7 natural gas (tcf).	2.6 billion bbl oil. 6.7 natural gas (tcf).
Offset of balance of payments.[2]	$327 billion	
Total estimated production (using DOI methodology[3]).	14.2 billion bbl oil	6.8 billion bbl oil.

[1] DOI June 1979 schedule based on higher estimated resources than recommended schedule (DOI added Hope Basin).

[2] At $35/bbl; $6.60/mcf.

[3] DOI estimated 20 percent of resources will be produced per sale.

AN ABUNDANCE OF ENERGY RESOURCES—RIGHT IN OUR BACKYARD

● Mr. **HATFIELD**. Mr. President, I am pleased to share in introducing today a joint resolution, Senate Joint Resolution 181, with a theme which is capturing the attention of America—energy from domestic supplies.

I am sure all Americans would like some day to read banner headlines exclaiming: U.S. Self-Sufficient in Energy and Minerals. That vision seems a little remote when you review the oil import dependence we face daily or the huge petroleum resources of Saudi Arabia or Oman or, our southern neighbor, Mexico.

The simple point of this effort today, however, is that we need not pin our energy future to an elusive, and costly, resource use from across the seas—for we have in this country an abundance of energy resources.

Right in our backyard—in America's public lands, national forests and the Outer Continental Shelf—we have enough coal to last several hundred years, enough oil for scores of years, and huge quantities of oil shale, tar sands, natural gas, and geothermal resources.

The Federal bureaucracy, however, has hidden the true energy potential of these lands through a sometimes unnegotiable maze of administrative encumbrances. Geothermal leasing, for example, has been hindered because the BLM and Forest Service have not made full use of "phased environmental assessment." Where noncompetitive leasing is predominant, this phased assessment prior to development would eliminate the need to prepare detailed environmental statements on the 9 out of 10 leases on which there is no development activity. However, the procedure would still require full environmental review if the lessee were to move into a development sequence.

Other types of discretionary decisions by the executive branch can hinder the orderly development of federally owned energy resources. A generic example of this is the rate of leasing of minerals such as geothermal resources, coal, onshore and offshore oil and gas, and oil shale. The history of competitive leasing of federally owned minerals over the last 10 years illustrates unambitious rates of mineral leasing: no oil shale leases issued, no significant coal leases issued, only half the known geothermal resource areas offered for sale, and an OCS schedule of leasing which delays the offering of known areas of high potential.

The joint resolution presents a mechanism to "provide for the removal of restrictions that impede or constrain the leasing of energy resources on public lands and the Outer Continental Shelf". A panel of prominent citizens is established to review the reasonableness of impediments to the orderly development of our vast domestic energy supplies. Recommendations by the panel for statutory change are forwarded to the President and Congress. Policy input is provided through the joint resolution by directing that the President eliminate unnecessary administrative burdens to energy minerals leasing. In addition, the joint resolution cites specific actions to be taken regarding oil and gas leasing in the National Petroleum Reserve in

Alaska and on the Outer Continental Shelf.

We must move to identify and remove impediments to orderly and timely development. And I am convinced we can do so without impinging upon wilderness or abridging land use planning processes or sacrificing protection of the environment.

To deny this effort to insure a more responsive Government is certainly to ignore the threat posed by prospects for even higher dependence upon oil imports through the 1980's.

Americans deserve better energy and minerals leadership. A fresh perspective and a theme of domestic energy supplies is a big part of the answer.

The joint resolution which I share in introducing today will help greatly in creating an awareness, a consciousness on the part of the American people and the Congress of the great contribution energy resources from Federal lands could make in focusing that vision toward an energy independent America.●

ADDITIONAL COSPONSORS

S. 1455

At the request of Mr. Domenici, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1455, a bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

S. 1480

At the request of Mr. Culver, the Senator from Maine (Mr. Mitchell) was added as a cosponsor of S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

S. 2414

At the request of Mr. Durenberger, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2414, a bill to extend for 4 years the general revenue sharing program under the State and Local Fiscal Assistance Act of 1972.

S. 2486

At the request of Mr. Culver, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2486, a bill to amend the Internal Revenue Code of 1954 to exclude from taxation interest earned on obligations substantially all of the proceeds of which are used to provide financing for railroad rehabilitation.

S. 2526

At the requesst of Mr. Baucus, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2526, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on certain industrial development bonds the proceeds of which are to be used to furnish railroad transportation.

S. 2620

At the request of Mr. Nelson, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of S. 2620, a bill to expand the opportunities for small business participation in exporting, and for other purposes.

S. 2804

At the request of Mr. Nelson, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 2804, a bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide for a reduction in social security taxes.

S. 2809

At the request of Mr. Packwood, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

SENATE RESOLUTION 460—SUBMISSION OF A RESOLUTION RELATING TO THE PROMOTION OF ENERGY EFFICIENT COOLING

Mr. DOMENICI (for himself and Mr. Johnston) submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. Res. 460

Whereas the promotion of energy efficient cooling systems can make a substantial contribution to the national goal of reducing imports of crude oil:

Whereas the promotion of alternative technologies to halocarbon based cooling systems can significantly contribute to the protection of the ozone in the stratosphere and thereby contribute to the public health and welfare: Now, therefore, be it.

Resolved That it is the sense of the Senate that the Secretary of Energy should take all actions within his authority and in consultation with the General Services Administration, the Department of Defense, the Department of Transportation, and other relevant agencies and departments to establish a program to utilize energy efficient and viable alternatives to halocarbon based technologies for cooling.

● Mr. DOMENICI. Mr. President, today I am introducing a Senate resolution which expresses the sense of the Senate that the Secretary of Energy coordinate an effort within the Federal Government to promote and utilize energy efficient cooling devices. At the same time, we would encourage the development of alternatives to present day cooling technologies which, through their use of halocarbons, may contribute to the destruction of the ozone in the upper atmosphere. I do not believe it is necessary to review with my colleagues the overwhelming evidence that conservation must be an essential element of our national efforts to resolve our energy problems. I may, however, have to convince my colleagues that improving energy efficiency in cooling will make an important contribution in this effort.

The potential for energy savings in cooling and refrigeration is great and as my friend and cosponsor of this resolution, Senator Johnston, can attest, cooling is not just a luxury in many parts of this country, but a necessity. To date, our efforts at the Federal level have concentrated on developing more energy efficient space and water heating methods. We normally think of air-conditioning as something that happens "in the South" and refrigeration as an effortless process taking place in that big machine in our kitchens.

Let me remind my colleagues that it was the growth in the use of air-conditioning in the Northeast that changed the times of peak power demand from winter evenings to summer afternoons during the 1960's. Certainly "peak power" is the most expensive power to produce, and utilities most often employ generating units powered by petroleum to supply this class of electrical energy. Not only has the increased use of cooling greatly affected utility load management, but it represents a significant portion of our overall energy usage. Residential cooling alone accounts for over one quadrillion Btu's each year. That is as much energy as we use to light our homes. In the commercial sector, cooling accounts for 16 percent of the energy used.

When we talk of "cooling" we often forget that refrigeration is an extension of the established technologies and again, its widespread use is often not appreciated. I would only remind my colleagues of this Nations vast network of refrigerated trucks and trains for the transport of produce, frozen foods, and pharmaceuticals, to name a few. The Mitre Corp. has calculated that refrigerated trucks consume approximately 1.5 billion gallons of fuel per year alone.

Mr. President, it is clear there is room for energy conservation in cooling. The introduction of this resolution is intended to focus some of our attention on this aspect of our energy consumption. The Department of Energy, Transportation, and Treasury all have the tools to move forward in this area. I hope the passage of this resolution is speedy, Mr. President. While the Federal Government has the authority, know-how, and capability to promote and help develop energy efficient cooling, we have not given it a signal to move ahead in this area. I believe this resolution will provide that signal.●

AMENDMENTS SUBMITTED FOR PRINTING

INFANT FORMULA ACT OF 1980—S. 2490

AMENDMENT NO. 1893

(Ordered to be printed and referred to the Committee on Labor and Human Resources.)

Mr. CHILES submitted an amendment intended to be proposed by him to S. 2490, a bill to provide certain requirements for infant formula, and for other purposes.

● Mr. CHILES. Mr. President, today I am submitting an amendment to S. 2490. I am offering this amendment in response to the action taken by the House of Representatives on the infant formula bill and with the hope that the Senate will recognize the urgency and necessity of following a similar course.

The amendment I am proposing is not related to the subject addressed by S. 2490. Rather it seeks to amend the Controlled Substances Act to increase maximum penalties for drug trafficking violations involving over 1,000 pounds of marihuana. The point of the amendment is to distinguish, in terms of criminal sanctions, between large and small trafficking violations and establish penalties that will serve as a serious impediment to the big time marihuana trafficker. At present, the law makes no such distinction. The dealer moving marihuana by the ton and raking in millions in profits faces no more penalty than the small time pusher. This makes little sense from the standpoint of the seriousness of the offense or in terms of providing a real deterrent to the large scale operator whose potential financial gain is so great.

Under current law, individuals convicted of trafficking in marihuana, regardless of amount, are subject to a maximum 5-year prison sentence and/or a $15,000 fine. The penalties are doubled for a second offense. In the world of the drug dealers this encourages the perception that marihuana is a relatively safe bet—little or no jail and a fine that is no great burden.

My amendment proposes much stronger penalties for those trafficking in large amounts of marihuana. Individuals convicted of trafficking in over 1,000 pounds would face a maximum 15-year prison sentence and a maximum $125,000 fine. Individuals convicted of a second offense would be subject to a maximum 30-year prison sentence and a fine of $250,000.

This proposal to stiffen marihuana trafficking penalties was adopted unanimously by the House Committee on Interstate and Foreign Commerce and was passed in the House by a wide margin as part of the infant formula legislation. Similar efforts to strengthen the penalty structure are underway in the context of the Criminal Code revision. Both the House and Senate Judiciary Committees have recognized the inadequacy of current law However, in light of the uncertain future of the Criminal Code Reform Act and its delayed implementation if enacted, I believe the House acted wisely to address this problem of insufficient criminal penalties in a more immediate fashion.

The scope of the marihuana trade and what this means in terms of the widespread availability of the substance to the American population is too pressing a problem to accommodate any delay on the question of upgrading the criminal sanctions. Marihuana remains the major income producer in the U.S. illicit drug market, accounting for 35 percent of retail sales. For 1978, estimates are that from 10,000 to 15,000 tons were smuggled into the United States with a value of from $15 to $23 billion.

Statistics compiled by the National Institute on Drug Abuse show that use of marihuana between 1971 and 1977 increased more than 100 percent for those aged 12 to 17 and more than 50 percent for those aged 18 to 25. The total number of marihuana users in the United States is estimated for 1978 at 26.6 million persons. In light of the mounting evidence that marihuana is far from a harmless substance, as many of its users assume, these are alarming statistics. They argue for more vigorous law enforcement and most certainly harsher measures for those who make marihuana trafficking their business.

Beyond the health and societal problems resulting from marihuana trafficking, there is another important consideration; namely, the economic impact. The illicit drug trade moves billions of dollars into our economy with a multitude of effects. In the State of Florida, which has become the focal point for marihuana shipped from Colombia, drug money has become a major influence on the economy. The General Accounting Office estimates that the total gross value of the drug trade in south Florida is at least $7 billion annually with the majority from marihuana sales. These untaxed dollars, when channeled into legitimate enterprises, translate into inflated prices, criminal dominance of some industries and unfair competition that drives out the honest businessman.

At this time we are losing the war against the drug dealers. If we are to reverse that situation, it will take a vigorous commitment of all the means at our disposal. Strong and enforceable criminal penalties are an essential part of that effort. Those who deal in marihuana must pay a high price if convicted, receiving a prison sentence that will put them out of the business for a long time. Those who are attracted by the financial rewards of marihuana trafficking must understand that they run a risk of severe punishment.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1893

On page 11, after line 12, insert the following:

SEC. 3. Section 401 of the Controlled Substances Act (21 U.S.C. 841) as amended—

(1) by striking out "except as provided in paragraphs (4) and (5) of this subsection" in the first sentence of subsection (b) (1) (B) and inserting in lieu thereof "except as provided in paragraphs (4), (5), and (6) of this subsection"; and

(2) by adding after paragraph (5) of subsection (b) the following new paragraph:

"(6) In the case of a violation of subsection (a) involving a quantity of marihuana exceeding 1,000 pounds, such person shall be sentenced to a term of imprisonment of not more than 15 years, and in addition, may be fined not more than $125,000. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) of this subsection, or for a felony under any other provision of this title, title III, or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, and in addition, may be fined not more than $250,000.".●

INTERNATIONAL SECURITY AND DEVELOPMENT CORPORATION ACT OF 1980—S. 2714

AMENDMENT NO. 1894

(Ordered to be printed and to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to S. 2714, a bill to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and for other purposes.

AMENDMENT NO. 1895

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to S. 2714, supra.

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a public hearing on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service. The Senator from Arkansas (Mr. BUMPERS) will conduct the hearing, as chairman of the Subcommittee on Taxation, Financing, and Investment.

The hearing will begin at 10 a.m., on Wednesday, July 2, 1980. Those interested in the subject matter of the hearing may obtain further information from the Senate Small Business Committee office at, 424 Russell Senate Office Building, Washington, D.C. 20510.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

A hearing is scheduled for June 25, 1980, beginning at 10 a.m., in room 1202 of the Dirksen Senate Office Building, and June 26, 1980, beginning at 10 a.m., in room 1202 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2829, a bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

For further information regarding the hearing you may wish to contact Tim Woodcock of the committee staff on extension 224–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today beginning at 5 p.m. to hold a hearing on a public building proposal in Omaha, Nebr.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE OF FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Tuesday, June 17, 1980 to hear and consider executive nominations and other committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, June 17, 1980 to hold a hearing on S. 23, S. 1580, and S. 2028, legislation which amends the Plant Variety Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEWS AND POLITICS

● Mr. LAXALT. Mr. President, news and politics, politics and news—the two are intrinsically inseparable.

Does the media slant the news toward the novel, the controversial, or in a direction suitable to preconceived ideological biases? Do politicians manipulate the media and people associated with it for their own interests?

These are among the most controversial questions of our time. They are also among the most significant.

Lyn Nofziger, who has been a careful observer of these questions from both sides of the fence, recently addressed himself to these issues at Hillsdale College. His remarks are typically cogent, careful and well-reasoned.

For the edification of my colleagues, I ask that they be printed in the RECORD.

The remarks follow:

THE NEWS OF POLITICS VS. THE POLITICS OF NEWS

(By Lyn Nofziger)

It's a pleasure to be here tonight to talk about the interrelationship of two of my favorite subjects—politics and news, or rather the coverage of political news.

News and politics—the two words mean little unless you personalize them, unless you talk about politicians on the one hand and on the other hand about newsmen and women, or media persons, if you prefer—I don't want to say "reporters" because many of the media persons or personalities mixed up in the business of reporting or analyzing or presenting politics, politicians, and elections are not reporters. They are columnists, editorial writers, anchor persons, TV cameramen, photographers and other politicians.

In addition, many of the reporters who cover elections, both major and minor, are not only political reporters, but also they don't understand politics, or the political selection processes or the way government works—and their reporting reflects it.

I don't mean this to be a blanket indictment, although I will have some specific indictments as we go down the road here. But I do mean to indicate that the coverage of politics and political races is really a hodgepodge and ranges from the very professional to the very amateurish. I might add, at this time, and I'll speak more about it later, that it also ranges from the very fair and objective to the opinionated and from there to the very slanted and biased.

I think that in a speech on this topic one must also talk about the methods of transmitting news and/or opinion to the public because that has a great deal to do with the politics of news as well as the news of politics.

In older and simpler days a reporter went out and covered a political speech and came back and wrote his story. The paper printed it, and the reader received it either at home or off the newsrack or from the paperboy. There really wasn't much more to it.

Even the advent of radio didn't change things all that much. You got an occasional speech from a major politician or office holder, live, and you got quicker, if briefer, reporting of major campaigns, but radio supplemented newspapers by titillating their readers. It did not supplant them.

But then came television which had a major impact on all news coverage and changed the way politics is covered and changed the way politicians campaign. In all honesty, however, TV came rather gradually to be a factor as far as covering major campaigns, candidates and office holders was concerned.

Initially, cameras, tripods, lights, camera crews were seen, both by writing press and candidates, as intrusions into the political process and the coverage of press conferences, rallies and political events of all kinds. Equipment was bulky, personnel was pushy. As recently as the Johnson-Goldwater campaign of 1964 there was a real antagonism between the writing press and the electronic media.

I recall one reporter, young then, but now a bureau chief and a very prestigious political reporter, telling other reporters with a vindictive satisfaction that he had cut the cable of one TV crew's equipment—they used to run around with long cables strung like umbilical cords between the camera crews and the reporters. If you were a newspaper reporter, it was fun to step on them as a crew was hurrying from one place to another.

There was still, even at that relatively recent date, a tendency to segregate television reporters from the real reporters. Separate press conferences would be held, one for the writing press and one for the TV reporters. TV reporters would be permitted to cover some events, but their cameras would be excluded. What a difference from today when cameras are given the best locations at dinners, rallies and other events and when TV reporters with their camera crews—mostly video tape anymore—are avidly sought out by candidates. They are the means to take the candidate directly to the people, unfiltered through the one-dimensional limitations of the writing press. It just took a while for candidates to figure this out.

1964 was also the year that TV had its first real impact on a presidential election—an impact that, as I have indicated, has through the years grown increasingly strong and important.

Likewise, 1964 was the year that it was my misfortunate to be assigned to cover Barry Goldwater's half of the Johnson-Goldwater campaign exclusively. There were three things wrong with that. First, covering one candidate exclusively over a period of ten weeks will drive anyone nuts. Second, you cannot possibly get an objective feel for a campaign by covering only one side of it. Third, you have to be very careful lest you find yourself either becoming a house reporter, or to avoid that, writing stories that are antagonistic toward the candidate.

But back to the TV coverage. There is no doubt that Goldwater was a controversial candidate. There were few who were neutral toward him, including reporters. Indeed reporters that year, more than in most years, seemed to seek out statements and incidents that would justify their own viewpoints.

Because Goldwater was controversial, he was gretted almost everywhere by demonstrators, usually just a few, bearing anti-Goldwater signs. Many TV reporters, to prove that Goldwater was disliked by others besides themselves, day after day shot the sign carriers, ignoring the fact that most crowds were largely, even enthusiastically, friendly.

Now, I don't say that television coverage cost Barry Goldwater the election. It did not. But television coverage did, at the very least, reinforce the opinion of most Americans that Goldwater was a radical and a bombthrower who could not be trusted with the awesome responsibilities of the presidency.

Of course there was more involved than just TV or just pictures of demonstrators. For example, an erroneous A.P. story out of New Hampshire early on accused Goldwater of wanting to resume aboveground nuclear testing. And just before the Goldwater-Rockefeller primary in California, a still well-known—but now more conservative—TV news reporter and analyst went a long way out of his way to get at Goldwater. First, he talked in glowing terms about California's great progressive governor. Hiram Johnson, and then he talked negatively about the Birch Society. He followed by comparing Rockefeller to Johnson—Hiram, that is—and finally came to his point—the next day's primary was really a contest between Hiram Johnson and the John Birch Society. That, my friends, is a clear example of the politics of news reporting.

Clearly the advent of television has changed public perceptions of politics and politicians as well as almost all other facets of world events. But it is doubtful that it has increased the accuracy of those perceptions since they involve input from fallible, often ignorant humans.

Ignorance, I guess, is the chief curse of the political reporter, who often thinks he's writing from inside knowledge, or at least deludes himself that he is. The trouble is, most reporters really don't understand how campaigns function, because they've never been in one.

They have no idea of either the logistics of a campaign or of the decision-making processes that go on in a campaign. They write from hearsay, from second-hand knowledge and from sources that have a vested interest in what is written. Put five persons in a room, and they come out with five different versions of what went on. That is true of politicians, too. It is seldom the reporter talks to all five. And even if he does, how does he decide which version or combination of versions is the truth?

I heard someone giving a speech the other day, and he used an anecdote to make a similar point. It went something like this. The first fellow says to the second fellow: "I hear you got a tip from your broker last Tuesday and made $100,000 on the stock-market." The second fellows says, "You've got the basic story except that it wasn't my broker, it was my brother-in-law, it wasn't last Tuesday, it was a week ago Wednesday, it wasn't on the stock market, it was a real estate deal, and I didn't make $100,000, I lost it."

Some political stories are about that accurate.

In no defense of reporters, it isn't always that someone feeds them bad information, either; much of the misinformation fed by them to the public is due to lazy reporting or poor analysis.

I'm sure a lot of people here were watching NBC-TV the morning after the Iowa caucuses and heard Tom Petit declare flatly, "Ronald Reagan is dead." What's happened since might not be the quickest resurrection job on record, but it surely ranks among the top ten.

Again, going back to television, it isn't necessarily what you see that leaves the wrong impression or conveys the wrong perceptions. It's what you don't see or how what you see is explained by the reporter.

The fault is not with the pictures. The fault is with television news producers, television's self-imposed time limitation, and the ideas of TV reporters and news directors as to what constitutes news. Too often the word "balance" is foreign to those who decide what should go on TV. Thus you see the demonstrators at a Goldwater rally but not the friendly crowd.

Thus, you see the hassle at the debate between Reagan and George Bush, and you see and hear the anger of the four excluded candidates, but you don't have the vaguest idea as to who won the debate.

Thus you see Reagan on "60 Minutes" with the close-up lens right on top of him, showing every wrinkle, every blemish, every enlarged pore, to the point where it is difficult to concentrate on what is being said, because you know the cameraman's purpose, or the reporter's purpose or the director's purpose is to show every American watching that Ronald Reagan is an old man.

But why not show Ronald Reagan's age? He is 69. People need to know that, don't they? Of course they do, and I suspect every American interested in who our next president will be knows that. There are two points to make here: wrinkles and blemishes are physical defects having nothing to do with stamina or mental capacity or ability to govern. So the only reason to emphasize them is to leave a negative impression.

Secondly, you may have noticed how many news items, both on television and in print, mention Reagan's age. Almost every one. This is not only because reporters think it is important, but also because they want the voter to think it's important. Back in 1966 when Reagan first ran for governor, it wasn't his age that bothered California's McClatchy newspapers, it was his conservatism. Thus nearly every story began, "Ronald Reagan, the Goldwaterite candidate," and went on from there.

One might think that the most important things about a candidate, assuming that he is healthy, honest and reasonably intelligent, are the things he stands for, the things he believes in, the philosophy he holds—and hopefully adheres to. Therefore, as he enunciates these things throughout the long campaign, you might think they would be reported again and again. Not so. In most reporters' eyes, repetition dulls news value. What the candidate thinks is important is not important to them, unless what the candidate says is very contraversial or opens up areas of controversy the candidate cannot easily or satisfactorily explain. Thus you will read or hear story after story about a 90-billion-dollar-rebate plan for the states—and properly so, but not to the exclusion of what else the candidate might stand for. The trouble is, now, reporters travel in packs and hunt in packs. Every reporter must ask his question and write his story whenever controversy arises. And each seeks to be the first to spot a blunder or area of controversy.

Thus you have the spectacle of the press eagerly waiting around for the candidate to blunder, to mistate himself, to goof up. And they all do. Muskie can weep in New Hampshire, Agnew can kiddingly refer to someone as a "fat Jap." Carter can "lust" in his heart. Romney can be brainwashed, and Reagan can tell a duck joke. And these immediately sweep aside things of importance or meaning that the candidate might say or stand for. Such missteps can and have run candidates right out of presidential races—not because of what the media made of them.

Without a doubt, then, the media by what it reports, by what it doesn't report, by what it shows or doesn't show, by how much time or how little time it gives a candidate, or an office holder or an issue, can distort issues or affect the standing of candidates, can literally make them or break them. Not always, of course, but often enough. And, in my opinion, the impact of the press on national candidates is going to get stronger and stronger.

Why? One reason is that federal campaign laws now limit how much presidential candidates can raise and spend. There now is no way a candidate can reach all the people directly and effectively under these limits, especially with television and radio time, print media space and airplane charter costs skyrocketing. This means that candidates more and more must depend on those covering their campaigns to filter their philosophies, their positions and their personalities through the public. The ratio between the ability of the candidate to get directly to the people and the need to depend on media coverage is rapidly getting out of balance.

Growing dependence on media coverage plus the growth of television as the medium with the most impact on the voter has brought about that phenomenon known as the media candidate. There are two varieties of media candidates. One is the candidate who looks good and sounds good on television. The other is the candidate the media—both print and electronic—decide they like and decide to push—decide, if you will, to elect.

Reagan—I'm sorry always to be going back to Reagan, but so much of my life has been wrapped up in his political endeavors that it is difficult not to—Reagan is clearly the best example of the first kind of media candidate. He looks good on television. He sounds good on television. He is good on television, and on the stump. Political reporters, who as I said, move, act and think as a herd, have labeled him the best political speaker in the country as well as the best politician on television. Reagan is very good as a speaker, but no objective observer could call him the best. But, when left to his own devices and his own style, he is undoubtedly the very best politician on television. His kind of candidate—the telegenic candidate—uses television to his own advantage. His kind of candidate should buy all the time he can to take his message directly to the people. He does not use television as a news medium but as a propaganda medium. That kind of candidate should also use what the TV news media has to offer in order to maximize his appearance on the tube. He should appear on interview shows—"Meet the Press" and the like. He should appear on shows like "60 Minutes." Yes, I remember what I said about "60 Minutes" a few minutes ago, but let me make a point here. In two previous "60 Minutes" appearances, Reagan came out extremely well. His interviewer those two times was Mike Wallace. His interviewer last time was Dan Rather. Coincidence? Perhaps.

Finally, that kind of candidate should set up frequent, even daily media events during his campaign. Most candidates do that today, but they are especially effective with telegenic candidates.

One who wasn't especially telegenic used media events to great advantage in 1972—no, not Richard Nixon—George McGovern. A media event is a staged event that is something more than a speech or a rally. It can be a visit to an old people's home or a shipyard. It can be inspecting a construction site wearing a hard hat, it can be throwing a snowball, smoking a peacepipe with an old Indian, or even kissing a baby—God help us.

The strange thing is, television reporters are all aware that media events are set-ups. They all know they are being used. Yet, in the case of major candidates, at least, they fear *not* to use them, primarily because they know—or think they know—the opposition will. Bluntly, media events are phony news, and everyone involved is aware. But they give TV its daily dose of something different—which is, I guess, more important than something important—and they give the candidate nightly exposure.

A few months back I visited with the man who is the epitome of political politicians—Richard Nixon. "The tube is what it's all about," he said. "Ron should make only a couple of appearances a day, just to make sure he gets on the nightly news."

Well, I don't think the time has come when a candidate can quite do that, but I certainly agree with the general premise. By the way, I am confident that the first politician of national stature really to recognize the worth of the "tube" to a campaign was Nixon.

Let me go now to the second kind of media candidate—the person the press wants to elect or at least make into a contender.

Four years ago that man was Jimmy Carter. I haven't yet figured out why. But perhaps the reason is that Carter, regardless of what kind of a president you may think he is, is a very good politician. And, regardless of what you may think of Ham Jordan, Jody Powell and company, they, too, are very good politicians. And Pat Cadell is a very good political poll taker and analyst.

In any event, a few political reporters in late 1975 were wandering around Iowa—the first caucus state. Now nobody had ever paid much attention to the Iowa caucuses because convention delegates were not selected at them. Only delegates to other caucuses were picked, and these picked delegates to other caucuses until you finally came to the caucus that picked delegates to the national convention.

Carter and his people—he was running at about 3 percent in the polls—recognized that if they could dominate the first caucuses in Iowa, their people could dominate the succeeding ones, and they would wind up with the delegates to the convention. Which is what happened.

But what he was doing in Iowa brought Carter to the attention of the few national reporters who were there. And these brought him to the attention of the American people as the unknown who had, against all logic and long odds, won the Iowa caucuses. And suddenly he was no longer the ex-governor of Georgia—he was a national figure and a major candidate. And the more it seemed that he was a national figure, the more the media concentrated on him. And by the time the other eight or ten Democratic presidential candidates figured out what was happening, it was too late. In fact, you may recall, they were so unaware, they left the Florida primary to Carter, George Wallace and Henry Jackson—they were all afraid of Wallace—and when Carter beat Wallace and Jackson, there his campaign received another major boost.

To crib from George Will, this campaign year—which began last year, boiled down—and still boils down in the Republican Party at least—to two candidates—Reagan and "stop Reagan."

Now face it, Ronald Reagan is a nice man, personally, and most of the press covering politics like him personally, but most of them also are Democrats, and they don't like what he stands for. (They probably don't like what Hillsdale College stands for, either, but that's another matter.) And even beyond that, the press likes a contest, a confrontation, a fight.

So over the months they've been looking for a new face—any face, but preferably a new face—with which to stop Reagan. They've run through three so far but finally seen to have settled on a fourth.

Early on they were looking at John Connally and Howard Baker. But neither really had that something different or unique that really made either of them preferable to Reagan.

Connally, it turned out, was really the candidate of big business, and Baker was just another member of the Washington establishment with no new ideas and no personal pizzaz.

George Bush was a likely choice until the media discovered he had no desire to outflank Reagan on the left. And then they also found that he was fuzzy on the issues and that he might not react well under pressure. I refer, of course, to his inept handling of the debate situation in New Hampshire when Reagan unexpectedly demanded that four other candidates be allowed to participate.

That left, almost by a process of elimination, a died-in-the-wool natural—Representative John Anderson of Illinois. He meets all the qualifications of a media candidate. In many ways he's similar to another media candidate and demi-hero, Eugene McCarthy. Both are telegenic.

Both are openly and admittedly outside the mainstream of their party.

Both are regarded as intellectuals. Both are liberals.

Both would change their parties radically.

McCarthy was clearly the liberal alternative to Lyndon Johnson until Johnson dropped out. Anderson is clearly the liberal alternative to Reagan.

As soon as this was perceived, the media set out to build Anderson as the Reagan alternative. Now I do not mean there is a conspiracy among the press to support Anderson. But, as I said earlier, the herd instinct among the national press is unusually strong. All it takes is a couple of columns by nationally known columnists to start, at least, the remainder of the press to looking.

And the columns came—from writers like Scotty Reston of the New York Times, Mary McGrory of the Washington Star and others. Then, as Anderson complained on TV that he really hadn't much TV coverage, that kind of coverage came—from "60 Minutes," from the "Today Show" and suddenly there he was—invented, shaped and polished almost solely by the media.

But media stars are not always the people's choice, even if Mary McGrory describes you as having "flaming common sense." This is especially true in the Republican Party. The cartoonist, Paul Conrad, put it best—"right man, right time, wrong party." At worst, Conrad was one-third right. Anderson is in the wrong party in the wrong year, and no amount of politicking by the media on his behalf is going to change that.

I don't want to get into an analysis of why Anderson can't win because it's irrelevant to what we're talking about. What is relevant, however, is that Anderson, without a victory to his name, with most of his votes—and support—coming from crossover Democrats and without the remotest chance of being the Republican nominee—has quickly become a household word—made so by the national media.

In a way it's too bad. John Anderson's face is now so well known he'll probably never be selected for an American Express commercial.

Let me jump here to one other media phenomenon and its relationship to election results—I'm talking about polls.

Polls today are important political news, and at the same time they are believed by some to have a skewing effect on the outcome of elections at all levels. In fact, there have been abortive—and silly—efforts—by politicians naturally—to restrict the printing of polls because of their alleged relationship to the outcome of elections.

Frankly I don't think polls are significant factors in election results—it can be argued that publication of results can either help win or help lose. One theory is that a poll showing a candidate ahead builds his momentum and discourages the supporters of the trailing candidate. The other theory is that the same poll builds complacency among the supporters of the front runner and exhorts the trailing candidate to greater effort. Take your pick.

But polls can do several things. A person doing well in early polls finds it easier to raise money and win support. A series of polls showing a candidate closing ground can spur enthusiasm and contributions.

Campaigns often leak private or even phony polls for their own purposes. I recall in 1972 the Democratic high command was involved in distributing polls that showed McGovern closing ground on Nixon, especially in California. They were phony figures. Unfortunately, too many reporters will take leaked polls and write them as if they were gospel, forgetting that they were leaked for a purpose not altogether altruistic. This, of course, is just another example of politicians attempting to manipulate the news.

I'm sure there are many facets of this fascinating interplay between politicians and newsmen that I haven't covered—the fact that politicians have their favorite reporters and reporters have their favorite politicians; the fact that reporters from big papers and wires and networks are usually treated better by campaigns than reporters from small papers and independents; the difficulty little known candidates have in getting known regardless of their qualifications; the tendency the media has to write off some candidates. I could go on and on.

But, in summary, I think it's fair to say that if our political system functions reasonably well, it does so in part because of this interplay. This is a situation where each side uses the other side for its own purposes, but where, over the long haul, the people benefit. Reporters use politicians to get news and also to exercise the "power of the press" in the selection process. Politicians use reporters and the media to present themselves to the voters, to get their points of view across and to manipulate public opinion. Without the press and modern means of mass communications, no national politician could take his message to 220 million persons across the millions of square miles that make up the United States.

In fact no politician could be known by them in the intimate way we know our national leaders today. The press, on the other hand, would certainly not operate freely as it does today in the U.S. without the politician, not only because the winning politician becomes the office holder but also because the success of our system depends on the involvement and interaction of the people with the politicians, and this cannot happen in a nation as large as ours without a free and widely available news media. Likewise, without politicians our republic would cease to function. Whatever government we had would not be what we have today. Some things would be missing, including probably, a free press. Reporters, sometimes in their zeal to prove that all politicians are fallible (which most of us take for granted), forget how the system really works or even that it must work. Politicians have the same failing.

And as long as men are mortal, there is really no cure for the situation. The most we can ask for is that reporters and all members of the media on the one hand, along with politicians and all the rest of us on the other hand, step back once in a while and look at the situation with an unjaundiced eye and recognize what Churchill once said—I must paraphrase—that ours is the worst system of government in the world, except for all the others.

We would better it if we could, but we must also protect it as it is.

The press and the politicians in their strange love-hate relationship are equally essential, it appears to me, to the processes both of thoughtful change and of careful conservation of our system.

They are indispensable parts of the machinery that keeps that system working and keeps us a free people.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Timothy Russert to visit Europe from May 17 to June 16, 1980, at the expense of the European community's visitor's program funded by the European Parliament and the Commission of the European Communities. It has been determined that the principal purpose of Mr. Russert's trip is educational and that the trip is in the interests of the Senate and the United States.●

THE 40TH ANNIVERSARY OF THE MILITARY OCCUPATION OF LITHUANIA

● Mr. DOMENICI. Mr. President, today marks the 40th anniversary of the military occupation and forcible incorporation of Lithuania into the Soviet Union. Lithuanian-Americans and Lithuanians throughout the free world are commemorating the June 15–17, 1940 occupation of Lithuania, Latvia, and Estonia. It is no small coincidence that as the people of the Baltic Republics today recall the infamous invasion of their homelands, the people of Afghanistan also suffer the incursions of the Soviet Union.

Despite repeated assertions that it recognizes the right of self-determination, the Soviet Union has pursued an adventurist foreign policy, exerting military force in the internal affairs of sovereign states. This consistent policy of blatant aggression has not been altered since the occupation of the Baltic Republics in 1940. Afghanistan is only the most recent victim of Soviet expansion.

Lithuanian patriots have appealed to the governments of the United States, the Soviet Union and the other signatories of the Atlantic Charter, as well as the United Nations, to join in the liberation of Lithuania. As a U.S. Senator, I lend my support for this effort in urging the President of the United States to employ his office as Chief of State to secure the human and sovereign rights of the people of Lithuania.

We have in the past neglected our responsibility as a free nation to speak out for the right every nation reserves to determine its own form of government. We must not fail those who seek freedom for themselves and for their homelands. Lithuania and its neighboring republics have the right of self-determination and that right must be exercised.

Although June 15, 1980 commemorates the loss of freedom for Lithuania, it must also serve as a milestone in our determination to secure national sovereignty for states such as Lithuania, Latvia, Estonia, and Afghanistan. We cannot again allow the Soviet Union to establish in a foreign country a status quo contrary to the will of the people. The invasion and continued repression of nationalist rebels in Afghanistan must not be accepted by our negligence to defend the right of sovereignty. The freedoms of Lithuanians have languished for 40 years because the United States failed to express its outrage following the 1940 occupation. We must sustain our disapproval of 1980 occupation of Afghanistan while we seek the long-awaited freedom for Lithuania and other oppressed nations of the world.

My whole-hearted support is extended to the people of Lithuania. They have earned my highest praise and deepest respect as a freedom-loving people, and I look forward to our alliance with them as a free nation.●

SENATOR JOHNSTON MAKES SUCCESSFUL DEBUTE AS MEMBER OF CHTC MEN'S TENNIS TEAM

● Mr. HOLLINGS. Mr. President, I wish to commend to our colleague's attention the weekend tennis triumph of the junior Senator from Louisiana, Mr. JOHNSTON.

Playing in his first tennis match on June 1 as a member of the Capitol Hill Tennis Club's Men's Interclub Team, Senator JOHNSTON and his partner, Chico Hagey, handily defeated their opponents from the Cheverely Tennis Team, 6–2, 6–3.

As a former member of the CHTC Interclub Team and a member of the CHTC, I want to extend my congratulations to Senator JOHNSTON on behalf of the club and his tennis-playing colleagues.

The Capitol Hill Tennis Club, nearly 250 strong, is beginning its 12th season in 1980.●

ENERGY CONSERVATION

● Mr. BUMPERS. Mr. President, as a member of the Senate Energy and Natural Resources Committee, I have been involved in countless hours of discussion and research on how the Government can prompt people to conserve their precious energy resources. Although energy conservation may not appear as exciting as new technology, it is eminently more economical. We waste 40 percent of the energy that we use. Eliminate that waste, and we eliminate the need to import any oil.

I am pleased to say that the Congress has approved many worthwhile conservation measures such as tax incentives and weatherization projects. But so much more must be done if we are to make a real dent in national energy consumption. The President has proposed measures which he feels could save 2 million barrels of oil per day by 1990. I sincerely believe, however, that if Americans embarked on a crash program of strict energy conservation we could save 3 million barrels per day within 3 years.

One thing is certain. We cannot expect all of the resources necessary to achieve this energy savings to come from the Federal Government. In fact, many of the conservation programs which our Government has begun have been slowed or reduced in scope because of a lack of Federal dollars. We must ask the private sector to take the lead in conservation. Private investment in energy saving devices not only reduces their costs by reducing their fuel needs, but also lessens our country's dependence on imported oil.

The people of Arkansas have become leaders in the move toward energy conservation. A recent Department of Energy report shows that Arkansas ranks ninth among the 50 States and several U.S. territories in estimated energy savings in 1979. This is a remarkable achievement considering the fact that our State had ranked 56th in energy savings in 1978.

In 1979, Arkansas was second in the Nation in industrial energy savings. Arkansas business and industry have not delayed implementing energy saving measures in the hope of receiving long-awaited Government grants or loans. Instead, they have invested large amounts of private capital in energy conservation projects.

Tyson Foods of Springdale, Ark., is an excellent example of an industry which has taken the forefront in energy saving innovations. Tysons, which is one of America's largest poultry processors, will soon begin installing heat recovery systems in some of its Arkansas plants. The heat recovery system in the Springdale plat will recover about 75 million Btu's of heat per day—that is the equivalent of 12 barrels of oil per day. I recently received a letter from T. E. Stelson, Assistant Secretary of Energy, commending Tysons Foods for taking this conservation initiative. Assistant Secretary Stelson said that:

> Tyson Foods symbolizes the kind of commitment from business and industry that will be so crucial to improving the energy independence of the nation.

I also want to add my praise to Tysons and to all in the private sector who are committing their resources to energy conservation. Government measures will be helpful, but the private citizens of our country must lead the way in the effort to free our Nation from dependence on foreign oil.●

HERBERT HOOVER'S BALANCED BUDGET

● Mr. HATFIELD. Mr. President, one of the disturbing facts of this Presidential campaign has been the comparison of President Carter's budget proposals with the actions of former President Hoover in 1931–32. President Hoover has been portrayed by the new breed of tax cutters as one who stuck to "belt tightening" and exacerbated the Great Depression.

Mr. George Nash, who is writing a multivolume study on Herbert Hoover, has put these stereotypes into context by pointing out that in 1932, the U.S. Government incurred its largest peacetime deficit ever which constituted 60 percent of all Federal expenditures. In Hoover's view, massive borrowing would have overwhelmed the credit markets and drained needed capital away from badly needed investment capital for the recovery. A balanced budget was a necessary precondition for the return to better economic conditions. Finally, it should be remembered that taxes only comprised a mere 2.5 percent of GNP in 1929 whereas Federal taxes now constitute 22 percent of GNP. Only 4.1 million individuals out of the eligible 36.1 million families and individuals even filed a tax return. I think it is apparent that the economic views of Herbert Hoover are not inconsistent with the present day need for long-term tax relief that is coupled with balanced budgets.

I ask that the guest editorial which appeared in the Wall Street Journal on June 12, 1980, be printed in the RECORD.

The editorial follows:

HERBERT HOOVER'S BALANCED BUDGET

(By George H. Nash)

To historically minded observers of American politics, it appears that a specter is haunting the 1980 presidential campaign: the spector of Herbert Hoover.

On the left Senator Kennedy compares President Carter to President Hoover and revives the stale stereotyped imagery of the New Deal: Hoover equal Republicans equal Depression and hard times.

On the right a spirited band of Lafferites portrays Hoover as a cheerless apostle of "belt-tightening," a man whose stubborn adherence to a sterile economic policy in 1932 exacerbated the Great Depression and drove the Republican party into a half century of political exile.

Whence raises this currently popular identification of Herbert Hoover with "austerity" and no-growth economics? It derives primarily from a single episode in Hoover's Presidency. In 1931–1932 Hoover proposed—and a Democratic-controlled Congress ultimately enacted—a massive tax increase in a desperate effort to balance the federal budget. It was the largest percentage peacetime tax hike in American history. Such a policy understandably does not readily appeal to today's proponents of tax cuts as economic stimulus. But it is imperative to understand the context of Hoover's decision.

In fiscal year 1932, near the nadir of the Great Depression, the U.S. government incurred its largest peacetime deficit to date in American history. The shortfall ($2.7 billion) approached a staggering 60% of all federal expenditures. (A comparable percentage federal deficit today would be over $300 billion—in one year.)

FORTHRIGHT HOOVER

Faced with a peacetime fiscal drain of unprecedented proportions, what was President Hoover to do? He could try to make up the deficit by borrowing and thus increase the federal debt. But Hoover forthrightly rejected this self-defeating approach; massive federal borrowing, he contended, would simply overwhelm the money markets and soak up precious capital badly needed for private investment and recovery. Such a course, he said would only "stifle productivity, consumption and employment. It would choke the very flow of credit and recovery that he was striving to unleash, via the Reconstruction Finance Corporation and other instruments.

Nor could Hoover simply do nothing. For 150 years, the federal government had always attempted (except in wartime) to balance its budget. This was the regnant orthodoxy in 1932—an orthodoxy so powerful that Franklin Roosevelt and the Democrats denounced Hoover in the election campaign for extravagant, unsound, "radical" economics and pledged to institute both a balanced budget and a 25% reduction in federal expenditures if elected. While Hoover himself had not, in the past, been an inflexible adherent of a balanced budget, he, too, in early 1932, publicly declared that a balanced budget was now, under the circumstances, an "absolute necessity."

Why? In part because Hoover—and most political and business leaders—believed exactly what Hoover argued; that a balanced budget was "the very keystone of real recovery," the bedrock of restored public confidence. Confidence (with the consequent flow of credit to businesses) was, in Hoover's judgment, the key. If the U.S. government could not control its own finances, how could economic recovery begin?

But there was a second, and probably more compelling, reason for Hoover's tax decision. On September 21, 1931, Great Britain abandoned the gold standard. The U.S., however, still struggled to maintain it. This meant that every dollar was legally convertible to gold, both at home and abroad.

At once the frightening effects of Britain's action became manifest. Gold flowed in record quantities out of the United States: $712 million in six weeks. If the pound fell, could the embattled dollar be far behind? Moreover, many nervous depositors withdrew currency from American banks—thereby helping to generate a wave of bank failures. Bank reserves plummeted by over a billion dollars (an enormous sum in those days) in just six weeks. Spasms of hoarding set in. The credit structure became more paralyzed than ever.

And now, against this disconcerting backdrop, the federal government's deficit was reaching a staggering magnitude. Confronted with what Treasury Secretary Andrew Mellon himself in January 1932 called a "grave emergency," Hoover opted to raise taxes (and cut federal spending) in order to balance the budget.

Hoover did so, it seems clear not only to avoid borrowing but to prevent a run on the dollar and to save the gold standard. He must demonstrate the very financial integrity of the U.S. government. Foreign and domestic confidence in the American government's commitment to sound finance would, he believed, end the hoarding, relieve the beleaguered banks, and liquefy the frozen credit structure of the country. "The first requirement of confidence and of economic recovery," said Hoover in late 1931, "is financial stability of the United States Government." And that meant a balanced budget (via new taxes). This was the prevailing doctrine throughout the country in 1931–32. This was the standard economic thinking of the time.

Hoover's call for increased taxes, in fact, won widespread bipartisan support. Few politicians (or economists) challenged his rationale. Indeed the only real debate in the Democratic-controlled Congress was not over *whether* to raise the taxes but *how*. On whom should the burden fall? Conservatives favored a manufacturers' sales tax; liberals and radicals wanted to "soak the rich." In the end, after months of haggling, compromise legislation was approved in June 1932.

Incredible though it may now seem, nobody of influence in 1932 called for a tax *cut* to stimulate the economy, increase revenue, and thus balance the budget. Even Andrew Mellon, hero of today's tax-cutters, endorsed a tax increase that year. On January 13, 1932, Mellon told the House Ways and Means Committee: "It is essential to raise additional revenue, not just to cover expenditures but to maintain unimpaired the credit of the United States Government." This "last objective," Mellon went on, was "an indisposable step in our progress toward recovery."

(All of Mellon's tax cuts of the 1920s, incidentally, had occurred in an era of large federal surplus.)

It is important, too, to keep some perspective on the dimensions of federal spending and taxation at the time. The federal government's tax "wedge" in the Hoover era was small. In 1929 total federal expenditures comprised a mere 2.5% of the Gross National Product. (Today they approach 25%.) In the 1970s federal deficits alone were annually several times higher than entire annual budgets in Hoover's administration.

Moreover, from 1929 to 1932 the federal income tax structure was almost unbelievably low. Of the 36.1 million families and unattached individuals in this country in 1929, scarcely 4.1 million even filed tax returns. Of these, fewer than 2.5 million actually had taxable income. Ninety percent of families and unattached individuals earned less than $4,000. At the prevailing tax rates (after deductions and credits were allowed for) they escaped income taxation almost entirely. Throughout Hoover's Presidency—and even after the tax hike of 1932—the vast majority of the American people paid no income taxes whatsoever.

Even after the substantial 1932 tax increase was enacted, the resulting tax burden rose to levels that today seem nearly idyllic. Under the new law a family with four exemptions earning $20,000 in 1932 paid a federal income tax of $1,616—an effective rate of only 8.1%.

A family with four exemptions earning $5,000 (a quite comfortable sum in 1932) paid all of $68 in income tax. Very few Americans incurred even that much obligation. It was not until World War II that most Americans became income-tax payers.

DIRE CONSEQUENCES?

One must wonder, then, whether the tax increase of 1932 had all the dire economic and political consequences now attributed to it.

My purpose, however, is not to assert the wisdom—by today's standards—of the tax increase of 1932. Seen in retrospect (after almost 50 years of changing economic orthodoxy), Hoover's decision is now generally regarded by historians and economists as a serious mistake. Tax reductions in economic slumps are now the standard prescription of Keynesians and Lafferites alike (although the form of their remedies varies). But one must remember that Hoover and his contemporaries did not have the benefit of today's presumably superior wisdom. Hoover's "battle-of-the-budget" in 1932 was fought four years before the publication of Keynes's revolutionary "General Theory" and 42 years before the discovery of the Laffer Curve.

So if we ponder the context of Hoover's actions, and the constraints within which he worked, a much different understanding of him emerges. And that is the point. When interpreting the past, be wary of the pitfalls of present-minded preoccupations. With Herbert Hoover or anyone else, resist the temptation to select a sliver of the past as a basis for broad historical judgment. Above all, remember the context. If we are to learn from our history, we must first understand it.●

LITHUANIA, LATVIA, AND ESTONIA OCCUPATION BY SOVIET UNION

● **Mr. ZORINSKY.** Mr. President, today, in the wake of the Soviet invasion of Afghanistan, it is appropriate for all of us to contemplate the tragedy that has befallen the proud people of the Baltic States. This year marks the 40th anniversary of the Soviet occupation and annexation of the Baltic States of Estonia, Latvia, and Lithuania.

Between this century's two world wars, the Baltic States saw a brief period of freedom and economic expansion. Indeed, the four Baltic countries, Lithuania, Estonia, Latvia, and Finland were so active in world commerce that by 1938, their combined volume of trade was significantly greater than that of the Soviet Union, a country with 18 times as many people.

Then, in June of 1940, the Soviet military occupation of the Baltic States took place, with a Soviet-engineered incorporation following in August of the same year. Americans have never recognized this forcible and illegal action by the Soviet Union. Our policy, now some 40 years old, was announced by then Under Secretary of State Sumner Welles:

> The policy of this government is universally known. The people of the United States are opposed to predatory activities no matter whether they are carried on by the use of force or by the threat of force. Nor can we watch without protest when powerful states intervene in the domestic affairs of their less powerful neighbors. The United States will continue to stand by these principles because of the conviction of the American people that, unless the doctrine in which these principles are inherent once again governs the relations between nations, the rule of reason, of justice, and of law, in other words the basis of modern civilization itself, cannot be preserved.

Mr. President, Secretary Welles' words are no less true today. His statement and this 40th anniversary serve as sobering reminders that human rights cannot be taken for granted anywhere in the world and that much of our task of encouraging respect for human rights lies ahead.

Mr. President, I ask that a statement by the Joint Baltic American National Committee be printed in the Record.

The statement follows:

THE SOVIET INVASION AND OCCUPATION OF THE BALTIC STATES

Soviet armies invaded and occupied the independent Baltic countries of Lithuania, Latvia and Estonia from June 15–17 in 1940, destroying the freedom of three nations and peoples which had established themselves as viable European states since having gained their independence in 1918. The initial stage for the invasion was set on August 23, 1939, with the signing of a Treaty of Non-aggression between the USSR and Nazi Germany, secret protocols of which assigned the Baltic States to the Soviet sphere of influence.

With Soviet troops being massed on the borders of Lithuania, Latvia and Estonia, the militarily inferior countries acquiesced to Soviet imposed pacts of mutual assistance, concluded in September and October of 1939. These pacts granted permission to the Soviets to establish a limited number of military bases on Baltic territory. The Soviets next provoked a number of border incidents, then in early June of 1940 charged the three Baltic States with having formed a military alliance against the USSR, charges which were groundless. These Soviet acts culminated on June 14, when Lithuania was presented with an ultimatum, to be answered within 24 hours, which demanded formation of a new Lithuanian government acceptable to the USSR and freedom of entry for a massive contingent of Soviet troops. Like ultimata were presented to Estonia and Latvia on succeeding days. The invasion of Lithuania began on June 15, of Latvia and Estonia on June 17. Mechanized units of the Soviet army were followed soon by units of Soviet security police. With press, radio and telegraph under Soviet control, the complete isolation of the Baltic States from the outside world was carried out in a number of days. Freedom of organization and of public assembly were suspended and Baltic government officials and military officers were imprisoned and executed.

Soviet emissaries arrived in the Baltics to direct the occupation and to form the new governments. Elections of Soviet puppet parliaments were directed, with only a communist slate of candidates allowed. These non-representative bodies then "requested" that the Baltic States be incorporated into the USSR. This was accomplished when Lithuania on August 3, 1940, Latvia on August 5, and Estonia on August 6, were "admitted" as members of the USSR.

One year later, on June 14–15, 1941, the Soviets carried out a mass deportation of Balts, roughly 30,000 from each nationality, to slave labor camps in Siberia. With these first deportations through others lasting into the early 1950's, approximately 10 percent of the Baltic peoples were subject to this fate, constituting an overt Soviet effort to eradicate Baltic nationalism and to pave the way for Sovietization and Russification of Estonia, Latvia and Lithuania.●

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Huddleston). Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening time on tomorrow for the Senate be 10 a.m. rather than 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON ENERGY AND NATURAL RESOURCES TO FILE REPORT ON S. 2470 UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until midnight tonight to file its report on S. 2470.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there will be no further business today. The distinguished acting Republican leader (Mr. Tower) is here. I have been speaking on the subject of the U.S. Senate for a period of several weeks going back to March 21. I am prepared to make my 13th speech on the subject at this time and, for the Record, I wish to state there will be no further business transacted. This will enable him to return to his office if he so desires and be perfectly assured that there will be no further transaction of business.

Mr. TOWER. Mr. President, I thank the distinguished majority leader, I will return to my office, but I will keep the volume up on my squawk box so that I can hear the Senator's very interesting presentation.

Mr. ROBERT C. BYRD. I thank my friend.

Mr. President, I take this time on this date because it appears to me it may be the best opportunity I will have this week. I do not want to infringe on the time of the Senate at any point when it can be transacting business, and so I think this is probably the best opportunity I will have, as I have said, this week.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, this is the 13th statement I have made in a series of speeches on the subject matter of the United States Senate, the first of which statements was made on March 21 of this year.

Today I wish to talk about the historical evolution of the Senate Offices of Secretary for the Majority and Secretary for the Minority.

The lineage of the Offices of Secretary for the Majority and Secretary for the Minority may be traced back to the 1st Congress and, beyond that, to the practices of the Continental Congress.

The Continental Congress convened on September 5, 1774, and, on the following day, adopted a resolution that "the door be kept shut during the time of business, and that the members consider themselves under the strongest obligations of honour, to keep the proceedings secret, until the majority shall direct them to be made public." [1] In part to protect the secrecy of its proceedings, the Congress ordered on September 7 that "Isaac Lefevre, and James Lynch, be employed as door-keepers and messengers to this Congress." [2] When the Congress reconvened on May 10, 1775, the two positions were separated; after the election of Charles Thomson as secretary, "Andrew M'Neare was also chosen door-keeper, and William Shed, messenger." [3]

When the Senate convened under the Constitution, it continued the practice of meeting in secret, and on April 7, 1789, the first day after a quorum had appeared, James Mathers was elected Doorkeeper.[4] On the following day, after the election of Samuel Otis as the first Secretary of the Senate, Cornelius Maxwell was appointed to serve as a Messenger for the Senate.[5] An Act of April 12, 1792 provided for the salary and duties of an Assistant Doorkeeper, a position that evidently supplanted that of Messenger.[6] By resolution adopted on February 5, 1798, the Doorkeeper was "invested with the authority of Sergeant-at-Arms;" [7] two years later, that officer was authorized to have an assistant to perform "such services as are usually required of the Doorkeeper of the Senate." [8]

Except for two periods, officers of the Senate, once elected, have continued in office from one Congress to the next until replaced by action of the Senate; between 1824 and 1849 and again between 1921 and 1929, Senate officers were elected during each Congress. During the first of these periods, the Senate selected a Sergeant-at-Arms and Doorkeeper and an Assistant Doorkeeper; during the second period, an Acting Assistant Doorkeeper also was chosen. Thus, the position of Assistant Doorkeeper and the later position of Acting Assistant Doorkeeper were filled by the Senate, although they were listed as being under the jurisdiction of the Sergeant-at-Arms in the *Congressional Directories* of 1921-1929.

Footnotes at end of article.

The position of Acting Assistant Doorkeeper was first listed in the *Congressional Directory* of 1859. However, the Assistant Doorkeeper had only appeared in the *Directory* for the first time during the previous year, suggesting that the position of Acting Assistant Doorkeeper may have been filled for some time previously without being noted in the *Directory*.

According to a report on the office of the Sergeant-at-Arms prepared by that office, the Assistant and Acting Assistant Doorkeepers began to be selected by the majority and minority parties respectively in 1896. The report states further that the "Sergeant at Arms was consulted on and consented to this change in practice. . . ." [9] Although no information has been found on the functions or activities of these officers during the decades surrounding the turn of the century, this development in 1896 suggests that the positions were then evolving into the Offices of Secretary for the Majority and Secretary for the Minority.

In the *Congressional Directory* issued in January 1929, the incumbent Assistant and Acting Assistant Doorkeepers, Carl A. Loeffler and Edwin A. Halsey, were listed instead as Assistant Sergeants at Arms, and later in the same year, their positions were transformed into the Secretary for the Majority and the Secretary for the Minority.

The act making appropriations for the legislative branch for Fiscal Year 1930 had created the Joint Select Committee on the Adjustment of the Numbers and Compensation of the Officers and Employees of Congress, with authority to report by bill or otherwise. Pursuant to this authority, the Joint Select Committee reported H.R. 3966 to the House (House Report 71–22) and S. 1531 to the Senate (Senate Report 71–35). Both bills provided for positions within the office of the Sergeant at Arms described as "Secretaries (one for the majority and one for the minority)" and "Assistant Secretaries (one for the majority and one for the minority)". Neither bill referred to the positions of Assistant and Acting Assistant Doorkeeper or Assistant Sergeant at Arms. By the enactment of H.R. 3966 as the Legislative Pay Act of 1929 (Public Law 71–17; 46 Stat. 34) on June 20, 1929, the positions of Secretaries for the Majority and Minority were established in law.

Immediately after the Senate passed H.R. 3966 on June 18, 1929, the Senate agreed to S. Res. 96 and S. Res. 97, electing Carl A. Loeffler to be "secretary for the majority of the Senate" and Edwin A Halsey to be "secretary for the minority of the Senate." In explanation of the first of these resolutions, Senator Watson of Indiana stated: [10]

> Mr. President, Mr. Loeffler has held the position of and has hitherto been called the Assistant Sergeant at Arms. The bill that has

just been passed changes his title to "secretary for the majority of the Senate." Unless this resolution be passed he will go out of office on the 1st of July, because his position is an elective one, and he must be elected by the Senate. Therefore I have offered this resolution, and I understand the Senator from Arkansas (Mr. Robinson) will offer a similar one on behalf of Colonel Halsey.

The offices of the two secretaries and their assistants remained technically within the jurisdiction of the Sergeant at Arms until 1947. As part of the Legislative Branch Appropriations Act for Fiscal Year 1948 (Public Law 80–197), enacted on July 17, 1947, funds were appropriated separately for "the offices of the secretary for the majority and the secretary for the minority, heretofore included under the office of the Sergeant at Arms. . . ." [11]

This change was discussed briefly during testimony before the Senate Committee on Appropriations. While the Sergeant at Arms, Edward F. McGinnis, was before the subcommittee considering legislative branch appropriations, Senator Green of Rhode Island read into the record a letter to the Chairman, Senator Bridges of New Hampshire, from the Secretary for the Majority, J. Mark Trice, and the Secretary for the Minority, Felton M. Johnston. In their letter, the secretaries recommended that funds for their offices be appropriated under a separate caption. They explained that, under the existing practice, "an erroneous impression is created that the two offices which, as you know, are elective, are connected with and under the jurisdiction of the Office of the Sergeant at Arms." When asked for his reaction, Mr. McGinnis replied that he had "no objection to the change at all." [12] Evidently, therefore, the decision to remove the secretaries from the authority of the Sergeant at Arms was merely a recognition of the then existing administrative arrangements.

BACKGROUND OF DUTIES AND FUNCTIONS

The only formal specification of the duties of the Secretary for the Majority and the Secretary for the Minority is that contained in Rule II of the "Rules for the Regulation of the Senate Wing in the United States Capitol," in the SENATE MANUAL, which provides:

> The secretary for the majority and the secretary for the minority shall be assigned, during the daily sessions of the Senate, to duty upon the Senate floor.[13]

Further elaboration of the functions of the Secretary for the Majority was made by Francis Valeo, Secretary for the Majority from October 7, 1963, until October 1, 1966,[14] and by Dr. Floyd Riddick, the then Parliamentarian of the Senate and presently Parliamentarian emeritus of the Senate. When Francis Valeo assumed the role of the Secretary for the Majority, there was no written description of the office. Because of what he attributed to his civil service-type background, he felt the need to write-out some concept of the duties of the position.[15] Therefore, he prepared a job description of the office, which was submitted to the Majority Leader in the Fall of 1963 and approved.[16] According to Valeo, the responsibilities of the Secretary for the Majority were delineated as follows:

> 1. To organize the staff work of the Majority in an objective and impartial fashion in order to facilitate consideration by the majority conference and its subsidiaries (The Steering Committee and Majority Policy Committee) of all matters which come within their purview.
>
> 2. To provide such services as may be required by the majority Members on the Senate floor in an efficient and impartial fashion. These include such services as spot information on pending matters, pairing, and messenger service.
>
> 3. To maintain a system of record-keeping for the majority conference and its subsidiaries which will provide an adequate source of current and historic reference.
>
> 4. To perform whatever other responsibilities may be assigned from time to time to the office by the Senate majority leadership.[17]

In further elaboration on these points, Valeo thought the first three to be fairly obvious. "The conference or Caucus, the Steering Committee, and the Democratic Policy Committee are the principal organs in the Senate. For the meetings of these groups, routine services are provided and the majority secretary or members of his staff prepare agenda, keep minutes, and perform other necessary tasks." [18] Although he felt point four to be vague it was because assignments under it from the leadership to the Secretary are "ad hoc and usually of a highly confidential nature." [19]

In this same regard, Dr. Floyd M. Riddick describes the duties in this manner:

> These persons (Secretary for the Majority and Minority) are truly secretaries to their respective parties on the Senate floor, keeping the Senators to whom they are responsible informed of the pending business—motions or amendments under consideration—and informed as to the need of their presence on the floor at any time from the party point of view. The Senators call on these men for individual consideration; that is, if they must be absent from the floor on other business it is up to these secretaries to keep those of their political faith posted of any developments, or if their presence is demanded for a roll call or for any other purpose.[20]

NATURE AND ORGANIZATION OF THE OFFICE OF SECRETARY FOR THE MAJORITY

The Secretary for the Majority is chosen by the Majority Leader, designated by majority vote of the Majority Conference and elected by the entire Senate by resolution.

Although an elected officer of the whole Senate, the Secretary for the Majority is assigned only to the majority party. In theory then, the Office is responsible to the party conference. In practice, however, it is responsible to the Majority Leader, since he is the chairman of the party conference as well as the party organization—the party organization being the Office of the Majority Leader, the Majority Conference, the Steering Committee, and the Majority Policy Committee.

In order to meet the demands of the party and the Majority Leader, a compartmental structure of the Office of the Secretary for the Majority has evolved. Certain duties and responsibilities fall only to the Secretary for the Majority, others to the Assistant to the Secretary for the Majority, certain ones to the Majority cloakroom, and still others to the office staff. However, it is hierarchal also, since the personnel of the Office of the Secretary for the Majority are responsible to the Secretary for the Majority, while he is responsible to the Majority Leader, and the Majority Leader to the Conference.

The personnel presently performing the duties of the Office are Walter J. "Joe" Stewart, Secretary for the Majority; Patrick Hynes, Assistant Secretary for the Majority; Jeanine Drysdale, Administrative Assistant; Christine Warnke, Professional Staff; and Martin Paone, Thomas Gonzales, Lynwood Hall, and Bob Bean, cloakroom staff. In addition there are approximately 18 pages whose duties fall under the supervision of the Secretary for the Majority.

THE DUTIES AND FUNCTIONS OF THE OFFICE OF SECRETARY FOR THE MAJORITY

The Secretary for the Majority oversees the entire operation of the personnel under his supervision. He is responsible to the Majority Leader in seeing that the responsibilities of his office are carried out. However, many of the duties are of such a nature that they must be performed by the Secretary for the Majority alone. These duties can be classified as formal and informal.[21] The formal duties and functions are those involving the role of the Secretary for the Majority in relation to the Majority Conference, Steering Committee, Policy Committee, voting procedure, and the attendance of Senators at international meetings and conferences. The informal duties encompass different aspects of liaison and special services.

Of the formal duties, the Secretary for the Majority is the principal staff member of the majority conference. In this respect, for instance, his duties could include recommending a time for the Conference or providing the Majority Leader information he may request concerning the availability of Senators for a particular time. Once the time has been agreed upon, the Secretary for the Majority directs his office staff to send out notices over the signature of the Secretary of the Democratic Conference, Senator INOUYE. Also within the scope of the Conference duties of the Secretary for the Majority, is aiding the Majority Leader with the agenda if requested, and providing liaison with the Democratic Senators as to the nature of business to be considered. The Secretary for the Majority in Conference meetings is charged with taking the roll, and passing out ballots, and is responsible for maintaining the records, files, and rules and precedents of the Conference. Although Conferences do not meet on a regular basis, at least one is usually held at the beginning of each Congressional session, and others are called to consider pending legislation or any other matter the Majority Leader feels the Conference should consider. It should be noted that the minutes of the Conference are kept locked in the Office of the Secretary for the Majority, and they may be inspected only by the members themselves while in the Office of the Secretary for the Majority.

Footnotes at end of article.

In regard to the Steering Committee, the Secretary for the Majority is generally the only non-Senator who attends Steering Committee meetings. He singly comprises the staff of the Steering Committee. In this role, he prepares the agenda at the direction of the Majority Leader and is charged with keeping the files, rules and precedents of the Steering Committee.

The Steering Committee makes committee assignments, and the Secretary for the Majority keeps a record of the various Senators' committee preferences, ranks them according to seniority, and provides this information to the members of the Steering Committee. Since the business of the Steering Committee is highly confidential, the Secretary for the Majority is responsible for the minutes of the meetings and protecting their confidentiality. The Steering Committee generally meets at the beginning of a new Congress or when a committee vacancy occurs.

The Secretary for the Majority attends the Policy Committee meetings, but has no formal duties in them unless so assigned by the Majority Leader. He is responsible for being informed of the business which takes place in order to provide cooperation and coordination between the Majority Leader's Office and the majority members of the Senate. Many Senators rely on the Office of the Secretary for the Majority for information concerning the legislative schedule, and since this comes under the general auspices of the Policy Committee, it is incumbent that the Secretary for the Majority be aware of any Policy Committee decisions. In order to help provide this service, a legislative agenda is prepared by the Policy Committee staff daily which is made available to the Secretary for the Majority, his office staff, and the majority cloakroom staff.

During a vote in the Senate, the Secretary for the Majority has a traditional function which he performs on the Senate floor. When the vote starts, he always places himself next to the main door of the Senate Chamber in order to make himself readily available to any Democratic Senator who wishes information as to the pending vote. He may also inform the member regarding the party or Leadership position, if requested to do so by the Majority Leader. Some Senators do not use this service, others ask only one or two brief questions, while others want a detailed account. In order to have the complete knowledge he needs on the subjects before the Senate, the Secretary for the Majority, besides observing much of the proceedings firsthand, has available to him a condensed analysis of the matter prepared in advance by the Democratic Policy Committee.

On many occasions, international meetings and conferences request the attendance of United States Senators and, in this regard, the Office of the Secretary for the Majority maintains records of the travels of all Democratic Senators in connection with international meetings and conferences and of those Senators requesting appointment to such conferences. The Secretary for the Majority compiles this information and provides it to the Majority Leader for his consideration. Of course, special note is made of Senators who would have a particular interest in a special conference. After the Senators have been named by the Majority Leader, they are formally appointed by the Chair at the request of the Majority Leader.

One of the truly formal functions performed by the Secretary for the Majority is the relaying of formal messages from the President of the United States or the House of Representatives to the Senate. To do this, he stands in front of the main door of the Chamber and addresses the Chair on the nature of the message, introduces the messenger or clerk who presents the message, and then formally receives it on behalf of the Chair and takes it to the rostrum.

The informal duties and responsibilities of the Secretary for the Majority, although involving a large portion of his time, are more difficult to delineate. Most of these duties grow out of the function of the Secretary for the Majority in relation to the Majority Leader and the Majority Leader's role in the legislative process. In other words, there is a need for the majority Members of the Senate to know what is going on or being planned and scheduled and to have a voice in it. In this respect, the Secretary for the Majority is deeply involved in liaison between the Senate Leadership and the Democratic Senators, and vice versa.

If a Democratic Senator wants to be absent from the Senate for a certain amount of time, from one day to a week for example, he usually contacts the Secretary for the Majority, who informs the Majority Leader, who attempts, when possible, to schedule the legislative proceedings to accommodate the majority of his colleagues. However, if, for example, a vote is about to occur at a time when one or more Democratic Senators are absent, the Secretary for the Majority is responsible for notifying the absent Senators, and, in extreme cases, for arranging for emergency transportation. This may include a police escort from downtown Washington or, in extreme circumstances, air transportation for distant Senators. The process of contacting absent Senators is facilitated by an attendance list which is prepared daily by the personnel of the Democratic cloakroom. The daily attendance list of Majority party Senators is made available only to the Majority Leader.

In a case when a Senator cannot return for a vote, either the Secretary for the Majority or his staff may arrange for a pair for the absent Senator. This is often done according to prior instructions from the absent member.

The Secretary for the Majority must also see that all Democratic Senators, unless prior arrangements have been made, are notified when a vote occurs. This duty is carried out by the cloakroom staff. Moreover, when a Senator is delayed in or near the Capitol, the Secretary for the Majority or his aides notify the Majority Leader so that the vote can be delayed for several minutes and the Senator given a reasonable time to arrive and record himself on the vote.

Rule XXVI of the Standing Rules of the Senate provides . . . When the Senate is in session, no Committee of the Senate or any Subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian . . .

It is the responsibility of the Secretary for the Majority to receive the requests of Committees to meet beyond the time specified in Rule XXVI. In order for a Committee to meet under these circumstances, unanimous consent must be given by the Senate, or permission must be granted by the Majority and Minority Leaders. These requests are received by the Secretary for the Majority, who, after clearing them, through the Secretary for the Minority, with the Minority Leader, or his designee, conveys them to the Majority Leader for appropriate action thereon.

A particular responsibility of the Secretary for the Majority is to advise the Majority Leader of special problems which arise from time to time in regard to the Executive Calendar. In this respect, the Secretary for the Majority communicates with the proper committee with jurisdiction over items on the Calendar, and with certain Senators, if need be, regarding their objections to items on the Executive Calendar. If there is a problem, or an objection by a Senator to an Executive nomination, the Secretary for the Majority advises the Majority Leader of that objection and the details of the problem.

One of the most confidential tasks performed by the Secretary for the Majority is that of conducting private polls or "whip checks" of the Democratic Senators. This is done by privately talking to each majority Member and it is carried out only at the direction of the Majority Leader. Circumstances which call for these polls are those in which a close or crucial vote is anticipated.

Overall, the Secretary for the Majority plays a significant role in the operation of the Senate as an arm of the Leadership. He is Secretary to all majority Members, aiding in the coordination of their actions and needs with the Majority Leader and the legislative process.

In congregate, the Office of Secretary for the Majority has one purpose—to aid the Majority Leader and the Democratic Senators in the performance of their duties by serving their needs and, as a new need arises, so will a new duty.

The statement that I have just made has specifically dealt with the duties of the Secretary for the Majority. However, in most instances, the Secretary for the Minority performs similar or identical duties to those performed by the Secretary for the Majority, except those duties which are the exclusive prerogative of the Majority Party, such as handling committee requests and announcing to the Senate the arrival of messages from the President and the House of Representatives. The Secretary for the Minority is designated by the Minority Leader and is also elected by his Party Conference before being formally elected by Senate Resolution.

The present Secretary for the Minority is William F. Hildenbrand, and his assistant is Howard O. Greene.

The Republican Cloakroom is staffed by Elizabeth Baldwin, David Liner, Van Hunt, and Digges Morgan.

Mr. President, the secretaries to the Senate Democrats over the years are set forth in the paper which I hold in my hand, as follows:

SECRETARIES TO THE SENATE DEMOCRATS

Edwin A. Halsey, 1929–1933.
Leslie L. Biffle, 1933–1945.
Felton M. Johnston, 1945–1955.
Robert G. Baker, 1955–1963.
Francis R. Valeo, 1963–1966.
J. Stanley Kimmitt, 1966–1977.
James H. Duffy, 1977–1979.
Walter J. Stewart, 1979–Present.

SECRETARIES TO THE SENATE REPUBLICANS

Carl A. Loeffler, 1929–1947.
J. Mark Trice, 1947–1953.
William T. Reed, 1953–1955.
J. Mark Trice, 1955–1974.
William F. Hildenbrand, 1975–Present.

NOTE.—Before 1929, Halsey and Loeffler were assistant Sergeants-at-Arms. The Majority and Minority Secretaries became independent of the Sergeant-at-Arms beginning with the 80th Congress.

Mr. President, I close my recitation on the subject of the Secretaries for the Majority and the Minority by stating my compliments and admiration for the two current secretaries. Mr. Walter J. Stewart, for the majority, does an excellent job, is dedicated to his work, is courteous to all Senators on both sides of the aisle, and renders excellent assistance to the majority leader and to the majority party at all times.

I should like to say the same for the Secretary for the Minority, Mr. William F. Hildenbrand. He, too, serves all Senators, is courteous to all, and renders excellent assistance to the secretary for the minority and the minority party.

I must say that I have excellent relations not only with the Secretary for the Majority but also with the Secretary for the Minority and, without the assistance of these two men and their staffs, both the majority and minority leaders would find it impossible to conduct the work of the Senate as expeditiously and effectively as they are able to do.

The PRESIDING OFFICER (Mr. LEAHY). The Chair will note in its capacity as the Senator from Vermont how much the Chair has enjoyed this continuing rendition over the past number of weeks of the history of the Senate and compliments the leader on his efforts to put it together for the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont, the Senator who presently presides over the Senate.

I am very grateful for this statement. I find it to be encouraging. I shall continue in my efforts to speak of the U.S. Senate, hopefully, for some several weeks to come, believing that it will be of service to the Senate, not only in our day, but also in future years.

Mr. President, I received a letter on the date of June 4 from Amos D. Maxwell, Ph. D., professor of political science. Northeastern State University. The letter was addressed to me and reads as follows:

DEAR SENATOR BYRD: Are you planning to have any reprints made of your addresses to the Senate and the roles of the Majority Leader and President Pro Tempore?

We discovered your messages and have found them to be most useful and informative, for we teach a course on the legislative Process.

Could you have someone in your office send me reprints of each of those splendid messages. We plan to place them in our Library and have them as required reading by our students.

Mr. President. I ask unanimous consent to have printed in the RECORD my response to Dr. Maxwell.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 11, 1980.

DR. AMOS D. MAXWELL,
Professor, Political Science, Northeastern State University, Tahlequah, Okla.

DEAR DR. MAXWELL: Thank you for your letter.

I am pleased to learn that you are following my statements on the Floor about the history of the United States Senate.

With regard to your desire to obtain some of these statements, please find enclosed the addresses which I have given on the Floor thus far.

It is my hope that this information will be of use in the University library.

With best wishes and gratitude for your interest in my work here in the United States Senate, I am

Sincerely yours,

ROBERT C. BYRD.

Mr. ROBERT C. BYRD. Mr. President, my secretary has just handed me a letter that I recently received from David N. Thomas, professor of history, Oglethorpe University, Atlanta, Ga., which reads as follows:

DEAR SENATOR BYRD: On page 11564 (May 16, 1980) in the CONGRESSIONAL RECORD, you make an historical reference to the presidential candidacy of Andrew Jackson which is erroneous.

In discussing the early role of the Congressional Caucus you say:

And indeed it was through these Caucuses that a very shrewd and capable Senator, named Martin Van Buren advanced the candidacy of Andrew Jackson and helped to launch the Democratic Party.

Your statement is wrong.

Amid the burdens you bear and the problems you face, an historical inaccuracy appearing in a presentation on the Senate floor surely would be of minor significance to you.

But for what it is worth, William H. Crawford was the last Caucus Candidate in 1824. Jackson's nomination that year was made by the Tennessee legislature. A militant anti-Caucus sentiment was the principal theme of the Jackson Campaign whose slogan was "King Caucus!" The Democratic Party was actually launched eight years later when Jackson was renominated by the first Democratic National Convention.

I responded to Professor Thomas as follows:

DEAR PROFESSOR THOMAS: I was delighted to learn that you are following so carefully the series of addresses I have been making on the historical development of the Senate and its various offices. As the Senate approaches its bicentennial in 1989, I plan from time to time to draw the attention of my colleagues and the public to the rich history of this institution.

In respect to the role of the caucus in the first presidential elections, my reference was less to Andrew Jackson than to Martin Van Buren, the consummate politician who worked closely with the caucus in the 1820s. It was because of his disappointment over the failure of the old Jeffersonians to support the choice of the caucus in 1824, William H. Crawford, that Van Buren sought a new political coalition to advance the candidacy of Andrew Jackson, a coalition which eventually emerged as the Democratic party. This is a fascinating political story described most aptly in Robert V. Remini's Martin Van Buren and the Making of the Democratic Party."

I can understand how my brief reference to these complex events could be misinterpreted, and I appreciate your drawing my attention to the item.

I hope that you and your students will continue to follow my addresses and will agree with me on the need for a better understanding of our legislative heritage.

Mr. President, I ask unanimous consent that the full text of both letters be printed in the RECORD.

There being no objection, the letters

FOOTNOTES

[1] Journals of Congress, v. 1, September 6, 1774, p. 7.

[2] Journals of Congress, v. 1, September 7, 1774, p. 8.

[3] Journals of Congress, v. 1, May 10, 1775, p. 50.

[4] Senate Journal, 1st Congress, 1st Sess., April 7, 1789 (edited and reprinted: Linda Grant De Pauw, editor, The John Hopkins Press, 1972), p. 11.

[5] Ibid., April 8, 1789, p. 12.

[6] 1 Stat. 252; Act of April 12, 1792.

[7] Annals of Congress, 5th Congress, 1st Sess., February 5, 1798, pp. 496–497.

[8] Senate Journal, 6th Congress, 1st Sess., p. 108; quoted in "The Office of the Sergeant-at-Arms of the Senate" (unpublished manuscript provided by the Office of the Sergeant-at-Arms), p. 4.

[9] "The Office of the Sergeant at Arms of the Senate," p. 7.

[10] Congressional Record, June 18, 1929, p. 3058.

[11] 61 Stat. 363; an act making appropriations for the Legislative Branch for the fiscal year ending June 30, 1948, and for other purposes.

[12] U.S. Senate. Committee on Appropriations. Hearings on H.R. 3993, a bill making appropriations for the legislative branch for the fiscal year ending June 30, 1948, and for other purposes. Washington, U.S. Govt. Print. Off., 80th Congress, 1st Sess., July 2, 1947, p. 5–6.

[13] *Senate Manual,* United States Senate, 95th Congress, 1st Session (Washington: Government Printing Office, 1977), Section 81, p. 123.

[14] Acting Secretary for the Majority from Oct. 7, 1963 to Nov. 4, 1964.

[15] Seminar lecture at American University, Feb. 5, 1966.

[16] *Ibid.*

[17] Op. Cit. Hearings before the Committee on Rules and Administration, United States Senate, Part 17, p. 1614.

[18] Op. Cit. Seminar lecture at American University, Feb. 5, 1966.

[19] *Ibid.*

[20] Floyd M. Riddick, *The United States Congress Organization and Procedure* (Manassas, Va.: National Capitol Publishers, Inc., 1949), p. 140.

[21] The distinction used here is that formal duties and responsibilities would be those most likely performed by any Secretary for the Majority under any Majority Leader, while informal duties would depend to a great extent on the nature of the Majority Leader and his philosophy of organization. The distinction is this author's and not the Secretary for the Majority's.

were ordered to be printed in the RECORD, as follows:

OGLETHORPE UNIVERSITY,
Atlanta, Ga., June 2, 1980.

The Hon. ROBERT C. BYRD,
Room 133, Russell Senate Office, Building, Washington, D.C.

DEAR SENATOR BYRD: On page 11564 (May 16, 1980) in the CONGRESSIONAL RECORD, you make an historical reference to the presidential candidacy of Andrew Jackson which is erroneous.

In discussing the early role of the Congressional Caucus you say:

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Sincerely yours,
DAVID N. THOMAS,
Professor of History.

Prof. DAVID N. THOMAS,
Department of History,
Oglethorpe University,
Atlanta, Ga.

DEAR PROFESSOR THOMAS: I was delighted to learn that you are following so carefully the series of addresses I have been making on the historical development of the Senate and its various offices. As the Senate approaches its bicentennial in 1989, I plan from time to time to draw the attention of my colleagues and the public to the rich history of this institution.

In respect to the role of the caucus in the first presidential elections, my reference was less to Andrew Jackson than to Martin Van Buren, the consummate politician who worked closely with the caucus in the 1820s. It was because of his disappointment over the failure of the old Jeffersonians to support the choice of the caucus in 1824, William H. Crawford, that Van Buren sought a new political coalition to advance the candidacy of Andrew Jackson, a coalition which eventually emerged as the Democratic Party. This is a fascinating political story described most aptly in Robert V Remini's "Martin Van Buren and the Making of the Democratic Party."

I can understand how my brief reference to these complex events could be misinterpreted, and I appreciate your drawing my attention to the item.

I hope that you and your students will continue to follow my addresses and will agree with me on the need for a better understanding of our legislative heritage.

Sincerely,
ROBERT C. BYRD.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 10 o'clock.

Are there any orders for the recognition of Senators?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

As I indicated to Mr. TOWER, the acting Republican leader, we are about to go out, and I shall simply state the program and then move to recess under the order.

After the two leaders have been recognized on tomorrow, or their designees under the standing order, the Senate will proceed to the consideration of Calendar Order No. 783, S. 2714, the Foreign Assistance Authorization which was ordered earlier today.

At approximately 12:30 p.m., Senator NELSON intends to call up a conference report on S. 2698, Small Business Administration Authorization, which was ordered one day last week.

There is a time limitation of 2 hours overall, I believe, on that conference report.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 5:52 p.m. the Senate recessed until tomorrow, Tuesday, June 17, 1980, at 10 a.m.

NOMINATION

Executive nomination received by the Senate June 16, 1980:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jack Hood Vaughn, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development, vice Abelardo Lopez Valdez.

EXTENSIONS OF REMARKS

IT IS NOT TOO LATE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. HAWKINS. Mr. Speaker, it is still not too late for Democrats and Republicans alike to take hold of our country's worsening economic situation and to actively work to save our economy. The human and economic effects of this recession, which we have been programed into, is justification enough for a declaration of a national emergency, to mobilize the much-needed alternative economic initiatives necessary to put our economy back on the right track.

Below is a reprint of my statement to the Democratic Party Platform Committee, where I outline the basis for calling for a national emergency and propose economic alternatives to this administration's misdirected current policy of using recession to unsuccessfully fight the real causes of inflation. The necessity of restoring balanced economic growth goes beyond partisan politics and requires cooperation between all ends of the political spectrum. In this regard, in addition to sharing my views with my fellow Democrats, I have also sent a copy of my statement to the Republican Conference of the House, in the hopes of gathering a consensus for economic change.

STATEMENT OF HON. AUGUSTUS F. HAWKINS (DEMOCRAT OF CALIFORNIA) BEFORE THE DEMOCRATIC PARTY PLATFORM COMMITTEE, JUNE 12, 1980

I am pleased to present my views to you today on what I consider to be the most important issue involved in the Platform, and which goes to the very heart of the performance of the Democratic party: Implementation of the Full Employment and Balanced Growth Act, commonly referred to as the Humphrey-Hawkins Act.

By choice, and after careful deliberation, the drafters of the 1976 Platform made "full employment, price stability and balanced growth" the basic foundation of its economic policy and the party's framework for addressing our "concern for human dignity and freedom".

It is the way in which we deal with this issue, I submit to you today, which is the paramount, if not the most critical challenge we face in drafting a new platform, in defending the performance of our nominees, and what is even more important, in meeting the needs, hopes and aspirations of peoples everywhere who look to us for leadership.

Even before our Democratic plank of full employment became the law in October 1978, the Democratic Party had committed itself "to the right of all adult Americans . . . to have useful jobs at living wages . . . and to reduce adult unemployment to 3 percent within 4 years". (Parenthetically, that four years is *this* year, 1980—the law, itself, set that goal as 1983, but the President has deferred it further to 1985.)

In the 1½ years since the Act was signed by the President, the Administration has moved in the opposite direction. The goals, timetables, mandates—its levels of production, employment and human needs have been ignored. The rates of unemployment and inflation have increased and the economic growth rate has gone down.

In short, we have reversed our roles as indicated in 1976. What we accused the Republicans of doing then, we are now doing ourselves, and we are ignoring our promises to pursue alternative policies.

In 1976, to cite a few examples, we said:

"Today millions of people are unemployed. . . . (O)ur industrial capacity is also wastefully underutilized. . . . (S)omething is wrong when there is work, and the people who are willing to do it are without jobs. What we have lacked is leadership."

To continue a direct quote, in 1976 we said:

"Never before have we had soaring inflation in the midst of a major recession. . . . (T)hose who should be working and paying taxes are collecting unemployment compensation or other welfare payments. . . . (W)e have met the goals of full employment with stable prices in the past and can do it again. . . . (F)ighting inflation by curtailing production and increasing unemployment has done nothing to restrain it. . . . (H)igh interest rates and the recurring underutilization of our manufacturing plant and equipment have retarded new investment. . . . Accomplishing our goals . . . will require time and resources (but) (a)dditional resources will become available as we implement our full employment policies. Federal revenues also grow over time."

That ends my direct quotes from the 1976 Party Platform. Unmistakably, it had both style and substance. Unfortunately for us as Democrats, this Administration's economic policies fly directly in the face of these fundamental Democratic ideals, and have resulted in precisely the same economic mistakes we criticized the Republicans for making four years ago!

As a matter of fact, the gross flagrant violations of the 1976 platform becloud our credibility in offering a new Platform and makes extremely difficult our task. Do we renounce our previous commitments? Do we now admit we were wrong in the criticism of the other party's economic policies, which we ourselves have embraced? How serious—that is, to what extent do we consider a platform a contractual obligation or is it merely part of campaign decorations? Were we right in 1976?

I whole-heartedly believe we were right in our platform policies in 1976. To what extent, however, did the platform provide a framework on which we as Democrats have built a record?

Today, instead of 10 million unemployed, as we computed under the Ford Administration, we now have about 14 million jobless persons.

The inflation rate has risen from 6 percent then to astronomically high levels now, and it is hoped the rate will level off to around 9 percent by election time, fully 3 percent above the Republican rate in 1976 that we described as unbearable.

The annual economic growth rate of 1½ percent, which we Democrats condemned the Republicans for generating four years ago, was higher than our current recessionary negative growth!

The high interest rates and other monetary and fiscal policies of this Administration have crippled the housing industry, added new inflationary pressures throughout the economy, and have compounded the inflationary damage already done by the Federal decontrol of gas and oil prices.

The Administration's position of blaming OPEC for all of our economic woes, is simply not factual. The underlying inflation rate which is largely independent of rising energy prices, is still in the double-digit range. Additionally, our own Government's policy of oil decontrol, along with the Fed's excessive interest rates, administered prices in monopolistic industries, and the continued use of the discredited "trade-off" of fighting inflation by creating more unemployment, have all contributed to our economic problems, none of which we can blame on others.

We are currently in a see-saw situation—reacting in an ad-hoc, uncoordinated, hit-or-miss way to every crisis that comes our way, reverting to the "trade-off" again, in a misdirected effort to fight inflation through the deliberate creation of more unemployment.

Policies to increase unemployment and induce a recession have been the hallmark of this Administration's attack on inflation. High interest rates, low economic growth, decreased production and high energy prices have been in accord with those policies.

A recession—though late in arriving—has at last been officially recognized. Whether it persists for months or only a few more days, millions of Americans will be irreparably and unnecessarily harmed.

A still further danger is that if, and when, unemployment is reduced, the same policies to restrain inflation will again be applied, and a new cycle of stagnation and recession will be back with us.

We now have the difficult but essential task of seeking to conform our public record with what we said we would do, and what we ought to have done.

In the remaining 6 months of this Administration, we are facing one of the gravest crises in our history. Declaration of a national emergency is both justified and defensible in order to mobilize much needed initiatives, including across-the-board controls; a stimulus package comparable to the President's proposals upon assuming office in 1977, and to those very specific proposals put forth just a few days ago by Senator Kennedy; and accompanying adjustments in monetary and fiscal policies as described in our 1976 platform.

The choice is ours. If we attempt to defend what is economically unsound and morally wrong, we don't deserve to win. If we declare ourselves recommitted to the noble spirit and traditions of F.D.R., Harry Truman, John F. Kennedy, and Lyndon Johnson, and show by our words as well as by our actions that we are so guided—I be-

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● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

lieve the people will entrust another four years to our party.

As the party that is in power right now, we have a six month headstart on a new Administration. How well we do in the time will give credence to whatever we may say in the Platform and otherwise.●

INCENTIVES NEEDED TO RETAIN SKILLED MILITARY PERSONNEL

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. COELHO. Mr. Speaker, recently WDVM-TV here in Washington aired an editorial calling upon the House to follow the Senate's lead and adopt legislation providing for pay incentives and other options to retain skilled military personnel. The editorial follows:

MILITARY PERSONNEL RETENTION URGED

The tragic rescue mission in Iran has focussed American attention on our military forces. It should also focus Congressional attention on the critical needs of those military forces.

As we see it, one of the most critical needs is for Congress to provide adequate incentives for trained, skilled people to stay in the service.

Missions such as the one in Iran, depend not only on the superb performance of the men who carry them out so bravely . . . but also on the hundreds of people who support the units sent to the field.

It is in some of those critical, specialized areas, where our military is facing a real crisis. Too many good people are getting out.

As the economy gets worse . . . it is getting harder for military people to live adequately.

Some work one—or even two—extra jobs off duty.

Some are moving to civilian jobs where they can double or even triple their pay.

The squeeze on the military from the economy . . . produces some bizarre stories.

In one case—a pilot stationed in Virginia was actually paying his ground maintenance crew extra money—out of his own pocket—so that they could stop worrying about family bills, and concentrate on keeping his airplane flying.

That's no way for the richest country in the world to treat the people who defend us.

The Senate recently passed legislation, sponsored by Virginia's Senator John Warner, which would begin the slow process toward providing incentives to keep skilled military personnel in the service. But the House and the Carter Administration are resisting.

We hope the tragedy in Iran will stir the House and the Administration to follow the Senate's lead in developing pay incentives and other options to retain skilled military personnel.

We can't continue to expect military men and women to serve . . . if we continue to force them to struggle to survive.

The Air Force reports that it will have 2,400 fewer pilots than it needs this year, and a shortage of 4,000 by 1984 unless pay and allowances are substantially raised. Navy leaders are warning that their shortage of skilled sailors has reached a point that ships will have to be tied up for lack of qualified people to run them. Similar problems are found by the Army and Marine Corps which each year see increasing numbers of highly trained professional leaving for higher pay and benefits in private industry. I agree with WDVM-TV and would urge my colleagues to support the Nunn-Warner military pay incentive proposal.●

AMERICA'S ECONOMY IS BESIEGED BY SERIOUS PROBLEMS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. SOLARZ. Mr. Speaker, we are living in a time in which America's economy is besieged by serious problems of both unemployment and falling production. In fact, the ever-climbing jobless rate is expected to top a post-World War II record of 9 percent reached in May 1975. The unfortunate situation can be directly related to conditions in the automobile and housing industries. The steel industry, for example, has been hurt by auto and truck manufacturing cutbacks. An additional factor contributing to increased unemployment was the severe credit clampdown by the Federal Reserve in March of this year that discouraged lending and increased hardships to small businesses in need of loan funding to sustain operations.

The soaring jobless rate has had a particularly damaging impact on cities. For example, since April alone, over 4 million individuals nationwide have either lost their jobs or been unable to secure new positions due to plant and office shutdowns. This has resulted in an even greater demand for social services—unemployment benefits, food stamps, medicaid—on already overburdened city governments.

It is vital that action be taken on such a pressing issue as unemployment. Therefore, Mr. Speaker, I would like to bring to the attention of my colleagues the following article from the Wall Street Journal:

[From the Wall Street Journal, June 6, 1980]

JOBLESS RATE IS RISING FASTER THAN PREDICTED, POSING PERIL TO CARTER

(By Ralph E. Winter)

The most politically sensitive indicator of economic health is taking a sharp turn for the worse.

Unemployment is rising more rapidly than most economists expected only a few months ago. Many of those same economists currently believe that joblessness may reach the worst levels since the 1930's—conceivably by Election Day.

Layoffs, which began in the auto and housing industries last year, are occurring throughout the economy. Equally serious for the employment outlook: Even companies that haven't laid off workers are holding down hiring.

This morning the Labor Department is expected to announce another rise in the unemployment rate for May. If experience is any guide, the rate will keep on climbing until after the recession ends.

The seasonally adjusted unemployment rate climbed to 7% of the labor force in April, from 6.2% in March. Since then, practically all economic indicators—such as help-wanted advertising, weekly claims for unemployment compensation, factory orders and the steel industry's operating rate—have pointed to a rapidly deteriorating economy and soaring unemployment.

THE GOOD OLD DAYS

All through 1979, unemployment hovered between 5.7 percent and 5.9 percent, and it reached only 6 percent to 6.2 percent during this year's first quarter. Economists believe it will be a long time before the figures are that low again.

It is impossible to say with certainty how high the rate will go, but earlier administration estimates of a 7.2 percent average for 1980's fourth quarter already appear far too low. Unemployment later this year may well top the post-World War II high of 9 percent reached in May 1975, a couple of months after the 1973-75 recession ended.

A. Gary Shilling & Co., a New York consulting firm, is forecasting a rise to about 10 percent late next year, says Gary Stern, senior economist. Even some of the more optimistic economists expect unemployment of close to 8.5 percent by the end of 1980, and Albert E. Sindlinger is forecasting 9 percent to 10 percent by then.

Mr. Stern predicts that "unemployment will surpass inflation as the administration's major political problem well before Election Day," and most other economists agree. They feel that any political gain for President Carter resulting from a possible drop in inflation to single-digit levels will be washed out by the flood of jobless workers.

ANOTHER REVERSAL?

Mr. Carter has been ridiculed by some critics for first proposing a budget deficit for the fiscal year beginning next Oct. 1 and then, only a few months later, drafting a new budget calling for a small surplus to help fight inflation. He may be criticized even more roundly if he has to reverse course once again. Most economists say that in any case, a huge deficit, probably in the range of $50 billion, is all but inevitable because of lower tax receipts and higher spending for unemployment compensation and other anti-recession programs.

Actually, there may be less real hardship involved in a 9 percent or 10 percent unemployment rate in 1980-81 than in the 8 percent to 9 percent of the last recession. For one thing, many employers and economists say, last year's unemployment rate of 5.7 percent to 5.9 percent actually reflected essentially full employment. There was no big pool of eager job seekers.

Therefore a rise in the unemployment rate to the politically explosive 10 percent range would indicate that just over four million workers had lost their jobs, or were unable to find jobs, because of the recession. Such an eventuality can't be shrugged off, but it isn't as serious as having one in 10 workers—10 million people—suddenly walking the streets seeking a job.

TWO-INCOME FAMILIES

Also, there are more two- and three-income families these days. If one person loses a job, the household still has a paycheck coming in. Unemployment benefits have been increased, too, and many auto and steel workers are also protected by supplemental unemployment benefits paid by their companies. (The unemployment rate for workers covered by jobless-insurance benefits jumped 0.6 percentage point in the five weeks ended May 17.

Employers and economists cite a number of reasons for the rapid rise in unemployment. One big factor: Two industries that have major ripple effects have been hit very hard—housing and automobiles.

The Commerce Department reports that new housing starts in April fell to an annual rate of about one million, less than half the rate of the 1978 peak. And sales of domestic autos in recent weeks have dropped to a rate of just over five million a year, down nearly 40 percent from the 8.3 million sold last year.

The housing slump, caused mainly by extremely high mortgage interest rates, has produced layoffs in lumber mills in the Northwest, carpet and drapery plants in the Southeast, window factories in the Midwest, and furniture and appliance plants across the country. It is also pushing up unemployment among construction workers, of course, and has caused layoffs in factories producing construction equipment. It is beginning to slow shopping-center and other commercial building.

Auto production has plummeted to the lowest level in 22 years. The auto makers plan to produce only 545,000 cars this month, down one-third from 823,651 a year ago and the lowest June total since the 340,000 of 1958. Besides laying off more than 235,000 hourly workers themselves, the auto company cutbacks have caused tens of thousands of layoffs in plants making tires, fan belts, windows, seat covers and hundreds of other products.

The truck business has been hit at least as hard. Consumers aren't buying light trucks and vans, and businessmen are holding back on purchasing heavier vehicles. For instance, Consolidated Freightways Inc. of San Francisco says employment at its heavy-truck manufacturing plants has dropped to 3,859 from 5,950 a year ago, and the remaining workers will be idled for two weeks beginning next Monday because the plants will be closed to help reduce inventories.

The auto and truck cutbacks have helped trigger large-scale layoffs in the steel industry, which last week operated at only 62 percent of capacity. Layoffs have also begun in the Minnesota iron-ore mines. And Chessie System Inc. has laid off more than 700 employes from its freight-car shops because the drop in auto and steel shipments put a lower priority on speedy repair of cars for Chessie's railroads.

Another reason for the rapid rise in unemployment is that many companies were prepared for the recession. Some had employment tables already drawn up calling for reductions in the work force at the first indication that business was falling off. Many have been watching inventories carefully for several years, determined to prevent stocks from getting out of line. Prompt layoffs, or temporary plant closings, are effective methods of halting a buildup of finished goods.

SLUMP IN APPLIANCE PARK

General Electric Co.'s big Appliance Park operation in Louisville, for instance, closed down most production for the last two weeks of May to cut inventories, idling about 11,000 of the 15,000 hourly employes. In addition, Appliance Park in July will lay off about 3,700 hourly workers idefinitely to help get inventories back in balance. Because of the lower production levels, GE also is cutting off 400 salaried employes, about 10 percent of the total at the facility.

Big companies' inventory reductions often cause proportionately heavier layoffs at a lot of smaller suppliers. Many of them supply parts that the big outfits also produce, in effect handling the overflow. When the big companies throttle back, outside suppliers may get cut out entirely. Phillips Plastics Corp., a closely held concern making control knobs for appliances and other plastic parts for big companies, has been forced to cut employment to 340 from just over 500 at the beginning of the year, says Irene Johnson, personnel manager. About 100 of the remaining workers at the Phillips, Wis., company are putting in some three-day and four-day weeks, she says.

The unusually drastic credit clampdown by the Federal Reserve Board in March is another factor behind the rapid rise in unemployment. Not only did the Federal Reserve let interest rates increase to previously unthinkable levels; it also pressured banks and other lenders to slow the rise in both consumer and business lending. Banks responded promptly, instituting tighter lending policies and demanding faster repayment of credit-card debt. Consumers reacted as the policy makers desired: They cut back on spending.

Interest rates have declined since then, and credit has eased somewhat, but consumers still are holding back. The drop in installment buying is triggering layoffs and discouraging hiring in many industries, hitting workers making everything from garden tractors to vacuum cleaners.

FARMERS ARE HURT

Both small businesses and farmers have been hurt by the high interest rates and difficulty in getting loans. Small businesses have been unable to expand employment, and some are being squeezed out of business. Farmers cut tractor purchases in April by 47 percent from a year earlier, causing big layoffs at Deere & Co. and other farm-machinery makers.

Mr. Stern of Shilling & Co. and some other economists add another reason for the abrupt and steep rise in unemployment. They say that in the 1975–79 expansion, cautious businessmen held back on capital spending and hired more people to increase output. But, Mr. Stern notes, "that can be reversed when the economy starts down," producing a rapid rise in unemployment.

It is easy to exaggerate the importance of layoffs in the rising unemployment rate and to ignore the effect of slower hiring. While it may not be very spectacular when one job seeker at a time goes away disappointed from the employment office, this adds up to larger numbers than layoffs.

In April, for instance, 3.6 million of the unemployed had lost their jobs, just half of the seasonally adjusted 7.2 million who were jobless. And of the 3.6 million, only 1.4 million had been laid off; the other 2.2 million either had been fired, or their plants and offices had closed or moved, or their jobs were permanently eliminated.

The other half of the unemployed group consisted of 926,000 persons who had quit their latest jobs, two million housewives and other persons trying to reenter the work force after a period of absence, and 743,000 teen-agers and others seeking their first jobs. For these people, as well as those who were fired, it is the "no help wanted" sign that keeps them among the unemployed.

A May survey of about 60 Cleveland-area companies shows that not one increased employment during the month. All across the country, many companies have some formal or informal hiring constraints.●

LITHUANIA ANNIVERSARY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. LENT. Mr. Speaker, it is with great solemnity that I join my distinguished colleagues in commemorating the anniversary of a dark day in the world's history: the military occupation and forcible incorporation of Lithuania into the Soviet Union, which occurred June 15, 1940.

Mr. Speaker, Lithuania was among the first in a lengthy list of freedom-loving nations whose freedom has been extinguished by ruthless Soviet aggression. It is important, at this time of continuing deceit and aggression by the Soviets, that we remember that the invasion of Afghanistan is only the most recent act in a long history of Soviet invasion and subversion that has continued over 40 years.

Only a few months ago, we had the honor of commemorating the 62d anniversary of the Declaration of Independence of Lithuania. This proud nation's independence climaxed centuries of courageous resistance to its giant neighbor, Russia. Lithuania has a long tradition of independence and cultural achievement which have been nurtured since the beginning of the nation seven centuries ago.

However, since 1940, when the ruthless forces of Soviet Russia invaded Lithuania and deported 300,000 freedom-loving Lithuanians to Siberian labor camps, the world has seen the rulers of the Kremlin attempt to extinguish all traces of the great traditions of freedom and religion in this courageous country.

But, the unquenchable spirit of the Lithuanian people continues to resist the political repression and religious persecution being practiced against them. The strength and courage of the Lithuanian people should serve as an example for all people who are suffering from the widespread persecution being inflicted through Soviet domination.

Lithuania should be seen, on this 40th anniversary of its conquest by the Soviet Union, as an example of the tragic termination of freedom and human rights that will continue to occur under the heel of Soviet expansion and oppression.

Sadly, the free people of the world have watched the development of this powerful, still growing force for evil. Mr. Speaker, we must not ignore the Soviet expansionist policy which, in recent years, has seen little challenge. We must devote ourselves to strengthening the cause that has so gallantly been supported by the freedom-loving people of nations such as Lithuania.

Mr. Speaker, as we commemorate the tragic invasion of Lithuania of 1940, let us commit ourselves as a nation to preserving and strengthening the precious freedom we enjoy.

Let us clearly understand that aggression against a free people cannot be tolerated, and must be challenged. We must be prepared to work unceasingly to aid those people who have earned and desire the freedom we Americans enjoy.●

RICHARD N. ERICKSON

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. ADDABBO. Mr. Speaker, I would like to pay tribute and call to the attention of my distinguished colleagues the work of Richard N. Erickson, an employee of the Metropolitan Life Insurance Co. who has been on loan to the Greater Jamaica Development Corp. Thanks to his management skills and tireless efforts, Jamaica, Queens, is well on the way to becoming the thriving neighborhood it once was.

Richard Erickson is employed by Metropolitan Life as a manager of staff services for its corporate personnel department. However, since August of 1979, he has been participating in a unique Metropolitan Life program of lending managment assistance to governmental and nonprofit groups that provide important social and civic services in communities where Metropolitan has a major facility. Presently, two other company officials are participating in the program, with one at the mayor's office of operations, and the other at the Health and Hospital Corp. working with an Economic Development Council task force.

While on loan to the Greater Jamaica Development Corp. as special services director, Richard has applied his management skills to administering a set of Comprehensive Employment Training Act projects and related activities. Since coming to Jamaica, he has negotiated with York College, the Long Island Railroad and city agencies to improve the lighting and appearance of railroad underpasses, and arranged the cleanup operations for public sidewalks. In addition, he has expanded and relocated a local farmers market, with hopes of including a small wholesale food market for senior citizens and other low-income residents. He has also been instrumental in seeking opportunities for Comprehensive Employment Training Act participants to obtain unsubsidized employment.

Richard Erickson and Metropolitan Life are to be commended for the key role they are playing in rejuvenating the community of Jamaica. The program of loaning executives to city and nonprofit groups is a prime example of what can be accomplished when the lines of communication between the private and public sectors are kept open. As our cities face an ever growing list of complex issues in the future, programs such as this one will be an integral part of the solutions. The management resources of our major corporations are out there, waiting to be utilized by our cities. Not to take advantage of this abundant, inexpensive asset would be a terrible waste.●

LITHUANIANS WILL SURVIVE

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. SENSENBRENNER. Mr. Speaker, this past year we have witnessed new examples of Soviet aggression and expansionism with the invasion of Afghanistan and the renewal of tensions between the United States and the Soviet Union. The extent of repression within the U.S.S.R. and internal discontent is brought to our attention frequently by prominent dissidents. In the midst of these much publicized events, we sometimes tend to forget the tyranny exercised against the peoples of the once independent Baltic nations. For this reason, Mr. Speaker, I would like to join my colleagues in commemorating the forced incorporation of the Lithuanian nation into the Union of Soviet Socialist Republics.

On June 15, 1940, Soviet troops occupied this independent and peace-loving nation. In the years immediately following, a policy of forced assimilation and the russification of this proud people began. The numerous deportations and purges, along with the forced collectivization of the Lithuanians, has resulted in the death of more than one-half million people since the Soviet invasion, in this, a country with a population of little over 3 million.

Despite all the hardships suffered, the strength and dignity of the Lithuanian people have survived. The Lithuanians continue their resistance against the Soviet occupation. In their fight, they look to the United States as a source of moral support and strength.

As a country which stands for the principles of the protection of individual human rights and the independence and the sovereignty of nationalities, we Americans must do all we can to preserve the national consciousness of a people with a history of greatness who have been continually fought over and occupied. The Lithuanians are a people who found in a tsarist Russia a protector turned overlord, who are supposed to have sublimated their national aspirations and cultural identity to those of the U.S.S.R., but whose memories of past periods of independence will not give them peace.

Mr. Speaker, in our attempt to promote the respect for and freedom of the people of Lithuania, I endorse the continuation of the present U.S. policy of refusing to recognize the Soviet occupation of Lithuania and the maintenance of our independent diplomatic relations with them. I urge a renewed effort in seeking to enforce the principles agreed upon by many countries in the Helsinki agreement of 1975, of which the Soviet Union was also a signatory.

The Lithuanians are a people with a heritage full of great accomplishments. They have a rich language and a glorious culture which must be preserved.●

ANNIVERSARY OF SOVIET ANNEXATION OF LITHUANIA

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. HOWARD. Mr. Speaker, in the past year we have seen continuing evidence of Soviet aggression toward sovereign nations, such as the invasion of Afghanistan and the activities of so-called military advisers in other nations. However, we must not forget that there are still unwilling peoples being forcibly subjected to Russian Communist rule within the U.S.S.R. Today, June 15, 1980, is the 40th anniversary of the ruthless annexation of Lithuania by the Soviet Union.

Unlike the democratic union of the 13 original colonies into our United States, the Russians used armed force to extend their Soviet empire. Fifty thousand Lithuanian lives were lost resisting the Soviet occupation troops and hundreds of thousands more deported to slave labor and detention camps in Siberia. The ravaging of this nation was meant not only to destroy the people's will to resist, but to replace Lithuanian culture and religious activities with those of a foreign power. However, we see today that even though the entire media network is under Government control, the nationalistic spirit has not waned. It is, in fact, more pervasive—kept alive despite incredible suppression by the Soviet secret police, the KGB.

On September 22, 1921, a newly independent Lithuania joined the League of Nations in order to become a peaceful and progressive member of the world community, dedicated to human rights and personal freedom. The present United Nations hears no voice from that once free nation, only from its master state, the Soviet Union. The United States has not and never will recognize the illegal takeover of Lithuania, and so deplores the suppression of even those basic rights agreed to in the Helsinki accords. It is my hope that the "Voice of America" radio program will reach through the

Iron Curtain and help keep alive the ties that bind the Lithuanian people. Lithuanians around the world have never forgotten the plight of their fellow countrymen and still await the day they can return to a liberated homeland.●

WHEN THE BEST WILL NOT DO

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. AMBRO. Mr. Speaker, on June 10, 1980, on page 13797, I commented on those obdurate and lazy administration officials who tossed together this foul smelling salad called standby gasoline rationing and who, regardless of the strong objections of those of us who refuse to ingest this putrid fare, persist in shoving the plate in front of us.

It may very well be that because the respected Washington Post says things far better, that the following editorial that appeared on Sunday, June 15, 1980, will have an impact on those committees charged with reviewing this proposal. Regardless of their decision, I intend to offer a resolution disapproving this plan.

WHEN THE BEST WON'T DO

The Department of Energy has submitted for congressional approval an emergency gasoline rationing plan it calls "the best we could devise." Although there will inevitably be criticism of this or that provision, the plan probably is the best possible rationing scheme. But a look at what it would mean in practice quickly reveals that this is one case in which there is an answer to the perennial question, Why not the best? It is that, where gasoline rationing is concerned, the best is just as unworkable as the worst.

Rationing under this scheme would be triggered by a presidential finding that the country was facing a 20 percent oil shortage—unless the Congress said no. (The exact size of the shortage that triggered last year's gas lines is still unknown, but it was closer to 5 percent than 20 percent.) Once triggered, even after 12 months of "pre-implementation," costing $100 million, the system would require an additional three months of preparation—a long time for gas lines—before it could begin.

After the plan had been triggered, DOE would first have to determine how much gasoline would be available—a crucial but uncertain calculation. After having made this determination, and having set aside a national reserve and amounts for farms, businesses plus other priority users, DOE would allocate the rest to the states on the basis of past use. This is the same technique used in 1979 that resulted in flooding rural and resort areas with gasoline while urban areas endured three-hour lines. The reason was that during the shortage, people (naturally) did not go on vacation in nearly the numbers they had the year before. Similar unanticipated shifts could be expected under the new system. After each state had set aside its own reserves and priorities, the remaining gasoline would be divided among ordinary folk on the basis of registered vehicles.

Since the coupons could be bought and sold, they would be as valuable as money, and therefore could not be sent through the mail. Instead, coupon checks would be sent—to be redeemed for coupons at banks or other secure places. Even after several tens of thousands of new tellers had been hired and trained, however, lines at gas stations would likely be replaced by lines at banks. The value of the coupons put into circulation each year would amount to a second currency. All the accompanying paraphernalia of a currency—vaults, armored trucks, protections against counterfeiting are among them—would somehow have to be brought into play.

There are 150 million eligible registered vehicles: three times as many as the number of recipients of Social Security and food stamps combined. Since one-third of the fleet changes hands each year, it would be even more difficult to make coupon checks connect with their rightful owners. If only 10 percent went to the wrong address, 15 million vehicles would be without gas. Even worse, as soon as the program had been announced, many of those who could afford to would probably buy "junkers" in order to increase their allotment. At least that is the expectation. This type of fraud can only be partially limited by placing a limit on the number of allowed vehicles per household.

Aside from the businesses the state or federal government had pronounced priority-users, there would be millions of individuals who believed themselves to deserve a supplemental allocation. Panels similar to local draft boards would have to be created for the entire population. Administration of the system would cost a minimum of $2 billion a year.

Contemplation of this proposition should end the pretense that a standby rationing plan "prepares" the country for an oil emergency. It prepares it for nothing more than an expensive, divisive, uneconomic conflict. An alternative is available. Under it, the price of gas would be the same as under rationing, but there would be no coupon lines, no allocation boards, no huge new bureaucracies, no hassle. It is called a rebated gasoline tax. Its principal drawback is that on Capitol Hill, four-letter words may be printable, but that three-letter word, tax, is not.●

ROBERT F. DRINAN

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DUNCAN of Tennessee. Mr. Speaker, I rise today to join my many colleagues saluting Congressman ROBERT F. DRINAN of Massachusetts. After 10 years of diligent service in this House, BOB has decided not to seek reelection this November.

Although we did not agree on every issue and problem that has confronted this House over the past decade, I will always remember and admire BOB for his dedication and commitment to this country through his service in this House. For this, he has earned the respect of all.

I can only wish BOB the best of luck in every future endeavor, and know that he will be a success in whatever he undertakes to accomplish.

Thank you.●

HONOR AMERICA

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. SHUMWAY. Mr. Speaker, this past Saturday marked not only Flag Day but also the commencement of a 21-day salute to our Nation known as "Honor America." At this time, I ask that my colleagues join with me in observing the beginning of this tribute, and also in commending the American Historic and Cultural Society for calling our attention to this patriotic remembrance.

It is my sincere hope that all Americans will utilize this period of time to reacquaint themselves with our proud heritage and rich potential. The numerous challenges which confront us at home and abroad make it even more imperative for the United States to present a strong and unified presence, and that unity can best be attained through pride. While we may all feel somewhat frustrated by the problems confronting us, we have every reason for nationalistic pride and dignity. Those feelings of love for country should be called to mind during our honoring of America, and should also be shared with others.

I have long believed that being an American carries obligation as well as privilege. We would be less than responsible in our citizenship if we were content to enjoy the many benefits and freedoms made possible by our form of government without recognizing our individual obligation. That duty entails a full understanding of the American way, as well as willingness to defend and protect the wonderful privileges that way offers.

During the 21-day period of tribute, let us make a renewed commitment not only to treasure our Nation now—but also to retain the spirit of honor throughout the coming months.●

MILLIONS GO HUNGRY

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. CAVANAUGH. Mr. Speaker, two poignant newspaper articles appeared in the Washington Post on Monday, June 9, 1980, which dramatically highlighted the real and growing human suffering and neglect afflicting rapidly increasing numbers of human beings both within our own Nation and among the people of the world. The article, entitled "60 Million in East Africa To Go Hungry," details the massive human suffering being endured by millions of East Africans because of drought and the resulting hunger. The second article, "Hunger and Malnutrition Stalk Poor in a Land of Plenty," describes the suffering and neglect being experienced by our own people within the shadows of the Capitol. It seems inconceivable that the Congress and the American people can be willing to ignore this suffering and yet the budget adopted this week by the Congress does not commit the resources of our Nation to an effort to achieve a society of dignity and equity for the people of our own Nation and a world of opportunity and decency for the people of other nations.

The fiscal year 1981 budget resolution adopted last week turns our Nation sharply away from the commitment and goals which have inspired and guided our people for the past 50 years and turns us in a new direction in which selfishness and self-service will guide our domestic policies and fear and insensitivity our relationship with the people of other nations. The $26 billion in new weapons which this new budget provides will not give hope or inspiration to the people of the world and can only purchase more fear and hostility among our own people. Our Nation had clear choices this week on how we would use our resources and energies to meet the needs of the world. We did not choose wisely. I commend these two articles to my colleagues' attention:

60 MILLION IN EAST AFRICA TO GO HUNGRY

(By Jay Ross)

NAIROBI, KENYA.—From Sudan to the South African border, more than 60 million women and children will experience prolonged hunger this year because of mounting food problems in eastern and southern Africa.

Drought, or rain at the wrong time, is the immediate cause but the hunger is part of an even more depressing picture as Africa falls farther behind in efforts to feed itself.

A report issued this month by the United Nations World Food Council listed 26 countries facing abnormal food shortages, 17 in Africa. Because of high birth rates and stagnant food production, black Africa is the only area of the world where per capita food production had declined in the last two decades—averaging a 1.3 percent annual slide in the 1970s.

The current famine is not as severe as those that hit the Sahel countries and Ethiopia, killing hundreds of thousands of persons, in the early 1970s.

Some international aid experts feel, however, that a continuation of the drought that has been going on in some areas for two years could have a similar impact in what is, in effect, the eastern Sahel—parts of Uganda, Kenya, Somalia, southern Sudan and Ethiopia.

One aid specialist estimates that in the dozen countries in eastern and southern Africa experiencing food problems, half of the children under 7 and half of the women between 15 and 40 will suffer abnormal hunger this year.

That estimate, which the specialist and others agree is probably conservative, means at least 60 million people will be affected. The women and children suffer most because in many African societies the men working in urban centers or mines are assured a source of food.

Robert Kitchen, the chief U.N. official in Kenya, said the food situation "is as bad as it's ever been and deteriorating." The area is about 1.2 million tons short of grain, chiefly corn, the staple of the east African diet, he added.

That puts a strain on Western and U.N. food aid and has forced many of the countries to buy on the world market, using scarce foreign exchange.

In the last two decades, grain imports in black Africa have increased to 8.5 million tons from 3 million, with the cost skyrocketing to $1.8 billion.

If current trends continue, African import needs will increase 50 to 100 percent by 1990 according to U.N. estimates.

"If Kenya doesn't have a bumper crop and Uganda doesn't stabilize politically, this year is just a downpayment on 1981 and 1982," said Kitchen.

A retired State Department official and long-time black activist, he complained of "the fairly callous response" by the world so far. "Some say if you could paint all these people white, the response would be different," he said.

Foreign agricultural specialists point out that the current drought has only exacerbated the usual farming problems in Africa. The difficulties include government pricing policies and shortage of planning, storage facilities, research and technology. In addition, frequent government emphasis on showpiece industrial projects rather than agriculture simply increases the exodus from the land to the cities and means that fewer farmers have to feed more mouths.

The worst-hit areas are Karamoja Province in northeastern Uganda, where the United Nations has taken over distribution of food because of civil unrest; parts of Tanzania; and Somalia, suffering from an influx of a million refugees from the Ogaden.

The list of countries with food problems also include Kenya, Zambia and Zimbabwe, all of which have exported food at one time.

Ethiopia, where famine covered up by the government in the early 1970s led to the downfall of emperor Haile Selassie, is once more experiencing drought in the south and central regions. The government says 5 million people face famine.

Neighboring Djibouti and southern Sudan also have shortages of food. Others affected are Mozambique, Botswana and Rwanda. Drought, which hit all these countries in varying degrees in the last year, is only part of the problem as illustrated by Kenya—where a 4 percent annual increase in the nearly 16 million population means 600,000 more stomachs to fill each year.

Just a year ago Kenya exported about 180,000 tons of corn. The move is still having political repercussions. Only six months later, the country was desperately seeking to buy corn at a higher price on the world market. By January, Kenya was down to a nine-day supply. Corn, ground into meal, forms the basis of the diet.

The shortage was so severe that Kenya had to renege on a swap, worked out through the United Nations, to provide 8,000 tons of corn for the starving Karamojong in Uganda in return for receiving a similar amount of wheat last fall. It was the first time a country ever defaulted on a U.N. exchange agreement.

The United Nations has simply deducted the amount from future food aid, but Canada which provided the wheat to the world organization, is "sore as hell," according to a diplomat.

Kenyan officials refuse to talk about the swap or, indeed, any aspect of their food problems. Agriculture Minister James Osogo refused an interview, saying over the telephone: "I don't think it would serve any need for any offical of the Ministry of Agriculture to talk to The Washington Post at all."

One Kenyan official did say privately that the problem was a "political drought," a reference to lack of agricultural planning and to allegations of corruption.

There are unconfirmed reports that about 60,000 tons of the corn was exported illegally, kept on ships at sea for about 10 weeks and then reimported at a price of $60 more per ton. That would reap a profit of $3.6 million.

The heart of the problem, however, is that the Kenyan government did not anticipate the 1979-80 crop would decline to only 1.3 million tons from bumper harvests in the past few years of around 2 million tons.

Part of the reason for the decline was the failure of the "small rains" in late 1979. Then the monsoon rains came six weeks late this year, which will be a factor in next year's crop.

But the major culprit, according to foreign specialists, is the government's pricing policy. Faced with a glut in which corn rotted for lack of storage space the previous two years, the government lowered the price from about $11 for a 200-pound bag to less than $9.

The farmers consequently shifted about 60 percent of their acreage from corn to more profitable sugar cane and other products. The price for this year's crop still on the stalk has been set at $12.30 a bag.

"Every year they make last year's pricing decision," one aid official said.

As a result, Kenya has to import about 300,000 tons of grain until the new harvest comes in starting in November. President Daniel arap Moi arranged for about 100,000 tons of food aid from the United States during a recent visit to Washington.

Much of the rest is being bought from drought-free South Africa. For political reasons, Kenya says it is imported from Mozambique, which is itself suffering shortages.

"The only thing exported from Mozambique is the invoice," a diplomat said.

A maze of state-related organizations here control agriculture policy but there is little coordination.

Last year the government started a major free milk program through the schools, not realizing that there was a milk shortage because the drought reduced output.

Kenya has another problem common in Africa: deforestation that causes soil erosion, taking thousands of acres out of production.

For Kenya, however, there is one major difference from some of the other African countries facing agricultural problems. Although the shortage of corn has caused the people to grumble, there is plenty of other food to eat. Elsewhere, as in Karamoja, Uganda, much of the time there is nothing to eat.

HUNGER AND MALNUTRITION STALK POOR IN A LAND OF PLENTY

(By Thomas Morgan)

At the household of Gloria Dent, just four blocks from the Capitol, her 18-year-old daughter Debra watches sadly as her mother places bowls of liver, gravy and biscuits—all they can afford this day—on the table.

Her brothers and cousin bow their heads and close their eyes as Debra recites the traditional prayer, thanking God for the food.

But "inside," she said, "I'm thinking, 'Not this again.' Sometimes I think about baked chicken with stuffing, mashed potatoes, corn on the cob, fresh greens and cornbread that we used to have when my mother was working."

A fire that destroyed their home and her mother's subsequent illness forced the family to turn to public assistance and food stamps. And then they learned, as many low-income families already have, that those benefits provide barely enough to survive.

As prices have soared, welfare families, elderly people on fixed incomes and the working poor are finding that inflation forces cruel choices between housing and heating, medical care and food. For some, the choice is no longer what kind of meat to eat, but whether meat can be purchased at all. The $2 that could buy a dozen eggs, two loaves of bread and eight ears of corn two years ago, now will only buy a dozen eggs and three loaves of bread.

But increased benefits are not in sight. A budget-minded Congress recently passed legislation cutting back food-stamp benefits by delaying scheduled cost-of-living increases and tightening eligibility requirements to eliminate 800,000 people across the country from the program. Under the new rules, for instance, a family of four can earn no more than $7,450 (the level had been set to go to $8,200 in July).

Approximately 170,000 persons in the metropolitan area receive food stamps, which can be used only for food, not for alcoholic beverages or tobacco, pet food or cleaning supplies. The stamps are presented to grocery stores as cash, and cannot be cashed without a purchase.

The stamp allowance per family is based on a minimum nutrition plan devised by the federal government with a computer that allows each family member 36 cents per meal. USDA readily admits that most families cannot live on that amount and still get the recommended daily allowances of essential vitamins and nutrients.

"It doesn't give a family a lot to work with," Barbara Wallace, a USDA spokesman, said of the program. "It was expected that people would supplement the program with other benefits, other income.

"But with inflation, we've found that people are having to spend their money on energy, housing and other things just to keep going," she said. "They rely on food stamps to get their food."

Alberta Jones, a mother of four, on food stamps, sits by the bedroom window in her Northwest Washington home and daydreams of the elaborate meals she would like to feed her children. But they rarely get fresh vegetables or fruit, and meatless dinners come twice a week.

"One time I could only give my children neckbones and boiled potatoes," Jones said. "There are times when I have to apologize to the kids and say, 'I'm sorry, this is all we have.' "

"We can't afford to have what we like to eat," said Jones, who lives in the Shaw neighborhood, two blocks from a new Giant store and the renovated O Street market. "You get tired of eating beans."

In Northeast Washington, Russell Shephard, a diabetic, and his wife Viola, a cancer victim, both retired blue-collar workers, often have to postpone visits to their doctors to pay utility bills and buy food.

Inflation ravages their fixed income. Personal savings don't exist. And they get only $13 a month in food stamps. Russell Shephard, now 75, said, "I never expected to live this long. Sometimes I have to make a choice between going to the doctor and eating."

Dent and Jones said they also put off paying bills to be able to feed their families. Jones, for example, receives a monthly food stamp allotment of $149 for five people. She spends that much in two weeks. After paying the rent and other bills, she usually has $60 left for the last two weeks of the month. So she borrows money to be able to meet her $70-a-week food budget until she gets her benefit check at the beginning of the month. She pays off the debt and the cycle starts all over.

Dent, who used to earn $800 a month as a social worker, had to give up her job, on doctor's orders, because of hypertension. She now, gets $209 a month in food stamps. "Where I once spent $125 to $150 a week to feed a total of seven, I now have only $50 a week," she said. She gets food stamps for a family of four, but also feeds two teen-age children and a niece, who don't qualify for her allotment.

In contrast to the popular notion that most food stamp households buy junk food with their stamps, USDA officials say they are generally smarter shoppers than the general public, trying to buy the same kinds of food with less money.

"I spent $15 for about a day's worth of food and all I got was a box of Salisbury steaks, a box of Rice-a-Roni, a loaf of bread, cereal, which alone costs $1.25 for store-brand cereal, and laundry detergent," Jones said. "I didn't have any money for vegetables."

Gloria Dent said, "My six kids can drink a gallon of milk in one sitting. When I shop, I have to buy things that will stretch a long way, like beans, rice and starchy things. We buy scrap meats a lot, like chicken parts rather than whole chickens. There is no room in my budget for pork chops, hams, bacon or things like that."

Menus for a recent string of dinners at Dent's home were like this:

Monday: homemade chicken noodle soup made with scrap meat, and applesauce. No vegetables.

Tuesday: spaghetti and hamburger. No vegetables.

Wednesday: chicken stew made with chicken wings, mixed vegetables and string beans. "It was tasty and filling, but that's about all you can say about it," Dent said.

Thursday: the liver, gravy and biscuits. No vegetables.

"I feel bad as a mother knowing that the kids should have vegetables and fruit. I feel bad knowing that I'm not feeding my children well. But on the other hand, it's the best I can do," she said.

"My children complain that we eat the same things all the time, beans and rice and other starchy things," Dent said. "Lunch meat has disappeared from my kitchen, as have the cookies, the fruit and vegetables in the vegetable bin. My cupboards are bare. We can't afford that kind of stuff anymore.

"I've also noticed that my children are eating out at other neighbors' homes more often now, and that bothers me a lot," she said, her eyes starting to tear. "It means that I cannot provide for them as a mother. They tell me that they ate at Sam's house because Sam's mother had fried fish.

"What can I do but not sleep at night and pray harder than ever that God will help me?" Dent said.

Community workers say there are thousands of cases each year in which families have virtually nothing to eat at some point. Head Start program officials in the District and Maryland say preschool children eligible for the program's free breakfasts and lunches eat the most food at their Monday morning breakfast—a sign, workers say, that food is probably scarce at home over the weekend.

According to USDA, undernutrition rather than poor nutrition is a common problem among poor urban children. Recent studies show that up to 15 percent are stunted in height. The poor also suffer from obesity from eating too many starches, and dental cavities.

Some medical experts also suggest that inadequate diets play a factor in the District's high infant mortality rate, as well as premature senility.

Gloria Dent, 41, a large proud woman, remembers the families who came to her for food when she was a social worker for the United Planning Organization.

"I remember giving out cans of tomatoes or string beans," Dent said. "I knew they would not die from malnutrition, but I also knew they would not get adequate diets either."

"From my days at UPO, I know that hungry children will steal a steak from the grocery store, or put a package of shrimp under their arms and take that home and cook it, not sell it, as some people think." Dent said.

"They [hungry children] will open a carton of orange juice or anything else and drink it right in the aisles," she said.

"You know, this is supposed to be the richest country in the world, the land of plenty, but it's not."●

INHERENT SILLINESS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. COELHO. Mr. Speaker, for the RECORD I include an editorial from the June 4 Wall Street Journal which makes a sound point. I encourage my colleagues to take a minute to read it.

The editorial follows:

THE SCIENTIFIC METHOD

The earth is still trembling from the suggestion by the National Academy of Sciences Food and Nutrition Board that we don't really know whether cholesterol will hurt you, and that you may as well eat what you want. For reasons we don't quite fathom, this is being treated by some commentators in tones that once upon a time were reserved for religious heresies.

We are particularly intrigued by the attempt to decide the issue not on the basis of the scientific arguments, but on the basis of the affiliation of the scientists. The premise seems to be that no research paid for by the food industry can be counted in the balance. Carol Tucker Foreman, Assistant Secretary of Agriculture, remarked, "I'd prefer to have such work done by persons whose salaries come from public funds." In other words, scientists can only be objective if they are hired by the politicians.

Aside from its inherent silliness, this is a frontal assault on the very idea of science, based on respect for evidence and discipline by peers. For what it's worth, count one vote for those who would rather believe the National Academy of Sciences than the Department of Agriculture.●

COMMEMORATION OF THE MILITARY OCCUPATION OF LITHUANIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, June 15, 1980, marked the day when Americans of Lithuanian ancestry joined with Lithuanians throughout the free world in commemorating the military occupation and forcible incorporation of Lithuania into the Soviet Union in 1940, and the subsequent deportation of 300,000 freedom-loving Lithuanians to Siberian labor camps. During this commemoration we are reminded that we stand in a world where aggression and suppression are being used to subjugate free peoples. May it be noted that the subject Soviet expansionism occurred 40 years prior to their aggression in Afghanistan and by no means is less significant.

The Lithuanian-American community of the United States has forwarded to me a memorandum from dissidents in the Soviet Union appealing to the Soviet Government to declare null and void the Molotov-Ribbentrop Pact, which forcibly entrusted the Baltic States of Estonia, Latvia, and Lithuania to Soviet control. The dissidents also appealed to the Governments of the Federal Republic of Germany and the German Democratic Republic to completely nullify this pact from its inception.

They also request that the Secretary General of the United Nations take legal responsibility for the fate of these countries. It should be noted that the addendum to these appeals was signed by Andrei Sakharov, who is presently in exile in Gorky.

As Americans who enjoy the benefits of freedom, we must support the peoples of Lithuania, Estonia, and Latvia as they tirelessly appeal for examination of the violations of their rights to self-determination and to freely determine their own destiny.●

LEGISLATION TO PROHIBIT THE USE OF LIE DETECTORS IN HIRING PRACTICES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. KEMP. Mr. Speaker, because of the dangerous and widespread use of unreliable lie detectors as a basis for hiring and firing, I have cosponsored Representative Don Edwards' bill, H.R. 6034, the Polygraph Control and Privacy Protection Act. This bill would prohibit the use of lie detector tests as a tool of employee personnel testing. It is long overdue.

The use of polygraph testing as a basis for hiring new employees or checking up on current employees has reached epidemic stages. It is estimated that at least 400,000 lie detector tests were given in 1979 alone, solely for the purposes of employee investigation. A recent survey estimated that while 20 percent of large firms nationwide use polygraphs on their employees, 50 percent of all retail companies use polygraph tests to weed out unwanted employees.

The incredible thing about all this is—lie detectors lie. There are two kinds of lie detectors in common use—the polygraph, and the voice stress analyzer—VSR. The VSR purports to detect poor workers from tremors in the voice. The most familiar test to most of us is the polygraph test—that machine which, when connected to the subject through electric wires, a corrugated rubber tube wrapped around the subject's chest, and a pressure cuff wrapped around the subject's arm, attempts to determine a person's character by measuring blood pressure, pulse rate, respiration, and perspiration. While hooked up to this machine, the subject is asked a whole range of questions, and in an employment situation, the choice is answer the questions or get in the unemployment line.

The analyzer then attempts to judge the truth of the answers given by looking at respiration rates, pulse rates, and whether they vary according to the questions asked. No allowance is made for individual differences such as blood sugar levels or other medical irregularities; no allowance is made for personality differences, which may make one subject jump out of his skin when asked his address under the clinical circumstances surrounding the administration of the test.

The accuracy of polygraph tests? Proponents point to 90 to 95 percent success rates in detecting lies in criminals by the FBI. No doubt the criminal element in FBI testing situations have a lot more to hide and a lot more to reveal to the law. Criminal investigations are also voluntary, but the results are not allowable in a court of law because to their proven unreliability. Most important, FBI equipment operators and polygraph interpreters are trained scientific personnel who conduct the tests over the recommended 2- to 3-hour testing period.

Not so in private industry. Accuracy rates here have been found to be no higher than 76 percent. That means, one out of every four persons looking for a job would be rejected solely on the basis of his or her ability to fool the machine, or simply one's biochemistry.

And that's on a good day. In most States, no previous training is required for an examiner to set up a polygraph business. To save time, tests are given in 15 to 20 minutes.

No question is too personal for polygraph tests. Subjects are quizzed on everything from their past criminal activities to their personal and sexual habits.

INVASION OF PRIVACY

Even if these tests were 100 percent accurate, they would still be outrageous because of the inherent invasion of privacy they mean to the prospective employee, or to the employee in a business that uses lie detectors to check up on its workers.

There is no voluntary participation in a lie detector test to a person whose job is on the line. Refusal to take a test is tantamount to admitting to a criminal mind. Refusing to answer questions while voluntarily taking a test is equally damaging.

Polygraph testing allows questions to be asked that would be outlawed in standard interviews. Moreover, experts have concluded that a simple background check and a personal interview yields a better overall assessment of that candidate's honesty and ability to handle the job.

H.R. 6034 would prohibit the use of these lie detectors in hiring practices. It is supported by such organizations as the United Food & Commercial Workers International Union and the food and beverage trades department of the AFL-CIO.

I commend my colleague, Mr. Edwards, for his work on this bill, and I urge the Members of the House of Representatives to support this bill to end this legalized invasion of privacy.●

ROLL CALL

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DICKINSON. Mr. Speaker, it is a real pleasure for me to participate in the silver anniversary recognition of Roll Call's outstanding service to the U.S. Congress. Sid Yudain and his paper have become a solid Capitol Hill institution by virture of fulfilling a real need for the Members and employees of the Congress.

Roll Call, during my 16 years as a Representative from Alabama, has done an admirable job of providing news and information about the Hill and Hill people, while at the same time being properly spiced with humor and entertainment. Roll Call has done a superb job of maintaining the qualities of a superior news organ, while at the same time providing the special treatment needed to serve a special audience—Capitol Hill.

One of the most noteworthy of Sid Yudain's achievements has been the maintenance of fairness that has crossed the strong partisan pressures of Capitol Hill. This quality alone places Roll Call at the top of the heap in my mind.

I congratulate Sid Yudain and all of the writers, photographers, and staff that have made Roll Call such a fine hometown newspaper. I wish Sid, the newspaper, and staff another happy, prosperous 25 years.●

ANOTHER CHAMPIONSHIP SEASON FOR SAN JOAQUIN GROWERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. COELHO. Mr. Speaker, the latest figures are out and once again the San Joaquin Valley has broken records in agricultural production. I am proud to represent growers in five central valley counties in California who have contributed to the bountiful output of crops for markets throughout the world.

For the RECORD I am pleased to share with my colleagues a recent article from the Fresno Bee which ranks the San Joaquin Valley as the world's richest agricultural region. Congratulations are in order to the California farm community for another record-breaking year.

The article follows:

CROPS' $5.6 BILLION SCORE

(By Ron Goble)

Agricultural crops in the six-county area of the San Joaquin Valley reached a record $5,674,293,785 for 1979, a year of near-perfect growing conditions.

The six-county total was well above 1978's gross of $3,988,000,000, a record tally even though there were big losses because of heavy rainfall.

The record year helped the valley maintain its reputation as the richest agricultural region in the world.

After drastic losses on the farm during 1978, the successful 1979 crops helped many growers pull out of debt and brace themselves financially for another season.

While much of the increase in crop returns reflected good growing conditions, inflation played its part, too. In addition the cost of fuel, land, equipment and other farm supplies climbed dramatically, agricultural authorities said.

The $5.6 billion gross farm income was compiled from statistics provided by agricultural commissioners in Fresno, Tulare, Kern, Kings, Merced and Madera counties.

Fresno County retained the crop valuation title with gross farm income at $1,719,235,500, up 38.5 percent, or more than $478 million. Grapes maintained the spot as the biggest money crop in the county at $412 million. Cotton was again second at $388 million.

Tulare County stayed in second place, with crops valued at $1,228,996,200. It was the first time that values topped the billion-dollar hurdle in that county. At $247,445,000, grapes ranked as the biggest money crop.

Third place in the valley went to Kern County, which also crossed the billion-dollar barrier for the first time. Kern's 1979 crop value was reported at $1,115,008,000, up from the 1978 figure of $793,706,500. Cotton was king in Kern County with a value of $318.7 million. Grapes ranked second at $148.8 million.

Merced County followed Kern. Crops there totaled $700,957,000, up by $203 million from 1978. Livestock and poultry topped the county's crop values at $182.6 million.

Kings County ranked fifth in the valley with gross farm income of $544,265,255, up from $343,186,025 in 1978.●

DEPORTATION OF LITHUANIANS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. McCLORY. Mr. Speaker, 39 years ago this week, the Soviet Union initiated a vast and brutal campaign of deporting Lithuanians to Siberia. More than 300,000 Lithuanians were uprooted in an attempt to destroy their continuing resistance to the previous year's forced annexation of Lithuania into an expansionist Soviet Union.

In the years subsequent to that blatant attempt at the national destruction of Lithuania, Soviet policy has remained—at times more subtly, but more often with typical Soviet heavy-handedness—intent on destroying all that is Western and non-Russian in Lithuania. It is clear that this policy has failed.

It is today particularly timely to pay tribute to the Lithuanian people and their determination to preserve their values, religion, language, and culture in the face of the overwhelming power of the Soviet Union. We have all been inspired by the public demonstrations of religious spirit in Poland, Lithuania's neighbor, upon the visit of Pope John Paul II to his native country. We witnessed the spiritual tenacity of a people that permits a nation and a church to flourish in an atmosphere of hostile propaganda, intimidation, and repression.

I believe that the Lithuanian people are also firmly, if quietly, resisting Soviet attempts to strip them of their spiritual and national values. It is important that we never forget the tragic events of June 1941. We salute the continuing struggle of the Lithuanian people to preserve their national heritage.●

A GRIM REMINDER

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. HOLLENBECK. Mr. Speaker, June 15 marked a day of sober reflection for Lithuanians throughout the world. On this day in 1940, in the midst of a world conflagration, Lithuania lost its independence. Oppressed for centuries because of their vulnerable geographic location, Lithuanians have suffered invasions from the East by the Russians and from the West by the Teutonic Knights. They have demonstrated incredible spiritual and ethnic strength by surviving these continued attacks.

Ever since this gallant Baltic country was forcibly incorporated into the Soviet Union by the Russians, the Lithuanians have struggled to castoff the chains of their oppressors. Thousands of these freedom fighters have sacrificed their lives in an attempt to secure independence of their beloved country. From 1944 to 1952 alone, some 50,000 Lithuanian freedom fighters gave their lives as part of an organized resistance movement. However, the cessation of armed guerilla warfare has not resulted in the end of resistance against Soviet domination. Rather it has fostered the introduction of nonviolent protest on a massive scale.

Even today, Lithuanians are risking their lives in outright defiance of the Communist regime. The protests of the Lithuanian people against the denial of their right to national self-determination and religious and political freedom continues despite Soviet oppression. With this in mind we must attempt to match the courage of Lithuania by reaffirming our dedication to the principles of self-determination and human rights.

The yearly followup conference of the 1975 Helsinki accords represents the perfect setting for the implementation of this goal. It is our duty to confront the Soviets with the fact that, despite being cosigners of the accords, they have willfully ignored many of the provisions guaranteeing basic human rights. We must continue to speak out against the infringement of human rights and not succumb to any temptation to condone the inhumane treatment of those less fortunate throughout the world.

June 15 marked a grim reminder for all of us that there are people in the world who do not even possess even the most basic human rights. We must extend whatever support we can to the people of Lithuania and their dreams for freedom. Let us hope for the day when our Lithuanian friends can celebrate their renewed independence, rather than commemorate the day of their homeland's invasion.●

INTRODUCTION OF LEGISLATION TO REPEAL THE LEE ACT OF 1946

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1980

● Mr. MURPHY of New York. Mr. Speaker, over the years the Congress has demonstrated its support for the right of our fellow citizens to organize collectively in efforts to establish fair and uniform standards of justice for their fellow workers, regardless of the industry.

Yet, at this moment, there are literally thousands of American musicians being denied this sacred right which we have all fought so hard for in the past. They are the victims of a law that is as unjust as it is outdated. I am speaking of section 506 of the Communications Act of 1934. This section in effect denied musicians the right to picket any company or radio station that pursues a policy denying them live access to the radio airwaves in this country.

I rise on their behalf to introduce a measure that would repeal this section of the Communications Act, commonly referred to as the Lee Act of 1946. The measure I am introducing will give those thousands of musicians the same rights of any other collective group in the United States. By repealing the Lee Act we will be reasserting the Congress longstanding commitment to the rights of American labor in the United States.

The American musician is a much needed and valued group within our society. Their contribution throughout our history cannot be measured by words. They truly deserve to be liberated from this unfair and discriminating law. I hope you will join with me in accepting this legislation.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 17, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 18

9:30 a.m.

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To hold oversight hearings on the pricing of gasoline and market supplies.

5110 Dirksen Building

Select on Small Business

To hold hearings on small businesses and their contribution to economic growth.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Economic Stabilization and International Finance Subcommittees

To hold joint oversight hearings on the current status of the automobile industry and its effect on world economy.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

To resume consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of proposed legislation to meet reconciliation expenditures as imposed by House Concurrent Resolution 307, revising the congressional budget for the Federal Government for fiscal years 1981, 1982, and 1983, and revising the second concurrent resolution on the congressional budget for the Federal Government for fiscal year 1980.

2221 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on title II, proposed Youth Education and Training Act, of S. 2385, proposed Youth Act.

4232 Dirksen Building

Joint Economic

To hold hearings on the role of inflation in relation to the growth of productivity and capital formation.

2128 Rayburn Building

2:00 p.m.

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building.

JUNE 19

9:00 a.m.

Budget

To hold hearings on Federal credit and guaranty programs, focusing on the need for control and its effect on capital markets.

357 Russell Building

9:30 a.m.

Energy and Natural Resources

To resume hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade, focusing on the prospects for developing hydrocarbon resources in Latin America.

3110 Dirksen Building

Judiciary

To hold hearings on the nominations of Earl H. Carroll, and Alfred C. Marquez, each to be a U.S. district judge for the District of Arizona.

2228 Dirksen Building

Veterans' Affairs

To hold hearings on S. 2020 and 2596, bills to provide educational assistance programs for those individuals who enlist in the Armed Forces, and to hold oversight hearings on the implementation of current educational incentive programs to promote an All-Volunteer Force.

412 Russell Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1957 and H.R. 4310, bills to promote increased use of U.S. waterways and provide for continued recreational boat safety programs.

235 Russell Building

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of proposed legislation to meet reconciliation expenditures as imposed by House Concurrent Resolution 307, revising the congressional budget for the Federal Government for fiscal years 1981, 1982, and 1983, and revising the second concurrent resolution on the congressional budget for the Federal Government for fiscal year 1980.

2221 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on the health effects on survivors of a nuclear war.

4232 Dirksen Building

1:30 p.m.

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

3:30 p.m.

Environment and Public Works

Nuclear Regulation Subcommittee

Business meeting, to resume mark up on S. 1521, to provide a comprehensive approach to the regulation of nuclear waste disposal.

4200 Dirksen Building

JUNE 20

9:30 a.m.

Finance

Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 2402, 2403, 2404, and 2405, bills relating to the use of Internal Revenue information and personnel in non-tax-related criminal enforcement investigations, and to make changes to the duties of third parties who are asked to turn over tax information in their possession.

2221 Dirksen Building

JUNE 23

9:30 a.m.

Judiciary

Jurisprudence and Governmental Relations Subcommittee

To hold hearings on S. 2584, to require the Chief Justice of the United States to periodically address a joint session of Congress on the state of the judiciary.

2228 Dirksen Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of section 404, relating to wetlands, of the Clean Water Act.

4200 Dirksen Building

JUNE 24

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 983, to establish national standards for State and local governments to impose sales and use taxes on out of State businesses, and income taxes on out of State corporations; and S. 1688, to limit the use of the worldwide combined reporting system a State may apply to a corporation operating under its jurisdiction.

2221 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider S. 2827, to provide for improved domestic and international telecommunications development; and other pending calendar business.

235 Russell Building

Select on Small Business

To resume hearings on small businesses and their contributions to economic growth.

424 Russell Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of section 301(h), relating to modification of secondary treatment requirement, of the Clean Water Act.

4200 Dirksen Building

Foreign Relations

Business meeting, to consider the agreement with the International Atomic Energy Agency for the Application of Safeguards in the United States (Ex. B, 95th Congress, 2d session); to hear and consider the nominations of Herbert S. Okun, of Maryland, to be Ambassador to the German Democratic Republic; Francis J. McNeil, of Florida, to be Ambassador to Costa Rica; Larry G. Piper, of Texas, to be Ambassador to the Republic of the Gambia; Frances D. Cook, of Florida, to be Ambassador to the Republic of Burundi; and to discuss the status of arms control agreements and negotiations.

4221 Dirksen Building

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

*Labor and Human Resources

Business meeting, to mark up S. 2375, authorizing funds for fiscal years 1982, 1983, and 1984 to provide support for the training of professionals in health service needs.

4232 Dirksen Building

Select on Intelligence

To hold hearings on section 4, to provide for the protection of identities of certain U.S. undercover intelligence officers of S. 2216, proposed Intelligence Reform Act.

1202 Dirksen Building

2:00 p.m.

Appropriations

Transportation Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Department of Transportation.

1224 Dirksen Building

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on the following miscellaneous tax legislation, S. 1614, 2075, 2493, 2547, 2646, 2660, 2757, 2766, 2783, 2784, and H.R. 5391.

2221 Dirksen Building

Office of Technology Assessment

The Board to hold a meeting on pending business items.

EF-100, Capitol

JUNE 25

9:30 a.m.

Select on Small Business

To continue hearings on small businesses and their contributions to economic growth.

424 Russell Building

10:00 a.m.

Finance

Business meeting, to consider miscellaneous tax proposals, and other pending legislation.

2221 Dirksen Building

Judiciary

Criminal Justice Subcommittee

To hold oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.

457 Russell Building

Rules and Administration

Business meeting, to consider S. Res. 448, to establish the Select Committee on Indian Affairs as a permanent Senate committee, and other legislative and administrative business.

301 Russell Building

Select on Indian Affairs

To hold hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.

1202 Dirksen Building

2:00 p.m.

Environment and Public Works

To hold hearings on Federal building prospectus.

4200 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To hold an open and closed business meeting, to consider criminal contempt or civil enforcement proceedings against a witness.

3302 Dirksen Building

Select on Intelligence

To continue hearings on section 4, to provide for the protection of identities of certain U.S. undercover intelligence officers of S. 2216, proposed Intelligence Reform Act.

1202 Dirksen Building

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To resume oversight hearings on the implementation of the Department of Energy's Building Energy Performance Standards (BEPS), providing for energy efficiency standards for new building construction.

3110 Dirksen Building

Finance

Business meeting, to consider pending health insurance proposals.

2221 Dirksen Building

Judiciary

Criminal Justice Subcommittee

To continue oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.

318 Russell Building

Select on Indian Affairs

To continue hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.

1202 Dirksen Building

2:00 p.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 2283, 2418 and 2321, bills to increase the earned income exclusion for U.S. citizens working abroad who are bona fide residents of a foreign country.

2221 Dirksen Building

JUNE 27

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of sections 404 and 301(h) of the Clean Water Act.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of pending health insurance proposals.

2221 Dirksen Building

JULY 1

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.

5110 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.

235 Russell Building

Select on Small Business
To resume hearings on small businesses and their contributions to economic growth.
424 Russell Building

10:00
Veterans' Affairs
To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.
412 Russell Building

JULY 2

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.
235 Russell Building

JULY 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.
235 Russell Building

JULY 29

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.
6226 Dirksen Building

JULY 31

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

AUGUST 6

10:00 a.m.
*Energy and Natural Resources
To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.
3110 Dirksen Building

CANCELLATIONS

JUNE 19

10:00 a.m.
Labor and Human Resources
*Health and Scientific Research Subcommittee
To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, June 17, 1980*

The House met at 12 o'clock noon.

Chaplain Capt. John Dolaghan, U.S. Navy, Naval Air Station, Pensacola, Fla., offered the following prayer:

Eternal Father, as we acknowledge and respond to Your presence, may this hallowed Chamber become holy ground. We pray that these Members may represent what is best in the hopes and dreams of the American people. In their deliberations, deliver them from any prejudice, party spirit, self-centeredness or personal ambition that would destroy their opportunity to faithfully serve all our people. Give them honesty, courage, moral integrity, and make them fearless in their quest to do what is right, rather than what is expedient. Amid their own needs, hopes, fears, weariness, and human weakness, we ask that they may be delivered from a sense of futility and the tyranny of the trivial. In the rush of their daily lives, give them the ability to listen to Your voice and give them wisdom greater than their own. To know that without Your assistance they cannot succeed and with it they cannot fail. Grant that the Members of the Congress may so conduct themselves that this and future generations may rise up and call them blessed. In Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 15, answered "present" 5, not voting 48, as follows:

[Roll No. 331]

YEAS—365

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Satterfield
Sawyer
Scheuer
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—15

Burton, John
Dickinson
Forsythe
Gingrich
Goodling
Harkin
Holt
Jacobs
Jones, Okla.
Lloyd
Quayle
Sabo
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—5

Brooks
Carr
Dixon
Neal
Ottinger

NOT VOTING—48

Anderson, Ill.
Applegate
Ashley
Blanchard
Boggs
Bonker
Bowen
Chappell
Chisholm
Clay
Cleveland
Cotter
Coughlin
Davis, S.C.
Dingell
Dodd
Eckhardt
Flippo
Ford, Mich.
Giaimo
Goldwater
Hansen
Heckler
Holtzman
Ichord
Jenrette
Kastenmeier
Leath, Tex.
Lundine
McCloskey
McCormack
McKinney
Mathis
Mitchell, Md.
Mollohan
Musto
Myers, Pa.
Nedzi
Reuss
Runnels
Santini
Sebelius
St Germain
Staggers
Studds
Taylor
Wilson, C. H.
Wydler

☐ 1220

Mr. KEMP changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 359. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 562; and

H. Con. Res. 360. Concurrent resolution providing for the printing of additional copies of House Report numbered 96-1035.

The message also announced that the Senate had passed, with amendments in

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Service.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 562) entitled "An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2271. A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund; and

S. 2422. An act to provide for increased U.S. participation in the International Development Association, to provide for U.S. participation in the African Development Bank, and for other purposes.

☐ 1220

CAPT. JOHN DOLAGHAN, CHC, USN

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, Chaplain Dolaghan is a native of County Down, North Ireland. He came to the United States as a teenager and resided in Los Angeles, Calif.

Prior to his Naval service he served as pastor of churches in Hollywood and Los Angeles, Calif. He received his undergraduate education at California State College and his master of divinity from the American Baptist Seminary of the West, Berkeley, Calif.

His wife, Lilyan, is from County Tyrone, Ireland, and they have one daughter, Eileen.

Chaplain Dolaghan is the senior chaplain at Naval Air Station, Pensacola, Fla. He served two tours in Vietnam with the Marines and has had a wide variety of Navy and Marine Corps assignments, including a tour at the U.S. Naval Academy, Annapolis, Md.

Chaplain Dolaghan is an outstanding minister and I am proud to have him as a friend and consultant.

DESIGNATING JUNE 22, 1980, AS "NATIONAL ITALIAN-AMERICAN DAY"

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 183) congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 183

Whereas the Order of the Sons of Italy in America is celebrating its seventy-fifth year;

Whereas the Order of the Sons of Italy in America has made substantial contributions to the causes of liberty, equality, and fraternity among Americans of Italian heritage;

Whereas the Order of the Sons of Italy in America has kept alive the rich cultural heritage of Italy and of the Italian people; and

Whereas the Order of the Sons of Italy in America has helped to enrich the diversified culture of the United States through educational, charitable, and benevolent programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate and House of Representatives congratulate the Order of the Sons of Italy in America for their seventy-fifth anniversary and wish the Order of the Sons of Italy in America success in future years; and that Sunday, June 22, 1980, be proclaimed "National Italian-American Day" in honor of the seventy-fifth anniversary of the Sons of Italy in America.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, I yield to the chief sponsor of the House joint resolution, the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, I thank my colleague, the gentleman from New York (Mr. HANLEY), the distinguished chairman of the committee, for yielding.

Mr. Speaker, I believe that it is fitting that a nation discovered by an Italian, named for an Italian, and which has grown and prospered through the efforts of its citizens which have included over 5 million Italian immigrants should, in turn, honor those citizens and their descendants. I have, therefore, sponsored House Joint Resolution 564, which is identical to Senate Joint Resolution 183, passed by the Senate by unanimous consent on Thursday, June 12, 1980, proclaiming Sunday, June 22, 1980, as National Italian-American Day in honor of the 75th anniversary of the founding on June 22, 1905, of the Order Sons of Italy in America, the oldest and largest national Italian-American charitable, civic, cultural, social, and philanthropic organization in America.

Although Italian silk merchants are recorded as living in the Jamestown colony as early as 1620, and Italians are found throughout our early history, nevertheless, the beginning date for modern Italian immigration to the United States is often referred to as 1820, when 34 Italian immigrants, the first of more than 5 million, arrived in our Nation.

Our country's history is replete with the names of outstanding Italian-Americans who worked and fought to make ours the greatest nation in the world, including, to name a few examples: Phillip Mezzi, Thomas Jefferson's neighbor, confidant, and friend whom Jefferson credited with originating the concept "All men are created equal," which became the cornerstone of our Democratic Government; Luigi Palma Di Cesnola, the founder of the Metropolitan Museum of Art in New York; who, as a Union general in the Civil War, was the first of many Italian-Americans to be awarded the Congressional Medal of Honor; Constantino Brumidi, called the Michaelangelo of the United States Capitol; Enrico Fermi, the father of nuclear science; and Mother Cabrini, the first American to be proclaimed a saint by the Roman Catholic Church. It is impossible to find a field, be it in the arts, science, business, labor, or politics where Italian immigrants and their descendants have not excelled.

The degree with which the Italian immigrants assimilated into, and became productive members of, American society is due in no small part to the efforts of the Order Sons of Italy in America, which, in its early days, actively worked to prepare new immigrants to understand the rights, accept the responsibilities, and perform the duties which citizenship entails.

Throughout its 75-year history, the Order Sons of Italy in America has served our communities through many worthwhile civic projects. It established and maintained orphanages where there was a need and no other means or resources available; it assisted workers, and as early as 1911 was actively supporting and helping to organize the American labor movement; it developed hospitalization, disability, and death benefit programs decades before such programs were in wide use; and it organized its members to work to improve the lives and living conditions of all citizens through numerous voluntary civic, cultural, and philanthropic programs.

Today, the Order Sons of Italy in America is a truly national organization of Americans united by a common heritage and committed to the common goal of serving our Nation. It is in the forefront among charitable volunteer organizations and has raised almost $3 million in the last 2 years alone for worthwhile causes. The walkathons which it sponsors throughout our country generated $2 million for the National March of Dimes in 1978 and 1979 alone.

In addition, believing that the future of our country rests in the hands of our youth, the Order Sons of Italy in America has made a firm commitment to education as evidenced by its active support and funding of hundreds of scholarships each year for worthy students.

The Order Sons of Italy in America led the fight years ago to have Columbus Day proclaimed a national holiday and actively supports, and in many instances coordinates and runs, the annual Columbus Day parades and festivities in cities across our land.

The motto of the Order Sons of Italy in America and its 300,000 members is "Liberty—Equality—Fraternity" and it truly practices what it preaches for, in 1922, it became one of the first fraternal organizations in the history of our country to accord women equal status, equal voice, equal vote, and equal right to hold office in the order. Many Italian-American women active in public affairs, including the current Governor of Connecticut, got their start as officers in the order.

Mr. Speaker, it is fitting that we should honor this outstanding organization on its 75th anniversary and, by doing so, honor all Italian-American citizens who have given so much of themselves to help make ours the greatest nation in the world.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the subject of Senate Joint Resolution 183, the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 751, NAVAJO AND HOPI INDIANS RELOCATION AMENDMENTS ACT OF 1979

Mr. UDALL submitted the following conference report and statement on the Senate bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–1094)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Navajo and Hopi Indian Relocation Amendments Act of 1980".

SEC. 2. Section 8 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

"(c) (1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a) (3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

"(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either Tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either Tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) The Secretary shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to section 30 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

"(e) (1) Lands partitioned pursuant to this Act, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands under the following schedule:

"(A) Effective ninety days after the date of enactment of this subsection, all conservation practices, including grazing control and range restoration activities, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on the Navajo reservation lands shall be administered by the Bureau of Indian Affairs Navajo Area Office and on the Hopi reservation lands by the Bureau of Indian Affairs Phoenix Area Office, under applicable laws and regulations.

"(B) Notwithstanding any provision of law to the contrary, each tribe shall have such jurisdiction and authority over any lands partitioned to it and all persons located thereon, not in conflict with the laws and regulations referred to in paragraph (A) above, to the same extent as is applicable to those other portions of its reservation. Such jurisdiction and authority over partitioned lands shall become effective April 18, 1981.

The provisions of this subsection shall be subject to the responsibility of the Secretary to protect the rights and property of life tenants and persons awaiting relocation as provided in subsection (c) and (d) of this section.

"(f) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended to read as follows:

"SEC. 11. (a) The Secretary is authorized and directed to—

"(1) transfer not to exceed 250,000 acres of lands under the jurisdiction of the Bureau of Land Management within the States of Arizona and New Mexico to the Navajo Tribe: *Provided*, That, in order to facilitate such transfer, the Secretary is authorized to exchange such lands for State or private lands of equal value or, if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. The Secretary shall try to reduce the payment to as small an amount as possible. Such lands will be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo reservation.

"(2) on behalf of the United States, accept title to not to exceed 150,000 acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo reservation.

"(b) A border of any parcel of land so transferred or acquired shall be within eighteen miles of the present boundary of the Navajo reservation: *Provided*, That, except as limited by subsection (g) hereof, BLM lands anywhere within the States of Arizona and New Mexico may be used for the purpose of exchanging for lands within eighteen miles of the present boundary of the reservation.

"(c) Lands to be so transferred or acquired shall, for a period of three years after the date of enactment of this subsection, be selected by the Navajo Tribe after consultation with the Commission: *Provided*, That, at the end of such period, the Commission shall have the authority to select such lands after consultation with the Navajo Tribe: *Provided, further*, That not to exceed 35,000 acres of lands so transferred or acquired shall be selected within the State of New Mexico.

"(d) The Commission, in consultation with the Secretary, shall within sixty days following the first year of enactment of this subsection report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs, on the progress of the land transfer program authorized in subsection (a) of this section. Sixty days following the second year of enactment of this subsection the Commission, in consultation with the Secretary, shall submit a report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs giving the status of the land transfer program authorized in subsection (a) of this section, making any recommendations that the Commission deems necessary to complete the land transfer program.

"(e) Payments being made to any State or local government pursuant to the provisions of the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601 et seq.), on any lands transferred pursuant to subsection (a)(1) of this section shall continue to be paid as if such transfer had not occurred.

"(f)(1) For a period of three years after the date of enactment of this subsection, the Secretary shall not accept title to lands acquired pursuant to subsection (a)(2) of this section unless fee title to both surface and subsurface has been acquired or the owner of the subsurface interest consents to the acceptance of the surface interest in trust by the Secretary.

"(2) If, ninety days prior to the expiration of such three year period, the full entitlement of private lands has not been acquired by the Navajo Tribe and accepted by the Secretary in trust for the Navajo Tribe under the restrictions of paragraph (1) of this subsection, the Commission, after public notice, shall, within thirty days, make a report thereon to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs.

(3) In any case where the Secretary accepts, in trust, title to the surface of lands acquired pursuant to subsection (a)(2) of this section where the subsurface interest is owned by third parties, the trust status of such surface ownership and the inclusion of the land within the Navajo Reservation shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

"(g) No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer under this section.

"(h) The lands transferred or acquired pursuant to this section shall be administered by the Commission until relocation under the Commission's plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of the date of this subsection who are awaiting relocation under this Act.

"(i) The Commission shall have authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes; and lands which may be acquired or transferred pursuant to this section may, with the approval of the Commission, be included in any land exchange between the tribes authorized under section 23 of this Act.".

Sec. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,".

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services.".

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.".

Sec. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

Sec. 7. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from the Hopi Indian Reservation as a consequence of the decision in the case of *United States* v. *Kabinto* (456 F.2d 1087 (1972)): *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.".

Sec. 8. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(2) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

Sec. 9. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within one hundred and eighty days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

Sec. 10. (a) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$4,000,000": Provided, that no new budget authority for fiscal year 1980 is authorized to be appropriated.

(b) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new paragraph:

"(7) For the purpose of carrying out the provisions of subsection (i) of section 30 of this Act, as amended, there is authorized to be appropriated, effective in fiscal year 1981, not to exceed $1,000,000 annually.".

Sec. 11. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"Sec. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

"(b) Such funds may only be used by the Commission to—

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection to the funding and construction of the Hopi high school and Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

"Sec. 28 (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

"(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding the provisions of sections 603 and 402(g) of the Federal Land Policy and Management Act (Public Law 94-579; 40 U.S. 1701 et seq.).

"Sec. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"SEC. 30. (a) Paragraph (4) of section 5(a) of the Act of December 2, 1974, is repealed.

"(b) Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commission. Such application shall contain such information as the Commission may prescribe by regulation, such regulation to be promulgated by the Commission within ninety days of enactment of this subsection. To be considered, such application must be filed with the Commission on or before April 1, 1981: *Provided*, That the Commission may, for good cause, grant an extension of one hundred and eighty days.

"(c) Upon receipt of applications filed pursuant to this section, the Commission shall group them in the following order:

"(A) Applicants who are determined to be at least 50 per cent disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

"(B) Applicants who are not at least 50 per cent disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided*, That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

"(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

"(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per cent disabled, shall also be rejected by the Commission.

"(d) The Commission shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) and the next priority being given to the applicants listed pursuant to subsection (c)(B), in order of such listing.

"(e) Each life estate lease shall consist of a fenced area not exceeding ninety acres of land which shall include the life tenant's present residence and may be used by the life tenant to feed not to exceed 25 sheep units per year or equivalent livestock. The Secretary, under existing authority, shall make available to life estate tenants such assistance during that tenure, as may be necessary to enable such tenant to feed such livestock at an adequate nutritional level.

"(f) No person may reside on a life estate other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant. The Commission shall promulgate regulations to carry out the intent of this subsection.

"(g) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last: *Provided*, That each survivorship right shall apply only to those persons who were lawfully married to each other on or before the date of enactment of this subsection.

"(h) Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate lease under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntarily relinquishment of such estate, by such means or instrument as the Secretary shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant or surviving spouse based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance provided pursuant to section 15(b) of this Act, as amended, shall be paid to any head of household lawfully residing on such life estate pursuant to subsection (f) of this subsection who is required to move by the termination of such life estate by the death of the life tenant and his or her surviving spouse and who does not maintain a residence elsewhere. Compensation under section 15(a) shall be paid and distributed in accordance with the last will and testament of the life tenant or surviving spouse or, in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with existing federal law. Upon termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.

"(i) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned.

"(j) Nothing in this Act or any other law shall be construed to prevent a life tenant from making reasonable improvements on the life estate which are related to the residence and agricultural purposes of the life tenancy.".

"(k) The Commission is authorized to grant not to exceed ten additional life estate leases to Hopi heads of household residing on Navajo-partitioned lands under such terms of this section as may be appropriate.".

And the House agree to the same.

MORRIS K. UDALL,
HAROLD RUNNELS,
GEORGE MILLER,
LAMAR GUDGER,
MANUEL LUJAN, Jr.,
DAN MARRIOTT,
Managers on the Part of the House.

JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,
WILLIAM S. COHEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

I. INTRODUCTION

The language adopted by the managers is an amendment in the nature of a substitute in lieu of both the Senate- and House-passed bill. It is the end result of many hours of informal negotiations and meetings involving Senate and House members and staff; representatives of the Administration; representatives of the Navajo and Hopi tribes; and other concerned parties.

The settlement of the long-standing land dispute between the Navajo and Hopi tribes and the implementation of the Settlement Act of December 22, 1974 (88 Stat. 1712), to resolve that dispute has, unfortunately, occupied the time and diverted the resources of these two tribes. In addition, it has resulted in increased litigation between the two tribes.

While the Navajo-Hopi Relocation Commission has been given the specific charge of implementing the relocation of Navajo and Hopi families residing on lands partitioned to the other tribe, the conference committee believes that the United States has an overall responsibility for this problem and its resolution. In the opinion of the managers, there has been a failure on the part of the executive branch to effectively carry out the terms of the Settlement Act. The conference committee expects that those Federal agencies having specific responsibility for Indian matters, i.e., the Bureau of Indian Affairs and the Indian Health Service, as well as other Federal agencies having programs and resources which are available to Indian tribes, will coordinate their efforts with the tribes and the Relocation Commission to aid in the implementation of the terms of the Act and ease the burdens of relocation. The Office of Management and Budget should take the lead in insuring that this occurs.

Finally, it is the overall intent of the conference committee that the terms of the Settlement Act, as amended by S. 751, be expeditiously and efficiently carried out, with a minimum amount of litigation and delay. Where there may be ambiguities in the terms of the Act, it is the intent of the committee that those ambiguities be construed in a manner that will achieve litigation-free, expeditious implementation of the Act and relocation of families.

II. MAJOR PROVISIONS

The two major differences between the Senate- and House-passed bill were (1) the provisions relating to the acquisition of resettlement lands for the Navajo relocatees and (2) the provisions for life estates for persons required to relocate.

1. Land. Section 11 of the 1974 Act authorized the Navajo tribe to purchase 250,000 acres of private lands or lands administered by the Bureau of Land Management. These lands had to be adjacent or contiguous to the Navajo Reservation and would be taken by the United States in trust for the Navajo Tribe as a part of their reservation.

Section 4 of the Senate-passed bill amended section 11 of the Act to provide that, in addition to 250,000 acres of BLM lands to be purchased by the Tribe, the Relocation Commission was authorized to purchase 200,000 acres of private lands to be used for relocation purposes. The lands would be taken in trust for the tribe as a part of the Navajo Reservation. Section 13 (c) of the Senate-passed bill authorized the appropriation of $31,250,000 for that purpose.

The House-passed bill had a similar authority, but limited the acreage of private lands to 50,000 acres and authorized $10,000,000 for that purpose.

The conference committee has identified the issue of resettlement lands for Navajo relocatees as the single most important factor in easing relocation. As a consequence, the managers have extensively rewritten this provision, incorporating provisions of both versions and filling gaps not covered in either.

First, in order to reduce the cost of the legislation, the conference report provided that the 250,000 acres of BLM lands would be transferred to the Navajo tribe without cost to the tribe. Secondly, it provides that not to exceed 150,000 acres of private land may be purchased by the Navajo tribe from their own funds. This eliminated the $31,250,000 land cost in the Senate bill and the $10,000,000 cost of the House-passed bill.

The Senate-passed bill contained language limiting acquisition of private lands to within six miles of the Navajo reservation. The House version required that such lands be adjacent or contiguous to the reservation. The conference report provides that private lands to be acquired must be within eighteen miles of the boundaries of the reservation as they exist on the date of enactment of these amendments. No limitation is placed on the transfer of BLM lands, but BLM lands not within the eighteen mile limit must be used only for purposes of trading for private or State lands within such limit. The report makes clear that, if any part of a parcel of lands to be acquired is within the eighteen mile limit, the requirement would be met.

The conferees also adopted language which provides that, for the first three years after enactment, the Navajo tribe, in consultation with the Commission, will select the lands to be acquired or transferred. Thereafter, the Commission will have that responsibility, after consultation with the tribe. This provision is meant to provide some incentive to the tribe to begin a timely process of selecting and acquiring relocation lands. The conference report requires that the Commission sion could not require the tribe to purchase any private lands which the Commission might select.

In order to provide some oversight concerning the land acquisition program, the conference report requires that the Commission submit a progress report to the relevant committees within one year and another report with appropriate recommendations within two years.

The conference report contains a provision authorizing the continuation of payments under the Payments-inlieu-of-taxes Act of October 20, 1976 (90 Stat. 2662), on public lands transferred to the tribe as if such transfer had not occurred even though that Act does not include Indian lands as lands eligible for such payments. The managers want to make it very clear that the provision in the report is not to be taken as a precedent for inclusion of other Indian lands under the 1976 Act. The proposed transfer is authorized to respond to a unique set of circumstances and is an exception to the general exemption of Indian lands for such payments.

Concern was expressed to the managers that transfer of only the surface estate of private lands to the Navajo Tribe in trust would impair the right of owners of mineral interests from developing the subsurface estate. A provision was adopted prohibiting the Secretary of the Interior from taking private lands in trust for a period of three years unless both the surface and subsurface have been acquired by the Navajo Tribe or unless the subsurface owner consents to transfer of the surface estate to trust status. If the full amount of authorized private lands cannot be acquired under that restriction by the end of the three year period, the Commission must make a report to the relevant congressional committees. The managers intend that affirmative congressional action will have to be taken to continue the restriction beyond the three years.

In addition, the provisions make it clear that subsurface owners would have access to the surface of lands transferred to the tribe to develop their mineral interests as they had prior to such transfer.

Finally, the conference report provides that lands acquired for relocation purposes must be used solely for that purpose and will be administered by the Commission until such time as relocation under the Commission's plan is complete or when the Commission is terminated, whichever is earlier.

2. Life Estates. The 1974 Act provided that the Federal District Court could award, in hardship cases, limited tenures not exceeding life estates to eligible relocatees. The criteria established by the court for this purpose has proven to be too restrictive to alleviate the hardships which may result. On the other hand, it is important that the two tribes be put in possession of lands partitioned to them as soon as possible. While both versions of S. 751 made provision for more flexibility in granting life estates, there were significant differences in the two approaches, with the House bill being more restrictive and the Senate bill more liberal. The conference report adopts a middle-ground approach.

The conference report provides for a maximum of 120 life estate leases for Navajo relocatees, not to exceed 90 acres per lease. It adopts the Senate approach that the Commission, not the Court, will accept applications and grant the leases. The managers believe that this administrative task is not an appropriate judicial function. Eligible applicants must have resided on lands of the other tribe's as of December 22, 1974. In addition, they must have been at least 49 years of age on that date or, irrespective of age, must be at least 50 percent disabled. After these basic criteria are met, priority is given to (1) the disabled, in order of severity of their disability; (2) the elderly, in the order of their age; and (3) to residents of the Big Mountain area.

The report provides that the physical estate shall be fenced and it is expected that the Secretary will be responsible for fencing under his existing authority. In addition, the Secretary will make available supplemental livestock feed for the life tenants' livestock out of funds authorized to be appropriated by the legislation. The Commission is directed to promulgate regulations governing matters such as who may reside with a life estate tenant. The managers intend that the Commission also provide regulations to insure access to the life estate by visitors and family members.

Finally, the report provides that an additional 10 life estates may be granted to Hopi families living on Navajo-partitioned lands. Such estates would be governed by any appropriate criteria established for the Navajo life estates. The conferees anticipate that, upon the expiration of the Relocation Commission, the administrative duties of the Commission, the administrative duties of the Commission relating to Navajo and Hopi life estates would devolve upon the Secretary.

OTHER SIGNIFICANT ISSUES

Section 3 of the conference report adopts language of the Senate-passed bill providing that the Secretary must protect the rights and benefits of life tenants and persons awaiting relocation. This provision is patterned after an order of the Federal District Court directing the Secretary to afford such protection. It is not intended by this provision that any new rights of the Secretary be created to interfere with the jurisdictional rights of the tribes, but it is designed to insure the safety and well-being of life estate tenants and persons awaiting relocation under the 1974 Act. For instance, if a tribe carries out its law and order functions in a manner that is patently unfair to life tenants or relocatees, the Secretary will have an obligation to take steps to prevent that action. However, the provision does not empower the Secretary to ignore applicable laws, court orders, regulations or ordinances or to offer any basis for delaying relocation according to the Act.

In addition, section 3 provides for the complete assumption of jurisdiction over the partitioned lands by the tribe to whom partitioned no later than April 18, 1981. While there is some ambiguity about the existing state of the law in this regard, this provision makes clear that the complete jurisdiction of the relevant tribe will be in effect on that date. However, such jurisdiction will be subject to the responsibility of the Secretary, under the 1974 Act, for conservation practices on the former joint use area lands and will also be subject to the responsibility of the Secretary to protect the rights and benefits of persons awaiting relocation and of life tenants.

The conference report does not contain the section 9 provision of the House-passed bill authorizing the tribes to contract to carry out the conservation, range restoration, or reclamation functions of the Secretary on the partitioned lands. While this section was dropped because the conference committee was advised that sufficient authority for these purposes exists under Public Law 93–638, the conferees urge the Secretary to exercise such authority to the greatest extent feasible to provide employment for tribal members in carrying out conservation, range restoration, and reclamation functions, including the drilling of wells, in the partitioned areas.

Morris K. Udall,
Harold Runnels,
George Miller,
Lamar Gudger,
Dan Marriott,
Manuel Lujan, Jr.,
Managers on the Part of the House.

John Melcher,
Daniel K. Inouye,
Dennis DeConcini,
William S. Cohen,
Mark O. Hatfield,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1981

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight to file a privileged report on a bill making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes.

Mr. MICHEL reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET ON WEDNESDAY AND THURSDAY OF THIS WEEK DURING THE 5-MINUTE RULE

Mr. KINDNESS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have permission to meet during the time that the House is in session under the 5-minute rule on tomorrow, Wednesday, and Thursday of this week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. McCLORY. Mr. Speaker, I reserve the right to object.

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. McCLORY).

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. McCLORY. Mr. Speaker, does the Chair recognize me under my reservation of objection?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. McCLORY) is recognized.

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. McCLORY) is recognized at this point. The Chair would point out that it takes 10 Members to object, and a reservation of objection is in order until regular order is demanded.

Mr. McCLORY. Mr. Speaker, reserving the right to object, will the gentleman from Ohio (Mr. KINDNESS) explain the reason for making this request?

Mr. KINDNESS. Yes, Mr. Speaker, if the gentleman will yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I appreciate the opportunity to explain to our colleagues why the Committee on the Judiciary seeks this permission.

Mr. ASHBROOK. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The Chair would point out to the gentleman from Ohio, who was not standing, and the gentleman from Wisconsin that it takes 10 Members to object. The gentleman from Illinois (Mr. McCLORY) has the time.

Mr. McCLORY. Mr. Speaker, I yield to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

The Committee on the Judiciary seeks to make progress with the Criminal Code bill, which has been under consideration in the committee for some time. There have been disagreements between the minority and the majority with respect to procedural matters related primarily to the use of proxies. It appears that there is no way that the bill could make progress outside of the context of the committee meeting, in which we can hopefully get some agreement as to how we may proceed.

Despite the objections of a very few Members, it is necessary to proceed with that bill, and I would urge my colleagues on both sides of the aisle not to stand in support of an objection to the committee meeting.

Mr. McCLORY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. KINDNESS)?

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will count all Members standing.

(Messrs. SYMMS, KEMP, PHILIP M. CRANE, ASHBROOK, BAUMAN, PAUL, JEFFRIES, ROUSSELOT, and SOLOMON also objected.)

The SPEAKER pro tempore. A sufficient number of Members have objected. Objection is heard.

EXTENDING CERTAIN EXPIRING PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

EXTENSION OF CERTAIN EXPIRED PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SECTION 1. (a) Public Law 93–397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1980".

(b) Subsections (a) and (b) of section 2 of Public Law 95–377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) (1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B) (ii);

(B) by striking out the period at the end of subclause (B) (iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4) (A) of such title is amended—

(A) by striking out "or" at the end of item (i);

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4) (C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(d) Section 5703(a) (1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that during the period beginning on September 15, 1978, and ending on September 30, 1980, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b) (2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 2. (a) (1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.".

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

(b) (1) Section 8914 of such title is amended to read as follows:

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.".

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925.

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act.

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 3. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d) While serving as the Chief of Chaplains an officer is entitled to the rank and grade of rear admiral of the upper half unless entitled to a higher grade under another provision of law.

"(e) (1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(f) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

§ 5142a. Deputy Chief of Chaplains

"(a) The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has served on active duty in the Chaplain Corps for at least eight years.

"(b) While serving as the Deputy Chief of Chaplains, an officer is entitled to the rank and grade of rear admiral of the lower half unless entitled to a higer grade under another provision of law.

"(c) An officer detailed as the Deputy Chief of Chaplains who serves in such position for at least two and one-half years and is retired for any reason while serving in such position, or who is retired for any reason after having completed such period of service in such position, may in the discretion of the President, be retired with the rank and grade of rear admiral of the lower half if at the time of his retirement he is serving in a lower grade, unless he is entitlted to a higher grade under some other provision of law. If he is retired as a rear admiral, he is entitled to retired pay in the lower half of that grade, unless entitled to higher pay under another provision of law.".

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

"5142. Chaplain Corps and Chief of Chaplains.

"5142a. Deputy Chief of Chaplains.".

(c) Section 202 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Unless appointed to a higher grade under another provision of law, an officer of the Navy detailed and serving as Deputy Chief of Chaplains is entitled to the basic pay of a rear admiral of the lower half.".

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 4. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of an armed force or of the Public Health Service may be paid in advance—

"(1) not more than three months' basic pay of such member upon such member's change of permanent station; or

"(2) the amount of an allotment made from such member's basic pay to a dependent if such member is scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 5. (a) (1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular".

(3) The catchline of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3962 and inserting in lieu thereof the following:

"3962. Higher grade for service in special positions.".

(b) (1) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The catchline of section 8962 of such title is amended to read as follows:

"§ 8962. Higher grade for service in special positions".

(3) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8962 and inserting in lieu thereof the following:

"8962. Higher grade for service in special positions.".

(c) (1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of enactment of this Act.

(2) Subject to the approval of the President, the Secretary of the military department concerned shall pay (in a lump sum) to any person appointed to a higher grade under authority of paragraph (1) an amount equal to the difference between (A) the amount such person was entitled to receive in retired pay for the period beginning on the date of his retirement and ending on the day before the date of the appointment of such person to a higher grade under such paragraph, and (B) the amount such person would have been entitled to receive in retired pay had he been retired in such higher grade. Any lump sum payment made under this paragraph shall be made from funds made available to the Secretary of the military department concerned for the payment of retired pay.

DEPUTY JUDGE ADVOCATE GENERAL, AIR FORCE

SEC. 6. Title 10, United States Code, is amended by adding the following new subsections at the end of section 8072:

"(d) There is a Deputy Judge Advocate General in the Air Force who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. He shall be appointed from Judge Advocates of the Air Force who have the qualifications prescribed for the Judge Advocate General in subsection (b) above. The term of office is two years, but may be sooner terminated, or extended by the President. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

"(e) When there is a vacancy in the Office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.".

PRIVATE SECTOR REPRESENTATIVE ON UNITED STATES DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS CONFERENCES AND MEETINGS

SEC. 7. (a) The provisions of sections 202, 203, 205, 207, and 208 of title 18, United States Code, shall not apply to representatives from the private sector on the United States Delegation to an international telecommunications conference or meeting who is specifically designated to speak on behalf of, or otherwise represent, the interest of the United States at such conference or meeting, with respect to a particular matter: *Provided*, That the Secretary of State, or head of delegation to each such conference or meeting or other designee of the Secretary, certifies that—

(1) no government employee on the delegation is as well qualified to represent United States interests, and

(2) such designation serves the national interest.

(b) All such representatives shall have on file with the Department of State, the financial disclosure report required for special government employees.

(c) For the purpose of this section, international telecommunications conferences and meetings involving international telecommunications matters shall include but not be limited to conferences and meetings of the International Telecommunications Union (ITU), the International Consultative Committees for Radio and for Telegraph and Telephone (CCIR and CCITT), the Organization of European Cooperation and Development (OECD), the United Nations Economic and Social Council (UNESCO), the International Telecommunications Satellite Organization (INTELSAT), and the International Maritime Satellite Organization (INMARSAT).

(d) The provisions of this section shall expire one year after the date of the enactment of this Act.

FLIGHT PAY FOR ENLISTED CREW MEMBERS

SEC. 8. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

(1) by striking out "(1), (2), or (3)" in subsection (b) and inserting in lieu thereof "(2) or (3)";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"(c) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under sec. 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-4 under 4 mo	63						
Aviation cadets	63						

"Pay grade	Years of service computed under sec. 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69":

and

(3) by striking out "(b) or (c)" in the first sentence of subsection (g), as redesignated by clause (2), and inserting in lieu thereof "(b), (c), or (d)".

(b) The amendments made by this section shall be effective with respect to flight incentive pay payable for periods beginning after December 31, 1979.

FLIGHT PAY FOR OFFICERS

SEC. 9. (a) The tables in clause (1) of section 301a(b) of title 37, United States Code, relating to aviation career incentive pay, are amended to read as follows:

"Phase I

"Monthly rate:	Years of aviation service (including flight training) as an officer
$125	2 or less.
$156	Over 2.
$188	Over 3.
$206	Over 4.
$306	Over 6.

"Phase II

"Monthly rate:	Years of service as an officer as computed under section 205
$281	Over 18.
$256	Over 20.
$231	Over 22.
$206	Over 24 but not over 25".

(b) The last sentence in clause (1) of section 301a(b) of such title is amended by striking out "$160" and "$165" and inserting in lieu thereof "$200" and "$206", respectively.

(c) The table in clause (2) of section 301a(b) of such title is amended to read as follows:

"Monthly rate:	Years of aviation service as an officer
$125	2 or less.
$138	Over 2.
$250	Over 6".

(d) The amendments made by this section shall be effective with respect to aviation career incentive pay payable for periods beginning after December 31, 1979.

CAREER SEA PAY FOR ENLISTED MEMBERS

SEC. 10. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

"(b) For sea duty performed after December 31, 1979, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115".

(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485) is repealed.

(c) The amendments made by this section shall be effective with respect to career sea pay payable for periods beginning after December 31, 1979.

EXTENSION OF PERIOD DURING WHICH REENLISTMENT BONUSES MAY BE PAID

SEC. 11. Section 308(a)(1) of title 37, United States Code, relating to reenlistment bonuses, is amended—

(1) by striking out "ten" in clause (A) and inserting in lieu thereof "fourteen"; and

(2) by striking out "twelve" in the last sentence and inserting in lieu thereof "sixteen".

STATION HOUSING ALLOWANCE

SEC. 12. (a) Section 403(a) of title 37, United States Code, relating to basic allowance for quarters, in amended by inserting "(1)" after the subsection designation "(a)" and by adding at the end thereof the following new paragraph:

"(2) Under uniform regulations prescribed by the Secretaries concerned, a station housing allowance may be paid to a member of the uniformed services assigned to duty in any area of the United States, except Alaska and Hawaii, whenever and to the extent that the average cost in such area for housing for members of the uniform services serving in the same or equivalent grade as such member exceeds by more than 15 percent the amount of the basic allowance for quarters of such member.".

(b) The catchline of section 403 of such title is amended to read as follows:

"§ 403. Basic allowance for quarters; station housing allowance".

(c) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

"403. Basic allowance for quarters; station housing allowance.".

(d) The amendments made by this section shall be effective with respect to periods after December 31, 1979, for which basic allowances for quarters are payable.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 13. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile based on" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned multiplied by the"; and

(2) by striking out "of not more than 10 cents a mile based on" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned multiplied by the".

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates" in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances".

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after December 31, 1979.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 14. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Pay and allowances stabilized: former enlisted members and warrant officers

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in his last enlisted grade before appointment as an officer.

"(b) A warrant officer who accepts an appointment as an officer shall, for service as a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in his last warrant officer grade before appointment as a commissioned officer; or

"(3) the pay and allowances to which, before his appointment as a commissioned officer, he was entitled in accordance with subsection (a)(2) of this section.

"(c) For the purposes of this section—

"(1) the pay and allowances of a former grade include—

"(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e), allowances under chapter 7 of this title; and

"(2) the rate of pay and allowances of a former grade is that to which the member would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade, based upon time in grade and years of service, as otherwise provided in this title.

"(d) Proficiency pay under section 307 of this title, incentive pay under section 301 of this title for hazardous duty, and special pay under sections 301 through 305 of this title for diving duty, sea duty, and duty at certain places may be considered in determining the amount of the pay and allowances of a former grade only so long as the member continues to perform the duty and would otherwise be eligible to receive that pay in his former grade.

"(e) Clothing allowance under section 418 of this title may not be considered in determining the amount of pay and allowances in a former grade if the officer is entitled to a uniform allowance under section 415 of this title.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"907. **Pay and allowances stabilized: former enlisted members and warrant officers.".**

(b) Section 203 of such ttile, relating to rates of pay for members of uniformed services, is amended by adding at the end thereof the following new subsection:

"(d) The basic pay of commissioned officers in pay grades O-1, O-2, and O-3 who are credited with over four years' active service as warrant officers shall be computed 'n the same manner as commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods, for which pay and allowances are payable, which begin after the month in which this section is enacted.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

SEC. 15. Effective January 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 per centum.

Amend the title so as to read: "An Act to extend certain expired provisions of law relating to personnel management of the Armed Forces, to make certain retirement provisions relating to regular enlisted members of the Army and Air Force apolicable to reserve enlisted members, to establish the Chaplain Corps of the Navy as a staff corps of the Navy, and for other purposes.".

Mr. NICHOLS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendments.

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That Public Law 93-397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

SEC. 2. Subsection (a) and (b) of section 2 of Public Law 95-377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

SEC. 3. (a) (1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such conditions should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended—

(A) by striking out "or" at the end of item (i);

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(b) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that before October 1, 1982, such a board may consist of nine officers serving in the grade of major general or above.".

(c) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following: "An Act to extend certain provisions of law relating to personnel management of the Armed Forces, and for other purposes.".

Mr. NICHOLS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. MITCHELL of New York. Mr. Speaker, reserving the right to object, I do so only to permit the gentleman from Alabama (Mr. NICHOLS), the chairman of the Subcommittee in Military Compensation, to explain the original unanimous-consent request.

☐ 1230

Mr. NICHOLS. Mr. Speaker, if the gentleman will yield, H.R. 5168 passed the House on September 25, 1979. In its original form it would simply extend through September 30, 1980, certain personnel management authorities that expired on September 30, 1979.

For example, the bill would provide grade relief for Air Force officers, a waiver of sea duty requirements for promotion of naval officers, and authority for the temporary promotion of naval officers.

On February 4, 1980, the Senate passed H.R. 5168, amended with the so-called Nunn-Warner amendment. This amendment increases certain allowances for military personnel and establishes new allowances for others.

Specifically, the amendment would affect existing entitlements by: First, increasing aviation career incentive pay/flight pay by 25 percent; second, accelerating the implementation of the full rates for sea pay and increasing those rates by 15 percent; third, removing the current statutory limit of 10 cents per mile for reimbursement for mileage in conjunction with a permanent change of station move; and fourth, increasing the basic allowance for subsistence by 10 percent.

New entitlements would be created in the following areas: First, a variable housing allowance would provide the difference between 115 percent of the basic allowance for quarters and the average cost of housing in certain geographic areas within the continental United States that experience a high cost of living; and second, authority to pay a selective reenlistment bonus, which currently extends only to enlisted members in critical skills with up to 10 years of service, would be authorized for such members with up to 14 years of service.

The Nunn-Warner amendment was a substitute amendment to the so-called Armstrong amendment offered on the Senate floor. The Armstrong amendment would have provided a 3.4-percent across-the-board pay raise for military personnel effective January 1, 1980.

Because of the delays that have been experienced with regard to passage of the basic bill, the unanimous-consent request would simply modify the bill originally passed by the House by extending through September 30, 1982, the authorities that expired on September 30, 1979. A number of problems—delayed promotions and disability retirements—have resulted from the delay in enactment of H.R. 5168. Many of the problems would be resolved by enactment of the Defense Officer Personnel Management Act (DOPMA) but final passage of this bill is uncertain. Extending the expiration date for an additional 2 years will preclude this problem from recurring in the near term.

Both the House and Senate versions of this bill contain the same new expiration date. The unanimous-consent request is made in order to expand the scope of the conference to allow the extension of this date. The unanimous-consent request does not address the compensation amendments added by the Senate; these will be addressed, of course, in conference.

Mr. MITCHELL of New York. Mr. Speaker, further reserving the right to object, I support the objective of the gentleman from Alabama (Mr. Nichols). We have discussed this procedure with the subcommittee and full committee, and they have agreed unanimously.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. DICKS. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I want to take this opportunity to congratulate the committee, and in particular the gentleman from Alabama, Chairman Nichols, for its action endorsing the provisions of the Nunn-Warner amendment providing targeted increases in military compensation.

Those few changes which the Armed Services Committee has recommended, in my judgment, improve the package, particularly the delineation of the variable housing allowance as a mandatory action. I am confident that these differences can be expeditiously resolved in conference and we can enact this important first step toward improving compensation and fostering conditions conducive to retention of our critically needed skilled career personnel.

I have been encouraged by the growing attention to this important aspect of our national defense problem. As recently as the start of this year, it seems few citizens were aware of the critical implications of the shortages we face in career fields and the increasingly adverse trends for the future. I am happy to say that the Armed Services Subcommittee was a notable exception to this lack of attention.

Now the issue is the subject of countless newspaper editorials, television specials, and has even made the cover of Time. The change of heart from the President on this package is particularly welcome. Nunn-Warner gives us the opportunity to begin our difficult task of making the military an attractive career option once again. A recent analysis by the Congressional Budget Office indicates that correction of the over 70,000 noncommissioned shortfall we presently face will take both time and additional effort.

The recent recommendations of the Senate Armed Services Committee provide a chance, in my judgment, to follow through on the important momentum in changing the situation and perceptions of it which Nunn-Warner offers. These provisions, including an 11.7 percent increase in basic pay, with Presidential authority to reallocate 25 percent of that by grade and years of service; increased enlistment and reenlistment bonuses for both the Active Forces and the Reserves; improved CHAMPUS benefits and a test of increased educational benefits will, I hope, receive sympathetic consideration from House conferees on the authorization bill.

Literally thousands of service people are watching what we do on this issue. Those who have extended their service commitment by less than a full enlistment of 2 years has increased dramatically over the last 2 years. In the Navy alone the number has tripled to nearly 16,000. These people are waiting to see if the new rhetoric on compensation is followed through with concrete action. The provisions included in H.R. 5168 provide the foundation, and in my judgment are among the most important steps we can approve for improving our real defense capabilities.

I would like to include a copy of a letter I sent with more than 50 House colleagues to Chairman Nichols describing the problem we face in more detail.

House of Representatives,
Washington, D.C., February 22, 1980.

Hon. Bill Nichols,
Chairman, Subcommittee on Military Compensation, Committee on Armed Services, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: It is our understanding that the Subcommittee will soon be considering the Nunn-Warner amendment added by the Senate to HR 5168. We wish to advise you of our strong support for this amendment, and we urge the Subcommittee to give it favorable consideration.

The difficulties faced by the military services in retaining adequate numbers and quality of personnel are well known.

Career re-enlistment rates have declined over 14% since 1973. Retention problems are especially critical in the middle non-commissioned officer and officer grades, those highly trained individuals who have the skills and experience necessary to operate the complex weapon systems of our technologically centered Armed Forces. The Army is short 46,000 NCOs, the Air Force 3,000, and the Navy is short 17,000 petty officers.

These problems do not have a single cause. But there is one aspect which virtually every study and our conversations with military personnel points to as having the greatest impact. That is the steady and continuing decline in compensation levels for the military.

In the early part of the 1970s the Congress provided substantial increases in compensation and committed itself to providing comparability with similar skills in the private sector. This was done at a time when the draft remained in effect. It was done in the recognition that the United States was willing to provide these individuals and their families with a quality of life commensurate with the sacrifices we demand of them. The reward of this action was a sharp increase in retention rates.

But the Congress has not lived up to the commitment it made in 1971. Real compensation has declined between 7 and 14 percent over the last seven years through the imposition of pay caps and reallocation of pay increases. The situation has become so serious that an E-4 plane handler on the aircraft carrier Nimitz is asked to work sixteen hours a day on extended tour to the Indian Ocean for less money per hour than a cashier at McDonald's. Literally hundreds of thousands of military families may be eligible for public welfare assistance.

More important than the immediate fiscal impact of the present situation is the decline in morale that has accompanied it. The military member too often feels that he is the scapegoat for budget cuts or diversion of funds to weapon systems. To them, the future does not look bright. Based on present evidence the expectation is that his or her lot will get worse, not better.

The Nunn-Warner amendment gives us a unique opportunity to send a signal that Congress retains its commitment to a decent living standard for the military and to providing an environment conducive to making the military career attractive. This is a signal which is critically needed, whether or not we return to the draft.

This amendment addresses some of the most pressing areas of need in the compensation area. It provides for acceleration of sea pay to 1982 rates and increases them by 15 percent. This is especially important given the particular retention difficulties faced by the Navy and the extended sea tours many sailors are being assigned as a result of the need to provide a stronger presence in the Indian Ocean.

Flight pay is increased by 25 percent. The continuing loss of qualified pilots to the private sector is all too well known. This increase can help rectify the imbalance presented to those facing the choice of whether to remain in the service or not.

Extension of re-enlistment bonuses to those with 10–15 years of service will provide an additional incentive for those in this pivotal period. It is at this point that the commitment to remain until retirement qualification is most often made. In recent years that has not been a sufficient incentive to make the career commitment. The re-enlistment bonus will be valuable in reversing this trend.

Finally, adjustments in the permanent change of station rates, increases in subsistence payments and establishment of a variable housing allowance will aid those of all ranks who face special additional costs. Presently, each year military people who are transferred must spend over $1 billion out of their own pockets to accomplish the move. Similarly, it costs the 650,000 active duty personnel who must live in off-base housing over $1 billion above their current housing allowance. This package of amendments will attack critical compensation issues without expanding retirement benefits and adding significant out-year costs.

Implementation of the Nunn-Warner amendment will certainly not solve all the problems we face in military manpower. It is our belief that more targeted actions must be taken in the compensation area, as well as provision for more adequate training and exercises. But we are convinced that its adoption will be invaluable in reinforcing the concern the Congress has for giving our military fair treatment. It will show that the future is not all bleak, that there are reasons to make the military a career. Failure will, we fear, send the exact opposite sign and can only serve to complicate the already serious perception problem among service people.

We appreciate this opportunity to share our concerns with you. We are confident the Subcommittee will weigh these arguments fully in determining its position on this important amendment.

Sincerely,

Norman D. Dicks, Jack F. Kemp, John LaFalce, Cec Heftel, Martin Sabo, Bill Green, George Hansen, Jim Weaver, Henry Reuss, Joel Pritchard, Chris Dodd, Robert Dornan, Bill Royer, Bob Lagomarsino, Phil Gramm, Abraham Kazen, Bill Whitehurst, Marc Marks.

Bob Duncan, Bill Chappell, Tom Bevill, Charles Wilson of Texas, Mike Lowry, Albert Gore, William Ford, Ray Kogovsek, Ed Jenkins, Bob Stump, Henry Hyde, Tony Coelho.

Dan Glickman, Thomas Foley, Al Swift, ———, Joe Wyatt, Augustus Hawkins, Vic Fazio, Martin Leath, George O'Brien, Kent Hance, Bob Bauman, Dan Rostenkowski.

Bo Ginn, Gunn McKay, Silvio Conte, Clair Burgener, Tom Downey, Martin Sabo, Floyd Spence, Steve Symms, John Anderson, Billy L. Evans, Robert Davis, Robert Whittaker, Trent Lott, G. V. Sonny Montgomery, *Members of Congress.*

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Alabama?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5168

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the amendments of the Senate to the bill, H.R. 5168, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. PRICE, NICHOLS, MOLLOHAN, ASPIN, DAVIS of South Carolina, BOB WILSON, MITCHELL of New YORK, and EMERY.

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY TO SIT THIS AFTERNOON FROM 2 O'CLOCK UNTIL 4 O'CLOCK

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research and Technology of the Committee on Science and Technology be permitted to sit this afternoon from 1 o'clock until 4 o'clock, despite the fact that the House may be proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FORTY YEARS OF SOVIET OCCUPATION

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I regret to announce that this week marks the 40th anniversary of Soviet military intrusion into the free and independent Baltic States of Estonia, Latvia, and Lithuania. These are sad days, not only for those residents of these states who lost their freedom and nationality, but for all of us in the United States and the free world. Yet this week must be remembered, as we cannot let ourselves, as freedom-loving people, forget what the Soviet Union has shown it is capable of time and time again.

Prior to World War II, these states strained to maintain neutrality. But like other European countries, this was impossible. Forced into "mutual-assistance" treaties with the Soviet Union in 1939, 1940 saw the establishment of Soviet military bases in the entire region, directly abrogating previously established nonaggression treaties. Soon after, all three states were declared members of the already vast U.S.S.R., a situation which, unfortunately, has persisted until today.

Mr. Speaker, I remind my colleagues of this occasion so that we may all join together in renewing our efforts to free the Baltic States. Soviet aggressions have been chronicled over many decades, and we cannot allow these events to be overshadowed by the simple passage of time. Therefore, we cannot give up until Estonia, Latvia, and Lithuania once again regain their independence and freedom for their people.

RESOLUTION TO HONOR AMERICAN PARTICIPANTS IN HANDICAPPED OLYMPICS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, several weeks ago I introduced a House resolution calling on the Members of the House to honor those Americans who participated in the second winter Olympic games in Norway, which was the Handicapped Olympics. These are young men and women, Americans, who participated and competed in skiing and ice skating in these Olympics. They did an outstanding job, winning four gold medals, one silver, and one bronze.

The Senate has already passed such a resolution honoring these men and women, and I think the House, hopefully, will do the same. We now have 160 cosponsors, and we are urging all Members to contact my office. Help us get this bill to the floor in order that we can pass this resolution.

PEACEFUL RESISTANCE IN SOUTH AFRICA

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, the people of South Africa, both black and white, recall the uprisings that swept through the black township of Soweto on the outskirts of Johannesburg, 4 years ago.

We in this country, the heirs of a democratic revolution, welcome the resistance, the restlessness and the refusal of black South Africans to submit to a government which in a multitude of ways, both large and small, seeks to deny them their humanity, and we welcome the rejection by so many South Africans of violence.

Bishop Desmond Tutu has wisely counseled peaceful resistance, not violent reaction, to the repressive South African Government.

Surely, this is the way to topple the walls of oppression which surround black and white South Africans today. Our own Government must reassert its support of such moderates and the changes they seek if we are to build in South Africa a democratic society led by moderate men and women of all colors who can resist the violence of right and left alike.

INTRODUCTION OF BILL TO EXTEND RETURN RIGHTS TO DEFENSE CIVILIAN EMPLOYEES

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, I am today introducing a bill to extend "return rights" to civilian employees of the Department of Defense who are recruited from Guam, the Virgin Islands, and Puerto Rico for employment overseas. At present, civilian employees of the military who are hired from the States for duty outside the United States are eligible for rotation back to their approximate original stateside location when their overseas tour is completed. Citizens of Guam and the other U.S. territories are not accorded this same privilege, however. They can register in the DOD priority placement program for reemployment in Guam after finishing their foreign duty tour, but this is no guarantee they will in fact be employed anywhere near the territory, despite Guam's large military presence.

The Defense Departments' Office of Manpower, Reserve Affairs and Logistics has informed me that legislation is needed to amend 10 U.S.C. 1586 (Public Law 85-585) to extend the fuller "return rights" to people recruited from Guam and the other territories listed in my bill. I ask my colleagues' prompt and favorable consideration of this measure.

RAMSEY CLARK: IGNORE HIM

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, there is a lot of discussion on television, radio, and in the press about whether Ramsey Clark should be prosecuted for having made his trip to Iran despite President Carter's ban on such travel and his possible violation of the so-called Logan Act.

If I were counseling the President on

the Clark situation, Mr. Speaker, I would tell him, "Mr. President, I recommend that you leave this one alone. I do not believe that the ends of justice would be furthered, or that there would be any other contribution to the public good, by the prosecution of Ramsey Clark. In my opinion the best way to treat Ramsey Clark is simply to do nothing. I believe that he will continue to hold press conferences whenever he can and try to explain and justify his erratic behavior. I am not sure but what he would like to be prosecuted so that he would attract more attention and have a more prominent platform from which to speak."

Mr. Speaker, I would counsel the President to leave Clark alone and let his situation be handled by the court of public opinion. Up to now, I am convinced that the impression he has made on the American people is practically nothing and that it is negative to the extent that there is some reaction. According to news accounts, even the Iranians paid no attention to him. Therefore, he cannot possibly have done America any substantial harm.

I do not know what Mr. Clark's problem is, Mr. Speaker, but I suspect that it is the consuming feeling of self-guilt which we so often see in the sons and daughters of outstanding parents who have enjoyed tremendous advantages and recognition, simply because of the prominence of their parents and without any special merit of their own. Then again, I sometimes wonder if such erratic behavior might result from external forces in our environment. Could it be overexposure to radio waves or perhaps something in the drinking water?

☐ 1240

JOSEPH M. MONTOYA FEDERAL BUILDING AND U.S. COURTHOUSE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5259) to name a certain Federal building in Santa Fe, N. Mex., the "Joseph M. Montoya Federal Building and U.S. Courthouse," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 2, insert:

SEC. 2. Section 181(a)(2) of the Act of October 22, 1976 (Public Law 94–587; 90 Stat. 2939, 2940), is amended by striking out "(A)" and by striking out ", and (B)" and all that follows down through and including the period at the end thereof and inserting in lieu thereof a period.

Mr. LEVITAS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I do so for purposes of asking for clarification from the gentleman from Georgia (Mr. LEVITAS).

I understand that the Senate amendment addresses the question of the Maryland weir for the water supply requirements of this greater metropolitan area with particular emphasis on the State of Maryland. Further, it has been cleared by all concerned and conforms to the comprehensive water supply agreement that has been signed by all of the organizations concerned in the Potomac Basin area. Is that correct?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Georgia.

Mr. LEVITAS. The gentleman is correct in his statement. The Senate amendment relates to a water project dealing with weirs in the Potomac River for the development of water supplies for the metropolitan Washington area. It is a matter that has been under consideration and study for a number of years. It has the concurrence or the approval of all of the legislators affected in this area. It has also been considered by the chairman of the full Committee on Public Works and Transportation and the chairman of the Subcommittee on Water Resources, and they believe it is an appropriate amendment and in keeping with the water policy as expressed in the House-passed version of the legislation.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ESTABLISHING BISCAYNE NATIONAL PARK

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5926) to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 6, strike out "169–90,002, and dated November 1979," and insert "169–90,003, and dated April 1980,".

Page 2, line 23, strike out "poverty" and insert "property".

Page 3, line 13, strike out "two" and insert "three".

Page 4, line 4, strike out "natural ecosystem".

Page 6, strike out all after line 5, down to and including "confirmed." in line 8 and insert "The monument shall consist of the lands, waters, and interests therein generally depicted on a map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364–90,001, and dated April 1980. Any Federal lands excluded from the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976. Any Federal lands added to the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the purposes for which the monument was established.".

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, could the gentleman from California explain what the Senate amendments are.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, on December 10, 1979, the House of Representatives passed H.R. 5926, which would enlarge the Biscayne National Monument in Florida by some 71,000 acres and redesignate the area as the Biscayne National Park. The legislation would also establish a statutory boundary for the Fort Jefferson National Monument in Florida, and would provide for a boundary expansion of the Valley Forge National Historical Park in Pennsylvania.

The Senate has now passed the House measure with certain amendments which I believe will be acceptable to the Members of this body. These amendments accomplish the following changes.

Senate amendment No. 1 references an amended boundary map for the Biscayne National Park. The map is changed from that adopted in the House to exclude lands in the vicinity of Turkey Point which are owned by the Florida Power & Light Co. This is consistent with the intent in the House to avoid interfering with current utility operations. The revised boundary still includes the two county parks, and I wish to reiterate the point that this would simply permit Dade County, if there should come a time when it wished to do so, to transfer these lands to the National Park Service.

Senate amendment No. 2 corrects a typographical error. Senate amendment No. 3 changes the 2-year time period, within which the Congress would intend that lands added to the area should be acquired, to 3 years. This amendment preserves our intention that the National Park Service should proceed expediously in completing the acquisition program for this area.

Senate amendment No. 4 conforms language regarding the regulation of fishing to the language of the original act establishing the Biscayne National Monument. I must point out that this change leaves intact the authority of the Secretary to regulate within the boundaries of the original area. Particularly in light of the upgrading of Biscayne to full national park status, we will expect the Secretary to use the highest standard of care in affording maximum protection to the marine resources of this area.

Senate amendment No. 5 establishes a new boundary for the Fort Jefferson National Monument by specific map reference. This change will facilitate accurate marking of the boundary of the monument by the National Park Service, and should enhance the ability of the agency to fully protect the resources of this remarkable area.

Mr. Speaker, I want to again compliment the gentleman from Florida, Representative Dante Fascell, for his continuing leadership over the years in protecting the remarkable natural resources of southern Florida. Representatives Bill Lehman, Claude Pepper, and Ed Stack have also been notable for their support.

I also understand that the Florida Legislature has already adopted the necessary legislation to transfer the State-owned lands within the expanded boundaries of the park to the Federal Government. This is clear indication of the strong local support which exists for this bill. The State of Florida and Dade County have both made substantial contributions to the efforts to protect this area. It is a commendable partnership which should be given recognition by this House.

I also wish to compliment the Senators and staff of the Committee on Energy and Natural Resources for their constructive efforts on behalf of this legislation. The Senate committee report (S. Rept. 96-665) points out in particular the need for the National Park Service to provide effective public access to the visitor use facilities in the park. I fully subscribe to this direction, as well as to the concern expressed in the Senate report that the agency develop quality interpretive programs for the park visitor. In achieving full national park status, the Biscayne area joins that most select category of units in our national park system. Every effort should be made to give this unique area the full protection worthy of its new status, as well as to facilitate the efforts of park visitors to appreciate this remarkable ecosystem.

Mr. Speaker, I urge my colleagues to join me in approving H.R. 5926 in its final form.

Mr. LAGOMARSINO. Further reserving the right to object, are the representatives from the district involved in the legislation aware of, and do they approve of the changes that have been made?

Mr. PHILLIP BURTON. Yes.

Mr. LAGOMARSINO. Mr. Speaker, I support the acceptance of Senate amendments to this bill, all of which apply to the Biscayne and Fort Jefferson parts of the bill.

There is only one amendment I wish to comment on, and that is the one relative to section 103(a) which removes the words "natural ecosystem." I believe the bill is better with the words left in place, as it more pointedly underscores the expectation and intention as to the standard to which the park is to be managed and protected. However, removal of these words does not do great violence, as the resource management standards to which national parks and monuments are subjected are already established to conform to the maximum protection of the natural ecosystem.

The Senate committee, in adopting this amendment, explained its concern that the redesignation from monument to park not indicate any change in the management of the fisheries resource. Indeed, the protection standards for all natural resources does not vary from monuments to parks, as both of these categories of units are managed to the identical high standard of maximum natural ecosystem protection.

Mr. Speaker, I will be pleased to see the House adopt these Senate amendments so that this bill might very soon become a new public law.

I would like to also point out that this bill contains some very important and urgently needed boundary adjustments for Valley Forge National Historical Park in Pennsylvania.

Mr. Speaker, I urge the adoption of these amendments and the passage of this bill.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the purposes of asking a question.

Many of us became increasingly concerned about what might be referred to as the redwood element provision. Are there any provisions of that type in this Biscayne National Park?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. PHILLIP BURTON. No. There is neither a redwood logger nor an underwater frogman protection provision.

Mr. ASHBROOK. Further reserving the right to object, I assume there are some people in the environs. Are there any provisions made for employment or providing Federal assistance to people in the area?

Mr. PHILLIP BURTON. Neither in this one nor in the next unanimous consent request I have.

Mr. ASHBROOK. I thank my colleague, and I withdraw by reservation of objection on that assurance.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California that the Senate amendments be considered as read?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California on acceptance of the Senate amendments?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5926.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ESTABLISHMENT OF THE GEORGIA O'KEEFFE NATIONAL HISTORIC SITE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2363) to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and again I reserve the right to object only to ask the gentleman to explain to the House what the legislation does.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, the House passed this item sent to us from the other body some weeks ago.

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I propose to offer an amendment which clarifies the bill that the House passed here again better than a month ago in one particular, and that is to refine map references to the Big Bend National Park.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, am I correct in understanding that the map reference to Big Bend National Park is a change that was made—well, the gentleman can speak for himself.

I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Speaker, further reserving the right to object, would the distinguished chairman of the subcommittee explain the amendment?

Mr. PHILLIP BURTON. The amendment that we made to H.R. 3 contemplates eliminating an area about which there was some misunderstanding. We are restricting the boundary adjustment to the instance of a willing buyer and willing seller.

Mr. Speaker, S. 2363, as passed by the Senate, would authorize the establishment of the Georgia O'Keeffe National Historic Site in New Mexico. The House of Representatives, on May 20 of this year, passed H.R. 3, an omnibus measure which includes the Georgia O'Keeffe site as section 102.

Our action today would be to return S. 2363 to the Senate with a substitute text. This text would be identical to H.R. 3 as previously passed by the House, with one exception. The boundary map referenced in section 201, affecting Big Bend National Park in Texas, would be changed to apply only to a ranch which we understand is owned by a willing seller. Therefore, the new map reference will include the addition of only an adjacent property of some 21,250 acres which was also included in H.R. 3 as passed.

Our action today would simply return this legislation to the Senate with this "Big Bend" correction made.

I would like to commend our colleague, the gentleman from Texas (Mr. LOEFFLER) for bringing this committee oversight to our attention.

Mr. LOEFFLER. I thank the distinguished subcommittee chairman.

Mr. Speaker, I commend the distinguished chairman for taking this action.

Mr. Speaker, I withdraw my reservation of objection.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire, by donation, the site and structures comprising the home and studio of Georgia O'Keeffe situated at Abiquiu, New Mexico, and by donation or purchase, with donated or appropriated funds, not to exceed one acre of land for offsite support facilities which the Secretary deems necessary for the purposes of this Act. The Secretary may also acquire, by donation, personal property associated with the Georgia O'Keeffe home and studio.

SEC. 2. (a) When the site, structures, and other properties authorized for acquisition under the first section of this Act have been acquired by the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice thereof in the Federal Register.

(b) Pending such establishment, and thereafter, the Secretary shall administer properties acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 3. Effective October 1, 1980, there is hereby authorized to be appropriated an amount not to exceed $40,000 from the Land and Water Conservation Fund for the acquisition of lands and interest therein and an amount not to exceed $100,000 for the development of essential facilities to carry out the provisions of this Act.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Park and Recreation Act of 1980."

DEFINITION

SEC. 2. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

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Sec. 510. Theodore Roosevelt Inaugural National Historic Site.
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Sec. 512. Falls of Ohio study.
Sec. 513. Upper Missouri River.
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Sec. 515. Gerald Ford study.
Sec. 516. George Meany study.
Sec. 517. Man in Space Historical study.
Sec. 518. Benjamin Franklin National Memorial.
Sec. 519. Limitation on authorizations.

TITLE I—ESTABLISHMENT OF NEW AREAS

JAMES A. GARFIELD NATIONAL HISTORIC SITE

SEC. 101. (a) In order to assist in the preservation of certain historically significant properties associated with the life of James A. Garfield known as "Lawnfield", and located at 1059 Mentor Avenue, Mentor, Ohio, the Secretary is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666) to enter into a cooperative agreement with Western Reserve Historical Society pursuant to which the Secretary may assist in the protection, restoration, maintenance, operation, and interpretation of such properties, and to establish the same as the James A. Garfield National Historic Site by publication of notice to that effect in the Federal Register.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not to exceed $250,000 for development.

GEORGIA O'KEEFFE NATIONAL HISTORIC SITE

SEC. 102. (a) In order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgie O'Keeffe, the Secretary may acquire—

(1) by donation, the site and structures comprising the home and studio situated at Abiquiu, New Mexico, and

(2) by purchase, donation, or exchange not to exceed one acre of detached land for offsite support facilities which the Secretary of the Interior deems necessary for the purposes of this section.

The Secretary may also accept the donation of furnishing and other personal property in connection with the site.

(b) When the site, structures, and other properties authorized for acquisition under subsection (a) have been transferred to the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice to that effect in the Federal Register. The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, not to exceed $40,000 for acquisition and $100,000 for development.

SALINAS NATIONAL MONUMENT

SEC. 103. (a) In order to set apart and preserve for the benefit and enjoyment of the American people the ruins of prehistoric Indian pueblos and associated seventeenth century Franciscan Spanish mission ruins, the Secretary is authorized to acquire by donation, or by purchase with donated or appropriated funds, or otherwise, not to exceed four hundred and sixty-six acres of land in the State of New Mexico which, in addition to the lands now comprising Gran Quivira National Monument, shall be designated as the Salinas National Monument. The Secretary is further authorized to acquire, in or near the town of Mountainair, such additional lands as may be necessary for an administrative site for the monmument.

(b) Gran Quivira National Monument is hereby abolished as such, and any funds available for purposes of the monument shall be available for purposes of the Salinas National Monument.

(c) The Secretary shall administer and protect the monument in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is encouraged to transfer to the employment of the National Park Service such personnel associated with the administration of the State-owned lands as are interested in and qualified for such transfer, as such State lands are acquired by the Secretary.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,140,000 for acquisition and $500,000 for development.

WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SEC. 104. (a) The Congress finds that—

(1) The Women's Rights Convention held at the Wesleyan Methodist Chapel in Seneca Falls, New York, in 1848 is an event of major importance in the history of the United States because it marks the formal beginning of the struggle of women for their equal rights.

(2) The Declaration of Sentiments approved by the 1848 Women's Rights Convention is a document of enduring relevance, which expresses the goal that equality and justice should be extended to all people without regard to sex.

(3) There are nine sites located in Seneca Falls and Waterloo, New York, associated with the nineteenth century women's rights movement which should be recognized, preserved, and interpreted for the benefit of the public.

(b) It is the purpose of this section to preserve and interpret for the education, inspiration, and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the struggle for equal rights for women and to cooperate with State and local entities to preserve the character and historic setting of such sites and structures.

(c) To carry out the purpose of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist initially of the following designated sites in Seneca Falls and Waterloo, New York:

(1) Stanton House, 32 Washington Street, Seneca Falls;

(2) dwelling, 30 Washington Street, Seneca Falls;

(3) dwelling, 34 Washington Street, Seneca Falls;

(4) lot, 26-28 Washington Street, Seneca Falls;

(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

(6) theater, 128 Fall Street, Seneca Falls;

(7) Bloomer House, 53 East Bayard Street, Seneca Falls;

(8) McClintock House, 16 East Williams Street, Waterloo; and

(9) Hunt House, 401 East Main Street, Waterloo.

(d) In addition to the foregoing sites, the Secretary is authorized, with the concurrence of the owners, to designate, by publication of notice to that effect in the Federal Register, other sites in the United States which he determines illustrate the development of the struggle for women's rights in the nineteenth century, and sites so designated shall thereupon become part of the park.

(e) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, lands and interests therein within sites designated as part of the park, except that the Secretary may not acquire the fee simple title to the land comprising the sites designated in paragraphs (7) through (9) of subsection (c) or any sites designated pursuant to subsection (d). Lands and interests therein owned by a State or political subdivision thereof may be acquired only by donation.

(f) The Secretary is authorized to enter into cooperative agreements with the owners of properties designated as part of the park, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(g) The Secretary shall encourage State and local governmental agencies to develop and implement plans for the preservation and rehabilitation of sites designated as part of the park and their immediate environs, in order to preserve the historic character of the setting in which such sites are located. The Secretary may provide technical and financial assistance to such agencies in the development and implementation of such plans, but financial assistance may not exceed 50 per centum of the cost thereof.

(h) The Secretary shall administer the park in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

(i)(1) There is hereby established the Women's Rights National Historical Park Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of eleven members, each appointed by the Secretary for a term of five years as follows:

(A) One member appointed from recommendations submitted by the Elizabeth Cady Stanton Foundation;

(B) One member appointed from recommendations submitted by the Women's Hall of Fame;

(C) Two members appointed from recommendations submitted by the Governor of New York;

(D) One member appointed from recommendations submitted by the village of Seneca Falls;

(E) One member appointed from recommendations submitted by the town of Seneca Falls; and

(F) Five members appointed by the Secretary, at least one of whom shall represent an insitution of higher learning and at least two of whom shall represent national women's rights organizations.

(2) The Secretary shall designate one member to be the Chair of the Commission. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(3) Members of the Commission shall serve without compensation as such, but the Secretary may pay the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section upon presentation of vouchers signed by the Chair of the Commission.

(4) The function of the Commission shall be to advise the Secretary with respect to matters relating to the administration of the park and the carrying out of the provisions of this section. The Secretary shall consult with the Commission from time to time with respect to his responsibilities and authorities under this section.

(5) The Commission shall terminate ten years from the effective date of this section.

(j) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $490,000 for acquisition, and $500,000 for development.

CHACO CULTURE NATIONAL HISTORICAL PARK

SEC. 105. (a) In order to provide for the adequate physical and aesthetic protection and to facilitate the proper interpretation of archeological sites in the Chaco area of the San Juan Basin of New Mexico having exceptional value in commemorating the history and prehistory of the region, there is hereby established the Chaco Culture National Historical Park (hereinafter in this section referred to as the "Park"). The Park shall consist of the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Proposed Chaco Culture National Historical Park," numbered 310-80,032-A, and dated August 1979, together with such additional lands, waters, and interests therein as may be designated by the Secretary in furtherance of the purposes of this section. The map described in this section shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior.

(b) Within the boundaries of the Park, the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of New Mexico or any political subdivision thereof, or property held in trust for the benefit of any Indian tribe or for the benefit of any individual member thereof, may be acquired only with the consent of such owner or beneficial owner, as the case may be. The governing body of the appropriate Indian tribe is authorized to convey the beneficial interest in any such property designated as part of the Park to the Secretary, subject to such terms and conditions as it deems necessary and which are consistent with the purposes of this section. Lands, waters, and interests therein within the boundary of the Park as described on the map referenced in subsection (a) of this section, and which are owned by the United States (exclusive of lands held in trust for the benefit of any Indian tribe or for the benefit of any individual member thereof), are hereby transferred to the administrative jurisdiction of the National Park Service. In the establishment and adjustment of boundaries for the Park, the Secretary shall recognize two categories of units:

(1) Research Units, whose principal purpose shall be for the protection of cultural resources for scientific and research purposes, and

(2) Visitor Use and Interpretation Units, whose dual purpose shall be—

(A) for the protection of cultural resources for scientific and research purposes, and

(B) for interpretation, use, and appreciation by visitors.

Boundaries for category 2 units shall be located with adequate consideration given for buffering against adverse impacts on the units. Federal lands, waters, and interests therein formerly within the Chaco Canyon National Monument and not included within the Park shall be available for use by the Secretary to acquire non-Federal property within the Park by exchange, and any such Federal property not so exchanged shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976.

(c) In furtherance of the purposes of this section, the Secretary is authorized to designate, by publication of notice thereof in the Federal Register, sites within the region containing historic, archeological, and cultural resources which are related to the history and prehistory of the region and which are necessary or appropriate for protection and interpretation for the inspiration, education, and benefit of the public as part of the Park, and upon such publication such sites shall threby become a part of the Park. Not less than thirty days prior to such publication in the Federal Register, the Secretary shall notify, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, of his intention to so designate any additional site. The Secretary may acquire property within such sites, and property he deems necessary for public access thereto, in the manner set forth in subsection (b), and he may enter into cooperative agreements with the owner, including the beneficial owner, of property within such sites pursuant to which the Secretary may in whole or in part protect, preserve, maintain, or administer such property regardless of whether title thereto is in the United States. Any such agreement shall contain, but need not be limited to, provisions to assure that—

(1) the Secretary shall have a right of access at all reasonable times to appropriate portions of the property for the purpose of cultural resources protection and conducting research, and

(2) no changes or alterations shall be made or allowed with respect to the cultural resources on the property without the written consent of the Secretary.

Nothing in this section shall be deemed to prevent the continuation of livestock grazing on properties which are the subject of cooperative agreements. Property acquired pursuant to this section and property which is the subject of a cooperative agreement entered into pursuant to this subsection within sites designated pursuant to this subsection, shall be admistered by the Secretary as part of the Park, subject to the laws and regulations applicable thereto, and subject to the terms of the appropriate cooperative agreement, if any. Nothwithstanding any other provision of this section, those separate and noncontiguous sites or outliers indicated on the map referred to in subsection (a) of this section and any site or outlier authorized for designation by subsections (a) and (c) shall not become a part of the Park unless and until the aforementioned two Congressional committees each consent to the inclusion of each such site or outlier in writing.

(d) The Secretary shall administer the Park in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7). The Chaco Canyon National Monument and the Aztec Ruins National Monument are hereby abolished, as such, and any funds available for the purposes of such monuments shall be available for the purposes of the Park.

(e)(1) There is hereby established the Chaco Culture National Historical Park Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of eight members, five of whom shall be appointed by the Secretary for terms of three years as follows:

(A) one member appointed from recommendations submitted by the Governor of New Mexico;

(B) one member appointed from recommendations submitted by the Commissioners of San Juan County, New Mexico;

(C) one member appointed from recommendations submitted by the Commissioners of McKinley County, New Mexico; and

(D) two members appointed by the Secretary, both of whom shall have professional expertise related to the cultural purposes of the Park, and one of whom shall be the Chairman of the Commission.

In addition to the foregoing members, the Chairmen of the Navajo Tribal Council, the All-Indian Pueblo Council, and the Ute Tribal Council shall be ex-officio members of the Commission.

(2) Any vacancy in the membership of the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses of Commission members reasonably incurred by them in carrying out their responsibilities under this section upon presentation of vouchers signed by the Chair of the Commission.

(3) The Secretary shall consult with the Commission from time to time with respect to the administration of the Park, including sites authorized for addition to the Park by subsection (c).

(4) The Commission shall terminate ten years from the effective date of this section.

(f) Consistent with and in furtherance of the purposes of the Division of Cultural Research of the Southwest Cultural Resources Center, operated by the National Park Service, the Secretary is authorized to continue and expand such research and data gathering activities as may be appropriate to further the purposes of the Park and knowledge of the Chaco culture. The Secretary shall submit in writing within six months of the effective date of this section, to the committees referred to in subsection (c) of this section a plan for the continued operational program of the Division. The Secretary is authorized and encouraged to establish a committee composed of professional archeologists and others with related professional expertise to advise him in matters related to the surveying, excavation, curation, interpretation, protection, and management of the cultural resources of the Park.

(g) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters adjacent or related to the Park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking, or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment in writing with regard to such undertaking and its effect upon the park, and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which the Park is established.

(h) Notwithstanding any other provision of law or of this section of this Act, information pertaining to the location and archeological and cultural resource contents of sites which are, or are proposed to become, a part of the park, may not be made available by the Secretary if, in his discretion, such divulgence might jeopardize the welfare and integrity of such sites.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $11,000,000 for acquisition and $500,000 for development.

MARTIN LUTHER KING, JUNIOR, NATIONAL HISTORIC SITE

SEC. 106. (a) In order to protect and interpret for the benefit, inspiration, and education of present and future generations the places where Martin Luther King, Junior, was born, where he lived, worked, and worshiped, and where he is buried, there is hereby established the Martin Luther King, Junior, National Historic Site in the State of Georgia. The national historic site shall consist of that real property in the city of Atlanta, Georgia, within the boundary generally depicted on the map entitled "Martin Luther King, Junior, National Historic Site Boundary Map," numbered NASM/SERO/20,109–C, and dated May 1980, together with the property known as 234 Sunset Avenue, Northwest. The map referred to in this subsection shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior.

(b) In furtherance of the purposes of this section, there is hereby established the Martin Luther King, Junior, Preservation District, which shall consist of the area identified as "Preservation District" in the map referred to in subsection (a) of this section.

(c) The Secretary shall administer the Martin Luther King, Junior, National Historic Site and Preservation District in accordance with the provisions of this section, and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

(d)(1) Within the national historic site the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer, or exchange, lands and interests therein, except that property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(2) Notwithstanding the acquisition authority contained in paragraph (1), any lands or interests therein which are owned wholly or in part, by the widow of Martin Luther King, Junior, or by the Martin Luther King, Junior, Center for Social Change, shall be acquired only with the consent of the owner thereof, except that—

(A) the Secretary may acquire such property in accordance with the provisions of this section if he determines that the property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this section, and

(B) with respect to properties owned by the Center for Social Change, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date is is offered for sale.

(3) Property may be acquired pursuant to this section subject to such conditions and reservations as in the judgment of the Secretary are not inconsistent with the purposes of this section and the administration of the national historic site, including, in the event that the burial site of Martin Luther King, Junior, is acquired, the condition that his widow may be interred therein.

(4) Any and all legal or equitable title, interests or encumbrances, if any, held by the Department of Housing and Urban Development in the property designated "Parcel A" on the map referenced in section 106(a) are hereby conveyed to the Secretary to be administered in accordance with the purposes of this section.

(5) Structural space requirements of the National Park Service to meet its administrative, operational and interpretive functions for the national historic site and preservation district shall, to the maximum extent feasible without displacing residents, be met within the district through the adaptive use of existing structures.

(e) Within the national historic site, the Secretary may convey a freehold or leasehold interest in any property, for such sums as he deems appropriate, and subject to such terms and conditions and reservations as will assure the use of the property in a manner which is, in the judgment of the Secretary, consistent with the purposes of this section and the administration of the national historic site. The Secretary shall offer the last owner or tenant of record a reasonable opportunity to purchase or lease, as appropriate, the property proposed to be conveyed prior to any conveyance under this paragraph, and in the case of a lease to such tenant of record, the initial rental charge shall not be substantially more than the last rent paid by the tenant for that propetry, with any future increases not to exceed the general escalation of rental rates in the surrounding area.

(f) The Secretary may enter into cooperative agreements with the owners of properties of historical or cultural significance as determined by the Secretary, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. The authorities in this paragraph shall also be available to the Secretary with respect to properties within the Martin Luther King, Junior, Preservation District.

(g) The Secretary may, in carrying out his authorities with respect to the interpretation of properties within the national historic site and the preservation district, accept the services and assistance, with or without reimbursement therefor, of qualified persons and entities to the extent he deems necessary and appropriate. Funds appropriated for the purposes of this section may be expended for the improvement, restoration, and maintenance of properties in which the Secretary has acquired a leasehold interest.

(h) Notwithstanding any other provision of law, the Secretary shall give first preference to the Martin Luther King, Junior, Center for Social Change with respect to any contract for a concession to sell books, postcards, tapes, or similar types of appropriate mementoes related to the purposes of this section, on facilities operated and maintained by the Secretary within the historic site: *Provided*, That agreement can be reached on terms and conditions acceptable to the Secretary.

(i) The Secretary is authorized to take only such actions within and upon the grounds of the Ebenezer Baptist Church as will directly support appropriate public visitation to and within the church in accordance with the purposes of this section, or which will assist in the maintenance or preservation of those portions of said church which are directly related to the purposes of this section.

(j) (1) There is hereby established the Martin Luther King, Junior, National Historic Site Advisory Commission (hereinafter referred to in this section as the "Commission"). The Commission shall consist of thirteen members, nine of whom shall be appointed by the Secretary as follows:

(A) three members appointed for terms of three years from recommendations submitted by the governing body of the Martin Luther King, Junior, Center for Social Change;

(B) two members appointed for terms of four years from recommendations submitted by the Governor of the State of Georgia, one of whom shall have professional expertise in historic preservation matters;

(C) two members appointed for terms of five years from recommendations submitted by the mayor of the city of Atlanta, Georgia, one of who shall represent the economic and cultural interests of the Sweet Auburn Historic District;

(D) one member appointed for a term of five years from recommendations submitted by the governing body of the Ebenezer Baptist Church;

(E) the Chairman of the Atlanta Urban Design Commission and one additional member from the Commission to be chosen by the Commission; and

(F) one member appointed for a term of five years by the Secretary, who shall chair the Commission. In addition to the foregoing members, Mrs. Coretta Scott King, or such other appropriate family member as may be designated by the immediate family of Martin Luther King Junior, and the Director of the National Park Service shall be ex officio members of the Commission.

(2) Any vacancy in the membership of the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses of Commission members reasonably incurred by them in carrying out their responsibilities under this section upon presentation of vouchers signed by the chair of the Commission. Necessary administrative services and expenses shall be provided to the Commission by the Department of the Interior.

(k) The function of the Commission shall be to:

(1) advise the Secretary with respect to the formulation and execution of plans for and the overall administration of the national historic site and the preservation district, including advice with respect to the consummation of cooperative agreements, the interpretation of properties, and the use and appreciation of the national historic site and the preservation district by the public.

(2) prepare a generalized impact area plan for a one-mile radius outside the District which shall examine overall community development goals, plans, and efforts within that area, including historic preservation, transportation, parking, housing, urban revitalization, and parks and recreation functions, in order to maximize beneficial relationships between these goals, plans, and efforts and the district herein established.

(3) prepare, on the basis of the findings and recommendations of the impact area plan required by section 106(K) (2), a detailed development. Plan for the neighborhoods and outlying commercial areas immediately outside the district for such development, conservation, preservation, rehabilitation activities and transportation, parking, and land use planning as would complement and enhance the District and the purposes for which the District is established.

(l) The Secretary is directed to provide the appropriate planning agency of the city of Atlanta an amount of the local planning funds authorized by section 106(O) sufficient for that agency to provide such staff and technical assistance to the Advisory Commission as are required for it to develop the plans required by section 106(K) (2) and section 106(K) (3). Such plans, prepared in full coordination with and opportunities for participation by, all relevant public agencies and private groups, shall be delivered to the Secretary in a timely fashion for use in preparing the general management plan for the district.

(m) The Commission shall terminate ten years from the effective date of this section.

(n) Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the national historic site or the preservation district.

(o) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,000,000 for development, $100,000 for local planning, and $3,500,000 for the acquisition of lands and interests therein.

(p) (1) In order to better integrate the east and west portions of the Martin Luther King, Junior Preservation District, the Federal Highway Administration, in cooperation with the Georgia Department of Transportation, is hereby directed to insure that any design and reconstruction of the North Interstate 85 and Interstate 75 Expressway over Auburn and Edgewood Avenues in the city of Atlanta, Georgia, and the interchange at Edgewood Avenue, shall minimize the adverse impacts on the preservation district.

(2) In carrying out the provisions of subsection (p) (1), the Federal Highway Administration shall require that, where feasible, any major change required for the Auburn Avenue overpass results in a design which permits a wider distance between overpass support structures and the disposition of understructure development rights for appropriate business or recreation uses.

(q) Plans for the construction, exterior renovation or demolition of any structure or change in land use within the District by the National Park Service or any Federal agency must be submitted to the Atlanta Urban Design Commission in a timely fashion for its review and comment.

MARY M'LEOD BETHUNE NATIONAL HISTORIC SITE

SEC. 107. (a) The Secretary is authorized to designate the former home of Mary McLeod Bethune located on the Bethune-Cookman College campus in Daytona Beach, Florida, as the Mary McLeod Bethune National Historic Site.

(b) The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to administration of national historic sites, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7) as a memorial to Mary McLeod Bethune. The Secretary is authorized directly or by means of cooperative agreements with the Mary McLeod Bethune Foundation to preserve, interpret, restore, adapt for public use, and provide technical assistance for the Mary McLeod Bethune National Historic Site in accordance with the provisions of this section.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $100,000 for the acquisition of lands and interests therein.

GENERAL MANAGEMENT PLANS

SEC. 108. Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, comprehensive general management plans for the areas established pursuant to this title, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.). In the case of the area established in section 106, such plan shall also include the preservation district established in section 106(b).

TITLE II—MINOR BOUNDARY CHANGES

BIG BEND NATIONAL PARK

SEC. 201. The boundary of the Big Bend National Park in the State of Texas is hereby revised to include the lands and interests therein within the area generally depicted on the map entitled "Big Bend National Park, Boundary Additions," numbered 155/80,019–A and dated June 1980 which shall be on file and available for public inspection in the local and Washington, District of Columbia, Offices of the National Park Service, Department of the Interior. The Secretary is authorized to acquire the lands and interests therein added to the park by this section by donation, purchase with donated or appropriated funds, or exchange, except that lands and interests therein owned by the State of Texas or any political subdivision thereof may be acquired only by donation or exchange. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,500,000 for the acquisition of lands and interests therein.

MOUND CITY GROUP NATIONAL MONUMENT

Sec. 202. (a) In order to preserve in public ownership certain prehistoric archeological resources of outstanding significance for the benefit and education of the people of the United States, the boundary of Mound City Group National Monument, Ohio, is revised to include the lands within the area generally depicted as "Parcel X" on the map entitled "Hopeton Earthworks Study Area", numbered 353/40,025B, and dated May 1980, and within the area generally depicted as "Revised Monument Boundary" on the map entitled "Transfer of Jurisdiction, Mound City Group National Monument", numbered 353/40,001A, and dated March 1978, which maps shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. With respect to the lands within "Parcel X" above, the lands may be acquired only in fee and shall be limited to the mound area depicted on the above referenced map plus such other lands immediately adjacent to the mounds so as to assure adequate access and protection to the area: *Provided*, That the total area acquired in fee shall not exceed one hundred and fifty acres. Access to lands in the vicinity of the mounds by existing roadways shall in no manner be encumbered by Federal acquisition or by the administration of the monument.

(b) Within the boundary of the national monument, the Secretary is authorized to acquire lands and waters by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange. Notwithstanding any other provision of law to the contrary, Federal lands in the vicinity of the monument which are determined to be surplus to the needs of the United States shall upon the request of the Secretary be transferred to the Secretary for use by him in acquiring lands within the monument by exchange.

(c) The Secretary shall, in consultation with interested organizations and individuals, investigate other sites in the region which contain archeological data illustrating the prehistoric Hopewellian civilization that flourished in the eastern United States, and as a part of this investigation he shall identify those sites which he determines should be protected as part of the Mound City Group National Monument. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of his investigation to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, together with his recommendations for such further legislation as may be appropriate.

(d) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, not to exceed $1,000,000 for the acquisition of lands and waters and not to exceed $100,000 for the development of facilities and the conduct of archeological investigations on the properties acquired pursuant to this section.

LYNDON B. JOHNSON NATIONAL HISTORICAL PARK

Sec. 203. The Act entitled "An Act to establish the Lyndon B. Johnson National Historic Site," approved December 2, 1969 (83 Stat. 274) is amended—

(1) in the first section, by changing "by donation or by purchase with donated funds" to "by donation or by purchase with donated or appropriated funds" and by changing "drawing entitled 'Lyndon B. Johnson National Historic Site Boundary Map,' numbered NHS–LBJ–20,000 and dated September 1969" to "drawings entitled 'Boundary Map, Lyndon B. Johnson National Historical Park,' numbered 447–40,008B and 447–40,000A, and dated January 1980";

(2) in section 3, by changing "not more than $680,000 to provide for the development of" to "such sums as may be necessary to carry out the provisions of this Act, but not more than $4,100,000 for development and not more than $1,400,000 for the acquisition of lands and interests therein for"; and

(3) by changing "National Historic Site" wherever it appears to "National Historical Park".

PALO ALTO NATIONAL BATTLEFIELD

Sec. 204. (a) Section 506 of the National Parks and recreation Act of 1978 (92 Stat. 3467), authorizing the establishment of the Palo Alto Battlefield National Historic Site, is amended by deleting the first and second sentences of subsection (b) and inserting in lieu thereof the following: "The boundary of the National Historic Site, which is hereby redesignated as the Palo Alto National Battlefield, shall be as generally depicted on the map entitled 'Recommended Boundary, Palo Alto Battlefield National Historic Site, Brownsville, Texas,' numbered 469/40,003, and dated January 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior. The Secretary is authorized to acquire lands and interests therein within the boundary of the historic site by donation, purchase with donated or appropriated funds, or exchange."

(b) Subsection (c) of such section 506 is amended to read as follows:

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $8,425,000 for the acquisition of lands and interests therein, and not more than $3,000,000 for the development of facilities.

GRANT-KOHRS RANCH NATIONAL HISTORIC SITE

Sec. 205. The Act entitled "An Act to authorize the establishment of the Grant-Kohrs Ranch National Historic Site in the State of Montana, and for other purposes," approved August 25, 1972 (86 Stat. 632) is amended—

(1) by inserting the following after the period in the first section: "The boundary of the National Historic Site shall be as generally depicted on the map entitled, "Boundary Map, Grant-Kohrs Ranch National Historic Site,' numbered 451–80–013, and dated January 25, 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior."; and

(2) by striking out "$752,000" and "$2,075,000" in section 4 and inserting in lieu thereof "$1,100,000" and "$7,818,000, respectively.

RICHMOND NATIONAL BATTLEFIELD PARK

Sec. 206. (a) In order to properly recognize and interpret the role of black soldiers in the Civil War and to commemorate a decisive battle in which fourteen medals of honor were awarded, the Secretary is authorized to acquire 201 acres of land in Henrico County, Virginia, as depicted on a map entitled "Proposed Richmond National Battlefield Park Expansion" numbered RCH–80,006 and dated April 1980, for addition to the Richmond National Battlefield Park.

(b) The Secretary shall administer the property acquired pursuant to subsection (a) of this section as part of the Richmond National Battlefield Park in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $2,600,000 for acquisition.

GOLDEN GATE NATIONAL RECREATION AREA

Sec. 207. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

(1) in subsection 2(a), at the end thereof, add the following: "For the purposes of this Act, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works. The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10. The recreation area shall also include the lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.";

(2) strike out "map" in section 2(b) and substitute "maps";

(3) by adding "Point Montara," after "Point Diablo," in section 3(g);

(4) add the following at the end of section 3(h):

"That property known as the Pillar Point Military Reservation, under the jurisdiction of the Secretary of Defense, shall be transferred to the administrative jurisdiction of the Secretary at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.";

(5) add at the end of section 3 the following:

"(p) With reference to those lands known as the San Francisco water department property shown on map numbered NRA GG–80,000–A, the Secretary shall administer such land in accordance with the provisions of the documents entitled 'Grant of Scenic Easement', and 'Grant of Scenic and Recreation Easement', both executed on January 15, 1969, between the city and county of San Francisco and the United States, including such amendments to the subject document as may be agreed to by the affected parties subsequent to the date of enactment of this subsection. The Secretary is auhorized to seek appropriate agreements needed to establish a trail within this property and connecting with a suitable beach unit under the jurisdiction of the Secretary.";

(6) in subsection 5(b), change "seventeen" to "eighteen", change "three" to "five" and add at the end thereof: "*Provided*, That the terms of those members who have been either appointed or reappointed subsequently to January 1, 1979, shall be extended so as to expire not before June 1, 1985.";

(7) insert a comma and the phrase "San Mateo," after "Marin" in section 5(e); and

(8) in subsection 5(g), change "ten" to "twenty".

MONOCACY BATTLEFIELD

Sec. 208. (a) The Act entitled "An Act to establish a National Military Park at the Battlefield of Monocacy, Maryland approved June 21, 1934 (48 Stat. 1198) is amended by revising the first section thereof to read as follows: "That in order to commemorate the Battle of Monocacy, Maryland, and to preserve for historical purposes the breastworks, earthworks, walls, or other defenses or shelters used by the armies therein, the battlefield at Monocacy in the State of Maryland is hereby established as the Monocacy National Battlefield. The battlefield shall comprise the area within the boundary generally depicted on the map entitled 'Monocacy National Battlefield,' numbered 894/40,001A, and dated April 1980, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior."

(b) In addition to other funds available for purposes of the park referred to in subsection (a), there is authorized to be appropriated up to an additional $725,000 for acquisition of lands and interests in lands and $1,250,000 for development.

BOSTON NATIONAL PARK

SEC. 209. The Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended by inserting the following after the first sentence of subsection 2(d): "As used in this section, the Charleston Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as buildings numbered 58, 60, and 105."

PINNACLES NATIONAL MONUMENT

SEC. 210. Subsection 4(b) of the Act entitled "An Act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes," approved October 20, 1976 (90 Stat. 2692, 2694), is amended by revising the proviso to the first sentence in paragraph (2) to read as follows: *Provided, however*, That, except for not more than approximately three and thirty-five one-hundredths acres designated herein as wilderness and approximately eleven and thirteen one-hundredths acres designated herein as potential wilderness additions, which may be excluded pursuant to an exchange consummated in accordance with paragraph (3) of this subsection, lands designated as wilderness pursuant to this Act may not be excluded from the monument."

GOLDEN SPIKE NATIONAL HISTORIC SITE

SEC. 211. (a) Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain, the Golden Spike National Historic Site", approved July 30, 1965 (79 Stat. 426) is amended by striking out "Proposed Golden Spike National Historic Site, Utah, prepared by the National Park Service, Southwest Region, dated February 1963" and inserting in lieu thereof "'Boundary Map, Golden Spike National Historic Site, Utah', numbered 431–80,026, and dated December 6, 1978".

(b) Section 3 of such Act is amended by striking out "$5,422,000, as may be necessary for the acquisition of land and interests in land and for the development" and inserting in lieu thereof "$348,000 for the acquisition of land and interests in land and $5,324,000 for development".

(c) Within two years from the effective date of this section, the Secretary shall complete and submit, in writing, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a report on the feasibility of providing passenger rail service from the city of Ogden, Utah, to the Golden Spike National Historic Site. Said report shall include an assessment of existing rail facilities and rolling stock, additional development as might be required, as well as alternatives with respective costs for the operation of passenger rail service. There is hereby authorized to be appropriated not to exceed $100,000 to carry out the provisions of this subsection.

STONES RIVER NATIONAL BATTLEFIELD

SEC. 212. The Act entitled, "An Act to revise the boundary and change the name of the Stones River National Military Park, Tennessee, and for other purposes", approved April 22, 1960 (47 Stat. 82) is amended—

(1) by striking out "not to exceed seven acres" in the first section and inserting in lieu thereof "not to exceed two hundred and seventy acres", and

(2) by adding the following new section at the end thereof:

"SEC. 4. For the purpose of acquiring lands and interests in lands authorized to be acquired by action of the Ninety-sixth Congress, there is authorized to be appropriated not to exceed $4,500,000.".

HARPERS FERRY NATIONAL HISTORICAL PARK

SEC. 213. The Act of June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb) is amended by:

(1) changing "'Boundary Map, Harpers Ferry National Historical Park' numbered 385–80,021A and dated April 1979" to "'Boundary Map, Harpers Ferry National Historical Park', numbered 385–80,021B and dated April 1980" and changing "two thousand, four hundred and seventy-five acres" to "three thousand acres" in section 1; and

(2) changing "$1,600,000" to "$2,500,000" in section 4.

TITLE III—ACQUISITION AND DEVELOPMENT CEILING INCREASES

BIG THICKET NATIONAL PRESERVE

SEC. 301. Section 6 of the Act of October 11, 1974 (88 Stat. 1254; 16 U.S.C. 698), is amended by adding the following at the end thereof: "In addition to the amounts appropriated through fiscal year 1980 for the acquisition of lands and interests in lands, and in addition to any other amounts which are available through section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 460l), there is hereby authorized to be appropriated not to exceed $18,400,000 for acquisition.".

CORONADO NATIONAL MEMORIAL

SEC. 302. Section 301 of the National Parks and Recreation Act of 1978 (92 Stat. 3467, 3473) is amended by striking out "$1,410,000" in paragraph (4) and inserting in lieu thereof "$2,875,000".

HAMILTON GRANGE NATIONAL MEMORIAL

SEC. 303. Section 3 of the Joint Resolution of April 27, 1962 (76 Stat. 57) is amended by changing "$460,000" to "$960,000".

ROGER WILLIAMS NATIONAL MEMORIAL

SEC. 304. Section 4 of the Act of October 22, 1965 (79 Stat. 1069) entitled "An Act to provide for the establishment of the Roger Williams National Memorial in the city of Providence, Rhode Island, and for other purposes" is amended to read as follows:

"SEC. 4. There are hereby authorized to be appropriated not more than $146,000 for the acquisition of lands and interests in land and not more than $1,862,000 for the development of the Roger Williams National Memorial, as provided in this Act.".

TITLE IV—GENERAL ADMINISTRATIVE AUTHORITIES

AMENDMENTS TO REPORTING REQUIREMENT

SEC. 401. Section 8 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows—

(1) at the end of the second sentence, insert the following new sentence: "Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan."; and

(2) at the end of the fifth sentence, insert the following new sentence: "Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.".

LAND AND WATER CONSERVATION FUND ACT

SEC. 402. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 460l), is amended—

(1) by striking the last sentence of section 3;

(2) in subsection 4(a) by deleting the second sentence of paragraph (2) and substituting the following: "A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.";

(3) by adding at the end of section 4(a) the following new paragraph:

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal laws as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection.";

(4) by amending the last sentence of section 4(b) to read as follows: "Any Golden Age Passport permittee, or permittee under paragraph (5) of subsection (a) of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.";

(5) in section 5, change "Ninety-fifth Congress" to "Ninety-sixth Congress";

(6) in section 7(a), within the paragraph numbered (3), change "Ninety-fifth Congress, or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress" to "Ninety-sixth Congress";

(7) in section 7(c), change "January 1, 1965; and (ii) acquire by donation, purchase with donated funds," to "January 1, 1961; and (ii) acquire by donation, purchase with donated or appropriated funds,"; and

(8) by revising the last sentence of section 10 to read as follows: "The Secretary may expend not more than $1,000,000 or 1 per centum of the amount appropriated from the Fund for Federal purposes in each fiscal year, whichever is greater, to acquire such options in that year.".

TITLE V—MISCELLANEOUS PROVISIONS

REGIONAL OFFICE STUDY

SEC. 501. The National Park Service shall conduct a comprehensive cost effectiveness study of the operations of each of its nine regional offices. Such study shall include an analysis of and proposals for reducing costs without closing down the operations of any regional office. Such study shall be presented to the appropriate committee of Congress as part of the proposed fiscal year 1982 budget. The Park Service is hereby prohibited from curtailing the current level of operations in any of its regional offices until October 1, 1981.

LOWELL NATIONAL HISTORICAL PARK

SEC. 502. Title III of the Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended by adding at the end thereof the following new section:

"USE OF FUNDS

"SEC. 307. (a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this Act. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

"(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this Act.".

GATEWAY NATIONAL RECREATION AREA

SEC. 503. The Act of October 27, 1972 (86 State. 1308), is amended—

(1) in subsection 3(b) by deleting the word "constructed" and by adding at the end thereof: "To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretative materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area."; and

(2) in subsection 4(b), by changing "eleven members" in the first sentence to "fifteen members" and by changing "three members" in paragraph (5) to "seven members".

CUYAHOGA VALLEY NATIONAL RECREATION AREA

SEC. 504. (a) The Act entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area", approved December 27, 1974 (88 Stat. 1784), is amended by inserting the following new subsections at the end of section 4:

"(g) (1) Whenever any land within the recreation area is acquired for purposes of this Act, if, immediately before its acquisition—

"(A) a mobile home was located on such land,

"(B) such mobile home was owned by an individual and occupied by said individual as a principal place of residence and was so owned and occupied by said individual on May 1, 1980, and

"(C) such land was owned by a person other than the individual referred to in subparagraph (B),

the Secretary may enter into a nonassignable lease providing for the continued use by such individual of such land for such purposes. In carrying out this subsection, the Secretary shall use the authority set forth in paragraph (2) to enter into a leasing and management contract unless he determines, after consultation with residents of mobile homes within the recreation area, that the use of such authority would not be compatible with the well-being of such residents or would not protect the interests of the United States.

"(2) The Secretary may enter into a contract with any person to carry out the leasing arrangements described in paragraph (1) and to manage the land subject to such leasing arrangements. The contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interest of the United States and to protect the well-being of the residents of the land managed pursuant to such contract. Any person who, immediately prior to its acquisition by the Secretary, owned land to be leased by the Secretary under this subsection shall be entitled to a right of first refusal to enter into a contract under this paragraph. If such person does not enter into such a contract with the Secretary, the Secretary may enter into such a contract with any individual described in paragraph (1) (B). If no such individual enters into such a contract with the Secretary, the Secretary may enter into such a contract with any other appropriate person.

"(3) Whenever the Secretary has entered into a contract described in paragraph (2), he may provide, under such contract, for the leasing of land described in paragraph (1) to individuals other than the individuals referred to in paragraph (1) (B), but no such lease may be entered into under this paragraph unless the Secretary has first offered to lease such land to the individuals referred to in paragraph (1) (B).

"(4) A lease entered into under this subsection may provide for the use by the lessee of the land subject to such lease for any specified period of time acceptable to the lessee, but no lease entered into by the Secretary under this subsection may permit the use of such land by a lessee beyond the date 15 years after the original effective date of this Act.

"(5) Any lease entered into under this subsection may require the lessee to assume all or a portion of the cost of maintenance of the leased premises and the utility services associated with such premises. The Secretary shall have no responsibility to install additional facilities to ensure that mobile homes remaining within the recreation area pursuant to this subsection comply with any Federal or State law relating to utilities or water quality.

"(6) The lessee of any property leased under this subsection shall be permitted, pursuant to such lease, to make reasonable improvements to such property.

"(7) In managing any land leased under this subsection, and before entering into any management contract under paragraph (2), the Secretary shall take into account the views of the occupants of the mobile homes to which this subsection applies.

"(8) The Secretary may enter into leases under this subsection without regard to any requirements (including requirements relating to competitive bidding) under any law (other than this subsection) or rule of law applicable to the leasing of Federal property. The Secretary may enter into a contract under paragraph (2) with any person who, immediately prior to its acquisition by the Secretary, owned land to be leased by the Secretary under this subsection without regard to any requirements (including requirements relating to competitive bidding) under any law (other than this subsection) or rule of law applicable to contracts with the United States.".

(b) Section 2 of such Act is amended by adding the following new subsection at the end thereof:

"(h) Following the acquisition by the Secretary of any land on which there is located a mobile home described in section 4(g) (1), if the owner-occupant of such mobile home referred to in section 4(g) (1) (B) elects to move to any dwelling outside the recreation area before the expiration of the 15-year period beginning on the original effective date of this Act, such owner-occupant shall be deemed to be eligible for additional payments under section 203 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in the same manner and to the same extent as if such mobile home were real property acquired by the Secretary. For purposes of applying the provisions of such section 203, 'a comparable replacement dwelling' shall include a mobile home or any other dwelling of comparable value to the mobile home located on the land from which such owner-occupant elects to move.".

(c) The first sentence of section 4(f) of such Act is amended by inserting "or at the request of the Cuyahoga Valley Communities Council" before the words "assist and consult" and by striking out "in establishing zoning laws" and inserting in lieu thereof "or with the appropriate members or officers of the Cuyahoga Valley Communities Council in establishing or coordinating zoning laws".

(d) Section 6(a) of such Act is amended by adding the following at the end thereof: "Effective October 1, 1981, in addition to other amounts authorized to be appropriated for such purposes (including amounts authorized under Public Law 96-203 or under any other provision of law), there is further authorized $12,000,000 to be appropriated for the acquisition of lands and interests in lands.".

MOORES CREEK NATIONAL BATTLEFIELD

SEC. 505. The area formerly known as "Moores Creek National Military Park", established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the "Moores Creek National Battlefield".

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

SEC. 506. Section 201(e) (1) of the Act entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes", approved November 10, 1978 (92 Stat. 3635), is amended—

(1) by changing "seven members" in the first sentence to "eleven members", and

(2) by changing "two members" in paragraph (F) to "six members".

FOLGER LIBRARY, CORCORAN GALLERY, AND ARENA STAGE

SEC. 507. Pursuant to section 2(e) of the Act of August 21, 1935 (49 Stat. 666), the Secretary may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art and the Arena Stage. No assistance shall be provided to the Arena Stage unless and until it is entered in the National Register of Historic Places. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

KEITH SEBELIUS LAKE

SEC. 508. The water impounded by the Norton Dam, a component of the Almena Unit of the Pick-Sloan Missouri River Basin project, in the State of Kansas, constructed under the general authority of the Act of July 24, 1946 (60 Stat. 641 et seq.) is hereby designated and hereafter shall be known as the "Keith Sebelius Lake". Any law, regulation, record, map, or other document of the United States referring to the waters impounded by the Norton Dam unit of this project shall be held to refer to the "Keith Sebelius Lake", and any future regulations, records, maps, or other documents of the United States, in reference to these waters, shall bear the name "Keith Sebelius Lake".

OVERMOUNTAIN VICTORY TRAIL

SEC. 509. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of section 5(a):

"(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abingdon Virginia to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morgantown, North Carolina); from the mustering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain South Carolina as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled "Overmountain Victory Trail" dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

SEC. 510. The first two sections of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89–708), are amended to read as follows: "That, notwithstanding any other provision of law, the Secretary of the Interior shall acquire on behalf of the United States the real property described in section 3 of this Act, known as the Ansley Wilcox House, which real property is of national historic significance as the place in which Theodore Roosevelt took the oath of office as President of the United States on September 14, 1901, following the assassination of President William McKinley. Such property is hereby designated as the Theodore Roosevelt Inaugural National Historic Site.

"SEC. 2. (a) Notwithstanding any other provision of law, the property referred to in the first section of this Act shall be Administered by the Secretary of the Interior, acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the national park system, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the provisions of the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiques of national significance and for other purposes', approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

"(b) The Secretary of the Interior shall enter into cooperative agreements with the Theodore Roosevelt Inaugural Site Foundation or other qualified public or private entities for the operation, maintenance, management, development, and interpretation of the Theodore Roosevelt Inaugural National Historic Site.

"(c) Notwithstanding any other provision of law, the Department of the Interior share in any fiscal year of the annual operating costs of the Theodore Roosevelt Inaugural National Historic Site shall not exceed two-thirds of such operating cost.".

ROGERS C. B. MORTON RECOGNITION

SEC. 511. The Secretary is authorized to commemorate at Assateague Island National Seashore, Maryland, the contributions of Rogers C. B. Morton, as a Member of Congress, and later as Secretary of the Interior, toward the development of the Seashore and to conservation in general. Such commemoration shall be in the form of an appropriate plaque or monument, suitably located, or may subsequently take the form of dedication of a suitable structure. Within one year of the effective date of this section, the Secretary shall inform, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, as to actions he has taken to implement the provisions of this section.

FALLS OF OHIO STUDY

SEC. 512. The Secretary shall conduct a study to determine appropriate measures to protect and interpret for the benefit and education of the public the Falls of Ohio, including a three-hundred-million-year-old fossilized coral reef which is exposed along the Ohio River in the vicinity of Louisville, Kentucky, and Jeffersonville, Indiana. The Secretary shall, in the course of the study, consult with and seek the advice of, appropriate scientific organizations and representatives of interested municipal, State, and other Federal agencies. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of the study, including the estimated costs of alternative measures that may be undertaken to protect and interpret the resources of the area for the public, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate together with his recommendations for such further legislation as may be appropriate.

UPPER MISSOURI RIVER

SEC. 513. Section 3(a) of the Wild and Scenic Rivers Act is amended in paragraph (22) by changing "which may be established" in the eighth sentence to "which shall be established".

METROPOLITAN AREA RIVER CORRIDOR COMMISSION

SEC. 514. (a) The Congress finds that the Mississippi, Saint Croix, and Minnesota River corridors that traverse the metropolitan area of Saint Paul and Minneapolis—

(1) have played important roles in the development of the region;

(2) represent a significant historical resource, worthy of preservation as an educational benefit for present and future generations;

(3) represent a significant recreational resource, which would benefit a large population in the immediate vicinity; and

(4) are a continuing vital economic resource for the area.

(b) There is hereby established the Metropolitan Area River Corridor Commission (hereinafter referred to as the "Commission") to consider the resources of the Mississippi, Saint Croix, and Minnesota River corridors in the Saint Paul and Minneapolis metropolitan area and to make recommendations to the President and to Congress as to the policy which would maximize the educational and recreational benefits of the corridor in a manner compatible, as far as practicable, with the economic utilization of the resource.

(c) The Commission shall consist of 11 members, as follows:

(1) The Secretary, who shall serve as Chairman of the Commission.

(2) The Secretaries of Housing and Urban Development, Commerce, Transportation, and the Army, or their representatives.

(3) Six remaining members appointed by the Secretary.

The Secretary shall consider the recommendations of the Governor, the Metropolitan Council, and the Chairman of the Mississippi River Basin Commission for these positions and shall seek to include on the Commission representatives of the present and potential users of the resources of the river.

(d) All members of the Commission shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

(e) Financial and administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided for the Commission by the General Services Administration, for which payments shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of the General Services Administration. The regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds shall apply to appropriations for the Commission. The Commission shall not be required to prescribe such regulations.

(f) The Commission shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties without regard to the provisions of the civil service laws and the Classification Act of 1949.

(g) The Commission may also procure, without regard to the civil service laws and the Classification Act of 1949, temporary and intermittent services to the same extent as is authorized for the executive departments by section 15 of the Administrative Expenses Act of 1946, but at rates not to exceed $100 per diem for individuals.

(h) The members of the Commission specified in paragraph (1) and paragraph (2) of subsection (c) shall provide the Commission, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Commission to carry out its duties to the extent that such facilities and services are requested by the Commission and are otherwise available for that purpose. To the extent of available appropriations, the Commission may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. Upon the termination of the Commission, all property, personal and real and unexpended funds shall be transferred to the Secretary.

(i) The Commission shall submit a plan to the President and the Congress within two complete fiscal years after the effective date of this Act. This plan shall contain, but not be limited to, findings with respect to the historic, cultural, commercial, educational, recreational, scenic, and natural values of the resources involved and recommendations for the preservation and utilization of those resources.

(j) In the development of the plan, the Commission shall, to the extent practicable—

(1) review and utilize existing studies on the resource;

(2) consider existing uses and development of the resource; and

(3) encourage public participation.

(k) There are hereby authorized to be appropriated $300,000 for the preparation of the plan authorized by this section.

GERALD R. FORD STUDY

SEC. 515. The Secretary is authorized to review and study sites and structures associated with the life and work of former President Gerald R. Ford, and to submit in accordance with the provisions of section 120 of Public Law 96–199, a report of his study, together with his recommendation as to the most appropriate site for designation as a national historic site in commemoration of former President Ford. The Secretary shall, in conducting his review and formulating his recommendation under this section, consult with, and give due regard to the advice and recommendations of, former President Ford.

GEORGE MEANY STUDY

SEC. 516. In order to provide for the appropriate commemoration of George Meany, past president of the American Federation of Labor and Congress of Industrial Organizations, and his contributions on behalf of the working people of the United States, the Secretary is authorized to investigate sites associated with the life and work of George Meany and to submit, within two complete fiscal years from the effective date of this Act, a report thereon to the Committee on

Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall consult with representatives of the family of George Meany and the President of the American Federation of Labor and Congress of Industrial Relations as a part of his investigation.

MAN IN SPACE HISTORICAL STUDY

SEC. 517. The Secretary shall conduct, in consultation with the National Aeronautics and Space Administration, the Department of Defense, and any other entities considered by the Secretary to be appropriate, a study of locations and events associated with the historical theme of Man in Space. The purpose of such study shall be to identify the possible locations, components, and features of a new unit of the national park system commemorative to this theme, with special emphasis to be placed on the internationally historic event of the first human contact with the surface of the moon. The study shall investigate practical methodologies to permanently safeguard from change the locations, structures, and at least symbolic instrumentation features associated with this theme, and display and interpret these for visitor appreciation. Governmental entities controlling these locations, structures, and features are hereby requested to preserve them from destruction or change during the study and congressional review period insofar as is possible. A comprehensive report derived from this study, including potential action alternatives, shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate no later than one complete fiscal year after the effective date of this section.

BENJAMIN FRANKLIN NATIONAL MEMORIAL

SEC. 518. The joint resolution entitled "Joint Resolution to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pennsylvania, as the Benjamin Franklin National Memorial", approved October 25, 1972 (86 Stat. 1164), is amended by adding at the end the following new section:

"SEC. 3. There is authorized to be appropriated to the Secretary of the Interior the sum of $350,000 to assist the Franklin Institute of Philadelphia, Pennsylvania, in renovating and refurbishing the Benjamin Franklin National Memorial.".

LIMITATION ON AUTHORIZATIONS

SEC. 519. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment to the title to S. 2363.

The Clerk read as follows:

Title amendment offered by Mr. PHILLIP BURTON: Amend the title so as to read: "To provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorization for land acquisition and development; and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7018) to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, as amended.

The Clerk read as follows:

H.R. 7018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SCIENTIFIC ADVISORY PANEL

SECTION 1. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is amended by—

(1) inserting in subsection (d) immediately after the fifth sentence the following new sentence: "The subpanels may be composed of scientists other than members of the Scientific Advisory Panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the Scientific Advisory Panel."; and

(2) adding at the end thereof the following sentence: "Whenever the Administrator has exercised his authority under section 6 (c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly submit to the Scientific Advisory Panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide."

PEER REVIEW

SEC. 2. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new subsection (e):

"(e) PEER REVIEW.—The Administrator shall promulgate written procedures providing for peer review with respect to the design, protocols and conduct of major scientific studies to be conducted pursuant to this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual pursuant to grant, contract, or cooperative agreement from or with the Environmental Protection Agency. Such written procedures shall also provide for peer review, utilizing the Scientific Advisory Panel or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies conducted as noted above and relied upon by the Administrator with respect to actions he may take relating to the change in classification, suspension or cancellation of a pesticide: *Provided*, That whenever the Administrator determines that he cannot await the conduct of the peer review of the results of any such scientific study and he exercises his authority under section 6(c) of this Act to immediately sustain the registration of any pesticide because of an imminent hazard, he shall promptly thereafter employ the peer review procedures as provided in this sentence. The evaluations and relevant documentation constituting the peer review which relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term "peer review" shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.".

(b) The provisions of this section shall be effective upon publication of final written procedures in the Federal Register, but in no event shall such provision become effective later than one year after the date of enactment of this provision.

SEC. 3. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by adding at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary, but not in excess of $72,160,000, and for the period beginning October 1, 1980, and ending September 30, 1981, such sums as may be necessary, but not in excess of $77,500,000.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. HOPKINS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7018, as amended by the Committee on Agriculture.

H.R. 7018, as amended, extends the authorization for appropriations for administration of FIFRA—the Federal Insecticide, Fungicide, and Rodenticide Act—1 year until September 30, 1981. The bill sets a ceiling of $77,500,000 for this purpose.

This amount was designed to provide $49,343,000 for abatement and control; $15,142,000 for enforcement; $9,436,000 for FIFRA research and development; and $2,000,000 for Silvex disposal under section 19 of the act. The Committee on Agriculture and the Committee on Science and Technology share jurisdiction over environmental research under the pesticide program. The figure of $9.436 million included for research and development is the amount requested by the administration. The Committee on Science and Technology has ordered reported H.R. 7099, a measure authorizing appropriations for environmental research, development, and demonstrations for fiscal 1981. That measure authorizes an identical amount for research and development in the pesticides area.

In addition, H.R. 7018 effectively "catches up" with the appropriation act by providing an authorization of $72,160,000 for the current fiscal year. An earlier bill (S. 717), which included an authorization for appropriations for the current fiscal year, in addition to a number of other provisions, remains in conference because of the inability of the conferees to resolve an item in disagreement. The level authorized in H.R. 7018 represents the amount appropriated by Congress for the current fiscal year in Public Law 96–103.

The bill as reported contains amendments offered by the distinguished ranking minority member, Mr. WAMPLER, and by Mr. FITHIAN, of Indiana, which strengthens the procedures relating to scientific studies performed by EPA to improve the scientific inputs in EPA's decisionmaking process under the act.

FIFRA currently provides for a scientific advisory panel to advise the agency on decisions relating to the cancellation of the registration of a pesticide or a change in its classification and on proposed and final forms of regulations which EPA intends to issue. The bill as reported contains language offered by Mr. FITHIAN clarifying the authority of the Scientific Advisory Panel with respect to the creation of temporary subpanels on specific projects. The amendment reaffirms that these subpanels may include scientists other than appointed members of the Scientific Advisory Panel itself.

Additional amendments were adopted on motion of Mr. WAMPLER. One would require the Administrator to submit for review by the Scientific Advisory Panel data relied upon by the agency in an emergency suspension action. It is the intent of the amendment that the Scientific Advisory Panel should be provided this information as soon as practical; however, the amendment does not limit the Administrator's authority under the act to take action under emergency suspension provisions whenever he deems it necessary to protect human health and safety.

The bill also directs the Administrator to promulgate written procedures providing for peer review of the design, protocols and conduct of major scientific studies conducted pursuant to the FIFRA. Finally, the Agency is directed to utilize the Scientific Advisory Panel or appropriate experts selected by the Administrator from a list nominated by the Scientific Advisory Panel in conducting peer review of the results of any major scientific studies relied upon in taking action to change the classification of, suspend, or cancel the use or uses of a pesticide.

There is a proviso in this section which allows the Administrator to proceed with an emergency suspension action without completion of this peer review; however, the amendment specifically requires that this peer review be initiated promptly after such an order is issued.

These amendments are an outgrowth of a study done by the General Accounting Office of the procedures employed by the Environmental Protection Agency in issuing the emergency suspension order affecting the herbicide, 2,4,5-T which has important uses in forestry and range management. The General Accounting Office had testified before the Subcommittee on Department Investigations, Oversight, and Research that the Environmental Protection Agency did not have clearly defined peer review procedures. Peer review will help insure that scientific studies are properly designed and that conclusions reached are concurred in by the independent and objective scientists.

Agency decisions are generally subjected to some form of peer review. The committee is convinced, however, that it is vitally important for these procedures to be clearly defined in writing so that the Agency will, in fact, proceed only on the basis of validated scientific information. As a consequence of this action, the committee believes that the Agency will be able to avoid in the future extensive public controversy of the nature that surrounded the emergency suspension of the herbicide 2,4,5-T.

These amendments do much to strengthen the scientific procedures under the act and provide added public confidence in the soundness of scientific decisions reached by the Agency.

Mr. Speaker, I urge the Members to join me in support of this measure.

Mr. Speaker, I might reemphasize that the bill has a provision for peer review of scientific information relied upon by EPA. That was added by the gentleman from Virginia (Mr. WAMPLER). The bill before us today is, simply, a straightforward authorization.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. FITHIAN), who is one of the authors of the peer review amendment.

Mr. FITHIAN. Mr. Speaker, I thank the gentleman for yielding me these 2 minutes.

I want to compliment the gentleman for steering this through the committee and now through the House and congratulate the gentleman for avoiding most of the pitfalls that usually come up under FIFRA.

I take these 2 minutes, Mr. Speaker, to alert the House to the fact that one of the continuing problems in the registration of pesticides which has been voiced by each and every industry representative who appeared before our committee, that is the requirement that causes them to cite all references from the EPA, is not addressed in this bill, through no fault of the chairman nor the gentleman now speaking.

We made an honest effort to get an amendment together which was acceptable to both the administration and the industry and thought that we had that done. At the last minute, the coalition within industry pulled apart; so I must regretfully report to the House that for another year industry will be faced with a very difficult and continuingly difficult situation of having to go through the cite-all process.

I make one word of explanation here. It is necessary, in my judgment, for EPA to pursue its present procedures because of the rather incessant attacks in the courts on the Government under this bill. Therefore, as a protection of the Government and the public trust and the public taxpayers, it has been essential for them to continue to require the cite-all provision to prevail.

I will use this opportunity to advise my friends, and there are many in industry, that the quick way to solve this is to come to agreement within industry on the amendment which industry principally drafted and which I was prepared to offer in the committee, but at the last minute, the industrial coalition, the coalition in industry, pulled apart.

I want the record to show that that was the transaction of our subcommittee and the committee this year and to point out that 1 year from now we will be back dealing with this bill. We hope that by that time industry has come together in an agreement which everyone can live with. The alternative is a continuingly frustrating experience at registering pesticides.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Indiana is eminently correct.

I would like to again emphasize that it was through no lack of effort by the subcommittee or the agency that some determination was not made concerning this cite-all problem. The gentleman mentioned, though, that we are committed to hold oversight hearings on this legislation early in the next session; so, hopefully then we might be able to get a concensus to alleviate this problem.

Mr. HOPKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7018. This bill extends authorization for the Federal Insecticide, Fungicide, and Rodenticide Act for 1 year through September 30, 1981, in the amount of $77,500,000. It further provides authorization for funding for the current year which ends September 30, 1980, in the amount of $72,160,000. This latter authorization for funding serves as a "catch-up" measure in that the bill passed last year remains in conference due to the inability of conferees to resolve certain differences.

Several procedural amendments which are of importance have been included in this legislation and should be noted. One requires the Administrator to submit for review by the Scientific Advisory Panel the data relied upon by EPA in an emergency suspension action. Another directs the Administrator to promulgate written procedures providing for peer review of the design, protocols, and conduct of major scientific studies conducted pursuant to FIFRA. Still another amendment clarifies the authority for the Scientific Advisory Panel to create temporary subpanels and to include scientists other than panel members if the need arises when scientific studies are being evaluated.

During hearings on this legislation, it soon became apparent that a number of problems have developed or continued since the last major revision of the Federal Insecticide, Fungicide, and Rodenticide Act in 1978. A number of witnesses testified that they could support an extension for 1 year but they expected that if the problems could not be resolved satisfactorily, then major revisions might be required next year. Chairman de la Garza indicated that more extensive hearings would be held later if circumstances so warranted. Based on this assurance, I urge adoption of this legislation.

□ 1300

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. Wampler).

Mr. WAMPLER. Mr. Speaker, as ranking minority member of the House Committee on Agriculture, I appear today in support of the bill H.R. 7018 to extend the Federal Insecticide, Fungicide and Rodenticide Act, as amended, for 1 year.

This legislation extends the authority for funding of Federal pesdicide programs for 1 year through September 30, 1981. It provides for $77,500,000 in funding authority for the coming fiscal year. Of this amount $49,343,000 is for abatement and control; $15,142,000 for enforcement; $9,436,000 for FIFRA research and development; and $2,000,000 for Silvex disposal under section 19 of the act. Additionally, this legislation provides $72,160,000 in authorizations for the current fiscal year as a catchup measure. An earlier bill, S. 717, containing this authorization and other amendments unacceptable to the other body remains unresolved in conference. The funds authorized in this bill for the current fiscal year have already been appropriated by the Congress for the current fiscal year in Public Law 96-103.

H.R. 7018 also contains language requiring the Administrator in an emergency suspension action to subsequently submit all data relied upon by the Agency to such action to the Scientific Advisory Panel for review. Current law allows the Administrator to completely bypass such reviews in emergency actions.

Two amendments were adopted by the full committee. The first of these directed the Administrator to promulgate written procedures, not regulations, providing for peer review of the design, protocols, and conduct of major studies conducted pursuant to the FIFRA. The amendment also requires the use of the Scientific Advisory Panel or appropriate experts nominated by the panel and selected by the Administrator to conduct a review of the results of such major studies. This amendment was the outgrowth of a study done by the General Accounting Office showing that EPA did not have clearly defined procedures for reviewing the design, protocols, conduct, and results of the studies which it was using as basic data in its actions to deny registration or to suspend or to cancel the uses of pesticides under FIFRA.

The second amendment clarifies the authority of the Scientific Advisory Panel to create temporary subpanels on specific projects and reaffirms the composition of these subpanels to include scientists other than the panel members, thus allowing the panel to obtain advice from experts highly specialized on the subject in question.

These amendments added by the committee to H.R. 7018 address the necessity for careful review of the scientific basis for the Agency's decisions in the pesticide area.

For some of the Members of this House, it may seem that an inordinate amount of time has been spent on FIFRA over the past few years. During the years 1977 and 1978, numerous hearings were held to try and resolve the conflicts that developed after enactment of the Federal Environmental Pesticide Control Act of 1972 and amendments thereto in 1975. The Federal Pesticide Act of 1978 was designed to cut the redtape in registration and reregistration of pesticides and resolve those issues that practically immobilized the Environmental Protection Agency pesticide program.

Deliberate action by the committee in the 1978 act extended the authorization for appropriations for only 1 year through September 30, 1979. For the very same reasoning—keeping this agency on a continuing oversight program—the Committee on Agriculture recommended a similar course on the bill, S. 717, now languishing in conference and this legislation extends authorization for appropriation only through September 30, 1981. The Environmental Protection Agency is, I believe, responding affirmatively to our committee's oversight activity, but the need continues to exercise it.

During the hearings held on this legislation, several witnesses indicated that problems were still being experienced with EPA's implementation of the 1978 amendments, but all agreed that an extension of 1 year might be helpful in allowing EPA additional time for implementation of the amendments passed in 1978. The witnesses were assured that more extensive oversight hearings would be forthcoming if warranted, and industry concern with EPA's "cite-all" regulations relating to compensation for the use of data leave little doubt that hearings on fiscal year 1982 funding authorizations will address this issue.

I urge adoption of this legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Speaker, this is not just a simple authorization extension. I think the Members need to know that.

For that reason I am going to ask and urge my colleagues to vote against this bill on suspension so that it will have to go to the Rules Committee and receive a rule and then be open for amendment. Let me explain what the situation is.

The subject matter of this bill was passed by the House last year. The bill went to conference. The bill dealing with the extension of FIFRA is still today in conference. The conferees at any time could get together and report an acceptable compromise back to this House and we could vote on the extension of FIFRA.

But what is the reason that this bill is now being used as an end run around the Members of the House so that no amendments can be offered? Here is the reason. When the original FIFRA bill went through the Agriculture Committee there was an amendment added to it which gave the Congress the right to review and, if necessary, veto regulations issued by the Environmental Protection Agency under FIFRA. When that issue came to a vote on the floor of this House it was passed by an overwhelming better than 2-to-1 majority, 278 to 121. That is the point of the dispute between the House and the other body today in the conference.

I simply suggest to my colleagues that the Members of the House, having spoken in such a loud and convincing way, ought to have the right to make a decision whether that provision providing for a legislative veto should be included in this FIFRA legislation so that the will of the House can be worked.

I think the bill is a good bill. I think the constructive amendment of the gentleman from Virginia is a major improvement in the bill, and I am not even sure that it would be necessary if the bill comes back to the House to offer a legislative veto amendment.

But it seems to me in light of the fact that the FIFRA authorization is today in conference, in light of the fact that the House had added to that bill, by an overwhelming vote, a legislative veto, it is only reasonable and fair that the Members of the House should have that opportunity again if it is so determined, and for that reason I would urge a "no" vote on this bill under suspension so the House will have an opportunity to work its will when it comes back to the floor with an open rule.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, first let me say the gentleman is correct that a similar bill, H.R. 3546, extending funding authority through the current fiscal year, passed the House last year and was then sent to conference. It has been through no lack of effort on the part of the House that our colleagues from the other body have refused to reconvene the conference and work on the legislation. Therefore, this is the only alternative that we have to extend funding authority through the upcoming fiscal year.

I would like to inform the gentleman from Georgia (Mr. Levitas) and my colleagues in the House that this is not an ordinary situation wherein a legislative veto may be necessary. I have tried to explain this before, with some lack of success, I might add. But since before the gentleman from Georgia came to Congress, this Member was advocating that we do not authorize FIFRA for more than 1 year because of problems with the Agency's implementation of the law.

Also this act provides, unlike any other, I dare say, that the regulations implementing FIFRA must be be sent to the Secretary of Agriculture, an independent scientific advisory panel, and to the Agricultural Committees of both the House and Senate.

We have seen an almost 180-degree turn in the regulatory process in FIFRA. I would tell my colleagues that the avenue suggested by the gentleman from Georgia is not the only way to achieve oversight and a responsive agency. I agree with the gentleman's intent and have voted with him in the past. But we should realize in this instance that the Agriculture Committee has already accomplished what the gentleman from Georgia seeks through requiring that proposed and final regulations be submitted prior to their promulgation to the Secretary of Agriculture, an independent scientific advisory panel, and to the authorizing committees of Congress. This, together with the 1-year authorization, is sufficient, in my view, to achieve the intent of the congressional veto provisions.

I do not believe, under these procedures, that the Agency would dare pass regulations that would be opposed by a majority of the Members of the House.

The fact is that we are in agreement with the gentleman from Georgia.

□ 1310

I contend the gentleman's intent is being carried out in existing law. There are different ways to achieve the particular end in question, and we should not be locked into any one particular way.

Mr. Speaker, we are in agreement, and would support the gentleman in those instances where support is appropriate. But we have the Agency on only a 1-year authorization.

This used to be called the de la Garza amendment because I said I would object to anything that would extend the program beyond 1 year. We think we have achieved the end result sought by the gentleman from Georgia. We have worked together to this end. Perhaps we do not have the gentleman's precise language on legislative veto, but we have carried out the intent of the House.

Mr. HOPKINS. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would say I agree with my fellow member of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA), I certainly support the intent of the one-House veto, but I believe our farmers' needs are too overriding to allow the bill to fail.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in opposition to H.R. 7018, the legislation before us to provide for a 1-year extension of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

My opposition to this legislation centers on the fact that the bill contains no provision for a legislative veto of EPA pesticide regulations. You will recall that the House adopted a one-House veto provision by a vote of 287 to 121 just last November. I think we should send the bill back today and bring it up with a rule so it can be amended with a one-House veto provision.

The operation of this law is so important to the billion dollar farm economy of our State of Nebraska. Last year Nebraska ranked first in the production of Great Northern beans, first in popcorn production; second in sorghum silage production; third in corn for grain production; fourth in pinto bean production; fifth in dry edible bean production; fifth in winter wheat production; fifth in rye production; sixth in corn silage production; sixth in alfalfa hay production; sixth in sugar beet production; seventh in oats production; and 13th in soybean production.

All of these crops must be brought to maturity and marketed, not only for the benefit of our farm-oriented economy but for the contribution they make to the world food supply. They must be protected during the growing season against the ravages of noxious weeds and harmful pests. Our farmers and ranchers must have safe, effective chemicals to deal with these threats to maximum production.

Over the past 2 or 3 years, Nebraska has suffered from some of the worst infestations of grasshoppers in our history. The spraying program was not always as effective as it should have been and our farmers and ranchers suffered millions of dollars of losses in damages to range and cropland. We are keeping our fingers crossed on what appears to be a less damaging infestation this year.

Because of the Environmental Protection Agency's role in certifying the chemicals and the applicators, we have gone through some painful controversies in the past and they have not always been resolved to the benefit of the State of Nebraska and the individual farmers and ranchers.

For this reason, I agree with the sponsors of this legislation that extensions on a 1-year basis are preferable because it is necessary to update procedures and resolve new problems. I especially commend the gentleman from Virginia (Mr. WAMPLER) for his amendment to require the input of additional scientists to evaluate the studies upon which the Administrator of the Environmental Protection Agency relies. Another section of that amendment calls for the EPA Administrator to adopt written peer review procedures both at the time a scientific study is designed and after the results are in from the study.

These changes will strengthen the act and improve the role of EPA under the provisions of the law. I urge my colleagues to join in opposition to H.R. 7018 as reported by the Committee on Agriculture. The extension of FIFRA has definitely been improved by the inclusion of the language of the Wampler amendment, but more changes need to be made.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 7018, as amended.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

IRC AMENDMENTS FOR STUDENT LOAN DEFAULTERS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4155 to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on student loans made under the Migration and Refugee Assistance Act of 1962, as amended.

The Clerk read as follows:

H.R. 4155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

"(i) made under part B or E of title IV of the Higher Education Act of 1965, or

"(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.".

"(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

"(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

"(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans."

(b) The first sentence of section 7213(a)(2) of such Code (relating to unauthorized disclosure of information by State and other employees) is amended to read as follows: "It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (1)(6), or (m)(4) of section 6103."

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4155.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 4155 authorizes the Secretary of the Treasury to disclose to the Secretary of Education the mailing addresses of taxpayers who have defaulted on certain student loans. It expands present law, which only allows disclosure of mailing addresses of taxpayers who have defaulted under the national direct student loan program, to include taxpayers who have defaulted on student loans made under the Migration and Refugee Assistance Act and the guaranteed student loan program.

I believe this bill provides an important tool to remedy what has become an increasingly significant problem. A growing number of recipients of Federal student loans are defaulting on those loans merely by changing locations. The Department of Education is left with the difficult task of tracing these individuals. H.R. 4155 will give the Federal Government a better chance of recovering moneys owed by these students.

I would like to point out, Mr. Speaker, that only the mailing addresses of taxpayers in default would be subject to disclosure under this bill. Moreover, the confidential tax return information furnished to the Secretary would be protected by the same safeguards against unauthorized use which apply generally. Thus, the overall privacy of taxpayer information should be adequately preserved.

I urge the prompt enactment of this legislation.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4155 which amends certain of the disclosure of information provisions in the Internal Revenue Code of 1954.

Currently the Secretary of the Treasury is authorized to disclose to the Secretary of Education the mailing address of individuals who have defaulted on certain loans made under the Higher Education Act of 1965. Disclosure is not authorized in the case of individuals who have defaulted on loans made under the Cuban loan program or the guaranteed student loan program.

To provide a more effective means of collecting loans made under the Cuban loan program or the guaranteed student loan program the bill expands the current disclosure rules to allow the Secretary of the Treasury to disclose to the Secretary of Education the mailing address of any individual who has defaulted on a loan made under either of these programs.

I urge the bill's adoption.

Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, any step that is designed to increase collections of defaulted student loans has got to be movement in the right direction, and therefore worthy of support.

I do not know how many of you are aware of the fact that the default problem in the guaranteed student loan program is actually getting worse rather than better, and this in spite of all the hullabalou on the part of the Carter administration about how they were really going to get at this problem.

Last year, the estimated default rate was 13.7 percent for 1980. Now it is up to 14.9 percent, and is estimated to go up to 15.1 percent in 1981. Last year they told us they were going to collect $62 million in defaulted loans in 1980. This year, they tell us it is only going to be $44 million.

You will recall the big deal made about hiring private collection agencies. They originally said that these agencies would collect $12.2 million in 1980. Now, they are projecting collections of only $2.4 million.

So it is very evident that the job is not being adequately done in this area, and thus anything that will improve the prospects in this regard has to be a plus. I should caution, however, about expecting too much from the action contained in this bill. The IRS has had the authority under present law to make available the mailing addresses under the direct student loan program. The default rate under that program is now in excess of 18 percent, with $800 million in total loans in default.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of this bill. Increasingly, the Congress is going to have to provide for greater cooperation between the Internal Revenue Service and other Federal agencies and departments. A March 1979 GAO report revealed that the Government has written off as uncollectable a startling amount of money under a number of Government programs. In fiscal 1978 alone, the Government wrote off more than $400 million as uncollectable because the cost of collection by conventional methods was deemed to exceed the amounts that might be recovered. More than $100 million of this total fell under the aegis of the Department of Health, Education, and Welfare which, of course, includes the student loans programs, AFDC and others. And these figures do not include payments that are still considered delinquent rather than uncollectable. Currently, there is a total of more than $2 billion in student loans in default at the Office of Education.

Clearly, Congress has a stake in devising methods to collect these outstandings; there is a lot of money out there. This legislation before us today, authorizing the Treasury Department to disclose the mailing addresses of taxpayers who have defaulted on student loans under the Cuban loan program, is helpful, but I think we will need to go further. The same GAO report to which I earlier made reference suggested that we might collect many delinquent debts owed the Federal Government by keeping Federal tax refunds as offsets. The report estimated, based on the results of a test conducted by the IRS, that as much as 36 percent of Government uncollectables could be so collected. Current law provides that, under certain circumstances, certain debts can be referred to the Treasury Department for collection under this procedure. But we need to change the law in several small ways to provide for a greater interface between Treasury, the Office of Education, the food stamp program, and State child support enforcement programs. Of course, as we move in this direction, we must be careful to insure that the rights of citizens are protected, that due process is not shortcut. But there is a legitimate concern that delinquent debts should be collected, and can be collected fairly, using tax refunds as offsets. The average American who has consistently paid his or her taxes is interested in seeing this idea implemented, especially in a time of increasing fiscal restraints and limitations. The mother whose husband has left home and is not sending child support payments has a stake in this approach. The food stamp program, whose costs are snowballing, now topping $9 billion annually, has a stake in this. The Office of Education, whose delinquent loans are substantial, as we have seen, has an interest in this.

Accordingly, I am in the process of drafting legislation which would make possible this greater cooperation between the Internal Revenue Service and the food stamp program, the Office of Education and State child support programs. This legislation will provide for the recoupment, so-called, of delinquent loans, excess food stamp benefits given to certain higher income food stamp recipients and delinquent child support payments. This concept looks forward to the way in which many of our Government programs will have to be managed in the future, and I hope the Ways and Means Committee and the House as a whole will give it serious consideration when it is introduced.

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Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I am pleased to support the passage of H.R. 4155, a bill which I introduced to amend the Internal Revenue Code to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on student loans made under the Cuban student loan program.

Passage of this legislation would give the Department of Education the necessary authority to begin to collect the more than $19 million now in default in this loan program. Within a $615 billion budget, $19 million does not seem like much money. But all of us are keenly aware of programs that could be immeasurably helped by that amount of money; $19 million, targeted in a few of my counties where unemployment rests at 25 percent, could provide considerable relief for people truly in need.

By way of background, Mr. Speaker, the Cuban loan pogram was authorized by the Migration and Refugee Assistance Act of 1962. Over 16,000 individuals have participated in the program, borrowing over $34 million, between 1962 and 1977 when the program, for all intents and purposes, terminated.

During the life of the program, the repayment record of the borrowers was very good. However, in recent years, the default rate has skyrocketed to an incredible 52.4 percent—nearly $19 million, including interest.

When I made inquiries about this, I learned that there were two reasons for the high default rate: Inadequate staffing and restrictions on the use of mailing addresses obtained through IRS. Believe it or not, Mr. Speaker, the full-time program staff of the Cuban loan program now consists of a single clerical worker assigned to administer accounts. Because of this staffing situation, if contact with a borrower is lost, it is unlikely to be reestablished. Of course, if a student does not receive a bill, he or she is not likely to pay it. Obviously, the Office of Education has been guilty of sloppy administration in this matter.

The second factor—restrictions on the use of maling addresses—would be corrected by H.R. 4155. I am advised that the language in the Internal Revenue Code, as amended by the Tax Reform Act of 1976, precludes providing mailing addresses to agents or organizations acting for the Federal Government on these loans, although this authority was extended to the Office of Education for the national direct student loan program by the Revenue Act of 1978. Apparently, the Cuban loan program was overlooked in the 1978 legislation.

The administration has endorsed H.R. 4155, and requested that their disclosure authority be broadened to include guarantee agencies participating in the guaranteed student loan program. I think this is a wise move. In an era of budget restraint, we cannot afford to let millions of dollars of loans go into default without an effort to collect them.

The passage of this legislation, Mr. Speaker, would give the Department of Education one of the tools it needs to collect the defaulted loans made under the Cuban student loan program and the guaranteed student loan program. Once it has that tool, I intend to follow through to see that the Department begins to collect these loans. It is truly a disservice to the taxpayers of this country not to collect that which is owed to them.

I commend the committee and I commend my colleagues for their action.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to congratulate Mr. SIMON, who brought this matter to the attention of the committee and testified before our subcommittee. He helped tremendously in the creation of this legislation. I would like to associate myself with his remarks and congratulate him on what he has done.

Mr. SIMON. I thank my colleague.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the gentleman yielding this time to me. I am reluctant to break the atmosphere of unanimity that pervades the House at this time, but I must reluctantly express my opposition to this legislation. I say reluctantly, because I support the effort that is being made to try to improve upon the collection of defaulted guaranteed student loans.

The problem with this piece of legislation, however, is that for the first time to the best of my knowledge—and certainly the report to the legislation sets forth similar legislation where there has been disclosure of returns and return information—this is the first time where adverse information, or information to be used adversely against private citizens, is to be turned over, not to an agency of the Government, but to private individuals and companies. The legislation very clearly says that the Secretary has the power to turn this information over to lenders. Those lenders are private institutions, and as concerned as I am about collecting defaulted loans, I am more concerned about this intrusion upon the confidentiality of income tax return information for the benefit of private individuals.

Certainly, in this age of computerization, no matter what the hypothetical safeguards and penalties to anyone who discloses information, the fact is that there is no security of that information. It seems to me, Mr. Speaker, that it is a grave, grave step that we are taking.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. WEISS. Of course, I will be pleased to yield to the gentleman from Illinois.

Mr. SIMON. I thank my colleague. Usually, we are fighting the same battles together. I would point out that this simply provides follow-up on names and addresses. Nothing else is accessible. That same information is provided in other legislation for other purposes.

Mr. WEISS. I appreciate the fact that it is only names and addresses. Nonetheless, it for the first time gives access of tax return information to the private sector, to private individuals.

I have only 1 minute, so I am going to use it. I serve on the Government Information and Individual Rights Subcommittee of the Committee on Government Operations. This is a very serious departure from past precedent. It seems that this is the kind of legislation that should have gone to the Committee on Government Operations as provided for by our rules for that committee's oversight reaction. I think it is a dangerous step. I would be much happier if the gentleman went back and removed the lender provision and allowed the Secretary of the Treasury or the Secretary of Education and any other Government official to have access to that information, but not the private sector.

I hope we defeat this legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to point out to the gentleman from New York that under present law agents of institutions already are afforded the information with respect to student loans, so this is not the first time that we have made available this information.

Mr. SIMON. Mr. Speaker, if my colleague will yield, the gentleman is absolutely correct. When we passed legislation authorizing the availability of this information on the other programs, there was simply a loophole and this 1962 act was left out. We are simply closing that particular loophole and providing accessibility to funds by the Federal Government.

● Mr. SCHULZE. Mr. Speaker, I would like to briefly express my support for this legislation and my hope that it will result in the repayment of some of these loans.

Unfortunately, it is my feeling that it probably does not go far enough, in providing a strong repayment incentive. I would therefore urge my colleagues on the Appropriations and Education and Labor Committees to conduct oversight hearings on other measures to more effectively deal with this ever growing problem.

The problem of defaulted student loans is not going to go away until we provide the Secretary of Education with the proper tools to deal with it. While this legislation is a step in that direction, it is questionable whether the Department of Education can utilize these addresses to produce significant pressure to repay and to deter those who may contemplate default.

Currently, there are over $2 billion in student loans in default at the Department of Education. What we are talking about here today is individuals who have received federally financed loans in good faith, who used these funds to receive an education and are now reaping the financial rewards of that education.

The General Accounting Office has supplied me with several examples of student loan defaulters—all with the ability to pay. Each has a good credit rating outside the Government. They pay their bills to everyone except the taxpayers of this Nation.

It is my understanding that none of these students has disputed the amounts owed. In most cases, they simply refuse to acknowledge the collection efforts.

Mr. Speaker, these examples, which I would like to submit for the RECORD, are only a few of the thousands of individuals who have flatly refused to repay their student loans. The word is out that our Government is incapable of collecting these debts, and you can be assured that these individuals will continue to thumb their noses—until we act decisively to change this unacceptable situation.

The taxpayers of this Nation are cheated when these individuals refuse to repay their legitimate debts to the Government. There is no question about that, and there is clearly a need for increased efforts by the Department of Education to collect legitimate debts owed to it. This legislation is only a first step in that direction.

Finally, I would also like to submit for the RECORD a table prepared by the General Accounting Office which shows the amounts loaned, paid and defaulted in Federal educational loan programs:

SOME EXAMPLES OF DEFAULTERS WITH THE ABILITY TO PAY

CASE 1

The person defaulted for $445 in 1975. During the period 1975 to 1980, he satisfactorily paid off four unsecured bank loans in the amounts of $1,900, $1,700, $500 and $1,100.

CASE 2

The person defaulted for $595 in 1973, in 1977, he was granted an automobile loan for $8,900 and as of seven months ago, he had paid about $4,000 on that loan. This individual is now riding around in a reasonably new car but he cannot bring himself to pay the funds owed to the U.S. Government, which loaned him the money to get the education which enabled him to get the loan for the automobile.

CASE 3

The person defaulted for $754 in 1976. During 1978, he was granted an unsecured bank loan for $1,300 which was satisfactorily paid off in 6 months.

CASE 4

The person defaulted for $571 in 1972. During 1978–1979 he satisfactorily paid off a $1,000 secured loan. He was then granted a $1,000 unsecured loan in March 1979, of which some $200 has been paid off as of six months ago.

CASE 5

The person defaulted for $832 in 1976. She has a "bank card" account with a credit extension of $2,000 and two charge accounts at department stores with credit lines of $700 and $500. She has an estimated income of $10,000 and shares a $350 a month apartment with another person.

CASE 6

The person defaulted for $549 in 1976. In March, 1979, she was granted an unsecured loan for $6,600. As of six months ago, she paid almost $2,000 on this loan.

CASE 7

The person defaulted for $301 in 1975. In 1979, he had been granted a charge account with a credit line of $900 at a local department store. He also had been given two bank card accounts with a credit line of $1,400 on each account. He is employed with an estimated annual income of about $12,000.

CASE 8

The person defaulted for $328 in 1976. In March 1979, she was granted a $6,400 car loan by a bank. She paid off almost $400 of the loan as of six months ago.

CASE 9

The person defaulted for $505 in 1974. As of 1979, she had been granted two bank card accounts with lines of credit of $700 and $200. She has also had two department store charge accounts with lines of credit of $400 and $500.

CASE 10

The person defaulted for $828 in 1976. She has been granted a bank card account with a credit line of $1,600. She also has department store charge accounts with credit lines of $800 and $500.

[Amounts in billions]

Guaranteed student loan program:

Amount loaned as of fiscal year 1979	$15.3
Amount repaid by students	6.2
Amount defaulted	1.3
Amount outstanding	7.8
In repayment	3.2
Students in school	4.6

[Amounts in billions]

National direct student loan program

Amount loaned as of fiscal year 1979	$5.6
Amount repaid by students	1.6
Amount outstanding	4.0
Defaults	0.7

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● Mr. BIAGGI. Mr. Speaker, as a member of the House Postsecondary Education Subcommittee, I rise in full support of H.R. 4155 which is aimed at expanding the Federal Government's laudable efforts to reduce the rate of student loan defaults.

H.R. 4155 would accomplish this by expanding existing law to allow the Treasury Department to disclose to the Department of Education the mailing addresses of taxpayers who have defaulted on guaranteed student loans or on student loans made under the Migration and Refugee Assistance Act. Existing law limits this disclosure to defaulters on national direct student loans.

Those of us who have served in the past few Congresses can point with pride to the various pieces of legislation which we have enacted to expand the opportunity for Americans to receive a higher education. Yet, these fine accomplishments have always been tempered by the fact that our efforts to reduce the waste associated with defaulting student loans was less than effective.

The Carter administration made as one of its earliest priorities—the reduction of the default rates for the various education programs—default rates which ran as high as 30 percent in some programs. This commitment was demonstrated early and it has shown great signs of progress. Passage of this legislation which is fully supported by the administration would be an important step in the right direction.●

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. PEYSER). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rule and pass the bill, H.R. 4155, as amended.

The question was taken.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

IRC AMENDMENT FOR REAL ESTATE INVESTMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4968) to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust, as amended.

The Clerk read as follows:

H.R. 4968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (E) of section 172(b)(1) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended to read as follows:

"(E)(i) A net operating loss for a REIT year—

"(I) shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss, and

"(II) shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss.

"(ii) In the case of any net operating loss for a taxable year which is not a REIT year—

"(I) such loss shall not be carried back to any taxable year which is a REIT year, and

"(II) the number of taxable years to which such loss may be a net operating loss carryover under subparagraph (B) shall be increased (to a number not greater than 8) by the number of taxable years to which such loss may not be a net operating loss carryback by reason of subclause (I).

"(iii) For purposes of this subparagraph, the term 'REIT year' means any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to the taxpayer."

(b) The amendment made by subsection (a) shall apply to the determination of the net operating loss deduction for taxable years ending after October 4, 1976. For purposes of applying the preceding sentence to any net operating loss for a taxable year which is not a REIT year and which ends on or before October 4, 1976, subclause (II) of section 172(b)(1)(E)(ii) of the Internal Revenue Code of 1954 shall be applied by substituting "the number of REIT years to which such loss was a net operating loss carryback" for "the number of taxable years to which such loss may not be a net operating loss carryback by reason of subclause (I)".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 4968, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4968 makes two minor, but important changes, in the tax law regarding the ability of trusts which are former real estate investment trusts (REIT's) to carry over operating losses to future years.

The bill allows a corporation or a trust which was formerly a REIT an additional year of carryforward, with a maximum of 8 years, of net operating losses for each year that it is denied a net operating loss carryback because it was a REIT. This would have the effect of allowing a former REIT to have a total of 8 carryover years similar to the treatment accorded to trusts which retain their REIT status throughout the carryover period.

In addition, the bill removes the technical restriction that a net operating loss incurred before 1976 can be carried forward to the sixth, seventh, or eighth year only if a REIT qualified as a REIT for all years from the loss year through the carryover year in question.

Before we become too deeply entangled in the technical world of REIT's, a little background might help to clarify this matter.

Prior to the Tax Reform Act of 1976, REIT's were not allowed a net operating loss deduction. Because of this, many corporations and trusts terminated their status as REIT's so that they could carry over net operating losses incurred by them during the difficult economic time experienced by many REIT's during the early 1970's. In such a case, a former REIT was allowed the standard 5 years to carry forward its losses. However, unlike other taxpayers, it was not allowed a deduction for a loss carryback to any earlier years during which it qualified as a REIT. The Code denied these carrybacks because the REIT income in those early years had been passed through to individual investors and, consequently, allowance of carrybacks would have created nearly insurmountable administrative burdens in recomputing the tax liability of all of the REIT's shareholders in the earlier year.

The Tax Reform Act of 1976 made two changes that affected the net operating loss carryovers of corporations and REIT's. First, it lengthened the time that corporations could carry forward their net operating loss deductions from 5 years to 7 years. This change was effective for losses incurred in years ending after December 31, 1975.

The act also changed the treatment of net operating losses of REIT's. Under the 1976 act, a net operating loss incurred in a year that the trust is a REIT can be carried forward for 8 years. However, no net operating loss carrybacks are permitted. This change in rules was effective for taxable years of a REIT ending after October 4, 1976. As a result of this effective date, losses incurred before 1976 by REIT's were subject to an 8-year carryforward if they retained their REIT status during the entire 8-year carryforward period. However, under the 1976 act rule, a net operating loss incurred before 1976 could not be carried forward to the sixth, seventh, or eighth carryforward year unless the corporation was a REIT for all years from the loss year through the carryover year.

Thus, where a trust which was a REIT has terminated its status in a taxable year ending before October 4, 1976, and incurred losses in that year, less than an 8-year carryover is permitted. This is so even though the trust would have been given an 8-year carryforward had it retained its REIT status and even though it would have been given a combined 8 years of carrybacks and carryforwards had the trust never become a REIT.

To address this disparate treatment, H.R. 4968 does two things.

First, it makes it clear that former REIT's which were REIT's in the year the loss was incurred, will not lose the last 3 years of their loss carryover simply because they elected out of REIT status in a year after the loss year. This change is technical in nature and reflects what the Congress intended in 1976.

The second change is more substantial and was the subject of some controversy in committee. It would allow former REIT's which elected out of REIT status prior to the 1976 changes to have the benefits of the 8-year carryforward enacted in 1976. In committee, some argued that these REIT's voluntarily elected out of REIT status to get certain benefits only then available to regular corporations and thus would be reaping a windfall if the 1976 REIT rule is applied to them. Others, including the gentleman from Georgia (Mr. FOWLER), successfully argued that this bill simply gives former REIT's additional carryover years to offset their inability to use any carryback years.

Mr. Speaker, this bill is a highly technical bill and one of narrow application. The committee has considered the matter, made some drafting modifications, and favorably recommended it to the House. I urge its approval.

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Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4968 concerning the net operating losses of real estate investment trusts (REIT's).

The Tax Reform Act of 1976 allowed REIT's to carry forward, but not back, their net operating losses. However, more restrictive rules were imposed on companies that had revoked their REIT status and elected to be taxed as "regular" corporations.

H.R. 4968 allows former REIT's an additional period of time to carry their net operating losses forward. The bill does not allow REIT's the option of carrying losses back.

I urge the bill's adoption.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, as the author of H.R. 4968 I would like to explain the purpose of this technically complex tax change. This bill was reported to the House by unanimous voice vote of the Ways and Means Committee members present at markup on May 15.

The issues involved here are fundamental questions of equity and fairness for real estate investment trusts (REIT's). In simplest terms, this bill affords equal tax treatment for those entities which gave up REIT status and those which maintained REIT status. The Tax Reform Act of 1976 has created an anomalous situation in which those who de-REIT'ed receive discriminatory "carryover of loss" treatment compared to those who did not de-REIT.

During the recession of the mid-1970's many REIT's suffered heavy losses in the depressed real estate market. These losses were sustained by the people holding REIT shares—primarily small investors who individually experienced real dollar reductions in assets.

In an effort to survive the losses, many REIT's found it necessary to disqualify themselves as REIT's, known as de-REITing. The Tax Code imposes very strict requirements on REIT's which severely restricts their ability to deal with foreclosure property. These REIT's typically changed status—not to accrue some benefit in tax treatment—but rather to avoid being hamstrung by the tight requirements for qualification as REIT's. Such restrictions gave many REIT's little choice but to de-REIT in order to remain solvent.

Prior to the 1976 Tax Reform Act, REIT's were allowed neither to carry forward nor carry back their losses in determining taxable income. Regular corporations were allowed a total of 8 years of carryover (3 back and 5 forward). Entities which de-REITed before 1976 were allowed a 5-year carryforward of their losses. Like other entities, these disqualified REIT's could only deduct those losses if they later earned a profit.

To correct the inequity between REIT's, which were allowed no carryover, and regular corporations, which were allowed 8 years, in 1976 Congress amended the law to permit REIT's a carryover of 8 years.

However, the Tax Reform Act did not remedy two discriminatory effects on former REIT's. In two ways, former REIT's were unjustifiably limited to 5 years of carryover. First, the 1976 change did not allow former REIT's the 8-year carryover allowed to qualifying REIT's for all REIT-year losses. Second, the 1976 change did not allow former REIT's the same 8-year carryover allowed to non-REIT corporations for non-REIT year losses.

This bill, H.R. 4968, seeks to redress this discrepancy between treatment of REIT's and former REIT's. The distinction between REIT losses and non-REIT losses begs the question of equity. There is no legitimate distinction between REIT's which simultaneously de-REITed and recognized losses, and REIT's which realized losses and then later de-REITed in a subsequent year. The point is that all these entities, REIT's and former REIT's should be allowed the same period of time to carry over their losses.

H.R. 4968 allows disqualified REIT's to carry over their losses for 8 years—the same amount of time qualified REIT's are allowed to carry over their losses. Specifically, this bill provides universal 8-year carryover of pre-1976 REIT-year losses regardless of whether the entity continues to be qualified as a REIT throughout the carryover period. Second, universal 8-year carryover would also be allowed for losses incurred in non-REIT years for former REIT's.

The Ways and Means Committee has indicated its consensus opinion that this correction of the Tax Code is in order. I believe the case is clear: it is equitable and unjustifiably punitive to treat REIT's and former REIT's so differently. And it is especially unjust to do so on the grounds that those who de-REITed did not correctly anticipate, or guess, that Congress would change the law 2 years later with the 1976 act.

Anyone familiar with our tax-writing process knows that unexpected circumstances can lead to quirks in the Tax Code that treat similar taxpayers unequally. Legislating is always an inexact science; I believe Congress has the ability and the responsibility to correct inequities. We must oversee the laws we have written and improve those laws whenever we can. H.R. 4968 approaches a self-contained situation and offers an improvement in the Tax Code. It is a matter of fairness: REIT's get 8 years for carryover; normal corporations get 8 years. This bill gives former REIT's 8 years.

I urge passage of H.R. 4968.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I rise in opposition to the bill.

I oppose the bill because it is special-interest tax legislation of the worst kind. It provides a benefit of some $23 million over the next few years to certain REIT's.

It is not very technical at all. It is very easy to understand the bill. It is the same as if somebody had sold a piece of property when the capital gains tax was 37½ percent and the next year the Congress lowered the capital gains tax to 25 percent and the person says, "Hey, I want to change the sales tax. I am sorry I sold it under the 37½ percent tax. I want to get under the 25 percent tax, and then I will save all this money."

The particular companies had to make a choice. They knew what the rules were. They were given tax benefits while they were operating as a REIT. They de-REITed, the law was changed, and now they want us to back up and retroactively give them $23 million of our taxpayers' money. They were one of many hundreds of real estate investment trusts operating in this country.

The bill is not difficult to understand. There are a couple of things wrong with it. Basically, it perpetuates one of the systems that has been at work in this Congress that many of us have tried to stop, and that is the system whereby there are only very wealthy people who can afford to hire the kinds of lawyers needed to find a way to come back here and lobby.

As for those poor working people who perhaps filed late or did not take advantage of some deduction and heard about it too late, they have no chance for relief. But we have this kind of single interest, special purpose legislation to provide benefits of $23 million to the shareholders of REIT's who have shown themselves to be no different, no worse, and no better than those of any other corporation.

I would submit that we should not vote to give $23 million to somebody where there is absolutely no justification for it except that the people changed their minds. They said, "We wish we would not have done that. We would like to go back and be like we were once before." There is no other justification.

Mr. Speaker, I urge the defeat of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4968, as amended.

The question was taken.

Mr. STARK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. STARK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

INSTALLMENT SALES REVISION ACT OF 1980

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6883) to amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Installment Sales Revision Act of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. INSTALLMENT SALES RULES.

(a) GENERAL RULE.—Subpart B of part II of subchapter E of chapter 1 is amended by striking out section 453 and inserting in lieu thereof the following new sections:

"SEC. 453. INSTALLMENT METHOD.

"(a) GENERAL RULE.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

"(b) INSTALLMENT SALE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'installment sale' means a disposition of property where at least 1 payment is to be received after the close of the taxable year in which the disposition occurs.

"(2) EXCEPTIONS.—The term 'installment sale' does not include—

"(A) DEALER DISPOSITION OF PERSONAL PROPERTY.—A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(B) INVENTORIES OF PERSONAL PROPERTY.—A disposition of personal property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

"(c) INSTALLMENT METHOD DEFINED.—For purposes of this section, the term 'installment method' means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

"(d) ELECTION OUT.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any disposition if the taxpayer elects to have subsection (a) not apply to such disposition.

"(2) TIME AND MANNER FOR MAKING ELECTION.—Except as otherwise provided by regulations, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this chapter for the taxable year in which the disposition occurs. Such an election shall be made in the manner prescribed by regulations.

"(3) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Secretary.

"(e) Second Dispositions by Related Persons.—

"(1) In general.—If—

"(A) any person disposes of property to a related person (hereinafter in this subsection referred to as the 'first disposition'), and

"(B) before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subsection referred to as the 'second disposition'),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

"(2) 2-year cutoff for property other than marketable securities.—

"(A) In general.—Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than 2 years after the date of the first disposition.

"(B) Substantial diminishing of risk of ownership.—The running of the 2-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

"(i) the holding of a put with respect to such property (or similar property).

"(ii) the holding by another person of a right to acquire the property, or

"(iii) a short sale or any other transaction.

"(3) Limitation on amount treated as received.—The amount treated for any taxable year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) the total amount realized with respect to any second disposition of the property occurring before the close of the taxable year, or

"(ii) the total contract price for the first disposition, over

"(B) the sum of—

"(i) the aggregate amount of payments received with respect to the first disposition before the close of such year, plus

"(ii) the aggregate amount treated as received with respect to the first disposition for prior taxable years by reason of this subsection.

"(4) Fair market value where disposition is not sale or exchange.—For purposes of this subsection, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

"(5) Later payments treated as receipt of tax paid amounts.—If paragraph (1) applies for any taxable year, payments received in subsequent taxable years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

"(6) Exception for certain dispositions.—For purposes of this subsection—

"(A) Reacquisitions of stock by issuing corporation not treated as first dispositions.—Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

"(B) Involuntary conversions not treated as second dispositions.—A compulsory or involuntary conversion (within the meaning of section 1033) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion.

"(C) Dispositions after death.—Any transfer after the earlier of—

"(i) the death of the person making the first disposition, or

"(ii) the death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

"(7) Exception where tax avoidance not a principal purpose.—This subsection shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Secretary that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of Federal income tax.

"(8) Extension of statute of limitations.—The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subsection) shall not expire before the day which is 2 years after the date on which the person making the first disposition furnishes (in such manner as the Secretary may by regulations prescribe) a notice that there was a second disposition of the property to which this subsection may have applied. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Related person.—The term 'related person' means a person whose stock would be attributed under section 318(a) (other than paragraph (4) thereof) to the person first disposing of the property.

"(2) Marketable securities.—The term 'marketable securities' means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

"(3) Payment.—Except as provided in paragraph (4), the term 'payment' does not include the receipt of evidences of indebtedness of the person acquiring the property.

"(4) Purchaser evidences of indebtedness payable on demand or readily tradable.—Receipt of a bond or other evidence of indebtedness which—

"(A) is payable on demand, or

"(B) is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

"(5) Readily tradable defined.—For purposes of paragraph (4), the term 'readily tradable' means a bond or other evidence of indebtedness which is issued—

"(A) with interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

"(B) in any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

"(6) Like-kind exchanges.—In the case of any exchange described in section 1031(b)—

"(A) the total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

"(B) the gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of section 1031(b), and

"(C) the term 'payment' shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in section 356(a) and is not treated as a dividend.

"(g) Sale of Depreciable Property to Spouse or 80-Percent Owned Entity—

"(1) In general.—In the case of an installment sale of depreciable property between—

"(B) the taxpayer and an 80-percent owned entity, or

"(C) two 80-percent owned entities,

subsection (a) shall not apply, and, for purposes of this title, all payments to be received shall be deemed received in the year of the disposition.

"(2) 80-percent owned entity.—For purposes of this subsection, the term '80-percent owned entity' means—

"(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for the taxpayer,

"(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for the taxpayer, and

"(C) a portion of a trust of which the taxpayer or the taxpayer's spouse (or a corporation or partnership described in subparagraph (A) or (B)) is treated as the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(3) Constructive ownership.—For purposes of subparagraphs (A) and (B) of paragraph (2), the principles of section 318 shall apply, except that—

"(A) the member of an individual's family shall consist only of such individual and such individual's spouse, and

"(B) paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied without regard to the 50-cent limitation contained therein.

"(4) Subsection inapplicable in case of divorce, etc.—For purposes of this subsection, individuals shall be treated as not married if—

"(A) at the time of the disposition, they are legally separated under a decree of divorce or separate maintenance, or

"(B) the disposition occurs pursuant to a settlement in a proceeding which culminates in a decree of divorce or separate maintenance.

"(5) Depreciable property.—For purposes of this subsection, the term 'depreciable property' means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in section 167."

(h) Use of Installment Method by Shareholders in Section 337 Liquidations.—

"(1) Receipt of obligations not treated as receipt of payment.—

"(A) In general.—If, in connection with a liquidation to which section 337 applies, in a transaction to which section 331 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in section 337(a), then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

"(B) Obligations attributable to sale of inventory must result from bulk sale.—Subparagraph (A) shall not apply to an installment obligation described in section 337(b)(1)(B) unless such obligation is also described in section 337(b)(2)(B).

"(C) Obligations of shareholder's spouse or 80-percent owned entity.—Subparagraph (A) shall not apply to anv installment obligation received by the shareholder if the obligor and the shareholder bear a relationship described in subsection (g).

"(D) Coordinating with subsection (e)(1)(A).—For purposes of subsection (e)(1)(A), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

"(E) Sales by liquidating subsidiary.—For purposes of subparagraph (A), in any case to which section 337(c)(3) applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

"(2) Distribution received in more than 1 taxable year of shareholder.—If—

"(A) paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

"(B) by reason of the liquidation such shareholder receives property in more than 1 taxable year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such taxable years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

"(i) Regulations.—

"(1) In general.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

"(2) Selling price not readily ascertainable.—The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

"Sec. 453A. Installment Method for Dealers in Personal Property.

"(a) General Rule.—

"(1) In general.—Under regulations prescribed by the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit, realized or to be realized when payment is completed, bears to the total contract price.

"(2) Total contract price.—For purposes of paragraph (1), the total contract price of all sales of personal property on the installment plan includes the amount of carrying charges or interest which is determined with respect to such sales and is added on the books of account of the seller to the established cash selling price of such property. This paragraph shall not apply with respect to sales of personal property under a revolving credit type plan.

"(b) Change From Accrual to Installment Basis.—

"(1) General rule.—If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his taxable income on the installment basis, then in computing his taxable income for such year (referred to in this subsection as 'year of change') or for any subsequent year—

"(A) installment payments actually received during any such year on account of sales or other dispositions of property made in any taxable year before the year of change shall not be excluded; but

"(B) the tax imposed by this chapter for any taxable year (referred to in this subsection as 'adjustment year') beginning after December 31, 1953, shall be reduced by the adjustment computed under paragraph (2).

"(2) Adjustment in tax for amounts previously taxed.—In determining the adjustment referred to in paragraph (1)(B), first determine, for each taxable year before the year of change, the amount which equals the lesser of—

"(A) the portion of the tax for such prior taxable year which is attributable to the gross profit which was included in gross income for such prior taxable year, and which by reason of paragraph (1)(A) is includible in gross income for the taxable year, or

"(B) the portion of the tax for the adjustment year which is attributable to the gross profit described in subparagraph (A).

The adjustment referred to in paragraph (1)(B) for the adjustment year is the sum of the amounts determined under the preceding sentence.

"(3) Rule for applying paragraph (2).—For purposes of paragraph (2), the portion of the tax for a prior taxable year, or for the adjustment year, which is attributable to the gross profit described in such paragraph is that amount which bears the same ratio to the tax imposed by this chapter, other than by sections 55 and 56, for such taxable year (computed without regard to paragraph (2)) as the gross profit described in such paragraph bears to the gross income for such taxable years.

"(4) Revocation of election.—An election under paragraph (1) to report taxable income on the installment basis may be revoked by filing a notice of revocation, in such manner as the Secretary prescribes by regulations, at any time before the expiration of 3 years following the date of the filing of the tax return for the year of change. If such notice of revocation is timely filed—

"(A) the provisions of paragraph (1) and subsection (a) shall not apply to the year of change or for any subsequent year;

"(B) the statutory period for the assessment of any deficiency for any taxable year ending before the filing of such notice, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of 2 years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such 2-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment; and

"(C) if refund or credit of any overpayment, resulting from the revocation of the election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within one year from such date, by the operation of any law or rule of law (other than section 7121 or 7122), refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within one year from such date. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.

"(5) Election after revocation.—If the taxpayer revokes under paragraph (4) an election under paragraph (1) to report taxable income on the installment basis, no election under paragraph (1) may be made, except with the consent of the Secretary, for any subsequent taxable year before the fifth taxable year following the year of change with respect to which such revocation is made.

"(c) Carrying Charges Not Included in Total Contract Price.—If the carrying charges or interest with respect to sales of personal property, the income from which is returned under subsection (a)(1), is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

"Sec. 453B. Gain or Loss on Disposition of Installment Obligations.

"(a) General Rule.—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and—

"(1) the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or

"(2) the fair market value of the obligation at the time of distribution, transmission, or disposition, in the case of the distribution, transmission, or disposition otherwise than by sale or exchange.

Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.

"(b) Basis of Obligation.—The basis of an installment obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

"(c) Special Rule for Transmission at Death.—Except as provided in section 691 (relating to recipients of income in respect of decedents), this section shall not apply to the transmission of installment obligations at death.

"(d) Effect of Distribution in Certain Liquidations.—

"(1) Liquidations to which section 332 applies.—If—

"(A) an installment obligation is distributed in a liquidation to which section 332 (relating to complete liquidations of subsidiaries) applies, and

"(B) the basis of such obligation in the hands of the distributee is determined under section 334(b)(1),

then no gain or loss with respect to the distribution of such obligation shall be recognized by the distributing corporation.

"(2) Liquidations to which section 337 applies.—If—

"(A) an installment obligation is distributed by a corporation in the course of a liquidation, and

"(B) under section 337 (relating to gain loss on sales or exchanges in connection with certain liquidations) no gain or loss would have been recognized to the corporation if the corporation had sold or exchanged such installment obligation on the day of such distribution,

then no gain or loss shall be recognized to such corporation by reason of such distribution. The preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 341(f), 617(d)(1), 1245(a), 1250(a), 1251(c), 1252(a), or 1254(a) applies.

"(e) Life Insurance Companies.—In the case of a disposition of an installment obligation by any person other than a life insurance company (as defined in section 801(a)) to such an insurance company or to a partnership of which such an insurance company is a partner, no provision of this subtitle providing for the nonrecognition of gain shall apply with respect to any gain resulting under subsection (a). If a corporation which is a life insurance company for the taxable year was (for the preceding taxable year) a corporation which was not a life insurance company, such corporation shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year, all installment obligations which it held on such last day. A partnership of which a life insurance company becomes a partner shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year of such partnership, all installment obligations which it holds at the time such insurance company becomes a partner.

"(f) Obligation Becomes Unenforceable.—For purposes of this section, if any installment obligation is cancelled or otherwise becomes unenforceable—

"(1) the obligation shall be treated as if it were disposed of in a transaction other than a sale or exchange, and

"(2) if the obligor and obligee are related persons (within the meaning of section 453(f)(1)), the fair market value of the obligation shall be treated as not less than its face amount."

(b) TECHNICAL AMENDMENTS.—

Section 311(a) and section 336 (as in effect on the day before the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980) are each amended by striking out "section 453(d)" and inserting in lieu thereof "section 453B".

(2) Subsection (d) of section 481 is amended by striking out "section 453" and inserting in lieu thereof "section 453A".

(3) Subsection (f) of section 644 is amended by striking out "elects to report income under section 453" and inserting in lieu thereof "reports income under section 453".

(4) Paragraph (4) of section 691(a) is amended—

(A) by striking out "received by a decedent on the sale or other disposition of property, the income from which was properly reportable by the decedent on the installment basis under section 453" and inserting in lieu thereof "reportable by the decedent on the installment method under section 453 or 453A", and

(B) by striking out "section 453(d)" each place it appears and inserting in lieu thereof "section 453B".

(5) Paragraph (2) of section 1255(b) is amended by striking out "453(d)(4)(B)" and inserting in lieu thereof "453B(d)(2)".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 336 (as amended by the Crude Oil Windfall Profit Tax Act of 1980) is amended by striking out "section 453(d)" and inserting in lieu thereof "section 453B".

(2) Paragraph (3) of section 337(f) is amended by striking out "section 453(d)(1)" and inserting in lieu thereof "section 453B(a)".

(3) Paragraph (2) of section 453B(d) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of subparagraphs (A) and (B) of the first sentence of this paragraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the date of such distribution."

(4) Subparagraph (B) of section 403(b)(2) of the Crude Oil Windfall Profit Tax Act of 1980 is hereby repealed.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by striking out the item relating to section 453 and inserting in lieu thereof the following:

"Sec. 453. Installment method.
"Sec. 453A. Installment method for dealers in personal property.
"Sec. 453B. Gain or loss on disposition of installment obligations."

SEC. 3. COORDINATION WITH SECTION 691.

Subsection (a) of section 691 (relating to income in respect of a decedent) is amended by adding at the end thereof the following new paragraph:

"(5) OTHER RULES RELATING TO INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—In the case of an installment obligation reportable by the decedent on the installment method under section 453 or 453A, for purposes of paragraph (2)—

"(i) the second sentence of paragraph (2) shall be applied by inserting '(other than the obligor)' after 'or a transfer to a person',

"(ii) any cancellation of such an obligation shall be treated as a transfer, and

"(iii) any cancellation of such an obligation occurring at the death of the decedent shall be treated as a transfer by the estate of the decedent (or, if held by a person other than the decedent before the death of the decedent, by such person).

"(B) FACE AMOUNT TREATED AS FAIR MARKET VALUE IN CERTAIN CASES.—In any case to which the first sentence of paragraph (2) applies by reason of subparagraph (A), if the decedent and the obligor were related persons (within the meaning of section 453(f)(1)), the fair market value of the installment obligation shall be treated as not less than its face amount.

"(C) CANCELLATION INCLUDES BECOMING UNENFORCEABLE.—For purposes of subparagraph (A), an installment obligation which becomes unenforceable shall be treated as if it were cancelled.

SEC. 4. AMENDMENT OF SECTION 1038.

Section 1038 (relating to certain reacquisitions of real property) is amended by adding at the end thereof the following new subsection:

"(g) ACQUISITION BY ESTATE, ETC., OF SELLER.—Under regulations prescribed by the Secretary, if an installment obligation is indebtedness to the seller which is described in subsection (a), and if such obligation is, in the hands of the taxpayer, an obligation with respect to which section 691(a)(4)(B) applies, then—

"(1) for purposes of subsection (a), acquisition of real property by the taxpayer shall be treated as reacquisition by the seller, and

"(2) the basis of the real property acquired by the taxpayer shall be increased by an amount equal to the deduction under section 691(c) which would (but for this subsection) have been allowable to the taxpayer with respect to the gain on the exchange of the obligation for the real property."

SEC. 5. EFFECTIVE DATES.

(a) FOR SECTION 2.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by section 2 shall apply to dispositions made after the date of the enactment of this Act in taxable years ending after such date.

(2) FOR SECTION 453(e).—Section 453(e) of the Internal Revenue Code of 1954 (as amended by section 2) shall apply to dispositions made after May 14, 1980.

(3) FOR SECTION 453(h).—Paragraphs (1) and (2) of section 453(h) of such Code (as amended by section 2) shall apply in the case of distributions of installment obligations after March 31, 1980.

(4) FOR SECTION 453B(f).—Section 453B(f) of the Internal Revenue Code of 1954 (as amended by section 2) shall apply to installment obligations becoming unenforceable after the date of the enactment of this Act.

(5) FOR SECTION 2(c).—The amendments made by section 2(c) shall take effect as if included in the amendments made by section 403(b) of the Crude Oil Windfall Profit Tax Act of 1980.

(b) FOR SECTION 3.—The amendment made by section 3 shall apply in the case of decedents dying after the date of the enactment of this Act.

(c) FOR SECTION 4.—The amendment made by section 4 shall apply to acquisitions of real property by the taxpayer after the date of the enactment of this Act.

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The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6883, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 6883, would make numerous changes in the rules for reporting gains on the installment method for sales of real property and nondealer personal property. In general, these changes are intended to significantly simplify certain provisions of existing law. Also, other provisions would be improved by providing consistent tax treatment for certain economically similar transactions or by providing definitive rules to deal with uncertainties or situations where unnecessary controversy and litigation has arisen.

In connection with the hearing held on this bill, testimony and statements in support of the bill were received from the Treasury Department and various professional groups, including the Federal Tax Division of the American Institute of Certified Public Accountants and the tax sections of the American Bar Association, the New York State Bar Association, and the New York City Bar Association. In addition, several trade associations supported the bill, including the American Bankers Association; the American Farm Bureau Federation, the National Association of Realtors; the National Cattlemen's Association; the National Federation of Independent Business; and the National Realty Committee.

Specifically, the committee's bill contains a number of changes to eliminate traps for the unwary and to facilitate taxpayer compliance and administration of the law. In this context, the bill contains four significant changes. First, the bill eliminates the requirement that no more than 30 percent of the selling price be received in the taxable year of sale to qualify for installment sale reporting.

Second, the bill eliminates the requirement that a deferred payment sale be for two or more payments. Thus, a sale will be eligible for deferred reporting even if the purchase price is to be paid in a single lump-sum payment in a year subsequent to the taxable year in which the sale is made.

Third, the bill eliminates the requirement that the selling price for casual sales of personal property must exceed $1,000 to qualify for installment sale reporting.

Fourth, the bill eliminates the present law requirement that the installment method must be elected for reporting gains from sales of realty and nondealer personal property. Instead, the provision will automatically apply to a qualified sale unless the taxpayer elects not to have this provision apply with respect to a deferred payment sale.

Another provision of the bill would insure that recognition of gain from an installment sale will not be accelerated before collections are received when the installment seller has also received an exchange of like-kind property in connection with the transaction. The bill provides that the receipt of like-kind property will not be taken into account in determining gain recognized for installment sale reporting purposes.

Another provision of the bill would facilitate the purchase of a corporate business by providing substantially consistent tax treatment to the seller under the installment method whether the corporate assets are sold or stock in the corporation is sold. In general, the bill provides nonrecognition of gain treatment for a shareholder who receives installment obligations as liquidating distributions from a corporation liquidating within 12 months of adoption of a plan of complete liquidation. The shareholder would then report gain from the stock as the payments are received on the installment obligation.

The bill prescribes special rules designed to curb abuses in situations involving installment sales to certain related parties who also dispose of the property and for situations involving installment sales of depreciable property between a taxpayer and his spouse or certain 80-percent owned corporations or partnerships. The bill also deals with abuses under present law relating to cancellations of installment obligations owed by related parties.

The bill also permits installment method reporting for sales for a contingent selling price. Finally, the bill extends to a deceased seller's executor or beneficiary the special relief under existing law for foreclosures of real property sold on an installment basis.

Mr. Speaker, I urge the approval of the bill. It is a product of much work by many individuals and organizations. It is a simplification proposal that we all should support.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6883, the Installment Sales Revision Act of 1980.

Earlier this year the Select Revenue Measures Subcommittee of the Committee on Ways and Means considered legislation to amend the installment sales provisions of the Internal Revenue Code of 1954. In response to comments from professional groups and the Treasury this legislation was revised and reintroduced as H.R. 6883. For example, the provision in the original legislation prohibiting installment sales treatment on sales between related parties was deleted.

During consideration of H.R. 6883 by the Select Revenue Subcommittee and the Committee on Ways and Means, the bill was amended to prevent abuses and improve its administration. The bill before us gives taxpayers greater flexibility in planning transactions while containing sufficient safeguards against transactions that lack economic substance. For example, the bill makes an important improvement in current law by extending installment sales treatment to obligations received in certain corporate liquidations. Under current law the income generated by these obligations cannot be reported on the installment basis.

The bill is supported by the Treasury Department as well as major legal and accounting professional groups.

I urge the bill's immediate adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 6883, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MISCELLANEOUS CHANGES IN TAX LAWS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7171) to make certain miscellaneous changes in the tax laws, as amended.

The Clerk read as follows:

H.R. 7171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES AT INSTITUTIONS OF HIGHER EDUCATION NOT INCLUDIBLE IN GROSS INCOME MERELY BECAUSE THE RECIPIENT IS REQUIRED TO RENDER FUTURE SERVICE AS A FEDERAL EMPLOYEE.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1954 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection:

"(c) FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES NOT INCLUDIBLE MERELY BECAUSE THERE IS REQUIREMENT OF FUTURE SERVICE AS FEDERAL EMPLOYEE.—

"(1) IN GENERAL.—If—

"(A) an amount received by an individual under a Federal program would be excludable under subsections (a) and (b) as a scholarship or fellowship grant but for the fact that the individual is required to perform future service as a Federal employee, and

"(B) the individual establishes that, in accordance with the terms of the grant, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an institution of higher education, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an institution of higher education.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized health profession, and

"(iv) is a public or other nonprofit institution.

"(3) SERVICE AS FEDERAL EMPLOYEE.—For purposes of this subsection, service in a health manpower shortage area shall be treated as service as a Federal employee."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

SEC. 2. ANNUITY CONTRACTS PURCHASED BY THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) IN GENERAL.—An annuity contract purchased by the Uniformed Services University of the Health Sciences for any employee who is a member of the civilian faculty or staff of such university shall, for purposes of section 403(b) of the Internal Revenue Code of 1954, be treated as an annuity contract purchased for an employee by an employer described in section 501(c)(3) of such Code which is exempt from tax under section 501(a) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to service after December 31, 1979, in taxable years ending after such date.

SEC. 3. RETIREMENT - REPLACEMENT - BETTERMENT METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1954 (relating to allowance for depreciation) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) RETIREMENT-REPLACEMENT-BETTERMENT METHOD.—In the case of railroad track used by a common carrier by railroad (including a railroad switching company or a terminal company), the term 'reasonable allowance' as used in subsection (a) includes an allowance for such track computed under the retirement-replacement-betterment method.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years ending after December 31, 1953.

SEC. 4. TREATMENT OF CERTAIN RAILROAD STOCK FOR PURPOSES OF CONSOLIDATED RETURN REGULATIONS.

(a) IN GENERAL.—For purposes of the consolidated return regulations prescribed under section 1502 of the Internal Revenue Code of 1954, if the determination of whether or not there has been a deemed disposition of stock in a transferor railroad (as defined in section 374(c)(5)(B) of such Code) depends on a determination of final value by the special court under the Regional Rail Reorganization Act of 1973, that deemed disposition shall not be treated as occurring before the earlier of—

(1) the date on which such determination becomes final, or

(2) the first date on which there is an actual disposition of the stock or a deemed disposition not described above.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after March 31, 1976.

Sec. 5. Restoration of Certain Net Operating Loss Carryovers to Railroads in Conrail Proceedings Where Other Members of Consolidated Group Had Income Because of Stock Disposition.

(a) In General.—For purposes of subsection (e) of section 374 of the Internal Revenue Code of 1954 (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings), if—

(1) subparagraphs (A) and (B) of paragraph (1) of such subsection are satisfied with respect to a corporation,

(2) such corporation had a net operating loss for a taxable year which would have satisfied the requirements of clause (i) of subparagraph (C) of such paragraph (1) but for the fact that such net operating loss was used to reduce the income of an affiliated group of corporations which filed a consolidated return, and

(3) any portion of the amount so used was included in an excess loss account which was required to be restored to the income of a member or members of the affiliated group,

then an amount equal to the restoration amount shall be treated as meeting the requirements of subparagraph (C) of such paragraph (1).

(b) Restoration Amount Defined.—

(1) In general.—For purposes of subsection (a), the term "restoration amount" means, with respect to the net operating loss for any taxable year, an amount equal to the sum of—

(A) so much of the portion referred to in subsection (a)(3) as was required to be treated as ordinary income, and

(B) an amount equal to so much of such portion as was required to be treated as long-term capital gain, multiplied by the capital gain conversion fraction.

(2) Capital gain conversion fraction.—For purposes of paragraph (1), the capital gain conversion fraction is a fraction—

(A) the numerator of which is the rate of tax set forth in section 1201(a)(2) of such Code for the taxable year the portion was required to be included in income, and

(B) the denominator of which is the highest rate of tax set forth in section 11(b) of such Code for such taxable year.

(3) FIFO rule for additions to excess loss account.—For purposes of this subsection, the amount in any excess loss account at the time of restoration (and the ordinary income portion of the restoration) shall be treated as attributable to net operating losses in the order of the years in which the respective net operating losses arose.

(c) Effective Date.—This section shall apply to restorations occurring after March 31, 1976.

Sec. 6. Preserving Existing Tax Status of Wine and Flavors Used in the Production of Distilled Spirits.

(a) Allowance of Credit.—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1954 (relating to distilled spirits) is amended by adding at the end thereof the following new section:

"Sec. 5010. Credit for Wine Content and for Flavors Content.

"(a) Allowance of Credit.—

"(1) Wine content.—On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

"(A) $10.50, over

"(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

"(2) Flavors content.—On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to $10.50.

"(3) Fractional part of proof gallon.—In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

"(b) Time for Determining and Allowing Credit.—

"(1) In general.—The credit allowable by subsection (a)—

"(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

"(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

"(2) Determination of content in the case of imports.—For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

"(c) Definitions.—For purposes of this section—

"(1) Wine content.—

"(A) In general.—The term 'wine content' means alcohol derived from wine.

"(B) Wine.—The term 'wine'—

"(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

"(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

"(2) Flavors content.—

"(A) In general.—Except as provided in subparagraph (B), the term 'flavors content' means alcohol derived from flavors of a type for which drawback is allowable under section 5134.

"(B) Exceptions.—The term 'flavors content' does not include—

"(i) alcohol derived from flavors made at a distilled spirits plant, and

"(ii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product."

(b) Clerical Amendment.—The table of sections for such subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end thereof the following new item:

"Sec. 5010. Credit for wine content and for flavors content."

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. Rostenkowski) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. Duncan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7171, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The bill, H.R. 7171, contains miscellaneous changes in five separate areas of the Tax Code: the taxation of certain Federal scholarships and grants; the treatment of annuities purchased for employees of the Uniformed Services University of the Health Sciences; depreciation of railroad track assets; the treatment for members of an affiliated group which included a transferor railroad in the Conrail reorganization; and finally, the excise tax treatment for wine and flavorings used in distilled spirits products.

The provisions of H.R. 7171, Mr. Speaker, would improve current law by reconciling certain provisions under which inconsistencies presently arise, providing permanent rules for the tax treatment of certain items, and codifying existing practice in the treatment of other transactions. The bill consolidates the provisions which were contained in five separate bills. Those bills are: H.R. 7009, H.R. 6039, H.R. 4446, H.R. 5716, and H.R. 5616 approved by the Subcommittee on Select Revenue Measures.

Section 1 of the bill provides a permanent rule for the tax treatment of Federal scholarships which require as a condition of their receipt future service as a Federal employee. Generally, amounts received for tuition and fees under these programs would be excluded from taxation, while living stipends would be taxable. In recent years, Congress has granted temporary relief from taxation for certain Federal scholarship programs while a permanent rule could be developed. Mr. Speaker, the compromise embodied in section 1 would provide that permanent rule.

Section 2 of the bill extends to qualifying annuities purchased for the civilian staff and faculty of the Uniformed Services University of the Health Sciences the same tax treatment that is accorded annuities purchased for employees of nonprofit universities and public schools. The rule allows the employee to defer recognition of the employer's contribution for the annuity until the employee receives the annuity payments.

Section 3 of the bill codifies the retirement - replacement - betterment (RRB) method of accounting for railroad track assets as part of the Internal Revenue Code. This method is required by the Interstate Commerce Commission and has been recognized as an acceptable method in court decisions and Internal Revenue Service rulings. This section, therefore, is merely a codification of existing practice.

Sections 4 and 5 of the bill provide a special timing rule for the determination of worthlessness of the capital stock of a transferor railroad in the ConRail reorganization where valuation of the stock is dependent on a determination of the special ConRail court. It would also provide for the reinstatement of net operating losses to a subsidiary involved in the ConRail reorganization to the extent those losses were taken back into income of the parent through the triggering of the parent's excess loss account. This provision modifies the special tax rules enacted by the Congress in 1976 to expedite the ConRail reorganization.

Section 6, in effect, restores the excise tax treatment of domestic wines used in distilled spirits and domestic nonbeverage alcoholic flavorings to the level in effect prior to the Trade Agreements Act of 1979. Similar treatment is afforded imported wine and nonbeverage alcoholic flavorings under this provision so as not to violate the principles of the Trade Act.

Mr. Speaker, this final provision was the source of some controversy in the committee.

The Trade Agreements Act of 1979 was a major undertaking, both for the Committee on Ways and Means and the House as a whole. The changes included in that bill relating to the tax treatment of distilled spirits were the subject of much debate in Committee. I know of no discussion, however, which focused on the potential impact of such changes on the domestic wine industry.

Much debate has taken place as to whether the tax increase on wine and nonbeverage alcoholic flavorings was or was not intended. While after a detailed review of the record, some of us might differ on the intent, it is clear that no member of the committee focused on the impact of this matter on the domestic wine industry.

Mr. Speaker, overall, H.R. 7171 makes some minor but, I believe, much needed modifications in our tax laws. All of the individual provisions of H.R. 7171 have been the subject of detailed hearings and subsequent review during subcommittee and full committee markup sessions. I urge the adoption of this legislation.

□ 1350

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7171 which makes several important changes to our tax laws.

H.R. 7171 consolidates several bills that were separately considered by the Select Revenue Measures Subcommittee of the Committee on Ways and Means. Among the more significant of these bills is H.R. 4446—section 3 of the bill—concerning the retirement-replacement-betterment—RRB—method of depreciation accounting used by railroads.

The Interstate Commerce Commission uses the RRB method when determining rates. Although the RRB method is not specifically provided for under the Internal Revenue Code of 1954, the Internal Revenue Service has allowed the RRB method of accounting because of the ICC's use of this method.

Section 3 of the bill would include in the code the RRB method of depreciation, which the railroads have used for a number of years.

Under existing law it is not clear how certain Federal scholarship or fellowship grants should be treated for Federal income tax purposes; that is, should they be exempt under the generally applicable rules or taxable despite these rules? This uncertainty has resulted in temporary legislation being enacted which exempts grants under certain Federal scholarship programs from taxation.

Section 1 of the bill provides permanent rules concerning various Federal scholarship grants. In general, the section states that specified amounts received under certain Federal scholarship programs will be exempt from tax even though the individual must perform future services for the Federal Government.

As the Members know, the Congress established the Uniformed Services University of the Health Sciences to provide medical personnel for the uniformed services. Technically, a problem has arisen which prevents the University from offering its faculty the same kind of retirement annuity that other medical colleges can offer their faculty. This has made it more difficult for the University to attract and retain qualified staff.

Section 2 of the bill corrects this technical problem.

H.R. 7171 makes other needed changes in our tax laws and I urge its adoption.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, H.R. 7171 contains six sections. The first five are good and useful changes. But I oppose H.R. 7171 because section 6 erodes important changes in the method of taxing distilled spirits agreed to in the multilateral trade negotiations (MTN) and implemented last summer in the Trade Agreement Act of 1979.

The provision, incorporated in section 6 of the bill, would disturb the new unitary system of taxing distilled spirits by reverting to pre-1980 tax treatment for producers and importers of distilled spirits containing wine. Under H.R. 7171, such producers and importers would be able to claim a credit against the distilled spirits tax equal to the excess of $10.50 over the tax rate on the wine content that would have been imposed if the wine had been taxed as wine. In my view, circumstances do not warrant such an early and perfunctory abandonment of the unitary tax system that represents a major improvement over the cumbersome and fragmented system in place prior to this year.

In return for reciprocal concessions negotiated in the MTN, the United States agreed to change from the "wine gallon" to the "proof gallon" method of imposing the distilled spirits excise taxes and tariffs. The purpose of this change was to tax distilled spirits products, whether domestic or imported, uniformly on the basis of alcoholic content rather than volume.

At that time, it was recognized that the change to a uniform proof-gallon system removed a clear advantage that domestic distillers enjoyed over importers of bottled spirits. In order to mitigate any adverse effects, certain further tax and administrative changes were enacted along with the trade concession provisions.

Now it is claimed that the effects of these changes on distillers of products containing wine was not intended by the Congress. However, it is clear from the report language of the Trade Agreements Act of 1979 that the tax on distilled spirits containing wine would be increased after January 1, 1980.

In the report, the intent of the legislation was clearly spelled out as follows:

> (Page 164)—The result of adopting the all-in-bond system is that domestic products as well as imported products will now be taxed on the basis of the alcohol content of the finished product after it has been diluted and bottled and will include the part of the alcohol content which is derived from wine or other alcoholic ingredients added to a distilled spirits product before it is bottled.

The industry and public was advised by Trade Subcommittee press release No. 9 of April 10, 1979, about 3 months before the Ways and Means Committee completed action on the MTN implementation bill, of the nature of the "revised" method of determining the tax on distilled spirits, all-in-bond system. It is hard to believe the industry could have been surprised by the new system.

Yet, the wine industry now claims that from any adverse effects, no matter how far removed, that might result from the MTN changes. I cannot find that any such promise was made, nor that any promise was made concerning this legislation.

The wine industry was not and is not today adversely affected by the MTN trade concession provisions or by the conciliatory tax changes enacted last year. One of their customers—an industry which purchases less than one-half of 1 percent of total wine sales—lost certain advantages because of the MTN changes, and it received compensatory tax relief in the context of the implementing bill. To say that distillers of products containing wine are so unexpectedly hurt that they will now abandon the use of wine, in many cases supplied by their own subsidiaries, because of the consequences of the MTN is totally unjustified.

I believe it is important to maintain the unitary method of taxing distilled spirits and to preserve the tax compromises worked out last year in the implementing legislation. Now that the unitary system has been achieved, we should not be carving out exceptions for every secondary effect on the marketplace.

If we do, we will soon find ourselves again with a fragmented and complex system similar to the one we tried to replace. If this bill is passed, the many people who are pushing for it will be back asking for relief from the administrative burden required under its provisions.

Mr. Speaker, the other provisions of this bill will in no way suffer if H.R. 7171 is defeated today. A new suspension bill, minus the provisions of section 6, can be returned to the floor in a short period of time. I urge my colleagues to reject H.R. 7171.

Mr. Speaker, as noted, there are a lot of good reasons why H.R. 7171 should not be passed, and they all relate to section 6 of the bill. As has been indicated, the first five sections are noncontroversial. In my judgment, they are meritorious and should be passed.

However, section 6, which relates to the problem of taxation of liqueurs and cordials is, I think, a bad piece of legislation and should be rejected by this House.

In the first place, it comes as a result of changes made in the MTN Implementation Act of 1979. Those changes that were made, in fact, did no damage to the wine industry with respect to its competitive status from abroad. The problem that is raised here relates to a very tiny portion of the total wine market, estimated to be three-tenths of 1 percent of the market that goes into the blending of cordials and liqueurs where wine is used as a flavoring.

Now, the industry had plenty of notice, contrary to its complaint in its testimony and the committee report to accompany the implementation bill clearly shows that.

What we are doing is forgiving about $5 million for the use of wine, about $8 million for flavorings and about $6 million for imported wine. But we are forgiving the $19 million for blenders and rectifiers, not for the vineyards or the winemakers.

Now, as near as I can see, that rebate is not warranted. Under this bill, the people who pay the tax will have a better deal than they had under the original, pre-1980, law. Under that law, which was in effect prior to January 1, the tax paid on a gallon of cordials or liqueurs ran to an average of about $6.50. Under this law, because of the way the credits are applied, they will pay less tax than that.

And in some cases will get a credit of about $9.89 against the $10.50-a-gallon tax. Some, in fact, may get a tax credit without ever paying the tax at all. That would be the case on liqueurs or cordials which are exported or destroyed.

So the tax does not go to the wine people. It only goes to the blenders seeking the tax rebate, primarily, I suppose, to the big blenders, such as Seagrams, Heubleins, and others who do that sort of thing.

Treasury vigorously opposes this bill. It believes that it defeats the purposes of the Distilled Spirits Tax Revision Act of 1979, and gives away Treasury moneys needlessly. Treasury also believes H.R. 7171 causes great administrative problems.

There is not any way, according to the Treasury, to verify the wine content of the final product that is taxed under this law. Therefore, Treasury, through BATF, will require extensive recordkeeping. I suspect that the very people who want this tax relief are likely to be back very shortly, demanding relief from the burdens of the recordkeeping that they will have brought upon themselves. The Treasury has no way to verify the wine content out of the total content of the material that is supposed to be taxed.

The bill is a bad precedent, Mr. Speaker, because it seeks to indemnify an industry from a secondary market effect of trade negotiations. I believe that this Congress made no warranty or guarantee that we could protect this industry, or any other, from those kinds of secondary problems. I am dead certain Congress made no guarantee to give the industry a sweeter deal than it enjoyed prior to MFN negotiations. Yet that is what the bill does.

If we defeat this bill, we will have a chance to send it back, and to get the other meritorious five-sixths of it brought out on a future suspension. Then we can deal with the wine problem in our own good time.

In a time of very tight budgets, in a time when we are cutting programs that some of us think are quite worthwhile, I do not think this House should be very anxious to give up $20 million of scarce Treasury revenues to these whiskey companies.

It has been claimed that the vineyards, or the wineries, may lose less than one-half of 1 percent of their market. As a matter of fact, there has been little showing of market loss. In fact, some of these blenders are buying from their own subsidiary companies, and will probably continue to buy some product from them in any case.

We ought to save our money for broad tax cuts to stimulate capital formation and productivity. H.R. 7171 is a special-interest piece of legislation. It is not needed and should be defeated.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I would like to engage the gentleman from Minnesota (Mr. FRENZEL) in a brief colloquy.

It is my understanding that people who may suffer due to an increase, in effect, in their tax are the grape growers in California, one of which I happen to be, but I wonder if the gentleman from Minnesota knows of any subsidies that either the growers of table or wine grapes receive now from the Federal Government or indeed, from the government of California?

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Minnesota.

Mr. FRENZEL. No. I do not know any now, but if this bill is passed, somebody is going to receive a $20 million subsidy from the Treasury.

□ 1400

Mr. STARK. Mr. Speaker, I would submit to the gentleman that the grape growers of this country represent one of the few areas of agriculture that receive no subsidies. This bill would merely restore them to the position they were in before the passage of the Trade Act; therefore, I am inclined, in this case, to think that the point of equity is on their side. They are not asking for a reduced tax. They are asking to maintain it and they will receive nothing else, which I think is rather unique in the agricultural business.

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield further, the gentleman is not quite accurate. They are getting a little better deal than they had.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. ROUSSELOT), a very valuable member of the Committee on Ways and Means.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 7171, providing for miscellaneous changes in the tax laws. The portion of the bill which is of particular interest to many of us is section 6 which incorporates the provisions of H.R. 5616, a bill I cosponsored with several of my California colleagues.

Section 6 of H.R. 7171 would eliminate any unforeseen changes in the excise tax treatment of wines used in combination with distilled spirits to produce cordials, whiskies, brandies, and liqueurs. The change in the tax treatment came about as a result of the implementation of the multilateral trade agreements.

The Trade Act's implementing provisions inadvertently changed the method of taxing wine used as a blending medium. This change has the effect of eliminating the market for blending wines, or rectifiers. This change in the tax treatment of rectifiers was unintended and the committee received statements to that effect from the chairman of the Trade Subcommittee, Representative CHARLES VANIK, from the MTN negotiator, Alan W. Wolff, and from then-Special Trade Representative, Robert Strauss. In fact, Alan Wolff, chief deputy to the STR, wrote that he would "deeply regret any part of the MTN implementing legislation having an adverse effect on the California wine industry."

During the discussion of the trade agreement in the Trade Subcommittee, the wine industry was repeatedly assured that nothing in the treaty would impact on the wine industry. It should be remembered that the trade agreements were not subject to amendment either in full committee or on the House floor. The report to accompany the agreement was not available until floor consideration. Only at that time did we discover the excise tax change for wine used in distilled spirits. During floor debate, Chairman VANIK assured my California colleague, Representative TONY COELHO, that the effect was "never anticipated" by his subcommittee and that he would like to see the problem corrected in future legislation.

H.R. 7171, section 6, gives us this opportunity to preserve the historic status of wine used in the production of distilled spirits. With the passage of this section we can restore this market to American wines. It should be noted that the U.S. wine industry is already suffering under a tremendous international trade imbalance. In 1978, the last year for which credible figures are available, wine represented 2 percent of the total U.S. trade deficit. While the industry anticipated some meaningful changes in international trade procedures through the MTN, none were granted. Instead, the implementing legislation contained the changes in tax treatment which, if left intact, would seriously injure the industry here at home.

I urge my colleagues to support H.R. 7171, and particularly section 6. Any increased revenues which might accrue to the U.S. Treasury as a result of the change in excise tax treatment of wines used in distilled spirits would be completely unanticipated and would not be worth the damage which would be done to the industry.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I want to rise to associate myself with the remarks of the gentleman from California (Mr. ROUSSELOT).

Mr. Speaker, I rise in support of the bill before us today, H.R. 7171, to make certain miscellaneous changes in the tax laws. As you know, the provisions of H.R. 5616, of which I am a cosponsor, have been incorporated into this bill. These provisions would preserve the tax status of wine used in the production of distilled spirits. First, I would like to compliment the chairman of the committee as well as the members of the committee for the work they have done on this bill and for their recognition of the importance of the provisions relating to the wine industry.

California is the largest wine-producing area of the Nation and has come to be regarded as an area which produces wines equal in quality to the finest wines of Europe. I have the honor of representing wine country which makes a significant contribution to the reputation of quality given to California wines.

The wine industry has traditionally sold large quantities of bulk wine to rectifiers who blend the wine with other alcoholic beverages to create rectified products such as cordials, liqueurs, and brandies. The tax is placed upon the component parts of the product rather than on the blended final product. The wine is taxed at a lower rate because of its lower alcoholic content than that of distilled spirits. The "all in bond" system implemented by the Trade Agreements Act of 1979 changes this tax treatment of wine.

As of January 1, 1980, the wine used in this process is taxed as a distilled spirit at the rate of $10.50 per proof gallon in contrast to prior law which would have imposed a tax of as little as 17 cents per wine gallon for wines containing not more than 14 percent alcohol.

The legislation before us restores the more favorable tax treatment to wine and is very important to the industry which has already felt the adverse effects of the Trade Agreements Act. The industry has seen a drop in wine sales and currently holds 2.1 percent of the total U.S. trade deficit.

During debate on the Trade Agreements Act the distinguished chairman of the Subcommittee on Trade noted that the committee had not anticipated the results of the highly technical section relating to the tax treatment of distilled spirits. I certainly commend the gentleman for addressing the problems created by the trade agreements in the legislation before us and I strongly urge my colleagues to lend the bill their full support.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I rise in support of the legislation now before us, H.R. 7171. In particular, I want to point out the need for the correction contained in section 6 dealing with the tax treatment of wine used in distilled spirits.

The correction is necessary due to an error in the legislation passed into law last year for implementation of the Tokyo round agreements of the multilateral trade negotiations.

In the past, wine used for distilled spirits, such as brandies and cordials, was taxed at the normal rate for wine generally. Although a small rectification tax was placed on the final distilled spirit product, the tax treatment of wine sold for blending was no different than the tax treatment of wine sold as an end product.

In the Trade Agreements Act of 1979, however, a new "all-in-bond" tax system was enacted for distilled spirits. The unintended effect of the new tax system was to place a substantial new tax on wine used for distilled spirits.

My colleagues should know that the wine industry and the California delegation were assured that the trade agreements legislation affected the wine industry neither favorably nor unfavorably. Letters from the administration's trade agreement negotiators and floor statements by our colleague from Ohio, CHARLIE VANIK, attest to the unintended impact of the all-in-bond tax system on wine used in distilled spirits.

Since the problem was discovered at a late point in our consideration of the Trade Agreements Act of 1979, the Ways and Means Committee chose to pass this corrective legislation separately.

I want to thank the members of the Ways and Means Committee for consideration and their prompt passage of this important legislation, and I urge my colleagues to support H.R. 7171.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET TOMORROW AND THURSDAY, JUNE 18 AND 19, 1980, DURING 5-MINUTE RULE

Mr. RATCHFORD. Mr. Speaker, I ask unanimous consent for the Committee on House Administration to meet tomorrow and Thursday, June 18 and 19, 1980, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I do so only to indicate that the minority on the committee has no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Speaker, I rise as a cosponsor of H.R. 7171, being considered under suspension of the rules. An important provision of this bill affects the tax status of domestically produced wine used in the production of distilled spirits.

Traditionally, distillers and rectifiers have paid a tax on cordials, liqueurs, whiskies, and brandies based on the component content of wine. When Congress ratified the multilateral trade agreement last year, a highly technical and complex section of the measure amended the tax code to make it economically unfeasible to continue using wine in these products. Even the administration had assured Congress and the industry that the trade bill would not have this effect.

With enactment of this legislation the disincentive to use wine in preparing distilled products will be removed. Furthermore, the guaranteed inflationary consequences to the consumer—passing on the higher $10.50 per proof gallon distilled spirits tax—will be eliminated.

Congressman VANIK, chairman of the Trade Subcommittee, advised the House during floor debate on the MTN package, that remedial legislation would be the appropriate course to follow. Twenty-seven members of the California congressional delegation cosponsored the bill which was incorporated in H.R. 7171. This legislation is fully deserving of passage and I urge my colleagues to vote "aye."

Mr. Speaker, in some of the previous remarks in regard to this bill, and particularly the section dealing with wine, comments were made that there is nobody that is discontinuing the use of wine for their products.

I have with me here, Mr. Speaker, seven letters from seven different companies indicating that they are withdrawing the use of wine because of the increased tax on that particular commodity; so the indication that there is no winery that has been hurt is incorrect and we already have seen a substantial impact on the wine industry.

Mr. Speaker, I think the one thing to remember about this particular bill is that when it came to the attention of those of us in the California delegation and others in the Congress, it was at the very last moment when we did not have any chance to make any corrections.

The Trade Ambassador at that time, Bob Strauss, had indicated to our delegation that there were no provisions in the trade bill, MTN, that would have an adverse impact on the California wine industry and the wine industry from any other part of the country. As a result of that, we were not concerned about different provisions in the bill. But the day it came to the House floor we found this particular provision and the impact it would have on the California wine industry. As a result, the gentleman from Ohio (Mr. VANIK) in a statement that he made on the floor indicated that this matter needed to be corrected and we would do it at an additional time; so this is what we are doing with this particular bill, following through with the commitment we received to correct the matter that was never intended by the committee or the administration at any time.

I urge support for the bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COELHO. Yes, I would be happy to yield.

Mr. ROUSSELOT. Mr. Speaker, I would like to say as a followup to the comment of my colleague from California that the chairman of our subcommittee has reassured us several times in committee that that was clearly his understanding, what the gentleman has stated.

☐ 1410

So it was never intended to be the way it is now by an inadvertence of inclusion in the law. I appreciate the gentleman's reemphasizing this fact that it never was intended. Also, the chairman of the subcommittee, the gentleman from Ohio (Mr. VANIK), has restated that several times in the Ways and Means Committee.

Mr. COELHO. I thank the gentleman and appreciate his remarks.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 3 minutes to a very valued member of the Committee on Ways and Means, the distinguished gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding and rise in support of H.R. 7171, and especially of section 6.

I think it may be useful for me to say a word about this, since unlike the series of previous speakers I am not from the State of California and I do not have any wineries in my district. I think the key to understanding this measure is to realize that unless section 6 becomes law there will be a substantial increase in the tax based upon the alcoholic content of flavorings and wines that are used in alcoholic beverages.

The gentleman from Minnesota (Mr. FRENZEL) spoke of this measure as forgiving $5 million in taxes on wines and $8 million in taxes on qualified flavorings. He also referred to this as an unwarranted rebate.

I must say, Mr. Speaker, I see this in exactly the opposite way. It seems to me what we are really trying to do, maybe not perfectly, but trying to do is to provide a system of excise taxes on the alcoholic content of wines and flavorings which are used as distilled spirits at a level essentially what it was prior to the first of the year. That is before the trade agreement went into effect.

Possibly this has not been done in a way which would result in exactly the same tax as before, but it seems to me that the burden in this instance is not on those of us who say let us leave the situation the way it was before the first of the year, but rather on those who would come in and argue that there is some legitimate and justifiable reason for increasing by $13 million the tax that would be imposed on domestic producers of these particular products.

Therefore, Mr. Speaker, I join with a number of other colleagues who have spoken already on this matter and urge support by the House for H.R. 7171, including section 6.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. BURGENER) who has expressed great interest in this legislation and expended great efforts toward its passage.

Mr. BURGENER. Mr. Speaker, I thank my colleague for yielding.

I do not have the privilege of serving on the Ways and Means Committee. This is a complex matter and I have tried my best to understand it. I would appreciate being corrected if I am inaccurate, and I am sure I will be corrected if I am inaccurate.

I do understand the difference between something like 60 cents to a dollar a gallon tax versus $10.50-per-gallon tax. In the past the practice and level of taxation has been at this much lower level because the wines were used to blend to make cordials. The gentleman from Minnesota (Mr. FRENZEL) talks about $20 million the higher tax will yield, and I respectfully submit that if the tax is going to be at the higher level it will ultimately be paid for by the consumer. If the distillers and blenders and rectifiers operate at a profit, and they must, if they are to stay in business, this tax is going to be passed on to the consumer.

It seems first very unfair to the wine industry, and second is another new tax that has not been levied in the past that is to be passed on to the consumer.

If I am inaccurate I would appreciate being told. But in the meantime, Mr. Speaker, I rise in strong support of H.R. 7171, and particularly section 6.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to express my staunch support for prompt passage of H.R. 7171—miscellaneous changes in tax laws. I commend subcommittee chairman DAN ROSTENKOWSKI and ranking member JOHN DUNCAN for bringing this bill to the floor. The distinguished chairman and members of the Ways and Means Committee have determined that the increased excise taxes on wine and alcohol flavorings used in distilled spirits products have adversely affected the producers of these ingredients and furthermore, that this impact of the Trade Agreements Act of 1979 was an unforeseen result of that legislation. H.R. 7171 restores the excise tax on wine and certain alcohol flavorings in distilled spirits products to essentially the same levels as were imposed under prior law.

Essentially, section 6 of this legislation would preserve a significant market for wine used as blending components in the production of cordials, liqueurs, brandies, and whiskies. The loss of the blending wine market would also adversely affect growers of agricultural products used to make wine which includes products such as grapes, peaches, and other fruits.

The termination of the market for domestic wines used in blending distilled spirits was not sought by the Department of the Treasury, or anyone that I know of, who was associated with the Trade Agreements Act of 1979. This was simply an inadvertent consequence of the enactment of the law and will not undermine what was negotiated under the multilateral trade negotiations. This bill will not undo the equalization tax treatment achieved by section 805 of the Trade Agreement Act. It secures the wine tax advantage to both domestic and foreign market producers. However, it will save a valuable domestic market for American growers, one which will not be offset by any gains achieved for American wines in the Trade Act.

In view of the administration's repeated assurances that the entire wine gallon-proof part of the trade bill in no way adversely affect the wine industry. I was shocked to learn that this highly technical and complex section would inadvertently lead to the elimination of wine in distilled spirits products. Section 805 would require a tax based soley on the proof of the finished product after bottling, namely a distilled spirits tax of $10.50 per proof gallon.

If this correction is not accomplished here today, the American wine industry will lose a very important and growing market. Rectifiers and distillers have unanimously claimed that in a relatively short period of time after the effective date of the trade bill, that they will no longer use wine in the formation of distilled spirits products. The reason is purely an economic one. In as much as the cost, exclusive of tax, of a unit of alcohol derived from grapes, or wine, is much more expensive than alcohol from grain, wine would assuredly be displaced by distilled spirits. Additionally, the substantially higher full $10.50 per proof gallon distilled spirit tax would be passed along to the consumer with all of its inflationary aspects.

It is a fact that the sole inducement to rectifiers or distillers of using wine and distilled spirits products is the tax advantage which wine has traditionally enjoyed.

My colleagues should take note that the U.S. wine industry is already burdened with a noticeable imbalance in international wine trade. The industry had hoped for some meaningful concessions from the multilateral trade negotiations. Now, we have discovered that instead of expanding our markets abroad, the multilateral trade negotiations will hurt the wine industry here at home.

This dangerous provision of the trade bill did not surface until the bill was already on the House floor, and as my colleagues will recall, the wine industry and its growers were faced with a grave problem since this trade act could not be amended. However, during this debate, Chairman VANIK, the floor manager of the bill in the House, conceded that this result was "never anticipated by the Trade Subcommittee and that we have just become aware of this unintended impact on the wine industry."

I sincerely believe that H.R. 7171 should be approved without delay since it is imperative that this oversight be corrected from the standpoint of fairness to the domestic wine industry as well as to assure full compliance with the letter and spirit of the multilateral trade negotiations.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding. I do agree with him that this bill does not upset the MTN Implementation Act, and the strenuous opposition to it was never based on that feeling.

Mr. HAMMERSCHMIDT. I thank the gentleman and yield back the balance of my time.

● Mr. JOHNSON of California. Mr. Speaker, I welcome this opportunity to rise in support of H.R. 7171, in which the provisions of H.R. 5616 have been incorporated. I have the privilege of being a cosponsor of H.R. 5616, which provides for the preservation of the historical tax status of wine used in the production of distilled spirits.

The California wine industry sells significant amounts of wine to rectifiers and distillers for blending in the production of cordials, liqueurs, whiskies, and brandies. The rectifiers' and distillers' tax liability is based on the individual component parts of the product rather than on the finished product itself. The tax on the wine component is $0.67 per gallon. The tax on the distilled spirits component is $10.50 per gallon.

Although the administration repeatedly assured both congressional and wine industry sources that the Trade Agreements Act of 1979 (the trade bill) would contain nothing inimical to the interests of the American wine industry, a highly technical and complex section inadvertently for all practical purposes eliminated the use of wine in the production of spirits. This section assesses the tax on spirits solely on the proof of the entire finished product after bottling. Thus, the tax of $10.50 per gallon would apply. Since the cost, exclusive of tax, of a unit of grape or wine alcohol is much more expensive than a unit of alcohol from grain spirits, the only advantage to the use of wine in spirits production is the tax advantage which wine traditionally enjoyed under the system of component taxation.

The wine industry did not become aware of the offending provision in the trade bill until July 9, 1979, when it had already reached the House floor. On July 10, Chairman VANIK stated that his committee (which had reported the trade bill) "never anticipated" this result, having just become aware of the section's "unintended impact on the wine industry." He stated that he would like the problem corrected by subsequent legislation. H.R. 5616 was that legislation.

The U.S. wine industry is subject to a tremendous imbalance in international wine trade. In 1978 wine represented a $609.2 million trade deficit, over 2 percent of the total U.S. trade deficit. The industry rightfully had hoped for some meaningful concessions from the multilateral trade negotiations on which the trade bill was based. However, not only were none forthcoming, this provision of the trade bill would restrict U.S. markets abroad rather than helping the wine industry to expand.

Although the Bureau of Alcohol, Tobacco and Firearms has not yet put the offending provision of the trade bill into effect, it will be forced to do so if the tax component status for wine is not restored, as set forth in H.R. 5616, which has now been incorporated into H.R. 7171.

It is imperative that this problem be immediately corrected by legislation. The bill we are now considering, H.R. 7171, provides the vehicle to do this, and I urge my colleagues to give favorable consideration to the measure.●

● Mr. ALEXANDER. Mr. Speaker, I rise in support of H.R. 7171, a bill to make certain miscellaneous changes in the tax laws.

This bill will amend the tax laws as they affect certain Federal scholarship grants; the tax treatment of annuities purchased for employees of the Uniformed Services University of the Health Sciences; the method of depreciation for railroad track assets; the tax treatment for members of an affiliated group and the excise tax treatment for wine and flavorings used in distilled spirits products.

The method of depreciation for railroad track assets is important in that it codifies the retirement-replacement-betterment (RRB) method for rails, ties, and other items in track accounts. As a result of this codification, the RRB method of depreciation may be used by a common carrier by railroad for depreciation of skills, ties, et cetera.

The excise tax treatment of wines and flavorings used in distilled spirits products is a direct result of an unforeseen interpretation of the Trade Agreements Act of 1979. This bill restores the excise tax on wine and certain alcohol flavorings to essentially the same levels as were imposed under prior law. This should return the distilled products market to the high level of competition it enjoyed before the MTN agreement took effect.

Mr. Speaker, this bill makes several other needed changes in the U.S. Tax Code which are fair and equitable. I ask that my colleagues act favorably upon this measure.●

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 7171, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REQUEST FOR POSTPONEMENT OF VOTES ON BILLS CONSIDERED UNDER SUSPENSION OF THE RULES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that further proceedings on motions to suspend the rules considered today and the remaining unfinished business from yesterday be postponed until after disposition of the supplemental appropriation bill, H.R. 7542.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, the only question I would address to the chairman is does that motion carry with it the guarantee that the votes will be placed today?

The SPEAKER pro tempore. The Chair would say at this time that the Chair could not assure that, depending on the length of time the other legislative matter required.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LEVITAS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1420

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7018, H.R. 4155, H.R. 4968 and H.R. 7171.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7018, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 7018, as amended.

The question was taken.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 200, nays 215, not voting 18, as follows:

[Roll No. 332]

YEAS—200

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bingham
Boland
Bolling
Boner
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Garcia
Gaydos
Gibbons
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Hopkins
Horton
Howard
Hutchinson
Hutto
Hyde
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Pickle
Preyer
Price
Pursell
Rangel
Ratchford
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stenholm
Stewart
Stokes
Studds
Stump
Swift
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Wampler
Waxman
Weaver
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—215

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bonker
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Devine
Dickinson
Dicks
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Hillis
Hinson
Holland
Holtzman
Hubbard
Huckaby
Hughes
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Petri
Peyser
Porter
Pritchard
Quayle
Quillen
Rahall
Railsback
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Satterfield
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Solomon
Spence
Stangeland
Stanton
Steed
Stockman
Stratton
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Volkmer
Walker
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—18

Anderson, Ill.
Boggs
Bowen
Clay
Dodd
Flippo
Holt
Ichord
Jenrette
Mathis
Myers, Pa.
Nedzi
Reuss
Santini
Sebelius
Weiss
Wilson, C. H.
Wydler

☐ 1430

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Santini for, with Mrs. Holt against.

Mr. Myers of Pennsylvania and Mr. Clay for, with Mr. Sebelius against.

Mr. Nedzi and Mr. Dodd for, with Mr. Wydler against.

Until further notice:

Mr. Bowen with Mr. Charles H. Wilson of California.

Mr. Reuss with Mr. Weiss.

Mr. Flippo with Mr. Ichord.

Mr. Jenrette with Mr. Mathis.

Mr. Satterfield with Mr. Anderson of Illinois.

Messrs. PEYSER, ERLENBORN, and GLICKMAN, Ms. HOLTZMAN, Messrs. FINDLEY, DASCHLE, SWIFT, and WYATT changed their votes from "yea" to "nay."

Mrs. HECKLER and Mr. PREYER changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

☐ 1440

POSTPONEMENT OF VOTES ON BILLS CONSIDERED UNDER SUSPENSION OF THE RULES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that further proceedings on remaining motions to suspend the rules considered today and the remaining unfinished business from yesterday be postponed until after any disposition of the supplemental appropriation bill, H.R. 7542, today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

☐ 1450

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the request of the gentleman from Wisconsin is that the remaining votes be postponed until the end of consideration of the supplemental appropriation today; is that correct?

Mr. ZABLOCKI. If the gentleman will yield, to the extent that the supplemental appropriation bill will be considered. If it is not completed, the Committee rises, and votes will be in order.

Mr. BAUMAN. So, in any case, the votes will occur today and will not be postponed beyond today?

Mr. ZABLOCKI. No, they will not be postponed beyond today. They will be voted today.

Mr. BAUMAN. Does the gentleman have any idea what time that might occur, in view of the fact that the supplemental is likely to take many hours?

Mr. ZABLOCKI. The gentleman from Wisconsin cannot assure approximately what time, but it is my understanding that it will be about 6 o'clock.

Mr. BAUMAN. Are we to conclude the business today, Mr. Speaker, by 6 o'clock?

The SPEAKER. The Chair will advise the gentleman that the Committee could rise at any time it so desired, to allow the votes, and then the House could resolve back into Committee to continue the supplemental bill.

Mr. BAUMAN. I was just trying to get an approximate time so that the Members might plan to be here, Mr. Speaker.

The SPEAKER. The Committee could begin to consider the supplemental budget, rise at 4 o'clock, and then upon completion of the suspension votes, which could take 35 minutes, resume consideration of the bill.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, JUNE 20, 1980, TO FILE REPORT ON H.R. 3567, SOFT DRINK INTERBRAND COMPETITION ACT

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight, June 20, 1980, to file a report on H.R. 3567, the Soft Drink Interbrand Competition Act.

The SPEAKER pro tempore (Mr. Peyser). Is there objection to the request of the gentleman from Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this the bill that just came out of the Judiciary Committee similar to the Hall bill?

Mr. HARRIS. If the gentleman will yield, this is the Interbrand Competition Act which was reported favorably by the committee this morning.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

SAN FRANCISCO REGION AIR TRAFFIC CONTROL COMPUTER ON THE BLINK AGAIN

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, for the third time in 3 weeks, the air traffic control computer radar in the San Francisco region has gone on the blink. The FAA Administrator, Mr. Bond, has consistently said that this is not a problem, although those of us who have been looking at it feel that it endangers those who travel by airplane throughout the country. I would hope that Mr. Bond would take this opportunity to do something about the problem or resign from his position.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 707 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 707

Resolved, That during the consideration of the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, all points of order against the bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived, except against the language on page 32, lines 11 through 14. It shall be in order to consider an amendment printed in the Congressional Record of June 16, 1980, by Representative Lehman of Florida and all points of order against said amendment for failure to comply with the provisions of clause 2, rule XXI are hereby waived. It shall be in order to consider en bloc amendments printed in the Congressional Record of June 12, 1980, by Representative Fithian of Indiana, said amendments shall not be subject to a demand for a division of the question, and all points of order against said amendments for failure to comply with the provisions of clause 2, rule XXI are hereby waived. It shall be in order to consider the amendment printed in the Congressional Record of June 16, 1980, by Representative Chisholm of New York, and all points of order against said amendment for failure to comply with the provisions of clause 2, rule XXI are hereby waived. It shall be in order to consider one amendment in the following form: on page 101, after line 19, insert the following new section:

"Sec. 304. None of the funds appropriated or made available by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.".

All points of order against said amendment for failure to comply with the provisions of clause 2, rule XXI, are hereby waived.

The SPEAKER pro tempore. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the usual 30 minutes for debate only to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 707 is a rule to facilitate consideration of H.R. 7542, the Supplemental Appropriations and Rescission Act, 1980. The resolution recommended by the Committee on Rules waives points of order against the bill and certain proposed amendments to it.

Points of order pursuant to both clause 2 and clause 6 of rule XXI are waived against the bill. Clause 2 prohibits unauthorized appropriations and legislation on an appropriations bill. Clause 6 prohibits reappropriations of unexpended balances. Violations of these clauses appear in a number of paragraphs throughout the bill. Pursuant to clause 3 of rule XXI, a listing of the limitations and legislative provisions in the bill appears in the Appropriations Committee report. The waiver of points of order based on these violations is necessary for the orderly consideration of the bill on its merits.

One legislative provision in the bill, the termination of the International Solar Study Mission, is not covered by the blanket waiver of clause 2, rule XXI. Therefore, a point of order would lie against its consideration. The decision by the Committee on Rules not to recommend a waiver in this instance followed testimony on both sides of the question. The Chairman of the Committee on Science and Technology, Mr. Fuqua, argued that continuation of the mission is an issue that the House should decide in future authorizing legislation.

The rule also grants waivers of clause 2, rule XXI against consideration of four proposed amendments to the bill. All were requested in testimony before the Committee on Rules. The first would provide the President with $100 million for special refugee assistance pursuant to the so-called Fascell amendment to the fiscal year 1980 foreign aid bill. This would allow a reimbursement of States and localities for services provided to Cuban refugees ineligible for assistance under the Refugee Act of 1980. This amendment was printed in the Congressional Record of June 16, 1980, by Mr. Lehman.

The second amendment would provide $294.75 million to fund new provisions of law contained in the conference report on H.R. 3434, Social Services and Child Welfare Amendments of 1980. This waiver insures consideration of the amendment if H.R. 3434 is not signed into law prior to House action on H.R. 7542. This amendment was printed in the Congressional Record of June 16, 1980, by Mrs. Chisholm.

The third, a package amendment to be offered en bloc, increases funds for Public Law 480, food assistance, by $42.86 million with a corresponding cut in funds appropriated for the purchase of furniture by the Federal Government. This amendment was printed in the Congressional Record of June 12, 1980, by Mr. Fithian.

The fourth amendment would allow the consideration of the so-called Hyde amendment language which prohibits the use of Federal funds for abortions except where the life of the mother would be endangered if the fetus were carried to term. It will allow a direct vote on the matter.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule is self-explanatory; the bill itself is self-explanatory. We know—everyone should know, at least—that the supplemental appropriations are definitely necessary to carry on the Government. The rescissions take away over $1 billion.

So let us get down to the business of passing the rules and passing the bill.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

☐ 1500

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7542, and that I may be permitted to include extraneous and tabular matter.

The SPEAKER pro tempore (Mr. Staggers). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Massachusetts (Mr. CONTE) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7542, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Without objection, the first reading of the bill is dispensed with.

There was no objection.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE), will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to the floor today a supplemental rescission bill providing $15.4 billion in new budget authority which represents a reduction of $1.6 billion below the amount requested by the President. The recommendation of $15.4 billion in budget authority included in the bill will have the effect of reducing fiscal year 1980 outlays by $1.5 billion below the amounts requested by the President in his recent anti-inflationary revisions of the budget and is within the budget ceilings as currently agreed to in the latest budget resolution.

On May 9, the Appropriations Committee reported out a supplemental rescission bill but was unable to obtain floor consideration due to the impasse on the congressional budget resolution. Because resolution of these issues was not forthcoming, the Appropriations Committee was forced to use extraordinary means—such as transfers for Selective Service and the FTC—to accommodate the breached ceilings. Due to changing conditions such as the Mount St. Helens disaster, the Appropriations Committee reported out an updated version of the supplemental rescission bill which is before you today. The supplemental bill has been long delayed and immediate enactment is needed to avoid undue disruption to essential programs.

The bill includes $1.7 billion in rescission proposals. The 45-day impoundment period expired on June 4 and potential savings associated with these rescission proposals may be lost if enactment of this bill is delayed further.

The bill includes $343 million for black lung disability benefits; $539 million for disaster relief (FEMA); $427 million for the SBA disaster loan fund—exclusive of the Mount St. Helens disaster; $784 million to respond to the Mount St. Helens disaster which includes funds for the Corps of Engineers, additional SBA disaster loans, and disaster relief (FEMA); $447 million for the food stamp program to provide funding for the remainder of the year; $3.7 billion for defense items of which approximately $2.4 billion is recommended to fund Defense Department's fuel requirements; $400 million to fund bus and rail transit projects; $1.5 billion to fund the Trade Adjustment Assistance Act; $2.2 billion for the Federal share of State medicaid payments; and $1.7 billion in rescissions designed to reduce Federal spending in line with the anti-inflation effort.

This bill will not stand significant amendments adding money because of the current budget ceilings. It does not provide all the funds requested, and it does not satisfy everyone. However, I feel it is the best that could be done under the circumstances to achieve economies and still provide for the more urgent items. In balance, it has the support of the majority on both sides of the aisle.

I do not wish to leave the impression, Mr. Chairman, that this bill provides all the funds that might be required for the balance of this fiscal year. The Federal budget has become of such scope that it is extremely vulnerable to unforeseen developments and unanticipated economic trends. These matters are not within our control in the Appropriations Committee. We have done the best we can with what is before us at this time.

Mr. Chairman, I too am concerned with respect to many of the statements that are being made about the serious financial plight of our Government, and the desire to work within the budget ceiling which we voted for this fiscal year. Since we adopted the original ceilings last year, circumstances have changed, the interest on the public debt was more than twice then was anticipated, and the price of gasoline for the armed services was probably three times what had been anticipated. These two items alone made the budget resolution out of balance but due to matters largely beyond our control.

As we bring this bill to the floor, we have given the Members the best balanced package which we are capable of producing. At the same time, we can see that unemployment, and its mandatory unemployment compensation payments, plus many other contingencies that will surface as a result of the present recession will cause additional demands on the budget.

In order to reflect fiscal constraint we have included in the bill we have before us rescissions of $1.7 billion. In addition, this bill is about a billion and a half dollars below the President's recommendations and it is below the budget resolution that was adopted by the Congress for fiscal year 1980.

Mr. Chairman, we are within the various limits that are prescribed by the Congress. I wish to say to my colleagues here that we are now feeling the pinch of trying to bring the Federal budget in line. While I know of a number of items we may have to deal with, I do not know that under present conditions we can accept many amendments at this time without running the risk of exceeding the budget ceilings.

□ 1510

I do hope that my colleagues will work with the committee and hold back unnecessary amendments and give us an opportunity to exercise restraint. The Appropriations Committee shares your desires to bring things in line. In my judgment we are going to have better times only if we do not let things continue to go without some restraint. I ask the Members to back the committee in this effort.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join Chairman WHITTEN in bringing to the House H.R. 7542, the Supplemental Appropriation and Rescission bill for the fiscal year 1980.

The Appropriations Committee and all the subcommittees have worked long and hard on all aspects of this bill. I personally want to thank Chairman WHITTEN, the subcommittee chairmen, and the ranking members for their dedicated efforts.

As you know, we have been ready with a supplemental bill since May 8, but action by this body has been delayed until now by the impass over the budget resolution.

During this month, a number of critical emergencies have occurred that demand Federal support. The devastation at Mount St. Helens, in particular, has cost millions of dollars in personal and business property loss. This bill includes nearly $1.8 billion for disaster relief under FEMA, SBA, and for Mount St. Helens.

Of the 13 chapters in this bill, 12 are recommending levels below the President's budget request. This is a year of demanding fiscal austerity. If we have any chance of balancing the budget in fiscal year 1981, we know we must start right here. We have agonized over this bill. Some very good programs have been curtailed. We cannot, however, be accused of slashing away indiscriminately at vital programs. We have skillfully pared away excess fat to arrive at bottom line, including program and pay levels, that is $2,095 million below the President's budget proposal.

From the beginning, it has been our objective to bring to the floor a bill which, in the aggregate, would be at or below the President's budget. To do this, we have brought to the floor a bill which is unique in my experience. It employs virtually every device available to the Appropriations Committee: Appropriations, rescissions, transfers, reappropriations, deferrals, and amendments to limitations in previous law. While some of these devices, such as the inclusion of deferrals in a general appropriations bill, are being used for the very first time, I fully support their use in order that the total actions of this body can be fairly measured against the total supplemental recommendations of the President for fiscal year 1980.

I realize that none of us really likes rescissions because they tend to second-guess and reverse decisions we have already made after careful deliberation. Nevertheless, there is no real way around them if we are to achieve our objective of a balanced budget.

It is important to recognize the very critical nature of this bill. It contains many very needy human programs. There is, for instance, an urgent need for supplemental funds for black lung beneficiaries. Currently, some 16,000 cases are owed retroactive benefits under the program. And, this week, funds will run out for payments due to an additional 140,000 black lung beneficiaries. These coal miners, their families, and their survivors depend on these funds for compensation payments and for necessary medical treatment. In addition, over 600,000 recipients of unemployment benefits had their payments run out June 6.

Let me draw your attention to a few key items:

As you know, this body already separated out the food stamp supplemental and put it on a fast track to meet immediate program needs in May and June. Now, this bill includes an additional amount of $466 million to carry the food stamp program through the end of the fiscal year.

Also, in the Agriculture chapter is the supplemental appropriation of $100 million for Public Law 480—food for peace. The appropriation is $96 million below the President's budget request. At this level, 80 percent of these funds will go to nations that are projected to be facing mass starvation within the next several months. However, with increased starvation in Somalia and throughout East Africa, it is very unlikely that this level of funding will meet our humane commitments to these desperate people.

In the HUD and independent agencies chapter of the bill are included two urgent supplemental appropriations. The first is $539 million for disaster relief as requested by FEMA. Since this supplemental request was sent up in January, at least six new disaster declarations have been issued by the President, including Mount St. Helens, making the need for this money all the more crucial. The second item is $300 million for the Space Shuttle, NASA's highest priority project.

The Interior chapter includes a new rescission of $800 million for the strategic petroleum reserve oil acquisition program.

In addition, it is important to note that the committee included several deferral actions in place of proposed rescissions. Most notably these include urban parks, historic preservation, and land and water conservation, totaling $246 million in deferrals.

In the Labor/HEW chapter, the bill includes a supplemental appropriation of $1,441 million for advances to the unemployment trust fund. This urgent supplemental provides for additional advances to the black lung trust fund to make interest and benefit payments required by law, and to provide trade adjustment assistance to thousands of unemployed autoworkers.

Another major item, accounting for more than 55 percent of the supplemental appropriation in the Labor/HEW chapter, is a supplemental of $2 billion to meet the Federal share of the State medicaid costs. This is $130.5 million less than the amount requested by the President.

In the area of education assistance, the Labor/HEW Subcommittee rejected proposed rescissions totaling $192.8 million for vocational education and capitation grants for medical and nursing schools.

Labor/HEW was a tough budget to cut. Even so, the bottom line is more than $368 million below the budget estimate.

In State, Justice, and Commerce, $839 million in supplemental funds are included for the SBA disaster loan fund. These are crucial funds to assist this Nation's small businessmen and women who have been hurt by disasters, including Mount St. Helens.

In the chapter on Transportation and related agencies, the bill includes a liquidating cash appropriation of $1.4 billion for the Federal-aid highway program. Due to unusually high obligation rates by the States, this amount is needed to cover States' needs.

We also seek to provide an additional $50 million to the Federal Highway Administration to provide emergency relief funds for the repair of highways and bridges damaged or destroyed by natural disasters; and we expect the administration to give priority to the projects mentioned in our report, House Report No. 96-1086 and the report issued by the authorizing committee, House Report No. 96-963.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I want to thank the gentleman from Massachusetts (Mr. CONTE) for his assurance that the Appropriations Committee expects the administration to give equal priority to those Department of Transportation emergency relief projects mentioned in House Report No. 96-963, the report accompanying H.R. 6417, the Surface Transportation Act of 1980. As the gentleman knows, that report directs that three bridges in Maricopa County, Ariz., be given equal funding priority with those projects identified by the Appropriations Committee in its report, House Report No. 96-1086.

For the past 3 years the Phoenix metropolitan area has been devastated by floods. During this past February, this area of nearly 1.5 million people was literally brought to a halt as 11 of 13 bridges which cross the Salt River were rendered unusable. For a period of weeks, residents were forced to endure waits of up to 6 hours just to cross the river. The funding for the replacement of three of these bridges—Country Club Drive Bridge, 16th Street Bridge and 19th Avenue Bridge is being provided from the Department of Transportation's emergency relief fund. To hasten the completion of these structures, the Arizona Department of Transportation has identified a need for $4.71 million in this fiscal year which will be used primarily for the acquisition of rights-of-way.

□ 1520

Mr. CONTE. The gentleman from Arizona, as usual, is right on target. He is absolutely right.

For urban mass transportation, $400 million in additional funding is included for section 3, urban discretionary grants. This supplemental will mean an increase of $275 million for bus activities, an increase of $150 million for existing rail system modernization, and an increase of $75 million for fixed guideways and new starts.

These items represent only a few of the tough decisions the Appropriations Committee has had to confront.

Every one of us can point to cuts in this budget that affect programs we have worked on long and hard—programs that are vital to our national security and to our communities. The challenge of bringing to you a bill that will help to balance the budget in fiscal 1981 has demanded that programs be trimmed and tailored. We have tried to do just that.

I believe this is a bill that all of us on both sides of the room can, and should support.

I realize that there will be a number of amendments proposed for this bill. Regardless of our individual position on single issues or programs, we must recognize that we are pushing very close to the new budget ceiling. If we are going to add additional program funding to this bill, we will have to make some sacrifices also.

This is an historic time for the Appropriations Committee and the Congress. We are striving to achieve a balanced budget and this bill will help us toward that goal. Let me restate that the bottom line of this bill is $2,095 million below the President's budget.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I traditionally vote against supplemental appropriations, because in most cases I feel that the additional funds are not really needed and will only place an even larger burden on the taxpayer. However, in the current supplemental appropriations for fiscal year 1980, there are some much-needed funds for disaster relief for the area affected by the eruption of the Mount St. Helens volcano. This special appropriation of $783.5 million will be disbursed to the various agencies involved in the disaster relief effort to assist those individuals who have lost property and crops from the ash which has fallen from this volcano. The northern section of Idaho has been covered by this ash, and we have some special needs in this area for this special assistance.

There are some parts of this supplemental appropriations bill which I do not support, as I feel some of the funds could be better utilized, but I must support the entire package to insure that we obtain the disaster relief for Idaho.

I wish to thank the chairman for letting me discuss my views on this issue.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Chairman, I rise in support of the supplemental appropriations bill, H.R. 7542, which is now before the House. The bill includes urgent funding for unemployment benefits, disaster relief, black lung benefits, and many other important programs.

Of particular importance to me and the entire State of Washington is the supplemental appropriation for the disaster relief programs made necessary by the Mount St. Helens volcanic eruptions.

As you know, three violent eruptions have stricken the mountain within the last 4 weeks. These eruptions have had profound, immediate effects on the States of Washington, Oregon, Idaho, and Montana. The total damage and the full implications of the losses will take years to assess. The Mount St. Helens eruptions have had a serious adverse impact on the entire Pacific Northwest region. Agriculture, transportation, fisheries, and forest products have all been seriously hurt, and disruption of traffic through Columbia River ports has severely disrupted the economy of the entire region.

To date, 25 people have been killed, and over 50 are still missing; volcanic ash has been deposited on a major portion of Washington State and surrounding areas creating a potential health hazard and tremendous cleanup costs; ship traffic on the lower Columbia River has been brought to a standstill; mudslides have created serious flood potential on several rivers and have wiped out roads and bridges; approximately 410,000 steelhead and cutthroat trout were lost along with 12 million salmon; 20,000 big game animals and 1.5 million birds and small animals; there was incalculable damage to crops; 1 billion board feet of forest service timber has been knocked down; and State agencies and local governments have incurred tremendous costs in trying to cope with this catastrophic situation.

Mr. Chairman, I could go on and on listing the devastating impact these three eruptions have had on the Pacific Northwest.

The disaster relief funds that are included in this supplemental appropriation are critically needed to help the region begin recovering from the terrible impact of this disaster.

Specifically, these funds are needed for the Corps of Engineers to dredge the Columbia River of mud and debris in order to clear the river for ship traffic. The corps also needs funds to remove debris from the Cowlitz and Toutle Rivers to protect surrounding towns from flooding. The Soil Conservation Service needs funds to repair stream banks and sediment dams following the massive flooding and to prevent soil erosion. The Emergency Conservation Service needs funds to restore the productive capacity of farm land by clearing debris and repairing fences for livestock.

The Small Business Administration needs funds to provide loans to businesses which suffered economic injury as a result of the eruption, to provide agricultural loans to replace crops, cattle and feed, and to provide home and business loans for actual physical damage. Federal Emergency Management Agency funds will be used to reimburse State and local governments for extensive cleanup costs and lost machinery, and will also provide individual family grants and establish public assistance programs. The U.S. Geological Survey needs funds to monitor the volcano and water resources as well as to replace damaged monitoring equipment. The Forest Service needs funds for resource assessment, fire prevention, bridge replacement, and dust abatement.

Mr. Chairman, if the figures sound large, I urge you and my colleagues to remember they were made necessary by one of the worst natural disasters in American history. I urge your support of this bill as a significant and necessary step to start the Pacific Northwest region down the long road to recovery.

Mr. Chairman, I would like to thank the Chairman of the committee and the ranking Republican member for their work in bringing this bill promptly to the floor. It certainly is appreciated by the people of the State of Washington and our congressional delegation.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Chairman, I just want to make brief mention of the items in the Labor-HEW chapter of this bill.

There are in this chapter, $224 million in additional outlays in 1981 over what the President recommended.

Our subcommittee rejected $431 million in rescissions and deferrals proposed by the President. We accepted $775 million.

The tables in the committee report show a $336 million reduction in outlays for 1980, but this reflects primarily reestimates in three entitlement programs, black lung, medicaid, and guaranteed student loans.

The administration has accepted the revised estimates for black lung, so that reduces the outlay reduction to $234 million.

Every time we have these reductions due to reestimates of entitlement programs, I guess I have to raise the red flag because invariably we end up under the amount actually needed. If I might just cite last year, for example, the CBO said our appropriation for medicaid was understated by $800 million.

We did not pay any attention, so now we are forced to include in this bill a supplemental for medicaid of nearly $2.2 billion.

Of the increase for medicaid, $95 million is due to the failure of HEW to achieve even the scaled-down savings of $301 million that were mandated in the amendment I offered to the regular Labor-HEW bill in fiscal year 1979.

Our subcommittee approved the entire reduction proposed by the administration for title VI CETA jobs, thus reducing the number of jobs from 200,000 to 149,000 by the end of the year.

Following are the major rescissions and deferrals that our committee rejected.

Health Services Administration, $19 million;

NIH, $41 million;

Health professions education, $100 million;

Nursing, $28 million;

Title I concentration grants, $15 million;

Vocational education, $108 million; and

Direct loans, $108 million.

All told, Mr. Chairman, our Labor-HEW chapter contains about $400 million in discretionary increases over the President's recommendations. I think we could have done a better job of holding the line, but then Members are well aware that I often speak as a lone voice. Later when we read the bill for amendment I will have a significant amendment having to do with the trade adjustment benefits item.

Mr. Chairman, I yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. Wolpe).

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 7542, the supplemental appropriation legislation. I want to commend the chairman and ranking minority member for the leadership they have exercised in drafting this very critical legislation.

It has been, indeed, a time of multiple disasters throughout this country. Within my own congressional district, two counties in southwestern Michigan were stricken by a tornado on May 13 that left five dead, many others hospitalized and homeless, and the downtown business district in the city of Kalamazoo completely devastated. The President shortly thereafter declared Kalamazoo and Van Buren counties within Michigan a major disaster area. Immediately a Federal emergency management team was dispatched to the area, providing much-needed assistance and relief to individuals and businesses that had been affected by the devastating tornado.

Mr. Chairman, I want to take a moment to simply indicate that the Federal Emergency Management Administration has performed splendidly in this emergency situation facing my district. However, as we are all aware, the Small Business Administration Disaster Fund and the FEMA Disaster Relief Fund are exhausted. Fieldworkers for FEMA have indicated to me directly that any further delay in the passage of this supplemental appropriations bill will interrupt the critical work of relief assistance that is presently underway.

So it is urgent that there be no further delay and that this supplemental appropriation bill be enacted upon by this body today.

□ 1530

Mr. CONTE. Mr. Chairman, I yield 10 minutes to my good friend, the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman, as ranking minority member of the Small Business Committee, I will comment on another provision of the bill before us. H.R. 7542, provides $839 million for the SBA Disaster Loan Fund and $625 million for the Federal Emergency Management Agency (FEMA), all of which was requested by the President. I applaud the White House for its apparent sympathetic view toward the disaster victims of Mount St. Helens and other disasters throughout the country. However, I must also point out that the President has fought for nearly 4 years to raise the loan interest rates charged to disaster victims. Not only has he been successful in killing any attempts at keeping disaster loan interest rates near their historical percentages but he has also succeeded in forcing businesses caught in a disaster to search for commercial credit before our Government will even consider lending any of the disaster money we appropriate. This administration rightly requested large amounts of money for FEMA, money which is earmarked for a good cause. However, when it comes to making loans for rebuilding the businesses of a disaster community, the President's policy is to insist on making those businesses look elsewhere first for disaster loans, a time-consuming and costly process.

The administration calls reasonable interest rate loans subsidies. I call them investments. Investments which return much more money to the Treasury than the administration thinks it saves. For instance, if only 3 percent of all disaster businesses decided not to reopen their doors because they cannot afford the high interest rate, the Treasury will lose approximately $133 million in taxes and other revenues it would have otherwise collected over the period of the loan. In addition, for every business that we force to fold, an average of 12 individuals will be unemployed; raising the cost to the taxpayer not only in maintaining that person and his family until he finds a job, but also in lost productivity, in an already underproductive economy.

To reiterate, we can and should be very considerate with the money we appropriate to our disaster victims. However, we should be aware that the present administration has made it harder than ever before for businesses to secure the disaster loan money we appropriate. And that may mean fewer jobs.

Mr. Chairman, I rise in support of H.R. 7542, making supplemental appropriations and rescinding certain budget items for fiscal year 1980, and urge its approval by the Members of this House.

I call to the attention of the Members of the House certain items that are of particular concern to me and to my constituents, particularly the actions which our committee took in chapter 7, the Interior and related agencies title. The committee considered a very wide range of actions in this title, including the decision not to allow the administration to terminate the urban parks and recreation program and not to allow the land and water conservation program along with the historic preservation fund, to be destroyed. Instead of rescinding the bulk of the budget authority contained here, we acted to defer spending until next year in an effort to hold outlays down for both years while keeping these programs alive and well. The committee also provided $141 million for fire suppression costs on our Federal lands. This action will help us fund what has been an exceptionally difficult season in fighting fires. The committee also realized some rather meaningful cuts in several items not submitted by the administration but available because we dug into its existing budget and found some additional fat.

I especially want to commend our committee's actions in the areas of fossil energy, energy conservation, and the strategic petroleum reserve. We reduced the budget by $882.3 million, allowing for the approval of several small items in the energy conservation and energy information programs.

The largest reduction found here is the $800 million rescission in the strategic petroleum reserve, a reduction that results from the administration's head-in-the-sand approach in meeting what is a national mandate—the construction of a ready oil reserve against any further embargoes from OPEC. We can make this reduction because the administration simply has not moved to store and acquire oil. Indeed, not one drop has been purchased since March of last year. With $3.3 billion still available for oil purchases and a new congressional directive agreed upon yesterday as part of the pending syntheic fuels legislation, the Carter administration can no longer exclude the strategic petroleum reserve from our energy policy.

The committee reduced two items: $17 million for MHD and $6 million for coal oil mixtures in the fossil energy program, along with agreeing to $22 million in other rescissions for projects that have either slipped or have been cancelled.

These programs, many of which enjoy higher priority in budget years and then go by the boards in lean budget years, represent the major difficulty that our committee has encountered in reviewing the Department of Energy's budget. We have over the course of the past several years tried to play guessing games with the Department as to where our energy initiatives should be concentrated. We have had some successes. And, certainly, we have endured more than our share of failures. We have tried with Federal dollars to absorb some of the risk that our private industries are assuming in trying to move our energy technology ahead. Regrettably, until last year we were forced to do it entirely on a piecemeal basis, cutting some priorities, rearranging others and always relying upon that testimony of expert witnesses who told us that their technology was only 1 or 2 years and $1 or $2 million away. There was never any big picture, never a comprehensive plan.

Only last year did our committee do something about trying to bring some order into the Nation's energy future. When we created the Nation's first alternate fuels program in Public Law 96–126, the 1980 Interior appropriations bill, we sent the first message to our Nation's private industries that they could go ahead and produce energy from coal and shale and tar sands and biomass and our other plentiful national resources and we would provide the money and the incentives necessary to get DOE out of the pilot stage and onto the commercial stage of energy independence. Many of the technologies funded previously and on a piecemeal basis will be eligible for assistance as this program grows this year and over the next several years. And many of the energy conservation items we regard as the short-term holding action needed until the longer-term projects can come on stream will be funded under alternate fuels as well. We hope to minimize, or eliminate, the slippage, the delays, the wrong guesses about what might work with concrete incentives only for those projects in the private sector that will work.

When our committee brings the 1981 Interior appropriations bill to the floor next month, we have a series of new ideas to present to you that will expand the initiatives of last year. These initiatives are all aimed at the supply side of that energy equation. Whenever and wherever we can save one barrel of oil that a barrel represents one less surrender to OPEC's outrageous price squeeze. We can displace OPEC oil with American technology and in that endeavor I am confident that our alternate fuels program will lead the way.

Mr. Chairman, the actions we have taken in our subcommittee have been thoughtful ones. They are actions which will give us more energy for our dollars than ever before. I hope you will support us today and next month.

I strongly support the amendment of the gentleman from Indiana. The SES bonus concept contained in the civil service reform legislation is a good one and I favor it. However, it has been demonstrated that there is a need for oversight. I have discussed this with the chairman of the House Committee on Post Office and Civil Service, Mr. UDALL from Arizona, and the committee's ranking minority member, Mr. DERWINSKI, of Illinois. They are keenly interested in seeing that this program works well, as all of us in the Congress are. The action of the Appropriations Committee earlier today and the amendment by the gentleman from Indiana, Mr. Benjamin, are an effort by the House to stop ripoffs and assure that cronyism does not prevail. It will put the executive branch on notice that corrective action is necessary to return this bonus program to its original purpose to compensate, on a selective basis, those members of the Senior Executive Service with superior performance. It was intended to be, and can still be, an effective means for securing and retaining highly competent employees in the Federal Government.

□ 1540

Mr. NATCHER. Mr. Chairman, at this time I yield such time as he may consume to the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Chairman, the bill includes a net amount of $519,981,000 in new budget authority for the transportation activities funded in chapter 12. This is $307,450,000 less than the budget request and is comprised of additional direct appropriations of $594,981,000 less a rescission of $75,000,000.

Our Transportation Subcommittee's chapter also includes a liquidating cash appropriation of $1.4 billion for the Federal-aid highways program. This amount is the same as the budget and is required to cover higher than anticipated obligation rates during fiscal year 1979 and the first 5 months of fiscal year 1980. We are recommending four other significant actions in the area of highway transportation. These are as follows:

First, the disapproval of a proposed deferral of $1.15 billion in Federal-aid highways funds;

Second, the establishment of a new fiscal year 1980 obligation ceiling of $7.9 billion, which is $300 million over the President's proposal;

Third, the establishment of a revised and, in our opinion, more equitable distribution formula; and

Fourth, the provision of an additional $50 million of emergency relief funds.

Of the total new budget authority contained in chapter 12, $400 million is for the Urban Mass Transportation Administration's urban discretionary grant program. This is in addition to the $1.38 billion appropriated for this purpose in our regular fiscal year 1980 bill. Most of these funds will be used to purchase buses and to upgrade existing fixed rail transit systems.

In the rail area we are recommending the full budget request of $68.1 million for rail labor assistance. This includes $61.6 million for the payment of benefits to Conrail employees. In addition, the bill provides for a benefit formula which is different and we believe more equitable than the formula which was provided in the Regional Rail Reorganization Act of 1973. The new formula is a part of this appropriations bill and it will be a substitute for the existing formula contained in the Regional Rail Reorganization Act as of the first day of the month following enactment of this bill. As noted in the committee report, there is no doubt that this is legislation and that it does amend title V of the 3 R Act. However, it does so only with respect to the so-called windfall payment portions of the title V benefit formula. Unlike the broader amendments contained in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee, the supplemental appropriations bill does not affect training and transfer, payment, audit, and reporting or any subjects other than the benefit formula. Moreover, when H.R. 7235 as reported by the Interstate and Foreign Commerce Committee becomes law, it will supersede entirely the amendment effected by the supplemental appropriations bill, H.R. 7542.

We believe the actions recommended in this bill for our Nation's transportation programs are fiscally responsible as well as responsive to our most urgent transportation requirements.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. Ratchford).

Mr. RATCHFORD. Mr. Chairman, along with many of my colleagues in the House, I have been anxiously awaiting final action on the supplemental appropriations and rescission bill for 1980. During the long and difficult debate on the 1981 budget, the need for additional funds for essential programs has reached a critical point. We can afford to wait no longer, and I strongly urge my colleagues to join in swift passage of the legislation before us today.

The list of important programs disrupted by the delay in congressional action on supplemental funding is familiar to all of us—disaster assistance, aid to laid-off workers under the Trade Adjustment Assistance Act, military fuel costs and retirement benefits, student loan support, refugee assistance, and energy programs. For some programs, this delay has only postponed final approval of Government grants. Unfortunately, in many other areas, families throughout the Nation are now going without the very benefits on which they rely to cope with natural disasters or temporary joblessness.

The case for rapid action on these supplemental appropriations is particularly vivid in my district in Connecticut. Last April, the Naugatuck Valley and adjoining towns like Trumbull and Monroe suffered heavy damage from flooding and mud slides, causing private property losses in excess of $3.5 million. The region was declared a disaster area by the Small Business Administration, and applications for nearly $1 million in emergency loan assistance have been received. Yet with the SBA disaster relief fund exhausted, these Connecticut families and businesses have been unable to begin the difficult task of repairing the damage to their homes and businesses. The supplemental bill will get this effort moving once again.

The trade adjustment assistance (TRA) program further underscores the urgency of supplemental funding for 1980. TRA benefits in most States were discontinued on June 1, and each day the problems facing workers laid off due to foreign imports become more severe. The Congress made a pledge to American workers to cushion the impact of unemployment when it opened our markets to greater foreign competition, and we have no choice but to fulfill that commitment. We cannot ask TRA recipients to wait any longer for restoration of their benefits by delaying action on today's supplemental bill.

With the important agreement on a balanced budget behind us, we now must move quickly to meet the pressing needs which have developed during the budget debate. In areas such as disaster relief and unemployment assistance, it is clear where our responsibilities lie. I strongly urge my colleagues in the House to respond to these needs by supporting the swift approval of supplemental funding for 1980.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. Skelton).

Mr. SKELTON. Mr. Chairman, I rise in support of the committee's recommendations for supplemental appropriations for the Federal Emergency Management Agency.

The committee has included $625 million in the bill for the President's disaster relief fund. This disaster fund has been virtually exhausted. This is due to severe weather conditions last fall, and by late winter and spring storms. More recently, as we all know, we have experienced disasters in Grand Island, Neb.; Kalamazoo, Mich., and in the area surrounding Mount St. Helens. In my congressional district, a tornado swept through Sedalia, Mo., in Pettis County, to the great destruction detriment of that area.

The amount recommended by this committee should be sufficient to meet the requirement of these disasters, and potential future disasters. It is unfortunate that these funds are necessary, but we must provide them. No area of the country which is otherwise eligible for Federal disaster relief should lose out solely because the disaster occurs in the latter part of the fiscal year.

In addition, the committee has recommended $1.9 million for FEMA to implement new responsibilities concerning offsite radiological planning and preparedness activities for nuclear reactor accidents. It would permit a comprehensive review of State emergency plans in all States with operating reactors in them. Although less than the amount requested by FEMA, this amount will permit a start toward this activity and should be approved by the House.

Mr. Chairman, I rise in support of the recommendation dealing with the supplemental appropriations for the Federal Emergency Management Agency.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Edgar).

Mr. EDGAR. Mr. Chairman, it was Plato who wrote that "democracy is a charming form of government, full of variety and disorder." This particular supplemental bill, I think, should be supported because of its variety of need in areas of transportation and disaster relief, but I would like to draw the attention of all our colleagues to the fact that within this bill there are also some projects that I think should be deleted in a time of tight budgets and to bring order out of disorder.

I stand in the well to support an amendment which will be offered by our colleague from Washington State, Joel Pritchard, Republican, of Washington, that deletes $58 million for the Tennessee-Tombigbee Waterway. Congressman Pritchard and I and several others nave sent a dear colleague letter around requesting that all Members of the House support our action to delete these additional funds for the Tennessee-Tombigbee Waterway.

Some Members may say, "If we cut that $58 million, it will be shutting down that important waterway."

In fact, that is not true. Last November, when we agreed on a conference report to the public works appropriation bill, we provided $165 million of funding for this year. That was not enough. Administratively, they transferred $23.5 million to the project, and a total of $194 million has been spent on this project as of May 15, 1980, this year—not in the last 5 years, not in the last 4 years, but in fact in the last year.

The addition of this $58 million, which will bring the cost of the project to $246.5 million this year. That is more than we spent on Los Angeles' transportation system. That is more than we spent on several important energy conservation projects, and it is more than we are going to spend on many of the relief efforts to cope with problems related to Mount St. Helens and other natural disasters.

□ 1550

I call upon my colleagues to support the chairman in his supplemental and to remember his words:

> This is a time for restraint. This is a time of tight budgets.

Mr. Chairman, this is a time we ought to cut wasteful spending out of bills like this. I urge my colleagues to support the Pritchard amendment, and bring some "order" out of this "disorder."

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, I rise in support of this fiscal year 1980 supplemental appropriations bill.

There are some features of the bill that I regret, including some unfortunate cuts in important energy research and development, and in basic scientific research.

However, at this time I wish to speak about the funding for disaster relief, especially for those losses and damages resulting from the May 18 eruption of Mount St. Helens.

Mount St. Helens is located in the Fourth Congressional District of Washington State, which I represent. There was great damage which occurred along the Toutle River and the Cowlitz River, in the Third Congressional District which my colleague, the gentleman from Washington (Mr. Bonker) represents.

The fallout of ash extended from the Cascades eastward across the Idaho border, and on across Idaho and Montana, with traces found in much of the rest of the country. The greatest impact occurred in eastern Washington, including the Fourth Congressional District, and into the Fifth District, represented by the gentleman from Washington (Mr. Foley).

The Mount St. Helens eruption was a remarkable event, even as disasters go. In eastern Washington, in a band about 175 miles long running from the Cascade Mountains to Idaho and north and south for about 100 miles, between 1 billion and 1½ billion tons of ash fell on the towns, cities, highways, and farms.

I am holding a sample of the ash in this jar. It was collected in Moses Lake, Wash. You will observe how fluid and how fine it is. It is a silicate; that is, chemically, it is very similar to glass. You can imagine having an inch or more of this volcanic fallout on every square foot of an area 100 miles wide and 175 miles long. Between 2 and 3 inches fell in a band about 25 miles wide and 100 miles long, running across the middle of the agricultural area of eastern Washington.

Here is a photo which shows the impact of the fallout. I cannot easily share it with all the Members, but you may be able to see from where you are sitting how bad the situation was. This photograph was taken in the city of Moses Lake. It looks as if someone is trying to clean up snow after a blizzard. This is the ash which fell in the street. The pile is about 4 feet high and 5 or 6 feet wide. It gives a person some idea of the impact of having this amount of ash, which does not melt, evaporate, or run away, fall on everything in an entire area.

Of course, the ash also fell on the crops: hay, wheat, corn, lentels, and peas. It fell upon the fruit trees. It caused countless millions of dollars of damage in eastern Washington's agricultural community.

Mr. Chairman, the response of the people in eastern Washington was nothing less than heroic in working together to clean up the homes, the streets, businesses, public buildings, roads, parks, airports, farms, and canals. The list of all the truly remarkable accomplishments is virtually endless. Everyone simply dropped whatever he or she was doing, and went to work. They recognized that the Federal Government was not going to come in and do it for them, and that the ash was not going to melt and run down the sewers. They knew it was not going to evaporate; that it was going to be there until it was cleaned up. The response was wonderful.

But this accomplishment was at great cost to farmers, local government, and forests. More than a billion board feet of timber was blown down. In addition to that, 128 lumber operations were put out of operation, cut back, or closed; 97 of them remained closed as of a week ago.

In Clark County we lost an estimated $50,000 in strawberries, $50,000 in cane fruits, $100,000 in tree fruits, $10,000 in alfalfa, $2 million in pasture, $100,000 in machinery, and $50,000 in the dairy industry.

In Grant County we lost $25 million in hay, $10 million in apples, $11 million in wheat, $3 million in peas, $4 million in beans, $2 million in seed crops, $5 million in machinery.

In Skamania County we lost $137 million in timber, and more than $3 million in homes and businesses.

In Yakima County we lost $1 million in alfalfa, half a million dollars in vegetables, one-half million dollars in cereal grains, $20 million in fruit trees, $1½ million in bees, and $10 million in irrigation equipment.

In Washington State we lost more than 1,100 official automobiles that were permanently ruined by having to operate during the emergency. More than 100 more must be overhauled. We lost almost 500 radios.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCormack) has expired.

Mr. WHITTEN. Mr. Chairman, our time is limited, but I yield an additional one-half minute to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, the appropriation bill provides supplemental funding for the Corps of Engineers, the Soil Conservation Service, the SBA, FEMA, the Geologic Survey, and the Forest Service, all of which are critically short of funds and for which funds are needed to handle even part of the disaster aid for this particular disaster.

To conclude, Mr. Chairman, we do not know what the future may bring. There may be more eruptions. In any event, this bill will provide only a partial funding, a beginning, in responding to this disaster.

The gentleman from Washington (Mr. Foley), the gentleman from Washington (Mr. Bonker), and I wish to express our appreciation to the Committee on Appropriations for responding so quickly in providing for funding in the fiscal year 1980 supplemental appropriation bill.

Mr. BONKER. Mr. Chairman, Mount St. Helens' violent eruption on May 18 is one of the most spectacular natural disasters of modern times. After several weeks, it is still a source of national fascination, but here at home, long after the novelty and publicity of a reborn volcano fades, we will be left to rebuild what the mountain has destroyed.

Upon the Governor's request that Washington State be declared a major disaster area, President Carter immediately signed the declaration order. Then, along with high level officials and members of the State's congressional delegation, he traveled to Washington State for an on-site inspection of the disaster area. It was more than a symbolic visit, for President Carter's very presence puts the entire Federal Government on notice that the Mount St. Helens disaster warrants the highest priority.

I accompanied the President on his tour of the devastation. There was no way to prepare for what we saw. In Army helicopters we flew along the Cowlitz River, which was clogged with silt that has flowed downstream from the devastated mountainside to the east. As we approached Mount St. Helens along the north fork of the Toutle River, gradually the extent of the destruction became painfully evident.

The green landscape turned to gray as we flew over trees which were standing but were caked with ash from the eruptions. Miles from the site of the explosion, acres of Douglas fir and hemlock trees lay broken like tooth picks in the mud. Other parts of the forest had no trees; only gullies and craters scarred the bleak landscape. Roads in the area were layered with as much as 200 feet of thick grayish-brown mud.

After landing at the Kelso Airport, we visited Cascade Middle School, which was serving as an evacuation center for 47 refugees from the volcano area. The dreadful impression of the disaster was offset there by the extraordinary courage and community spirit among those who had been affected.

The following week, I made another trip to the disaster site to spend more time with local leaders and the public and to prepare an assessment of the damage and its effects on the area's residents to be part of my report to the Congress.

The mountain's destructive forces had affected areas of the Third Congressional District in many different ways.

Cowlitz County experienced severe mud flooding with the frightening possibility of water floods in the Fall unless dredging of the river commences immediately. Communities in east Lewis County have not recovered from the heavy deposits of volcanic ash which have posed formidable health and cleanup problems. And the entire region, which is so heavily dependent on logging and commodity production, will undoubtedly suffer economic losses.

In talking to those who are coping with these hardships on a daily basis, I was inspired by their devotion and indomitable spirit; people are pitching in and working hard to clean up their communities.

It is impossible to estimate the ultimate cost. The final amount will be staggering. This State's congressional delegation is moving quickly to get a special $860 million appropriation to cover some of the cost. This will be in addition to two pending appropriations to pay for major disasters which have occurred in other parts of the country. The request could not have come at a worse time, given the mood in Congress to balance the Federal budget.

But Congress has responded to emergencies in the past, and I will be working with our two Senators and other House members to convince our colleagues of both the urgency and extent of the damage that has occurred in the aftermath of the volcanic explosion.

One newspaper described the Federal Government's response as a case study of government at its "uncelebrated best." My inspection of the area confirms the statement. From the Corps of Army Engineers' prompt dispatching of dredges to the Columbia to the Federal Aviation Administration's handling of threats to flying aircraft over the area, and in countless other ways, Federal officials and programs proved to be effective. This is not to say that everything went smoothly and every request was met, but the feat was extraordinary under the circumstances.

As President Carter was declaring Mount St. Helens a major disaster, a Federal Coordinating Office was set up in Vancouver with regional disaster centers located in Kelso and Eastern Washington. All of the Federal agencies and programs involved in disaster relief are represented so that there is a central place to ask questions and apply for assistance. The Mount St. Helens Technical Information Network has been established to direct and coordinate the collection and dissemination of scientific information about the environmental effects of volcanic eruptions. The National Center for Communicable Disease in Atlanta set up 15 monitor stations and contracted with the University of Washington Medical School to analyze health-related problems linked to volcanic ash.

The Federal Emergency Management Agency, which goes into action whenever a disaster occurs, has been coordinating all Federal programs and works closely with the Washington State Emergency Services Department to insure greater efficiency and minimize duplication among the multiple assistance programs that are involved.

I was pleased to see that Federal agencies, by and large, were prepared to deal effectively with the emergency. Despite their commendable efforts and the provisions of the Disaster Relief Act which provides the assistance, however, the Mount St. Helens disaster is of such magnitude and the potential loss and destruction so extensive, we may well need a special Federal program and funding source to get the job done.

In my discussions with local officials and residents the two most pressing concerns were the lack of communication and, as expressed by Jim Mitchell, Mayor of Morton, the "psychological damage" which he said was among the worst results from the Mount St. Helens eruption.

The problem are interrelated. Uncertainty is gripping the area. What are the effects on health of fallen volcanic ash? Will the Cowlitz River flood? When will the Corps of Army Engineers commence dredging of the river? When will the restricted zone be lifted so logging can be resumed? Now that assistance forms have been completed, how long will it take to actually get the money? These are some of the questions, not to mention the earlier uncertainty about the mountain's strange behavior or the "dam" breaking that would cause flooding of the Toutle and Cowlitz.

This is where the Government has not performed well. Occasional news releases from the emergency relief office in Vancouver are not a satisfactory way of keeping people informed. Beginning this week, I will be sending out bulletins to all households in particular areas affected by critical or urgent matters. One each on dredging of the Cowlitz and the question of health and fallen ash are being sent. In the long term, government must improve communication so that people have the benefit of accurate and current information on disaster-related problems in their area.

COST: WHO PAYS AND HOW MUCH

Final cost estimates on the effects of the volcano are still being made, but it looks as if the final bill will be staggering.

With the President's designation of the State as a disaster area, it was insured that the Federal Government will pay a substantial portion of the relief effort.

The Disaster Relief Fund receives an annual appropriation to pay for assistance programs, whenever the President declares a disaster. However, this year's amount of $190 million was depleted within 2 months, due to the number and severity of other disasters—floods, hurricanes and tornados—that have occurred nationwide. Twelve major disasters preceded Mount St. Helens, and pending before Congress are two special appropriations bills totaling more than $500 million to cover their cost.

At the urging of the State's congressional delegation, the President is sending up a request for $860 million to be used exclusively for Mount St. Helens. This is the Government's initial response for disaster relief and has been added to a larger supplemental bill which should be enacted within a few weeks.

This money will be for the current fiscal year, which ends September 30. Some $210 million will be earmarked for the Federal Emergency Management Agency. It may be necessary to increase this request. An additional $214 million is requested for the Army Corps of Engineers to pay for the dredging of the Columbia and Cowlitz Rivers. The rest of the money will be divided among the four other agencies involved—the Small Business Administration, the Department of Transportation, the Agriculture Department and the Interior Department.

I plan to work closely with Senators MAGNUSON and JACKSON and my Northwest congressional colleagues to see that this appropriation receives favorable action by Congress.

This money will not cover the long-range effects of the volcano—which the Governor has estimated will top $2.5 billion, an amount that includes future and potential economic losses caused by the devastation to our fish and wildlife, agriculture, timber and other natural resources.

The burden of paying for all this will be shared by many. Those involved in recovery and cleanup operations are already bearing the expense, the amounts to be sorted out and allowed reimbursements made later.

On May 23, 5 days after the mountain erupted, the Federal Government and the State of Washington signed an agreement which required the State to pay 25 percent of the disaster relief costs. This is a fairly standard ratio under the circumstances. However, the exact amounts are still being negotiated between the governmental entities involved. Determining the exact amounts and who pays what will be an arduous process.

Regarding the Federal Government's share of the long-range costs, it would be less than honest not to state that it take a formidable selling job on the part of the Northwest delegation. The Congress is genuinely committed to balancing the budget. Adding larger sums for disaster relief means taking money away from other programs, in addition to the nearly $20 billion we have already slashed in spending programs.

I have pledged a considerable amount of my personal and staff time to convincing Members of Congress of the extent of damage and the enormous costs associated with the Mount St. Helens explosion. I intend to see that the Federal Government provides its fair share.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Lewis).

Mr. LEWIS. Mr. Chairman, I rise to express my appreciation to the chairman and the ranking minority member of the committee and to the subcommittee chairman for the difficult job they had on this bill. Particularly, I would like to express my appreciation to the gentleman from Alabama (Mr. Bevill) and the gentleman from Indiana (Mr. Myers) for their assistance.

Mr. Chairman, as we enter the 1980's perhaps the most pressing problem which will face our Nation is that of supplying the energy to heat and cool our homes, drive our factories and light our streets. Without sufficient energy, millions will be unemployed, crime will increase, and the general quality of life will deteriorate.

Try as we might to legislate the "good life" for all Americans, there is one thing we cannot legislate. We cannot legislate the supply of energy. Therefore, it is our responsibility to utilize American ingenuity and begin to take advantage of our vast renewable and natural resources.

As part of our Nation's commitment to employ alternate energy sources to attain energy independence, the Congress authorized a pilot-scale solar thermal central receiver powerplant to begin operation late in 1981. This pilot project at Barstow, Calif., is a critical first step toward the eventual commercialization of central receivers as part of the repowering program aimed at significant displacement of imported oil and gas as well as the utilization of renewable resources in the 1980's and 1990's.

The value of Barstow will be manifest in many sections of the economy. Although small, the project will provide the routine day-in-day-out experience so badly needed to demonstrate operational capability and reliability to the user. By 1990, repowering technology will allow a single solar plant, cost competitive with fossil-fired plants, to displace nearly 5 million barrels of oil per year.

Using this technology to retrofit existing industrial plants will not only help in the displacement of oil and gas but, in the long run, will drive down consumer prices as the cost of fossil fuel rises. Furthermore, the adaptation of central receiver technology to produce steam will greatly aid in the recovery of heavy oil. Today, one out of every three barrels of heavy oil recovered is burned simply to produce steam. This means the substitution of solar thermal energy to generate steam could increase the net output of recovered oil by 50 percent.

All too often, the Congress becomes more concerned about potential mistakes than making something happen. There is a need to provide greater supply of energy, but we are hesitant in our actions. I am baffled and truly amazed that we could put a complex NASA program together and put a man on the Moon in 7 years for what were, at best, cloudy military or political reasons; yet we appear overcautious about committing to Barstow and future projects designed to provide obviously needed energy to be supplied through a profit regulated utility.

It is imperative to realize the necessity of pilot projects to demonstrate available and feasible technologies. The primary emphasis of Barstow is placed on the collecting and recording of technical and cost data to support the commercialization of the central receiver concept. It is essential that a continuity of plans and projects be visible and maintained. Otherwise, solar repowering will find itself returning to "square one," resulting not only in the waste of good money already spent, but also a lack of confidence and significant delay in achieving the benefits of a highly promising technology.

Although the costs of this initial project are high, plants built subsequent to Barstow will be built for half the cost. Let us not forget that in the early part of the century, hydropower was quite expensive but is now most desirable and has a stabilizing influence on energy supply. By the same token, it is not unreasonable to expect solarthermal to have the same stabilizing influence.

I commend the members of the Committee on Appropriations and Science and Technology for their foresight, for Barstow is not merely a demonstration of solar electric power generation, but is a full-scale example of a central receiver system with a wide variety of applications which will enable us to provide power for this great land through the 21st century and become independent of all foreign sources of energy.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Washington (Mr. Pritchard).

Mr. PRITCHARD. Mr. Chairman, I will be offering an amendment which will strike $58 million from this supplemental bill. This is $58 million for the Tennessee-Tombigbee waterway project.

It may be that the sponsors of this project who feel very strongly about it are right. It may be that all the questions and concerns that we have about this project are wrong, but I can tell the Members that there are very serious questions about this project. There are serious questions about whether the cost-benefit ratio is right. Now that we see, without any doubt, that this project is going to run $3 billion, I think it is essential before we go any further that we see that we have a GAO report out—one that was started and was never completed—and also that we have the proper congressional hearings so that we air all the questions and concerns that are present in this country.

Mr. Chairman, there are too many people who feel there is something wrong with the Tennessee-Tombigbee, and we need to get it out on the table.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to use this 1 minute to engage in a colloquy with the chairman of the subcommittee. As the chairman knows from a letter which I delivered to him, which will be signed by several Members, there is a $55 million rescission for funds related to IV(C) and V(B) on ESEA. By the nature of the way the cut comes about, it is going to cause disproportionate cuts to several States, totally wiping out some IV(C) programs and severely reducing V(B) programs in several States.

The States of Alaska, Delaware, North Dakota, South Dakota, Vermont, Wyoming, and the District of Columbia will experience a 100-percent cut in their title IV–C funds while having to bear the additional burden of 50 percent funding cuts in their title V–B programs, except for the State of Delaware, Hawaii, Idaho, Montana, Nevada, New Hampshire, and Rhode Island will have more than 75 percent of their title IV–C program funding cut. Five other States will experience greater than 50 percent cuts in this program.

Senator Burdick introduced an amendment in the Labor-HEW Subcommittee of the Senate Appropriations Committee which restores the full $55 million rescissions. We support this action and urge that the House conferees recede to the Senate on this issue.

However, I am not asking for a commitment from the chairman at this time on that, but I want to bring to his attention the severe nature of the cut, because it removes the hold harmless provision. I do ask if he can respond as to whether or not in conference he will take this matter up and try to reconcile this situation.

The CHAIRMAN. The time of the

gentleman from Vermont (Mr. JEFFORDS) has expired.

☐ 1600

Mr. WHITTEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Vermont.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, I would like to state to the distinguished gentleman from Vermont, who has been kind enough to let me have a copy of his letter pertaining to the matter he has just discussed with the committee, that we will give every consideration to this matter in conference with the conferees on the other side. The gentleman has very carefully documented in this letter the urgency and the necessity for these funds at this particular time. As the chairman of the subcommittee, I want the gentleman to know that when we go to conference, certainly every consideration will be given to his request when it is called up in the conference.

Mr. JEFFORDS. I thank the gentleman.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding, and I appreciate his showing me a copy of his letter addressed to the chairman. I am not altogether sure that the one statement that the gentleman makes with respect to the IV–C program is accurate.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

Mr. WHITTEN. I yield the gentleman from Vermont 1 minute of my time.

Mr. MICHEL. If the gentleman will yield further, while there is an elimination of the hold-harmless provision which has, in effect, given the smaller States a bigger proportionate share, the formula allocation is by population, and what it does suggest is that the figure will be reduced, but certainly not wiped out entirely, as the gentleman made mention in his memo.

Mr. JEFFORDS. The gentleman is correct as to how the formula works, to a point. However, the Elementary and Secondary Education Act requires that V–B be fully funded before funds are used for IV–C. V–B provides funds to administer the Federal programs. IV–C is for innovative projects at the local level. The act wants to make sure that all Federal programs are properly administered first. The rescission is such that not only are some States not able to have any money left for IV–C, but they have so few funds that they can only fund V–B by 50 percent. Thus several States will have no funds for IV–C. The letter and my previous statement are correct. By abolishing the hold-harmless provision, chaos will reign in many small States.

Mr. MICHEL. As the chairman indicated, we will certainly be giving all possible consideration to the gentleman's request when we get to conference.

Mr. JEFFORDS. I thank the gentleman.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, the Interior chapter provides a net reduction of $813,454,000 in new budget obligation authority, including deferrals and pay costs, a decrease of $811,287,000 below the President's proposal of a $2,167,000 reduction. The committee action also increases outlays by only $181.4 million, $75.8 million below the administration's proposal. Two items make up the major portion of the amounts recommended. The subcommittee has recommended deferrals of $246 million rather than rescissions of $370.5 million in the urban parks program, the land and water conservation fund, the historic preservation fund, and in Indian sanitation facilities. This action will also result in the release of $127.5 million proposed for rescission for the above agencies.

The second major item is $141,088,000 for fire suppression costs for the Bureau of Land Management, the Bureau of Indian Affairs, the National Park Service, and the Forest Service.

The subcommittee has included $29 million in response to urgent needs arising from the recent eruptions at Mount St. Helens. Of this amount, $25,000,000 is for the Forest Service and $4,000,000 for the Geological Survey. The Forest Service needs the supplemental for an assessment of the impact of the volcano on the adjacent resources, a seed collection program, a temporary transportation system, and the removal of ash from roadways. The supplemental for the Geological Survey is for expenses incurred pursuant to monitoring and assistance at Mount St. Helens and at flood and mudslide sites in Arizona and California.

For the Bureau of Land Management, $46.8 million is provided for acceleration of the coal leasing program ($1.8 million) to increase production and firefighting costs ($45 million). The committee is also recommending a deferral of $15 million of payments in lieu of taxes into fiscal year 1981 to lessen the impact of the proposed $30 million budget reduction for fiscal year 1981. This will bring more closely in balance the amount of outlays in fiscal years 1980 and 1981.

The subcommittee has not accepted the rescission proposals in heritage conservation and recreation service programs which were contained in the President's message of April 16, 1980. A rescission of $85 million was proposed in the urban park and recreation program. This proposal, along with a budget amendment reducing the fiscal year 1981 program to zero, effectively kills a program initiated in fiscal year 1978 as the core of an urban rejuvenation program. The subcommittee recommendation, to defer $45 million to fiscal year 1981 instead of rescinding the funds, will allow the program to proceed at a level of $85 million in 1980 and $45 million in 1981. These levels are severely reduced over previously planned levels in the fiscal year 1981 budget submitted in January, reflecting our desire to reduce spending, but also allowing a modest, but viable, program to continue in this worthwhile area.

The President also proposed a rescission of $251 million in the Land and Water Conservation Fund; $150 million in payments to the States; and $101 million for Federal land acquisition. The subcommittee believes this is too drastic a reduction and recommends, instead, a deferral of $170 million until fiscal year 1981 and the release of $6 million in Federal acquisition funds and $75 million in State funds above the President's proposal in fiscal year 1980.

For the Historic Preservation Fund, the subcommittee recommends a deferral of $10 million until fiscal year 1981 rather than the President's proposed rescission of $16.5 million. Overall, in this fund, land and water conservation, and urban parks, the subcommittee recommendation would result in outlays of $8 million in 1980 and $64 million in 1981 above the President's proposed amounts.

In the U.S. Fish and Wildlife Service, $3.9 million is included for providing the difference between receipts and entitlements to counties in the National Wildlife Refuge Fund. No funds were provided to a Northwest fisheries enhancement program because it is not yet authorized.

In the National Park Service, the subcommittee recommends $285,000 for staffing and operating the Holocaust Memorial Council, as requested, and proposes a rescission of $5 million of construction funds because of slippage in schedules.

The sum of $4,600,000 is recommended for coal leasing activities in the Geological Survey, along with the $4,000,000 for Survey activities related to Mount St. Helens.

For the Bureau of Indian Affairs, $7 million is provided for suppression and prevention of fire. The subcommittee has denied the $8 million supplemental request for the Cayuga Indian Nation claim, without prejudice, because of the lack of authorization.

In the territories, the subcommittee recommended the budgeted amounts: $3,318,000 for a Northern Marianas cost-of-living adjustment provided by law; $2,000,000 for upgrading health-related facilities in the Marshall Islands; and $4,117,000 for lease and purchase of land used by the Government of the Trust Territory of the Pacific Islands and previously taken from private users on an "indefinite use" basis.

For the Forest Service, $88 million is provided for costs of fire suppression and rehabilitation. The reduction of $12.7 million in the request is based on the Forest Service's own estimate that outlays in fiscal year 1980 will amount to only $88 million. In addition, as discussed above, there is $25,000,000 for Forest Service activity related to Mount St. Helens.

For the Department of Energy, the subcommittee proposes providing only $8.3 million out of $71.4 million proposed for supplemental appropriations and also proposes rescissions of $846 million instead of $27 million as proposed by the President.

In fossil energy, a supplemental of $6.5 million for coal-oil slurries is denied pending review of requirements in conjunction with fiscal year 1981 and a supplemental of $17.5 million for magnetohydrodynamics was not approved because of inadequate justifications. The subcommittee also recommends rescission of $22 million in fossil energy. Although the amount is the same as the President's proposal, the details differ somewhat and are addressed in the report.

In energy conservation, the subcommittee recommends only $4.8 million of $27.4 million in supplemental requests. The largest reductions were $10 million in grants to States for emergency energy actions because unobligated funds remain available and $7 million for a paid advertising campaign. The recommendation includes $2.8 million for staffing regional offices for processing conservation grants for schools and hospitals and $2 million for emergency energy conservation planning.

The subcommittee agrees with the President's proposal to rescind $4 million for electric vehicle research because of delays in obligations and also recommends a rescission of $19 million in energy impact assistance grants. Grants totaling $31 million would remain available still a 50-percent increase over fiscal year 1979 and will result in minimal delays in this growing program.

Approval of a proposed rescission of $1,000,000 in the Economic Regulatory Administration is recommended. I would like to point out that funds to begin implementation activities for a gasoline rationing plan are not included. The subcommittee will take action on that request, currently $43 million after submission of a plan by the President and its approval (or nondisapproval) by Congress.

The committee has recommended rescission of $800 million for the purchase of oil to fill the Strategic Petroleum Reserve. The $4.1 billion is now available for the purchase of oil, but no purchasing activity has taken place since March 1979, nor will it, according to administration witnesses, until the next fiscal year. The recommendation has no effect on outlays. The $800 million would not be obligated in 1980 because of the availability of the remaining $3.3 billion for oil purchase. The committee believes the purchases should begin again as promptly as possible.

In energy information, $3.5 million is recommended out of a request of $20.2 million. We have testimony that this amount is sufficient. The original request was formulated before the exact requirements for information specified by the Emergency Energy Conservation Act were known.

In the Indian Health Service, the committee has denied the proposed $18 million rescission for sanitation facilities. The proposed rescission has not been coordinated with the budgets of HUD and BIA, the agencies which would construct the homes. If the rescissions were approved, homes would be constructed without sanitation facilities. The subcommittee, however, initiated a deferral of $6 million of the $18 million into fiscal year 1981. The effect of delaying these expenditures is considered minimal.

For the Navajo and Hopi Indian Relocation Commission, $370,000 was approved from within available funds in lieu of approving the $200,000 supplemental budget request.

A total deferral of $19 million was approved in the Smithsonian Institution for construction of the museum support facility. The deferral should not have any significant effect on the construction schedule.

For the Pennsylvania Avenue Development Corporation, $500,000 is provided for the required comprehensive survey of all building in the project area.

In total, a reduction of $22.1 million was made in the $106.8 million proposal for pay costs and common program services.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, H.R. 7542 contains supplemental construction funding for the Corps of Engineers in the amount of $180 million for fiscal year 1980. It is my understanding that this sum will be sufficient to cover the shortfall in funding for construction activities which the Congress intended to be undertaken during this fiscal year.

The regular fiscal year 1980 appropriations for the corps contained $627,000 for urgent streambank stabilization work at the White Swan site, where the Missouri River is cutting into the farmstead of Mr. and Mrs. William Hyde. Although the corps was specifically directed to undertake this project, the funding has been tied up and the work has not been initiated.

In light of the urgency of this matter, I would like to ask the distinguished chairman of the Subcommittee on Energy and Water Resources if it is the committee's intent that the supplemental construction funding provided in H.R. 7542 will insure that stabilization of the White Swan erosion site will be completed without further delay?

Mr. BEVILL. Yes. My colleague, the gentleman from South Dakota, is correct.

Mr. ABDNOR. I thank my colleague.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. I thank the gentleman for yielding, and I want to express my appreciation to our chairman, to our ranking minority member, to the gentleman from Alabama (Mr. BEVILL), and Mr. MYERS of Indiana, our ranking minority member on the subcommittee. Especially I want to support the additional funds for FEMA. Following this terrible tornado disaster in my own State, the FEMA funds have been invaluable to us in helping us pick ourselves up and carry on.

I rise to support passage of this supplemental appropriations and rescission bill for fiscal year 1980 for several reasons, but especially because it contains funding that will cover the devastating loss of the city of Grand Island, Nebr., which is in my district, inflicted by tornadoes upon the city on the night of June 3, 1980.

I suggest to you and my colleagues of the House of Representatives that Federal assistance to our own communities suffering disasters is the very best way to spend our tax dollars—that is, to help Americans recover when the losses are beyond public and private, State and local resources.

Grand Island's tornado damage will turn out to be larger than that inflicted upon Omaha 5 years ago and will be about $200 million. The Federal share of this tremendous loss will be as much as $50 million.

This bill makes room for Grand Island's claim upon Federal resources on page 94 of the report. My Appropriations Committee has included $625,000,000 in the bill for the U.S. disaster relief fund.

The recommendation includes a $314,000,000 requested in the 1981 budget document, House Document No. 96–247, and $225,000,000 requested in Senate Document No. 96–49. The report concludes:

> The additional $225,000,000 included in the bill contains what should be sufficient reserves to meet the most immediate disaster requirements experienced in such communities as Grand Island, Nebraska; Pettis County, Missouri; Kalamazoo, Michigan, and potential future disasters.

I am happy to report to the House that Federal assistance already is flowing into Grand Island to ease the plight of the thousands of homeless people, to provide housing to temporarily replace the nearly 1,000 homes that were destroyed or heavily damaged, to repair the 940 homes damaged to a lesser extent; to replace 75 businesses destroyed or heavily damaged, and to restore, eventually, the public facilities such as power lines, water supplies, and communications.

Above all, I wish to commend the city of Grand Island for its courage and resilience. My district office staff there tells me the people are bouncing back vigorously and substantively.

I wish to thank the President of the United States for acting so quickly to declare Grand Island a major disaster area, the Federal officials for responding so quickly, and my Appropriations Committee for agreeing so swiftly to earmark funds as soon as formal estimates are prepared and present in proper form and manner.

I must say, Mr. Chairman, that the many expressions of gratitude from the people of Grand Island, Nebr., for the assistance rendered them from all sources—State and local as well as Federal—is in sharp contrast to what we hear from recipients of most of our foreign-aid programs.

This is an example of Federal dollars

well spent, well invested in helping Americans—Grand Islanders—meet the future head on.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, there are several important items in this supplemental appropriation which I would like to highlight for my colleagues. These relate to the Three Mile Island related activities of the Nuclear Regulatory Commission and the Department of Energy.

The bill before us provides nearly $32 million in additional funding for the Nuclear Regulatory Commission. Much of this supplement is targeted to activities which are directly related to Three Mile Island. Over the 14 months since the accident at TMI, I have studied in some detail a wide range of safety issues pertaining to our civilian nuclear power program. The accident at TMI identified a number of unsettling deficiencies in our regulation of the nuclear industry. While much is still needed, the NRC, by directive and through its own initiatives, has undertaken efforts to address areas of weakness in its oversight and regulation of civilian nuclear powerplants. Much of the money provided in this supplemental appropriation is crucial to the continuation of the NRC's belated progress in the safety field.

Through the various reviews of the accident, areas for improvement have been identified. While it appears that the Commission is acting upon a number of the "lessons" learned at TMI, I share the concern of the Appropriations Committee that progress on the cleanup of the damaged reactor is not proceeding in a timely fashion. The report accompanying this supplemental appropriation identifies the problem of cleanup delays. Certainly some of the problems have been unavoidable, but when it takes the NRC Staff 1 year to complete a review of the methods applicable to removing the radioactive gases trapped in the containment building, and then tells us that we have no time left for any option other than venting, one must question the effectiveness of the NRC in responsibly dealing with the many difficult cleanup related activities which still lie ahead. I would be the last to suggest that we should take any short cuts in resolving these problems, but I have trouble believing that this is the best we can do. In this context I believe that the concerns raised by the Appropriations Committee were right on target.

Realizing the need to move along with the cleanup process, I was pleased to note the $5 million supplemental appropriation for the Department of Energy, in part to undertake preparations for an examination of the reactor core. Even though we may not be able to actually remove the damaged fuel rods for some time, we need to begin the process of making the various institutional arrangements which will be required to conduct an examination of the core once the cleanup reaches this point.

I also noted that in the committee report it was stated that these supplemental funds are also to be used to assist in the processing and disposal of radioactive wastes from Three Mile Island. This work is to be done in concert with the Nuclear Regulatory Commission, the State of Pennsylvania, and the utility which operated the plant. This is obviously a subject of great interest to me.

From the beginning, I have felt that the utility at Three Mile Island has the financial responsibility for the cleanup activities required as a result of the accident last year. At the same time, however, I do recognize that there may be a legitimate role for the Federal Government to play in the case of disposal of high level radioactive nuclear wastes or possibly in the demonstration of some type of decontamination process which is not commercially available but under development in a Federal laboratory or installation.

In testimony before your subcommittee, the Department of Energy delineated the TMI related activities which would be supported by this budget supplement. I would like to read from a part of the DOE statement to the subcommittee on February 13 of this year.

> An additional purpose is to acquire data on recovery technologies, including the performance of tests and experiments, that will provide a basis for future efforts by the commercial sector to decontaminate plants, system and components, either following an accident or during the normal course of maintenance or decommissioning.

In the committee report accompanying this bill, there is further discussion of these activities. Again, let me read a section of the report:

> The Committee recommends $5,000,000 for Three Mile Island examination activities to permit preparations for core examinations, as well as the processing and disposal of radioactive wastes, in concert with work being undertaken by the Nuclear Regulatory Commission, General Public Utilities, and the State of Pennsylvania.

The report language continues:

> The Committee is deeply disturbed by the Department's inaction in quickly helping to resolve a technically sound and workable method for the safe removal of radioactive waste from the Three Mile site. The Committee considers that the Department has an overriding public responsibility to assist NRC, the State of Pennsylvania and the utility, as necessary, to resolve as quickly as possible an acceptable process to isolate and remove these wastes to a safe disposal site.

In the committee report language discussing the supplemental appropriations for the Nuclear Regulatory Commission, a similar message is delivered:

> The Committee is concerned by the NRC's delay in resolving acceptable waste management requirements related to Three Mile Island cleanup activities. The Committee understands that certain of the requirements being considered could go beyond those applicable to other reactor site operations and even beyond those necessary for protection of public health and safety. It also appears that certain of the requirements could require extensive development of new processes not previously tested and evaluated and possibly not compatible with the proven processes utilized to date.

It seems clear to me from reading this language that there is a great deal of disposal activities might appropriately include. It is prudent that we give the NRC sufficient flexibility to respond to the requirements of the cleanup using whatever method appears to be most appropriate from both a technological and a societal perspective. The wisdom of the committee in this respect, while not surprising, is, nevertheless, reassuring and encouraging. I congratulate the members of the Appropriations Committee for providing sufficient funds to insure that the lessons of the accident are heeded and that the cleanup activities can proceed as quickly as possible.

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7542, the fiscal year 1980 supplemental appropriations bill.

Among the many provisions in the legislation, there is a $539 million supplemental for the Federal Emergency Management Agency (FEMA); of that amount, $47 million is earmarked for Puerto Rico. These funds are urgently needed if we are to provide relief to the many communities throughout the Nation that have been the victims of natural disasters during this fiscal year.

Puerto Rico was one of several States that suffered severe losses due to a natural disaster. The combination of Hurricanes David and Frederic resulted in enormous losses of property, both public and private. FEMA and its representatives in Puerto Rico and the mainland have been extremely helpful in processing the claims for disaster relief; however, they are unable to continue to meet their obligations due to a lack of funds. This situation is affecting the ability of community and State officials to meet the obligation they have incurred based on the promises of assistance made to them by Federal officials.

It is important that we meet our commitment to these innocent victims of natural disasters. The need is great and it is urgent, and I exhort all my colleagues to approve this legislation which includes, also, very critical appropriations that are required under several important Federal programs.

This bill also provides for an additional food stamp supplemental appropriation of $446,226,000 which are necessary to take care of the food stamp needs of more than 21 million Americans, including 1.8 million who reside in Puerto Rico, so that the benefits under this program may be taken care of through September 30, 1980.

I urge my colleagues for the prompt approval of this bill.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, the

fiscal year 1980 supplemental appropriations and rescission bill, H.R. 7542, provides $15 billion in supplemental budget authority for 1980.

I am sure that each Member of Congress has his or her personal checklist of authorizing and rescission priorities—some of which are included in this bill and some of which are not. As a whole, however, the committee's bill offers a balance which I strongly believe deserves our support.

In particular, the passage of this bill is a priority for the thousands of American families facing an immediate cutoff of unemployment benefits and trade adjustment assistance funds. The precipitous rise in national unemployment statistics from 7.0 in April to 7.8 in May—the largest monthly increase ever—signals the advent of a depending recession.

In my own district, the closure of the Ford Motor Co. plant in Mahwah, N.J., on June 20 will result in more than 3,500 men and women without jobs. Moreover, my home county of Bergen, N.J., due to a tragic mismanagement of the local public service employment program, faces termination of another 2,000 jobs by the end of June.

Increasing unemployment in both the private and public sectors is an all too prevalent event in virtually every community across the country.

The additional $1.098 billion for 1980 to the Federal unemployment benefits and allowances account will mean for thousands of families in New Jersey and around the country the difference between having or not having the assistance they need and deserve to weather difficult times ahead.

Mr. Chairman, I urge full support for H.R. 7542. We owe no less to the American families who are counting on us.

I also hope that the House will see fit to approve an amendment which the gentleman from Indiana (Mr. FITHIAN), the gentleman from Illinois (Mr. DERWINSKI), the gentleman from Massachusetts (Mr. CONTE) and myself will offer, based on a finding that many, many dollars are presently unneeded in the GSA's furniture budget, together with a need for some modest additional funding for overseas refugee relief.

Mr. WHITTEN. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, the committee considered requests for items under the jurisdiction of the Defense Subcommittee totalling $6,559,172,000 in new obligational authority and $572,000,000 in transfers from other accounts for a total fiscal year 1980 supplemental request of $7,131,172,000.

The Defense portion of this supplemental is in two broad categories: First, a "pay" supplemental request which occurs each year and basically consists of a $4.2 billion request for increased pay and subsistence costs; and second, a "program" supplemental to provide funds for special situations such as increased Indian Ocean/Persian Gulf operations, increased fuel costs and higher than anticipated inflation in other areas.

The fiscal year 1981 budget was formulated prior to the Soviet invasion of Afghanistan. In response to that invasion and continuing tensions in the Middle East otherwise, the Navy has expanded its activities in the Indian Ocean area. This increased tempo of operations, combined with significantly higher fuel costs in recent months, has resulted in the need for additional funds.

The committee went into considerable detail during 4 days of hearings on this request. The subcommittee heard testimony from the Deputy Secretary of Defense and witnesses from the Army, Navy, and Air Force. The published hearings include 261 pages of testimony.

Pages 27 through 54 of the full committee's report explain in detail the actions of the committee. Basically, the committee supports the dollar level of the Department of Defense request for this supplemental. The committee recommends a total of $7,012,577,000, a reduction of $118,595,000, or less than 2 percent from the budget request.

Some of the reductions are made possible by actions taken by the Military Construction Subcommittee in the markup of its portion of the bill. This made possible an accounting adjustment which lowered the Defense chapter of the bill by $75,200,000. Also, savings of $25,900,000 were realized when the committee transferred funds from a program for which the fiscal year 1980 appropriation had been higher than the amount ultimately included in the Defense Authorization Act.

The subcommittee made a number of adjustments to the Defense Department's request. For example, the DOD requested that $35,100,000 appropriated in fiscal year 1980 for spares and repair parts for F–15 aircraft be deferred. The Defense Subcommittee has long supported higher readiness and reliability of aircraft in our inventory, and thus we recommended that only $10,000,000 of those funds be deferred.

On the other hand, the DOD requested an additional $180,000,000 for inflation in the procurement accounts. There was no rationale offered or consistency in their plans to expand these funds and the committee reduced that particular request.

In several instances, the Department requested that funds for programs initiated by Congress last year be transferred and used for other purposes. This included C–130H aircarft, C–9 aircraft, and HAWK missile modifications. The committee rejected these proposals to defer and insists that those programs continue as set forth by Congress last year.

The committee included a general provision which defers the availability of funds appropriated for "operation and maintenance" until July 15, 1980. This provision will in no way disturb the functioning of the Department of Defense but will impact on the computing of outlays and assist in compliance with budget act outlay totals.

When put in the perspective of a request for over $7 billion, the subcommittee's changes were relatively minor in amount. As I mentioned, the subcommittee's recommendation is less than 2 percent below the DOD's request. I urge all of you to support the commiittee's recommendations contained in this supplemental bill.

Mr. WHITTEN. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 7325, which provides $15 billion in supplemental budget authority for fiscal year 1980.

All too often, such measures take a back seat to more pressing issues that come before this House. This particular measure was delayed, due to our need to complete action on the 1981 Federal budget. But as is also the case, this supplemental appropriation bill contains funds for many much-needed programs, and our prompt passage of this measure is necessary.

Of special interest to me and to coal miners throughout West Virginia, is the $343 million appropriation that will be made to the black lung disability trust fund.

Due to the increased number of black lung claims being processed and approved in 1980 than originally projected, these funds are needed now.

By law, enacted by this body, almost 163,000 Americans receive black lung benefits. Most of them reside in southern West Virginia and eastern Kentucky, the district represented so ably by CARL PERKINS. Retired coal miners and their families rely on these benefits for their way of life. Any delay would be a severe blow, especially in these times of double-digit inflation.

This supplemental bill also contains money for trade readjustment assistance benefit, $1.498 billion; and $253 million for energy programs.

In short, Mr. Chairman, H.R. 7325 is more than just a supplemental appropriations bill, it is an "essential" appropriations bill. I urge my colleagues to approve this measure.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I compliment the gentleman from West Virginia (Mr. RAHALL) on his statement and wholeheartedly concur. Passage of the bill is necessary now in order to take care of the black lung benefits.

Mr. WHITTEN. Mr. Chairman, I yield the remaining time to the gentleman from Michigan (Mr. ALBOSTA).

The CHAIRMAN. The gentleman from Michigan (Mr. ALBOSTA) is recognized for 1 minute.

Mr. ALBOSTA. Mr. Chairman, I want to speak just briefly on a problem that I ran into with the Federal Emergency Management Agency and the Executive Office of the President concerning the use of "executive privilege."

For over 6 years, we in Michigan have been grappling with the horrors of a chemical disaster caused by the chemical PBB (polybrominated biphenyl).

Recently I requested that the Governor of the State of Michigan seek an emergency declaration from the President to help in the cleanup of an area in Gratiot County, Mich., where this chemical is seeping into the community water system. The Governor agreed and sought the declaration through the Federal Emergency Management Agency. The application was reviewed by FEMA and White House officials and was subsequently denied.

In order to assist my constituents, I contacted the officials of FEMA in an effort to determine why the application had been denied and what could be done to improve the application before seeking a review of the denial. This request was met with a claim of executive privilege. Federal officials, on their own, declared that material submitted by the State of Michigan was now privileged information and could not be released. In other words, what had once been public information, was now protected by the executive privilege.

To further pursue this matter, I met with officials of FEMA. During that meeting one official stated that an official of the State Department of Health had indicated that the PBB contamination problem was not as serious as had been indicated. All my attempts to determine who had made this statement and its validity ran up against the wall of executive privilege. When questioned just last week, the same FEMA official now says that a person with sufficient standing within the government of the State of Michigan made the earlier statement downplaying the seriousness of the contamination problem in Gratiot County.

When a matter of such importance to my district and my State is denied without further explanation or assistance in improving the application, I believe a major injustice has occurred using a doctrine which in the past has been effectively used to cover up misdeeds by the bureaucracy.

I would like your committee, Mr. Chairman, to clear up for me whether or not it is the intent of Congress and of your committee that executive privilege be used by Federal agencies, such as FEMA, in making decisions of this type.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. ALBOSTA) has expired.

● Mr. WHITE. Mr. Chairman, it is my strong request that the allocations of fuel will be made in an equitable fashion, based on the demonstrated need of the various sectors.

In my own congressional district, fuel allotments to the INS were cut more than 50 percent in April of this year. The shortfall in fuel led to the grounding of over half of the border patrol vehicles in the El Paso sector, which subsequently reduced effective control of the border.

I am sure that all sectors have been affected by the fuel curtailment. Yet the effects of the curtailment are especially pronounced in the El Paso sector, where border patrol agents patrol some 341 miles of international border with Mexico, including 180 miles of land border and 161 miles of river border.

All reports indicate that the surge of illegal aliens across the southern borders of this country is increasing to monumental proportions. Yet the appropriations for the INS does not reflect any real concern about this problem. We are now at the point where we have only 350 officers to guard the 2,000-mile border with Mexico on any one shift. The lack of sufficient funding for the INS has not only decreased the effectiveness of the Border Patrol, but has led to serious morale problems in that agency. The grounding of border patrol vehicles due to insufficient funds can only further compound those problems.

I strongly support the supplemental appropriations for fuel allotments for the Immigration and Naturalization Service, yet I also want to insure that these funds are distributed in as equitable a manner as possible among the various regions and sectors.

● Mrs. CHISHOLM. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida. I believe the gentleman's amendment will go a long way in alleviating the immediate fiscal burden on those States and localities with Cuban and Haitian refugee populations as well as providing immediate humanitarian assistance to these refugees. I would hope that the President will allocate these funds equitably between Haitian and Cuban refugees. I would urge him to report to the Congress, at the end of fiscal year 1980, how these funds were used to provide assistance to both groups of refugees. I hope that he will also move to grant these refugees a status which is consistent with the policies promulgated by the new Refugee Act of 1980.●

● Mr. UDALL. Mr. Chairman, I have been happy to be a part of a coalition working to retain funds in H.R. 7542 for the Barstow solar central receiver project and the other solar projects which will rely on Barstow. I think this has been an important year for solar energy, because more clearly than ever the Congress has seen that large and small energy companies have made commitments to solar power. The fact that projects of companies as diverse as Exxon, Boeing, Solarex, and Texas Instruments would have been threatened by rescission of funds is evidence that the Department of Energy's program to build an industrial base for solar technology is working. In fact, more than 196 energy giants, small businesses, universities and utilities are involved in projects which might never have been completed if the data to be collected at Barstow were not produced and if the photovoltaics projects had been deferred.

We know that solar technology will not become a realistic energy option unless we can test and prove components in the field, and reduce the cost of manufacturing those components by expanding the marketing base. The Department's current program, which will be kept on track by the bill before the House, is not intended to precipitate a solar revolution by the end of the next decade. Our days of predicting the development of power that's "too cheap to meter" are, hopefully, over, because they created expectations that could not be met, and pushed us into promotion of, and reliance on, technologies which were not mature. What the Department's program, and this legislation, will do is give us the opportunity to try solar power in innovative uses and work to find the most efficient and economical applications of the art of getting energy from the Sun.

Since we have got plenty of this natural resource in my home State of Arizona, we are excited about this program, and we are proud of our new projects, the work being done at our universities, and our budding solar industry. We have a terrific chance to get some substantial and cost-effective contributions to our electric grid from a solar repowering project which Arizona Public Service Co. is adding on the Saguaro Generating Station in Tucson. The Sky Harbor Airport terminal in Phoenix will have a lot of its peak electricity demands supplied by a photovoltaics array near the runways. And we may have solar repowering technology built into a new oil refinery going up near the town of Mobil.

I want to thank the colleagues who worked together to keep this solar future alive in a tight budget year. The Appropriations and Science Committee chairmen negotiated wisely and fairly in this regard. The minority leader, Mr. RHODES, supported me and the rest of our Arizona delegation—Mr. STUMP and Mr. RUDD—in getting our message across. We need to particularly acknowledge the hard work and successful efforts of JERRY LEWIS of California and NICK MAVROULES of Massachusetts in leading this fine coalition.

I hope we will all continue to support these programs in budgets for future fiscal years.●

● Mr. DIXON. Mr. Chairman, I rise in support of this amendment which will cut $100 million in wasteful General Services Administration purchases from the budget. The Senate subcommittee on Federal spending practices has uncovered mountains of unused furniture in 78 GSA warehouses around the country. To continue to appropriate funds for GSA furniture purchases would grossly waste taxpayers money. The $100 million should instead be rechanneled to fund the critically needed food aid to Africa, Southeast Asia, and the Near East.

We are all familiar with the refugee situations that exist in Cambodia and in Pakistan. However, refugee problems have now become most severe in Somalia, Uganda, and other parts of Africa. More than 1.2 million refugees have fled to Somalia from the war-torn Ethiopia over the past 2 years.

As you know, Somalia is one of the poorest countries in the world and with an influx of more than a million refugees, its depressed economy is in shambles. However, the Somalian Government deserves praise for its efforts to accommodate the refugees who fled from Ethiopia.

Moreover, I believe that we must respond to this awesome crisis in Somalia and other famine-struck countries of the world. The Fithian amendment is a positive step to ameliorate this perilous situation before it worsens. It is obvious that GSA has wasted our tax dollars over the years. Let us put our tax dollars to proper use, by feeding the impovished and famine-struck people of the world. Mr. Chairman, I urge my colleagues to support this amendment.●

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McHUGH) having assumed the chair, Mr. KAZEN, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, had come to no resolution thereon.

REPORT ON H.R. 7591, AGRICULTURE APPROPRIATIONS, FISCAL YEAR 1981

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 96–1065) on the bill (H.R. 7591) making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

☐ 1610

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF DEFENSE MILITARY CONSTRUCTION BILL

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

Mr. CONTE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4155, de novo; H.R. 4968, de novo; H.R. 7171, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

IRC AMENDMENTS FOR STUDENT LOAN DEFAULTERS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4155, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4155, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22, as follows:

[Roll No. 333]

YEAS—411

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Anderson, Ill.
Boggs
Bowen
Clay
Dodd
Flippo
Grisham
Holt
Hughes
Ichord
Jenrette
Lungren
Mathis
Myers, Pa.
Nedzi
Rangel
Reuss
Santini
Sebelius
Weiss
Wilson, C. H.
Wydler

☐ 1620

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Weiss.

Mr. Santini with Mr. Sebelius.

Mr. Reuss with Mr. Lungren.

Mr. Flippo with Mr. Anderson of Illinois.

Mr. Dodd with Mr. Clay.

Mr. Myers of Pennsylvania with Mr. Grisham.

Mr. Nedzi with Mrs. Holt.

Mr. Charles H. Wilson of California with Mr. Mathis.

Mr. Jenrette with Mr. Ichord.

Mr. Hughes with Mr. Wydler.

Mr. Bowen with Mr. Rangel.

Mr. BEARD of Tennessee changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Danielson). Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

□ 1630

IRC AMENDMENTS FOR REAL ESTATE INVESTMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 4968, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Rostenkowski), that the House suspend the rules and pass the bill, H.R. 4968, as amended.

The question was taken.

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 196, answered "present" 1, not voting 22, as follows:

[Roll No. 334]

AYES—214

Abdnor
Akaka
Alexander
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bethune
Bolling
Bonior
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carter
Chappell
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Devine
Dickinson
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ga.
Fary
Fascell
Findley
Foley
Fountain
Fowler
Gaydos
Gephardt
Giaimo
Gingrich
Ginn
Gradison
Gramm
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hefner
Heftel
Hightower
Hinson
Holland
Horton
Hubbard
Huckaby
Hutto
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Lagomarsino
Leach, La.
Leath, Tex.
Lehman
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
McKinney
Marks
Marlenee
Marriott
Martin
Mattox
Mica
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
O'Brien
Oberstar
Patten
Paul
Perkins
Pickle
Porter
Preyer
Price
Quillen
Railsback
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Shannon
Shelby
Shumway
Shuster
Simon
Skelton
Snyder
Spence
St Germain
Staggers
Stanton
Steed
Stenholm
Stewart
Stratton
Stump
Symms
Trible
Ullman
Vander Jagt
Walgren
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOES—196

Addabbo
Albosta
Ambro
Andrews, N.C.
Andrews, N. Dak.
AuCoin
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonker
Brademas
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Collins, Ill.
Conte
Conyers
Corcoran
Courter
D'Amours
Danielson
Davis, S.C.
de la Garza
Dellums
Derwinski
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Fuqua
Garcia
Gibbons
Gilman
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Guyer
Hagedorn
Hamilton
Harkin
Hawkins
Heckler
Hillis
Hollenbeck
Holtzman
Hopkins
Howard
Hutchinson
Hyde
Jacobs
Jeffords
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Leland
Lent
Long, Md.
Lowry
Lujan
Lungren
McDade
McHugh
Madigan
Maguire
Markey
Matsui
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moore
Mottl
Myers, Ind.
Nolan
Nowak
Oakar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Petri
Peyser
Pritchard
Pursell
Quayle
Rahall
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Rosenthal
Rousselot
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Sharp
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Stack
Stangeland
Stark
Stockman
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Wolpe
Yates
Yatron
Zeferetti

ANSWERED "PRESENT"—1

Pepper

NOT VOTING—22

Anderson, Ill.
Boggs
Clay
Dodd
Flippo
Grisham
Holt
Hughes
Ichord
Jenrette
Levitas
Mathis
Myers, Pa.
Nedzi
Rangel
Reuss
Santini
Sebelius
Weiss
Wilson, C. H.
Wright
Wydler

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Charles H. Wilson of California.

Mr. Santini with Mr. Wydler.

Mr. Myers of Pennsylvania with Mr. Levitas.

Mr. Wright with Mr. Clay.

Mr. Jenrette with Mr. Mathis.

Mr. Flippo with Mr. Nedzi.

Mr. Dodd with Mrs. Holt.

Mr. Hughes with Mr. Sebelius.

Mr. Ichord with Mr. Weiss.

Mr. Rangel with Mr. Grisham.

Mr. Reuss with Mr. Anderson of Illinois.

Mr. ECKHARDT, Mrs. COLLINS of Illinois, Mr. BONER of Tennessee, and Mr. SMITH of Iowa changed their votes from "aye" to "no."

Mr. HORTON changed his vote from "no" to "aye."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MISCELLANEOUS CHANGES IN TAX LAWS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7171, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Rostenkowski) that the House suspend the rules and pass the bill, H.R. 7171, as amended.

The question was taken.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 393, noes 17, not voting 23, as follows:

[Roll No. 335]

AYES—393

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm

Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler

Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta

Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.

Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff

Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska

Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—17

Bennett
Collins, Tex.
Erdahl
Evans, Ind.
Findley
Frenzel

Guyer
Hutto
Jacobs
McDonald
Martin
Miller, Ohio

Moore
Mottl
Ottinger
Paul
Wylie

NOT VOTING—23

Anderson, Ill.
Boggs
Clay
Dodd
Flippo
Grisham
Holt
Hughes

Ichord
Jenrette
Jones, Tenn.
Kemp
Levitas
Mathis
Myers, Pa.
Nedzi

Rangel
Reuss
Santini
Sebelius
Weiss
Wilson, C. H.
Wydler

□ 1750

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Clay.

Mr. Dodd with Mr. Rangel.

Mr. Hughes with Mr. Sebelius.

Mr. Santini with Mr. Wydler.

Mr. Reuss with Mr. Kemp.

Mr. Charles H. Wilson of California with Mr. Mathis.

Mr. Jones of Tennessee with Mr. Ichord.

Mr. Jenrette with Mr. Weiss.

Mr. Flippo with Mr. Grisham.

Mr. Myers of Pennsylvania with Mrs. Holt.

Mr. Nedzi with Mr. Levitas.

Mr. McDONALD changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to the provisions of clause 3 of rule XXVII and the order of today, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, June 16, 1980, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2510, H.R. 7474, and H.R. 7477.

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that the vote on the first bill, H.R. 2510, carried over from yesterday's suspension, be of the 5-minute variety.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Chair will reduce to 5 minutes the time in which any and all electronic votes are taken in this series.

REVIEW OF DISABILITY RETIREMENT DETERMINATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2510, as amended.

□ 1650

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 2510, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 48, not voting 23, as follows:

[Roll No. 336]

YEAS—362

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick

Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto

Hyde
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mcakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger

Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—48

Badham
Beilenson
Benjamin
Bennett
Bereuter
Burlison
Carr
Cheney
Collins, Tex.
Conable
Corcoran
Cotter
Dannemeyer
Derwinski
Edwards, Ala.
Evans, Ga.
Fenwick
Frenzel
Gephardt
Giaimo
Hagedorn
Hillis
Hutchinson
Ireland
Jacobs
Kelly
Latta
Lewis
Livingston
McEwen
McHugh
Martin
Michel
Miller, Ohio
Moore
Myers, Ind.
Paul
Rhodes
Roth
Seiberling
Stangeland
Stanton
Stratton
Thomas
Volkmer
Walker
Wilson, Tex.
Young, Fla.

NOT VOTING—23

Anderson, Ill.
Ashley
Boggs
Clay
Dodd
Flippo
Gibbons
Holt
Holtzman
Hughes
Ichord
Jenrette
Levitas
Mathis
Myers, Pa.
Nedzi
Rangel
Reuss
Santini
Sebelius
Weiss
Wilson, C. H.
Wydler

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Rangel.

Mr. Ashley with Mr. Charles H. Wilson of California.

Mr. Santini with Mr. Sebelius.

Mr. Reuss with Mr. Grisham.

Mr. Levitas with Mr. Ichord.

Mr. Hughes with Ms. Holtzman.

Mr. Flippo with Mr. Mathis.

Mr. Dodd with Mr. Nedzi.

Mr. Jenrette with Mr. Wydler.

Mr. Clay with Mr. Weiss.

Mr. Myers of Pennsylvania with Mrs. Holt.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system.".

A motion to reconsider was laid on the table.

OCEAN THERMAL ENERGY CONVERSION AUTHORIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7474, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IRC AMENDMENTS FOR AIRWAY TRUST FUND

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7477, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 20, not voting 19, as follows:

[Roll No. 337]

YEAS—394

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Seiberling
Shannon
Sharp
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—20

Ashbrook
Badham
Bauman
Bevill
Carr
Collins, Tex.
Dannemeyer
Evans, Ga.
Hansen
Holt
Lloyd
Mottl
Paul
Petri
Schroeder
Sensenbrenner
Shelby
Shumway
Stump
Wilson, Tex.

NOT VOTING—19

Anderson, Ill.
Clay
Dodd
Flippo
Holtzman
Hughes
Ichord
Jenrette
Levitas
Mathis
Myers, Pa.
Nedzi
Rangel
Reuss
Santini
Sebelius
Weiss
Wilson, C.H.
Wydler

□ 1700

The Clerk announced the following pairs:

Mr. Santini with Mr. Clay.

Mr. Charles H. Wilson of California with Mr. Jenrette.

Mr. Myers of Pennsylvania with Mr. Sebelius.

Mr. Rangel with Mr. Wydler.

Mr. Reuss with Mr. Ichord.

Mr. Flippo with Ms. Holtzman.

Mr. Dodd with Mr. Mathis.

Mr. Hughes with Mr. Nedzi.

Mr. Levitas with Mr. Weiss.

Mr. WAXMAN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DAVIS of Michigan. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 394, noes 7, answered "present" 2, not voting 30, as follows:

[Roll No. 338]

AYES—394

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Lewis
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—7

Broomfield
Collins, Tex.
Edgar
Lloyd
McDonald
Mitchell, Md.
Wilson, Bob

ANSWERED "PRESENT"—2

Moffett
Ottinger

NOT VOTING—30

Anderson, Ill.
Bonior
Brademas
Clay
Dodd
Evans, Del.
Flippo
Giaimo
Harsha
Holtzman
Hughes
Ichord
Jenrette
Lehman
Levitas
Livingston
Mathis
Myers, Pa.
Nedzi
Rangel
Reuss
Rosenthal
Sabo
Santini
Sebelius
Simon
Traxler
Weiss
Wilson, C. H.
Wydler

□ 1720

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7542, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

The Clerk will read.

The Clerk read as follows:

PUBLIC LAW 480

For an additional amount for "Public Law 480", $100,000,000. The authorized program level and the amount appropriated for titles I and III shall be increased by $20,000,000, and the authorized program level and the amount appropriated for title II shall be increased by $80,000,000.

AMENDMENTS OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. FITHIAN: Page 4, line 19, strike out "$100,000,000" and insert in lieu thereof "$142,860,000".

Page 4, line 23, strike out "$88,000,000" and insert in lieu thereof "$122,860,000".

Page 72, after line 10, insert the following:

SEC. 4. Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1988, $100,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within thirty days following the date of the enactment of this Act as to the allocation made.

The CHAIRMAN. Are these the amendments printed in the RECORD of June 12?

Mr. FITHIAN. That is correct, Mr. Chairman.

The CHAIRMAN. Pursuant to the rule, the amendments are considered en bloc, and they shall not be subject to a de-

Mr. FITHIAN. Mr. Chairman, the amendment that I am offering has great appeal for both sides of the House. In addition to my colleague from New Jersey, Mr. MAGUIRE, my good friends from across the aisle, Mr. CONTE and Mr. DERWINSKI are strongly cosponsoring this amendment as a reasonable and practical solution to a pressing problem.

Mr. Chairman, the amendments that I am offering do the following things: They would eliminate the purchase of unnecessary furniture, convert the money to critically needed emergency food aid, and repay or refund to the taxpayers $58 million.

Tonight thousands will go hungry and many will die, and tonight the warehouses of unneeded Government furniture from Washington to San Francisco will remain locked. By the end of the month, thousands more will face malnutrition and starvation in Uganda, Somalia, Kampuchea, Pakistan, and the rest of the needy areas of the world. By the end of the month, GSA will pay storage and warehouse costs on the unneeded furniture.

Today, we can take a small step to right this wrong to correct these situations.

I urge support for the amendments. The amendments would first rescind $100 million in GSA furniture purchasing authority for 1980. Second, it would increase by $42 million U.S. food-for-peace commitment to nations with large refugee populations. My amendments will also increase the purchases of surplus grain from the American farmer to offset the surplus caused by the grain embargo.

Today there are 78 warehouses in Washington filled with excess furniture, and although OMB has imposed a freeze on the new acquisitions by Federal agencies, a little over $100 million remains at the agency's disposal. I am not now making the full claim that the committee and the other body has made, which is a figure somewhat more than twice as high, but we are maintaining that the figure we have, $104 million, could in fact be rescinded.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from Indiana (Mr. FITHIAN) and commend him and other concerned Members for taking the lead in this important area.

This amendment would cut $100 million in General Services Administration furniture purchases, designating approximately $42 million for disaster assistance under title II of Public Law 480 and producing a net savings of $52 million.

As my colleagues have already indicated, this amendment will also be of assistance to our Nation's farmers who are experiencing increasingly depressed prices due to the excess supply of grain caused in large measure by the Soviet grain embargo.

Mr. Chairman, at a time when we witness the pain and despair suffered by tens of millions in famine engulfed regions of the world, our last concern should be to further enlarge GSA furniture stockpiles.

Accordingly, I urge my colleagues to support the amendment.

Mr. FITHIAN. I thank the gentleman for his comments.

Let me just address the House for a few moments with regard particularly to the refugee situation.

The Uganda situation has placed further strains on world relief, and as we look around the world, we have had AID and other programs go through the emergency action of diverting ships at sea to areas where people are starving to death.

□ 1730

I am told by the specialists in AID and elsewhere that if we are to respond to this critical need and get food actually to the hungry prior to or by this fall, it will be because we respond and we act prior to the cutoff date of about mid-July. If we have not acted by then, we will, in fact, not be able to solve that problem.

Now, the Food for Peace program has only $25 million left to cover its worldwide obligations.

I commend the chairman of the Appropriations Committee for increasing by $80 million in the supplemental the need; however, I would point out to my colleagues that since that figure was worked out, conditions have gotten considerably worse by the drought in several of the African countries and by the displaced persons by war in other countries around the world; and so the $80 million obviously will help, but it is not even the minimum which the administration requested back at the beginning, which through no fault of this committee, no fault whatsoever, that the beginning of this bill has been delayed and delayed because of other procedural matters in the House over which the chairman of the Appropriations Committee had no control. Therefore, as conditions have worsened around the world, it has become apparent to even the most casual observer that we desperately need to bring the level of emergency food aid for title II of Public Law 480 up to the minimum requested by the administration.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 3 additional minutes.)

Mr. FITHIAN. Therefore, Mr. Chairman, I have worked with the State Department, with the AID people and with the administration on this. They tell me that the Department of Agriculture is geared to make the purchases; that AID is, indeed, geared to see that the money gets to its needed recipients and that the figure which I offer in this amendment, the $42 million figure, would be administratively within the realm and easily within their administrative capacity.

Now, I need not tell you the burgeoning numbers; 700,000 in the Horn of Africa. These Members of the House who visited Southeast Asia can speak far more eloquently than I to the actual starvation there.

As we go around the world, we have numbers so large as to boggle the mind. I am not here in the well of the House arguing the case that $42 million or $142 million additional will, in fact, solve the emergency hunger situation in the world. What I am saying is that 150,000 tons of wheat, corn, and soybeans will enhance our capacity to deal with a critical need in various parts of the world.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to my friend, a cosponsor of the amendment.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I am pleased to be cosponsoring this amendment with the gentleman and with a number of other Members on both sides of the aisle.

On the furniture side of this issue, I think it is important for the members of the committee to know that an 18 agency task force did a study of the furniture situation after some investigations were conducted by the other body. What they found, and I quote from the report was:

> Confusion, inconsistency and mismanagement in the areas of furniture acquisition, storage and disposal. More specifically, our audit showed the GSA through its sales oriented supply system, has made it too easy for agencies to obtain new office furniture, while good, usable items were being stored. Procurement of office furniture has exceeded one billion dollars over the past ten years because of the absence of any restraints.

They found in their study that justifications for procurement of furniture were generally not prepared. The furniture repair and rehabilitation program was rarely used. There was a general lack of controls over furniture which was being stored and furniture which was scheduled for disposal.

In short, there are warehouses full of new furniture which had never been used. The agencies do not know that that furniture is there and do not have proper records kept to identify it or to use it. Meanwhile, new furniture continues to be ordered, except for the freeze which we have had recently from OMB which may, in fact, be lifted.

Now, we looked at the numbers after the committee had issued a report on an earlier version of this bill.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. MAGUIRE, and by unanimous consent, Mr. FITHIAN was allowed to proceed for an additional 5 minutes.)

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield further, we probably will not need all that time; but just to complete the argument, originally the legislation which I sponsored cutting the furniture budget called for a cut of $229 million. We found in looking over the report prepared by the Appropriations Committee and talking further with GSA and OMB that of that $229 million, $90 million has already been spent, $36 million is documented as being required for the balance of this year, which leaves a $103 million excess. It is that $100 million and only that $100 million that we seek to cut.

It does not affect, by the way, the purchase of hospital beds or equipment for the Veterans' Administration. A question on that had been raised earlier and I have a letter from the Assistant Administrator for Supply Services of the Veterans' Administration indicating that their procurement goes forward apart from the GSA allocations that we are talking about here.

Just a final word. The gentlewoman from Colorado (Mrs. SCHROEDER) and myself visited the Somalia refugee camps on an Armed Services Committee trip in the spring. We saw tens of thousands of people there who are in desperate need and who will not have food after the first of July unless we and other nations can respond.

The reason we have a shortfall now on Public Law 480 is because we had used up that money on Cambodia earlier in the year and to maintain our support in Cambodia and for the Afghan refugees in Pakistan whom we also visited earlier and the nearly one million refugees in camps in Somalia, this very modest allocation which the gentleman is proposing is absolutely required.

I thank the gentleman for offering the amendment.

Mr. FITHIAN. Mr. Chairman, let me conclude my remarks briefly.

In India and Bangladesh and other countries the food aid program has already been cut 50 percent, the actual amount of food that is available. The fiscal year 1980 which we are now trying to finish has been a very, very bad one for people who are hungry. I commend the gentleman from Mississippi and his committee, for in this fiscal year this Government of the United States has responded by increasing the food aid by various devices seven times in the fiscal year. That is a remarkable and commendable record. Were it not for the desperate need, I would not now be trying to correct, I think, the very excellent work of the Appropriations Committee, but the need is desperate.

Virtually all the money has been spent, but the hunger goes on; so I would urge you, whether or not you are coming at this from a farm State that wants more grain sold, or you are coming at this from someone who knows something about those camps and the refugees who are starving there, or you are coming from those who in the international sector would like us to develop better relations with the Afghanistan people, remembering the thousands who are transiting the borders into Pakistan, whatever your frame of reference, your frame of reference must be, I think, addressed to the critical starving needs of people around the world.

We have the support for this. We have the ability to do this. In support of my amendment, we find the following organizations among the many:

AID, the National Farm Bureau, International Development Cooperative Agency, the U.S. Coordinator for Refugee Affairs, the National Association of University and Land Grant Colleges, and so on.

I would urge you to set aside our quarrel with bureaucracy, to set aside our own particular needs and think for this few moments as one who is responsible not only as a representative of your State and your people, not only as a Representative of the United States, but, indeed, someone who has responsibility as a citizen of the world.

Mr. STEED. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it would be fine if the idea people have about this situation was true; but the information that has been made available to us all through this year and as late as today indicates that it is just not so. There is no $100 million in the GSA general supply fund to be transferred anywhere. This $100 million may be taken out of the operating budgets of virtually every agency in Government.

□ 1740

If this amendment passes, the only way that money can be made available is for the Office of Management and Budget to strip the funds of the customers of the GSA, which could include all the veterans' hospitals, military hospitals, and all of the other agencies GSA buys furniture for.

A lot of people get the idea the only thing they supply is just desks and chairs, but they supply a lot of equipment and a lot of it is obtained through ongoing contracts.

The mess down at GSA that is talked about has been pretty much cleaned up. They did have some trouble and the new Administrator and the new people in charge have frozen furniture acquisitions and tried to resolve a lot of these contracts that were giving them trouble. They have reorganized the procurement system and they have put in a new inventory control system. They are giving faster and better service to their customers.

But, this is a matter where they sell the furniture in order to get their revolving fund replenished so that they can buy additional equipment and furniture. Enactment of the amendment would have the effect of increasing inventories of furniture in GSA warehouses and then will actually cost GSA $2.4 million in space rental for the remainder of this fiscal year because agencies that normally purchase furniture from GSA will not have funds to purchase the large amount of furniture currently in the GSA warehouses.

This will hurt the furniture manufacturers and have a ripple effect on the suppliers of lumber, metal, paint and other products, and will also adversely affect the blind and handicapped workshops that make furniture for the Government.

No one knows exactly how much money remains in each agency for furniture procurement. The cut by OMB would probably be arbitrarily made based on guesses and estimates.

This amendment would not save the Government anything. It would just delay valid furniture acquisitions and obligations would occur in 1981 rather than in 1980.

The administration has already taken action to insure that the problems in the furniture acquistion program be solved and has frozen furniture purchases until each agency has established an approved program.

In addition to all of the above, if this rescission is adopted, it could well mean the layoff of about 10,000 people by furniture manufacturers and suppliers in the hardware, metal, paint and varnish and other similar industries. Just in one item alone for the handicapped it could require cancellation of about $5 million worth of equipment that those programs need for the remainder of this fiscal year.

So, Mr. Chairman, I hope the Members will not be stampeded by past history. The GSA is on top of the problem; they are solving the problem. All we are going to do here, if we adopt this amendment, is knock that in the head and freeze it for the rest of this year.

Because it is bad business, because it will not serve the purpose, and because I doubt if they can find $100 million, even if they brought together all the funds in of all of their customers accounts so that they have to put their money in this fund instead of buying equipment and furniture they need for the rest of this fiscal year, I doubt that they could do that. The whole thing adds up to a bad situation, and I think this amendment should be defeated.

Mr. BAUMAN. Mr. Chairman, will the gentleman from Oklahoma yield for a question?

Mr. STEED. I yield to the gentleman.

Mr. BAUMAN. Mr. Chairman, when this proposition was presented to us in the Rules Committee and began today, I got the impression that the GSA had a fund of a certain specified amount for furniture, and that this money could be transferred within Government accounts from that fund to the food-for-peace program.

What the gentleman has just said is that there is no such fund, that it would have to be taken out of the various agencies that are supplied by the GSA. We have no idea whether there is such money.

Mr. STEED. Their cash flow is in a revolving fund, and as they buy and deliver this material the agencies replenish that fund for the cost of it, and what they have on hand now is what agencies have pledged themselves to pay in exchange for the equipment and furniture they have on hand, will sell them, or are buying for them.

There is no such thing as a free $100 million just lying around unused. It all has a commitment, and if it is taken out, it will be taken out of the funds of the agencies, not the GSA, because until they get the furniture they do not pay GSA. Funds are appropriated to agencies, not to GSA. This amendment would deny agencies any chance to get what they need and take the GSA out of the business of having anything to sell or any way to recover what they have already invested.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, during fiscal years 1971 through 1979, GSA bought for Federal agencies $1.165 billion worth of office furniture. Meanwhile, the agencies reported an excess of $373.4 million worth of furniture; the remainder—more than $791 million, unaccounted for, has disappeared into warehouses or has been stolen. More than 10 million square feet of warehouses exist in the District of Columbia area alone and there are 78 warehouses in Washington filled with furniture.

This measure would rescind $100 million in GSA furniture purchasing authority for fiscal year 1980, increase by $42 million our food-for-peace commitment abroad and return $58 million to the Treasury

The food-for-peace program will thus be brought to near the original budget request. Thus food will be shipped to Somalia in greater quantity, where 25 percent of the world's refugees are now located in abysmal conditions, and to Pakistan, which is absorbing the refugees fleeing the Soviet invasion of Afghanistan.

This amendment is a furniture-for-food measure. It gives the Government agencies time to inventory their furniture holdings and solve their furniture mismanagement problems. It gives food to hungry refugees abroad. It puts money back in the Treasury to help the beleaguered U.S. taxpayer.

The Members should also keep in mind that the number of refugees is growing. Our practical, humanitarian efforts on behalf of these refugees are truly needed.

Mr. Chairman, I would like to point out to the Members that I for one have confidence that the administrators of the GSA have enough talent to handle the responsibilities imposed on them by this amendment. Certainly they have a surplus to work with, and within that surplus of equipment, and the talent they have shown for mismanagement, they could show a talent to meet the priorities set by this amendment.

But the important thing I would like to stress to the Members is that refugee problems are not diminishing. There are reports of potential Soviet military-directed activity in the Ogaden Desert. That will add to the number of refugees in Somalia. The increased activity in Afghanistan is going to mean an increased flow of refugees out of that country and into Pakistan. We have political unrest in Kampuchea and a growing problem in Uganda.

The world refugee problem, which presently is in record numbers, will certainly grow. We may be called upon in the months ahead to take further steps to increase the food-for-peace fund just because of the dire problem besetting the world refugee areas.

So, I point out to my colleagues the real seriousness of this worldwide refugee problem.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for yielding.

These charges that there is a warehouse someplace with lots of desks and chairs, and they are not being used, maybe several years' supply, which I do not know whether it is real or not, and I do not suppose anyone else knows for sure, but there is one problem here: if the VA needs a hospital bed someplace, it is kind of hard to go to the warehouse and get a desk that will serve as a hospital bed. This is one part of the problem with this amendment the gentleman is talking about. It will be taking money out of what they might need for the future.

Mr. DERWINSKI. I think it was made clear by the gentleman from Indiana that the intent of the amendment is to exclude the VA from the complication of that kind of a problem. The legislative intent is clear. As I pointed out, our administrators in the GSA certainly have enough talent to meet the responsibilities this amendment will impose upon them.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield on that point?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding. I would like to quote, with respect to the issue of hospital beds the gentleman just raised, and which was raised earlier, from a letter dated June 17, 1980, to the Honorable DON EDWARDS from Clyde Cook, Assistant Administrator for Supply Services at the Veterans' Administration.

The Veterans' Administration says:

> Hospital beds are purchased directly by the Veterans' Administration and not through the General Services Administration. Although there may have been a misunderstanding in the beginning, they were not involved in the moratorium on the purchase of furniture imposed by the General Services Administration. For a brief period, there was confusion that the mattresses for these beds were included in the freeze, until they were identified as being mattresses for hospital beds.

So that matter has been taken care of, I think, to the satisfaction of those who were concerned about hospitals.

More generally, of course, there is a question of whether inventories might be increased if this amendment were passed. But, of course, that is the very nature of our problem; namely, we have full warehouses with excess furniture, and the problem is that orders for furniture continue to be placed. Some estimates by the other body suggest that it will not be $229 million but it will be $289 million before this year is over. So the $100 million is really a modest portion of the total amount.

I would remind the committee we have an 18-agency study and the agencies themselves have looked at this matter and have determined that there is excess and that this furniture is not being dealt with in a budget conscious fashion. So we have ample evidence from the agencies themselves, some of whom may not be able to order the latest desks, but where there are plenty of desks waiting in the warehouses now.

Mr. DERWINSKI. May I sum up the point again. There are two parts to this amendment. There is the humanitarian support of refugees, which is really a challenge for us, and the fact that we have selected I think a practical source to meet this budgetary adjustment.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I simply want to commend my colleague and join him on this. Twenty years from now when historians look back on this session of Congress my guess is that they are going to judge this as a Congress which had as its major thrust a concern about our security. I simply suggest to my colleagues that our security is in part resting on bombers and submarines and things like that.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. SIMON and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 30 additional seconds.)

Mr. DERWINSKI. Mr. Chairman, I yield to the gentleman.

Mr. SIMON. Mr. Chairman, I thank the gentleman for yielding. I suggest also, in seeing to it that people who are hungry get food in their stomach, that they are not amenable to the kinds of overtures that some of our friends to the East want to get over to them.

Mr. DERWINSKI. Let me commend the gentleman, and say the gentleman shows a discerning view of foreign affairs.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think one need only look at this supplemental appropriations bill to appreciate the kind of year it has been for emergencies. We have Mount St. Helens, we have food stamps, for which we have previously provided additional funds, and we have a whole series of other emergencies which are dealt with in this bill. This in a year when we are trying to tighten up on our budget. Clearly, it has become increasingly difficult for the Committee on Appropriations and, indeed, for the entire Congress to deal with these emergencies and at the same time exercise the kind of fiscal restraint we would like.

This amendment relates to another of those emergencies. However, as the gentleman from Indiana (Mr. FITHIAN) has pointed out, this amendment will not cost the Government anything because it includes a rescission of $100 million. Moreover, it concerns not just a modest emergency but one of dire proportions.

The gentleman from Indiana (Mr. FITHIAN) has spoken eloquently, as have others, of the humanitarian problem. For example, there are over 1 million refugees in Somalia, three-quarters of them in camps, and 90 percent of them are women and children. In Pakistan, there are now over 1 million refugees from Afghanistan, and the list goes on. We are faced with the question of whether these desperate human beings will have sufficient food, shelter, and medicine and this amendment would address that very dire situation.

Humanitarian concerns, of course, have always been a fundamental reason for providing foreign assistance, including our fundings of the Public Law 480 program. For those of us who want another reason I would like to suggest, as the gentleman from Illinois (Mr. SIMON) has just done, that we have an even broader interest in this amendment than our humanitarian concerns. We have an interest in maintaining the stability of the countries in which these refugees are growing in number.

For example, let us consider the case of Pakistan. Pakistan is a country which is strategically important to the United States. It is on the border of Afghanistan, a country savagely invaded by the Soviet Union, and of course that is why there are over 1 million refugees in Pakistan today. It is a country of 80 million people with an excess of 1 million refugees.

To put this in perspective, I think it might be useful to think about the reaction of the American people to the recent events involving Cuban refugees. We are a country of 220 million people. We have in recent days absorbed about 100,000 Cuban refugees, and I think it is fair to say that many of our constituents, whether we are from Florida, New York, or California, have responded with great concern to the impact those refugees may have in our Nation. These refugees do not really represent a destabilizing influence in our country, a country which is perhaps the most stable in the world, a strong country of 220 million people. But let us put ourselves in the position of Pakistan, a country of 80 million people, which has within a short period of time absorbed over 1 million refugees; or in the position of Somalia, another country with which we have good relations, a country of about 3 million people which has also absorbed over 1 million refugees.

What kind of destabilizing influence might those refugees represent in those countries? I think it is fairly easy to understand, given our experience with only 100,000 Cuban refugees, that those refugees can be a very destabilizing force indeed.

Mr. Chairman, I suggest that beyond our humanitarian concerns we have to consider this amendment in terms of the interest of the United States in maintaining the stability of Pakistan and Somalia and all of these other countries where refugees are growing in number.

Mr. Chairman, I think that if we look at it in those terms we will readily appreciate why we must join with other countries in responding to the desperate plight of the growing number of refugees. Our interest in assuring their survival is the fundamental reason for supporting this amendment, but we must also understand that those refugees can be a destabilizing factor in countries which are important to us and will become increasingly so if we do not respond.

Once again, consider please Pakistan and the geography of that region; 300 miles separates the Afghanistan/border from the sea. Russian troops are 300 miles from the sea and those 300 miles are in a part of Pakistan which was inherently unstable even before the buildup of refugees. Now we have the refugee inflow, and it is important for us to be sure that that region of the country is not further destabilized.

Therefore, from a humanitarian point of view, from the point of view of our security interests in Pakistan, Somalia, and these other parts of the world, that we support this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. McHUGH was allowed to proceed for 1 additional minute.)

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I will be happy to yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

Mr. Chairman, I would like to take my minute to explain a couple of things that have not been pointed out with regard to the amendment. I am one of the cosponsors of the amendment. I think it is an excellent amendment. It is not only humanitarian. I think that has been adequately pointed out during the last half hour of debate. Second, I would like to say anyone who votes against this amendment truly is voting against the saving of $58 million because as the gentleman in the well pointed out, it does contain a rescission of $100 million. The total cost of the amendment is $42 million, so, therefore, a vote against the amendment is a vote against saving the taxpayers of the United States approximately $58 million.

Mr. Chairman, during the debate that we have had with regard to the International Development Institution, very often a good deal is mentioned with regard to the fact that the most effective type of aid we can give from the United States is a bilateral type of aid from the people of the United States and that is the taxpayers, directly to the people of some foreign country, and that is this type of approach.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SOLARZ and by unanimous consent, Mr. McHUGH was allowed to proceed for 2 additional minutes.)

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentlemen from New Jersey, Indiana, Illinois, and Massachusetts who offered this amendment. I think it would be a terrible tragedy if we were unable to provide sustenance to millions of people around the world who desperately need our agricultural assistance simply because of the vagaries and vicissitudes of the budgetary process here in the House of Representatives.

Mr. Chairman, this amendment is entirely consistent with the budget resolution, it will save the taxpayers of our country some money but it will also enable us to be responsive to literally millions of people in East Africa, in Southeast Asia and elsewhere in the world who at this point simply do not have enough food to eat. I very much hope that the House of Representatives can adopt this amendment so that we can meet our obligations and responsibilities to the less fortunate around the world who are so dependent on our willingness to come to their assistance.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield.

Mr. McHUGH. I will be happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, after listening to the last two speakers, I have a question. They seem to be talking about savings. I thought this amendment was a direct transfer. Nothing is being saved that I can see.

Mr. McHUGH. Mr. Chairman, as I understand the amendment, it includes a rescission of $100 million in the GSA account relating to furniture, and adds $42 million for Public Law 480 food assistance. Therefore, there would be a net savings of $58 million.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I will be happy to yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for his support of this amendment. I think it is an appropriate amendment. It does make some shift in funds, saves some money but targets the money into areas of the world where there is hunger and starvation. I think the gentleman has made some critical points in the area of trying to provide in times of tight budget and limited funding some help for these people in need.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. It is not easy to answer the pleas that have been made here. We can all appreciate the presentation and the deep feeling of the proponents. I do feel, however, we should analyze this and look into the mechanics of it.

Mr. Chairman, it has been said that this would cost no money. May I say it will increase budget outlays by $33 million net. It will impact cash outlay and that is where the tight pinch is in the budget right now under the 1980 budget ceilings and not in budget authority. That is one point.

Second, Mr. Chairman, let us keep in mind that we have been hearing bad things about the situation in GSA. Presumably many of those things were true. Then we have the desperate picture of the people in these countries as enumerated here. I do not question the latter in the least. However, let us examine the facts on the GSA side of this amendment.

☐ 1800

The General Services Administration does not have this money. What they do have is a large revolving fund which is used to purchase a wide variety of items, including some furniture for the various departments and agencies of Government. Items are acquired by GSA and GSA pays the manufacturer. The agencies in turn reimburse GSA for what they acquire. Something approaching $2 billion goes through the fund. There is no question but that GSA has had problems, including cash flow problems, but there is no $100 million sitting there loose and unattended in the General Services Administration. The money is appropriated to the departments and agencies and I believe there are serious questions about the viability of this amendment. It is not as easy as it sounds and it might well be counterproductive to the objective of good management. That is the second point.

I also wish to say that we have $80 million extra for Public Law 480 in this category. Back in February, the General Sales Manager of the Department of Agriculture told our committee that they had to have the money right away or they could not use it.

Now, here it is in June, and the fiscal year ends on October 1. That is one thing to remember. The next thing, if we look at his statement, he says:

> A further complicating factor has been the operating lead times required for the effective operation of title II programs. Under usual procedures, commodities must be ordered a full six months before they will actually be distributed to intended recipients.

He went on to add—

> Programing and time constraints preclude a larger request and we will not be able to use even these amounts if funding is not provided within the next few weeks.

That was 16 weeks ago.

Furthermore, last week we asked the Public Law 480 program officials to provide us with a listing of how they had used the $606 million already appropriated and how they would propose to use the additional funds. They have not responded to our request.

So, I am just saying to the Members, that while their good intentions are apparent, while the need is great, we might do a whole lot better to direct the people who operate Public Law 480 to use the $80 million which we have in this bill to meet the highest priority needs, since many of the needs have already been met by borrowing funds from someplace else.

So, I would like to say to the Members, the bad reputation of some of the handling by GSA in the past, which, as the chairman has said, has been corrected. As I pointed out, there are real problems with the GSA furniture matter. The subcommittee had a hearing on this proposition and there is a section in the committee report specifically on the subject. It strikes me that there are better ways to meet this need. I am not objecting to meeting the need, but I do think we had better listen to those who worked with it in making a decision before letting our deep feeling and our heartfelt sympathy guide us in doing it the wrong way.

So, I suggest that the bill does contain $80 million for Public Law 480. This is probably all they can effectively use between now and October 1. Let us not jeopardize this business. If the agency is trying to straighten itself out, let us not cripple it by taking away the revolving fund which is so essential to its own business.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. CONTE. Mr. Chairman, I rise in support of this amendment, which seeks to increase the funding level for the Public Law 480, title II, emergency food assistance program. The $42 million is desperately needed to forestall massive starvation in the nations of Cambodia, Somalia, Pakistan, and Uganda.

Several of our colleagues have based their rationale for the assistance on the fact that this amendment is frugal—it cuts $100 million in furniture allocation expenses from an already overcrowded stock.

It has also been stated that the amendment is economically stimulating in that it creates $42 million in U.S. farm and shipping revenues in a market currently depressed by surpluses.

In my opinion, while these are considerations, the mere fact that millions of persons daily face the ravages of hunger is a compelling enough argument. I therefore urge that our humanitarian spirit join our desire for fiscal responsibility and that we pass this amendment.

VOTE YES ON FITHIAN, MAGUIRE, DERWINSKI, CONTE AMENDMENT TO H.R. 7452

Our amendment will rescind $100 million in GSA furniture purchasing authority for 1980.

Our amendment will increase by $42 million U.S. food for peace commitments to nations with large refugee populations.

Our amendment will increase Government purchases of surplus grain from the American farmer to offset the surplus caused by the grain embargo.

Our amendment will return $58 million to the U.S. Treasury.

THE RECISSION

There are 78 warehouses in Washington filled with excess furniture. Although OMB imposed a freeze on new acquisitions by the Federal agencies, a little over $100 million remains at agency disposal. If OMB lifts the freeze, the purchases will continue. If the freeze remains, the agencies will have the latitude to use the money for other, nonspecified purposes.

We intend, through our amendment, to rescind $100 million in existing furniture purchasing authority.

SUPPLEMENTAL

Additional food supplies are desperately needed in Somalia, Cambodia, and Pakistan. Our amendment will add $42 million to the food for peace program to bring the supplemental up to the administration's request. Our aid will address the awesome need and bring added stability to a particularly sensitive region of the world.

THE RESULTS

By rescinding $100 million from GSA furniture purchasing auhority while adding $42 million for vitally needed food for peace funds, we will be saving the taxpayers $58 million net.

We urge your support for this important amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Indiana (Mr. FITHIAN).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FITHIAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. FITHIAN. Mr. Chairman, seeing the interest in a recorded vote, I withdraw my point of order of no quorum.

PARLIAMENTARY INQUIRY

Mr. WHITTEN. Mr. Chairman, following this vote would it be in order for me to announce that it is the intention of the chairman to move that the Committee rise?

The CHAIRMAN. Yes; the chairman will be allowed to make that statement. In fact, it will be in the RECORD at this point.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 346, noes 47, not voting 40, as follows:

[Roll No. 339]

AYES—346

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Musto
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Pritchard
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Royer
Russo
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska

Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—47

Addabbo
Ashley
Badham
Bennett
Bevill
Brooks
Butler
Chappell
Cotter
Daniel, Dan
Daniel, R. W.
Duncan, Oreg.
Duncan, Tenn.
Fascell
Gaydos
Gonzalez
Hammerschmidt
Jones, N.C.
Lehman
Lundine
McCloskey
McDonald
McEwen
McKay
Mollohan
Moorhead, Pa.
Murtha
Myers, Ind.
Natcher
Patten
Pepper
Price
Pursell
Rhodes
Roberts
Robinson
Rostenkowski
Roybal
Rudd
Satterfield
Sawyer
Spence
Steed
Stump
Taylor
Wampler
Whitten

NOT VOTING—40

Alexander
Anderson, Ill.
Applegate
Boggs
Brademas
Broomfield
Carney
Clay
Collins, Ill.
D'Amours
Daschle
Davis, S.C.
Dodd
Dornan
Ford, Mich.
Fowler
Giaimo
Goldwater
Hightower
Holt
Holtzman
Hughes
Ichord
Jenrette
Mathis
Murphy, N.Y.
Myers, Pa.
Nedzi
Panetta
Rangel
Reuss
Runnels
Santini
Sebelius
Udall
Waxman
Weiss
Wilson, C. H.
Winn
Wydler

☐ 1810

Mr. LUNDINE and Mr. PATTEN changed their votes from "aye" to "no."

Mr. MOORE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1820

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLLING) having assumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON THURSDAY, JUNE 19, 1980, UNDER 5-MINUTE RULE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation have permission to sit on Thursday, June 19, 1980, while the House is reading a measure for amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us why the committee needs to meet when we have all of this important legislation on the floor.

Mr. JOHNSON of California. If the gentleman will yield, we are trying to mark up the coal pipeline bill. We have been waiting 3 weeks now and delayed until we are getting right up to the end of the session so far as the July recess. So we would like to have permission to sit, marking that bill up. We are going to start at 9:30 in the morning, and we would like to sit in the afternoon, if necessary.

Mr. ROUSSELOT. Just on Thursday?

Mr. JOHNSON of California. Yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. COURTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New Jersey (Mr. FORSYTHE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

STATEMENT OF HON. ROBERT N. GIAIMO OF CONNECTICUT, CHAIRMAN, HOUSE BUDGET COMMITTEE ON STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1980

(Mr. GIAIMO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. GIAIMO. Mr. Speaker, the House Budget Committee today is notifying the Speaker of the House of the current levels of congressional action on the budget compared to the spending ceilings and revenue floor established by the revised second budget resolution for fiscal year 1980. Under the Budget Act a point of order lies against any measure that would cause the spending ceilings or the revenue floor established by a concurrent resolution on the budget to be breached.

This report is to advise you of the revised levels of new budget authority, outlays, and revenues compared to the revised second budget resolution for 1980. The revised spending levels are based on the current 1980 economic forecast and spending and revenue reestimates for fiscal year 1980, as incorporated in the 1980 budget resolution that was approved by Congress last week. Spending bills for 1980, such as the supplemental appropriations bill that is scheduled for floor action today, will be measured against these revised spending levels and the revised budget resolution ceilings.

A copy of my letter to the Speaker and of the committee's report are attached:

COMMITTEE ON THE BUDGET,
Washington, D.C., June 17, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 307, the Revised Second Budget Resolution for Fiscal Year 1980. This report reflects the resolution of June 12, 1980, and estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of the close of legislative business June 12, 1980.

Sincerely yours,
ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1980 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 307

[Reflecting completed action as of June 12, 1980; in millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	658,850	572,650	525,700
Current level	654,791	568,998	525,790
Amount over resolution			90
Amount under resolution	4,059	3,652	

BUDGET AUTHORITY

Any measure providing budget or entitlement authority for fiscal year 1980 of more than $4,059 million, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 307 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays for fiscal year 1980 of more than $3,652 million, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 307 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1980 of more than $90 million, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 307.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 13, 1980.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the revised second concurrent resolution on the budget for 1980. This report is tabulated as of close of business June 12, 1980.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	642,465	557,058	525,790
2. Entitlement authority and other mandatory items requiring further appropriation action	9,826	9,441	
3. Continuing resolution and other authority	2,500	2,500	
4. Conference agreements ratified by both Houses			
Current level	654,791	568,998	525,790
Second Concurrent Resolution as revised by H. Con. Res. 307	658,850	572,560	525,700
Current level is:			
Over resolution by			90
Under resolution by	4,059	3,652	

Sincerely,
ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT—SUPPORTING DETAIL, FISCAL YEAR 1980, AS OF CLOSE OF BUSINESS JUNE 12, 1980

[In millions of dollars]

	Budget authority	Outlays
I. ENACTED		
Permanent appropriations and trust funds	342, 177	295, 050
Previously enacted	375, 970	337, 804
Offsetting receipts	−78, 347	−78, 347
Enacted this session:		
Aviation and Noise Abatement Act (Public Law 96-193)	57	
Interest forgiveness on loan repayments from Guam (Public Law 96-205)	2	2
Increase participation in farmer held reserve program (Public Law 96-234)		−42
Federal Trade Commission financing:		
Public Law 96-219:		
Transfer from International Communications Agency	−12	−10
Transfer to FTC	12	10
Public Law 96-240:		
Transfer from State Department	−8	−6
Transfer to FTC	8	6
Public Law 96-261:		
Public Law 96-261: Federal Trade Commission appropriation, 1980	50	42
Food stamp supplemental appropriation (Public Law 96-243)	2, 556	2, 556
Disability insurance amendments (Public Law 96-265)		−7
Total, enacted	642, 465	557, 058
II. ENTITLEMENT AUTHORITY AND OTHER MANDATORY ITEMS REQUIRING FURTHER APPROPRIATION ACTION		
Function 050:		
Military retired pay	466	464
Civilian and military pay raise	2, 830	2, 788
Function 150:		
Pay raise limitation: Export-Import Bank		(*)
Payment to Foreign Service retirement trust fund:		
Foreign assistance appropriation	1	1
Offsetting receipt	−1	−1
State, Justice, Commerce appropriation	4	4
Offsetting receipt	−4	−4
Function 270: Energy tax credit payments	1	1
Function 350:		
Pay raise limitations:		
Federal Crop Insurance Corporation		1
Farm Credit Administration		1
Function 370:		
Pay raise limitation:		
Federal Home Loan Bank Board		1
Federal Savings and Loan Insurance Corporation		(*)
Function 400:		
Payments to air carriers	20	18
Retired pay, Coast Guard	8	8
Pay raise limitation: St. Lawrence Seaway		(*)
Maritime subsidies		44
Highway trust fund, pay raise limitation		6
Function 500:		
Student loan insurance fund	649	300
Human development, social services	242	242
Unemployment trust fund, State administration		9
Function 550:		
Grants to States for medicaid	2, 255	2, 255
Federal hospital insurance trust fund, pay raise limitation		4
Function 600:		
Child nutrition	312	110
Department of Labor:		
Advances to unemployment trust fund (Black lung) (601)	257	257
Offsetting receipts	−257	−257
Advances to unemployment trust fund (FUBA) (603)	1, 260	1, 260
Black lung disability trust fund	494	458
Assistance payments program	80	80
Milwaukee R.R. supplementary unemployment benefits (Public Law 96-101)	1	(*)
Unemployment trust fund, State administration and services		95
Pay raise limitations:		
Social security trust fund (OASI)		108
Civil service retirement trust fund		1
Unemployment trust fund		2
Supplemental security income (H.R. 3236)	1	1
Function 800:		
Payment to civil service trust fund	377	377
Offsetting receipts	−377	−377
Function 850: Federal payment for District of Columbia retirement benefits (Public Law 96-122)	52	52
Function 920: Allowance for civilian agency pay raise	1, 155	1, 134
Total, entitlement authority	9, 826	9, 441
III. CONTINUING RESOLUTION[1] AND OTHER AUTHORITY		
Feed and Forage Authority (Revised Statute 3732)	2, 500	2, 500
IV. CONFERENCE AGREEMENTS RATIFIED BY BOTH HOUSES		
Total current level as of June 12, 1980	654, 791	568, 998
Second Budget Resolution as revised by H. Con. Res. 307	658, 850	572, 650
Amount remaining:		
Over ceiling		
Under ceiling	4, 059	3, 652

[1] Foreign assistance appropriations and the appropriations for certain ongoing Labor-HEW programs under Public Law 96-123, the continuing appropriations authority are funded for the full fiscal year and therefore, are included in the enacted category of this report.

*Less than $500,000.

Note: Detail may not add due to rounding. ●

HHS REGULATIONS: ANOTHER THREAT TO SMALL, RURAL HOSPITALS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEREUTER. Mr. Speaker, today I am introducing legislation that will affect every rural and small clinical laboratory in this Nation.

On October 12, 1979, the Department of Health, Education, and Welfare published regulations in the Federal Register that set educational minimums for clinical laboratory personnel. The regulations propose a three-pronged approach to quality assurance in clinical laboratories—personnel standards, quality control and proficiency testing. However, the regulations assume that by setting high educational standards for clinical personnel the other two goals will automatically result.

The basic fallacy behind these regulations is quite simple. HEW (now Health and Human Services) is assuming a small, rural hospital can, or should, operate its laboratory service on the same basis as a large or urban hospital. That, of course, is impossible and unnecessary. The regulations fail to recognize three important factors—the variety of hospital size and scope of service, the availability of personnel, and cost.

There are thousands of hospitals in this country with fewer than 100 beds. As it is, these hospitals have difficulty recruiting highly trained personnel. They are at a disadvantage when competing for a technologist holding a graduate degree if that person is qualified to work in a larger, metropolitan hospital, with better salary and greater opportunity for advancement. The regulations, for example, require technical supervisors, those responsible for operation of the lab and staffing, to have graduate or doctoral degrees. Is it realistic to expect a 50-bed hospital with a small lab performing basic testing to employ a technologist with an M.D., Ph. D., or master's degree, when a technologist with a bachelor's degree can do the job just as effectively?

As one hospital administrator in a 22-bed facility in my district told me, these regulations would strike a mortal blow. Many clinical laboratories in small hospitals would be forced to close. Once the labs close the hospitals themselves will be forced to shut down. Other hospitals would be forced to contract out for lab services, which, of course, would escalate costs for patients.

The proposed regulations set stringent, inflexible qualifications for laboratory personnel, when there is no compelling evidence that such standards will contribute to improved health care. My bill, the Small and Rural Laboratory Protection Act, would halt immediately implementation of the proposed regulations.

The American Hospital Association, representing over 6,100 health care institutions, has stated:

> The use of detailed, uniform, inflexible personnel standards as a regulatory approach to assuring quality laboratory services is ill-conceived, inappropriate, unnecessarily expensive, and intrusive into hospital management responsibilities. Further the proposed regulations would seriously threaten the availability of basic services in many hospitals, particularly small or rural hospitals. Considering the lack of evidence that standards such as those proposed would have any measurable and positive impact on the quality of lab services, we consider the Department's continued pursuit of such standards as contrary to the interests of the American public's access to quality health care services.

COMMISSIONER TRANTUM SHOULD STAY IN HIS OWN BACKYARD

(Mr. HARSHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, I rise to register strong reservations about recent actions by a member of the Interstate Commerce Commission that cast aspersions on this body, particularly the Committee on Public Works and Transportation, and do a disservice to the legislative process and the Commission itself.

I call attention first to the "Point of View" column in the Washington Star of June 11 written by Commissioner Thomas A. Trantum. In it, he implies criticism of the House version of the pending Motor Carrier Act of 1980, on which many of us have worked very diligently to achieve a balanced trucking system in the public interest. And Mr. Trantum goes further to urge the Congress to legislate a "sunset" date for the very Commission for which he took an oath of office to serve as the Congress directs.

Absent any identifying statement other than that "Thomas A. Trantum is a member of the Interstate Commerce Commission," the column could lead readers to infer that he speaks for the full Commission. Nothing could be more erroneous, since the Commission itself has never expressed itself on the question.

By raising these extraneous issues at the very time legislation is pending, this self-appointed spokesman who has been a member of the Commission not even a year creates a wholly unjustified and unwarranted divisiveness in our deliberations.

Further, and perhaps even worse, while the Motor Carrier Act of 1980 was in final stages of work by our Public Works and Transportation Committee, Mr. Trantum in his capacity as a commissioner took it upon himself to call on several committee members to lobby—there is no other word for it—for inclusion of a "sunset" provision, a subject never even considered in the hearings. While he may want to be, he is not the Chairman of the agency and he certainly is not its spokesman. What authority is there for his meddling in the affairs of the Congress, particularly at the time legislation is being drafted spelling out explicit directions for the Commission?

In my mind, these activities raise serious question of ethical conduct and, more importantly for the interests regulated by the Commission, of the impartiality that is supposed to be foremost among members of the regulatory agencies.

For instance, one section of the Commission's canons of conduct states:

> Members and employees shall not participate in any matter in which they have a substantial pecuniary interest *or in which their impartiality might reasonably be questioned.*

Consider the italic clause in light of the controversial newspaper column and lobbying of the Congress.

The canons also state:

> Members and employees shall not engage in any outside employment *or other outside activity*, including teaching, lecturing, *writing*, consultation, *discussion* or appearance, with or without compensation, in circumstances which might . . . interfere with the efficient performance of their official duties.

There is no question in my mind what "official duties" are, and they do not include writing by-lined newspaper columns or lobbying.

The code of ethics for Government service has specific limitations on lobbying:

> No officer or employee of the United States, in the absence of express authorization by Congress, shall use, directly or indirectly, money appropriated by Congress to pay for any personal service, written matter or other device intended to influence a Member of Congress to favor or oppose any legislation or appropriation by Congress.

If nothing else, the discussions intended to influence Members of the Congress were on time away from official duties as a member of an agency admittedly far behind in its workload.

This entire situation constitutes covert and overt meddling in the affairs of the arm of the Government that governs the ICC. At best, it indicates an incredible naivete by a self-annointed crusader cloaked in the garb of official spokesman.

Not only must this conduct be stopped, and stopped now, but it should be a prime subject for scrutiny when the appropriate committees of the Congress carry out their oversight functions of the ICC prescribed in the Motor Carrier Act of 1980.

INTERPARLIAMENTARY UNION SPRING MEETING, OSLO, NORWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 60 minutes.

Mr. PREYER. Mr. Speaker, I take this special order to report on the spring meeting of the Interparliamentary Union which was held in Oslo, Norway, between April 7 and 12 of this year. This meeting was particularly notable for generating two resolutions—which represent final communiques of the views of the parliamentarians from 75 countries that attended—condemning the Soviet invasion of Afghanistan and the continued detention of American hostages in Iran and of diplomatic personnel in Colombia.

The issue of Iran was placed on the Oslo agenda at our request. However, we can be grateful for the efforts of several other nations' parliamentarians, particularly from Austria, Belgium, Finland, France, Ivory Coast, Senegal, Sweden, Tunisia, and Zaire, for their negotiation of a final resolution that not only condemned the continued detention of the American hostages in Iran in violation of international law, U.N. Security Council resolutions and the ruling of the International Court of Justice, but also denounced the complacent attitude of the Iranian authorities with regard to this detention. The resolution requests parliaments to take joint action at the international level for the ending of the violations.

Hopefully this resolution, adopted unanimously by the parliamentarians which attended the spring meeting, by adding censure can further convince the Iranian authorities of the wrongness of their action. Regrettably the Soviet and Eastern European delegates abstained from the vote on this issue.

On the matter of Afghanistan, a resolution proposed by 12 Mideast, African, and Asian groups condemned the Soviet occupation, called for pressure for implementation of the U.N. General Assembly resolution calling for withdrawal of foreign armed forces from Afghanistan and urgently appealed for international humanitarian aid for Afghan refugees. This resolution was adopted by the overwhelming majority of the parliamentarians that attended the Oslo meeting.

Two Members of the U.S. Congress, Representative EDWARD J. DERWINSKI and Senator ROBERT T. STAFFORD, were particularly active in debate on these two issues and deserve credit for making American views clearly understood.

Other important matters, such as détente, arms control and disarmament, refugees, the Third U.N. Development Decade, and decolonization were also considered during the week-long Oslo meeting. U.S. delegates participated actively in the debate and drafting process on these issues. Three draft resolutions introduced by the U.S. group were under consideration, and U.S. delegates spoke on five different occasions.

The delegation, appointed by the Speaker and President of the Senate included the following Members of Congress: myself and Senator QUENTIN N. BURDICK as the House and Senate chairmen respectively, Representative EDWARD J. DERWINSKI and Senator ROBERT T. STAFFORD as the House and Senate vice chairmen respectively, Representatives L. H. FOUNTAIN, ELLIOTT H. LEVITAS, ROBERT MCCLORY, M. CALDWELL BUTLER, and ARLEN ERDAHL and Senator LARRY PRESSLER.

In debate, in long hours of negotiation, and in many dialogs with parliamentarians from many other national and ideological perspective, these delegates, in my view, did an outstanding service communicating American and congressional views on important international matters. Much was also learned on how other nations view U.S. policies.

It has been my impression, after attending many IPU meetings over the years, that U.S. relations abroad are very definitely benefited by the parliamentary contacts which IPU meetings facilitate. Those of us who have served as delegates to these meetings have interacted closely with parliamentarians who have gone on to direct their government's policies. Their impressions of us—our impressions of them—will continue to have an abiding influence on our respective nations' foreign policies.

We should not, moreover, underestimate the importance of meetings such as the one that occurred in Oslo for providing opportunities to clarify American positions to parliaments and governments abroad. I offer as one example the forceful statement of Representative LEVITAS who made abundantly clear in his address in Oslo the overwhelming opposition of the Congress to U.S. participation in the Moscow Olympic games. At a time—last April—when the steadfastness of the American position may have been suspect, his statement on the firmness of the American opposition to participation in the Moscow games was a needed reminder.

Similarly our other delegates stressed American positions. Representative MCCLORY highlighted the considerable importance we attach to global negotiations in the Third Development Decade and urged pragmatism. He encouraged an orientation that supports development that meets basic human needs. Speaking on the subject of decolonization, Representative ERDAHL reminded other delegates, many from the Third World, that the United States itself was once a colony that had to struggle for a protracted period of time in order to obtain national independence. He welcomed the fact, evident today, that an act of self-determination can be brought about by a process of peaceful negotiation, elections and transfer of power.

All of the members of the U.S. delegation participated fully in a broad variety of discourse and interaction afforded in Oslo.

Before concluding my remarks, I should also like to bring to the attention of the House the participation of two of our Members at a special IPU meeting on European cooperation and security which was held in Brussels last month. Representatives ELLIOTT LEVITAS and JAMES CLEVELAND deserve special mention for being able to break away at a very difficult point in our legislative process to attend this important conference. I am informed that the results of that meeting were indeed positive and will add impetus to the intergovernmental meeting on European cooperation and security that will be held this fall in Madrid.

☐ 1830

Mr. Speaker, it is a pleasure to recognize the gentleman from Illinois (Mr. DERWINSKI), who is a member of the Executive Council of the IPU and who has made a tremendous contribution through the years to this body.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for yielding.

I would like to call the attention of the Members to the very strong leadership that the gentleman from North Carolina gave us at this IPU meeting in Oslo. It was frankly one of the more successful meetings of that organization that our delegation has enjoyed, and, as the gentleman pointed out, we were very successful in getting resolutions condemning terrorism, specifically condemning the holding of hostages and the resolution condemning the Soviet aggression in Afghanistan. Just as an aside, I should mention that the gentleman from Minnesota (Mr. ERDAHL), who was one of our delegates, happened by coincidence, and we were pleased to find, spoke Norwegian and thus was an excellent goodwill ambassador for our delegation to the government officials of Norway and made a number of calls on civil organizations and in that way enhanced the impact of the U.S. delegation.

While I recognize his constant modesty, it is only fair for me to point out that the gentleman from Illinois (Mr. McCLORY) is a long-standing spokesman in the French language, much to the impressiveness and delight of all of the delegates at the IPU. He does a very, very fine job of representing and communicating for our delegation.

I would not want any of the Members to think that the other body did not help at all. Senator STAFFORD is a very effective member. Senator BURDICK was with us on this trip, and thus we had a good balanced bipartisan delegation in both our political structure as well as with the House and Senate. I should reemphasize that the leadership of the gentleman from North Carolina was very instrumental in seeing that we had an effective, cohesive and successful U.S. parliamentary delegation. I commend the gentleman for his leadership.

Mr. PREYER. I thank the gentleman.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Illinois.

Mr. Speaker, I join the gentleman from Illinois (Mr. DERWINSKI) in his compliments to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman very much. And I appreciate the gentleman yielding.

I also want to commend the gentleman in the well for his leadership of our Interparliamentary Union delegation to the Conference in Oslo in April. Likewise, I would like to return the compliment extended by my distinguished colleague from Illinois (Mr. DERWINSKI), who does serve in a very key role in the Interparliamentary Union as a member of the nine-member or 10-member Executive Committee, which is really the administrative body of the Interparliamentary Union, which itself is composed of approximately 90 or so nations and is represented by the parliamentary representatives, legislative members from these 90-some member nations. The opportunity to take part in this Conference in Oslo was indeed a great one as far as I was concerned, and my general overview and my general perception of the outcome of the conference was that the United States came off better than in any of the recent meetings of this type that I have attended. The subject of Afghanistan, to which the gentleman from North Carolina has made reference, and the subject of the hostages in Iran were both subjects which came up for active debate and for decision by the members of the parliaments meeting at the Interparliamentary Union in Oslo. It was really very refreshing and very encouraging to find that not only the Western European nations lined up with us, but almost all of the Third World nations lined up with us and the Arab nations lined up with us. It was an opportunity for us to reinvigorate or to reestablish these strong lines of communications and strong lines of cohesiveness with many of the other nations of the world, including some of the political leaders of these countries.

I would also like to say that preliminary to the Conference in Oslo, I had the privilege of attending an informal gathering of what we call the Committee of Nine-Plus. The Committee of Nine-Plus is a group composed informally of representatives from the Western European nations, plus Canada, New Zealand, and Australia and one or two other nations from other parts of the world who are part of the free world.

☐ 1840

This opportunity to have an informal discussion enables us to work more cohesively and more cooperatively, as we were able to do in the meeting in Oslo; but the reference in Athens was, I thought, very well supported, very important as far as contributing to the ultimate outcome.

I was impressed, for instance, that the former leader of the Government in Italy, Giulio Andreotti, who was the former Prime Minister of Italy, took part in the conference in the representatives to the Nine-Plus Conference.

Later, as the gentleman will recall, we elected Mr. Andreotti as the Chairman of the Political Committee, a very key role and a position which is of great significance to us from the Western free world nations.

So that I cannot help but feel as an overall observation that this particular meeting in Oslo, Norway, was extremely important, perhaps in contrast to some of the less fortunate international relations that our Nation has experienced; that this was one which contributed to our good relations with the other nations of the world.

Mr. Speaker, may I just add this. The gentleman has made reference to my work in the conference. I felt that the discussions that we had with respect to the third U.N. Developmental Decade, I think it is called, was an extremely important subject. It relates to the relations between the developed nations and the underdeveloped nations, or the nations of the Third World.

I cannot help but feel that in the decade of the 1980's, that the relations that we developed, the economic, social, cultural, and political relations which we developed with the representatives of the Third World are going to be very critical, extremely significant, as far as the peace of the entire world is concerned.

So I felt very privileged to be able to work on this subject and to know that again in our meeting in East Berlin in October of this year we will have an opportunity to discuss that subject again and, hopefully, to further solidify our relations with most of the other nations of the world.

I want to commend the gentleman and commend all those who took part in the work of the Interparliamentary Union, which I think is an extremely important activity in which Members of this body participated, with our counterparts from many, many other natons of the world.

I thank the gentleman for yielding.

Mr. PREYER. Mr. Speaker, I thank the gentleman from his contribution.

Mr. Speaker, I am glad to yield to the gentleman from Minnesota (Mr. ERDAHL).

The gentleman from Illinois (Mr. DERWINSKI) called attention to some of the gentleman's extraordinary activities, because of the gentleman's ability to speak Norwegian. The gentleman did not refer to the fact that he assisted in the dramatic rescue of a Norwegian family that had run an automobile into a 300-foot ravine and the gentleman from Minnesota happened to be following them in his car and was able to assist them and get them to medical help. We appreciate all the gentleman has done on behalf of Norwegian citizens and what the gentleman did for our group there.

Mr. ERDAHL. Mr. Speaker, I thank the gentleman very much. I thank the gentleman from North Carolina for yielding.

It was my privilege to participate in the Interparliamentary Union meeting in Oslo. I certainly want in this forum to commend the leadership we had and to commend the gentleman from North Carolina (Mr. PREYER) and the gentleman from Illinois (Mr. DERWINSKI) especially, and the gentleman from Illinois (Mr. McCLORY) for the leadership that they exhibited and that was recognized not only by our own delegation, but by parliamentarians throughout the world.

As the gentleman mentioned, and also the gentleman from Illinois (Mr. DERWINSKI) about my Norwegian heritage, and as a personal note, I was pleased to be able to discover that in 1842 my great-great grandfather had been a member of the Norwegian Storting Parliament. Evidently he was either a very good member and took part in controversial stands, or else he was a very poor member because the records do not show that he was ever reelected; but at least we have that link with the old country.

The IPU, I think, is in some ways a mini-United Nations. I would urge our continued and intensified participation, because I think it is an avenue whereby we as a nation through this Congress can express our concern, can show our involvement in international relations and matters.

The emerging nations and the Soviet bloc, I would guess, look at it with more intensity and place more emphasis on these meetings than we do. I think we are probably well-advised as we go into future meetings with the members that do to have this in mind, because they come there and really play hardball. They look at this meeting as a source for propaganda to advance the socialist system in the world.

I think that several of my colleagues have mentioned, the gentleman from North Carolina (Mr. PREYER), and I believe the gentleman from Illinois (Mr. DERWINSKI), and also the gentleman from Illinois (Mr. McCLORY), that I think some of the votes on these key sensitive issues of Afghanistan and Iran were especially encouraging, because they showed some of these emerging so-called Third World nations as being more receptive to supporting positions of the United States and the Western nations than some of those from the Soviet camp.

I served, as the gentleman mentioned, on the committee dealing with decolonization in the world, and here there was an effort by some of the satellites of the Soviets to accuse the United States of neocolonialism, and especially Puerto Rico was brought up, but we have been active, they claim, in denying the self-determination of Puerto Rico, when people know that the opposite is true, that we are ready to yield when the time comes and when the people of Puerto Rico wish it, or whatever they wish, for the type of government under which they wish to live and persist.

Here, too, it was encouraging that some of the emerging nations in Africa and Asia sided with us, rather than with the Soviets.

So I would just urge, Mr. Speaker, that this body and our colleagues over in the Senate continue to participate in the Interparliamentary Union as an expression of the concern of our people throughout the world.

I would make the one suggestion that we look into it with even more intensity and emphasis. I trust that this will be the case for future meetings.

I thank the gentleman very much for yielding.

Mr. PREYER. Mr. Speaker, I thank the gentleman.

I am glad to yield to the gentleman from Virginia (Mr. BUTLER), who performed yeoman service in several of the committee markups. I suppose they have a better name for it than that, but the gentleman kept us from being rolled rather badly in a few instances. We appreciate the gentleman's efforts.

Mr. BUTLER. Mr. Speaker, I thank the gentleman. I appreciate the gentleman yielding.

I would like to first say that we appreciated the leadership of the gentleman from North Carolina (Mr. PREYER). We have attended now several IPU meetings. I would say that on earlier occasions such as this I have jointed in what was almost a chorus of self-criticism of our own lack of preparation and the failure of our people to adequately involve themselves in the IPU meeting.

I would feel that with this meeting in Oslo, we have turned a corner. I was really proud of the staff work that we had in advance of this meeting. While we were not always on the prevailing side on questions which arose, I certainly feel that it was not a staff failing or lack of preparation. It is a lot of comfort to me to feel that the United States delegation was discharging its responsibilities in keeping with our position in the world.

In this regard also I would like to comment on something earlier mentioned, and that is a change in the perception, a conscious change in the perception that the rest of the world has of the United States. I felt it very strongly at this session, that perhaps Afghanistan was an eyeopener for much of the rest of the world. Whatever it was, we were not treated in the same sometimes rude fashion that the underdeveloped nations have sometimes indulged themselves in the past. I think this is significant in the development.

As the gentleman from North Carolina has mentioned, I was privileged to serve on the committee that dealt with the refugee problem. It was particularly instructive to me as I participated in these sessions with the gentleman from North Carolina to become aware of our efforts, the American efforts in regard to the refugees and what we were doing for those particularly from Indochina and that part of the world. The Cuban situation had not been developed except that while we were there the Peruvian Embassy incident arose.

☐ 1850

But I think it will be particularly important that we return to the next session of the IPU prepared to point out to the world that the refugee situation is being abused, and that one of the principles which we seriously discussed in the sessions with this committee was the misuse of the refugees, misuse of people by governments and, in effect, what Cuba was doing was forcing people to leave their country, foisting them on other nations when they are not truly refugees.

I think we ought to be in a position to address this problem seriously and let the rest of the world know just exactly how it is being misused by Cuba, and how the generosity of the United States is being abused.

It is an international problem. The refugee problem is an international problem. We cannot resolve it by individual nations. It does require a cooperative effort and a cooperative awareness of the refugee problem.

I think the sessions we have had and the sessions we will have in the fall on this particular issue should be very productive for the United States and instructive for the world. I am looking forward to the sessions and thank the gentleman again for his leadership.

Mr. PREYER. I thank the gentleman.

At this time, Mr. Speaker, I yield to my colleague from North Carolina who played a prominent role in our meetings in Oslo, the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I thank my distinguished friend and colleague from North Carolina. I want to associate myself with the comments which have just been made by the distinguished gentleman from Virginia (Mr. BUTLER) and join my other colleagues in reporting to this body on the results of the recent spring meeting of the Interparliamentary Union in Oslo, Norway. I want to thank the gentleman from North Carolina for giving us an opportunity to do so. I want to pay tribute to the very capable leadership the president of the U.S. group, my good friend and colleague from North Carolina (Mr. PREYER) has exhibited from the early preparation for the mission right on up to the present time. I know his leadership will continue to be exemplary through the fall meeting.

Mr. Speaker, I rise to join my colleagues in reporting to this body on the fruits of the recent spring meeting of the Interparliamentary Union in Oslo, Norway.

At the outset, let me pay tribute to the very capable leadership which the president of the U.S. Group, my good friend and colleague from North Carolina (Mr. PREYER) has exhibited from the early preparations for the mission right on up to the present time. I know that his leadership will continue to be exemplary through the fall meeting.

Mr. Speaker, the 76-year-old Interparliamentary Union, recognized by U.S. statute, often does not receive a great deal of public or media attention. However, the IPU presents an excellent opportunity for government officials from dozens of countries—75 were represented in Oslo—to get together and exchange ideas about the world situation and to advance the idea of parliamentary, representative government.

The spring meeting gave us a chance to work with our friends and allies to strengthen their efforts and their resolve to stand behind the United States and the free world during this time of international crisis and uncertainty. This banding together is essential as our country continues the quest for peace through effective and positive means of settling some of the most perplexing international questions which have ever confronted mankind.

Mr. Speaker, at the spring meeting, I served on the Committee on Political Questions, International Security, and Disarmament. In my talks, both formal and informal, with parliamentarians from around the world, I stressed the importance of continuing our support for NATO, of maintaining our credibility around the world, and of developing new and improved systems for national defense as they become necessary.

In addition, I told my parliamentary colleagues that any workable arms control agreement, if it is to have any chance to succeed, cannot reduce the strength of any of the parties signing it, and that the people of the United States will insist through their elected officials that the United States maintain a position of strength in any such international agreement. As costly as this may ultimately prove to be in terms of dollars, it is the only way we can hope to guarantee military power and economic security.

Mr. Speaker, the spring meeting in Oslo yielded significant results on two of the current crises facing our Nation and the world, Iran and Afghanistan. I might point out that when the official agenda for Oslo was drawn up several months in advance of the meeting, these two issues were not included among those scheduled for consideration. However, we were successful in getting onto the final agenda.

I brought away from Oslo the distinct impression that the parliamentarians from an overwhelming majority of the countries represented there had exhibited a positive approach and willingness to work together for the common goal of peace among nations which continues to elude us. In sum, most of the people of the world, regardless of the type of government they either enjoy or endure, have basically the same hopes, dreams, and aspirations that we have for a peaceful and prosperous world.

For instance, the Interparliamentary Council, representing all delegates, voted 88 to 0 to condemn and denounce the continued holding of American hostages by the tyrannical forces now ruling Iran, and to demand their freedom. This, Mr. Speaker, was yet another demonstration of world opinion against this flagrant violation of international law. With our cooperation, the resolution was introduced by Switzerland, along with nine other European and African nations, and had the support of all who voted, with the notable exception of the Soviet Union and a few nations from her Eastern bloc who abstained.

In addition, the council voted 96 to 25 for a resolution proposed by 12 Mideast, African, and Asian groups condemning the Russian takeover and occupation of Afghanistan. Interestingly, Russia and her defenders insisted that the takeover was not in fact a "takeover," but rather a Russian response to an "invitation" by Afghanistan to come in and give comfort. This contention was quite unusual and noteworthy in that Russia, after accepting the alleged invitation to move in, wasted no time in executing its host and many others in the Afghanistan Government.

We should note that on these votes, the United States had an overwhelming—and surprising—amount of support from the Third World and nonalined nations. While they really had no responsible alternative, many of these countries are finally waking up to the fact, or are willing to admit, that the United States is not the "imperialistic warmonger" we have so frequently been called by Communist propagandists.

As an aside, Mr. Speaker, when we had finished our presentation in support of the resolutions on Iran and Afghanistan, the Turkish delegate seated to our left reached over, and with a congratulatory handshake, said, "Thank God for America." The Russian participants were seated just to our right, and doubtless overheard.

Suffice it to say that much of the world is hungry for forceful American leadership in world affairs.

On the return trip from Oslo, we visited NATO headquarters in Brussels and received an extremely illuminating briefing from Gen. Bernard R. Rogers, Supreme Allied Commander, Europe. It highlighted our military weaknesses in that area, but also spotlighted the reasons why we need to keep NATO's forces and our own national military prepared, able, and ready to act.

Mr. Speaker, the spring meeting permitted extended communications with representatives of other nations of the world. It has often been said that the chances for conflict among nations—military and otherwise—are substantially reduced when leaders of those nations are able to talk face to face, man to man. The IPU provides an essential forum for that purpose.

Hopefully, these contacts and exchanges with other nations will bring us all to a better understanding of other people and other societies, to a better relationship with their governments, and ultimately to peace in the world.

Mr. Speaker, I thank the gentleman again for making it possible for us to bring the fruits of this mission to the House for its attention.

Mr. PREYER. I thank the gentleman for his contribution here today and also for his contribution in Oslo.

Mr. Speaker, I yield back the balance of my time.

THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FORSYTHE) is recognized for 10 minutes.

● Mr. FORSYTHE. Mr. Speaker, it is clear that the energy crisis this Nation is facing revolves around the domestic and worldwide production and consumption of hydrocarbon fluids, particularly oil. This problem will be with us at least through the year 2000.

It is our inordinate reliance on imported oil for up to 50 percent of our oil needs that is the major cause of the decrease in the value of the dollar abroad, of the record levels in the balance-of-payments deficits, of the loss of prestige abroad, and of the threat to our national security.

With the possible exception of the Great Depression, no other peacetime problem has had such a devastating impact on our way of life.

For these reasons, I am today introducing a joint resolution that can double our domestic energy production within 4 to 8 years and do so without altering any existing legislation and in an environmentally safe and orderly manner.

It is estimated that by the late 1980's or early 1990's, this Nation will be importing from 57 to 60 percent of our domestic oil needs unless there are reversals in current rates of production and consumption.

We must approach our energy crisis from four fronts: Conservation; increases in domestic production of hydrocarbon fluids; further use of nuclear power; and the accelerated development of alternative energy technologies.

Consumption of oil is expected to drop before the year 1990. This is primarily because of conservation methods currently instituted. However, this drop in consumption will more than be offset by the expected drop in domestic production—therein lies our problem and the expected 60-percent imports of foreign oil. It is easy to see that the domestic production of oil and gas, or rather, the lack of production is the primary issue facing us today.

If we do not take steps immediately to alter current projects of production, I shudder to think what will happen to this Nation if we are faced with 60-percent imports.

The fact is, something can be done in this area, and the joint resolution I am introducing today gets to the heart of this problem. As has been pointed out in a study by the Chase Manhattan Bank, and by the Department of Energy, we can easily double domestic production of oil and gas within 4 to 8 years if current administrative policies are altered. At the same time, we can cut imports, slow down the rate of inflation, improve our national security status, and create hundreds of thousands of new jobs.

The United States has enormous energy resources, the problem is that the Federal Government owns in the name of the American people, 427 million acres of America's land, the mineral rights to another 386 million acres, and 840 million acres of the Outer Continental Shelf.

Because of this, the Federal Government has become an energy resource monopolist since the lands directly under its control contain over 85 percent of the Nation's remaining oil resources, 40 percent of our remaining natural gas resources, 70 percent of all western coal resources, 85 percent of the high grade tar sands, 80 percent of domestic oil shale resources, and a significant portion of the Nation's uranium and geothermal resource base.

Through a mixture of arbitrary land use and leasing policies and the promulgation of restrictive regulations that either ignore the intent of Congress or go beyond the language of statutes, the administration has successfully withdrawn most of these resources from the American people, and has driven up the cost to the consumer of the energy resources that are currently being produced.

The Alaskan lands bill is not a new issue. However, the enormous estimated resources contained in the NPRA in Alaska have gone untapped because of poor management and restrictive policies. The lower 48 States, while not identical to Alaska, suffer from the same type of restrictive Federal policies.

Our geothermal program consists of one lease sale, and coal leasing has been virtually nonexistent since 1970.

Recently the Secretary of the Interior released his latest 5-year leasing schedule. That schedule, while a slight improvement over the one he released in March of 1979, is not responsive to the needs of this Nation, nor does it express confidence in the full potential of the Outer Continental Shelf.

In announcing the new schedule, the Department of the Interior was proud of the fact that it increased sales from 30 to 36 percent over the 5-year period. But what do those sales actually represent?

The Secretary of the Interior has added to the schedule five "reoffering sales." This idea was taken from the "constituent sale" concept of the OCS staff report. Unfortunately, the Secretary of the Interior has limited these "reoffering sales" to areas previously offered for sale, but not purchased. The OCS staff report recommended holding "constituent sales" in the area studied.

In addition, the Secretary added the Hope Basin to the 5-year leasing schedule in mid-1985. That area adjoins the Chukchi Sea, could possibly be involved in a boundary dispute with the Soviet Union, and is ranked next to last by the U.S. Geological Survey in hydrocarbon potential. I believe that says enough about that sale.

Mr. Speaker, it is extremely disheartening to understand what this Nation's energy problem is today, and what it will be in the future. It is even more disheartening to realize that the current 5-year OCS leasing schedule recently approved by the Department of the Interior is the best the Federal Government can do to help the American people through this crisis.

The U.S. Outer Continental Shelf (OCS) is estimated to contain up to 60 percent of our Nation's untapped estimated oil resources, which is estimated by the USGS at 32 billion barrels of oil and 116 trillion cubic feet of natural gas. Today only 2.5 percent of the U.S. OCS is under lease compared to 40 percent of the rest of the world's OCS. We get only 9 percent of our domestic oil from the OCS, while over 20 percent of the total world oil comes from the OCS. Because of the North Sea development, the United Kingdom believes that they will be energy self-sufficient before the end of this year.

In 1 year, the People's Republic of China has conducted more seismic exploration on 176,000 square miles of China's offshore—that area being 6.5 times larger than the United States—and consequently learned more about that area than the United States has learned from its offshore in the past 26 years.

The attitude of the Federal Government toward our OCS is indeed incredulous and difficult to explain or justify in light of our energy problems.

Currently there are over 150 procedures and permits required before oil and gas can be produced on the OCS. In addition, this administration has promulgated regulations from the 1978 amendments to the 1953 OCS Lands Act (Public Law 95-372) that are either contrary to congressional intent, contrary to the statute, or are far beyond what was intended. Two examples of this are DOI's issuance of unitization regulations, and diligence standards.

The promulgation of diligence standards is clearly the jurisdiction of the Department of Energy as expressly detailed in the DOE Organization Act (Public Law 95-91). In spite of constant reminders of this by the Select Committee on the OCS, Interior has persisted in publishing these standards. Incidentally, in testimony before the Select Committee on the OCS, DOE not only stated that diligence standards were indeed their jurisdiction—former Deputy Secretary O'Leary—but also stated that they were not sure any standards beyond what was already on the books was necessary.

DOI's issuance of unitization standards was, in accordance with the testimony of an assistant Secretary of the Interior, necessary because of one isolated instance that occurred on the OCS. They were also issued in spite of the fact that the House and Senate Judiciary Committees published reports on the antitrust implication of the oil industry. In summary, these reports stated that while pooling and unitization of oil and gas reservoirs by the major oil companies did pose certain antitrust questions, the practice as conducted served the Nation well because it generated greater production and protection of resources than would have been possible without the agreement. Now the Department of the Interior can tell a producer if he can or cannot unitize, and if he can, how he will unitize.

There are numerous examples similar to these that could be outlined, however, they are contained in the hearing records of the Select Committee on the OCS for your inspection at any time.

The impact of these arbitrary decisions on the part of the DOI is to increase the time it takes to produce oil and gas, increase the cost of production, and require the discovery of reservoirs larger than would be necessary without the constraints before they are economically producible.

Currently the daily operations on the OCS are approximately 10 times more expensive than similar operations onshore. In the Baltimore Canyon, as an example, daily operations can cost as much as $60,000 to $80,000 a day. What is not needed is additional Federal redtape, arbitrary and constraining regulation, and a leasing policy that just is not responsive to the Nation's energy needs.

The executive branch of Government, however, does not discriminate, because its policies and actions pertaining to onshore energy production are no different. My colleague from New Mexico, Mr. LUJAN, will go into the onshore problem in some detail.

A shocking example depicting our deteriorating position in the international arena of crude oil production shows the U.S. production of crude oil for 1960 at 2.57 billion barrels for the year. This figure represents 33.6 percent of the entire world's production of crude oil. By 1978, U.S. production increased slightly to 3.1 billion barrels, but the percentage of the U.S. crude compared to the rest of the world had dropped significantly to a mere 14.3 percent.

What is the administration's answer to these problems? In defending their actions, the administration, particularly the Department of the Interior, goes to great lengths to defend this record by explaining how much acreage is available onshore, and how much acreage is being leased offshore. Unfortunately, this debate has nothing whatsoever to do with the production of energy resources because they are either withholding the areas of highest potential, or have instituted such stringent policies and regulations, that the production of available resources are either delayed, cannot be produced, or are produced at much higher prices than is necessary.

Now the question comes: What will happen if we increase development of energy resources on lands under the control of the Federal Government?

For one, we make available to the American people billions of barrels of oil and trillions of cubic feet of natural gas, thereby allowing us to cut back on our imports. For another, leasing returned $7 billion to the Federal Treasury in 1 year from bonuses, rentals, and royalties alone. OCS leasing and production alone returned over $6 billion to the Treasury. As a matter of fact, since 1953, over 70 percent of all revenues from offshore leasing went to the general Treasury.

In looking at some of the results of increased development, it would appear that the Federal Government has everything to gain by reversing their policies. They certainly have little to lose. Unfortunately, if they do not alter these policies, the citizens of this Nation have everything to lose and nothing to gain.

As I have stated, we can double domestic production of oil in the near future and the joint resolution we are introducing today will accomplish this end.

The resolution directs the President to eliminate all regulations, order procedures, and policies not specifically required by a court order or a statute. This will not affect the legislation passed by the Congress in response to the needs of the Nation, it will simply eliminate the overzealous implementation of the laws by this administration.

We have also established as a national priority the production of energy resources under the control of the Federal Government. This does not overturn provisions of any law, it simply requires that all lands will be evaluated for energy potential, and require that consideration be given to alternatives before the Federal Government puts public lands beyond the reach of energy development.

The next step in this program will be to identify constraints that are required by law or court order.

This will be accomplished by directing the President to establish a panel of eight energy experts taken from individuals recommended by Congress. These experts will identify legal constraints, evaluate their need and effectiveness, and make recommendations to the President and Congress on how changes in those laws may be made or if changes are necessary.

Onshore Alaska holds great energy resource potential. However, there is no way of telling what the full energy potential of Alaska is, because all but a small portion has been off-limits to any type of energy activity. The little bit of activity that has occurred by the Department of the Interior, has been severely criticized by the General Accounting Office in an independent report issued December 5, 1978.

The resolution will require immediate leasing of energy resources in the NPRA in Alaska for private development only. Most importantly, the resolution establishes as a national priority the production of mineral rights on lands under the control of the Federal Government.

This does not overturn provisions of any law, it simply requires that all lands will be evaluated for energy resources and development pursued if allowed by statute. In other words, in considering alternatives in multipurpose planning meeting the Nation's energy needs will be a priority.

The Outer Continental Shelf, which contains over 50 percent of our remaining oil, is perhaps the focus of the policy and regulatory problems because of the provisions of the OCSLAA of 1953.

While the legislation poses certain problems, it is the implementation of the act that has created the real problem.

The joint resolution will eliminate any policies, procedures, or regulations that are not specifically required by law. In addition, it requires that the leasing of areas with highest potential and known reserves be the overriding factor in establishing a leasing schedule.

Currently there are many leasing policies that could be pursued by the administration without additional legislation, and the resolution requires that these leasing policies be adopted. They are:

First. Entire basins or reefs shall be offered for nomination and the areas most highly nominated shall be offered for sale. In addition, the entire area offered for nomination shall be studied. The size of the sale will still be within current standards;

Second. After the initial sale in frontier areas, the entire area shall be open to quarterly constituent sales. This will only require the updating of the EIS and sales will be limited to 250,000 acres. This was suggested by the Department of Energy, and

Third. Areas of unusually difficult drilling conditions shall be leased in large economic units, and under a work commitment bidding system. This was suggested by Dr. Press, the science adviser to the President.

The panel that is established to investigate legal constraints to energy production onshore shall also consider constraints to OCS leasing.

If the provisions of this resolution are adopted, production on the OCS can almost be tripled, revenues to the Treasury would double, and we could offset our balance-of-payments deficits by a potential $326.6 billion.

These figures are the result of a computer run done for me by the Department of Energy and I insert in the RECORD at this point a leasing schedule and two companion charts:

Proposed OCS leasing schedule under House Joint Resolution

Year month, and sale:	*Acreage to be leased*
1980:	
August: Gulf of Mexico	600, 000
October: Gulf of Alaska (eastern area)[1]	600, 000
1981:	
February: Gulf of Mexico	700, 000
August: Gulf of Mexico	700, 000
September: Cook Inlet[1]	600, 000
October: Mid-Atlantic[1 2 3]	1, 000, 000
December: Beaufort Sea[1 2 3]	600, 000
1982:	
March: Gulf of Mexico	800, 000
May: Southern California	600, 000
June: Central & No. California	600, 000
September: Navarin Basin[1 2]	600, 000
October: Gulf of Mexico	800, 000
December: St. George Basin[1 2 3]	600, 000
1983:	
February: Gulf of Mexico	800, 000
April: Norton Sound[1 2 3]	600, 000
August: Bristol Bay[1]	600, 000
October: Gulf of Mexico	800, 000
November: Hope Basin[1 2 3]	600, 000
1984:	
February: Southern California	600, 000
June: Gulf of Mexico	800, 000
September: Gulf of Mexico	800, 000
October: North Atlantic[1]	600, 000
1985:	
January: Chuckchi Sea[1 2]	600, 000
March: Eastern Gulf of Mexico and southeastern shelf[1]	600, 000

[1] Entire basins and reefs will be open for nominations and subject to all provisions of the OCSLAA and quarterly "constituent sales".

[2] Work commitment and bonus bidding and step-by-step environmental and engineering studies.

[3] Large economic units.

PRODUCTION COMPARISON

	Recommended schedule	DOI schedule
Total estimated production (using DOE model[1])	6.2 billion bbl oil	2.6 billion bbl oil.
	16.7 natural gas (tcf).	6.7 natural gas (tcf).
Offset of balance of payments.[2]	$327 billion	
Total estimated production (using DOI methodology[3]).	14.2 billion bbl oil	6.8 billion bbl oil.

[1] DOI June 1979 schedule based on higher estimated resources than recommended schedule.

[2] At $35 per bbl; $6.60 per mcf.

[3] DOI estimated 20 percent of resources sold per sale will be produced.

REVENUES FROM RECOMMENDED OCS SALE SCHEDULE

[Billions of 1978 dollars]

	1980	1981	1982	1983	1984	1985
Revenues received from bonus and rental	2.2	10.5	12.2	6.9	7.6	2.2
Total revenues for life of program (includes production royalties through 1999)[1]	4.1	18.7	21.9	10.8	11.2	3.2

[1] Not adjusted for windfall profits tax.

Note: Only 2 sales proposed.

Mr. Speaker, the most interesting part of the resolution, however, is that all of the provisions in this resolution can be accomplished without a single change in any existing statute, except for the provisions dealing with the NPRA in Alaska.

If the provisions of the joint resolution I am introducing today were adopted, it would reverse national policies. Accelerated exploration would then begin and pressure would be put on the OPEC nations to soften their policies. Once new reserves of oil were identified, it would put this Nation in an advantageous bargaining position because of the dependence OPEC nations have for income from oil sales.

Mr. Speaker, no single solution to our energy problem exists, and none of the solutions are easy. Neither can we expect to completely eliminate the importation of foreign oil.

When we consider that our current domestic reserve of oil is 27.4 billion barrels and we consumed last year 6.7 billion barrels, all we must do to get a good picture of the degree of our problem is a little arithmetic.

The production of our domestic energy resources can be increased to enormous levels, without hindering our future generations, and in an environmentally safe and orderly manner. This is the sole purpose of this resolution and it is the spirit in which I introduce it today. I hope it will be received as such, and given judicious consideration.

Thank you, Mr. Speaker.●

Mr. LOTT. Mr. Speaker, as a member of the House Rules Committee and the Select Committee on the Outer Continental Shelf, and as a U.S. Representative from the State of Mississippi, an energy-producing State, I have been in the position to hear a great deal about the energy crisis this Nation is facing, and believe me what I have had to listen to for the past 2 years is depressing.

I have heard the debate about the relative merits of one alternative energy technology versus another, of the use of nuclear power, of estimated energy consumption and supply, and the lack of production of our enormous domestic energy resources.

I cannot believe at this point, that there is a single Member of Congress that does not believe we are facing a real energy crisis. Unfortunately, because of their actions over the past 3½ years, there must be members of this administration that do not believe that we have a real problem.

As a matter of fact, the problem we are now facing was predicted in 1954 by H. King Hubbard, then an employee of an oil company, and later to be an employee of the U.S. Geological Survey.

Hubbard stated that because of the worldwide and domestic estimated reserves and resources of hydrocarbon fluids, because of Government policies, and projected consumption, we would experience a shortfall in hydrocarbon fluids by the mid-1970's. Why this warning was not heeded I do not know, but what we are going through today is not an estimate nor a warning: It is fact and it is real.

We can no longer enjoy the luxury of a great debate on the energy issues. Steps have got to be taken now to increase domestic production of our abundant hydrocarbon resources as well as to continue practicing strong conservation methods.

As we all know, there are many Members of Congress that have argued these various points long before I was a Member of this body. I think that we had better now listen to those warnings before it is too late to do anything about it.

Oil, gas, and coal production requires a leadtime of 3 to 5 years. We cannot wait for a shortfall, such as occurred in 1973 and 1979 to begin domestic energy production—it will be too late. At this point I am reminded of what happened in Iran, and the fact that the future of the Middle East is indeed precarious. Let us not forget that the shortfalls of oil in 1973 and 1979 were not supposed to happen.

The fact is that right now, we have enough time to do something about it.

We must pursue the solution of our energy crisis from four fronts. They are first conservation. This is the easiest and quickest way to cut energy consumption. As a matter of fact conservation is the reason there is expected to be a reduction in consumption between now and the year 1990. However, our greatest savings from conservation have most likely already occurred, because they can be instituted quickly and have been.

Second, the domestic production of hydrocarbon fluids. Without oil, gas and coal, transportation and industrial activities, which consume approximately two-thirds of our energy supply will come to a halt. We currently have only 27 billion barrels of reserves and consume 6.5 billion barrels of oil a year. A little mathematics spells out the dire problem.

Third, nuclear power. We must continue to pursue the rapid development of nuclear power. In 3 years we have increased our supply of nuclear power appreciably. In 1977, nuclear power supplied 8 percent of our Nation's energy needs. Today it supplies 12 percent of our needs. This is an increase, but not what was possible. Nuclear power served many purposes and while the accident rate and resulted harm from a mishap is less than from other energy sources, the ultimate accident does indeed pose problems.

However, we have made great strides in our awareness of the difficulties of nuclear power as a result of the Three Mile Island mishap. It looks as though we are now maturing in our understanding and approach to the use of nuclear power. What must be remembered, however, is that Three Mile Island was our ultimate accident, and one that was not suppose to happen. The net result of that accident, while obviously not completely conclusive appears to be that nuclear power is indeed controllable and safe.

Because of the Three Mile Island incident, opposition to nuclear power in France is wained and that country plans to turn on all of their new nuclear powerplants across their country in the very near future. The fourth step is the development of alternative energy technologies. Included in this category is magnetic and laser fusion, the breeder reactor, photovoltaics, and the use of hydrogen as fuel as well as many other technologies. To varying degrees, all of these technologies are important. In the case of fusion, we appear to have discovered a Jules Vern ultimate energy source. From one cup of sea water, enormous supplies of nuclear power are possible. Photovoltaics, the generation of electricity by sunlight, offers unlimited sources of electricity, however, it will be a while before either of these technologies are economically feasible unless there is some unexpected breakthrough.

When considering conservation methods and alternative energy technologies, it is important to remember that it is oil and gas that are our crucial energy sources at least through the year 2020, because of the consumption by the industrial and transportation sectors.

Therefore, conservation and alternative energy technologies must be looked at in terms of replacing the need for oil and gas in large quantities.

It is obvious that the most important crisis we face deals with the supply of oil and gas or rather the lack of production of this Nation's enormous domestic energy resources.

The reason we have not developed these resources, or in many cases not even properly identified them, is because of the policies of the Federal Government, particularly this administration.

The administration has overindulged itself in interpreting court orders and statutes as they please, ignoring congressional intent, and instilling policies that have all but strangled industry's capability to produce by regulations that literally control every step of the economic, management, and production process. In addition, the executive branch is withholding from the American public oil and gas that is located on lands under its control.

Today, there are 1.6 billion acres that the Federal Government either owns outright, or which contain energy resources that are under the control of the Federal Government.

Because of this, the Federal Government has become an energy resource monopolist owning 85 to 90 percent of this Nation's oil, 40 percent of its remaining natural gas resources and varying large percentages of our other energy resource base.

All of this land is supposed to be owned in the name of the American people, but it would seem to me that there are other considerations.

Through a multitude of land use and leasing policy decisions, which are completely arbitrary, areas containing resources, particularly areas of high estimated resources are being withheld from development, and in many instances withheld from adequate evaluation. This was pointed out in a report by a Department of the Interior task force. The report was published in early 1977, but only 500 copies were printed because the Secretary of the Interior ordered a halt to further publication of that document.

There is no need for us to continue these restrictive policies any further. We can pursue production of domestic resources to the point where we will not be vulnerable to international blackmail. As has been pointed out by the Department of Energy, and in a study by the Chase Manhattan Bank, domestic energy production can be doubled, putting us at an import level of about half of what it is now. This can all be done without hindering our future generations and in an environmentally sound and orderly manner.

The resolution I am cosponsoring, which was authored by my friend and colleague from New Jersey, Mr. FORSYTHE, will allow orderly and safe accelerated production of these energy resources by directing the administration to eliminate all the policies, regulations, procedures, and activities that are not specifically required by court order or a statute. In addition, it establishes as a priority the production of energy resources under the control of the administration.

In other words, it would force the executive branch of the Government to obey the law, and not develop arbitrary procedures and positions.

This after all, is the role of the executive branch. Congress makes the law, the administrative branch administers the law, and the judicial branch interprets the law.

By making the administration comply with these principles, we will not only double our domestic production of energy, but will prevent the devastation of our conservation and environmental laws that could occur through a panic response to an energy crisis.

The provisions of the joint resolution being introduced today are overdue, and I certainly hope it will receive fair and rapid consideration.

Thank you, Mr. Speaker.

INTELLIGENCE AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, for my part as ranking member of the Armed Services Committee, I wish to join Chairman PRICE in his comments as they relate to the work of both committees in arriving at an agreeable solution to the differences which existed in the intelligence-related activities area for the Department of Defense when we commenced our work on H.R. 7152.

I trust the good working relationships between the committees will continue, particularly since never before in the history of this great country have our intelligence efforts been so vital to our national defense.

Mr. Speaker, I urge my colleagues to support H.R. 7152 and vote for its passage today.●

AIRCRAFT BRAKE AND STRUT DIVISION, BENDIX CORP., SOUTH BEND, IND., WINS DEPARTMENT OF DEFENSE AWARD FOR QUALITY PERFORMANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, the largest employer in my home community of South Bend, Ind., is the Bendix Corp.

Accordingly, I was very pleased to have been present on June 5, 1980, for the presentation to the officials of Bendix of a plaque and flag by officials of the Department of Defense in recognition of the fine quality of work performed for the U.S. Government by the Aircraft Brake and Strut Division of Bendix—South Bend.

The occasion was a proud day for all of the citizens of the community where the Bendix Corp. was born.

Everyone native to our area knows what Bendix has meant to us.

Bendix has meant jobs and business.

Bendix has meant service to the wider community.

And Bendix has meant a corporation that has contributed richly to the history of northern Indiana. In fact, I recall as a schoolboy having once met Vincent Bendix, the extraordinary inventor and industrialist who created the Bendix Corp.

The principal purpose of the ceremony this month, however, was to recognize two other dimensions of the place of Bendix in American life.

First, Mr. Speaker, the men and women of Bendix—South Bend and elsewhere make an outstanding contribution to assuring that we have a powerful military defense.

We live in a dangerous world, with a potential adversary that respects a strong defense. The Bendix Corp., holder of over 350 military contracts with a total value of more than $25 million, plays a vital role in our defense in supplying wheels, brakes, struts, and other products for use in the aircraft of the U.S. Air Force and Navy.

The second aspect of Bendix of which I would say a word, Mr. Speaker, is the commitment of the Aircraft Brake and Strut Division of Bendix—South Bend to high standards of quality control.

At a time when all of us are concerned about declining productivity in American industry, this division of Bendix is proudly flying the flag of quality.

Tangible acknowledgement of this commitment to quality on the part of Bendix, was the approval of Bendix Aircraft Brake and Strut Division for participation in the contractor assessment program of the Department of Defense, and the ceremony on June 5 was for the purpose of recognition of this achievement.

I want, accordingly, Mr. Speaker, to join in congratulating Mr. Werner Fiedler, vice president and general manager, Bendix Aircraft Brake and Strut Division; Stanley Demain, vice president and group executive, Bendix Aerospace Electronics Group; and all the other members of Bendix management as well as Joseph Burkus, president of Bendix Local No. 9, United Auto Workers, and the many hard-working employees of Bendix—South Bend on this outstanding accomplishment.

Mr. Speaker, I had occasion recently to read the address to the stockholders last year by the distinguished chairman of the Bendix Corp., William M. Agee.

In his address, Mr. Agee looked ahead into the 1980's and made the prediction that "Bendix will experience a very strong decade."

Mr. Speaker, I believe that Mr. Agee will be proved right in his prediction, and one of the reasons the future of Bendix is bright is the commitment of the men and women of Bendix to the high standards of quality control recognized this month by the Department of Defense contractor assessment program.●

SMALL BUSINESSES THREATENED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, last Friday, June 13, I addressed the House to warn about a threat to hundreds of thousands of small businesses if H.R. 6418 is approved by the Congress without deleting section 8 of that bill. My remarks appear on page 14655.

I am not exaggerating when I say that hundreds of thousands of small businesses face extinction.

Today, I presented testimony to the Rules Committee asking their granting a rule to allow a point of order to this nongermane section 8. I herewith present for the RECORD my remarks to the Rules Committee:

STATEMENT BEFORE THE RULES COMMITTEE

My sole purpose in appearing before you is to state our opposition to the provisions of section 8 of H.R. 6418 as it appears on page 14, and to ask you not to restrict the rule to prevent a proper point of order. This section was slipped on with no hearings in either House. First, why do we oppose the provisions of section 8 of H.R. 6418? On April 29, 1980 (see Cong. Rec. pp. 9327–9328) and on June 13, 1980 (see Cong. Rec. p. 14655) I addressed the House and explained that section 8 has nothing to do with relieving the trucking industry from regulations imposed by the ICC. Therefore, as I pointed out the provisions of section 8 are completely foreign, irrelevant and not germane to any regulatory activities of the ICC. The provisions of other sections of H.R. 6418 do apply to such activities.

Second as I pointed out when I addressed the House the Provisions of section 8 threaten the survival of small businesses. That is true for the following reasons:

One of the things the provisions of section 8 would permit would be to allow sellers to load trucks owned and operated by big buyers at the sellers loading platforms and charge such big buyers lower prices for the merchandise so loaded, if the buyers represent that they plan to haul that merchandise for longer distances, than smaller buyers located at other nearer destinations. Such smaller buyers would be charged higher prices even if their trucks should be loaded by the same seller at the same docks in the same amounts of identical merchandise. It is clear that such differences and discriminations in price as thus would be practiced by a seller could not be justified on the basis of any differences in costs sustained by the seller in the transactions. The discriminations in price would be practiced irrespective of effect on small business who would be paying the higher prices at the sellers docks.

Thus, for us to repeal provisions of the antitrust laws, including provisions of the Robinson-Patman Act, would be for us to turn the clock back almost half a century. We, who are so careful to protect individuals from discriminatory practices are now called upon to repeal laws so as to permit big business firms to discriminate against small business and in favor of big buyers.

Mr. Chairman, if we were to approve this legislation without striking section 8 therefrom, we would be signaling, through our votes, that we care not for the protection of more than 10 million small business firms in this country. I know you have before you some arguments by those who propose that we approve the provisions of section 8 of this proposed legislation, and that it will not have any adverse effects on provisions of the Robinson-Patman Act.

Mr. Chairman, those who make that argument are without any basis in fact for it. Let us not forget that during the 84th Congress, the House Small Business Committee ad hoc subcommittee on the Robinson-Patman Act held a series of hearings over which I was honored to preside as chairman and with respect to which there was submitted House Report No. 1738 and at pages 111 to 114 thereof is a recital of what the record of those hearings show would be the effect on small business if the Robinson-Patman Act should be so interpreted as to permit of a practice such as would be provided for by the provisions of section 8 of this bill.

A number of us, as leaders and members of the House Small Business Committee who have worked hard and long to help protect small business firms from injurious, damaging and unlawful discriminatory practices, have expressed our concern and concerns of the small business community about the proposals set forth in section 8 of H.R. 6418—see statement in the Cong. Rec. entitled "Concerns of Small Business," April 29, 1980, pages 9327–9328. The latter part of that statement contains a letter to President Carter drawing his attention to these concerns of small business. In conclusion, a number of us in the House are disturbed by the misleading arguments being made in letters to Members of the House by some of the proponents of this section 8 of H.R. 6418.

In some of those arguments it is stated that section 8 is needed so as to provide for "food backhaul" and conservation purposes. Section 8 is not needed for that. Representatives of the FTC have made that clear. It is made clear that so far as the antitrust laws, including the Robinson-Patman act, "food backhaul" is legal so long as there is no discrimination in price. Therefore, there is no need to change the law for that purpose. Moreover, insofar as regulations by ICC hamper and hinder backhaul let me point out that those restrictions of "backhaul" as imposed by the ICC are removed and eliminated by the provisions in H.R. 6418 section 5 regarding "Entry", section 6 regarding "Restraint Removal", section 7 regarding "Exemption" section 9 regarding "Private Carriage", section 10 regarding "Contract Carriage", section 20 regarding "Pooling Arrangements", and section 21 regarding "Mixed Loads".

Finally, we are forewarned that the provisions in section 8 are not only not needed for "food backhaul", but if enacted would permit, and I say encourage, the sending of large trucks owned by the large food chains empty to sellers docks to be loaded as a part of "food fronthaul". Does that promote Conservation?

RUSSELL W. BALLARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues the passing of an outstanding American, Russell W. Ballard, who was the first male director of Hull House in Chicago, which was the settlement house founded by Jane Addams.

I had the privilege of knowing Russell Ballard personally, having met him at Hull House in 1943 when he joined the staff as director. He was completely devoted to the people in the community in which Hull House is located. These people included Spanish-speaking people, blacks, Italian Americans, Greek Americans, and members of many other ethnic groups. Their interests were his interests, and Russell Ballard was a dedicated and devoted friend of all of these groups. As director of Hull House, he made a major contribution in helping various ethnic groups to adjust to life in Chicago.

An article from the Chicago Tribune of June 5 about Russell Ballard follows:

RUSSELL BALLARD DIES AT 87; FIRST MALE HULL HOUSE CHIEF

Russell W. Ballard, the first male director of Hull House, died Wednesday in Loyola University Hospital. He was 87.

A native of Donnellson, Ill., Mr. Ballard was a graduate of the University of Chicago and an infantry captain during World War I.

He organized and became director of the Lake County, Ind., Department of Public Welfare in 1936 and also was principal of the Riley School in East Chicago. He was director of immigrant education and supervisor for visual education in East Chicago as well as community recreation director.

In 1941, he became director of the St. Charles School for Boys near St. Charles, Ill., and in 1943 became director of the settlement house founded by Jane Addams. In the nearly 20 years he was director, he reinforced Hull House's role as a center for ethnic groups and others adjusting to life in Chicago.

Mr. Ballard also served on a governor's committee to aid refugees. After his retirement, he was a consultant to Midway Technical Institute and board member of Operation ABLE. In 1979, he received a distinguished service award from the University of Illinois Alumni Association.

He is survived by his wife, Ethel; two sons, William and John; and eight grandchildren. Services will be private.●

TESTIMONY BY HON. EDWARD HEATH ON INTERNATIONAL DEVELOPMENT ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, I wish to announce to the House that Hon. Edward Heath, former British Prime Minister and member of the Independent Commission on International Development Issues (Brandt Commission), will testify on the Brandt Commission recommendations before the Subcommittee on International Economic Policy and Trade on Thursday, June 19, at 10 a.m., in room 2127, Rayburn House Office Building.

I would like to invite all interested Members to take advantage of this opportunity to hear the views of this distinguished witness.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am notifying the House today of a U.S. Export-Import Bank proposal to lend $4.5 million to the Public Power Corporation of Athens, Greece, to finance a study by a U.S. firm that could lead to the construction of Greece's first nuclear powerplant.

With the help of the Eximbank loan, Ebasco Services, Inc., of New York City will win the contract for this study in competition with a French and a British-Swiss engineering consulting firm.

The Public Power Corp. is owned by the Greek Government and supplies 98.5 percent of the electric power used in Greece. Repayment of the Eximbank loan would be guaranteed by the National Bank of Greece.

Although the Greek Government has not made a definite decision to build a nuclear powerplant, the study will identify potential sites and prepare plans for the construction and operation of such a plant.

This financing notification was referred to me as chairman of the House Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, requires that the Bank notify the Congress of proposed export financing involving nuclear technology and services. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting for the RECORD the Eximbank notification detailing the terms of this transaction and providing additional information. I would welcome any comments or questions my colleagues might have regarding this proposed financing arrangement.

The Eximbank material follows:

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., June 5, 1980.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Washington, D.C.

DEAR MR. CHAIRMAN: Eximbank has submitted a statement to the Speaker of the House of Representatives and the President of the Senate in accordance with the provisions of Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

NANCY S. PIGMAN,
Congressional Relations Officer.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., June 5, 1980.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speakers Room, U.S. Capitol,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, the Export-Import Bank of the United States (Eximbank) hereby submits a statement to the United States Congress with respect to the following transaction involving U.S. exports to Greece:

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

The Public Power Corporation (PPC) of Athens, Greece, has requested and Eximbank is prepared to provide a direct credit of $4,500,750 to assist in financing technical pre-construction consulting engineering services by a U.S. firm required for Greece's proposed first nuclear power plant. Repayment of all indebtedness related to such credit will be unconditionally guaranteed by the National Bank of Greece.

PPC has selected Ebasco Services, Inc. (Ebasco), New York, New York, to provide the services. Ebasco's bid was selected over competition from the bid of a French engineering firm supported by Compagnie Francaise d'Assurance pour le Commerce Exterieur (COFACE), France's export credit agency, and the bid of a joint venture between British and Swiss engineering firms, the British portion of which was supported by the Export Credits Guarantee Department (ECGD), the United Kingdom's export credit agency.

2. Identity of the borrower

PPC, established in 1950 with Marshall Plan funds, is wholly owned by the Greek Government and produces and supplies about 98.5% of the electric power used in Greece, including the various islands. Eximbank approved a $5 million loan for PPC in 1964 which was repaid in full in FY 1976 according to schedule.

3. Identity of the guarantor

National Bank of Greece, established in 1841, is the largest commercial bank in Greece with total assets of U.S. dollar equivalent $8.8 billion supported by equity of U.S. dollar equivalent $303 million as of December 31, 1978.

4. Nature and use of services

Ebasco will conduct a study for PPC involving environmental safety and economic aspects of siting a nuclear power plant in Greece. The tasks include: a broad survey of the area of southern Greece and adjacent islands to identify five potential sites; extensive field investigations to rank potential sites; preparation of site suitability, environmental and safety report on a preferred site (employing U.S. Nuclear Regulatory Commission guidelines and regulations); evaluation of all models of commercially available nuclear plants; identification of potential turnkey contractors and major lending institutions; evaluation of potential Greek suppliers of material, equipment and services; preparation of tender documents; general study of fuel cycle from yellowcake procurement to ultimate waste disposal; preparation of organizational chart to show new positions and lines of responsibility required for a nuclear project; and engaging a law firm to assist in the formulation and analyses of various legal issues to be addressed in the licensing process.

5. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. The Bureau of Oceans and International and Scientific Affairs of the Department of State advised that the Executive Branch has no objection to Eximbank's proceeding with the transaction.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $4,500,750 will facilitate the export of $5,295,000 of U.S. services. The availability of Eximbank financing has been a major factor in winning the contract for the U.S. supplier. Although the U.S. Embassy in Athens advises that the Government of Greece has not yet made a final decision to go forward with the nuclear plant and this study does not commit the PPC to such course of action, if the Greeks decide to go forward with the nuclear power plant construction, the opportunities for U.S. follow-up work will be enhanced due to the groundwork services performed by Ebasco.

2. Financing plan

The total cost of U.S. services to be purchased by PPC is $5,295,000, which will be financed as follows:

	Amount	Percent of U.S. cost
Cash	$794,250	15
Eximbank credit	4,500,750	85
Total	5,295,000	100

(a) Eximbank Charges

Disbursements under the Eximbank credit will bear interest at the rate of 8.0 percent per annum, payable semiannually. This rate is comparable to that offered by the British, with alternative official government-supported rates of 7.25 percent per annum for a dollar denominated loan and 7.75 percent per annum for a sterling denominated loan. The French did not reveal to Eximbank their government-supported rate for their proposed financing.

A commitment fee of 0.5 percent per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms

The credit will be repaid in 10 equal semiannual installments beginning November 15, 1982; or, if the project goes forward and U.S. manufacturers are awarded major components of the nuclear power plant construction project, PPC may elect to add this credit to the construction project portion of any Eximbank credit approved for such project, with the combined amounts of the credits repayable on the same terms and conditions authorized for the construction project credit.

Attached is certain additional information on Eximbank activity in and economic data on Greece.

Sincerely,

THIBAUT DE SAINT PHALLE,
Director.

EXIMBANK EXPOSURE IN GREECE AS OF APR. 30, 1980

	Outstanding	Undisbursed
Direct loans	$25,593,967.25	$1,708,415.00
CFF loans		
Financial guarantees		
Bank guarantees and other	3,115,772.40	1,067,766.97
Insurance:		
Medium term	9,782,528.57	11,111,510.17
Short term	8,329,278.83	
Total	46,821,547.05	13,887,692.14
Total exposure	60,709,239.19	

DEFAULTS AND RESCHEDULINGS

There has been only one default under Eximbank credits in Greece in the past ten years. In the one case involving the Hellenic Bottling Co., a private borrower, $460,000.00 of $789,098.34 of disbursements were rescheduled in December of 1973 and were fully repaid in December of 1979, the last rescheduled installment date.

ECONOMIC DATA: GREECE

[Area: 131,900 square kilometers, Population: 9.3 million (mid-1978). Population density: 70 persons per square kilometer (1978). Sources and application of national product (1978). G rowth rate: 0.2 percent (1973–78)]

	Percent
Sources:	
Agriculture	16.7
Industry	30.0
Construction	8.7
Services	44.7
GDP (factor cost)	100.0
Application:	
Consumption	64.2
Government	15.7
Capital formation	22.8
Stocks	3.8
Exports less imports	−6.5
GNP (market prices)	100.0

	1976	1977	1978	1979
GNP data:				
Billions of dollars (nominal)	$23.2	$27.0	$32.2	$39.3
Growth rate (real) (percent)	6.4	3.8	5.9	3.2
Per Capita			3,470	
Fiscal and monetary data:				
Government deficit (including investment) (billions)	$1.0	$1.2	$1.4	$1.5
Deficit as percent of GNP	4.3	4.4	4.3	3.8
Increase in money supply (MI) (percent)	24.1	16.9	22.4	[1] 21.9
Price data (percent):				
Consumer price increases	13.3	12.2	11.5	24.8
Wholesale price increases	14.0	13.7	10.3	26.9
Labor data (percent):				
Wage increases (hourly)	28.6	20.9	23.6	[2] 18.0
Unemployment	2.3	2.1	2.2	3.0
Productivity increases (manuf.)	6.3	−1.2	3.9	[2] 2.0
Balance of Payments Data (billions):				
Exports, f.o.b	$2.2	$2.5	$3.0	[2] $3.8
Imports c.i.f	−5.6	−6.4	−7.3	[2] −9.8
Trade Balance	−3.3	−3.9	−4.3	[2] −6.0
Current account balance	−1.1	−1.3	−1.2	−2.3
Capital account flows	1.1	1.3	1.1	[2] 1.8
Overall Balance	0	([3])	−.1	[2] −.5
External debt data:				
Outstanding public debt (billions)	$2.3	$2.6	$3.1	[2] $4.0
Outstanding private debt (billions)	$2.1	$2.5	$2.7	[2] $2.7
Debt service ratio (overall) (percent)	14	13	12	[2] 11
Reserve data (billions):				
Foreign exchange	$0.8	$0.9	$1.0	[4] $1.0
Gold (at market prices)	.5	.6	.7	[4] 1.5
Net foreign assets of banking systems	−.4	−.8	−1.3	[5] −1.4
Cover for months of imports	2.8	2.8	3.1	3.3

[1] October.
[2] Estimate.
[3] Negligible.
[4] November.
[5] August. ●

MOTOR CARRIER ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 minutes.

● Mr. HOWARD. Mr. Speaker, the Motor Carrier Act of 1980, H.R. 6418, has been reported by the House Public Works and Transportation Committee. It is a good bill that has been carefully formulated by the committee. I would like to take this opportunity to rebut substantial misrepresentations that are being circulated about section 8 of H.R. 6418. Section 8—the food transportation provision—would allow, but not require, a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up his own purchased food and grocery products at the shipping point of the seller. The compensation must be available to all customers of the seller on a nondiscriminatory basis and not exceed the seller's actual cost of delivery to such customers.

Representations have been made that section 8 is backed by "large chains" and that it will "wreak havoc in the American food and grocery distribution system." For the record, I would like to inform the Members of the House that retail and wholesale food trade associations join me in support of section 8 without any further amendments. These organizations include the National Association of Retail Grocers of the United States, representing 40,000 independent retail grocers, Cooperative Food Distributors of America, representing 66 retailer-owned cooperative wholesalers serving and collectively owned by 28,000 independent retailers, National-American Wholesale Grocers' Association, representing 330 independent grocery wholesalers serving 35 to 40 percent of the retail grocery market, and Food Marketing Institute, representing 1,175 retail and wholesale food distributors, including independents, consumer cooperatives, and chains.

Another statement is being circulated that no hearings were held on section 8 by the Public Works and Transportation Committee. I wish to inform my fellow Representatives that both the Food Marketing Institute and the Grocery Manufacturers of America's witnesses addressed this issue at our hearings on February 27, 1980.

As a final matter, I wish to inform my fellow Representatives that the National Association of Retail Grocers of the United States (NARGUS) and its State and local retail grocers associations strongly support section 8 as an integral part of H.R. 6418. It is a pleasure to insert a letter of support for H.R. 6418 from Frank Register, NARGUS president.

NATIONAL ASSOCIATION
OF RETAIL GROCERS,
June 12, 1980.

Hon. JAMES J. HOWARD,
Chairman, Subcommittee on Surface Transportation, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR CHAIRMAN HOWARD: The National Association of Retail Grocers of the United States (NARGUS) takes this opportunity on behalf of approximately 40,000 independent retail grocers to express our strong support for H.R. 6418, and especially Section 8, as reported by the House Public Works and Transportation Committee.

NARGUS began representing independent retail grocers in 1893. Today NARGUS is proud to report local retail grocers' operations include supermarkets, neighborhood grocery stores, and convenience stores. NARGUS members are local business owners investing in their communities and serving their consumers.

NARGUS believes trucking regulatory reform is in the nation's interest to assure efficient transportation of goods, including food. Of special interest to NARGUS members, is Section 8 of H.R. 6418. Section 8 would allow, not require, a manufacturer using a uniform zone delivered pricing system, to compensate a customer who picks up purchased food and grocery products at the seller's shipping point.

Opponents to Section 8 have alleged that it will benefit large chain stores and hurt small grocers. NARGUS members wish to correct this misrepresentation by informing you and other Representatives that it is not so. NARGUS' independent retail grocers and every other segment of the food distribution industry strongly support Section 8 to assure efficient food distribution. Failure to allow actual cost savings be given food distributors for transportation of their own products from the manufacturer inflates the cost of food distribution for consumers.

Section 8 carries out the design of the Robinson-Patman Act which NARGUS has so strongly supported. The customer pickup allowance must be nondiscriminatory, cost justified, and available to all customers. NARGUS members purchase food and grocery products through wholesalers and retailer owned cooperatives, who have contributed to the survival of local retail grocers in competition with large chains. NARGUS would not support Section 8 if its retail grocers did not strongly believe in the benefits, opportunities, and protections for their store operations.

NARGUS takes this opportunity to join you in opposing any amendment to strike or change Section 8 as reported. Efforts to strike Section 8 or to substitute the average cost of transportation for the actual cost of transportation, in spite of the rhetoric of concern for small grocers and consumers, are no more than attempts to kill this important provision. NARGUS has testified before Congressional committees five times since 1977 in support of the customer pickup allowance—House Interstate and Foreign Commerce Subcommittee on Energy and Power on July 9, 1979; House Small Business Subcommittee on Antitrust, Consumers, and Employment on September 7-8, 1977; Senate Small Business Subcommittee on Monopoly, Economic Concentration and Anti-Competitive Activities on April 3, 1980; Senate Committee on Commerce, Science, and Transportation on September 14, 1978; and Senate Energy Subcommittee on Energy Conservation and Regulation on June 27, 1977. Other representatives of the food distribution industry testified before the House Public Works and Transportation Committee and Senate Commerce Committee during hearings on trucking deregulation.

In conclusion, NARGUS and its affiliated state and local associations join in support of H.R. 6418 and in opposition to any amendment to Section 8, as reported.

Sincerely,

FRANK D. REGISTER,
President.

GROCERY MANUFACTURERS
OF AMERICA, INC.
Washington, D.C., June 16, 1980.

The Honorable ———,
U.S. House of Representatives,
Washington, D.C.

DEAR ———: Your help is urgently needed this week in a bipartisan effort to defeat Section 8 in the Motor Carrier Act, H.R. 6418.

Section 8 saps the Robinson-Patman Act prohibitions against price discrimination in the American food and grocery industry. It moves the clock back 45 years to a time when large chains would legally receive preferential price discounts and treatment.

Section 8 is not a transportation issue. It is a special interest provision which has not had hearings before the Judiciary Committee. No hearings were held on Section 8 by the Public Works & Transportation Committee. In fact, no committee has ever approved Section 8 or similar provisions after hearings, because:

Section 8 will raise food and grocery prices;

Section 8 will reduce competition in the American food and grocery industry;

Section 8 will wreak havoc in the American food and grocery distribution system.

Please support: Rep. John Ashbrook, Rep. Elliott Levitas, Rep. Henry Gonzalez, and others in their bipartisan effort to defeat Section 8 when the trucking bill is on the floor this week.

Sincerely,

GEORGE W. KOCH.●

CHORE SERVICE PROGRAMS NEED SEPARATE TREATMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, it is not uncommon in the pursuit of worthy public policy goals of a national scope that equally worthy State and local programs come into conflict with those goals and are crippled and sometimes destroyed. I am today introducing legislation that would help resolve one such conflict and preserve an effective and needed community-based program that may be faced with a substantial operating burden next year as a result of an IRS ruling scheduled to become effective in January 1981.

The program, variations of which are in operation in many States across the country, is known in my home State of Iowa as "chore services." Administered by the department of social services, chore services is a small-scale neighbor-to-neighbor program through which individuals provide services to the elderly and disabled who, on a limited or temporary basis, need assistance with small chores such as minor household repairs, occasional meal preparation, and yardwork. The providers are often youths or other senior citizens who would like to earn a little extra money and help a neighbor in the process. The Iowa Department of Social Services pays the client, who then reimburses the provider. In conjunction with other in-home services, such as homemaker and adult day care, the chore services program is intended to keep the elderly and handicapped in their homes and out of institutions where possible.

Since the program's inception in Iowa, chore services workers have been treated as independent contractors by the State; that is, as self-employed, occasional workers responsible for paying their own social security and income taxes, if applicable. However, the IRS in recent years has undertaken a major effort to reclassify workers as employers or independent contractors, and ruled in 1975 that chore services workers were employees for whom the State must withhold social security taxes. This classification controversy was one of many across the country that were put on hold by section 530 of the Revenue Act of 1978, an interim statute which temporarily "forgave" such potential tax liabilities until Congress could develop a clear statute governing the classification of workers. The interim statute is scheduled to expire at the end of 1980.

I support efforts by the IRS, and the Congress, to develop a rule that insures the prompt, equitable, accurate collection of Federal taxes. However, in my view, the classification of chore services workers as employees of the State is clearly inappropriate, and would inflict a heavy paperwork burden on a small-scale program operating on a limited budget. It does not make sense to me to force States to divert thousands of dollars in potential services moneys to pay FICA for these workers, many of whom are already retired or are youths earning a minimal amount of pocket money after school. Due to an admittedly worthy national goal, a small Iowa neighbor-to-neighbor program and many others like it throughout the country face the prospect of bureaucratization that is potentially crippling.

I am today introducing legislation to provide that chore services performed under certain State programs designed to assist the elderly and the handicapped be exempt from social security and income tax withholding. Chore workers could thus continue to be responsible for paying their own taxes after December 1980, if any are owed, and States could continue to operate these programs without unnecessary redtape, paperwork, and expenses.

The chore services program in Iowa typifies the strong community spirit on which so many small towns across the country have been built. The need for such programs will increase markedly in future years with the dramatic increase in the number of older Americans. These highly effective programs, designed to keep the elderly and disabled at home by providing for assistance by neighbors where needed, should not be jeopardized by potentially devastating cutbacks caused by undue Federal Government—in this case IRS—interference. I strongly urge my colleagues to give their support to the legislation I am introducing today.

H.R. 7595

A bill to amend the Internal Revenue Code of 1954 to provide that social security taxes and income tax withholding shall not apply to certain chore service performed under a State program designed to assist the elderly and the handicapped

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) subsection (b) of section 3121 of the Internal Revenue Code of 1954 (defining employment for FICA tax purposes) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(21) chore service performed by an individual under an arrangement with a State program if—

"(A) only individuals who have attained age 65 or who are handicapped are eligible to receive such service under the program.

"(B) such service consists only of the performance of housework, yardwork, meal preparation, or minor household repairs at the home of the recipient of the service or errands for food, clothing, medicine, or paying bills, and

"(C) 80 percent or more of the chore services under the program for the calendar year can reasonably be expected to be performed by individuals who perform an average per week of 20 or fewer hours of such service under the program during such year."

(2) Paragraph (2) of section 1402(c) of such Code (defining trade or business) is amended by striking out "and" at the end of subparagraph (E), by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and", and by inserting after subparagraph (F) the following new subparagraph:

"(G) service described in section 3121(b) (21);".

(b) Subsection (a) of section 3401 of such Code (defining wages for purposes of income tax withholding) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by adding after paragraph (20) the following new paragraph:

"(21) for service described in section 3121 (b)(21)."

(c)(1) Subsection (a) of section 210 of the Social Security Act is amended by striking out "or," at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or" and by adding after paragraph (20) the following new paragraph:

"(21) Chore service performed by an individual under an arrangement with a State program if—

"(A) only individuals who have attained age 65 or who are handicapped are eligible to receive such service under the program.

"(B) such service consists only of the performance of housework, yardwork, meal preparation, or minor household repairs at the home of the recipient of the service or errands for food, clothing, medicine, or paying bills, and

"(C) 80 percent or more of the chore services under the program for the calendar year can reasonably be expected to be performed by individuals who perform an average per week of 20 or fewer hours of such service under the program during such year."

(2) Paragraph (2) of section 211(c) of such Act is amended by striking out "and" at the end of subparagraph (E), by striking out the semicolon at the end of subparagraph (F), and inserting in lieu thereof ", and" and by inserting after subparagraph (F) the following new subparagraph:

"(G) service described in section 210(a) (21);".

(d)(1) The amendments made by subsection (a)(1) and subsection (c)(1) shall apply to services performed after December 31, 1980.

(2) The amendments made by subsections (a)(2) and (c)(2) shall apply to taxable years ending after December 31, 1980.

(3) The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1980.●

NATIONAL LIBRARY RESOURCES SHARING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, recently the first White House Conference on Library and Information Services was held, and over 900 delegates and alternates from every State and the U.S. territories attended. Today, I am introducing the National Library Resources Sharing Act of 1980 in an attempt to carry out some of the most important suggestions to be made by the White House conference delegates.

In these times of severe budget limitations, my bill seeks to assure the more efficient use of existing library facilities. The bill provides for the expanded use of telecommunications and new technologies to distribute information faster and more efficiently to library users as well as to persons with limited access to current library resources. It seeks to assure that libraries can receive preferential communication rates for these services thereby keeping down their costs. The bill calls on State library agencies to engage in long range planning for the best possible use of limited resources. Finally the bill provides for elevation of library responsibilities within the new Department of Education by providing for an Assistant Secretary for Library and Information Services.

Libraries today are facing severe budget cuts while at the same time demand for their services increases. In New York City, library hours have been cut in half since 1970 and currently 82 branches in New York City fall below the New York State standard of minimum weekly hours. Statewide the picture is only less bleak with 38 percent of the libraries failing to meet the minimum hours requirement.

If we are to make the most efficient use of library facilities we must increase the sharing of resources and the use of new telecommunication mechanisms which enable libraries in all parts of the country to share programs and services. New technologies are important tools for libraries today, in the dissemination of information. The explosive development of information and communication technologies, including cable television, mini- and micro-computers, videocassette technology, video discs and satellite communication will increasingly make possible heretofore unexplored possibilities for access to information by the public at low cost. Energy savings will be an important result of this ability of libraries to provide information directly to individuals who seek it.

Under my proposal, the Library Services and Construction Act (LSCA) title III, Inter-Library Cooperation, would be amended to establish a 15-percent set-aside of title III appropriations specifically for the development of regional and national library networks, which would share resources and make efficient use of new technologies. My bill also provides for long planning by State library agencies which aims at improving the ability of the State agency to determine the needs of people of the States for all types of library and information services and to make better use of their present facilities. The planning should include consultations with citizens, local and State officials and others who can assist in the long-term development of public, school, and college library services within the State.

The legislation seeks to insure that such new telecommunication technologies can be inexpensively implemented by allowing these systems to receive preferential telecommunication rates.

I am also proposing that a new position of Assistant Secretary for Libraries be established in the Department of Education because given the importance of libraries in the educational process there should be an advocate at the highest level of that Department.

I want to commend the delegates to the White House Conference on Libraries for the fine work which they have done. I hope that my bill can begin the process of implementing many of their innovative and cost-saving recommendations.●

FOURTH ANNIVERSARY OF PROTESTS IN SOWETO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 5 minutes.

● Mrs. COLLINS of Illinois. Mr. Speaker, I take this opportunity to draw my colleagues' attention to the anniversary of the June 1976 protests in Soweto, South Africa. Lest we, as the South African ruling party has, slight the festering injustices to and outrage of the black majority manifest by those protests.

Even though the 1976 protests were ostensibly a response to a proposed requirement that class instruction be in Afrikaans, the black majority has made it clear that fundamental changes in the political order of South Africa must be implemented to preclude further violent confrontations.

The 1976 protests and recent demonstrations speak to the fact that no longer will the injustice of apartheid be swept under the rug, nor will the minority's decisions receive tacit acceptance. The government of Prime Minister Botha should recognize these events as communications from the majority that it has definite ideas on needed reforms that must be respected.

The unilateral formulation and implementation of government reform to placate majority demands is grossly inadequate since majority protest is banned and majority leadership is not consulted.

The majority will not accept cosmetic government reform offered on the heels of a successful Zimbabwe armed struggle. South Africa is at a crossroad in its development as pivotal as the pre-civil war era in America history. A meaningful dialog with majority leaders to draft a new constitution would avert an otherwise collision course with guerrilla warfare.

To effectuate this process, the Congress has to apply all its persuasive might on the Botha government. America's voice must remain in the forefront of international pressure on South Africa in view of our special relationship with them. We must back fully the chorus of United Nations resolutions that condemn apartheid and mandate economic sanctions.

A wealthy country like South Africa cannot justify allowing Cape Town students to sit in classrooms without windows, equipment, stationery, or lights. Nor may it repel just student protests of these conditions with bullets and tear gas. The lesson of Soweto is simple—the apartheid system must be abolished. And the wisdom of the Botha government to avoid civil conflict will be evident by negotiating with the majority.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Sebelius (at the request of Mr. Rhodes), for today, and the balance of the week on account of a death in the family.

Mr. Weiss (at the request of Mr. Wright), after 1:30 p.m. today and for June 18, on account of a medical reason.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Courter) to revise and extend their remarks and include extraneous material:)

Mr. Bob Wilson, for 5 minutes on June 17.

Mr. Ashbrook, for 20 minutes on June 18.

Mr. Gilman, for 60 minutes on June 18.

Mr. Winn, for 60 minutes on July 30.

(The following Members (at the request of Mr. Wyatt) to revise and extend their remarks and include extraneous material:)

Mr. Brademas, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Bingham, for 5 minutes, today.

Mr. Neal, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Mr. Bedell, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mrs. Collins of Illinois, for 5 minutes, today.

Mr. Downey, for 60 minutes, June 18.

Mr. Maguire, for 60 minutes, June 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bonker, to follow remarks of Mr. McCormack, on H.R. 7542, in the Committee of the Whole today.

(The following Members (at the request of Mr. Courter) and to include extraneous matter:)

Mr. Carter in three instances.

Mr. Derwinski in two instances.

Mr. Williams of Ohio.

Mr. Kemp in two instances.

Mr. Broomfield.

Mr. Rousselot in two instances.

Mr. Collins of Texas in three instances.

Mr. Courter in two instances.

Mr. Conable.

Mr. Ashbrook in three instances.

Mrs. Fenwick.

Mr. Solomon in two instances.

Mr. Stockman.

Mr. Lewis.

Mr. Abdnor.

Mr. Petri.

Mr. Philip M. Crane.

Mr. Findley.

Mr. Porter.

Mr. Evans of Delaware.

Mr. Bob Wilson in two instances.

Mr. McCloskey.

(The following Members (at the request of Mr. Wyatt) and to include extraneous matter:)

Mr. Brademas in five instances.

Mr. Mazzoli.

Mr. Blanchard in two instances.

Mr. Rangel.

Mr. Coelho.

Mr. Ireland in two instances.

Mr. Murphy of New York.

Mr. Roe in five instances.

Mr. Mottl.

Mr. LaFalce.

Mr. Gray.

Mr. Hance.

Mr. Skelton.

Mr. Gore.

Mr. D'Amours.

Mr. Yatron.

Mr. Patterson.

Mr. Stokes in two instances.

Mr. Harris.

Mr. Udall.

Mr. Florio in three instances.

Mr. Patten in two instances.

Mr. McDonald in five instances.

Mr. Zablocki.

Mr. Ashley.

Mr. Montgomery.

Mr. Daschle in three instances.

Mr. Donnelly.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 562. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4887. An act to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes;

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge;

H.R. 6022. An act to establish the Tensas River National Wildlife Refuge;

H.R. 6169. An act to establish the Bogue Chitto National Wildlife Refuge; and

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did, on June 16, 1980, present to the President, for his approval, bills of the House of the following title:

H.R. 3434. An act to establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes; and

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 18, 1980, at 10 a.m.

EXPENDITURE REPORT CONCERNING OFFICIAL FOREIGN TRAVEL

Report of a House committee concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of calendar year 1980 in connection with foreign travel pursuant to Public Law 95–384 is as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1980

Name of Member or employee	Date			Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. James Johnson	3/11	3/12	Spain	6,815	[3] 96.00					6,815	96.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Due to weather conditions, Codel McHugh party had to remain overnight in Madrid. They were originally scheduled to refuel only in Spain, but spent the night at the Palace Hotel in Madrid. Representative James P. Johnson received and signed for 1-day's per diem.

May 28, 1980.

THOMAS S. FOLEY,
Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4627. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell a certain naval vessel to the Government of Greece, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4628. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell a certain naval vessel to the Republic of Korea, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4629. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Government of Mexico, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4630. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell a certain naval vessel to the Coordination Council for North American Affairs, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4631. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to lease certain naval vessels to the Government of Turkey, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4632. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 3-196, to provide for greater authority in the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia with respect to student tuition and fees, to establish accounts, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4633. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

4634. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets; to the Committee on Foreign Affairs.

4635. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting copies for a proposed new system of records for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4636. A letter from the Comptroller General of the United States, transmitting a report on major factors inhibiting expansion of the school breakfast program (CED-80-35, June 16, 1980); jointly, to the Committees on Government Operations and Education and Labor.

4637. A letter from the Comptroller General of the United States, transmitting a report on the need to insure nondiscrimination in CETA programs (HRD-80-75, June 17, 1980); jointly, to the Committees on Government Operations and Education and Labor.

4638. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to establish an Office of Statistical Policy in the Executive Office of the President for the purposes of developing Federal statistical policy and statistical standards and insuring that the statistical programs of the Federal agencies are responsive to national information needs, and for other purposes; jointly, to the Committees on Government Operations and Post Office and Civil Service.

4639. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations pertaining to the administration of the Presidential Election Campaign Fund Act, pursuant to section 3009(c) of the Internal Revenue Code of 1954, as amended; to the Committee on House Administration.

4640. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of work of the Bureau of Land Management, and for other purposes; to the Committee on Interior and Insular Affairs.

4641. A letter from the Associate Executive Director for Information Management, Federal Communications Commission, transmitting a report on pending applications and hearing cases in the Commission as of January 31, 1980, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

4642. A letter from the U.S. Trade Representative, Executive Office of the President, transmitting a report covering the 6 months ended December 31, 1979, on reviews and hearings arising from complaints of unfair trade practices by foreign governments, pursuant to section 306 of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee of conference. Conference report on S. 751 (Rept. No. 96-1094). Ordered to be printed.

Mr. WHITTEN: Committee on Appropriations. H.R. 7591. A bill making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1095). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 6308. A bill providing for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the 20th century, to be carried out by the Department of Energy; with amendments (Rept. No. 96-1096). Referred to the Committee of the Whole House on the State of the Union.

Mr. McKAY: Committee on Appropriations. H.R. 7592. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1097). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENJAMIN: Committee on Appropriations. H.R. 7593. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1098). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 7591. A bill making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. McKAY:

H.R. 7592. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. BENJAMIN:

H.R. 7593. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. ASHBROOK (for himself, Mr. Erlenborn, Mr. Perkins, Mr. Buchanan, Mr. Erdahl, Mr. Coleman, Mr. Hinson, Mr. Edwards of Oklahoma, Mr. Goodling, Mr. Young of Alaska, Mr. Kramer, Mr. Daniel B. Crane, Mr. Petri, Mr. Tauke, and Mr. Jeffords):

H.R. 7594. A bill to amend the Internal Revenue Code of 1954 to clarify provisions prohibiting discrimination in vesting standards under plans governing qualified trusts, and for other purposes; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 7595. A bill to amend the Internal Revenue Code of 1954 to provide that social security taxes and income tax withholding shall not apply to certain chore service performed under a State program designed to assist the elderly and the handicapped; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mr. Abdnor, Mr. Evans of Georgia, Mr. Hightower, Mr. Hughes, Mr. Kindness, Mr. Lungren, Mr. Mathis, Mr. Nolan, Mr. Petri, Mr. Stangeland, Mr. Winn, and Mr. Wyatt):

H.R. 7596. A bill entitled: "The Small and Rural Laboratory Protection Act"; to the Committee on Interstate and Foreign Commerce.

By Mr. BRODHEAD:

H.R. 7597. A bill to provide that any disabled individual who on October 18, 1978, was receiving reimbursement under the civilian health and medical program of the uniformed services for custodial care may continue to receive health benefits under such program, notwithstanding any eligibility of such individual for benefits under part A of title XVIII of the Social Security Act; to the Committee on Armed Services.

By Mr. CONABLE:

H.R. 7598. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Ways and Means.

Mr. ECKHARDT (for himself, Mr. Gonzalez, Mr. Markey, Mr. Weaver, Mr. Miller of California, Mr. Kostmayer, Mr. Bingham, Mr. Vento, Mr. Won Pat, Mr. Phillip Burton, Mr. Kastenmeier, Mr. Carr, and Mr. Leland):

H.R. 7599. A bill to designate various areas as components of the national wilderness preservation system in the national forests in the State of Texas; to the Committee on Interior and Insular Affairs.

By Mr. GUARINI:

H.R. 7600. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of individuals the interest on series EE U.S. savings bonds; to the Committee on Ways and Means.

By Mr. GUARINI (for himself, Mr. Moorhead of Pennsylvania, Mr. Wolff, Mr. Lundine, Mr. Conable, Mr. Rinaldo, Mr. Green, and Mr. Lee):

H.R. 7601. A bill to amend the Internal Revenue Code of 1954 to provide transitional rules for estate and gift tax treatment of disclaimers of property interests created by transfers before November 15, 1958; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 7602. A bill to amend the Library Services and Construction Act to authorize funds under title I of such act for the development of long-range plans by State library administrative agencies, to require 15 percent of amounts appropriated for purposes of title III of such act to be made available for direct grants to existing regional and national cooperative networks of libraries, and to authorize preferential communication interconnection services for nonprofit library and educational activities, and to amend the Department of Education Organization Act to provide for an Assistant Secretary for Library and Information Services; to the Committee on Education and Labor.

By Mr. KOSTMAYER:

H.R. 7603. A bill to amend the Internal Revenue Code of 1954 to allow, in lieu of the amortization of amounts for pollution control facilities, a deduction in the year in which such amounts are paid or incurred; to the Committee on Ways and Means.

By Mr. KOSTMAYER (for himself and Mr. Nowak):

H.R. 7604. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain on the proceeds from the sale of small business stock to an ESOP of those proceeds are reinvested in such stock; to the Committee on Ways and Means.

By Mr. STAGGERS (by request):

H.R. 7605. A bill to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ULLMAN:

H.R. 7606. A bill to amend the Internal Revenue Code of 1954 to amend the provisions relating to employee stockownership plans, and for other purposes; to the Committee on Ways and Means.

By Mr. WON PAT:

H.R. 7607. A bill to amend section 1586 of title 10, United States Code, to extend certain assignment rotation rights to civilian Defense Establishment employees from Guam, the Virgin Islands, or Puerto Rico; to the Committee on Armed Services.

By Mr. AMBRO:

H.J. Res. 574. Joint resolution relating to a rationing contingency plan; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRIS:

H. Con. Res. 365. Concurrent resolution to express the sense of Congress that it must save the Postal Service and keep its commitment to retired military and Federal personnel; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. COURTER:

H. Res. 710. Resolution to amend the rules of the House to require information on House votes by Members in their postal patron newsletters; to the Committee on Rules.

By Mr. LEACH of Iowa:

H. Res. 711. Resolution amending rule X of the Rules of the House of Representatives to provide that committee and subcommittee ratios reflect, to the closest degree possible, the party ratio in the House as a whole; to the Committee on Rules.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Foreign Affairs discharged from consideration of the bill H.R. 6899 to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States.

The Committee on the Judiciary consideration of the bill H.R. 6899 to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States, extended for an additional period ending not later than June 20, 1980.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HAMMERSCHMIDT:

H.R. 7608. A bill for the relief of Alicia Miranda Arnold; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 7609. A bill for the relief of Theodore Michalopoulos; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 204: Mr. Dickinson, Mr. Coelho, Mr. Howard, Mr. Stenholm, Mr. Shumway, Mr. Wolpe, Mr. Tauke, Mr. Forsythe, and Mr. Cheney.

H.R. 1918: Mr. Musto and Mr. Spence.

H.R. 3244: Mr. Archer.

H.R. 3245: Mr. Hillis.

H.R. 3574: Mr. Forsythe.

H.R. 4045: Mr. Dannemeyer.

H.R. 4339: Mrs. Fenwick.

H.R. 4736: Mr. Hyde.

HR. 5610: Mr. Bethune, Mr. Hightower, Mr. Hillis, Mr. Kogovsek, and Mr. Stenholm.

H.R. 6308: Mr. Sensenbrenner and Mr. Bafalis.

H.R. 6453: Mr. Peyser.

H.R. 6489: Mr. Porter.

H.R. 6593: Mr. Daschle and Mr. Grassley.

H.R. 6637: Mr. Whittaker, Mr. Marriott, Mr. Sawyer, and Mr. Robinson.

H.R. 6675: Ms. Mikulski.

H.R. 6889: Mr. Walgren and Mr. Lloyd.

H.R. 6919: Mr. Courter.

H.R. 7019: Mrs. Spellman, Mr. Cavanaugh, Mr. Gibbons, Mr. Weaver, Mr. Murphy of Pennsylvania, Mrs. Fenwick, Mr. Nolan, Mr. Beilenson, Mr. Mineta, and Mr. LaFalce.

H.R. 7108: Mr. Bailey, Mr. Nolan, Mr. Coelho, Mr. Mottl, Mr. Walgren, Mr. LaFalce, Mr. Hinson, Mr. Mitchell of Maryland, Mr. Wyatt, Mr. Bonior of Michigan, Mr. Scheuer, Mr. Ford of Michigan, Mr. McDade, Mr. Moakley, Mr. Simon, Mr. Burgener, Mr. Lungren, Mr. Stokes, Mr. O'Brien, Mr. Murphy of Pennsylvania, Mr. Solarz, Mr. Pepper, Mr. Shumway, Mr. Santini, Mr. Mazzoli, Mr. Leland, Mr. Downey, Mr. Vento, Mr. Mitchell of New York, Mr. Maguire, Mr. Patten, Mr. Roberts, and Ms. Mikulski.

H.R. 7165: Mr. Lagomarsino, Mr. Dougherty, Mr. Kramer, Ms. Ferraro, Mr. Hyde, and Mr. Bedell.

H.R. 7170: Mr. Madigan.

H.R. 7229: Mr. Collins of Texas, Mr. Cheney, Mr. Goldwater, and Mr. Badham.

H.R. 7287: Mr. Ertel and Mr. Mattox.

H.R. 7334: Mr. Green, Mr. Shumway, Mr. Hughes, and Mr. McKinney.

H.R. 7366: Mr. Moakley, Mr. Addabbo, Mr. Won Pat, Mr. Rahall, Mr. Fish, Mr. Evans of the Virgin Islands, Mr. Duncan of Tennessee, Mr. Porter, Mr. Guarini, Mr. Fazio, Mr. Charles Wilson of Texas, Mr. Oberstar, Mr. Hinson, Mr. Scheuer, Mr. Ambro, Mr. Green, Ms. Mikulski, and Mr. Simon.

H.R. 7458: Mr. Hansen.

H.R. 7588: Mr. D'Amours.

H.J. Res. 69: Mr. Marks, Mr. Kostmayer, and Mr. McDonald.

H.J. Res. 139: Mr. Rinaldo.

H.J. Res. 249: Mr. Murphy of New York, Mr. Heftel, and Mr. Akaka.

H.J. Res. 389: Mr. Grassley, Mr. Fisher, and Mr. Watkins.

H.J. Res. 501: Mr. Dougherty, Mr. Lehman, Mr. Marriott, and Mr. Aspin.

H.J. Res. 564: Mr. Williams of Ohio, Mr. de la Garza, Mr. LaFalce, Mr. Wolff, Mr. Yatron, Mr. Murphy of New York, Mr. Gibbons, Mr. Scheuer, Mr. Fisher, and Mr. Wyatt.

H. Con. Res. 122: Mr. Atkinson.

H. Con. Res. 166: Mr. Spence.

H. Con. Res. 315: Mr. Paul.

H. Con. Res. 344: Mr. Evans of Georgia, Mr. Applegate, Mr. White, Mr. Hightower, Mr. Loeffler, Mr. Hinson, Mrs. Byron, Mr. Conte, Mr. Benjamin, Mr. Stangeland, Mr. Shelby, Mr. Bedell, Mr. Devine, Mr. Lungren, Mrs. Schroeder, Mr. Tauzin, Mr. Moffett, Mr. Grisham, Mr. Andrews of North Dakota, Mr. Hansen, Mr. Young of Missouri, Mr. McKay, Mr. Madigan, Mr. Daschle, Mr. Thomas, Mr. Mavroules, Mr. Lee, and Mr. Maguire.

H. Res. 48: Mr. Rhodes.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5961: Mr. Kramer.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6418

By Mrs. FENWICK:

—On page 55, line 9, strike out "25" and insert in lieu thereof "35".

By Mr. HOWARD:

—Page 24, strike out line 20 and all that follows through line 18 on page 25 and insert in lieu thereof the following:

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

—Page 44, line 3, after the quotation marks, insert "(a)".

Page 44, line 10, strike out "In promulgating" and all that follows through the second period on line 12 and insert in lieu thereof the following:

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

Page 44, line 21, after "10527" insert "(a)".

—Page 70, line 10, after "motor vehicle" insert "in the United States".

Page 70, line 11, strike out "or" and insert in lieu thereof a comma.

Page 70, line 13, before the period insert the following: ", or between a place in a State and a place outside the United States".

Page 70, line 16, strike out "$1.000,000," and insert in lieu thereof "$750,000.".

Page 71, line 7, strike out "$1,000,000" and insert in lieu thereof "$750.000".

Page 75, line 20, after "motor carrier industry" insert "(including, but not limited to, small and minority motor carriers and independent owner-operators)".

Page 75, line 25, strike out "required" and insert in lieu thereof a "modified".

—Page 80, strike out line 13 and insert in lieu thereof the following:

"BUSINESS ENTERTAINMENT EXPENSES"

Page 80, strike out line 17 and insert in lieu thereof the following:

"§ 10751. Business entertainment expenses

Page 80, line 18, strike out "solicitation or".

Page 81, line 1, strike out "solicitation or".

Page 81, line 12, strike out "solicitation and".

Page 81, strike out the matter following line 19 and preceding line 20 and insert in lieu thereof the following:

"10751. Business entertainment expenses.".

—Page 49, strike out lines 13 through 16, and insert in lieu thereof the following:

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property".

—Page 68, line 8, strike out "September 1, 1981" and insert in lieu thereof "September 1, 1982".

Page 69, line 17, strike out "fiscal year 1981" and insert in lieu thereof "fiscal years 1981 and 1982".

—Page 41, strike out line 13 and all that follows through line 9 on page 42 and insert in lieu thereof the following:

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

Page 42, line 15, after "unload" insert "any part of".

Page 42, line 16, after "unload" insert "any part of".

Page 43, after line 18, insert the following new subsections;

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading the property onto and from the motor vehicle.".

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

—Page 41, after line 7, insert the following new subsection:

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

—Page 15, line 14, srike out "(a)".

Page 16 strike out lines 16 through 19.

—Page 14, line 5, strike out the comma and insert in lieu thereof "and" and after "empty" insert "shipping".

Page 14, line 6, strike out the comma.

Page 14, line 7, before the semicolon insert "(other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles)".

—Page 9, line 21, strike out "common".

Page 9, line 23, after "this title apply" insert "or under a permit to which the provisions of section 10923(b)(5) of this title apply".

H.R. 6711

By Mr. WATKINS:

—Page 74, line 23, strike out "and" at the end of such line, and on page 75 strike out the period at the end of line 3 and insert "; and" in lieu thereof, and after such line insert the following:

(6) to the extent determined by the Secretary, provision of services for the establishment of vocational-based youth enterprises to stimulate community improvement and to serve as learning activities which will contribute to the ability of participants to secure and retain stable employment or self-employment.

—Page 46, line 1, insert immediately after the comma the following: "handicapped disadvantaged youth without regard to grade,".

—Page 57, after line 13 insert the following new paragraphs:

(5) No area vocational school shall be given assistance under this subsection unless and until a majority of the members of its school site council have indicated their accord with the plan as submitted for final approval to the State board for vocational education.

(6) Subject to the availability of funds under this subsection, the State board for vocational education shall provide assistance to an area vocational school for no fewer than three consecutive years, so long as the board determines that the school is making substantial, documented progress toward achieving the objectives set forth in the plan submitted under section 213.

—Page 64, line 18, insert "or resumption of school attendance" immediately after "retention".

—Page 71, after line 12 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(8) programs to encourage youth who left school prior to earning a certificate of graduation to return to school;

—Page 92, line 23, insert "motivating youth to continue or resume school attendance," immediately after "title,".

—Page 95, on line 2, insert the word "written" after the word effective, strike line 3 and add a period after the word "communication."

H.R. 7262

By Mr. BIAGGI:

—Page 63, after line 12, insert the following new section:

SECTION 8 ASSISTANCE

SEC. 214. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(1)(1) The Secretary may enter into annual contributions contracts under this section for the purpose of making assistance available with respect to single room housing units occupied by one or two lower income persons and located in substantially rehabilitated or existing buildings which are used primarily for residential purposes, which have community bathrooms or community kitchen facilities, the occupancy rate of which does not increase or decrease by more than 25 percent during any week, and in which certain custodial and management services (including, but not limited to, linen, housekeeping, and desk services) are provided to the residents.

"(2) In carrying out the provisions of paragraph (1), the Secretary shall establish a separate set of minimum property standards which are designed especially for the units assisted under such paragraph and for the purpose of assuring decent, safe, and sanitary housing with respect to such units. In addition, the Secretary shall provide for periodic inspections to assure that such standards continue to be met."

By Mr. HUBBARD:

—Page 63, after line 12, insert the following:

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

SEC. 214. Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out "owner's action" and inserting in lieu thereof "owner's request for rent increase, conversion of residential units to commercial use, partial release of security, or major physical alterations".

H.R. 7542

By Mr. McCLORY:

—On page 54, strike lines 1 through 7.

—On page 54, strike lines 18 through 24.

—On page 54, strike lines 8 through 17.

—Add at the end of the amendment the following:

"None of these funds shall be used to provide assistance to Cubans paroled into the United States after April 1, 1980, who have been found by an Immigration officer to have been convicted felons or to be prostitutes or have engaged in prostitution."

H.R. 7583

By Mr. GLICKMAN:

—On page 9, beginning on line 13, strike out all after "Public Law 95–593" through "as amended" on line 15.

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

SEC. 614. No more than 20 percent of the total appropriations made available for any agency for any fiscal year under this Act may be obligated during the last two months of such fiscal year.

By Mr. LEVITAS:

—Page 43, after line 5, insert the following:

SEC. 614. None of the funds appropriated under this Act may be used to implement, administer, or enforce any rule, regulation, order, or other action which has been the subject of a resolution of disapproval duly adopted by a committee or committees of the Congress, one House of the Congress, or both Houses of the Congress, as the case may be, pursuant to the applicable law of the United States.

By Mr. MILLER of Ohio:

—Page 43, line 6, add:

SEC. 614. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum

H.R. 7584

By Mr. COLLINS of Texas:

—Page 43, after line 5, add the following new section:

SEC. 605. No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

SEC. 605. No more than 20 percent of the total appropriations made available for any agency for any fiscal year under this Act may be obligated during the last two months of such fiscal year.

By Mr. MOAKLEY:

—Page 41, line 17, strike out "$180,000,000" and insert in lieu thereof "$187,000,000".

Page 41, line 19, after "loans", insert the following: "*Provided, further*, That not more than $7,000,000 of such amount shall be made available for the sole purpose of providing disaster loans under section 7(b)(9) of the Small Business Act to any small business which suffered substantial economic injury due to the cancellation of United States participation in the 1980 summer Olympic games which shall be deemed an economic dislocation.".

SENATE—*Tuesday, June 17, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, we turn from the tyranny of many things and the pressure of many duties to learn that "Thou wilt keep him in perfect peace whose mind is stayed on Thee." Give us the qualities of mind and heart and will revealed in the Master of men. Take our fallible judgments and our limited horizons and so transform them by Thy spirit that Thy grace and truth may adorn what we do in this place. Match us to the times in which we live that we may face with clear conscience the gaze of our contemporaries and the judgment of posterity, and at the end hear Thy "Well done, thou hast been faithful."

Bless this Nation with righteousness and make it a blessing to others. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 17, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

THE JOURNAL

Mr. STEWART. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, June 16, 1980, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEWART. Mr. President, I reserve the remainder of my time and yield to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is now recognized.

Mr. BAKER. Mr. President, I thank the Chair. I have no requirement for the time under the standing order.

I see the distinguished Senator from Wisconsin is in the Chamber. If he wishes additional time I will be glad to yield part of my time to him.

Mr. PROXMIRE. I thank the Senator from Tennessee very much.

Mr. BAKER. Mr. President, I yield the time I have remaining minus 1 minute to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

THE HOLOCAUST: THE STORY OF THE GYPSIES

Mr. PROXMIRE. Mr. President, the story of the holocaust would not be complete if the story of the gypsies were not told. These wandering people of timeless origin and priceless heritage were among the first victims of Nazi genocide. Beginning in 1933, they were persecuted, imprisoned, and exterminated because they were considered "asocial" and of "alien blood."

Most of Europe's gypsies died in concentration camps. There they were worked to death or killed in medical experiments. Many were just herded into gas chambers.

In Serbia, German army units routinely liquidated the bands of gypsies they encountered. Of one massacre, a German army officer reported: "The gypsies cry, scream, and move constantly, even when they are already on the spot where they are to be shot. Some even jumped into the ditch before the firing and pretended to be dead."

Half a million gypsies met this gruesome fate.

Let us make sure this kind of killing is never repeated.

The International Convention on the Prevention and Punishment of Genocide is a vehicle for protecting the innocent. It will guard against the wanton slaughter of ethnic, racial, and religious minorities. And it will make the world safe for all people.

The cries and screams of the gypsies were drowned out by the horrible clatter of Hitler's death machine. But an echo lingers. It returns to join the cries and screams of today's genocide victims in a loud chorus of suffering.

Let us not turn a deaf ear.

Let us take action.

Let us ratify the Genocide Convention.

FAIRNESS DOCTRINE IS NOT FAIR

Mr. PROXMIRE. Mr. President, because of governmental controls like the so-called fairness doctrine and the equal time rule, broadcasters are second-class citizens when it comes to first amendment rights.

Other means of mass communication—newspapers, magazines, pamphlets, books, and motion pictures—have kept their free press rights. But not broadcasting.

To help give the American people increased first amendment rights, I have introduced legislation—S. 22, the First Amendment Clarification Act—to abolish the fairness doctrine and the equal time rule.

The equal time rule requires that when a candidate for public office is given or sold time, any other candidate for that same office must be given an equal opportunity.

That sounds great. But the equal time rule abridges first amendment rights. It is governmental control over a part of the free press.

The fairness doctrine of the Federal Communications Commission requires that broadcasters afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance.

Unlike the equal time requirement, the fairness doctrine does not call for each viewpoint to receive the same amount of air time. Nor does it require that the other viewpoint be given in the same program.

Again, that sounds fine. But the fairness doctrine, like the equal time rule, violates the first amendment. Once more, a segment of the free press is being regulated by the Government.

Why is it so important that S. 22 be enacted? Mr. President, there are many reasons why this legislation is necessary, and indeed, crucial. In a column in yesterday morning's Washington Post, William Raspberry cites the major arguments in favor of abolishing the fairness doctrine.

I should note, in passing, that Mr. Raspberry's column does confuse, at one point, the difference between the fairness doctrine and the equal time rule, but this minor error in no way undermines the validity of the other arguments to which he refers.

The Raspberry column reports on a June 6 speech by CBS chairman William S. Paley before the Associated Press Broadcasters Convention. Paley makes these key points, with which Raspberry concurs.

First, there is no fairness doctrine for newspapers. Why should there be such a doctrine for broadcasters? The reason for this different treatment has always rested on something called the "scarcity rationale."

The argument is that there are only a limited number of TV channels and radio frequencies. So the Government must license those who can broadcast and make them operate in the way that the Government thinks is in the public interest.

But is the "scarcity rationale" still valid? Absolutely not. In almost every city in America—regardless of size—there are more television signals than daily newspapers. If radio stations are counted, as they must be, general audience broadcasting stations far outnumber general circulation newspapers. Moreover, economic pressures make it nearly impossible to establish a daily newspaper in a community where one already exists.

Paley is very much aware of this, and he cites solid statistics to support his case.

Second, Paley argues that the purpose of the first amendment guarantee of a free press was—and still is today—to "remove governmental restrictions on the free circulation of ideas and opinions and to protect the public's right to be informed." As Paley notes, broadcasting—radio and television—is the major source of news for the majority of the American people. How, then, can we justify diminishing the first amendment protections that broadcasters deserve?

On the one hand, Americans rely most on radio and television for their news. Yet, on the other hand, broadcasters have less first amendment freedom than newspapers. Mr. President, this makes no sense. Moreover, it is dangerous and a threat to our way of life.

Third, as Raspberry reports, Mr. Paley makes another key point in analyzing the "unfairness" of the fairness doctrine. Paley notes that newspapers have become more and more responsible and objective over the years. Moreover, they have done so voluntarily and without governmental interference and pressure. Why should not broadcasters be given the same chance?

Errors and excesses can still be found on the pages of today's newspapers. I concede that. But the fact remains that the printed press, overall, acts responsibly.

Responsible, professional newspaper journalism has risen out of necessity: to satisfy demanding readers. And, of course, it has also come about through the need to compete with nearly instantaneous delivery of news by radio and television.

Television and radio broadcasters have the FCC and its Fairness Doctrine to contend with. By law, they must be fair. Newspapers are fair without governmental control.

Mr. President, broadcasters deserve that same opportunity to be free.

Finally, William Paley makes a most interesting point in noting that newspapers and magazines may soon be coming into our homes via the television screen and by printout. When this happens, Paley asks, What will stop the print media from being subject to the "same regulatory web" as the electronic media?

Mr. President, I commend the excellent article by Mr. Raspberry to the attention of my colleagues and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "FAIRNESS DOCTRINE" ISN'T FAIR

(By William Raspberry)

You know, of course, the rationale for the Federal Communication Commission's "fairness doctrine." What you would also know, if you had been listening to CBS Chairman William S. Paley's recent speech before the Associated Press Broadcasters Convention, is that the doctrine doesn't make sense.

The "fairness doctrine" requires, among other things, that broadcasters who give air time to political candidates must make available "equal time" to their opponents. No such requirement attaches to newspapers, which, under the First Amendment, are free to make their own editorial judgments as to what is worth covering and how to cover it.

The rationale for the distinction is that there is room for only a limited number of radio and television stations on the broadcast spectrum, while there is no limit on the number of newspapers that can be printed. The scarcity of broadcast opportunities thus mandates federal enforcement of fairness.

That's the rationale, but Paley isn't buying. "To anyone still arguing that this scarcity principle has any meaning as a grounds for enforced fairness," he said in his June 6 speech in Denver, a scarcity of broadcast outlets, as compared with daily newspapers, simply no longer exist. Indeed, its the other way around. "In 1927 [when the FCC was created] there were 677 broadcasting stations in the United States and 1,949 daily newspapers. Today, there are 1,753 daily newspapers and 9,774 broadcasting stations." So much for scarcity.

Moreover, Paley argued, not just the "fairness doctrine" but the whole notion of federal regulation runs counter to the First Amendment guarantee of a free press. He acknowledges that the framers of the Constitution couldn't have had radio and television in mind when they drafted the First Amendment, since broadcasting didn't exist at the time. But the fact that the framers didn't foresee the technology that produced the broadcast media when they decreed that "Congress shall make no law . . . abridging the freedom of speech, or of the press" is beside the point, Paley argues.

The clear purpose was to remove governmental restrictions on the free circulation of ideas and opinions and to protect the public's right to be informed. But today, as Paley correctly observes, more people get their information from radio and TV than from newspapers.

"It's strange, to say the least, that the medium on which the public places most reliance for news is the medium with the least First Amendment protection," Paley said. "Yet the Congress has resolutely refused to confront that fact, never seriously considering that broadcast journalism should have the same First Amendment protections enjoyed by the print media."

But can't it be argued that bacause broadcasting is so influential in public affairs the government has the duty to see to it that it behaves fairly and responsibly?

"It is worth remembering," Paley counters, "that the First Amendment was enacted at a time when there was no concept of responsibility in the press and no inclination to create one. The ideals of objectivity and responsibility, voluntarily assumed by the press, are a product of this century, and it is an odd paradox that now, when the press has attained by far the greatest degree of responsibility and objectivity in its long history, is precisely the time when press freedoms have been given such adverse treatment by the Supreme Court and others."

Paley makes one other interesting observation that should give pause to newspaper publishers still basking in their unregulated First Amendment freedom: "It is already technically possible to bring newspapers and magazines into the home, both on the television screen and by printout. Before long, all this will be delivered as easily as the television pictures now come to you."

And when that happens—when newspapers are piped over the same "scarce" airwaves as television—what is to prevent the print media from being "drawn into the same regulatory web"?

If newspaper publishers are serious about protecting their own press freedom, Paley warns, they had better start trying to free their electronic brothers. A declaration of war on the "fairness doctrine," he suggests, would be a good way to start.

Mr. PROXMIRE. Mr. President, I thank my good friend, the minority leader, for so graciously yielding time.

Mr. BAKER. Mr. President, I was delighted to do that, and I am prepared now to yield back the remainder of my time under the standing order.

I assume that the acting majority leader has done as much.

Mr. CHURCH. Mr. President, if he has not done as much, he now does as much.

Mr. BAKER. I thank the "acting" acting majority leader, and I yield back the remainder of my time under the standing order.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1980

The ACTING PRESIDENT pro tempore. All time having been yielded back, under the previous order the Senate will now proceed to the consideration of S. 2714, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2714) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and for other purposes.

The Senate proceeded to the consideration of the bill.

Mr. CHURCH. Mr. President, S. 2714, the International Security and Development Corporation Act of 1980, provides authorization for appropriations of $4,813.9 million for international security assistance, development assistance, and Peace Corps programs in fiscal year 1981. This year the Foreign Relations Committee consolidated all U.S. bilateral foreign aid programs into one piece of legislation.

In considering S. 2714, the committee sought to exercise maximum fiscal restraint while maintaining the effectiveness of two major instruments of U.S. foreign policy—security and development assistance programs. In recognition of the need for budgetary austerity, the committee adopted an amendment which I introduced that reduces the President's fiscal year 1981 request by $431.7 million. These reductions have enabled the committee to report an authorization bill which is $41.6 million below last year's fiscal year 1980 authorization.

Mr. President, the International Security and Development Cooperation Act of 1980 contains the following major provisions:

It authorizes the appropriation of $638.6 million for grant military aid programs in fiscal year 1981, while providing authority for an additional $3.075 billion in foreign military sales financing. The committee bill provides military aid for Israel ($1.4 billion), Egypt ($551 million), Turkey ($252 million), Greece ($183 million), and Korea ($175 million).

It authorizes appropriations of $2,049.5 million for fiscal year 1981 for economic support fund programs which include $785 million for Israel, $750 million for Egypt, and $200 million for Turkey.

It authorizes the appropriation of $1,282 million for AID's functional development programs in agriculture, health, population, education, and selected development activities.

It authorizes the appropriation of $114.6 million for the Peace Corps.

It authorizes the appropriation of $38.6 million in international narcotics control.

It authorizes the appropriation of $25 million for fiscal year 1981 for ongoing international peace-keeping efforts in the Sinai and in Cyprus.

It removes the $35 milllion ceiling on commercial arms exports while providing for a concurrent resolution veto for commercial arms sales abroad.

It removes the 10-percent reserve requirement for the foreign military sales guarantee fund, replacing it with a $750 million floor. This committee action reduced the fiscal year 1981 authorization for security assistance programs by $234 million.

It authorizes the appropriation of $233.4 million for voluntary contributions to international organizations and programs such as UNICEF, the United Nations Development Programme, the World Food Program, and the International Atomic Energy Agency.

It directs that the costs of the grant international military education and training programs be calculated on an incremental basis, that is calculated to include only the additional costs incurred by the U.S. Government, rather than the full cost basis which presently is maintained for these programs. It is hoped that this change in IMET costing will increase the numbers of participants, and reverse the downward trend of the past 5 years.

It provides the President with some additional emergency powers in the management of security assistance programs, allowing a waiver authority for certain restrictions in the Arms Export Control Act, and a drawdown authority up to $50 million in U.S. Defense Department stocks.

It provides the AID Auditor General with full authorities vested in Inspectors General of other Federal agencies, and changes the title of Auditor General to that of AID Inspector General.

Mr. President, I ask unanimous consent that a table showing the authorizations contained in this bill be placed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AUTHORIZATION OF APPROPRIATIONS CONTAINED IN S. 2714

[In thousands of dollars]

	Fiscal year 1980		President's fiscal year 1981 request	Committee fiscal year 1981 recommendation	Change from President's request
	Authorization	Continuing resolution			
Title I—Military and related assistance programs:					
FMS financing (sec. 104)	673, 500	645, 000	734, 000	500, 000	−234, 000
Grant military assistance (sec. 106)	110, 200	110, 000	104, 400	106, 100	+1, 700
Grant military education and training (sec. 109)	31, 800	25, 000	32, 500	32, 500	
Peacekeeping operations (sec. 110)	21, 100	22, 000	25, 000	25, 000	
Subtotal	836, 600	802, 000	895, 900	663, 600	−232, 300
Title II—Economic support fund (sec. 201)	[1] 1, 935, 000	1, 927, 000	2, 030, 500	2, 049, 500	+19, 000
Title III—Development assistance:					
Agriculture, rural development, and nutrition (sec. 301)	659, 000	605, 000	729, 273	677, 000	−52, 273
Population planning (sec. 302)	201, 000	185, 000	238, 015	208, 000	−30, 015
Health (sec. 302)	141, 000	130, 000	159, 213	150, 000	−9, 213
Education and human resources (sec. 303)	105, 000	97, 000	122, 069	107, 000	−15, 069
Energy and selected development (sec. 304)	125, 000	115, 000	160, 632	140, 000	−20, 632
Functional subtotal	1, 231, 000	1, 132, 000	1, 409, 202	1, 282, 000	−127, 202
Sahel development program (sec. 306)	[2] 25, 000	75, 000	113, 442	88, 442	−25, 000
International organizations (sec. 309)	267, 280	260, 000	232, 050	233, 350	+1, 300
Subtotal	1, 523, 280	1, 467, 000	1, 754, 694	1, 603, 792	−150, 902
Title IV—Other assistance programs:					
American schools and hospitals abroad (sec. 401)	25, 000	25, 000	7, 500	25, 000	+17, 500
International narcotics control (sec. 402)	51, 758	38, 500	38, 573	38, 573	
International disaster assistance (sec. 403)	[3] 76, 800	20, 000	25, 000	25, 000	
Institute for scientific and technological cooperation (ISTC)	23, 750		85, 000		−85, 000
African rehabilitation and resettlement	14, 920	14, 250			
Subtotal	192, 228	97, 750	156, 073	88, 573	−67, 500
Title V—Peace Corps (sec. 501)	105, 404	99, 200	114, 656	114, 656	
Title VI—Operating expenses (sec. 604)	263, 000	254, 000	293, 800	293, 800	
Total	4, 855, 512	4, 646, 950	5, 245, 623	4, 813, 921	−431, 702

[1] Legislation awaiting conference (H.R. 6081/S. 2012) would authorize an additional $80,000,000 for certain Central American countries. An equivalent amount is contained in the pending conference report on the fiscal year 1980 Foreign Assistance and Related Appropriaticns Act.

[2] Congress originally approved a no-year authorization of $200,000,000 for this purpose. In fiscal year 1980, an additional $25,000,000 was authorized. To date, $125,000,000 has been appropriated, and the continuing resolution includes a further $75,000,000 for appropriation.

[3] Includes $21,800,000 contained in Public Law 96–53, $25,000,000 for Caribbean hurricane relief (Public Law 96–109), and $30,000,000 for Cambodian famine relief (Public Law 96–110).

Mr. CHURCH. Mr. President, in making reductions in this bill the Committee on Foreign Relations has taken seriously its fiscal responsibility. This bill represents an austere budget for security and development assistance.

The committee unanimously supports this bill, fully cognizant of the fact that the United States is presently confronted with some of the gravest foreign policy challenges in the post World War II era. We enter the decade of the 1980's faced with the Soviet invasion of Afghanistan, the continuing hostage crisis in Iran, civil strife throughout much of Central America, a political transition in southern Africa, potential threats to peace in the Persian Gulf through which most of the West's vital oil supplies flow, and the need to insure continuing progress in the Middle East peace process. In response to these challenges, the United States has sought to strengthen existing close ties with friends and allies while seeking to negotiate new security arrangements with several strategically located nations. The funds contained in this legislation will help the United States to meet these challenges. The legislation also provides the President with a greater degree of flexibility to use security assistance in response to an ever-changing international climate that is fraught with difficulty for our country.

The committee has consolidated security and development assistance in one bill because it is our view that both of these important programs are directly linked to the national security interests of the United States. While $5.4 billion has been proposed for the fiscal year 1981 security assistance programs, only $2.8 billion will require actual appropriations by the Congress. Almost 70 percent of the security assistance contained in the legislation is provided for the Middle East, with Israel designated to receive 41 percent and Egypt 24 percent. A substantial portion of the remaining security assistance funds will be provided to countries in which the United States maintains military bases, or where the United States has long-term security interests.

The committee recommends an overall development assistance authorization level of $1.6 billion, $218 million below the President's request. The committee believes that the United States can maintain an adequate level of support for development aid and the specialized United Nations organizations at this level.

The committee report has highlighted the important linkage between security and development assistance. Events during the past year have served to underscore the important relationship between the United States and the developing nations of the world. This relationship will grow in importance, directly affecting the U.S. economy and security, in the next 20 years. Over 1 million American jobs are now dependent on export trade with the developing countries. Almost one-third of all the wheat, rice, and cotton that is grown in the American breadbasket is now purchased by these same countries. And just as our exports have found a favorable market in these countries, we have grown increasingly dependent on them for critical imports of minerals and other raw materials.

Seventy-five percent of our cobalt is imported from the developing nations, as is 90 percent of our bauxite, 56 percent of our mercury and 100 percent of our tin and natural rubber. One-third of all of our raw materials is derived from this trade with the Third World. Our Nation has a vital stake in the economic and political stability of these societies. Because of this economic relationship, our development assistance program is a prudent investment in our own future.

The Senate undertakes its consideration of this important piece of legislation in the midst of grave international problems. I believe that the International Security and Development Cooperation Act of 1980 is an essential tool for U.S. foreign policy at this historic juncture. The budget authority recommended for security and development assistance programs contained in this bill is generally consistent with the assumptions of the first concurrent budget resolution.

The members of the Foreign Relations Committee have deliberated carefully on this legislation, and I want to take this opportunity to commend them for a job well done. I would especially like to thank the ranking minority member, Senator JAVITS, for his tireless and expert efforts relating to this bill.

Mr. President, the Senate Committee on Foreign Relations recommends that the Senate approve the International Security and Development Cooperation Act of 1980.

Mr. JAVITS. Mr. President, I join with my esteemed colleague, the chairman of the Foreign Relations Committee, in urging the passage of S. 2714, the International Security and Development Act of 1980, which authorizes appropriations of $4,813.9 billion for U.S. international security and development assistance and Peace Corps programs for fiscal year 1981. I believe that this bill, as reported by the Foreign Relations Committee recognizes the need for fiscal restraint in budgetary authority while adequately serving to promote U.S. policies and programs which are consistent with and extremely vital to meet the challenges facing U.S. foreign policy.

Mr. President, I thank Senator CHURCH, our committee chairman, for his kind comments respecting the work of the minority and my work on this legislation; however, he should take so very much of the credit for the committee's expeditious and thorough handling of this important legislation which provides much of the basis and foundation for much of U.S. foreign policy. More significantly, Senator CHURCH deserves much credit for the $431.7 million reduction the committee amended to the President's revised request, a savings which in my judgment does not in any way cripple the programs funded by the bill and which in many cases enhances and strengthens them. Any further reductions, however, I believe would be most unwise and would have a damaging effect not just on the programs in the bill but on U.S. foreign policy.

This is because this bill serves as the single most important annual congressional input into U.S. foreign policy. Both the development and security provisions of the bill are important, indeed essential, to U.S. foreign policy and thus, the security of the Nation. If we cannot head off problems around the world through diplomacy, foreign aid, and security assistance, we inevitably find ourselves spending many more dollars in our defense budgets to hedge against the threats to our security which arise as a result.

The all-important and central aspect of the bill is pointed out on pages 5 and 6 of the committee report to S. 2714. I quote:

> While acknowledging the need for fiscal year restraint, the Committee is equally concerned that the United States is facing some of the gravest foreign policy challenges in the post-World War II era. The Soviet invasion of Afghanistan, external and internal threats to the free world's oil lifeline in the Persian Gulf, disorder and violence throughout much of Central America and the Caribbean, the complexities of assuring progress in the Egyptian-Israeli peace negotiations, the continuing tragedy and conflict in Cambodia, the rising debt burden of the developing world, and disarray in the international monetary system, are among the most notable of the problems the nation must be prepared to address in the coming year.
>
> Thus, while the Committee recognizes the need for austerity, it is also deeply concerned over the weakening of two major instruments of foreign policy—foreign and security assistance programs.
>
> It is important to reiterate the broad purposes of these programs and their substantial, though often indirect, economic and political benefits. A very large portion of the funds authorized under this legislation is either repaid with interest or, spent in the United States for American goods and services. In addition, even that portion which is characterized as "foreign aid," serves to support the economic development of countries which are now collectively our greatest export markets, and which alone provide the largest potential for growth in those markets.
>
> Budget austerity also imposes upon the Congress and the Administration the added responsibility for seeking extraordinary measures to maximize the effectiveness of each scarce dollar we authorize and appropriate.
>
> In this period of budgetary restraint, the Committee reviewed and reported the International Security and Development Cooperation Act of 1980 with three broad concerns in mind:
>
> To report the leanest and tightest bill possible, consistent with the essential and vital requirements of U.S. foreign policy.
>
> To maximize the effectiveness of each dollar spent under these programs.
>
> To make clear the concrete benefits of these programs to our own economy.
>
> With these three concerns in mind, the reductions in the President's request taken by the Committee represent the bare minimum required to meet the complex foreign policy challenges facing our nation in the 1980's.

It should be clear that this legislation does not support a "giveaway" program that should be the target of arbitrary budget reductions. Such cuts would only imperil the efforts of this Nation—no matter who is its President—to be a partner with allied, friendly and nonalined nations throughout the world for peaceful development and the strengthening of security measures and programs to deter and repel aggression. Further reductions in this bill will endanger the achievement of that objective.

With respect to the specific security provisions of the bill, it funds—

First, $137.3 million in military assistance programs primarily for four countries (Spain, Portugal, the Philippines, and Sudan) for an actual appropriation of $106 million;

Second, grant military training (IMET) for 32 countries throughout the world. This program provides face-to-face human contacts with potential military leaders throughout the world and gives a return to the United States far in excess of the program's actual $32.5 million value. In addition, pursuant to an amendment in committee sponsored by Senator HAYAKAWA—and explained by Chairman CHURCH—the impact of this program will be significantly enhanced by increasing the number of students who can be trained for any given program level.

Third, foreign military sales credits to 27 countries for a program value of $3.075 billion at an actual appropriated cost of $500 million—the amount of forgiven FMS credits for Israel (a longstanding program). The FMS credits program was also importantly affected in committee by an amendment introduced by Chairman Church and myself.

This amendment eliminated the need for an automatic annual 10 percent authorization and appropriation for all normal FMS credits programs and established instead a $750 million floor for the reserve fund needed to guarantee FMS credit loans. This means that the reserve fund will be replenished only as necessary, and removes the need for any budget authority for guaranteed loans for at least the next year or two. This amendment was a major component of the funding reduction taken by the committee on the bill, permitting a cut in budget authority of $243 million from the President's request. In this regard, I would like to give credit to a member of the minority staff of the Foreign Relations Committee, Stan Sienkiewicz, who perceived of this innovative approach to dealing with the FMS credit program. We owe so much to our staffs and I take great pride in giving credit to members of the staff when they come up with an idea like the one Mr. Sienkiewicz came up with.

Fourth, economic support fund programs for 16 countries for an appropriation and program value of $2.049 billion; these programs provide vital budgetary and development support for major friends and allies such as Egypt, Israel, Turkey, and Sudan;

Fifth, small but important peacekeeping operations in the Middle East and Cyprus for an appropriation of $25 million, and an appropriation of $38.573 million for the international narcotics control program.

Mr. President, I ask unanimous consent to have printed in the Record a table from the committee report listing the country-by-country expenditures for these various security programs.

There being no objection, the table was ordered to be printed in the Record, as follows:

COMMITTEE RECOMMENDATIONS FOR THE FISCAL YEAR 1981 SECURITY ASSISTANCE PROGRAM

[Dollar amounts in thousands]

Country	Grant military aid (MAP)	Grant military training (IMET)	FMS financing	Economic support fund	Peace keeping operator	International narcotics control	Total	Percent worldwide
East Asia and Pacific:								
Burma		31					31	
Indonesia	550	1,989	$30,000				32,539	
Korea		1,491	175,000				176,491	
Malaysia		333	10,000				10,333	
Philippines	25,000	694	50,000	$30,000			105,694	
Thailand	467	891	70,000				71,358	
Regional programs						$7,940	7,940	
Regional total	26,017	5,429	335,000	30,000		7,940	404,386	8
Near East and South Asia:								
Egypt		996	550,000	750,000			1,300,996	
Israel			1,400,000	785,000			2,185,000	
Jordan	1,583	1,085	50,000	50,000			102,668	
Lebanon		497	20,000	7,000			27,497	
Morocco		1,291	45,000				46,291	
Oman			10,000				10,000	
Tunisia		794	15,000				15,794	
Regional projects				12,500		500	13,000	
Other		1,674					1,674	
Regional total	1,583	6,337	2,090,000	1,604,500		500	3,702,920	68
Africa:								
Botswana				15,000			15,000	
Gabon		50	2,600				2,650	
Kenya		597					597	
Liberia		249	1,200				1,449	
Mozambique				9,000			9,000	
Niger		50					50	
Somalia		84					84	
Sudan	1,900	746	30,000	50,000			82,646	
Zaire		897	8,000				8,897	
Zambia				27,000			27,000	
Zimbabwe				30,000			30,000	
Southern African regional				9,000			9,000	
Other		1,026	3,700				4,726	
Regional total	1,900	3,699	45,500	140,000			191,099	4
American republics:								
Barbados		84	5,000				5,084	
Bolivia		398	5,500				5,898	
Colombia		343	12,700				13,043	
Dominican Republic		498	3,000				3,498	
Ecuador		364	4,000				4,346	
El Salvador		498	5,000				5,498	
Honduras		495	5,000				5,495	
Jamaica		25		3,000			3,025	
Nicaragua		494	5,000	25,000			30,494	
Other		5,928	9,300			19,580	34,808	
Regional total		9,109	54,500	28,000		19,580	111,189	2
Europe:								
Austria		25					25	
Cyprus				15,000			15,000	
Greece	1,200	1,490	180,000				182,690	
Portugal	51,000	2,194		25,000			78,194	
Spain	3,600	2,000	120,000	7,000			132,600	
Turkey		1,988	250,000	200,000			451,988	
Other		69					69	
Regional total	55,800	7,766	550,000	247,000			860,566	16
Nonregional:								
General costs	52,000	160					52,160	
International narcotic control						10,553	10,553	
U.N. forces in Cyprus					$9,000		9,000	
Sinai support mission					16,000		16,000	
Nonregional total	52,000	160			25,000	10,553	87,713	2
Worldwide total	137,300	32,500	3,075,000	2,049,500	25,000	38,573	5,357,873	100
Required appropriation	(106,100)	(32,500)	(500,000)	(2,049,500)	(25,000)	(38,573)	(2,751,673)	

Mr. JAVITS. In addition to the numerous country programs in the bill, it also contains several important generic policy provisions. The executive branch requested a number of modifications to existing law the effect of which would have been to give the President some added authority in dealing with urgent situations and to reduce what was judged by the executive branch to be unnecessary and unneeded congressional controls on programs supported by the bill. The committee accepted some of these requests, modified some and rejected some.

With respect to section 101 of the bill, the administration requested a deletion of existing statutory language that could have had the effect of authorizing U.S. FMS contract support personnel to become indirectly involved in hostilities when an FMS recipient became involved in a conflict. The committee rejected the requested language deletion and adopted, instead, a modification of existing law that retains a prohibition on any support activities that "may engage U.S. personnel in combat activities" and added a requirement for a report to Congress within 48 hours of the outbreak of significant hostilities involving any country in which U.S. personnel are performing defense services. The committee was deeply concerned that a situation could be allowed to develop that could eventually involve U.S. personnel in hostilities without even the notification of Congress.

The administration also requested an expansion of the President's existing authority to waive any provision of the Foreign Assistance Act of 1961 as amended to include authority to waive any provision of the Arms Export Control Act or of any freestanding authorization or appropriation act. The committee amended this request to require that such a waiver only be used when it is "vital to the security of the United States," when the situation is urgent, and that the Congress be consulted and notified before and after the fact of any such Presidential waiver. The committee expects that any such waivers will only occur in rare circumstances as has been the case in the past.

The committee rejected administration requests to exempt defense construction contract sales and arms sales to NATO countries, Japan, Australia, and New Zealand from the congressional review and veto procedures of section 36(b) of the Arms Export Control Act.

The committee agreed to the administration's request respecting this year's increase in certain defense stockpiles for Korea already in that country, and also to a request for added flexibility in the management of the international military assistance and sale program.

The committee accepted an amendment offered by Senator GLENN and modified by Chairman CHURCH and me. This amendment would remove the $35 million ceiling on all commercial arms sales in favor of requiring that all qualifying sales be submitted to the congressional review and veto procedures of section 36(b) of the Arms Export Control Act—which is presently the case of all government to government sales.

Furthermore, to insure the adequacy of foreign policy controls on all arms sales, the President is authorized by specific statutory language to require that any sale proceed on a government to government, rather than commercial basis should that be necessary and, in the event of a sale's proceeding on the commercial track, that the Secretary of State be kept advised of the progress of such sale.

Finally, third country commercial sale transfers are submitted to Congress for review and possible veto. The committee strongly believed that these modifications were needed and appropriate in view of recurring pressure to raise the ceiling on commercial arms sales or to remove that ceiling altogether. Not only will this amendment address the problem of prohibiting certain munitions control list items from being sold commercially by an arbitrary ceiling to wit, $35 million, but also congressional review of commercial sale is enhanced and executive branch policy oriented controls are protected and reinforced at the same time.

Mr. President, two vital areas of the world, the Middle East and the Persian Gulf/Southwest Asia regions, merit special mention in the context of this bill and the present world condition.

As all Senators are aware, the administration has been in the process of negotiating base access rights with three countries in the Persian Gulf region: Oman, Somalia, and Kenya. There is no funding in this bill for those base rights and for military construction at those sites. That funding will have to be handled in a supplemental request or a reprograming of funds and in the military construction authorization bill at the appropriate time. I would strongly urge the former alternative, for the programs in this bill are already stretched very tight.

Furthermore, the absence to date of an agreement with the Government of Pakistan for assistance to that threatened country which is also the host to approximately 750,000 Afghan refugees is a matter of considerable concern to the committee. Our report to S. 2714 addressed that issue specifically:

> The Committee continues to believe that it is in the United States national interest to help Pakistan meet the new threat to its independence and national integrity resulting from the Soviet invasion of Pakistan (Afghanistan). It regrets that negotiations earlier this year failed to produce a mutually agreed upon package of military and economic assistance. The Committee believes that United States efforts to assist Pakistan should not be abandoned because of the difficulties encountered in these earlier negotiations. Therefore it strongly urges the Administration to resume discussions with Pakistan for the purpose of reaching agreement on an appropriate economic assistance program for Pakistan, and invites the Administration to present a legislative request in this regard at the earliest practicable date.

Additionally, economic conditions in the Middle East dictate that the United States reinforce its commitment to the Egyptian-Israeli peace agreement, which continues to be of paramount importance to U.S. foreign policy. The Israeli economy is severely strained. Israel is currently experiencing both its largest balance-of-payments deficit, which was $4.25 billion in 1979, and the worst inflation in Israeli history, which stood at 111 percent in 1979. Furthermore, Israel owes $15 billion in foreign debt, which has resulted in a very high debt burden for the country with 29 percent of export receipts going toward principal and interest payments on the debt.

Since the signing of the Camp David agreement, Egypt has also found itself in economic difficulty. It has lost $6.5 billion in aid from the Arab League, which has only served to worsen conditions in an already strained Egyptian economy.

I believe that the pressing economic needs of these two countries pose as serious a threat to the durability of the peace in the Middle East as does any potential threat posed by opponents of the agreement in the region. Therefore, the United States should insure the availability of adequate assistance to both Israel and Egypt. In addition to the funds requested by the administration, I moved in committee to provide an additional $200 million in foreign military sales loans to Israel and also to convert the $785 million in economic support funds for Israel and the $750 million for Egypt to a full grant. These extra funds will give the two countries added resources to combat their particular economic problems without any additional budgetary outlays for the United States.

The Foreign Relations Committee felt a responsibility to closely review the administration's authorization request of $1,754.7 billion for U.S. development assistance programs in fiscal year 1981. The committee pared down the President's request for the development account to $1,603.8 billion, of which $1,282 billion was for the functional development assistance accounts of agriculture, population planning, health, education and energy, and selected development projects. This reduction in the functional accounts represents a decrease of $127.2 million.

The committee was also able to save an additional $110 million in budget authorization, without impacting on current program levels, by reducing by $25 million the President's request of $113 million for the Sahel development program to $88.4 million. This authorization level reflects the appropriations request included in the President's budget and reaffirms the committee's full support of this innovative multilateral effort to assist some of the world's poorest peoples.

The committee's decision to decline, at this time, to authorize $85 million in initial funding for the Institute for Scientific and Technological Cooperation (ISTC) should not be interpreted as a "vote of no confidence" in ISTC. Rather, it is an acknowledgement of the present realities in respect to foreign aid. I continue to support the ISTC as authorized by Congress and believe that full funding of this agency is vital to help strengthen the capacity of the people of developing countries to solve their development problems. Nevertheless, I do not feel that this is the year in which to start funding new initiatives.

Initial funding of ISTC should be postponed until a more propitious time when we will be able to provide the full budgetary support which is necessary for the important development program. Furthermore, I do not believe that we should make any permanent changes in the ISTC authorizing language, which we passed last year, that would limit its mission, its innovative approach to involving LDC and nongovernmental representatives, or its independence from AID. These are the features of ISTC that continue to make the program worthy of support. We should not seek to water down the program to get some funding. Rather, we must be patient and bide our time until the proper moment presents itself.

I introduced an amendment, however, to add $40 million to the agriculture, rural development and nutrition account and $11 million to the health account to be used exclusively for U.S. contributions to international development research and health projects which were originally proposed to be funded through ISTC.

This fiscally sound development budget for fiscal year 1981 which is targeted to serve the pressing development needs of three-fourths of the world's population is also an essential element in securing our overall international and security position. By providing an infusion of critically needed capital and technical advice into many of the poorest countries in the world, U.S. assistance plays an important role in helping to insure global economic stability and is a vital component in reducing the threat of increased international tensions, which is essential to U.S. security and foreign policy.

Mr. President, I ask unanimous consent that I be permitted to have inserted in the RECORD an editorial from the New York Times entitled "National Security, Absurdly Defined," which eloquently explains the vital link between global poverty, foreign aid, and our national security. This same point was recently made by former Secretary of State Vance in his address at Harvard when he said that American aid programs "make the most difference in supporting our Third World diplomacy and in addressing now the causes of later crises." Philip Geyelin, in a recent article in the Washington Post that I also ask be inserted in the RECORD, elaborates on Secretary Vance's approach by calling foreign aid "preventive medicine" as opposed to the "operating table" of the bilitary budget.

Although, as Geyelin notes, because economic development aid is preventative medicine, "you can't even prove beyond doubt that what you set out to prevent was ever going to happen," the possibility still remains that, had the Congress given greater support to foreign aid in the past, we would not be finding ourselves in the present urgent situation regarding national defense and security spending.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 1, 1980]

NATIONAL SECURITY, ABSURDLY DEFINED

The great budget underscores afresh one of the higher absurdities of American politics. Whatever the final figure of the defense budget, Congress is plainly determined to splurge an ocean of money for national security, narrowly defined. Indeed, it is considering a 20 percent increase over a five-year period, resulting in total expenditures of nearly one trillion 1980 dollars.

But what about national security, broadly defined? Money, and lots of it, seems available to narrow various gaps that the service chiefs discern: the missile gap, the naval gap, the tank gap, the aircraft gap. By contrast, only a pittance is committed to narrowing the global poverty gap, even though national security is palpably threatened by the abyss that separates the affluent from the wretched—the more so since OPEC prices began to devastate the poorest third of the world.

What is wrongly called "foreign aid" has always constituted a meager drop in the budget. As the saying goes, foreign aid has no constituency: its recipients cast no votes and sign no visible contracts in lawmakers' districts. In hard times, it is first on the chopping block. The other day, Congress shredded by 10 percent the Administration request for $4 billion for international development banks, while holding bilateral development aid to about $1 billion a year.

Yet "foreign aid" is misnomer, implying charity, a giveaway with no domestic payback. That impression is a caricature. Of the $44 billion in total aid loans since 1945, nearly $22 billion in principal and interest had been repaid by 1978. Nearly every loan payment has been made on time. And the great bulk of the money has been spent for goods and services in the United States; in 1978, "foreign aid" accounted for expenditures of $381 million in New York alone.

Granted, much of the aid is extended at low interest. But without such loans and other aid programs, American farmers would be in serious straits; at least a fourth of their acreage produces exports to the third world. Moreover, liberal credit has transformed the pattern of trade. In five years, American exports to developing countries have tripled; they now account for 37 percent of all manufactured exports and buy more of them than all of Europe. The best estimate is that about 1.2 million American jobs are directly dependent on exports to the third world.

Still another impression is that "foreign aid" is an onerous burden on the American taxpayer. That, too, is moondrift. Averaged out, Americans pay the equivalent of a weekly pack of cigarettes for "foreign aid."

Putting aside the prosaic numbers and ignoring all moral imperatives, "foreign aid" is a vital instrument of national security policy, a form of influence and also insurance against disasters that could impel a military response. There is generous room for argument over how well existing programs fulfill their purposes. But by contrast with military hardware, aid can be used in benign ways to promote America's highest values. That such rudimentary truths must be insistently spelled out is a further measure of the sleeping sickness that seems to have gripped not just Congress but the whole body politic.

HEADING INTO TROUBLE WITH THE THIRD WORLD

In his farewell address at Harvard the other day, former secretary of state Cyrus Vance used uncharacteristically sharp words ("dangerous . . . naive . . . foolish") to deplore the "nostalgia" for military solutions as a substitute for diplomacy.

Without mentioning names, he took unmistakable issue with the administration he served and resigned from on a matter of principle—and took a calculated whack at the Kissingerian "grand design" approach to foreign policy as well. And that's what caught the attention, understandably.

But the fact remains that the issue he spoke of most passionately—his most "heartfelt concern," according to associates—was not the failure to ratify SALT II, or the overemphasis on arms spending, or the "perverted hubris that overestimates our power." Vance's sharpest words were reserved for the state of the American foreign aid effort in recent years.

"American aid programs . . . make the most difference in supporting our Third World diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

"The result is—I can think of no other word—disgraceful."

This statement attracted no notice at all. And that, alas, is also understandable. The American public, Congress and the executive branch all seem to be about equally turned off by the idea of providing economic development assistance to the dangerously destitute and politically turbulent nations of the so-called Third World.

Long gone is the spirit of the Marshall Plan or the days of Harry Truman's Point Four or the time when a secretary of defense, Robert McNamara, could devote a major address to a global challenge as far removed from the traditional preoccupations of the Pentagon as economic development. Yet McNamara spoke eloquently nearly 20 years ago of the problems of poverty and hunger and overpopulation as the root cause of the sort of economic deprivation and consequent social unrest that offers easy targets of opportunity for communist expansion and leads us, ultimately, into confrontation with the Soviets.

It was never such a large leap for McNamara from the Defense Department to the presidency of the World Bank. He saw it the way Vance sees it—as the difference between the operating table and preventive medicine.

But Congress, it is all too evident, does not believe in preventive medicine. As Vance also noted bitterly: "We are far in arrears in meeting the pledges we have made to the multilateral development banks, and likely to slip still farther."

All the while, Congress strains to spend more money to build rapid deployment forces for instant intervention in Third World internal upheavals on behalf of governments that have their own "Vietnam complexes" and no great yearning to be saved from themselves by force of American arms.

This is not to knock military preparedness or the prudent application of American force when diplomacy and deterrence fail. It is merely to commend Cy Vance's sober balancing of risks and needs—military, economic, diplomatic.

It is undeniably "disgraceful," as Vance noted, that the United States now ranks 13th among the world's 17 largest industrial nations in the percentage of gross national product it devotes to development assistance—and is about to be knocked down another notch by Japan.

It is no more defensible that American foreign aid, as Vance also pointed out, has been reduced by 25 percent over the last 20 years, even as the number of needy new nations—and potential trouble spots—has rapidly grown. Economic development now accounts for only about 1.5 percent of the entire federal budget.

True, there is waste in these efforts. There is also corruption; we are talking about nations newly formed. But there is also more than enough evidence that economic development can be made to work; that it offers diplomatic leverage for the short haul.

if your interests are pragmatic and immediate; and that doing nothing to ease the Third World's economic misery is a certain prescription for trouble even if doing something is no guarantee of tranquility.

What economic development aid won't do, of course, is measurably improve the welfare of mankind within the terms of an incumbent member of the House, or of a president, or even a senator. And because it is preventive medicine, you can't even prove beyond doubt that what you set out to prevent was ever going to happen. It is not rewarding, in that sense.

And yet there is a certain nuttiness in spending greatly increased sums of money so that sophisticated new weapons now on drawing boards will be ready 10 years from now to deal with crises and conflicts directly related to social and political unrest that relatively inexpensive economic development programs, launched today, might do much to alleviate.

Foreign aid is a way of hedging bets, I suppose, and only really worth doing if you think it matters what sort of world awaits your children—and theirs.

Mr. JAVITS. Mr. President, equally important to U.S. interests are the trade and financial ties which have evolved during the last decade between the United States and the developing nations. The developing countries now account for 40 percent of U.S. exports, and further increases in U.S. trade will be forthcoming only if we continue to provide for the maintenance of satisfactory growth rates in the developing world. These nations of the Third World comprise our fastest growing export markets and are growing at a rate of 50 percent faster than those in the industrialized nations.

In addition, the liberal credit terms under which much of our aid is extended to developing nations has also helped to transform the pattern of trade and extended the benefits derived from such trade throughout the U.S. economy. American farmers as well as American business and labor depend heavily upon exports to the Third World. Almost one-third of all the rice, wheat, and cotton that is grown in the United States is now exported to the less developed countries. Also, it is estimated that 1.2 million American jobs are directly dependent upon continued export trade with these nations. Of the total $35.1 billion in exports to developing countries in 1978, $3.1 billion can be directly attributed to U.S. bilateral aid.

There are some provisions in this bill pertaining to U.S. bilateral assistance which I believe especially serve to strengthen U.S. development objectives and buttress our foreign assistance programs.

The Agency for International Development (AID) has been very responsive to Congress directive that it expand the American schools and hospitals abroad (ASHA) program to new countries without lowering the standards of the institutions supported by the program. The program has been successful in funding these study and demonstration centers for American ideas and practices in education and medicine, and I believe that the ASHA program should continue to be funded at levels that are higher than those requested by the administration. I introduced, therefore, an amendment in committee which authorizes appropriations of $25 million for the ASHA program in fiscal year 1981, which would keep the program at least at the fiscal year 1980 authorized level.

The problems facing the least developed countries—the poorest of the poor—are of increasing concern to me. These nations increasingly face growing debt service payments as well as relentless inflation, increasing energy costs, and dwindling energy availability which impose severe financial constraints on their economies. I believe that, in light of these mounting financial burdens which plague the economies of the developing world, the retroactive terms adjustment (RTA) amendment, which authorizes the President to waive and forgive repayment of principal and interest on the official debt to the United States of selected relatively least developed countries in the amount of $10,845,000 for fiscal year 1981, is especially important in helping to promote development in some of the poorest countries in the world. The waived funds are placed in local currency accounts and used in development activities agreed upon by the recipient country and the AID Administrator.

Mr. President, with respect to our contributions to the international organizations and in particular to the United Nations Institute for Training and Research (UNITAR), I would like to reiterate the concern that I expressed at the time of markup that the President did not request funds for a U.S. contribution to UNITAR. It is an effective research and training mechanism that conducts its work in an objective and balanced manner. It was founded at our insistence and is worthy of our continued support.

Mr. President, S. 2714 also recognizes the important contribution that the private sector can make to economic development. The $4 million authorization for the reimbursable development program (RDP) will permit the continuation of feasibility and market studies in the middle-income developing countries which are not aid recipients. This program, which, like OPIC, has great potential for both U.S. development and export promotion policies, is very worthwhile. I urge the administration to heed the committee's recommendation that this program be moved out of AID into IDCA since it concentrates on providing development services to middle-income countries.

Mr. President, in conclusion, for the above stated reasons, I urge my colleagues to support S. 2714 in order to permit the vitally needed economic and security assistance programs to move ahead in support of the cause of world peace.

Mr. CHURCH. Mr. President, I understand that Senator STONE is on his way to the Chamber to present an amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to the call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1802

(Purpose: Permit the President to transfer not to exceed 15 per centum of the funds available in any fiscal year for carrying out any title of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) to carry out any other title of Public Law 480)

Mr. STONE. Mr. President, I call up amendment No. 1802.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an amendment numbered 1802.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, before line 1, insert a new section as follows:

"TRANSFER AUTHORITY UNDER PUBLIC LAW 480

"SEC. 607. Section 403 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new subsection (c):

" '(c) Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 per centum of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.' ".

On page 32, line 2, strike out "SEC. 607" and insert in lieu thereof "SEC. 608".

On page 32, line 5, strike out "The" and insert in lieu thereof the following: "Section 607 and the".

Mr. STONE. Mr. President, as chairman of the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry, which has jurisdiction over the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), also known as the Food for Peace Act, we have developed a procedure in recent years to have our committee report any Public Law 480 amendments and then seek their approval as amendments to the Foreign Relations Committee's foreign assistance legislation on the floor of the Senate.

This amendment that I am proposing is a minor, technical one that will not require any additional funding. It will, however, provide some flexibility in allowing the shift of up to 15 percent in the funds available between the titles of Public Law 480.

In practice, this would mean that if additional unanticipated emergencies arose after the funding levels had been established transfers of up to 15 percent could be made to title II from title I. Conversely, if the need for food commodities to meet emergencies and humanitarian feeding programs decreased below the level anticipated when the program levels were established, shifts from title II to title I of up to 15 percent could be made.

The language of this amendment is the same as that already approved by the House of Representatives under its International Security and Development Cooperation Act of 1980, H.R. 6942. I know of no opposition to the amendment in this body.

Mr. President, this amendment will give the administrators of the Public Law 480 program a measure of flexibility in responding to unforseen needs. This program has been a major success in helping to deal with hunger abroad, meet emergencies, develop additional markets for our agricultural products, and meet national foreign policy objectives.

I urge that the Senate adopt this amendment.

Mr. CHURCH. Mr. President, I commend the distinguished Senator from Florida for offering this amendment. I am prepared to accept it for two reasons.

First, it will cost no additional money. In fact, it may save money by providing more flexibility in the administration of Public Law 480, title 1 and title 2 programs.

Second, the amendment offered has already been included in the House bill, which means that by adopting it here, we will eliminate it as an issue in conference.

Generally I am in favor of anything we can eliminate as an issue in conference, given the length and complexity of that conference.

For these reasons, I commend the Senator for his amendment. Speaking for the majority on the committee, I am prepared to accept it.

Mr. JAVITS. Mr. President, this amendment, for the same reasons, is acceptable to the minority.

Mr. STONE. I thank the distinguished managers of the bill, and I urge adoption of the amendment.

Mr. President, in fiscal year 1981 the administration proposes to eliminate completely the title I, Public Law 480 food program for Morocco, and to provide $13.3 million for the title II, Public Law 480 program.

In the past decade Morocco has purchased over 90 percent of its wheat and wheat flour imports from the United States on conventional commercial terms. Food aid imports cover the remaining 10 percent, but this portion has declined in the last 2 years as Public Law 480 title I allocations have declined and commercial purchases have increased.

The elimination of the title I concessional sales program for fiscal year 1981 is another step in the steady decline of total Public Law 480 assistance to Morocco over the past few years. For title I, Morocco received $10.8 million in fiscal year 1979 and $6.5 million in fiscal 1980.

While the fiscal year 1981 budget for title II grants has been increased $4 million to $13.3 million, these food grants are for specific projects and do not include wheat, a staple food item which Morocco must import.

The elimination of the title I program represents a significant financial loss to Morocco in view of the fact that title I transfers are a significant portion of Morocco's total bread wheat production. Given current demand, Morocco will have to use more of its scarce foreign currency to make up the shortfall between its own production and food requirements.

The House Subcommittee on Africa in its recommendation to the House Foreign Affairs Committee responded to the proposed elimination of the title I, Public Law 480 program for Morocco by stating:

> After a disastrous cereals harvest—3.6 million tons, leaving a deficit of 2.4 million tons or more than double the amount of usual cereals' imports—Morocco is sorely in need of additional food assistance. The Subcommittee therefore recommends a significant Title I food program, to be drawn from the worldwide unallocated reserve, in order to avoid the $2.5 million cut in total food aid (including elimination of Title I AID) envisioned by the Administration request.

The Public Law 480 title I food transfers are designed to alleviate food shortages and encourage recipient countries to improve their own agricultural production; to expand markets for U.S. agricultural production; to expand markets for U.S. agricultural commodities; and to strengthen bilateral relations between the United States and aid recipients.

Morocco is a qualified candidate for a "substantial" title I program under all of these categories.

Morocco is a good friend of the United States, and plays a critical strategic role in Africa and the Mediterranean. Its location on the Straits of Gibraltar and at the western entrance to the Mediterranean is of strategic importance to NATO and the United States.

Acting as a force for stability and moderation in Africa and the Middle East, King Hassan sent troops to Zaire at a crucial point, and played an important role in the Sadat visit to Jerusalem.

Morocco is facing a period of difficulty in its agricultural sector and wheat supplies, and the committee does not feel that this is the time to eliminate the title I, Public Law 480 program for a good ally and friend.

Therefore, the Committee on Agriculture, Nutrition, and Forestry recommends the establishment of a significant title I, Public Law 480 food program for Morocco from the worldwide reserve for fiscal year 1981 to avoid a reduction in the title I, Public Law 480 program from fiscal year 1980 to fiscal year 1981. This proposal does not anticipate a decrease in the proposed level of the title II program in fiscal year 1981.

Since Morocco received $15.8 million in total Public Law 480 assistance in fiscal year 1980, and the total proposed for Public Law 480 in fiscal year 1981 is $13.3 million, the restoration of a title I program for fiscal year 1981 at the fiscal year 1980 level of $6.5 million would result in a total fiscal year 1981 program of $19.8 million. This figure represents a $4 million increase over last year's total.

Since the proposed increase will come from the worldwide reserve, this provision will not require an increase in the total amount requested by the administration in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 1802) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENTS NO 1156

(Purpose: To make available international narcotics control assistance for certain additional uses for fiscal year 1980)

Mr. STONE. Mr. President, I call up an unprinted amendment relating to fixed-wing aircraft, communication equipment, and other equipment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1156.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 23, between lines 15 and 16, insert the following:
>
> (c)(1) Section 482(a)(2) of such Act is amended—
>
> (A) by striking out in clause (A) "and" after "drug traffic"; and
>
> (B) by inserting before the period at the end thereof a comma and the following: "and (C) fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian antinarcotics enforcement program".
>
> (2) The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.

Mr. STONE. Mr. President, the Assistant Secretary of State, Mathea Falco, wrote me a letter on May 30. I would like to repeat two paragraphs of that letter in explanation of this amendment.

In the letter, Secretary Falco said, and I quote:

> My chief concern, reflected in the report, is the Government of Colombia's present view that the Congressionally itemized equipment categories for which bilateral assistance for narcotics control purposes can be given are too restrictive if the program's ambitious goals are to be achieved. On a recent trip to Colombia, where I met with President Turbay and several key cabinet ministers, the difficulties created by the legislative omission of fixed wing aircraft, communications equipment, operational support funds and miscellaneous equipment, such as camping gear and lab supplies, were repeatedly raised.

Although the U.S. and the Colombian Government are presently in program negotiations, progress is being rendered more difficult by the categorical limitations. It is my opinion, that providing communications equipment, fixed wing aircraft and maintenance, as well as appropriate operational support would strengthen the program. The preclusion of these categories during FY 80 was an exception; the U.S. has previously provided this type of assistance to the Government of Colombia.

Mr. President, my colleague from Florida (Mr. CHILES) had called this matter to my attention because of his concern, as well as the concern of all of us in the Florida congressional delegation, to the flood of narcotics coming from Colombia in various ways through or to the State of Florida, as one of the major ports of entry of narcotics into our country.

We believe that control at the source is by far the most efficient and effective way to reduce this illicit flood. This amendment, though technical, can be of assistance in helping to control this outpouring of narcotics from Colombia and, at the request of the Government of Colombia itself, would not be felt as an intrusion on their efforts. It would be, in effect, a supplement and a welcome addition to our efforts.

Mr. CHURCH. Mr. President, with reference to this amendment, I would like to ask the distinguished Senator from Florida (Mr. STONE) a few questions.

Mr. STONE. I am happy to yield.

Mr. CHURCH. First of all, it is my understanding that the amendment relates to a fiscal year 1980 authorization and that it will not increase budget authority or outlays in any way. Is that correct?

Mr. STONE. Yes, that is correct.

Mr. CHURCH. Second, I understand that it is the intent of the Senator from Florida that the State Department take the proper steps to insure that these funds are used for international narcotics control purposes and not as military aid to Colombia.

Mr. STONE. Yes; that is correct. It would be used for international narcotics control, but not as military aid to Colombia.

Mr. CHURCH. As I listened to the Senator's explanation of his amendment, I recall him stating that equipment of the kind described in the amendment had been available previously to Colombia in the international narcotics control program but that it was unavailable during the past year. Can the Senator explain to me why?

Mr. STONE. According to Secretary Falco, it was felt that the previous authorization statute did not make appropriate reference to it and posed a technical problem; and out of an abundance of caution and in order not to provide unprovided military assistance, the equipment was not rendered last year, though it had been in previous years. This is in the nature of a technical restoration of the earlier practices and not, rather, as an expansion into a new field.

Mr. CHURCH. I am satisfied with the Senator's explanation of the amendment. I believe he has justified it. I am prepared to accept it.

Mr. JAVITS. Mr. President, I am prepared to accept it, as well.

I believe that what Colombia is doing in respect of these efforts to track down narcotics products—trading and origination—is critical to many areas of the United States, and with great particularity to my own, which is one of the worst beleaguered. Therefore, I find the amendment acceptable.

Mr. STONE. I thank the distinguished floor managers of the bill.

Mr. President, I ask unanimous consent that the letter, together with attachments from which I have read excerpts, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF STATE,
Washington, D.C., May 30, 1980.

Hon. RICHARD STONE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STONE: I am writing in response to a request by a member of your staff for an update on the status of the Congressionally mandated Colombia program, for which $16 million has been authorized. A full discussion of the program is contained in the enclosed report to the Congress, requested by the Conference Committee last year.

My chief concern, reflected in the report, is the Government of Colombia's present view that the Congressionally itemized equipment categories for which bilateral assistance for narcotics control purposes can be given are too restrictive if the program's ambitious goals are to be achieved. On a recent trip to Colombia, where I met with President Turbay and several key cabinet ministers, the difficulties created by the legislative omission of fixed wing aircraft, communications equipment, operational support funds and miscellaneous equipment, such as camping gear and lab supplies, were repeatedly raised.

Although the U.S. and the Colombian Government are presently in program negotiations, progress is being rendered more difficult by the categorical limitations. It is my opinion that providing communications equipment, fixed wing aircraft and maintenance, as well as appropriate operational support would strengthen the program. The preclusion of these categories during FY 80 was an exception; the U.S. has previously provided this type of assistance to the Government of Colombia.

I appreciate your continuing support for the international narcotics control program and your strong personal interest in our cooperative efforts with the Colombian Government.

Sincerely,

MATHEA FALCO.

DEPARTMENT OF STATE,
Washington, D.C., June 4, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to a request by the committee of conference on the International Security Assistance Act of 1979. The section of the Conference Report entitled International Narcotics Control (p. 28) says,

"In order to adequately monitor this program, the committee of conference respectively requests that the President submit a report to the Congress not later than June 1, 1980 (1) setting forth the degree of implementation of the Colombian assistance effort . . ., and (2) on the progress toward the elimination of Colombia as a source and transit country for cocaine and marihuana and the extent to which this has reduced the U.S. supply of cocaine and marihuana "

(1) Degree of program implementation. The degree of implementation of the Colombian assistance effort was unexpectedly impeded during the reporting period because the U.S. Ambassador to Colombia, Diego Asencio, was held hostage for two months by Colombian terrorists. With this event, the process of bilateral negotiations was interrupted, not only because the chief negotiator for the U.S. Government had been removed, but also because top officials of the Government of Colombia (GOC), responsible for the GOC narcotics control program, were deeply involved in managing the crisis.

After the U.S. Ambassador's release at the end of April and the return to normal operations, further project agreement negotiations were delayed by the GOC's internal reorganization of the narcotics control program. This involves an orderly withdrawal of the Colombian Army from the Guajira interdiction campaign, the substitution of a national police force in the Guajira, and a realignment of the agencies within the GOC to be involved with the narcotics control effort. As of the reporting date, this reorganization has not yet been formally completed.

At the same time, discussions have occurred regarding the delineation of the U.S.-Colombian program. A working meeting including Colombian government and U.S. Embassy officials took place May 28 which began to develop a preliminary proposal for expenditure of the available U.S. funds.

Advances have been made in the Colombia program despite the delays. Of the FY 1980 total of $16,000,000 programmed for the Colombia program, $2,893,000 has been obligated. This includes a $2.2 million Customs project, providing for two U.S. Customs advisors, in-country training and travel, and purchase of a patrol vessel, to be used in interdicting drugs moving off the Pacific Coast.

We anticipate that discussions will yield concrete proposals aimed at appropriately equipping and training the national police force which is being substituted for the GOC Army presence in the Guajira. However, the GOC has already expressed concern at the very limited and specific categories of equipment available for narcotics control purposes that have been outlined in the U.S. authorizing legislation. In addition to voicing concern about the potential need for presently unforeseeable miscellaneous equipment (such as camping gear and laboratory supplies), and for operational support funds and aviation contracts, the President and the Defense Minister of Colombia have explicitly stated that communications equipment is absolutely necessary to a successful interdiction campaign. There is also high level concern about the omission of fixed-wing aircraft from the legislative authorizing list. It is generally felt that the omission of these types of assistance could have a significant detrimental effect on the progress of the Colombian narcotics control program during its next phase.

(2) Progress in drug control in Colombia; reduction in the U.S. supply of cocaine and marijuana. During the reporting period, the Government of Colombia instituted a major crackdown on narcotics trafficking within the country. Since the United States is the major market for Colombian narcotics, this policy has had a direct impact on the U.S. supply. The 1978–1979 Guajira campaign has demon-

strated GOC commitment and constituted a notable beginning for the massive narcotics control campaign that will be required to eliminate Colombia as the major source U.S. cocaine and marijuana.

Detailed results of President Turbay's antinarcotics initiatives are laid out in the attached charts which list illicit narcotics seizures by the GOC during 1979 and during 1980 through March. During 1979, for instance, the GOC seized approximately 1.9 metric tons of cocaine as compared to the 1.6 metric tons taken during the same period in U.S. seizures where federal officials participated. The GOC seizures included one amounting to the equivalent of 500 kgs of cocaine, the largest seizure recorded by any government.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for
Congressional Relations.

Attachment: List of illicit narcotics seizures.

COLOMBIA: NARCOTICS SEIZURES BY ALL AGENCIES FOR 1979

	Agency				
	OAG[1]	Customs	National Police	Military	Total
Bulk marihuana (metric tons)	37.7	30.0	73.2	3,299.0	3,439.9
Cocaine hydrochloride (kilos)	479.2	472.0	724.7	234.7	1,910.6
Cocaine base (kilos)	523.0		487.7	8.0	1,018.7
Coca paste (kilos)	24.0		37.7		277.7
Coca plants (acres)	9.8				9.8
Coca leaves (kilos)			18.1		18.1
Cocaine labs	5		20		25
Dangerous drugs (units)	2,277			2,808,800	2,811,077

[1] Office of the Attorney General.

COLOMBIA: NARCOTICS SEIZURE CHART FOR MONTH OF JANUARY 1980

	Monthly total	Yearly total
Marihuana plants		
Marihuana bulk (metric tons)	76.9	76.9
Hashish		
Cocaine hydrochloride (kilos)	76.7	76.7
Cocaine base		
Coca paste		
Coca plants		
Poppy plants		
Cocaine labs		
Hercin labs		
Dangerous drugs (units)	600,000	600,000

COLOMBIA: NARCOTICS SEIZURE CHART FOR MONTH OF FEBRUARY 1980

	Monthly total	Yearly total
Marihuana plants (metric tons)	11.3	11.3
Marihuana bulk (metric tons)	85.5	162.4
Hashish		
Cocaine hydrochloride (kilos)	23.8	100.5
Cocaine base (kilos)	75.0	75.0
Coca paste (kilos)	15.0	15.0
Coca plants	4,000	4,000
Coca leaves (kilos)	90.7	90.7
Poppy plants		
Cocaine labs	5	5
Heroin labs		
Dangerous drugs (units)		600,000

NARCOTICS ASSISTANCE PROGRAM—ACTIVITY REPORT FOR MONTH OF FEBRUARY 1980 (SEIZURES OF CARRIERS/MONEY)

Agency	Land	Air	Water	In U.S dollars
OAG				
Customs				
National Police				
Military	8	6	4	
DAS				
Total for month	8	6	4	
Total for year	37	14	4	

COLOMBIA: NARCOTICS SEIZURE CHART FOR MONTH OF MARCH 1980

	Monthly total	Yearly total
Marihuana plants	[1] 26.0	[2] 11.3
Marihuana bulk (metric tons)	12.4	174.8
Hashish		
Cocaine hydrochloride (kilos)	34.2	134.7
Cocaine base (kilos)	3.0	78.0
Coca paste (kilos)		15.0
Coca plants	7,000	11,000
Coca leaves (kilos)		90.7
Poppy plants		
Cocaine labs	1	6
Heroin labs		
Dangerous drugs (units)	2,150,177	2,750,177

[1] Kilos.

[2] Metric tons.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to ask several questions of the distinguished Senator from Idaho.

Is there anything in the pending measure in regard to the United Nations University in Tokyo?

Mr. CHURCH. The answer to the question is, "No."

Mr. HARRY F. BYRD, JR. What has happened to that proposed university?

Mr. CHURCH. It is my understanding that the university is operating, but that the United States has made no contributions to it.

Mr. HARRY F. BYRD, JR. No U.S. funds, directly or indirectly, have gone to that university?

Mr. CHURCH. Not that I am aware of.

As I recall, on two occasions, Congress has rejected proposed authorizations for American contributions to the university.

Mr. HARRY F. BYRD, JR. Yes, on at least two occasions.

Does the committee have information as to just where the funds have come from to operate or develop that university?

Mr. CHURCH. Principally from the Japanese. I understand that that Government is the main donor. Other contributions, have come from several European countries, as well.

Mr. HARRY F. BYRD, JR. No contributions from the United Nations itself?

Mr. CHURCH. I believe that the answer to the Senator's question is, "No." I know of no funds that would be available from the United Nations itself, and it is my belief that all the funds are voluntarily contributed by the donors I have mentioned.

Mr. HARRY F. BYRD, JR. I thank the Senator from Idaho.

My second question deals with the United Nations. My question is this: Can the chairman of the Foreign Relations Committee enlighten the Senate as to the total funds—not just in the bill that is before the Senate today—which the United States has made available to the United Nations?

Mr. CHURCH. Would the Senator like me to respond to his question on the basis of fiscal year 1981?

Mr. HARRY F. BYRD, JR. If the Senator could start with fiscal year 1981——

Mr. CHURCH. I could start with 1979. That figure is available to me.

Mr. HARRY F. BYRD, JR. Why not start with 1979?

Mr. CHURCH. I will be happy to do so.

In 1979, the total amount of contributions by the United States to the United Nations—this includes both the assessed contributions to the regular operating budget of the U.N. and the voluntary contributions made by the United States to various U.N. programs—was $589 million.

In fiscal year 1980, not yet completed the estimated total is $646 million.

The proposed total for fiscal year 1981 is $680.8 million.

Mr. HARRY F. BYRD, JR. So, to recapitulate, in fiscal year 1979, the total appropriated to the United Nations was $589 million. For fiscal year 1980, it is estimated to be $646 million. For fiscal year 1981, it is estimated to be $680.8 million.

Mr. CHURCH. Yes; those are the figures.

I say to the Senator that the reason for the increase between 1979 and 1980 is that the United States rejoined the International Labor Organization, and that involves a contribution of about $50 million a year. The remainder really reflects inflation. Other than our decision to rejoin the International Labor Organization, the amounts we are contributing to the U.N. remain at about the same level, taking into account the impact of inflation.

UP AMENDMENT NO. 1157

(Purpose: To encourage the channeling of U.S. foreign assistance to nations which supported the boycott of the 1980 Olympic games in Moscow)

Mr. HARRY F. BYRD, JR. Mr. President, I have an amendment which I will send to the desk. I believe it is an amendment that the Senator from Idaho will be inclined to accept. I will give him a copy of it in a moment.

I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. Exon.) The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.) proposes an unprinted amendment numbered 1157:

Page 31, after line 23, add the following new Section and renumber succeeding sections accordingly:

"Cooperation of other governments in the boycott of the 1980 summer Olympic games in Moscow

"Sec. . In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States-proposed boycott of the 1980 summer Olympic games in Moscow."

Mr. HARRY F. BYRD, JR. Mr. President, the President, as a result of the Russian invasion of Afghanistan, urged that the United States not be represented in the Moscow Olympics. He also urged other nations to follow the example of the United States and to forgo participation in the Olympics in Moscow.

Some 50 or more countries have made it clear that they will not be represented in the Moscow Olympics but at the same time more than 60 countries have announced their intention to send a team to the Olympics. That goes directly counter to American policy.

I think it unwise to reward with American tax funds in the form of foreign aid those nations which have gone counter to the American policy.

This amendment, which I have presented for the consideration of the Senate today, directs that this factor be taken into consideration by the administration in determining which country shall receive foreign aid for fiscal year 1981.

As we know, foreign aid now goes to roughly 100 countries. Many of those are countries which will participate in the Moscow Olympics in contradiction of U.S. policy.

So I hope that the distinguished floor manager and the ranking minority manager will find it agreeable to accept this amendment.

Mr. CHURCH. Mr. President, for purposes of creating a little legislative history in connection with the amendment, it is not the Senator's purpose, I take it, for this amendment to have a binding effect; that is to say, it gives the President the discretion to decide whether or not to extend aid to a foreign country but calls upon him to take into account whether or not that country has cooperated with the United States in boycotting the Olympic games.

Mr. HARRY F. BYRD, JR. The distinguished Senator from Idaho is correct and it is identical to an amendment which has been passed by the House of Representatives.

Mr. CHURCH. I had understood that the House of Representatives has included such an amendment in the House version of the bill.

I certainly have no objection to it. The adoption of this amendment by the Senate would eliminate this matter as an issue in conference and for that reason also it is welcome.

For both reasons I find the amendment acceptable.

Mr. HARRY F. BYRD, JR. I am glad the Senator from Virginia has been helpful in resolving this matter by eliminating this issue between the conferees.

Mr. JAVITS. Mr. President, I agree with Senator Church on the first reason; that is, the substantive reason, that it is perfectly proper for the United States to take this question into account.

We felt very, very strongly about Afghanistan. We, as a country, can only do certain limited things to show our disapproval of the Russian invasion of Afghanistan. The Olympic games boycott is one such demonstration.

We certainly should take into consideration the Olympic attendance. Think about what happened in that regard in respect of our relations with other countries, especially relations of such a nature as foreign aid. So I find the amendment acceptable on that ground.

As to reducing the number of issues between us and the House of Representatives, for me I would not be so quick to jump at that for this reason: That it is often very, very good and very important to be able to have another look at things in conference.

But in this case, I am inclined to concur, but I certainly do not wish Members to get any idea that if an amendment that is in the House bill is proposed, we are going to take it to reduce the number of issues in conference.

Mr. CHURCH. Let me say to the Senator I was speaking in jest.

Mr. JAVITS. It is certainly acceptable to me and I think it is a good amendment.

Mr. HARRY F. BYRD, JR. I thank the Senator and I call for the question.

Mr. CHURCH. I might say before we go to the question, that the committee is grateful to the Senator from Virginia for his previous insistence that we keep careful track of all American contributions not only to the United Nations but to its affiliated organizations. We do have the current figures and we are thus enabled to respond to the Senator's question this morning. In that way, also, he has been helpful to the committee.

Mr. HARRY F. BYRD, JR. I am grateful for the comments of the Senator from Idaho.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1158

(Purpose: To require in the annual report on foreign assistance information on the level of foreign assistance provided by certain foreign countries)

Mr. PRESSLER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler) proposes an unprinted amendment numbered 1158:

At the bottom of page 29, add the following new section:

ANNUAL REPORT

Sec. Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following:

"(6) the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotics control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization Petroleum Exporting Countries;

"(7) the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6) and (B) the budget of the government of such country; as well as the per capita contribution for each country for each type of assistance described in paragraph (6). Renumber succeeding sections accordingly.

Mr. PRESSLER. Mr. President, I shall be very brief since yesterday I raised the possibility of introducing this amendment.

The purpose is to find a parity among nations for foreign aid. I certainly support the United States doing its fair share in terms of development assistance, security assistance, international disaster assistance, refugee assistance, international narcotics control assistance, and so forth.

We are a great country and we do have a great responsibility. But the wealth of nations is shifting and increasingly we are finding that members of the oil-rich OPEC countries, our allies in Europe, our ally Japan, and others in the world, have acquired the means to contribute more, and it is the feeling of many citizens in the United States that we are contributing an unfairly high share.

Therefore, I think it would be appropriate if we asked that the administration provide the dollar value of these various types of assistance so that we can make some comparisons, particularly of members of the Organization for Economic Cooperation and Development and also the Organization of Petroleum Exporting Countries.

Mr. President, there are many data fallacies when we start considering contributions by different countries.

For example, recently I had the privilege of being a delegate to the International Parliamentary Union and while there served on a refugee committee. Upon first glance many of the figures for refugee responsibility are similar. It appears that some European countries may be taking as many refugees per capita as we are, but when one analyzes a step further he finds that this is not always true. Some countries take refugees and give them work permits for 2 years, which can be renewed if the job still exists, but with no hope of ever acquiring citizenship. Our own country admits refugees with almost a guarantee of citizenship within 2 years. So there is a substantial difference in many instances, and the figures we have are often hard to compare.

But the numbers that we have available indicate that citizens of the United States per taxpayer are bearing a much higher load than many other countries who have similar economic conditions per taxpayer.

So the purpose of my amendment is attainment of parity. It is an effort to get at what we are really doing in terms of dollars compared with other developed nations of the world. My amendment applies to the Organization for Economic Cooperation and Development countries and the Organization of Petroleum Exporting Countries.

I think that the amendment would be very useful in evaluating our foreign aid and evaluating our international activities.

Also, I think in the next 10 to 20 years the wealth of the world will shift. We are no longer in a position as we were in the bipolar days of the 1950's. We are in the position where we should be asking some of our wealthy allies to bear more of the burden.

Yesterday this body adopted an amendment of mine which called upon the President to begin negotiating for a reduction of the U.S. percentage of assessed contributions to the United Nations and other international organizations, and I say that as a supporter of those organizations. I say this as a supporter of the concept of foreign aid, in which I believe strongly we have a responsibility. But unless we are able to justify this on a parity basis with other nations, I think the whole popular basis for our foreign aid programs will be weakened. That is the purpose of this amendment, Mr. President.

I have submitted to both the majority and minority staffs this concern of mine, and we have had extensive discussions. Indeed, I want to thank especially Senator JAVITS and his staff for the discussions we have had over the past several months with respect to this concern of mine.

In conclusion, I feel that greater parity is needed among nations in terms of providing aid in all its forms. This parity should be on the ability to contribute to peace and development.

Over the years, the ability of nations to do so will shift and will change. Indeed, we have seen great shifts in the last 10 years in the comparative wealth of different nations. This amendment will provide a more reliable basis of information so that Congress can decide what our fair share should be.

Our people would not be objecting to foreign aid if the reporting, as contained in my amendment, would show that the United States is not doing more than its fair share. On the basis of more reliable information we could clearly determine if the United States has foreign assistance parity with some of the wealthier nations of the world.

I want to thank the distinguished chairman of the committee and the staff of the committee for their cooperation and for the chairman's cooperation in discussing this amendment. In particular, I thank Senator JAVITS and his international economist, Jacques Gorlin; Senator CHURCH and his foreign assistance specialist, Rudy Rousseau; and Doug Miller and J. C. Orgetsinger of my own staff.

Mr. CHURCH. Mr. President, first of all, I want to commend the Senator from South Dakota for having withdrawn his amendment yesterday at my request, and for having come forward this morning with a revised amendment to the Foreign Assistance Act.

I believe, as I stated yesterday, that the amendment properly belongs in this act rather than in the State Department authorization bill.

Let me also assure the Senator that I fully share his interest in an annual accounting of the foreign aid being given by other wealthy countries so that we will have a basis upon which to make an accurate comparison between the efforts being made by the United States and those being made by the countries of Western Europe and Japan, members of the Organization for Economic Cooperation and Development, the oil-producing countries of the Middle East, and the other oil-producing countries that are members of the Organization of Petroleum Exporting Countries.

This information is needed. The amendment serves a laudatory purpose and, perhaps, will give us at last all of the data we should have in order to make an accurate comparison.

So I am prepared to accept the amendment if it is also acceptable to my colleague, the Senator from New York, as I believe it to be.

In doing so, let me stress that the American contribution to various international organizations is coming down as a percentage of the whole, and the Committee on Foreign Relations will continue its efforts so that this trend continues.

As the Senator from South Dakota has said, great changes have taken place since the end of the Second World War. The United States no longer maintains the dominant economic position it enjoyed in those years. Other nations, devastated by the war, have recovered and are now enjoying levels of unparalleled prosperity.

In addition to that, we have the revolution brought on by the OPEC cartel and a vast flood of money is today flowing into the coffers of the Arab nations in the Middle East owing to the fact that that cartel has increased the price of oil by 1,200 percent since November of 1973.

All of this means that the American contribution to the U.N. to the IDA, the soft loan window of the World Bank, and to other international institutions should be reduced as a percentage of the total while the contribution of such wealthy nations as Japan and West Germany as well as the Arab States go up.

For these several reasons I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, during the budget debate some week ago Senator PRESSLER raised this matter, indeed sought to cut the foreign affairs function in the budget, and we debated it at that time, and I suggested at that time that the chairman and I would be prepared to work with him to produce an amendment like the one that is before the Senate today.

Therefore, that amendment is acceptable, with one exception. I shall not need to do anything about it here, unless Senator PRESSLER wishes. But it seems to me that the substantive material which makes the amendment desirable—and we have had a hand with him in drafting it—is in item 6. Item 7 is strictly mathematics because it relates to published reports of the gross national product of each country, of the number of people it contains, and its budget. So it is mathematics which anybody can do. I do not like to see that in a law, but the Senator has chosen to leave it in. If he has a reason to do so, that is fine. In any case, I am not going to deal with that.

But what I am committed to are the items in 6, and I thoroughly agree with those and, as I expressed at the time, I feel that the Senator's amendment is a very valid and constructive contribution; that the best way to stimulate others to participate in these matters is by publishing the facts for all the American people to see, in view of the fact that we act on a yearly basis.

I would like to call one important fact to our attention—and I think I mentioned it in the previous debate—and that is that our people should understand that according to the last figures we have from the OECD, of which we are a member together with all of the other industrial countries of the world, the United States ranked 14th among the 17 members that are giving foreign aid in total official and private net foreign aid flows to developing countries.

In absolute terms, in 1978, we provided 27.7 percent of the total. But then when you assume a figure that we are just about half the world's industrialized economy—that figure pales.

Further, Mr. President my information is that we will be even lower on the totem pole in 1979, both as to aggregates and as to standing among the 17 foreign aid giving countries.

I do not say that with any sense of denigration. But I think it is important in showing we are far from paying the foreign aid bill as we did for so many years after World War II.

The reason I say what I do—not that Senator PRESSLER needs my information, he knows it very well himself—but I say it because the American people, I think, many of them still labor under the idea that we are the angel of foreign aid. We are far from it. Indeed, in terms of gross national product where the aim of the United Nations is 0.7 of 1 percent to 1 percent of foreign aid per year, the United States is around 0.3 to 0.7 of 1 percent.

Mr. President, I nevertheless welcome this amendment. I think it is very constructive and it is entirely acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. PRESSLER).

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed.

Mr. STONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

UP AMENDMENT NO. 1159

Mr. STONE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. CHILES, proposes an unprinted amendment numbered 1159.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section at the appropriate place in the bill:

SEC. . (a) Notwithstanding any other provision of law, those Cubans who have arrived in the United States between January 1, 1980 and June 16, 1980 shall be considered refugees for the sole purpose of permitting State and local governments currently responsible for these individuals to qualify for Federal assistance pursuant to the Refugee Act of 1980. This provision is intended to provide relief to State and local authorities which are bearing the disproportionate share of the costs of these individuals. This provision shall not be construed as conferring refugee status nor shall the provision be construed as granting permanent resident status. Assistance provided to State and local governments under the provision shall be limited to reimbursement for services currently being provided.

(b) The President is directed to report to Congress by July 1, 1980 on whether Cubans and Haitians arriving in the United States after the effective date of the Refugee Act of 1980 shall be designated as refugees under the provisions of that Act. The President shall also report to Congress on the estimated costs to local, State and Federal governments over the next five years for the care, maintenance, and resettlement of Cubans and Haitians admitted since the effective date of the Refugee Act of 1980.

The President's report shall also include proposals for the Federal Government to assume a greater share of these costs.

Mr. STONE. Mr. President, I ask unanimous consent that on line 16, the July 15 date be changed to July 1.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STONE. Mr. President, what this requires is that the President report to Congress by the 1st of July as to the designation of those refugees either as refugees or in some other capacity and the source and amount of funding to take care of the local effort which is now being expended in providing for them.

Mr. President, I ask whether Senator CHILES is a cosponsor.

The PRESIDING OFFICER. The Senator is advised Senator CHILES is a cosponsor.

Mr. STONE. I thank the Chair.

Mr. President, by doing this, we will be going to conference in a posture of expressing sympathetic interest and support for a corresponding provision called the Fascell amendment offered in the House version of this bill by Congressman FASCELL of Florida, without word-for-word adopting the Fascell amendment, and then by the time of conference we can determine whether the administration has made provision both for the status and funding and recompense of local effort for these refugees, including both the Cuban refugees and the Haitian refugees. This then is an appropriate posture for the Senate to be in in approaching the conference.

The Fascell amendment, just to inform our Members of the Senate, would add $100 million for this purpose for fiscal 1981 and would have the effect of earmarking $100 million from fiscal 1981 for this purpose. This amendment is considerably broader but does sympathetically address the situation.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I fully understand the seriousness of the problem facing the State of Florida and the local governments by virtue of the enormous influx of Cubans and Haitians coming into the State during the last few months.

This constitutes an emergency for which the State and local governments are unprepared. I can fully sympathize with the need addressed by the Senator from Florida because my own State was struck by an emergency of an entirely different character, but, nevertheless, one that imposed a very severe burden upon the State and local governments that they are unable to bear. I refer, of course, to the eruption of the St. Helens valcano, which has covered much of the Northwest with volcanic ash.

As the senior Senator from Idaho, I have joined with other Members of this body who represent the Northwest, and we will be asking for needed assistance because of the burden that has fallen upon local and State governments to clean up the volcanic ash. Because the massive cleanup is beyond our fiscal capacity, there is some need for the country as a whole to provide us assistance in coping with our emergency. I understand, by the same token, that there is need for the Federal Government and the Nation as a whole to respond to the problem facing the State and local governments of Florida.

Mr. STONE. If the Senator might recall, when the State of Idaho had a catastrophic emergency sometime ago, the Senators from Florida stood right up with the senior Senator from Idaho and our colleagues in addressing that very necessary situation.

Mr. CHURCH. I remember very well the generous response of the Senators from Florida when the Government's newly constructed Teton Dam failed. And it was a terrible flood that occurred and damage was far beyond the capacity of the State and local governments to deal with.

So I am moved to accept the Senator's amendment.

Mr. STONE. I thank the Senator.

Mr. CHURCH. And we will deal with the issue in conference. It may very well be that the administration will have a special program to announce.

It is my understanding that the President may indeed make such an announcement before the day is out, which may be better tailored to the needs of the State than any amendment to this particular bill. But in any case, the Senator is assured of my understanding, my cooperation, and my support.

Mr. STONE. I thank the Senator so much.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, I have read the amendment carefully and juxtaposed it with the amendment which is contained on page 39, lines 7 to 18, of a bill which passed the other body.

Mr. President, I have great difficulty with this amendment for a number of reasons. I shall come to a conclusion shortly, but I should like to state my reasons.

One, it is not made clear what account this money is to come from. Because there is no cap on the money, this could absorb the money in any account like blotting paper. We have provided roughly $500 million for refugees.

I am also told orally that there is something called a HEW account which relates to the payments which are made out of the Refugee Act of 1980, which is a separate account. This amendment does not make clear what money is going to be used out of what account.

Second, it does not make clear whether this amendment will qualify the State and local governments or whether this amendment permits them to qualify so, if there are other qualifications, they have to meet those too.

Last, I cannot see how the President can report anything to Congress by July 1. It is only a few days away. I am advised also that the President must consult with the Judiciary Committees of the House and Senate before he makes certain findings, which may or may not confer refugee status on the Cubans and Haitians. That relates, by the way, to subparagraph (b) of this amendment.

So, Mr. President, for all of those reasons, I find the amendment highly objectionable.

However, there is an amendment in

the other body which calls for $100 million. That amendment in the other body permits the $100 million to be spent anywhere in this country, or in any other country on programs dealing with this subject. There are enough uncertainties in this amendment that, as Senator STONE is a member of the committee, I should feel constrained, and he may—I do not know whether he would be a conferee or not, but certainly, he would have great influence with us in conference.

My interest in this is solely from the point of view of the efficiency of Government operation, the soundness of the financing involved, and the propriety of reimbursing cities and States. Certainly, coming from a State like mine, which gets beaten over the head all the time on things like this, I am certainly sympathetic. I am not raising these questions to oppose my friend or to bedevil him. If the Senator were willing to let this go with a voice vote and let us take it to conference, and fashion, based on the facts and figures, an amendment which will meet the need, I shall be perfectly willing to accept it. I just do not want to get locked into a set of concepts which may or may not be valid. Obviously, it would be most unfair to say, let us quit today and come back tomorrow and study the whole thing.

Mr. STONE. Mr. President, I think the Senator's approach is eminently reasonable and, frankly, what was intended by both Senators from Florida in submitting this amendment.

We quite understand that we need to be flexible, not only in terms of this amendment, but in terms of the Fascell amendment on the House side, in the House version of this bill.

I would go right along with what the Senator's approach would be.

Mr. JAVITS. I thank the Senator.

Mr. CHURCH. Mr. President, I simply add that if the President sends to the Congress a separate program for dealing with the Cuban refugee problem, it may well be that that program will be better designed to cope with the financial difficulties facing the State of Florida and the local governments within that State than anything we could fashion to this bill, either the amendment offered by the Senator from Florida (Mr. STONE) or the Fascell amendment adopted in the House of Representatives.

In that case, it would be my disposition to drop both in conference. But it remains to be seen what the administration has to propose.

Mr. STONE. I suggest to the chairman that it may be that what the administration submits will take care of a substantial amount of the need, but not fully, in which case, we might look at, at least, some of the Fascell amendment, or this approach, as a way to supplement what the administration has in mind, that is, the required flexibility the Senator from New York was suggesting in terms of approach to the conference.

Mr. CHURCH. I assure the able Senator I will keep an open mind on the suggestion. Both Senator JAVITS and I, in cooperation with the Senator and other members of the committee, will attempt to work this out in a suitable fashion in conference.

Mr. STONE. I thank the chairman.

Mr. JAVITS. Mr. President, I make one suggestion so that the drafting is consistent, and that is, in the fourth line of item (b), instead of saying "as refugees" just say "as having refugee status."

Mr. STONE. I will accept that, and ask that the amendment be modified by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 1159), as modified, is as follows:

Add the following new section at the appropriate place in the bill:

SEC. . (a) Notwithstanding any other provision of law, those Cubans who have arrived in the United States between January 1, 1980 and June 16, 1980 shall be considered refugees for the sole purpose of permitting State and local governments currently responsible for these individuals to qualify for Federal assistance pursuant to the Refugee Act of 1980. This provision is intended to provide relief to State and local authorities which are bearing the disproportionate share of the costs of these individuals. This provision shall not be construed as conferring refugee status nor shall the provision be construed as granting permanent resident status. Assistance provided to State and local governments under the provision shall be limited to reimbursement for services currently being provided.

(b) The President is directed to report to Congress by July 1, 1980 on whether Cubans and Haitians arriving in the United States after the effective date of the Refugee Act of 1980 shall be designated as having refugee status under the provisions of that Act. The President shall also report to Congress on the estimated costs to local, State and Federal governments over the next five years for the care, maintenance, and resettlement of Cubans and Haitians admitted since the effective date of the Refugee Act of 1980.

The President's report shall also include proposals for the Federal government to assume a greater share of these costs.

Mr. HEINZ. Mr. President, the purpose of this amendment offered by Senator STONE and myself, is very simple. It is to require the President to make a decision he should have made a long time ago and to accept for the Federal Government, in one form or another, the responsibility that is rightfully theirs.

In the last several months more than 112,000 Cubans have arrived at our shores. For the short term most of them are being located in three States: Florida, where they arrived, Arkansas, and Pennsylvania. If our experience with the recent influx of Indochinese refugees is a reliable indicator, a good portion of the Cuban refugees will end up in the same State where they began their life in the United States. For example, some 22,000 Indochinese refugees originally came to Pennsylvania. Today some 12,000 to 15,000 are there; not necessarily the original arrivals, but also others attracted by the growing Indochinese presence in the State. My State has welcomed these refugees as we will welcome the Cubans who choose to stay in Pennsylvania. I have confidence, based on my personal visit to Fort Indiantown Gap and my conversations with many of the refugees there, that they will become hard-working, productive citizens that those of us already here will be proud to have among us.

At the same time, however, over the short term the refugees present a significant financial burden to the States where they are being located. While the refugees are located in a Federal installation like Fort Indiantown Gap or Fort Chaffee, the Federal Government is paying the bills. Ultimately, however, the Cubans will be resettled. Those who remain in Pennsylvania will be eligible for unemployment compensation, job training, public assistance, and housing and numerous other State-supported programs. This will represent a significant additional burden to State and local governments, already hard pressed by the likelihood of reductions in Federal revenue sharing, inflation, unemployment, and the recession.

At the same time, I do not think there is any disagreement that we are faced with a national problem and a national responsibility to deal with the refugees in a fair and equitable manner. The recently enacted Refugee Act of 1980, Public Law 96–212, provides one means of meeting that responsibility. Designating the Cubans as refugees within the meaning of that act opens the door of eligibility to a variety of Federal programs and to reimbursement for the State and local share of these programs. Potential expenditures include a 100-percent reimbursement of the State and local share of social programs such as medicaid and aid to families with dependent children; full reimbursement of costs for special resettlement services such as English language and other training, and social and employment services; full reimbursement for other expenses such as public safety.

Although I believe such a designation for the Cubans is an appropriate course of action, and have introduced a resolution, Senate Concurrent Resolution 98, expressing the sense of the Congress that such a decision be made, it is only fair to point out that there are other more limited courses of action available such as that confined in section (a) of this amendment and that there are other means of meeting the Federal responsibility for these people. Unfortunately, Mr. President, what we have right now is the worst of both worlds—no decision and no plan. While the President has refused to designate the Cubans as refugees within the meaning of the Refugee Act, he has also refused to designate them as anything else, though they began arriving more than 2 months ago, which leaves them in a legal limbo and leaves State and local governments holding the financial bag.

This is one of those situations which seem to occur frequently in this administration, Mr. President, where any decision is better than no decision, where the administration has been unable to get its act together even though the options for action are clear.

This amendment, Mr. President, is intended to put an end to this confusion by making the decision for the President with respect to eligibility for certain Federal financial support and by requiring a broader decision by July 1 on whether the

Cubans and Haitians are refugees within the meaning of the Refugee Act, with a report to Congress along with any request the President deems necessary for additional funding or authority.

This is an equitable and fair approach to a problem which has dragged on much too long due to administration delays. No one can plan or act until these critical initial decisions are made. This amendment would break that logjam, and I am pleased to be a sponsor of it.

Mr. CHURCH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida, as amended.

The amendment (UP No. 1159), as amended, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1160

(Purpose: To exempt from the provisions of the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978 those exports of articles and commodities which incorporate depleted uranium because of the density or pyrophoric characteristics of that material)

Mr. STONE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1160.

The amendment is as follows:

> At the end of the bill add the following new section:
>
> "SEC. . The provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 shall not apply with respect to exports of uranium depleted in the isotope 235 which is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, when such exports are subject to controls established under the Arms Export Control Act or the Export Administration Act of 1979.".

Mr. STONE. Mr. President, this is an amendment requested by the administration for the ability to export a specific amount of articles and commodities which incorporate depleted uranium because of the density characteristics of that material. It is an extremely dense material and, therefore, useful for purposes as counterweights in civilian and military aircraft, munitions, in X-ray shielding, and less expensive than other materials of a comparable density which could also be used for these purposes.

As a matter of fact, the two chief recipients of the proposed form of exports would be the country of Saudi Arabia and the country of Israel.

I believe that this matter has been fully disclosed and discussed on both sides of the aisle. I ask for its adoption.

Mr. CHURCH. Mr. President, I have the text of the amendment before me. It reads:

> The provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 shall not apply with respect to exports of uranium depleted in the isotope 235 which is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, when such exports are subject to controls established under the Arms Export Control Act or the Export Administration Act of 1979.

Mr. President, I read this amendment in the following manner. It will not affect the controls that are established under the Arms Export Control Act or the Export Administration Act of 1979 as to weapons that may or may not be exported.

Mr. STONE. The Senator is correct.

Mr. CHURCH. And its sole purpose then is to make it clear that if weapons otherwise eligible for export contained depleted uranium, which is used because of its density and not because of its radioactive properties, indeed, depleted uranium contains very little radioactive properties and cannot be used for the construction of nuclear weapons, then, it has no value with respect to nuclear weapons.

Is that correct?

Mr. STONE. I think under an extended, extremely expensive separation process, and further processing, it may conceivably be able to be used. But the administration assures us it would be totally unrealistic for it to be used in that way and in the form and amounts which the administration proposes to convey, the specific depleted uranium they have in mind, it would not be economic, feasible, or practical to be so used.

What we have done is submit this as widely as possible to those Senators who care most about the proliferation issue and we do not have any stated opposition to it.

Mr. CHURCH. I will ask the Senator another question.

The amendment does not contemplate the export of depleted uranium, as such, but only as it may be incorporated into defense articles——

Mr. STONE. That is correct.

Mr. CHURCH (continuing). Or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity?

Mr. STONE. The Senator is correct. And I see no reason why, on the oral history of this issue, we should not make it perfectly clear that we expect to be consulted in advance any time any such substantial quantity of fabricated depleted uranium would be proposed to be exported.

The current proposals have already been so circulated, and I think we ought to make it very clear we expect to be consulted if any other proposed export would be made.

Mr. CHURCH. It is my understanding that the House bill has no similar provision.

Mr. STONE. That is correct.

Mr. CHURCH. Furthermore, I am informed that the Senator from Ohio (Mr. GLENN), who has taken very special interest in the whole problem of nonproliferation, does not oppose this amendment.

Mr. STONE. That is correct.

Mr. CHURCH. We would be in a position to consider the matter further if objections were raised between the time the Senate passes this bill and the time we take it up in conference.

Mr. STONE. The chairman is correct. The Senator from Florida would be perfectly willing to entertain any objections between now and then with an open mind.

Mr. CHURCH. Very well. On that basis, I find the amendment acceptable.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. JAVITS. I believe that what we should do with this is the following. I will tell the Senate what the deficiency is. It does not project forward. It only takes advantage of what we know up to now. Therefore, I should like to see it read as follows, and I can rephrase it:

> Upon a finding that an export of uranium depleted in the isotope 235 is to be incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such export shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Nonproliferation Act of 1978, when such exports are subject to controls established under the Arms Export Control Act or the Export Administration Act of 1979.

In other words, to have some intervening finding, whenever it happens, that this still remains true.

Mr. STONE. That is an improvement on the amendment which was submitted to me by the administration—as it usually is when the Senator from New York turns his personal attention to drafting. I accept that modification.

Mr. JAVITS. I think we will have to take it down momentarily, until we get this copied.

Mr. STONE. All right.

Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER (Mr. BOREN). The amendment is withdrawn.

Mr. CHURCH. Mr. President, I observe that when the Senator from New York acts as our lawyer on the floor, he does so free of charge. The taxpayers would have to pay heavily if he were charging us on a fee basis.

UP AMENDMENT NO. 1161

Mr. STONE. Mr. President, I send another amendment to the desk and ask that it be stated and considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1161:
>
> On page 6, line 18, immediately after "Turkey", insert a comma and the following: "and for the fiscal years 1980 and 1981 with respect to Somalia.".

Mr. STONE. Mr. President, this amendment would include Somalia among those countries authorized to receive extended repayment terms for any foreign military sales financing that might be provided that country in fiscal years 1980 and 1981. Such terms stipulate repayment in not less than 20 years of the principal amount of any loans guaranteed under section 24(a) of the Arms Export Control Act, following a grace period of 10 years on repayment of principal.

As most Senators are aware, the administration has been engaged in discussions with several governments in the Indian Ocean region regarding cooperative responses to threats to the area. The security dimension of these discussions includes the possibility of obtaining increased access by U.S. forces to military facilities in the region as well as of the United States providing security assistance to these countries. We understand that the administration plans to absorb amounts necessary to fund such security assistance programs within requested fiscal year 1981 levels and to reprogram amounts required for fiscal year 1980. A cooperation agreement has already been signed with Oman and we expect signature soon with Kenya.

Discussions with Somalia are continuing. The amendment I have offered is in no way intended to prejudge their outcome. I am informed, however, that FMS financing with extended repayment terms, is a subject that has been discussed with the Government of Somalia. Such terms are necessary if we do provide FMS financing to Somalia because of the difficult state of the Somali economy. This amendment therefore is intended to make possible extended payment terms should agreement be reached at some future date with regard to an FMS financing program for Somalia. It does not make FMS financing available to Somalia. That is dependent on the outcome of the present negotiations. However, if we do not approve appropriate authorizing legislation now, extended repayment terms could probably not be offered until fiscal year 1982, even if the administration reaches agreement with Somalia in the interim.

For that reason, Mr. President, I ask that this authorizing amendment be adopted.

Mr. CHURCH. Mr. President, I say to the Senator from Florida that, normally, when extended repayment terms are made available to any country, the committee establishes a limit.

Mr. STONE. A ceiling.

Mr. CHURCH. A ceiling. This amendment does not contain such a ceiling.

Mr. STONE. I believe that some form of ceiling, but not in dollars, should be added to this amendment; and between now and the conference, the administration should inform not only our committee but also the House committee what that ceiling should be.

The chairman is quite correct: These things should not have an unlimited authorization. But I believe that some form of provision to allow us to set that ceiling—actually, in the conference—should be done. In other words, I would accept an amendment to the amendment setting some form of ceiling which we then could put into dollar terms at the conference.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STONE. I yield.

Mr. JAVITS. The thing that concerns me about this is that we are making a deal on terms before we have made a deal.

The question I ask the Senator is this. Why does he feel we should do that?

Mr. STONE. The administration explains to me that they do contemplate the use of FMS sales before fiscal year 1982 as a way of obtaining the right to use the facilities—the Berger facilities, the Masabushi facilities, and others—and that unless we put some form of authorization in this bill, it could well be that they would not be able to conclude their negotiations.

The chairman has correctly raised the issue of the limitation; and if there are any other caveats that the ranking minority member of the committee would like to put in, in addition, the Senator from Florida would be willing to put them in.

The Senator from Florida is sensitive to the request of the administration that some form of authorization of this nature be allowed them in their ongoing negotiations, which apparently specifically do include an FMS approach.

Mr. JAVITS. The thing that worries me about it is that if you put a cap on it, the cap immediately becomes the floor, or it becomes the figure.

Mr. STONE. That is correct.

Mr. JAVITS. The minute we mention the figure we have a figure.

Mr. STONE. That is correct.

Mr. CHURCH. Mr. President, if the Senator will yield to me on that score, I think that we may not have a problem. We may be talking ourselves into a problem that does not exist.

Normally, Congress will authorize the amount of a foreign military credit sale to a given country and authorize a certain program for a given year.

If Congress wishes the country in question to have extended repayment terms, it is necessary to specify this in the law. So I believe upon reconsideration that the Senator's amendment as drafted takes an acceptable form.

It merely authorizes extended repayment for Somalia while the amount or the size of the program is otherwise determined in the law.

Mr. STONE. In effect it keeps back the ultimate authority to do it.

Mr. CHURCH. Yes; Congress will decide how much of a program to authorize from year to year for Somalia. What the Senator is attempting to do with this amendment is to make extended repayment terms available to Somalia for fiscal years 1980 and 1981.

Mr. STONE. Should the administration request and we legislate such specifics at a later time in a later form.

Mr. JAVITS. How does the Senator figure that out? That is one I do not follow the Senator on.

Mr. CHURCH. I had it right before the Senator added that final phrase.

Mr. STONE. Let me not explain the Senator's explanation. What is his explanation?

Mr. CHURCH. Let us go back over it again.

In this bill we authorize credit sales to various countries. Unless we specify that extended repayment is available to a given country, then that country must repay in accordance with the ordinary provisions of the law.

Mr. STONE. The Senator is correct. That is right.

Mr. CHURCH. That is all the Senator seeks to do with this amendment.

Mr. STONE. That is to put Somalia in the list of countries.

Mr. CHURCH. To put Somalia in the list of countries that qualify for extended repayment.

Mr. STONE. That is correct and the cap is put on by the fact they are going to reprogram it. They are not asking for funding if they get a deal.

Mr. JAVITS. The difficulty is that any deal has to be on these terms because the way this reads, the section to which the Senator is attaching the amendment, it says, "shall be repaid." In other words, if the administration wanted to change it they could not.

Mr. STONE. No; this just puts Somalia in the list of countries to which that can be offered but that does not mean that the administration has to offer that to them. It happens to be that they are going to offer that to them to some extent and to the extent they do they would be eligible to receive it.

Mr. JAVITS. It seems to me that it does dictate that once the administration agrees on the principal amount of the loans those loans shall be repaid in not less than 20 years. They cannot vary these terms if we write it this way. What we could do conceivably in respect to Somalia is to give the President the authority, in other words, to say in respect to Somalia the President is authorized when, as and if he makes loans to give 20-year and 10-year terms. That is what the Senator really wants to do.

Mr. STONE. That is what this does. At least that is what the administration drafted it to do.

Mr. CHURCH. We know what the Senator wants to do and it is possible for us to draft the amendment in such a way as to accomplish that purpose. However, I am in agreement with the Senator from New York. This is not the first time that the administration has failed to properly draft amendments proposed for our consideration as the Senator knows.

Mr. STONE. Quite so.

Mr. CHURCH. I believe we should redraft this amendment to give the President discretionary authority. If the negotiations succeed and if it is necessary and in the interests of the United States let us give the President discretionary authority to extend these special repayment terms to Somalia. But this will take a redrafting of the amendment.

Mr. JAVITS. Unless the administration can explain to us why, as drafted, it does what we say; so again I suggest that we lay it aside for the moment and get it straightened out.

Mr. STONE. I agree with that, and I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHURCH. Very well.

Do we have the previous amendment that was being redrafted ready for consideration at this time? I refer to the previous amendment that was offered by Senator STONE and then temporarily withdrawn.

The PRESIDING OFFICER. The clerk will state the redrafted amendment.

The legislative clerk proceeded to read an amendment.

Mr. CHURCH. Mr. President, we are searching for the revised amendment and it will be here momentarily. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the next amendment, and I have cleared this with both Mr. CHURCH and Mr. JAVITS, the Senate then proceed to the consideration of the Small Business Administration conference report, which was scheduled for today by order entered on an earlier date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1161 (AS MODIFIED)

Mr. STONE. Mr. President, I send a modified amendment regarding Somalia to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1161, as modified:
>
> Page 6, line 19; after the word "repaid" insert the following: "and with respect to Somalia may be repaid".

Mr. STONE. I thank the Chair and I thank the distinguished Senator from New York for his input into this.

By adding the phrase "may be repaid," he makes the discretion available to the administration without locking in the negotiations to have required extended payment terms.

Mr. CHURCH. I believe the clerk may have misread the amendment in its revised form. Just the final sentence, the final phrase, is intended.

Mr. STONE. Is intended.

The PRESIDING OFFICER. The amendment is so modified.

Mr. CHURCH. Then we all understand the matter relating to extended repayment terms for Somalia is discretionary with the President and not obligatory.

Mr. STONE. That is correct.

Mr. CHURCH. Very well, I am prepared then to move the amendment.

Mr. JAVITS. Mr. President, as modified at the desk the amendment then reads as modified at the desk:

> After the word "repaid" on page 6, line 19, "and with respect to Somalia may be repaid."

Mr. STONE. The Senator from Florida asks the Chair is that correct?

The PRESIDING OFFICER. If you will indulge the Chair for just a moment.

The clerk will read the amendment as modified.

The assistant legislative clerk read as follows:

> Page 6, line 19, after the word "repaid" insert the following: "and with respect to Somalia may be repaid."

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. It is satisfactory.

Mr. CHURCH. I move the adoption of the amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Florida.

The amendment, as modified, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the next amendment after which it then go to the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Does the Senator have the revised amendment?

Mr. STONE. I have an additional amendment.

Mr. CHURCH. I thought the Senator referred to the revised amendment we previously discussed.

Mr. STONE. I will have to wait.

Mr. CHURCH. I would suggest then, that we take up that amendment together with what other amendments the Senator wishes to propose following the Senate's consideration of the conference report.

SMALL BUSINESS DEVELOPMENT ACT OF 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President. I submit a report of the committee of conference on S. 2698 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2698) to provide authorization for the Small Business Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 12, 1980.)

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will announce that on the pending matter, there is an overall time limitation of 2 hours to be divided and controlled, respectively, with 1 hour for the Senator from Pennsylvania (Mr. SCHWEIKER) and 1 hour to be shared by the Senator from Wisconsin (Mr. NELSON) and the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, I rise in support of the conference report on S. 2698. My colleagues are aware of the long legislative history which accompanies this bill. Since 1978 the Congress has endeavored to enact authorizing legislation for the Small Business Administration. Despite arduous negotiations over a protracted period, until recently, agreement could not be reached on certain provisions of this bill. I am happy to report that this conference agreement has successfully addressed the problems which caused the Senate to reject similar provisions as included in the conference report on S. 918.

S. 2698 is a five-title omnibus small business bill with wide ranging implications for the future of small business in the American economy. At a time when concentration in our economy is increasing at an alarming rate, we must do all we can to shift our emphasis from big industry and big government, to policies and programs designed to increase the competition in our economy. We must emphasize the facts that small businesses provide almost all new jobs in the private sector—that productivity is greatest in the small business sector—that 50 percent of all innovations originate with small business and, unfortunately, that current government policies thwart important development in the small business sector rather than encourage it.

S. 2698, especially through the provisions of title III, provides the basis for a new Government relationship with small business, a relationship which recognizes that by spurring competition and insuring a healthy small business sector we will insure the health of our economy as a whole.

Title I of this bill provides authorizations for the SBA for fiscal year 1981–1984.

The conferees, through the use of specific line-item authorizations, have directed SBA to emphasize the Advocacy, Economic Research, Management Assistance, Procurement Assistance, and minority small business programs.

I would also like to draw my colleagues' attention to a new program adopted by this bill which could provide an important source of funds for small businesses. Section 113 of the bill would authorize SBA to fully guarantee debentures issued by qualified State and local development companies to finance projects to help urban small businesses acquire land, construct buildings or purchase equipment and machinery.

Under the program, the amount of the debentures guaranteed by the SBA could not exceed half of the project cost, thereby necessitating that the remaining half be supplied by private sources. This would provide substantial security to the Federal Government, as few responsible private lenders would assume such a large exposure in an unsound commercial deal.

This program will help involve private enterprise in the important task of developing the economic base of our Nation's urban centers. Mr. President, it is the private sector, not the Federal Government, that holds the key to an effective, lasting solution to our Nation's urban woes. Permanent, meaningful employment, not "make-work" jobs, will be created by this proposal.

Title II of S. 2698 statutorily creates the small business development center program at SBA. This program is designed to address small business needs for management and technical assistance. I will have further comments on this program later in my statement.

Title III establishes a small business economic policy. This title is vitally important to our efforts to provide a climate and develop Government programs conducive to competition and the growth of small business as an important sector of our economy. Equally important are provisions in title IV requiring SBA to establish an economic data base on small business. Without the basic data on small business, it is next to impossible to develop programs and policies that address small business concerns.

Title V of S. 2698, the Small Business Employee Ownership Act of 1980, assists small business employees in buying shares in their businesses through employee stock ownership plans or trusts. These employee plans or trusts are made eligible for financial assistance through SBA's 7(a) regular business loan program.

Mr. President, I would now like to turn my attention to the amendments to S. 2698 which were adopted by the Senate on May 28, and the action taken by the committee of conference on these issues.

Senators BELLMON and COCHRAN offered an amendment concerning the disaster loan programs of the SBA and FmHA. My colleagues are well aware that similar provisions were included in S. 918 but were dropped in S. 2698 by the Small Business Committee because their inclusion was causing great delays in moving that legislation. The conference agreement basically includes these extensive reforms designed to achieve uniformity between the disaster loan programs. The main objective of these reforms was to remove SBA from substantial involvement in agricultural disaster lending, while insuring that no agricultural enterprises which currently are eligible for disaster assistance would be denied such assistance under the provisions of this act. Recognizing that the Farmer's Home Administration has the resources and expertise to handle agricultural disaster lending, this bill requires farmers to seek assistance from FmHA. However, if a farmer is denied, or would be denied, disaster assistance by FmHA, he may apply to SBA.

Mr. President, the House position concerning SBA's treatment of interest payment to the Treasury has created an impasse that has taken over a year to break.

Basically, the House would have exempted SBA from paying interest to the Treasury, thus allowing SBA to retain a significant pot of funds for disbursing disaster loans. The House, through this provision, was attempting to address the very real problem of delays in the disbursement of disaster loans due to the stopgap method of funding the disaster loan program through supplemental appropriations. However, by exempting SBA from paying interest to Treasury, this provision would have understated the true cost of the disaster program.

The compromise language maintains the Senate position on this issue. For all loans made after October 1, 1980, SBA will maintain its practice of fully reimbursing Treasury for interest differential payments on disaster loans.

Under the provisions of the conference agreement on S. 2698 which we are considering today, the integrity of the budget process is retained and no permanent dangerous budgetary precedent is established. The conference agreement also allows sufficient latitude in methods for funding the disaster loan program so that the problem of delays in disbursements of disaster loans can be addressed.

I commend the Senator from Oklahoma for the important role in forging this agreement. This disaster reform package is supported by the administration and the Budget Committee.

Senator BELLMON has done an outstanding job in sticking to his guns in the cause of sound budgetary practice and this is a clear-cut victory for him, for his predecessor in the matter, Senator Muskie and the now chairman of the Budget Committee, Senator HOLLINGS.

But I must give a special praise to my Republican colleague for the outstanding work he has done in this matter.

Mr. President, the Senate bill included an amendment offered by the distinguished Senator from Pennsylvania, Mr. SCHWEIKER, concerning the small business development center program included in title II. I believe the conference report which we are considering retains the thrust of that amendment. It clearly states that small business vendors, including private management consultants, private labs and engineers must be utilized by an SBDC in delivering management services to small business.

The SBDC program has been developed to insure the availability of management assistance to small firms which cannot afford in-house management experts or consultants. The program design requires SBDC to utilize any and all resources available in the region, consistent with providing the best assistance at the cheapest cost. Clearly, small business vendors are one of the resources which an SBDC must utilize. However, to be effective, an SBDC must develop a program which takes into account the economic environment of the area in which it operates.

Therefore, each SBDC should be allowed to evaluate what available resources should be utilized to provide assistance best suited to the needs of small businesses within the area being served.

The SBDC program should not be exclusively a university program, neither should the services provided be delivered exclusively or primarily by small business vendors. The main consideration is that the assistance be provided to small businesses in the most cost effective manner possible.

The compromise on the Senator from Pennsylvania's amendment achieves this desired result. I would reiterate that the compromise also includes almost all of the amendment's original provisions and preserves the thrust of the original amendment.

Mr. President, I am extremely pleased that we are bringing back from conference an agreement which includes disaster reforms and SBDC provisions as included in the Senate bill. Basically, these were the only two controversial items, and indications prior to conference were that the House would find both unacceptable and strongly urge the Senate to recede. In spite of that, agreement was reached on items of controversy which have kept this Congress from enacting an SBA authorization bill since 1978. I strongly urge the adoption of this conference report.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, is the distinguished Senator from Wisconsin available?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SCHWEIKER. Mr. President, will the Senator yield? I would be glad to make my presentation now.

Mr. WEICKER. Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may consume.

Mr. President, during consideration of S. 2698, the small business authorization bill, I offered an amendment to encourage, to the extent practicable and feasible, the small business development centers authorized by S. 2698 to rely more heavily upon private sectors small businesses rather than employing multiperson, full-time in-house staffs. The Senate agreed to my amendment by voice vote, after a motion to table my amendment was overwhelmingly defeated 22 to 63.

The conference committee has gutted my amendment and rejected the Senate's position that small business development centers should put first priority on using small business, not large in-house staffs, to accomplish their assigned task of helping small business. The effect of the conference committee language is to put small business at a severe disadvantage in competing with multiperson in-house staffs to provide services to small businesses. Therefore, the motion I am offering today would recommit the conference report on S. 2698 with instructions to the conferees to insist on the Senate language.

Instead of the multiperson full-time staff required for a small business development center by S. 2698, as reported by the Senate Select Committee on Small Business, my amendment required only a full-time staff director in each center. The conferees reverted to the original language of the Senate committee requiring a full-time staff, including a staff director.

In addition, my amendment stated that "to the extent practicable and feasible," the assistance to be provided by small business centers shall be provided by qualified small business firms. The intent was clear. The emphasis was away from having in-house staffs provide the bulk of assistance. The conferees, after first reestablishing multiperson in-house staffs, then struck this provision of my amendment and agreed to language which states that a "small business development center shall utilize as one of its resources qualified small business vendors."

The conferees say this language will insure that small businessmen get a chance to deliver management and technical services. A chance yes, but a slim one since the conferees have authorized a multiperson, full-time in-house staff to manage the program activities. With a sizable full-time staff, a small business development center can reasonably be expected to rely first on in-house staff for services. And you can bet small business vendors would be utilized only occasionally. The way the conferees have written it a small business development center could use small business vendors only one time, and fulfill the mandate of S. 2698.

I understand that there was concern among the conferees that relying on the private sector rather than a multiperson full-time in-house staff for the services provided by the small business development centers would not be cost-effective. As the chairman of the Senate Select Committee on Small Business and my other colleagues know, there have been hundreds of studies which indicate that the private sector can perform services for less cost than the public sector.

One study which demonstrates this fact was conducted for the National Federation of Independent Business by James T. Bennett and Manuel E. Johnson, professors of economics at George Mason University. In this study entitled, "Tax Reduction Without Sacrifice: Private Sector Production of Public Services," Professors Bennett and Johnson made the following conclusions:

> Economic theory suggests that private rather than public enterprise should be the more efficient producer of goods and services since private firms may seek optimal scale of operation without the constraints imposed by political boundaries and since the market imposes a discipline on the manager in the private sector that is absent in the public sector. In contrast to the manager of the private firm whose utility is increased by profit maximization, the self-interest of the manager of government bureau is enhanced by increasing the number of subordinates. These hypothesized differences between the public and private enterprises were confirmed by a survey of case studies. Without exception, the empirical findings indicate that the same level of output could be provided at substantially lower costs if the output were produced by the private sector rather than the public sector.

In testimony before the Senate Select Committee on Small Business, small businessmen and organizations representing the small business community have repeatedly urged that private sector involvement in the small business development centers be increased. No one can emphathize with a small businessman and assist in solving problems better than another small businessman who possesses the expertise he needs. I believe it is incongruous to limit small business participation in a program that is designed to help small businesses. Yet this will happen if we agree to the conferees' language on the small business development centers.

Many small businesses fear that the small business development centers could end up in direct competition with small businesses capable of providing identical services. In November 1979, the National Federation of Independent Business polled its 600,000 members and asked them the question, "Do you favor or oppose creating a federally funded series of university small business development centers to provide management assistance to small firms?" An overwhelming 87 percent of the National Federation of Independent Business members opposed the program and voiced concern that the program would be in direct competition with the private sector.

The Small Business Administration's Office of Advocacy has acted to reduce competition between the Federal Government and small businesses. We should not turn around and promote a program which could create more competition. The small business development center program should be cooperative rather than competitive in nature.

The delegates to the White House Conference on Small Business supported the need for small business assistance programs to serve the small business community but they stressed that there should be a partnership among Government, educational institutions, and businesses. The Government's principal role should be to coordinate policy. It would also supply resources and incentives to businesses and universities, which in turn would develop specific approaches to training and management assistance. I believe the small businesss development center program could achieve these goals set forth by the delegates only if there is greater involvement by the private sector. Therefore, I believe this body should insist on the Senate passed language in S. 2698.

I realize that some of the organizations representing small businesses have expressed concern regarding my motion to recommit this conference report. These groups fear that other Small Business Administration's programs authorized in S. 2698 might be jeopardized if the House and Senate do not agree to this conference report. I do not believe this will be the case if my motion is agreed to. Unlike last year, when the Senate considered the conference report on S. 918, the small business investment bill, there are no other portions of the report where there is disagreement. My motion concerns only the small business development centers and the conferees would be instructed to examine only this program.

If we accept the language of the conferees, small business participation in the small business development centers will be severely limited, the small business development centers will be competing with the private sector, and small business development centers will hinder rather than help the growth and development of small businesses across the country.

If we agree with the language of the conferees we will not be creating a program that will assist small businesses. In fact, if we accept the conference report language, I envision small businesses in the next few years coming before the Congress and saying the small business development center program is another example of Government waste and should be changed. If we insist that the conferees accept the Senate language, we have the opportunity to see that this program is on the right path at the start.

The conferees have ignored the concerns of many groups within the small business community as well as the clear intent of the Senate. The Senate vote on my amendment was 63 to 22. I find this action regrettable.

The National Federation of Independent Business, the U.S. Chamber of Commerce, the Smaller Manufacturers Council, the American Council of Independent Laboratories, the Council of Smaller Enterprises, and other small business groups across the country supported my original amendment, and they now support my efforts to recommit this conference report. This widespread opposition to the language agreed to by the conferees on the small business development centers, a program which supposedly aids small business, reflects the inappropriateness of the conference report before us today. Mr. President, I urge my colleagues to support the motion that I shall offer.

Mr. President, I would like to read a telegram from the U.S. Chamber of Commerce, dated June 12, 1980:

> U.S. Chamber, in behalf of all its small business members, supports your motion to recommit S. 2698 with instructions to conferees to adopt your amendment to title II, small business development center. We urge all Senators to support your motion which is absolutely essential for the success of this small business management assistance program.

Mr. President, here is a letter from the National Federation of Independent Businessmen, dated June 16, 1980:

> NATIONAL FEDERATION OF
> INDEPENDENT BUSINESSMEN,
> *Washington, D.C., June 16, 1980.*
>
> DEAR SENATOR: On Tuesday, June 17, 1980, the Senate will be asked to approve the Conference Report on S. 2698, the Small Business Administration Authorization Bill. Included in S. 2698 are provisions for the creation of the Small Business Development Center (SBDC) program. Under this program, federal dollars will be advanced to universities to establish centers to provide management and technical assistance to small businesses. The National Federation of Independent Business and its 600,000 small business owner members oppose the creation of this program, especially as it is envisioned in the language reported by the Conference Committee. Our entire membership was polled, in January of this year, on the question of SBDCs and we found that 87% of them opposed the idea.
>
> On May 28, 1980, the Senate corrected a major defect in the design of the program by accepting Senator Schweiker's amendment concerning the SBDC's utilization of private, for-profit consultants. Even though the Senate vote for that amendment was 63 to 22, the Conference Report does not contain it. When the Conference Report on S. 2698 is considered, Senator Schweiker will offer a motion to recommit it to the Conference with instructions to the Senate Conference to insist on the original Senate passed language. NFIB strongly supports Senator Schweiker's efforts and urges you to do likewise.
>
> The issue here is one of extreme importance to small business: subsidized direct government competition with the private sector. The Conference Report language does not adequately protect against the possibility that SBDCs will become competitors in the marketplace with accountants, private testing laboratories, engineers, lawyers, and financial and management consultants. In fact, given the overall design of the SBDC program, it is a certainty that such subsidized competition will take place. The Conference Report merely says that SBDCs shall use private vendors as "a resource." Whereas, Senator Schweiker's language would insist that private vendors be used to the "extent practicable and feasible." Under the Schweiker formulation, private participation would not be merely an incidental component of the program, but an integral and primary one, if the individual circumstances allowed.
>
> It is worth noting that the White House Conference on Small Business addressed this general area and recommended the establishment of:
>
> "'One-Stop Shops' under the coordination of SBA for small business assistance programs utilizing effective information systems and management assistance programs to serve the small business community of the local level, with *primary implementation occurring through the private business sector, existing* agencies and *existing* organizations."
>
> The emphasis is mine. There is no possible reading of that recommendation which would lend support to the SBDC program as contained in the Conference Report on S. 2698. In fact, the above recommendation was approved after an SBDC proposal was specifically rejected by the delegates. The acceptance of the Senate passed language is critical to the successful operation of the SBDC program as well as to its acceptance by the small business community.
>
> I urge you to support Senator Schweiker's recommittal motion when it comes up on Tuesday. I have enclosed a pamphlet that provides additional background material for your information.
>
> Sincerely,
> JAMES D. "MIKE" MCKEVITT,
> *Director of Federal Legislation.*

Mr. President, I move to recommit the conference report with instructions to the Senate conferees to insist upon the inclusion of the language of Senate amendment 1110 as passed by the Senate.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Will the Senator please send his motion to the desk?

Mr. SCHWEIKER. I will, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, so the record will be clear, I wish to submit for the RECORD some materials to be printed immediately following my remarks.

First, the chairman of the Small Business National Unity Council of the White House Conference on Small Business, Mr. Robert Carr, has written a letter on June 16 endorsing this conference report and speaking in behalf of the White House delegates, asking for its adoption. His last sentence is:

> May I respectfully urge the swiftest possible enactment so that the House and Senate and their relevant committees may turn their attention to bills now stacked up and waiting for action.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD following my remarks. This is from the chairman of the delegates to the White House conference.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. I also wish to submit for the RECORD a telegram from Charles McDonald, chairman, and John C. Ellsworth, chairman, Government Relations of the Council on Smaller Enterprises in Cleveland:

> On behalf of the 3,500 corporate members of the Council of Smaller Enterprises we wish to express our support for the spirit of S. 2698, the Small Business Authorization Act, and urge its passage by the Senate.

I ask unanimous consent that the entire telegram be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NELSON. Mr. President, I also submit for the RECORD a list of approximately 200 small business organizations that endorse the pending conference report and ask unanimous consent that the names of these small business organizations be printed in the RECORD, following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. NELSON. Mr. President, I ask unanimous consent that a letter from the Small Business Legislative Council, signed by Jerome Gulan, legislative director, endorsing this bill, be printed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. NELSON. Mr. President, I strongly urge adoption of the conference report on S. 2698, the Small Business Development Act of 1980. I am pleased to say that the conference version differs in only two major respects from the measure enacted by the Senate on May 28. Most importantly, we have reached agreement with the House of Representatives, the Senate Budget Committee, and the administration, on disaster-related provisions.

I express my appreciation to the distinguished Senator from Kentucky (Mr. HUDDLESTON) who oftentimes wore two hats as he represented the interests of both the Small Business and Agriculture Committees during this process. In addition, I thank the Senator from Connecticut (Mr. WEICKER) for his diligent efforts in seeing the bill through its many parliamentary stages, and various forms.

Mr. President, S. 2698 is a five-title bill.

Title I of the conference report provides for authorizations for the Small Business Administration. These authorization levels are realistic, and austere. However, they do provide explicit congressional direction to the agency on the allocation of scarce dollars and personnel resources. It provides the comprehensive reform of the disaster programs at both SBA and the Farmers Home Administration.

Title II of the conference report provides for a statutorily designed small business development center pilot program. The Small Business Administration has been operating a similar program under its administrative authority for several years. The program has worked well in many States, including my own State of Wisconsin. But it has had a number of deficiencies, in part because there has been a lack of uniformity among the centers. One of the purposes of this title is to provide that much-needed structure, but making it clear that each center which participates in the program has sufficient latitude to tailor its delivery to take into account its local needs. The conference substitute makes it clear that services are to be made available to small businesses by a variety of professionals. No single group is best qualified, or available, to meet the independent entrepreneur's growing demands for assistance.

Title III of the conference substitute provides for a small business economic policy declaration which recognizes, for the first time, that small business is a distinct, and unique, sector of the economy.

Title IV requires the development of a small business economic data base, and upgrades the role of the SBA Chief Counsel for Advocacy.

Title V authorizes SBA to provide financial assistance for the purpose of an employee stock ownership plan purchasing an existing business.

All of these measures have strong support from the small business, community. Four of them address recommendations of the White House Conference on Small Business, including:

First, strengthening SBA's management assistance (incorporated as title II of the bill);

Second, increasing funding and visability for the Office of Advocacy (incorporated in titles I and IV of the bill);

Third, increasing the small business economic research (incorporated in title IV of the bill); and

Fourth, increasing SBR's technology assistance (incorporated in title I of the bill).

Mr. President, the Senate has passed SBA authorization bills five times, in three separate bills, over the last two Congresses. With the exception of the congressional consideration of H.R. 11445 in the 95th Congress, the Senate has adopted virtually the identical provisions contained in this conference report on three separate occasions. Each time, we considered incorporating, and not incorporating, various forms of disaster reform. Each time we brought up the legislation, someone else seemed to have a better idea of how it should be done. We have finally succeded in getting all of the parties together, and agreeing, once and for all, I trust, on the proper form and substance of disaster reform provisions.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the full text of the statement of managers on this portion of the conference agreement, as well as a letter that I have received from the Director of the Office of Management and Budget, Mr. McIntyre. That letter indicates that the Administration agrees with the reforms which have been contained in this bill, and supports passage of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SBA Disaster Relief Loan Interest Rates

The Senate bill makes significant changes in the SBA disaster assistance program for disasters occurring on or after October 1, 1978, and prior to October 1, 1982.

Under existing law, the interest rates on loans to offset net losses on principal residences and personal property is 3 percent up to $55,000 and, under certain conditions, an additional amount at "cost of money" to the Government under a formula which currently equals 8¼ percent.

For business, under existing law, a credit elsewhere test is applied, regardless of whether the applicant is being processed by SBA or the Farmers Home Administration (FmHA). Businesses unable to obtain sufficient credit elsewhere may receive a loan at 5 percent interest to offset net losses. For theso businesses, regardless of whether they are farm or non-farm type, the rates are identical at both SBA and the Farmers Home Administration.

The ability to obtain credit elsewhere is used only as a means for determining the interest rate to be applied on SBA loans to repair or replace property damaged or destroyed.

Under the Senate bill, if a business is able to obtain credit elsewhere, it may obtain Federal assistance, up to a maximum of $500,000 per disaster, at a rate of interest not to exceed a statutorily established formula for determining the cost of money to the U.S. Government, plus not more than one percent. After 3 years, and every 2 years thereafter, these loans are subject to review to determine if the borrower is able to obtain a private loan elsewhere at reasonable rates and on reasonable terms. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower, upon request of SBA, may apply for and accept such non-Federal loan in an amount sufficient to fully repay SBA for the balance outstanding.

Those borrowers who are eligible to apply for FmHA loans would be required to apply there first; however, if they are declined for or would be declined for an FmHA loan, a borrower may apply for and be eligible to receive an SBA loan, if they otherwise meet the tests of the SBA administered program.

SBA may waive the $500,000 loan limit to businesses if the applicant is a major source of employment in an area suffering a disaster.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision with an amendment making only technical changes to language, and extending the sunset date on the program changes one additional year.

The conferees want to make clear that the $500,000 limitation is not meant to be cumulative, nor is it meant to be applicable to any other form of assistance which an applicant may receive from other SBA programs, including non-physical disaster loans.

The conference substitute further amends section 7(b)(8) of the Small Business Act by clarifying that energy shortage loans may be made available to those small business concerns injured by a shortage of any energy source, including coal, unless the shortage is caused by a strike, boycott or embargo directly against such concern.

The conference substitute further amends section 7(b)(4) of the Small Business Act by clarifying the circumstances under which product disaster loans may be made available to small businesses unable to market their products. The conferees are expressly prohibiting a small business which intentionally adulterates its product in order to take advantage of this program from receiving a product disaster loan, as was expressly requested by the SBA Administrator.

The basic reason for the change in this program is to provide loan assistance to those small businesses whose product is made unfit for human consumption due to other than natural causes. For example, if a Federally imposed ban on saccharin is implemented, many small businesses, primarily including manufacturers and wholesalers, may suffer injury because they are unable to market products containing saccharin due to actions by the Federal Government. Such small businesses which are adversely affected by this type of action by the Government should be eligible to receive loan assistance in overcoming the adverse effects of this type of Federal action.

Finally, the conference substitute amends section 7(b) of the Small Business Act to provide that a state grant made on or prior to July 1, 1979, shall not be considered compensation for the purposes of applying the provisions of section 315(b) of the Disaster Relief Act of 1974. It is the intent of the conferees that the Small Business Administration shall use its authority to aid redevelopment of flood prone areas by transfer of disaster loan liens from properties condemned to new properties acquired with the proceeds of condemnation. Through the use of this lien transfer authority, State and Federal redevelopment initiatives will not place a burden on disaster victims in a redevelopment area while not allowing windfall profits. In addition, it is the intent of the Congress that any moneys issued by a redevelopment authority shall not be considered compensation under this provision.

FARMER ELIGIBILITY AT SBA

Under existing law, farmers are statutorily eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain circumstances, farmers are also eligible for assistance from the Farmers Home Administration. However, there is no requirement that farmers first seek assistance from Farmers Home before going to SBA.

The Senate bill amends section 18 of the Small Business Act, relating to duplication of benefits, to clarify that an agricultural enterprise would not be eligible for SBA physical disaster loan assistance to repair or replace property other than a residence unless that enterprise was first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates.

The Small Business Act is also amended to clarify the definition of "agricultural enterprises" and "credit elsewhere".

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision.

The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA as a non-agricultural business received from SBA.

There has been some discussion of administratively imposing a minimum loss at SBA for agricultural producers. In the case of a disaster caused by drought, there is a variation from normal yield which would represent the amount by which yields presumably would be reduced in approximately one-half of the crops years. The conferees understand the Administration is attempting to determine a fair formula to take this natural occurrence into consideration in figuring net losses in those drought disaster cases. However, in disasters not related to drought involving crops, there is no normal reduction or increase from such nondrought causes; and since there is no arbitrary deduction from net loss in calculating the amount of loan eligibility for nonfarm businesses, homeowners and other eligible applicants, SBA should not arbitrarily reduce the amount of loan eligibility for non-drought disasters for agricultural producers.

The underlying issue is one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

SAVINGS CLAUSE

The Senate bill provides that nothing in the amendments made by this legislation to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) or section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) of the Small Business Act shall apply to any disaster which commenced on or before the effective date of this legislation.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision.

The conference substitute states that the amendments made by this section to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) and section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) do not, and shall not, apply to any disaster which commenced on or before the effective date of this Act. The word "commenced" has been used because of the inconsistent position the agency has taken in the past with the term "occurred" in determining whether particular localities are eligible for new benefits.

AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

The Senate bill amends section 324 of the Consolidated Farm and Rural Development Act to make emergency loans by the Farmers Home Administration available for the first time to farmers who can obtain credit-elsewhere. The Senate bill imposes a two-tier emergency loan interest rate structure for loans for the actual loss suffered in the disaster. If a farmer is not able to obtain sufficient credit-elsewhere, the interest rate would be not in excess of five percent, as is the case under current law. If a farmer is able to obtain sufficient credit-elsewhere, emergency loans would be not in excess of a rate equal to the cost-of-money to the Federal Government for comparable marketable obligations, plus an additional amount determined by the Secretary of Agriculture, but not to exceed one percent.

The Senate bill also provides the $500,000 ceiling on emergency loans, but makes it clear that this limitation is applicable to each disaster, and is not cumulative.

For FmHA emergency loans to a borrower who could obtain credit-elsewhere, the Senate bill provides that three years after the disaster loan was first approved, and every two years thereafter if necessary, if the Secretary determined that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower must obtain that non-Federal loan and repay the Secretary.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision.

The non-Federal sources to which this "graduation" requirement applies include, among others, production credit associations, Federal land banks, and similar financial institutions.

It is the intent of the conferees that the total amount of disaster loans made to borrowers who are able to obtain sufficient credit elsewhere not exceed the borrowers' actual loss, so that creditworthy borrowers would not be extended credit for restructuring of their farming operations.

It is further the intent that the existing Small Business Administration portfolio of farm loans should remain solely within the Small Business Administration and not be transferred to the Farmers Home Administration.

The provision of the conference substitute authorizing a departure from Farmers Home Administration's credit-elsewhere test is expected to result in a 25 percent increase in the workload of that agency based on experience during fiscal year 1979. This is expected to increase the program level by $400 million, increase administrative expenses by $4 million as well as require an additional 200 staff-years to make and service these loans. The conferees have been informed by the Administration that upon approval of the conference substitute, the Administration will increase the personnel ceiling for the Department of Agriculture and authorize it to hire the additional 200 permanent, full-time staff persons. The conferees fully expect the Administration to meet this commitment so that the amendments to the Consolidated Farm and Rural Development Act can be properly implemented.

BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION REVOLVING FUNDS

Under *current law*, funding for the Small Business Administration's disaster loan and the business loan and investment revolving funds is provided by Congress through the appropriation of budget authority. SBA loans out the principal, and collects both principal and interest from borrowers. The agency, using its revolving funds, may loan these repayments to new borrowers.

In addition, under current law, SBA pays interest annually to the Treasury based on a statutory formula on outstanding cash disbursements from each of these funds.

The Senate bill amends the Small Business Act by shifting the funding mechanism from one of appropriated budget authority to authority for both funds to borrow from the Treasury in such amounts as are provided in advance in appropriations Acts. SBA is given new authority to make and issue notes to the Secretary of the Treasury for obtaining capital for the funds.

In addition, under the Senate bill, upon the enactment of the first appropriations bill providing borrowing authority for each of the funds, all unobligated amounts in the funds, and those received thereafter as repayments of principal, shall be transferred to the Treasury.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision with an amendment. While the Senate bill provided for funding for both of the SBA funds strictly from borrowing authority provided in advance in appropriations Acts, the conference substitute permits capital to be provided to the funds through either the appropriation of budget authority or by placing a limitation on the amount of notes SBA may sell to Treasury.

Furthermore, SBA shall pay over to Treasury interest received from borrowers based on a statutory formula, taking into account the outstanding cash disbursements of the funds net of defaults.

The SBA would not be prohibited by this bill from making new loans from repayments of principal from loans made with appropriated funds; however, moneys in either fund not needed for current operations may be paid over to Treasury, and credited to the Government as miscellaneous receipts.

In addition, SBA is required to pay interest to the Treasury on loan disbursements. On the loans outstanding on the date of enactment, or on those made with funds appropriated between the date of enactment and October 1, 1980, SBA will pay over to Treasury only that interest income it receives from borrowers from any of the financing functions of the agency. Such payments shall be treated by the Treasury as interest income, not as retirement of indebtedness.

On new loans made from the repayment of principal from loans made from appropriated funds, or originating from new budget authority appropriated to become effective on or after October 1, 1980, or on amounts received by either of the funds from the sale of notes to Treasury as authorized by this bill, SBA shall pay interest based on a statutory formula for determining cost-of-money to the Treasury, and calculated solely on the amount of outstanding loan disbursements net of losses.

There are also authorized to be appropriated to SBA, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds, but not previously reimbursed.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 11, 1980.

Hon. GAYLORD NELSON,
Chairman, Select Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the agreement reached Wednesday, June 4, 1980 in the Roosevelt Room, staffs representing principals have now reached agreement on language covering interest payments to the Treasury from SBA's business and disaster loan revolving funds.

Accordingly, the Administration agrees that S. 2698, as modified by the attached language, is acceptable.

I want to personally thank you for your leadership on behalf of this legislation.

Sincerely,

JAMES MCINTYRE, Jr.,
Director.

Mr. NELSON. Mr. President, I believe this measure is genuinely a landmark bill because of the many small business issues addressed in the five titles of the bill. Title II puts in place a management and technical assistance program which should do for small business what the Agriculture Extension Service program has done for farming and ranching over the last 100 years. Today America has the strongest agricultural economy of any nation in the world due in large part to the rural extension service program. I am confident that the small business development center program as contained in title II holds the same potential for helping the small business sector become as equally strong in future years.

Title III, coupled with title IV, promises to be a watershed act for small business because, for the first time in our country's history, small business will be both recognized and treated as a separate and unique economic sector.

Title III provides for a declaration of a small business economic policy which will help assure continued economic diversity in this country. Small business has historically met vital national needs. Furthermore, a strong, vibrant small business community is one of the keys to resolving the most pressing items on our current national agenda. In terms of our quality of life and form of government, small business provides a measure of safety against excessive concentration of both public and private power.

The small business economic policy statement recognizes the attributes of the independent sector by making it mandatory for the Federal Government to use all practical means to implement and coordinate policies, programs and goals of each and every Federal department, agency, and instrumentality in order to protect and promote the economic interests of small businesses.

Stated another way, this new policy declaration lays the basis for adopting a comprehensive strategy that cuts across the entire spectrum of the American economy. Enactment of this provision will require the making of a better environment for small businesses so that they can grow, thrive, and finally, survive from one generation to another.

Also of paramount importance is the policy declaration which commits the Federal Government to establish incentives that will guarantee that reasonably priced private capital will be readily available to small businesses. In short, the Federal Government is to create, coordinate, and sustain policies and programs that will induce investment in independently owned firms.

In the report submitted to the President by the White House Commission on Small Business, the Commissioners spoke to the need for small business to be treated as a distinct economic sector:

> By taking the short view, government policymakers have lost sight of this regenerative process. Restoring the process is so vitally important to the nation that it transcends the narrow concerns of special interest groups. It is essential to the well-being of every American, to large businesses as well as small, and to the underpinnings of democratic government.
>
> An important step toward fostering the entrepreneurial spirit is to recognize that Small Business forms a distinct economy within the complex interactions of national commerce. A precedent can be seen in how government policymakers recognized that farming is different from other economic sectors. When they developed a wholly separate policy for U.S. farming, they were able to turn the American Agricultural Economy into the most astonishing productive engine the world has ever seen. With an appropriate policy for the Small Business Economy, American entrepreneurship can produce with equal vigor.

The Commissioners go on to say that "small companies are aggrieved by a policy of neglect that has inadvertently imposed obstacles and inequities that seem to thwart efficient business operations at every turn. The single most important message of the Conference is that government must eliminate those obstacles and inequities and play a reduced role in small business activities."

I submit that the Small Business Economic Policy Act of 1980 lays a permanent foundation for ending this benign neglect by forcing all departments, agencies, and instrumentalities of the Federal Government to take into account the interests of small business so that their programs and policies are not injurious to the small business sector.

Title IV complements and strengthens the provisions of title III as it requires SBA to develop a small business index which will track 12 specific economic indexes that will track the expansion and contraction of this unique economic sector, small business. For the first time the Congress, the executive branch, and most importantly, the small business community will be provided reliable economic data by which not only Federal, but State and local policies and programs can be measured as to their impact on small business concerns.

Taxes, regulations, productivity, innovation, foreign trade, energy resources and capital formation are all burning issues as evidenced by the 60 recommendations of the Small Business White House Conference delegates. All of these critically important issues will be required by titles III and IV to be addressed in a small business context and if Federal policies and programs are found wanting, they will have to be changed so they effectively meet the needs of the independent sector.

I should also mention that title IV is on target with a Commission recommendation that reads: "A thorough data base on small business must be developed. The commission urges all government agencies to assist the SBA in this project. It also requests that the SBA be granted formal authority to solicit assistance from the private sector to expedite the task."

Besides the compilation of a small business economic data base by SBA, title IV also requires the three Federal banking regulators to measure the extent to which small business credit needs are being met by the Nation's financial institutions. Here too, if it is concluded that there is a credit shortfall, additional incentives may be needed to induce a larger flow of debt as well as equity capital to American entrepreneurs.

Finally, I am pleased that the position of Chief Counsel for Advocacy at SBA is upgraded to an Executive Level IV position, which is just one step lower than that of SBA Administrator. This provision will place the advocate, Milton Stewart, in a highly visible position to enable him to better represent and speak out on behalf of small business, which I might add, he has done most effectively to date. Again, this provision speaks to one of the top recommendations adopted at the White House Conference.

Mr. President, this bill will give the Federal Government clear and unmistakable congressional guidance, and the tools, to effectively provide aid to the independent entrepreneur. I urge the Senate to give its overwhelming approval to this legislation.

Mr. President, on the question of the amendment by Senator SCHWEIKER, I think we worked out the best and most practical compromise that was possible to work out with the House. The House conferees did not want any provision whatsoever. The provision that the conferees adopted, I think, is a reasonable compromise. It mandates that consultants shall be used. I think that is as far as the conference could go as that was as far as the House conferees were willing to go. To send this bill back to conference, in my judgment, would kill this important small business bill that has a number of provisions in it that are important to the small business community.

The bill has now been passed five times, Mr. President; five times. It seems to me that we have gone as far as we can in working out all the problems associated with this bill. If it goes back to conference, those Members who have voted to send it back will have voted to kill this important small business legislation. So I hope that the motion to recommit, which is really a motion to kill, will not prevail.

EXHIBIT 1

SYSTEMS ENGINEERING ASSOCIATES CORP.,
Arlington, Va., June 16, 1980.

Hon. GAYLORD NELSON,
Senate Select Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: As the newly-elected chairman of the implementation group formed by the delegates to the White House Conference on Small Business, I ask your help in advising all members of the U.S. Senate of the urgency of swift adoption of S. 2698. We are increasingly concerned about the need of the Senate and House of Representatives to reach legislation urgently recommended by the White House Conference on Small Business. S. 2698 has occupied the attention of the House and Senate for the whole life of this Congress.

May I respectfully urge the swiftest possible enactment so that the House and Senate and their relevant committees may turn their attention to bills now stacked up and waiting for action.

Cordially,

ROBERT E. CARR,
President.

EXHIBIT 2

Senator GAYLORD NELSON,
Senate Select Committee on Small Business, Washington, D.C.

On behalf of the 3500 corporate members of the Council of Smaller Enterprises we wish to express our support for the spirit of S. 2698, the Small Business Authorization Act, and urge its passage by the Senate.

S. 2698 represents two years of hard work and commitment to the ideals of small business by our elected representatives. The result is a bill which is by and large acceptable to the small business community of greater Cleveland.

COSE has expressed serious concern over the conference committee's rejection of Senator Schweiker's amendment requiring SBDC's to contract for services to independent small firms wherever possible; we continue to question the wisdom of that rejection. However, we must weigh our concern against the importance of the overall legislation to the small business community, and therefore urge its swift passage by your colleagues in the Senate.

CHARLES R. MCDONALD,
JOHN C. ELLSWORTH,
Government Relations.

EXHIBIT 3

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

American Association of MESBICs.
American Association of Nurserymen.
American Metal Stamping Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
Amusement and Music Operators Association.
Association of Diesel Specialists.
Association of Independent Corrugated Converters.
Association of Physical Fitness Centers.
Association of Steel Distributors, Inc.
Automotive Affiliated Representatives, Inc.
Automotive Warehouse Distributors Association, Inc.

Building Service Contractors Association International.

Business Advertising Council.

Christian Booksellers Association.

Direct Selling Association.

Eastern Manufacturers and Importers Exhibit, Inc.

Electronic Representatives Association.

Forging Industry Association.

Furniture Rental Association of America.

Independent Bakers Association.

Independent Business Association of Michigan.

Independent Business Association of Washington.

Independent Sewing Machine Dealers of America, Inc.

Institute of Certified Business Counselors.

International Franchise Association.

Local and Short Haul Carriers National Conference.

Machinery Dealers National Association.

Manufacturers Agents National Association.

Marking Device Association.

Menswear Retailers of America.

Minnesota Association of Commerce and Industry Small Business Council.

Narrow Fabrics Institute, Inc.

National Association for Child Development and Education.

National Association of Brick Distributors.

National Association of Catalog Showroom Merchandisers.

National Association of Floor Covering Distributors.

National Association of Home Builders.

National Association of Plastic Fabricators.

National Association of Plastics Distributors, Inc.

National Association of Plumbing-Heating-Cooling Contractors.

National Association of Realtors.

National Association of Retail Druggists.

National Association of Trade and Technical Schools.

National Beer Wholesalers' Association of America, Inc.

National Building Material Distributors Association.

National Burglar & Fire Alarm Association.

National Candy Wholesalers Association, Inc.

National Coffee Service Association.

National Concrete Masonry Association.

National Electrical Contractors Association, Inc.

National Family Business Council.

National Fastener Distributors Association.

National Home Furnishings Association.

National Home Improvement Council.

National Independent Dairies Association.

National Insulation Contractors Association.

National Meat Association.

National Office Machine Dealers Association, Inc.

National Office Products Association.

National Paper Box Association.

National Paper Trade Association, Inc.

National Parking Association.

National Patent Council, Inc.

National Pest Control Association.

National Precast Concrete Association.

National Shoe Retailers Association.

National Small Business Association.

National Society of Public Accountants.

National Tire Dealers & Retreaders Association, Inc.

National Tooling and Machining Association.

National Tour Brokers Association.

National Wine Distributors Association.

Power and Communication Contractors Association.

Printing Industries of America, Inc.

Sheet Metal & Air Conditioning Contractors' National Association.

The Roller Skating Rink Operators Association.

United Business Commission.

Web Sling Association, Inc.

Wine & Spirits Wholesalers of America.

OTHER REGIONAL AND NATIONAL ORGANIZATIONS

Council of Smaller Enterprises.

Independent Business Association of Wisconsin.

National Association of Small Business Investment Companies.

Smaller Business Association of New England.

Air-conditioning & Refrigeration Wholesalers.

American Dental Trade Association.

American Jewelry Distributors Association.

American Machine Tool Distributors' Association.

American Supply Association.

American Surgical Trade Association.

American Traffic Services Association.

American Veterinary Distributors Association.

Appliance Parts Distributors Association, Inc.

Associated Equipment Distributors.

Association of Footwear Distributors.

Association of Steel Distributors.

Automotive Service Industry Association.

Aviation Distributors & Manufacturers Association.

Bearing Specialists Association.

Beauty & Barber Supply Institute, Inc.

Bicycle Wholesale Distributors Association, Inc.

Biscuit & Cracker Distributors Association.

Ceramic Tile Distributors Association.

Ceramics Distributors of America.

Cooperative Food Distributors of America.

Copper & Brass Servicenter Association.

Council for Periodical Distributors Association.

Council of Wholesale-Distributors, American Institute of Kitchen Dealers.

Distributors Council, Inc.

Door & Hardware Institute.

Drug Wholesalers Association.

Electrical-Electronics Materials Distributors Assn.

Explosive Distributors Association, Inc.

Farm Equipment Wholesalers Association.

Fireplace Institute.

Flat Glass Marketing Association.

Fluid Power Distributors Association, Inc.

Food Industries Suppliers Association.

Foodservice Equipment Distributors Association.

Foodservice Organization of Distributors.

General Merchandise Distributors Council.

Hobby Industry Association.

The Irrigation Association.

Laundry & Cleaners Allied Trades Association.

Machinery Dealers National Association.

Mass Merchandising Distributors Association.

Material Handling Equipment Distribution Association.

Monument Builders of North America—Wholesale Div.

Music Distributors Association.

National-American Wholesale Grocers' Association.

National Appliance Parts Suppliers Association.

National Association of Aluminum Distributors.

National Association of Brick Distributors.

National Association of Chemical Distributors.

National Association of Container Distributors.

National Association of Decorative Fabric Distributors.

National Association of Electrical Distributors.

National Association of Fire Equipment Distributors.

National Association of Floor Covering Distributors.

National Association of Marine Services, Inc.

National Association of Meat Purveyors.

National Association of Plastics Distributors.

National Association of Recording Merchandisers, Inc.

National Association of Service Merchandising.

National Association of Sporting Goods Wholesalers.

National Association of Textile & Apparel Wholesalers.

National Association of Tobacco Distributors.

National Association of Writing Instrument Distributors.

National Beer Wholesalers Association.

National Building Material Distributors Association.

National Business Forms Association.

National Candy Wholesalers Association.

National Ceramic Association, Inc.

National Commercial Refrigeration Sales Association.

National Electronic Distributors Association.

National Fastener Distributors Association.

National Food Distributors Association.

National Frozen Food Association.

National Independent Bank Equipment Suppliers Assn.

National Industrial Belting Association.

National Industrial Glove Distributors Association.

National Lawn & Garden Distributors Association.

National Locksmiths' Suppliers Association.

National Marine Distributors Association.

National Notion Wholesaler Distributor Assn., Inc.

National Paint Distributors, Inc.

National Paper Trade Association, Inc.

National Sash & Door Jobbers Association.

National School Supply & Equipment Association.

National Solid Waste Management Association.

National & Southern Industrial Distributors Associations.

National Swimming Pool Institute.

National Truck Equipment Association.

National Welding Supply Association.

National Wheel & Rim Association.

National Wholesale Druggists' Association.

National Wholesale Furniture Association.

National Wholesale Hardware Association.

Northamerican Heating & Airconditioning Wholesalers.

North American Wholesale Lumber Association, Inc.

Optical Laboratories Association.

Pet Industry Distributors Association.

Plastercraft Association.

Power Transmission Distributors Association, Inc.

Safety Equipment Distributors Association, Inc.

Scaffold Industry Association.

Shoe Service Institute of America.

Speciality Tools & Fasteners Distributors Association.

Steel Service Center Institute.

Toy Wholesalers' Association of America.

United Pesticide Formulators & Distributors Association.

Wallcovering Wholesalers Association.

Warehouse Distributors Association for Leisure & Mobile Products.

Watch Materials & Jewelry Distributors Association.

Wholesale Florists & Florist Suppliers of America.

Wholesale Stationers' Association.

Wine and Spirits Wholesalers of America, Inc.

Woodworking Machinery Distributors Association.

EXHIBIT 4

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washingon, D.C., June 13, 1980.
Hon. GAYLORD NELSON,
Senate Select Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that the Conference Report on S. 2698 will be before the Senate next week. The Small Business Legislative Council strongly requests that you support passage of this bill, particularly since the legislation has been passed back and forth in the past three years.

The compromise language arrived at by the Conferees is acceptable to most small business groups, and to hold the bill "hostage" once more would truly be a disservice to the small business community.

The Small Business Development Center issue in question is supported by SBLC as we feel that the language of the Conference Report mandates the use of private sector talents.

Our attached statement of April 26, 1979, states at page four:

"And in many cases, the existing SBDCs have utilized to a great extent the professional consulting services of the private sector. Working with these professionals, SBDC staff have offered referrals and subcontracts to management consulting firms or technical professionals. Based on this experience, we believe further expansion of the SBDC program will continue this practice, and beyond that, should a more specialized technology pilot project be started, we also foresee a similar exchange taking place between the centers and independent testing laboratories and other small technical consultants. Thus, an expanded SBDC program would benefit both small businesses needing management assistance and small businesses providing management assistance."

We believe this to be the consensus opinion of most small business groups and we regret that a few groups feel that even stronger language is required.

The SBLC, currently representing more than 4 million small businesses, urges that this legislation not be further delayed.

Sincerely,

JEROME R. GULAN,
Legislative Director.

Mr. NELSON. Mr. President, I ask unanimous consent to yield 3 minutes to the Senator from Louisiana without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I commend the chairman of the conference (Mr. NELSON) and his conferees for the fine job they have done in working out this bill.

This bill would provide Small Business Administration assistance to employees who wish to acquire ownership of their company through an employee stockownership plan—an ESOP—and through other employee ownership techniques.

We all recognize that the small business concern faces many problems not applicable to its larger competitors. For example, it has been difficult for small business to attract investment capital. In addition, most lending institutions have been slow to respond to the financial needs of closely held businesses.

These problems have made it difficult for the small business to finance its operations and growth. The need to assist the small business community to overcome such problems is the very reason why the SBA was created.

I am firmly convinced that the use of ESOP's will facilitate the raising of capital and operating funds by small business. This is because the ESOP provides a vehicle whereby the closely held business can borrow funds, repaying its indebtedness with tax-deductible dollars. The ESOP also provides a market for the stock of existing shareholders.

In addition, employee stockownership, through an ESOP or through some other program, provides an additional benefit to small business through increased employee motivation and productivity.

Thus, the employee stockownership provisions of S. 2698 will make small businesses more competitive with their larger business counterparts. These small businesses not only will be able to borrow money on a tax-favored basis, they will also benefit from increased employee motivation and productivity which recent studies indicate are closely connected with employee stockownership.

I urge Senators to join me in supporting S. 2698, as reported by the conference.

I thank the Senator.

Mr. NELSON. Mr. President, I yield the floor.

Mr. HAYAKAWA. Mr. President, since Senator SCHWEIKER is not on the floor and I want to ask him some questions, I will yield for now and speak a little later.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from South Carolina?

Mr. THURMOND. Mr. President, on behalf of Senator SCHWEIKER, I yield myself such time as may be required.

Mr. President, I rise today to express my concern regarding the failure of the conferees to include the Schweiker amendment in their agreement on S. 2698, the Small Business Administration Authorization bill. I believe this bill should be recommitted and the Senate conferees instructed to insist in the amendment of the distinguished Senator from Pennsylvania, Mr. SCHWEIKER.

Mr. President, the amendment offered by Mr. SCHWEIKER, which I cosponsored, was adopted on voice vote by the Senate during consideration of S. 2698, after a motion to table failed by a vote of 22 "ayes" to 63 "nays." It contained language that I believe would accomplish two major, highly desirable goals. First, it would greatly enhance the effectiveness of the small business development centers authorized under title II of the bill. Second, Mr. President, the amendment avoids governmental agency competition with the very group the agency is supposedly assisting.

Mr. President, the utilization of expertise from persons in the private sector "to the extent practicable and feasible," as stipulated by Mr. SCHWEIKER's amendment, improves the concept and the effectiveness of small business development centers in serving the small business community. The question at hand is really a very simple one: Who can better assist the small business community with their management problems—a Government agency, or individuals in the private sector who render management services to business firms on a regular basis? It seems to me that there is no substitute for the experience and insights gained through firsthand operation of a small business.

Mr. President, as the Senate Small Business Committee indicated in their report on S. 2698, the reason for establishing small business development centers is that small businesses do not have access to advice, information and services as do larger corporations. The centers would be established to provide assistance in such areas as management, marketing, product development, manufacturing, technology development and exchange, finance, and Government regulations.

Mr. President, if the Senate is going to assist the small business community of this country in obtaining access to advice, information and services not presently available to it, it seems to me that we should provide access to the best advice, to the best information, and to the best services available. I do not believe this bill, in its present form, will do that.

Mr. President, the Schweiker amendment called for the use of qualified small business vendors to provide services to small businesses on behalf of the development centers to the extent practicable and feasible. The conference report does not. According to the provisions of the conference report, the small business development centers will have access to private vendors, but they are not instructed to utilize the services of these vendors as a primary resource. Furthermore, the conference report requires each center to have a full-time staff. This requirement will not only eliminate any incentives for the centers to utilize the services of private vendors on a regular basis, but will, as a practical matter, make it unnecessary to involve private sector consultants on a regular basis.

Mr. President, I believe the language contained in the Schweiker amendment is in the best interest of our Nation's small businesses. I urge the Senate to recommit the conference report on S. 2698, with instructions to the conferees to insist on the Senate language on this point.

Mr. President, as I stated, the amendment offered by Mr. SCHWEIKER was adopted on a voice vote by the Senate during consideration of S. 2698, after a motion to table failed by a vote of 22 "ayes" to 63 "nays."

I think that shows the sentiment of the Senate, how strongly the Senate felt about the Schweiker amendment.

I am convinced it contained language that would accomplish, as I stated, two highly desirable goals. I want to repeat those goals. First, it would greatly enhance the effectiveness of the small business development centers authorized under title II of the bill. Second, Mr. President, the amendment avoids governmental agency competition with the very group the agency is supposedly assisting.

Mr. President, small business needs utilization of experts from persons in the private sector just as much as possible, and the Schweiker amendment used the words "to the extent practicable and feasible."

I am sure that this improves the concept and the effectiveness of the small business development centers in serving the small business community.

So we can see then that it is a very simple matter, a very simple question, who can best assist the small business community with their management problems, a Government agency, or individuals in the private sector who render management services to business firms on a regular basis.

I believe it is very clear as to what the answer is. It is very clear to me that there is no substitute for the experience and insights gained through firsthand operation of a small business.

Therefore, Mr. President, it is my hope that the Senate will see fit to recommit this bill and to instruct the conferees to include the Schweiker amendment in their agreement.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Who yields time? Does the Senator from Pennsylvania yield to the Senator from California?

Mr. NELSON. How much time does the Senator wish?

Mr. HAYAKAWA. Three to five minutes. Essentially, I will ask some questions.

Mr. NELSON. I yield 5 minutes of my time to the Senator.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, there are two aspects of this amendment, provisions as passed by the Senate.

The Schweiker amendment, which I supported, says "a full-time staff director to manage program activities," who, in turn, will have access to business analysts, to technology transfer agents, and so forth.

The other is the provision as included in the conference agreement in respect to a full-time staff, including a staff director, plus access to business analysts, counsel, access to technology transfer agents, and so forth.

It seems to me that there is not much difference between the two. I do not know what the hassle is about. Let me take two examples in California.

Chico State College is in a college town; and if you have a staff director, you only have a staff director. There are not enough experts in various aspects of business to call upon for technology transfer, for business analysis, for business information specialists, for a variety of supplementary information and individual wants.

However, at California Polytechnic, in Pomona, there is a community in which a single full-time staff director, hired by the university itself and paid by the Government, has access, being near a large city such as Los Angeles, to any number of different kinds of experts to help out.

So it does not seem to me that there is an essential conflict between the provisions as passed by the Senate, in the Schweiker amendment, and the provisions as included in the conference agreement.

Am I wrong? If I am, I should like the distinguished Senator from Wisconsin or the distinguished Senator from Connecticut to point out in what ways I am misperceiving what is going on here.

Mr. WEICKER. Do I correctly understand that the distinguished Senator from California is saying that there is little difference between the conference report and the original Schweiker amendment language?

Mr. HAYAKAWA. That is right.

Mr. WEICKER. At the point in the amendment he is now discussing?

Mr. HAYAKAWA. That is the point I make—that there is very little difference between them.

Mr. WEICKER. That is my interpretation, but it is not the interpretation of the distinguished Senator from Pennsylvania. He feels that there is great disagreement both on that point and the subsequent one which I am sure the Senator from California is going to touch upon. On that point, no, I do not see a great difference.

Mr. HAYAKAWA. If there is a great difference, I will be grateful to the distinguished Senator from Pennsylvania if he will explain it.

Mr. SCHWEIKER. Mr. President, I yield on my time.

I appreciate the question of the Senator from California. First of all, I go back to two parts of my amendment.

The first part of my amendment, in essence, said that instead of having a full-time staff, you will only have a staff director. The conferees struck that language and reinstated the original bill language, which is completely contrary to my amendment. They put back into the language of the conference report what my amendment had stricken, which is a full-time staff, as opposed to a staff director. That is No. 1.

Second, I had a priority assignment to how much the private sector would be utilized. I said in my language, which was stricken in conference:

> The assistance provided by small business development centers as described in this subsection shall, to the extent practicable and feasible, be provided by qualified small business vendors.

We made it clear that the primary emphasis was to come from the private sector. That is exactly what that says. That was stricken, and the conference report says, in place of that:

> In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors.

That means that if they have 100 resources, they can give one resource a contract and say, "We have met the policy intention of this bill." It guts it. It changes it from a primary emphasis on input to the fact that you can do it once in 20 years. It reverses it. It sets up a Federal staff of in-house people, at a time we are trying to convince small business to prosper as a means of boosting the private sector. It is 180 degrees wrong.

Mr. WEICKER. Mr. President, on my time, I say to the distinguished Senator from California, first of all, that I have tried to limit my response to the question raised by the Senator from California. The Senator from Pennsylvania has gone into the other section, which I will be glad to discuss separately.

First, let us correct one thing with the Senator from Pennsylvania. The language in the conference report is not the same in the first section as was in the original committee bill. The original committee bill did not have the words "access to business analysts, access to technology, access to information." That came out of the Schweiker amendment.

Mr. SCHWEIKER. All I said was on the first line, a full-time staff director.

Mr. WEICKER. Now the Senator is being precise—the first line. The first line—a full-time staff, including a staff director. The way I read that is that if you want to have a full-time staff of one staff director, that is fine; other personnel, that is fine. I do not see it as gutting the amendment of the Senator from Pennsylvania. Probably a basis for more substantive disagreement would be the second section. But as to the first section, the staff of the distinguished Senator from Pennsylvania was not that interested, in the conference, in seeing that part of his amendment adopted; they were glad to see us adopt what was, in effect, the House position.

So I do not see that much difference as between the first portion of the amendment of the Senator from Pennsylvania and that which was adopted by the conference report.

If there is any expert on words and how they can be utilized in the Senate Chamber, it is the Senator from California.

I ask the Senator from California this question: The Senator from Pennsylvania states that the conference report language which states that "a small business development center shall utilize and compensate as one of its resources qualified small business vendors" means that they could only turn to it once a year and they would be in good shape.

With respect to the language of the Senator from Pennsylvania—that is—

> The assistance provided by small business development centers as described in this subsection shall, to the extent practicable and feasible, be provided by qualified small business vendors.

If ever there were weaselly language that would enable an institution to avoid the private sector, it is that language. All you have to do is to say it is not feasible and practical, and you do not have to go at all to the private sector.

So, much as I appreciate the Senator's interpretation of the words, the fact is that what we were trying to achieve was a genuine compromise between the trust of what he was advocating— that is, that the private sector should be a part of this process—while at the same time recognizing the university's side, the Government's side, should also be a part of this process.

But the Senator's words in his original amendment do not glue it into the private sector. It means the private sector could be avoided entirely.

When the Senator says it was gutted, I admit it was modified, as any conference results in compromise and modification, but it was not intended to gut the thrust of what the Senator was advocating.

I yield to the Senator from California.

Mr. HAYAKAWA. Mr. President, I am very grateful to the distinguished Senator from Connecticut.

It seems to me there is enough flexibility within the language.

Mr. SCHWEIKER. Mr. President, will the Senator yield for a moment on my time on this point?

Mr. HAYAKAWA. I am very glad to yield.

Mr. SCHWEIKER. The Senator's question is one of intent. What is the intent trying to do? It is an honest difference.

In the "Dear Colleague" letter that the Senator from Connecticut and the Senator from Wisconsin sent here is what they say about their intent.

They say:

> Requiring private consultants to be the principal, if not sole, providers of SBDC services as well is unwarranted and precludes the SBDC from leveraging low cost and volunteer resources. . . .

So they say it is unwarranted to use the private sector. It says that right in the "Dear Colleague" letter.

So their intent is quite clear. In their "Dear Colleague" letter, they say it is "unwarranted to use the private sector." So it should not be a mystery.

Mr. HAYAKAWA. Will the Senator be so kind as to read that whole sentence again?

Mr. SCHWEIKER. Yes.

> Requiring private consultants to be the principal—

Which is what I do ask for—

> if not sole, providers of SBDC services as well is unwarranted and precludes the SBDC from leveraging low cost and voluntary resources to help some 45,000 small businesses in 1981.

If they do not believe in the private sector they would have never said that in their "Dear Colleague" letter.

Mr. HAYAKAWA. Mr. President, if I may reply, I gave the example of Chico as opposed to Pomona for a very simple reason, and that is there is not the availability within the private sector in a college town like Chico in a variety of businesses and a variety of consulting agencies from which advice can be sought by the director. There are other communities where there is a great abundance. Therefore, it seems to me that the way the conference report stands allows for flexibility to meet the requirements of both kinds of communities.

That is my comment, I say to Senator SCHWEIKER, and there is that broadness of applicability within the conference report. It seems to me to be desirable.

Mr. SCHWEIKER. Mr. President, will the Senator yield again on my time?

Mr. HAYAKAWA. I am not, after all, trying to cut out small business. I am 100 percent for small business.

Yes, indeed, I yield.

Mr. SCHWEIKER. The only point I was making was that when the Senator talks about what the difference is under the original proposal, the primary thrust was to be the private sector.

When the Senator says in the conference report that the private sector is 1 of a number of resources, they could be 1 of 100, 1 of 500, 1 of 10, 1 of 15. So it is clearly a shift from the primary use of the private sector to the fact that the private sector shall be 1 of 10, 1 of 20, 1 of 50. That is the difference.

Mr. WEICKER. Mr. President, yielding on my time, I respond in the following:

First of all, I think the Senator from California puts his finger exactly on what the compromise with the House of Representatives in conference was meant to achieve, and that is flexibility.

Very frankly, as one who believes in competition, I think the maximum number of people out there to provide the services is the best thing that could happen to small business.

Sometimes not all Government advice is bad advice and not all business advice is good advice, or reverse that if you will.

What we tried to achieve was to point the direction for the private sector, but clearly leave it that if it could come from the university sector or come from the Government sector that was fine also.

I do not think that I or the distinguished Senator from Wisconsin need any lectures on the fact that we are not for small business, that we want everything in the hands of the Government.

We are the ones who devote a good portion of our time here in the Senate to small business and the private sector. We are on the committee. That is our job, not to go ahead and further the interest of Government but to further the interest of the small businessman.

When the Senator goes ahead and glues it into the private sector, which is what he and those who are lobbying for this bill believe, that becomes a very unhealthy situation as far as lack of competition.

The reason why this legislation was passed in the first instance was there was no help coming to small businesses.

Now the private sector says, "We want to go ahead and do it."

There now is some sort of vehicle available to do it. They did not do it when the help was needed.

I stood on this floor and supported the Senator's amendment. I think he is correct in stating what he did, that where services can be performed by private enterprise, they should be able to perform those services if they are capable of it and if they are warranted, if the circumstances so dictate.

I want flexibility, the very term that the Senator from California used. All that is done through the conference report.

I think it is also important to point out that even though this was an important matter in conference, it was not the only matter in conference. When it was stated a little while ago that this was the only matter at issue, that was not a correct statement. A very large matter was at issue, that is, the handling of disaster loans. This matter resolved satisfactorily the concerns expressed by the Senator from Oklahoma (Mr. BELLMON) and the Senator from Maine (Mr. Muskie) who were fighting for budgetary responsibility.

Mr. SCHWEIKER. Mr. President, if the Senator will yield, I said "only matter now at issue."

Mr. WEICKER. When we go in conference we have quite a few matters at issue, that is, the bill itself, which was hung up for 2 years, a matter of accounting for the disaster loan funds or rather the interest rate on them which has been hung up for 1 year. It is too bad we cannot all get 100 percent of what we want in this Chamber. About 95 percent was achieved in that conference; I would say probably at least in the most conservative phraseology 40 or 50 percent probably according to the Senator from Pennsylvania, 50 or 60 percent according to me, of his amendment.

I know what the problem is. It is that the NFIB and a few lobbyists do not want any small business development centers at all. All right. Fair enough. Let us put that issue then right up front. Let us not come sort of slithering through the smokescreen here that the words are not exactly as we had them in the Chamber. Since when do words come back from conference exactly as we had them in the course of the amending process?

I think both in terms of the concept of free enterprise and small business it is not going to hurt anyone to have competition between whoever offers these services, whether they come from the academic sector, the Government sector, or the business sector, but certainly what the Senator from Pennsylvania tried to achieve in his amendment was to point the way, if you will, through the private sector. That thrust remains in the agreement is, indeed, it was embodied in the amendment here in the Chamber.

So I hope that we will reject the recommit motion of the Senator from Pennsylvania. Incidentally, I have nothing further on this matter and I do not know what everyone plans to do, but certainly any time Senators feel like they wish to vote, let us vote.

Mr. SCHWEIKER. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I understand the distinguished Senator from Georgia wishes some time. I yield to Senator NUNN.

Mr. NUNN. Mr. President, is the Senator ready to vote? I do not wish to hold up the proceedings. I simply wish to say a few words about this amendment.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NELSON. I am advised that we cannot vote until 2 p.m. in any event.

Mr. NUNN. Mr. President, I rise today in strong support of the conference report on S. 2698, the Small Business Development Act of 1980, and in particular, title II of the bill which provides a legislative framework for the Small

Business Development Center program of the Small Business Administration.

I have been a strong supporter of this concept since its inception, and I was an original cosponsor of the first legislation dealing with this subject, introduced in 1977. I also chaired the first hearings on the proposal by the Small Business Committee, and more recently, I chaired a hearing on the basis for this present legislation in April of last year.

My distinguished chairman, the Senator from Wisconsin, has already explained the details of title II of the pending legislation, and I will therefore not take the Senate's time to once again review the basics of this proposal, which, I might add, has passed the Senate in one form or another in 1977, 1978, and 1979.

However, I shall address some of the specific concerns that the Senator from Pennsylvania has raised regarding the use of qualified small business firms by the SBDC's in providing assistance to small businesses who contact the centers. Having chaired 2 days of hearings last year which focused on this very point, I believe that I can speak with some knowledge on this question.

Mr. President, at the outset, let me say that I agree with the spirit of Senator SCHWEIKER's proposal, and I believe that I made my views clear on this question during the Small Business Committee's hearing on SBDC's on April 5 of last year.

In my opening remarks, I stated:

> It is expected that private management consultants and other professionals people will find the program advantageous. The centers will not only contract with such people to provide counseling and assistance in selected instances, but will refer small businesses to professional counsultants if the case is either beyond the scope of the Center's expertise or there is need for additional follow-up assistance.

I continue to believe that this will be the case, and I want to commend Senator SCHWEIKER for his sincere efforts to better insure that the centers perform, in this regard, as the Congress intends.

As I noted earlier, in the committee hearings on the bill last year, we specifically examined the potential displacement of consulting for profit in the private sector by the SBDC's.

We heard testimony from Mr. Joseph Knight, past chairman of the National Service Corps of Retired Executives (SCORE) Council, which gave us insights into past activities of the nature of those to be provided by the SBDC. The committee was assured that, instead of taking business away from private sector consultants, SCORE has provided a "constant referral" of clients to private sector professionals, and that they have always "made a point of getting the professionals into the act."

We also heard testimony from Dean William Flewellen and Mr. Larry Bramblett, director of the Small Business Development Center of the University of Georgia, who, I want to note, as a matter of pride, being a Senator from Georgia, have organized and are operating what I personally believe, and what is widely recognized, as the very best example of the SBDC concept in the country.

The committee was told that it is, indeed, the policy of the pilot SBDC's to subcontract with private consulting firms when the services to be delivered could be most effectively delivered by those organizations. In addition, we were informed that more than 65 percent of the indepth counseling requests being processed by the centers came directly from private sector referrals, including private consulting firms, and that there had not been one complaint in the State of Georgia from a private consulting firm. In fact, we were told that some of the most staunch supporters of the SBDC concept were owners and managers of small consulting businesses.

These assurances have been supported, I will say to my friend from Pennsylvania, by the actual operation of the Georgia SBDC, where, I believe he will find, more than $100,000 per year of the center's budget has been used in contracting out for the services of private sector small business consulting firms.

Therefore, Mr. President, I am somewhat surprised to find that the Senator from Pennsylvania is opposing the conference committee's modification of his amendment, because I believe that it not only maintains the spirit of his proposal by making it mandatory, and not just permissible, that the centers use and compensate qualified small business vendors as one of their resources, but the conference report makes it equally clear that the centers are not to become nothing more than middlemen in funneling taxpayers' dollars to private-sector consultants. That is not the purpose. As I noted last year at the hearings on this bill, and as I continue to believe, I can see the potential for serious abuse by having an absolute mandate in the law that the private sector shall be used, exclusively if feasible, when you have public funds combined with the profit motive. There is nothing wrong with the profit motive; we all applaud it, but when the profit motive is paid for completely by taxpayer funds, that is quite another story.

I therefore believe that the conference committee reached a reasonable position, considering both the concerns as expressed by the Senator from Pennsylvania, and the concerns of those who believe there ought to be some flexibility in this area, as was so well explained by the Senator from Connecticut.

In summary, Mr. President, I believe that, based on past experience in this area, the small business development center proposal contained in this conference report will not preclude the private sector from having adequate input or access to these centers. On the contrary, I think that the facts will show that resources outside the centers are being used, extensively, including assistance from small businesses which are equipped to provide the services required of the centers. I believe that the conference agreement insures that this will continue to be the case, while guarding against what I perceive as the potential for abuse by indirectly creating what could become a program of nothing more than taxpayer-supported private-sector consultants.

I urge the adoption of the conference report on S. 2698, and I would oppose the Schweiker motion.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I rise to support Senate passage of the conference report on S. 2698, the Small Business Development Act of 1980, and to strongly urge my colleagues to oppose the motion to recommit, vote down the motion to recommit, and vote to adopt the conference report.

This bill is important to small business. It provides authorization for the Small Business Administration and makes adjustments in many existing SBA programs. It reforms the disaster loan program.

This legislation demonstrates the Senate's continued commitment to a vital small business sector in this country. It provides assistance to the States to create and operate small business development centers. It establishes a national small business policy to coordinate and promote Federal efforts to protect and nurture small business.

The bill creates a new SBA program to promote employee purchase of their firms. Employee ownership offers potential benefits of increased productivity, smoother industrial relations, and revitalization of troubled sectors and regions. I am pleased that S. 2698 commits the SBA to this forward-looking concept.

S. 2698 is the product of lengthy, difficult negotiations with the House. It is a testimony to the tireless efforts of Senator NELSON, chairman of the Select Committee on Small Business, and Senator WEICKER, ranking minority member on the committee.

In February of this year, after completion of the White House Conference on Small Business, a Democratic task force was set up to develop an agenda to implement the major recommendations of the Conference. One of the easiest steps in the creation of the task force was the selection of a chairman. When one thinks about small business issues, one thinks about GAYLORD NELSON. As chairman of the Select Committee on Small Business and as an active member of the Finance and Labor and Human Resources Committees, the Senator from Wisconsin is a respected, forceful, and consistent advocate of small business.

The entrepreneur has no better friend in the Senate than GAYLORD NELSON.

This bill is an integral part of the fiscal restrain required by the first concurrent budget resolution for fiscal year 1981. The reform of the disaster loan program should result in savings on the order of the $600 million required of the Small Business Committee by reconciliation.

Thus, the Small Business Committee is the first committee to have its savings requirement enacted into law. It is my understanding that several other Senate committees are responding with similar cooperation. This bodes well for our being able to achieve the significant savings contemplated in the budget.

Mr. President, I trust that Senators will vote against the motion to recommit and will vote to adopt the conference report.

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have left?

The PRESIDING OFFICER. The Senator from Wisconsin has 7½ minutes.

Mr. NELSON. Mr. President, I have just a couple of points to make. One which has been overlooked, I think, is that $11 million is specifically authorized for fiscal year 1981 in title I of the bill for the exclusive use for for-profit consultants; $10 million was appropriated in fiscal 1980 for this same SBA call-contracting program.

On the other hand, only $5.5 million will be spent in fiscal 1980 for the entire SBDC program, which includes extensive use of private consultants.

Mr. President, in the hearings on this question in 1979 witnesses, all of whom were private consultants, were asked whether any operating SBDC's had caused any harm or competitive disadvantage to private consultants. The answer was an unqualified "no" from all of them.

Those same witnesses were also invited to document any anticompetitive problems if they occurred later. To date no one—I emphasize not one single person or organization—has provided the committee with any data whatsoever that demonstrates private consultants have been hurt by operating SBDC's.

The largest program in the United States is in my State of Wisconsin. There are 11 development centers on campuses in the State of Wisconsin. I attended conferences on 6 of those 11 campuses at which there were representatives of the chamber of commerce and private consultants in attendance. There were dedication ceremonies. Not a single complaint have I heard from anybody in my State from any consultant about competition from the SBDC's. As a matter of fact, what has happened is that business people, small business people, who had been advised by the small SBDC's have discovered that there is such a thing as consultants. They are now going to private consultants for particular problems concerning their businesses which they had never done before.

Mr. President, I want to read one excerpt from a letter from A. Vernon Weaver, the Administrator of the Small Business Administration. I ask unanimous consent that the letter be printed in the RECORD. Here is the excerpt:

> Had SBA been asked for its comments on Senator Richard S. Schweiker's amendment, we would have said that it went too far. We think that small businesses, particularly those just starting out need a diversity of source and type of assistance. Specific assistance must meet the actual needs of each specific small business rather than some abstract idea about whether university or private consultants might best provide it.
>
> SBA's view on this relatively minor issue is that the Conferees have found a formula which both improves existing law and is an improvement over the earlier formulation S. 2698 to which Senator Schweiker objected some weeks ago. The Conferees have struck an acceptable balance here as elsewhere, and we believe the Congress should support it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., June 7, 1980.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The Administration strongly urges that the Senate support the S. 2698 Conference Report.

S. 2698 is an omnibus small business bill of major importance. We have struggled for over a year amid divergent views, within the Senate, the House and the Administration, and at long last have found constructive comprises on matters of major importance. Now a challenge arises on an issue which, within this major bill, is a quite minor matter.

Among the major accomplishments in S. 2698:

A provision which we hope may eliminate, or at least much reduce, the recurrent situation in which when disaster strikes each spring, the Small Business Administration is out of disaster funds and must ask the people who turn to us for help to wait for months. Under current law, with disasters such as Mt. St. Helens, floods in California and Louisiana, tornadoes in the Midwest, and many others, SBA is out of disaster funds and has been for the last month and a half.

The Senate Budget Committee and the Administration have twice objected to formulas passed by the House which were intended to deal with this recurrent problem.

A new formula, we believe acceptable to all, was found and adopted by the Conferees. It is a major step.

A provision which would return primary responsibility for farm disaster lending to the Department of Agriculture where it belongs. SBA has never had the ability to conduct this important farm program in a responsible manner and is not likely to. I should like to concentrate as much of the attention and energies of the SBA as possible on the many pressing problems of small business rather than the complex problems of farming.

This provision has passed the Senate four times over the past year. There has been divergent views elsewhere.

I would note that the Budget Resolution, so recently enacted, assumes an $800 million savings by SBA through enactment of this provision and so instructs the Small Business Committees as a reconciliation step.

Among good small business provisions is one which will allow me to tell SBA employees that they can stop duplicating the work of competent loan officers in private banks who are prepared to make loans to small businesses and await our guarantee. This ends bureaucratic duplication and delay for small businesses in need of bank loans.

Had SBA been asked for its comments on Senator Richard S. Schweiker's amendment, we would have said that it went too far. We think that small businesses, particularly those just starting out, need a diversity of source and types of assistance. Specific assistance must meet the actual needs of each specific small business rather than some abstract idea about whether university or private consultants might best provide it.

SBA's view on this relatively minor issue is that the Conferees have found a formula which both improves existing law and is an improvement over the earlier formulation S. 2698 to which Senator Schweiker objected some weeks ago. The Conferees have struck an acceptable balance here, as elsewhere, and we believe the Congress should support it.

Sincerely,

A. VERNON WEAVER,
Administrator.

Mr. SCHWEIKER. Mr. President, I yield myself 3 minutes.

Mr. President, I just want to sum up a few highlights of my good friend and colleague. The Senator from Connecticut said small businesses do not want competition; that is why they are opposing the conference report.

I just want to correct that situation. They are for competition; they do not want competition from the Federal Government with their own tax dollars. That is true and that is what they are opposed to. They are opposed to competition with their tax dollars from the Federal Government.

I think that is a rather logical thing to be against. In fact, my amendment would make more competition for them because, if a small business development center goes outside to get some consulting or management help, they would have to compete for it. There would be fostering of competition under that proposal from other small businesses.

So what they are opposed to is Government-subsidized competition with their own tax dollars. What they are for is competition of other small businesses. So I disagree with my distinguished friend.

Second, the Senator also says that some groups—I guess he is referring to the NFIB and the Chamber, really do not favor this bill. That is not correct. They do not favor the bill with the thrust that the primary input comes from the Federal sector, from the public sector with tax money. That is true and they have made that point abundantly clear.

But they also made it abundantly clear in positions related to my amendment, that with this amendment in the bill they do favor it, because it brings in the private sector, the small business groups, to advise and consent and participate. And that is a key difference.

Now, on the one hand, the managers of the bill argue:

> Well, this really isn't much of a change from Schweiker's amendment. We really accommodated small business.

In summing up, they both said:

> We really question whether we should use outside private sector consulting and management advice.

As I pointed out, in their "Dear Colleague" letter, Mr. NELSON and Mr. WEICKER, made it very clear that they do not agree with the thrust of my amendment at all. They said: "Requiring private consultants to be the principal"—which is my intention—"if not the sole providers of SBDC services as well as is unwarranted."

Clearly, they are in disagreement with my interest and to turn it over and say there is no difference, they really did not amend my amendment much, is just to completely ignore the "Dear Colleague" letter they sent to their colleagues to sell their particular point of view.

Now, there is a substantial difference, as they acknowledge here, although sometimes they say there is not. I think the difference is quite clear and quite simple.

Under my proposal, under the proposal that I put forth in the original amendment, it was simply to have the primary consulting advice and work being done from the private sector, with the small business development center being a way of channeling that to small businesses. And that is exactly why we provided for a staff director.

They eliminated that proposal and made a full-time staff, and eliminated my original concept and said: "We're going to have a full-time staff." In addition the conferees agreed that an SBDC "shall utilize and compensate as one of its resources qualified small business vendors".

Well, that very clearly says that 1 percent—maybe 10 percent, maybe 15 percent, I do not know—but one of the resources will be the private sector. It certainly will not be the primary resource, it will not be the sole resource, it will not be the principal resource. And that is the issue here and I think it is clear-cut.

It is really ironic that we are setting up an agency to build more small businesses so that the private sector can grow and we are using the Federal Government, the public sector to do it, when, in fact, the expertise and the acknowledge exists in the private sector to do it. And, in fact, that is what we are trying to do, is build up the private sector.

Instead of using that as a principal, primary objective of this bill, they are using tax dollars to go in the public sector to go in the private sector.

Why not use the private sector to build the private sector? They came up the hard way. They know what it is to make a payroll and make a business fail and succeed. They know what it takes. What better expertise and knowledge than that particular point of view?

Mr. President, I hope that my amendment, which is a very selective amendment and simply says to recommit with instructions to stand by the original language, is adopted.

I do not know if my colleagues want any more time or want to yield back time. Whatever they would like to do, I will be glad to accommodate them.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I ask unanimous consent that a joint explanatory statement of the committee of conference on selected SBDC provisions be printed in the Record.

There being no objection, the explanatory statement was ordered to be printed in the Record, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE ON SELECTED SBDC PROVISIONS

USE OF CONSULTANTS

The Senate bill specifically authorizes the small business development center to utilize and compensate consultants, engineers, and testing laboratories for services provided to small businesses on behalf of the small business development center.

In addition, the Senate bill provides that the assistance provided by small business development centers shall, to the extent practical and feasible, be provided by qualified small business vendors, including, but not limited to, private management consultants, private consulting engineers, and private testing laboratories.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision, with an amendment which revises both provisions in the Senate bill to provide that a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as described in this subsection to small businesses on behalf of such small business development center.

The conferees intend that one of the objectives of the small business center is to make the assistance to small businesses who use the center's services available in the most cost-effective, and efficient manner. Where the use of private sector vendors is feasible, and compatible, with the operation of each particular small business development center, it is expected that these consultants will be incorporated into the center's program delivery. The conference substitute clearly provides authority for small business development centers to utilize and compensate these vendors.

However, the conferees do not intend that the center merely be only a conduit for channeling Federal, and leveraged, resources, through the SBDC to the private sector consultants.

When a small business development center utilizes consultants, engineers or testing laboratories, however, conferees expect that such consulting entities will be qualified small businesses whose services are competitively priced.

Mr. NELSON. Mr. President, I understand that it is not intended that we vote prior to 2 o'clock.

If no one wishes to address this issue further, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to each side.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Burdick). Without objection, it is so ordered.

Mr. NELSON. Mr. President, I am prepared to yield back the remainder of my time. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

Mr. WEICKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to recommit the conference report with instructions. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. Bradley), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—34

Armstrong
Bentsen
Byrd,
  Harry F., Jr.
Chafee
Chiles
Danforth
DeConcini
Dole
Domenici
Durenberger
Garn
Heinz
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Melcher
Packwood
Percy
Pressler
Pryor
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—59

Baker
Baucus
Bayh
Bellmon
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Church
Cochran
Cohen
Cranston
Culver
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Pell
Proxmire
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Young

NOT VOTING—7

Bradley
Goldwater
Gravel
Kennedy
McGovern
Moynihan
Randolph

So the motion to recommit, with instructions, the conference report on S. 2698 was rejected.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I will detain the Senate only a moment.

Mr. President, I commend the chairman and ranking member of the Senate Small Business Committee for the conference result on this SBA bill. It authorizes important programs and activities in support of small business. It makes needed reforms in Federal disaster lending activities, and it upholds the Senate position for sound budgetary practice.

The disaster loan program reforms in this conference agreement will make the disaster lending policies of the Farmers' Home and Small Business Administrations as consistent as possible. The intent is to insure that nonfarm business borrowers no longer get a better deal at SBA than farm borrowers get at Farmers' Home. In so doing, this allows the bulk of agricultural disaster lending to be restricted to Farmers' Home which has the needed expertise in this area. The disaster loan program reforms in this conference agreement are intended to make Federal disaster lending policy more rational. They will largely eliminate program duplication and will result in the budget savings contemplated in the first budget resolution for fiscal year 1981.

Mr. President, as the Senate is well aware, one of the major sources of contention between the House and Senate has been whether SBA should continue to count as part of its costs the full interest cost on Government borrowing to finance its direct loans. Last January, the Senate voted 80 to 0 in favor of an amendment to insure that SBA continue to account for this interest cost. The House disagreed, wanting to understate the total cost of SBA's loan programs by not fully reflecting this interest cost in SBA's budget.

The conference agreement before us reflects reasonable accommodation of both the House and Senate positions on this issue. In fiscal year 1980, the interest payment SBA makes to Treasury will be at the lower rate desired by the House; that is, at a rate equal to the interest received from borrowers. Beginning in fiscal year 1981, SBA will again make the full interest payment to Treasury.

This reduction in SBA's interest payment to Treasury in fiscal year 1981 should be viewed as a one-time exception from current practice—an exception which has been made only in the interest of reaching agreement with the House. It cannot become a precedent. It is contrary to widely accepted accounting principles of Government finance and would result in billions of dollars of hidden Federal program costs if other agencies followed suit.

This legislation, as every Member knows, has a long history. It has required difficult and protracted negotiations. The Senate conferees are to be highly commended for their continued and successful efforts to produce such a desirable conference result. It is one I am greatly pleased with, Mr. President. We have made accommodations to the House in the short-term, but, in the long run, the Senate position for truth-in-budgeting is upheld.

It is a reasonable compromise and one I urge my Senate colleagues to support.

We have, I believe, achieved a major improvement in ongoing programs.

I want to commend, again, both the chairman and the ranking member for their successful efforts to eliminate waste in a program that is important to the country, but which will now serve the needs of the country much better.

Mr. DURKIN. Will the Senator yield me 10 seconds?

Mr. NELSON. I will yield the Senator from New Hampshire 15 seconds.

Mr. DURKIN. I thank the Senator from Wisconsin.

I, too, would like to praise his efforts.

Mr. President, I would like to explain the inconsistency which may appear in my vote.

When the Schweiker amendment came up, when the bill was before the Senate, I voted with Senator SCHWEIKER. Since then, the small business communities throughout New England and New Hampshire expressed their strong support for the efforts of the chairman, the Senator from Wisconsin (Mr. NELSON). Consequently, I voted with the chairman in accordance with the views of the small business people in my State and my area.

I thank the Senator from Wisconsin.

Mr. HOLLINGS. Mr. President, I support this conference report. This legislation has had a long and controversial history, beginning with H.R. 11445, which passed the Senate on August 2, 1978. I commend the chairman, the ranking member, and the other members of the Small Business Committee, the chairman of the House Small Business Committee, and representatives of the administration, for their perseverance in reaching this agreement.

The bill covers a broad range of small business concerns. Two are of particular importance to the budget. The first is reform of Federal loan programs for agricultural disasters. The conference agreement retains the compromise worked out last year. It would:

Limit most agricultural disaster lending to the Farmers Home Administration;

Impose a credit-elsewhere test at SBA like the test at FmHA;

Revise the cost-of-money formula for determining the interest rate paid by businesses that can obtain credit elsewhere;

Permit farmers who are able to obtain sufficient credit elsewhere to borrow from FmHA, but require them to pay interest at the Government's cost of money;

Place a limit of $500,000 per disaster on both SBA and FmHA disaster loans.

These reforms will reduce budgetary requirements by $0.8 billion in budget authority and $0.6 billion in outlays in fiscal year 1981, assuming a normal disaster year.

These reforms are badly needed. Having both Farmers Home Administration and SBA as providers of disaster loans has resulted in a substantial waste of taxpayers' dollars, according to a GAO audit of August 1979.

The second budgetary issue concerns the proper treatment of the interest cost on amounts borrowed by the Federal Government to finance direct loans. Under widely accepted governmental accounting principles, such interest costs are currently shown as part of the cost of the loan program. The house proposed to change this policy for Small Business Administration programs, and not show the interest costs. The Senate twice rejected this proposal.

In order to rescue this legislation from continuing deadlock, a compromise has been reached. On loan activities after October 1, 1980, SBA shall pay interest to Treasury at a rate equal to Treasury's actual borrowing costs. The House conferees agreed to retain this truth-in-budgeting principle. On the loans outstanding on the date of enactment of S. 2689, or on those loans made with funds appropriated between the date of enactment and October 1, 1980, the conference report provides that SBA will pay to Treasury only the interest income it receives from borrowers. Such payments will be treated by the Treasury as interest income.

This compromise is worthy of the Senate's support. Each side has given something and gained something. And the truth-in-budgeting principle that the Senate approved last January by a vote of 80 to 0 has been preserved.

Mr. President, I commend the conferees on a difficult job well done and urge the Senate to pass this conference report.

Mr. NELSON. Mr. President, I move the adoption of the conference report and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

Senator from West Virginia (Mr. RANCUS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—91

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—2

Proxmire
Roth

NOT VOTING—7

Bradley
Goldwater
Gravel
Kennedy
McGovern
Moynihan
Randolph

So the conference report (S. 2698) was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, this legislation is the result of 3 years of bipartisan effort in the best sense of the word.

I thank the distinguished Senator, the ranking minority member on our committee, Mr. WEICKER, for his cooperation and work on this bill over a 3-year period during which we passed it five times.

I also thank the staff, Alan Chvotkin, Allen Neece, Bill Cherkasky, and Corey Rosen of the committee staff; also Bob Dotchin and Bob Santy of the committee minority staff, and Leigh Snell of Senator NUNN's staff, Roger LeMaster of Senator HUDDLESTON's staff, and Dan Lesser of Senator STEWART's staff, for all of their efforts in bringing this piece of important legislation to final passage.

Mr. WEICKER. Mr. President, I express my admiration of the distinguished Senator from Wisconsin, GAYLORD NELSON, admiration in the sense of the patience he exhibited throughout the past 2 years on this matter, the expertise and knowledge which he brought to the legislation both at its inception and during the amending and conference processes. It stands as great testimony to him and to all those qualities of leadership that were certainly called upon in the passage of this particular bill.

I also express thanks to the staffs, both the majority and minority, particularly to Bob Santy of my staff for all the assistance which he rendered.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980

Mr. JAVITS. Mr. President, the Adoption Assistance and Child Welfare Act of 1980 was approved here in the Senate on Friday last, as reported by the conference committee, and I wish to evidence my support for that particular act.

Mr. President, I am pleased that the Senate has approved H.R. 3434—the "Adoption Assistance and Child Welfare Act of 1980" reported by the Conference Committee.

This legislation will make a number of significant improvements in our foster care and child welfare systems, title XX social services, and other programs under the Social Security Act. Indeed, I believe the bill the Senate has just approved is itself improved over the version of H.R. 3434 passed by the Senate last October, in that the conference has deleted provisions which would have changed the AFDC earnings disregards, and required deeming of a stepparent's income in determining AFDC eligibility and benefit amount. During the Senate debate last fall I pointed out my objections to these provisions. The change contemplated in the earnings disregard would have constituted a disincentive for working parents, particularly those with day care expenses. The deeming provision was a disincentive to marriage as well as an administrative complexity. It was my view, then as it is now, that if these provisions were to be considered at all, consideration, should be more appropriately in the context of comprehensive welfare reform where protections for our Nation's poorest families could be considered at the same time as savings in expenditures. I regret that the Senate has not taken up welfare reform, but I am pleased that these two provisions, of questionable value in themselves, have not been retained in an ad hoc effort to achieve savings.

I am also pleased to note that the conference agreement retained a provision proposed by my colleague Senator MOYNIHAN and myself which allows Federal reimbursement for foster care payments made for certain children voluntarily placed in foster care. Preservation of our amendment is of tremendous importance to New York, which was otherwise faced with the possibility of having to return up to $250 million in reimbursements for children in foster care for whom there had been no judicial review at placement. Until 1973, New York permitted voluntary placements, requiring judicial review after 18 months. Federal reimbursement was provided, but subsequently rescinded, even with regard to reimbursement for payments after the 18-month judicial review.

Our provision simply allows reimbursement for those claims made in the past once judicial review was initiated. This will have no budgetary impact, as reimbursement has already been made. It is consistent with the original congressional intent of requiring court review to insure appropriate placement. And it is a matter of basic equity, as these claims were filed in complete good faith. I am delighted to have been able to assist New York and any other State similarly situated in resolving this problem.

Many of the reforms contained in H.R. 3434 have been a long time in coming. Final consideration of the bill itself was delayed, as the bill was bound up in this year's lengthy budget proceedings. Such delay has worked a hardship on needy individuals in many States, as temporary provisions in existing law—most significantly the increased ceiling for title XX funding—have, during the past few months expired. As a result, important services have been reduced or eliminated.

Mr. President, I am delighted the Senate has acted favorably upon this legislation so that the States may soon proceed not only to implement the new provisions, but also to restore the services they have been forced to cut.

INCREASED U.S. PARTICIPATION IN INTERNATIONAL DEVELOPMENT ASSOCIATION AND U.S. MEMBERSHIP IN AFRICAN DEVELOPMENT BANK—S. 2422

Mr. JAVITS. Mr. President, S. 2422 for increased U.S. participation in the International Development Association and for U.S. membership in the African Development Bank and which authorizes $3.6 billion in U.S. contributions to these two international financial institutions was approved yesterday.

Mr. President, I am pleased that the Senate has passed S. 2422, a bill which provides for increased U.S. participation in the International Development Association and for U.S. membership in the African Development Bank and which authorizes $3.6 billion in U.S. contributions to these two international financial institutions. Of this amount, $3.24 billion would be authorized for the International Development Association (IDA) and $360 million for the African Development Bank (AFDB).

While the entire amount of the U.S. contribution to the IDA will also have to be appropriated, of the amounts for the AFDB, only $90 million, which will be paid-in capital, would require an appropriation. The remaining $270 million represents callable capital, which is a form of guarantee of payment of funds that have never in the past left the U.S. Treasury.

In favorably reporting S. 2422 by a 10 to 1 vote, the Senate Foreign Relations Committee recognized the vital role played by these two institutions, along with the Inter-American Development Bank and the Asian Development Bank, and IDA's hard-loan component—the World Bank—in the operation of the world economy. In addition to providing resource flows to the developing countries, these multilateral development banks also directly benefit the average American by financing U.S. exports and generating U.S. jobs. This point needs emphasis because it is a pragmatic aspect of our support for the banks that has not always been recognized in the past.

In this regard, I would like to point out the growing importance to the United States of the rapidly increasing trade and financial ties between the United States and developing countries which are directly related to the operation of the MDB's. The developing countries purchase about 40 percent of our exports and represent the greatest potential for expansion of our overseas markets. Developing countries already provide the U.S. with more than 25 percent of the raw materials we need; jobs in the United States are becoming increasingly dependent on those export markets and upon access to the security of critical raw materials which we import from the developing countries. This is particularly true of energy, where

MDB's are making major efforts to develop additional supplies. The economic growth of developing countries and their ability to increase their imports from the United States is critically dependent upon the continued flow of resources, particularly in the present uncertain international economic environment.

Testimony by U.S. Treasury officials in support of this bill indicates that every dollar that the United States contributes to the MDB's results in $1.57 being injected directly into the U.S. economy in balance-of-payments impact; $1.57 becomes income for the U.S. exporter/bond holder/bank employee residing in the United States. In turn it is respent, resulting in multiple increases in U.S. income, employment, and in Federal Government and local tax receipts.

The Treasury analysis shows that over the 1977–78 period, every dollar contributed to the MDB's has resulted in an increase in U.S. GNP of $3. This three-for-one multiplier effect stems from the unique multilateral character of the MDB's, including contributions by other donor countries, and the availability of callable capital for the hard-loan windows of these institutions. According to the Treasury figures, U.S. GNP growth directly attributable to MDB activities averaged $2.7 billion during 1977–78, raising net Federal tax receipts by $720 million a year and reducing the net cost to the Federal budget of our participation in the banks to $170 million each. If increased local tax receipts were included, the net cost to the American taxpayer would probably be minimal.

I would like to turn for a moment to the question of cutting the authorization levels. I am acutely aware of the need to limit Federal spending. I would point out, however, that the need for budgetary restraint was already factored into the U.S. negotiating position that led to this authorization request. In the case of IDA, the United States has a lower share of this replenishment—27 percent—than it has had in any of the five previous replenishments. In the last replenishment our share was 31 percent. When IDA was created, we took 42 percent. This represents a substantial reduction in the U.S. share of IDA and a corresponding increase in the share taken on by other countries. For the first time, our share of an IDA replenishment is smaller than the combined share of Germany and Japan. These countries have taken up the slack required by our need for fiscal restraint and for greater burden sharing by our economic allies. In addition, seven developing countries—including Argentina, Brazil, and Mexico—will provide IDA with resources for the first time; and nontraditional donors will provide almost 7 percent of the replenishment total.

Also, our share of IDA VI is significantly smaller than our share of the gross national product of all the IDA donors. According to statistics provided by the Treasury Department, the United States accounted for 37 percent of the gross national product of all the contributors of IDA VI. As I just mentioned, our share of the replenishment was only 27 percent. Clearly our need for restraint has reduced the level of U.S. participation in this replenishment; and the administration, which negotiated this replenishment, deserves our support.

Nevertheless, the committee still took a hard look at ways to reduce the fiscal year 1981 budget impact of this bill. We found that we could postpone $140.4 million of the first installment planned for appropriation in fiscal year 1981 for 2 years and still be in compliance with the terms of the replenishment agreement. Accordingly, the committee voted to limit the authorization available for IDA VI in fiscal year 1981 to $939.6 million, a reduction of $140.4 million. This reduction represents the maximum reduction possible without any violation on our part of the terms of the agreement.

Any further cuts would automatically place the United States in a position where it could not comply with the internationally negotiated level for IDA VI, and the IDA VI replenishment would not be able to go into effect as negotiated. The administration has taken the position that any cuts would mean that the IDA VI Replenishment Agreement would have to be renegotiated in its entirety. I do not know how long that would take; but most assuredly, it would involve the termination of IDA lending from June 30, 1980, until new arrangements would be agreed to. As I will explain in a moment, in view of the precarious situation of IDA borrowers—who are even harder hit than we are by the current economic situation—this could be a disaster.

I know some may ask how we can justify making no further cuts in our international programs when in these difficult times we are cutting back drastically our domestic social programs. According to Treasury Department data requested by the committee, in 1965 the United States spent approximately $7 for domestic social programs for every dollar we spent on foreign aid while today in 1980 we are spending $47 on these domestic programs for every dollar spent on foreign assistance, and by fiscal year 1981 we expect this figure to increase to $52. Clearly, we are not funding foreign assistance at the expense of domestic social programs.

The specific components of S. 2422 and the proven track records of the International Development Association and the African Development Bank were described yesterday by Senator HAYAKAWA and I shall only discuss them briefly.

THE INTERNATIONAL DEVELOPMENT ASSOCIATION

As a result of an international initiative by the United States that had the strong support of the Congress, the International Development Association was established in 1960 as an affiliate of the World Bank itself—it has the same Board of Governors and the same Board of Directors. IDA is the world's largest source of multilateral development assistance on concessional terms. Its loans for economic projects must measure up to the rigorous standards for loans offered by the World Bank itself and have to demonstrate high economic rates of return and compatibility with sound development.

IDA finances development projects and programs in the poorest countries in the world by providing long-term credits at highly concessionary rates—50-year repayments after a 10-year grace period with a service charge of .75 percent to cover administrative costs. No country with a per capita income above $600 is eligible to borrow from IDA. Ninety percent of its lending goes to countries with a per capita income below $300, mostly the extremely poor areas of Africa and South Asia. In addition, IDA's lending policy stresses projects which directly benefit the poorest 40 percent of the income earners in the borrowing country. Without IDA, these poor countries would be unable to finance the projects that are critically needed to improve the lives of the world's poorest people.

During 19 years of operation through 1979, IDA has lent $16.7 billion to poor countries without any defaults. Its operations have emphasized agriculture and rural development and transportation with the heaviest concentration of its lending in South Asia and sub-Saharan Africa. To these poor countries of Africa and Asia, IDA represents the main hope of changing their conditions. These countries are unable to attract capital from private sources and, consequently, are dependent upon concessional aid. Their domestic infrastructures are so limited that they have little potential in the near-term for attracting foreign investment or for developing rapidly growing exports to pay for their import requirements.

In terms of purposes of the lending, agreement was reached that IDA's main thrust will continue to be on agriculture and rural development. The proportion of IDA lending going to these sectors will further increase to 29 percent by fiscal year 1983. Financing of energy projects will also expand to 10 percent of IDA lending by fiscal year 1983. The oil production resulting from these projects should increase world oil supplies, thus reducing pressure on price as well as reducing the financial burden on developing countries of oil imports.

THE AFRICAN DEVELOPMENT BANK

Title II of this bill authorizes subscription of $360 million for U.S. membership in the Africa Development Bank, of which only $90 million is to be paid in. The other $270 million, callable capital, is unlikely ever to result in outlays. It is simply a guarantee, which allows the bank to go into private capital markets and borrow at prevailing rates. This institution was established in 1964 to make loans on near-market terms in economic and social development of its African members and to encourage regional cooperation. Up to the present its membership has been limited to African countries. This is partly a result of sensitivity to previous colonial relationships with European countries. In 1974 the African countries took a first step toward multilateral cooperation with the industrial countries by establishing the African development fund to provide concessional aid to the poorest African countries. We joined the African development fund in 1976 with a contribution of $15 million.

In 1979 the governors of the AFDF agreed to invite non-African countries to join the bank. The proposed U.S. subscription would represent 5.7 percent of the bank's capital and 17 percent of the share of nonregional members. For every dollar we put in, other non-African countries are putting in almost $5. Japan is taking 14 percent, Germany has 11 percent, and France has 10 percent of the total nonregional subscriptions.

I believe that U.S. participation in the bank is an important demonstration of our support for African development. This is a continuation of our efforts already underway in our bilateral aid programs and through IDA and the World Bank to increase our commitment to African development and to build upon the dramatic improvement in our relations with Africa that have taken place over the past several years.

Sub-Saharan Africa is politically volatile and economically extremely poor. The rapid expansion of the African Development Bank will stabilize the region by strengthening the economies of these countries, by promoting Pan-African cooperation and by increasing Africa's access to external capital. Many of the African countries are too poor to be creditworthy on their own terms. The callable capital provided for in this bill provides a mechanism—the African Bank—that will allow private capital resources to be channeled into the African countries. These resources will be an important factor in assisting recipient countries to diversify their economies and to establish the basis for growth in the 1980's and 1990's.

Mr. President, the recent announcement by IBRD President Robert McNamara that he will resign his post in 1 year makes it especially important that we avoid watering down further our commitments to multilateral lending in general and to IDA in particular. It has been the tradition in the 33-year history of the World Bank and the International Monetary Fund (IMF) that the President of the World Bank be an American and the managing director of the IMF be a European. In light of the recent weakening of our financial commitments to the multilateral development banks and the greater burden sharing that we are insisting from the other industrialized countries, there is now talk of breaking that tradition and appointing a non-American to the World Bank presidency. In fact, Mr. McNamara himself suggested that, for the first time in the Bank's history, a search committee be formed.

Appointment of a non-American to the World Bank presidency would be a serious matter. We should not let this happen. For the United States to be able to assume the moral position to continue to have an American as president of the World Bank, we in the Congress and as a nation must demonstrate our commitment to these institutions.

Mr. President, IDA and the AFDF represent the types of multilateral institutions that are worthy of our support, because of the economic growth that they stimulate in recipient countries and also because of the very tangible benefits that they bring to our economy.

INTERNATIONAL MONETARY FUND BILL—S. 2271

Mr. JAVITS. Mr. President, I am also pleased that the Senate has passed S. 2271, which would authorize an increase in the quota of the United States in the International Monetary Fund (IMF) of 4,202.5 million Special Drawing Rights (SDR) or about $5.4 billion. The Senate Foreign Relations Committee, by an overwhelming vote of 12 to 0 with strong bipartisan support, has reported out the bill favorably.

While S. 2271 authorizes the full appropriation of the $5.4 billion, no net outlays are involved; and therefore, there is no impact on the Federal deficit. Any budgetary outlays occurring as a result of actual cash transfers to the IMF will be simultaneously offset by budgetary receipts representing increases in the U.S. reserve position in the IMF.

At the outset, I wish to emphasize that the increase in the U.S. quota in the IMF is not foreign aid. The IMF is not an aid institution; it is the central monetary institution for the world economy. Because the IMF is a revolving fund of currencies which have been provided by each member through its quota contributions and which is made available to all members in need of temporary balance of payments financing, we are looking at a bank. What we put into the fund we get out in the form of a greater ability to call on a larger amount of the resources of the fund should the United States find itself at sometime in the future in serious balance of payments trouble. Most recently, the United States used over $2½ billion of IMF resources to stabilize exchange markets during the dollar crisis of November, 1978.

The 50 percent increase in the U.S. quota is part of an overall 50 percent increase in all members' quotas. The latest increase, the fifth in the 33-year history of the IMF, will expand the fund's quota resources to approximately $76 billion of which the new U.S. quota will be approximately $16.3 billion. The U.S. quota equals 21.5 percent of the total IMF subscription. The proposed 50 percent increase would leave the relative share of the United States unchanged. Almost 68 percent of all quotas are held by industrial countries while OPEC members as a group hold 10 percent and the non-oil-developing countries hold the remaining 22 percent.

In its capacity as the central monetary institution for the world economy, the IMF performs two related functions—general guidance of the monetary system and provision of temporary balance of payments financing to nations which are members of the IMF. The importance of insuring that the IMF has adequate resources stems from the important role that the IMF plays in the development of economic stabilization programs which accompany the balance-of-payments loans that the Fund makes to its members. These stabilization programs require the recipient countries to adopt macroeconomic measures which will adjust their economies and help these countries restore sustainable balance of payments positions.

Stabilization programs have become increasingly important since 1973 because the potential for balance-of-payments difficulties has been greatly increased by the profound structural changes forced upon all the oil importing countries by the OPEC cartel's original quadrupling of oil prices. The Fund has played, and in many cases continues to play, an important role in helping the governments of such developing countries as Turkey, Zaire, and Peru through their serious economic difficulties. The IMF is not solely involved in LDC's and has provided assistance to the United Kingdom and Italy in the same period.

Today's situation is reminiscent of the post-1973–74 period, and the IMF will be called upon once again to provide greater resources to fund the enormous deficits that will result from the latest oil price increases.

This time, however, the international commercial banks will no longer be able to continue to lend to the deficit countries at the same pace that they did then. Consequently, these commercial banks, before extending further credit to many of these deficit countries, are looking to the IMF to exercise its leverage.

One needs to look only at the projections for OPEC's current account surpluses to understand the critical need for more IMF resources. Witnesses before the committee were unanimous in their view that the OPEC surpluses will not disappear as they did in the immediate spending surge after 1973–74. Some estimate that in the next 5 years the OPEC countries may generate a surplus of $500 billion with close to a $120 billion surplus expected this year alone. This expected surplus translates into deficits of a similar magnitude for the rest of the world.

How these deficits will be financed is the major issue facing the world economy today. To gage the expected role of the IMF and to determine whether its resources are adequate for the task, it is important to look at how the post-1973 deficits were financed. It is estimated that between 1974–1978 IMF resources were used to finance approximately 5 percent or $15 billion of the $385 billion in current account deficits, while 75 percent or approximately $300 billion was accomplished through private capital markets. The remaining 18 percent was assumed by a variety of other official sources, including bilateral aid programs and the multilateral development banks.

This time around, the commercial banking system may not be able to undertake the preeminent recycling role that it played then. Commercial banks in the United States and other industrialized countries now are under increasing scrutiny by regulators and must exercise caution in providing balance of payments loans to these deficit-ridden developing countries. Indeed, many of the same commercial bankers who, as late as early 1979, argued that the LDC debt situation was manageable and that the banking system would be able to provide the necessary LDC credit, today are expressing alarm that the situation is deteriorating rapidly and may reach crisis proportions in 1981 when developing countries will have used up their foreign exchange reserves and will be looking for more external sources of funds.

In fact, leading international bankers have raised the possibility of establishing a "safety net" to save individual banks in the event that borrowing countries become unable to service their growing commercial debt. In any event, the general mood among private bankers is toward caution and retrenchment. In this climate, the IMF and the other official institutions, not the commercial banking system, will be called upon to increase their lending activity in the oil-consuming countries.

As of February 1980 the IMF's "usable resources," those currencies of countries in strong balance-of-payments positions, were estimated at approximately $30 billion, although almost $10 billion will be lost when the Witteveen Facility—officially called the Supplementary Financing Facility—ceases operation in early 1981 or 1982. While this figure appears to be substantial, in the absence of the adoption of the proposed 50-percent quota increase, the IMF would not be able to continue to provide even the 5 percent of the total resources it provided in the wake of the first oil price increases. Should current account deficits be larger than projected—and we have not had a very good record in forecasting OPEC pricing policies—this percentage would be even smaller.

Mr. President, there has been much concern expressed about IMF conditionality and especially that the IMF has been inflexible in working out economic stabilization programs with its members, particularly with the developing country members. No matter how much it may pain us, we must acknowledge the basic fact that countries with severe balance-of-payments problems have lived "beyond their international means" and cannot adjust their economies without experiencing some retrenchment in economic policy. In the final analysis, as we are learning in America today, economic restructuring cannot occur without pain.

At the same time, however, we must recognize that the balance-of-payments difficulties that many of the oil importing countries are facing today do not result from mismanaged macroeconomic policies, as was assumed by the IMF in the past, but rather result from deep structural shocks to the international economy, which require the deficit countries to undertake long-term programs with a greater amount of capital infusion from the IMF. In recognition of this new fact of economic life, the IMF has undertaken certain new policies and approaches.

In 1978 the IMF established the Supplementary Financing Facility to provide additional resources to member countries which are undergoing longer term adjustment problems created by dramatic structural changes. The United States and 13 other countries provided the facility with $10 billion for this purpose. OPEC members provided 41 percent of the total, which contrasts with the latter's quota shares which represent only 10 percent of overall quotas. The U.S. share was slightly less than 20 percent.

Also, prior to the Witteveen Facility, IMF took steps to help the least developed members through the sale of 25 million ounces of its gold over a 4-year period (1977–80). The profits from the sales, $5 billion, are being used for balance-of-payments assistance on concessionary terms for the low-income developing countries.

In addition, on March 2, 1979, the IMF executive directors, following a review of the practice of IMF conditionality, adopted new guidelines for the use of Fund resources. Among other things, these new guidelines liberalized the length of the customary IMF standby arrangement from 1 year to 3 years in recognition of the fact that in some circumstances gradual adjustment may be preferable in order to moderate the impact on real incomes. The new guidelines also make specific reference to the need for IMF staff to keep in mind the social and political implications of IMF programs in the formulation of standby arrangements.

These decisions by the IMF, together with the recent decision by the World Bank to provide structural adjustment loans that are not related to specific projects, reflect the recognition by these international institutions that they have to develop new forms of capital transfer programs to meet the new structural problems affecting the developing countries. As with standby arrangements, the World Bank will provide these program loans to the borrowing countries which have in place overall economic policies aimed at reducing their foreign deficits within 3 to 5 years.

Mr. President, as I indicated at the beginning of my statement, this is not foreign aid. In the Fund's 33-year history, the United States has drawn over 25 times from the Fund for a total of $7.8 billion, making it the second largest user, after Italy, of IMF resources. While the nonoil developing countries drew 39 percent of the IMF resources between 1974 and 1979, as opposed to 31 percent in the 3 previous years, in the aggregate over the history of the Fund, the industrialized countries, including the United States, have been the major users of Fund resources drawing over 66 percent of the IMF funds. Thus, the IMF has an established history of helping the developed countries just as they are helping the nonoil developing countries today. In fact, the industrialized countries as a group are expected to have a current account deficit in 1980 of $48 billion—as opposed to a surplus of about $30 billion just 2 years ago—and some of these countries may very well need to draw on IMF resources in the near future.

Because the United States has the capacity to draw on its quota subscription, it is important that the U.S. share not fall below its present share of 21.5 percent of the total, although one might argue that the OPEC countries, whose oil pricing policies have been responsible for much of today's economic dislocations, should hold more than 10 percent of the quotas. Since voting shares are directly related to quota sizes and the proper and smooth functioning of the international monetary system is critical to international political stability, it is essential that the industrialized countries whose economies are complementary and who share many of the same international economic goals not lose control of the IMF. The relative shares between the industrialized countries, OPEC, and the non-oil-developing countries must remain the same.

The OPEC countries should, however, be encouraged to provide the fund with substantial contributions to new, special IMF programs, such as, in the past, the oil facility or the Witteveen fund, that would be designed to ameliorate the economic hardships caused by the oil price increases. Also, serious consideration must be given to developing innovative mechanisms, including exchange rate guarantees or inflation indexation, which would provide the OPEC surplus countries with incentives to invest their surplus directly and long-term in the developing countries. The IMF, which is also responsible for providing general guidance to the monetary system, must apply its skills beyond the mere provision of balance of payments financing and take the initiative in facilitating the overall recycling that I have just described.

Mr. President, the very structure of the international monetary system, as we have come to know it since the end of World War II, is in grave danger. Not only is the disequilibrium resulting from the severe payments imbalances between the OPEC countries and the rest of the world continuing to raise serious financing questions, as I have already described; but the worldwide inflation, in part due to the oil shocks and the decline in the purchasing power of the world's key currency, the dollar, is putting into jeopardy the very principles of open trade and free capital movements that have fostered the unprecedented economic growth of the post-war period.

To rectify the situation, I continue to believe that the international monetary system must be restructured along the presently evolving lines that seek to replace the dollar as the key reserve currency with a group of currencies. This process would create greater stability in the demand liability of the United States for an estimated $600–$900 billion in offshore dollars (Eurodollars). The recent decision by the IMF Interim Committee at Hamburg to shelve, for all intents and purposes, the substitution account is especially distressing. It is unfortunate that immediate preoccupation with the short-term—especially the momentary strengthening of the dollar and the German current account deficit—masked over the need for longer term reforms. With severe recycling strains and balance of payments financing problems staring us in the face for the next few years, the world's finance ministers may very well not have the opportunity to focus again on the structure of the international monetary system. While I would be the first to acknowledge that the substitution account would not solve by itself the very serious diversification problem, it did represent a concrete effort to begin to deal with the potentially destabilizing issue. That the finance ministers were unable to work out a plan to deal with the overhang of officially held dollars is especially troubling when one considers that the real threat to the system—the diversification that is occurring among the private dollar holders abroad—is not even being addressed, no less resolved.

Mr. President, whether or not the world's finance ministers focus on the diversification issue, diversification out of the dollar will continue. Given the economic and political instabilities in the world today, the prudent foreign exchange manager of a central bank or of a mulinational corporation or bank will seek to spread the exchange-rate risks. The quota increase on which we are voting today will be insignificant and lose its importance if the world's finance ministers who sit on the Interim Committee of the IMF fail to deal with these structural problems and permit the monetary system to muddle through. The system is too vulnerable for us to wait for the next dollar crisis to shake us out of our present lethargy.

Mr. President, I have sought to outline briefly to my colleagues why the IMF is a critical institution and deserves our support. It serves the United States both directly and indirectly. The 50-percent increase in IMF quotas, of which the U.S. quota increase is an integral part, will provide the IMF with resources to enable it to fulfill its central mission.

INTERNATIONAL SECURITY AND DEVELOPMENT CORPORATION ACT OF 1980

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. What business is now before the Senate?

The PRESIDING OFFICER. The question now recurs on the pending business S. 2714, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2714) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and for other purposes.

The Senate continued with consideration of the bill.

Mr. INOUYE. Mr. President, I wish to address a number of inquiries with reference to section 103 of the reported bill to the distinguished chairman of the Foreign Relations Committee.

As I understand the committee's intent, section 103 would establish a single reserve for the payment of claims under guarantees provided through the foreign military credit sales program. I further understand that section 103 would delete the current requirement that the reserve contain 10 percent of all outstanding contractual liabilities.

Now, these are matters of some concern to the Appropriations Committee. Section 103 also states that any guarantees made under the FMS financing program "shall be backed by the full faith and credit of the United States," with the current requirement that 10 percent of the guarantee reserve be appropriated, the Appropriations Committee, as is its responsibility, is able to review and limit the contractual liability backed "by the full faith and credit of the United States." I am troubled by the fact that the Foreign Relations Committee would now do away with this fundamental control on the growth of our Nation's contingent liabilities.

Nonetheless, I have been persuaded that section 103(d), which states that FMS credits and loans will be provided only to the extent and in such amounts as are provided in advance in appropriations acts, preserves and then protects the authority of the Appropriations Committees to review and make recommendations with regard to limitations on contractual liabilities.

May I ask the distinguished chairman if that is the intent of the committee?

Mr. CHURCH. The answer is "Yes."

Mr. INOUYE. May I inquire further: Does the Foreign Relations Committee agree that section 103 would enable the Appropriations Committees to recommend limitations on FMS loans and guarantees provided under the program ceiling established by the authorizing committees?

Mr. CHURCH. Again I say to my good friend the answer is, yes.

Mr. INOUYE. My last inquiry, sir: Does the House-passed version of the International Security and Development Cooperation Act of 1980 contain a provision similar to section 103(d)?

Mr. CHURCH. It is my understanding that it does not. However, such a provision was contained in the bill as it was reported from the House committee. However, for technical reasons, an amendment by the chairman struck that provision from the bill at the time it was considered by the other body. I do not believe the House committee objects to the provision on its merits.

Mr. INOUYE. I thank the chairman for his views. I know he fully understands the importance of maintaining this provision, and that he will see that this key Senate language is retained in conference.

I thank the Senator.

Mr. CHURCH. I thank the Senator very much for his inquiries.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. INOUYE. I would be very happy to yield, sir.

Mr. JAVITS. Just to add what has been emphasized in this colloquy is entirely correct. I entirely agree with him. Also there should be emphasized the positive side of this revision which will be to reduce the amount of appropriations as they may be required in order to give security to these transactions.

But I also wish to affirm that there is no purpose or intent nor can I read anything into it which would in any way deprive the Appropriations Committee of the substantive authority which it has today and will continue to have.

Mr. INOUYE. I am pleased to hear that, sir. I thank the Senator.

Mr. CHURCH. Mr. President, prior to the time that the conference report on the small business bill was considered, we had reached agreement on an amendment offered by the able Senator from Florida relating to depleted uranium. I understand the amendment has now been reworded, and I believe we are prepared to go forward with it.

UP AMENDMENT NO. 1162 (AS MODIFIED)

Mr. STONE. Mr. President, I offer an amendment, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1162.

Mr. STONE. Mr. President, I ask unanimous consent that after the word "Atomic" in line 6 the word "Energy" be inserted.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it is so modified.

The amendment, as modified, is as follows:

At the end of the bill add the following new section: "SEC. . Upon a finding that an export of uranium depleted in the isotope 235 is to be incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979."

Mr. STONE. Mr. President, this is the redraft as suggested by the distinguished ranking member of the committee, Senator JAVITS, in order to make quite clear the safety provisions we require in exempting the export of depleted uranium for nonradioactive purposes, and of predicating that according to the recommendation of the distinguished Senator from New York on a finding of an export of uranium, and so forth, as described in the amendment.

Mr. CHURCH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Florida.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1163

Mr. STONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1163.

Mr. STONE. Mr. President, I ask that that amendment be temporarily laid aside.

UP AMENDMENT NO. 1164

(Purpose: To include the Senate Foreign Relations Committee in the prior notification process for approval of export licenses for commercial sales which will have military implications)

Mr. STONE. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1164.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) Section 6(i) of the Export Administration Act is amended in the first sentence by (1) deleting the "and" following "House of Representatives" and inserting a comma; (2) inserting ", and Committee on Foreign Relations" after "Urban Affairs"; and (3) by inserting "30 days" after the word "Senate".

(b) Subsection 6(i)(2) is amended to read as follows: "Such exports would have a potential military capability or could readily be made a significant part of an article having a military capability or would contribute to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.".

Mr. STONE. Mr. President, this amendment strengthens U.S. control over the export of equipment with a potential military capability to countries which repeatedly provide support for acts of terrorism. The amendment is needed because in the past controversial sales have been approved for such countries without adequate State Department and Foreign Relations Committee control.

As examples of this, are the 40 L–100's to Syria, tank-carrying trucks to Libya, and recently 8 gas turbines for a frigate being built for Iraq.

The amendment will strengthen these controls by, first, adding the Senate Foreign Relations Committee to the list of committees informed of such sales; and, second, requiring a 30-day congressional review period for such sales; and, third, expanding the definition of the kinds of sales with potential military capability to insure that the State Department and the Congress are fully informed of all potential exports to such countries.

The administration has taken similar steps after the State Department was excluded from the Iraqi frigate engine discussion, about which more after this amendment has been concluded.

This amendment modifies those procedures and makes them statutory.

Mr. CHURCH. Mr. President, as I read the amendment I find nothing in it that would be objectionable to me. As I understand the Senator's intention, he wishes to see articles that have a potential military capability or could readily be made a significant part of an article having a military capability, or would contribute to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism should be included in those export sales that are reported regularly to the Congress.

The only question I raise with the Senator is the broad language used in the amendment. It is a large net that he throws, and I wonder whether almost any kind of a finished product might not fall within this broad definition.

Mr. STONE. Mr. President, the answer to that quite pertinent question is that it only relates to the states and countries on the list determined by the State Department, by the administration, to be those in support of terrorism.

The existing law, which reads as follows, "Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism," is already in the law and we are simply closing a loophole which became obvious when it came out that the engine cores for the frigates being built for Iraq are not even noticed to the State Department, and they now have taken some administrative response to make sure that they are noticed.

We need to do the same for Congress and, in specific, for the Foreign Relations Committee. This amendment was drafted by committee staff to close that loophole. I think that when we get to the Iraqi engine situation, which we will get to shortly, the example of why this amendment is needed will be crystal clear.

Mr. CHURCH. Mr. President, I thank the Senator for making a good case. I am prepared to accept the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable on this side.

● Mr. HEINZ. Mr. President, I want to express my support for the amendment offered by the Senator from Florida (Mr. STONE) that would require revocation of the export license for the sale of engines to Italy that would be used in Iraqi frigates.

As ranking minority member of the International Finance Subcommittee of the Banking Committee, I was deeply involved in the rewriting of the Export Administration Act last year which was intended to streamline our system of controls and encourage exporting. It was our intent at that time to maximize opportunities to export and to urge the administration to pay particular attention to foreign availability of the same products in its decision whether or not to grant an export license.

There are, however, certain circumstances that are so important that they should be taken out of the normal process of the statute and considered separately. Such is the case with countries that support terrorism. We all know only too well the succession of bombings, hijackings, murders, and kidnapings that have occurred over the years. They are one of the plagues of modern society, a plague we must be determined to stamp out. Achieving that objective, however, depends on broad-based multilateral action, and it depends on a willingness to use every tool at our command in order to influence states which supports terrorists.

Unfortunately, we often have only limited economic and political relations with the states in question, currently identified by the State Department as Libya, Iraq, Syria, and South Yemen. Our leverage is limited. Accordingly, we must not pass up any opportunity that comes along to exercise it and to make clear our implacable opposition to acts of international terrorism.

Such an opportunity exists presently with respect to the engine sale, and I have circulated two letters for signature by other Senators urging the administration to revoke this license. I have not yet received an answer to those letters, but I do not think we should wait for it. This amendment provides an opportunity to make clear the Senate's view on this matter and to require the revocation of the license, and I urge its adoption. Mr. President, I ask that the texts of the two letters to the President be printed at this point in the RECORD.

The letters follow:

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS,
Washington, D.C., June 4, 1980.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to indicate our strong opposition to the Administration's decision to sell Italy eight gas turbine engines that will be used in Iraqi frigates.

Last December, pursuant to Section 6(i) of the Export Administration Act, the Secretary of State listed Iraq, along with Syria, Libya, and South Yemen, as countries which repeatedly have provided support for acts of international terrorism. Since that time the significance of that listing was tragically demonstrated when an Iraqi-backed faction of the PLO attacked the children's nursery at the Misgav Am kibbutz on April 7, killing three innocent civilians and wounding sixteen.

In January, 1980, the decision to grant the license was made, without consultation with the State Department or notification to the Congress, which is required by Section 6(i) of the Export Administration Act in those cases where the goods in question are valued at more than $7 million.

This action clearly violates a provision of law enacted only last September as an expression of Congressional view that our government should prohibit the sale of equipment or services specifically intended for military end-use to countries which have been identified as repeated supporters of international terrorism. Obviously, overriding American interests might necessitate exceptions to such a policy, but we do not believe such a case can be made with respect to these engine sales.

At a time of increasing terrorist activity, with Americans still held hostage in Iran, it is essential that our government speak out more forcefully than ever against acts of terrorism, and that our commercial policy be fully consistent with such pronouncements. Iraq has long been considered one of the prime supporters of terrorist activity. To provide at this time the means for Iraq to significantly enhance its naval power and therefore its influence in the Persian Gulf sends the wrong signal about our Mideast policy and the wrong signal about our determination to put an end to terrorism.

We are not unaware that there has been some movement in Iraq's foreign policy recently away from dependence on the Soviet Union. Such movement is in our interest and should be encouraged, possibly through encouraging sales of civilian commodities to Iraq. Contributions to Iraq's military strength, as these frigates certainly would be, serve neither our policy interests in the Middle East nor the interests of our allies.

While the administrative steps that have been proposed to insure that the Export Administration Act is followed more faithfully in the future are welcome, it is our belief that a strong, consistent policy against terrorism demands that the license for this sale be revoked. We urge you to take that action.

Sincerely,

GORDON J. HUMPHREY.
RUDY BOSCHWITZ.
RICHARD STONE.
JACOB K. JAVITS.
JOHN HEINZ.
RICHARD S. SCHWEIKER.
DAVID DURENBERGER.
HARRISON A. WILLIAMS, Jr.

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, D.C., June 16, 1980.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to indicate our agreement with the views expressed in our colleagues' letter to you of June 2 opposing the Administration's decision to sell Italy eight gas turbine engines that will be used in Iraqi frigates.

Last December, pursuant to Section 6(i) of the Export Administration Act, the Secretary of State listed Iraq, along with Syria, Libya, and South Yemen, as countries which repeatedly have provided support for acts of international terrorism. Since that time the significance of that listing was tragically demonstrated when an Iraqi-backed faction of the PLO attacked the children's nursery at the Misgav Am kibbutz on April 7, killing three innocent civilians and wounding sixteen.

In January, 1980, the decision to grant the license was made, without consultation with the State Department or notification to the Congress, which is required by Section 6(i) of the Export Administration Act in those cases where the goods in question are valued at more than $7 million.

This action clearly violates a provision of law enacted only last September as an expression of Congressional view that our government should prohibit the sale of equipment or services specifically intended for military end-use to countries which have been identified as repeated supporters of international terrorism. Obviously, overriding American interests might necessitate exceptions to such a policy, but we do not believe such a case can be made with respect to these engine sales.

At a time of increasing terrorist activity, with Americans still held hostage in Iran, it is essential that our government speak out more forcefully than ever against acts of terrorism, and that our commercial policy be fully consistent with such pronouncements. Iraq has long been considered one of the prime supporters of terrorist activity. To provide at this time the means for Iraq to significantly enhance its naval power and therefore its influence in the Persian Gulf sends the wrong signal about our Mideast policy and the wrong signal about our determination to put an end to terrorism.

We are not unaware that there has been some movement in Iraq's foreign policy recently away from dependence on the Soviet Union. Such movement is in our interest and should be encouraged, possibly through encouraging sales of civilian commodities to Iraq. Contributions to Iraq's military strength, as these frigates certainly would be, serve neither our policy interests in the Middle East nor the interests of our allies.

While the administrative steps that have been proposed to insure that the Export Administration Act is followed more faithfully in the future are welcome, it is our belief that a strong, consistent policy against terrorism demands that the license for this sale be revoked. We urge you to take that action.

Sincerely,

BOB PACKWOOD.
JAKE GARN.
TED STEVENS.
GEORGE MCGOVERN.
HOWARD M. METZENBAUM.
FRANK CHURCH.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida (Mr. STONE).

The amendment (UP No. 1164) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment that was temporarily laid aside.

Mr. STONE. Mr. President, I did not hear the Chair.

The PRESIDING OFFICER. The question now occurs on the amendment and which was laid aside.

Mr. STONE. Mr. President, has the amendment now pending just been adopted?

Mr. CHURCH. Yes, it has.

The PRESIDING OFFICER. The amendment which was set aside has not been adopted.

Mr. STONE. But what about the amendment we have just been discussing?

The PRESIDING OFFICER. Unprinted amendment numbered 1164 has been adopted.

UP AMENDMENT 1163

(Purpose: To revoke the licenses for the export of any Gas Turbine engine cores for Iraqi Naval Frigates)

Mr. STONE. Mr. President, I ask that the amendment that was set aside be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1163.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Because a license was issued for the export of United States engines for use in Iraqi navy frigates without notification to the Congress as required by section 6(i) of the Act of September 29, 1979 (93 Stat. 515), relating to militarily significant exports to countries supporting international terrorism, in view of the fact that Iraq was listed as such a country in a December 29, 1979, letter from the President to the Congress, and in furtherance of the policy against aiding countries supporting international terrorism which is the basis of section 6(i), of section 3(f) of the Arms Export Control Act, and of section 620A of the Foreign Assistance Act of 1961, the President shall revoke the licenses for the export of any gas turbine engine cores for use in frigates for the Iraqi navy.

Mr. STONE. Mr. President, I rise to propose an amendment which prohibits the granting of export licenses for marine engine cores to be built in Italy for sale to the Iraqi Navy.

Section 6(i) of the Export Administration Act of 1979 requires the President to notify Congress on the granting of export licenses as contemplated with the export of goods or technology valued at more than $7 million to any country in which the Secretary of State has determined:

First. Has repeatedly provided support for acts of international terrorism; and

Second. Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or to enhance the ability of such country to support acts of international terrorism.

On December 29, 1979, the President informed the Congress that Iraq, along with Libya, Syria and the People's Democratic Republic of Yemen were indeed countries which have repeatedly provided support for acts of international terrorism in a letter in which he reported in detail the export controls plan for calendar year 1980. Thus, the eight General Electric engines for the four Iraqi Navy *Lupo* Class Frigates clearly fall under the scope of restrictions found not only in section 6(i) of the Export Administration Act, but also under the provisions of the Arms Export Control Act and Foreign Assistance legislation which has been passed by the Congress with the intent of restricting the export of items which aid those countries supporting international terrorism and which will be detrimental to American military and foreign policy interests.

The four frigates which these engines, to be built in Italy by Italian workers for sale to Iraq, will power will give to the Iraqi navy a significantly enhanced military capability which now consists primarily of small missile and patrol boats. To provide at this time the means for Iraq to significantly enhance its naval power in the Persian Gulf cannot possibly serve either our own interests in securing a continued supply of oil from the Persian Gulf region or the interests of our Persian Gulf friends who are concerned about the growing military capability of Iraq. At least, if such an argument can be made, then it should have been made and should still be made rather than simply adopting the policy of allowing the frigates to be supplied without a decision on the licensing at all except by letting it happen.

At a time of increasing terrorist activity, with Americans still held hostage in Iran by an act of terrorism, it is essential that our Government speak out more forcefully than ever against acts of terrorism and that our commercial sales policy be fully consistent with such pronouncements. The granting of an export license for this sale works exactly the opposite to all of these goals.

But what is the history of this highly controversial sale which has drawn an ever-increasing crescendo of criticism by our colleagues in the House of Representatives as well as by my colleagues in the Senate?

As mentioned above, on December 29, 1979, President Carter formally informed the Congress that Iraq was on the list of countries subject to export controls under the Export Administration Act for repeatedly providing support for acts of international terrorism. However, even prior to that determination Secretary of State Vance wrote in a letter dated September 23, 1979, to our colleague, the ranking minority member of the Senate Foreign Relations Committee, Senator JACOB JAVITS, as follows:

> The Department policy remains that unless the President and I, acting under the President's authority, determine that it would be contrary to the national interest, we will recommend denial of export licenses to countries demonstrating a pattern of support for terrorist acts for those items which would make a significant contribution to the military potential of these states or which would otherwise enhance their ability to support terrorism.

However, on January 23, 1980, the Commerce Department issued export licenses for these eight General Electric gas turbine engines to be built by Italy for the Iraqi navy. The licenses were issued without notifying Congress or even consulting with the Department of State's Near Eastern and South Asian Affairs Bureau or Antiterrorism Office, the Defense Department, or the Arms Control and Disarmament Agency. Thus, a clear violation of section 6(i) Export Administration Act of 1979 occurred. In late January after it was learned that licenses had been issued, midlevel Commerce Department officials told congressional staff they believed there was no need to inform Congress because marine engines did not appear on a list of items to be controlled for foreign policy purposes under section 6(k) of the Export Administration Act. However, it is the belief of the authors of that legislation that it is inclusive, referring to all equipment which would make a significant contribution to the military potential or the ability of the country to support acts of international terrorism. It does not specifically exclude any particular type of equipment.

After Representatives BINGHAM and FENWICK and others in both the House and the Senate wrote the President protesting this sale, various explanations for letting the sale proceed have been given. They include suggestions that we might hurt our relations with Italy, and also include the well-worn argument, "if we don't sell the engines someone else will." In the meantime, responding to this obviously mishandled situation, the administration has decided to impose additional foreign policy controls on exports to Iraq, Syria, Libya and the People's Democratic Republic of Yemen. On May 16, 1980, a notice was filed in the Federal Register imposing these additional foreign policy controls. I applaud the administration's action in recognizing the tremendous problem which this sale has exposed. However, this action is ex post facto in nature and will not stop the granting of export licenses for the sale of engines for these frigates. Perhaps the most interesting commentary from the administration on this sale can be found in testimony given before the House Foreign Affairs Committee on May 14, 1980, by Assistant Secretary of State for Economic Affairs Deane R. Hinton. In response to questioning from Congressman BINGHAM, he indicated that the policy established by Secretary Vance in his September 23, 1979, letter to Senator JAVITS was not followed in this marine engine case and stated as follows:

> My only explanation of this situation—it is painful—is that he had perhaps forgotten the exact wording of his commitment to Senator Javits because I am sure if he had had it in mind that we would have had a different determination that was compatible with that commitment, even though the determination that was made in my judgment was compatible with the law.

Therefore we have before us a rather incredible situation in which I find that there are three basic grounds for avoiding the sale of these engine cores to Italy for use in Iraqi naval frigates:

First. The administration's decision to complete the sale is a clear violation of section 6(i) of the Export Administration Act of 1979 which prohibits approval of an export license without prior notification to Congress in cases where the goods or technology in question are valued at more than $7 million and where the Secretary of State has identified the recipient as a supporter of international terrorism and has determined that such an export will contribute to the military capability of that country.

Second. The sale undermines any strategic logic in a comprehensive and unified foreign policy directed toward strategically assuring the stability of our friends and the supply of oil from the Persian Gulf. It secures no foreign policy advantages for the United States. We gain nothing in exchange for the projected benefit to Iraq. Contrarily, we significantly enhance the ability of the Iraqi Navy to wreak havoc in the Persian Gulf and the Straits of Hormuz.

Third. Finally, this statute was designed specifically to discourage military aid to countries which support international terrorism. Iraq is supporter of international terrorism which has been so defined by the administration. Therefore, in approving this sale, the administration has violated the spirit as well as the letter of the Export Administration Act and, in my opinion, also the Arms Export Control Act, and the Foreign Assistance Act.

An awful error is about to be effectuated if we do not specifically prohibit the granting of these licenses by this amendment.

Mr. CHURCH. Mr. President, referring to the amendment offered by the Senator from Florida, I want first to say that I am wholly in accord with its thrust. In fact, on June 16, 1980, a letter was addressed to the President, signed by Senators McGOVERN, METZENBAUM, PACKWOOD, and myself, dealing with this subject.

Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS,
Washington, D.C., June 16, 1980.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to indicate our agreement with the views expressed in our colleagues' letter to you of June 2 opposing the Administration's decision to sell Italy eight gas turbine engines that will be used in Iraqi frigates.

Last December, pursuant to Section 6(i) of the Export Administration Act, the Secretary of State listed Iraq, along with Syria, Libya, and South Yemen, as countries which repeatedly have provided support for acts of international terrorism. Since that time the significance of that listing was tragically demonstrated when an Iraqi-backed faction of the PLO attacked the children's nursery at the Misgav Am kibbutz on April 7, killing three innocent civilians and wounding sixteen.

In January, 1980, the decision to grant the license was made, without consultation with the State Department or notification to the Congress, which is required by Section 6(i) of the Export Administration Act in those cases where the goods in question are valued at more than $7 million.

This action clearly violates a provision of law enacted only last September as an expression of Congressional view that our government should prohibit the sale of equipment or services specifically intended for military end-use to countries which have been identified as repeated supporters of international terrorism. Obviously, overriding American interests might necessitate exceptions to such a policy, but we do not believe such a case can be made with respect to these engine sales.

At a time of increasing terrorist activity, with Americans still held hostage in Iran, it is essential that our government speak out more forcefully than ever against acts of terrorism, and that our commercial policy be fully consistent with such pronouncements. Iraq has long been considered one of the prime supporters of terrorist activity. To provide at this time the means for Iraq to significantly enhance its naval power and therefore its influence in the Persian Gulf sends the wrong signal about our Mideast policy and the wrong signal about our determination to put an end to terrorism.

We are not unaware that there has been some movement in Iraq's foreign policy recently away from dependence on the Soviet Union. Such movement is in our interest and should be encouraged, possibly through encouraging sales of civilian commodities to Iraq. Contributions to Iraq's military strength, as these frigates certainly would be, serve neither our policy interests in the Middle East nor the interests of our allies.

While the administrative steps that have been proposed to insure that the Export Administration Act is followed more faithfully in the future are welcome, it is our belief that a strong, consistent policy against terrorism demands that the license for this sale be revoked. We urge you to take that action.

Sincerely,

BOB PACKWOOD.
GEORGE McGOVERN.
HOWARD M. METZENBAUM.
FRANK CHURCH.

Mr. CHURCH. Mr. President, I am willing to accept the amendment. I am troubled only by one aspect of it, and that has to do with its retroactive effect. I have not had an opportunity to review the precedents, nor am I able to say on the floor this afternoon what problem this particular language in the amendment may give us when we bring it up in conference. However, we shall inquire into that matter and deal with it at the proper time.

Mr. STONE. That is acceptable.

Mr. CHURCH. If that is acceptable to the proponent of the amendment, then the amendment is acceptable to me.

I am just informed that the Senator from Illinois (Mr. STEVENSON) wishes to speak against the amendment. I do not know whether that means that he will ask for a rollcall vote. But I do believe that he should be informed that the Senate is about to take action on the amendment in order that his rights may be protected. I would ask that he be informed at this time.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this matter, as Senator STONE has already noted, has a very long history indeed. It goes back to the fall of 1979 when certain commitments were made about matters of this kind being subject to consideration from the foreign policy point of view, which admittedly was not done here.

The question now becomes a very serious one, affecting very large amounts of money, in the billions of dollars, and involving Italy, which is building these frigates. Yet it flies directly in the face of our efforts to deal with terrorism and countries which aid and abet it. Iraq is stated by the United States to be one. It is absolutely impossible to reconcile, Mr. President, what has happened here with what ought to be the policy of the United States, except as a series of mishaps which have resulted now in pinning the situation onto Italy, an ally of the United States, a close friend of the United States, who we have absolutely no desire to harm in any way. Yet, unwittingly, they may be harmed, if retroactively, there is a prohibition on shipment of these engines to Italy.

Mr. STONE. Will the Senator yield at that point?

Mr. JAVITS. If I may just finish my thought.

Therefore, in my judgment, it is very intelligent to take this to conference and see how we can deal with all of the ins and outs of it. I am rather pleased that the Senator has projected it forward in this way so that we may be seized of the problem.

My only reason for saying what I have is to state upon the record our problem with it, a very real one. We shall, however, have to see if we can find a way through it.

Mr. President, there is no excuse for this whatever in the policy of the United States or in what ought to be the policy of the United States. The only complexity, which is so meaningful and so critical, is this complexity about Italy and what it is doing about these frigates.

I yield to the Senator.

Mr. STONE. If the Senator from New York will yield for this purpose, the engines themselves have not yet been built and will not be built until the fall. The engines are attainable elsewhere. If that is the case, then the policy of the United States ought to be affirmed and kept to, to the letter, in this case. Otherwise, the assurances at the highest level of the administration to the distinguished Senator from New York would mean nothing in the future. So I think, Mr. President, that taking it to conference in that fashion would be very salutary.

Mr. JAVITS. I thoroughly agree, Mr. President, and I hope that we shall be permitted to do that.

Mr. STONE. Mr. President, I move the question.

Mr. TSONGAS. Mr. President, I believe the Senator from Illinois wanted to speak on this issue and I saw him come in. Perhaps we could give him a chance to speak.

Mr. STEVENSON. Mr. President, I have just seen this amendment—it is unprinted—for the first time. Perhaps the sponsors of the amendment or the distinguished managers of the bill could answer some questions about it. I, for one, have some general reservations about the repeated temptations of the Congress to legislate the conduct of foreign policy.

Mr. President, this amendment has not been the subject of hearings within the Committee on Banking, which has the jurisdiction over export controls under the Export Administration Act. Has it been the subject of hearings in the Foreign Relations Committee?

Mr. STONE. Mr. President, it has been the subject of hearings in the House Foreign Affairs Committee. The statement made to the distinguished members of that committee was that they should have been notified and that it was a mistake. I have just finished reading that to the Senate.

Mr. STEVENSON. I beg the Senator's pardon that I did not hear the answer to that question earlier.

Mr. STONE. I shall be happy to repeat that.

In referring to an earlier letter to Senator JAVITS assuring the Senator that this kind of thing would not take place, and in answering a question by Representative BINGHAM, Assistant Secretary of State Deane R. Hinton stated as follows:

> My only explanation of this situation—it is painful—is that he had perhaps forgotten the exact wording of his commitment to Senator Javits because I am sure if he had had it in mind that we would have had a different determination that was compatible with that commitment, even though the determination that was made in my judgment was compatible with the law.

I maintain that this is a violation of 6(i) of the Export Administration Act and, as well, the Arms Export Control Act and the Foreign Assistance Act.

Mr. STEVENSON. Mr. President, as I indicated before, we have not held hearings in the Banking Committee with respect to the Export Administration Act and have reached no such conclusion. But with respect to the merits, has the House Foreign Affairs Committee or anybody else concluded that if the United States does not make these sales, they will be unavailable from other sources in Europe?

Mr. STONE. On the contrary, the United States takes the view that these engines will be available from other sources.

Mr. STEVENSON. And it is the Senator's conclusion that it is in the best interests of the United States for the Iraqis to buy these engines from other sources than the United States?

Mr. STONE. It is this Senator's position and conclusion that, since Iraq is currently on the list of administration-determined countries which consistently support terrorism, it is inappropriate for us to sell equipment which can enhance their military capability. These frigates clearly will.

Mr. STEVENSON. Mr. President, let me ask the Senator another question. I do not think a court, at least, has concluded that the issuance of this license has been and is invalid. Is it not the function of the courts to make such determinations?

And if the Senator is right in his opinion about the breach of law, is not the appropriate remedy, then, a suit in the appropriate court to determine, as he has determined, that the licenses are invalid, without resort to this enactment?

Mr. STONE. No, Mr. President, this Senator takes the view, which I think is the established view, that supply of military equipment to countries on the proscribed list is barred and that it is a proper congressional prerogative to have oversight over that. That is what this amendment does.

We have acted in similar fashion before and, frankly, so has the administration, when they reviewed and refused to renew an export license for 727 airplanes and 747 airplanes to Libya in advance of any court action.

Mr. STEVENSON. Mr. President, I do not intend to prolong this nor to oppose the amendment if it is the wish of the managers to accept it and to take it to conference. I do want, as just one Member, to be recorded, as I am now, as not concurring in the judgment of the distinguished Senator from Florida that the law has, in this instance, been violated or that the issuance of the licenses in this case was an improper act and that the licenses, therefore, are invalid.

I do hope, Mr. President, that before this matter is finally considered, Congress will give consideration to all of these issues and consult with the administration—most of all, because of the reservation which I first expressed about the repeated temptation of Congress to conduct foreign policy. That is a temptation which we are, in my humble judgment, well advised to resist.

I thank the Senator.

Mr. STONE. I thank the distinguished Senator from Illinois.

His desire that the conferees look into this most carefully and that this be taken to conference, in that spirit, is the intention of the Senator from Florida and the managers of the bill.

Mr. STEVENSON. I thank my good friend for that reassurance.

Mr. STONE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment (UP No. 1163) was agreed to.

Mr. STONE. I move to reconsider the vote by which the amendment was agreed to.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2714.

Mr. HELMS. There is no amendment pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

UP AMENDMENT NO. 1165

(Purpose: To require the President to report to Congress on the implementation of the Lancaster House Declaration of Rights in Zimbabwe)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1165.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title II, insert the following new section:

"Sec. . No amount of the funds authorized to be appropriated under this Act may be made available to Zimbabwe unless the President determines and so reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives every sixty days that the government of Zimbabwe is fully implementing the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979, which annex provides for the observance in Zimbabwe of the right to life, the right to personal liberty, freedom from slavery and forced labor, freedom from torture and inhuman treatment, freedom from deprivation of property, protection for privacy of home and other property, the right to protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement, and protection from discrimination."

Mr. HELMS. Mr. President, in the interest of saving the time of the Senate, I say simply that this amendment is modeled upon similar language already adopted by the House.

Mr. President, I ask unanimous consent that I be permitted to yield to my friend from Mississippi on the condition I not lose my right to the floor, that my amendment be laid aside temporarily, that following disposition of his amendment we return to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield to the distinguished Senator from Mississippi.

UP AMENDMENT NO. 1166

(Purpose: Expressing the sense of the Congress with respect to the resettlement of Cuban refugees)

Mr. COCHRAN. Mr. President, I have an amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. Cochran) proposes an unprinted amendment numbered 1166.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 31, insert the following:

CUBAN REFUGEES

Sec. 607. (a) The Congress finds that—

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and world-wide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

(5) the United States has sought in vain to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other free nations should contribute to its resolution.

(b) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cubans who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit a significant number of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(c) It is the sense of the Congress that, in carrying out subsection (b), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the resettlement of Cuban refugees and of means by which a more orderly process may be established to handle future crises of a similar nature.

On page 32, line 2, strike out "Sec. 607." and insert in lieu thereof "Sec. 608.".

Mr. COCHRAN. Mr. President, the purpose of this amendment is to call upon and direct the President to seek greater international cooperation in the resolution of the Cuban refugee situation.

The amendment expresses the sense of the Senate that other nations should assist the United States in helping find homes for these refugees and in contributing funds established for their resettlement.

By this amendment, the President is called upon to seek this increased assistance in appropriate international bodies such as the U.N. and the Organization of American States.

Mr. President, I hope the distinguished managers of the bill will accept the amendment.

I do not want to delay consideration of the amendment of the Senator from North Carolina or delay further consideration of the bill by debating the matter unnecessarily, so I yield at this point, Mr. President, to the managers for whatever statement they may make.

Mr. TSONGAS. Mr. President, I state on behalf of Mr. Church, whom I have not consulted, that I am fairly comfortable in saying that this is a positively drafted amendment and that the committee would have no trouble with it.

Mr. President, I commend the Senator from Mississippi on his initiatives.

Mr. PERCY. Mr. President, I commend my distinguished colleague for this amendment.

I do want to mention, though I concur completely with the sentiments of the amendment itself, a feeling that I think is widespread in this country. Certainly the leaders in the black community, such as the Reverend Jesse Jackson of my State, has strongly expressed himself that when this Nation opens its heart and arms to people from another country, it should not allow that country to dump its undesirables on us.

The traditional policy of this country does not apply to such undesirables. We have a duty to our citizens and all those who do immigrate lawfully to this country—to contribute to this society—we have an absolute obligation to do everything to prevent such undesirables from coming to our shores. That is not embraced in this amendment.

I concur completely with it and know of no objection to it on this side.

Mr. COCHRAN. I thank the distinguished Senator from Illinois for his statement and also the distinguished Senator from Massachusetts for his courtesy and his kind remarks.

Mr. President, there are over 100,000 refugees who have come to our shores from Cuba, that we know of, just in recent weeks. Only 3,300, according to recent estimates I have seen, have been accepted in other nations, particularly Costa Rica. There are others in South America who have accepted some of these refugees. I think we should commend them and recognize the assistance they have shown. Peru, Venezuela, Ecuador, Argentina, Spain, Canada, Australia, have indicated an interest in helping.

But the number of refugees they are actually assuming into their countries is very small compared to the large numbers the United States is attempting to accommodate.

I appreciate the statements in support of the amendment. I reserve the remainder of my time, Mr. President.

Mr. THURMOND. Mr. President, I rise in support of this amendment and wish to associate myself with the remarks of the able Senator from Mississippi.

I commend the managers of the bill for agreeing to accept this amendment.

Mr. President, I have made several speeches here in the Senate on this subject. There is no question in my mind that steps must be taken to require the Justice Department and the administration to conform to the law.

I am confident that we must go back to the simple theory, when a refugee comes here, to determine whether he is a political refugee coming seeking freedom and to avoid being persecuted, or whether he is an economic refugee, coming here to enjoy the economic system we have in this country.

There is no question about the fact that many criminals—murderers and others—have come here from Cuba. There is no question that many undesirables have come here from Cuba—people with contagious diseases, including leprosy. There is no question that Castro has unloaded his jails and allowed the criminals to come here.

Mr. President, it is essential that we take steps to stop this. It is essential, as I have stated previously, that the High Commissioner for Refugees at the United Nations should take an interest in this matter.

I believe the distinguished Senator from Mississippi has mentioned the Organization of American States, and I am glad he has done so. That could be helpful. Other countries should realize that this is not just a United States-Cuba problem. This is a world problem. It is a United Nations problem, and it should be considered as such.

I am sure that our country wants to do its part. But the way these people are coming here now is unlawful, impractical, and is imposing a great burden upon the people of this country; and I feel strongly that steps should be taken to stop it.

I commend the able Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from South Carolina for his eloquent observations and support of this amendment.

I believe the amendment clearly points out that we want to be neighborly. The United States has a history of being generous and compassionate and sensitive to the needs of others in situations such as this.

But while we want to be a good neighbor, there is a limit to our hospitality. We do not think we should bear the sole responsibility for all the refugee problems all over the world. Other nations can shoulder more of the responsibility financially and help in the resettlement of these refugees.

Mr. President, I have no further request for time.

I ask unanimous consent that the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Arkansas (Mr. PRYOR), and the Senator from Montana (Mr. BAUCUS) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. COCHRAN. I yield to the distinguished Senator from Arkansas.

Mr. PRYOR. Mr. President, I am not going to take more than a few minutes.

First, I commend the very able Senator from Mississippi (Mr. COCHRAN) for proposing this amendment. I am proud to be a cosponsor of this amendment. It is extremely timely.

I believe this amendment will call attention to the fact that this country, once again, is being called upon to bear unilaterally the burden of taking care of literally thousands and thousands of refugees.

Recently, I was at Fort Chaffee, Ark. I was there only a few hours after several hundred refugees attempted to escape that particular impoundment. I must say that the situation does seem to be a great deal calmer at this moment.

However, I am concerned about the fact that the Justice Department, in recent days, has been in the State of Arkansas, looking at the possibility of bringing some legal action against the Arkansas State Police, who they suggest may have used excessive force on some of the refugees the night of the attempted escape. I do not know what they mean by "excessive force," but I do know that without the Arkansas State Police being where they were at that time, we would have seen literally hundreds of men, women, and possibly children in very, very grave danger because of the tense situation in the camp and immediately surrounding the camp, throughout the adjacent communities.

Some weeks ago, I wrote the Organization of American States, trying to solicit their help, their cooperation, and their support, to come to our assistance at this time, to our aid as a country—a humanitarian country, to say the least—in attempting to help financially the refugees become located, and also to be of assistance in the relocation efforts in other parts of the world, which I shall place in this RECORD at the conclusion of my remarks.

I hope the amendment offered by the Senator from Mississippi will help bring attention to this point.

Mr. President, I recently made the suggestion to the President that we try to get further assistance from other countries throughout the world in our refugee program.

I made an additional suggestion to the President at a White House meeting at which Senator BUMPERS was also present. I suggested to him, respectfully, that he have a talk, perhaps a fireside chat, with the refugees by closed-circuit television or radio or even a tape recording, in which our President would tell the refugees we were trying our best, as a humanitarian country, to make the best of a bad situation. He should warn them if they are going to violate the law, to break the law, to engage in activities such as happened at Fort Chaffee, they are going to have to suffer the ultimate repercussions which could include deportation.

I hope the amendment offered by the distinguished Senator from Mississippi will be agreed to. I hope it will shed the light on this subject that should be shed upon it, so that we can act with wisdom, and so that other countries will realize that they, too, have a role to play in the relocation of these thousands of refugees who are today in our land.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter which I wrote to the Organization of American States dated May 15, 1980.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 15, 1980.

His Excellency ALEJANDRO ORFILA,
Organization of American States, Pan American Union Building, 17th Street and Constitution Avenue, Washington, D.C.

DEAR MR. AMBASSADOR: I write this letter as a personal plea for assistance from the Organization of American States to relieve a situation which is currently taxing the resources of the United States government.

Thousands of refugees from Cuba continue to flow into our country daily. Our military and federal governmental agencies have done an exemplary job thus far in making this rapid influx of people and their subsequent transition to a new life as easy as possible on the refugees as well as the communities in which most of them are presently located.

In addition to refugee relocation and processing centers in Florida and my own state of Arkansas, it appears that at least two other centers will be opened to handle the incoming Cuban population which some estimate will range as high as 250,000.

The U.S. government has already set aside 10 million dollars to assist in processing, relocation and resettlement. It now appears that this allocation will not come close to meeting the demands which will be placed upon us. At a time when our own citizens are having trouble finding employment and are being forced to rely more and more on such government assistance as food stamps, unemployment and welfare programs, it is becoming more difficult to support the requirements which this new group of refugees has placed upon us.

For this reason, I would respectfully ask that the Organization of American States give serious consideration to committing some of its resources and the resources of its member nations to sharing this burden with us. Such assistance could take many forms ranging from relocating refugees in their own countries or helping us financially.

Quite frankly, I think that it would be most appropriate for the nations of the Western hemisphere to work together in this manner to assist the citizens of one of its nations. In view of the urgency of this situation, I would hope that you would take this matter up as quickly as possible.

Thank you in advance for your attention to this request.

Sincerely,

DAVID PRYOR.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Arkansas for his support of this amendment and his help in the development of the debate, focusing attention on the problem we are facing.

I ask unanimous consent that the name of the distinguished Senator from Alabama (Mr. HEFLIN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, this amendment calls upon the President to seek greater international cooperation in the resolution of the Cuban refugee situation. The amendment expresses the sense of the Senate that other nations should assist the United States in helping find homes for these refugees and in contributing funds established for their resettlement. The President is called upon to seek this increased assistance in appropriate bodies, such as the United Nations and the Organization of American States.

The amendment expresses, I believe, a reasoned response of Congress to the events of recent weeks in the Caribbean region.

I am informed that as of Wednesday, June 11, approximately 112,950 Cuban natives had reached American shores seeking refuge from the oppressive government of Fidel Castro. No doubt more have arrived by this time and even more would come if they still could do so.

In scale and timespan, this precipitate influx of men, women, children seeking freedom is unparalleled in recent American history. In 1950, a previous record year, 133,000 refugees were technically admitted into this counrty. In 1975, 147,000 aliens were admitted. This year we can expect over 340,000 refugees and others seeking political asylum from Indochina, from Cuba, and from all corners of the globe. And these figures do not include the normal annual flow of immigrants to this country, which itself has been rising steadily.

The traditional compassionate and humanitarian response of the American people to the plight of refugees and victims of oppression is being severely strained by this sudden flood of humanity. We as a people do, indeed, care for the welfare of our fellow man, but the ever-rising numbers entering this country carry social and economic costs which the American people are unable to bear, particularly at this time of economic recession and uncertainty. One rough estimate from OMB puts the immediate financial costs to the American taxpayer for the admittance and resettling of the Cuban refugees at over $380 million.

We have consistently welcomed more refugees to our shores than any other country in the world. We do wish to help these homeless people to find a refuge from the storm, but this Nation, despite its history of open arms, cannot be expected to shoulder alone what is in actuality a burden for the whole free world to carry.

The suggestion is made in this amendment which I have offered that greater efforts be made to encourage the participation of other nations in the resettlement and financing of the costs of resettlement of the Cuban refugees.

This request is consistent with the belief that those who share similar values throughout the world should participate in the defense of those values.

If I am not mistaken, all of the Western world shares in a belief that sanctuary should be offered the victims of oppression. Yet, judging by the tentative offers which the world's nations have made thus far to accept the refugees from Cuba—the world is treating this crisis as a purely bilateral matter of little or no concern to them.

It would be useful to remind them that it is very much their concern.

We should commend those nations—Peru, Venezuela, Ecuador, Argentina, Spain, Canada, Australia, and Costa Rica—which have indicated a willingness to accept or have already accepted several hundred refugees each. I hope they can be persuaded to take many more. Together, their offers, still tentative, amount to a mere 3,300 persons. This leaves well over 100,000 for the United States.

Other free world nations, especially the wealthiest ones in Europe, should be pressed to take a meaningful number of refugees, if their claim to share in our compassion and humanitarianism is to have any meaning.

The result of their rejection of this proposal will be the increased reluctance, perhaps the outright refusal of the American people to continue our great tradition of concern for those "huddled masses yearning to breathe free." I need not go into detail on the consequences should that American tradition be concluded. It would in any case be a world less happy, with less hope for its oppressed peoples.

This country has been the standard bearer of that hope for hundreds of years. But we cannot fight a battle alone. We must have the cooperation of the world's free nations.

The lack of a significant international response may be due, in part, to the administration's policies. According to one recent poll, the administration policy on refugees has in the view of 74 percent of the American people been "badly confused." That confusion was expressed by the change from the initial "unenforced no-entry" policy to a statement of "open arms" in the middle of the international conference on the Cuban refugee situation in San Jose, Costa Rica. The administration, some would believe, gave the impression that the 10,000 persons who sought refuge in the Peruvian Embassy were an international responsibility, while those 100,000 who came directly to the United States seeking refuge were our own concern.

I believe Congress must now go on record that the Cuban refugee crisis has been and will continue to be an international concern to be resolved, if possible, in an international arena.

We must let the administration know of our desire to see it do whatever is necessary to secure greater international cooperation in this matter.

I am informed that the State Department's Cuban Refugee Task Force is quietly seeking such cooperation. If that is the case, a resolution of congressional concern will, hopefully, act to encourage the administration to expand and push more forcefully such activity.

The amendment will, at least, put the administration as well as our friends abroad on notice of Congress interest in seeing a truly equitable solution achieved both in the immediate Cuban situation and in the long-term world refugee crisis.

Mr. MITCHELL. Mr. President, I rise to express my support for the amendment introduced by the Senator from Mississippi.

Ours is a nation of immigrants. The ancestors of most Americans, including myself, came to America seeking freedom and opportunity, and they found both. It is important that we maintain our historic tradition of offering refuge to the politically oppressed.

At the same time, the United States must develop and maintain a balanced national policy that permits immigration at reasonable levels and that takes into account the effect of such immigration on its citizens. In weighing that balance, the needs of our citizens must come first.

This amendment urges the President to seek international cooperation in resolving the immediate problems caused by the recent exodus of emmigrants from Cuba. It is unrealistic to assume that any one nation should assume the burdens of all people fleeing political and economic oppression. As has occurred in the past, the community of nations should collectively resolve such refugee problems as this one.

International efforts have in the past proven successful in helping refugees around the world to resettle, the Geneva conference on refugees fleeing Southeast Asia being one recent example.

As the amendment indicates, the United States should again call upon the community of nations to lend their assistance to this immediate problem. It is equally important that international cooperation continue in order to avoid other refugee problems in the future.

Mr. President, I am prepared to yield back the remainder of my time, if there are no further requests for time on the amendment by any other Senators.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

Mr. TSONGAS. Mr. President, I move

to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

The clerk will state the amendment of the Senator from North Carolina.

Mr. HELMS. No, Mr. President. I suggest the absence of a quorum, before the clerk reports the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1165 (as modified)

(Purpose: To require the President to report to Congress on the implementation of the Lancaster House Declaration of Rights in Zimbabwe)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Is this a modification of the Senator's amendment that is already at the desk?

Mr. HELMS. Yes, it is a modification.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following new section:

Should Zimbabwe receive assistance from funds authorized to be appropriated under this Act, the President shall report to the Congress every sixy days after the obligation of such funds on the internal situation in Zimbabwe, particularly on its observance of the human rights of its citizens, as contained in the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979.

UP AMENDMENT NO. 1167

(Purpose: To require the President to report to Congress on the implementation of the Lancaster House Declaration of Rights in Zimbabwe)

Mr. HELMS. Mr. President, I send a substitute amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, reserving the right to object, I wish to hear the amendment stated.

Mr. HELMS. Very well.

The PRESIDING OFFICER. The amendment will be stated.

In lieu of the language proposed to be inserted, insert the following:

"SEC. . No amount of the funds authorized to be appropriated under this Act may be made available to Zimbabwe unless the President determines and so reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives every sixty days that the government of Zimbabwe is fully implementing the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979, which annex provides for the observance in Zimbabwe of the right to life, the right to personal liberty, freedom from slavery and forced labor, freedom from torture and inhuman treatment, freedom from deprivation of property, protection for privacy of home and other property, the right to protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement, and protection from discrimination."

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

Mr. HELMS. Mr. President, I withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1168

(Purpose: To require the President to report to Congress on the implementation of the Lancaster House Declaration of Rights in Zimbabwe)

Mr. HELMS. I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) for himself, Mr. TSONGAS, and Mr. PERCY, proposes an unprinted amendment numbered 1168.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title II, insert the following new section:

"SEC. . Should Zimbabwe receive assistance from funds authorized to be appropriated under this Act, the President shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives every sixty days after the obligation of such funds on the internal situation in Zimbabwe, particularly upon the implementation of the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979."

Mr. HELMS. I want to thank the distinguished manager of the bill, Mr. TSONGAS, and Mr. PERCY for joining in cosponsorship. I believe we have reached an understanding on this amendment.

Mr. President, in the interest of saving the time of the Senate, let me say simply that this amendment is modeled upon similar language which has already been adopted by the House. The only difference is that, whereas the House language refers only to "human rights," my amendment substitutes and specifies the Lancaster House Declaration of Rights as the criteria for the President's report. The rights enumerated in the amendment are verbatim from the section headings in the Declaration of Rights.

The merit of this approach is that it presents known and explicit criteria to which Mr. Mugabe has already agreed. It is only fair to Mr. Mugabe and his government to hold them to a known standard, to which they have agreed, rather than to a vague and undefined standard which could be interpreted in many ways. Rather than imposing an arbitrary and imprecise standard, my amendment bases the determination on standards that all can accept, and have in fact accepted freely.

Mr. President, many Americans are extremely concerned about the future of democracy in Zimbabwe under the leadership of an avowed Marxist Prime Minister, Robert Mugabe.

The fact that Prime Minister Mugabe has already imported 700 special police trained in Marxist methods of population control by Yugoslavia worries many of us. The establishment by Mr. Mugabe of a powerful Marxist-style Central Committee, reported to be the real policymaking body of Zimbabwe, is also a source of concern. And the many statements urging radical action by members of Mr. Mugabe's new cabinet have not helped to ease these concerns.

However, various members of the U.S. State Department are more optimistic than I am about the future policies of Prime Minister Mugabe and have urged us to support foreign aid for Zimbabwe. They believe that this foreign aid will help Mr. Mugabe withstand the radical elements from within his own party, and strengthen the prospects for democracy in Zimbabwe.

If Mr. Mugabe intends to abide by democratic rules and observe the declaration of human rights signed by him at the Lancaster House Conference in London last December, then I think that most Senators would be more interested in helping him and his new government overcome the ravages of war.

On the other hand, if Mr. Mugabe intends to use millions of American dollars merely to consolidate the grip of his Marxist party on the people of Zimbabwe, then I think there is doubt about the wisdom of going ahead with an aid program. We all know what happens to the economy of a nation when it begins massive nationalization and collectivization programs—it simply falls to pieces. Foreign aid in such a situation is a pointless exercise—a waste of American taxpayers' hard-earned dollars. It amounts to pouring sand down a bottomless pit.

There are fairly simple criteria by which we in the Senate can measure the new government of Zimbabwe under Robert Mugabe. Mr. Mugabe himself has agreed to those criteria. If he abides by Declaration of Human Rights signed at the Constitutional Conference at Lancaster House, London, on December 22, 1979, then all will be well.

What are these rights agreed to by Mr. Mugabe? They are found in Annex C of the Lancaster House Agreement. They are as follows:

The right to life.
The right to personal liberty.
The freedom from slavery or forced labor.
Freedom from torture or inhuman treatment.
Freedom from deprivation of property.
Protection for privacy of home and other property.
The right to the protection of law.
Freedom of conscience.
Freedom of expression.
Freedom of movement.
Freedom of assembly and association.
Protection from discrimination.

Mr. President, my amendment is a fairly simple amendment. It states, in essence, that the President will report to the Senate every 60 days on the degree to which Prime Minister Mugabe is keeping his word given at the Lancaster House concerning freedom and the protection of the individual.

It further states that if the President has not determined that Mr. Mugabe is fully implementing the agreement he signed, then American foreign aid will end.

Now, if Andrew Young and his former colleagues at the State Department are right about Prime Minister Mugabe's intentions, then there will be no problem. American aid will flow.

On the other hand, if Mr. Mugabe begins to impose a Marxist dictatorship, it will be expensive for him, at least as far as U.S. tax dollars are concerned.

Indeed, I think that Mr. Mugabe would be secretly pleased to accept foreign aid under these circumstances. It will help him deal with the hardliners in his own party.

Mr. President, if you or I or anybody else goes to the bank to borrow money, the bank insists upon certain conditions. And if a nation wishes to borrow funds from the IMF, similar conditions are imposed. And every year dozens of nations borrow money from the IMF subject to detailed conditions.

Of course if Mr. Mugabe rejects American aid under these terms, then there are only two possibilities:

First. That he intends to impose a Marxist dictatorship on his people, and he will not be deterred from taking the first steps in this direction for the sake of $30 million.

Second. That he really does not need our money badly enough to accept it on these minimal conditions. If so, then the United States should devote its scarce resources to more worthy projects.

Some may argue, however, that if we fail to provide foreign aid to Mr. Mugabe, regardless of what he may do to his own people by way of tyranny, that he will turn to the Soviets for aid.

This is utter nonsense. Everyone knows the disdain Mr. Mugabe has shown to the Soviets. He is a Maoist pure and simple. In fact, the conditions proposed by this amendment are nothing by comparison with the conditions that the Soviet Union routinely imposes on the recipients of foreign aid. For example, does anyone here imagine that the Cubans are delighted to be going to Africa to fight and die in the jungles on behalf of the Soviet Union? Certainly not. Castro's Soviet bankrollers simply told Mr. Castro that if he wanted continued Soviet support, without which his regime would utterly collapse, then Cubans would do their revolutionary duty in Angola, Ethiopia and elsewhere.

Now in the case of Mr. Mugabe, what are the conditions which the Soviets would likely impose in return for foreign aid?

First. They would insist upon a greater role for Mr. Nkomo, the Soviet Union's real protege in Zimbabwe. All of us should remember that Mr. Mugabe is a Marxist of the Chinese style.

Second. The Soviets would insist upon a greater presence in Zimbabwe than they have hitherto enjoyed. And this would work to Mugabe's long-term disadvantage, given the Soviet ties to Nkomo.

Third. The Soviets would require Mugable to assist with the struggle in southern Africa, at a time when Mugabe would have to pay a major price and run a serious risk for even small involvement in South Africa or Namibia.

So, I do not believe that we need be concerned about the small conditions which we are asking Mr. Mugabe in return for American aid. We are merely asking him to keep his word.

And, if we are to believe the State Department, then the issue will never arise, because Mr. Mugabe is a truthful man, a moderate man, who can be trusted to keep his word.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the text of the Lancaster House Agreement be printed in the RECORD in its entirety.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

REPORT OF THE CONSTITUTIONAL CONFERENCE

SUMMARY OF THE INDEPENDENCE CONSTITUTION

C. Declaration of Rights

1. The Declaration of Rights will set out provisions on the following lines dealing with the substantive rights concerned.

I. The Right to Life.

1. It will be forbidden to deprive any person intentionally of his life save in execution of the lawful sentence of a court after conviction of a criminal offence.

2. There will be an express exception for death caused by reasonably justifiable force in defence of persons or property; or in order to effect a lawful arrest or to prevent the escape of a person in lawful custody; or to suppress riots etc.; or to prevent the commission of a criminal offence; and there will also be an exception for death caused by lawful act of war.

II. The Right to Personal Liberty

1. It will be forbidden to deprive any person of his personal liberty except as authorized by law in any of the following cases:—

a. conviction on a criminal charge or unfitness to plead to such a charge;

b. by order of a court or Parliament for contempt;

c. by order of a court to secure the fulfillment of any legal obligations;

d. to bring the person concerned before a court or Parliament in execution of the order of a court or Parliament;

e. on reasonable suspicion of that person's commission or threatened commission of a criminal offence;

f. for the purpose of the education or welfare of a minor;

g. to prevent the spread of disease;

h. for the management of persons of unsound mind, drug addicts, alcoholics or vagrants in the interests of their own welfare or the protection of the community;

i. in connection with immigration control, extradition and deportation.

2. Any arrested or detained person will be entitled to be informed of the grounds upon which he is being held and to obtain and instruct a lawyer of his own choice. When the arrest or detention is for the purpose of bringing him before a court or is connected with being suspected of a criminal offence, he will be entitled to be brought before a court without undue delay and, if not tried within a reasonable time, to be released on bail, subject only to reasonable conditions. Any person wrongfully arrested or detained will be entitled to compensation (although a public officer acting reasonably and in good faith will be protected from liability).

III. Freedom from Slavery and Forced Labour

1. It will be forbidden to hold any person in slavery or to exact forced labour.

2. The term "forced labour" will not include labour required in consequence of a sentence or order of a court; labour which a person in lawful custody may have to perform in the interests of hygiene, etc.; labour required of a member of a military or similar force or in lieu of military service; or labour required during a public emergency where the requirement is reasonably justified for dealing with the emergency.

IV. Freedom from Torture and Inhuman Treatment

1. It will be forbidden to inflict torture or inhuman or degrading punishment or treatment on any person.

2. Provision will be made that treatment which is reasonably justifiable to prevent the escape from custody of a person lawfully detained should not be regarded as degrading.

V. Freedom from Deprivation of Property

1. Every person will be protected from having his property compulsorily acquired except when the acquisition is in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of that or other property in such a manner as to promote the public benefit or, in the case of under-utilised land, settlement of land for agricultural purposes. When property is wanted for one of these purposes, its acquisition will be lawfully only on condition that the law provides for the prompt payment of adequate compensation and, where the acquisition is contested, that a court order is obtained. A person whose property is so acquired will be guaranteed the right of access to the High Court to determine the amount of compensation.

2. Exception will be made for the taking of possession of property during a period of public emergency.

3. Compensation paid in respect of loss of land to anyone who is a citizen of or ordinarily resident in Zimbabwe (or to a company the majority of whose shareholders are such persons) will, within a reasonable time, be remittable to any country outside Zim-

babwe, free from any deduction, tax or charge in respect of its remission, but subject always to—

a. its attachment, by order of a court, in connection with civil proceedings; and

b. reasonable restrictions as to the manner in which the payment is to be remitted.

4. The Constitution will, on the same basis as in other Declarations of Rights, make clear that a number of transactions which might be considered to involve an element of compulsory acquisition will not be so regarded for the purposes of the Declaration of Rights.

5. It will be made clear, for the avoidance of doubt, that the property covered by this constitutional guarantee includes rights, whether vested or contingent, of individuals to receive benefits under a law, contract or scheme relating to the payment of pension benefits.

VI. Protection for Privacy of Home and Other Property

1. It will be forbidden, except with the consent of the person concerned, to subject anybody to the search of his person or property or to entry on his premises.

2. There will however be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality, public health, or town and country planning or which makes reasonable provision to protect the rights and freedoms of others; or which authorises entry on a person's premises by a local government authority or of a public corporation in connection with any tax, etc, or in order to carry out work connected with any property, situated on those premises, that belongs to that local government authority or body corporate; or which authorises entry or search in pursuance of a court order for the purpose of enforcing the judgment or order of a court in any proceedings. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

VII. The Right to Protection of the Law

1. Any person charged with a criminal offence will be entitled to a fair hearing within a reasonable time by an independent and impartial court. In connection with that hearing he will have the following specific rights:

a. to be presumed innocent until proved guilty;

b. to be properly informed of what he is accused of;

c. to be given adequate time and facilities to prepare his defence;

d. to be permitted to defend himself either in person or, at his own expense, by a legal representative whom he has chosen;

e. to be able both to examine the witnesses for the prosecution and to call and examine his own witnesses on an equal footing with the prosecution witnesses;

f. to refuse to give evidence himself (but without prejudice to the court's ability to draw inference upon that refusal);

g. to have an interpreter if he cannot understand the language used at the trial:

h. to be present throughout the trial unless his own conduct renders this impracticable and the court has therefore ordered his removal; and

i. to obtain a copy of any official record of the proceedings.

2. It will be forbidden to create criminal offences with retrospective effect or to provide for increased penalties with retrospective effect.

3. Except on the order of a superior court as a result of appeal or review proceedings, it will be forbidden to put a person on trial for a criminal offence for which he has already been tried or for which he has stood in jeopardy of conviction at an earlier trial or for which he has been pardoned.

4. Any court or other tribunal which is legally empowered to determine whether a person has a legal right or obligation or the extent of any such right or obligation will have to be established or recognised by law and to be independent and impartial; and any suit brought before any court or tribunal to obtain such a determination will have to be given a fair hearing within a reasonable time.

5. All proceedings in any court or tribunal, including the announcement of the decision, will, unless the parties agree otherwise, have to be held in public, subject to the right of the court or tribunal to exclude anybody other than the parties and their legal representatives—

a. when publicity would prejudice the interests of justice;

b. in interlocutory proceedings or proceedings preliminary to trial;

c. in the interests of defence, public safety, public order, public morality, the welfare of minors or the protection of the private lives of persons concerned in the proceedings; or

d. when a Minister certifies that the disclosure of certain information will not be in the public interest.

VIII. Freedom of Conscience

1. It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of conscience. This freedom will be defined as including freedom of thought and of religion, freedom to change one's religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate one's religion or belief in worship, teaching, practice and observance.

2. It will be forbidden to prevent any religious community from providing religious instruction for members of that community in the course of any education which it provides.

3. It will also be forbidden, except with the consent of the person concerned or his guardian, to require any person attending a place of education to receive religious instruction, or to take part in a religious observance, except when it relates to his own religion.

4. It will be forbidden to require anybody to take an oath which is contrary to his religion or belief or to take an oath in a manner which is contrary to his religion or belief.

5. There will be an exception to the foregoing for any law (or for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health; or which makes reasonable provision for the purpose of protecting the rights and freedoms of others, including their freedom from unsolicited interference by persons of other religions or beliefs. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

IX. Freedom of Expression

1. It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of expression. This freedom will be defined as including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with one's correspondence.

2. It will be forbidden to prevent any person or group from establishing a school, or to prevent any person from sending a child to the school of his choice.

3. There will, however, be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health, or which makes reasonable provision to protect the reputations, rights and freedoms of others or the private lives of persons concerned in legal proceedings, to prevent breach of confidence, to maintain the authority and independence of the courts or to regulate the administration or technical operation of telephones, telegraphs, posts, wireless broadcasting or television or to prevent the unlawful dispatch with correspondence of other matter; or which imposes restrictions on public officers. Any such law (and the measures asked under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

X. Freedom of Assembly and Association

1. It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of assembly and association. This freedom will be defined as the right of every person to assemble freely and associate with others and in particular to form or belong to political parties or to trade unions or other associations for the protection of his interests.

2. There will, however, be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health; or which makes reasonable provision to protect the rights and freedoms of others; or which imposes restrictions on public officers. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

XI. Freedom of Movement

1. It will be forbidden to interfere with anybody's freedom of movement. This freedom will be defined as the right to move freely throughout Zimbabwe, the right to reside in any part of Zimbabwe, the right to enter Zimbabwe, the right to leave Zimbabwe and immunity from expulsion from Zimbabwe.

2. There will, however, be an exception for any law (and for any measures taken under it)—

a. Which imposes reasonable restrictions on the movement within Zimbabwe of persons generally or any class of persons, or on their right to leave Zimbabwe, in the interests of defence, public safety, public order, public morality or public health;

b. which imposes reasonable restrictions on the acquisition or use of land;

c. which authorises a court to impose restrictions on any person's movement or residence within Zimbabwe or on his right to leave Zimbabwe, in consequence of his criminal conviction or to ensure his appearance before a court to stand trial for a criminal offence or to give evidence in criminal proceedings or to answer extradition proceedings;

d. which imposes restrictions on the freedom of movement of anybody who is not a citizen of nor permanently resident in Zimababwe;

c. which authorises the extradition of a person from Zimbabwe in respect of a criminal offence or his removal to some other country to serve his sentence for such an offence;

f. which imposes restrictions, in order to secure the fulfilment of any person's legal obligations, on his right to leave Zimbabwe; or

g. which imposes, for the protection of tribespeople, restrictions on residence within Tribal Trust Land for those who are not tribespeople.

In all these cases, save the restrictions relating to Tribal Trust Land, any such law (and any measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

XII. Protection from Discrimination

1. It will be forbidden for any law to contain a provision which is discriminatory either of itself or in its effect or for any person who is exercising statutory powers or acting in the performance of the functions of any public office or public authority to treat anybody in a discriminatory manner. A law or an executive action of this kind will be regarded as discriminatory if it affords special advantages or imposes special disabilities upon persons by reason wholly or mainly of their race, tribe, place of origin, political opinions, colour or creed.

2. There will be an exception to the foregoing for any law (or for any measures taken under it which are authorised by it expressly or by necessary implication)—

a. which places certain restrictions on persons who are neither citizens nor permanent residents of Zimbabwe;

b. which makes provision with respect to matters of personal law such as adoption, marriage, divorce, burial and testamentary succession;

c. which makes provision for the application of their customary law in the case of members of a particular race or tribe;

d. which makes provision with respect to the standards or qualifications to be required of persons who are appointed to offices in the public service or in the service of a local government authority or of a public corporation, provided that these standards or qualifications do not themselves specifically relate to race, tribe, place of origin, political opinions, colour or creed;

e. which confers special rights on tribespeople in relation to Tribal Trust Land.

Savings:

1. The Constitution will permit certain of the substantive rights described above to be derogated from, within specified limits, during periods of emergency.

2. Existing laws will not be held in contravention of the Declaration for a period of five years, though such laws can be amended or repealed by Parliament at any time.

Enforcement:

The Declaration of Rights will contain provisions to ensure that the rights which it guarantees are fully justiciable. These provisions will declare that anybody who alleges that any of his rights under the Declaration has been, is being or is likely to be infringed—and in the case of a detained person, any other person on his behalf—will, without prejudice to any other remedy which he may have, have the right to apply to the court for redress and the court will have jurisdiction to hear and determine that application. The court will be empowered to issue such orders as it may consider appropriate to enforce, or to secure the enforcement of, any of the provisions of the Declaration of Rights.

Mr. HELMS. I thank the Chair and I am ready to vote.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. I would like to commend the Senator from North Carolina for his reasonableness in arriving at an accommodation on this issue.

The proposed amendment is similar to that which is contained in the House version and, correspondingly, will be contained in the final version of the measure.

I think it should be said that the progress that has been made in Zimbabwe has astounded even some of us who predicted the election of Mr. Mugabe. Obviously it is a very tentative situation, but I think it is one that offers great hope.

I would call the attention of my colleagues to a session that took place last week involving the World Peace Foundation and their sponsorship of a group of South Africans who came to the United States, both white and black, predominantly white, who, I think, represented pretty much of a centrist, right-of-center, position in South Africa.

Most of that discussion, in which a number of my colleagues participated, including Senators HAYAKAWA, JEPSEN, JOHNSTON, SARBANES, and BRADLEY, involved issues in South Africa. But my colleagues might be interested in knowing that at the end of that session one of the white South Africans got up and said, "Look, you people do nothing but criticize us. Why don't we tell you what you ought to do," referring to the United States.

And he said that, from his position as a white South African, that it was important that the world community recognize the progress that was made in Zimbabwe and, indeed, the progress and changes being made in Mozambique and, in essence, even pleaded with his colleagues at the time for aid to Mr. Mugabe in Zimbabwe and President Machel of Mozambique.

And, I must admit, I was absolutely astounded that here you have representatives from the government who recently did everything to prevent the Mugabe victory and considering that the man had shown a great depth and sensitivity of the dilemma of whites in Zimbabwe.

I would like to commend all the parties, especially those in Zimbabwe, and including all of those in Great Britain who brought the situation from a civil war devastated country to one where hesitantly, but at least so far successfully, there has been an evolution to peaceful constitutional government.

I think the amendment offered by the Senator from North Carolina is helpful in making that government understand that, in addition to what we might do in terms of aid, we are concerned about human rights, about the integration of all parties as was encased in the Lancaster House amendment, and I hope that this amendment will be adopted.

I commend the Senator from North Carolina on his initiative.

If there are no other speakers, I yield back the time on this side.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I wish to commend my colleague for drawing attention to the Declaration of Rights that has been agreed to by the participants in the Constitutional Conference on Rhodesia. I think that by highlighting these rights—and I would commend a reading of them to every Senator—we underscore the important pledge that was made by the participating parties.

Obviously, it is a goal. The full implementation at all times of every one of them is a hard test to put to any country. The burden of having us certify such implementation would be extraordinarily difficult. But certainly as a goal, as a reminder every several months that we will be looking at this will, I hope, encourage implementation to the fullest extent possible. I think the Senator has done a great service to the Senate and to the legislation, and I commend my distinguished colleague. I am proud to cosponsor the amendment.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Illinois (Mr. PERCY). As I said earlier, I am grateful for the opportunity to work with the distinguished Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

The amendment (UP No. 1168) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1169

(Purpose: To increase by $15,000,000 the total principal amount of loans which may be guaranteed under the Arms Export Control Act for the fiscal year 1981)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1169.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 24, strike out "$2,575,000,000" and insert in lieu thereof "$2,590,000,000".

Mr. PERCY. Mr. President, this amendment is intended to increase the authorized level of foreign military sales credits for Tunisia from the $15 million currently in the bill to $30 million.

Tunisia has been a long-time friend of the United States. Tunisia has based its economic development plans on values shared in the West—the integrity of the individual and an emphasis on the private sector. Tunisia decided at the time of its independence in 1956 to focus national effort and resources on economic development and to minimize expenditures on defense. The success of Tunisia's development strategy has been so significant that the United States is considering phasing out several of our own development projects in the country.

On the international scene, Tunisia has consistently demonstrated its responsibility and has been a strong force for stability in northern Africa. Tunisia has supported the United States on such issues as Iran and Afghanistan and, in fact, provided the crucial swing vote on Iran sanctions in the U.N. Security Council.

Mr. President, we are all aware of the guerrilla raid on the town of Gafsa in

Tunisia last January. This threat to the sovereignty and the independence of Tunisia generated considerable concern in this body. On March 18, the Senate passed a resolution supporting the independence, sovereignty, and integrity of Tunisia. The resolution also stated that the United States should take steps to help Tunisia meet the unprovoked threat to its freedom by furnishing appropriate levels of economic and security assistance.

Tunisia has responded to the increased threat from outside forces by developing a military modernization plan which calls for only a small increase in the size of the army but which would require substantial equipment purchases from the West. Tunisia has requested our assistance in this effort, asking that we increase substantially foreign military sales credits—not grant aid but fully reimbursable loans at near commercial rates—over the next 5 years. A U.S. military survey team was recently in Tunisia and, though a decision is still pending on the request, I understand that the general reaction is that the Tunisian defense modernization plan is prudent and justified.

The administration request of $15 million contained in the bill was arrived at in the executive branch before the attack on Tunisia. My amendment would double that figure. Such an action is fully justified because of the increased external threat faced by Tunisia and Tunisia's need for Western equipment to upgrade its self-defense capabilities. The amendment takes the words we expressed last March 18 in our resolution on Tunisia and transforms them into action.

This amendment should have no budgetary impact. Under current law, we must appropriate 10 percent of the guaranteed loan portion of the foreign military sales credit program for the reserve guarantee fund. During committee consideration of this bill, we determined that the reserve fund of over $1 billion was more than adequate. We therefore amended the bill to remove the automatic appropriation requirement, set a floor of $750 million for the fund, and required additional appropriations only as judged necessary to maintain a prudent balance. If the committee's proposal is accepted as law, we need no additional appropriations for the reserve fund for 1981. My amendment does not change that situation. We should need no additional appropriations if my amendment is accepted.

Mr. President, the independence and integrity of Tunisia are important to the United States and to the interests of the free world. We must stand unequivocally with Tunisia in its quest for adequate self-defense, continued freedom, independence, and improvement in the life of its people. I urge adoption of this amendment.

Mr. President, my concern about Tunisia dates back to the number of years that I have visited that area. I am concerned about the threat that they face. They have made a staunch fight to defend themselves, but have tried to put primary emphasis on their internal development. It is unbelievable the way Tunisia's development program has taken hold and the return on investment that all of the countries which have worked with Tunisia in this program have actually received.

So I request that the committee and that the manager of the bill accept this amendment.

Mr. TSONGAS. Does the Senator from Illinois wish to comment?

Mr. STEVENSON. I would like to get the floor in my own right to offer an amendment.

Mr. TSONGAS. Mr. President, the administration request for aid to Tunisia was reported prior to the Libyan attack on their country. Since then, President Bourguiba has requested additional arms from the United States. As Senator PERCY said, the amount requested requires no appropriation or outlay and is indeed modest. Therefore, in behalf of Senator CHURCH, the committee will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TSONGAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1895

(Purpose: To condition the provision of certain economic support fund assistance on the cessation of the expansion of certain Israeli settlements)

Mr. STEVENSON. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 1895.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 24, strike out the quotation marks and the second period.

At the bottom of page 15, add the following:

"(4) Of the amount made available for Israel under paragraph (1), $150,000,000 shall be withheld from obligation and expenditure until the President finds that Israel has ceased the expansion of its settlements in the West Bank and other occupied territories and has ceased planning for additional settlements in the West Bank and such territories.".

Mr. STEVENSON. Mr. President, am I correct that there is 1 hour allotted to each side on this amendment?

The PRESIDING OFFICER. There is no time agreement.

Mr. STEVENSON. There is no time agreement on this amendment or on the bill?

The PRESIDING OFFICER. That is correct.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Frank Crawford of my staff be granted the privileges of the floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, this amendment withholds $150 million in economic assistance for Israel until such time as it respects U.S. policy and ceases to establish new or expand old settlements in the occupied territories.

Mr. President, this bill authorizes $4,813,921,000 in security and development assistance in the world. Of this, $2,185,000,000, or about 43 percent, is earmarked for Israel as military sales-financing and economic support; $1,300,996,000 is earmarked for Egypt for similar purposes. Together these two countries, Israel and Egypt, receive over 70 percent of all such U.S. assistance. About 85 percent of all security assistance worldwide is concentrated in five states bordering the Eastern Mediterranean.

World food and fuel resources are depleting. Nations are staggering under the burdens of debt and the oil bill. By the hundreds of thousands people are fleeing poverty and oppression, some of them to be washed up like human flotsam upon our own shores. Violence has broken out from Afghanistan to East Timor. Fertile conditions exist for Russian and Cuban subversion, even in the Caribbean. And yet Israel, with a high standard of living, is to receive almost as much military and economic assistance from the U.S. Government as all the other 99.9 percent of the world's people combined.

I repeat, Mr. President, under this bill Israel is to receive almost as much military and economic assistance from the U.S. Government as all the other 99.9 percent of the world's people.

This preference for Israel diverts funds from the support of human life and vital American interests elsewhere in an interdependent and unstable world. If it could produce stability in the Middle East or enhance Israel's security, it could be justified, but it reflects continued U.S. acquiescence in an Israeli policy which threatens more Middle East instability, more Israeli insecurity and a continued decline of U.S. authority in the world. To say the least, it does not reflect a balanced consideration of U.S. interests in the world to earmark almost half of all U.S. security assistance for less than one-tenth of 1 percent of the world's people.

We are asked to authorize this extraordinary sum, notwithstanding that the Begin government's refusal to settle the Palestinian issue and the status of the West Bank, except on its own terms of annexation for ancient Judea and Samaria, is an obstacle to peace and a cause of continued, if not accelerated, Middle East instability and violence.

The U.S. Government holds the Israeli settlements in occupied territories to be illegal and an obstacle to settlement of the issues that divide Arab and Jew—the fate of the Palestinians. They are inconsistent with Security Council Resolution 242 and have been condemned by all members of the Security Council.

Secretary of State Cyrus Vance testified on March 20:

> U.S. policy toward the establishment of Israeli settlements in the occupied territories is unequivocal and has long been a matter of public record. We consider it to be contrary to international law and an impediment to the successful conclusion of the Middle East peace process. We have consistently urged Israel to halt actions to create new settlements or to seize land to expand existing ones. We regard such restraint as particularly important while the autonomy negotiations are underway.
>
> The Camp David frameworks do not refer specifically to Israeli settlements in the West Bank and Gaza. Nevertheless, certain questions concerning the status of the settlements during the transitional period will obviously have to be resolved in the course of the autonomy negotiations.
>
> The permanent resolution of the settlement issue must then be decided in the subsequent negotiations on the final status of the occupied territories.

That language is plain enough. The U.S. position is stated over and again. The Begin government blithely, sometimes insultingly, ignores it. It encourages, protects and establishes more Israeli settlements on the West Bank. And the United States proposes to go on authorizing these remarkable sums for the Begin government notwithstanding its defiance of our policy and our interests.

Every time this subject is raised, as it was in the House the week before last, there is a chorus of muted disapproval of Israel's settlement policy followed by nervous murmurs about being in the midst of a highly delicate peace process which might be upset by doing anything which implies criticism of Israel. The highly delicate process we find ourselves in is a U.S. election campaign. The Congress is always in that delicate situation. That, I fear, is the explanation for the extraordinary sums in this bill for the Begin government of Israel.

No matter what the Israeli Government does, even if damaging to the United States or in violation of agreements with the United States, it gets no embarrassing questions from the United States. The United States vote for condemnation of the Israeli settlements policy in the Security Council in March was quickly reversed once the domestic political implications became apparent to a nervous and divided administration.

Israel attacked the *U.S.S. Liberty* in 1967 killing 34 Americans and causing severe damage to our ship. It may have done so deliberately. Yet, the United States has not recovered compensation for the damage to this ship. I cannot even get a satisfactory report on the incident from the State Department.

Israel's invasion of Southern Lebanon in March 1979 impeded the efforts of the U.N. Interim Force to achieve peace in that country. This was followed by a succession of retaliatory and preemptive bombing attacks against Lebanese territory. These military operations were carried out with American equipment in apparent violation of the terms upon which it was accepted. When Turkey, using American supplied equipment, invaded Cyprus in 1974, the United States promptly imposed an arms embargo.

Mr. President, aid for Israel should be considered in relation to U.S. interests, as with aid for all other nations. We have common interests with Israel, including peace in the Middle East and the survival of Israel, but those common interests and our special relationship with Israel are not served by the settlements policy of the Begin government. The Government of Israel is, of course, free to adopt any policy it chooses. But it should not be rewarded for defying U.S. interests, and that is what the United States has been doing to the consternation of Israeli moderates. The United States is subsidizing a settlements policy which undermines the peace process it authored. The United States is convincing elements in Israel that Mr. Begin is right when he insists that resisting American "pressure" long enough will cause it to go away. I do not suggest pressure on Israel, I simply suggest we signal support for our own interests and leave the rest to the Israelis.

The actions of the Begin government in the West Bank conflict with the policy of the United States, the policy embodied in U.N. Security Council Resolution 242, the Geneva Convention and the opinion of all other nations on Earth. The policies of Mr. Begin, as distinguished from those of his predecessors and the views of most of his countrymen, contemplate territorial aggrandizement, not the dreams of peace and justice upon which Israel was founded and for which it has been generously supported.

The settlements policy undermines the just principles of the Jewish faith. It undermines the position of President Sadat in the world and in his own nation. It isolates Israel, threatening to make it an international outlaw.

Such uncompromising policies and their associated defense burdens are driving Israel into bankruptcy. Israel already suffers from a 100 percent annual inflation rate. They threaten Israel over time with heavily armed, militant, Russian-supported forces from Libya to Iraq outside its borders and an increasingly violent Arab population inside its borders. The recent exchange of terrorist acts between extremist Arabs and extremist Jews on the West Bank are more signs of the violence in store for such policies. Annexation of occupied territories threatens over time to make Jews a minority in their own nation. Of larger significance than the fate of Israel is our own security and, indeed, the peace and stability of the world. The nuclear threshold is reached in the Middle East; America's authority continues its decline; and the world risks economic and political upheaval.

Mr. President, the passage of time without movement toward peace has strengthened the most immoderate elements in the Middle East. A new right-wing party is campaigning in Israel to jettison the Camp David process. Private armies are being set up to protect new settlements in the West Bank. Palestinian terrorism against Israelis is followed by harsh Israeli crackdowns, including deportations, the closing of Arab newspapers and destruction of Arab crops, imposition of curfews and Israeli terrorism. The PLO has renewed its call for the extinction of Israel and vowed more violence. Sadat is neutralized as a force for modernization in the Middle East and faces growing discontent within his own improverished and disorganized nation.

This peace process produces no movement toward "autonomy" or a permanent settlement. It produces growing Soviet influence in the region and grievances toward the United States throughout the Islamic world. No Islamic nation in the region now dares be associated with the United States, except in the most carefully defined and restricted ways, even including Egypt.

The peace and stability of the world require an end to the long war in the Middle East. But the settlement policy of Mr. Begin is inconsistent with the autonomy talks and the only basis for an overall settlement in the Middle East—namely, the exchange of occupied territories for international recognition and guarantees of Israeli sovereignty.

It is past time the United States stopped encouraging Israeli extremists and gave some encouragement to the moderates who seek peace. If the Congress waits until the American people demand that their Government represent their interests in the Middle East, it will be at some risk of tension between Americans of different faiths. Such demands will surely come if we go on and on subsidizing, with only whispered disapprovals, of such Israeli policies.

Uri Avnery, a knesset member, cries out:

> And to Americans I say, don't help the extremists in Israel. Don't say everything our government does is right. It is not right. It will actually stop the Bible. Use the vote to give us wisdom.

According to an Israeli poll, most Israelis are opposed to continued establishment of West Bank settlements. It seems that most American Jews are opposed to the settlements policy of Mr. Begin. Rabbi Schindler, president of the Union of American Hebrew Congregations, says:

> The Israeli government is diverting virtually all of its settlement funds across the green line . . . Of 1,250 new housing units planned, 1,000 are in the Judea and Samaria districts of the West Bank, 200 on the Golan Heights, a sprinkling for the Galilee hilltops settlements and nothing at all for the Arava (and the Negev) . . . Progressive Judaism is not advantaged, the entire nation is disadvantaged.

Mr. President, the Congress should not side against the courageous voice for progressive Judaism and peace in Israel and abroad. They can bring Israel policies into line with our own, and within the search for peace, before it is too late, if we give them a chance.

The fear and anxiety underlying Mr. Begin's views have historical origins which we should respect and try to understand. We should respect, if not approve, the Biblical origins of certain of his policies. And, surely, we should sympathize with the insecurity and fear which, over the centuries of oppression, have produced passions on all sides in Israel. But, surely, too, the generous support of the American people, beginning with the Truman administration and the birth of Israel, have made our support clear beyond any doubt. That support continues. But our support is for Israel, not its Government, right or wrong.

Our support for Israel is not the issue here. Israel's support for the ideals of peace and justice which gave it birth are at issue. It is, I submit, for the Israeli Government to recognize again that Israel's interests are in harmony with our own and, for that to happen, it is important that we do not undermine the voices for peace in Israel or justify those, like Mr. Begin, who claim U.S. assistance from the Congress can be taken for granted.

It would be wiser, Mr. President, to reward some movement toward settlement of the difficult issues, including the status of the West Bank, instead of rewarding intransigence. Aid, always more aid, is proposed as if to signify that the way to our purse is through resistance to our policies.

None of us has any sympathy for the intransigence of the Palestinian extremists. But the United States does not support them. It imposes sanctions against other nations which transgress our interests. I suggest no such thing for Israel—only that the Israeli Government be made to understand that it will not profit from its defiance of our opinion and the disservice of our interests—and, I believe, its own. This is a modest and a friendly proposal.

All the amendment I propose does is withhold $150 million of economic support for Israel. That amount reflects a conservative estimate of what the Israeli Government is spending annually on its West Bank settlements program. If the President determines that Israel has stopped construction of new settlements or expansion of old settlements in occupied territories, the $150 million could be restored with no further action by the Congress.

An agreement between the United States and Israel provides that assistance by the United States must be used in the area which constituted pre-1967 Israel, that is not in the Israeli occupied territories. I do not know if that agreement has been violated. In any event, we have no reason to believe that the administration would enforce the agreement if it were violated. As it is, economic support funds made available to Israel free Israeli resources for use elsewhere, including the West Bank. There is no way to isolate or insulate this aid so that it does not provide indirect aid to Israel in the furtherance of its settlements policy.

This amendment offers a tangible expression of disapproval for Mr. Begin's settlements policy—nothing more. It joins the United States with the opinion of most Israelis and Americans, and, indeed, the world. It offers the Senate an opportunity to signal to the American people, as well as to those of Israel and all nations, that it intends to represent U.S. interests and to implement U.S. policy in the Middle East. If Israel were then to rejoin the search for peace, a settlement might follow, and all the world would begin to recover confidence in American statesmanship.

Mr. President, I urge the Senate to approve this.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent to have printed in the RECORD the following: A statement by Secretary Vance of March 20 reiterating our position with respect to the settlements; an article from the current edition of The Economist and an editorial from the same magazine; to underscore my suggestions that most Israelis disapprove this settlement policy, statements by Shimon Peres and Abba Eban; a letter in the New York Times by Michael Rosenblum; to discuss the implications of Israeli policies for Judaism, an article by Anthony Lewis in the New York Times of March 31; an article by Milton Viorst which was published in the Alicia Patterson Foundation Reporter of April 1980; an article from the New York Times of June 15 reporting the disapproval of some 90 prominent American Jews for the settlements policy; and, finally, an article from the Jewish Telegraphic Agency.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MIDDLE EAST PEACE PROCESS: A STATUS REPORT

(By Secretary Vance)

There has been a great deal of discussion about the subject of today's hearings: the events surrounding the U.S. vote in the U.N. Security Council on March 1. I know that all of us here are aware of the importance of approaching our discussions today with a view to their possible impact on our efforts for a comprehensive peace. In this regard, Ambassador Linowitz (Sol M. Linowitz, Personal Representative of the President for the Middle East Peace Negotiation) is leaving tomorrow for a round of particularly sensitive negotiations with the Egyptians and Israelis.

Over the years the United States has been forthright in stating its position on these issues. We have made clear:

Our unwavering support for Israel's security and well-being;

Our longstanding commitment to the independence and territorial integrity of all the states of the Middle East, including Israel's right to live in peace within secure and recognized boundaries;

Our support for Security Council Resolution 242 in all its parts as the foundation of a comprehensive peace settlement;

Our belief confirmed by Egypt and Israel at Camp David that negotiations are necessary for the purpose of carrying out all the provisions and principles of Resolutions 242 and 338;

Our conviction shared by Egypt and Israel, that a comprehensive peace must include a resolution of the Palestinian problem in all its aspects;

Our firm position that we will not recognize or negotiate with the PLO (Palestine Liberation Organization) so long as the PLO does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338;

Our unswerving commitment to the negotiating process laid out at Camp David; and

Our strong view that in the interim the parties should conduct themselves in accordance with international law and commonsense restraint so as to build trust that a sequence of successful negotiations can bring about a just, honorable, and lasting peace for all.

After nearly 30 years of stalemate and strife, we finally have seen concrete progress toward peace through negotiations. President Sadat, Prime Minister Begin, and President Carter embarked on a process that has led to the Camp David frameworks, the Egypt-Israel Peace Treaty, and the present negotiations to establish full autonomy in the West Bank and Gaza. At the request of the parties the United States is a full partner in these negotiations.

It is important to stress that the objective of all three partners is a peaceful settlement compatible with the Camp David accords and achieved through negotiation. The approach which has begun to bear fruit in the last 2 years is to reach accommodation on those issues that can be tackled now and then to use the progress made in the present stage to facilitate resolution of the tougher issues in later phases of negotiations. It is critical to this process that each side gain trust that a negotiated settlement on fair terms is possible.

Let me turn now to several specific issues.

THE PRESENT NEGOTIATIONS

The current negotiations provide the context for concrete discussion of individual issues. It is important to define what the current negotiations are and what they are not.

They are not, for example, designed to define the final status of the West Bank and Gaza. All issues relating to permanent institutions in these areas are to be resolved in a later negotiation where the Palestinians can participate in the determination of their own future through the process set forth in the Camp David accords. Our concern is that unilateral acts tend to prejudice the outcome of those negotiations and, therefore, to undercut the avenue to a peaceful and honorable resolution of these complex issues.

The current negotiations are an effort to establish a self-governing authority in the West Bank and Gaza for a transitional period while fully protecting Israel's security. In order for that effort to succeed, some important issues will have to be resolved.

The current negotiations must also define the powers and responsibilities of the self-governing authority to be exercised in the West Bank and Gaza. These arrangements should assure full autonomy for the inhabitants of these territories while providing for the legitimate security concerns of the parties involved.

There is, also, the question of how the elections will be conducted which will produce the freely elected body called for by the Camp David frameworks. Those elections should assure that that body has the popular support necessary to carry out during the transitional period its responsibilities as agreed among the parties.

On the question of security, let me reaffirm the statement in the Camp David accords that: "All necessary measures will be taken and provisions made to assure the security of Israel and its neighbors during the transitional period and beyond." That commitment is an integral part of the Camp David frameworks, and this Administration intends to see that it is honored in full.

THE U.N. RESOLUTION

In February, we were faced with a draft resolution on the question of Israeli settlements which was circulated in the Security Council.

We disagreed with a reference in the resolution to dismantling existing settlements and sought unsuccessfully to have it removed. As often happens in the U.N. Security Council, therefore, we stated our reservations without opposing the resolution as a whole. President Carter has stated clearly our view that this call for dismantling was neither proper nor practical.

As you know, we did succeed in removing paragraph seven of the draft, which called on Israel to assure the exercise of religious freedom in Jerusalem, thereby wrongly implying that it is not already doing so.

There was a misunderstanding, however, with regard to our position on other references to Jerusalem in the resolution. The President understood that all references to Jerusalem would be removed before we would vote for the resolutions, believing that in the present phase of the autonomy negotiations it would not be helpful to raise the issue of Jerusalem in a U.N. resolution concerning settlements. I believed that what the President wished to have removed was the reference to Jerusalem and related material contained in paragraph seven. I was mistaken and have accepted full responsibility for this misunderstanding.

As Ambassador McHenry [Donald F. McHenry, U.S. Ambassador to the United Nations] stated in the Security Council immediately following the vote, the United States considers Resolution 465 as recommendatory rather than binding. With regard to the references in the resolution to "Palestinian and other Arab lands," it is our position that this phrase should not be construed as in any way prejudicing the outcome of the autonomy negotiations or negotiations on the final status of the West Bank and Gaza.

As the President unequivocally stated on March 3, our policies with respect to settlements in occupied territory, and with respect to Jerusalem, have not changed. I think it is important that I take a moment to reiterate briefly our policies on these two issues.

SETTLEMENTS IN OCCUPIED TERRITORY

U.S. policy toward the establishment of Israeli settlements in the occupied territories is unequivocal and has long been a matter of public record. We consider it to be contrary to international law and an impediment to the successful conclusion of the Middle East peace process. We have consistently urged Israel to halt actions to create new settlements or to seize land to expand existing ones. We regard such restraint as particularly important while the autonomy negotiations are underway.

The Camp David frameworks do not refer specifically to Israeli settlements in the West Bank and Gaza. Nevertheless, certain questions concerning the status of the settlements during the transitional period will obviously have to be resolved in the course of the autonomy negotiations.

The permanent resolution of the settlements issue must then be decided in the subsequent negotiations on the final status of the occupied territories.

JERUSALEM

Our policy on Jerusalem has remained consistent under the past four Presidents. As President Carter stated on March 3, our position on the status of Jerusalem has not changed. That position remains as indicated by the President in his letter to President Sadat signed at the time of the Camp David accords.

With respect to the future of Jerusalem, it has been our consistent position that the final status of the city must be settled in the context of negotiations for a final peace. We believe that whatever solution is eventually agreed upon should preserve Jerusalem as an undivided city. It should provide for free access to the Jewish, Muslim, and Christian holy sites without distinction or discrimination for the free exercise of worship. The solution should assure the basic rights of all the city's residents. We have taken no position on exactly how the final status of Jerusalem might be defined.

THE PEACE PROCESS

In sum, there has been no change in U.S. policy as we continue our dedicated efforts toward a comprehensive settlement. Before turning to your questions, I would like to say a few final words about the Middle East peace process as a whole. Over the past 3 years, there is no foreign policy goal on which the President and I have worked harder than a genuine peace in the Middle East. The achievement at Camp David, the Peace Treaty between Egypt and Israel, the launching of negotiations to establish full autonomy in the West Bank and Gaza are historic accomplishments, particularly when viewed against the past history of this tragic conflict.

It is critically important that we concentrate our full and undivided attention on the autonomy negotiations and do all we can to give these talks the best possible prospect for success. The autonomy negotiations offer the first real opportunity for Palestinians living in the West Bank and Gaza to achieve full autonomy within the context of assured Israeli security, as the next step toward achieving a just, lasting, and comprehensive peace settlement.

As reflected in the agreement reached at Camp David, such a peace is deeply in the interests of the United States, of Israel, of Israel's neighbors, and of the world. Every decision we have made—and will make—is designed to move us toward that goal.

With this in mind, the President has invited President Sadat and Prime Minister Begin each to come to Washington in early April to discuss with him how best we can accelerate the movement toward our mutual objective.

[From the Economist, June 7, 1980]

In a Desolate Land

Palestine, a tiny place, straddles one of the world's political fault-lines. The cracks from that small point threaten the peace of larger nations, the economy of every oil importer. An American president sees it directly affecting his re-election chances; his European allies pursue with forks and with hope an earthquake cure. The 3m Israelis who control the land confront the 3m Palestinians who have lost control of it, and the peace of the world could depend on their finding an accommodation.

It has seldom looked farther off. The bombs that on Monday tore off the legs of Mr. Bassam Shaka, the mayor of Nablus, and the foot of Mr. Karim Khalaf, the mayor of Ramallah, are one more horror in a desolating tale of vanishing expectation. Even against the evidence, there had been, a year ago, shreds of hope that Israel's prime minister, Mr. Menachem Begin, really intended to grant the Palestinians in the West Bank and Gaza a decent amount of autonomy, leaving open further negotiations about where this would lead. On the other side, West Bankers and Gazans, while talking rejection, formed themselves into a quasi-political movement to co-ordinate their reactions to what might be on offer; some senior members of the Palestine Liberation Organization, buffeted by Arab inconstancy and craving a state to call their own, began to prepare a change of their former all-of-Palestine-or-nothing stance. But that, to repeat, was a year ago.

COMPROMISE WITHDRAWN

Since then Mr. Begin has made it plain to the Palestinians that all he is prepared to offer is a limited amount of personal freedom and low-level self-administration; otherwise the land and its resources would remain under Israel's stewardship. But this, for a small number of his own people, was not enough; fearing that under American pressure Israel's hold over the land would be eroded, they wanted the deeds to be signed and sealed—if possible with vacant possession. Thus was built up a cruel sequence in which disappointed and impatient West Bank youngsters expresed their feeling with stones; Israel's security forces responded, after a time, with fierce and humiliating collective punishment; PLO hardliners unwrapped their guns crying I told you so; Israeli hardliners, encouraged by certain members of Mr. Begin's government and army, took the law, and the land, into their own hands.

Everything in the West Bank, except for the depth of the passion and the spread of the potential consequences, is still on a tiny scale. The numbers of people killed, on both sides, could be a dull evening's work between rival Moslem or Christian militias in Lebanon, or the unreported consequence of a retaliatory air raid by Israel on Palestinians in Lebanon. The casualty list of terrorism is tiny compared with Turkey's, Ulster's, Italy's, the Basque country's. The bloodiest single episode was the killing of six Israeli settler-soldiers in Hebron a month ago; this was in revenge for the killing of a Palestinian boy and girl in Halhoul; the bomb traps for the mayors may have been in revenge for the killing of the six. None of these murders, or attempted murders, has as yet been solved. What they and related events have done is to poison the atmosphere, stiflingly.

The military government's current answer to murder, whether by or of Palestinians, is to clap the town where it happened under a two-week 23-hour curfew (though nothing like this has been done after the latest bombings, see page 35). Fermenting behind their closed doors, Arab families wait, thinking of their unattended, sometimes dying crops. Sometimes, when a bored child is caught outside, the father has been summoned out and beaten in front of his family. Three or four times, in three or four Arab towns, carloads of fanatical Jewish vigilantes have descended carrying guns and steel hammers to break every window—car, house or shop—within reach. Near Hebron, Arab fields of wheat, barley and olives have been sprayed by helicopter with killing chemicals; the Arabs maintain that this was done by order of Mr. Ariel Sharon, the minister of agriculture and the most fervent coloniser in the cabinet.

The mayors of two towns, Hebron and Halhoul, were last month suddenly deported. The U.N. Security Council has twice demanded that Israel allow them to return. Israel's own high court is questioning the legality of the action since the mayors did not know that they were being deported, and thus could not plead against it, until they were dumped in south Lebanon. Five high schools, whose pupils have thrown stones at passing Israeli vehicles, have been closed indefinitely; so have one or two institutes of further education. The two dissident Arab newspapers published in east Jerusalem, Ash-Shaab and Al-Fajr, have been told they cannot circulate in the West Bank; this ban, if kept up, will kill both papers. Exports from Hebron to Jordan are prohibited; many people cannot move from one town to another; telephones are disconnected. Small or large, the mortifying measures now being practised feed a heavy legacy of hatred.

The most hopeful phenomenon in all this

nastiness is the stamina of those Israelis who fight back at what they see happening. Take those journalists who, like the prophets before them (if less sonorously), warn their countrymen of what could be to come. Haaretz, for example, carries an editorial exploring "the fatal logic of military occupation, a regime under which repression will always breed terror, and terror will breed more severe repression". The danger of the settlements' "private armies" is freely aired. Mr. Uri Avneri, newspaper editor and Knesset member, raises in the Knesset the report by an unnamed soldier that he had been instructed by his officer to beat the Arabs first, explain afterwards. Amos Kenan in Yediot Aharonot says bluntly: "If Gush Emunim continues to exist, the state of Israel will cease to exist".

How can Israelis be helped to hold back their own government? There has been talk of a European initiative, shorthand for the introduction of a Security Council resolution that would link the Palestinians' right to self-determination with their acceptance of Israel's frontiers. President Carter gave explicit warning on May 31st that the United States would veto such a resolution.

Mr. Carter said that he would do this to save the "Camp David process". But even if one believes that the process as negotiated by Messrs. Carter. Begin and Sadat is way beyond saving, there are two good reasons why the Europeans should now hesitate before pushing their own ideas. The first, as argued in this newspaper before, is that Europe's usefulness should be in urging the Americans towards a possible solution, not in challenging them. The second is that the Palestine Liberation Organization has just kicked the European compromise in the teeth.

COMPROMISE REJECTED

Fatah, Mr. Yasser Arafat's dominant group in the PLO, last week held a 500-member congress in Damascus, its first for nine years. No great good sense could be expected from such a gathering, especially against the background of Israeli militancy—and the recent success of some other guerrilla armies, not least in Zimbabwe. In the event Fatah reconfirmed every Israeli's fear that once the Palestinians get a bit of Palestine they will go for the lot. The congress produced a long, windy "political programme" which states, right at the beginning, that Fatah, aim is the recovery of the whole of Palestine and that the only way to achieve this is "armed popular revolution and armed struggle". These will not be Mr. Arafat's last words but, for the time being, they have thrust the PLO back into the dark. The moment when this belligerence is going on record is not the one for a European exercise to find formulas that could bring the Palestinians into negotiations about their future.

Against the mounting dangers, it sounds feeble to suggest that outsiders cannot do very much more than mark time until Mr. Carter wins, or loses, his election, until the Israelis get themselves a new government, until the Palestinians make up their mind whether or not they are prepared to compromise. But what else, apart from that mountain of good advice journalists are never short of, can we do? Advise, hope—and pray.

WHO ARE THE NEW MEN WITH BOMBS?

The brief summer nightfall of the east darkened sharply on Monday. That morning two West Bank mayors, Bassam Shaka, the mayor of Nablus, and Karim Khalaf, the mayor of Ramallah, had been badly wounded when they released the handbrakes of their booby-trapped cars. A third mayor, Ibrahim Tawil of El Bireh, was warned by what happened to the others but an Israeli police sapper got the bomb blast in his face. In Hebron, seven Arabs were injured by an exploding grenade.

On Tuesday the remaining Arab mayors (the mayors of Hebron and Halhoul having earlier been deported) were given round-the-clock Israeli bodyguards. But Israel's prime minister, Mr. Menachem Begin, failed to order the same tough measures from the army and the police (curfews, house searches, house demolition) as were put into operation after the killing of six Israelis in Hebron on May 2nd. Nor did Mr. Begin, on his first day as defence minister instead of Mr. Ezer Weizman, order the round-up of the ringleaders of the wilder pro-settlement Israeli groups, to test the suspicions inevitably pointing in their direction or to find a lead to the culprits. The government's pretension to represent the established law equally for Arab and Jew on the West Bank required him at least to do this. All he did was to tell the security forces to institute a rigorous and swift inquiry to find the criminals—and to send heavy reinforcements to Jerusalem and to the West Bank towns forcibly to break the strikes that had been called in protest at the bombing.

The official investigation has not as yet turned up hard evidence leading anywhere. It started out with the strong presumption that the car-bombings were the work of an underground group of militant Israelis, expert in the handling of explosives. Three or four separate teams of two or three men each must, according to this hypothesis, have been involved. The strikes required careful planning and close observation of the victims' movements.

The possibility of a private Jewish terrorist group, willing to use force against Arabs or Jews to further its political ends, was taken into account two years ago. Just before Israel signed its peace treaty with Egypt in March, 1979, various groups declared publicly that they would resort to arms to prevent Israel from relinquishing land taken in the 1967 war. Members of the ultra-nationalist Gush Emunim (Block of the Faithful), whose members dominate the settlements in the West Bank, went on record to say that they were prepared to resist the Israeli army if it called on them to abandon their settlements to make way for Palestinian self-government. For such Israelis the biblical law under which God bequeathed to the Jews the Land of Israel from the Mediterranean to the Jordan is more binding than anything written since.

In the past two years, the extremist groups have split repeatedly. But they have also grown stronger and more militant: the general limpness of Mr. Begin's government has created a vacuum of authority that encourages radicals of all hues.

One faction of Gush Emunim, led by Mr. Hanan Porath of Gush Etzion (the group of settlements south of Bethlehem), joined forces with two Knesset members, Mrs. Geulah Cohen and Mr. Moshe Shamir, when they broke away from Mr. Begin's Herut party last year to form a new right-wing party, Hatehiya (Rebirth). This party is campaigning for the Camp David accords to be jettisoned, the West Bank, the Gaza Strip and the Golan Heights to be annexed to Israel, and Jerusalem to be written into the lawbooks as Israel's capital.

The party's optimists believe they can muster 20–30 Knesset seats in the next election by cashing in on the disappointment in Herut at Mr. Begin's alleged defection from the Land of Israel ideal; they will probably be lucky to get 3–4. While condemning the bomb attacks on the mayors, Hatehiya spokesmen declared that they were the direct consequence of the way Arab terrorism has been allowed against Israel for too long—and that this applied whether the attacks were carried out by Arab terrorists or Jews trying to protect themselves in the face of official neglect.

A second Gush Emunim faction turned its back on straight politics to concentrate on spreading Jewish settlement. It has formed a body calling itself "The heads of the regional councils in Judea, Samaria and Gaza" and has won the Israeli government's recognition as the legitimate instrument of local Jewish authority in the West Bank and the Gaza Strip. It has taken charge of organising defence in the settlements. Its representatives have declared that if the government cannot vouch for security in the West Bank, this body will act on its own.

Even before Monday's disastrous events, therefore, the authorities were aware that some settlements were setting up "anti-terror" squads. The members are trained soldiers; the territory where they operate includes the neighbouring Arab towns. Many senior army officers believe that these fortress-settlements are a valuable part of Israel's defence deployment in the West Bank. Worried Knesset members have demanded a debate on these "private armies," but to no purpose.

A third offspring of Gush Emunim is the group led by Rabbi Moshe Levinger, the founder of Hebron's Jewish suburb, Kiryat Arba. This group now confines itself to expanding the Jewish presence in Arab Hebron. It was he who spearheaded the successful squatting position (led by his wife) in the old Hadassah building in the former Jewish quarter of Hebron. The leaders of these two groups have said that they oppose the attempted assassinations of the Arab mayors, but are not grieving over what happened.

In addition, there are two tiny militant groups: the right-wing band (50 members at most) of Rabbi Meir Kahane, an American who founded the violence-preaching Jewish Defence League in the United States and western Europe and has now transferred his work to Israel; and Lohamei Herut Israel, also known as the Stern Gang, which operated against the British in the 1940s. Its members, probably no more than a score, have claimed that they would be willing to kill any Arab or Jewish leader supporting the peace treaty.

Rabbi Kahane's group, Kach, whose membership is a motley collection of former American Jewish Defence League activists, Christian converts to Judaism and militant Zionist nationalists from Russia, denied responsibility for the attacks on the mayors but welcomed them. This group openly demands the forcible expulsion of all Arabs from the Land of Israel. The rabbi and his lieutenant, Baruch Green, were put in detention last month after a spate of reports of anti-Arab plots.

Since the authorities began reviewing the case for the repatriation of the mayors of Hebron and Halhoul, the lives of both of those men have been threatened. Another target for threatened liquidation (because of his alleged share in the 1929 massacre of Jews in Hebron) was Sheikh Jabri, former mayor of Hebron, who died of old age last week. There are reports of plans for revenge pogroms against the Arabs of Hebron and Nablus. An arms cache was discovered on a rooftop in the Jewish quarter of old Jerusalem.

The hardline groups dedicated to Jewish settlement in the West Bank find valuable support in high places: the agriculture minister, Mr. Ariel Sharon, is their outspoken champion; the finance minister, Mr. David Levy, and the education minister, Mr. Zvulun Hammer, are known to be sympathetic. Individual Knesset members from several parties—Herut and the National Religious party in particular—speak in their favour. They can occasionally count on the help of an army or police officer. And the prime minister himself is strangely silent when his government's authority is challenged by the pro-settlement lobbies.

The main line of inquiry has been among these relatively well known groups. But there are other theories. One is that the bomb attacks on the mayors were the work of a completely unknown Jewish extremist group, which may have hired professional hit-men for the job. The involvement of professional criminals is suggested by the fact that the highly sophisticated method of rigging the bomb-trap for the mayor of El Bireh has never been encountered in Israel before, except when a Tel Aviv businessman was killed three months ago. Since Monday, several calls have come in from unknown organisations, some claiming responsibility for the attacks, others threatening Israeli politicians or journalists who support the promotion of understanding between Jews and Arabs.

Another line of inquiry presumes that the perpetrators were non-Jewish or Arab. This is largely based on two puzzles. Early on Monday morning, a rumour spread through the Nablus casbah that someone was planting bombs in the cars of West Bank notables. A group of men coming from the casbah to the home of the mayor met his son and reported the rumour, expecting him to tell his father. But the son thought the group would tell him. So Mr. Shaka never received the warning. How did the rumour reach the casbah?

The second puzzle is how a non-Arab could have observed so exactly the movements of the victims, who parked their cars in different places every night. Because of these questions, the possibility of an Arab plot, though very unlikely, is not completely ruled out.

[From Foreign Affairs, Spring, 1980]

Strategy for Peace in the Middle East

The Labor Party of Israel believes that the Zionist movement has been driven by a double dream—the return of the dispersed Jewish people to their historic homeland and the construction of a new society based on universal and Jewish ideals of social justice. The objectives from the outset were for the Jews to be able to cultivate their own land, to operate their own industry, to defend their borders without exploiting other peoples. We hoped to free ourselves from dependency on others and were determined not to have other people dependent on us. We do not wish to dominate the Arabs against their will, nor would we like them to serve as an unskilled labor force, having succeeded, after so many years of exile and alienation, in having Jews till the land and becoming manual workers in industry and construction.

I should add that even if autonomy is realized—either in accordance with the version presented by Mr. Begin or that of Mr. Sadat—we feel that we shall be far from a satisfactory solution. If it is realized as Mr. Begin would like it, then Israel will change from being a Jewish state into a binational community. A binational state would not only put an end to the Jewish people's aspiration for a state of their own, but could prolong the Israeli-Arab conflict for many years to come.

CAMP DAVID—THE UNFINISHED BUSINESS

Even after Camp David these are precarious times for the commentators. There is no full certainty yet of a new and stable Middle Eastern order, and Anwar Sadat and Menachem Begin should make the most of their Nobel laurels while the euphoria persists. Autumn foliage has a bright but fleeting glow. The hard truth is that on the most crucial and complex issue—that of the Palestinians and the West Bank—the Camp David signatories did little more than postpone their confrontation by the kind of semantic dexterity that is quick to wear out.

Yet no amount of prudent reserve can diminish what they have already achieved. Like all negotiated compromises the Camp David agreements have their detractors. But the noisy anguish of the militants on both sides merely enhances the impression that a victory has been won for temperance and equilibrium. Nearly two centuries have passed since Benjamin Franklin said: "I have never known a peace made, even the most advantageous, that was not censured as inadequate, and the makers thereof condemned as injudicious or corrupt."

The Camp David signatories have not escaped this fate. Sadat is censured only by the Arab radicals for whom any peace with Israel, "even the most advantageous," would be total heresy. Begin, on the other hand, comes under converging fire. Some denounce him for having disposed of Sinai—and of his own past slogans—with too much speed and too little recompense. Others, more shrewdly, suspect that his concessions in Sinai were designed merely to be the cover for continued obduracy in the West Bank and Gaza. A third school (to which I belong) believes that Mr. Begin's sincere intention is, as he himself asserts, to maintain permanent Israeli control everywhere west of the Jordan, but that the agreements that he has signed have their own contrary dynamic so that Arab "self-government," once put into effect, would inexorably lead to an Arab rather than an Israeli destiny for the West Bank. History works more in paradox than in logic, and the rational consequence of "self-government" should interest the Palestinians more than the contradictory and varied intentions of its proponents.

Israel's urgent need is to grasp that the avoidance of Israeli rule over the million Palestine Arabs in the West Bank and Gaza is not only a concession by Israel to her adversaries, but also a service that Israel should render to her own interest and destiny. It is legitimate and, indeed, crucial to improve the security prospect by defensible boundaries that would involve changes of limited size which could be crucial in their strategic effects. Previous Israeli governments have always assumed that in a peace settlement there would have to be an international boundary constituted somewhere west of the River Jordan. The partition logic cannot be denied, even if it takes different cartographical forms. History has created such a duality of national identities that any unitary framework can only be coercive and morally fragile. Not for one second in the 24 hours of each day do the million Arabs in the West Bank and Gaza share a common emotional experience, a common vision or a common dream with the Jews now living under Israel's sovereign law. On the one side there is a total saturation with Hebrew speech, Jewish experience and Zionist values. On the other side, every sound and sight, every movement of heart and mind respond to the images and associations of Arab history. Neither of these two worlds seeks harmony with the other through any compromise of its separate nature. The areas are properly described as Judea and Samaria, but this does not make their inhabitants Judeans or Samarians. They are Arabs in all their notions and fidelities.

It might have seemed quixotic a few months ago to urge an Israeli government under its present leadership to accept Arab sovereignty in most of the West Bank and Gaza, subject to agreed improvements of the Israeli boundary. But the autonomy proposal signed by Mr. Begin at Camp David could serve as a natural bridge to such a solution, which the Labor Alignment still supports. Nobody in his senses would have predicted a few months ago that Mr. Begin, Mr. Dayan and Mr. Weizmann, with the concurrence of Mr. Ariel Sharon, would approve a document laying down that "the Israeli military government and its civilian administration will be withdrawn as soon as a self-governing authority has been freely elected by the inhabitants of these areas to replace the existing military government," and further that after a transitional period "the elected representatives of the inhabitants of the West Bank and Gaza [shall] decide how they shall govern themselves consistent with the provisions of their agreement." There is also to be "a withdrawal of Israeli armed forces . . . and . . . a redeployment of the remaining Israeli forces into specified security zones," and "a strong local police force . . . which may include Jordanian citizens."

The emphasis and atmosphere of this language point clearly to a drastic reduction of Israel's involvement in the life and future of the Arab-populated areas of the West Bank and Gaza. Mr. Begin is too precise and intelligent a man for us to believe that he does not comprehend how short a step separates this kind of "self-government" from some form of eventual Arab sovereignty. Anyone who rules out the idea of ultimate Arab sovereignty in large areas west of the River ought not to have signed the Camp David accords. Those of us who approve and accept those agreements should understand clearly what it is that we approve and accept.

[From the New York Times, June 11, 1980]

The Zionists Far From Zion

To the Editor:

As an American Jew, and a former resident of the Israeli development town of Kiryat Shemona, allow me to respond to Anthony Lewis's May 22 column, "Israel and Its Friends."

As we were located only 12 kilometers from the Lebanese border, we spent many nights in the bomb shelter. To pass the time and help forget the dull thudding of the shells outside, we would often read the English-language Jerusalem Post. In particular, the letters to the editor section proved most entertaining.

The letters always were of two types. The first would call for a rational policy of autonomy for the Palestinians, return of the West Bank and recognition of Palestinian rights. These letters were generally postmarked Tel Aviv, Haifa or Jerusalem. Letters of the second sort called for construction of more settlements, annexation of Judea and Samaria and eternal military vigilence. These letters were always postmarked New York, Miami or Chicago.

This always brightened our spirits in the shelter. The great Zionists were safely tucked away in America. Those readiest to spill Israeli blood had no sons in the army. Those quickest to deny Palestinians their rights had never met a Palestinian. Those who raise their voices loudest against recognition of the Palestinians were not with us in the shelter; they were having dinner at home, in America.

There are no loud voices in a shelter—only silence, and a few smiles at the great Zionists so far from Zion.

From Bondage to Freedom

(By Anthony Lewis)

Boston, March 30.—Passover has a special character among religious holidays. It celebrates the Exodus from Egypt: the escape from bondage to freedom, in the words said every year at the Seder. More than that it records the beginning of Jewish identity, the faith and sense of uniqueness, that have survived diaspora and terrible oppression.

The exodus celebrated at Passover has been a powerful symbol through history, too, for many people other than Jews. New England has towns called Canaan and New Canaan because the Puritans saw biblical parallels in their venture. Like the ancient Hebrews, they were risking all in order to live as themselves—with their religion, their laws, their customs.

This year Passover comes at a time of concern and tension for Israel, the state of whose very creation evoked the promise of the Exodus. Jews and non-Jews alike who care about Israel are worried about her future. It has become an even more sensitive issue than usual in American politics.

At such a time it is difficult for supporters of Israel to be critical of anything done in her name. But it is crucially important, I think, to be honest about mistaken policy. And the present Israeli Government policy of planting settlements in occupied Arab territory, even in the heart of an Arab city, is worse than mistaken. It is a betrayal of the spirit of passover: the spirit of freedom and identity.

Zionism sought to make the dream of Passover a reality for Jews, and it succeeded to an astonishing extent. That is why Israel, with all its problems, is so exhilarating a place. It represents an escape from oppression, an establishment of identity, as dramatic as the story of Exodus.

Yet now the Government of Israel seeks to impose its culture, its physical being by armed force on people with a different identity. Any American or other outsider who has visited the West Bank knows how different it is. The hills and stones have echoes of the Bible; of course it has deep meaning for Israelis. But it is unmistakeably an Arab land today: a land distinct in language and religion and culture.

If Israel forces its settlements on another people, it necessarily distorts its own values, mortgages its own inner freedom. That always happens when one group denies another its right to identity: in Ireland or Africa or anywhere. But the irony is especially bitter in the case of Israelis. Having escaped from physical oppression and torment, having made their own home, they would now be imposing on themselves a new kind of spiritual bondage.

Israel is committed, by declaration of her Government and agreement at Camp David, to United Nations Resolution 242. That resolution calls on her to withdraw from occupied territory. But every settlement planted in that territory by armed forces tells its people—and tells the world—that the occupation will not end.

The recent decision of the Begin Government to carry the settlement policy into the West Bank town of Hebron pushes the danger to an extreme. Hebron is a center of Palestinian nationalist sentiment. To try to understand how provocative the gesture is one would have to imagine a Moslem mission being installed by armed force in the midst of a Jewish community in, say, Brooklyn.

The practical truth is that such settlements can only be maintained by armed force. Far from contributing to the security of Israel, they must put a continuous strain on the state's military capacity. Future generations are made hostage to the policy. As one Israeli put it, "They are committing my son to risk his life guarding settlers in Hebron instead of guarding Israel."

The settlements policy divides the people of Israel. It proceeds because a relative handful of zealots has a disproportionate influence in the present balance of political forces.

In this situation American supporters of Israel have a heavy responsibility. I believe most of them, in particular the leaders of Jewish organizations, are deeply troubled by the policy. But they say little publicity because they do not want to look as if they were siding with the enemies of Israel or condoning the stumbles of the American Government.

But Israel's friends owe it to her to speak the truth about this self-destructive policy. That goes for political candidates, too. Edward Kennedy and Ronald Reagan will of course attack Jimmy Carter's inconstancy; but they do Israel no favor by pretending that as President they could live with continuing Israeli settlement in—and occupation of—Arab land.

The settlements policy visibly impedes the development of a secure friendship with Egypt. It increases the risk for Anwar Sadat. It contributes to the instability of the Middle East generally. But worst of all it compromises the spirit of Israel.

THE MASADA COMPLEX

(By Milton Viorst)

JERUSALEM.—Readers have been exposed to a great many words lately about the Islamic resurgence, some of them coming from this very typewriter. A rebirth of Koranic zeal helps explain to Westerners the recurring episodes of what looks to us like bizarre behavior in the Moslem world. Now I think it is time to turn our attention to its counterpart, the Judaic resurgence. For there is a revitalized religious urge discernible in Israel, and it has become an increasingly significant factor in determining whether there will be war or peace in the Middle East.

In a sense, Israel is itself the product of a Judaic resurgence. Religion is the one element that Jews around the world possessed in common during the 2000 years or so of their diaspora, and a basic tenet of Judaism during these millenia was the ultimate return of the Jewish people to the Land of Israel. Nonetheless, the ideology which became the foundation of the new state was not religious but secular. Zionism's roots lay in the surge of nationalism—largely anti-religious in character—that engulfed Europe in the 19th century.

This nationalism tended not only to exclude the Jews from the communities in which they lived, but to imbue in them a nationalistic spirit of their own. As Zionism spread, it was influenced heavily by the socialist doctrines that were popular with Europe's working classes, and this influence has remained strong until today. It is perhaps paradoxical, then, that the force which one would expect to find most naturally as a component of Zionism—the Jewish religion—was largely missing when Israel was founded. At the time, no one gave much thought to establishing Israel as a theocratic state.

Let me digress a moment for definition. It is true that Israel identifies itself as the "Jewish state", just as Egypt, along with many of its neighbors, identifies itself as an "Islamic state". But Islam makes no distinction between government and religion. Though some rabbis might argue the point, Jews as a whole interpret Judaism as endorsing the separation of church and state.

As I said earlier, religion is the Jews' one common possession, and yet Jews have forever debated whether they are a religious group, or whether their real identity is as a racial or national group. Many Israelis openly proclaim themselves atheists, without for a moment renouncing their identity as Jews. Such a dichotomy would be impossible for a Moslem.

Because they have never reached agreement on what they are, Jews have tolerated an amazing amount of ideological diversity among themselves. Thus Israel can be a "Jewish state"—i.e., a state for Jewish people—without Judaism being sanctified as the state religion.

In saying this, I am not forgetting that religion is a major force in Israeli politics. Religious Jews, of varying shades of orthodoxy, represent a significant proportion of Israeli's population. Some are so orthodox that they reject the state itself, on the grounds the Bible tells them that only the Messiah can re-create Israel.

These Jews do not participate in politics, or serve in the army, though they are aggressive in protecting their political interests by demonstrations and other forms of direct action. Other religious Jews, reading God's commandments differently, are less fastidious about the Messiah's prerogatives and support political parties for the purpose of promoting religious orthodoxy as the state ideology.

In current American jargon, Israeli's religious parties would be called "single-issue" parties. Though only fifteen per cent of the voters cast ballots for them in national elections, by one of the curiosities of Israeli politics their seats in parliament have invariably represented a swing group between the coalitions of right and left.

To form and maintain governments, the two sides have traditionally outdone each other in offering them rewards in return for support. Thus these parties have wielded disproportionate power throughout Israel's history, and have given the country a more orthodox institutional structure (most noticeable in the legal system) than their voting constituency would appear to justify.

But the Judaic resurgence is not really a phenomenon of religious orthodoxy. As Jews use the term, orthodoxy refers to religious dogmas and practices which, for the most part, originated in Europe in the Middle Ages.

The most quintessential or the orthodox Jews are the bearded and somberly clad Hasids, whose principal preoccupation is Talmudic study, and who are concentrated in certain quarters in Jerusalem which, no doubt, look much like the Polish ghettos of the 17th century.

Though the Judaic resurgence has found allies in the religious parties, furthermore, it has not appreciably strengthened their position within the political system. In fact, the Judaic resurgence bears a greater resemblance to its Islamic counterpart than it does to orthodox Judaism. It prefers to influence the political system by outside intimidation, rather than inside maneuvers.

More important, its religious zealotry is directed not to the attainment of new levels of spirituality but to a political end, the spread of the Jews' dominion to enhance the glory of God.

I suspect there may be no coincidence in the resemblance between the Judaic and the Islamic resurgence. I wrote in an earlier APF Reporter of my disagreement with those who held that the Islamic wave is the product of a new self-confidence in the Moslem world. On the contrary, I argued, it is the harvest of thirty years of freedom from colonial domination, which have produced little but "social frustration, inner doubt and profound feelings of inadequacy."

One should note, I think, that the Judaic resurgence does not date back to the Six-Day War of 1967, when Israeli forces swept buoyantly across the territory of Israel's enemies, destroying armies and seizing land. Rather, its beginnings were noticed after the Yom Kippur War of 1973, when Israel, though ultimately triumphant, was shaken to its roots, not merely by the unexpected military prowess of Egypt but by its own complacency and unpreparedness, by the discord and ineptitude of its leadership, by its own moral flabbiness.

If there is a prototype of the adherent to the Judaic resurgence, I would say it is a young man or woman who has attended a university, has been trained in a profession, is upwardly mobile—and remains a trifle insecure.

The ranks of Gush Emunim, the organizational spearhead of the movement, seem to me to be filled with people who meet this description. Ironically, perhaps, so are the ranks of Egypt's Moslem Brotherhood, although its program is much less precise. Israel's Gush Emunim people are looking for roots for their lives in the hills of the West Bank. "The Bible says we Jews are a mountain people," a Gush Emunim settler told me. "This is where we belong, not down by the sea in Tel-Aviv."

At another settlement, a young mother whose husband worked as a teacher in Jerusalem conceded to me that she did not enjoy the bleak, often frightening life of the West Bank, but she said it gave her a sense of purpose such as she never experienced before.

I confess I was reminded in talking to Gush Emunim people of members I have met of the religious cults which have abounded in America in recent years. I found them open, friendly and totally convinced of their own righteousness. I have wondered whether it is the wave that has swept through the Middle East that is also producing cultists, fundamentalist Christians and other forms of zealots throughout the West. The Gush Emunim people all talked to me of a search for roots, for belonging, for a purpose of life, which they have found in the fervor of the Judaic resurgence.

Other characteristics which the Judaic resurgence holds in common with its Islamic counterpart are an extreme intolerance of disagreement, and a penchant for violence. I suppose the two go hand-in-hand, at least in societies like those in the Middle East, that are accustomed to bloodshed as the standard concomitant of political struggle. I learned in Egypt recently that the Moslem Brotherhood has added to its program of breaking up left-wing political meetings and rock concerts the burning of Christian churches. In Israel, where information is more easily disseminated, it is public information that Jewish fanatics on the West Bank have shot at Arab demonstrations, have beaten up Arabs at random and have even defaced Arab places of worship. It is a tribute to the power of both these resurgent movements that they have managed to perpetrate such acts, if not with impunity, then without the state's exacting serious penalties for them.

Even more alarming, to me, is the power the Judaic resurgence has shown to deter the state, through the threat of collective violence, from pursuing its legitimate political goals. Last year a band of 300 settlers girdled themselves in barbed wire, armed themselves with pipes and stones and, by threatening to die in battle with the Israeli army, exacted a battery of concessions from the government in return for surrendering a patch of farmland in the Sinai which had been promised to Egypt as part of the peace treaty. In agreeing to give up the land in the Sinai, Gush Emunim warned that its settlers would not consent to relinquishing their settlements on the West Bank under any circumstances, not for peace or anything else.

Since that time, there have been several confrontations between the government and West Bank settlers, and in each case the settlers have won. At Elon Moreh, most notably, the Israeli Supreme Court ordered the evacuation of land which the settlers had illegally seized from its Arab owners, but the government has been more willing to be seen by the world as impotent than challenge the settlers' wrath. The government has offered to settle the matter with money, but Gush Emunim steadfastly proclaims the principle that its right to occupy land that is Biblically Jewish supersedes current Israeli law. It is openly debated now whether Gush Emunim, by its strong-arm strategy, is running Israel. Accused of blackmail, leading figures of the Judaic resurgence show no remorse. They declare quite openly that they prefer civil war between the Jews to any peace treaty that would return the West Bank to the Arabs.

When religion is put to the service of aggressive nationalism, as the Judaic resurgence is doing in Israel today, the result can be very unpleasant. A few weeks ago, many religious Jews protested because the kidney of a dead Israeli—a Yeshiva student killed by an Arab sniper—was transplanted to an Arab girl who wore a bracelet of the PLO. The protest was too much even for Chief Rabbi Shlomo Goren, who has strongly supported Gush Emunim and has declared the Torah forbids the return of any West Bank land. Goren decreed that the transplant was a good deed, and that Jews must not discriminate in the saving of a life. But the fact that many Israelis challenged him seemed an index of the xenophobia, wrapped in religion and dignified by God's name, that is sweeping the country.

This xenophobia, the mirror image of Israeli self-righteousness, has made a growing segment of the country impervious to any criticisms from abroad. I do not want to exaggerate that. Israel remains an open society, where every opinion is heard, where arguments rage constantly and tumultuously. Still, a decent respect for the opinions of mankind, as Jefferson put it, seems to be a diminishing phenomenon here. Always on the elert for anti-semitism, Jews now see it increasingly—sometimes quite accurately, other times rather grotesquely—in the rising criticism of Israel. Each new UN resolution is taken as further proof that the universe is ganging up. Rather than explore the reasons for so much disapproval, much of Israel finds spiritual comfort in a defied nationalism, and a rationale for closing ranks against the hostile forces of the non-Jewish world.

I have long been disturbed by Israel's fascination with Masada, an archeological ruin atop a butte on the shore of the Dead Sea, where some 1900 years ago a thousand zealots committed suicide rather than submit to Roman rule. More recently the Israeli government has excavated a site called Gamla on the Golan Heights, where, during the same struggle, some 5,000 Jews leaped to their deaths in preference to defeat by Rome. In its veneration for Masada, and latterly for Gamla, Israel seems to extol not merely the heroism in its history, which every nation admires, but an ideal of collective, patriotic suicide.

Many Israelis these days speak, with some mixture of respect and dismay, of the nation's "Masada complex." I think they use the term to mean a fight-to-the-death courage as the enemy closes in around them. But there is a hint in the terms that Israel, touched by some hysteria, is seeking events on a course that makes a Masada-like outcome nearly inevitable. No doubt there is something pure, heroic, even incorruptible about Masada, and about the current Judaic resurgence. But as long as this spirit governs Israel it is difficult to see how there can be peace. Gaining the West Bank may be a Biblical imperative but Masada, too, is a part of Jewish history, and I am not alone in wondering whether there is not some deep compulsion in the Jewish soul to re-live them both again.

[From the New York Times, June 15, 1980]

GROUP OF U.S. JEWS DISPUTES BEGIN LINE

(By Bernard Gwertzman)

WASHINGTON, June 14—About 90 American Jews, some of them prominent, have issued a statement aligning themselves with the Peace Now movement in Israel, which opposes the Government's policy of establishing further Jewish settlements in the occupied West Bank territory.

In advertisements in Jewish Week and other Jewish publications this weekend, the group, including Arthur Miller, the playwright, called on others to join American Friends of Peace Now and to contribute funds to allow Israeli members of that organization to come to the United States to speak to Americans.

There have been other such statements by American Jews in recent years critical of the actions of Prime Minister Menachem Begin. Such statements have generally aroused concern among Jews who feel that Jewish criticism of the Israeli authorities by Jews should not be expressed outside Israel's borders.

The advertisement said:

"Israelis and American Jews must not make the work of rejectionists easier by taking positions which do not benefit Israel's interests and undermine its new relations with Egypt and its longstanding relationship with the United States."

GROUP OPPOSES SETTLEMENTS

It said that among other things, Peace Now, which claims about 300,000 supporters in Israel and is independent of any political party, believes that Israel should normalize relations with its neighbors, that continued Israeli rule over Arabs in the West Bank and Gaza "subverts the democratic and Jewish character of Israeli society" and that "all further settlement of the West Bank must be stopped." The policy of continued settlements "seriously impedes any eventual agreement with the Palestinians and distresses Israel's friends and allies," the statement said.

On dealing with the Palestinians, the statement skirted the controversy whether Israel should negotiate with the Palestine Liberation Organization, a group that Prime Minister Menachem Begin and other Israeli leaders have refused to have anything to do with, and whether there should be a Palestinian state.

"The Government of Israel should conduct negotiations with any Palestinian body that renounces terrorism and accepts the path of peaceful negotiations as the only way to solve the conflict with Israel," the statement said. "Such negotiations should confirm each side in its national right, including Israel's right to exist as a Jewish state in secure and recognized borders and the Palestinians' right to a national entity."

The organizers of the American group include, according to Stephen P. Cohen, professor of social psychology at the City University of New York, the following:

Leon Wieseltier, fellow at Harvard University; Rabbi Steven Shaw of Rutherford, N.J.; Irving Howe, author and critic: Rabbi Arthur Hertzberg, vice president of the World Jewish Congress; John Ruskay, vice president of the Jewish Reconstruction Foundation; Drora Kass, a New York writer, and Joseph Low, a New York businessman.

Other signers were:

Elie Abel, American Economics Association.

Howard Adelman, York University, Toronto.

Robert Alter, University of California, Berkeley.

Kenneth J. Arrow, Stanford.

Aaron Asher, editor in chief, Farrar, Straus & Giroux.

Carl Auerbach, University of Minnesota.

Bernard Avishai, Massachusetts Institute of Technology.

Rabbi Leonard Beerman, Los Angeles.

Daniel Bell, Harvard.

David Biale, State University of New York, Binghamton.

Rabbi Eugene Borowitz, New York.

Michel Brecher, McGill.

Rabbi Balfour Brickner, Stephen S. Wise Free Synagogue, New York.

William Brinner, University of California, Berkeley.

Marvin Chodorow, Stanford.

Steven M. Cohen, Queens College.

Mitchell Cohen, editor, Jewish Frontier.

Paul Cowan, New York.

Jim Dine, New York.

Leonard Fein, editor, Moment.

Harry Frankfurt, Yale.

David Gavrin, New York.

Peter Geffen, director, Park Avenue Synagogue High School.

Inge Lederer Gibel, American Jewish Committee.

Nathan Glazer, Harvard.

Robert Goodkind, New York.

Rabbi Arthur Green, University of Pennsylvania.

Robert Gumpertz, San Francisco.

Robert Heilbronner, New School for Social Research.

Nat Hentoff, Village Voice, New York.

Paula Hyman, Columbia.

Alex Inkeles, Stanford.

Leon Jick, Brandeis.

Hans Jonas, New School for Social Research.

Rabbi Wolfe Kelman, New York.

Rabbi Rubuen Kimelman, Brandeis.

Arthur Kornberg, Stanford.

Jacques Kornberg, University of Toronto.

Joshua Lederberg, New York.

Irving M. Levine, American Jewish Committee.

Steven Marcus, Columbia.

Seymour Martin Lipset, Stanford.

Rabbi Alan Miller, Roxbury, Conn.

Ernest Nagel, Columbia.

Jacob Neusner, Brown University.

Samuel Norich, vice president, World Jewish Congress.

Max Palevsky, Los Angeles.

Robert Pickus, Berkeley.

Rabbi Joachim Prinz, vice president, World Jewish Congress.

Hillary Putnam, Harvard.

Ruth Anne Putnam, Wellseley.

Menachem Rosensaft, New York.

Abraham Rotstein, University of Toronto.

Gary Rubin, Des Moines.

Rabbi Max Routtenberg, New York.

Arthur Samuelson, editor, Schocken Books.

Rabbi David Saperstein, Washington, D.C.

Yaakov Schechter, City University of New York.

Israel Scheffler, Harvard.

Steven Schwatz, Wilkes-Barre, Pa.

Rabbi Alexander Shapiro, South Orange, N.J.

Meyer Shapiro, Columbia.

Charles Silberman, author, New York.

Rabbi Mathew H. Simon, Washington, D.C.

John Slawson, New York.

Fredric T. Sommers, Harvard.

Bernard Spitzer, New York.

Howard Stein, McGill.

Marie Syrkin, Santa Monica, Calif.

Diana Trilling, New York.

Al Vorspan, Union of Hebrew Congregations, New York.

Michael Walzer, Harvard.

Gerard Weinstock, Larchmont, N.Y.

Jonathan Woocher, Brandeis.

[From the Jewish Telegraphic Agency]

SCHINDLER SCORES ALLOCATING FUNDS TO WEST BANK TO DETRIMENT OF SETTLEMENTS WITHIN ISRAEL PROPER

(By David Landau)

JERUSALEM, February 25.—The government's concentration on the West Bank at the expense of Israel proper in the allocation of funds for settlement work came under sharp attack by an American Jewish leader here today and drew expressions of concern at a meeting of the Jewish Agency Board of Governor's budget committee this morning.

Rabbi Alexander Schindler, president of the Union of American Hebrew Congregations (UAHC) charged that the government's order of settlement priorities was "disadvantaging the nation." In remarks prepared for delivery at a plenary session of the 21st Conference of the World Union for Progressive Judaism, the Reform movement, Schindler said the government is diverting virtually all of its settlement funds across the "green line." "Is not the Galil important, and what of the Arava?" Schindler declared.

Schindler spoke after the surprise revelation at the conference that there was no budget earmarked to build homes at Yahel Bet, the second kibbutz of the Reform movement planned for the Arava district of the Negev. A building expansion program at Yahel, the first Reform kibbutz, has been suspended for lack of government building funds for the Arava region.

Schindler cited figures from the government's settlement housing budget. Of 1250 new housing units planned, 1000 are in the Judaea and Samaria districts of the West Bank, 200 on the Golan Heights, "a sprinkling for the Galilee hill-top settlements and nothing at all for the Arava," Schindler said. This is not discrimination against Progressive Judaism, Schindler said. "Progressive Judaism is not disadvantaged, the entire nation is disadvantaged."

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, unfortunately for me, I had to attend a committee meeting during the debate, though I am one of the managers of this measure.

I say to Senator STEVENSON, for whom I have great regard, that I have only now had an opportunity to read his remarks. I assume—I hope he will correct me if I am wrong—that while the written text might not be word for word what he said, it generally carries his thinking.

Mr. STEVENSON. The Senator's assumption is correct.

Mr. JAVITS. I should like to address myself to the fundamental concept which is involved.

I say, first, that it would be possible to take the Stevenson presentation apart on 100 grounds. For example, I say to the Senator, out of affection, and for no other reason, that one of the big complaints made about the U.N. is that it has wide open eyes every time the Israelis cross the Lebanese border but it is absolutely blind every time the Arab guerrillas cross the Israel border.

It is interesting that in the wrtiten remarks I have just read, absolutely nothing is said about the latter and everything is said about the former.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. JAVITS. May I finish one thought?

As I said, I do not want to get into a detailed analysis of the individual statements made by my colleague from Illinois about particular elements of history or claims, whether they be claims of title or claims of legality or any other kind—or of interpretations of what United Nations Resolution 242 does or does not say or does or does not mean. I would rather confine myself to what is the best way to deal with the existing situation, take a look at the existing situation, and give my judgment as to the best way I think we have to handle it as a nation, which will be in our best interest.

I yield to the Senator.

Mr. STEVENSON. I thank my good friend, for whom I have the greatest respect as well as affection, for yielding.

I asked him to yield not to disagree with his rather general observation about the United Nations, except to point out that in this case, the most recent action, or the action to which I referred, was by the Security Council. The action was unanimous, though the United States subsequently disassociated itself from that action.

The members of the Security Council which took the action included only one Arab country and only two Soviet bloc countries. The remaining countries were Bangladesh, China, France, Jamaica, Mexico, Niger, Norway—not an unfriendly country—the Philippines, Portugal, the United Kingdom, and Zambia. They spoke for all nations.

The main point on which I hoped the Senator would yield to me—and I believe it should be made very clear—is that, as I tried to indicate in my statement, I have no sympathy whatsoever for the extremism, the intransigence, the terrorism of the Palestinians, including the PLO. But I point out to my good friend that there is no money in this bill for the Palestinians. The money we are debating is for Israel.

I point out further to my good friend that the money in question, some $2.185 billion, is almost as much military and economic assistance from the U.S. Government as is received by all the other 99.9 percent of the world's people combined. That figure, of course, does not include the assistance from private sources in the United States. That figure in itself raises some rather large questions about the objectivity—not of me, but of the U.S. Government.

That is a large question, when one considers that this large sum, almost as much as all the rest of the world's people receive, goes now to a Government which repeatedly and continuously expresses sometimes in the most insulting terms, its disdain for the policies of the United States and its resistance to the peace process, so-called, which the United States authored.

Mr. JAVITS. With all respect, I think the Senator is just repeating the things he said before in this statement, with which I have not dealt as yet. I do not wish to do it this afternoon, but I do feel that there is an answer. Every word of this could be debated and answered, and probably will be, in an appropriate forum, at an appropriate time.

As to the amount of foreign aid, we have a security reason, a good security reason, why we want this enclave of stability in the Middle East.

We know what would happen if there were really the complete conflagration that could be, and most of this aid represents military preparation, without which even a worse vacuum would be created. We have considered this ever since the 1950's, when I first dealt with this matter as a Representative, in the House, and have constantly decided, by heavy majorities, that this was the way to go.

But my fundamental point is that this is not the way in which we are going to bring about a settlement, and that is the thing that we are aiming for. We are bringing the parties back to the negotiating table and we are trying to continue the autonomy talks.

As to the claim that these settlements represent some permanent establishment which can never be changed, I cannot agree with that. We have just seen it exactly demonstrated to the contrary on the other side of Israel with respect to Egypt. The fact is that Begin swore undying fidelity on the settlements in and around El Arish. They were given up and they have been given up and the whole area will be given up pursuant to a peace agreement which really represented peace.

But peace is not what is offered now unless it can be obtained through these current negotiations.

My general feeling about this matter, as I say, without fighting about the particular details of particular matters which will only in my judgment divert us from the main point, is that a steady persistence with the Camp David accords and with what we already have in hand which brings peace to the two most militarily able and two most sophisticated nations in the area, to wit, Israel and Egypt, is the base upon which to build. When we begin to break down that base we are doing the prospect for peace a disservice, and gravely jeopardizing the western part of the Middle East area, which is already now in its eastern part, around Iran, in anarchy and conflagration. This is highly against the interests of the United States. We cannot make a change in policy like this amendment would mean, because we know that all it will achieve will be to drive the participating parties into a corner where it becomes great national honor and great national stubbornness to stay where they are, to concede nothing, and indeed to try to fight their way out of the corner. And that result is exactly contrary to the policy which we have been pursuing, and in which we have shown, in my judgment, such real wisdom and such real patience.

Therefore, rather than bring about a better situation, in my opinion, this amendment would considerably worsen the situation and serve notice in the whole area that we do not intend to go through with what we promised—the Camp David accord peace process and Arab-Israel peace agreement. Rather, it would serve notice that we are beginning to coerce one of the parties by demonstration that if they do not behave, it is going to cost them money, and, the clear intimation is, an increasing amount as time goes on. The very important point made earlier, to wit, that they suffer from rampant inflation and a military budget, which is simply an enormous weight, means that if that is where we hit them, we are hitting their jugular. I do not believe that we are at that point with Israel, or that it is a very desirable policy to drive them into this corner.

I believe that those who have stayed with this process so far should continue to stay with it, as it is the most likely to produce a result. We should not give up on the settlement or any other issue. I do not recommend that. We should rather depend upon the fact that what is negotiated out will include the settlements. Our best bet with Western Europe, and I know how restive Western Europe is, and our best bet with the terrorism and the seeming intransigence of the PLO is to continue to pursue a consistent and steady line which has already produced peace. It is the only thing that has produced any real result and which I believe has the capacity for being even more productive if we stay with it.

So my theme is we have to stay with it if we want it to work. On the other side, to wit, those who desire discord and anarchy in the Middle East, it is their cause which is served if we jump around now and are on the wicket of Camp David and then we are off and we are going to teach them a little lesson. It simply has a contrary counterproductive effect.

So for all those reasons, Mr. President, I believe that this is a very unwise way to proceed.

In due course when Members have had their say I will hope very much that this amendment might be tabled.

Mr. PERCY. Mr. President, will the Senator yield for a brief comment?

Mr. JAVITS. I yield.

Mr. PERCY. I concur completely with your statement.

I oppose this amendment, though I have certainly opposed the settlement policy. I have enunciated my reasons for that to our friends in Israel in every possible occasion, that I think the settlement policy is counterproductive and is not a desirable or necessary activity for Israel to engage in at this particular time.

But I oppose this amendment for several reasons.

First, I think the timing is wrong. King Hussein is visiting the United States at this time. I will participate tomorrow at a working lunch with King Hussein at the State Department to work on the problems of the Middle East.

A remarkable statement was made recently by Crown Prince Fahd to Katherine Graham and her colleagues at the Washington Post in which Crown Prince Fahd said that Saudi Arabia would do—and I will quote exactly what he said—"its utmost to bring the Arabs to cooperate and work for a full settlement."

Such a settlement would be consistent with the provisions of Resolution 242. Saudi Arabia would like to see Jordan and Syria brought into this process. We would not want to see any new initiative disruptive of Camp David.

But such an initiative could be a parallel action, a supplementary action.

So the timing of this amendment is wrong.

Second, a vote on this amendment might be very counterproductive and send exactly the wrong kind of signal.

My judgment is that it will be overwhelmingly defeated.

If it is overwhelmingly defeated, it will be with the votes of some of us who disagree with certain phases of the settlement policy just as some people and leaders in Israel disagree with the present policy. But if the Senate of the United States is forced to vote on this issue today, it may send a signal at this particular time that could be interpreted as almost an endorsement of the very policy that some Senators who would vote against the amendment do not endorse.

The third reason I disagree with it is that I strongly feel at the present time that the action might be looked upon as coercion, might get peoples' backs up, might imply that a policy has a price tag on it.

That would completely miss the point. We hope this issue can be worked out through diplomacy, through negotiation, and through understanding.

That is the policy and that is the direction in which we have been working with the various parties involved.

Certainly, to try to reduce economic assistance at the very time Israel has released its new inflation figures which are just ruinous to that economy—unbelievable levels of inflation, unbelievable levels of internal taxation—would be very damaging. It is the wrong time for us to take a major disputed political issue that is under negotiation and somehow try to put a heavy price tag on it.

So I really do feel that, though I have a deep affection and very high regard for my distinguished colleague, Senator STEVENSON, and I do know that he wants to indicate his concern about this policy as some others of us have tried to, I just find that this particular way at this particular time is not one that I could support.

I thank my distinguished colleague, the minority floor manager of the legislation, for articulating his own reasons, with which I certainly do concur.

Mr. JAVITS. I concur with the Senator's response as well and I am well acquainted with the Senator's willingness to say what he had to say with respect to this settlement and the settlement policy.

I think the Senator shows his usual perception in realizing that a tactic like this can backfire very, very badly and give exactly the wrong impression and lead us to exactly the wrong policy. It is the kind of card you can only play once.

I am very grateful to the Senator for his fine contribution to this debate.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. STEWART). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, not only is this the wrong time for this amendment, but any time would be the wrong time for this amendment, and I am tired of the drumbeat that we heap upon Israel about settlements in the West Bank.

They have as much right to settle in the West Bank as does anyone else, no less, no more, but as much right as anybody else. Somehow, someway, since the 1967 war the merits and the demerits of a settlement in the Middle East have been lost in this country. Too often we have simply started with the premise, wrongly, that all the parties should return to their 1967 armistice boundaries—and I will call them that, armistice boundaries, because they were never internationally settled boundaries—and that we would bargain from there.

Fortunately, that has not been the position coming out of the Camp David accords. Great credit is due to President Sadat, Prime Minister Begin, and the peoples of both of their countries, and President Carter for their efforts toward a negotiated settlement.

Mr. President, the only settlement that is ever going to work in the Middle East is a settlement that is bargained between the parties who have to live with it. It will not work if it is imposed by the United States; it will not work if it is imposed by the Soviet Union; because unless those countries are prepared to police it, as the Soviet Union is apparently prepared to police Afghanistan, that settlement will not last, and the moment one of the major powers takes its troops out the settlement will fall apart.

Mr. President, I think we have a mistaken view of who has been willing to yield and who has been obdurate in the situation in the Middle East. I think it is wise to go back and take a look at a little bit of history to understand who has been willing to give and who has been willing to negotiate and who has refused to give or negotiate.

I find a great many people have a good deal of knowledge of the Biblical history of the area. They know a great deal about David and Goliath, and they have a great deal of knowledge of the Middle East from, perhaps, 1947 or maybe even 1967 onward.

But someplace between that period of David and Goliath and David Ben-Gurion there is a great lack of knowledge about the Middle East, about who is entitled to what, about who was promised what, and who has been willing to agree to what.

You will recall that this entire Middle Eastern territory prior to and during World War I was held by Turkey, held loosely, but held by Turkey. It had been held by Turkey since about 1500. There were no Israels, no Palestines, no Syrias, no Lebanons, no Iraqs, just Turkey. If you start trying to lay claims to who had the territory that is now Israel or the West Bank the longest and, therefore, are entitled to a historical claim to it, the one country over the last 2,500 years that ruled it longer than any other country was Rome, if you count the period when Rome ruled it from their Eastern Empire. Yet I have not heard any serious arguments being made that this territory be given to Italy.

From 1500 onward the Turks controlled. During World War I France and Britain agreed that at the end of World War I they would take the territory and divide it up between them and, indeed, they did, and that division was confirmed at the San Remo Conference in 1920.

Britain took what eventually became Iraq, Israel, and Jordan, and France took what eventually became Syria and Lebanon. Interestingly, the so-called Palestinian mandate did not include Iraq. It included only the countries of what would eventually become Israel and Jordan, and when you see drawn on a map what is referred to as the Palestinian mandate, Iraq is not included, although Britain got it at the end of World War I. That is important to remember when we start to go forward from 1920 and realize who promised whom what.

Even prior to the division in World War II, Britain, in its Balfour Declaration, promised the Jewish people a homeland and promised them that that homeland would come out of the territory known as the Palestinian mandate. There is no question what the promise was. Britain from time to time in the twenties tried to renege on it. But there was no question what the promise was nor is there any question as to what the territory was or at least out of what territory a homeland for the Jews would be carved. It would be carved out of the territory composed of the present States of Israel and Jordan.

Then in 1921 trouble occurred. The Emir Abdullah, who is the grandfather of the present King Hussein, and who had a good-sized vigilante army, and who had lost out to the Saudis, was looking around for a country.

He did not have one. He started to cast his eyes toward Damascus. Bear in mind there was no Syria yet, but he cast his eyes toward Damascus, which had been in the territory which had been agreed to be given to France and Britain, in order to pacify and satisfy the Emir Abdullah, created one of the most artificial states which has ever been created, the State of Transjordan. Even the use of the word is interesting—"Trans," cross. Everything east of the Jordan River was turned into the State of Transjordan, and on the day that state was created, it was closed to Jewish immigration. From 1921 onward no Jews have been allowed to settle in what was then known as the State of Transjordan, and that was 80 percent of the territory of the Palestinian mandate. That now left everything west of the Jordan River.

It is important to remember that even though those who spoke for the Zionists or the Jews at that time thought they were entitled to more than what was now left of the mandate, but they did not complain. They did not complain when 80 percent of it was closed to Jewish settlement. They were so willing to live and let live, they hoped they might get territory and peace and there was no complaint.

All during the twenties and thirties you had intermittent guerrilla warfare, for lack of a better word, between the Arabs and the Jews in the British mandate. In 1932 the state of Iraq was created by Britain. Interestingly enough, though it had a significant Jewish minority in the state. There was no Jewish outcry about the creation of this state, a state that was going to be a majority Arab state, with a significant Jewish minority. No Jewish outcry, no world outcry, as a matter of fact.

In 1937 Britain made its first effort at a suggested partition of the remainder of the mandate, and that remainder of the mandate is roughly what the state of Israel and the West Bank would be today. The Peel Commission recommended that Israel would get what is roughly northwest Israel today. The Arabs would get the West Bank and the Negev; the British would keep Jerusalem and a corridor to the sea. I want to emphasize this again.

The British Peel Commission, on the division of what remained of the Palestinian mandate, said all that the Jews would get what is roughly northwest Israel. The Arabs would get all the West Bank, all of the Negev and the British would keep Jerusalem and a corridor to the sea. The most priestly city in Jewish heritage would be kept by the British; territory that the Jews thought they were entitled to would be denied them.

And when the Peel Commission made its recommendations, the Jews did not complain, but said they would accept it. And the Arabs turned it down.

In 1938, the Jewish Agency, which was the principal agency speaking for the Jews in what was then called Palestine, suggested their own partition plan. It did not differ significantly from the Peel Commission. The Jews would get what is now northwest Israel and a little bit of northern Israel that the Peel Commission would have given to the Arabs. The Arabs would get an independent state in what is now the West Bank and much of what is the Negev, including Gaza and Beersheba.

Bear in mind that this is a Jewish recommendation. Jersalem would be divided between a Jewish state, and part to remain in the British mandated territory, and certain other slight holdings would remain in the British mandate. The Arabs refused.

So, in 1937, they could have had the West Bank and the Negev. They could have had Jerusalem continue as a British mandate to be negotiated later.

In 1938, at a request put forth by the Jewish National Agency, the Arabs could have had the West Bank, Jerusalem would have been divided, and the Arabs would have had Gaza, Beersheba, and Negev, but they refused.

In 1942, you had the State of Syria created—Arab majority; Jewish minority. No outcry from world Jewry; no outcry from the world. It was to be another state with a majority Arab population and a minority Jewish population.

In 1946 you had the State of Lebanon created—significant Jewish minority. No outcry from world Jewry; no outcry from the world.

In 1946 the Jewish National Agency again suggested a partition of Palestine. This time, they suggested that the Jews take the Negev and northern Israel, the Arabs take the West Bank, and Jerusalem be an international zone.

Once more you had a Jewish offer saying, "We won't even ask to have sovereignty over the city that is the holiest of all places to our people." The Arabs refused.

Finally, in 1947, the British said, "We've had it. We're leaving. We're walking away. We're turning the mandate back to the United Nations."

And I want to emphasize that the

League of Nations had confirmed in the early 1920's the split of this territory between Britain and France, and the League of Nations had adopted by reference the Balfour Declaration guaranteeing to the Jews a homeland.

In 1947, the British just decided to leave. They said to the United Nations on May 15, 1948, "We're getting out. We're losing too many people. We can't maintain control. We're giving it back to you. We're turning in the mandate. You take care of it."

So the United Nations came up with a partition plan. The Jews would get the north and the northwest part of what is now Israel and most of the Negev. An Arab state would be created on the West Bank, although it is not clear under whose jurisdiction. And there was no indication at the time whether it would be a separate Arab state or attached to some other Arab country. It just would be Arab territory. Jerusalem was still to be an international zone. The Jews agreed to this partition. The Arabs did not.

Thus, from 1920 onward, with every suggested division of what is now Israel in the West Bank, the Arabs were offered, in peace, the West Bank, and the Jews accepted. And in every case, the Arabs turned it down.

Finally, on May 15, when the British flag came down, the new State of Israel, which was immediately recognized by the United States, was attacked from all sides. None of the Arab countries would recognize the existence of the state. Jordan seized the West Bank. Jordan at that time probably had the best Arab army in the Middle East and probably had an army at that time as good as the State of Israel, trained by the British. They seized the West Bank. The State of Israel expanded its boundaries slightly from the partition. Jerusalem remained divided.

All during the 1950's you had guerrilla warfare within the State of Israel. You had Arab terrorist attacks from all directions. You had the war in 1956, you had the war in 1967. And on every occasion in those wars when Israel took any of the Sinai, they gave it back.

From 1948 to 1967, while Jordan held the West Bank—and I might say tried to annex it as part of the State of Jordan, no other countries but Pakistan and Britain would recognize the annexation—not for all of those 18 years.

When Jordan held the West Bank, you did not hear anybody say that there should be a Palestinian homeland in the West Bank. You did not hear any forced arguments about demanding that Jordan give it up to a Palestinian homeland.

Only in 1967, when Israel, in a war fomented by the Arabs, took the West Bank, was the argument raised for the first time that the West Bank was meant to be a Palestinian homeland.

Now, review this history once more. Time after time, war after war, decade after decade, terrorism and fighting within the bounds of the State of Israel, or what became the State of Israel. Time after time, Israel taking territory and giving it back, taking it and giving it back, hoping for peace and getting armistice and subsequently, getting more war, until, finally, Israel has said, "Not one inch are we going to give back until we get security."

What do you think this country would do if we had bands of terrorists getting in their rubber boats in Baja California and rowing up north of San Diego and shooting bazookas at buses full of schoolchildren? What do you think this country would do if we had terrorists rowing across any of the Great Lakes into our country and killing and maiming children, women, and others?

This country would be so incensed that we would chase those terrorists back to their lairs, bomb them, and their territory and probably seize it and feel that we had an absolute right to do so.

Israel does the same thing and consistently resolutions are passed by the United Nations condemning them for doing the same thing that any other country would think it had a right to do.

Mr. President, I will conclude by saying this: For some reason that I cannot fathom, there has existed in this world a prejudice against the Jews that is unknown in terms of duration of prejudice. For some reason, when countries are created that have a significant Jewish minority and a majority Arab population, nobody complains; ironically, including the Jews of the world.

But when a Jewish state is created that has a minority Arab population, there is an outcry. And when this little country tries to defend itself against attacks that any other country would say it was justifiable to defend against, they are criticized.

So, Mr. President, I would say that the policy of this country ought to be: First, that we will keep Israel supplied economically and militarily so that she can bargain from a position of equality;

Second, that we will not attempt to impose our idea of a settlement, because any settlement we impose will not work; and

Third, that we will have patience.

We are not going to get a settlement by the end of this month. We might not get it by the end of this year. We might not get it by the end of this decade. Ten years is not a long time in the history of the Middle East. Those people have lived together for the better part of 4,000 years, mostly in peace, occasionally in war, and if we leave it to their own devices peace will be achieved.

But if we try to browbeat them and blackmail Israel because we are the last country that has the wherewithal and the willingness to supply her, we will not get peace, Israel will not get security, and all the world will get is continual war.

I will conclude as I started. This amendment is ill-timed. It is ill-timed now; it would be ill-timed any time. I would hope this Senate would reject it.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I wonder if it would be possible to get a time agreement on this amendment and on other amendments?

Mr. JAVITS. I know of two speakers who wish to speak, Senator MATHIAS and Senator DOLE, both briefly, and I would like to have not more than 2 minutes myself. It would be my hope that we would move to table the amendment. Senator STEVENSON, of course, may wish to speak.

Mr. ROBERT C. BYRD. Can we agree on 30 minutes equally divided?

Mr. STEVENSON. Fifteen to a side.

Mr. JAVITS. That sounds all right to me.

Mr. BAKER. On this amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. That is all right.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Before I agree, may I ask Senator MATHIAS how long he intends to speak?

Mr. MATHIAS. I would say not more than 10 minutes.

Mr. JAVITS. We only have 15 minutes and Senator DOLE wishes to speak. Can we say 20 minutes?

Mr. ROBERT C. BYRD. Twenty minutes to each side, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Who will control the time?

Mr. ROBERT C. BYRD. In accordance with the usual form, Senator STEVENSON and Senator CHURCH.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. CHURCH. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. MATHIAS. I thank the distinguished chairman of the committee and my colleague from New York. I will be brief because I know they have remarks to present in concluding this debate.

I did want to speak in opposition to the amendment. I think it is useful at the outset to consider the general approach which, as I understand it, is embodied in the amendment, the approach of taking punitive action against a friend.

Fortunately, we have a good many friends and allies around the world. From time to time we have had, and we will continue to have, some policy disagreements with them. Each country inevitably will have differing perceptions of national interest. But the thing that makes us friends and keeps us friends is a broad, common perception of a strategic dimension of partnership, that we are in alliance, that we have common goals and aspirations, and that we are friends.

We had an interesting exposition here in the Senate last week. Some of the Members now present may have heard about it. The Senator from Wisconsin (Mr. NELSON) estimated that he and his wife disagreed about 20 percent of the time, and the Senator from Vermont (Mr. STAFFORD) said he and his wife only disagreed about 10 percent of the time. At least it illustrates the very human fact that the closest of friends will occasionally have some disagreements. It follows, I think, that we can only place in jeopardy our strategic interests by adopting punitive measures in dealing with friends because of some disagreement on a tactical issue. It is a kind of coercion which does not, I think, become the United States of America.

If we apply this general observation to the particular case of Israel, I think we have to consider two fundamental facts. We are, first of all, committed to the survival of a democracy in the Middle East embodied in the State of Israel. The second fact is that our assistance to the State of Israel is the tangible demonstration of our commitment.

If we cut the assistance to the State of Israel by $150 million, I think we are mistaken on two counts: First, it withdraws funds that Israel desperately needs, and I do not think there should be any doubt about the need—anyone who looks at the economy of the State of Israel, who looks at the necessary level of defense expenditures, should be convinced of the need; so cutting $150 million is a substantial punitive act against the State of Israel. Second, it has the perceptual effect of undermining our commitment to the people of Israel. We are withdrawing support; we are backing away; we are attempting to coerce a friend. When you do that, Mr. President, it seems to me that you risk sacrificing the long-range strategic interest for the short-range tactical interest. That would be a dangerous policy. I will not be a part of that policy, and I will vote against the amendment.

We will not see the State of Israel coerced by punitive amendments in the Senate.

Mr. President, I yield back to the managers of the bill the remainder of my time.

Mr. CHURCH. I thank the Senator from Maryland. I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, there has been talk today of a misguided attempt to cut funds intended for the use of Israel. Israel is supposed to be punished for her West Bank settlements, which are contrary to U.S. policy—but, how does it help the prospects for peace in the Middle East if we deny Israel money for very legitimate needs we have long recognized as essential to Israeli security?

The fact of the matter is that none of the funds in this bill are used illegally by Israel for settlements. No U.S. funds at all are used directly or indirectly for the establishment of settlements in the occupied territory. Every year in each annual assistance agreement, it is stated that no American economic assistance may be used outside the pre-1967 borders. Israel has scrupulously abided by the convenants. An amendment concerning this issue is totally unnecessary since our long-time ally is already bound by solemn bilateral agreements with the full force and effect of law.

COUNTER-PRODUCTIVE TO TALKS

But, in addition to being unnecessary, this amendment—as a signal to Israel and the whole international community—would be most detrimental to the present Mideast negotiations, the peace negotiations, soon to resume here in Washington, are hampered by enough problems without our adding gratuitously to them. Resolution of the settlements issue is not a legislative matter for the Congress to decide without participation of the affected parties. Instead, it is a matter to be resolved in conjunction with the negotiations as a whole, within the context of the deliberations on the future status of the West bank and Gaza, and in keeping with the previous agreements such as at Camp David.

Tying aid to the settlements issue and unreasonably cutting funds designated for other purposes would be a dangerous precedent with far-reaching ramifications. It could well cause added strain for Egypt as well as Israel and further erode Israeli confidence in the consistency and dependability of U.S. policy, which has been at a new low ever since the U.N. vote against Israel that Jimmy Carter was forced to repudiate just before the New York primary.

The United States must remain sensitive to an essential fact about mideastern politics. Israel's security ultimately rests with the United States. Israeli ability to negotiate compromises depends on a clear understanding of American support for her security. When that understanding is threatened, we can no longer expect progress in the negotiations. We are the wall against which Israel places it back. We cannot deny them access to our support. This is not an issue of signals or punishments, but one of life or death.

Mr. President, I think the issue has been well drawn. I do not quarrel particularly with anyone who has spoken on either side.

I agree with the eloquent statements of the distinguished Senator from Oregon.

I think it is well to restate and reemphasize what the Senator from Maryland just stated, that none of the funds in this bill are used illegally for Israel for settlements. No U.S. funds at all are directly or indirectly used for the establishment of settlements in the occupied territories. That has been a matter of record and has been gone over adequately.

But I think there is also merit to the statement just made by the Senator from Maryland with reference to sending a signal, whether we can do by some act of legislation what hopefully could be negotiated.

I would hope that we could build on the Camp David accords. I said at the time I commended President Carter for his efforts, his tireless efforts, that I really believe and sincerely believe that there are men of good will involved in negotiations. Those negotiations are going to resume in Washington.

It is not a legislative matter for the Congress to decide without participation of the affected parties. It has been a matter that has been pending for many, many years, as the Senator from Oregon pointed out in his statement.

It is matter which maybe could be resolved in conjunction with the negotiations as a whole, within the context of the deliberations on the future status of the West Bank and Gaza and in keeping with the previous agreements such as at Camp David.

I am in opposition to the amendment.

Mr. CHURCH. If the proponent of the amendment wants to use part or all of the time reserved to him to reply to the arguments made against the amendment, I will then have concluding remarks to present before making a motion to table, and the Senator from New York would like to share in those concluding remarks.

Mr. STEVENSON. Mr. President, if the distinguished managers of the bill are warming up to make a motion to lay this amendment on the table, I would appreciate an opportunity to say a few words in response to those which have been said by others.

I have heard these words before, Mr. President. I have heard them for 10 years now, or almost 10 years, in the U.S. Senate. The time is never right. It is always argued that such a measure as I propose—and it is a very modest one—would upset some delicate negotiations, or it would encourage more stubborness. It is never the right time. Those arguments never prevail for other countries. They did not prevail with respect to Turkey and an embargo against that country when it used American arms in contravention of the terms on which it accepted those arms.

I daresay that these arguments, that are always made with respect to Israel, will go on prevailing. The violence will continue. American authority in the world will continue its decline. The inflation in Israel, which has been cited, will continue. The insecurity of Israel will go on mounting until the American people are finally made to understand that the United States is subsidizing the defiance of its own interests and Israel's interests in the Middle East.

Mr. Begin says, "Defy the U.S. Government," according to Golda Meir, "and it will go along." So he defies the United States and the United States goes along.

Mr. President, I have not heard today a defense of the settlements policy of Mr. Begin and his government. It is a policy which, undeniably, contravenes our own. It contravenes the unanimous judgment of the Security Council. It is an obstacle, to quote Secretary Vance among many others, to peace. Yet Congress goes along.

I have heard cries for peace in Israel, courageous voices pleading with the United States—not for money, but for more wisdom. I am not suggesting coercion. I am not suggesting punishment. I am suggesting that we make it very clear that we in the United States will no longer let ourselves be coerced.

One member of the Knessett says, "And to Americans, I say, don't help the extremists in Israel. Don't say everything our government does is right. It is not right. It will actually stop the Bible. Use the vote to give us wisdom."

According to polls, a majority of Israelis are opposed to this policy. Sometimes it is implied in these debates that those who suggest some restraint and, as they see it, some determination to represent U.S. interests in the world, are anti-Semitic. Most Israelis, judging from polls and comments, including the comments of many leaders such as Abba Eban, Mr. Rabin, Shimon Perez, oppose this policy. American Jews oppose it. Sixty-two prominent American Jews, in a telegram to Menachim Begin, said:

> A policy which requires the expropriation of Arab land unrelated to Israel's security needs and which presumes to occupy permanently a region populated by over 750,000 Palestinian Arabs we find morally unacceptable and perilous for the democratic character of the Jewish State.

I could go on. A chief of state in Europe, Bruno Kreisky, a Jew, says:

> The people who dream of a greater Israel forget that no single state with protectorates has ever stayed intact. Look at Austria or the British Empire, the Reich. An Israeli State with a million Arab inhabitants carries an explosive charge. Only people with a fascist mentality are unable to see this.

Mr. President, this amendment is intended to help Israel. It is not an unfriendly amendment. It is not a punishment for Israel.

It has been said that I will send the wrong message. We never send a message. And it is not recognized that my message is to the American people.

I think it is time that the American people were made to understand what it is that we are doing. The hour is very late. We have been very patient, as the Senator from New York said, patient since the fifties. Back in the fifties, the United States did not permit its policies to be dictated by client states. It represented its own interests.

The hour is very late. The radicals on both sides have enlarged their influence in the Middle East. The Russian influence is enlarged by their dependence on that country. And, Mr. President, we have patience. The Congress goes along.

My message is to the American people. I remind them, as I do my colleagues, that almost half of the total security assistance in this bill for the world is destined for less than one-tenth of 1 percent of the world's people.

It is said that we neglect the offenses of the Arabs or the Palestinians. We do not. There is no money in this bill for the Palestinians. If there were, I would oppose it. This money, almost half of what is destined for the world, is for the benefit of less than one-tenth of 1 percent of the world's people. Those people are led, at the moment, by a government which repeatedly, sometimes insultingly, defies American policy, American interests, the opinion of the world, and the process which, with some cooperation, could produce a settlement in that vital and very unstable region.

These facts and those figures cannot be argued with. They raise very large questions about the objectivity, not of me, but of our Government. Those questions, I think, we should begin to debate and to debate with the American people. What I am suggesting here is a very modest proposal that suggests that the United States signal to the world that we will now begin to represent our interests and its interests in the Middle East. It does not cut funds for Israel. It does not punish Israel. It simply says that economic assistance will be reduced by $150 million until such time as Israel brings its policy with respect to settlements into line with our own and into line, also, with our hopes and Israel's for peace in that region. That $150 million is a very conservative estimate of what will be spent, what is spent annually, by the Israeli Government to implement this policy.

It is said it is a bad time, a wrong time. That is what is always said, Mr. President.

I submit to my friends and colleagues that this is a very good time, a very good time albeit the hour is late, to signify that we will not be punished, that we will not accept coercion, and that we will begin to represent not only our interests but Israel's interests, interests recognized by a majority of Israelis, and move this slow, halting, painful and dangerous process, at last, toward a settlement.

That is all, Mr. President. I am not cutting off assistance. I am not punishing. I am suggesting we represent our interests. I am suggesting that those interests are consistent, they are in common with the interests of Israel, and that it is long past time that we represent, as we once did some 30 years ago, in the 1950's, our interests in the world.

If we did that, we would begin to reestablish some of our authority in this violent, interdependent world in which, unhappily, our authority is declining rapidly, for reasons which are very much connected to this debate.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. How much time remains for the opposition?

The PRESIDING OFFICER. Fifteen minutes.

Mr. CHURCH. I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I think the real answer to the argument which was just made in response to mine is that this policy has already produced results.

It has already produced peace between Israel and Egypt. It has already produced what will be the almost complete surrender of the Sinai, including villages—not called settlements there, but villages—which are tantamount to settlements on the West Bank.

While the situation is very different physically, we have a desert on the west, we have very settled areas a step across the borders, the border is indistinguishable—I have been there many times, so have many others—from the West Bank, posing a mutual threat to Israel, in really unfriendly hands, which is clearly promised by the situation we face there now.

So, Mr. President, that policy which we are pursuing, and which those of us who have spoken counsel continue to pursue, has produced results.

This proposed alternative, whittling down on money, would only produce an attitude of being cornered and invoke every fiber of resistance, that after all of the assurances that coercion could not be used, here it is, not only being used, but being used precipitately and in its most naked form.

Mr. President, I believe that we are counseling the right policy. The remarkable historical analysis made by Senator PACKWOOD is of tremendous use to everyone for putting in focus exactly what is at stake. The fact that the West Bank is, to use a diplomatic word "anybody's land." The idea of the United States as stated by Vance that we consider the settlements "illegal," is based on a treaty regarding occupied areas, which [treaty] holds that occupied areas should not be settled in a permanent way. There is a lot of argument about all those definitions. Certainly, it does not equate with what we would call an open-and-shut case of international violation, from the point of view of peace in the world.

Finally, Mr. President, Senator STEVENSON'S remarks, I think, give themselves away when he explains what he wants. He says, "But the settlement policy of Mr. Begin is inconsistent with the autonomy talks, and the only basis for an overall settlement in the Middle East, namely,"—and here it goes—"the exchange of occupied territories for international recognition and guarantees of Israeli sovereignty."

Mr. President, I doubt very much there are very many Americans who believe there are any guarantees that we can give of Israeli sovereignty, once there is international recognition of the exchange of the occupied territory.

If Israel is then attacked, Israel will lead the counterattack. We will have to defend her, and we better be able to do it, or the one enclave of peace in the area will be destroyed and the rest of the Middle East will go with it.

There is only one great benefit that the Soviet Union can get in the Middle East which will put in firmly into those hands, with everything it contains, and that is chaos. That is exactly what we would be inviting if we do not pursue the policy which we are pursuing now and which is the wise policy.

We can try something else any day we want to. But this would, indeed, be very unwise considering where we stand today, and, I hasten to add, the results which we have already achieved.

Mr. President, for those reasons, I hope very much that when the tabling motion comes, the amendment will be tabled.

Mr. CHURCH. Mr. President, I oppose the amendment offered by the able Senator from Illinois for many reasons, but, time being short, I would like to conclude this argument on a very narrow ground.

First of all, let me make it plain that I do not endorse the settlements policy of the Begin government.

I also acknowledge that there is a very lively debate in Israel itself with respect to the wisdom of that policy.

But I strongly believe that it is incumbent upon us to support the policy of the American Government with respect to the principles embodied in the Camp David accords.

Who can deny that President Carter succeeded in achieving a diplomatic breakthrough of historic magnitude at

Camp David? The Camp David accords were premised upon a recognition shared by the three governments, the United States, Israel, and Egypt, that peace could come to this troubled region in incremental stages.

First of all, peace was to be established between Israel and Egypt, and that was to precede any agreement on the West Bank. Because peace was possible only if the three governments could come to terms with respect to peace between Israel and Egypt. The strategy was then to build upon that peace through subsequent negotiations addressed to still unresolved issues concerning the West Bank. Those negotiations have started, and one of the issues to be settled in those negotiations has to do with settlements.

Everyone party to the Camp David accords recognized the extreme difficulty of the negotiations pertaining to the West Bank, and we should not be surprised that the remaining issues have not been resolved. However, the chances for a successful conclusion of these negotiations depends upon a strict adherence on our part to the principles that underlie American policy in the Middle East.

For American policy rests on three pillars: U.N. Resolution 242, U.N. Resolution 338, and the Camp David accords. If we start straying away from that policy, we begin, by our own action, to undermine the chances for a successful negotiation on the West Bank and other issues.

Mr. President, the worst thing we can do is to attempt to coerce Israel into conforming its own policy with ours by threatening to withhold money. All one needs to do is to reverse the position of our two countries and imagine ourselves in the position of Israel.

What do you think our response would be if we were told by a great superpower that if we did not change our policy with respect to a matter that we felt was vital to our future security, it would be at the cost of $150 million should we fail to do so? We would be so incensed that we would simply redouble our determination to persist in our policy.

If this amendment is adopted, it will only weaken the confidence of Israel in the United States, a confidence that is necessary if Israel is to feel secure in assuming unknown risks for the cause of peace. It is plainly wrong to coerce them by withholding money in a matter that they believe vitally affects the future security and survival of the State of Israel. It cannot be done. It will not work. It is self-defeating. It runs contrary to every strain in human nature. And it is bad policy. That is the reason why I oppose this amendment.

I want to see the negotiations on the West Bank succeed. I know that the Israelis are in a position where they must contemplate giving up territory for the intangible products of peace. That is why it is so important for Israel to have secure and defensible borders. If we judge Israel to be so security conscious, it is only because they know from past experience that international guarantees are meaningless once the armies begin to roll. In the end, they will have only themselves to depend upon for their defense and their survival.

So, if we really want to secure peace in the Middle East, I say follow the good advice of the able Senator from New York: Stick with the formula that is advancing peace, the only one that has achieved peace between Israel and Egypt. Stay within that formula, and let the United States continue to give its good offices to both sides, to attempt to mediate in ways acceptable to both sides, to help both sides resolve the issues relating to the West Bank, but do not put a gun to the head of the Israeli Government and say, "Do this or do that—despite the fact that it is related to your security—or we will withhold money," because that is a most certain way to make sure that the Israeli Government will lose its trust in the United States as the honest broker willing to mediate but also committed to the security of Israel.

On that basis, Mr. President, I move to table the amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). The time of the opponents of the amendment has expired.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays.

Mr. CHURCH. Mr. President, I yield back the remainder of my time, if any remains.

Mr. STEVENSON. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Illinois yield back his time?

Mr. STEVENSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. STEVENSON. I withhold yielding back my time.

Mr. President, I agree basically with the distinguished chairman of the Foreign Relations Committee. We should stick with the formula, as he suggests. We should not stick with the defiance of that formula by the Government of Israel.

I do not suggest coercion. I do not suggest punishment. I do not suggest pushing them into a corner. I do suggest, as my good friends have, that the Israelis can make their choices. That is their sovereign right. All I do suggest is that they not be permitted to make the choices of the United States. That is our sovereign right.

● Mr. LEVIN. Mr. President, the amendment offered by the Senator from Illinois could not come at a worse time, in terms of our paramount objective of achieving a lasting peace in the Middle East. The Camp David process, which has resulted in the unprecedented accomplishment of a peace treaty between Israel and Egypt, and which points to a larger agreement involving other parties, is being besieged from many directions. The step proposed by this amendment, which represents both a symbolic slap and a loss of needed foreign assistance for Israel, will hardly be conducive to Israel's future cooperation with the Camp David process, nor does it show any sensitivity to the security risks and financial strains which she has already undertaken in the interests of peace.

The issue here is not whether we support or oppose the settlements policy of the current Israeli Government. The issue is whether the United States will be able to serve as a moderator, respected and trusted by both sides, who will pursue impartial efforts to achieve a negotiated peace settlement. If we hope to carry out, which has proven fruitful thus far, then this action could not be more ill-timed, and I hope the Senate will table this amendment.●

The PRESIDING OFFICER. Does the Senator from Illinois yield time?

Mr. CHURCH. I have yielded back my time. In fact, I think my time has expired.

Mr. STEVENSON. I yield back the remainder of my time.

Mr. CHURCH. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from Illinois. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring still to vote? The Chair sees none.

The result was announced—yeas 85, nays 7, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—85

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell

Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—7

Bellmon
Byrd, Robert C.
Hatfield
Helms
McClure
Stevenson
Young

NOT VOTING—8

Bradley
Chafee
Goldwater
Gravel
Kassebaum
Kennedy
McGovern
Moynihan

So the motion to lay on the table Mr. STEVENSON's amendment No. 1895 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I would just like to make it clear that my vote on the amendment which was just rejected does not indicate in any sense support for the settlements policy carried out by the Begin government.

I had a meeting with a member of the Israeli Embassy last week, and I have made it clear back home. I just do not want my vote on this issue to in any way reflect support for that policy.

Mr. President, I ask unanimous consent that an article that appeared in today's Washington Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JACKSON HITS "INTRANSIGENT" BEGIN POLICY

(By John P. Wallach)

Sen. Henry Jackson, D-Wash., one of Israel's friends in the Senate, has called on Prime Minister Menachem Begin to abandon his "intransigent position" on West Bank settlements because "it is not politically sound and people in this country resent it."

It was the first time that the chairman of the Senate Armed Services Committee has so bluntly criticized Begin's policy of increasing the number of Israeli settlements on the West Bank.

"Mr. Begin is a very bright lawyer," Jackson said in an interview. "If you go back to the British mandate," the occupied West Bank never belonged to Jordan under international law, Jackson said. "It was a Class B mandate under the Treaty of Versailles. Legally speaking, anyone can go into that area and settle."

But Jackson warned that "as a practical matter, the worst thing that can happen is pushing these settlements when you're trying to reach an accord" over Palestinian autonomy.

"Clearly Mr. Begin, as far as his standing in the United States is concerned, has been hurt by coming on the tube and taking an intransigent position on settlements. What I'm saying here I've told Begin: although juridically he's right, it is not politically sound and people in this country resent it."

Jackson said that "by constantly emphasizing the settlements," Begin inadvertently may be undercutting support for Israel's security among the American people.

"He is not discussing the right issue," Jackson said. The senator said the right question should be "pinpointed to the question of defensible borders. We should focus on this fundamental question.

"If he (Begin) would get on the tube and point to the map and say, 'Look, folks, the issue is this: Can my country survive if we grant independence to the PLO, which is working hand-in-glove with the Russians?" Jackson said, Israel would then have virtually unquestioned support.

Jackson said that "there's no way the state of Israel can survive unless there is an arrangement by which they can defend that area (the West Bank). If you go back to the situation prior to 1967, all of Israel was within artillery range.

"That means that the West Bank can be turned over, making it into an autonomous state, except for matters of foreign policy and matters of national security policy.

"It is regrettable," Jackson added, "that that issue has been clouded over by the issue of settlements."

Jackson said he agreed wholeheartedly with Israel's condemnation of the European Economic Community's declaration Friday calling for the PLO to be "associated" with the peace process. "That's just subtle blackmail, subtle blackmail: O-I-L," Jackson spelled out.

He added that Begin is "absolutely right" to reject Western European offers to guarantee Israel's security. "Very properly, the Israelis say, Look, let us just have the means of defending ourselves. We're not asking for that outside guarantee."

"What the Israelis are saying is that 'we've seen a lot of agreements come and go, but we have confidence in our long history and our ability to stay the course. We question whether the allies and the West have that protracted ability to stay the course.'

"I would agree with the Israelis on that," Jackson said.

Asked what he thought of Begin's refusal thus far to turn over authority in several key areas, including land and water rights, to the Palestinians, Jackson said: "That's where I would disagree. Let the Arabs on the West Bank have a full government short of national security requirements and foreign policy. I think it's the best solution."

He added that creation of an independent Palestinian state would be the worst of all possible worlds for both Israel and the United States.

He said that such a state undoubtedly would be run by PLO officials who, "in effect, are Russian agents. Immediately after they get independence, they could turn around and enter into an alliance with the Russians and the state of Israel comes to an end."

The PRESIDING OFFICER. The Senator from Indiana.

UP AMENDMENT NO. 1170

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 1170.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert:

Notwithstanding any other provision of law (including any treaty or other international agreement to which the United States is a party), with respect to the government of any foreign country or any instrumentality thereof determined by the President 1) not to be cooperating with the United States in its diplomatic or economic initiatives to terminate the unlawful actions of the government of Iran (including, but not limited to, the unlawful actions of citizens of Iran undertaken with the consent of its government) that violate international law and practice with respect to United States citizens who are assigned within Iran as personnel of a United States diplomatic mission; or 2) not to be cooperating with the United States in its diplomatic, economic or other initiatives in furtherance of United Nations General Assembly Resolution ES–6/2 of 15 January 1980, the provisions of 50 U.S.C. 1702 (a)1(B) may apply.

Whereas, the Congress asserts that the Soviet invasion of Afghanistan and the seizure of Americans in Iran are fundamentally inconsistent with international law and represent basic challenges to the freedom of all nations of the world;

Whereas, the Congerss affirms its support for efforts to secure the withdrawal of the Soviet Union from Afghanistan and the release of the United States citizens held hostage in Iran;

Whereas, the Congress is deeply concerned about the effectiveness of responses thus far to meet these common dangers;

Therefore, be it resolved that the formulation of effective and concerted actions to resolve these grave threats to international peace and justice should be of the highest priority at the Venice Summit;

And be it further resolved that it is the expectation of the Congress that the results of the discussions in the forthcoming Venice Summit and other meetings involving allies of the United States will produce a renewed and strengthened international effort to bring an early end to the common dangers referred to in this resolution.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

The PRESIDING OFFICER. The Senate will be in order. Senators and staff will cease conversation. The Senate will be in order.

Senators wishing to carry on conversation will retire to the cloakroom. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator agree to a time limitation of 5 minutes on this amendment?

Mr. BAYH. Yes.

Mr. ROBERT C. BYRD. Mr. President, would that be agreeable with the manager of the bill?

Mr. CHURCH. Mr. President, it is agreeable.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, the amendment I am now offering would clarify the extent to which the President of the United States can utilize his powers under the International Emergency Economic Powers Act to authorize him to impose trade penalties against nations which, in his judgment, are not cooperating with U.S. efforts to bring to an end two situations for which he has issued emergency declarations.

The record of international support for U.S. sanctions efforts against both Iran and the Soviet Union has not been one of untarnished success. Clearly, the nations of the world would like to have it both ways in terms of continued access to the lucrative American market and, where profitable and necessary, in their view, continue or expand trade relations with Iran and the Soviet Union. Of course, such behavior does not do much in terms of making certain our sanctions stick. Nor is it entirely clear that the President has the authority to extend his authorities against particular countries at this time who are undermining the effect of U.S. efforts. The amendment I am offering would make such authority clear with respect to the hostage crisis in Iran and the Soviet invasion of Afghanistan.

The grant of authority which this amendment specifies addresses a concern that I have about the wisdom of doing business as usual with nations who do business as usual with the Soviet Union and Iran during a time that both are engaged in acts of international lawlessness. Admittedly, it is difficult for the United States to expect everyone else in the world to see crises involving our vital interests as matters which they should view with equal gravity. In some instances, the whole concept of sanctions when applied against Iran has been questioned. At the same time, a truly effective sanctions effort cannot succeed if it is actively or otherwise undermined.

But there should be no doubt that the impact of halting certain technologies to the Soviet Union can hamper economic growth. The grain embargo appears to have had an impact despite the ability of the U.S.S.R. to make up a portion of shortfall caused by the partial grain embargo. Even in Iran, President Bani-Sadr has indicated that the U.S.-led sanctions efforts are having an effect according to press reports. At the same time, I have to wonder how much heavier a price both the Soviet Union and Iran might be paying if a more concerted effort were forthcoming.

It therefore appears to this Senator that a more vigorous sanctions effort is needed in both cases. The problem which my colleagues may find with this amendment is whether it will accomplish that or put the United States in the position of abrogating certain of our international trade commitments if, in our view, other nations are not living up to their international security commitments in terms of the U.N. Charter and recent votes in the United Nations. Were I truly convinced that such a situation would necessarily arise as the result of the adoption of this amendment, I would not offer it. It simply defies certain logic that nations which enjoy 3 to 10 times the trade volume with the United States more than with the Soviet Union would jeopardize those relations if they were truly convinced that the price of continuing those relations was a significant cut back or freeze on economic relations with Iran and the Soviet Union. Perhaps this amendment is a "blunt instrument," however, the situations in Iran and Afghanistan pose a fundamental threat to the peace and a real challenge to the freedom of all nations.

At the same time, I recognize the timing of this amendment might trouble some in terms of it coming shortly before the President departs for the Venice Summit, a summit which in the wake of the outcome of the Naples meeting of the European Community I did not really think the President should attend. But since he is going, it might be appropriate to at least provide a statement of congressional concern over our sanctions efforts and urge that this issue be raised. It is my principal concern, however, that the authority to utilize the economic weight of the United States to encourage compliance with our economic sanctions directed against the Soviet Union and Iran is one the President should have or we should know he has.

Passage of this amendment should send a message not only to our allies upon whom we share mutual commitment to security and economic progress, but to other nations who profess belief in the cause of international peace and the rule of international law, that we are capable of utilizing all peaceful means to secure resolutions of both of these crises, and we expect the assistance of the international community to this end.

Mr. CHURCH. Mr. President, I would hope that the Senator from Indiana would not press this amendment for several reasons.

First of all, if it were adopted, it would amend the International Emergency Economic Powers Act. I do not believe that at this time we should amend this act without the benefit of hearings and committee deliberation.

Furthermore, a cursory examination of the amendment suggests to me that it is unnecessary, since it appears to fall within the purview of the existing law; that is to say, the President, in appropriate cases, already has the authority to act to meet the purposes of this amendment in instances where such action may be necessary.

Furthermore, the President is about to attend a summit meeting in Venice, the purpose of which is to confer with our allies in the hope of obtaining more effective cooperation with respect to the situations in Iran and Afghanistan.

For these reasons, I would think that the amendment is not only unnecessary, but also untimely, coming as it does immediately before the summit in Venice.

For those reasons, Mr. President, I would propose a substitute in place of the amendment offered by Senator BAYH.

The substitute is a sense of the Congress resolution and would read as follows:

Whereas, the Congress asserts that the Soviet invasion of Afghanistan and the seizure of Americans in Iran are fundamentally inconsistent with international law and represent basic challenges to the freedom of all nations of the world;

Whereas, the Congress affirms its support for efforts to secure the withdrawal of the Soviet Union from Afghanistan and the release of Americans held hostage in Iran;

Whereas, the Congress is deeply concerned about the effectiveness of responses thus far to meet these common dangers;

Therefore, be it resolved that the formulation of effective and concerted actions to resolve these grave threats to international peace and justice should be of the highest priority at the Venice Summit;

And be it further resolved that the Congress requests the President to report to the President of the Senate and the Speaker of the House by August 1, 1980 on these deliberations.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senator from New York may have 2 minutes.

Mr. BAYH. Mr. President, may the Senator from Indiana also have 2 minutes?

Mr. CHURCH. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, I would like to associate myself to the objection to the original amendment that it is much too broad. We should not give such power to a President automatically, which is what that resolution does. Notwithstanding my deep agreement with the reason that prompted it, I think would be very unwise.

I would like to associate myself with the substitute and be joined as a cosponsor.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, with all due respect, I disagree with my two colleagues relative to the merits of the amendment proposed by the Senator from Indiana, which basically says that if we are going to draw the line with the Iranians and the Russians, we are going to give the President the tools he needs to persuade friend and foe alike to join in a united effort.

However, I am persuaded, with the Senator from Idaho pointing out the timeliness of the Presidential mission to Venice, that perhaps it would be better to wait and see if the new Secretary of State, working with the President, could accomplish what the Senator from Indiana and I think all of us want to accomplish.

With that in mind, I am willing to accept the alternative substitute of the Senator from Idaho.

Mr. CHURCH. Mr. President, I thank the Senator very much for his generosity.

UP AMENDMENT NO. 1171

Mr. CHURCH. Mr. President, I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Idaho that the amendment is not in order until such time as the time of the first amendment has expired.

Will the Senators yield back their time?

Mr. CHURCH. I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 1171.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, inasmuch as I have read the full text of the substitute to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new title at the end of the bill:

TITLE VII

Whereas, the Congress asserts that the Soviet invasion of Afghanistan and the seizure of Americans in Iran are fundamentally inconsistent with international law and represent basic challenges to the freedom of all nations of the world;

Whereas, the Congress affirms its support for efforts to secure the withdrawal of the Soviet Union from Afghanistan and the release of Americans held hostage in Iran;

Whereas, the Congress is deeply concerned about the effectiveness of responses thus far to meet these common dangers;

Therefore, be it resolved that the formulation of effective and concerted actions to resolve these grave threats to international peace and justice should be of the highest priority at the Venice Summit;

And be it further resolved that the Congress requests the President to report to the President of the Senate and the Speaker of the House by August 1, 1980 on these deliberations.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment offered by the Senator from Idaho (Mr. CHURCH).

The substitute amendment (UP No. 1171) was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Indiana (Mr. BAYH) as amended.

The amendment (UP No. 1170), as amended, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I take the floor to inquire as to the number of amendments that may remain to be called up and to attempt to secure time agreements thereon and on the bill.

I understand that Mr. BIDEN has an amendment and that he would be willing to agree to a 10-minute time limitation on that amendment.

Mr. BIDEN. Mr. President, I would agree to be limited to a 5-minute time limitation, equally divided on the amendment.

Mr. ROBERT C. BYRD. Mr. President, I make that request, that there be 5 minutes, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. HARRY F. BYRD, JR. has two amendments and that he would be agreeable to 30 minutes each.

Mr. BAKER. Mr. President, if the majority leader will yield, would it be possible to try to ascertain whether or not rollcall votes would be expected on the Senator's amendments?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 30 minutes on each of Mr. HARRY F. BYRD's amendments, the time to be equally divided. They deal with money reduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. TSONGAS, if he should call it up, there be 1 hour, equally divided.

Mr. TSONGAS. Thirty minutes.

Mr. ROBERT C. BYRD. Thirty minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. EAGLETON, which is an amendment on the contingency fund, there be a 30-minute time limitation, equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that completes all of the amendments I have here.

Mr. GARN has an amendment. I understand 5 minutes, equally divided, would be agreeable.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I understand that Senator HELMS has five amendments. He is in a conference at the moment. He asked that each of those five amendments be qualified—I think the managers of the bill have copies of the amendments—that there be 30 minutes to be equally divided on each of the five amendments. I think he anticipates rollcall votes on them.

Mr. ROBERT C. BYRD. Mr. President, I make that request, that there be 30 minutes on each of Mr. HELM's five amendments, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, they were shown to us. Based upon what we saw, we are perfectly willing to accept the time limit. Can we depend on that?

Mr. McCLURE. The Senator told me as he was leaving for the conference that he had shown the Senator from New York the amendments he intended to offer. He was willing to enter into the time-limitation agreement if the amendments qualified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator agree to this proposal, that there be 20 minutes on any amendment to an amendment; 10 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that no amendments in the first degree be in order other than the ones which have been enumerated?

Mr. BAKER. Mr. President, reserving the right to object, I cannot agree to that. I do not think there are other amendments, but I am not prepared to agree at this point.

Mr. ROBERT C. BYRD. Then I make the request, Mr. President, that there be 20 minutes on any amendment to an amendment, that there be 10 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Reserving the right to object, I have no problem with the 20 minutes on my amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 20 minutes on an amendment by Mr. JAVITS, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I know of no other amendments than those which have been enumerated. The leadership would hope to complete the bill this evening.

Mr. President, I yield the floor. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT 1172

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. CHILES, proposes an unprinted amendment numbered 1172.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 4, after the period insert the following:

"In establishing and staffing such field offices, the Administrator shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy."

Mr. GARN. Mr. President, this amendment is cosponsored by Senator CHILES, the chairman of the Subcommittee of the Governmental Affairs Committee, which has done such fine work in this general area.

Mr. President, first I would like to compliment the Committee on Foreign Relations for amending the Foreign Assistance Act of 1961 as it pertains to the authority of AID's Auditor General. As I understand it, the committee is recommending that AID's Auditor General and his authorities be placed in pretty much the same footing as other offices of Inspector's General established by the Inspector General Act of 1978. The Inspector General Act of 1978 was a major reform, and I heartily compliment the Foreign Relations Committee for bringing AID's Auditor General into line with this legislation.

Mr. President, the amendment I am offering seeks to further strengthen the committee's recommendations with respect to making the Auditor General more independent. As the committee alludes to in its report, AID has had a very difficult time in establishing needed Auditor General offices overseas. It has become an almost constant battle to even maintain the current regional audit offices, much less reestablishing old ones. Like the Foreign Relations Committee, I have been especially concerned with the lack of a regional Inspector General's office in West Africa and totally agree with the language in the committee's report on this subject.

It has become clear that the State Department, for whatever reasons, simply does not want AID regional offices established. Their main weapon in this fight has been to talk frequently about the MODE ceilings, a concept I totally agree with, but one which I think has been abused in this case. While I strongly support the idea that American presence overseas should be kept down, I do not think that this general policy should be used to keep the Inspector Generals away from their duties.

Mr. President, I sincerely hope the committee will see fit to accept my amendment, which simply excludes the Auditor General's field offices from being bound by the MODE ceilings. I believe it is entirely justified that this activity be so excluded, furthering the objectives not only of the Foreign Relations Committee, but also the Government Operations Committee which has done such fine work in this area. My amendment will notify both the State Department and AID that Congress feels very strongly that these offices are an important part of the AID effort. To quote the report of the committee:

> Frequent and detailed audits of foreign aid programs are an integral part of the AID effort. Any diminution of the effectiveness of the audit and investigative process is not acceptable. . . .

Mr. President, I believe this statement will be acceptable by both the majority and minority managers of the bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order.

The Senator from Idaho.

Mr. CHURCH. Mr. President, on page 60 of the committee report, the following paragraph appears:

> In approving this section, the committee notes that it is concerned about the absence of area inspector general offices in West Africa and about reports that the administration may remove regional audit offices from other locations abroad. Frequent and detailed audits of foreign aid programs are an integral part of the AID effort. Any diminution in the effectiveness of the audit and investigative process is not acceptable to this committee. The committee recommends the reestablishment of a regional inspector general office in West Africa and strongly recommends that other regional offices be maintained.

In the provisions of the bill we do establish an Office of Auditor General with powers comparable to those enjoyed by auditors general in other agencies.

I think the Senator agrees that this is a good step. He would like to make certain that these regional offices are in place. The committee agrees with the objective of the amendment, and on that basis I am prepared to accept the amendment.

Mr. GARN. Mr. President, I appreciate that statement. The Senate Foreign Relations Committee, as the chairman so ably pointed out, did agree with the purpose. I picked this up as a member of the Foreign Aid Appropriations Subcommittee. I felt that it was not proper to establish ceilings on regional offices because it was so important that adequate reporting functions and auditing went on, particularly in West Africa.

I appreciate the chairman's accepting the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable to this side.

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GARN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1172) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1173

(Purpose: To encourage and facilitate public discussion of the issue of hunger)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative Clerk read as follows:

> The Senator from Delaware (Mr. BIDEN), for himself and Mr. PELL, proposes an unprinted amendment numbered 1173.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 22, between lines 11 and 12, insert the following:
>
> WORLD HUNGER
>
> SEC. 312. (a) In order to further the intent of section 103 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall encourage the ongoing work of private voluntary organizations to deal with world hunger problems abroad. To this end the Administrator shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.
>
> (b) As a means of carrying out subsection (a), and to ensure the effectiveness of private voluntary organizations in dealing with world hunger abroad, the Administrator of the Agency for International Development shall provide assistance to private voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

Mr. BIDEN. Mr. President, as we consider S. 2714, the International Security and Development Cooperation Act of 1980, I would like to recall the objectives of the development assistance functions that are authorized in this legislation. Congress has repeatedly stressed the importance of meeting the basic human needs of the poorest majorities in the developing countries. No need could be more basic, nor any right more fundamental, than food.

The current world food situation bears careful watching, Mr. President. Severe grain shortages already threaten the lives of millions in Indochina, Eastern Africa, and select parts of the Indian subcontinent. Between now and the end of this century, Mr. President, aggregate food deficits in the developing countries may well reach 125 million metric tons of cereals—a staggering amount that even North America's plentiful granaries may not be able to meet.

As many of us will recall, this Congress, in a strong bipartisan support for resolving this global problem, urged the President in early 1978 to establish a special commission which would examine the world hunger problem, and outline an American plan of action. In March 1980, the Presidential Commission on World Hunger issued its 251-page report, "Overcoming World Hunger: The Challenge Ahead." Members of the Commission were not always united in their understanding of either the causes or the solutions; but every member of the Presidential Commission shared his or her repugnance at the prevalence of malnutrition and hunger among hundreds of millions of human beings. I cite one passage from the Commission's report in particular:

> Whether one speaks of human rights or basic human needs, the right to food is the most basic of all. Unless that right is fulfilled, the protection of other human rights becomes a mockery for those who must spend all their energy merely to maintain life itself. . . . By concentrating its international efforts on the elimination of hunger, the United States would provide the strongest possible demonstration of its renewed dedication to the cause of human rights.

Mr. President, our esteemed late colleague, Senator Hubert Humphrey, never failed to remind us of the need to raise public awareness about the problems of world hunger, international development, and the importance to the United States of solving these problems. In his remarks today, the distinguished chairman of the Committee on Foreign Relations specifically cited the relationship between the security interests of the United States and the economic and political evolution of the developing nations. This is a relationship, I believe, that is insufficiently understood by the majority of Americans. I am confident, however, that most Americans favor a strong U.S. effort to help alleviate the ravages of hunger and chronic malnutrition.

Among its recommendations, Mr. President, the Presidential Commission on World Hunger urged the Congress to establish an organization to educate and inform the American public about world hunger. The chairman of the Committee on Foreign Relations has correctly insisted on a stringent budget for foreign assistance programs this year, Mr. President, and in that spirit I cannot support the establishment of yet another organization. I do believe, however, that already existing organizations possess the ability to carry out the public education function that was advocated by the Commission. I refer to the private and voluntary organizations that have long had the support of Congress to carry out many of the functions of our foreign assistance programs. These organizations have an excellent track record, working to resolve the problems of hunger and poverty abroad in people-to-people programs. They have been a credit to the best instincts of the American people.

Therefore, Mr. President, I am offering an amendment to the International Security and Development Cooperation Act of 1980, which urges the Administrator of the Agency for International Development to provide assistance to these private organizations in order to engage the American public in discussion about the problems of world hunger, malnutrition and other related development issues. This amendment does not add any funds to S. 2714, nor does it earmark funds for private voluntary organizations.

It is my understanding that the amendment is acceptable to the committee. I believe it has been cleared with Senator JAVITS and Senator CHURCH. Mr. President. I move its adoption.

Mr. CHURCH. Mr. President, the amendment is acceptable to me. It does not add any money to the bill. It serves a worthy purpose.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. BIDEN. I yield.

Mr. JAVITS. I notice in (b), the amendment reads:

> The Administrator for the Agency for International Development shall provide assistance to private voluntary organizations engaged—

And so on. There is no amount. Would the Senator consent to striking the word "shall" and say, "is urged to provide assistance?"

Mr. BIDEN. That is perfectly agreeable. Mr. President, I so move the modification to my amendment.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, it is so ordered.

The amendment, as modified, is as follows:

> On page 22, between lines 11 and 12, insert the following:
>
> WORLD HUNGER
>
> SEC. 312. (a) In order to further the intent of section 103 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall encourage the ongoing work of private voluntary organizations to deal with world hunger problems abroad. To this end the Administrator shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.
>
> (b) As a means of carrying out subsection (a), and to ensure the effectiveness of private voluntary organizations in dealing with world hunger abroad, the Administrator of the Agency for International Development is urged to provide assistance to private voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

Mr. BIDEN. Mr. President, I yield back the remainder of my time.

Mr. CHURCH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment, as modified.

The amendment (UP No. 1173), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1174

(Purpose: To repeal the limitation on certain assistance to and activities in Angola)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1174.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the bottom of page 31, add the following:
>
> REPEAL
>
> SEC. 607. Section 404 of the International Security Assistance and Arms Export Control Act of 1976 is repealed.
>
> On page 32, line 2, strike out "Sec. 607." and insert in lieu thereof "Sec. 608.".

Mr. HELMS. Mr. President, in the haste of events in 1976, Congress severely restricted the ability of the United States to provide military or paramilitary assistance in Angola, should the need arise.

In adding section 404 to the International Security Assistance and Arms Export Control Act of 1976, Congress limited U.S. options in southern Africa, a part of the world that is becoming increasingly important to the United States.

With the tight restrictions of section 404, the so-called Clark amendment (named after former Senator Dick Clark of Iowa, its sponsor), the United States is hamstrung from taking action in Angola in an emergency situation.

More importantly, Cuba, the Soviet Union, East Germany and now, Nicaragua feel that they can continue to send troops into Angola with relative impunity. They feel they can do so because the Clark amendment requires a full-blown congressional debate before the President can take action to counter increased Soviet and Cuban aggression in the area. The act is clear on this point. The President may not aid in any military or paramilitary activity in Angola "unless and until the Congress expressly authorizes such assistance by law enacted after the date of enactment of this section."

Mr. President, this, in effect, means that there must be full committee hearings, a floor debate, and possible conference report before the President can act. The Soviets know this, the Cubans know this, the East Germans know this, and now the Nicaraguans—who have a reported 500 troops there—also know it.

They know that the time delays to critical action caused by the provisions of the Clark amendment impede any President of the United States from taking emergency action.

And, they know that this delay gives them time to present the United States with a fait accompli.

Certainly, they are aware that the presence of the Clark amendment in U.S. law, specifically singling out Angola, has a strong chilling effect on those forces fighting for freedom in Angola today—fredom from the oppression caused by the virtual occupation of their country by Cuba, East Germany, the Soviet Union, and now Nicaragua.

If the President does decide to assist Angolan freedom fighters prior to obtaining congressional approval for this action, he must make a full report to the Congress detailing first the "amounts and categories of assistance which he recommends to be authorized and the identities of the proposed recipients of such assistance; and second, a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement in unclassified form, of the reasons supporting such determination."

Only then can he begin the process of obtaining prior congressional approval for providing assistance to allies in Angola.

Mr. President, there is a fight going on in Angola for the very soul of a nation. On the one side is pitted a group of Angolan patriots, attempting to throw out an occupation force of nations which are, and I use this word carefully, enemies of the United States and of the freedoms we hold dear. How else can one describe the Soviet Union in light of its recent activities in Afghanistan, where the Soviets are reported to be slaughtering people—small children—in the streets in their attempt to conquer yet another country? How else can one describe Cuba, where freedoms are so suppressed that thousands of Cubans leapt at the opportunity to flee Fidel Castro's island "paradise?"

How else can one describe East Germany? Or, as we shall see, I fear, in the coming months, Nicaragua?

On the other side of the battle for the soul of Angola are the forces alined with the Soviet Union, with Cuba, with East Germany, and now with Nicaragua. This is a Marxist government.

Why should the Senate of the United States restrict the action that our Nation may take in Angola? Simply to please the governing elite in Luanda? Or because of pique at a former President for carrying out clandestine activities there?

We must give the President some flexibility of action in Angola, especially now, as it becomes more and more obvious that the Soviet-Cuban occupation of that country will continue for an indefinite future.

More importantly, we must give symbolic hope to the freedom fighters of Angola. It is these very same freedom fighters to whom we and the U.N. are turning to secure border areas of Angola with Namibia, so that policing of free elections in Namibia can take place. Why not remove the impediments of the Clark amendment as a sign of hope for freedom in Angola? Why not reward the freedom fighters of UNITA for their good-faith effort to allow free elections in Namibia? Why continue to give aid and comfort to the Marxist government of Angola, which provides safe haven for SWAPO killers, whose sole aim appears to be the total disruption of free elections in Namibia?

Mr. President, reports have come to my attention that even tiny Grenada is preparing to send a contingent of 500 troops to Angola, to join with their comrades from East Germany, the Soviet Union, Nicaragua, and Cuba.

Yet the United States is hamstrung from taking emergency action there by the Clark amendment. Tiny Grenada sends troops with impunity. The United States sits by and watches. The Marxist juggernaut rolls over freedom in yet another country. And solidarity among Marxist forces grows.

Mr. President, Congress has ample ability to restrain any President who abuses his power in sending assistance to Angola—or to any other country for that matter. After all, we control the purse strings. We can demand hearings. We can raise the War Powers Act and similar restraints.

Now is the time for Congress to repeal the Clark amendment. Now is the time for Congress to send a signal to freedom-loving Angolans that the Clark amendment will no longer serve to delay the provision of U.S. assistance, should an emergency arise. And the enemies of freedom will be put on notice that the United States is pulling back from giving them a virtual free ride in their occupation of Angola.

One final point, Mr. President. In addition to section 404, dealing with Angola, there is another section of the International Security Assistance and Arms Export Control Act of 1976 which also deals with Angola. That is section 405. It is instructive to read this section. I shall do so at this point:

SOVIET INTERVENTION IN ANGOLA

SEC. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of détente, as well as with Articles 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.

The Congress does not approve of the continued Soviet intervention in Angola and finds that intervention inconsistent with acceptable standards of international conduct. Nor does Congress condone the continued presence of Cuban troops in Angola, section 405 tells us.

There is great irony here, Mr. President. In one breath, Congress deplores the presence of Soviet influence and Cuban troops in Angola. In the other, we hamstring our Nation's ability to deal with it effectively.

Mr. President, I urge my colleagues to support this amendment.

In the midseventies, in a zealous overreaction to alleged abuses of the use of covert action, the Congress adopted the Hughes-Ryan amendment and the Clark amendment in an attempt to deal with those reported abuses. In its wisdom, the Senate recently repealed Hughes-Ryan by a lopsided vote of 89 to 1. The House vote was equally lopsided.

Now the time has come for us to repeal the Clark amendment as well. Why should Angola be the only nation specifically singled out?

Adoption of the amendment I offer today will be a signal to the Soviet Union that we will not continue to sit idly by while the Soviets run roughshod over freedom in the world. Adoption of this amendment will be symbolic of U.S. willingness to oppose Soviet and Soviet-sponsored aggression.

On the other hand, Senate rejection of this amendment will be interpreted by the Soviet Union as yet another sign that U.S. policy is one of speaking loudly while carrying a small stick—all bluff and bluster, in other words—thereby encouraging the Soviets to take a more adventurous course of action.

Mr. President, we must not allow the Soviet Union, their Cuban and East German surrogates, or their new allies from Nicaragua and Grenada the comfort of retaining the Clark amendment as law of the United States.

There is a new mood abroad in this country, Mr. President. I am sure that my colleagues who are out campaigning have sensed this mood. I know that I have, in my travels around the country.

That mood, that spirit, is a reawakening to the dangers posed to America's freedoms by the Soviet Union, their Cuban surrogates, and other Marxist totalitarian regimes.

Americans are becoming aware once again that the freedoms we enjoy are luxuries that must be protected from all assaults. They are becoming more aware of the totalitarian nature of the Soviet Union. On television every night, they see how the Soviets have dealt with freedom in Afghanistan.

That mood is translating itself into what some pundits have termed a rightward shift in the American electorate. I do not know if that is the case or not. But I do know that the American people no longer will sit idly by while the Soviets whittle away at the edges of the West. They want us to show determination in the fact of the onslaught of Marxism.

Repeal of the Clark amendment is just that type of action.

Mr. President, in sum and substance. I am saying let us untie the hands of the President of the United States as to Angola. That is the purpose of this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, this is a very important issue, because I think the issue is not simply the worth of the amendment; I think it is more important than that. It speaks to the issue of what the United States intends vis-a-vis the present government in Angola.

The history of the Angolan liberation struggle is very long and I shall not take the time of my colleagues to go into it. Simply let me say that we have gone through a very difficult period.

The United States has not recognized the government of Angola. There are, I think, three countries—ourselves, China, and Senegal—that do not. Every other country has decided to recognize Angola and Angola has responded by maintaining remarkably good relations, not with the U.S. Government but, in fact, with the U.S. free enterprise system.

I call the attention of my colleagues to a conference that was held 3 days ago at the John F. Kennedy Library in Boston, where the African-American Institute and I sponsored a conference of the former Portuguese-speaking colonies of Angola, Mozambique, Cape Verde, Sao-tomé and Principe, and Guinea-Bissau with American businessmen. The conference included Americans from General Motors, from Gulf Oil, from a range of U.S. companies.

I ask unanimous consent that a copy of the participants of that conference be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CONFERENCE PARTICIPANTS

(As of June 11, 1980)

Raymond T. Adams, Manager, Foreign Development, Superior Farming Company.

David Anable, Overseas News Editor, Christian Science Monitor.

Clarence Avant, Chairman, Maytor Petroleum Company.

Frederick W. Bantz, Manager, Administration—African Region, General Motors Overseas Distribution Corporation.

Hon. Ms. Arcilia Barreto, Adjunct Director-General, The Cumere Complex, Guinea-Bissau.

Hon. Helder Barros, Charge d'Affaires to the United Nations, Sao Tome and Principe.

Hon. Dr. Humerto Bettencourt, General Director, Ministry of Fisheries, Cape Verde.

Martin J. Bogdanovich, Vice President Procurement Production, and Development, Star-Kist Foods, Inc.

Goler T. Butcher, Assistant Administrator, Bureau for Africa, Agency for International Development, U.S. Department of State.

Hon. Alfredo Cabral, First Secretary, Guinea-Bissau Delegation to the United Nations.

Elizabeth Caine, Manager, International Operations, Kaiser Engineers, Inc.

Donald C. Campbell, Manager, Marketing and Geographic Research, Corporate Marketing, Bechtel International Services, Inc.

William D. Carmichael, Head, International Division, Middle East and Africa, The Ford Foundation.

Walter C. Carrington, Executive Vice President, African-American Institute.

Johnnie Carson, Staff Director, Subcommittee on Africa, U.S. House of Representatives.

Chris Chamberlin, Legislative Assistant, Office of Senator Paul E. Tsongas.

William M. Chapman, Government Relations Representative, Chevron Overseas Petroleum, Inc.

Eneias Comiche, President, Bank of Popular Development, Mozambique.

Stoney Cooks, Vice President, Young Ideas, Inc.

Hon. Jose Victor De Carvalho, Governor, Bank of Angola.

H. E. Elisio De Figueriedo, Ambassador to the United Nations, Angola.

Agueda De Sousa, Executive Director, Coal and Hydro-Carbons, Mozambique.

Peter J. De Vos, Deputy Director, Office of Southern African Affairs, U.S. Department of State.

Jerry Dunfey, Vice President, Dunfey Hotels.

William D. Dunfey, President, Dunfey Hotels.

William W. Durney, Director, Mampeza Industrial, S.A.R.L., Angola; President, Oceans of the World, Inc.; Chairman, Carnation Seafood.

Hon. Donald B. Easum, President, African-American Institute.

Preston P. Eddy, Vice President, Bechtel International Services, Inc.

H. E. Gil Fernandes, Ambassador to the United Nations, Guinea-Bissau.

Dr. Luiz Corvallho Fernandes, Attorney, Portugal.

Hon. Dr. Virgilio Fernandes, General Director, Ministry of Planning, Cape Verde.

Frank E. Ferrari, Senior Vice President, African-American Institute.

J. Wayne Fredericks, Executive Director, International Governmental Affairs, Ford Motor Company.

Edward J. Frey, International Finance Manager, Johnson & Johnson International.

Gary Gipson, Assistant Manager, Africa Desk, Citibank, N.A.

Palmiro Gligo, Vice President, Procurement and International Operations, Star-Kist Foods, Inc.

Herbert E. Hansen, Vice President Government Agreements, International, Gulf Oil Corp.

Ken Guscott, Ken Guscott Associates. Exploration & Production Co.

Brian C. McK. Henderson, Vice President, The Chase Manhattan Bank, N.A.

Bruce F. Henderson, Senior Vice President, International Division, Manufacturers Hanover Trust Company.

Lewis Hoffacker, Consultant, International Affairs, Shell Oil Company.

Julius H. Hollis, Assistant Senior Vice President for International Relations & Market Development, Export-Import Bank.

Leonard M. Holzworth, Manager of Customer Requirements, Africa, Lockheed Aircraft Service Co.

E. A. Japngie, Director, International Marketing Services, Ingersoll-Rand Company.

Dan A. Klingenberg, Vice President, The Chase Manhattan Bank, N.A.

Walter Kolon, International Liaison Officer, Harry Winston, Inc.

E. H. Ladebeck, Assistant General Manager, West Africa, Texaco, Inc.

H. E. Jose Carlos Lobo, Ambassador to the United Nations, Mozambique.

Jose Abrantes Lopes, Director, The National Bank, Guinea-Bissau.

Mario Marques, Manager, Department of Natural Gas, Mozambique.

Hon. Filinto Vaz Martins, Minister of Education, Guinea-Bissau.

Joseph McCann, III, International Investment Adviser, Combustion Engineering, Inc.

Robert S. Mintz, Foreign Affairs Specialist, AMAX Overseas Exploration, Inc.

John L. Moore, Jr., President and Chairman of the Board, Export-Import Bank.

Hon. Richard M. Moose, Assistant Secretary of State for African Affairs, U.S. Department of State.

Thomas H. Moriarty, President, Morcom Systems, Inc.

Karen Nelson, Regional Representative for Southern Africa, Fund for Research and Investment for the Development of Africa (FRIDA).

Hon. Mario Nelson, National Director, Ministry of Planning, Angola.

Edmund F. O'Connor, President, Burns & Roe Industrial Service Corporation.

Hon. Abdul Magid Osman, Secretary of State for Coal and Hydro-Carbon Resources, Mozambique.

Robert Paltauf, Vice President, International Department, Peter Martin Associates.

Yasmin Patel, Director, Cabinet for Research, Mozambique.

Mario Pizarro, Ministry of Finance, Angola.

Filomena Ramalho, Ministry of Finance, Angola.

Hon. Esmeraldo Reif, Consul General in Boston for Cape Verde.

Prudencio Rita, Ministry of Foreign Affairs, Sao Tome and Principe.

Dr. Augustus Rimpel, Vice President, Arthur D. Little, International.

Jon Rotenberg, Vice President for Public Congressional Affairs, Overseas Private Investment Corporation.

Gerald Sanders, Director of International Marketing, Whittaker Corporation.

Dr. Corentino Santos, Governor, Bank of Cape Verde.

Mario Secca, Member of Governing Board, National Bank of Sao Tome and Principe.

Scott O. Seydel, President, Seydel Companies.

J. O. Sheldon, Regional Manager, West Africa, Texaco, Inc.

Charles M. Smith, Manager, Planning—International Gulf Oil Exploration and Production Co.

Crocker Snow, Jr., Publisher, World Paper.

Robert R. Tarter, Vice President, Bankers Trust Company.

William M. Taylor, Vice President, The Hartford National Bank.

Maurice Tempelsman, Leon Tempelsman & Son.

Hon. Paul E. Tsongas (D., Mass.), U.S. Senator.

Cyrus Vance, Jr., Consultant, Skaarup Oil Corporation.

Robert D. Ward, Vice President, First National Bank of Boston.

Roger Wilkins, Writer.

Paul K. Willmott, Assistant to the Chairman, Union Carbide Southern Africa, Inc.

Hon. Andrew J. Young, President, Young Ideas, Inc.

Meryl Zeidenberg, Assistant Treasurer, Equator Bank Limited.

CONFERENCE STAFF

Judith Cadman, Program Assistant, Portuguese-speaking Africa, Division of Education, African-American Institute.

Sonjah Chin, Administrative Assistant to the Senior Vice President.

Gayla Cook, Director, Women and African Development Program, African-American Institute.

Nance Guilmartin, Boston Press Secretary, Office of Senator Paul E. Tsongas.

Anthony J. Hughes, Editor, Africa Report, African-American Institute.

Wilbur Jones, Director of Administration African-American Institute.

Haydee Marcondes, Interpreter.

Lina Meyer, Interpreter.

Loretta Slover, Professor, Portuguese Language, University of Massachusetts.

Mary Helen Thompson, Press Secretary, Office of Senator Paul E. Tsongas.

Mary F. Wortman, Executive Assistant to the President, African-American Institute.

Yolande H. Zahler, Program Officer, Portuguese-speaking Africa, Division of Education. African-American Institute.

Mr. TSONGAS. The issue, Mr. President, is very simple. That is, while we have not decided to recognize Angola, though we have come close to it, in fact, the American business community is actively involved—Boeing, Texaco, Gulf, et cetera—in Angola. If this amendment were to be passed, it would be viewed by the Angolans as an attempt to go back to the bad old days of U.S. intervention. Just last week, after much urging by Senator McGovern and myself and our Government, the Angolans released an American prisoner, George Gause, who had been detained for possession of firearms. That was a gesture on their part, as well as on the part of the attendees at the conference, that they want a more normal relationship with the United States.

The Angolans have also moved to strengthen their relationship with the United States and other countries. They have spent $7 million to build an embassy in Paris, and European businessmen, not hamstrung like those of the United States, are dealing with them. Given its incredible natural resources, not only oil but other resources as well, European businessmen view Angola as a country of great private investment and great economic and investment return potential. So while we may be sitting on our hands, the fact is that the Europeans are going in there in great numbers.

Finally, I say that there is no country that wishes that we would turn our backs on Angola any more than the Soviet Union. The fact is in reaching an accommodation with Namibia, Angola has been very helpful. Indeed, if there is going to be a peaceful solution of the problem in South Africa vis-a-vis Namibia, Angola has to be part and parcel of that particular accommodation.

I think that, eventually, the Angolan Government is going to have to arrive at a rapprochement with Jonah Zavimbi. I think he is a genuine personage in that country who is going to have to be dealt with. It seems to me if we pass this amendment, what we are doing, in effect, is signaling the Angolans at this very touchy time in Southwestern Africa that, rather than moving toward accommodation, rather than moving toward a realistic approach, we are going to go back to the old Kissinger view that intervention in Angola is the answer. There is nobody who would welcome that as much as the Soviets.

The Soviets are having some very serious problems, as I said previously on the floor to my colleagues, in Angola. All they need at this point to repair those fissures would be to have the United States engage in some kind of covert activity. Even though there may be a time when, perhaps, we can look to some change in the law, I do not think this is the time and I hope that my colleagues will take a strong stand against the motion that what we are going to engage in at this point is covert activity in that part of Africa.

Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 9½ minutes remaining. The Senator from North Carolina has 11 minutes.

Mr. TSONGAS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Does the Senator from North Carolina wish to yield his time? Do the Senator from North Carolina and the Senator from Massachusetts yield back their time?

Mr. HELMS. I want to hear the argument of the distinguished Senator from New York before I contemplate that, Mr. President.

Mr. JAVITS. Mr. President, may I have 3 minutes?

Mr. TSONGAS. Yes, I yield 3 minutes.

Mr. JAVITS. Mr. President, I was here when this decision was taken, which resulted in the Clark amendment. It was a very difficult and a very close one for me and for Senator Humphrey and Senator Case. We were the three main people who were involved.

We came to the conclusion, Mr. President, that after the involvement of Vietnam, we might face a situation which was comparable here.

It was so close to the Vietnam experience that we did not feel that we could undertake it.

Mr. President, to undo the ban altogether would, I believe, swing the pendulum much too fast and too far. I believe we still have to contend with Namibia. It will be a great contribution to peace if Namibia can be settled as Zimbabwe has been settled. I gather there is a real chance for that.

I did have a vision the other day in this regard, South African troops with a sweep in what was obviously southern Angola. So I think we ought to take it a little easy, make a move, but take it slower than a complete dissolution of the ban.

Therefore, I believe the substitute which is intended to be proposed, which will substitute the authority of the President for that of the Congress in making a radical change in this policy, in view of the rather ponderous way in which the Congress must move, is a proper next step.

I hope very much my colleague from North Carolina may think well of that, too. I do not know whether he will. But I submit to him that he will have had an effect and that it is a proper next step toward moving away from a phase which occurred 4 years ago into a new phase, but that we should not do it quite as drastically and radically as eliminating the whole section.

I hope very much the substitute which we propose to offer may be approved. It has the effect of putting the authority in the hands of the President, subject to congressional accountability, subject also to the war powers resolution or any other applicable law, but giving him the power and not leaving it with the Congress where the action would be so slow as to undoubtedly make it truly inoperative. That is my judgment.

Mr. HELMS. I appreciate the comments of the distinguished Senator from New York and those of the able Senator from Massachusetts.

Mr. President, I do not quite understand the reasoning, frankly. All the Senator from North Carolina is saying is to untie the President's hands with respect to Angola.

Zimbabwe, formerly Rhodesia, has been mentioned as a desirable settlement.

There are many who think that was an undesirable settlement because it put a Marxist control over that country, and that is precisely the problem around the world.

I think the sentiment in the United States, as I said earlier, is to draw a line and do whatever we can as a nation to halt the advancing tide of communism.

I, for one, am not fearful of any overt action. I do not want the President's hands to be tied, whether it is Mr. Carter, Mr. Reagan, or somebody else.

The Clark amendment is no longer useful. It is counterproductive because it signals, or would require that the Soviet Union and others be signaled, as to any plans of the United States with respect to helping the people in Angola who yearn for freedom. It is as simple as that.

Mr. President, I am going to suggest the absence of a quorum in just a moment because I want to think about a proposed substitute amendment which has just been handed me. I want to give it full consideration. So. Mr. President, on my time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1175

Mr. HELMS. Mr. President, if I may direct a question to my friend from Massachusetts, the substitute language which he and his staff have in mind is the language that begins "notwithstanding any other provision of law, no assistance of any kind may be provided," and so forth and so on, "unless and until the President determines that such assistance should be furnished in the national security interests of the United States."

Is that the substitute the Senator has in mind?

Mr. TSONGAS. The Senator is correct.

Mr. HELMS. Mr. President, I find that acceptable. I will make a bargain with the Senator from Massachusetts. I do not have to ask unanimous consent. I will modify my amendment to accept his language.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Is there objection to the modification?

Mr. TSONGAS. Reserving the right to object, I wonder whether this could be substituted jointly by the Senator and myself, and the Senator from New York, as well?

Mr. HELMS. Certainly.

Mr. TSONGAS. I ask unanimous consent that that be the case.

The PRESIDING OFFICER. The Chair is unable to hear what is being said by the Senators on the floor.

Mr. TSONGAS. I ask unanimous consent that the substitute be introduced at this point, cosponsored by the Senator from North Carolina, the Senator from Massachusetts, and the Senator from New York.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself, Mr. TSONGAS and Mr. JAVITS, proposes an unprinted amendment numbered 1175 in the nature of a substitute.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

(a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until the President determines that such assistance should be furnished in the national security interests of the United States.

(b) If the President issues such a determination, he shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

(1) a description of the amounts and categories of assistance which he recommends to be authorized and the identity of the proposed recipients of such assistance; and

(2) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination.

Mr. HELMS. Mr. President, I think we have reached an accommodation on this amendment. I am prepared to yield back the remainder of my time.

Mr. TSONGAS. Mr. President, I have one further statement.

I have been here for a year and a half and I have never made an accommodation I can recall with the Senator from North Carolina. Now I have made two in one afternoon. I hope that will be the direction we go in the future.

I think this is an important change.

I think the Senator from North Carolina had a point that we had language relative to Angola that we did not have to other countries, and perhaps that is inappropriate. I can agree to that.

I was just concerned we not send a message that would be interpreted as saying, "OK, Angola, get ready for our covert activities."

I do not think that is what we are talking about. I think this modified language does not lend itself to that interpretation.

I thank the Senator from North Carolina for his support.

I yield back my time, as well.

Mr. HELMS. Mr. President, I want the Record to show that the Senator from North Carolina, while agreeing to this modified substitute language, would point out that there is a certain degree of redundancy in the amendment because the President, any President, will be supplying the information provided for in this amendment to the intelligence committees of the House and Senate. But that redundancy does not bother me. I find the amendment in its present form to be totally acceptable, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the second-degree amendment.

The second-degree amendment (UP No. 1175) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the second-degree amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Do the Senators yield back their time on the first-degree amendment?

Mr. TSONGAS. Mr. President, I have one inquiry. I believe this is the only amendment the Senator from North Carolina has relative to Africa. Is that correct?

Mr. HELMS. That is correct.

Mr. TSONGAS. I inform my colleagues that in that case I will not call up my amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from North Carolina yield back his time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. HELMS. I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The Chair informs the Senator that 6 minutes is sufficient time, under the precedents.

Mr. HELMS. I pledge to the Chair that I will call off the quorum call in less time than that.

Mr. ROBERT C. BYRD. The Senator might not be able to do so.

Mr. HELMS. Mr. President, let the time run, charged to me, without a quorum call

Mr. President, it is my understanding—if I am incorrect, I want to be corrected now—that the pending amendment supersedes the so-called Clark amendment to which we have referred. Is that correct? I ask the manager of the bill or the Chair.

Mr. TSONGAS. That is my understanding.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Stone). Is all time yielded back? All time is yielded back.

The question is on agreeing to the amendment, as amended.

The amendment (UP No. 1174), as amended, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1176

(Purpose: To reduce the total amount of funds authorized to be appropriated in the bill)

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.) proposes an unprinted amendment numbered 1176:

At the end of the bill, add a new Title:

"TITLE VII

"REDUCTION OF AUTHORIZATION

"Sec. 701. Notwithstanding any other provision of this Act, the total amount of funds authorized to be appropriated by this Act shall be reduced by $48,000,000."

Mr. TSONGAS. Mr. President, while we are working this out, perhaps we should have a quorum call.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

UP AMENDMENT NO. 1177

(Purpose: To reduce the total amount of funds authorized to be appropriated in the bill)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.) proposes an unprinted amendment numbered 1177:

At the end of the bill, add a new Title:

"TITLE VII

"REDUCTION OF AUTHORIZATION

"Sec. 701. Notwithstanding any other provisions of this Act, the aggregate amount of funds authorized to be appropriated in Title I, Title III, Title IV, and Title V of the Act shall be reduced by a total of $28,000,000."

Mr. HARRY F. BYRD, JR. Mr. President, the bill before the Senate authorizes $4.813 billion for foreign assistance.

This amendment would reduce the total by $28 million. That reduction of $28 million would come from titles I, III, IV, and V.

In other words, to state it another way, the $28 million would be obtained anywhere in the bill except in title II.

My original proposal was for a 1 percent reduction in the total, namely $48 million.

In talking with the distinguished managers of the bill on both sides, it was felt that an accommodation could be made on the part of those of us who favor my amendment and those managing the bill, that the $28 million figure would be acceptable.

It is not an across-the-board cut in the sense that every item is affected the same. But it reduces the total to be authorized by the figure of $28 million.

Mr. TSONGAS. Mr. President, will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. TSONGAS. The amendment as drawn does not enumerate or articulate any particular reductions from any particular program; is that correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. TSONGAS. For example, in title V which relates to the Peace Corps, in which I have a particular interest, there is no intent that should be where the money comes from. It really would be up to the administrator to choose among the various categories.

Mr. HARRY F. BYRD, JR. It would be up to the Appropriations Committee and the administration to determine where that $28 million comes from.

Mr. TSONGAS. I indicate my appreciation for the retention of title II, which I think is particularly sensitive at this point.

I commend the Senator for his cooperation.

Mr. JAVITS. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. TSONGAS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think the disposition which I hope we can make subject to Senator Church's approval is a practical one, and I will not quarrel with it.

But I say to the Senator from Virginia, in view of his devotion to the idea of keeping things down to the bone, and so on, it would be really unfair to Senator Church if there were not a real appreciation for what he has accomplished, and I am giving the Senator from Virginia the straight of it just as it occurred in the committee.

The fact is that he was unbelievably diligent on these amounts, that he personally, seeking the committee support for his personal desires in this matter, cut an additional roughly $200 million below the President's 1981 request. The other two $200 million, roughly—of the total of $431.7 million—came out of the rather gifted suggestion made by Mr. Sienkiewicz of the minority staff. The recommended amount again at the Senator's insistence was roughly 10 percent less than the 1980 authorizations.

If one were standing here to pay a tribute to FRANK CHURCH as an individual, he would really have to give him the highest mark for holding this down in the way he did with an extremely personal use of all his credit cards with the committee.

I believe that, as I say, this amendment is a practical way out in view of the strong feelings of the Senator from Virginia, and that probably of other Senators, that we should do even more. Nevertheless, I think in fairness to Senator CHURCH it should be said that this bill comes to the Chamber really, really, really pruned by a man who really dedicated himself to it and had the capability because as chairman of the committee he had a position of unparalleled prestige, and could accomplish things not otherwise possible.

Mr. TSONGAS. Mr. President, Senator Church has indicated he is a supporter of the amendment and asked me to so indicate.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

Mr. TSONGAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. JAVITS. There are.

Mr. President, we have no time restriction on the bill, do we?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may call for a quorum which will not be charged to either side.

The PRESIDING OFFICER. Since there is no general time restriction on the bill the Senator does not need a unanimous-consent request to call for a quorum.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1178

(Purpose: To delete funds for military assistance to Nicaragua)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1178:

At the end of Title I, insert the following new section, appropriately numbered:

"SEC. . Of the amount of funds authorized to be appropriated to carry out the provisions of this title, none shall be made available for any aid or assistance to Nicaragua."

Mr. HELMS. Mr. President, when we last debated Nicaraguan aid on this floor, a lot was said about the need to help the private sector and the need to strengthen the hands of the moderates against the Sandinistas. In all candor, the Senator from North Carolina could never quite follow the reasoning of some of his colleagues that government-to-government aid would strengthen the private sector, even if 60 percent was earmarked for assistance to the private sector. For the fact is that the Government of El Salvador is literally controlled by the Sandinista Directorate. Except for two figurehead non-Marxists on the junta, the junta is totally Marxist; and at 3 to 2 they have total control. What is happening now is a consolidation of power—a consolidation not complete, but in process nevertheless.

I agree that it would be wise to strengthen the hands of the moderates. But you cannot strengthen the hands of the moderates by using the Marxists as the vehicle. The fact is that all of the aid, allegedly to the private sector, is channelled through the hands of the Marxists; and commonsense tells us that the Marxists will use that aid to tame the private sector and control it. Thus, that aid will weaken the private sector, not strengthen it.

However, the amendment I am proposing today, and which is pending, does not even address itself to the debate about strengthening the private sector. All of the money in title I for Nicaragua is money going to provide military training and assistance for the Sandinista army. The Sandinista army is totally Marxists. There are no non-Marxists in control of the army, and certainly not any anti-Marxists. Moreover, it is well documented that Cuba has sent over not just "advisers," but two of the top Cuban generals, with experience in Vietnam and Angola, to oversee the military operations of the Sandinistas. So no one can reasonably argue that we have to counter the Cuban "influence" by any "influence" that we would gain by sending U.S. taxpayers' dollars to the Nicaraguan military.

Indeed, all that we would accomplish by sending these title I funds—amounting to about $5.5 million—would be to strengthen the hands of the Marxist oppressors who are still trying to consolidate power. If any military aid is sent to Nicaragua at all, it should go to the liberation groups who are fighting clandestinely to take back their country from the Communists.

Let me emphasize this amendment would not touch any of the economic support funds, which I also oppose for reasons I have given before. It would only cut out military assistance to a Communist army that is oppressing a people who thought they were going to be free.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I will be glad to yield to my friend from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the distinguished Senator from North Carolina.

Mr. President, less than 1 month ago I stood here on the Senate floor and argued side by side with my good friend and colleague, Senator EDWARD ZORINSKY, in favor of economic assistance to Nicaragua. Many legitimate questions about economic assistance to that country have been raised. I have my share of reservations. Nevertheless, I continue to support economic assistance to Nicaragua. I do so because I am simply not prepared to "write off" Nicaragua to extremists.

Military assistance to Nicaragua is altogether different. Military assistance will not aid the forces of democracy and moderation in Nicaragua; it will not offer humanitarian assistance or a better life for Nicaraguans; it does not offer a good investment for American taxpayers; and it does not serve what I believe are the general foreign policy interests of the United States. I support Senator JESSE HELMS' amendment to exclude military assistance to Nicaragua from this foreign assistance bill.

Let me review my reasons for supporting economic assistance. First, economic assistance sends a clear message to the productive middle class of Nicaragua that the United States is vitally interested in Nicaragua. It tells the middle class not to abandon the country and hand it over to extremists of the left, who are indeed eager to solidify their control. A number of Nicaraguan businessmen have fled the country; but many more have remained. It is this latter group which we must encourage. These people need to know that we wish them to stay and to contend for their legitimate share in the direction of the country, and that the United States and other nations in this hemisphere and in Europe, as well as the world press, will not turn their backs in order to allow the extreme left to work its will in a totally closed society.

Second, economic assistance can be justified on humanitarian grounds. Nicaragua is still ravaged by its civil war. Aid to reconstruct businesses, and aid to buy seeds and fertilizer are vital to the potential recovery of Nicaragua. This aid is fully consistent with American traditions and interests.

Third, the proposed economic aid is specifically and clearly targeted. We all know what the aid is for—60 percent is designated for the private sector of Nicaragua for purchases from the private sector of the United States and the uses of the remainder are clearly specified. The U.S. AID team, under the supervision of Ambassador Pezzullo, is eager to proceed. American taxpayers are not buying an unknown quantity, but a carefully crafted program with constraints, guarantees, and protections written throughout.

Finally, I believe that economic assistance is important to American foreign policy generally. It is time that we began to compete with totalitarians whenever, wherever, and however we can. In the best of worlds, we would have more options at our disposal than an aid package to express our interest in the development of free institutions in Nicaragua. But the Congress does not have other options. There is no third way. The choice that we in the Congress confront is either economic assistance or nothing at all. To this moment, I have not yet heard one constructive proposal—other than economic assistance—as to how we are to aid our friends in Nicaragua in a timely and practical manner.

These are my reasons for supporting economic assistance. I believe, however, that every single reason that favors economic assistance counsels against military assistance. First, military assistance signals nothing positive to the middle class in Nicaragua. Of the many businessmen with whose views I have become acquainted none has had a good word about military assistance. Opponents of economic assistance in this country have said that the Nicaraguan Government will use U.S. aid to imply that the United States supports all of the policies of the new government. This is a genuine concern but open to argument. Military assistance could have no other interpretation however, than American support for the military in Nicaragua.

If we go forward with economic assistance, but stop short of military assistance, we shall achieve just the effect which we desire: that we support the private sector's attempts to moderate the Government, but that we do not support the ends of those who are organizing the army. The private sector, which played so large a role in our deliberations over economic assistance, has nothing whatever to gain—and perhaps much to lose—from a policy of American support for the current army in Nicaragua. Military assistance strengthens the power of the extremists in the Government, not those who are attempting to moderate the policies of the new government.

Second, military assistance has no justification on humanitarian grounds. Economic assistance is desparately needed, but Nicaragua faces no military threats—either internally or externally—from any forces that are opposed to freedom and democracy. There is no pressing need to restore order in Nicaragua. Quite to the contrary: many of us believe there is need for greater internal discussion about the future direction of the country.

Third, unlike economic assistance, the $5 million in military assistance is not clearly and specifically targeted. Indeed, it is my understanding that the funds have not even been programed. The Pentagon apparently has no idea as to how the money might be used; Pentagon planners express great doubt about how to establish a training program with an unwilling Nicaraguan military establishment currently receiving training from Cubans. Mr. President, we have several military liaison people at the embassy in Managua right now. The Nicaraguan military has shown no interest in any relationship with them. If it is claimed that a failure to support military assistance will "force the Nicaraguan military to go elsewhere," the answer is clear enough: it already has.

Finally, American foreign policy would not be strengthened by military assistance to Nicaragua. Many nations in the world understand and support our decision to provide economic aid to Nicaragua; few would understand military aid to Sandinista-controlled military. Ominous reports of Sandinista military involvement in other nations have surfaced with greater and greater frequency. We must indicate that any such policy that exports violence is and will be vigorously opposed by the United States. Every aspect of our policy in Nicaragua ought to be designed to strengthen the hand of those in Nicaragua who share our opposition to Nicaraguan interventionism.

Many of us who support economic assistance to do so without any illusions; there is only a reasonable chance, and no guarantee, that such aid will be enough to succeed. But economic aid provides a chance, and the only one before the Congress. Military assistance offers no such hope. I have indicated my deep concern about military assistance to the new government from the very first day the Special Central American Security Assistance bill came before the Foreign Relations Committee last December. I urge my colleagues to join with Senator HELMS, as well as with the overwhelming majority of both parties in the House of Representatives, in voting to strike military assistance to Nicaragua from this bill.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Indiana for his comments.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, I yield to the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, during its consideration of the fiscal year 1981 foreign aid authorization bill, the House of Representatives a couple of weeks ago voted to prohibit any military assistance or credit sales for Nicaragua. The vote was impressive—267 to 105. But all in all, it was a spectacular display of self-deception, delusion and deceit. A hollow victory. And I am convinced, Mr. President, that those who perpetrated this hoax will live to regret it.

They will live to regret it because the Government of Nicaragua, like governments everywhere, is determined to develop and maintain a military establishment and a military capability.

When the United States of America was born in revolution, we thought we wanted an army, we wanted a navy, we wanted the ability to defend a nation. What makes us think that we are different than any other nation in the desire to defend one's self? It is a plain and simple fact of life. And as lamentable as it may be, no amount of wishful thinking will make it go away. The Nicaraguans will develop their armed forces and they will do it with or without our help.

Facing up to this fact, it is obvious to me that the wisest course of action for the United States is to pursue a policy which makes us a part of their military effort. Such a policy would authorize U.S. military training for the Nicaraguan Armed Forces. It would authorize credit sales for U.S. supplies and equipment. And, in general, it would extend a helping hand.

Such a policy would do these things and more because, first and foremost, it is in our national interest to do them. It is in our national interest to have our military people there. It is in our national interest to have daily contact and an exchange of views with Nicaragua's military personnel. And it is in our national interest to create, to establish and to maintain a direct military relationship with the Sandinista armed forces—just as we do with the armed forces of other Latin American countries and much of the rest of the world.

This is a figure amounting to $5 million. We fell all over ourselves attempting to give $400 million to a Pakistani army which is sorely and sadly in need of popular support of its own people, which it also does not have.

But the House says no to such a relationship. It wants to sever all military ties in some vain, fairy tale hope of isolating the Nicaraguan Government and forcing it to do our bidding. That is not going to happen. But what is going to happen is that the Nicaraguan Government will go elsewhere for its military training and equipment. Just as it did earlier in its drive to topple the Somoza regime. Yes, history will once again repeat itself. And the effort to isolate Nicaragua will only serve to drive the Sandinistas into the arms of the Cubans and their Soviet benefactors.

Indeed, that is how Cuba itself got its start—a concerted U.S. effort to isolate the Castro regime only helped to pave the way to Moscow. And insofar as U.S. military aid and sales are concerned, the message from the House is this—what the United States did for Cuba we can now do for Nicaragua. That is the wrong message to be sure but, for our colleagues in the House, being wrong is obviously no impediment to anything.

Mr. President, I hope the Senate will not accept the pending amendment. Ironically, it is a one-way ticket to Havana that has been disguised by a lot of anti-Communist rhetoric. Now is the time for the Senate to put the rhetoric aside and face the reality. And the reality of Nicaragua demands we reject this proposal.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 9½ minutes remaining, and the Senator from North Carolina has 4 minutes remaining.

Mr. TSONGAS. Mr. President, one thing that we are seeing in the world today is that when Third World countries come from a stage of revolution where the most important ingredients are rhetoric and weaponry, that they then get to a point where they have to run their countries. And it is different doing that in a capital city than it is addressing those kinds of issues in the bush.

We are beginning to see an evolution, in my opinion, of the Third World, where countries are moving toward a much more mixed economy-type situation and much more concern about the day-to-day administrative details that occupy the time of any administrator.

I think the only trend that I see that moves contrary to that evolution is when things like this come along which, in essence, push countries in the directions that they are not so inclined to move towards; that is, the example of Cuba, as the Senator from Nebraska referred to.

I see in my own area of interest in Africa many countries moving toward mixed economies and moving toward a position of true nonalinement. Because I do not know any country, with the exception of Cuba and Ethiopia, that has embraced the notion of a Soviet patronage and has not lived to regret it. In the case, for example, of Somalia, and the case of Egypt, and the case of Guinea and the case of Ghana and the case of Sudan, the closer you get to the Soviets, the further away you wish to be.

I think any country given that choice would truly wish to have a totally nonalined situation.

I think that is the argument that the Senator from Nebraska makes.

It is also the argument made, interestingly enough, by JAMES WRIGHT, who is the majority leader in the House, who speaks to this issue and has spoken on behalf of the President to try to bring some rational thinking to our policy vis-a-vis Nicaragua. Mr. President, I ask unanimous consent that his statement on the House floor as to this issue be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY REPRESENTATIVE WRIGHT

Mr. Chairman, I did not seek recognition on the last amendment because I thought we would be considering this evening a further and more important amendment to strip Nicaragua of any form of economic assistance whatever. I want to address myself to what we have just done, and to what I hope we will not do when that amendment arises. I want to plead with my colleagues to think about something that is a lot more serious than the next election. I want to ask you to think a little bit about the next generation.

If we were to take a representative cross-section of all the people in the world between the ages of 5 and 20, the next generation, we would discover that 60-some-odd of those would be in Asia. About 16 or 17 would be in Latin America the fastest growing area of the world. Approximately 10 or 12 might be in Africa. Six of them would be in the Soviet Union, 14 or so in Western Europe, and only 4 in the United States. In times to come, we shall need some friends in the world. The future may belong to the regions now seething in ferment, the underdeveloped and developing areas of the world. They include, notably, Latin America.

When the amendment comes to strip Nicaragua of any form of economic assistance I hope my colleagues will stop and think of how important Latin America is to the United States. It is probably more important than any other part of the world. It has the most rapidly growing population on Earth. Latin American countries buy more American goods than any other segment of nations, and they sell more of their produce to us.

I hope my colleagues will stop and think of the days of San Martin, Bolivar, and O'Higgins when the developing world, wanting to throw off the shackles of bondage, looked to the United States for political inspiration and spiritual example. They tried to pattern their infant republics after our own, and some of that is still going on in the world.

Along with some of our colleagues, I had the privilege to be in Nigeria in January of this year. There they have created a constitution written almost in an exact carbon copy of the Constitution of the United States. They are proud of it. I think back to the days when Sun Yat-sen was trying to create a spiritual and political revolution that would bring freedom to China, and what a different world it would have been had we been in a position to offer help to that kind of a movement.

Times come along in history when we make a sudden Jingoistic decision and later regret it. Think what a different world it might have been if after the Russian Revolution, Aleksandr Kerenski had been able to prevail and develop strength and stability for a free government in the Soviet Union. What a wonderfully different world it might have been for all of us. We did not give him help or encouragement then because we did not understand nor really trust what was going on. Kerenski lost out to the Bolsheviks. They took over, and the future was changed.

It is just altogether possible that an entirely different world might have existed if there had been some way we could have helped the Weimar Republic in Germany after World War I. It fell to economic panic and the demagoguery of Adolph Hitler, who blamed all of the country's ills on the Communists. Hitler's agents set fire to the Reichstag, we know now, in order that he could blame the Communists, inflame people's fears and get their support for himself. Finally he ran with an iron boot over the freedoms of all of the little countries and touched off a generation of anguish.

I do not know whether there is a chance at all that we can salvage Nicaragua. I do not know. I have to say to my colleagues in all candor that I had more friendship for President Somoza than most of the people in our State Department had. At least he had been our friend. I thought we ought to be reasonably tolerant of a person whose government had voted with us consistently in the United Nations and supported our position consistently in the counsels of the world. But that is past. Maybe some of you thought the Shah should have been more vigorously supported, that he was our friend. But that is past.

What we have to do now is look to the present and to the future. There is a chance, maybe an outside chance, but a chance that we can win Nicaragua. There are many fine people there who do not want to be enslaved by communism nor consigned to share their country's fate with Castro as their only friend. For heaven's sake, they are asking us. They are looking to us. At least some in the government profess the desire to work with us, to know us better. They have left the door open. There are two of the junta who are considered to be moderates. One of them is coming to Washington next week. His name is Arturo Cruz. I want to invite my colleagues to come and meet him. I do not know him. But I talked with our U.S. Ambassador to Nicaragua today. He tells me it is not at all a foregone conclusion that we have lost the game in Nicaragua.

We have lost it if we give up. We have lost that country's future if we forfeit the game. If we kick it over to the Communists, if we call them all Communists, whether they are Communists or not. We can force that country into the lap of Castro. That is exactly what is happening when Congress takes delight in publicly expressing the conclusion that Castro and the Marxists have won and that Nicaragua is worth no further effort on our part.

The people who will rejoice in Latin America tomorrow morning when they read that we publicly kicked Nicaragua in the face again are the enemies of the United States. Those are the ones who will rejoice, those who have been preaching all along that the United States cares nothing about Latin America and its future. "This proves it," they will say.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. So I plead with you, my colleagues, let us not indulge a revisitation of McCarthyism. Let us not engage in a game of guilt by association.

The gentleman who raised the point about the PLO knows full well that he would not for a moment entertain the idea of severing relations with every country that recognizes the PLO. I do not like the PLO. I do not like what they stand for. I do not like their tactics. Certainly, I would not want to recognize them.

But I do know, and so does the gentleman from Maryland, that we have to continue to deal with many countries which recognize the PLO. Surely we must deal with Egypt, which has demonstrated that it is our friend. We have little choice but to deal with Saudi Arabia, which has dealt honorably and responsibly with us for the most part. Panama whom these gentlemen were scourging a few months back, demonstrated friendship that some other countries have not demonstrated to us when it allowed the Shah to enter there.

It is altogether possible that Mexico is as friendly as it is today because Woodrow Wilson was wise enough, when the revolution came and Francisco Madero sought to overthrow the tyrannical forces of Porfirio Diaz, to work with them and not against them. There were many in this country who have said, "Oh, they are Communists, they are socialists, they are hedonists, they are rabble; you cannot work with those people in Mexico." They have pointed to the fact that the Mexicans call their dominant political party the Partido Revolucionario Institucional, the Party of the Institutional Revolution. Yes, well, that does not make any difference. We have to work with them, our neighbors, just as we shall have to deal one way or another, either as friends or foes, with the Nicaraguans, whatever they choose to call themselves. I am not yet prepared to brand them irrevocably as our foes. We have the opportunity to help them have a chance to live in freedom, and to see that democracy can work and better solve the problems of their economic situation than can a socialist society.

Now, if my colleagues are willing to lock horns with socialism and communism in Latin America, if they are willing to engage in the struggle, then let us try. Maybe it is like rolling dice, I do not know. Maybe we waste whatever money we send. That is possible. But I think we must be caught trying. I do not think it behooves us at all to find some little convenient, jingoistically popular way to kick them in the teeth and say "I voted against the Communists," when we know in our hearts that there is a titanic struggle going on for the minds of the men and women all over the developing world, and so close to our doorstep in Central America. We dare not withdraw from the battle.

So I beg you to think seriously on those things. And when the vote comes on the effort to kick Nicaragua in the face again, deny them individually and by name, and announce to the world that we already have forfeited the struggle and willingly consigned their future to the Communists—when that time comes, think not just of the election coming up here, think of elections coming up in future years throughout Latin America, and think of our continuing stake in the struggle for freedom on Earth.

Mr. TSONGAS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have been listening very carefully to this debate. As I understand it, it is a hoax and pure rhetoric for a Senator to stand on this floor and oppose the sending of U.S. taxpayers' money to build the military machine of a Marxist country.

Well, if that is so, Mr. President, this Senator is likely to be engaging in a lot of hoaxes from this point on.

To show you how inconsistent we can be, Mr. President, earlier today the distinguished managers of this bill accepted an amendment submitted by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) saying that no foreign aid of any kind shall be granted unless there is consideration as to whether the recipient conutry has participated in the Olympics in Moscow.

I think it incontrovertible that Nicaragua is participating in the Moscow Olympics. As a matter of fact, the Sandinista regime down there is thumbing its nose at the United States in every possible way. Yet here we have a serious proposal on this floor to send millions of the money of American taxpayers to a Marxist regime in Central America, one which has a direct alliance with not only Cuba but the Soviet Union. Somehow the Senator from North Carolina is supposed to be persuaded that this is good for the American people, that this is good for freedom, that this is good for the oppressed people in Nicaragua.

Mr. President, I do not know how a hoax can be defined, but if that is not a hoax it will do until a hoax comes along. This Senator simply does not believe it.

Furthermore, from a practical standpoint, the House of Representatives is not going to vote to send military aid to Nicaragua. The vote was overwhelming in the House. Those who serve on the conference committee on this bill may as well be prepared to sit until the cows come home before the House is prepared to yield on this point. At least, that is my prediction of the matter.

I do not know why all of the spirited debate against my amendment.

It does not make sense to spend the American taxpayers' money in military aid to a Marxist government. That is all my amendment does and says. It says that there shall be no military aid to Nicaragua.

I have a friend in North Carolina who quotes a judge of a couple of generations back. He said, "Call your next case."

I suggest that the opponents of the amendment call their next case because the case they presented thus far, with all respect to them, does not even make good nonsense.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired. Who yields time?

Mr. CHURCH. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I agree with my distinguished colleague from North Carolina. It would be a hoax to send arms, as he aptly described, to a Marxist country. The only area in which I differ with my colleague is that the verdict is not in as to whether that is a Marxist country, except for individuals who have already abrogated it to the Communist side. There are people who believe in democracy yet left there who we will abandon when we all agree that it is already a Marxist country.

Also, on thumbing the nose concerning going to the Olympics, there is a long list of nations. Puerto Rico, our ally, is also going to the Olympics, and many nations we have sent more aid to than we are proposing to send to the new revolutionary government of Nicaragua. I did want to bring those points out. I thank the Senator for yielding.

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

UP AMENDMENT NO. 1179

(Proposed substitute to UP Amendment No. 1178)

Mr. CHURCH. On behalf of the distinguished Senator from Massachusetts (Mr. TSONGAS) and myself I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator will have to yield back his remaining time.

Mr. CHURCH. I yield back the remaining time.

The PRESIDING OFFICER. All time has been yielded back. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. CHURCH), for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 1179 as a substitute amendment to unprinted amendment numbered 1178.

The assistant legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I will read the amendment. The amendment reads:

> In lieu of the language proposed to be inserted, insert the following:
>
> Of the amount of funds authorized to be appropriated to carry out the provisions of this title, none shall be made available for any aid or assistance to Nicaragua, unless the President determines it is in the national security interest of the United States that such funds be made available and so reports in writing to the Congress 30 days prior to the obligation of the funds.

This amendment is proposed as a substitute to that offered by the distinguished Senator from North Carolina. I think he is aware of this substitute.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, here we go again. I am reminded once more of the little boy holding a fish flopping in his hand. He said, "Hold still, little fish. I am not going to hurt you. I am just going to gut you."

This is a gutting amendment which allows the President to file a little report up here with the Senate and then he can go ahead and authorize military assistance to a Marxist nation, an act, Mr. President, which, I believe, if a referendum could be taken among the American people, would be resoundingly rejected.

Of course, I have to oppose the amendment. The original amendment simply says:

> Of the amount of funds authorized to be appropriated to carry out the provisions of this title, none shall be made available for any aid or assistance to Nicaragua.

That means military funds. It has not one thing to do with economic funds for the private sector. Those funds will go ahead. And the private sector is where the hopes and aspirations of the freedom-yearning people of Nicaragua reside—not in our sending millions of the American taxpayers' dollars to Nicaragua to help build a military system that will be used, not only to oppose the people of Nicaragua, but for such adventurism as is already in progress in Angola and other places around the world.

Let there be no mistake about it, Mr. President. This is a gutting amendment, pure and simple, and the Senate may as well face up to the fact that it is designed to do nothing but gut the proposal that no money belonging to the taxpayers of the United States shall be used to help finance the building of an oppressive military machine in Nicaragua.

Let us see it for what it is.

Furthermore, I say again, Mr. President, that the House of Representatives is not going to accept that.

(Mr. WILLIAMS assumed the chair.)

Mr. STONE. Will the Senator yield?

Mr. HELMS. The vote was entirely too overwhelming and I shall be there to urge the conferees on the House side not to accept this amendment.

Mr. STONE. Will the Senator yield?

Mr. HELMS. I am delighted to yield to my friend from Florida.

Mr. STONE. Is it not the case that there have been increasing reports and more frequent reports of training operations and equipment operations sponsored by the Sandinista armed forces with regard to the insurrection and the difficulties and the civil disorders now being conducted in El Salvador?

Mr. HELMS. The Senator is absolutely correct. Two of the top Cuban generals are there for that purpose, as the Senator knows.

Mr. STONE. Is it not the case and is this not known to the Senator from North Carolina and many others in this body, that when it is said that United States drove Cuba into the arms of Russia by some form of maltreatment in the early days of the Castro regime, that flies in the face, for example, of the recent statement by Fidel Castro, printed in the press in this country only a few weeks ago, that he determined to be anti-American and make America pay during his revolution in the Sierra Maestra, when he had to face American weapons wielded against him by the Batista government, and that it was then that he decided to make the United States pay—not after some form of charade that the United States was not sufficiently responsive to the new Castro regime? Is that not really the fact, quoted out of the mouth of Fidel Castro himself?

Mr. HELMS. Of course it is accurate, I say to my friend from Florida. And not 2 weeks after he took over in Cuba, Fidel Castro said something to the effect that "I have always been a Communist, I am now a Communist and I will always be a Communist."

So it is, as the Senator said, a charade to pretend otherwise.

Mr. STONE. Is it not also the fact that the Sandinista government has entered into not one and not three but eight agreements with the Soviet Union?

Mr. HELMS. That is correct.

Mr. STONE. And, therefore, is it not the case that to assist the military arm of the Sandinistas while the Sandinista movement is as clearly devoted to Marxist domination of at least Nicaragua—at least—does not make too much sense.

Mr. HELMS. It does not make any sense at all, and I do not know what it is going to require to persuade Senators about this. Does a duck that looks like a duck, that quacks like a duck, and that walks like a duck have to proclaim. "Look at me, I am a duck?" I do not know what it will take to persuade Senators, but I thank the Senator from Florida for his comments.

Mr. CHURCH. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I was listening to the colloquy between the Senator from Florida and the Senator from North Carolina, and I began to wonder how many revolutions have been conducted in human history that used American arms? There was ours. Once we get beyond that, the fact is that when any people have sought to bring about their own freedom, in the overwhelming majority of cases, they have had to fight against forces using American weaponry. There is a long history of that.

The Portuguese, for example, used to take arms that we gave to them for NATO purposes and use them against their colonies in Africa. At the conference we had this weekend, where we have gotten these former colonies to start looking at the American free enterprise system in cooperation with American companies, they said it has taken them years to get over the knowledge that they fought for their independence against forces using American weaponry.

All of that, sadness, if you will, in terms of our understanding the forces of history and the movement of history, has come back to haunt us. We are only now getting over that. I hope we will not repeat those particular mistakes only to have our children endure the consequences that we have endured these past few years.

I thank the Senator for yielding me time.

Mr. CHURCH. Mr. President, I yield to the able Senator from Nebraska 2 additional minutes.

Mr. ZORINSKY. Mr. President, I concur with the comments made by my distinguished colleagues from North Carolina and Florida concerning treaties and agreements that have been entered into between the Government of Nicaragua and the Soviet Union. I happen to know firsthand, because the Foreign Minister of Nicaragua was here not over 2 weeks ago, and several other of my senatorial colleagues and I questioned him at length as to the content of some of those agreements and some of those treaties, supposedly, that they have signed with the Soviet Union.

They deal with landing rights of Aeroflot, the Russian airline, which has been landing in our country for several years, until, maybe, just recently, after the incursion into Afghanistan. They want our airlines to land there, too. They want to do business with the United States also. These are trade normalization treaties and agreements.

There is no proof, and it has been denied over and over by members of the Nicaraguan Government, the junta and the Sandinistas, that there are no secret defense agreements between the Soviet Union and the new revolutionary Government of Nicaragua. I have seen no proof to the contrary and I must take the Government at its word until I find out otherwise.

Those who state that there are secret agreements, let them come forward with the proof that those types of agreements exist between the Soviet Union and the country of Nicaragua.

I say that an order to disallow any belief in any government automatically precludes them from having any ability to seek a friendship with our Nation.

So, Mr. President, I will agree, there are treaties and agreements. These treaties and agreements are the same types of treaties and agreements we, ourselves, have signed with Marxist and Communist-dominated governments.

I thank the Chair.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 31 seconds.

Mr. HELMS. Mr. President, I simply say to my friend from Nebraska that he overlooks an agreement between the Sandinistas and the Communist Party of the Soviet Union.

He is talking about the agreement with the Government of the Soviet Union, but the State Department itself acknowledges that there was an agreement between the Sandinistas and the Communist Party, the text of which has never been made available. So there is a difference. I ask the Senator to consider that.

Mr. President, I yield the remainder of my time to the distinguished Senator from Indiana.

Mr. LUGAR. Mr. President, I would like to review the course of this debate for a moment because, very clearly, Senator Helms in offering this amendment has tried to divide the issue.

He has suggested that military aid to Nicaragua is inappropriate, and I support that amendment. He has pointed out that his argument is not pointed at economic assistance in which private enterprise in Nicaragua would deal with private enterprise in this country, in which we might assist the middle class and an alternative in Nicaragua.

It seems to me to be unfortunate the distinguished chairman of the Foreign Relations Committee has offered this substitute which clearly clouds the issue, which throws the whole issue into jeopardy.

Very clearly, the point of the amendment, to give the President a right to offer military aid to Nicaragua, is redundant because the President already asked for that privilege. The President wants to send aid. It is not a question of an opposition. The whole point of the administration's thrust, I must say rather ineptly argued in both Houses, has been to send military aid to Nicaragua.

Senator Helms has suggested a division of the question is in order, and I agree. It just seems very important that the Senate emphatically say, "No military aid to Nicaragua," and then consider on the merits whether there is not something we can do to try to fight for freedom in Nicaragua with people who might be our friends.

I contend that course, even though it has its hazards, also has its possibilities. But to jeopardize the whole issue by lumping the military and economic aid together is to court disaster, it seems to me, in our whole mission, quite apart from the parliamentary situation which the able Senator from North Carolina pointed out, and that by an overwhelming majority the House of Representatives turned down the military aid.

I hope that the distinguished chairman of the Foreign Relations Committee will not press this substitute, but having made the point will withdraw it and let us vote on the Helms amendment to deny military aid to Nicaragua, so we have a clean-cut situation, something that can move through conference with the House of Representatives with the greatest degree of unanimity and accord.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I am willing to yield back the remainder of my time.

Mr. CHURCH. Mr. President, the argument for the substitute has been ably made by the Senator from Massachusetts and the Senator from Nebraska. So I am willing to yield back the remainder of my time and ask for a vote on the substitute amendment now pending.

The PRESIDING OFFICER. The question is on agreeing to the substitute. All those in favor say "aye."

Mr. HELMS. No, Mr. President, no.

Mr. STONE. Mr. President, I move to table the substitute.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. The vote has already been taken on the amendment.

The PRESIDING OFFICER. The vote had not been announced.

Mr. CHURCH. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. After the vote has been taken, but not yet announced, is it in order to move to table?

The PRESIDING OFFICER. It is in order to move to table.

Mr. CHURCH. It is?

This is the first time I have ever seen this.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to lay on the table UP amendment No. 1179. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 50, nays 38, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—50

Armstrong
Baker
Bellmon
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Percy
Proxmire
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young

NAYS—38

Baucus
Bentsen
Biden
Bumpers
Byrd, Robert C.
Church
Cranston
Culver
DeConcini
Glenn
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Nelson
Nunn
Packwood
Pell
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—12

Bayh
Bradley
Chafee
Goldwater
Gravel
Hart
Huddleston
Kassebaum
Kennedy
McGovern
Moynihan
Stennis

So the motion to lay on the table UP amendment No. 1179 was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, if the Senate is willing to go on a voice vote and accept the amendment, I ask unanimous consent to vitiate the yeas and nays on the amendment itself.

Mr. CHURCH. Mr. President, I am willing to do that and proceed on a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Are there any further amendments to be proposed?

UP AMENDMENT NO. 1180

(Purpose: To prohibit the use of U.S. assistance for the nationalization of farms and banks in El Salvador)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1180.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title VI, insert the following new section:

"SEC. . None of the funds authorized to be appropriated under this Act or any other provision of law may be made available, directly or indirectly, for the provision of assistance to El Salvador for the purpose of planning or executing the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or the properties or stock shares which may be pertaining thereto."

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. Mr. President, this amendment is intended to focus sharply on the direction of U.S. foreign policy not only in El Salvador, but throughout the world. It is intended to put the Senate on record as to whether or not we believe in the American economic system as developed and practiced in the United States and in the other leading industrial countries of the West, or whether we believe that the less developed countries of the world will be better off if they adopt Marxist or Marxist-Leninist economic and political systems.

What this amendment does is to prevent AID from funding the so-called agrarian reform and banking reform programs in El Salvador. Every Senator this evening has a chance to put himself or herself on record as to whether he or she believes that social justice, economic progress, and freedom is better served by a market economy and private enterprise, or whether it is better served by a centrally planned economy with the decisions imposed by force by a small elite.

Any Senator who believes that confiscation of private property, central planning, political decisionmaking by a bureaucratic elite intent on power, disruption of established and productive systems, and the interruption of agricultural financing will lead to a better society has the opportunity now to vote against this amendment. But if that Senator believes in freedom, if he believes that private property is one of the guarantees of that freedom and the most powerful incentive to economic progress for a nation, if he believes that the free market economy is the most efficient economic system for maximizing benefits at all levels of society, he has the opportunity to vote for those beliefs by voting for this amendment.

In short, the choice is simple: Do we believe in communism, or do we believe in freedom? Do we believe in the Marxist analysis of society, or do we believe in the traditional analysis of the Judaeo-Christian civilization, which has always supported the responsible use of private property as the foundation of a just society?

The so-called reform in El Salvador consists of three parts, two of which are addressed by my amendment. These reforms consist of:

First. Redistribution of the farmland to so-called cooperatives;

Second. Expropriation of the banks, with Government taking majority control of the stock;

Third. Control of exports by the Government.

Each of these three concepts is a key element of every Marxist program for underdeveloped countries. They were the first three programs implemented in

Cuba. They are the first three programs adopted by the Sandinistas in Nicaragua. They form the keystone of the Marxist programs for most black African States. Perhaps that is why the black African States have all become net importers of food, with starvation rampant in all too many areas of that continent.

Why do these three elements form the keystone of any Marxist policy? First of all, it is an article of faith with Marxists that private property is theft. Second, it is another article of faith that all profit is extractive—that is, profit is something taken away from the sweat of the workers. Finally, there is the notion that only the state can be trusted to set the priorities for distributing economic benefits.

Under this analysis, the Marxists have created a mythical El Salvador. They say that most of the land is in the hands of a few landowners, and therefore the peasants are denied economic opportunity. They say that the economy is stagnant, with the profits being exported abroad. They say that there is a maldistribution of wealth that is creating political unrest and instability. They say that unless the underlying "structures" are swept away, there is no hope for reform and progress.

This basic Marxist analysis is a Marxist analysis whether it is made in San Salvador, Havana, or Washington, D.C. Our State Department has adopted it lock, stock, and barrel. We are told that unless we preempt the revolution, the "radical left" will use force to impose something even worse.

That is why U.S. AID funds have already committed $5 million of the U.S. taxpayers' money to expropriate the most efficient and most productive farm lands of El Salvador. One million of that has already been spent, and I would like to read an account of the results. Senators will want to know what they are voting for.

Hatched by a team of U.S. State Department-recruited experts working from ten rooms in a San Salvador luxury hotel, the so-called reform was pressed on the leftist junta which is currently running El Salvador with full U.S. Government backing.

On March 4, according to James Whelan, a respected author and reporter, the top 180 people in the Ministry of Agriculture here were summoned to the Hyatt Hotel for what they were told would be a one day meeting. Once there, they were told to send for clothes because they would have to stay three days.

Troops suddenly surrounded the hotel—"for your own safety," they were told. Then, and only then, did the top technicians in El Salvador learn what U.S. technicians had planned for their country: the seizure, at gunpoint, of the 376 largest (and, for the most part, most productive) farms in the country, 640,000 acres representing a quarter of the country's arable land. Eventually, all farms down to 100 hectares (240 acres) would be seized. . . .

The seizures were, by contrast, swift. In the pre-dawn hours of Friday, March 7, troops fanned out all over the country and—in storm trooper fashion—routed owners from their homes and land. In many instances, they were not even allowed to take the clothes hanging in their closets. Looting of the abandoned homes by soldiers was widespread.

The seized farms are being organized into cooperatives theoretically owned and run by peasants. No one peasant would own anything, however, and given the high ratio of field hands used on El Salvador's farms, any real division of the land among them would result in each 'owning' a handkerchief plot.

This account appeared in the June, 1980, edition of West Watch, the respected monthly report on affairs in the Americas.

Now when Assistant Secretary William Bowdler was up for testimony before the committee, I asked him whether money from AID or other Federal funds financed the planning of land reform and bank reform for El Salvador.

Mr. President, I ask unanimous consent that Mr. Bowdler's replies be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY BOWDLER'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR HELMS

Question 11. Does money from AID or other Federal funds finance the planning program for land reform and bank reform in El Salvador?

Answer. Since the new Junta was formed on October 15, 1979, the only project funded by AID which provides assistance to the Government of El Salvador for land reform planning is the "Agrarian Reform" project. Under this project, $1 million has been provided to the American Institute for Free Labor Development (AIFLD) to provide technical assistance to the Government of El Salvador and to supply technical assistance and production credit to private campesino organizations. An additional $4 million has been approved for this project, the bulk of which will be used for technical assistance and agriculture inputs for campesino cooperatives. No AID funds have been used in the bank reform program.

Question 12. Would you supply a list of any personnel and their institutions which have been financed by the U.S. Government for the purpose of preparing or advising on plans for land reform or bank reform in El Salvador? Indicate the amount of funds provided to each and identify the contracts and contract funding involved.

Answer. The AID has authorized a $1 million Specific Support Grant to the American Institute for Free Labor Development (AIFLD) to fund a project in support of the El Salvador land reform program through an association of agricultural cooperatives, the Union Communal Salvadoreno (UCS). AIFLD's assistance, however, is not limited to the UCS but will address itself to all beneficiaries of the agrarian reform program. While the bulk of the assistance is for assistance in implementing the land reform, particularly that part to be undertaken by the UCS, some planning assistance has been provided. Under the grant agreement, AIFLD has contracted separately with Professor Roy Prosterman of the University of Washington Law School, a recognized expert in land reform. Mr. Prosterman has been advising UCS and Rodolfo Viera, President of the Salvadoran Agrarian Reform Institute (ISTA) the primary Government of El Salvador implementing agency. AIFLD has also arranged for the brief services of Ms. Mary Temple, Executive Director of the Land Council of New York, as well as a contract with "Rural Development Services" for advisory services to ISTA and UCS. AID has not been involved with bank reform. Our AID Mission to El Salvador has not been directly involved in the preparation or advising on plans for land reform. Mission personnel have been developing projects which will assist the Government of El Salvador in implementing the program.

Question 13. Will you furnish for this committee the reports prepared for AID under such contracts or programs?

Answer. Inasmuch as the grant to AIFLD was only approved in late March, no reports are due as yet.

Question 14. There has been much talk that El Salvador has been "controlled by 14 families." Please indicate the number of rural properties confiscated in El Salvador so far in 1980 and the number of families involved in the ownership of those properties.

Answer. Stage I of the agrarian reform is now under way. The stage affects those landholdings in excess of 500 hectares, an estimated 376 properties totaling 15 percent of all farm land in El Salvador. The magnitude of the land distribution problem in El Salvador can be appreciated when it is realized that at the other end of the spectrum there are 191,527 farms of less than 2 hectares involving 10 percent of the total farm land. The most current report indicates that of 376 properties originally estimated to fall into stage I, 359 have been taken over by the Government with the owners being compensated by a combination of cash and interest bearing bonds. The original estimate was that 244 individual owners would be involved. There is no information available at present as to the actual numbers of owners of the 359 properties taken over.

Question 15. Has the confiscation of properties been an orderly process? Were the owners given receipts for the confiscation of personal property and homes? How has an evaluation of the properties been made? What method of compensation is being offered? If it involves government bonds, indicate the terms, and the percentage of interest. Compare these terms with current rates of inflation in El Salvador.

Answer. In general, the expropriation process has been orderly. The first phase of the land reform involves expropriation with compensation of 376 of the largest farms in the country (all over 500 hectares) and is almost finished. As of April 18, ten incidents of violence had been reported. These include two assassinations (a Ministry of Agriculture technician and an administrator's son); four incidents of burning buildings, crops, or machinery; forceable occupations of two farms by unknown groups; and threats to cooperative members followed by an attack on security forces at a third farm. These incidents have not had any appreciable effect on the pace of the Reform Program.

As each Government team (Ministry of Agriculture personnel) takes over the farms an inventory is made of personal property and improvements. The Agrarian Reform Law calls for formally recording the title deed of the property and description as well as the right to indemnification. Land and other property acquired are to be compensated partly in cash and partly in Agrarian Reform Bonds. This amount shall be determined on the basis of the percentage declared by landholder or owner in his property tax declaration for calendar years 1976 and 1977. In the case of property exceeding 500 hectares, 100 percent compensation will be made in Agrarian Reform Bonds. Property up to 500 hectares will be compensated by 25 percent in cash and 75 percent in Agrarian Reform Bonds. The value of livestock and improvements shall be paid in cash. The Government will publish a decree which will provide the terms and conditions of the Agrarian Reform Bonds. This has not yet been done.

Question 16. Do you agree with various experts in the U.S. Government who believe that nationalization of the banks and communization of the large farms is going to result in a serious reduction of the GNP of El Salvador?

Answer. First of all, I am unacquainted with the experts in the U.S. Government to whom you refer. Secondly, the bank reform legislation is not complete nationalization. Fifty-one percent of ownership of the banks will be assumed by the state and 49 percent will remain in private hands. Two of the five members of the board of each of these mixed-economy financial institutions will represent the private members. The previous owners of the financial institutions are being compensated with interest-bearing government bonds.

The agrarian reform does not provide for the communization of farms. Rather, the control of large farms is being turned over to cooperatives composed of member-owners who are those who worked the farms. The previous owners are compensated with a combination of cash and interest-bearing government bonds.

It does appear likely that the agrarian reform will initially result in a reduction of production. Such a profound reform will face inevitable administrative and technical difficulties. When the agrarian reform implementation is completed and technical and financial difficulties overcome, agricultural production is expected to increase because the agricultural workers will be able to retain profits themselves and not pay them to a landlord. In the capitalist spirit, people who stand to profit directly from managing and farming their own land are generally motivated to greater effort.

Question 17. Do you feel that it makes sense to carry out a program to weaken the economy of the nation and then ask the American taxpayer to make up the difference?

Answer. The economy of El Salvador is not weak because of a U.S. program but rather because revolutionary violence has created grave political and economic uncertainty. While the reform program being implemented by the Salvadoran Junta may have negative economic consequences in the short term, its intent is to open up the economic, social and political processes to the participation of the majority of the populace and thereby improve the climate in which a strong economy can flourish. The United States has not designed the specific reform programs being carried out by the Junta but we do support the effort. We are convinced that if the government does not move dramatically to undercut the popular appeal of radical Marxist solutions to El Salvador's grave social and economic problems by a program of significant reforms, the virtually certain result would be a bloody civil war with the radical left subsequently winning. It appears to us a worthy investment of U.S. development assistance to prevent that result and to increase the possibility of the survival of a moderate and pluralistic government in El Salvador.

Question 18. Isn't the "land reform" and the "bank reform" going to result in higher unemployment in the immediate future? Isn't this going to result in lower food production, and lower export earnings in the immediate future?

Answer. It is unlikely that the agrarian and banking reforms will result in higher unemployment. All agricultural workers previously employed will continue to be so, in one form or another, under the provisions of the agrarian reform. The banking reform contemplates no changes in the level of employment in the financial institutions. However, over the last several years open unemployment in El Salvador has been estimated at 12 to 15 percent and underemployment in rural areas was estimated as high as 40 percent due to the highly skewed distribution of land.

If previous experiences in Latin America offer a reliable guide, the inevitable administrative and technical difficulties of the agrarian reform will, at least for the short run, likely result in a somewhat diminished level of production. This will obviously reduce export earnings for a time. In the long run, however, we would expect substantially greater employment as thousands of new owners begin to operate their own farms with the capitalist incentive to increase production.

However, as I noted in my answer to question No. 7, if the Junta were deterred from carrying through reforms because of a temporarily adverse economic impact, they would have failed politically with results even more disastrous for the economy and the principles of free enterprise.

Question 19. Do you think that the American people approve the idea of collective farms? So you think that they approve of U.S. tax dollars being used to confiscate and collectivize farms in El Salvador.

Answer. I do not pretend to be able to judge the views of the American people toward the idea of collectivized farms. However, the agrarian reform in El Salvador provides for cooperative large farms, and individually-owned smaller farms, not collectivization. The cooperative movement in the United States has a long tradition and the American people and the Congress appear to have endorsed our support through economic assistance of cooperative efforts all over the world for many years. The largest farms are going to be managed as cooperatives while the law's land-to-the-tiller provisions will create up to 150,000 individual agricultural freeholders when implemented. These small, family farms, will also be in the American tradition.

The United States has long supported land reform programs around the world. One of the first cases was the U.S.-imposed land reform in Japan, which appears to have been a notable success.

Mr. HELMS. Mr. President, I think it should be pointed out that this is a charade to call this land reform. It is not land reform, but people reform. This is describing the use of force to take away the rightful property of private owners, and distribute it to people who do not have the background and training to manage it properly. No evidence is presented that the properties have been misused or the workers exploited. No evidence is presented that the new arrangements will be more efficient, or that they will raise the standard of living of the supposed beneficiaries. Indeed, just the opposite is the case, as Mr. Bowdler admits, with the pious hope that things may get better. He says:

> While the reform program being implemented by the Salvadorean Junta may have negative economic consequences in the short term, its intent is to open up the economic, social and political processes to the participation of the majority of the populace, and thereby improve the climate in which a strong economy can flourish.

The fact is that the so-called reform goes contrary to all experience about increasing economic production. Such production requires the development of an entrepreneurial class, willing to take risks, and to take the responsibility of managing complicated business enterprises. That class functions best when it has the information provided by the market, through prices, about the most efficient decisions that can be made. The destruction of the entrepreneurial group, and the destruction of the free market price system means that business decisions will be transferred to a group of inexperienced bureaucrats in the city who have no knowledge or understanding of practical agriculture.

Finally, we should dismiss out of hand the suggestion by Mr. Bowdler that "we would expect substantially greater employment as thousands of new owners begin to operate their farms with the capitalist incentive to increase production." Expropriation of land and distribution to collectives or cooperatives does not make capitalists. It does not even make owners, because a cooperative does not have the basic essentials of private ownership, namely the freedom to make personal decisions. Although U.S. farmers have used cooperatives for marketing and service operations, the use of cooperatives for managing the basic farming enterprise is not part of our tradition. Indeed, it is only another form of socialism.

Nor is it relevant that there is a "skewed distribution of land" which creates a "problem." The fact is that El Salvadorean agriculture is already one of the most progressive in Latin America, and has been increasing steadily in recent years. The distribution of wealth in El Salvador compares very favorably with the distribution of wealth in the United States, and even the United Nations statistics classify the distribution of wealth in El Salvador as "moderate." In my additional views to the nomination of Ambassador Robert E. White, I cited numerous statistics from UN and OAS sources which completely refuted the idea that "maldistribution of wealth" was the problem in El Salvador, and those statistics are relevant here today.

Mr. President, I ask unanimous consent that excerpts from my "additional views" on Mr. White be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpts From Additional Views of Mr. Helms

Mr. White is under the delusion that what he calls "reform" and what he calls "change" will be brought about by diminishing economic and political freedom through concessions to the left, to the Marxists, the Socialists. And, of course, that is the hue and cry in this country: We must move left; we must embrace socialism. And we have done it in this country, and look where it has brought us.

As for El Salvador, Mr. White specifically supports the current illegal junta's program of land reform, nationalization of banking, and nationalization of exports. All three represent the substitution of ideology for economics—and all three, of course, represent the substitution of ideology for economics.

The experience of lesser developed nations everywhere is that the ideologization of economics results in stunted or no growth. It results in lower standards of living and, most important of all, it lends itself to a slide toward totalitarianism in a desperate struggle to make absolute government control work.

That is what Moscow believes in. That is what Hanoi believes in. That is what Castro believes in. And that is what we are, through the likes of Mr. White, advocating in El Salvador. I say, Mr. President, this is not a strange foreign policy, it is a dangerous foreign policy for a nation that professes to believe in the free enterprise system.

Look at the nations around the world that have encouraged the free enterprise system, that have encouraged individual entrepreneurs, such as Taiwan, Hong Kong, Singapore, South Korea, and Chile. Is it not an arithmetical fact that all of these and others have experienced real progress in rates of growth and a rapid expansion of the standard of living for every economic level of society? Of course it is true.

Land reform has been a disaster in every country where it has been tried. I challenge any Senator to give me an exception. Land reform is a flop. It works against the best interests of the people.

Land reform and other such programs are not intended to improve agricultural output, but to provide political power to ideologues. It is noteworthy that El Salvador, through the use of modern agriculture, has achieved efficiencies of production that exceed most of Latin America, and even, in some cases, rivals the United States.

Yet Mr. White is going down there and he is going to advocate land reform. What he will be doing is advocating a turn-around in a system that has made El Salvador one of the most productive nations in Latin America.

Of course, such methods as El Salvador had in encouraging agricultural production require proper scale, conservation, equipment investment, and long-range planning. That is true there, that is true in the United States, that is true everywhere where the free enterprise system prevails. But if land were confiscated and broken up, this agricultural base is going to be destroyed.

That is precisely what Mr. White indicated clearly in his responses to my questions. That is what Mr. White intends to do. That is what he intends to advocate when he becomes U.S. Ambassador to El Salvador. That is the reason—one of them—that I am on my feet in an empty Senate Chamber today, making a record—because, a few years from now, I think I shall be somewhat comforted to look back and say, "Well, I tried, I tried to warn my colleagues."

Moreover, Mr. President, if all the arable land were divided up among the inhabitants of El Salvador, each one would receive three-tenths of an acre. This would not even provide subsistence. Moreover, the disruption of the agricultural pattern would break the back of the economy in general, destroy the export market, and reduce foreign exchange to negligible amounts. It should be pointed out that El Salvador has no mineral resources, and is only beginning to build industry. Its primary source of wealth is its agriculture. Any scheme to tamper with the agricultural system could well result in misery, hunger, and deprivation, both among the rural and urban populations. It is hard to conceive of such a policy as "reform."

ECONOMIC PROGRESS IN EL SALVADOR

I submit that there is no evidence that the situation in El Salvador is one of economic oppression. It is well known, for example, that income distribution statistics in the United States show that the top 20 percent of American families receive 41 percent of the national income, and the lowest 20 percent get only 5.4 percent of the national income. Yet no one calls this oppression in the United States.

In El Salvador, the top 5 percent of the population received 24 percent of the national income, and the lowest 20 percent received 5.7 percent, according to the 1977 statistics of the OAS Economic and Social Council. I found it rather interesting to note that, to attempt to justify his case, Mr. White stated that the top 5 percent got 38 percent of the income, without giving any source for his statistics.

This is the old shell game of those who advocate the things that Mr. White advocates.

They draw statistics out of the air and put them down as the holy writ, right straight from Sinai. When we say, "I want to get your figures." He says, "Oh, well, we will tell you later."

They cannot tell me later because his statistics are not correct.

Moreover, the OAS figures for El Salvador look especially good compared to those for all of Latin America: The top 5 percent got 32.7 percent for all Latin American countries, and the lowest 20 percent got 3.7 percent.

Indeed, the situation has been improving rapidly, despite the efforts of the terrorists to wreck the economy. The minimum wage in agriculture has increased 37 percent between 1976 and 1979, and for those workers in seasonal crops, 77 percent.

The United Nations has an economic indicator called the Gini which measures concentration of wealth. For El Salvador, the Gini is 0.50, which the U.N. classifies as "moderate," comparing it with Argentina, Chile, Costa Rica, and Venezuela.

A recent World Bank study shows that in El Salvador, 20 percent of the urban population and 30 percent of the rural population live below the poverty line. Of course, as we have discerned in our own country, poverty lines can be manipulated by political interpretation.

As a matter of fact, as ranking member of the Senate Committee on Agriculture, Nutrition and Forestry, we had two lengthy meetings today in which this poverty line was bandied around.

Of course, the poverty line is whatever some group of politicians say the poverty line is.

But for all Latin America the figures are 43 percent as calculated by the ILO and 41 percent as calculated by ECLA—U.N. Latin American Economic Commission. So again El Salvador is doing far better than most, or, at least, it was until the Marxists began to move in and take over.

The leftwing junta, supported by the U.S. State Department, and the likes of Mr. White, who is the nominee under consideration by the Senate today.

Indeed, the World Bank study shows a dramatic improvement in income distribution between 1965 and 1977, despite the rapid growth of population in El Salvador. Most of the increased distribution has affected the lower 40 percent of the people, incomewise.

As far as the tax burden is concerned in El Salvador, between 1971 and 1977, tax collections as a percentage of the GNP increased from 11 to 17 percent. This is one of the highest in Latin America. In 1962, direct taxes accounted for 28 percent of the revenues. In 1977 they accounted for 55 percent of the revenues. The indirect taxes, those which presumably affect the poor the most, decreased accordingly, from 71 percent in 1962 to 45 percent in 1977.

Mr. White, in response to my questions indicated that he believed that landownership was concentrated, with 78 percent in the hands of 10 percent of the landowners. He neglected to say that many of these landowners were corporations, such as we have in the United States, that have the capital to invest in long-range plans, and to provide greater benefits for their employees, precisely as it is in the United States. Moreover, the trend is slowly moving away from concentration, with the present level down from 83.8 percent in 1967.

Furthermore, 61 percent of the land is under cultivation in farms of less than 100 hectares. There is already a land distribution program in operation, which in 1978 awarded 8,300 hectares, and in 1979 awarded 36,200 hectares to cooperatives representing 5,000 persons. Unfortunately, the productivity of such distributions has declined.

Nevertheless, Mr. White believes that the "concentration of land in the hands of a small group and the emphasis on exportation of agricultural products are factors influencing the poverty in which a large part of the nation of El Salvador lives." Just the opposite is the case; in so far as national earnings have been increased and have achieved better distribution, it is because of the earnings from agricultural exports. The notion that emphasizing exports somehow induces poverty is completely wrong. The fantasy that taking a nation back to stone-age socialism is progress is either the result of ignorance or of callous disregard for the sufferings of the poor.

Indeed, it is also wrong that exports are overemphasized. In 1978, basic food production increased 38 percent, making El Salvador self-sufficient in food.

Mr. White has indicated that he feels the best-run countries in Latin America are Cotsa Rica, Venezuela, Colombia, and Ecuador. Yet in the 1978 statistics published by the Inter-American Development Bank, that, to take just two significant indices of social welfare, El Salvador surpasses all of them in the percentage of governmental spending either for education, or public health, or both. Specifically, the figures are:

[In percent]

	Education	Public health
El Salvador	22.4	9.6
Colombia	13.2	6.6
Venezuela	13.6	5.2
Costa Rica	34.3	4.0
Ecuador	30.4	9.5

Similarly, although El Salvador has a tragic rate of infant mortality, it is no worse than most Third World countries, and, in deaths per thousand, is about the same as such relatively rich Latin American countries as Colombia, Venezuela, and Mexico, according to the IADB figures. When the statistics for deaths under 5 years due to malnutrition are examined, El Salvador is comparable to Argentina, Colombia, Brazil, and Mexico.

Despite this record of progress, a case could be made that an even better record could have been accumulated if there had been considerably less intervention by the government in the economic sector. The socialist measures which have been forced upon El Salvador by U.S. pressure have impeded progress, rather than encouraged it. Moreover, they have contributed enormously to the atmosphere of increasing politicization that has devastated political life in El Salvador, and encouraged terrorism. The first steps that should be taken should be the depoliticization of the economy El Salvador. The most effective and efficient method for increasing the distribution of wealth is to remove political values from the system of distribution. Only a value-free economy can raise the standard of living of the poor.

THE POLITICAL SETTING AND REFORM

The terrorism that is now tearing apart the social fabric of El Salvador is the product of middle-class intellectuals who have substituted ideology for reality. The belief that revolution arises from "oppression" of the masses is a romantic concept that almost never bears the test of examination. Although many revolutionaries may be sincere in their compassion for the poor, the fact is that their revolutions are most often the creature of narrow ideology, beginning with an intellectual dissent from the established order. These passions are fueled with training, arms, and tactics provided by organized international movements.

I will digress. Nobody would describe Cuba under Batista, or Batista's predecessors, as a rose garden. But what happened to Cuba when the Marxist ideologue Castro took over? Did things improve or did they get worse?

Ask the families of the thousands upon thousands of Cubans who were sent to the wall, executed by firing squads.

I do not profess to believe that any country on earth has achieved the rose garden status—El Salvador among them. But I will say this, Mr. President. El Salvador, under a free enterprise concept, was way ahead of what El Salvador will have under a Marxist, socialist dictatorship.

No government can permit such organized dissent from the social structure. Once a movement for the violent overthrow of the system takes hold, the government, if it loves liberty, must take immediate steps to protect the national security. We believe that in the United States. It is fundamental to our self-preservation. Democracy cannot flourish where an organized minority dissents from the political consensus with a violent aim, nor can we expect that democratic methods will appease the sworn opponents of the system. Rather, a government so threatened, must undertake reform.

Reform must have two aspects. The first reform must deal with those who advocate the violent overthrow of the government. Social order must be restored, even if it means the use of deadly force against those using the same deadly force against the innocent people of the community. Surely, if we know anything—looking at the Iran, Afghanistan, and other violent trouble spots around the world—we must know that organized terrorism is, in fact, a declaration of war, and the rules of war must be applied. This Senator believes that the United States should move promptly to assist any free government which is under assault from organized terrorism. The cynicism that is more tenderhearted toward terrorism than toward the human rights of a nation at large has undermined the credibility of our intentions.

The second aspect of reform involves the elimination of corruption and the alleviation of economic problems. But if the latter part of reform is conceived of as the need to impose socialism, the reform will only aggravate the problem, creating economic decline and destroying the incentives of those who otherwise would be seeking economic progress. No benefits can be distributed to the poor unless the nation as a whole earns more; nor can they be distributed fairly by government edict. The traditional wisdom of Western society is that benefits should come from improved opportunities.

I simply do not believe that the United States, if it wishes to survive—if it wishes freedom to survive—can stand by and watch promising nations lapse into the stifling bonds of socialism. We cannot wait until the social fabric of a nation has been torn asunder before offering advice and diplomatic support. Nor do I believe that the United States should be in the general posture of offering government to government economic assistance. But if such assistance is offered, it ought to be conditioned upon the acceptance of certain reforms. But we must get over the idea that pushing a nation over the cliff of socialism constitutes "reform." Reforms should require the recipient to get out of government intervention in the economy, instead of forcing the recipient to expand socialistic practices.

Finally, Mr. President, I think it should be pointed out that there is money being reprogramed from fiscal year 1980, as well as money projected in fiscal year 1981 which has to do with planning of land reform and its implementation. My amendment is intended to stop both fiscal year 1981 spending, as well as any fiscal year 1980 funds which have not yet actually been made available. At a minimum, $8,200,000 in grants have been reprogramed in fiscal year 1980 funds, and $14,500,000 in fiscal year 1980 loans, with an additional $500,000 in grants for fiscal year 1981, and $5,000,000 in loans—all dealing specifically with the planning and implementation of Marxist land reform.

It is impossible with the information available to me to determine how much of the fiscal year 1980 funding has been made available already, but it is important to stop it in the last quarter of the fiscal year.

It is also interesting to note that Secretary Bowdler in his responses to me asserted that "No AID funds have been used in the bank reform program." Yet on March 24, AID advised the Committee on project 519–0260 that it was programing $900,000 in funds for fiscal year 1980 and $459,000 for fiscal year 1981 for providing technical assistance in economic planning. The activity data sheet notes:

> The GOES [Government of El Salvador] has begun implementation of agrarian reform, basic reform of the banking system, and nationalization of foreign trade in major agricultural export crops . . . Although clearly committed to all of these structural reforms, the GOES has had little experience in planning and implementing such programs. As a result they have requested AID assistance in financing as quickly as possible the best possible U.S. and third country technical experts who can be made available for short term work in El Salvador.

So there appears to be a contradiction between Secretary Bowdler's assurances and the projects as already approved by AID.

As far as the banking reform itself is concerned, it should be noted that this so-called reform actually places the government in control of credit and other banking services, even though 49 percent of the bank stock will be made available to the public. What the banking reform does is to politicize economic decisions, and make people dependent upon Marxist bureaucrats, thereby concentrating political power in a way detrimental to personal freedom.

Whether or not El Salvador's banking system needed reform or not is a matter of judgment. But the fact is that the private sector in El Salvador had pioneered assistance to small agricultural producers, and, without government intervention or support, had developed a model program for banking institutions. One of El Salvador's leading bankers and industrialists, Mr. Luis Escalante described this system in testimony before the House Foreign Affairs Committee.

Mr. President, I ask unanimous consent that this testimony be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT SUBMITTED BY MR. LUIS ESCALANTE

I appreciate the opportunity offered by the distinguished Chairman and members of the Subcommittee to submit information and views on the situation facing private business in El Salvador; it is of deep concern to our Central American peoples, and to your own.

My name is Luis Escalante. I have been active in business in my native El Salvador all of my adult life, and in 1955 founded El Salvador's Banco Agricola Comercial. This bank introduced the idea of making loans and services available to the rural and urban poor which—to the surprise of many—enabled the Banco Agricola Comercial to grow to become the country's largest in deposits, with $12 million in capital and surplus.

It is ironical that governments in Washington with the best intentions at times do unforeseen harm in the hemisphere's countries. President John F. Kennedy, inspired by Franklin D. Roosevelt's earlier Good Neighbor policy, set out to implant in Latin America the precepts of his Alliance for Progress. In failing, that policy in fact acted to stimulate the growth of socialism in Latin America's countries, as its backwash disrupted in various ways the normal social and economic growth process in each country.

Later, in equally good faith, President Carter brought forth his policy based on human rights. Circumstance has decreed that this policy's penalties have been applied by the United States most stringently to the weakest countries, and especially to those in Central America.

The threat by the United States implicit in this policy is that, regardless of circumstances, sanctions will fall upon regimes that do not respect human rights. This threat has impelled the governments of the countries of Central America to commit a graver offense against their peoples. It has obliged those governments to embrace weakness as policy, to the point of acting as no more than observers rather than protecting their peoples from the communist penetration of the Central American isthmus.

In El Salvador's case, the U.S. administration's commitment to human rights in foreign policy has affected two successive governments, neither for the better.

The bad government of General Carlos Humberto Romero reacted to the threat of U.S. human-rights penalties by adopting indifference to his people's well-being as policy. He made no use of his presidential powers to restrain the socio-political ferment that was being brewed by a number of small leftist and communist groups. These groups, which had acted in secret, were emboldened to set about creating anarchy in Salvadorean life.

They disrupted urban transportation, setting fire to buses and automobiles and blocking streets in San Salvador, the national capital. They assaulted people in the streets, and set fire to buildings and to homes.

Meanwhile, certain of these leftist groups for some time had been kidnapping widely-known Salvadoreans—professional men and business executives, and a prominent matron. For their victims' freedom they exacted exorbitant ransoms, from industry associations when the families could not pay. Over the years, it is estimated that leftist guerrilla kidnappings have extorted some $60 million, in some cases for captives ruthlessly murdered at the outset.

President Romero's response was confined largely to avoiding, insofar as possible, human-rights charges conveyed by the

American Ambassador. Romero turned aside the anguished pleas of Salvadoreans for protection against raids, gangland-style shootings of prominent citizens and all such urban guerrilla crimes with the "human-rights" excuse. He showed such absolute indifference to the wave of leftist kidnappings that it gave rise to whispers of the complicity of high governmental and Army officers in these highly remunerative crimes.

On October 15, 1979, a military coup d'etat replaced President Romero with a junta made up of two military officers and three civilians named the following day. The leaders of the coup issued a proclamation in the name of the Fuerza Armada (comprising all the military and police services) which pledged, among other things, to nationalize the country's principal export products, agree to agrarian reform, and nationalize private banks.

This junta broke up after some three months because its three civilian members, along with almost the entire cabinet and top government officials demanded of the Army a program to carry out the reforms pledged in the proclamation issued at San Carlos, headquarters of the Fuerza Armada. This was tantamount to demanding revocation of the Salvadorean constitution as well, since our fundamental law guarantees the right to private property.

Upon the rejection of their demands, the national officials elected to resign in a body. This was taken as confirming that the overthrow of President Romero had been with the foreknowledge of the American Ambassador, Frank Devine, who had condoned the coup.

At the breakup of the recently formed junta, Ambassador Devine participated in the organization of a new governing junta, which installed in place of the three civilians who had resigned three members of the Christian Democrat Party, it being argued that this would produce popular support for the junta.

Ambassador Devine's agreement to this political strategy was ingenuous, since El Salvador's Christian Democrats are at best a small minority. The re-cycled junta was actively opposed by virtually all sectors of Salvadorean society, to such a point that the country's rulers had great difficulty in getting qualified people to accept cabinet posts.

Meanwhile, the guerrilla groups that had previously operated clandestinely were emboldened to drop their masks. This enabled them to redouble their attacks, increasing the level of anarchy rising daily in El Salvador.

The National University (Universidad Nacional)—under distorted interpretations of university autonomy supported by the state with a sizable slice of the national revenue—for years has been openly transformed into an active communist-leftist center and guerrilla garrison.

As an act of leftist guerrilla theatrics, a few years ago, the university's rector, Dr. Carlos Alfaro Castillo, was ruthlessly shot to death by gunmen from a speeding car as he entered the university campus. Dr. Alfaro was devoting his efforts to de-politicizing the university, and to reversing its conversion into a leftist hotbed.

In what amounted to a guerrilla re-play, later the dean of the university's School of Economics was similarly assassinated.

El Salvador's second university is la Universidad José Simeón Cañas, also called the Universidad Católica (Catholic University), or "UCA". Run by Jesuit priests, it has played an in-depth role in the country's socio-political ferment, both directly and through the Salvadorean clergy. As a direct result, our country has suffered an anguish of the spirit, and a crisis of conscience unknown in this country. Priests bearing arms have joined in guerrilla assaults and, engaged in killing, have themselves been killed. With the obliteration of the separation of Church from state, the separation of the Church from violence has also been tragically lost.

Driven by political motives of its own, the U.S. Department of State in its policy for Central America has spoken, in the voices of recent U.S. Presidents, of the need for change, change and yet more socio-economic change in El Salvador. The cry goes on oblivious to the fact that this small country, impelled by the spirit, energy and sheer hard work of its people, has indeed been achieving change for the better—in the directions and at the pace dictated by the needs of its society.

The need for change, State Department catchword, has been met and surpassed in El Salvador, as may be seen in the improvement year after year in the Salvadorean living standard. In its annual increases in agricultural and industrial production. In the growth of its highway network, in the building of more schools, more hospitals and clinics. The list goes on.

The mythical "need for change" some years ago brought about nationalization of the Salvadorean Coffee Company. It went into the market, buying and selling coffee, and imposing its decisions upon all exporting of coffee from the country. At length, the nationalized company generally embraced a policy of speculation, with the aim of acting in concert with other producer countries to raise coffee prices in the world market.

The state-run company officials' lack of experience in the delicate, ticklish business of coffee trading led, as of the profit-and-loss statement of the Salvadorean Coffee Company published last year, to the nationalized company's having to report a loss of more than 280 million colones, or $112 million; while its managers claim to have cleared a theoretical profit for the previous year of 500 million colones, amounting to $200 million dollars.

Incidentally, El Salvador's then-President himself participated in the speculative strategy unsuccessfully pursued by the nationalized Salvadorean Coffee Company. This further underlines the undesirability of the invasion of government agencies into the field of private enterprise.

Coffee plays a vital role in the Salvadorean economy, as coffee exporting is the chief source of the dollar earnings absolutely essential for the imports that enable the country to develop. Moreover, coffee solves an otherwise insoluble agricultural problem: it is the only major crop that can be grown efficiently, let alone profitably, in El Salvador's mountainous, steep-hilled terrain. Coaxing rich crops of coffee from these precipitous slopes is an art at which Salvadorean growers excel.

One other benefit that coffee has brought to El Salvador's economy is worth mention.

The role of coffee exports in the nation's foreign trade is what has blessed El Salvador with a stable currency—steadily quoted at 2.50 to the American dollar ever since 1934.

The replacement of Ambassador Devine by Mr. Robert White has had the effect of shaking El Salvador anew. Ambassador White, taking advantage of the weakness of the present junta government demanded—as the "American Viceroy of El Salvador"—implementation of the aforementioned coup proclamation's plans for agrarian reform, and nationalization of private banks.

These two demands seem to be regarded as cure-alls in certain quarters in the United States. But their blanket application without regard for local conditions in a small country such as El Salvador can be disastrous.

As to agrarian reform, the government has begun by seizing the best-run and best-cultivated properties. These, in addition to their productive value, are the source of employment for thousands of the rural population. Reportedly, nearly 400 properties have been seized, with what is called Stage One of the land reform still in progress.

The first effects to be expected from these measures are a marked drop in agricultural production, and a rise in unemployment.

To offset the drop in production, there is talk of administering the best managed and most productive agri-business farms as co-operatives. This would probably not produce good results. Instead, it would make it evident that all the "reform" has accomplished is to put hundreds of farms under a single taskmaster—the government, as exponent of state capitalism.

As to the nationalization of the nation's private banks, one junta member declared that the step was taken because it behooved the junta politically to do so. In this respect, the mythical "need for change" was supported by a further myth—that El Salvador's private banks made loans only to relatives and friends of the banks' board of directors.

Those who echo such assertions either forget or do not know of the existence of Article 197 of the nation's banking law, in force for decades. That article of the Law for Credit Institutions and Related Organizations, prohibits the directors of licensee institutions from extending loans to family members or relatives within the third remove of consanguinity or the second remove of relationship by marriage.

As it happens, El Salvador's banking law and the Superintendency of Banking that enforces it through regulations and interpretations are regarded internationally as a model of scrupulous protection of the public. It also should be noted that, under the presidency of Col. Arturo Armando Molina (who preceded President Romero), a Monetary Board was set up. The country's President himself was the Board's president, while the head of the Salvadorean Central Bank was its secretary. Thus, in effect, the Central Bank was made an appendage of the Monetary Board, which set policy on money and credit and related matters. Besides the country's chief executive, various cabinet members were on this Board.

Before nationalization, nine private banks operated in El Salvador, along with branches of four foreign banks. The government had its own separate banking and financial institutions.

There was lively competition among El Salvador's private banks and foreign bank branches. The Banco Agrícola Comercial of El Salvador was noted for its innovations in the field of small-scale banking; it made a rule of business of serving the greatest number of people that it could.

It is my belief that Salvadoreans were well served by their private banks, as were the country's commerce, agriculture, its large industry and its small businesses.

For a developing country with a forward-looking and enlightened free economic system, the last thing needful is the nationalization of private banking. If there were any doubt as to the soundness of El Salvador's banks, or the scope and efficiency of their services, the most advisable course would have been to follow the example of the United States when President Roosevelt closed all banks for the historic three-day "banking holiday". After that, those banks which were shaky did not reopen, while others recommenced operations in closer compliance with regulatory requirements protective of the banking public.

In El Salvador, daily turmoil in the political, economic, civic, moral and social spheres is plunging the country ever more deeply into anarchy. The replacement of the inept Romero government by force, by first one and then another ruling junta, has deeply eroded constitutionality. The junta's padlocking of the legislature, deeply wounding the fundamentally republican national structure, has turned it into a slipshod five-man dictatorial rule.

There are also other ways in which the amateurish junta rides roughshod over our basic constitutional principles, which cannot and should not be set aside short of a Constitutional Convention.

We are now without the caliber of freedom of the press and of speech which are the prerogatives of democratic peoples and the hallmark of democratic regimes.

Our guarantees of individual freedom are shrinking further. Deprived of the protection of life and property by the authorities, the citizen sees human life grow cheaper.

More and more, penetration by Soviet Cubanization from nearby Nicaragua is scourging our territory and our institutions.

It is my conviction that, for the Free World's sake, U.S. foreign policy should not go on turning a blind eye to what is happening to the countries of Central America. Bit by bit, the democratic frameworks of those countries are being warped, re-molded into socialistic structures to Soviet patterns.

However unimportant those countries may seem to the United States, as the Sovietized Cuban system now sinking its roots there spreads further, the United States will be brought face to face with Central America's geographic significance. It is the potentially powerful springboard for Soviet Cubanization of the countries to the south, as well as aimed at Mexico.

In El Salvador's sad case, it is urgent that the present governing junta give way to one with broad support and democratic temper. This could continue to include military men along with qualified civilians of proven integrity free of political commitments.

An obligation of any such new coalition will be to call a Constitutional Assembly so as to restore constitutional order to the country. Whether by promulgating a new Constitution or by rededication to, and reinforcement of, the Constitution in force until the October 1979 coup, this must be done.

Once constitutional order is restored, presidential elections must be called, with guarantees assuring the citizens the opportunity fairly to elect a President of proven ability, honesty and responsibility, not least with due regard for the handling and investment of public funds.

Such a President is needed scrupulously to guide an administration of economic freedom for the well-being and progress of the Salvadorean people.

Mr. HELMS. Mr. President, I also ask unanimous consent that the AID program change advisory memoranda, and the fiscal year 1981 program presentation relevant to the topic of reform in El Salvador be printed at this point in the RECORD.

There being no objection, the memoranda were ordered to be printed in the RECORD, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT: ADVICE OF PROGRAM CHANGE

Country: El Salvador.

Project title: Agrarian Reform Credit.

Project number: 519-0263.

Fiscal year 1980 CP reference: None.

Appropriation category: ARDN.

Intended fiscal year 80 obligation: $9,500,000 (L). $500,000 (G).

Lending terms: 25 years maturity including 10 years grace period; 2 percent interest for grace period and 3 percent thereafter.

We are advising of our intention to obligate $10 million in FY 80 for an Agrarian Reform Credit project ($9.5 million DL and $500,000 DG). This project, like others in the FY 80 accelerated impact program for El Salvador, has been designed to support the progressive reform-minded government which came into power following the October 15, 1979 coup d'etat. None of these programs could have been anticipated at the time of the FY 80 Congressional Presentation.

On March 6, 1980, the Government of El Salvador (GOES) decreed an agrarian reform program which, when fully implemented, will become one of the most sweeping reforms of its kind in Latin America. The first phases of the program have begun, including expropriation of approximately 300 of the largest haciendas in the country and the land-to-the-tiller program which will transfer land ownership to tenant farmers. Implementation of the program will be extremely costly, and the GOES will need external assistance. One of the most urgent short-term requirements is for agricultural credit early in the planting season. The purpose of this project is therefore to increase the availability of credit and the capacity of the Agricultural Development Bank to deliver this urgently needed financing to the new agrarian reform sector. This project will be followed later in FY 80 by an agrarian reform sector project which will provide a broader range of support to the program.

ACTIVITY DATA SHEET—EL SALVADOR PROGRAM

Title: Agrarian Reform Credit	Funds: Agriculture Rural Development and Nutrition	Proposed Obligation (in thousands of dollars): Fiscal year 1980, 9,500 (L): 500 (G); Life of project, 10,000		
No. 519-0263: Grant ×, Loan ×, New ×.	Prior reference: None	Initial obligation: Fiscal year 1980.	Estimated final obligation: Fiscal year 1980.	Estimated completion date of project: Fiscal year 1982.

Purpose: To increase the availability of credit and the capacity of the Agricultural Development Bank (BFA) to deliver resources to the agrarian reform sector.

Background: On Mar. 6, 1980, the Government of El Salvador announced a comprehensive agrarian reform program. This program will take place in three phases: Phase I entails expropriation with compensation of approximately 300 of the country's largest land holdings, generally those larger than 500 hectares. Intervention of all of these estates covering approximately 220,000 hectares or 15 percent of the country's farm land has been completed. Phase III (land-to-the-tiller) which was announced on Apr. 28, involves the transfer of ownership to all tenant farmers of the land they presently rent. This will affect approximately 150,000 campesino families. Phase II entails expropriation of farm land between 100 and 500 hectares. It is estimated that this will involve an additional 1,50C to 2,000 farms totalling some 350,000 hectares. Implementation of Phase II is not expected to begin until at least early 1981. The costs of implementing this comprehensive program will be considerable. Of particular concern during the initial year is the availability of credit. Preliminary estimates indicate a credit demand of approximately $140 million for Phase I alone during agricultural year 1980–81. This project will help the GOES to meet this demand—both by providing financial resources and by increasing the capacity of the BFA to meet the unique requirements of the new agrarian reform cooperatives.

Host country and other donors: The GOES will be financing the vast majority of costs associated with its new agrarian reform program. During 1980–81, this will total several hundred million dollars. No other donors have yet committed resources to support agrarian reform, although the Inter-American Development Bank (IDB) is expected to send a project identification mission to El Salvador in June 1980. The IDB is also planning $16 million for agriculture credit in 1980 which will provide small farmer credit, including those who receive title through the land-to-the-tiller program.

Beneficiaries: Credit provided under this project will directly benefit the estimated 40,000–60,000 families participating in new production cooperatives formed in Phase I of the Agrarian Reform Program. The estimated cost per family will be $160 to $250.

Fiscal year 1980 program: The BFA will open a line of credit to provide working and production credit for the new Phase I Agrarian Reform cooperatives. Technical assistance will also begin.

Major output:	All years
BFA agrarian reform line of credit	1
Loans to cooperatives	350
Improved agrarian reform credit system	1

AID financed inputs:	(Thousands) Fiscal year 1980
Grant: Technical assistance:	
54 PM long term	$450
10 PM short term	50
Loan: Credit	9, 500

U.S. Financing (in thousands of dollars)

	Obligations	Expenditures	Unliquidated	Principal contractors or agencies
Through Sept. 30, 1978				Agricultural Development Bank.
Estimated Fiscal Year 1979				
Estimated through Sept. 30, 1979				
		Future year obligations	Estimated total cost	
Proposed Fiscal Year 1980	9,500 (L); 500 (G)	0	9,500 (L); 500 (G)	

AGENCY FOR INTERNATIONAL DEVELOPMENT ADVICE OF PROGRAM CHANGE

Country: El Salvador.

Project title: Small Enterprises Development.

Project number: 519-0229.

1980 CP reference: None.

Appropriation category: Agriculture, Rural Development and Nutrition.

Intended fiscal year 1980 obligation: Grant, $500,000; Loan, $5,000,000.

Lending terms: Repayment within 25 years with a 10 year grace period. Interest rates are 2 percent during the grace period and 3 percent thereafter.

We are advising of our intention to authorize $5,500,000 in combined loan and grant assistance in FY 80 for a Small Enterprises Development Project in El Salvador. This is initial funding for a planned three-year project which will total $9,750,000: $750,000 grant funds and $9,000,000 loan funds. Incremental funding will be obligated in FY 81.

subject to the availability of funds. The project was originally proposed for FY 81 funding as part of the Mission's FY 81 Country Development Strategy Statement. However, in order to generate new employment opportunities and to respond more rapidly to current needs for expanded credit opportunities among the Salvadoran poor, project development was accelerated to FY 80.

The project will help alleviate the lack of appropriate technologies, markets, and credit to small enterprises by expanding the operations of FEDECACES, a private, multipurpose cooperative federation, and FEDECCREDITO, a public-private federation of decentralized, privately-controlled credit agencies outside the capital city. The Project is designed to provide credit and improved services to more than 10,000 small producers. The average size of the subloans is anticipated to be less than $1,200, and the vast majority of subborrower beneficiaries have current annual per capita incomes of less than $350. Enterprises eligible for project assistance are small-scale businesses, small on-farm and off-farm enterprises, and other group or cooperative enterprises whose membership is poor.

ACTIVITY DATA SHEET—EL SALVADOR PROGRAM

Title: Small Enterprises Development	Funds: Agriculture, Rural Development and Nutrition	Proposed obligation (in thousands of dollars): Fiscal year 1980, Loan–$5,000, Grant–$500; Life of project: Loan=$9,000, Grant=$750		
No. 519–0229: Grant ×, Loan ×, New ×	Prior reference: None	Initial obligation: Fiscal year 1980.	Estimated final obligation: Fiscal year 1981.	Estimated completion date of project: Fiscal year 1983.

Purpose: To develop and expand small-scale profitable enterprises in rural areas.

Background: An estimated 2.6 million of the country's 4.5 million population have annual per capita incomes below $250. Of these, approximately 2.45 million live outside the capital city: more than 1.3 million small farm worker or tenant families, more than 700,000 dispersed and landless rural poor, and more than 400,000 inhabitants of rural communities. These people have few opportunities to improve their economic well-being. There have been only limited efforts to increase the number and capacity of productive enterprises owned or operated by the Salvadoran rural poor, and those have been highly centralized efforts with little community participation. Small scale rural producers thus lack access to effective means for starting or modernizing their enterprises. The major constraints they face are: a lack of credit at reasonable terms; inadequate supporting technical services; and few production and marketing information services.

The proposed project attacks these constraints through two community-based credit and service-delivery institutions. One is FEDECACES, a private federation which supports a system of multipurpose cooperatives and provides its members with education services and financing. AID assistance will help FEDECACES increase its number of cooperatives outside San Salvador from 22 to 31 and expand rural membership from 10,400 to 19,000. This will be done by (a) improving the Federation's education and training programs, (b) improving its planning capabilities and (c) increasing its credit fund. The second participating institution is FEDECCREDITO, a public-private federation of decentralized, privately-controlled credit agencies. AID support will help FEDECCREDITO improve its planning, provide marketing services to small scale farming and business enterprises, and extend supervised credit services. Operations will concentrate in 11 credit agencies in the eastern and north-eastern zones, three of which will be new.

Host country and other donors: FEDECACES and FEDECCREDITO will finance salary and operating costs, as well as lending capital. Their contributions are estimated at $5.8 million. The IDB is assisting FEDECCREDITO in the northwestern region, while the TBRD is assisting in selected urban areas. There is no duplication between AID and other donor efforts.

Beneficiaries: Primary beneficiaries will be the poor who own, operate, or are employed in small-scale businesses, artisan and farm enterprises and cooperatives. An estimated 200,000 rural Salvadorans will benefit from the project. Cost per beneficiary is $25.

Fiscal year 1980 program: To begin project operations, including institutional expansion, credit and related services.

Major outputs (and AID unit cost):	All years
Education/promotion system expanded (FEDECACES)	1(312)
Cooperatives added to FEDECACES system	9(25)
FEDECACES subloans	3,700(1.25)
Skills training program strengthened (FEDECCREDITO)	1(150)
Planning/evaluation system strengthened (FEDECCREDITO)	1(75)
New "caja" agencies created	3(60)
FEDECCREDITO subloans	5,000(0.8)

AID financed inputs:	Fiscal year 1980 (thousands)
Grant:	
Technical assistance	$250
Training	225
Commodities	25
Total	500
Loan: Credit fund	5,000

U.S. financing (in thousands of dollars)

	Obligations	Expenditures	Unliquidated	Principal contractors or agencies.
Through Sept. 30, 1978				Fedecaces.
Estimated fiscal year 1979				Fedeccredito.
Estimated through Sept. 30, 1979				
		Future year obligations	Estimated total cost	
Proposed fiscal year 1980	L–5,000; G–500	L–4,000; G–250	L–9,000; G–750	

AGENCY FOR INTERNATIONAL DEVELOPMENT: ADVICE OF PROGRAM CHANGE

Country: El Salvador.

Project title: Agrarian Reform Supports.

Project number: 519–0259.

Fiscal year CP reference: None.

Appropriation category: Economic Support Fund.

Intended obligation: $5,000,000.

This is to advise that A.I.D. intends to obligate $5,000,000 for an emergency grant entitled "Agrarian Reform Support."

The urgent need for this program has become apparent subsequent to preparation of the fiscal year 1980 Congressional Presentation.

The Government of El Salvador has asked for assistance to begin immediate implementation of agrarian reform programs.

A.I.D.'s contribution will consist of a small part of the total program providing start-up support in the critical first months of the programs.

The funding provided will help finance the start-up costs of the government's agrarian reform program and related efforts to improve rural living conditions. It will finance:

Institutional strengthening for the agrarian reform institution and other implementing agencies;

Operating costs of field teams to organize and give technical assistance to beneficiaries;

Agricultural inputs such as seed, tools and land preparation; and,

Support services for beneficiary groups.

ACTIVITY DATA SHEET

Title: Agrarian Reform Support, Literacy and Health	Funds: Economic Support Fund (ESF)	Proposed obligation (in thousands of dollars): Fiscal year 1980, 5,000; life of project, 5,000		
Number—None: Grant × New ×	Prior reference: None	Initial obligation: Fiscal year 1980.	Estimated final obligation: Fiscal year 1980.	Estimated completion date of project: Fiscal year 1981.

Purpose: To assist the GOES and private campesino organization to carry out an agrarian reform program and to support complementary efforts to improve basic services such as literacy and health program development.

Background: Since October 1979 the Government of El Salvador, which overthrew the previous military regime, has had as an objective the implementation of a number of measures designed to consolidate the new government as reformist, anti-oligarchical, and populist. One of the major elements of this announced effort is the agrarian reform program. Its importance relates not only to the government's intention to reorganize agriculture to improve land distribution and bring unused land into production, but also to reduce the economic power exerted by some large land holders who have traditionally been a powerful element in El Salvador's political scene.

Our assistance is to provide urgently needed resources in the short term in order to get the agrarian reform moving quickly. We will be working on a longer term development assistance program to adequately support the GOES subsequent efforts in agrarian reform.

El Salvador is one of the most densely populated countries in the world—and the very pressure of overpopulation creates a need for increased productivity in rural areas.

Host country and other donors: The Government of El Salvador will be making a host country contribution of $3.5 million for input assistance and administrative costs of the involved institutions and for the cost of land for this project which could run many millions. In addition, it is expected that much of the public sector budget will be directed to support the agrarian reform. Other donor projects which finance agriculture credit will be available for agrarian reform beneficiaries, and it can be expected that the GOES will request additional financial support from the IDB and the IBRD. For the present, therefore, there is a vital need for the government to have access to operational fund to move forward on its programs. It is the government's belief that initiation of the agrarian reform program will enhance efforts to resolve the problems of security and uncertainty.

Beneficiaries: The agrarian reform beneficiaries may exceed 250,000 landless small farmer and rural laborer families. This project initiates a nationwide land reform program aimed at these beneficiaries and will directly reach an estimated 50,000 such families while supporting the institutions that will serve all the agrarian reform beneficiaries. The estimated cost per beneficiary family is $75.00.

Fiscal year 1980—All Project Activities

Major outputs (and AID unit cost):	All year
Agriculture input packages (families)	50,000
Institutional support	×

AID financed inputs:	Fiscal year 1980 (thousands)
Institutional strengthening, technical assistance and training for implementing institutions	$500
Operating expenses—field cadres	500
Agricultural supplies and material	3,500
Beneficiary organizations	500

	U.S. financing (in thousands of dollars)			
	Obligations	Expenditures	Unliquidated	Principal contractors or agencies
Through Sept. 30 1979				
Estimated fiscal year 1980	5,000	4,000	1,000	
Estimated through Sept. 30, 1980	5,000	4,000	1,000	
		Future year obligations	Estimated total cost	
Proposed fiscal year 1981			5,000,000	

AGENCY FOR INTERNATIONAL DEVELOPMENT ADVICE OF PROGRAM CHANGE

Country: LAC Regional.

Project title: Free Labor Development (AIFLD).

Project number: 598–0101.

Fiscal year 1980 CP reference: Annex III, Latin American Programs, p. 319.

Appropriation category: Education and Human Resources.

Intended obligation: $8,400,000.

This is to advise that AID intends to obligate an additional $1,300,000 of fiscal year 1980 funds to the Free Labor Development regional project, increasing it from $7,100,000 in the reference data sheet to $8,400,000.

The purpose of this project is to establish growing and financially independent free democratic labor movements in the countries of Latin America and the Caribbean.

The entire amount of the proposed increase will be required to carry out overseas programs in the 16 countries where AIFLD is presently active.

ACTIVITY DATA SHEET—LAC REGIONAL PROGRAM

Title: Free Labor Development (AIFLD)

Funds: Education and Human Resources Development

Proposed obligation (in thousands of dollars): Fiscal year 1980, 8,400; Life of project: Continuing

Number: None: Grant ×; Continuing ×

Prior reference: Fiscal year 1980 Latin America Programs, p. 319

Initial obligation: Fiscal year 1962

Estimated final obligation: Continuing[1]

Estimated completion date of project: Continuing.[1]

Purpose: To strengthen free and independent democratic labor movements in Latin America and the Caribbean.

Background and progress to date: This project is being carried out through cooperative agreements with the American Institute for Free Labor Development (AIFLD) and seeks to improve union leadership at all levels through educational and social development projects. Within the broad framework of human rights, particular emphasis is placed on advancing the rights of free trade unions and the individual rights of their members. Since inception of the program, cooperating trade union movements have strengthened their membership, financial position, and the economic and social conditions of their members. Social projects such as clinics and cooperatives have attracted new members, and AIFLD programs have helped protect free trade unions and their leaders from adverse governmental action.

Host country and other donors: The AFL-CIO and U.S. business firms contribute some $230,000 annually to the program. Unions in host countries contribute portions of instructor salaries, travel and related costs. International Trade Secretariats provide personnel, program and overhead costs varying from 20 percent to 50 percent of total costs of the "union-to-union" program.

Beneficiaries: In fiscal year 1980, the cost per direct beneficiary is estimated at $330.

Fiscal year 1980 program: Overseas programs will train 25,000 participants in 16 countries and the Caribbean. Training in the United States will be given to about 200 participants, with particular emphasis on the involvement of women.

	Through fiscal year 1980
Major outputs:	
Union members trained in local courses	400,000
Members receiving advanced training the United States	3,117
Members receiving university-level training in the United States	240
Number of social projects carried out	75

	Fiscal year 1980 (thousands)
AID financed inputs:	
Grant:	
Overseas country programs in LA and the Caribbean	$3,789
U.S. training programs	1,292
Union-to-union—International Trade Secretariats	931
Agrarian Union program	503
ORIT—Inter-American Regional Workers Organization	125
U.S. personnel and administrative costs	1,760
Total	8,400

	U.S. Financing (in thousands of dollars)			
	Obligations	Expenditures	Unliquidated	Principal contractors or agencies
Through Sept. 30, 1978	56,485	49,390	7,095	American Institute for Free Labor Development (AIFLD).
Estimated fiscal year 1979	7,425	7,907		
Estimated through Sept. 30, 1979	63,910	57,297	6,613	
		Future year obligations	Estimated total cost	
Proposed fiscal year 1980	8,400	[1] Continuing	[1] Continuing	

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[1] The strengthening of free trade unions is one of AID's continuing objectives under the Foreign Assistance legislation.

AGENCY FOR INTERNATIONAL DEVELOPMENT: ADVICE OF PROGRAM CHANGE

Country: El Salvador.

Project title: Economic Policy and Reform.

Project number: 519–0260.

Fiscal year 1980 CP reference: None.

Appropriation category: Selected Development Activities, Education and Human Resources Development.

Intended fiscal year 1980 obligation: $500,000 SDA, $400,000 EHRD.

We are advising of our intention to obligate $900,000 in grant assistance during fiscal year 1980 for an Economic Policy and Reform Project in El Salvador. The total AID project cost will be $1,359,000—$900,000 will be obligated in fiscal year 1980 and the remaining $459,000 in fiscal year 1981, subject to the availability of funds. The project is part of an accelerated fiscal year 1980 AID assistance program to El Salvador which was designed following the October 15, 1979 coup d'etat that brought into power a progressive, reform minded government.

This project will provide essential technical assistance and training support to the Government of El Salvador as it embarks on the design and implementation of a number of fundamental reforms which will increase the country's opportunities for socioeconomic development and improve the lives of the poor. It is expected that the proposed assistance will fall into eight major categories: economic and development policy, agricultural research and policy, cooperative development, educational reform, environmental improvement, health sector development, municipal development, and human rights. It includes elements of an Economic Policy Development Project (519–0232) which was described on page 166 of the fiscal year 1980 Congressional Presentation.

Annex: Activity Data Sheet.

ACTIVITY DATA SHEET—EL SALVADOR PROGRAM

Title: Economic Policy and Reform

Funds: Selected Development Activities (SDA), Education & Human Res. Dev. (EHRD)

Proposed obligation (in thousands of dollars): Fiscal year 1980, SDA-500; EHRD-400; Life of project, SDA-859; EHRD-500

No. 519-0260: Grant ×× New ×

Prior reference: None

Initial obligation: Fiscal year 1980.

Estimated final obligation: Fiscal year 1980.

Estimated completion date of project: fiscal year 1983.

Purpose: To provide The Government of El Salvador (GOES) with the assistance it requires to plan and begin basic economic policy and development reforms.

Background and progress to date: The progressive basic-needs oriented government which came into power in El Salvador in October 1979 is committed to a wide range of fundamental changes and reforms which will promote development and improve the lives of the poor. These changes include an accelerated agrarian reform program; basic reform of the banking system; reform of labor management relations to permit among other things the creation of campesino unions; agricultural policy reforms to increase production on small and medium-sized farms: health and education reforms to increase and improve services to the poor; legal reforms to enhance the protection of basic human rights; economic reforms to increase employment, production, and foreign exchange earnings; and nationalization of foreign trade in cotton, coffee, sugar, and sea products to ensure that the benefits (and foreign exchange earnings) from these products accrue to El Salvador.

The GOES has begun implementation of agrarian reform, basic reform of the banking system, and nationalization of foreign trade in major agricultural export crops. It has also taken initial steps to bring about the other reforms and programs. Although clearly committed to all of these structural reforms, the GOES has had little experience in planning and implementing such programs. As a result, they have requested AID assistance in financing as quickly as possible the best possible U.S. and third country technical experts who can be made available for short-term work in El Salvador. The project will also provide short-term in-country training to program implementors and short-term observational travel to program planners and policy makers. It is expected that the assistance will fall into eight major categories: economic and development policy, agricultural research and policy, cooperative development, educational reform, environmental improvements, health sector development, municipal development, and human rights.

Host country and other donor: The GOES will contribute $500,000 for the project. The bulk of this will be for personnel and operating costs. There are no other donors who are providing such technical assistance and training.

Beneficiaries: The ultimate beneficiaries of the project will be the country's 2.7 million poor whose lives are improved by the implementation of fundamental structural changes and by the creation of a more equitable society. No short term per capita beneficiary costs can be calculated.

Fiscal year 1980 program: All technical assistance, research, and training activities will begin. It is expected that all of the funds will be committed within twelve months after project authorization.

Major outputs:	All years
Special studies	2
Training courses	4
Seminars and conferences	3
Trained participants (PM)	30
Technical experts (PM)	100

AID financed imputs:	Fisca year 1980 (thousands)
Technical assistance	$401
Participant training	100
In-country training	300
Special studies	99
Total	900

U.S. financing (In thousands of dollars)

	Obligations	Expenditures	Unliquidated	Principal contractors or agencies
Through Sept. 30, 1987				
Estimated fiscal year 1979				
Estimated through Sept. 30, 1979				
		Future year obligations	Estimated total cost	
Proposed fiscal year 1980	900	459	1,359	

ACTIVITY DATA SHEET—EL SALVADOR PROGRAM

Title: Agricultural Services

Funds: Agriculture, Rural Development and Nutrition

Proposed obligation (in thousands of dollars): Fiscal year 1981, L-5,000; G-500; Life of project, L-5,000; G-500

No. 519-0192: Grant ×, Loan ×, New ×

Prior reference: None

Initial obligation: Fiscal year 1981.

Estimated final obligation: Fiscal year 1981.

Estimated completion date of project: Fiscal year 1986.

Purpose: To improve the financial viability of the beneficiaries of the Government of El Salvador's (GOES) Agrarian Reform Program.

Background: The distribution of land holdings is badly skewed in El Salvador. Four of the country's farm units command 64 percent of the total farm lands, while 80 percent of the farms are less than 3 hectares in size and total only 15 percent of all farm lands. About 60 percent of El Salvador's farmers do not own their own land. As a high priority, the GOES is formulating plans to increase the access to agricultural lands of the landless and small farmers. A major reform goal is a fundamental restructuring of land holding patterns and establishment of campesino organizations to encourage more small farmer participation in the development process.

Host country and other donors: Since 1973, El Salvador's National Agriculture Development Bank has provided financing to 30 cooperatives to acquire 6,300 hectares on 300 farms. Since the commencement of its operation in 1976, the El Salvador Institute of Agrarian Transformation has acquired 12,740 hectares of land and distributed 5,350 hectares to 7,600 farmers who farm these lands jointly. Another 2.600 hectares have been distributed to individual families.

Beneficiaries: AID project beneficiaries will be primarily small farmers who acquire land through the agriculture reform program. It is expected that the number of direct beneficiaries will be at least 40,000 families or 240,000 people. The estimated AID cost-per-family is $140.

Fiscal year 1981 program: Activities undertaken under this project will help insure that the newly landed program beneficiaries will have access to those goods and services vital to their welfare and the economic viability of their production units. These goods and services include: development of crop diversification technology, expanded extension services, increased availability of high yield inputs, improved marketing facilities and services, and cooperative development. The development of a seed improvement program, fruit and timber nursery, and small animal and livestock breeding centers will create a high return particularly suited to small farm requirements.

[In thousands of dollars]

	All years	
	Unit	Cost
Major outputs (and AID unit cost):		
Improved research extension service	1	(200)
Information dissemination system equipped	1	(1,700)
Increased availability of agricultural inputs	2,000	(0.5)
Improved marketing of diversified crops	20	(65)
Agricultural production cooperative system strengthened	1	(1,200)
Agricultural reform policy and program formulation	1	(100)
	Fiscal year 1981	
	Loan	Grant
AID financed inputs:		
Technical assistance	500	500
Training	500	
Commodities	3,400	
Contingency	100	
Total	5,000	500

U.S. financing (in thousands of dollars)

	Obligations	Expenditures	Unliquidated	Principal contractors or agencies
Through Sept. 30, 1979				To be selected.
Estimated fiscal year 1980				
Estimated through Sept. 30, 1980				
		Future year obligations	Estimated total cost	
Proposed fiscal year 1981	L-5,000; G-500		L-5,000; G-500	

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. RANDOLPH. Mr. President, it is my understanding that when Fidel Castro came into this Chamber, and I remember it—I recall when he was in the Halls of Congress—as he took charge of Cuba, there was the argument between Batista and Castro at that time, and I know he himself said he was an agrarian reformer. Someone did not need to say that for him. He said it over and over and over again.

Would the Senator say that in Cuba he has been an agrarian reformer or has he been an enemy of the United States of America?

Mr. HELMS. I think the Senator's question speaks for itself; it answers itself. He has been an enemy of the United States.

Mr. RANDOLPH. I shall support the amendment.

Mr. HELMS. I thank the Senator very much.

I will be glad to yield back my time.

Mr. JAVITS. Mr. President, will the Senator answer a couple of questions? We may be able to take this amendment if we understand what the Senator is trying to reach.

Mr. HELMS. Yes, I will be glad to answer questions.

Mr. JAVITS. Having participated in matters of reconstruction of individual nations for a long time, it is a fact that there are landholdings in many countries which are a great tyranny. An elitist group owns all the land, and the people do not have any.

Now, land reform has been undertaken in many countries. Many countries have stayed democratic because land reform was undertaken.

I am rather inclined to agree with the Senator that land reform should not be undertaken with our money. That is why I say we may be able to take the amendment. But I do not wish to inhibit a nation, a sovereign nation, its own people, from undertaking land reform, and in many cases the only way you can reform is by acquiring land and redistributing it.

There have been redistributions and redistributions. Some have been very successful. I will give the Senator an example of that. I was in the House when the great land reform took place in Taiwan. It was one of the great achievements I think, that Walter Judd, Dr. Walter Judd, inspired. Dr. Judd was a great devotee of Chiang Kai-shek. It was very successful. So I would say, yes, we should take an amendment which makes it clear that U.S. money is not to be used to compensate for land reform or any other great social undertaking of this character. But I want to understand from the Senator, because I do not know what the Senator intends in this matter, whether he goes beyond that.

Mr. HELMS. No. The amendment speaks for itself, Senator. If it is a decision democratically arrived at, it is none of our business. I just do not want the U.S. taxpayers' money——

Mr. JAVITS. To be used for the purpose.

Mr. HELMS. That is correct.

Mr. JAVITS. I suggest we take the amendment.

Mr. CHURCH. On the basis of this colloquy I am prepared to take the amendment, too. But I would ask in the interest of the Senate's time, since we are prepared to take the amendment, whether the Senator insists on the yeas and nays.

Mr. HELMS. No. I want to save the Senate's time. I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the El Salvador amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the Senator's amendment, in which I hope to join as a cosponsor, seeks to stop U.S. funds from being used in any country where the Castro doctrine is a part of that country's system. Private property and personal effort are still a part of American life. Let us not dilute our doctrines by seeming to approve an ideology that is not the type of partnership which tears apart our democratic principles of justice.

Mr. CHURCH. I yield back our time.

Mr. HELMS. I yield back my time.

Mr. CHURCH. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1181

(Purpose: To provide that up to $50 million of the funds authorized to be appropriated under this Act be made available for emergency use when U.S. national interests urgently require such funding to promote economic or political stability)

Mr. EAGLETON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1181.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after line 23, add a new section as follows:

"SEC. . Notwithstanding any restriction of this Act, up to $50 million of the funds appropriated to carry out this chapter for the fiscal year 1981 may be available for emergency use under this chapter when national interests of the United States urgently require economic support to promote economic or political stability."

Mr. EAGLETON. Mr. President, I rise to offer an amendment to the bill we are considering today which supports a House-initiated effort to provide the President authority to deal with unanticipated challenges to the security interests of the United States.

My amendment would provide authority for the appropriation of up to $50 million in fiscal year 1981 to be set aside for emergency use when national interests urgently require such funding.

In the House version of the foreign assistance bill passed earlier this month, language was included that authorizes the President to utilize some of the funds programed under the Economic Support Fund (ESF) program to meet emergency requirements. To obtain the emergency funding, the President may draw on the two kinds of funding allowed by the Economic Support Fund—unallocated funds and funds programed for specific country use. It would also allow utilization of up to 5 percent of any earmarked amounts such as those for Israel, Egypt, Turkey, and special Middle East requirements.

My amendment would go one step further. It would provide authority for the designation of specific funds—unencumbered by an ESF program affiliation—to be used to address emergency requirements.

In addition, my amendment would provide for less restrictive controls over the funding made available. Where House report language requires prior notification of 15 days to the authorizing and appropriations committees before any obligation of funds, my amendment would not require any advance notification to the Congress. I believe that if granting the authority I propose is to serve its intended purpose, the President must have the flexibility to address critical needs without delay.

The President requested the creation of such a fund in his original budget request for 1981. The House stopped short of establishing a specific fund, but did adopt bill language following strong testimony from the executive branch that funds were necessary to address emergency needs not foreseen at the time the foreign assistance bill was drafted.

The unallocated contingency fund was proposed by the President for inclusion in the Economic Support Fund account because the purposes for which it might be used are best covered by this program's authorization. The authorization allows for assistance to promote economic or political stability in recognition of the fact that under certain conditions, the national interest may require the providing of aid for purposes not easily quantifiable or qualifiable.

In my opinion, Mr. President, the authority my amendment grants is essential if the administration is to be successful in addressing the type of increasingly complex challenges to our national security evidenced in the world today.

I am well aware that what I am proposing has the potential of disrupting the allocation of funding under the Economic Support Fund program as envisioned by the Senate Foreign Relations Committee. In this year of stringent budget constraints, I recognize that there is scant room for unprogramed funding. Nonetheless, recommending actual program funding levels is the responsibility of the Senate Appropriations Committee and should be addressed through the appropriations process. My sole purpose in offering this amendment today is to give the Appropriations Committee the opportunity to consider this matter further.

Mr. CHURCH. Mr. President, I would like to ask the distinguished Senator a question or two concerning his amendment.

First of all, do I understand the amendment does not add $50 million to the bill?

Mr. EAGLETON. No; it does not add $50 million to the bill.

Mr. CHURCH. In other words, the effect of the amendment would be to authorize the earmarking of $50 million authorized within the overall limitations of the bill——

Mr. EAGLETON. That is correct.

Mr. CHURCH (continuing). That the President could use for a contingency fund.

Mr. EAGLETON. The Senator is correct.

Mr. CHURCH. I am informed that the other body included a provision for a contingency fund, in a somewhat different form. I would not be averse to taking this amendment to conference in order that we can discuss with the House conferees the question of including a contingency fund in this program.

I might say to the Senator that the Foreign Relations Committee has sought to give this program flexibility by permitting the President to transfer funds from one program to another within a certain limitation. I believe that the limitation, the transfer authority is limited to 10 percent. For that reason we had not thought it necessary to establish a separate contingency fund in the bill.

But I must acknowledge that we are living in a time of ferment, when it is exceedingly difficult to anticipate what new development might occur in the course of a year that would require the immediate application of funds by the President. And it may well be that a contingency fund of this kind is prudent.

I prefer the Senator's approach in which the fund would simply be earmarked from the total amount authorized by the bill. I take it that the wording of the amendment would make the establishment of the fund discretionary; that is to say, it would not be obligatory on the President to establish such a fund.

Mr. EAGLETON. It would not be obligatory.

Mr. CHURCH. Mr. President, I think the Senator has explained the amendment and makes a good case for it. We can take it to conference and confer further with the House as to the final provision. On that basis, I would be willing to accept the amendment.

Mr. EAGLETON. Mr. President, I am very pleased with the Senator's comments.

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time, and I so do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON).

The amendment (UP No. 1181) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 1182

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1182.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 1, insert the following:

CARIBBEAN DEVELOPMENT BANK

"SEC. 607. Notwithstanding the provisions of Section 670(1) of the Foreign Assistance Act of 1961, as amended, the President after consultation with the Foreign Relations Committee of the Senate and the Committee on Foreign Affairs of the House of Representatives, is authorized at his discretion to make arrangements for the assumption by the recipient members of the Caribbean Development Bank, of any loans made under the authority of the Foreign Assistance Act of 1961, as amended, to the Caribbean Development Bank."

On page 32, line 2, strike out "SEC. 607" and insert in lieu thereof "SEC. 609."

Mr. JAVITS. Mr. President, this amendment will give the President the authority to transfer the repayment obligation from the Caribbean Development Bank (CDB), which is indebted to the United States, and which distributes aid to individual Caribbean countries, to the ultimate borrowers of the fund, the recipient members of the CDB.

But he must consult with the Foreign Relations Committee of the Senate and the Committee on Foreign Affairs of the House before he may make any such arrangement.

The amendment has been suggested by DANTE FASCELL of the other body, and would permit the CDB to use its callable capital to borrow in the capital markets, while maintaining a full obligation for repayment of the AID loan.

We do not subscribe to the stock of this bank, but we deal with it as an agent through which money is loaned to various Caribbean countries. The callable capital is encumbered by these indebtednesses and this restricts the amount which can be loaned by this bank to the Caribbean countries. And, as the Caribbean countries are in pretty serious financial condition, it is desirable to ease up on the bank so that it may make loans which are now prevented from being made by this particular restriction.

So that this amendment would give that authority to negotiate that kind of arrangement to the President.

Congressman FASCELL represents to me that he should have done this in the House, and would appreciate it if it is done here so that it may be in conference.

I believe it was an appropriate thing to pass here so it could be before us and then we will decide whether or not it is justified and should actually be passed. It is for that reason that I submit the amendment.

I am ready to yield back my time, unless some Member has an objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHURCH. Mr. President, I yield back my time.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

The amendment (UP No. 1182) was agreed to.

Mr. JAVITS. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1183

(Purpose: To permit the export of certain material with a direct civilian application that would otherwise be subject to the Arms Export Control Act)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

Incidentally, this is the last amendment I shall call up.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1183.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, between lines 7 and 8, insert the following:

(f) Section 38 of such Act is amended by adding at the end thereof the following:

"(f)(1) None of the provisions of this section shall apply to the export to a country (other than a country referred to in section 620(f) of the Foreign Assistance Act of 1961), of—

"(A) communication or electronics equipment or systems with a direct civilian application;

"(B) transport, utility, or training helicopters with a direct civilian application;

"(C) propeller-driven transport, utility, or training aircraft;

"(D) trucks or other vehicles with a direct civilian application;

"(E) technical data; or

"(F) other services relating to any of the articles referred to in clauses (A) through (E).

"(2) The items referred to in paragraph (1) shall be controlled under appropriate provisions of the Export Administration Act of 1979.

"(3) The President is authorized to require the government of a country to which an item referred to in paragraph (1) is proposed to be exported to certify to the President each specific purpose for which the item will be used.".

Mr. HELMS. Mr. President, this amendment will modify current administrative restrictions on certain U.S. exports.

Currently, section 38, Arms Export Control Act, AECA, authorizes the President to control the exports of "defense articles and defense services," and to designate those items which are to be controlled. The items so designated constitute the U.S. munitions list.

However, the U.S. munitions list controls many items other than weapons and implements of war. These include such items as trucks, transport, general purpose and training aircraft and helicopters, commercial communications satellites, civilian air navigation radar and communications items, and many other items that have direct civilian application. In fact, over the past 10 years, total U.S. sales of so-called defense articles and services have consisted of only 40 percent of weapons and ammunition; 60 percent of these sales have been for supporting equipment and supporting services.

Recognizing the dual-use potential and the nonstrategic and nontechnological nature of these items, President Carter has recently approved their sale to Communist China. However, the sale of these same items to countries which are and want to be friends and allies of the United States is still restricted and, in some cases, prohibited. Clearly, those items which can be sold to Communist China under strict controls should be available to our friends and allies under lesser controls. To do otherwise would be contradictory and ludicrous.

These civilian-type articles whose sale is controlled or prohibited by the United States are easily obtainable from other nations who are eager to sell them. Our preeminent position in the world economy has eroded. Our once substantial lead in technology has been overtaken in many significant areas. In many areas of medium- and high-technology, foreign competitors from Europe, Japan, and even some developing countries export goods that approach or surpass the best American designs.

Mr. President, these controls demonstrably accomplish little or nothing except that U.S. business loses important export markets, and American labor loses jobs. We can no longer influence the behavior of other nations by our economic sanctions.

In 1979, Congress passed the Export Administration Act. This legislation, while controlling military critical technologies, also limited the use of export controls for foreign policy purposes and directed the administration to consider "foreign availability" in controlling U.S. exports.

This amendment, therefore, attempts to bring the Arms Export Control Act into conformity with the provisions of the Export Administration Act. This amendment would simply move one category of items, those multipurpose items which can be used either for civilian or military purposes, from the stringent matrix of controls of the Arms Export Control Act to the less stringent matrix of controls of the Export Administration Act in their civilian application.

This amendment would not loosen any controls on the export of lethal weapons of war. It would not weaken controls on the transfer of technology to the Communist countries. It would not allow increased exports to South Africa or terrorist-supporting countries. It would not weaken foreign policy controls on the export of U.S. arms.

What it would do is quite simple and direct.

Passage of this amendment will result in higher domestic employment and an improved trade balance. It will help this Nation regain some of the competitive edge it has lost to other countries who are not inhibited by the kind of unnecessary export restrictions imposed on American industry.

I urge its adoption.

Mr. President, I urge adoption of the amendment and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I strongly oppose this amendment. We do have a substitute to propose for it which will be sponsored by Senator JAVITS, Senator JACKSON, and myself.

The committee itself rejected such an amendment because it would do mischief to the effort of Congress to preserve a certain munitions list for the purpose of prohibiting the transfer of weapons or equipment of the kind that can easily be used as weapons or for military purposes to certain countries.

The amendment, if it were adopted, changes this list in such a way that many items that could readily be converted to military use would be made available to countries that the Congress itself sought to disqualify from having equipment of this kind exported from the United States.

The amendment would also have the effect of allowing sales of many items now prohibited to countries such as Libya, Iraq, Argentina, Chile, and South Africa. The latter three are not eligible to receive munitions list items because of previously approved congressional restrictions. If we adopt this amendment, we wipe out these restrictions for all intents and purposes.

The amendment removes from the control of the State Department, the Department of Defense, the Arms Control and Disarmament Agency, and the Congress, a vast number of export articles which are designed and built for military use.

The recent sale of frigate engines to Iraq agreed to by the Commerce Department illustrates the kinds of foreign policy problems that are likely to increase if items are removed from the list and, hence, from foreign policy review.

According to State Department officials, the Helms amendment is so broad that virtually any piece of military equipment with civilian application, such as tanks with snow shovels attached, could conceivably be exempted from the munitions list restriction if this amendment passes because it might have a civilian use.

I think we ought not drive such a large hole through the list that is presently considered of possible military utility. The Helms amendment would do just that.

I hope the Senate will oppose this amendment.

I received a very persuasive letter, dated June 16, 1980, from our distinguished colleague (Mr. JACKSON), addressed to this amendment, in which he states very forcefully the principal arguments against it. I ask unanimous consent, Mr. President, that the full text of the JACKSON letter may appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U. S. SENATE,
Washington, D.C., June 16, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: As you know, the House adopted an amendment offered by Congressman Lloyd to International Security and Development Act of 1980 (H.R. 6942). The Lloyd amendment would significantly alter existing license controls on the export to non-Communist countries of military goods and technologies on the Munitions List established under the Arms Export Control Act. A similar amendment was offered, but rejected, during your Committee's consideration of the Senate version of the Act (S. 2714). I strongly urge your opposition to such legislation if offered on the Senate floor and in conference.

My basic concern is that the Lloyd amendment would set a very bad precedent for the indiscriminate removal of broad, unrefined categories of military equipment and related technical data from Munitions List license controls. The primary criterion provided is that there be some "direct civilian application" for the goods and technologies. However, the fact that a civilian application or use can be made of military aircraft and electronics communications equipment does not alter their military character. For example, on the basis of this criterion, the Lloyd amendment would mandate license de-control of military cryptographic equipment since it can be used to maintain the security of commercial communications.

The "civilian application" standard has many of the same pitfalls as the "non-lethal" standard which was determined by the Administration to be unworkable. Incidentally, during the Senate's consideration of the Export Administration Act in July 1979, our colleague Senator Helms offered a Munitions List de-control amendment based on a non-lethal criterion. However, he withdrew it after we persuaded him that it would create serious impediments to the effective control over national security sensitive goods and technologies.

Proponents of the Lloyd amendment point out that the equipment and technical data removed from Munitions license control could be subjected to validated license control under the Export Administration Act, which is administered by the Commerce Department. The amendment does not transfer jurisdiction to the Commerce Department. Such a transfer would have to be effected by time-consuming actions by the Commerce Department in accordance with the criteria and procedures of the Export Administration Act.

Moreover, I do not believe that the Commerce Department is equipped or ready to assume this responsibility. The Export Administration Act provides for export license control over *Commercial* goods and technologies which can enhance military capabilities. Past studies by the Permanent Subcommittee on Investigations—of which I am Vice Chairman—have demonstrated that the Department's administration of these controls has been seriously deficient. At the present time, the Commerce Department does not have effective controls over the export to most non-Communist nations of many types of sensitive technical data (including design, development and engineering know-how). Also, applications for export of commodities to most non-Communist countries are routinely approved without detailed scrutiny. Since the Lloyd amendment would exempt technical data from Munitions List control, the "transfer" of jurisdiction to the Commerce Department could result in the creation of a serious regulatory gap. Also, the military equipment transferred to the Commerce Department would likely receive the superficial review which it normally gives to exports of dual-use commercial commodities to most non-Communist countries.

One of the basic purposes of the Export Administration Act of 1979 was to have the Department of Defense, in consultation with the Commerce Department, identify commercial technologies and goods which have critical military significance by October 1, 1980 and then to devise effective control mechanisms. This project is far from complete. In addition to these projects, the Commerce Department is presently overwhelmed with the implementation of new export policies developed since the Soviet invasion. I think the foregoing factors strongly indicate the imprudence of assigning a major part of the State Department's responsibilities to the Commerce Department.

Rather than going the route of the Lloyd amendment directing the government to conduct a careful study of whether specific items covered by Munitions List could be subject to modified licensing controls by the State Department or, perhaps, be transferred to the Commerce Department. I would suggest that such a study be conducted by the Defense Department in consultation with State and Commerce, and that business groups have an opportunity to play an appropriate role.

Sincerely yours,
HENRY M. JACKSON,
Vice Chairman, Permanent
Subcommittee on Investigations.

Mr. CHURCH. Mr. President, I would like the distinguished Senator from Washington to address himself to the amendment. I yield him such time as he may require.

Mr. JACKSON. Mr. President, my objections to the pending amendment are set forth in my letter of June 16, 1980, to the distinguished senior Senator from Idaho (Mr. CHURCH). Inasmuch as this has been placed in the RECORD, I will try to summarize my views.

I do know that the distinguished Senator from North Carolina shares my deep concern about the serious weaknesses in U.S. controls on the direct and indirect transfer of security-sensitive commercial technology and goods to the Soviet Union. He has been very supportive of our efforts to close the loopholes in the Export Administration Act, which is administered by the Commerce Department.

But the improvements are only in the process of implementation. It will be several months before the Defense Department completes its list of critical technologies and goods. It will be several more months before the Defense and Commerce Departments devise effective mechanisms to control the transfer of such technologies to the Soviet Union and other adversary countries, and to non-Communist nations as well.

In this regard, the Commerce Department presently does not have effective controls on the transfer of many sensitive technologies to most non-Communist nations. This creates, Mr. President, significant opportunities for the diversion and leakage of these technologies to our adversaries.

Also, the review which the Commerce Department gives the exports of sensitive goods to non-Communist countries is generally superficial, creating the same opportunities for diversion.

In view of the foregoing, I find the amendment most unusual, because it would vest with the Commerce Department responsibility for controlling many technologies and goods which are specifically designed for military applications and which confer significant military capability. That is why these items are on the munitions list and subjected to the more stringent arms export controls administered by the State Department.

I find it particularly disturbing that the amendment would remove from the munitions list control broad, unrefined categories of military equipment and even more sensitive design and production know-how and other technical data with it.

Mr. President, this would be a very bad precedent indeed. The sole criterion provided for removal of some categories from munitions list controls is that there be some civilian application to the equipment and technical data. On the basis of this criterion, military cryptographic equipment and related technical data would be removed from munitions list control.

This criterion has the same pitfalls as the "non-lethal" standard which was determined to be unworkable by an administration study.

My distinguished friend from North Carolina will recall that, last summer, I persuaded him to withdraw a similar amendment based on the nonlethal standard. I hope that I am equally persuasive tonight.

It should be emphasized, Mr. President, that there has been no authoritative factual predicate laid which would justify such a wholesale revision of a relatively effective control scheme and the substitution of it with an unreliable one which is undergoing rehabilitation mandated by Congress. No hearings have been held by any committee in either House. No study has been made by the appropriate Government agencies.

There may be some specific items which could reasonably be transferred from State to Commerce Department jurisdiction. Thus, Mr. President, I would support an amendment that would direct the President to make a serious study of this matter.

Mr. JAVITS. Will the Senator yield?

Mr. JACKSON. I yield.

Mr. JAVITS. With a definitive time for a report and a commitment that we would act on that, hold hearings, promptly.

Mr. JACKSON. Yes.

Mr. JAVITS. May I ask the Senator, from his experience, one other question? I think it has puzzled many Americans how the Soviet Union transported the troops to Afghanistan with trucks manufactured under U.S. license at the Kama River plan. We certainly do not want to open the door to that. That, plus the many other instances which the Senator has cited seem to me to dictate that we proceed with some care.

Mr. JACKSON. May I say to my friend from New York that that is a good example of the situation where a request comes in for a license for alleged civilian application, which is turned right around for a military application.

Mr. JAVITS. That is so right, used for military purposes.

Mr. JACKSON. Mr. President, I thank the Senator from Idaho for yielding.

Mr. PERCY. Mr. President, I should like to ask our distinguished colleague from North Carolina a few questions, because the amendment could possibly have some disturbing implications.

The PRESIDING OFFICER (Mr. MELCHER). Who yields time to the Senator from Illinois?

Mr. CHURCH. Mr. President, I assume from his opening remarks that he chooses to oppose the amendment. On that basis, I yield him such time as he may want.

Mr. PERCY. I thank the Senator from Idaho.

I have no doubt, Mr. President, that a study as to the full implications of this matter would be highly desirable. I hope that we can get more information than we have right now as to its implications.

Mr. President, I wonder, if the Senator's amendment were to be adopted, whether or not, for instance, that would mean that arms manufacturers could go out and sell any of this equipment on this particular list that does have civilian application to, say, Qadafi in Libya. We have just raised, doubled, the amount that we offered to Tunisia in assistance simply because of the precipitate type of action that has been perpetrated against them, threatening their independence.

Would it be possible, under this amendment, then, for manufacturers to go and interest Qadafi—it is a non-Communist country, I presume. But Qadafi is an unpredictable world leader, and to place a lot of weaponry in his hands—I wonder if that would be wise.

I wonder, even though Iraq seems to be having some second thoughts, they have been very, very dependent upon the Soviet Union. Would it mean that we would have literally no control over what I consider to be highly sensitive goods? Could those be sold to Iraq? And, if Idi Amin were still in Uganda, would it mean that, even though his is a non-Communist country, manufacturers in this country could go over and sell any of these goods to him if the Senator's amendment were adopted?

Mr. HELMS. Mr. President, on my own time, I am happy to respond. I am so grateful to my friend from Illinois for asking the questions.

This amendment will not affect in any way current restrictions on U.S. sales to terrorist supporting countries.

Section 3(f) of the Arms Export Control Act (AECA) requires the President to terminate all sales, credits, and guarantees under the AECA to governments aiding terrorists. There is also provision for a Presidential waiver.

The Export Administration Act (section 3 (8)) states that it is the policy of the United States to use export controls to discourage other nations from supporting terrorism.

Recently published regulations (January 8, 1980 and May 21, 1980) now specify that for Libya, Iraq, South Yemen, and Syria a validated license is required for:

First, crime control and detection equipment;

Second, aircraft and helicopters; and

Third, goods or technology subject to "national security controls."

This amendment would move certain selected items with civilian application from the matrix of controls of the Arms Export Control Act to the matrix of controls of the Export Administration Act.

The former directs the cutoff of all authorized exports, though with the provision of a Presidential waiver. The latter requires a validated license—permitting the Executive to deny them on a case-by-case basis for the above described categories. Thus, there is adequate authority under either act to bar significant exports to terrorist-supporting countries.

I appreciate the Senator's raising the question, because it is an important point that has often been raised.

Mr. PERCY. So the Senator's answer is that the amendment would have no effect upon sales to those countries?

Mr. HELMS. None whatsoever, I say to the Senator from Illinois.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time. I want the Senator from North Carolina to understand that I then have a substitute to offer on behalf of myself, Senator JAVITS, and Senator JACKSON.

Mr. HELMS. I understand, Mr. President, and I might say to my friend from Idaho and my friend from Washington that I am mindful of their concerns, and I heard them today. I may have a remedy for it in just a moment, if it will be agreeable to the Senator from Idaho and the Senator from Washington.

I say to the Senator from Washington (Mr. JACKSON) that he and I have stood shoulder to shoulder on these issues for many years, since I have been in the Senate. I have been honored to stand with him. I would do nothing to dissipate that stand. So, perhaps we can work this out.

Mr. JACKSON. Will the Senator yield?

Mr. HELMS. Yes, I yield.

Mr. JACKSON. That is a point I meant to include in my remarks. I thank the Senator for his remarks.

As I have mentioned, Mr. President, we have worked together in trying to plug these loopholes.

The Deputy Secretary of Defense for Research and Engineering, William Perry, testified before the Permanent Subcommittee on Investigations that the Soviets do have a worldwide, clandestine operation to acquire technology from non-Communist countries. Therefore, the point that I think needs to be made here and the one I was trying to make is that there is a real danger of third-country transfers.

That is why I spoke the way I did in the pending amendment. I think that is a matter of serious concern, because the Soviet Union's espionage operation is one that is highly sophisticated. It operates on an enormous scale and they have been able to acquire technology that would not otherwise be available to them by going through third countries. That is the reason for my statement.

Mr. HELMS. I thank the Senator.

In quick order, Mr. President, let me address myself to two or three questions.

One, will this amendment result in the release of critical technology, possibly to Communist countries?

This amendment specifically precludes sales to Communist countries, as specified in section 620(f), Foreign Assistance Act.

In addition, the Export Administration Act or 1979 (Public Law 96–72) requires the Secretary of Defense to develop and publish a list of "military critical technologies" by October 1, 1980. This list shall become part of the commodity control list. Thus, there are adequate controls over such technology, and these controls would not be affected by this amendment.

This amendment addresses only those nonsensitive products with a nonsensitive technology and which are generally available from other sources. This technology is currently being manufactured and exported by Germany, France, Japan, Israel, Switzerland, Brazil, and others. No lethal items, such as tanks, will be affected by this amendment.

This amendment would simply move one category of items, those multipurpose items which can be used either for civilian or military purposes, from the stringent matrix of controls of the Arms Export Control Act to the less stringent matrix of controls of the Export Administration Act in their civilian-application.

I have been asked the question, will this amendment loosen controls over the export of military equipment? The answer to that is:

No, this amendment will not loosen current controls over any equipment which will be used for military purposes.

Military items are currently controlled under the Arms Export Control Act. Other sensitive technologies and items are controlled under the Export Administration Act.

This amendment addresses that significant grey area between items clearly militarily-developed and to be used for military purposes and items clearly civilian in character and to be used for nonmilitary purposes. This grey area consists of items which are clearly multipurpose in character, such as radar, which can be used for military air battle management as well as civilian air traffic control. No lethal armaments are affected, whatever their configuration.

As presently structured, the Arms Export Control Act and the international traffic in arms regulations (ITAR) which implement section 38 of the AECA, generally do not recognize this grey area, but rather seek to draw a more-or-less sensible line between AECA-controlled items and Export Administration Act-controlled items.

This amendment moves in the direction of recognizing that grey area and allowing items within such a grey area be placed under Arms Export Control Act authority or Export Administration Act authority depending on their end-use.

Finally, the question, would this amendment loosen the foreign policy controls over the export of weapons of war?

The answer is that this amendment does not affect controls over weapons of war. It merely moves one category of items—dual-use support equipment which will be used for civilian purposes—from the matrix of controls of the Arms Export Control Act to the matrix of controls of the Export Administration Act.

The Export Administration Act provides that in improving export controls for foreign policy purposes, the President must consider:

First, the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

Second, the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall U.S. policy toward the country which is the proposed target of the controls;

Third, the reaction to other countries to the imposition or expansion of such export controls by the United States;

Fourth, the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual U.S. companies and their employees and communities, including the effects of the controls on existing contracts;

Fifth, the ability of the United States to enforce the proposed controls effectively; and

Sixth, the foreign policy consequences of not imposing controls.

This provision, which provides adequate foreign policy controls over the export of nonstrategic products, will be left intact, and indeed will be reinforced by this amendment.

I yield back the remainder of my time, Mr. President.

Mr. CHURCH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

UP AMENDMENT NO. 1184

Mr. CHURCH. Mr. President, I now send to the desk an amendment in the nature of a substitute on my own behalf, and on behalf of Senator JAVITS and Senator JACKSON.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself, Mr. JAVITS and Mr. JACKSON, proposes an unprinted amendment numbered 1184, to the Helms unprinted amendment No. 1183.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

The President shall review the categories on the current U.S. Munitions List to determine which items, if any, because of their civilian application should be removed from license controls under Sec. 38(b) of the Arms Export Control Act for exports to countries other than those specified under Sec. 620(f) of the Foreign Assistance Act. The President shall report the results of this review to the Congress not later than 120 days after the effective date of this Act. In undertaking this review, it is the sense of the Senate that items should be removed from such controls and be transferred to Export Administration Act license controls:

(1) if they are not specifically designed, modified, adaptable or equipped for military application or use;

(2) if they do not contain sensitive technology used for military, security, intelligence or cryptographic purposes;

(3) if they are not related to nuclear weapons development, production or testin, or to systems capable of delivering nuclear weapons or to spacecraft; or

(4) if they are not otherwise of such a particular nature as to warrant continued export control under Sec. 38(b) of the Arms Export Control Act.

Mr. CHURCH. Mr. President, Members of the Senate understand that there is presently in existence under the law a munitions list which contains various items of weaponry, finished products, technology of military application or possible military application, that we do not sell to Communist countries or to other governments which the Congress has designated.

If we were to adopt the amendment offered by the distinguished Senator from North Carolina, we would punch a hole through that munitions list as big as a truck, as big as a tank, as big as a ship.

Mr. President, I will read some of the language that would punch that hole through the munitions list.

The Helms amendment would exempt from the munitions list, for example, communications or electronics equipment or systems with a direct civilian application. Senators know that such communications system could also have a military application. They are not necessarily confined to civilian use.

Second, the Helms amendment would except from the munitions list transport, utility, or training helicopters with a direct civilian application.

Show me such a helicopter with a civilian application that cannot also be put to military use.

The Helms amendment would except propeller driven transport, utility, or training aircraft. Obviously, such aircraft have very important military uses.

It would except trucks or other vehicles with primary civilian application.

The Senator from New York has already spoken of trucks, presumably to be used for civilian purposes, that the Soviet Union has recently employed for military purposes in connection with transporting troops to Afghanistan.

So I hope the Senate will reject this amendment.

In doing so, we do not presume to tell the Senate that there could not possibly be anything wrong with the present munitions list. It is not sacrosanct and we are not opposed to having it reviewed.

We have suggested to the Senate the following substitute for the Helms amendment. It would read:

The President shall review the categories on the current U.S. Munitions List to determine which items, if any, because of their civilian application should be removed from license controls under Sec. 38(b) of the Arms Export Control Act for exports to countries other than those specified under Sec. 620(f) of the Foreign Assistance Act. The President shall report the results of this review to the Congress not later than 120 days after the effective date of this Act. In undertaking this review, it is the sense of the Senate that items should be removed from such controls and be transferred to Export Administration Act license controls:

(1) if they are not specifically designed, modified, adaptable or equipped for military application or use;

(2) if they do not contain sensitive technology used for military, security, itelligence or cryptographic purposes;

(3) if they are not related to nuclear weapons development, production or testing, or to systems capable of delivering nuclear weapons or to spacecraft; or

(4) if they are not otherwise of such a particular nature as to warrant continued export control under Sec. 38(b) of the Arms Export Control Act.

We think that this substitute amendment sets appropriate guidelines for a review of the munitions list and a report to the Congress. Then we can take up that report in the regular manner, hold proper hearings, and make this decision in the proper way.

On the basis of the argument I have just presented, and unless other Senators wish to speak to the issue, I hope that the Senate will adopt this substitute.

Mr. President, I reserve the remainder of my time.

Mr. HELMS. Mr. President, so we come, at 9:30 p.m., with another proposal to have the administration review this question.

Mr. President, if anything is obvious, it surely is that further study of this issue by the administration would be absolutely fruitless. Past efforts by Congress to get the administration to address this issue seriously have failed.

Section 27 of the International Security Assistance Act of 1977—3 years ago—directed the President to "undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and nonlethal products and establishing the appropriate level of control for each category."

In the absence of any indication that such a review had been accomplished, section 25 of the International Security Assistance Act of 1978—a year later—further directed the President, within 120 days after enactment, to report in writing to the Congress the results of the review which was supposed to have been conducted the previous year.

The administration report was presented to the Congress on January 26, 1978. After this lengthy review, the administration concluded that:

It would be extremely difficult to formulate a useful definition of "lethality" or "lethal impact" for control purposes. Such a definition would offer no basis for any substantial revision in the level or type of export control currently accorded defense articles and defense services on the U.S. Munitions List.

A recent Library of Congress study reached conclusions somewhat different from that of the administration. The CRS study concluded that:

A variety of different procedures could be used to reflect the lethality of articles and services exported from the United States and to weigh export controls accordingly.

This substitute amendment avoids the concept of lethality by specifically designating certain limited items to have a lesser degree of control based upon the application to which it will be put.

I say again, Mr. President, that this is more of the same, piled higher and deeper, another review by the administration, which has refused to review for 2 or 3 straight years. The administration has refused to treat seriously past congressional mandates in this issue. Thus, congressional initiative is necessary.

Mr. President, I yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

UP AMENDMENT NO. 1185

Mr. HELMS. Mr. President, I send to the desk a perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1185.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Starting on page 1, at the beginning of line 19, of the amendment offered by Mr. Helms, strike out all that appears to the end of the amendment and insert in lieu thereof:

"(2) The President is authorized to require the government of a country to which an item referred to in paragraph (1) is proposed to be exported to certify to the President each specific purpose for which the item will be used.

"(3) With respect to the items referred to in paragraph (1), the Secretary of Defense, in coordination with the Secretary of State shall publish within one hundred twenty (120) days a list of defense articles and defense services which may have direct civilian application. When the President determines that any such dual use item will have a direct civilian application, such item will be controlled under appropirate provisions of the Export Administration Act of 1979.".

Mr. CHURCH. Mr. President, I wonder whether I may have a copy of the amendment.

Mr. ROBERT C. BYRD. Mr. President, is this an amendment by Mr. HELMS to an amendment by Mr. HELMS?

The PRESIDING OFFICER. It is an amendment by Mr. HELMS to his own amendment.

Mr. ROBERT C. BYRD. Does he have the yeas and nays ordered on the basic amendment?

The PRESIDING OFFICER. He does not.

Mr. HELMS. However, there is a time agreement, I say to the Senator, and the precedents permit such a perfecting amendment on the grounds that a Senator should be permitted to modify his amendment.

The PRESIDING OFFICER. There is a time agreement on the amendment, and all time has been yielded back on the amendment.

Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. On this amendment there are 10 minutes on each side.

The Senator from North Carolina is recognized.

Mr. HELMS. I shall not use all that time, Mr. President.

I am going to offer my friends a proposition they cannot refuse. I have been persuaded by the distinguished Senator from Washington (Mr. JACKSON) and the distinguished floor manager of the bill, Mr. CHURCH; and in order to allay their concerns and concerns expressed to me today by others, I have proposed this perfecting amendment.

Mr. President, simply said, this amendment spells out the role of the Secretary of Defense in coordination with the Secretary of State, a change which will insure that the Defense Department will have full and total input into the process, so that there will be no justification for any fear whatsoever that sensitive technology may be exported inadvertently.

The process envisioned is that the Secretary of Defense, in coordination with the Secretary of State, will examine the munitions list and select those items which could have dual use application. Thus, when the President receives certification that an item will be exported for civilian use, the normal restrictions of the Export Administration Act will apply. This will insure that no—let me repeat, no—sensitive technology will leak to Communist countries, countries that harbor terrorists, or other countries which might use such technology against the interests of the United States.

Mr. President, I ask for the yeas and nays on the perfecting amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I do not think that the perfecting amendment offered by the Senator from North Carolina perfects anything. It says that the President is authorized to require the government of a country to which an item referred to in paragraph 1 is proposed to be exported to certify to the President each specific purpose for which the item will be used.

Time and time again, we have furnished military weapons under contract to foreign governments, with the clear understanding that they would not be used for certain purposes adverse to the interests of the United States; but we have found that those agreements were kept, and the equipment has been used in clear violation of those agreements.

So I see nothing that would be helpful in the adoption of the proposal now being made by the Senator from North Carolina.

The third part of his perfecting amendment reads:

With respect to the items referred to in paragraph (1), the Secretary of Defense, in coordination with the Secretary of State shall publish within one hundred twenty (120) days a list of defense articles and defense services which may have direct civilian application. When the President determines that any such dual use item will have a direct civilian application, such item will be controlled under appropriate provisions of the Export Administration Act of 1979.

This language means nothing. If you have a truck or an airplane or a helicopter and the President certifies that it may have direct civilian application, then it is stricken from the munitions list, and the decision as to whether or not to export it would then be controlled by the Commerce Department. Simply because it has a direct civilian application does not mean it lacks a possible military application. That is the whole point of this dispute.

The point is to establish a munitions list containing the kind of equipment that either is designed exclusively for military purposes or can be adapted to military use. That is what we want to retain on this munitions list.

I hope the Senate will not adopt this amendment as presently offered and will vote, instead, for the substitute.

Let me say a word or two about the Senator's argument concerning the substitute. It is true that we have attempted in the past to revise the munitions list on the basis of a test as to whether the given item was lethal or nonlethal. That did not work out. It was not a satisfactory test.

But we do believe we established guidelines here that will work out that will prove to be practical.

I would hope that we could wait until the President has reviewed the list, based upon these guidelines, then let the Congress make a decision after appropriate hearings before the committees with jurisdiction.

Mr. JAVITS. Mr. President, will the Senator yield for a minute?

Mr. CHURCH. I yield.

Mr. JAVITS. It seems to me this matter is much too serious. I take SCOOP JACKSON very seriously in these matters. I do not think he would be roused to be concerned about this unless it were subject to real reason for concern on the part of the Senate.

It seems to me, therefore, that just this scheme, which is the perfecting amendment, is again a definitive scheme. It is not based on any findings that will be made. It is, with all respect to the Senator from North Carolina, an idea as to the final result.

I hope very much, therefore, that the Senate will defeat this perfecting amendment and give us an opportunity to vote on the substitute.

Mr. JACKSON. Mr. President, if the Senator will yield at that point, I associate myself with the remarks of the chairman of the committee and the ranking minority member. I think there would be a great mistake to get fooled here in buying in on a proposal which would make it possible for that which purports to be for a civilian purpose—this is the heart of it—and which in fact has a military application by specific design.

All of the publicity that we have had about the terrible blooper that was made in connection with the Kama River plant related to this very point; that is, we licensed for export the necessary technology to build those trucks. Those trucks were supposed to be used as civilian trucks, but they were used not only in Soviet military units in eastern Europe, but they led the vanguard of the divisions that invaded Afghanistan.

I know how strongly my friend from North Carolina feels about plugging these holes and I know he understands how I feel. It is my honest conviction that it would be a mistake for us to adopt the amendment, and I will strongly support, at the appropriate time when the second vote occurs, the Church-Javits-Jackson substitute.

Mr. HELMS. Mr. President, I hope that Senators will understand what they are voting for and what they are voting against. With all due respect to my friend from Idaho, he is 180 degrees wrong on the effect of my amendment.

And obviously my friend from Washington, whom I respect most highly, misunderstands the thrust of the amendment also.

What does this perfecting amendment do? It directs the Secretary of Defense in coordination with the Secretary of State to prepare the list of low and medium technology items which would be allowable. How much more of a safeguard would Senators ask?

Instead of a study, the Secretary of Defense would be directed actually to prepare such a list and this is what Congress has been pushing for for 4 or 5 years and getting nothing in return.

Meanwhile people who work in our plants across this country are denied jobs that they could have if we were exporting items with a direct civilian use which would be provided for under this amendment.

I do not know what all the hurrah is about. I am trying to do something for the unemployed people in this country. I am trying to do something for the balance of trade.

I have written into this amendment every safeguard that the English language would provide. Yet I hear that it would produce mayhem.

The Senator from Idaho talked about a loophole in the munition list big enough to drive a tank and a ship, I believe he said. That must be some munitions list. As a matter of fact, it is not a loophole at all. It directs the Secretary of Defense to prepare the list of low and medium technology items which would be allowable. If he did not put an item on the list it would not be on there and it could not be exported. It is just as simple as that.

So Senators who vote against this perfecting amendment are going to be voting against jobs for American workers. They are going to be voting for a continued imbalance of trade.

And in the process we are left in the ludricrous position where it is all right to send this type of equipment to Red China but we cannot send it to some of our would-be allies.

I say again this amendment will mean jobs for American workers, increased business activity, and an improved trade balance without the first scintilla of jeopardy that has been so eloquently described by the opponents of the amendment. It will help this Nation regain some of the competitive edge it has lost to other countries that are not inhibited by the kind of unnecessary export restrictions imposed on American industry. This amendment will have a stimulating effect on jobs in every State in the Union.

The United States no longer has a monopoly on the medium technology represented by these products. Other industrial countries manufacture similar items and are eager to export them. Thus, strict control of the sale of these items to friendly countries puts American manufacturers at a great disadvantage in the world marketplace.

One helicopter manufacturer has indicated that this amendment will result in $200 million in sales in Chile and Argentina alone in the next 5 years. A light aircraft manufacturer has documented lost sales of $60 million because of current restrictions.

Argentina is particularly instructive. Of a total of $8.275 billion in contracts awarded by Argentina to foreign firms in 1979, for nonmilitary products, the United States received only $237 million, of which $216 million are products that have practically no competition due to the fact that the Argentine airline uses only Boeing aircraft at the present time.

The Congressional Budget Office has estimated that:

Every billion dollars worth of exports creates 40,000 to 50,000 jobs.

Every 1 million jobs creates in taxes—corporate and individual—$22 billion in revenue to the U.S. Treasury.

Thus, if the United States had obtained only 50 percent, instead of 2.86 percent of these sales, we would have provided 160,000 to 200,000 additional jobs and some $3.5 to $4.4 billion additional revenue to the Treasury.

And this is for Argentina alone.

If the United States removed current disincentives to exports and increased its ratio of exports to GNP by only 1 or 2 percentage points we would easily balance the domestic budget, eliminate our trade deficit, and gainfully employ another 1.6 million Americans.

Mr. President, I ask unanimous consent to have printed in the Record a report concerning contracts awarded by Argentina to foreign firms.

There being no objection, the report was ordered to be printed in the Record, as follows:

Contracts awarded by Argentina to foreign firms. Foreign Office Report:

Products, Country, and millions of dollars:

Highways, Italy, 250.

Super highways, Spain, 750.

Gate cranes (40), West Germany, 10.

Gate cranes (20), Hungary, 20.

Ships and naval equipment, Spain, 288.

Dredging, Holland, 15.

Electrification of Roca Railways, Japan, 500.

Railways Equipment, France, 20.

Replacement of Rails, U.S., 28.5.

Railways Equipment, West Germany, 20.

Boeing 747 (2), U.S., 150.

Boeing 727 (4), U.S., 66.

Participation in Salto Grande Hidroelectric Dam: Soviet Union, 150; Japan, 140; Spain, 100; Germany, 30; Italy, 400; France, 100.

Gasline 1800 Km, Holland, 1000.

Mid Parana River Study, Soviet Union, 10.

Heavy Water Plant, Switzerland, 250.

Nuclear Electrical Plant, Italy/Canada, 374.

Atucha II Nuclear Electrical Plant, West Germany, 1.500.

Hydroelectrical Plants "Agua del Toro" and "Los Reyunos", Czechoslovakia, 40.

Hydroelectrical Plant "Rio Grande", Switzerland, 40.

Termoelectric Plant "Sorrento", U.K., 12.

Termoelectric Plant "Guemes", Czechoslovakia, 15.

Termoelectric Plant Partial participation, U.S., 5.

Termoelectric Plant "San Nicolas", Italy, 100.

Termoelectric Plant "Lujan de Cuyo", Czechoslovakia, 70.

Termoelectric Plant "Costanera", Soviet Union, 50.

Termoelectric Plant "Costanera", West Germany, 50.

Upgrading of Buenos Aires Telephone Network: Spain, 1000.

Upgrading of Intercities Telephone Network: West Germany, 400; Japan, 250.

Upgrading of International Telephone:

Installations: U.S., 21; Sweden, 50.

Total: 8.274.5.

1980/1989 Budget for State Imports of Capital Goods covering public works and development investments One hundred and fifty billion dollars ($150,000,000,000).

Mr. HELMS. Mr. President, have the yeas and nays been obtained on the perfecting amendment?

The PRESIDING OFFICER. Yes, they have.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina yields back the remainder of his time.

Mr. CHURCH. Mr. President, I yield myself 1 minute and then I will yield to the Senator from Washington for a motion.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, if this perfecting amendment is adopted, it will direct the Secretary of Defense to take off the munitions list whatever he decides has direct civilian application.

I do not think we want that. There are many items that have direct civilian application which also can be put to military use. Are we just going to turn it over to him and direct him to take those items off and then report to us what he has decided, or are we going to do it in a proper way, have a review of this made, have recommendations made to the Congress and then we will decide? I think the latter course is the proper one, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. I yield back my time with the provision that the Senator from Washington may make a motion to table the perfecting amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the perfecting amendment of the Senator from North Carolina?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from New Jersey (Mr. Bradley), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), the Senator from Mississippi (Mr. Stennis), and the Senator from New Hampshire (Mr. Durkin) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. Chafee) and the Senator from Kansas (Mrs. Kassebaum) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 55, nays 33, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—55

Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Durenberger
Eagleton
Ford
Glenn
Hart
Heflin
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevens
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Young

NAYS—33

Armstrong
Baker
Bellmon
Byrd, Harry F., Jr.
Cochran
Cohen
Dole
Domenici
Exon
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Percy
Roth
Schmitt
Schweiker
Simpson
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—12

Bayh
Bradley
Chafee
Durkin
Goldwater
Gravel
Huddleston
Kassebaum
Kennedy
McGovern
Moynihan
Stennis

So the motion to lay on the table Mr. HELMS' perfecting amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the substitute amendment offered by the Senator from Idaho (Mr. CHURCH).

The amendment (UP No. 1184) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from North Carolina (Mr. HELMS), as amended.

The amendment (UP No. 1183) was agreed to.

UP AMENDMENT NO. 1186

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1186.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section at the appropriate place in the bill:

"The first sentence of section 620(k) of the Foreign Assistance Act of 1961 is amended by striking "fiscal year 1977" and inserting in lieu thereof "fiscal year 1980 and 1981".

Mr. JAVITS. Mr. President, if we could have order, I can explain this amendment in a minute.

The PRESIDING OFFICER. The Senator from New York is recognized. We will have order in the Chamber. We will have order in the Chamber.

Mr. JAVITS. Mr. President, may I tell Members that if there is any problem about the amendment, I will withdraw it. It is made at the request of the Agency and seeks to deal with the following problem:

We have supported projects in Egypt which now are close to the mark of having $100 million worth of U.S. aid over a long period of time invested in them. There is a provision of law which prevents any more than $100 million going in unless there is a waiver.

My amendment gives a waiver for 1980 and 1981, because it seems wrong to terminate these projects now which are going well, look good, and need the additional sums due to inflation.

Mr. President, I am ready to yield back my time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York (Mr. JAVITS).

The amendment (UP No. 1186) was agreed to.

Mr. CHURCH. Mr. President, I have no further amendments and I ask for third reading of the bill.

The PRESIDING OFFICER. Are there any further amendments? If there be no further amendments to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I shall take only a moment.

Mr. President, I shall vote against this $4.8 billion foreign aid bill.

I want to read one paragraph from an article from the Wall Street Journal captioned "The Harm That Foreign Aid Does." It was written by P. T. Bauer, a professor of economics at the London School of Economics. I will read one paragraph:

Relief of poverty is a much canvassed objective of aid, and one with obvious moral overtones. But *official* aid does not go to poor people, the skeletal figures of aid propaganda. It goes to their rulers whose spending policies are determined by their own personal and political interests, among which the position of the poorest has very low priority. To support rulers on the basis of the poverty of their subjects is more likely to encourage policies of impoverishment than to deter them. If a government persecutes and even expels the most productive groups such as ethnic minorities, as for instance Chinese in Vietnam and Indonesia or Asians in East Africa, on the criterion of poverty, it should receive more aid because incomes have been reduced.

One other point, Mr. President: "Foreign aid goes from government to government."

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HARM THAT FOREIGN AID DOES

(By P. T. Bauer)

The Third World and foreign aid are inseparable. Without foreign aid there is no Third World. The latter is in effect the collection of countries whose governments, with the odd exception, demand and receive foreign aid.

What else is there in common between, say, India and Botswana, Singapore and Ecuador, Malaysia and Honduras? It is not stagnation: many Third World countries have progressed much more rapidly in recent decades than the U.S. and Britain. Nor is it poverty; many Third World societies, especially in South East Asia and Latin America, are richer than large groups in the West. Nor is it a sense of brotherhood, as is evident from hositility or even conflict between aid recipients, such as India and Pakistan, Morocco and Algeria, Ethiopia and Somalia and many others.

Although small relative to the national income of the donors, aid is often substantial in relation to their payments deficits or budget deficits. Thus in 1978 U.S. foreign economic aid of $6.5 billion was almost one half of the current account deficit and one-seventh of the federal deficit, when the weakness of the dollar, the world's principal reserve currency, was a major international concern.

And large-scale expansion of aid is persistently called for. Witness the recent Brandt report, perhaps the high water mark to date of the demand for massive official wealth transfers to the Third World, now renamed the South. This report, commissioned by UN Secretary-General Kurt Waldheim, was signed by five former West European Prime Ministers (Brandt, Heath, Mendes-France, Palme and Frei) and other celebrities, including Katherine Graham, publisher of The Washington Post, and S. S. Ramphal, Secretary-General of the British Commonwealth.

MAJOR ANOMALIES

The case for aid is widely taken for granted. This has permitted major anomalies. Much Western aid has gone to oil-rich OPEC countries. It has also often been granted to both sides in a war (India and Pakistan, Ethiopia and Somalia, Tanzania and Uganda, Algeria and Morocco). Large scale aid still goes to governments whose policies directly impoverish their subjects as for instance by forcible collectivization of farming, expulsion of the most productive groups, suppression of private trade and industry and restriction of the inflow of capital.

Foreign aid cannot contribute significantly to its proclaimed purposes. It is indeed likely to obstruct them. The most durable argument for aid has been that it is indispensable for reasonable Third World progress. Yet many countries in South East Asia, Africa and Latin America progressed rapidly long before official aid. This particular argument patronizes Third World people by saying that they crave for material progress but, unlike the West, cannot achieve it without external doles.

Foreign aid cannot promote appreciably the growth of the national income. Countries where government or business can use funds productively can borrow abroad. The maximum contribution of foreign aid to growth cannot therefore exceed the avoided cost of borrowing. As percentage of the national income of large Third World countries this maximum contribution is at best minute, a fraction of one per cent, far too small to register in the statistics.

Any tiny, marginal benefit from the reduction of the cost of investible funds is likely to be much more than offset by the adverse repercussions of official aid. These adverse effects are brought about by amounts of aid, which, while small in relation to the national income, are nevertheless large compared to government revenues or foreign exchange earnings in the recipient countries. These are the relevant magnitudes because aid is concentrated on governments.

Official aid increases the money, patronage and power of the recipient governments, and thereby their grip over the rest of society. It thus promotes the disastrous politicization of life in the Third World and intensifies the struggle for power. This increases conflict, especially in the multiracial societies of most Third World countries. This sequence diverts energy and attention from productive activity to the political arena, because people's livelihoods or even their economic and physical survival comes to depend on political and administrative decisions.

Official aid often inhibits the international economic position of the recipients by driving up the rate of exchange, helping to maintain overvalued exchange rates or to increase the money supply. It tends also to encourage imprudent financial policies, because external payments difficulties are an effective ground for appeal for aid. Aid reinforces the widely prevalent idea that Third World betterment depends on outside factors. Aid also biases development policy towards unsuitable external models, witness official airlines in countries whose citizens normally do not travel and rarely use these airlines.

Relief of poverty is a much canvassed objective of aid, and one with obvious moral overtones. But *official* aid does not go to poor people, to the skeletal figures of aid propaganda. It goes to their rulers whose spending policies are determined by their own personal and political interests, among which the position of the poorest has very low priority. To support rulers on the basis of the poverty of their subjects is more likely to encourage policies of impoverishment than to deter them. If a government persecutes and even expels the most productive groups such as ethnic minorities, as for instance Chinese in Vietnam and Indonesia or Asians in East Africa, on the criterion of poverty, it should receive more aid because incomes have been reduced.

Aid is often advocated as providing employment by promoting exports. This is like saying that it benefits a shopkeeper to be burgled if the burglar spends part of the loot in the shop. Aid-financed exports are bought with taxpayers' money. Taxpayers therefore have less to spend at home. Direct domestic employment subsidies would be cheaper, more effective and would make the process clearer.

It is often said that official Western aid is indispensable to prevent the Third World from drifting into the Soviet orbit. A large and growing volume of Western official aid is channelled through the international agencies. In the allocation of aid these agencies are not permitted to take into account the political interests of the donors. Moreover, the Soviet bloc is represented in these international agencies and can therefore influence the allocation of multilateral aid, even though its financial contribution to aid is small. But Western political interests are largely ignored also in bilateral aid as this is given regardless both of the conduct of the recipients and of their political significance. Many recipients insult and thwart the Western donors as best they can.

Aid is often envisaged as an instrument of global redistribution. But foreign aid differs radically from domestic redistribution, whatever the case for the latter. Foreign aid goes from government to government, aid is not adjusted to the personal circumstances of taxpayers and recipients. Many taxpayers in donor countries are far poorer than many people in recipient countries, where aid benefits largely the relatively well off.

Again, redistributive taxation postulates basic similarity of conditions and therefore of requirements, within its area of operation. But globally these requirements differ widely. This is obvious of physical requirements dictated by climate. But it applies also to political and social considerations. Should Americans be taxed for the benefits of governments whose policies directly reduce incomes in their countries, or whose citizens refuse to kill animals, as in India, or to let women take paid work, as in many Moslem countries?

Because international income differences reflect qualities, mores, institutions and political arrangements, any reduction in income differences is temporary so that redistribution would have to be continued indefinitely. The policy also implies transfers from more productive to less productive people and thereby reduces the overall productivity of resources.

MARSHALL PLAN ANALOGY

Finally, massive wealth transfers to the Third World are often advocated on the ground that like the Marshall aid of the late 1940s, this would transform the recipients for the benefit both of the West and of the Third World. This analogy fails completely. In postwar Europe the task was reconstruction not development. Peoples faculties, institutions and political arrangements were appropriate to sustained prosperity, as was evident from pre-war experience. This is why Marshall aid could be terminated in four years and Western Germany could become an exporter of capital soon after the end of Marshall aid. Contrast this with the suggestions of indefinite continuation of wealth transfers to the Third World, and with the difficulties of many aid recipients to service even very soft loans granted under earlier aid agreements.

Ideally, official aid should be terminated. This is impossible at present in face of the vested interests and the momentum of existing commitments. But the operation of aid could be much improved and its worst anomalies avoided. This could be done primarily by allocating it to, say, governments pursuing liberal domestic and foreign economic policies. Such a change is, however, improbable in the prevailing climate of aid, and in the face of the interests and priorities of those who administer it.

AID TO TURKEY

Mr. ROBERT C. BYRD. Mr. President, in recent months there has been much discussion in the Senate and in the Nation about international instability and the threats to world peace—particularly the turmoil in Iran and the military expansion of the Soviet Union into Afghanistan.

The legislation before us today affords us the opportunity to take positive steps in response to these problems.

The International Security and Development Cooperation Act contains important assistance for Turkey, a strategically located friend and ally of the United States. Turkey is the linchpin of NATO's defenses on the eastern flank.

The continuing instability in Iran and Southwest Asia heightens the strategic and geopolitical importance of Turkey, which has common borders with both Iran and the Soviet Union.

Turkey and the United States recently signed an important 5-year defense cooperation agreement which covers 12 joint defense installations in Turkey, including key facilities for monitoring Soviet military activities.

Turkey is in the process of seeking to maintain a representative, democratic political system in the face of serious domestic economic difficulties, as well as the instability which besets the region. Against great odds, Turkey is persevering, and making significant progress. The current Prime Minister, Mr. Demirel, who was returned to office following free elections and an orderly change of government, has instituted a severe and politically courageous austerity program to deal with Turkey's economic problems.

The assistance which would be provided through this bill is critical to Turkey. It will provide $250 million in foreign military sales financing, $200 million in economic support, and just under $2 million in grant military training (IMET). These funds are vital in helping to strengthen Turkey and to keep it on the path to economic recovery. A strong and stable Turkey is in the interest of all Western nations.

As my colleagues know, I have been a staunch advocate of assistance to Turkey in recent years. Two years ago, I offered an amendment to lift the arms embargo on Turkey—an embargo which had become highly counterproductive to U.S. interests. The Senate led the way in ending the embargo. Subsequently, I have worked to assure adequate assistance for Turkey and have encouraged the administration to work with other allied nations in providing aid to Turkey. West Germany, in particular, is to be commended for its role in working with us and other members of the Organization for Economic Cooperation and Development (OECD) in helping to ease Turkey's economic plight.

This legislation also provides needed assistance for another important and strategically situated allied nation—Greece. I have consistently supported close ties with Greece and am pleased that this legislation should contribute to the strengthening of those ties.

This authorizing legislation takes into consideration the pressures on our own budget and our own economic difficulties. The Foreign Relations Committee has reviewed the aid requests carefully.

The assistance authorized for Turkey is at the same level as authorized last year.

I am convinced that such assistance to Turkey is very much in the interests of the United States and in the interests of peace and stability in a critical area of the world. This assistance will help Turkey; it will help NATO; and it will constitute an important contribution to our own security.

THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM

● Mr. LUGAR. Mr. President, I would like to make several points concerning our military training program.

As the committee report on the foreign aid bill makes clear, in this period of severe budgetary pressure it is increasingly important that we maximize the effectiveness of every scarce foreign policy dollar. In the case of training, we do this by maximizing the number of people who can be trained under our training program for any given level of expenditure. The Foreign Relations Committee and the House of Representatives have acted in several important ways in this respect; I urge that we go further—further both in writing rules that permit us to train the maximum number of people per training dollar and increasing funding to permit the extension of such modest programs to additional countries where it is clearly in the U.S. interest.

Perhaps the most important programs are longer-duration professional level training, which normally means residence in the United States and attendance at one of our senior service schools. This is a relatively low-cost, high payoff program routinely lauded by military officers the world over. These officers look back uniformly on their experience in the United States as a happy one, as an educational one, and as one which establishes a communications channel, not merely between our military and the military establishments of other countries, but often at an even higher political level. For as we know, in many third world countries the military is often involved in the government of those countries. Such programs often establish life-long friendships and ties of understanding between the foreign students and the Americans with whom they come in contact during their training. They learn not only about our military system and military techniques, but they acquire a sense of our political system and our political values. We cannot guarantee that they will come to prefer our political system and our political values, but we can make a persuasive case that this kind of training is a way of advocating our own human rights stance throughout the Third World, by example rather than by merely lecturing at the policy level.

Quite a few of the graduates of these programs will become leaders in their own military establishments and some will become political leaders in their countries. These programs, therefore, are clearly a positive long-run foreign policy instrument for the United States. Both the House and our committee have taken important steps by requiring that the fees charged for these courses be calculated only upon the additional costs incurred by the United States for the training and not include portions of the cost the U.S. Government would incur in any case for maintaining our facilities, even if we were to provide no training to foreign students at all. Before this change, our scarce foreign policy dollar was used to subsidize in a very modest way the operation and maintenance of our own military establishment.

I believe that we must clearly establish the principle that these scarce dollars over which the Foreign Affairs and Foreign Relations Committees have jurisdiction should be spent in every case so as to maximize their foreign policy impact, that is, in this case so that we train the maximum number of students per training dollar. The House of Representatives has gone a bit further than our own Foreign Relations Committee. They have not only mandated incremental pricing for the IMET program (a full grant program) but also for FMS training purchased by IMET recipients. This increases the impact upon the Department of Defense's operations and maintenance budget from $10 or $15 million to perhaps twice that, but it also significantly increases the number of people we can train for foreign countries. I am sure that the Defense Department would gladly absorb this modest impact upon their O. & M. accounts in exchange for the long-term benefits of increasing our training programs.

Thus, I hope, Mr. President, that the chairman and ranking member of our committee will consider favorably the House version of their amendment in the forthcoming conference.

The House has also gone a bit further than we have in this area in another more obvious way. They have increased the total IMET program by $3 million, from $32.5 to $35.5, in part because they direct an increase of $500,000 for Lebanon—a very important effort in strengthening the Lebanese Army and thus helping to put that Government back on its own feet. This would do nothing but enhance the security of Israel.

They also specified that this increase was intended to accommodate anticipated programs for Indian Ocean countries, that is for Kenya, Oman, and Somalia. This is a very sensible step and one which I am surprised was not forthcoming from the administration, which proposes instead to absorb the additional aid and credit requirements in connection with our access agreements in the Indian Ocean from an already tightly stretched program for all of the other countries.

The House also pointed out that this increase was intended to encompass potential programs in several other areas. Among the most important such programs, it seems to me, would be programs for Brazil and Venezuela.

Brazil is important to U.S. security interests because of its size, population, industrial capacity, and its dominant position along the primary route for the flow of Middle East petroleum to the United States and to our West European allies. In 1978, these sea lines of communication carried 65 to 70 percent of West Europe's petroleum imports and 40 to 45 percent of our own. The Soviets' South Atlantic naval force has the potential to threaten these vital Western arteries, and it is clearly in our interest to establish strong alliances among them whenever possible. These are, however, differences in the way in which the United States and Brazil perceive the Soviet threat; and these differences will continue and may diverge even more unless we are able to reestablish our communications at the military level which were broken at the time of the abrogation of bilateral military accords in March 1977. One vehicle for achieving this would be through Brazilian attendance at our professional-level service schools funded through IMET.

Brazil annually offers U.S. students spaces at its three service command and general staff colleges at no cost to the United States, and four U.S. officers are currently enrolled in those schools. They have difficulty in understanding why we are unable to reciprocate, and as a general rule, they do not accept professional-level training in other countries except by invitation with all course costs paid by the host country. A modest IMET program for Brazil could be very valuable to our relations and I strongly urge the administration to take the necessary steps.

Our security interests in Venezuela are also significant. That country is becoming increasingly important in Central America and the Caribbean through its political and economic support of democratic elements in the region. It is clearly in the interest of the United States to nurture this cooperation. We are doing very well in consultations and exchanges on the civilian side, but we have had a declining military relationship over the past several years, largely because of the high cost associated with our security assistance. The United States must do more to foster high-level military cooperation and understanding. As in the case of Brazil, the restoration of a modest IMET program would contribute to improving communication at the military level. While there are no U.S. officers enrolled in Venezuelan professional schools, it is in the U.S. interest to facilitate Venezuelan attendance in professional-level courses in the United States. Again, I strongly urge the administration to move in this direction.

The costs are really very small, and the payoff, though not immediate, is usually quite significant; $100,000 in IMET would cover the cost of one Brazilian and one Venezuelan officer at each of the following schools:

Army Command and General Staff College.
Navy Staff College.
USMC Command and Staff College.
Air War College.
Air Force Command and Staff College.

Mr. President, I strongly urge the administration to get on with improving our relations with countries such as these and to take these modest steps in this direction.●

● Mr. HUMPHREY. Mr. President, I would like to express my deep appreciation to the Foreign Relations Committee for its expeditious handling of Senate Concurrent Resolution 42; particularly, for its decision to accept this resolution, with minor changes, as an amendment to S. 2714. As originally introduced by Senators HELMS, THURMOND, McClure and myself, Senate Concurrent Resolution 42 expressed the sense of Congress that the President should report to Congress monthly concerning the military capability of Soviet troops in Cuba, Cuban troops, and yearly concerning Soviet assistance to Cuba and military capabilities of Cuban troops. At the suggestion of Senator Church, the monthly report requested by the resolution was changed to 90-day intervals. Section 606 of S. 2714 reads as follows:

> (a) Every ninety days during the one-year period beginning on the date of enactment of this section, the President shall prepare and transmit to the Congress a report identifying the military capabilities and deployment of Soviet military personnel in Cuba, together with his appraisal of the mission performed by such personnel.
>
> (b) One year after the date of enactment of this section and annually thereafter, the President shall prepare and transmit to the Congress a report setting forth—
>
> (1) the amount and nature of military assistance furnished by the Union of Soviet Socialist Republics to the Armed Forces of Cuba during the preceding year; and
>
> (2) the military capabilities of such armed forces.

My concern for formal reports to Congress on this subject originated with the sudden revelation last fall that the Soviet Union had stationed combat troops in Cuba. It was largely as a result of intense concern by several members of the Foreign Relations Committee that this disturbing situation was finally brought to the attention of Congress and the American public. Section 606 of S. 2714 will assure that Congress is regularly and systematically informed about the Soviet Union's military presence in Cuba, and will augment the Foreign Relations Committee's own admirable efforts along these lines.

Moreover, the periodic nature of the reports will provide Congress with a convenient "yardstick" for comparing and keeping track of Soviet military activities 90 miles from our shores. The need for such reports has been underscored by recent revelations in the press that the Soviets not only have doubled their combat force in Cuba, but are also lengthening and widening the runways of Cienfuegos airport. In addition, it has been argued that contrary to the view expressed last fall, Soviet troops in Cuba are not performing solely training functions. Hardly a day goes by without some news report about Soviet involvement in Cuba. The reports requested in S. 2714 will help Senators and the American public, alike, sift rumors from fact.

Finally, and equally important, the call for frequent reports, will insure that our intelligence agencies assign high priority to Cuba and that intelligence data on Cuba will be analyzed promptly and thoroughly. In the debate which ensued in the wake of last year's discovery of Soviet combat troops in Cuba, it was revealed that while the U.S. intelligence community had been receiving information indicating the presence of Soviet combat units in Cuba for nearly 8 years, it was only last fall that intelligence officials tentatively concluded that the troops were an organized combat force. The delay in reaching this conclusion was due, in large part, to the fact that the information gathered was fragmentary, and was not pulled together and analyzed until last summer. Section 606 of the International Security and Development Cooperation Act will insure that this problem would not emerge again at some future date.●

● Mr. CRANSTON. Mr. President, several of the components of S. 2714, the International Security and Development Cooperation Act, make major contributions to the advancement of crucial U.S. interests. For example, nearly two-thirds of the military sales grants and credits in the bill are for the two key parties to the Camp David agreements, Israel and Egypt, and some 75 percent of the economic support funds in the measure go to Israel and Egypt. These funds will help insure that as Israel and Egypt continue to struggle with the difficult issues involved in consummating a peace between the two nations after so many years of war, neither will have to bear a disproportionate share of the costs.

I have been particularly concerned that generous support be available, because even as the peace process moves forward, Israel's legitimate security needs have been growing. Under the peace treaty with Egypt, Israel is giving up two key airfields and a number of training and logistics bases in the Sinai Desert, and is incurring enormous costs in relocating its defense forces. Israel has also struggled with a greater than 100 percent annual inflation rate while trying to maintain sufficient military power to deter attacks from those Arab states not yet participating in the peace process who have been relentlessly improving their own military capabilities. I believe it is crucial that Israel maintain a sense of security sufficient to avoid tripwire situations where preemptive strikes could conceivably be taken because of opponents' overwhelming strength or an apparent Israeli weakness. Israel cannot be too weak and Egypt cannot be too strong if stability—and the prospect of a more broad peace—is to be maintained. Thus, I applaud the Senate Foreign Relations Committee initiative increasing total FMS credits to Israel by an additional $200 million—to a total of $1.4 billion—and converting economic support funding for Israel ($785 million) and Egypt ($750 million) to a full grant basis. I strongly support these amendments, which clearly are in our national interest.

The Senate Foreign Relations Committee also took two initiatives regarding assistance to Greece and Cyprus which are sound additions to the bill. A committee amendment will insure that Greece receives the most concessionary loan terms available. And another committee amendment increases assistance for Cypriot refugees from $2 million to the previous annual authorization level of $15 million.

While I believe these are constructive additions. I am deeply concerned by continued U.S. assistance to the Government of Turkey despite the fact that Turkey has not made satisfactory efforts to end its occupation of parts of Cyprus. I have deep reservations about the wisdom of extending military aid to Turkey without additional progress being made toward the resolution of the Cyprus dispute and for this reason opposed the lifting of the U.S. arms embargo against Turkey 2 years ago. Turkey's scarce funds would be far better spent on the address of its dire economic problems than on perpetuating its illegal military occupation of Cyprus.

I am also concerned about the assistance extended under this bill to the current Government of South Korea. S. 2714 includes $176 million in grant military training (IMET) and FMS financing for South Korea. Generous U.S. assistance to South Korea—which has continued for three decades—is intended to help secure the development of a democratic ally on the Korean peninsula. The United States is committed to the defense of the South Korean people and to their democratic development. But we are not committed to the support of a military dictatorship in that nation. I view with deep alarm the recent events in South Korea which have set back the gradual progress toward constitutional reform. I believe that the blame for this setback rests squarely with the military authorities who have persistently frustrated orderly reform efforts. The vast majority of South Korean opposition members are loyal, patriotic and fervently anti-Communist citizens who seek only a broader involvement of their people in their own government. There is no excuse for continued political repression in South Korea on national security grounds. I believe it is essential for South Korean authorities to get this message: U.S. support for South Korea is not a blank check which can be used for further repression. We look for resumed progress toward constitutional and electoral reform as a condition for continued U.S. support for South Korean development.●

LIMITS ON FOREIGN AID

● Mr. DOLE. Mr. President, every year we have a debate on foreign aid; on the need for it, on the amount, on the type, and on the political strings which are always attached. This year is no different, but now we face the worst recession perhaps since the Great Depression. Every Federal dollar is more precious because of our great need for austerity. Charity begins at home, and America has many unmet needs.

The United States is part of a larger world, however, than even our spacious land. We are not isolated from the rest of humanity. What affects others, sooner or later affects us. Recession, inflation, disease, and war respect no national boundaries. We are not insulated from the problems of others, and we must, therefore, participate in the search for answers—if not out of compassion and humanitarian concern, then in our own eventual self-interest. In this modern age what happens halfway around the world in the Persian Gulf or the Khyber Pass affects us quickly.

BENEFITS TO THE UNITED STATES

There are more direct benefits to the United States that we can talk about when it comes to evaluating foreign aid.

The tax dollars we assign to this purpose are not lost to us, thrown away, never to be seen again. The United States is still the greatest industrial and agricultural economy on Earth. Those foreign-aid dollars must be spent somewhere for something, and inevitably they are spent in America. The less developed countries are now collectively our greatest export market and have the potential for the largest growth in the future.

These LDC countries have provided markets for American foods and goods that have grown half again faster than the markets in industrialized nations and now total one-third of our total exports. It is estimated that 1.2 million American jobs are directly dependent upon the export trade, and many more as the ramifications to our economy are followed down the line to suppliers and ancillary services. Approximately 30 percent of all wheat, rice, and cotton grown by our farmers is now exported to the less developed countries. Most significantly, for every $1 invested, nearly $3 return to our economy in the purchase of food, services, and industrial goods.

THE LIMITS TO AID

It seems clear the United States aims for a stable and prosperous world, one wherein trade can flourish and in which our security interests can remain protected. Our foreign aid is a tool to achieve that goal. But, the United States cannot do it alone. The problems are too huge, and we should not do it alone. Our friends and allies must share the burden. For all profit from peace and prosperity.

In the next two decades we face a population explosion of unprecedented proportions, 90 percent of which will occur in developing nations. Many billions will put unheard of strains on our capacity to feed them and provide useful, meaningful lives. The potential for violence, disease, and famine will be dangerous to world stability.

We are all personally aware of the energy crisis. We also know we cannot solve it by ourselves. The less developed countries are even more vulnerable, though their energy requirements are less. In the last decade the combined debts of the LDC's quadrupled, and one of the major causes was the rise in the cost of imported oil. The Foreign Relations Committee has estimated that this huge debt may double or even quadruple again in the coming years—yet, most of these countries are already at the limit of their capability to manage and service their credit costs.

The OPEC cartel must assume a larger share of the responsibility for helping the LDC's for they have a large portion of the blame for the problem. The riches of the world pour into the sands of Arabia faster than it can be put to reasonable use, while there is little room for economy or cutbacks in the energy consumption by the poor nations. This is a major crisis which our foreign aid cannot begin to solve—our own energy purchases threatens our entire economy with the resulting pernicious inflation.

Expanding credit overseas to high-risk borrowers while trying to limit credit at home to the middle class and business does not make sense. High inflation, recession, and unemployment are even greater problems abroad than in this country. Yet, we see opposite policies proposed by this administration on occasion, which does not make sense. The solution to our world crisis is not to just authorize more credit through the international lending organizations and development banks, when present debt levels are so high.

FOREIGN AID: THE UNSEEN SIDE OF THE EQUATION

Mr. President, the balanced budget the Senate passed with so much effort and hard work has apparently slipped into the red already. Deep cuts may be necessary in programs already cut to the bone by laborious compromise, balancing the needs of various domestic programs and defense requirements.

Soon after our balanced budget passed the Senate, the Saudis boosted oil prices by $2 per barrel, signaling a new round of OPEC increases, making the inflation rate jump yet again, and deepening the recession this country finds itself in. At the same time they were raising prices, the Saudis announced a $5 billion budget surplus.

On every continent underdeveloped nations are deep in debt, some already to the absolute limit of their capability, because of the high price of imported oil. The United States, a major target and victim of these artificially high prices, is asked to be a double victim by subsidizing the oil debt of all these countries. Well, we cannot do it. We have not the money for it, nor the will—nor should we.

Let the Saudis, with their $5 billion surplus and newly inflated oil prices, let them do more to rescue the sinking economies of the Third World.

OUR TOTAL CONTRIBUTION NOT COUNTED

Charity, by necessity, must begin at home. Foreign assistance must always be weighed carefully with this in mind. It should only be given when great humanitarian needs overshadow temporarily our own domestic problems, and when it will promote in the long run a stability that will aid our national security interests.

Over the period of the last year the United States has suffered a series of shocks and reverses on the world scene. Yet our friends and wealthier allies have been extremely hesitant to support us in crises such as Iran and Afghanistan when it might cost them something. Pledges of symbolism and rhetoric, like the Olympic boycott, have even been difficult to get with some of our "allies."

The United States is not the only country in the world with a stake in freedom, stability, and prosperity. Other nations do far less than their share in the twin concerns of military preparedness to assure our mutual continued independence, and foreign assistance.

Western Europe has a greater population than Russia, a greater GNP, a greater per capita income, a greater economy, more resources, more steel production. There is no reason why it should be weaker than Russia, yet it does not provide adequately for its own defense. Not only in Europe, but elsewhere across the seas, American soldiers, American arms, American ships are necessary to keep the world as safe and secure as it is.

The contribution America makes to the world goes far beyond the actual dollar amounts specifically requested for foreign aid. Our vast defense outlays must be factored in as well. We do not want to abandon the world, retreat to our shores, and remain indifferent to whatever happens. It is in our national interests to help maintain the global status quo. The United States remains aware of its responsibilities. But when we consider how to balance our budget, in a deepening recession, and when we see our allies shirking their fair share of the load, let everyone remember our vast contribution to everyone's defense.

We do what we can in foreign aid to the world. We are not insensitive to the problem. Our first duty remains here at home, and if we must cut back those funds specifically earmarked for foreign assistance because of our domestic needs, inflation and recession, do not forget our steady commitment to world peace through our military strength. It is the unseen side to the equation, and the one to which we have always done far more than our share.

THE RIGHT APPROACH TO FOREIGN AID

This bill represents a compromise in our many competing national goals and needs. It contains a cut of $431.7 million in the President's revised 1981 request for these foreign aid programs. The present bill is cut even below last year's authorization by over $40 million, which is a significant decrease especially when the inflation factor is added to it.

The approach used toward evaluating foreign aid requests this year was one of austere scrutiny, need, and utility. It is an approach that the Senator from Kansas believes should always be used toward foreign assistance of any kind. The international banks have a useful function, but they cannot be subjected to the same set of priorities we have used in our consideration of this bill. The bulk of future American development assistance ought to be channeled through our own foreign aid programs, put on a direct, country-to-country basis that would give the United States more credit and more leverage not only in solving economic problems but other conflicts as well.

In light of the many amendments added to this bill on the floor today, the Senator from Kansas believes it can be given his qualified support. Only with regard to the caveats I have addressed today, referring to the context of my remarks on the many contributions the United States makes to world stability beyond the actual dollars contained in this measure, do I find this compromise a promising approach to serving humanitarian goals and U.S. strategic interests.●

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT

Mr. ROBERT C. BYRD. Mr. President, the consideration of the International Security and Development Cooperation Act of 1980 has been thorough and deliberate. This bill deals with U.S. policy responses to a wide range of problems in nations around the world. The debate has been informed and enlightening, a tribute to all those who took part.

We owe particular thanks to the managers of the bill, the distinguished Senator from Idaho, Mr. Church, chairman of the Foreign Relations Committee, and the distinguished Senator from New York, Mr. Javits, the ranking member of the Foreign Relations Committee. In addition, the junior Senator from Massachusetts (Mr. Tsongas) has been most helpful in assisting to manage the bill. Their mastery of the complex and sometimes controversial programs covered in this bill has been evident throughout the debate.

The members of the Foreign Relations Committee are to be congratulated for the painstaking committee work that went into this bill. It is clear that budgetary stringency guided the committee's deliberations. The thoroughness of the committee's action has expedited the measure's consideration on the floor, and is a great service to the Senate.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6942.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6942) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. CHURCH. Mr. President, I ask unanimous consent to strike all after the enacting clause of H.R. 6942 and to substitute therefor the text of S. 2714, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays were ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. Chafee) and the Senator from Kansas (Mrs. Kassebaum) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote who have not voted?

The result was announced—yeas 58, nays 32, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—58

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Chiles
Church
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Ford
Glenn
Hart
Hayakawa
Heinz
Inouye
Jackson
Javits
Jepsen
Johnston
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stewart
Stone
Thurmond
Tower
Tsongas
Weicker
Williams

NAYS—32

Armstrong
Boren
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
DeConcini
Eagleton
Exon
Garn
Hatch
Hatfield
Heflin
Helms
Hollings
Humphrey
Laxalt
Long
McClure
Melcher
Proxmire
Randolph
Roth
Simpson
Stennis
Stevens
Talmadge
Wallop
Warner
Young
Zorinsky

NOT VOTING—10

Bayh
Chafee
Goldwater
Gravel
Huddleston
Kassebaum
Kennedy
McGovern
Moynihan
Stevenson

So the bill (H.R. 6942), as amended, was passed, as follows:

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980".

TITLE I—MILITARY AND RELATED ASSISTANCE PROGRAMS

PERFORMANCE OF DEFENSE SERVICES

Sec. 101. Section 21(c) of the Arms Export Control Act is amended—

(1) by striking out "training, advising, or otherwise providing assistance regarding combat activities" and inserting in lieu thereof "training and advising that may engage United States personnel in combat activities";

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end thereof the following:

"(2) Within 48 hours of the outbreak of significant hostilities involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

"(A) the identity of such country and a description of such hostilities; and

"(B) the number of members of the United States Armed Forces and the number of United States civilian personnel performing defense services related to such hostilities in such country, their location, the precise nature of their activities, and the likelihood of their becoming engaged in or endangered by hostilities.".

RECIPROCAL TRAINING AGREEMENTS

Sec. 102. Section 21(g) of the Arms Export Control Act is amended by inserting "and similar agreements with Japan, Australia, and New Zealand" after "standardization agreements".

GUARANTY RESERVE

Sec. 103. (a) (1) Section 24(c) of the Arms Export Control Act is amended to read as follows:

"(c) Funds obligated before October 1, 1980, under this section which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section after September 30, 1980. The President shall report promptly to the Congress whenever the payment of a claim under any such guaranty reduces the total amount of funds in the single reserve under this subsection to an amount less than $750,000,000, together with his recommendations for the authorization of appropriations of additional funds for such reserve. For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1980.

(b) Section 37 of such Act is amended by adding at the end thereof the following:

"(c) Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.".

(c) Section 25(a) of such Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

"(3) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;".

(d) Section 31(a) of such Act is amended by inserting immediately after the first sentence the following new sentence: "Credits may be extended pursuant to section 23 and the principal amount of loans may be guaranteed pursuant to section 24(a) only to the extent and in such amounts as provided in advance in appropriations Acts.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

Sec. 104. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$673,500,000 for the fiscal year 1980" and inserting in lieu thereof "$500,000,000 for the fiscal year 1981".

(b) Section 31(b) of such Act is amended to read as follows:

"(b)(1) The total amount of credits, or participations in credits, extended pursuant to section 23 of this Act for the fiscal year 1981 shall not exceed $500,000,000.

"(2) The total principal amount of loans guaranteed pursuant to section 24(a) of this Act for the fiscal year 1981 shall not exceed $2,590,000,000.

"(3)(A) Of the aggregate total of such credits, or participations in credits, and of the total principal amount of such loans guaranteed, not less than $1,400,000,000 for the fiscal year 1981 shall be available only for Israel, of which $200,000,000 shall be available only for costs associated with the relocation of Israeli Forces from the Sinai.

"(B) Of the total principal amount of such loans guaranteed, not less than $175,000,000 shall be available only for the Republic of Korea.".

(c) Section 31(c) of such Act is amended—

(1) in the first sentence by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(2) in the last sentence by striking out "one-half" and inserting in lieu thereof "$500,000,000".

(d) The principal amount of the loans guaranteed under section 24(a) of such Act for the fiscal year 1981 with respect to Egypt, the Sudan, Greece, and Turkey shall be repaid and with respect to Somalia may be repaid in not less than twenty years, following a grace period of ten years on repayment of principal.

COMMERCIAL EXPORTS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 105. (a) Section 38(b)(3) of the Arms Export Control Act is repealed.

(b) Section 36(c) of such Act is amended—

(1) by striking out in the first sentence "not less than thirty days";

(2) by redesignating paragraphs (1), (2), and (3) as clauses (A), (B), and (C);

(3) by striking out "paragraph (2)" and inserting in lieu thereof "clause (B)";

(4) by striking out "paragraph (3)" and inserting in lieu thereof "clause (C)";

(5) by inserting "(1)" after "(c)"; and

(6) by adding at the end thereof the following:

"(2) A license for export described in paragraph (1) shall not be issued if the Congress, within 30 calendar days after receiving such certification, adopts a concurrent resolution stating that it objects to the proposed license for export, unless the President states in his certification that an emergency exists which requires such export in the national security interests of the United States.

"(3) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(4) For the purpose of expediting the consideration and adoption of concurrent resolutions under this subsection, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(c) Section 38(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services shall keep the President fully and currently informed of the progress and future prospects of such negotiations.".

(d) Section 25(d)(1) of such Act is amended—

(1) by inserting in the first sentence "and licensed commercial exports" immediately after "sales" in each of the two places it appears; and

(2) by inserting in the second sentence "or of an export license" after "letter of offer".

(e) Section 3(d) of such Act is amended by adding at the end thereof the following new paragraph (4):

"(4) The President shall not give his consent to the transfer to a third country of a defense article or a defense service valued (in terms of its original acquisition costs) at $25,000,000 or more, or of major defense equipment valued at $7,000,000 or more, the export of which has been licensed or approved under section 38 of this Act, unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 30 days before giving such consent a report containing the same information as would be required in a certification submitted under paragraph (1) of this subsection. The conditions of paragraph (2) of this subsection shall apply to this paragraph.".

REVIEW CATEGORIES ON CURRENT UNITED STATES MUNITIONS LIST

SEC. 106. The President shall review the categories on the current United States Munitions List to determine which items, if any, because of their civilian application should be removed from license controls under section 38(b) of the Arms Export Control Act for exports to countries other than those specified under section 620(f) of the Foreign Assistance Act. The President shall report the results of this review to the Congress not later than one hundred and twenty days after the effective date of this Act. In undertaking this review, it is the sense of the Senate that items should be removed from such controls and be transferred to Export Administration Act license controls:

(1) if they are not specifically designed, modified, adaptable or equipped for military application or use;

(2) if they do not contain sensitive technology used for military, security, intelligence or cryptographic purposes;

(3) if they are not related to nuclear weapons development, production or testing, or to systems capable of delivering nuclear, weapons or to spacecraft; or

(4) if they are not otherwise of such a particular nature as to warrant continued export control under section 38(b) of the Arms Export Control Act.

MILITARY ASSISTANCE

SEC. 107. (a) Section 503(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by inserting at the end thereof the following new paragraph:

"(3) transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient specified in section 504(a)(1) of this Act, within the dollar limitations of that section, to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act.".

(b) Section 504(a)(1) of such Act is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $106,100,000 for the fiscal year 1981. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1981:

"Country	Amount
Portugal	$51,000,000
Philippines	25,000,000
Spain	3,600,000
Sudan	1,700,000

The amount specified in this paragraph for military assistance to any such country may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.".

(c) Section 506(a) of such Act is amended by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000".

(d) Section 516(a) of such Act is amended—

(1) by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "three" and inserting in lieu thereof "five".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 108. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$95,000,000 for the fiscal year 1980" and inserting in lieu thereof "$85,000,000 for the fiscal year 1981".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 109. Section 515 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (b)(1)—

(A) by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981";

(B) by striking out "the countries specified in section 504(a)(1) and in" and inserting in lieu thereof "Portugal, Spain, Jordan, the Philippines,"; and

(C) by striking out "Iran, Kuwait," and inserting in lieu thereof "Egypt";

(2) in subsection (b)(3)—

(A) by striking out "Iran, Kuwait, and";

(B) by striking out "countries" and inserting in lieu thereof "country"; and

(C) by striking out "each"; and

(3) in the last sentence of subsection (f)—

(A) by inserting "six more than" immediately after "may not exceed";

(B) by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1979"; and

(C) by inserting "and countries to which military personnel have been assigned pursuant to subsection (c)" immediately after "such countries".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 110. (a) The first sentence of section 542 of the Foreign Assistance Act of 1961 is amended by striking out all that follows "the purposes of this chapter" and inserting in lieu thereof "$32,500,000 for the fiscal year 1981.".

(b) Section 644(m) of such Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) with respect to military education and training, the additional costs that are incurred by the United States Government in furnishing such assistance.".

PEACEKEEPING OPERATIONS

SEC. 111. (a) Section 552(a) of the Foreign Assistance Act of 1961 is amended by striking out "$21,100,000 for the fiscal year 1980" and inserting in lieu thereof "$25,000,000" for the fiscal year 1981.

(b) Section 553 of such Act is repealed and section 554 is redesignated as section 553.

SPECIAL AUTHORITY

SEC. 112. (a) Section 614(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) The President may authorize the furnishing of assistance under this Act and may make sales, extend credit, and issue guaranties under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act or the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, that—

"(A) to do so is vital to the security of the United States; and

"(B) time constraints exist which prevent the President from seeking remedial statutory authority.

"(2) The President in every possible instance shall consult in advance with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate before exercising the authority granted in this section.

"(3) The authority of this subsection may not be used to authorize the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act, or the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year, unless such country is a victim of active Communist or Communist-supported aggression.

"(4) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.".

(b) Section 652 of such Act is amended by striking out "610(a), or 614(a)" and inserting in lieu thereof "or 610(a)."

MILITARY ASSISTANCE TO NICARAGUA

SEC. 113. Of the amount of funds authorized to be appropriated to carry out the provisions of this title none shall be made available for any aid or assistance to Nicaragua.

ENGINES FOR IRAQI NAVY FRIGATES

SEC. 114. Because a license was issued for the export of United States engines for use in Iraqi navy frigates without notification to the Congress as required by section 6(i) of the Act of September 29, 1979 (93 Stat. 515), relating to militarily significant exports to countries supporting international terrorism, in view of the fact that Iraq was listed as such a country in a December 29, 1979, letter from the President to the Congress, and in furtherance of the policy against aiding countries supporting international terrorism which is the basis of section 6(i), of section 3(f) of the Arms Export Control Act, and of section 620A of the Foreign Assistance Act of 1961, the President shall revoke the licenses for the export of any gas turbine engine cores for use in frigates for the Iraqi navy.

COMMERCIAL SALES, PRIOR NOTIFICATION

SEC. 115. (a) Section 6(i) of the Export Administration Act is amended in the first sentence by (1) deleting the "and" following "House of Representatives" and inserting a comma; (2) inserting "and Committee on Foreign Relations" after "Urban Affairs"; and (3) by inserting "30 days" after the word "Senate".

(b) Subsection 6(i)(2) is amended to read as follows: "Such exports would have a potential military capability or could readily be made a significant part of an article having a military capability or would contribute to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.".

TITLE II—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1980, $1,935,000,000" and inserting in lieu thereof "fiscal year 1981, $2,049,500,000".

USE OF FUNDS

SEC. 202. (a) Section 532(b) of the Foreign Assistance Act of 1961 is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Not less than the following amounts of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1981 shall be available only for the following countries: Israel, $785,000,000; and Egypt, $750,000,000. All such funds shall be provided on a grant basis.";

(2) by striking out in paragraph (2) "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(3) by adding at the end thereof:

"(3) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1981, not less than $7,000,000 shall be available only for development programs of private and voluntary agencies on the West Bank and in Gaza.".

(b) Sections 533 through 535 of such Act are amended to read as follows:

"SEC. 533. SOUTHERN AFRICA PROGRAMS.—Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1981, $90,000,000 shall be available for the countries of southern Africa.

"SEC. 534. EUROPEAN PROGRAMS.—(a) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal year 1981, $15,000,000 shall be available only for Cyprus for refugee relief, reconstruction and educational exchange programs.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for fiscal year 1981, not more than $200,000,000 shall be available for Turkey. Not less than two-thirds of such amounts made available shall be provided on a grant basis.

"(c) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal year 1981, $25,000,000 shall be available only for Portugal.

"SEC. 535. SUDAN PROGRAM.—Of the amounts authorized to be appropriated to carry out this chapter for the fiscal year 1981, not less than $50,000,000 shall be available for Sudan.".

REPORT TO CONGRESS ON THE IMPLEMENTATION OF THE LANCASTER HOUSE DECLARATION OF RIGHTS IN ZIMBABWE

SEC. 203. Should Zimbabwe receive assistance from funds authorized to be appropriated under this Act, the President shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives every sixty days after the obligation of such funds on the internal situation in Zimbabwe, particularly upon the implementation of the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979.

UNITED STATES NATIONALS, FUNDS FOR EMERGENCY USE

SEC. 204. Notwithstanding any restriction of this Act, up to $50,000,000 of the funds appropriated to carry out this chapter for the fiscal year 1981 may be available for emergency use under this chapter when national interests of the United States urgently require economic support to promote economic or political stability.

FISCAL YEARS

SEC. 205. The first sentence of section 620(k) of the Foreign Assistance Act of 1961 is amended by striking "fiscal year 1977" and inserting in lieu thereof "fiscal years 1980 and 1981".

TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 301. The first sentence of section 103(a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $677,000,000 for the fiscal year 1981.".

POPULATION AND HEALTH

SEC. 302. (a) Section 104(b) of the Foreign Assistance Act of 1961 is amended by inserting after "information and services" in the second sentence the following: ", including also information and services which relate to and support natural family planning methods,".

(b) The first sentence of section 104(g) of such Act is amended to read as follows: "There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $208,000,000 for the fiscal year 1981 to carry out subsection (b) of this section, of which amount not less than $4,500,000 shall be available only to support the World Health Organization's Special Program of Research, Development and Research Training in Human Reproduction and of which amount not less than $35,000,000 shall be available only for the program of the United Nations Fund for Population Activities (UNFPA); and

"(2) $150,000,000 for the fiscal year 1981 to carry out subsection (c) of this section.'.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 303. The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $107,000,000 for the fiscal year 1981, which are authorized to remain available until expended.".

TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS

SEC. 304. Section 106(d) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(d) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $140,000,000 for the fiscal year 1981, which are authorized to remain available until expended.".

ENVIRONMENTAL PROGRAMS

SEC. 305. Section 118 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the funds authorized to be appropriated under this part for fiscal year 1981, no less than $2,500,000 shall be used, in addition to funds otherwise available for such purposes, for activities in the field of environment and natural resources. These funds shall be used to prepare environmental profiles of developing countries and to support programs to assist in the protection and improved management of their environment and natural resources.".

SAHEL DEVELOPMENT PROGRAM—IMPLEMENTATION

SEC. 306. Section 121(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $88,442,000 for the fiscal year 1981. Amounts appropriated under this subsection are authorized to remain available until expended.".

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES

SEC. 307. Section 123 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting in subsection (a) before the period at the end of the fourth sentence the following: "and for the purpose of sharing the cost of developing programs related to such activities";

(2) by inserting in subsection (a) before the period at the end thereof the following: "and to establish simplified procedures for the development and approval of programs to be carried out by such private voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities"; and

(3) by adding at the end thereof the following new subsection:

"(e) Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than thirty days after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.".

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 308. The last sentence of section 124 (c)(2) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981"; and

(2) by striking out "$18,800,000" and inserting in lieu thereof "$10,845,000".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 309. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $233,350,000 for the fiscal year 1981, of which not less than $9,000,000 shall be available only for the United Nations Environmental Program.".

PARTICIPANT TRAINING

SEC. 310. Section 617 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.".

REIMBURSABLE DEVELOPMENT PROGRAMS

SEC. 311. Section 661 of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$3,800,000 of the funds made available for the purposes of this Act for the fiscal year 1980" and inserting in lieu thereof "$4,000,000 of the funds made available for the fiscal year 1981 for the purposes of this Act".

WORLD HUNGER

SEC. 312. (a) In order to further the intent of section 103 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall encourage the ongoing work of private voluntary organizations to deal with world hunger problems abroad. To this end the Administrator shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private voluntary organizations in dealing with world hunger abroad, the Administrator of the Agency for International Development is urged to provide assistance to private voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

TITLE IV—OTHER ASSISTANCE PROGRAMS

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 401. Section 214(c) of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for the fiscal year 1980" and inserting in lieu thereof "$25,000,000 for the fiscal year 1981".

INTERNATIONAL NARCOTICS CONTROL

SEC. 402. (a) Section 482(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $38,573,000 for the fiscal year 1981.

"(2) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) Section 482 of such Act is amended by adding at the end therof the following:

"(c) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, and section 105 of the Agricultural Trade Development and Assistance Act of 1954, up to the equivalent of $10,000,000 in currencies or credits of the Government of Pakistan held by the United States shall be available for the fiscal year 1981 to the President to carry out the purpose of section 481 through assistance to the Government of Pakistan. Such funds shall remain available until expended. Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies shall not affect or reduce appropriations otherwise available to carry out the administration of the international narcotics control program.".

(c)(1) Section 482(a)(2) of such Act is amended—

(A) by striking out in clause (A) "and" after "drug traffic"; and

(B) by inserting before the period at the end thereof a comma and the following: "and (C) fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program".

(2) The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.

INTERNATIONAL DISASTER ASSISTANCE

SEC. 403. Section 492 of the Foreign Assistance Act of 1961 is amended by striking out "$21,800,000 for the fiscal year 1980" and inserting in lieu thereof "25,000,000 for the fiscal year 1981".

EAST TIMOR

SEC. 404. It is the sense of the Congress that the President should take all appropriate measures to—

(1) continue to support and encourage relief operations by the Government of Indonesia and by international relief agencies in East Timor;

(2) assist the Government of Indonesia to facilitate the reuniting of families separated because of developments in recent years in East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

REDUCTION OF POSTHARVEST LOSSES OF FOOD

SEC. 405. It is the sense of the Congress that—

(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 per centum postharvest losses of food in developing countries; and

(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries.

TITLE V—PEACE CORPS

AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) Section 3(b) of the Peace Corps Act is amended by striking out "fiscal year 1980 not to exceed $105,404,000" and inserting in lieu thereof "fiscal year 1981 not to exceed $114,656,000".

(b) Section 3(c) of such Act is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981".

(c) Section 15(d)(7) of such Act is amended by striking out "$5,000" and inserting in lieu thereof "$20,000".

AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 502. (a) Section 401 of the Domestic Volunteer Service Act of 1973 is amended—

(1) by striking out "two Associate Directors" the first time it appears and by inserting in lieu thereof "one Associate Director";

(2) by striking out "One such" and by inserting in lieu thereof "Such"; and

(3) by striking out ", and the other such Associate Director" and all that follows through "(22 U.S.C. 2501 et seq.)".

(b) Section 405 of such Act is amended—

(1) by striking out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)" in subsection (a);

(2) by striking out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)" in paragraphs (1) and (2) of subsection (b); and

(3) by striking out "Acts" in subsection (b)(2) and inserting in lieu thereof "Act".

TITLE VI—MISCELLANEOUS PROVISIONS

PROCUREMENT

SEC. 601. (a) Section 604(e) of the Foreign Assistance Act of 1961 is amended by inserting the following immediately before the period at the end thereof: ", unless the commodity to be financed could not reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed".

(b) Section 604 of such Act, as amended by subsection (a), is further amended by adding at the end thereof the following:

"(g) None of the funds authorized to be appropriated or made available for obligation or expenditure under the Foreign Assistance Act of 1961 may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.".

INSPECTOR GENERAL

SEC. 602. Section 624(g) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "Auditor General" each place it appears and inserting in lieu thereof "Inspector General";

(2) in paragraph (3)—

(A) by striking out "and investigative" and inserting in lieu thereof ", investigative, and security"; and

(B) by adding at the end thereof the following: "In addition, to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator), the Inspector General shall with respect to the duties and responsibilities of that Agency supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.";

(3) in paragraph (4) by inserting "and the Director" immediately after "Administrator"; and

(4) by adding at the end thereof the following:

"(6) The Inspector General shall have the authority to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions under this section. Any such subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court. Procedures other than subpenas shall be used to obtain documents and information from agencies of the United States Government.

"(7) In carrying out the responsibilities specified in paragraph (3), the Inspector General shall—

"(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(B) establish guidelines for determining when it is appropriate to use non-Federal auditors; and

"(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in subparagraph (A).

"(8) The Administrator shall provide the Inspector General with appropriate and adequate office space at central and field office locations of the agency primarily responsible for administering part I of this Act, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices and the equipment and facilities located in such offices.

In establishing and staffing such field offices, the Administrator shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

"(9)(A) The Inspector General may receive and investigate complaints or information from any employee of or under the United States International Development Cooperation Agency concerning the possible existence of an activity constituting a violation of law, rules, or regulations, constituting mismanagement, gross waste of funds, abuse of authority, or constituting a substantial and specific danger to the public health and safety.

"(B) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

"(C) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not exercise or threaten to exercise such authority in order to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.".

ANNUAL REPORT

SEC. 603. Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following:

"(6) the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotic control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

"(7) the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6) and (B) the budget of the government of such country; as well as the per capita contribution for each country for each type of assistance described in paragraph (6).".

SHIPPING DIFFERENTIAL

SEC. 604. Section 640C of the Foreign Assistance Act of 1961 is amended by striking out "Part V" and inserting in lieu thereof "chapter 4 of part II".

OPERATING EXPENSES

SEC. 605. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(2) in paragraph (1) by striking out "$263,000,000" and inserting in lieu thereof "$293,800,000".

REPORTS ON LEASE OF DEFENSE PROPERTY

SEC. 606. Not less than thirty days before the Secretary of a military department exercises his authority under section 2667 of title 10, United States Code, to lease defense property to a foreign government for a period of more than six months, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a written notification which specifies—

(1) the country to which such defense property is to be leased;

(2) the type, quantity, and value of the defense property to be leased;

(3) the terms and duration of the lease; and

(4) a justification for the lease.

Each such lease agreement shall be provided to the Congress not later than thirty days after its date of signature. The President may waive this notification requirement if he determines and immediately reports such determination to the Congress that an emergency exists which requires such lease in the national security interests of the United States.

REPORTS ON SOVIET ACTIVITIES IN CUBA

SEC. 607. (a) Every ninety days during the one-year period beginning on the date of enactment of this section, the President shall prepare and transmit to the Congress a report identifying the military capabilities and deployment of Soviet military personnel in Cuba, together with his appraisal of the mission performed by such personnel.

(b) One year after the date of enactment of this section and annually thereafter, the President shall prepare and transmit to the Congress a report setting forth—

(1) the amount and nature of military assistance furnished by the Union of Soviet Socialist Republics to the Armed Forces of Cuba during the preceding year; and

(2) the military capabilities of such armed forces.

TRANSFER AUTHORITY UNDER PUBLIC LAW 480

SEC. 608. Section 403 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new subsection (c):

"(c) Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 per centum of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.".

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

SEC. 609. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States-proposed boycott of the 1980 Summer Olympic games in Moscow.

REFUGEE STATUS TO CUBAN ALIENS

SEC. 610. (a) Notwithstanding any other provision of law, those Cubans who have arrived in the United States between January 1, 1980, and June 16, 1980, shall be considered refugees for the sole purpose of permitting State and local governments currently responsible for these individuals to qualify for Federal assistance pursuant to the Refugee Act of 1980. This provision is intended to provide relief to State and local authorities which are bearing the disproportionate share of the costs of these individuals. This provision shall not be construed as conferring refugee status nor shall the provision be construed as granting permanent resident status. Asisstance provided to State and local governments under the provision shall be limited to reimbursement for services currently being provided.

(b) The President is directed to report to Congress by July 1, 1980, on whether Cubans and Haitians arriving in the United States after the effective date of the Refugee Act of 1980 shall be designated as having refugee status under the provisions of that Act. The President shall also report to Congress on the estimated costs to local, State, and Federal governments over the next five years for the care, maintenance, and resettlement of Cubans and Haitians admitted since the effective date of the Refugee Act of 1980. The President's report shall also include proposals for the Federal Government to assume a greater share of these costs.

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

SEC. 611. Upon a finding that an export of uranium depleted in the isotope 235 is to be incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

CUBAN REFUGEES

SEC. 612. (a) The Congress finds that—

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and worldwide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

(5) the United States has sought in vain to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other free nations should contribute to its resolution.

(b) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cubans who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit a significant number of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(c) It is the sense of the Congress that, in carrying out subsection (b), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the resettlement of Cuban refugees and of means by which a more orderly process may be established to handle future crises of a similar nature.

MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

SEC. 613. (a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until the President determines that such assistance should be furnished in the national security interests of the United States.

(b) If the President issues such a determination, he shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

(1) a description of the amounts and categories of assistance which he recommends to be authorized and the identity of the proposed recipients of such assistance; and

(2) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination.

RESTRICTION OF FUNDS TO EL SALVADOR

SEC. 614. None of the funds authorized to be appropriated under this Act or any other provision of law may be made available, directly or indirectly, for the provision of assistance to El Salvador for the purpose of planning or executing the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or the properties or stock shares which may be pertaining thereto.

CARIBBEAN DEVELOPMENT BANK

SEC. 615. Notwithstanding the provisions of section 670(r) of the Foreign Assistance Act of 1961, as amended, the President after consultation with the Foreign Relations Committee of the Senate and the Committee on Foreign Affairs of the House of Representatives, is authorized at his discretion to make arrangements for the assumption by the recipient members of the Caribbean Development Bank of any loans made under the authority of the Foreign Assistance Act of 1961, as amended, to the Caribbean Development Bank.

EFFECTIVE DATE

SEC. 616. (a) Except as provided in subsection (b) of this section and in section 103(a), this Act shall take effect on the date of its enactment.

(b) Section 608 and the provisions of this Act containing authorizations of appropriations and limitations of authority applicable to the fiscal year 1981 shall take effect on October 1, 1980.

TITLE VII

REDUCTION OF AUTHORIZATION

SEC. 701. Notwithstanding any other provision of this Act, the aggregate amount of funds authorized to be appropriated in title I, title III, title IV, and title V of the Act shall be reduced by a total of $28,000,000.

TITLE VIII

SEC. 801. (a)(1) The Congress asserts that the Soviet invasion of Afghanistan and the seizure of Americans in Iran are fundamentally inconsistent with international law and represent basic challenges to the freedom of all nations of the world.

(2) The Congress affirms its support for efforts to secure the withdrawal of the Soviet Union from Afghanistan and the release of Americans held hostage in Iran.

(3) The Congress is deeply concerned about the effectiveness of responses thus far to meet these common dangers.

(b) The formulation of effective and concerted actions to resolve these grave threats to international peace and justice should be of the highest priority at the Venice Summit.

(c) The Congress requests the President to report to the President of the Senate and the Speaker of the House by August 1, 1980, on these deliberations.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent to indefinitely postpone consideration of S. 2714.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. BIDEN) appointed Mr. CHURCH, Mr. PELL, Mr. BIDEN, Mr. GLENN, Mr. JAVITS, Mr. PERCY, and Mr. HAYAKAWA conferees on the part of the Senate.

Mr. CHURCH. Mr. President, with passage of S. 2714, the Foreign Relations Committee has over the past 2 days successfully brought through the Senate four major pieces of legislation. I think it only appropriate to commend and congratulate the staff of the committee that has worked so long and professionally. I would like to commend in particular Hans Binnendijk, Rudy Rousseau, Steve Emerson, Gerald E. Connolly, Janice O'Connell, James Thessin, Robert Dockery, Pauline Baker, and Gerald Decker, and, of course, the minority staff, whose names I am certain will be supplied by the able Senator from New York (Mr. JAVITS).

I should also mention the superb work of Dick McCall, who did so much to make this legislation move so smoothly and so well. Dick McCall has now left us for the Department of State. This legislation is testimony to how well he served the Foreign Relations Committee and the Senate.

I want to complete my remarks by simply saluting the ranking member of the committee on the Republican side (Mr. JAVITS), with whom it has been my pleasure to manage this bill. I thank him for his courtesy and for the great skill that he has brought to the management of the bill during the day's proceedings.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. Yes; I yield.

Mr. JAVITS. Mr. President, I have enjoyed enormously my work with Senator CHURCH ever since I have been ranking member during his chairmanship. This was a monumental achievement in a time which is short but, considering the number of days we have and the amount we have to do, I should like to congratulate the leaders on just making us do it. That is the only way we are going to satisfy the country that we are really here and doing what we should do.

I should like also to express my thanks and appreciation to the majority staff and to Stan Sienkewicz, Fred Tipson, Jim Fox, Jacques Gorlin, Ester Kurz, and Winslow Wheeler of the minority staff and my own staff, who have given such yeoman service here.

ANTITRUST PROCEDURAL IMPROVEMENTS ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 390.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 390) entitled "An Act to expedite and reduce the cost of antitrust litigation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Antitrust Procedural Improvements Act of 1980".

SERVICE REQUIREMENTS FOR A DEMAND FOR ANY PRODUCT OF DISCOVERY

SEC. 2. (a) Section 2 of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended—

(1) in subsection (g), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a comma and the following: "and any product of discovery;";

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subsection:

"(i) The term 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial or administrative litigation; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto.".

(b) (1) Section 3(a) of the Antitrust Civil Process Act (15 U.S.C. 1312(a)) is amended by adding at the end thereof the following new sentence: "Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.".

(2) Section 3(b) of that Act (15 U.S.C. 1312(b)) is amended by adding at the end thereof the following new sentence:

"Any such demand which is an express demand for any product of discovery shall not be returned or returnable until after twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.".

(3) Section 3(c) of that Act (15 U.S.C. 1312(c)) is amended—

(A) by inserting "(1)" immediately after "(c)";

(B) by striking out "(1)" and inserting in lieu thereof "(A)";

(C) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(D) by adding at the end thereof the following new paragraph:

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this Act) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.".

(4) Paragraph 3 of section 4(c) of that Act (15 U.S.C. 1313(c)(3)) is amended by inserting immediately after "transcripts" the second time it appears, a comma and the following: "and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained".

(5) Section 5 of that Act (15 U.S.C. 1314) is amended—

(A) by amending subsection (b) to read as follows:

"(b) (1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of an express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand—

"(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

"(B) in the case of a petition addressed to an express demand for any product of discovery, only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

"(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person.";

(B) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(C) by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever any such demand is an express demand for any product of discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand."; and

(D) in subsection (d), as that subsection has been redesignated by paragraph (2) of this subsection, by inserting immediately after "such person" a comma and the following: "and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained,".

PREJUDGMENT INTEREST

SEC. 3. (a) (1) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(2) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings;

"(3) whether the award of such interest is necessary to compensate the plaintiff adequately for the injury sustained by the plaintiff; and

"(4) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(3) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by adding at the end thereof the following new sentences: "The court may award under this paragraph, pursuant to a motion by the plaintiff promptly made, simple interest on total damages for the period beginning on the date of service of the complaint and ending on the date of the judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only—

"(A) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(B) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(b) The amendments made by this section shall apply only with respect to actions commenced after the date of the enactment of this Act.

APPLICATION OF COLLATERAL ESTOPPEL

SEC. 4. (a) Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) is amended—

(1) by striking out "other";

(2) by striking out "or by the United States under section 4A,";

(3) by striking out "or to judgments or decrees entered in actions under section 4A"; and

(4) by inserting at the end thereof the following new sentence: "Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel, except that, in any action or proceeding brought under the antitrust laws, collateral estoppel effect shall not be given—

"(1) to any administrative finding under the antitrust laws; or

"(2) to any finding made by the Federal Trade Commission under section 5 of the

Federal Trade Commission Act which could give rise to a claim for relief under the antitrust laws.".

(b) The amendments made by this section shall not apply with respect to any actions brought by or on behalf of the United States under the antitrust laws before the date of the enactment of this Act.

MERGER JURISDICTION

Sec. 5. (a) Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) by striking out "corporation" each time it appears in the first and second paragraphs and inserting in lieu thereof "person";

(2) by striking out "corporations" in the second paragraph and in the first sentence of the third paragraph and inserting in lieu thereof "persons"; and

(3) by inserting "or in any activity affecting commerce" after "commerce" each time it appears in the first three paragraphs.

(b) The amendments made by this section shall apply only with respect to acquisitions made after the date of the enactment of this Act.

USE OF AGENTS BY THE DEPARTMENT OF JUSTICE

Sec. 6. (a)(1) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended by adding at the end thereof the following new paragraph:

"(j) The term 'agent' includes any person retained by the Department of Justice in connection with the enforcement of antitrust laws.".

(2) Paragraphs (2) and (3) of section 4(c) of the Antitrust Civil Process Act (15 U.S.C. 1313(c)) are amended by striking out "official or employee" each place it appears and inserting in lieu thereof "official, employee, or agent" in each such place.

(b) Section 1905 of title 18, United States Code, is amended by inserting after "thereof," the first place it appears the following: "or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314),".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the House amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Biden) appointed Mr. Kennedy, Mr. Metzenbaum, Mr. Baucus, Mr. Thurmond, and Mr. Mathias conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF FOSTER CHANOCK

Mr. BAKER. Mr. President, it is my sad duty to report to the Senate that Mr. Foster Chanock, a most capable young aide to former President Ford, passed away recently.

I was honored to join President Ford in eulogizing Foster and I ask at this time that the text of my remarks and those of President Ford be printed in the Record.

The remarks follow:

Statement by Senator Howard H. Baker, Jr.

I am honored to join the family and friends of Foster Chanock in paying tribute to a remarkable young man.

While I did not know him well, it was my good fortune to have Foster turn his talented attention briefly to the advancement of my political career, and this very special offer of assistance—under the most difficult of circumstances—meant a great deal to me, indeed.

But such was Foster's character. No challenge seemed too difficult for him to undertake, no ambition too grand to serve, no friendship too inconvenient to maintain.

As we mourn his death, we have cause to celebrate his release from pain and to celebrate as well the brilliant, inspiring season of life which Foster Chanock spent among us.

Statement by Gerald R. Ford

"Life is unfair." Those words have a special poignance for us, the friends of Foster Chanock, today.

We who were fortunate enough to know him well were impressed first with Foster's youth and his intellectual brilliance. But we were soon to appreciate even more his sense of humor, his untiring energy, and his enormous practical ability to find a solution to virtually any problem.

For one so gifted to be taken from us so early in life is an enraging, discouraging mystery. But Foster would not have us be angry or discouraged.

He would have us rejoice in the fact that the suffering he bore with tremendous courage is over.

He would have us remember that the opportunity was his at a very young age to make a difference in this world, to make America a better, safer country, and that he took full advantage of that opportunity.

When I think of Foster Chanock—and I will think of him often, as will each of you—I will remember these things, and I will be grateful for the pleasure of knowing him and the honor of having his talented assistance.

Betty and I send our deepest sympathies to Dorie and to the Chanock family who bore Foster's burdens with him so lovingly and faithfully, and we ask God's blessings on you all.

INTERNATIONAL EDUCATION PROGRAMS ACT

Mr. STAFFORD. Mr. President, on February 20, Senator Javits and I, joined by 22 cosponsors, introduced the International Education Programs Act, S. 2306, to reauthorize the foreign language and area study programs presently authorized under title VI of the National Defense Education Act, move them into the Higher Education Act, make revisions in considerable accordance with the report of the President's Commission on Foreign Language and International Studies, move a section of NDEA to the Elementary and Secondary Education Act, and add a new part B for "business and internation education."

Support for this legislation has been growing. Senators Schweiker and Baucus joined the original cosponsors and the Committee on Labor and Human Resources reported our proposal as title VI of S. 1839, the Education Amendments of 1980.

Mr. President, the most important difference between our title VI and title VI of H.R. 5192 is that the House version lacks an equivalent of our part B, the catalytic dollar-for-dollar matching grant program which would encourage those linkages between business and higher education which can be helpful in preparing the United States to meet its growing need to export.

On April 23, however, the House Select Committee on Education conducted a hearing on the need for export education. Several witnesses commented very favorably on part B of the Senate bill. Senator Javits and I agree wholeheartedly with Congressman Gibbons, who appeared as a witness for his own bill, the Export Education Foundation Act, but spoke more broadly, with this message at the core:

The United States is not doing an aggressive job of selling overseas. Increasingly we need business personnel who speak the language and understand the people of other countries. While training at any age is productive, we ought to try to get young people interested in and prepared for international business as they head toward their first careers. Other countries are far ahead of us in this regard, in effect showing us what we need to do to make the United States more competitive.

Mr. President, I am reminded that when a Japanese businessman was asked what is the most important language in the world, he replied "the language of my customer." We need to encourage that way of thinking in our own country, and to develop the other necessities of international business education as well.

I would like to point out that the New Jersey Economic Policy Council, in its recent report, "Toward an Export Expansion and Direct Foreign Investment Program in New Jersey," has confronted the need to prepare people to engage in export activity. Its first recommendation for promoting export expansion is to "develop an education program directed toward inducing medium and small businesses to initiate and expand export operations." Through our legislation, we hope to enlarge the pool of persons having the essential education and skills.

We underscored, when we introduced this legislation, that we are seeking to improve the Nation's long-term capabilities in foreign relations. As we move NDEA VI into HEA VI, we are reaffirming the strong national security rationale for these programs. We need them to prepare people for foreign affairs analysis, diplomatic work, and our place in the world economy, as well as to improve the quality of teaching and to increase the American people's understanding of events abroad.

Barbara Tuchman, who is this year's Jefferson lecturer for the National Endowment for the Humanities, has pointed out that this dimension of American education can also be directly relevant to our military communications and success. In "Stilwell and the American Experience in China, 1911–45," she presented the feisty general's thinking:

> In criticism of his own country and profession he found that American military education had proved deficient. Lacking knowledge of the methods and characteristics of foreign countries, our men "knew how to deal only in the American way and when this failed to bring results they became confused and lost patience." He believed the educational system would have to take account of this problem if the United States expected to hold a leading place among the international armies of tomorrow.

Mr. President, in the years ahead we will face increasingly difficulty in many aspects of our foreign relations, and increasing economic competition. The title VI programs are of basic long-term importance for the development of our Nation's capabilities. Because the NDEA programs have been underfunded for many years, I am very pleased that the President has requested an increase in the appropriation for NDEA VI. I trust that we will continue to make progress, and help make this country more competitive, as we update these programs within the mainstream of the Higher Education Act.

Mr. President, I ask unanimous consent that recent letters concerning this legislation be printed in the RECORD. They show that support not only ranges across educational levels, but also includes the mayors of Seattle, Knoxville, and San Francisco, and representatives of the corporate community. With the permission of the AFL–CIO, which has expressed keen interest in this legislation, I wish also to include a letter from the late George Meany to Dr. James Perkins, who served as Chairman of the President's Commission on Foreign Language and International Studies. Finally, I would like to have printed in the RECORD a provocative proposal for Federal legislation concerning student assistance in this field by Dr. Stephen Horn, the longtime legislative assistant to Senator Kuchel who now is president of California State University, Long Beach.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE MAYOR,
CITY OF SEATTLE,
March 13, 1980.

Hon. ROBERT STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Like other major cities in the United States, Seattle is moving closer and closer to the rest of the world, not just through trade, but through the influx of refugees from a variety of countries. The need is great for our citizens to respect and be knowledgeable about other cultures and international issues.

The final report of President Carter's Commission on Foreign Language and International Studies came just on the eve of two international crises: the seizing of hostages in Iran and the invasion of Afghanistan. I am glad to see the recommendations of the Commission now being translated into legislation that puts some continuity and strength into our international education programs.

I would like to mention what is particularly outstanding about your bill; namely, Part B, "The Business and International Education Programs," and the placement of Section 603 into the Elementary and Secondary Education Act.

Encouraging closer cooperation between business and our universities and colleges is essential. If the needs of the international business community can be incorporated into research projects and course offerings in our international education programs, we will be focusing on an aspect of international relations which has great potential. Providing opportunities for students of business to work, study and perfect their language skills abroad will do nothing but enhance our image. I am especially pleased about the encouragement of new programs for nontraditional, mid-career, or part-time students. Seattle is the second largest container port in the United States, and one-fourth of our state population works at jobs related to international trade. These employees are already playing a role in international affairs; but if their international knowledge and awareness can be increased, we will also heighten their effectiveness and their enjoyment of their work.

Placing Section 603 in ESEA not only works to the advantage of public school programs, but increases the likelihood of public information activities on other levels. In fact, this bill is outstanding in that it stresses throughout, the importance of international education components in adult and continuing education programs—areas we have been neglecting. There will never be meaningful or continuous support for international education until citizens at large see international affairs as a local responsibility—something that affects each one of them.

I am proud of what has been developing in our area in international education: The Washington Association of Foreign Language Teachers have been in touch with me all along the way. They have held public meetings around the state discussing the Commission report and recruiting to every one of those meetings members of the business community, community activists, politicians, the press, and school administrators. We have an outstanding School of International Studies at the University of Washington which has moved toward closer ties with the business community. Our state superintendent of public instruction has asked his staff to develop a long-range plan for global education for our schools. Sister Cities International presented its Global Education Workshop in Tacoma last year. Next month, the business community, international organizations, educators, and the press will come together for a major regional review of the Commission's report so that they can determine priorities for our state in the area of international affairs.

In other words, Senator Stafford, the legislation you and Senator Javits and your cosponsors have prepared will be used to full advantage here. We are ready for it and it will give us the incentive to continue to work together.

Thank you for your excellent work in encouraging the long-term planning we must do to be sensitive and intelligent members of a world community.

Sincerely,

CHARLES ROYER.

CITY OF KNOXVILLE, TENN.,
February 29, 1980.

Hon. ROBERT STAFFORD,
U.S. Senator,
Washington, D.C.

DEAR SENATOR STAFFORD: I want to endorse your efforts for Senate Bill 2306 "International Education Programs Act" which fulfills the recommendations of the President's Commission on Foreign Language and International Studies.

The Commission spent a year analyzing U.S. capability and the quality of our foreign language and international studies programs and found them to be grossly inadequate. Proposals for improving the situation with some federal funding deserve your serious consideration.

One recommendation of the Commission is urgent at this time and relates to organization of the new Education Department; namely, that an Assistant Secretary for International Studies be appointed. International studies and foreign languages cross the boundaries of elementary/secondary education and involve all levels of the education community as well as the business community and government. Primary and secondary school programs and adult education programs should get particular attention in our efforts to produce a better-informed citizenry.

As contact between people of different nationalities becomes more frequent, our system of international studies becomes increasingly important. It is my concern for the value of this study which prompts me to write you.

As a Mayor, I have seen the vast increase in local involvement in international trade development; protocol related to international travelers; international citizens programs; and especially ethnic community relations, as our cities become more diverse.

An example of this is the Sister City Program, which encourages trade and cultural exchanges between different countries at the local level. In Knoxville, we have a very extensive program in this area that is very important to our citizenry.

In 1982, Knoxville will host the Worlds Fair, Expo '82, which will bring thousands of visitors from around the world to our area. Programs such as the one proposed in this report will provide a great deal of assistance to our city.

In order for these various international contacts to become fruitful, cultural and language knowledge of each country is imperative. I feel this program will do much to further international understanding and beneficial cultural exchange.

Sincerely,

RANDY TYREE,
Mayor.

OFFICE OF THE MAYOR,
San Francisco, June 3, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senator, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I write to express my strong support for Senate bill 2306, the International Educational Programs Act of 1980.

San Francisco is one of our nation's most diverse cities. We are a rich mixture of multicultural and multilingual ethnic communities, and our position as the financial center of the West Coast insures our City's active involvement in international commerce.

Given this polyglot heritage and our rapidly growing commercial contacts with other countries, I am particularly anxious that we be as well prepared educationally as possible.

Your bill, S. 2306, is certainly a step in the right direction and strikes me as an important contribution in improving the quality of our educational programs in foreign languages and area studies. I particularly like Part B of S. 2306, which promotes links between private business, business schools and institutes for international studies.

S. 2306 represents action which I am confident will improve significantly American understanding of our increasingly complex world, and I am very happy to recommend its adoption at the earliest possible time by the Congress.

Sincerely,

DIANNE FEINSTEIN,
Mayor.

THE BOEING CO.,
Seattle, Wash., May 12, 1980.

Hon. ROBERT STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: The purpose of this letter is to express my support of Senate Bill 2306. I believe that the bill addresses very specifically ways in which business and international education can be coordinated in a meaningful and practical way.

For many years The Boeing Company has provided a program of foreign language study for employees. Seven percent of our employees can read, write and speak a second language; 236 of them speak less commonly taught languages. In addition, we make it possible for any employee who wishes to learn a second language to attend classes in ten languages with provision of a self-instruction language laboratory.

We are a large company, and I realize it is not possible for all businesses to provide similar programs. That is one of the reasons Part B of your bill, "The Business and International Programs," is so important. The development of a curriculum through joint efforts of business and academia should provide us with better educated business students able to work abroad and negotiate effectively in international arenas.

Sincerely,

T. A. WILSON.

UNITED TECHNOLOGIES,
Washington, D.C., June 6, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR BOB: As a company which has voiced its concern about the sparse study of foreign languages and international affairs in the United States, we applaud your initiative and fully support the goals of the International Education Programs Act (S. 2306).

We would like to share with you some of the public positions we have taken on the findings of the President's Commission on Foreign Languages and International Studies. Attached are copies of paid editorial announcements sponsored by United Technologies in a number of newspapers in Connecticut and more recently in the Washington Post. These messages started appearing in May of 1979.

An increasingly interdependent global economy is affecting employment levels, inflation rates, exports, and the balance of trade within our country on an accelerated scale that shows no sign of abatement. More than ever, American businessmen require facility in foreign languages, and a deeper understanding of international political, economic, and social conditions in their kit of tools for success in worldwide trade.

As a country we seem to be falling behind in our knowledge of other languages and cultures. We are pleased, therefore, to support your bill to establish educational programs that would forge links between business and higher education that are designed to promote America's ability to prosper in an international economy.

Cordially,

CLARK MACGREGOR.

LAGGING IN LANGUAGES

At a time of growing global interdependence, America is tongue-tied. Never has the need been greater for understanding among peoples of the world. Yet the U.S. stands alone among industrialized nations in its neglect of foreign language study.

Travel abroad and you'll find, almost everywhere, people with enough grasp of English to provide directions, interpret a menu, or help with a travel schedule. But such help is scarce for non-English speaking visitors to our shores. Most Americans cannot speak or understand any language besides their own.

"Americans' incompetence in foreign languages is nothing short of scandalous, and it is becoming worse," says the President's Commission on Foreign Language and International Studies after a year of investigation, analysis, and public hearings across the country.

The commission found weaknesses it says "pose threats to America's security and economic viability." Among its findings:

Only one high school student in seven studies a foreign language. Fifteen years ago, the figure was one in four.

Only 8 percent of American colleges and universities now require a foreign language for admission. That compares with 34 percent in 1966.

Only one in 20 high school students studies French, German, or Russian beyond the second year—four years being a minimum requirement for usable skill.

Declining foreign language enrollments in schools and colleges threaten to lower the quality of employees recruited by the U.S. government's foreign affairs agencies.

In contrast to Americans' deficiency in other tongues, many Europeans speak English. It's required in their schools.

Look at the resourceful Japanese: An estimated 10,000 of them, English-speaking, are in the U.S. as representatives of their country's businesses. Only a few hundred American business representatives are in Japan. Only a handful of those have a working knowledge of Japanese.

America's linguistic ineptness ill befits our nation's role of world leadership in governmental relations, peacekeeping, and commerce. As the presidential commission points out, "our lack of foreign language competence diminishes our capabilities in diplomacy, foreign trade, and in citizens' comprehension of the world in which we live and compete."

For individual students, there's a bread-and-butter advantage to foreign language study: jobs.

Much of America's economic growth in the years ahead will come from international trade. U.S. companies operate around the globe. More and more foreign companies are doing business in this country. Business needs people skilled in foreign tongues. Linguistic versatility can open the doors to rewarding careers.

TONGUE-TIED AMERICANS

Travel abroad and you'll find, almost everywhere, people with enough grasp of English to give you directions, interpret a menu for you, or help with your travel schedule. But a non-English speaking visitor to this country is hard-put to find such help.

Among industrialized nations, the U.S. stands alone in its neglect of foreign language study. In the face of growing world interrelationships—political, diplomatic, economic—Americans' familiarity with the tongues of others is in sorry decline.

Last year the President's Commission on Foreign Language and International Study was formed to find ways to live up to international agreements in which the U.S. has pledged to encourage the study of foreign languages and civilizations. The commission's initial findings are dismaying:

Nine out of ten Americans cannot speak, read, or effectively understand any language but English.

About 90% of all colleges have no language requirements for admission. One-quarter of all high schools do not teach any foreign language.

College language enrollments have declined 21.2% in the past decade.

Foreign language enrollments dropped 15% among high school students between 1968 and 1974. Less than one-quarter of high school students now study a foreign language, as against 32% in the mid-1960s.

Only 17% of American foreign language students taught wholly in this country can speak, read, or write the foreign language easily.

The prevailing sense in this country toward those in other lands seems to be: Let 'em speak English.

It's a foolhardy attitude. It ill serves America's interests and objectives in the world community. Unless it's changed, the U.S. will find itself at a disadvantage in grasping economic opportunities and meeting its diplomatic responsibilities around the world.

At a time of detente with Russia and rapprochement with China, an appallingly small number of American students are taking up those languages at the advanced levels necessary for fluency. One member of the presidential commission voiced distress on learning that the U.S. Foreign Service no longer requires any foreign language background for new service officers. Because so few Americans study foreign languages, he found, the State Department was forced to drop the requirement.

Much of America's economic growth in the years ahead will come from international trade. More and more people will be needed with skill in foreign tongues. By not pursuing language studies, many young people are cutting themselves off from rewarding careers in international business.

Knowledge of other languages and cultures is indispensable to fruitful international relationships. We in this country would do well to support and stimulate such knowledge, lest we find ourselves standing around with nobody to talk to except ourselves.

COUNCIL OF THE AMERICAS,
Washington, D.C., June 3, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: On behalf of the Council of the Americas, a business association of more than 200 U.S. corporations comprising more than 75 percent of U.S. private investment in Latin America and the Caribbean, I would like to comment favorably on S 2306, particularly on Part B, Business and International Education Programs.

The realities of competition in the international marketplace require the United States to better organize the relationship between the U.S. public and private sectors. There are different roles for business, government and academe to play in the U.S. effort to meet the critical challenge of international economic competition. In Latin America alone, the U.S. business share has eroded continuously since the 1950's. The U.S. share of private direct investment has declined from 38 percent of the total to 18 percent today. For the same period, our share of exports to the region fell from 70 percent to 35 percent. Our nation must begin to reverse these trends worldwide and in Latin America, the most important developing region for the United States.

The roles that public and corporate policies play in this challenge are more clear than is the role of institutions of higher education. However, a national effort is needed to increase the U.S. exporting capability, and the role of foreign languages and international studies in this effort needs to be explored and developed. The funds provided for the Implementation of Part B, Business and International Education Programs, are well worth the expense if they demonstrate ways in which business and universities can augment our national exporting potential to education.

Thank you for your attention.

Sincerely,

HENRY R. GEYELIN,
President.

TOUCHE ROSS & CO.,
New York, N.Y., April 22, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: The proposed International Educational Programs Act of 1980 in the new initiatives under Part B to strengthen professional training in the field of international business is an important step forward in equipping our future leaders to contribute on a world scale.

As a firm serving a broad spectrum of international business that recruits over 1000 university graduates each year, we welcome and urge the enactment of the proposed legislation.

Sincerely,

JOHN F. KEYDEL,
Director, Planning and International.

CONSUMERS FOR WORLD TRADE,
Washington, D.C., June 3, 1980.

Hon. ROBERT T. STAFFORD,
Dirksen Building,
Washington, D.C.

DEAR SENATOR STAFFORD: Consumers for World Trade (CWT), a nonprofit organization formed in 1978 in support of open, competitive and fair international trade, wholeheartedly supports the Stafford-Javits International Education Programs Act of 1980—S. 2306, as contained in Title VI of the Education Amendments of 1980—S. 1839.

Over the last two years, CWT continuously has communicated to Members of Congress, government officials, and the average consumer how the reduction of trade barriers can help control inflation and how jobs and profits in manufacturing as well as agriculture depend upon American sales abroad.

CWT is extremely pleased with the International Education Programs Act of 1980. The proposed structural changes in Parts A and C—moving the National Defense Education Act VI (NDEA) into the Higher Education Act VI (HEA) and, similarly, moving the existing Section 303 of NDEA into the Elementary and Secondary Education Act, will provide a stronger mechanism for international education programs. In order for the United States to successfully compete and understand world market situations a stronger background in foreign languages and other cultures is essential.

CWT applauds Senator Javits for his role in formulating Part B (Business and International Education) of S. 2306. A working partnership between the education and business community will provide the proper foundation and implementation skills required for the latter to compete successfully in activities overseas.

Sincerely,

SHANA GORDON,
Executive Director.

HISPANIC HIGHER EDUCATION COALITION,
Washington, D.C., March 6, 1980.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: We would like to thank you and support your statement which appeared in the Congressional Record on February 20, 1980 regarding the Center for the Study of U.S.-Mexico Relations. We are prepared to work with the Department of Education in order to establish this Center. Your assistance will enable us to achieve our objective.

We also would like to convey our general support for S. 2306. We believe that the provisions of the bill will improve our country's ability to understand and deal with other peoples of the world.

If we can provide any further assistance on these matters, please feel free to contact us. Thank you again for your support.

Sincerely,

AL I. PEREZ,
Associate Counsel.

SCHOOL OF ADVANCED INTERNATIONAL STUDIES,
THE JOHNS HOPKINS UNIVERSITY,
Washington, D.C., June 3, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senator,
Washington, D.C.

DEAR SENATOR STAFFORD: I am writing to very strongly endorse Part B of the Higher Education Act—Title VI which will provide dollar for dollar matching grants to support initiatives between U.S. business and American academic, professional and area studies programs. At the outset, I hope it will be possible to include within the scope of Part B those professional schools, such as our institution, that play a unique role in training students in international economics and area studies. To confine the program only to business schools would be to miss an important opportunity to provide needed support for a small group of important institutions making a major contribution to the training of highly qualified professionals in precisely the area of concern addressed by Part B.

The Center which I direct is a superb example of the process that Part B will initiate. We receive our support from both the United States and Brazilian private sectors. Our major institutional link in Brazil is a Foreign Trade Foundation. The Center of Brazilian Studies promotes the study and discussion of U.S.-Brazil trade, investment, and monetary relations as well as examining the wider range of issues—such as technology transfer, debt financing and balance of payments—that are of concern to both countries. We combine our work with emphasis on training in the Portuguese language and in course work in international economics and foreign policy. Many of our graduates at SAIS, and many of those with a specialization in Brazilian and Latin American Studies, are employed in the private sector following graduation.

Part B can only strengthen the much needed linkages between the private sector and American higher education. It is essential that incentives be provided, such as Part B, to promote imaginative and new programs. Such funding will allow institutions of higher learning to establish agreements with trade organizations, business enterprises and related entities to strengthen curricula, train faculty, provide fellowship support for study both in the U.S. and overseas, and increase the level of personnel exchanges between the U.S. and its chief trading partners.

The Center of Brazilian Studies has supported with private funds an internship program for American students to work for three months with U.S. multinational firms in Sao Paulo, Brazil. The program, first instituted in 1979, is designed to give the graduate students, all of whom speak Portuguese and have strong training in international economics and area studies, an opportunity to observe and to participate in business activity overseas. It is an invaluable experience. Part B would allow us to dramatically broaden the scope of the internship program sponsored by the Center of Brazilian Studies. Such programs are costly. Schools such as ours require incentive funding to seek higher levels of support from the private sector. The proposed program, as outlined in Part B of Title VI of the Higher Education Act, will accomplish that goal.

With appropriate levels of funding provided by the federal government in Part B, there is no doubt that a multiplier effect will be created. Cooperative programs will lead to stronger linkages between business and universities; the result will be a greater awareness of the international dimensions of United States economic growth. Both new entrants into the job market and mid-career professionals will benefit from the programs organized within the funding criteria of Part B.

I strongly endorse your initiative in this area. Part B of the Higher Education Act/Title VI will fill a much needed vacuum. It will stimulate creative thinking about business-academic linkages and emphasize the international trade and development needs of the United States.

Sincerely,

RIORDAN ROETT.

THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS,
Reston, Va., March 19, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I wish to express the NASSP's strong support for the International Education Programs Act of 1980. We have long been an advocate of programs designed to equip America's youth with language and global understanding that our increasingly complex world requires. As we enter the 1980's and accept its challenges, we will do well to prepare our youth and their teachers to recognize and appreciate the differences and likeness of the world's people in the areas of language, geography, history and culture. The International Education Programs Act of 1980 will aid in the achievement of these important goals.

We believe that moving § 603 of the NDEA to Title III of ESEA, and transferring Title VI of the NDEA into the Higher Education Act is programmatically and administratively appropriate. Also, we endorse the elimination of the funding trigger which has been responsible for § 603's dormant status for so many years. Housed in the Elementary and Secondary Education Act, we believe this section deserves to be judged on its merits.

A greater emphasis on international education is long overdue, and this proposal will assist in making it a higher priority from the federal level. With your leadership, our youth will be better prepared to view constructively the growing economic and cultural interdependence of the world's people.

Yours very sincerely,

SCOTT D. THOMSON,
Executive Director.

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., February 4, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: On behalf of the undersigned higher education associations, I would like to express our strong support for your thorough revision of the legislation which supports essential international education activity at colleges and universities throughout the nation. The legislation which you and Senator Javits have prepared constitutes timely encouragement to the rich resources that higher education can bring to bear upon the complex and pressing international challenges facing the Nation in the years ahead.

The union of scholarly and governmental interests under the aegis of Title VI of the National Defense Education Act has been useful and productive. Under this rubric, aided greatly by private philanthropy until the 1970's, an extensive flowering of language and area studies in higher education has occurred. However, after more than twenty years, the relationship of this law to national needs and to program potential warrants close scrutiny. We applaud your efforts to reassess this situation constructively, and to make corresponding changes in the law.

Among the features of your bill, we specifically appreciate the new context you have given for the conduct of foreign language and international studies relative to United States interests in a changing world. We also strongly support the added flexibility you have incorporated into program assistance to higher education institutions. The program you have outlined builds upon the strengths and the accumulated expertise of the past twenty years, yet reaches beyond to engage the diverse resources of all two- and four-year colleges and universities in meeting the national need for informed citizens, trained scholars, for knowledge of other cultures, and for an understanding of the global problems which threaten us all.

We are pleased that you have integrated this law into the Higher Education Act. This transfer recognizes the inherent international nature of colleges and universities and consequently, the vital rule of higher education in international studies. Furthermore, the nation's need for foreign language and international studies is ill-served by the spasmodic attention it has received over the past several years. The viability of these programs has been jeopardized by their status as categorical programs under NDEA Title VI. Surely history would indicate that the National need for international understanding does not have a fixed expiration date, but exists as an ongoing challenge.

Finally, we welcome the addition by Senator Javits of Part B, "Business and International Education." This portion of the bill is a positive step toward eliminating present barriers between international knowledge and business skills on the one hand, and the need to expand effectively U.S. export markets on the other. The application of available resources toward the conduct of business abroad and the development of new capabilities are essential to the Nation's future economic well-being. The largely untapped potential of higher education can make important contributions in this area.

We are grateful for your bold leadership in revising this important piece of legislation. The changes you have proposed will greatly enhance collaboration between higher education, the business community, and the government as we equip the Nation to meet an uncertain future.

Sincerely,

J. W. PELTASON,
American Council on Education; American Association of Colleges; American Association of Junior and Community Colleges; American Association of State Colleges and Universities; Association of American Universities Association of Graduate Schools of American Universities; Council of Graduate Schools in the United States; National Association for Equal Opportunity in Higher Education; and National Association of State Universities and Land-Grant Colleges.

INSTITUTE OF LATIN AMERICAN STUDIES,
Austin, Tex., May 20, 1980.

Senator ROBERT T. STAFFORD,
U.S. Senate,
Dirksen Building,
Washington, D.C.

DEAR SENATOR STAFFORD: As I was returning to Austin from a meeting in D.C. of the Latin American Studies Association Executive Council, I came across an interesting article in the March issue of Fortune on political risk. Among other things, the article mentioned the heavy losses recently suffered by U.S. corporations as a result of misguided investments in the Third World—misguided in a political-cultural sense more than in terms of narrow market considerations.

I, as an academic whose salary has taken a heavy beating in real terms over the past half dozen years or so, am as keenly sensitive as anyone to the need for anti-inflationary fiscal policy. At the same time, however, the article mentioned above made me wonder if cutting back the increase you have so commendably pushed for in the case of Title VI funding would not be penny-wise and pound foolish. Surely the whole $30 million would be amply repaid, from a social point of view, if only one such investment debacle is avoided in the future as a result of sounder corporate analysis from well-trained area specialists. Now that the businesses are finally coming to appreciate the need for risk analysis, I hope that you will be able to persuade your colleagues of the need to ensure a good supply of qualified analysts in this area.

Yours sincerely,

WILLIAM GLADE,
1979 LASA president.

UNIVERSITY OF MASSACHUSETTS,
Amherst, February 15, 1980.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: Last year I served as the Executive Director of the President's Commission on Foreign Language and International Studies. It is in this context that I am writing to express my appreciation to you for the impressive contribution to international studies which the International Education Programs Act of 1980 represents. My interest also derives from involvement in the international studies field for many years, the last ten as Director of International Programs at the University of Massachusetts, Amherst.

It is gratifying that the new legislation incorporates many of the recommendations of the President's Commission. The fact that it authorizes federal support for international education programs to increase the international skills in the business community is a timely recognition of the need to have specialists not only in foreign language and international studies but also who combine such specialized knowledge with professional fields, such as business.

In this connection it will be especially important that the implementation of the legislation encourage collaborative programs between international studies centers and schools of business administration so that the resources of the former are integral to the new programs relating to business. The fact that the Bill provides for separate advisory boards for international studies (section 607) and international business studies (section 613) may be a deterrent to this collaboration. It will therefore be important to have some overlap in the membership of these boards, an overlap which is indeed possible under these sections. That the Bill provides for the establishment of these boards is major progress in institutionalizing a means for the needs of interested groups to be part of a continuing review of priorities.

Also with respect to international business, I hope that it can be interpreted as including the field of law, including international law. As the President's Commission learned from a study done for it by the Rand Corporation and from other sources, international skills are required in the legal profession for American business to function effectively in the international community. A knowledge of the legal systems of other nations is a sine qua non for doing business in them, for example, the Shariya or Islamic law in the Middle East.

It is commendable that the International Education Programs Act has the dual criteria of "excellence" and "equitable distribution . . . throughout the nation" (section 606) for awarding grants under section 602. I regret, however, that there is not a clearer distinction between national and regional centers in line with the President's Commission's recommendations on that subject. I hope that regulations implementing the legislation can clarify this matter, differentiating between centers which are resources nationally and centers which emphasize service to the geographic region where they are located. The latter should give special attention to strengthening international studies in our schools, in undergraduate studies, and in education for the citizenry at large, without, however, relieving national centers of some responsibility for these important fields. I recognize that section 603 (a) focuses on the concept of centers serving as regional resources, but it does not distinguish between national and regional resources. Nor does it mention such activities as in-service training for school teachers or the development of curricular materials for our schools.

Finally, if the International Education Programs Act is truly to widen the opportunity for advanced training in foreign language and international studies, stipends for individuals pursuing advanced training in these fields should not be limited to persons at the centers receiving federal funding under section 603. There may be many outstanding candidates who either are not admitted to these centers for advanced training or who elect to pursue their studies at other institutions. The President's Commission recommended that one-third of fellowships be "portable", i.e. open to people on a nationally competitive basis rather than awarded only by the federally funded centers. Such an approach would moreover be in keeping with the overall aims of the Bill to strengthen international studies competence much more widely.

Again, let me congratulate and thank you for an impressive effort in a field which is central to the national interest.

Sincerely yours,

BARBARA B. BURN,
Director.

BALTIMORE COUNTY PUBLIC SCHOOLS,
Towson, Md., March 13, 1980.
Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: In the Chronicle of Higher Education, I read about your bill S2306 calling for increased support of foreign languages and international studies. I am delighted by your interest in this area; I encourage you to do all in your power to continue to support the recommendations of the President's Commission on Foreign Languages and International Studies.

I would appreciate very much receiving a copy of your bill so I may discuss it further with my colleagues. Thank you.

Sincerely yours,
JOHN S. HARRISON,
Supervisor, Office of Foreign Languages.

FULBRIGHT ALUMNI ASSOCIATION,
Bryn Mawr, Pa., March 11, 1980.
Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: The Fulbright Alumni Association welcomes the appearance of the International Education Programs Act in the proposed Higher Education Amendments legislation. Our Association's major interest is, of course, in the parallel programs that support educational and scholarly exchanges. Both kinds of programs, however, have a common aim: to contribute to international understanding through strengthened involvement of students, teachers and scholars in the culture, languages and history of other peoples and countries.

The Fulbright and other international exchange programs have approached the common purpose by promoting activities of American students, teachers and scholars in other countries, and similar activities of foreign students, teachers and scholars in this country. While many of the persons who have participated in these exchanges have used the experience primarily as a means to learn more about the people of the country in which they served, including languages, the emphasis in the programs has been on the reciprocal increase of knowledge and understanding of other people. The participants contributed to that end by carrying on their scholarly and study activities in the countries of their assignment.

The contribution of the exchange programs to the primary purpose of the bill that you and others are sponsoring is obvious: ". . . to assist in the development of resources and trained personnel for international study, international research, and foreign language study" because "knowledge of other countries is important in promoting mutual understanding and cooperation between nations". Not only do exchange students, teachers and scholars further those purposes directly during their actual period of service in another country, but they are far better able to make that kind of contribution when they return home. Their intimate knowledge of another country and its people and language enables them to help other compatriots, in the language of the preamble of your bill, to "develop . . . their intellectual capacities in all areas of knowledge pertaining to other countries, peoples and cultures."

For these reasons the Fulbright Alumni Association supports the proposed addition to the Higher Education Act as an important complement to the legislation authorizing the exchange programs. Our Association also supported and contributed to the work of the President's Commission on Foreign Language and International Study. We continue to recognize that strong programs of language and other international studies in our schools and colleges will prove to be a valuable supplement to the purposes of the Fulbright and similar exchange programs, which are our primary interest.

Sincerely,
ARTHUR P. DUDDEN,
President.

AMERICAN COUNCIL ON THE
TEACHING OF FOREIGN LANGUAGES, INC.,
New York, N.Y., May 13, 1980.
Hon. ROBERT T. STAFFORD,
Senator from Vermont,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: The American Council on the Teaching of Foreign Languages is especially concerned that the Report of the President's Commission on Foreign Language and International Studies, Strength Through Wisdom, be positively acted upon. In that regard we are especially pleased to see that you have sponsored with Senator Jacob Javits and others, including Senator David Durenberger from Minnesota, the Amendments to the High Education Act of 1965, providing for international education programs. We are especially supportive of the removal of section 603 of NDEA Title VI and its placement into Title III of ESEA as well as Part B of this bill.

The first issue removes the trigger mechanism permitting, therefore, more funding for international education. It is clear that such a move is extremely important as well as urgent. In the light of events in the Middle East, especially in Iran and Afghanistan, and other parts of the world, it is clear that we need to inform and educate United States citizens of cultures other than our own. The increased funding for such programs will help tremendously in that regard. In addition, the bill is strengthened by an advisory board for international education and the expansion of international studies at the precollegiate and adult levels.

Part B of the bill is especially important because it allows the business community to build competence in foreign language and other international skills. As an incorporation and revision of HR 4526, Part B is much needed and one of the outstanding aspects of the bill. We only need to examine the balance of payments issue and American businessmen's reliance on English to conduct business to see the need for more understanding of other cultures and other languages.

We congratulate you on your efforts to strengthen international education. We hope this legislation will be passed swiftly and funded at appropriate levels. If this organization can aid you in any way, please inform us.

Sincerely,
DALE L. LANGE,
President, 1980.

THE UNIVERSITY OF VERMONT,
Burlington, Vt., March 6, 1980.
Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Having just read the Congressional Record—Senate for February 20, 1980, I write to offer my sincere congratulations on your sponsorship, along with 22 other colleagues, of the new International Education Programs Act. I have read the bill thoroughly and think what you propose is excellent. The shift of NDEA Title VI to the new International Education Programs Act Title VI makes a great deal of sense. The introduction of Part B, the new section on Business and International Education Programs is an interesting addition.

I see the possibility, assuming that the bill is successful, that the already existing Canadian Studies Program at the University of Vermont, which has been funded for the last five years under Title VI of the NDEA program, could develop a cooperative arrangement with the Department of Business Administration at the University of Vermont in terms of a focus on Canada. It would certainly be a unique attempt by a university already recognized in the field of Canadian Studies.

I am particularly pleased to see the retention of the undergraduate focus in International Studies and Foreign Language Program. I know that there are those that would prefer to see comprehensive or graduate and undergraduate centers only but it is my firm belief that there is a place for undergraduate programs as feeders of the advanced programs. Very few universities, including Vermont, are going to be able to expand their graduate offerings in these times, in fact many schools are apt to drop them. It would therefore be a great disadvantage to the Canadian Studies Program at the University of Vermont if the undergraduate section of the bill in any way were deleted.

Again I offer my congratulations. If there is any way that we at Canadian Studies at Vermont can lobby or help in the passage of this bill, we would be delighted to do so. All your office need do is call the Canadian Studies Program at the University and we will respond.

I write as one who has benefited from the Title VI programs in the past and hope to continue to benefit. Thank you very much for sponsoring this bill.

Sincerely yours,
EDWARD J. MILES,
Director.

PACE UNIVERSITY,
New York, N.Y., March 14, 1980.
Senator ROBERT T. STAFFORD,
The Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I have read with great interest the newspaper reports of the International Education Programs Act which you introduced in the Senate and am writing to offer congratulations for your efforts. The bill will help American higher educational institutions satisfy an important need—to give the American public, and students who are prospective professional, political and business leaders, a more profound understanding of the complexities of the international environment. It has my complete support.

At Pace University we are now in the process of planning a unification of our international business programs within a Center for International Business, and we are especially pleased to read of the portion of the International Education Programs Act that provides Federal matching funds for a new program to link colleges and universities with American Businesses engaged in international trade. Pace continues to have excellent ties to the corporate community and is always striving to make that cooperation even more effective for our mutual benefit and for the benefit of the nation. The passage of your bill will greatly aid that task.

Again, many thanks and I would appreciate receiving a copy of the text of the proposed legislation when it is available.

Sincerely,
EDWARD J. MORTOLA,
President.

AFL–CIO,
Washington, D.C., September 5, 1979.
Mr. JAMES A. PERKINS,
Chairman, President's Commission on Foreign Language and International Studies, Washington, D.C.

DEAR MR. PERKINS: The AFL–CIO regards the work of the President's Commission on Foreign Language and International Studies as an important and long overdue effort and commends the President on this initiative.

Labor has a long history of involvement

in international affairs. Since the days of Samuel Gompers, who led the American Federation of Labor into the development of close ties with the trade union centers of Europe and Latin America, American labor has been deeply committed to internationalism.

The AFL–CIO conducts its international work through a well structured organization effort beginning with an International Affairs Staff Department and Standing Committee which advises the executive officers and the Executive Council.

Moreover, we maintain a branch office in Paris where our European representative is primarily responsible for our day-to-day contacts with European labor. We are the leading sponsor and backer of the Inter-American Organization of Workers (ORIT).

There are three institutes which serve as the arms of the AFL–CIO in the developing world. They are: the American Institute for Free Labor Development, covering Central and South America, and the Caribbean; the African-American Labor Center, working in nations of the African continent; and the Asian-American Free Labor Institute in Asia.

Against the background of involvement cited above, American trade unionists do indeed have a broad perspective regarding the needs in the fields of foreign language and international studies. We call upon the Commission in its final report to recognize labor's involvement and to continue labor participation at all levels.

Throughout labor's diversified experiences in the field of international affairs we have come to learn firsthand about the rapid changes taking place in the world together with the obvious interdependence among nations.

Unlike the Europeans who historically have a multi-language base, few Americans are so situated. Accordingly, this nation faces a major challenge to adopt and implement a comprehensive program of language studies with broad opportunities and access for all our citizens.

Furthermore, we would hope that the Commission, at a minimum, recommend to the President and the Congress that adequate funds, equal to the task, be made available once a master plan has been devised. We call upon our government to make a crash effort in this regard extending to whatever time it takes to address this problem.

We would also hope that the overall plan include specific attention to our public school system K through 12. America's youth need to maximize their options in the job market of the future and in their desires to continue their education at the post-secondary level. We stand ready to support legislation pertinent to this effort.

Regarding international studies, it is our view that in a democratic society with representative government, all citizens should be encouraged to sharpen their understanding of the complex international issues America faces.

The whole field of macro-economics should be exposed to students at all levels in proper balance and observing objective standards, thus avoiding any acrimony between various points of view. Labor plays a key role in economic education through its participation in the Joint Council on Economic Education. The Joint Council, labor and business, has throughout their many years of collaboration agreed that these principles should be expressly stated.

American workers need to be able to evaluate federal policies in the field of international trade, energy and the broad political theories expounded by leaders throughout the world. It is the view of the AFL–CIO that American workers have a significant role to play in the development of American foreign policy.

It is my understanding that the Commission also has a document from the American Federation of Teachers, AFL–CIO, dated May 16, 1979, under the signature of Albert Shanker, its president.

We fully concur with the substance of that document and particularly with the section on language training and accelerated teacher exchange programs.

We urge that programs be adopted that would promote incentives for teachers regarding independent or study group travel designed to enhance their development in their role of language study providers.

We are comfortable in the knowledge that labor's contribution to the work of the Commission is carried out by the untiring efforts of Mr. Joaquin Otero, International Vice President of the Brotherhood of Railway and Airline Clerks.

Sincerely,

GEORGE MEANY,
President.

WE ARE LOSING THE WORLDWIDE WAR FOR THE MINDS AND HEARTS OF THE LEADERS OF THE FUTURE

(By Stephen Horn, President, California State University, Long Beach, March 14, 1980)

The explosive events in Iran and Afghanistan dramatize America's dependence upon the understanding and cooperation of foreign leaders.

In an international situation which shifts from hour to hour, when national governments are threatened with anarchy and a third world war becomes a real potential, it is too late to look for friends.

The time to establish friendships based upon mutual understanding and respect is in the formative years, before leaders assume their positions of power and responsibility.

The Soviet Union understands this concept very well.

When the Iranian militants took the American Embassy in Tehran more than 50,000 stdents representing most of the nations of the world were in attendance at Soviet universities. They were there at Soviet invitation and at Soviet expense.

By comparison, only 4,000 foreign students were studying in the United States with the support of the American government.

In economic terms, the 50,000 students sponsored by the Soviet Union are drawn from the lower economic classes—the sons and the daughters of small farmers and factory workers.

Although the United States attracts, overall, a large number of foreign students, it needs to strengthen its use of educational resources as a potential for international progress by including larger numbers of students who have great potential for future leadership and service but who do not have currently available to them the funds to educate themselves.

If we allow the lead of some of those who, rightfully outraged over the treatment of our embassy personnel, suggest the elimination of foreign student support, we will lose one of the important ways we have to influence the future.

If we do that, the future leadership of much of the emerging and third world nations will have a Soviet orientation. They will look at the world through a collectivist prescription. If we turn our backs on the opportunity to help educate and train potential foreign leaders we will have gone a long way toward permitting the Soviet style of ideology to gain world dominance.

It is my belief that we are in a Pearl Harbor situation in terms of winning the hearts and minds of the uncommitted.

Following the Second World War, we mobilized our resources to support and expand the influence of democracy, generate economic well-being, and enlarge world peace. Not a small part of that effort was the commitment to provide educational opportunities for tens of thousands of poor and worthy young people from nations around the world. In my estimation, we have lost the advantage that we earned at that time at such a high cost. And our position is eroding.

A few facts: A recent survey of the Institute of International Education reports 263,938 foreign students in the United States for the 1978–79 academic year. Of this number, 45,340, or slightly over 17 percent, were from Iran. The next largest group was from Nigeria (16,220, or 6.1 percent), then the Republic of China (15,460, or 5.9 percent), Canada (15,120, or 5.7 percent), Hong Kong (10,520, or 4.0 percent), and Japan (10,490, or 4.0 percent). A quarter of a century before, the five countries in which most of our foreign students originated were Canada, the Republic of China, India, Japan, and the Philippines. As it has helped change many aspects of our life, the newly-realized wealth of the OPEC nations has been responsible for much of this change. There are now enrolled over 90,000 students from these oil-rich countries. Between 1977–78 and 1978–79, there was a 21.2 percent increase in students from OPEC nations as opposed to only a 7.9 percent increase from the non-OPEC countries.

But, before we leap to the conclusion that every time an oil well gushes abroad it enables a foreign student to board a plane for New York, it is important to realize that less than 14 percent of all of the foreign students studying here receive any form of support from their home government. Two-thirds of the foreign students in America are supported by their families or themselves. Family or self-support generally means that only the middle-class or the well-off can study in America. For over two decades, it has been clear that America is increasingly losing out in the race to expose a broad cross-section of potential foreign leaders to who we are and for what we stand.

With slightly over two percent of the foreign students supported in some measure by the United States government, there is little possibility that talented students from poorer families will be able to study here. The 4,000 United States-supported foreign students are largely engaged in study at the graduate and post-doctoral levels. This is a far cry from the 50,000 or more graduates and undergraduates from over 130 countries who are subsidized by the U.S.S.R. Attendance at an ideological factory, such as the Peoples' Friendship—or Patrice Lumumba—University in Moscow, assures that the sons and daughters of the small farmer and poor factory worker in the developing world will learn their Marx and Lenin well before returning to their homelands.

It is perhaps trite to note the obvious: the United States, which contains only six percent of the world's population, utilizes thirty percent of the world's oil production—not to mention a substantial portion of many other resources. In brief, the United States could use a few friends. Educating a wide spectrum of foreign students will not guarantee permanent friendship, since educated leaders will have their own national interests to represent. But, if we can provide an atmosphere of freedom in which the needed skills and leadership can be developed, perhaps the result will be a better life for others abroad which might also mean that their country will less likely be subverted by any foreign nation. That type of world is in the American national interest.

Despite the varying degrees of turmoil in the Middle East, I would argue that at a given time having half of the Egyptian Cabinet educated in American universities has not adversely affected the American cause. The expulsion of the Soviet Union from Egypt has been not only in that nation's interest, but also our own.

The simplest way to encourage wider participation by foreign students from all economic classes is (1) to work through our consular and information offices abroad to seek out talented undergraduate and graduate students and (2) to amend the Higher Education Amendments of 1980 now before the Senate to provide that foreign students would have access to a small portion of the Basic Educational Opportunity Grant program and that any accredited college or university in the United States could spend up to five percent of the student financial aid grant and loan money it has available to fund foreign students on a needs basis.

Foreign students should also be permitted to earn a portion of their expenses by working up to twenty hours a week under the College Work-Study program. This approach would assure not only a wider distribution by economic class, but also a geographic distribution of foreign students once they are here. It would mean that they would benefit from the diversity and strengths of the 3.200 institutions which comprise American higher education.

It is essential that America attract and educate potential foreign leaders during their collegiate years. If this opportunity is missed, we will find ourselves friendless and isolated in a rapidly changing world.

The lesson of Iran is clear: we are losing the competition for the minds and hearts of people around the world. A vigorous program to attract potential foreign leaders to our colleges and universities would help reverse this ominous trend.

VERDA BARNES: A TRIBUTE

Mr. CHURCH. Mr. President, this afternoon memorial services will be held in the Senate Caucus Room for Verda White Barnes, who served me nearly a dozen years as my administrative assistant before her retirement in 1975.

When Verda died last week in her sleep, I lost a valued friend and associate, and Idaho lost one of the finest public servants.

Verda possessed all the worthiest attributes: Honesty, loyalty, compassion, industry, a refreshing pride in her country, State, and party, and her pioneer roots.

She was one of a kind, and it is not sufficient to simply say that she cared for others. The right word is love—love for her family, her friends, and even those she did not know.

Verda had a special fondness for young people. She admired their eager minds, and she challenged them to learn and to grow. Her granddaughter, Caroline, in a family remembrance, perhaps said it best:

> If there's one picture I have of grandma, it is with young people. She was "energy." In fact, I had a devil of a time keeping up with her. Maybe that's what so many young people admired about her—her motivation, her zest for life.

Mr. President, in remembering Verda, I would like to share several tributes with my colleagues. First is a column written by an old friend, Bill Hall, the editorial page editor of the Lewiston Tribune in Lewiston, Idaho. Next is a portrait of Verda, prepared for the memorial services this afternoon. Finally, there is Caroline's family remembrance. I ask unanimous consent that all of these be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WOMAN WHO NEVER SLEPT

They say Verda Barnes died in her sleep the other night. But that's preposterous. Verda Barnes never slept.

Oh sure, she'd put on her gown and maybe lie down for a few hours the way ordinary people do. But it was only the campaign-worn body at ease. The mind never stopped. Year after indefatigable year, she would lie awake all through the night, with that restless mind that was just made for politics churning out the nuts, the bolts and the crisp daily stratagems of one Idaho political campaign after another.

Died in her sleep? Don't be silly. No one who put so much labor and thought into so many political causes could have had time for something as lazy and wasteful as sleep.

And it showed. Verda Barnes is probably the most influential person in Idaho never elected to public office.

And yet most Idahoans have never heard of her. She would have been pleased that I have to work so hard today trying to explain to people outside the inner circle of politics who the devil this Verda Barnes was.

It was virtually a matter of social propriety to her that you don't go to work for a politician or a cause and then seek to publicize yourself. If you publicize anything, it had better be the politican or the cause. Young campaign aides in her charge had some explaining to do if their own names made it into the papers. She was likely to quote them the words of Franklin Roosevelt:

"I expect those who work for me to have a passion for anonymity."

She did. Indeed she had such strong scruples against advancing her own image that she neglected to mention that she had heard those words directly from Roosevelt himself.

So who the devil was this Verda Barnes?

She was a politically gifted young Mormon from Idaho Falls who went off to Washington in the 1930s to relish the giddy atmosphere and to help advance the idealistic causes of the New Deal.

Eleanor Roosevelt was among the friends she made there. The young woman from Idaho used to slip in the back door of the White House and drink tea with the First Lady.

Over the next four decades, she worked for the organized labor movement and for four members of Congress, including Sen. Glen Taylor of Idaho. Taylor lost the 1956 Democratic Senate nomination to young Frank Church of Boise. Church tells the story that, upon winning the Senate seat, he was contacted by Democratic National Committeeman Harry Wall of Lewiston. Wall tipped Church that Verda Barnes was available and that there was no one who knew her way around Washington any better.

Church was reluctant. Taylor had not been gracious either during the campaign or in defeat.

Wall responded that Verda Barnes would be as loyal to Church as she had been to Taylor. With misgivings but disinclined to go against the advice of Wall, Church hired her, in a minor capacity at first.

Within months, he was thanking Wall. Within a few years she became Church's chief of staff.

From that vantage, she daily vacuumed Idaho for information by long-distance telephone. She knew hundreds of people across the state. She kept constantly in touch, calling, calling, calling. Nothing that went on in Idaho behind the scenes or otherwise caught her—or Church, by surprise. It was sometimes remarkable. On more than one occasion, the first I heard of some new development here in Lewiston was through a call from Verda Barnes in distant Washington.

Frequently in recent years, including these last five years of her alleged retirement, she would leave Washington for a few months and pay the tithe of her time to the political party she believed in. She would hole up in a Boise office and, without the title or the public appearance of anyone in charge, would take command of the frequently flagging Democratic campaigns.

The odds were usually against her in this Republican state. But sometimes she won. I don't think Interior Secretary Cecil Andrus will quarrel with the premise that he couldn't have been elected governor the first time without her mind making up for his lack of money. And, of course, she and three or four others, including the senator himself, were at the heart of every Frank Church victory.

But it all took its toll. When she would leave Washington and return to Boise for those few months each campaign year, she really did function virtually without sleep. It was her nature and that of any sound politician to toss and turn half the night plotting the next day's moves, anticipating the opposition's thrusts and devising the counterthrusts. But she found it increasingly difficult in recent years to adjust her time clock back to native Idaho. She would work into the evening, lie awake on into the night and then wake up in the morning on Washington time, which was unfortunately 4 a.m. in Idaho. And so on through another wearing day.

God, she was exhausted the last few times I saw her. Everything was gray and worn but the eyes and mind. She shuffled, this once dashing young woman from Idaho Falls who had bounded off to Washington to build a better nation. The presidents and senators who had once called her by name would barely have recognized her. However, she had one more Democrat to get elected. So she dragged herself on.

But no more. The proteges were in place. The last ounce of energy was spent.

And so she died—in her sleep, they say.

I doubt it. I suspect the wheels were turning, the mind mulling over the mental notes for one more victory. Verda Barnes never slept. But after all those long campaigns over all those many years, she has finally defeated her exhaustion. The sleep has finally won.

VERDA WHITE BARNES

FEBRUARY 23, 1907–JUNE 9, 1980

Verda Barnes was the eldest daughter of John McArthur and Mary Ann White. She came from a long line of forbears, beginning at Plymouth Colony, who joined America's vast westward movement—to Illinois, to the Salt Lake Valley in Utah, and finally to the pioneer farming community of St. Anthony, Idaho, where Verda spent her early years. Her people were and are farmers, ranchers, businessmen and preachers, strong in their convictions, hardy and enduring. Heading West, they left behind them rich farms, schools, churches, growing communities, creating new ones as the next generation pushed further on. This was Verda's heritage. It was the mold of her character.

Throughout her life, she poured out her splendid strength, her steadfastness of purpose, her compassion, her loyalty, her generosity, and her calm, sagacious understanding and growing wisdom to help other people. A saving wit and sense of humor helped to carry her through her roughest times.

When Franklin Roosevelt was nominated for the Presidency in 1932, Verda was organizing the Young Democrats in Idaho on his behalf. Her professional career in politics began in 1936 when she came to Washington and was immersed in the creative excitement of a national administration that for the first time was marshalling America's resources as an instrument for human betterment.

She soon became one of the shock troops of the New Deal—working under Aubrey Williams in the National Youth Administration, serving as delegate and alternate to Democratic National Conventions, speaking at uncounted rallies from auditoriums to street corners. As Director of the Women's Division of the CIO Political Action Committee. From the inside of a hundred union halls across the land, Verda saw and was part of the evolution of this nation's industrial unions into a powerful political force.

After World War II, Verda began a new career on Capitol Hill, culminating with her 18 years of service in the office of Senator Frank Church, the last 11 years as his top administrative assistant, one of the first women ever to be named to such a position.

With her love for the encyclopedic knowledge of Idaho, and with her remarkable organizing abilities, she became a key adviser to Senator Church. She was an indispensable instrument in his campaigns for re-election, as well as his quick and efficient help to him in day to day encounters with Idahoans and their problems. And yet, somehow she found time to throw her formidable abilities into the successful campaigns for election to the Governorship of Idaho waged by the present Secretary of the Interior, Cecil Andrus and most recently, incumbent Governor, John Evans.

But Verda was a woman of infinite variety. Her world was not solely confined within the boundaries of politics. Her devotion, generosity and concern for her family was abundant and unsolicited, requiring no praise nor thanks. She was the glue that kept her family together—the wise one—who gave advice and help unstintingly, content in the knowledge that somehow she had been of help.

As with her family, so was she with her friends to whom she gave unflagging loyalty through the years, gaiety of companionship, wise counsel and help, and neverending concern for their happiness and well-being.

Her compassion for anyone who called out to her was legendary. No one, neither her friends nor her family will probably know of its full extent and whom it touched and benefitted.

Verda was perennially young in heart. She understood and identified with young people, but she had what few youngsters could attain without her rich experience—wisdom and understanding.

Upon retirement, Verda's never-ending quest for the enlargement of her life found outlet in travel. Twice she visited the U.S.S.R., on one occasion penetrating to the edge of the Gobi Desert. She travelled to the Far East, criss-crossed Europe and travelled extensively in South and Central America. Her imperturbable ability to endure every kind of hardship and frustration stood her in good stead on these journeys. She savored both their high and low moments.

There is a snapshot of Verda, poised on the highest point of the ancient, lost Inca city of Macchu Picchu, both arms raised exultantly toward the blue arch of the Peruvian sky, with the Rio Urubamba cutting its way through the mighty canyon that yawned beneath her feet.

On a cool starry night last week, death came to Verda—and gently took her from her unfinished commitments to the far horizons of eternity.

FAMILY REMEMBRANCE

I learned at a very early age that the old adage: If mother says "no"—ask Grandmother, just did not apply in my case. Grandma's love was not only a love of kindness but a love free from blindness. Her counsel was that of commen sense and wisdom. I came to respect that counsel and rely on it often. I knew that Grandma did dote on my brother and me, but I also knew that she doted on everyone that needed her.

You know, I used to joke with her about the sad shape of her plants—all wilting and brown. Watering a geranium plant one day, I said, "You must have the brownest thumb in the whole of Washington, D.C.!" She just smiled and returned to her work on the arrangements for an upcoming fundraiser. I see now that as brown as her thumb was in tending plants, it was the brightest, most beautiful shade of green when it came to people. She attracted friends and admirers wherever she went.

If there's one picture I have of Grandma it is with young people. She was "energy." In fact, I had a devil of a time keeping up with her. Maybe that's what so many young people admired about her—her motivation, her zest for life.

I was thinking about one thing we treasured about Grandma—her sense of humor. And that reminds me of the delight she took in telling this story . . . It was some years back when Grandma was visiting our house. We have a cat that we had named "Mother". My mother got a phone call from a new friend, and she was talking, mother cat jumped up on the couch. "Mother!" my mom screamed, "You get off that couch!" A long silence on the other end of the phone, followed by my mom's flustered explanations, and gales of laughter from my Grandma.

Mr. CHURCH. Finally, I asked permission that my own remarks at Verda's memorial service be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF FRANK CHURCH

When Bill Hall, Editorial Page Editor of the Lewiston Tribune, heard of Verda's passing, he sat down at his typewriter and wrote:

"They say Verda Barnes died in her sleep the other night. But that's preposterous. Verda Barnes never slept.

"Oh sure, she'd put on her gown and maybe lie down for a few hours the way ordinary people do. But it was only the campaign-worn body at ease. The mind never stopped. Year after indefatigable year, she would lie awake all through the night, with that restless mind that was just made for politics churning out the nuts, the bolts and the crisp daily stratagems of one Idaho political campaign after another.

"Died in her sleep? Don't be silly. No one who put so much labor and thought into so many political causes could have had time for something as lazy and wasteful as sleep.

"And it showed. Verda Barnes is probably the most influential person in Idaho never elected to public office.

"From that vantage she daily vacuumed Idaho for information by long-distance telephone. She knew hundreds of people across the state. She kept constantly in touch, calling, calling, calling. Nothing that went on in Idaho behind the scenes or otherwise caught her . . . by surprise. It was sometimes remarkable. On more than one occasion, the first I heard of some new development here in Lewiston was through a call from Verda Barnes in distant Washington.

"Frequently in recent years, including these last five years of her alleged retirement, she would leave Washington for a few months and pay the tithe of her time to the political party she believed in. She would hole up in a Boise office and, without the title or the public appearance of anyone in charge, would take command of the frequently flagging Democratic campaigns.

"But it all took its toll. When she would leave Washington and return to Boise for those few months each campaign year, she really did function virtually without sleep. It was her nature and that of any sound politician to toss and turn half the night plotting the next day's moves, anticipating the opposition's thrusts and devising the counter-thrusts. But she found it increasingly difficult in recent years to adjust her time clock back to native Idaho. She would work into the evening, lie awake on into the night and then wake up in the morning on Washington time, which was unfortunately 4 a.m. in Idaho. And so on through another wearing day.

"But no more. The proteges were in place. The last ounce of energy was spent.

"And so she died—in her sleep, they say."

It was nearly half a century ago when Verda Barnes first arrived in Washington. The excitement and idealism of the New Deal drew her, like a powerful magnet, to the Nation's Capital.

The dynamic leadership of Franklin Roosevelt made a fierce Democrat of Verda, while her enthusiasm, ability, and appetite for hard work, attracted the attention of the first family. Many were the times when this young woman from Idaho would slip in the back door of the White House and drink tea with her friend, Eleanor Roosevelt.

Over the next four decades, Verda Barnes worked for organized labor, for three other Members of Congress . . . and for me.

I was the luckiest, for she worked for me the longest, 18 years, a dozen of which she served as my Administrative Assistant.

All that time I had the pleasure of her company, the gift of her friendship, and the benefit of her advice.

"Jump at the chance. Don't pass up a seat on the Senate Committee on Aging," she told me years ago, when I was the youngest Senator. "You may not think you're particularly interested in the problems of the elderly. But you will find, as I have, that they grow more poignant with every passing year."

I took her advice and discovered that, as usual, she was right.

The secret of the extraordinary energy and dedication Verda Barnes brought to her work was not hard to uncover, once you knew her. She genuinely cared about other people; she genuinely wanted to help them with their problems.

Of course, that was her job; but it was the job she sought out for herself in life. She took personal charge of any constituent problem brought to my office that could not be routinely solved. There were very few, within our reach, that Verda Barnes ever had to bring to me. It gave her special pleasure to find the elusive answer, to get results for the person in need—and then to see to it that I got all the credit.

"I expect those who work for Frank Church, to have a passion for anonymity," she used to say. And Verda practiced what she preached.

On one of those rare occasions when she needed my help, I remember her calling me on the phone in the early morning hours, after an election, when Bethine and I, exhausted from the campaign, had just made our escape for a much-needed rest.

I knew it had to be an emergency—and it was—one of Verda's kind.

A young serviceman was about to embark for Vietnam, and his grandfather had just died. His grandmother was desperate that he attend the funeral, because the grandfather and the soldier had been very close. The ship was, even then, being boarded. Nothing would do, but a personal appeal from me to the Commanding Officer of the regiment, to pull this enlisted man from the ranks before the ship left the dock and give him leave to return home for the funeral.

Well, I spent a while that night doing my part, and when the Commanding Officer agreed, I broke off at once to get the word to Verda. Naturally, she had spent the whole night up, waiting to hear from me.

It would be insufficient to say that Verda Barnes simply cared about others. The right word is love. She was filled with love for her family, her daughter Val and her son-in-law, George Taylor; the grandchildren she adored, Caroline and John; her brothers and sisters, her multitude of friends. She must have loved, even those she did not know; otherwise, why should she have worked so hard to serve them?

Verda Barnes possessed all the worthiest attributes: honesty, loyalty, compassion, industry, a refreshing pride in her country, state, and party, and her pioneer roots. In the long tradition of public servants, she deserves to be remembered among the very best.

I never asked Verda about her religious beliefs. It would have been impertinent. Besides, it always seemed to me that she sought fulfillment in the life she lived.

And so I thought it might be fitting to close this all-too-brief remembrance with the words which Stephen Spender used in paying tribute to exceptional people, the likes of Verda Barnes:

"Near the snow, near the sun, in the highest fields,
See how these names are feted by the waving grass
And by the streamers of white clouds
And whispers of wind in the listening sky.
The names of those who in their lives fought for life,
Who wore at their hearts the fire's centre
Born of the sun, they travelled a short while toward the sun,
And left the vivid air signed with their honour."

THE BANKER'S ROLE

Mr. TSONGAS. Mr. President, next week the Comptroller of the Currency is sponsoring a conference on "Investing in the Future of America's Cities: The Banker's Role." In the course of that conference, which will be attended by over 200 members of the banking, investment and Government community, the city of Springfield, Mass., will be a major topic of discussion.

Just 10 years ago, Springfield, Mass., could have been a case study in urban disinvestment. Their main street, which was once termed the "industrial, commercial and financial spine of western New England" was characterized by vacant lots, vacant storefronts and a dying industrial and commercial base.

One decade later, thanks to the efforts of the banking and business community, and the commitment and vision of its citizens, Springfield, Mass., is an example of how public and private investment, hard work and creativity can combine to turn around an urban area.

This morning's edition of the Boston Globe carried two articles on the success of Springfield, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SPRINGFIELD BECOMING A MODEL OF REVITALIZATION

(By James E. Roper)

WASHINGTON.—A pool of private capital offering cut-rate loans in Springfield is being cited in Washington as an ideal way of revitalizing central cities.

The comptroller of the currency, John G. Heimann, has invited 200 bankers, government officials and others to a conference here June 22–24 to examine imaginative methods of rebuilding downtown areas. The Springfield story will be a center of discussion.

Organizers of the conference say Springfield, a city of 170,000, might become a model for some other cities to follow.

All 13 of Springfield's financial institutions—insurance companies, banks, and savings and loan associations—made $32 million available for cut-rate loans to developers who would rehabilitate the downtown area according to a new master plan.

The federal government chipped in some seed money, the city offered tax breaks, and the public provided political support to make the program go. The result, city planners say, is $100 million worth of projects for a 2,000-foot stretch of Main street in downtown Springfield, a city that started as a trading post in 1636, blossomed into a thriving manufacturing center and then collapsed after World War II.

By 1977 Main street had crumbled into a barren strip of deteriorating buildings, some of them abandoned. The city's biggest department store closed. Loft buildings stood vacant. Many people were afraid to live in the area or even visit it at night.

Real estate developers looked at Main street and walked away. They could not figure out how they could buy a building, rehabilitate it and rent it out at a profit. Taxes and other costs were too high and the potential rent in such a neighborhood was too low.

A handful of civic leaders formed a group called Springfield Central to plan the city's salvation. Charles Ryan, a lawyer and former mayor, is credited with coming up with the idea of forming a mortgage pool that could make loans to developers at below-market rates. In effect, the lending institutions would subsidize the revival of downtown Springfield, but could benefit in the long run from the additional prosperity that this could bring to all the city.

At first, the lenders were skeptical because Springfield would require a mortgage pool larger and more complex than any such arrangement that had been tried previously.

Months passed and not much happened, recalls Gordon Oakes, Jr., president of the BayBank Valley Trust Co.

Then Dave Starr convinced Jim Martin to commit money and his personal attention to the program," says Oakes.

Starr had just arrived in Springfield as the publisher of the city's newspapers, the Daily News, the Union and the Sunday Republican. Martin is chairman of the Massachusetts Mutual Life Insurance Co., which established its headquarters on Springfield's Main street in 1851 and, with 2700 employees, is now the second largest employer in the city. (Toy manufacturer Milton Bradley Co. is the city's largest.)

Martin pledged $5 million of Mass. Mutual's money to the pool and later added another $5 million. After the first commitment, all other local financial institutions started contributing lesser sums in relation to their assets.

Other pieces fell into place. Mayor Theodore E. Dimauro, elected on a platform of revitalizing the city, had the municipal government draw up a sparkling new master plan for downtown. He got certain areas designated as historic sites so developers could get breaks on their federal income taxes.

Starr, elected president and chief executive officer of Springfield Central, influenced the selection of a downtown site for a federal office building and helped get a total of $12.7 million in Urban Development Action Grants from the US Dept. of Housing and Urban Development.

Typically, a developer who wanted to undertake a rehabilitation project but couldn't figure out how to make a profit would place the problem before the mortgage lenders. If a cut rate on mortgage interest would make the project economically feasible then the pool would offer the loans at, say, 7 percent, or whatever it took to make the deal, and the borrower didn't have to pay back any of the principal for perhaps three years. When the project starts giving the borrower an 8.5 percent return on his investment, he is pledged to start paying higher interest.

"Because of rates and terms," says Martin, "we are getting downtown rehabilitation that otherwise would not occur.

"Of course, it's not all philanthropic on our part. We can't afford to see Springfield dry up and die, because we get our employees from the city."

The commercial banks and S & Ls figure to benefit from the quickened business pace. The outlook is bright enough so that a Boston bank is looking for a downtown site in Springfield to open an affiliated bank in competition with the local firms.

"That smarts a little," chuckles Carlo Marchetti, executive director of Springfield Center. But he is proud of the projects that are bringing so much change in the historic city.

In 1776, George Washington selected a Springfield site for an arsenal that grew into an armory that manufactured muskets for the fledgling Continental Army, Springfield rifles for doughboys of World War I, and M–1 rifles for the GIs of World War II. The city's manufacturers made the first "safety" bicycles with wheels of equal size, and from that turned to the manufacture of the first American automobile, the Duryea in 1893, and the first gasoline-powered motorcycle in 1902. By 1900, Springfield had 500 manufacturing plants of all kinds.

Some of these in the downtown area are being replaced in the present cleanup, with some old loft buildings turned into apartments, some turned into office complexes and some floors converted to retail shops. Cleared areas are being turned into malls or parking facilities.

Philip Comeau, as senior development director for the Urban Development Action Grants, watches closely as Springfield's rehabilitation program unfolds.

"The economic development group and the insurance companies and banks are doing an excellent job and have the complete support of the mayor and the business community," says Comeau. "They have demonstrated to us that they can perform, that once they get the ball they can run with it.

"I feel very encouraged about the future of Springfield."

MASS. MUTUAL'S MARTIN: COMMITTED TO STAY

(By Peter Cawley)

SPRINGFIELD.—About eight years ago Massachusetts Mutual Life Insurance Co., one of the largest employers in Springfield, threatened to leave the city.

As chairman James R. Martin recalls, the best reason for a move out was that a deteriorating employment situation had accompanied the general downturn of this central Massachusetts hub earlier this decade.

Local high school graduates, whom Mass. Mutual hires at a rate of 300 to 400 a year, were showing fewer inclinations to stay in Springfield. Entry level applications were down. Young professionals for Mass. Mutual's legal and investment departments were harder to recruit to a city whose downtown was marked by "broken windows and vacant stores." A sales director recruited from North Carolina was twice accosted and nearly mugged downtown.

"Our image, somewhat well deserved, was that it was a town on the skids," said Martin. "You had a hard time attracting anyone here."

Yet today, Mass. Mutual is completing a new wing that will add space for 1300 new employees to the 3000 jobs already at the home office in Springfield. New luxury apartment complexes downtown—one in a tastefully converted old factory—house some of the young professionals who were once so hard to recruit. The sales director who was accosted downtown, J. Berkley Ingram, stayed in spite of that unpleasant reception and has since become vice chairman of the company.

"We are absolutely committed to stay here," Martin says now.

What made the difference? Legal and financial restrictions would have made it difficult to relocate so large a company in the first place. And secondly, the rollback of state taxes Mass. Mutual had felt were unfair to Massachusetts-based life insurance companies happens to coincide earlier this decade with what Martin called "a hope, hope only, of a revitalization of this whole area."

Mass. Mutual has not been a bystander in this revitalization. Aside from its financial backing, which has been significant, it is active in what Martin views as a private, public and cultural partnership. C. Norman Peacor, Mass. Mutual's chief actuary and executive vice president, also serves as chairman of Western New England College. As well, the company has become one of the largest contributors to the arts in Springfield. "An executive at this company definitely has civic responsibilities," said Martin. In general, there has been at Mass. Mutual a new policy of "accepting the fact that the government is your partner," said Martin. "And that is a distinct change."

Other companies are finding the city a good place to do business as well. Downtown at the old Springfield Armory complex, Digital Equipment Corp, has created 830 jobs since 1972 and plans to add 200 more within a year.

"The signals from the city have all been positive," said Digital spokesman Peter Connell. "There's a handshaking relationship with the city," that has led to an ease in expansion by Digital, Connell said.

Milton Bradley Co., which moved its factory and headquarters out to East Longmeadow more than a decade ago, moved the home office back into downtown Springfield in 1972.

And since beginning some assembly of its hot selling electronic toys such as the Simon game in the armory area in 1977, Milton Bradley has tripled employment in Springfield to about 900 persons. Milton Bradley vice president for finance Robert O. Zinnen highly praises the federally-funded Springfield Skills Center as a major source of the labor his company needs.

"People perceive a labor force with skills that can be developed," said Zinnen.

Though the change in the city has proceeded slowly, conforming to a Springfield image as what Mass. Mutual's Martin called "the Peoria of the East" in terms of innovation, now Martin believes the city has earned an image as "a mover and a shaker."

Unemployment in the Springfield area in March stood at 4.8 percent compared to a national figure of 6.2 percent and a jobless level of 4.9 percent in Massachusetts overall.

Among the new recruits to Springfield and Mass. Mutual is Gary Newlin, who came to the company's legal department two years ago after graduation from the Univ. of Virginia. Though Newlin values Springfield in part because it is close to larger cities like Boston and New York yet is small enough to offer a short working commute from its suburbs, he does see "a positive trend here."

"My overall impression is that the city is moving forward," said Newlin.

Sandra Williams, also an attorney at Mass. Mutual, moved into a row of restored houses downtown when she joined the company last year. A Hartford native, she said she was at first leery of living in Springfield and still finds the downtown a bit slow. But she said her neighborhood is convenient to shops and "a very beautiful little island, a quiet and pleasant place to live."

Martin does recognize that a great deal of improvement remains to be done. The approaches to Mass. Mutual's own State street office about a mile from the city center are scarred by a few boarded apartment buildings and a vacant Indian motorcycle factory—a remnant of an earlier industrial area—before the loss of many manufacturing concerns from Springfield.

"If downtown has come 100 miles down the road, our immediate vicinity has come about 10 miles," Martin conceded.

"It's going to take a lot of effort to get our own neighborhood turned around, and we are groping to get this trend going."

Yet he feels that the foundation already established is a strong one, favoring the growth of Mass. Mutual as well as other companies in Springfield.

BEAMING FREEDOM ABROAD

Mr. PERCY. Mr. President, as a longtime supporter of our country's international radio broadcasting, with the Voice of America and Radio Free Europe/Radio Liberty, I was pleased to read in the Washington Post of June 13, 1980, Peter Osnos' strong article in which he explained the significance of these broadcasts.

He concentrated on the importance of the broadcasting by Voice of America and Radio Liberty to the Soviet Union. I would only add that Radio Free Europe does an equally effective job in broadcasting to five nations of Communist Eastern Europe.

I agree with Osnos that we need to support these stations adequately, and Congress is responding to the need. In 4 years our authorizations and appropriations for the stations have grown about 65 percent for RFE/RL and about 35 percent for Voice of America. Still more can be done, both in funding and in improving effectiveness.

I ask unanimous consent that Peter Osnos' article, "Beaming Freedom Abroad," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Beaming Freedom Abroad

Andrei Sakharov's poignant message from exile that he gets news of the world from Western broadcasts on a transistor he carries with him on walks to avoid official jamming is a timely reminder of one of this country's most valuable resources in our continuing conflict with the Kremlin—the Voice of America and Radio Free Europe/Radio Liberty.

There is no way to overstate the importance of these stations in informing tens of millions of people in the Soviet Union and Eastern Europe about what is going on around the globe and in their own countries. These stations amount to the injection of a free press into lands in which there otherwise is none.

Along with the programs of the BBC, West Germany's Deutsche Welle and several smaller European stations, the American-sponsored broadcasts have become a formidable force on the Soviet bloc, where control of information is central to ideological domination of the populations.

The pity is that so many Americans—to the extent that they think about the matter at all—seem more queasy about than proud of what are regarded as essentially psy-war propaganda vehicles. The reputation of RFE/RL in particular is still clouded by former association with the CIA.

But these are serious misunderstandings of what the radios do now—and would do even better if they received the public attention and support they deserve.

VOA, for example, broadcasts 14 hours daily to the U.S.S.R. in Russian, providing a substantial report on world affairs and extensive material about the Soviet Union. News is culled mainly from American newspapers and magazines, wire services and, for lack of a better term, the emigre network.

Say there is a major shake-up in the Kremlin, as there was most recently in 1977, when Soviet President Nikolai Podgorny was abruptly kicked out. Pravda ran a single bland sentence stating that Podgorny had resigned at his own request. That was all the Soviet people were supposed to know—and it wasn't, of course, true.

But VOA, using all its sources, played back a lengthy assessment of the event's meaning and what little was known about how it happened. So on that occasion, as on so many others of consequences in their lives, what Soviet listeners learned came only from foreign broadcasts.

General jamming was ended in 1973 at the height of détente and, despite the deterioration of relations with the United States since then, it has not been resumed. (Sakharov was apparently singled out for special radio interference as part of his exile.) Radio Liberty still has some problems getting through, but can be heard.

The evidence is that the audiences have grown vast and range across the whole of the country's social spectrum. A Soviet official friend once told me that a high state honor he received was reported in Izvestia and hardly anyone noticed. But a short time later, he said with amusement, after he was interviewed by the VOA while on a visit to the United States, "everyone I knew seemed to have heard it."

In the common usage, these days, when Russians say they heard something "on the radio," they invariably mean one of our stations, not their own.

Unfortunately, for all their potential, VOA and RFE/RL are in the Washington backwaters. A proposal some months ago to expand broadcasts in Afghan languages after the Soviet invasion floundered because relatively paltry funds couldn't be rounded up.

Last fall, VOA Director R. Peter Strauss, an ambitious and aggressive manager of the operation, resigned, he said, because he couldn't get President Carter's attention to "innovations needed to continue the forward thrust in motivation and creativity at the VOA. . . ."

The stations need better treatment. Soviet listeners like Andrei Sakharov certainly deserve it. Ronald Reagan, for one, understands the issue. He makes the VOA and RFE/RL an important point in his foreign policy speeches.

WE SHALL NEVER FORGET THEM

Mr. PERCY. Mr. President, each year at this time we recall the tragic events of June 1940 when the Baltic States were occupied by Soviet troops and—within 40 days—forcibly incorporated in the Soviet Union.

The national sovereignties of Lithuania, Latvia, and Estonia were trampled. The peoples of these nations were subjected to foreign domination. Atheism was extolled, religion attacked, agriculture collectivized, private property and industry nationalized, large numbers of inhabitants deported, non-Baltic peoples brought in.

But through all of this, and for the 40 years since, the peoples of Lithuania, Latvia, and Estonia somehow, with God's help, have maintained their national identities, their national cultures, their religious beliefs, and their self-respect. They deserve our continuing admiration. They deserve our continuing concern. We shall never forget them.

CHARLIE DANIELS' SONG BOOSTS AMERICA

Mr. SASSER. Mr. President, every day we hear more and more negative things said about our great country. But, like a breath of fresh air, occasionally a song comes along that points with pride to our country and stresses the good things and the inner strength of the United States and its people.

Charlie Daniels and his band have composed and produced such a song, entitled "In America," which catches the spirit of our country. I am particularly proud of Charlies Daniels, as an American, as a man, and as a greater singer from Tennessee.

His song "In America" is already rising in popularity on the radio charts. It is further proof that country music is the real music of America, the music that touches the soul and the heartstrings of the American people.

Mr. President, I ask unanimous consent that the lyrics of this new Charlie Daniels Band song be printed in the RECORD. I hope that my colleagues and others will read the lyrics and enjoy a fine song about our country.

There being no objection, the lyrics were ordered to be printed in the RECORD, as follows:

IN AMERICA

Well, the eagle's been flyin' slow, and the flag's been flyin' low
And a lot of people sayin' that America's fixin' to fall
But, speakin' just for me and some people from Tennessee,
We got a Thing or two to tell you all
This lady may have stumbled, but she ain't never fell,
And if the Russians don't believe it, they can all go straight to hell
We gonna put her feet back on the paths of righteousness and then,
God bless America again
And you never did think that it ever would happen again
In America, did you
You never did think that we would ever get together again
Well, we damn sure fooled you
We're walking real proud and we're talking real loud again
In America
You never did think that it ever would happen again
From the sound up in Long Island out to San Francisco Bay
Everything that's in between them is our home
And we may have done a little bit of fighting amongst ourselves
But you outside people best leave us alone
Cause we'll all stick together, and you can take that to the bank
That's the cowboys and the hippies and the rebels and the yanks
You just go and lay your hand on a Pittsburgh Steeler fan
And I think you're gonna finally understand

HAZARDOUS MATERIALS

Mr. CANNON. Mr. President, on June 5, 1980, channel 7 broadcast the results of an investigation conducted by the Better Government Association (BGA), in conjunction with ABC news, on the rail transportation of hazardous materials. The study directed several serious criticisms at the Federal Railroad Administration (FRA) in its implementation of the rail safety laws. These criticisms reflect the very concerns which the Senate Commerce Committee has repeatedly expressed in its examination of FRA's rail safety activities and hazardous materials transportation in general.

The investigation concluded that the dangers associated with such transportation are not being adequately controlled. The most serious questions raised in the study related to the inspection and enforcement activities of FRA. In particular, concern was expressed over the number of inspectors and the amount of trackage never inspected. Also, criticism was leveled at the ineffectiveness of the inspections in finding defects and following up to insure corrective action by the carriers. With regard to enforcement, the investigation concluded that the penalty assessments were not sufficient to act as deterrents against unsafe conditions and that the emergency order authority was not being used to fashion an appropriate remedy.

With specific regard to hazardous materials transportation, the study expressed concern over the routing of such materials through densly populated areas, the unsafe condition of rail tank cars which carry hazardous materials, and the adequacy of the placarding of railcars carrying these materials. In addition, criticism was directed at the coordination of emergency response efforts and specifically at the training of emergency response personnel.

As chairman of the Senate Committee, I established as a top priority for the committee's review during the 96th Congress the issue of transportation safety and in particular hazardous materials transportation. During the first session of the 96th Congress, I commissioned the Library of Congress to prepare a committee study of the regulatory program at the Department of Transportation (DOT) in the area of hazardous materials. The study revealed, among others, the problems focused on by BGA in its investigation.

With the findings of this committee study as a basis for legislative action, the committee recently reported out several bills impacting on hazardous materials, among these bills are: The Hazardous Materials Transportation Act, which significantly increases the authorization for appropriations to the Materials Transportation Bureau within DOT for increased regulation in this area; the Fire Prevention and Control Act, which authorizes funds to insure that adequate training programs are established by the U.S. Fire Administration for local fire officials who respond to hazardous materials accidents; and the Nuclear Waste Transportation Safety Act, which establishes an office within DOT for the regulation of radioactive materials transportation.

With specific regard to rail safety, the committee held oversight hearings in March of this year on the activities of FRA in its implementation of the rail safety laws. For inclusion in the hearing record, the committee requested from FRA much information relating to its safety activities and the committee's concerns in that regard. Subsequently, the committee reported out S. 2730, the Federal Railroad Safety Authorization Act of 1980, which was passed by the Senate on June 6.

In its examination of FRA's safety activities, the committee was aware of the many past criticisms lodged at FRA for the lack of direction in its inspection programs, and in this regard is encouraged by FRA's ongoing reevaluation of its safety operations. This review is to result in a systems safety plan, projecting over the next several years safety goals for FRA and the allocation of resources in light of these goals. It is expected that this plan will bring FRA's inspection program closer into focus so that FRA can better evaluate its effectiveness. The committee is particularly concerned that resources are allocated where the problems are and that safer conditions are achieved through detection of hazards by inspection. In order that the committee may be in a position to review FRA's safety activities in light of the findings of this systems safety plan, the committee bill, S. 2730, requires that FRA submit this plan to Congress by no later than January 31, 1981.

Furthermore, this bill provides for only a 1-year, rather than a 2-year, authorization so that the committee can evaluate the next authorization in light of the results of the systems safety plan. The committee wants to ensure that FRA's inspection program is adequately funded to provide for the needed inspectors and other resources. At the same time, the committee must be assured that FRA is using the available resources optimally. In the area of enforcement, FRA has available various mechanisms, including fines, injunctions and emergency orders. In this regard, the BDA study concluded that penalty assessments to date have not been sufficient deterrents to the continuance of unsafe conditions. Data received by the committee indicates that FRA has increased its assessments, particularly in the area of hazardous materials. The committee encourages the continuation of such strengthened enforcement. However, the committee is aware that penalties represent only one method of enforcement.

S. 2730 makes a significant change in FRA's current emergency order authority, which to date FRA has used with success against a few individual railroads. The bill provides that such an order could be issued if an unsafe condition or practice is found rather than just an unsafe piece of equipment or facility. Such expansion would insure that FRA is able to regulate unsafe conditions whatever their origin and to better fashion the appropriate remedy.

With specific regard to hazardous materials transportation by rail, S. 2730 responds directly to the concern raised by BGA about the safety of the rail tank cars which carry hazardous materials. The jumbo DOT specification 112 and 114 tank cars are currently being retrofitted with shelf couplers, headshields, and thermal insulation, a process which is to be completed by December 31, 1980. S. 2730 would require DOT to take similar action with regard to the smaller DOT specification 105 tank cars. Under the bill, DOT must make best efforts to issue a final rule on the retrofitting of 105 tanks cars with shelf couplers by no later than December 31, 1980, and to report on the need for additional retrofitting of these cars. A notice of proposed rulemaking on 105 tank cars is expected to be issued by DOT this month.

In addition, the committee has been carefully monitoring the activities of DOT relating to the routing of hazardous materials through densely populated areas and the placarding of railcars carrying these materials. FRA has concluded a preliminary study which indicates that rerouting through less populated areas could be more dangerous. In this regard, the committee is interested in further study into the possibility of selective reroutings. With regard to placarding, DOT just issued a final rule requiring the adoption of the U.N. numerical system of labeling. The committee will watch with interest the implementation of this rule.

The problems associated with emergency response are of great concern to the committee. The committee's authorization for the Materials Transportation Bureau within DOT provides for funds to establish coordinated emergency response programs. It is expected that these programs would promote a coordinated effort among the interested agencies and parties. On the issue of emergency response personnel training, the authorization for the U.S. Fire Administration includes funds to train local firemen. Also, S. 2730 mandates DOT to study railroad employee training programs, particularly as they relate to hazardous materials and emergency response. The committee realizes that the safety of millions of people lies in a strong emergency response program coordinating the efforts of well-trained Federal, State and local personnel.

The BGA study focuses on defective track as the major cause of rail accidents, citing a figure of 42 percent as representing the portion of total rail accidents attributable to bad track. The Commerce Committee has been conducting an intense examination of the rail industry's poor financial condition, which in part is indicated by the substantial amount of deferred maintenance and the resulting poor track. The rail regulatory reform bill, S 1946, recently passed by the Senate, was the culmination of this review. It is envisioned that this legislation would contribute significantly to the promotion of a healthier rail industry through increased revenues. Strengthened monitoring and enforcement by FRA in the rail safety area, along with such regulatory reform, should insure progress toward an improved rail system and safer conditions.

I ask unanimous consent that a summary of the BGA findings and recommendations be printed in the RECORD. I have requested that the Secretary of Transportation respond directly to these findings and conclusions, and I ask unanimous consent that a copy of the letter sent to the Secretary also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

A Better Government Association (BGA) and ABC News "20/20" investigation has found that unsafe tank cars carrying toxic chemicals on defective railroad track routinely travel through heavily populated areas throughout the nation. According to BGA Executive Director J. Terrence Brunner, the situation poses "a serious threat to the health and safety of millions of citizens."

The BGA and ABC "20/20" examined railroad track in ten states over the past four months. The investigation revealed that the Federal Railroad Administration has been lax in enforcing federal rail safety regulations and that the railroads have failed to police themselves.

Specifically, the BGA found that railroad track inspectors (1) frequently failed to inspect large segments of track, (2) when inspections do occur, defects often go unnoticed; and (3) when defects are found, federal regulations are not enforced and track is not repaired.

The BGA and the Washington Star reported last March that the transportation of hazardous material in the Washington, D.C., metropolitan area jeopardized the safety of citizens who live in the region. The BGA and Star found defective track conditions and inadequate safety precautions. The recent BGA and ABC "20/20" investigation examined track and FRA procedures in Illinois, Ohio, Indiana, Iowa, Washington, D.C., Maryland, Virginia, Tennessee and Pennsylvania.

According to the BGA approximately 1,000 train accidents have occurred since April. Six of these accidents resulted in 2 deaths, 50 injuries, and the evacuation of at least 17,000 persons due to toxic chemical spills. Track defects are the major cause of accidents, accounting for 42 percent of all railroad accidents in 1978 and 1979.

BGA Executive Director Brunner said, "Since 1967, accidents caused by bad track have risen almost 200 percent. With hazardous material shipments increasing to almost 100 million tons a year, defective track poses a substantial threat to public safety. A single accident involving a chlorine leak or a liquid petroleum gas spill could have disastrous effects."

The BGA called on the FRA to implement specific measures to improve railroad safety. A copy of the BGAs recommendations is attached. The BGA–ABC findings will be broadcast on "20/20" on Thursday night, June 5, at 10:00 p.m. EST on Channel 7.

INTRODUCTION

The deteriorated and dangerous condition of America's railroads is the product of decades of neglect. The result has been escalating property damage costs and the loss of lives which this country can no longer tolerate.

The BGA's investigation of railroad safety revealed that more than 10,000 train derailments and collisions occur each year. That breaks down to an average of more than one accident every hour. Most of these accidents occur as a result of substandard track and dilapidated roadbed. Efforts to reduce accidents caused by bad track have been meager and they have failed. In fact, track-related accidents have increased about 200 percent since 1967.

Our findings show that the nation's rails must be dramatically improved if they are to play a significant role in meeting this country's changing transportation needs. To encourage energy conservation the railroads must play an essential part in moving the nation's coal, food and other necessary products in their fuel-efficient manner. However, the price of rail improvement will be enormous. Industry officials estimate that it will require at least $4 billion to bring track and roadbed up to par. Independent experts have estimated more than $10 billion will be needed. Yet, the importance of rejuvenated railroads to America's future justifies meeting these costs.

Complicated financial and technical questions make consensus on the means to upgrade our railroads difficult to obtain: in the short term, how can safety regulations be immediately enhanced without further eroding the competitive position of railroads with respect to other modes of transportation? In the long term, who will pay to upgrade the rails? The shipper? The railroads themselves? The government? The public? No matter how these important questions are decided, it is clear that they can no longer go unasked or unanswered.

RECOMMENDATIONS

Congress is now considering legislation for railroad deregulation and other proposals designed to improve the long-range capacity of the industry to meet the nation's needs. But there are measures that can be enacted immediately to protect the public. Congress should:

1. Exercise its existing oversight authority over the FRA more thoroughly.

Congress should examine why funds appropriated for railroad inspectors have not been fully utilized by FRA. Congress should also explore whether the "self-policing" nature of the FRA's inspection program is appropriate. The BGA has found that railroads are often negligent in fulfilling their inspection and maintenance responsibilities.

The FRA should:

1. Improve its program for monitoring and enforcing track and equipment standards. The FRA must, at a minimum, a) hire all inspectors funded by Congress, b) inspect facilities more frequently and make timely follow-up inspections to insure that repairs are made, c) increase the penalties for track and equipment violations so that fines become a genuine deterrent, d) use its emergency authority injunctive relief to shut down substandard track which pose a threat to public safety, and e) consider eliminating the practice of lowering speed limits rather than requiring track repairs.

2. Extend requirements now applicable to jumbo tank cars to smaller tank cars carrying compressed gases, lethal poisons, and other hazardous materials which pose a widespread risk to public health.

3. Be required to respond promptly to National Transportation Safety Board recommendations and improve internal procedures for handling such recommendations.

4. Improve coordination with the Environmental Protection Agency, particularly at the scene of accidents, to minimize the long-term environmental damage of hazardous material spills.

5. Provide leadership in the area of safety.

rather than react to disasters, and therefore establish a formal procedure for assessing the safety hazards of equipment design corrections.

6. Establish, along with the Interstate Commerce Commission, a clear policy for routing shipments of hazardous material outside of densely populated areas.

7. Encourage railroad employees and the public to report dangerous rail conditions.

Emergency preparedness

1. State and local governments must develop adequate plans for coping with hazardous material emergencies. This should include means for analyzing the type of spill, warning nearby residents, and plans for large-scale evacuations.

2. Federal agencies should provide leadership in training local emergency personnel to handle a hazardous material disaster.

3. Railroads should clearly and accurately placard the contents of all cars carrying hazardous materials.

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, D.C., June 10, 1980.

Hon. NEIL I. GOLDSCHMIDT,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: On June 5, 1980, Channel 7 broadcasted the results of an investigation conducted by the Better Government Association (BGA), in conjunction with ABC News, on the rail transportation of hazardous materials. The study directed several serious criticisms at the Federal Railroad Administration (FRA) in its implementation of the rail safety laws. These criticisms reflect the very concerns which the Senate Commerce Committee has repeatedly expressed in its examination of FRA's rail safety activities and hazardous materials transportation in general. Although the Department has answered various Committee questions on this subject, I would appreciate your specific response to the findings and conclusions in the BGA study.

The most serious questions raised in the investigation related to the inspection and enforcement activities of FRA. Specifically concern was expressed over the amount of trackage never inspected by FRA. Data received by the Committee indicates that FRA inspects 200,000 miles of railroad track annually (including those miles inspected more than once during that period). There is a legitimate concern for the need to inspect the remaining mileage so that potentially dangerous defects do not go unnoticed. In this regard, the study also pointed to the failure of FRA to hire the complement of inspectors for which funds have been appropriated. Although the Committee is aware that FRA inspectors increased in number by 23% from FY 1978 to FY 1979, it must be assured that FRA continues its recruitment efforts to secure the necessary inspectors.

The study also was critical of the quality and impact of FRA inspections. In particular, the findings related instances where defects were not detected by FRA inspectors or where, when defects were found, no follow-up was conducted to insure that corrective action by the carriers was taken. It is FRA's responsibility to insure effective inspections which result in the necessary corrective actions. The Committee must have assurances that FRA is assessing the quality of its inspections and taking appropriate actions which result in safer conditions.

Focusing on situations where a carrier does not remedy a defect, the BGA study concluded that FRA's enforcement powers were not being fully utilized—e.g., that fines were not substantial enough to serve as a deterrent and that the emergency order authority was not being appropriately used. On the issue of fines, the Committee is aware that FRA's penalty assessments increased during FY 1979. With regard to the emergency order, the Committee in S. 2730, the Federal Railroad Safety Authorization Act of 1980, broadened FRA's authority in this area to ensure more effective use of the order. With these powers, FRA must continue to evaluate its enforcement mechanisms to ensure that an appropriate and effective remedy is fashioned.

With specific regard to hazardous materials transportation by rail, the study emphasized the importance of the retrofitting of DOT Specification 105 tank cars, the rerouting of such materials through less populated areas, and the clear placarding of rail cars carrying hazardous materials. The Committee is most interested in an update on the progress of DOT's work in these important areas.

On the issue of emergency response, the BGA investigation focused on the lack of coordinated efforts once an accident involving hazardous materials has occurred and on the inadequate training of emergency response personnel. The Committee is aware that the required designation of regional on-scene agency coordinators is intended to insure such coordination of efforts. Nevertheless, the BGA findings include instances where there had been a lack of immediate and coordinated response. Furthermore, there was evidence that because of poor training local fire officials and other emergency personnel were not able to respond effectively. The Committee must be kept apprised of DOT's efforts toward promoting coordinated emergency response programs.

The Committee will continue to monitor the rail safety activities of DOT to insure that it is fulfilling its responsibilities in this area. A complete response from DOT to the BGA study would be most important in this regard.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact Linda Morgan at 224-9325 or Dan Jaffe at 224-0417, of the Committee staff.

Sincerely yours,
HOWARD W. CANNON,
Chairman.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:29 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954;

H.R. 6137. An act to convey certain interests in public lands to the city of Angels, California; and

H.R. 6317. An act to provide an exception to the requirements of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) with regard to certain lands in Riverside County, California.

At 2:21 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 5259) to name a certain Federal building in Santa Fe, N. Mex., the "Joseph M. Montoya Federal Building and U.S. Courthouse."

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5926) to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5338. An act to amend the Federal Water Pollution Control Act to provide for the payment of claims resulting from the oilspill at Ixtoc I, Bay of Campeche, Mexico, and for other purposes.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 7:08 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 562. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

H.R. 4887. An act to further authorize appropriations for the San Francisco Bay National Wildlife Refugee, and for other purposes;

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge;

H.R. 6022. An act to establish the Tensas River National Wildlife Refuge;

H.R. 6169. An act to establish the Bogue Chitto National Wildlife Refuge; and

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week".

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. LEVIN).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954; to the Committee on Energy and Natural Resources.

H.R. 5338. An act to amend the Federal Water Pollution Control Act to provide for the payment of claims resulting from the oilspill at Ixtoc I, Bay of Campeche, Mexico, and for other purposes; to the Committee on Environment and Public Works.

H.R. 6137. An act to convey certain interests in public lands to the city of Angels, California; to the Committee on Energy and Natural Resources.

H.R. 6317. An act to provide an exception to the requirements of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) with regard to certain lands in Riverside County, California; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4013. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a study with respect to converting the function of providing Base Operations Support and Housing Services at Fort Gordon, Georgia, and a decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4014. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on three construction projects to be undertaken by the Army Reserve and one joint project by the Marine Corps Reserve and the Army Reserve; to the Committee on Armed Services.

EC-4015. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of the intent of the Department of the Army to exercise a provision for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-4016. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Issues Identified In 21 Recently Published Major Weapon System Reports"; to the Committee on Armed Services.

EC-4017. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to add a new section to authorize the use of funds available to the Department of Defense for foreign cryptologic support; to the Committee on Armed Services.

EC-4018. A communication from the Assistant Secretary of the Army (Installation, Logistics, and Financial Management), transmitting, pursuant to law, a study with respect to converting the function of custodial services at Watervliet Arsenal, Watervliet, New York, and the decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4019. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during April 1980 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-4020. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How The Petroleum Refining Industry Approaches Energy Conservation—A Case Study"; to the Committee on Energy and Natural Resources.

EC-4021. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an amended prospectus for alterations at the U.S. Post Office and Courthouse, New Haven, Connecticut; to the Committee on Environment and Public Works.

EC-4022. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 1730 K Street, N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC-4023. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Progress in the Prevention and Control of Air Pollution in 1979"; to the Committee on Environment and Public Works.

EC-4024. A communication from the United States Trade Representative, transmitting, pursuant to law, a report on the status of investigations against violations of international trade argreements and certain other unfair foreign trade practices which affect United States commerce for the period July 1 through December 31, 1979; to the Committee on Finance.

EC-4025. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Foreign-Trade Zones Board for fiscal year 1978, together with the reports covering the operations during the same period of Foreign Trade Zones Nos. 1, 2, 3, 5, 7, 8, 9, 12, 14, 15, 17, 18, 21, 22, 23, 25, 26, and 36, located respectively at New York, New Orleans, San Francisco, Seattle, Mayaguez (Puerto Rico), Toledo, Honolulu, McAllen (Texas), Little Rock, Kansas City (Missouri), Kansas City (Kansas), San Jose, Dorchester County (South Carolina), Chicago, Buffalo, Port Everglades, Shenandoah (Georgia), and Galveston, and subzones Nos. 3A and 9A, at San Francisco and Honolulu; to the Committee on Finance.

EC-4026. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes In Revenue Sharing Formula Would Eliminate Payment Inequities; Improve Targeting Among Local Governments"; to the Committee on Finance.

EC-4027. A communication from the Acting Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a quarterly report covering the activities of the Office of Inspector General for the period January 1 to March 31, 1980; to the Committee on Governmental Affairs.

EC-4028. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, a new system of records; to the Committee on Governmental Affairs.

EC-4029. A communication from the Chairwoman, Merit Systems Protection Board, transmitting, pursuant to law, a report on the administration of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-4030. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend the Trading with the Enemy Act in order to authorize the use of assets vested under that Act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets; to the Committee on the Judiciary.

EC-4031. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for calendar year 1979; to the Committee on the Judiciary.

EC-4032. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, proposed FEC Forms 4, 5, and 7, together with a detailed statement of explanation and justification; to the Committee on Rules and Administration.

EC-4033. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, June 1, 1980; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, the Committee on Foreign Relations, the Committee on Environment and Public Works, the Committee on Labor and Human Resources, the Committee on the Judiciary, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Finance, jointly, pursuant to order of January 30, 1975.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

S. 120. A bill for the relief of Maria Elena Foley and Caritina Ann Foley (Rept. No. 96-803).

S. 1528. A bill for the relief of Hyong Cha Kim Kay (Rept. No. 96-804).

S. 1624. A bill for the relief of Francisco Pang (Rept. No. 96-805).

S. 1772. A bill for the relief of Min-Zen Lin (Rept. No. 96-806).

S. 1785. A bill for the relief of Laird H. Hall (Rept. No. 96-807).

S. 1847. A bill for the relief of Ana Marlene Orantes (Rept. No. 96-808).

S. 1944. A bill for the relief of Peter Chi Hung Kwok, doctor of medicine, and Ping Chi Chau Kwok, husband and wife (Rept. No. 96-809).

S. 2027. A bill for the relief of James Daniel Bronson (Rept. No. 96-810).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 168. A joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day".

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, with an amendment:

S. 576. A bill for the relief of Larry Grathwohl (Rept. No. 96-811).

S. 1307. A bill for the relief of Gerald W. Frye (Rept. No. 96-812).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, with amendments and an amendment to the title:

S.J. Res. 156. A joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week".

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

H.R. 2148. An act for the relief of Colonel (doctor) Paul A. Kelly (Rept. No. 96-813).

H.R. 2475. An act for the relief of Isaac David Cosson (Rept. No. 96-814).

H.R. 3818. An act for the relief of Clarence S. Lyons (Rept. No. 96-815).

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command (Rept. No. 96-816).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Gen. David C. Jones, U.S. Air Force, for reappointment as Chairman of the Joint Chiefs of Staff.

Mr. STENNIS. Mr. President, as in executive session, also from the Committee on Armed Services, I report favorably the following nominations: Brig. Gen. Cohen Everett Robertson, to be major general and Col. Robert Martin Morgan, to be brigadier general in the Adjutant General's Corps, Army National Guard of the United States, Reserve of the Army; in the Reserve of the U.S. Navy, there are 22 permanent promotions to the grade of rear admiral (list beginning with William Jewell Gilmore); in the U.S. Air Force, Lt. Gen. Charles A. Gabriel to be general, Maj. Gen. Jerome F. O'Malley to be lieutenant general, and Gen. John W. Pauly, U.S. Air Force (age 57) for appointment to the grade of general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. STENNIS. In addition, Mr. President, in the Army, there are 1,666 promotions to the grade of colonel and below (list beginning with Lawrence Abramson); in the U.S. Navy, there are 64 temporary/permanent appointments/promotions to the grade of commander and below (list beginning with Robert J. Hartzman); and, in the Regular Air Force and Reserve of the Air Force, there are 89 appointments/promotions to the grade of colonel and below, as well as an appointment as Permanent Professor to the U.S. Air Force Academy (list beginning with Santa C. Ngo). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appears in the RECORD on May 21, May 22, and June 6, 1980, at the end of the Senate proceedings.)

By Mr. KENNEDY, from the Committee on the Judiciary:

William Albert Norris, of California, to be U.S. Circuit Judge for the Ninth Circuit.

Ruth Bader Ginsburg, of New York, to be U.S. Circuit Judge for the District of Columbia Circuit.

Jerre S. Williams, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Robert Boochever, of Alaska, to be U.S. Circuit Judge for the Ninth Circuit.

Helen Wilson Nies, of Maryland, to be an Associate Judge of the U.S. Court of Customs and Patent Appeals.

G. Wix Unthank, of Kentucky, to be U.S. District Judge for the Eastern District of Kentucky.

Clyde Frederick Shannon, Jr., of Texas, to be U.S. District Judge for the Western District of Texas.

Filemon B. Vela, of Texas, to be U.S. District Judge for the Southern District of Texas.

Robert P. Aguilar, of California, to be U.S. District Judge for the Northern District of California.

Justin L. Quackenbush, of Washington, to be U.S. District Judge for the Eastern District of Washington.

Horace W. Gilmore, of Michigan, to be U.S. District Judge for the Eastern District of Michigan.

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Martha Keys, of Kansas, to be an Assistant Secretary of Education (Legislation).

Don Alan Zimmerman, of Maryland, to be a Member of the National Labor Relations Board.

Richard John Rios, of California, to be Director of the Community Services Administration.

Michael T. Blouin, of Iowa, to be an Assistant Director of the Community Services Administration.

Edwin W. Martin, Jr., of Virginia, to be an Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education.

Daniel B. Taylor, of Massachusetts, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 2835. A bill to clarify and extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG:

S. 2836. A bill to encourage enlistment and service in the military reserve forces of the United States; to the Committee on Labor and Human Resources.

By Mr. MATHIAS:

S. 2837. A bill for the relief of the City of Baltimore, Maryland; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. MATSUNAGA):

S. 2838. A bill to amend section 51(d) of the Internal Revenue Act of 1954 to make technical modifications in the definition of an economically disadvantaged Vietnam-era veteran and to remove the age criterion applicable to such definition; to the Committee on Finance.

By Mr. PELL:

S. 2839. A bill to facilitate the carrying out of the activities and operations associated with the ceremony of inaugurating the President; to the Committee on Rules and Administration.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. METZENBAUM, Mr. MOYNIHAN, and Mr. BRADLEY):

S. 2840. A bill to provide assistance with regard to financially distressed hospitals serving the medically indigent, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. HATCH, Mr. METZENBAUM, Mr. MOYNIHAN, and Mr. BRADLEY):

S. 2841. A bill to amend the Social Security Act to provide for reimbursement reform with respect to financially distressed hospitals serving the medically indigent; to the Committee on Finance.

By Mr. JACKSON:

S.J. Res. 185. Joint resolution relating to a rationing contingency plan; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S.J. Res. 186. Joint resolution designating October 19, 1981 as a Day of National Celebration of the Two Hundredth Anniversary of the American Victory at Yorktown, Virginia; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 2835. A bill to clarify and extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes; to the Committee on Energy and Natural Resources.

SACRAMENTO VALLEY CANALS

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to clarify and extend the service area for the Sacramento Valley Canals of the Central Valley project in California. Specifically the bill would include the Yolo-Zamora Water District within the authorized service area of the Tehama-Colusa Canal and clarify that Dunnigan and Colusa Water Districts are also within the service area.

Mr. President, the Yolo-Zamora Water District was formed for the purpose of obtaining a supplemental water supply from the Central Valley project. In 1973 the district initiated negotiations with the Department of the Interior for a water contract. Interior believed that the district was within the authorized service area of the Tehama-Colusa Canal and negotiations proceeded until 1977 when a new legal opinion reversed the Department's position, requiring this legislation to include the Yolo-Zamora Water District within the service area of the Tehama-Colusa Canal.

This bill would make the district eligible to apply for a contract for water from the Federal project. It does not, however, commit the Secretary of the Interior to sign a contract with the district.

A similar legal problem may exist for the Dunnigan and Colusa Water Districts. I understand that the Solicitor's Office of the Department of the Interior is about to issue an opinion that the Dunnigan Water District and a portion of the Colusa Water District, both in Yolo County, are not within the authorized service area of the Tehama-Colusa Canal. The view, as I understand it, is that nothing in Yolo County is in the service area because the authorizing legislation for the Tehama-Colusa Canal does not mention Yolo County specifically.

If this opinion is issued, it would run counter to a long time understanding. In fact, the Tehama-Colusa Canal has been built through these two districts, and water delivery and distribution system contracts have been signed already by the districts.

This bill would clarify that the two districts are within the service area of the Tehama-Colusa Canal, and would validate the existing contracts between the districts and the Federal Government.

Mr. President, the Senate Energy and Natural Resources Committee has already held hearings on a House-passed bill, H.R. 2111, which deals with the Yolo-Zamora Water District. I am introducing this bill today to facilitate Senate committee action on Dunnigan and Colusa Water Districts as well as Yolo-Zamora. It is my hope that this bill can be reported to the full Senate in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the features authorized under section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended, and generally consisting of the Tehama-Colusa Canal with all necessary pumping plants and appurtenances, were intended to serve and were thereby authorized to serve those lands in Yolo County, California, lying within the boundaries of the Colusa County and Dunnigan water districts and existing contracts between the Secretary of the Interior and the Colusa County and Dunnigan water districts are hereby validated by the Congress with respect to the inclusion of said districts in the authorized service area of the Tehama-Colusa Canal.

Sec. 2. Section 3 of the Act of September 26, 1950 (64 Stat. 1036), as amended, is further amended by striking the phrase "Tehama, Glenn, and Colusa Counties or" and inserting in lieu thereof the phrase "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or".●

By Mr. ARMSTRONG:

S. 2836. A bill to encourage enlistment and service in the military Reserve Forces of the United States; to the Committee on Labor and Human Resources.

● Mr. ARMSTRONG. Mr. President, I am introducing today a two-part measure designed to encourage enlistment service in the military Reserves, and in the National Guard.

The Strength in Reserve Act of 1980 will provide educational benefits and preference in Federal hiring for servicemen and women who enlist or reenlist in the National Guard or in a component of the Ready Reserve.

The Strength in Reserve Act is the final element of a comprehensive package of legislation which, if enacted, should solve our military manpower problems without resort to a peacetime draft. The other elements of this comprehensive package are the National Defense Compensation Act, which I introduced on April 30, and the GI bill of 1980, which I introduced on April 22.

The purpose of S. 2629, the National Defense Compensation Act, is to provide the incentives necessary for retention of skilled personnel in the Armed Forces. It would provide "catchup" pay increases over and above cost-of-living increases of 9 percent for first-term military personnel, and 18 percent for career officers and enlisted men. The pay increases would be phased in over a 3-year period. I have been joined in sponsoring the National Defense Compensation Act by Senators McGovern, Garn, and Schmitt.

The purpose of S. 2596, the GI bill of 1980, is to bring back into the Active Forces the highly talented, highly motivated young men and women who lost interest in military service when Congress terminated eligibility for GI bill education benefits in December 1976. The GI bill of 1980 would provide tuition assistance of up to $3,000 a year, and a living stipend of $300 a month for veterans who complete 2 or more years of honorable service dating from October 1, 1980. I have been joined in sponsoring the GI bill of 1980 by Senators Goldwater, Leahy, McGovern, Moynihan, and Bellmon.

The National Defense Compensation Act and the GI bill of 1980 address the critical problems of retention and recruitment for the Active Forces. The bill I introduce today, the Strength in Reserve Act of 1980, addresses the equally important problem of recruiting and retention in our organized Reserve units.

It is clear that in the event of war, we will have to rely on the organized Reserve exclusively for support of our Active Forces.

The Strength in Reserve Act should increase substantially both the numbers and the skills of our organized Reserves without imposing additional burdens on America's taxpayers.

Title I of the Strength in Reserve Act would put members of the National Guard and the Ready Reserve at the head of the line for the guaranteed student loan (GSL) and the national defense student loans (NDSL) administered by the Department of Education. The bill provides for loan forgiveness of up to $2,000 a year for each year of honorable service in the Guard or Reserve, for a maximum of 4 years.

Title II of the Strength in Reserve Act would extend to members of the National Guard and the Ready Reserve the same number of preference "points" in Federal hiring accorded newly discharged veterans from the Active Forces. The point preference would be extended after 2 years of honorable service in a Guard or Reserve unit had been completed.

Because title I gives preference to guardsmen and reservists for existing education programs, rather than creating a new program, it will impose no additional burden on taxpayers.

I am convinced that enactment of the Strength in Reserve Act, couple with enactment of the National Defense Compensation Act and the GI bill of 1980, will solve our present military manpower problems, and do so more quickly, and less expensively, than they could be solved by any other means.

Our military manpower shortages are critical. Congress must take action this year to solve them.●

By Mr. CRANSTON (for himself and Mr. Matsunaga):

S. 2838. A bill to amend section 51(d) of the Internal Revenue Act of 1954 to make technical modifications in the definition of an economically disadvantaged Vietnam-era veteran and to remove the age criterion applicable to such definition; to the Committee on Finance.

● Mr. CRANSTON. Mr. President, I am introducing today, joined by my distinguished colleague from Hawaii and fellow member of the Veterans' Affairs Committee (Mr. Matsunaga), who also serves on the Finance Committee, a bill which would make both technical and substantive modifications in the definition of an economically disadvantaged Vietnam-era veteran for the purposes of the targeted jobs tax credit (TJTC) authorized by section 51 of the Internal Revenue Code as amended by section 321 of the Revenue Act of 1978 (Public Law 95-600).

The substantive effect of this amendment would remove from current law the requirement that in order to be considered an economically disadvantaged Vietnam-era veteran, an otherwise eligible individual must be under 35 years of age. In lieu of this requirement, the proposed bill would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent. This criterion is designed to rule out career field-officer grade military personnel who served during the Vietnam era and is derived from the approach taken in the Civil Service Reform Act of 1978 (Public Law 95-454) which in section 307(a) used the retirement-related criterion to amend the title 5 civil service law for the purposes of limiting five-point veterans preference status.

The purpose of this proposed TJTC modification is to permit the participation in the TJTC program of many Vietnam-era veterans who are rapidly approaching or have already passed the age of 35. Many of these Vietnam-era veterans actually served in Indochina and saw combat, and although these veterans are not experiencing the severe rates of unemployment experienced by younger veterans—in May, the rate of unemployment for Vietnam-era veterans ages 35 to 39 was 4 percent—there are still many whose employment-related needs would be served by eligibility for TJTC. As of September 1979, more than 2.6 million of the almost 9 million individuals who served during the Vietnam era were 35 years of age or older. The average age of Vietnam-era veterans was 32.9 years at the end of fiscal year 1979.

Mr. President, since the inception of the TJTC program, under which employers may receive a tax credit of up to $3,000 for hiring a member of an eligible target group, over 7,400 Vietnam-era veterans have found employment through this program. I believe the prospects for employment of older, noncareer military Vietnam-era veterans, especially those with families and who are experiencing severe problems in obtaining employment, would be enhanced by the enactment of this proposal.

I ask unanimous consent, Mr. President, that there be printed in the Record at this point a copy of the bill I am introducing, a summary and analysis thereof, and a cordon print showing the changes that would be made in the law by its enactment.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 51(d) of the Internal Revenue Act of 1954 is amended by—

(1) striking out "Vietnam veteran who is a member of an economically disadvantaged family" and inserting in lieu thereof "economically disadvantaged Vietnam-era veteran";

(2) striking out "Vietnam veteran who is a member of an economically disadvantaged family" and inserting in lieu thereof "economically disadvantaged Vietnam-era veteran";

(3) inserting after "1975," in subclause (i) of clause (A) "and not having retired from the Armed Forces at the rank of major or above, or its equivalent,";

(4) inserting "and" at the end of clause (B);

(5) striking out in clause (C) the comma and "and" and inserting in lieu thereof a period; and

(6) striking out clause (D) in its entirety.

SUMMARY AND ANALYSIS OF PROPOSED TJTC AMENDMENT

This amendment would make both technical and substantive modifications in the definition of an economically disadvantaged Vietnam-era veteran for the purposes of the targeted jobs tax credit authorized by section 51 of the Internal Revenue Code as amended by section 321 of the Revenue Act of 1978 (Public Law 95-600).

The technical modifications made by clauses (1) and (2) of the proposed amendment would conform the language of clause (C) of paragraph (1) of subsection 51(d) with the language of paragraph (4) of such subsection.

The substantive amendments, made by clauses (3) through (6), would have the effect of deleting from current law the requirement that in order to be considered an economically disadvantaged Vietnam-era veteran, an otherwise eligible individual must be under age 35. In lieu of this requirement, the proposed amendment would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent.

The age criterion was designed initially as part of 1977 amendments to the Comprehensive Employment and Training Act (section 305 of the Youth Employment and Demonstration Projects Act of 1977, Public Law 95-22), in part, to rule out career military personnel who served during the Vietnam era. A more finely tuned approach to this problem was used in the Civil Service Reform Act of 1978 (Public Law 95-454) which in section 307(a) used the criterion related to retirement to amend the title 5 civil service law for the purposes of limiting 5-point veterans preference status.

The other purpose of the 35-year-old limit is to place some limit on an individual's eligibility for a particular benefit. It is thought that the most straightforward way to deal with that concern is when it is decided whether to extend the TJTC beyond fiscal year 1981. The Veterans' Affairs Committee recently devised a very complicated formula for employment assistance under chapters 41 (Job Counseling, Training, and Placement Service for Veterans) and 42 (Employment and Training of Disabled and Vietnam Era Veterans) of title 38 which the Senate passed as part of S. 870/H.R. 5288, the proposed "GI Bill Amendments Act of 1980". That approach, which seems too complicated for the purposes of the TJTC, would define a Vietnam-era veteran as an individual with qualifying service during the Vietnam-era who is generally within 12 years of discharge or release from active duty (or within 2 years of the expiration of the individual's delimiting period for educational assistance under the GI Bill) and who was not retired from the Armed Forces at the rank of major or above, or its equivalent.

The purpose of this proposed TJTC modification is to recognize the fact that many Vietnam-era veterans are rapidly approaching or have already passed the age of 35. As of September 1979, more than 2.6 million of the almost 9 million individuals who served during the era were 35 years of age or older; more than half of these individuals were in the 35 to 39 year old category. The average age of Vietnam-era veterans was 32.9 years at the end of fiscal year 1979.

It should be noted that in an attempt to develop standardized definitions for Vietnam-era veterans efforts will be made later this year to incorporate a comparable definition to that proposed here in section 3(31) of CETA.

TITLE 26—INTERNAL REVENUE CODE

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PART IV—CREDITS AGAINST TAX

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Subpart D—Rules for Computing Credit for Employment of Certain New Employees

§ 51. Amount of credit

* * * * *

(d) Members of targeted groups

For purposes of this subpart—

* * * * *

(4) Vietnam veteran who is a member of an economically disadvantaged family *economically disadvantaged Vietnam-era veteran.*—The term "(Vietnam veteran who is a member of an economically disadvantaged family) *economically disadvantaged Vietnam-era veteran*" means any individual who is certified by the designated local agency as—

(A) (i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, *and not having retired from the Armed Forces at the rank of major or above, or its equivalent, or*

(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

(B) was not having any day during the preemployment period which was a day of extended active duty in the Armed Forces of the United States, *and*

(C) being a member of an economically disadvantaged family (determined under paragraph (9)) [, and]

[(D) not having attained the age of 35 on the hiring date.]

For purposes of subparagraph (B), the term "extended active duty" means a period of more than 90 days during which the individual was on active duty (other than active duty for training).●

By Mr. JACKSON:

S.J. Res. 185. Joint resolution relating to a rationing contingency plan; to the Committee on Energy and Natural Resources.

GASOLINE RATIONING

● Mr. JACKSON. Mr. President, on Thursday, June 12, 1980 President Carter transmitted to Congress his proposed gasoline rationing plan. This plan is being submitted in accordance with the requirements of the Energy Policy and Conservation Act, as amended last November by the Emergency Energy Conservation Act of 1979. The Congress directed the President to submit the plan, and it is now up to us to review it.

The elements of the plan and a discussion of options considered in developing it are described in two Department of Energy publications: "Standby Gasoline Rationing Plan" (DOE/RG-0029, June, 1980) and "Progress Report to Congress on the Standby Motor Fuel Rationing Plans" (DOE/RG-0038, June, 1980). These publications are available from DOE.

Under existing law the President's plan will be considered approved as a standby plan unless a joint resolution of disapproval is enacted within 30 days of continuous session of Congress after transmission of the plan. This review period will extend beyond the July recess because the law specifies that days during which the Congress is not in session for more than 3 consecutive days are excluded from the computation of the 30-day period.

The intent of the review procedures set forth in EPCA is to provide an opportunity for each House of Congress to vote on the plan if any Member desires such a vote. In order to provide this opportunity, a joint resolution of approval or disapproval must be introduced and referred to the appropriate congressional committee. If any such resolution has not been reported within 10 days of continuous session after its introduction it will be in order for any Member to move to discharge the committee with respect to the resolution under expedited procedures.

In order to insure the Senate an opportunity for a vote on the current rationing plan, I am today introducing a resolution of disapproval to serve as a vehicle for consideration of the plan. I do this as a supporter of the President's plan. I expect the plan to be approved. I feel strongly that it should be approved. If it is to be approved, it is appropriate that the full process under the law be afforded every opportunity to function. It is for this reason, and this reason only, that I am introducing this resolution.●

By Mr. WARNER:

S.J. Res. 186 Joint resolution designating October 19, 1981, as a day of national celebration of the 200th anniversary of the American victory at Yorktown, Va.; to the Committee on the Judiciary.

Mr. WARNER. Mr. President, today I am introducing a joint resolution designating October 19, 1981, as a day of national celebration.

October 19, 1981, will mark the 200th anniversary of the American victory at Yorktown, Va., which sealed the success of our Nation's struggle for independence.

That momentous victory, Mr. President, should be marked in a manner consistent with its unique place in our history. The celebration should be an event of national scope. For this is not

Yorktown's celebration, nor is it Virginia's. Just as the Fourth of July belongs to the Nation, so does the victory at Yorktown.

The American republic was proclaimed to the world on the Fourth of July, 1776, in the stirring words of the Declaration of Independence. It was one thing, however, to declare the creation of a republic; still another to make the declaration good. American independence had to be won on the battlefield, and our infant republic appeared to be lost more than once during the years of the prolonged struggle.

The evident significance of Yorktown is that the issue of our independence and the birth of our republic was decided once and for all by the victory at Yorktown. Less evident, but of equal significance, Yorktown also decided for America that ultimate political power would rest, not in the hands of governments, but in the people.

This celebration has served in the past and will serve again in 1981 as a tangible pledge to America's future. It will serve as a time of rededication to those enduring principles upon which this republic was founded and which have served us so well these 200 years.

Mr. President, I commend this joint resolution to the favorable consideration of our colleagues, and I ask unanimous consent that its text be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 186

Whereas October 19, 1981, is the two hundredth anniversary of the victory of General George Washington at Yorktown, Virginia;

Whereas such date marks the anniversary of the end of the heroic struggle by our forefathers for political freedom and the ideals of liberty upon which our institutions are founded; and

Whereas it is fitting that this historic event be commemorated in such a manner as to rekindle love of country and devotion to its principles by recalling to this generation the trials and triumphs of the past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1981, is proclaimed a Day of National Celebration of the Two Hundredth Anniversary of the victory of General George Washington at Yorktown, Virginia, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

By Mr. JAVITS (for himself, Mr. Kennedy, Mr. Randolph, Mr. Pell, Mr. Metzenbaum, Mr. Moynihan, and Mr. Bradley):

S. 2840. A bill to provide assistance with regard to financially distressed hospitals serving the medically indigent, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. Javits (for himself, Mr. Kennedy, Mr. Randolph, Mr. Pell, Mr. Hatch, Mr. Metzenbaum, Mr. Moynihan, and Mr. Bradley):

S. 2841. A bill to amend the Social Security Act to provide for reimbursement reform with respect to financially distressed hospitals serving the medically indigent; to the Committee on Finance.

THE FINANCIALLY DISTRESSED HOSPITALS ASSISTANCE ACT AND THE HOSPITAL AMBULATORY SERVICES REIMBURSEMENT REFORM ACT

Mr. JAVITS. Two related bills—the Financially Distressed Hospitals Assistance Act (cosponsored by Senators Kennedy, Randolph, Pell, Metzenbaum, Moynihan, and Bradley) and the Hospital Ambulatory Services Reimbursement Reform Act (cosponsored by Senators Kennedy, Randolph, Pell, Hatch, Metzenbaum, Moynihan, and Bradley). These measures are designed to avert a serious crisis in our Nation's hospitals—a crisis generated by the failure of public policy to provide adequate health insurance coverage and alternative sources of health care for all our citizens.

In recent years, the burden of providing essential health services, particularly ambulatory care services, to persons who cannot pay for such services has fallen increasingly on hospitals. Today, there are approximately 20 million Americans who do not qualify for medicaid and have no private health insurance. At the very time that hospitals are under increasing pressure to function as comprehensive care centers, especially for those individuals with no other source of care, the resources to develop new free-standing ambulatory care centers have become more limited. While about 90 percent of all inpatient hospital days nationwide are covered by insurance, only 30–40 percent of outpatient visits are insured. Thus, the hospitals most heavily involved in direct community service to the medically indigent are most heavily penalized by the current reimbursement system.

This tremendous community service, however, is seriously threatened in those institutions where the level of nonreimbursed services outweighs available resources, thereby jeopardizing the continued operation of the facility.

I became acutely aware of this critical problem several months ago as a consequence of our experience in New York with the Jewish Hospital and Medical Center of Brooklyn. This vitally important institution was on the brink of closing when city, State, and Federal officials intervened to assure the hospital's continued operation while a plan was developed to restructure the health care delivery system in the Bedford-Stuyvesant and Crown Heights communities of Brooklyn. Brooklyn Jewish is not unique, however. I believe that it represents only the beginning of what could soon evolve into a full-scale national crisis in our hospital sector if immediate corrective steps are not taken.

Brooklyn Jewish dramatically illustrated to all of us who became involved in this crisis the full implications of the loss of such a critical facility—that is, the devastating impact on the availability of health care services to persons who have no alternative source of care, and the crippling economic consequences to a community associated with the closure of such a facility including loss of jobs, increased welfare and unemployment, and social instability.

A variety of factors contribute to these hospitals' ever-worsening financial condition. Public hospitals, for example, which historically have been the source of care for individuals who generally have nowhere else to go, now face severe pressures to scale down their level of services.

Because of limits of the local tax bases, especially in our older urban areas, and the effect of inflation on the ability of municipalities to support services, there has been a sharp decline in the share of funds available to these institutions. More than 85 public hospitals in this country were closed between 1974–77. Much of the patient load of these institutions moved to voluntary hospitals. But the movement of uninsured patients from one facility to another only shifts the financial burden, it does not eliminate it.

In addition, as inflation continues to rise, cost containment efforts have increased. Such efforts, while having many positive effects on health care services delivery and costs, make it increasingly difficult for private institutions to absorb the cost of care for the medically indigent through such traditional methods as increasing the charges to paying patients. Moreover, current Federal reimbursement policies often worsen the situation. Medicare and medicaid, as currently structured, do not share the costs of care provided to the medically indigent as other insurers in some States presently do. In many States, income eligibility levels have not been raised to keep pace with inflation, thus increasing the number of persons who cannot afford health care but who cannot qualify for government assistance. This burden has resulted in staggering losses by hospitals throughout the country committed to providing this important community service.

A final problem confronting many of these institutions is the need to recognize their health care delivery system to meet the demand for ambulatory and emergency services in a more efficient and cost-effective manner. Most hospital outpatient departments as traditionally structured cannot assure the provision of comprehensive, continuous primary care services. If we rely on these traditional practice patterns, we will inevitably see increased hospital admissions in order to receive adequate reimbursement for services that are more appropriately provided in the ambulatory setting. Institutions must be helped to improve operations and management, accent ambulatory services, and reduce unnecessary reliance on costly inpatient services.

I cannot emphasize enough the seriousness of this issue or the urgency with which it must be addressed. We face an imminent threat to our continued ability to provide medical services to medically indigent persons. As we discovered during the episode with Brooklyn Jewish and are learning continually as new institutions reach out for assistance, current legislative authorities are not adequate to solve the problems of these facilities. New authorities are needed to provide appropriate short- and long-term assistance.

The bills I am introducing today, I believe, represent responsible solutions to this very serious problem. These proposals are carefully formulated to provide assistance only to those institutions which serve the underserved and which can document significant deficits due to the provision of ambulatory and emergency services to medically indigent persons.

In designing this legislation, I have included provisions that deal with three critical issues: The increasing demand on hospitals to serve as providers of ambulatory care services to the medically indigent, the need to provide adequate reimbursement for the services rendered so that these critical institutions can survive and prosper, and, finally, the need appropriately to reorganize and restructure these institutions to help them meet this demand for ambulatory services in an efficient and effective manner.

The first bill, the Financially Distressed Hospitals Assistance Act, provides emergency grants to prevent the closure of hospitals which are the principal source of essential health services in their communities and which are experiencing severe financial distress due to the high volume of ambulatory health services provided to medically indigent persons. Grants would provide for payment of accrued debts for private nonprofit hospitals to allow them to regain a stable financial position for future operations.

In addition, in order to permit and encourage improved management practices and necessary health services delivery reorganization, the bill provides grant support and technical assistance to eligible institutions to make appropriate changes in health care delivery toward these ends while assuring that there will be maintenance and improvement of the quality of health care and protection of any employees affected by hospital reorganization plans.

The Hospital Ambulatory Services Reimbursement Reform Act is designed to keep acute financial crises from recurring once stability has been achieved and to prevent such crises from occurring in other hospitals serving similar populations. The proposed reimbursement reform program presumes that the provision of care to those who cannot pay for it is part of the legitimate cost of operation in certain hospitals serving large indigent populations and should be accommodated within the reimbursement system.

In my judgment, until broader reforms in health care and hospital reimbursement are enacted, the only practical and fair solution to this problem is to require third party payers to share their proportionate burden of the cost of serving the medically indigent.

My proposal is limited to what I believe is the most critical source of deficit—unreimbursed ambulatory and emergency services. Under my bill, medicare and medicaid would be required to assume their share of "community service costs"—the costs to the hospitals of providing ambulatory services to those unable to pay. Maintenance of effort in financial support of eligible institutions by States and municipalities is required as a condition of assistance.

Both bills call for the establishment of a National Advisory Council on Hospital Financing and Stabilization and Reorganization composed of representatives of insurers, hospitals, consumers, labor, and experts on hospital organization and financing and health care delivery to develop regulations for the implementation of the proposed programs, to review applications for assistance, and to work with the Secretary in the development of a broad data base and long-term policy for the management of the hospital crisis addressed by these bills. It is hoped that the expertise of the Council will assure development and approval of high quality plans by the institutions in greatest need.

Finally, both bills require the Governor of the State in which the hospital is located to certify that the continued operation of the hospital is vital to the provision of essential health services to the community it serves.

Until now, we have lacked a comprehensive program to address these critical problems. Members of Congress whose constituents are affected by such crises have tried to be of assistance on a case-by-case basis by working within existing statutory guidelines or by acting as an advocate for special plans to address the gravest of the crises. But it is neither fiscally responsible nor acceptable health care policy to continue with case-by-case crisis management. The care of those persons who rely on hospitals for ambulatory health services is an enormous problem that must be addressed in a comprehensive fashion if these communities' health needs are to be met.

In this time of severe economic restraints, whatever solutions we offer must be fiscally responsible. Major reforms in medicare and medicaid law would perhaps solve the crisis in the hospital sector; certainly enactment of a comprehensive national health plan—which I have long favored—would accomplish this goal. But these are not presently viable options due to current budgetary constraints. Consequently, I consider my bills which provide very targeted assistance to the most needy hospitals to be responsible alternatives.

I am pleased to announce that Chairman Rangel of the Ways and Means Committee will be introducing companion legislation shortly to address the needs of these institutions. I am optimistic that a solution can be found. Under any circumstances, I firmly believe it to be unconscionable to abandon those health facilities—and the people they serve—which bravely endeavor to shoulder the burden largely ignored by so many. For my own part, I pledge to do whatever possible to assure that institutions such as these can continue to fulfill their health—and social—responsibilities.

Mr. President, I request unanimous consent that the text of these two bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financially Distressed Hospitals Assistance Act".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) many hospitals are experiencing severe financial distress as a consequence of providing health services to individuals who have no means by which to pay for such services;

(2) such severe financial distress jeopardizes the hospital's ability to continue operating; and

(3) certain of such hospitals are the principal source of health services in local communities and the closure of such hospitals would constitute a serious threat to the health and welfare of all residents of such communities.

(b) It is the purpose of this Act to—

(1) provide assistance to hospitals which are experiencing severe financial distress as a consequence of providing health services to individuals who have no means by which to pay for such services; and

(2) encourage the efficient and cost-effective delivery of health care services by such hospitals.

DISTRESSED HOSPITALS

Sec. 3. Part D of title XVI of the Public Health Service Act is amended by adding at the end thereof the following new section:

"DISTRESSED HOSPITALS

"Sec. 1626. (a)(1) The Secretary is authorized to make grants to financially distressed hospitals serving the medically indigent in order to maintain the essential health services provided by such hospitals. The Secretary may make a grant to a hospital if the Secretary determines that such hospital meets the following criteria:

"(A) The hospital is a non-Federal, public or private nonprofit, short-term acute care facility.

"(B) The hospital meets the requirements of section 1861 (e) of the Social Security Act.

"(C) The hospital primarily serves a medically underserved population as designated under section 330 (b) (3).

"(D) The hospital is certified by an independent accounting firm or fiscal intermediary, based upon generally accepted accounting principles, to—

"(i) have had a net patient care deficit (the excess of patient care expenses over patient care revenue) in the outpatient department and emergency room service of such hospital in each of the two preceding accounting years prior to the accounting year in which an application is submitted for a grant under this section; and

"(ii) the net revenue of the hospital did not exceed the net patient care deficit of the combined outpatient department and emergency room service for each of the two preceding accounting years.

"(E) During the two accounting years prior to the accounting year in which an application is submitted for a grant under this section, at least 60 percent of the total charges for patient services in the hospital's outpatient department and emergency room service were incurred by any combination of persons—

"(i) eligible for medical assistance under a State plan approved under title XIX of the Social Security Act or under other State or local medical assistance programs at the time of such service; or

"(ii) who were not covered by any form of health insurance with respect to the payment of or reimbursement for the services provided and were unable to pay for such services after the hospital has made reasonable efforts to collect all charges for such services.

"(F) The hospital must exhibit severe financial distress as demonstrated by—

"(i) liquidation and utilization of any and all financial resources at the disposal of the hospital consistent with the maintenance of high quality essential health services;

"(ii) the hospital's inability to obtain credit that would allow the hospital to operate on an ongoing basis;

"(iii) the insufficiency or untimeliness of pending financial relief from non-Federal governmental sources or third party payors to maintain the hospital as an ongoing entity; and

"(iv) the inability of the hospital to meet its essential financial commitments as demonstrated by a weekly cash flow analysis.

The hospital shall submit a statement regarding the hospital's severe financial distress under this subparagraph and such statement shall be certified by the governing authority of the hospital.

"(2) (A) The Governor of the State in which a hospital applying for a grant under this section is located shall advise the Secretary as to whether the applicant hospital is a necessary source of essential health services to the community in which it is located;

"(B) For the purposes of determining eligibility under this title, the requirements of subparagraphs (D) and (F) of paragraph (1) shall not apply to public general hospitals and hospitals owned or operated by a public benefit corporation.

"(b) A hospital shall submit an application for a grant under this section directly to the Secretary. Such application shall include—

"(1) a description of the hospital's financial condition in the three accounting years prior to the accounting year in which the application is submitted, which shall include all revenue categorized by source (from all sources), all expenses categorized by source (from all sources), and an estimate of accrued debt for which relief is sought under this section;

"(2) a description of the operational, managerial, and financial practices of such hospital;

"(3) a description of health services organization and delivery in the hospital and in the community in which the hospital is located;

"(4) a description of the current status and future availability of Federal, State, local, and other financial resources for the support of the hospital;

"(5) a hospital services reorganization plan that, based on the information provided under paragraphs (1), (2), (3) and (4), provides—

"(A) recommendations for appropriate improvements in the operational, managerial, and financial practices of the hospital;

"(B) recommendations for appropriate structural changes in health services delivery at the hospital emphasizing the enhancement of ambulatory services and the closure or conversion of unnecessary hospital beds;

"(C) a description of arrangements made by the hospital for protection of the interests of employees affected by any discontinuance of hospital services;

"(D) estimates of the funds required to implement such plans;

"(E) a timetable for the implementation of such plan;

"(F) the anticipated result of the implementation of such plan with respect to the continuation of the provision of essential health services by the hospital in an efficient and cost-effective manner; and

"(G) for the provision and maintenance of high quality essential health services by the hospital;

"(6) assurances that—

"(A) the hospital will take steps to improve performance in the collection of all accounts receivable and reimbursements for services;

"(B) the hospital will provide to the Secretary all requested information and data relating to the financial condition of the hospital, and the nature of patient utilization;

"(C) the hospital will submit progress reports to the Secretary describing the implementation of the hospital services plan provided pursuant to paragraph (5); and

"(D) the hospital will initiate use of such data collection and reporting procedures as the Secretary shall deem necessary;

"(7) assurances by—

The State, county, and municipality in which the hospital is located that State, county, and municipal funding for such hospital will be maintained at levels not lower than the level provided in the accounting year preceding that in which the application is submitted, increased by a percentage equal to the percentage increase in the medical care expenditure class of the Consumer Price Index in such accounting year or the annual increment permitted under existing State law whichever is less; except that the Secretary may waive the requirement of this subparagraph to the extent that lower funding levels reflect increased revenue or cost savings resulting from improved collections, management efficiencies, reorganization of services, changes in size of patient population, change in case mix, or other indices of performance in such hospitals as may be determined by the Secretary in consultation with the Advisory Council on Hospital Financing Stabilization and Reorganization provided in subsection (f).

"(c) At the request of the hospital, the Secretary may provide technical assistance in the development of the hospital reorganization plan provided in subsection (b) (5).

"(d) (1) Grants under this section may be used for payment of—

"(A) current indebtedness of the hospital, including documented receivables from persons identified in subsection (a) (1) (E) (i) and (ii) of this section, except in the case of public general hospitals or hospitals owned and operated by a public benefit corporation which shall not be eligible for payment of this item;

"(B) expenses necessary to modify or restructure health services delivery in conformity with the hospital services reorganization plan developed and approved under this section;

"(C) other appropriate managerial, financial, or operational expenses related to the management of such hospital pursuant to the hospital services reorganization plan; and

"(D) costs of retraining and appropriate severance pay if necessary, for personnel affected by any discontinuance of hospital services proposed by the hospital pursuant to the hospital services reorganization plan.

"(2) No grant under this section may be for more than three years, and the amount of a grant to a hospital under this section may not exceed two-thirds of the total of the cost estimated to be required for implementation of the hospital services reorganization plan approved under this section and the amount of the accrued debt of the hospital.

"(e) (1) An application shall not be approved by the Secretary unless—

"(A) the application includes the recommendations of the State and local health planning agencies; and

"(B) the application has been reviewed and approved by the Advisory Council on Hospital Financing Stabilization and Reorganization provided in subsection (f); and

(C) The Secretary of Labor has determined that fair and equitable arrangements have been made for the protection of the interests of employees affected by a reduction of beds, the discontinuance of any hospital services, or a restructuring of health care delivery proposed in the hospital services reorganization plan. Such protective arrangements shall include—

(1) the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements;

(2) the continuation of collective bargaining rights consistent with the National Labor Relations Act;

(3) the protection of individual employees against a worsening of their positions with respect to employment;

(4) reassignment of affected employees to other jobs; and

(5) paid training or retraining programs appropriate to implementation of the hospital services reorganization plan provided in this section, and arranging appropriate severance pay, if necessary.

"(e) The Secretary shall review and approve or disapprove an application within 90 days following receipt of such application. The Secretary shall provide specific reasons for disapproval of an application. If the Secretary disapproves the application, the applicant hospital may, within 30 days after such disapproval, submit a revised application in which such hospital responds to the specific reasons of the Secretary for disapproval with regard to the hospital's eligibility for a grant under this section. The National Advisory Council on Hospital Financing Stabilization and Reorganization established under subsection (f) shall consider such revised application and make its recommendation to the Secretary for action in accordance with this paragraph.

"(f) (1) There is established a National Advisory Council on Hospital Financing Stabilization and Reorganization (hereinafter in this section referred to as the 'Council').

"(2) The Council shall be composed of nine members appointed by the Secretary. The members shall be selected as follows:

"(A) Two members shall be individuals representative of hospital administration, one of whom shall represent a public general hospital.

"(B) Two members shall be individuals representative of private entities that insure individuals and reimburse hospitals on behalf of such individuals.

"(C) Two members shall be individuals who represent consumers of health care services at hospitals for which assistance is intended under this Act and who do not meet the criteria of subparagraph (A) or (B).

"(D) One member shall be an individual who represents an organization representing hospital employees.

"(E) Two members shall be individuals who, as a result of training or experience in fields of health care management, health services organization, health care financing, or health care quality assurance, are exceptionally well qualified to assist in serving on and carrying out the functions of the Council.

"(F) The Secretary or the Secretary's designee, the Director of the Health Care Financing Administration or the Director's designee, and the Assistant Secretary for Health or the Assistant Secretary's designee, shall be ex officio members of the Council.

"(3) The Secretary shall appoint the members of the Council not later than 60 days following the date of the enactment of this section. Four members of the Council shall be appointed for four years, three members of the Council shall be appointed for three years, and two members of the Council shall be appointed for two years. Members appointed to fill a vacancy previously filled by a member shall be appointed for a term of four years. A vacancy in the Council shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

"(4) The Council shall elect one member who is not a Federal employee to act as Chairperson and the Chairperson shall serve until the expiration of such member's term.

"(5) Five members of the Council shall constitute a quorum to do business. The Council shall meet at least quarterly at the call of the Chairperson or at the call of a quorum of its members.

"(6) The functions of the Council shall be to—

"(A) advise the Secretary with regard to the preparation of general definitions, regulations, and policy matters regarding the implementation of this section, and review and approve such definitions, regulations, and policy matters prior to implementation;

"(B) review and approve, disapprove, or make recommendations to the Secretary for modification of, grant applications, including the hospital services reorganization plans submitted pursuant to this section; and

"(C) monitor and evaluate the operational, managerial, and financial practices, and health services implemented pursuant to the approved health services reorganization plans using performance-based criteria determined in cooperation with the grantee.

"(7)(A) Each member of the Council not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(B) The Council is authorized to—

"(i) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(ii) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairperson and the Administrator of General Services; and

"(iii) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies.

"(C) Section 14 of the Federal Advisory Committee Act shall not apply to the Council.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.

"(g) There are authorized to be appropriated to carry out this section (other than subsection (f)) $200,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for the fiscal year ending September 30, 1982 and for the fiscal year ending September 30, 1983.

"(h) Payments made under this section may be made in advance and at such intervals and on such conditions as the Secretary may deem necessary.

"(i) For purposes of this section—

"(1) the term 'patient care expenses' means the total amount of expenses incurred in the provision of direct patient care by a hospital, reduced by an amount equal to (A) such hospital's obligation to provide services to persons unable to pay therefor under regulations issued pursuant to section 603(e), and (B) any community funds, or grants, gifts or endowment income, designated by a donor for payment of specific patient care expenses incurred;

"(2) the term 'revenue' means the total income of the hospital from whatever source, excluding (A) grants made to eligible hospitals under this section; (B) specific purpose service grants and grants for education, research, or training programs, from the Federal Government; and (C) restricted grants, gifts, endowments and income therefrom not designated by a donor for payment of specific patient care expenses incurred; and (D) unrestricted grants, gifts, and endowments, and income therefrom;

"(3) the term 'patient care revenue' means revenue collected for the delivery of direct patient care; and

"(4) the term 'essential health services' means—

"(A) services that are ordinarily furnished in a hospital for the care and treatment of an inpatient under the direction of a physician or dentist with respect to pediatrics, adult medicine, obstetrics, and gynecology and surgery;

"(B) preventive, diagnostic, therapeutic, rehabilitative, or palliative services provided to an outpatient, by or under the direction of a physician or dentist with respect to pediatrics, adult medicine, obstetrics, and gynecology, surgery, and psychiatry; and

"(C) 24-hour emergency room services with respect to the medical, surgical, dental and psychiatric needs of adults and children."

S. 2841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hospital Ambulatory Services Reimbursement Reform Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) many hospitals are experiencing financial distress as a consequence of providing ambulatory health services to individuals who have no means by which to pay for such services; and

(2) the costs of providing ambulatory and emergency services in such hospitals to such individuals is a part of the cost of operating that hospital and should be shared by all who pay for hospital care.

(b) It is the purpose of this Act to—

(1) encourage more efficient and effective use of ambulatory care and emergency services; and

(2) modify Federal reimbursement policies to provide assistance to hospitals delivering ambulatory and emergency services to patients who have no means by which to pay for such services.

MEDICARE REIMBURSEMENT

SEC. 3. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"COMMUNITY SERVICE COST REIMBURSEMENT FOR FINANCIALLY DISTRESSED HOSPITALS

"SEC. 1882. (a)(1) For purposes of reimbursement under this title to a financially distressed hospital (as defined in subsection (b)), there shall be included as an allowable cost item in determining reasonable cost under the regulations issued pursuant to section 1861 (v)(1), an amount equal to the community service costs incurred by such hospital in providing covered outpatient services (as defined in subsection (e)) to any individual—

"(A) whose family income is not in excess of an amount equal to 125 percent of the annually adjusted Community Services Administration income poverty guidelines in the area in which such hospital is located;

"(B) who is not covered for such services under a State plan for medical assistance; and

"(C) who is not covered by insurance for such service and is not able to pay for such services after the hospital has made reasonable efforts to collect all charges for such services.

"(2)(A) The amount of the community service costs shall be determined as follows:

"(i) The amount of the charges for covered outpatient services (as defined in subsection (e)) provided by such hospital to individuals described in paragraph (1) shall be divided by the amount of the charges for covered outpatient services provided by such hospital to all patients.

"(ii) The amount determined under clause (i) shall be multiplied by the reasonable cost of covered outpatient services provided by such hospital to all patients.

"(iii) The amount determined under clause (ii) shall be reduced by the amount of the charges for covered outpatient services provided to individuals described in paragraph (1) which are collected by such hospital.

"(iv) The amount determined under clause (iii) shall be further reduced by an amount equal to such hospital's obligation to provide services to persons unable to pay therefor, with respect to covered outpatient services, under regulations issued pursuant to section 603(e) of the Public Health Service Act.

"(B) The amount of the community service costs as determined under subparagraph (A) for a hospital shall be apportioned to the program established by this title in an amount which bears the same ratio to the total amount of such community service costs as the total charges by such hospital for beneficiaries under this title bears to the total charges by such hospital for all patients.

"(b)(1) For purposes of this title, a hospital shall be considered a financially distressed hospital for the first accounting year beginning after the date of the enactment of this section if such hospital—

"(A) is a non-Federal public or private nonprofit short-term acute care facility;

"(B) meets the requirements of section 1861(e);

"(C) primarily serves a medically underserved population (within the meaning of section 330(b)(3) of the Public Health Service Act);

"(D) is certified by an independent accounting firm or fiscal intermediary, based upon generally accepted accounting principles, to (i) have had a net patient care deficit (excess of patient care expenses over patient care revenue) in the outpatient department and emergency room service of such hospital in each of the two preceding accounting years prior to the accounting year in which an application is submitted under this section, and (ii) the net revenue of the hospital did not exceed the net patient care deficit of the combined outpatient department and emergency room service for each of such two preceding accounting years; except that the provisions of this subparagraph shall not apply in the case of a public general hospital or a hospital owned or operated by a public benefit corporation; and

"(E) demonstrates that for each of the two preceding accounting years, at least 60 percent of the total charges for patient services in the outpatient department and emergency room were incurred by any combination of (i) individuals eligible for medical assistance under a State plan approved under title XIX.

or under another State or local medical assistance program, at the time of such service, or (ii) individuals who were not covered by any form of medical insurance with respect to the payment of or reimbursement for the services, and were unable to pay for such services after the hospital had made reasonable efforts to collect all charges for such services.

"(2) With respect to accounting years beginning after the accounting year referred to in paragraph (1), a hospital shall be considered a financially distressed hospital if it meets the requirements of subparagraphs (A) through (D) of paragraph (1) and demonstrates that for the preceding accounting year at least 60 percent of the total charges for covered outpatient services were incurred by any combination of—

"(A) individuals who were eligible for medical assistance under a State plan approved under title XIX, or under another State or local medical assistance program, at the time such services were provided; or

"(B) individuals (i) whose family income is not in excess of an amount equal to 125 percent of the annually adjusted Community Services Administration income poverty guidelines in the area in which such hospital is located, and (ii) who were not covered by any form of medical insurance with respect to the payment of or reimbursement for the services provided and were unable to pay for such services after the hospital had made reasonable efforts to collect all charges for such services.

"(c) (1) In order for a hospital to participate in the reimbursement program established under this section, the State in which such hospital is located must submit an application to the Secretary on behalf of such hospital. Such application shall include—

"(A) a description of the hospital's financial condition, including any supporting documentation required by the Secretary;

"(B) documentation that the hospital meets the eligibility requirements set forth in subsection (b);

"(C) utilization data necessary to make the community service cost determinations under subsection (a);

"(D) projected changes in revenues and expenses in the event that the hospital is approved for participation in the reimbursement program established under this section;

"(E) description of current management practices of the hospital as the Secretary may determine to be necessary; and

"(F) a plan prepared by the State and the hospital for any appropriate reorganization of health care services, emphasizing the closing or conversion of unnecessary hospital beds or any managerial, operational, or fiscal reforms, to be undertaken by the hospital.

"(2) The Secretary shall approve an application if the Secretary determines that—

"(A) the hospital meets all applicable requirements of this section;

"(B) the application has been reviewed and approved by the National Advisory Council on Hospital Financing Stabilization and Reorganization established under subsection (f);

"(C) the hospital and the State in which the hospital is located have agreed to provide any additional information or reports which the Secretary may require; and

"(D) the State, county, and municipality in which the hospital is located provide assurances that State, county, and municipal funding for such hospital will be maintained at levels not lower than the level provided with respect to the preceding accounting year, increased by a percentage equal to the percentage increase in the medical care expenditure class of the consumer price index for such preceding accounting year or the annual increment permitted under existing State law whichever is less; except that the Secretary may waive the requirement of this subparagraph to the extent that lower funding levels reflect increased revenue or cost savings resulting from improved collections, management efficiencies, reorganization of services, changes in size of patient population, changes in case mix, or other indices of performance in such hospitals as may be determined by the Secretary in consultation with the National Advisory Council on Hospital Financing Stabilization and Reorganization.

"(3) (A) The Secretary shall approve or disapprove an application submitted under this subsection within 90 days after a completed application has been submitted. The Secretary shall provide specific reasons for disapproving any such application. If the Secretary disapproves any such application, the applicant State may, within 30 days after such disapproval, submit a revised application on behalf of such hospital responding to the specific reasons of the Secretary for disapproval of such application. The National Advisory Council on Hospital Financing Stabilization and Reorganization shall consider such revised application and make its recommendation to the Secretary for action in accordance with this paragraph.

"(B) Approval of an application shall be for a one-year period only. Any renewal application shall contain such additional information as the Secretary may require in order to make determinations of eligibility under this section.

"(C) Prior to approval of a renewal application, the Secretary may request that a hospital which is participating in the reimbursement program established under this section make appropriate changes in health care services organization or in managerial, operational, or fiscal practices. The hospital's responsiveness to such request may be taken into account by the Secretary in making determinations with respect to renewal applications.

"(d) Notwithstanding the provisions of subsection (a), the amount of additional reimbursement made under this title and under the State plan approved under the title XIX for any accounting year to any hospital on account of the provisions of this section and section 1902 (a) (41) may not exceed the combined net deficit in the operation of the outpatient department and emergency room for such accounting year.

"(e) For purposes of this section—

"(1) the term 'patient care expenses' means the total amount of expenses incurred in the provision of direct patient care by a hospital, reduced by an amount equal to (A) such hospital's obligation to provide services to persons unable to pay therefor under regulations issued pursuant to section 603(e) of the Public Health Service Act, and (B) any community funds, or grants, gifts, or endowment income, designated by a donor for payment of specific patient care expenses incurred;

"(2) the term 'revenue' means the total income of the hospital from whatever source, excluding (A) specific purpose service grants and grants for education, research, or training programs, from the Federal Government and (B) restricted grants, gifts, endowments and income therefrom not designated by a donor for payment of specific patient care expenses incurred and (C) unrestricted grants, gifts, and endowments and income therefrom;

"(3) the term 'patient care revenue' means revenue collected for the delivery of direct patient care; and

"(4) the term 'covered outpatient services' means preventive, diagnostic, therapeutic, rehabilitative, or palliative services provided in a hospital to an outpatient by or under the supervision of a physician or dentist.

"(f) (1) There is established a National Advisory Council on Hospital Financing Stabilization and Reorganization (hereinafter in this section referred to as the 'Council').

"(2) The Council shall be composed of nine members appointed by the Secretary. The members shall be selected as follows:

"(A) Two members shall be individuals representative of hospital administration, one of whom shall represent a public general hospital.

"(B) Two members shall be individuals representative of private entities that insure individuals and reimburse hospitals on behalf of such individuals.

"(C) Two members shall be individuals who represent consumers of health care services at hospitals for which reimbursement is intended under this section and who do not meet the criteria of subparagraph (A) or (B).

"(D) One member shall be an individual who represents an organization representing hospital employees.

"(E) Two members shall be individuals who, as a result of training or experience in fields of health care management, health services organization, health care financing, or health care quality assurance, are exceptionally well qualified to assist in serving on and carrying out the functions of the Council.

"(F) The Secretary or the Secretary's designee, the Director of the Health Care Financing Administration or the Director's designee, and the Assistant Secretary for Health or the Assistant Secretary's designee, shall be ex officio members of the Council.

"(3) The Secretary shall appoint the members of the Council not later than 60 days following the date of the enactment of this section. Four members of the Council shall be appointed for four years, three members of the Council shall be appointed for three years, and two members of the Council shall be appointed for two years. Members appointed to fill a vacancy previously filled by a member shall be appointed for a term of four years. A vacancy in the Council shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

"(4) The Council shall elect one member who is not a Federal employee to act as Chairperson and the Chairperson shall serve until the expiration of such member's term.

"(5) Five members of the Council shall constitute a quorum to do business. The Council shall meet at least quarterly at the call of the Chairperson or at the call of a quorum of its members.

"(6) The functions of the Council shall be to—

"(A) advise the Secretary with regard to the preparation of general definitions, regulations, and policy matters regarding the implementation of this section, and review and approve such definitions, regulations, and policy matters prior to implementation;

"(B) review and approve, disapprove, or make recommendations to the Secretary for modification of, the applications submitted pursuant to this section; and

"(C) monitor and evaluate the operational, managerial, and financial practices, and health services of hospitals receiving reimbursement under this section to the extent necessary to implement this section.

"(7) (A) Each member of the Council not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation.

All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(B) The Council is authorized to—

"(i) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(ii) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairperson and the Administrator of General Services; and

"(iii) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies.

"(C) Section 14 of the Federal Advisory Committee Act shall not apply to the Council.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.".

MEDICAID REIMBURSEMENT

Sec. 4. (a) Section 1902 (a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (40) the following new paragraph:

"(41) provide that payment to any hospital, which has been determined to be a financially distressed hospital under section 1882, shall include payment of the community service costs incurred by such hospital in providing covered outpatient services in the same manner as such payments are included under section 1882, except that such cost shall be apportioned to the State plan in an amount which bears the same ratio to the total amount of such community service costs incurred by such hospital as the total amount of charges by such hospital for individuals eligible for services under the State plan bears to the total amount of charges by such hospital for all patients.".

(b) Section 1902(a) (13) (D) of such Act is amended by inserting after "section 1122," the following: "and consistent with the requirements of paragraph (41) of this subsection relating to financially distressed hospitals,".

EFFECTIVE DATES

Sec. 5. The amendments made by this Act shall become effective 180 days after the date of the enactment of this Act.

● Mr. KENNEDY. Mr. President, many public and private nonprofit hospitals who provide health care for millions of needy Americans are on the brink of financial collapse. Although various factors, such as poor management practices and State and local cutbacks contribute to these hospitals' precarious condition, the underlying reason for their financial distress is that they provide care to those unable to pay. This is a serious problem that demands the immediate attention of the Congress.

Mr. President, let me begin by saying that, in this Nation of plenty, it is an embarrassment that 50 million Americans have inadequate health insurance coverage and an estimated 20 million have no health insurance at all and do not qualify for medicaid. Moreover, a growing number of undocumented aliens and refugees, most of whom are located in urban areas, are also without health insurance. These under- and uninsured persons place an enormous burden on hospitals, to the point of threatening their fiscal viability. Immediate passage and implementation of S. 1720, "The Health Care For All Americans Act" would be the most comprehensive solution to the crisis facing these hospitals. However, the crisis is so severe that they cannot wait for implementation of NHI.

Mr. President, in order to explore the current problems and some possible solutions, I have scheduled hearings of the Senate Subcommittee on Health and Scientific Research later this month. Possible legislative approaches are contained in S. 2840 and S. 2841, which I am pleased to sponsor with my friend and colleague, Senator Javits. Prior to examining the provisions of this bill, I would like to review some of the problems which these bills attempt to address. As I indicated previously, the primary cause of the crisis facing urban hospitals and some rural hospitals is the amount of care they provide to patients who cannot afford to pay. A New York Times editorial on September 12, 1979 stated this well:

> While there are plenty of diagnoses on how urban hospitals got into difficulty, such as poor management, inability to control costs, a health system that emphasizes high-cost hospital care rather than low-cost ambulatory care, and an excess of beds in some areas, the main reason is simply that hospitals provide care to patients who cannot afford to pay.

The editorial continues:

> Hospital costs have become a crushing burden for families just above the poverty level . . . these people need help, and so do the cities whose institutions have been going bankrupt serving them.

In addition to the problems of the uninsured, the limitations on eligibility and variations in scope of benefits contribute significantly to the gaps in coverage that exist among the medically indigent. These gaps are becoming wider as some states fail to adjust their income-related eligibility levels to take into account the impact of inflation, particularly on the wages of the working poor.

In the past, it has been possible for voluntary hospitals to recoup a portion of their losses on service to uncovered patients by passing this cost onto private-pay patients. However, today this option has become less viable because of the steady decrease in the number of patients who pay the established charges of these hospitals and because of the increase in patients covered by programs which pay on a cost basis. Additionally, there are no provisions allowing for reimbursement of free care, or legitimate "bad debts" under medicare and medicaid. Inadequacies in medicare and medicaid coverage of outpatient services also unfairly penalize those hospitals serving as the "family doctor" for residents in medically underserved areas, both urban and rural. Third party payers often do not cover, or cover inadequately, primary care services. As a result, hospitals serving poor people are denied reimbursements for a considerable portion of the care they provide.

These hospitals must therefore absorb the cost of caring for poor people when they require hospital care. That is becoming increasingly difficult as costs continue to grow and as constraints in the entitlement programs limit a hospital's ability to cross-subsidize services.

Preliminary data from the American Hospital Association shows that financial hardships are being experienced in both large and small cities and in many rural areas, such as New Mexico—places where there are a large number of patients who cannot afford to pay. Specific 1978 data for Los Angeles, Philadelphia, and New York provide an excellent insight into the problem. For example, in Los Angeles, eight nonprofit hospitals had operating deficits ranging from $40,000 to $1.4 million, with the total for all eight institutions well in excess of $4 million in 1978. In Philadelphia, 16 private, nonprofit hospitals operated with deficits, and 12 of these had a total deficit of $12.4 million.

In many areas, a substantial portion of deficits result from services provided in the ambulatory settings. As is well known, outpatient departments and emergency rooms of public and private hospitals are the major points of entry into the health care system for medically indigent persons in urban areas. In New York City during 1978, a total of 10 million hospital-based ambulatory visits occurred which represented between one-fourth and one-third of all physician contacts in the city; almost 90 percent of such contacts were made by patients who were poor or near poor. Unreimbursed ambulatory care in all New York City hospitals that year totaled $253 million. For the voluntary hospitals in this group, ambulatory care services accounted for three-quarters of their total deficits.

The problem is especially severe for public general hospitals, which have traditionally served as hospitals of last resort for the poor—the only place where everyone is guaranteed care regardless of their ability to pay. They provide health care to the uninsured, to residents of urban and rural medically underserved areas.

Public hospitals are important providers of primary care. With only 24 percent of all community hospital beds, they account for 45.3 percent of the outpatient visits. For residents in inner-city "medically underserved" areas, the outpatient department serves as the family doctor.

Similarly public hospitals provide a disproportionate amount of emergency care and are an invaluable resource in the training of health professionals.

Public hospitals, as well as private hospitals in poor communities, are major employers, particularly of semiskilled and unskilled workers, women and minorities. In inner-city areas where hospitals are often the only significant employer, the effect of closure on employees and their community is potentially devastating.

These hospitals, essential to the health and economic well-being of the communities in which they are located are faced with closures and cutbacks that threaten to undermine their ability to provide high quality care. The problem is national in scope. Eighty-five public hospitals closed between 1974 and 1977. Philadelphia lost its only public general hospital in 1977. Twenty-one California county hospitals were closed or sold in the last 6 years. Those that have not yet closed face cutbacks which force them to diminish the level of care and will lead to closure if nothing is done. In New York City, one municipal hospital is in the process of closing while 3 others in low income areas are slated for closure. For the city's 17 municipal hospitals an anticipated $80 million deficit for fiscal year 1980 is due to the provision of unreimbursed care. This figure is above and beyond the $400 million subsidy the city currently provides for its municipal hospitals. Hospitals in other cities face similar problems: Detroit General Hospital; Cook County Hospital in Chicago; Seven county hospitals; D.C. General; Wayne County General in Michigan; Grady Memorial in Atlanta; Richland Memorial in Columbia, South Carolina.

These are but a few of the hospitals serving primarily indigent patients which may be forced to close their doors if nothing is done.

A national health insurance system that provided everyone with full coverage for all necessary health care would alleviate much of the pressure on these hospitals; however, any program enacted today would require 2 to 3 years to implement and unless immediate action is taken to save these hospitals, they may not be there to benefit from future reforms. The problems are such that short-term relief as well as long-term reforms are necessary.

Mr. President, these measures provide some short-term solutions until NHI can be fully implemented. The financial distress grant program is specifically targeted for hospitals that provide needed health services and that are in eminent danger of closing. As Senator Javits has recognized, such a program can only be of temporary assistance. A hospital that is in financial distress because it provides substantial services to the poor will continue to experience distress after the rescue period if uncompensated care is not covered. Thus, a partial longer term solution to the problems facing these hospitals must include some improvements in the current health care financing system. In the legislation introduced today, medicare and medicaid would assume their proportional responsibility for the uncollectable outpatient costs of these distressed institutions. In addition, eligible hospitals would qualify for "reasonable cost" reimbursement for outpatient services. The focus on outpatient reimbursement improvements would also help in the long run by encouraging hospitals to treat patients in the less costly outpatient setting. Presently, medicaid does not require payment for outpatient services on a reasonable cost basis, and many States impose arbitrary payment limitations. For example, in the State of Pennsylvania, payment on behalf of medicaid recipients for outpatient visits is limited to a fixed dollar amount—$12—which is obviously insufficient to meet the costs of such services. These lower outpatients rates pose a particularly severe problem in medically underserved communities, where many people rely on hospital clinics and emergency rooms for basic medical care.

Mr. President, the fiscal crisis of these hospitals is clearly a Federal, as well as a State and local issue. In enacting medicare and medicaid, Congress recognized the Federal role in financing health care for senior citizens and poor people. Currently the growing gaps in the amount, duration and scope of coverage in both programs, as well as entitlement restrictions which force millions of needy citizens to rely on public hospitals and many inner city private hospitals as their only source of health care, needs rethinking. Physician shortages in many poor neighborhoods also force millions of Americans to rely on these hospitals as their family doctor.

Mr. President, the legislation introduced today, while not perfect, would begin to direct assistance toward those specific hospitals providing essential health services, especially outpatient and emergency care, to primarily indigent people. These hospitals are often the only source of health care for America's indigent citizens. Until now these hospitals have managed to provide that care without Federal assistance. But the signs are clear, unless we act now to assist these hospitals, many will be forced to close their doors, and we will have closed the doors on our Nation's most needy citizens.

Mr. President, I look forward to exploring the ramifications of these bills during a hearing of the Subcommittee on Health and Scientific Research scheduled for June 25, 1980, and I hope the witnesses will suggest improvements in the legislation as well as any alternative approaches to addressing this critical problem.●

ADDITIONAL COSPONSORS

S. 2111

At the request of Mr. Talmadge, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2111, a bill to incorporate the National Federation of Music Clubs.

S. 2186

At the request of Mr. Javits, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 2186, a bill to provide for the Overseas Private Investment Corporation to mobilize and facilitate investment in developing countries in order to increase trade with, and contribute to the development of, such countries.

S. 2619

At the request of Mr. Levin, the Senator from Tennessee (Mr. Sasser), and the Senator from California (Mr. Cranston) were added as cosponsors of S. 2619, a bill to provide for the termination of the Interim Convention on the Conservation of North Pacific Fur Seals of February 9, 1957, to prohibit the taking of seals in the Pribilof Islands, and for other purposes.

S. 2718

At the request of Mr. Stevenson, the Senator from Pennsylvania (Mr. Heinz), the Senator from Texas (Mr. Bentsen), the Senator from Missouri (Mr. Danforth), the Senator from Ohio (Mr. Glenn), the Senator from Delaware (Mr. Roth), the Senator from Alabama (Mr. Stewart), the Senator from New York (Mr. Javits), the Senator from Massachusetts (Mr. Tsongas), the Senator from New Mexico (Mr. Schmitt), the Senator from Montana (Mr. Melcher), the Senator from Indiana (Mr. Lugar), the Senator from Hawaii (Mr. Inouye), the Senator from Rhode Island (Mr. Chafee), the Senator from Texas (Mr. Tower), the Senator from Michigan (Mr. Riegle), and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2809

At the request of Mr. Packwood, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

AMENDMENT NO. 1888

At the request of Mr. Cranston, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of amendment No. 1888 intended to be proposed to S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children and for other purposes.

SENATE CONGRESSIONAL RESOLUTION 100—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO COST-OF-LIVING ADJUSTMENT FOR FEDERAL RETIREES

Mr. STONE submitted the following concurrent resolution, which was referred to the Committee on Governmental Affairs:

SENATE CONCURRENT RESOLUTION 100

Whereas the Nation is facing record interest rates, continuing inflation, and a rising cost of living:

Whereas many former employees of the Federal Government are living on fixed incomes and are especially adversely affected by the condition of the national economy;

Whereas the Civil Service Retirement System currently provides for semiannual cost-of-living adjustments which are necessary to the financial well-being of many Federal retirees;

Whereas a semiannual cost-of-living adjustment was adopted by the Congress in 1976 in Public Law 94-440 as a fiscally responsible alternative to the "1 percent plus" consumer price index annuity adjustment previously enacted in 1969 in Public Law 91-83; and

Whereas Federal retirees have entered into various financial transactions and incurred certain obligations based on the commitment of the Congress to postretirement financial security as expressed in Public Law 94-440: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate should make every effort and seek every means to develop legislative proposals within their respective jurisdictions which maintain the current cost-of-living adjustment for Federal retirees to ensure the integrity of the Civil Service Retirement System.

SENATE RESOLUTION 461 AND SENATE RESOLUTION 462—SUBMISSION OF RESOLUTIONS TO DISAPPROVE DEFERRAL OF SEWAGE TREATMENT CONSTRUCTION GRANT FUNDS

Mr. NELSON (for himself, Mr. Zorinsky, Mr. Pell, Mr. Stevenson, Mr. McClure, Mr. Pressler, Mr. Durenberger, Mr. Cohen, Mr. Hatfield, Mr. Levin, Mr. Heinz, Mr. Durkin, Mr. McGovern, Mr. DeConcini, Mr. Culver, Mr. Tsongas, Mr. Cranston, Mr. Cochran, Mr. Kennedy, Mr. Dole, Mr. Weicker, Mr. Jackson, and Mr. Church) submitted two resolutions, which were referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975:

SENATE RESOLUTION 461

Resolved, That the Senate disapproves the deferral of $873,500,000 of budget authority (a portion of Deferral No. D 80-65) for Environmental Protection Agency grants for waste treatment works (authorized under section 201 of the Federal Water Pollution Control Act) set forth in the special message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

SENATE RESOLUTION 462

Resolved, That the Senate disapproves the deferral of $3,210,409,574 of budget authority (a portion of Deferral No. D 80-65) for Environmental Protection Agency grants for waste treatment works (authorized under section 201 of the Federal Water Pollution Control Act) set forth in the special message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

Mr. NELSON. Mr. President, I am today submitting, with 22 cosponsors, a resolution to disapprove, in part, the April 16, 1980, deferral of fiscal year 1980 sewage treatment construction grant funds proposed by the administration. This action effectively brings the sewage treatment plant construction programs in at least 35 States to a halt. This resolution provides sufficient funds so that these States can meet their most pressing needs.

The sewage treatment construction grants program was established by the 1972 Water Pollution Control Act (Public Law 92-500). The program provides 75 percent Federal grants to municipalities for construction of wastewater treatment facilities, with the objective of restoring and maintaining "the chemical, physical, and biological integrity of the Nation's waters."

Funding for the program is authorized at $5 billion annually, but appropriations have not reached that amount for several years, even though the most recent nationwide needs survey by the Environmental Protection Agency (EPA), in 1978, found that $54 billion was required to complete needed treatment facilities. Since 1972, $31.6 billion has been appropriated.

Moneys are appropriated annually and are available for 2 fiscal years. For example, funds appropriated in fiscal year 1979 are available through the end of fiscal year 1980. Once appropriated, the moneys are spent in a two-stage process of allotment and obligation. First, States receive an allotment based on a formula which takes into account population and need. These allotted funds remains in the Federal Treasury until a State obligates them for a specific sewage treatment project. Projects are chosen on the basis of an EPA-approved priority list. Any moneys not obligated by a State at the end of the second year are subject to reallotment to other States by EPA.

A new nomenclature has developed based on the ability of States to obligate their allotted funds in a timely and efficient manner. Those States which obligate all or nearly all of their allotment during the first fiscal year are fast-moving while those which wait until the closing moments of the second fiscal year are slow-moving States. This resolution will provide assistance to the "fast-moving" States which have already obligated their fiscal year 1979 allotment, and need part or all of their fiscal year 1980 moneys in fiscal year 1980.

According to the Environmental Protection Agency, which administers this program, there are 35 States in this category which are now or will soon be out of money to operate their clean water programs. These fast-moving States have spent all or nearly all of their fiscal year 1979 funds and are in serious and immediate need of their fiscal year 1980 funds. The remaining States, which have been slow in obligating their construction grant allotments, still have sufficient fiscal year 1979 money to carry their construction programs through the end of the fiscal year 1980 construction season, and are not in immediate need of their fiscal year 1980 allotment.

By this unfortunate action, the administration has penalized the efficient State governments and rewarded those which have lagged behind in discharging their responsibility to clean up the Nation's waters.

Their justification for taking this action is that the fiscal year 1981 budget for the construction grants program would be reduced by $95 million. They argue that a delay in spending fiscal year 1980 funds will produce a ripple effect that will mean a $95-million cut in fiscal year 1981 outlays.

This is nothing more than a paper savings. In fact, rather than saving money, this action will actually increase the costs to local, State, and Federal Governments. Sooner or later, these projects must be completed. Yet, the longer they are delayed, the more they will ultimately cost. This is false economy of the worst kind.

Furthermore, by this action, the administration has betrayed the compact between the Federal Government and municipalities to meet the mandate of Congress to improve water quality and protect the public health. The lesson the administration is giving to State and local governments is that they should slow down their efforts, and not be concerned with complying with Federal law.

The situation facing Hayward, Wis., a small community in the northern part of my State, is all too typical. Hayward is under direct orders from the EPA to reduce effluent discharges into the Namekagon River, a component of the National Wild and Scenic River System. The community has already qualified for construction funds and is ready to begin work as soon as the money is released. The community's existing sewage treatment plant is outmoded. If Hayward does not receive any money this summer, then local businessmen will have to abandon their plans to build a new 100-unit motel, and work on a new $7 million high school will be thrown in jeopardy—all because the local government cannot provide the required sewage treatment facilities. This is an unconscionable burden on a community that has done everything it can to comply with the Federal Government's water pollution control directives, and has based its own town planning and economy on the Federal Governments' promises.

Hundreds of other cities and towns across the country are faced with this same cruel dilemma: Either put off work on badly needed construction projects or borrow the money from the private sector to complete the projects—with no assurance of reimbursement from the Federal Government. Furthermore, the interest costs on money borrowed from the private sector, if a community chooses or is forced into this alternative, is not a reimbursable expense, and if the project is a new one rather than an ongoing project, as is the case for Hayward, then the entire project cost is not reimbursable.

Just last week, I received a report to

the Congress from the General Accounting Office calling for more assistance to small communities in meeting Federal pollution control requirements.

This study found that for communities with populations under 10,000, complying with Federal regulations "exacts a much higher economic and social price because the cost of constructing environmental control projects must be shared by fewer taxpayers, sometimes placing severe burdens on low-income residents." (Report to the Congress, "EPA Should Help Small Communities Cope With Federal Pollution Control Requirements," CED–80–92, May 30, 1980.) Now, instead of increasing Federal assistance, the administration is proposing to eliminate the 75-percent Federal funding which has been provided to these communities until now to comply with Federal law. This is a desertion of unparaleled proportions.

Sewage treatement construction programs in the fast-moving States are already suffering because of this deferral. According to the EPA, these 35 States need approximately $1.2 billion to meet their fiscal year 1980 construction needs. Therefore, in order to partially meet these needs, I am introducing this resolution to disapprove of a portion of the $3.2 billion deferral equal to the amount that the EPA had budgeted to spend in fiscal year 1980.

The EPA originally estimated that approximately $1 billion would be needed by the fast-moving States in fiscal year 1980. At the time of the April deferral, a few States had obligated a total of $126.5 million. This resolution releases the remaining $873.5 million which had already been budgeted for obligation in fiscal year 1980. It is my intention that the funds be distributed to those States which are either out of money now or will be before the end of fiscal year 1980. I ask unanimous consent that a table which shows each of the 35 States' fiscal year 1980 need and the portion of this need which would be provided under this resolution be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Fiscal year 1980 construction grant needs and funding under Nelson proposal

[In millions of dollars]

State	Fiscal year 1980 need	Nelson proposal
Alabama	$20.9	$14.9
Alaska	15.5	11.1
Arizona	17.8	12.7
California	324.1	231.4
Connecticut	30.0	21.4
Florida	53.4	38.1
Georgia	29.5	21.1
Idaho	4.7	3.3
Illinois	53.8	38.4
Iowa	4.7	3.3
Kansas	1.2	.9
Louisiana	34.0	24.3
Maine	20.0	14.3
Massachusetts	46.0	32.8
Michigan	44.7	31.9
Minnesota	38.9	27.8
Mississippi	32.2	23.0
Missouri	9.6	6.8
Nebraska	18.5	13.2
New Hampshire	15.7	11.2
New Mexico	5.8	4.1
North Carolina	38.1	27.2
Oregon	24.2	17.3
Pennsylvania	58.9	42.0
Rhode Island	15.6	11.1
South Carolina	5.2	3.7
South Dakota	14.7	10.5
Tennessee	19.4	13.8
Texas	24.3	17.3
Utah	6.9	4.9
Vermont	5.7	4.1
Virginia	28.9	20.6
Washington	39.9	28.5
West Virginia	49.1	35.1
Wisconsin	62.6	44.7
Puerto Rico	2.0	1.4
Trust Territories	7.2	5.1
Total	1,223.7	873.5

Mr. NELSON. Mr. President, this ill-conceived deferral by the administration will only end up by raising the costs of clean water to both the Federal and local governments. By employing their penny-wise, pound-foolish approach, the $95 million which the administration wants to save now will be spent many times over in subsequent years. Hundreds of small and large communities nationwide cannot afford this shortsighted and false economy and neither can the Federal Government.

SENATE RESOLUTION 463—SUBMISSION OF A RESOLUTION RELATING TO CERTAIN CLAIMS INVOLVING MEMBERS, OFFICERS, AND EMPLOYEES OF THE UNITED STATES SENATE

Mr. PELL (for himself and Mr. HATFIELD) submitted the following resolution, which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 463

Resolved, That the Sergeant at Arms of the Senate may consider and ascertain and, with the approval of the Committee on Rules and Administration, determine, compromise, adjust, and settle, in accordance with the provisions of section 2672 of title 28, United States Code, any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any Member, officer, or employee of the Senate while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The Committee on Rules and Administration may, from time to time, delegate any or all of its authority under this resolution to the Chairman. Any compromise, adjustment, or settlement of any such claim not exceeding $2,500 shall be paid from the contingent fund of the Senate on a voucher approved by the Chairman of the Committee on Rules and Administration.

● Mr. PELL. Mr. President, I am today submitting a Senate resolution for myself and the ranking minority member of the Committee on Rules and Administration, Mr. HATFIELD, which will establish a procedure for handling claims in the Senate which arise out of the Federal Tort Claims Act.

Two Federal court decisions have ruled, and an earlier opinion of the Comptroller General took the view, that the Federal Tort Claims Act is applicable to the legislative branch. The act contemplates that there will be established in every covered Federal agency an appropriate mechanism for the administrative adjustment of claims, and section 2672 of title 28, United States Code, specifically authories the establishment of such a mechanism.

In view of the foregoing, it seems desirable that the Senate establish such an administrative mechanism so as to facilitate the application of the Federal Tort Claims Act to the Senate.

It is my intention to schedule consideration of this resolution by the Rules Committee at an early date. However, since we consider it desirable to have before the committee the comments of the General Accounting Office, the Department of Justice, and the Senate Judiciary Committee, those views will be requested and committee consideration will be deferred until such comments have been received.●

AMENDMENTS SUBMITTED FOR PRINTING

HEALTH SERVICES PROMOTION ACT OF 1980—S. 988

AMENDMENT NO. 1896

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to S. 988, a bill entitled the "Health Science Promotion Act of 1979."

THE BATTLE AGAINST REYE'S SYNDROME

Mr. MELCHER. Mr. President, we need to actively and vigorously battle Reye's syndrome. The amendment I offer today would establish the position of Associate Director for Reye's syndrome within the National Institute of Allergy and Infectious Diseases. It is an amendment to S. 988, this year's health science bill.

Reye's is an affliction commonly associated with the aftermath of a viral illness and is a mortal threat to our young. Symptoms include persistent vomiting and lethargy which precede a rapid loss of orientation, extreme anger or irritability and hyperactivity and accompanied by degeneration of the intestines and liver damage. Coma is common because of lack of brain oxygen which may result in permanent brain damage or death. The average age of the victims is 11 years.

For more than a year and a half now, I have been doing all I can to stimulate an accelerated research program on Reye's and to help focus public attention on it. Last September I introduced S. 1794, the Reye's Sydrome Act. I brought it before the Senate in the hope that experienced opinion could be brought to bear on the bill through hearings so that we could work out the best possible means of fighting Reye's syndrome. Hearings have never been held on the bill. Hearings on S. 1794 are still needed. Over the last several months, I have refined my views and the amendment I offer today will help toward accomplishing much of what the bill set out to do without the expenditure of great sums of money or extra administrative webs.

This amendment that I offer for printing in the RECORD creates no new executive network. It simply establishes in law one extra personnel position at the National Institute of Allergy and Infectious Disease to coordinate Reye's activities. In that sense it is no different than the four Associate Directors' posts established in the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases under section 434 of S. 988, Health Science Promotion Act of 1979. When we take up the bill in the Senate my amendment for Reye's syndrome is an important and necessary consideration.

I have selected the National Institute of Allergy and Infectious Diseases as the place to coordinate Reye's activities for two reasons. First, in 1979 NIAID was involved in the greatest number of projects directly and indirectly related to Reye's syndrome. According to the NIH report on Reye's activities which I requested last year through the Senate Appropriations Committee, NIAID funded 10 projects directly related to Reye's and 42 projects indirectly related to Reye's. The work they are doing I believe properly equips them as the appropriate location of a monitor of Reye's syndrome.

The second reason I have selected NIAID as a coordinating center for Reye's is that they are doing that now in an informal way. When I asked for that NIH report last year, NIH set up a Reye's committee to put together the report. The chairman of that group was Dr. John R. LaMontagne, the influenza program officer at NIAID. The choice of NIAID as the centerpiece of the group was the educated choice of NIH and my amendment would sustain their judgment. The committee included representatives of the National Institute of Child Health and Human Development; the National Institute of Neurological and Communicative Disorders and Stroke; the National Institute of Arthritis, Metabolism, and Digestive Diseases; the Division of Research Resources; the National Institute of Environmental Health Sciences; and the Office of Extramural Training and Research.

That means seven different NIH units are represented. I find that rewarding and puzzling at the same time. To begin with, that is exactly the same number of units which I included in my Reye's Syndrome Coordinating Committee and which was included in S. 1794. HEW criticized my proposal as overlapping and isolationist. It is interesting to note that, when NIH was allowed to make the decision on their own, they took a path highly comparable to mine despite the objections of HEW.

I said there were two reasons for putting the monitoring office in NIAID. There are any number of reasons that substantiate the need for an ongoing, reliable leadership and coordination office for Reye's at NIH. For openers, I share the concern of the chairman of the Senate Health Subcommittee that we can no longer proliferate boards for specific diseases. I think we need a central focus, however, and this one new administrative officer should go a long way in that direction. The position is needed because action is finally being taken on Reye's where little had been done before.

First, the NIH report this year pointed to problems that need to be solved. NIH reported that the incidence of Reye's syndrome follows seasonal patterns which are poorly understood. They went on to note that Reye's is apparently associated with viral diseases but acknowledged that the differences between influenza A and B viruses and their association with Reye's snydrome is not understood. NIH also mentioned that it is not possible to identify those individuals who might be at increased risk to develop Reye's syndrome. There is clearly much to be done and we will need a central office which we can turn to for information.

NIH recognizes that more needs to be done on Reye's. On May 16 four institutes at NIH, including the National Institute of Allergy and Infectious Diseases and the Institute of Neurological and Communicative Disorders and Stroke, sent out an announcement of research grants related to Reye's syndrome. The request for grant application has begun and that, too, points to the need for a formal coordinator.

Probably the most encouraging development so far this year on Reye's syndrome is that the Office of Medical Applications of Research has agreed to my request for a consensus development meeting. It will bring together the Center for Disease Control, the Food and Drug Administration and four NIH institutes to try to reach a consensus on the diagnosis, prevalence and therapy for Reye's syndrome. That is further evidence of the need for a stable office to monitor Reye's work.

I am gratified that the Health Subcommittee specifically mentioned in the report its concern that research, both basic and applied, into the causes and treatment of Reye's syndrome receive high priority and attention. I agree but this year's earlier national attention on Reye's has faded away. Procrastination is a normal fault and the temptation to wait until Reye's strikes again to take the needed steps is very great. While I applaud the Health Subcommittee's acknowledgment of the Reye's problem, I hope the subcommittee and the rest of the Senate will join me in taking this prudent, low-cost, uncomplicated step to help draw the line against Reye's syndrome. I hope the Senate will approve the position of Associate Director for Reye's syndrome within the National Institute of Allergy and Infectious Diseases.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1896

On page 186, line 12 add the following new subsection (d) (1):

"There is established within the National Institute of Allergy and Infectious Diseases an Associate Director for Reye's Syndrome who shall be under the supervision of the Director of such Institute. The Associate Director shall be responsible for programs regarding Reye's Syndrome and shall report (and make recommendations) on a regular basis through the Director of such Institute, to the Director of the Institutes concerning the following duties:

"(2) The duties of the Associate Director shall include—

"(A) developing a coordinated plan for the Institutes with respect to research and training concerning Reye's Syndrome;

"(B) assessing the adequacy of management approaches for the activities within the Institutes concerning Reye's Syndrome and developing improved approaches if needed;

"(C) monitoring and reviewing expenditures by the Institutes concerning Reye's Syndrome;

"(D) promote basic and clinical research relating to the causes, diagnosis, and early detection of Reye's Syndrome;

"(E) preparing a recommended annual coordinated budget for all activities undertaken and supported by the Institutes concerning Reye's Syndrome.

FOREIGN SERVICE ACT OF 1979—S. 1450

AMENDMENT NO. 1897

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to S. 1450, a bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

● Mr. HATFIELD. Mr. President, today I wish to offer an amendment to S. 1450, the Foreign Service Act, which is now being considered by the Foreign Relations Committee.

The plight of the displaced homemaker is becoming well-recognized in a society where nearly one of every two marriages ends in divorce. These divorced or widowed women who have devoted many years to maintaining the home and family often suffer serious consequences when they attempt to gain outside employment, or receive their rightful pension or retirement benefits.

Of special concern to me today, however, is a group of divorced women that have even greater impediments to economic independence than those of the displaced homemaker. I refer to this small, but significant group as "displaced diplomats."

For in effect, the former wives of Foreign Service officers are just that. Despite the fact that the Foreign Service homemaker is a vital resource, enriching the overseas communities with thousands of hours of donated service, she is denied by Federal law a share of her former husband's pension or survivor benefits.

A recent time-use survey completed by the Association of American Foreign Service Women showed that wives of middle- and upper-rank officers donate from 1 to 4 weeks of work per month as a volunteer. Yet divorced Foreign Service wives are often left penniless after long years of unpaid Government service abroad. They have no employment record, no modern skills, no social security, no shared annuity, no survivor benefits, and often exorbitantly expensive medical insurance.

Until only a few years ago, Government regulations "discouraged" wives of Foreign Service officers from seeking employment overseas. Even had she wanted to work, cultural, legal, and linguistic barriers, as well as the constant international mobility of her husband's job, prevent her from doing so. Until 1972, wives were graded annually along with their husbands. Although no longer thus graded, the overwhelming majority of Foreign Service wives have continued to work with their husbands as a partner for the American Government.

It is a recognized fact that the Foreign Service wife has earned her retirement benefits in this partnership—a partnership which reaches beyond the traditional marital one. Yet, she is unable to receive them. A recent victim of this policy is Jane Dubs, former wife of the recently assassinated U.S. Ambassador to Afghanistan. She served beside her husband in the Foreign Service for 30 years until their divorce in 1976. When Mr. Dubs was killed, her alimony payments ceased and she was refused any part of his considerable survivor's benefits. The money went instead to his new wife of only 3 years.

Currently, the Foreign Service Retirement System prohibits retirement benefits to divorced spouses, regardless of the number of years of marriage. The amendment which I offer today was originally introduced as H.R. 2857 by my distinguished colleague Congresswoman Pat Shroeder. It establishes the presumption that the Foreign Service spouse, married 10 years or more, who is divorced after enactment, be entitled to a pro rata share of the retirement annuity, subject to court review.

The pro rata formula would be based upon the years of marriage during creditable service over the total years of creditable service divided by two. Hence, the spouse who was married for 20 years of a 30-year career would be entitled to one-third of the retirement annuity.

Because of the variations in State domestic relations law, the pro rata presumption is needed to instruct attorneys and judges to consider the pension rights and needs of the individuals involved in a divorce. It provides a mechanism to assure that State courts consider the retirement benefits as part of the marital property settlement. However, a State court ruling can affirm or modify the pro rata formula, looking at the individual merits of each case.

In 1960 and again in 1965, Congress recognized the unique problems of Foreign Service wives by making the annuity mandatory. With the divorce rate approaching 50 percent, and perhaps even higher for couples involved in the rigors of Foreign Service, we can no longer afford to treat the divorced wife as if she no longer exists. She has the same minimal needs for survival as a widow, and Congress needs to make that clear.

Older women are the fastest growing poverty group in America. About half of the 5 million older women who are living alone have yearly incomes of $3,000 a year or less. The poverty rate for older women is about 65 percent higher than it is for older men. This frightening situation is partly due to inequities in our pension system. I commend Congresswoman Schroeder for her innovative approach to solving this problem. It is a proposal which, according to the Congressional Budget Office, would not increase budgetary outlays, but rather redistribute them more fairly. I hope that my colleagues will join me in a small, but significant step aimed at remedying the retirement inequities of former spouses of Foreign Service officers.●

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981—S. 2377

AMENDMENT NO. 1898

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself, Mr. Laxalt, and Mr. Hatch) submitted an amendment intended to be proposed by them, jointly, to S. 2377, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes.

● Mr. WEICKER. Mr. President, when the Senate turns to the consideration of S. 2377, the Department of Justice authorization bill, I intend to propose, for myself and Senators Laxalt and Hatch, an amendment which would modify the special prosecutor provisions contained in the Ethics in Government Act of 1978. This amendment contains the provisions of S. 2625, which I introduced on April 30. My introductory remarks on the bill are found on page S. 4401 of the Congressional Record for that day.

I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 1898

On page 61, between lines 10 and 11, insert the following:

Sec. 120. (a) Section 591 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives whenever an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section. The information contained in such notification shall not be disclosed to any third party.".

(b) Section 592(b)(1) of such title is amended by adding at the end thereof the following: "In addition to notifying the division of the court specified in section 593 (a) of this title, the Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives.".

(c) Section 592(b)(3) of such title is amended to read as follows:

"(3) Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committees on the Judiciary of the Senate and the House of Representatives, unless—

"(A) leave is granted by the division of the court upon the request of the Attorney General; or

"(B) a committee determines that disclosure of such memorandum to the public will not, in the committee's judgment, prejudice the rights of any individual.".

(d) Section 593(b) of such title is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding the following at the end thereof:

"(2) The division of the court shall notify the Committees on the Judiciary of the Senate and the House of Representatives of the appointment of a special prosecutor under paragraph (1). The special prosecutor shall, within 15 days from the date of appointment, disclose to the Committees on the Judiciary of the Senate and the House of Representatives the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as counsel to a party in the investigation or action.".

(e) Section 593(d) of such title is amended to read as follows:

"(d)(1) Any person who is offered a position of special prosecutor shall, prior to the appointment to such position, notify the division of the court of the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as a counsel to a party in the investigation or action.

"(2) The division of the court may not appoint as a special prosecutor—

"(A) any person who holds or recently held any office of profit or trust under the United States; or

"(B) any person who is involved in any Federal investigation or any civil or criminal action to which the United States is a party, other, than as a counsel to a party in the investigation or action.".●

PUBLIC BUILDINGS ACT OF 1980—S. 2080

AMENDMENT NO. 1899

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to S. 2080, a bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

DEFENSE PROCUREMENT AUTHORIZATIONS, 1981—S. 2294

AMENDMENT NO. 1900

(Ordered to be printed and referred to the Committee on Armed Services.)

Mr. DOMENICI (for himself, Mr. Heflin, Mr. Garn, and Mr. Laxalt) submitted an amendment intended to be proposed by them, jointly, to S. 2294, a bill to authorize appropriations for fiscal year 1981, for procurement of aircraft, and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, and for other purposes.

● Mr. DOMENICI. Mr. President, today I am submitting an amendment to the fiscal year 1981 defense authorization bill which would increase funding for U.S. ballistic missile defense development programs by $40 million. Of this amount, $25 million would be used to accelerate development of the LoADS low-altitude ABM program in order to achieve an initial operating capability in fiscal year 1986. The remaining $15 million would be used to enhance research and development for the so-called overlay exoatmospheric ABM program.

The intent of this amendment is to allow the Army and the Ballistic Missile Defense Program Office to initiate an R. & D. program which will provide the U.S. with a credible ABM deployment option during the period of the so-called "window of vulnerability" when U.S. land-based ICBM's will be vulnerable to destruction by the large number of accurate Soviet strategic offensive forces.

This amendment is based on the conclusions of an ABM technology assessment which was conducted at my request by the prestigious Los Alamos Scientific Laboratory in Los Alamos, N. Mex. While the Los Alamos study recommended deployment of the MX–MPS system as our only option presently available for countering the Soviet strategic counterforce threat, it strongly recommended that the United States move to develop an ABM capability as an add-on to MX–MPS if the Soviet threat grows beyond the size with which a 4,600 shelter MX–MPS would be able to cope. Such an option would be much cheaper and more effective than any decision to expand the initial MX–MPS deployment.

Mr. President, while ballistic missile defense technology in the early 1970's was not competent to deal with the threat then in existence, technical advances have made it possible to overcome the most serious weaknesses and develop an effective ABM system. Ballistic missile defense systems designed for both exo- and endo-atmospheric interceptions appear to be technically feasible and their combined use as a layered defense for silo-based ICBM's offers the most cost-effective option. A mature, layered defense would provide the capability to respond to further increases in the Soviet threat, and would include flexibility to defend other national assets.

This amendment, which I will speak to at greater length at the appropriate time when the authorization bill is on the floor, proposes enhancing and initiating ABM research and testing in order to achieve a deployment option within 10 years for an exoatmospheric ABM system and a low-altitude endoatmospheric ABM deployment option by 1986. It is my understanding that the Armed Services Committee report endorses a fiscal year 1986 LoADS capability. This amendment would provide the additional funding needed to carry out the intent of this endorsement and would also permit the exoatmospheric ABM R. & D. program to proceed unhindered and with increased funding to pursue enhanced sensor technology research and work in nonnuclear kill concepts.

Mr. President, it is presently estimated that ABM funding would have to increase to approximately $500 million annually, compared to about $300 million requested for fiscal year 1981, in order to achieve a layered ABM deployment option by the end of the decade. In addition to this increased funding, a number of redirections in U.S. strategic policy and force planning would have to occur. This amendment does not prejudge these decisions.

However, I believe that when the Congress and the country become more aware of the potential offered by new ballistic defense technologies, ABM will become the major strategic policy issue of the 1980's. It is essential that the United States reexamine the applicability and merits of ABM concepts for preserving the deterrence credibility of U.S. land-based strategic forces and reducing U.S. force requirements in the face of an increasing strategic threat.

This reexamination must include a decision whether to continue to be a party to the ABM treaty which is due for review in 1982. The indefinite postponement of SALT II in the wake of the Soviet Union's aggressive global conduct seems to me to place the entire future of the SALT process in doubt and makes it appropriate to reexamine all strategic force concepts, including ABM, which were previously deemed incompatible with the SALT process. In this age of fast-moving weapons technology, it would be illogical to continue to hobble our deterrence flexibility by adhering to a decade-old agreement whose basic premises appear to be obsolete.

In line with this view, this amendment would also direct the Secretary of Defense to conduct an examination of BMD technologies, including endoatmospheric and exoatmospheric interceptor systems and space-based BMD concepts, and identify their potential for contributing to the survivability of present and planned U.S. land-based ICBM's and affecting total force requirements. The results of this study should be presented to the Congress no later than February 1, 1981. Such a study would be of great value to the Congress as it conducts its own examination into the implications of further association with the ABM treaty and as it considers future ABM funding and strategic force requirements.

Mr. President, my key concern is that, in view of the strategic uncertainties which confront the United States, we dare not preempt any decision which might arise out of an ABM reexamination by not preserving the technological option to deploy an effective ABM system. Any decision by the United States to abandon the ABM treaty and deploy an ABM system would require a major reexamination and debate. I think such a debate is required before we proceed with the SALT process or take any action to forestall a force planning option. However, there is also no reason why the research and testing required to develop ABM systems into a deployable option, within the constraints of the ABM treaty today, cannot begin now so that it will be available if and when such a decision to deploy is made. I believe it would be a mistake not to begin to pursue this course now.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1900

On page 3, line 22, strike out $3,232,500,000" and insert in lieu thereof "$3,272,500,000".

At the appropriate place in the bill, insert a new section as follows:

SEC.   . The Secretary of Defense shall prepare a comprehensive study of contributions to the increased survivability and reduced force requirements of present and planned land-based intercontinental ballistic missile systems of the United States which would be possible through a planned exploitation of strategic defensive technologies, to include endoatmospheric and exoatmospheric intercept missiles and space-based systems, and submit the results of such study to the Congress no later than February 1, 1981.●

DEPARTMENT OF JUSTICE AUTHORIZATIONS—S. 2377

AMENDMENTS NOS. 1901 AND 1902

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted two amendments intended to be proposed by him to S. 2377, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes.

● Mr. WALLOP. Mr. President, there are thousands of parents and children around this country who have been, or who may become, victims of child-stealing—the restraint or concealment of a child by one parent from the other parent. In the past, the Senate has demonstrated its concern about this ever-increasing phenomenon by passing legislation in the 95th Congress to combat the causes and mitigate the effects of parental kidnaping. Unfortunately, that proposal did not become law because of House inaction on the Federal criminal code legislation of which it was a part. Early in the 96th Congress, I introduced that proposal as the Parental Kidnaping Prevention Act, S. 105. Twenty-four of my distinguished colleagues, representing a broad spectrum of political philosophy, have seen fit to cosponsor this legislation. More than 60 Members of the House are cosponsors of companion measures.

The reason for the interest in these bills is the recognition by congressional policymakers that parental kidnapping touches people in our 50 States, and leaves its victims relatively helpless when the abducting parent travels across State or international boundaries. Despite the best efforts of State legislatures to enact uniform child custody laws and misdemeanor and felony statutes to punish the absconding parent, the abductor-parent is too often shielded from the reach of the State laws simply by fleeing the State's jurisdiction. It is at this point that the Federal Government has a legitimate interest in taking steps to facilitate the enforcement of State laws by the States themselves and in involving the appropriate arms of the Federal Government in helping parents locate their snatched children and in bringing about the return of the child and appropriate legal action against the absconding parent.

I plan to offer an amendment to the Department of Justice authorization bill, S. 2377, which represents an important step toward the overall goal of putting an end to child stealing. The amendment directs the Attorney General to study and report annually to the House and Senate Committees on the Judiciary on the parental kidnaping problem in the United States.

For several years virtually everyone concerned about the child stealing problem has cited statistics that are, admittedly, guestimates. In 1977, the Library of Congress speculated that some 25,000 child snatchings occur annually. A leading parents' group formed to combat child stealing, Children's Rights, Inc. (CRI) puts the figure closer to 100,000, or more. While both figures are shocking, neither is surprising considering the fact that 1.1 million marriages ended in divorce in 1978, affecting more than 1 million children.

In order to fashion appropriate responses to the parental kidnaping problem, it is critical that a reliable data base be developed. This can be done through the cooperation of Federal, State, and local law enforcement authorities in keeping accurate reports on the number of parental kidnaping cases that are reported to them, as well as by noting the characteristics of these offenses.

The amendment requires the Attorney General to devise a system for compiling the number of parental kidnapings reported to Federal, State, and local law enforcement officials. The totals would be refined to reflect the number of cases that are wholly intrastate and those that are either interstate or international—or a combination thereof—in nature. In addition, the reports would break down the total number of reported cases to show the percentage in which a right of custody awarded by judicial decree had been violated, and the percentage in which the parental kidnaping occurred prior to the entry of a judicial decree.

Information regarding the geographic characteristics of the offense is essential if local, State, and Federal governments are to fashion satisfactory responses to the problem. The data obtained by this comprehensive survey will alert each level of government to the scope of the child stealing problem and should bring about some constructive thinking in an area that has long been ignored for want of accurate information about the pervasiveness of the problem. It is likewise important to know at what stage of the custody proceeding the victim child is abducted. If parents in significant numbers are removing their children prior to the entry of a custody decree, then laws must be amended or written to provide recourse for the victim parent as well as to deter the predecree removal.

My amendment would also require the Attorney General to report on the number of requests the FBI receives under the Fugitive Felon Statute (18 U.S.C. 1073) for assistance in locating parents who are alleged to have violated state felonies in the course of removing their children from the State. In addition, the amendment requires the Department to indicate the disposition of each request, with an explanation for each such decision. It also calls for an estimate, by the Department, of the costs involved in investigating all of the parental kidnaping cases under section 1073 of title 18.

The Federal Government is authorized by the so-called "Unlawful Flight to Avoid Prosecution" statute to investigate cases arising under State law in which the alleged has fled from the State. Although prosecution could be brought by the Federal Government, as a rule this does not occur. Instead, the Federal Government defers to the States for prosecution of the State violations under State law.

Parental kidnaping is one of the only, if not the only, offense for which the Justice Department has imposed an additional set of criteria for issuance of a "UFAP" warrant. For all intents and purposes, under current departmental policy it is next to impossible to obtain a warrant. There are but a handful of parents who have been successful in obtaining warrants, leaving thousands of others wondering whether the Justice Department does in fact dispense justice in a fair, impartial and equitable manner.

Once Congress has the particulars on the number of parental kidnaping cases and the manner in which these cases are being processed by the Justice Department under the UFAP statute, it will be possible to prescribe appropriate and specific statutory guidelines in these cases. In the meantime, it is urged by at least this Senator, that the Department step up its investigative efforts under current law and amend departmental guidelines accordingly.

To carry out this comprehensive study on parental kidnaping, the amendment authorizes $250,000.

Mr. President, I am also contemplating offering a second amendment which is closely related to the amendment I have just described. In a nutshell, that amendment would authorize an additional $1 million for the FBI to conduct investigations of interstate parental kidnaping cases in accordance with the provisions of the fugitive felon statute.

Currently, the Justice Department has identified parental kidnaping cases for separate and very sparing treatment without specific legislative mandate to do so. As embodied in the U.S. Attorney's Manual, title 9 (Criminal Division), no complaint will be authorized in cases where a parent is charged with the kidnaping or enticing away of his minor child without the express prior approval of the Criminal Division. The rationale given for this treatment is twofold: First, the Federal Government should exercise care to avoid involvement in situations which are essentially domestic relations controversies; and second, the Federal kidnaping statute ("Lindbergh Law") establishes a policy of nonprosecution of parental kidnaping.

This amendment is intended to clarify Federal policy, lest there be any misunderstanding between the Department of Justice and Congress. In the case of parental kidnapings which are deemed by State law to be felonies and which involve the crossing of State lines, this amendment will make clear that the Federal Government does, as a matter of policy, have a real and direct interest in assisting States in returning alleged felons so that they can be brought to justice under State law.

A substantial number of States have adopted felony statutes for interstate child kidnapings. A survey of State criminal laws on points prepared by the Congressional Research Service is reprinted at the conclusion of this statement. To deny these States the valuable investigative abilities of the FBI is to thwart State policy, which certainly should not, and must not be, our national policy.

Second, by investigating parental kidnaping cases arising under State criminal law, the Federal Government is not involving itself in domestic relations controversies. Rather, the FBI is assisting State criminal justice authorities in enforcing State laws by helping in the location and return of the abductor-parent. If this has the secondary effect of facilitating disposition of the related civil custody proceeding, then this should be viewed as a desirable byproduct, but not the end in itself.

This amendment authorizes the sum of $1 million for purposes of hiring, training, and dispatching FBI agents to carry out investigations of parental kidnaping cases. Until we have the concrete data on the number of parental kidnaping cases and the more precise estimate of the actual cost of investigating these cases, we must, for the time being, proceed on the assumption that the 25,000–100,000 estimate, which has been adopted by all of the experts is a reasonable one. Because of the numerous other important duties the Bureau is required to carry out under its existing appropriation, it is especially important to authorize a specific and adequate sum for the task. This will spare the FBI the difficult task of juggling its existing funds to meet its investigative responsibilities in these cases.

Recently I received the very good news that a mother in California recovered her child at least in part through the efforts of the FBI. She was successful in obtaining a UFAP warrant, one of the very few such fortunate parents. I would conclude my discussion by quoting from a letter she recently wrote to me:

> I have a financially and emotionally supportive family, friends and associates. Because of my extensive legal background and experience I was knowledgeable as to whom and where to go to obtain help. Many are not so fortunate. It was very important that the Justice Department be given by Congress the necessary funds to enable them to provide the necessary investigative support through the FBI in child-stealing cases. My personal experience reflects a definite

need for more manpower. Had one agent been in the position to devote a very few full days to the search for Mary I would not have found it necessary to spend thousands of dollars in my own search.

In my particular case my former husband is a chronic alcoholic and drug abuser. My daughter suffered physically and psychologically. She was denied the fundamental and maternal nurturing which is necessitated by her young age. Although she is receiving psychological treatment she will perhaps bear the scars of this maternal separation forever. this cannot be the intention of our Congress when such able help is available for these children through the FBI. These monies will be well spent if we save but one child. This is an investment in our children with whom the future of our country lies.

Respectfully submitted,

Mr. President, I ask unanimous consent that the survey of State criminal laws on point prepared by the Congressional Research Service be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

PARENTAL KIDNAPING: STATE STATUTORY SURVEY

The chart which follows summarizes the position of the various state laws with respect to parental kidnaping. A substantial number of states have enacted legislation to deal with parental kidnaping. The most common approach is the use of a custodial interference involves removal of the child from the state, "to assist in invocation of the extradition and federal fugitive felon provision." [1] However, even in states which have enacted such statutes, where one parent removes a child from the custody of the other in violation of a custody agreement or judicial order, state kidnaping provisions or provisions prohibiting related offenses such as child snatching, false imprisonment or unlawful restraint may have been violated. In a number of jurisdictions parents are specifically exempted from the application of statutes prohibiting kidnaping or related offenses. In some instances, this is accomplished with a simple exception such as that found in the federal provision.[2] However, more often the exception is more narrowly drawn.[3]

While custodial interference statutes are common, there are a number of jurisdictions which recognize a parental exception in their kidnap laws and have not enacted a custodial interference statute [4] or which have refused to apply either their kidnap or custodial interference provisions to parental kidnaping.[5]

FOOTNOTES

[1] Practice Commentary following Tex. Penal Code § 25.03. Federal law prohibits interstate flight to avoid prosecution of a *felony* charge, 18 U.S.C. § 1073. Both the Uniform Criminal Extradiction Act (§ 2) and federal law, 18 U.S.C. § 3182, speak in terms of "treason, felony or other crime" as providing grounds for extradition. The cases suggest that misdemeanor charges may form the basis for extradition, see *Glover* v. *State*, 257 Ark. 241, 515 S.W.2d 641 (1974); *Graham* v. *State*, 231 Ga. 820, 204 S.E.2d 630 (1974), although states may be more inclined to utilize extradition in felony cases.

[2] 18 U.S.C. § 1201 states in part, "Whoever unlawfully . . . kidnaps . . . any person, *except in the case of a minor by the parent thereof* . . . shall be punished by imprisonment for any term of years or life." (Emphasis added.)

[3] See, Ariz. Rev. Stat. Ann. § 13-1303, "B. In any prosecution for unlawful imprisonment, it is a defense that: . . . 2. The defendant is a relative of the person restrained and the defendant's sole intent is to assume lawful custody of that person and the restraint was accomplished without physical force."

[4] See, S.C. Code § 16-3-910.

[5] See, Ala. Code Commentary following § 13a-6-46 which contains a parental exception within its custodial interference provisions, "Special provision is made to prevent abuse in certain custody battles between estranged parents. Under § 13a-6-45(b), the offense of custodial interference cannot be committed if the actor is a 'relative' as defined in § 13a-6-40(3), and the actor's sole purpose was to assume lawful control or custody. This is the counterpart to § 13a-6-42(b) [second degree unlawful imprisonment] a similar exception based on custody wrangles." Supplemental Commentary on § 707-723 of the Hawaii Penal Code states, "Section 723 of the Proposed Draft of the Code had contained a third situation involving the offense of custodial interference. It provided that the offense was committed if a person, being a relative of a person less than eighteen years old, knowingly takes or entices the person from his lawful custodian, knowing that he has no right to do so, with the intent to hold the person permanently or for a prolonged period. However, the Legislature was concerned with complications involving domestic relations in such cases and rejected this offense."

State (source)	Custodial interference	Kidnaping statutes [1]	Parental immunity [2]
Alabama (Alabama Code)			Title 13A §§ 6-42, 6-45.
Alaska (Alaska Stat.)	§ 11.41.320(F) (interstate) (as of Jan. 1, 1980) § 11.41 330(M) (intrastate) as of Jan. 1, 1980.	§ 11.15.290(F) (prior to Jan. 1, 1980) (child stealing).	§ 11.41.300 (as of Jan. 1, 1980; § 11.15.260 (prior to Jan. 1, 1980) (kidnaping).
Arizona (Ariz. Rev. Stat.)	§ 13-1302(F)		§ 13-1303.
Arkansas (Ark. Stat. Ann.)	§ 41.2411(F) (interstate)/(M) (intrastate)	§ 41-1704 (2d degree false imprisonment)	
California (Cal. Penal)	§ 278.5(F)	§ 278 (child abduction)(F)	
Colorado (Colo. Rev. Stat.)	§ 18-3-304(F)		§ 18-3-302.
Connecticut (Conn. Gen. Stat. Ann.)	§ 53a-97(F) (interstate); § 53a-98(M) (intrastate).	§ 53a-96 (2d degree unlawful restraint) (M)	
Delaware (Del. Code)	Title 11 § 785(M)		Title 11 § 784.
Florida (Fla. Stat. Ann.)	§ 787.04(F) (interstate) § 787.03(M) (interstate)	§ 787.02(F) (false imprisonment)	
Georgia (Ga. Code Ann.)	§ 26-1312(F) (interstate) (M) (interstate)	§ 26-1311 (kidnaping) (F)	
Hawaii (Hawaii Rev. Stat.)			§ 707-722.
Idaho (Idaho Code)		§§ 18-4501, 18-4503 (F) (kidnaping)	
Illinois (Ill. Ann. Stat.)	Ch. 38 § 10-5(F)	Ch. 38 §§ 10-1, (F); 10-3(F)	
Indiana (Ind. Code Ann.)		§ 35-42-3-3(F) (criminal confinement)	
Iowa (Iowa Code Ann.)	§ 710.6(F) (interstate) (M) (intrastate)		§ 710.5.
Kansas (Kan. Stat.)	§ 21-3422a(F) (interstate)/(M) (intrastate)		
Kentucky (Ky. Rev. Stat. Ann.)	§ 509.070(M)		§ 509.060.
Louisiana (La. Rev. Stat. Ann.)	§ 14.45(F) (interstate)		
Maine (Maine Rev. Stat.)	Title 17-A § 302(F) (interstate)		
Maryland (Md. Ann. Code)	Art. 27; 2A(M) (abduction of child under 12 in violation of a custody order).	Art. 27 § 1 (abduction of child under 16)	Art. 27 § 337.
Massachusetts (Mass. Gen. Laws Ann.)	Ch. 265 § 26(F)		
Michigan (Mich. Comp. Laws Ann.)		§ 750.350(F) (kidnaping child under 14)	
Minnesota (Minn. Stat. Ann.)	§ 609-26(F)		§ 609.25.
Mississippi (Miss. Code Ann.)		§ 97-3-53(F) (kidnaping child under 10)	
Missouri (Mo. Ann. Stat.)	§ 565.150(F) (interstate) (M) (intrastate)	§ 565.140(F) (false imprisonment if interstate).	
Montana (Mont. Rev. Codes Ann.)	§ 94-5-305(F)		
Nebraska (Neb. Rev. Stat.)	§ 28-316(F)	§ 28-315(M) (false imprisonment in the 2d degree.	
Nevada (Nev. Rev. Stat.)	§ 200.359(M)	§§ 200.310 to 200.330 (kidnaping) (F)	
New Hampshire (N.H. Rev. Stat. Ann.)		§ 633:3 (false imprisonment) (M)	
New Jersey (N.J. Stat. Ann.)	§ 2C:13-4(M)		§§ 2C:13-2 (criminal restraint), 2C:13-3 (false imprisonment).
New Mexico (N.M. Stat. Ann.)	§ 30-4-4(F) (interstate)	§ 30-4-3(F) (false imprisonment)	
New York (N.Y. Penal Law)	§ 135.45(M)		
North Carolina (N.C. Gen. Stat.)	§ 14-320.1(F) (interstate)	§ 14-41(F) (child abduction)	
North Dakota (N.D. Cent. Code)	§ 14-14-03(F) (interstate)		§ 12.1-18-03.
Ohio (Ohio Rev. Code Ann.)		§ 2905.04 (child stealing) (F) (interstate)/(M) (intrastate).	
Oklahoma (Okla. Stat. Ann.)		Title 21 § 891(F) (child stealing)	
Oregon (Ore. Rev. Stat.)	§ 163.245(F) (interstate)/(M) (intrastate)		§ 163.225.
Pennsylvania (Pa. Stat. Ann.)	Title 18 § 2904(M)		
Rhode Island (R.I. Gen. Laws)		§ 11-26-1 (kidnaping)	
South Carolina (S.C. Code)			§ 16-3-910.
South Dakota (S.D. Compiled Laws)	§ 22-19-9(M)		
Tennessee (Tenn. Code Ann.)		§ 39-2602(F) (kidnaping a child under 16)	§ 39-2603(F) (Parental kidnaping not a class X felony).
Texas (Tex. Penal Code)	§ 25.03(F) (interstate)		
Utah (Utah Code Ann.)	§ 76-5-303(M)		
Vermont (Vt. Stat. Ann.)		Title 13 §§ 2401, 2402 (kidnaping)	
Virginia (Va. Code)	§ 18. 2-47(F)		
Washington (Wash. Rev. Code Ann.)		§ 9A.40.040(F) (unlawful imprisonment)	
West Virginia (W. Va. Code)		§ 61-2-14(F) (child snatching)	
Wisconsin (Wis. Stat. Ann.)	§ 946.71(F) (interstate)		
Wyoming (Wyo. Stat.)	§ 6-4-203(M)	§ 6-4-202(F) (child stealing)	

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[1] Kidnaping and related offenses such as unlawful restraint whose terms would encompass parental child snatching in the absence of a contrary judicial interpretation of legislative intent.

[2] Statutory immunity from the application of kidnaping and related offenses for parents.

Legend: M—misdemeanor, F—felony.

CURRENCY OF MATERIALS USED

Alabama: 1978 session laws.
Alaska: 1978 supplement.
Arizona: 1979 session laws.
Arkansas: 1978 supplement.
California: 1980 supplement.
Colorado: 1978 supplement.
Connecticut: 1980 supplement.
Delaware: 1979 Session Laws.
Florida: 1979 Session Laws.
Georgia: 1978 Supplement.
Hawaii: 1979 Session Laws.
Idaho: 1979 Session Laws.
Illinois: 1979 Session Laws.
Indiana: 1979 Supplement.
Iowa: 1979 Supplement.
Kansas: 1979 Supplement.
Kentucky: 1979 Session Laws.
Louisiana: 1980 Supplement.
Maine: 1979 Supplement.
Maryland: 1979 Supplement.
Massachusetts: 1979 Session Laws
Michigan: 1980 Supplement.
Minnesota: 1980 Supplement.
Mississippi: 1979 Session Laws.
Missouri: 1980 Supplement.
Montana: 1977 Supplement.
Nebraska: 1979 Supplement.
Nevada: 1977 Supplement.
New Hampshire: 1979 Supplement.
New Jersey: 1979 Session Laws.
New Mexico: 1978 Supplement.
New York: 1980 Supplement.
North Carolina: 1979 Supplement.
North Dakota: 1979 Supplement.
Ohio: 1979 Supplement.
Oklahoma: 1980 Supplement.
Oregon: 1977 Supplement.●

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS AND COMMITTEE ON FOREIGN RELATIONS

● Mr. GLENN. Mr. President, I wish to announce that the Committees on Governmental Affairs and Foreign Relations will hold joint hearings on the export of nuclear fuel for the Tarapur Power Station in India on Wednesday, June 18, 1980, at 9:30 a.m. in room 4221, Dirksen Senate Office Building, and on Thursday, June 19, 1980, at 9:30 a.m. in room 3302, Dirksen Senate Office Building.

On June 18, witnesses will include Senator Alan Cranston, Prof. Henry Rowen of Stanford University, and Chairman John Aherne of the Nuclear Regulatory Commission.

On June 19, witnesses will include Deputy Secretary of State Warren Christopher and Director James Barnes of the Center for Law and Social Policy, in Washington, D.C.●

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

● Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Child and Human Development, I wish to inform my colleagues that the hearing previously scheduled for May 22 on the topic of reducing infant mortality and preventable birth defects has been rescheduled for Monday, June 30, in room 4232, Dirksen Senate Office Building, from 10 a.m. until 1 p.m.

Questions regarding this hearing should be directed to Bart Blumberg of the committee staff at 224-8127.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on the impact of nontariff barriers on American small businesses' ability to export to Japan.

The hearing will begin at 9:30 a.m. in room 424, Russell Senate Office Building on Thursday, June 26, 1980.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. NELSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to consider pending executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 18, 1980, to hear Senator Alan Cranston and others on the issue of whether to ship nuclear fuel to India for the Tarapur power reactors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATES RIGHTS AND NUCLEAR WASTE DISPOSAL

● Mr. JACKSON. Mr. President, on May 1, 1980, I introduced amendment No. 1732 to S. 2189, the Nuclear Waste Policy Act. My amendment would establish a process for involving States in the siting of facilities for the disposal of radioactive wastes from civilian nuclear activities. That amendment provides for close consultation between the Secretary of Energy and the Governor of any State in which such a disposal facility may be located. It accords the Governor the right at a designated time before a major commitment is made to the project to voice any objections which are not resolved during the consultation process. It assures the President the authority to carry out his responsibility in the national interest to see that adequate facilities are available for the disposal of nuclear wastes.

Mr. President, recently Alan McGowan, president of the Scientists Institute for Public Information, wrote a thoughtful article discussing these matters for the Christian Science Monitor. I ask that this article be printed in the Record for the information of my colleagues.

The article follows:

STATES' RIGHTS AND NUCLEAR-WASTE DISPOSAL

(By Alan McGowan)

By now it is clear to everyone that, regardless of the future, or even the present, of nuclear power, the nuclear waste problem must be solved. And it is unconscionable to delay.

For one thing, the military waste—larger in volume if not radioactive content than any other such waste until the end of this century—will continue to exist and demands some solution; for another, there is already in existence a considerable pile of nuclear waste which implies a similar demand for solution.

Although it may be a bit early to tell, there does not seem to be any insurmountable technical problem associated with separating nuclear waste from the biosphere for long periods of time. Problems abound, but all seem likely to succumb to vigorous attack by the scientific and technological communities. It is true, however, that the more closely the scientific community looks at the issue, the more problems arise. Bedded salt repositories, for 25 years the most efficacious disposal sites, according to conventional wisdom, were discovered upon close examination to have as many potential problems as the alternatives. All will be carefully considered and tested in the next few years; a testimony, at long last, to the value of diversity. We have not seen the end of technical controversies on this issue by a long shot.

However, the nation's nuclear-waste problem is even more importantly a political problem, exacerbated by the fact that it received relatively little intellectual attention, scientific or otherwise, for 25 years.

For that unforgivably long time it was treated as a purely engineering problem, with those involved in it showing no understanding of the particular political sensitivity of the issue. Indeed, politicians were, almost without exception, insensitive to the nuclear waste issue during this period.

In retrospect, it is hard to believe we ignored the fact that people demand more from something that is going to be around for a thousand years than from something that is going to be around for just 30. And people really do care about one another. They do not want to poison their neighbors' wells or do anything that would harm their grandchildren. The lack of a demonstrated solution to the problem of nuclear waste was viewed not as an example of technological inattention—which was only partially the reason in any case—but rather as a result of the human inappropriateness of any solution developed to date. It did not take much for some people to come to the conclusion that no appropriate solution was possible.

However, people are also capable of listening to reason. And that is the challenge. More than just the nuclear program rides on this one—the future of our technological civilization will be more than casually influenced by how successfully we can unravel this technological and political snarl. Settling the nuclear waste issue does not assure the future of nuclear power. But it can have a dramatic influence on it, as well as on every other technical issue or problem.

That this is true speaks not only of the peculiar political sensitivity of the issue itself, but also of the many other issues and problems in the US society upon which it touches. States' rights, federalism, the adequacy of the decisional process, and the role of the scientist or other highly regarded professional in politics are but a few of the fundamental questions the nuclear waste issue affects. All of them will require searching analysis as this country and the world of which it is a part race toward the 21st century.

The rugged pride of revolutionaries whose deep wisdom founded this country and wrote the documents on which its life has depended for two hundred years gave the responsibility to working out specific details to future generations. This trust, perhaps unique in human history, has thus far been justified. It is currently meeting its stiffest test.

Federalism is perhaps the most perplexing issue, if not the most fundamental. Although it is true that we are citizens of a state, we are more fundamentally citizens of our nation. Fifty percent of middle-class America will be living in a different state five years from now, but not in a different nation. And if nuclear power is an important issue, it is an important *national* issue even for those states that get no electric power from nuclear fission. If all nuclear plants were to shut down immediately, for example, the increased demand would most probably drive up the price of coal for *everyone*, not to mention the cost of oil.

And yet, in order to redress grievances and atone for past sins, we are about, it seems, to give states at least de facto if not de jure, veto power over the siting of a nuclear waste repository. Such a development, although it might seem attractive at present, creates more problems than it solves. And it really doesn't solve any problems, except in the very short term. If it is *possible* for a governor or state legislature to exercise veto power over such a controversial issue as siting a dump for dangerous materials, there will be enormous pressure on them to do so.

The effect of this "solution" would be to ask the states to resolve a national problem. Although there is some evidence that this is possible—Massachusetts, for example, has just taken the lead in developing sites for a regional low level nuclear waste repository—it puts the onus on the wrong entity. If it is a national problem, the responsibility belongs to the federal government.

Even more importantly, this "solution" dodges the issue of the adequacy of the decisional process itself. The real issue is not whether state governments agree to the siting of a nuclear waste repository, but whether the people and their elected representatives do. Both the people near the proposed site and the people of the nation have a right through their various governmental agencies to be assured that the decision was the correct one, and that those that so desired had opportunity for some influence in the matter. None of this is accomplished by giving the states veto power. In fact, it works against such a solution.

No, this issue must be joined directly between the people of the United States and the federal government, not by a national referendum but by a decisional process that assures everyone of its adequacy and fairness. To do otherwise would place formidable barriers in the way of the resolution of future environmental/technological issues.

We are presently moving into a time of great difficulty in regard to hazardous waste facilities, for example. The success or lack thereof of the resolution of the nuclear waste issue is going to greatly influence the success of other technological developments with strong economic and political implications. Once again, it is a question of political will combined with technological excellence, not technology alone.●

ADDRESS BY SENATOR MITCHELL BEFORE HAZARDOUS WASTE CONFERENCE

● Mr. MITCHELL. Mr. President, I am pleased to cosponsor S. 1480, legislation that will address the problems associated with abandoned hazardous waste sites and other releases of hazardous substances into the environment.

The State of Maine has already encountered these problems in the towns of Saco and Gray. And Maine is not alone. The Environmental Protection Agency has identified more than 4,000 hazardous waste sites across the country that require investigation.

This is the environmental issue that must take precedence in this Congress; this is the year in which we must act; and this is the legislative approach this country should follow.

I hope other Senators will realize the urgent need to support this legislation before the Senate adjourns this year.

I recently participated in a hazardous waste conference in Portland, Maine, at which I elaborated on these issues. I ask that my remarks be included in the RECORD at this point.

The remarks follow:

HAZARDOUS WASTE CONFERENCE, PORTLAND, MAINE, MAY 30, 1980

I appreciate the opportunity to discuss with you for a few minutes a national problem that is widespread and potentially catastrophic.

Hazardous wastes are seeping into our water, contaminating our livestock and endangering our lives.

It is a problem which will not go away.

It is a problem which must be addressed.

Roughly 35 million tons of hazardous wastes are generated each year in this country by industries producing chemicals, metals, textiles, plastics and petroleum products.

This annual total is ten thousand times the entire amount of nuclear wastes produced over the past 35 years, and some of these wastes are as dangerous as radioactive wastes.

A recent Library of Congress report includes accounts of major commercial fisheries closing on Lake Ontario, on the Hudson River and on the James River; it also describes how pesticides used on Long Island have leached into the aquifer that feeds the wells of that area, and how hazardous waste disposal sites throughout the country caused public health and environmental harm.

Early this year, the Environmental Protection Agency's Hazardous Enforcement and Response Task Force identified more than four thousand hazardous waste sites which should be investigated, over half of which require remedial action.

The EPA also found that there is virtually no monitoring of groundwater conducted, and that more than 3,000 spill incidents involving hazardous substances have occurred.

Here in Maine hazardous wastes were apparently included with other wastes in Saco's municipal dump.

In Gray the drinking water in over 16 private wells has been contaminated by chemical wastes; that contamination could have spread to the town's 5,200 other residents.

What solutions to this problem are available?

How do we handle the costs of cleaning up our past mistakes, and ensuring that there will be no future catastrophes?

We have adequate laws governing the standards of quality for the water and air. And we have new regulations to deal with future disposal of hazardous chemicals.

But we have no law specifically dealing with the problems of past disposal of hazardous wastes, or potential harmful accidents in the future.

The Environmental Protection Agency recently put into effect a national system governing the handling of hazardous wastes.

Maine's Department of Environmental Protection has set into motion prohibitions on further dumping in the state.

But there remains the problem of how to deal with the mistakes that have been building up over the decades.

And, as always, there remains the vital question of who is going to pay for the cost of cleaning up the dump sites.

Next week, the Environment and Public Works Committee, on which I serve, will continue its efforts on legislation that will help solve some of these problems.

As you probably are aware the bill would create what is called a "Superfund."

The bill is not another multi-billion dollar federal bail-out.

It is not a regulatory bill.

The bill would do two principal things:

First, industries involved in the release of hazardous waste would be held strictly liable for any harm caused by the release. Those industries would have to pay for the costs of spills and discharges.

Second, an $800 million fund would be established, primarily from fees imposed on the producers of hazardous substances, to allow a prompt response to any emergency.

The fund would be available to clean up abandoned dumps, spills and other releases that occur during transport or disposal of hazardous wastes. It would pay third party damages to persons whose health or property have been harmed by improper disposal practices. And it would help pay the expense of establishing proper disposal.

The true nature of harm caused by hazardous wastes must be dealt with by creating strong incentives not to be careless—as this legislation would do by imposing strict liability.

The bill is designed to permit industries, within the bounds of protecting the public health and the environment, to make their own business decisions without government interference.

The bill makes sense for all affected by hazardous wastes.

The taxpayer will not have to bear all of the clean up costs that are the responsibility of the companies. The victims of hazardous waste damage will be able to recover costs from the responsible party. And the environment will be protected by having enough funds to pay for cleanups.

As a member of the Environment and Public Works Committee, I look forward to working with you on this important measure.

I do not profess to be an expert on environmental problems, and I have a tough act to follow, but I am determined to do what I can to meet the serious problems of hazardous waste disposal.●

NATIONAL SCIENCE FOUNDATION'S WILLIAM KLEMPERER RECEIVED LANGMUIR AWARD

● Mr. KENNEDY. Mr. President, Dr. William A. Klemperer, whose home is in Watertown, Mass. and who is serving as the National Science Foundation's Assistant Director for Mathematical and Physical Sciences, has been named the 1980 recipient of the Irving Langmuir Award for his outstanding contributions to the field of chemical physics. The award, which is sponsored by the General Electric Foundation, was presented to Dr. Klemperer by the American Chemical Society.

Dr. Klemperer was cited for his pioneering contributions to research in molecular beam spectroscopy, the elucidation of molecular structures, understanding chemistry in space, and advances in chemical theory.

Irving Langmuir won the Nobel Prize in chemistry in 1932 for practical work in the field of chemistry and research on the vacuum tube and the gas-filled incandescent light bulb. He was also an active member of the American Chemical Society. The award, named after Langmuir, has been presented each year since 1965, alternating between the American Chemical and American Physical Societies. It is given in recognition of outstanding interdisciplinary research in either chemistry or physics.

Bill Klemperer's appointment to NSF was confirmed by the Senate in November 1979. He is on leave of absence from Harvard University where he holds the position of serving professor of chemistry. He has also served as chairman of the chemistry department there. A graduate of Harvard College, he received a Ph.D. in chemistry from the University of California at Berkley.

I might note that Dr. Klemperer's wife, Elizabeth, is also a scientist. While Bill is at NSF, she is working as a chemist at George Washington University Medical School. Back in Massachusetts, she is completing her Ph.D. in chemistry at Tufts University. The Klemperers have three grown children.

As you know, encouraging women to enter science careers and removing the many obstacles to this in our society is a matter of particular interest to me and the members of the Subcommittee on Health and Scientific Research.

As a Senator from Massachusetts, as chairman of the subcommittee that has oversight jurisdiction of the NSF, and as a fellow alumnus, I salute Bill Klemperer for the outstanding work that has led to this high honor.●

SOVIET OCCUPATION OF BALTIC STATES

● Mr. LEVIN. Mr. President, on June 15, 1940—40 years ago—Soviet troops occupied the Baltic States. As we remember this military occupation we should recommit ourselves to the cause of Lithuanians, Latvians and Estonians who have been deprived of their human rights for so long. As Americans, we should mark this tragic anniversary by joining with Lithuanians, Latvians and Estonians everywhere to honor those who have fought and continue to fight for liberty and self-determination for their countries. We also join them in the hope that their objective will soon be reached and discrimination and repression will come to an end in the Baltic region.

Earlier this year, the world again witnessed Soviet aggression, this time in Afghanistan. I take this time to remind my colleagues that the people of the Baltic Nations have experienced Soviet occupation for 40 years. Time makes neither instance of expansionism more justified.

Mr. President, as we mark this anniversary, I hope we all will redouble our efforts to assist those seeking liberty to finally have their aspirations realized and have their voices heard.●

UNITED STATES-CHINA RELATIONS

● Mr. KENNEDY. Mr. President, on June 4 Assistant Secretary of State Richard Holbrooke delivered a major speech on "The Future of U.S. Relations with China" to the National Council for United States-China Trade in Washington. The speech is both thoughtful and comprehensive, and represents a definitive statement of the interests and agenda before the United States and the People's Republic of China in the years ahead. As one who has long supported the normalization and expansion of United States-China relations, I commend Mr. Holbrooke's speech to my colleagues, and request that it be printed at this point in the Record.

The speech follows:

The Future of U.S. Relations with China

Ladies and Gentlemen: Less than a decade ago, after twenty years of doubt, hesitation and often savage debate in this country. we began to move toward "normalizing" relations with the People's Republic of China. A little more than 500 days ago, we reached that historic goal.

It is difficult today to recall the controversy that surrounded the normalization process. The latest national polls show that two-thirds of Americans have favorable impressions of China, a stunning reversal of similar polls taken as recently as 1977. There is clearly a national consensus to continue to develop the close, friendly and cooperative relationships we have already established with the Chinese people and their government.

The speed with which we have been able to develop our bilateral relations with China since January 1, 1979 has astonished the world. There is no need for me to detail the remarkable pace of developments in U.S./China relations for this knowledgeable audience. In every area, we have established, or are on the verge of establishing much the same framework for our relations that might have developed had recognition not been delayed for thirty years.

The fears and doubts that were expressed by opponents at the time of normalization have proven ill-founded. The high hopes that we held have been realized or surpassed. Let me briefly review for you what we have hoped to achieve by "normalization," and measure what has occurred against these objectives.

Recall the China we observed in the 1960's—a nation in self-inflicted chaos, proclaiming its hope to extend revolutionary turmoil throughout the globe, actively supporting insurgencies in many areas, armed with primitive nuclear weapons, vulnerable to outside intervention, isolated and enraged by international denial of its legitimacy. It seemed then that China's inevitable entry onto the world stage could only be profoundly disruptive of world peace, and threatening to our security and that of our friends and allies.

The objectives of this Administration have been clear from the outset, although they must have seemed to many to be overly ambitious. We wished:

to facilitate China's full entry into the international community in a way that would contribute to world peace and stability, not threaten it;

to acknowledge our national interest in the development of a strong, secure, prosperous and friendly China that could play a legitimate and constructive role in the Asia-Pacific region and ultimately in the world;

to defuse contentious issues dividing ourselves from China, such as the Taiwan issue, and eliminate the danger of possibly catastrophic miscalculation by an emerging nuclear and major regional power;

to develop constructive patterns of consultation with the Chinese on international issues, and build the friendly and cooperative economic, commercial, cultural and other relationships with the Chinese necessary to sustain these ends.

These objectives have been or are being achieved under this Administration.

As for China itself, that nation is now beginning to enjoy the international status that long eluded it. The one billion people of China have begun to play a role in the maintenance of global peace and stability. They are from Korea through Taiwan and the Philippines, at the very center of great power rivalry and instability for much of this century, is less subject to these strains today than at any time in well over forty years. Longstanding tensions between China, Japan and the United States have been replaced with true dialog and consultation. For the first time in a century our three countries enjoy close and cooperative relations, and share an interest in the independence, peace and stability of the Korean peninsula.

On the Southeast Asian mainland, the focus of bitter mutual hostility less than a decade ago, we now share many objectives in common with China, even though we sometimes still differ on the appropriate means by which they should be pursued. In Southwest Asia, we stand together in demanding Soviet withdrawal from Afghanistan and a halt to Soviet southward expansion. We each place emphasis on bolstering the security of Pakistan and other neighboring states, while seeking to improve our respective relations with India.

Our own relations with China are good, and steadily improving. Widespread fears about the implications of "normalization" for Taiwan and our flourishing private relationships with the people of that island have proven groundless. Although we no longer recognize the Taiwan authorities or maintain official relations with the island, nongovernmental relationships with Taiwan's dynamic society and people continue to prosper, as does Taiwan itself, despite some internal difficulties. Beijing's threats to "liberate" the island by force have been replaced with moderate policies that respect current realities in Taiwan. Beijing now seeks the reestablishment of economic, cultural and other links between Chinese on both sides of the Taiwan Strait. Tensions in the area are demonstrably at an historic thirty year low.

Our bilateral relations with the Chinese have been rapidly consolidated and—most important in our system of government—institutionalized so that they are no longer dependent on a few individuals operating in secrecy, as was the case until the beginning of last year. Broad American interests are engaged; it would be difficult for any future Administration to reverse the trend.

By the end of this year we will have completed the construction of the basic legal and institutional framework within which economic, cultural, scientific and technological relationships between the American and Chinese peoples can develop their full potential. That potential is already being realized. As many as 100 Chinese delegations now visit our shores each month. More than 60,000 Americans will visit China this year. Our trade, which doubled last year over the previous year, reaching $2.3 billion, is continuing its rapid growth and should exceed $3 billion this year. The first joint ventures are being concluded between American and Chinese businessmen

Finally—and of vital importance to the prospects for world peace and stability—we have established a pattern of frequent, and extremely useful consultation between our highest leaders and diplomats. A serious dialogue on international security matters is now taking place in an atmosphere of friendship and candor. This pattern was set in last year's historic visits of Vice Premier Deng Xiaoping and Vice President Mondale—whose personal direction and prodding of our respective bureaucracies have played such an essential role in the extraordinary growth in our relations. It was advanced with

Secretary of Defense Brown's trip to China in January, in last week's visit to Washington by Vice Premier Geng Biao, and in the regular cycle of diplomatic consultation initiated with the visit of Vice Foreign Minister Zhang Wenjin in March. Several of my colleagues and I will visit Beijing this summer to continue the dialogue.

The agenda for this period of reconstruction that is now nearing completion has been simple, virtually self-evident. We had to sweep aside the misunderstandings and debris of the past and to fill in the gaps in our relationships caused by the thirty-year absence of normal ties. We are doing so to our mutual satisfaction.

But what of the future? Having laid in the 1970's the groundwork for a normal relationship, we now must ask ourselves what our hopes and objectives should be in the 1980's. We have only just begun to address this momentous issue. Let me share with you today some of our preliminary thinking.

Over the eighty years of this century there has been endless speculation about China's future. But virtually every prediction has been confounded by events, thus suggesting extreme caution to anyone making predictions even five—still less twenty—years ahead. Nevertheless, most of the best China experts I have consulted in the past year feel that China's leaders have some reason to be hopeful about their country's future.

It does not appear impossible that Chinese growth rates through the rest of this century will continue at 6 or perhaps even 7 percent annually. China's GNP is now about the size of ours as it was in the 1920's. Should growth continue at recent rates, by the year 2000 China's GNP will—in real terms—approach the size of U.S. GNP in the late 1970's. Given China's enormous population, this would, of course, translate into a standard of living more like America's in the early twentieth century. Even so, this would be an impressive achievement.

Moreover, national power and influence are determined not by per capita GNP comparisons, but by industrial, scientific and technological prowess in the aggregate. A China with a GNP in the area of one and a half to two trillion dollars will have a weight and presence in world affairs far beyond that at present. And, if China can overcome the bureaucratic inertia and difficulties inherent in managing the destinies of a billion or more people—admittedly a very big "if"—it will have achieved a degree of security and capacity for independent action that it lacks today.

The United States, our allies, and China's neighbors all have a vital interest in how China may choose to use its regained power and influence. For over a century, the world has speculated—sometimes hopefully, sometimes fearfully—about what the achievement of Chinese potential might portend. For over a century, the questions have been the same:

Will the Chinese be comfortable with a world of independent, sovereign, equal nation-states, or will they revert to the view that others should bow to their centrality and superiority in a hierarchy of nations?

Will China prove able to absorb the foreign ideas and techniques essential to its modernization without relapsing into xenophobia?

And, will a wealthy and powerful China direct its immense energies within itself, or will it prove expansionist?

We cannot predict with certainty the answers to these difficult questions, any more than we can predict with certainty the outcome of the great effort now underway in China to make up for lost time. Some of the answers China's current leaders give are encouraging. China, they say, is devoted to a world of independent nation-states coexisting peacefully on terms of sovereign equality. China, they say, will modernize both by drawing on its own traditions and on foreign ideas. It will deal with foreigners—and with its neighbors—on the basis of friendship, equality and mutual benefit.

Such policies would obviously be in our national interest as well as China. It is important that we encourage those trends that deepen China's involvement with the West and Japan. In short, our policies should seek to ensure that China's answers to these questions continue to coincide with our own interests, preferences and practices, and with those of our friends and allies.

The principles that will govern our China policy for the decades to come are therefore already clear.

First. We will develop our relations with China on their own merits.

It is the business of diplomacy not only to gauge the reactions of our potential adversaries, but also to measure policy with respect to the interests of our allies. We will enhance our nation's prosperity and security—and that of our allies—by developing our relations with China in a way that takes full and adequate account of all the external factors that are affected by them. While strategic factors remain a central consideration in our relations, the famous triangular diplomacy of the early 1970's is no longer an adequate conceptual framework in which to view relations with China. Broad American interests are engaged, as are those of allies and friends in a world of increasingly complex interplay among power centers such as Japan, ASEAN, India, OPEC, and Western Europe.

We welcome the emergence of China on the world scene as an active participant in global and regional affairs thus ending China's long isolation and relative non-involvement in the international arena and multilateral diplomacy. China is beginning to play an important role in more and more issues—many completely unrelated to security and strategic considerations.

In short relations with China are not a simple function of our relations with the Soviet Union, although the pace of their advance has been and will continue to be influenced by changes in the international environment.

As Chairman Mao told us privately as early as 1973, the United States must not attempt to stand on China's shoulders to strike at the Soviet Union.

His statement is true notwithstanding the fact that for China, as for ourselves, the question of how to deal with growing Soviet power and assertiveness in the world is, and will remain, a central issue of foreign policy. Each of us has other interests, and is concerned with other issues as well. Our perspectives and our policies may be parallel from time to time; but they will rarely be identical. Our societies rest on quite different philosophic assumptions and our values and institutions diverge in many ways. In the absence of frontal assaults on our common interests, we will remain—as at present—friends, rather than allies.

Second. Our new friendship with China need not and will not be pursued at the expense of our relationships with others. On the contrary, the effectiveness of our China policy depends in part upon the enhancement of our role in the Asia-Pacific region, and that role is in turn strengthened by our growing, constructive ties with China.

Our recognition of China's importance in the Asia-Pacific region does not mean that we intend to default on our own role or to entrust it to the Chinese. There will be no "division of labor" with China in Southeast Asia, or elsewhere. Each of us has our own interests, as do Japan and other countries of the region. Our relations with China are founded on respect for this fact.

The United States will remain a major Pacific power, vitally interested in the stability of the Western Pacific, of Northeast and Southeast Asia, and of other areas on the rim of China. We will maintain and enhance our already strong military, political, economic and cultural presence in the area. Doing so is important to our Asian friends and allies, and should be welcome to the Chinese as evidence of our intention neither to pursue hegemony nor to permit others to pursue it in the Asia-Pacific region.

Third. We will continue to recognize our national interest in a friendly and successfully modernizing China. Our policies on technology transfer are evolving to reflect this interest.

China and the United States are both continental societies whose foreign policies are decisively influenced by our domestic political and economic situations. Should China relapse into economic stagnation, xenophobia, or ideological frenzy borne of frustration, the consequences for world order would be profound. Should China be unable to maintain peaceful relationships of equality and mutual benefit with the nations of the region, its domestic aspirations could prove unattainable. Should China fall still further behind its more advanced neighbors, its role in the maintenance of global balance would be eroded, to the profound disadvantage not only of China, but of the United States and our allies as well. An economic or political vacuum in China has not served the interests of stability in the world in the past; it would not do so in the future.

More positively, we—and the world—have much to gain from a revitalized China, not only in terms of trade and economic exchange, but also in terms of scientific and technological interchange. The Chinese are a talented people who, in the broad sweep of world history, have often in the past led the advance in human knowledge and the quality of life—and can do so again.

The very size of China makes its experiment in modernization unique, and gives us all a special interest in the character of its success. To illustrate: imagine the consequences for the quality of the environment in the northern hemisphere if a billion or more Chinese were to fail to learn from our mistakes, and to industrialize to our levels without imposing pollution controls. Imagine the consequences for world energy supplies should a modernized China be forced to turn to massive imports to sustain its agriculture, industry and commerce.

Clearly, we have a stake not only in China's successful modernization, but also in how it modernizes. Our rapidly developing scientific and technological exchanges with the Chinese reflect this interest. It should be a source of some satisfaction that China, in pursuing modernization, has asked us to play such an important supporting role.

Fourth. We will continue to pursue our interest in a strong, peaceful, and secure China. A China confident in its ability to defend its borders against foreign aggression enhances stability in the Pacific and on the Eurasian landmass, and therefore contributes to our own security and that of our allies.

We do not sell arms to China, or engage in joint military planning arrangements with the Chinese. The current international situation does not justify our doing so. Neither we nor the Chinese seek such an alliance relationship. Nevertheless, we can and will assist China's drive to improve its security by permitting appropriate technology transfer, including the sale of carefully selected items of dual use technology and defensive military support equipment. We have begun to do so. We will continue to consider such transactions individually on their merits as they arise, taking into account our own security interests and those of others in the region.

Vice Premier Geng Biao's visit to the United States this week and last has marked another step forward in this policy. His discussions with Defense Secretary Brown, with the President, the Vice President and the Secretary of State have played a key role in defining what is now desirable and possible in terms of a modest American contribution to China's massive modernization needs.

Secretary Brown's and Vice Premier Geng's visits have also initiated a process of regular contact and dialogue between our respective defense establishments. We expect these useful exchanges to broaden and grow in the years to come.

Fifth. We will continue to adhere scrupulously to our normalization understandings with respect to Taiwan. The past eighteen months have shown that the full range of private American relationships with the people of Taiwan can prosper in the absence of any official U.S. relations with the island. The Taiwan Relations Act provides a firm grounding in our domestic law under which such unofficial relationships continue to flourish.

The Act also establishes our concern for the continued peace and security of the Taiwan area. Our policy will remain consistent with the Act and with our abiding interest in a peaceful settlement of the Taiwan issue by the parties directly concerned.

Within this context, the nature and form of Taiwan's ultimate relationships with the mainland of China are for the Chinese on both sides of the Strait to determine. It would be presumptuous for Americans to attempt to do so. Nor would we impede the process of their reconciliation.

Sixth. We will actively pursue our efforts to enlist the energies and talents of the Chinese people in global efforts to address the common problems of humankind. It is obvious that no such problem—whether of the environment, of food and population, of global energy and resource management, of economic development, technology transfer or arms control—can be successfully addressed without the positive participation and contribution of China. We are encouraged by Chinese interest and cooperation with us on these vital issues in this initial period. We hope to work closely with the Chinese government and people in the United Nations and in other international organizations and fora to ensure continued progress toward a better quality of life for all on this planet.

In sum, the 1980's begin with Sino-American relations entering the stage of maturity. They are firmly grounded on both sides in enlightened self-interest and mutual respect.

Sino-American normalization has worked. Its immense promise is now being realized.●

SENATOR WILLIE P. MANGUM

● Mr. MORGAN. Mr. President, I rise at this time to make something of a confession: I am a history buff and I spend a great deal of time, and some money, trying to better understand the events and people that have preceded us.

Neither the time nor the money have been wasted, in my opinion. There is little doubt in my mind that I am a better Senator from having read extensively of others who have served in the U.S. Senate and the issues which confronted them during their tenure.

Therefore, I was pleased recently to find in the May 18, 1980, edition of the Durham Morning Herald, an article entitled "Willie Mangum Was a Statesman." I read with interest about my fellow North Carolinian, Willie P. Mangum of Durham, who had a distinguished career in the U.S. Senate and served as President pro tem during the term of John Tyler.

I commend this article to the Senate, for I believe that in a very readable fashion it outlines the career of one of the more illustrious Members of this body. I extend my sincere thanks to Betty Hodges, style editor for the Durham Herald, for the excellent research which went into the writing of this historical sketch of North Carolina's Senator Willie P. Mangum.

Mr. President, I submit this article for the RECORD.

The article follows:

WILLIE MANGUM WAS A STATESMAN

(By Betty Hodges)

Only a single chimney, a cluster of boxwoods, some cedars and a few walnut trees reveal that a house once stood there. It is the Rougemont site of "Walnut Hall," home of Willie (pronounced Wylie) P. Mangum, North Carolina senator, Superior Court judge, and lawyer who figured prominently in both state and national politics throughout much of the 19th Century.

Mangum has been neglected both by his state and the people of his home region in what is now Durham County, but the Historic Preservation Society of Durham intends to remedy that this week when it honors him at its annual banquet at 6:30 p.m. Thursday in the East Campus dining hall.

For reservations to Thursday's dinner call 489-4117.

An 1844 Mangum portrait reveals a high-collared, black-stocked gentleman with a wide forehead, intelligent eyes and a pleasant mouth, altogether an agreeable looking man who it is easy to believe was a conscientious servant of his state and nation.

The Henry Thomas Shanks biographical sketch in the introduction to the 1950 edition of Mangum's papers bears it out. Mangum's activities were controversial at times and throughout much of his career he had his critics, but the record proves the significance of his contributions.

Mangum was born May 10, 1792, near Red Mountain in what was then Orange County, of English and Scotch-Irish stock. His father, William Person Mangum, was a merchant-planter and his mother was Catherine Davis, whose family had come to the state by way of Pennsylvania.

The young man probably learned something about getting along with people by working in his father's country store. He studied at Hillsboro, Fayetteville and Raleigh Academies, all respected institutions, then attended the University of North Carolina for three years, with one break to teach at Raleigh Academy.

As early as the summer of 1811 he was a public speaker, praised by a Raleigh newspaper for a "handsome and appropriate oration" at a July 4 celebration. It was an indication of his early political activity.

He graduated from UNC in 1815 and read law under neighbor Duncan Cameron, already a wealthy and progressive leader in the state. In four years Mangum was licensed to practice law.

He did well, as attested by his papers in the Library of Congress which reveal that he bought an "elegant" sulky and had a Raleigh tailor cut him a coat, a silk velvet cape, pantaloons and a vest of expensive, superfine black cloth only a few years after he entered practice.

He must have worn this elaborate outfit in his courtship of Charity A. Cain, whom he married in September of 1819. His bride was the daughter of merchant and landowner William Cain and she brought both slaves and land to the marriage.

His letters show, however, that he did not marry for money. Throughout his life he wrote tender and affectionate letters to his wife, albeit she was apparently never his political confidante. The Shanks sketch quotes an 1826 letter from Washington mentioning a speech he had made in Congress but condescending, "I don't reckon that you can understand it for it is connected with a subject that ladies know little of."

With Cameron's backing, Mangum plunged into politics, obtaining a seat in the state House of Commons in 1818 and 1819 and got such good response from constituents that he speculated he could succeed if he ran for Congress, although he felt the time was not ripe.

Instead he ran for judge of superor court and won, traveling the western part of the state and cultivating political leaders who later proved of value to him.

Descriptions of him at the time mention not only his "rich and melodious voice" but the tall and commanding figure and meticulous grooming that are apparent in an Augustin Edouart profile of him made two descades later. All would be assets to a political leader.

By 1822 he thought better of the congressional bid and spoke out in support of the constitutional revision that would benefit residents of his part of the state, winning popular support that sent him to Washington the next year.

He pleased his constituents well enough to retain his seat in the next election with a win over Baptist minister Josiah Crudup. In Washington he opposed the John Quincy Adams administration as "weak and wicked" and sought and received another superior court judgeship to escape home once more.

During his tenure he suffered financial difficulties with poor real estate and internal improvement projects but emerged with the aid of his father-in-law and liquidation of land and slave holdings.

In 1828 the first of his four daughters was born, and he served as Presidential Elector for Andrew Jackson. By 1830 he was ready in tackle Congress again and succeeded in a controversial bid to return to Washington only after some criticism about his response to "flattery and adulation."

Once he returned to Washington he stayed for over two decades, except for a period when he refused to let the state legislature influence his vote in the national body. He built up a reputation of national scope through hard work, aggressive debate and skillful party maneuvering to influence legislation on such varied matters as the tariff, rechartering of the U.S. Bank and what was ultimately states rights.

He ended up as the leader of the party which opposed Jackson and being mentioned variously for the vice-presidency. He lined up with Clay and won membership in important committees, as well as election as president *pro tempore* of the Senate during the period during the Tyler administration when he was next in sucession to the presidency by virtue of Tyler's assumption of the office from the vice-presidency.

It was in the midst of his heaviest congressional commitment that Mangum built the Greek Revival house on the site of his home place, following his early mentor Duncan Cameron's suggestion that he call it "Walnut Hall" for the two gigantic black walnut trees that dominated it. It is said that he took great pride in the house and the plantation surrounding it, continually sending home a variety of seeds and trees, some of which can still be seen growing at the site. The two namesake trees were destroyed in this century and the house itself burned in 1933.

Mangum continued his distinguished career in the Senate through 1852 leading the Southern movement for Clay's nomination, opposing Calhoun's efforts to unite the South in favor of Clay's Compromise, and figuring predominantly in the major conflicts of the day.

In the fall of 1851 he suffered a fall that later crippled him, but he continued active on the national scene until 1853 when he returned to private life and the practice of law, suffering a stroke in 1856. He opposed secession but after the war broke out, he supported the Confederacy, only to lose his only son, William Preston Mangum, in the conflict, dying himself only a few weeks after he got the news.

Mangum was buried, along with his family, in the graveyard that shows to the east of the plantation in a Mangum Turner drawing of the grounds in the state archives.●

AMERICAN CRIMINAL LAW REVIEW ARTICLE ON FORFEITURE UNDER RICO

● Mr. BIDEN. Mr. President, volume 17, No. 3 of the American Criminal Law Review (winter 1980), included on page 379 an article entitled "Forfeiture Under 18 U.S.C., Section 1963—RICO's Most Powerful Weapon," authored by William W. Taylor III. Racketeer influenced and corrupt organizations, commonly known as RICO, are sometimes the objects of criminal forfeitures. As chairman of the Senate Subcommittee on Criminal Justice, I am an advocate of criminal forfeiture wherever it can be utilized. The RICO statute (18 U.S.C., section 1963) allows for forfeiture to the United States of any interest acquired or maintained in violation of the statute.

During my tenure as chairman, I have concentrated on the problems posed by the sale and distribution of drugs in the United States. Criminal forfeiture provides the means for eradication of drug trafficking and racketeering. In fact, the forfeiture provisions relevant to drug trafficking (21 U.S.C., section 848) allow forfeiture to the United States of all profits obtained by the defendant who engages in a continuing criminal enterprise. Thus, a drug trafficker may be subject to even more severe economic sanctions when convicted than a racketeer.

It is my position that use of financial analysis and the forfeiture of drug-related assets must be increased in our continuing war on narcotics. The article in the American Criminal Law Review serves an important function in legislative, prosecutorial, and enforcement areas. The author examines the history of forfeiture; what can be forfeited; the issuance of pretrial ex parte court orders to prevent dissipation of assets; the rights of third parties who have an interest in the assets; and the increasing trend of courts to convert forfeiture into a fine.

The General Accounting Office, at the request of the Subcommittee on Criminal Justice, is now preparing a detailed report on the use of criminal forfeiture statutes in major drug cases. Hearings on this issue will be held in the Criminal Justice Subcommittee on June 25 and 26. I commend the author of the article on 18 U.S.C., section 1963 for his timely and thorough examination of a related statute, and I ask that the article by Mr. Taylor be placed in the RECORD in its entirety, with the omission of footnotes.

The material follows:

FORFEITURE UNDER 18 U.S.C. § 1963—RICO'S MOST POWERFUL WEAPON

I. INTRODUCTION

Title IX of the Organized Crime Control Act of 1970, "Racketeer Influenced and Corrupt Organizations," commonly known as "RICO," was intended to launch a new and expanded effort against organized crime's corruption of American business. Congress found that organized crime was increasing its effort to infiltrate legitimate business, and that prosecutors needed new statutory offenses and new evidence-gathering techniques to combat it. Congress also concluded that courts needed a means of wresting economic control over the victimized business from the convicted racketeer. Too often, incarcerating or fining a defendant had no effect on his practical ability to run the business. He could simply transfer temporary control to a friend or family member and run it from prison until his release.

RICO's most innovative provision, criminal forfeiture, was designed to remedy the situation and to provide, at last, a means of separating the convicted racketeer from the enterprise. Statutory forfeitures were familiar to American jurisprudence at the time of RICO's passage. In those measures, the government's right to seize property depended on the property's character, not its owner's crimes. Those forfeiture proceedings were *in rem*, not *in personam* measures. A RICO forfeiture is *in personam;* it occurs only upon the defendant's conviction. It thus revives, at least in part, a punishment used in medieval England and in the colonies but later abandoned: forfeiture of estate for conviction of felony.

Congress' decision to reinstitute *in personam* forfeitures was a dramatic step, and its power to do so was not free from doubt. RICO's proponents, including the Department of Justice, took pains to point out that the statute's provisions revived forfeiture of estate in a limited way. The convicted racketeer would not lose all of his property, and certainly not the right to own property. He would lose only his interest in the business he corrupted in violation of RICO's substantive provisions. Although forfeiture was understood to be punitive, it did not portend massive losses so out of proportion to the criminal conduct that due process or eighth amendment guarantees would be compromised.

Congress expected forfeiture to play a surgical, not a destructive role in the statutory scheme. Its purpose was to restore victimized commerce to health, not to bankrupt defendants or dismantle their businesses. Substantial fines presumably exacted the statute's intended measure of economic retribution.

Since its passage, the Department of Justice has aggressively urged "imaginative" use of RICO. The Department has convinced courts that the statute is not limited to organized crime, and that the protected "enterprise" includes illegal combinations as well as legitimate businesses.

The Department has urged equally "imaginative" construction of the forfeiture section. It has successfully invoked it to forfeit a defendant's elected office in labor unions, and unsuccessfully against a state governor's position. More recently, it has begun to seek forfeiture of fruits and proceeds of alleged illegal activity. In one case the government sought the profits from lucrative contracts allegedly obtained by fraud, and in another, cash, jewelry, and real estate allegedly purchased with profits from a pornography empire. Statements by responsible officials leave no doubt that RICO will be a favorite prosecutorial theory in white-collar prosecutions, precisely because its forfeiture provisions threaten the businessman where it hurts the most—"in the pocketbook."

The limits upon the government's ability to pursue a RICO defendant's acquired wealth remain undefined. The number of cases which actually construe its forfeiture language is relatively small. This article undertakes to examine those limits, concluding that the statutory language and legislative history both confine RICO forfeiture to a specific category of "interests." The history of *in personam* forfeitures at common law and their disfavor at the time of our Constitution suggest that the Framers intended to ban *in personam* forfeitures as a punishment for crime. Constitutional infirmities aside, unless RICO forfeitures are limited to the statute's language and purpose, they can threaten massive destruction of legitimately-acquired assets, a result Congress did not intend to achieve.

Without attempting to cover all possible applications, this article looks at several specific questions: (a) whether the fruits or proceeds of racketeering violations are forfeitable; (b) whether assets conveyed to third parties prior to indictment are forfeitable; and (c) what is a forfeitable "interest" in an enterprise which is an "association in fact." Finally, it reviews some practical features of RICO prosecutions which seek forfeiture: rules specifically enacted to implement the new measure; the power of the district courts to issue pretrial *ex parte* restraining orders against dissipation of assets; the rights of third parties who have an interest in those assets; and the increasing trend of courts to convert forfeiture into a fine by permitting defendants to buy back their property.

II. CONSTITUTIONAL CONSIDERATIONS

A. Forfeiture as a matter of constitutional history

Forfeitures *in personam*, forfeiture of estate, as punishment for crime, arose in medieval England. It was based on the theory that breach of common law, an offense to the King's peace, should deprive the transgressor of the right to own property. In 1215, forfeitures were significantly circumscribed by the thirty-second clause of Magna Carta. The Crown renounced any claim to forfeiture on the ground of the commission of a felony. From that day until now, there has been no forfeiture of estate in England as a punishment for conviction of a felony. All remnants of the more complicated rules of escheat for felony were abolished in 1870. Indeed, forfeiture upon conviction for treason was also abolished in England in 1870 by the same statute that abolished escheat for felony. England had long abolished forfeiture of estate as punishment for conviction of a felony when the Framers of our Constitution assembled in Philadelphia. Drawing upon this English experience, they provided a sole forfeiture clause, the provision for the forfeiture of the property of a convicted traitor during his lifetime.

In 1790, Congress enacted a statute which appears to spell out the negative implication of the Article III provision. No forfeiture of estate shall be decreed for any conviction other than treason under the federal criminal code. The Framers' aversion to forfeiture of estate thus appears a forceful, if implied, constitutional prohibition. The fact that forfeiture of estate did not reappear in our jurisprudence until 18 U.S.C. § 1963 was enacted, a period of one hundred and eighty years, bolsters that conclusion.

B. Forfeiture as cruel and unusual punishment

Since *in personam* forfeitures are punitive, RICO's forfeitures may appropriately be tested by the eighth amendment's standard that criminal punishment may not be "cruel" or "unusual." Punishment deemed "cruel" is that which is excessive or grossly disproportionate, and which involves needless severity, while punishment that is "unusual" is that which is so novel as to provide no assurance of acceptance by the public or consistency with its notions of fair punishment.

The Framers clearly considered forfeiture of estate a forbidden form of punishment. When revived in RICO in 1970, it was "unusual" and beyond the category of "routine use." Indeed, if the Constitution draws its meaning "from the evolving standards of decency that mark the progress of maturing society," then the meaning of the eighth amendment has been developing since Magna Carta in 1215. Ever since that date, civilized society has deemed forfeiture of estate an unfair, undue, and unusual punishment for virtually all convicted felons.

Courts have not accepted the arguments that section 1963's revival of forfeiture of estate is prohibited by the Constitution, or that it inflicts cruel and unusual punishment. The United States Court of Appeals for the Fourth Circuit implicitly rejected these arguments in *United States* v. *Mandel*, affirming the defendants' RICO and mail fraud convictions and permitting the trial court's order forfeiting certain defendants' stock in a race track to stand. In *United States* v. *Thevis*, the district court held that RICO forfeitures were not forfeitures of estate. It was apparently that court's view that forfeiture of estate is prohibited by the Constitution and by 18 U.S.C. § 3563, but that a RICO forfeiture is not. Similarly, in *United States* v. *Huber*, the court held that at least for the purposes of that case, "there is no substantial difference between an *in rem* proceeding and a forfeiture proceeding brought directly against the owner."

In both *Huber* and *Thevis*, however, the courts expressed concern that, in particular cases, the statute could permit forfeitures so disproportionate to the crime as to invoke the eighth amendment, a subject discussed more fully hereafter.

III. LEGISLATIVE HISTORY

Title IX, as conceived by its sponsors, was enacted to meet perceived inadequacies in existing tools to fight organized crime. In particular, RICO's sponsors wished to restrict the ability of organized crime to take over legitimate businesses and to use racketeering methods to conduct them. The forfeiture provisions would punish the racketeer, but even more importantly, they would separate him permanently from the business he had corrupted.

It was never the intent of RICO's proponents, or of the Congress which enacted it, to obtain an escheat of all property held by the convicted racketeer. Recognizing that it was partially reviving *in personam* forfeitures previously prohibited by 18 U.S.C. § 3563, Congress thought it was limiting forfeitures strictly to the convicted defendant's interest in the enterprise he corrupted. No suggestion appears that Congress intended to reach beyond the relevant "enterprise," or to forfeit fruits or profits of racketeering except when used to acquire control of an "enterprise." Indeed, there is much evidence to the contrary.

The present section 1963 was not part of the original version of S. 30, the source of the Organized Crime Control Act of 1970. Forfeiture provisions first appeared in the Corrupt Organizations Act of 1969, introduced by Senators McClellan and Hruska. Section 8 of the Corrupt Organizations Act of 1969 included the basic criminal proscriptions of section 1962 (a), (b), and (c) as finally enacted. It also included a proposed forfeiture provision for section 1963. S. 1861 was not introduced until after major portions of the Senate hearings on S. 30 had been completed.

Asked to comment on the forfeiture measure, the Justice Department initially deferred in part: "[W]e are in accord with its objectives. However, because it is so innovative we have been unable to explore all the ramifications of the proposal . . . ."

The results of the Justice Department's further review were forwarded to Senator McClellan by letter dated August 11, 1969, from Deputy Attorney General Richard P. Kleindienst. In one portion of that letter, Mr. Kleindienst expressly opposed S. 1861's total ban on purchase of an interest in an enterprise with income derived from a pattern of racketeering activity. He proposed modifying language which permitted purchase of less than a controlling interest in an enterprise. This proposal was incorporated into law as a proviso to section 1962(a). Mr. Kleindienst felt that without the proviso the statute went "beyond the scope of the evil at which the legislation is aimed."

Mr. Kleindienst disagreed with the concerns of some that forfeiture of estate was unconstitutional or that, as written, it was too broad. He said:

> It is felt that this revival of the concept of forfeiture as a criminal penalty, *limited as it is in* § 1963(a) to one's interest in the enterprise which is the subject of the specific offense involved here, and not extending to any other property of the convicted offender, is a matter of congressional wisdom rather than of Constitutional power. . . .

The Justice Department thus recognized that (1) income from a pattern of racketeering activity would not be forfeited unless used to purchase a controlling interest in an "enterprise" (2) other purchases and investments are not to be forfeited even though made with income and proceeds traceable to a pattern of racketeering activity; and (3) the forfeiture is limited to the defendant's interest *in* the enterprise which is the subject of the offense.

The version of S. 30 that was presented for the consideration of the entire Senate incorporated the substance of S. 1861, both section 1962 and 1963(a) in the exact form in which they were ultimately enacted. It adopted Mr. Kleindienst's suggested modifications to section 1962(a).

Had Congress intended to provide for the forfeiture of profits, proceeds, goods, or property, it could have expressed that intent, as it did with respect to narcotics violations in another statute. That Congress chose to go so far with respect to narcotics is understandable because the sale of narcotics is an inherently illegal endeavor, and all proceeds or fruits of the endeavor are attributable to illegal conduct. Furthermore, total liquidation of the narcotics endeavor is the ultimate intent of the statutory prohibition. However, with RICO, Congress could not rationally seek forfeiture of all proceeds or fruits of a racketeer-influence, but otherwise inherently legitimate, endeavor. Destruction of the enterprise is not the goal. The income and proceeds may be attributable, at least in part, to the efficacy of the legitimate endeavor, not to the racketeering methods. Only to the extent that a racketeer uses racketeering income to acquire a controlling interest in another legitimate enterprise is forfeiture of the acquired property provided. Even then, an investment of proceeds which directly or indirectly affords control must be traced directly to the racketeering activity. As Mr. Kleindienst indicated, forfeiture should not extend to *any other property* of the convicted offender.

IV. THE STATUTORY LANGUAGE

The legislative history provides compelling evidence that Congress intended forfeiture of only a narrow category of interests—the proprietary or ownership rights of a defendant in a RICO enterprise. The statutory language does not permit a more "imaginative" or broader reading.

A. Forfeiture in the statutory scheme

Schematically, RICO tracks Congress' desire at organized crime's infiltration of legitimate business. The substantive offenses introduce two new concepts to federal criminal law: the "pattern of racketeering activity" and the "enterprise." The "pattern of racketeering activity" consists of two enumerated state or federal offenses committed within ten years of each other, and which are related in a common scheme. The "enterprise" is defined to include familiar legal entities: individuals, partnerships, corporations, associations, or other legal entities. It also includes *de facto* associations: "any union or group of individuals associated in fact although not a legal entity."

A RICO crime occurs when one uses the proceeds of racketeering activity (or collection of unlawful debt) to acquire control of an enterprise, or when one uses racketeering activity (or collection of unlawful debt) to acquire or maintain control of an enterprise or to conduct its affairs. It requires therefore, proof not only that the defendant committed the two predicate acts, but that those acts were part of a pattern, and that they had a particular impact upon the enterprise.

Forfeiture occurs on the basis of the defendant's illegal conduct in the context of an "enterprise." The defendant stands to lose his "interest" in an "enterprise" if he is found to have corrupted it. Thus, "enterprise" defines the limits of forfeiture and, as we see below, the manner in which the indictment defines it can be critical.

B. The meaning of "interest"

Section 1963(a) is RICO's penalty section. It describes the applicable terms of imprisonment and fines and adds that the convicted defendant "shall forfeit to the United States" interests described in subsections (a)(1) and (2). Subsection (a)(1) subjects to forfeiture "any interest . . . acquired or maintained in violation of section 1962." Because the subsection does not by its terms limit forfeitable "interests" to "interests in an enterprise," the government has argued that income from or the proceeds of racketeering are interests "acquired" in violation of section 1962(c).

In *United States* v. *Marubeni American Corporation*, prosecutors sought forfeiture of profits from a lucrative contract allegedly procured by mail fraud and bribery, arguing that profits were a section 1963(a)(1) "interest." The district court dismissed that portion of the indictment seeking forfeiture and the United States Court of Appeals for the Ninth Circuit affirmed the dismissal. Analyzing RICO's prohibitory provisions and legislative history, the court concluded that a section 1963(a)(1) interest is an interest in an enterprise which is itself the subject of a section 1962 (a) or (b) violation.

In *United States* v. *Thevis*, the District Court for the Northern District of Georgia turned aside government efforts to forfeit cash, jewelry, and real property allegedly obtained from or purchased with the fruits of racketeering. It relied on the reasoning of the lower court in *Marubeni* and held that section 1963(a)(1) subjects to forfeiture only interests *in an enterprise*, but does not extend to the profits or fruits of racketeering.

Marubeni and *Thevis* are correct. One cannot "acquire" or "maintain" an interest "in violation of section 1962" except by violating section 1962(a) or (b). Those subsections prohibit acquiring or maintaining an interest "in an enterprise" by the use of racketeering funds or activity. Section 1963 (a)(1)'s failure to modify "interest" in the same manner as section 1962 does not signal a congressional intent to broaden its meaning.

Section 1963(a)(2) specifically limits forfeiture to a defendant's interest in an enterprise, but it fails to describe what *kind* of interest is intended. It also includes "security of, claim against, or property, or contractual right of any kind affording a source of influence over" the enterprise. The words "property or contractual right of any kind" are broad. Virtually any personal wealth may be said to afford a potential source of influence over an enterprise.

The legislative history indicates that Congress intended the phrase "property or contractual right" to include all definable "interests" by means of which control over a business may be exercised. It did not intend to force divestiture of personal wealth or assets providing more remote forms of influence. This remedy is complete when the racketeer is deprived of ownership. Personal magnetism, family relationships, or personal economic power afford influence over other people, but their effect is simply too amorphous to be defined by the statute.

It is not surprising, therefore, that decisions construing RICO have generally limited the forfeitable interest to traditional forms of ownership and control. In *United States* v. *Meyers*, for example, the court indicated that a strained construction of section 1963 would be required to regard profits or fruits of a business as a forfeitable interest, even if they might be used to finance its future operations. A more natural interpretation of a RICO "interest," the court said, is a "continuing proprietary right," not dividends or distributed profits. Other courts have followed this view.

Contractual rights apparently include elected office in labor union "enterprises," however. In two cases courts have ordered defendants to forfeit their presidential office in labor unions they were found to have conducted through a pattern of racketeering activity. In neither case, however, did the court order perpetual forfeiture of the defendant's right to be re-elected to the office. The statute's "limited temporal reach" permits forfeiture of only currently-held rights.

RICO's limited temporal reach is significant in other respects. Because the forfeiture is *in personam*, it may only affect property owned by the defendant at the time of his indictment. Unlike the object of an *in rem* forfeiture, an interest in a RICO enterprise is not forfeited irrespective of its ownership; one who becomes a defendant may pass good title to it prior to his indictment.

Nothing in section 1963 condemns a preindictment transfer of assets made for the purpose of avoiding forfeiture. No case has confronted the problem, but it is certainly likely to arise. Does a motive to avoid forfeiture vitiate a transfer for consideration or as a gift? Assuming that the transfer is *bona fide*, the answer would seem to be that assets transferred, even with such an intent, would not be forfeitable.

As long as the defendant does not in fact have an interest when he is indicted, forfeiting the property would serve no statutory goal. An indictment which seeks to forfeit not only interests of the defendant, but those of his "heirs and assigns," sweeps too broadly.

Even if the defendant does not fully divest himself of the property prior to his indictment, but retains a beneficial interest, a reverter, or a right of redemption, the government is entitled only to what he has, not the entire asset. Any other result would impose hardship on innocent parties, especially purchasers or creditors, and raise substantial problems of due process.

The prosecutor should be free, of course, to demonstrate that the preindictment transfer was a sham, not because of the motive to avoid forfeiture, but because the defendant and the transferee never intended it to be complete. Under such circumstances, the third party should have the right to be heard, but presumably only after the jury's verdict.

C. The danger of disproportionate forfeitures

It is frequently urged that the limitations described above proceed from a narrow and grudging construction of the statute. Congress, after all, instructed that RICO should be liberally construed to effectuate its remedial purpose.

Limiting the forfeitable interest to the defendant's interest in the relevant enterprise does not require a restricted view of the statutory language. It flows directly from the theory and purpose of the entire scheme. Congress sought to rid American business of organized crime, not to bankrupt the criminal. That as one court observed, ought to be the "linchpin" of any construction.

Better reasoned cases hold that, notwithstanding the congressional mandate, RICO forfeitures are penalties, and like all criminal statutes, this one must be construed strictly against the government. To permit a more "imaginative" construction in particular cases threatens the due process guarantee underlying the strict construction maxim, and puts the statute closer to the "shoals of vagueness." More dangerously, it opens the way to the massive and disproportionate forfeitures RICO's proponents thought they had avoided.

By its terms, section 1963 imposes forfeiture upon a defendant's entire interest in an enterprise he has conducted through a "pattern of racketeering activity." The statutory scheme is silent on the extent to which the racketeering activity must contribute to the success of the enterprise. Section 1963 does not limit the interest subject to forfeiture by reference to the role which the racketeering activity played in the affairs of the enterprise as a whole. Even if the racketeering activity is minute in comparison to the total business operation, and the benefits of racketeering small as compared to the total revenues, the defendant's entire interest in the business is arguably at stake.

Consider a person who devoted many years to developing a successful and profitable sales-oriented business. At some point he becomes greedy and commits two mail fraud violations, and thus a "pattern of racketeering activity," to obtain specific contracts. Although the additional revenues from the contracts procured by the mail fraud may be small in proportion to total revenues, and to the company's total net worth, nothing in section 1963 prohibits forfeiture of his entire business.

This result arguably raises problems of constitutional dimension under both the fifth and eighth amendments. Such a forfeiture would have no relationship to the congressional objective and could be so out of proportion to the crime that it would be cruel and unusual.

In *United States* v. *Thevis*, the indictment charged the defendants with conducting a pornography enterprise through racketeering activity in violation of 18 U.S.C. § 1962(c). The "enterprise" was an association in fact formed for the purpose of operating the pornography business *through illegal means*. The government argued that the entire pornography business, including all its real estate and assets (including presumably its inventory) was forfeitable, notwithstanding the absence of proof that the racketeering activity contributed to its success.

To avoid what it perceived to be a constitutionally troublesome result, the court limit the enterprise specifically by the manner in which the indictment defined it: an association formed to conduct a pornography business through *illegal means*. Since there was no evidence that the illegal acts contributed to the success of the *legitimate* pornography business, only assets used to further the empire's alleged *illegal* goals were forfeitable. The court specifically observed that to accept the government's view would raise constitutional problems, and it rejected the effort to dismantle the business.

Similar problems arise arise when a defendant owns stock in a parent corporation and conducts the affairs of a subsidiary through racketeering activity. The statute contains no restriction against attempted forfeiture of the defendant's interest in the parent. Such an effort would raise the same disproportionate penalty questions put aside by the court in *Thevis*. In *United States* v. *Huber*, the defendant used seven corporate entities in the course of a scheme to defraud. Some of the entities were subsidiaries of the others, and the defendant argued that his interest in a parent was not subject to forfeiture if only the subsidiaries were corrupted. The court found that the entities were sufficiently interwined to permit forfeiture of the defendant's interest in all. It recognized, however, that "[i]n some cases a pattern of racketeering activity in the conduct of a subsidiary's affairs may not be attributable to the parent." The court refused to lay down rules of general applicability, but cautioned against "undue prosecutorial zeal in invoking RICO for situations where it was primarily intended."

It would seem that even where the statutory language could permit a disproportionate forfeiture, it should be construed to prevent it. In *Huber*, the Second Circuit stated that the trial court had discretion to see that such forfeitures did not occur. The Fifth Circuit may have a contrary view. If, as the Fifth Circuit says, the trial court has no discretion in the area, the constitutional confrontation with disproportionate forfeiture thus far avoided will have to occur.

D. Forfeitable interests in an association in fact

Section 1961(4) permits the government to define the RICO enterprise as a traditional legal entity or as a *de facto* combination. Problems defining the "interest" arise when the enterprise is described in the indictment as an association in fact. One cannot own a legal interest in an association in fact, and its is difficult to see what could be forfeited in such a circumstance.

The Department of Justice itself recognized logical difficulties in charging that a defendant *acquired* or *maintained* an interest in an enterprise which is not a legal entity in violation of section 1962(c), when the group of individuals "associated in fact" theory is used. The Department correctly concluded that, because the relationships among the members of a *de facto* group cannot be purchased or sold, a prosecution for their acquisition or maintenance would be metaphysically troublesome.

If one cannot acquire or maintain an interest in a *de facto* association, how then can one own a forfeitable interest in such an association? As the Criminal Division of the Justice Department has acknowledged, although section 1962 assumes the existence of some forfeitable assets, "there is often nothing to forfeit . . . in the case of individuals associated in fact. . . ."

More recently, however, prosecutions have included corporations as members of a *de* *facto* enterprise and the government has obtained forfeitures in such cases. Courts have overruled the objection that Congress did not intend for the "association in fact" enterprise to include associations of corporations or associations of individuals and corporations. Only the court in *Thevis*, has addressed the nature of a forfeitable interest in such an amalgam.

As described above, the indictment charged that Thevis, along with others, conducted an enterprise through racketeering activity in violation of section 1962(c). The "enterprise" was an association in fact of certain individuals and corporations, including the defendant, formed for the purpose of conducting a pornography business through illegal means, including murder, arson, and other crimes.

The court held that, although the enterprise was incapable of holding property in its own right, the defendants could have forfeitable interests in it. Their interests would include property held in individual or corporate capacities but contributed to and controlled by the association, "so that the association could achieve their jointly held goals." Putting assets at the disposal of the enterprise was, by the court's reasoning, like investing in a corporation. The assets each placed at risk were the defendants' respective interests.

The *Thevis* analysis is intriguing but troublesome. It seems to say that if the enterprise has an illegal goal, property used by any defendant to achieve that goal is subject to forfeiture. It is an analysis which, while rejecting forfeiture of proceeds of racketeering, permits forfeiture of instrumentalities of crime. It resembles statutory *in rem* forfeitures of cars and other property used to commit crimes. This is not what Congress had in mind. If the asset does not carry with it some right to control, it is not an "interest." Congress was clearly more interested in the control features of the interest than in its value or use.

Although the *Thevis* analysis preserved most of the assets from forfeiture in that case, if sustained or followed, it could have substantial impact on the structure of future prosecutions. If the government can define the enterprise in such a way that any property used to advance its illegal goal becomes a forfeitable interest in it, "imaginative" prosecutions directed at instrumentalities (in some cases money) undoubtedly will proliferate.

The decision correctly demonstrates, however, that the nature of the enterprise charged in the indictment is critical to a determination of the forfeitable interest. It is that enterprise, and not some other which may have been proved, upon which the forfeiture analysis must focus.

V. PRACTICAL FEATURES OF A RICO PROSECUTION

Enactment of the forfeiture provisions of section 1963(a) was accompanied by modifications to the Federal Rules of Criminal Procedure, and by a grant of specific authority in section 1963(b) to district courts to issue pre-trial restraining orders preventing the dissipation of assets allegedly subject to forfeiture.

A. Changes in the Federal Rules of Criminal Procedure

Rule 7(c)(2) provides that when an offense charged may result in a criminal forfeiture, the indictment or information must allege the extent of the interest or property subject to forfeiture. This rule embodies the defendant's entitlement to notice of which property may be subject to forfeiture and the concomitant opportunity to defend against such forfeiture.

Rule 7(c)(2) has been construed to require description of any potentially forfeitable property interest, not just interests the government in fact seeks to have forfeited. The language of Rule 7(c)(2) has raised some doubt as to whether it could be circumvented in criminal forfeiture cases, which also require a special verdict under Rule 31 (e) and a separate judgment under 32(b)(2), through plea bargains for "voluntary" civil forfeiture of the property. The rule seems to limit the government to seeking forfeiture of only that property which is identified in the indictment, not some other property which the government later determines to attack.

B. Restraining orders

Section 1963(b) explicitly authorizes the district courts to enter such restraining orders as they deem proper in connection with any property or other interest that is subject to criminal forfeiture under section 1963(a). This provision was enacted to prevent post-indictment pre-conviction transfers of property. The section has no provision requiring notice to affected parties, a hearing, or any demonstration of need by the government prior to the entry of such an order. Although the boundaries of RICO pre-trial restraining orders have not yet been firmly defined, they have withstood minor constitutional challenges.

The harshness of such orders was demonstrated in *United States* v. *Thevis*, where, at the time of the indictment, the government obtained an ex parte restraining order against all defendants that prohibited them from transferring assets or making payments other than in their ordinary course of business. The government made no evidentiary showing nor served any notice to defendant's counsel or interested third parties that it planned to obtain the order.

By the trial's end, the government abandoned its efforts to obtain many of the items listed in the indictment and the court limited the forfeitures. The pre-trial order did, for some time, block various regular payments by one corporate defendant to alimony and inter vivos trusts established by Thevis as security for alimony and child support obligations under a divorce settlement agreement. Charges against that defendant were dismissed by the court at the close of the government's evidence. The court had, in the interim, modified the restraining order to permit such payments on a month-to-month basis following a petition by the trustee.

United States v. Mandel, was the first case to provide a detailed analysis of the circumstances under which a RICO restraining order may be appropriate. The court held that the standards for preliminary injunctions in civil cases "may provide some guidance as to the *minimal* requirements for the entry of a pre-conviction [restraining] order in a criminal case." Application of those standards would require the government to show: (1) that it had a high probability of success on the merits; (2) that irreparable harm would occur in the absence of such relief; (3) that the issuance of such an order would not harm other parties interested in the proceedings; and (4) that the public interest favored issuing such an order.

Analyzing these factors on the basis of the facts before it, the court stated that the first standard would require the government to demonstrate that it is likely to convince a jury beyond a reasonable doubt that the defendants were in fact guilty of the crimes charged. This standard could not be met by an indictment alone, which contains conclusory allegations and not evidence. Thus, entry of the requested order without affidavits or other evidence would be incompatible with the defendant's presumption of innocence.

With respect to the second standard, the court stated that threatened transfer or disposition of the property would constitute requisite irreparable harm, but there had been no allegation that any of the defendants intended to transfer the property interests at issue.

As to the third standard, the court noted that third parties apparently owned property or other interests in the enterprise described in the indictment, but that it could not conclude from the record whether they could be harmed by the issuance of the order.

Finally, the court pointed out that the public interest would be served by a restraining order if the failure to enter it would defeat the objective of removing legitimate business interests from criminal hands. Whether a legitimate business interest was in criminal hands could not be determined prior to a trial on the charges in the indictment, however, and entry of a restraining order would be "substantially prejudicial" to the defendants. The court refused to issue the order.

The Mandel court adopted a careful and wise analysis. There is no reason to free the government from the restrictions imposed upon civil litigants seeking interim relief, especially on an *ex parte* basis. It is doubtful that restricting transfers of assets solely on the basis of an indictment can possibly comply with basic due process requirements. At a minimum, the government should be required to show, by affidavits or otherwise, that it can prove the defendants guilty beyond a reasonable doubt, that the property allegedly subject to forfeiture is in fact the defendants' property, and that the property bears such a relationship to the racketeering conduct alleged as to make it properly forfeitable upon conviction.

C. Third party problems

Section 1963 recognizes that forfeitures may have an impact upon third parties. The most difficult of those problems arises when the government seeks to forfeit property to which a third party holds legal title, but which the government contends the third party holds as a defendant's nominee. This occurred in *United States* v. *Mandel*. The government argued that one of the codefendants was a secret owner of certain race track stock held in the name of a third person not before the court. The jury agreed and returned a special verdict, as required under the rule, finding that the defendant owned the stock and that it was subject to forfeiture. The trail court recognized, however, that to deprive the third party of title to the property without an opportunity to be heard raised problems under the Due Process Clause. It permitted the third party to participate in post-trial proceedings to establish his ownership. At this writing, those procedures have not been resolved, as appeals of the defendants' convictions are pending.

In an effort to make some provision for the numerous third party problems which will arise, section 1963(c) incorporates by reference the provisions of the customs laws. With the exception of *Mandel*, courts have thus far had little experience with the practical details of RICO forfeitures when third parties are involved. In *Thevis*, however, third parties successfully obtained relief from a pretrail restraining order restricting payments upon notes held by a trust.

D. The right to repurchase forfeited property

At least two courts have permitted convicted defendants to buy back forfeited property. In *Huber*, the district court ordered the defendant to forfeit his interest in seven corporations whose affairs he had conducted through racketeering activity consisting primarily of mail fraud. The defendant had used each of the entities to submit inflated charges for medical supplies to hospitals and had received reimbursement by federal and state governments for fraudulent claims.

For reasons that were not articulated, the court permitted Huber to redeem his interest in the entities within six months upon payment of the sum of $100,000. There is no indication that $100,000 represented the value of the corporations.

In *United States* v. *Barone*, the court followed the repurchase method permitted in *Huber*. Upon the defendant's conviction, it entered an order requiring the forfeiture of their interest in a corporation, but permitted the defendants to redeem that interest. The court appointed a nationally known accounting firm to perform a financial examination of the corporation, and reserved ruling on the amount of the redemption payment.

Permitting defendants to buy back their interest in RICO enterprises is the antithesis of the remedy Congress had in mind. It permits a racketeer who has sufficient resources to regain control of the business he corrupted by racketeering money or methods. It turns the forfeitures into a fine, and provides no relief to the affected business.

The response of the courts in *Huber* and *Barone* may suggest that RICO is being applied in situations where it was not intended. *Huber* specifically rejected that possibility, but expressed concern that district courts exercise discretion in assuring that forfeiture does not become draconian. The Fifth Circuit's recent decision in *United States* v. *L'Hoste* raises serious questions about the district court's discretion and, by implication, about the power to permit buy-backs.

For the RICO defendant, the opportunity to repurchase his forfeited business is undoubtedly beneficial. It also obviously provides courts with the ability to increase fines above the statutory maximum and, to that extent, increase punishment. Such an action bears no relation to the objectives which forfeiture was intended to accomplish, however, and has dubious support in the statute.

VI. CONCLUSION

The sponsors of RICO intended to give the Department of Justice a new and effective tool in the war against organized crime. The intent of the sponsors, as reflected in the legislative history, was to strike at racketeering methods and money that infiltrated legitimate business. Forfeiture was intended primarily to separate the racketeer from the businesses he corrupted.

The supporters of the bill assured Congress that revival of in personam forfeiture would be constitutional in the limited sense in which it was then being considered. Forfeiture was to be restricted to "one's interest in the enterprise which is the subject of the specific offense involved here, and not extending to any other property of the convicted offender." Since RICO's enactment, the Department of Justice has vigorously attempted to convince courts that RICO forfeiture authority extends well beyond the limits suggested in this article.

Although the number of actual forfeitures may be small in relation to the number of such forfeiture actions initiated, the mere threat of such forfeiture is a weighty concern in all RICO cases.

"Imaginative" forfeiture efforts will undoubtedly continue, particularly in the area of white-collar economic crime, where, even if he has substantial defenses, a defendant's wealth makes the mere possibility of massive forfeitures a powerful threat. Recent decisions suggest that courts are troubled by the government's broad readings of RICO forfeiture and restraining order provisions. It is to be hoped that courts will not tolerate efforts to construe this dramatic remedy more broadly than intended merely to obtain a little more punishment for the malefactor. Even where potential defendants are not indigent and are likely to be vigorously defended, our system of ordered liberty cannot support a broad and "imaginative" reading of criminal statutes in the hope of increasing their in terrorem effect.●

MINES—THE FORGOTTEN WEAPON

● Mr. GLENN. Mr. President, I wish to recommend to my colleagues and fellow citizens a pertinent and enlightening article, "Mines: The Forgotten Weapon." In this article, Comdr. Merle MacBain outlines both the advantages and disadvantages of mine warfare. Historically, mines have played a significant role in our Nation's war efforts. Today, they continue to be an important element in our national security.

Recently, the Committee on Armed Service authorized procurement of the Captor system, a deep-moored antisubmarine "smart" mine. In supporting this program, the committee cited the numerous benefits of mines. Specifically, mines are a formidable "force multiplier," they can deny the enemy access to an area yet do not cause a heavy drain on scarce manpower resources. Commander MacBain's article succinctly outlines the current status of the Captor mine.

I therefore ask that his article, "Mines: The Forgotten Weapon," be printed in the RECORD.

The article follows:

MINES: THE FORGOTTEN WEAPON

(By Merle MacBain)

The current ability of the United States to wage aggressive mine warfare, or even to defend itself against an enemy who can, is one of the nation's best kept military secrets.

The average citizen, even many a naval officer, appears to know very little about U.S. plans for using the cheap and deadly weapon that made the difference in winning two world wars and forced the North Vietnamese to the peace table in Paris.

If these "sneaky" underwater bombs are so important in this day of multi-billion-dollar super missiles, can the country's readiness for offensive and defensive mine warfare and for mine countermeasures be as poor as its critics claim it is?

The critics of the Navy's mine warfare posture (and they are found both inside and outside of the uniformed service) are also the true believers in the mine as the weapon that offers, as the old saying has it, the most bang for the buck. They believe, what's more, that no major war, conventional or nuclear, can be won without it. One of their arguments rests on the statistics of history.

A BRIEF HISTORY OF MINE WARFARE

The sea mine was the invention of David Bushnell, a Yale student who, with George Washington's approval, attempted unsuccessfully to explode a keg of submerged gunpowder alongside a British warship in the Delaware River. But the first nation to inflict real damage with mines was Russia, which used moored mines to cripple two British warships in the Gulf of Finland during the Crimean War.

Mine warfare was a serious matter during the U.S. Civil War when the South, with no real navy of its own, used mines to sink 20 Union warships, including one ironclad. Twice as many ships were sunk by mines as by gun fire during that war, and one result was that mines came to be derided as the weapon of the weak. Perhaps such an opinion influenced Union Admiral David Farragut (the luckiest admiral) to say, "Damn the torpedoes (i.e., mines), full speed ahead," after losing his flagship to a mine in the Battle of Mobile Bay.

Mines were used to deadly effect in the Russo-Japanese War, 1904–05, when both sides lost modern steel-hulled battleships to mine fields and both (this was to become a pattern) lost more ships to mines than to gunfire.

Germany was so ready for mine warfare in World War I that she had a ship at sea planting a minefield off the east coast of England before war was declared. During the war Germany laid 43,000 offensive and defensive mines, sinking 900 Allied and neutral ships, some of them in U.S. waters.

The British were much less ready, but by the end of the war they were laying mines at the rate of 7,000 per month. With more time to think it over, the United States entered the war with two mine layers (one fewer than in the active fleet today). But when ships supplying Britain were being sunk faster than the yards could turn them out, the United States decided to lay that greatest of all minefields, the North Sea Barrage. Its 100,000 mines were to be strung from Norway to Scotland to shut off Germany's one remaining access to the open sea. Seven thousand mines had been laid and a half dozen enemy submarines netted when the war ended some five months after the project was started.

Allied mines sank, in toto, some 150 German warships, including 48 submarines. Depth charges, a weapon much admired in television scripts, sank only 30 of the fearsome U-boats. Few enemy merchant ships were sunk. They were simply bottled up in port by the mines.

Offensive mining again played a crucial role in the defeat of the Axis in World War II—and U.S. readiness was, as usual, pathetic.

Germany went into the war with a stockpile of 22,000 mines—including a few, fortunately not enough, of Hitler's "secret weapon," the bottom-laid magnetic mine. These monsters were dropped secretly by air and lay unsuspected on the bottom of the English Channel until automatically triggered by the natural magnetic field of a steel-hulled ship. One mine happened to be dropped in shallow water, was reclaimed by the Allies, and studied. An American group headed by a nerveless young Navy lieutenant, O. D. Waters, Jr., was there to get the information for still-neutral America. As a result, new sweeping techniques and the degaussing (demagnetizing) of U.S. warships helped counter the threat.

U-boats laid 338 mines off the U.S. east coast, sinking or damaging ten ships. The great value to Germany was the reaction cost in the United States. As always with a mine threat of unknown extent, ports were closed to install anti-submarine nets (while traffic was diverted into more dangerous waters), large defensive mine fields were laid, and 125 minesweepers hastily built to sweep clear channels.

America's belated aircraft minelaying offensive around Japan, "Operation Starvation," resulted in the sinking or damaging of 670 Japanese ships in a few months.

Mines, Allied and enemy, sank more ships (about 1,000 German and 800 Allied) during World War II then were sunk by any other means. And there were many more ships severely damaged or trapped in port.

LESSONS LEARNED LATE

There was no offensive mine warfare in the Korean conflict, but it provided the U.S. Navy with an unpleasant reminder of the importance of mine countermeasures. The U.N.-U.S. Fleet, 250 ships strong, had planned what should have been a simple amphibious assault on the east coast port of Wonsan. But the North Koreans, using junks and sampans, had hurriedly sown the harbor with a mix of moored contact and bottom magnetic mines—about 4,000 or so, courtesy of the Soviet Union. In spite of heroic, juryrigged measures under the direction of Fleet Commander Vice Admiral A.D. Struble, a mine warfare veteran who went in with the sweepers, it took eight days and the loss of a number of ships—and Allied lives—to clear a channel and join forces with the ROK Army units that had attacked the city from the rear.

At the end of the operation, the United States commenced construction of 125 minesweepers!

Twenty years later the United States was mired in Vietnam, and Admiral Thomas H. Moorer, a long-time believer in mine warfare, was Chairman of the Joint Chiefs of Staff. At his insistent urging, the Navy was given a green light to mine the harbor of Haiphong, port of entry for, among many other things, Soviet munitions.

The airplane was now king in the mining business, and on 8 May 1972 carrier-based A-6 Intruder and A-7 Corsair attack aircraft began laying 8,000 mines. A three-day grace period was set into the mines to protect the ignorant, but the blockade was effective from the first; for 300 days not one ship attempted to leave or enter the port. The harbor could have been mined with garbage cans for all anyone knew, but it was a totally successful military action and, the results would indicate, the chief impetus to acceptance by North Vietnam of the peace agreement signed in Paris in January 1973.

THE INTELLIGENT INFILTRATOR

Instances of the military potency of mines could be endlessly elaborated. Their increasing sophistication is less appreciated:

—Mines can count vessels, letting one or several decoys go by before taking aim. They can even be programmed to differentiate between the "signatures" (the magnetic, sound, and pressure fields unique to each vessel) of friend and foe and act accordingly. The latter breakthrough is said to be awaiting additional research on enemy signatures—as well as, perhaps, a more compelling reason for friendly skippers to assist in field tests.

—They can lie hidden and harmless for any predetermined length of time before going into action.

—They can be laid from any military platform: aircraft for speed and numbers; submarines for secrecy; surface mine layers when accuracy is more important than secrecy (as in the defensive mining of one's own waterways).

Mines can be swept now, by sled-drawing helicopters, with greater speed and safety than was ever before possible. The United States has three sled-helicopter squadrons.

Mines can alter the world's sea traffic pattern by closing the key oceanic straits and narrows where world trade converges, often to avoid longer continent-circling trade routes. The four narrow choke points most important to Western traffic are the Suez and Panama Canals and the straits of Gibraltar and Malacca. Equally important to the Soviet Union are the Dardanelles and the Skagerrak—both of which straits, in times of global conflict, would become vital targets for the West.

Finally, of course, a few mines in the Strait of Hormuz, the narrow entrance to the Persian Gulf, could put a quick halt to Iranian oil sales, though more selective areas are probably being considered for such an operation.

BENIGN DESTRUCTION

For all its ill nature when disturbed, the sea mine has a low public and political profile. It is a benign weapon, even a humane weapon. It requires the enemy to participate in his own destruction and, in comparison to its usual effect on the outcome of a struggle, causes relatively few deaths or injuries. Except for merchant mariners, it kills no civilians and, except for merchant ships, does no damage to private property.

Why are Congress, the Defense Department, and the U.S. Navy all now in a position to be accused—as they are—of neglecting a weapon that does so much, so well, for so little?

Is the criticism really deserved?

The source of some of it is unimpeachable: In his 1980 "posture" statement to Congress, Secretary of Defense Harold E. Brown said: "We are shorter of modern mines and mine countermeasure capabilities than is prudent." He cited mine inventory deficiencies as one of the two most serious U.S. naval weaknesses. (In an earlier statement Brown also reported, without citing figures, that the Soviet Union's stockpile of deepwater mines is nine times the number owned by the United States.)

Striking the same note, Admiral Thomas B. Hayward, Chief of Naval Operations, made one of the Navy's rare references to new mine programs in his FY 1981 report to Congress on the Navy's military posture. "U.S. mine warfare forces," Hayward said, "must be able to establish minefields at geographic choke points and near Soviet naval bases. Programs which suport this requirement include the CAPTOR ASW mine for deep water, an intermediate water depth (IWD) mine, and Quickstrike for air- and submarine-delivered shallow-water mines.

"Defensively," Hayward continued, "the U.S. Navy employs helicopters against shallow mines and mine countermeasures surface ships against deep mines. However, current inventories of these platforms are inadequate. Moreover, neither are effective against the complete spectrum of the Soviet mine inventory."

THE NEGLECTED MINE FIELD

An earlier but still valid critic of the Navy's mine warfare posture is Rear Admiral Roy F. Hoffman, recently retired Commander of the Mine Warfare Command—set up by the Chief of Naval Operations in Charleston, S.C., to bring some coherence to the still organizationally fractured mine warfare effort.

In a brilliant, comprehensive essay titled "Offensive Mine Warfare: A Forgotten Strategy?" in the U.S. Naval Institute's 1977 Naval Review, Hoffman said:

"Too many naval officers have little knowledge, or none at all, of current U.S. or foreign mines; they have no more knowledge of our—or anybody else's—projected mine capabilities and employment. Perhaps as a result, the budget to support an offensive mining strategy perpetually seems to be an easy mark for cuts.

"There are reasons for the neglect of offensive mine warfare. It can be decidedly unexciting. Of all the naval weapons, none shows so little immediate tangible effect as does the mine. The 'glamour' of most other naval weapon systems—the explosions, the rocket motors, the launching of aircraft—all provide some instant feedback, some physical evidence of accomplishment. But the modern sea mine, delivered by ship, submarine, or aircraft, simply sinks, in no way revealing whether it will serve its purpose."

Examining the "disconcerting disparities" between U.S. and Soviet capabilities, Hoffman said:

"One factor is that, in the Soviet Union, the mine warfare force has prestige comparable to that of the air and submarine communities. Officer promotion opportunities and the awarding of unit and individual commendations are similar to those in other branches of naval warfare.

"In the platform-oriented U.S. Navy, however, the career and education of officers is closely associated with surface combatants, with submarines, or with aircraft. Though not bad in itself, this close association with one such platform only tends to exclude knowledge of the mine, a weapon not uniquely or primarily associated with any of the platforms, from being an integral part of an officer's professional development. In fact, officers may be turned away from seeking mine warfare billets because such assignments have a reputation—not altogether unfounded—of being anything but career-enhancing.

"Accordingly, the field is neglected and mine warfare stagnates. In consequence, improvements in the United States in this field of naval warfare since World War II have been infrequent."

At lower levels of authority, the criticism is more outspoken but tends to be anonymous. It is directed at Congress for lack of sufficient money, at the Defense Department for failure to press mining as a high-priority item, and at the Navy on several counts; inadequate training—with a consequent loss of traditional skills through disuse; lack of career opportunities for officers; a crazy-quilt table of organization with various aspects of mining divided among ten different commands; a fixation on research and more research with slower development and almost no production; and a pathological concern with secrecy which results in a lack of public education and congressional apathy.

COMPLAINTS AND CANNIBALIZATION

Some off-the-cuff quotes:

"We have 13 minesweepers. The Russians have about 300."

"The platform people run the show, and when one of their pet projects needs money, they take it from the miners."

"If you want to retire in your present rank, go into mine warfare."

"No one in the Defense Department or the Navy is opposed to a better mine warfare program; they just act as if they were."

"Our mines are all left-overs from Haiphong. They're all compromised."

"We fix our mines by cannibalizing, and that just raises the attrition rate. And mines are no good against a target faster than 20 knots anyway."

"The mine warfare budget is stamp drawer money. It was $223.1 million for fiscal 1980, and all the Defense Department is asking for mines for fiscal 1981 is $210.6 million."

Detractors of the Navy's mine warfare posture find no fault with the three new and, of course, more expensive, mine types scheduled to replace the present stockpile. They simply think they are being brought along at an unconscionably slow rate.

The new mines mentioned in Admiral Hayward's report can be described very briefly as follows:

Quickstrike—Designed primarily for shallow water but suited, its proponents say, to more areas and more tactical situations than any other current or projected mine system. Eventually, it should be the workhorse of the mine program. It was certified for service use early this year, but critics say that, with a bit more money and push, certification could have been obtained in 1978. Initial development began in 1971.

IWD—This intermediate water depth mine is a dual-purpose weapon. Designed to fill the gap between CAPTOR and Quickstrike, it can be used against both surface ships and submarines in a range of depths. It is in an early development stage.

POLITICAL SQUEAMISHNESS ALLEGED

Admittedly, the new mines are being brought along slowly. One reason is political, according to Captain Robert H. Smith, USN, whose prize essay, "Mine Warfare: Promise Deferred," appeared in the April 1980 issue of the Naval Institute Proceedings. In Captain Smith's words:

". . . [T]he characteristics of those advanced and sophisticated mines now currently under development, or being weighed for major procurement, mark them singularly for use against the Soviet Union. These are not the simpler kind of mines that can serve well against that great majority of nations whose mine countermeasures capabilities are nil."

It is Smith's theory that any such direct threat is discomforting to those in political power who believe that the Soviets can still be appeased. He concludes, "That comparable (Russian) sensitivity over the Soviet Union's own hundreds of thousands of ready stockpiled mines causes any loss of sleep in the Kremlin is not evident."

To the charge that mine warfare is a dead-end for officers, he immediately names several two- and three-star admirals whose earliest commands at sea were minesweepers. Among them is Vice Admiral James H. Doyle, Jr., Deputy Chief of Naval Operations for Surface Warfare.

Sykes also points out that the United States has the world's only helicopters configured for minesweeping. He is convinced, he says, that there is a sufficient stockpile of U.S. mines available—right now and in the right places—to take care of presently foreseeable circumstances. As for the Haiphong-era mines being compromised, he points out that the mines used then have been replaced by newer designs.

There are other naval officers who differ with Sykes as to the Navy's overall readiness for mine warfare, but the evidence indicates he speaks for that small brotherhood of officers, true believers in the potency of mine warfare, who are devoting their careers to preserving the Navy's traditional skills in that demanding field.

THE VIEW FROM OPNAV

Rear Admiral Harry C. Schrader, Jr., Director of the Mine Warfare Division (and several related activities) in the Office of the Chief of Naval Operations, is another senior officer in a position to know who believes strongly in the Navy's progress in his field.

Asked if he thinks the United States is a world leader in mine warfare capability, he said, "No, the Soviets are probably quantitatively ahead in available numbers of mines and in platforms for mine laying and mine sweeping. The Russians have understood the value of mines and have been very imaginative in their use ever since they employed them in the Crimean War. But the U.S. Navy has actively renewed its interest in mine warfare—which has suffered in the past in comparison to other areas.

"We are now moving well in every facet of mine and mine countermeasure programs. Some of these are quite remarkable. I think the '80s will be our decade, perhaps the best decade ever for mine warfare preparedness in peacetime."

As for the importance of mines in a nuclear world, there are those who believe that, if mounting trouble with an overreaching enemy should result in a major nuclear exchange, the final battle for survival would be fought on the uncontaminated sea—in which case mines could, once more, make the difference.

It seems evident that the U.S. Navy has a very fine mine program coming along. But it seems equally evident that, although the Navy could doubtless handle itself well in such localized trouble spots, as for example, Iran, it is not yet ready for a mine warfare effort of broader scope.

It is axiomatic, the experts say, that mine warfare must be part of the overall war effort from the very beginning of conflict—and not a last, desperate measure, as it was in Vietnam. But to implement that strategy means enough mines, and delivery vehicles, must be on hand to immediately close every port and passage of importance in the entire theater of operations at the very start of struggle. To move the Navy to a higher level of mine warfare capability would therefore mandate an early, and continuing, rather large investment in additional mines, helicopters, and surface vessels. And, since two can play the game, a corresponding push to the lagging U.S. countermeasure program is of equal importance.

In any case, as someone must have said, it is always the best of strategies to do something cheap that requires the enemy to do something expensive ●

UNITED STATES-ASEAN RELATIONS

● Mr. GLENN. Mr. President, one of the most encouraging developments in Asia in recent years has been the steady progress made by the Association of Southeast Asian Nations (ASEAN). This organization, whose members are Indonesia, Thailand, Malaysia, Singapore, and the Philippines, have expanded their cooperative efforts to the point that ASEAN has assumed a major role in Asian affairs. ASEAN's growing strength and cohesion have made a major contribution to the stability of Asia in recent years, although Southeast Asia is still threatened by Vietnamese expansionism—an expansionism which is possible only because of the Soviet Union's callous backing of Hanoi's ambitions and actions. The United States has recognized ASEAN's development by dealing with it as an institution, as well as with its individual members.

One indication of the strengthening of United States-ASEAN ties has been the formation of various private groups to promote expanded relations. One of these is the ASEAN-United States Business Council, which was established in 1979 under the sponsorship of the ASEAN Chambers of Commerce and Industry and the Chamber of Commerce of the United States. A joint executive committee meeting of the ASEAN-United States Business Council took place in New York City on May 27–28, 1980, and a joint communique was issued describing the conclusions reached at the meeting. I had been invited to address a luncheon in honor of the ASEAN delegates in Washington on May 29, when I intended to discuss the progress made by ASEAN and the appropriate U.S. course in the face of the Vietnamese and Soviet challenges.

I found it necessary to cancel this appearance in order to be with President Carter in Ohio on May 29. However, I was very pleased that Secretary of the Treasury G. William Miller and Senator JACOB JAVITS addressed the delegation. Mr. President, in view of the importance of ASEAN to the United States, I ask that the text of the joint communique of the ASEAN-United States Business Council, and of the speech I had planned to make, be printed in the RECORD.

The material follows:

ASEAN AND THE UNITED STATES: PARTNERS FOR PROGRESS AND SECURITY

(By Senator JOHN GLENN)

The Communist victories in Indochina and the collapse of the American position there five years ago created uncertainty and apprehension throughout Asia. Vietnam, which now had a population of nearly 45 million talented and industrious people, possessed the most formidable military force in Southeast Asia. Would it turn its energies to domestic reconstruction after decades of war and upheaval, or would it accord top priority to an attempt to dominate its neighbors? Would the other Southeast Asian nations demonstrate the resiliency and the skill necessary to deal with this new challenge while they were still struggling with old problems? Would the United States withdraw completely from the region in the wake of its traumatic failure in Vietnam? What roles would the Soviet Union and the People's Republic of China play in the changing environment of Asia? People throughout the world were waiting for such questions to be answered, for the answers would determine the fate of Southeast Asia.

Vietnamese actions, which I will discuss shortly, still pose a threat to the peace and stability of Southeast Asia. However, the other nations of the region have responded with skill and courage to the Vietnamese challenge during the past five years. The Bali summit meeting of the leaders of the ASEAN countries in February 1976 was clearly the turning point. Actions taken at that time, such as the signing of a Treaty of Amity and Cooperation, and the establishment of an ASEAN secretariat, provided new strength and cohesion to the eight-year-old organization. These actions also demonstrated to the world that ASEAN was something more than the sum of its parts, and that it had to be taken seriously by adversaries and supporters alike. The steadily increasing cooperation between the member countries in such diverse fields as trade, culture, technology and foreign affairs made a major contribution to the stability and progress of the region. Equally important have been the psychological gains enjoyed by the member nations, whose ability to act together has increased their confidence that they will control their own destiny. It is remarkable that so much has been achieved in so short a time, and this progress is a tribute to the farsightedness of the leaders of the ASEAN states.

The success of ASEAN is important to the United States in many ways. Southeast Asia has made dramatic progress in recent decades, and the United States has important interests in the region. U.S. trade with ASEAN countries increased from about $1.6 billion in 1965 to $16.8 billion in 1979, largely because of the dynamic economic growth of the ASEAN countries. U.S. trade with the ASEAN countries taken together in 1979 was greater than our trade with such major nations as France and Italy, and was nearly as large as our trade with the United Kingdom, our fourth largest trading partner. Moreover, U.S. direct investment in ASEAN amounted to almost $4 billion in 1978—up from $730 million in 1966. This is nearly one-third of the total invested in ASEAN from outside the region. ASEAN's 250 million people, abundant natural resources, rapid economic growth, and receptivity to foreign investment indicate that there is great potential for further growth of trade and investment, provided Americans demonstrate the necessary initiative to compete with Japan and the European Community.

The United States has made clear in word and deed that it fully supports ASEAN's effort to further the integration of its member states. At the same time, the United States has carefully refrained from trying to direct or even guide the evolution of ASEAN along a particular path. Any such effort would be resented by the ASEAN nations, and would weaken ASEAN's credibility as a truly indigenous regional organization. Moreover, it would be presumptious of the United States to think that it knows more about the needs and the potential of ASEAN than its member nations. United States leadership is necessary in many areas, but true leadership can often be exercised more effectively by supporting the initiatives of others than by attempting to impose our own blueprint.

If the United States understands that it should play a less all-pervasive role in Asia, it also understands that it cannot evade its major responsibilities in the region. U.S. actions during the past five years have clearly demonstrated that the fears about an American withdrawal from Asia were unwarranted. We know that Asia ranks with Europe in importance to us. In recent years trans-Pacific trade with Asia has been of the same order of magnitude as our trade across the Atlantic with Europe, and in 1978 even surpassed our trade with Europe. There are several million Americans of Asian ancestry, and during the 1970s five of the ten countries that were the source of the largest numbers of immigrants were Asian. We will act to advance and protect our permanent interests in this crucial area of the world, based upon the conviction that such actions contribute to the peace and prosperity of the area. Being human, we will sometimes make mistakes and overlook opportunities. Nonetheless, I believe that the basic direction of our policies will be such as to earn us the respect of allies and adversaires alike.

A look at our recent actions demonstrates these points:

We have successfully negotiated new agreements with the Philippines covering the use of our bases there. This demonstrates our determination to remain a Pacific Power, and enhances our capability to project our power into the Indian Ocean.

We have reaffirmed our security commitments to Australia and New Zealand in the ANZUS Pact, and have worked closely with both governments to meet the challenges facing the area.

We have expanded our diplomatic and security cooperation with Japan well beyond previous levels. At the same time, we have managed to keep the inevitable strains from the competitive aspects of our economic relations from undermining the basic strength of our alliance. New challenges will certainly arise, and new adjustments will be required. However, the ability of Japan and the United States to deal successfully with the problems faced during the past 30 years augurs well for the future of this crucial relationship.

We have, on the basis of new evidence of North Korea's military buildup, suspended our plans for the withdrawal of our ground combat troops from South Korea. I urged President Carter to follow his course, and believe that his wise decision to do so will enhance the security of Northeast Asia at a time when South Korea confronts the difficult task of reconstructing its political system after the demise of President Park.

We have established diplomatic relations with the People's Republic of China while providing, through the Taiwan Relations Act, for continued close relations between the United States and Taiwan. Specific aspects of our China policy, and of the Administration's failure to consult Congress before it recognized the People's Republic are open to criticism. Similarly, there is reason to be concerned lest the laudable efforts to expand our cultural and economic relations with China be accompanied by crude attempts to play the "China card" against the Soviet Union. Such attempts could lead to a new cycle of inflated hopes and angry recriminations that have bedeviled Sino-American relations in the past. This could undermine the first opportunity we have had in decades to build a sound and stable relationship with the world's most populous nation. However, we should not allow our recognition of tactical mistakes, or our concerns about expecting too much from our relationship with China to overshadow the historical importance of the reconciliation between the United States and China. For the first time in this century we have good relations with both Japan and China, and this enhances the stability of the entire region.

Finally, we have responded to the tragic plight of the refugees from the Indochinese states by providing homes for 14,000 refugees a month—168,000 a year. It was President Carter's courageous commitment to do this that enabled the United States to help persuade the international community to agree to accept a total of 290,000 refugees for resettlement at the Geneva Conference in July 1979. This in turn made it possible for the ASEAN countries and Hong Kong to continue to provide first asylum to the refugees. There are, of course, limits to the number of refugees we can accept, for refugees impose an immediate burden on the receiving country. I believe that the United States government and the American people deserve great credit for their response to the refugee crisis in Southeast Asia, which comes at a time of serious economic difficulties in this country. At the same time, we should not lose sight of the fact that once these people have adjusted to their new land they will make important contributions to it. Their fortitude amidst adversity shows what fine people they are, and American will be strengthened by their presence.

The above outline of the major actions of the United States in recent years clearly demonstrates that we are in Asia for the long haul. These U.S. actions, together with those of our Asian allies and the ASEAN states, give ground for hope that we can meet the challenges that lie ahead. These challenges center upon the decision of the Vietnamese leaders to neglect the reconstruction of their battered economy and the improvement of their people's lives in favor of a policy of dominating their neighbors by open military aggression. This was truly a tragic decision for the entire region, for none of the ASEAN nations posed the slightest threat to Vietnam's security. Nor would Sino-Vietnamese relations have deteriorated to the point of open hostilities in the absence of Vietnam's invasion of Kampuchea and Hanoi's increasing links with the Soviet Union.

Hanoi and Moscow often justify the Vietnamese invasion of Kampuchea on the grounds that it removed the murderous Khmer Rouge regime led by Pol Pot. One would be more impressed with this argument had not Hanoi and Moscow praised the Khmer Rouge regime as late as 1977—long after its depravity was well known throughout the world—for its "fine achievements" and its "thoroughgoing political and socio-economic reforms."

Hanoi has not only invaded its neighbor, but its occupation policies threaten the Khmer people with mass starvation. Such a danger exists despite a willingness—indeed, even an eagerness—on the part of other nations to provide food and medical aid to the people of Kampuchea. Hanoi's actions in Kampuchea, together with its earlier expulsion of its own boat people, have cost it the respect of most of the world. Only the farsighted humanitarian policies of Thailand in opening its border to starving Khmer has prevented a new Holocaust from descending upon the battered land of Kampuchea. We must continue to do all we can to prevent death from starvation, malnutrition and disease in Kampuchea. At the same time, we must press the Heng Samrin regime and its Vietnamese masters to allow adequate monitoring, so that we know that the food we send is reaching the people in need rather than being diverted to further Hanoi's political ambitions.

The United States and ASEAN need to stand firm in the face of the Vietnamese challenge. We must always be willing to talk to and to negotiate with Hanoi, and we have demonstrated that diplomatic relations are not necessary for such talks to take place. Some people argue that if we would only accord Hanoi diplomatic recognition and establish economic relations with them, they would change their behavior and turn from seeking hegemony to improving the lot of their people. I wish I could believe there were such an easy solution to this problem, but I see no evidence for such a view at this time.

A more serious argument is that a search for a compromise solution of the Kampuchean tragedy should be undertaken, since no external power now appears willing to challenge the 200,000-man Vietnamese military presence in Kampuchea. We should always be alert to any possibility of a genuine compromise, which would provide for the withdrawal of Vietnamese forces and the creation of a government acceptable to the Khmer people. This means, quite simply that it must be a government acceptable to both Hanoi and Beijing, but controlled by neither of them. I need not stress that such a task will be as difficult as it is essential. But perhaps in time Vietnam will realize that its economy is stagnating relative to those of its dynamic neighbors, and shift its priorities in an effort to end its isolation and costly dependence on the Soviet Union.

If, however, a compromise solution means no more than the negotiated acceptance of the Vietnamese occupation, there is no need to negotiate. All that is required is to abandon the Cambodian people to their fate. Some may view this as inevitable, but we should be cautious about concluding that the Khmer people are willing to subordinate themselves indefinitely to foreign domination.

While Vietnam is the major cause of the present tragedy in Southeast Asia, Hanoi would be incapable of carrying out its present policies were it not receiving over $3 million a day—or over $1 billion annually—in Soviet support. The USSR has provided Vietnam with modern arms, logistical support for its military operations in Kampuchea, and just enough economic assistance to keep the Vietnamese economy going. Vietnam in return has allowed itself to become an outpost of Soviet military power in Southeast Asia.

Soviet support of Vietnamese expansionism would be serious enough if it had occurred in isolation. However, it must be viewed in the larger context of Soviet attemps—often using Cuban surrogates—to gain a dominant position in such lands as Angola, South Yeman, and Ethiopia. Such moves, followed by the Soviet invasion of Afghanistan, provide depressingly clear evidence that Soviet leaders will take every opportunity—and use any method—to expand their influence and power. This presents the non-Communist world with an extremely grave challenge, and one that we cannot lessen by refusing to recognize its reality.

A clear-headed recognition of the dangers we face does not suggest that we should embark upon an all-out anti-Communist crusade, or let either our anger or our fears determine our actions. Rather we must recognize that we are involved in what will be a long, drawn out struggle with the Soviet Union and its clients. While we must be alert to any opportunities offered by indications of antagonism between the USSR and its clients, we must not ignore the unpleasant fact that regimes such as Cuba, Vietnam, and certain other Soviet clients are led by hard-bitten Marxist dictators rather than nationalist reformers of the type that cooperated with Moscow for tactical reasons in the 1950s and 1960s.

Thus the struggle with the Soviet Union will be a central feature of international life for years or even decades. We must face this reality, without falling into the trap of thinking that this is the only important issue in world affairs, or of seeing the Soviet hand behind every problem we face. Such a simplistic approach might provide emotional satisfaction to some, but it would be a poor guide to policy.

Nonetheless, if we do not meet the challenge posed by Soviet expansionism, our efforts in areas such as economic development, human rights, and nonproliferation have little hope of success. The United States response to this challenge requires several major steps:

We must revitalize the American economy so that we can help place the international economy on a more stable basis.

We must expand our defense forces so that the U.S. and its allies are—and are recognized to be—capable of checking any Soviet military moves.

We must work with our allies and with other like-minded countries to develop a coherent and consistent strategy for dealing with the major international problems facing the world.

It is far easier, of course, to enunciate such broad guidelines than to spell them out in detail, or to implement the resulting policies. But unless the United States Government has a clear strategy that it can explain to the American people—and to the world at large—it will not succeed no matter how intelligent its specific policies are. Our people do not expect miracles from their government, but they do expect it to know where it is going.

You will note that I have made no reference to the need for the United States to negotiate with the Soviet Union on such matters as arms control agreements and other measures designed to reduce the dangers of conflict. This is not because I oppose such negotiations or agreements, for one can argue that they will be more important than ever at a time of heightened tension. However, success in such ventures can only result when we have clearly demonstrated to the Soviet leaders that they will not succeed in their attempts to dominate other nations. If we accord top priority to maintaining detente rather than to checking Soviet expansionism, we will fail on both counts.

No one should deceive himself that the task we face will be easy or that its duration will be short. Americans will need strategic consistency and tactical flexibility, a combination of boldness and caution, and the uncommon quality of common sense. Finally, we must have the vision and patience to take the long view so that our third century as a nation fulfills the promise of our first two hundred years.

In closing, I want to stress that the responsibilities the United States must accept do not mean that it should attempt to impose its own blueprint on any part of the world. The United States and ASEAN have parallel interests in Southeast Asia, and we must work together for our mutual benefit. An important part of such efforts will depend upon the initiatives of such groups as the ASEAN-U.S. Business Council, for our political systems do not assign government the sole responsibility for our fate. If we succeed in strengthening the relationship between our countries and meeting the challenges we face, we will assure the freedom and the prosperity of the families and friends of each one of us, and earn the respect of all nations.

JOINT COMMUNIQUE

(1) A joint Executive Committee meeting of the ASEAN-U.S. Business Council took place May 27–28, 1980, in New York City. The meeting was cochaired by Charles W. Robinson and Fred J. Elizalde, and was attended by over 30 senior-level representatives from the business communities of the United States and the five member countries of the Association of Southeast Asian Nations (ASEAN)—composed of Indonesia, Malaysia, the Philippines, Singapore and Thailand.

(2) The purpose of the meeting was to review significant economic developments of importance to both sides including trade, investment and technology transfer concerns. The delegates also reviewed ASEAN-U.S. relations with third countries as well as the status of a number of ongoing activities carried by the Council.

(3) The Council was officially established in July, 1979, at the first ASEAN-U.S. Business Conference held in Manila. It is cosponsored by the ASEAN Chambers of Commerce & Industry (ASEAN CCI) and the Chamber of Commerce of the United States. The Council, supported by the ASEAN and U.S. governments, provides a regular channel of communications to promote trade, investment, and technology transfer, and to develop recommendations for the consideration of the respective governments.

(4) The joint Executive Committee reviewed a number of programs of interest to both sides, including:

(A) An investment identification project which is designed to encourage participation of more small- and medium-sized U.S. enterprises in the economic development of ASEAN. A decision was made to move ahead with preparation of a list of prospective ASEAN projects for which American technology, capital and management skills are particularly well suited. A joint steering committee has been formed to guide the Council's work in identifying projects in this area.

(B) Agreement was reached on the need to further liberalize and simplify regulations affecting ASEAN exports under the U.S. Generalized System of Preferences (GSP). The U.S. Section will carry out an analysis of the GSP system to determine the eligibility of ASEAN exports and to improve the awareness of new trade opportunities.

(C) An ASEAN–U.S. Financial Conference to be held early 1981, and cosponsored with the ASEAN Banking Council, with a preparatory meeting in Washington, D.C. at the time of the World Bank/IMF meetings in September. It was recognized that the United States and international financial communities can operate in meeting the particular requirements of the region.

(D) An ASEAN–U.S. seminar on Science and Technology for Development to be held in Singapore on October 9, and to be cosponsored with the Fund for Multinational Management Education (FMME). The delegates recognized the importance of U.S. technology to the region and the need to facilitate greater U.S involvement. The delegates expressed an appreciation for the complexity of issues in this area and the difficulty of matching large-scale U.S. techniques with smaller-scale requirements of ASEAN.

(E) An ASEAN–U.S. energy dialogue to be hosted by the Council's U.S. Section on June 11 with ASEAN energy officials at the conclusion of their three-week tour of U.S. non-conventional energy facilities.

(F) An effort to bring about a greater interaction between certain U.S. groupings with the ASEAN industry, commodity and agribusiness associations.

(G) The agreement by the respective governments to establish, in principle, an ASEAN–U.S. Economic Coordination Committee to provide a regular channel for consultation on pending economic and commercial matters. The delegates were gratified to learn of this decision as it was a direct response to a Council recommendation put forward at the first ASEAN–U.S. Business Conference held in Manila last July.

(5) There were a number of additional discussions on issues of common interest, including:

(A) A review of commodity policy issues. ASEAN, as a major commodity producer, supports the establishment of international commodity agreements for specific commodities, such as rubber and tin, as a means of moderating price fluctuations which would facilitate private sector decisions on investments on the basis of more predictable conditions. The viability of commodity agreements would depend to a large extent on the determination of appropriate and realistic price ranges which take into account cost factors as well as prevailing market conditions.

(B) A review of the competitive position of the United States in ASEAN vis-a-vis Japan and Western Europe. It was recognized that, for the United States to play its proper competitive role in the region, serious consideration must be given to the removal of impediments evident in U.S. laws and regulations that inhibit U.S. trade and investment with the ASEAN countries.

(C) A review of recent trends in the United States to limit foreign competition in selected industries. While these recent developments did not appear to pose a direct threat to ASEAN exports at this time, both sides warned against the dangers of increasing protectionism in the United States and other industrialized country markets.

(6) On May 29, the ASEAN delegates will visit Washington, D.C. for the first time as a group to meet with high-level cabinet officers; congressional representatives; members of the press, academic and business communities; and the general public.

(7) The joint Executive Committee confirmed that the next full joint Council meeting will be held in Singapore, October 10–11, 1980.●

JAPANESE AUTO IMPORTS

● Mr. NELSON. Mr. President, no industry is more important to the health of the American economy than the automobile industry. This sector provides 1,750,000 jobs—or 1 of every 12 manufacturing jobs in the country—and supports hundreds of thousands of other jobs in related industries like steel, rubber, and glass. The automobile industry is a major customer for 50,000 small- and medium-sized businesses, and a supplier to 28,000 auto dealers throughout the Nation. The industry uses 25 percent of all the steel consumed in the United States, 50 percent of the malleable iron, 60 percent of the synthetic rubber, and 33 percent of the zinc.

The staggering economic difficulties suffered by the auto industry over the course of the past year are well documented: Over 230,000 workers have been laid off indefinitely, together with 52,000 temporarily out of work, and more than 850 auto and truck dealerships have gone out of business. The auto industry's dislocations have reverberated through many other supporting industries.

The causes of the industry's problems are many and, of course, include the shift in consumer demand from large cars to smaller, more fuel-efficient vehicles. There is no question but that the auto industry should have heeded the signals of this shift, which were apparent at least 10 years ago. However, the fact remains that, as a result of the industry's short-term inability to produce sufficient quantities of fuel-efficient cars, it is experiencing serious problems which deserve the urgent attention of the President and the Congress.

IMPORT PENETRATION OF U.S. AUTO MARKET

Sales of foreign cars in the United States have increased dramatically over the past several years, and now pose a major threat to the continued vitality of the American auto industry. From an average U.S. market share of 15.1 percent in 1970–76, foreign cars increased to 17.8 percent of the market in 1977, and accounted for a whopping 21 percent of all new car sales in this country last year. During the first quarter of this year, the imports' share of our market soared to a shocking 27 percent.

Of particular concern are auto imports from Japan, which in 1979 accounted for more than 76 percent of all import sales. Since 1974, Japan's auto exports to the United States have more than tripled, from 791,000 vehicles a year to more than 2,250,000 vehicles a year. In 1978, Japanese cars alone accounted for 12 percent of all U.S. car sales. That figure shot up to 16.6 percent in 1979.

The United States stands virtually alone among the world's major auto-producing countries in the ease of access it allows foreign—and particularly Japanese—auto imports. Our major trading partners all have tough restrictions on the number of Japanese cars and trucks they import each year. In contrast to our low 2.9 percent ad valorem tariff on foreign car imports—which is scheduled to drop to 2.5 percent in 1987—France, Great Britain, and Italy all impose stiff 14 percent duties on Japanese auto imports, together with absolute quotas. Germany, too, imposes a 14-percent tariff. A number of other countries combine high tariffs with stiff local content requirements. I submit for the RECORD at this point two tables listing the extensive barriers raised against Japanese auto imports by other countries.

TABLE 1.—NATIONS WITH MAJOR DOMESTIC AUTO PRODUCTION (EXCLUDING JAPAN)

Country	1979 car industry sales (thousands)	1979 Japanese car import market share (percent)	Protection of domestic car industry
Brazil	830	(1)	95 percent local content or 185–205 percent duty.
Mexico	268	(1)	50 percent local content.
Venezuela	94	(1)	51 percent local content or 120 percent duty.
South Africa	213	(1)	66 percent local content or 95 percent duty.
Spain	588	(1)	63 percent local content and import quota of about $500,000 in car value per country.
Italy	1,329	(1)	11 percent duty[2] and bilateral import quota restricting Japanese imports to 2,000 cars a year.
Argentina	196	1.2	96 percent local content or 95 percent duty.
France	1,976	2.2	11 percent duty[2] and informal limit on Japanese car share to 3 percent or less.
Germany	2,567	5.7	11 percent duty.[2]
Canada	1,005	8.2	14 percent duty.
United Kingdom	1,716	10.8	11 percent duty[2] and agreement with Japanese to restrict car market share to 10–11 percent or less.
Australia	458	15.2	85 percent local content or 58 percent duty (quota limits import share to 20 percent of market).
United States	10,510	16.6	3 percent duty.

[1] Less than 0.1 percent.

[2] Effective rate is about 14 percent because of c.i.f. basis (f.o.b. cost plus insurance and freight) and value-added taxes.

TABLE 2.—*Local content laws regarding auto trade*

Algeria, 25–40% depending on model.
Argentina, 90% for cars, 85–95% commercial vehicles.
Australia, 85% with a variety of small percent decreases in special cases.
Bolivia, considering 80%.
Brazil, 85–100% depending on model.
Chile, 15–30% plus stiff tariff, depending on model.
Columbia, 30–45% depending on model.
Egypt, announced goal of 100%.
India, 40–45%, goal is 100%.
Indonesia, 25%.
Kenya, 45% (100% of the engine).
Malaysia, 8% cars, 17% commercial vehicles.
Mexico, 70% cars, 80% trucks.
New Zealand, 30–40% depending on model.
Nigeria, 15%.
Pakistan, depends on model, must use pistons, tires from local producers.
Peru, 30%.
Philippines, 62.5% cars, 30–60% commercial vehicles.
Portugal, 25%.
Singapore, 13%.
South Africa, 66% of weight for cars.
South Korea, 100% goal, not enforced.
Spain, 50%.
Taiwan, 60% cars, 32–46% trucks.
Thailand, 40%.
Tunisia, 20–26% cars, 40–44% trucks.
Turkey, 80% cars, 65% trucks.
Uruguay, 20–25% cars, 5% commercial vehicles.
Venezuela, 70–75% depending on model.
Yugoslavia, 50%.

SOURCE.—USTR, LOC Law Library, House Ways and Means Committee, MVMA.

JAPANESE NONTARIFF BARRIERS TO U.S. EXPORTS

While we maintain an open market to the Japanese, Japan has thrown up an array of nontariff barriers to cut down on the number of American vehicles we can sell there. These barriers include discriminatory commodity taxes and inspection systems, and restrictions on marketing networks which unfairly burden the sales of American-made vehicles in Japan. These nontariff barriers significantly increase the price of American cars sold in Japan, and have contributed to an alarming U.S.-Japanese trade deficit in autos of $9 billion in 1979. It is wrong in principle to tolerate nontariff carriers on automobiles or any other commodities and it is particularly offensive in view of the large favorable Japanese trade balance.

Japan has long had in place a comprehensive system of import regulations which effectively prevent significant foreign market penetration in a broad range of commodities. Along with other factors, these import barriers have contributed to an overall U.S. trade deficit with Japan of $8.6 billion in 1979.

For years, the United States has attempted to negotiate with the Japanese a substantial lowering of their nontariff barriers to trade. We have met with only limited success. Not until 1979, for example, were we able to persuade the Japanese to open even slightly their beef and citrus markets to U.S. exports. And years of talks have not yet produced an equitable agreement on U.S. exports of telecommunications equipment to Japan.

In my 18 years in the Senate, I have consistently supported the principles of free trade. However, the United States can no longer accept widespread nontariff barriers to its exports while the Japanese enjoy virtually free access to our market. And we simply cannot afford to allow the American auto industry, which employs so many workers and is so vital to our Nation's economy, to be destroyed.

The critical economic role played by the industry demands policies that insure its economic health. I am confident that, given the chance, U.S. automobiles will again establish their competitiveness in the marketplace. The auto industry is right now engaged in a massive, $80 billion effort to retool its plants and equipment for the production of the small, gas-efficient cars the consumer demands. This effort will take some time.

It is imperative that we give the industry some breathing room to make the required changes.

PROPOSED REMEDIES

In my judgment, the Carter administration has not been tough enough on the Japanese. We must take strong measures to reverse the adverse trends in United States-Japanese trade, if the American auto industry is to survive and prosper again. The time has come for action. Two steps in particular are essential.

First, the Carter administration should insist that the Japanese do away with their discriminatory nontariff trade barriers against imports of American cars. In an effort to prod Japan in this direction, I recently joined five other Senators in introducing legislation to begin to right the serious trade imbalance in autos between the United States and Japan. This measure is designed to equalize the conditions under which Japan and the United States sell cars and trucks in each other's markets. It directs the Secretary of the Treasury to compute the value of all Japanese trade policies and practices which unreasonably restrict the sale of American cars and trucks in Japan, and then impose an off-setting "equalization tax" on Japan's auto exports to the United States.

It is important to emphasize that this legislation does not violate the recently-concluded Multilateral Trade Agreement by which the United States and 98 other countries agreed to liberalize international trade. This legislation gives the President explicit authority to waive the "equalization tax" if he finds that Japan is in substantial compliance with its bilateral and international trade agreements affecting trade in autos.

In fact, this bill is designed ultimately to give the United States and Japan freer access to each other's market. Once the Japanese know we are serious they will respond to our initiative by lowering or removing their nontariff barriers to American automobile imports.

Second, the administration should insist that Japan temporarily limit the number of cars it exports to the United States. Specifically, the President should direct the U.S. Trade Representative to negotiate with the Japanese an Orderly Marketing Agreement (OMA), by which the Japanese would agree voluntarily to reduce their U.S. sales for a period of 18 to 24 months. In January Japan negotiated an agreement with the United Kingdom to restrict imports to 10 percent of the market.

This proposal is strong medicine, to be sure. However, it is proposed only as a temporary exception to our strong free trade practices. It is of limited duration, and would result from a negotiated agreement, not from the unilateral imposition of import quotas by the United States. In addition, the Orderly Marketing Agreement is a well-recognized and accepted device under international trade law to regulate commerce between countries. In the current situation, it would provide effective short-term relief, while causing only minimal disruption in our other political and economic relations with Japan.

Administration officials at the highest levels have assured me that they are willing to institute such meaningful restraints on Japanese auto imports if the Congress is resolute in its support. We must now consolidate that support, and move on. Today, 75 Senators, including myself, representing all regions of the country, have introduced a Senate resolution calling for a comprehensive national policy to meet and solve the urgent problems facing the auto industry. In addition, I wrote the President on May 13, urging him to place the question of Japanese auto imports at the top of the agenda of the allied economic summit meeting, scheduled for June 22–23 in Venice. And I will join a number of other concerned Senators in a meeting with the President tomorrow.

In the meantime, I support the recent self-help measures recently taken by the industry. Pursuant to the Trade Act of 1974, the United Auto Workers on June 12 filed a petition for import relief with the U.S. International Trade Commission, which can grant temporary relief if it finds that a surge of imports threatens the industry with serious injury. Clearly, however, the industry's overall problems require a more comprehensive solution.

The United States is one of the great proponents of free trade in the world. We have led the international fight against artificial and arbitrary barriers to the free flow of goods between nations. It is quite clear, however, that real free trade depends on fairness and equality in trading relationships. The lowering of trade barriers and restrictions cannot take place without comity and trust among nations. The initiatives outlined here today encourage fairness and equity in the trading relationship between this country and Japan.●

CLEANED-UP RIVER HAS TROUT AGAIN

● Mr. HUMPHREY. Mr. President, my home State of New Hampshire has long been regarded a haven for the sporting community. Our fertile forests and placid lakes provide an abundant supply of game and fish, as well as a serene setting in which to appreciate Nature's unspoiled beauty.

Like many other places, however, New Hampshire must be constantly on guard to protect her pristine environment from the carelessness of civilized man. The advancement of industry and commerce, necessary as they are for the improvement of our way of life, often exacts a costly burden by using our natural resources as dumping grounds for the byproducts of progress.

The Sugar River, a beautiful waterway near my home in Sunapee, N.H., was faced with this deadly situation a few years ago. However, due to the efforts of conscientious communities along its path, life and vitality have returned to the river.

An article appearing in the June 16 issue of the New York Times, entitled "Cleaned-Up River Has Trout Again," tells the story of the Sugar River and its return to health. The author of the article, Nelson Bryant, recently spent time exploring the Sugar River and found both inviting surroundings and a healthy stock of trout.

I request that the full text of Mr. Bryant's article be printed in the RECORD.

The article follows:

CLEANED-UP RIVER HAS TROUT AGAIN

(By Nelson Bryant)

The Sugar River in west-central New Hampshire is sweet once again for most of its length.

Fifty years ago, this good-size stream, which runs from Lake Sunapee west to join the Connecticut River in Claremont, was a highly regarded rainbow-trout stream. Pollution, industrial and domestic, ended all that, but in recent years Newport and Sunapee, communities on the river's upper reaches, have installed sewage treatment plants, and the Sugar's water quality has improved markedly.

A few days ago, Victor Pomiecko of Claremont and I journeyed to the stretch of the Sugar that runs between the Claremont-Newport Highway and North Newport. Access to it is provided by the abandoned Claremont-Concord Railroad bed that runs along much of the river. The railroad's right of way in that area now belongs to the state, and because ties and tracks have been removed it is negotiable by automobile.

I had fished that stretch of the Sugar, about two miles long, now and then over the last three decades but had caught only a few dace, a species highly tolerant to pollution. This visit was different.

Looking down at the first major pool upstream of the highway, we saw rising trout. And in less than three hours of fly fishing, we had caught—though we released some—more than 40 of them, mostly rainbows. Brown trout accounted for about a third of the catch, and there were also a few native brook trout.

The fish were not large, none over 12 inches. It was their presence rather than their size that was exciting. The state has been stocking the upper parts of the stream with brown and rainbow trout since Newport completed its sewage disposal plant, and some rainbows have been taken as far downstream as Claremont.

This section of the Sugar is unusually attractive. There are no dwellings along the shore, and the stream, about 30 yards wide in most places, tumbles down through a narrow valley.

On several occasions while we fished, woodcock fluttered away as they worked through the trees and the bushes down to the river. Wild honeysuckle grew in most of the open places, its scent as delicate as a woman's just-washed hair. In the shady, moist spots along the edge of the stream, a profusion of ferns swayed in the upriver breeze. At one point, while Vic was casting over rising trout in early evening, he saw another angler, a mink, come out onto the stones on the far shore.

Because of its width, the Sugar is a fly fisherman's dream, allowing one to lay out long casts with no fear of becoming hung up on bushes and trees.

To fish most of the good water properly, though, one must be prepared to wade, and a staff is absolutely essential for this. The river is fast and rocky in this area, and the footing is slippery. Felt-sole waders or shoes are a great help.

On our first visit to the stream, my companion left his wading staff behind and within five minutes was floundering about on his belly in a streach of fast water. He fell four more times before the day was done but kept on fishing until sundown.

We visited the river three times in as many days, and each time streamer flies were the most effective. The fish feeding on the surface were after what appeared to be a small mayfly, but all my efforts with dry flies failed.

I also tried classic upstream fishing with weighted nymphs but caught only a few trout that way. Later a nymph fished downstream as a dropper fly produced one brook trout of about a pound and several rainbows.

Nearly all the trout we caught were in the tails of the large pools, but I rather imagine that as the water warms one will find many of them, the rainbows in particular, in the pocket water in the fast runs, where there will be more oxygen. Some will also hole up in deep pools that are cooled by springs.

Even this early in the season the river was not truly cold. I had forgotten my stream thermometer, but even after two or three hours of bare-legged wading on cloudy days, I did not become chilled until dark, so the water temperature was probably a little over 60 degrees. The Sugar becomes quite warm by midsummer, and one suspects that the brook trout, which need cold water, will have retreated to the mouths of cold feeder brooks by July.

Every trout stream has its legendary monster fish, and one Sugar River angler with whom we conversed said that the Sugar held some extraordinarily large brown trout and some rainbows of more than two pounds.

"Gotta use shiners for them, though," he said as he clambered down the bank from his pickup truck, with spinning rod and minnow bucket in hand. He's probably right, but some warm June evening before many years have passed, I would like to try for those Sugar River browns after dark with a big dry fly.

And then there is the stretch of the Sugar downstream of the highway. It has not been stocked, but rainbow trout are notorious wanderers.

Truthfully, however, it would take an angler an entire season to probe thoroughly the two-mile section Vic and I visited. And what one learns in May and June on such a stream may not apply in midsummer or fall. Trout, unlike man, cannot manipulate their environment and must make constant adjustments, however subtle, to find food and suitable water temperatures.

There are times, when a stream grows too warm, that trout simply lie about during the day, doing all their feeding in early evening, night and early morning, when the heat of the sun is gone. I recall fishing a big pool on the upper Delaware River in early summer several years ago. It was useless during the day to try for the rainbows we knew were before us, some of them more than 20 inches long, but just before all the after-light of the sun had gone, the fish began to rise. They provided us an hour of splendid action. I am certain that something like this will occur on the Sugar in middle and late summer.

The river flows cleanly enough for trout all the way to Claremont, but from Claremont to the Connecticut River, about a mile, it becomes again corrupted. Claremont has an outdated primary sewage system, which means, essentially, that only solid wastes are removed and that the remaining effluvium is discharged into the stream. The worst source of pollution in Claremont is probably two industries—a paper company and a wool mill—that empty wastes directly into the stream.

Until the recent cutback in Federal spending for such projects, Claremont was about to start on a new sewage disposal system estimated to cost, as of last year, $26 million. Now it appears as if construction may start in 1983. The system will be the third-largest in the state and will take two years to complete.

If You Plan to Fish the Sugar River

Those fishing the Sugar River would do well to obtain a map of the section of the stream described in the accompanying article. The Sunapee quadrangle of the United States Topographic Map System (scale 1:62,500) is a good choice and includes the north and south branches of the Sugar, which also hold trout.

This map covers the main stream to within a mile of the Claremont-Newport line. From that point on to where the river enters the Connecticut, one needs the Claremont, N.H.-Vermont quadrangle.

My brief encounter with the Sugar suggests that streamer flies such as the Queen of the Waters, the Muddler Minnow, the Hornberg, the Black-Nose Dace or the Gray Ghost in sizes 10 or 12 are most effective at this time of year.

It is possible that sometime soon there will be a gate on either end of the abandoned railroad bed that follows the river in the section between the Claremont-Newport Highway and North Newport. If so, the two-mile stretch will have to be walked. The proposal for a gate, mentioned to me by Clayton Phillips, a regional state conservation officer who loves the Sugar dearly, has great merit. Keeping vehicles out of the area will serve to preserve the stream's wild quality and will also limit the numbers of casual anglers visiting it.●

RECENT TERRORIST BOMBINGS

● Mr. CHURCH. Mr. President, the United States has been fortunate in having escaped the brunt of terrorist activity now so prevalent in Europe, Asia, and Latin America. To the extent that American citizens have been victims of terrorism in recent years, that violence has taken place, for the most part, overseas.

However, this country has not been entirely immune. Incidents such as the bombing of a New York City restaurant in 1975 which killed 4 persons and injured 53 others, remind us that terrorist attacks can occur anywhere at any time.

Unfortunately, the level and intensity of terror violence continues to escalate worldwide. Terrorism, in fact, has become so commonplace that an ordinary bombing or hijacking no longer commands much public attention. Ever greater violence is required to capture public imagination and media coverage.

This is all the more reason for Members of this body to condemn terrorism, especially when it occurs in the United States and is directed against those who live here under the protection of U.S. law.

The bombings that occurred here in Washington and at the Statute of Liberty in New York City in early June were despicable acts. Any person with the slightest appreciation of the American character would know that such mindless violence only injures the cause it is meant to serve.

The emigre group claiming responsibility for these bombings does not warrant serious attention. If these people have a legitimate grievance, let them come forward openly and be heard like any other interest group in this country. Cowardly attacks on a national monument or the home of a foreign diplomat are contemptible. Those who are responsible deserve to be punished and those who support them should be ashamed.

I ask that an article from the New York Times of June 6, 1980, be printed in the Record.

The article follows:

Croats Suspected in Blast at Statue

Two letters from "Croatian freedom fighters" claimed responsibility yesterday for Tuesday night's bomb explosion at the museum in the Statue of Liberty.

The New York City Joint Terrorism Task Force, established recently by the Federal Bureau of Investigation and the Police Department, said it was "leaning rather heavily to the strong possibility that the Croatians are the people responsible." No one was injured in the explosion, but three historic items were damaged slightly.

The F.B.I. said the letters were received by The New York Times and the New York office of NBC News. Written in Croatian, the letters were said to call for the world "to notice the demands and the rights and situation of the Croatian people."

There were "implied threats" but "no specific demands," an F.B.I. spokesman said. The spokesman said "a very similar situation" had occurred in Washington, where the home of the minister-counselor and charge d'affaires of Yugoslavia, Vladimir Sindjelic, was damaged by an explosion at 4 A.M. Tuesday.

A bomb had been placed in a window box outside the downstairs living room. The blast broke every window in the house, blew apart two layers of brick below the window and destroyed furniture and other items. No one was injured.

The explosion was followed Wednesday by a two-page typed letter to The Washington Post from "Croatian freedom fighters." The letter claimed the blast had been in protest against Yugoslav treatment of Croatians and the handling in a Swedish prison of Miro Baresic, a Croatian who was allegedly involved in the 1971 assassination of Yugoslav Ambassador to Sweden.

During interviews Wednesday of staff members at Liberty Island, task force members displayed photographs of alleged Croation demonstrators.

"Croatian freedom fighters" have also claimed responsibility for the St. Patrick's Day bombing of a Yugoslav bank office at 500 Fifth Avenue, which showered glass 30 floors below the sidewalks but injured no one, and the bombing of an Astoria, Queens, travel agency last Dec. 4.●

UNANIMOUS-CONSENT AGREEMENT FOR CONSIDERATION OF CERTAIN MATTERS TOMORROW

AUTO INDUSTRY RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution by Mr. Riegle and the other Senators at the desk with respect to the auto industry be made the pending business immediately after the prayer on tomorrow, that there be a one-half hour time limit overall on the resolution, that the time of the two leaders be relinquished, that the time on the Reigle amendment be divided between Mr. Riegle and Mr. Garn, and that the vote on the adoption of the resolution occur at 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the resolution by Mr. Riegle and other Senators with respect to the auto industry has not been submitted yet. I ask unanimous consent that immediately following the prayer, Mr. Riegle be recognized to call up the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is a time limit, I believe, of one-half hour overall on that resolution. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

APPELLATE COURT REORGANIZATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the one-half hour time limitation on the Riegle and Garn resolution, the Senate proceed to the consideration of S. 2830, which has been held at the desk pending further disposition, that there be 20 minutes overall on that measure, the time to be equally divided between Mr. DeConcini and Mr. Cochran.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 2830 tomorrow, the Senate proceed to the consideration of Calendar order No. 838, the Department of Justice authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Department of Justice authorization bill tomorrow, the Senate proceed to the consideration of Calendar Order No. 738, the Department of Energy authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF COAL CONVERSION BILL ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 873, the coal conversion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE OF WORKLOAD PRIOR TO RECESS

Mr. BAKER. Mr. President, I take this opportunity to express my appreciation to the majority leader for his cooperation and good efforts in the course of the day today and during much of yesterday in trying to arrange a schedule of bills that must be dealt with by the Senate prior to the beginning of the July 4 recess on July 2.

Although the orders that have been put down this evening may sound deceptively simple, I point out, as the majority leader knows, that extensive negotiations have gone on between us and in our respective caucuses, and that the bills we have ordered for consideration for this week and for Tuesday of next week represent the work product of very extensive efforts and negotiations on both sides.

I make these remarks by way of affirmation and also as a preface for expressing my appreciation to the majority leader for his consideration in permitting us to participate in the scheduling process in this regard.

Mr. ROBERT C. BYRD. I thank the minority leader.

I wish to express appreciation to him for the cooperation extended.

There is a very heavy workload that remains to be done and, as of now, I think we will have to be in on both Saturdays, this coming Saturday and the next Saturday, in order to complete the workload by the 2d day of July. It is necessary that that work will be completed, if at all possible, because upon the return of the Senate following the July break, I am under an obligation and under an order of the Senate to proceed to the consideration of the Alaska lands bill. The appropriations bills will have come upon us en mass by that time, and there will be numerous other authorization bills and matters that have to be disposed of.

So I urge my colleagues to be prepared to come in early and stay late daily for the remainder of this week and next week and for the 3 days of the following week.

Other than the two measures that are scheduled for tomorrow, we must do the supplemental appropriations bill. We certainly will want to do the synfuels conference report, the Energy Mobilization Board conference report, and the following measures: National Science Foundation; Biomedical Research, National Institutes of Health; Higher Education Act amendments; Housing and Community Development; Urban Mass Transportation; Debt Limit Extension; Clean Water Act; Nuclear Regulatory Commission; Public Buildings Act; Securities and Exchange Commission; Department of Treasury, International Affairs; Mental Health Services; Department of Defense Military Procurement; Military Construction, if it is ready; Coast Guard legislation, Calendar No. 831; as many appropriations bills as possible; and other conference reports.

I express to my colleagues the hope that they will be ready, those who will be called upon to manage these measures on both sides of the aisle. I urge them to be ready at any time when called upon, so that the Senate can move ahead with its work.

There will be rollcall votes throughout the days, daily, until we have recessed for the July break.

Again, I thank the distinguished minority leader.

I should also mention the nomination of General Jones, which will be on the calendar tomorrow. I suggest that Senators should be ready at any time beginning tomorrow. I will, of course, consult with the minority leader before moving to take up that nomination. But I think it will be imperative that the Senate proceed tomorrow or the next day to that nomination.

Mr. BAKER. Mr. President, I do not expect great difficulty in reaching that nomination.

As the majority leader pointed out, the nomination of General Jones has not yet reached the Executive Calendar. I assume it will tomorrow.

I assure the majority leader that I will do my best to try to clear that nomination for consideration as soon as possible.

It may be Thursday, I am told, before we can do that, but I do not anticipate great delay.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 10:42 p.m., the Senate recessed until tomorrow, Wednesday, June 18, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, June 17, 1980:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ethel Bent Walsh, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for the term of 5 years expiring July 1, 1985 (reappointment).

NATIONAL MEDIATION BOARD

Robert Oberndoerfer Harris, of the District of Columbia, to be a Member of the National Mediation Board for the term expiring July 1, 1983 (reappointment).

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Adams, Thomas M., [redacted].
Alldredge, Aaron C., [redacted].
Allen, Fred, III, [redacted].
Allen, Kenneth J., [redacted].
Allen, Robert A., [redacted].
Allison, Rodney C., [redacted].
Althoetmar, James P., [redacted].
Andersen, Ty J., [redacted].
Anderson, Keith H., [redacted].
Anderson, Ted K., [redacted].
Anthony, James K., [redacted].
Arlen, Richard D., Jr., [redacted].
Armstrong, Frank A., [redacted].
Arnott, Gail I., [redacted].
Asato, Morris T., [redacted].
Atwater, William E., Jr., [redacted].
Austin, Ralph H., [redacted].
Austin, Walter W., Jr., [redacted].
Baars, Allan K., [redacted].
Bacchus, James L., [redacted].
Baetke, Raymond A., [redacted].
Bagby, Daniel J., [redacted].
Baker, William T., Jr., [redacted].
Baldrige, Jeffrey W., [redacted].
Baldwin, Richard S., Jr., [redacted].
Ball, David K., [redacted].
Ballard, Gary C., [redacted].
Balsterholt, Werner H., [redacted].
Banasiak, Daniel H., [redacted].
Barajas, John L., [redacted].
Barberg, Robert V., [redacted].
Barbuto, James R., [redacted].
Barnes, Albert A., [redacted].
Barnett, Berle T., [redacted].
Barney, Frederick G., [redacted].
Barrett, James E., [redacted].
Barstow, David N., [redacted].
Bartley, Michael E., [redacted].
Batezel, Anthony L., [redacted].
Batty, Harry J., Jr., [redacted].
Baumgardner, Haynes M., Jr., [redacted].
Beach, Lawrence M., [redacted].
Beauchamp, Mark G., [redacted].
Beck, Peter H., [redacted].
Bedont, Ernest J., Jr., [redacted].
Beeman, Kenneth A., [redacted].
Behrens, Gregg G., [redacted].
Bell, Rodney D., [redacted].
Bennett, Frederick L., [redacted].
Bennett, James A., Jr., [redacted].
Bennett, James W., [redacted].
Benson, Gerald E., [redacted].
Benson, Joel D., [redacted].
Benson, Robert E., [redacted].
Beplay, Harry D., [redacted].

Berner, Bruce A., xxx-xx-xxxx.
Berry, Sammy L., xxx-xx-xxxx.
Bisher, Jon A., xxx-xx-xxxx.
Bittakis, Mark J., xxx-xx-xxxx.
Blackmon, William R., xxx-xx-xxxx.
Blackstock, James M., xxx-xx-xxxx.
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Stover, John S., [redacted].
Stover, William D., [redacted].
Stretch, Jay P., [redacted].
Strickland, Burke, [redacted].
Stroich, Paul M., Jr., [redacted].
Stroud, William R., [redacted].
Sullivan, Charles E., III, [redacted].
Sullivan, John L., Jr., [redacted].
Sullivan, Michael J., Jr., [redacted].
Summers, Raymond D., [redacted].
Sundstrom, Jon P., [redacted].
Sutton, Richard K., [redacted].
Swiech, Francis A., [redacted].
Tague, Frank R., [redacted].
Tate, Gary L., [redacted].
Taylor, James F., III, [redacted].
Taylor, Samuel M., [redacted].
Tharp, Robert L. [redacted].
Tharp, Russell E., [redacted].
Thomas, Alan B., [redacted].
Thomas, Mark D., [redacted].
Thomas, Ronald M., [redacted].
Thompson, David S. [redacted].
Thompson, Roger D., [redacted].
Tilford, Earl H., Jr., [redacted].
Tomczak, Robert N., [redacted].
Treichler, John R., [redacted].
Trever, George W., [redacted].
Trichel, Douglas W., [redacted].
Troy, Terry L., [redacted].
Truitt, Marcus J., Jr., [redacted].
Tucker, Ronald N., [redacted].
Turner, Daniel M., [redacted].
Turner, Louie P., II, [redacted].
Tuttle, George G., [redacted].
Tuttle, Lawrence E., [redacted].
Ulrich, Gregory P., [redacted].
Vanpelt, Max L., [redacted].
Venneman, John R., [redacted].
Vest, Ronald C., [redacted].
Vizzone, Michael M., [redacted].
Volpe, John M., [redacted].
Waddell, Don G., [redacted].
Wall, John I., [redacted].
Wall, Robert E., Jr., [redacted].
Wall, Ronald R., [redacted].
Walsh, John J., Jr., [redacted].
Walters, Everett A., Jr., [redacted].
Walters, William L., [redacted].
Wangen, Scott L., [redacted].
Warkaske, Steven A., [redacted].
Warmuth, Donald B., [redacted].
Warren, Joseph B. II, [redacted].
Watkins, Ernest R., [redacted].
Weaver, Alan J., [redacted].
Weber, James P., [redacted].
Wegener, Kenneth G., [redacted].
Welch, Stanley H., Jr., [redacted].
Wells, Harold C., [redacted].
Wells, Jackie B., [redacted].
Welschenbach, Gary N., [redacted].
Wesson, Robert B., Jr., [redacted].
West, Arnold J., [redacted].
West, Grandin H., [redacted].
Wheeler, Gregg A., [redacted].
White, Richard A., [redacted].
Whiteside, John C., III, [redacted].
Whiting, James F., [redacted].
Whitney, Luther A., [redacted].
Wiggins, James S., [redacted].
Wilkins, Donald J., [redacted].
Wilkinson, James L., [redacted].
Williams, Chester J., Jr., [redacted].
Williams, Dennis P., [redacted].
Williams, Frederick L., [redacted].
Williams, Richard D., [redacted].
Williams, Robert G., [redacted].
Willoughby, Donald N., [redacted].
Wilson, Eric C., [redacted].
Wilson, Mark J., [redacted].
Wilson, Seth G., [redacted].
Wilson, William B., Jr., [redacted].
Wilson, William A. Jr., [redacted].
Wnek, Paul E., [redacted].
Woerlee, Robert L., [redacted].
Wokaty, Terry L., [redacted].
Wolfe, George M., Jr., [redacted].
Wood, Timothy C., [redacted].
Woodside, Charles L., III,– [redacted].
Woody, Samuel E., [redacted].
Wright, Benjamin R., [redacted].
Wright, Bradley J., [redacted].
Wright, Janet I., [redacted].
Wright, Kermit M., [redacted].
Wunschel, Alfred J., Jr., [redacted].
Wuttke, Erwin W., [redacted].
Wyant, Victor R., Jr., [redacted].
Yaeger, Dale C., [redacted].
Yard, Charles K., [redacted].
Young, Henry B., II., [redacted].
Young, John R., [redacted].
Zahn, Martin D., [redacted].
Zimmer, Charles E., Jr., [redacted].

To be first lieutenant

Mitchell, John J., [redacted].

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN

To be captain

Pusch, Richard K., [redacted].

JUDGE ADVOCATE CORPS

To be captain

Eglsaer, Philip W., [redacted].
Few, Howard T., Jr., [redacted].
Martin, Robert L., [redacted].
Matthewson, Charles H., [redacted].
McNeill, Susan P., [redacted].
Meredith J. Conley, [redacted].
Morgan, Jack H., [redacted].
Pigg, James F., [redacted].
Schwetje, Fred K., [redacted].

NURSE CORPS

To be captain

Colliander, Diane E., [redacted].
Dohany, Darlene S., [redacted].
Haines, Kendall R., [redacted].
Katilus, Joseph P., [redacted].
Smith, Emily D., [redacted].

To be first lieutenant

Figun, Monica A., [redacted].

MEDICAL SERVICE CORPS

To be captain

Gupton, Jack A., [redacted].
Johnson, David M., [redacted].
Pfannstiel, Ray J., [redacted].

BIOMEDICAL SCIENCES CORPS

To be major

Lambert, Edward D., [redacted].

To be captain

Blumkin, David B., [redacted].
Egerton, Charles P., [redacted].
Gaudet, Glenn L., [redacted].
Kasben, Kathleen M. E., [redacted].
Owens, Betty A., [redacted].
Reed, Dennis A., [redacted].
Scott, Rosa M., [redacted].
Shahan, David R., [redacted].
Towner, Donald A., [redacted].
Townsend, Linda J., [redacted].
Westbrook, William G. III, [redacted].
Whitehead, Barry H., [redacted].

EXTENSIONS OF REMARKS

ENERGY AND THE STRUCTURE OF AGRICULTURE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BROWN of California. Mr. Speaker, coming from the No. 1 agricultural production State in the country and serving on the Agriculture Committee, I have more than a passing interest in the structure of our agricultural sector. It is no secret that this sector is being faced with a number of problems today, such as increasing energy costs, high interest rates, rapid conversion of prime farmland, and low prices paid to the farmer for his goods.

Over recent years, this country has developed a more centralized system of agriculture than in the past. Small farms close to urban areas and farms producing a variety of crops and livestock are becoming very scarce. With Government policies encouraging larger farms and a more integrated industry in the interests of production efficiency, production has shifted to farming areas distant from eventual markets. Large, highly mechanized farm operations provide much of our food. A complex distribution system has evolved that spans large distances, bringing consumers a vast array of products on a year-around basis. Fresh lettuce in December was unheard of just a generation ago and now it has become a product expected to be in the supermarket on a daily basis.

But this system of production and marketing was developed, like much of our present society, with visions of unlimited fossil fuels. The complex transportation network that brings us lettuce in winter becomes increasingly burdensome with every increase in fuel prices. Figures on increases in production per man-hour become less meaningful as these production increases depend more heavily on fossil-fueled mechanical processes.

We have, since World War II, achieved an increase in agricultural productivity unmatched in history. We should be proud of what has been accomplished. But there is an even greater challenge facing us now that will require an even greater effort—the maintenance of our agricultural production levels in the face of limited fossil fuels and increasing fuel costs.

This country's adjustment to an era of transition from dependence upon fossil fuels to some new forms of energy is, and will continue to be, a disruptive one. Lifestyle changes will be made that will force changes in our manufacturing and production sectors. The switch to smaller, more fuel efficient cars that is taking place now is an excellent example of this process. Unable or unwilling to see the signs of change, the American automobile industry has been caught short by increased sales of imported cars and decreased demand for larger, American cars. Unemployment in the U.S. auto industry is at staggering levels.

What will be the effect of higher fuel prices on our current system of agriculture? What changes in purchasing patterns will take place when the cost of transporting a head of lettuce or a tomato across the country is equal to the product's cost of production? Will customers continue to pay for winter lettuce or tomatoes or will they forgo these purchases? Will the increased costs of transportation spur new systems of production and marketing of agricultural goods?

All of these questions are unanswered at present but they are critical to the domestic agriculture industry. I am inserting a recent New York Times article on this issue in hopes that those of us in Government and those in the agriculture industry can begin to focus on this issue. It is comforting to think that the good times of the last 30 years will continue unchanged. However, as the U.S. automobile industry is finding out, change is being forced upon us in spite of our wishes.

The article follows:

LETTUCE—1. FOOD; 2. MONEY; 3. ENERGY

(By Donald S. Leeper)

ORINDA, Calif.—Fifty-five million heads of iceberg lettuce from California were unloaded in New York City during the Northeastern growing season in 1978, according to the latest Department of Agriculture figures. Over 7,900 truckloads of lettuce and other vegetables that could have been produced locally made the 3,000-mile trip using up 6 million gallons, or 140,000 barrels, of diesel fuel.

This year, the New York City consumer is paying 15 cents just for the delivery of each head of California lettuce.

If the quantity of lettuce unloaded from May to October 1978 had been produced within 200 miles of New York City, the savings would have been almost 130,000 barrels of fuel and 14 cents per head of lettuce for the consumer. There are further opportunities for energy savings.

My own calculations, based on a 1974 study by the California Department of Food and Agriculture—the only study of its kind that I know about—found that the equivalent of one gallon of crude oil in fuel and electrical energy is needed to grow four crates of lettuce, or 96 heads, on large-scale California farms; this amounted to 560,000 gallons for New York's lettuce in 1978. Energy requirements for the production of other vegetables is comparable. Small farmers use substantially less fossil fuel; they do not need the huge machines for planting and harvesting that the big California operations do. If the small farmers produced the vegetables for New Yorkers, up to a third, or even half, of the oil could be saved.

The vegetable production in California (which is reportedly 45 percent of United States consumption) together with nationwide distribution do not fit the today's realities. The era of cheap unlimited energy is over.

To the degree that agronomic conditions permit, we must return to the earlier time of the local truck gardeners. Fresh vegetables do not have to be shipped from California the year round. Of the 60 listed in Agriculture Department statistics, 75 percent are, have been or can be grown near New York, or at least much closer than California, during six months of the year or longer. Starting seeds indoors and transplanting when the weather permits can provide earlier production; storage can extend the marketing period for some crops. Controlled-environment production—that is, production indoors—can provide supply throughout the year and may now be economic.

Much of the prime agricultural land used for vegetables before the advent of the current food system has been converted to housing and other nonagricultural uses. But even today there is more than enough to satisfy the New York demand, particularly if we think in terms of small farmers. How many unused 1- to 10-acre plots exist within a couple of hundred miles of New York City?

Limited access to markets is the major problem of the small farmer. Distribution is geared to California production; distributors are unable to deal with small quantities, not graded or appropriately packaged. Roadside stands, farm "you-pick-the-crop" operations and local farmers' markets are his only marketing outlets. Such approaches are limited to satisfying only local demands, waste our scarce energy resources and require that the farmer spend his time selling rather than producing.

A multifaceted West Virginia program has successfully provided the marketing link between the small producer and the regional market, assisting in the sale of more than $24 million of produce in 1978. The state's agriculture department operates six markets and a fruit-packing facility. Farmers can sell their fruits and vegetables at the markets or, if they wish, the market organization will sell it on a commission-agent basis, combining the small quantities into lots of interest to wholesalers and retailers.

A similar program in the New York area, public or private and economically self-sustaining, would not only make an important contribution to our energy situation but also would promote local and regional development, provide a new source of supplemental income for small producers feeling the inflation pinch, and diminish the drain on the consumer's pocketbook.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NATIONAL PORT WEEK—OCTOBER 5-11

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. MURPHY of New York. Mr. Speaker, I am happy to announce that 27 more Members have requested that their names be added to the list of cosponsors for House Joint Resolution 551, the "National Port Week" resolution. The total number of cosponsors now stands at 89 and favorable responses continue to pour in. Along with BIZZ JOHNSON, chairman of the Public Works and Transportation Committee and cochairman, with me, of the Congressional Port Caucus, I urge my colleagues who have not yet responded to join us in supporting our Nation's ports by cosponsoring this resolution. Due to the abbreviated calendar, I ask for your speedy responses so that the requisite number of cosponsors can be obtained in time for the President to sign the proclamation. I join Chairman JOHNSON in thanking the following 27 new cosponsors:

Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Alexander, Mr. Bafalis, Mr. Beard of Rhode Island, Mr. Biaggi, Mrs. Boggs, Mr. Bonior, Mr. Bonker, Mr. Campbell, Mr. Chappell, Mr. Corrada, Mr. Cotter, Mr. D'Amours, Ms. Ferraro, Mr. Foley, Mr. Levitas, Mr. Livingston, Mr. Lott, Mr. Matsui, Mr. Panetta, Mr. Pashayan, Mr. Pritchard, Mr. Royer, Mr. Stack and Mr. Stratton.●

AND THAT'S THE WAY IT IS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. LAFALCE. Mr. Speaker, coverage of the Iranian revolution and the subsequent taking of hostages by Iranian terrorists by the American media has been a subject of great concern to myself and many other Americans. Our concern has been that the coverage of events in Iran may very well have created or inspired larger, more dynamic events, in a manner which was counterproductive and possibly harmful in our Government's efforts to negotiate a safe release of the hostages.

Because our diplomatic efforts have been stymied by the anarchy and chaos in Iran, our relations with Iran have often been one-way communications between the crowds, the militants and the mullahs—and our reporters. Through the lenses of television cameras, Iran has told the world of its grievances, thereby short-circuiting the diplomatic process.

Given the chaos in Iran, one cannot fault reporters for covering the demonstrations, the militants and the many complex characters that comprise the political landscape. What troubles me is the lack of reflection on the part of some news managers regarding the impact their coverage has made on the fragile relations between the United States and Iran. In a commentary written by Ellen Goodman, two of these news managers indicate how infrequently and how cursorily they have pondered the impact of their powerful communications tool.

I submit Ms. Goodman's column in the hope that it may raise thoughtful questions in the minds of the public and in the newsrooms throughout the Nation:

[From the Washington Post, June 17, 1980]

AND THAT'S THE WAY IT IS—OR IS IT?

(Ellen Goodman)

BOSTON—It's a slow day. The nightly news show shuffles through its time slot, and on to the closing hymn: "That's the way it is, Thursday, June 12, 1980, the 222nd day of captivity for the hostages in Iran. This is Walter Cronkite, CBS News. Good night."

The line is delivered in the well-known, well-punctuated, well-modulated, properly authoritative manner—rather like a benediction. But, after 222 days, this sentence has become the most powerful subliminal editorial in America.

At first, when the feelings of the country ran as red as the letters on ABC's nightly show "America Held Hostage," Cronkite's words on CBS sounded only like a dramatic epitaph to the news.

But we have been through seven months of imminent breakthroughs and ultimate disappointments, botched military missions and fruitless civilian missions. This foreign affair has become also a domestic affair: the situation in Iran has become a situation in the presidential campaign.

Now, the nightly Cronkite count, even more than the small boxscore numbers on the front pages of dozens of newspapers, has become a flag at half-mast, a daily probe of a wound, a political statement.

The closing hymn passes through our minds quickly like a flashcard—do something! do something!—reminding us of what we chorus night after night counting the 20th day, the 145th day, the 222nd day of captivity for the American hostages in Iran.

This is not the first time the Iranian story has become a media story. During all those days and nights when we watched the embassy mobs demonstrating again for the camera, the role of the media became a source of concern reported by its reporters.

The media event, the media show, was hardly an Iranian invention. For a long time, journalists had gnawed at the question of whether they were reporting an event or contributing to it. If you cover the event created especially for you, are you being manipulated? If you don't, are you neglecting it?

But in Iran it was so exaggerated that many reporters worried out loud that their own presence produced scenes of "militant students." They didn't know whether they were "manipulating the news" or being manipulated by the newsmakers.

At home, too, the media—print and television—were called on to judge the effect of the coverage, as well as the situation, on the Rose Garden campaign.

Most reporters, on and off the air, would rather believe they are covering a story than creating it. So in many ways it has been an uncomfortable time.

Those who deliver the nightly news count also would prefer to think of it as just a fact, a number, with no more impact than the date. Sanford Socolow, executive producer of the CBS Evening News, says, "I'd like not to think what the effect has been." In fact, he says he hasn't been thinking about it at all.

"The subject [of the evening sign-off] has been mentioned but only cursorily," he said. "This conversation is as deep and as long a one as I've had."

Even at ABC, where they changed the late-night news show's name to "Nightline" when the situation in Iran "abated," Richard Wald said that perhaps the Cronkite line simply "fades into the background like wallpaper."

They were both, I think expressing a very genuine reluctance of television people to accept the reality of their own power. And perhaps its traps.

"We have to have a reason to stop doing it now," said Socolow. "I don't think Walter and I could get together and say, 'Let's stop it, we're bored with it.' It offends my sense of neatness not to have a reason."

If that is true, then CBS is in, essentially, the Vietnam syndrome. They got into it without thinking about the long-range effects and now are unable to get out of it.

I know the difficulties of this decision. Taking the line off the air can become as much of a statement as leaving it on—particularly when the president is so eager to convince us that the situation is "manageable." No one wants to feel that we are deserting the hostages and their families, or forgetting. We want the numbers game to end now with their release.

Socolow called the Daily Tally "an item of news, one of several items relative to Iran." But it won't do to pretend that it is just a fact.

Cronkite's show keeps the story not just prominent but dominant, a subtle and powerful daily reminder of our impotence or incompetence, helping no one, not even the hostages. Two-hundred-twenty-two days of the same editorial is quite enough.●

SALUTE TO ROLL CALL

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. JOHNSON of California. Mr. Speaker, Capitol Hill without Roll Call is unthinkable!

In the nearly 22 years that I have been in Congress I have watched Roll Call grow from a "throwaway" to the fine community newspaper that it is today. Sid Yudain and his staff provide us with everything from hard news to humor to personal items, and it is no wonder that so many who leave the Hill have Roll Call sent to them so that they can keep up with their friends and what is going on. We eagerly await each issue.

Congratulations, Sid, on 25 years of fine service and a job well done. May your future be even more successful.●

VERA FORD—QUALITY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. COLLINS of Texas. Mr. Speaker, Vera Ford has many friends in Dallas and throughout the country. Recently she was honored by the Texas Independent Producers and Royalty Owners Association magazine with a special profile article. Her association with this organization and her special relationship with Northwood Institute make this article of special interest. I am inserting it herein so that you may share in this tribute.

VERA FORD—QUALITY

Vera Ford has many passions in her life, because she approaches everything, everybody and every large or small event with an outpouring of radiant, positive enthusiasm. But she admits that she really puts an extra measure of energy behind her two favorite projects. One is an organization dedicated to free enterprise education: The Northwood Institute. The other is the organization dedicated to preserving the freedom of the independent oil and gas industry: Tipro.

The idea that quality and Vera Ford go together is evident from the moment you enter her sun-drenched high-rise apartment on Dallas' exclusive Turtle Creek Boulevard. An oil portrait of Vera hangs by the entry, painted in 1957 by Alexander Clayton, the only American ever commissioned to paint a portrait of the Pope. An exquisite representation of a 19th century work of art hangs over her desk; a gift from Mrs. Herbert Marcus, Sr. A uniquely intricate music box, a gift from Greer Garson (Mrs. Buddy Fogelson), is near the telephone.

These days, independents need as many radiant, positive voices to say good words about them as possible. Vera is clearly at the top of that list in Dallas. She loves to smile. She loves to write cheery letters. She loves to tell people about Tipro, and in her vibrant, energetic way she has convinced dozens of producers and royalty owners over the country to become members.

Vera is equally gung ho in her charity work for Northwood Institute, the fully accredited business management college whose philosophy of free enterprise is taught at its campus in Midland, Michigan; West Baden, Indiana; and Cedar Hill, Texas, and offers extension courses in Paris, France; and Quito, Ecuador.

She is on the Executive Committee of Northwood Institute and a member of its National Women's Board, currently chaired by Senator Margaret Chase Smith. Vera has been named as one of the "Distinguished Women of Northwood," an honor she shares with Celeste Holm, Mrs. J. C. Penney, Senator Smith, Mrs. Herbert Dow and others. She recently returned from Palm Beach where Northwood is constructing a new International Conference Center, and is currently involved with the Northwood Auction, an annual black tie event in Dallas.

But the biggest love of her life is the independent oil industry and the people in it. She grew up with oil and gas in Brownwood, Texas, and for several years she was secretary to the Chief Geologist of Seaboard Oil Company in Dallas. In more recent years she has been involved in real estate and high-rise apartment management in Dallas, serving as general manager of the Crestpark and of 3525 Turtle Creek. But in 1975 she became deeply involved in defending the oil and gas industry when Shelby Pitts called her and asked if she would help with "a little public relations effort."

That was the beginning of Energy Research Associates (ERA), the organization which coordinated one of the most remarkable and surprisingly successful public relations efforts in the history of the industry. Its immodest objective: to take the industry story to the public, and Vera Ford was instrumental in that effort.

ERA was, by any standard, a small organization—the brainchild of Dallas independent L. Frank Pitts, his brothers Shelby and Troy, and D. K. Davis. And unlike most PR endeavors, it turned up measurable results—both in terms of immense newspaper space and air time and in traceable changes of attitudes on the part of Congressmen.

Vera was there at the beginning. She met D. K. Davis in Owensboro, Kentucky, where she coordinated some of the first speaking engagements and media interviews for the fledgling effort. She began to open doors nationwide, and later was responsible for hundreds of radio and television appointments—from Maine to Florida and from the Carolinas to California. By telephone, she sold the industry story to media people, so that the speakers bureau people could get the story passed on to the millions.

When Shelby Pitts was named Tipro's Statewide Membership Chairman, Vera worked very closely with him on getting new members into Tipro. Now she does it on her own, with love and with success.●

TWO FLORIDIANS HEAD NATIONAL ELECTRIC GROUP

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FUQUA. Mr. Speaker, one of the most important industries in the country is the investor-owned electric utility business.

Almost 80 percent of the country's electricity, serving some 67 million consumers, is represented by almost 200 investor-owned utilities, including 4 in the State of Florida.

Without an adequate supply of electric energy, the United States faces the grave prospects of greatly increased unemployment, productivity declines, and cutbacks in business and industrial activities. There would be without sufficient electricity growth, a general reduction in the standard of life for all Americans, and the creation of a permanent underclass of citizens denied opportunities for economic and social advancement.

So, the electric utilities—investor-owned, municipals, cooperatives, and TVA—are meaningful to the work we do in the Congress, and should be recognized.

It is fortunate that two Floridians are leaders of two prominent industry groups, and they were honored June 16, 1980, in the Capitol by the Florida congressional delegation.

Andy Hines, president and chief executive officer of Florida Power Corp. of St. Petersburg, is the new chairman of the board of trustees of the National Electric Reliability Council, known as NERC.

NERC encompasses essentially all of the power systems of the United States and was formed to augment the utility systems of North America.

And Marshall McDonald, chairman of the board and chief executive officer of Florida Power & Light Co. of Miami, is the new chairman of the Edison Electric Institute, known as EEI.

EEI is the principal trade association for the investor-owned electric utility industry in the United States.

Also recognized were Ed Addison, president and chief executive officer of Gulf Power Co. of Pensacola, and Pierce Wood, senior vice president of Tampa Electric Co., substituting for H. L. Culbreath, president of Tampa Electric Co., who was not able to attend.

I am pleased to bring these Floridians to the attention of the House, and acknowledge their great responsibilities to the citizens of Florida to provide reliable electric service at a reasonable cost to electric consumers.●

WORKERS AND FARMERS HAVE COMMON GOALS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DASCHLE. Mr. Speaker, too often members of the agricultural sector, as well as members of the labor movement, feel that their objectives are miles apart. It is refreshing to see, Mr. Speaker, those instances where farmers and union workers realize they are searching for common goals and band together to seek them.

In April, Local 111 of the Bakery, Confectionery, and Tobacco Workers International Union demonstrated in Fort Worth, Tex., in support of the family farmers. The union workers spoke in favor of such crucial agricultural issues as higher price supports for agricultural products, improved health standards for imported foods, country of origin labeling requirements for imported foods, lower interest rates, and an export policy which works to the benefit of the family farmer.

Both union workers and farmers will benefit once they recognize each other's problems and needs. Only through this mutual cooperation and understanding can either hope to survive.

I insert the text of the June 1980 B.C. & T. article describing this meeting in the RECORD for the benefit of my colleagues:

MEMBERS STAGE RALLY ON BEHALF OF FARMERS

FORT WORTH, TEX.—Local 111 members, who are employed at Mrs. Baird's Bread and Cake Plants here, demonstrated at the Fort Worth, Texas Federal Building on April 18, 1980 in support of family farmers.

This action by the BC&T members was in response to the support the farmers gave their striking Mrs. Baird's workers in the fall of 1978. During that strike, the farmers parked their tractors in front of the Baird's Cake Plant for almost five hours.

At the Federal Building demonstration, the BC&T members carried signs reading "Give Farmers a Break" and passed out leaflets entitled "Workers, farmers, consumers: same problems, same fight." Afterwards, the Local 111 members conducted a rally at the Park Central Inn where they were joined by members of the American Agricultural Movement.

The BC&T members contend that the issues being raised by family Farmers "go to the heart of America's economic problems and deserve more serious consideration and action by the government than is evident so far."

CALTABIANO ORGANIZES RALLY

Stressing that "workers, farmers and consumers have the same interests," BC&T International Representative Hank Caltabiano, who organized the demonstration/rally, called for support of the farmers' agenda. This agenda includes regulation which would decrease the commodity speculator's share of the food dollar, health and safety standards for food imports and labeling as to the country of origin, an export policy which does not work to the detriment of family farmers and lower interest rates.

Farmers are advocating "a fair return to family farmers for their labor" and warn that if policies to help the family farmers are not quickly adopted, "consumers could be left at the mercy of corporate monopolies."

In arguing for continued worker-farmer-consumer cooperation, Caltabiano pointed out that "all BC&T made products originate with farmers."

The demonstration had the full support of the local union leadership including the endorsement of Financial Secretary Jack Kimberlin, the organizing efforts of Business Agent Phynies Crawford and the active participation of Business Agent Paul Pannell, Chief Steward Raymond Ruiz and office secretary Mary Williamson. International Vice President Tom Mangone flew into Fort Worth to participate in the demonstration and to address the rally. But the key to the entire event were the members of Local 111 whose enthusiastic participation made the day such a success.

David Senter, a farmer who participated in the 1978 Fort Worth Strike picket line and has since become National Director of the American Agricultural Movement, flew down to demonstrate at the BC&T rally at his own expense. A report for the American Agricultural Movement's newspaper covered the demonstration and rally.

The area papers, the Dallas Morning News and the Fort Worth Star-Telegram, gave detailed coverage to the event in their April 19th edition.

Caltabiano reports the demonstration and rally were a huge success. According to him, "it is the first time workers have gone to bat for farmers in the Fort Worth area, although farmers have supported labor's cause on numerous occasions."●

HAPPY 104TH BIRTHDAY, MRS. LUMINARY WILLIAMS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. STOKES. Mr. Speaker, I would like to ask all of my colleagues to pause and join me in saluting the grand lady of Cleveland—Mrs. Luminary Williams—on her 104th birthday. Like her name suggests, she has been a bulwark of inspiration and a shining example for people of all ages in the Cleveland metropolitan area and the entire State of Ohio for many years.

Few people ever reach the age of 100 much less 104. Even fewer people cultivate such a warm personality which instantly attracts others to them through the course of a lifetime. Mrs. Luminary Williams is a member of both of these exclusive groups of human beings.

Mr. Speaker, on Mr. Williams' 100th birthday, I had the pleasure of marking that occasion with an article in the CONGRESSIONAL RECORD. In that particular article, I noted how she was such a willing and energetic worker in the Cleveland community and in her beloved church, the Olivet Institutional Baptist Church in Cleveland.

Ideally, you would think that 4 years later "father time" would have slowed Mrs. Luminary Williams down. But, this simply isn't true in her case. In fact, she is going even stronger now than she was then as she shares her radiant personality and magnetic love for the Lord with everyone she meets.

In addition to the affection that many Clevelanders have for her, Mrs. Williams has amassed many honors and citations. Most recently she received a plaque from the Ohio Commission on Aging for her work as an outstanding senior citizen in the community. In the past, she has served as the marshal of the first Annual Ohio Senior Citizens Day parade and has testified before the U.S. Senate Special Committee on Aging.

So, Mr. Speaker, you can see that she has been actively involved with the senior citizens in Cleveland. When I say actively involved, I mean just that. Mrs. Williams is not one who sits back and goes to the senior citizen centers to work on arts and crafts. Rather, she visits the centers on behalf of some just cause or to help another "golden ager" with a problem.

"Mother Williams," as her friends at the Olivet Institutional Baptist Church call her, accepted Christ at the age of 13. She has never strayed from her religious beliefs and has never missed a Sunday in church. For more than 40 years, she has been a member of the Willing Workers Club at the church. Indeed, Mr. Speaker, her heart and soul are with the Olivet Institutional Baptist Church in Cleveland.

Her second love, next to her religion, is baseball. She can give you the complete history on the Cleveland Indians including the best players and season statistics. She never misses a game. Even if one is scheduled on a Sunday when she has church service, she takes her radio with her to church. Mr. Speaker sometimes I wonder if the Cleveland Indians couldn't use some of her energy and drive on the team. I honestly think that she means a lot to some of the players.

Although we in Cleveland claim her as our own, Mrs. Williams actually is a native of Covington, Ga. On January 23, 1897, she married Rev. J. W. Williams in Atlanta, Ga. At the time of her husband's death, the couple had been married for 67 years. She is the mother of eight children, one girl and seven boys, three of which are still living.

Mr. Speaker, she is a vivacious and warm human being. I think that her friends in Cleveland would agree that the following scripture passage best describes Mrs. Luminary Williams:

> Let your light so shine so that men can see your good works and glorify my father which is in Heaven.

At this time, I would like my colleagues to join me in saluting Mrs. Luminary Williams on her 104th birthday.●

CLARENCE MITCHELL

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. RODINO. Mr. Speaker, President Carter's presentation of the Presidential Medal of Freedom to Clarence Mitchell this past week rightfully honored his significant contributions to the cause of justice and equality.

I shudder to think where this Nation would be without the efforts of Clarence Mitchell over the past 30 years. When he came to the NAACP's Washington office in 1951, he faced the great challenges of ending racial discrimination and providing equal opportunities for all Americans.

Throughout that historic period of the late 1950's, 1960's, and 1970's, it was my privilege to work closely with Clarence Mitchell, who is known with affection and respect in the Halls of Congress and as our "101st Senator." As the chief legislative spokesman of the NAACP, Clarence Mitchell has played an integral role in the passage of every major civil rights bill. In his quiet, confident, and determined way, he has let Congress know about the gross injustices occurring throughout our Nation and has worked with us to build a better society.

Mr. Speaker, Clarence Mitchell's wise counsel has proven invaluable to me over the years, and I have always been impressed that the racial slurs directed at him never made him bitter in any way. Instead of producing bitterness in him, his experiences only served to strengthen his resolve to wipe out the ignorance and hatred which occupied the minds and hearts of too many Americans.

The freedom of our Nation is based on individual liberties with equal justice for all. Clarence Mitchell has dedicated his professional life to advancing these goals for all Americans.

Mr. Speaker, I simply want to take this opportunity to congratulate my friend, Clarence Mitchell, on receiving a well-deserved honor.●

CONGRESSIONAL COMMEMORATIVE SALUTE TO THE VALIANT PEOPLE OF LITHUANIA IN COMMEMORATION OF THE 40TH ANNIVERSARY OF THE SOVIET MILITARY TAKEOVER OF THE LITHUANIAN NATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ROE. Mr. Speaker, I rise today to salute the valiant people of Lithuania on the 40th anniversary of the forcible takeover of that nation into the Soviet Union. I am sure my colleagues will join me in saluting Lithuanians the world over who have steadfastly clung to the richness of their cultural heritage and continue to seek freedom of expression, religion, and basic individual human rights in the country of their birth.

Following the brutal takeover by the Soviet Union, an estimated 300,000 Lithuanians were deported to a certain death in Siberian labor camps.

Mr. Speaker, perhaps more than any other group, the Lithuanians clearly understand the true meaning and likely consequences of the recent Soviet rape of Afghanistan.

Once the Soviets ensnare a nation, as history has shown in the Baltic States, the Ukraine, Byelorussia, and the Transcaucasus, they never let go. Basic freedoms are soon crushed and every attempt at wiping out the individuality of the conquered people is attempted.

As the Soviets proved in Afghanistan, they will stop at nothing, including the use of deadly gas, to maintain their illegal rule over freedom loving people.

The people of Lithuania today are suffering under terrible religious and political persecution. These charges are well documented in the fine report entitled, "The Violations of Human Rights in Soviet Occupied Lithuanian—A Report for 1978." I would urge my House colleagues to carefully read that document, which was published by the Lithuanian-American Community of the United States.

Mr. Speaker, it is clear that the American-Lithuanian community is a strong voice for freedom in their former homeland and other oppressed nations around the world. The history of the Lithuanian nation is filled with promises of glory.

Geographically, we look to a country located at the southern end of the eastern coast of the Baltic Sea, almost directly in the heart of Europe. Scholars tell us it became a unified state in the early years of the 13th century and first became known as the Kingdom of Lithuania in 1251 A.D.

After centuries of wide expansion to the east and south, Lithuania in 1569 became a partner in the Polish-Lithuanian Commonwealth. That alliance lasted until 1795 when it was partitioned between Austria, Prussia, and Russia. Lithuania then, for the first time, fell under Russian rule.

But in 1918, at the end of World War I, the seeds of freedom burst forth and Lithuania was successful in reestablishing its independence. But 22 years later, Russia raised its ugly head of oppression again and forcefully occupied Lithuania.

Mr. Speaker, we must never forget the plight of our brothers in Lithuania. Congress has been a key force in keeping an eye on that situation by establishing the Commission on Security and Cooperation in Europe to monitor international compliance with the Helsinki agreements. It also reaffirmed our Nation's policy of nonrecognition of the legality of the 1940 Soviet takeover of the independent states of Lithuania, Estonia, and Latvia. I am pleased to say I was a sponsor and vigorous supporter of those resolutions.

Mr. Speaker, on behalf of the people of the Eighth Congressional District of New Jersey, I join in the annual observance on June 15 of our Lithuanian heritage and trust that through our mutual endeavors and responsibilities that we will strive to achieve total freedom for that nation. The people of Lithuania and other captive nations of the world must be given the right of self-determination with full restoration of human rights.●

MSGR. EMIL R. SUCHON

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. COURTER. Mr. Speaker, I would like to take this opportunity to recognize Msgr. Emil R. Suchon of the Sacred Heart Church. During his 35 years in Rockaway, he has proven to be an asset to the church as well as the entire community.

Father Suchon, because of his vital interest in the life and activity of the borough, has become well known to the citizens of Rockaway. For 25 years, he served as a member of the Rockaway Borough Recreation Commission. He also is the chaplain of the borough fire department. A talented and respected individual Monsignor Suchon is recognized for his devotion to the priesthood as well as the missions.

I personally believe that the religious leadership of a church has a tremendous impact upon a community. Monsignor Suchon, by his work and tremendous dedication to both civic and religious activities, is a perfect example of what one individual can do to enhance the quality of life for both his congregation and the community at large.

Mr. Speaker, I appreciate this opportunity to recognize Monsignor Suchon on the 45th anniversary of his ordination, and I am sure that my colleagues will wish to join me in extending our warmest congratulations to the monsignor on this wonderful occasion.●

STRATEGIC EARLY WARNING SYSTEM

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. HOPKINS. Mr. Speaker, realizing the deep concern of the American people, and many foreign governments, over the potential weakness in our strategic early warning system, I am submitting a recent news article for review by my colleagues. Because this body is charged with the careful and responsible oversight of this important component in our national security, I am hopeful that the Congress will fulfill its duty to resolve all lingering doubts associated with this program.

The article follows:

[From the Lexington Herald-Leader, June 15, 1980]

AMERICAN TROOPS ALERTED 50 TIMES IN RESPONSE TO MISSILE LAUNCHES

(By James Coates and Len Ackland)

WASHINGTON.—American military units were put on nuclear alert about 50 times in the last year in response to missile "launchings" by the Soviet Union that were detected by a United States spy satellite system, government sources have told The Chicago Tribune.

Each of the alerts—all considered valid by commanders—were called off after American analysts using sophisticated computers in underground bunkers determined that the Soviets were testing missile engines and not launching an attack, sources said.

The same computers used in these 50 cases issued two highly publicized false alarms early this month and prompted alerts within American forces.

Officials who disclosed the 50 "valid" alerts were willing to talk guardedly about the frequent missile scares to illustrate the point that, despite these incorrect readings, there are numerous checks in the system to protect against an accidental triggering of nuclear war.

Each of the incidents they described occurred when three U.S. spy satellites in extremely high orbits detected heat emitted by test firings of Soviet missiles and flashed a warning into an error-plagued computer system, called Wimex, nickname for the World Wide Military Command and Control System.

The false alarms, by contrast, came because the computer failed and incorrectly reported to the Pentagon and other command posts that the satellites had registered missile firings, when they had not.

Most of the 50 alerts triggered by actual Soviet missile activities in the testing program were conducted at relatively low levels, but officials disclosed that on "several occasions" frantic technicians reported multiple missile firings which could have been the start of an all-out attack.

These multiple firings were merely tests of "arrays of missiles" and nothing more sinister, said a Pentagon insider. But, he added, "Everytime it happens (a Soviet test) we can't take the chance that it isn't actually an attack," he said.

Even before the June false alerts, military experts across the political spectrum were expressing alarm at potential deficiencies in the country's ultra-complex Wimex linkup of computers, satellites, radars, phones, radio and television plus various classified sensors.

For example, before the computer errors were acknowledged on June 3 and June 6, two senior Republican senators with contrasting views had warned about placing so much of the nation's military alert apparatus into a computerized operation.

Sen. John Tower, R-Tex., a hardliner on the Senate Armed Forces Committee, and Sen. Mark Hatfield, R-Ore., an advocate of disarmament, called for investigation of the Wimex-system.

Hatfield and Tower became concerned after an earlier—and even more serious—foulup with Wimex last November. It was then a computer malfunction caused a war games test tape to be transmitted through the system as an actual attack.

That test produced flashing lights, buzzers and ringing bells in command posts and advised each commander that numerous American early-warning systems had detected a Soviet attack. According to standing alert procedure, klaxons sounded at Strategic Air Command bases, and launch crews for Minuteman and Titan missiles were ordered to stand by their consoles.

A number of fighter planes were launched with an airborne command plane which, had the attack been real, could have been used to coordinate a retaliatory American strike if other command posts were destroyed.

The November alert lasted slightly more than six minutes. The one on June 3 lasted three minutes 12 seconds, and the last one on June 6, just less than three minutes, according to Defense Department statements.

Military advisers to both Tower and Hatfield emphasized that because of the speed of modern missiles, the U.S. could be struck by a submarine-launched missile in 10 minutes or less after its launching.

For years the U.S. has acknowledged that land-based Soviet missiles could reach targets any where in the U.S. within 30 to 35 minutes and that submarine-based weapons could arrive sooner.●

LITHUANIA AND HUMAN RIGHTS

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mrs. FENWICK. Mr. Speaker, it was 40 years ago this week that Soviet troops moved into Lithuania, forcibly incorporating that nation into the Soviet Union as part of its takeover of the Baltic States. Since then, Lithuanians, as well as Estonians and Latvians, have kept alive the hope of independence. The Lithuanian-American community commemorated this date, Sunday, June 15, as a reminder to the world of the Soviet occupation of their nation. It also was a timely reminder that Soviet aggression against neighbors did not start in Afghanistan.

During the 40 years since the Soviet occupation of Lithuania, there have been thousands of violations of basic human rights, including the forcible deportation of an estimated 300,000 Lithuanians. Violations, Mr. Speaker, are continuing, including the arrest of some of the Lithuanians and others in the Soviet Union who have been attempting to monitor Moscow's compliance with the Helsinki accords which were signed nearly 5 years ago, on August 1, 1975. Currently, the signatory nations to the accords, more formally known as the Final Act of the European Conference on Security and Cooperation in Europe, are preparing for a followup review meeting to be held in Madrid this November. We and the other signatories should take the commemoration this week as a reminder of the need to renew our efforts to obtain compliance by all the signatories with the basic human rights provisions of the Helsinki accords.●

THE NFL AND THE USO: GOODWILL VISITS TO OVERSEAS MILITARY INSTALLATIONS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. KEMP. Mr. Speaker, I would like to praise the USO and the NFL for their patriotic and very worthwhile efforts to visit our American men and women at overseas military bases. These morale boosting visits put NFL athletes in personal contact with service men and women stationed abroad and provide both entertainment and a touch of home that is so important.

I am especially appreciative of their efforts because I was able to participate in the program in 1968 at its infancy. The excitement of traveling abroad and living amongst our troops and the customs and traditions of foreign lands was an experience that I will never forget. All of the players participating in the program today echo these sentiments. The following article by Bob Osborne, published on April 19, 1980, is an excellent summary of the program's usefulness. Again, congratulations to the NFL stars, the league, and the USO.

THE OFF-SEASON: STEELERS RECALL THEIR USO TOURS

It probably started as a one shot deal, but it has evolved into one of the National Football League's best bits of public relations. Since 1966, groups of NFL players have been taking part in goodwill visits to military installations overseas and, since 1968, members of the Steelers have been heavily involved.

Former linebacker Andy Russell was the first Steeler to make the tour, joining Lance Alworth, Bobby Bell, Bill Brown, John David Crow, Ernie Green, Jack Kemp, Bart Starr, and Wayne Walker in 1968.

Since then, former Steelers John Brown (1971), Frenchy Fuqua (1972) and Ray Mansfield (1975) made the tour along with current squad members Franco Harris (1974), Rocky Bleier (1975), Jack Lambert (1976 and 1977), Lynn Swann (1976) and Jon Kolb (1979).

Organized in association with the USO and the Department of Defense, the tours put NFL stars in personal contact with servicemen stationed far from home and provide both entertainment and a touch of home.

Bill Granholm, special projects manager of the NFL, accompanies each tour, taking care of arrangements and organizing the program to be put on at each stop. That usually consists of highlight films showing the touring players in action, short talks by each of the players about football, a question and answer period and then the raffling off of NFL prizes such as books, pennants and team patches. Additionally, one autographed NFL football is raffled off per base.

Kolb, who last year went to the Far East with stops in Korea, Japan and points in between, came back with a few anecdotes similar to those collected by other players who have gone in past years.

"South Korea is where the presence of North Korea would be like the people in Pittsburgh having a communist country as close as Washington, Pa.," he says. "There are tank traps, troops everywhere and a curfew at midnight."

Kolb roomed with Joe Klecko of the New York Jets and recalls his introduction to the night life of Seoul. "We were in our hotel room the first night and we heard a noise and ran to the window. We saw tanks and troops in the street and barbed wire in the intersection. I understand it depends on what kinds of mood the troops are in whether they shoot you or ask to see your credentials."

Lambert and Swann found themselves on the streets with those troops in 1976 and, luckily, the South Koreans were in a good mood. "Swann and I were out late and they put roadblocks up," Lambert recalls. "We had to get an escort back to the hotel by the MPs."

According to Lambert, "We went to one place where we had to sign releases for our lives in case we got killed . . . that was interesting." Lambert also remembers being on a base where he could look over the China Sea and see enemy missiles pointed in every direction. "That was scary," he admits.

But the positive aspects of the trips more than make up for the periodic dangers. At least that's the way veterans of the tours feel.

Kolb, who went sight-seeing in Japan on his one day off during the 21-day tour, got lost and had to be rescued by a group of kids who overcame their awe at his size, notes, "They saw we're received better than Miss America."

Swann called his visit a "learning experience" because, "I've never been in the military and I saw that different and unique way of life that a serviceman has to live. And I saw the problems of living in a foreign country where most don't speak the language fluently. Soldiers stationed in a foreign country for any length of time are starving for news of home."

In the end, that's the big thing. "They get a chance to see someone they've watched, a name they've heard often," Swann says. "We don't just get questions about football. They want us to comment on what's happening in the NFL and what's happening at home."

Bleier, of course, spent time in Viet Nam as a soldier and thus has a unique viewpoint from both sides. "One of the things was I could identify with them and they could identify with me," he points out. And, though he was laughingly booed by Marines (different branch of the service, you know) at one base. Bleier likes the whole idea—especially meeting people from the Pittsburgh area.

Harris, who was on the tour for only one week before returning home because of prior commitments, says, "The outstanding part is being able to go to another country and, of course, what it means to the American GI's. A lot of them are not in personal contact with football for quite awhile and, when we go over and show films and talk, it's worthwhile."

Kolb visited one such place last year, a listening post in the Koonai Range. "The guys stay there two years," he says. "They'll see the Super Bowl sometime in March."

That post is 6,000 feet up in the mountains where even helicopters find it difficult to land because of the ice and wind, but the experiences on the ground are often just as awesome. At Panmunjon, a listening post on the DMZ between North and South Korea, talking and taking pictures were both restricted and the players could see North Korean soldiers on the roof of a building across the DMZ with cameras, binoculars and listening devices.

It's a tiring, often dangerous assignment and it's strictly on a voluntary basis. The discomforts, from stomach-turning helicopter rides to beds so short that legs hang over from the knees, are many and the hours are long.

"It's not a vacation," Harris points out. "You work hard. You spend a lot of time and you get tired."

Still, most of the players would be inclined to do it again, time permitting.

"It was a rewarding experience," says Lambert, the only two-time visitor from the Steelers. "It's a trite expression, but I'm very glad to be in the U.S. after being in Korea and seeing how those people live."

"I'd like to go again," says Bleier. "But my wife won't let me take three weeks off—I've got a position and a family now. But it was a lot of fun. We got first class treatment, VIP treatment, by the services."

But Kolb probably puts his finger on the biggest attraction when he says, "You live where the Super Bowl is the biggest thing in the world and then you see something like that and it's really something."

It's a time to return to a bit of reality for the NFL stars and there's nothing like making 26 stops in 21 days, making hair-raising flights to out of the way bases and getting a close-up view of the military might of the enemies of the U.S. to do just that.●

AMENDING TAX REFORM ACT OF 1978

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. CONABLE. Mr. Speaker, I am today introducing legislation that allows taxpayers a deduction for amounts paid into a product liability loss reserve or to a captive insurance company established to provide product liability insurance.

In the Tax Reform Act of 1978 a provision was added to the Internal Revenue Code of 1954 allowing preferential treatment for net operating losses incurred as a result of product liability losses. The provision was added after hearings highlighted the large product liability losses businesses were suffering. For the most part these losses are caused by businesses' inability to obtain product liability insurance.

Since the 1978 amendments many have stated that these amendments do not offer adequate relief. The bill I am introducing today expands on the 1978 act amendments by allowing a tax deduction for certain product liability reserve payments and amounts paid to captive insurance companies established to provide product liability insurance. To limit the bill's cost appropriate limitations are placed on the amount that can be deducted and the kinds of services covered by the bill.

Taxpayers are given flexibility under the bill's tax-free rollover provisions. Special rules are also provided in the case of controlled groups of corporations.

In summary, the bill improves the 1978 amendments and provides a more adequate remedy for the product liability difficulties facing industry today. I hope similar legislation will be introduced to correct the nontax product liability problems facing many today.●

THE 40TH ANNIVERSARY OF LITHUANIA'S OCCUPATION BY THE SOVIET UNION

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. COURTER. Mr. Speaker, I would like to bring to everyone's attention that June 15, 1980, marks the 40th anniversary of the illegal occupation of Lithuania by the Soviet Union.

Lithuania, one of the Baltic States, has been the victim of Soviet totalitarianism, occupation, and attempts to eradicate the language, culture, and history of its people. In their efforts to try to destroy the Lithuanian heritage, the Soviets have only created more Lithuanian nationalists.

It must be remembered that it was the Soviet Union that pushed for the ratification of the Helsinki accords, that were signed in 1975. Basket III of these accords deals with the human rights of which the Soviets have been the greatest violators. Evidence their brutal invasion of Afghanistan.

The United States has never recognized Soviet sovereignty over Lithuania and an independent Lithuanian Embassy functions here in Washington as a representative of the free Lithuanian Government in exile. Many of my colleagues have cosponsored H.R. 5407, to assist in the funding of the upkeep of this diplomatic mission. This is tangible action, to keep the spirit of free Lithuania alive.

We dare not forget the acts of oppression endured by the brave Lithuanian people and we cannot be silent as to their plight. The status of Lithuania should be brought up before the Madrid conference reviewing the implementation of the Helsinki agreements. It is my fondest hope that a free Lithuania will some day emerge from under the yoke of Soviet tyranny.●

EVANGELICAL CHRISTIANS PROTEST REMOVAL OF ASHBROOK AND DORNAN AMENDMENTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ASHBROOK. Mr. Speaker, in a letter dated June 16, 1980, Robert Dugan, director of the National Association of Evangelicals, wrote to me protesting the removal of the Ashbrook and Dornan amendments from the Treasury appropriations bill, and asking me to work to reinstate them, in order to prevent the assertion of affirmative action guidelines on private, parochial, and Christian schools by the Internal Revenue Service. His reasons for this request are all firmly based on constitutional principles.

First, Mr. Dugan points out that last year's proposed IRS regulations, which we would be approving by the removal of these amendments, would assume a school guilty of discrimination until proven innocent. He feels that these institutions should have the same protection from attainder proceedings individuals are granted under the Constitution. Applying administrative writs of attainder to private schools is clearly a violation of the spirit, if not the letter, of the Constitution.

Second, Mr. Dugan points out that religious schools, in order to fill IRS racial and ethnic goals or quotas, would be forced to proselytize certain racial and ethnic groups, and ignore others. Protestants, for example, could be forced to try to convert Catholic Mexican-American children for quota purposes. This is a divisive requirement, and, again, while it may not be judged by the courts to be a violation of the letter of the constitutional guarantee of freedom of religion, it is certainly a violation of its spirit. The fact is that IRS seems prepared to trample over every real constitutional guarantee in order to pursue the phantom of presumed discrimination in private, parochial, and Christian schools.

Mr. Dugan's last point is that:

> Not incidentally, on this issue I believe that we sense the mind of 45 to 50 million evangelicals in the United States.

We operate under a Constitution whose first three words are, "We the People." This makes Mr. Dugan's point very relevant.

The first article of our Constitution specifies that all legislative power is vested in the Congress. We are all perfectly aware that, if these regulations were submitted to the Congress for passage, they would fail. What the leadership is trying to do is to give IRS the go-ahead to take legislative action this House would not take, because we know our voters would disapprove. Such a devious method of shifting the blame for legislative action is clearly a violation both of the spirit of the Constitution and of our individual duties as Members of Congress.

If Congress wants these regulations, then let us pass them openly, and take full responsibility for them. In the meantime, let us continue to forbid unelected bodies from taking actions it is our sole privilege and duty to undertake.

The complete text of the June 16 letter to me from Robert P. Dugan, director of the National Association of Evangelicals, follows:

NATIONAL ASSOCIATION OF
EVANGELICALS,
Washington, D.C., June 16, 1980.

Hon. JOHN M. ASHBROOK,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ASHBROOK: The National Association of Evangelicals last year appreciated and applauded your efforts, with the concurrence of a majority of your colleagues, to forbid the Internal Revenue Service's implementation of its revised revenue procedure for private tax-exempt schools, released February 9, 1979. It was our fear then, as it is now, that the proposed procedure would do great harm to many schools, totally innocent of racial discrimination.

Now you are faced with this issue, once more, as the Treasury Appropriations Bill will soon be adopted by the House of Representatives. We want to underscore the importance of the success of the Ashbrook and Dornan amendments to that bill. Yours would prohibit the IRS from enforcing any new regulations or guidelines which would cause a private school to lose tax-exempt status, unless such regulations were in effect before August 22, 1978. The Dornan amendment would prohibit the IRS enforcement of the regulation proposed in August, 1978, as revised in February, 1979. The passing of these amendments will protect private schools from unjust treatment by the IRS.

It is not the stated objective of the IRS procedure to which NAE objects, but its method. IRS would assume certain schools to be guilty of discrimination, according to statistical guidelines, until they prove themselves innocent. This is the principal flaw in the procedure. We believe that no school should lose its tax-exempt status unless it is "adjudicated discriminatory," in a court of law.

There are several practical flaws in the proposed regulation which I will not enumerate in this letter. Let me comment, however, on one additional flaw that may not have been noticed by many Members of the House. If the IRS forces private religious schools to recruit minority students, for whatever reason, Government will have become responsible for the evangelization and conversion of thousands of minority children. While some evangelicals might smile at this twist, those of us who are committed to the separation of church and state choke at the prospect of Government's causing children to become converts of any faith or denomination. Evangelism must be a totally free and voluntary activity.

NAE's first choice would be for legislation to be developed which would eliminate the category of "reviewable schools" from the IRS regulation. Since racial discrimination is contrary to public policy, we repeat our willingness to have tax-exempt status removed from any schools which are "adjudicated discriminatory," by due process.

Not incidentally, on this issue I believe that we sense the mind of 45 to 50 million evangelicals in the United States.

Faithfully yours,

ROBERT P. DUGAN, Jr.,
Director.●

MESSAGE OF FREEDOM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BROOMFIELD. Mr. Speaker, as my colleagues well know, each year we consider legislation which funds such important international broadcasting agencies as the Voice of America and Radio Free Europe/Radio Liberty. These valuable organizations deserve our support as they communicate the message of freedom to those who remain captives of communism. In this regard, I recommend to my colleagues a timely article which appears in the June 13, 1980, edition of the Washington Post:

[From the Washington Post, June 13, 1980]

BEAMING FREEDOM ABROAD . . .

(By Peter Osnos)

Andrei Sakharov's poignant message from exile that he gets news of the world from Western broadcasts on a transistor he carries with him on walks to avoid official jamming is a timely reminder of one of this country's most valuable resources in our continuing conflict with the Kremlin—the Voice of America and Radio Free Europe/Radio Liberty.

There is no way to overstate the importance of these stations in informing tens of millions of people in the Soviet Union and Eastern Europe about what is going on around the globe and in their own countries. These stations amount to the injection of a free press into lands in which there otherwise is none.

Along with the programs of the BBC, West Germany's Deutsche Welle and several smaller European stations, the American-sponsored broadcasts have become a formidable force in the Soviet bloc, where control of information is central to ideological domination of the populations.

The pity is that so many Americans—to the extent that they think about the matter at all—seem more queasy about than proud of what are regarded as essentially psy-war propaganda vehicles. The reputation of RFE/RL in particular is still clouded by former association with the CIA.

But these are serious misunderstandings of what the radios do now—and would do even better if they received the public attention and support they deserve.

VOA, for example, broadcasts 14 hours daily to the U.S.S.R. in Russian, providing a substantial report on world affairs and extensive material about the Soviet Union. News is culled mainly from American newspapers and magazines, wire services and, for lack of a better term, the emigre network.

Say there is a major shake-up in the Kremlin, as there was most recently in 1977, when Soviet President Nikolai Podgorny was abruptly kicked out. Pravda ran a single bland sentence stating that Podgorny had resigned at his own request. That was all the Soviet people were supposed to know—and it wasn't, of course, true.

But VOA, using all its sources, played back a lengthy assessment of the event's meaning and what little was known about how it happened. So on that occasion, as on so many others of consequence in their lives, what Soviet listeners learned came only from foreign broadcasts.

General jamming was ended in 1973 at the height of detente and, despite the deterioration of relations with the United States since then, it has not been resumed. (Sakharov was apparently singled out for special radio interference as part of his exile.) Radio Liberty still has some problems getting through, but can be heard.

The evidence is that the audiences have grown vast and range across the whole of the country's social spectrum. A Soviet official friend once told me that a high state honor he received was reported in Izvestia and hardly anyone noticed. But a short time later, he said with amusement, after he was interviewed by the VOA while on a visit to the United States, "everyone I knew seemed to have heard it."

In the common usage, these days, when Russians say they heard something "on the radio," they invariably mean one of our stations, not their own.

Unfortunately, for all their potential, VOA and RFE/RL are in the Washington backwaters. A proposal some months ago to expand broadcasts in Afghan languages after the Soviet invasion foundered because relatively paltry funds couldn't be rounded up.

Last fall, VOA Director R. Peter Strauss, an ambitious and aggressive manager of the operation, resigned, he said, because he couldn't get President Carter's attention to "innovations needed to continue the forward thrust in motivation and creativity at the VOA . . ."

The stations need better treatment. Soviet listeners like Andrei Sakharov certainly deserve it. Ronald Reagan, for one, understands the issue. He makes the VOA and

RFE/RL an important point in his foreign policy speeches.●

HAPPY 102D BIRTHDAY, ARTHUR MORTON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. STOKES. Mr. Speaker, thank you for giving me this opportunity to salute Mr. Arthur Morton of Cleveland, Ohio, on his 102d birthday. A resident of the Eliza Bryant Center in my 21st Congressional District, Mr. Morton celebrated his birthday officially on June 11 but a special party will be held for him on June 19 at the center.

I think that it is only fitting to pause and salute any human being who passes the age of 100. People like Mr. Morton can give us a unique commentary on our society for they have seen the good times as well as the bad and the shifting of priorities and values in our society. If there is any credence to the saying that our hope for the future is in our young, I think that it would be appropriate to say that our history and insight for the future rests in our senior citizens.

Mr. Speaker, we have just ended Older Americans Month in this country. But, we need to salute our richest resource, people like Arthur Morton everyday of the year.

This youthful golden ager was born in Pomeroy, Ohio, and was the third child of a family of five boys and two girls. He completed high school and attended Spencierian College taking courses in typing and shorthand. He was employed with the U.S. Post Office for 37 years as a special clerk.

He has been as active in his later years as he was during his working years. He is an honorary member of the Eliza Bryant board of trustees. He is an avid baseball fan. Mr. Morton has won awards in hobby shows. He is still a vital and active human being and a gold mind of experiences.

Therefore, at this time, Mr. Speaker. I would like my colleagues in the U.S. House of Representatives to join me in wishing Mr. Arthur Morton a very happy 102d birthday.●

FIGHTING BACK IN NORTH PHILADELPHIA

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. GRAY. Mr. Speaker, during the past weeks, as we have debated our spending priorities in connection with the 1981 Federal budget, we have heard a great deal about the ills which beset our urban areas.

Today, I would like to share with my colleagues a firsthand look at not only the problems of vacant homes, trash, and a lack of city hall services in North Philadelphia, but at a group of citizens who are fighting back.

As reported in the June 5, 1980, Philadelphia Inquirer, the North Central Philadelphia Block Captains Association is a group of more than 40 residents who literally have taken matters into their own hands. They have organized cleanup activities in North Philadelphia. They have met with neighbors to enlist their help to keep the community clean. And they have demanded much-deserved services from the city administration—services which are taken for granted in other, more prosperous parts of Philadelphia, but which have been long neglected in this part of the city.

I commend the following article to my colleagues, Mr. Speaker, as a reminder of the spirit which exists in so many of our urban communities. It is a spirit which believes that even in the absence of adequate municipal services, volunteers such as those in the North Central Philadelphia Block Captains Association can take the initiative in the fight to maintain and improve the livability of our neighborhoods.

The article follows:

NORTH PHILADELPHIA FIGHTS TRASH AND AN IMAGE

(By Murray Dubin)

"You meet someone, and you tell them you live in North Philadelphia, and they say, 'Oh, I won't be able to come see you.' They don't want to come to your house because they think North Philadelphia is a bad place."

Evelyn Andrews' voice grew in frustration and decibel level. There is nothing muted about Mrs. Andrews, the president and founder of the North Central Philadelphia Block Captains Association. She is as subtle as a punch in the mouth.

"Well, it was a bad place, but most of the gangs have broken up, and the drugs aren't around like they used to be. . . . You get a cab downtown and say you want to come up in this area, and the cabdriver says he don't want to go to the ghetto. The word ghetto makes me mad. I want this to be a decent place."

So since December, Mrs. Andrews and 40 other women have been fighting North Philadelphia's image problem and its more nitty-gritty problems of trash, vacant houses and lack of city services.

They're fighting with their hands, their brooms and their shovels.

The women go out regularly with their trash bags and spend an entire day sweeping alleys, streets and empty lots. "We just want to get our blocks and the community straightened out," said Lizzie Anthony, captain of the 2400 block of West Master Street.

Thomas Massaro, head of the city's Office of Housing and Community Development (OHCD), recently went out to visit Mrs. Andrews at the association's office at 21st and Master Streets. He came away impressed.

"They haven't swept North Philadelphia," Massaro said, "they've scrubbed it."

Jerome Mondesire, special assistant to U.S. Rep. William H. Gray 3d, said the association "is a true grass-roots" organization that hasn't gotten much help from anyone.

"We're trying to help them fix up about 15 abandoned houses though OHCD. They feed some old people lunches in the neighborhood. They're legitimate, and they're good people.

"Mrs. Andrews? She's a fine-spirited person with guts and gumption to do something about the problems in North Philadelphia. And she's persistent."

The organization includes block captains from 20th to 25th Streets and from Jefferson Street to North College Avenue. And though it has already made some visible impact—clean alleys, trashless lots—it is having problems with the city and with some of its neighbors.

Yesterday, Mrs. Andrews, 62, and block captains Annie Mae Griffin and Catherine Smith walked through the neighborhood showing visitors bags of trash that the association had filled, but that had not been collected by the city.

"My street is dirty because the trash blowing from the trash in the lot wasn't picked up by the city," said Mrs. Griffin. "I bagged nine bags of trash at the empty lot at 22d and Thompson and look at the lot now." It was full of broken bricks and trash.

As angry as the association is with the city for not picking up all the bagged trash they have been collecting, it is angry also at those who dump trash in empty lots and vacant houses.

"If I can buy trash bags, bag my trash and wait until the city comes once a week to pick it up, why can't everybody?" said Mrs. Andrews.

Many of the block captains were cleaning their own streets for years before Mrs. Andrews organized them. She would like the association to rehabilitate houses, find jobs for youths and tell the world that North Philadelphia can be a nice place to live in. The association pays their bills with once-a-week dinners, the only funds it receives, Mrs. Andrews said.

She walked past the 2400 block of West Master Street which is lined with scrubbed three-story homes. The 2200 block of West Seybert Street has attractive two-story brick homes with colorful planters in front of them.

"We want all of North Philadelphia to look like them," she said. "You just have to fight. We need some help. I got 41 women working their fingers to the bone, but we don't want to clean lots again that we cleaned four weeks ago because the city didn't pick up the trash or because someone dumped stuff there.

"Pride? Sure, I got pride in North Philadelphia. I got so much pride it's killing me. When we get done cleaning, we're stiff and sore."

What would she do if she saw someone putting trash in a lot the association just cleaned? "I'd call the police," she said.●

RUDY BONZI

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. COELHO. Mr. Speaker, "recycling" and "conservation of resources" have been familiar buzzwords in the last few years. But Rudy Bonzi of Modesto, Calif., was into recycling long before it became fashionable. In fact he began his recycling business more than 30 years ago and has been an inspiration and leader in the field ever since.

Though the business sputtered at first, and at times the prospects for the future were grim, Rudy and his wife Mary stuck with it. Through long hours and hard work, the Bonzi's industrial waste operations now extend into three counties and include some of the biggest names in the food-processing business—Hunt's, Del Monte, General Foods, and others.

Since 1950 he has been a major supplier of apricot pits for the European cosmetics and confectionery industries, and he supplies tons of peach pits for use in making charcoal. He bales 1,000 tons of paper a month for recycling, and for years has salvaged cans, iron, glass, metals, and anything else which potentially might be useful.

Mr. Speaker, I offer the following article taken from the Modesto Bee recently in tribute to Rudy Bonzi, one of the Nation's best recycling advocates:

FATE HELPED HIM TO TURN GARBAGE, TRASH INTO PROFIT.

(By Gerald Perry)

Rudy Bonzi has turned mountains of garbage into the sweet fruits of success.

Bonzi, 61, is the founder and owner of Rudy Bonzi Industrial Waste Inc., Bonzi Sanitation Land Fill and Rudy Bonzi Enterprises, all headquartered at 250 W. Hatch Road, and Bonzi Ceres Disposal Inc. at 2070 Morgan Road.

"I don't know why but I've been blessed with good luck all my life," says Bonzi. "Life's never planned. It's fate which is made as you go along."

Bonzi got into the garbage business by accident when his first industrial venture—making alcohol from cannery wastes—fizzled before it got started.

Before the enterprising Bonzi could complete construction of a $125,000 distillery on Zeering Road, the demand for alcohol dried up abruptly as World War II ended.

Stuck with a seemingly worthless piece of costly equipment and a contractual obligation to remove fruit wastes from two major canneries, Bonzi at first felt doomed to declare bankruptcy.

But when he told Tillie Lewis Foods and Tri-Valley Growers that it was impossible for him to perform, officials at both firms willingly cancelled the arrangement and agreed to pay him to dispose of the wastes.

This unexpected turn of events, combined with using the distillery as a tax write-off, made it possible for Bonzi to avoid bankruptcy.

He borrowed $1,000 in 1947 to buy two trucks—one manned by Bonzi himself, the other by his wife, Mary, often with their two small children in tow.

Not only did the new garbage business flourish, the canneries were delighted with the efficient, reliable system for getting rid of the mountains of peelings and fruit pits.

In yet another unexpected turn of events, a Canadian firm, upon learning of the idle distillery, bought some of the distilling equipment, while another firm purchased the boilers.

His full investment was recovered by selling the equipment piecemeal over a period of 10 years.

Through the encouragement of the late Charles Mitchell of TLF and Charlie Beck at Tri-Valley, Bonzi expanded the waste disposal operations and later moved into the landfill field.

Interested in recycling from the first, Bonzi in 1947 began stockpiling peach pits for resale to charcoal briquet manufacturers and since 1950 he has been recognized as a major supplier of apricot pits for the European cosmetics and confectionary industries.

Impressed by a charcoal firm which found itself in a financial struggle, Bonzi not only guaranteed the firm a continuing supply of peach pits but loaned the firm several thousand dollars in cash to help keep it afloat.

As a token of appreciation, Bonzi was permitted to buy a few shares of stock in the company. That handful of stocks, which Bonzi still owns, today are worth more than 1,000 times the purchase price.

Tri-Valley Growers today is experimenting with using peach pits for fuel to fire its boilers and Bonzi is prepared to deliver some 13,000 tons of pits when and if the cannery wants them.

In other recycling efforts, Bonzi bales about 1,000 tons of paper a month in a salvage plant at 2070 Morgan Road, and for years has salvaged cans, iron, glass, metals and anything else for which he can see a potential use.

Fruit and vegetable wastes from the canneries for years have been going into livestock feed.

By using the latest compaction equipment, Bonzi has extended the life of his 40-acre sanitary land fill on West Hatch Road far beyond original projections and he anticipates an adjoining 70 acres, which he bought in 1973, will last beyond the year 2000.

Bonzi's industrial waste operations today extend into three counties. In addition to Tillie Lewis' two Modesto canneries and three Tri-Valley canneries including its big east Modesto supercannery, Bonzi's serves such clients as Hunt's, Del Monte, General Foods, Nestle's, Simpson Lee Paper Co., Allied Grape Growers, Ragu, Wood Fruit Co. and E & J Gallo Winery.

Born on a small dairy in Albany, Bonzi as a small boy tagged along with his father as he delivered milk to customers in the Berkeley-Albany area by horse and buggy.

At age 16 he apprenticed as a welder at the Riverbank Canning Co., which today is owned by Contadina. When World War II broke out, Bonzi went to the San Francisco area where he worked in the shipyards as a certified pipewelder.

He enlisted in the Seabees as a shipfitter in late 1944, leaving the distillery project in the hands of his father-in-law, Joe Pepe, until he was discharged in the late summer of 1945.●

THE 40TH ANNIVERSARY OF LITHUANIAN OCCUPATION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. YATRON. Mr. Speaker, on Sunday, June 15, Lithuanian-Americans and Americans descended from the other Baltic nations of Estonia and Latvia commemorated the tragic occasion of the military occupation of Lithuania by the Soviet Union 40 years ago.

Since 1940, the Soviet Union has maintained its tyrannical hold over the Baltic nations and has attempted to erase their culture, their pride of country, their religion, and their desire for freedom. It is a testimony to the spirit of these people, that these attempts have failed dismally. The dream of self-determination and freedom still flourishes in the hearts and souls of these courageous people.

Mr. Speaker, I know that every American joins me in condemning the continued occupation of Lithuania, Estonia, and Latvia. We are united in the hope that one day soon these nations will once again take their rightful places among the free countries of the world.●

CARTER'S $29 BILLION CAMPAIGN FUND

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. SOLOMON. Mr. Speaker, in recent days we have heard numerous complaints from Democratic Party officials about an independent group which has formed in California to promote the candidacy of Ronald Reagan for President. At the center of their complaint is that because of this independent group, spending for the Reagan candidacy may legally exceed the $29.4 million in Federal funds allotted to Reagan officially.

Mr. Speaker, any funds this independent group may raise and spend, as is their right, is peanuts compared to the $29 billion worth of discretionary grants at the disposal of President Jimmy Carter to parcel out according to his political necessities this fall. A recent article in U.S. News & World Report documents a series of strange coincidences in which primary States found themselves showered with Federal aid right before their voters made their choice between Jimmy Carter and EDWARD KENNEDY. As this article points out, we can expect much more of the same this fall. Ronald Reagan's Presidential campaign expenditures may be limited to $29 million, but Jimmy Carter has a cool $29 billion.

The article follows:

WHITE HOUSE GRANTS: CARTER'S $29 BILLION CAMPAIGN FUND?

Jimmy Carter is hitching state and local officials to his campaign bandwagon with a classic carrot-and-stick routine.

Dangling before politicians is 29 billion dollars' worth of discretionary funds at the administration's disposal this year. To share the credit when this money comes to their communities, officials must get in harness with the President. Republicans and maverick Democrats are shooed away.

The dollars have been flooding into states just before each hold its caucus or primary—

Right before Pennsylvania's primary in April, the Commerce Department granted

2.2 million dollars to establish an American shoe center in Philidelphia.

Four days before New York's March primary, Carter granted 500 million dollars in new urban aid.

New Hampshire was awarded 45.2 million dollars in grants in the month before its February primary.

In the six weeks before last fall's straw vote in Florida, Carter flooded the state with more than 1 billion dollars in federal funds. A local Democratic congressman marveled: "One more grant and the state will sink under the weight of these projects."

A senior White House aide was dispatched to Ohio days before the June 3 primary to remind local and state officials of all the federal money they have received from the Carter administration.

VOTE BUYING?

Early in the presidential race, aides to Senator Edward Kennedy accused the administration of using federal aid to threaten or bribe officials into backing the President. Kennedy supporters filed suit charging vote buying, but the Supreme Court refused to hear the case.

"It's not true we're buying the states," asserts a top Carter strategist. "Most of these things have been in the pipeline a long time. All are defensible on the merits. It's not a matter of more money but of making sure the President is connected in public with what is done."

Indeed, the record seems to show that aid totals aren't being manipulated, just the timing of approvals. Maine, for instance, received 373 million dollars in the year before its primary, no marked increase over 1978. But in the month before its caucuses, 75 million dollars' worth of grants were unveiled for Maine—up from 23 million the previous month.

On the day the mayor of East St. Louis, Ill., endorsed Carter, he was visited by a White House aide who announced a new 7.8-million-dollar courthouse for the city.

By comparison, after Mayor Jane Byrne of Chicago endorsed Kennedy, newly appointed Transportation Secretary Neil Goldschmidt declared: "I am paying attention to where this money is being spent and who is getting it, and Jane Byrne is not at the top of my list."

When these remarks set off political fireworks, Goldschmidt backed down and promised that Chicago would not be punished.

Carter aides say they only want to make sure that federal aid doesn't flow through those who oppose the President.

Such tactics have worked well in the primaries. The President has had the support of 23 of the 31 Democratic governors and all but three of his party's big-city mayors.

But these maneuvers invite pot-shots from the GOP. "It's amazing," comments Representative Guy Vander Jagt, House Republican campaign chairman, "that the administration is so good at using the office for domestic politics but can't do a better job using that skill for solving our nation's problems."●

INTERFERON COST REDUCTION POSSIBLE FROM NSF PROGRAM

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FUQUA. Mr. Speaker, basic scientific research is frequently the target of antagonistic attacks by those who deride the need for society to explore the edges of the known scientific world and thus expand the fund of human knowledge.

Recently an example was brought to my attention as chairman of the Committee on Science and Technology which shows a direct benefit to humanity from research conducted under the National Science Foundation. I would like to share this letter from Dr. Richard Atkinson, the Director of the National Science Foundation, with my colleagues:

NATIONAL SCIENCE FOUNDATION,
Washington, D.C., May 16, 1980.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to inform you of an example of basic research supported by the NSF that is very likely to result in significant practical benefits. Most of the time, we are unable to cite the societal benefits of basic research until decades after the research was conducted. However, on occasion the application of basic research results can be foreseen while the research is still being carried out. One such example is the development and use of microcarriers in the culturing of human cells.

Microcarrier technology was developed by a team of researchers at the MIT Cell Culture Center with support by NSF. The technology has broad potential use in research and in commercial production. However, the first large-scale application is expected to be the production of interferon. As you know, a number of recent articles have been written about interferon in the press and in popular magazines (Newsweek, March 17, 1980; New York Times Magazine, February 17, 1980; Time, March 31; etc.).

Interferon is a protein produced in very small amounts in certain human cells after virus infection. There is reason to believe that it may be effective in combating a wide range of diseases including cancer. Until now, the difficulty and cost of producing interferon has restricted its availability solely to experimental purposes. However, it is estimated that when interferon becomes commercially available, there will be a two billion dollar annual market for it. While two dollars a dose is the estimated cost of production using microcarriers, it costs about fifty dollars to produce an equivalent amount using current methods, and these methods are limited in the amount of interferon that they can produce.

The attention that interferon has received in the popular media has focused on the possibility of producing it by using recombinant DNA techniques. While this possibility is exciting, it will be several years before this method can produce interferon at low cost and in large quantities. However, microcarriers are already producing interferon for a cancer chemotherapy test program.

I shall be glad to provide more information at your request.

Sincerely yours,

RICHARD C. ATKINSON,
Director.●

EPA AND LOVE CANAL—DAMAGED CHROMOSOMES OR RUPTURED CREDIBILITY?

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. STOCKMAN. Mr. Speaker, the Environmental Protection Agency's release of a botched study that demonstrated chromosome damage among residents living near Love Canal marks the latest episode in the Government's inept handling of this tragic situation. Even if the study had not been soundly discredited by both the Department of Health and Human Services and the EPA's own expert panel, the choice of a press conference to inform residents that they faced an increased risk of developing cancer or having children with birth defects, demonstrated a complete lack of sensitivity.

I want to bring to the attention of my colleagues an article that appeared in the June 13, 1980, issue of Science magazine which makes clear that this so-called scientific study is pure rubbish and that its author is widely suspect among his peers. This is not the first time that the EPA has used spurious research to manipulate the media. What I find incredulous is the willingness of an executive agency to treat citizens so callously in a deliberate maneuver to advance its own legislative agenda. The Science article, "Love Canal—False Alarm Caused by Botched Study" made me wonder whether an agency capable of perpetrating such mendacity is devoted to something more than public health.

The article follows:

LOVE CANAL: FALSE ALARM CAUSED BY BOTCHED STUDY

(Gina Bari Kolata)

The much-publicized study of chromosome damage among residents of Love Canal has been discredited. The most recent attack was by a panel convened by the Environmental Protection Agency (EPA) on 27 May, which concluded that the study has virtually no value and cannot be salvaged. The report was meant to be legal, not scientific, evidence for the Justice Department in its suit against Hooker Chemical. Tragically, the EPA has ended up by needlessly terrifying the Love Canal residents.

Love Canal has for several years been "a neighborhood of fear," says New York Governor Carey. Residents have been increasingly alarmed by reports that the toxic wastes buried in the area may be causing cancer, miscarriages, birth defects, and seizures.

The latest episode in the saga of Love Canal began on 17 May. On that day the EPA released a report saying that Love Canal residents may have damaged chromosomes and might therefore be at an increased risk of developing cancer or having children with birth defects.

The residents reacted emotionally to the EPA report, with nearly hysterical demands that they be evacuated from the area. "It [the EPA report] was one more frightening, scary thing and we couldn't take it any more," says Lois Gibbs, head of the Love

Canal Homeowners Association. On 21 May, President Carter declared a state of emergency at Love Canal, clearing the way for the relocation of about 2500 residents, at a cost to the federal government of $3 million to $5 million.

Barbara Blum, deputy EPA administrator, announced the relocation at an EPA news conference. But she was careful not to attribute the move to the report on chromosome damage. "This action is being taken in recognition of the cumulative evidence of exposure to toxic wastes . . . and of mounting evidence of resulting health effects," she said. In fact, the chromosome study had just been severely criticized by a panel of experts who reviewed it for the Department of Health and Human Services (HHS). Serious questions were raised about whether the study shows anything at all about the residents' chromosomes and why the EPA conducted such a study in the first place.

The EPA has reason to be interested in Love Canal. It is suing the Hooker Chemical and Plastics Corporation (now owned by Occidential Petroleum) for $124.5 million, charging it with dumping toxic chemical wastes at Love Canal and at three other sites in the Niagara Falls area. From 1947 to 1952 Hooker dumped 21,800 tons of chemicals at Love Canal, but it contends that it disposed of these wastes in full accordance with environmental regulations at that time. In 1953 Hooker sold the Love Canal dump site to the Niagara School Board for $1 with a deed disclaiming responsibility for any injuries that might result from the buried wastes. In addition to building a school on the dump site, the school board sold the remaining land to developers, who built houses there.

Over the past decade, toxic chemicals have been leaching from the land into the homes and schools on the site. Last year, the EPA said that four suspected carcinogens were found in air samples near the contaminated area. Residents have complained that they are ill and that they have unusually high frequencies of cancer, miscarriages, and birth defects. These effects have been difficult to document, but many scientists believe it is certainly time for well-designed medical and epidemiological studies to be conducted at Love Canal.

The EPA study, however, was not well designed. It was not even meant to be scientific, according to Stephen Gage, assistant administrator for research and development at EPA. "This [the study] was a small fishing expedition. The Justice Department asked us to undertake it in connection with our suit against Hooker," he says.

The difficulties with the EPA study were first brought to light when HHS asked a panel of eight scientists, three of whom are cytogeneticists, to review it. The scientists had seen the written report and had serious reservations about it. But they felt that they needed to see the data before coming to any final conclusions.

The data were in the hands of Dante Picciano, who conducted the study under an EPA contract and who works for the Biogenics Corporation in Houston. Charles Carter, scientific director of the National Institute of Environmental Health Sciences and chairman of the HHS panel, spoke to the EPA about seeing the data and was given the impression that if the panel members went to Houston, the data would be available and they could speak to Picciano.

On the night of 19 May, the HHS panel flew to Houston. When they arrived, however, they learned that Picciano would neither speak to them nor release his data unless he could place a person of his choosing on the panel. Carter negotiated well into the night with HHS officials and with the Biogenics Corporation over whether Picciano's demand should be met and, if so, who would be an acceptable addition to the panel. Finally, the Biogenics Corporation insisted that Jack Killian, a controversial figure in the field of cytogenetics, be a member of the HHS panel.

At this point, says Carter, negotiations ceased and the panel members went home. Killian was completely unacceptable to the panel because he had been Picciano's collaborator in a previous highly disputed study of chromosome damage among workers at Dow Chemical Company. The HHS panel, Carter reports, questioned whether Killian might also have some association with Biogenics. Picciano says he sees nothing wrong with insisting that Killian be a member of the HHS panel. "I think it is a normal procedure in a scientific review to appoint someone or object to someone on the team," he explains.

Unable to see Picciano's data, the HHS panel was forced to rely on his written report. On 21 May, HHS released the panel's assessment of the report and its conclusion that the study "provides inadequate basis for any scientific or medical inferences from the data (even of a tentative or preliminary nature) concerning exposure to mutagenic substances because of residence in the Love Canal area."

The three cytogeneticists on the HHS panel were Sheldon Wolff of the University of California at San Francisco, Arthur Bloom of Columbia University, and Michael Bender of Brookhaven National Laboratory. All agree that the most glaring deficiency of the study was its lack of simultaneous controls and that, for this reason alone, the results are meaningless.

Everyone has some amount of chromosome damage, which may be caused by viral infections, medical or dental x-rays, or exposure to chemicals, to sunlight, or to certain medications. It is thus extremely important that the cells of a suspect population be compared to those of a control population to see if the suspect population has, on the average, excessive chromosomal aberrations. The controls should be closely matched to the exposed subjects in terms of age, sex, medical history, and geographic area because all of these factors can affect the numbers of aberrations. Since cells are grown in the laboratory before they are examined for chromosome damage and laboratory conditions can affect the number of chromosomal aberrations, the controls and test cells should be cultured at the same time. In addition, Bloom stresses, the person assessing the aberrations should not know which cells are from the exposed population and which from the controls. "This is a very subjective science," he says.

Rather than following this prescription for a well-controlled study, Picciano compared the chromosomes of the Love Canal population to those of a population that he had studied earlier and that, he said, had no known exposure to toxic chemicals. Picciano agrees that simultaneous controls are desirable, as does Beverly Paigen of Roswell Park Memorial Institute. Paigen selected the Love Canal residents whose blood was sampled and helped design the chromosome study. But Picciano and Paigen disagree on why there were no simultaneous controls, although both blame the EPA.

According to Picciano, because the EPA wanted the study done so quickly there was no time to select simultaneous controls. (The study was begun in January and completed in May.) Paigen says that she had already chosen appropriate control subjects before the study began but the EPA ruled them out because it did not want to spend much money. (The study cost $10,000.) Chuck Morgan of EPA says the agency cannot comment on why the study had no simultaneous controls because "this is an enforcement investigation."

Picciano, Paigen, and Gage say that even though the lack of simultaneous controls is a flaw, the study nonetheless does provide evidence that some Love Canal residents may have excessive chromosome damage. The residents did not differ significantly in the types of aberrations observed in the control groups. But, Gage explains, they did have a highly unusual sort of damage, something Picciano calls "supernumerary acentric chromosomes." Picciano claims that 8 of 36 Love Canal residents had this sort of damage and none of the controls did. He estimates, "from my own experience," that such aberrations should normally occur in only 1 out of 100 individuals.

The cytogeneticists on the HHS panel, however, say that the term supernumerary acentric chromosomes is not a standard one and they are not sure what Picciano was seeing. Since he refuses to show them his slides, there is no way for them to know what, if anything, he saw. The cytogeneticists have other criticisms of Picciano's methodology and would also like to see data on how the Love Canal residents were selected for testing.

The mystery of the supernumerary acentric chromosomes has now been solved by an EPA-sponsored panel. Reacting to the severe criticisms of the chromosome study, the EPA asked Roy Albert of New York University to organize a panel to review the study's data. The panel met on 27 May. Sidney Green and Peter Voytek of the EPA sat in on the session. The panel members were provided with photocopies of the photographs of the chromosome preparations so they could look for the supernumerary acentric chromosomes.

But when the EPA panel looked at the data, they saw nothing that could by any stretch of the imagination be called supernumerary acentric chromosomes. Even worse, sources say, the panel found that Picciano himself was inconsistent in what he called supernumerary acentric chromosomes. One time, for example, it was a chromosome 1 that had broken in half. Another time, it was another sort of break. The EPA panel concluded that there was no evidence that the Love Canal residents had excessive chromosome abnormalities and that supernumerary acentric chromosomes exist only in the mind of Picciano.

Considering the irredeemable flaws in the EPA study, a number of cytogeneticists have been asking why Picciano was asked to do it. Gage says that Picciano had done other consulting work for the agency in the past and that he is very experienced in assessing chromosome damage. But Picciano's dispute with Dow Chemical is well known and has caused the HHS panel members, at least, to wonder why a less controversial scientist was not chosen.

Picciano and Killian resigned from Dow Chemical after that company refused to release their study on chromosome damage in Dow workers exposed to benzene. Using the same group of historical controls that was used for the Love Canal study, Picciano and Killian concluded that the benzene workers had excessive chromosomal aberrations. Dow questioned the study on grounds similar to those raised by the HHS panel who reviewed the Love Canal study. The company says it then redid the benzene study with simultaneous controls and found no evidence of chromosomal aberrations in the benzene workers.

Perry Gehring, director of health and environmental sciences for Dow Chemical, is vehement about the scientific problems with Picciano and Killian's benzene study. "If Picciano used the same controls in the Love Canal study as in the benzene study then I assure you there are no controls," he says. Gehring claims that Picciano and Killian selectively removed from their control group cells with unusually large numbers of aberrations. Picciano, told of this charge, laughed and said, "Did I do that? I don't remember doing that."

Gehring says that Dow reevaluated Picciano and Killian's slides of chromosomal aberrations in the benzene workers and also sent the slides to an outside consultant for evaluation. A number of the aberrations allegedly seen by Picciano and Killian could not be substantiated, according to Gehring. Picciano, however, says his only disagreement with Dow was on the level of the workers' exposure to benzene.

After leaving Dow, Picciano worked for a time at the Occupational Health and Safety Administration (OSHA). He gave OSHA his study of the Dow benzene workers and, 2 years ago, OSHA submitted the study as evidence at a hearing to reduce the allowable exposure of workers to benzene. The Manufacturing Chemists Association asked James H. Jandel, a hematologist at Harvard Medical School, to take a look at the data. Jandel agreed and requested that his colleague Peter Tishler, a cytogeneticist, comment as well. Neither Jandel nor Tishler thought the study was scientifically adequate. "I was very unimpressed," says Tishler. Among their numerous criticisms were the lack of concurrent controls and the failure to use modern staining techniques, which are also criticisms of the Love Canal study made by the HHS panel. "The sloppy way in which this [the benzene study] was handled is offensive to me," says Jandel. The court decided to stay the request for lower allowable benzene exposure levels.

Picciano, Paigen, and the EPA say the significance of the Love Canal study has been blown out of all proportion. It was only meant to be a pilot study to show whether a larger and more scientific study is warranted. And the preliminary evidence from the Love Canal study convinces them that a larger study is worthwhile.

The critics of the Love Canal study, on the other hand, explain that it is illogical to say that an unscientific study can provide evidence of anything. And they say that the tragedy of the situation is that the Love Canal residents are the ones to suffer.

Phyllis Whitenight, a Love Canal homeowner, was a subject in Picciano's study and was one of those found to have supernumerary acentric chomosomes. Her reaction to the study and its critics is that the government is trying to whitewash some very scary data. Whitenight had breast cancer nearly 5 years ago but the cancer had not spread and she says she was given no chemotherapy or radiation treatments following her mastectomy. Until the chromosome report, she had thought her prognosis was good. "Now the fear comes back," she says.

Gibbs, speaking for the Love Canal Homeowners Association, says Picciano's report "is very frightening to the residents." She believes it indicates that the residents are at risk for cancer, birth defects, and miscarriages. The HHS review of the data, she says, is seen by the residents as "almost an attempt to sabotage the report." The residents think the government is trying to adjust the figures and minimize the risk by criticizing the study. "It scared the hell out of the residents when the government reacted [to Picciano's report] by moving people out," Gibbs remarks.

In the view of several critics, the EPA made an incredible blunder by releasing such a poorly conducted study. Far from aiding its case against Hooker, the agency may have hurt it. "If there's anything to bring joy to the heart of Hooker, it's a discussion in the public press that questions the validity of the EPA data and the interpretation of it," says one federal administrator. The EPA may also have damaged its credibility in the scientific community. "I for one will never believe anything the EPA says or releases again unless it has been peer reviewed," says Ernest Hook, of the New York State Health Department and a member of the HHS panel.

CHROMOSOME DAMAGE: WHAT IT IS, WHAT IT MEANS

(By Gina Bari Kolata)

Chromosome damage is an important test of whether people have been exposed to toxic chemicals. But the test is hard to interpret. Some damage occurs naturally because of such things as colds, flu, x-rays, and sunlight, and damage also increases as a person ages. People who have come into contact with a toxic substance, however, may have more damage than a comparable group that has not been so exposed.

Excess damage in a population may have some meaning but on an individual basis it does not. On the average, a population with damaged chromosomes may have more cancer and more birth defects than otherwise expected, but the individuals in the population whose chromosomes are damaged are not necessarily those who will suffer these ill effects. Chromosome damage is just an indicator, a sign that the population may have been exposed to something that damages DNA. Many of the substances that cause chromosomal aberrations are also thought to cause cancer and birth defects. But the white blood cells sampled for a test of chromosome damage are not themselves likely to give rise to cancer, and they cannot contribute to birth defects because they are neither sperm nor egg cells.

The assessment of chromosome damage is as much an art as a science. White blood cells must be carefully cultured, then stained and examined under the microscope. The 46 chromosomes in a human cell can be individually identified by their characteristic shapes and sizes. If there is damage, it often appears as breaks and deletions or as rings, which are formed from chromosome fragments. Cells with damaged chromosomes usually die or repair the damage.

Although the chromosomes are the carriers of genes, almost never can specific chromosomal aberrations be associated with specific birth defects or cancer. One exception is Down's syndrome, in which individuals inherit an extra chromosome 21 and this extra chromosome shows up in all their cells. But most genetic defects and most DNA damage that may lead to cancer involve submicroscopic changes in DNA and quite often do not lead to physical changes in the chromosomes. There is only indirect evidence associating chromosome damage with birth defects and cancer.

Perhaps the best evidence correlating damaged chromosomes with an increased incidence of cancer comes from the survivors of Hiroshima and Nagasaki. They had a significant amount of chromosome damage, which was directly related to the dose of radiation they had received. Moreover, the more radiation they were exposed to, the greater their incidence of cancer. But even in that population, those with the greatest amount of chromosome damage were not necessarily those who got cancer.

Among the Hiroshima and Nagasaki survivors, there was no statistically significant increase in birth defects and miscarriages. Ionizing radiation is known to cause birth defects and miscarriages, but the normal rate of these incidents is so high that it is very hard to show a significant increase, especially in a small population, according to Jean French of the Center for Disease Control. Nearly 11 percent of all children born have genetic defects, and as many as 50 percent of all pregnancies are estimated to end in a spontaneous abortion.

"It's a scary thing to tell people they have chromosome breaks," says Arthur Bloom of Columbia University. "But the breaks are by no means a harbinger of cancer or birth defects."●

THE GAS TAX

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DASCHLE. Mr. Speaker, Congress recently passed a resolution that overwhelmingly rejected the imposition of a fee on imported crude oil and gasoline. Subsequently, Congress overwhelmingly chose to override a Presidential veto of this resolution.

Rural agricultural areas would have been especially hard hit by the imposition of this fee. Because of this, farmers in South Dakota and in other areas are very thankful for our actions.

I submit for the RECORD a letter that I received from the members of the District III Farmers Union of South Dakota, thanking all Congressmen and Senators who voted to defeat this measure.

Congressman TOM DASCHLE,
Cannon Office Building,
Washington, D.C.

We the members of District III Farmers Union of South Dakota meeting June 7, 1980 at Clark, South Dakota, appreciate your vote of the defeat of the President's 10-cent a gallon gas tax bill.

The 10-cent a gallon tax would have cost South Dakota farmers and ranchers at least $7.5 million and on the national level would have been in excess of $350 million in additional production costs. This tax would have been especially unfair to farmers as they are unable to reduce their energy consumption and are unable to pass along the added costs of production.

Your vote and the vote of your fellow Congressmen and Senators to defeat this measure was of great economic help to all people in South Dakota and the United States.

PAUL SYMENS,
President.
MRS. LAVERA REIHE,
Secretary.●

LETTER FROM MRS. CAROL MILLER

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. SOLOMON. Mr. Speaker, each month I receive about 3,000 letters from my constituents expressing the sentiment that the Federal Government has forgotten the plight of the average American taxpayer in its management of massive and burdensome programs. One of these letters, however, is quite outstanding in its simple plea for Congress to exercise commonsense during the legislative process and to not lose sight of the impact their actions will have on the folks back home.

I would like to commend this letter to my colleagues in the Congress in order to remind us all that there are many average Americans who are fed up with our ineffective and unfair Federal policies. I sincerely feel that we can all benefit from the tone and sentiment of this letter from Mrs. Carol Miller of Catskill, N.Y.:

CATSKILL, N.Y.,
May 15, 1980.

Hon. GERALD SOLOMON,
U.S. House of Representatives, Cannon Office Building, Washington, D.C.

DEAR MR. SOLOMON: I write regarding two matters of great concern to me and, surely, to all or most other low to middle income taxpayers (whose numbers appear to be dwindling as welfare rolls increase):

1. WELFARE

I read with interest and relief a recent newspaper article outlining your proposed national welfare reform plan, particularly as it relates to easing the burden on New York State and to permitting states to exercise discretion in requiring work as a condition of welfare eligibility.

It is inconceivable to me that the welfare benefits in New York State are second only to Alaska, according to a report I read, while the income in New York State for those who do work is relatively low compared to other states. It just doesn't make sense and creates a situation where taxes are so high that individuals and industries leave the state, which in turn requires that those remaining must pay still higher taxes.

As far as requiring work as a condition of welfare eligibility, to me, we taxpayers are in essence employers of welfare recipients since we pay to support them. I believe we have every right to require that they work, at least part time, as a condition of receiving benefits. I have no objection to helping those who cannot help themselves—the elderly, the disabled, perhaps those with small children—but it should be supplemental as much as possible, not total support. Medical and supplemental assistance should be given to those who cannot earn enough to support their families, but if we continue to allow people to loaf and make no effort to support themselves, we are helping no one; on the contrary, we are helping to destroy the character of the people of our nation. It is infuriating to me to pass, on my way to work in the morning, welfare recipients, living in subsidized housing, maintained by the Housing Authority, sitting on their steps drinking coffee in the morning while I go to work so that they can enjoy themselves doing nothing!

My attention was also called to a Reader's Digest article concerning SB 1382 covering decentralization of welfare, allowing states to require work, elimination or reduction of fraud, etc. The gist of the bill, as I understood it, was to provide aid to those who need it while encouraging individuals to help themselves. What I don't understand is why a reasonable approach such as this and your proposal have any problem passing in Congress!

2. ENERGY—TAXES

I call your attention to an excerpt from the front page of our local newspaper several months ago. I was struck by the fact that while many months were required to develop a windfall profits tax on the billions of dollars of profit made by the oil companies—who have created much of our current economic disaster—taxing the poor taxpayer 10 cents a gallon on gasoline takes almost no time at all. Similarly, it takes years it seems to increase the interest rates allowed to be paid on standard savings accounts, but the allowable interest rates charged to consumers on loans are changed upward overnight.

In this same newspaper article, you'll also note the encircled statement . . . "for the first time, inflation began to spill out . . . into the economy more broadly." I wonder where this person has been! The rest of us have experienced this "spill out" for many months. My husband and I together gross only approximately $16,000 a year at this time and we are not young. We moved to New York State two years ago from California, where wages are high, taxes are relatively low and services are excellent. We knew the pay would be less here but we were not prepared for the excessive taxes—real estate, sales and income. However, the general quality of life (and air) is good and we do not regret the move. We do resent, however, paying high taxes so that welfare recipients may live better while we must economize.

I might add that when gasoline prices rose so drastically and the artificial shortages caused them to rise even higher, we sold one of our cars, my husband walks to work and we drive very little; yet it is costing us more for gasoline than we paid when we had two cars a couple of years ago. Also, we kept our thermostat at 60° all winter and wore robes and slippers in the evening to keep warm. While we cut our consumption, our bills were nearly as high as the previous year and would have been higher had we not had a mild winter.

It is probably true that higher prices promote conservation of energy, but it is the middle income people of America who are suffering and being penalized for conserving while the oil companies continue to realize ever-increasing profits at our expense and welfare recipients get government assistance to pay their fuel bills, also at our expense!

It would certainly be much more fair and perhaps more effective to ration energy sources, requiring everyone, rich, poor, and middle class, to conserve. I do not necessarily favor rationing, but it appears preferable at this time to allowing continual price increases which do nothing but fatten the oil companies and add to inflation; and the oil companies still are not required to seek other energy sources, although they certainly have the funds and are in a position to do so.

Please forgive the length of this letter. I, like many people seem to hold my anger and frustration at "government" inside until it can't be put on paper in a few words.

Once again, you appear to be one of the few representatives truly representing the people who voted for you, and it is appreciated.

Sincerely yours,

MRS. CAROL MILLER.

P.S.—As a further penalty for conserving energy, since people aren't driving as much, the states (and I suppose the Federal government) find it necessary to increase tolls and taxes to keep the highways in repair! It's very much a losing battle for the taxpayers.●

OCCUPATION OF LITHUANIA

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. WILLIAMS of Ohio. Mr. Speaker, I call to your attention the date of June 15, 1940. It was on that date that the Soviet Union made one of its unjust military conquests of a sovereign nation. On that date it began its illegal and immoral occupation of Lithuania. I call this to your attention and to the attention of my colleagues in the U.S. House of Representatives so that we do not forget that the Soviet Union has a long record of military adventurism designed to increase its own power and sphere of influence at the expense of the rights and privileges of peoples of other countries.

So, as we view the Soviet Union's actions in Afghanistan, let us not delude ourselves to think the Soviet Union will automatically withdraw from that country once its brave resistance fighters are crushed. The Soviet Union has been in Lithuania for more than 40 years and shows no signs of departing. I take this opportunity to condemn the Molotov-Ribbentrop Pact by which Nazi Germany and the Soviet Union divided the Baltic States. I urge the Soviet Union to declare the pact null and void and to withdraw its troops from Lithuania.●

LETTERS FROM SOUTH DAKOTA

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DASCHLE. Mr. Speaker, the Nation's family farmers and ranchers are telling a story that so far, very few are willing to listen to. They are telling the story of unprecedented escalating production costs. And for their hours of labor, they have to show for it income figures that are on a steady decline.

I am taking this opportunity to call the attention of my colleagues to a letter that I recently received from a farm wife in Lincoln County, S. Dak., Mrs. Rolland Hartland. In her letter to me, she describes the efforts of one farm family, struggling against huge odds, the elements, high production costs, and low farm prices.

Mr. Speaker, in order to better understand the plight of the agricultural sector, I would urge each Member of this body to take the time to read this startling description of farm life today. I submit the text of this letter to be entered into the RECORD at this time.

MAY 29, 1980.

Representative TOM DASCHLE,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN DASCHLE: I am a farm wife from Southeastern South Dakota. My husband and I have been farming in this area for 15 years.

My letter concerns the increasingly worsening economic situation we farmers are facing.

We have cattle and hogs ready to sell soon and we will find that the cost of feeding them is higher than the price we will receive for them. This is not even counting the cost of machinery and fuel and the hours and hours of time my husband spent caring for them. The income from crops sold is not covering the cost of our land, fertilizer and machinery. We consider that our farming operation is very efficient so that is not the problem. Our neighbors are in the same cost price squeeze.

Comparative prices were published in the April 3, 1980 Rural Route paper printed in Sioux Falls, S.D. These prices are as follows:

COMPARATIVE PRICES

	Oct. 1, 1979	Apr. 1, 1980
Choice Steers (cwt.)	$68.00	$61.50
Butcher Hogs (cwt.)	37.00	30.25
No. 2 corn (bushel)	2.10	1.90
No. 1 soybeans (bushel)	6.25	4.79

According to our own records a five gallon can of 24D weed spray has risen from $15.00 five years ago to $66.00. Diesel fuel was 14¢ gal. eight years ago and is $1.00 a gallon now. Anhydrous ammonia was $70 a ton 10 years ago and is $250 a ton in 1980.

Considering these comparisons I think we farmers are doing more than our share to "fight inflation."

We don't ask people to make implements, houses, or cloth at the price of dissolution, despair and bankruptcy.

I fear that farms in America will be owned by the oil companies and other large corporations if the problem is not solved now. This would mean lower productivity and much higher prices for the consumer. Private ownership encourages efficiency, mainly, I think, through pride in that ownership.

As to the solution to the farmer's dilemma, I can only say that we do not want any more loan money available. We only want a fair price for our products. One that is above the cost of production, namely 100% of parity. As for the problem of overproduction—we have been raising more in desperation to make same kind of profit only to find a vicious circle of lower market prices.

I believe it is also an insult to the American Farmer's intelligence to delay a Government Farm Policy until after we farmers are planting our crops.

We would appreciate your immediate deliberation on these matters. I know that you will do your best to speak out in the interest of agriculture.

Thank you very much.

Sincerely,

MRS. ROLLAND HARTLAND,
R.R. 1 Fairview, S.D.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Friday, June 13, 1980. Had I been present, I would have voted: "Aye" on roll No. 324, the rule providing for the consideration of H.R. 6413, National Aeronautics and Space Administration Authorization Act, 1981.●

ADDRESS OF NEWTON N. MINOW, CHAIRMAN, PUBLIC BROADCASTING SYSTEM

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BRADEMAS. Mr. Speaker, one of America's most dedicated and effective public servants, Newton N. Minow, recently stepped down as chairman of the Public Broadcasting System.

Mr. Minow served 2 years as chairman of PBS, a period during which both the breadth and the quality of the system continued to grow. He brought to this post his own outstanding talents, including an engaging sense of humor and unprecedented candor, as well as the experience he gained as Chairman of the Federal Communications Commission from 1961 to 1963, during which time Mr. Minow proved to be a major force working to improve the quality of all television.

Mr. Speaker, Newton Minow has been involved with public television for some 25 years, a time span virtually encompassing the life of this important instrument of communication, education and entertainment in American life.

It is for that reason that Mr. Minow's remarks on June 3 at the annual meeting of the Public Broadcasting System are so significant. I insert the text of those remarks so that my colleagues may have an opportunity to read them:

ADDRESS OF CHAIRMAN NEWTON N. MINOW, PBS ANNUAL MEETING, WASHINGTON, D.C., JUNE 3, 1980

I speak to you today from a double perspective.

From one who has labored in public television's vineyards for 25 years.

And from one who has served as your Chairman for the past two years.

While 25 years may seem like a long time, we know in light of the seismic changes to come, that the past serves as mere prologue to all that will happen in public television in this new decade, and in the next one.

This decade will transform television from scarcity to abundance.

We are now 286 stations. We have the capacity to serve almost 90 percent of the nation, from the Virgin Islands to Alaska and Hawaii. In March, more than two out of three American homes tuned to public television, meaning 52 million homes watching public television over the course of a month. These homes reflect a broad demographic cross-section of Americans who want to learn, to stretch their minds and their imaginations. In 1979, more than three million families contributed their funds and their time as volunteers to help public television.

FIRST TO EMBRACE SATELLITES

We have become the first television system in the country to embrace satellite technology for regular program distribution. We opened up television, both commercial and noncommercial, to hearing-impaired persons. We restructured our service into a multiple distribution system, capable of serving multiple audiences and educational systems by means of new technologies. We maximized our tune-in advertising and promotional opportunities. The Carnegie Commission recognized public television as a national treasure—like museums, orchestras, and opera companies—recognized both for the excellence of our work and for fostering the creative arts.

Yet, we must keep on running, keep on advancing, keep on pioneering.

For in the next 20 years, mass communications will be marked by a radical upheaval. Broadcasting will be literally redefined into narrowcasting. Some new cable systems, for example, offer 55 channels. There will be many more messages competing for attention in every home. Your transmitter will only be part of the crowd.

There will be so many highways, so many paths into the viewer's home, that each message will have to satisfy the individual viewer's capacity and desire to select and choose. This will turn Marshall McLuhan on his head. The slogan for the next 20 years, in my judgment, will be the exact reverse of McLuhan's: the Message is the Medium. The Message is what will count, and the Message will be more important than the Messenger.

PROGRAMING MORE IMPORTANT

This means that our Message, our programming, will be ever more important in determining our success or our failure.

This means that we need to nourish, protect, and encourage our creative producers. We need to attract more men and women of talent who want to use television to inspire, to inform, to educate—and yes, to entertain.

This also means that we must do a better job of attracting minorities to public television and in public television. We have made great progress, but we must do more and more and more.

This means we must remain faithful to our birthright: our educational mission. Fortunately, we are on the way to a true University of the Air, making it possible for all Americans of all ages in all places to fulfill a great dream: a college education. Public Television in the 1980's will provide this educational message to every American home.

This is an exciting, promising time for all of us.

COMMITMENT TO INDEPENDENCE

I turn now to the issue most central to our future: our commitment to independence. If we are to achieve our vision, we must guard and renew this commitment with all the resources we possess.

When we met in Dallas two years ago, we were in the midst of Congressional hearings and debates challenging the independence of public television. You may remember my 1978 report to you:

"There's one overriding principle that we must never forget . . . we are neither a creature nor a creation of the federal government. We are not the Federal Broadcasting System; we are not the White House Broadcasting System; we are not our Underwriters' Broadcasting System. We are a Public Broadcasting System, and that is the one bedrock issue which we must never leave."

Little did I know then that public television's independence would be so publicly and dramatically tested as it was last month when we broadcast "Death of a Princess." Before the broadcast, the program caused a national and international controversy. All of us can learn enduring lessons from the experience.

POLICY QUESTIONS

As you know, the PBS Board of Directors does not get involved in decisions about individual programs. The Board is involved only in policy questions—which is as it should be. Professionals in public television make the scheduling and programming decisions, subject to broad accountability to your Board and ultimately to you. And, of course, each local station and licensee makes its own program decisions for each local station.

This program became one of those rare exceptions—where policy, indeed, was in question.

In this case, your President Larry Grossman very properly called me about two weeks before the program was scheduled for broadcast on May 12 to tell me about the WGBH-Boston role as co-producer with ATV, an independent British television company. He had received phone calls urging that the program not be broadcast. After the program was broadcast in England, Saudi Arabia withheld sending its Ambassador there, and asked the British Ambassador to leave Saudi Arabia, at least temporarily.

We agreed to keep in close touch on developments. The program was previewed several times on closed circuit to the stations. I had not seen program, but was told it met PBS standards for distribution through the PBS interconnection.

In the next few days, we heard rumors that the government of Saudi Arabia would seek to prevent this broadcast.

OFFICIAL COMMUNICATIONS

We heard nothing official until May 8 when Larry received a letter from Acting Secretary of State Warren Christopher, along with a letter to Secretary Christopher from the Ambassador of Saudi Arabia. Secretary Christopher, I emphasize, did not ask us to cancel the broadcast. He wrote:

"I want to assure you that the Government of the United States cannot and will not attempt to exercise any power of censorship over the Public Broadcasting System. We have no doubt that, in the exercise of your own programming judgment, you will give appropriate consideration to the sensitive religious and cultural issues involved and assure that viewers are given a full and balanced presentation."

Moreover, the enclosed letter from the Saudi Ambassador did not ask us to cancel the broadcast either. It did say that the Government of Saudi Arabia found the program false and inaccurate and offensive. The Ambassador also wrote:

"We recognize your constitutional guarantees of freedom of speech and expression, and it is not my purpose to suggest any infringements upon those rights . . . we trust that the Public Broadcasting System or other news media will determine for themselves what the fictitious items and distortions are and will not report them to the American public as fact."

On the same day, Mobil, a long-time underwriter of public television, placed ads in newspapers throughout the country, stating:

"We hope that the management of the Public Broadcasting Service will review its decision to run this film, and exercise responsible judgment in the light of what is in the best interest of the United States."

Some Members of Congress did urge us not to broadcast the program. Other Members of Congress urged us to proceed with the broadcast.

CONFERENCE AND CONSULTATION

At this point, we decided that issue of policy were involved at PBS. We organized a meeting by conference telephone call of the appropriate Board Committee, and I also consulted with Dallin Oaks, our Chairman-elect.

All of us were of the same view:

(1) Basic issues of principle were at stake. We should broadcast the program if we were satisfied that we were acting in a responsible manner.

(2) We should take particular care to inform viewers of what they were seeing. There would be an announcement before the broadcast that this was a dramatization by actors, and not a news program. Further, the program would be followed by a discussion to which critics of the program, including spokesmen for Saudi Arabia, would be invited to participate.

We came to this view unanimously. Our Committee decided that those requirements would have to be met for PBS to broadcast "Death of a Princess." The producers ultimately agreed to the PBS position.

ESCALATING DEBATE

Meanwhile, debate about the program was escalating in the press and on commercial television. NBC, ABC, and CBS broadcast excerpts of the program on their news programs. I'm sure more people saw parts of "Death of a Princess" on commercial television than ever saw it on public television.

Throughout these developments, I must say I never saw the issue as a First Amendment question. American government officials, the Government of Saudi Arabia, the underwriters, members of Congress—all have rights under the First Amendment just as we do. They have a right to object to what they think is wrong and to ask us to review our decision. That is what the First Amendment in a free society is all about.

We also have our right under the First Amendment to exercise our own independent judgement. We did exactly that. If we were to interpret the requests we received as pressure we could not resist, then we don't have enough backbone and we don't have the right to be in public broadcasting.

A fundamental First Amendment issue did arise in a surprising way. A federal court in Houston ordered station KUHT-TV to broadcast the program. PBS successfully joined with KUHT-TV's lawyers to get that decision vacated because we believe that it violates the Constitution to order a station either to broadcast or not to broadcast a program. There were other court cases in other parts of the country, all of which vindicated the right of a local licensee to decide what to broadcast. There were threatening phone calls, even bomb threats. But calm good sense prevailed.

"Death of a Princess" was broadcast as scheduled.

LESSONS FROM EXPERIENCE

What is to be learned from this experience?

First, we presented a program in a responsible, balanced way, making it clear that it was a dramatization with actors and not a news documentary. The form of program which some people call a docu-drama demands this cautionary announcement to viewers because it contains possibility for abuse.

Second, our American free and open society worked—and worked well. Everyone's point of view was aired. American viewers were trusted to make up their own minds about the program.

Third, public television set a valuable precedent. Public television preserved its independence, knowing that if it did not display courage this time, it would be fair game next time it got a similar request from another part of our government, or Israel, or France, or China, or any other foreign government, or another underwriter, or another television producer, or another Congressman or Senator.

Fourth, we must insist on scrupulous fairness, listen with respect to all sides, and give the viewers all points of view. This is not an obligation we owe to our own government, nor to a foreign government, nor to an underwriter. It is an obligation we owe to our viewers, and to our own standards as broadcasters.

The United States Supreme Court put it this way a few years ago:

"For better or worse, editing is what editors are for; and editing is selection and choice of material. That editors—newspaper or broadcast—can and do abuse this power is beyond doubt. Calculated risks of abuse are taken in order to preserve higher values. The presence of these risks is nothing new; the authors of the Bill of Rights accepted the reality that these risks were evils for which there was no acceptable remedy other than a spirit of moderation and a sense of responsibility—and civility—on the part of those who exercise the guaranteed freedoms of expression."

Fifth, the outcome of this experience was that more people saw the program on May 12 on public television than any other single program in the history of public television. This to me is especially ironic. Each and every week we broadcast programs which I happen to believe are more worthwhile than "Death of a Princess." I hope now that those viewers who discovered public television because of the controversy will come back to us often for programs which will add meaning and enrichment to their lives.

Sixth, in his letter, the Ambassador of Saudi Arabia expressed his concern about "the lack of adequate understanding between our cultures and our people of each other's way of life, our religions, our customs and our practices." That is an honorable and legitimate concern. Last evening, we broadcast a program on the role of women in the Islamic world, which included an interview with the wife of the Ambassador from Saudi Arabia. We hope in the future to increase understanding between us, and between the people of all nations. You will be pleased to know that after our broadcast of "Death of a Princess," we have heard good comments from diverse sources about public television's fairness and sensitivity in dealing with this entire episode.

In its newspaper advertisement, Mobil asked us "to exercise responsible judgment in light of what is in the best interest of the United States." That was a fair and open request, and I'm proud that public television did exactly that. By keeping our honor and integrity, we acted in the best interest of the people of the United States.

The final lesson for all of us is this: we must be free and independent if we are to be responsible trustees for the American public. For if we lose our independence, the issue would not be "Death of a Princess"; it would be Death of a Principle.

PRIVILEGE TO SERVE

To serve as your Chairman the past two years has been an exceptional privilege. My predecessor, Ralph Rogers, gave us a solid foundation built on courage, independence, and unwavering commitment to the public interest. My successor, Dallin Oaks, will carry on with his special dedication and the gift of leadership. I know of few greater opportunities for public service, and I thank each and every one of you for this chance to help enrich the quality of American life. I thank our PBS management and professionals for their extraordinary service—and their effectiveness and their idealism.

When I began these remarks, I mentioned that I had worked with you in these vineyards for 25 years. Now, as I conclude two terms as your Chairman, I want you to know that this may be the end of my office but it is not the end of my commitment to public television. I hope I am lucky enough to be around for another 25 years, and if I am, you can be assured that I stand ready always with the same dedication to our cause that I have tried to give you in the past.

As I leave the Chairman's responsibility at this meeting, I put to each of you a multiple choice question. Which of the following is the most important educational institution in America? (a) Harvard. (b) Yale. (c) the University of California. (d) none of the above.

The correct answer is (d) none of the above. The correct answer is television, because television is the greatest and most powerful instrument of education ever created by human beings. More people learn more—more ideas, more values—through television than through any other source.

And you are the faculty who teach the largest student body of the world. You are the teachers who determine what we will learn. With a full heart, I thank each and all of you for all you do, for being such good citizens, such good people . . . such good teachers.●

THE 40TH ANNIVERSAY OF LITHUANIAN OCCUPATION

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. RUSSO. Mr. Speaker, on June 15 Lithuanian-Americans joined with Lithuanians throughout the free world to commemorate the forcible takeover and incorporation of Lithuania into the Soviet Union.

It was 1940 when the Baltic nations were presented with ultimatums from Stalin and then invaded and occupied. A year later, around June 14, 1941, thousands of Estonian, Latvian, and Lithuanian citizens were deported to the Soviet Union. It was an all too familiar pattern of aggression.

The freedom-loving people of these nations were and have continued to be deprived of their human rights; they were and continue to be oppressed. We must not forget. To accept this illegal and immoral action would undermine our commitment to basic principles of freedom for all peoples.

So while it is a tragic anniversary to observe, we must observe it. We must honor the brave citizens who suffer and let them know that they are remembered. We must remind ourselves of the liberty that we enjoy while others are deprived, lest we take our own freedom for granted.

The courage of the Lithuanian people is a tribute to the courage of the human species. The Soviet Union has never been successful in extinguishing the desire for freedom among the people, and they remain for the world symbols of man's striving for the right to create his own life, to enjoy the liberty of a free citizen.

The Soviet Government has been ruthless in its efforts to deprive the people not only of their sovereignty, but also of their national, cultural, and religious identity. But all their trickery and ruses notwithstanding, they have not been able to hide the strong nationalistic and religious movements in the Baltic nations.

Today I want to pay special tribute to the people of the Baltic nations and to commend the Lithuanian American community for their continuing efforts and support, and to remind us of each country's right to self-determination and their rights to freely determine their own destiny.●

TRIBUTE TO PAM BERGMAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. SKELTON. Mr. Speaker, I wish to pay tribute to Pam Bergman today. Pam is a 10-year-old girl who lives in my district.

On June 12, Pam noticed a 2½-year-old boy who was struggling in 6 feet of water at a swimming pool. The youth had been sitting on the pool's ladder and fell into the water. Pam swam over to the boy and pulled him into the shallow water and probably saved him from drowning. Because of her quick action, no emergency equipment was needed.

All this is rather remarkable, considering the 10-year-old normally uses an inner tube when she is in the deeper water. In fact, Pam told a local newspaper, the Independence Examiner, that she was not really a very good swimmer.

I think it is important that we stop and take notice of Pam's actions. All too often it is easier to sit back and be the critic, instead of getting involved and helping those around us. Pam's performance June 12 certainly calls for this body's attention and our most sincere praise.

Pam Bergman is the daughter of Mrs. Sylvia Bergman, who resides at 319 Cochise, Independence, Mo.●

STILL FLYING AT 90

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ABDNOR. Mr. Speaker, American history is replete with story after story of the rugged individualists whose combined efforts have made this country what it is.

We still have rugged individualists, and one of the most inspiring, to my way of thinking is Clyde Ice of Spearfish, S. Dak., who at nearly 91 years of age is still flying airplanes.

The tale of this pioneer of aviation was told most recently in the Sunday, May 25, 1980, columns of the Los Angeles Times. It follows:

CLYDE ICE, 90, IS BACK WITH SPRING THAW

(By Rudy Abramson)

SPEARFISH, S. DAK.—Clyde Ice is back in Spearfish.

He got back four weeks ago when the apple tree behind his house was getting ready to bloom and the ground had thawed enough for him to sow oats and put in a vegetable garden.

Just as he does every spring, he came over the Rockies from western Wyoming and moved into his old farmhouse out by the Spearfish airport, where he will live alone until next fall—except for a few days around the 4th of July, when he will go back to Wyoming to help his grandchildren shoot firecrackers.

For practical purposes, he could stay in Pinedale, Wyo., fishing Fremont Lake and the Green River without a care in the world. But his return to Spearfish and his place out by the airport has become part of nature's rhythm, just like the blooming of the apple tree and the greening of the fields that stretch out north of the Black Hills.

Before the summer is out and while he is waiting for his oats to ripen, he will go over to the airport some day, rent a plane and fly high enough to see across the hills and look down into the valleys where another crop is getting ready for the combines.

Clyde Ice is about to become 91 years old. He has been flying in South Dakota since 1919. He was a crop-duster until he was in his mid-80s and decided to sell his equipment, a decision that left him without his own airplane for the first time since he learned to fly nearly 60 years earlier. He has twinges of regret about that every time he comes back from Wyoming.

"I could still spray all right, but my knees got to bothering me—I've got a nerve crossed or something—and my feet would go to sleep. My plane had foot brakes on it and when you need brakes, you need brakes. You don't have time to wake your feet up. That was the main reason I quit, but I got tired, too.

"I got tired of getting up at 3 o'clock these cold mornings so I could get some spraying done before the wind would come blowing out of the hills about 8."

So now he calls himself a farmer and he spends more time driving a combine than flying an airplane. But it is obvious that he comes back here to be close to the airport where he has had more adventures than one man is entitled to.

He bought the farmhouse at the edge of the hill country back in the days of the great Dust Bowl and brought his mother here from the Plains because he feared the blowing dust out there was about to kill her. Now the place is empty except when Ice comes to "camp out," as he calls it.

The windows are boarded up, cracks have been patched with card board. Ice spends his summers in one room, its walls covered with pictures, tributes from everybody—from the people of South Dakota to Col. Steve Canyon of the comics. There is a propeller from a Piper club he flew many years ago.

The old man has done about everything anybody ever thought of doing with an airplane except drop bombs and fight forest fires. He has carried the mail, herded wild horses, hunted coyotes and searched for uranium.

He has entertained at county fairs, rushed sick people to hospitals, taken Indians joy riding, and struggled for a lifetime against grasshoppers, heat rust and webworms. In World War II, he gave 2,000 young men in the Army Air Corps their primary flight training.

Away back in the 1930s, he lost track of how many hours he had logged in the air, and after that he didn't even bother trying to keep up with it. For that matter, he cannot even add up how many planes he has owned or flown. He does figure that his flying license should have been one of the first 100 issued by the federal government instead of the 1,598th.

"The government only had about two license inspectors for the whole county back then," he said, "and every time one would come through where I was, I'd be out barnstorming. If it hadn't been for that, I'd be way under 100."

It is a matter of great pride to Clyde Ice that in 60 years of flying he has never had a serious accident, or as he put it the other day, "I never drew a drop of blood from anybody."

His first passengers rode with him in a Standard biplane, ignorant of the fact that he had flown a plane only once before. And that had been the previous day without benefit of a single lesson, taking of from a wheat field and landing among haystacks near dark. His last passenger (so far) was Mayor Jim Steward of Spearfish, who went for a spin last fall just before Ice went back to Wyoming and said the mayor hadn't been scared a bit. Ice would have taken a news reporter up for a ride last week, but the fellow, remembering important business, got into a rented car and drove off in the direction of Rapid City.

In 1919, young Clyde Ice, who had been selling tickets for a barnstormer named K. O. Snider, got his start as an aviator by trading two used cars for a World War I biplane that had been left to fall apart in a North Dakota wheat field.

He does not claim to be the original American crop-duster, but he made his first assault on webworms in a South Dakota sugar beet field about the time aerial crop-dusting was being seriously tried in the Louisiana Delta on its way to becoming a commercial enterprise.

"I put a guy in the back seat of a Piper J-3, holding a big basket full of powder, with a spout in the side of the basket, and we put dust on the sugar beets. Later on I went Down East and bought a duster that somebody had made to put sulfur on with, a great big canvas hopper that fitted in the back seat. The thing like to have killed me coming home because there was an opening around the tail wheel and it made the air circulate forward while I was flying. That sulfur came up all over me down in Iowa somewhere; my eyes went out, and I was about to choke to death until I found a field where I could land.

"It took days for me to get all that sulfur out of my eyes, and after that I started using liquid. That was enough of that dust for me."

In one stretch of two years, his growing crop-dusting enterprise lost five planes and one pilot in the electric wires and telephone lines around the fields, causing him to put aside any thought of developing a big commercial enterprise.

After that he did his own flying, leaving it to one of his three sons, Cecil, to become one of the biggest commercial crop-dusters in South Dakota a generation later, when people in the trade had come to calling crop-dusters "aerial applicators."

Somehow it just never was ordained for Clyde Ice to become wealthy at flying, even though he was at his prime at a time when the industry was developing at a pace that still leaves old-timers breathless to think about it.

He went in with two Rapid City businessmen and started what they hoped was going to be an airline, but it went broke. For his part, Ice went to Detroit and helped assemble the first Ford Trimotor sold for commercial transportation, and took it barnstorming to raise money for the fledgling company.

He still remembers a day when he hauled 510 passengers at $5 a head. He remembers that night in Buffalo, N.Y., when he had so much money in the plane that some men were waiting around to rob him when he quit work after midnight. The police waited, too, and gave him an armed escort into town.

In the first days when he was touring with the Trimotor, he sent an average of $1,000 a day back to his partners in Rapid City, and he wanted to keep going until he covered the major cities in the United States.

But his partners were interested in building an airline, in buying airports, and in a scheme whereby Western Union would sell Rapid Airlines tickets.

Ice's barnstorming blood still gets hot when he thinks about it.

"I was out making money and sending it home," he said, "and they were sitting down in the basement of the bank at Rapid, building—building the gol-durndest air castles anybody every heard tell of."

Sometime after that, another fortune passed him by when, after a year of preparation, he and different associates failed to win a government contract to fly the mail between Chicago and Billings, Mont. He thinks to this day that a mail contract should have been awarded to his Black Hills Airlines because in his own mind, anyway, Ice was as good as any mail pilot who ever operated in this part of the country.

"I've gone from the Black Hills to St. Paul with the mail without ever getting more than 200 feet from the ground, just sneaking along the ground, following the roads and section lines. You couldn't do that today, even with all the new equipment they've got, because you'd be all tangled up in the transmission wires."

Ice's son Randal died just that way in 1947. Flying the mail into Rapid City, his plane lost power, hit an electric line and "fell like a crowbar." His wife died with him.

The day of the couple's funeral turned out to be the most memorable of Clyde Ice's life.

At 3 a.m., he was awakened by a telephone call from Dr. Gordon Betz in Spearfish, wanting Ice to take him up to the northwestern corner of South Dakota, in the country 130 miles north of the town of Belle Fourche, S.D.

A blizzard, "a howling whiteout," was going full force but Betz was desperate to make the trip. A pregnant woman had been injured when her horse fell in the snow and her life was in danger.

They took off at dawn.

"I flew blind from the end of the airport until I got to Spearfish Creek, and then I followed Spearfish Creek until I got to the Redwater River."

Down low over the water, he flew on to Belle Fourche where he turned straight north, hugging a telephone line.

"The wing of the Cub was about as far as from here to the door above the telephone line; and about that far out from it. That was as far as I could see; it was a pure whiteout. If it hadn't been for that telephone line I would have been just as well off blindfolded."

North of Camp Crow, along the Little Missouri River, he followed a line of trees to the ranch house.

The baby was being born just as the plane skimmed over the rooftop. When Ice landed and the doctor ran into the house, people came out and tied one wing of the plane to a cattle truck and another to a Jeep to keep it from blowing over.

When Ice got into the house, he found a baby girl wrapped in a shawl beside a sputtering fire. "She wasn't as big as a cottontail. Her arms were the size of pencil leads."

They put the premature baby in the plane and took off into the blizzard again, going back to Spearfish the way they had come, along the streams and telephone lines.

As he turned into the wind to land at the Spearfish airport, the wind held the plane nearly stationary in the air and Ice's son Howard, along with some other men, grabbed the wing struts even before the wheels touched the ground to tie the plane down again.

The baby was rushed to a hospital where she was treated successfully, and Ice went straight from the airport to Randal's funeral.

The Spearfish airport was Ice's life for a long time.

This was where he trained the cadets of the Army Air Corps in World War II.

At the beginning, he housed them and even fed them, going into Wyoming to shoot moose and an elk. After giving flying lessons all day, he cooked moose and elk steaks to feed them a midnight meal when they ended an 18-hour training day.

He was bitter when the Army cut back from 40 hours of training to 10, and sent him 400 students at a time.

"It was like sending them off to commit suicide," he said. "After a few hours of instrument training, they thought they knew how to fly on instruments, but they didn't know anything."

The airport is not like it used to be.

Not a great deal goes on there anymore. Ice has been annoyed with the County Board of Commissioners for years because they let the federal government run the Boston-Seattle Interstate 90 right between his house and the airport, taking off a thousand feet of runway in the process.

So here he is, trying to enjoy coming back to Spearfish for the summer, and he has an interstate highway in front of his house and a Minuteman missile silo in the back.

He has been after the Air Force since back in the 60s to come dig up the barrels, rock and concrete they left when they dug the silo so he can farm up to the security fence like they promised him he could.

The Air Force offered to pay $900 for the silo site, but Ice asked $3,500 and wound up going to court, where he finally got less than satisfaction.

It is not all on the downside by any means, though. He is going to get something out of the Air Force yet. His grandson, Danny Miller—"that boy is 6 feet tall and weighs 190 and hasn't got an ounce of fat on him"—has been accepted by the Air Force Academy.

He aims to be an astronaut, and the old barnstormer does not doubt for a minute that he will.

Pretty often he hears from one of his old students. And every time his birthday rolls around, he gets a card from Marie Eid, the baby he brought out of the country in the blizzard.

He passed his flight physical again last fall, so this summer's flying all depends on the crossed-up nerves in his knees.●

TELEVISION JOURNALISM AT ITS FINEST

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. MOTTL. Mr. Speaker, the House recently passed legislation calling for premarket testing of infant formulas and establishing minimal nutritional standards for these products which are often the only source of food for our Nation's infants.

The legislation, sponsored by myself and Representative Al Gore, is now being considered by the Senate.

Mr. Gore and I introduced the legislation after we learned that more than 130 infants had been made seriously ill because two brands of infant formula were placed on the market even though they lacked a vital salt ingredient. We could not have been successful without the help of Representatives Henry Waxman and Representative Tim Lee Carter.

Ms. Lea Thompson of television station WRC right here in Washington was the reporter who broke the infant formula story which led to our legislation.

Her performance was an example of television journalism at its finest.

Last Saturday night, Ms. Thompson's peers recognized her efforts by selecting her as the winner of the Ted Yates Award, signifying excellence in her profession.

I am sure that I can speak for Ms. Thompson in saying that a fitting climax to her efforts would be legislation guaranteeing that infant formula will be safe when it is placed in the marketplace.

Thank you.●

SUE MUNDY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. CARTER. Mr. Speaker, recently there was an article in the Louisville Courier-Journal by a talented writer, Byron Crawford. Since Sue Mundy, actually Marcellus Jerome Clarke, was a cousin of my wife's grandfather, I would like to enclose a letter from Mr. Paulyne Foshee.

The grandfather of both Mrs. Foshee and my wife, Kathleen Carter, was Papa Jim Bradshaw who saw to the burial of Jerome Clarke.

This is the story of Sue Mundy as written by Mrs. Foshee and as it was told to me by Dr. B. L. Bradshaw, my father-in-law, who was born in Simpson County, Ky., and who was a second cousin of Marcellus Jerome Clarke.

The article follows:

Now, about the article about our illustrious ancestor, Sue Mundy. The only thing correct in the article was his name, they did have that right, feel sure that piece was written by someone in the Union Army. Sue Mundy, real name, Marcellus Jerome Clarke, was a first cousin of Papa Jim's, Jerome's father and Papa Jim's mother were sister and brother. Papa Jim's mother was Nancy Clarke and married a Bradshaw. When Jerome's parents died, he was a very young boy and went to Franklin to live with Papa Jim's mother and Father; I have an old Franklin Favorite from back in that time that tells this, the article on the front page of paper, said he lived with his Aunt and Uncle who were one of the prominent families of that part of Kentucky, he joined up with Morgan's Army when only seventeen years of age and they made him a spy for the Southern Army; he had a sweetheart who gave him the name of Sue Mundy and she made all of the feminine clothes he wore, said he could easily pass for a very pretty woman, even attended dances and balls given by the Northern Army, danced with the officers and found out many secrets in that way. He was never accused of committing any crimes and was considered quite a hero in our part of Kentucky. After he was executed they brought his body back to Papa Jim's home and he was buried at a country cemetery out from Franklin. Later, in my time, I can remember when the Confederacy ordered his body exhumed; so Papa Jim being the only living relative was in charge, they had to cut his casket open, it was metal, so Papa Jim could identify him and Papa Jim said his sword and confederate buttons from his uniform were intact. His body was then buried at the cemetery in Franklin and a big monument erected, this monument of course is still there, not too far from the Bradshaw plot. Whoever Byron Crawford (with Courier-Journal) wish you would tell him he better read up on his history and that Sue Mundy's relatives resent his article.●

JOHNSON'S THREE AXIOMS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. COLLINS of Texas. Mr. Speaker, Elliott A. Johnson has three guiding axioms that sum up his philosophy of life. They are good ones for all of us to follow:

True happiness lies not in possession or satiation, but in achievement.—Voltaire.

The sum of wisdom is, that the time is never lost that is devoted to work.—Emerson.

Don't squander time, for time is the stuff life is made of.—Benjamin Franklin.

Johnson was named as the year's recipient of the Phi of the Year by Phi Delta Theta fraternity. He lives in Houston, Tex., where he has spent his business career as vice president of Schlumberger Corp.

It is interesting that his three axioms all involved work and making your time count.●

SOVIET OLYMPICS FLOP—AND TASS HYPOCRISY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DERWINSKI. Mr. Speaker, the Washington Weekly is known for its provocative and energetic coverage of major events. In its most recent edition, June 24, the editor of Washington Weekly, Lester Kinsolving, comments on the upcoming summer Olympic games being held in Moscow. I believe that his remarks are of special interest and especially pertinent, and I wish to insert the article for the Members' attention:

The article follows:

SOVIET OLYMPICS FLOP—AND TASS HYPOCRISY

The Soviet Union's Moscow Olympics this summer will attract teams from 80 countries—including Afghanistan, whose invasion by the Red Army motivated 88 other countries to boycott what is becoming known as the "KGB Games."

Among those nations in attendance, 17 teams will come from communist-governed or communist-occupied nations.

Of the 63 non-communist teams, an estimated 40 will be paid to attend, in free Aeroflot flights, as well as room and board in Moscow's Olympic Village. This was announced last February in Mexico City by Vitaly Smirnov, first vice president of the Soviet Olympics Committee, and repeated last week by International Olympics Committee executive board member Count de Beaumont of France. But in Washington's Soviet Embassy, as well as at the Soviet News Agency Tass, nobody has ever heard any such thing from Smirnov, according to spokesmen.

Of the 23 non-communist and unsubsidized teams at Moscow, nearly half of them will be split. For participants in a number of events such as equestrians, boxers, yachting, fencing, shooting, gymnastics, cycling, field hockey and the pentathalon have decided not to accompany their teammates to Moscow. These split delegations include Australia, Austria, Belgium, France, Great Britain, Ireland, Italy, Luxembourg, The Netherlands, New Zealand—and Puerto Rico (which non-country will have one participant).

This leaves twelve (12) non-communist, unsubsidized and unsplit nations among Mr. Brezhnev's athletic guests.

Competition for the gold medals will be under something of a cloud. For among the absentees will be those teams which won 75% of all of the non-Soviet bloc medals during the 1976 Olympics in Montreal.

In early June, the Mayor of Moscow was quoted in news dispatches as noting that the expected attendance at the Olympics has plummeted, from an estimated 300,000 to 100,000.

His Honor soon afterwards issued a clarification (which may have saved him from Siberia) that he meant the number attending at any one time.

Yet the estimates of attendance from major non-Soviet bloc nations reveals just such a major dropoff as may make the KGB Olympics one of the worst single Ruble-drains since the Kremlin began subsidizing Fidel's Utopia in Havana. For only 400 Australians are planning to attend, when 4,500 had planned to do so. Great Britian's anticipated attendance is reportedly down to 2,000 from a previous 7,500; Canada's from 8,000 to 300; West Germany is down to 6,000 from 12,000; Japan from 12,000 to 1,300 and the United States is expected to have 3,000 in attendance instead of 30,000.

From Moscow, Ted Andrews of Mutual News reported that a 75% drop in anticipated attendance was explained by Soviet Officials as due to a "Shortage of hotel rooms" and "The United States afraid of coming in second."

In number of participating athletes this summer in Moscow, there will be an absence of 50% of those from countries outside the Soviet bloc who were present in Montreal.

It is sad that any of the world's athletes from free countries are so hot to trot that they will do so even in the "KGB Games"—by playing into the hands of Tass, which denounces the United States for "attempts to use international sport as an instrument of political pressure."

Is it possible that this Soviet News Agency has forgotten that in 1968 the Soviet Union threatened to boycott the Mexico City Olympics in order to force the exclusion of South Africa?●

ON REDUCING OFFICIAL EXPENSES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. GOLDWATER. Mr. Speaker, a story in a daily newspaper today outlined many of the ways Members of the House use their official expense allowances. My office's expenses for official lunches and dinners were among those featured.

As a matter of principle and belief, I am a fiscal conservative. Therefore, I was shocked and dismayed when I realized how much my official expenses have increased. I have taken immediate steps to eliminate entirely many of these former expenses, and to drastically curtail the others. The use of taxpayer money for official expenses will not get out of hand in my office again.

I think the author of the newspaper article has done us a service. He has reminded us that if we expect the American people to cope with a difficult economy, the least the Congress can do is carefully monitor how we spend their money in the performance of our jobs. I know that message will not be lost on any of us.●

AND WHO'S THE DEMAGOG?

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. EVANS of Delaware. Mr. Speaker, recently President Carter, in what can only be called the opening shot of his general election fight, accused the campaign of Gov. Ronald Reagan of being guilty of "demagoguery."

Those of us in politics are, of course, used to a certain amount of rhetorical license. But this time the President's speech writers seem to have launched him into the rhetorical stratosphere without bothering to check any of Mr. Carter's past statements which deserve to be enshrined in a Demagogic Hall of Fame.

Fortunately, the noted columnist George F. Will has taken the time to catalog some of Mr. Carter's more extreme pronouncements. I ask my colleagues to study the list, and then answer the question:

"Who is the real demagog?"

Mr. Speaker, I insert Mr. Will's column which appeared in the Washington Post of June 15, 1980, in the RECORD:

. . . AND WHO'S THE DEMAGOG?

(By George F. Will)

Jimmy Carter says Ronald Reagan's campaign will feature "demagoguery." Hmmmmmmmmmm. That's an interesting warning from the man who:

Early in 1977, said: Hey, let's mail everybody some money—a $50 tax rebate.

Attacked entire classes of Americans including doctors and lawyers.

Pandered to other public prejudices with repeated attacks on another safe target, oil companies.

Undermined respect for, and compliance with, the tax system by ridiculing it as "a disgrace to the human race."

Further lowered the discussion of complicated tax matters by displaying, for the merriment of yahoos, a stack of volumes containing the tax code, as though the size of the volumes is self-evident proof of something.

Lowered the tone still further by harping on the "three-martini lunch."

Blamed most of America's inflation on wicked foreigners—OPEC—in spite of the fact that 11 of the 13 industrial nations that are more dependent on OPEC than America have lower inflation rates than America has.

Announced, as the economy tumbled into a free fall, that his economic policies "suit me fine."

Said, as those policies produced the worst two consecutive months of rising unemployment statistics in the history of American unemployment statistics, that "no working man or woman can find fault with our policies."

Declared, six months after his Treasury secretary declared the recession half over, and shortly before the shattering unemployment figures, that the nation's economy had "turned the corner."

Submitted a budget calling for a percentage increase of federal expenditures exceeded only once in a quarter of a century, and then denounced Edward Kennedy as "the biggest spender perhaps in the history of the United States Senate."

Said that "the differences between me and Sen. Kennedy are very minor."

Shattered the record for peacetime tax increases, proposed a budget calling for the federal government to command the highest percentage of GNP since 1944, a year of total war mobilization—and then denounced as "ideological nonsense" Reagan's idea that taxes should be cut.

Said, three months ago, shortly before even his administration began to admit that the deficit will be a least $20 billion: "I don't have any doubt that we will have a balanced budget in 1981."

Delivered, 11 months ago, one of the worst speeches in the history of speeches, the "malaise" sermon, in which he told the nation: I'm unpopular, so you're sick.

Followed that performance with yet another flamboyant visit to the porch of "average Americans."

Described SALT II, which not even a Democratic-controlled Senate would ratify, as "a major achievement of my administration."

Went on television to make a histrionic declaration that the presence of Soviet combat troops in Cuba is "unacceptable."

Went on television to say that, come to think about it, the presence is acceptable.

Solemnly said that the invasion of Afghanistan was the gravest threat to peace since the World War II—and then cut the defense budget.

Deliberately supported a grossly anti-Israel U.N. resolution, and then, when surprised by the public's revulsion, had his secretary of state say, in effect: Oops! It was all a misunderstanding.

Said: "If I ever lie to you, don't vote for me."

Said, when it suited his political situation: "I want the world to know that I am not going to resume business-as-usual as a partisan campaigner out on the campaign trail until our hostages are back here—free and at home."

Bashed the ayatollah with the national Christmas tree.

Went on television, as the polls were opening in the Wisconsin primary, to announce, falsely, a breakthrough in the hostage crisis.

Said, months after two U.S. servicemen were killed defending the U.S. embassy in Pakistan: "We've not had any loss of life during this administration because of people being sent into combat."

Sprinted to Texas, on the eve of the Texas primary, to use a visit with the casualties of the rescue mission as a photo opportunity.

Baptized the rescue calamity "an incomplete success."

Having done his best to hold down military pay, used the men of the USS Nimitz, returning from an unreasonably long voyage, as props in a skit in which he said, in effect: Come to think about it, I'm for the pay increase I opposed until last week.

Enough, already.

Carter says Reagan is a demagogue. But, then Carter called Hubert Humphrey a "loser," LBJ a liar, and Edward Kennedy a "demagogue" whose campaigning is "very dangerous to our country," its principles and peace. When Carter, directed by his inner compass to the low road, issues warning about "demagoguery," he is indulging, characteristically, in that against which he pretends to be warning.●

BOB DRINAN

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. ASHLEY. Mr. Speaker, I am delighted to have this chance to add my comments on the remarkable congressional career of Father ROBERT F. DRINAN of Massachusetts, to the many expressions of admiration and respect that have come from around the world since he announced his decision to retire from Congress. While his decision marks a time of real loss to this body, it also marks a time to celebrate his career. He has done much of substance through his decade in the House, and he has done much to enhance the dignity and the purpose of this institution.

Through BOB's tireless work on the Judiciary Committee, the Government Operations Committee, and the Select Committee on Aging—and through his truly eclectic interests and concerns—he became the voice of hope for hundreds of thousands of Americans and citizens of the world. The decade of the 1970's was one of international tension, wrenching social change, and political upheaval at home. Throughout this period, BOB's has been a voice of compassion, of reason, of humor, and of grace. He leaves a legacy of specific legislative achievement in the diverse areas of civil rights, the rights and concerns of the elderly, consumer concerns, the environment, criminal code reform, and world order. And he has been a particularly effective advocate for the people of his district.

BOB has touched the lives of millions of people throughout the world, and he has made public service a more honorable calling throughout the last decade. I will miss his counsel and his humanity, along with so many other of my colleagues. I offer him my congratulations on a remarkable career, my thanks for the opportunity of serving with him, and my very best wishes as he moves on.●

INTEREST WITHHOLDING: ANOTHER EXAMPLE OF CARTER'S ECONOMIC IDIOCY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PORTER. Mr. Speaker, there is not an economist in the country, nor hardly a taxpaying citizen, who is not aware of the extremely low savings rate of Americans and the desperate need to fashion public policy that will encourage savings and investment to rebuild a strong base for economic growth in the future.

The only one that does not seem aware of the need to encourage savings is President Carter. He wants to discourage savings with a new 15-percent tax withholding plan on earnings from interest and dividends. He wants millions of savers whose income is too small to be taxed—mostly elderly persons and parents in behalf of children—to have to file tax returns in order to get a refund on what the Government withheld from their savings accounts. He wants workers at thrift institutions and banks to spend thousands and thousands of hours and untold volumes of paperwork, not to mention $800 million in costs, to collect an additional $3.4 billion in tax for 1 year. He does not care that $4 billion in investment funds would be lost to the savings and loan industry alone if this program is adopted, and 85,000 homes could not be built because of this reduction in available funds. He does not care that savers lose compounding on their interest earnings which are withheld by the Government whether they owe tax or not.

Mr. Speaker, in Japan people are saving at a rate of nearly 25 percent. In West Germany, they put 13 percent of their earnings in the bank. Yet in the United States last year, the savings rate was under 4 percent. But that apparently is not a matter of concern to the Carter administration. The President, in fact, opposed the modest effort in the Windfall Profit Tax Act to grant tax exclusion treatment to the first $200 of a taxpayer's interest and dividend income. Fortunately, his opposition was ignored. Mr. Speaker, it is no secret that economic idiocy pervades the White House. This proposal is one more sorry example of it.●

LITHUANIAN INDEPENDENCE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PATTEN. Mr. Speaker, June 15, 1980, marked the 40th anniversary of the military occupation and forcible incorporation of Lithuania into the Soviet Union.

The violation of Lithuania's previous freedom must not be forgotten. This 1940 incorporation by the Soviet Union subsequently led to the deportation of 300,000 Lithuanians. Yet, despite the destruction of their homeland, the Lithuanian spirit has not been destroyed. Lithuanians continue to defy the Soviet regime in their fight for independence. We, as Americans, deplore this suppression of such fundamental human rights and we must support the efforts of those individuals who continually resist the society under which they must live.

As we join with the Americans of Lithuanian descent in recognizing this anniversary, let us recall the many contributions of these people. We must renew our hopes that the Lithuanian nation will come to enjoy, once again, the most basic of human rights treasured by all Americans—freedom.●

IN RECOGNITION OF CHIEF WALTER B. MILLER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FLORIO. Mr. Speaker, I ask my colleagues to join with me today in paying tribute to Walter B. Miller, chief of police of West Deptford Township. The friends, relatives, and colleagues of Walt Miller will gather this Friday to honor him on the occasion of his retirement as chief of police after 25 years of service, the first township official to do so.

A resident of West Deptford Township since 1949, Walt Miller first started his career in law enforcement as a part-time special police officer. Upon the establishment of a full-time police department in 1955, he accepted a position as a patrolman. He was soon elevated to the rank of sergeant. Not long after that, he was again promoted, this time to the position of chief of police.

When Walt Miller first started in law enforcement, West Deptford was a sprawling rural community with a population of only 4,500 persons. Since that time the population has grown to 20,000 and has been transformed into a thriving suburban community.

In response to changing needs, the police department under Walt Miller has also undergone great change, growing from a force of 6 in 1955 to its present strength of 30 persons. Under his stewardship, the West Deptford Police Department has earned a reputation as an innovative and progressive leader in law enforcement. Under Chief Miller the police department has met the challenge, and in doing so, has well served the citizens of West Deptford.

In conclusion, I would like to offer my sincere congratulations to Walt Miller for a job well done and my best wishes to him and his family.●

OUR VALUABLE FRIEND TO THE SOUTH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, Mexico, our good neighbor to the south, is our fourth largest trading partner. Mexico offers tremendous market opportunities for the United States, as does the United States offer an excellent market for Mexican goods. Our trade relationship has steadily grown. Between 1978 and 1979, U.S. exports to Mexico grew 46 percent while Mexican exports to us grew 44 percent. Total trade amounted to $18 billion. While 65 to 70 percent of Mexican exports come to the United States, 60 to 65 percent of Mexico's imports come from us. That relationship is built on a common heritage of culture and history. It is in our Nation's best interests that our relationship with Mexico be close, cordial and helpful.

Mexico suffers some economic problems unlike ours. They are not insurmountable, but they are plaguing. The Mexican economy has been steadily growing, fueled by its new energy sector expansion. Recently I met with an old friend from Mexico. Dr. Agustin Navarro Gergely is an economic adviser to Mexican President Jose Lopez Portillo. Dr. Navarro has written on some of the aspects of the Mexican economy. His article on unemployment and inflation in Mexico is excellent and I commend it to my colleague's attention. It is excerpted from "Inflation and Unemployment, a compilation of economic essays, edited by G. Carl Wiegand, published this year. I insert Dr. Navarro's article in the RECORD at this point:

UNEMPLOYMENT AND INFLATION IN MEXICO

(By Agustin Navarro Gergely)

The essays in this book deal primarily with the problem of unemployment in the United States. Conditions are far more critical in Mexico, and, at first sight, there seems no justification for drawing parallels—even by implication—between the politico-economic conditions of the two countries. The economic and technological resources of the United States are very much larger than those of Mexico, and the U.S., as a whole, has a far stronger socio-political infra-structure. The value of the dollar is not likely to drop by 50 percent within a few weeks, and the unemployment rate is not likely to rise to 30 percent.

Yet there are parallels between the policies of the admittedly statist-socialist Echeverria regime between 1970 and 1976 in Mexico, and the "liberal" policies which Washington has followed during the past 15 years. It is a matter of degree, not of basic philosophy and policy. On both sides of the border we find huge deficit spending to promote "full employment" and economic growth, and create a multitude of social benefits; a vast growth of the size and power of the bureaucracy; a declining value of the currency; and chronic balance of payments deficits.

What has happened in Mexico should thus be of interest to the American reader.

THE PESO CRISIS

The people of Mexico will not easily forget the shock which they experienced on the morning of September 1, 1976, when the papers informed them of the official announcement made a few hours earlier that monetary stability, to which Mexico had been accustomed for many years, had given way to "floating," which, as the people found out very soon, was merely a polite word for devaluation. Within a few days, the Mexican peso fell by 63 percent in terms of the American dollar and hard currencies.

The first shock was followed by months of uncertainty and a deepening crisis, and as 1977 progressed the Mexican people realized more and more clearly every day the crushing consequences of the inflationary euphoria of the preceding years.

What were the chief reasons for the monetary and economic crisis which overtook the country in September 1976?

There were many contributing factors, and this paper will deal only with the major ones, the varied aspects of governmental policy to cure all economic and social ills through chronic inflation.

During the 45 years between 1925, when the Bank of Mexico was established to provide a stable monetary system after years of revolutionary upheaval, and December 1970, when the Echeverria regime took over, the money supply had never exceeded 18.5 billion pesos, which it reached at the end of 1969. By August 31, 1976, the day before the devaluation—in just five years and nine months—the money in circulation had increased to 54.2 billion pesos, or by nearly 300 percent. And the printing press kept on churning out money. Between the day of the devaluation and the first of December 1976, in just three months, the money supply rose to 77.6 billion pesos, or by another 43.16 percent. This vast increase in demand, at a time when the balance of payments showed a large deficit, and the Gross National Product grew by only about 2 per cent, as it did in 1976, largely explains the monetary crisis and Mexico's precarious economic position.

THE GROWTH OF STATISM

Moreover, the lack of monetary discipline, although the most immediate cause of the crisis, was always accompanied by other unbalancing forces, especially the tremendous growth of the government bureaucracy. In 1970, there were 247 government owned corporations and entities, in addition to twenty ministries. Six years later, at the end of Echeverria's term, the number had grown to 830, without taking into account several mixed enterprises in which the government had a direct interest.

The result of this vast expansion of the public sector was an astronomic growth of the bureaucracy and a rapid increase in the current expenditures of the government for services and salaries (as against long-term investments) which account for about 65 percent in the 1977 budget. This huge burden had to be assumed by the new government which took office in January 1977, and with no immediate increase in revenues in sight, the deficit had to be financed, at least for the time being, through more credit—and more inflation.

Since 1970 most of the government enterprises have operated in the red. While the number of government corporations increased less than four times during the six years of the Echeverria regime, the deficit increased 22 times, from 347 million to 7.4 billion pesos—and this despite the fact that government subsidies at the same time increased tenfold.

The internal and foreign indebtedness, public and private, rose rapidly to about $40 billion, which caused concern in international financial circles, including the International Monetary Fund—which nevertheless smoothed the spectacular farewell of the Echeverria regime with another $963 million loan.

The rapid expansion of overall demand during the first half of the 1970's, financed through credit expansion and with the help of the printing press, produced all the typical symptoms of an inflationary boom: expanding markets, new ventures, rising interest rates, balance of payments deficits, and a growing upward pressure on prices. In 1976 alone, the cost of living rose by 49 percent, and wages of organized labor by 52 percent.

INTERFERENCES WITH THE FREE MARKET

All this happened within a largely closed economy, which for many years had been protected by import restrictions and high tariffs, so that the powerless Mexican consumer, faced with the rapid rise of domestic prices, was unable to satisfy his needs by buying foreign goods.

Yet, despite all restrictions, the trade deficit continued to grow, reaching 74 billion pesos in 1976, which was, to a large extent, due to the failure of domestic policies especially in the agricultural sector. In Mexico, as throughout Latin American, "agrarian reforms," the distribution of land usually entail a sharp decline in the production of essential foodstuffs, with the result that, even through predominantly agricultural, these countries have to import large quantities of wheat, corn and other essentials.

While Mexican imports increased sharply, exports rose slowly, because of the rapidly rising cost of production, and the fact that most of the economic infra-structure, including the production of electricity, oil and gas, is in the hands of the government, which renders essential cost controls all but impossible.

DETERIORATING CAPITAL MARKETS

To cope with the growing imbalances at home and abroad, the government adopted a variety of fiscal measures in a vain attempt to balance revenues and expenditures. As is usually the case, virtually all the fiscal measures were directed toward squeezing more money out of the economy, while little was done to curb expenditures, which was regarded as politically inexpedient. In fact, the "fiscal reforms" consisted largely in trying to borrow more money abroad, increasing the legal borrowing capacity of the government, and creating more money.

With the government borrowing heavily in the domestic capital markets, and the markets becoming increasingly tight, the private sector looked abroad for needed capital, and the multinational corporations appealed to their home offices for funds. With interest rates at 12 and 14 percent on seemingly sound investments, and the dollar-peso rate regarded as stable, investments in Mexico appeared extremely attractive, and for years large amounts of foreign capital poured into peso loans.

And then came the devaluation, and within 72 hours the value of some $6 billion which had been invested in the Mexican economy by thousands of thrifty Mexicans and large numbers of foreign investors—many of them retired Americans who had placed their savings in seemingly lucrative—and safe—Mexican investment trusts, declined by about 50 per cent.

The hard currency reserves of the Bank of Mexico and the commercial banks shrank rapidly as maturing foreign debts were paid off and bank deposits were "dollarized." The exact figure is not known, but it is estimated that between $2.5 billion and $4 billion left the country. All this happened in a sudden crisis of confidence, the type of crisis Mexico had not known for many decades.

THE POLICIES OF STATISM

The economic policies of the Echeverria regime were dictated primarily by political considerations. As a result of the rapid expansion of government activities, the State now accounts directly, or indirectly, for about 45 percent of the Gross National Product. Every new form of public intervention was justified as being—supposedly—beneficial from a social point of view, and fair to all. Following the traditional Keynesian full employment theories, that jobs depend upon demand, demand was artificially increased by creating more and more credit and money. The Social Security System, for instance, which in 1970 covered 11 million people was expanded to cover 27 million, which quadrupled the funds needed, and once the vast bureaucratic machinery has been created, any curtailment became all but impossible.

Yet despite all the inflationary economic stimuli, unemployment continued to grow. The available statistics are not reliable, but in early 1977 the number of unemployed was estimated at six million—out of a labor force of about 18 million. And this figure tells only half the story. About 30 percent of those employed work for the government, most of them as part of the bureaucracy, and thus produce none of the basic needs of the people. Moreover, most of the unemployed—and underemployed—are not, as in the U.S., new entrants into the labor force, but men and women who have lost their jobs. In some sectors, such as the building industry, unemployment reached 60 percent.

SIX YEARS OF STATISM AND SOCIALISM

These then are the results of the economic policies of the Echeverria regime: a high rate of inflation, economic stagnation, and a high rate of unemployment.

The flood of fiat money stimulated demand, while the government at the same time impeded production. The government tried to "distribute fairly," what the private sector has not yet been able to produce, and to tax profits which did not exist.

The devaluation of the peso was to produce vast benefits by improving Mexico's position in world markets. But since the government levied heavy taxes on exports to help finance the government deficit, and to prevent windfall profits, the promised stimulus did not materialize.

And not only the economy suffered from inflation, political activities were likewise dangerously "inflated." There were hundreds of speeches, declarations, and public demonstrations to show the people's support for the government's economic policies. Only three months before the devaluation the government undertook a costly international campaign to convince the world of the stability of the peso and the strength and rapid rate of growth of the Mexican economy. The objective was clear: to stimulate the influx of more foreign capital, both public and private, in order to finance the government's expansionist policies. And over the years the campaign was clearly successful. Mexico accumulated an external debt of about $35 billion, 70 percent consisting of public obligations, and 30 percent of the debts of the private sector.

WHAT ABOUT THE FUTURE?

The 1976 budget showed an increase of 40 percent as compared with 1975, and public expenditures continued to grow in 1977.

The large domestic and international indebtedness, both public and private, is all the more burdensome and dangerous because of the depression which overtook Mexico in 1977. Private demand fell sharply, and while the inflationary expansion of public spending during the first half of the 1970's produced an inflationary boom, a slowing down in the increase in public spending now tends to reduce private demand, and thus economic activities and employment. A government which accounts for 45 percent of the nation's Gross National Product cannot pursue a national fiscal policy, dictated primarily by the size of the tax revenues and the availability of credit. Even if the government could curb the demands of the powerful bureaucracy for more and more power and pay, the top-heavy public sector cannot be reduced freely without plunging the private sector into serious difficulties.

The private sector, moreover, faces an additional critical problem. As a result of the peso devaluation the foreign indebtedness of major enterprises has doubled, and the increased cost of servicing this debt cuts sharply into the companies' earnings, which not only reduces the income of the stockholders—and hence their ability to spend—but also the tax revenues of the government, thus making it correspondingly more difficult to balance the budget.

THE PROBLEMS OF THE NEW LOPEZ PORTILLO ADMINISTRATION

What can the new Mexican government of Lopez Portillo—what can any government in a similar situation—do to overcome the crisis and restore economic equilibrium?

The huge budget deficit which the new administration inherited is being covered in two ways—neither of which constitutes a long-range solution. Part of the deficit is financed by drawing heavily on the domestic capital market, thus making it correspondingly more difficult for the private sector to obtain needed investment funds. The rest of the deficit, it is hoped, will be financed through foreign loans secured by the income from future exports of oil and oil products.

In the meantime public investment spending was reduced sharply, or by about 25 percent during the first six months of the 1977 fiscal year, which increased unemployment and adversely affected the private sector. Thus, in addition to the acute liquidity crisis in the capital markets, those industrial and commercial enterprises which depend heavily on the public sector have slipped into a deep depression.

The government has drawn up an "administrative reform" aiming at a greater degree of decentralization, a rearrangement of functions, and a reallocation of government workers. The reform, however, failed to bring about a material reduction in the size of the bureaucracy—it was largely a question of "reallocation," although there were some isolated instance in some government corporations and agencies, where a reduction in the number of employees actually took place.

HOPE FOR THE FUTURE

Dismal as the immediate prospects appeared there was one strong ray of hope for the future: the discovery of large new oil deposits, which, it is estimated, will produce export revenues of about $23 billion between 1977 and 1982. On basis of these anticipated oil exports, the government plans to borrow $15 billion abroad to tide itself over the acute crisis.

The private sector will depend heavily upon its ability to refinance maturing foreign debts, since many of the companies do not have peso revenues adequate to meet the maturing foreign obligations which have doubled since the devaluation of the peso, and the country as a whole is faced with an acute shortage of foreign exchange.

As far as the government budget is concerned, special "excess profits" taxes have been considered to capture for the government profits resulting from what government authorities regard as "excessive" price increases on domestic sales. On the other hand, earlier plans to tax "excess profits" derived from an increase in exports due to the devaluation of the peso have been dropped.

One of the major campaign promises of the new government was an "Alliance for Production" between the government and the private sector to replace the latent hostility of the preceding six years. The Mexican economy suffers not only from obvious economic problems resulting from the policies of the Echeverria regime, but also from a basic and paralyzing lack of confidence. The country faces not only a monetary and economic crisis, but also profound psychological problems: a low state of business morale, widespread apathy, and profound distrust.

It is hard to make long-term economic plans on basis of a six year political cycle. Having been thoroughly beaten and disillusioned during the six years of the Echeverria regime, it will take time for Mexican business leaders to recover. And how long will the new spirit of "Alliance" of Lopez Portillo last?

The power of the Mexican President to establish economic policies is far greater than that of the President of the United States, where Congress, as a rule, with only two major exceptions during the past fifty years, assures a certain degree of continuity. The uncertainties of the political system that makes it difficult to project trends beyond six years, are, of course, off-set by the realization that after six years of a statist, anti-business and inflationist government, the people can vote into power a new regime which will pursue a sounder economic policy—for at least the subsequent six years.

Mexico's economic problems are essentially political in nature, and their solution must therefore be "political": a reversal of the statist-socialist tendencies of the first half of the 1970's, and a reduction of the power of the top-heavy bureaucracy, especially the top-level bureaucracy of the old regime which continues to hold on to key positions despite the change of government.

But this is, of course, the type of problem which faces not only Mexico, but many countries throughout the free world.●

GIRL SCOUT CADETTE TROOP 1636 HONORS FIRST CLASS SCOUTS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PATTERSON. Mr. Speaker, during the course of our lifetime there are some honors that we earn which shape our character and mark our course for the future. Participation in programs, such as the Girl Scouts of America, reinforces the characteristics we seek in responsible citizens and provides opportunities for leadership potential to be nurtured and developed.

The highest honor that a Girl Scout can earn is that of a First Class Scout. It is a symbol that a young woman has developed skill in many areas and has become proficient in one. It reflects 2 years of hard work and the completion of no fewer than six proficiency badges and four challenges. This honor comes only through dedication and consistent effort.

Troop No. 1636 is fortunate to have 10 young women who have achieved their First Class Scout rank. They are; Sharon Brown, Ann Hamilton, Karen Knudson, De Ann Liebenow, Janette Owens, Veronica Owens, Valerie Roberts, Elena Ruiz, Monica Ruiz, and Collye Washington.

I congratulate these young women and feel confident that the training and learning provided them by the Girl Scouts of America will prepare them for a responsible and rewarding life.●

MEETING THE WAYS AND MEANS COMMITTEE RECONCILIATION GOALS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FISHER. Mr. Speaker, now that the Congress has passed the first concurrent budget resolution for fiscal year 1981, it is the job of the various committees of each body to put flesh on the skeletal framework of the resolution. For the Ways and Means Committee, of which I am a member, this means meeting the goals set forth in the resolution of increasing revenues by $4.2 billion and of cutting budget authority by $700 million and outlays by $2 billion in the programs under the Ways and Means Committee's jurisdiction. This is the process of reconciliation, whereby changes are made in current laws governing revenues and expenditures in order to meet the recommendations in the budget resolution for the coming fiscal year.

I voted for the reconciliation procedure when it was considered by the House because I believe that it is essential to the integrity of the budgetary process that the attempt be made by the authorizing committees to reach the fiscal goals set out by the budget resolution. This does not mean that I support all of the recommendations in the resolution on how to achieve those goals. For example, I specifically and emphatically reject the recommendation that the twice-a-year cost-of-living adjustment for Federal retirees be reduced to once a year. Furthermore, as I will indicate in my following remarks, I also do not accept all of the recommendations on how the Ways and Means will meet its goals. This is not inconsistent with my support for the reconciliation process. Rather, it recognizes the role of the Budget Committee and the Congress in laying out the broad budgetary goals and structure while at the same time paying heed to the authorizing committees' greater expertise when it comes to specific programs under their jurisdiction and what are reasonable cuts and reasonable revenue-raising measures.

What I would like to do now is set out my ideas on how the Ways and Means Committee can meet its goals under the budget resolution. As a member of the committee and a supporter of reconciliation, I feel obliged to do this.

The Budget Committee assumed that the bulk of the $4.2 billion increased revenue was to come from the enactment of withholding on a portion of interest and dividend income. However, based on the Ways and Means Committee's reaction to this proposal when it was presented by the administration earlier this year, I believe that it is unrealistic to believe that it will be given favorable committee attention. Therefore, other ways will have to be found. I propose that the committee give serious consideration to three measures which will increase revenues by $4.2 billion. The committee can, of course, consider other measures as well, some of which I am inclined to support. However, I believe that the measures which I will now discuss should be given primary attention.

First, I have introduced legislation which would tax the capital gains realized by nonresident aliens on the sale of real estate within the United States. Currently, these individuals are able to avoid the capital gains tax through a variety of techniques. I believe that equity demands that nonresident aliens pay the same tax which residents of the United States must pay. By itself this is not likely to lessen much foreign investment in farm and other real property in this country; other factors such as profitability are more important when it comes to investment decisions. It seems clear to me that if we are concerned with taxing a specific activity, then residence of the parties involved should be irrelevant. It is estimated that this tax could rise about $200 million in fiscal year 1981.

Second, I have introduced legislation which would seek to achieve greater compliance with the taxes already owed on interest and dividend income. However, I do not propose to do this through a withholding mechanism as the administration proposed. Rather, I would require that the IRS match tax returns against the 1099 forms which are sent to the IRS by financial institutions and corporations and which report an individual's interest and dividend income. I would then require that the IRS followup on the inconsistencies which appear and assess additional penalties if individuals persist in noncompliance. Secretary of the Treasury Miller testified that in fiscal year 1981 the 15 percent withholding could raise an additional $1 billion in revenues. In the same testimony, he suggested that if the IRS informed taxpayers of the inconsistencies and required the payment of taxes on the unreported interest and dividend income, then there would be a positive response in 50 percent of the cases, even if there were no withholding requirement. Since many of these taxpayers have a marginal rate of over 15 percent, the percent that would have been withheld, it is not unreasonable to believe that a 50-percent response rate will result in additional revenues of $500 million. Again, let me emphasize that this increase in revenue is not the result of new taxes, but rather the result of greater compliance with taxes already owed.

Third, it has been recommended to the Ways and Means Committee that over $3 billion of revenue can be raised by requiring a corporation to pay an estimated tax of 60 percent of its current year's tax liability if its taxable income in any of the 3 preceding taxable years exceeded $1 million. Currently, corporations can effectively avoid paying any estimated tax if they did not have any taxable income in the immediately preceding year even if they fully expect to have a taxable income in the current year. As an alternative, the committee may wish to look into raising the excise tax on cigarettes which has not been raised since 1951. In 1951 the tax represented 37 percent of the total cost of a pack of cigarettes. Over the past 29 years the cost of a pack has increased, but the tax has not. As a result, at the present time the tax makes up 14 percent of the cost of a pack. It is ironic that over the same period of time the evidence has become irrefutable that smoking is hazardous to an individual's health. It has been estimated that the effects of smoking add at least $5 billion to health cost which the Government meets. For these reasons, I propose considering increasing the tax on a pack of cigarettes by 10 cents. This would mean that the tax would comprise 27 percent of the cost per pack, still 10 percentage points less than it was in 1951. This tax increase would raise $3.5 billion in revenue.

A combination of these foregoing proposals would easily raise the $4.2 billion which is the reconciliation figure set out by the budget resolution.

The budget resolution also set goals for the Ways and Means Committee to reduce the spending programs under its jurisdiction. Budget authority is to be cut by $700 million and outlays by $2 billion. The committee is considering program changes which would cut spending by $2 billion in fiscal year 1981. One of the changes, dealing with social security disability insurance, has recently been signed into law, and another, dealing with adoption assistance and child welfare, is on its way to becoming law following House passage of the conference report on H.R. 3434. Several of the other proposals, affecting unemployment insurance and medicare, ought to be approved as improvements in the equity and administration of those programs. This is particularly the case in the requirement that physicians be reimbursed for services on the basis of the fee schedule in effect at the time that the service is rendered. The largest and most troublesome proposal involves postponing or rescinding the changes in the trade adjustment assistance program approved by the House last year. Apart from the question of whether the cost saving attributed to this proposal is in line with the assumptions in the budget resolution, I am uneasy with the timing of this change. At this time several industries, such as automobile, textile, television, and shoes, are being hurt by imports from overseas. The improvements in trade adjustment assistance would help the unemployed workers from those industries and allied fields and delay in the improvement would not be good news for them.

Although other reductions in Ways and Means spending programs could be put forward, I think that this list looks reasonable on the whole. Given the magnitude of spending under the committee's jurisdiction—well over $200 billion—it ought to be possible to make these $2 billion in cuts.●

THE 40TH ANNIVERSARY OF LITHUANIAN OCCUPATION: A TIMELY REMINDER

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ZABLOCKI. Mr. Speaker, at a time when the Western World is deeply concerned over events in Afghanistan and the disturbing indications of a more aggressive posture by the current Soviet leadership in other areas of the world, it is well to place such developments in an historical perspective. Yesterday, in fact, marked the 40th anniversary of the forcible incorporation of Lithuania into the Soviet Union, as well as the subsequent deportation of 300,000 independent-minded Lithuanians to Siberian labor camps.

Although this conquest was accomplished exactly four decades ago, I believe the Soviet leaders are well aware that neither the Lithuanians, nor their Latvian and Estonian neighbors, have ever accepted what was supposed to have been a fait accompli and the ultimate integration of the three Baltic Republics into the mainstream of Soviet society. This is, in fact, an opportunity to point out that after 40 years of domination and continuing attempts to eradicate Lithuanian nationalism, the Soviet effort has clearly failed to accomplish its avowed purpose. To those in the Kremlin who advocate an extension of the Soviet empire, I hope the Baltic experience may remind them of the price such actions inevitably entail.

Since the Lithuanian example is well known to Members of this body, I will not dwell on it further at this time. The most eloquent expression of Lithuanian sentiments in this regard is, I believe, contained in the following statement signed by Andrei Sakharov, Arina Ginzburg, and other courageous and distinguished colleagues, which I include in the Record below. To all Americans of Lithuanian descent, I extend on this important anniversary, both my sympathy and my deepest respect.

The statement follows:

> The Baltic Republics—Lithuania, Estonia, Latvia—have been included in the composition of the U.S.S.R. independent of the will of the peoples of these countries—in essence as a result of occupation by troops of the U.S.S.R.
>
> Dedicated to the principle of equality and self-determination of nations, respecting the right of every nation to manage its fate independently, we consider that in the given historical situation, the question of the self-determination of Lithuania, Latvia, and Estonia must be decided by means of a referendum, conducted in each one of these countries under conditions which provide for a free expression of the people.
>
> We support the appeal of the representatives of Lithuania, Estonia, and Latvia to examine the violation of the right of the peoples of these countries to self-determination and their rights to freely determine their own destiny.
>
> August 23, 1979.
>
> Malva Landa.
> Viktor Nekipelov.
> Tatiana Velikanova.
> Andrei Sakharov.
> Arina Ginzburg.●

CONGRESSWOMAN MARGARET M. HECKLER'S TRIBUTE TO CONGRESSMAN ROBERT F. DRINAN

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mrs. HECKLER. Mr. Speaker, under the special order too aptly authored by my friends and colleagues from Massachusetts, Mr. Boland and Mr. Conte, we, his peers in the House, are proud to honor, in words and with conviction, a man of conscience: Representative Robert Drinan.

The tributes are just beginning, Mr. Speaker. For history itself will score Bob Drinan high on many of the issues which came before the Congress and the country for decision during the last decade.

I came to know him as Dean Drinan—Dean of Boston College Law School—where I, as a student, marveled at the breadth of his scholarship and cherished the wit and insight he so generously shared. The affection I felt for him then has multiplied, manifold, in these years we have served together in the Congress.

Who but a law school dean would have the patience, the intellectual tenacity, the sheer intellectual endurance to listen to thousands of hours of testimony—to weigh with the accumulated legal wisdom of decades of study, the arguments—often technical and seemingly esoteric—which a major revision of our Federal Criminal Code entails. His mastery of the law will be reflected in the changes which the House and Senate will enact during this session and the next.

I have found him to be a resourceful, intrepid ally in causes we both have held dear and fought for side by side: for Soviet Jewry, for Israel.

Nowhere was and is his total commitment more effective, his contribution more enduring, than in his advocacy of the human and legal rights of Soviet Jewry. Ardent, eloquent, unrelenting in his exposure of the Soviet Union's cruelty and hypocrisy, Congressman Drinan spearheaded an international effort to free Anatoly Shcharansky.

And, on almost every other front of injustice to individual "refusniks," he has been in the front lines—pressing with the logic of the law and an informed passion for humanity—the Soviet Union to release each and every prisoner of conscience.

In battling, with skill and without stint, for a free Israel and a strong Israel, Bob Drinan has earned the everlasting gratitude of that gallant nation and its friends around the globe.

By honoring his sacred vows—through the example he has simply but dramatically set, his voice and the conscience it embodies will be heard and heeded in other even more important forums in the active, involved years which lie ahead for Father Drinan.

His advocacy of human rights around the globe, of compassion and concern for the underprivileged, of justice for all will transcend this hall, Mr. Speaker. And he will continue to move, stir, educate, enlighten, and reform. As Father Drinan with the expertise and experience of Congressman Drinan, he will be no less, in fact I believe he will be a greater force for good; in our country and the world.

As he leaves this House he takes with him my affectionate regards and my admiration for the eloquence and strength he has brought to the battles we have waged together.●

TAX TREATMENT OF WINE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. IRELAND. Mr. Speaker, I endorse section 6 of H.R. 7171 regarding the excise tax treatment for wine and flavorings used in distilled spirits products and I urge my colleagues to adopt it. This section would correct a provision contained in the Trade Agreements Act of 1979.

Before this act was adopted, the excise tax on wine, including wine used for distilled spirits products such as cordials and liqueurs, was taxed based on the amount of alcohol by volume when it was removed from a bonded cellar. The tax ranged from 17 percent per wine gallon to $10.50, which is also the tax for distilled spirits.

Under the Trade Agreements Act, wine used to produce distilled spirits products are taxed after combined with the distilled spirits and taxed at $10.50.

This substantial increase in the excise tax will have a tremendous effect on the distillers, particularly the smaller businesses. The Treasury Department supports the act since it adds uniformity and it will be easier than the old system to administer. I do not think these distillers, particularly the smaller businesses, should pay this substantial increase for the sake of uniformity or administrative headaches.

Therefore, I support section 6 which will provide a credit based on the difference between the distilled spirits tax—$10.50—and the wine tax based on the alcohol in the wine before combined with the distilled spirits.

I urge you to join me in support of this legislation.●

MORE SUPPORT FOR URBAN ENTERPRISE ZONES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. KEMP. Mr. Speaker, the Urban Jobs and Enterprise Zone Act, H.R. 7563, which Bob Garcia and I introduced last Thursday, continues to arouse considerable interest. Today I would like to call two new articles to your attention, an editorial in last Friday's New York Times by Dr. Stuart Butler, entitled "For Enterprise Zones," and an article by Douglas Lowenstein in the Atlanta Journal and Constitution.

The articles follow:

[From the New York Times, June 13, 1980]

For "Enterprise Zones"

(By Stuart M. Butler)

Washington.—In October 1977, President Carter stood amid South Bronx rubble and made a stirring commitment to use Federal agencies and money to revitalize this and similar areas of urban blight. Today, our inner cities are worse off. In the South Bronx, additional unprofitable buildings have been abandoned by landlords and more families have left. Despite millions of dollars in aid, the district is still declining. The South Bronx, where more than 20 percent of the population, mostly skilled middle-income residents, has moved out in the last 10 years, is a dramatic example of how orthodox urban policies have failed. Government action has actually aggravated the situation. Rent control has destroyed the private rental market, urban renewal has replaced old brick slums with new concrete slums, and costly Government programs aimed at attracting business have proved ineffective.

While most "experts" continue to believe that pouring tax money into cities is the way to stop decay, on both sides of the Atlantic some new ideas have been taking hold. In the 1960's, writers such as Jane Jacobs, author of "The Death and Life of Great American Cities," began to question conventional dogma. Urban-renewal planners, she argued, had failed to understand the crucial features of a successful city environment: the importance of old buildings, small businesses, mixed uses, individualism.

In Britain, a new idea is so-called enterprise zone. First put forward in June 1978 by Sir Geoffrey Howe, now Chancellor of the Exchequer, and Peter Hall, a socialist and professor of urban planning, the idea completely reverses the conventional approach. Instead of increasing Government support and intervention, enterprise zones eliminate controls, restrictions and taxes in order to provide an attractive climate for private money and business, and to induce people to stay and raise families and to move in. A zone of about a square mile is chosen in the most depressed part of a city, and in it restrictions and business taxes of almost every kind are removed. Zoning is simplified, property taxes cut dramatically, business taxes reduced significantly. Where practicable, the area is designated a free-trade zone. Within the zones, taxes and Government regulation and red tape are minimized, making it cheaper and simpler for entrepreneurs to turn ideas into jobs. A critical element of the approach is that it creates an attractive atmosphere for business in general rather than attempting to find and subsidize individual businesses. This is more economical and more likely to succeed.

In March, the British Government announced that it would create six enterprise zones this year. The idea has received wide and enthusiastic support in this country from businessmen, minorities, urban groups and legislators across the political spectrum. Jack Kemp, conservative Republican from Buffalo, N.Y., and Robert Garcia, liberal Democrat from the South Bronx, have introduced a House bill that would provide some of the legislation needed to set up zones in this country. Legislation dealing with the local aspects of zones—property taxes, zoning restrictions, etc.—seem likely to be enacted in several states in the next year and is being aggressively pushed by the American Legislative Exchange Council, an organization of state legislators.

Reducing property taxes and easing rent control would restore the rental market in inner cities; urban homesteading would bring back young and middle-income residents; suspending minimum-wage laws would make it economical to employ and train unskilled young blacks who, under present circumstances, have only life on welfare to look forward to.

The enterprise-zone idea offers real hope. It would not require tax money—indeed, it would take people off welfare rolls and turn them into taxpayers. Suspending property taxes on empty buildings would involve no loss to a city. Even the tax loss on occupied housing and commercial buildings would likely soon be recovered by increased revenue as new jobs and economic growth were created. In many ways, the most important element of all would be the psychological benefit: Enterprise zones would help to break the spiral of defeatism in inner cities—the feeling that the way ahead consists only of handouts and subsidies. Instead, they offer a future with real jobs that provide new skills and new opportunities.

[From the Atlanta Journal and Constitution, June 15, 1980]

Legislative Foes Join on Jobs Bill

(By Douglas Lowenstein)

Washington.—A liberal congressman from South Bronx has joined with an ultra-conservative one from suburban Buffalo, N.Y., to introduce a bill they say is a revolutionary approach to easing unemployment in the nation's inner cities.

Under the Urban Jobs and Free Enterprise Zone Act, businesses in the most depressed sections of a city would be eligible for a broad array of tax breaks, including sharp reductions in payroll taxes, property taxes and corporate income taxes.

"The purpose of the bill is to restore entrepreneurship in the cities, to get people to come back in the cities by establishing zones where there would be a dramatic reduction in tax rates on small businesses," explained Rep. Jack Kemp (R-N.Y.), a co-author of the bill.

The bill's supporters contend that existing federal jobs programs have failed to increase employment opportunities for the poor and minority residents that crowd America's cities. Their approach, they say, offers new hope.

"This bill can have tremendous implications for the future of American cities," said Rep. Robert Garcia (N.Y.), the other co-author.

Kemp is a strong supporter of Ronald Reagan and is regarded as one of the most conservative members of the House. Garcia, a Puerto Rican, is from the South Bronx, an area littered with classic urban problems that he says "looks like Berlin 1945."

Sens. Rudy Boschwitz (R-Minn.) and John Chafee (R-R.I.) have introduced the bill in the Senate.

The bill is targeted at small businesses. Boschwitz, citing a Massachusetts Institute of Technology study, said 66 percent of all new employment in the country in the last decade was created by firms with 20 or fewer employees. In the Northeast, he said, the study reported 100 percent of the new jobs have been created by companies with 500 or fewer workers. These are the companies that will provide the bootstraps to raise decaying American cities out of their economic depressions, he said.

Sponsors estimated that the bill would cause a $1 billion to $2 billion loss in federal tax revenue. But they quickly added that there will be considerable "revenue feedback" in the form of reduced unemployment compensation payments and increased personal income tax revenue.

"I don't believe there will be a revenue loss," Boschwitz said. "In fact, I think there will be a gain." The bill would authorize local governments to designate areas with 4,000 or more persons with extremely high unemployment rates or where half the families are classified as poor, as free-enterprise job zones.

The request commits the local govenment to cut property taxes in the zone by 20 percent over four years.

In turn, the federal government would reduce employer and employee social security payroll taxes by 50 to 90 percent, depending on the age of the worker. Kemp said studies show that the payroll tax is the single greatest deterrent to hiring by small businesses in cities.

Firms hiring more than half their workers from zone residents would receive a 15 percent reduction in federal corporate income taxes, as well as a major cut in capital gains tax rates. Residents of the zone who sell property in it would also enjoy a cut in capital gains taxes.

The lawmakers said there is no danger that businesses would flee non-zone areas to take advantage of the tax breaks. "Since 50 percent of the employees have to live in the zone, the likelihood of a large company undertaking the expense of moving and retraining workers is not realistic," argued Boschwitz.●

THE BRIDGE AT REMAGEN

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ASHLEY. Mr. Speaker, on Sunday, June 15, at 9 p.m., the NBC network televised that great motion picture entitled "The Bridge at Remagen."

This dramatic and action-packed movie carried special significance for me because a brave soldier from my congressional district, Alex Drabik, was the first man to cross the fabled Remagen Bridge on March 7, 1945, thereby helping the Allies capture the first crossing of the Rhine River in World War II. Also, this great victory is of interest to Members of Congress because the bestseller on which the movie is based was written by our former colleague, Ken Hechler, who served from 1959 to 1977 as the Representative from West Virginia's Fourth Congressional District. Hechler's book has gone through numerous editions, has sold over half a million copies, and has been translated into many different foreign languages. Ken Hechler also served as technical adviser for the motion picture that was televised this past weekend.

When Sergeant Drabik led his tiny group of armored infantrymen up to the brink of the Rhine River on that rainy afternoon of March 7, 1945, he expected the enemy would immediately blow up the old Ludendorff railroad bridge which spanned the river at Remagen. The Germans tried to do just that, but before the bridge could be blown Drabik and his intrepid squad dashed across the bridge to seize a precarious toehold east of the Rhine. When reinforcements arrived, it was possible to hold the bridgehead, expand it, and eventually press on to win the war within 2 months.

The bridge at Remagen was worth its weight in gold. Not only did it shorten the war in Europe, but it probably saved 10,000 American lives.

On March 7, 1980, the city of Remagen dedicated a museum to commemorate the 35th anniversary of this inspiring action. Sergeant Drabik and 12 others received Distinguished Service Crosses for their heroism under fire.

I thank our respected former colleague, Ken Hechler, for bringing the details of this historic event to print and to the screen for public consumption and I heartily recommend it to any of my colleagues who have not yet had the benefit of reading the book or seeing the movie. It is a great example of American courage and initiative—an inspiration during these troubled times in our history.●

LITHUANIAN GENOCIDE ANNIVERSARY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FLORIO. Mr. Speaker, this month marks the 40th anniversary of when the Soviet Union illegally occupied the independent nation of Lithuania. On June 15, 1941, over 34,000 Lithuanians were packed off in cattle cars to their certain death or brutalizing labor at undisclosed points in the Soviet Union. After World War II the mass deportations of Lithuanians resumed and continued until 1953.

Today the people of Lithuania remain under Soviet occupation. Each day they see their basic individual rights and national culture eroded by their Russian occupiers.

More than 4 years have passed since the Soviet Union signed the Helsinki accord. In that document the Soviet Union pledged respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief. Principle VIII of the Helsinki accord pledges participating nations to respect the equal rights of peoples and their right to self-determination, including the right, in full freedom, to determine, when and as they wish, their internal and external political status.

It is time that the Soviet Union was held accountable for the promises it made in the Helsinki accord. With my sponsorship the Congress has approved legislation which calls upon our Government to reaffirm the right of Lithuania and its Baltic neighbors to determine their own political destiny.

This November in Madrid, Spain, representatives of the nations which signed the Helsinki accord will meet again to review its implementation. It is essential that the American delegation to that meeting oppose in the strongest possible terms the Soviet Union's consistent record of noncompliance with the principles set forth in the Helsinki accord.

All evidence indicates that, after signing the Helsinki accord, the Soviet Union has in fact stepped up its suppression of internal dissent and, in flagrant contempt for Helsinki, focused its wrath on Helsinki monitors. The hypocrisy that governs Soviet justice continues to be meted out most severely to champions of human rights who preserve their national non-Russian heritage; Lithuanians, Estonians, Georgians, and others.

Mr. Speaker, I request my colleagues to denounce these Soviet policies and urge the American delegation to the Madrid meeting to use it to gain world attention to the struggle of the Lithuanian people for self-determination. Our Nation must remain committed to help the Lithuanian people in this struggle.●

CONGRESS MUST ACT TO SAVE THE POSTAL SERVICE AND TO KEEP ITS COMMITMENT TO RETIRED MILITARY AND FEDERAL PERSONNEL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. HARRIS. Mr. Speaker, the first concurrent budget resolution, which was narrowly passed by this House last Thursday, is not a balanced budget. It is not balanced in terms of dollars; it is not balanced in terms of priorities.

It requires a $500 million reduction in public service subsidies for the Postal Service, a savings which allegedly would be achieved through the elimination of Saturday mail service. In fact, the elimination of Saturday mail service would not result in $500 million in savings and would be a catastrophic and costly mistake. If this Congress were to approve a significant reduction in public service postal subsidies, it would force one or more of the following:

The elimination of Saturday mail delivery, elimination of many rural post offices, a huge increase in mailing costs for veterans and civic groups, educational and religious institutions and charities, or significant first-class rate increases.

The resolution also requires Congress to renege on its commitment to retired military and Federal employees by the elimination of one of the twice a year cost-of-living adjustments for retirement benefits. At the very time when we are concerned about attracting and retaining high quality military and Federal personnel such a reduction in benefits flies in the face of commonsense. Retired Americans do not cause inflation; they are its victims.

Because of the reconciliation language contained in the budget resolution there is only one way to preserve a nationwide effective Postal Service and to keep our commitment to our retired Federal and military personnel. We must vote against any reconciliation bill or resolution which contains either of these foolhardy proposals. I have introduced a resolution today which would express the sense of Congress on these matters. I urge my colleagues to support this resolution.●

TAX-EXEMPT STATUS OF PRIVATE SCHOOLS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. McDONALD. Mr. Speaker, we are again being faced with the problem Congress attempted to lay to rest last year, that being the issue of tax-exempt status of private schools. The following is an excellent summary of the matter by Robert E. Baldwin, executive director of Citizens for Educational Freedom. It shows clearly that this is not a matter of race at all, and that the tactics of the IRS have been far from honest or forthright. I commend it to the attention of my colleagues:

This Administration, through the Internal Revenue Service has continued its attack against nongovernment education. The issue at hand, of course is the IRS revenue procedures dealing with the tax exempt status of nongovernment schools and charitable deductions to same.

This Congress, last year, prohibited the IRS from implementing these two procedures through spending limitations. It appears, that due to the stalling tactics of the House Ways and Means Committee (in that they have not allowed any permanent legislation to see the light of day): Congress must once again shackle the IRS to protect the nongovernmental schools.

The real issue here, that of an attack on the very existence of nongovernment schools is hidden behind a smoke screen of charges of racial discrimination. Though the IRS and some others would like to portray all nongovernment schools as racists, the facts do not bare out these charges. Though there may be a few nongovernment schools that practice discrimination, these are a distinct minority and should be dealt with as such.

Recent articles in various publications have pointed out the misconception that private nongovernment schools are not the "white flight" schools some would like us to believe. In an article on the Op-Ed page of the Washington Star, Sunday, June 15, 1980, Denis Doyle from the National Institute of Education, says:

"Many observers argue that the recent growth of private school enrollment is a form of 'white flight,' a reaction to court ordered busing. The evidence does not support this however. Historically, middle-class blacks have been over represented in private schools. Most private schools in fact, have exemplary records in terms of racial integration. . . . If there is a common denominator to the move toward private education, it is a search for intellectual, physical and moral 'standards'."

In the magazine Monthly Detroit, in November 1979, author Nancy Kool says;

". . . race is rarely anything but a coincidental issue for many of those who are fleeing the public schools. Upwardly mobile middle-class blacks are often the first to shun the public schools, and most private class rooms in Detroit are epitomes of racial if not economic integration."

Articles in many other publications cite similar evidence, including articles in the Washington Post and Phi Delta Kappan, whose pages are not known for their defense of nongovernment education. Yet in spite of this the IRS continues.

The Service cites as its authority for this action the Green case (Green v. Connally 1971), which the service lost in a non-advisory role. Yet the Supreme Court has itself stated that the Green case does not have precedential weight. (Bob Jones University v. Simmons 1974). The recent reopening of the Green case in which the Judge ruled in favor of the Green plaintiffs is an interesting suit. The plaintiffs sued the IRS to implement new procedures to revoke the tax exempt status of private schools, and the IRS without even a judgment against it attempted to comply with the wishes of the plaintiffs. Nongovernment schools found themselves defended by the IRS which had already attempted to perpetuate the kind of regulation that the plaintiffs wanted. If the IRS lost, which not so coincidently it did, the court would order the IRS to implement the kind of regulations that it wanted to issue all along. Can that be a binding legal precedent?

The Green case is restricted to Mississippi, yet if allowed to the IRS is expected to carry out the court order across the Nation. After the Judge ruled in the Green case (which by the way the IRS is not going to appeal) IRS officials thought that two to six schools would be affected by the ruling in Mississippi. Two to six! Yet all non-government schools must meet the so-called "safe harbor" test.

The IRS has contended that they are only after those schools that discriminate. In Mississippi, that appears to be "two to six." Why then such broad regulations that will affect some 3,500 schools, or one sixth or the nongovernment schools in the Nation? (See Commissioner Kurtz' estimate of the schools involved on Page 252 of the Oversight Subcommittee Hearings.)

Does not the IRS already have the authority to deal with as the evidence shows, the very few cases of discrimination in nongovernment schools they desire? When asked that question by Senator Harry Byrd during hearings on the subject, Mr. Kurtz said "yes" (Hearings before the Taxation and Debt Management Subcommittee, April 27, 1979, Page 45). Yet throughout the hearings government witnesses bemoaned the "white flight", "segregation academies" and the threat they posed to racial harmony.

Throughout the hearings, however, no government witness could provide either the Taxation and Debt Management Subcommittee nor the Oversight Subcommittee with any evidence to indicate the extent of this so-called white flight. Here are some samples of testimony;

Arthur Fleming, Chairman of the U.S. Commission on Civil Rights was asked by Congressman Sam Gibbons ". . . does your agency have any statistics as to the number of schools that are involved in this matter throughout the United States?" Mr. Flemings answer ". . . we have found that the department does not have such statistics along that line. We have also discovered that the Internal Revenue Service does not have such statistics." (Oversight Subcommittee Hearings, Part 2, Pages 744–745).

Ms. Brown from the Office of Civil Rights of HEW was asked a similar question. Mr. Gibbons. "If you do not have precise figures, do you know anyone in the U.S. Government who does have precise figures on this matter?" Ms. Brown. "No sir, I do not." (Oversight Hearings, Part 2, Page 590).

On a slightly different vein, Mr. Kurtz was asked how many schools had been examined by the IRS in the last two years. He indicated that 530 schools had been examined and that one, repeat one was found to be discriminatory. (Oversight Hearings, Part 2, Page 865).

One would think that the IRS would perpetuate such all inclusive regulations only with hard evidence a large portion of nongovernment schools were indeed "white flight segregation academies."

Yet actual studies, as cited above, indicate that the vast majority of nongovernment schools are nondiscriminatory. If segregation academies truly exist in the numbers that the IRS would like us to believe they do, then surely the IRS would have received complaints of discrimination. In light of the IRS Revenue Procedure 75-50 which stated in Sec. 6 that the IRS was specifically interested in receiving "any" information regarding discriminatory practices of nongovernment schools, you would think this would be so. Yet according to a staff report of the Oversight Subcommittee "in fact, National Office Representatives do not believe the IRS has ever received a single complaint" (Staff Report on IRS's Proposed Revenue Procedure Regarding the Tax Exempt Status of Private Schools, August 31, 1979, Page 36, emphasis added).

In view of the facts that discrimination in nongovernment schools is greatly exaggerated and coupled with the action of the IRS refusing deductions for charitable contributions to nongovernment schools for general purposes unless they exceed the fair market value of the cost of education, one wonders if this is not merely an attempt to destroy or at least cripple a growing trend of parents choosing to educate their children outside of public schools. This thought as implausible as it may seem becomes a part of a frightening pattern when viewed with the cut off of CETA funds to nongovernment schools, action against nongovernment schools by National Labor Relations Board, and unemployment compensation suits, as well as so-called sex discrimination cases against religious schools and colleges.

The racial smoke screen in this issue does not truly stand up under the naked light of day. Had the IRS brought to court the evidence so far seen to prove segregation academies abound in the numbers the IRS would have us to believe, any Judge would have laughed them out of court.

Nongovernment schools are faced with meeting absurd racial quotas and loss of many charitable contributions on October 1, 1980, unless our elected officials act. I ask that Congress support the reinstatement of the Dornan and Ashbrook, Spending Limitation Amendments to the 1981 Treasury Appropriations Bill, and that pressure be applied to the Oversight Subcommittee to force the IRS to stop harassing nongovernment schools by recommending permanent legislation to put the IRS in it's rightful place.●

CONGRESSIONAL SALUTE TO REV. MSGR. EMIL R. SUCHON OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ROE. Mr. Speaker, I am pleased to submit this commendation and respectfully request my colleagues here in the Congress to join with me in tribute to Rev. Msgr. Emil R. Suchon, a most distinguished clergyman, esteemed pastor, outstanding community leader, and good friend whose standards of excellence throughout his lifetime have truly enriched our community, State, and Nation.

Mr. Speaker, with your permission I insert at this point in our historic journal of Congress a recent news article which most eloquently intertwines the monsignor's devoted service to God and country with the happiness and security he has provided our people in his steadfast quest for the religious, educational, recreational, and cultural enrichment of all of our citizens, young and adults alike. The news article, which appeared in the "Katolicky Sokol"—Catholic Falcon—official publication of the Slovak Catholic Sokol with national headquarters in Passaic, N.J., was authored by the editor and president of the Slovak Newspapermen's Association and president of the press and public relations section of the National Fraternal Congress of America, Mr. John C. Sciranka, and reads as follows:

MSGR. EMIL R. SUCHON, FORMER SUPREME CHAPLAIN OF S. C. SOKOL, WILL BE HONORED ON JUNE 22

On Sunday, June 22, 1980 Rev. Msgr. Emil R. Suchon, pastor of the Sacred Heart Roman Catholic Slovak Parish in Rockaway, N.J., will celebrate his 45th anniversary of priesthood and 35th anniversary as pastor of Rockaway, N.J., parish, where he erected a beautiful church, rectory and school.

The celebration will commence with solemn mass of thanksgiving at 2:30 P.M. The Most Rev. Frank J. Rodimer, bishop of Paterson diocese, a native of Rockaway, will preside.

A Testimonial Dinner will be held at 5:00 P.M. at the Neil's New Yorker, Denville, N.J., with music and dancing until 11:00 P.M.

Msgr. Suchon was born on November 24, 1909, within the shadows of the spires of the Slovak Church of the Assumption of the Blessed Virgin Mary (St. Mary's), Market and Monroe Streets, Passaic, N.J., the church in which he offered his first Mass. His parents, the late Mr. and Mrs. John S. Suchon, came to Passiac from Nitra County, Slovakia. The family later moved to Garfield and lived at 81 Orchard Street.

He graduated from St. Mary's Parochial School and Garfield High School. As a student he distinguished himself in academic, social and athletic activities. He became the first President of the Garfield High School Debating Society and held the position of editor of the school publication, the "Scroll". He won athletic prominence on the track team and in baseball. He was salutatorian of his class.

While attending High School, he served three years as organist of his church before entering Seton Hall College in 1927.

On completion of his sophomore year, Msgr. Suchon was accepted as a candidate for the priesthood at Immaculate Conception Seminary in Darlington, N.J., and in 1931 was awarded the degree of Bachelor of Arts. An accomplished musician, he held the position of choir master and organist at the seminary, and graduated with honors.

On June 15, 1935 he was ordained by Most Rev. Thomas J. Walsh, D.D., Bishop of Newark at St. Patrick's Cathedral, Newark, N.J. He celebrated his first Mass at St. Mary's, Passaic, the same church in which he received the sacrament of baptism, first holy Communion, Confirmation and where he served as an altar boy for many years, to the late Rt. Msgr. Emery A. Haitinger, one of the early pioneers and charter members, as well as the first director of the Slovak Catholic Federation of America and the 57th member of the Slovak Catholic Sokol.

His first assignment came after ordination when he was made curate at St. Mary's at which time the Rev. John D. Salamon was pastor. Msgr. Suchon remained in Passaic for ten years. Following the death of Father Salamon, he was made administrator of the Slovak parish. On December 1, 1945, he was appointed pastor of the Rockaway, N.J., parish of Sacred Heart and Rt. Rev. Msgr. Andrew J. Romanak, P.A., succeeded Father Salamon.

Bishop Thomas H. McLaughlin of Paterson paid tribute to Msgr. Suchon at his 10th anniversary banquet in Passaic attended by 750 persons. He celebrated his 25th anniversary at a banquet in his honor in June of 1960 at Rockaway where he has built a new church, rectory and school and has been responsible for many other improvements.

In December, 1942, he was appointed third director of Pope Pius XII High School, Passaic. He was appointed to the Local Assistance Board of Passaic during the term of the late Mayor Thomas J. Kennedy and was reappointed by former Mayor Nicholas Martini.

In 1938 Msgr. Suchon was appointed by Bishop McLaughlin as moderator of the Diocesan Commission for Sacred Music and Director of the Priests Choir. It was through the efforts of Father Suchon and his organist brother, the late Professor Anthony A. Suchon that the Slovak liturgical hymns were introduced to a well known Catholic composer, Professor Nicholas Montani, and incorporated by him into the St. Gregory Hymnal.

On August 28, 1958, Pope Pius XII elevated Father Suchon to the rank of domestic prelate with the title of Right Reverend Monsignor. In December, 1964, Msgr. Suchon was named to the board of consultors of the Paterson Diocese, the position he still holds as the Senior Consultor. He also has taught the Slovak language at Immaculate Conception Seminary.

A nephew, the late Rev. Thomas Suchon, ordained at the North American College, Rome in December, 1963, was appointed to be the first director of the newly established Diocesan High School then built in Clifton, and Bishop Lawrence B. Casey of Paterson has assigned him to Fordham University for further studies.

Msgr. Suchon served as Supreme Chaplain of the Slovak Catholic Sokol organization and a member of the Executive Committee. He preached during the pilgrimage in honor of SS. Cyril and Methodius, held by the Eastern Region of the Slovak Catholic Federation of America, in July 1961 in Passaic, N.J. His sermon was beamed to Slovakia and other countries by Radio Free Europe. He represented the late Most Rev. Bishop James J. Navagh a great friend of the Slovaks at Vatican Pavilion during the Slovak Catholic Federation Day at the World's Fair in New York City on May 14, 1965, where he rendered music for the participants of the Slovak program at the New Jersey Pavilion.

Msgr. Suchon is a cousin of Dr. Eugene Suchon, famous Slovak composer, whom he visited last year in Slovakia.

Msgr. Suchon is active in the Sister Miriam Teresa League of Prayer, which supports the cause of the beatification of Sister Miriam Teresa Demjanovich.

It was in his rectory in Rockaway, N.J. that the weeklong hearing was held by the Vice-Postulator of her cause, the Very Rev. Stephen W. Findlay, O.S.B., and other priests and witnesses, including her late brother, Msgr. Charles Demjanovich.

An extensive report of this hearing was sent to Vatican. Msgr. Suchon actively supports the cause of our future American saint, whose parents came from the historic city of Bardejov, Slovakia and settled in Bayonne, N.J., where she was born.

Msgr. Suchon is an active fraternalist and educator, and was awarded this year the St. Bishop John Nepomucene Neumann award.

We felicitate Msgr. Suchon and wish him good health for many years. Ad multos annos!

Mr. Speaker, Monsignor Suchon has truly earned the deep admiration and respect of all who have had the good fortune of knowing him. We are pleased to share the pride of his many, many friends and parishioners in his distinguished achievements so unselfishly dedicated to the betterment of mankind. We do indeed salute an exemplary community leader, revered pastor, outstanding educator and good friend, Rev. Msgr. Emil R. Suchon, upon the celebration of the 45th anniversary of his ordination to the priesthood and 35th anniversary as pastor of the Sacred Heart R. C. Slovak Church.●

THE BEST SECURITY POLICE SQUADRON IN MILITARY AIRLIFT COMMAND

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. LEWIS. Mr. Speaker, on June 28, 1979, I recognized an organization within my district on this floor. The 63d Security Police Squadron at Norton Air Force Base was saluted for their accomplishments in being selected the best security police squadron in the Military Airlift Command for 1978.

Mr. Speaker, it is again my pleasure to inform this delegation of their added accomplishments. In February of this year they were again selected the best security police squadron in their command for 1979. They were commended for their high degree of professionalism, superior method of accomplishing their mission, and their outstanding rapport with the military and civilian community. The unit then entered the competition at the Air Force level. Of the 14 major air commands competing, the Air Force Security Police Staff selected the 63d Security Police Squadron as 1 of the 2 finalists. A thorough onsite evaluation was conducted by a team of evaluators. The 63d Security Police Squadron subsequently achieved the ultimate in recognition for which I salute them today. We were just notified that they have been selected by the Air Force Chief of Staff as the best security police squadron in the U.S. Air Force.

Commendation again must be given to Lt. Col. Frederick E. Nowak, the commander of the 63d Security Police Squadron since May of 1976. His inspired leadership has formed a unit second to none. Compliments are also extended to Col. Duane H. Cassidy, commander of the 63d Military Airlift Wing and Col. Reginald W. Shaleski, the base commander of Norton Air Force Base. Colonel Nowak's two key enlisted staff, C.M. Sgt. Ed Johnson, the first sergeant and S.M. Sgt. Jesse Parramore, the operations superintendent, also deserve special commendation for their overall stewardship and management of people and police programs which helped to achieve this goal. Each of the 150 men, women, and civilian employees should be proud of their accomplishment since it is a reflection of unity, leadership, devotion to duty and country.

I am also, Mr. Speaker, proud to see the Department of Defense reward competence and accomplishments of its units since their role is vital in keeping this country free.

Again, it is my privilege to commend the 63d Security Police Squadron, Norton Air Force Base, Calif., for highly distinguished, dedicated service, and for being the very best in the U.S. Air Force.●

EXPORT TRADING COMPANIES: A JAPANESE TRIUMPH

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. LAFALCE. Mr. Speaker, although a close relationship has developed between the United States and Japan during the post-World War II era, most Americans still do not know much about the Japanese, their culture, or even their economy. However, more and more interest has been evinced in recent years about Japan's economy, because it has performed admirably in comparison to the U.S. economy. Despite an almost complete dearth of raw materials, the level of Japanese exports has continued to rise in a very healthy manner; and Japanese productivity is beginning to approach ours.

One of the key weapons in the Japanese export arsenal has been the widespread utilization of Japanese export trading companies. Greater understanding of that experience would be invaluable, because both Houses of Congress are presently involved in drafting bills to encourage and facilitate the establishment of U.S. export trading companies. Fortunately, an excellent article, entitled, "Export Trading Companies: The Japanese Experience," has appeared in Business America, which is a publication of the U.S. Department of Commerce. Mr. Jun Mori, who is a member of the President's Export Council, authored this June 16 article.

I hope that all of my colleagues will read this informative article, which explains why export trading companies lie at the very heart of a comprehensive and meaningful national export policy.

The article follows:

EXPORT TRADING COMPANIES: THE JAPANESE EXPERIENCE

At a time when the dollar and productivity are declining and inflation is running away, it goes without saying that a dramatic increase in export activities is imperative. Increasing exports means involving more manufacturers in exporting, but many manufacturers, especially the small and medium-sized, are unwilling to be burdened by the real or imagined difficulties, or risks involved in exporting. The trading company concept may be the answer.

Japanese trading companies originated in the 1870s when two centuries of isolationism finally came to a close. Major enterprises realized that gathering new technology, importing raw materials and seeking export opportunities were the keys to success in the worldwide industrial revolution. The result was the organization of specialized trading companies which developed the requisite trading expertise. It was largely due to these companies that Japan became a world export leader.

Today, these trading companies perform three primary functions. First, is specialization in providing a vast array of intermediary services. Typical of the services provided by trading companies are: expertise in the trade laws, languages, and customs of foreign countries; organizing distribution and sales networks through extensive trade contacts; and marketing anywhere from ten to twenty thousand different products, which enables the small and medium-sized producers to expand into lucrative foreign markets.

In addition to these intermediary services, the Japanese trading companies have functioned as risk absorbers. Trading companies are able to reduce risk because of the extensive information channels provided by their international contacts. For example, marketing opportunities which would otherwise be difficult or cost prohibitive for the individual manufacturer to locate, are not at all difficult for trading companies with extensive international marketing networks.

Finally, the trading companies today function in a significant financial capacity. It is not uncommon for trading companies to extend financial assistance to their affiliates in the form of trade credit, equity investments, direct loans, and guarantees for loans. These financial functions have become an indispensable tool in developing new trade markets.

The advantages and benefits generated by trading companies like those which flourish in Japan, Korea and Western Europe, can be a reality in the United States as well. However, some affirmative steps must be taken by both our business and government leaders.

First, we must recognize that the United States cannot continue to view itself as a "produce for itself, import for comfort" country. While it is important for the United States to be self-reliant, it is also critical that we increase our exports to offset expenditures made abroad for products or resources which must be imported.

Second, support for and adoption of new legislation is imperative. Two proposals, the Stevenson and Danforth Bills, are currently before Congress and both are a step in the right direction. The bills provide support for trading companies by removing barriers which have impeded their organization in the past. For example, the bills, if adopted, would lessen antitrust uncertainties, provide tax benefits, and encourage investment and lending to trading companies.

Third, a rich and plentiful source of world trade experience, expertise, and contacts should be tapped. Japanese trading companies primarily recruit the top college graduates, and an individual who ultimately becomes an executive in his department is necessarily one of the world's most knowledgeable people in that field, e.g., steel, textiles, etc. These executives generally retire at about age 55 and, according to a corporate officer of Mitsubishi (the largest trading company in the world), could easily be persuaded to join in the development of trading companies in the United States. The reason for this is because it would be termed an "honor" for the "retired" executive to bestow upon his life-long employer a link with a new venture which has unlimited potential for success.

These retired executives have between 30-35 years of experience and could be a great asset to a new trading company. If 100 such individuals were employed by trading companies here, they would provide, almost instantly, a total of over 3,000 years of experience, expertise and contacts!

The United States can reduce its trade deficit and inflation, and small and medium-sized manufacturers can enjoy the benefits of exporting, if the trading company concept is adopted and continued development of trading companies is encouraged.●

SONNY McDONOUGH

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DONNELLY. Mr. Speaker, today I wish to share a few words of tribute to mark the passing of a remarkable man, Patrick J. "Sonny" McDonough.

His name may be unfamiliar to some in this body, but in Massachusetts, and especially in Boston where we take politics very seriously, Sonny was, and will remain, an institution.

In a career spanning nearly 50 years, Sonny McDonough had the opportunity to do a lot of things for a lot of people, and he made the most of that opportunity. He left behind a long, long list of friends. I would not even attempt to guess the number of people who, like myself, somehow feel better off for having known him.

As a Democratic committeeman, a State legislator, and most notably as the acknowledged dean of the Massachusetts Executive Council, often referred to as the Governor's Council, on which he served for the past 33 years, Sonny McDonough became one of the most colorful and influential political figures the Commonwealth of Massachusetts has ever produced. He became a legend in his own time.

Sonny was a man who cared about people, Heaven knows there are few enough who do. The loss of such men is always tragic and they are sorely missed. I extend my sincere sympathy to the members of his family, who surely will miss him most.●

NEITHER SNOW, NOR RAIN, NOR HEAT STAYS THESE COURIERS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PETRI. Mr. Speaker, the business of the Government employee is service, the daily performance of essential services, and it is natural that citizens complain when that service is wanting. It is likewise natural to take good service for granted. Only rarely do Federal employees who perform ably get any notice or public attention.

In my district, there are at least two people who merit a word of praise for public service, above and beyond the call of duty, in the delivery of mail. One is a rural letter carrier, the other an officer at the U.S. Post Office in Waupun, Wis.

On Monday, March 10 of this year, the temperature in the Waupun area was just 8 degrees above zero. Newspapers of that day reported extremely strong Arctic winds. The rural letter carrier who attempted to deliver a letter to the postal box of Mr. Gordon Vande Kamp of Waupun got caught in a gust of wind, the letter was blown out of P.O. Box 95A and flew into Mr. Vande Kamp's open field.

The mail carrier left his vehicle and searched for the envelope on the snow-covered field. Though his search came to no avail, the carrier and his supervisor promptly wrote me of the failure of this effort to deliver the mail.

Mr. James D. Miller, the officer in charge, said that he and Mr. Richard Fanshaw, the carrier that day, were hoping I might have a copy of the letter to Mr. Vande Kamp, and, if so, would I give them another chance to complete this delivery.

Through the help of those conscientious postmen, I have been able to communicate with Mr. Vande Kamp, just as I have communicated with thousands of others in my Wisconsin district. Mr. Speaker, I simply want to salute Mr. Fanshaw and Mr. Miller. They are representative of the vast majority of postal people I encounter.

Day in and day out, these public servants live up to the high standard that says:

> Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds.●

THE STRANGE CASE OF THE GALVESTON DREDGING BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. McCLOSKEY. Mr. Speaker, I want to bring to the attention of the House the highly unusual procedure that was almost used yesterday to authorize a multimillion-dollar dredging project for Galveston, Tex., under suspension of the rules.

H.R. 6864, a bill reported from the Merchant Marine and Fisheries and Public Works Committees, is unnecessary since it authorizes funds for the Office of Deepwater Ports, an office already being funded through the operations budget of the Coast Guard.

But while the bill itself is unimportant, a rider attached by Chairman MURPHY—With the concurrence of the chairman and ranking minority member of the Public Works Committee—would have authorized a massive dredging project involving between $125 and $135 million in Federal funding. If signed into law, the rider would authorize the first major new water development project authorized by Congress in 4 years.

The method by which this came close to being attempted is a textbook example of how the standard legislative process can be manipulated and abused.

Since the suspension calendar procedure authorizes the suspension of all rules, the manager of the bill may unilaterally add amendments before it is considered by the House. The bill as so altered is not then subject to amendment during consideration by the House, but needs a two-thirds vote to pass.

The rider that was proposed to be added yesterday was not germane to the bill being considered, had not received a day of public hearing or discussion in either committee, is a major bill that should not be considered on the suspension calendar, and is not even under the jurisdiction of the Merchant Marine Committee, whose chairman was prepared to present the bill to the House.

It appears that there was a broad-based, but quiet attempt to slip this project through. The project, if it had been authorized, was scheduled to be done in the State of Texas. While President Carter has consistently fought water projects in the past, Texas is going to be a very important State in the upcoming elections and the suspicion arises that he would have been prepared to sign this bill despite his announced opposition to new water projects.

The Galveston project has obviously been controversial, even within the administration. No Federal agency has given it final approval. Its feasibility study is not scheduled to be completed by the Corps of Engineers for over 2 years. Standard corps policy is not to request project authorization until the feasibility study is complete.

Although the rider was proposed to be offered with the remark that the project has been found to be in the public interest pursuant to a study by the Department of Transportation under section 4(d) of the Deepwater Ports Act, the 4(d) study has nothing to do with Federal funding of this or any other dredging project. It is simply an analysis of whether such a deep draft port would be more desirable than an offshore port. In fact, the study actually found that the alternative site would better serve the national interest.

Another interesting fact suggesting administration complicity in yesterday's planned sleight of hand is that the Environmental Protection Agency recently rereviewed its analysis of the environmental impact statement for the Galveston project and found it acceptable, a sudden and complete reversal of its earlier position.

While the Department of Energy has expressed general interest and support for the Galveston project, that support had assumed total private funding for the project. The Department does not support any authorization of Federal funding until the Corps of Engineers studies are completed.

Mr. Speaker, I do not know whether this project should ultimately be approved or not. But to contemplate the procedure planned for the suspension calendar yesterday raises questions that go to the very heart of the integrity of our House procedures. Until regular committee hearings are held by the committee of jurisdiction, I think the Members should be guaranteed protection by your office against use of the suspension calendar in this manner.●

CONGRESSIONAL SALUTE TO THE REVEREND JOHN J. PODGORNY, ESTEEMED PASTOR, HOLY ROSARY ROMAN CATHOLIC CHURCH, PASSAIC, N.J., UPON THE 25TH JUBILEE ANNIVERSARY OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ROE. Mr. Speaker, on Sunday, June 22, the residents of the city of Passaic, my congressional district and State of New Jersey will assemble with the congregation of the Holy Rosary Roman Catholic Church to give testimony to an exemplary clergyman, esteemed pastor, outstanding community leader and good friend, the Reverend John J. Podgorny, as we celebrate the 25th anniversary of his consecration into the Sacrament of Holy Orders.

Mr. Speaker, Reverend Podgorny was born on June 1, 1932, in Slopnice, Poland. A devout Catholic, he was ordained by Bishop Antoni Pawlowski on June 26, 1955. His first ecclesiastical assignment after ordination commenced as a young curate in the Diocese of Woclawek, Poland, where he served for 10 years as a parish priest, high school instructor, and hospital chaplain.

In July of 1965 he volunteered his services to the people of Brazil and the following year accepted the invitation of his excellency, the late Most Reverend Lawrence B. Casey, bishop of the Diocese of Paterson in my congressional district to serve the Polish people of the Diocese of Paterson. He was assigned to St. Joseph's Roman Catholic Church, Passaic, on November 2, 1966.

Adopting the United States of America as his true home, he soon became an American citizen.

On June 1, 1978, he was called upon to serve in his current jurisdiction as the pastor of the Holy Rosary Roman Catholic Church where he has the distinction of being the fourth successor to a line of distinguished pastors: the late Reverend Canon Stanislaus J. Kruczek, the late Right Reverend Monsignor Francis P. Kowalczyk, P.A., and the Reverend Joseph Ducas, pastor emeritus.

Mr. Speaker, the quality of Pastor Podgorny's leadership, the richness of his wisdom, his dedication and devotion to God and to our people have been an inspiration to all of us. In his personal commitment to the Almighty and to our people he has nourished and nurtured the minds and hearts of our young people, developing strength of character and a reservoir of knowledge as an educator, and has made a significant contribution to the quality of the way of life of all of our people as a spiritual adviser and community leader.

He has become a leader of the Polish-American community in the cities of Passaic, Clifton, Garfield, Wallington, and surrounding areas of Passaic County and Bergen County. There is so much that can be said of the love, affection, and reverence with which Father Podgorny is held by all of us who have had the good fortune to know him. He has encouraged our people to take an active part in the political and civic processes of our country.

At Holy Rosary, he has undertaken an extensive building renovation program, instituted English classes for Polish-speaking adults, and retained many parish, ethnic, and cultural traditions. He has also remained active in the problems of immigrants who turn to him for guidance and comfort.

Looking forward to many more years of community involvement, Father John, as he is affectionately called, has been named by the Passaic Board of Education to serve on their Adult Education Advisory Council.

In commemorating his ordination by the Holy See, the gala program which is under the honorary chairmanship of Rev. Joseph Czerkies and Mrs. Casimir Pokaywka, general chairman, will commence with a mass of celebration at the Holy Rosary Church followed by a banquet in the parish auditorium in Passaic, N.J.

Mr. Speaker, we are pleased to share the pride of Father John's many, many friends and parishioners in his distinguished achievements, so unselfishly dedicated to the betterment of mankind. As he celebrates the 25th anniversary—a quarter of a century—of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all of our people. We do indeed salute the Reverend John J. Podgorny, esteemed pastor and outstanding educator whose good deeds have truly enriched our community, State, and Nation.●

MRS. FENWICK'S ADVICE TO SECRETARY MUSKIE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FINDLEY. Mr. Speaker, Foreign Policy magazine recently asked four experts on foreign affairs what advice they would most wish to convey to Edmund Muskie as he begins his tenure as Secretary of State. One of the four is Representative Millicent Fenwick of New Jersey whose thoughtful response provides an excellent guideline for the conduct of U.S. foreign policy to Mr. Muskie and to any other Secretary of State. The response appears in the summer 1980 issue of Foreign Policy.

Mrs. Fenwick correctly asserts that U.S. foreign policy, to be coherent and effective, must be:

First, articulated by a single, clear voice;

Second, based on a steady, known purpose;

Third, formulated after thorough consultation with our allies;

Fourth, involve honest dealings and truthfulness between the executive branch and Congress.

I recommend the gentlewoman's comments not only to the Secretary but to all those concerned with U.S. foreign policy and its conduct these past few years.

> #### Speak Frankly
>
> To have accepted appointment as secretary of state, given the condition of world affairs and in the wake of former Secretary of State Cyrus Vance's resignation, is the mark of a courageous man. There are, however, a few thoughts I would like to bring to your attention, as a member of the House Committee on Foreign Affairs.
>
> We very much need to hear our foreign policy explained and proclaimed by only one voice, other than that of the president himself. It is confusing for us here in Congress, for the country, and for foreign governments to have a variety of official foreign policy spokesmen. Compounding the confusion are the vacillations and sudden turns of our foreign policy course. There is no general sense that we have a steady goal in world affairs and a coherent, well-understood policy as to how that goal might be reached. We may well have to be flexible in handling special circumstances or crises as they arise, but underneath that flexibility we must have a steady, known purpose, fully discussed in private with our allies, well expressed publicly, by one clear voice, to the rest of the world.
>
> Concerning relations with our allies, we must be honest with them—explaining our view of world events and issues, being frank about what we intend to do and what we hope they might do. We cannot expect that sovereign nations will agree happily with sudden announcements from this side of the

ocean that involve and sometimes oppose their interests when they have not been consulted. It is true that often our allies seem to regard an international event, such as the invasion of Afghanistan, as primarily a U.S. rather than a European problem as well.

Recently, our consultations with our allies have been clumsy or nonexistent, encouraging this point of view. In this election year, we cannot afford to add to their uneasy suspicion that announcements or actions that may further trouble the fragile structure of world peace are based more on the exigencies of American politics than on a sound analysis of the international situation. In fact, our own country needs reassurance about this too. We have seen too many television interviews timed to primary elections; we have heard too many speeches—whether on foreign policy maneuvers or federal funding—apparently designed as a reaction to the polls or to some local politician's support for the administration. This sort of thing is damaging at home, but it is a disaster in foreign affairs.

It is probably unnecessary to stress to one who knows the Senate so well the importance of candor and straight dealing in relations with Congress. As members, we struggle with an almost endless variety of legislation. We draw it up carefully, but we often discover that the State Department has found a loophole and that our intent has thus been avoided.

This experience may teach us to write tighter laws, but there is no way for us to legislate what we most need—the truth. We must be able to count on representatives of the executive departments to tell us the truth as best they can discern it. Too often we are unhappily aware that executive representatives are telling us only what they have reason to believe we already know.

Selective analysis, however, is not confined to the information that State Department officials are willing to give Congress. Reports that do not accord with the position a particular embassy wishes to take are frequently censored before they are cabled to Washington. The effect of this is to make intelligent decisions both by the executive and Congress almost impossible.

For all these reasons, Mr. Secretary, there is a widespread hope that from that beautiful office of yours, you will speak firmly to the whole department, demanding that anyone who speaks for you speaks truthfully. If these are matters that for good reasons of discretion and diplomacy cannot be discussed in public, far better to ask for a closed-door hearing in Congress than to leave a false impression. Foreigners, too, understand discretion provided it does not turn out to have been deception.

The position of the United States is so central to world peace that there is an almost desperate need—here and abroad, in Congress and among all citizens—for a single consistent vision of what our foreign policy is. We cannot afford vacillation, double talk, and sudden surprises. The powers of our government are wisely divided, but there must be honest dealing between Congress and the executive. And in view of the chaos that has infected so many areas of the world, surely our allies too deserve a government that works with others in good faith and speaks with a single voice in defining a steady and consistent purpose. It is indeed a happy portent, Mr. Secretary, that your 22 years in public service have shown that none of this is foreign to you.●

CAMPAIGN REFORM

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PATTEN. Mr. Speaker, in light of the many hours of debate and dialog which this body has had since the passage of the Campaign Reform Act of 1974, I thought my colleagues would be interested in seeing an editorial which appeared in the New York Times on Sunday, June 15, 1980.

RETURN OF THE FAT CATS

The cork has been popped off the campaign bottle by some prominent Republicans who call themselves "Americans for Reagan." They're out to raise $30 million in so-called "independent" political contributions and they don't care if it shatters the law's restraints on private election money. The electorate can brace itself for the return of the big spenders whose money talks and whose gifts are not forgotten. We're in for a noisy campaign, just when it seemed that election reform laws might let us lower our voices.

To give these highly organized individualists their due, they are probably within their constitutional rights. Congress tried to limit this kind of funding to $1,000 per person as part of a comprehensive Campaign Reform Act in 1974. It appropriated public funds for campaigning by the major party candidates provided they forgo private fund-raising and limit their spending to the ceilings set by Congress. The intention was to enforce the limit by charging candidates for every penny spent by anyone to advance their cause, except for $1,000 that individual citizens might choose to invest in electioneering by their own lights.

The Supreme Court, however, said in 1976 that the $1,000 limit on people not involved in a candidate's campaign was a violation of their First Amendment rights of free speech. The justices brushed aside the warnings that large-scale "independent" giving could ruin the rest of the law and subvert the ban on huge private funds for Presidential campaigns. The Court held that "truly independent" expenditures, not coordinated with official campaign organizations, should not be forbidden without concrete evidence of abuse.

Will the 1976 conjecture of abuse become this year's reality? We fear so. These so-called independent givers want to price the 1980 Republican campaign at double the limits envisioned by Congress, more than matching the $29-million subsidy that their candidate will receive from public funds.

We worry about "Americans for Reagan" not from solicitude for President Carter. He enjoys an incumbency that is literally priceless, and displays no tenderness toward opponents. We worry for ourselves because of the deluge of television commercials that will leave the voter reeling but be effective enough to require a matching effort by other candidates. Thus will die the effort to spare our politics from the deals that are needed to raise such huge sums.

For the moment we are reduced to wondering how independent these independents really are—folks like Melvin Laird, Clare Booth Luce, Senator Harrison Schmidt of New Mexico, Senator Dave Durenberger of Minnesota, former Senator Carl Curtis of Nebraska, and John Harmer, Ronald Reagan's former lieutenant governor. They say they can prove to the Federal Election Commission, if necessary, that they have nothing to do with the formal Reagan campaign. If they can, they'll earn their constitutional protection but hardly the country's gratitude. Not every constitutional right is attractive or wise in its exercise.

The tension is basic to American society: a conflict between free political expression and equality of political opportunity. An imaginative reform law has tried to equalize the lung-power of the rich and not-so-rich by giving money to both sides in a Presidential race. Now one side wants to spend more, even at the risk of being labeled the party of the fat cats. Congress and the courts should monitor this sorry development. They will surely have to deal with the problem anew.●

BANK MARKETING—1980 AND BEYOND

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. WATKINS. Mr. Speaker, a few weeks ago a fellow Oklahoman, Robert L. McCormick, a future president of the Independent Bankers Association of America, presented the following remarks at a meeting of the Bank Marketing Association. These remarks, coauthored by B. Curtis Hamm, Ph. D., Oklahoma State University, give a rather graphic view of one individual's view of the recently passed deregulation bill, Public Law 96-221. I urge my fellow Members to review this, as it serves as a useful discussion of banking in the 1980's.

The article follows:

BANK MARKETING—1980 AND BEYOND

Fifty years ago the nation was shocked by depression, high unemployment and loss of confidence in our banking system. New banking laws resulted which re-established the confidence in banking and the good image of banking. Now for the first time since the 30's new legislation will have as great an impact on our industry as legislation did then. The recent Bank Deregulation Law (or the Monster Bank Bill) (M) requires us to orient our thinking to the financial industry and not just banking. We have tended to be myopic because we had protections under the law in regard to branching and the type of services offered. Now the banking industry has become the financial industry whereby an assortment of financial institutions can offer services previously reserved for banks alone. Now, the monster has changed the rule book for serving the financial needs of consumers and commercial customers. Those changes have caused great fear in our industry or should have. For credit intermediaries that were in the past specialized financial institutions providing limited services now have the opportunity to provide a broad-range of services. Some institutions will try to provide all services previously offered by the thrift institutions and by banks while others will try to continue to be like traditional banks or thrift institutions. One of the major marketing decisions facing small banks is whether to be all things to all people or to specialize in certain products and services and whether to serve the whole market or only selected market targets. The very survival of these institutions may be based on these decisions.

The monster clamors for changes in marketing of existing services, pricing of these services, packaging or unbundling of products, performing marketing research, placement of extended facilities, and promotion of these services and in the development of a long-range marketing plan. This plan must answer some key executive questions. Are we to function as a "savings thrift," a commercial, agricultural, or consumer bank, and to what extent? Where are we going to get funds, at what price, and on what terms? How will the funds be invested, to whom, and on what terms? Off-balance sheet services will be more important. Non-fund using services or services that use funds for a short period of time and then pass the credit on to others will be more important. That is, should we aggressively arrange financing and then sell the loans to others and only handle the administration of the account? To what extent should we participate in government guaranteed programs and generally in the brokerage of business? There are many questions to be answered in order to find the individual banks marketing position. If we are flexible enough to make the appropriate changes, then I believe we will not only survive as small banks but prosper as well.

Today, I would like to outline some of the major impacts and opportunities resultant from the "monster" and some thoughts on seizing these opportunities.

What will be the overall impact of the monster on small banks? Today there are 14,000 banks in the United States. The monster effectively gives thrifts and other financial institutions powers formerly reserved for banks. Our competition during the 80's will become legend (over 40,000). As the financial industry begins to offer checking, consumer loans as well as savings, the need for evaluation of the "small" banks marketing strategy becomes even greater. The consumer will increasingly find it difficult to discriminate among financial institutions and why should they if it is possible to get the same services at a cost they are willing to accept everywhere. As consumers strive to meet their own financial needs, their expectations for "full-service" from a variety of institutions will be satisfied. The institution that serves best and is perceived as serving best will increase market share at the expense of others.

Once the marketing decisions is made regarding which markets and products/services a small bank decides to capture in their market area, the image of the bank must be positioned accordingly. The public can then decide if that particular marketing strategy matches their needs. Certainly in some markets, the small bank will need to offer as many services as possible to manage profitably. Farmers and small businesses will now be able to obtain full financial services from the banks or thrift institutions of their choice.

By historical accident or by regulations institutions have served either a segment of the population or only offer limited products. Now we have the opportunity to decide if we will serve selected segments as in the past or to expand the range of services and customers to meet the new range of opportunities. Now is the time to re-evaluate services and market targets. Now is the time to be positioning your small bank by offering competitive services and to determine how you will meet the coming competition from thrifts who want to take your market share. However, there may be as much danger in broadening services and maintaining or expanding to new market targets as there is not doing enough.

One important aspect of this transition period is the recognition that bankers have long had the only product in town and have developed skills in marketing that product to their market. This is a major advantage. Thrifts must enter the transaction account (checking account) market as a new competitor. Consequently we can expect a high level of research, product innovation, and experimentation to develop an appropriate strategy. It is reasonable to expect massive promotional efforts and lower prices to seek consumer acceptance. The advent of locational convenience may be on their side but image and current bank loyalty is a major plus for banks. The key is to maintain that loyalty under competitive attacks.

So the overall impact of the monster bill will require banks to closely examine our traditional way of doing business. Our institutions in the future may be dramatically different than they are now.

The specific areas which now must be addressed are those which impact special marketing efforts. The ability of the thrift industry to offer transaction accounts along with NOW accounts, pre-authorized drafts, electronic transfers and other forms of payment, will give the marketing manager sufficient cause to re-examine their pricing strategies.

We can look for the pricing of products to be impacted by the volatility in the cost of funds, the unbundling of Federal Reserve Services and attempts by new competitors to use pricing as a key marketing variable. Emphasis by the small banker should be on the retention of profitable customers and a keen eye on the future young professional who will not only be a good customer but a sphere of influence.

Services will thus be bundled and priced relative to their profitability and their ability to attract specific target markets (i.e. young professionals). Analysis of existing services, types of checking accounts, loans, and the myriad of past marketing programs and products is necessary. Thorough cost-benefit analysis should result in careful pricing of future services. Many customers may be asked to pay for services previously offered at no cost. Careful attention must be paid to service orientation in order not to drive customers away during this key period.

Customers may come to expect one charge at the end of the month for the services rendered during the month with the charge reflecting the actual services rendered.

The immediate need now is for cost analysis of present and anticipated services of the bank and development of a pricing strategy to compete. This will be especially true in the area of transaction accounts where it is fully expected that competition will lower price in order to penetrate traditional bank markets.

A second area of concern is the danger that we will make our decisions solely on cost and projected profits. We cannot ignore the sales opportunities lost in the present and future by failure to serve our segment of the market with all traditional services.

A third area of consideration is the impact of the increase of Federal Deposit Insurance increase to $100,000 from $40,000. It is fully realistic to believe that consumers will seek to consolidate their funds into larger denominations. They have become accustomed to having insured accounts and which insurer is quite unimportant to them. Therefore, we can look for funds to go elsewhere if we do not aggressively pursue them. And we need to examine how this will affect each small bank in their own market place. This should encourage smaller banks to seek better communications with their customers to ensure funds move toward their institutions rather than away.

If other institutions price consumer services lower than that of banks, provide similar services, have similar deposit insurance and aggressively pursue consumer accounts through marketing technology, then it is highly probable that banks will be what their names have often implied—commercial banks.

This phenomenon could come about for several reasons. First, thrifts may have branching powers and locational convenience not available to all banks. Second, need for market share by thrifts will affect their marketing strategy which many bankers may not meet. That is, some thrifts will attempt to penetrate the market by an aggressive pricing strategy. Thirdly, capital ratios for small banks require them to earn higher profits than the thrifts and large banks must earn in order to receive like return on investment. Finally, the potential exodus of the consumer to the thrift industry in the future may give them additional political clout to obtain favorable support. For these reasons and others, if we don't do the job, it is highly possible that the impact of the monster in the long run will force commercial banks to abdicate their consumer business and become solely commercial banks.

One opportunity for small banks is to seek investment in a banker's bank. This bank would be organized by them to obtain services normally provided by their correspondent. A banker's bank will not compete in a small bank's market for its business and might even be able to provide additional services not traditionally provided by a correspondent.

This means that small banks could get help in developing expertise in mortgage banking, government programs (such as Small Business loans, Federal Farm Administration, and others), and imaginative data processing packages.

Finally, the provision to give S & L's trust powers, consumer loan powers, and credit card authorization is of significant importance. These powers will enhance the ability of S & L's to penetrate new markets traditionally reserved for banks. Trust services have been difficult for small banks to provide in the past. But those services have tended to tie substantial depositors to the bank. Large statewide S & L's may now be able to pull those customers away from small banks unless the banks find a way to provide those services and tie the customers to the bank through superior marketing efforts. A banker's bank may also help provide that service.

New consumer loan powers will further encourage S & L's to seek savings and to increase their savings market share. Small banks must do a better job of consumer lending including the providing of financial counseling and cross-selling.

One can fully expect the offering of credit card services to be aggressively pursued by thrifts. Credit cards as well as debit cards are potential substitutes for demand deposit accounts in the future. This will further attack the market share of transaction accounts of small banks. As thrifts are the new competitor in the market, we can fully expect them to innovate with the latest in technology and advanced systems such as: Pay-by-Phone, home terminal financial data centers, ATM's and debit cards which will be broadly accepted by the younger markets.

The thrift industry will push for additional powers and seek ways of attracting our commercial accounts. Based on their political success in the past, it is fully expected that they will receive the legal powers they seek. Unless small banks perform the challenging marketing planning involved to compete effectively in the new environment created by the monster, there will most certainly be a significant decline in the number of small banks in the U.S.

Summary: The Monster Bank Bill will change the marketing environment for small bankers. We can fully expect the new competitors to innovate and price to achieve market share. Small bankers must examine their current strategies in view of the Monster Bank Bill and become more effective marketing managers. The involvement of the bank manager as marketing manager in the overall strategy of the bank must be greater during the 80's. More concerted efforts should be made to select targets and services appropriate to given market areas.

Questions regarding marketing will become more evident at Board and planning meetings. Cost analysis will be given more importance. Providing customer services and identification of potential highly profitable customers will be higher on priority list. An attempt to retain existing customers by unbundling services in an effort to lower costs will be frequent.

Innovation in the delivery of services and in products will be rampant. A closer look will be made of existing services, and the product range will be narrowed in some cases. The consumer will have more financial institutions from which to choose similar services. Market share will become of greater importance as the fight to maintain market share grows more difficult. So the final impact will be that bank managers will of necessity learn more about marketing in order to be successful under this legislation.

During the days ahead it might be wise to remember the story of the Lion and the Rabbit.

A lion once met a tiger
  As he drew beside the pool.
Tell me said the tiger why
  You're roaring like a fool.
That's not foolish said the lion
  With a twinkle in his eye.
They call me King of Beasts
  Because I advertise.

A rabbit heard them talking,
  And ran home like a streak;
Thought he would try the Lion's own plan
  Though his roar was just a squeak.
A fox came to investigate;
  Had dinner in the woods.
So when you advertise my friends,
  Be sure you've got the goods.●

NO MILITARY AID FOR IRAQ

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ROSENTHAL. Mr. Speaker, I have been troubled since early winter about the decision of the Department of Commerce to issue a license for the export and sale of eight General Electric gas turbine engines to Italy for use in missile-carrying frigates being built and sold by Italy to the Government of Iraq.

On May 14, 1980, the Subcommittee on Europe and the Middle East, jointly with the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs, held a hearing on the matter.

My colleagues and I left that hearing with many questions unanswered. There was apparently inadequate consultation between the Department of Commerce and the Department of State. The effect of this sale on the military balance of power in the Persian Gulf was not examined; neither was the horrible human rights record of the Iraqi Government. And most surprising in the winter of 1980, the fact that Iraq was listed by the Department of State as a country which aids international terrorism did not of itself block the issuance of the export license.

I have written to Secretary of State Muskie urging him to review the proposed sale, and to block it permanently. I would like to share this letter with my colleagues:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 13, 1980.

Hon. EDMUND S. MUSKIE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In a recent letter to the President, I and seventy-two of my colleagues in the House challenged the wisdom of the United States permitting the sale of eight American gas turbine engines to power four modern missile-carrying frigates being built in Italy for the government of Iraq. We asked the President to permanently block this sale, and I am writing to you today to amplify my reasons for urging this course of action.

There are three basic grounds for voiding the sale of engine cores to Italy for use in Iraqi naval frigates. First, the Administration's decision to complete the sale is a clear violation of section 6(i), the Fenwick Amendment, of the Export Administration Act (P.L. 96-72) of 1979. This law prohibits approval of an export license without prior notification of Congress in cases where the goods or technology in question are valued at more than $7 million and where the Secretary of State has identified the recipient as a supporter of international terrorism and has determined that such an export will contribute to the military capability of Iraq.

The amendment explicitly concerns all export licenses valued at over $7 million, which meet the aforementioned two conditions. The statute allows for no exceptions. Thus the Secretary of State, must, in effect officially determine if such exports contribute to the military potential of Iraq, regardless of any prior determinations which might have been made for goods below the $7 million limit. For example, the Commodity Control List (CCL) does not apply here, but goods which meet the above determinations must be added to a special part of the CCL under Section 6(k) of the Act. If the Secretary makes such a determination, and I believe you will, the sale is then illegal under the law.

Second, the sale undermines any strategic logic in a comprehensive and unified foreign policy. The sale is counterproductive to U.S. aims in the Persian Gulf. It subverts the Camp David Accords, provides support for a dictatorial regime, disregards human rights considerations, is superfluous to relations with our Italian ally, and secures no foreign policy advantages for the United States. In sum, we gain nothing in exchange for the projected benefit to Iraq.

Military assistance for the Iraqi regime augments and aids that government's expansionist tendencies, its potentially destabilizing impact in the Middle East, and its repressive internal policies. The worthy goal of leading Iraq into a more favorable stance towards the United States could be accomplished using means which do not contribute to Iraq's ability to support international terrorism and to repress domestic opposition. In particular, economic aid would accomplish the proposed benefits to U.S. policy; while promoting the added goal of Iraqi domestic development and avoiding all of the dangerous strategic side effects.

Finally, the morality of the sale must be brought into question. The Fenwick Amendment was designed specifically to discourage military aid to countries which support international terrorism. In approving this sale the Administration has violated the spirit as well as the letter of the law.

The Administration's legal defense claims that the engine cores were not placed on the Commodity Control List (CCL) specified in section 6(i) of the Act. The Secretary of Commerce maintains the list, but it consists of items specified by the Secretary of State as having military value. However, the mere existence of the CCL cannot be construed by the Administration as a determination of the military status of the engine cores. Rather, if the goods meet the three conditions of the Fenwick Amendment—namely, value over $7 million, destination to Iraq, and military value to Iraq—then they should be placed on a special part of the CCL under section 6(k) of the act.

Moreover, in deciding whether or not to place these goods on a special part of the CCL, section 6 (k) requires communication between the two Secretaries. Deane R. Hinton, Assistant Secretary of State for Economic and Business Affairs, in his testimony at the joint hearing of the Subcommittees on Europe and the Middle East and International Economic Policy and Trade of the House Foreign Affairs Committee, admitted that no such communication took place. Hence, we see another failure to comply with the act.

A second Administration defense of the sale is the undeniably true contention that comparable equipment is available elsewhere. Mr. Hinton stated that "A key question is the effectiveness of denial." By neglecting to send proper notification, the Administration has deprived Congress of its legal right to investigate the "effectiveness of denial."

Though Iraq could ultimately obtain the engine cores elsewhere if necessary, even from the Soviet Union, why should the United States be saddled with the moral responsibility of supporting a prime haven and sponsor of international terrorism? It is evident from all available sources that support for international terrorism is an integral part of Iraqi foreign policy. Why should this responsibility not rest with the Soviet Union, if we have any confidence in the justice of our position? Let the Soviets shoulder the burden of supporting the Iraqi dictatorship.

Most importantly, the U.S. gains nothing from the sale. While denial of the license may not of itself help in combatting international terrorism, it is by no means clear that approval will result in more benefits to U.S. foreign policy than the costs which the sale will impose. Those who support the sale contend that it would assist our efforts to draw the Iraqis away from the Soviet Union. However, only in a Cold War foreign policy could independence of the USSR be viewed automatically and a priori as a gain for the United States.

Even though Commerce's failure to contact State assured that our government would be denied the chance to assess the military/strategic implications of the sale, the Commerce Department has excused itself on the grounds that the engine cores have a "dual role", that is they are used for both civilian and military purposes. It is incomprehensible that Commerce, if it had followed the procedure required by law, could have overlooked the explicit military use of marine engines ordered for naval frigates. Moreover, our navy uses these same General Electric engines in some of its own vessels and airplanes. The military purposes of the engines should be obvious even to a bureaucrat.

The Administration claims that any oversights, which resulted in the decision to go through with the sale, will be remedied by new procedures. Such ex post facto changes do not constitute compliance with the Export Administration Act of 1979, and avoid our request to block this sale.

The Administration must be held accountable for the issuance of this export license. It cannot use a bureaucratic shuffle to evade the law. The Commerce Department cannot hide behind the Commodity Control List to obscure the glaring lack of communication at the cabinet level. As Mr. Hinton himself indicated, the CCL is maintained by the Secretary of Commerce under section 6 (k) of the Act for the sole purpose of informing U.S. businessmen engaged in export activity of the requirements of their government's foreign policy. That engine cores were not on the list does not exempt the executive branch from fulfilling its obligations under section 6(i). Section 6(k) has nothing to do with 6(i). The dual role of the engines does not negate the clear intent of the Fenwick Amendment.

The justification of this sale on the grounds that it is useful to our relations with Italy is embarrassing. It is degrading to Italy to suggest that our ally needs a weapons deal with Iraq to bolster its economy. Moreover, we cannot blindly support our allies, just as they should not blindly support us. If Italy desires our cooperation, it should cease selling fissionable material to Iraq. It is well known that Iraq has not signed the Nuclear Non-Proliferation Treaty. By approving this sale, the executive branch would, in effect, grant implicit approval to nuclear proliferation in the Middle East. In any case, the position of Italy is irrelevant to the formulation of U.S. policy, since the sale was approved before Prime Minister Cossiga made his request to Secretary of State Vance.

Iraqi foreign policy in the Middle East is bold and menacing. Iraq desires to become the leading Arab nation and has worked energetically to undermine the position of both Saudi Arabia and Egypt. It seeks the destruction of Israel and urges the use of the oil weapon to force third parties into anti-Israeli positions. It consciously builds its armed forces with an eye to becoming a combatant against Israel on the Golan front. The atrocious attack of Iraqi based terrorists on the nursery at the Kibbutz Misgav 'Am where several people were killed is the most recent example of Iraq's perverse role in international affairs.

The Iraqi navy is growing because of their strong desire to replace Iran as the most powerful naval force in the Persian Gulf. We are quick to criticize an earlier generation for the short-sightedness of selling scrap iron to the Japanese before World War II. I would hate to see this administration similarly judged for the sale of engines to Iraq.

I trust that your careful review of this proposed sale will carry you to the conclusions I have reached. This is a sale that should not happen, and need not happen. There is still time for review. I will be glad to speak with you about this matter, and to share the information which I have gathered.

With best wishes.

Sincerely,

Benjamin S. Rosenthal,
Member of Congress.●

PAUL GARBER; 60 YEARS WITH THE SMITHSONIAN

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BOB WILSON. Mr. Speaker, I have known Paul Garber, historian emeritus of the Smithsonian's National Air and Space Museum, for years, and I can tell you he is a phenomenal man. A tenure of 60 years as the Smithsonian's expert-in-residence on the history of flight is remarkable, and even at age 80, he is still going strong.

Mr. Garber literally grew up with aviation, building and flying gliders and model airplanes in the early 1900's, and has been closely associated with manned, powered air travel ever since.

The June 1980 issue of Air Force magazine details Mr. Garber's career and I commend it to my colleagues as a fascinating account of a fascinating man.

Aviation Historian, Paul Garber: Sixty Years With the Smithsonian

(By William P. Schlitz)

It's a brisk, crisp March Sunday in the nation's capital. On the Mall by the Washington Monument the fourteenth annual Kite Festival, sponsored by the Smithsonian Institution, is in progress.

Kites of all shapes, sizes, and colors dot the pale, spring-chilled sky, their handlers tending lines earnestly in the ten-knot breeze. In the competition area, a queue of people, clutching homemade entries, snakes past the judges' tables. There, the kites are scrutinized for design, craftsmanship, beauty, and ingenuity before being put to a flight test. Contestants are vying for a score of trophies at stake.

Bundled up against the cold and directing proceedings from a nearby podium is the festival's master of ceremonies, Dr. Paul Garber, Historian Emeritus of the Smithsonian's National Air and Space Museum. His cheerful commentary and suggestions to those struggling to get kites airborne indicate that the eighty-year-old Dr. Garber is enjoying his day's events as much as anyone at the popular festival.

In the mid-1960s, when Smithsonian Secretary S. Dillon Ripley was searching for outdoors activities on the Mall in which people could participate, Dr. Garber suggested an annual kite festival. It was a natural for him, being one of the nation's foremost kite enthusiasts. "Good idea, Garber," he was told. "You run it!" And Dr. Garber, with considerable volunteer help, has done so every year since.

As with most programs at the Smithsonian, the Kite Festival has its instructive, as well as its entertainment, side. In conjunction with it is Dr. Garber's workshop on how to build kites, and his annual lecture and display, sponsored by the Smithsonian Associates program, on the history and uses of kites around the world. After all, kites have their serious side. They date back more than 2,000 years and are mankind's first aircraft. Benjamin Franklin flew a kite in his famous experiments with electricity; the Wright brothers studied the aerodynamic properties of kites before moving on to more advanced notions.

But Dr. Garber's interest in aviation matters through the years has extended far beyond kites. As Historian Emeritus of the Air and Space Museum, Dr. Garber in June of this year celebrates his sixtieth year of association with the Smithsonian Institution. His life and career with the Institution have run parallel to the development of aviation in the United States.

AVIATION—THE NEW SCIENCE

Dr. Garber's interest in the new science of aviation was kindled early in the 1900s, when as a boy he built and flew model airplanes based on designs of such pioneers as the Wrights.

During a visit to Washington in 1909, young Garber boarded a streetcar for a trip to nearby Fort Myer, lured by the knowledge that Orville Wright was flight-demonstrating the Military Flyer there. Later, when his family had relocated to the District of Columbia from Philadelphia, Garber would ride his bicycle out to the Army's flying field at nearby College Park in Maryland to watch H. H. "Hap" Arnold and other aviators put the Army's wire, wood, and fabric crates through their aerial paces. By then, Arnold and the others, perched in seats on the lower wing of their aircraft, had begun to wear protective goggles and padded helmets, initial gestures toward what was to become a growing effort—flying safety.

In 1915, Dr. Garber built and piloted a hang glider based on a scale model of an early Chanute glider he had seen on exhibition at the Smithsonian. This made him eligible for membership in an exclusive club, the Early Birds of Aviation, an organization of pilots who soloed prior to December 17, 1916. the Early Birds still have on their roll fifty-eight members, and Dr. Garber is a past president.

In 1918, young Paul signed on as a jack-of-all-trades with the newly organized Postal Air Mail Service, following a stint of pilot training in the Army that was brought to a halt by the Armistice. The pilots of the Air Mail Service flew under hazardous conditions imposed by the primitive state of aviation technology and with the barest essentials in navigation aids and instrumentation. Their courage and determination made a lasting impression on the young man.

The World War had greatly accelerated advances in aviation. (The U.S.'s singular technical contribution to the aerial fighting was the Liberty engine, which was in use for years thereafter in military aircraft because of tight defense budgets. But inevitably the military, too, would get the more advanced engines being developed to power the metal-skinned monoplanes coming into being.)

START OF A CAREER

Dr. Garber began his career with the Smithsonian in 1920. Initially, he was set to work refurbishing and repairing exhibits, but his attention was never far from aviation, and he followed progress in flying activities with keen interest.

During the decade of the 1920s, aviation in the US really began to flower. In the spring of 1927, the press carried details of preparations by a young man named Lindbergh to solo the Atlantic in a single-engine plane from Long Island to Paris, a plan many believed to be foolhardy at best.

Not Garber. When word came that Lindbergh was airborne, Garber was so convinced that the pilot would make it that he urged his superiors at the Smithsonian to send a congratulatory cablegram that would also request the donation of the plane—the Spirit of St. Louis—to the Institution as an aviation exhibit. This while Lindbergh was still somewhere over the Atlantic.

"He hasn't got there yet," Garber was told. His answer: "He will. He's got a good airplane and good instruments. . . ." What's more, he had trained as an airmail pilot!

The cablegram, relayed through the American ambassador to France, was one of the first read by Charles A. Lindbergh following the historic thirty-three-hour flight.

In 1928, following his triumphant aerial tour of cities in the US and Latin America, Lindbergh flew the Spirit to Washington, where Dr. Garber awaited him. Climbing out, the pilot said simply of the most famous airplane in the world at the time: "Well, Paul, here it is." The plane was put on display in the Smithsonian's Arts and Industries Building, where it immediately drew unprecedented crowds. Today, it is one of the prominent exhibits in the National Air and Space Museum's Milestones of Flight Gallery.

In 1953, Lindbergh came to visit the Spirit. Ostensibly, he was writing a book, and wanted to refresh his memory with some pencil markings he had made in the cockpit during the transatlantic flight. So, after visiting hours, Garber placed a ladder beside the aircraft, hung suspended from the ceilings in the darkened museum building, and Lindbergh climbed up into it.

Sensing that the great pilot wanted to be alone with the aircraft, Garber moved off a bit and waited. Whether the visit was partly inspired for reasons of nostalgia or not, after about a half hour Lindbergh summoned Garber to examine the markings made to keep track of gasoline consumption during the famous flight.

The acquisition of the Spirit followed that of such other historically significant aircraft as the Fokker T-2, the Douglas World Cruiser *Chicago*, and the 1924 Berliner Helicopter. In 1932, Dr. Garber's dedication to acquiring aircraft for the Smithsonian began to bear fruit. The Institution created a Section of Aeronautics within the mechanical Engineering Department, and Garber was named Assistant Curator and chief of the new Section.

WAR YEARS CONTRIBUTION

During the years of World War II, Dr. Garber put aside his museum work and served five years in the U.S. Navy, with promotion to the rank of commander. Among his contributions—stemming from his service aboard the jeep carrier USS *Block Island*—was a program to develop such training devices as controllable target kites for ship-to-air gunnery practice, which were patented by the Navy in his name. Dr. Garber also developed the aircraft recognition models that were used throughout the military services and by volunteer civilian spotters; interestingly enough, the models were derived from a collection depicting Japanese combat aircraft assembled by Dr. Garber even before the war began.

Following the war, Dr. Garber was kept in uniform a further year to help write a history of naval aviation. Also following the war, the Smithsonian's collection of aircraft grew in magnitude due in large part to the foresight of General of the Air Forces Hap Arnold, who made representative types of warplanes available to the museum.●

WOOD ENERGY MONTH

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. D'AMOURS. Mr. Speaker, September 1980 has been declared Wood Energy Month by the Wood Energy and Fireplace Institutes. Along with my distinguished colleagues, Mr. ALBOSTA of Michigan, Mr. BROWN of Ohio, Mr. JEFFORDS of Vermont, Mr. WINN of Kansas, and Mr. WEAVER of Oregon, I am very pleased to endorse this declaration. Although primarily a symbolic event, Wood Energy Month also stands for the fact that the wood energy industry, both in the residential and commercial sectors, has made tremendous strides in this country in recent years.

From the electrical power being generated by wood boilers in Vermont and New Hampshire to the developments in wood chip applications by the Georgia Forestry Commission; from the utilization of slash and waste wood in Oregon and Washington to the innovative programs of TVA; from the technological developments for using bark in Michigan to the comprehensive wood energy program in North Carolina—the "wood alternative" is now national in scope.

Not only does wood as an energy alternative have a national constituency, but it is immediately available to meet a meaningful portion of our energy needs. For example, testimony in support of the wood utilization bill indicates that waste wood and slash can produce some 4 to 5 quads of renewable energy per year. This is greater than our current nuclear output. In Oregon alone, it has been estimated that such waste wood could provide 30 percent of the State's energy requirements. Most importantly, these sources can be fully utilized without competing for the types of wood utilized by the forest products industry.

Moreover, while a great deal of concern has been raised as to the pollution effects of significant wood burning, a recent air quality assessment for the Tennessee Valley Authority places these concerns in their proper perspective. This assessment, covering all of TVA's 7-State, 201-county service area, found that regional air quality effects from wood burning in 25 percent of the households would be minimal. In urban areas, the impacts would be greater. However, nonwood factors would be dominant as pollution contributors.

Much of the progress we have seen in the wood energy industry has been in spite of the questionable commitment of the Department of Energy. Once again last week we were told by the Office of Technology Assessment of the pervasive belief within and outside DOE that senior DOE management does not really care about conservation and solar energy programs. Nevertheless, certain gains within DOE have been made. Rather than esoteric research and development plans, the recently reorganized Biomass Energy Systems Branch now is placing its emphasis on practical commercial applications for biomass technologies. In addition, rather than thinking that bigger is better, DOE now appears willing to consider mixed technologies of mixed sizes for mixed purposes. This is an important development.

Legislatively, more gains are being made. Recognition must go to Senator HERMAN TALMADGE for his efforts in securing a priority for the direct combustion of wood under title II funding of the synfuels bill, S. 932. Also in that bill is the important energy conservation and solar energy bank, which promises to make wood energy a more accessible alternative for many Americans. Likewise, Mr. WEAVER's wood utilization bill promises the more efficient use of waste wood from the national forests. The reforestation tax credit bill, H.R. 1212, promises to provide the incentive to small woodlot owners to market their wood product on a regular basis. At the same time, we still do not have a tax credit. We must continue to press to attain that vital goal.

So, in closing, we are truly pleased to be able to endorse Wood Energy Month in September 1980. We are confident that the Fireplace and Wood Energy Institutes will continue their efforts to serve not only their industry, but the public as well. Already, during their short tenure in Washington, the institutes have had a significant impact in a number of legislative and regulatory areas—such as the DOE commercialization program, FTC standards, the wood utilization bill, synfuels, the tax credit, CPSC stove labeling program, reforestation legislation, and others.●

UNITED NATIONS IS AGAINST TERRORIST ACTS—IF THEY ARE BY ISRAELIS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. DERWINSKI. Mr. Speaker, Rabbi Harold P. Smith, vice president of the Hebrew Theological College in Skokie, Ill., was a recent guest columnist in the June 16 Chicago Tribune. In view of the current international situation which is characterized by conflicts and differences of opinion in the United Nations, I wish to direct

Rabbi Smith's commentary to the attention of the Members. His timely article follows:

THE UNITED NATIONS IS AGAINST TERRORISTS ACTS—IF THEY'RE BY ISRAELIS

It finally happened. The United Nations Security Council is against terrorism. It has actually said so—officially!

One had no way of knowing that they were against terroristic acts of murder and injury. There have been many hundreds of such acts against Israeli citizens and visitors since 1948, most of them wrecking lives and families. Since January, 1979—a relatively quiet period when the Palestine Liberation Organization had soft-toned its terrorism because of Israel's retaliatory measures—there have been 49 terror acts in Israel, mostly in the form of planted bombs. They exploded in hotels, in market places, in schools, on public buses and bus stations, a book store, a shopping mall, in cars, and in Jewish places of worship. Thirty-eight persons were killed and 364 injured by them.

The PLO openly claimed "credit" for many of these terror acts. Yet nobody heard a mutter of protest from the United Nations, let alone a statement of condemnation—not even on May 2, 1980, when Arab terrorists in Hebron, hiding on rooftops with Soviet machine guns, opened fire on men, women, and children coming from their Sabbath worship, killing six and injuring 16.

But when, lamentably—and may it never happen again—two Arab mayors were injured by a bomb left in their car, the United Nations Security Council came out with an indignant condemnation of terrorists acts.

So did the Chicago branch of the League of Arab States, the Palestine Congress of North America, and other such groups of whose opposition to terror acts we suddenly became aware for the very first time.

They ought to consider that whoever did this may have been following the advice of the local Arab leaders who were expelled from Israel because they had incited acts like this—the very kind of predatory violence that killed or maimed 22 Jews in Hebron, and injured these two Arabs a few days later.

Shortly before the Hebron slaughter, the mayor of Hebron, Fahd Kawasmeh, urged in a public speech that the Arabs of Hebron should "use force" to get whatever they want. He had consistently presented the public view that any negotiations that did not lead to Israel's destruction was doomed to failure, and that all forms of struggle, including indiscriminate violence, are justified. His pronouncements had made it clear that he looked favorably on the Arab butcherings of the Jewish community of Hebron in 1929.

And all three expellees—including the two who were in Chicago recently—publicly reaffirmed their support of such terrorism in their first broadcast over terrorist radio in Lebanon on May 3, 1980—the day after the Hebron slaughter.

And since an "official" announcement by the PLO hailed the May 2 carnage as "an act of heroism," a "fitting" and "wonderful" deed, one wonders why the UN and these Arab groups were so upset when others [assuming that it was others] were striving to perform similar fitting and wonderful acts of heroism.

One wonders also—after the United Nations Security Council voted 14 to 0 to condemn Israel for expelling these three, and insisted on their reinstatement in Israel—what would have to happen in the world for Israel to win one vote in the United Nations Security Council.

On Jan. 1, 1980, the PLO's representatives in Tehran said over Radio Iran: "We derive major support from the Iranian Revolution and Khomeini. . . . We shall proclaim a Palestinian government and . . . we hope to destroy Israel."

Yet some people members of the U.S. State Department are trying very hard to set up, in the heart of the state of Israel, an Arab Palestinian government which would be led by these same PLO terrorist leaders.

What does it take for some people to give, in their thinking and pronouncements, a square deal to Israel?●

SALES REPRESENTATIVES PROTECTION ACT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. FLORIO. Mr. Speaker, I am pleased that hearings will be held tomorrow on the Sales Representatives Protection Act in the Commerce Subcommittee on Consumer Protection and Finance.

This bill, H.R. 5099, encourages manufacturers to enter into contractual agreements with their commissioned sales representatives. It seeks to protect wholesale sales representatives from termination without good cause from accounts that they have invested time and money building up.

This legislation has strong support in the House. The entire New Jersey delegation is among the 117 Members who have sponsored the Sales Representatives Protection Act in this Congress. We hope that members of the subcommittee will agree that this bill deserves support, and move quickly to consider it in markup session.

Our colleague, Congressman DICK OTTINGER, recently discussed the need for this bill in an article published in the Electronics Journal. I think that our colleagues will find this article interesting and informative.

The article follows:

REPS NEED BASIC PROTECTION FROM ARBITRARY DISMISSAL

Writing in favor of H.R. 5099, the Sales Representatives Protection Act, is its sponsor, Congressman RICHARD L. OTTINGER, Democrat from the 24th Congressional District of New York.

Traveling, commission sales representatives are among the last true independent business men and women in this country. These independent business people invest their own time and money in developing business for the firms they represent, often employing their own sales force to meet the demands of their accounts. The commissioned sales representative is an indispensable link between the manufacturer, retailer, and consumer making available to the consumer market products ranging from televisions and CB radios to clothing. They are vital to the chain of product distribution in this country, and thereby of critical importance to our national economic well-being.

Yet, sales representatives usually do not have the benefits of workmen's compensation, unemployment insurance, company sponsored retirement and pension plans, or collective bargaining rights. Most startling, however, is that the majority of sales representatives have no protection at all against arbitrary dismissal, and no provision for compensation for years of work they may have devoted to an account. They can be terminated at any time, at the will of their manufacturer without cause, hearing or compensation; nor is there protection from reductions in their territories and the resulting loss in commissions, or from the conversion of their account(s) to 'house accounts' of the principal's firm.

Sales representatives, being independent, have no means to organize to obtain basic employment rights. Most work without a contract. In the absence of bargaining power, they need some basic legislative protection giving them the right to a contract setting up basic rights and meeting minimum standards of fairness. The manufacturer must be assured of liability for unjustifiable acts. Clearly, sales representatives are entitled to a fair economic shake for services rendered.

The Sales Representatives Protection Act, H.R. 5099, is designed to provide such protection. As the sponsor of this legislation, it is my opinion and that of 93 of my colleagues who have joined me in introducing this bill in the House of Representatives, that this legislation is long overdue.

H.R. 5099 requires a contract with basic statutory minimums. There is no further government regulation. It requires no government expenditure. It is designed to facilitate and to encourage a mutually protective contractual relationship between sales representatives and their manufacturer/principals.

Under the bill, a principal will know the liability to be faced if a sales representative is terminated under contract without good cause. Similarly, a sales representative who does not meet his or her obligations under the contract, will face termination without rights to indemnification. In the absence of a conforming contract, the bill provides a more stringent system of post-termination compensation.

The sales representatives of this nation serve as an asset to the American economy. They fulfill the American competitive spirit while bringing lower prices for the consumer. Most firms utilizing these independent business people do so because they cannot afford to staff and fund their own, in house, sales forces. Implicit in this relationship is the manufacturer's recognition that the sales representatives will make the necessary outlays in money, time and labor to distribute the manufacturer's products in a given territory. Some minimal assurance of fair treatment is needed. I strongly believe that it is in the public interest to protect this sales representative by calling for concommitant responsibility from manufacturers who use and profit from their services.●

VIEWS OF JACK ADAMS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. GORE. Mr. Speaker, as the House begins its consideration of H.R. 6418, the Motor Carrier Act of 1980, I would like to call to the attention of my colleagues the views of my friend, Mr. Jack Adams, of Dixie Foods in Lewisburg, Tenn.

Mr. Adams, an independent retail grocer and past president of the Tennessee Retail Grocers Association, testified before the Senate Small Business Committee in April in support of the provisions dealing with the food transportation, or customer pickup allowances. His comments are especially significant as we focus our deliberations on this important issue.

Mr. Adams' testimony follows:

STATEMENT OF JACK ADAMS, PRESIDENT, DIXIE FOODS INC.

I am Jack Adams, President of Dixie Foods Inc. of Lewisburg, Tennessee. I am immediate past president of the Tennessee Retail Grocers Association and a member of the National Association of Retail Grocers of the United States (NARGUS). NARGUS is a national trade association representing approximately 40,000 independent retail grocers, like myself, who operate supermarkets, grocery stores, and convenience stores. NARGUS has been representing the interests of independent retail grocers since 1893.

It is a pleasure for me to appear here today to explain why local owners and operators of retail grocery stores support the customer pick-up allowance that is provided in S. 2245. Inflation hurts the small business person first. The retail grocer is only one step away from the consumer, in that all costs related to a product such as processing, packaging, storage, freight, distribution, wholesale markup, etc. are passed on to him. Eighty to eighty-five percent of the retail shelf price represents the retail grocer's cost for the merchandise. The retail grocer has no choice in the matter but to accept the cost of the merchandise charged by his supplier, add his competitive markup, and place the product on display in his store. Whether it sells or not, it is his merchandise. After all of the inflated costs have been added to the product, it becomes the responsibility of the grocer to convince the consumer that she is receiving a good value for her money.

Retail grocers are faced with explaining inflation and increasing food prices to consumers. In today's economy it is not a pleasant task. Anything that can be done to improve efficiency and cost savings in the distribution of food to consumers should be encouraged. I believe the customer pick-up allowance is one opportunity to fight inflation and rising costs.

I am served by a wholesaler that delivers food and grocery products. Many times my wholesaler will have a truck returning empty after delivery to the retail grocers like myself. If given the opportunity my wholesaler would like to pick up merchandise ordered from a manufacturer. However, a Federal Trade Commission Advisory Opinion has created confusion about the right of a manufacturer to offer an allowance to a customer for picking up their own merchandise.

Retail grocers are in a competitive battle to serve consumers. The devastating impact of inflation has tended to flatten sales. Our wholesaler does everything possible to assist us in remaining competitive. If I'm not competitive I lose sales and ultimately so does he. My success is his success. If we both aren't successful in meeting consumer demand we both lose.

The customer pick-up allowance will enable my wholesaler to make more efficient use of trucks and fuel. Cost savings in products will be made available to me and to my customers. Retail grocers cannot understand why the government will not allow efficiency and cost savings in food and grocery distribution to occur for consumers' benefit. Government regulation should be encouraging not discouraging better productivity and efficiency. We constantly hear from government bureaucrats that food prices are too high. But when retail grocers urge a change in erroneous government policies that contribute to higher prices, their efforts are met with resistance.

Opponents to the customer pick-up allowance allege it will hurt the small grocer. As a small retail grocer I'm here to tell you that we support the customer pick-up allowance. NARGUS, the Tennessee Retail Grocers Association, and all NARGUS' other State and local affiliated associations representing thousands of retail grocers have supported the effort to pass customer pick-up allowance. Frank Register, NARGUS President, will explain in more detail.

Retail grocers live, work, and invest in their communities. In many communities the local retail grocer is the focal point of commercial activity and a civic leader. The desire to serve our customers economically and efficiently is strong because most of our customers are our neighbors. I feel I have a commitment to my community. Large national chains in recent years have closed stores and abandoned small communities where stores are unprofitable. Local retail grocers hang on to their investments and search for ways to economize, and provide service to their customers. We don't have the financial resources to move around the country. The customer pick-up allowance is one means of allowing the small grocer to promote efficient food and grocery product distribution to better serve his customer.

Another argument made against customer pick-up allowance is that it will hurt the Robinson-Patman Act. I'm not a lawyer so I'll let our NARGUS counsel, Henry Bison, argue the legal issues. But I would like to say that retail grocers and NARGUS have strongly supported the Robinson-Patman Act from the beginning. We still do. The customer pick-up allowance must be available to all customers on a nondiscriminatory basis.

These are the reasons why retail grocers support the customer pick-up allowance legislation. As a small grocer, I again wish to voice my strong support for the customer pick-up allowance proposal in S. 2245. I urge this subcommittee to support the nation's independent retail grocers' efforts to get food and grocery products to the consumer by the most cost efficient means possible. To do this, we need regulatory reform removing a needless barrier to manufacturers of food and grocery products offering a meaningful, nondiscriminatory customer pick-up allowance.●

A TRIBUTE TO GIL BRUST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. ANDERSON of California. Mr. Speaker, on Friday, June 20, the membership and friends of the Carson Chamber of Commerce will hold their annual meeting to honor retiring officers and to install the new leadership. I bring this event to the attention of my colleagues as it will be an occasion to pay tribute to outgoing President Gil Brust, an individual who by his hard work was instrumental in the chamber's successes of this past year. Today I share with my colleagues a review of his career as a leader in business and civic affairs.

Gil Brust is a native of the Midwest. He was born in Bloomington, Ill., where he attended elementary and secondary school. In high school he was named all city, all State, and all conference for his play on the school football and basketball teams. Later, after high school, he attended Wesleyan University where he played outstanding football and basketball.

Two very cold winters and some promising career prospects gave Gil Brust the inducement to move to California in 1948. That same year, he started with his current employer, the Bank of America. Being a pioneer in banking electronics allowed Gil to move up steadily from the bottom to the top ranks of this bank. He started as a teller and he is now manager of the bank's Carson branch.

Gil Brust's rise in his profession is matched only by what he has done in civic affairs. With the Dominquez-Carson Rotary Club, he has been involved in community projects. But most of his civic participation has been with the chamber. In this organization he is both a former vice president and director. During this past year when he served as president, the chamber published its first city map and its first business and industrial directory. Both these publications have already helped the community attract new business facilities. During his term, the chamber's Legislative Affairs Committee expanded its work to better assist small businesses in Carson.

Mr. Speaker, I take pride and pleasure in recognizing Gil Brust's many accomplishments. The matters of business and industry are both complex and demanding; and Gil has helped the Carson chamber in understanding this, thus enabling the chamber to better encourage growth and prosperity for Carson. He has been a valuable asset to his community. My wife, Lee, joins me in congratulating Gil Brust for the achievements of his term as chamber president. We also offer our best wishes for success in future endeavors to Gil; his wife, Helen; and their son, Stephen.●

BOSTON CITY COUNCIL SHOWS ITS SUPPORT FOR PEACE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BIAGGI. Mr. Speaker, as chairman of the 133-member Ad Hoc Congressional Committee for Irish Affairs, I am pleased to place into the CONGRESSIONAL RECORD a resolution adopted by the Boston City Council on the important issue of peace in Northern Ireland.

I am especially grateful for the council's unqualifed support for House Concurrent Resolution 122 which I have sponsored in the House. The resolution calls on Great Britain to embark on a new peace initiative for the North of Ireland which would respect and restore human rights and promote self-determination. The resolution is cosponsored by 102 of my colleagues and I have urged that the resolution be given a hearing before the House Foreign Affairs Committee.

Actions such as the Boston City Council resolution should be given the most serious attention by those in Congress concerned with this issue. As the resolution indicates:

> The people of the City of Boston who have such strong historical and cultural ties to the Irish nation share deep concern over the continued deprivation of the basic human rights of the long suffering people of Northern Ireland.

I recently appeared before the Platform Committee of the Democratic Party to urge that a strong Irish plan be included in the platform. The issue of peace, justice, and human rights for Northern Ireland should be the concern of both parties and all candidates.

I now insert the resolution for the consideration of my colleagues and wish to commend the sponsor of the resolution, Raymond L. Flynn, who I had the pleasure to meet at a dinner in Peabody, Mass., this past June 7. My appreciation is extended to all members of the council.

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO SUPPORT PASSAGE OF HOUSE CONCURRENT RESOLUTION 122, LEGISLATION CALLING ON THE BRITISH GOVERNMENT TO EMBARK UPON A NEW PEACE INITIATIVE FOR NORTHERN IRELAND

Whereas the people of the City of Boston, who have such strong historical and cultural ties to the Irish nation, share deep concern over the continued deprivation of the basic human rights of the long-suffering people of Northern Ireland; and

Whereas peace with justice can never be achieved in Northern Ireland without the full co-operation of all interested parties, including the government of Great Britain; and

Whereas presently being considered by the Foreign Affairs Committee of the U.S. House of Representatives is House Concurrent Resolution 122, introduced by Congressman Mario Biaggi of the Tenth Congressional District of New York and co-sponsored by 100 Congressmen, which calls upon the British government to embark on a new initiative for Northern Ireland; and

Whereas the continuing strife and denial of human rights to the people of Northern Ireland calls for a response from the United States if we are to achieve our stated commitment to a foreign policy which is dedicated to enhancing human rights around the world; and

Whereas the sponsor of House Concurrent Resolution 122 and Chairman of the Ad Hoc Congressional Committee on Irish Affairs, Congressman Mario Biaggi will be the featured speaker and special guest of honor at the Annual Banquet of the Massachusetts, State Board, Ancient Order of Hibernians on Saturday, June 7, 1980 at St. John's Parish Hall in Peabody; therefore, be it

Resolved: That the Boston City Council in meeting assembled hereby officially expresses its support and urges the members of the Massachusetts Congressional delegation to approve House Concurrent Resolution 122 calling on the British government to embark on a new peace initiative for Northern Ireland; and, be it further

Resolved: That the Boston City Council officially commends Congressman Mario Biaggi for his articulate and dedicated efforts on behalf of securing peace and justice for the people of Northern Ireland in numerous legislative efforts in the United States Congress and as Chairman of the Ad Hoc Congressional Committee on Irish Affairs.

In City Council. Adopted unanimously, May 28, 1980.●

OTA REPORT ON TAGGANTS IN EXPLOSIVES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. UDALL. Mr. Speaker, in its recent report on "Taggants in Explosives" the Office of Technology Assessment (OTA) has again given the Congress the kind of clear and impartial analysis it needs to deal with a critical and highly controversial issue.

The Senate Governmental Affairs Committee has been considering legislation to require that miniature labeling devices called "taggants" be added to explosives at the time of manufacture. Last year, however, the committee found itself faced with such widely divergent testimony on such extremely technical questions that it was impossible to agree on what the facts were. To help sort out the facts, the committee asked OTA to assess the cost, safety, and value of using taggants.

OTA's report explains the technical issues, identifies conflicting assumptions, shows where further testing is and is not needed, and spells out the basic options before the Congress. The report concludes that taggants could, in fact, be a useful tool against many terrorist and other criminal bombers. However, OTA also finds that there are questions of safety which would have to be resolved before a taggant program could be put into effect.

Earlier this month, the Senate Governmental Affairs Committee carried out its markup of S. 333, the omnibus antiterrorism bill which included the provision requiring the addition of taggants to explosives. The OTA report was favorably cited by most of the Senators involved in the markup, and by both advocates and opponents of the taggant provision.

Supplies of the summary of the OTA report "Taggants in Explosives" are available in self-mailer form for Members to send to interested local agencies and constituents.

Mr. Speaker, for the information of my colleagues, I attach a brief summary of the OTA report on taggants as well as two news stories on the report and the issues involved:

TAGGANTS IN EXPLOSIVES

A new technology to place "taggants" (miniature labeling devices) in commercial explosives and gunpowders could be a useful tool against many terrorist and other criminal bombers. However, there are questions of safety which would have to be resolved before a taggant program could be put into effect.

Two different kinds of taggants could be used for different purposes. Identification taggants are microscopic chips containing a code, designed so that the chips could be recovered from the debris of a bomb explosion. The code would provide law enforcement officials with a list of the last legal purchasers of the explosive material used in the bomb, and thus assist in finding the bomber. Detection taggants emit a vapor which would escape from a suitcase or package containing a bomb, and which could be detected by a sensing machine placed at an airport, public building entrance, or other suitable site.

There has been considerable controversy over the technical development, safety, cost, and law enforcement utility of such taggants. OTA found that the taggants would probably work, although some of the claims made by those developing them are exaggerated. Questions about the safety of adding such taggants to explosive materials would have to be resolved before a program could go forward. The cost of a program varies depending on how extensive the program is; OTA assessed the costs of one possible program at about $25 million per year for either identification or detection taggants, and $45 million per year for both. A taggant program would be of significant value to law enforcement; however, it would not help much against bombings which caused little damage and the most sophisticated terrorist and professional criminals could probably find ways to evade the effects of a taggant program.

If research, development, and testing continue and satisfactory results are achieved, a full-scale taggant program could be in effect by 1985.

Copies of the full OTA report, "Taggants in Explosives," are available from the U.S. Government Printing Office. The GPO stock number is 052-004-00747-9; the price is $6.50. Copies of the full report for congressional use are available by calling 4-8996. Summary copies are available at no charge from the Office of Technology Assessment.

[From the Plattsburgh (N.Y.) Press-Republican, Apr. 28, 1980]

"TAGGANTS" MAY HELP SOLVE BOMB CASES

WASHINGTON—Placing tiny labeling devices called "taggants" in explosives could help fight terrorist bombings, but they must first be proven safe, congressional researchers said Sunday.

One type of taggant emits a vapor which enables special instruments to spot hidden explosives. Another, which could survive detonation, would enable investigators to trace the source of the explosives to their original purchaser.

But a report by the Office of Technology Assessment concluded further testing is needed before a program is implemented to add taggants to explosive materials.

"Bombings currently are a low-risk, relatively simple type of criminal activity," the report noted. "Each element of risk to the bomber will decrease the likelihood of his actually committing the bombing."

Some estimates cited by OTA suggested bombing arrests could increase as much as 75 percent if a taggant program is established.

The Treasury Department's Bureau of Alcohol, Tobacco and Firearms reports in 1978 there were 896 bombings that killed 23 persons and injured 185. The FBI, with a different data base reported 768 bombings in 1978 killing 18 persons and injuring 135.

Peter Sharfman, who directed the OTA study, said assuming taggants are proven safe, adding them to explosives could cost between $30 million and $268 million annually, depending on the nature of the program.

In a $45 million "baseline" program outlined by OTA, capsensitive high explosives, boosters, detonators, detonating cord, and gunpowders could be tagged. The study estimated cost increases of such a program would range from 2.3 percent for black powder to 23.5 percent for detonating cord.

ATF has been working on a taggant program since 1976. The program has been opposed by most of the explosives industry and the National Rifle Association on grounds taggants would be ineffective, unsafe and over-costly.

The study was requested by Sen. Abraham Ribicoff, D-Conn., chairman of the Senate Governmental Affairs Committee, and committee members Jacob Javits, R-N.Y., and Ted Stevens, R-Alaska, in conjunction with anti-terrorism legislation before Congress.

In a statement issued with the report, Ribicoff said, "Taggants will send a loud message to every would-be terrorist and criminal bomber that your bombs have been 'tagged' and you will be caught."

Stevens criticized the taggant legislation as premature. Even if they were technologically ready, he said, criminals could circumvent the program by removing taggants from powdery explosives, by using homemade bombs or by other countermeasures.

[From the Philadelphia Inquirer, Apr. 28, 1980]

TAGS ON EXPLOSIVES NOT YET PRACTICAL

(By Warren E. Leary)

WASHINGTON.—Putting coded "tags" inside explosives may help police track terrorists and other criminals, but more development and safety research are needed before this program could go into effect, a congressional study says.

A labeling program, once perfected and put into effect, could significantly aid law enforcement officers counter or catch all but the most skilled bombers, according to a report to be released today by the Senate Governmental Affairs Committee.

But the safety of adding tracing material to explosives has not yet been established and some of the equipment needed for the system is untested, it continued.

The study, conducted by the Office of Technology Assessment (OTA), said that because of all the development and testing remaining, it would be at least 1985 before a full tagging program could be in effect, longer than proponents estimate.

Tiny particles called taggants are the basis of the identification system. These microscopic chips, added to explosives during manufacture, can have one of two functions.

First, identification taggants, designed to survive an explosion, contain codes to identify the type and brand of explosive, as well as when it was made and where it was shipped from the factory.

Second, detection taggants, microcapsules that give off vapors which go through many containers, can be detected by special sensors, allowing an unexploded bomb to be found.

The Senate committee which requested the Office of Technology study is considering an anti-terrorist bill which calls for tagging all explosive materials.

The Bureau of Alcohol, Tobacco and Firearms of the Treasury Department is a major supporter of tagging and is sponsoring developmental research and pilot programs of the system. Law enforcement agencies also support the move.

Taggants are opposed by most of the explosives industry and the National Rifle Association. These two say taggants have not been proven safe or effective and would be very costly to manufacturers and users.

The Office of Technology Assessment, an agency which advises Congress on technical issues and suggests policy options, said an effective system would require tagging such materials as high explosives, gunpowders, detonators and detonating cord.

The report estimated that a "baseline" taggant system would cost about $45 million per year, adding about 12 percent to the cost of high explosives and 8 percent to the cost of gunpowders.

This system envisions changing taggant codes after each production shift for more precise identification. About 1,500 detection sensors also would be deployed at potential bombing sites under this scheme.

If the country elected to have a cheaper, less-precise, low-level system—in which codes changed only once a year and only 800 detectors were deployed—this would cost $30 million a year, the report said.

At the other extreme, a high-level system in which taggant codes changed for each small batch of explosives and 5,000 detectors were in place would cost an estimated $268 million per year, it said.

Questions not yet answered by research include whether identification taggants would survive under all explosive conditions and whether some taggants interfere with the chemical reactions of some explosives.

The technology assessment office also said there is little safety data on the vapor-releasing taggants, or on the combined use of identification and detection taggants. And taggant vapor detectors have only had limited laboratory testing, not field trials, it said.●

JUNIUS WHITE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. JONES of Tennessee. Mr. Speaker, on June 14, the town of Dresden, Tenn., hosted a special day of tribute to one of its most courageous citizens, Mr. William Junius White. This was indeed a special day. It recognized Mr. White, or Junius as he prefers to be called, for his many years of service to the community, for courage in overcoming the amputation of his right arm, and his dedication to excellence in every single task that he undertakes.

Junius White lost his right arm while serving in the Army during World War II. In the years since, he has been elected to public office, has been active in his church and local and civic activities, and has served as chairman for a telethon for crippled children for the last 9 years. He is a man who has dedicated his life to helping others in spite of the handicap he has.

Maybe more importantly than all of those things, is Mr. White's attitude. He enthusiastically attacks the projects he undertakes. He provides cheerfulness to others who are facing long odds and encourages them to remember that they can achieve. It is an attitude that is infectious and that is more needed in our world today.

Just recently, Junius White was selected as the outstanding handicapped postal employee. I congratulate him for that recognition and I include in the RECORD the following article that appeared in Mail Call magazine on the occasion of that recognition.

THE WILLIAM JUNIUS WHITE STORY

"One arm and a good attitude will beat two arms and a poor attitude anytime." This describes our nominee for Outstanding Handicapped Postal Employee of the Year . . . William Junius White, Maintenance employee at the Dresden, Tennessee Post Office.

Junius, as he prefers to be called, not only does all the maintenance work but . . . when mail is heavy, you may find him lending a helping hand to get mail ready for delivery deadlines.

The post office is a showplace on the town square in Dresden . . . a city of approximately 10,000 people in Northwest Tennessee. Junius keeps the building spotless—inside and out . . . the lawn and shrubs meticulously manicured, the building and mailbox painted and a neat, clean American flag proudly flying. Junius takes care of the furnace, including minor repairs, and helps out with the plumbing.

Dresden Postmaster Charlie Taylor says, "The word, 'can't' is not in his vocabulary. He will tackle anything and end up doing it better than most people with two arms. For example, just a few weeks ago one of our clerks cut her hand while on duty. Junius immediately sprang into action to stop the bleeding, cleanse the wound and apply a bandage."

White lost his right arm at the shoulder while serving with the 9th Division, U.S. Army in France in 1944. The attitude of this unusual man has never been depressed as noted by the big smile in the photo taken only a few minutes before his arm was amputated. His bubbly attitude was so contagious while recovering from surgery the Army used Junius to vist other military hospitals to cheer up the sick and wounded.

Following his discharge in 1945, White returned to Dresden where he had grown up on a farm. "It was a big year . . . 1945," Junius says. "I met and married my wonderful wife of 35 years, bought a home and ran and was elected to the first of two four-year terms as County Register.

"It was a year of learning, too," White says, "Since I was right-handed, I had to learn to do everything over again with my left hand, my head, my mouth, my feet, my knees or anything I could use. Simple things like dressing myself . . . buttoning my clothes, tying my shoes and ties. You never realize how important an arm is until you lose one.

"Probably the hardest thing I learned to do in 1945 was to drive my dad's '35 Ford with a stick shift in the floor. Dad kept telling me I couldn't do it and I kept saying, 'Yes, I can' . . . and I did! I guess that's it . . . I have been able to accomplish everything I set my mind to do."

While serving as County Register, White was in charge of administering the Selective Service Program in the area and in 1951 received a special award from President Harry Truman and Tennessee Governor Gordon Browning for his work with Selective Service.

In 1954, Junius moved from town to a farm he purchased and with the help of his six year old son, began farming 150 to 175 acres of row crops, raising chickens and pigs. We started with 700 chickens and at our peak period, we had 12,000 broilers and 6,000 layers. Junius has been a member of the Weakley County Farm Bureau for 34 years and has served as director of that organization for 23 of those 34 years.

The old saying, ". . . if you want something done, ask a busy person," surely applies to William Junius White. During the last 30 years, Junius has averaged between 15 to 20 hours every week in various activities to help other people. Included in his other activities are:

1. More than 35 years active membership in his church, First Methodist, during which time he has served as an usher, Trustee, Chairman of the Missionary Board, and twelve years as a member of the General Board.
2. Charter member of the Weakley County Chamber of Commerce having served as President.
3. Past President of the Parent Teachers Association for Dresden City Schools.
4. Elected in 1966 and served 7 years as Justice of Peace.
5. Served on the committee that set up the first kindergarten system for Weakley County Schools.
6. Served on the Weakley County Literacy Council.
7. Presently a member of the Mid-South Sight Service.
8. Served 7 years as Magistrate of Weakley County.
9. An active Mason for 27 years.
10. Served on the Board of Directors for Rainbow Girls for 6 years.
11. In charge of promotion and fund raising for Dresden Boy Scouts for 15 years.
12. An active member of the Woodmen of the World.
13. A volunteer worker for the American Red Cross.
14. A member of the Dresden American Legion Post 116 for 34 years and helped organize the Dresden V.F.W.
15. A member of the Weakley County Finance Committee.
16. Helped organize the first county ambulance system in early 1970.
17. A charter member of the Dresden Lions Club for over 30 years. Served in all offices including president. Has served as Chairman for District 12-L and as a delegate to the last six state conventions and the last two international conventions.

One area in which Junius had devoted tremendous time and effort has been in working with crippled children and adults. He is presently serving as Director of Northwest Tennessee Easter Seal Center for Crippled Children. He has been on the Easter Seal Advisory Committee for several years . . . the last six as a member of their Board of Directors.

Another pet project of Junius', which he devotes much time and effort, is the Paducah, Kentucky Telethon for Crippled Children. He has worked with the telethon for 19 years . . . the last 9 as chairman. "I remember the first year we raised only $150," Junius remarked, "and this year, we are over $61,000."

During his work with the telethon, Junius has succeeded in attracting participation of such well known personalities as: Michael Landon and Melissa Anderson from television's "Little House on the Prairie," baseball stars Lou Brock and Ted Simmons of the St. Louis Cardinals, and entertainers Tom T. Hall, Ralph Emory, Meredith MacRae and many others.

In addition to his postal duties and numerous other civic and charitable activities, Junius still maintains a truck farming operation; is starting a catfish farming operation in his lake; raises chickens, pigs and cows; grows peanuts and makes apple cider; operates a landscaping business; and still finds time to take his tractor and break up gardens for his friends and neighbors.

Yes . . . William Junius White is an outstanding postal employee and citizen in spite of his handicap. So outstanding that Dresden Postmaster Charlie Taylor frequently receives personal comments and letters complimenting Mr. White's work.

Below are excerpts from a letter dated August 1979 from Charles T. Butts, Weakley County Judge.

"I was observing one of your employees, Mr. Junius White, and I just thought I would write and tell you how fortunate you are in having an employee of Mr. White's caliber.

"I have known Mr. White all my life and have admired his wonderful attitude about life. He has been an inspiration to his many friends and acquaintances for no matter where he is, he is always smiling and speaking to people . . . never feeling sorry for himself nor asking for help even though he has but one arm."

Yes . . . William Junius White is a busy person but never too busy to visit a child or adult in a hospital hundreds of miles away . . . strangers who are facing the trauma of losing an arm or a leg. William Junius White has never missed an opportunity to lift another's spirits . . . to tell them it is not the end . . . that they can be achievers. And Junius knows . . . for he is an outstanding achiever.

Yes . . . William Junius White is an achiever . . . a man with one arm and only an eighth grade education . . . a man who did not look at what he had, but at what he could become, a man whose heart was bigger than his handicap . . . whose love for people and helping others became the motivating factor in his life.

The Postal Service is proud of this great American . . . William Junius White.●

FATHER ROBERT DRINAN

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. HANCE. Mr. Speaker, it saddens me to think that this body will be without one of its great statesmen next session following the retirement of Father ROBERT DRINAN. As a Representative of the State of Massachusetts, Father DRINAN has set an example for many of us to follow as we try to represent our constituents.

I am extremely pleased that I have had the opportunity to be associated with Father DRINAN outside the Congress as well. When I was a student at the University of Texas Law School, Father DRINAN served as one of my law professors. As a professor he was outstanding and truly dedicated to the education of his students and the betterment of society as a whole. It was indeed a thrill for me to have had the opportunity to serve with him in Congress after he had been one of my favorite professors.

His valuable input in Congress will be missed, but I have no doubt his other endeavors will be just as successful and that he will continue his work for the betterment of mankind.●

THE LITHUANIAN TRAGEDY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. BLANCHARD. Mr. Speaker, on June 15 Lithuanian-Americans, together with their fellow Lithuanians and supporters of human rights around the world, commemorated the 40th anniversary of the military occupation of Lithuania by the Soviet Union. The Soviet Government's continued subjugation of this nation and her proud people cannot be tolerated.

The Government of the United States has never recognized the annexation of Lithuania by the Soviet Union. The Soviet Government's continued control over the lives of the people of Lithuania, 35 years after the fall of Adolf Hitler, is unacceptable to those of us who espouse democratic principles and who support the cause of human rights. Just as we condemn the Soviet invasion of Afghanistan as an act of aggression in violation of international law, so too must we condemn the 40-year domination of Lithuania as and act of outlawry no less unspeakable.

At this point I insert in the RECORD a copy of a memorandum prepared by members of the resistance movements of the three Baltic States of Estonia, Latvia, and Lithuania. The memorandum, together with an addendum signed by Soviet dissident Andrei Sakharov and four others, documents the tragedy that has befallen the proud Baltic people for two generations.

The memorandum follows:

DISSIDENTS IN SOVIET UNION URGE FREEING OF THREE BALTIC REPUBLICS

To: Government of the U.S.S.R., Government of the Federal Republic of Germany, Government of the German Democratic Republic, Governments of all countries which have signed the Atlantic Charter, Secretary-General of the U.N., Mr. Kurt Waldheim.

Soviet juridical science interprets the term national sovereignty as a nation with all the rights, its political freedom, and a real possibility to fully and completely determine its own destiny, and, first of all, a capability for self-determination, including cessation and formation of an independent state. National sovereignty is characterized by political, territorial, cultural and linguistic independence, a state which has full sovereign rights in all indicated areas of public life, guaranteeing their fullest possible realization.

One can neither give nor abolish national sovereignty; it can only be violated or established.

In 1919 Lenin recognized the existence de facto of Estonia, Latvia and Lithuania, which had recently separated from the Russian Empire. In 1923 Soviet Russia concluded peace treaties with these countries which signified de jure recognition of the Baltic States on the part of Russia. In the name of the Soviet government Lenin gave up in perpetuity any sovereign rights to Estonia, Latvia and Lithuania. However, 19 years later Stalin and Hitler encroached on the sovereignty of these nations. August 23 of this year marks the 40th anniversary of the so-called Molotov-Ribbentrop Pact, the implementation of which meant the end of independence for Estonia, Latvia and Lithuania.

On August 23, 1939, a non-aggression treaty was concluded between the German Reich and the Soviet Union. A secret protocol on the division of Eastern Europe into so-called spheres of influence was attached to it. The objects of the confidential negotiations between the People's Commissar for Foreign Affairs of the U.S.S.R., V. M. Molotov, and the Minister of Foreign Affairs of Germany, J. Ribbentrop, were Finland, Estonia, Latvia, Lithuania, Poland, Bessarabia and Northern Bukovina. The essence of the secret protocol was that the fate of Finland, Estonia and Latvia was to be entrusted to the U.S.S.R., while that of Lithuania to the German Reich.

On September 28, 1939, the USSR and Germany concluded the treaty on friendship and borders. This treaty amended the secret protocol of August 23, 1939, in that now Lithania as well was to go to the USSR, with the exception of the area of the left bank of the Sesupe River which in case of "special measures" was to be occupied by the German army.

From June 15-17, 1940, on the order of the government of the USSR, the Red Army executed the "special measures" on the territory of Lithuania, Latvia and Estonia. Also annexed was that territory of Lithuania which, according to the agreement between Stalin and Hitler, the German army was to annex to Germany.

On January 10, 1941, the German ambassador in the USSR, Dr. von Schulenberg, on the one hand, and the chairman of the Council of the People's Commissars of the USSR, V. M. Molotov, on the other, signed a new secret protocol in which the object of trade was the above-mentioned Lithuanian territory. The German government gave up to the USSR the territory to the West of the Sesupe River for a monetary compensation of 7.5 million dollars in gold or 31.5 million Reichsmarks.

The Molotov-Ribbentrop Pact became a conspiracy of two of the greatest tyrants in history—Stalin and Hitler—against the world and humanity, which began the Second World War. We consider August 23 as a day of infamy.

On August 14, 1941, the President of the USA, F. D. Roosevelt, and the Prime Minister of Great Britain, W. Churchill, signed the so-called Atlantic Charter which has six points. Point two of this Charter declared that the USA and England "do not consent to any territorial changes which are not in agreement with the freely expressed wishes of the nations involved." Point three: "They respect the right of all nations to choose for themselves that form of government under which they want to live; they strive to re-establish the sovereign rights and self-rule of those nations which were deprived of these by means of force." The USSR joined the Charter on September 24, 1941.

The declaration of the USSR said: "The Soviet Union in its foreign policy * * * will be guided by the principle of self-determination of nations * * *. The Soviet Union defends the right of every nation to claim independence and territorial integrity of its country, the right to establish such a social system and to choose such a form of government which it considers expedient and necessary in order to secure the economic and cultural prosperity of the country."

One should recall that, according to international law, the realization of the right of nations for self-determination is impossible, if occupational forces are located on the territories of these nations. This is also emphasized in Lenin's Peace Decree, which says, that if a nation "is not granted the right by means of free elections, under conditions of complete withdrawal of foreign troops or influence of a foreign power, to decide the forms of national existence, without the slightest coercion, then the joining of its territory to another country is annexation, i.e. it is a capture and a taking over by force."

The consequences of the notorious Munich agreement of September 29, 1938, were liquidated by the very fact of Germany's defeat in World War Two. The government of the F.R.G., under pressure of Czechoslovak public opinion, recognized the Munich agreement as null and void from the moment of its signing.

However, the Molotov-Ribbentrop Pact apparently still has legal force. We consider that the silence of world public opinion on this matter encourages aggressors of the past, present and future.

We appeal:

To the government of the USSR with a request that it publish the full text of the Molotov-Ribbentrop Pact and all secret protocols that go with it. We remind that the Soviet government in the Peach Decree declared that it refused to resort to secret diplomacy. At the same time, we request that the Molotov-Ribbentrop Pact be declared null and void from the moment of it signing;

To the governments of the F.R.G. and G.D.R. with a request to publicly declare the Molotov-Ribbentrop Pact as null and void from the moment of its signing, and to assist the government of the USSR to liquidate the consequences of the above-mentioned Pact—by withdrawing foreign troops from the Baltic territories. In order to accomplish this, a commission for the liquidation of the consequences of the Molotov-Ribbentrop Pact should be created, made up of representatives of the USSR, F.R.G. and G.D.R.;

To the governments of the signatory countries to the Atlantic Charter with a request that they, from a position of moral responsibility, express their decisive condemnation of the Molotov-Ribbentrop Pact and its consequences. We remind that, according to international law, such actions are not considered internal affairs if, because of their essence and purpose, they present a threat to peace and security and do grave injustice to generally recognized international norms. The principle of self-determination of nations and peoples presupposes the legality of any forms and methods in the struggle against colonialism, an international crime. To this is bound the legality of international support for the struggle for liberation. Furthermore, according to the Declaration of the Principles of International Law, every state, by means of combined and independent actions, must promote the realization of the principle of equality and self-determination of peoples;

To the Secretary-General of the U.N. with a reminder that this international organization is the legal successor to the League of Nations, of which Estonia, Latvia and Lithuania were also members before the "special measures" were taken. Therefore, the legal responsibility for the fate of these countries rests with you.

We request that the question of liquidating the consequences of the Molotov-Ribbentrop Pact be raised at the next session of the General Assembly of the U.N.

We remind that the principle of self-determination of nations was fixed in contemporary international law. This took place as a result of affirmation of the principle of self-determination of nations in such important international documents as the U.N. Charter (Art. 1, 13, 55, 76); the Declaration on Granting Independence to Colonial Countries and Peoples, adopted by the 25th General Assembly session on December 14, 1960; the Resolution of the General Assembly of December 20, 1965 which recognized the legality of the struggle of the colonial peoples; the international Convention on the Liquidation of all forms of racial discrimination, adopted at the 20th General Assembly session on December 21, 1965; the International Pacts on Rights of Man, adopted by the 21st General Assembly session on December 16, 1966; the Declaration on the Principles of International Law, adopted by the 25th jubilee General Assembly session on October 24, 1970. In these and other international legal acts of the U.N. the contemporary content of the principle of equality and self-determination of peoples reveals itself. It signifies:

The right of all peoples to manage their fate freely, i.e. under conditions of complete freedom to determine their domestic and foreign policy status without foreign interference and to realize according to their wishes their political, economic, social and cultural development;

The right of nations to dispose freely of their natural wealth and resources;

An obligation of all states to promote through combined and independent actions the implementation of the principle of equality and self-determination of peoples in accordance with the provisions of the U.N. Charter.

Equality and the right to manage one's fate are declared as a most important principle of international law in the Final Act of the all European Conference on Security and Cooperation in Europe.

And you, Mr. Secretary-General, are aware that the above-mentioned international documents, which are binding, are violated by certain countries which are members of the U.N. We request that at the next Assembly session of the U.N., the question of the situation of Latvia, Estonia and Lithuania be discussed, inasmuch as the peoples of these countries are deprived of the right and opportunity to manage their fates.

August 23, 1979.

Romas Andrijauskas, Stase Andrijauskiene, Alfonsas Andriukaitis, Edmundas Bartuska, Vytautas Bogusis, Priest

Vladas Bobinas, Romas Vitkiavicius, Jonas Volungevicius, Jonas Dambrauskas, Jonas Eisvidas, Angele Pauskuskiene, Kestutis Povilaitis, Rimas Zukauskas, Ivars Zukovskis, Alfredas Zaideks, Juris Ziemelis, Leonas Laurinskas, Rimas Mazukna, Priest Mocius, Mart Niklus, Priest Napoleonas Narkunas, Sigitas Paulavicius, Kestutis Subacius, Enn Tarto, Antanas Terleckas, Jadvyga Petkeviciene, Jonas Protusevicius, Sigitas Randis, Endel Ratas, Henrikas Sambore, Julius Sasnauskas, Leonora Sasnauskaite, Algis Statkevicius, Erik Udam, Petras Sidzikas, Arvidas Cedanavicius, Vladas Sakalys, Jonas Serksnas, Zigmas Sirvinskas, Mecislovas Juravicius, Priest Virgilijus Jaugelis.

ADDENDUM

The Baltic Republics—Lithuania, Estonia, Latvia—have been included in the composition of the USSR independent of the will of the peoples of these countries—in essence as a result of occupation by troops of the USSR.

Dedicated to the principle of equality and self-determination of nations, respecting the right of every nation to manage its fate independently, we consider that in the given historical situation, the question of the self-determination of Lithuania, Latvia and Estonia must be decided by means of a referedum, conducted in each one of these countries under conditions which provide for a free expression of the people.

We support the appeal of the respresentatives of Lithuania, Estonia and Latvia to examine the violation of the right of the peoples of these countries to self-determination and their rights to freely determine their own destiny.

August 23, 1979.

MALVA LANDA.
VIKTOR NEKIPELOV.
TATIANA VELIKANOVA.
ANDREI SAKHAROV.
ARINA GINZBURG.●

SENATE—*Wednesday, June 18, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our Father who hast ordained that perfection in character shall be attained only by discipline and work and suffering, in whose kingdom pain and sorrow are not enemies but ways to grace and greatness, help us to know Thee now, to practice Thy presence now that in times of greater need we may feel the touch of Thy hand, the whisper of Thy voice to go confidently forward. Help us to store our minds with Thy truth and our hearts with Thy love that we may be calm in a crisis, strong under stress, trustful in the storm guided by the Light which never fails. Support us and all who join us in Government service until Thy perfect kingdom comes and Thy will is done at all times and in all places in Thy kingdom everlasting. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., June 18, 1980.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPETITION OF U.S. INDUSTRY IN THE WORLD AUTOMOBILE AND TRUCK MARKETS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. RIEGLE) is recognized to call up a resolution on which there shall be 30 minutes equally divided and controlled by the Senator from Michigan (Mr. RIEGLE) and the Senator from Utah (Mr. GARN) with the vote thereon to occur at 1:30 p.m.

The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

I send to the desk now a concurrent resolution and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

> Senate Concurrent Resolution 101 to promote the competitiveness of U.S. industry in the world automobile and truck markets.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the concurrent resolution.

The Senate proceeded to consider Senate Concurrent Resolution 101.

Mr. RIEGLE. I thank the Chair.

First, let me say that I am introducing this concurrent resolution on behalf of myself, Mr. LUGAR, Mr. METZENBAUM, Mr. ROTH, Mr. EAGLETON, Mr. WARNER, Mr. LEVIN, Mr. NUNN, Mr. BAYH, Mr. GLENN, Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. MATHIAS, Mr. HEINZ, Mr. JAVITS, Mr. STEWART, Mr. DANFORTH, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. CRANSTON, Mr. TALMADGE, Mr. MAGNUSON, Mr. CANNON, Mr. JACKSON, Mr. RANDOLPH, Mr. PELL, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BELLMON, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. COCHRAN, Mr. CHILES, Mr. COHEN, Mr. CULVER, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. DURKIN, Mr. EXON, Mr. FORD, Mr. GARN, Mr. HATCH, Mr. HEFLIN, Mr. HELM, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. MCCLURE, Mr. MCGOVERN, Mr. MELCHER, Mr. MITCHELL, Mr. MORGAN, Mr. MOYNIHAN, Mr. PERCY, Mr. PRESSLER, Mr. PRYOR, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STONE, Mr. TOWER, Mr. WALLOP, Mr. BENTSEN, Mr. STENNIS, Mr. PACKWOOD, Mr. THURMOND, Mr. INOUYE, and Mr. LAXALT.

Mr. President, today 81 Senators are calling for and committing themselves to work to achieve a comprehensive national policy to solve the urgent problems facing the U.S. automotive industry.

This bipartisan coalition of Senators, representing all regions of the country and diverse philosophies, agree that new action is needed immediately to restore the strength of this strategic industry, reemploy its workers, and regain world leadership in the production of cars and trucks.

The resolution sets forth the strategic nature of this problem and establishes the policy framework for dealing with it.

Auto manufacturing is the keystone of this Nation's economy. It directly creates 1 out of every 12 manufacturing jobs and generates prime demand for such basic industries as steel, aluminum, rubber, textiles, machine tooling and, increasingly, electronics. It effects the economy of every State, and its health is vital to 50,000 small- and medium-sized supplier firms and to 28,000 auto dealers.

The U.S. auto industry is in serious difficulty. Sales and production have fallen by the largest amount in 20 years. Last month, 295,000 autoworkers were out of work, causing the layoff of an additional 885,000 workers in related industries. Since April 1979, a shocking 850 auto dealers have gone out of business, and failure threatens hundreds more in the next few months. The industry's collapse is costing Federal, State, and local governments—this year alone—over $10 billion in lost revenues and additional spending for unemployment compensation, food stamps, and social services.

Last night the Washington Star carried a feature story on a Ford dealer who has been forced to close down and liquidate his operation. The front page of the Wall Street Journal this morning has a compelling article that describes the serious financial difficulties of State governments caused by the downturn in the economy. It pays particular attention to Michigan and the consequences of the current difficulties in the auto industry.

The Japanese efforts to further penetrate the U.S. market are escalating these problems into a catastrophe. Japanese imports now exceed 23.3 percent, and the Japanese are expanding their capacity enough to supply 50 percent of this country's vital small car market. That threatens to cause a massive permanent loss of U.S. jobs and a continued rise in the trade deficit.

Mr. President, we face a historic challenge. I believe the United States must not become dependent on foreign countries to meet our basic future need for vehicles to transport goods and people. American industry must be thoroughly converted to produce the advanced new vehicles that are needed for the 1980's and future decades.

This expression by more than four-fifths of the Senate which we bring before the Senate today for passage, will serve as a powerful message to the administration as it works to develop an automotive policy and as the President prepares for the June 22 economic summit in Venice.

Adoption of this resolution should also be an unmistakable signal to Japanese auto and truck producers that existing trade penetration into the U.S. market is damaging America and must be moderated. I believe it is a clear sign that further Japanese efforts to increase their U.S. market share will not be tolerated and should not be attempted.

Mr. President, this resolution looks to a new era of cooperation among business, government, and labor in America as we build a new partnership to meet the extraordinary difficulties and challenges facing the United States as an industrial power. This step is long overdue and was vital to our success in passing the Chrysler loan guarantee legislation. This new era of cooperation is absolutely necessary if this Nation is to regain world leadership in the design and production of cars and trucks.

This resolution calls for a comprehensive strategy to restore the U.S. auto industry to full strength and world leadership. The resolution affirms that such a strategy should include:

First, the pursuit of a national goal to achieve and maintain technological superiority in world auto manufacturing;

Second, the recognition of auto manufacturing as a strategic national industry that deserves supportive policies in the United States as in all other auto manufacturing countries;

Third, coherent fiscal, regulatory, and trade policies to insure that the U.S. auto industry has the financial strength needed to convert and modernize its facilities to produce high quality, fuel efficient cars and trucks;

Fourth, immediate and longer term measures to reduce the current high levels of unemployment among American auto workers and to build jobs for American workers in the future; and

Fifth, measures to hold down inflationary pressures on auto consumers.

Numerous specific initiatives will be put forward by various cosponsors of this resolution and others to achieve the policy goals outlined today.

In my own case, I shall continue to give top priority to the establishment of an orderly marketing agreement with Japan while the domestic industry is making the transition to the production of fuel efficient cars. However, an effective strategy will also have to include imaginative reforms in Federal regulatory, trade, and fiscal policies. I shall be working with other Senators to offer proposals in these areas in the coming weeks.

Mr. President, I trust that the resolve shown today by such an overwhelming majority of the Senate will encourage the administration to put forward a strategy of action that is fully adequate to the enormous task that confronts this Nation.

I reserve the remainder of my time, and I acknowledge the leadership that the Senator from Delaware (Mr. ROTH) has given on this issue and other issues related to the auto industry.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. ROTH. Mr. President, I am very pleased to join the distinguished Senator from Michigan (Mr. RIEGLE), my good friend with whom I have worked on many projects in my service in the Congress.

I am pleased to be cosponsoring this resolution to promote the international competitiveness of the U.S. automotive industry. I would like to take this opportunity to stress to the United States and to our trading partners the importance of rebuilding this U.S. industry to a level of worldwide prominence.

The United States, as a leader of the free world, must maintain its key industries; and the automotive sector is certainly one of the most vital. This industry encompasses not only the producers and salesmen of cars and trucks but, in addition, a myriad of supplying industries. A decline in the automotive equipment sector means declines throughout the U.S. economy. For this reason, our trading partners must realize that it is in their own best interest to help insure the health of the automotive industry in the United States.

This crucial domestic industry is in serious trouble. Our producers have suffered great declines in national as well as international competitiveness. Traditionally, imports have taken approximately 15 percent of the U.S. market; but in February of this year, this figure rose to over 27 percent. It is estimated that in 1980 alone, our truck and automobile deficit will reach $10 billion.

Historically, the U.S. market has been one of the most open in the world. At the same time, our trading partners have maintained high tariff walls and numerous nontariff barriers. As a result of internationally irresponsible policies in many parts of the world, autos and trucks, especially those from Japan and the European Community, have been diverted to the United States. These automotive products are literally flooding our market.

At the same time, our domestic industry has undertaken a massive program to retool to satisfy consumer preferences and to comply with Government regulations. This combination of import competition and rapidly rising costs for modernization has crippled the industry's capital formation efforts. Lower sales have led to plant shutdowns and employee layoffs. At the present time, as many as 500,000 autoworkers are unemployed.

To combat this decline in our automotive industry we need to develop Government-industry-labor consensus that focuses on coordinated and positive adjustment. For its part, the Federal Government should review those policies that affect automotive production to uncover and revise those that unnecessarily hamper the competitiveness of our industry at home and abroad. I refer, in particular, to onerous regulatory policies and export-related laws that cripple our efforts to be successful in the world marketplace.

Management's role is also critical to insure the industry's future health. The automotive sector can only survive if our industry leaders are innovative, if they continue to invest in productive assets, and if they are aggressive in marketing their products worldwide.

Labor, for its part, can contribute by cooperating with management's efforts to increase productivity and, thereby, keep down prices.

While, in general, I am in favor of freer international trade, at times we must actively respond to the needs of our producers to insure the survival of crucial domestic industries. A Government-industry-labor dialog, coupled with responsible investment trade actions on the part of our trading partners, could help bring our automotive sector back to world preeminence.

I yield the floor.

Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROTH. Mr. President, I yield such time as the Senator may require.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am honored to be a cosponsor of this resolution. I first want to acknowledge the leadership of the distinguished Senator from Michigan (Mr. RIEGLE) and the distinguished Senator from Delaware (Mr. ROTH) who immediately came to the forefront when Congress slowly became aware of the critical problem within the auto industry.

Within the Commonwealth of Virginia we are particularly proud to have Ford and Mercedes Benz truck assembly plants located in Norfolk and Hampton, respectively. We in the U.S. Senate must take steps to insure the health of this vital sector of the American economy.

We held a series of meetings. We had the principal executives here from the various auto companies, and we have had a free exchange between the Members of Congress and the leaders of the industry.

I would like to address one particular point. As a member of the Senate Armed Services Committee, I have joined this resolution to point out the need to preserve this particular industry for our national defense. Were this country ever to be confronted with the misfortune of having a mobilization not only of manpower but the industrial base, the auto industry would be among the very first to respond. And unless we keep this industry in a healthy condition, not only in terms of skilled employees, but the proper equipment, we cannot expect this Nation to rearm itself in the time of conflict.

I hope that never occurs. But that certainly should be an underlying motivation for those Members of the Senate. I hope that this will be a unanimous move on behalf of the Senate to come forward and support this resolution.

I thank the distinguished Senator from Michigan.

Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Senator from Virginia for his fine statement and also for his initiative and interest in this project.

As the Senator pointed out, a few weeks ago a group of us hosted a meeting with the heads of the domestic automobile companies and the president of the United Auto Workers. Twenty Senators were present for that session. We met for over 2 hours to discuss the most urgent problems facing the industry.

Subsequent to that meeting, the President called a similar meeting at the White House with the same leaders of the auto companies and the United Auto Workers. Since that time, a task force within the administration has been put to work to devise an overall policy response to this set of problems.

I must say that there has as yet been no clear indication of what that task force will propose. However, the strong and overwhelmingly positive response this issue has received from my colleagues here in the Senate indicates that it is time for firm, farsighted and comprehensive action.

I, for one, am particularly concerned with the need for an orderly marketing agreement with Japan. Their market penetration is now approaching 25 percent of the U.S. market and our domestic industry is caught in the midst of a massive transition, extremely vulnerable, and not able to respond to the sudden shift in market demand. Until American factories are retooled to produce the kinds of smaller, more fuel-efficient cars now in demand, the Japanese will be able to inflict lasting structural damage on this country's industrial base.

The auto industry is a major source of demand for the products of critical industries—not only steel, textiles, rubber, and glass as in the past but also, increasingly, electronics are playing a major part in controlling car engines and otherwise optimizing the efficiency and usefulness of automobiles and trucks.

The demand is vital to the vigor of thousands and thousands of this Nation's most competitive firms, large and small.

So, in terms of protecting and advancing our technological strength, it is essential to prevent damage to this industry.

As the Senator from Virginia points out, a strong auto industry would be essential for a national emergency mobilization, should it be required. I, too, hope that we will not see that, but we may. During World War II, the industrial might of the American auto industry and related industries contributed enormously to America's early successes and final victory in World War II.

I might say with respect to orderly marketing agreements, that there now are voluntary agreements between Japan and other advanced industrial countries. The Japanese have agreed not to exceed 11-percent market share in Britain. They come right up to that 11 percent but they do not go beyond.

France has also worked out an agreement with Japan to limit the Japanese penetration of the French market to 3 percent.

Virtually every major industrial nation has taken steps to insure the continued strength of the auto industry in their society. The only nation not to do so is the United States, and we are paying a horrendous price at the present time. We have well over a million Americans unemployed today as a result of the difficulties in the auto industry.

The remarkable breadth of support which has been shown by cosponsorship of this resolution carries a powerful message. I cannot recall another resolution to establish a basic national goal and policy that has had as many as 81 Senators coming forward as cosponsors. It includes the leadership in both parties, the majority of both parties, a full range of Senators from across the 50 States, and from all parts of the philosophical spectrum. That gives a tremendous weight and meaning to this initiative today. I see that my colleague from Michigan is here, and I know he wishes to speak on this matter.

Mr. LEVIN. I thank my colleague.

The ACTING PRESIDENT pro tempore. Does the Senator yield to the junior Senator from Michigan?

Mr. RIEGLE. I do.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am pleased to join with Senator Metzenbaum, Senator Riegle, and other Members of this body in offering this resolution expressing the Senate's concern about the current state of the American automobile industry. The broad and bipartisan cosponsorship which this resolution enjoys is indicative of the widespread concern about the industry, and the recognition that its difficulties do not stem from a single source. Rather, a multifaceted examination of Federal policies in many areas will be necessary to help get the industry back on its feet.

Our auto companies have undertaken a massive capital investment program to retool for the production of fuel efficient, high quality, economical vehicles—vehicles which will be a match for those produced anywhere else in the world. Our responsibility, in the words of this resolution, is to "produce a climate" in which this conversion of facilities can take place as rapidly and efficiently as possible.

I hope we will follow up this resolution with concrete action which will provide tangible evidence of our support for the industry. The Chrysler loan package was an important beginning, by giving breathing space to an important auto producer which is now moving toward the production of efficient, marketable cars. We must also re-examine our trade policies, to insure that our companies have the same ability to compete in foreign markets as our trading partners have in ours.

We must design fiscal policies to insure that Americans who want to buy new, more fuel-efficient cars have access to the financial resources to do so. I hope that passage of this resolution will signal the beginning of a broad-based congressional effort to speed the automobile industry's recovery, and thereby contribute to the continued health and vitality of the American economy.

I again congratulate and commend Senator Riegle, Senator Metzenbaum, and others, for bringing this resolution to the floor. I hope it does send a signal to everyone concerned with the state of the American economy that we are serious about the role of the American automobile industry in that economy. I thank my colleague from Michigan for yielding.

Mr. RIEGLE. I thank the Senator from Michigan for both his statement and leadership on this issue.

Mr. President, I would now like to ask for the yeas and nays on the resolution.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The vote will occur at 1:30 p.m.

The time of the Senator from Michigan has expired.

Mr. ROTH. I will be glad to yield to the Senator.

Mr. EAGLETON. Will the Senator yield to me?

Mr. ROTH. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. EAGLETON. I thank my colleague.

Mr. President, I think the resolution before the Senate today is one of the most important resolutions that the Senate will consider this year, or in perhaps any other year.

There is no more beleaguered industry in the United States than the auto industry. This industry, with all of its feeder groups, is, in essence, the lifeblood of the American industrial economy.

President Eisenhower once had a Secretary of Defense, Mr. Charles Wilson, who said, "What is good for General Motors is good for the country."

He was derided and castigated for that impolitic statement. But if one looks at the current industrial scene in the United States, the statement by the late Mr. Charles Wilson was really not all that impolitic. As General Motors, Ford, Chrysler, and American Motors are all going through a time of considerable economic distress, we are seeing the ramifications of that distress. It runs rampant through States like Michigan, Ohio, Delaware, Missouri, and Indiana. It impacts States that have a significant, direct auto production capacity as well as those that feed in all of the component parts and metals that become American automobiles.

I strongly urge upon my colleagues the resolution that is before the body.

Mr. President, I yield back the remainder of my time.

THE AUTOMOBILE INDUSTRY

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join Senators RIEGLE, LEVIN, BAYH, LUGAR, and a majority of my colleagues in cosponsoring this resolution.

The difficulties of the U.S. auto industry are apparent. May sales of U.S. built new cars fell 37 percent. New car sales for June are projected to be lower than any time since 1961. Unemployment in the auto industry now exceeds 40 percent.

Revitalization of this crucial economic sector is not going to happen overnight. Even after the consumer regains confidence and steps up his purchase of new autos, domestic producers face a tremendous challenge from foreign producers which—because of their years of experience with higher gasoline prices—have had years of lead time in developing smaller, fuel-efficient automobiles.

One of the factors which will contribute to an increase in demand for new cars is the complete dismantling of existing controls on consumer credit. The controls, although not designed to do so, have discouraged both lenders and buyers from financing new auto purchases with credit. Combined with congressional commitment to fiscal restraint, the controls helped to create an atmosphere in which interest rates could fall from their peak in early April.

This resolution recognizes the central role which the auto and truck industries play in our economic and strategic well-being.

It calls on the administration and Congress to commit themselves to policies designed to revitalize these important sectors. In particular, it calls for a review of import policies and their effect on the ability of the auto industry to retool and to produce lighter, more fuel-efficient cars.

The resolution urges that immediate steps be taken by all concerned parties to alleviate short-range unemployment and encourage long-term domestic investment in the auto sector.

This resolution offers a framework for consideration of the significant economic problems which confront this industry. It signals the Japanese that the Senate expects restraint from Japanese producers during the transitionary period in which U.S. producers are particularly vulnerable.

It is my hope that the Japanese Government and the Japanese automobile industry will appreciate the importance which the U.S. Government attaches to this issue.

I have faith in America's productive capacity. I believe that with a little grease applied to the right places, the American economy can generate the prosperity which has always been a part of the American dream.

• Mr. METZENBAUM. American automobile production is down more than 33 percent from the level of a year ago. Our auto industry is caught in a vise between the Carter administration's programed recession and the growing flood of auto imports, particularly from Japan and Germany.

Our automobile industry and our automobile workers, and those businesses employees related to every aspect of the manufacture, sale and service of automobiles, represent a crucial segment of the American economy. Workers in the glass, rubber, plastics, steel, textile electrical, and copper industry depend on the auto industry for their jobs.

In addition to jobs, hundreds of communities across the country depend on a healthy auto industry to provide the tax base for essential public services.

As the auto industry contracts, so, inevitably, must the quality of life in countless American communities.

Nationwide, more than 250,000 hourly autoworkers are unemployed, most on indefinite layoffs. Another 50,000 white-collar auto industry executives and engineers have lost their jobs.

In my home State of Ohio, we have seen widespread layoffs and plant closings in our 25 major auto production facilities. More than 75,000 Ohio autoworkers and employees in related industries have lost their jobs in the last year.

This figure includes 55,000 hourly autoworkers, 5,100 employees in auto dealerships, 2,000 rubberworkers in the passenger car tire production business, and 12,000 steelworkers in the light steel business.

To compound the unemployment problem in my home State, the Ford Motor Co. has recently confirmed a fact I revealed earlier this year. Although Ford originally denied my accusation, they have now announced that they will begin construction of a massive $350 million engine plant in Mexico, drawing more than 10,000 jobs from the Brook Park engine plants in Cleveland.

Ford documents which I uncovered have shown that the per unit cost of building an engine in Mexico as opposed to Cleveland is almost identical * * * about $1,054 per unit in Cleveland as against $1,052 in Mexico. However, the Mexican Government has offered Ford an enormous package of tax breaks, which reduces the per unit cost by approximately 46 percent.

I strongly oppose this program of exporting jobs and manufacturing capacity to Mexico. In my view, a Ford engine built in Mexico is just the same as a foreign car imported from Japan or Germany, and should be considered part of any trade agreement. I would support countervailing measures against the huge Mexican tax incentives.

Help is desperately needed, and the Congress must initiate that help. It is wrong to adopt the position taken by the President at his press conference on April 17, 1980, when he said, "there are several things we could do * * * I think that would be ill advised. So we're trying to carry over as best we can during this transition phase, minimal damage to the American automobile worker * * * I cannot freeze imports of the small foreign cars that American consumers want just to protect an industry that is now transferring its attention to the small cars to be manufactured here."

The fact is that effective action can be taken at the nation-to-nation level, especially in the area of international trade practices, and the President must not choose to remain above the problem.

U.S. trade policy has been wide open in the area of auto imports. At the same time, many other nations, including Japan, have established quotas against American products and used both tariff and nontariff barriers to exclude our exports. Many nations have local content laws. Japan, in particular, has special marketing restrictions that effectively triple the price of American-built cars in the Japanese domestic market.

Mr. President, I have been a severe critic of the American auto industry on issues like safety and fuel efficiency. But now is the time to put some of that criticism aside. For if we do not act now, there may be no American car industry left by the end of this decade.

Japanese manufacturers in the first quarter of this year sold more Japanese cars in the United States than they sold in Japan. They are pouring resources into expanded production in an effort to gain and hold an even larger share of the American market.

I believe that we must take comprehensive steps to give the American car industry some respite from this assault, and to provide the industry with some assistance in undertaking the most massive retooling in its history. As sales and profits fall, American companies are finding it increasingly difficult to raise the massive amounts of capital that will be needed to carry through this vital process.

Today's resolution is the third step I have taken to concentrate the resources of the Government on this problem. In May, Senator RIEGLE and I convened an historic meeting with Philip Caldwell, chairman of the board of Ford, Thomas Murphy, chairman of the board of General Motors, Jerry Meyers, chairman of American Motors, Paul Bergmoser, president of Chrysler Corp., and Douglas Fraser, the president of the United Auto Workers.

Eighteen other Senators joined us as we talked frankly about the auto industry, its needs, and what we could do to help.

Although the principals at that meeting expressed differences on some matters of specific policy, there were notable areas of agreement.

The first was that imports are seriously hurting American car sales and will continue to do so until the fuel economy of American cars is substantially improved.

The second was that dealers and consumers need a freer credit market.

The third was that the industry needs assistance in retooling and technological research.

The fourth area of agreement among the auto manufacturers was that Federal regulation imposes some burdens on the automobile industry. In areas like safety, fuel economy, and environmental pollution, however, those are burdens that I consider necessary—unless the auto industry can prove a contrary position. And they are burdens that the foreign competition must also meet.

Another effort I have made to ease current auto industry problems involved the U.S. Customs Service's practice of levying only a low 4-percent tariff on small Japanese-manufactured trucks, instead of the intended 25 percent tariff. Last year, 466,000 of these trucks were imported, constituting 21 percent of the total Japanese imports to the United States. I called Secretary of the Treasury Miller and the White House in support of the higher tariff, and I welcome their recent action to raise the tariff to its proper level. This action could restore as many as 20,000 American autoworker jobs over the next 2 years.

The sense of the Senate resolution we are introducing today describes the crisis in the auto industry and calls for a new thrust in Federal policy directed at stabilizing the domestic industry's share of the U.S. market. Stabilization must come—and come quickly—if we are to save the jobs, the businesses and the industrial tax base that depend on the auto industry. The sponsors of this resolution do not agree on all the specifics of what must be done. But as for me, I believe that four major steps are essential to give the industry a fair opportunity to recover and make important product improvements.

First, I favor a temporary, partial backout of Japanese, German, and other foreign imports, through the negotiation of orderly marketing agreements between our Government and the other governments involved. This would be a limited, 3-year measure to allow our industry a fair opportunity to complete its retolling efforts.

Second, I favor restraint by the American manufacturers and workers in the auto and related industries, to keep prices and wages at a fair level, and to totally refrain from unfair wage or price increases in an atmosphere of temporarily decreased competition.

Third, I favor credit assistance to purchasers of American-built new cars, and a special program of credit assistance to car dealers to enable them to survive their current cash flow crisis.

Finally, I favor a program of pooled technological assistance to American manufacturers to allow them to make rapid and quantum increases in gas mileage per gallon and decreases in engine emissions. There is no reason why we should be content to stay one step behind the Japanese in MPG statistics.

Today's sense of the Senate resolution is a major step toward these goals, and I urge my colleagues to support it.●

INSURING THE FUTURE OF THE AMERICAN AUTO INDUSTRY

● Mr. CULVER. Mr. President, I welcome this opportunity to cosponsor and vote in favor of this Senate resolution concerning the serious problems facing the American auto industry. The purpose of the resolution is to draw attention to the distressed state of the domestic auto industry, and to signal the Senate's resolve to marshall economic, fiscal and import tools to help the auto industry recover and generate the capital needed to insure its viability in future years.

Mr. President, the U.S. auto industry is on the threshold of an unprecedented challenge and must undergo a thorough transformation in the next few years. Few American industries have been so dramatically affected by the soaring cost of energy as the auto and truck manufacturing industries. In less than a decade the price of gasoline has quadrupled and is certain to rise further. The automakers have made significant progress in improving the fuel efficiency of their fleets, but the still rising price of gasoline and our Nation's continuing overreliance on foreign oil require that much more be done.

Therefore, the American auto producers have no choice but to redesign entire fleets and retool dozens of plants—in effect transform the industry to achieve much more fuel-efficient vehicles. We are not talking about tinkering with this part or replacing that component. The industry is anticipating thorough redesigning and retooling—including engines, transmissions, chassis and bodies—and utilizing different materials, new blueprints and improved technology. No part or component of the cars and trucks of the eighties will be exempt from this quest for fuel efficiency. This massive transformation of an industry and conversion of plants and facilities will entail enormous capital outlays, requiring the companies to generate an estimated $80 billion over the next 3 years. At the same time, they must continue to respond to public demands for safer and cleaner vehicles.

Unfortunately, just as the automakers approach the critical juncture in this undertaking, they are plagued with a faltering economy, record-high interest rates, along with tighter credit, growing encroachment by Japanese auto imports and further spurts in the price of gasoline. The auto industry is one of the first and hardest-hit industries in a recession; car sales are heavily dependent on the cost and availability of credit; sales of imported Japanese cars have recently reached a record 21-percent share of the U.S. market; and obviously, the dramatic jump in gas prices in the past year only exacerbates the problem.

The result is that car sales have fallen off sharply in recent months and massive auto-related layoffs are continuing to spread throughout the industry. With depressed sales, profits and employment, the industry cannot possibly expect to meet this unprecedented challenge and remain viable throughout the 1980's.

The lost profits and jobs are by no means confined to the auto and truck manufacturing industries. The dislocation also seriously hurts directly related industries such as steel, rubber, plastics, glass, aluminum, and electronics. Nor is it confined to Detroit and other major auto-manufacturing areas. In my State alone, over 40,000 Iowans are employed in auto and truck sales and service, and over 7,000 Iowans are engaged in vehicle and parts manufacturing.

Mr. President, we have long been proud of our American auto industry—and justifiably so. The industry possesses good business acumen, gifted engineers, and dedicated workers. Its historic success has been made possible by a vigorous sales force and capable service personnel across the country. Even in the best of times, the industrywide conversion would represent an enormous undertaking. But unless domestic auto sales recover and profits and jobs rebound, the industry will not be able to generate the tens of billions of dollars needed to carry out this massive conversion to fuel-efficient fleets.

I hope my Senate colleagues will act affirmatively on this resolution and work together to help design the specific policies and programs to begin to make the goals of this resolution a reality.●

● Mr. TALMADGE. Mr. President, I rise in support of this resolution which I am pleased to be cosponsoring. It is imperative that the President, the Special Trade Representatives, and the Congress join hands to explore and take all necessary steps to aid our Nation's ailing automobile industry. We must act now, for the well-being of our economy is strongly dependent upon the well-being of the automobile and its related industries.

The current glut of imported cars, primarily from Japan, is placing a heavy burden on the American automobile industry and its workers. Many American jobs are being lost because of this influx. One in seven jobs in the United States is tied directly to the automobile industry. Because of the large number of layoffs in this industry, unemployment has soared 1.6 percent in the last 2 months alone to 7.8 percent of our Nation's work force. This is the steepest 2-month rise in over 32 years, with 1.7 million people added to the unemployment rolls in April and May. Such a dramatic increase in unemployment will have a devastating effect on Federal revenues and our ability to achieve a fiscal year 1981 balanced budget.

The domestic automobile industry, one of the bedrock industries on which our economy depends, is in its worst slump since the Great Depression and is just about to hit rock bottom. Total layoffs for the industry already exceed 270,000—over 15 percent of the work force—with approximately 9,000 workers idled indefinitely in my home State of Georgia. Sales are running almost 17 percent below 1979 levels, 11 manufacturing and assembly plants are expected to shut down by year's end. The chief cause is imported cars which now hold almost 30 percent of the U.S. market.

Mr. President, the rubber, steel, and aluminum industries have also experienced substantial cutbacks in production and employment as a result of the current crisis in the automobile industry. The serious fluctuations of our economy from high interest rates to a severe recessionary downturn, combined with runaway fuel prices, have crippled consumer demand for automobiles substantially. A domino effect has begun whereby firms and workers supplying domestic automobile producers are also suffering the adverse effects of the depressed automobile market.

The current crisis has hit the domestic industry at a time when it must invest huge amounts of capital, approaching $100 billion, for retooling if American producers are to remain competitive by making the small, fuel-efficient cars our citizens demand. Excessive Government regulations and the current tax laws which discourage capital formation have worsened the situation by restraining productivity increases and by preventing the quick depreciation of the now obsolete large car manufacturing equipment.

Mr. President, even though the slowing of inflation and the drop in interest rates in recent weeks are positive signs, it is nonetheless imperative that all sectors of our Government, in cooperation with private industry, outline the goals which we must strive to achieve to aid the domestic automobile industry. The time has come when we must get tough with Japan and other countries in our negotiations to persuade them to locate production facilities here in the United States and to open up their markets to American-made automobiles so that the jobs and dollars can remain in this country rather than being exported abroad. Last year, Japanese cars accounted for 21 percent of U.S. sales—over 2 million cars—while U.S. exports to Japan were limited to less than 16,000.

This inequity cannot be allowed to continue. It is time to put a halt to further foreign inroads into the American market. We must provide the needed incentives to the domestic automobile industry for increased capitalization to make possible plant modernization and retooling to meet the growing demand for smaller, more fuel-efficient cars. This is an expensive undertaking, but one which must be encouraged and begun immediately to protect American jobs, to maintain a competitive posture for our American industry.

Accelerated depreciation legislation, of which I am a cosponsor, will be especially important to the automobile industry in order to provide American automobile workers with the most modern equipment to compete with foreign imports. We must take a second look at the current regulatory burdens imposed on the American automobile industry. We must reduce and eliminate excessive Federal regulations on the automobile industry as well as other industries whose vitality is being suffocated by the $100 billion to $150 billion regulatory jungle in Washington. These steps must be taken if we are to put our domestic industry on the road to recovery.

Mr. President, I wholeheartedly support this resolution, and I pledge my continuing efforts as we attempt to return our national economy and the domestic automobile industry to an even keel.●

● Mr. GLENN. Mr. President, I rise to join my colleagues in support of Senate Concurrent Resolution 101, which calls for a national automobile industrial policy.

Today the American automobile industry is in deep and serious trouble. While our trading partners have erected numerous and effective import barriers against foreign-produced automobiles, the United States has, in good faith, maintained free and open access to its domestic market. The result has been predictable. From 18 percent of the U.S. automobile market in 1978, foreign imports have swelled to the point of now accounting for 29 percent of total U.S. auto sales. This unprecedented penetration of the Nation's most important industry has taken a frightful toll on American workers and their communities. From last year's total of 2.3 million workers employed directly or indirectly by the U.S. auto industry, today barely 1.6 million are so employed. Worse yet, less than half of the 700,000 American workers who have lost their jobs due to auto imports are eligible for adjustment assistance.

These developments have rendered the State of Ohio an economic disaster area. In 1979, 390,000 Ohio workers were directly or indirectly employed in the auto industry. Today, some 65,000 of these workers—almost 20 percent—have lost their jobs. The result is that Ohio has gone from a statewide unemployment rate of 5.7 percent in 1979 to a rate currently approaching 10 percent.

For Ohio—and the Nation—this situation is unacceptable and must not be allowed to continue. Decisive action must be taken—and taken soon—to stem the flow of foreign automobiles and to provide our domestic auto industry with the time it needs to recapture its competitiveness.

This does not mean that we must tread the discredited path of protectionism. History has repeatedly demonstrated that the erection of tariff or quota walls is both irresponsible and ultimately self-defeating. In my view, our Nation must instead adopt both a short- and long-term strategy to deal with the foreign auto challenge. Over the short-term, we must do at least three things:

First, we must insist that domestic and international trade laws are vigorously enforced. If we discover that any foreign government is dumping or unfairly subsidizing its auto exports to the United States, we must take prompt corrective action.

Second, we must expand adjustment assistance programs for workers whose jobs are lost because of imports. Fully 20 percent of the 439,000 workers currently certified as eligible for this assistance are from Ohio. A high proportion of the additional 300,000 workers the Labor Department estimates will qualify by the end of this year are also Ohioans. I therefore call upon Congress to exert every effort to expand adjustment assistance funding levels for 1980. Additionally, I urge the Senate to promptly consider H.R. 1543, which would expand the scope of adjustment assistance programs to cover workers whose jobs are lost indirectly to foreign imports.

Third, I call on the administration to enter into negotiations with the Japanese for the purpose of reaching a voluntary restraint agreement on automobiles. By voluntarily agreeing to limit auto exports to the United States, the Japanese can avoid more stringent import sanctions. Such an agreement would not be a departure from America's free trade policy, but would simply give our domestic industry enough time to make the adjustments necessary to compete on a more equitable footing.

Politically, I believe such an agreement is both viable and achievable. Economically, it is an attempt to win justice for our autoworkers and their communities.

These short-term measures, however, will do little good if we do not simultaneously begin to confront the deeper issues which lie at the heart of our dilemma. One of these issues is our Nation's serious decline in industrial research and development. In the auto industry, for example, we must encourage Government-industry partnership in high-risk, capital intensive projects—such as the development of an electric automobile—which will allow us to leapfrog foreign competition and which will help free us from the twin dilemmas of foreign imports and dependency on foreign oil.

Second, we must adopt the tax changes necessary to facilitate capital formation and stimulate investment in our Nation's industries. The Capital Cost Recovery Act, for example, must be passed quickly so that we may bring our outdated depreciation schedules into line with those of other nations. In this connection, I announce my intention to introduce an amendment to the act which would provide a 1-year write-off for any costs incurred in the installation of pollution-abatement equipment.

Third, we must proceed with regulatory reform—stripping away unnecessary regulations and insuring that necessary regulation is undertaken in a cost-effective manner. In this and other areas, we must improve cooperation among business and labor and Government so that we can meet the combined industry-Government competition mounted by our trade competitors.

Fourth, we must insist that our economic policymakers look further ahead than is their custom, so that future problems are foreseen before they reach epidemic proportions. In the auto industry, for example, recent studies have indicated that long-range changes in the demand for and production of autos may have fundamental and severe impacts on autoworkers, related industries and their communities. These impacts must be explored and evaluated if future crises are to be averted.

With respect to long-term economic trends and their impact, I announce today my intention, as chairman of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, to examine United States-Japanese trade and its future impact on the foreign policy and economic health of the United States.

In sum, my proposals today amount to a short-term strategy by which we can reduce our workers' immediate suffering and long-term industrial policy for the United States. We need time to adjust to recent changes in the world auto market. We must act to renew the traditional dynamism of our industrial economy.

The time to begin is now.●

Mr. HAYAKAWA. Mr. President, I shall vote against Senator RIEGLE's resolution to improve the competitive position of the U.S. auto industry, not because I do not want to see improvements in American industry's portion of the world market, but because I see this resolution as a step preparing the way for tariff protectionism, about which the U.S. auto industry is divided and which the United Auto Workers have demanded.

I am not interested in protecting the special share of the market now enjoyed by Japanese and German manufacturers. I would vote against this resolution whether the threats to the U.S. industry came from Japan, Germany, England, France, Taiwan, or Czechoslovakia.

Important changes are taking place in the U.S. auto industry. Our national policy of maintaining low prices for gasoline while gasoline was going up to $2 and $3 a gallon in Europe and Asia has had the effect of slowing down these needed changes in the U.S. auto industry.

I will vote against this resolution, therefore, with the best interests of the U.S. auto industry at heart, so that both manufacturers and unions will relax the rigidity of their thinking, which has brought them to their present pass.

I wish the auto industry well, and I believe that the best interest of the industry will best be served by taking no steps that might lead to protectionism, but will lead to changes in management, production practices, design construction, and labor demands that will make the U.S. industry competitive again.

Mr. HARRY F. BYRD, JR. Mr. President, I share the concern of the Senator from Michigan about the current situation in the U.S. automobile industry. I commend him for bringing this resolution to the floor. I shall vote for it.

I wish to make an observation, however.

I note that the resolution states that the automobile and truck industry in the United States is strategic and "essential to the economic and national security of the United States."

I believe it is an extremely important industry. It means very much to the American people, the American working people. It provides many jobs, thousands of jobs, and I want to see it prosper. I shall support this resolution, but I want to make clear that my support of the pending resolution does not constitute in any way an endorsement of or commitment to future programs of loan guarantees or similiar financial rescue operations by the Federal Government on behalf of the automobile industry or individual manufacturers within that industry.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. THURMOND. Mr. President, I support the resolution, and I should like to be associated with the remarks of the able Senator from Virginia on that point.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. RIEGLE. Mr. President, my time has expired, I understand.

Mr. ROTH. Mr. President, I yield back the remainder of my time.

Mr. RIEGLE. I understand by yielding back now we have a record vote scheduled for 1:30 p.m. today, is that correct?

The PRESIDING OFFICER (Mr. LEVIN). That is correct.

Mr. RIEGLE. And the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

APPELLATE COURT REORGANIZATION ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2830, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 2830) to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the Fifth Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, La., to be known as the Fifth Circuit, and the other to be composed of the States of Alabama, Florida, and Georgia with headquarters in Atlanta, Ga., to be known as the Eleventh Circuit, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

KING CHRISTIAN X: AN EXAMPLE OF COURAGE

Mr. PROXMIRE. Mr. President, the Nazi invasion of Denmark was swift and brutal. It took less than a day. But what the Danes lacked in military power they more than made up for in courage.

As in other occupied countries, where the Wermacht went the SS followed—and soon Denmark was ordered to comply with Hitler's plans for exterminating the Jews. But Denmark refused.

King Christian the Tenth led the Danish resistance to genocide. When Hitler ordered him to force his Jewish subjects to wear yellow badges, he responded:

> The Jews are a part of the Danish nation. If the Jews are forced to wear the yellow star, I and my whole family shall wear it as a badge of honor.

When the Nazis ordered the King to establish a Jewish ghetto in Copenhagan, he told the Germans that if there was to be a ghetto, he would move there himself.

The King's heroic defiance paid off. Denmark's 6,000 Jews were spared the humiliation of badges and the agony of death.

Today I ask the Senate to do more than simply recall King Christian's noble acts. I ask the Senate to repeat them. I ask this body to resist the slaughter of innocent people by ratifying the International Convention on the Prevention and Punishment of Genocide.

We have spent 31 years mulling over this treaty, and yet we still refuse to pass it. What is stopping us?

To King Christian, resistance to genocide was an honor; to us it is a burden. His country took the lead in protecting the would-be victims of genocide; we shamefully lag behind 83 other countries which have realized that the Genocide Convention offers everyone—not just minority groups or those who have been persecuted—the hope of a safer world. The Danes showed the firm backbone of a proud nation; we show the spineless indecision of a country so divided that it cannot unite on an issue as critical as the prevention of genocide.

Let us reverse this sad situation. Let us, too, view the struggle on behalf of human rights as an honor—not as a burden. Let us adopt King Christian's fighting spirit.

Let us ratify the Genocide Convention.

OFFENSIVE CAPABILITY OF F-15's PURCHASED BY SAUDI ARABIA

Mr. EAGLETON. Mr. President, I am greatly disturbed by yesterday's official acknowledgement that Saudi Arabia is pressing for the purchase of military equipment to increase the offensive capability of the 60 F-15's the United States agreed to sell them as part of the controversial 1978 Middle East arms sale package.

It is just the type of equipment the Saudis are reportedly seeking—additional fuel tanks, bomb racks, and missiles—that sparked heated debate during Senate consideration of the proposed sale. As one who reluctantly supported the sale of the planes—and only after receiving assurances from the administration that no attempt would be made to increase the range of ground attack capability—I am dismayed that any such request has not been rejected outright.

Reading a prepared statement, a State Department spokesman suggested that "the increased threat posed by the Soviet invasion of Afghanistan" is cause for rethinking the pledge that the planes sold to the Saudis would be defensive in nature only.

When I announced my support for the proposed sale, I characterized my decision as being "more agonizing than any other I can recall since coming to the Senate." Acknowledging that the Saudis exercise domain over one-fourth of the free world's known oil reserves, I stated: "Better that we provide a means for the Saudis to defend that vital resource themselves than face the possibility of someday being forced to commit our own military forces." I would like to emphasize the words "defend" or "defense" today as I did then.

Mr. President, I can appreciate that the Soviet invasions of Afghanistan heightens tensions in an already turbulent region of the world. However, it was clearly understood by the President, the Congress, and the American people that the sale of the F-15's to the Saudis was for purely defensive purposes. To modify now the Saudis F-15's so as to give them an offensive capability would be a direct violation of that understanding.

I, for one, hope that the President moves swiftly to dispose of the Saudis request. Should the President make the unwise decision to accommodate the Saudis request, I will do whatever I can to block the transfer of F-15's with an offensive capability.

The PRESIDING OFFICER. Is there further morning business?

SENATOR CARL T. CURTIS

Mr. THURMOND. Mr. President, on May 31, our former colleague, Carl T. Curtis, was uniquely honored by the Nebraska State Historical Society, and by Pioneer Village, which is located in Carl's hometown, Minden, Nebr.

Pioneer Village is known throughout the Middle West for its great collection of historical exhibits, which can be viewed in 22 buildings. The occasion was the unveiling of an exact replica of Carl's senatorial office, complete in its detail, and exhibiting the furnishings Carl used at the time of his retirement. The day was also the 27th anniversary of the opening of Pioneer Village. One hundred sixty of Carl's friends from public and private life gathered to honor him at the luncheon and dedicatory ceremony. I ask unanimous consent that a newstory from the Lincoln, Nebr., Journal-Star and the remarks of the dedication speaker, Richard E. Spelts, Jr., of Grand Island, Nebr., be printed in the RECORD.

There be no objection, the material was ordered to be printed in the RECORD, as follows:

CARL CURTIS DEDICATES REPLICA OF OFFICE

(By Dean Terrill)

MINDEN.—After spending 40 years in Washington, the "Man from Minden" appeared Saturday to be hanging out his law shingle again in the old hometown.

But former U.S. Sen. Carl T. Curtis, who is retired, actually was helping dedicate the replica of his U.S. Capitol office. The replica was opened to the public in Pioneer Village, the nationally known attraction developed by Curtis' old schoolmate, Harold Warp.

Warp, a Chicago industrialist, also was on hand for the combined dedication and the 27th anniversary of his 22-building historial collection. About 160 guests shared the luncheon event, sponsored by the Nebraska State Historical Society Foundation.

Curtis, 75, has wife, Mildred, Warp and Historical Society President Otto Kotouc Jr. of Humboldt cut the ribbon to officially open the new Curtis exhibit.

"We must never lose the spirit of the pioneer," said Curtis in a luncheon address. "These pioneers had two indispensable assets, character, and faith. And they built what we enjoy today."

GREAT CHALLENGE

Curtis, who now has a Washington law practice, said the great challenge of the present generation is "the solvency of our country and bringing our government finances under control . . ."

R. E. Spelts, Jr. of Grand Island noted that the total of Curtis' 16 years in the House of Representatives and 24 in the Senate is the greatest span for any Nebraskan in Congress. Not more than 21 of the 10,752 persons elected to Congress have longer records.

Spelts, who was active in several Curtis campaigns, especially praised the senator for his stands on taxation, education and water conservation. He said Curtis is reputed by some to "know more about Social Security than anyone in Congress."

"The fact that Carl Curtis was the successful candidate in a total of 24 primary and general elections attests to the fact that his official actions were in accord with the fundamental principles held by the vast majority of Nebraskans," Spelts said. "The history of his 40 years in public life can be summarized in one simple, yet noble term—integrity."

The Curtis office replica, which is displayed behind glass windows, was made by using photographs and the former senator's advice. He verified the office's authenticity, from the Big Red football schedule, to the two mounted fish, to the collection of several dozen miniature GOP elephants.

An aging reference map of Nebraska remains on the desk. A giant photographic mural of the Nebraska Capitol graces one wall.

Several hall displays, including dozens of photos selected from the 1,650 given by Curtis to the Historical Society, complement the duplicated office.

"I have pictures with all but one of the eight Presidents I served with," Curtis said in an interview. "Regrettably, I got none from FDR. That was because I was a young, timid Congressman and didn't ask for one."

Curtis' son, Tom, and daughter-in-law, Judith, of Rockford, Ill., were special guests for the dedication. E. J. Faulkner of Lincoln, president of the Historical Society Foundation, presided.

Gov. Charles Thone and Secretary of State Allen Beermann were scheduled to be present, but had to concel their flight because of inclement weather.

In a brief review, Warp told how Pioneer Village evolved from him buying a country school, which he and several brothers and sisters attended. He then acquired Minden's first church and got the inspiration to build the attraction as a memorial to his late parents.

The development eventually grew to be publicized as one of the nation's top 17 tourist attractions.

Warp graduated from Minden High School in 1921, Curtis two years later. The Chicagoan noted that both men had modest beginnings.

"My brother Oscar was the county superintendent at the courthouse, and Carl's dad was its janitor," Warp said. "The two of us got to be good friends."

SPEECH OF R. E. SPELTS, JR.

Today the news media reminds us of a multitude of grave national problems. We are constantly reminded that the Federal budget is out of balance. There is an energy crisis, repressive taxes, the continuing growth of Government, the social security financial crunch, the inflationary spiral practically eliminating saving, and the despair of our agricultural economy.

It is appropriate that we review and acknowledge the place in history that Carl

Curtis, whom we honor today, has achieved in his work with these issues.

Forty-two years ago next month a 33-year-old attorney from Minden became a candidate for Congress. He did not promise more Government benefits and an expansion of Government. Instead, he challenged the widespread conviction that we could spend our way into prosperity. He denounced deficit financing, growing Government debt, and upheld the private enterprise system as the only path to sound solutions for the Nation's problems.

Those who have followed our friend's career know that he not only won the election to Congress by recording his convictions, but that he remained true to those convictions throughout his service of 40 years in the U.S. Congress.

The fact that Carl Curtis was the successful candidate in a total of 24 primary and general elections attests to the fact that his official actions were in accord with the fundamental principles held by the vast majority of Nebraskans. His service of 40 years in Congress exceeds the length of service of any other Nebraskan who has served in the Congress or of any Nebraskan who has served in a statewide elective office. Since the first U.S. Congress convened in 1789, 10,752 individuals had served in the Congress up to the time of Senator Curtis' retirement. Of those 10,752 members, only 21 in the long history of the whole country served longer than our own Senator Curtis.

Carl Curtis rose to a place of leadership and influence in the Nation's Capital. From 1975 to 1978 he served as Chairman of the Republican Conference of the Senate. During his time in the Senate he served as the Ranking Minority Member of four major committees: Rules and Administration, Aeronautics and Space Sciences, Agriculture and Forestry, and the Committee on Finance.

For 25 years Carl Curtis authored a proposed constitutional amendment to require a balanced budget and urged its adoption. Today more and more individuals in and out of Government are accepting the need for a constitutional restraint on spending and debt.

Many authorities say that Carl Curtis knows more about Social Security than anyone in Congress. His commitment to social security can be described as a continuous effort for honest and adequate financing of the program. He has worked to keep the fund solvent and to prevent the payroll taxes from becoming too heavy to carry. Just before Carl's last election he voted against a 20-percent increase in social security benefits. He knew that the Congress had failed to provide the revenues needed to pay for this increase. The Senator was as anxious as anyone else to have social security beneficiaries receive an increase in their benefits, but he was aware that those depending on their benefit checks would not be served by having outgo exceed income. Carl stood almost alone and he was reviled and criticized, but within a few short years the social security reserve almost evaporated and the fund was paying out more than it was taking in. Now the Congress struggles to find a way to finance social security through tax revenues in addition to withholding from the employee.

Our Nation is dependent on foreign sources for one-half of its crude oil consumption. There is a demand for gasohol. Let us now be reminded that it was in the middle 1950's that Carl Curtis authored and secured passage of the legislation creating the Commission on Increased Industrial Use of Surplus Agricultural Commodities. Roy Welsh of Omaha was appointed by President Eisenhower to chair this commission and its prime recommendation was to blend alcohol made from farm produce into gasohol. Carl became nationally the foremost champion of gasohol. As you view the exhibits of the Curtis memorabilia you will notice a cartoon from the Omaha World Herald showing Senator Curtis filling an automobile tank with gasohol. That cartoon was published more than 23 years ago. The most tangible assistance to the gasohol program that has come out of Washington, during this time of renewed interest in gasohol, has been the waiver of the 4c per gallon Federal gasoline tax on motor fuel that has a 10-percent blend of alcohol made from farm products. It is interesting but not surprising that that provision of the law is the result of the amendment offered by Senator Curtis in the Committee on Finance and which later passed both the Senate and the House.

Carl Curtis envisioned a two-fold purpose to his Congressional service—to preserve the United States as a solvent nation of freedom and opportunity—and to strengthen and build the economy of his native state of Nebraska. His labors over water and soil conservation have significantly added to the economy of Nebraska. What would our state be like were we without irrigation? History will record that every irrigation project built or expanded since 1939 has had the guidance and support of Carl Curtis.

Many people here remember the devastating flood that occurred on the Republican River in 1935 and took more than 100 lives. Today the Republican River and its tributaries are protected against such floods and the water is used for irrigation. Over the entire period of development, Carl Curtis was the effective Washington sponsor of the Republican Valley program. Carl has faithfully served the needs of the Tri-County Irrigation District. Many years ago, he obtained the legislation that brought about the modification of the interest payments in their repayment contract. One of the significant extensions of the Tri-County has been what is referred to as the E–65 Irrigation District and it was very appropriate that the dam that was built for the project was named the Carl T. Curtis Dam. I could go on and mention his other achievements in the field of soil and water conservation elsewhere on the Platte, the several projects in the Loop Basin and on the Niobrara, the Salt Creek development in the Lincoln area, as well as the flood protection works on the main stem of the Missouri River and in eastern Nebraska generally.

As one of the tax authorities in the Congress he fought for the right of individuals to enjoy the fruits of their labors and to leave something for families at the end. He is the one man responsible for the only reduction in estate taxes in half a century.

Carl has obtained the passage of many changes in our tax law which have been beneficial to the economy of Nebraska. There is a long list of them but I will cite two in particular. It was through his efforts that the capital gains tax treatment was extended to livestock and it was through his efforts that a taxpayer can deduct the expenditures for soil conservation.

The Individual Retirement Act should be called the Curtis plan instead of IRA. It was Carl Curtis who authored the plan and secured its enactment by the Congress. It is a plan available to all who are not covered by another pension plan, to save for their retirement before taxes and to have those savings grow undiminished by a yearly tax on those earnings.

Company pensions have been successful because the money placed in a pension fund is not taxed, and secondly, the interest and dividends earned by a pension fund are not taxed. Prior to the enactment of the Curtis individual retirement plan, individual citizens who were not covered by a company pension plan were denied those significant tax benefits in saving for their retirement years. More than one-half of the population of the country were so disadvantaged. It can well be said that this legislation sponsored by Senator Curtis was one of the most significant tax reform acts in the history of the Internal Revenue Code.

If an individual is 30 years of age, in the 25 percent tax bracket, earning 7½ compound interest on savings of $1500 a year until he became sixty-five, he would have accumulated $91,539.00 before Carl secured the passage of the IRA. After Carl secured enactment of his bill, the Individual Retirement Act, these savings would amount to $176,172.00.

Nebraska is fortunate to have many factories and job-creating businesses which have been built with tax-free industrial development bonds. We must recall that about 15 years ago the U.S. Treasury ruled out the tax-free industrial development bonds. Senator Curtis met this event by reviving the law which continued the use of these bonds, and thereby added new enterprise to Nebraska's industrial base.

At present many States, counties, and towns are distressed by the threat of the ending of revenue sharing. Carl voted against the legislation for revenue sharing because he knew this sharing was to be done on borrowed money and could not survive. He countered revenue sharing by proposing a balanced Federal budget, a cut in Federal expenditures and, after these, a relinquishment of certain areas of Federal taxation to the States and their subdivisions. This would have been revenue sharing in fact and deed.

Carl has proven himself to be a true friend of our colleges and universities. He has championed those tax measures which have been particularly beneficial to the non tax supported institutions which carry a significant portion of the load of higher education. He has supported worthwhile charitable causes and has been the principal spokesman in Washington for fair tax treatment of our philanthropic institutions. I was pleased when Nebraska Wesleyan University named one of its fine new buildings the, "Smith-Curtis Building," an honor which our Senator shares with a distinquished citizen at Lincoln, Mr. Ernest Smith. It is also significant for me to point out that the hospital, clinic and health center at the Indian Reservation at Macy, Nebraska, which was completed in 1978, was named, "The Carl T. Curtis Health Education Center."

It would be impossible to tabulate the number of individuals who have turned to Carl Curtis for help when they had a problem in Washington. He was always willing to listen to their case and to take it up with the Government agency involved. He established a record for a high degree of success in handling these departmental problems. He is living proof that a legislator can stand by his convictions, and courageously take his position on the difficult issues, in a statesman like manner, and at the same time be close to the people he serves and take care of their individual needs.

As Nebraskans now look back on Carl's 40 years of faithful service they can take pride. They sent to the Congress a member who never failed to stand up against the trend for the expansion of the Federal Government beyond its means. They sent a member who never feared to stand up and be counted against a profligate excursion into increased debt. And they sent a man of modest means who retired a man of modest means. The history of his 40 years in public life can be summarized in one simple, yet noble term—integrity.

THE PLIGHT OF THE FOOD PRODUCER

Mr. EXON. Mr. President, I rise to read to the Senate a letter that I sent to the President today.

WASHINGTON, D.C., *June 18, 1980.*

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: While we are all justifiably concerned about the overall economy, the disastrous plight of our agriculture sector is not receiving the attention it so justly deserves; nor is there currently any consideration for even the first step necessary to rectify the situation.

While we continue to hear complaints about "the high food prices in the supermarkets", the producers of that food are going broke in numbers not paralleled since the 1930's. Our vital food plant based upon the productive genius of the family-sized farm operation is in serious jeopardy. Unfortunately, this is not generally understood outside the farm belt. The deepening recession cannot be turned around, as history has demonstrated, if there is continued depression on the farms.

The attached article from the Wall Street Journal of June 17, 1980, accurately portrays the situation. I respectfully urge your careful reading.

While the Administration has consistently opposed my many suggestions to offset the steadily developing agriculture economic storm. both while I was Governor of Nebraska and during my time in the Senate, I extend still another suggestion herewith, which I earnestly hope can be acted upon promptly in view of the present critical situation.

I respectfully advance the proposition that you call a White House conference on agriculture, including, but not necessarily limited to, the Senate and House Agriculture Committees, possibly selected other Senators and House members with expertise in agriculture, the Governors of the principal food producing states, representatives of the national farm organizations, and appropriate members of your administration.

While I do not believe the conference should be overstructured, a free give and take and constructive suggestions would certainly be helpful to you and other decision-makers as to what might be accomplished in the near-term future.

It remains my proposition that increased support prices, at a minimum, are a necessity. In addition, serious consideration in the longer term should be given to set aside programs for the 1982 crop year. What is obviously needed now is some positive hope for the future, a ray of hope through the darkening clouds.

Mr. President, while I recognize that the Administration has tried to offset the effects of the January Soviet grain embargo, the facts are that due to the failure of our major grain producing allies to fully cooperate, the effect on the Soviets has been largely meaningless. This is but one of the issues that should be discussed at the suggested conference.

Yours very truly,
J. JAMES EXON,
U.S. Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal dated June 17, 1980, entitled "Economist Sees Net Farm Income Falling 45 percent in 1980, the Biggest Decline Since 55 percent in 1921."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMIST SEES NET FARM INCOME FALLING 45 PERCENT IN 1980, THE BIGGEST DECLINE SINCE 55 PERCENT IN 1921

(By Charles J. Elia)

Few would deny the importance of the conspicuously weak auto and housing industries in the economy, but an equally important industry has been an almost invisible casualty of the developing recession. Farmers may be in the throes of the steepest, fastest drop in their incomes since 1921.

The nation's agricultural providers are caught in a relentless squeeze. The average prices received by farmers have dropped about 8 percent over the past 12 months while their average production costs have climbed more than 12 percent.

Even if farm prices recover all of their past year's drop in the next six months, they would still average 2 percent below the 1979 level, says Robert L. Marks, economist at Siff, Oakley & Marks, a consulting firm. "That outcome, coupled with a 12 percent advance in unit production costs, would sink net farm income for this year to about $18 billion, or 45 percent less than the $33.3 billion earned last year," he says.

Government economists aren't quite as low in their estimates. The Agriculture Department said yesterday it expects income to range between $21 billion and $26 billion this year. It reported that farm income plunged 40 percent in the second quarter to a $20.2 billion annual rate from the year earlier $34.1 billion.

If Mr. Marks' estimate holds up, it would be the biggest single-year decline since farm income sank 55 percent in 1921. In the mid-1970s and the early 1930s, declines of similar proportions were spread over three-year periods, he says.

Mr. Marks raised the caution flag over what's happening down on the farm in an appraisal for his own clients and those of Bernstein-Macauley, an investment management concern.

The decline in the farmer's take has already begun to be felt in agricultural equipment orders and sales. "It also seems likely that farm families will defer nonessential off-farm spending," he says, "whether for household durables, clothing or post-harvest vacation trips."

Because farming is a smaller share of the economy than it was years ago, he adds, "It isn't inevitable that the ripple effects spread further, but this sector has been so overlooked by many people that it could be an unexpected source of weakness for the economy."

His concern on this score is reinforced by an apparent loss of momentum this year in the appreciation of the farmer's prime source of asset wealth—his farmland. "We aren't predicting a big crop in farmland values," he says, "but the very fact that they're easing at all is sufficient reason to pay close attention."

The Federal Reserve Bank of Chicago reported last month that a check of 525 agricultural banks in its district indicated a 2% drop in farmland values in the first quarter; it was only the second such decline since 1960.

In the late 1960s, farmland values increased an average of $10 billion a year. In the past five years, the average annual increase was $66 billion. Though he believes the recent easing of land values is temporary, Mr. Marks worries that it could become a source of pressure on farmers.

He is also concerned because farmers appear financially over-extended, with debt-to-income ratios at their highest levels since the Depression of the 1930s. Although farmers may be helped by government credit extensions, "they'll have an increasingly difficult time" servicing the additional layers of debt, he adds.

Overall, the liquidity of agricultural banks in a seven-state region monitored by Northwestern National Bank, Minneapolis, "is still fairly tight," says Larry J. Wipf, regional economics director of the bank. "Their loan-to-deposit ratios are as tight as they were earlier, perhaps a bit tighter."

Sung Won Son, the bank's chief economist, and Mr. Wipf surveyed their region's banks in April and found the loan-to-deposit ratio averaged about 68% at the agricultural banks. They also found most bankers expecting a deterioration in economic conditions, very little credit being made available for farm expansions or postponable purchases, and a sharp decline in loan repayments by farmers.

Currently, Mr. Wipf says, interest rates have started to ease, "but less quickly at smaller agricultural banks than at large banks, partly because the small banks' rates didn't go as high," reaching about 17% at their peaks. "We do expect some further general easing of rates and this should help farmers."

But the bank's economists don't expect a rapid turnaround in the farmers' cost-squeeze predicament or in their spending. "Their falling farm income will put a damper on their spending for much of this year," he says.

Mr. Wipf also has noticed "some softening" in farmland prices, he says, particularly in Iowa. "We suspect this will be the pattern most of this year but we don't think it is suggestive of the long-run," he says. "We look at it as a temporary pause in the upward move of land prices that will resume as farm income improves in 1981 and 1982."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior, which was referred to the Select Committee on Indian Affairs.

REPORT ON DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 215

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, and the Committee on Commerce, Science, and Transportation, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals of budget authority totalling $166.4 million and one revision to a previously transmitted deferral increasing the amount deferred by $20.6 million. These items affect programs in the Departments of Agriculture, Defense, and Transportation.

The details of the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *June 18, 1980*.

MESSAGES FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2510. An act to amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system;

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans;

H.R. 7171. An act to make certain miscellaneous changes in the tax laws; and

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 6:12 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 5259. An act to name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse";

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes;

H.R. 6614. An act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes; and

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2510. An act to amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system; to the Committee on Governmental Affairs.

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans; to the Committee on Finance.

H.R. 7171. An act to make certain miscellaneous changes in the tax laws; to the Committee on Finance.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 18, 1980, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 562. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; and

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4034. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Major Factors Inhibit Expansion of the School Breakfast Program," June 16, 1980; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4035. A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1980 in the amount of $1,527,810,000; to the Committee on Appropriations.

EC-4036. A communication from the Secretary of Housing and Urban Development, transmitting, a table which had to be withheld from a report on the Urban Initiatives Anti-Crime Program, transmitted on April 4, 1980, identifying new awards which at the time had not been announced; to the Committee on Banking, Housing, and Urban Affairs.

EC-4037. A communication from the Cochairmen, United States Youth Conservation Corps, transmitting, pursuant to law, a report on activities carried out under the Youth Conservation Corps Act, Public Law 93-408; to the Committee on Energy and Natural Resources.

EC-4038. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed draft of a temporary water service contract between the United States and the Westlands Water District for municipal and industrial (M&I) and agricultural water service in 1981 from the Water and Power Resources Service's Central Valley Project; to the Committee on Energy and Natural Resources.

EC-4039. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

EC-4040. A communication from the Chairperson, United States Architectural and Transportation Barriers Compliance Board, reporting concerning Rep. Cleveland's amendment (Section 223) to the Surface Transportation Act of 1980 (H.R. 6417); to the Committee on Environment and Public Works.

EC-4041. A communication from the Secretary of Health and Human Services, reporting, relative to financial disclosure requirements of the Toxic Substances Control Act; to the Committee on Environment and Public Works.

EC-4042. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution therof; to the Committee on Foreign Relations.

EC-4043. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, reports of new systems of records; to the Committee on Governmental Affairs.

EC-4044. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4045. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, Act 3-196, "Educational Policy Amendments Act of 1980," and report, adopted by the council on May 20, 1980; to the Committee on Governmental Affairs.

EC-4046. A communication from the Executive Director, Pennsylvania Avenue Development Corporation, reporting, pursuant to law, on the administration of the Freedom of Information Act for calendar year 1979; to the Committee on the Judiciary.

EC-4047. A communication from the Chief Scout Executive, Boy Scouts of America, transmitting, pursuant to law, the 1979 annual report of the Boy Scouts of America; to the Committee on the Judiciary.

EC-4048. A communication from the Secretary of Labor, transmitting, pursuant to law, a report containing recommendations and suggested legislation with respect to any necessary improvements in the Wagner-Peyser Act (29 U.S.C. 49), including legislation necessary to assure coordination between such Act and CETA; to the Committee on Labor and Human Resources.

EC-4049. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the administration of the Presidential Election Campaign Fund Act (Chapter 96, Title 26, U.S.C.); to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-771. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 58

"Whereas, The history of New Melones Dam and Reservoir on the Stanislaus River has been clouded with emotional appeals since the dam was first authorized by Congress, following the urging of the Governor and Legislature of the State of California; and

"Whereas, In July 1973, the Legislature of the State of California, by adoption of Assembly Joint Resolution No. 7, urged Congress to proceed with construction of New Melones Dam as quickly as possible; and

"Whereas, In 1974 the people of California, by means of a statewide vote on a referendum measure, expressed their desire not to keep the Stanislaus River as a wild and scenic river; and

"Whereas, A sum of over 341 million dollars has been expended for construction of this major project which, when fully operational, will provide extensive benefits to the people of California; and

"Whereas, New Melones Dam, with a capacity of 2.4 million acre feet, has the potential to provide over 222,000 acre feet of irrigation water, a supply sufficient to serve 80,000 acres, with revenues of over 40 million dollars annually from farm land productivity; and

"Whereas, The value of the hydroelectric power that would be produced annually by the New Melones Dam is almost 15 million dollars; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Secretary of the Interior to proceed to fill the New Melones Reservoir to its maximum operating capacity; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-772. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Foreign Relations:

"Resolution

"Whereas, The Honorable Mario Biaggi (D-New York), chairman of the ad hoc Congressional Committee on Irish Affairs, is being honored by the Massachusetts State Board of the Ancient Order of Hibernians and Ladies Auxiliary on June 7, 1980 in Peabody, Massachusetts; and

"Whereas, Congressman Biaggi has received the co-signatures of over 100 Members of Congress in support of House Resolution 122, which calls on the British Government to seek peace in Northern Ireland; and

"Whereas, the Massachusetts general court has always supported the right of all people in the world to freedom and self-determination; and

"Whereas, the Massachusetts general court is opposed to the violation of human rights, wherever they occur in the world; and

"Whereas, all of the people in Northern Ireland have suffered long enough from the continuing conflict in their homeland; now therefore be it

"*Resolved,* That the Massachusetts general court memorializes the Congress of the United States to approve House Resolution 122, which calls on the British Government to embark upon a new peace initiative in Northern Ireland, which includes negotiation between all the parties involved in the conflict; and be it further

"*Resolved,* That copies of these resolutions be forwarded by the clerk of the House of Representatives to the presiding officer of each branch of Congress and the Members thereof from this commonwealth."

POM-773. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"Assembly Joint Resolution No. 56

"Whereas, The Congress of the United States is now considering legislation which would establish a commission to study the evacuation of 120,000 persons of Japanese ancestry from the West Coast in 1942, two-thirds of whom were United States citizens, against whom no charges were ever filed and concerning whom no imputation of disloyalty was ever lodged; and

"Whereas, Such commission would be charged with the responsibility of studying the legal and constitutional aspects of such unprecedented action by the United States government against its own citizens, to determine whether wrong was committed and if so, to recommend redress in such manner as to be determined by the Congress of the United States to the end that such an aberration of justice will never again occur; and

"Whereas, The Legislature of the State of California is concerned with such complete denial of civil rights, and with the possibilities of recurrence of such governmental action based upon the precedent of the Japanese American evacuations of 1942, and therefore believes that the present bills in Congress should be supported; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California supports passage of such federal legislation; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. METZENBAUM, from the Committee on the Judiciary, with an amendment:

S. 2251. A bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol.

By Mr. DeCONCINI (for Mr. Kennedy), from the Committee on the Judiciary, with an amendment:

S. 444. A bill for the relief of the Jewish Employment Vocational Service, St. Louis, Mo. (Rept. No. 96–817).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. 2760. A bill to provide that the Architect of the Capitol shall be appointed by and with the advice and consent of the Senate (Rept. No. 96–818).

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 96–819).

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 96–820).

S. Res. 443. Resolution to provide for the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program" as a Senate document (Rept. No. 96–821).

S. Res. 465. Original resolution to pay a gratuity to Ruth Young Watt.

S. Res. 466. Original resolution to pay a gratuity to Chang Hie Griffith.

S. Con. Res. 102. Original concurrent resolution authorizing the printing of a self-guided tour brochure of the U.S. Botanic Garden Conservatory (Rept. No. 96–822).

By Mr. BIDEN, from the Committee on the Judiciary, with amendments:

S. 1482. A bill to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information (Rept. No. 96–823).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEPSEN:

S. 2842. A bill to amend the Internal Revenue Code of 1954 to allow the investment tax credit to certain individuals who purchase used section 38 property used for farming purposes from a related party; to the Committee on Finance.

By Mr. DeCONCINI:

S. 2843. A bill to authorize the Secretary of the Interior to assist the Yuma County Water Users' Association, Arizona, to relocate the headquarters of such association; to the Committee on Energy and Natural Resources.

By Mr. MATSUNAGA (for himself and Mr. Inouye):

S. 2844. A bill to establish the Kalaupapa National Historical Preserve on the island of Molokai, in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN:

S. 2845. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for expenses for legal services; to the Committee on Finance.

By Mr. WARNER:

S. 2846. A bill to amend chapter 34 of title 38, United States Code, to modify the termination date for veterans eligible for educational assistance provided under such chapter; to the Committee on Veterans' Affairs.

By Mr. HART:

S. 2847. A bill to provide minimum standards under which State workers' compensation laws will provide prompt, adequate, exclusive, and equitable compensation for occupational diseases or death resulting from exposure to asbestos, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCTED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN:

S. 2842. A bill to amend the Internal Revenue Code of 1954 to allow the investment tax credit to certain individuals who purchase used section 38 property used for farming purposes from a related party; to the Committee on Finance.

● Mr. JEPSEN. Mr. President, today I am introducing legislation to correct a problem in the tax law with regard to use of the investment tax credit when otherwise eligible equipment or property is purchased from a close relative. Section 48(c) of the Internal Revenue Code of 1954 presently reads as follows:

(c) Used Section 38 Property—

(1) In general.—For purposes of this subpart, the term "used section 38 property" means section 38 property acquired by purchase after December 31, 1961, which is not new section 38 property. Property shall not be treated as "used section 38 property" if, after its acquisition by the taxpayer, it is used by a person who used such property before such acquisition (or by a person who bears a relationship described in section 179(d)(2)(A) or (B) to a person who used property before such acquisition).

(2) Dollar limitation.—

(A) In general.—The cost of used section 38 property taken into account under section 46(c)(1)(B) for any taxable year shall not exceed $100,000. If such cost exceeds

$100,000, the taxpayer shall select (at such time and in such manner as the Secretary shall by regulations prescribe) the items to be taken into account, but only to the extent of an aggregate cost of $100,000. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

(B) Married individuals.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) shall be $50,000 in lieu of $100,000. This subparagraph shall not apply if the spouse of the taxpayer has not used section 38 property which may be taken into account as qualified investment for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(C) Controlled groups.—In the case of a controlled group, the $100,000 amount specified under subparagraph (A) shall be reduced for each component member of the group by apportioning $100,000 among the component members of such group in accordance with their respective amounts of used section 38 property which may be taken into account.

(D) Partnerships.—In the case of a partnership, the limitation contained in subparagraph (A) shall apply with respect to the partnership and with respect to each partner.

(3) Definitions.—For purposes of this subsection—

(A) Purchase.—The term "purchase" has the meaning assigned to such term by section 179(d) (2).

(B) Cost.—The cost of used section 38 property does not include so much of the basis of such property as is determined by reference to the adjusted basis of other property held at any time by the person acquiring such property. If property is disposed of (other than by reason of its destruction or damage by fire, storm, shipwreck, or other casualty, or its theft) and used section 38 property similar or related in service or use is acquired as a replacement therefor in a transaction to which the preceding sentence does not apply, the cost of the used section 38 property acquired shall be its basis reduced by the adjusted basis of the property replaced. The cost of used section 38 property shall not be reduced with respect to the adjusted basis of any property disposed of if, by reason of section 47, such disposition involved an increase of tax or a reduction of the unused credit carrybacks or carryovers described in section 46(b).

(C) Controlled group.—The term "controlled group" has the meaning assigned to such term by section 1563(a), except that the phrase "more that 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563 (a) (1).

What this means is that if a son were to purchase used section 38 property from his father he would be unable to claim the investment tax credit, even though such property would otherwise qualify if purchased from a nonrelated party. For purposes of determining which related parties are similarly affected by this restriction, the following persons are considered related:

(1) Members of the immediate family, including husband and wife, ancestors, and lineal descendants, but not including brothers and sisters (whether by whole or half blood);

(2) An individual and a corporation of which more than 50 percent in value of the outstanding stock is owned, directly or indirectly, by or for that individual;

(3) Certain corporations of which more than 50 percent of the value of the outstanding stock of each is owned, directly or indirectly, by the same individual;

(4) A trust fiduciary and a corporation of which more than 50 percent in value of the outstanding stock is owned, directly or indirectly, by or for the trust or by or for the grantor of the trust;

(5) The grantor and fiduciary, and the fiduciary and beneficiary of any trust;

(6) The fiduciaries of two different trusts, and the fiduciary and beneficiary of two different trusts, if the same person is the grantor of both trusts;

(7) Certain educational and charitable organizations and a person who, directly or indirectly, controls such an organization.

(8) A partnership and a partner owning, directly or indirectly, more than 50 percent of the capital interest or profits interest in the partnership;

(9) Two patnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interest or profit interest; or

(10) Component members of the same group of controlled corporations (applying a more than 50 percent control test).

The scope of the relationship restrictions is such that the investment tax credit for used section 38 property will be unavailable after some of the most typical farm transactions. For example, credit would not be available for property which a child purchases from a parent or grandparent, since they are related as ancestors and lineal descendants. A challenge to this provision, on the ground that it denied the taxpayer equal protection of the law because the legislative classification excluding related taxpayers from investment credit is not rationally connected with a legitimate governmental interest, was unsuccessful (*Schelling* v. *United States*, 76–2 U.S.T.C.). Furthermore, property may be considered used by a person related to a prior user even though there is an intervening unrelated owner. Thus, credit was denied for property originally owned by an orchard farm corporation and later purchased from a bank which had acquired it at a mortgage foreclosure sale where the purchaser and the purchaser's father owned 90 percent of the farm corporation.

I understand entirely the reason why the law contains such restrictions on purchases of section 38 property by relatives. It was feared that relatives might buy and sell the same property back and forth many times, taking the investment tax credit on each occasion. This is a legitimate concern. But as it now reads, the law is unnecessarily restrictive and causes much difficulty, particularly in agriculture.

Therefore, I propose amending the law to allow the investment credit for one-time sales of the same piece of agricultural property, without regard to the related party restriction. Thus, a son could purchase a tractor from his father and claim the credit, but if the same tractor were resold back to the father the credit would be recaptured. I feel that this amendment would adequately protect against the kind of abuses which led to inclusion of the present restrictions in the law, while serving the purposes of the investment credit and not unnecessarily penalizing families engaged in agriculture.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That (a) subsection (c) of section 48 of the Internal Revenue Code of 1954 (defining used section 38 property) is amended by adding at the end thereof the following new paragraph:

"(4) Special related party rule for certain farm property.—

"(A) In general.—In any case in which property used in the trade or business of farming is, after its acquisition by the taxpayer, used in the trade or business of farming by a qualified individual, paragraph (1) shall be applied without regard to the second sentence thereof.

"(B) Application only to one sale.—For any particular item of property, subparagraph (A) shall only apply with respect to the first sale of that property to a qualified individual.

"(C) Definitions.—For purposes of this paragraph—

"(i) Farm.—The term 'farm' has the same meaning as such term is used in section 2032A(e) (4).

"(ii) Qualified individual.—The term 'qualified individual' means an individual who is the spouse, ancestor, or lineal descendant of the individual using the property before its acquisition by the taxpayer.

"(D) Livestock used for breeding purposes.—For purposes of this paragraph, livestock described in subsection (a) (6) shall be treated as property used in the trade or business of farming.".

(b) The amendments made by subsection (a) shall apply to property acquired after December 31, 1980.●

By Mr. DeCONCINI:

S. 2843. A bill to authorize the Secretary of the Interior to assist the Yuma County Water Users' Association, Arizona, to relocate the headquarters of such association; to the Committee on Energy and Natural Resources.

OLD QUARTERMASTER DEPOT

● Mr. DeCONCINI. Mr. President, I am pleased to introduce today a measure that will aid the preservation and restoration process of one of the Southwest's great historic sites and, at the same time, demonstrate the significant role the West has played in this Nation's historical past.

In keeping with the spirit of the Historic Sites Act of 1935, former Secretary of the Interior Stewart Udall designated the Yuma Crossing and Associated Sites as a National Historic Landmark. These sites include the Quartermaster Depot, Fort Yuma, the Territorial Prison and the U.S. Customs House.

Of particular interest and the predominant objective of this legislation is the restoration of the Old Quartermaster Depot. The Old Quartermaster Depot was constructed by the military around 1859 as a storage and supply depot for military posts in Arizona, New Mexico, Utah and Texas. A 6-month supply of ammunition, clothing and food were kept at the Depot at all times, and supplies were transported by ocean-going vessels from points in California, around the Baja Peninsula to the mouth of the Colorado River. There they were transferred to river steamboats and taken up river to Arizona City. After

1862, the boats were unloaded and supplies were taken to the Depot for storage. In 1880, after the Depot had served its purpose, it was abandoned by the military and the equipment and supplies were transferred to Fort Lowell, near Tucson.

In 1906, the Bureau of Reclamation occupied the Depot when it began its initial water diversion project on the lower Colorado River. The Bureau, now the Water and Power Resources Service, entered into a repayment contract with the Yuma Water Users' Association, a nonprofit, private corporation functioning as an irrigation district to construct irrigation works to divert the flows of Colorado River water from points in California to Arizona farmlands in the Yuma Valley. This, the oldest reclamation project on the lower Colorado River, became known as the Valley Division of the Yuma Project. The Bureau continued to operate and maintain the project at the Old Quartermaster Depot until 1951, when it entered into another contract with the Water Users' Association, transferring the operation and maintenance function of the project to the Water Users' Association and the Old Quartermaster Depot site.

The repayment contract was fully repaid to the United States in 1962, and the association has since worked under an agreement with Water and Power for the operation and maintenance of the project.

The State of Arizona, in conjunction with the city of Yuma and the Quechan Indian Tribe, has initiated the historic preservation and renovation of the Yuma Crossing and associated sites. The city has dedicated parcels of land along the Colorado River and west of the landmark for parks and recreational purposes. Subsequently, the restoration of the historic sites, with the exception of the Old Quartermaster Depot, has been moving along quite smoothly. Before the restoration of the Depot can move forward, the Water Users' Association must be relocated.

The Water and Power Resources Service and the Water Users' Association recognize the importance of preserving the landmark for all Americans to enjoy, and are willing to transfer the operational headquarters of the association. The purpose of this legislation is to give the Secretary of the Interior the authority to relocate the association and make the necessary funds available for such a move.

Clearly, the Old Quartermaster Depot possesses the values and qualities significant in interpreting the historical heritage of our great Nation. Enactment of this measure will insure the continued proper preservation of the national landmark known as the Yuma Crossing and the Associated Sites.

Mr. President, I request the expeditious consideration of this legislation by the Committee on Energy and Natural Resources.●

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 2844. A bill to establish the Kalaupapa National Historical Preserve on the island of Molokai, in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

KALAUPAPA NATIONAL HISTORIC PARK PRESERVE

Mr. MATSUNAGA. Mr. President, I am pleased to introduce today, with the cosponsorship of my colleague from Hawaii (Mr. INOUYE) a bill to establish a national historical park preserve at the Kalaupapa Leprosy Settlement on the Island of Molokai in the State of Hawaii.

As many of my colleagues are aware, the Kalaupapa Leprosy Settlement was at one time the largest leprosy colony in the world. It remains today as one of two major federally supported leprosy treatment centers in the United States. The bill which is being introduced today would provide for the appropriate recognition, interpretation, and preservation of the tragic 114-year history of the Kalaupapa Settlement and its over 7,000 current and former residents.

Throughout the history of mankind, few infectious diseases have evoked the stigma of aversion, fear, or disgust which is so often associated with leprosy. For centuries, the word "leper" has meant certain social banishment and an agonizing and lonely death. Perhaps because of its mysterious origin and lengthy incubation period, most societies historically treated victims of leprosy by segregation and isolation. Other societies simply killed the victims of the disease.

According to available medical records, it is believed that leprosy was first introduced into the Hawaiian Islands in the 1830's. Because of a lack of natural and acquired immunity among the general Hawaiian population, the disease spread quickly throughout the Hawaiian Kingdom and resulted in a major epidemic in the 1860's. In 1865, the Hawaiian Legislature passed a decree which was signed by King Kamehameha V, which called for the isolation of all victims of this dreaded disease.

An inaccessible, rocky peninsula jutting out from the north side of the Island of Molokai, now known as Kalaupapa, was selected as the location which would provide the maximum isolation for the leprosy patients. In 1866, the first Hawaiian leprosy patients were sent to Kalaupapa. Within 7 years, over 500 patients were confined at the Kalaupapa Settlement.

Tragically, when the first leprosy patients arrived at Kalaupapa, the so-called hospital for the most advanced leprosy cases was without beds or doctors. In the months following its establishment, food shipments were insufficient and irregular, medical supplies were scarce, doctor's visits were infrequent, and no attempt was made to cure or arrest the disease. Death was a daily and accepted occurrence.

Conditions at the Kalaupapa Settlement remained very poor until the arrival of a young Belgian Roman Catholic priest by the name of Father Joseph Damien de Veuster in 1873. Father Damien traveled to Kalaupapa from his parish in Kohala on the Island of Hawaii after learning of the tragic plight of the lepers, many of whom were his parishioners who had been sent to the settlement after contracting the disease. Father Damien remained at the Kalaupapa Settlement for 16 years, unselfishly giving as much material and spiritual comfort as was possible to its residents until his death in 1889 at the age of 49 as the result of having contracted the disease himself. A statue of Father Damien stands in the U.S. Capitol as a tribute from the State of Hawaii to his uncommon humanitarian compassion and profound devotion to his fellowmen. The legislation which is being introduced today will not in any way adversely affect the anticipated canonization of Father Damien.

In 1904, Dr. Charles Cooper, the president of the board of health of the Territory of Hawaii, developed a proposal to assist in caring for the 856 leprosy patients who were then in residence at the Kalaupapa Settlement. Dr. Cooper quickly obtained the support of Territorial Governor George R. Carter and the then-delegate to Congress, Prince Jonah Kuhio Kalanianaole, to request $150,000 in Federal funds to study the cause and cure of leprosy at the Kalaupapa Settlement.

In his message to Congress on November 4, 1904, President Theodore Roosevelt recommended the construction and operation of a hospital and laboratory in the Hawaiian Islands for the study and treatment of leprosy. Congress appropriated the necessary funds on March 3, 1905 and on June 9, 1905, the Surgeon General of the U.S. Public Health and Marine Hospital Service, Walter Wyman, personally laid out the 1 square mile site at the isolated leprosy colony for the new Federal research facility.

A renowned pathologist from Harvard University, Dr. Walter B. Brinckerhoff, was named as the director of the facility during its construction. Although Dr. Brinckerhoff never actually worked at the Kalaupapa Federal Leprosy Investigation Station after construction was completed, he characterized it as "one of the most complete laboratory outfits in the world" and the beginning of "a new era in the medical history of leprosy and a part of the important history of the United States."

To be sure, the new Federal research facility was the biggest and most modern building complex yet to be erected in Hawaii. In addition to the hospital and laboratory complex, the housing for its staff came complete with fine linen, good furniture, china, silverware, electric lights and an icemaker, and 32 Chinese laborers. It also boasted of the first flush toilet in Hawaii.

Unfortunately, however, the design and construction of the new hospital and laboratory were undertaken without regard to the lifestyle of Kalaupapa's residents. The hospital was designed for inpatients. But the people of Kalaupapa preferred the more independent, outdoor-oriented lifestyle of Hawaii that had developed at the settlement since its establishment.

Consequently, the patients shied away from the Federal hospital. In fact, only nine of the hundreds of residents volunteered to be patients when the hospital formally opened. One by one, these brave nine left the hospital to return to the settlement, forcing the closure of the investigation station after less than 4 years of operation—December 23, 1909 through August 7, 1913.

In 1923, the Hawaii Territorial Legislature appropriated $12,000 for the dismantling of the Federal facility. Finally, in 1929, 20 years after it was opened and 16 years after it was closed, the building materials were taken from the facility for use at the Kalaupapa Settlement. Remnants of those materials can still be found today among the homes at Kalaupapa.

Tragically, many residents of Kalaupapa lived through the opening and closing of the Federal Leprosy Investigation Station, without seeing the discovery of a cure for leprosy. It was not until 1941, 23 years later, that the use of sulfone drugs was discovered by Dr. Guy Faget, a physician-researcher at the U.S. Pacific Health Service leprosarium in Carville, La. The discovery of the miracle drug, ironically, led to the treatment of leprosy on an outpatient basis.

Of the over 7,000 residents of Hawaii who were exiled to Kalaupapa since its establishment in 1866, only the 125 patients remain today. All the present resident patients have spent most, if not all, of their lives at Kalaupapa and continue to receive medical treatment through the Hawaii State Department of Health. Although they are free to live elsewhere in Hawaii or in any other State, the majority of the residents are of advanced age and have chosen to continue living at Kalaupapa because of their deep emotional and cultural ties to Kalaupapa.

The legislation is being introduced today with the unanimous recommendation of the Kalaupapa National Historical Park Advisory Commission, chaired by the Reverend David Kaupu. Such recommendation was transmitted to Secretary of the Interior Cecil D. Andrus on March 25, 1980, by the Advisory Commission, which was specifically authorized by Public Law 94–518 to study various alternative proposals to preserve and protect the historic, cultural and natural heritage of the Kalaupapa settlement.

The Advisory Commission conducted extensive public hearings in Hawaii prior to making its recommendation to the Secretary of the Interior. I am pleased to note that the Governor of Hawaii, the Honorable George R. Ariyoshi, was consulted in this process and is strongly supportive of the Advisory Commission's recommendations.

Mr. President, the purpose of the legislation is clearly outlined in its preamble as follows: First, to provide a well-maintained community in which the patients are guaranteed a residence at Kalaupapa for as long as they wish; second, to protect the current lifestyle and individual privacy of the patients; third, to research, preserve, and maintain the character of the Kalaupapa community; fourth, to research, preserve, and maintain the historic structures, Hawaiian sites, cultural values, and natural features on the peninsula; and fifth, to provide the general public with limited visitation to the Kalaupapa peninsula.

The proposed national historical park preserve would encompass a total of 10,902 acres, including 8,902 acres of land and approximately 2,000 acres of offshore area. Except for 150 acres of privately-owned land and 23 acres of Federal land, all of the land involved is currently owned by the State of Hawaii and will remain in State ownership, unless the State voluntarily offers it for Federal acquisition through donation or exchange.

The National Park Service of the Department of the Interior would be authorized to enter into cooperative agreements with the State of Hawaii for a period of not less than 20 years for the preservation, protection, maintenance, construction or reconstruction, development, improvement, and interpretation of sites, facilities, and resources of historic, natural, architectural, and cultural significance within the national historical park preserve.

The Hawaii State Department of Health would continue to provide all necessary medical services to the patients at the Kalaupapa Settlement. Unless adjusted by the patients themselves, general visitation to the preserve will be restricted to 100 persons per day.

The legislation contains additional provisions which address the special needs of the patients. It specifically would authorize the taking of fish and other wildlife by the patients without regard to State and Federal laws. Past experience has shown that this unrestricted taking of fish and wildlife by the patients of Kalaupapa has not resulted in any significant diminution of the resources. Since the average age of the patients remaining at the settlement is 55 years, it is not anticipated that their continued unrestricted fishing and hunting will have any significant adverse impact on the resources. This provision is specifically included in the legislation as a special assurance to the patients that their basic lifestyle at Kalaupapa will not be disrupted during their remaining years at the settlement.

The legislation also grants to the patients the first right of refusal to provide revenue-producing visitor services on the peninsula. Section 5 of the proposal authorizes the Secretary of the Interior to give first preference and appropriate training opportunities to qualified patients and native Hawaiians in making appointments to positions established for the administration of the preserve without regard to any provisions in Federal civil service laws and without regard to any numerical limitation on personnel. The precedent for this provision is contained in section 505 of Public Law 95–625, the National Parks and Recreation Act of 1978, which provides for the establishment of Kaloko-Honokohau National Historical Park.

The bill further authorizes the establishment of an 11-member advisory commission appointed by the Secretary of the Interior for terms of 5 years. Seven of such members must be present or former patients of Kalaupapa to be elected by the patient community. Four members of the Advisory Commission, at least one of whom shall be a native Hawaiian, would be appointed from recommendations made by the Governor of Hawaii. The Advisory Commission would be charged with the responsibility of advising the Secretary of Interior on the development and operation of the preserve for a 25-year period, beginning on the date of enactment of the legislation, after which it would automatically expire.

Finally, the legislation would authorize the Secretary to reevaluate policies governing the management, administration, and public use of the preserve and to implement appropriate changes at such time as there is no longer a resident patient community at the Kalaupapa Settlement.

Mr. President, the Kalaupapa Settlement represents a most unique aspect of the history of the State of Hawaii and of the United States. Its designation as a national historical preserve would be most appropriate.

Mr. President, I ask unanimous consent that the text of the bill, together with a section-by-section analysis of the bill be printed in the RECORD at the conclusion of the remarks of Senator INOUYE.

● Mr. INOUYE. Mr. President, I am pleased to join with my colleague, Senator MATSUNAGA, in the introduction of a bill to establish the Kalaupapa National Historic Preserve.

This bill is the result of an intensive study by an Advisory Commission established by Congress pursuant to Public Law 94–518. The Advisory Commission and the National Park Service have carefully reviewed a number of alternatives to protect the unique resources of the Kalaupapa Peninsula. They have given very careful attention to the wishes of the remaining leprosy patients at Kalaupapa. The bill represents the best judgment of both the Commission and the National Park Service as to how best to protect the people of Kalaupapa while at the same time preserving the peninsula's resources.

The bill which we are introducing provides a means for incorporating ongoing patient care at Kalaupapa into a long-range effort to insure that the unique historical record of the Kalaupapa Peninsula is preserved. The patients will be allowed to remain at Kalaupapa for the remainder of their lives, if they so choose.

Further, provision is made to insure that the operation of the park is done in cooperation with—and so as not to interfere with the lifestyle of—the remaining patients. It is the promise of accomplishing two goals, patient care and historic preservation, that makes this bill so exciting.

The history of the Kalaupapa Peninsula is a history which must be preserved for future generations. The record of leprosy treatment worldwide has been a shameful one throughout most of human history. The establishment of settlements like those on the Kalaupapa Peninsula—attempts to isolate and ignore the problem—have always characterided leprosy "treatment." We must preserve the historical record of the Kalaupapa Peninsula if only to remind us of our past failures.

But if the record of the peninsula shows man at his worst, it also shows man at his best. The ministry of The Reverend Joseph Damien DeVeuster, SS.CC., better known as Father Damien, is a profound example of self-sacrifice, compassion and dedication to the relief of suffering human beings. In the life and death of Father Damien we have a shining example of the best qualities that mankind possesses. The preservation of the peninsula should not only remind us of the courage and suffering of the patients, but, perhaps more importantly, it should also inspire us by the example of Father Damien's work among the residents of Kalaupapa.

We must preserve the unique historical record of the Kalaupapa Peninsula. The bill which we submit today is carefully constructed to insure this preservation and provide for the treatment of the remaining patients with the dignity they deserve. It is my hope that this bill will be expeditiously considered and that the program provided for in this bill can be implemented in the near future.●

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide a well-maintained community in which the Kalaupapa leprosy patients are guaranteed that they may remain at Kalaupapa as long as they wish; to protect the current lifestyle of these patients and their individual privacy; to research, preserve and maintain the present character of the community; to research, preserve and maintain important historic structures, traditional Hawaiian sites, cultural values, and natural features; and to provide for limited visitation by the general public; there is hereby established the Kalaupapa National Historical Preserve (hereinafter referred to as the "preserve"). The boundaries of the preserve shall include the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kalaupapa National Historical Preserve," numbered 007-80,023, and dated February 1980, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the preserve by publication of a revised boundary map or other description in the Federal Register.

Sec. 2(a). Within the boundary of the preserve, the Secretary is authorized to acquire those lands within the boundary of the preserve owned by the State of Hawaii or any political subdivision thereof only in the event such lands or interests are voluntarily offered by the owner. In such case, acquisition is authorized through donation or exchange. Any such exchange shall be accomplished in accordance with the provisions of subsection 5 (b) and (c) of the Act approved July 15, 1968 (82 Stat. 354). Any property conveyed to the State or a political subdivision thereof in exchange for property within the preserve which is held in trust for the benefit of Native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and "available lands" defined in Section 203, Hawaiian Homes Commission Act may be exchanged in accordance with Section 204 of said Act. The vesting of title in the United States to property within the preserve shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the preserve.

(b) The Secretary is authorized to acquire privately owned lands within the boundary of the preserve by donation, purchase with donated or appropriated funds, or exchange.

(c) The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the preserve and any other unit of the National Park System but within the State of Hawaii and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the preserve owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in section 2(a), above.

Sec. 3. (a) The Secretary shall administer the preserve in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, the Act of August 21, 1935 (49 Stat. 666), as amended, and the provisions of the Act.

(b) (1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the preserve.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the preserve pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural and cultural significance. Such agreements shall be of not less than 20 years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time from such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public.

Sec. 4. The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement:

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day;

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein;

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides;

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources without regard to State and Federal fish and game laws and regulations;

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

Sec. 5. The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term "Native Hawaiian" as used in this policy, means any descendant of the race inhabiting the Hawaiian Islands previous to the year 1778.)

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the preserve, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable;

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred in paragraph (1).

Sec. 6. (a) There is established the Kalaupapa National Historical Preserve Advisory Commission (hereinafter referred to as the "Commission"), which shall consist of eleven members each appointed by the Secretary for a term of five years as follows:

(1) Seven members who shall be present or former patients, elected by the patient community;

(2) Four members appointed from recommendations submitted by the Governor of Hawaii, at least one of whom shall be a native Hawaiian.

(b) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(d) The Secretary shall consult with and seek the advice of the Commission with respect to the development and operation of the preserve including training and research programs. The Commission shall, in addition, advise the Secretary concerning public visitation to the preserve, and such advice with respect to numbers of visitors shall be binding upon the Secretary if the Commission certifies to him that such advice is based on a referendum, held under the auspices of the Commission, of all patients on the official Kalaupapa Registry.

(e) The Commission shall expire 25 years from the date of enactment of this Act.

SEC. 7. At such time when there is no longer a resident patient community at Kalaupapa, the Secretary shall re-evaluate the policies governing the management, administration, and public use of the preserve in order to identify any changes deemed to be appropriate.

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

A Section-by-Section Analysis

Findings:

Settlement constitutes unique and nationally and internationally significant cultural, historical, educational and scenic resource.

Purpose:

1. To preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations.

2. Preservation and interpretation of that settlement to be managed and performed by patients and native Hawaiians to extent practical. Training opportunities to be provided such persons in the management and interpretation of resource.

Preamble:

Establishes Kalaupapa National Historical Preserve for the following reasons:

1. To provide a well-maintained community in which the patients are guaranteed that they may remain at Kalaupapa as long as they wish;

2. To protect current lifestyle and individual privacy;

3. To research, preserve and maintain character of the community;

4. To research, preserve and maintain historic structures, Hawaiian sites, cultural values and natural features; and

5. To provide limited visitation by the general public.

Boundaries to include lands, waters and interests to be depicted on a map. Secretary authorized to make minor revisions by publication in Federal Register.

Sec. 2:

a. The Secretary is authorized through donation or exchange to acquire lands owned by the State of Hawaii or any political subdivision thereof only if such lands are voluntarily offered.

Lands within the preserve held in trust for native Hawaiians under the Hawaiian Homes Commission Act of 1920 shall be held by the grantee pending the exchange for lands of the same class and degree as encumbers the property within the preserve.

b. The Secretary is authorized to acquire privately-owned property by donation, purchase with donated or appropriated funds, or exchange. Estimated cost: $150,000.

c. The Secretary is authorized to acquire by exchange, donation, purchase with donated or appropriated funds lands, waters and interests outside the preserve and any other unit of the National Park System but within the State of Hawaii and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, and waters owned by the Department within the preserve. Condemnation is not authorized. Estimated cost: $2,500,000.

Sec. 3:

a. Directs the Secretary to administer the preserve in accordance with the Act of August 25, 1916 and August 21, 1935.

b. (1) Authorizes the Secretary with the permission of the owner to undertake critical or emergency stabilization of utilities and historic structures, develop temporary office space and conduct interim interpretive and visitor services on non-Federal property in the preserve.

(2) Directs and authorizes the Secretary to enter into cooperative agreements with the owner(s) of property within the preserve for the protection, maintenance, construction, reconstruction, development, improvement and interpretation of the sites, facilities and resources of the preserve.

Requires that cooperative agreements be for a minimum of 20 years.

Agreements shall include right of access at reasonable times to public portions of the preserve for interpretation and other purposes.

Provides that no changes or alterations shall be made in the property except by mutual consent.

Provides that owner shall be liable to U.S. in an amount equal to fair market value for any capital improvement made or placed upon the property by the U.S. in the event the agreement is terminated by the owner prior to its natural expiration date. The Secretary may remove capital improvement(s) in lieu of payment.

Upon expiration of the agreement the improvements become the property of the owner unless the U.S. removes the capital improvements and restores the land to its natural condition.

(3) Limits expenditures of Federal funds on private property to emergencies or pursuant to cooperative agreements.

(4) Authorizes stabilization, rehabilitation and interpretation of religious structures and properties to the extent they constitute substantial and integral parts of the historical fabric of the settlement and to the extent they are nationally significant.

Sec. 4.:

Provides for the following special needs of the patients:

(1) Limits public visitation to the settlement to 100 persons a day or less, unless adjusted by the patients.

(2) Provides that health care shall be provided by the State of Hawaii with assistance from other Federal programs.

(3) Grants the patients first right of refusal to provide revenue-producing visitor services, such as food, accommodations, tours and guides.

(4) Authorizes the patients to take and utilize fish and wildlife resources without regard to State or Federal game laws.

(5) Provides that the patients should continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal law.

Sec. 5.:

Provides the following in recognition of the additional needs of the patients and native Hawaiians:

(1) Directs the Secretary to give first preference to qualified patients and other native Hawaiians in making appointments to positions established for the administration of the preserve without regard to any provisions of the Federal Civil Service laws and without regard to any numerical limitation on personnel.

(2) Directs the Secretary to provide training opportunities for patients and native Hawaiians so that they may qualify for the positions described above.

Sec. 6.:

a. Establishes the Kalaupapa National Historical Preserve Advisory Commission consisting of eleven members appointed by the Secretary for terms of five years.

(1) Seven members who shall be present or former patients elected by the patient community.

(2) Four members appointed from recommendations by the Governor of Hawaii, at least one of whom shall be a native Hawaiian.

b. Secretary to designate one member as chairman.

c. Members to serve without compensation. Secretary authorized to pay expenses reasonably incurred by the Commission.

d. Secretary is directed to consult and seek advice of the Commission with respect to the development and operation of the preserve. Commission may set numbers of visitors that may enter or remain in the settlement. Visitation limit is binding upon the Secretary if resulting from referendum.

e. Commission to expire in 25 years from date of enactment.

Sec. 7.:

Secretary is directed to reevaluate policies governing the management, administration and public use of the preserve and to implement appropriate change at such time as there is no longer a resident patient community.

Sec. 8.:

Authorization to appropriate funds to carry out provisions of the Act.

By Mr. HEFLIN:

S. 2845. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for expenses for legal services; to the Committee on Finance.

TAX DEDUCTION FOR LEGAL EXPENSES

Mr. HEFLIN. Mr. President, in the last several years, as inflation has impacted on everything from food to shelter, I have become increasingly aware that the American middle-class taxpayer, some 140 million strong, does not have effective access to legal help. I believe that the major reason why so many people fail to make use of an attorney is the cost of legal assistance. Many of those frightened off by the perceived high cost of legal help often will turn to other sources of aid to avoid the costs. Some resort to legal aid bureaus only to find that they do not qualify for assistance. Other sources are consumer complaint units of the State's attorney's office or the attorney general's office. These usually have limited jurisdiction to resolve legal problems which are outside the scope of criminal prosecution. Sometimes they resort to self-help efforts, which often turn out to be more costly in the long run, as in the case of a contract or will which is later litigated with disastrous results.

From the observation of the great numbers of persons who seek legal advice and assistance for noncriminal problems, it can be seen that people want—and need—expert help in resolving legal difficulties. They are, however, often neither able nor willing to pay the high costs of retaining counsel. Clearly, there is a tremendous need for competent counsel that the middle class can afford. While we can not reduce the legal fees directly, we can and should take steps to soften the impact on the average middle-class taxpayer.

One approach is through group insurance programs, similar to medical group insurance. In the case of United Transportation Union against State Bar Association of Michigan, the Supreme Court of the United States gave its approval to such plans stating:

> The common thread running through our decisions in N.A.A.C.P. v. Button, Trainmen, and United Mine Workers is that collective activity to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment. However, the right would be a hollow promise if

courts could deny associations of workers or others the means of enabling their members to meet the costs of legal representation.

These decisions furnished the catalyst that spurred the development of the group legal services movement. As a result, several such plans have been established across the country. However, these plans are still in their infancy, and a major problem is the under utilization of services by plan members.

Mr. President, in my judgment, the legal profession, and the Congress face the responsibility of finding a more workable means to make lawyers more affordable to the citizens of the United States.

Mr. President, I would like to draw to the attention of my colleagues, an article titled "Aid For The Middle Class: Deduction of Legal Expenses" by Robert Sklodowski and Douglas Rothe which appeared in the April issue of Case & Comment. I believe, Mr. President, that this article gives an excellent argument for the case of tax deductions for legal services.

As suggested by Sklodowski and Rothe, one solution that would begin to resolve this growing problem is the bill which I am offering today, a bill that would amend the Internal Revenue Code to provide a deduction for legal expenses. Businesses can already deduct most of their legal expenses, the poor are often provided free aid, and the wealthy can afford the help regardless of the cost. Thus the tax deduction would be of great benefit to the average American taxpayer, who collectively of course, foot the large part of the county's tax bill. This deduction is modeled after the medical expense deduction now found in section 213 of the tax code.

I ask unanimous consent that the bill be printed in the RECORD at the end of these remarks.

There are two significant advantages this proposal has over any other plan. First, Mr. President, it makes lawyers more affordable to the average taxpayers and, second, it can be implemented immediately.

The proposal will help the middle class because it will make legal services less costly to those who itemize deductions. For example, the deduction would provide sizable tax relief for those who experience catastrophic legal expenses, and the relief would be meaningful even for those whose expenses were not in the catastrophe range. Another advantage of this deduction is that a direct correlation would exist between the use of legal services by the taxpayer and the deduction to be taken. Put simply, the more the taxpayer uses an attorney, the greater would be his deduction. Unlike a group-type plan, the taxpayer only pays for what he receives. This deduction could be, if it were deemed necessary, tailored to provide greater benefits for the income group or groups that are most in need of aid. For example, the child care deduction sets a maximum income level above which a deduction is not allowed. This device could be used with my bill and I would expect the committee to examine the possibility. Since the tax structure is generally progressive, the deduction limitation can be calculated to provide benefits to those who are not eligible for legal aid, yet who are not sufficiently well off to be able to retain counsel as a matter of course. Still another advantage is the fact that the cost of adopting an amendment to the Internal Revenue Code would be minimal in comparison to the service programs. For example, this year alone the Legal Services Corporation has granted $1.5 million for 19 small demonstration projects to test the effectiveness of various legal service-type programs. Even assuming resulting economies of scale, once programs become operational, clearly the startup costs of these programs will be enormous. The proposed total budget for Legal Services Corporation for fiscal year 1981 exceeds $321 million. In contrast, the loss of revenue to the Federal Government in terms of taxpayers using this deduction should be deminimus.

Another problem with the group-type or prepaid legal insurance programs is that they will require the creation of a bureaucratic structure to implement them. Legislatures will have to enact statutes, regulatory agencies will have to be created or expanded, regulations will have to be promulgated, and, most certainly, numerous hearings will have to be held. All of these activities will generate the need for additional people to carry out these functions. Further, there may be numerous court challenges to any such programs. The bureaucratic mechanism, the Internal Revenue Service, is already in place. Once this deduction is adopted it will mesh into the tax structure along with other provisions of the code.

For these reasons, the adoption of an amendment to the code will not face the difficult problems that will certainly accompany the implementation of group or prepaid type programs. This deduction cannot make lawyers affordable to all who desire legal help, but the proposal has two extremely significant advantages over other plans. The deduction can be adopted quickly and it would provide assistance to a segment of the middle class who want to retain or who must retain the services of an attorney.

Mr. President, the use of this tax deduction should provide tax relief to those with costly legal expenses and, at the same time, encourage those who have not used an attorney previously to obtain legal help.

Mr. President, the Congress of the United States cannot afford the luxury of waiting a decade or more for the implementation of group or prepaid legal plans. We must work for the adoption of a plan that will make lawyers more affordable to the average American taxpayer now.

I urge my colleagues to give this matter the attention it deserves, and move it forward into law most expediently.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by adding after section 220 the following new section:

"SEC. 221. LEGAL SERVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction an amount, not compensated by insurance or otherwise, equal to the sum of—

"(1) the amount by which the amount of the expenses paid during the taxable year (reduced by any amount deductible under paragraph (2)) for legal services incurred by the taxpayer, his spouse and dependents (as defined in section 152) exceeds 3 percent of the taxpayer's adjusted gross income, and

"(2) the amount (not in excess of $150) equal to one-half of the expenses paid during the taxable year for insurance which constitutes legal services incurred by the taxpayer, his spouse and dependents.

"(b) DEFINITION OF LEGAL SERVICES.—For purposes of this section, the term 'legal services' has the same meaning as such term in section 120.".

(b) The table of sections for such part is amended by striking out the item relating to section 221 and inserting in lieu thereof the following new items:

"221. Legal services.

"222. Cross references.".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1980.

By Mr. WARNER:

S. 2846. A bill to amend chapter 34 of title 38, United States Code, to modify the termination date for veterans eligible for educational assistance provided under such chapter; to the Committee on Veterans' Affairs.

EXTENSION OF VETERANS EDUCATIONAL BENEFITS

● Mr. WARNER. Mr. President, I am introducing today legislation which would extend the time available for educational assistance to eligible veterans.

The need for this legislation is clear. Under the current law, no educational assistance will be provided to any eligible veterans after December 31, 1989. As a consequence, thousands of our active duty personnel are faced with resigning from the service in order to take advantage of their educational benefits.

Not since World War II has our country been threatened so dramatically on so many fronts. We find ourselves not only losing our military parity in the strategic and conventional force arenas, but also subject to the emerging threat of revolutionaries and terrorists.

At this time the availability of highly trained personnel in critical job skill areas may well be the most important issue affecting the readiness of our forces. We must assure that our men and women in uniform view the military as an attractive career.

Recruitment of military personnel and retention of qualified individuals in key positions pose the critical problem which may surface as the "weak link" in our defense structure. Despite the sophistication of our weapon systems (and, often, because of it), we need skilled individuals who are highly trained, available and ready.

Currently, we are short 20,000 highly skilled and technically trained petty officers. Recently the U.S.S. *Canisteo* was removed from operational status because it was judged unsafe due to personnel shortages.

The Air Force is now short 3,000 NCO's. Chief of Staff, Lew Allen, has been forced to suggest that in the early eighties he wants to spread the shortages "in a way as wise as we can."

The Army is short 46,000 NCO's. Support and Reserve Forces are under strength.

There are requirements today for 1 million personnel in the Active Reserve—currently there are 800,000. The Individual Ready Reserve requires 700,000, but has only 200,000 personnel.

Retention difficulties have reduced the skill levels in our current force. Today only 14 percent of our artillery crewmen have sufficient skills for combat. Ten percent of the nuclear weapons maintenance specialists are ready, 2 percent of the tank repairmen, 18 percent of Hawk missile crews, and on and on.

Wartime mobilization simulations show that we can only fill 52 percent of the infantry positions, 73 percent of the artillery, and 28 percent of the armor requirements.

Today we are in danger of losing a valuable cadre who are needed desperately to maintain the capability of our planes to fly, our ships to sail, and our ground forces to deploy. These personnel may well elect to leave the military at this juncture in order to assure that they have the current GI bill benefits available to them.

Thus, we have the dichotomy of the time period of eligibility of the current veterans' educational benefits being counterproductive to our current active force needs. As a consequence, I am introducing legislation which would amend section 1662(e) of title 38 of the United States Code to assure that the deadline for educational assistance is extended beyond December 31, 1989, to a date 5 years after the veteran's last discharge or release from active duty.

I believe this simple step taken at this time would be a clear signal to many of our military personnel that we need them now in their active duty jobs.

Some will argue that the educational assistance benefit should be provided solely as a compensation for time in active duty during a period of combat. However, I can tell you that since World War II our military advantage has gradually eroded to the point today that in many areas we are in an inferior position.

We simply cannot afford to lose many of the key personnel that we have on board today who feel they are forced to leave because they will lose their educational assistance benefits.

I urge that the Senate give this proposal to extend the educational assistance deadline full and prompt attention. We need to retain our personnel if we are to maintain a desired state of readiness.●

By Mr. HART:

S. 2847. A bill to provide minimum standards under which State workers' compensation laws will provide prompt, adequate, exclusive, and equitable compensation for occupational diseases or death resulting from exposure to asbestos, and for other purposes; to the Committee on Labor and Human Resources.

ASBESTOS HEALTH HAZARDS COMPENSATION ACT OF 1980

● Mr. HART. Mr. President, reform of our Nation's workers' compensation system has been studied and debated since at least 1971. Nearly everyone who has examined the system has agreed that it is inadequate, ineffective, inequitable, and in serious need of reform. On January 18, 1980, the New York Times editorialized:

> Clearly the compensation system does not meet the needs of sick workers. Nor, by the same token, does it provide enough incentive for employers to reduce the incidence of diseases resulting from workplace causes. Changing the rules of state compensation systems—with Federal standards, if necessary—could help.

In no case is this more true, than with State and Federal workers' compensation statutes for asbestos-related disease.

This legislation attempts to offer a bold, independent, and unprecedented first step toward developing a system that quickly distributes compensation benefits to asbestos disease victims and fairly apportions the costs for such benefits among all responsible parties. It provides a mechanism by which asbestos manufacturers, distributors, other segments of the asbestos industry, and the Federal Government can contribute substantially to the compensation of workers disabled by an asbestos-related disease. This legislation has the support of the general president of the International Association of Heat and Frost Insulators and Asbestos Workers (AFL-CIO) and portions of the asbestos industry. I am hopeful this bill can serve as a model for dealing with compensation for other occupational diseases as well.

The specific details of the bill are of less importance than the effort to solve a real problem, and I welcome any constructive contributions which may be offered. I am firmly committed, however, to developing some type of legislative remedy that will establish a more uniform, comprehensive and equitable means of compensating workers disabled by asbestos-related disease. In the weeks and months ahead I intend to work closely on this with Senator WILLIAMS and Senator JAVITS, both of whom have demonstrated a long record of concern and leadership in the field of workers' compensation reform.

Mr. President, the arguments for a legislative remedy for asbestos disease compensation are clear and compelling. To explain this complex issue as simply as possible, I will outline both the problems with occupational disease compensation in general and the nature and magnitude of the asbestos disease problem. I will also attempt to explain the inadequacy of current law which leaves workers disabled from exposure to asbestos unsatisfied whether attempting to obtain workers' compensation, or whether bringing product liability lawsuits in the hopes of receiving compensation through the courts. Finally, I will explain how my legislative proposal would work and why it would, to a great extent, solve the compensation problem

That workers' compensation reform is necessary is beyond doubt. Every study group and qualified individual who has examined the current system has arrived at the conclusion that it does not work very well and that it needs to be changed. Statistics now being compiled by the Department of Labor confirm this and highlight the magnitude of the problem:

There are almost 2 million workers who are either severely or partially disabled from an occupationally related disease. One-third of these occupational disease victims suffer long-term total disability.

Only 5 percent of those severely disabled from an occupation disease receive workers' compensation benefits, partly because of the difficulties involved in establishing the work relatedness of disabling illnesses.

On average a disabled worker with an occupational disease waits a year before receiving the first payment of compensation benefits. By comparison, work-injury cases are settled in an average of 2 months.

Sixty percent of all occupational disease awards were initially denied, while only 10 percent of the injury awards received similar treatment.

A worker who becomes totally disabled for life from an occupational disease and who is able to prove that the disability is linked to the workplace receives, on average, about $9,700 in total compensation benefits compared to expected future earnings of $77,000. This implies that workers' compensation benefits replace about one-eighth of lost wages.

Mr. President, the most prevalent and often the most debilitating occupational diseases afflicting American workers today, and a principal cause of the skyrocketing occupational disease rate, are those produced by occupational exposure to asbestos. Asbestos-related diseases are the most prevalent form of occupational disease because asbestos permeates our environment. Over 3,000 products commonly found in the home and working environment contain asbestos, including electrical insulation, brakedrums, wall and ceiling board, potholders and pipes, just to name a few. One of its most extensive uses, and the source of much of the occupational disease today, is as insulation in ships.

The full consequences of occupational exposure to asbestos in the United States have just begun to be recognized in the last few years. According to estimates made by the Department of Health, Education, and Welfare, between 8–11 million workers have been exposed to asbestos in the United States since the beginning of World War II. The National Institute of Occupational Safety and Health believes more than 4 million of these workers were exposed to asbestos in shipyards during the Second World War. Because of the long latency period for abestos-related disease, between 15–40 years, it is only now that many of these workers are becoming disabled and the incidence of occupational disability is climbing at such an alarming rate. In many ways, asbestos disease is a hidden cost of World War II for which many American workers are still paying.

The major health effects now linked to asbestos exposure include asbestosis, a chronic lung disease, and various types of cancer. Asbestosis is characterized by scarring of the lung tissue. The onset of asbestosis is usually gradual, developing over a period of 10 to 30 years of exposure to significant concentrations of asbestos. Of those affected, some will never suffer anything worse than slight shortness of breath. Others, however, will become pulmonary cripples incapable of any exertion, even climbing stairs.

Second, asbestos is a cancer-causing agent. Epidemiological studies and animal studies have shown that increased exposure to any type of asbestos increases the risk of lung cancer. Cancer of the lungs, the esophagus, stomach, colon, and rectum as well as the oropharyngeal tract have also been shown to occur more often in individuals exposed to asbestos.

The third adverse health effect related to asbestos exposure is known as mesothelioma. Mesothelioma is a highly malignant tumor of the membrane which lines the chest cavity and the abdominal cavity. This type of cancer, once regarded as very uncommon, is occurring with increasing frequency in workers with exposure to asbestos. The development of this tumor apparently is related to the degree of asbestos exposure.

Based on epidemiological studies of workers, it is thus estimated that 20–25 percent of heavily exposed workers die of lung cancer; 7–10 percent of pleural or peritoneal mesothelioma; and 8–9 percent of gastrointestinal cancers. Further, it is believed that approximately 10 percent will die of complications associated with asbestosis; that is, secondary infections, such as pneumonia or cor pulmonale. These figures may be underestimates of lifetime risk, because relatively few workers have yet been followed to the end of their normal lifespan. The total fraction of heavily exposed workers likely to die of the cancers previously mentioned is probably between 35–45 percent. Of the 4 million heavily exposed workers in the United States, approximately 1.6 million are thus expected to die of asbestos-related disease. Since most of these cancers will be manifest in the next 30–35 years, the expected average number of cancers attributed to asbestos per year will average about 67,000. Such numbers would represent about 17 percent of all cancers detected annually in the United States.

Mr. President, clearly these frightening statistics make this one of the most serious health issues to come before this Congress. Because of the inadequacies and inequities of existing mechanisms for compensation for occupational disease, it is essential that Congress develop a legislative remedy.

Under current law, workers who are disabled by an asbestos-related disease have no adequate way of obtaining necessary compensation for lost wages. Workers' compensation levels vary from State to State due to different statutes, and the benefits for occupational disease continue to be inadequate. Most State workers' compensation statutes contain artificial barriers to compensation, such as medically impractical time periods, or other time-related restrictions such as unrealistic statutes of limitation on occupational disease or asbestos cases which prevent asbestos victims and their families from obtaining the compensation they need and deserve. The inadequacy of State workers' compensation laws is well documented in the hearing record which the Senate Labor and Human Resources Committee has compiled over the last 8 years.

Because workers' compensation is so poor, many workers go to court in an effort to win product liability lawsuits against asbestos manufacturers so they may obtain compensation that way. This route, however, has also proved to be unfair and inadequate. Court battles are long and expensive and are sometimes decided on the basis of legal technicalities. Also, as former U.S. Representative Robert Sweeney, now a plaintiff's attorney, testified before the House Subcommittee on Labor Standards, "the level of litigation * * * is so high that the judicial system literally has no means to accommodate all the suits that are anticipated to be filed."

The experience of the last 5 years demonstrates that with respect to occupational disease claims, the product liability lawsuit is as inadequate, unfair, and unsatisfactory a means of attempting to compensate workers with asbestos-related disease as one of the various State workers' compensation programs. even when workers are willing to bear the expense of litigating, they have often been disappointed. Over the last few years, plaintiffs and defendants have prevailed in about an equal number of cases. Thus, in about one-half of the asbestos cases that have been tried, the worker or the worker's family received nothing. And even in those cases in which the workers win, a substantial amount of the award may go to attorneys' fees and court costs.

Presently more than 3,000 lawsuits are pending regarding asbestos-related disease. Clearly, our judicial system is not suited to handle all of these in a fair and equitable way, and in a timely enough fashion to do workers any good. Nearly all parties agree that legislation—equitable legislation—is the only real answer. Neil Peterson, the Justice Department attorney charged with defending the Government in abestos litigation, has said:

> The courtroom is a lousy way to settle these disputes. You get people who have full blown injuries, who can't prove proximate cause, or liability, or who get thrown out on statutes of limitations, and go away uncompensated. What is happening in this litigation, because it is so huge, is that it gets far removed from the plaintiffs themselves.

Mr. President, my legislation represents an important beginning in the effort to develop the legislative remedy which all parties who have been involved with asbestos disease and compensation have agreed we need.

Let me describe in brief the major provisions of my bill. First, the bill establishes Federal minimum standards similar in many ways to those proposed by Senators WILLIAMS and JAVITS in their workers' compensation reform proposal, to be applied in determining workers' compensation for asbestos-related disease. These standards are designed to eliminate the artificial barriers in most States' statutes which prevent compensation for asbestos disease, and to insure that such compensation is meaningful. The most significant of these standards include provisions to:

Provide that compensation for total disability or death due to an asbestos-related disease shall not be less than 66⅔ percent of the claimant's average gross weekly wage;

Provide that similar compensation shall exist for partial disability;

Provide that compensation shall be increased based on the size of the claimant's family;

Provide that benefits shall be indexed on the basis of changes in the wage scale of the job which the claimant held;

Provide that responsible parties shall pay for medical and rehabilitation benefits;

Provide that benefits shall be paid for the duration of the disability or for the life of the claimant without limitation to the dollar amount or the period of payment; and

Provide that benefits shall not be offset by any other benefits paid to claimants, nor be considered as income for tax purposes.

Mr. President, it is voluntary for the States to follow these minimum standards. However, if a State or Federal workers' compensation agency fails to award compensation at least equivalent to the compensation prescribed by this bill, a claimant will be able to file a petition for review of the State or Federal workers' compensation agency award with the Benefits Review Board established by the Longshoremen's and Harbor Workers' Compensation Act. That Board will have the power to order an employer to pay the appropriate level of compensation according to the standards established in the bill.

In addition to the minimum standards established by this legislation, the bill includes provisions which will allow for the employer who pays a workers' compensation award to bring other responsible parties, including the asbestos industry and the Federal Government, into the State workers' compensation proceeding to determine the amount they should contribute to the compensation.

Naturally, two of the vital concerns of everyone involved in asbestos disease compensation are responsibility and amount. In this regard, the bill establishes a commission of Government, health, labor, and industry experts to develop the criteria, which Congress will have an opportunity to approve, by which the State workers' compensation board will make determinations regarding the contributions of the various responsible parties. The single strongest feature of this legislation is based on the principle that responsible parties will pay their responsible share, no more and no less. This bill insures that both the asbestos industry and the Federal Government will play a meaningful role in any compensation scheme.

Finally, this bill provides that the workers' compensation scheme established will be the sole and exclusive remedy for those seeking compensation for asbestos-related disease. This will put an end to the massive litigation that has served neither plaintiff nor defendant well over the last 5 years, and which would be guaranteed to continue on an even larger scale in the absence of this legislation.

Mr. President, I will work with the members of the Senate Labor and Human Resources Committee and any other Members of this body who are anxious and willing to develop a solution to the complex problem of providing compensation for asbestos-related disease. Working together, I am confident we can develop a solution which will insure prompt, equitable, and comprehensive compensation for workers who have nowhere else to turn. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Asbestos Health Hazards Compensation Act of 1980."

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) a significant number of people suffer disability or death or both from occupational diseases caused by the inhalation or ingestion of asbestos;

(2) members of households of persons who are occupationally exposed to asbestos may suffer from asbestos-related diseases;

(3) asbestos-related diseases occur among individuals employed in both the private sector and public sector;

(4) diseases arising from exposure to asbestos constitute a substantial burden upon interstate commerce and have an adverse effect on the public welfare;

(5) diseased and disabled workers and their survivors deserve, and the public interest will be best served by prompt, adequate, exclusive and equitable compensation;

(6) the primary method for providing such compensation, State laws governing occupational disease and disability, do not in many cases provide prompt, adequate, exclusive and equitable compensation;

(7) all parties responsible for the occurrence of occupational asbestos disease, including the Federal Government and the asbestos industry, should participate in the compensation of individuals who suffer as a result of exposure from such disease;

(8) such participation should be in an equitable manner and should be the exclusive remedy for those suffering from an occupational asbestos disease; and

(9) an incremental approach, beginning with the model program authorized by this Act for the compensation of asbestos-related occupational disease and disability, may advance an objective of uniform minimum standards for State workers' compensation laws governing occupational disease.

(b) It is the purpose of this Act—

(1) to establish minimum standards by which State and Federal workers' compensation laws shall provide prompt, adequate, exclusive and equitable compensation to—

(A) persons disabled by diseases resulting from occupational exposure to asbestos;

(B) persons disabled by diseases resulting from exposure to asbestos who are members of a household of a person who was occupationally exposed to asbestos;

(C) dependents of a deceased person whose death resulted from occupational exposure to asbestos or the occupational exposure to asbestos of a member of such person's household.

(2) to provide a mechanism under which all responsible parties, including the Federal Government and the asbestos industry, equitably share the cost of such compensation.

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "asbestos" means chrysolite, amosite and crocidolite and when they occur in fibrous form, tremolite, anthrophyllite and actinolite.

(2) The term "asbestos-related diseases" means asbestosis, mesothelioma of the pleura or peritoneum, bronchogenic cancer, cor pulmonale secondary to asbestosis, or any other disease which the Secretary determines results from exposure to asbestos, and adds to the above list by regulation. Provided that in promulgating any regulation adding to, altering or amending the list of asbestos-related diseases as defined herein the Secretary shall comply with the rulemaking requirements of section 553 of Title 5, United States Code, and the hearing requirements of sections 556 and 557 of Title 5, United States Code. These sections shall apply as if the Secretary were the agency referred to therein.

(3) The term "claimant" means an individual who is eligible to seek compensation under this Act, as set forth in Section 1(b)(1).

(4) The term "affected person" means:

(A) a person disabled by an asbestos-related disease resulting from occupational exposure to asbestos;

(B) a person disabled by an asbestos-related disease resulting from occupational exposure to asbestos of a member of such person's household; and

(C) a deceased person whose death from an asbestos-related disease results from occupational exposure of the deceased person himself or of some member of his household.

(5) The term "child" means a natural or adopted child or a stepchild who—

(A) is unmarried; and

(B) (i) has not attained 18 years of age; or (ii) is under a disability as defined in section 223(d) of the Social Security Act which began before the age specified in section 202(d)(1)(B)(ii) of the Social Security Act or, in the case of a student, before he ceased to be a student; or (iii) is a student.

(6) The term "compensation" means money or services made available under any applicable State or Federal workers' compensation law or pursuant to this Act to a claimant, including medical and rehabilitation services designed by the State or Federal agency carrying out the applicable State or Federal workers' compensation law.

(7) The term "dependent" means—

(A) a child of an affected person; and

(B) a wife who is a member of the same household as the affected person or is receiving regular contributions from the affected person for her support or whose husband is an affected person who has been ordered by a court to contribute to her support or who meets the requirements of section 216(b)(1) or (2) of the Social Security Act, or in the case of an individual who is a wife of a minor, the determination shall be made in accordance with section 216(h)(1) of the Social Security Act as if the affected person were an insured individual referred to in that Act, and such term also includes a divorced wife as defined in section 216(b)(1) of the Social Security Act who is receiving at least one-half of her support as determined in accordance with regulations prescribed by the Secretary from the affected person or is receiving substantial contributions from the affected person (pursuant to a written agreement), or there is in effect a court order for substantial contribution to her support from such affected persons.

(8) The term "total disability" has the meaning given it by the regulation of the Secretary. Such regulation shall provide that an affected person shall be considered totally disabled when by reason of an asbestos-related disease his prior level of earnings had decreased 60 per centum. For purposes of this definition, an affected person's level of earnings shall be his average annual earnings over the highest three of the last five years preceding his application for benefits under this Act. The level of earnings of an affected person who has not been employed within that period shall be measured by his earning capacity as if he were not disabled.

(9) The term "partial disability" means a condition that results in less than total disability as defined in this Act.

(10) The term "responsible party" in each case shall include any corporation, partnership, individual, joint venture or any other entity which with regard to the specific affected person involved—

(A) (i) employs or employed the individual filing a claim under this Act who has been occupationally exposed to asbestos during such employment, or employs or employed a member of the affected person's household who has been occupationally exposed to asbestos during such employment; or

(ii) engages or has engaged in the manufacture and first sale or import for sale or distribution of asbestos fiber or any product or substance containing asbestos which, by weight of reasonable scientific evidence, is determined to contribute to the incidence of asbestos-related disease, disability or death; and

(B) is determined by a State or Federal workers' compensation agency to have contributed to the occupationally related asbestos-related disease or death or whose products so contributed to asbestos-related disease or death for which compensation may be paid under this Act. The term "responsible party" may include the Federal government, any public agency of a State or a political subdivision thereof regardless of whether such government or agency qualifies under subparagraph (A) of this section.

(11) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

(12) The term "State average weekly wage" means the average weekly earnings of workers on private payrolls within the State as determined by the Secretary of Labor.

(13) The term "State workers" compensation agency" means an agency, court or official designated in each State as responsible for the administration or enforcement of the workers' compensation laws of that State.

(14) The term "Federal workers' compensation agency" means an agency, court or official designated by the Federal government as responsible for the administration or enforcement of the Federal workers' compensation laws.

(15) The term "employee" means any individual employed by his or her employer or any individual who is treated as an employee for purposes of the workers' compensation law of any State or any Federal work-

ers' compenstaion law, and for purposes of this Act shall include members of the household of employees occupationally exposed to asbestos.

(16) The term "State workers' compensation laws" means the laws of each State which provide compensation for death and disability resulting from occupational diseases.

(17) The term "Federal workers' compensation laws" means the laws of the Federal government which provide compensation for death and disability resulting from occupational diseases.

(18) The term "student" means a full-time student as defined in Section 202(d)(7) of the Social Security Act, for a student as defined in Section 8101(17) of Title 5, United States Code.

(19) The term "Secretary" means the Secretary of Labor.

(20) The term "widow" includes the wife living with or dependent for support on the affected person at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of Section 216(c)(1), (2), (3), (4), or (5) and Section 216(k) of the Social Security Act, who is not married. The determination of an individual's status as the widow of an affected person shall be made in accordance with Section 216(h)(1) of the Social Security Act as if such affected person were the insured individual referred to therein. Such term also includes a surviving divorced wife as defined in Section 216(d)(2) of the Social Security Act, who, for the month preceding the month in which the affected person died, was entitled to or receiving from the affected person at least one-half of her support as determined in accordance with regulations prescribed by the Secretary, or was receiving substantial contributions from the affected person (pursuant to written agreement), or there was in effect a court order for substantial contributions to her support from the affected person at the time of his death.

(21) The term "employer" means any person employing individuals and engaged in commerce or an industry affecting commerce, and shall include the United States of America, or any State or political subdivision thereof.

(22) In the case of a claimant who is a woman, references in this Act to the wife or widow of such affected person shall be deemed to refer to the husband or widower.

APPLICABILITY

SEC. 3. The provisions of this Act shall apply only to disability or death of an affected person resulting from such person's occupational exposure to asbestos, or resulting from the occupational exposure to asbestos of a member of such person's household.

STANDARDS FOR BENEFITS FOR DISABILITY OR DEATH RESULTING FROM EXPOSURE TO ASBESTOS

SEC. 4. (a) The minimum standards for State and Federal workers' compensation for the purpose of this Act shall be as follows—

(1) Compensation for total disability shall be paid in any case in which, as a result of an asbestos-related disease, the affected person is totally disabled as defined in Section 2(8).

(2) Compensation for partial disability shall be paid in any case in which the affected person is partially disabled as a result of an asbestos-related disease and the post disability wage earning capacity of the affected person does not equal that person's gross weekly wage prior to the disability, taking into consideration age, training, and local conditions.

(3) Compensation for total disability, or death, due to an asbestos-related disease shall not be less than 66⅔ per centum of the average gross weekly wage of the affected person for the highest three of the five years immediately preceding the beginning of total disability or prior to death: *Provided, however,* That no compensation payable under this Act shall be less than 10 per centum in excess of the weekly compensation benefit which would have been payable to the employee, as defined in this Act, pursuant to the workers' compensation laws of the State in which the claim is filed and allowed or pursuant to an applicable Federal workers' compensation law, but for the provisions of this Act.

(4) Compensation for partial disability shall be not less than 66⅔ per centum of the difference between the average gross weekly wage of the affected person for the highest three of the five years immediately preceding determination of partial disability and the wage earning capacity of the affected person after the disability taking into consideration age, training, and local employment conditions: *Provided, however,* That no compensation payable under this Act shall be less than 10 per centum in excess of the weekly compensation benefit which would have been payable to the employee, as defined in this Act, pursuant to the workers' compensation laws of the State in which the claim is filed and allowed or pursuant to an applicable Federal workers' compensation law, but for the provisions of this Act.

(5) Compensation provided for in subsection 3 and 4 of this section shall be increased by 50 per centum of the difference between the compensation provided under section 4(3) and 80 per centum of the average gross weekly wage of the affected person for the highest three of the five years immediately preceding the beginning of total disability or prior to death if the claimant has one dependent, and by 100 per centum of the difference if the claimant has two or more dependents, but compensation shall in no case be more than 80 per centum of the affected person's average weekly wage for the highest three of the five years immediately preceding the beginning of total disability or prior to death. The compensation provided by this Act shall not be reduced because of any provision in State or Federal workers' compensation laws relating to maximum benefits.

(6) Benefits shall be indexed on the basis of any change in the wage scale of the job which the affected person held and which the affected person would still hold if the affected person had not been disabled or had not died, except that benefits may be recomputed once the affected person attains the normal age of retirement or otherwise would have experienced a change in income if the claimant had remained on that job.

(7) There shall be no provisions providing for an exemption from or a waiver of liability for a responsible party and the standards shall apply uniformly to all responsible parties.

(8) Benefits shall be paid for the duration of the disability, or for the life of the claimant whichever is less without limitation as to the dollar amount or the period of payment.

(9) In addition to compensation for wage replacement, responsible parties shall pay for medical and rehabilitation benefits which are necessary and reasonable and such compensation shall be paid without limitation as to dollar amount or the period for providing such benefits.

(10) Barriers to compensation for occupational disease, disability or death to which this Act applies shall be void, including but not limited to, provisions relating to the time since the last exposure to asbestos or the time period from the last date of employment by any responsible party.

(11) Benefits shall be paid to the widow or widower of a claimant for life or until remarriage. If a widow or widower remarries, two years' benefits shall be paid by responsible parties in a lump sum to such widow or widower. If additional dependents exist after the death or remarriage of the widow or widower, 50 per centum of the benefits shall be paid to such dependents in equal shares until the dependents cease to be dependents.

(12) No responsible party may discriminate on the basis of race, creed, color, national origin, age, sex, handicapped condition, prior employment in the asbestos industry or past exposure to asbestos, against a claimant or any other person directly involved in making a claim pursuant to this Act. No responsible party may discriminate against a claimant for exercising any rights under this Act or exercising any right under applicable State or Federal workers' compensation laws.

(13) Any claimant who believes that he has been discharged or otherwise discriminated against by any responsible party covered by this Act in violation of Section 4, subsection 12 of this Act may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5 of the United States Code. Each hearing examiner presiding under this section shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of Title 5, United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, but not limited to, the rehiring or reinstatement of the claimant to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(14) Each employer shall make a reasonable effort to re-employ a rehabilitated affected person in a position commensurate with his age, training and medical condition.

(15) Any claim for benefits under this Act must be filed within three years after death or an initial medical determination of total disability due to the asbestos-related disease, whichever occurs first.

(16) Any claimant or responsible party may re-apply for an increase or decrease in the level of benefits previously awarded under this Act based upon an increase or decrease in disability of the affected person.

(17) The Secretary shall by regulation prescribe minimum standards for determining whether an affected person is disabled due to asbestos-related disease; or whether the death of an affected person was due to asbestos-related disease. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of this Act, but in no event later than one hundred twenty days after this Act is enacted. In promulgating such regulations the Secretary shall comply with the rulemaking requirements of section 553 of Title 5, United States Code, and the hearing requirements of sections 556 and 557 of Title 5, United States Code. These sections shall

apply as if the Secretary were the agency referred to therein. Such regulations shall provide that claimants seeking benefits under this Act must demonstrate that such affected person has, in fact, contracted an asbestos-related disease. In making the determination that an affected person has contracted a disable asbestos-related disease, all relevant evidence shall be considered, including the history of such person's exposure to asbestos including, but not limited to, physical examination, x-ray examinations, medical tests such as pulmonary function studies, including blood gas studies and studies of ventilatory capacity at rest and during exercise (physical performance tests) and pathology studies. Medical histories, hospital records, physicians' reports and his spouse's affidavit, and in the case of a deceased affected person, other appropriate material shall be considered. The Secretary shall accept the interpretation by a physician who is board certified or board eligible in the fields of preventive medicine/occupational health, pulmonary medicine or radiology of a chest roentgenogram which is of acceptable quality submitted in support of a claim for benefits under this title, if such roentgenogram has been taken by a radiologist or qualified radiologic technologist or techician, except when the claim has been fraudulently represented. Where there is no medical evidence, or where such evidence is insufficient in the case of a deceased affected person, affidavits may be considered as evidence to establish that an affected person was disabled due to asbestos-related disease or that his death was due to asbestos-related disease. The Secretary shall not make any determination that an affected person has not contracted an abestos-related disease solely on the basis of a negative chest roentgenogram. In no event shall there by any presumption of asbestos-related disease based solely on the length or degree of exposure of an affected person to asbestos.

(18) No compromise or release of any compensation or medical or rehabilitation benefits shall be effective unless approved by the State workers' compensation agency, based on a determination by such agency that such compromise or release is in the best interest of the claimant, and will not adversely affect any program of rehabilitation.

(19) Compensation paid pursuant to this Act shall not be offset by any other benefits paid to claimants nor be considered as income for tax purposes.

CERTIFICATION AND SUPPLEMENTAL COMPENSATION

SEC. 5. (a) The Secretary of Labor shall review the workers' compensation law of each State and of the Federal government to determine whether such law meets the applicable standards for workers' compensation programs for asbestos-related disease or disability contained in section 4 of this Act. If the Secretary determines that State law meets all of the requirements of section 4, the Secretary shall so certify and the State law shall be deemed fully certified during the period covered by such certification. The Secretary shall do likewise with the Federal workers' compensation law.

(b) If the Secretary finds that the law of any State or of the Federal government fails to meet one or more of the standards of section 4 of this Act, the Secretary shall certify the law only to the extent that it meets such standards, and the Secretary shall specify those standards which the law fails to meet. During any period in which the State or Federal law has not been fully certified, any employee shall be entitled to receive from his or her employer, with regard to any asbestos-related disease or disability arising out of and in the course of employment with such employer, compensation in accordance with the provisions of this Act with which the State or Federal law is not in compliance (hereinafter referred to as "supplemental compensation").

(c) After initial review provided by subsection (a), the Secretary shall annually review the workers' compensation law for asbestos-related disease or disability of each State and the Federal government, including the judicial and administrative interpretations of the law, to determine whether it meets the requirements of section 4 of this Act. Pursuant to such reviews, the Secretary shall modify the certifications previously issued under subsection (a) and (b) of this subsection, as appropriate.

ENFORCEMENT OF SUPPLEMENTAL COMPENSATION

SEC. 6. (a)(1) Any claimant who is aggrieved by an order or award of a State or Federal workers' compensation agency, insofar as it fails to award compensation at least equivalent to the compensation prescribed by this Act may within ninety days after such order or award becomes final file a petition for review of the State or Federal workers' compensation agency's order or award, insofar as it fails to award such compensation, with the Benefits Review Board (hereinafter referred to in this section as the "Board") established in section 21 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (hereinafter referred to as the "Longshore Act").

(2) For the purpose of this section, the order or award of a State or Federal workers' compensation agency shall become final for the purpose of section 6(a)(1) above on the date on which no administrative appeal or review of such order or award shall be available to any party subject to such order.

(b) State law shall govern the determination of the status of any individual as an employee or an independent contractor, and the determination of whether death or injury (including disease) has been suffered whether an injury (including disease) or death arose out of and in the course of employment, and the degree of disability, if any.

(c)(1) In review proceedings under this section, the decision of the Board shall be based upon the evidence in the record before the State or Federal workers' compensation agency except that the Board, in its discretion, may (i) in any case in which the workers' compensation agency has refused to assert jurisdiction over the claim, refer the case to the Office of Workers Compensation Programs of the Department of Labor for processing in accordance with the provisions of the Longshore Act, or (ii) in any case where the State agency has refused to assert jurisdiction over the claim or has otherwise precluded the introduction of such evidence permit the parties to submit additional relevant evidence in a hearing before an administrative law judge in accordance with sections 19 and 21 of the Longshore Act.

(2) Where new evidence is not submitted, the findings of fact by the State workers' compensation agency, insofar as they involve eligibility for supplemental compensation shall be conclusive if supported by substantial evidence on the record as a whole. Findings of fact and conclusions of law in the determination of the State workers' compensation agency on issues covered solely by State law shall be conclusive, and not subject to review in any proceeding under this section.

(3) Where the Board finds that the employer has failed to provide supplemental compensation to which the petitioner is entitled, the Board shall direct the employer to award the petitioner such compensation together with the reasonable costs and expenses of litigation, including reasonable attorney's fees.

(4) Any order issued by the Board shall be enforceable and reviewable in accordance with section 21 of the Longshore Act.

(5) Any award of the Board shall be automatically modified to take into account subsequent orders or awards of the State workers' compensation agencies with respect to issues solely covered by State law. With respect to issues not solely covered by State law, procedures for the modification of Board awards or orders shall be in accordance with section 22 of the Longshore Act, except that references in that section to "the deputy commissioner" shall mean "the Board" and the word "his" in the first sentence of that section shall be read "its" and shall refer to the Board.

(6) Sections 14, 17, 18, 19, 21, 21a, 23, 24, 25, 26, 27, 31, 34, 35, 38, and 39 (a) and (c) of the Longshore Act shall be applicable with respect to claims for supplemental compensation payable under this Act during any period in which the workers' compensation law of that State is not fully certified. The Secretary shall by regulation modify the provisions of section 14 of the Longshore Act to conform the payment of supplemental compensation to the payment schedule of the applicable State's law, and may by regulation modify the applicability of any other of the foregoing provisions as appropriate to carry out the purposes of this Act.

APPORTIONMENT

SEC. 7. (1) The employer who has compensated a claimant, or any other responsible party or on its own behalf the State or Federal workers' compensation agency may petition to have other responsible parties involved in the claim included in the proceeding to adjudicate the claim and to have the order or award judged against each responsible party and to have any award or benefits apportioned between responsible parties pursuant to the provisions of Section 6.

(2)(a) In any proceeding to which this section applies, the workers' compensation agency shall designate the last private or public employer who exposed the affected person to asbestos to pay compensation to the claimant and shall require other responsible parties, subject to the order or award, to reimburse such employer. When the agency is unable to locate or designate the employer, the agency shall designate a single responsible party to pay compensation to the claimant and shall require other responsible parties, subject to the order or award, to reimburse the designated party. The claimant shall be paid promptly and such payment shall not be affected by or be dependent on other responsible parties reimbursing such last employer or designated party.

(b) The contribution of the employer to the compensation paid shall be an amount equal to that which would have been paid to the employee as defined in this Act, pursuant to the workers' compensation laws of the State in which the claim is filed and allowed or pursuant to an applicable Federal workers' compensation law, but for the provisions of the Act, with no rights to subrogation. Where there is no employer designated, this contribution shall be apportioned according to the provisions of 7(2)(a).

(c) Responsible parties shall make a contribution to the compensation paid in an amount equal to the difference between the employer's contribution as computed pursuant to this section and the full compensation paid pursuant to this Act.

COMMISSION TO ESTABLISH CRITERIA FOR APPORTIONMENT

SEC. 8. (a) There is hereby established an Apportionment Criteria Commission (hereafter referred to as the "Commission") composed of the following members to be appointed within 45 days of the date of enactment of this Act:

(1) The Secretary of Labor or his designee;

(2) The Attorney General or his designee;

(3) The Secretary of HEW or his designee;

(4) Two appointees of the Secretary of Commerce, one to be the Chief Executive Officer or his designee of the largest company in the asbestos industry as determined by the market share, and the other to be the Chief Executive Officer or his designee of a second company in the asbestos industry, irrespective of market share;

(5) The directors of two State workers' compensation agencies, one to be chosen by the two Chief Executive Officers above, and one to be chosen by the Secretary of Labor.

(6) Three members appointed by the President of the United States with special expertise, one to represent the labor community, one to represent the business community, and one to represent the insurance industry;

(7) A chairman of the commission to be appointed by the President with the advice and consent of at least 7 members listed above.

(b) The Commission shall develop the criteria and factors which shall be used by State and Federal Workers Compensation Agencies in apportionment proceedings under this Act, and shall have the power to conduct hearings and obtain all relevant information.

(c) The criteria developed by the Commission shall include the establishment of percentage ranges of liability for a variety of factors including, but not limited to:

(1) the party or parties responsible for the manufacture, design, formula, preparation, assembly, testing, warning, instruction, marketing, packaging, distribution, or labeling of any asbestos product:

(2) the party or parties responsible for control of the workplace environment and for publishing safe exposure limits for the workplace environment;

(3) the party or parties responsible for establishing the criteria to which product specifications were designed and products manufactured.

(d) The criteria developed by the Commission must be approved by at least eight of the eleven members. The Commission shall report to Congress within 12 months of the date the Commission's last member is appointed, and the Commission's report will be final and will go into effect 60 days thereafter, unless Congress shall disapprove it. If Congress disapproves the Commission will have 3 months to submit a revised report which will go into effect 60 days thereafter unless Congress shall disapprove it.

(e) The administrative expenses of the Commission including those of an executive secretary and legal counsel and such other personnel and services deemed necessary to the conduct of its business shall be paid from the authorized appropriations of section 11.

APPEALS

SEC. 9. (a) Any order issued by the Board shall be enforceable and reviewable by a United States court of appeals in accordance with Section 21 of the Longshore Act.

(b)(1) Any responsible party aggrieved by an apportionment order or award of a State or Federal workers' compensation agency may appeal the decision of the State or Federal workers' compensation agency in accordance with procedures established by State law.

(2) In addition to any procedures prescribed by State law for appeal by responsible parties under Section 7(b)(1) of this Act with the consent of all responsible parties subject to an order or an award of a State workers' compensation agency, the agency may submit the issues contained in the appeal to binding arbitration. Any order for binding arbitration or any agreement for binding arbitration under the provisions of this subparagraph shall be carried out in accordance with State law.

(c)(1) In any proceeding subject to subsection (a) of this section in which the Federal government is one of the responsible parties, the provisions of this Act shall apply.

(2) In any such proceeding whenever there is contribution by more than one responsible party in an order or an award of a State or Federal workers' compensation agency and one of the responsible parties is the Federal government, the State or Federal workers' compensation agency may order the Federal government to make contributions in proportion to its share of responsibility.

EXCLUSIVITY AND THIRD PARTY LIABILITY

SEC. 10. (a) The compensation to which a claimant is entitled under the applicable State or Federal workers' compensation laws or otherwise under this Act shall constitute the claimant's exclusive remedy against the employer or the parent or subsidiary or subsidiaries of such entities or officers or shareholders thereof, the employer's insurer or collective bargaining agent or the employer's employees, or any employee, officer, director, or agent of such employer, insurer, or collective bargaining agent (which acting within the scope of his or her employment) for any illness, injury, or death resulting from an asbestos-related disease and arising out of and in the course of his or her employment as defined in this Act.

(b) No person or persons entitled to file a claim for benefits pursuant to applicable State or Federal workers' compensation laws and/or pursuant to this Act or who would have been entitled to file such a claim but for the expiration of limitation of action periods as set forth in this Act or such other persons whose claim would be derivative therefrom shall be allowed to recover against a present or former (i) manufacturer, distributor, seller, contractor, or applicator of asbestos fibers, or materials, or the parent or subsidiary or subsidiaries of such entities or officers or shareholders thereof, (ii) any other responsible party as defined in this Act, (iii) the United States of America, (iv) the insurers of these entities in (i), (ii) and (iii), or (v) a union which has represented such persons for collective bargaining or the parent organization of such union, for damages, including but not limited to actual, consequential or survivorship, for bodily injury or death caused by an asbestos-related disease, loss of consortium, or for exemplary or punitive damages relating to such exposure.

(c) No responsible party may maintain any action for indemnity, contribution or other monetary damages against any party immune from suit under subsections 8(a)(1) and 8(a)(2) of this Section.

(d) No employer may maintain any action for indemnity, contribution or other monetary damages against any party immune from suit under subsections 8(a)(1) and 8(a)(2) for any sums paid to the employee as workers' compensation benefits pursuant to applicable State or Federal workers' compensation laws or the provisions of this Act.

(e) Notwithstanding any other provision of law, or any other law, in any civil action for liability against a third party arising out of any action to which subsection (a) of this Section applies, the provisions of this Section shall govern the rights of the claimant and of each responsible party.

RESPONSIBILITY AND INSURANCE FOR RESPONSIBLE PARTIES

SEC. 11. (a) Every responsible party shall comply with orders or awards of the appropriate State workers' compensation agency made in accordance with the provisions of this Act.

(b) Every employer who has reason to believe that it is a responsible party under the provisions of this Act shall be financially responsible for the payment of benefits prescribed by this Act, and shall assure such financial responsibility by contracts of insurance, approved self-insurance programs or participation in a state fund insurance program pursuant to applicable State or Federal law.

(c) Each contractor of insurance under which compensation benefits are provided to or for employees of any responsible party made to cover occupational diseases, disabilities, or deaths as a result of exposure to asbestos shall be deemed to provide benefits in accordance with the minimum standards contained in Section 4 of this Act.

(d) Any policies or contracts of insurance issued by a carrier to indemnify and/or defend a responsible party which policies or contracts of insurance would be applicable to claims against any responsible party for damages due to an asbestos-related disease shall be applicable to any contribution required or otherwise determined to be due from a responsible party under this Act.

MISCELLANEOUS

SEC. 12. (a) The Secretary may prescribe such rules, regulations and guidelines under this Act as he deems necessary. All such rules, regulations and guidelines shall be published in the Federal Register at least 30 days prior to their effective date.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures, and make such payments, installments and advance by way of reimbursement, or otherwise allocate or expend funds made available under this Act as he deems necessary to carry out the provisions of this Act. The Secretary may make necessary adjustments in payments on account of overpayments or underpayments.

(c) The Secretary is authorized, by cooperative agreement to carry out the duties of a responsible party under this Act for each department and agency of the Federal government.

ANNUAL REPORT

SEC. 13. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary shall prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, and the needs and requirements in the field of workers' compensation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 15. If the provisions of Sections 1(a)(7); 2(2), (8) and (10); 4(a)(3), (4), (5), (6), (15) and (16); 5; 6; 7; 10; or 11(c) or (d) of this Act or the application of any such section to any person or circumstance, shall be held invalid in any substantive or material fashion, the remainder of the Act, with the exception of Section 16(c), shall be null and void. If any other provision of this Act or the application of such provision to persons or circumstances other than these as to which is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 16. (a) The provisions of this Act shall take effect upon the date of enactment. No compensation shall be awarded to any claimant however prior to the time the criteria developed by the Commission established in Section 8 go into effect.

(b) Any claimant who, as of the effective date of this Act, has pending in any Federal Court or any court in any of the several states, an action at common law to recover damages on account of any asbestos-related disease, as defined in Section 2 of this Act, may, within 120 days of the effective date of this Act upon first dismissing with prejudice such action at common law, elect to proceed under the provisions of this Act. Any claimant not so electing, or who has pursued such claim to settlement or a successful final determination in an action at law, shall not be entitled to benefits under this Act.

(c) Should the remainder of this Act be declared null and void, the claimant electing to proceed under the provisions of this Act shall, within 120 days from the date of the final order declaring the remainder of the Act null and void, be permitted to reinstitute his or her action to recover damages with respect to asbestos related disease.●

ADDITIONAL COSPONSORS

S. 1091

At the request of Mr. TALMADGE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 1091, a bill to amend the Internal Revenue Code of 1954 to permit a church plan to continue after 1982 to provide benefits for employees of organizations controlled by or associated with the church and to make clarifying amendments to the definition of church plan.

S. 2111

At the request of Mr. TALMADGE, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2111, a bill to incorporate the National Federation of Music Clubs.

S. 2251

At the request of Mr. METZENBAUM, the Senator from Alabama (Mr. HEFLIN), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2251, a bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol.

S. 2577

At the request of Mr. BELLMON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2577, a bill to amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes.

S. 2803

At the request of Mr. HUMPHREY, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2803, a bill to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building."

SENATE JOINT RESOLUTION 95

At the request of Mr. HEFLIN, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 95, a joint resolution to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of General Daniel "Chappie" James, Jr., and for other purposes.

AMENDMENT NO. 1893

At the request of Mr. CHILES, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of amendment No. 1893 intended to be proposed to S. 2490, a bill to provide certain requirements for infant formula, and for other purposes.

SENATE CONCURRENT RESOLUTION 102—ORIGINAL CONCURRENT RESOLUTION REPORTED AUTHORIZING PRINTING OF BOTANIC GARDEN CONSERVATORY SELF-GUIDED TOUR BROCHURES

Mr. PELL, from the Committee on Rules and Administration, reported the following original concurrent resolution, which was placed on the calendar:

SENATE CONCURRENT RESOLUTION 102

Resolved by the Senate (the House of Representatives concurring), That there shall be printed for the use of the Joint Committee of Congress on the Library one hundred thousand copies of the brochure entitled "United States Botanic Garden Conservatory—A Self-Guided Tour."

SENATE RESOLUTION 464—SUBMISSION OF A RESOLUTION TO DISAPPROVE DEFERRAL OF FUNDS FOR THE CUMBERLAND GAP TUNNEL

Mr. HUDDLESTON submitted the following resolution, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975:

SENATE RESOLUTION 464

Resolved, That the Senate disapproves $15,500,000 of the proposed deferral, D80–56, of budget authority relating to the Cumberland Gap Tunnel, as set forth in the message transmitted by the President to the Congress on April 16, 1980, under Section 1013 of the Impoundment Control Act of 1974.

SENATE RESOLUTION 465—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

SENATE RESOLUTION 465

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruth Young Watt, widow of Walter Watt, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 466—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

SENATE RESOLUTION 466

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, Chang Hie Griffith, widow of Howard W. Griffith, an employee of the Senate at the time of his death, a sum equal to nine and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONTROL OF FEDERAL CREDIT

● Mr. METZENBAUM. Mr. President, the Budget Subcommittee on the Control of Federal Credit will hold hearings on the macro-economic effects of Federal credit activity, and accounting for Federal credit on June 19 and June 23.

On June 19, the hearing will begin at 9 a.m., on June 23, the hearing will begin at 10:30 a.m. Both hearings will be in room 357 of the Russell Senate Office Building.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services of the Governmental Affairs Committee will hold hearings jointly with the Subcommittee on Human Resources of the House Post Office and Civil Service Committee on June 24 at 9:30 a.m. in room 318 Russell Senate Office Building on the Federal Government's use of consultant services with specific attention on the Department of Energy.

Anyone wishing additional information about the hearing may contact the subcommittee staff at 224–4551.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SARBANES. Mr. President, on behalf of the distinguished majority leader, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to continue marking up S. 1480, the hazardous waste bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SARBANES. Mr. President, also on behalf of the majority leader, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 19, 1980, to hear Senator ALAN CRANSTON and others on the issue of whether to ship nuclear fuel to India for the Tarapur power reactors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATOR BRADLEY SPEAKS TO YALE SENIORS

● Mr. RIBICOFF. Mr. President, on Sunday, May 25, I participated in commencement ceremonies at Yale University. While on the Yale campus, I visited with college administrators, including Yale President A. Bartlett Giamatti, with faculty, and with students. All of them were quick to tell me what a positive and inspiring impact Senator BILL BRADLEY had made at Yale the day before at the annual Class Day activities. Traditionally, Class Day at Yale includes an address by a noted person who is selected by the graduates themselves. This year their choice as featured speaker was Senator BRADLEY and the students were very pleased they invited the man they did.

Talking to students these days is an increasingly challenging endeavor. They are an intelligent and discerning audience. Speakers are well advised to have something substantive and timely to say. Senator BRADLEY did. Himself a 1965 graduate of Princeton University and a Rhodes scholar, Senator BRADLEY had immediate rapport with the Yale seniors.

Senator BRADLEY told the graduates to ask tough questions of their society and Government and to go on questioning all their lives. It is only through seeking answers that they will be able to evaluate their own beliefs and values.

Reading his speech, it is easy to see why Senator BRADLEY made such a good impression at Yale. He is perceptive, thoughtful, and articulate and a credit to the Senate wherever he goes.

Mr. President, I request that Senator BRADLEY's speech be printed in the RECORD.

The speech follows:

AN ADDRESS BY SENATOR BILL BRADLEY

I will be serious today, for not so long ago, back in 1965, I sat in a graduating class as you are today and wished someone had been serious. In those days, we took it for granted, without very much thinking, that we believed in ourselves. I mean we believed in ourselves collectively as Americans. Our commencement speakers used to talk about "challenges." The idea was that we had overcome the "challenges" of the past, and we were going to overcome the "challenges" of the future. In our history classes, our government classes, we learned it wasn't quite as simple as that. When we got down to the details, it wasn't simple at all. But what we learned in class, did not change our assumption that we belonged to a nation with human values worth preserving . . . worth sacrificing for . . . worth fighting for . . . and even, if need be, worth dying for, and I still believe that.

Many things have happened in those 15 years since I graduated, and I just don't mean the fall of Bob Dylan and the rise of Bruce Springsteen. I don't know how much your view of America was affected by the assassinations of John and Robert Kennedy and Martin Luther King or by Vietnam or Watergate—all of that must have been part of your growing up.

However, the result for our country was that we started asking fundamental questions about the structure of our society and the nature of our relations with the rest of the world.

It would have been shortsighted and wrong to avoid these questions even though they were painful and divisive. And, we are different for having asked them. For now we live in a time and place that has lost its innocencc.

It is natural for a young person or an older person to ask—where do I fit into all this? How will I affect others? And what kind of person will I get to be? Because it's true—and don't imagine you're an exception: We become the masks we wear—and our thoughts change to suit the deeds we find ourselves doing.

So I say again, it is good to bring up the fundamental questions. It is good for people graduating college—and it is good for politicians running our government.

But, whether you're a graduate beginning a career, or a president leading a nation, it's not enough just to go through the motions of questioning. You have to come up with something. You have to take a stand, to make clear what you believe—or you'll never learn where your beliefs fail. If you can't face an issue and pick a course of action, you'll never know what's right and what's wrong, what works and what doesn't, what advances your values and what corrupts them.

D. H. Lawrence took a look at Americans from the outside, through their literature, and he put it this way: "People in America have always been shouting about what they are not." But, says Lawrence, "It is never really freedom till you find something you really positively want to be."

Part of growing up as an individual, or a nation, is making that decision about what we "positively want to be" and accepting responsibility for it. Once that happens, we can no longer criticize childishly the hypocrisy of those who run the country. We are the country and must accept responsibility for our own actions within our Democracy. My generation came to this awareness—yours may yet have to grapple with it.

Now for some people, there is a popular answer to the demands of Democracy. It goes like this:

I don't know what's right for anyone else except myself. I'll get a job which produces the highest pay for the shortest hours—and I'll devote myself to my personal recreation. As one political observer has written, "We live in a time when the American people are looking inward. when the passionate public issues of another decade have been replaced by the pursuit of private pleasures. Ten years ago, hundreds of thousands of citizens poured into the streets in common cause, marching to secure justice or to end a war. Today, hundreds of thousands of citizens pour into the streets as solitary souls, running to flatten their stomachs and to widen their arteries. In the 1960's"—the quote goes on—"thousands of people packed classrooms and church basements and storefront offices to change American policy by changing the president. Today, thousands pack hotel ballrooms to change themselves through exhortation, inspiration and insult."

But the fact is, no matter how rich or healthy we are, or how well we plan and carry out our private recreation, none of us can escape the effects of wise government policies or the absence of them.

We must never forget that your children . . . and my children . . . will walk the streets of the cities we build—or neglect. They will be educated in the schools we oversee or abandon. They will enjoy the safety, freedom and diversity we create—or allow to erode. They will suffer the effects of the injustice we permit, and then the refrain from Miami truly will be "the fire the next time."

Whether we like it or not, we are all in politics. When the citizen turns his back on politics, he leaves the field to manipulators and exploiters—and sooner or later he will find himself living in a world where might makes right.

Sometimes politics amount only to this: At the very least, we make sure the greatest evil does not prevail. In the worst of times, our bravest and best ideals do not prevail: but we keep them alive.

Consider the courage of a man like Andrei Sakharov, who in order simply to be himself must risk his work, his reputation, his peace of mind, even his life. Sakharov will not change Russia, but he keeps alive the values which make life worthwhile for him and for many others. And in that sense, he makes Russia and the whole world a different place in which to live.

It is unlikely that any of us will be called upon to put as much on the line as he does. But in small acts of democratic participation we can enrich ourselves and our communities.

Thoreau wrote that "Dreams are the touchstones of our characters." The 1970's have not been a time in which dreams could flourish. During these years, our thoughts of the future have been shaped less by the hope of creating a better world, than by the fear that we can barely hold onto the things we already have. We have been told that we live in an era of limits and lowered expectations—and that instead of seeking new ways to overcome our problems, we must learn to live with them. We have come to regard the future with uncertainty rather than assurance.

To understand these feelings, I think we must start with the fact that the American people no longer have much faith in the ability of their government to respond to their needs and to solve their problems. Although we create new programs, new agencies, and new levels of bureaucracy, too often it seems that none of it makes any difference in the way we live. We spend enormous sums of money but nothing seems to change except the size of the federal deficit and our tax bill. Yet the potential is unlimited for the use of government—not more, probably less, but certainly better and more creative.

We must reverse the end of the telescope, through which, in the last decade, we have viewed ourselves and our nation. We must be prepared to dream anew for the long-term—advocating policies that will bring us renewable energy sources, a clean environment and a stable currency while improving our energy efficiency and increasing our protection against oil supply interruption. We must see our threats clearly—whether in Soviet military power or allied industrial efficiency. In short, we must strengthen our pcsition in an increasingly competitive world economy so that living standards here can continue to improve and workers don't have to pay higher taxes to keep our promises to the old, the disabled, and the poor.

Individuals also will have to begin to treat risk as an opportunity, not as a threat.

While insuring ourselves against certain risks makes a great deal of sense, the growing preference for a relatively risk-free existence is, I believe, undermining the drive and creativity and sense of unlimited possibilities which have helped to renew our communities, our economy and our personal lives.

Employees, determined to remain in a safe, comfortable job, do only what is narrowly expected of them, secure in the knowledge that they cannot be dismissed because of seniority.

Business managers, determined to make their reputations as fast as possible and climb to the top of corporate America, look to short-term profits and shun long-term investment whose payoff later may have much greater importance to the health of the company and the country.

Teachers and school administrations refuse to flunk children because of the risk of social maladjustment, no matter that the kids hadn't mastered the fundamentals of reading and writing.

The point is that there are costs, real costs, to our generalized and increasing preference for risk-avoidance as a society: lower productivity, less innovation and creativity, greater inefficiency and a lowest-common-denominator approach to too many aspects of life.

We should distinguish among risks, insuring ourselves against those which are unproductive, such as illness and loss of life, but seeking out some of the productive ones which challenge us to achieve excellence.

Also, I believe every young person could give a time of service to his or her country—if not as a soldier, then as a health worker, teacher, conservationist, Peace Corps member—or in whatever role he or she may do the most good. When John Kennedy said, "Ask not what your country can do for you—ask what you can do for your country," he did not mean these two goals were contradictory . . . in the long run. In the short run . . . you have to take a chance.

What it comes down to is that we do have certain common ideals that have been handed down through the history of these United States. We may never achieve the full embodiment of these ideals. Their value, in part, lies in working for them. And we stop working for them at our peril. As Conrad said, "Work is the sustaining illusion of an independent existence.

I may have failed today to articulate the ideals I'm referring to. I'm sure the Bill of Rights does a better job in fewer words, and I'm reminded of that every time I visit the Jefferson Memorial and look at the walls with words penned by Thomas Jefferson. As for bringing it up to date, we hear brave voices raised in a vacuum of leadership. But, vacuums do not last, and true leadership is not found in the plastic products of constant polling and advertising. True leadership is a possibility that people—individuals—create for themselves through a stubborn search for meaning; through building, inventing, and through taking risks and regenerating values that endure.

What a nation believes in . . . what it will preserve, what it will sacrifice for, fight for, die for . . . this is not determined by the words of commencement speakers. It is rarely determined by words at all—it is shared memories, symbols, hopes, dreams and a sense of place—and it can survive where there are no words to express it. We found it in the love we felt when the Pope visited the United States, in the outrage we felt when hostages were taken, in the excitement we felt when the U.S. Hockey Team won, in the disappointment we felt when the rescue mission failed. One also feels it sometimes in the inarticulateness of ordinary people, who do not know how to make their paychecks cover the bills, or, like most of us, don't know how to cope with the larger forces which shadow their daily existence—but who all the same sense the bonds that tie them to their past, their country, and to one another.

I found such a moment of beautiful inarticulateness in the movie, "The Deer Hunter," when a group of friends who have just buried one of their buddies killed in Vietnam, sit down to breakfast in a bar, silent in the face of senseless death. No one at this point could speak the words that would justify their sense of concern or their sense of common sharing or grief. All the same, they slowly begin to sing "God Bless America," and find in their singing the feeling of community that will enable them to carry on.

Whatever else we do in the years to come, may we create some time and effort to honor that feeling . . . and to build some small measure of the country it deserves.●

TITLE IV

● Mr. DOMENICI. Mr. President, sometimes it seems that we in Congress are cursed with the fate of Sisyphus. We push legislative initiatives closer and closer to enactment only to see, for one reason or another, the effort fall short and be renewed in a new Congress.

Three and a half years ago I undertook such a challenge. It was my perception that in order to stem the proliferation of regulations and to fight capricious and arbitrary regulators the most efficient methods was to allow those who fall under the scope of these regulations to fight them. After all this country is built on a tradition of individual citizens who are ready to fight their Government when that Government begins to squeeze their rights. I reasoned that if we allow individuals and small businesses who prevail in either judicial or administrative litigation to recoup their attorneys' fees and costs unless the Government could substantially justify its actions, that would be the most effective way to stop unnecessary regulation. The cost of these awards would be paid from the losing agency's budget and the totals would be reported annually to the Congress. This experiment in adjusting the tensions between our citizens and their Government has a 3-year sunset provision.

In the course of the past 3½ years, this notion has passed the Senate three times. I have testified and made statements about it at least a dozen times. I have seen the summit but alas, as poor Sisyphus, have fallen short repeatedly.

However, I have been joined by two stalwart colleagues, Senators DeConcini and Nelson. Together we are determined to enact this legislation. Consequently, Senator Nelson, while managing the Legal Services Corporation authorization, accepted S. 265 as an amendment to that bill. Today my friend from Arizona who is managing the Department of Justice Authorization Act will not need to accept an amendment for he has skillfully included S. 265 in committee.

The lesson here is that perhaps Sisyphus needed friends. Without the assistance of Senator DeConcini, my initial concept would not have so artfully been sculptured into legislative language nor maneuvered through the Judiciary Committee. Senator Nelson, for the small business men and women of this country, has been most helpful.

This all is by way of explanation to the Senate why three times in the past year they have passed the same measure. I am hopeful this is the vehicle which will bring about enactment.●

AMENDMENT TO THE CONTROLLED SUBSTANCES ACT

● Mr. MITCHELL. Mr. President, I am pleased to add my name to that of Senator Chiles as a cosponsor of his amendment (No. 1893) of the Controlled Substances Act to increase the criminal penalties for large-scale trafficking in marihuana.

During my tenure as U.S. attorney for the State of Maine, I was involved in prosecuting numerous cases of illegal drug trafficking off the coast of Maine. The enormous disparity in the sums of money made by drug dealers and the penalties in law became immediately apparent.

A 5-year penalty—the maximum now allowed—is simply no adequate deterrent to organized crime, particularly in a field where literally millions can be made. A large case in Maine involved 20 tons of marihuana, with a conservatively estimated street value of $25 million. A $15,000 fine represents no deterrent to dealers operating on that scale.

This amendment would increase the penalties for large-scale traffickers to a maximum of 15 years in jail or a $125,000 fine. That represents a far more realistic approach to curtailing the profitability of this traffic for organized criminals.●

HOSPITAL ASSISTANCE ACT AND HOSPITAL AMBULATORY SERVICES REIMBURSEMENT REFORM ACT

● Mr. BRADLEY. Mr. President, I applaud the work of my distinguished colleague, the senior Senator from New York (Mr. Javits), for developing the Hospital Assistance Act, S. 2840, and Hospital Ambulatory Services Reimbursement Reform Act, S. 2841. I am pleased to join him as a cosponsor of this needed legislation.

Hospitals in some locations are experiencing severe financial distress because of the burden they carry for charity care or unreimbursed care for the poor, especially for the treatment given in their outpatient departments, clinics, and emergency rooms. In many instances, because of the shortage of physicians in these areas and unavailability of other sources of care, these distressed hospitals serve as the local family doctor and are otherwise the last resort for persons unable to pay to receive care. Where the financially distressed hospital is the principal source of care in a community, people may be threatened with the loss of needed health services as the hospital's fiscal condition deteriorates.

The Hospital Assistance Act (S. 2840) provides assistance to such distressed hospitals where their financial difficulties are a consequence of providing care to individuals who cannot pay.

The eligibility criteria for grants under these amendments are necessarily stringent:

The institution must be a non-Federal, public or private nonprofit, short term acute care facility.

The hospital primarily must serve a medically underserved population, as designated by the Department of Health and Human Services.

An independent accounting firm or fiscal intermediary must certify the hospital's financial status.

For 2 years prior to application for such a grant at least 60 percent of total charges for patient services in the hospital outpatient department and emergency room service must have been: first, eligible for medicaid (title XIX of Social Security Act) or other State or local assistance programs; and second, uninsured and unable to pay for service.

Finally, the hospital must exhibit severe financial distress by liquidation or utilization of any or all financial resources, be unable to obtain credit or to gain relief from non-Federal sources, and be unable to meet essential financial commitments.

The hospital must also submit a plan of reorganization and management with recommendations for changes in health services delivery emphasizing the enhancement of ambulatory services and closure and conversion of any unnecessary hospital beds. This plan must show maintenance of current State and municipal funding. A National Advisory Council on Hospital Financing Stabilization and Reorganization would be established with authority to approve and monitor all hospital reorganization and management plans.

This legislation is designed to address an acute crisis; therefore grants are to run for no longer than 3 years.

The Hospital Ambulatory Services Reimbursement Reform Act, S. 2841, would provide relief to these select institutions by improving cost recovery for the uncompensated care they provide. This act would allow the financially distressed institution to include the cost of charity care, based on Community Services Administration income guidelines, in their reimbursement formula. This reimbursement aid, coupled with the hospital reorganization and management plans, will move these facilities away from the brink of bankruptcy and closure. These hospitals must be saved because the needs they meet are so vital to our communities across the Nation.

The long-term solutions to the problems of health care for low-income populations and the institutions that serve them depend on improved payment policies that Congress has not yet resolved. While I remain committed to working toward more comprehensive solutions to these problems, I recognize the urgency of the present situation and am therefore happy to join Senator JAVITS in proposing a program to ease these crisis conditions.●

JOHN GOLDEN

● Mr. RIBICOFF. Mr. President, Connecticut lost one of its great political leaders and one of its most public spirited citizens on June 4, 1980, when John Golden died. He was 84.

In a brilliant career in politics that began in 1924 when he became a ward chairman in New Haven, John Golden had a role in virtually every success the Democratic Party enjoyed over the next 50 years.

As a politician, John Golden was astute, fair, loyal and gracious in victory and defeat. As a friend, he was compassionate and generous. Our politics and our lives were enhanced by this decent man. He will be missed.

Mr. President, I request that an article about John Golden by Arthur M. Horwitz in the New Haven Register of June 5, 1980, be printed in the RECORD.

The article follows:

JOHN M. GOLDEN: "HE WAS OUR LAST HURRAH"

(By Arthur M. Horwitz)

He was the boss.

John Matthew Golden wore many hats, aside from the 10-gallon Stetson he frequently sported. He was the mentor, whose proteges included Richard C. Lee, Arthur T. Barbieri and James Shanley. He was the mediator, who managed to keep the factions within the party at peace through compromise. He was the philanthropist, who singlehandedly maintained a summer camp in Oxford for needy children, revived the Knights of St. Patrick, spawned the St. Martin De-Porres Church, and still found time to pass the collection plate at St. Aedan's Church every Sunday morning at 11:30.

Golden, who died Wednesday at the age of 84 after a long illness, was among the last of a breed of Irish politicians whose broad bases of power were erected through dynamic personalities, patronage and my-word-is-my-bond honesty. His active involvement in New Haven politics spanned six decades, from the time he became a ward chairman in 1924 up until the time he became ill in 1972.

Only once did Golden hold elective office, when he was elected general registrar of voters in 1931. He wielded most of his influence as a national committeeman, which allowed him to participate in national Democratic Party policy-setting.

"Through his wisdom and ability to select candidates who could win, John was able to build a broad base of support for himself," Lee said. "John was a power not only because he elected people who were his proteges, but because of his own broad power base and political astuteness.

"No one will ever replace him in the life of the Democratic Party. He was one of a kind. He was the Last Hurrah for New Haven," Lee added.

Yale political science Professor Robert A. Dahl, whose landmark book on urban politics, "Who Governs?" focused on the political power sources in New Haven, said today that Golden "was one of the last of the old-fashioned political leaders who ran a political organization in classical style and did quite a good job of it."

"He was the kind of organization leader who, without being in elective office, held an organization together with patronage and judicious use of contracts," he said. "I suppose that Daley (former Chicago Mayor Richard Daley) was the last representative of that kind (of politician)."

But while Dahl classified Golden as an "Economic Notable" in his book, most of Golden's allies and adversaries classified him as a humanist and a master at the art of persuasion.

A. Mark Barbarito, who now directs the city's adult education program, recalls how devastating that persuasion could be.

"Lee had lost in 1951 for mayor and I had won as tax collector, so I thought I would take a shot at it in 1953," said Barbarito. "At that time, I was a committeeman and I met to talk with two other committeemen, Charles Gill and Clem Laurello (about getting their support for the Democratic nomination). All three of us were for me.

"When we told this to Golden (who was still standing behind Lee), he said "that's nice, but why don't we discuss this next week," Barbarito added.

"Within a week, they got hold of Gill, and the story is that Golden took him to the Knights of St. Patrick and they talked it over. The next time we got together, I found out I lost another committeeman and Laurello was not too strong for me, either. John had a way where you could be for someone, but he could get you to be against the person."

It was the pressure exerted by Barbarito and other members of the party that led to Golden convincing Barbieri to run as town clerk, and later to take over the reins of the Democratic Party, a position he held for 22 years.

Golden was a man who gave favors, but remembered those who gave them, too.

Richard C. Lee first met Golden in 1935 while a reporter with the Journal-Courier. Golden was public works director at the time, a position which allowed him to develop his base of support. Lee later became involved in politics in his Newhallville ward and was elected to the Board of Aldermen. With the victory of Republican William Celentano in 1945, disgruntled Democrats attempted to oust Golden from his post as ward chairman, a position he was to hold for more than 40 years.

It was Lee and several of his fresh-out-of-the-service buddies who knocked on doors in Golden's ward and helped to beat back the insurgents.

Lee's service on behalf of Golden was justly rewarded when, in 1949, with Golden's backing, he won a primary and became the Democratic Party's mayoral nominee. He lost to Celentano in the general election. But with Golden's staunch support, Lee ran again in 1951 and lost again; by two votes. Despite the threats from Barbarito and other dissatisfied party members, Golden went with Lee a third time.

Lee won and remained as the city's chief executive for 16 years, with Golden always nearby.

"He was my political godfather," Lee said of Golden. "Throughout my 16 years, he was always a source of counsel and when I felt that my judgment was not deep enough or solid enough, I always consulted him."

Lee said most people knew John M. Golden, the politician. He was the man who helped Shanley win the 3rd District Congressional seat and later the Probate Court judgeship. He was the man who stood behind Robert N. Giaimo for the congressional nomination in 1958, after others had abandoned him. He was the man who came out early and strong for Abraham Ribicoff for the governorship.

But Lee said few knew of John M. Golden, the philanthropist.

"The real story of his life will never be known," he said. "There were so many people he helped with jobs and advice and he actually helped some out of jams with money.

"John was conscious of his Irish blood (his father was Irish), and proud of it. He felt there should be a club that Irish people at all levels should be able to join. He felt the Knights of St. Patrick would remind the Irish of their roots," he added. "Even today, the only picture hanging in the Knights of St. Patrick office is that of John M. Golden, which was put up after he became ill."

But Golden was also conscious of other ethnic groups.

He became a member of the board of directors of the General Industrial Bank, a small lending institution organized by members of the Jewish community who found themselves excluded from the "Republican" banks.

"I thought he would make a valuable addition to our board, and he did," said William Horowitz, who was president of the bank at the time of Golden's appointment. "He was a devoted board member, a great man of our time.

"He was eminently fair as a politician, a businessman and a community leader. He never promised anything he couldn't deliver. His word was his bond."

Vincent M. Reynolds, who covered city hall for the Journal-Courier in the 1930s and later worked for the Parks Department, says Golden was not only a good politician, "but he had good vision."

"And he was a kindly man," he added. "His individual charities were unfathomable and I remember when a ward chairman needed an appendectomy, didn't have the money, and Golden paid for it."

Golden's political astuteness and acts of charity didn't go unnoticed by the Republican Party.

"I think he had more friends in the Republican Party than in the Democratic Party," according to James Valenti, a one-time Democrat who ran unsuccessfully against Lee as a Republican in 1959. "He was a man of his word and I would say that he was the greatest politician who came down the pike in a long time."

Golden is survived by his wife, Alice L. Anderson Golden; two daughters, Mrs. Frances G. Krenisky of New Haven and Mrs. Margaret Berges of Sterling, Ill.; a brother, Matthew J. Golden of West Hartford and eight grandchildren. His first wife, the former Margaret Stumpf, died in 1959.

Golden's funeral will be held from his residence at 110 Westwood Road at a time to be announced. Burial will be in St. Lawrence Cemetery, West Haven. Memorial contributions may be made to the charity of one's choice or to the John M. Golden Scholarship Fund of Albertus Magnus College.●

TECHNOLOGY TRANSFERS TO THE SOVIET UNION

● Mr. GARN. Mr. President, lately there has been much discussion about the administration's recently announced guidelines to govern U.S.-U.S.S.R. trade, as a result of the Soviet Union's brutal subjugation of Afghanistan.

I am not satisfied that the new set of guidelines will be that much more effective than the old guidelines were in controlling the flow of national security sensitive technology and commodities to the Soviet Union—nor am I satisfied that the Commerce Department can be relied upon to administer the new guidelines properly, if only because their track record in these matters is so deficient. One need only to look at the expert testimony before Congress, of the past years on the subject of strategic trade, to see that U.S. national security interests have been persistently disregarded by the Commerce Department, in the name of export promotion.

Therefore, I recently wrote to Lt. Gen. Eugene Tighe, Director of Defense Intelligence Agency, to request his response to a number of questions with respect to the issue of dual-use technology and the Division of Technology Exports from Soviet bloc countries to the Soviet Union.

Mr. President, I ask that my letter and the response from DIA be printed in the Record.

The material follows:

U.S. Senate,
Washington, D.C., February 25, 1980.

Lt. Gen. Eugene F. Tighe, Jr., USAF,
Director, Defense, Intelligence Agency, Department of Defense, Pentagon, Washington, D.C.

Dear General Tighe: For many years now, there have been reports of Soviet diversion of "dual-use" goods and technology for military purposes. Recently, however, these reports, as well as the hard evidence to prove their validity have increased. I am sure that the candid testimony of Dr. John Vorona, before the Senate Armed Services Subcommittee on General Procurement, went a long way towards changing the minds of many skeptics with respect to this issue.

My staff and I have been studying the entire range of problems associated with "technology transfer" to the Soviet Bloc for some time now. We have heard much about the Kama River trucks, built with U.S. technology and equipment that supported the Soviet move into Afghanistan, and we know that this is but one example of Soviet diversion of "dual-use" technology; it is only the tip of the iceberg. Therefore, it is clear to me that if the President's recently announced embargo of national security sensitive technology and commodities to the Soviet Union is to be at all effective, a number of questions must be answered. To accomplish this goal, in part, I would be most appreciative if the DIA could examine the following questions, the answers to be provided in an unclassified report furnished to this office at your earliest convenience.

1. What would be the economic and military impact on the USSR of a total trade and financial quarantine by the U.S.? NATO? What about an embargo of just national security sensitive technology and agricultural commodities?

2. For the recently announced embargo to be effective against the Soviet Union, should the embargo be applied to the entire Soviet Bloc as well?

3. What would be the economic and military impact if a total quarantine were placed against both the Soviet Union and the Warsaw Pact?

4. If the announced embargo does not include the other Bloc nations, what is the probability of "leakage" of national security sensitive technology and commodities, most notably spare parts, to the Soviet Union?

5. What is the extent of foreign availability, both from CoCom and non-CoCom countries, of the items embargoed by the President in terms of quantity and quality?

6. What leverage does the U.S. have to prevent such sales from occuring?

7. What is the extent of illegal military diversion occuring at other Soviet plants supplied or built with U.S. and/or other CoCom member technology?

8. What are the benefits derived by the Soviet Bloc and the Soviet Union in particular, through cultural, educational and technical business exchanges?

9. What steps are being taken to monitor transfers of national security sensitive technology and commodities by subsidiaries of U.S. firms affected by the recent embargo, most notably the Dresser Industry's sale of an oil bit manufacturing facility?

The New York Times reports that ". . . only about one-third of the equipment was delivered or on its way by the time the President imposed the freeze." However, there have been unconfirmed reports that a Dresser subsidiary or other entity operating either in the U.S. or abroad in seeking to circumvent the President's directive by completing this transaction with the Soviets. Please contact the FBI and conduct a joint investigation into these issues, as that agency might have some area of jurisdiction regarding such an investigation. The results of this investigation should be reported back to this office. If you are unable to initiate such an investigation by the FBI, please inform my staff and I will contact the Justice Department.

Your prompt cooperation with respect to this most serious of problems will be greatly appreciated.

Sincerely,

Jake Garn.

Defense Intelligence Agency,
Washington, D.C., April 2, 1980.

Hon. Jake Garn,
U.S. Senate,
Washington, D.C.

Dear Senator Garn: In response to your letter of 25 February, the Defense Intelligence Agency has provided, as an enclosure, answers to questions one through four and eight. The other questions are rightfully the responsibility of other U.S. Government departments and should be addressed by them.

I share your concerns with regard to the possibility of U.S. firms circumventing the President's directive. The DIA does not involve itself however, in domestic investigations. Your initiative to contact the Justice Department on such matters should be pursued.

Sincerely,

A. L. Kelln,
Rear Admiral, USN, Acting Director.

Question 1: What would be the economic and military impact on the U.S.S.R. of a total trade and financial quarantine by the U.S.? NATO? What about an embargo of just national security sensitive technology and agricultural commodities?

Question 3: What would be the economic and military impact if the total quarantine were placed against both the Soviet Union and the Warsaw Pact?

Answer: A total U.S. trade and financial quarantine would hurt the Soviet economy primarily in two areas, food supplies and industrial modernization. Both of these areas have a high priority in the leadership's plans to greatly improve living standards and the very low productivity of Soviet workers. Increased labor productivity is seen as the solution to the serious slow down in economic growth the U.S.S.R. has been experiencing over the past few years.

Soviet trade with the U.S. is focused heavily in grains, about 75 percent, with the balance mostly in advanced industrial equipment. Two way trade in 1978 totaled $2.8 billion, $2.2 billion in U.S. exports and $600 million in imports of Soviet chrome and other metals. This trade accounted for only 10 percent of Soviet trade with the Industrial West. However, these figures belie the importance of U.S. imports in fulfilling Moscow's long term plans for specific sectors of the economy, particularly food.

The Soviet agreement to buy 8 million tons of grain annually under the Long Term Agreement and the massive purchases above this level were designed to support a new livestock and poultry industry. A better diet, more meat and dairy products, is the cornerstone of Chairman Brezhnev's commitment to provide more consumer goods and a better living standard to the Russian worker. This plan reflected the leadership's painful realization that only more consumer goods, especially food, could provide the incentive for workers to increase output.

The other means to increase labor productivity involves modernizing Soviet industry through imports of advanced Western machinery, high quality materials and advanced technology. Soviet purchases of manufactured goods from the U.S. have been designed to improve Soviet capabilities in computers, oil and gas recovery, machine tools, electronics and communications, chemicals and fertilizers and motor vehicle production. The production of civilian goods and weapons is highly integrated in Soviet industry. Consequently, it is impossible to prevent U.S. or other imported equipment from also improving the country's defense industries. The degree to which a total US trade and financial quarantine would harm the Soviet economy depends heavily on Moscow's ability to find alternate suppliers for grain and technology. The current massive effort to overcome the partial US embargo provides considerable insight on this question even though final results cannot yet be judged.

In the case of grain, Canada, Australia and the EEC originally, agreed that they would not directly replace the grain formerly supplied by the US. However, other major producers such as Argentina and Brazil will take no such action and its grain dealers may sell 6–8 million tons of grain and soybeans to the Soviets in 1980. Recently, the new Canadian government has changed its policy and will now sell several million tons of grain to Moscow this year. Other international grain dealers are also scrambling for some of this business. Additionally, Moscow is pressuring Hungary, Romania and presumably other Pact countries to sell more grain by swapping domestic, grain while importing US grain. Soviet activity on world grain markets has driven up prices considerably and they are having to pay far more than US commodities would have cost.

US sanctions have denied the Soviets 17 million tons of our grain, primarily livestock feed, this year. Although Soviet efforts to circumvent sanctions are proving fairly successful, supplies will still fall short of their original requirements and the country's food supply situation will become tighter. If the US imposed a total grain embargo against future shipments, the total cooperation of at least Austria, Canada and the EEC would be necessary to be truly effective. If this were the case, the loss of all US grain would have a more serious impact on the country. The Soviet food situation is currently very poor, particularly when viewed against promises made by the Party and the expectations of the people.

Flour, bread and potatoes are available, but all meats, dairy products, coffee and sugar are scarce and consumers routinely wait hours in long lines for these products. People are increasingly turning to private markets where prices are three to four times higher, forcing them to spend 75 percent of their income on food. The leadership's plan to provide more food as an incentive to workers has been in serious trouble, and when measured against plans, has failed. Soviet willingness to buy 25 million tons of US grain clearly showed a great concern for this problem. A total US grain embargo, with cooperation from our allies, would insure continued low living standards for Russian consumers. This, in turn, would undermine the government's efforts to increase labor productivity and improve overall economic performance.

A total embargo of U.S. machinery and technology exports offers less potential for harming the Soviet economy than does grain. Our sales of manufactured goods have not been great and have been declining. The U.S. share of machinery the Soviets buy in the West and Japan fell from its peak of 16 percent in 1976, to about 7 percent in 1978, and will be further reduced in 1980. Certainly, denying equipment and technical support for plants or processes partially completed would cause the Soviets serious temporary difficulties. U.S. firms are the unique source of many of their own products as well as the spare parts for completed projects.

However, Soviet trade with European NATO countries (including France) and Japan in machinery and equipment is heavy and accounts for a third of all Soviet hard currency imports, nearly half if steel and pipe are included. Firms in these countries are willing and largely able to provide the Soviets with those manufactured items or technologies that would no longer be available from the U.S. A number of highly placed Soviet trade officials have stated that the alternate sources now being arranged will become permanent, because Moscow will never again consider the U.S. to be a reliable trade partner. The current Soviet success in coping with our limited technology sanctions would also apply to a total U.S. embargo. The availability of other sources of supply for the relatively small amount of U.S. equipment involved would only have a minor and temporary impact on the Soviet economy.

For machinery and technology embargo to be effective, the European NATO countries and Japan would have to participate. In this unlikely event, the impact on the Soviet economy would be significant. In the wake of such a move the leadership would be forced to totally abandon its plans to increase labor productivity and improve the quality of Soviet products. This would occur at a time when economic growth has slumped to less than one percent in 1979, the lowest in the post-war era. This slow down began in the 1970s and shows no signs of abating in the 1980s. Output of agricultural products, steel, oil, coal, chemicals, lumber, and construction materials all declined in 1979. Severe rail disruptions due to the widespread lack of rolling stock have created additional shortages.

The loss of imported Western machinery and the financial credits which back these purchases would cause an absolute drop in Soviet economic output. The reduction in industrial and agricultural production cannot be calculated but it would be substantial. There is no doubt that Moscow would attempt to use its East European allies to circumvent such an embargo, since there is evidence they are doing so in response to the current U.S. sanctions. Therefore, a trade embargo against the entire Warsaw Pact would be necessary to be effective.

The impact on the Soviet military of a total U.S. and especially a NATO trade embargo would be significant. Such steps could only be viewed against the political atmosphere in which they were taken. The Politburo would immediately interpret such developments as being hostile, aggressive and indicative of a return to "cold war" tactics. With an increase in world tension the readiness of Soviet and other Pact military forces would be improved. Weapons production rates currently being detected already show a steady increase and additional output might not occur since quantities are already high. Furthermore, it is possible that the industrial shortages that a total embargo would cause might make increased military production temporarily infeasible.

Soviet defense outlays are already very heavy and account for about 13 percent of GNP. A reduction in economic output, while maintaining current defense programs and improving readiness, would make the defense burden even more onerous. The Soviets are underwriting the economies of Cuba, Vietnam, Kampuchea, Afghanistan and Ethiopia. Some of the resources going to these commitments would have to be sharply reduced or eliminated entirely. It is most likely that support for countries or causes outside the Warsaw Pact would be the first area to suffer.

Question 2: For the recently announced embargo to be effective against the Soviet Union, should the embargo be applied to the entire Soviet Bloc as well?

Answer: There have been instances where the Soviets have used Warsaw Pact nations to acquire equipment, data and technology for them. Documentation is often difficult to obtain that will completely expose the custody chain in such acquisitions. The use of dummy corporations, front organizations as well as cooperative sellers has been effective as a screening mechanism. The Intelligence Community has increased its priority of effort in these areas to more fully understand the full extent; however, reporting has just begun and the analysis effort is just developing.

There are enough indicators to cause concern as to the extent of this mechanism. However, it can be safely said that to be completely effective any embargo must also include Soviet Bloc nations.

Question 4: If the announced embargo does not include the other Bloc nations, what is the probability of "leakage" of national security sensitive technology and commodities, most notably spare parts, to the Soviet Union?

Answer: As elaborated in Question 2, above, the possibility of leakage through other Warsaw Pact countries is very high, however, the control of critical technology exported from the U.S. is included in the 1979 Export Administration Act for controlled countries, most of which are Communist. Therefore, some control currently exists on critical technologies. These controls, both international via the Coordinating Committee (COCOM) and U.S. unilateral controls by means of the Commodity Control List (CCL) and Munitions List, are applied with varying degrees of severity depending on the status of the country receiving the goods or technology. Currently the most stringent interpretation of the export embargo is applied to the USSR. With the pressure of an increase of control over spare parts and items not previously controlled, the USSR can be expected to use any means at its disposal to continue to acquire technology and equipment and to maintain that which it has already acquired.

These actions to keep the acquisition channels open reflect a need to continue advancement in technology and development already underway. In addition, the Soviet Union can be expected to do everything in its power to reflect independence. The ability to maintain a "business as usual" appearance, to the World, while being denied high technology products by the U.S. and other Free World nations will be a prime consideration.

Question 8. What are the benefits derived by the Soviet Bloc and the Soviet Union in particular, through cultural, educational and technical business exchanges?

Answer: The availability of approximately 80,000 unclassified and formerly, classified U.S. Government and contractor reports through the Department of Commerce National Technical Information Service continues to be one of the most significant and economical methods of acquiring information on U.S. Government R&D programs, priority, sponsor, level of funding, and at least an implication of their degree of success, if not the complete results. This is in addition to the wealth of information provided in technical journals, conferences, and trade journals.

US/USSR-interacademy and student/faculty exchanges provide another forum for Soviet acquisition of US science and technology. The atmosphere in which these exchanges are conducted is typical of the closed society versus the open society; Soviet exchanges have total academic freedom in the US. The "students" are usually about 10 years older and have more practical experience and education than their U.S. counterparts who visit the Soviet Union. In addition, US exchanges, almost without exception concentrate on topics in science, technology, and engineering, the vast majority of which have direct military implications. The Soviets further tend to concentrate on the emerging sciences (such as bubble memories for computers) and gain as much information as possible before any export controls become applicable.

The scope and depth of Soviet interest in the advanced and emerging technologies are further exemplified by the 10 scientific and technological agreements the Soviets have negotiated with the US since 1972. These agreements have about 240 working groups in which approximately 800 Soviet and US personnel from each side are jointly working, including such subtopics as use of computers, metallurgy, microbiology, chemical catalysis, physics, science policy, metrology, earthquake prediction, fast breeder reactors, controlled thermonuclear research, and magnetohydronamic (MHD) power generation. One of the provisions common to many of these agreements encourages the establishment of separate agreements between individual US companies and entities of the Soviet Government. There is no formal US Government oversight of these agreements unless the accord results in the sale or transfer of an item or technical data that requires a validated export license.

The West has sold the Soviets considerable amounts of electronic technology and manufacturing technology as well as billions of dollars worth of efficient machine tools, transfer lines, chemical plants, and premium instrumentation and associated technologies. In addition, the Soviets, on actual or purported business visits, obtain as much information as possible regarding the related Western science, engineering, and technology, frequently using the lure of an exclusive state contract to obtain such information.

In summary, the Soviets are seeking Western equipment, technology, and knowledge by any and all means. In the past, Soviet weapon designers appeared to be somewhat constrained in the effectiveness of the products they could develop because of a limited technological base for specialized components. The means of technology transfer cited above afford them the oportunity to rectify such deficiencies and unquestionably play a major role in the modernization and expansion of Soviet industry at a substantially faster rate than would have been possible with indigenous resources. Equally important as the potential use of the US technology is the fact that the detailed knowledge of US technological developments, levels of funding, priority, and degree of success permit the Soviets to begin development of effective countermeasures at a very early date.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a reqeust for a determination under rule 35 which would permit Mr. William A. Reinsch, of the staff of Senator HEINZ, to participate in Interface II, a conference jointly sponsored by the International Law Institute of Georgetown University and the University of Poznan, to be held in Poland on June 5 and 6, 1980.

The committee has determined that participation by Mr. Reinsch in the conference in Poland, partially at the expense of the University of Poznan, which is deemed to be payment by the Polish Government, is in the interests of the Senate and the United States.●

FOOD STAMP REFORM CANNOT WAIT

● Mr. HUMPHREY. Mr. President, our distinguished colleague from North Carolina, Senator HELMS, is a leader in efforts to balance the Federal budget and to bring a halt to wasteful Federal spending.

His recent efforts to bring about some reform in the food stamp program is a prime example.

Hanging on the wall of his office is a plaque with an engraved quote from his late father, Jesse Helms, Sr., which reads:

> The Lord doesn't expect you to win . . . but He does expect you to try.

It is a most befitting inscription because few who have served in this body have tried harder to bring order out of the chaos of runaway spending.

Last month, for example, the Senate was called upon to decide whether it was going to allow the food stamp program to continue to spiral out of control, or whether the time has finally come when a majority of Senators would say, "Enough."

The food stamp program is one that has grown without bounds. Because of the profligacy of the Congress, 1 in 7 Americans is now eligible for benefits and 1 in 10 actually draws them. Some 400,000 new recipients were added to the rolls last month, and the administration's quotas—they call them guidelines—call for some 10 million more at the cost of additional billions on top of the $11 billion the program will cost in 1981.

Senator HELMS was again leading the fight to bring reason to bear on a program out of control. The long and short of it is that the Senate went on record eight times in 1 day alone on the issue of food stamp extravagance. Only once—in a minor way—was a majority of Senators willing to insist upon the fiscally responsible management of the programs. The eligibility standards were made less restrictive and the program was made more costly to the American taxpayer, by billions of dollars.

The American people are beginning to have an appreciation for the scope of the problem—which is an insufficient number of Senators and Congressmen willing to make the tough decisions for a real balanced budget and an end to the waste and extravagance in costly programs. But I have a feeling that through the dogged efforts of our colleague from North Carolina, who is ranking member of the Senate Agriculture Committee, the people will come to understand and finally send a message to the Congress which cannot be ignored.

As evidence that this is happening, these efforts by Senator HELMS and a handful of others in the Senate, my own included—are gaining national attention. Last week the New York News World published an article by noted publisher, William Rusher, entitled "Urging Food Stamp Monster Control." This article described the alarming growth of the food stamp program, and reported Senator HELMS' role in trying to bring some common sense to the question of providing benefits only to those who are truly in need.

And, the June 13 issue of National Review magazine carried an article on the subject by popular columnist M. Stanton Evans entitled, "Where Would You Cut?"

Mr. President, I ask unanimous consent that both these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

URGING FOOD STAMP MONSTER CONTROL

(By William Rusher)

By appropriating an additional $2.56 million of the taxpayers' money (or, in other words, slightly over two-and-a-half thousand million dollars), Congress has extended the current food stamp program from its threatened cutoff date, June 1, to the end of the current fiscal year on September 30.

Thereafter, unless Congress gets off its rostrum and does something about it, it will take another 11,000 million bucks or so to finance this boondoggle for the next fiscal year.

I call the food stamp program a "boondoggle" because it is one of the few federal transfer-payment programs that appeal almost equally to politicians representing farm communities and inner-city constituencies. Big-city congressmen love it because it amounts to free groceries for the voters in their districts. Legislators from farm states are all for it because the farmers get paid hard cash to produce those "free" groceries. Only the taxpayer suffers—and what do the special interests care about him?

MODEST TO MONSTER

Like practically all federal giveaways, food stamps started small. Once the camel got its nose in the tent, however, the rest of the beast was quick to follow. What began as a modest effort to put surplus agricultural products in the mouths of the needy has mushroomed into a monster program that now is partly responsible for the food supply of 22 million people or 10 percent of the entire U.S. population.

Nor are food stamp recipients necessarily very "needy," as that word is generally understood. A family of four with a gross annual income of $12,756 can qualify. No wonder that 36 percent of recipients own cars, and nearly a third own their own homes.

By far the biggest per capita beneficiaries of food stamps are the residents of Puerto Rico, over 55 percent of whom receive them. With less than 1½ percent of the U.S. population, Puerto Ricans account for nearly 10 percent of the entire program. (They also boast a higher recipient fraud rate than any state in the union, and the second highest administrative costs.) No wonder the vote for independence, in Puerto Rican referendums, is so comfortingly small.

Despite which, thanks to pressure from the city-farm coalition that has dug this particular tunnel into the Treasury, Congress goes merrily along year after year, hiking the overall levels of the program and sending the bill to the U.S. taxpayers. From time to time somebody vows to reform the whole mess, but the food stamp bureaucracy in the Carter Department of Agriculture prefers to let matters drift until it is too late for sensible reform. Then Congress is whipsawed into further appropriations on an "emergency" basis, and the costly game goes on for another year.

TRIMMING THE MESS

Sen. Jesse Helms, R-N.C., has taken the lead in warning Congress that this sort of nonsense has got to stop. "Food stamp reform," he told his colleagues recently, "cannot wait." The taxpayers are being bled white. Legislative proposals for reasonable reform have been introduced, and there has been some discussion of them. Food stamp reform is essential if fiscal responsibility is to be achieved. Literally billions of taxpayer dollars are at stake. No contrived 'crisis' can be used as a legitimate excuse for putting aside reasonable reforms, and I want it made clear that the Senate, this year, is going to have to address the need for these reforms."

On May 14, as noted above, Congress appropriated $2.56 billion to extend the food stamp program until September 30. Presumably by then there will have been time to trim this swollen mess back to more sensible proportions and give it a leaner profile in the new fiscal year. If not—if Congress dribbles away this critical opportunity—there will still be time before November for taxpayers to ask their own representatives and senators how they voted when the food stamp appropriation came up. It wouldn't hurt a bit to retire a few dozen congressmen who have no higher sense of responsibility than to perpetuate this disgraceful charade.

WHERE WOULD YOU CUT?

A standard response to complaints about the gargantuan size of the federal budget is, "Where would you cut?" The implication is that the budget is so chockablock with worthy programs that any reduction will result in terrible hardship for the needy: we'd dearly love to cut it, you understand, but it simply isn't possible.

To gauge the sincerity of this argument, one need only examine the history of a single federal program—food stamps. By any measure, this is a program wildly—grotesquely—out of control. Food-stamp spending increased by more than 1,000 per cent in the past decade, doubled in the past three years, is scheduled to increase still more, and is unquestionably shot through with waste and fraud. At a time when taxpayers are mewling pathetically for relief, it would be hard to imagine a likelier candidate for reduction.

When food stamps got started back in 1965 as part of the war on poverty, there were 442,359 recipients, and the annual cost of the program was "only" $35 million (a contemptible sum by Washington standards). In fiscal '81, according to present calculations, there will be 23 million recipients, and the annual cost will be more than $10 billion. One out of every ten Americans will be taking part in the program and the Congressional Budget Office estimates that one of seven could be eligible, under current guidelines—putting the total constituency at something over 30 million people.

On the face of them, these figures don't suggest the food-stamp program is being run on a tight-fisted, or even reasonably prudent, basis. In fact, stories about the food-stamp ripoff have entered into the national folklore: "poverty-level" citizens pigging out on luxury food and party fixings, college students from well-to-do families receiving subsidized food, people with expensive cars and other valuable property taking part in the program, high eligibility requirements and lax enforcement, etc.

Among the curiosities of the program are the facts that it is possible to have an income of more than $19,000 a year and still qualify for benefits; that 29 per cent of the recipients, according to a somewhat dated study, own their own homes; and that 36 per cent own their own cars (given certain changes in the interim, it is likely that these figures are higher today). Such things are possible because food-stamp eligibility is figured on net income rather than gross, permitting deduction of expenses and ownership of valuable assets by recipients.

On top of this, the official attitude appears to be that food stamps are to enjoy, and the more the merrier. Witness the "outreach" program of the Department of Agriculture, designed to go out and find more people who ought to be receiving food stamps. Witness also the report three years ago of the General Accounting Office, watchdog agency of the Congress, which conducted an extensive field investigation of the program, and summed up its findings in the following passage:

> The government is losing over half a billion dollars annually because of overissuance of food stamp benefits caused by errors, misrepresentation, and suspected fraud by recipients and by errors by local food-stamp offices. For every $100 of the more than $5 billion in annual benefits issued nationally [this was in '77, remember], overissuances account for about $12, and only about 12 cents of that $12 has been recovered. The eight local projects GAO reviewed were doing little to identify and recover the value of these overissuances.

Given all that, economy-minded folk in the Congress have one ready answer to the question of where to cut. In the wake of the GAO report three years ago, an effort was made to tighten up the food-stamp program by changing the gross-income eligibility standard and imposing protections against fraud. This year, a group of legislators led by Eldon Rudd (R., Ariz.) in the House and Jesse Helms (R., N.C.) in the Senate made a determined effort to slash the waste and fat out of the program.

On both occasions, liberal forces in the Congress fought back like men possessed, not only to keep the handouts flowing, but to increase them. In the battle of '77, the liberals managed to halt significant reform, and also to knock out one of the few existing restraints against abuse—the so-called purchase requirement that compelled recipients to put up a token amount of cash to get the stamps. With this proviso gone, food-stamp participation took a giant leap forward—adding another 3.5 million recipients.

In this year's contest, Representative Rudd submitted a 12-point program including restoration of the purchase requirement, basing eligibility on gross rather than on net income, putting in a system of fraud control, strengthening work requirements, eliminating college students and strikers from the rolls, and otherwise attempting to make sure that benefits go only to the truly needy. We estimated the savings from this package at $4.47 billion, almost half of next year's projected food-stamp outlay.

Rudd tried to present his package as an alternative to the Administration bill pertaining to food stamps (H.R. 1309), but was rebuffed. He and others then attempted to get some of the reforms adopted piecemeal, but most of these efforts were similarly rejected. Some limited reforms did get through the House, concerning recovery of money in cases of demonstrated fraud, and requirements for minor children, and the like, but even these were eliminated when the bill went over to conference.

At this writing, the effort to reform the food-stamp program is a shambles. Rudd, however, is sorting his proposals into a comprehensive food-stamp reform law, which should be a priority item for adoption in a new thriftier Congress. In the meantime, the taxpayer is still saddled with a $10-billion boondoggle, one-half of which is absorbed by fraud and foolishness and liberals in Congress are still inquiring, "Where would you cut?" ●

PROTECTING WORKERS' FIRST AMENDMENT RIGHTS

● Mr. TOWER. Mr. President, I am pleased to cosponsor S. 2325, introduced by Senator HELMS, to amend the Federal Election Campaign Act to prohibit the use of compulsory union dues for political purposes.

In the last decade, there has been a proliferation of legislation designed to eliminate abuses in the election process, but little attention has been given to the most glaring inequity in the political arena—the denial of the first amendment rights of American workers who are forced under the color of the law to contribute to political causes or candidates that are neither of their choosing nor liking. Under a loophole in the Federal Election Campaign Act, millions of American workers are forced to support candidates and causes which they might otherwise oppose.

In many States, workers are forced to pay dues to unions to keep their jobs. Although the Federal election law prevents the use of these dues for direct cash contributions to political candidates, it does not stop the union bosses from making indirect payments from union treasuries to support political activities such as campaign phone banks and computers, precinct registration and get-out-the-vote campaigns, distribution of campaign materials, direct mail appeals, and the like. There are no limitations on these activities and in-kind contributions.

These types of activities abounded in the 1976 elections. That year, the AFL–CIO sent out 60 million campaign letters in one mailing at a cost estimated to exceed $6 million.

The Wall Street Journal reported that in the 1976 elections, the Machinists' Union ordered its staff to drop all other work and focus on getting members to vote. The Journal recounted that nearly every phone in every union office in the country was used to work special computerized membership lists. Union members paid the tab for these phone bank operations out of their union dues.

The use of compulsory union dues for these political purposes subordinates the workers' first amendment rights. The Helms bill explicitly prohibits the use for political purposes of dues paid by any person as a condition of employment. Enactment of this legislation is necessary to protect the constitutional rights of those Americans who are forced to join any organization against their will in order to get a job or keep it.●

TRADE WITH THE SOVIET UNION

● Mr. EAGLETON. Mr. President, I rise today to bring to the attention of my colleagues a matter which deserves their utmost attention.

A little over 7 months ago President Carter announced to the American people that he was taking strong action to deal with the Soviet invasion of Afghanistan. It was his intent to show the resolve of this Nation and that of the free world to reject the naked aggression of this Soviet action. President Carter's words of January 4 were quite clear:

> Neither the United States nor any other Nation which is committed to world peace and stability can continue to do business as usual with the Soviet Union.

To accomplish this end, he set into motion a series of new policy initiatives. Figuring prominently in this policy of trade limitation was the suspension of the sale of grain to the Soviet Union beyond that which we were committed to sell under the United States-Soviet bilateral grain agreement. Although I had severe misgivings about this action, it was my belief that if we had the support of the other major grain exporting countries in limiting Soviet access to world supplies, the impact upon the Soviets would be dramatic.

On January 12, the Department of Agriculture assured us that with the exception of Argentina, who according to USDA had only limited supplies available for export, none of the major grain exporting countries would make up for the grain shortfall we had inflicted upon the Soviet Union.

As late as May 2 during questioning before my Appropriations Subcommittee on Agriculture, Secretary Bergland and his assistant, Howard Hjort testified that the dike they had built to prevent the flow of additional grain was still holding.

Mr. President, today there is increasing evidence that that dike may not be holding, and that in fact it is acting more like a sieve holding back the access of our U.S. farmers and agribusinessmen to the Soviet market while permitting others to flow easily through to profit at our expense. Let me cite three quick examples.

First, just yesterday news accounts appeared indicating that in the 9-month period ending in March, the Australians increased their volume of grain sales to the Soviets by 11 times over the same period last year.

Second, Secretary Bergland indicated yesterday that the administration is growing increasingly concerned about the willingness of Canada to restrain its trade with the Soviets, especially if the very real prospects of a good crop in that country come true. Indications I have are that if the Canadians cave in, so will other major exporters.

And finally, the American Soybean Association recently stated that it had evidence that soybean processors in Europe were taking advantage of the depressed prices of U.S. soybeans and were processing them to fill orders from the U.S.S.R., orders which U.S. soybean processors otherwise would have had.

I view such reports with concern, with dismay and with alarm. It is imperative that if we are to continue this policy of denial—denial of grain to the Soviets and the denial of our farmers to a free market—the President, the Secretary of Agriculture, and the Secretary of State must make it their top priority to verify the compliance of our allies with the commitment they have made to us and to the people of Afghanistan. We cannot continue this policy if the only denial taking place is that which is affecting our own farmers.

I urge my colleagues to join with me in expressing their concern over these recent reports to the administration and in urging them to report to the American people the facts about the support our allies are giving us in this effort.●

UNITED STATES-CANADIAN FISHERIES TREATY

● Mr. PELL. Mr. President, last week, the Canadian Government announced that henceforth it would permit Canadian fishermen to sharply increase their catch of haddock, cod, and yellowtail flounder in the Gulf of Maine, including in a disputed area which is claimed by both the United States and Canada as part of their respective fisheries zones. This action was specifically explained as retaliation for the U.S. Senate's failure to approve the United States-Canada fisheries treaty and for the failure of the United States to establish a conservation management plan for scallops.

I regret very much that the Canadian Government has decided to take a confrontational approach just 2 months after the Senate held 2 days of hearings on the treaty, after much urging by the Canadian Government. In conjunction with those hearings, seven other New England Senators and I cosponsored three amendments to the treaty as an alternative to outright rejection. In addition, the New England Regional Fisheries Management Council has been making good progress in developing a management plan for scallops. So the timing of the Canadian action is most perplexing.

The Canadian action is an attempt to pressure the U.S. Senate into accepting a treaty which, in its current form, is just not equitable for American fishermen. The most outrageous feature of the treaty is that it has no termination date. Since the treaty places severe limits on changes that can be made in the critically important allocations of fish catches between the two countries, a treaty of unlimited duration would forever put a cap on the American fishing industry just at a time when it has been reversing two decades of decline.

I hope that our Canadian friends will come to see that a revised treaty is better than no treaty at all. A fish war is in neither country's interest. Since not a single Senator from a State affected by the treaty has come out in favor of the treaty, it is unrealistic on Canada's part to expect the Senate to approve the treaty in its present form.

Instead of pursuing a policy of retaliation, which can only be counterproductive in bringing about a solution to the current impasse, Canada should face up to the fact that the treaty will have to be changed. The ball is in Canada's court.●

HOME-BASED HEALTH CARE LEGISLATION

● Mr. COHEN. Mr. President, I am pleased to be a cosponsor of S. 2809, Senator PACKWOOD's legislation creating a comprehensive system of noninstitutional long-term care services for the elderly and disabled.

I have long felt that the Federal Government must refocus its efforts in the area of long-term care. A new direction toward community and home-based care is needed. The elderly and disabled should not be placed into hospitals or nursing homes unless absolutely necessary.

S. 2809 is, I believe, the important first step in this new direction. It would establish a new title XXI under the Social Security Act. The new title XXI would, for the first time, provide a system of noninstitutional, long-term care services under one umbrella. It would also add some new services.

The need for this legislation is clear. For too long, there has been inadequate attention to the benefits of home health services. This was demonstrated last year when Congress, for the first time since the Civil War, sent back to an executive agency a report which it had requested. That report was on home health services, and the Department of Health, Education, and Welfare had been woefully unresponsive to our request. To me, this unresponsiveness reflected the general lack of commitment to developing noninstitutional alternatives in providing long-term care for the elderly and disabled.

Just last week, the Special Committee on Aging held a field hearing in Bangor, which I chaired, on the problems of the rural elderly. One of the recurring themes of those testifying was that there is an urgent need for community-based long-term care services. Patricia Riley, director of the Bureau of Maine's Elderly; Virginia Norman, of the Maine Committee on Aging; and Michael Petit, who heads the Maine Division of Human Services, have all expressed their strong endorsement for this kind of approach.

As Trish Riley testified at the hearing, in Maine, one home health agency alone receives support from nearly 50 different funding sources, all with different rules, regulations, and paperwork requirements. The system, she noted, has become more important than the person.

In a rural State such as Maine, there is a particularly strong need for community-based long-term care services. We in Maine have a rich tradition of meeting our own needs, of being self-sufficient.

But, I believe most of us would prefer to live in homes in our own communities, rather than in institutions. Furthermore, families make heroic efforts to care for older members with failing health or problems in meeting daily needs. By far, the largest amount of care given to the elderly is provided by friends, neighbors, and family members.

I am afraid, however, that publicly funded assistance programs, as valuable as they are, often replace, rather than strengthen, this informal support system. Faced with little opportunity for respite and an intolerable financial burden, families turn to the only place where financial help is available—total institutional care.

In the hope of increasing the options for long-term care, I have cosponsored, with several of my colleagues on the Special Committee on Aging, a bill to create a foster care program for older persons. This demonstration program offers an alternative to costly institutional care by placing older persons in the homes of related or unrelated families.

But more fundamental reform of our long-term care delivery system is needed. That is why I so strongly support the effort of my distinguished colleague from Oregon (Mr. PACKWOOD).

Existing long-term care regulations are simply unresponsive to the needs of individuals and their families. They need to be brought under a single title of the Social Security Act so that we can have a truly comprehensive approach, one that encourages families to take care of their older members within the home environment. At present, they are discouraged from doing so because of the jumble of regulations and requirements on the books.

This is much-needed legislation. I hope that it will receive early consideration—and that a new title XXI will be on the books at the earliest possible point.●

A MINOR-LEAGUE MIDEAST GAME

● Mr. CHURCH. Mr. President, I was very much distressed by the statement issued last week by the European Economic Community. That statement called for "self-determination" for the Palestinian people, declared that the PLO should be "associated" with the negotiations, and focused only on Israeli settlements as obstacles to peace. I would like to remind the European nations of the political program approved 2 weeks ago by the PLO which called for "liberating Palestine completely," and for establishing a so-called democratic state on what today constitutes Israel.

If the European Economic Community wants to help foster the cause of peace, then there is only one formula to remember—the formula of Camp David. It was this formula that recognized the legitimacy and security of Israel, the only democratic ally of the United States in the turbulent Middle East today. And, it was this formula that was approved by the Government of Egypt, which remains closely allied with the United States. No other formulas have proven successful and I fear that the European initiative will only make a comprehensive peace more elusive.

Mr. President, I ask that the editorial from the New York Times of June 15, 1980, be printed in the RECORD.

The editorial follows:

A Minor-League Mideast Game

As a declaration of independence from American diplomacy in the Middle East, the European allies' pronouncement in Venice Friday was merely pathetic. No self-evident truths, no decent respect for the opinions of mankind, no pledge of mutual fortunes and honor. Just a petulant cry that Europe wants to play big-league power, too, and a cramped call for a "comprehensive" solution, their code language for a denunciation of Camp David. The Europeans did not even have the decency to mention, let alone analyze, that one solid achievement in the region so far.

As a declaration of strategic purpose, their doctrine was absurd. The essence of the conflict, the agonizing tension between Israeli security and Palestinian rights, was simply asserted to be reconcilable. The anti-Israeli majority of the United Nations was put forward as a reliable guarantor of the peace. And the Palestine Liberation Organization, which only last week recommitted itself to the destruction of all Israel ("complete liberation of Palestine, the liquidation of the Zionist entity"), was promised a central seat at the negotiations and an early interview by Europeans as they design their "initiative."

Any aware political amateur could have composed a more honest, and more understandable, statement of European purpose: We need oil and Arab trade so badly that we cannot wait any longer for America, Israel and Egypt to turn their partial peace into a broader settlement; the Arab radicals and P.L.O. terrorists—abetted by the policies of the Begin Government—have kept the West Bank boiling and the autonomy negotiations stalled; so we hope that by granting the Palestinians a state in the entire West Bank and Gaza we will somehow persuade them to accept Israel. Even if it doesn't work, the Arabs will think better of Western Europe and treat it kindly.

That would be honest and understandable, but still very damaging. The West Bank is not Europe's or America's to cede—not for all the oil and trade in Araby. Seized by Israel in a war ignited by Arabs, it is validly claimed by both. Wise Israelis, probably including the next (Labor) Government, do not want to colonize the region's million Palestinians. Through the force of American diplomacy and the promise of American military aid, they may be brought to relinquish much of that troubled territory.

But Israel will never be brought to such risky undertakings by nations that scorn the peacemaking of Anwar Sadat and use their influence to reward terrorism. The Israelis will never heed even the United States if America's own conflicted Middle East diplomacy comes to be seen as driven largely by rebellious Western allies. Pressure on Israel will succeed only if those who apply it have also earned Israel's trust and demonstrate a deep concern for something more than their own convenience.

Any small nation can assert self-interest. Big-league diplomacy requires merging self-interest with the interests of diverse peoples, and notably those who have the power to end the unwanted conflict.●

TENTH ANNIVERSARY OF SCOUTS' HIKE

● Mr. TOWER. Mr. President, 10 years ago I brought to the attention of this body an extraordinary act of patriotism of 10 young men who walked 260 miles from Sherman to Austin, Tex., carrying flags to show their support of our country. After this long trek in blistering summer heat, these 10 Sherman explorer scouts and their post adviser on July 4, 1970, presented Gov. Preston Smith with the United States and Texas flags on the steps of the State capitol.

To mark the 10th anniversary of the scouts' hike, I am listing the names of the young men and would like to wish them well in their present pursuits:

Danny Cox, Mike Emory, Chris Hall, Lt. Mike Parker, Sgt. Larry Walton, Capt. Charles Woodrow, Mark Clayton, Steve Melton, Bill Henderson, M. H. Sampsell, Robert Freise.●

ESC ANALYSIS OF OMNIBUS ENERGY BILL

● Mr. CHAFEE. Mr. President, the Senate very shortly will vote on the conference agreement on S. 932, the omnibus Energy Security Act of 1980. This far-reaching proposal would create a U.S. synthetic fuels industry to reduce our dependence on insecure foreign oil supplies, fund major new renewable energy initiatives, set up a $3 billion loan program to spur energy conservation and solar energy plus bring on line a number of other major initiatives to boost U.S. security.

As cochairman of the environmental study conference, I submit for the RECORD an excellent and timely analysis of the final agreement prepared by the conference.

Since the conference report has not yet been filed, this ESC update should prove valuable to Senators in understanding the final language.

To further explain the legislation, ESC is sponsoring a briefing for Senate staff this Friday, June 20, at 2 p.m. in EF100 of the Capitol. A similar session for House staff is set for Monday, June 23, 10:30 a.m. in 340 Cannon.

The analysis follows:

The Energy Security Act of 1980

(By Dave Lauter)

The omnibus energy bill, S 932, has emerged from its seven-month long conference and appears headed for speedy passage and a July 4 Rose Garden signing ceremony.

Nearly all the conferees signed the conference report Monday, June 16, and most of the rest are expected to sign it later in the week after the statement of managers language has been edited and reviewed. Rep. Brown (R-Ohio) appears to be the only House conferee who will not sign the report. In addition, a number of Senate conferees have not attended the conference sessions, and their position is unknown.

The bill is expected to hit the floor of the Senate, which will act first, as early as the end of this week, although Tuesday or Wednesday of next week, June 24 or 25, are more likely.

The bill authorizes, but does not appropriate, $25 billion in fiscal years 1981 through 1985 for the following:

A $20 billion synthetic fuels production program.

A $1.4 billion biomass program with provisions to encourage municipalities to convert waste to energy.

An energy bank funded at $3 billion to make loans and grants for solar and conservation work in homes, small apartments and small commercial buildings.

Other conservation measures, including home energy audits by electric utilities.

New incentives for geothermal energy.

Studies of the environmental effects of fossil fuel burning.

Additional incentives for solar and renewable energy use.

The bill also contains:

A provision to force President Carter to fill the Strategic Petroleum Reserve.

A plan for biennial House and Senate consideration of national energy targets.

Conferees have agreed to drop a wind energy title, which is likely to pass Congress as separate legislation (HR 5892).

The Senate's bargaining instrument was S 932, an 11-title bill which started out last May as a two-year reauthorization of the 1950 Defense Production Act.

The House package was a series of bills and legislative proposals that, with one exception, were never passed by the full House. The exception is HR 3930, a synthetic fuels bill which House Banking added to S 932 last June and which passed the House last June 26. The other parts of the package are HR 5726, an energy conservation bill reported from Commerce late in November; HR 605, House Banking's solar bank bill, also reported in November; HR 3905, a gasohol bill reported from Agriculture in October; and HR 6638, a municipal wasteto-energy bill which has been the subject of hearings in the Science Energy Development Subcommittee and Commerce's Transportation Subcommittee.

In early March, the conferees agreed on S 932's Title I, the $20 billion synthetic fuels corporation which President Carter asked Congress to approve in his July energy speech. Staff met throughout March and April to develop joint recommendations on the other titles.

On May 14, the conferees met formally for the first time since late March and accepted a series of joint staff recommendations on the conservation and solar energy titles.

On Wednesday, May 21, the conferees ratified agreements on all remaining issues and directed staff to draft the final conference report and present a recommendation on the Strategic Petroleum Reserve issue by June 16.

For additional details on the progress of the conference, see ESC Updates, "The Omnibus Energy Bill," November 27, 1979, and "Omnibus Energy Bill Nears the Finish Line," May 16.

Here is a title-by-title discussion of the provisions of the bill:

TITLE I

Synthetic Fuels: The agreement on synthetic fuels basically accepts the Senate position, establishing a quasi-independent U.S. Synthetic Fuels Corporation which would use loans, loan guarantees, purchase and price guarantees and joint ventures to stimulate a domestic synthetic fuels industry. Cost overruns of up to 50 percent would be allowed on joint ventures, but price guarantees would have to be fixed-price, not cost-plus contracts. If all else failed, the corporation would be authorized to build up to three of its own government-owned, contractor-operated synfuels plants.

Under certain circumstances, the corporation would be able to enter into agreements for two synthetic fuel facilities in other Western Hemisphere nations, but such deals would be subject to one-house veto.

The conferees agreed to use the House's approach, of having the president run the program, until the corporation is set up. In the interim period, the president would use his authority to purchase strategic commodities under the Defense Production Act to stimulate synthetic fuels development. Once the corporation is established, the DPA authorities would be put on standby, to be used only in case of war or national emergency.

The corporation's first job is to establish a $20 billion, phase one synthetic fuels program, designed to reach by 1987 an interim production goal of 500,000 barrels per day, roughly equivalent to 8 percent of current oil imports or 4 percent of current U.S. oil consumption.

In FY 1984, when its phase one authorization expires, the corporation will go back to Congress to seek authorization of a phase two synfuels program costing as much as $68 billion. At that time, the corporation will ask Congress to approve a phase two goal.

The corporation would be run by a seven-member board of directors, appointed by the president and confirmed by the Senate, serving seven-year staggered terms. Only the board's chairman would have to be full-time. The corporation would be advised by a committee composed of the secretaries of Energy, Interior, Defense and Treasury, the Chairman of the Energy Mobilization Board and the administrator of thet Environmental Protection Agency. Expenses of the corporation are authorized at $45 million per year.

The corporation would be subject to the Sunshine Act, and its directors would be subject to the disclosure provisions of the ethics act. Any corporation construction project would be subject to environmental impact statement requirements. And companies receiving loans or loan guarantees would have to pay workers according to the prevailing wage test of the Davis-Bacon Act.

Synthetic fuels to be fostered by the corporation would include oil from coal, peat, shale or tar sands; methyl alcohol from coal; hydrogen from water; and magnetohydrodynamics processes for electrical generation.

The conference agreement also includes provisions limiting to $3 billion the amount of assistance which any one project or any one corporation could receive, limiting government liability for cost overruns at assisted projects, protecting state water rights laws and requiring annual reports to Congress and audits of the corporation's activities.

Where Does the Money Come From?—The financing structure for the corporation is complex and novel, designed to free the corporation from routine authorization and budget restraints but still leave the Appropriations committees with some oversight control.

The money appropriated for the corporation will be deposited in the Energy Security Reserve, which was established in the Treasury by last year's Interior Appropriations Act (P.L. 96–126).

The corporation will be able to treat the money available to it from that reserve as a trust fund, issuing obligations up to the amount available in the reserve. When it actually needs cash, the corporation will sell a note to the Treasury, which will purchase the note by taking money from the reserve.

Staff estimates of how much money will be available to the corporation when it opens for business vary widely, from $2 billion to $17 billion. That decision will be left to the Appropriations committees.

The reserve was given $20 billion when it was created, but no one, including the corporation, can actually use that money until it is released from the reserve by an appropriations act.

Currently, $2.2 billion has been released for DOE's existing synthetic fuels programs, and that money will fall to the corporation once it is set up, if DOE has not yet spent the funds.

House Appropriation's Interior Subcommittee, however, already has voted to release another $5 billion to DOE for FY 1981 synthetics fuels activities, and DOE may be able to spend a sizable chunk of that before the corporation begins work. In addition, other programs may be able to tap into the reserve, further decreasing the corporation's initial capital.

Finally, if Appropriations chooses, it could release only a small amount of money for the corporation to begin with, thereby keeping its activities under tight control. Or Appropriations could decide to loosen the reins and release all the money available in the reserve at one time.

Phase II: Four years from the date of enactment of the bill, the corporation would be required to present Congress a phase two program and production goal.

Phase two could cost up to an additional $68 billion, all of which would have to be authorized and appropriated separately.

Appropriations would be handled in the same manner as they are for phase one. Congress could let the program go in one big chunk or divide it into phases, with the corporation coming back to Capitol Hill periodically for further authority and money.

Originally Carter and Senate Energy members had talked of giving the corporation $88 billion from the beginning to begin immediately a full-scale synthetic fuels program.

But when the bill was considered on the Senate floor, the two-phase provision was adopted as a compromise with those who opposed giving up control all at once over such a large amount of money.

House conferees balked even at the eventual Senate version, which called for an up or down vote on the entire $68 billion when the phase two plan was submitted.

After some House conferees insisted on annual authorizations for phase two, the conference settled on the approach of periodic authorizations and appropriations of up to $68 billion. But the phase two process is subject to expedited procedures to bar Senate filibusters and keep committees from bottling up the corporation's money bills.

Staff points out that those expedited procedures will be amendments to the rules of either house, and that, as such, either house can junk the special procedures in the future if Congress begins to sour on synthetic fuels.

In any event, the corporation would have to stop obligating funds at the end of FY 1992 and would go out of business at the end of FY 1997 unless extended by new legislation.

TITLE II

Biomass programs: Titles II and III of the Senate bill each would have established programs for producing energy from biomass, a catch-all term for organic material such as wood, agricultural products, sewage and garbage.

Title II, a Senate floor amendment added by Agriculture Chairman Talmadge (D–Ga.), would have established a rural biomass-to-energy program in the Agriculture Department. Title III, a Senate Energy Committee floor amendment, would have established a gasohol program within DOE. Conferees combined those initiatives into Title II of the compromise.

Alcohol Production: Part A of Title II of the final bill would authorize the Agriculture and Energy departments to offer loan, price and purchase guarantees in FY 1981–1984 to stimulate up to 60,000 barrels per day of alcohol production from biomass by 1983.

Price guarantees for fuel produced under the program would be limited to fixed-price agreements, forbidding cost-plus contracts. Loan guarantees for construction of a production facility would be limited to 90 percent of the capital costs.

USDA would have jurisdiction over alcohol production facilities with a capacity of less than 15 million gallons. DOE would oversee larger facilities. In addition, the two agencies would share jurisdiction over large alcohol production facilities which use forest products or the products of agricultural cooperatives as feedstock.

The two departments would share authorizations of $600 million in FY 1981 and 1982 for alcohol production.

The agreement also would provide for expanding several existing USDA cooperative extension and teaching programs to include measures to stimulate research on the use of agricultural commodities for making alcohol.

Annual authorization for FY 1981–1984 would be $12 million for alcohol research grants, $5 million for up to 10 USDA biomass energy demonstration facilities and $10 million to cooperative extension services and land grant colleges.

Municipal Waste: Part B of Title II would establish in DOE an office for energy from municipal waste and authorize a four-year program of loans, loan guarantees and price guarantees to individuals, municipalities and public and investor-owned utilities for commercial waste-to-energy plants.

Priority would be given to plants which directly reduced oil or natural gas use and cogeneration plants which used biomass fuel. Plants would have to produce more energy than they used to qualify for assistance. Governmental financing could not exceed 75 percent of the capital costs of a project.

DOE would be authorized to spend $250 million for municipal waste-to-energy programs in FY 1981 and 1982.

TITLE III

Energy Targets: Title III of the agreement provides for executive branch preparation and congressional consideration of non-binding targets for energy production, consumption and conservation in 1985, 1990, 1995 and 2000.

The targets would be forwarded to the 97th and 98th Congresses as part of the annual proposal for DOE reauthorization.

TITLE IV

Renewable Energy: Title IV of the bill contains incentives and hortatory language to spur the use of renewable energy sources.

Among the authorizations are:

$10 million for a program of grants to states to "demonstrate energy self-sufficiency." DOE could spread the money around several states or grant all of it to one state on the basis of grant requests submitted by the governor. Sen. Matsunaga (D-Hawaii) was the prime sponsor of this provision, and the bulk of the money is expected to fund renewable resource demonstration in Hawaii.

A directive to DOE to draw up new accounting standards which will make solar and conservation investments look better in comparison with conventional energy practices.

A directive to DOE to take steps to coordinate the flow of solar and conservation information coming from government agencies and contractors around the country.

New rules ordering DOE to consider installing solar photovoltaic equipment on buildings which the government leases or does not occupy fully. The current law requires consideration of photovoltaics only on buildings which the government fully owns and occupies.

Changes in current law designed to help small hydroelectric systems. Current law, enacted as part of the 1978 Public Utility Regulatory Policies Act, allows the Federal Energy Regulatory Commission to waive some licensing requirements for hydropower facilities with less than 15 megawatts capacity if the facilities are added to existing dams. The bill expands the eligible size to 30 MW capacity and allows FERC to exempt facilities below 5 MW from licensing altogether.

The bill also orders DOE to finish within six months the small-hydropower financial assistance regulations authorized by the National Energy Act in 1978. DOE's failure to produce the rules has so far blocked the aid program. The $110 million authorization which NEA made for that program would be extended through FY 1982.

TITLE V

Conservation, Solar Banks: Title V of the bill incorporates energy conservation provisions from Titles V and IX of the Senate bill and the two bills reported from House Commerce and Banking in November.

The title authorizes:

Federal energy banks to stimulate conservation and solar development.

A program to allow utilities to lend money to their customers for energy conservation measures and to require utilities to offer energy audits.

Aid to states to help train energy auditors.

A modified version of Sen. Bradley's (D-N.J.) pilot conservation "house doctor" program.

Measures to enhance industrial energy conservation.

Minor modifications in the existing home weatherization program.

Utility Audit Program: The agreement would expand an existing utility audit requirement in the National Energy Conservation Policy Act, part of the 95th Congress' National Energy Act.

NECPA set up the Residential Conservation Service, which requires states to submit residential energy conservation plans to DOE. The required plan must include a program to ensure that utilities offer energy efficiency audits of customers' single-family homes.

The conference agreement would expand that requirement, beginning in calendar year 1982, to include small commercial buildings and apartments.

Utilities would be allowed to charge the customer for the cost of the audit, up to $15. Utilities could contract with others to perform the audits, a provision which would allow the Tennessee Valley Authority to continue performing audits in its service area.

Utility Loan Program: The agreement also would amend NECPA to lift a ban which the 95th Congress imposed on utilities' making loans to their customers for energy conservation measures. The ban did not apply to existing loan programs operated by utilities on the West Coast and in New York and TVA, which reported substantial success in promoting energy conservation.

Supporters say the loan program should be extended to all utilities because it encourages energy conservation by making financing easier. In addition, supporters say, utilities benefit indirectly because increased conservation reduces electricity use and eliminates the need for investment in new powerplants.

Congress placed the ban in NECPA originally because of fears that utilities could use their monopoly position to drive other conservation companies out of business and because small banks might lose some of their loan business.

The conference agreement attempts to meet both concerns. The Federal Trade Commission would be directed to work with DOE to prevent anti-competitive practices. Participating utilities would be required to finance as much of their loan programs as possible by borrowing from local banks.

Under the program, utilities could lend money to customers who took any one of a number of specified energy conservation measures, such as installation of storm windows or attic insulation. The customer would repay the loan as part of his monthly electric bill.

Utilities also would be authorized to subcontract with independent firms for supply and installation of residential conservation equipment, another practice banned by NECPA.

Federal Subsidies and the Energy Bank: The conference agreement would provide for federal subsidies for energy conservation and solar energy measures by establishing an energy conservation and solar energy bank within the Department of Housing and Urban Development.

The energy bank would be authorized to subsidize the principal and the interest of loans made by utilities or commercial banks. It also would subsidize loans for both conservation and solar investments in homes, apartment buildings and commercial buildings. Builders who use solar energy systems would also be eligible for a subsidy.

Substitute for Kennedy-Tsongas: As a substitute for the Kennedy-Tsongas weatherization grants in the Senate bill, the conference agreement would authorize the bank to provide direct grants to low-income persons to pay for up to 50 percent of the cost of conservation measures in their homes. The grant would be for conservation measures only, not solar energy installations.

Loan interest and principal subsidies offered by the bank to all other persons would vary depending on the borrower's income and the type of building in which the investment was made.

Solar Subsidy Levels: For solar energy, the bank would be authorized to subsidize up to 40 percent of the cost of an investment made by an owner of a single-family or small multi-family residence whose family income exceeded 160 percent of the area median (roughly $32,000 in most areas of the country).

If the owner's income fell between 80 and 160 percent of median ($16,000 to $32,000), the subsidy could be up to 50 percent.

Homeowners whose income fell below 80 percent of the median would be eligible for a 60 percent subsidy.

In no case could the subsidy to a single-family homeowner exceed $5,000.

Owners of small-commercial buildings and larger apartment houses (more than four units) and builders would be eligible for 40 percent subsidies. The commercial subsidy could go as high as $100,000. The apartment building subsidy could be up to $2,500 per unit.

Conservation Subsidies: Subsidy levels for conservation would be set on a more complicated sliding scale.

OWNER'S OR TENANT'S INCOME AS PERCENTAGE OF AREA MEDIAN

	80[1]	80 to 100	100 to 120	120 to 150
Single-family	50 percent of cost, up to $1,250.	35 percent, up to $875	30 percent, up to $750	20 percent, up to $500.
2 units	50 percent, up to $2,000	35 percent, up to $1,400	30 percent, up to $1,200	20 percent, up to $800.
3 units	50 percent, up to $2,750	35 percent, up to $1,925	30 percent, up to $1,650	20 percent, up to $1,100.
4 units	50 percent, up to $3,500	35 percent, up to $2,500	30 percent, up to $2,100	20 percent, up to $1,400.

[1] Available as a loan subsidy or grant. All others available only as interest or principal subsidies on loans.

Owners of larger apartment buildings (more than four units) would be eligible for subsidies of 20 percent of costs up to $400 per unit. Commercial building owners could get at 20 percent subsidy up to $5,000.

The varying subsidies are based on several assumptions:

The program should aid most of those who need the most aid.

The conservation program should be for retrofits only, while the solar program should include new buildings.

Owners of small apartment buildings and small-commercial establishments need less help than homeowners.

The program should avoid duplicating benefits available from existing tax credits. The subsidy table was designed to give small subsidies to those in high tax brackets, who benefit most from tax credits, but people could take both a tax credit and a loan subsidy.

Authorization: The bank would be authorized separately for conservation and for solar activities. For solar, the agreement would provide $525 million total for FY 1981-1983. For conservation, the agreement would authorize $2.5 billion total for FY 1981-1984. The bank would be authorized to use some of its funds for advertising.

Secondary Financing: Some of the loan notes which the energy bank purchased could in turn be sold to two existing secondary financial institutions, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. In this way, the energy bank could treat some of its appropriations as a revolving fund, thereby increasing the number of subsidized loans.

Auditor Training: The bill authorizes $10 million for FY 1981 and $15 million for FY 1982 for DOE grants to states to help them train and certify energy auditors.

The Bradley Plan: As passed by the Senate, the plan would have authorized $500 million for a pilot program under which DOE would contract with energy conservation companies to audit residences and install energy conservation retrofit measures at little or no cost to owners.

The contracts would specify the areas in which audits and retrofits would take place, and the government would reimburse companies for the amount of energy actually saved.

But House conferees opposed the concept as too nebulous to warrant deep federal involvement.

The final agreement authorizes only $10 million to be paid to state or local governments to help establish four demonstration programs in which utilities, not the government, would contract with energy conservation companies to purchase saved energy. Participation would be entirely voluntary, and DOE would monitor the operation and report back to Congress after two years.

Industrial Energy Conservation: The title authorizes an additional $40 million annually in FY 1981 and 1982 for DOE's industrial energy conservation research, development and demonstration program.

Home Weatherization Program Amendments: The 1976 Energy Production and Conservation Act established a low-income weatherization program using CETA labor to install insulation in poor peoples' homes.

Title V amends that program to allow use of non-CETA workers where sufficient CETA workers are not available and to limit to 10 percent the administrative costs of the program. In addition, the compromise gives governors greater flexibility in assigning administrative responsibility for the program to private agencies other than the local Community Action Agencies which currently run most of the EPCA programs.

TITLE VI

Geothermal Energy: Although considerably less ambitious than the geothermal title of the original Senate bill, title VI contains three major provisions to expand geothermal energy use.

The first expands a subsidy to geothermal which was first authorized in the 1974 Geothermal Research, Development and Demonstration Act. The act authorizes loan guarantees for up to 75 percent of the cost of small geothermal facilities.

The bill increases the eligible level to 90 percent and increases the size of eligible plants from the current 30 megawatts to 80 MW or less.

The second major provision would encourage geothermal development by making plants eligible for certain benefits under the Public Utility Regulatory Policies Act. The major benefit, already accorded renewable energy and cogeneration facilities, would be an exemption from FERC requirements. In addition, FERC could order utilities to include geothermal powerplants in power grids and to provide supplementary electricity to facilities using geothermal plants as a power source. Cogeneration facilities already are eligible for this break, which is designed to keep utility companies from squeezing out non-traditional competition.

The third provision authorizes $5 million in FY 1981 and $20 million in each of the following four fiscal years for geothermal reservoir confirmation by DOE. DOE also would be authorized to study establishing reservoir insurance.

The conference agreement also contains language designed to protect the Yellowstone geysers from depletion caused by geothermal exploitation nearby and a provision to allow Hawaii to get federal funds to run a power cable from the hot springs areas on Hawaii Island to the heavily populated areas of Oahu Island.

TITLE VII

Acid Rain and Carbon Dioxide Studies: The Senate bill had a study on carbon dioxide emissions as part of the synthetic fuels title and an acid rain study in a Title X. The conferees combined the two studies into one title.

The title would authorize $50 million for a 10-year study of acid precipitation. The study would be carried out by the four national energy laboratories—Argonne, Battelle, Brookhaven and Oak Ridge—supervised by an interagency task force.

The study would look into the causes and effects of acid precipitation and develop a plan for reducing acid rain damage.

The carbon dioxide study would be a three-year, $3 million dollar study by the National Academy of Sciences of the impact of fossil fuel combustion, coal conversion and synthetic fuels development on atmospheric carbon dioxide levels and the "greenhouse effect," a gradual warming of the earth caused by increased CO_2.

TITLE VIII

Strategic Petroleum Reserve: The conferees adopted two provisions designed to force the administration to fill the U.S. Strategic Petroleum Reserve at a rate of at least 100,000 barrels per day.

The administration stopped filling the SPR in 1978, leaving the reserve 410 million barrels short of its 500 million barrel goal. Since then, Carter has resisted pressure to resume pumping, reportedly because of threats from the Saudi Arabians and other Middle Eastern oil producers to cut their production if the reserve is filled.

The first provision of Title VIII would tie SPR purchases to the current program of selling oil from the Naval Petroleum Reserve at Elk Hills, Calif.

The government could sell no oil from Elk Hills if the Strategic Reserve were not being filled at the mandated level. Shutting down Elk Hills would cost the government between $2.2 billion and $2.5 billion per year, and the threat of such a large revenue loss is expected to compel the administration to follow Congress' wish.

In addition, to cut the cost of filling the reserve, conferees adopted a provision which will allow the government to purchase oil for SPR at an unusually low price, $6.90 to $7.40 per barrel, rather than the $25 per barrel current average price.

This provision would allow the government to purchase price controlled "low-tier" oil, which costs between $6.90 and $7.40 a barrel, without shelling out the roughly $17 per barrel entitlement which other buyers of lower-tier oil are required to pay.

The entitlement program was designed to prevent refiners who have ready supplies of price controlled oil from having a competitive advantage over those who must purchase decontrolled "upper-tier" oil on the world market. The price break for the government would last only until October 1981, when the price control system expires.

By removing the bottom from the price structure, the new SPR provisions will raise the average price of petroleum products slightly. Staff estimates that the price of gasoline will increase by an average of one-half cent per gallon if oil is purchased for SPR at the 100,000 barrel-per-day rate.

But allowing the government to purchase oil at the controlled price lowers dramatically the cost of filling SPR. Under the new plan, 36.5 million barrels could be pumped into SPR in one year for between $250 million and $340 million.

If entitlements have to be paid, one year's cost would be roughly $925 million.

Conferees hope to convince the administration that it should take advantage of the cheap oil while it lasts and fill SPR at a rate far exceeding 100,000 barrels per day during the 15 remaining months of price control.

At 100,000 barrels per day, it would take 11 years to fill the SPR.

A faster rate of purchase would have a larger effect on gasoline prices. But the government would save billions if the bulk of SPR purchases were made at low-tier prices while the control system lasted.

Positions: This bill is so huge that it has something for nearly anybody.

Environmental groups who fought hard against the synthetic fuels program in the past still oppose it. But they support the solar energy, energy conservation and renewable energy incentives in the bill. Industry representatives did not get everything they wanted but got enough to be happy.

The administration opposed the SPR provisions, but has decided to go along with them and supports the bill, even though the corporation has been scaled down significantly from Carter's original $88 billion proposal.

Not all the conferees are happy with the final product. Rep. Brown (R-Ohio), ranking member of the House Energy and Power Subcommittee, reportedly plans not to sign the conference report. But staff on all sides predicts swift passage in both Houses. The administration already has begun to plan how to spend the money.

Contacts: Senate Energy: Richard Grundy, x49894, Mike Harvey, x40611, and Pete Smith, x47166, majority; Steve Hickok and Chuck Trabandt, x43221, minority. And for Title I: Owen Malone, x47141 majority. Title II: Jim Bruce, x49894, and Lee Wallace, x44431, both majority. Titles III and V: Ben Cooper, x49894, majority. Title VI: Lee Wallace. Title VII: Dave Swanson, minority, x43221. Title VIII: George Dowd, x42564, majority.

Senate Banking: Title I: Leon Reed, x42337, majority; John Daniels, x49150, minority. Title V: Paul Winslow, x42337, majority; Linda Zemke, x40893, minority.

Senate Agriculture: Philip Fraas and Bill Lesher, x42035, majority, John Bode, x42035, minority.

House Banking contacts: Title I: Norm Cornish, x57810 and Ruth Wallick, x51273, both majority, Graham Northup, x52258, minority. Title V: Roger Faxon and Diane Dorius, x57054, both majority; David Kiernan, x57502, minority.

House Commerce: Title I: Mike Ward, mapority, x51030; Randy Davis, x53641, and Steve Bienstock, x54324, minority. Title III, Dave Finnegan, x51030, majority. Title V: Nancy Mathews and Andy Athy, x51030, majority; Randy Davis and Mike Boland, x52963, minority. Title VII: Nancy Mathews, x51030, majority. Title VIII: Mike Barrett, x51030, majority.

House Science: Rob Ketcham, x51774, and Skip Spensley, x52891, majority; Jack Dugan, x51623, minority.

House Agriculture: Gary Norton, x52171.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider the nominations beginning on page 2, going through page 2 with the exception of Calendar Order No. 185, Gen. David C. Jones, continuing through page 3, page 4, page 5, with the exception of Calendar Order No. 208, Don Alan Zimmerman.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that the items on the Executive Calendar which he has just identified are cleared on our side and we have no objection to their consideration and confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

I ask unanimous consent that the nominees be considered en bloc, confirmed en bloc, that the motion to reconsider en bloc be laid on the table, and that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Charles William Snodgrass, of the District of Columbia, to be an Assistant Secretary of the Air Force.

FEDERAL COUNCIL ON THE AGING

Shimeji Kanazawa, of Hawaii, to be a member of the Federal Council on the Aging.

Charles J. Fahey, of New York, to be a member of the Federal Council on the Aging.

IN THE AIR FORCE

Lt. Gen. Charles A. Gabriel, [redacted]FR, U.S. Air Force, to be general.

Gen. John W. Pauly, U.S. Air Force, to be general.

Maj. Gen. Jerome F. O'Malley, to be lieutenant general.

IN THE ARMY

Brig. Gen. Cohen Everett Robertson, to be major general.

Col. Robert Martin Morgan, to be brigadier general.

IN THE NAVY

William Jewell Gilmore to be rear admiral.

Joseph L. Loughran to be rear admiral.

Herbert Marvin Bridge to be rear admiral.

Samuel Amspoker Cummins to be rear admiral.

Martin Joseph Andrew to be rear admiral.

Benjamin J. Lehman to be rear admiral.

Philip Wesley Smith, Jr., to be rear admiral.

George William Lotzenhiser to be rear admiral.

James William Gray, Jr., to be rear admiral.

Donald Sebring Albright, Jr., to be rear admiral.

Carl August Brettschneider, to be rear admiral.

MEDICAL CORPS

Harold Moser Voth, to be rear admiral.

Matthias Henry Backer, Jr., to be rear admiral.

Park Weed Willis III, to be rear admiral.

John Robert Senior, to be rear admiral.

SUPPLY CORPS

Dean Bearchell Seiler, to be rear admiral.

William Alvin Armstrong, to be rear admiral.

Frank James Allston, to be rear admiral.

CHAPLAIN CORPS

Gerald Edward Kuhn, to be rear admiral.

CIVIL ENGINEER CORPS

Peter Ross Brown, to be rear admiral.

JUDGE ADVOCATE GENERAL'S CORPS

Penrose Lucas Albright, to be rear admiral.

DENTAL CORPS

Frank Hannum Anderson, to be rear admiral.

THE JUDICIARY

William Albert Norris, of California, to be U.S. circuit judge for the 9th circuit.

Ruth Bader Ginsburg, of New York, to be U.S. circuit judge for the District of Columbia Circuit.

Jerre S. Williams, of Texas, to be U.S. circuit judge for the 5th circuit.

Robert Boochever, of Alaska, to be U.S. circuit judge for the 9th circuit.

Helen Wilson Nies, of Maryland, to be an associate judge of the U.S. Court of Customs and Patent Appeals.

G. Wix Unthank, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Clyde Frederick Shannon, Jr., of Texas, to be U.S. district judge for the western district of Texas.

Filemon B. Vela, of Texas, to be U.S. district judge for the southern district of Texas.

Robert P. Aguilar, of California, to be U.S. district judge for the northern district of California.

Justin L. Quackenbush, of Washington, to be U.S. district judge for the eastern district of Washington.

Horace W. Gilmore, of Michigan, to be U.S. district judge for the eastern district of Michigan.

DEPARTMENT OF EDUCATION

Martha Keys of Kansas, to be an Assistant Secretary of Education (Legislation).

Daniel B. Taylor, of Massachusetts, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education.

Edwin W. Martin, Jr., of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

COMMUNITY SERVICES ADMINISTRATION

Richard John Rios, of California, to be Director of the Community Services Administration.

Michael T. Blouin, of Iowa, to be an assistant Director of the Community Services Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, AND NAVY

Air Force nominations beginning Santa C. Ngo, to be major, and ending John T. May, to be Permanent Professor, U.S. Air Force Academy, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 1980.

Army nominations beginning Lawrence Abramson, to be lieutenant colonel, and ending Edward P. Arominski, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 1980.

Navy nominations beginning Robert J. Hartzman, to be commander, and ending Connie L. Myers, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1980.

Mr. STEVENS. Mr. President, I am delighted to be here to support the nomination of Justice Robert Boochever of the Alaska Supreme Court to the Ninth Circuit Court of Appeals.

President Carter has nominated Bob Boochever to be a member of the Ninth Circuit Court of Appeals. If confirmed by the Senate and I hope he will be quickly confirmed, he will be the only Alaskan serving on that court. He will correct a long standing inequity, in that no Alaskan has ever served on that court or any other Federal appellate court.

At the current time Alaska is the only State in the ninth circuit which does not have a resident on the appellate court. Since 1976 litigation from Alaska going to the ninth circuit court has increased faster than litigation from any other State. Up to 13 percent of the cases before the court are coming from Alaska, making Alaska fourth among the 10 jurisdictions in thet circuit on the number of cases it produces.

Alaska's lifestyle, geography and problems are different from the problems of any other State. As the Nation's largest State with vast resources and critical strategic importance, Alaska should have a resident citizen on the court, and I am delighted that the President has finally recognized this.

Bob Boochever currently serves as an associate justice of the Alaska Supreme Court. He was appointed to that court, which is Alaska's highest appellate court, by Gov. William Egan in February 1972. He has served with distinction since then and held the position of chief justice from 1975 to 1978 under my State's rotating procedure for selecting chief justices.

Prior to his service on my State's highest court, Bob was in private practice with his firm in Juneau. He has also served as assistant U.S. attorney in Juneau. Bob has had a varied and extensive experience in all areas of the law. He has considerable trial and appellate background as an attorney and obviously extensive experience as an appellate judge.

In addition to his extensive legal background Bob Boochever has demonstrated his concern for the community by his activities with the Rotary Club, Boy Scouts, the American Red Cross, the Salvation Army, St. Ann's Hospital Board, the Juneau Planning Commission and numerous other civic and community groups.

I have known Bob Boochever for many years. He is an excellent lawyer and an outstanding judge. The people of Alaska are very pleased that he has been nominated to represent them on the ninth circuit. He will do his usual fine job and I join other Alaskans in urging that the Senate act promptly to consider his nomination and forward it to the full Senate.

I ask unanimous consent that the attached letters of support be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF ALASKA, DEPARTMENT OF
HEALTH & SOCIAL SERVICES,
June 8, 1980.

Attention: Ms. Susan McDermott.
Senate Judiciary Committee,
Dirksen Senate Office Building,
Washington, D.C.

It is my understanding that the Senate Judiciary Committee will be holding confirmation considerations for the Honorable Robert Boochever for the ninth circuit court. It has been my great honor to have known Justice Boochever for over 30 years. For ten years it was my responsibility to administer the Methodist Church programs for Alaska. For another ten years I served as president of Alaska Methodist University. For the past ten years I have served under two Alaska Governors as Commissioner and Deputy Commissioner in Cabinet and subcabinet posts in the fields of health and social services.

During all those years it was possible to observe the services rendered by Justice Boochever first as one of Alaska's most distinguished lawyers and later as one of the justices and also Chief Justice of Alaska's Supreme Court. In my opinion no man in the Western States could serve better the ninth circuit court than Justice Robert Boochever. He is qualified well by education, experience and character to serve that post. During Justice Boochever's distinguished career in public life in Alaska for over thirty years no man has been held in higher esteem as a public servant. While working in sensitive areas, handling complicated cases, writing and delivering decisions for Alaska Supreme Court and participating in all the decisions of that Court Justice Boochever has always been considered as a fair and impartial jurist. In all his public career there has never been the slightest indication of any impropriety either in public service or in private life. Justice Boochever is seen as a man of keenest intellect, judicial temperament, understanding, compassion, courage, toughness but above all else fairness. In approving Justice Boochever for the ninth circuti court a great service will be rendered to the whole region being served by that court and history without doubt will confirm that Justice Boochever's appointment will be one of the great appointments for which the region and the Nation can take great pride.

FREDERICK MCGINNIS,
Deputy Commissioner.

ALASKA BAR ASSOCIATION,
Anchorage, Alaska, June 6, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing on behalf of the Alaska Bar Association to express our strong support for the nomination of Justice Robert Boochever of the Alaska Supreme Court to a seat on the Ninth Circuit Court of Appeals.

Justice Boochever has distinguished himself during his eight years on the Alaska Supreme Court. We are proud that an Alaskan has been nominated to the Ninth Circuit Court of Appeals for the first time, and we are proud that such an able candidate as Robert Boochever has been selected for that nomination.

During his tenure on the Alaska Supreme Court Justice Boochever has earned a reputation as an energetic, hardworking and most capable justice. In his years before that as an attorney in private practice, he developed an unsurpassed reputation as a litigator. His abilities and experience promise to distinguish him as a member of the Ninth Circuit bench.

We strongly urge your support and the support of the Senate Judiciary Committee for the nomination of Justice Robert Boochever.

Very truly yours,
WILLIAM B. ROZELL,
President Elect.

HISPANIC ALASKANS, INC.,
Anchorage, Alaska, March 11, 1980.

U.S. Senator TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Enclosed please find a copy of a letter from Hispanic Alaskans, Inc., to President Carter, supporting the nomination of Robert Boochever, Alaska Supreme Court Justice, to the United States Court of Appeals for the Ninth Circuit.

Justice Boochever is an individual with outstanding qualifications. Because of his well-documented record which reflects his sensitivity to the problems of minorities in the justice system, we know that he will be an outstanding judge in the Ninth Circuit Court of Appeals.

Sincerely,
RENE J. GONZALEZ,
Hispanic Alaskans, Inc.

HISPANIC ALASKANS, INC.,
Anchorage Alaska, March 10, 1980.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: Hispanic Alaskans, Inc., a non-profit corporation which represents the interest of approximately 10,000 Hispanics in the Anchorage area hereby supports the nomination of Robert Boochever, Alaska Supreme Court Justice, to the United States Court of Appeals for the Ninth Circuit.

Hispanic Alaskans has carefully reviewed Justice Boochever's record and finds that he is an individual with outstanding qualifications to serve as an appellate judge in the Ninth Circuit. Of particular importance to us as members of a minority class is the well-documented record Justice Boochever has in regards to sensitivity to the problems of minorities in the Criminal Justice System.

We congratulate you for having made such an outstanding selection for appointment to the Ninth Circuit Court of Appeals.

Sincerely,
RENE J. GONZALEZ,
Board of Directors.

IN SUPPORT OF THE NOMINATION OF MRS. SHIMEJI KANAZAWA OF HAWAII TO BE A MEMBER OF THE FEDERAL COUNCIL ON AGING

Mr. MATSUNAGA. Mr. President, I rise in strong support of the nomination of Mrs. Shimeji Kanazawa of Hawaii to be a member of the Federal Council on Aging. In doing so, I wish to commend the Senator from New Jersey (Mr. WILLIAMS), and members of the Committee on Labor and Human Resources, which he chairs, for the expeditious action taken in favorably reporting Mrs. Kanazawa's nomination for ratification by the Senate.

Mrs. Kanazawa is exceptionally well-qualified for this important post. A former chairperson of the Hawaii State Commission on Aging, Mrs. Kanazawa was primarily responsible for the development and implementation of Hawaii's progressive programs for senior citizens. She played a leading role in the development of Hawaii's master plan for the elderly, which is recognized as one of the most outstanding in the Nation, and she organized and chaired the 1976 Governor's Bicentennial Conference on Aging in Hawaii.

Mrs. Kanazawa was appointed to the Hawaii State Commission on Aging after many years of business experience in the private sector. She has also been an active "volunteer," serving as a member of numerous community organizations devoted to the welfare of senior citizens, women, and children. Earlier this year, she was named a Thomas Jefferson Award winner for the State of Hawaii.

I am confident that Mrs. Kanazawa will prove to be an outstanding and highly competent member of the Federal Council on Aging, and I urge my colleagues to vote to ratify her nomination.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator KENNEDY on the confirmation of Ruth Bader Ginsburg to the U.S. Court of Appeals for the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR EDWARD M. KENNEDY ON THE CONFIRMATION OF RUTH BADER GINSBURG TO THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Perhaps the greatest legacy of the Judiciary Committee in the 96th Congress is our effort to fill the federal judiciary with the most capable men and women who are sensitive to the needs of all Americans for equal justice under the law.

One excellent example of our success is today's confirmation of Professor Ruth Bader Ginsburg to the U.S. Court of Appeals for the District of Columbia. Professor Ginsburg's distinguished background and professional accomplishments bring to the bench the expertise that our nation needs to uphold and advance the integrity of the federal judiciary. Her credentials include:

The highest rating of Exceptionally Well Qualified by a majority of the American Bar Association's Standing Committee on the Federal Judiciary;

The highest rating of Exceptional Commitment of Equal Justice by the Federation of Women Lawyers' Judicial Screening Panel;

17 years as a distinguished teacher of law at both Rutgers and Columbia Universities. She was the first woman to ever be appointed as a full Professor of Law at Columbia;

Academic and professional awards, among which are Phi Beta Kappa from Cornell, service on both the Harvard and Columbia Law Reviews, an honorary Doctorate in Law from the University of Lund in Sweden, Fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford, Scholar-in-Residence at the Rockefeller Foundation Bellagio Study and Conference Center, Robert S. Marx Lecturer at the University of Cincinnati, George Abel Dreyfous Lecturer at Tulane University, Will E. Orgain Lecturer at the University of Texas, Cleveland-Marshall Fund Lecturer at the Cleveland-Marshall College of Law, selection as one of the ten outstanding United States law school professors in mid-career by Time on March 14, 1977, Society of American Law Teachers Annual Outstanding Teacher of Law Award in 1979, and the Barnard College Annual Woman of Achievement Award in 1980.

Numerous endorsements which span the judicial philosophical spectrum, the texts of which I am including in the record today as a testament to Professor Ginsburg's broad based support;

A prolific body of books, articles and speeches in such diverse subjects as Women's Rights, Civil Procedure, Comparative Law, and Constitutional Law. In addition to her seminal case book on Sex-Based Discrimination, Professor Ginsburg's dozens of articles have appeared in the most prestigious law review journals of the nation;

Active participation in numerous bar association and professional group activities as well as service in such organizations as the American Jewish Congress, the National Endowment for the Humanities, the Council on Foreign Relations, several women's rights groups, and others too numerous to list;

Accomplishment as an appellate advocate in both the federal circuit courts and the United States Supreme Court while serving at the General Counsel and the Counsel to the Women's Rights Project of the American Civil Liberties Union. She has been on the briefs of at least nine major Supreme Court decisions and participated as an amicus party in numerous others.

Professor Ginsburg is certainly best known nationally for her landmark Supreme Court cases on gender based discrimination and her support for the Equal Rights Amendment. As a Constitutional scholar, a skilled analyst of legal trends and an effective advocate, she picked up the thread of sex discrimination as its time was ripening. The success of nearly all her major Supreme Court cases is a testament to her skill and the readiness of the issue for high court review. Her support for the Equal Rights Amendment has resulted in some of the most articulate, carefully constructed and legally founded arguments in favor of the Amendment that have been advanced.

She has captured my respect as an individual and as an attorney. She has my support on the ERA issue for which she was so persuasive an advocate. She also has my confidence that her role as advocate will be left at the court house door as she puts on the robes of jurist and that she will be unstintingly loyal to the obligation of impartiality with which she is soon to be entrusted. The same skill which made Professor Ginsburg a leading authority in the area of women's rights will now serve the nation from a different perspective. I believe that she will become one of our leading jurists.

I am pleased that the Senate has acted in confirming expeditiously Ruth Ginsburg. I believe that we have served the nation well.

I attach certain material in connection with the nomination.

INDEX OF CORRESPONDENCE RECEIVED BY COMMITTEE IN CONNECTION WITH RUTH BADER GINSBURG, D.C. CIRCUIT

Name and position:

William B. Spann, Past President, American Bar Association.

Chesterfield Smith, Past President, American Bar Association.

Merrell E. Clark, Current President, Association of the Bar of the City of New York.

William A. Delano, Executive Secretary, Association of the Bar of the City of New York.

Erwin Griswold, Former Solicitor General.

Charles Alan Wright, Professor, University of Texas Law School.

Albert J. Rosenthal, Dean, Columbia Law School.

Elmund L. Palmieri, Senior District Judge, Southern District of New York.

Lynn H. Schafran, National Director, Federation of Women Lawyer's Judicial Screening Panel.

Fred Richmond, Congressman, 14th District, New York.

S. William Green, Congressman, 18th District, New York.

Howard M. Squardron, President, American Jewish Congress.

Lawrence E. Walsh, Former District Judge and Former Deputy Attorney General; Chairman of Second Circuit Judicial Screening Panel.

Adrian W. DeWind, Immediate Past President, Association of the Bar of the City of New York.

Charles Breitel, Former Chief Judge, New York Court of Appeals (Highest State Court).

Allen R. Derr, Counsel in Reed v. Reed (92 SC 251).

Vincent L. McKusick, Chief Justice, Supreme Judicial Court, State of Maine.

Jack Greenberg, Director-Counsel, NAACP Legal Defense and Educational Fund, Inc.

Iris Mitgang, National Chair, National Women's Political Caucus.

Michael Sovern, President Elect, Colombia University.

Daniel Rezneck, Past President, District of Columbia Bar Association.

Leonard S. Janofsky, ABA-American Bar Foundation, Board of Editors of the ABA Journal.

Jacob K. Javits.

Daniel P. Moynihan.

ALSTON, MILLER & GAINES,
Atlanta, Ga., April 21, 1980.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I write to you as Chairman of the Senate Judiciary Committee to recommend to you and the Judiciary Committee wholeheartedly and without reservation confirmation of the appointment of Ruth Bader Ginsburg to the Circuit Court of Appeals of the District of Columbia.

I have worked with Ms. Ginsburg in the American Bar Association for many years, serving with her in the activities of the Section of Individual Rights and Responsibilities and on the Board of the American Bar Association JOURNAL; during my year as President, she was one of a team of twelve lawyers that I took into the People's Republic of China as guests of the Chinese government.

Ms. Ginsburg is a very brilliant person and a thoroughly capable and balanced lawyer. Although she has been active in the women's movement, she is thoroughly competent to deal with any legal issue in a dispassionate and analytical way. I had the pleasure of discussing with her on our two weeks trip to China various issues of national importance and found that she did not speak to the issues as an advocate but rather as an analyst of the strengths and weaknesses of both sides.

Certainly, I believe the judiciary will be well served by her appointment and I trust that, on the recommendation of your Committee, the Senate will confirm the President's nomination.

If you wish more detailed information, please call upon me.

Best regards.

Sincerely,

WM. B. SPANN, JR.

HOLLAND & KNIGHT,
Bartow, Fla., April 17, 1980.

Hon. EDWARD M. KENNEDY,
U.S. Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I wish to commend the federal judicial qualifications of Professor Ruth Bader Ginsburg, of Columbia Law School, who was recently nominated by President Carter for the existing vacancy on the United States Court of Appeals for the District of Columbia. That nomination is now pending before the Senate Judiciary Committee which you chair with such distinction. I join with lawyers who care about the justice system in regretting the premature and sad demise of Judge Harold Leventhal. But the vacancy occasioned by his death must be filled, and I think that Ruth Bader Ginsburg should fill it.

In my opinion, and without reservation, Ruth Bader Ginsburg will be a magnificent federal appellate judge. I know her quite well and I believe that she possesses the temperament, the character, and the professional abilities necessary to be an absolutely superior federal appellate judge. She is scholarly, reflective, judicious, and humane. She is extremely experienced in federal appellate practice. She teaches procedure and she is extremely well versed in it at all levels. As a general counsel for the American Civil Liberties Union, she has both briefed and orally argued multiple cases in the United States Supreme Court and other federal appellate courts. However, she is not just a lawyer with one arrow; indeed, she is a lawyer well versed and experienced in most all aspects of the law as it will be presented to the United States Court of Appeals for the District of Columbia.

While I recognize it to be a very broad statement, I suspect that there is no lawyer in America, male or female, better qualified to be a federal appellate judge. Truly, she is exceptionally well qualified; indeed, I anticipate that someday she well may be considered by you as President of the United States for appointment to the United States Supreme Court.

While I do like Ruth Bader Ginsburg personally (I have served with her in several American Bar Association activities), I am convinced that my endorsement is based solely on merit. In the summer of 1978, I spent more than two weeks with an American Bar Association delegation to the People's Republic of China. Seat assignments occasioned me to spend a very substantial part of the time on that trip with Professor Ginsburg. While I was already predisposed toward her professional capacities, I became convinced then that she has one of the superior legal minds of anyone I know. I find her legal writing to be succinct, pithy, concise, scholarly, and absolutely on target. While she is perhaps most proficient in procedure and constitutional law, I find that legally she has a broad and roving interest in all aspects of justice. Indeed, she is a completely well-rounded person who has the professional capacity to bring to the bench wisdom, moderation, compassion and justice in the myriad areas of the law routinely now a part of the docket of the Court of Appeals for the District of Columbia.

I very much hope that you will support her confirmation in the Senate Judiciary Committee and thereafter in the United States Senate. While I know that you are working very hard on the campaign, an activity on your part which I endorse, I do also urge that you participate in Professor Ginsburg's confirmation hearing to the extent possible.

This brings my personal and political best wishes.

Sincerely yours,

CHESTERFIELD SMITH.

JONES, DAY, REAVIS & POGUE,
Washington, D.C., April 28, 1980.

Re Ruth Bader Ginsburg.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The President has nominated Ruth Bader Ginsburg to be a judge of the United States Court of Appeals for the District of Columbia Circuit. I think this is an excellent nomination, and I am glad to write this letter on her behalf.

My acquaintance with Mrs. Ginsburg goes back to the fall of 1956, when she came to the Harvard Law School as a student. At that time, I was the Dean of the Harvard Law School. We did not then have a great many women students, and Mrs. Ginsburg (she was then Ruth Bader) soon came to my attention. She was an able and effective student, and showed fine personal qualities. At the end of her first year in law school, her record was near the top of the class, and she was elected to the Board of the Harvard Law Review, where she served during her second year at the Law School.

Following her second year, she married Martin D. Ginsburg, who was a member of the Class of 1958 at the Harvard Law School. Mr. Ginsburg was from New York, and he obtained employment in New York. Mrs. Ginsburg naturally felt that she should live in New York, so she transferred to the Columbia Law School for her third year, and received the LL.B. degree at Columbia in 1959.

She was elected a member of the Columbia Law Review Board, and thus has the unique distinction of having served on two law review boards.

Following her graduation, Mrs. Ginsburg

was law clerk to Judge Palmieri of the United States District Court for the Southern District of New York. She then began work in legal research, and in law teaching. She was on the faculty of the Rutgers Law School at Newark, New Jersey for several years. Since 1972 she has been a professor of law at the Columbia Law School.

Mrs. Ginsburg has had substantial experience in law practice, largley because of her participation in litigation involving questions of women's rights. In this connection, I was opposed to her in some cases when I was Solicitor General of the United States, and I found her to be able, effective, candid, and thoroughly professional. I have also had contact with her in other respects, most recently when she has been a member of the Special Committee on Amicus Curiae Briefs of the American Bar Association, while I have been chairman of that committee. In this work, she has been thorough and imaginative; she has shown high professional standards, and she has made major contributions to the work of the committee, most of which consists of the preparation and approval of amicus briefs to be filed in the Supreme Court of the United States.

It is true that much of Mrs. Ginsburg's experience has been with respect to civil rights, particularly the rights of women. I have great confidence, though, in the breadth of her views, and in her integrity. In her career up to date, she has worked as an advocate, and she has been an able and energetic advocate. Should she be confirmed, I have great confidence that she will apply the same ability and professional outlook to her judicial duties, and that she will meet judicial responsibilities in a thoroughly balanced and judicial manner.

If I can provide any further information, please let me know.

Very truly yours,

Erwin N. Griswold.

The Association of the Bar,
of the City of New York,
New York, N.Y., April 14, 1980.

Re Ruth Bader Ginsburg
Senator Edward M. Kennedy,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: I am pleased to learn that President Carter has submitted to your committee the name of Ruth Ginsburg for appointment to the United States Court of Appeals for the District of Columbia.

In my capacity as President of the Association of the Bar of the City of New York, I have had occasion to work with her and I am confident that she would make an excellent member of the Court of Appeals. She is an excellent lawyer. She works hard. She takes positions only after careful and thorough consideration and she listens to both sides of the argument with an open mind. She has a distinguished academic background and she writes with force and clarity.

I recommend her strongly to you and your committee.

Yours respectfully,

Merrell Clark.

The Association of the Bar of
the City of New York,
New York, N.Y., April 18, 1980.

Re Ruth Bader Ginsburg.

Hon. Edward M. Kennedy,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: I know that our President, Merrell E. Clark, Jr., has already written to you on behalf of Ruth Ginsburg. Because of my separate appreciation of the excellence of Ruth Ginsburg's performance at this Association, I want to augment the support for her candidacy by writing a separate letter.

No one who has worked with Ruth Ginsburg on a committee or heard her address an audience of judges and lawyers can doubt her intellectual and legal capacities. Similarly if one has followed her career and the causes that she has espoused, it is equally emphatic that Ruth Ginsburg would bring vision, humaneness and compassion to any bench she joins. Since these are qualities that I know you share, I am confident that Ruth Ginsburg has your support. I am hopeful that the opinions of members of this Association will help you persuade your colleagues of her merit. Your Committee could not find a stronger candidate for an appointment to the United States Court of Appeals for the District of Columbia.

Yours respectfully,

William A. Delano.

Columbia University in
the City of New York,
New York, N.Y., April 21, 1980.

Hon. Edward M. Kennedy,
Chairman, U.S. Senate Committee on the Judiciary, Washington, D.C.

Dear Senator Kennedy: I hope that the Judiciary Committee will report favorably on the nomination of Ruth Ginsburg to the United States Court of Appeals for the District of Columbia.

Professor Ginsburg is one of the most talented members of the Columbia Law School, and an outstanding law teacher by any yardstick. While generalizations about the opinion of a faculty on any subject are dangerous, I feel safe in saying that all of us at Columbia have been tremendously proud of her. Her exceptional intellectual qualities have manifested themselves in both her teaching and her writing, as well as in her achievements as the nation's outstanding advocate of women's rights. What may be less well known are her total intellectual honesty and objectivity, which are just as evident in fields in which she is deeply committed as they are in other areas.

Strictly speaking, Professor Ginsburg's advocacy has not been for women's rights, but against gender discrimination; indeed, in several of the leading cases she has briefed and argued it was discrimination against men that she was challenging. But whatever the issue, her involvement as an advocate has not lessened in the slightest the complete detachment that has been manifest in her teaching and her scholarship.

Although her nationwide reputation is undoubtedly based in large part on her work in the field of gender discrimination, Professor Ginsburg is also one of the nation's leading teachers and scholars in other aspects of constitutional law and in civil procedure. She has not only the intellectual ability but also the temperament to be a splendid appellate judge. We would miss her terribly here, but our profession and the nation would be the richer if she were appointed.

Sincerely,

Albert J. Rosenthal,
Dean, Faculty of Law.

U. S. District Court,
New York, N.Y., March 25, 1980.

Hon. Edward M. Kennedy,
Chairman, Judiciary Committee of the U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Senator Kennedy: I am writing in support of the candidacy of Professor Ruth Bader Ginsburg for appointment to the United States Court of Appeals for the District of Columbia. I consider her to be highly qualified for this appointment on a professional and personal level for all of the reasons stated in this letter.

Professor Ginsburg served as my law clerk for two years, from August 1959 to August 1961. I am now a senior judge of this court and have served as an active and senior judge for over 25 years. Ms. Ginsburg was among the five best law clerks whom I had the privilege to appoint. She was a devoted, conscientious, and thorough collaborator who assisted me in every phase of my work, was present during almost all the court proceedings at which I presided, and contributed substantially to my work product. She earned the esteem of all the attorneys and court personnel with whom she came in contact. During the time Ms. Ginsburg served with with me, this court operated on the master calendar system. Under that system, we were exposed as judges not only to a tremendous amount of work, but to a great variety of cases as well. The court was badly understaffed at the time, and it was a frequent occurrence for active judges to sit in the motion part from ten in the morning until after midnight.

Additionally, I had the responsibility of presiding at trials and hearings involving every conceivable issue that could be raised within the jurisdiction of this court. The result of this extensive experience is that Ms. Ginsburg obtained, during her service with me, what I consider to have been a very thorough indoctrination and training in trial work.

During the many years since her service with me terminated, I have remained in contact with Ms. Ginsburg and her family. I have the highest regard for them and have admired the way in which Ms. Ginsburg, a person of wide intellectual interests, has conveyed to her family her love of music, the opera, the French language, and gourmet cooking. She has fostered close and affectionate family ties and has been amply rewarded by a loving and charming family.

I realize that Professor Ginsburg has become known nationally as a legal champion of women's rights. I do not wish to derogate from this outstanding achievement. However, I am constrained to note that this has had the unfortunate result of tagging her in some quarters as a one-issue lawyer. The cases that she has successfully argued before the Supreme Court have been landmark cases, and they have reflected the work of a conscientious, well-prepared lawyer. It was not the success of a propagandist, and she is not deserving of a superficial tag.

In her teaching career, beginning with her first job as a law instructor at Rutgers University, it was a matter of importance to those who chose her to choose wisely and to choose a person of broad and solid background. I had considerable involvement with her appointment to the Rutgers law faculty. Her stature was recognized by her later appointment to the Columbia University School of Law faculty. Professor Ginsburg has met the exacting requirements demanded of her, and she has lived up to the disciplines and to the best traditions of her profession, in its teaching as well as in its practice.

In sum, I consider Ruth Bader Ginsburg to be a person eminently qualified by her background, training, and experience to be a judge of the Court of Appeals for the District of Columbia. I predict that she will be a welcome addition to that Bench and that her judicial career, if she is permitted to have one, will reflect great credit upon those who have had a hand in making it possible.

I stand ready to be a witness before your committee if that should be necessary or desirable and to amplify any of the statements I have made in this letter.

Sincerely yours,

Edmund L. Palmieri,
U.S.D.J.

FEDERATION OF WOMEN LAWYERS'
JUDICIAL SCREENING PANEL,
New York, N.Y., April 25, 1980.

Sen. EDWARD M. KENNEDY,
Chairman, Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR KENNEDY: The Federation of Women Lawyers' Judicial Screening Panel has evaluated the record of Professor Ruth Bader Ginsburg who is under consideration for appointment as United States Circuit Judge for the District of Columbia Circuit as reflecting exceptional demonstrated commitment to equal justice under law.

Yours sincerely,
LYNN HECHT SOHAFRAN, Esq.,
National Director.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 19, 1980

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on the Judiciary, Dirksen Office Building, Washington, D.C.

DEAR SENATOR: I am taking this opportunity to urge you to confirm the nomination of Professor Ruth Bader Ginsburg of New York to the District of Columbia Court of Appeals.

As I am sure you know, Professor Ginsburg is one of our country's most eminent and productive legal scholars. The list of her books, monographs and articles, the latter appearing in all the most prestigious Law Reviews in the United States, covers two single-spaced pages. Moreover, Professor Ginsburg has long been deeply involved at the highest levels with many of the leading national organizations dedicated to advancing the teaching, practice and administration of law. In addition to her many honors, she was recently named this year's outstanding professor of law by the Society of American Law Teachers.

I understand that Professor Ginsburg has received the highest rating from the American Association of the Bar's Standing Committee on the Federal Judiciary, "Exceptionally Well Qualified," as well as the highest rating of the Federation of Women Lawyers' Judicial Screening Panel, "Exceptional Demonstrated Commitment to Equal Justice Under Law." In appropriate recognition of Professor Ginsburg's distinguished career, the District of Columbia Circuit Court Nominating Commission, whose mandate was to select the most highly qualified candidates from throughout the United States, selected Professor Ginsburg, and it was from that list of outstanding candidates that the President selected her.

As the enclosed resume indicates, Professor Ginsburg has an exceptionally distinguished record of service in the fields of law and legal education. I enthusiastically recommend her prompt confirmation, and thank you for your consideration.

All good wishes.

Yours sincerely,
FRED RICHMOND.

Enclosure.

Ruth Bader Ginsburg, 150 East 69th Street, New York, N.Y. 10021.

Birth, Brooklyn, New York, March 15, 1933.

Married, June 23, 1954.

Husband, Martin David Ginsburg.

Children, Jane Carol Ginsburg, July 21, 1955; James Steven Ginsburg, September 8, 1965.

University attendance and degrees, Cornell University, 1950-54 A.B., Harvard Law School, 1956-58, Columbia Law School, 1958-59 LL.B. (J.D.), Lund (Sweden) University 1969 LL.D. (Hon.).

Honoraries, Phi Beta Kappa (PBK Visiting Scholar, 1973-74); Phi Kappa Phi; Harvard Law Review; Columbia Law Review; and Kent Scholar, Columbia Law School.

Professional employment, Law Secretary, Hon. Edmund L. Palmieri, United States District, New York (1959-61); Research Associate, Columbia Law School Project on International Procedure (1961-62); Associate Director, Columbia Law School Project on International Procedure (1962-63).

At Rutgers—The State University School of (Newark, New Jersey): Assistant Professor, 1963-66; Associate Professor, 1966-69; Professor, 1969-72; At Columbia University School of Law (New York, N.Y.); Professor, 1972.

Fellow, Center for Advanced Study in the Behavioral Sciences (Stanford, Ca.) 1977-78.

Bar admissions:

State of New York; District of Columbia; United States Supreme Court; United States Courts of Appeals. Second, Fifth and D.C. Circuits; United States District Courts, Southern and Eastern Districts, N.Y.; District of Columbia.

Professional memberships and activities:

American Civil Liberties Union, General Counsel, 1973. National Board of Directors, 1974; Director, Women's Rights Project, 1972-73.

American Bar Association, A.B.A. Journal, Board of Editors, 1972-78; Fellow, American Bar Foundation, 1978; Section of Individual Rights and Responsibilities, Council Member, 1975.

Section on International Law, Chair, Committee on Comparative Procedure and Practice, 1970-73.

Association of the Bar of the City of New York, Executive Committee, 1974-78; Sex and Law Committee, 1978; Post Admissions Legal Education Committee, 1970-74; Foreign Law Committee, 1966-69.

American Law Institute, Council Member, 1978; Adviser, Restatement, Judgments (2d), 1972.

Federal Bar Council, Vice President, 1978.

American Foreign Law Association, Vice President, 1973-76; Member, Board of Directors, 1970-77.

Association of American Law Schools, Executive Committee, 1972.

Society of American Law Teachers, Member, Executive Committee and Board of Governors through 1977; Vice President, 1978.

American Journal of Comparative Law, Editorial Board, 1966-72.

Judicial Conference of the Second Circuit, Planning and Program Committee, 1976.

Columbia University Center for the Study of Human Rights, Academic Advisory Board, 1977.

American Jewish Congress, National Commission on Law and Social Action, 1978.

Council on Foreign Relations, 1975.

Publications:

Co-author (with Anders Bruzelius), Civil Procedure in Sweden, Nijhoff 1965.

Co-author (with several foreign collaborators) of four chapters in Smit ed., International Cooperation in Litigation, Nijhoff 1965.

Co-translator (with Anders Bruzelius), Swedish Code of Judicial Procedure, Rothman-Sweet & Maxwell 1968.

Volume editor, Business Regulation in the Common Market Nations, vol. 1, McGraw-Hill 1969.

Author, A Selective Survey of English Language Studies on Scandinavian Law, Rothman 1970.

Co-author (with Herma Hill Kay and Kenneth M. Davidson), Text, Cases and Materials on Sex-Based Discrimination, West 1974 (Ginsburg & Kay Supplement, 1978).

Author, Constitutional Aspects of Sex-Based Discrimination, West 1974.

Co-author, The Legal Status of Women under Federal Law, Columbia Law School Equal Rights Advocacy Project 1974 (study commissioned by U.S. Commission on Civil Rights).

Contributor, Women in the Courts, National Center for State Courts 1978.

Articles 1962-78 in:

Harvard Law Review, Columbia Law Review, Supreme Court Review, Cornell Law Review, Tulane Law Review, Rutgers Law Review, University of Cincinnati Law Review, Valparaiso Law Review, Connecticut Law Review, Journal of Family Law, and American Journal of Comparative Law.

International & Comparative Law Quarterly, International Lawyer, Columbia Journal of Law & Social Problem, Human Rights, Harvard Women's Law Journal, Women's Rights Law Reporter, Civil Liberties Review, and American Bar Association Journal.

SUPREME COURT LITIGATION: RUTH BADER GINSBURG PARTICIPATION

Decisions (Briefs for Appellants, Appellees, Petitioners).

Reed v. *Reed*, 404 U.S. 71 (1971).

Struck v. *Secretary of Defense, cert. granted*, 409 U.S. 947, *judgment vacated*, 409 U.S. 1071 (1972).

Frontiero v. *Richardson*, 411 U.S. 677 (1973).

Kahn v. *Shevin*, 416 U.S. 351 (1974).

Weinberger v. *Wiesenfeld*, 420 U.S. 363 (1975).

Healy v. *Edwards*, 421 U.S. 772 (1975).

Turner v. *Department of Employment Security*, 423 U.S. 44 (1975).

Califano v. *Goldfarb*, 430 U.S. 199 (1977).

Duren v. *Missouri*, No. 77-6067 (pending).

AMICUS BRIEFS

Pittsburgh Press Co. v. *Pittsburgh Commission on Human Relations*, 413 U.S. 376 (1973).

Cleveland Board of Education v. *La Fleur*, 414 U.S. 636 (1974).

Corning Glass Works v. *Brennan*, 417 U.S. 188 (1974).

Geduldig v. *Aiello*, 417 U.S. 484 (1974).

Liberty Mutual Insurance Co. v. *Wetzel, cert, vacated as nonappealable*, 96 S. Ct. 1203 (1976).

General Electric Co. v. *Gilbert*, 429 U.S. 125 (1976).

Craig v. *Boren*, 429 U.S. 190 (1976).

Coker v. *Georgia*, 433 U.S. 584 (1977).

Dothard v. *Rawlinson*, 433 U.S. 321 (1971).

Nashville Gas Co. v. *Satty*, 434 U.S. 136 (1977).

University of California Regents v. *Bakke*, 98 S.Ct. 2733 (1978).

Los Angeles, Dep't of Water and Power v. *Manhart*, 435 U.S. 702 (1978).

Orr v. *Orr*, No. 77-1119 (pending).

BRIEF IN OPPOSITION TO CERTIORARI

Commissioner of Internal Revenue v. *Moritz*, 469 F.2d 466 (10th Cir. 1972), *cert. denied*, 412 U.S. 906 (1973).

CERTIORARI PETITIONS DENIED

Schattman v. *Texas Employment Commission* (1973).

Millenson v. *The New Hotel Monteleone* (1973).

Robinson v. *Board of Regents* (1974).

Junior Chamber of Commerce of Philadelphia v. *United States Jaycees* (1974).

Stubblefield v. *Tennessee* (Jurisdictional Statement) (1975).

Whitlow v. *Hodges* (1977).

OTHER

Coffin v. *Secretary of Health, Education, and Welfare* (Jurisdictional Statement).

Jablon v. *Secretary of Health, Education, and Welfare* (Jurisdictional Statement).

Mathews v. *Jablon*, *Mathews* v. *Coffin* (Motion to Affirm).

Vorchheimer v. *School District of Pennsylvania* (Petition for Certiorari, Petitioner's Reply Brief, and Brief for Petitioner).

PROFESSIONAL WRITINGS OF
RUTH BADER GINSBURG
(As of December 1978)

Books:

Civil Procedure in Sweden (1965) (with Anders Bruzelius).

Swedish Code of Judicial Procedure (1968) (with Anders Bruzelius).

Volume editor, Business Regulation in the Common Market Nations, vol. 1 (1969).

Text, Cases and Materials on Sex-Based Discrimination (1974, Supp. 1978) (with Herma Hill Kay and Kenneth M. Davidson; Supplement with Herma Hill Kay).

Monographs:

A Selective Survey of English Language Studies on Scandinavian Law (1970).

The Legal Status of Women under Federal Law (with Brenda Feigen Fasteau) (1974) (report to U.S., Commission on Civil Rights).

Constitutional Aspects of Sex-Based Discrimination (1974).

Articles:

The Jury and the Nämnd, 48 Cornell L.Q. 253 (1963).

Special Findings and Jury Unanimity in the Federal Courts, 65 Colum. L. Rev. 256 (1965).

The Competent Court in Private International Law, 20 Rutgers L. Rev. 89 (1965).

Chapters (with co-authors) on Denmark, Finland, Norway, Sweden, in Smit, ed., International Cooperation in Litigation (1965).

Civil Procedure, Basic Features of the Swedish System, 14 American Journal of Comparative Law 336 (1965).

Proof of Foreign Law in Sweden, 14 International & Comparative Law Quarterly 277 (1965).

Judgments in Search of Full Faith and Credit, 82 Harv. L. Rev. 798 (1969).

Recognition and Execution of Foreign Civil Judgments and Arbitration Awards, in Legal Thought in the United States Under Contemporary Pressures (1970).

Recognition and Enforcement of Foreign Civil Judgments: A Summary View of the Situation in the United States, 4 International Lawyer 420 (1970).

Notes in International Lawyer 1968–72: Right of U.S. Lawyers to Practice Abroad (vol. 3 at 903), Service of Process Abroad (vol. 4 at 150), Hearsay Evidence Abroad (vol. 4 at 163), Summary Adjudication (vol. 4 at 882), Legal Services to Poor People and People of Limited Means in Foreign Systems (vol. 6 at 128) (all relating to Scandinavian systems).

The Status of Women (Symposium editor), 20 American Journal of Comparative Law 585 (1972).

Men, Women and the Constitution, 10 Columbia Journal of Law and Social Problems 91 (1973).

Gender and the Constitution, 44 U. Cincinnati L. Rev. 1 (1975) (Robert S. Marx lectures).

Gender in the Supreme Court. The 1973 and 1974 Terms, 1975 Supreme Court Review 1 (1976).

Women As Full Members of the Club: An Evolving American Ideal, 6 Human Rights 1 (Fall 1977).

The Need for the Equal Rights Amendment, 59 A.B.A. Journal 1013 (1973).

Let's Have ERA as a Signal, 63 A.B.A. Journal 70 (1977).

Gender-Based Discrimination and the Equal Rights Amendment (Panel Presentation at 1976 2d Cir. Judicial Conference), 74 F.R.D. 298, 315–21.

Women, Equality, & The Bakke Case, 4 Civil Liberties Review No. 4, at 8 (November/December 1977).

Women, Men, and the Constitution: Key Supreme Court Rulings, in Women in the Courts (National Center for States Courts, 1978).

Is the ERA Constitutionally Necessary? Update (A.B.A. Special Committee on Youth Education for Citizenship, Spring 1978)

From No Rights, to Half Rights, to Confusing Rights, 7 Human Rights No. 1, at 12 (May 1978).

Sex Equality and the Constitution: The State of the Art, 4 Women's Rights Law Reporter 143 (Spring 1978).

The Equal Rights Amendment Is the Way, 1 Harvard Women's Law Journal 19 (Spring 1978).

Sex Equality and the Constitution, 52 Tulane Law Review 451 (1978) (George Abel Dreyfous lecture).

American Bar Association Delegation Visits People's Republic of China, 64 A.B.A. Journal 1516 (1978).

Book Review, Tribe, American Constitutional Law, 92 Harv. L. Rev. (November 1978).

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 23, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: It is with great pleasure that I write to express my wholehearted endorsement of the nomination of Ruth Bader Ginsburg to the D.C. Court of Appeals.

I know Ruth Ginsburg personally, having served with her on the Executive Committee of the Association of the Bar of the City of New York. She is an exceptionally well qualified individual and I believe one of the President's outstanding nominations.

Currently a Professor at Columbia Law School, Ruth Ginsburg was the first woman to be appointed as a full Professor at Columbia Law. She will bring to the bench a scholarly mind, constitutional expertise, vast experience with appellate litigation and a dedication and commitment to equal justice and the rights of the individual.

I have no doubt that Ruth Ginsburg will be a credit to the Judicial System, representing the finest that we have to offer.

It is my sincere hope that the Committee will confirm her nomination, and I would greatly appreciate your conveying my support of this nomination to the Members of the Committee.

Thank you for your valuable time and consideration.

Yours truly,

S. WILLIAM GREEN,
Member of Congress.

AMERICAN JEWISH CONGRESS,
New York, N.Y., April 25, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

MY DEAR SENATOR KENNEDY: I am writing to support the nomination of Ruth Bader Ginsburg as a Judge of the United States Court of Appeals for the District of Columbia. Professor Ginsburg has been a member of the Commission on Law and Social Action of the American Jewish Congress, and has participated in our annual Dialogue in Israel. As a Columbia Law School professor, she has demonstrated impressive scholarship. In her AJ Congress work, she proved to be a person of balanced judgment and wide ranging interests.

The American Jewish Congress is most pleased at her nomination, and looks forward to her confirmation. We believe that she will make an outstanding contribution as a jurist.

Sincerely yours,

HOWARD M. SQUADRON,
President.

LAWRENCE E. WALSH,
New York, N.Y., April 21, 1980.

Re Ruth Bader Ginsburg.
Senator EDWARD M. KENNEDY,
Chairman of the Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR: Ruth Bader Ginsburg has been nominated by the President for a judgeship on the United States Court of Appeals for the District of Columbia. I am taking the liberty of submitting this letter to urge her confirmation for this office.

I have known Professor Ginsburg for several years, first as a member of the faculty of the Columbia University Law School, then in connection with American Bar Association work and finally as a fellow member of the Council of the American Law Institute. She is an outstanding lawyer who has excelled ever since her law school days. She led her class at Harvard and when she transferred to Columbia, also led her class there.

She has had notable appellate experience and is ideally equipped for an appellate judgeship. Her reputation among those who have worked with her both as to ability and temperament is of the best. She has been well liked by the Columbia faculty and they strongly support her in her aspirations for a judicial post.

With kindest regards,

Respectfully yours,

LAWRENCE E. WALSH.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW.
Austin, Tex., April 21, 1980.

Hon. EDWARD M. KENNEDY,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I was delighted to see in the press a week ago that the President has nominated Professor Ruth Bader Ginsburg to fill a vacancy on the United States Court of Appeals for the District of Columbia Circuit. I think that she is eminently qualified for such a position and that she will fill it with distinction.

I cannot remember when I first became acquainted with Professor Ginsburg. I have been closely associated with her since 1972 when she and I were named to the small group of Advisors for the American Law Institute Restatement Second of Judgments. In addition in 1978 she was elected to the Council of the American Law Institute, of which I have been a member for some years, and I have worked with her in that capacity.

Professor Ginsburg's skillful advocacy in constitutional litigation involving discrimination on the basis of sex has caused some persons to suggest that she is a "one issue" person. I can only think that those who make this suggestion have not had the opportunity I have had to see her apply her mind to a wide variety of legal issues. The subject matter covered by Restatement Second of Judgments has nothing to do with sex discrimination. Professor Ginsburg has been one of the Advisers on that project and has shown a wide knowledge of the law, keen analytical ability, and penetrating insight. In the Council of the American Law Institute since she became a member we have been dealing with such subjects as contracts, property, foreign relations law, and federal income taxation, as well as judgments. On all of this Professor Ginsburg has done her homework and her comments are always very helpful to our deliberation.

My work with her persuades me that she is bright, well balanced in her thinking, and judicious in her judgments. These seem to me precisely the qualities that a judge ought to have and there is no doubt whatever in my mind but that she will be an excellent judge.

Sincerely,

CHARLES ALAN WRIGHT.

ARNOLD & PORTER,
Washington, D.C., April 29, 1980.

Senator EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to commend to you my law school classmate and friend, Professor Ruth Ginsburg, who has been nominated to a vacancy on the United States Court of Appeals for the D.C. Circuit. I have known her since we were in law school over 20 years ago and have long admired her intellectual capabilities, good sense, and judgment. She was one of the outstanding members of our class and has continued to distinguish herself in her career at the bar and in teaching.

Professor Ginsburg is a member of the District of Columbia Bar and has appeared on a number of occasions in the courts of the District of Columbia. She is no stranger to the District and I am confident that her intellectual abilities and personal qualities will enable her to become an outstanding judge here. I am personally satisfied that members of the bar will recognize the high quality of such an appointment and will speedily come to respect her work as a judge.

Please let me know if there is any other information about her which I can furnish you.

With best regards.

Sincerely yours,

DANIEL A. REZNECK.

PAUL, HASTINGS, JANOFSKY & WALKER,
Los Angeles, Calif., May 13, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee,
U.S. Senate Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that your Committee shortly will be holding confirmation hearings with respect to Professor Ruth Bader Ginsburg's nomination as a Judge of the Court of Appeals for the District of Columbia and am writing to you on her behalf.

I have known Professor Ginsburg for a number of years, having served with her and observed her work in connection with a variety of American Bar Association activities, namely, the Board of Directors of the American Bar Foundation, the Board of Editors of the ABA Journal and as a member of the ABA Special Committee on Amicus Curiae Briefs, chaired by Dean Griswold, which Committee reviews all amicus curiae briefs filed on behalf of the ABA.

The principal characteristic which has impressed me about Professor Ginsburg is the careful, deliberate and evenhanded manner in which she approaches issues presented to her for consideration. I have found her to be a thoughtful person who gives serious and in-depth analysis to matters requiring her judgment.

I commend Professor Ginsburg to you and your fellow members of the Senate Judiciary Committee.

Respectfully,

LEONARD S. JANOFSKY.

COLUMBIA UNIVERSITY,
New York, N.Y., April 28, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Committee on Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I write to express my very high opinion of Professor Ruth Ginsburg, whose nomination to the United States Court of Appeals for the District of Columbia your Committee will soon be considering. I take considerable pride in the fact that she was one of the first appointments to the Columbia law faculty during my tenure as dean. Even in those prehistoric days, it was clear that Ms. Ginsburg was a lawyer and scholar of extraordinary promise who would add great strength to our School. I hasten to acknowledge that one did not have to be a particularly discerning judge of talent to predict success for her: the unmistakable signs were already there. To the best of my knowledge, she is the only person ever to have served on both the Harvard and Columbia Law Reviews and, by the time we invited her to join us, she enjoyed an international reputation as a civil procedure scholar. In fact, Sweden's Lund University had conferred the honorary L.L.D. upon her for her studies of Swedish civil procedure.

In the years since, Professor Ginsburg has more than fulfilled our expectations. Her scholarship has continued to be of the finest quality; she has been a highly influential teacher; and, as you know, she has been the nation's foremost advocate of women's rights in the Supreme Court of the United States. She has also, I should add, been an excellent colleague: agreeable, balanced in her judgments, and considerate of those with whom she works.

In sum, I firmly believe she would make an outstanding appellate judge. She has the temperament—fair-mindedness, patience and wilingness to listen; she has the intelligence—she is brilliant; and she has an enormous capacity for work.

If you or your colleagues wish anything further from me about her, I will, of course, be happy to provide it.

Respectfully yours,

MICHAEL I. SOVERN.

NATIONAL WOMEN'S
POLITICAL CAUCUS,
Washington, D.C., April 14, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We strongly support the nomination of Professor Ruth Bader Ginsburg to the United States Court of Appeals for the District of Columbia Circuit.

Professor Ginsburg is an extraordinary legal scholar and lawyer. Anyone who has ever come into contact with her professionally would attest to her brilliant mind, her high standards of excellence, her fairness, and her dignity. She possesses a deep and longstanding commitment to equal justice under law. The District of Columbia Circuit can only be enriched by her presence.

We urge speedy confirmation of Professor Ginsburg.

Sincerely,

IRIS MITGANG,
National Chair.

NAACP LEGAL DEFENSE
AND EDUATIONAL FUND, INC.,
New York, N.Y., May 28, 1980.
Senator EDWARD M. KENNEDY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The Senate Judiciary Committee has under consideration the nomination of Ruth Bader Ginsburg as a judge of the United States Court of Appeals for the District of Columbia Circuit. Let me join those who know her well and view her as one of the most capable, conscientious, careful lawyers the country has known. She is a leading scholar in constitutional law, has been a leading advocate for constructive positions and has always been a superb example of how a lawyer should conduct her or himself.

I urge that her nomination be brought to a hearing at the earliest possible time and that you do everything in your power to assure her confirmation.

Sincerely,

JACK GREENBERG,
Director-Counsel.

SUPREME JUDICIAL COURT,
Portland, Maine, May 19, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Judiciary Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to you in behalf of Professor Ruth Bader Ginsburg who has been nominated by the President for membership on the United States Court of Appeals for the District of Columbia. I have been professionally associated with Professor Ginsburg in a variety of connections for about ten years and from that experience am confident that she will make an admirable appellate judge.

I have known and worked with Mrs. Ginsburg, first, on the Board of Advisors to the American Law Institute's Restatement (Second) of Judgments, then for six years during which she was a member of the Board of Editors of the American Bar Association Journal, and finally in July of 1978 when she and I were members of a delegation of twelve sent to the Peoples Republic of China by the American Bar Association.

Professor Ginsburg's interest and learning in the law is wide-ranging. She has proven herself skilled in law teaching and in appellate advocacy, and from my observations of her work on the Board of Editors of the ABA Journal, she is an excellent lawyer with sound judgment and common sense. I consider her of judicial temperament and am confident that she will prove to be a high-grade addition to the Court of Appeals of the District of Columbia Circuit. I hope that your committee will give favorable consideration to her nomination for that post.

Very truly yours,

VINCENT L. MCKUSICK,
Chief Justice.

CHARLES D. BREITEL,
New York, N.Y., April 18, 1980.
Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I write in support of favorable consideration for Professor Ruth Bader Ginsburg, who has been nominated by the President of the United States for appointment to the Court of Appeals for the District of Columbia. Both of my own knowledge and by awareness of her reputation, I am confident that Professor Ginsburg would make an outstanding judge in the federal court system. She is a superb scholar, one who has demonstrated capacity for profound analysis and is equipped with skills of craftsmanship and articulation that would make her a valuable addition. She is a highly regarded teacher at the Columbia University School of Law, has written scholarly pieces that have attracted considerable note, and has always demonstrated a character of high integrity, including a high degree of intellectual integrity and independence.

Professor Ginsburg is a member of the Council of The American Law Institute, where I am also a member and have had frequent occasion to observe her participation in Council work. There she fulfills the characterizations that I have made of her ability. As an alumnus of the Columbia University School of Law and as the former Chief Judge of New York's highest court, the Court of Appeals of the State of New York, I have been very familiar with her reputation which, as I have indicated, is excellent.

Should it be required, I would be glad to provide any additional information as you may wish.

Sincerely yours,

CHARLES D. BREITEL.

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON,
New York, N.Y., April 18, 1980.
Hon. EDWARD F. KENNEDY,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has before it the President's nomination of Ruth Bader Ginsburg to the Court of Appeals for the District of Columbia. I am writing to express my support for this nomination and to urge that your Committee act on confirmation at the earliest possible time.

I have known Professor Ginsburg for more than 20 years. From the time she was a law student at Columbia University, her career has exemplified qualities of mind, character, temperament and energy which equip her to be an outstanding member of the federal judiciary.

During my presidency of the Association of the Bar of the City of New York from 1976 to 1978, Professor Ginsburg was a member of the Executive Committee of the Association. I thus had occasion to work with her more closely than ever before. Her contributions to the work of the Association were of a high order, demonstrating both dedication and responsibility in service to the Bar and, more importantly, to the public interest in the administration of law.

Your Committee will obviously have before it all details concerning Professor Ginsburg's career and attainments, and I do not need to repeat them. But I shall be very glad to answer any questions or provide any information that might be helpful to your Committee's consideration of this nomination.

With best personal regards.

Cordially,

ADRIAN W. DEWIND.

U.S. SENATE,
Washington, D.C., April 24, 1980.

Hon. BIRCH BAYH,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR BIRCH: A constituent, Ms. Ruth Bader Ginsburg of New York City, has been nominated by President Carter to the Court of Appeals for the District of Columbia.

She has an excellent academic and professional background as detailed by the enclosed.

She will be calling your office in the next few days regarding her nomination.

We would appreciate it if you would extend to her every proper courtesy.

Sincerely,

DANIEL PATRICK MOYNIHAN,
JACOB K. JAVITS.

Enclosure:

Ruth Badar Ginsburg: Columbia Law School, 435 W. 116 St., New York, N.Y., 10027 (212/280-2036).

Home address: 150 East 69th Street, New York, N.Y. 10021.

Birth: Brooklyn, New York, March 15, 1933.

Married: June 23, 1954. Husband, Martin David Ginsburg; children, Jane Carol Ginsburg, July 21, 1955; James Steven Ginsburg, September 8, 1965.

University attendance and degrees: Cornell University, 1950-54, A.B.; Harvard Law School, 1956-58; Columbia Law School, 1958-59, LL.B (J.D.); Lund (Sweden) University, 1969, LL.D (Hon.).

Honoraries: Phi Beta Kappa (PBK Visiting Scholar, 1973-74), Phi Kappa Phi, Harvard Law Review, Columbia Law Review, Kent Scholar, Columbia Law School.

Professional employment: Law Secretary, Hon. Edmund L. Palmieri, United States District Court, Southern District of New York (1959-61).

Research Associate, Columbia Law School Project on International Procedure (1961-62).

Associate Director, Columbia Law School Project on International Procedure (1962-63).

At Rutgers—The State University School of Law (Newark, New Jersey): Assistant Professor, 1963-66; Associate Professor, 1966-69; Professor, 1969-72.

At Columbia University School of Law (New York, New York): Professor, 1972.

Fellow, Center for Advanced Study in the Behavioral Sciences (Stanford, California) (1977-78).

Bar admissions: State of New York, District of Columbia, United States Supreme Court, United States Courts of Appeals, Second, Fifth and D.C. Circuits, United States District Courts, Southern and Eastern Districts, N.Y., and District of Columbia.

Professional memberships and activities:

American Civil Liberties Union—General Counsel, 1973; National Board of Directors, 1974; Director, Women's Rights Project, 1972-73.

American Bar Association—A.B.A. Journal, Board of Editors, 1972-78; American Bar Foundation, Board of Directors, 1979; Section of Individual Rights and Responsibilities, Council Member, 1975; Amicus Curiae Committee, 1979; Section of International Law, Committee on Comparative Procedure and Practice, 1970-73.

Association of the Bar of the City of New York—Executive Committee, 1974-78; Civil Rights Committee, 1979; Sex and Law Committee, 1978-79; Post Admissions Legal Education Committee, 1970-74; Foreign Law Committee, 1966-69.

American Law Institute—Council Member, 1978; Adviser, Restatement, Judgments (2d), 1972.

Federal Bar Council, Vice President, 1978.

American Foreign Law Association—Vice President, 1973-76; Member, Board of Directors, 1970-77.

Association of American Law Schools—Executive Committee, 1972.

Society of American Law Teachers—Member, Executive Committee and Board of Governors through 1977; Vice President, 1978.

American Journal of Comparative Law, Editorial Board, 1966-72.

Judicial Conference of the Second Circuit, Planning and Program Committee, 1976.

Judicial Council of the Second Circuit, Advisory Committee on Planning for the District Courts, 1979.

Columbia University Center for the Study of Human Rights, Academic Advisory Board, 1977.

American Jewish Congress, National Commission on Law and Social Action, 1978.

Council on Foreign Relations, 1975.

Publications:

Co-author (with Anders Bruzelius), Civil Procedure in Sweden, Nijhoff 1965.

Co-author (with several foreign collaborators) of four chapters in Smit ed., International Cooperation in Litigation, Nijhoff 1965.

Co-translator (with Anders Bruzelius), Swedish Code of Judicial Procedure, Rothman-Sweet & Maxwell 1968.

Volume editor, Business Regulation in the Common Market Nations, vol. 1, McGraw-Hill 1969.

Author, A Selective Survey of English Language Studies on Scandinavian Law, Rothman 1970.

Co-author (with Herma Hill Kay and Kenneth M. Davidson), Text, Cases and Materials on Sex-Based Discrimination, West 1974 (Ginsburg & Kay Supplement, 1978).

Author, Constitutional Aspects of Sex-Based Discrimination, West 1974.

Co-author, The Legal Status of Women under Federal Law, Columbia Law School Equal Rights Advocacy Project 1974 (study commissioned by U.S. Commission on Civil Rights).

Articles 1962-80 in:

Harvard Law Review, Columbia Law Review, Supreme Court Review, Texas Law Review, Cornell Law Review, Tulane Law Review, Rutgers Law Review, University of Cincinnati Law Review, Valparaiso Law Review, Connecticut Law Review, Journal of Family Law, American Journal of Comparative Law, and International & Comparative Law Quarterly.

International Lawyer, Columbia Journal of Law & Social Problems, Human Rights, Harvard Women's Law Journal, Women's Rights Law Reporter, University of Puget Sound Law Review, Washington University Law Quarterly, Civil Liberties Review, American Bar Association Journal, and Cleveland-Marshall Law Review.

SUPREME COURT LITIGATION

(Ruth Bader Ginsburg Participation)

Decisions (Briefs for Appellants, Appellees Petitioners).

Reed v. *Reed*, 404 U.S. 71 (1971).

Struck v. *Secretary of Defense, cert. granted*, 409 U.S. 947, *judgment vacated*, 409 U.S. 1071 (1972).

Frontiero v. *Richardson*, 411 U.S. 677 (1973).

Kahn v. *Shevin*, 416 U.S. 351 (1974).

Weinberger v. *Wiesenfeld*, 420 U.S. 636 (1975).

Edwards v. *Healy*, 421 U.S. 772 (1975).

Turner v. *Department of Employment Security*, 423 U.S. 44 (1975).

Califano v. *Goldfarb*, 430 U.S. 199 (1977).

Duren v. *Missouri*, 439 U.S. 357 (1979).

AMICUS BRIEFS

Pittsburgh Press Co. v. *Pittsburgh Commission on Human Relations*, 413 U.S. 376 (1973).

Cleveland Board of Education v. *La Fleur*, 414 U.S. 632 (1974).

Corning Glass Works v. *Brennan*, 417 U.S. 188 (1974).

Geduldig v. *Aiello*, 417 U.S. 484 (1974).

Liberty Mutual Insurance Co. v. *Wetzel*, *cert. vacated as nonappealable*, 424 U.S. 737 (1976).

General Electric Co. v. *Gilbert*, 429 U.S. 125 (1976).

Craig v. *Boren*, 429 U.S. 190 (1976).

Coker v. *Georgia*, 433 U.S. 584 (1977).

Dothard v. *Rawlinson*, 433 U.S. 321 (1971).

Nashville Gas Co. v. *Satty*, 434 U.S. 136 (1977).

University of California Regents v. *Bakke*, 438 U.S. 265 (1978).

Los Angeles, Dep't of Water and Power v. *Manhart*, 435 U.S. 702 (1978).

Orr v. *Orr*, 440 U.S. 268 (1979).

Califano v. *Westcott*, 99 S. Ct. 2655 (1979).

Wengler v. *Druggists Mutual Insurance Co.*, No. 79-381 (pending).

BRIEF IN OPPOSITION TO CERTIORARI

Commissioner of Internal Revenue v. *Moritz*, 469 F.2d 466 (10th Cir. 1972), *cert. denied*, 412 U.S. 906 (1973).

CERTIORARI PETITIONS DENIED

Schattman v. *Texas Employment Commission* (1973).

Millenson v. *The New Hotel Monteleone* (1973).

Robinson v. *Board of Regents* (1974).

Junior Chamber of Commerce of Philadelphia v. *United States Jaycees* (1974).

Stubblefield v. *Tennessee* (Jurisdictional Statement) (1975).

Whitlow v. *Hodges* (1977).

OTHER

Coffin v. *Secretary of Health, Education, and Welfare* (Jurisdictional Statement).

Jablon v. *Secretary of Health, Education, and Welfare* (Jurisdictional Statement).

Mathews v. *Jablon*, *Mathews* v. *Coffin* (Motion to Affirm).

Vorchheimer v. *School District of Pennsylvania* (Petition for Certiorari, Petitioner's Reply Brief, and Brief for Petitioner).

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(As of June 1979)

Books:

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Swedish Code of Judicial Procedure (1968) (with Anders Bruzelius).

Volume editor, Business Regulation in the Common Market Nations, vol. 1 (1969).

Text, Cases and Materials on Sex-Based Discrimination (1974, Supp. 1978) (with Herma Hill Kay and Kenneth M. Davidson; Supplement with Herma Hill Kay).

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A Selective Survey of English Language Studies on Scandanavian law (1970).

The Legal Status of Women under Federal Law (with Brenda Feigen Fasteau) (1974) (report to U.S. Commision on Civil Rights).

Constitutional Aspects of Sex-Based Discrimination (1974).

Articles:

The Jury and the Namnd, 48 Cornell L.Q. 253 (1963).

Special Findings and Jury Unanimity in the Federal Courts, 65 Colum. L. Rev. 256 (1965).

The Competent Court in Private International Law, 20 Rutgers L. Rev. 89 (1965).

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Civil Procedure, Basic Features of the Swedish System, 14 American Journal of Comparative Law 336 (1965).

Proof of Foreign Law in Sweden, 14 International & Comparative L. Q. 277 (1965).

Judgments in Search of Full Faith and Credit, 82 Harv. L. Rev. 798 (1969).

Recognition and execution of Foreign Civil Judgments and Arbitration Awards, in Legal Thought in the United States Under Contemporary Pressures (1970).

Recognition and Enforcement of Foreign Civil Judgments: A Summary View of the Situation in the United States, 4 International Lawyer 420 (1970).

Notes in International Lawyer 1968–72 on Right of U.S. Lawyers to Practice Abroad (vol. 3 at 903), Service of Process Abroad (vol. 4 at 150), Hearsay Evidence Abroad (vol. 4 at 163), Summary Adjudication (vol. 4 at 882), Legal Services to Poor People and People of Limited Means in Foreign Systems (vol. 6 at 128) (all relating to Scandinavian systems).

Sex and Unequal Protection: Men and Women as Victims, 11 Journal of Family Law 347 (1971).

The Status of Women (Symposium editor), 20 American Journal of Comparative Law 585 (1972).

Men, Women and the Constitution, 10 Columbia Journal of Law and Social Problems 91 (1973).

The Need for the Equal Rights Amendment, 59 A.B.A. Journal 1013 (1973).

Gender and the Constitution, 44 U. Cincinnati L. Rev. 1 (1975) (Robert S. Marx lectures)

Gender in the Supreme Court: The 1973 and 1974 Terms, 1975 Supreme Court Review 1 (1976).

Women As Full Members of the Club: An Evolving American Ideal, 6 Human Rights 1 (Fall 1977).

Gender-Based Discrimination and the Equal Rights Amendment (Panel Presentation at 1976 2d Cir. Judicial Conference), 74 F.R.D. 298, 315–21.

Let's Have ERA as a Signal, 63 A.B.A. Journal 70 (1977).

Realizing the Equality Principle, in Social Justice & Preferential Treatment (Blackstone & Heslep eds. 1977).

Women, Equality, & The Bakke Case, 4 Civil Liberties Review No. 4, at 8 (November/December 1977).

Women, Men, and the Constitution: Key Supreme Court Rulings, in Women in the Courts (National Center for States Courts 1978).

Is the ERA Constitutionally Necessary?, Update (A.B.A. Special Commitee on Youth Education for Citizenship, Spring 1978).

From No Rights, to Half Rights, to Confusing Rights, 7 Human Rights No. 1, at 12 (May 1978).

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DERR & SCHINDELE,
Boise, Idaho, February 22, 1980.

Senator EDWARD KENNEDY,
Chairman, Judiciary Committee,
Washington, D.C.

DEAR TED: I strongly urge you to support President Carter's nomination of Professor Ruth Bader Ginsberg to the U.S. Circuit Court of Appeals for the Washington, D.C. Circuit.

I have known Ruth since 1971.

She did an excellent job in briefing the case of Reed v Reed, 92 Supreme Court 251. This was the first successful sex discrimination case before the United States Supreme Court. I argued the case. Ruth was one of the Co-Counsel.

Ruth argued other equal protection cases before the United States Supreme Court thereafter and I have followed her career and her writings with interest.

Her brilliance and her objectivity have always impressed me.

While many of her cases before the United States Supreme Court involved pursuing women's rights, I believe she has done so as a good lawyer doing a good job. Through my observation she has handled these cases in a statesman-like manner and has generated and maintained the respect of her opponents in doing so.

I mentioned the foregoing as a preface to my opinion that the fact that she has handled a significant number of certain types of cases as a lawyer will not, in any way affect her capacity to be fair and objective.

I have no real personal or social relationship with Ruth, but having worked with her on the Reed case, and having followed her career since, I have no reservations whatsoever recommending the confirmation of her and I urge you to support her nomination.

Sincerely,

ALLEN R. DERR.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

APPELLATE COURT REORGANIZATIONAL ACT OF 1980

Mr. BAKER. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2830.

The Senate continued with the consideration of S. 2830.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, Senate bill 2830 is a bill to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the Fifth Circuit into two autonomous circuits. Because of the overwhelming support, by unanimous consent, this legislation was held at the desk after its introduction last week. I thank the distinguished majority leader and the distinguished minority leader for their assistance in proceeding to the immediate consideration of this bill. I also thank the chairman of the Judiciary Committee, Senator KENNEDY; the ranking minority member of the Judiciary Committee, Senator THURMOND; the chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, Senator DECONCINI; and the other members of the Judiciary Committee, including Senator THAD COCHRAN, who has worked particularly with the Republican members of the Judiciary Committee and the Republican Members of States which are affected by this bill. He has worked with them to obtain their consent that this matter be handled expeditiously. Without the invaluable assistance and support of all these people for this measure, it's immediate consideration would not be possible.

Mr. President, this U.S. Court of Appeals presently faces a caseload unparalleled by that of any Federal appellate court in history. Last year alone, the fifth circuit handled over 3,830 cases, over 800 more than the second busiest appellate court, the ninth circuit. Based on past work habits, it is expected that the 35 additional district court judgeships recently authorized by Congress will increase this figure by over 30 percent. Also, with the increase from 15 to 26 judges, the fifth circuit now has the largest en banc caseload ever pending before a Federal court.

The notion of judicial efficiency and fiscal economy demands a reexamination of the fifth circuit. A division of the fifth circuit would assure that appeals from that section of the country will be determined within a framework which promotes justice equal to that of the remaining circuits.

S. 2830 divides the present fifth circuit into two separate circuits. One, the new fifth circuit, will be composed of the States of Louisiana, Mississippi, and Texas, and will continue to be headquartered in New Orleans, La. The second, which will be designated the eleventh circuit, will be composed of the States of Florida, Georgia and Alabama, and the Canal Zone, and will be headquartered in Atlanta, Ga.

As I have mentioned, the support for the division of the fifth circuit is overwhelming. All 24 judges presently sitting on the court petitioned Congress for this division. This petition was inserted in the CONGRESSIONAL RECORD of June 12, 1980. Bar associations from all over the South have endorsed the split, as have the Fifth Circuit District Court Judges Association; former Attorney General Griffin Bell; former chief judge of the fifth circuit, John Brown; ABA President Jonofsky and president-elect Reece Smith, and the members of the ABA Board of Governors within the fifth circuit.

I think it is also important to note that several groups who have opposed any division of the fifth circuit in the past do not object with the arrangement contemplated by this bill. I am advised that included in this group is the Legal Defense Fund, the ACLU, the NAACP, and the Lawyer's Committee for Civil Rights. Judge Joseph Hatchett of Florida, the first black member of the fifth circuit, wholeheartedly endorses this legislation. Judge Hatchett had opposed previous legislation for division of this circuit.

Judge Frank Johnson is serving as chairman of a committee from the fifth circuit that is pushing this bill.

Finally, in this August body S. 2830 is being fully supported and cosponsored by each of the Senators representing the States that presently compose the fifth circuit.

Mr. President, a division of the U.S. Court of Appeals for the fifth circuit is crucial to prevent the inevitable erosion of the quality justice that the Federal courts provide to the American people. I urge my colleagues to join me in supporting S. 2830.

Thank you Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield me 3 minutes?

Mr. HEFLIN. I yield to the distinguished senior Senator from Mississippi.

Mr. STENNIS. Mr. President, I am an original cosponsor of S. 2830 and support it wholeheartedly. Its purpose is to divide the existing U.S. Court of Appeals for the Fifth Circuit into a new fifth circuit composed of Louisiana, Mississippi, and Texas, and a new 11th circuit composed of Alabama, the Canal Zone, Florida, and Georgia.

This division is long overdue. If this bill is enacted into law, it will mark one of the most significant actions of judicial reform taken by the 96th Congress. In the 95th Congress, the Senate adopted legislation to divide the fifth circuit into a more workable size when it passed S. 11, the Omnibus Judgship Act. However, this proposal was not accepted by the House of Representatives. The result was legislation passed by the Congress increasing the authorized active judges in the fifth circuit from 15 to 26. In addition, there are 10 senior judges who are active in the work of the court.

Not only is this the largest appellate court in the entire history of the Nation, the fifth circuit as presently constituted is faced with the largest caseload ever confronted by a Federal appellate court. Last year, it handled approximately 3,850 cases. The ninth circuit, the second busiest appellate court, handled about 800 fewer cases.

Mr. President, the primary importance of this bill is that it would promote judicial efficiency. It would give each judge additional time to focus on the issues before him. The size of the court itself creates problems which can possibly erode the expertise and quality of justice which the court can provide.

For example, a court of 26 judges sitting en banc is obviosuly cumbersome and time consuming. Giving each member of the court sitting en banc an opportunity for asking questions of the attorneys presents an obvious problem. In addition, each judge must review the opinions of the separate panels of the court in order to insure uniformity of the law within the circuit. In addition, to hear the appeals, each judge must review every petition for a rehearing en banc. In a recent en banc rehearing, the circulation of a document among all of the active judges took almost 4 hours. It took several days to go through this rehearing, and at the end, the decision resulted in a 12 to 12 tie vote.

I know of no opposition to this bill, Mr. President. All 24 judges in regular active service of the existing court have signed a petition requesting the Congress to enact legislation dividing this circuit as is proposed by S. 2830. All 12 Senators from the existing fifth circuit are cosponsors of this as are Senators KENNEDY and THURMOND, the chairman and ranking minority member respectively of the Senate Committee on the Judiciary. I hope that we will pass this bill today and that the House of Representatives will join in speedily enacting it into law.

Mr. President, naturally I would be proud of the work done by our colleagues here, and more particularly since this is in my State. I think they have done an amazing job.

Here is a circuit court district that has outgrown itself. Some would be surprised to know that the district stretches from Savannah, Ga., on the east, to El Paso, Tex., on the west.

Throughout all those years of growth we have never been able to get together on a division or some step forward that would meet he situation now with 24 judges.

At a recent en banc hearing, as I understood, it took 4 hours to move a document among those 26 judges, 4 hours to let the document in question move through for cursory examination. Just allowing 5 minutes to each judge to discuss a case would take 2 hours and 10 minutes, which is impossible.

The big thing is that all the Senators involved in these States and all the judges on this court agreed on this matter, and more particularly here it is worked out by the Judiciary Committee.

Unfinished business is what it is. They have worked it out in remarkable fashion and have brought it here in the interest of judicial expediency. They have brought it here under this unanimous report. It is an exceptionally fine job that they have done. It makes me proud of the circuits as they are going to be and to be a Member of this body that has the lawyers on its Judiciary Committee who worked so hard and so long in unison with the judge members of the circuit.

So it is a happy day. It is a happy day when we see the results of their work. I feel sure it will pass here and in the House of Representatives.

I especially thank the Senator from Alabama who has presented the bill and my own colleague, Senator COCHRAN, from Mississippi, who knows the bill from A to Z and has worked so hard and diligently all the way through.

I thank the Senator for yielding to me, and I yield the floor.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Mississippi (Mr. STENNIS) for his kind remarks and his assistance in helping bring this legislation to the point where it is now and working on it as he has for several years.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a resolution adopted by the Mississippi State Bar at its recent annual meeting.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, on May 5, 1980, the Judicial Council for the Fifth Circuit adopted a resolution petitioning the Congress of the United States to inact legislation dividing the presently existing Fifth Circuit into two completely autonomous Judicial Circuits, one to be composed of the states of Louisiana, Mississippi and Texas, with headquarters in New Orleans, to be known as the Fifth Circuit; the other to be composed of the states of Alabama, Florida and Georgia, with headquarters in Atlanta, to be known as the Eleventh Circuit; and

Whereas, all twenty-four members of the Court of Appeals for the Fifth Circuit signed a formal petition to Congress requesting the Legislature to be inacted to divide the Circuit into two completely autonomous Judicial Circuits.

Therefore, be it resolved by the Mississippi State Bar Association in general convention assembled that:

The Mississippi State Bar unanimously supports the proposed division of the existing Fifth Circuit into two completely autonomous Judicial Circuits, one to be composed of the states of Louisiana, Mississippi and Texas, headquarters to be in New Orleans, to be known as the Fifth Circuit; the other to be composed of the states of Alabama, Florida and Georgia with headquarters in

Atlanta, to be known as the Eleventh Circuit.

Mr. DECONCINI. Mr. President, I am pleased to cosponsor and speak in favor of S. 2830, a bill to divide the U.S. Court of Appeals for the 5th Circuit into 2 more manageable circuits, a new 5th circuit and the 11th circuit.

I have witnessed the problems experienced by the fifth circuit and the ninth circuit for several years and I am most pleased by the unanimity of support that accompanies the consideration of this bill. The judges of the fifth circuit voted 24 to 0 to support the split; former Attorney General Griffin Bell supports it; the Fifth Circuit District Court judges support it; bar associations throughout the South support it; and, indeed, I know of no group or individual that opposes the split.

The decision to split the fifth circuit is long past due. The Senate has previously adopted legislation to this general effect, but it never met with House approval. I believe the present geographical formula for the split, coupled with the ideological makeup of the court, and the crushing caseload that is being experienced by the fifth circuit, has now convinced all former opponents of a split of the absolute necessity to act now.

I would like to commend the judges of the fifth circuit for their efforts in achieving unanimity and for their initiative in resurrecting this legislation. They have set a fine example for other circuits who have similar problems both in the expeditious manner in which they have addressed their problem and in the creativity with which they have addressed a possibly sensitive proposal. I would also like to commend particularly my colleagues on the Judiciary Committee, Senators HEFLIN and COCHRAN, for their leadership and efforts on behalf of this legislation and for their continuing interest in the administration of justice in our country.

I heartily endorse this legislation and urge my colleagues to support it.

Mr. COCHRAN. Mr. President, the legislation that is before the Senate today is the result of many years of hard work by many concerned persons, both in Congress and connected with the fifth circuit of appeals, interested in the problems that have arisen in that jurisdiction because of the inordinately large size of that court.

The fifth circuit serves six States: Mississippi, Louisiana, Texas on the western side, and Alabama, Georgia, and Florida to the east.

The headquarters of the new circuits which will be proposed by this legislation will be in New Orleans for the old fifth circuit, which will include Mississippi, Louisiana, and Texas, and the headquarters of a new 11th circuit will be located in Atlanta, serving the States of Alabama, Florida, and Georgia.

The bill before us has been requested by every sitting judge in the fifth circuit and is the outgrowth of the excellent leadership of the chief judge of the fifth circuit, James P. Coleman of Ackerman, Miss.

He had appointed a group of sitting judges to try to work on the problems caused by the large size of that court. It is the largest appellate court in the history of the Republic. There are 24 sitting judges; 26 are authorized.

Because of the large size, an almost impossible situation has arisen. This division of the court into two new circuits will enable it to function much more efficiently and much more effectively.

Judge Coleman deserves credit for bringing all the judges together and molding a consensus that permits this division to take place.

To put that problem in perspective, the first recommendation for dividing the fifth circuit came in 1964, when a special committee of the Judicial Conference recommended that a division take place.

Then, in the 92d Congress, in 1971, Congress created, at the suggestion of the Judicial Conference, a commission on revision of the Federal court appellate system. The Commission recommended splitting the fifth circuit, but with two alternatives: A 3 to 3 State split, such as reflected in this measure, and a 4 to 2 State split, with Mississippi being the swing State.

In 1974, a judiciary subcommittee proposed a reorganization into two divisions rather than two separate circuits. The divisions, incidentally, would have split the States 4 to 2.

In 1975, the Senate reported a bill to have a 4 to 2 State split of the fifth circuit, dividing it into two circuits. The Louisiana Bar Association opposed that legislation and suggested a 3 to 3 division. That bill was not considered on the Senate floor, although it was recommended to the Senate by the Senate Judiciary Committee.

In 1977, Chief Judge Brown testified that the 13 active judges at that time had voted 10 to 3 to support a split and to request 10 additional judges to serve on the fifth circuit court.

The committee in the Senate adopted a proposal to divide the court as a part of the Omnibus Judgeship bill in 1977. There was a great deal of controversy that developed as a result of the recommendation of the committee to divide the court at that time.

I indicate this history, Mr. President, to illustrate the magnificent job that has been done by the judges on this court, particularly Judge Coleman of Mississippi and Judge Johnson of Alabama. Judge Frank Johnson was named as chairman of a committee of the judges to work on this problem. Because of their leadership, a consensus has formed, and I know of no opposition—no substantial opposition, certainly—that has developed to the recommendation that has been made by all the active judges on the court of appeals.

As a result of that work and the petition to Congress from all the sitting judges, this measure was drafted in the form in which it is now presented to the Senate and is brought to the Senate, having been introduced by the Senator from Alabama (Mr. HEFLIN) and cosponsored by every Senator from the six affected States. This is an indication of the support the measure has and of the support that has been attracted by the leadership of Judge Coleman.

Many Members of this body have worked for a long time to try to help iron out this problem. The distinguished senior Senator from Mississippi, who is in the Chamber, is one of those who have worked very diligently on this problem and has to be given credit for helping shape the consensus which has now formed to permit the passage of this measure. I also want to thank the distinguished ranking minority member of the Judiciary Committee, Senator THURMOND for his support and assistance with this legislation. For lawyers, litigants, and judges throughout the six States, this will be a contribution to the efficient administration of justice that is necessary in all Federal judiciary.

Mr. President, I will reserve the remainder of my time and permit others to speak on the measure at this time.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, today we recognize the dynamic growth of the South by creating a new Federal Circuit Court of Appeals to handle the extraordinary increased caseload of the fifth circuit court in New Orleans.

The fifth circuit has long been one of the Nation's most prestigious and gifted judicial bodies. The consistent brilliance of its jurists has been matched only by the breadth and scope of the precedent-setting cases it has decided.

Our actions today reflect our common concern that the court function at the peak of efficiency. The exponential growth of industry, particularly the petroleum industry, and the steady growth of the population in the six States which comprise the fifth circuit have placed an extremely burdensome caseload on the court.

This court, Mr. President, considers cases from the region of the country known as the Deep South, the area as we all know, from which many of this Nation's most important civil right cases have arisen.

There has been some concern that the new 11th circuit court, to be seated in Atlanta, will, for some reason, fail to decide civil rights cases before it in the judicious, compassionate manner of its forerunner.

I regret and reject this notion. And I would note that, from the region of the new court, have come no less men than Hugo Black, as staunch a defender of civil rights as ever graced this Nation, and the distinguished former Attorney General of the United States, Griffin Bell, who himself sat on the fifth circuit court.

There will be no lack of justice on the 11th Circuit Court of Appeals. I am certain it will distinguish itself in the same fashion as the fifth circuit has for decades.

And at this time, Mr. President, I would like to make brief mention of but a few of the landmark cases in the area of civil rights which have been decided by the fifth circuit, many during the tenure of Chief Justice Elbert Tuttle, who now holds senior status on that court.

In what has been called the most important civil rights litigation since Brown against Board of Education, it was the fifth circuit which ruled in the United States against Jefferson County, in 1967, that affirmative action was required for school integration—not merely the cessation of segregation.

It was the fifth circuit, in Meredith against Fair, which integrated the University of Mississippi.

It was the fifth circuit, in Lucy against Alabama, which integrated the University of Alabama.

It was the fifth circuit, in the 1972 case, Hawkins against Shaw, which ruled that minorities were entitled to equal public services, such as streets and sanitation.

It was the fifth circuit which ruled, in numerous cases, that blacks could not be excluded from juries merely because of their race.

It was the fifth circuit, which, in a host of cases, guaranteed equal access and equal facilities aboard buses, in hotels, restaurants, airports, and buildings across this Nation.

I note these instances, Mr. President, because, while I believe the division of the fifth circuit is necessary, we would be remiss in failing to take time to express our appreciation and admiration of the fifth circuit's simply splendid, unparalleled advancement of the cause of human dignity and its devotion to the execution of the laws and constitutional guarantees this Nation offers its citizens.

And I have a personal devotion to the fifth circuit also, Mr. President. The Governor of my home State, the distinguished Lamar Alexander, who I had the privilege of having as a member of my staff for some time, was a law clerk for one of the fifth circuit's most outstanding and exemplary members, the Honorable John Wisdom.

In conclusion, Mr. President, I believe the record established by the fifth circuit, the recent expansion of the Federal bench by the Omnibus Judges Act, and the creation of the 11th circuit court of appeals are proof positive of this Nation's ongoing efforts to establish a judicial system of unmatched excellence and competence in every district and every circuit.

Thank you.

Mr. COCHRAN. Mr. President, I have no request for time and I am prepared to yield back the remainder of my time on the bill.

Mr. HEFLIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Appellate Court Reorganization Act of 1980".

SEC. 2. Section 41 of title 28, United States Code, is amended—

(1) by striking out "eleven" in the first sentence and inserting in lieu thereof "twelve";

(2) by striking out the item relating to the Fifth Circuit and inserting in lieu thereof the following:

"Fifth_______Louisiana, Mississippi, Texas."; and

(3) by adding at the end thereof the following:

"Eleventh____Alabama, Canal Zone, Florida, Georgia.".

SEC. 3. Section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the Fifth Circuit and inserting in lieu thereof the following:

"Fifth ______________________________ 14"; and

(2) by adding at the end thereof the following:

"Eleventh __________________________ 12".

SEC. 4. Section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the Fifth Circuit and inserting in lieu thereof the following:

"Fifth__ New Orleans, Fort Worth, Jackson."; and

(2) by adding at the end thereof the following:

"Eleventh_____Atlanta, Jacksonville, Miami, Montgomery.".

SEC. 5. (a) Each circuit judge in regular active service of the fifth circuit whose official station is located in the States of Alabama, Florida, or Georgia is assigned as a circuit judge of the eleventh circuit with headquarters in Atlanta, Georgia. Each circuit judge in regular active service whose official station is located in the State of Louisiana, Mississippi, or Texas is assigned as a circuit judge of the fifth circuit with headquarters in New Orleans, Louisiana. The seniority in service of each of the judges so assigned shall run from the date of his original appointment to be a judge of the fifth circuit as it was constituted prior to the effective date of this Act.

(b) The United States Court of Appeals for the Eleventh Circuit is authorized to hold terms or sessions of court at New Orleans, Louisiana, until such time as adequate facilities for such court are provided in Atlanta, Georgia.

SEC. 6. A circuit judge in senior status of the fifth circuit as such circuit existed on the day prior to the effective date of this Act is assigned for administrative purposes to the circuit in which he resides on the effective date of this Act and, notwithstanding section 294(d) of title 28 of the United States Code, any such judge may be assigned, by the chief judge or the judicial council of either the fifth or eleventh circuit, such judicial duties as such judge is willing to undertake.

SEC. 7. The following provisions apply to any case in which on the day before the effective date of this Act, an appeal or other proceeding has been filed with the United States Court of Appeals for the Fifth Circuit as constituted before such date:

(1) If any hearing before such court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before such court has been held in the case, and the case has not been submitted for decision, then the appeal or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the court to which it would have been transferred had this Act been in effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if this appeal or other proceeding had been originally filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or in a matter submitted before the effective date of this Act and decided on or after the effective date of this Act, shall be treated in the same manner and with the same effect as if this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised in the same manner as if this Act had not been enacted.

(4) A matter that has been decided before the effective date of this Act that is remanded by the Supreme Court after the effective date of this Act shall be treated in the same manner and with the same effect as if this Act had not been enacted.

SEC. 8. The United States Court of Appeals for the Fifth Circuit as it is constituted before the effective date of this Act may take any administrative action to advance the purposes of this Act.

SEC. 9. This Act shall become effective on October 1, 1980.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 860.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This has been cleared with the minority. Mr. COCHRAN is here to so state, I believe.

Mr. COCHRAN. Mr. President, there is no objection on this side, and we are prepared to proceed.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Calendar No. 860, Senate Resolution 442, waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2377.

The Senate proceeded to consider Senate Resolution 442.

Mr. ROBERT C. BYRD. Mr. President, I am authorized by Mr. HOLLINGS to proceed with this resolution at this time. I ask unanimous consent that a statement by Mr. HOLLINGS be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Hollings has recommended that the Senate act favorably on Senate Resolution 442, to waive section 402(a) of the Budget Act with respect to S. 2377, the Department of Justice Appropriations Authorization Act for fiscal year 1981.

● Mr. HOLLINGS. Mr. President, I recommend the Senate act favorably on Senate Resolution 442, to waive section 402(a) of the Budget Act with respect to S. 2377, the Department of Justice Appropriations Authorization Act for fiscal year 1981.

The Budget Committee reported Senate Resolution 442 unfavorably on June 6. Its recommendation on the waiver was based on provisions of the bill which posed serious budget problems, including two unnecessary fiscal year 1980 authorizations for appropriations, and several appropriations forcing provisions.

The chairman of the Judiciary Committee, Mr. Kennedy, has indicated in a letter to the Budget Committee that technical amendments which eliminate the problem provisions will be offered on the floor if the waiver is adopted. Consequently, I am pleased to say that the Budget Committee will not object to adoption of this waiver.

I appreciate the committee's willingness to make these changes, and notwithstanding the unfavorable report on Senate Resolution 442, I know will support adoption of the waiver resolution for S. 2377.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2377, a bill to authorize appropriations for the Department of Justice for fiscal year 1981, and for other purposes. Such a waiver is necessary to allow consideration of the Department of Justice authorization bill to be concluded.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1980, deadline, because the Department of Justice and the Committee on the Judiciary had to resolve a series of substantive, outstanding issues before committee action on S. 2377 could be concluded.

The effect of defeating consideration of this resolution will be a total curtailment of Department of Justice fiscal year 1981 operations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2377, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 838, S. 2377, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1981".

TITLE I—AUTHORIZATIONS

Sec. 101. There are authorized to be appropriated for the fiscal year ending September 30, 1981, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For general administration, including—

(A) hire of passenger motor vehicles,

(B) not to exceed $12,576,000 to remain available until expended, for financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity, and all related support activities, and

(C) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration: $44,059,000.

(2) For the United States Parole Commission for its activities, including the hire of passenger motor vehicles: $5,868,000.

(3) For the Foreign Claims Settlement Commission for its activities, including—

(A) services as authorized by section 3109 of title 5, United States Code,

(B) allowances and benefits similar to those provided under title IX of the Foreign Service Act of 1946, as amended, as determined by the Commission,

(C) expenses of packing, shipping, and storing personal effects of personnel assigned abroad,

(D) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad,

(E) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties,

(F) advances of funds abroad,

(G) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission,

(H) hire of motor vehicles for field use only, and

(I) employment of aliens:

$840,000.

(4) For general legal activities, including—

(A) hire of passenger motor vehicles,

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration,

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529),

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities,

(F) not to exceed $50,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia,

(G) not to exceed $2,387,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals:

$119,897,000.

(5) For the Antitrust Division for its activities:

$47,105,000.

(6) For United States attorneys, marshals, and trustees for their activities, including—

(A) purchase of firearms and ammunition,

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year,

(C) supervision of United States prisoners in non-Federal institutions,

(D) bringing to the United States from foreign countries persons charged with crime, and

(E) acquisition, lease, maintenance, and operation of aircraft:

$273,610,000.

(7) For support of United States prisoners in non-Federal institutions, including—

(A) necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a), and

(B) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of title 18, United States Code:

$22,600,000.

(8) For fees and expenses of witnesses, including expenses, mileage, compensation, and per diems of witnesses in lieu of subsistence, as authorized by law, including advances of public moneys: $27,000,000. No sums authorized to be appropriated by this title shall be used to pay any witness more than one attendance fee for any one calendar day.

(9) For the Community Relations Service:

$5,773,000.

(10) For the Federal Bureau of Investigation for its activities, including—

(A) expenses necessary for the detection and prosecution of crimes against the United States,

(B) protection of the person of the President and the person of the Attorney General,

(C) acquisition, collection, classification, and preservation of identification and other records and the exchange of such records with duly authorized officials of the Federal Government, States, cities, and other institutions for official use by such officials, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agenices.

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General,

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles,

(F) acquisition, lease, maintenance, and operation of aircraft,

(G) purchase of firearms and ammountion,

(H) payment or rewards,

(I) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under the regulations issued by the Secretary of State,

(J) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General, and

(K) classification of the offense of arson as a part I crime in its Uniform Crime Reports: $632,850,000. None of the sums authorized to be appropriated by this title for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(11) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route,

(B) payment for allowances to aliens for work performed while held in custody under the immigration laws,

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies,

(D) payment of rewards,

(E) not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles,

(G) acquisition, lease, maintenance, and operation of aircraft,

(H) payment for firearms and ammunition, and attendance at firearms matches,

(I) operation, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto,

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money.

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens,

(L) acquisition of land as sites for enforcement fences, and construction and maintenance of such fences,

(M) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under regulations issued by the Secretary of State, and

(N) research related to immigration enforcement which shall remain available until expended:

$347,700,000. Not to exceed $100,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(12) For the Drug Enforcement Administration for its activities, including—

(A) hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year,

(B) payment in advance for special tests and studies by contract,

(C) payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a (2) of the Controlled Substances Act (21 U.S.C. 873(a)(2)),

(D) payment of expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General.

(E) payment of rewards,

(F) payment for publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment,

(G) payment for necessary accommodations in the District of Columbia for conferences and training activities,

(H) acquisition, lease, maintenance, and operation of aircraft,

(I) research related to enforcement and drug control to remain available until expended,

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management,

(K) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under resgulations issued by the Secretary of State.

(L) payment for firearms and ammunition, and atendance at firearms matches, and

(M) payment of tort claims against the United States when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad;

$205,615,000. For purposes of section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)), such sum shall be deemed to be authorized by section 709(a) of such Act.

(13) For the Federal Prison System, including—

(A) for administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions.

(B) purchase and hire of law enforcement and passenger motor vehicles,

(C) compilation of statistics relating to prisoners in Federal penal and correctional institutions,

(D) assistance to State and local governments to improve their correctional systems,

(E) purchase of firearms and ammunition, and medals and other awards,

(F) payment of rewards,

(G) purchase and exchange of farm products and livestock,

(H) construction of buildings at prison camps, and acquisition of land as authorized by section 4010 of title 18 of the United States Code,

(I) transfer to the Health Services Administration of such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that administration for medical relief for inmates of Federal penal and correctional institutions,

(J) for Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

(K) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this subparagraph, and

(L) for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, relating to a National Institute of Corrections, to remain available until expended:

$363,000,000.

SEC. 102. (a) None of the sums authorized to be appropriated by this title may be used to pay the compensation of any person employed after the date of the enactment of this title as an attorney (except foreign counsel employed in special cases) unless such person is, at the time so employed, duly licensed and authorized to practice as an attorney under the laws of a State, a territory, or the District of Columbia.

(b) The Department of Justice shall not be required to absorb from sums appropriated pursuant to the authorization provided in this title, other than sums appropriated pursuant to section 104(f) of this title, any increases in salary, pay, retirement, and other employee benefits authorized by law, or other nondiscretionary costs.

SEC. 103. (a) Sums authorized to be appropriated by this title which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations issued by the Attorney General.

(b) Sums authorized to be appropriated by this title may be used for the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this title for salaries and expenses shall be available for services as authorized by section 3109 of title 5, United States Code.

(d) Sums authorized to be appropriated by this title may be used, in an amount not to exceed $35,000 for official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.

(e) Sums authorized to be appropriated by this title may be used for—

(1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of the cost for which payment is authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may issue, determines that such schools are not accessible by means of public transportation.

(f) There are authorized to be appropriated for the fiscal year 1981, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States attorneys and marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5, United States Code.

(h) Sums authorized to be appropriated by this title may be used to provide benefits related to educational travel for dependents of Department of Justice personnel stationed abroad comparable to benefits related to educational travel provided for dependents of Department of State personnel.

(i) Sums authorized to be appropriated by this title may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this title which specifically refers to this subsection.

SEC. 104. Notwithstanding the second undesignated paragraph relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this title for such salaries and expenses may be used for the purposes described in such paragraph until October 1, 1981.

SEC. 105. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this title may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679 (a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat 395; 41 U.S.C. 254 (a) and (c)),

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this title may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 869),

(3) sums authorized to be appropriated for the Federal Bureau of Investigation by this title, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521), and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), only upon the written certification of the Director of the Federal Bureau of Investigation (or by a person designated to act for the Director in his absence, such person to be at the level of an Executive Assistant Director or higher) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), (3), or (4) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(2) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Director of the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury as miscellaneous receipts.

(d)(1) The Director of the Federal Bureau of Investigation shall conduct detailed financial audits of each closed undercover operation, and—

(A) report the results of each audit in writing to the Attorney General, and

(B) report annually to the Congress, not later than one month after the end of each fiscal year, concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $50,000, and

(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)).

SEC. 106. During the fiscal year for which appropriations are authorized by this title, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, other appropriate committees, and the ranking minority members thereof, a minimum of fifteen days before—

(1) reprograming of funds in excess of $250,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives;

(2) reprograming of funds in excess of $500,000 or 10 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 107. (a) Section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)) is amended by inserting ", or deemed by any statute of the United States to be authorized," after "authorized".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by striking out "(d) The provisions" and inserting in lieu thereof "(d)(1) Subject to the limitation provided in paragraph (2), the provisions";

(2) by inserting "and the award of compensation to informers in respect of such forfeitures" immediately after "compromise of claims"; and

(3) by adding at the end thereof the following:

"(2) The award of compensation to informers in respect to such forfeitures may be paid from, and may be based on the value of, the seized property or the proceeds from the sale of such property, except that no award may be paid from or based on the value of seized contraband.".

SEC. 108. (a) The Attorney General shall perform—

(1) periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this title, and

(2) annual specific program evaluations of selected subordinate organization's programs,

as determined by priorities set either by the Congress or the Attorney General.

(b) Subordinate organizations of the Department of Justice and officials of such organizations shall provide all the necessary assistance and cooperation in the conduct of the evaluations described in subsection (a), including full access to all information, documentation, and cognizant personnel, as required.

(c) Completed evaluations shall be made available to the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and to other appropriate committees.

(d) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the kind described in subsection (a) of this section, the Attorney General shall submit to the committee making the request, not later than thirty days after the date the request is made, a design and timetable for making the requested evaluation. If the projected time period for completing the evaluation exceeds six months, the Attorney General shall, during the course of the evaluation, submit intermittent reports on the progress of the evaluation to the committee making the request.

SEC. 109. (a) Section 516 of title 28, United States Code, is amended by inserting "(a)" immediately before "Except as otherwise authorized".

(b) Section 516 of such title is amended by adding at the end thereof the following new subsections:

"(b) The Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases. Each agreement shall be submitted no later than thirty days before the agreement is effective.

"(c) Unless specific statutory authority for litigation responsibility is otherwise provided, the Attorney General shall be the exclusive arbiter for the resolution of any legal dispute between two or more executive agencies or departments, including a dispute as to which agency or department shall litigate an action, administer a particular program, or regulate a particular activity.

"(d) The Attorney General shall report, at the beginning of each Congress, to the Committees on the Judiciary of the Senate and of the House of Representatives on—

"(1) bills or resolutions affecting the litigation authority of the Department of Justice, of which the Attorney General is aware, that were introduced in the previous Congress but were not enacted;

"(2) the status of litigation authority in the Federal Government, including the extent to which agencies other than the Department of Justice are authorized to litigate and whether such agencies are conducting litigation by formal or informal agreement with the Department of Justice;

"(3) the Attorney General's assessment of each agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases, including—

"(A) a description of any problems relating to any such agreement;

"(B) the steps the Attorney General intends to take to remedy those problems; and

"(C) any legislative recommendations the Department of Justice may have to improve the coordination of legal activities between the Department of Justice and its client agencies; and

"(4) the efforts the Attorney General has undertaken in the preceding two years and the efforts the Attorney General expects to undertake during the forthcoming years to coordinate activities and resolve conflicts between the Department of Justice and other Federal agencies, and to increase the efficient and effective operation of Federal litigation resources.".

SEC. 110. (a) The Attorney General shall prepare and submit to the Committees on the Judiciary of the Senate and House of Representatives a systems development plan for the activation and coordination, within the Department of Justice, of compatible, comprehensive case management information and tracking systems for each of the judicial districts of the United States as described in chapter 5 of title 28 of the United States Code and for each of the divisions of the Department of Justice.

(b) The plan shall—

(1) determine the functional, informational, and data service requirements of each of the legal divisions of the Department, the United States Attorneys Offices, and a representative sampling of key client agencies;

(2) from the requirements determined under paragraph (1), identify data that should be uniformly collected for purposes of inclusion in the systems, how such data should be defined for purposes of inclusion in and access to the systems;

(3) evaluate existing case management information and tracking systems to determine the responsiveness of such systems to the requirements determined under paragraphs (1) and (2);

(4) assess what data are required to be collected to improve the effectiveness and responsiveness of the existing systems and develop the policies and procedures for the collection and generation of such data;

(5) have as its goal, maximum service and data quality, retrievability, and utility to the users;

(6) include a timetable for the implementation of such plan, and an assessment of the costs for implementation of such plan.

(c) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $300,000 for the purposes of development and implementation of a systems development plan as described in this section.

SEC. 111. Not later than January 1, 1981, the Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives on the extent to which the Department of Justice has collected all judgments owed to the United States as of September 30, 1980. The Attorney General shall include in the report—

(1) a breakdown, by each division and the Executive Office of the United States Attorneys, on the amounts owed and the amounts collected as of September 30, 1980;

(2) an assessment of the collection practices of the Department of Justice;

(3) the steps that the Attorney General intends to take to improve those collection practices; and

(4) any legislative recommendations the Department of Justice may have to improve those collection practices.

SEC. 112. Not later than February 1, 1981, the Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives on the status of civil and criminal fraud cases as of December 31, 1980. The Attorney General shall include in the report—

(1) a description of the case backlog, if any, including a general description of the types of cases, amounts, and the agencies involved, and the steps the Attorney General intends to take to decrease any such backlog;

(2) any legislative recommendations the Department of Justice may have with respect to decreasing any such backlog; and

(3) any legislative recommendations the Department of Justice may have to facilitate the coordination of civil and criminal fraud prosecutions.

SEC. 113. (a) (1) The Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, shall make arrangements with an appropriate independent entity to prepare and submit, not later than October 1, 1982, to the Committees on the Judiciary of the Senate and the House of Representatives a recommendation as to the extent, if any, the Federal Government should provide communications systems, networks, and data bases, for the distribution and use by Federal, State, local, or foreign governments or private entities, of records compiled as a result of arrests of individuals or any other criminal records. The recommendation shall include an assessment of the feasibility and advisability of continuing the National Crime Information Center (NCIC), including the Computerized Criminal History Program (CCHP), and the other criminal record operations of the Federal Bureau of Investigation (FBI) including but not limited to the criminal records operations of the FBI Identification Division and the Automated Identification System (AIDS) and if feasible and advisable a plan to improve the operations of those systems and reconcile the operational redundancies among such systems.

(2) The policy for the preparation and development of the recommendation and plan, if any, required under paragraph (1) shall be made in consultation with, and with the recommendation of, an advisory panel. The advisory panel shall be selected by the Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, and shall consist of representatives of the Attorney General (including the Director of the Federal Bureau of Investigation and the Director of the Bureau of Justice Statistics), representatives of the Governors of the States and other users of the systems, including parties representing the concerns of law enforcement, civil liberty, and criminal justice operations, research, and evaluation.

(3) The plan shall—

(A) determine the purposes and uses of the system and related data bases by Federal, State, and local law enforcement and criminal justice agencies, by Federal, State, and local, and foreign governments, and by private sector organizations;

(B) determine whether foreign entities and agencies other than law enforcement and criminal justice agencies should be allowed access to data contained in the system for purposes which are not related to law enforcement and criminal justice needs of the United States, and, if so, the policies and procedures for such access;

(C) determine the functional, informational, and data service requirements to meet those recommended purposes and uses, with particular regard to the intergovernmental exchange of data;

(D) establish standards for system and data integrity and quality of service, including standards for the relevancy, accuracy, reliability, and completeness of data accessible in or through the system, as well as methods for insuring that irrelevant, inaccurate, obsolete, or incomplete data is identified in a timely fashion and corrected or eliminated from the system;

(E) establish privacy, confidentiality, and security requirements that any Federal, State, or local agency, or private sector organization, shall meet in order to gain access to the system, including standards as to use, who is responsible for maintaining the data, who has access to the data, what types of data are to be maintained, mechanisms for insuring data accuracy, reliability, security and completeness, and an agreement by the State or Federal agency to be audited for compliance with such standards;

(F) require that data be submitted by all Federal law enforcement and criminal justice agencies, including data with respect to the arrest and disposition of Federal offenders;

(G) establish procedures for the audit of Federal, State, and local level programs;

(H) develop effective sanctions for misuse of data and improper distribution of data, including legislative recommendations with respect to such sanctions;

(I) provide procedures to enable an individual to have access to, review, and challenge any information pertaining to him contained within the system;

(J) provide for an annual report to Congress, on the system including problems relating to the data contained in the system, the technology employed, the utility of the system, a breakdown (by level of government) of the number of files maintained in the system on multi-State offenders, Federal offenders, and single-State offenders, a breakdown (by category of users) of requests for information, and legislative and regulatory recommendations with respect to improvement of the system; and

(K) provide a timetable for the implementation of the plan, the costs of such implementation (including the costs to the Department of Justice, other Federal law enforcement and criminal justice agencies, the States, and other users of the system), and recommendations for the funding of the system.

(4) The plan shall include recommendations on—

(A) the appropriate composition and selection of a national advisory board on the planning and management of the system to ensure the utility and accountability of the system;

(B) the merits of various organizational arrangements for management of the system, including the most desirable administrative mechanism, and whether maintenance and management of the system, in whole or in part, should be by the States pursuant to Federal guidelines, the Federal Bureau of Investigation, or another organization within the Department of Justice, or a combination thereof;

(C) the separation of the Computerized Criminal History Program from the National Crime Information Center;

(D) a requirement that each State have one State-designated repository to insure compliance, and to respond and provide entries for each system;

(E) with respect to criminal history information for single-State offenders, a requirement that criminal fingerprint cards only may be included in the Federal component of the system;

(F) the definition of "multi-State offender", and appropriate policies and procedures for the maintenance of information on multi-State offenders;

(G) the establishment of an automated interstate identification index to provide identifying information to Federal and State agencies, such index to consist solely of personal identifiers of an individual, the individual's FBI number, the individual's State identification number, and a notation of the existence of a criminal fingerprint card, and not to include charge or offense data;

(H) whether message-switching of information contained in any system should be allowed;

(I) whether the organization charged with the management of the system shall be required to return any fingerprint card and delete the index entry upon request by the submitting State;

(J) the staffing of appropriately trained personnel for the system at all levels of government;

(K) the acquisition of updated technology and equipment; and

(L) any other matter determined appropriate by the Attorney General or the advisory panel.

(5) For the purposes of paragraphs (3) and (4), the term "system" includes the NCIC, the criminal record operations of the FBI Identification Division, AIDS, CCHP, and any proposed system resulting from the merger or separation of any of such systems.

(b) Not later than October 1, 1981, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives an interim report on the implementation progress with respect to the provisions of subsection (a).

(c) None of the sums authorized to be appropriated in this title may be used for the purposes of engaging in the activity of message-switching until such time as the Committees on the Judiciary of the Senate and the House of Representatives have each approved the plan required to be submitted under subsection (a) of this section. For the purposes of this subsection, the term "message-switching" means the use of electronic equipment to receive a message, store that message until an outgoing line is available, and then retransmit the message without any direct connection between the line on which the message was received and the line on which the message is retransmitted.

(d) In addition to any other sums authorized to be appropriated by this title, there are authorized to be appropriated $1,000,000 for the purpose of carrying out the provisions of this section.

SEC. 114. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Solicitor General of the United States.

"Associate Attorney General.".

(b) Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Solicitor General of the United States"; and

(2) by striking out "Associate Attorney General".

(c) The amendments made by this section shall apply with respect to pay periods beginning after the date of the enactment of this title.

SEC. 115. (a) In addition to those senior trial attorney positions previously authorized, the Attorney General is authorized to appoint not more than thirty senior trial attorneys without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. In accordance with regulations prescribed by the Attorney General under subsection (b), such attorneys shall be entitled to rates of pay and benefits provided under the following provisions of such title:

(1) Section 3396(c), relating to sabbatical leave.

(2) Section 4507, relating to the awarding of ranks.

(3) Subchapter VIII of chapter 53, relating to pay for the Senior Executive Service.

(4) Sections 5723 and 5752, relating to travel and transportation expenses.

(5) Section 6304(f), relating to accrual of annual leave.

(6) Section 8336(h), relating to immediate retirement.

(b) Regulations prescribed by the Attorney General shall conform to the extent practicable to regulations prescribed by the Director of the Office of Personnel Management with respect to the application of such provisions to positions in the Senior Executive Service.

SEC. 116. Section 203 of the Speedy Trial Act of 1974 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for the fiscal year ending September 30, 1981, to remain available until expended, the sum of $5,000,000.".

SEC. 117. (a) Chapter 85 of title 28, United States Code, is amended—

(1) by redesignating section 1364 (relating to Senate action) as section 1365;

(2) by redesignating section 1364 (relating to construction of references to laws of the United States or Acts of Congress) as section 1366; and

(3) in the table of sections for such chapter—

(A) by amending the item relating to section 1364 (Senate actions) to read as follows: "1365. Senate actions.";

(B) by amending the item relating to section 1364 (construction of references to laws of the United States or Acts of Congress) to read as follows:

"1366. Construction of references to laws of the United States or Acts of Congress.".

(b) Section 705(a) of the Ethics in Government Act of 1978 (Public Law 95–521) is amended by striking out "section 1364" and inserting "section 1365".

SEC. 118. Section 2 of the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96–132; 93 Stat. 1040), is amended—

(1) in paragraph (5) by striking out "$242,573,000" and inserting in lieu thereof "$253,654,000", and

(2) in paragraph (10) by striking out "$319,386,000" and inserting in lieu thereof "$336,507,000".

SEC. 119. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this title, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this title, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

TITLE II—DEPARTMENT OF JUSTICE PROFESSIONAL RESPONSIBILITY ACT

SEC. 201. This title may be cited as the "Department of Justice Professional Responsibility Act".

SEC. 202. (a) There is established within the Department of Justice, under the general authority of the Attorney General, an Office of Professional Responsibility (hereinafter referred to as the "Office").

(b) The Office shall be headed by a Counsel appointed by the President, by and with the advice and consent of the Senate. The Counsel shall be subject to the general supervision and direction of the Attorney General, or when appropriate, of the Deputy Attorney General, the Associate Attorney General, or the Solicitor General.

(c) The Attorney General may delegate to the Counsel the functions of any other bureau, office, board, division, commission, or subdivision thereof within the Department of Justice (hereinafter referred to as the "Department") as the Attorney General determines are properly related to the functions of the Office and would, if so delegated, further the purposes of this title.

SEC. 203. (a) The Counsel shall—

(1) initiate or order, as he deems appropriate, an investigation of any information or allegation relating to the conduct of an employee of the Department that is or may be in violation of a law, a regulation or order of the Department, or any applicable standard of ethics or conduct;

(2) establish a mechanism for receiving and processing requests for investigations made by persons employed by the Department as well as persons outside the Department, and insure the confidentiality of the source and nature of any such request;

(3) prepare or review, as the case may be, any findings and reports filed as the result of an investigation under paragraph (1), and make recommendations to the Attorney General, or when appropriate, to the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, concerning such findings and reports;

(4) in addition to any investigation initiated or ordered under paragraph (1), undertake any relevant investigation assigned by the Attorney General, or when appropriate, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, and cooperate as directed with any other organization, task force, or individual that may be assigned by the Attorney General to undertake such an investigation;

(5) establish uniform standards for the conduct of investigations by internal inspection units with such responsibilities;

(6) monitor and evaluate the performance and procedures for investigations conducted by the internal inspection units within the Department;

(7) establish procedures and format guidelines for reporting to the Office by internal inspection units in accordance with section 206(c);

(8) in consultation with the Attorney General and the head of the unit, require procedural changes in the operation of any internal inspection unit;

(9) not later than two years from the date of enactment of this title, establish uniform standards for the administration of disciplinary sanctions for each bureau, office, division, commission, or subdivision thereof;

(10) monitor and evaluate the implementation of the standards established under paragraph (9) for the administration of disciplinary sanctions;

(11) undertake any other appropriate responsibilities assigned by the Attorney General, including responsibilities relating to the improvement of the ethics and conduct of Department personnel;

(12) submit recommendations to the Attorney General, or when appropriate, to the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, on the need for changes in the standards and procedures that become evident during the course of implementing responsibilities under this title; and

(13) report annually to Congress in accordance with section 207.

(b) The Counsel shall establish such rules as may be necessary to carry out the provisions of this title.

SEC. 204. (a) The Counsel may, on the basis of any findings reported to him, or an investigation conducted by him—

(1) recommend to the Attorney General or any appropriate supervising official within the Department that administrative sanctions be taken against a Department employee; and

(2) recommend the prosecution of a Department employee to the appropriate Assistant Attorney General of division or the appropriate United States Attorney.

(b) If the Counsel makes a recommendation under subsection (a) to any Department official other than the Attorney General, and that official declines to implement the recommendation, the declining official shall report in writing to the Counsel within thirty days of the receipt of the recommendation, the reason for declining to prosecute or administer such sanctions. If the Counsel disagrees with the position of the declining official, the Counsel may appeal to the Attorney General for implementation.

(c) (1) If the Counsel makes a recommendation under subsection (a) to the Attorney General, the Attorney General shall report in writing to the Counsel within thirty days of the receipt of the recommendation, his proposed action on the recommendation.

(2) Any recommendation by the Counsel to the Attorney General or to a declining official which is not followed by the Attorney General shall be identified in the annual report to Congress under section 207.

SEC. 205. (a) The Counsel shall be compensated at a rate equal to the rate of basic pay for ES–5 of the Senior Executive Schedule established by the President under section 5382 of title 5, United States Code.

(b) The Counsel is authorized to appoint such additional staff personnel as he deems necessary, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(c) Upon request of the Counsel and in consultation with the Attorney General and the head of the unit to which the employee is regularly assigned, an employee of the Department may be assigned to the Office on a case-by-case basis to perform such duties as are designated by the Counsel. Employees assigned to the Office shall work under the direction of the Counsel.

SEC. 206. (a) The internal inspection units within each bureau, office, board, division, commission, or subdivision thereof, of the Department of Justice shall retain the primary responsibility for receiving information on allegations concerning employees within their respective entities, and for conducting investigations, subject to the reporting requirements of subsection (c) of this section.

(b) The heads of each bureau, office, board, division, commission, or subdivision thereof shall provide information and assistance requested by the Counsel in connection with any investigation conducted by the Office or an internal inspection unit, and by any other person assigned to conduct an investigation.

(c) The head of each internal inspection unit shall report monthly to the Counsel. Each report shall include notification of initiation of any investigation, and shall conform with the procedures and format guidelines established by the Counsel under section 203(a).

SEC. 207. (a) On or before September 30th of each year, the Counsel shall report to the Congress on the number and a brief description of each allegation of employee misconduct received by the Office, a description of the manner in which such allegation was handled, and the final disposition of each such allegation. The information required under the preceding sentence shall include an identification with respect to the unit or Office which received the allegation and performed the investigation, if any.

(b) In addition, the Counsel shall include in such report—

(1) a description of any significant problems, abuses, and deficiencies in the policies and procedures which have become evident during the course of any investigation;

(2) a recommendation for action that may be taken by the Office or by a bureau, office, board, division, commission, or subdivision thereof to correct such problems, abuses, or deficiencies;

(3) a summary of the recommendations submitted in any previous annual report under this section upon which corrective action has not been completed, with an explanation of the reasons action has not been completed; and

(4) a description of any recommendation for administrative sanctions or prosecution made under section 204(c) by the Counsel to the Attorney General or a declining official which is not followed.

(c) If the Counsel conducts, or orders to be conducted, an investigation of information or an allegation that the Attorney General may be in violation of a law, a regulation or order of the Department, or of any applicable standard of ethics or conduct, he shall report the findings of his investigation to the Committees on the Judiciary of the House of Representatives and the Senate upon the completion of the investigation.

(d) No later than three years from the date of enactment of this title, the Counsel shall submit to the Committees on the Judiciary of the House of Representatives and the Senate—

(1) an evaluation of the procedures and standards for administrative sanctions and prosecution established under sections 203 (a)(9) and 204;

(2) a comprehensive evaluation of the implementation of the provisions of this title; and

(3) specific legislative recommendations designed to remedy any problems or deficiencies in the implementation of the provisions of this title.

SEC. 208. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SEC. 301. (a) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

PROGRAM FOR FISCAL YEAR 1981

"SEC. 1004 (a) (1) Except as provided in paragraph (2) and notwithstanding any other provision of this title, funds available for expenditure in fiscal year 1981 from appropriations for prior years to carry out the activities of this title may be obligated or expended to carry out such activities, of which not to exceed 15 percent of such funds may be obligated or expended for the payment of administrative costs, including the costs of administering grants received under this title for operating criminal justice councils, judicial coordinating committees, and local offices, without regard to the requirements of section 401(c).

"(2) Except as provided in part N and notwithstanding any other provision of this title—

"(A) the provisions of parts B and C are suspended and shall have no effect for the period of fiscal year 1981; and

"(B) no sums may be obligated or expended after the date of enactment of this section for programs and projects authorized under parts B and C during fiscal year 1981.

"(b) Except as provided in part N, no funds may be appropriated for fiscal year 1981, pursuant to the authorization provided in section 1001 of this part or any other provision of law, to carry out the activities of this title.

"(c) Notwithstanding any other provision of law, funds appropriated for this title may be used only to carry out activities authorized by this title. Such funds may not be transferred during fiscal year 1981 for carrying out any activities not authorized by this title.

"(d) Notwithstanding any other provision of law, all of the funds appropriated for this title shall remain available until expended.

"(e) Notwithstanding any other provision of this title, the provisions of section 1002 of this part shall not apply to fiscal year 1981.".

(b) The table of contents of such title is amended by adding at the end of the items relating to part J the following:

"Sec. 1004. Program for fiscal year 1981.".

SEC. 302. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following:

"PART N—EMERGENCY ASSISTANCE FOR EFFECTIVE PROGRAMS

"PURPOSE

"SEC. 1401. (a) Notwithstanding any other provision of this title, it is the purpose of this part to provide Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations, for purposes of supporting their efforts to implement programs and projects which are of proven effectiveness or have a record of proven success in improving the functioning of the criminal justice system.

"(b) The Federal portion of any grant made under this part may be up to 100 percent of the cost of the program or project specified in the application for such grant.

"(c) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated, for the fiscal year ending September 30, 1981, $150,000,000 to carry out the provisions of this part and part L.

"(2)(A) None of the sums appropriated under this subsection for fiscal year 1981 may be obligated or expended for purposes of carrying out the provisions of this part until such sums as may be necessary to carry out the provisions of part L of this title are made available for part L, except that the provisions of this subparagraph shall not apply to amounts appropriated in excess of $100,000,000.

"(B) If there is appropriated under this subsection for fiscal year 1981 more than $100,000,000 but not more than $150,000,000, the amount in excess of $100,000,000 may also be obligated or expended for purposes of carrying out the provisions of this title, including parts B and C.

"PROCEDURE FOR ESTABLISHING PROGRAMS

"SEC. 1402. (a) The Director of the Office of Justice Assistance, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration shall jointly establish priority programs and projects for Federal financial assistance under this part.

"(b) In establishing such priority programs and projects, the Director and the Administrator shall—

"(1) assure that the problems and needs of all the States are taken into account;

"(2) consult with officials of States and units of local government, and other appropriate public and private agencies; and

"(3) invite and encourage public comment concerning such priority programs and projects.

"APPLICATION REQUIREMENTS

"SEC. 1403. (a) No grant may be made under this part unless an application has been submitted to the Administrator in which the applicant—

"(1) sets forth a program or project which is eligible for funding under this part;

"(2) describes the services to be provided, performance goals, and the manner in which the program or project is to be carried out; and

"(3) demonstrates that the program or project is of proven effectiveness or has a record of proven success in improving the functioning of the criminal justice system.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administrator.

"CRITERIA FOR DISTRIBUTION AND PERIOD FOR AWARD

"SEC. 1404. (a)(1) The Administrator shall, according to the criteria, terms, and conditions as he determines consistent with this part, provide Federal financial assistance to those programs or projects which most clearly satisfy the priorities established under this part.

"(2) In distributing funds under this part, the Administrator shall, to the extent practicable, provide Federal financial assistance to—

"(A) a State,

"(B) a unit of local government, or a combination of such units, and

"(C) a private nonprofit organization,

within each category of priority programs and projects.

"(b) The Administrator may provide Federal financial assistance to priority programs and projects under this part for a period to be determined by the Administrator.

"EFFECTIVE DATE

"SEC. 1405. This part is effective only if there is appropriated for fiscal year 1981 for the purposes of carrying out the provisions of this title less than $250,000,000.".

(b) The table of contents of such title is amended by adding at the end thereof the following:

"PART N—EMERGENCY ASSISTANCE FOR EFFECTIVE PROGRAMS

"Sec. 1401. Purpose.
"Sec. 1402. Procedure for establishing programs.
"Sec. 1403. Application requirements.
"Sec. 1404. Criteria for distribution and period for award.
"Sec. 1405. Effective date.".

TITLE IV—EQUAL ACCESS TO JUSTICE ACT

SEC. 401. This title may be cited as the "Equal Access to Justice Act".

SEC. 402. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth, and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c)(1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this title, section 504 of title 5, United States Code, as added by subsection (a) of this section, is repealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal.

SEC. 403. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and Fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c)(1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d)(1) In addition to the costs which may be awarded pursuant to subsection (a) and except as otherwise specifically provided by statute, a court shall award fees and other expenses to any party other than the United States which prevails in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed—

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee;

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this title, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

Sec. 404. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

Sec. 405. Nothing in section 2412(d) of title 28, United States Code, as added by section 403(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

Sec. 406. (a) Except as provided in subsection (b), this title, and the amendments made by this title, shall apply to any adjudication or civil action which is pending on the date of enactment of this title, or which is commenced on or after the date of enactment of this title.

(b) This title, and the amendments made by this title, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of this title or which is commenced on or after such date.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, today the Senate considers S. 2377 authorizing appropriations for the Department of Justice for fiscal year 1981.

Mr. President, I ask unanimous consent that Ava Abramowitz, Mike Altier, Romano Romani, Steve Breyer, Ken Feinberg, John Topodas, Jim Davidson, Gail Bowman, and Harry Wiles have privileges of the floor during the debate and vote on any amendments on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, this bill represents the product of a fully bipartisan effort on the part of the Committee on the Judiciary. It encompasses the findings of 5 months of intensive investigation and 14 days of wide-ranging hearings. It authorizes the Department of Justice to be appropriated $2,097,217,000—an amount equal to the President's January budget.

I wish to add some brief comments regarding the Immigration and Naturalization Service. Since becoming a Member of this body I have developed a keen awareness of the priorities of the Justice Department. For the last 2 years I have had an opportunity to chair oversight hearings on various components of the Department including the Immigration and Naturalization Service. I have even been more aware of this Nation's immigration and refugee problem as a member of the Select Commission on Immigration and Refugee Policy. As a result of these experiences I believe that the Immigration and Naturalization Service of the Department has not received the type of support that it needs from the administration. The Department appears to place a rather low priority on INS problems. I encourage the administration to take a closer look at several of the continuing problems that exist in the INS as expressed in the report accompanying this bill. While I have seen some progress over the last 2 years I believe that a lot more could be done.

One assignment for which INS has received little recognition is the Service's processing of thousands of Cubans into the United States.

Through June 17, 1980 the Immigration and Naturalization Service had processed 113,711 Cubans into the United States. More than half of these had completed all screening and clearance and had been released to sponsors or family members.

INS currently has 447 employees on duty at the Cuban processing centers at Eglin Air Force Base, Fort McCoy, Wis., Indiantown Gap, Pa., Fort Chaffee, Ark., and at Miami. At the peak of the Cuban entries INS had more than 700 employees detailed from regular duty stations to aid in the processing of the Cubans.

INS has screened all entrants to determine if they are excludable from the United States. To date 1,069 have been identified by INS as persons convicted of crimes in Cuba. These are being held in Federal detention centers at various locations throughout the country. INS has begun holding exclusion hearings on those held at the Federal Correctional Institute in Talladega, Ala.

Since the beginning of the arrival of Cubans in late April, INS officers have served notices of intention to fine all vessels bringing Cubans to this country without documents. There have been 1,785 fine notices issued, and the process of collecting those fines is continuing.

The Service has taken on the greatly increased workload of screening, processing and interviewing the more than 100,000 Cubans, while continuing its other responsibilities. Border patrol agents were taken from regular duty stations and assigned to duty in Florida to guard against surreptitious entry and to help maintain order in processing centers.

While maintaining a highway checkpoint in Florida, INS border patrol agents assigned to the Cuban project intercepted the largest shipment of cocaine ever found in this country.

The Cuban project followed closely another special project in which INS was called upon to exert extra effort. Following the takeover of the U.S. Embassy in Tehran, President Carter ordered INS to interview all Iranian students to determine if they were in the United States legally.

Between mid-November and the end of December, INS interviewed 56,694 students, nearly half of them at schools and campuses throughout the country. The Service found 6,456 students who were not abiding by the laws under which they entered this country. Proceedings to remove them from this country after due process are continuing today.

INS handled this unprecedented interview project with a minimum of problems. The interviewing was conducted in a professional way, with respect for the rights and dignity of those being interviewed.

Through both of these projects the Service has demonstrated that given an assignment and a direction to pursue, it can make maximum use of its resources in carrying out a mandate of the administration or the Congress. While there has been some increase in backlogs of other cases during these special crises situations, the Service has handled both with a minimum of disruption to its usual activities.

Mr. President, the Judiciary Committee has worked long and hard on all aspects of this bill and the finished product is one the committee supports unanimously. I am pleased to enter some remarks here regarding the INS, Mr. President, because, though there is a great concern and unrest in this country regarding the refugee problem, the problem is not that of the INS. Indeed, it has served its purpose well and, if anything, the administration has failed to give it the necessary support to continue this vital work.

I am certain that the Senate as a whole can support this bill as presented today and I urge my colleagues to do so.

● Mr. KENNEDY. Mr. President, today this Chamber is undertaking a major responsibility in the consideration of this measure which will authorize appropriations for the Department of Justice. The authorization process affords the Congress an annual opportunity to reassess the policies and procedures of the Department of Justice. It also gives it the chance to evaluate the problems and performance of the Agency in a vigorous, yet structured manner. The Committee on the Judiciary has welcomed this challenge and has exercised its oversight function diligently.

While the hearings held by the committee uncovered progress in numerous departmental programs, certain problems facing the Department of Justice, as well as the Federal justice system and the people it serves, have caused the committee concern. The committee found that, notwithstanding its mandate last year to the Department to activate case management statistics systems, not enough progress has been made in meeting that mandate. The Committee also found that the Department needs to speed its closing of the backlog in fraud cases and judgments uncollected. Provisions are contained in S. 2377 to address each of these findings and to encourage the Department of Justice to take speedier action to address those findings.

The committee has also included provisions to address the issue of litigation authority—an issue with far-reaching implications for the American people. The philosophy behind the measure, section 109, is to insure that litigation authority, as a routine matter, is lodged in the Department of Justice and is handled effectively by it.

The committee heard from executive branch agencies who want their own litigation authority and recognizes that having the power to investigate and litigate program violations facilitates an agency's ability to implement its program. The committee however, has long maintained the position that the Government should speak with one voice in court and that voice should seek to enhance the public interest. Section 109 reflects that policy.

The committee is also dedicated to insuring that the Department of Justice gives the public the highest standard of performance of any Government agency. To that end, it has included title II laying out a statutory charter for the Office of Professional Responsibility (OPR), the office responsible for investigating alleged misconduct on the part of Department employees. With this charter, OPR should have the authority and powers to investigate allegations efficiently and effect sanctions against the employee, should those allegations prove to be of substance.

The committee, however, is not only concerned with the operations of the Federal justice system. It is also intent on insuring effective State and local law enforcement. The committee has included provisions to ease the impact of the precipitous and unplanned reductions that the administration wishes to impose upon the level of Federal assistance to State and local units of government.

First, it has included funds for the Drug Enforcement Administration and the Federal Bureau of Investigation for State and local training and forensic services. Second, it has formulated title III to insure that what little money is appropriated for State and local assistance is spent in States, cities, and towns across the country and not in Washington LEAA headquarters.

This title suspends the recently enacted Justice Systems Improvement Act for fiscal year 1981 only, and substitutes in its stead a discretionary program to support State and local programs of proven effectiveness. The measure is not the first choice of the committee; my colleagues and I would have much preferred an adequately funded Office of Justice Assistance, Research, and Statistics. But that choice was not an option in this year of fiscal restraint. Title III should insure the targeting of funds for impact, while maintaining enough of the existing LEAA delivery system to insure appropriate monitoring of prior year funds.

Finally, I am pleased to bring to your attention section 113 of the bill which provides the much-needed congressional policy direction for the National Crime Information Center (NCIC). The provision has the support of the ACLU, the FBI, managers of the NCIC system, and SEARCH Group, Inc. Letters received to date from State and local police also reflect support for the measure. It is my hope that implementation of section 113 will put to rest the 10-year controversy surrounding the NCIC system and provide the criminal justice system the accurate information it requires to exercise its discretion appropriately.

I urge my colleagues to support S. 2377.●

Mr. DeCONCINI. Mr. President, I yield to the Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, are we on a time limit?

The PRESIDING OFFICER. To the best knowledge of the Chair, there is no time agreement.

Mr. THURMOND. Mr. President, before beginning my remarks, I ask unanimous consent, during the consideration of S. 2377, the Justice Department authorization bill, that the following staff members of the Judiciary Committee be allowed to be present during consideration and votes thereon: Eric Hultman, Emory Sneeden, Elizabeth McNichols, Mike Klipper, and Pete Velde.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the pending legislation, S. 2377, the fiscal year 1981 authorization bill for the U.S. Department of Justice.

The President made two requests of the Judiciary Committee with regard to funding for the Department of Justice. The committee has decided to approve the level of $2,097,217,000 requested in the President's request of January 30, 1980. Although a subsequent request was sent to the committee on March 31, 1980, reflecting a reduction of $421 million, the committee has approved the earlier request.

The primary reason for this action, Mr. President, is because the committee recognized that the bulk of the $421 million reduction in the March 31 request were funds that had been previously budgeted for the programs of the Law Enforcement Assistance Administration—LEAA. In short, the Carter administration wants to kill this program and it has carried out its intentions by asking for reduced authorization.

This bill does not restore all of the LEAA funding, but does provide authority for $100 million in LEAA funds, including $15 million for the police death benefits program. These two programs are worthy of continued funding support, even though the LEAA level of funding is substantially lower than had been authorized by the Congress.

This bill is only $25 million above the President's March request and is identical to the January request after adjustments for the LEAA program and the transfer of the Foreign Claims Settlement Commission. Very few committees can come to the Senate floor and say that they have not exceeded the President's request. The Judiciary Committee made every effort not to go above the President's request, realizing that the Appropriations Committee will still have to act, and supplemental requests may be required at a later date.

Mr. President, more importantly, the committee recognized that if we are to ever see a balanced budget, every effort will have to be made to check Government spending. It is difficult for me to suggest cuts in the law enforcement and criminal justice areas, but if that is what it takes to get the Federal Government out of debt, I am willing to support cuts or to oppose major increases. I have done that in several areas, including the FBI, Immigration and Naturalization Service border patrol, and U.S. attorneys and marshals.

I have, however, agreed to an authorization of $12.5 million for joint State and local law enforcement grants for cooperative efforts to fight crime. Several multistate organizations, including the Regional Organized Crime Information Center—ROCIC—are authorized for funding under this general category. In addition, similar organizations throughout the United States would be possible under this modest amount of funding. These programs are worthwhile and deserve the limited support provided for in this legislation.

This year the committee spent a considerable amount of time looking at the activities and resources of the Civil Division. The Civil Division was particularly deficient in its fraud-against-the-Government cases. This backlog of fraud matters, which numbers more than 5,000 cases, costs the Federal Government nearly $150 million in uncollected judgments. An additional 33 positions were authorized last year and the creation of a Deputy Assistant Attorney General position for policy and planning should help the Civil Division catch up on its fraud case backlog.

The FBI was decreased by 432 positions over last year, but the committee authorized $23 million more for fiscal year 1981, primarily to cover increased costs of operation. In addition, some supplemental funds will be required to meet rising costs of fuel for the motor vehicle fleet. These and other increases in operating costs will be met in part by the savings from a reduction in positions.

Mr. President, the Immigration and Naturalization Service (INS) received particular scrutiny by the committee because of its difficult and demanding responsibilities in view of recent world events. Although in recent years the Judiciary Committee has given INS additional resources, it is still unable to effectively meet its responsibilities and carry out its duties. The Carter administration has not submitted a replacement for the position of Commissioner vacated by Mr. Castillo. As a result, the internal management of the INS has suffered for lack of planning and program development. Moreover, public reports of the commission of irregularities by INS field personnel has further hampered efforts to increase efficiency.

The committee also recommends that it analyze its application process with the goal of simplifying it. It is now too complicated. There are too many forms. As a result, immigration matters take weeks and months to resolve. Many letters to INS offices are not even opened by staff for weeks. While in New York City recently, the Acting Commissioner David Crosland tried unsuccessfully to call the INS office for several hours. He was finally forced to show up personally in order to receive any attention.

Because of these and other problems, it is difficult to support any requests for further funds. It is clear that throwing money at the problems of the INS will not make them go away. Thus, a management analysis has been asked to be undertaken by INS and a 5-year plan for the improvement of its operations to be submitted to the committee.

Mr. President, I support the authorization levels provided for in this bill and urge its passage by the Senate.

The PRESIDING OFFICER (Mr. FORD). The Senator from Arizona.

UP AMENDMENT NO. 1187

(Purpose: To make certain technical amendments)

Mr. DECONCINI. Mr. President, I send two technical amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1187.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 14, strike out "section 104 (f)" and insert in lieu thereof "section 103(f)".

On page 59, strike out lines 9 through 17.

On page 59, line 18, strike out "Sec. 119." and insert in lieu thereof "Sec. 118.".

On page 66, strike out lines 1 through 6 and insert in lieu thereof the following: "Sec. 205. (a) The Counsel is authorized to appoint such additional staff personnel as he deems necessary, at rates not in".

On page 66, line 12, strike out "(c)" and insert in lieu thereof "(b)".

On page 69, between lines 10 and 11, insert the following:

Sec. 208. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Counsel, Office of Professional Responsibility, Department of Justice.".

On page 69, line 11, strike out "Sec. 208." and insert in lieu thereof "Sec. 209.".

On page 69, line 11, insert after "appropriated" the following: ", for the fiscal year ending September 30, 1981, and for each succeeding fiscal year,".

On page 70, strike out line 7 and insert in lieu thereof the following: "(2) Notwithstanding".

On page 70, line 19, insert the following immediately before the period: "other than to carry out the activities of part L".

On page 72, strike out lines 4 through 19, and insert in lieu thereof the following:

"(c) There is authorized to be appropriated for the fiscal year ending September 30, 1981, such sums as may be necessary to carry out the provisions of this part.".

On page 74, line 21, insert a close quotation mark and a period at the end thereof.

On page 74, strike out lines 22 through 25.

On page 75, between lines 2 and 3, strike out the item relating to section 1405 in the table of contents.

On page 76, line 24, strike out "on any" and insert in lieu thereof "or any".

On page 78, beginning on line 5, strike out ", except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section".

On page 83, beginning on line 5, strike out ", excpt that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section".

Mr. DECONCINI. Mr. President, this amendment is technical in nature, and serves primarily to delete what some have referred to as appropriations forcing language. It is my understanding that with adoption of this measure S. 2377 will be in full compliance with even the most highly technical requirements of the Budget Impoundment and Control Act of 1974. The result of the amendment will be to permit the Appropriations Committee greater flexibility in responding to the policy laid out in the authorization bill.

The amendment calls for the deletion of fiscal year 1980 supplemental authorization. I am assured that this deletion does not undermine the principle that funds may not be appropriated by the Senate for the Department of Justice absent a prior authorization. All of the funds authorized in that section were already authorized pursuant to sections 3b and 4f of last year's authorization act. The committee expects that these two sections, included in this year's measure as sections 102(b) and 103(f) will minimize the necessity for supplemental authorizations to cover nondiscretionary increases facing the Department of Justice, including the annualization of prior year appropriation increases.

Mr. President, the Appropriations Committee and the Judiciary Committee have had a very difficult time in securing timely requests from the Department of Justice as to any supplemental and additions that they may need.

This amendment before the Senate, I believe, will help cure that and, hopefully, the Department of Justice can provide more expeditious requests. We are very sympathetic to the changes in law enforcement and other duties of the department, but we do need to have some timely submissions for our consideration. I urge that the measure be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

UP AMENDMENT NO. 1188

(Purpose: To add a provision relating to the collection of fees for United States marshal services)

Mr. COCHRAN. Mr. President, I have an amendment which I send to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 1188.

Mr. COCHRAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, between lines 3 and 4, insert the following:

SEC. 110. (a) Section 1921 of title 28, United States Code, is amended to read as follows:

"§ 1921. United States marshals' fees

"(a)(1) Except as otherwise provided, the United States marshals or deputies shall collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpena or summons for a witness or appraiser.

"(c) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b)(1) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a). Such regulations shall include a schedule of fees which, at a minimum, equal the total costs of providing the services under subsection (a).

"(2) The Attorney General shall prescribe regulations which provide that the marshal's fees to be collected and taxed under subsection (a) shall be waived upon the authorization by the court, pursuant to section 1915 of this title, of the commencement, prosecution, or defense of any civil or criminal action or proceeding without prepayment of fees and costs or security therefor.

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, except that the amount of the commission shall be within the range prescribed by the Attorney General under paragraph (2). If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range prescribed by the Attorney General under paragraph (2), as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.".

(b) The amendments made by this section shall take effect on October 1, 1981.

Redesignate sections 110 through 119 of the bill as sections 111 through 120 of the bill, respectively.

Mr. COCHRAN. Mr. President, this amendment relates to authority to set fees to be charged for services rendered by U.S. marshals. It is largely the work of the distinguished Senator from Arizona (Mr. DECONCINI) and was approved, in effect, by the Committee on the Judiciary this week.

I have no reason to discuss the bill further, Mr. President, but I am sure the Senator from Arizona has remarks about the legislation. I reserve the remainder of my time.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Jerry Tinker and Ralph Oman of Senator MATHIAS' staff be granted the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the language in the amendment of the Senator from Mississippi has an excellent track record.

During the 95th Congress, similar language relating to the U.S. Marshal's fees was unanimously approved by this body. In this Congress, Senator THURMOND and I introduced S. 314, a bill which was similar to its predecessor which unanimously passed the Senate last Congress. S. 314 was unanimously reported out of the subcommittee which I chair, the Subcommittee on Improvements in Judicial Machinery, on May 2, 1980, and recently was unanimously ordered to be reported from the full committee on June 17, 1980. Today I believe that enactment into law could be expedited if the language found in S. 314 were incorporated into the Department of Justice Authorization bill, S. 2377.

PURPOSE OF THE AMENDMENT

The amendment authorizes the Attorney General to modify fees now set by law for the service of process by the U.S. Marshals Service and resolves two conflicts between the decision of two circuits. The fees set by the Attorney General for the service of process by the U.S. Marshals Service (USMS) including writs, orders, and other related services specified in 28 U.S.C. section 1921 would permit the recovery of the actual costs of providing such services to private litigants who currently receive this unique benefit as a party in civil litigation.

Currently, the costs of these services are not recovered by fees imposed by USMS. Under the proposed legislation, the fees set by the Attorney General would be based on annual USMS computations. This type of establishment of fees is an effective method for meeting continually rising expenses and for determining appropriate user charges.

Since 1969, there have been three audits of unrecovered costs for service of process. A study by the General Accounting Office (GAO, "Need To Revise Fees for Services Provided by the Immigration and Naturalization Service and United States Marshals," was released in October 1969, and concluded that expenses exceeded fees in fiscal year 1968 by $470,000. A Department of Justice report was issued by the Internal Audit Staff in June 1973, entitled "Determination, Collection and Recording of Fees for the Service of Process, U.S. Marshals Service." The most recent audits, released in July 1976, is also by GAO, "U.S. Marshals Service—Actions Needed To Enhance Effectiveness." All three reports recommend that the law be changed to revise the fees or to give the Attorney General discretion to revise the fees.

The loss of Federal revenues for service of civil process has continued at an accelerating rate since the fiscal year 1968 GAO estimate. In fiscal year 1975, GAO estimated that costs for private civil process exceeded revenues by more than $3,800,000.

The present USMS fees of $3 for service of writs and summonses and $2 for service of subpenas were established August 31, 1962, by Public Law 87-621 (28 U.S.C. 1921). The law provides for the collection of 12 cents per mile for travel required to serve any process, except for service in the District of Columbia. According to Senate hearing testimony, the fees increase in 1962 was designed to have litigants bear a larger part of the expenses of litigation without excessively burdening such litigants. Other comments in the hearing report indicate that the revision was approved to permit fees to recover a greater share of the general increases of expenses during a period of relatively moderate inflation.

The service of process by USMS is not mandatory for litigants. It would be possible for private litigants to use commercial firms for this purpose; however, the fees of the Federal Government are comparatively very low. The result is that the USMS is requested to provide service in most instances. According to a GAO survey completed in 1975, the commercial process service fees in five USMS districts ranged from $3 to $35 for delivery of process, with an average of approximately $11. Some of the commercial firms included in the survey charged additional amounts for services provided at no extra cost by USMS, for example, priority service.

The proposed legislation, as amended, resolves a conflict between the second circuit in *Thielebeule* v. *M/S Nordsee Pilot*, 452 F.2d 1230 (2d Cir. 1971) and the Fifth Circuit in *Araya* v. *McClelland*, 525 F.2d 1194 (5th Cir. 1976). The decisions of the second and fifth circuits are split on the issue of whether a seaman proceeding in Federal court for wages or other benefits pursuant to the provisions of 28 U.S.C., section 1916 (which waives prepayment for "fees and costs") may have the marshal attach a vessel on his behalf without advancing a sufficient deposit to cover the initial expense as required by the present language in section 1921. The second circuit in Thielebeule held that the seaman may have the marshal attach a vessel on his behalf without prepayment while the fifth circuit decision held the opposite. The language in the proposed legislation resolves the conflict in favor of the fifth circuit.

In addition to the setting of fees for the service of process by regulation of the Attorney General, the legislation, as amended, allows the Attorney General to provide a maximum fee chargeable as a statutory commission in Marshals' sales. The proposed language is intended to resolve the circuit split between the 9th and 10th Circuit Courts of Appeals in favor of the 10th circuit. In *Travelers Insurance Co.* v. *Lawrence*, 509 F.2d 83 (9th Cir. 1974), the court held that the Marshal's commission for selling property was not applicable to a judicially ordered mortgage foreclosure sale. Although the court ruled that there had been no "seizing or levying on property" by the Marshal within the meaning of 28 U.S.C. section 1921, it is clear that the Court was compelled to its conclusion by the large commission chargeable in that case—in excess of $75,000.

Moreover, the 10th circuit held precisely to the contrary on the identical legal question in *Hill* v. *Whitlock Oil Services, Inc.*, 450 F.2d 170 (10th Cir. 1971). In addition to resolving the circuit split in favor to the 10th Circuit, the proposed language resolves that the Marshal's commission is chargeable in judicially ordered sales, including mortgage foreclosure sales; that there is a "seizing or levying on property" by the Marshal within the meaning of section 1921 in such cases; that Federal law, not State law, provides the standard for determining the applicability of section 1921 commissions; and that the Marshal's prescribed from time to time by regulation of the Attorney General.

Mr. President, there were two amendments which were accepted by the committee on June 17, 1980. The first incorporates the requirement that the regulations which are prescribed by the Attorney General shall include a schedule of fees which, at a minimum, equal the total costs of providing the services under subsection (a) of amended section 1921 of title 28. Such language was added by the committee in order to insure that the Government would not be in the position of subsidizing private litigants who receive the benefit of having the U.S. Marshals Service of process in these cases. A second amendment was also unanimously added by the committee. The language in this amendment basically states that the fees collected and taxed under subsection (a) shall be waived upon the authorization by the court pursuant to 28 U.S.C. section 1915. While the committee believes that the Attorney General should have the authority to raise the marshals' fees in order to cover the total costs, the committee is quite concerned with the problems faced by those parties who cannot afford these fees. It is, therefore, the committee's intent that all marshals' fees shall be waived for parties authorized to proceed in forma pauperis pursuant to 28 U.S.C. section 1915.

Mr. President, I encourage the full support of my colleagues with regard to this important legislation.

The measure, as I indicated, was ordered to the floor by the committee yesterday. Its sole impact is to authorize the Attorney General to set fees based on costs for the marshals serving the papers in private civil litigation. It is hoped that, as a result of this measure, a new private industry will flourish and that, over time, the marshals will decrease their activities.

The Senator from Mississippi brought this to the attention of the committee and this Senator, the need to have the marshals involved in this process.

Mr. President, from the standpoint of the committee, we are prepared to accept the Senator's amendment.

Mr. THURMOND. Mr. President, we are willing to accept the amendment. Senator COCHRAN, I think, has done a fine job in looking after this matter and we feel that his amendment to S. 314 is sound. The position Senator COCHRAN has taken with regard to the Marshals service is practical and we are willing to accept the amendment.

The PRESIDING OFFICER. Is there further discussion?

The Senator from Mississippi.

Mr. COCHRAN. I have no further requests for time, Mr. President. I yield back the remainder of my time.

Mr. DECONCINI. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1189

(Purpose: To amend the provisions relating to the support of United States prisoners)

Mr. THURMOND. Mr. President, I send an amendment to the desk which I ask the clerk to state. This is an amendment suggested by Senator MATHIAS, of Maryland.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for Mr. MATHIAS, proposes an unprinted amendment numbered 1189:

On page 25, line 10, strike out "$22,600,000" and insert in lieu thereof "$23,000,000".

Mr. THURMOND. Mr. President, this amendment is offered at the request of Senator MATHIAS of Maryland. The committee and we managers of the bill are willing to accept this amendment, but we reiterate for the RECORD that the new authority granted to the Department of Justice to renovate jails where Federal detainees are located should be used sparsely until criteria for the use of that authority have been established.

Mr. DECONCINI. Mr. President, this amendment, offered by the Senator from South Carolina in behalf of the Senator from Maryland, has been considered carefully by the committee and we find the need for the renovation long overdue. Although we have attempted here to hold down all increased expenditures, this is a modest request, one that has been reduced and scrutinized very carefully. The committee, in behalf of the majority, is willing to accept the amendment.

I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, for many years, State and local authorities have helped the Federal Government by housing in their jails Federal prisoners awaiting trial. This arrangement saves the Federal Government much time and expense in transporting and detaining these prisoners. The current bill authorizes $22.6 million to pay the States and cities for the service they provide. It also gives the Attorney General the power, previously lacking, to contract for certain physical improvements to facilitate the handling of Federal prisoners. This new authority needs to be funded and the amendment I offer would do just that in a very limited way.

The House bill, H.R. 6846, calls for an authorization of an additional $400,000 in order to make the program viable. My amendment simply increases the level of the Senate bill to that of the House authorization.

I urge that my amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1189) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Kim Pearson and Tom Parry of Senator Hatch's judiciary staff be granted privilege of the floor during consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1898

(Purpose: To amend chapter 39 of title 28 of the United States Code, relating to the appointment of a special prosecutor)

Mr. WEICKER. Mr. President, I call up my amendment No. 1898 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 1898.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 10 and 11, insert the following:

SEC. 120. (a) Section 591 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives whenever an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section. The information contained in such notification shall not be disclosed to any third party.".

(b) Section 592(b)(1) of such title is amended by adding at the end thereof the following: "In addition to notifying the division of the court specified in section 593(a) of this title, the Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives.".

(c) Section 592(b)(3) of such title is amended to read as follows:

"(3) Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committees on the Judiciary of the Senate and the House of Representatives, unless—

"(A) leave is granted by the division of the court upon the request of the Attorney General; or

"(B) a committee determines that disclosure of such memorandum to the public will not, in the committee's judgment, prejudice the rights of any individual.".

(d) Section 593(b) of such title is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding the following at the end thereof:

"(2) The division of the court shall notify the Committees on the Judiciary of the Senate and the House of Representatives of the appointment of a special prosecutor under paragraph (1). The special prosecutor shall, within 15 days from the date of appointment, disclose to the Committees on the Judiciary of the Senate and the House of Representatives the identify and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as counsel to a party in the investigation or action.".

(e) Section 593(d) of such title is amended to read as follows:

"(d)(1) Any person who is offered a position of special prosecutor shall, prior to the appointment to such position, notify the division of the court of the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as a counsel to a party in the investigation or action.

"(2) The division of the court may not appoint as a special prosecutor—

"(A) any person who holds or recently held any office of profit or trust under the United States; or

"(B) any person who is involved in any Federal investigation or any civil or criminal action to which the United States is a party, other than as a counsel to a party in the investigation or action.".

Mr. WEICKER. Mr. President, this amendment, which is identical in its provisions to S. 2625 which I introduced earlier this year, would modify the provisions of the Ethics in Government Act of 1978. Specifically, it would enable Congress to perform its oversight mandate by requiring the Attorney General to inform the Senate and House Judiciary Committees whenever an investigation is commenced into allegations of Government misconduct under the Ethics in Government Act, as well as the results of the investigation. The amendment would also require any person under consideration for appointment as Special Prosecutor to advise the three-judge panel of any Federal investigation in which the person was involved, other than as an attorney for a party. Anyone involved in such a Federal investigation could not be appointed as Special Prosecutor.

Mr. President, I must preface my remarks on this amendment by noting that this amendment will only enhance the effectiveness of current law. However, a major overhaul of the law is needed to insure an equal system of justice in this country.

In introducing S. 2272, the Public Prosecutor Act of 1980, I stated that the office of an independent, permanent public prosecutor created pursuant to that legislation was necessary to "reassure the American public that Federal investigations into top Government officials will be carried out fairly and impartially, without even the merest possibility of deference to political office."

Why is a permanent, independent prosecutor needed to dispel the perception of an unequal system of justice that treats the powerful few in a manner different from other citizens suspected of breaking the law? Because the mechanism created by the Ethics in Government Act of 1978 for the appointment of temporary special prosecutors has proven to be unresponsive.

Why has the mechanism proven to be unresponsive? Because the Attorney General plays the central role in the process of appointing a special prosecutor. And, as I was told by Assistant Attorney General Philip Heymann in a hearing held by the State, Justice, Commerce, the Judiciary and Related Agencies Appropriations Subcommittee, the Justice Department does not even have to tell Congress whether it has investigated allegations of criminal wrongdoing by Government officials. These matters are left entirely to the discretion of the Attorney General.

Mr. President, I am more convinced today than ever that this country needs a permanent, independent public prosecutor to investigate allegations of impropriety by those either in the executive or legislative branches. However, I realize that there is no great desire among my colleagues to tackle this major overhaul. I am afraid that the reform which is needed to restore the faith of the American people in the integrity of their Government will not be accomplished in the near future.

Yet, there are glaring inadequacies in the Ethics in Government Act which can be readily corrected to make it more effective. As Assistant Attorney General Heymann indicated in his testimony before the Appropriations Subcommittee, the Attorney General does not have to inform Congress whether an investigation into allegations of impropriety by a Government official has been conducted. Thus, Congress is unable to carry out its oversight responsibilities. In addition, as evidenced by the appointment of Mr. Christy to investigate allegations of cocaine possession by Mr. Jordan, the temporary special prosecutor appointed under the act might be in a position where he is subject to being compromised due to a Federal investigation into illegal activities in which he may be involved.

This amendment would correct the flaws in the existing law. It would require the Attorney General to notify the Senate and House Judiciary Committees whenever an investigation is initiated under the act, as well as notifying them of the results of the investigation. This information would remain confidential, unless a committee determines that disclosure of the information would not prejudice the rights of any individual.

This legislation would also amend the Ethics in Government Act to require any person who is offered the position of special prosecutor to notify the three-judge panel making the appointment of any Federal investigation or civil action to which the United States is a party, in which the person has an actual or potential involvement as a party. If the person is involved in such an action, other than as counsel to a party, the three-judge panel would be prohibited from appointing the person as special prosecutor.

The testimony of Assistant Attorney General Heymann before the State, Justice, Commerce, Judiciary, and Related Agencies Appropriations Subcommittee on March 10 clearly shows why Congress should be notified of any investigations commenced under the Ethics in Government Act and the results of the investigation. During the course of the hearing, I attempted to ascertain whether the Attorney General had ignored a recommendation made by the Public Integrity Section of the Department of Justice to appoint a special prosecutor to investigate allegations that Libyan diplomats stationed in New York City had attempted to bribe persons close to President Carter to secure export licenses for military transportation aircraft.

Mr. Heymann refused to answer any questions concerning this matter, relying on, among others, the provision of the Ethics in Government Act which prohibits any documents supplied to the three-judge panel from being disclosed without the court's permission. When asked why materials pertaining to the Hamilton Jordan investigation had been made public, Mr. Heymann observed that the Justice Department had asked the court to make that information public.

Thus, under present law, it is left entirely up to the Attorney General to determine whether Congress or the public will even know whether there have been allegations of high-level misconduct, whether these allegations have been investigated, and the results.

Mr. Heymann acknowledged this fact in the following colloquy in which we engaged during the hearing:

Senator Weicker. But in effect what you are telling me . . . is that the mechanism for the special prosecutor is totally within the hands of the Administration and there is no reason for anybody to ever find out whether or not the mechanism has even been contemplated or whether it has been used, or whatever?

Mr. Heymann. I think that is correct, Senator Weicker. The mechanism, let me now be very specific, as Congress enacted it, it imposed the heavy moral duty on the Attorney General, by heavy moral duty, I mean it required him to take certain actions where very little was shown in the way of wrongdoing, what has been called the hair trigger of the special prosecutor bill.

But it left it to his determination, subject to public criticism, whether those minor requirements for triggering the Act had been satisfied. There is no judicial review and the matter is not made public unless the Court acquiesces. In that sense, it is left completely to the Attorney General.

Mr. President, I ask unanimous consent that the entire transcript of my colloquy with Mr. Heymann be included at this point in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

State, Justice, Commerce, Judiciary and Related Agencies Subcommittee Hearing—March 10, 1980

Senator Weicker. While we have Mr. Heymann here, I have some questions that relate to another matter.

The United States Attorney's Office for the Southern District of New York has conducted an investigation into allegations that Libyan diplomats stationed in New York City had attempted to pay up to $30 million in bribes to persons close to President Carter in an attempt to secure export licenses for military transportation aircraft. This bribery scheme, allegedly directed by Robert L. Vesco, had as targets Hamilton Jordan, Deputy Secretary of State Warren Christopher and Democratic National Committee Chairman John White.

Did the United States Attorney for the Southern District of New York request additional funds to continue this investigation?

Mr. Heymann. The reference, Senator Weicker, is to an early stage in that matter when it was being run simultaneously by Attorneys for the Southern District of New York, the Criminal Division, some attorneys in Florida, the FBI as investigators and investigators in New York.

The funding for purchase of information had to come from the only source of funding readily available, which was the Federal Bureau of Investigation. Most such requests were granted. There was one towards the end that was denied. I myself thought that it was about time to stop funding the particular source of information who could have gone on asking for funds forever, but the FBI refused to give funds on an indefinite basis and there have been stories, including one in a New York magazine making much of the final shutoff of payments to a particular source of information.

Senator Weicker. Did the Public Integrity Section of the Department of Justice recommend to you that a special prosecutor be appointed to investigate the Libyan bribery scheme?

Mr. Heymann. I don't think I should and I won't, Senator Weicker, ever comment on either my recommendations or the recommendations of anyone else in the channel on special prosecutor matters. I think the Attorney General ought to enjoy the lonely splendor and pain of calling special prosecutor matters himself and not be subjected to, you know, not be subjected to challenge not on the merits but on the grounds that the fraud section recommended this, I recommended that, that the Deputy recommended this. On every one of these there are four recommendations.

Senator Weicker. I will repeat my question as to whether or not the Public Integrity Section of the Department of Justice recommended that a special prosecutor be appointed. I know the answer. There is no great secret here. Can we have the answer as a matter of record?

Mr. Heymann. I would decline to answer that.

Senator Weicker. Why?

Mr. Heymann. I think it is a matter of the internal deliberations of the Department of Justice that it is very important to be kept private, almost exactly the same as if I approve an indictment for someone or disapprove an indictment in a particular case. In those circumstances, I don't think the recommendations to me should be made public.

I would say, Senator Weicker, that the newspaper accounts here, which have been stated with complete certainty, are frequently inaccurate, including every one I have seen, every newspaper account.

Senator Weicker. Including the article in the New York magazine, which says that: "The press's oversight was not the result of ignorance, for although Heymann has repeatedly refused public comment on his actions in this case, he did tell two Washington reporters in an off-the-record briefing that a memorandum had been forwarded to the three-judge panel, explaining the Departments' refusal to appoint a special prosecutor to investigate the Libyan scheme."?

Mr. Heymann. I believe that is untrue.

Senator Weicker. Either you had an off-the-record conversation with two Washington reporters or you didn't.

Mr. Heymann. The latter is easy to tell you, Senator Weicker. At one point after The New York Times had broken this story, two New York Times reporters: one named Kaiser, who wrote that piece; another named Phil Talbin, came into my office and said, we have a substantial number of allegations, a substantial number of factual statements that we are about to write as a story.

One was who recommended the special prosecutor and had not and the other was about the funding, and I can't remember the other. There were about seven of them. Five of their factual statements at least were flatly wrong, false, untrue; no, where it should be yes; yes, where it should be no.

My Deputy, Mr. Nathan, and I said to them on that occasion we are not going to sort out which of your statements are true or false because that is telling the facts of the investigation. We will tell you that your story is substantially overwhelmingly false.

On that basis, it is my understanding that The New York Times refused to print the story from which you are now reading today. The New York magazine did print it.

Senator Weicker. It would be rather helpful to have you answer my question since I don't want to go on the comments of members of the press.

Mr. Heymann. Those were the two.

Senator Weicker. But I still would like to have the answer. Maybe Mr. Rooney can tell me whether or not the Public Integrity Section of your own Department recommended the special prosecutor be appointed.

Mr. Heymann. I don't think Mr. Rooney knows.

Mr. Rooney. I do not.

Senator Weicker. Who knows?

Mr. Heymann. I know.

Senator Weicker. Why don't you tell me?

Mr. Heymann. Because I think it is a matter of executive privilege, Senator Weicker. I don't believe recommendations to the Attorney General on special prosecutor matters should be made a matter of elective record and certainly should not be made public. I did not disclose them to Mr. Kaiser or Mr. Talbin, although the——

Senator Weicker. Look, I am a member of the United States Government like you are. We are all trying to go ahead and see that the laws are enforced. I also have something to do with the policies involved as far as the government is concerned.

I have asked you a very simple question as to whether or not your own agency made a recommendation for the appointment of a special prosecutor, to which you are declining to answer on the basis of executive privilege.

Mr. Heymann. My reason is that the Attorney General deserves to be judged and criticized on the merits of his decision whether to appoint a special prosecutor or not in every case. In every case there are recommendations from the following people: Bob Richter, who handles these matters in the Public Integrity Section; the Chief of the Public Integrity Section, Jack Keen; the Deputy in charge of Public Integrity and Fraud, Philip Heymann, head of the Criminal Division; and an Associate Deputy Attorney General, that makes No. 5; the Deputy Attorney General No. 6, and Special Assistant to the Attorney General No. 7, and then the Attorney General sits down and makes the decision.

We shouldn't spread out those seven recommendations. I mean I have no sense of privacy about what the Public Integrity Section did in this case, we shouldn't spread out the seven. We shouldn't spread them out if they are divided and we shouldn't spread them out if they are unanimous, whether the Attorney General agrees or disagrees.

He is criticized or praised on the basis of the merits of his decision. I would be happy to go back and see if he disagrees with my judgment on it, because I have never discussed it with him.

Senator Weicker. So in effect what you are saying is the Attorney General refused to go ahead and appoint a special prosecutor?

Mr. Heymann. No, I am not saying that. I am saying that I won't say anything on that subject. I am saying I won't say who recommended what or whether there were recommendations or whether there was a report filed. There is a statutory, I perhaps should have begun here, Senator Weicker, the statute you passed required secrecy about special prosecutor matters unless the Court authorizes it. We are bound by the statute to maintain secrecy.

Senator Weicker. Did you submit a memorandum to the Special Division of the U.S. Court of Appeals for the District of Columbia containing a summary of the information received by the Department, the results of the investigation, and the reasons for the Department's refusal to appoint a special prosecutor to investigate the Libyan bribery scheme? Isn't that required by Section 592?

Mr. Heymann. It is required if there is specific information of a sort that triggers the Act. I don't think it has ever been revealed whether in this case a report was filed—

Senator Weicker. Was a report filed?

Mr. Heymann. I am prohibited by statute from answering that question, Senator Weicker. The statute specifically says that.

Senator Weicker. It is funny how the lid comes down when allegations are filed against members of the Administration, whether it be Mr. Civiletti on the subject of Treasury Secretary Miller or you on the subject of the Libyan situation. I will tell you, Mr. Heymann, this is the reason why I have been out in front so long for the creation of an independent, permanent special prosecutor. I don't think any Administration is inclined, or of the mind, to put it that way, to use the kindest term, to investigate itself.

Counsel makes the comment that the appointment of a special prosecutor in the case of Mr. Jordan was made public.

Mr. Heymann. Oh, when we go to the Court, if we go to the Court, we file special pleading, asking that the matter, that we have their permission to make the matter public. That was done in the case of Mr. Jordan and with their permission we do make it public. The same was done in an earlier Presidential matter.

Senator Weicker. But in effect what you are telling me, to give me some guidance here for future legislation, is that the mechanism for the special prosecutor is totally within the hands of the Administration and there is no reason for anybody to ever find out whether or not the mechanism has even been contemplated or whether it has been used, or whatever?

Mr. Heymann. I think that is correct, Senator Weicker. The mechanism, let me now be very specific, as Congress enacted it, it imposed the heavy moral duty on the Attorney General, by heavy moral duty, I mean it required him to take certain actions where very little was shown in the way of wrongdoing, what has been called the hair trigger of the special prosecutor bill.

But it left it to his determination, subject to public criticism whether those minor requirements for triggering the Act had been satisfied. There is no judicial review and the matter is not made public unless the Court acquiesces. In that sense, it is left completely to the Attorney General.

However, in any realistic sense, it is obviously not. If you think of the Hamilton Jordan matter, when you are talking about allegations that are widely publicized and widely explored and when you have a public statute with something like a hair trigger to it, I do not agree with you that there is a basis for concern about whether this Attorney General or future Attorney Generals are going to comply with or be bound by the special prosecutor legislation.

Senator Weicker. So really it depends on the degree of the public clamor. It is almost a question of how many decibels we get from the public on any particular issue. Apparently Jordan invoked some sort of a response whereas the Libyan situation and the Miller situation have not.

Is that what we are dependent on, the public hue and cry?

Mr. Heymann. No. I think the decibel level was really quite irrelevant. What happens in each of these matters, perhaps is worth describing, is that as soon as we get wind of any allegation against a covered individual, and once in awhile one will slip by us, but once we get wind of any allegation against a covered individual, this set of recommendations that I described to you gets underway with the FBI investigating, with lawyers of the Public Integrity Section or sometimes the Fraud Section do work on deciding whether there is anything specific—the statute after all requires specific information, concrete factual allegation of wrongdoing.

And they get to work and they decide whether that is in fact triggered. Now it gets triggered very easily. That is the way the statute was written.

On the basis of a number of recommendations, something that would make it impossible for any Attorney General to cover up, absolutely impossible if he wanted to cover up. On the basis of a number of written recommendations the Attorney General has to decide—incidentally, recommendations plus an investigation goes on all this time with FBI agents and everybody else out there trying to dig up the facts.

At the end of it the Attorney General has to decide whether the matter is so unsubstantiated as not to warrant any further investigation or as not to warrant prosecution, a very tough standard.

If he determines that, there will be a written record for all posterity of the basis on which he determined it.

Senator Weicker. Where is this written record?

Mr. Heymann. Filed, if the Act has been triggered, that determination has to be filed with the three-judge court.

Senator Weicker. Was the Act triggered in the case of this Libyan situation?

Mr. Heymann. That, I won't tell you because the statute, and you wouldn't want me to tell you when I point out to you that the statute itself, the Special Prosecutor Act, forbids disclosure without consent of the court.

Senator Weicker. I believe you. I believe you are knowledgeable in law. But then how does the public ever know?

Mr. Heymann. How does it ever know what? It knows whether the Special Prosecutor is appointed; it knows when a Special Prosecutor wasn't appointed. It knows automatically 90 days after any allegation surfaces that a Special Prosecutor, I can't quite rely on 90 days—at the end of 90 days after an allegation which is specific and which does trigger the Act, at the end of the 90 days the Attorney General has to report to this court, to three judges, either appoint a Special Prosecutor or don't for this reason.

Now, if they are going to appoint a Special Prosecutor it may take them a few weeks to appoint one, but at the end of the 90 days, plus a few weeks, unless I am getting confused, which sometimes I do, the public will know there was a Speical Prosecutor appointed with respect to those actual allegations they read about or there wasn't.

In other words, either one appears on the scene or one doesn't.

Senator Weicker. The public has no knowledge at all up until that point, and only then, when it is requested by the Attorney General to be disclosed?

Mr. Heymann. When you appoint a Special Prosecutor——

Senator Weicker. It would be disclosed, but as to whether or not the mechanism is triggered, the public won't ever know that.

Mr. Heymann. What the public doesn't know is precisely that. What the public doesn't know is whether we have said which of the following two things: The Attorney General has said, whether he has said that this information, this allegation is so unreliable, so general, too questionable for any of a number of reasons that the Act wasn't even triggered or whether he has said the Act was triggered but after 90 days investigation, I have concluded it is so unsubstantiated as to warrant further investigation.

That is a rather subtle distinction that is not too important to be analyzed, but that is the only distinction that the public doesn't know.

Senator Weicker. I might have further questions for the record on this point. I think one thing is clear to me, whatever the mechanism is, it is inadequate. It is totally inadequate as to what was sought to be protected against.

You fellows are calling the shots on your own people. That is what it boils down to. The idea in the Ethics of Government Act was to try to have some sort of a mechanism which in effect guaranteed that there was going to be one standard of justice for everybody.

It was also enacted on the general assumption, which is correct, that Cabinet members will not sit in judgment on Cabinet members, and Administrations on themselves, but to that extent there is no independence in this process at all. This process is still very much wound up or is in the hands or in the judgments of the political appointees of this Administration.

Mr. Heymann. On a basis that is easily and readily subject to public criticism.

Senator Weicker. How can there be public criticism if there is no public knowledge?

Mr. Heymann. There is public knowledge that there were allegations.

Senator Weicker. Here is an article in a magazine, and a lot of other people have talked about this, yet in effect the Congress can't find out whether anybody at the Justice Department gave this matter consideration or not, never mind what the result was. I am not blaming you; obviously you are using the law in its strictest sense, that is fine, and I expect you to uphold the law in its strictest sense. But for that very reason I say the mechanism is inadequate considering what it was that was sought to be protected against.

Well, there might be further questions on this as a matter of the record, but certainly I think the record is good enough for my purposes in the legislative sense to substantiate that obviously some change is called for.

I think both of us are interested, I have no doubt, to protest against a person being smeared willy-nilly across the pages of the press without any substantiation. But on the other hand, under the present system, there is no guarantee that justice is going to be done even if there is substance to back up the allegation.

Mr. Heymann. If I may just say one sentence just to make my position clear and I think it is clear, and that is that the check in the system is that the Attorney General has to stand up and say that certain factual allegations which are almost always public are so unsubstantiated as not even to warrant further investigation.

Senator Weicker. Has he said that in the matter that I raised with you, of the Libyan bribery allegations?

Mr. Heymann. I can answer that in the

following way. Wherever no special prosecutor has been appointed, you can assume that he has said that or he has said something even more extreme that there was never enough substance to the investigation even to put the Act into consideration.

Senator WEICKER. So both in the case of the Libyan matter and in the case of Secretary of the Treasury Miller, can I assume that this was the determination of the Attorney General?

Mr. HEYMANN. I don't want to say anything about the specific cases for the reasons I have said. I am saying wherever you know that no special prosecutor has been appointed you can be certain.

Mr. WEICKER. Mr. President, Attorney General Civiletti went on to say in a letter to me that:

> The Justice Department should not comment on the existence or nonexistence of a (recommendation to appoint a special prosecutor) except on those occasions when we (the Justice Department) have sought and obtained leave to disclose a filing.

How can Congress perform its oversight mandate when the Attorney General may invoke—at his sole discretion—the Ethics in Government Act as a screen to congressional questions? At present, he can simply say to a congressional committee, "I can't answer that question without a court order," knowing full well that the court will not issue an order permitting disclosure unless he asks for one.

Mr. President, I ask unanimous consent that my correspondence with Attorney General Civiletti be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 18, 1980.

Hon. BENJAMIN R. CIVILETTI,
Attorney General of the United States,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: During the course of a hearing held by the State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee of the Senate Committee on Appropriations on March 10, 1980, I posed a series of questions to Assistant Attorney General Philip B. Heymann pertaining to allegations that Libyan diplomats stationed in New York City had attempted to bribe persons close to President Carter to secure export licenses for military transportation aircraft. Mr. Heymann refused to answer these questions, stating that he thought "the Attorney General ought to enjoy the lonely splendor and pain of calling special prosecutor matters himself" as well as claiming executive privilege with regard to certain matters.

I indicated at the end of my dialogue with Mr. Heymann that I would have additional questions to be included in the record for the hearing. The additional questions follow, and I would appreciate your response to them.

With regard to the alleged Libyan bribery scheme:

1. Did the United States Attorney for the Southern District of New York make a request for additional funds to continue his office's investigation into these allegations, which was denied?

2. If additional funds were denied to the United States Attorney for the Southern District of New York to continue the investigation, how much was requested and why was the request denied?

3. Did the Public Integrity Section of the Department of Justice recommend that a special prosecutor be appointed to investigate the Libyan bribery scheme?

4. Did you make an application pursuant to the Ethics in Government Act of 1978 for the appointment of a special prosecutor in this matter?

5. If you did not make an application for the appointment of a special prosecutor and the Public Integrity Section had recommended such as appointment, why was the recommendation of the Public Integrity Section disregarded?

6. Did you submit a memorandum to the Special Prosecutor Division of the U.S. Court of Appeals for the District of Columbia pursuant to the Ethics in Government Act of 1978 containing a summary of the information received by the Department of Justice with regard to this matter and the results of its investigation?

7. If such a memorandum was submitted, did it indicate that the Public Integrity Section of the Department of Justice had recommended the appointment of a special prosecutor to investigate these allegations?

8. Did you make a motion under the Ethics in Government Act of 1978 for leave of the Court to disclose the Report which you filed with it? If not, why?

With regard to the appointment of a special prosecutor to investigate allegations of cocaine use by Hamilton Jordan, please inform me why you sought, in your Report to the Special Prosecutor Division of the U.S. Court of Appeals for the District of Columbia, to limit the jurisdiction of the special prosecutor to "the allegation of cocaine used by Hamilton Jordan at Studio 54 in New York City on June 27, 1978". In light of a CBS television newscast, which was aired prior to the date of your Report to the Court, in which allegations were made that Mr. Jordan had used cocaine in a 1977 party in Beverly Hills, why did you not recommend that the special prosecutor be empowered to investigate "any other related or relevant allegation" that Mr. Jordan had violated federal drug laws, which the Court authorized on its own initiative?

This letter, and your response to my questions, will be included in the record of the Subcommittee's hearing.

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 31, 1980.

Hon. LOWELL WEICKER, Jr.,
Committee on Appropriations,
Washington, D.C.

DEAR SENATOR WEICKER: I have your letter of March 18, 1980, containing follow-up questions pertaining to a March 10 hearing of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, at which Assistant Attorney General Philip B. Heymann testified before you.

In regard to questions (1) and (2), I cannot add detail beyond the statement made by Mr. Heymann at this time because the matter relates to an ongoing grand jury investigation in the Southern District of New York. At the conclusion of that investigation, I will be happy to respond more fully.

In regard to questions (3)-(8), you must be aware that in addition to the problems posed by any discussion of an ongoing investigation, I am constrained by the fact that the existence and contents of any memorandum or application filed with the Special Prosecutor Division of the U.S. Court of Appeals pursuant to the Ethics in Government Act of 1978 cannot by law be revealed except by leave of the Court. See 28 U.S.C. § 592(d)(2) ("No application or any other documents, materials, or memorandums supplied to the division of the court under this chapter shall be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court").

To comply with this requirement of confidentiality, the Department should not comment on the existence or nonexistence of a filing with the Special Prosecutor Division of the Court, except on those occasions when we have sought and obtained leave to disclose a filing. I am thus presently unable to answer questions (3)-(8) of your letter.

With regard to your question on the Department's application for the appointment of a special prosecutor to investigate the alleged use of cocaine by Hamilton Jordan, my recommendation to the Court concerning the jurisdiction of the special prosecutor was based on my conclusion that only one allegation warranted further investigation. For reasons explained in detail at page 3 of my Report to the Court of November 19, 1979, which I was granted leave to make public by order of the Court on November 29, 1979, and which was thereafter released to the public, I found three other allegations to be unsubstantiated and not warranting further investigation, and thus not sufficient to constitute separate jurisdictional grounds for special prosecutor proceedings. Of course, the special prosecutor and any prosecutor has authority to pursue any facts related or relevant to the matter within his jurisdiction. A copy of my report and pertinent orders is enclosed.

Yours truly,

BENJAMIN R. CIVILETTI,
Attorney General.

Mr. WEICKER. Mr. President, I am also greatly concerned by the constitutional infirmities posed by the Ethics in Government Act. Without a court order allowing disclosure of information, the Attorney General does not have to account for expenditures incurred in connection with investigations into allegations of Governmental misconduct. This "shroud of secrecy" violates article I, section 9, clause 7 of the Constitution, which provides that—

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Mr. President, this amendment would enable Congress to perform its oversight mandate by requiring the Attorney General to inform the Senate and House Judiciary Committees whenever an investigation is commenced into allegations of Government misconduct under the act. In addition, the results of the investigation would have to be disclosed to the committees. The information would remain confidential unless a committee determined that disclosure "will not * * * prejudice the rights of any individual." This standard, which conforms to an existing provision in the Ethics in Government Act, would insure the protection of the rights of any individual under investigation.

My amendment would also require any person under consideration for appointment as Special Prosecutor to advise the three-judge panel of any Federal investigation or civil action to which the United States is a party, in which the person was involved or had reason to believe would become involved, other than as an attorney for a party. The three-judge panel would be prohibited from appointing as Special Prosecutor anyone involved in a Federal investigation.

The situation involving Arthur Christy, who was appointed to investigate the Hamilton Jordan matter, shows the necessity of these changes. One month prior to being appointed special prosecutor, Mr. Christy's law firm was subpenaed by the Justice Department's Organized Crime Strike Force for the eastern district of New York. The subpena sought documents in possession of Christy's firm that pertained to "the Government's evidence * * * that his firm was used to engage in transactions which made it appear that $100,000 embezzled—from a teamster's fund—was a loan * * *" The firm has been ordered by the court to comply with the subpena.

The Justice Department has indicated that neither Mr. Christy nor his firm is a target of the investigation. I have no reason to believe otherwise. However, I am concerned about the public's perception of the matter. They have every reason to wonder how one can impartially investigate the President's Chief of Staff when he is at the same time involved in an investigation being conducted under the overall supervision of a member of the executive branch—the Attorney General. The potential conflict is apparent.

My amendment would avoid this conflict by prohibiting the appointment as special prosecutor of a person involved in a Federal investigation. Thus, the American public would be assured that the special prosecutor would be impervious to pressures by officials in the executive branch, thereby furthering equal application of the law and engendering faith in the fairness of Government.

Mr. President, I strongly urge that this amendment be adopted. Its acceptance is critical to the effectiveness of the Ethics in Government Act and the faith of the American people in their Government.

Mr. DeCONCINI. Mr. President, the Senator from Connecticut has witnessed an experience of which I have a little bit of taste myself with members of the Justice Department who appear both before the Judiciary Committee as well as the Appropriations Committee and needless to say, in my opinion, are uncooperative in answering legitimate question of oversight and concern about the cases.

The amendment that was presented to me, and I only had an opportunity to see it this morning, does pose some problems, but I wish to discuss it a little bit with the Senator from Connecticut.

In his amendment the Senator refers to section (3) here:

> Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committee on the Judiciary of the Senate and the House of Representatives, * * *

If such a memorandum were sent to the Senate Judiciary Committee and the House Judiciary Committee and if, indeed, there is a basis for a criminal charge, is the Senator not concerned that this might jeopardize the ability of the prosecutorial process to go forward ultimately against the individual if it is exposed?

Mr. WEICKER. Mr. President, in response to the Senator from Arizona, I imagine that this is a problem that is confronted continually by the Justice Department, by those who are involved in the investigatory process. Indeed, if the information was improperly disclosed, I think it would jeopardize an individual's rights. As the Senator from Arizona well knows, my difficulties with the Abscam investigation have nothing to do with the fact of the methods used and have nothing to do with the fact that politicians were investigated. They had to do with the leaks and disclosures which jeopardize individuals' rights. We all have the same rights. It does not make any difference whether it is a member of the executive branch, Congressman, Senator, or the man on the street.

Mr. DeCONCINI. If the Senator will yield, does the Senator have concern that exposing this memorandum to members of the Judiciary Committees and their staffs would only enhance the possibility of further leaks and possibly jeopardizing a good criminal case? That is my only concern. There may be a way to get around that.

Mr. WEICKER. I think the Senator makes a good point. I would not be satisfied with just, let me put it this way, a sanitized version setting forth the facts, because what we are seeking here is oversight. I think a name has to be involved if the oversight function can be properly performed. Maybe disclosure of the name of the individual involved can be restricted to the chairman and ranking minority member of the Judiciary Committees. That is fine. There is thus a limited group that has in their possesion the actual name of the individual involved. I would certainly have no objection to modifying my amendment to read, "The Attorney General shall notify the 'chairman and ranking members' of the Committees on the Judiciary of the Senate and the House of Representatives * * *" I have no objection if that language were included.

Mr. DeCONCINI. Is the Senator from Connecticut prepared to offer an amendment?

Mr. WEICKER. I will be prepared to so modify my amendment on line 5 to read on line 5 between the words "the" and "committees" insert "chairman and ranking member of the."

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 61, between lines 10 and 11, insert the following:

SEC. 120. (a) Section 591 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The Attorney General shall notify the chairman and ranking Member of the Committees on the Judiciary of the Senate and the House of Representatives whenever an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section. The information contained in such notification shall not be disclosed to any third party.".

(b) Section 592(b)(1) of such title is amended by adding at the end thereof the following: "In addition to notifying the division of the court specified in section 593(a) of this title, the Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives.".

(c) Section 592(b)(3) of such title is amended to read as follows:

"(3) Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committees on the Judiciary of the Senate and the House of Representatives, unless—

"(A) leave is granted by the division of the court upon the request of the Attorney General; or

"(B) a committee determines that disclosure of such memorandum to the public will not, in the committee's judgment, prejudice the rights of any individual.".

(d) Section 593(b) of such title is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding the following at the end thereof:

"(2) The division of the court shall notify the Committees on the Judiciary of the Senate and the House of Representatives of the appointment of a special prosecutor under paragraph (1). The special prosecutor shall, within 15 days from the date of appointment, disclose to the Committees on the Judiciary of the Senate and the House of Representatives the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as counsel to a party in the investigation or action.".

(e) Section 593(d) of such title is amended to read as follows:

"(d)(1) Any person who is offered a position of special prosecutor shall, prior to the appointment to such position, notify the division of the court of the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as a counsel to a party in the investigation or action.

"(2) The division of the court may not appoint as a special prosecutor—

"(A) any person who holds or recently held any office of profit or trust under the United States; or

"(B) any person who is involved in any Federal investigation or any civil or criminal action to which the United States is a party, other than as a counsel to a party in the investigation or action.".

Mr. DeCONCINI. Mr. President, let me ask the Senator from Connecticut another question.

Does the Senator care to respond to this hypothetical? If someone in the State of Arizona decided to lodge a complaint against a public figure, the Senator is assuming it would trigger the act, and if a person were doing it continuously, like once a day for a long period of time, would the Senator's amendment necessitate that the Department of Justice, each time this is done, send a memorandum over or send over the notification? My concern is this: Are we asking for a flood of frivolous complaints that might be written in such a manner to at least fall within the act to trigger the act?

Mr. WEICKER. No; because my

amendment does not affect the trigger of the act.

I do not see where the amendment posed by the Senator from Connecticut would in any way under the circumstances described by the Senator from Arizona create a burdensome situation such as he has described.

Again, the amendment reads:

> The Attorney General shall notify the chairman and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives whenever an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section.

It seems to me if there is new information sufficient to trigger the act, yes, the Attorney General would have to notify the chairman and ranking member. If it is the same information, I do not see why he would, as the information would not trigger the act.

Mr. DeCONCINI. He would not.

If the Senator will yield, if that same person filed sufficient information to specific allegations that would trigger the act, that is referenced, does it trouble the Senator from Connecticut that we might have a flood of these, we might have thousands of these coming to the Justice Department that would cite the specific misconduct or specific allegation against the public official, thereby requiring a tremendous amount of information to come to the Judiciary Committee?

Mr. WEICKER. Nothing that I do in my amendment would change the situation under existing law. On the other hand, let me say this. Does my amendment require that the chairman and the ranking minority member are going to be notified to a greater extent than is now the case? Yes; it does mean that. It does mean that. But that is the very thing that is being excluded from the knowledge of the committee at the present time.

Let me put it this way to my distinguished colleague from Arizona. I want him to be the judge, in other words, on this matter. I do not know how else I can do that unless he has the information before him. I am not satisfied that the Attorney General should be the judge about what the Senator should know.

Mr. DeCONCINI. If the Senator will yield, I am very sympathetic to what the Senator from Connecticut is trying to get to. I want him to understand that. I am only attempting to talk through this from the process of the Judiciary Committee's responsibilities and now that we have amended it to the ranking minority member and the chairman to look at each one of these allegations.

This provision might enhance the number of specific allegations that might be filed with the Justice Department based on the fact that now people will know that it is going to be sent to the chairman and the ranking minority member of the Judiciary Committee. How does the Senator feel about a sunset provision so we would have a very good opportunity to review this in 3 or 4 years or some period of time?

Mr. WEICKER. I have no problem with that at all, absolutely no problem with that at all. We should have some sort of track record. We are breaking new ground in this area. There is no question about it. I would be entirely satisfied.

Mr. DeCONCINI. Mr. President, I compliment the Senator from Connecticut for bringing forth to this body something that needs to be addressed very carefully, and the Senator was frustrated, as I have been, trying to get legitimate oversight information from the Department of Justice.

There is a great protectiveness from prosecutors and I know how prosecutors feel about the protectiveness of evidence in case files, but it goes so far that even closed files today will not be turned over or in some instances pending now before the Judiciary Committee closed criminal files have been turned over to one committee in this body and are refused to be turned over to another committee.

It seems to me that this body has got to protect its prerogatives. The Senator here is also interested in the enactment something that would provide a mechanism that would insure when there is public integrity being questioned that the Justice Department cannot hide behind the prosecutorial discretion and there would be some notification.

Pending a satisfactory sunset provision, I would be prepared to consider the amendment.

I yield to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment by the able and distinguished Senator from Connecticut, that is, the amendment, as amended. I want to say that under the present law if the majority of the majority or a majority of the minority on the Senate Judiciary Committee request that a special prosecutor be appointed, then the Attorney General makes a decision, but he does not have to notify anyone he has done that. So it is rather difficult sometimes to get that information as to what action has been taken.

Under this amendment, as I understand it, the Attorney General would report back to the chairman of the committee and the ranking member as to his disposition of that request; is that correct?

Mr. WEICKER. That is correct.

Mr. THURMOND. Also under this amendment, as I understand it, if the Attorney General decides on his own to appoint a special prosecutor he would have to disclose the information to the chairman and the ranking member on the Judiciary Committee.

Mr. WEICKER. That is correct.

Mr. THURMOND. Mr. President, also in this amendment, as I understand, when a special prosecutor has been appointed, the Attorney General would have to disclose to the chairman and the ranking member of the committee the expense incurred in connection with the appointment of such prosecutor in any particular matter; is that correct?

Mr. WEICKER. That is correct.

Mr. THURMOND. Are those the three points in the Senator's amendment?

Mr. WEICKER. Well, in addition, the amendment would prohibit the appointment of a person as special prosecutor who is involved in an ongoing matter with the Federal Government, other than as counsel for a party. Obviously somebody would be eligible there. But where that person is himself potentially involved as a target of a Federal investigation he obviously is not in the position to be chosen as the special prosecutor. So that is also in there, as I cite it in the present case.

Mr. THURMOND. That is a fourth provision in the Senator's amendment.

Mr. WEICKER. That is right.

Mr. THURMOND. Then in the amendment to which he has agreed about the sunset provision, for what length of time was the agreement on sunset?

Mr. WEICKER. I gather this is being worked out. I am acceptable to anything that the chairman wants.

Mr. DeCONCINI. Two years?

Mr. WEICKER. That is fine.

Mr. THURMOND. That would be another provision of the amendment.

It seems to me this amendment is a wholesome amendment. I think it will be beneficial actually to the Attorney General's office as well as to Congress. It will certainly be helpful to the Judiciary Committee which handles such matters.

For those reasons I favor the adoption of the amendment, as amended.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair will ask the staff to clear the well.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. Mr. President, I ask that my amendment be modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. WEICKER. I ask the clerk to read the modification.

The PRESIDING OFFICER. The clerk will read the modification.

The legislative clerk read as follows:

> The amendment of Mr. WEICKER is modified by adding the following new subsection:
>
> (f) The provisions contained in this section shall expire two years after enactment of the section.

The PRESIDING OFFICER. The amendment of the Senator from Connecticut is so modified.

The amendment, as modified, is as follows:

> On page 61, between lines 10 and 11, insert the following:
>
> Sec. 120. (a) Section 591 of title 28, United States Code, is amended by adding at the end thereof the following:
>
> "(c) The Attorney General shall notify the chairman and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives whenever

an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section. The information contained in such notification shall not be disclosed to any third party.".

(b) Section 592(b)(1) of such title is amended by adding at the end thereof the following: "In addition to notifying the division of the court specified in section 593 (a) of this title, the Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives.".

(c) Section 592(b)(3) of such title is amended to read as follows:

"(3) Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committees on the Judiciary of the Senate and the House of Representatives, unless—

"(A) leave is granted by the division of the court upon the request of the Attorney General; or

"(B) a committee determines that disclosure of such memorandum to the public will not, in the committee's judgment, prejudice the rights of any individual.".

(d) Section 593(b) of such title is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding the following at the end thereof:

"(2) The division of the court shall notify the Committees on the Judiciary of the Senate and the House of Representatives of the appointment of a special prosecutor under paragraph (1). The special prosecutor shall, within 15 days from the date of appointment, disclose to the Committees on the Judiciary of the Senate and the House of Representatives the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as counsel to a party in the investigation or action.".

(e) Section 593(d) of such title is amended to read as follows:

"(d)(1) Any person who is offered a position of special prosecutor shall, prior to the appointment to such position, notify the division of the court of the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as a counsel to a party in the investigation or action.

"(2) The division of the court may not appoint as a special prosecutor—

"(A) any person who holds or recently held any office of profit or trust under the United States; or

"(B) any person who is involved in any Federal investigation or any civil or criminal action to which the United States is a party, other than as a counsel to a party in the investigation or action.".

(f) The provisions contained in this section shall expire two years after enactment of the section.

Mr. WEICKER. I wonder if we might have some assistance, Mr. President, so that there will be sufficient Senators on the floor for the purpose of asking for the yeas and nays on this amendment. I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. There is no time under control.

The question is on agreeing to the amendment, as modified, of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BOREN). Does any other Senator present desire to vote?

The result was announced—yeas 72, nays 19, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—72

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Magnuson
McClure
Melcher
Metzenbaum
Morgan
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—19

Boren
Bradley
Bumpers
Byrd, Harry F., Jr.
Church
Culver
Ford
Heflin
Hollings
Huddleston
Levin
Matsunaga
Mitchell
Nelson
Nunn
Pryor
Sarbanes
Stevenson
Tsongas

NOT VOTING—9

Durkin
Goldwater
Gravel
Hart
Kennedy
Mathias
McGovern
Moynihan
Stennis

So Mr. WEICKER's amendment (UP No. 1898), as modified, was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1190

(Purpose: To express the sense of the Congress that the United States not admit more than 650,000 immigrants in fiscal year 1980)

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Roger LeMaster of my staff be granted full privilege of the floor during discussion and debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. I send an amendment to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1190:

On page 61, between lines 10 and 11 insert the following:

SEC. 120. It is the sense of the Congress that the United States should not admit more than 650,000 immigrants, including immediate relatives of United States citizens, special immigrants, refugees, those seeking asylum in the United States or those paroled into the United States, in fiscal year 1980, and the President should submit to the Congress an annual total immigration goal for the United States.

Mr. HUDDLESTON. Mr. President, the fact that 114,000 Cuban immigrants have entered the United States outside of our immigration laws dramatically illustrates that neither the Congress nor the President has firm control over U.S. immigration. Neither do we have control over the amount of taxpayer money that will have to be spent to screen, process, and resettle these new immigrants. The result is that we have a runaway immigration policy which permits more immigrants to enter this country than the rest of the free world combined. Our legal immigration now stands at the highest level in 50 years. And if we count the millions of illegal aliens, our immigration is at its highest in our history as a nation.

This country's tradition of opening its doors to oppressed people from throughout the world is well established and has played a significant role in the development and strength of our Nation. However, even the most ardent supporters of our open-door policy concede that there are limits to the number of immigrants and refugees we can accommodate, without imposing serious and unacceptable burdens on our citizens.

The present Cuban refugee crisis and the plight of tens of thousands of Haitians who entered illegally point up the problems uncontrolled immigration creates. Even though we have declared the admission of 114,000 Cuban refugees a "disaster," we still face the possibility of more arrivals. The Coast Guard has stopped the flow of boats from the United States toward Cuba, but this does not prevent the use of other boats to once again revive the massive exodus. This threat is real because we know that facilities at Mariel Harbor have been improved and some experts conclude that Castro is willing to let as many as an additional 500,000 people leave his island kingdom. A lesser but more persistent problem is the continued flow of Haitians into this country.

Our laws are necessary in immigration affairs because the pressure to emigrate to the United States is so great. By accepting hundreds of thousands of immigrants, we have stimulated millions of people in their desperate desire to come to America. There are an estimated 14 million refugees worldwide. By the year 2000, 5 billion people will live in nations with abject poverty. Crushed by debt and energy costs, less developed countries cannot expand their economies fast enough to keep pace with their growing populations. Droughts and wars continue to displace millions. In the face of these mounting pressures, we can no longer afford the luxury of an open-ended immigration policy.

It would be good if we could invite the poor of the world to come to the United States and if we could provide them with a decent standard of living. But it is not possible. We have seen from experience that there are millions of people who are willing to become illegal aliens or refugees if they perceive that there is a chance they can get into this country.

I recognize that immigrants to this country have made a substantial contribution to the economy and society as a whole. However, these contributions must be placed in the proper perspective. Many people assume that, because some immigration has been good for this country, unlimited immigration would be even better. Further, we are constantly reminded that the inscription on the Statue of Liberty says, "Give me your tired, your poor, your huddled masses yearning to breathe free."

The philosophy underlying this inscription still has significant meaning to us as a nation. However, it must be applied in accordance with the realities of the world we live in today and not as it was in 1885. In that year, the population of the United States was approximately 50 million instead of the 220 million of today. The immigrants who reached our shores in that era did not find 8 million people out of work and were not privy to welfare programs which cost the taxpayers billions of dollars.

I believe that we must reconcile the humanitarian needs of millions of people throughout the world with similar types of needs which exist in this country. There are needy refugees, yet we must place these in perspective with the 17 million American children the U.S. National Commission on the International Year of the Child found to be living in "debilitating poverty." We can admire the immigrant who is willing to work long and hard to get ahead financially, yet his desires for a better life must be balanced with the tremendous economic and social costs associated with our own millions of unemployed. Poverty still exists in this country and we have a long way to go before this problem is solved. We have seen from the recent Miami riot that we only make matters worse when we admit large numbers of oppressed people before fulfilling our commitment to improve the lives of our own citizens.

This failure in policy was summed up very well by William Raspberry in an article printed in the Washington Post on July 4, 1979. Mr. Raspberry stated:

> I am proud of America for opening its doors—and its hearts—to the "boat people." But I do wish that we could save some of our sympathy—and our cash—for our own "wretched refuse" who, no less than Hungarians, or Cubans or Vietnamese, want a chance at the good life the country has to offer.

At a time when many of our American cities are potential tinderboxes due to the deepening recession and the escalating unemployment rolls, we would do well to heed Mr. Raspberry's words.

The cash which we have expended in carrying out our generosity is unprecedented in its amount. The taxpayers of this country have spent billions of dollars for refugee assistance and the cost keeps increasing instead of going down. In effect, we have created one of the greatest entitlement programs in the history of this country. An economically oppressed individual has only to present himself in this country and if he does not qualify for the many existing programs, there is an immediate rush to create new ones.

The administration has not yet determined that the 114,000 Cuban immigrants qualify as refugees under the Refugee Act recently passed by Congress. However, this did not deter the administration from finding a way to create another huge assistance program. The creative means utilized was the disaster relief statute. Although it was congressional intent that this act apply to natural disasters only, such as floods, tornados and the like, a quick interpretation of the law made it applicable to an immigration problem. The result is that the administration will ask for about $400 million in supplemental disaster funds to care for the Cuban and Haitian immigrants for the next 4 months. However, this is not the end of the matter. The administration will be back next year for more money to resettle these people. Even if they are not declared to be refugees under existing law, we are faced with the fact that they are present in this country and probably will not be required to leave. This means that they will need the same type of assistance which has been provided to other refugees.

Estimates made before the new wave of Cuban immigrants arrived revealed that the American taxpayers would spend over $1.7 billion on refugee assistance in fiscal year 1980 and this would increase to $2.1 billion in fiscal year 1981. At that time, the Senate Budget Committee believed that there would be 435,000 refugees receiving Federal assistance in 1981.

Within the period of a few weeks, these unprecedented figures have been outdated. We now face the prospect of refugee assistance exceeding $2 billion in fiscal year 1980. Since this welfare assistance does not terminate quickly, we can expect to see the projected $2.1 billion figure substantially increase in fiscal year 1981.

Unfortunately, this is not the only cost involved. The Congressional Budget Office has reported that each percentage point increase in unemployment costs the Federal Treasury $29 billion. This is because assistance programs increase and tax receipts decrease as unemployment moves up. The impact of uncontrolled immigration on this budget cost will be adverse. The President's Interagency Task Force on Immigration Policy concluded last year that during an economic downswing such as the one we are now in, immigration will exacerbate unemployment and lower wages.

Further, the HEW Inspector General reported in January that refugees are competing for jobs in high unemployment areas. The net result is that immigrants either take jobs which will cost the Federal Treasury money, or they require welfare.

The United States, for all its generosity, cannot accept all the people oppressive regimes want to be rid of. We must understand that the last country to send refugees in massive number will not be Vietnam, or Cambodia, or Haiti, or Cuba—that the potential immigrants to the United States are beyond counting. But we are not limitless in our resources, or in our ability to accept refugees and immigrants. We must regain control of our immigrant, just as other countries have done.

The American people are becoming increasingly more concerned about the failure of the Congress and the administration to deal effectively with uncontrolled immigration. All of the polls show that they support limitations and that they want them now. For example, the Associated Press-NBC poll last week showed that 74 percent of the American people believe our refugee policies are badly confused and 86 percent want limits on immigration. A Roper poll just released this week shows that 22 percent believe we should accept no more Cuban immigrants and 61 percent believe we have already accepted too many.

Mr. President, the people of this country want the Congress to act to regain control of immigration and my amendment will start us on the road in that direction. My amendment would simply place a ceiling on total immigration for fiscal year 1980 of 650,000. Although I personally believe that this is too high as a normal immigration limit, I chose this number because I believed it represented a fair compromise. It would, in effect, allow the United States to meet the immigration and refugee admission level that was anticipated before the recent Cuban influx and discourage any additional admissions.

My amendment would accomplish a number of things. First, it would establish a comprehensive immigration level which is not now a part of our immigration policy. By doing this, we will be forced to come to grips with all the implications of immigration, instead of continuing to separate the various aspects of it as though they are not related.

Whether you call an individual a visa immigrant, refugee, or an applicant for asylum, he or she still represents an addition to this country's population which will place various demands upon our economy and society. Discussing immigration in terms of a total figure puts the issue in greater perspective. It is much easier to see that a limit of 650,000 immigrants is the same as adding a city the size of San Francisco to the United States every year. A city of this population generates many problems of its own in addition to the unique problems which are associated with immigration.

Second, my amendment would establish a compassionate and reasonable limitation. It is more than double the statutory quota for refugees and regular immigrants, now standing at 320,000 per year. Those admitted beyond this quota do so through a series of loopholes or a Presidential decree to exceed the 50,000 per year quota for refugees. By way of comparison, Australia only admitted 456,000 immigrants during the years 1972 through 1976. Further, the cumulative resettlement efforts of the rest of the world for Indochinese refugees as of January 31, 1980, was 432,749, while we alone resettled 303,276. The first figure also includes 254,000 resettled by the People's Republic of China. I do not believe that anyone can reasonably argue that the United States has not done more than its fair share.

Third, my amendment will not interfere with the work of the Select Commission on Immigration and Refugee Policy. Instead it will give congressional guidance to that Commission which is already seriously considering a total immigration proposal. This amendment would only apply for the rest of fiscal year 1980; the Commission is not scheduled to issue its final report until March of 1981. We also have seen from experience that Congress does not have to wait for the Commission before enacting major immigration legislation. The Refugee Reform Act of 1980 was passed during the time the Commission was in operation. On Tuesday of this week, the Senate Judiciary Committee ordered reported another major piece of immigration legislation, S. 1763, which will create additional loopholes in our immigration laws. It is expected that this bill as reported would increase immigration next year by about 70,000. In defense of the right of Congress to act on immigration matters, the distinguished chairman of the Judiciary Committee, Senator KENNEDY, stated on September 6, 1979:

> The existence of the Select Commission must not mean that Congress should stand idle on pressing immigration issues. It must not be an excuse for delaying consideration of urgent, remedial immigration reforms. The Judiciary Committees should not ignore legislative proposals in the immigration field, for which there is a broad consensus on the need to act, pending the report of the Select Commission in 1981.

Mr. President, I believe that all the polls show that there is a consensus among the people of America and that the time to act is now.

Fourth, this amendment would establish a reasonable ceiling which has the flexibility to deal with unknown emergencies. Although the amendment is a consensus of the Congress without the force and effect of law, the Congress would expect the President to honor it, insofar as it is possible to do. Within the very large limit of 650,000, the President could make necessary tradeoffs. For example, if he decides that some of the Cuban arrivals should be allowed to remain within the country, he could stay within the limit by reducing refugee admissions or by reducing regular immigration. He has the statutory power to do either.

Fifth, it would result in delaying the admission of some immigrants who want to enter this country. However, regardless of how high the limit is set, we will always be faced with this prospect. There are literally hundreds of millions of people who want to live in the United States and we cannot be reasonably expected to accommodate them all.

That is why we have established an immigration quota system. If demand did not exceed supply, we would not need quotas. Earlier this year, Congress reaffirmed the quota system when it set a new quota for refugees. This amendment does nothing more than set an overall quota, a concept that is well established in our laws. The courts have consistently ruled that there is no right to immigrate and that the people of the United States, through their elected representatives, may determine who may or may not immigrate.

We can see how that policy has been reversed, because this latest influx from Cuba was determined not by the United States at all. It was determined by the Marxist dictator of Cuba, who not only set the number of people who came to this country but also identified who they were, taking that question totally out of the hands of the Congress of the United States or of the executive branch.

Quotas do work a hardship on those who are forced to comply with them. However, without quotas, a greater hardship would be worked upon the citizens of this country.

Sixth, my amendment would establish the principle that there are limitations to the resources of the United States—that we can only be expected to do our fair share but no more. For too long our immigration policy has been dominated by foreign policy considerations. We must now begin thinking more about domestic, economic, and social considerations. Domestic problems such as high unemployment, excessive Federal spending, inflation, energy shortages, and poverty must be given first priority.

Seventh, it will send a strong message to foreign governments, potential immigrants, and the U.S. enforcement agencies that Congress expects our immigration laws to be enforced. It can be the first step in a comprehensive immigration program which brings reasonableness back into the immigration system. A vital component of any immigration system is a law which is enforced and which is respected.

Eighth, the amendment will force other countries to begin doing more of their fair share in caring for the world's refugees. As long as the United States is willing to do more than its fair share, others will stand by and let us do so. This is obvious from the resettlement figures of Indochinese refugees and our inability to secure the assistance of other countries in admitting more than a token share of the Cuban refugees.

Mr. President, my amendment is generous and reasonable as an immigration policy.

I see the distinguished Senator from Georgia in the Chamber, and he has asked for recognition. The other day, as chairman of the Committee on Agriculture, Nutrition, and Forestry, he presided over a session of the committee in which we were forced to cut from the school lunch program $500 million in order to get within our budget restraints. We took $500 million out of the mouths of poor children in this country, and that half billion dollars will be used to pay for the Cuban refugees who have come in, at the instigation of Fidel Castro, until the end of this fiscal year.

So we are talking about fiscal implications here that are substantial.

I yield at this time to the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, I thank my distinguished friend, the Senator from Kentucky. I compliment him on his amendment. I compliment him on his speech. I associate myself with every remark he has made, and I am happy to be a cosponsor of the amendment.

As the distinguished Senator has pointed out, there are some 14 million refugees in the world today. The United States of America already has taken more than its fair share. Other nations of the world are doing little or nothing about it.

I was absolutely appalled, as I am sure the Senator from Kentucky was, to read in the press that Fidel Castro has sent to this country lepers, convicted felons, mentally ill, and people of that type, that the laws of this country prohibit from entering the country. Apparently, Castro has gotten rid of many of the people in Cuba he wanted to get rid of, and has sent them to this country, at our expense.

I certainly hope that our Government will deport the convicted criminals, the lepers, and those who are diseased. I hope the mental defectives will be deported. They certainly should not have been admitted, in the first place.

As the distinguished Senator has pointed out, all these people have come in and immediately have gone on welfare—not only costing our taxpayers money, but also adding to this country's unemployment rolls, which are rising rapidly today.

I hope the amendment of the Senator from Kentucky will be agreed to by an overwhelming majority.

I thank the Senator for yielding.

Mr. HUDDLESTON. I thank the distinguished Senator from Georgia.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. HELMS there be a time limitation of not to exceed 60 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that on an amendment by Mr. Biden there be a time limitation of not to exceed 30 minutes, equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. On the amendment by Mr. Huddleston, I ask the distinguished author of the amendment, Mr. Huddleston, how much time he would be agreeable to placing on his amendment.

Mr. HUDDLESTON. I have used virtually all the time I personally want to use, except the time to respond to what might be said on the other side. I understand that an amendment may be offered by the Senator from Arkansas.

Mr. ROBERT C. BYRD. The managers say a half hour equally divided on the amendment.

Mr. HUDDLESTON. An additional half hour?

Mr. ROBERT C. BYRD. Yes.

Mr. HUDDLESTON. A half hour from this point?

Mr. ROBERT C. BYRD. Yes.

Mr. HUDDLESTON. Equally divided, 15 minutes?

Mr. ROBERT C. BYRD. And a half hour on any amendment to the amendment. Is that agreeable?

Mr. HUDDLESTON. That is agreeable to me.

The Senator from Missouri may have a question.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the amendment by Mr. Huddleston be limited to 30 minutes equally divided and time on any amendment to the amendment be limited to 30 minutes, to be equally divided.

Mr. DANFORTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Does the Senator have a suggestion as to alternative?

Mr. DANFORTH. Mr. President, I intend to object to any time agreement on this amendment.

Mr. ROBERT C. BYRD. All right.

Mr. President, I ask unanimous consent that debate on the bill itself be limited to 1 hour to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I understand Mr. Dole will be agreeable to a time limitation on his amendment when he comes on the floor.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I yield to the Senator from Maine.

Mr. ROBERT C. BYRD. Will the Senator yield once more? I am sorry to impose.

Mr. HUDDLESTON. I yield to the majority leader.

Mr. ROBERT C. BYRD. I overlooked two amendments by Mr. Wallop.

Mr. President, I ask unanimous consent on one, the amendment to provide for a study, there be a 10-minute time limitation to be divided and controlled in accordance with the usual form; and on the second amendment by Mr. Wallop there be a 30-minute time limitation to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Maine.

Mr. HUDDLESTON. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment offered by the Senator from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, my mother was an immigrant to this country. My father was the son of immigrants. They came here seeking opportunity and they found it.

For all of 200 years of this Nation's history the United States of America has stood as a beacon of hope to people throughout the world. As I understand the amendment offered by the Senator from Kentucky, it is not designed to extinguish that beacon. It merely realizes that in the real world in which we live we simply cannot continue a policy of immigration without taking into account the effect of that immigration upon the people of this country. The amendment imposes a realistic limit for the remainder of this fiscal year and will permit a reevaluation of the difficulties which the current situation imposes upon this country.

We simply must begin to take serious account of the effect of large numbers of immigrants upon the people of this country.

Continuation of the present policy or nonpolicy will have devastating effects upon the people of this country and may indeed lead to a reaction far more severe than that being suggested by this amendment.

Accordingly, Mr. President. I offer my support for this amendment.

Mr. DANFORTH. Mr. President, may we have order in the Senate please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, it is my intention to oppose this amendment with all the vigor I can command.

Mr. President, in the 95th Congress we established a Select Commission on Immigration and Refugee Policy. That Commission has a mandate to deliver its recommendations by March 1, 1981.

The Commission has been engaged in meetings. I am not a member of that Commission. Certain Members of the Senate are. I know Senator Mathias and Senator Simpson are from our side of the aisle.

The point of that Commission, as I understand it, is to make a thoughtful analysis as to what our refugee policy should be on the basis of deliberation and on the basis of analysis and to present a comprehensive proposal that makes sense.

We are asked in this amendment to jump the gun. We are asked to preempt the work of that Commission and to begin making decisions not on the basis of any careful analysis, but simply on the basis of a reaction to the influx of refugees from Cuba.

Mr. President, it is not surprising that at a time of economic difficulty we would want to find some readily available cause of that difficulty and place the blame for all of our troubles on that cause. If we are given a group of about 100,000 people, give or take a few thousand, it is easy to identify them as some kind of a special threat to this country.

So in this Chamber the economic argument has been raised that somehow the presence of 100,000 people is an economic threat to the United States of America.

(Mr. BRADLEY assumed the chair.)

Mr. DANFORTH. Mr. President, granted we are having hard times and granted we are going to have hard times for months to come. But I would suggest to the Senate that if the United States of America is in such a condition that we cannot accommodate even 100,000 people from Cuba then we are in very weak condition indeed.

As a matter of fact, it has been pointed out that there are criminals in this group, there are lepers in this group, and there are rioters in this group. How many of the 100,000 are criminals or lepers or rioters? The information I have is that about 1 percent of the total number who have come over from Cuba could be classified as criminals. How about the other 99 percent, Mr. President? How about the 99,000-plus who are not criminals and who are not rioters and who are not sick? How about these people who have escaped Castro's Cuba at their own peril to come to the United States?

Yes, it would have been preferable to have some sort of systematic way of dealing with the situation, but the fact of the matter is they are already here. They are in the United States right now. What are we supposed to do with those people? As far as the criminals are concerned, if there is some practical means, I do not know if there is, but if there is some practical means to deport them, let us deport them. And as far as the rioters in Fort Chafee, Ark., if there is some way to prosecute them, then they should be prosecuted just as any rioter or any other person who violates the law should be prosecuted under our legal system. But that beguiles the question.

How about the other 99,000 people? What are we supposed to do with them—ship them back on the theory that they represent some kind of threat to the United States?

Here is my understanding of what would happen if we were to succeed in shipping them back: They would be treated officially by the Castro regime as nonpersons. They would be entitled to no civil liberties. They would not be entitled to hold a job. They would not be entitled to ration coupons, ration books which are very important in Cuba. They would be dependent entirely on charity from their relatives in order to be able to make ends meet.

Mr. HUDDLESTON. Mr. President, will the Senator yield on that point?

Mr. DANFORTH. No. I wish to finish if I may and then the Senator may have the floor.

So, Mr. President, what are we supposed to do with the 99,000—ship them back? Suppose that we do not ship them back. Suppose that we keep them in the United States. I might say it might require some aid to keep them here. But there is no reason to suspect that these 99,000 people are going to be deadbeats for the remainder of their lives. In fact, they had enough get-up-and-go to leave Cuba in the first place, and the people who have come here from Cuba since Castro took control of that country have been very valuable members of our society in the United States and they have made worthwhile contributions, yes, to our economy and have undertaken work that no one else is willing to do.

So I do not think it is any great economic liability or consequence to provide them with a little initial help so they can assume their rightful role in the United States.

Mr. President, let us take the other alternative and that is that we do not ship them back because we cannot, there is no practical way of doing so. What does this amendment say under those circumstances?

Well, it sets a ceiling of 650,000 total for immigrants and refugees. Let us count up how we get to 650,000.

There is a difference between immigrants and refugees. Taking immigrants first, the immigrants consist basically of two different classifications. First, they are a variety of people from all over the world who have been waiting sometimes 6, 7, 8 years to come to the United States under a program which we have had in existence, I guess, forever.

There are people who are, some of them, from Europe, Great Britain, from all over the world. Some of them are doctors, some of them are lawyers, professional people, highly desirable people. They have been waiting to come over here. They are not your tired, your poor. They are not welfare cases. They are not going to require some special kind of grants to let them survive. They are people with ability, with talent. They are people who under any standard we would want to come into this country, and they account for 270,000.

Now, there is an additional group of people who are classified under immigrants who are members of the immediate families of those who have already come to the United States, members of the immediate families, families having been separated, husbands and wives, parents and children having been separated. So part of our program for handling immigrants is to reunite families. Who is going to argue against that? Are we going to say "No, we are going to keep families separated, we are going to shut the door on them?" I do not believe so.

So, Mr. President, if you were to add up the traditional immigrant program, the preferential program for people coming in, many of them who have been waiting 7 or 8 years, plus members of the immediate family, the approximate figure is 400,000. The limitation placed by the Senator from Kentucky would be 650,000 from all classifications.

What is the other classification? The first is immigrants. The second is the refugee status of people. These are people who are not in the ordinary program, and this is the situation we have been faced with there. Refugees, some of them come from Indochina, some of them come from the Soviet Union—primarily Soviet Jews—and then others come from all over the world. They are refugees.

With respect to the situation prior to the influx of the Cubans, before the Cuban exodus, the United States target for refugee immigration for this year, 1980, was 233,000. That number included 168,000 Indochinese, 33,000 Soviets—mainly Soviet Jews, 19,500 Cubans, 5,000 eastern Europeans, 2,500 Middle Easterners, 1,500 Africans, 4,700 others. That was the estimate before the influx of the Cubans. In the refugee category we were going to have 230,000 refugees, approximately 170,000 of those from Indochina.

Now, Mr. President, if we do not ship back the 100,000 or so Cubans, if we accommodate them in the United States, then what is this going to mean to American refugee policy as a practical matter if we go along with the Huddleston amendment? It means people who are going to be left out are the people from Indochina. It means instead of 170,000 refugees coming into the United States from Indochina we are going to shut the door, we are going to cut back, maybe by approximately half or so, the total number coming in from Indochina. I would suggest, Mr. President, to the Senate that the fallout from shutting the door on half the refugees from Indochina is a gruesome fallout indeed.

Mr. President, I have seen refugees. Along with Senator BAUCUS and Senator SASSER I went to the border of Thailand last October, and we saw refugees. We saw who they were. People were dying before our very eyes. Babies were dying in their mothers' arms; people so weak they could not get off the ground.

We went to Bangkok to the refugee camp run by the United Nations. Everybody always thinks that everything the United Nations does is so wonderful. It is a hellhole. People have been sitting around refugee camps waiting to be resettled 6, 7, 8 months; cholera outbreaks in those camps; a stench which is unbelievable. People crowded in spaces so that they could barely lie down side by side. That is the situation in Indochina.

The reason Senator SASSER, Senator BAUCUS, and I went over to that situation is that we believed that by our presence and by our attention of the United States to the situation in Cambodia, we could bring some pressure on the Vietnamese and on the Soviet Union and on the regime in Phnom Penh simply by the moral suasion of the United States to get more food into Cambodia.

We further believed that by our presence we could help shore up the Government in Thailand.

Approximately a year ago, Mr. President, a year ago this past spring, when the first wave of refugees came over the border from Cambodia into Thailand, the Thais pushed them back and said, "We cannot handle these people in our country," and they pushed them back across the border to Cambodia, some 40,000 of them, and most of them were killed.

So we in the United States used our power of persuasion, our moral power, with the Government of Thailand and with the other countries of Southeast Asia. The result of that was that the Thais in an exemplary manner made room for the people from Cambodia, set them up in camps, saved their lives, distributed food to them in a great humanitarian effort, which the United States of America was applauding and encouraging.

Then with respect to the "boat" people we used the power of persuasion the best we could in the United States to try to make accommodations for these people not only in the United States but in other countries as well. What a scandalous situation it was when those boat people were floating around Southeast Asia like flotsam and jetsam, not like human beings, and it was America that stood up for them not just in providing accommodations ourselves but in using our power of influence with the rest of the world to provide these people with a home. That was the position of the United States.

Mr. President, the condition now is very much in a state of flux. It is very much up for grabs today. Read the papers, not in some distant time in the past but in the last week, about the changing situation in Indochina. The Thais now are beginning to repatriate the Cambodians back into Cambodia. There is a serious question about how voluntary or involuntary that repatriation is going to be.

The Thais certainly have their own economic problems. If we think 100,000 Cubans is a threat to the United States, how about several hundred thousand Cambodians in Thailand? So are the Thais going to say, "Well, if you want to go back to Cambodia, you can go back"? Or are the Thais going to push them back across the border again? That is a real question.

Prime Minister Krianqsak, who changed his policy a year ago and allowed the Cambodians to come over the border, is no longer in power in Thailand. General Prem is in power, and the question is what is his policy going to be and are the people from Cambodia who are now in Thailand going to be forced back again?

The situation within Cambodia is far from straightening itself out. The indication, at least in the press that I have seen, is that the situation is getting worse; fighting is breaking out again. The famine is going to get worse, not better.

And so the United States, which has been the bastion of standing for what is right in Indochina, is now going to be able to say, under the Huddleston amendment, "Well, we are going to, in this very symbolic act, reduce the number of refugees from Indochina that we are allowing into the United States from 168,000, 170,000, down to maybe half that number."

What is that going to say? What is that going to say to General Prem? What is that going to say to the Government of Thailand? What is that going to say to the other countries in Southeast Asia? What is that going to say to the Vietnamese with respect to their boat people and their policies?

I believe what it is going to say is, "Yes, it is true that the United States was interested back in late 1979, but no longer."

Mr. President, last fall I thought we were doing something that was right. When Senator SASSER, Senator BAUCUS, and I went over to those refugee camps and when we went to Phnom Penh the next day, I thought we were doing something. It was not just a curiosity-seeking venture, sightseeing tour of human misery. It was an effort to stand for the best tradition of this country.

If ever there is a clear contrast between what totalitarianism stands for and what America stands for it is how to treat those desperate people in Indochina.

Here are two Communist regimes picking over a countryside, destroying crops, taking people out and killing them, casting them aside as though they are things and the United States being willing to reach out to the other side of the world and to provide them with assistance.

It is not just Cubans who are involved in this situation, unless we seriously say with a straight face that we want to kick the 99,000 criminals out of the United States back to Cuba where they will be persecuted for the rest of their lives. That is not the issue that is before us.

The issue is Cambodia. The issue is Indochina. The issue is whether the United States is going to be saying to the rest of the world that we forfeit the right to be a moral leader. That is the question before the Senate.

Mr. President, I yield the floor.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. The distinguished Senator from Missouri brings out some very cogent points about setting any limits at any time on the number of people that come to this country, whether it is through the immigration or whether it is through the refugee process. I think some things need to be brought out.

First of all, I do not look at it as a moral forfeiture of the United States that we should set some limits some time. This country has demonstrated time and time again to be extremely generous with refugees and immigrants and I do not have any apologies if this great land of ours decides that enough is enough.

There are estimated some 14 million refugees in the world today. My heart cries out for them; because they cannot feed themselves and their families, many of them will starve to death.

Is it the moral obligation for the United States to take every one of those, or 50 percent of those? Naturally, it would be great and most humanitarian if we could take every one of those refugees.

In reality, this country cannot absorb everyone who wants to come here, whether it is a refugee or an immigrant. I daresay that in the Southern Hemisphere a large percentage of the people there would be delighted to come to the United States if there were no limits or conditions on emigrating to this country.

And we know why. We know that because of the economics of this land, because of the job opportunities, because of the freedoms of individual rights, this is more attractive than any other country in the world today. I think the United States need not hold its head down if we place some limits.

This issue has been debated for some time. The last Congress, through a public law, created the Select Commission on Immigration and Refugee Policy and it charged it with several particular things to do. One is to study the laws presently that are on the books. One is to study the numbers and the process that is used both for refugees and immigrants, to study the court systems for appeal of those decisions and to come up with a report and recommendations both to the President and to the Congress.

That Commission has acted or is in the process of acting today. Just this morning the Commission had its fourth official meeting where we discussed numbers as well as had received many other reports. Last night the Commission met again at a 3½-hour dinner-working session and discussed numbers and three different possible plans that would set some priorities and some kind of status for immigrants and others who want to come into the United States.

There is no question we have been flooded recently with some disasters in other countries. We have not, in my judgment, exercised the greatest leadership in having some kind of a policy and determination from the executive branch. Part of that is the problem of Congress for not enacting some laws and not doing away with the antiquated quota system that we have had for many years.

In the year 1980, so far this year, the best estimate is that 798,000 people have come into this country, refugees and under the quota system and the nonquota system immigrants. That is a lot of people. And I am sure that, as well as the statistical data for 1979, 1978, and 1977, is the motivation or part of the motivation of the Senator from Kentucky to offer his amendment.

I believe that the work of the Commission should be permitted to complete its tasks, to come forward to Congress and to the President with a sound recommendation that will hopefully be transmitted into legislation, will have the appropriate hearings, will have the chance to have debate in those committees, will have the chance to have amendments offered and debated, and ultimately have legislation offered on the floor of both Houses so that this country, once and for all, could set some national policy on the immigration and refugee status of people who want to come to the United States.

There is nothing wrong in approaching it this way. The Commission has had 12 hearings throughout the United States. The last hearing was in San Francisco on June 9, where seven Commissioners attended. We have had over 2,000 witnesses who have testified, ranging from total open borders to having walls and fences and attempts to seal the borders.

We have had testimony from special interest groups which are attempting to utilize foreign workers in their economic pursuits.

We have had testimony by organizations, civil libertarian groups, who have indicated and brought forth testimony of abuses of illegal aliens, undocumented people who come across our borders, as well as some of those who are legally provided entrance into our country.

The Commission has not shirked its duty. With Father Hesburgh, the Chairman of the Commission, we are in the process of developing a series of questions and a series of answers as to what is the consensus of the Commission so that we can commence our report no later than December and have a preliminary report by the end of December of this year.

The Commission is charged to have the final report by April of 1981. It appears, barring some unknown problem, that we will have that report, we will have those recommendations. I am not today able to tell the Senator from Missouri, or anyone else in this Chamber, precisely what those recommendations will be, but I can say that I strongly suspect that there will be a number of them, and I strongly suspect that that number will be debated not only in the Commission but, once the recommendation is made, it will be debated elsewhere. Will that number be 500,000, 650,000, 800,000, or 798,000 who have come in this year? No one knows. But there is a time coming where I think it is safe to say that we are going to reach some number as to the numbers of people who can emigrate and come into this country under the rule of authority or whatever process the Commission sets up.

I would prefer that we not have a number set in this bill because I think it is important that the Commission, where the vote was overwhelming and supported by the administration as a nonpartisan commission, have an opportunity to continue its work and to come forward with its recommendations. That time, it seems to me, would be the most appropriate time for Members to offer substitutes, a lesser number, a greater number, less restrictions, a quota system, if someone feels that is the appropriate manner.

It appears to this Senator, however, that the Senator from Kentucky has offered this in the best sense of establishing a sense of the House and the Senate, a sense that for the American people, as generous as they have been in the past and even today, there has to be some limit and to place some number, as arbitrary as it may be. I can sympathize with the Senator from Kentucky.

I think he expresses the feeling of many, many people in this country, and probably the vast majority, of where are we going to be next year if 798,000 have come in this year, and if, indeed, 234,000 refugees before the Cubans were admitted to the country and 114,000-plus Cubans in only 6 months of this year? What are we going to have at the end of the year? Is it not proper to think that perhaps in 1981, if there are some disasters, and if there are 14 million refugees throughout the world, and I am satisfied that number is fairly accurate, what will prohibit the process from letting several million come into the country? Is that in our best interest? Is it in the best interests of this country? When it comes down to the gut decision you have to decide what is in the best interests of the United States?

I do not think anyone has to apologize for the moral judgment of deciding that the United States of America's own interests have to be paramount in this body and in the other body, as well as the executive branch.

Mr. STONE. Will the Senator yield for a question?

Mr. DECONCINI. I will be glad to.

Mr. STONE. How many have come in during calendar 1980 so far, in all categories covered by this amendment?

Mr. DECONCINI. In 1980 I am advised that the number is 798,000 including the quota, nonquota, and refugees, both prior to Cuba and including Cuba.

Mr. STONE. Is that in the period covered by the Huddleston amendment? That is what I am asking. In other words, in the period covered by the amendment of the Senator from Kentucky, the Senator provides that if the amendment passes——

Mr. HUDDLESTON. Will the Senator yield?

Mr. STONE. I yield.

Mr. HUDDLESTON. My amendment deals only with fiscal year 1980, for which we have at this time taken in approximately 550,000. That is including the Cubans.

Mr. STONE. So according to the Senator's figures we have taken in 550,000 and the amendment would cap it at 650,000. That would permit 100,000 additional immigrants or refugees to come in for the balance of the year?

Mr. HUDDLESTON. For the 3 months.

Mr. STONE. If the distinguished floor manager of the bill will allow me, how many does the Senator prorate will be coming in as immigrants under the various quotas and under the regular processes during these last 3 months?

Mr. HUDDLESTON. During the last 3 months?

Mr. STONE. Yes.

Mr. HUDDLESTON. The figures that we have, and they are estimates because some of these categories are difficult to anticipate, show quota immigrants at some 270,000—these would be the figures for the entire year—compared to 210,000 already in. So that is 60,000.

Mr. STONE. Sixty-thousand would be these regular quota type list people?

Mr. HUDDLESTON. That is correct.

Mr. STONE. And that leaves 40,000 additional refugees or applicants for asylum and the like?

Mr. HUDDLESTON. It could be divided any way the President desires. On nonquota immigrants it is estimated that 20,000 of those will come in, approximately.

Mr. STONE. That means there will be 80,000 under the regular processes and 20,000 left for parole-type admissions, if they are allowed in under the regular processes first?

Mr. HUDDLESTON. Those figures are good estimates, yes.

Mr. STONE. So that under the amendment of the Senator, if it were given the effect of law by the administration—it does not have to be, is that correct, as it is the sense of the Congress?

Mr. HUDDLESTON. It is the sense of the Congress.

Mr. STONE. But if the administration followed it, that would leave 20,000 nonpriority regular admissions for refugee situations, is that correct?

Mr. HUDDLESTON. Refugees or any of the other categories. The President can adjust those in any way. We are talking about overall totals for each particular category.

Mr. STONE. One last question. Has the Senator counted the more than 30,000 Haitians who are already in this country who are fighting a lawsuit for the right to stay?

Mr. HUDDLESTON. No; they are not included in this figure because they have no official status in this country.

Mr. STONE. That creates something of a difficulty, assuming that the administration would follow the sense of the Congress if it were adopted. If there are already 30,000-plus Haitians here, and after the normal regular immigration processes there is room for only 20,000, then at least 10,000 of those would have to leave, and no Vietnamese or Cambodian boat people could come in, is that right?

COMPETITION OF U.S. INDUSTRY IN THE WORLD AUTOMOBILE AND TRUCK MARKETS

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 101).

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Senate Concurrent Resolution 101. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY), is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—90

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young

NAYS—4

Hayakawa
Ribicoff
Weicker
Zorinsky

NOT VOTING—6

Goldwater
Gravel
Kennedy
McGovern
Moynihan
Percy

So the concurrent resolution (S. Con. Res. 101) was agreed to.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

The resolution, with its preamble, is as follows:

S. CON. RES. 101

Whereas, the American automobile and truck industry produces 1,750,000 jobs, or one out of every twelve manufacturing jobs in the United States and also supports thousands of jobs in other key industries such as steel, rubber, glass, plastics, aluminum, copper, malleable iron, textiles and electronics; and

Whereas, the American automobile and truck industry is a major customer for 50,000 small and medium size businesses located in every State, and a healthy and strong domestic automobile industry is necessary to the livelihood of 27,000 domestic auto dealers; and

Whereas, the domestic automobile manufacturers have undertaken an all-out effort to retool facilities for the production of small, fuel efficient autos and trucks in response to the sudden and unprecedented shift in consumer demand that occurred in 1979; and

Whereas, in the spirit of free trade, the United States has provided an open door to automobile and truck imports regardless of domestic content while most other countries including Japan have virtually closed their auto markets to United States produced vehicles through local content requirements, tariffs, or elaborate and indirect taxes; and

Whereas, Japanese automobile manufacturers, confronted with slack Japanese demand and tight import restrictions in other countries, have increased overtime and added auto production capacity in Japan in a massive effort to expand auto exports to the United States, raising their market share from 12 per centum in 1978 to over 21 per centum in the first quarter of 1980 with an eventual market target of 30 per centum or greater; and

Whereas, the United States incurred an auto trade deficit with Japan of more than $9 billion in 1979 with estimates that the deficit will exceed $10 billion in auto and truck trade in 1980, thereby worsening inflation in the United States; and

Whereas, the massive unemployment resulting from the decline in U.S. auto production has imposed major costs on Federal, State and local governments across the country in the form of trade adjustment services and large losses in tax revenue; and

Whereas, the present economic difficulty in the American automobile and truck industry results from more than a downturn in the business cycle, is not self-correcting and threatens to inflict lasting structural deterioration and dislocation on the industrial base of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That

1. It is a goal of the United States to achieve technological superiority in the world automobile and truck industry; and

2. The American automobile and truck industry is a strategic national industry that is essential to the economic stability and national security of the United States; and

3. Economic, fiscal and import policies should be designed to create adequate capital and to produce a climate for the American automobile and truck industry to achieve a rapid conversion of plant capacity to the production of increasingly safe, high quality, fuel efficient automobilies and trucks; and, in addition, the Administration and the Congress should review regulatory and import policies to assess their possible effect on the efforts of U.S. industry to retool for lighter, fuel efficient cars; and

4. It is in the national interest of the United States to reduce substantially the high level of unemployment in the automobile, truck and related industries; and the Congress therefore calls on the Administration, foreign governments, foreign and domestic manufacturers and affected labor unions to take immediate steps to alleviate short-range unemployment in the United States and to encourage these basic industries to build U.S. employment for the future; and

5. During this period of transition for the U.S. auto industry, reasonable restraint should be exercised by all affected parties with respect to prices and wages so as not to place an undue burden on American consumers.

Mr. RIEGLE. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I ask unanimous consent to add Senators Bentsen, Packwood, and Stennis as cosponsors of the resolution just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I voted "aye" on the so-called Riegle resolution, Senate Concurrent Resolution 101, to promote the competitiveness of U.S. industry in the world automobile and truck markets. However, I would not want anyone to misconstrue my vote as being in favor of import restrictions on foreign automobiles and trucks entering the United States.

I supported the resolution for two basic reasons. First, because it demonstrates a deep concern over the loss of jobs in the American automobile and truck manufacturing industry. And second, because it urges that economic and fiscal policies be designed to promote rapid plant conversions for the production of safe, high-quality, fuel-efficient vehicles. It is a change in such policies that will enable the domestic automobile industry to become competitive once again worldwide.

There are several references in the resolution to the term "import policy" and the vague suggestion that there be a restriction placed on such imports in the future. My vote in favor of the Riegle resolution in no way supports restrictions on imports, higher tariffs, or any other protectionist actions.

Protectionist efforts, be they reclassifications, U.S. plant requirements, or quotas on imported autos, ignore the effects over the past several years of fast-rising gasoline prices, and worldwide concern for energy conservation. While the U.S. auto industry continued to produce oversize gas-guzzlers, fuel efficiency of the average import has been stretched to 32 miles per gallon. That is why American consumers wait in line to buy imports, and are willing to pay premium prices for them.

I am concerned about the domestic auto workers whose jobs are at stake, but feel protectionist trade measures would deprive the American consumer of energy-saving products they clearly want. Furthermore, restrictions would not serve the mutual economic interests of the United States and Japan in the long term. Such measures would be self-defeating at a time when we are working to remove import restrictions in other countries.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981

The Senate continued with the consideration of S. 2377.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this request has been cleared with Mr. Danforth—that the vote on the amendment by Mr. Huddleston occur at 3:30 p.m. today.

Mr. JAVITS. Will the Senator make it 3:25 so I can make a plane?

Mr. ROBERT C. BYRD. 3:25 p.m. today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this has been the understanding, that if the time between now and 3:25 is not required for debate by Senators on this amendment, it will be set aside temporarily, and the Senate can proceed with other amendments.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, on an amendment by Mr. Dole, I ask unanimous consent that there be a time limitation of 30 minutes, equally divided, and on any amendment thereto, there be a time limitation of 20 minutes, equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, five or six Members have to be at the White House at 2:30. Will any of these votes occur between 2:30 and 3?

Mr. ROBERT C. BYRD. If there are, we will abolish the Presidency of the United States, so that he will quit having Senators down. [Laughter.]

Mr. NELSON. I appreciate that.

Mr. ROBERT C. BYRD. Every effort will be made to accommodate the Senators.

Mr. McCLURE. Could the Senator put that in the form of a unanimous-consent request? [Laughter.]

Mr. ROBERT C. BYRD. Not yet.

Mr. NELSON. If there is going to be a rollcall vote, I wonder whether we can be called and be given 5 minutes' notice, so that we can get back here.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I should like to summarize briefly the points against the Huddleston amendment, and I would appreciate having order in the Senate.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. DANFORTH. Mr. President, the Huddleston amendment is not and does not purport to be a long-term American policy with respect to refugees. The business of establishing a long-term policy for refugees, including whatever numerical limits we should impose, has been entrusted to the Select Commission on Immigration and Refugee Policy.

The work of that Commission is to be completed in March of 1981. By its terms, the Huddleston amendment is an emergency, stop-gap effort designed to shut off immigration between now and the end of this fiscal year. As is often true in emergency, stop-gap types of propositions, it is a very serious mistake. It has serious negative consequences, especially negative consequences for the people of Indochina.

Mr. President, the Senator from Florida (Mr. Stone) asked, before the last vote, as to the present figures for immigration during this fiscal year. The best information I have received from the State Department is that the United States, right now, is either at or very close to the cap of 650,000 established by the Huddleston amendment.

Mr. DeCONCINI. Mr. President, will

the Senator yield for a point of information?

Mr. DANFORTH. I yield.

Mr. DECONCINI. I indicated previously that thus far this year, 798,000 have been admitted. That is inaccurate. That is the projection for 1980.

We do not know exactly how many have been admitted thus far this year, but it is very likely that it does come very close to this and perhaps even exceeds the number of the Huddleston amendment.

The 798,000 I mentioned as a realistic projection includes 300,000 on the quota system and 150,000 on the nonquota system; 234,000 refugees, some of those who have been admitted but have not actually arrived yet and will be coming during the next few days; then, of course, the Cubans, for 114,000 that we know are here today, and perhaps even more of those.

Mr. DANFORTH. I thank the Senator from Arizona. It comports with the understanding I have, that we are either at or very close to the limitation.

That means that, for a period of 3 months, we have said we are not going to take anybody else. We are not going to take, for example, people who are coming in under the regular immigration program, families of American citizens. We are not going to take Soviet Jews.

However, the particular point I wish to make to the Senate, which I have been trying to emphasize to the Senate, is that under the mathematical computation, we cannot accommodate our present program for immigration from Indochina, under the Huddleston amendment. At present, the United States is bringing in approximately 14,000 Indochinese a month. At a time when Indochina is very much in flux, when a process is beginning for the repatriation of Cambodians from Thailand back into Cambodia, the concern I have is that the United States, by adopting this amendment—even if it is viewed in purely symbolic terms—will be a signal to the world that we have changed our policy with respect to Indochina refugees, therefore substantially weakening our hand in our dealings with Thailand, Malaysia, and other countries with respect to their handling of Indochina refugees.

Therefore, Mr. President, I believe this is a very, very serious mistake. The amendment that has been offered by the Senator from Kentucky is an amendment which can work real mischief, really life-threatening mischief, with respect to people in Indochina.

Mr. HUDDLESTON. Mr. President, I shall respond to the distinguished Senator from Missouri; but prior to that, I yield to the Senator from Florida for the purpose of asking a question.

Mr. STONE. I thank the distinguished Senator from Kentucky.

Just to complete the colloquy we were participating in before the intervening vote: In a situation in which probably most of the Haitians arrived before fiscal 1980 and in a situation in which, if the Senator's figures are correct, approximately 550,000 have been included in the country so far, that would leave room for about 100,000 more people to be classified in either of those statutes.

I ask the Senator to state whether, in his view and under his amendment, that would leave room for some determination as to the Haitians and for reunification of those family members currently contemplated to be reunited here.

Mr. HUDDLESTON. I respond to the Senator from Florida in this regard. First of all, this amendment relates only to fiscal year 1980. I think we will find most of the Haitians came to the country before the beginning of this fiscal year. That number would not be included in these limits until given official status.

Second, the 100,000 cushion that according to my figures would be available for only a 3-month period can certainly be utilized to accommodate members of families. Members of families, for instance, are estimated to be in the next 3 months, if they stay at the regular pace, only about 30,000. So that is not a large number. I think that certainly within the 100,000 the President could very easily accommodate those Haitians who are here once the determination has been made how to handle them.

Mr. STONE. I thank the distinguished Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the distinguished Senator from South Carolina (Mr. THURMOND) be added as cosponsors to this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I wish to emphasize again there has been some questions about figures and this is of course one of the difficult things we have to deal with in all of the immigration problems. The administration of our laws is so slipshod and haphazard it is very difficult to get accurate figures. The figures we have from the State Department and from the Department of Justice indicate that about 550,000 have immigrated up to this point in the fiscal year of 1980. So we are dealing with a cushion for 3 months of 100,000 if this resolution is passed.

Let me respond just briefly to the very eloquent and compassionate statement made by the distinguished Senator from Missouri. I recognize he feels very deeply about this. He has personal experiences that led him to feel this way in this matter.

Mr. STENNIS. May we have order, Mr. President? This is a very important speech.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the Senator from Missouri has indicated some of the difficulties in dealing with the refugee problems throughout the world.

He has told of the heart-rending scenes of refugees in refugee camps. We all know they exist. In fact, we have seen them on television and some have been there in person.

But we do not have to go to Cambodia to see poverty, suffering, illness, hunger, and ill-clothed people. We can see it within 15 blocks of this Capitol and within a few miles of the homes of any of us.

We cannot just say that because there exists in the world unfortunate circumstances for some people that the United States and the taxpayers of this country can assume the burden of relieving all of that suffering.

I think any reasonable assessment of the situation would indicate that there are limits to how far we can go.

Probably the most important thing that the Senator from Missouri was concerned about was whether or not any change at all in our policy would send some signals to those countries that would be detrimental to efforts to alleviate these situations.

He mentioned the question of repatriation. Has the United States ever taken any strong action to help repatriate refugees? If we have I am not familiar with it.

The fact is that it has been the U.S. refugee policy that has been the largest impediment to repatriation of refugees. Repatriation would be a very important factor in helping to solve the refugee problem.

Returning to one's own country under the proper circumstances in most cases would put that individual in better circumstances than going to a strange country.

Our policy of open door refugee acceptance is the policy that has been the most detrimental to a real repatriation effort by other countries of the world.

The Senator from Missouri is worried about international cooperation and indicated that our liberal policy of increasing refugee admissions from 7,000 a month to 14,000 a month was somehow going to inspire the rest of the world to do likewise. The facts are exactly the opposite. The rest of the world has done less and the United States has done more. By the end of this year under the present pace we will have admitted more than the rest of the world put together, including Red China.

We are not solving any of the real refugee problems. The numbers we take, as large as they are, are just a drop in the bucket. We are not solving the problems of refugees around the world, not in Cambodia, Vietnam, Cuba, or anywhere else.

I know, through a personal conversation that I have had with a member of the President's Cabinet who was in Russia at the time of the Cambodian difficulties, of the lack of cooperation. He asked Mr. Brezhnev if he would not get his government to help with the unfortunate Cambodian refugees. Do Senators know what the response was? He laughed at him. He said, "We think the United States wants everybody."

How much has the Soviet Union done in this difficulty?

We are kidding ourselves if we think that by opening our doors and taking in everyone in the world who wants to come here we are somehow helping to resolve one of the greatest problems that the world is facing today.

The Senator from Missouri went to Cambodia and saw those individuals. He might have gone to Afghanistan or Pakistan and seen a million or so there, or to Ethiopia or Somalia or throughout the Caribbean.

We cannot honestly tell the people of the United States that by being this generous and by accepting this tax burden, we are some way resolving this problem of refugees and homeless people. We are not in any sense.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator.

Mr. DECONCINI. The Senator from Kentucky knows I am indeed sympathetic with trying to set some numbers in the area of refugees and immigration and I believe the select commission will indeed do that.

However, the problem we face with the Senator's amendment is that the latest figures that we can get as of today as to how many are in the country already exceeds 650,000, and these numbers come from INS, that we have refugees of 168,800, not counting the Cuban refugees of 114,000.

Mr. HUDDLESTON. INS is surely adjusting their figures very quickly since this amendment was offered. Two days ago the figure was 146,000 refugees. Maybe they are coming in that fast.

Mr. DECONCINI. If the Senator will yield, on a daily basis these people are coming into the country.

When I was in San Francisco last Monday there were many hundreds that came in on a boat that night. I did not go see them but one of the staff from the Judiciary Committee of the House of Representatives did.

On the quota system INS reports to us that there is a quota admissions of immigrants of 210,000 and nonquotas of 195,000.

That puts us, give or take, I will grant the Senator some leeway certainly, at 685,000.

My question is this: Assuming that this amendment of the Senator from Kentucky is adopted and assuming that the administration says, "We will adhere to the sense of Congress because both houses have adopted this," what are we to do? Are we to turn back the 35,000? And in reality we suspect that before the end of the fiscal year we will have substantial increases in the nonquota system of immigrants of another 5,000, and under the quota system no one knows because it depends how many apply.

(Mr. BAUCUS assumed the chair.)

Mr. HUDDLESTON. If we do not boost those limits, we know we are not going to have substantial increases, and that is the purpose of the limits.

Mr. DECONCINI. Mr. President, if the Senator will yield, I support that, and I support some limits. My question is, is it necessary to put on a limit when those limits are exceeded?

Mr. HUDDLESTON. I would just question those numbers, and would really stick with the numbers we are suggesting.

I think if these numbers are under the 650,000 by 100,000 or something less than that, we are still talking about 3 months. There is ample opportunity to adjust the various entries in order to comply with that total figure, in my judgment.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. HUDDLESTON. Yes.

Mr. SARBANES. I want to understand the premise of the Senator's argument because obviously there is a difference in numbers between those cited by the Senator from Kentucky and those cited by the Senator from Arizona.

Is it the premise of the Senator's assertion for his amendment that there remains a margin of at least 100,000 for further immigration and refugees in this fiscal year?

Mr. HUDDLESTON. It is not a premise; it is an option on my part. But the purpose of this amendment is not necessarily to leave a 100,000 cushion.

Mr. SARBANES. I see. So if the numbers were such that the amendment effectively precluded any further immigration of any further refugees, whatever, would the Senator still be proposing his amendment; or would he then, in light of the fact that the 100,000 margin was no longer available, have a different view?

Mr. HUDDLESTON. I doubt if I would have a different view. I think it would be hard to convince the American people that 650,000 are not enough. There are areas over which we do have control where we can reduce the number of entries for just 3 months. It does not seem to me it would cause us that much difficulty.

Mr. SARBANES. Does the Senator's definition in his amendment of immediate relatives embrace the spouse and children of an American citizen? It does, does it not?

Mr. HUDDLESTON. Yes, it does. Those are the nonquota immigrants who come into the country.

Mr. SARBANES. So that if we are at the ceiling figure proposed by the Senator an American citizen would not be able to bring his or her spouse and children into the country.

Mr. HUDDLESTON. Until the end of this year if you want to continue to bring in all the other folks who are coming in.

Mr. SARBANES. No, if we are at the ceiling figure, the 650,000 figure, you would not even have that option available to you, as I understand it. Would that not be the case?

Mr. HUDDLESTON. That would be the sense of the Congress, that would be what this amendment says.

Mr. SARBANES. That strikes me as extremely Draconian. We, of course, have had numerical limits in our immigration and refugee law. We have not put it all together in the comprehensive way that the Select Commission on Immigration, chaired by Father Hesburgh the very able and distinguished president of the University of Notre Dame is now seeking to do, and before which commission the distinguished Senator from Kentucky, as I understand it, has testified.

Is it not correct that the recommendation of the Select Commission will shortly come to the Congress? Is the Select Commission not charged with coming in, by the end of this calendar year?

Mr. HUDDLESTON. I think next March is when they anticiapte coming in.

Mr. SARBANES. That would enable the next Congress to act in the next session on this very question, with the benefit of the Select Commission's study; would it not?

Mr. HUDDLESTON. It would, Senator. But the Select Commission has been in business for some time.

Mr. SARBANES. I understand that.

Mr. HUDDLESTON. Earlier this year while they were busy with their work we passed a major immigration and refugee reform bill, as you know, the act of 1980.

The Judiciary Committee has just recently reported out another important piece of immigration legislation. So I do not think the fact that they are discussing this matter would compel Congress to wait until they report before taking some action. This just deals with the end of this fiscal year.

Mr. SARBANES. I understand that but it could have some very significant effects during that period.

Mr. HUDDLESTON. The indication I have had from them, from the commission, is indeed they are going to recommend that we establish annual ceilings for immigration. So this is just for an interim period, and it expresses the sense of the Congress about the way we ought to move. We ought to have control of our immigration rather than turning it over to "Baby Doc" Duvalier and Fidel Castro and all the other despots in the world who can send to our shores any number of people at any time and decide who they will be.

Mr. SARBANES. I doubt if there is any Member of the Senate who would disagree with the point the Senator has just made. We ought to have control over our immigration policy. The question is whether, in developing that policy under the current circumstances, it would not make more sense to have the report of the Select Commission, and then to proceed on that basis, a comprehensive basis, rather than introducing a ceiling 8 months into the year in which the ceiling is going to apply, which makes it virtually impossible to develop a judicious policy with respect to how each of the covered categories shall be treated.

If we are at this ceiling figure—and there has been some difference of opinion on the floor as to what figure we have now reached, because the chairman of the subcommittee has just stated that we are beyond the Senator's 650,000 figure—the consequence, if the sense of the Senate is adhered to by the administration—and I do not think our expressions of view should be taken lightly—would be just to stop everything. The amendment includes within it the immediate relatives of U.S. citizens, which raises, of course, the spouse and children problem. It includes other problems in other categories. I do not think we should hear these problems lightly.

It may well be that next year the Congress will settle upon this figure as being appropriate and sensible. The Commission may even recommend this figure, recommend one lower or higher, for all

I know. But it seems to me that the better way to resolve it is to await the Commission's report. It is a very able Commission and has been working very hard to carry out its assignment.

I know the Senator has taken a keen interest in this problem and has testified before the Commission on this very issue, and I recognize the immediate concerns which the Senator has.

But it would seem to me that we ought to determine a figure on the basis of the best study we have, as perceptively as we can, so that we can then adjust the policy in order to avoid winding up with an undesired, unwanted, result that we may well get by simply putting in a figure, especially when we are this far into the year in which it would be applicable. We would then find it difficult to adjust our policy. In fact, we might be precluded, if the figures cited by the chairman are accurate, from adjusting the policy at all.

Mr. HUDDLESTON. From my viewpoint we have waited, and we have handled immigration on an ad hoc basis. We have virtually decimated the Immigration Service in this country. They cannot perform their job. The administration—several administrations in a row have—and this administration has violated the intent of the law, if not the law itself, by using the Attorney General's parole authority by bringing in huge numbers of people when it was designed to accommodate special cases. We all recognize that.

Nobody in this Congress that I am aware of has been interested or willing in approaching this problem of immigration and whether or not we ought to have some kind of limits or whether we are going to take everybody who wants to come to our shores. It is my opinion it would be a very important thing for this Senate and the House to now indicate through a sense of the Congress resolution that total numbers are the right way to go and that we should initiate them now. I see no way that it could interfere with the work of the Select Commission. We have passed legislation while they have been in session. Legislation has been proposed by the Judiciary Committee. It just seems we are wasting time on it, and the people of this country, I think, have a right to expect that Congress is at least going to try to exercise some control over the immigration and refugee policy of this country.

Mr. SARBANES. Mr. President, will the Senator yield 1 minute longer?

Mr. HUDDLESTON. Yes.

Mr. SARBANES. Mr. President, I appreciate the Senator's concerns and I know his interests in this issue. I simply want to make the following observations.

First of all, given the Senator's advocacy on this question, his proposal for and advocacy of development of a national policy, it looks very likely, although I understand the Senator's reference to past difficulties, that the select commission will indeed make a recommendation of this sort; that the Congress will then evolve a proposal on the basis of the Commission's proposal, and that the Senator will thereby have the opportunity of achieving a consensus on an appropriate policy.

Second. Moving now in the current fiscal year, I think the Senator ought to consider, from his own perspective, the possible consequences of acting now in the current fiscal year. If we have extreme hardship cases—which clearly we will have, in light of the figure cited by the chairman of the committee—it will constitute a counterweight to the point of view which the Senator has been advancing in the consideration of this issue.

Third. To act arbitarily at this time would put the Senate in the position of not being able to develop a national policy on the basis of a report assembled by a very distinguished commission which has conducted careful hearings; and I expect that report to have a great deal of substance to it.

Fourth. We would be acting in a way that it would not really represent a broad consensus within Congress.

I think all of those considerations, simply from the Senator's point of view, argue for a different approach to this problem than the one being put forward by the Senate here today.

Mr. HUDDLESTON. Mr. President, I thank the Senator for his counsel and advice.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, are we under controlled time?

Mr. HUDDLESTON. Mr. President, we are not. I have the floor.

Mr. STENNIS. Mr. President, I first want to commend the Senator from Kentucky for the long, long months and months of hard work that he has put on this problem. I am proud, too, that he has made as much headway as he has.

I believe, with all deference to everyone, that of all the problems that I have heard discussed here over the years, we have talked, perhaps, more about this than any other. The facts are pretty well known and undisputed, largely, but we have done less about it in an effective way than anything that I know. There are a great many reasons behind that.

This is a human thing. Everyone is interested in people, or should be—and most of us are. It involves families and all the sensitive things that go with family life. It involves the matter of making a living and everything else.

But, absolutely, as a matter of our national self-interest, I have been convinced that if we did not grip this problem with a firmer hand and really establish some firm law on the subject and then proceed with enforcement of that law, that we are going to reap terrible fruits of that error. There are just so many of these people that we can take in that will profit the country and be an asset to our Nation as a whole, but we can make great headway in that field just from the selfish standpoint.

Now, I am not as familiar with the law on the subject and the facts and figures as the Senator from Kentucky is, by far; but I do have some appreciation of the problem.

I know the Senator from Kentucky is studious by nature and thorough and fair and impartial. This amendment represents a positive step forward. As I understand it, it is an amendment to a Senate bill. When these amendments go to conference, if there is anything wrong with the figures, there is time to adjust it there in light of the most agreeable facts then presented. And we will have set our foot on a definite course of action, with good reason and good purposes, instead of backing off and waiting and waiting and waiting.

I remember how we were deluged here many times, more recently by refugees from the war in Vietnam, and things have gotten worse and worse and worse.

So I commend the Senator again and I thank him. I think everyone's purpose is largely the same on this problem. But we just have not put our hands to the wheel and steered toward a firm policy.

Let us take a step forward is my plea—just one step, a firm step—and that will lead to others that will help find a solution.

I did not mean to get into a speech, but I have these matters on my mind which I feel need to be emphasized over and over again.

I endorsed the Senator's bill for establishing a ceiling some 3 or 4 weeks ago and hope that it will pass.

I thank the Senator for yielding time to me.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, the Senator from Kentucky brings to mind today those words of Ralph Waldo Emerson that I think we all know or perhaps once knew:

By the rude bridge that arched the flood,
Their flag to April's breeze unfurled,
Here once the embattled farmers stood,
And fired the shot heard round the world.

The Senator from Kentucky has fired a shot that, if it is not heard around the world, is certainly going to be heard throughout the 50 States of this Union. He has touched on what is one of the great problems that confront the world, and that is the growth of world population.

As world population grows the pressure on the United States to admit more and more immigrants will rise.

Mr. President, we all ought to understand very clearly the exponential nature of this pressure and how fast it is going to accelerate in this generation.

Consider, if you will, that from the very beginning of time, from the days when Adam and Eve walked in the Garden of Eden, up until the middle of the 17th century—roughly about the time that my own State of Maryland was founded—the human race only accumulated about 500 million people. From the beginning of time to the founding of Maryland, about a half a billion people, a period of countless thousands of years.

But from the time of the founding of Maryland until the time just before the

American Civil War, a period of less than 200 years, the human race doubled from half a billion to a billion.

It was only 100 years thereafter, from about the time of the Civil War until the time of the Great Depression in America, that the human race doubled again from 1 billion to 2 billion. And it was only 45 years, say from 1930 to about 1975, that the human race doubled again from 2 billion to 4 billion.

No one knows exactly how long it will be before the human race doubles again from 4 billion to 8 billion, but any school student can make some rough aprpoximation from the fact that it only took 5 years, from 1975 to 1980, for the world population to go from 4 billion to 4½ billion.

So the rate of acceleration is very high. The growth of the global population is very fast. Anyone who has any doubts about these facts can go down to Connecticut Avenue in this city of Washington and look at the world population clock and see how many human beings are added to the world population just in the length of time it takes you to wait for the light to change at 18th Street.

So the Senator from Kentucky has raised a subject here of enormous implications. It is going to require all of us to think very hard about a whole range of subjects because I think this is one of the great problems which threatens the world.

I do not know whether we can say the Senator from Kentucky is one of those embattled farmers of whom Emerson spoke, but I suppose a Kentucky colonel is on occasion an embattled farmer. We will give him that status today in any event.

But this is very serious business. It will drive us not only to the consideration of limits of immigration, but I think it will drive us very seriously to look at the findings and the recommendations of the Brandt Commission. For example, if people are starving and living in abject poverty in other parts of the world and they see the United States, as indeed they do see the United States, as an island of opportunity and prosperity, where food and jobs are available in abundance, then just as lightning seeks the lightning rod, they are going to want to come here.

Of course, the Brandt Commission looks at ways in which life can be improved in other parts of the world so as to decrease the motivation of untold millions to come to the United States of America because of the abundant opportunities for a better life that can be found here.

That is one aspect of the problem at which we must look.

I think the Senator's proposal also drives us to look at what we are doing to our own food sources in the United States. I know many Americans who would like to see no immigrants, who say that that day is over. But if the Senator's own levels of immigration were adopted and we have our normal process of reproduction in this country, then, on the present disastrous course of agricultural policy on which we have embarked, this country will be in a food deficit posture by the end of this century. We are destroying 3 million acres of farmland, 3 million acres of American agricultural lands, per year. If we do that for the next 20 years, we will destroy 60 million acres of American farms, while adding millions of mouths to be fed. So the Senator's amendment suggests we have to look not only at who is coming in, but how we are going to feed the people who are already here. I think we better look to that question because that is what is embodied in the kind of decisions which flow from this question which has surfaced on the floor of the Senate here this afternoon.

I could go on at great length, but I think I have said enough to indicate the complexity of this problem.

There are economists who have testified in various public hearings that the United States will certainly face a labor shortage, that within the next 10 years, for example, we may actually have to revert to 19th century practices of importing labor. I do not know whether that is true. Economists do not have the best track record for achieving 100 percent accuracy in their predictions. Certainly, politicians do not either, so I am not making any invidious comparisons. But there is that side of the question.

The distinguished Senator from California (Mr. HAYAKAWA), with the Senator from New Mexico (Mr. SCHMITT), has introduced a plan by which we can, on a temporary basis, import agricultural labor, which in their part of the country is an important part of the economy.

Some economists believe that there are areas of the agricultural industry where shortages will exist which will have to be met by importing labor, either on a temporary or permanent basis. So again the complexity of this whole question increases.

One of the difficulties with this amendment, of course, is what it does to the situation in which we now find ourselves. If it would require that we would immediately suspend all current immigration, refugees, families, normal quotas, I think that would give us real pause because one area of great concern is, of course, immigration from eastern Europe and from the Soviet Union, people whose lives are so constricted that they cannot practice religious freedom, they do not have normal civil rights and civil liberties. They are refugees in the classic political sense of the word. Therefore, we must protect, for example, the right of Soviet Jewry to have some escape valve, some place to go, some refuge where freedom still exists.

What I am saying in summary is this: The Senator from Kentucky has brought to the attention of the Senate a subject that we cannot escape, that we are going to have to confront. It is a subject of enormous complexity. I would take this opportunity of saluting the reference Dr. Theodore Hesburgh, president of Notre Dame University, who has accepted the very heavy responsibility of being Chairman of the Select Commission on Immigration and Refugee Policy.

The Senator from Arizona, the manager of the bill, the Senator from Massachusetts, the chairman of the Judiciary Committee, the Senator from Wyoming (Mr. SIMPSON), and myself serve on that Commission. I think we have some sense of the many conflicting elements which are going to have to be reconciled in solving the very problem which is suggested by the amendment.

It is a good time to debate it because we have to begin to educate ourselves, our friends, and our fellow countrymen on the depth, the breadth, and the complexity of this issue.

It would seem to me that the terms of this amendment do not do quite all of that. It has been raised; it is being addressed. The Select Commission on Immigration and Refugee Policy, which held its last public hearing in San Francisco last Monday, will be making recommendations to the Congress and to the country the first part of next year.

I believe that, once we are seized of all the facts, we can make the kind of responsible and forward-looking decisions which will insure the people of the United States against serious resulting consequences from having acted without weighing all this evidence.

Mr. President, I hope that the Senator from Kentucky will not press this amendment at this time, because it does seem to me that we need to look at this larger picture and assess it on the scale on which I think it demands to be assessed.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, there is a factual bone of contention of great importance that is before the Senate right now. That is the question of how many immigrants and refugees have already come into the United States during the current fiscal year. The information that we have from the State Department is that we are, right now, at approximately 650,000, maybe even above that figure. If that fact is true, then, under the Huddleston amendment, no further immigrants or refugees would be permitted into the country. As the Senator from Maryland (Mr. SARBANES) pointed out, that means that, under the Huddleston amendment, if the State Department is right in its estimates, relatives of American citizens could not come into the country over the next 3 months.

It means further that, during the next 3 months, Soviet Jews could not come into the country. Mr. President, a major part of our policy with respect to the Soviet Union has to do with encouraging the emigration of Soviet Jews. Yet, if the figures that we have are correct, under the Huddleston amendment, no Soviet Jews would be permitted in in the next 3 months.

Under present American policy, Mr. President, the United States is receiving 14,000 immigrants a month from Indochina. That is the position that has been taken by the President quite a while ago; I think about a year ago. Fourteen thousand Indochinese are coming into the country.

This means that the United States would reverse that policy.

Mr. SARBANES. Will the Senator yield on that point?

Mr. DANFORTH. Of course.

Mr. SARBANES. Is it not correct that the American commitment to take those refugees was an essential building block in the undertaking by other countries to take Indochinese refugees and of the undertaking of the Southeast Asian nations, which have served as the country of first refuge, to continue to carry out their responsibilities?

Mr. DANFORTH. That is absolutely correct.

It is further true that the position of Thailand with respect to refugees from Cambodia is a question which is now very much up in the air, given the new regime in Thailand, and that the United States has been encouraging the Government of Thailand to keep refugees from Cambodia.

So the United States, during the past 2 years or so, has had as a major portion of its policy, trying to encourage other countries to take boat people, to take people from Cambodia, refugees from Indochina.

If the State Department's estimates are correct, Mr. President, the effect of this would be that we are now at the upper level, at the limitation in the Huddleston amendment, and nobody else will be permitted in in 3 months. It would be more than a 3-month inconvenience for relatives of Americans, Soviet Jews, and everyone else. It would undermine the policy of this country.

UP AMENDMENT NO. 1191

(Purpose: Substitute for Huddleston unprinted amendment No. 1190)

Mr. DANFORTH. Mr. President, I would just as soon defeat the Huddleston amendment because I think it is so dangerous for American policy, so damaging to the rest of the world, and truly life-threatening for the people of Indochina. Given the mood of the country, economic conditions in the country, the desire of many people to lash out against the Cubans, my concern is that I am going to lose this vote, that the Huddleston amendment is going to be adopted by the Senate and the mischief in this amendment is going to affect not only our policy, but the lives of people all over the world, and particularly in Indochina. Therefore, Mr. President, on behalf of myself and Senator SARBANES and Senator MATHIAS, I call up an amendment which is now at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) for himself, Mr. SARBANES, and Mr. MATHIAS, proposes an unprinted amendment numbered 1191.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language intended to be proposed by Mr. HUDDLESTON, insert the following:

SEC. 120. It is the sense of the Congress that the United States should not admit more than an additional 100,000 immigrants, special immigrants, refugees, those seeking asylum in the United States or those paroled into the United States, but not including immediate relatives of United States citizens in the period July 1, 1980 through the end of fiscal year 1980, and the President should submit to the Congress an annual total immigration goal for the United States.

Mr. DANFORTH. Mr. President, this amendment is a real fallback as far as I am concerned. What it attempts to do is make two corrections in the Huddleston amendment and still maintain this notion of a temporary cap for 3 months that Senator HUDDLESTON thinks is important, so it concedes that point to him.

But it says that, instead of using 650,000 as a figure and not even knowing whether we are there or not any more, we use as a figure the prospective figure of 100,000 additional immigrants and refugees between July 1 and the end of this fiscal year, a 3-month period of time. So, instead of guessing at whether we are at 550,000 or 650,000, it simply says where we are now, plus 100,000. Therefore, it would let us accommodate the people from Indochina, let us accommodate the Soviet Jews.

The second change that it makes is that it exempts from this cap immediate relatives of citizens of the United States. That is, it says that under no circumstances will this amendment establish a policy of the United States to preclude wives, children, and parents of American citizens from coming into the country. That is the thrust of this amendment to the Huddleston amendment.

Mr. President, on this amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the Senator from Missouri has suggested an amendment to my amendment that, in fact, does set virtually no limits at all.

The purpose of the legislation, the purpose of the sense of the Congress resolution, is to establish a bona fide limit.

If we assume, as the Senator from Missouri suggests, that there are already 650,000 immigrants into this country, and then we exclude the members of families which come in under the nonquota portion of our immigrants, which is estimated to be 110,000 for the year, there is a disagreement on the numbers.

As I have pointed out before in this discussion, that is understandable, because this whole area has been neglected so much by both Congress and the administration that virtually nobody knows.

I would like for the Senator from Missouri to indicate how many he is talking about in his amendment, what kind of figure he is really setting.

Frankly, the most frequent criticism I have had to the amendment I have offered is that the figure is too high.

I think the American people are genuinely surprised to find out that as many as 650,000 new citizens are coming into this country every year, about one-third of them, or more, at taxpayer expense, and often are being sustained for a period of up to 3 years.

They have preferences that the average citizen does not have. The unemployed man in Miami who is an American citizen and has been trying to get a job does not get as much of the help as the Cuban who has just come into the country.

The American people, I think, have been surprised to learn that this volume of people is being brought into this country.

I point out, this does not include the illegal aliens that are coming in at the rate of about 1 million or more a year.

So I think the Senator from Missouri ought to indicate what kind of a figure we are talking about.

We had a very difficult time, Mr. President, in trying to determine what the total cost of refugee assistance was to the American taxpayer.

Prior to this year, this Congress did not know. The Appropriations Committees did not know. The committees with jurisdiction over all the various programs did not know. The American people did not know. I do not believe that the executive branch knew until an amendment was added to an act earlier this year at my request which required the President to submit to the Congress the total figure.

I recall that as the Appropriations Committee marked up the appropriations bill the year before, the chairman brought up the question of the increased cost of refugee assistance. He said that we ought to do something about it because if it kept going like it was, it was probably going to get up to $500 million or $600 million a year, and maybe sometime in the future even to $800 million.

In my amendment, the administration finally did begin to ferret through the agencies involved in this activity. We found out, scheduled to be spent in 1980, not $500 million, but $1.7 billion.

That was before the influx of the Cubans who will add several hundred million dollars to that. So, for 1980, we probably will spend over $2 billion for refugee assistance of the American taxpayers' money.

Scheduled to be spent in 1981 was $2.1 billion. That, of course, will increase substantially, if the present influx of Cubans is determined to be refugees because they then will qualify for all the assistance programs available to them.

We are really talking about substantial numbers of people and substantial numbers of taxpayer dollars.

I was reading the Associated Press news ticker just a couple of hours. There were two items of particular interest, one relating to the Cuban refugees that I am not even going to mention here, except to say that as many as 30 percent of those Cubans sent to this shore by Fidel Castro would not qualify under the U.S. immigration laws—as many as 30 percent.

I point that out to indicate to what extent the Congress and the President have abdicated the immigration policy to dictators who reign in various countries around the world.

The other item I thought was pertinent to this particular debate is that the Labor Department has reported today that 675,000 jobless people filed for first-time unemployment claims last week. Up 50,000 from the week before and equaling the record high—the record high—in the history of this country.

Do we think times have not changed and we do not need to change our policies to adjust to them?

It seems to me we need to be more concerned about the interests of the American people.

A lot has been said, and my distinguished friend from Maryland in his lucid way was concerned, about the signal we would send out.

The most valuable thing we could do would be to send that signal. It is time the rest of the world recognizes that the refugee problem, the problem of poverty in the world, the problem of hunger, is an international problem and it is not for the United States to do the entire job.

There is plenty of poverty right here in this country, which needs to be taken care of first.

Mr. MATHIAS addressed the Chair.

Mr. HUDDLESTON. Let me repeat what I said earlier because it was raised again by the junior Senator from Maryland. It has been alleged that somehow the efforts of the United States had encouraged the rest of the world to help in this problem.

I say again that the record does not show that. The rest of the world has taken little interest because they depend so heavily upon the United States and know that the United States will do much, much more than its fair share.

The United States is doing as much as the rest of the world combined. We have tried to get the Western Hemisphere countries to help with the Cuban situation. Do you know how many they agreed to take—all the countries there? Three thousand. That is when we had 114,000 dumped on us in a 4-week period.

So it is time we sent a signal. I believe that the people of the United States would appreciate our sending a signal that we are going to recognize the fact that there are limits to what we can be called upon to do.

We have spent long days trying to figure a way to balance the Federal budget. I referred earlier to the fact that the Committee on Agriculture spent a morning in cutting $500 million from the school lunch program—food out of the mouths of indigent children in this country; $500 million, which will be used to take care of the Cubans who have come in from now until the end of this fiscal year.

I do not for a moment suggest that we should compare armaments with humanitarian needs, but if anyone is interested in the security of this country, that sum of money would buy about 500 of the best tanks in the world. The Soviet Union presently outnumbers us 10 to 1 in this regard.

We have spent days in the Interior Subcommittee, cutting back energy research, trying to find a way to relieve this country of its dependence on foreign oil and all the implications that has for our national security, and we are having a tough time doing it.

We have voted to tell the Federal retirees, the elderly of this country, that we can only adjust their cost of living once a year instead of twice.

We have had to make difficult decisions to cut domestic programs. We have had to set priorities. I believe that the American people are entitled to expect that Congress will set those priorities based upon domestic interests and domestic concerns.

I urge that we vote against the amendment that has been offered to my amendment because, essentially, it does very little. If you are going to set limits, you have to have limits. Just to say "everything here, plus 100,000, plus another 100,000 or more" has little meaning.

Mr. MATHIAS. Mr. President, will the Senator yield? I have a question that is pertinent to that very point.

Mr. HUDDLESTON. I yield.

Mr. MATHIAS. I certainly agree with the Senator that we have to send a signal; I do not think there would be any doubt about that.

The Senator has given figures. They are significant figures, important figures. I believe we have to go beyond sending a signal. We have to establish a policy, not merely a signal, not merely saying what the Senate thinks is the right policy.

We have to say that we are going to establish an immigration policy, a refugee policy, by which this country is going to live over a long period of time.

It has to be dealt with, and it has to be dealt with on an urgent basis.

So I want to go further than the Senator from Kentucky is going. I want to have a policy, an enforceable policy which is enforced, which is more than a sense of the Senate resolution. But it is a job that is going to take more than one afternoon in the Senate to do. I know that wonders can be worked here. Miracles can happen on the floor of the Senate, but I believe this is not one of them. We have serious problems in which we have to move from where we are to where we should be. We clearly are not where we should be.

My question to the Senator from Kentucky is this: What happens, if his original figure is adopted, to, let us say, Soviet Jews who have applied for exit visas and who may get those exit visas. They leave the Soviet Union, knock on the door of this country, and we say, "No, too late; the bar has dropped, and you are no longer welcome here"?

Is that not a danger under the Senator's proposal?

Mr. HUDDLESTON. I suppose it could be said that any time limits are set, there will have to be tradeoffs. That is the purpose of setting a limit, so that you have to set some priorities. If you say there is no effective limit, you are back to the situation we are in now.

First of all, about the conflict in figures, this would go to conference, and there would be an opportunity to verify or get a better understanding about the figures.

Second, this is a sense of Congress resolution. The President still has the authority to exceed them if he found it in the best interest of this country to do so, provided he consulted with Congress.

Mr. MATHIAS. Let me suggest to the Senator part of the problem here. Soviet Jewry, which has looked to the United States since the administration of Theodore Roosevelt—before that, since the time when Secretary of State Frelinghuysen, in 1880, first began to be concerned about the plight of Soviet Jews—has had an understanding that the United States had a sympathetic ear to their plight. If we are changing that policy, should we not do it in a kind of phased, transitional way, in which we do not simply slam the door on one afternoon in the U.S. Senate? Whether we change it at all is a matter of some discussion and debate. But if we are going to change it, it seems to me that we have to allow some period of time.

All I am suggesting is that we have the Select Commission on Immigration and Refugee Policy, which is going to have a considered opinion, backed up by 12 public hearings. Is that not the way in which we should proceed, and not a single, quick decision after a few hours of conversation?

Mr. SARBANES. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Maryland.

Does the Senator from Kentucky yield to the Senator from Maryland?

Mr. HUDDLESTON. I yield.

Mr. SARBANES. Mr. President, I wish to make the observation that the Danforth substitute reffects the figures as to present arrivals which the Senator from Kentucky has been using in making his case on the floor of the Senate.

The Senator from Kentucky, in making the case for his amendment, took the position that currently we had 550,000 people who met these categories. He set a ceiling figure of 650,000; therefore, there would be room for another 100,000 if the 550,000 figure is correct. On the other hand, the chairman of the subcommittee, the Senator from Arizona, stated that he had figures in hand indicating that we already are at the figure of 650,000.

The Danforth amendment does two things. The first is to take out of the categories covered immediate families—spouses and children. I believe they should be excluded from the covered categories because they have always been placed in a nonquota status. If spouses and children are going to be included, it will constitute a departure from all prior experience and practice. That should be a very carefully considered decision on the part of the Congress of the United States.

The Danforth amendment proceeds on the figures contained in the argument that the Senator from Kentucky offered for his amendment—namely, that an additional 100,000 people may come in, in the remainder of the current fiscal year. If we are now at 550,000, then we have brought in an average of 185,000 per quarter so far. To limit the last quarter to 100,000 is a sharp drop. It is almost cutting it in half for the remaining quarter, once you prorate those figures.

The substitute proceeds with the figures asserted by the Senator from Kentucky in support of his amendment, that there is this room for an additional 100,000. But if, in fact, he is wrong on the figures and we are already at a higher figure, the substitute still leaves that amount of latitude, 100,000—setting aside the other very basic question about spouses and children.

If the Senator's concern is to send some messages, the proposed substitute will send a message that is balanced. It will not get us into the dilemma of having created constraints for the remainder of the fiscal year that will make it impossible to respond to situations which I think almost every Member of the Senate would feel should be responded to.

While the Senator from Kentucky seeks to introduce the concept of an overall limitation, which he feels responds to many of the concerns which he has evoked in the course of this discussion, we should not altogether preclude our ability to respond to the situation in the balance of the fiscal year.

All of us are sensitive to the points he has raised: The economic circumstances of our own people, the need for jobs, the question of receiving refugees and helping them out when our own citizens contend the same support is not available to them. We are all sensitive to those concerns.

But the effort ought to be to try in the end to arrive at a policy in a very measured and careful way, a policy which will command a consensus and will continue to maintain our very basic values. We should not adopt the approach offered here today by the Senator from Kentucky.

I hope therefore that when Senators come to vote, they will support the substitute which the Senator from Missouri introduced a few minutes ago.

Mr. BUMPERS. Mr. President, will the Senator from Kentucky yield to me?

Mr. HUDDLESTON. I yield.

Mr. BUMPERS. Mr. President, No. 1, there is a discrepancy here between figures.

My first thought this morning was to offer a perfecting amendment to the amendment of the Senator from Kentucky to reduce the figure from 650,000 to 500,000. I think that is a legitimate figure beginning in 1981.

I had understood that is when the date of the Senator's amendment would take effect. He tells me, no, that his amendment of 650,000 for the year that we are in right now will end on September 30. Is that correct?

Mr. HUDDLESTON. That is correct.

Mr. BUMPERS. He is saying there should be a limit of 650,000 immigrants, including members of families of citizens and including refugees, including everyone who comes to this country.

Now here 2 hours after the debate began we get a new figure that says 650,000 have already been admitted to the United States this year. Yet the Senator from Kentucky maintains that there are only 550,000 that have been admitted so far this year and his amendment would allow an additional 100,000, and so far as I know both the Senator from Arizona and the Senator from Kentucky are getting their figures from the same source. Is that a fair statement?

Mr. HUDDLESTON. I cannot speak for the Senator from Arizona.

Mr. BUMPERS. Let me ask the question of the Senator from Kentucky, if I may. Where did his figure of 550,000 come from?

Mr. HUDDLESTON. Department of Justice and the Department of State.

Mr. BUMPERS. And the Senator from Arizona.

Mr. DECONCINI. I will be glad to answer the Senator's question. The Commissioner of the INS gave us these figures, of roughly 685,000, about 2 hours ago to the best of their knowledge. I cannot dispute whether the Senator's figures are correct or mine. I have to rely like anyone else does on the agency that is in charge of the problem. I have to believe that they are closer to the numbers and that they were asked to put together the best numbers they could.

Mr. BUMPERS. Obviously the amendment of the Senator from Kentucky is moot at a 650,000 figure if there are 685,000 already here.

Mr. HUDDLESTON. If the Senator will yield, there could be a difference in the method by which they are reported. Visas are issued in advance. Petitions are filled in advance of the individual coming into the country. So there could be a discrepancy from that standpoint.

My figures, as we got them 2 days ago, indicated the numbers that actually have come to this country and are now in here.

Mr. DECONCINI. If the Senator from Arkansas will yield, I think that is a fair statement the Senator from Kentucky raises that there could be some discrepancy in this number that I cite to the Senate. I am advised by the INS that this figure includes people who are here and are adjusting their status. But it would have to go toward whatever that figure is. If we set a figure of 650,000, those who are making the adjustment have to be counted into it.

I understand what the Senator from Kentucky wants to do. I am in favor of a number limit. I can only assure the Senator from Arkansas, as I have this body, that the Select Commission is going to establish the number and they are thinking about this number, but that is what they are charged to do as of April 1.

Mr. BUMPERS. Has the House of Representatives acted on this matter yet?

Mr. DECONCINI. No, they have not. On the Department of Justice authorization, they have not.

Mr. BUMPERS. On an amendment of this type that limits the number of refugees?

Mr. DECONCINI. Not that I know of.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield.

Mr. SARBANES. The substitute, leaving aside its exclusion of immediate family members, spouses, and children, who are counted in the proposal of the Senator from Kentucky; the substitute proceeds from the figures used in his argument by the Senator from Kentucky for his amendment, namely, a current 550,000 figure intake to be cut off against a ceiling of 650,000; to eliminate this problem of the accuracy of the figures concerning how many have already arrived. The substitute simply provides for an additional 100,000 in the final quarter of the fiscal year.

Mr. BUMPERS. Is that 100,000 more than whatever the INS ultimately determines were here as of the date as of today?

Mr. SARBANES. That is right.

Mr. BUMPERS. Does the amendment so state that?

Mr. SARBANES. The amendment states that the United States shall not admit more than an additional 100,000 in that period.

Mr. BUMPERS. In the last 3 months?

Mr. SARBANES. In the last quarter.

Mr. BUMPERS. The last quarter begins August 1?

Mr. SARBANES. July 1.

Mr. BUMPERS. July 1. So that means whatever is admitted between now and July 1 would be in addition to the 100,000 permissible in the last quarter?

Mr. SARBANES. I think the expectation was that this bill would not be law before July 1.

Mr. BUMPERS. I do not want to take too much time. I know the Senator from California has something very important to say on this amendment. I want to say this: We cannot say that this is a new debate. The Senator from Kentucky has been talking abouth this problem ever since I came to the Senate. He has talked about it. He has said if there is anything that is deficient in the domestic policies of this country it is how many people are we going to admit.

When I was a youngster there were 2 billion people in the world. At least that was the best count in the thirties. Today there are over 4 billion people in the world. By the year 2000 by most statistics there will be 6 billion people.

Obviously, these United States cannot be a repository for all of them.

I was in China last year. In Tienpao I met with our delegation. He said:

> You're interested in human rights. You want to take everybody whose human rights are violated. You say the Chinese violate human rights. We'll ship you 15 million people tomorrow. You just tell us when you want them.

There has to be some upper limits and that is not intended—it is uncharacteristic of me to talk like that; it sounds a little inhuman. I am telling the Senate that the cultural, educational, and the economic cost of what we are doing right now is staggering to say nothing of the political consequences of what we are doing, and I am going to follow the leadership of the Senator from Kentucky, but I am troubled by this confusion of figures. Obviously we cannot. There are still Jews trying to get out of Russia every day, they are getting out of Russia and some of them are coming to this country.

If we cut the figure off entirely, obviously those people could not come in. So I am confused about the figures. I want to support the amendment of the Senator from Kentucky but I wish we had something a little better.

Mr. DeCONCINI. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. DeCONCINI. Let me point out that this Congress already passed the Refugee Act which authorized and set forth procedures for the President to permit some 200,000-plus refugees to come in. I do not know how the Senator voted on it. I voted for it because we had the boat people. We had the humanitarian problem. We knew what it was going to cost and we authorized the money. That is part of our problems today.

I agree with the Senator from Arkansas. The United States just cannot be the depository for everyone who wants to come here. That is why this body, along with the House of Representatives, created the Select Commission and directed them to study the problem and to come forward with specific recommendations, and that is what the Commission is in the process of doing.

Mr. President, I wish to make a unanimous-consent request.

Mr. HUDDLESTON. Mr. President, who has the floor?

Mr. BUMPERS. Mr. President, I am happy to yield for the purpose of a unanimous-consent request.

Mr. DeCONCINI. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from Senator KENNEDY together with a "Dear Colleague" letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR KENNEDY

I wish to indicate my strong opposition to the Huddleston amendment, as originally drafted.

My reasons are outlined in a Dear Colleague letter I addressed, along with my distinguished colleague from Maryland (Mr. MATHIAS), to all Senators this week. I ask that the text of this letter be printed at this point in the RECORD.

The letter follows.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 12, 1980.

DEAR COLLEAGUE: We are writing in our capacity as Senate members of the Select Commission on Immigration and Refugee Policy, which is currently at work reviewing all aspects of our Nation's immigration laws.

As you probably know, the Commission is trying to bring long overdue reform to our outdated immigration statute and to consider our future immigration policies in a comprehensive fashion. Within six months the Commission will be preparing its final report for submission to the Congress.

One of the principal objectives of the Commission is to establish realistic and enforceable immigration ceilings that reflect our immigrant heritage and our national needs. It is attempting to get control of immigration to our country.

For it is clear today that we must view immigration in all its aspects, and within the context of our Nation's economic, social and foreign policy needs. As Senator Huddleston recently testified before the Judiciary Committee: "My major concern about immigration law is that it be considered in a comprehensive fashion. The effects of any change within the system must be considered in light of its effect on the system as a whole—on the United States as a whole—and on the countries sending immigrants."

That is precisely what the Select Commission is now doing. And that is why we are writing to urge you to vote against various amendments that may be proposed to the pending Department of Justice authorization bill (S. 2377)—amendments such as those that take punitive immigration actions in response to the Cuban influx, or which seek to establish arbitrary worldwide immigration ceilings. We believe such amendments are prejudicial to the work of the Select Commission and will force certain narrow conclusions even as the Commission attempts to dispassionately review all options and all aspects of our immigration laws.

Many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
CHARLES McC. MATHIAS, Jr.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that Ben Dixon be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I thank the Senator from Arkansas for yielding.

Mr. BUMPERS. I yield to the Senator from Florida for just a moment.

Mr. CHILES. I am troubled, like the Senator from Arkansas, over what I see wrong with the substitute or the perfecting amendment and that is because there is no figure for a limit, and what the signal is that I see which says, "Whatever you have taken in now you go take another 100,000 in," and there is no count on the immediate family.

So I think we would be better off not to pass anything rather than to pass that because that does not show any concern on the part of any one of us that we are starting to do something about this.

We started off thinking that we were only going to be 200,000 and we were talking about the whole year. Now we are saying whatever numbers we want to use we know we are way above that, and we are saying, "Go ahead and take another 100,000 in and do not count the immediate family in that."

If there is some problem that we may not have some room here, as the Senator from Kentucky states, according to his figures, then I think maybe it would be much better if we get together and determine how you make some kind of exception to that, to his figure, but at least you are dealing with what you think is an overall number. If you do not have some overall number in here I certainly cannot vote for it. I do not know how many other people can when you are faced with trying to say that we need to start putting a cap on, trying to say there has got to be an expression of how many people we can allow into this country.

We have done a good job in birth control and in getting our population down. We are about a zero population. It is not going to mean anything if we take all of the problems of everybody else in the world on our shoulders, and that is the way it appears to be headed.

I agree very much with what the Senator from Kentucky says.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator from Arkansas yield to the Senator from California?

Mr. BUMPERS. Mr. President, I yield to the Senator from California who has been put upon. I would like to yield to the Senator from Montana, but the Senator from California has waited patiently, and I will yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I am grateful for this discussion, and I am grateful to the Senator from Kentucky for bringing it up. I am grateful to Senator DANFORTH from Missouri for his wise amendment.

I would like to put this whole discussion in a somewhat larger context. We are worrying about the hundreds of thousands of refugees who are seeking refuge in this country. But there are 16 million refugees seeking homes right now throughout the world. Just take the case of Africa, Angola has 35,000 refugees; Botswana has 29,000; Burundi has 155,000; Djibouti has 20,000; Gabon has 60,000; Ethiopia has 1 million; Mozambique has 147,000; and so forth, a long, long list that adds up in Africa, Asia, Central America, and South America to 16 million.

I would like not to take sides in this particular discussion except, as I say, to things into context.

America to an extraordinary degree is a Nation of boat people, starting with our Pilgrim Fathers. We all, through our families, left a native land somewhere or other, either persecuted for our religion, or politics, of facing a future of no opportunity and perpetual consignment to serfdom.

Many years ago we put upon the Statue of Liberty the following words by Emma Lazarus, which ought to be in the back of our minds as we discuss all of this matter of refugees. With the Chair's permission I would like to quote from Emma Lazarus' poem.

The PRESIDING OFFICER. The Chair will inform the Senator that under the previous order there is to be a vote at 3:25.

Mr. HAYAKAWA. Excuse me?

The PRESIDING OFFICER. Is the Senator asking unanimous consent to speak?

Mr. HAYAKAWA. I shall keep the quotation short. I will not try to recite the whole poem.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. The Mother of Exiles—that is, the Statue of Liberty.

"Keep, ancient lands, your storied pomp," cries she
With silent lips. "Give me your tired, your poor,
"Your huddled masses yearning to breathe free.
"The wretched refuse of your teeming shore.
"Send these, the homeless, the tempest-tost to me,
"I lift my lamp beside the golden door!"

Mr. President, your name is TSONGAS, my name is HAYAKAWA. There are people here with names like SARBANES, Muskie, MATSUNAGA, MAGNUSON, MATHIAS. We are all refugees from somewhere or other. As I say, let us keep in mind the context of what kind of nation we are, essentially a nation of boat people, and let us in our legislation as Senators, as the senior Senator from Maryland has suggested, work out not just ad hoc solutions year by year and month by month, but let us work out a genuine policy to extend far into the future as to what our policy should be about immigration, about refugees, and about our hospitality to the rest of the world.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HUDDLESTON. The 3:25 p.m. time was set to accommodate the distinguished Senator from New York. I do not see him on the floor, and I am just wondering whether we ought to proceed in case he had a plane to catch or——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana for 2 additional minutes?

Mr. BAKER. Mr. President, what is the request?

The PRESIDING OFFICER. For 2 additional minutes.

Without objection, the Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the minority leader and the Senator from Kentucky. I will be very brief.

Mr. President, obviously the amendment offered by the Senator from Kentucky touches a very raw nerve. All of us in America are very disturbed by recent events, of the influx of Cubans into America.

All of us, on the other hand, pride ourselves as being charitable Americans. We hold ourselves out to the world as such. That is the foundation of our country. We are, therefore, caught in a situation as to what is right.

There are various reasons why our constituents elect us and send us here. I suppose the main reason is because they want us to do what is right.

I am reminded of a quote, and I do not have it exactly, but a statement by Mark Twain. He once said something to the effect that whenever there is an event that happens you take as much wisdom as you can out of it and stop there and go no further.

When a cat sits on a hot stove lid you know that cat is not going to sit on a hot stove lid any more. But you also know that cat is not going to sit on a cold one either.

The obvious point is that you do not go too far. You do not go overboard. You do not rush too fast too far. The world is getting smaller. We need the world more. Various countries need us more. We, therefore, have to be much more sensitive to how we act with respect to the world and what signals we send to the world.

I do not know whether a limit is right. I tend to think some limit on the number of refugees is right, but what level, what figure, I do not know. Six-hundred fifty thousand? Six-hundred thousand? Six-hundred twenty-five thousand?

There is also the question of the immediate families which is obviously a very sore point. Wives and children of American citizens should be allowed in.

I, therefore, think we should follow the recommendations of the Commission. At least give the Commission a chance to work this out and not set absolute arbitrary limits here because of the emotion we are all experiencing, particularly with the influx of Cubans who have come to America.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I thank the Senator. I urge the adoption of the Danforth amendment.

Mr. SIMPSON. Mr. President, I have been very interested in this debate. I am one of the four Senators who serve on the Select Commission on Immigration and Refugee Policy. The four—Senator KENNEDY, Senator DECONCINI, Senator MATHIAS and myself—are turning our diligent attention to this most difficult situation. The Commission is striving to develop solutions to some of the toughest challenges that we are now facing in the immigration area. And of course when the Commission was formed we could not have even imagined the scope of the present problems with the Haitian and Cuban refugees.

I admire my colleague DEE HUDDLESTON. I know of the work he has done in this area and the deep concern and interest he has shown. He has been helpful to me in my perceptions of the situation. I think my fellow Commission members would agree that "the numbers issue" is the one that causes us the most serious concern. It is also the one that causes the American people the greatest anguish. You travel around this country and you will find that often people are hostile about this issue. They ask, "What are you going to do?" "I see they don't like the menu—well if that is the case then don't feed them." "If they don't like it here then ship them out." "Why are we having these criminals and thugs dumped on us?" Anyone that does not see the volatility of this situation is misreading the public mood.

The American people—and especially the unemployed of all races—are deeply puzzled when they observe an unacceptable unemployment rate among the citizens of our Nation and, then find that we are supporting these refugees with supplemental social security payments, various financial support systems, food, clothing, employment—all at a time when our own citizens are traumatized by the economic malaise that has gripped this country.

We are not dealing with things very well. It is difficult to tell a man who has lost his job that it is our "historical and compassionate duty" to care for those less fortunate than ourselves. He is not listening. The people of American know that immigration to the United States is out of hand. They know with commonsense reality that millions and millions of people around this globe want to come to America. The reasons are obvious. There is no need to review them again. But the pressure is not self-limiting—for as many will come as we allow to come. And when they come our economic fabric will be strained. Somewhere we are going to have to say very simply "no." That time is here. We must establish a limitation of numbers. But we must do it in a manner which does not interrupt our normal immigration flow plus the existing Cuban and the planned Indochinese refugees, and in a sense then there will really not be an effective limit. There are over 15 million people that are said to qualify to come to these shores under the most strict political refugee definition. There are tens of millions more that are suffering and dying out of their poverty.

But I have concluded that we must set a limit. At some point we will have to take the step, knowing full well that we may be condemning some people to miserable lives and possible death. When we talk about numbers unfortunate connotations often enter the debate. Proponents of an "open arms" policy are using terms like "compassion," "caring," and "our noble heritage." Those who embrace the immigration program of "selectivity" are sometimes hurled the challenge of racism and the advice that they should share in the "national guilt" that would accompany this hard-hearted attitude. Dealing in that fashion will not solve the issue. The Select Commission will hopefully provide a great boost to the national debate and our recommendations will be coming forth in the next few months. We will be dealing with all of the issues that have swirled around this subject; numbers, limitations, selectivity, enforcement, preferences, documentation, identification, worker programs, and so much more.

Father Ted Hesburgh, chairman of the Select Commission, shared our mission and objectives with us—and the possible methods of getting there—this morning in a public meeting of the Commission. Many alternatives present themselves. The members of the Commission will be making the hard choices—and hopefully clear ones that this legislative body will be able to respond to.

And indeed this is a global problem. Should we send out a signal to the other countries of the world? My own view is that as long as the other countries of the world can depend on the good old U.S.A. to bail out everyone in sight—they will very happily leave that problem to us. We should be willing to do our share and do it—and urge and pressure other countries to do theirs.

But our first obligation—our sworn obligation—is to the welfare of the American people. It is not inconceivable that if we continue our present policies we will be overwhelmed by sheer numbers. That is not high drama—it is reality.

Our foreign policy is in tough shape. We cannot control the disasters—if we ever could—caused by the policies followed other political systems. I do not believe we should expect our American citizens to give up many of the benefits of their own society and system of government in order to rescue the inevitable millions of victims of other archaic and barbaric systems. I am not an uncaring or unloving person. I refuse to be consumed by some nameless "national guilt" about the present situation. We have always done our share with the "huddled masses" and we will always do that in the future. Anyone who tells us that we have not done our share is ladeling out some pretty thin porridge.

Let me emphasize again the fundamental point. There does come a time when we must regretfully say "no" to those who seek our haven and refuge. That is certainly not an easy reality to face, but we must do so—for our children and grandchildren—as well as for ourselves. We cannot take in all who yearn to immigrate—we must remain selective. I intend to continually bear in mind that the most important brand of "fairness" for which the Select Commission is responsible is "fairness" to the present American citizens—in all of their uniqueness and diversity.

We must remain concerned about the total numbers and characteristics of immigrants. We must be especially concerned about the willingness of immigrants to assimilate our most cherished values—freedom, democracy, self-reliance, honesty, justice, and consideration of others—and their ability to adopt our language. These positive aspects of our culture are tightly tied to how it feels to be in America. It also relates to our economic prosperity and our political stability—without which we will not long be in a position to "help" anyone—whether inside or outside of America.

Our moral obligation to assist in reducing the suffering of persons abroad may be satisfied in many ways, not just by bringing them to the shores of the United States. We can also continue to provide reasonable foreign aid, trained personnel, and technology to assist others in learning to assist themselves.

I appreciate the courtesy of the Chair in allowing me to present these remarks after the expiration of the time limit.

● Mr. DOLE. Mr. President, the Senator from Kansas rises to support this amendment to the Department of Justice authorization bill offered by the distinguished Senator from Kentucky (Mr. Huddleston). This amendment responds to the justifiable demand from the American people that our Nation have, and enforce, an immigration policy.

This demand was triggered, of course, by the flight in recent weeks of huge numbers of Cubans to Florida. Kansans, and all Americans, are concerned by the seeming inability of our Government to deal with this problem in a way which is fair, first to American citizens, but also to the fleeing Cubans. A recent Roper poll indicated that 91 percent of the public wants strict enforcement of the immigration laws. A soon-to-be-published Gallup poll reveals that 67 percent of Americans want no more refugees accepted by the United States.

Adding to the popular frustration with the lack of an immigration policy is the fact that there is no incentive for the administration to rationally develop a policy. Whenever another so-called crisis develops, political pressure mounts for the President to admit another group of aliens. The President responds by simply adding the new group on top of all the immigrants and refugees already admitted, or planned to be admitted. Considerations of Presidential primaries and voting blocs, rather than responsible policy, often predominate. With such politics being the order of the day, the administration can play fast and loose with the immigration laws.

Over 100,000 Cubans have been admitted into the United States as so-called "applicants for asylum"—not "refugees" mind you—even though the Refugee Act limits to 5,000 the number of asylees who can be admitted on a permanent basis each year. This abuse takes on more poignant human dimensions when we realize that the administration's failure to use the law's provisions for refugees deprives the State and private resettlement efforts of much Federal assistance. In addition, we have the administration effectively suspending the enforcement of the immigration laws within our borders so as to encourage illegal aliens to register in the census.

Yet unprecedented events can also wreak havoc with the immigration laws, leaving the President with hard choices even ignoring politics. Take the Cuban refugee situation. Before the President decided to block further Cuban entrance into the United States, the total group which might choose to come here was potentially limited only by the size of the Cuban population. These Cubans were arriving here in large masses. Was the President to declare these people to be refugees en bloc, with the entitlement to Federal assistance such a decision would trigger? Was the President to consider all these people refugees even though many, if not most, wished to come here for economic or family reunification reasons?

Such reasons to come here are fine in themselves, but they do not give an alien the status of a political refugee. People from many lands wish to come here for economic or family reasons and must wait their turn for admission under the immigration laws.

Dramatic, unpredictable events like the Cuban situation require the President to exercise discretion. Right now, this discretion is unlimited and subject to abuse.

At the same time that Americans explain concerns about the increased refugee flow, we hear a contradictory, and understandable, sentiment expressed. This feeling is most often stated something like, "Well what shall we do? Chisel the inscription off the Statue of Liberty?"

Mr. President, no one is more reluctant to take unwarranted steps to limit immigration than the Senator from Kansas. This Senator has actively proposed and supported a range of measures to aid refugees, most notably Cambodian refugees. Kansans, and all Americans, have taken pride in the words on the Statue of Liberty, "give me your tired, your poor, your huddled masses yearning to breath free. * * *"

Yet the romance of that ideal has always been tempered by the recognition that we can do no more than we have the strength to do. If we do more, we help no one and undermine the ability of the United States to remain a refuge for any of the world's "huddled masses," as "TRB" recently wrote in "The New Republic":

> The trouble is that huddled masses need jobs. The American frontier . . . is gone. When our noble boast was written, world population was 1.25 billion; now it is 4.4 billion. It grows at a rate of 172 people a minute; 90 million a year. . . . The amount we can help the underdeveloped nations is limited (though we still can help a great deal).

Historically, the immigration policy of the United States has recognized that this country cannot accept everyone who wishes to come here. This was the case even when we needed immigrants to populate the land. As James Reston noted recently in the New York Times:

> In the last half of the 19th century and the first half of the 20th, the United States needed the immigrants from Europe to fill up our vast rural continent, and it brought them in under laws that were not always fair or wise, but it did insist on immigration within the law.

In short, though we should always maintain our compassion for people whose lot is worse than ours, we have not, and cannot, permit ourselves to be seduced by the arrogance that our resources to help such people are infinite. It is a mistake to think that advocacy of an unlimited open door policy stems merely from a humanitarian impulse. On the contrary, it is easy to embrace that position because it is the point of least resistance, because it does not require hard, responsible choices.

Yet we in the Congress must now make such choices concerning our immigration policy. We must do so because the public is demanding that its government act like a government and set a policy. Indeed, we have no policy now that we can completely call our own. The policy we do have is pulled and twisted by decisions made in other lands, whether by those governments who persecute segments of their citizens, by those people who flee such persecution, or by those nations who refuse to grant such people refuge themselves.

This amendment makes a moderate attempt to regain control over our policy. It does this by expressing the sense of the Congress that the President should set an annual total immigration goal for the United States. The amendment further states the sense of the Congress that this goal for fiscal year 1980 should be 650,000.

That figure was chosen because we are already committed to accept at least that number for this year. If somehow that figure seems arbitrary or constricting, consider one illustration that has been drawn to give meaning to the bare statistics. This level of immigration equals adding a group the size of the residents of San Francisco to the population of the United States in 1 year. Such a level of immigration is more generous than that of any other nation.

This amendment recognizes certain hard facts. First, adding population to the country by immigration aggravates almost every major social and economic problem we have. Employment is a common example. When we had our great waves of immigration in the last century and the early part of this century, we were in the greatest industrial expansion in history and needed workers. Not so today. Seven hundred thousands Americans lost their jobs last month. The unemployment rate is 7.8 percent. There is no labor market that an immigrant can enter in which the majority of workers are not Americans. Secretary of Labor Marshall has said that if only 2 million jobs held by illegal immigrants were freed, unemployment would drop below 4 percent.

The cost to the Government for social services for refugees is also significant. Before the Cuban situation occurred, it was estimated that the refugee assistance programs would cost $1.7 billion in fiscal year 1980, $2.1 billion in fiscal year 1981. The cost of the resettlement for the recent Cuban entrants is now estimated to be $400 million. All this does not even consider the cost of services for nonrefugee immigrants.

Immigrants and refugees also require energy. Assuming an immigrant on the average consumes as much energy as an American, the 4.5 million legal immigrants who came here in the 1970's require energy equivalent to half the oil production of the Alaska pipeline.

The second hard fact this amendment recognizes is that neither the Indochinese refugees nor the Cubans are unique. These situations are not unique crises, but reflect patterns in the international movement of people which we will have to continue to confront. It has been estimated that there are 10 to 14 million refugees in the world today. There is no indication that the circumstances which produce refugees are on the decline. The prospect of war, persecution, or totalitarianism remain. Indeed, with the spread of Soviet influence around the world, it is likely that such horrors will only increase.

One must appreciate that it is not necessarily an unexpected cataclysm which produces refugees. Immigrants and refugees come to the United States for two basic reasons: Liberty and economic opportunity. It has been estimated that 63 major countries today could not be considered "free." Those countries contain 1.9 billion people. If our recent experience with people fleeing Cuba is any gage, a sizable proportion of that 1.9 billion must be considered potential refugees.

If liberty is on the retreat in our world, poverty is not. Let us consider the straits of Latin America, which could produce the most direct flow of refugees to the United States. Latin America is presently crippled by a 30-percent unemployment rate. The economies of the Latin American countries must create 4 million jobs a year just to stay even. To understand the magnitude of that task, let us remember that our GNP is six times that of Latin America, yet our economy has created 4 million jobs in only 1 year since World War II. Thus, the pressure for Latin Americans to seek better economic circumstances will only continue.

This amendment is certainly no cure-all for these complex problems. America's role in increasing liberty and decreasing poverty in the world is not addressed by immigration policy. But sound immigration policy is important to maintain the vitality of the United States and to preserve its capacity to participate with the international community in helping immigrants and refugees.

This amendment is one critical step toward a sound immigration policy. Setting an overall goal for immigration recognizes that our capacity to resettle people is limited. By having such a goal, the Government must confront squarely the question of whom we shall admit. The tough policy issues of who is most in need of admission into the United States and who are the best candidates for admission from the perspective of our national interests must be considered publicly. No longer should politics turn the Government toward the easy route of avoiding the policy debate by simply adding new immigrants.

In addition, under an immigration target level the numbers of immigrants and refugees would be predictable, and the assistance and social services needed for them could be more realistically planned. Thus, the help we give to new arrivals would be more efficient and more effective.

This amendment would have another benefit. It would thrust into the seemingly unwilling hands of the administration an instrument to put meaningful pressure on other nations to help in resettling refugees. Saying this is not to say only the United States has aided refugees; that obviously is not the case. But the United States has shouldered a heavy burden which must be shared more equitably. With an immigration goal established, accepting additional refugees would require an offset among some other groups.

That offset could easily be placed among potential immigrants from countries who have refused to aid those same refugees. In this way, the burden of refugees would be spread, indirectly at least, among the international community.

Mr. President, in closing, the Senator from Kansas would like to make a general observation about this proposal. The administration has criticized this proposal as a disruption of a workable immigration system solely to deal with the Cuban "crisis." Again, viewing the Cuban situation as a unique "crisis" does not square with the facts. However, if we assume, with the administration, that we are in a unique crisis, what grounds are there for opposing this amendment? If the current situation is unique, presumably the number of refugees and immigrants will decline in the future. In that case, the immigration goal proposed by this amendment will be a ceiling never reached by the actual level of immigration. Consequently, the administration has offered no sensible grounds to oppose this measure.

Mr. President, this amendment, as an expression of the sense of the Congress, will not be law, and therefore is quite moderate. Yet the Senator from Kansas feels it to be a sensible step to begin to regain control of our immigration policy and urges all his colleagues to support it.●

The PRESIDING OFFICER. Under the previous order, the question now recurs on the substitute offered by the Senator from Missouri (Mr. Danforth) to the amendment offered by the Senator from Kentucky (Mr. Huddleston).

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), and the Senator from New York (Mr. Moynihan) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 51, nays 43, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—51

Armstrong
Baker
Baucus
Bayh
Bellmon
Biden
Boschwitz
Bradley
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heinz
Inouye
Jackson
Javits
Jepsen
Kassebaum
Leahy
Levin
Lugar
Mathias
Matsunaga
Melcher
Metzenbaum
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Ribicoff
Sarbanes
Sasser
Schmitt
Simpson
Stevens
Stevenson
Tsongas
Wallop
Weicker
Williams

NAYS—43

Bentsen
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Dole
Domenici
Eagleton
Exon
Ford
Garn
Heflin
Helms
Hollings
Huddleston
Humphrey
Johnston
Laxalt
Long
Magnuson
McClure
Mitchell
Morgan
Nunn
Pryor
Randolph
Riegle
Roth
Schweiker
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—6

Durkin
Goldwater
Gravel
Kennedy
McGovern
Moynihan

So Mr. Danforth's amendment (UP No. 1191) was agreed to.

Mr. DANFORTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1190

The PRESIDING OFFICER. Will the Senate come to order so we may proceed?

The vote now occurs on the amendment offered by the Senator from Kentucky, as amended.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. MITCHELL). Are there any other Senators wishing to vote?

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—70

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Ford
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Williams
Young

NAYS—23

Armstrong
Boren
Bumpers
Burdick
Chafee
Cranston
Culver
Exon
Garn
Glenn
Heflin
Hollings
Laxalt
Levin
McClure
Metzenbaum
Pryor
Ribicoff
Schweiker
Stewart
Tsongas
Weicker
Zorinsky

NOT VOTING—7

Durkin
Goldwater
Gravel
Javits
Kennedy
McGovern
Moynihan

So the amendment of the Senator from Kentucky (UP amendment No. 1190), as amended, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, on this last vote, I voted for the amendment, but I am not satisfied with the problem. That is not the solution, as I see it. I thought I should make that announcement.

I thank the Chair.

AMENDMENT NO. 1901

(Purpose: To add a new section requiring the Attorney General to report to the Judiciary Committees of the Senate and House on parental kidnaping cases)

Mr. WALLOP. Mr. President, I call up amendment No. 1901 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an amendment numbered 1901.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, between lines 3 and 4, insert the following:

"SEC. 102. (a) The Attorney General shall report annually to the Committees on the Judiciary of the Senate and of the House of Representatives, beginning on January 1, 1982, and not later than January 1 of each year thereafter, on the reporting, investigation, and prosecution of the offense of parental kidnaping during the previous calendar year, including—

"(1) the number of parental kidnapings reported during the previous calendar year to Federal, State, and local law enforcement authorities, setting forth—

"(A) the percentage of cases in which a right of custody awarded by judicial decree has been violated;

"(B) the percentage cases in which the parental kidnaping occurred prior to the entry of a judicial decree as to custody rights;

"(C) the number of wholly intrastate parental kidnapings;

"(D) the number of interstate parental kidnapings; and

"(E) the number of international parental kidnapings;

"(2) a listing by State of the number of requests for assistance by the Federal Bureau of Investigation under section 1073 of title 18 of the United States Code, in the investigation of parental kidnaping cases arising under State law, the disposition of each such request, and an explanation of the disposition of each such request; and

"(3) an estimate, based on the findings submitted under paragraphs (1) and (2), of the costs to investigate parental kidnaping cases under section 1073 of title 18 of the United States Code.

"(b) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $250,000 to carry out the provisions of this section.".

Redesignate sections 102 through 119 of the bill as section 103 through 120 of the bill, respectively.

The PRESIDING OFFICER. The Chair asks the Senator from Wyoming whether the amendment he has sent to the desk is one on which there is a time agreement.

Mr. WALLOP. There is a time agreement of 10 minutes, and it will not take that long.

Mr. President, there are thousands of parents and children around this country who have been, or who may become, victims of children-stealing—the restraint or concealment of a child by one parent from the other parent. In the past, the Senate has demonstrated its concern about this ever-increasing phenomenon by passing legislation in the 95th Congress to combat the causes and mitigate the effects of parental kidnaping. Unfortunately, that proposal did not become law because of House inaction on the Federal Criminal Code legislation on which it was a part. Early in the 96th Congress, I introduced that proposal as the Parental Kidnaping Prevention Act, S. 105. Twenty-four of my distinguished colleagues, representing a broad spectrum of political philosophy, have seen fit to cosponsor this legislation. More than 60 Members of the House are cosponsors of companion measures.

The reason for the interest in these bills is the recognition by congressional policymakers that parental kidnaping touches people in our 50 States, and leaves its victims relatively helpless when the abducting parent travels across State or international boundaries. Despite the best efforts of State legislatures to enact uniform child custody laws and misdemeanor and felony statutes to punish the absconding parent, the abductor-parent is too often shielded from the reach of the State laws simply by fleeing the State's jurisdiction. It is at this point that the Federal Government has a legitimate interest in taking steps to facilitate the enforcement of State laws by the States themselves and in involving the appropriate arms of the Federal Government in helping parents locate their snatched children and in bringing about the return of the child and appropriate legal action against the absconding parent.

Today I am offering an amendment to the Department of Justice authorization bill, S. 2377, which represents another step toward the overall goal of putting an end to child stealing. The amendment directs the Attorney General to study and report annually to the House and Senate Committees on the Judiciary on the parental kidnaping problem in the United States.

For several years virtually everyone concerned about the child-stealing problem has cited statistics that are, admittedly, guesstimates. In 1977 the Library of Congress speculated that some 25,000 child snatchings occur annually. A leading parents' group formed to combat child stealing, Children's Rights, Inc. (CRI) puts the figure closer to 100,000 or more. While both figures are shocking, neither is surprising considering the fact that 1.1 million marriages ended in divorce in 1978, affecting more than 1 million children.

In order to fashion appropriate responses to the parental kidnaping problem, it is critical that a reliable data base be developed. This can be done through the cooperation of Federal, State and local law enforcement authorities in keeping accurate records on the number of parental kidnaping cases that are reported to them, as well as by noting the characteristics of these offenses.

The amendment requires the Attorney General to devise a system for compiling the number of parental kidnapings reported to Federal, State and local law enforcement officials. The totals would be refined to reflect the number of cases that are wholly intrastate and those that are either interstate or international (or a combination thereof) in nature. In addition, the reports would break down the total number of reported cases to show the percentage in which a right of custody awarded by judicial decree had been violated, and the percentage in which the parental kidnaping occurred prior to the entry of a judicial decree.

Information regarding the geographic characteristics of the offense is essential if local, State and Federal Governments are to fashion satisfactory responses to the problem. The data obtained by this comprehensive survey will alert each level of government to the scope of the child-stealing problem and should bring about some constructive thinking in an area that has long been ignored for want of accurate information about the pervasiveness of the problem. It is likewise important to know at what stage of the custody proceeding the victim child is abducted. If parents in significant numbers are removing their children prior to the entry of a custody decree, then laws must be amended or written to provide recourse for the victim parent as well as to deter the predecree removal.

My amendment would also require the Attorney General to report on the number of requests the FBI receives under the Fugutive Felon Statute (18 U.S.C. 1073) for assistance in locating parents who are alleged to have violated State felonies in the course of removing their children from the State. In addition, the amendment requires the Department to indicate the disposition of each request, with an explanation for each such decision. It also calls for an estimate, by the Department, of the costs involved in investigating all of the parental kidnaping cases under section 1073 of title 18.

The Federal Government is authorized by the so-called Unlawful Flight To Avoid Prosecution statute to investigate cases arising under State law in which the alleged has fled from the State. Although prosecution could be brought by the Federal Government, as a rule this does not occur. Instead, the Federal Government defers to the States for prosecution of the State violations under State law.

Parental kidnaping is one of the only, if not the only, offense for which the Justice Department has imposed an additional set of criteria for issuance of a "UFAP" warrant. For all intents and purposes, under current departmental policy it is next to impossible to obtain a warrant. There are but a handful of parents who have been successful in obtaining warrants, leaving thousands of others wondering whether the Justice Department does in fact dispense justice in a fair, impartial and equitable manner.

Once Congress has the particulars on the number of parental kidnaping cases and the manner in which these cases are being processed by the Justice Department under the UFAP statute, it will be possible to prescribe appropriate and specific statutory guidelines in these cases. In the meanwhile, it is urged by at least this Senator, that the Department step up its investigative efforts under current law and amend departmental guidelines accordingly so that more States, and parents, will find a meaningful remedy under the UFAP law.

Mr. President, in a moment I will send a modification of the printed amendment to the desk. I have modified my original amendment to reflect concerns raised by the Justice Department. Under the modification, for the first 2 years, 1982 and 1983, the Department will report to Congress on the number of inquiries received from each State by the FBI for assistance in locating, apprehending or prosecuting any parent alleged to have violated State laws respecting child custody. This will give the Department sufficient time to design and implement the more comprehensive data collection system envisioned by the remainder of my amendment. Beginning in January 1984, the Attorney General must report on the number of parental kidnapings reported to Federal, State, and local law enforcement authorities.

UP AMENDMENT NO. 1192 (MODIFICATION OF AMENDMENT 1901)

(Purpose: To add a new section requiring the Attorney General to report to the Judiciary Committees of the Senate and the House on parental kidnaping cases)

Mr. WALLOP. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1192, in the nature of a modification of printed amendment numbered 1901.

Mr. WALLOP. Mr. President, I ask unanimous consent to dispense with the reading of the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 35, between lines 3 and 4, insert the following:

SEC. 102. (a) The Attorney General shall report annually to the Committees on the Judiciary of the Senate and of the House of Representatives, beginning on January 1, 1984 and not later than January 1 of each year thereafter, on the reporting, investigation, and prosecution of the offense of parental kidnaping during the previous calendar year, including—

(1) the number of parental kidnapings reported during the previous calendar year to Federal, State, and local law enforcement authorities, setting forth—

(A) the percentage of cases in which a right of custody awarded by judicial decree has been violated;

(B) the percentage of cases in which the parental kidnaping occurred prior to the entry of a judicial decree as to custody rights;

(C) the number of wholly intrastate parental kidnapings;

(D) the number of interstate parental kidnapings; and

(E) the number of international parental kidnaping;

(2) a listing by State of the number of requests for assistance by the Federal Bureau of Investigation under section 1073 of title 18 of the United States Code, in the investigation of parental kidnaping cases arising under State law, the disposition of each such request, and an explanation of the disposition of each such request; and

(3) an estimate, based on the findings submitted under paragraphs (1) and (2), of the costs to investigate parental kidnaping cases under section 1073 of title 18 of the United States Code.

(b) The Attorney General shall report to the Committees on the Judiciary of the Senate and of the House of Representatives on January 1, 1982, and [again] on January 1, 1983, a listing by State of the number of inquiries received by the Federal Bureau of Investigation in the previous calendar year for assistance in locating, apprehending, or prosecuting parents who are alleged to have violated State laws respecting child custody. This report shall include, but shall not be limited to—

(1) the percentage of cases in which a right of custody awarded by judicial decree has been violated;

(2) the percentage of cases in which the parental kidnaping occurred prior to the entry of a judicial decree as to custody rights;

(3) the number of wholly intrastate parental kidnapings;

(4) the number of interstate parental kidnapings;

(5) the number of international kidnapings;

(6) a statement as to the number of cases in which the Federal Brueau of Investigation was requested to conduct an investigation pursuant to section 1073 of title 18 of the United States Code, the disposition of each such request, and an explanation of the disposition of each such request; and

(7) an estimate of the costs to investigate parental kidnaping cases under section 1073 of title 18 of the United States Code.".

(c) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $250,000 to carry out the provisions of this section.

Redesignate section 102 through 119 of the bill as section 103 through 120 of the bill, respectively.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WALLOP. Mr. President, I have cleared this with the majority and minority floor leaders of this bill.

It is my understanding that the floor leaders have seen fit to accept this amendment.

I ask unanimous consent that the name of the Senator from Minnesota (Mr. DURENBERGER) be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, to carry out this comprehensive study on parental kidnaping, the amendment authorizes $250,000. If the Department finds that this annual collection, analysis, and report on parental kidnapings can be carried out for less than the sum authorized, it is understood that the appropriations level will so reflect.

Mr. President, I yield to the distinguished floor manager at this time.

Mr. DURENBERGER. Mr. President, the amendments we offer this afternoon are significant in their reflection of congressional concern and willingness to act on the child kidnaping issue. But I want to remind my colleagues that these amendments are just a small step against a very large problem.

Childnaping—the illegal abduction of a child by the noncustodial parent—has reached epidemic proportions over the past two decades. At least 25,000 cases are reported each year, and experts in child welfare believe there are three unreported cases for each abduction brought to the attention of the authorities.

During my first year in the Senate, a number of Minnesota families who suffered the loss of a child sought my assistance in one form or another. I really cannot fashion language sufficient to convey the magnitude of the emotional and financial tragedy inflicted on these people.

I have met parents who have neither seen nor heard from their children for several years; parents who do not know the whereabouts of their child, or whether that child is alive or dead.

I have met a little girl who was kidnaped, and then recovered; but she bears the scars of that experience, and is spending her childhood in a home for emotionally disturbed children.

I have met families that have abandoned their careers and exhausted their financial resources in a futile effort to relocate a kidnaped child.

And I have spoken with countless families who are not yet victims, but who live every moment with the fear that society's judgment on the custody of their child may be muted by an act of forcible abduction.

Obviously, these parent-victims and child-victims can speak to the tragedy of childnaping with a knowledge I cannot share. But having been involved in the effort to assist Minnesota victims, I want to make two important points regarding the nature of the legal remedy needed to curb this ongoing breach of human dignity.

First, Mr. President, this body should recognize that the forcible abduction of a human being across State lines is a national problem, one that requires a national solution.

The crux of the problem lies in the fact that custody decrees do not fall within the full faith and credit clause of the U.S. Constitution. To resolve that problem, the Commissioners on Uniform State Laws have promulgated a uniform act on the reciprocal enforcement of custodial and visitation decrees. It is an excellent law, and 39 States have adopted it. But 11 have not, and those States have tended to become a sanctuary for kidnaped children.

At some point, the uniform law may be adopted by all 50 States. But then again, it may not. And in the interim period, there will be thousands and perhaps hundreds of thousands of additional victims.

The Members of this body can take a significant step toward averting this human loss by moving as rapidly as possible to enact S. 105, the Parental Kidnaping Prevention Act.

There is a legitimate national interest in insuring that the custody of a human child is determined by a court of law, and not by the force and guile of a kidnaper. S. 105 would insure that custody and visitation decrees will be enforceable in every State, and this is an essential requirement if we are to remain a society of laws and not of men.

Unfortunately, Mr. President, extraterritorial validity is only part of the solution. Unless this committee also creates realistic mechanisms to enforce custodial decrees, it will have little impact on the childnaping problem.

Today, a custodial order is little more than a right without remedy, even in those States that have adopted the uniform law. Because childnaping is not a crime, victim parents cannot enlist the assistance of Federal law enforcement officials in locating and reclaiming victim children. Instead, they must rely on private attorneys and private detectives, and their ability to enforce the basic right of custody is entirely a function of their personal financial resources.

The parents I have met over the past 12 months have invested sums ranging from a minimum of $9,000 to a maximum of $40,000 in the frequently unsuccessful effort to recover their kidnaped children. This is a terrible price, even for those who can raise the money. For those who cannot, the rights conferred by decrees of custody are illusory.

Mr. President, there are few rights more basic than the right to the custody of a child. And we cannot tolerate a system that makes that right contingent on personal wealth. S. 105 contains two mechanisms to remedy that inequity, and I hope this body will give serious consideration to both.

First, it makes the services of the Federal Parent Locater Service available to any parent seeking to locate a victim child. The FPLS has been used effectively in locating parents who default on child support decrees. To use the service for this purpose, but deny its use if the child is kidnaped, makes no sense whatsoever. Broadening access to the service can minimize the need to insure massive legal and investigation fees in locating a missing child.

Second, the bill makes it a Federal misdemeanor to conceal or abduct a child in violation of a custody order. This enables the FBI to assist in locating and returning a kidnaped child—a service for which there is no charge, and one that is equally available to all citizens regardless of their personal wealth. It also provides a significant deterrent against commission of the abduction itself. One of the principal weaknesses of the present system is its utter lack of sanctions against a parent who abducts a child. Even in some States that have adopted the Uniform Act, the worst fate that can befall a lawbreaking parent is a court order requiring him/her to return the child. If anything, this is an incentive to attempt abductions. At worst, the noncustodial parent will have the same situation they occupied before the abduction attempt—lack of custody. Many victim parents see this "lack of sanctions" as a prime reason behind the rapid increase in childnaping that has taken place over the past 10 years. The penalties provided by S. 105 are moderate, but nevertheless important. By helping to deter the act itself, they can prevent the child from incurring emotional scars that even recovery can never fully dispell.

Under present law, a parent whose automobile is stolen can enlist the help of the FBI to locate and recover it. But if the parent's child is abducted, law enforcement agencies are powerless to help. This is a strange set of priorities, and it must be reversed. If this requires the FBI to retain additional manpower, then Congress should provide the funds. A right as fundamental as the custody of one's child cannot be left without legally effective enforcement mechanisms.

For reasons beyond my comprehension, Congress has delayed action on this bill for nearly 18 months. And the price of that delay is being measured in shattered dreams, emotional scars, and broken childhoods. That is simply too high a price for delay. I urge every one of my colleagues to endorse the bill, and use the full extent of their influence to promote its passage.

Mr. DeCONCINI. Mr. President, the Senator from Wyoming has discussed this with members of the committee on both sides of the aisle.

I believe that the study has some real merit, and when completed, it will give us a very comprehensive report as to the nature and scope of this parental kidnaping problem.

I compliment the Senator for offering the amendment and on his diligence in persisting in something that has been overlooked for a long time.

I am prepared, on this side of the aisle, to accept the amendment, and I yield back the remainder of my time.

Mr. COCHRAN. I yield back our time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. WALLOP. I move to reconsider the vote by which the amendment was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1902

(Purpose: To add a new section authorizing sums to the Federal Bureau of Investigation to investigate parental kidnaping cases arising under State law)

Mr. WALLOP. Mr. President, I have one more amendment, on which there is a time agreement of a half hour, and it will not be necessary to use all that time.

I call up amendment No. 1902.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Wallop) proposes amendment numbered 1902.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, between lines 3 and 4, insert the following:

"Sec. 102. In addition to any other sums authorized to be appropriated by this title, there are authorized to be appropriated for the fiscal year ending September 30, 1981, $1,000,000 for the Federal Bureau of Investigation to conduct investigations under section 1073 of title 18 of the United States Code in parental kidnaping cases arising under State law.".

Redesignate sections 102 through 119 of the bill as sections 103 through 120 of the bill, respectively.

Mr. WALLOP. Mr. President, I ask

unanimous consent that the name of the Senator from Minnesota (Mr. DURENBURGER) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, it is my understanding that the committee has agreed to accept this amendment as well.

This amendment is closely related to the amendment just agreed to. In a nutshell, this amendment would authorize an additional $1 million for the FBI to conduct investigations of interstate parental kidnaping cases in accordance with the provisions of the Fugitive Felon Act.

To summarize, this amendment will bring about full enforcement of the existing Fugitive Felon Act (18 U.S.C. 1073) in parental kidnaping cases which constitute felonies under State law.

The primary purpose of the Fugitive Felon Act is to permit the Federal Government to assist in the location and apprehension of fugitives from State justice.

As a rule, the State from which the alleged felon has fled must have an intent to prosecute upon the return of the individual. This intent is normally demonstrated by the State having commenced its prosecution either by complaint, warrant, indictment, or information.

Thirty-eight States have enacted felony statutes in child stealing cases. The statutes range in kind from custodial interference, to unlawful imprisonment, kidnaping, to abduction of a minor child. Currently, the Justice Department has identified parental kidnaping cases for separate and very sparing treatment under the Fugitive Felon Act, without specific legislative mandate to do so. As embodied in the U.S. Attorney's Manual, title 9 (Criminal Division), no complaint will be authorized in cases where a parent is charged with the kidnaping or enticing away of his minor child without the express prior approval of the Criminal Division, and then only in rare instances—that is where the parent by reason of his or her mental condition or acute patterns of behavior, presents a serious threat of physical injury to the child.

This policy runs contrary to the act itself, which, by its terms, applies to all State felonies. Moreover, this policy of noninvestigation of parental kidnaping cases thwarts the policy of the 38 States which have enacted felony statutes in child-stealing cases which certainly should not, and must not be our national policy. (A survey of State criminal laws regarding parental kidnaping prepared by the Congressional Research Service is reprinted at the conclusion of this statement.)

This amendment is intended to clarify Federal policy, lest there be any misunderstanding between the Department of Justice and Congress. In the case of parental kidnapings which are deemed by State law to be felonies and which involve the crossing of State lines, this amendment will make clear that the Federal Government does, as a matter of policy, have a real and direct interest in assisting States in returning alleged felons so that they can be brought to justice under State law.

It should also be pointed out that by investigating parental kidnaping cases arising under State criminal law, the Federal Government is not involving itself in domestic relations controversies. Rather, the FBI is assisting State criminal justice authorities in enforcing State laws by helping in the location and return of the abductor-parent. If this has the secondary effect of facilitating disposition of the related civil custody proceeding, then this should be viewed as a desirable byproduct, but not the end itself.

This amendment does not, and I wish to make it clear, does not create a Federal crime of parental kidnaping, a matter reserved to another bill, S. 105, the Parental Kidnaping Prevention Act.

Instead it declares as a matter of national policy that the existing Fugitive Felon Act should be applied without restriction to State felony parental kidnaping cases. Such a declaration is necessary to bring about a change in internal Justice Department guidelines and policy.

For those who have opposed the creation of a Federal misdemeanor offense for parental kidnaping, this amendment should not be offensive because it merely brings the FBI investigative tools into State parental kidnaping felony cases which will result in State, not Federal, prosecution.

Let me put this amendment into human terms. I recently received the very good news that a mother in California recovered her child at least in part through the efforts of the FBI. She was one of the very few parents who are fortunate enough to obtain a UFAP warrant in a child-stealing case. She wrote:

> I have a financially and emotionally supportive family, friends, and associates. Because of my extensive legal background and experience I was knowledgeable as to whom and where to go to obtain help, many are not so fortunate. It was very important that the Justice Department be given by Congress the necessary funds to enable them to provide the necessary investigative support through the FBI in child-stealing cases. My personal experience reflects a definite need for more manpower. Had one agent been in the position to devote a very few full days to the search for Mary, I would not have found it necessary to spend thousands of dollars in my own search. In my particular case my former husband is a chronic alcoholic and drug abuser. My daughter suffered physically and psychologically. She was denied the fundamental and maternal nurturing which is necessitated by her young age. Although she is receiving psychological treatment, she will perhaps bear the scars of this maternal separation forever. This cannot be the intention of our Congress when such able help is available for these children through the F.B.I. These monies will be well through the FBI. These monies will be well vestment in our children with whom the future of our country lies.

Mr. President, my original amendment authorizes the sum of $1 million for purposes of hiring, training, and dispatching FBI agents to carry out investigations of parental kidnaping cases. Because of the numerous other important duties the Bureau is required to carry out under its existing appropriation, it seemed especially important to authorize a specific and adequate sum for the task.

However, I am sending a modification of this amendment to the desk which should accommodate some concerns that have been raised to me about increasing the total authorization for the Justice Department at this time.

UP AMENDMENT NO. 1193

Mr. WALLOP. Mr. President, I send a modification of the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The modified amendment in the nature of a substitute will be stated.

The assistant legislative clerk read as follows:

> The Senator from Wyoming (Mr. WALLOP) for himself and Mr. DURENBERGER proposes an unprinted amendment No. 1193 in the nature of a substitute for printed amendment 1902.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 28, line 10, immediately before the period insert the following:
>
> ", of which not to exceed $1,000,000 shall be made available to conduct investigations under section 1073 of title 18 of the United States Code in parental kidnapping cases arising under State law".

Mr. WALLOP. Mr. President, I have cleared this with both the majority and minority floor managers of the bill.

Mr. President, I have modified the amendment to earmark from sums otherwise authorized for the FBI the $1 million needed for investigation of parental kidnaping cases.

This change does not signal any diminution of the Senate's intent that these cases be vigorously investigated by the FBI.

Moreover, I am confident that the Appropriations Committee will be persuaded of the need to appropriate the full $1 million earmarked by my amendment as modified.

The amendment was modified after consultation with the distinguished Senator from Arizona to reflect budget concerns of very serious nature to all of us, and I think it is an acceptable amendment to them, and it is my understanding that in the present form they are willing to defend it in conference.

Mr. DECONCINI. Mr. President, I do not have a copy of the modified amendment, but my understanding is that this amendment states that sum will be not to exceed $1 million to the Justice Department-FBI for the purpose of implementing the process of apprehending parental kidnapers.

Mr. WALLOP. Mr. President, may I say to my friend it is not an additional appropriation, the way the original amendment was, but rather an earmark of the sums already authorized to be appropriated.

Mr. DECONCINI. From my understanding I think the Senator talked about it a minute ago, this would, in essence, have the FBI only involved in efforts of going into the State where the fugitive is and making the apprehension, but it is not putting them in the process of taking it upon the Federal Government the authority to enforce the law.

Mr. WALLOP. That is correct.

Mr. DECONCINI. Mr. President, if the Senator will yield, then that is similar to what the FBI does now with fugitives from one State who happen to be in another State.

Mr. WALLOP. With fugitives, except in the parental kidnapping cases we are trying to direct attention to now, it is similar.

Mr. DECONCINI. I see no problem, and this side is willing to accept the amendment.

Mr. THURMOND. Mr. President, in view of the fact that this does not add additional appropriations but will have to come out of some other place in the appropriations bill, I am willing to accept it and, furthermore, I am willing to stand for it in conference and do what I can to assist to preserve it.

Mr. WALLOP. I genuinely appreciate the understanding and courtesy of my two colleagues and am prepared to yield back the remainder of my time, and I thank the Senators for their indulgence and thank them very much.

Mr. DECONCINI. Mr. President, I concur with the remarks of the ranking minority member.

Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All the time is yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Wyoming.

The amendment was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1194

(Purpose: To express the sense of the Congress that the Khmer refugees in Thailand be resettled under the auspices of the U.N. as legitimate refugees)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1194.

Mr. DOLE. Mr. President. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 10 and 11, insert the following new section:

"SEC. 120. It is the sense of the Congress that the United States recognize the Khmer people and others who have fled from their homeland in Cambodia and who are currently being kept in holding centers in Thailand as legitimate refugees seeking resettlement, and that the United States do all in its power to speed the processing and resettlement of refugees from the official refugee camps and to encourage the United Nations High Commissioner for Refugees and the Kingdom of Thailand to transfer with all due speed those refugees in the holding centers to the refugee camps for further processing and eventual resettlement by the international community, each nation doing its fair share."

Mr. DOLE. This is not the amendment on which there is a time limitation.

Mr. President, the Senator from Kansas rises to propose a sense of the Congress amendment to the Department of Justice authorization bill. This amendment expresses the sense of the Congress that our Government should attempt to do all it can, consistent with our foreign policy interests, to insure that the international refugee resettlement now taking place in Indochina treats Cambodian refugees fairly and in the same manner as all other refugees in that area.

Since the fall of Laos, Cambodia, and Vietnam in 1975, more than 1 million Indochinese have fled the new Communist regimes in those nations to seek refuge in neighboring countries. This staggering exodus was a dramatic challenge to the international community. Under the auspices of the United Nations High Commissioner for Refugees, a resettlement effort was established. About 300,000 Indochinese have been admitted to the United States and about 170,000 have been resettled in other non-Communist nations through this effort. Over 250,000 Vietnamese of Chinese ethnic origin have found asylum in China.

Mr. President, in spite of the large number of refugees still awaiting resettlement, the Senator from Kansas must applaud this international effort. Only if each nation shoulders its share of this burden can we ever hope to deal humanely with the needs of refugees.

In late 1978 and early 1979, the flow of refugees rapidly increased. We are all familiar with the plight of the "boat people" fleeing from Vietnam during that period. At that same time, as a result of the Vietnamese invasion of Cambodia, thousands of Cambodians fled from their homeland. These refugees have not captured American public sentiment to the same extent as the Vietnamese "boat people," but their plight was, and is, every bit as dire as that of the "boat people."

The Senator from Kansas has been concerned about the lot of Cambodian refugees for some time. In the last Congress, the Senate accepted a Dole amendment to the Departments of State and Justice appropriations bill which expressed the sense of the Senate that the Attorney General should exercise his authority to parole 15,000 Cambodian refugees into the United States over 2 years.

Since that time, the Congress has passed the Refugee Act which established a flexible structure for accepting refugees into the United States. One purpose of that legislation was to avoid the need for ad hoc responses to individual refugee needs. Thus, the use of the parole authority to admit large groups of refugees would now be inappropriate and against the spirit, if not the letter, of the Refugee Act.

Yet the concerned asylum nations are now confronted by a new difficulty. To date, over 150,000 Khmer refugees have crossed into Thailand where they are now in "holding centers" under the care of the U.N. High Commissioner for Refugees. These Khmer are kept in "holding centers," rather than "refugee camps" because they are not considered to be "refugees" by the U.N. High Commissioner and the Thai Government. Consequently, representatives of the nations participating in the international resettlement effort are not allowed to enter these centers to process the people there for resettlement.

In the view of the U.N. High Commissioner, and presumably the Thai Government, which controls these centers, the Khmer refugees do not qualify for resettlement as international refugees because they are expected to return home once conditions permit. This, of course, not only assumes that these people fled Cambodia due solely to the Vietnamese invasion and occupation, but that the Vietnamese occupation will be short-lived.

Most importantly, this situation suggests a confused application of the U.N. convention on refugees. That convention considers a refugee to be a person outside of the country of his nationality who, due to a fear of persecution, is unable or unwilling to return to that country. How can anyone uniformly characterize the condition or desires of a group of 150,000 Khmer so as to deprive them of the benefits of this international agreement?

Some of this group undoubtedly prefer to remain where they are and not to seek resettlement in the hopes of returning to Cambodia. That is their right and the Senator from Kansas respects their perseverance.

Yet not all of the 150,000 Khmer in these centers can be assumed to prefer to remain in Thailand awaiting the liberation of their country. But as it is, the international community is not even being given the opportunity to determine if any of these Khmer wish to be considered for resettlement.

A new development makes the case for this amendment even stronger. On June 16, the Thai Government and the U.N. High Commissioner agreed to begin a program of so-called voluntary repatriation of Khmer refugees to Cambodia. This development gives the Senator from Kansas some concern remembering the thousands of refugees who died in 1979 when Thailand forcibly repatriated more than 40,000 Cambodian refugees.

Of course, this new program is said to be voluntary and thus will not be a threat to the refugees. If so, it will begin to test the view that those in the holding centers do not wish resettlement, but an opportunity to return to Cambodia. Yet what of those who do not wish to be resettled elsewhere? It seems to the Senator from Kansas that this new repatriation program is a logical time to let the international asylum nations process the Khmer refugees who are seeking resettlement.

All this amendment does is to express the sense of the Congress that these people should be given an opportunity to seek resettlement. The amendment does this by urging our Government to do everything possible to encourage the U.N. High Commissioner and the Kingdom of Thailand to transfer these people from the holding centers to the refugee camps so they may be processed by representatives of the international community.

This amendment in no way impugns or undermines the international resettlement effort. It does not require the United States to assume a larger proportion of the refugee resettlement burden. Indeed, in light of the suffering of the Khmer people, some may say this proposal is too mild.

The Senator from Kansas believes this to be a moderate gesture. Yet, since this problem is generally out of the hands of Congress, this proposal may be the only immediate remedy available to us. Because this bill under consideration today authorizes funds for the Immigration and Naturalization Service, it is a logical vehicle for this statement by the Congress. This amendment costs the Nation nothing, but is a humane step, meriting the acceptance of the Senate.

Mr. DECONCINI. Mr. President, we have looked at the amendment of the Senator from Kansas and I think it is a very sound amendment. We are willing to accept it.

I yield back my time.

Mr. THURMOND. Mr. President, I have no objection to the amendment and would be happy to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 1195

(Purpose: To express the sense of the Congress with respect to potential violations of the Logan Act and the prohibition on travel to Iran)

Mr. DOLE. Mr. President, I now send an amendment to the desk on which there is a time limit and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1195.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 10 and 11, insert the following:

SEC. 120. (a) The Congress finds that—

(1) the Government of Iran has continued to act in a hostile manner towards the Government of the United States since it seized American diplomatic personnel on November 4, 1979;

(2) certain citizens and residents of the United States have collaborated in this hostility by condemning and insulting their own country;

(3) the Government of Iran conducted a "sham" tribunal, falsely represented as an assessment of "crimes of America", at which certain citizens and residents of the United States attended at the request and expense of Iran;

(4) the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is the active enforcement of section 953 of title 18, United States Code (hereafter in this section referred to as "the Logan Act");

(5) the Logan Act provides that any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both; and

(6) the President by Executive order has prohibited all travel by American citizens to Iran as part of an overall policy of securing the release of the American hostages.

(b) It is the sense of the Congress that—

(1) the President should instruct the Attorney General to investigate and to prosecute to the fullest extent of the law any person who violates the Logan Act.

Mr. DOLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. As I understand, there are 15 minutes to a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. The Senator from Kansas has what, about 12 minutes remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. DOLE. Mr. President, there is nothing very complicated about this amendment. This amendment, in effect, expresses the sense of the Congress—I think it is best to just read that particular paragraph because it is rather self-explanatory:

It is the sense of the Congress that—

(1) the President should instruct the Attorney General to investigate and to prosecute to the fullest extent of the law any person who violates the Logan Act.

It seems to this Senator that that in no way passes judgment on anyone. It in no way indicates the guilt or innocence of anyone, but it does suggest there ought to be an investigation of those who traveled to Iran without authority, in fact, contrary to the President's directive, in spite of the President's ban on travel, and I just suggest there are 24 or more Senators who are concerned about this fundamental concept. This concept concerns taking of the law into one's own hands, the formulating of national public policy without any authority or responsibility whatsoever.

Mr. President, the Senator from Kansas offers an unprinted amendment to S. 2377, the Department of Justice Authorization Act, to include a sense of the Senate resolution the Senator from Kansas introduced separately on June 6. This amendment would encourage the President to instruct the Attorney General to prosecute to the fullest extent of the law, the 10 American citizens led by Ramsey Clark, for their actions with the Government of Iran in apparent violation of the Logan Act (18 U.S.C. 953). Senate Resolution 456 was cosponsored by 24 Senators. On June 10, 1980, an identical resolution was introduced in the House by Congressman RUDD as House Resolution 704.

A FUNDAMENTAL CONCEPT

The resolution the Senator from Kansas and about 24 other Senators introduced addresses a fundamental concept. This concept concerns the taking of the law into one's own hands, the formulating of national public policy without any authority or responsibility whatsoever.

While Mr. Clark was participating in the Iranian conference to condemn America, he seriously jeopardized the safety of the hostages and the potential for future official negotiations. He lent legitimacy to the allegations of the radical revolutionaries against his own people, while 53 of his fellow citizens languish in an outrageous captivity.

From the moment Ramsey Clark and his group joined the Iranian conference called to denounce America, Clark and his supporters have been wrapping themselves in the Constitution in an effort to escape any kind of censure, let alone punishment, for their apparent violation of the laws.

An elaborate attempt to stretch the first amendment to include freedom to travel is used to excuse the fact that Ramsey Clark went to Tehran with the purpose of representing the United States in a de facto official capacity. Ramsey Clark appointed himself to speak for America in an international dispute that jeopardizes the lives of 53 American hostages.

THE FREEDOM TO TRAVEL: A BLATANT SMOKESCREEN

This constitutional issue is a red herring and has nothing to do with Mr. Clark's self-righteous behavior and apparent disregard of the law. The Logan Act, clear and simple, bans unauthorized Americans from dealing with a foreign government, or representing this country in matters of bilateral dispute with foreign governments.

This Senator has seen how the old liberal coalition of antiwar protestors, like the radicals that Ramsey Clark led to Hanoi during the Vietnam war, are trying to obscure Mr. Clark's actions from judicial review by invoking an unwritten freedom to travel. It is too bad they are not more concerned with those laws that are written down.

The Senator from Kansas appeared on the "Good Morning America" program and listened to Mr. Ira Glasser, executive director of the American Civil

Liberties Union, attempt to use the travel ban issue as a smokescreen for what Mr. Clark and the others did. I have no quarrel with Mr. Clark's freedom to go wherever he wants, though it does just seem to me that we are applying a double standard in this country when people with the right kind of political philosophy and media ties, members of the radical left, can defy a Presidential order, but ordinary people like the relatives of the hostages or the Olympic athletes are denied their so-called constitutional right to travel.

Furthermore, it is highly ironic that one of Ramsey Clark's fellow travelers to Iran, John Gerassi, was ordered prosecuted 14 years ago by then Attorney General, Ramsey Clark, for illegally traveling to North Vietnam as part of a six-member, factfinding team for Bertrand Russell's International War Crimes Tribunal.

President Carter may have contributed to the confusion by focusing attention on prosecuting Ramsey Clark under the travel ban instead of under the Logan Act. The travel ban, as some legal scholars have claimed, may limit the constitutional rights to travel. Furthermore, constitutional authorities have recently voiced doubts that the Government could survive a first amendment test of regulations that permit news organizations, but not private citizens, to travel to Iran. The real damage that Ramsey Clark has done to this country is not simply going to Iran in violation of the travel restrictions, but improperly engaging in the conduct of U.S. foreign affairs as a private citizen. Ramsey Clark has, in effect, usurped the authority of the President if he has violated the Logan Act and for this he should be held legally accountable.

THE LOGAN ACT

Mr. President, regardless of the constitutionality of the President's ban on travel to Iran, we must not lose sight of what Ramsey Clark actually did. He apparently violated the provisions of the Logan Act. The Logan Act has never been ruled unconstitutional. It is the law of the land, it is on the books, and it should be enforced.

Unlike the International Emergency Economic Powers Act, under which the Justice Department is presently considering prosecution, the Logan Act does not limit any constitutional right a private American individual may or may not have to travel. The Logan Act, originally enacted as "an act to prevent usurpation of executive functions," prohibits a citizen to correspond with a foreign nation with an intent to influence its conduct in relation to a controversy of the United States, "wherever he may be."

Thus, the Logan Act does not limit a citizen's right to travel, nor does it authorize any Presidential bans on travel. Instead, its focus is to protect the President's position under article 2, section 3, of the Constitution as the sole representative of the United States in dealing with foreign nations.

A CLEAR VIOLATION

And those provisions of the law are exactly the ones Ramsey Clark evidently broke when he arrived in Iran. What did he do? He condemned America in an anti-American forum of Third World and radical nations, and in doing so apparetly broke the law about dealing with foreign officials on an official matter without any official authority.

One of the members of Mr. Clark's group said, upon returning to the United States at Boston's Logan Airport, that "The whole point (of going to) the conference was to represent the United States." Clearly Mr. Clark's group wanted to be seen as an official U.S. delegation. By urging the enforcement of the law by the passage of this amendment, the Senate can make it clear that Ramsey Clark did not represent the United States, did not represent our policies or views, and that his condemnation of the United States will not pass muster with the American people.

In an interview after the conference, Mr. Clark said he thought that giving the Iranian Parliament, which is dominated by the Khomeini clerical party that recently proposed the hostages be tried, the power to decide the hostages' fate "sounds like good government to me." The hostages will remain captive as long as Iran sees the United States as "an angry face, threatening them, seeking to bully them." Ramsey Clark also called the U.S. rescue mission in Iran an act of aggression against that country. Perhaps he would like us to apologize for that too? He said, and I quote:

> Human nature knows it's wrong to take hostages, but the hostage issue was converted by the arrogance of the United States into an issue of defiance.

NO ONE IS ABOVE THE LAW

Mr. Clark is entitled to his opinions, and so is the Senator from Kansas, but, airing his opinions in a conference called to condemn America, in the city where our diplomats were taken hostage, and still held captive, is an entirely different matter. The Supreme Court said a person was free to shout "fire" but not in a crowded theater. Mr. Clark set himself up as a representative of all of us in this country, when he went to Iran, and condemned our policy and apologized for it, in a situation where he had no business to be.

Some claim that Mr. Clark ought to be let off because the Logan Act is rarely invoked. For nearly as long as our Republic has existed, the Logan Act has been part of the law of the land. Rarely has there been a need to prosecute loyal and patriotic Americans because of this provision of law. Especially in earlier times, when relations among sovereign states where more formal and clear cut, perhaps, than they are now, when the taking of diplomats as hostages was regarded as an act of war, there was no reason for ambiguity in the disputes between governments.

LEGAL PRECEDENTS

As the Senator from Kansas understands it, the Logan Act was dropped from the new revision of the Criminal Code, scheduled to be considered by this session of Congress, not for any reason based in law, justice or right, but merely because it seldom needed to be used. Mr. Clark's trips to Hanoi and Tehran demonstrate a need for that law to remain on the books. This Senator will offer an amendment to the new Criminal Code restoring the language of the Logan Act.

The Senator from Kansas and a number of his colleagues feel the Attorney General should proceed with an investigation under the provisions of the Logan Act. While there are many arguments surrounding the question of constitutionality of the travel ban, the Federal courts have already held the Logan Act to be valid. For instance, in the case of Waldron against British Petroleum Company, the Federal court found—

> No merit in plaintiff's argument that the Logan Act has been abrogated by desuetude. From the absence of reprinted cases, one may deduce that the statute has not been called into play because no factual situation requiring its invocation has been presented to the courts.

Though no prosecutions have been brought under the Logan Act, this 1964 opinion clearly indicates that the lack of use of the Logan Act is inclement to its constitutionality.

Mr. President, the issue before the President, the Attorney General, and all the American people is crystal clear. It is apparent that the provisions of the Logan act may have been violated by Mr. Clark, and if so, he should be investigated and prosecuted.

IS IT OK TO BREAK THE LAW

The President banned anyone except those authorized from going to Iran. Ramsey Clark and his group violated that ban. The Logan act, not to mention commonsense, banned them from interfering, and they evidently broke that law. It seems to me that if we want to maintain respect for our laws and policies, then we ought to enforce them when they are broken. If people want to break the laws and live by their own rules, then they ought to be ready to face the consequences. They should not expect to have their cake and eat it too anymore than the rest of us. Even when they are a former Attorney General of the United States—no one is above the law.

If Mr. Clark's convictions are so strong that he feels he can ignore our laws, why is he not willing to face up to the punishment that goes with them? Why is he willing to face the music to do what he wants to do, but not afterward when he got to do it? What kind of conviction is that. But, Mr. Clark is also a member of that special, golden segment of the political spectrum on the left, the one that believes that laws are good things only when they are reinforcing their particular political beliefs. It is all right if the President calls for a ban on travel to Iran where our diplomats have been held hostage for 7 long months. It is all right if ordinary people who just happen to be relatives of those hostages are prevented from going to Iran. But, it is, apparently, another thing altogether when the old antiwar, liberal coalition wants to go over and join a group of anti-American Third World nations in condemning the United States.

CHEAP HEROICS; EASY MORALITY

First, we get a ban on travel to Iran. Then, we let a small group with the right kind of liberal philosophy go over to an anti-American conference in Tehran, condemn their own country, and then let them come back to the United States with no intention of prosecution. Large segments of the media make Ramsey Clark into some kind of semi-hero for "having the courage of his convictions." It just seems to the Senator from Kansas that this is pretty cheap heroics, and an easy morality, when you know you can ignore your country's laws and come back to all the talk shows and news interview shows to crow about it without fear of prosecution.

The Senator from Kansas does not believe it was right for Mr. Clark to go to Iran as a private citizen, set himself up as a quasi-official representative of our country, and then to condemn the United States—as he did—while 53 Americans are still held hostage.

It is the belief of the Senator from Kansas and the two dozen cosponsors of Senate Resolution 456 that Mr. Clark's group should be liable to prosecution. By the passage of this amendment, the Senate can go on record supporting the expeditious investigation by the Attorney General of Mr. Clark's apparent violation of the Logan Act, avoid the smokescreen about the right to travel, and concentrate on the real damage the Tehran 10 have done to this country.

The Senator from Kansas would just like to add that the following Senators were cosponsors of his original resolution, Senate Resolution 456: Mr. BAKER, Mr. STEVENS, Mr. DOMENICI, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HUDDLESTON, Mr. HELMS, Mr. HUMPHREY, Mr. JEPSEN, Mr. LAXALT, Mr. LUGAR, Mr. COCHRAN, Mr. BYRD of Virginia, Mr. SIMPSON, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. SCHMITT.

I frankly disagree with the President in his public comments on the case. It does seem to me he still is the President of the United States, and I guess he could instruct the Attorney General to investigate. But as far as this Senator knows there has been no investigation under the Logan Act. Instead we have had all this talk about the first amendment right to travel, the right to free speech. The Senator from Kansas is not focusing on that issue at all. As I said, as far as I am concerned, that may be a red herring.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. DOLE. Mr. President, how much time does the Senator from Kansas have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. DOLE. Mr. President, let me see if I can finish in 8 minutes.

Mr. LEAHY. Mr. President, if the Senator would allow me, I would be glad to ask the Senator from Arizona (Mr. DECONCINI) for time on his time to ask a question.

Mr. DECONCINI. Mr. President, I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, first, if the Senator from Kansas will bear with me a moment just to make a couple of quick points before asking the question.

One, I share the concern of many of my constituents in Vermont of the trip made by Mr. Clark. I am not going to go into it to try to determine whether it was well intentioned or poorly intentioned. That is really not the issue. I think it is unfortunate, with what is going on in Iran, that the Iranian Government, of whatever nature it might be, sees a person who held a high office in this country speaking, in effect, for this country.

I think, with all the problems that we are faced with in Iran, the U.S. Government should speak only with one voice and we should not have either present governmental officials or former governmental officials in Iran speaking as though they are speaking for the U.S. Government. I am sure the Senator from Kansas would agree with that basic statement.

I would also point out, Mr. President, that prior to coming to the Senate, and after my years in private practice, I was a prosecutor for nearly 9 years. During that time, I was considered probably the toughest and meanest prosecutor our State has ever had. I believed in very, very strict enforcement of the laws and I believed in applying them equally to people, whether they held high political office or no political office, or whatever their economic strata.

Having said that, I also felt that during that time I never would have stood for any legislature or any Governor or any Congress or any President telling me, as a prosecutor, how I should or should not prosecute.

And I wonder—and my question to the Senator from Kansas—are we overstepping our bounds here by having the Congress tell the prosecutor for the country whom he should or should not prosecute?

Mr. DOLE. Well, the Senator from Kansas, having been here during the Watergate days and having listened to a great deal of direction coming from Congress in the event of the special Watergate committees and special directions and directives and statements and everything else on the Senate floor, I would say, on that basis, and on another basis, if somebody robbed a bank, I would not be up here discussing that somebody ought to instruct the Attorney General to investigate.

But we are talking about the foreign policy and about a matter that is very sensitive, that has been discussed by every Member of this body, been discussed by the President, been discussed by his opponents. We are talking about, basically and essentially, the freedom of the American hostages.

I just suggest, particularly in view of the President's travel ban, when you just travel with impunity to Iran, as Ramsey Clark did—I see some of the liberal editors saying, "Well, it was foolish, but we shouldn't do anything with Mr. Clark."

I do not have any quarrel with Mr. Clark, because he has been doing this most of his adult life. He and Jane Fonda went to Hanoi and tried to settle that. And I understand that was not very successful; it did not help the prisoners of war.

I think in this case, my answer would be, yes, that we have a right to reflect our views. We are elected officials.

Mr. LEAHY. Mr. President, I ask the Senator from Kansas, would this also apply to the parents of the hostages who went over contrary to the travel ban by the President?

Mr. DOLE. No, I think there would be a distinction there.

I am not talking about the travel ban. I think that is the red herring.

Mr. LEAHY. Would it apply to Congressman HANSEN who went over?

Mr. DOLE. Had he gone over without authority to engage in a conference on crimes against America, I would suggest, yes, but he did not do that.

Mr. LEAHY. Would it apply to him when he went over and spoke on behalf of what the position of the U.S. Government was?

Mr. DOLE. It applies to everybody, let us put it that way. The Logan Act is still on the books and I assume it is looked at from time to time. I am not trying to make any exceptions in this case.

Mr. LEAHY. Mr. President, I am trying to fully understand this in my own mind. I am just wondering if, the way this is written, would it not also apply to the parents of the hostages who have been over there and would it not also apply to the Congressman from Idaho who went over?

I should add that the Senator from Kansas knows, from conversations on this floor and off this floor, I carry no brief with the actions of Mr. Clark. I think it was grandstanding at best, and I really do not agree with Americans going over at a time like this when the United States should be speaking in one voice and expressing what appears to the world, or at least to the Iranians, to be the position of the U.S. Government. But I am also very, very concerned, and I must admit my own bias as a former prosecutor of having a legislative body tell the prosecutor who to prosecute or not, because I could see us coming in tomorrow, for example, and telling the Justice Department who not to prosecute.

For example, we could come in and say, "Don't prosecute any Member of Congress who is indicted for any type of crime," or "Don't prosecute a member of the President's Cabinet," or "Do prosecute a member of the President's Cabinet," or whichever way.

I just wonder if that is something that steps out of our legislative role, whether our legislative role is not one of enacting the laws and then leaving it to the prosecutors to prosecute.

I must admit, there are some very real concerns in this, because I could see a legislative body telling them not to prosecute if they could tell them to prosecute. I am also concerned, if we pass this, what if somebody overly diligent might say it also applies to all these other categories that I have mentioned.

Mr. DOLE. Mr. President, I would, in response to that, call the Senator's attention to the Congressional Research Service document dated October 31, 1978, report 78-212-A, with reference to the Logan Act, and particularly with two

Department of State opinions. The two Department of State opinions dealt with the activities of two Senators and former President Nixon being questioned violating the Logan Act.

In both cases, the Department did not consider the activities to be inconsistent with the Logan Act. The first opinion concerned the question of certain activities of Senator John Sparkman and Senator GEORGE MCGOVERN with respect to the Government of Cuba.

The opinion stated:

> The clear intent of this provision (Logan Act) is to prohibit unauthorized persons from intervening in disputes between the United States and foreign governments. Nothing in Section 953, however, would appear to restrict members of the Congress from engaging in discussions with foreign officials in pursuance of their legislative duties under the Constitution.

I would say "unauthorized" is the key word.

With reference to an opinion by Ambassador McCloskey, in reference to a letter to Senator John Tunney concerning former President Nixon's visit to the People's Republic of China, the letter stated:

> Mr. Nixon's visit to the People's Republic of China was undertaken entirely in his capacity as a private United States citizen. In accordance with the expressed wishes of the Government of the People's Republic of China and as a normal matter of comity between governments, the U.S. Government permitted an aircraft from the People's Republic of China to land in California in connection with the visit.

So I think there is a clear distinction. Ramsey Clark has been a gadfly for years. Ramsey Clark is a former Attorney General. Ramsey Clark understands the law. Ramsey Clark knew the law when he left. In fact, some people did not go because of the President's travel ban and some may have stayed here because of the Logan Act.

Mr. President, I just suggest that in these extreme cases, and this is an extreme case—we are talking about the lives of 53 American people—I believe the Senate ought to act. We are supporting the President with this resolution. We ought to say to the Attorney General, if he is not listening, to take a look at the Logan Act, to investigate what Mr. Clark and others did under the Logan Act, and to make a determination.

I am not passing judgment on Mr. Clark. I am just saying let us not sweep it under the rug.

Mr. LEAHY. Mr. President, I am not making a point of agreeing with U.S. citizens speaking for the U.S. Government when they are not authorized to do so, but they can also bring judgment against the parents of hostages over there in seeking to influence the Iranian Government.

I yield back the remaining time to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I would like to ask one question of the Senator from Kansas, since he is making reference to Ramsey Clark. I am outraged with what the Attorney General did. He ought to know better, but he is a big boy and he has to face the consequences. My question really is, Would this same sense of the Senate have reference to and direction to the President, as the Senator from Kansas would interpret it, to bring actions against the Congressman from Idaho who went to Iran? Is that the Senator's interpretation?

Mr. DOLE. Mr. President, I have just stated two State Department opinions. Of course, he went before the travel ban was made, but I am not talking about the travel ban, I am talking about the Logan Act. I have suggested two opinions from the State Department with reference to Members of Congress who traveled to Cuba and former President Nixon who traveled to the People's Republic of China. The act says very specifically, "to go without authority of the United States."

In the opinion by the State Department, they held that as Members of Congress they had the authority. I would assume everyone in this Chamber sooner or later travels somewhere. For some it is a mission and for others it is a junket. But they travel somewhere and talk to foreign leaders, and I assume they do it with authority. That is the key word.

To continue on my own time, I would guess that probably Ramsey Clark is not concerned about the test. In fact, I think he suggested in a press conference when he returned to this country that if there was going to be a test, that was fine.

There is nothing in the resolution that passes judgment on anyone. The resolution does not single out anyone. The resolution says, as I have said before, that it ought to be investigated.

There have been no convictions under the Logan Act. Some would say it has no force and effect, but I suggest that there are other statutes that have been on the books as long as the Logan Act which are still in full force and effect.

There was an effort to repeal the Logan Act. For example, the distinguished Senator from Massachusetts (Mr. KENNEDY) wished to delete the Logan Act from the bill to amend the U.S. Criminal Code, but the late Senator Allen, of Alabama, insisted on reenacting the act in exchange for prompt and not prolonged debate over the bill. Senator KENNEDY agreed to this.

I just suggest that the Logan Act is alive and well. It has been asleep, but it is there.

It seems clear to the Senator from Kansas, and I would hope that we would proceed to reflect the views of our constituents because this is a matter that involves foreign policy, it is a matter that involves the safety and the lives of 53 Americans. In fact, it was a matter that, until about 30 days ago the President talked about every day. All of a sudden it was put on the back burner for reasons unknown to this Senator.

I just suggest that if it is that important, and it is that important, then we ought to serve notice on anyone else who travels without authority, who enters into correspondence or any other intercourse with foreign nations involved in a dispute with America, and we ought to make clear, that we do not condone that action, that the Attorney General ought to investigate it, and, if there is a violation—if there is a violation—there should be a prosecution.

Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. DOLE. I yield.

UP AMENDMENT NO. 1195, AS MODIFIED

Mr. THURMOND. Mr. President, I think we might get around some of the complications and some of the objections that have been raised. I have reference to the remarks of Senator DECONCINI and Senator LEAHY, former district attorneys.

I think perhaps we could modify the amendment in this way:

"It is the sense of the Congress that" and eliminate the next three lines and insert this wording in lieu thereof, "the Attorney General be urged to do his duty in those instances where it appears there has been a violation of the Logan Act."

I think that would accomplish that same purpose and, at the same time, it does not tell the President to instruct the Attorney General. It removes that.

Mr. DOLE. Mr. President, I do not have any real reason for the President to instruct the Attorney General. I have some doubts in my own mind that the President should comment on the case. But I guess he still has the right to instruct the Attorney General's office to investigate.

Mr. THURMOND. Mr. President, he does have the right. But with Congress taking action in this way, we have jurisdiction over the Justice Department and, therefore, I think we would be within our propriety or right if we worded it this way.

The PRESIDING OFFICER. All time of the Senator from Kansas has expired.

Mr. THURMOND. Mr. President, is the Senator from Kansas willing to accept that modification?

Mr. DOLE. May I look at it?

I might say that it is my understanding that it does not violate the law if families go over and discuss a matter with foreign officials. The Logan Act exempts conduct involving personal matters and I believe the family relationship qualifies as personal.

Mr. LEAHY. Mr. President, will the Senator from Arizona yield for 1 minute?

Mr. DECONCINI. I yield.

Mr. LEAHY. Mr. President, I should point out to the Senator from Kansas that it is not the intention of the Senator from Vermont to raise any red herring here. I tried to make very clear my own real concern about Mr. Clark or anybody else seeking to speak for me or for the U.S. Government in this matter.

The U.S. Government should speak for the U.S. Government, and nobody else. I am very concerned about that. I state only that, looking at this as a former prosecutor and now as a legislator, my very real concern is about a legislative body telling prosecutors who to prosecute, because, by the same token, and an equally dangerous thing, they can tell prosecutors who not to prosecute.

In either way you come out with unequal handling of the law.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will send to the desk a modification as soon as it is written. It would do this: it would strike from the amendment of the distinguished Senator from Kansas lines 17, 18, and 19 on page 2 of his amendment, and insert in lieu thereof:

the Attorney General be urged to do his duty in those instances wherein it appears there has been a violation of the Logan Act.

Mr. DOLE. Mr. President, I ask that my amendment be so modified.

The PRESIDING OFFICER. Is there objection? Will the Senator send the modification to the desk?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 61, between lines 10 and 11, insert the following:

SEC. 120. (a) The Congress finds that—

(1) the Government of Iran has continued to act in a hostile manner toward the Government of the United States since it seized American diplomatic personnel on November 4, 1979;

(2) certain citizens and residents of the United States have collaborated in this hostility by condemning and insulting their own country;

(3) the Government of Iran conducted a "sham" tribunal, falsely represented as an assessment of "crimes of America", at which certain citizens and residents of the United States attended at the request and expense of Iran;

(4) the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is the active enforcement of section 953 of title 18, United States Code (hereafter in this section referred to as "the Logan Act");

(5) the Logan Act provides that any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both; and

(6) the President by Executive order has prohibited all travel by American citizens to Iran as part of an overall policy of securing the release of the American hostages.

(b) It is the sense of the Congress that—

The Attorney General be urged to do his duty in those instances wherein it appears there has been a violation of the Logan Act.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I have to inform the Senator from Kansas that I think the modification offered by the Senator from South Carolina is a realistic approach and, to me, within the realm of reasonableness, so far as I am concerned.

I think what the Senator wants to do is to indicate that the law ought to be applied equally to everyone, regardless of what position he might have held before.

However, the committee has some strong feelings on this side as to this particular issue, the Logan Act included. I am not prepared to accept the amendment in behalf of the committee.

I can inform the Senataor from Kansas that I will be one who will cast a vote for him.

Mr. DOLE. Mr. President, I wonder if the Senator from Arizona will yield me a minute or two?

Mr. DECONCINI. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas is a lawyer and was a prosecutor, as was the Senator from Vermont, but maybe we just have little prosecutions in Kansas. But I think there is more at stake here than an attack on Ramsey Clark or an effort to support the President, who seems to indicate that, while Ramsey Clark was all right in November, he is not so good in June.

It seems to me that we are involved in a much bigger problem. That is to discourage everybody from going over and condemning America to the Iranian Government, and perhaps jeopardize the safety of our hostages—who knows?

I do not know of anybody who says Ramsey Clark did any good. He got a lot of media coverage, he was on television every night denouncing America. He was confessing our "sins" for the past 28 years. That may have done a lot for some in this country, but what did it do to the hostages or for the hostages or, for that matter, for our policy toward Iran or anybody else?

For all I know, they might think that Ramsey Clark speaks with some authority. He does not. He should not. All I feel is that the Attorney General should stop looking at the so-called travel ban and start looking at the real violation, the Logan Act. The language suggested by the distinguished ranking member of the Judiciary Committee (Mr. THURMOND) narrows it down to that.

I am not going to argue with the right to travel, or the right to free speech. I might agree with the President that there is a question whether the act could apply or does apply. If he sees a violation, he ought to say so publicly. I shall ask for the yeas and nays at the appropriate time and we shall find out who supports Ramsey Clark and who does not.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes a substitute unprinted amendment numbered 1196 to unprinted amendment numbered 1195, as modified:

In lieu of the language proposed to be inserted, insert the following:

SEC. 120(a). The Congress finds that:

(1) The government of Iran continues to hold hostage 53 American citizens in defiance of international law; and

(2) The Congress of the United States continues to urge the government of Iran to release the hostages immediately; and

(3) The Congress of the United States fully supports every diplomatic effort by the United States government, foreign governments, and international bodies, to secure the immediate release of the hostages; and

(4) The Senate on November 28, 1979, by a vote of 98–0, expressed its sense that there must be an immediate, safe, and unconditional release of U.S. hostages, that the American people and their representatives are united in their determination and efforts to achieve the release of the hostages, and that the United Nations should take all measures necessary to secure the release of the hostages.

(5) The Senate on December 15, 1979, called upon the followers of the religion of Islam throughout the world to prevail upon their brethren to permit the Americans being wrongfully held hostage in Iran to return home immediately, by a vote of 93–0; and

(6) The Senate agreed by voice vote on December 20, 1979, to fully support the President's efforts and the cooperative efforts to other nations and international organizations, to win the freedom of Americans being held captive in Iran.

(b) It is the sense of the Congress that:

(1) Congress opposes efforts by private citizens, undertaken without approval of the United States government, to involve themselves in negotiations regarding the hostages; and

(2) Congress deplores such actions as counterproductive, subject to misrepresentation, and undertaking the unity of purpose necessary to gain the hostages release; and

(3) Calls on all Americans to support the United States government's efforts to negotiate the release of the hostages; and

(4) Supports the enforcement of any applicable statutes that may be violated in the course of private negotiating initiatives.

(Mr. HARRY F. BYRD, JR., assumed the chair).

Mr. DOLE. Mr. President, will the majority leader yield? We do not have a copy of the amendment here. The press has it; we do not have it.

Mr. ROBERT C. BYRD. I give the Senator my copy.

Mr. DOLE. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, in foreign policy, the Nation must speak with a strong clear voice if we are to achieve our goals in a troubled world. We cannot afford to speak with many tongues. If we do, dialog becomes babble.

Nothing so clearly illustrates this basic lesson as the plight of our hostages in Iran. Their freedom will be gained only through persistent, patient, considered negotiations.

The internal situation in Iran has grown increasingly chaotic over the last several months. The greatest difficulty that the U.S. Government has had is that no one seems to be able to speak authoritatively for the Iranian Government. Promises that were made were broken. Useful avenues of communication dried up.

The confusion on the Iranian side must not be compounded by any ambiguity or doubt on this side. We must not allow any question to be raised as to who speaks for the U.S. Government in our efforts to negotiate the release of the hostages.

In negotiations with other governments, only the President or his designated representative can speak for the U.S. Government.

The Iranians have initiated an international tribunal to inquire into the so-called past interference of the United States in Iran. This would be just another regrettable propaganda effort were it not for the decision of a handful of American citizens to participate in this inquiry.

I believe that these people, whatever their motives, will be used for anti-American propaganda. I believe that this whole affair is unfortunate and that it has attracted altogether too much attention. The best way to rob this exercise of its propaganda value is to ignore it. I intend to ignore it as much as possible.

However, I believe that there is one question that deserves to be made as clear as possible, to the people of the United States, to Iranians, and to people around the world: Those Americans who have decided to participate in this inquiry are private citizens, and private citizens only. They do not represent the Government of the United States. They do not represent the people of the United States. They represent only themselves.

Those Americans who have chosen to participate in this inquiry should not be construed by anyone as representing the United States in word or deed. This is the point that I want to make very clear. This is the purpose behind the resolution that I am offering.

This resolution does four things: It puts the Congress on record as opposing efforts by private citizens to involve themselves in negotiations regarding the hostages; it deplores private negotiating initiatives as counterproductive, subject to misrepresentation, and undermining the unity of purpose necessary if we are to gain the release of the hostages; it calls on all Americans to support the Government's efforts to negotiate the release of the hostages; and supports the enforcement of any applicable statutes that may be violated in the course of private negotiating initiatives.

Let any ambiguity that may have been created by this affair be ended here and now with clear and decisive support for this resolution.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there 10 minutes on a side?

The PRESIDING OFFICER. Ten minutes for the minority leader or his designee and 10 minutes for the authors of the resolution.

Mr. DOLE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is the amendment of the distinguished Senator from West Virginia subject to further amendment?

The PRESIDING OFFICER. It is a second-degree amendment and not subject to further amendment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. Unless there is objection equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Reserving the right to object, Mr. President——

Mr. ROBERT C. BYRD. Mr. President, I have no objection. I ask it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent it be charged on the bill, equally divided on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I modify my amendment as follows: On page 2, paragraph numbered 4, at the bottom of the page, by inserting the words "not excluding the Logan Act or any other act," after the word "statutes." So that the sentence would read as follows:

> Supports the enforcement of any applicable statutes, not excluding the Logan Act or any other act that might be violated in the course of private negotiating initiatives.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"SEC. 120. (a) The Congress finds that:

"(1) The government of Iran continues to hold hostage 53 American citizens in defiance of international law; and

"(2) The Congress of the United States continues to urge the government of Iran to release the hostages immediately; and

"(3) The Congress of the United States fully supports every diplomatic effort by the United States government, foreign governments, and international bodies, to secure the immediate release of the hostages; and

"(4) The Senate on November 28, 1979, by a vote of 98–0, expressed its sense that there must be an immediate, safe, and unconditional release of U.S. hostages, that the American people and their representatives are united in their determination and efforts to achieve the release of the hostages, and that the United Nations should take all measures necessary to secure the release of the hostages.

"(5) The Senate on December 15, 1979, called upon the followers of the religion of Islam throughout the world to prevail upon their brethren to permit the Americans being wrongfully held hostage in Iran to return home immediately, by a vote of 93–0; and

"(6) The Senate agreed by voice vote on December 20, 1979, to fully support the President's efforts and the cooperative efforts of other nations and international organizations, to win the freedom of Americans being held captive in Iran.

"(b) It is the sense of the Congress that:

"(1) Congress opposes efforts by private citizens, undertaken without approval of the United States government, to involve themselves in negotiations regarding the hostages; and

"(2) Congress deplores such actions as counterproductive, subject to misrepresentation, and undermining the unity of purpose necessary to gain the hostages release; and

"(3) Calls on all Americans to support the United States government's efforts to negotiate the release of the hostages; and

"(4) Supports the enforcement of any applicable statutes not excluding the Logan Act or any other Act that may be violated in the course of private negotiating initiatives."

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. I thank the distinguished majority leader for making that change.

I have discussed it with the distinguished minority leader, who is interested in this matter, also, and I believe it satisfies our concerns.

I do not see any need to have a rollcall vote. I believe we are in agreement. We are not trying to pick out any one person or any one act.

This makes it clear that we look at all the statutes that might apply, including the Logan Act, or not excluding the Logan Act.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, this is a good solution to the question at hand. It carries out the purpose that is sought to be served by the Senator from Kansas and the Senator from West Virginia, the majority leader.

I, too, see no need for a rollcall vote. I believe there is virtually unanimous agreement on this language, and I propose that we have a voice vote.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield.

Mr. THURMOND. Mr. President, I feel that the amendment as offered by the distinguished Senator from West Virginia, as amended with the insertion of the words he has indicated, is satisfactory and carries out the intent and purposes that the able Senator from Kansas had in mind originally; and I believe it will accomplish the purpose he envisioned when he offered the amendment. I am pleased to support it.

Mr. DECONCINI. Mr. President, I support the amendment, also. The committee is agreeable to this solution, and we are willing to accept the amendment.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the substitute amendment offered by the Senator from West Virginia, as modified.

The substitute amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the substitute amendment, as modified, was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first degree amendment, as amended.

The first degree amendment, as amended, was agreed to.

VITIATION OF ORDER REGARDING THE DEPARTMENT OF ENERGY AUTHORIZATION BILL

Mr. ROBERT C. BYRD. Mr. President, under the order entered earlier, upon the disposition of the pending business, the Senate was to proceed to the Department of Energy authorization bill. I ask unanimous consent that that part of the order be vitiated.

Mr. BAKER. Mr. President, reserving the right to object, does that change the order?

Mr. ROBERT C. BYRD. It strikes that from the order, so that the Senate will not be proceeding to the Department of Energy authorization bill.

Mr. BAKER. Mr. President, I understand that, and I have no objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981

The Senate continued with the consideration of S. 2377.

UP AMENDMENT NO. 1197

(Purpose: To establish National criteria for the imposition of the sentence of death)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1197.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof, add the following:

Chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) HEARING REQUIRED.—A person shall be subjected to the penalty of death for any offense against the United States only if a hearing is held in accordance with this section.

"(b) HEARING BEFORE COURT OR JURY.—When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(3) before the court alone, upon the moton of the defendant and with the approval of the Government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, but, at any time before the conclusion of the hearing, the parties may stipulate with the approval of the court that it shall consist of any number less than twelve.

"(c) PROOF OF AGGRAVATING AND MITIGATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f), (g), and (h). Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to any mitigating or aggravating factors, including those set forth in subsections (f), (g), and (h), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"(d) RETURN OF FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing and the evidence received during the trial. It shall return special findings identifying any aggravating and mitigatng factors, set forth in subsections (f), (g), and (h), found to exist. A finding of such a factor by a jury shall be made by majority vote. If no such aggravating factors set forth in subsection (g) or (h) are found to exist the court shall impose a sentence, other than death, authorized by law. If one or more of such aggravating factors are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist, or in the absence of mitigating factors whether the aggravating factors are themselves sufficient, to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(e) IMPOSITION OF SENTENCE.—Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Upon a contrary finding, the court shall impose a sentence, other than death, authorized by law.

"(f) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered:

"(1) the defendant was youthful at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such duress as constitutes a defense;

"(4) the defendant is punishable as a principal, but his participation was relatively minor;

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) AGGRAVATING FACTORS FOR TREASON AND ESPIONAGE.—If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title, the following aggravating factors shall be considered:

"(1) the defendant has been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security;

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

"(h) AGGRAVATING FACTORS FOR HOMICIDE.—If the defendant is found guilty of or pleads guilty to any other offense for which one of the sentences provided is death, the following aggravating factors shall be considered:

"(1) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property in interstate commerce by explosives), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i), (n) (aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been

convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of serious bodily injury upon another person;

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to one or more persons;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116 (b)(3)(A) of this title, if he is in the United States because of his official duties; or

"(D) a Federal judge, a Federal law enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection, a law-enforcement officer is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense."

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy."

SEC. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 6. Section 844(1) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;"

SEC. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 9. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 10. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 11. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 12. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 13. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 14. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 15. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses."

SEC. 16. Section 3566 of title 18 of the United States Code is amended by adding a second paragraph as follows:

"In no event shall a sentence of death be carried out upon a pregnant woman".

SEC. 17. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 the following new section:

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed under section 3562A of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under section 3562A(d) of this title.

"The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, (2) the information supports the special finding of the existence of any aggravating factor, or the failure to find any mitigating factors, set forth in section 3562A; and (3) the sentence of death is not excessive, considering both the crime and the defendant. In all other cases the court shall remand the case for reconsideration under section 3562A of this title. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

SEC. 18. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item

"3742. Appeal from sentence of death.".

SEC. 19. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

Mr. HELMS. Mr. President, the purpose of this amendment is simple. It would establish fair, equitable, and constitutional procedures for implementing the death penalty for capital crimes.

It is almost identical to legislation introduced by Senator DECONCINI and Senator THURMOND. As the able Senator from Arizona (Mr. DECONCINI) stated upon introduction of his measure:

> Ultimately, the conclusion in favor of the retention of capital punishment has its basis in the belief that the primary responsibility of society is the protection of its members so that they might live out their lives in peace and safety. Where the safety of its citizenry can no longer be guaranteed, society's basic reason for being disappears. In providing its members protection, society must do what is necessary to deter those who would break its laws and punish those who do so in an appropriate manner.

Similarly, the distinguished Senator from South Carolina (Mr. THURMOND), who is a cosponsor of this amendment, stated as follows:

> The death penalty must be restored if our criminal justice system is to effectively control the increasing number of violent crimes of terror. The confidence of the American people in our criminal justice system must also be reclaimed and the imposition of the death penalty can restore such confidence.

Mr. President, there is a mistaken notion that the Supreme Court, in Furman against Georgia, repealed the death penalty. This is absolutely not the case.

Federal criminal provisions which would subject the violator to the death penalty are scattered throughout title 18 of the United States Code.

What we lack is a constitutional rubric under which these death penalty provisions can be reactivated. The pending amendment would provide such a structure.

Mr. President, we have been waiting around for the enactment of this type of legislation for nearly a decade now.

Let us review a bit of history.

As a result of the Furman decision, Senator Roman Hruska, joined by Senator McClellan, introduced S. 1401 in the 93d Congress on March 27, 1973, to establish procedures under which the death penalty could be constitutionally implemented. Hearings were held on the legislation in April, June, and July of 1973. On March 1, 1974, the Senate Committee on the Judiciary reported S. 1401 with amendments. But, despite the fact that the Senate approved the legislation by a vote of 54 to 33, the House of Representatives failed to act on the bill.

A number of bills dealing with capital punishment were introduced in the 94th Congress, but again action was deferred. In 1976, the Supreme Court ruled in Greg against Georgia, Proffitt against Florida, Jurek against Texas, Woodson against North Carolina, and Roberts against Louisiana that the death penalty, when properly applied was indeed constitutional.

In 1977, Senator McClellan and 19 cosponsors introduced S. 1382, which was drafted to reflect the most recent round of Supreme Court decisions. The Subcommittee on Criminal Laws and Procedures reported the bill. But the full committee, after holding hearings in May and June, 1978, failed to report the measure to the Senate.

This year, once again, a bill codifying constitutional guidelines was introduced in the Senate. After extensive consideration by the subcommittee and committee, the bill was reported onto the Senate calendar on January 17, 1980. And there it sits—waiting, presumably, for the end of the session at which time it will expire.

Mr. President, this Senator feels that it is time that the Senate is given an opportunity to work its will on this issue one way or another, and that is the purpose of this amendment.

A wide variety of opinion holds that the death penalty does, in fact, serve as an effective deterrent in many instances. As Arlen Spector, former district attorney of Philadephia, testified:

> I believe the death penalty is an effective deterrent against murder. I say that based upon more than 7 years as district attorney of Philadelphia, and dealing with a great many cases in that capacity. We have the frequent occurrence in the criminal courts of Philadelphia where professional burglars have expressed themselves on the point of not carrying a weapon on a burglary because of their concern there may be a scuffle, there may be a dispute, the weapon may be used and death may result, and prior to Furman they may face the possibility of capital punishment.

Even if, as capital punishment opponents contend, it cannot be shown demonstrably by the use of statistics that capital punishment is in fact, a deterrent, there is the question of whether we should resolve the question in a way which, if wrong, would lead to the death of an innocent victim, or in a way which, if wrong, would lead to the death of an undeterred criminal.

So, Mr. President, I hope Senators will understand the alternatives. If we fail to approve this amendment we may, in fact, be condemning to death innocent victims who will be killed as a result of a lack of deterrence. Even if, for the sake of argument, only a tiny fraction of the future murderers in this country would, in fact, be deterred by the death penalty, failure to approve this amendment would automatically condemn hundreds of innocent victims to death.

In the long run, the distinction between Federal and State jurisdiction is lost on most criminals. They will read the headlines created by this vote and they will draw their own conclusions about the possible implications of their own conduct.

Mr. President, I know that some will argue that even when capital punishment was a sentencing alternative there were still capital offenses committed and, therefore, according to that agreement, it cannot be said to have acted as a deterrent to crime.

Mr. President, there is a specious argument because that criteria, if one accepts it, simply says that the imposition of any sentence, including imprisonment, fails to serve as a deterrent.

So the real question, Mr. President, posed by this argument is what is the central purpose of punishment? Is it primarily to deter future criminal action? Is is primarily to rehabilitate criminals? I have my own answer, Mr. President.

I suggest that the central purpose of the criminal justice system and its sentencing structure is justice.

We do not require the complicated and strictly enforced evidentiary procedures and due process safeguards if the central purpose of the criminal court system is deterrence or rehabilitation.

The complicated adversary system of criminal law makes sense if, and only if, its ultimate purpose is in fact, justice: Does the punishment in any given case fit the crime?

Mr. President, I believe society can ask no more than that and I also believe that society deserves no less.

Mr. President, I reserve the remainder of my time.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of the time allotted to the bill.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 20 minutes and the Senator from Arizona has 28 minutes.

Mr. HELMS. I thank the Chair.

Mr. DOLE. Mr. President, will the Senator yield me 3 minutes?

Mr. HELMS. Mr. President, I am delighted to yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that I may be made a cosponsor of the amendment of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the subject of capital punishment has been exhaustively discussed now for decades, if not centuries, in virtually all legislatures in the country. There are current Federal laws which authorize capital punishment for capital offenses. The effectiveness of these laws, however, has been circumscribed by the Supreme Court's decision in Furman against Georgia in 1972, in which the court held that unlimited discretion by judge or jury as to imposing capital punishment constituted unconstitutional "cruel and unusual punishment."

The Senator from Kansas believes that this reasoning by the court makes good sense, not only from the point of view of the defendant, but also from that of society. If a defendant is not certain before he commits a crime that he will be executed, the probability of his being deterred from committing the crime is reduced drastically, and society is endangered accordingly. Unlimited judge or jury discretion as to whether to sentence a convicted person to execution produces precisely the type of uncertainty which diminishes deterrence. Then, after he is convicted for a crime such as first degree murder, the defendant is treated to cruel and unusual punishment by the fact that he may be ordered executed by one judge or jury, while another person who committed exactly the same crime may be given life imprisonment with the possibility of parole by another judge or jury. This system is unfair to the convicted felon as well as to society.

Committing heinous crimes becomes a kind of roulettte game, in which the potential assailant tries to guess the chances of being executed. One reputable study shows that between 1945 and 1954, the ratio of executions to reported incidents of murder or nonnegligent manslaughter in this country was 1 to 100. A 1-percent risk of execution does not sound like a very dangerous threat to a person who is desperate enough to commit murder.

Since 1967, only two persons have been executed in this country, so a potential murderer can perceive that his chances for execution are quite remote. Mr. President, under these circumstances, I submit that it is society which is being subjected to "cruel and unusual punishment"—in that the Government is failing to provide adequate protection from heinous capital crimes. Innocent citizens are being forced to walk the streets in fear, because criminals do not fear being executed for their crimes. There is not sufficient deterrence.

The issue, basically, is whether we can draft a statute to meet the constitutional requirements posed by the court in Furman against Georgia, and at the same time effectively puts teeth into the statutes authorizing capital punishment for certain crimes, by adding a clear element of certainty into a judge or jury's determination as to whether capital punishment should be imposed.

The amendment before us on the Senate floor today, which contains the substance of S. 114, is an excellent approach to serving this purpose. S. 114 is the culmination of a 7-year effort which began in 1973, when Senator Hruska introduced S. 1401, in the 93d Congress, which provided for constitutional procedures and criteria for imposition of capital punishment. Procedures and criteria: These are the key elements of S. 114, as they have been of every bill introduced on the subject since 1973.

On March 13, 1974, the Senate approved S. 1401 by a vote of 54 to 33, but the House failed to follow the Senate's lead. In 1976, the Supreme Court issued decisions on five cases which upheld the constitutionality of capital punishment when imposed in the context of procedures and criteria which gave the judge or jury flexibility to consider the aggravating and mitigating circumstances surrounding each particular defendant. In 1977, S. 1382 was introduced in the Senate Judiciary Committee's Criminal Law Subcommittee. This bill, which is very similar to S. 114, was the subject of lengthy hearings, but failed to be reported favorably out of the subcommittee.

I am pleased to see that the Judiciary Committee voted favorably on S. 114 last December, in conjunction with approving the criminal code bill, S. 1722, on the very same day. Two years ago, I voted against the Criminal Code bill of the 95th Congress, S. 1437, and was one of 15 Senators to do so on the floor. I stated at that time that one of the reasons for my vote was the failure of that bill to grapple with the controversial issue of capital punishment.

I felt then, and still feel now, that no Criminal Code bill can be complete without a provision on capital punishment, or at least without an accompanying bill such as S. 114. It would be unjustifiable for us to fail to deal with this issue, just because it may be a political hot potato in an election year. The Senator from Kansas is one person who feels it must be dealt with, here and now.

Mr. President, there are many arguments raised against capital punishment, on philosophical, sociological, religious and legal grounds. Perhaps the most persuasive is that capital punishment per se constitutes "cruel and unusual punishment," by today's standards. The 14th amendment, enacted in 1868, implicitly gave the States the authority to "deprive of life, liberty or property" anyone by "due process of law." Executions were in fact held commonly before and thereafter, with court approval of the sentence. Thus to regard capital punishment as unconstitutional per se is to believe that the standards which determine what is "cruel and unusual" have so evolved since 1868 as to prohibit now what was constitutional then, and to believe that the Constitution actually authorizes the courts to overrule laws in light of new and evolving moral standards.

While acknowledging the need for flexibility in applying laws to new times, the Senator from Kansas feels it is a highly dangerous precedent for us to adopt this principle, that the Constitution means different things according to new moral standards. What are these "moral standards?" Are they to be arrived at through a look at the latest Harris Poll or Gallup Poll? If so, perhaps we will find persecution against certain minorities to be popular tomorrow, according to the "new moral standards" of the day. Are we to then read the Constitution to allow official persecution because the standards have changed? Because our notion of due process has changed? One would hope that the Constitution is not that malleable.

But even if we look at contemporary public opinion in the case of capital punishment, we find that it is overwhelmingly in favor of capital punishment in principle. Two-thirds of the States have reenacted capital punishment statutes to overcome the Supreme Court's Furman decision, by mandating bifurcated hearings for imposing capital punishment. Public opinion polls have consistently shown the public majority in favor of capital punishment. It is indeed only a vocal minority which has raised the charge that capital punishment per se is cruel and unusual punishment.

But let us look into this issue more carefully. "Cruel" is generally considered to mean unduly excessive punitive action beyond serving a rational utilitarian purpose. The purpose of capital punishment, as I shall argue, is deterrence and protection of society. When one commits a crime so heinous to society that it places in danger the lives of others, or actually kills others, it does not seem rational to argue that capital punishment is "unduly excessive" or unproportional to the offense.

The term "unusual" punishment is generally thought to mean capricious or arbitrary in some way as to prejudice the rights of certain individuals or groups. Random arbitrariness might violate the eighth amendment, while biased arbitrariness might violate the "equal protection" clause of the 14th. It has been argued by some that capital punishment is "unusual" in both senses. Indeed, the Furman decision indicated that unfettered discretion by juries or judges as to application of capital punishment would violate the eighth amendment. S. 114 is addressed to this precise problem. It specifies a clear procedure for the jury or judge to arrive at a decision on whether to impose capital punishment in a separate hearing from the main trial.

The Constitution, though it enjoins us to minimize capriciousness, does not mandate a standard of unattainable perfection or exclude penalties because that standard has not been met. Capriciousness should be prevented only by abolishing penalties which are randomly distributed between the guilty and the innocent, or which are deliberately imposed against groups without regard to their commission of crime, proportionately speaking.

While the arguments against capital punishment on the "cruel and unusual" theory seem shallow, in the opinion of the Senator from Kansas, we are still left with the fundamental question: Is capital punishment fundamentally just and useful? Does it accomplish any purpose which benefits society, and if so, do the advantages outweigh the disadvantages?

It seems to this Senator, Mr. President, that there are two fundamental purposes which any criminal penalty should serve if it is to be deemed just and useful: First, it should protect society from the criminal element, and second, it should help create and reinforce social mores which deem crime to be wrong per se. Both purposes abound around the idea of deterrence. When a society ceases to believe that criminal acts will be punished adequately, the moral sanction against killing and other heinous crimes diminishes. If people see murderers repeatedly given life sentences and released on parole after 15 years or less, the absolute credibility of the malum prohibitum surrounding heinous crimes disappears. In addition to the general, societal ambivalence concerning heinous crimes, we must consider the individual direct purposes of deterrence which capital punishment has on people who are considering committing a heinous crime, for in their calculations, the issue of the certainty of the sentence that will be imposed upon them will play a critical role.

There have been endless articles written concerning the statistical evidence for the deterrent consequences of capital punishment statutes. Many have argued that there is no conclusive statistical evidence that capital punishment deters murder. On the other hand, many have argued the opposite. Prof. Isaac Ehrlich, for example, conducted a statistical study of the years 1933 through 1969, and concluded that "an additional execution per year . . . may have resulted on the average in seven or eight fewer murders."

The Ehrlich study is very important here in our deliberations, because it refutes previous investigations highly publicized, which did not find any deterrent statistical evidence for capital punishment. In addition, Professor Ehrlich has published a new cross-sectional analysis of the data, which confirms the conclusions of his original study. This appears in the June 1977 issue of the American Economic Review.

On the issue of deterrence, while the evidence is controversial and not absolutely conclusive, the Senator from Kansas feels that it should be noted as demonstrating at least the likelihood of marginal deterrent effects.

With regard to the validity of statistical studies which deny any correlation between capital punishment and the incidence of murder, it is important to realize that those individuals who are in fact deterred by the presence of capital punishment statutes are not actually included in the data, because there is no way to determine their number. Second, it is difficult to obtain comprehensive evidence as to the exact number of capital crimes committed, and even the FBI uniform crime reports do not distinguish between first-degree murder and nonnegligent manslaughter crimes.

While the statistical evidence on the deterrent effect of capital punishment is not conclusive, the general opinion of police officers and high law enforcement officials who deal with murderers and capital offenders is that capital punishment does deter these crimes, and these officials favor capital punishment. The hearings on S. 1382, which was very similar to S. 114 in the 95th Congress, contain testimony to this effect.

As my able colleague from Arizona, Mr. DECONCINI, stated at those hearings,

> Ultimately, only the inherent logic that the threat of loss of one's life is a deterrent justifies capital punishment.

Assuming that potential assailants value their lives, it is rational to assume that they will think twice before taking action which will lead to the electric chair.

On this psychological point, Mr. President, the Senator from Kansas is aware of certain opinions of criminologists, who contend that many murderers are really self-destructive, suicidal personalities who seek to commit murder in order to provoke the State to kill them, which is what they wish to do to themselves. While some murderers may in fact fit this description, it is far from clear that the majority do. Moreover, the existence of such individuals strengthens the argument for capital punishment, since their physical destruction is the only way of protecting society from their violence.

The psychological apologist argument against capital punishment, while warning us about suicidal psychotics, also contends that murder is frequently a "crime of passion," and that no cold calculation is involved before the act, thus rendering deterrence impossible. Statistical evidence does not clearly reveal what proportion of crimes of murder are in fact "crimes of passion."

However, it is well known in psychology that while one may be consciously deluded by passion, his subconscious will still be aware of the certainty of capital punishment, and may influence him not to commit the act, crimes of passion are also susceptible to the insanity defense, and it seems highly disturbing to this Senator to accept the belief that most murders are crimes of passion. S. 114 carries capital punishment as a penalty for several crimes which clearly involve premeditation, however, so the argument lacks persuasiveness.

With regard to the socially incorrigible convicts, Mr. President, the Senator from Kansas feels compelled to indicate that such individuals pose a serious danger to the lives of guards and other inmates in prison. Thus, from the point of view of incapacitation as a purpose of capital punishment, it would be necessary to impose the death penalty.

Mr. President, the amendment before us today, not only specifies the death penalty for the basic offenses, but also spells out a clear bifurcated system for the judge and jury to follow after a person is convicted of a crime for which capital punishment may be imposed, a separate hearing must be held to determine whether this penalty should be imposed.

The bill sets out specific procedures and standards for the judge or jury to determine whether this penalty should be imposed. It must be determined whether aggravating and mitigating circumstances are present, and if so, which outweighs the other.

The burden of proof on the Government to establish aggravating factors is greater than that on the defendant to establish mitigating circumstances. In addition, the defendant is allowed to appeal his sentence of death. Thus, one cannot argue that this bill does not give defendants a fair chance to argue for mitigating factors which militate against capital punishment.

Mr. President, this procedure is fair, it is objective, and it is just. It meets the constitutional requirements set forth by th Supreme Court in Furman against Georgia, and cannot be said to constitute "cruel and unusual punishment," nor to give judges and juries unfettered discretion as to whether to impose capital punishment.

Thus, Mr. President, in considering this bill, we are left with a key question of whether we are in favor of capital punishment, for the six crimes listed in this bill. The Senator from Kansas has discussed why he favors capital punishment, and hopes his colleagues will agree. We need to get beyond the emotional feeling that capital punishment is somehow "brutal," and examine why it is necessary in order to protect society from the real brutality of heinous crime.

This Senator is 1 of the 15 Senators who voted against the Criminal Code bill in 1977, and one of the reasons, as I pointed out during that time, was it failed to deal with this issue.

It seems to me that the guidelines set forth in S. 114 or the amendment offered by the Senator from North Carolina—and S. 114 is sponsored by the Senator from Arizona (Mr. DeConcini) and the distinguished ranking member of the committee (Mr. Thurmond)—it seems to me this is a matter that should be dealt with, and I applaud the distinguished Senator from North Carolina for offering the amendment.

Mr. HELMS. Mr. President, I thank the able Senator from Kansas.

Mr. DeCONCINI. Mr. President, I am a cosponsor, original sponsor, of this legislation with the Senator from South Carolina, and have a very strong feeling that this country should adopt a restrictive—and that is what this is—death penalty bill.

I must admit, Mr. President, there are members of this committee who feel very, very strongly the other way, and I am hopeful we will have an opportunity this afternoon for one or more of those members to come to the floor and express those views.

I think it is a very, very important issue. There has been considerable time devoted to an arrangement to get this bill on the floor. To get it out of committee was no easy task, I might suggest to the Senator from North Carolina, and it took a great deal of effort and a great deal of pulling and tugging one way and the other.

There is a commitment for it to come up subsequent to the Criminal Code, which will come up within the next 30 or 45 days.

With that I suggest the absence of a quorum and that the time be taken from the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield myself as much time as I may require.

I rise to speak in favor of the amendment of the distinguished Senator from North Carolina, of which I am a cosponsor. For many years I have favored restoring the death penalty. This should not be postponed.

Beginning in 1968, the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee held hearings on a bill to abolish the death penalty for Federal offenses. Again, in 1973, following the Supreme Court decision of *Furman* v. *Georgia* (408 U.S. 238 (1972)), the subcommittee held hearings on legislation (S. 1401), to provide for constitutional procedures and criteria for imposition of the death penalty. The Senate passed S. 1401 on March 13, 1974, by a vote of 54 to 33.

Since that vote, the subcommittee held hearings in 1977, and additional hearings in April and May 1978, which contained a studied debate on whether capital punishment should be restored, including the most recent academic studies in the area. In addition, there have been no hearings since the decision of Lockett against Ohio because S. 114 has been amended to meet the narrow and specific concern of the Court. S. 114 now permits the factfinders (the jury) to consider any mitigating factors in determining whether the death penalty should be imposed.

As to whether a Federal death penalty is necessary or desirable, the Supreme Court of the United States has never ruled that the death penalty is unconstitutional per se. It has ruled that certain State statutes have not met minimum constitutional procedures. Thus, the only decision left for the Congress is to enact statutory procedures to meet the constitutional problems of the Court.

The issue of capital punishment is not a new, or novel one to the American public. It has been debated, discussed and argued in all different kinds of forums and any Senator who believes he or she cannot make a "reasoned decision" on this subject has not been aware of the public opinion polls taken on this subject.

Mr. President, I ask unanimous consent that the results of a Gallup poll, a Harris survey, and an NBC news national poll be printed in the Record.

There being no objection, the polls were ordered to be printed in the Record, as follows:

GALLUP POLL—QUESTION: ARE YOU IN FAVOR OF THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?

[In percent]

	Yes	No	No opinion
March 1978	62	27	11
April 1976	65	28	7
November 1972	57	32	11
March 1972	50	41	9
1971	59	40	11
1969	51	40	9
1966	42	47	11
1965	45	43	12
1960	51	36	13
1953	68	25	7

HARRIS SURVEY—QUESTION: DO YOU BELIEVE IN CAPITAL PUNISHMENT (DEATH PENALTY) OR ARE YOU OPPOSED?

[In percent]

	Favor	Oppose	Not sure
1977	67	25	8
1973	59	31	10
1970	47	42	11
1969	48	38	14
1965	38	47	15

NBC NEWS NATIONAL POLL.—QUESTION: DO YOU FAVOR OR OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?

[Nov. 15, 1978]

	Percent
Favor	66
Oppose	25
Not sure	9

Mr. THURMOND. Mr. President, I might say on this NBC poll that this was the question:

> Do you favor or oppose the death penalty for persons convicted of murder?

Favor, 66 percent; opposed, 25 percent; not sure, 9 percent.

I might say that all of these polls indicate, and from it is clear, that the public favors the death penalty. As I said, the Gallup poll, the Harris poll, and the NBC poll all favor the death penalty.

Now, I might say that a death penalty bill was reported favorably from the Judiciary Committee last December. A previous bill, S. 140, of the 93d Congress, was adopted by the Senate by a vote of 54 to 33.

Every effort has been made to draft this legislation, as I understand from the able Senator from North Carolina, to be in conformity with S. 114, which was the bill passed out of the Judiciary Committee. In fact, I believe this bill is word for word.

Now, Mr. President, some people have alleged one thing and some have alleged another about what the Supreme Court has held in its decision of Furman against Georgia, so I want to clarify a few points there. I might say this is a brief summary of the Court's position.

The death penalty is not per se cruel and unusual punishment.

Statutes making mandatory the imposition of death are violative of the eighth amendment.

While the imposition of death is constitutional per se, the procedure by which sentence is passed must be so structured as to reduce arbitrariness and capriciousness as much as possible. What emerges from the plurality opinion is that the jury or judge must be given standards to govern its sentencing discretion; that the issue of guilt should be heard separately from the issue of punishment; and that a special form of appellate review must be provided.

Mr. President, the bill that is being sponsored here by the able Senator from North Carolina and myself is, as I say, identical to the wording of the bill S. 114 reported out by the Judiciary Committee and it addresses each of the concerns of the Court in recent cases decided on the constitutionality of State death penalty statutes.

The death penalty is not mandatory in any case.

The issue of guilt is determined separately from the issue of punishment.

A sentencing authority is allowed to consider any mitigating factor.

Aggravating factors are set forth and the sentencing authority must find that the aggravating factor or factors found sufficiently outweigh any mitigating factors found to exist, or in the absence of mitigating factors where the aggravating factors are themselves sufficient, to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury the court, shall return a finding as to whether a sentence of death is justified.

A special appeals procedure is set out that assures a complete review of the record and the basis upon which the sentencing authority reached the conclusion that the death penalty was warranted.

Mr. President, the time has come to reaffirm the death penalty on the Federal level and I hope that the Senate today, this very day, will pass this death penalty bill. It is long overdue.

Many crimes have been committed on Federal reservations or Federal facilities and the very fact that we pass this bill will be an example to some of the States that are also suffering from a large number of capital crimes to enact legislation in those States.

Mr. President, 35 States, I believe, have a death penalty bill. This may encourage those States to retain it and encourage other States that do not have it to adopt similar legislation.

Mr. President, I ask unanimous consent that a Uniform Crime Report from the FBI be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

UNIFORM CRIME REPORT

Preliminary annual figures disclose the number of Crime Index offenses reported to law enforcement agencies rose 8 percent from 1978 to 1979. When compared with the same periods of 1978, the Crime Index increased 11 percent the first quarter of 1979, 8 percent during the second quarter, 6 percent during the third, and 8 percent in the last quarter.

For the year, violent crime increased 11 percent, with forcible rape and robbery each up 12 percent and murder and aggravated assault up 9 percent. Property crime rose 8 percent. Motor vehicle theft was up 10 percent, larceny-theft up 9 percent, and burglary up 6 percent.

Final crime trends, as well as other crime and offender data will be available in "Crime in the United States—1979" scheduled for release in the fall of 1980. Beginning in 1980, crime figures will be released on a semiannual basis in lieu of quarterly.

TABLE 1.—CRIME INDEX TRENDS

[Percent change 1979 over 1978, offenses known to the police]

Population group and area	Number of agencies	Population in thousands	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson [1]
Total	12, 330	206, 845	+8	+11	+8	+9	+12	+12	+9	+6	+9	+10	....
Cities:													
Over 1,000,000	6	17, 783	+7	+9	+7	+14	+9	+11	+7	+9	+4	+11	....
500,000 to 999,999	18	11, 846	+6	+11	+6	+17	+12	+10	+11	+2	+7	+9	....
250,000 to 499,999	33	11, 712	+9	+15	+8	+14	+13	+17	+12	+5	+10	+12	....
100,000 to 249,999	115	16, 603	+8	+10	+8	+9	+11	+13	+9	+7	+9	+6	....
50,000 to 99,999	268	18, 343	+8	+9	+8	+1	+18	+9	+8	+6	+9	+10	....
25,000 to 49,999	650	22, 185	+10	+13	+9	+13	+17	+15	+11	+7	+10	+11	....
10,000 to 24,999	1, 553	24, 120	+10	+12	+10	+6	+13	+12	+12	+8	+11	+15	....
Under 10,000	5, 850	21, 600	+11	+13	+11	+2	+16	+13	+13	+6	+12	+14	....
Counties:													
Suburban [2]	1, 021	34, 076	+8	+9	+8	+6	+10	+13	+7	+4	+10	+9	....
Rural [3]	2, 816	28, 577	+9	+8	+9	−2	+5	+6	+9	+3	+12	+11	....

[1] Statistics not yet available.

[2] Includes crimes reported to sheriffs' departments county police departments, and State police within standard metropolitan statistical areas.

[3] Includes crimes reported to sheriffs' departments, county police departments, and State police outside standard metropolitan statistical areas.

TABLE 2.—CRIME INDEX TRENDS

Area	Number of agencies	Population in thousands	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson [1]
Total	12, 330	206, 845	+8	+11	+8	+9	+12	+12	+9	+6	+9	+10	....
Cities over 50,000	440	76, 288	+8	+11	+7	+12	+12	+12	+9	+6	+8	+10	....
Suburban area [2]	5, 304	75, 706	+9	+10	+9	+7	+11	+12	+9	+5	+10	+12	....
Rural area [3]	2, 816	28, 577	+9	+8	+9	−2	+5	+6	+9	+3	+12	+11	....
Other cities [4]	3, 770	26, 275	+11	+13	+11	+6	+17	+16	+12	+7	+12	+12	....

[1] Statistics not yet available.

[2] Includes crimes reported to city, county, and State law enforcement agencies within standard metropolitan statistical areas, but cutside the core cities.

[3] Includes crime reported to sheriffs' departments, county police departments, and State police outside standard metropolitan statistical areas.

[4] Includes crimes reported to city police departments outside of standard metropolitan statistical areas.

TABLE 3.—CRIME INDEX TRENDS BY GEOGRAPHIC REGION

Region	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[1]
Total	+8	+11	+8	+9	+12	+12	+9	+6	+9	+10	----------
Northeast	+9	+11	+8	+11	+10	+14	+7	+5	+10	+8	----------
North Central	+7	+8	+7	+8	+13	+3	+10	+4	+8	+9	----------
South	+10	+12	+10	+10	+14	+17	+9	+10	+9	+16	----------
West	+8	+11	+7	+8	+10	+10	+12	+2	+10	+9	----------

[1] Statistics not yet available.

TABLE 4.—CRIME INDEX TRENDS

[Percent change 1975–79, each year over previous year]

Years	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[1]
1976/1975	0	−4	+1	−8	+1	−10	+1	−5	+5	−4	----------
1977/1976	−3	+2	−4	+2	+11	−4	+6	−1	−6	+1	----------
1978/1977	+2	+5	+2	+2	+7	+3	+7	+2	+1	+2	----------
1979/1978	+8	+11	+8	+9	+12	+12	+9	+6	+9	+10	----------

[1] Statistics not yet available.

Source: Issued by William H. Webster, Director, Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. Summary: Committee on Uniform Crime Records, International Association of Chiefs of Police.

Mr. THURMOND. Mr. President, I just want to state that, for instance, between the years 1979 and 1978, which is the last year for which such figures are available, it shows, for instance, that violent crimes increased an average of 11 percent; property crimes increased 8 percent; murders increased an average of 9 percent; in forcible rape, an increase of 12 percent; robbery, an increase of 12 percent; aggravated assault, an increase of 9 percent; burglary, an increase of 6 percent; larceny, an increase of 9 percent; and motor vehicle theft, an increase of 10 percent.

Mr. President, I think these figures speak for themselves. I am confident that this legislation should not be delayed. As I say, the public opinion polls show that the people of America want this bill passed. It is clear through the polls that have been taken that public sentiment is strongly in favor of this bill. It should have been enacted years ago and I hope Congress will see fit, on this very day, to pass this bill.

Mr. DECONCINI. Will the Senator yield?

Mr. THURMOND. Mr. President, before I yield, I want to commend the able Senator from Arizona (Mr. DECONCINI) for the great interest he has taken in this matter. He and I have worked together on this bill for several years and he has done a magnificent job in connection with it. I am sure it will do his heart good to see this bill passed today.

Mr. DECONCINI. Mr. President, I thank the Senator from South Carolina.

Mr. President, just over a year ago, I introduced, together with the distinguished ranking minority member of the Judiciary Committee, Senator THURMOND, S. 114, a bill to establish rational criteria for the imposition of the sentence of death. The bill was carefully and narrowly drafted to comport with the most recent Supreme Court decisions on capital punishment and I am convinced that the bill pending before us will meet the guidelines set forth by the Court and Constitution.

The issue and arguments surrounding the use of the death penalty are among the most familiar in American debate. The courts and Congress have struggled with the issue for at least the past decade.

There has already been extensive legislative consideration of the death penalty issue. The Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary held hearings in March and July 1968 on a bill to abolish the death penalty for Federal offenses. Again in February 1972, and in April, June, and July 1973, it held hearings on bills to provide constitutional procedures for imposition of the death penalty. Through this extensive series of public hearings, the issue of whether we should have a Federal death penalty was examined in every respect. That broader question was ultimately resolved by the Committee on the Judiciary, and indeed, by the Senate, in favor of the death penalty. On March 13, 1974, the Senate passed S. 1401 by a vote of 54 to 33. Unfortunately, the bill was never acted upon by the House.

Because of this exhaustive treatment and the prior handling of the issue by the Senate, no hearings were held last year on S. 114. They were not asked for and were not needed.

Beginning in 1976, the Supreme Court decided a group of landmark death penalty cases—Gregg against Georgia, Proffitt against Florida, Jurek against Texas, Woodson against North Carolina, Lockett against Ohio, and Roberts against Louisiana—in which the death penalty was held constitutional when imposed under certain procedures which guarded against the unfettered discretion condemned in Furman, but which retained the important flexibility to consider the aggravating and mitigating factors of each case. Mandatory death penalty statutes were struck down.

S. 114 is drafted to meet the constitutional requirements of guided discretion based on rational criteria. The bill would provide that, after a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The hearing would normally be before the same jury which sat for trial, or, if both parties agreed, before the judge.

After both sides have an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any of a list of mitigating or aggravating factors existed. The mitigating factors include such things as the youthfulness of the defendant, the extent of such person's involvement in the offense, any emotional problems or pressures, and the unforeseen nature of a resulting death; the list of mitigating factors provided in the bill is not exclusive. The aggravating factors would vary depending on whether the offense is one relating to treason or murder.

The jury would be required to determine by majority vote whether any of these factors existed. If no aggravating factors were found to exist, the court would impose a sentence other than death. If one or more aggravating factors were found to exist, the jury would then determine, in light of all the evidence, whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist, or in the absence of mitigating factors whether the aggravating factors were themselves sufficient, as to justify a sentence of death. If the jury finds by unanimous vote that the death penalty is justified, the court is directed to impose a sentence of death.

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentence of death was not imposed under the influence of passion, prejudice, or other arbitrary factors; that the evidence supports the special findings; and that the sentence of death is not excessive considering both the crime and the defendant.

The record seems clear that the procedures imposed by this bill for the imposition of the death penalty successfully meet the constitutional requirements of the recent Supreme Court cases. None of the witnesses before the subcommittee hearings on S. 1382 could find any challenge to the constitutionality of the procedures set out in the bill for imposing the death penalty.

Ultimately, the conclusion in favor of the retention of capital punishment has its basis in the belief that the primary responsibility of society is the protection of its members so that they might live out their lives in peace and safety. Where the safety of its citizenry can no longer be guaranteed, society's basic reason for being disappears. In providing its members protection, society must do what is necessary to deter those who would break its laws and punish those who do so in an appropriate manner.

As Dr. Ernest Van Den Haag has said:

> I think it is simply unjust that we guarantee murderers that what they have done to their victims will never be done to them, that the murderer is guaranteed a continuous life, the kind of life he took from his victim. That seems to me unjust, immoral, and repulsive . . .

Mr. President, I suggest the absence of a quorum and I ask unanimous consent that it be taken out of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, unless anyone else is ready to speak now, I ask unanimous consent that the able Senator from Wyoming be allowed 5 minutes at this time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I would like to make a very few brief comments on this Department of Justice authorization bill, specifically with regard to certain activities of the Civil Rights Division.

I will not be offering any amendment to this bill, but I want to put all parties in interest on notice that should the problems that I refer to continue, I may very well offer amendments to future authorization, appropriation, or other bills.

The subject that I address is the Civil Rights Division's announced new "initiatives" against local zoning officials for alleged unlawful discrimination against minorities.

I assure my colleagues that I support every single vigorous effort to enforce Federal law, including title VIII of the Civil Rights Act. However, the Civil Rights Division interprets title VIII to mean that a violation of title VIII by local zoning officials does not require "intent" to discriminate, that mere discriminatory "effect" is sufficient. This theory is implicit in the complaint filed by the Department in at least one recent case, United States against City of Dunkirk. The complaint alleged that the city's action had the purpose or effect of perpetuating residential segregation. It is implied that the "effect" alone would be enough.

The prospect that the Civil Rights Division intends to apply this "effects test" against local communities concerns me greatly. I do not believe that Congress ever intended the statute to be interpreted in that manner. Accordingly, I believe that the case of Metropolitan against Village of Arlington Heights was wrongly decided by the Seventh Circuit Court of Appeals.

Furthermore, Mr. President, I honestly feel that the Civil Rights Division has plenty of work to do in enforcing the law as it was passed by Congress. It is not only unlawful and, I think, harmful for the Civil Division to apply an effects test, but it constitutes a misallocation of the Department's limited resources.

It will also have this result: it will increase once more the level of hostility felt by many Americans against the heavy-handedness of Washington officials. People all through America, black and white, minorities and majorities, will see one more example of the limitless determination of Washington officials to force upon others again their own particular vision of the good—their unshakeable certainty that their ends justify their means.

I am fully aware, Mr. President, having served as a member of a zoning and planning commission in my previous life—and I truly learned what hell was when I served on that commission—that one of the things we need least is an intrusion from the Federal Government into those local planning and zoning commissions.

I am fully aware that the risk one runs in addressing an issue like this is that of being labeled either racist or Neanderthal. I am neither and never have been.

At the hearing on this bill, even Mr. Drew Days, who is one of the most capable public servants I have come across in this place, the Assistant Attorney General in charge of the Civil Rights Division, admitted—and he has also admitted this to me in private conversation—that zoning ordinances intended to discriminate on the basis of income or wealth were within the rights of local communities to adopt, even though their effect might also be to discriminate on the basis of race or other factors.

Mr. President, I think we just have to be careful of this one. We have to watch it. My strong belief is that title VIII as well as other provisions of the civil rights laws are not violated by zoning ordinances where there is no intent to discriminate on the basis of membership in one of the protected groups, and where the ordinance is rationally related to a legitimate government purpose.

I think we should be very observant of this new initiative. I really believe that some brush fires will be ignited around the local cities, counties, and communities of America that are not going to be easily extinguished. I would caution my colleagues against that.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). On whose time?

Mr. HELMS. To be charged against the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would like to inquire of the ranking minority member of the Judiciary Committee as to whether or not there was not an understanding with Senator KENNEDY that the capital punishment bill would be scheduled by the Judiciary Committee immediately upon the enactment of the Criminal Code, and that such an understanding was arrived at by mutual agreement of the chairman of the Judiciary Committee and the ranking minority member?

Mr. THURMOND. Mr. President, in response to the question of the distinguished Senator from Ohio, I will say that it was understood between Senator KENNEDY and me that after the Criminal Code was acted upon, the death penalty bill would be considered. Of course, I have not brought it up at this time, but I am going to vote for it. But there is no understanding that anybody else can complain of. No Senator here can bind any other Senator on what he does. As far as the chairman of the committee, Senator KENNEDY, and I are concerned, that was to insure that we would get a vote on the death penalty bill. There has been so much maneuvering on this bill, I wanted an understanding that we would definitely get a vote on this bill following the action on the Code.

The situation now is that the Senator from North Carolina has seen fit to bring up this amendment. I was not informed that he was going to bring up this amendment, but he has brought it up, which he had a right to do. I am supporting the amendment here on the floor because I am in favor of it. But the understanding was mainly to assure those who favored the death penalty bill that they would get a vote on it following the action on the Code.

Mr. METZENBAUM. I thank the Senator from South Carolina. I certainly agree with him.

Mr. President, I yield myself such time as may be necessary.

Mr. President, there was an understanding that this very controversial measure, which would be before the Judiciary Committee, would be brought up by the Judiciary Committee, that it would be given full, extensive hearings, as much as necessary. There are some very strong moral issues which are involved. There are many who want to be heard on it.

There are some very humane considerations that are involved.

This is not just another casual piece of legislation; this is a very emotion-ridden piece of legislation. It again attests to the fact that as great as the Senate rules are——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate so that the Senator may be heard?

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will suspend until we have order in the Senate.

Mr. METZENBAUM. I thank the majority leader and I thank the Chair.

Mr. President, this is a very, very difficult bill for many Members of the Senate to vote on. I am certainly not one who would urge that they not have an opportunity to vote on it. But I do not think it is the kind of legislation that ought to be attached to an authorization bill. I think it ought to be considered in full. There is a full commitment from the chairman of the Judiciary Committee to do just that. The chairman of the Judiciary Committee does not support the legislation, but he has certainly made a strong commitment, one that he expects to live up to, that hearings will be held.

Mr. President, I just feel very strongly that attaching this bill in this manner——

Mr. THURMOND. Will the Senator yield for a moment?

Mr. METZENBAUM. I yield.

Mr. THURMOND. The bill has already been voted out. It is on the calendar now. The reason the chairman of the committee gave me the assurance at that time was to be sure we would get a vote on this bill following the action on the code.

There is no understanding about if it was brought up before then by another Senator. That was to assure us, because some of us who are interested in trying to help the chairman of the committee get the Code out, want to be sure that we would get a vote on this death penalty bill following action on the Code.

Mr. METZENBAUM. The Senator from South Carolina is not incorrect in what he just stated. But I think it should be pointed out that there have been no hearings, no testimony on this amendment. As a matter of fact, it was reported by the committee without hearings as an accommodation and an understanding, or, as I indicated, that there would be a vote on the measure after the Criminal Code bill was passed.

The most recent hearings on this subject were held on April 27 and May 11, 1978. Those hearings related to a predecessor bill, S. 1382. They came about in response to the Supreme Court's decision in the case of Coker against Georgia.

There have been many other Supreme Court decisions rendered since that time. There is much to discuss, and it is wrong, in this Senator's opinion, for us in the Senate to attempt to dispose of this matter by a floor amendment. I believe that there should be full floor debate on the issue after adequate notice. The Senator from Ohio confesses that he was in the midst of a meeting in his office when he was called and told that this amendment had been offered and asked, would I be willing to come to the floor to at least raise the question and indicate my own concern.

I make no bones about it; I am not going to debate the issue in its entirety today. I am not prepared to do so. I do know I do not favor this method of enacting a capital punishment piece of legislation. I do not favor capital punishment as such. But I think if the Senate is going to act upon this subject, we ought to do so after full notice to all of the Members of the Senate, after full opportunity for debate.

I have spoken with several other Members of the Senate and asked them if they cared to come to the floor to discuss the subject. They said they did not, they were not prepared to do so.

On March 7, 1980, a "Dear Colleague" letter was sent out in connection with the bill, S. 114, the Federal death penalty bill. Fourteen Members of the Senate signed that letter. As a matter of fact, I was not one of the signers. I think those 14 Members ought to have an opportunity to be heard after full notice. Therefore, Mr. President, I advise the body that when the time is yielded back—and I am prepared to yield back all time on this side, because I see no one else ready to speak—this Senator expects to offer a motion to table. I shall not do so, of course, until the Senator from North Carolina and the Senator from South Carolina have completed their time allotment.

Mr. LEVIN. Mr. President, will the Senator from Ohio yield to me just 1 minute?

The PRESIDING OFFICER. The Chair advises the Senator from Ohio that the Senator from Michigan is asking him a question.

Mr. METZENBAUM. I am very sorry.

Mr. LEVIN. Will he yield me 1 minute?

Mr. METZENBAUM. I certainly do.

Mr. LEVIN. Mr. President, I rise in opposition to the motion. I am not prepared, nor is the Senate prepared, with this short notice and the time limit we have, to debate this as it should be debated.

I do not think it does this subject justice to have this kind of time limit, and for it to be brought up without notice. I believe the Senator from North Carolina did not participate in this understanding, but I believe there was a commonly shared understanding among many Senators that this bill would be debated at a particular time in our Senate calendar this year. I urge the Senator from North Carolina to permit that process to go forward.

The subject is an extremely important one for the people of this country and it should be debated. It should be debated at reasonable length. I think it ought to be brought to a vote, too, but not in this way and not in violation of the understanding of some Members of the Senate. I am sure the Senator from North Carolina did not have that understanding, or else he would not be bringing it up today. But there are so many Members of this body that did have this understanding that I would urge my friend from North Carolina to go along with the understanding that some of his colleagues had and permit this to be debated at a time we understood it would be, in a way which is befitting the complexity and importance of the issues that he has raised in it.

Mr. METZENBAUM. Mr. President, in my previous remarks, I indicated, from looking at a "Dear Colleague" letter, that I had not signed that letter. I am informed by staff that I subsequently did. Therefore, I ask unanimous consent that the Record be corrected accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have a technical amendment suggested by the distinguished manager of the bill (Mr. DeConcini). I ask unanimous consent that the amendment may be modified to this extent. They are all technical amendments recommended by Mr. DeConcini.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, Mr. President, will the Senator from North Carolina be good enough to inform the Senator from Ohio what the amendments are?

Mr. HELMS. I shall do better than that; I shall let the Senator have a copy of them. They are just technical.

Mr. METZENBAUM. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment, as modified, is as follows:

At the end thereof, add the following:

Chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses.

"(a) Hearing Required.—A person shall be subjected to the penalty of death for any offense against the United States only if a hearing is held in accordance with this section.

"(b) Hearing Before Court or Jury.—When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the Government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, but, at any time before the conclusion of the hearing, the parties may stipulate with the approval of the court that it shall consist of any number less than twelve.

"(c) Proof of Aggravating and Mitigating Factors.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f), (g), and (h) or any other mitigating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The dependant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"(d) Return of Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing and the evidence received during the trial. It shall return special findings identifying any mitigating factors and any aggravating factors set forth in subsection (g) and (h), found to exist. A finding of such a factor by a jury shall be made by majority vote. If no such aggravating factors set forth in subsection (g) or (h) are found to exist the court shall impose a sentence, other than death, authorized by law. If one or more of such aggravating factors are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient, to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(e) Imposition of Sentence.—Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Upon a contrary finding, the court shall impose a sentence, other than death, authorized by law.

"(f) Mitigating Factors.—In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) the defendant was youthful at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge;

"(4) the defendant is punishable as a principal or otherwise but his participation was relatively minor;

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) Aggravating Factors for Treason and Espionage.—If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title, the following aggravating factors shall be considered:

"(1) the defendant has been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security;

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

"(h) Aggravating Factors for Homicide.—If the defendant is found guilty of or pleads guilty to any other offense for which one of the sentences provided is death, the following aggravating factors shall be considered:

"(1) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property in interstate commerce by explosives), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902(i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)(n)), (aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of serious bodily injury upon another person;

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to one or more persons;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States because of his official duties; or

"(D) a Federal judge, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection, a law-enforcement officer is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense."

Sec. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy."

Sec. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 6. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

Sec. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

Sec. 9. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

Sec. 10. the last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

Sec. 11. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 12. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

Sec. 13. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

Sec. 14. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

Sec. 15. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item.

"3562A. Sentencing for capital offenses.".

Sec. 16. Section 3565 of title 18 of the United States Code is amended by adding a second paragraph as follows:

"In no event shall a sentence of death be carried out upon a pregnant woman".

Sec. 17. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 the following new section:

"§ 3742. Appeal from sentence of death.

"In any case in which the sentence of death is imposed under section 3562A of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under section 3562A(d) of this title.

"The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; (2) the information supports the special finding of the existence of any aggravating factor or the failure to find any mitigating factors as set forth or as allowed in section 3562A; and (3) the sentence of death is not excessive, considering both the crime and the defendant. In all other cases the court shall remand the case for reconsideration under section 3562A of this title. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Sec. 18. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item.

"3742. Appeal from sentence of death.".

Sec. 19. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

Mr. HELMS. Mr. President, I appreciate very much the comments of the distinguished Senator from Michigan and the distinguished Senator from Ohio. The problem that the Senator from North Carolina has about further delay is that there has already been a delay of years. Clearly, it seems to this Senator that what we are facing is not merely the possibility but the probability that any action that could occur on S. 114 would be so late in this session as to kill the measure. This is what has happened year after year.

I can appreciate that Senator KENNEDY may have wished to delay consideration of this measure. He has been off campaigning. I have not seen Senator KENNEDY in weeks. I am not being critical of the Senator, but I very much wish that he had been around here to conduct the affairs of the Committee on the Judiciary and to act on the death penalty bill, because it has been on the Calendar since January 17 of this year, Mr. President. If Senators want to look at the Calendar, it is on page 14, at the bottom of the page.

As to the suggestion that no hearings have been held on this measure, while I know the suggestion was made in good faith, it simply will not hold water. The Senate has held hearings and hearings and there have been delays and delays. I can think of no better time to act upon this question, to permit Senators to vote it up or vote it down than today.

I would want the people of America to know that a vote to table the amendment of the Senator from North Carolina is a vote to further delay action by the Senate on this issue. No other construction can be made of it.

The Senate can dillydally on this and other issues, if it wishes. But the Senator from North Carolina feels that the Senate of the United States ought to face up to many issues, and this is one of them.

I do not have any less respect for a Senator who opposes capital punishment. That is his right and I respect his judgment. I do not agree with it.

I am, perhaps, the only Member of this Senate who ever witnessed an execution. I witnessed many of them in my early days in the news business and I found it abhorrent. I also found more abhorrent what is being done to innocent victims of murders and other capital crimes.

So we cannot delay this issue any more, Mr. President. We have to face up to our responsibility as Members of the U.S. Senate and say "yea" or "nay." That is all the Senator from North Carolina is asking. He is not going to be upset with any Senator who votes against him. That is the Senator's judgment.

Mr. President, I knew of no such arrangement with or by Senator KENNEDY. As I have heard it explained on the floor, it was not, in any case, an understanding that this measure would not come up earlier, because it has been on the Calendar. It was merely an assurance that it would come up after another piece of legislation.

So if there is any inference by anybody that the Senator from South Carolina violated any agreement, my understanding is that he has not. I have never known Senator THURMOND to violate an agreement with Senator KENNEDY, or anybody else, and I do not believe he has.

I think it is a fact that Senator KENNEDY may hope this issue will go away, and he is within his right to have that hope. But, similarly, the Senator from North Carolina is within his right to push for a vote on this question, and that is precisely what I am doing.

I say this with all due respect and affection for my friend from Ohio. I feel one way about it. He feels the other.

Mr. THURMOND. Will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. THURMOND. We have been talking about hearings here. I want to point out that this death penalty has had a long history of hearings.

Back in 1968, the Subcommittee on Criminal Laws and Procedures of the Judiciary Committee, in March and July, held hearings on the death penalty. In 1973, hearings were held on the legislation, in April, June, and July.

The Senate passed the measure March 13, 1974, by a vote of 54 to 33, but the House did not act on the bill.

In 1976, the Supreme Court decided a series of landmark death penalty cases and that delayed the matter.

In 1977, a bill was introduced by Senator McClellan with 19 cosponsors, and again, the Subcommittee on Criminal Laws and Procedures held hearings and reported a bill with minor amendments to the full committee. The committee held additional hearings in April and May 1978, just 2 years ago.

There have been hearings held over the years, but there have been obstructions to trying to get the bill up. That is the reason Senator KENNEDY assured me we would definitely get a vote on this bill following the code.

There was nothing said about getting it up sooner. It was on the calendar if anybody wanted to bring it up sooner. They could have done it. At the same time——

Mr. HELMS. If the Senator will yield, I say for the record, Mr. President, that in no way did I consult with Senator THURMOND about this amendment.

Mr. THURMOND. That is true. I did not know the Senator was going to bring it up today.

Mr. HELMS. He did not know it.

Mr. THURMOND. But I am glad he did bring it up and it ought to be passed. I commend the Senator.

Mr. HELMS I want the record to show that Senator THURMOND had nothing to do with the scheduling of this amendment.

I thank the Senator.

Mr. THURMOND. I wanted to bring out that there have been hearings and hearings and hearings over the years.

Mr. HELMS. Indeed, there have.

Mr. THURMOND. And I think it is time the American people witnessed their Congress take a stand on this bill.

If they are against the death penalty, they will vote against it. If they are for the death penalty, they will vote for this bill.

It is that simple. Why should anyone want to delay the bill any further? Why should they want their constituents not to know how they stand on it?

I think the time has come to get a vote on this bill and I hope the Senate will pass the bill.

Mr. METZENBAUM. Will the Senator yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. Does the Senator from South Carolina agree that he had come to some understanding with the chairman of the Judiciary Committee concerning scheduling this issue after the criminal code bill was disposed of?

Mr. THURMOND. In an effort to guarantee me that this bill would get a vote, the chairman of the Judiciary Committee agreed we definitely would get a vote on this bill after the vote on the code. That is right. That is correct.

But there was no understanding we would not bring it up sooner. There was no understanding nobody else would bring it up sooner. I did not bring it up today, but I am glad Senator HELMS did. I hope it will pass.

Mr. METZENBAUM. Let me ask the Senator from South Carolina whether, if there is a vote today, that would, in effect, meet the commitment of Senator KENNEDY and that he would have no further obligation to the Senator from South Carolina concerning——

Mr. THURMOND. No. He has assured me we would get a vote on this bill following the code, and I think he will still keep that commitment.

But if somebody else brings up the bill, which is beyond my control, I am committed to supporting it.

Mr. HELMS. Will the Senator yield to me to get the yeas and nays?

Mr. METZENBAUM. The Senator need not do that because I will ask for the yeas and nays on the motion to table.

Mr. HELMS. Just the same, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I thank the Senator.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

The Senator from Ohio.

Mr. METZENBAUM addressed the Chair.

Mr. THURMOND. Mr. President, I want to say further that I do not know whether we will get a vote on the code this year, or not.

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. METZENBAUM. I thought I had the floor, but if my friend from South Carolina wants a minute for a concluding statement, I am willing to take it off my time.

Mr. THURMOND. I thought I was carrying on a colloquy with the Senator. But go ahead. I will be glad to answer any questions the Senator wishes to ask.

Mr. METZENBAUM. Mr. President, I will make a few concluding remarks.

I think the Senator from South Carolina has aptly stated the situation. That is, he feels he has a commitment, and he does, from Senator KENNEDY, that after the Criminal Code is disposed of there would be a vote on the capital punishment issue.

Although I was not actually a party to that commitment, as a member of that committee, I certainly would stand behind my chairman's commitment.

I really think what we are talking about this evening, or this afternoon, is the issue of fairness. This is a highly charged issue. It brings forth strong emotions on both sides. It goes to the moral issue of capital punishment.

But, over and above all that, it goes to the question of one man taking another man's life, and that is not an unimportant consideration.

So we are standing here debating when it should come up, doing the whole thing in 30 minutes on a side, and I have to say, Mr. President, that is not the way this issue should be handled.

This issue is far too important for that. This issue is unquestionably one of the most important issues we ever will vote on in the Senate, because it has to do with human life. It has to do with the taking of human life.

The real issue is, right or wrong, should we not have an opportunity to discuss this matter in full? A commitment has been made that when the Criminal Code is passed, it will come to the floor. I believe that bringing it up in this manner is certainly within the rights of the distinguished Senator from North Carolina, but it violates the understanding. It violates the approach. The Senator from North Carolina did not happen to be involved in this issue. The Senator from South Carolina is a strong advocate of capital punishment.

I believe this distorts the issue. This adds a factor that never was contemplated. I believe the Criminal Code is going to pass; I hope it is passed. It has been worked upon for years.

This matter, when it came out of the Senate Judiciary Committee, as an indication of the commitment of the chairman of that committee, came out without a hearing; and, if my recollection is correct, without a vote. Excuse me, I stand corrected: with a vote, but without any hearings having been held.

The chairman of the Judiciary Committee was meeting a commitment and an understanding he had made with the ranking minority member of that committee. It is technically correct that the ranking minority member of the committee has not brought up this issue. I understand his position, and I am not taking issue with him as such. But what I am saying to the other Members of the Senate is that this is no way to dispose of the capital punishment issue. We should dispose of the capital punishment issue in an orderly manner, not as an amendment to an authorization bill.

For that reason, Mr. President, I yield back the remainder of my time, and I move to lay the amendment on the table, and I ask for the yeas and nays.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. There is no time. All time has been yielded back.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment by the Senator from North Carolina, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Dakota (Mr. BURDICK), the Senator from Wisconsin (Mr. NELSON) and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 50, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—38

Baucus
Biden
Boschwitz
Bradley
Byrd, Robert C.
Chafee
Cohen
Cranston
Culver
Danforth
Durenberger
Eagleton
Glenn
Hart
Hatfield
Inouye
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Sarbanes
Sasser
Stevenson
Tsongas
Wallop
Weicker
Williams

NAYS—50

Armstrong
Baker
Bayh
Bellmon
Bentsen
Boren
Bumpers
Byrd,
Harry F., Jr.
Cannon
Chiles
Church
Cochran
DeConcini
Dole
Domenici
Exon
Ford
Garn
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Nunn
Packwood
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Zorinsky

NOT VOTING—12

Burdick
Durkin
Goldwater
Gravel
Heinz
Javits
Kennedy
McGovern
Melcher
Nelson
Riegle
Young

So the motion to lay on the table Mr. HELMS' amendment (UP No. 1197), as modified, was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from North Carolina.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have given Senators assurance that the bill that is on the calendar, the death penalty bill, will be called up later this year. I would hope that could be called up between the July break and the August break. I intend to keep that commitment.

I hope we will not attach this amendment to this bill. I favor this amendment, I am for it. But I do not want to see us attach this amendment to this bill.

There was an arrangement in the Judiciary Committee, which I did not enter into, I had no part of the arrangement, whereby a death penalty bill would be reported from the committee if the Criminal Code bill were reported from the committee, and after the Criminal Code bill is called up the death penalty bill would be called up. So that understanding exists.

It is my intention to carry out that understanding, even though I am not a part of it.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. It is my intention to call up the Criminal Code bill later this year and call up the death penalty bill. I hope we will not attach this amendment to this bill, and you have my commitment to the effect that we will call up the death penalty bill later in the year.

Yes, I yield.

Mr. THURMOND. I believe the majority leader referred to an arrangement. This was the arrangement: I was very interested in getting a vote on the death penalty bill. For years we have tried to get it, so Senator KENNEDY made a commitment to me that it would come up after the vote on the code. So if no action is taken now it will come up later, that is true. However, Senator HELMS saw fit to offer it tonight, and he had a right to do it. I did not know he was going to do it. I supported him in that, though, as many others did.

If that is the feeling of the Senate that they favor the death penalty, why does the Senator want to delay action on the amendment?

Mr. ROBERT C. BYRD. I favor it. But this amendment came up under a 1-hour time limitation. If Senators had known what was in the amendment I am sure I could not——

The PRESIDING OFFICER. The time——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

Mr. HELMS. Mr. President, reserving the right to object, if the Senator speaks in favor of rejecting the amendment, does the proponent have time to reply?

Mr. STEVENS. Mr. President, should not the proponent of the amendment have sufficient time to reply?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be 5 minutes to the side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, when I put the question limiting the time on the amendment to 1 hour I am sure that Senators did not know what the substance of the amendment was or we would not have gotten that agreement. So here we are, we have had a debate of 1 hour on a major issue, and Senators are going to be forced to vote on that issue after 1 hour's debate. If I had known the subject of the amendment—and I do not complain about that, I should have asked, and I do not blame anyone, I am not criticizing anyone—but I did not know the substance of that amendment or I would certainly have indicated to other Senators what the substance of the amendment was, and I am sure we would not have gotten an hour limitation. So, I do not criticize the Senator for bringing up his amendment. He had a right to call it up. But I say to Senators this is a major issue to consider in 1 hour.

There is a bill on the calendar, and I assure Senators we will call that bill up later this year. You have my commitment to do that. I hope they will not adopt this amendment to this bill. This bill needs to be passed, and this is an issue that needs to be discussed.

I favor the amendment. I favor the death penalty bill. But I do not favor calling up this kind of an issue, having 1 hour's debate on it, and then forcing Senators to vote on it. So, I am going to——

Mr. BUMPERS. Mr. President, what is the status of the bill, is it out of the Judiciary Committee?

Mr. ROBERT C. BYRD. It is.

Mr. BUMPERS. Is it on the calendar?

Mr. ROBERT C. BYRD. It is.

I intend to move to indefinitely postpone this amendment. I would rather not do it. I wish the Senator from North Carolina would withdraw it with my assurance that I will call up the death penalty bill between July and August.

Mr. STEVENS. Mr. President, will the Senator yield to me for just one question?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I do not have the time, but the Senator from North Carolina controls the time.

The PRESIDING OFFICER. There will be order in the Senate.

Mr. STEVENS. It is my understanding that the bill is out of committee and it is on the calendar, but it has been there since January. I am not wishing to raise any problem about that, but we know the chairman has been absent. Can we have a time when that bill will come up, if that agreement would be entered into, and if it comes up so late that it goes to the House and the House will not consider it, then this issue is never going to be resolved by this Congress.

Mr. ROBERT C. BYRD. May I answer on the time of the other side?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Mr. President, if I understand it correctly, the agreement was that the Criminal Code bill would be called up later this year, and that in tandem with that bill the death penalty bill would be called up also.

I intend to live up to that commitment. I had no part in the understanding, and it is a very honorable understanding so far as I am concerned. I am not criticizing the understanding. Mr. KENNEDY wants to be here when the Criminal Code bill will be called up. He probably knows more about the bill and has put more time into that bill than any other Senator, and I would like to honor the request of the chairman of the committee not to call up that bill until he is here. But he fully understands that when the Criminal Code bill is called up, that immediately upon the heels of it I intend to call up the death penalty bill.

I hope we can live up to that understanding. We have proposed a number of times having a time agreement on the Criminal Code bill, and we have made that proposal to the minority that we be given a time agreement on the Criminal Code bill and on the death penalty bill. So I hope we can get a time agreement. If the distinguished acting Republican leader will help me—and I know he always does the best he can to try to help move the business of the Senate—if he can get a time agreement on the Criminal Code bill, including a time agreement on the death penalty bill, then we will all be assured that we will have the vote on both those measures, which was the intention of the Judiciary Committee when it reported them from the committee, and we will not have to face this very controversial issue—not controversial to me because I am for the death penalty bill, but I respect the views of those who feel they ought to have more than 60 minutes equally divided to debate this issue. It really runs counter to the understanding we had in the Judiciary Committee.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. In one moment. As I say, I was not part of that understanding, but here we are getting the cart before the horse, calling up the death penalty amendment, attaching it as an amendment to a bill, and it could have the effect of killing that bill, when I assure Senators that later in the session we will call up the death penalty bill, and I hope my friends on the minority side of the aisle will give me a time agreement, give me a time agreement on the Criminal Code bill and on the death penalty bill, and it will be called up after the July break, immediately following the Alaska lands bill, and one or two other measures, but it will be called up before the August break.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. Mr. President, I would like to correct the majority leader in this respect: What was done here does not contravene the agreement that Senator KENNEDY and I had. The only understanding was that we would get a vote on this death penalty bill following the vote on the code. That is the understanding I have with Senator KENNEDY.

Now, I did not know Senator HELMS was going to bring this bill up. But he had a right to do it. So I do not understand the statement the Senator makes that this contravenes the agreement that Senator KENNEDY and I had, which it does not. I want to make that correction and I am sure the majority leader will accept that.

Mr. ROBERT C. BYRD. Yes, I accept that, if that is what I said.

I hope the Senator will accept what I said in the spirit in which it was meant. I did not mean that anyone here tonight has taken any action to contravene any agreement or break any agreement. But, in effect, what I tried to say, in the context of the agreement that was entered into by members of the Judiciary Committee, with that agreement as a background, was to the effect that the death penalty bill would follow.

Mr. THURMOND. That would be following the code.

Mr. ROBERT C. BYRD. Yes, following the code. If we proceed in this fashion tonight, no one is breaking any agreement, but what we are doing is we are bringing up the death penalty bill before the Criminal Code bill is brought up, and that is not in accordance with the understanding that was reached.

The PRESIDING OFFICER. The Senator s time has expired.

Mr. THURMOND. Mr. President, I want to say that so far as I am concerned, I did not bring up the bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 3 more minutes on each side.

Mr. STONE. How many minutes?

Mr. ROBERT C. BYRD. Three more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I had no right to make any agreement that would affect any other Member of this body, and I would not attempt to do so.

Senator HELMS, on his own initiative, saw fit to bring it up and so, in his behalf, I think it ought to be said that I do not think he attempted to breach any agreement of the Judiciary Committee, because he is not a member of the committee and knew nothing about it. He just wants to see the death penalty bill passed. The public wants it passed. I cited polls here tonight, the Gallup poll, the Harris poll, the NBC poll, and they all indicate the death penalty bill is favored by the American public.

But I wanted to make those statements on his behalf, because I could not make and did not attempt to make any agreement that would bind any other Member of this body.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the——

The PRESIDING OFFICER (Mr. HART). The majority leader will suspend until there is order in the Senate. There are discussions in the aisles. Will staff members and Senators take their seats?

Mr. ROBERT C. BYRD. Mr. President, a proposed time agreement was submitted to the minority in February of this year, which provided that, with respect to the Criminal Code, the bill would not be called up prior to March 15, with the proviso that the majority leader, after consultation with the minority leader, would bring up S. 114, the death penalty bill, prior to June 15. That was part of the agreement that was proposed and the minority has never accepted that agreement.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MORGAN. Mr. President, I am opposed to the amendment of my colleague from North Carolina. I do not think it is a proper time to bring it up. But I want to advise the majority leader that I would also oppose any time agreement on the Criminal Code bill. I thought I had written to him, but in case I did not I want to make that known.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, we may not be able to get an agreement on the Criminal Code bill or the death penalty bill. But it is my intention to call up the Criminal Code bill later this year and follow it with the death penalty bill.

So I would hope we could reach some understanding whereby this issue would not be voted on tonight. We could pass this bill. We have no time agreement on this bill. I hope we could dispose of this amendment somehow at this point with the assurance that both the Criminal Code and the death penalty bill will be called up later this year and we could get on with voting on final passage.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield to the distinguished acting minority leader.

Mr. STEVENS. Mr. President, I will not take much of the Senate's time. I do wish to comment, however, on the distinguished majority leader's reference to the time agreement.

We have been seeking that agreement. It is my understanding we cannot get the agreement on either side pertaining to either the criminal code or to the death penalty bill, and that is the reason that we have not been able to proceed. But, to my knowledge, there was no agreement that the Criminal Code and the death penalty bill would be tied together as the matter came out of the Judiciary Committee. The assurance was that once the Criminal Code was called up there would be a vote on the death penalty bill if we could get an agreement on it. But we have been unable to get an agreement on either side.

Mr. ROBERT C. BYRD. Mr. President, I think the Senator is correct. We may still be unable to get an agreement at a future time. But it would be my intention to attempt to get the matters up.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I understand how difficult it is for Senators to oppose the majority leader. I find it difficult myself. And I know he is perfectly sincere, and I will agree with him in spades that he has never made an agreement with me that he did not keep.

But, in this matter, I will say to Senators that if they do not vote for this amendment, there will be no capital punishment legislation enacted by this Congress. The bill to which the Senator from West Virginia referred, S. 114, will be passed at a time that it will go to the House of Representatives and the Judiciary Committee will bury it, just as it did in 1974 when the Senate passed S. 1401. The Senate passed it by 54 to 33 late in the session and it got bottled up in the House of Representatives.

So the question is this: Do Senators want a capital punishment bill or do they not?

Now, I hate to go against the distinguished majority leader, but I think that, in the quiet of our offices, he would admit to me that if we delay this along the lines that he suggests there will be no capital punishment bill enacted by Congress. And that is thwarting the will of the American people by every poll that I have seen.

I urge Senators to approve this amendment on this bill, because it is precisely the legislation that was reported to the Senate on January 17, 1980, is on page 14 of the calendar, and is Calendar Order No. 588.

Mr. President, I cannot more strongly implore Senators to go ahead and confront our responsibility on this question. This legislation has been delayed for nearly 10 years by maneuvering, by delay, by machinations and now is the time for the Senate to face up to its responsibility.

It is just as simple as that. If we do not do it, the American people are going to understand and there will be a lot of people in the Senate who will be glad to tell it.

Mr. President, I yield back the remainder of my time.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. HELMS. Mr. President, on whose time? I yielded back my time. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized for parliamentary inquiry.

Mr. SARBANES. Mr. President, is it in order to offer an amendment to the amendment of the Senator from North Carolina?

The PRESIDING OFFICER. The amendment would be in order, but not debatable.

Mr. SARBANES. In other words, any amendment is in order to it, but we would not have an opportunity to debate the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. What was the amount of time that was given to the consideration of this issue under the order?

The PRESIDING OFFICER. One hour, of which 46 minutes were used.

Mr. SARBANES. We have had 46 minutes of debate and no debate allowed on any amendments that Members could choose to offer?

The PRESIDING OFFICER. The Senator is correct.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not have any time left, but I hope Senators will vote for this motion. They have my assurance that the death penalty bill will be called up yet this year. Whether it will pass, I do not know. Whether we will get a time agreement, I do not know.

I move that the bill be recommitted to the Committee on the Judiciary and that it be reported back forthwith carrying those amendments that have been adopted by the Senate today.

Mr. HELMS. Mr. President, I move to lay that motion on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. CANNON). Is there any other Senators desiring to vote?

Mr. HART. Mr. President, regular order.

The PRESIDING OFFICER. Regular order has been called for.

The result was announced—yeas 50, nays 36, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—50

Armstrong
Bayh
Bellmon
Boren
Byrd,
  Harry F. Jr.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
DeConcini
Dole
Domenici
Exon
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jackson
Jepsen
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Nunn
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—36

Baucus
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cranston
Culver
Danforth
Durenberger
Eagleton
Glenn
Hart
Huddleston
Inouye
Johnston
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Pell
Proxmire
Pryor
Randolph
Sarbanes
Sasser
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—14

Baker
Durkin
Goldwater
Gravel
Heinz
Javits
Kennedy
McGovern
Melcher
Nelson
Ribicoff
Riegle
Stennis
Young

So the motion to lay on the table the motion to recommit with instructions was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 9 o'clock tomorrow morning under the order.

The motion was agreed to; and at 7:35 p.m., the Senate recessed until tomorrow, Thursday, June 19, 1980, at 9 a.m.

NOMINATION

Executive nomination received by the Senate June 18, 1980:

DEPARTMENT OF THE INTERIOR

Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior, vice Forrest J. Gerard, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 18, 1980:

DEPARTMENT OF DEFENSE

Charles William Snodgrass, of the District of Columbia, to be an Assistant Secretary of the Air Force.

FEDERAL COUNCIL ON THE AGING

The following-named persons to be Members of the Federal Council on the Aging for the term indicated:

Shimeji Kanazawa, of Hawaii, for a term expiring June 5, 1981.

Charles J. Fahey, of New York, for a term expiring June 5, 1982.

DEPARTMENT OF EDUCATION

Martha Keys, of Kansas, to be an Assistant Secretary of Education (Legislation).

Daniel B. Taylor, of Massachusetts, to be Assistant Secretary for Vocation and Adult Education, Department of Education.

Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education.

Edwin W. Martin, Jr., of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Service, Department of Education.

COMMUNITY SERVICES ADMINISTRATION

Richard John Rios, of California, to be Director of the Community Services Administration.

Michael T. Blouin, of Iowa, to be an Assistant Director of the Community Services Administration.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

William Albert Norris, of California, to be U.S. circuit judge for the ninth circuit.

Ruth Bader Ginsburg, of New York, to be U.S. circuit judge for the District of Columbia Circuit.

Jerre S. Williams, of Texas, to be U.S. circuit judge for the fifth circuit.

Robert Boochener, of Alaska, to be U.S. circuit judge for the ninth circuit.

Helen Wilson Nies, of Maryland, to be an Associate Judge of the U.S. Court of Customs and Patent Appeals.

G. Wix Unthank, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Clyde Frederick Shannon, Jr., of Texas to be U.S. district judge for the western district of Texas.

Filemon B. Vela, of Texas, to be U.S. district judge for the southern district of Texas.

Robert P. Aguilar, of California, to be U.S. district judge for the northern district of California.

Justin L. Quackenbush, of Washington, to be U.S. district judge for the eastern district of Washington.

Horace W. Gilmore, of Michigan, to be U.S. district judge for the eastern district of Michigan.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Charles A. Gabriel, [redacted]FR, U.S. Air Force.

Gen. John W. Pauly, U.S. Air Force (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Jerome F. O'Malley, [redacted]FR, U.S. Air Force.

IN THE ARMY

The following officers for appointment as Reserve commissioned officers in the Adjutant General's Corps, Army National Guard of the United States, Reserve of the Army, under the provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. Cohen Everett Robertson, [redacted]

To be brigadier general

Col. Robert Martin Morgan, [redacted].

IN THE NAVY

The following-named rear admirals of the Reserve of the U.S. Navy for permanent promotion in the grade of rear admiral, in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

LINE

William Jewell Gilmore
Joseph L. Loughran
Herbert Marvin Bridge
Samuel Amspoker Cummins
Martin Joseph Andrew
Benjamin J. Lehman
Philip Wesley Smith, Jr.
George William Lotzenhiser

James William Gray, Jr.
Donald Sebring Albright, Jr.
Carl August Brettschneider

MEDICAL CORPS

Harold Moser Voth
Matthias Henry Backer, Jr.
Park Weed Willis III
John Robert Senior

SUPPLY CORPS

Dean Bearchell Seiler
William Alvin Armstrong
Frank James Allston

CHAPLAIN CORPS

Gerald Edwin Kuhn

CIVIL ENGINEER CORPS

Peter Ross Brown

JUDGE ADVOCATE GENERAL'S CORPS

Penrose Lucas Albright

DENTAL CORPS

Frank Hannum Anderson

IN THE AIR FORCE

Air Force nominations beginning Santa C. Ngo, to be major, and ending John T. May, to be permanent professor, U.S. Air Force Academy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 21, 1980.

IN THE ARMY

Army nominations beginning Lawrence Abramson, to be lieutenant colonel, and ending Edward P. Arominski, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 6, 1980.

IN THE NAVY

Navy nominations beginning Robert J. Hartzman, to be commander, and ending Connie L. Myers, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 22, 1980.

HOUSE OF REPRESENTATIVES—*Wednesday, June 18, 1980*

The House met at 10 a.m.

The Reverend Dr. William C. Everett, Fielder Road Baptist Church, Arlington, Tex., offered the following prayer:

Loving God, our Father, we thank Thee for the men and women who serve in the Congress of this free land.

Crown their service with godly wisdom and discerning judgment.

Encourage their service by reminding them of the honor of public trust and of the historic certainty of being far better remembered for what they give of themselves than for what they gain for themselves.

Make noble their service by inspiring them to remember the perfect example of Thy dear Son, who took upon Himself the form of a servant and was made in the likeness of men, and who said, "He who would be greatest among you, let him be the servant of all."

In His holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 15, answered "present" 2, not voting 68, as follows:

[Roll No. 340]

YEAS—348

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sawyer
Scheuer
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—15

Burton, John
Coughlin
Forsythe
Gingrich
Goodling
Harkin
Jacobs
Lloyd
Mitchell, Md.
Quayle
Sabo
Schroeder
Stenholm
Walker
Wilson, Bob

ANSWERED "PRESENT"—2

Lundine
Ottinger

NOT VOTING—68

Ambro
Anderson, Ill.
Anthony
Applegate
Ashley
Beard, R.I.
Boggs
Brown, Ohio
Buchanan
Byron
Cavanaugh
Clay
Collins, Ill.
Danielson
Davis, S.C.
Deckard
Dingell
Dixon
Duncan, Oreg.
Eckhardt
Edwards, Okla.
Findley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Giaimo
Gonzalez
Gray
Harsha
Holtzman
Hyde
Ichord
Jeffords
Jenrette
Jones, Okla.
Kelly
Lewis
McCloskey
McDonald
Madigan
Marriott
Martin
Mathis
Michel
Mitchell, N.Y.
Moffett
Murphy, N.Y.
Myers, Pa.
Neal
Nedzi
Nolan
Pepper
Reuss
Rousselot
Runnels
Santini
Satterfield
Sebelius
Simon
Stockman
Vander Jagt
Walgren
Weiss
Wilson, C. H.
Wyatt
Wydler
Young, Alaska

☐ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Space Administration and other Federal agencies.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2698) entitled "An act to provide authorizations for the Small Business Administration, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 390) entitled "An act to expedite and reduce the cost of antitrust litigation, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. BAUCUS, Mr. THURMOND, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2337. An act to extend for 2 additional fiscal years the authorization of the Legal Services Corporation; and

S. 2727. An act to authorize additional appropriations for the Department of State and for the Board for International Broadcasting for the fiscal year 1981, and for other purposes.

☐ 1020

ELECTION AS MEMBERS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 712), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 712

Resolved, That the following-named Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on Public Works and Transportation: Billy Tauzin, Louisiana, and John G. Hutchinson, West Virginia.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DR. WILLIAM C. EVERETT

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, my colleague, MARTIN FROST, and I are joined today to welcome to the Congress the pastor and senior minister of the Fielder Road Baptist Church, Arlington, Tex., Dr. William C. "Bill" Everett.

Dr. Everett was formerly pastor of the First Baptist Church in Longview, Tex., in my district. He moved over to MARTIN FROST's district some years ago. Dr. Everett has had an unusual background. He is practically an all-Texan. He was born in Wright Patman's district. His wife was born over in Sam Rayburn's district—my old district. He now lives over in Mr. FROST's district.

He has had a great many honors, among which was earning the Freedom Foundation Award in 1976 for special television series on our Nation's religious heritage, which were primarily filmed here in Washington.

Mr. Speaker, we are delighted to have Dr. Bill Everett and his family with us today.

PERMISSION FOR COMMITTEE ON JUDICIARY TO SIT DURING 5-MINUTE RULE TODAY AND THURSDAY, JUNE 19, 1980

Mr. KINDNESS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit today and tomorrow during the 5-minute rule for consideration of the criminal code.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, the gentleman from Wisconsin (Mr. SENSENBRENNER) has requested that I object. I am bound to object, and I indeed will object.

The SPEAKER pro tempore. Those Members objecting please rise.

Messrs. ASHBROOK, BAUMAN, DEVINE, MYERS of Indiana, ROUSSELOT, and HANSEN rose.

The SPEAKER pro tempore. An insufficient number of Members have arisen.

Mr. BAUMAN. Mr. Speaker, I object to the Chair's ruling on the ground that a quorum is not present.

The SPEAKER pro tempore. The request is not a motion or proposition put by the Chair to a vote.

Mr. BAUMAN. Mr. Speaker, I make a point of order that under the Constitution the requirement is that a quorum be present to do any business of the House. A quorum is not present at this time, and the request for permission to sit for a committee is business being conducted in the absence of a quorum.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 341]

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Rousselot
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1040

The SPEAKER pro tempore (Mr. RUSSO). On this rollcall, 362 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY AND THURSDAY, JUNE 19, UNDER 5-MINUTE RULE

Mr. BAUMAN. Mr. Speaker, I renew my point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I renew my point of order.

The SPEAKER pro tempore. There is no point of order. The Chair will state that under the rules of the House, the request that was made was not subject to a point of order of a quorum not being present because such a request in the House does not require the presence of a quorum, as nothing is being put to a vote.

The gentleman then moved a call of the House. The Chair was not given an opportunity to count the House at that time, so we can presume a quorum present. A quorum now being present, there is no point of order that lies at this time.

Mr. BAUMAN. Mr. Speaker, I make a point of order that the request was not in order and could not be granted unless a quorum was present at that time. I made the point of order at the time the request was ruled upon by the Chair, that the ruling was not correct, that a quorum had to be here because the Constitution requires a quorum at all times to do business, and a request for the committee to sit is business.

If I may be heard further, if it is the Chair's position that a quorum is not required, requests for committees to sit can be made at any time, after special orders, at any time of the day, to the disadvantage of Members, and, therefore, preclude the right of Members to exercise their power to prevent a committee from sitting.

The SPEAKER pro tempore. In response to the gentleman, under the rules of the House, the Chair is not permitted to entertain a point of order, because such a request is not a motion or proposition being put to a vote and the rule does not provide that the Chair can entertain such a request.

The request was made. The Chair asked whether or not any Member objected. Ten Members did not stand, permission was granted. The gentleman then made a point of order. The Chair, under the rules, cannot entertain such a point of order at the particular time. The Chair in the past has used its discretion in not accepting requests for committees to sit when such requests are made during special orders. The Chair will continue to exercise that discretion.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Is it the Chair's position that a quorum of the House is not required at any time when a request for a committee to sit is made?

The SPEAKER pro tempore. The rules do not permit a point of no quorum at that particular point. The Chair has so stated.

Mr. BAUMAN. I renew my parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. The question is not whether the rules of the House permit a point of no quorum. I am inquiring of the Chair whether or not a quorum is required to be present when a request for a committee to sit is made.

The SPEAKER pro tempore. The Chair will state again that the Chair does not interpret the Constitution when there is an explicit House rule or point. The Chair has already twice given the gentleman his interpretation of the rules of the House.

SALT AGREEMENT CRITICAL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, 1 year ago today in Vienna, President Carter and Party Secretary Brezhnev signed the SALT II agreement. The SALT II agreement is in the United States' interest. It limits the number of warheads that are aimed at the United States, it provides for an ongoing discussion of arms control agreements, and it gives us an opportunity to deal with the other superpower on the level of understanding that would not exist otherwise.

Mr. Speaker, it is my humble opinion that if we do not ratify the SALT agreement, we will be less secure as a nation, we will have to spend more money for arms, and it would be the greatest failure of the other body since they failed to ratify our presence in the League of Nations. We should ratify the SALT II agreement and get on with the business of ridding the world of nuclear weapons.

RESIGNATION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Veterans' Affairs:

HOUSE OF REPRESENTATIVES,
Washington, D.C. June 18, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I hereby resign my position on the Committee on Veterans' Affairs.

Sincerely,

THOMAS J. DOWNEY.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by the authority and direction of the Democratic Caucus, I send to the desk a privileged resolution (H. Res. 713) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 713

Resolved, That the following-named Members be, and is hereby, elected to the following standing committee of the House of Representatives:

Committee on Veterans' Affairs: John G. Hutchinson, West Virginia.

The resolution was agreed to.

A motion to reconsder was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 932, ENERGY SECURITY ACT OF 1980

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 932), the Energy Security Act of 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SOCIAL SECURITY'S INEQUITIES TOWARD WOMEN

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, several days ago I testified before the Democratic Platform Committee concerning incorporating as part of the platform a strong statement and commitment concerning the inequities of the social security system toward women. Today I am submitting a list of 20 cosponsors for the legislation I introduced to correct these inequities. I urge other Members to cosponsor the legislation.

On another note. I know the people of my city of Cleveland will miss Bishop James Hickey, but Cleveland's loss is Washington's gain. He is an outstanding man and will be excellent as the new Archbishop of Washington. All of the people of Greater Cleveland wish Archbishop Hickey well and offer him our prayers and best wishes.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT FRIDAY, JUNE 20, 1980, TO FILE REPORT ON H.R. 6899, OMNIBUS MARITIME REGULATORY REFORM, REVITALIZATION AND REORGANIZATION ACT OF 1980

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight Friday, June 20, 1980, to file the committee report on the bill (H.R. 6899), the Omnibus Maritime Regulatory Reform, Revitalization and Reorganization Act of 1980.

This is to allow Members time to add supplemental and/or dissenting views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit on Thursday, June 19, 1980, while the House is reading for amendment under the 5-minute rule.

This permission is for markup on H.R. 6899, the Omnibus Maritime Regulatory Reform, Revitalization and Reorganization Act of 1980, which was sequentially referred to the committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why is it so important to do this while we have all of the appropriation bills before the House? Why can not we do it at the regular time of day?

Mr. HUGHES. If the gentleman will permit me, we are under a time constraint because it was sequentially referred to the committee to deal with the antitrust sections of the bill.

Mr. ROUSSELOT. With the what?

Mr. HUGHES. The antitrust sections of the bill. It was sequentially referred, and we are under a time constraint to report it out.

Mr. ROUSSELOT. What is the time constraint?

Mr. HUGHES. I believe we have to get it out this week.

Mr. ROUSSELOT. Cannot the committee meet on Friday?

Mr. HUGHES. I do not believe so. We are meeting on other matters.

Mr. ROUSSELOT. The House is meeting on Friday. Can the committee meet on Friday morning?

Mr. HUGHES. No, because I believe we have to get it out so the Members can file, among other things, their dissenting views, concurring views.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I understand we are beginning to approach the passage of appropriations, which are extremely important. I really do not understand why we keep having more and more committees trying to meet while we are debating these important issues which are critical to Members. I know on the gentleman's side of the aisle it does not matter, you just get some kind of exception from your Members to vote his proxy, so it does not really matter whether they are present or not. But those Members who really try to pay attention to what is happening legislative-wise or put under a tremendous strain to try to be three or four places at once. I really do not understand why we need to do it, why we cannot meet at the regular times.

Mr. HUGHES. If the gentleman will permit me, the ranking minority and other members of the Committee on the Judiciary recognize the time constraints under which we are meeting. They do agree with this particular request. If we were not operating under the constraints we are now operating under, we would not make the request.

I agree with the gentleman that we do try to do too much around here, but unfortunately that is the circumstance we have to deal with. This particular bill has to be reported out.

Mr. ROUSSELOT. Is this the subcommittee or the full committee?

Mr. HUGHES. This is a full committee markup.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXHIBIT OF ENGINES WHICH RUN ON ALCOHOL FUELS

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, I take this time to call the attention of Members of the House to an exhibit which will be on display on the lawn of the Capitol between here and our office buildings today of various types of engines which run on alcohol fuel, including ethyl alcohol, methanol and other synthetic fuels. I am delighted that this is presented by the Alcohol Fuels Caucus, in cooperation with the Department of Energy's Office of Alcohol Fuels and Office of Consumer Affairs. They have out there a Beta engine which runs on various different types of fuels. They have cars which come from the New York City Police Department which have been converted to run on methanol. They have an alcohol fuel conversion kit which can be used to convert an automobile engine over to operate on straight ethyl alcohol.

As I see in my district an increased interest in the production of alcohol fuel, particularly on some of our smaller units, on farms, I think it is critically important that we as legislators learn what is happening in this area. I urge my colleagues to stop and see this exhibit as they go back and forth to their offices.

□ 1050

REPUBLICANS DEMAND EQUITY IN COMMITTEE ALLOCATIONS

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, yesterday afternoon the House Republican Policy Committee adopted a formal policy statement endorsing an amendment to the rules of the House to insure an equitable distribution of committee seats between the majority and the minority.

The current distribution is. quite simply, an outrage and a clear violation of the doctrine of "one man, one vote."

Based on an analysis by the Select Committee on Committees, with proportional representation, Republicans deserve 36.5 percent of committee assignments. Based on that fair doctrine, we are denied 15 seats in full committees and 59 seats on subcommittees. This represents the most blatant deviation from a proportional distribution in the past 30 years, and it has gotten worse each Congress, perhaps proving the adage that power corrupts.

The majority party has gravely abused the rights of the minority and is denying fair representation to millions of Americans. All 160 Republicans signed a letter to the Speaker on February 13, and we must regretfully report how disappointed we are not to have even received the courtesy of a reply.

So we are serving notice, Mr. Speaker, that the rights of the minority will not be indefinitely denied. We will receive justice, or the rules of the House will be used to stop proceedings which are based on unfair representation.

Republican Policy Committee Urges Equitable Committee Assignments

The House Republican Policy Committee believes the democratic process requires that the Democrat majority in the House provide a more equitable division of House Committee assignments. Based on a detailed analysis by the recently disbanded Select Committee on Committees, it is clear that those Americans who voted for Republican Congressmen are being short-changed by the controlling Democrat majority through disproportionate committee representation.

The Republican Policy Committee believes that fairness dictates that Committee assignments be apportioned between parties on a percentage equal to the proportion of party membership in the full House. Counting both Delegates and Members, this ratio is 278 Democrats to 160 Republicans, or 63.4 percent to 36.53 percent. Since the Democrat leadership chose to create 492 committee positions for the majority, an equitable allocation for Republicans would be 287 seats rather than the present 272.

The abuse becomes even more flagrant when subcommittee allocations are considered. Applying the same ratio to all subcommittees in the 22 standing committees of the House and accepting the actual Democrat membership as a given factor, the total number of subcommittee seats to which Republicans are entitled is 619.7. The actual Republican allocation is 561, or a shortfall of 59 positions.

In 1978, over 46 percent of all voters nationwide preferred a Republican for Congress. Nonetheless, because of gerrymandered districts foisted upon the public by partisan state legislatures, this popular vote translated into only 36 percent of the membership of the House. This deviation from representational government is exacerbated by the disregard of the House leadership for an equitable committee distribution. On February 13, 1980, every Republican Member of Congress signed a letter to Speaker O'Neill to request formally that this injustice be rectified. To date, the Speaker has not given those 160 Members the courtesy of a formal response.

The Policy Committee realizes the importance of committee assignments in fashioning future legislation. The decisions made in committee set the stage upon which the whole House later acts. If the positions articulated by Republican Members in committee are muted by the chorus of Democrat Members, then the public is being unfairly disenfranchised.

There are no precise rules governing the division of committee assignments. Tradition dictates that this be left to the fairness and sound discretion of the party in power. The Republican Policy Committee believes, however, that this discretion has been abused and that the "one man, one vote" doctrine has been violated. The Committee calls for this injustice to be ended and for adoption of the attached model resolution which amends Rule X of the Rules of the House of Representatives.

Proposed Resolution

Resolution amending rule X of the Rules of the House of Representatives to provide that committee and subcommittee ratios reflect, to the closest degree possible, the party ratio in the House as a whole

Resolved, That (a) clause 6(a) of rule X of the Rules of the House of Representatives is amended—

(1) by inserting at the end of subparagraph (1) the following new sentence: "To the extent required to remain in compliance with subparagraphs (3) and (4), there shall be an election of members of standing committees specified in clause 1 at the commencement of the second session of each Congress.";

(2) by inserting "(and of any subcommittee, taskforce or subunit thereof)" in subparagraph (2) after "Official Conduct"; and

(3) by adding at the end the following new subparagraphs:

"(3) Except as provided in subparagraphs (2) and (4)—

"(A) the ratio of—

"(i) the number of members of each standing committee (and of each subcommittee, taskforce or subunit thereof) who are from the majority party,

to

"(ii) the number of members of such committee (or subcommittee, taskforce or subunit thereof) who are from the minority party,

shall be as close, mathematically, as possible to—

"(B) the ratio of—

"(i) the number of Members of the House who are from the majority party,

to

"(ii) the number of Members of the House who are from the minority party.

The number of members of a standing committee otherwise provided for under these rules shall be increased by one if, based on such new number of members, the difference between the ratio described in subdivision (A) and that described in subdivision (B) using such new number is smaller than such difference using the previous number of members.

"(4) In no case shall less than a majority of the members of any standing committee (or subcommittee, taskforce or subunit thereof) be from the majority party.".

"(5) For purposes of this paragraph:

"(A) the term 'Member' in subparagraph (a)(1), (2), (3)(A), and (4) includes a Delegate, or Resident Commissioner, to the House of Representatives.

"(B) the term 'Member' in subparagraph (a)(3)(B) does not include a Delegate, or Resident Commissioner, to the House of Representatives.".

(b) Paragraph (e) of such rule is amended by adding at the end the following new sentence: "The ratio of the number of Members of a select committee (or subcommittee, taskforce or subunit thereof) or of a conference committee from the majority party to the number of Members of such select committee (or subcommittee, taskforce or subunit thereof) or such conference committee from the minority party shall be in accordance with subparagraphs (3) and (4) of paragraph (a) as they apply to a standing committee.".

SEC. 2. The amendments made by this resolution shall apply—

(1) to standing committees (and subcommittees, taskforces and subunits thereof) and to select committees (and subcommittees, taskforces and subunits thereof) and conference committees established before the date of adoption of this resolution, immediately before noon on January 3, 1981.

(2) to standing committees (and subcommittees, taskforces and subunits thereof) and to select committees (and subcommittees, taskforces and subunits thereof) and conferences committees established on or after the date of the adoption of this resolution, as of the time of establishment of such committees.

ROLL CALL SILVER ANNIVERSARY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, tomorrow night it is "revenge at last."

For 25 years Roll Call and Sid Yudan have been exposing the brutal truths and the least-best-kept secrets about the Hill.

Tomorrow night its our turn at a Celebrity Roast when over 700 of Sid's long-suffering constituents get a silver chance to roast and roar—hopefully with laughter—about an institution that has become a part and parcel of their Congress during the past quarter century.

Look out Sid, here is the lineup—

Celebrity Roast

Joe McCaffrey, Master of Ceremonies and WMAL Commentator.

Mark Russell, Washington's own political humor superstar.

Larry King, Author of "The Best Little Whorehouse in Texas."

Liz Carpenter, Queen of the One-liners and Former Assistant to Lady Bird Johnson.

Senator Sam Hayakawa, Congress virtuoso harmonica player.

Speaker Tip O'Neill, The Reigning Wit of Irish humorists.

Diana McLellan, the effusive "Ear" of the Washington Star.

Congressman Mo Udall, the "Henry Youngman" of Congress.

Barney Breeskin, Author of "Hail to the Redskins."

Congressman Bob Michel, House Minority Wit and our own Mario Lanza.

John Corcoran, Critic at large for WJLA Television.

Silvio Conte, the quiet, modest, unassuming New England Congressman, better known as diamond dust coach of the victorious Republican baseball team.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7542, and that I may be permitted to include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi.

There was no objection.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7542, with Mr. ROSENTHAL (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, June 17, 1980, the Clerk had read through line 23 on page 4.

The Clerk will read.

The Clerk read as follows:

RESERVE PERSONNEL, NAVY (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Reserve personnel, Navy", $429,000, and in addition, $1,775,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980".

AMENDMENTS OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DICKS: On page 7, strike line 3 through line 7 and insert in lieu thereof the following: "For an additional amount for "Reserve personnel, Navy" $2,329,000, and in addition, $1,775,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980": *Provided*, That the funds available from this appropriation may be used to reimburse Navy Reservists travelling under permissive orders to active duty for training.".

On page 83, line 15, strike "$13.577,000" and insert in lieu thereof "$18.377,000".

Mr. DICKS. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. DICKS. Mr. Chairman, this amendment provides $6.7 million to allow Navy Reservists to attend drill training this summer without being required to forego pay for this training.

The Navy has indentified that it is deficient approximately $14 million in its travel account to reimburse Naval Reservists for their full scheduled training this summer. A reprograming request for $7.5 million to cover a portion of this shortfall has been submitted, but the tight budget situation has forced them to reluctantly accept the remainder of the shortfall. As a result a directive has been issued calling for cancellation of either the June or July drill.

The success of the Navy in meeting its end strength goals above anticipated rates and higher than forecast travel inflation have led to the present situation. We are now faced with a situation not much different than if we asked our regular troops to either forego a paycheck or simply not report to work for a period. Neither alternative is acceptable. The consequence will be to disrupt the training program and lower morale at a time when we are attempting to improve our ongoing shortfalls in the reserve forces.

It is particularly heartening to note that many reservists chose to expend their own money rather than miss a training weekend. But we should not be asking them to make such a sacrifice. Thus this amendment grants authority to pay reservists who used their own funds to travel for active duty training; $1.9 million of the total is for this purpose.

This shortfall, and relief from the travel restrictions imposed by last year's continuing resolution, were identified too late to be included in the administration's budget. It was not until May 8, after markup of the supplemental by the Appropriations Committee, that the problem was announced.

This is a small amount of money to insure the smooth continuation of our Naval Reserve program and I fervently hope this body will act to rectify the situation.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Chairman, I accept the amendment offered by the gentleman from Washington. It became apparent in hearings held yesterday by the Defense Subcommittee that additional funds will be required by the Navy Reserve because of the overstrength position.

It has become a habit of the Navy Department to underestimate funding requirements for the Navy Reserves and depend on Congress to add funds above the budget to properly fund the Reserves. I take this opportunity to tell the Navy that I will not cooperate with the procedure again and that they must provide adequate funds for the Reserves in the budget submissions.

The acceptance of this amendment should not be considered to be a precedent.

Mr. DICKS. I thank the gentleman, the distinguished chairman of the Subcommittee on Defense, for his support.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

It is my understanding that our ranking minority member on the Subcommittee on Defense, the gentleman from Alabama, Mr. JACK EDWARDS, has no objection to the amendments.

Mr. DICKS. That is correct.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Washington (Mr. DICKS).

The amendments were agreed to.

□ 1100

The Chairman pro tempore. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, General", $180,000,000, to remain available until expended: *Provided*, That funds are included in this Act for the Twenty Mile Creek, Mississippi, project which shall be used for the design and construction of grade stabilization structures along Twenty Mile Creek, in Lee, Itawamba, and Prentiss Counties, Mississippi, between mile 11.7 and mile 22.0: *Provided further*, That funds are included in this Act for the site 3 Hollywood-Ardmore Beach Area in Chicago, Illinois, which shall be used for the design and construction of a retaining wall and related backfill and grading in accordance with the Reconnaissance Report on Chicago Lakefront prepared by the Chicago District Corps of Engineers, of January 1980, and Supplemental Report, March 1980, and section 3 of the Flood Control Act of June 22, 1936.

AMENDMENTS OFFERED BY MR. PRITCHARD

Mr. PRITCHARD. Mr. Chairman, I offer an amendment on page 23, line 6, and I ask unanimous consent that this amendment and my amendment on page 101 after line 19 be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PRITCHARD: Page 23, line 6, strike out "$180,000,000" and insert in lieu thereof "$122,000,000".

Page 101, after line 19, add the following:

SEC. 304. No funds appropriated or made available by this Act shall be used for the construction, alteration, repair, or improvement of the Tennesseee-Tombigbee waterway project.

Mr. PRITCHARD. Mr. Chairman, the amendment which Congressman EDGAR and I are offering seeks to delete $58 million of 1980 supplemental funds for the Tennessee-Tombigbee Waterway and also calls for a thorough review of the project.

We are not charging today that this project should be abandoned or that the funds spent thus far have been wasted. We are saying "Hold on," what is the great rush? Where is the General Accounting study on this project? Why are there so many serious questions being raised? We are saying that before this Congress commits any more money for Tennessee-Tombigbee, the Congress and the American people are entitled to some clear and precise answers.

The Tennessee-Tombigbee Waterway is an enormous project; possibly the largest project in the history of the Corps of Engineers. It has already cost us $780 million, and the final projected cost is now estimated at $3 billion. So we are not just talking about an isolated, one-shot, line item in this supplemental; we are talking about eventually committing Congress and the American taxpayers to another $2 billion at least.

This waterway project received $165 million in the regular 1980 appropriation, and within months an additional $23.5 million was administratively transferred to it with approval from the Appropriations Committee. It has already received a good deal of money this year. The project is not being delayed for lack of funding; quite the contrary. There are reports that people are working around the clock, I assume many at premium pay, so current funding does not seem to be any problem.

Why then are we rushing in with this extra $58 million? I do not know, and my colleagues and I have additional questions which we feel must be answered before these huge sums are spent on this waterway.

Some of the issues raised by the Tenn-Tom project include:

The validity of the navigation benefit claims and the benefit-cost ratio of this project;

The dramatic increase in project width and design without explicit congressional authorization;

The suppression of massive cost increase estimates by the Army Corps of Engineers;

The failure of local sponsors to meet their share of project costs;

The need for a billion-dollar additional project on the lower Tombigbee to make the waterway functional;

The acceleration of the construction schedule;

The additional costs, possibly hundreds of millions, to comply with the Fish and Wildlife Coordination Act; and

The transportation impacts.

Questions about the validity of the Tennessee-Tombigbee project have been raised by the press, by environmental groups, by taxpayers' organizations and by many people connected with the project. I think we must have the answers to these questions before taking any further appropriation action.

Is it true that the "ultimate" project will cost well over $3 billion—as contrasted to the original projection by the Corps of Engineers in 1970 that it would cost $323 million.

Is is true that the Corps of Engineers has withheld known cost increases of the project from Congress? That in 1974, the corps developed and received indisputable data that the project cost had increased from $632 million to over $1 billion. However, rather than reporting this known cost increase to the Congress, the corps instead reported a figure of $815 million in order to come up with a favorable benefit-cost ratio for the project; and only after developing new navigation "benefits" for the project in 1975–76 did the Corps of Engineers, for the first time, admit that the project cost had soared above $1 billion.

Is it true that the Fish and Wildlife Service estimates that a minimum of 118,000 acres of land at a cost of $38 million will be needed to mitigate the fish and wildlife habitat losses caused by the project—and that the Corps of Engineers has not included these costs in the benefit-cost ratio for the project.

Is it true that the project operation and maintenance costs will be exorbitant? That the users of Ten-Tom will pay not one dime in construction or operation and maintenance costs for the project; and that the minimum fuel tax imposed upon the waterway users in 1978 exempts this project from payment.

Is it true that States involved have failed to meet their share of the project costs—which violates the authorizing act—which requires the local sponsoring agencies in the States involved to fully defray the costs of highway bridges and recreational facilities for this project—and that they have failed to discharge these responsibilities.

Is it true, as some observers claim that over half the claimed navigation benefits are fictitious? That the economic analysis done for the Corps of Engineers by an outside consulting firm, is not taken seriously, because several of the projected major shippers used in that report are out of business; deny that they ever intended to use the waterway to the extent claimed by the report; or do not even own the resources the report claims they will be shipping on the waterway?

Is it true that the Corps of Engineers has never examined or analyzed the impact of this project on the affected railroads in the area?

Is it true that the Corps of Engineers has dramatically expanded the width of the project without congressional authorization? That their economic analysis was based on a 300-foot-wide channel—unauthorized by Congress—because the original 170-foot width did not give them an adequate benefit-cost ratio?

Is it true that the project will seriously degrade the water quality of the region?

Is it true that a GAO report was started then stopped on this very expensive and extremely controversial project?

Is it true that if the project were to be ended today, that a very substantial portion of the moneys that have been expended are fully recoverable?

I urge my colleagues in the House of Representatives not to pour more money into this project until there has been serious congressional oversight by the respective authorizing committees and a GAO report has been completed. Let us seek an honest reckoning.

I urge the adoption of the amendment.

□ 1110

The CHAIRMAN pro tempore. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. PRITCHARD was allowed to proceed for 3 additional minutes.)

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Alabama.

Mr. BEVILL. Does the gentleman think we probably ought to also make a study on all of those State of Washington projects? I would say to the gentleman most of the electricity produced in the Pacific Northwest is from hydroelectric power and there is perhaps no State in the Union that benefits more from water projects than the State of Washington, a great State. Does the gentleman not think we ought to make a study on them, too?

Mr. PRITCHARD. I would say this to the gentleman: If we are going to maintain the integrity of water projects across the country, and I believe they should be maintained, the public has to be sure that these projects are right, that they do have the right cost-benefit ratios, and they can stand the light of day. Today there are too many serious questions that need to be answered.

Mr. BEVILL. Will the gentleman yield for another question?

Mr. PRITCHARD. I yield to the gentleman.

Mr. BEVILL. The gentleman mentioned the railroads. Actually there is only one railroad in the United States that is really concerned about the Tennessee Tombigbee, to my knowledge, and that is the L. & N. Railroad. The gentleman mentioned the 300-foot channel. The L. & N. Railroad brought a suit in Federal court down in Mississippi. The suit was brought in Washington, but then moved to Mississippi, and the U.S. district court ruled that the corps had adequate authority to construct the 300-foot wide waterway.

Now, what else does the gentleman expect us to do?

The CHAIRMAN pro tempore. The time of the gentleman from Washington has again expired.

(By unanimous consent, Mr. PRITCHARD was allowed to proceed for 3 additional minutes.)

Mr. PRITCHARD. I would only say the court ruled they brought the action too late.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to compliment the gentleman in the well for offering this amendment along with several of our colleagues in the House. I think the gentleman is right in asking the question: Should we commit an additional $58 million to this project that we have already spent $194 million on this year? With all of the disasters, with all of the emergencies, with the variety of issues that are in this supplemental bill, it seems to me, as the gentleman has stated, that the Tennessee Tombigbee Waterway will not disappear.

However, the reduction of this $58 million will, in fact, give the gentleman in the well and the Members of the House an opportunity to review the questions that the gentleman has posed about the cost-benefit ratio, about the mitigation of land, about the impact on other forms of transportation in the area. Many of these questions have emerged over the last few years when it became clear that a project back in 1973 that would be $323 million in funding is now blooming up to a $3 billion project, using the Corps of Engineers figure of January 28 of this year.

So I believe the gentleman is correct in asking us to withhold the spending of this $58 million additionally now so that we can review the very serious questions the gentleman raised.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I want to commend the gentleman in the well for offering this amendment. During the past several months, as we have debated the budget, we have heard many pious statements in this House about the need to cut Federal spending and to balance the budget. If we are going to do that over the years, and I think it is a good direction in which to be moving, then one way we can certainly do that, and do it with a lot less pain than some of the ways we have been doing it, is by taking an honest look at some of these massive public works projects and, for the first time, doing some honest cost-benefit analyses of them.

I want to commend the gentleman for offering this amendment, which tries to do that as to one very expensive project with rapidly escalating costs. I think the vote on the gentleman's amendment will be a real test of whether the Members of the House are serious about holding down Federal spending.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman.

Mr. BOWEN. Mr. Chairman, the gentleman from Washington has indicated he would like to have more information on the project, that somehow he has not had access to facts and figures and information.

If I might, I would like to remind the gentleman from Washington that we have had appropriations hearings in the House and hearings in the other body every year since 1970. I do not believe my good friend, the gentleman from Washington, has seen fit to show up at any of those hearings to interrogate witnesses and gain access to the facts and figures which he says he would like to have. We have had extensive hearings on this waterway and have analyzed every aspect of the project. It is a very impressive project of great value to the entire Nation, and I certainly do hope that the House will reject the amendment offered by the gentleman from Washington.

Mr. PRITCHARD. I would say to the gentleman that we have an honest difference. I looked over the hearing record on this and many of the questions I have posed were not addressed.

Mr. LEHMAN. Mr. Chairman, I ask unanimous consent, at the resolution of the pending amendment, to return to page 15 in the bill for the purpose of offering an amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

□ 1120

Mr. WHITTEN. Reserving the right to object, Mr. Chairman, as can be appreciated with a bill of this nature, I can appreciate the problem of the gentleman from Florida (Mr. LEHMAN), but I would object to returning to that point and opening up everything from there to where we are now in the reading of the bill. So I would trust that the unanimous-consent request would be more detailed, because I do understand it is a particular amendment that the gentleman has in mind, and I might be constrained not to object. I would not want to open up the portion of the bill which has been read.

The CHAIRMAN. As the Chair understands the gentleman's unanimous-consent request, it is to return to page 15 for one amendment only.

Mr. LEHMAN. Yes.

The CHAIRMAN. And an amendment that is made in order in the rule, that one amendment only.

Mr. WHITTEN. I would not object in the sense that there was an understanding. The Committee on Rules granted a special provision for this purpose, and in view of all the factors involved, I would not object for this one particular amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. LEHMAN)?

Mr. ROUSSELOT. Reserving the right to object, how do we make the decision here in the House as to which places we go back and pick up because somebody was not here in time to offer an amendment, Mr. Chairman? Do we have some kind of procedure for this? I realize this is for all the Cubans who have come into the country.

Mr. WHITTEN. If the gentleman will yield, I guess this has to do with discretion with my colleague from the State of Florida. The gentleman has this problem which is great in its magnitude, last week he sought a rule and received a rule that will make his amendment in order. Because of the fact that we move rather expeditiously, having just been on the floor this morning for only a moment or two, and since we all knew the amendment was in the offing, so to speak, I am constrained not to object. Each man has to pass judgment for himself, but where those factors are involved, I think we should be a little on the lenient side, and that is the way I feel at this time.

Mr. ROUSSELOT. Reserving the right to object further, Mr. Chairman, I just find it rather interesting that we make exceptions for one Member, but there may be others who might have the same problem.

Mr. WHITTEN. If the gentleman will yield, I think I would make the same exception under the same circumstances for the gentleman from California. If he were caught in the same situation, I assure him that I would have the same attitude.

Mr. ROUSSELOT. If I could prove I was on the telephone with OMB, or something like that. My two colleagues say they were on the telephone.

Mr. WHITTEN. If the gentleman will yield, he, indeed, might profit from talking to the gentleman.

Mr. ROUSSELOT. I am always fascinated to see how we make exceptions, especially when we have money we are going to add. It depends on whether it is favorable money or not favorable money. I guess; is that right?

Mr. WHITTEN. If the gentleman will yield, that is not the case, rather it is the circumstances under which this occurred. I think I would have only one policy whoever was involved, in view of the gentleman from Florida's intention and the current circumstances.

Mr. ROUSSELOT. Further reserving the right to object, I have been amazed at how several members of the gentleman's committee have come to say, "John, you stay tough because we do not think this should be done, and it is a bad precedent," but they do not want to stand up and do it. So I will pass this up and take care of our colleagues from Florida who have a terrible problem. The President is encouraging an awful lot of people to come from Cuba. We realize that. He is opening the doors wide and wants to be sure they are all here, so I will be glad to pass this.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. LEHMAN)?

Mr. LONG of Maryland. Mr. Chairman, reserving the right to object, I had been ready, when we came to the chapters on Foreign Operations to offer an amendment to include $39 million covering emergency refugee assistance. Would the gentleman have any objection, if the whole $100 million is accepted, to my not offering that $39 million, so that the net amount for refugee assistance would be $61 million?

Mr. LEHMAN. If the gentleman will yield, Mr. Chairman, I wish to assure my chairman of the Subcommittee on Foreign Operations neither appropriation impinges on the other.

Mr. LONG of Maryland. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. LEHMAN)?

There was no objection.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 5 additional minutes.)

Mr. EDGAR. Mr. Chairman, I am going to ask that several charts come in. I rise in very, very strong support of the amendment offered by our colleague, the gentleman from Washington (Mr. PRITCHARD). Mr. PRITCHARD offers an amendment to eliminate $58 million of funding, additional funding. We have already spent $165 million on the Tennessee-Tombigbee, plus an additional $23.5 million that has been administratively transferred. Another $58 million will bring the total to $246.5 million for this project this year.

My colleague and I offer an amendment to delete the $58 million in this supplemental appropriation. We offer this amendment because there is no disaster in cutting the funds from the Tennessee Tombigbee. The project will still proceed. It will proceed in more abundance than the Committee on Appropriations had expected back in November when the conference report was determined. There is no emergency in Pickwick, Tenn. There is no emergency in Demopolis, Ala. There is no disaster or crisis from Demopolis to Mobile, and in fact the Tennessee-Tombigbee Waterway will still be on the books. It does not delete the project; it simply moves in the direction of fiscal restraint in a time of tight budgets.

Let me share with my colleagues several charts which I have brought in for illustrative purposes. The first chart to my right indicates the expenditures that we anticipate making this year. I note for my colleagues the fact that we have already spent $621 million on the project through the 1979 fiscal appropriations. With the additional $58 million, we are in fact asking this Congress to spend on this one project $246.5 million in fiscal year 1980. In the 1981 appropriation bill that we will be dealing with in the next several weeks, the Appropriation Committee will come out and request that we spend approximately $225 million next year. But if you look more carefully at a chart that was provided on the 28th of January 1980 by the Army Corps of Engineers, you get even a little bit more nervous. They estimate that the total project cost from Pickwick, Tenn., to Demopolis, Ala., will be some $1.9 billion.

That gets eight barge tows from Pickwick down to Demopolis, at which point they will have to be dislocated and put into four barge tows. The report of the Army Corps of Engineers is to suggest that below Demopolis, Ala., they will be able to use six barge tows. They will still have to break them up, but moving below Demopolis, Ala., they feel that they will be able to get six barge tows. This is unlikely according to other documents of the corps.

If you look at the map which is the second chart, you will recognize that the $1.9 billion is being spent only in the upper portion and that if, in fact, this Tennessee-Tombigbee Waterway project is to be fully accessible, it will require an additional $1 billion that has not presently been authorized.

I draw the attention of the House to the fact that on the 28th of January, 1980, the Army Corps of Engineers suggested that the favorable ultimate cost-benefit ratio of the project can only be achieved if we expend an additional $585 million for channel improvement below Demopolis. The supporters of this project may in fact insist that that is not necessary but even the Army Corps of Engineers has said the Demopolis-to-Mobile route of the Tombigbee River is like a barrel of snakes.

I have for the review of my colleagues, a document that is called, "Aerial Photos of the Tombigbee River South of Demopolis." I would hope that my colleagues would read this. This is the Army Corps of Engineers' aerial photographs of the winding river below Demopolis. Included in these aerial photographs are the actual cuts that they anticipate they will make, and for which they will use that additional billion dollars—authorized sometime in the future—to make this Tennessee-Tombigbee Waterway appropriate and usable.

Let me suggest to my colleagues that there are a number of additional arguments why this $58 million ought to be deleted. For instance, documents filed with the Federal district court in Mississippi show that in 1975 the corps chose to withhold the true cost estimate for the project because it would have had too great an "emotional impact" on Congress.

Also, the corps did not include in its cost-benefit calculations the cost of fish and wildlife mitigation, even though I have been told by a corps official that this cost is factored in as a general rule. The Fish and Wildlife Service has recommended that the corps acquire at least 118,000 acres of mitigation land, at an estimated cost of over $38 million.

We learned yesterday in the Wall Street Journal that—

> The interesting thing about the waterway is that it parallels the Mississippi River, causing some of us to wonder why the country needs two separate waterways to the Gulf.

Our colleague in the other body, the gentleman from New York, PATRICK MOYNIHAN, labels this particular waterway "the clone of the Mississippi."

Mr. Chairman, I think there are some arguments here because many of the waterway user people are not enthusiastic about the project. The economic justification for the project rests largely on navigation benefits for shippers. Roughly 90 percent of the project benefits are attributable to navigation. Sixty percent of the navigation benefits are based on coal movements. Yet, well over one-third of these coal moves are based on nonexistent mines, companies, or traffic.

Many people have also wondered about the effect the waterway will have on railroads in the area. The corps has admitted that they have never analyzed the impact of diverting millions of tons of commodities and millions of dollars from the region's existing railroads. (Source: answers to interrogatories in civil suit.) Yet it is safe to assume that there will, in fact, be a significant impact. For example, the Louisville & Nashville Railroad has estimated that it can lose between $15 and $50 million in annual revenues. Yet we find we have a project with a considerable dollar commitment of the Federal budget in times of needed restraint. Our colleague and chairman of the Appropriations Committee was right yesterday when he called upon this House to have restraint.

The gentleman has the difficult task of passing this supplemental and moving on to other appropriation bills that must fit within the constraint of a balanced budget.

Mr. Chairman, I think the arguments on this project are immensely clear and I would hope that our colleagues would support the gentleman from Washington and myself in our amendment to delete the $58 million.

Mr. Chairman, there are other arguments that can be made. The local cost share is not provided by the local communities. The State of Alabama has spent no more than $8 million. The State of Mississippi has not spent even the $8 million. Much of the local share has been provided by the 94th Congress in a surface transportation act that provided $100 million of funding for bridges over Federal installations; $68 million of that $100 million has been locked into bridge construction over the Tennessee-Tombigbee Waterway and is counted toward the local share.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, is this an energy related project of which we speak, something which is important because of energy consequences?

Mr. EDGAR. Mr. Chairman, the gentleman raises a good question. There are no significant energy related benefits in terms of hydroelectric power. There is some suggestion that this waterway will help to cut about 400 miles of travel of coal production, but in further analysis of the coal barge use of the waterway we discovered that some of the coal companies that were anticipated users were in fact nonexistent coal companies and others indicated they probably would not use the facilities.

Mr. COUGHLIN. So it is not really an energy related project?

Mr. EDGAR. I doubt that this could be considered an energy related project in the sense that the gentleman and I would be interested in.

Mr. COUGHLIN. It is not a flood control project of one sort or another?

Mr. EDGAR. No; there is no flood control benefit in the project. There are very small redevelopment benefits in the project and very, very minimal recreational benefits in the project. Ninety percent of the benefits of this project are related to navigation on the Tennessee-Tombigbee Waterway and not to any energy or flood control.

Mr. COUGHLIN. There are no irrigation benefits?

Mr. EDGAR. That is correct, there are no irrigation benefits from the project.

Mr. COUGHLIN. Mr. Chairman, I must say the gentleman makes a very persuasive argument and I associate myself with the gentleman's remarks.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for his questions.

Mr. Chairman, I just ask the House to look carefully at the project, to analyze the particulars, to learn more about the project, and as we did yesterday in saving $58 million of taxpayers' money, let us save this $58 million, so we will have saved $116 million that we can write home about.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BOWEN, and by unanimous consent, Mr. EDGAR was allowed to proceed for 1 additional minute.)

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Mississippi.

Mr. BOWEN. I would simply like to remind the gentleman from Pennsylvania there are some very direct energy benefits. There will be a $3 per ton saving through the use of this waterway over all other modes and routes of transportation, and there will be about a $2 per ton saving in the shipment of coal. I would also like to point out that a gallon of diesel fuel will move a ton of freight 50 miles by truck, 180 miles by rail, and 300 miles by barge. That is clear evidence that the Tennessee-Tombigbee Waterway is of great value to this country in terms of energy benefits.

Mr. EDGAR. Mr. Chairman, has the gentleman analyzed the fact that the coal tonnage estimated for use on this waterway is not supported by coal tonnage usage figures that have been indicated by the companies who anticipate using the barge?

Mr. BOWEN. Mr. Chairman, we have looked at those figures rather carefully, and I think they have been accurately reported in the hearings. I will say to the gentleman from Pennsylvania as I mentioned to the gentleman from Washington earlier, had those opposed to this waterway come to the hearings and interrogated the witnesses on this or other subjects the gentlemen might well have had an opportunity to gain the answers they sought. In any event, the savings I cited are valid costs for transportation and savings over alternatives regardless of the volume shipped.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Mr. Chairman, I thank the gentleman for his comments.

I would just like to say in closing that in all of the analyses that we have made in terms of local share, in terms of cost benefit ratios, in terms of committing the Federal Government to $2 billion or $3 billion, it will not harm the Tennessee-Tombigbee Waterway at all to stop and pause, after spending $194 million this year, and to look carefully at the questions the gentleman from Washington has raised. I do not think it will hurt the House of Representatives to focus on this $58 million which could more appropriately be spent in Washington State to repair the Mount St. Helen damage or to be used in necessary flood control or irrigation projects around the Nation or to be used for energy related projects that would help to bring us some energy independence. All we are asking is to stop and pause long enough to get answers to those questions. If the questions are answered realistically and honestly, then let us move on with the project. If, as I believe after looking at the issue, we find there are not energy savings, there are not flood control savings and that in fact in times of tight budgets we have to spend our money more wisely, I think it makes very good sense for us to begin to shut down this project and move on to other more constructive projects.

Mr. Chairman, I close with this thought: Some analysis has been made. More dirt, physical gravel will be removed in the construction of the Tennessee-Tombigbee Waterway than was moved to construct the Panama Canal.

Mr. Chairman, I yield back the balance of my time.

Mr. BEVILL. Mr. Chairman, I move to strike the last word.

First, the funds in the bill are to continue ongoing contracts, not to accelerate the project. Mr. Chairman, we seem to go through this each year. There is nothing new. Sometimes there is a face or two that shows up that has not shown up before. Now the author of the amendment, for example, this is his first round in this proceeding. We have been going through this for many, many years.

We hold the most detailed hearings, to my knowledge, of any committee in the Congress. There is no committee more thorough, I will say, in their committee hearings. We listen to the people who know something about the project.

My good friend, my colleague from Pennsylvania, gets up every year, and he dusts off that same speech. But we cannot find out where his information comes from. Actually we have witnesses standing in the hall at our hearings. We hear anyone who wants to testify. We do not deny anybody a public hearing before our committee. In anyone has any information about any water project in this Nation, we welcome them to come in and tell us about it. But we cannot always get them to come in.

Mr. Chairman, the author of this amendment, didn't appear before the subcommittee. The gentleman says we need a study, but he didn't appear to testify why we need a study so that we could deal with his questions.

Mr. EDGAR. Mr. Chairman, will the gentleman yield? Will the gentleman who mentioned my name yield?

Mr. BEVILL. No, I will not yield to the gentleman at this point. The gentleman would not yield to me and I will not yield to the gentleman at this point.

The gentleman calls for a study after 70 percent of the money is committed on this project. The project is being completed. Someone mentioned that the railroads are up here opposing this project. The only railroad that I know of is the L. & N. Railroad. You know, they have an environmental group they gave money to and they were hiding behind the environmental group, getting them to fight this project down in the Federal Court of Mississippi. When they were exposed they came out and joined the case as a party plaintiff, so the L. & N. Railroad is a party plaintiff.

□ 1140

They have spent millions of dollars down there. Their lawyer called the Corps of Engineers this week and I am sure he has been talking with the gentleman from Pennsylvania, trying to find something wrong. That is all right. There is nothing to hide. But the L. & N. Railroad does hold a unique distinction.

We had to evacuate 1,000 people from one of the little towns in my district because the L. & N. Railroad was not maintaining their rail bed. The Federal Railroad Administration issued a unique report in February 1979, telling the L. & N. Railroad, in effect, that they were the most poorly operated and maintained railroad in the country. I have never seen such restrictions as were placed on them.

That has nothing to do with this case, but I want to point out that the only railroad trying to fight this water project is worried about competition. It is not going to hurt them to have competion. It is going to help them. They are trying to block this waterway and are spending millions of dollars trying to block the waterway when they cannot handle the business they have.

We asked the Corps of Engineers if the requested supplemental amount would be used to accelerate the schedule. They said no, it would not be used to accelerate the project, only to provide for currently ongoing contracts.

It has been alleged that local sponsors did not pay their share of the costs. The answer from the corps is that they are meeting their local funding requirements. But, the facts are simply this: There are about 400 Government employees, and about 2,800 contractor employees working to build this waterway, a waterway that will mean a great deal to this poverty-stricken area of the country, to the Southeastern United States which has the eighth largest coal-producing State in the Nation. It would help Alabama; and Mississippi, Tennessee, Kentucky, West Virginia and many other States. These are States that will be connected by water. It will mean so much to our economy because, as has been pointed out by the gentleman from Mississippi, there is something around $3 per ton saved on transportation. The truckers even came in and testified about this waterway, because they support it. They know the railroads and the trucks have to haul this coal to the waterway, and so, of course, they are supporting it.

I just want to point that out, that we do have a unique situation in that the L. & N. people seem to make this a big issue. They have been unsuccessful six times in Federal court.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. BEVILL was allowed to proceed for 2 additional minutes.)

Mr. BEVILL. The Congress has consistently supported this project; because the subcommittee that gets the information and holds the hearings and knows what the project is all about will consistently support it.

These funds are necessary to keep the project from stopping. The contractors are moving faster than they have ever moved and, as the gentleman from Pennsylvania mentioned, they are presently working 7 days a week and they are working at a faster pace than they ever have because of the fuel price increase, and fuel is a big factor in this type of construction, as the Members know. Funding for this project will be about 80 percent committed this year. The Congress has supported this 232-mile-long waterway consistently for 10 years, which was authorized back in 1946.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I appreciate the gentleman yielding to me. I think the proposers of this amendment are several years too late regardless of whatever merits they may feel they have. How many more unfinished projects can we afford in this country?

As the gentleman said, 70 to 80 percent of the funds are committed. The remaining cost-benefit ratio is 2.5 to 1. We have hearings every single year, and the hearings this year show that the remaining cost-benefit ratio is 2.5 to 1. So, to terminate this project would cost hundreds of millions of dollars, literally. We cannot afford an unfinished project, and I fully oppose the amendment.

Mr. BEVILL. I thank the gentleman. The question is raised each year about the cost-benefit ratio.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my friend from Texas.

Mr. ROBERTS. Mr. Chairman, I want to thank the distinguished gentleman for yielding to me, and say that the Public Works and Transportation Committee works as hard on these projects as is possible to find those that are good and eliminate those that are bad.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(At the request of Mr. ROBERTS and by unanimous consent, Mr. BEVILL was allowed to proceed for 3 additional minutes.)

Mr. ROBERTS. The overall benefit to the country, and particularly to the Southeastern United States, but to the overall country probably will exceed any project we have ever approved by this Congress except the Mississippi River, which system has saved $14 billion on one flood. This project must be completed, and I certainly support the gentleman.

Mr. BEVILL. I thank the gentleman.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the distinguished minority leader, the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank my good friend for yielding. The Tennessee-Tombigbee project has been in the works for a long time, as the gentleman from Alabama knows. We were studying it when I was on the Public Works Subcommittee. In fact, we appropriated the first money for the Tenn-Tom project during my time on the Public Works Subcommittee.

It was a good project then; it is a good project now. It ought to be built as rapidly and as efficiently as possible, and we save money when we build a project at the fastest economical pace. I hope that the budget as it was reported to the House provides for that pace, and I certainly intend to support the amount of money which is in this bill for Tom-Tenn.

Tom-Tenn is, as I say, a very important project.

People have mentioned that it parallels the Mississippi. Well, of course it does, but it will make it very economical actually, as far as energy is concerned, for a barge to go down the Mississippi with the current; and then if it can reload and go back up the Tenn-Tom in slack water and not have to fight the current of the Mississippi, that alone would probably be enough to justify this project. It is not only good for the region; it is good for the country. I sincerely hope that it will be built.

Mr. BEVILL. I thank the gentleman.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today to object to the efforts to block the supplemental funding of the Tennessee-Tombigbee Waterway.

The project body last year when we approved the public works bill. Mr. Edgar at that time offered an amendment to delete the funding for the waterway. His efforts were defeated then, as they should be today. There are no new issues and no new objections. They have all been aired in the media, in the courtroom, and in these Halls over and over again, and the merits of the waterway continue to prevail.

The waterway will have a very positive impact on the entire Nation. Waterways are the most effective and energy efficient mode of transportation for bulk type commodities. The first year the Tennessee-Tombigbee is in operation it is estimated it will provide savings of more than $82 million in transportation costs; $54 million of this saving, will be for the transportation of coal, which will be one of the major commodities planned for the system. The capability of our Nation to convert from crude oil usage to coal will depend a great deal on adequate fuel efficient coal transportation facilities. The waterway offers such capabilities.

The Tennessee-Tombigbee Waterway will provide access from the Gulf of Mexico to the middle of America. It will directly serve 14 States and will indirectly impact on the entire country. It has made very remarkable progress toward completion. Eight years and millions of taxpayers dollars have gone into the project and to delay it in midstream would not only add to the cost in the future but it would delay the Nation's access to this effective and efficient coal transportation, thus stifling this progress toward America's energy independence. I believe an early completion would be a wise investment from which our Nation will continue to receive excellent returns for many years to come. I urge my colleagues to reject the amendment to deny these supplemental funds.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my colleague from Alabama.

Mr. BUCHANAN. Mr. Chairman, I thank my colleague for yielding. All of us in Alabama are deeply proud of the gentleman's leadership in this very important matter, and his leadership for our country. The gentleman from Alabama and the gentleman from Mississippi and their committees have made, I think, a wise investment for our country and in its future. To continue that investment is something, I believe, that will be of benefit to the entire country. It is a good investment, and it would be folly to abandon that investment today or take actions that would make it cost more in the long run, when to proceed as scheduled will bring the rich cost-benefit ratio.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(At the request of Mr. Dickinson, and by unanimous consent, Mr. Bevill was allowed to proceed for 2 additional minutes.)

Mr. BUCHANAN. I strongly support the position of the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman.

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Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to add my support to the efforts of the gentleman in the well, the gentleman from Alabama (Mr. Bevill). I vigorously oppose the amendment offered by the gentleman from Washington (Mr. Pritchard).

Those of us in Kentucky are very anxious to help the people in the State of Washington regarding the tragedy of the Mount St. Helens eruptions, and I understand there is much in the supplemental appropriation for that. And indeed those of us in Kentucky are very much in favor of the project known as the Tennessee-Tombigbee Waterway.

The area in western Kentucky that I represent borders the Mississippi River. We have been dependent on that river for years for the transportation of our coal products from western Kentucky, and indeed the Tennessee-Tombigbee Waterway will expedite the transportation of coal. As western Kentucky looks forward to about four new coal conversion plants in the late 1980's, we are indeed in need of the completed Tennessee-Tombigbee Waterway in order that we can transport that coal to the Gulf of Mexico through Mobile and so that we can help solve the energy needs of this Nation. And we can help solve our energy problem if we would depend upon coal to a greater extent.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my friend, the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I want to commend the gentleman in the well, and I commend the Committee on Appropriations itself for its farsighted approach to what is now an energy problem but which really started out as a transportation problem.

As has been pointed out by the gentleman from California, the opponents of this project are late now in their opposition, because the time to have raised opposition—and there has been some opposition—was at its inception. But this project was first approved in 1945.

It has been appropriated now up to 80 percent, and if we stopped it right now, it would be a tremendous waste. I think we would be very shortsighted to stop it now.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. Bevill) has expired.

(On request of Mr. Dickinson, and by unanimous consent, Mr. Bevill was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I was very interested in learning that the Florida Power Co. has found it economical to import coal from South Africa because of the difference in rate differentials. I would certainly think that if it is economical to import coal from the Union of South Africa, we can certainly see the benefit of opening the Tenn-Tom project so that coal and other commodities can freely traverse the Mississippi River.

This is not a parochial interest. This will help the entire country, and I certainly commend the gentleman from Alabama (Mr. Bevill) and the Committee on Appropriations for coming forward with this project, which, as has been pointed out, has a 2½-to-1 cost-benefit ratio. It will help the entire economy of the country, not just the economy of a particular region.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my friend and colleague, the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I certainly want to commend the gentleman in the well for the diligence and for the reasonable approach he and his committee have taken to solve the difficult problems that come up from time to time in the field of legislation that comes before the committee.

Mr. Chairman, I would like to ask one question concerning this waterway. By how many hundreds of miles—and that is definitely a factor—will this project shorten the distance barges will have to travel?

Mr. BEVILL. Mr. Chairman, it is 232 miles that will be saved. For example, in taking rockets from the Huntsville NASA facility down the Tennessee River and on down this Tennessee-Tombigbee Waterway when it is completed in 1986, we will cut off something like this figure in this one trip, and as I recall, we will save hundreds of miles just in getting the missiles and the parts down to Cape Kennedy. This is just one example.

Mr. RUDD. That seems to be a very important factor.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BEVILL. Mr. Chairman, the waterway actually joins thousands of miles of existing inland waterways, which means that we can ship coal and any other commodities all the way from Mississippi, Alabama, Florida, Tennessee, and the entire area down there, thereby shortening the distance significantly. So this would mean a tremendous advantage in our efforts in getting our country to be energy self-sufficient.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the distinguished ranking minority member of the Committee on Public Works and Transportation.

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding.

I just wonder if it has been brought out in the debate and in the colloquy here that this matter has been ruled on a number of times by the Court. This matter has been thoroughly aired, the Court has sustained the position of the committee, and it has dismissed the final case with prejudice to filing any more cases.

Mr. BEVILL. Mr. Chairman, the gentleman is correct. There have been some two or three decisions, and millions of dollars have been spent. I do not know why these people keep on with their efforts.

We are going to finish the project. The Congress is not going to stop this project, we all know that. I do not know why they keep on wasting their money. They are throwing good money after bad.

The interesting part of it is that the project is going to benefit the railroads. Of course, they have their troubles, as most railroads have. But I just do not understand it. It really is difficult for me to understand why they keep on. It is just the same old group, and they do not even come up with one single explanation of why they are opposed to it.

They say they want studies. We invite them to come before our committee, and until this year they have not come in.

If they know something that we should know, we want to know it. The members of this subcommittee are very frugal with the taxpayers' money, and they want to know when anything is wrong. We invite them to come in.

We have had this amendment offered, and the gentleman has never been before my subcommittee. I wish he would come in because he is welcome.

The distinguished gentleman from Pennsylvania, after I criticized him last year, did come in, but he never mentioned the Tennessee-Tombigbee Waterway—not one time. He sat there and talked about the water resources policy.

He talks about how we need to check these water projects and all that. But if he knows something that is wrong with this project, something that is hidden, something that is unknown or mysterious about it, we would like to know it. I would like to know myself, because we have a big investment here and we need to protect it.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Bevill) has again expired.

(On request of Mrs. Bouquard, and by unanimous consent Mr. Bevill was allowed to proceed for 2 additional minutes.)

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, I would certainly like to express my support for the Tennessee-Tombigbee Waterway and to commend the gentleman from Alabama (Mr. Bevill) for his leadership in promoting the Tennessee-Tombigbee. This project has certainly been vital not only to my section of the country but to the entire United States as well.

We are going to open up a corridor of our country to provide transportation, to enhance our manufacturing capability, and to move our vast coal resources. It is the American consumer who is going to benefit from this project.

Mr. Chairman, I would hope that the members of this committee and the Members of this Congress see to it that we do not need to review this and rehash it further. It has been approved by us, it has been judicially approved, and I do oppose this amendment.

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my colleague and friend, the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, I rise very briefly to say that I want to congratulate the gentleman in the well. He has been a leader in this project and in all waterway projects in this country for many years now. I strongly support the position the gentleman has taken, and I oppose the amendment offered by the gentleman from Pennsylvania.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I congratulate the gentleman from Alabama (Mr. Bevill) and commend him for his leadership.

I would like to say this to all the Members concerning the cost of that waterway: The only way we can sustain our balance of trade in this country today is through our agricultural products and energy products such as coal, because these are the products that we have got to take out and sell to other countries across the world. To the people who feel that it is inflationary to build this, if we just stop this and stop the overall exports and do not allow us to increase trade, we are going to have a deficit in our trade balance that is going to be very inflationary for this country. We bring in products from other countries. We bring in Venezuelan iron ore that allows us to operate economically, and that is to go to the steel mills in Pennsylvania and other areas. This provides less cost in the overall production for the consumers of many States.

Mr. Chairman, I want to commend the gentleman for his foresight and his long-term outlook in trying to develop our country with our import programs as well as export programs. I commend the gentleman for the position he has taken.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. Bevill) has again expired.

(On request of Mrs. Smith of Nebraska, and by unanimous consent, Mr. Bevill was allowed to proceed for 2 additional minutes.)

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the distinguished gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I do not believe I can add anything to the magnificent presentation that has already been made, but I want to strongly support our committee chairman. This is going to open a new corridor for coal that is very important in this time of energy needs. The project is already 46 percent completed.

Mr. Chairman, the subcommittee chairman has done a magnificent job, and I want to express my strong support of his position.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my colleague, the distinguished gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, I would like to commend the distinguished gentleman from Alabama (Mr. Bevill) for his leadership on these projects.

The gentleman in the well has been here a good long while, and he knows a good bit about rates of various sorts. We in the Southeast have become very familiar with freight rates in the past, and we know a little something about them. That includes railroads.

I think the entire Southeast has been discriminated against on that basis for a number of years. We have some knowledge about those things, and I am sure the gentleman in the well does also.

Mr. Chairman, I commend the gentleman from Alabama (Mr. Bevill) for his efforts.

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Mr. BEVILL. In conclusion, I just wish to say that this letter which was sent out to the Members with all of these allegations, are not so. I do not know how to make it any plainer. And, actually, I am surprised that some of these gentlemen did not read it closer, or they would not have signed it.

Actually, I have the answers to every one of those questions raised prepared by professional engineers who know the answers. Professional engineers have not criticized this project to my knowledge.

I do not believe the gentleman can either, because they do not ever present any professional testimony from people who really know what it is all about. They come up here and they say, "The benefit-cost ratio is wrong." Well, that is all we get out of them. They say, "The benefit-cost ratio is wrong."

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. BEVILL) has expired.

(By unanimous consent, Mr. BEVILL was allowed to proceed for 1 additional minute.)

Mr. BEVILL. But let us talk about that a little bit. You know, they talk about that every year. We get up here on the floor and talk about the benefit-cost ratio. You know, I have listened to them so often, over the years, that I decided maybe we ought to check, maybe there is something wrong with the benefit-cost ratio, and if there is, we need to know about it.

I could name projects all over the country which, after review, showed a benefit-cost ratio greater than what the Corps of Engineers originally computed.

So I say that these benefit-cost ratios are not exactly accurate, really; they are just too modest, they are too conservative.

I want to emphasize the funds in the bill are just to continue ongoing contracts. We do not want construction to stop and the workers to be laid off.

I urge the Members to vote against the amendment.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first of all, I would like to say that I agree with the gentleman from Texas, who said that the committee, indeed, is a hard-working committee and has worked hard on these matters.

I do not believe however, that means we do not have the right to question the things that we may feel are not exactly as they should be. I realize very well that this project was first authorized in 1946, and I realize very well that some of us should have asked these questions in 1946. Unfortunately, there were not many of us around who were in a position in 1946 to ask those questions here in the House. I really do not think it is wrong for those of us who are here now to ask questions about how our money is going to be spent. I hope we all realize that those of us who are questioning this project at this time, are not saying that you have to cut out this project. All we are saying is that maybe we ought to look at our priorities. Maybe there is a limit on how much we can spend this year, and maybe we should look at where that money should be spent.

I would add something else, and that is that we determine at one time, how much money should be spent this year for that project. It appears to me that this is a discipline that makes some sense.

We have been told that contractors are working around the clock on this project. When we authorize so much money for a year, do we want to say to those contractors, "This is how much money we have to spend to go forward on this project?" or do we want to say, "Go ahead, work overtime, or do anything else you want to, spend just as much money as you want?"

We do that with our other projects. When we authorize other projects, we limit how much money we plan to spend.

I believe we should show some discipline if we are going to build these projects, and determine exactly what will be spent, and realize that if we overspend on one project, then we are going to have to cut back somewhere else, or we are going to have to increase the burden to our taxpayers.

It has been said that we would have a savings on transportation with this project, a savings of some $3 to $4 per ton. I understand however, that on this particular project, there will be no user fees assessed. I have always maintained that the users of our waterways should pay a part of the cost of the operation and maintenance of those waterways. It does not make sense to me that we should expect other modes of transportation which compete with the waterways to have to pay their share toward the maintenance of their roadbeds or their roads, as the case may be, and then say to this one particular waterway, "You folks will not have to pay anything, the taxpayers will pay all of the costs of providing your waterway." I believe it is right for us to ask these questions.

And I believe now is the time to do it. If we do hold back this project at this time, we will be serving notice upon contractors that we expect them to abide by the plans that have been made in the Congress. This is a question of what the Congress is going to decide. We have a responsibility to spend taxpayers' money wisely, and I believe that we should look at this very carefully.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Mississippi.

Mr. BOWEN. Mr. Chairman, I think the gentleman is probably not aware of the fact, when he mentioned the lack of user fees, that there is a user fee that is charged on diesel fuel on our inland waterways. It was passed here 2 years ago. It is 4 cents a gallon, running up to 10 cents a gallon in 4 years, in annual increases of 2 cents. The gentleman, I know, will be pleased to know that.

Mr. BEDELL. Is the gentleman telling me that the 4-cent diesel user fee applies to use on the Tenn-Tom Waterway?

Mr. BOWEN. It could be applied to the Tenn-Tom, and undoubtedly will be when the project is completed. The law simply names some 26 major inland waterways that are subject to the user fee or tax. It does not, understandably, name waterways which are not open. This one will not be in operation until 1986 or, at the earliest, 1985. There is plenty of time to cover the Tenn-Tom or any other major waterway we wish to see included.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. If the gentleman would respond to a comment, it is our understanding that the waterway user fee, the modest fee that was placed on the use of waterways, specifically excluded projects under construction like the Tennessee-Tombigbee Waterway, and it is our understanding that the Tenn-Tom will not have to pay waterway user fees.

I congratulate the gentleman for his interest, I would hope that if it is true that the Tenn-Tom is not included—and I hope, as the gentleman has suggested that it is—that the gentleman will join me in offering a bill and piece of legislation to make sure that the Tenn-Tom is included.

Mr. BEDELL. Before I yield further, I would like to get this straight. It was my understanding, as well, that the Tennessee-Tombigbee would be exempt from this particular user fee.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. BEDELL was allowed to proceed for 5 additional minutes.)

Mr. BEDELL. While we are trying to get this straightened out, I will yield further to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. As the gentleman in the well has said very accurately, there are a lot of questions about this waterway. Even supporters of this waterway are not sure of the particulars. I would just suggest to the gentleman from Alabama (Mr. BEVILL), who indicated that there would be a 400-mile savings, it is my information, and I think it is pretty accurate, that the savings in distance is closer to 400 miles.

Second, to the issue of the 70 percent completion, I asked the Army Corps of Engineers and the Chief of Projects to come by my office this week. They presented me with this map that I have for everyone to look at. They in fact indicate on this map that $816 million has been spent to date of allocated funds, which is a total expenditure of some 47 percent, not 70 percent. They further indicate on this map that only 46 percent of the project has been completed. And in questioning the Army Corps of Engineers and other experts, we discovered that 50 percent of the costs that have already been expended on the waterway can be recoverable through the sale of land.

I also want to indicate that the GAO killed an audit study back in 1977 and in fact in the preliminary letters that were exchanged on that GAO study, they indicated that the cost analysis of this project was faulty.

I would also point out in the area of cost-benefit ratio of the project, remember that this project is based on 3¼ percent interest rate, and if in fact you use the current interest rate on this project, the project would fall below 1 to 1.

Mr. BEDELL. Would the gentleman repeat that? I think that is pretty critical.

Mr. EDGAR. The gentleman has just said that if the current interest rate were used on this project, the benefit-to-cost ratio would go below 1.1, 1 to 1.

Mr. BEDELL. Is that using cost of money to the Government for the interest rate?

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Mr. EDGAR. That is correct.

Mr. BEDELL. I thank the gentleman.

Mr. EDGAR. I would also like to point out to my colleague from Alabama, who indicated that the gentleman from Pennsylvania brings charts to the floor and enumerates those charts. The gentleman from Alabama can indicate that any part of that chart is inaccurate or any part of the map, the red portion being the $1.9 billion section that we are constructing, the green part being the additional billion dollars, to get below Demopolis is inaccurate, I would appreciate it if the gentleman would share that for the record. In fact, I think those figures are accurate.

Second, in terms of local share, I think there is a very important point that has to be made. That is that with respect to this particular project, the local share is play money. Most of the local share—most of the local share—comes out of moneys that were provided in the Surface Transportation Act of 1976. One hundred million dollars was set aside for bridges over Federal installations. And $68 million of that has been committed to the Tennessee-Tombigbee Waterway.

I draw to the attention of both the chairman of the full committee and the subcommittee to page 59 of the hearings of the subcommittee this year. I would like to take the time of the House just to quote this particular section:

> Congressman Bob Jones from Alabama, as you recall, was Chairman of the Public Works Committee, and I discussed the problem with him. By that time, highway safety specifications required bridges far beyond what was contemplated in 1946 and the costs had greatly increased. So, Mr. Chairman, we had to cure this problem and I am proud of this. If you listen to it, you can see that it is a general law which it had to be, but it surely had local application. It is section 132 of Public Law 94-280, which reads as follows in part:

I further would quote:

> Mississippi had ten of the 13 bridges, may I say to my friend, Lieutenant Governor Dye, who I started off as page, then he served with Senator Eastland. We are glad to see you here.
>
> When we got this change in the law, and it was written because of the Tennessee-Tombigbee project, then there was a matter of the appropriation. A total of $100 million was authorized and this year we got the final $14 million. This action shows the support and the knowledge of the Congress . . .

In fact, this $68 million is included in the local share commitment.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. BEDELL was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. If the gentleman would yield further, I think we ought to look at the cost sharing of local communities. In fact, Alabama and Mississippi and the local sponsors have made little or no effort to put local money into this project. Most of the $3 billion committed to this project, most of this $3 billion, is Federal money. The very little seed money that is provided by local shares is simply not there.

Mr. BEDELL. If I could reclaim some of my time, I would like to clear up whether or not user fees will be charged on this particular waterway in terms of the diesel fuel tax.

Mr. EDGAR. Mr. Chairman, what are the purported navigation benefits of the project?

In 1975, with project costs skyrocketing beyond $1 billion, the corps realized that the benefits of the project were insufficient to offset the new costs. Therefore, they commissioned a new benefit study for the waterway—an action unprecedented for an ongoing project.

The previous economic study (done in 1966) had estimated that the project would carry 8 million tons of traffic in its first year of operation, and that 80 percent of the traffic would be northbound. Less than 2 million tons of coal were projected to be shipped on the waterway.

The new economic analysis—completed in 1976—reached several astonishing conclusions. First, it estimated that the project would carry 28 million tons of traffic in its initial year of operation. Second, it projected that the project would carry 18.5 million tons of coal in its initial year. And third, it estimated that 90 percent of the traffic would be southbound—a complete reversal of flow from the 1966 study. Even with these surprising findings, the benefit/cost ratio remained marginal. And a careful analysis of the 1976 study reveals it to be utterly baseless.

The conclusions of the study relating to traffic volumes and flows resulted from a series of interviews with prospective shippers on the waterway. The corps then "selected" 121 annual movements of commodities as the base tonnage for the project. Thus, the accuracy of those movements is absolutely critical to a favorable benefit/cost ratio for the project.

The evidence is overwhelming that many of those projected traffic movements are illusory. For example:

> The Corps projects that Gulf Power Company will ship nearly 8 million tons of coal from Harriman, Tennessee, and Shawneetown, Illinois to power plants in Florida during 1987, the project's first year of operation.
>
> However, officials of Gulf Power say that they will ship no coal whatever on the waterway.
>
> Th Corps estimates that Kentucky Energy Development Corporation will ship 2.4 million tons of coal via the Tenn-Tom.
>
> However, Kentucky Energy Development Corporation is out of business and the coal mine relied upon by the Corps has never been in existence.
>
> The Corps lists Hawley Fuel Company of New York as a coal shipper on Tenn-Tom to the tune of 1.5 million tons a year.
>
> However, Hawley Fuel owns no mines anywhere in Alabama and has no plans to use the waterway.
>
> The Corps states that Hammermill Paper Company will abandon rail transportation and instead ship 22,000 tons of wood pulp on the Waterway.
>
> However, officials at Hammermill have stated that they do not intend to use the Waterway.
>
> The Corps estimates that Freeport Sulfur Company will ship 350,000 tons of sulfur on the waterway. However, officials of the company state that such shipments are extremely unlikely.
>
> Officials of coal companies and barge companies have stated that the Corps' estimated coal movements on the project will never materialize. Among the reasons are:
>
> (a) Such movements would require a 500 percent coal production increase in the Chattanooga area in a mere 7-year span.
>
> (b) Terminal facilities in Mobile and elsewhere are insufficient to handle such an increase.
>
> (c) Coal production in the entire state of Tennessee would be required to double or triple in order to reach such levels of movements on the project (a study by 3R Corporation shows that Tennessee coal production actually will decline from 10.3 million tons in 1977 to 10 million tons in 1986).
>
> (d) If coal leaves southern Tennessee at the rate the Corps estimates, all of southern Tennessee's current recoverable reserves would be depleted in 15 years. The Corps gives the Tenn-Tom an economic life of 50 years.
>
> (e) Amax Coal Company has shelved major coal development plans in the project area for environmental reasons.

Based upon the foregoing evidence, experts have concluded that nearly three quarters of the claimed navigation benefits for the project are spurious and fictitious. Without such benefits, the benefit/cost ratio for the project sinks well below one to one.

In addition, an unreleased report of the General Accounting Office has concluded that the Corps double-counted navigation benefits on the portion of the project from Mobile to Demopolis by failing to account for traffic congestion in this reach of the river. Adjustment of the benefit/cost ratio based on correction of this error alone would by itself bring the b/c ratio down close to unity.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Mississippi.

Mr. BOWEN. I will be happy to respond to the gentleman's concern about waterway user fees.

I rechecked the 1978 legislation, Public Law 95-502. The existing major waterways in operation are the ones specifically subject to the user fee. The Tennessee-Tombigbee is not exempted. It is simply not yet covered because the law was passed to apply to waterways now in operation. This one will not be in operation until 1986.

I doubt that there is anybody in the House who presumes that any major waterways with substantial Federal investments will be exempted in the future from the user fee.

Mr. BEDELL. If I may reclaim my time, I would question it. We had a difficult time getting any user fees on our waterways, and the user fees that were adopted, in my opinion, were not proper. I thought our user fees should have been based on a percentage charge so that the users know that if they save money on the operation of that waterway, they themselves would save money. Maybe the gentleman feels very confident that user fees will be added to this waterway. I do not believe that there is necessarily any assurance of that, particularly in view of the battle that was required in order to get user fees on the waterways that were already developed, and if the gentleman from Mississippi is correct in his interpretation of the user fee legislation, what was the purpose in wording the bill so that it stated that it would only apply to those projects that were already constructed, and by implication lead one to believe it did not apply to those that were under construction but not completed?

I am especially concerned that we be wary of accelerating funding for a project that has the potential for extremely high operation and maintenance costs.

The Corps of Engineers presently estimates that the annual operation and maintenance costs for the project will be $6,743,000. Over the 50-year life of the project this cost will be over $335 million. Even this figure, however, is ludicrously low for several reasons.

First, however, it is important to note that the users of Tenn-Tom will pay not one dime in construction or operation and maintenance costs for the project. Indeed, the minimum fuel tax imposed upon waterway users in 1978 specifically exempts the Tennessee-Tombigbee project from payment. Thus, the taxpayers will continue to pay the operation and maintenance costs for the project ad infinitum.

And these costs will be much greater than the $6.7 million estimated by the corps.

In the first place, that cost does not include the mitigation costs for the project, which will reach at least $100 million.

In addition, the opinion of experts is that much of this narrow barge canal will require extensive rip-rapping and other bank protection and stabilization measures, thus increasing the cost by a factor of at least 25 percent. Under such circumstances, the ultimate project cost would be closer to $4 billion than to the presently-estimated $3 billion.

It simply does not make sense to throw increasing amounts of money into a project that already costs over $3 billion, at a time when we are all being asked to cut back, when the known O. & M. costs for the project are so high, and the suspected O. & M. costs are so outrageous. I urge support for the amendment.

Mr. BOWEN. If the gentleman will yield further, the users of the waterways supported the user fee that was adopted by the Congress. I voted for it myself.

Mr. BEDELL. Of course.

Mr. BOWEN. As I pointed out, the legislation names the waterways covered, and this is reasonable because if the statute simply applied to every navigable waterway without distinction then everyone who owned a boat and bought diesel fuel would have to pay the tax. The idea is to tax the users of certain waterways where the Federal Government has made a heavy investment. That calls for statutory designation, something which I feel sure will at the appropriate time be done for the Tenn-Tom Waterway.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I hope I may have the attention of my colleague from the State of Washington. Our subcommittee had already reported the supplemental appropriation bill when a terrible tragedy hit the gentleman's State of Washington. We reintroduced the bill to try to meet the gentleman's needs out there. That is right and fair play.

Back through the years we realize that this is a big Nation that we have. I took part of the heat when the Bonneville Power Administration was authorized which made the Northwest one of the great sections of this country. It was federally built. It is a great asset.

I supported the St. Lawrence Seaway.

Let me say this. The argument for this amendment, if you will analyze it, actually works against the amendment. The proponents say they are not stopping the project. They are delaying it. We all know that the longer you delay any project, the more expensive it becomes. Not only if you delay it do you add to the cost, because of what is happening to the dollar, but you postpone the benefits derived from the use of coal.

I heard my colleague from Pennsylvania refer to interest rates. The administration a few years ago wanted to charge the current interest rates on cost but not use the same interest rate in determining the benefits in the same proportion in view of the change in the dollar value. Of course, that is ridiculous. If the costs increase, the benefits must increase also.

We are not talking about a rule of thumb by some technical person. Some 70 percent of the funds needed for the project have been committed, and if I accept the gentleman's figures, you have got to match the benefits of completing it against the cost of completing it; and the benefit-cost ratio is 2.5 to 1.

Let me repeat, it is stated here that what is being sought is delay, but not stoppage, which increases cost and postpones the day when the project will be available and will yield benefits. But let me tell you why this $58 million is in here. And I might add at this point that this bill is within the budget resolution adopted by the Congress. The contractors made firm contracts with the Government in which they estimated the cost of their fuel. The cost of fuel has gone up so fast that to keep from going broke they have to work as fast as they can before fuel goes up more. So the contractors are working rapidly. They are tied to a firm figure. If they do not work rapidly before costs go up more they will go out of business. All of us know that inflation was rampant early this year.

Let us see, if the gentleman has his way about delaying this project further, you not only put out of work some 3,200 employees now working, who will go under unemployment compensation, but many others who are not working onsite will also be affected.

□ 1220

So I say to you, I think that we should reject this amendment. Do not vote to delay the project. If anything, let us speed it up, keep it from costing more and start getting the benefits.

Let us keep in mind that what is involved here, is a slack water route north. When you go north, you go into the heart of the coal fields, and goodness knows, with all due deference to nuclear power, I wish we could all turn to coal. Let us not delay the time when that coal will be easier to get out of that biggest coal section in the United States.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding.

The gentleman in the well knows a great deal about this project; I just have two questions to ask the gentleman.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has expired.

(At the request of Mr. EDGAR, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Mr. Chairman, if the gentleman will yield further, just two quick questions.

Would the gentleman in the well agree that the construction of the Tennessee-Tombigbee Waterway north of Demopolis will give you a north-south corridor for moving eight tow barges; but that, in fact, if the Tennessee-Tombigbee Waterway is to be used below Demopolis, the green section of the map, that the corps will have to, as it has indicated in its aerial photographs, straighten out the lower Tennessee-Tombigbee Waterway in order to use the waterway for the kind of commerce that the gentleman has suggested.

Mr. WHITTEN. That could well be true, but that lower portion is not authorized, we are not seeking authorization, and we are not proposing funds for that. This bill provides funds to continue ongoing contracts to keep people working and to bring project benefits on line as scheduled, but may I say this, and I am trying to be frank about it. The Pacific Northwest area had more power than they needed for many, many years, but the area is actually short of power now.

I am sure that traffic patterns are not going to change overnight when you get the Tenn-Tom completed. It takes time for industry to rearrange that.

I am also convinced, seeing the development in the Pacific Northwest and seeing it in the Northeast, that despite what some of the railroads may think, waterways do bring industry. We have a big FMC plant north of Tupelo that came there because of this waterway use that they could see in the future. It is going to generate activity where everybody will prosper, including the rest of the United States. Now, that has been the history of other projects we have constructed in this country, notably the McClellan-Kerr navigation project in Oklahoma and Arkansas, and the central Arizona project.

I would like to say here that at my request the committee appropriated the first $500,000 to start this project.

I would like to say to the gentleman about the bridges he referred to earlier, I would like to point out to him that under present conditions if it was being authorized today, you would provide for crossings. The bridges now require safety features and all these things that were not required earlier. If we have a water project initiated as of now, all these other things will be included to start with; so we did nothing except give fair treatment to these areas.

I say again, that while the gentleman did appear before the committee; but living as far away as the gentleman does, he does not have the viewpoint that I think is essential here.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has again expired.

(At the request of Mr. BEVILL, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. Mr. Chairman, may I say again, everybody agrees that we are going to complete the project that is spoken of here today. If we are going to complete the Tennessee-Tombigbee Waterway, is it not wise to go ahead and get through with it as quickly as possible and get the benefits from it?

Is it not wise to reject this amendment in order to obtain the means of transporting this coal just as fast as we can?

Is it not wise to avoid the payment of unemployment compensation benefits to people who want to work?

So I say again, since we are committed and since construction has been underway for 8 or 9 years and since it has been approved by the Congress and most everybody agrees it should be completed, let us go ahead and complete it and not delay it further and create the very situation about which you complain.

Mr. EDGAR. Mr. Chairman, if the gentleman would yield further, I just have one additional question. I am not sure the gentleman answered my first question; but the second question is relating to the contractors. We committed in November last year $165 million for the project. Because the contractors wanted to accelerate their activity, we have administratively moved over almost $30 million more. Does not the gentleman in the well think that $194 million this year is sufficient money for those contractors to complete the significant section, so that we can at least stay within our budgetary constrains?

If the amendment is not adopted, does not the gentleman agree that almost $81 million more will be spent on this project than was authorized and appropriated by the gentleman from Alabama (Mr. BEVILL)?

Mr. WHITTEN. Mr. Chairman, may I say to the gentleman, he is right in his viewpoint, except that the money is within the ceilings established by the budget resolution. The project will provide jobs and it will prevent money from being spent on unemployment compensation. The project will cost more the longer you delay it and the benefits are going to be postponed the longer you delay it.

So I do not see any sound reason for slowing down the project.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has again expired.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. WHITTEN. Mr. Chairman, may I conclude by saying that the funds in the bill is the estimate given to us by the corps as to the minimum needed to fund ongoing contracts. Let us not delay this project which we all agree is going to be completed. Let us do it now and defeat the amendment.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, I do not object to public funds being used to develop a major project if its benefits are shown to justify it. I do not object to creating competition for troubled railroads if there is independent justification on its own merits, or if private investment is involved or local funds, nor do I like to be aligned against my good friends who are the powerful sponsors of this project or others who have supported it; but I am deeply troubled by doubts whether much of the alleged benefits from the Tennessee-Tombigbee project can be substantiated and whether they will ever materialize. It has to be asked in this forum whether a very significant percentage of the project's navigation benefits are supportable or are a myth. A look at the history of these benefits is, therefore, instructive.

In 1975, with project costs skyrocketing beyond $1 billion, the Corps of Engineers apparently realized that the estimated benefits of the project were insufficient to offset the new costs. Therefore, they commissioned a new benefit study for the waterway—an action unprecedented for an ongoing project.

The previous economic study, done in 1966, had estimated that the project would carry 8 million tons of traffic in its first year of operation, and that 80 percent of the traffic would be northbound. At that time, less than 2 million tons of coal were projected to be shipped on the waterway.

The new economic analysis, completed in 1976, reached several surprising conclusions. First, it estimated that the project would carry 28 million tons of traffic in its initial year of operation, a 250 percent increase. Second, it projected that the project would carry 18.5 million tons of coal in its initial year, an 825-percent increase, and third, it estimated that 90 percent of the traffic would be southbound—a complete reversal of flow from the 1966 study. Even with these surprising findings, the benefit/cost ratio remained marginal. And a careful analysis of the 1976 study would question its basis.

The conclusions of the study relating to traffic volumes and flows resulted from a series of interviews with prospective shippers on the waterway. The corps then "selected" 121 annual movements of commodities as the base tonnage for the project. Thus, the accuracy of those movements is absolutely critical to a favorable benefit/cost ratio for the project.

The evidence suggests that many of those projected traffic movements are illusory, or out of date. Let me give you some examples. Maybe there is an answer, but until they are aired in a full-dress congressional hearing, we are not going to be able to evaluate those answers.

The corps projects that Gulf Power Co. will ship nearly 3 million tons of coal from Harriman, Tenn., and Shawneetown, Ill., to powerplants in Florida during 1987, the project's first year of operation.

However, officials of Gulf Power say that they will ship no coal whatever on the waterway.

The corps estimates that Kentucky Energy Development Corp. will ship 2.4 million tons of coal via the Tenn-Tom.

However, Kentucky Energy Development Corp. is out of business and the coal mine relied upon by the corps has never been in existence.

The corps lists Hawley Fuel Co. of New York as a coal shipper on Tenn-Tom to the tune of 1.5 million tons a year.

However, Hawley Fuel owns no mines anywhere in Alabama and has no plans to use the waterway.

The corps states that Hammermill Paper Co. will abandon rail transportation and instead ship 22,000 tons of wood pulp on the waterway.

However, officials at Hammermill have stated that they do not intend to use the waterway.

The corps estimates that Freeport Sulfur Co. will ship 350,000 tons of sulfur on the waterway. However, officials of the company state that such shipments are extremely unlikely.

Officials of coal companies and barge companies have stated that the corps' estimated coal movements on the project will never materialize. Among the reasons are:

First, such movements would require a 500-percent coal production increase in the Chattanooga area in a mere 7-year span.

Second, terminal facilities in Mobile and elsewhere are insufficient to handle such an increase.

Third, coal production in the entire State of Tennessee would be required to double or triple in order to reach such levels of movements on the project (a study by 3R corporation shows that Tennessee coal production actually will decline from 10.3 million tons in 1977 to 10 million tons in 1986).

Fourth, if coal leaves southern Tennessee at the rate the corps estimates, the coal shippers in that area estimate that all of southern Tennessee's current recoverable reserves would be depleted in 15 years. The corps gives the Tenn-Tom an economic life of 50 years (35 years longer than the coal).

Fifth, Amax Coal Co. has shelved major coal development plans in the project area for environmental reasons.

Based upon the foregoing evidence, experts have concluded that nearly three-quarters of the claimed navigation benefits for the project are spurious and fictitious. Without such benefits, the benefit/cost ratio for the project sinks well below 1 to 1.

In addition, an unreleased report of the General Accounting Office has concluded that the corps double-counted navigation benefits on the portion of the project from Mobile to Demopolis by failing to account for traffic congestion in this reach of the river. Adjustment of the benefit/cost ratio based on correction of this error alone would by itself bring the benefit/cost ratio down close to unity.

I believe that the Congress should be exceedingly careful about increasing the level of funding for a project whose benefits are so thoroughly questionable. I therefore urge support for the amendment. We should hold back until congressional public hearings can discern the validity of these benefit-to-cost ratios. I agree with the gentleman from Mississippi, chairman of Appropriations.

□ 1230

RESCISSION OF $8 MILLION UNDER SOLAR TECHNOLOGY

(By unanimous consent Mr. RHODES was allowed to speak out of order.)

Mr. RHODES. Mr. Chairman, I take this time to address a question to the chairman of the Subcommittee on Public Works, my good friend from Alabama (Mr. BEVILL), regarding an $8 million rescission under solar technology. It is my understanding that this reduction applies broadly to solar technology and that the committee intends that the photovoltaic projects such as the Phoenix Skyharbor project would continue to receive funding. Is that a correct understanding?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman.

Mr. BEVILL. The gentleman is correct. This is the intent of the committee.

Mr. RHODES. I thank the gentleman and yield back the balance of my time.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was so persuaded by the gentleman from Mississippi that I hesitated to take 5 minutes, because I am not rising in opposition nor support of the Tombigee project. I am not naive enough to believe that it is not going to be built. I think it is going to be built if we can turn back the clock perhaps and talk about this.

But I am very concerned not about just this project but about a principle that we are overlooking here, if I am not mistaken. If I am mistaken, I want to be corrected.

My concern has been throughout not only this debate, this is only a convenience for me to raise this issue, I would tell my friend from Mississippi, but my concern is the whole nature of the way we fund discretionary projects in the Federal Government. It has nothing to do with water projects; it is across the board.

I believe we will only balance the budget ever in the history of this country if we do require local sponsors to share some part of the load, because then they will determine whether or not the project is so valuable that they are willing to put up their share. I am not arguing what the share should be, 5 percent, 2 percent, whatever percent.

My concern here is, as I understand the law, the local sponsors; that is, the States, would be required to do the bridges and would be required to put up the money for the recreational facilities, as is true in all of the other water projects if they are going to do a recreational facility. So it is only to that I address my remarks at this time.

I think if we do slow this down—I do not know if this $58 million is going to slow it down that much, given the tremendous amount of appropriations here—but it will cost more money, inflation being what it is. But, at the same time, we are asked not to slowdown, we are being asked by this committee to accelerate the program, not even leave it at its same level, but to accelerate the program and, at the same time, we are being asked to accelerate the already rather high rate of funding, and I am particularly concerned that the local sponsors of the project have failed to meet their legal responsibilities. That is my fundamental issue here.

The authorizing act, as I understand it, for the Tennessee-Tombigbee, requires that the local sponsoring agencies in Alabama and Mississippi fully defray the costs of any highway bridges for the project. These agencies are required to defray the costs of recreational facilities for the project. It would appear that the local agencies have utterly failed to discharge those responsibilities.

The current estimated cost of the non-Federal share of this project, I repeat now, the non-Federal share, is $165 million, which is a pretty dramatic increase. Really it is going to put a lot of strain on those States. But that is the requirement. It is a dramatic increase over the 1974 estimate of $49 million. It is four times that amount.

It would appear that the local sponsoring agencies have simply been unable to come close to paying their share. Indeed, rather than paying for their legally required share of the projects, the States of Alabama and Mississippi have secured what appears to me now, I may be wrong, but it appears to me they have secured a Federal bailout of those responsibilities which rivals anything we have done for American industry. The Federal Aid Highway Act of 1976, Public Law 94-280, contained an amendment which ostensibly made available $100 million for Federal public works projects throughout the country. However, as it turned out, the intent of the sponsors was not to aid the country in general so much as it was to bail out local projects, apparently, because, in fact, of the $100 million appropriated, the Tennessee-Tombigbee has received at least $86 million of that $100 million.

I am not even saying that that is wrong. I return to my principle. My principal concern is that whether we are doing an EDA project or water project or any of the rest, we just have to, in this time of enormous Federal deficits, with States generally running a surplus, we have to act responsibly.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I certainly yield to my friend from Mississippi.

Mr. WHITTEN. May I say the act was passed in 1946, and at the time this came up, at my instance, if I may say so, I was a spokesman for quite a group. This is not a local project. The testimony shows that 23 States will be benefited.

Mr. FITHIAN. I understand that.

Mr. WHITTEN. So while in 1946 there was one set of circumstances to qualify the project, by the time construction was started we were dealing with other projects in an entirely different way. As you know national projects such as the St. Lawrence Seaway, the Bonneville Power Administration, and others that served big areas were looked at under different criteria. What we did in this instance was to treat this project like we would treat another project under modern conditions.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has again expired.

(By unanimous consent Mr. FITHIAN was allowed to proceed for 5 additional minutes.)

Mr. FITHIAN. I yield to the gentleman.

Mr. WHITTEN. What this did was to broaden this authority under the discretion given in the original act. The size of the canal was greatly changed. The bridges that are built now have to meet EPA standards, at the time Tenn-Tom was authorized they did not.

Mr. FITHIAN. I understand that.

Mr. WHITTEN. So in view of all of the different requirements which we have today and which we provide for in new projects, we had to provide for those requirements in this project to make it equal to those projects currently being authorized. That is the reason for this.

Mr. FITHIAN. I understand the gentleman's presentation. But the fundamental question still goes unanswered. The fundamental question is will the States of Mississippi and Alabama be able to meet their local share requirement. That is the fundamental question.

□ 1240

Mr. WHITTEN. Right now it is my understanding that the Mississippi State Highway Department has expended $58.8 million to date and committed itself to an additional $48 million for relocations to complete these bridges in the last year. But may I point out to the gentleman—and he is a very able Member of Congress—are we not talking about what ought to be done in his judgment? In my judgment, what we did is in line. But now we are talking about $58 million for the project. If the gentleman is right about this, and I do not think he is, but if he is right, is it not true that it would cost us more money by postponing the date of project completion? The amendment before us would slow the project down when costs are going up. That is what has happened to every project under construction.

Mr. FITHIAN. I respect the gentleman for his comments. I have no doubt about the outcome of this amendment. I have no doubt about the building of the Tombigbee. My concern here, as I said at the outset, is the principle involved, and that is when we go into a particular project, will the States or will not the States be required under the law to meet their legal responsibility for their share? That ought to be applied, I say to the gentleman from Mississippi (Mr. WHITTEN) to all aspects of government. We cannot just willy-nilly overlook that.

Mr. WHITTEN. I cannot argue with the gentleman about what he might wish to do to change the law in the future. I would suggest that is not a reason to postpone completion of this project and make it cost more and delay the project benefits.

Mr. FITHIAN. Let me quote for my good friend a report that was never issued—a report that was never issued—dealing with this. This report is from the Army Audit Agency—that is getting right down home—to the Corps of Engineers, where the Army Audit Agency said the projected non-Federal participation may not materialize. This was their judgment based on the latest data available. The States' participation may fall short as much as $170 million.

I come back to that point. Either we are or we are not going to require local sponsoring agencies to meet their legal responsibilities in this case. It seems to me that we are not going to require them to meet their legal responsibilities. In point of fact, if my figures are correct, the State of Mississippi has spent only $8 million to carry out its legally required duties. The gentleman says that they are going to spend another $40 million.

Mr. WHITTEN. They have spent far more than that as of now.

Mr. FITHIAN. Not $40 million or $50 million, but if the Army Audit Agency is correct, $170 million. That still leaves us far short.

I just would urge my friend, the gentleman from Alabama, and my friend, the gentleman from Mississippi, and all members of the Committee on Appropriations, to give very, very careful attention to the fundamental principle that I believe is at stake—not in this amendment. I only speak to this amendment casually. I speak to the principle seriously, and that is to give serious consideration to the question of whether or not we should move forward on a project, accelerate it or do anything else, until and unless the States meet their legal responsibility. A local cosponsor of a bill meets his.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding. I will answer his question right now. He asked whether there is presently a failure of local sponsors to meet the requirements of local cooperation on the Tennessee-Tombigbee project. The answer is no. There is no failure on the part of the local sponsors to meet their requirements.

I appreciate the gentleman is on a fishing expedition here, but the answer to his question is no.

Mr. FITHIAN. No, I am not on a fishing expedition. I reject that; I do not resent it, but I reject it for this reason. Let us be reasonable men and women here. If you have a project and you are going to appropriate Federal money to pay for the project, and then there was some one Federal program—and this is done so much through the Government; that is the reason we cannot balance the budget not just here but everywhere throughout the Government——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. If we say we are going to spend x number of Federal dollars on any project, and if we say under the law a State or local sponsor, whatever it is, a county, is supposed to come up with 3 percent or 5 percent of that money, if that county then is allowed to take another Federal funding program, through whatever means, and divert it to meet the local responsibility, then reasonable men and women, whatever party or persuasion, would reject the notion that the State has met its responsibility.

So perhaps the gentleman from Alabama is correct that technically they have met their current rate of responsibility, erroneously—I think illegally. But beyond that the Army audit section says it is highly unlikely they will meet it.

What I would like to know from either of the gentlemen is, is it their best judgment—I am postulating the question—that the States involved, the local sponsors involved, will in fact under the law meet their requirement for local funding?

Mr. WHITTEN. If the gentleman will yield, I will give him some figures. As of June 1, 1980, the Alabama sponsor, the Tombigbee Valley Development Authority has spent approximately $17.5 million for relocations; $5,445,000 additionally has been committed by the local sponsor. In addition, the Tombigbee River Valley Waterway Management District, the local sponsor in the State of Mississippi expended approximately $58,800,000 and has committed an additional $47,946,000 for relocations in connection with the waterway. This is 78 percent of the total non-Federal cost estimate of $165 million for relocations. But the balance of the local share will be paid, I will tell the gentleman. I will say again, whatever we may work out regarding this matter—and I agree we have to—does not justify delaying its completion.

Mr. FITHIAN. I am not arguing that case. I am just saying all the information I have is that they have not met their responsibility.

Mr. WHITTEN. I do not want the gentleman to build up some reason to vote for this amendment.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise not because I have any particular expertise on the technical details of this project or any public works project, for that matter, but I support this amendment because I think it is about time that someone blew the whistle around here on the misguided notion that giant public works projects are unambiguously in the national interest, are an undisguished, unequivocal economic blessing just because someone comes up with a mechanical count showing the number of construction jobs, the number of permanent jobs, the amount of barge traffic, the amount of revenues that might be generated by the completion of a project of this sort, or even if they come up with an artificially contrived cost-benefit ratio demonstrating that this might be a viable idea. I would submit to this House that all of those conclusions about the worthiness of projects based on that sort of reasoning employ single-entry bookkeeping, employ only a partial account of what the real economics are, what the real impact is of going ahead with a project of this sort.

I would like to suggest specifically to the House that that kind of analysis on which this whole project is based ignores two very important and fundamental things that have to be added to the equation if you want to come to a valid judgment as to whether or not it is viable to go ahead. I think the first thing that we have to recognize with a massive multibillion-dollar project of this sort is that some of the jobs that will be created on construction, and permanently, some of the economic activity that will be generated by this project does not represent a net gain to the national economy in addition to the GNP. It simply represents a shift, a reallocation of activity away from other areas, other industries, other transportation systems, other parts of the county. Some of the barge traffic is going to displace normal traffic that would otherwise occur. Some of the barge traffic is going to displace other traffic that otherwise would move down other waterway systems, the Mississippi, obviously. Some of the economic activity that is counted up in order to justify this huge cost simply represents activity being moved from Town A to Town B, or from one industry to another, from one plant to another. In fact, I would suggest to the House that by expanding the infrastructure of the Tombigbee system in terms of a water transportation system, you are going to end up diminishing the economic activity that surrounds existing complexes today.

□ 1250

Now the other point is never looked at, that you have to count the opportunity costs of applying $1 billion or $3 billion worth of capital over a decade period or longer which this project would do, because it seems to me that if you spend $3 billion to build this kind of new transportation system or transportation complex, then that money is not going to be available to build steel plants, to build new auto plants that this country needs, to build synfuels plants this country is going to need over the next decade and I would suggest if we use a 3.5 percent discount rate which is the figure used to calculate the economics of this project, we are ignoring economic reality because there are no investments in our economy today for major capital purposes of this sort that promise a return——

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield in a moment as soon as I may finish my other point.

Mr. Chairman, I would suggest to the House, today, if we are unwilling to look at the displacement affects, just moving around economic activity, shuffling it from one part of the country to another, if you are unwilling to look at the opportunity costs of diverting huge amounts of our national resources and capital to this questionable and marginal project, then you might as well employ single-entry bookkeeping all the way, go whole hog and build a pyramid in every State because that would generate a lot of jobs, at least for a temporary period of time and if you think that is too farfetched, then do something like buying the Jefferson Avenue plant that Chrysler shut down because it was obsolete and use it to build buggy whips and mechanical cash registers and some other obsolete products which the economy does not need. It would generate jobs and economic activity.

Mr. Chairman, the point is, we cannot look at these projects in terms of their aggregate investment, in terms of what they generate in the local area. We have to look at them in terms of their marginal productivity. Do they add to the efficiency, do they add to the competitiveness, do they add to the technological advance that this economy is going to need.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. I would suggest if the House were willing to look at this, Mr. Chairman, in this kind of national context, then we might have some reason to want to slow down, take a careful look at it and to say, "Given the enormous capital needs of this country, the fact that we are in a total new ball game in the 1980's—it was different in the fifties when we had funds available for this—I think we might decide we ought to take a second look."

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I will be happy to yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I commend the gentleman. I think the gentleman has made some excellent points. We do not appropriate funds for projects computed just on the basis of regional benefits. The benefits on this project were computed on the basis of national benefits, the benefit to the entire country. The gentleman is absolutely correct.

Mr. Chairman, I would like to point out that what we are talking about here, though, is an appropriations bill for dozens of projects throughout the country. Contractors all over the country are running out of money. They have their heavy equipment out there. They have 20,000 people working. They are working today, but next week, or 2 or 3 weeks from now, they are not going to be working because they are going to be out of money. There are probably 100 different projects that we are talking about, not just the Tennessee-Tombigbee.

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

I would like to state to the gentleman who just spoke in the well, the very point the gentleman makes is a point that has come up extensively in discussions in our authorizing committee over the years. As a matter of fact, it was for that reason we moved toward the staging of the authorizations, away from just an authorization for construction of a project, to staging the authorization in the direction of the advance engineering designs so we could make further evaluation. This has been in effect now to my knowledge probably for the last 6 years.

Mr. Chairman, this particular project, of course as we know, was authorized back in the forties and I will not get any further into this but the authorizing committee has in fact been directing itself to where we should go with the investment in these public works projects and revise the authorization to conform to that.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I appreciate the gentleman's yielding, Mr. Chairman, because the gentleman speaking is a very fine member of the Public Works and Transportation Committee upon which I serve, I think he can respond to this concern.

The gentleman has made some very fine points. I wonder if the gentleman would respond to this point: In November of last year we were going to appropriate $165 million for this project. Administratively we transferred almost $30 billion for this project. The gentleman has supported and I think rightly, many good projects around the country. I wonder if the gentleman is willing to commit another $58 million, some of which could be used for other very worthy projects to do the very same thing as accelerate construction for a private construction company.

Mr. CLAUSEN. Mr. Chairman, it is my understanding that this particular project at this time is out of money. There are some 3,000 employees who are involved. I for one would want to make certain that adequate funds will continue this project in line with the basic authorization. As I understand it, the funds in this bill are to continue ongoing contracts so that work will not stop and employees will not lose their jobs.

Mr. Chairman, I yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Washington.

Mr. PRITCHARD. I appreciate the gentleman yielding.

The Chairman said we are coming close to the point of no return on the Tennessee-Tombigbee project. I would agree. In no way are we close to 80 percent completion of this project. I know of no one who will not admit that we have to do the lower half of this waterway or this project is not going to be practical and it is not going to function. That means an additional $1 billion. We have about total of $3 billion project and have put $700 to $750 million into it now. We are very close to the point of no return and that is why I think it is time to take the last look that we can.

Now, Mr. Chairman, with regard to the cost-benefit ratio we have to look at this because it is based on coal, the shipment of coal. All you have to do is read the reports on coal to have doubts.

Let me read several things here. This is from Coal Week, their journal:

> The Corps is "pipe dreaming" if it anticipates 7- to 8-million tons of export met coal moving on the TTW out of southern Tennessee's Sequatchie and Walden's Ridge areas, according to Bill Allison, president of Tennessee Consolidated . . . Pete Serodino, the largest marine contractor on the Tennessee River, says the Kearney figures "would mean every ton produced in this area would have to go to Mobile, and I just don't see that happening . . ." Among the factors cited by Allison, Serodino and others are current condition of the export market, TVA purchasing practices, extraction problems, limited reserves, lack of adequate preparation plants and terminal facilities.

And one other thing I would ad, this is the wrong kind of coal for foreign export. If you read the coal journals you will find this is high sulfur and it is low sulfur that is being exported and the low sulfur is going out of Norfolk in the East and will continue to do so.

Finally, Mr. Chairman, if you want to know what we want here, I will tell you what I want. I want a GAO report on this thing. I want the report that was started and was stopped, for whatever reason. I want it unleashed and I want it finished. If the GAO report comes in and says this project will stand the light of day, then I will support it.

Mr. Chairman, if we want to have the support of the Nation for projects like this, I think we have to honor a GAO report. There are too many people in this country who say there is something wrong. It is not just a column in the Reader's Digest, it is not just a column in the Wall Street Journal or Coal Week or the Birmingham Herald or the Washington Post or the Washington Star. Something is wrong.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I will yield to the gentleman.

Mr. BEVILL. If the gentleman will simply come before our committee and testify and let us know why we ought to have a GAO report, I am convinced the committee would consider anything the gentleman requests. We should not try to write the bill on the floor of the House. This is always a bad way to write an appropriations bill.

Mr. PRITCHARD. Of course it is.

Mr. BEVILL. We are talking about 100 projects here. We are not talking about one project. There are 100 projects in this bill that have run out of money affecting the employment of 20,000 people if these funds are not approved.

Mr. PRITCHARD. Mr. Chairman, the gentleman is absolutely right.

Mr. BEVILL. We cannot talk about one without talking about all of them because they are all affected in the same way.

Mr. PRITCHARD. Mr. Chairman, let me reclaim my time. It is my amendment and I have not really talked very much, on this floor or on this amendment.

We noticed when the members of this committee mount the barracade, it is a little difficult for the average Member, it is not, to take on the Committee of Public Works and Transportation and the Committee on Appropriations. But somebody has to ask the questions because there are too many Americans today who think there is something wrong with the Tennessee-Tombigbee project.

Mr. Chairman, you give us a GAO report and that is positive I will support it. However, I contend the GAO report will come out very negative on this project if the information I have uncovered is accurate.

Mr. Chairman, I yield back the balance of my time.

☐ 1300

Mr. NATCHER. Mr. Chairman, I move to strike the appropriate number of words.

Mr. Chairman, this amendment should be defeated, and I respectfully request a vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Washington (Mr. PRITCHARD).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PRITCHARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 230, not voting 18, as follows:

[Roll No. 342]

AYES—185

Annunzio
Archer
Aspin
Atkinson
Bafalis
Barnes
Bauman
Bedell
Bereuter
Bingham
Bolling
Bonior
Bonker
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Cheney
Chisholm
Clinger
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derwinski
Devine
Dodd
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Forsythe
Fowler
Frenzel
Gephardt
Gingrich
Glickman
Goodling
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Heckler
Heftel
Hollenbeck
Hopkins
Hughes
Hyde
Jacobs
Jeffords
Kastenmeier
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lee
Leland
Lent
Loeffler
Lowry
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moore
Mottl
Murphy, Ill.
Murphy, Pa.
Neal
Obey
Ottinger
Paul
Pease
Petri
Peyser
Porter
Pritchard
Pursell
Quayle
Railsback
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roth
Rousselot
Russo
Santini
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Snowe
Solarz
Solomon
Stack
Staggers
Stanton
Stark
Stockman
Studds
Swift
Tauke
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Whitehurst
Williams, Mont.
Wolpe
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NOES—230

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Ashbrook
Ashley
AuCoin
Badham
Bailey
Baldus
Barnard
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bouquard
Bowen
Brademas
Breaux
Brooks
Brown, Ohio
Buchanan
Burgener
Burlison
Butler
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Coelho
Coleman
Conyers
Corman
Cotter
Daniel, Dan
Daniel, R. W.
Danielson
Davis, S.C.
de la Garza
Derrick
Dickinson
Dicks
Dixon
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Findley
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gore
Gramm
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kogovsek
Leach, La.
Leath, Tex.
Lederer
Lehman
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
Luken
McCormack
McEwen
McKay
Mica
Mikulski
Mineta
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Regula
Rhodes
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowksi
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Scheuer
Schulze
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
St Germain
Stangeland
Steed
Stenholm
Stewart
Stokes
Stratton
Stump
Symms
Synar
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Volkmer
Wampler
Watkins
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Young, Alaska
Young, Mo.
Zeferetti

NOT VOTING—18

Anderson, Ill.
Beilenson
Clay
Collins, Ill.
Dingell
Garcia
Holtzman
Jenrette
Kelly
Madigan
Marriott
Mathis
Nedzi
Sebelius
Vander Jagt
Weiss
Wilson, C. H.
Wydler

☐ 1310

The Clerk announced the following pairs:

On this vote:

Mr. Dingell for, with Mr. Garcia against.

Messrs. FINDLEY, BUTLER, and JEFFRIES changed their votes from "aye" to "no."

Messrs. DODD, BOLLING, DANIEL B. CRANE, McDADE, RINALDO, and YATES changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1320

AMENDMENT OFFERED BY MR. LEHMAN

Mr. LEHMAN. Mr. Chairman, pursuant to the unanimous-consent request previously granted, I offer an amendment on page 15, an amendment made in order by the rule.

The portion of the bill to which the amendment relates is as follows:

> Notwithstanding any other provision of this chapter, all appropriations under the heading "Operation and Maintenance" made available under this chapter shall not become available for obligation until July 15, 1980.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. LEHMAN: Page 15, after line 11, insert the following new chapter:
>
> "Chapter III—FUNDS APPROPRIATED TO THE PRESIDENT SPECIAL MIGRATION AND REFUGEE ASSISTANCE
>
> "For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, not to exceed $100,000,000, to remain available until expended.".
>
> Redesignate the succeeding chapters accordingly.

Mr. LEHMAN. Mr. Chairman, I rise in support of the amendment.

This is a simple amendment; it provides funds for resettlement assistance for foreign nationals who have fled their own countries but for whom our laws provide no such assistance. The authority for this amendment is the amendment which was offered to the International Security and Development Assistance Act of 1980 by my South Florida colleague, DANTE FASCELL, and which was accepted by the House on June 5.

My amendment is intended to reimburse State and local governments for the costs of services they must provide to asylum-seeking new residents, primarily the recently arrived Cubans and Haitians who as yet have no status under the new Refugee Act. It is not intended to answer or in any way address any questions of these aliens' legal status under the act.

Mr. Chairman, since April 21, over 113,000 Cubans have arrived in this country, as well as substantial numbers of Haitians who are seeking asylum. We probably could have absorbed, as we have in the past, arrivals who were part of an orderly process, but this was a massive human catastrophe. Geography has dictated which communities would be affected, and the impact has been staggering—more than some communities can bear without Federal help. However, the administration has not made a determination of the arrivals' status, so no Federal assistance is authorized. In a sense, they are nonpeople, and the States and localities must pay the costs of necessary social services.

My own county's school system, to give one illustration of the impact, estimates that the influx of Cubans and Haitians will mean that, when school opens in the fall, there will be between 15,000 and 20,000 more students than were planned for. And these are not children who read and write English at grade school level; they will need services beyond those covered in normal per pupil expenditures—and even those normal costs are not budgeted.

I just want to stress a couple of things. First, whether or not we want these people, they are here and must be dealt with. And it is not the responsibility of local communities which happen to be near the Florida Straits or certain military bases, or which happen to have existing exile communities, to bear the entire burden of caring for people the Federal Government permits to enter the country.

Second, this is not cash benefits to refugees. It is intended as emergency assistance for communities struggling to cope with a staggering human problem, more than many socioeconomic systems can bear. There has been no formal administration budget request for these purposes: I understand that a request is coming, but it will be too late for this bill. The affected communities cannot afford to wait until fiscal 1981 for relief.

Finally, one crucial point. There is no authorization in existing law for resettlement and social services for entering aliens who have not been admitted as or determined to be refugees. Other Federal programs—including the ones we expect the administration to request funding for—can provide certain services, such as health screening, and reimburse local governments for certain costs, such as transportation, but in terms of the necessary social, educational, medical, and plain living support local communities must provide, only the Fascell amendment provides authorization, and only this amendment provides funds.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Maryland (Mr. LONG), the chairman of the Subcommittee on Foreign Operations.

Mr. LONG of Maryland. I thank the gentleman from Florida for yielding to me.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. LEHMAN) has expired.

(On request of Mr. LONG of Maryland and by unanimous consent, Mr. LEHMAN was allowed to proceed for 5 additional minutes.)

Mr. LONG of Maryland. Mr. Chairman, let me say that I am very sympathetic, as we all must be, for the purposes of this amendment, but there is a puzzle here which bothers me, and it has bothered other people. I have not been able to explain it to them or to myself.

The amendment reads:

> For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, $100,000,000, to remain available until expended.

I understand the purpose of this is for local assistance in the United States. We also were about to offer to the supplemental $39 million for U.S. emergency refugee and migration assistance, and that would include processing, transportation, resettlement of recent refugee arrivals in southern Florida, including reimbursements to State and local governments for needed cash and medical assistance.

So it seems to me that those two amendments are the same, except in the amount. While I understand the purpose of the amendment is to provide money for local purposes, it is done in the name of foreign assistance, and I am puzzled as to why it was not offered as part of the foreign operations appropriation instead of as part of a new chapter providing money for the President.

Could the gentleman explain that to me?

Mr. LEHMAN. I think my chairman is asking, really, two questions. The first question is: How does the $100 million that we are offering affect the $39 million of the administration's budget request that will be coming out of his Subcommittee on Appropriations?

I think that these two sums do not impinge on each other but complement each other and can be worked out together.

The second question is: Why is this part of foreign operations when it affects local governmental agencies mainly; why is the authorization part of the International Security and Development Assistance Act? Well, that was the only bill that we could use as a vehicle in this emergency situation in order to get an authorization underway so that we could get an appropriation this year.

Mr. LONG of Maryland. That I can understand. But then why does it not come up under the chapter on foreign operations?

Mr. LEHMAN. The only answer I can give the gentleman to that is what the gentleman himself has stated, that this is an appropriation that, basically, affects the local and State governmental agencies which have to deal with the refugee problem at the local level.

☐ 1330

Mr. LONG of Maryland. Let me say to the gentleman from Florida, so also does the $39 million that we were proposing to offer.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Florida.

Mr. FASCELL. The gentleman from Maryland is correct. They are essentially for the same purposes.

Mr. LONG of Maryland. If the gentleman will yield further, why is it not offered under the foreign operations chapter in the same way as the $39 million that we were proposing to offer?

Mr. FASCELL. I will tell the gentleman, because at the time that the authorization amendment was offered, we we did not know about the $39 million budget request, which the gentleman from Maryland refers to. As far as the legislative vehicle is concerned, it was the only vehicle available in order to get the authorization for this appropriation.

Mr. LONG of Maryland. That would be a perfect vehicle, however, for allowing money for the chapter on foreign operations. Why is it not?

Mr. FASCELL. Well, because at the time we did not know, one, that the $39 million request was coming; two, we picked the first chapter that we could get an amendment on in this bill, we just followed our best judgment as far as where the amendment belonged. As to what subcommittee has jurisdiction that is a matter for the Appropriations Committee to decide.

I would think, however, basically, that this is a program administered by HHS.

Mr. LONG of Maryland. Since it is done under the name of the International Security Development and Assistance Act, I would think it belongs under the other chapter. I would be perfectly willing to amend my proposal to make it $100 million instead of $39 million.

Mr. FASCELL. I understand the gentleman. I appreciate his cooperation. Unfortunately, when we sought this rule, the location for the amendment at the point it is in the bill seemed the only way we could do it. We cannot change it, I do not believe, because we are going to have to follow the rule in order to stay in order. However, I do not see any dispute. We are talking about the same purposes.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. LEHMAN) has expired.

(At the request of Mr. HAMMERSCHMIDT and by unanimous consent, Mr. LEHMAN was allowed to proceed for 3 additional minutes.)

Mr. LEHMAN. I want to say that if at the time we went before the Committee on Rules, which was kind of a crash program, we had known that the $39 million in the President's then-unofficial request might be offered in the foreign operations portion of this legislation, we might have gone with a different request; but when we went to the Committee on Rules asking for a waiver, the Fascell amendment appeared to be our only hope, and this was the parliamentary reason for the amendment.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will continue to yield, I say to the gentleman from Florida, I am not aware of any inquiry that was made to the committee, certainly not to me, as to whether we intended to put any funds in there. So it does seem to me that the authors of this amendment ignored the committee in doing this rule.

Mr. FASCELL. If the gentleman will yield further, I will tell the gentleman, if basically that was an error, it was an error on our part, but again this program is administered by HHS; and it has nothing to do with foreign operations.

Mr. LONG of Maryland. Exactly, but I would have thought once you had done it in the name of foreign operations it would come before the Foreign Operations Subcommittee, in that chapter.

Mr. FASCELL. The gentleman from Maryland is going to have more to say grace over than the platter can hold.

Mr. LONG of Maryland. I am aware of that. The mysteries of this place continue to unfold.

Mr. FASCELL. I will tell the gentleman from Maryland, it does the same for me, and I have been here 25 years, and I learn something every day.

Mr. LONG of Maryland. Let me say, since the gentleman is offering $100 million for this purpose and since the $39 million that I had planned to offer for this purpose will overlap, I will withdraw that $39 million and will not offer it.

Mr. LEHMAN. As the amendment reads, it says not to exceed $100 million.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, this is a needed amendment to the supplemental appropriation for this fiscal year for it speaks to an immediate problem created largely by our President's Cuban refugee policy. It would give relief to the States and local entities of government who have had to unfairly bear a burden of expense and dollar outlays that should be a national commitment. As the Representative for the Third District of Arkansas, I have a particular and grave interest in the amendment since Fort Chaffee has been selected to serve as a center for the processing of over 18,000 Cubans.

As you may recall, from the news reports in the past weeks, incidents among the Cubans at Fort Chaffee have ranged from minor disturbances to an almost full scale riot and near tragedy, endangering civilian townspeople in surrounding communities.

In fact, I had written President Carter before Cubans arrived at Fort Chaffee, urging his support for action along these lines because, as I said earlier, the Cuban resettlement is a national problem and must be met with national resources. Those States and localities in which resettlement centers are located should not expected to shoulder such a large financial burden.

The specific purpose of this amendment is to provide $100 million to support resettlement costs for aliens arriving in the United States who are not eligible for such Federal assistance under any other provision of law. The critical importance of these funds lies in the fact that they can be used to reimburse State and local authorities for expenses incurred in the resettlement of such individuals.

Recent reports have indicated that some of the Cubans are diseased, to include "active tuberculosis and venereal disease" as well as terminal cancer patients. Local elected officials have already been in touch with me to express their concern about this aspect and to ask what responsibility the Federal Government will take for providing the necessary health care for the Cubans now and in the immediate future. These cases must not become a burden of the individual States. Related to this, of course, is concern that adequate preventive medicine procedures be implemented to safeguard the local communities.

The national leadership, in handling this "unforeseen emergency Cuban situation," has been less than satisfactory both on the national and international fronts. Locally, this lack of leadership was most obvious in the seeming inability of administrative officials to give authority to the Army to see that the refugees stay on Fort Chaffee grounds. After several unfortunate incidents this matter was finally resolved by the executive branch. It should go without saying that security assurances are essential for the peace of mind and well-being of area residents. As an example of the problems created due to financial constraints the local sheriff is having difficulty maintaining 24-hour patrols. With the influx of refugees it is felt that such patrols are necessary and Federal financial assistance is needed. Also, based on our previous experience, it can be expected that most of the other police departments in the area will be subjected to additional demands—all presently at a cost to the local governments concerned.

In fact, I have received reports from Sebastian County, claiming over $13,000 in overtime payments for the sheriff's office and Fort Smith is putting in a claim of over $9,000 for police services during the period May 8 to June 5. I do not have the estimated amount of expenditures made by the State of Arkansas to support the President's Cuban policy, but I have seen a figure of $50,000 needed to reimburse our State police department for just their added logistical costs.

It is my understanding that this amendment in no way establishes a new category of refugee. It is clearly not the intention of this amendment to grant the influx of Haitian and Cuban refugee status rather than applicants for asylum. It does insure that when a foreign national has fled his or her country, funds will be available to aid resettlement as the President may determine regardless of the exact legal status of the person involved. These additional funds could help correct an inconsistent federal policy which allows a foreign national to come to our shores, but does not in all cases provide for funds to finance necessary State and local services.

When this relief effort began, no one could predict that Castro would start to empty his jails and mental hospitals and I would not want to do anything which would create a new category for those Cuban troublemaker asylees which might jeopardize prompt exclusion and/or deportation. However, this amendment is not designed to do that, it was drafted to ease the spiraling cost to State and local governments who have shouldered the initial burden of this influx. Since the President has opened his arms and the flood gates to the Cubans, the Federal effort has not been comprehensive in dealing with the various public safety, health, and humanitarian burdens which this explosion of Cuban arrivals has placed on American citizens. I know, and my colleagues should all realize that it is well beyond the financial capacity of municipal, county, and State government agencies to bear the brunt of Federal immigration policies without comprehensive reimbursement. Again, this action will not have any effect on the actual status of the Cubans who have arrived in this country to date. This amendment simply provides funds for reimbursement to government entities to be used for persons who are in the United States having fled their own country and for whom assistance is not available through any other channel.

I would urge my colleagues to recognize the responsibility that they have to those areas of the Nation which have been severely impacted by Federal immigration decisions and approve the Lehman amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. LEHMAN) has again expired.

(By unanimous consent, Mr. LEHMAN was allowed to proceed for 5 additional minutes.)

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for yielding.

I am most sympathetic to the gentleman's problem, because it is not the fault of State and local governments in any case when foreign nationals enter this country.

Now, later in the week—and the gentleman should be helped by the Federal Government, whose fault it is entirely that this problem is with the gentleman.

Now, later in the week I hope the gentleman will be sympathetic to a problem that does exist along the Mexican border. Let me point out a couple of salient facts that will make the numbers, not the extent of the gentleman's problem, but the numbers pale into insignificance relatively, and yet it is a very serious problem.

On the Mexican border last year alone, 879,566 illegal aliens were apprehended—caught—in 1 year. That is almost a million.

Now, the border patrol estimates that two or three escape for every one that is apprehended. That means that somewhere around 2 million a year are entering this country.

This administration has no border patrols, no coherent policy whatsoever, and we are not enforcing the law. Furthermore, many border patrol agents were taken off of the sector in the West, all the way from Texas to California, to go to Florida, and left our border a wide open sieve. So I merely say that later in the week we are going to offer an amendment not to add, but to restore 160 border patrol agents. It will not stem the tide, but it will show the border patrol that somebody cares about them until this administration can get its act together and figure out what it is going to do about the illegal alien problem.

Mr. LEHMAN. I would like to respond to the gentleman from California that I would be supportive of this addition to the border patrol, not least because I think we have an obligation to the gentleman, since the need in Florida did pull in people who were stationed out in the gentleman's part of the country.

Mr. BURGENER. I thank the gentleman.

Mr. NELSON. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Florida.

Mr. NELSON. Mr. Chairman, I rise in support of the amendment offered by my colleague from Florida (Mr. Lehman). The enactment of this amendment would fund the authorization agreed to in H.R. 6942 in 1980, which was passed in the House earlier this month.

These funds are immediately necessary to deal with the explosion of boat people, primarily from Cuba, but also from Haiti, which has occurred since the President made his original budget request. The most recent estimates of the number of Cubans and Haitians who have come to south Florida are about 114,000. Even with a substantial Federal effort, the burdens on the local governments have been overwhelming. It is beyond the capacity and the responsibility of the local governments involved to shoulder the burden.

These funds will also allow the President the flexibility to assist in the resettlement of nationals for whom such assistance is currently not available. The situation in which we now find ourselves is one which has so far slipped through the cracks. These boat people are not covered under the Refugee Act, because they are technically applicants for political asylum and do not have refugee status. The funds from this supplemental appropriations amendment offered by Mr. Lehman, are intended only for those for whom no other assistance is available in this fiscal year.

Mr. Chairman, I urge the House to support this amendment in order to quickly relieve State and local governments of the extraordinary burdens that they are carrying on behalf of the Federal Government and all of the American people.

□ 1340

Mr. LEHMAN. Mr. Chairman, I thank my colleague from Florida.

I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding. I appreciate his raising the question which his amendment raises; but I have some reservations about spending $100 million on such a small record and such little expression as to exactly how it is going to be spent; so if I may, I would appreciate the gentleman advising us, what are the standards which will determine how this $100 million will be spent? Why will it not, in fact, go to California with Mexican migration? They are illegal aliens, more illegal or less illegal, I do not know, but illegal aliens, as are these others. Can the gentleman tell me what standards will guide the President in spending this $100 million in an election year?

Mr. FASCELL. Mr. Chairman, will my colleague, the gentleman from Florida, yield?

Mr. LEHMAN. I yield to my colleague, the gentleman from Florida.

Mr. FASCELL. Basically, you would have to go to the authorization and to the legislative history which was made then and which is being made now, and that is basically to assist resettlement. That is the basic criteria, and we define that, furthermore, to mean similar to the assistance which is made available now under the Refugee Act of 1980.

Mr. BUTLER. Well, if the gentleman will yield further.

Mr. LEHMAN. I yield.

Mr. BUTLER. The gentleman understands, of course, there is no resettlement assistance available until a refugee or an illegal alien is determined to be a refugee, and they also have to meet the statutory requirements for coming in here.

The evidence we had on yesterday before the Immigration Subcommittee was to the effect that 90 percent of these people do not qualify as refugees under the statute and they are and should be determined to be illegal aliens.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. Lehman) has again expired.

(At the request of Mr. Butler, and by unanimous consent, Mr. Lehman was allowed to proceed for 5 additional minutes.)

Mr. BUTLER. Mr. Chairman, if the gentleman would yield further, I would ask the gentleman, who are the beneficiaries? How do you determine who gets this money? What are the criteria that the President may use and what are the actual beneficiaries? Where is the money going to go, to whom, and how are you going to determine where?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to my colleague, the gentleman from Florida.

Mr. FASCELL. Under the actions by which people were admitted to the United States for reunification of families, over 70,000 people have already been released and are not being held in any processing camp. They are already out into the community, I will say to the gentleman, and these costs are now accruing.

If the gentleman will yield further, therefore, this amendment does not address the legal status, because that is a matter for the Judiciary Committee to make a decision on.

This amendment, admittedly, is pure stopgap and we expect at some point in time, hopefully soon, the administration will be able to submit to the Congress whatever program it has or requests for funding; but in the meantime, I say to the gentleman, we are faced with the real problem that the people are here. They are not being detained. They have been processed and released, 70,000 of them; 30,000 Haitians, for example, are in this country under a Federal court order which says they cannot be deported.

So I cannot answer the question that the gentleman asks. I do not think anybody can, except that the criteria for the expenditure of these funds is that to those people who have been released, we would expect and intend that the funds under this amendment would be used in a manner similar to those benefits which would go to those beneficiaries who have been released, who are now in our communities around the United States in a manner similar to that which is made available under the Refugee Act of 1980.

Mr. BUTLER. Mr. Chairman, if the gentleman from Florida will yield further. I would suggest to the younger gentleman from Florida——

Mr. FASCELL. That is not necessarily true, but I accept the compliment.

Mr. BUTLER. I thank the gentleman.

I would suggest to the gentleman that these folks that are now in your midst have not been released; that they are asylees temporarily on asylum in the United States and that their residence here is not permanent in any way, unless it becomes so by some kind of adverse possession; that what the gentleman has said to us about having no program for expending this money puts in my judgment the finger on this. I do not think we should suddenly appropriate $100 million just because it sounds like a good idea, nor do I suggest to the gentleman that the State Department is the one to spend money on domestic assistance under the circumstances. They have not policed these programs in the past.

These reasons would say to me that this is an awfully nice idea. It is awfully expensive, but if we are going to spend the money, we ought to wait until the administration comes up with some guidelines as to exactly what they are going to do.

Now, those of us who are privileged to serve on the Immigration Committee, that subcommittee, have waited patiently for the administration to have a program. We waited patiently for the administration to stop the flow initially. Of course, I think they may have gotten around to that after 120,000 or so; but basically we need a policy before we spend $100 million.

Now, I would feel a little better about going forward with no policy if we came forward with the blessing of the committee and at least the committee had given us some guidelines in this legislation; but simply to bring an amendment to the floor which says, "For expenses necessary for the President, $100 million," a slush fund to be spent by the President in an election year on a highly political operation to me is an extremely unwise use of the public funds.

For that reason, I would urge us for the present, at least, not to vote for this appropriation.

Mr. LEHMAN. Mr. Chairman, I would just like to say that the only terminology we can use is that these are asylum applicants. That is their only determination.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has again expired.

(By unanimous consent, Mr. LEHMAN was allowed to proceed for 5 additional minutes.)

Mr. LEHMAN. This is not a political slush fund. This is money that is to be used for the sustenance of people who arrived penniless on our shores and are here and that the communities have to deal with.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to my colleague, the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the concern of the gentleman. I had a colloquy with the gentleman from Florida (Mr. FASCELL) during the authorization bill.

I am somewhat concerned as to some of the questions raised by the gentleman from Virginia, so within the power that we have here I wonder if it would be possible for us to make some legislative history.

Does the gentleman intend this to apply solely to Cubans and Haitians who come to Florida?

Mr. LEHMAN. This amendment applies to foreign nationals who have fled their own country and asked for political asylum in this country.

Mr. DE LA GARZA. So it would not apply to Florida or to Cubans or Haitians?

Mr. LEHMAN. It does not apply to foreigners from any specific area. It just happens that practically all of those that are applying for political asylum at the present time come from Haiti or Cuba.

Mr. DE LA GARZA. Well, I say to the gentleman from Florida (Mr. FASCELL), could we extend, or possibly some member of the Judiciary Committee, maybe the gentleman from Virginia (Mr. BUTLER), could we extend the legislative history to say that any person who is apprehended in our country illegally, could he not technically be, or have fled his country for political reasons, could we not say that that possibly could be a reason?

Mr. LEHMAN. Mr. Chairman, I yield to my colleague, the gentleman from Florida, who had the colloquy with the gentleman from Texas before on this same matter.

Mr. FASCELL. The Appropriations Committee will have the oversight, I will say to the gentleman from Texas. As far as the definition is concerned, I do not know how it can be read, except that resettlement costs has a state of the art meaning which we have tried to define basically along the lines and the criteria laid down by the Judiciary Committee in the Refugee Act of 1980.

I do not believe, as sympathetic as I am to the problem of the gentleman from Texas, that we could stretch that definition. I do not know how we could do that.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman would yield further to me, does the gentleman mention schools and cities and expenses relative to an influx of aliens, how they got there, or whatever prompted them to leave to get here? I would think that would cover my situation on the Mexican border where there is a tremendous influx of aliens, legal, and illegal.

☐ 1350

I was wondering if we could not give the President some direction here as legislative history, if it would be compatible with the basic law, that the President could utilize this on the Mexican border should he see fit to do so, and if otherwise this qualifies under whatever history there is to the Refugee Act.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman.

Mr. FASCELL. The President certainly has the authority if the Judiciary Committee will allow him.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Virginia.

Mr. BUTLER. I would respond to the gentleman from Texas that he is certainly within the realm of this language. The relief he sought is there. But I think he is pointing up what is the basic weakness in this amendment and that is we are putting the cart before the horse, that if we are to have a program, if we are to spend money for this sort of program, it ought to come from the President to tell us how he would like to spend the money if we give it to him, not for us to give the President the money and then say, "Spend it like you want to."

Now, the gentleman can make all of the legislative history he wants to, we could even pass a legislative veto, but the President is going to ignore it and do what he wants to do, and that is why I am really concerned about the absence of guidelines. The gentleman cannot make legislative history because legislative history is designed to interpret an ambiguity. There is no ambiguity here. It says just do what you damn well please.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. LEHMAN. I yield to the gentleman for a question.

The CHAIRMAN pro tempore (Mr. RAHALL). The time of the gentleman from Florida has again expired.

(At the request of Mr. BAUMAN and by unanimous consent, Mr. LEHMAN was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. The gentleman has been very kind to respond to questions. My question is this: There has been no discussion of whether these funds could be used for the resettlement of refugees in other parts of the country or whether they could be used for refurbishing facilities now owned by the Federal Government in which to relocate these refugees to other parts of the country. Is that type of use the intention in offering this amendment?

Mr. LEHMAN. This amendment does not restrict geographically any area that this can assist, or the kinds of programs that the President needs for resettlement, the education, the training, or the health facilities for these refugees.

Mr. BAUMAN. So it is conceivable that the President might determine that there existed somewhere in the United States a facility, and then could move people from Florida to that facility with these funds?

Mr. LEHMAN. It could help the people in Fort Smith, Ark., that have had to contend with the problems at that facility, just as well as it could help the people in Miami.

Mr. BAUMAN. I thank the gentleman.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, recognizing the facts as far as legislative history is concerned, the gentleman from Virginia has been very helpful. I want to take this opportunity to say that in the perusal of the amendment, in the view of this Member, there is an ambiguity. Therefore, this Member is going to declare what he intends to be the legislative intent and history of this amendment, and that is that this Member, who will vote for the amendment in support of the gentleman from Florida (Mr. LEHMAN) declares it to be the legislative history and intent, and so that the President might be apprised, we intend to give him the authority to utilize these funds in any State wherein there is an influx of aliens, illegal or otherwise, for resettlement purposes. Also that the President be apprised, and the authority is inherent herein, according to the legislative history now being enunciated by this Member, that he shall and will have that authority.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. McCLORY. I thank the gentleman for yielding.

The difficulty arises because what the President has done is not in accordance with the Refugee and Immigration Act of 1980.

Mr. de la GARZA. I would tell the gentleman that is why I am attempting to offer some guidance to him.

Mr. McCLORY. It is not possible to spell out the application of the additional funds because we do not even know the status of these people. The U.N. High Commissioner on Refugees questions that these are refugees. If they are not refugees, and they are not asylees, are they parolees, or what are they? Nobody seems to know, because this is a makeshift, ad hoc bit of immigration or refugee policy which is not accounted for in any of the refugee or immigration laws.

Mr. de la GARZA. The gentleman is eminently correct. That is why I am enunciating the legislative history, so that the President shall know what the legislative history of this amendment is.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, this gentleman represents an area that causes me to be sympathetic to the gentleman from Texas (Mr. de la Garza). My area in California, like the other gentleman from California, is near the Mexican border and we have the same problems. The problem the gentleman addresses himself to is one of illegal aliens. Would the gentleman suggest that by a mere declaration of his on the floor of the House of Representatives that he can change the immigration law of the United States of America, because the President of the United States has taken no action?

Mr. de la GARZA. Well, there is no harm in trying. It has been done before.

Mr. BADHAM. I admire the gentleman's chutzpah.

Mr. de la GARZA. I sympathize with the gentleman, but I am not addressing legal or illegal. I said an influx of aliens so that the President can be well apprised, and I would restate my legislative history. These funds can be used by the President of the United States to assist any State or any community in which there is an influx of aliens, legal or illegal, that create a burden upon the community. And these funds should be available for that purpose. That is the legislative history, unless anyone contests it.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman.

Mr. BAUMAN. Mr. Chairman, I want to go on record as saying my understanding of this amendment is directly to the contrary, and I want the record to show that my view is the proper legislative history.

Mr. de la GARZA. We would then leave it up to the President to see which legislative history he would choose.

Mrs. CHISHOLM. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I am happy to yield to the gentlewoman from New York.

Mrs. CHISHOLM. Mr. Chairman, I rise in support of the gentleman from Florida's amendment. I believe that the gentleman's amendment will go a long way toward alleviating the immediate fiscal burden of those States and localities with Cuban and Haitian refugee populations as well as providing immediate humanitarian assistance to these refugees. I would hope that the President will allocate these funds equitably between Haitian and Cuban refugees. I would urge him to report to the Congress, at the end of fiscal year 1980, on how these funds were used to provide assistance to both groups of refugees. I hope that he will also move to grant these refugees a status which is consistent with the policies and law promulgated by the new Refugee Act of 1980.

Mr. Chairman, I think what we are attempting to do here this afternoon is recognize a very, very crucial problem which exists, primarily in the State of Florida where the local government, county government, has really had a great deal of difficulty—if the gentleman will let me complete my statement before I lose it——

Mr. de la GARZA. But I will lose my thought. It is not primarily in the State of Florida. The gentlewoman should see my area in the State of Texas.

Mrs. CHISHOLM. We are in a crisis type of situation right now.

Mr. de la GARZA. Yes, we are.

Mrs. CHISHOLM. Because of the situation whereby thousands of Cubans and Haitians have come, most of whom are located right now in the State of Florida, and because over a period of time there has been a disproportionate increase, in terms of the financial burden on the local government, it has now gotten to the point where the government does not know exactly where it is going. This is a kind of temporary measure until such time as a national policy of this Government regarding immigration is settled once and for all. We cannot do it here on the House floor.

Mr. de la GARZA. I agree. But the same problem exists all along the Mexican border. Those of us on that border have the same problem. The same crisis, the same burden on our communities, schools, and other services.

□ 1400

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the legislative history that has indelibly been stamped today is that the amendment will address itself to the payment for such things as sopaipillas, or whatever the soul food from Haiti is, but not for pinto beans and tortillas or frijoles and tortillas. But I think it is to be lamented that in the course of this some statements have been made that I do not think are either accurate or fair. For example, the gentleman from California and others have sort of placed the entire blame for the lack of immigration law or policy on President Carter.

The truth of the matter is that President Carter presented to the Senate—in fact, the Senate started hearings the very first year that President Carter assumed the Presidency in 1977—specific reference to amending the Immigration and Naturalization Act, which you will remember was codified in 1965 when the real mischief was done. But to blame the President for the lack of action on the part of the Congress I think is unfair, no matter how sympathetic I may be of the critical air that seems to surround President Jimmy Carter. In fact, poor old Jimmy Carter. We have an old saying in Texas that when the dog stinks, or a man is down, everyone thinks he can urinate on you. I think this is what is happening.

Everything is being blamed on poor old Jimmy Carter from carbuncles to fallen arches to Afghanistan, and it is not right. It is not truthful to say that the lack of any amendatory processes to the Immigration and Naturalization Act, or the establishment of a congressional policy with respect to this serious question of illegal aliens, is the fault of the President. When he presented his recommendations to the Congress, the Senate started to have hearings and then resolved the matter by calling for the formation of a commission which is studying this question right now. In fact, it made tours around the country. And the Congress sits back and says it is going to wait for its report to come in.

The real issue—and I predict that if you think we have problems now, and let me say this by way of parenthesis, that I am in support of the gentleman from Florida's amendment which is pending because I think that it is an elemental act of simple justice that we do this—but let me say in 1965 the amendment that is I think at the heart of the rigidity of the law was offered on the floor by the then Representative from Minnesota, Mr. MacGregor, which for the first time placed quotas on the Western Hemisphere countries. I was the only one who got up and challenged that because I considered it a betrayal on the part of the Committee on the Judiciary, chaired by Manny Celler of New York, who had rejected that amendment in committee and then accepted it humbly on the floor without any question.

I raised the issue, and I asked one specific question. I said, Why is this amendment offered on the floor unprecedented? You are fixing a quota. You are supposed to be taking quotas away in this codification, and now you are going to put quotas for the first time on Western Hemisphere nations, without making a distinction between the nations that border our country, Canada and Mexico. I was replied to flippantly. Nobody paid any mind. I then predicted that if that were accepted and became law, in less than 10 years you would begin to see the rigidity that would prevent any ad hoc addressing of a problem that was bound to grow through the years by any executive branch officer in this country, and that is exactly what has happened. Mr. MacGregor replied. He said, "Oh, we want to equalize treatment with everybody in the world." I said, "You mean you want to put Mexico and Canada on the same equal basis as Iceland?"

And he said, "Yes."

This is the sorry history of the congressional effort in this very important area.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 3 additional minutes.)

Mr. GONZALEZ. You have very serious problems, it is true, unprecedented with respect to the impact on such States as Florida and then some of these others where the refugees in fact have been encamped, such as Arkansas, Pennsylvania, and the others. There is no other escaping the simple fact that we have just as critical a situation facing other parts of the country, particularly the border States that bound along the boundary with Mexico that has been true years off and on. But the fact that we have not announced a basic policy is not the fault of any President or combination of Presidents; it is really ours. We have met the enemy, and the enemy is us. The Congress has failed us abysmally. It is failing now by reacting in a knee-jerk fashion to something we should have anticipated. As I am telling you now, the way things are going south of the border, it is like popcorn popping in a popper in those countries, and especially when you get down to Guatemala, which I do not think takes a prophet to foresee will have similar pressures. In fact, you have now an unprecedented number of Guatemalans in the United States. How many are legal, how many are illegal, I do not know. I also know this question of the illegality of the Mexican is grossly exaggerated, and nobody, either the administrator of resources of our Government or the legislative branch, has bothered to even seek and obtain a program that would result in a monitoring system to give us some kind of a halfway accurate figure. All I can tell you is I know it is exaggerated.

The 2 million figure here does not take into account the constant movement back and forth. For every one of those three illegals that come into the United States in any one year, at least two of those three will return to Mexico during the course of that year, and there is no record of that. But the point is we should not try to erect what ought to be the fundamental policy on the floor of the House by the use of the debate factor on the specific amendment offered in distress, because I consider this situation to be a distressful one. So I think that all of the committees that have involvement in this should no longer postpone the matter. We ought to expect more rather than less, because the issue is the fundamental stability of the United States as it will never be challenged and never has been challenged before in our history. If you think you have a problem now, give it a few years.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. BURGENER, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding. I do not think we are very far apart. I would be pleased to enlarge my criticism of the administration to include the Congress. But the gentleman will recall it was a very ill-conceived plan the President proposed for blanket amnesty. The Senate gave it a perfunctory hearing. The House gave it no hearing at all. I have every year for the past few years introduced a comprehensive illegal alien or undocumented-worker bill, which would not stop the flow of traffic between Mexico and the United States—we need them; they need us—but we have been trying to reduce the flow, to formalize it, to have a guest worker program, or do something to bring it under control and make it manageable. But we cannot get a hearing in the Committee on the Judiciary. In the meanwhile, we at least ought to try to bolster the border patrol and enforce the law.

Mr. GONZALEZ. Let me say this, the gentleman confirms what I said, whether we agree or not with whatever the President proposed. He, nevertheless, did propose, and we have not acted, so we are really more at fault.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. I serve as the ranking Republican on the Committee on the Judiciary concerned with immigration and refugee problems, and likewise on the National Commission on Refugee Policy. But we are talking about two different things. I do not want to disagree with the gentleman (Mr. GONZALEZ). Nor do I want to disagree with the other gentleman from Texas, Mr. DE LA GARZA. But, when we are talking about immigration and perhaps undocumented workers, we are discussing something separate and distinct from refugees. The immigration from Mexico is a separate subject. But we are talking now about refugees, and of course we have already provided for a limit on refugees of 232,000 for the current year, of which 19,500 were expected to come from Cuba. The only change that has been made in that figure was when the President said he wanted to receive 3,500 additional Cubans who were in the Peruvian Embassy in Havana. He did consult with our Judiciary Committee with respect to that.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. McCLORY, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Will the gentleman yield further just so I may complete this?

Mr. GONZALEZ. Certainly, I will be delighted to yield to the gentleman.

Mr. McCLORY. Subsequent to our granting approval of the 3,500, this whole wave, this whole flotilla of what now numbers 112,000, has been received into the United States without any consultation, without any approval on the part of Congress, without augmenting the refugee level above the 232,000, plus the 3,500, and we are in sort of a no man's land as far as who these people are and what they are.

□ 1410

We are all sympathetic to the subject of reunification of families. However, we had one witness who came before our committee who was a convict who had been let out of jail. He said he had been let out of jail along with 4,000 others, herded onto buses and taken to the harbor, loaded on boats and brought over here. We have not yet identified the other 3,999, but we do know that there are a fairly large number of prostitutes who were taken off the streets and brought over here.

We have received the retarded, we have received the mental defectives and we have received many others who are not eligible as immigrants or refugees. It seems to me when we are providing $100 million we should be more certain as to what kind of people we are going to be taking care of.

Mr. Chairman, I am going to offer an amendment which I hope will place a limitation on the expenditure of funds so that we will not be employing public funds to support convicts who have been released from jail and spirited to our shores—or to support prostitutes who were removed by Castro from the streets of Havana and loaded on ships and sent to us. The only purposes, it seems to me, the funds ought to be applied is for paying for the detention of most of these persons and paying for their transportation back to Cuba. We do not want them. They do not belong here. They fit into no category whatever under our immigration or refugee laws.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I do not quarrel with what the gentleman from Illinois says. In fact I hope I have not been misunderstood when I am critical of the MacGregor amendment. I was not saying I stand for unrestricted immigration amnesty or anything like that. Those are entirely different subject matters. What I say is, as a matter of basic national policy, we have failed to evolve one so that this sorry, cynical, cruel and inhuman ploy by Fidel Castro tends to succeed in the world of opinion where it should be falling on its face. One thing for sure, we do not see Americans, or any other Latin Americans, fleeing their countries to go to Cuba to seek asylum. We do not take advantage of that? Also, some of us react hesitantly, if not negatively, when we find that some of the Cubans are black and the Haitians are black. For some Americans, blacks do not fit into our plan of welcome. Why do we sit and wait until there is an emergency and then have knee-jerk reactions such as what we are trying to put together here instead of having evolved a program.

For example, Mr. Chairman, what is

wrong with asserting our leadership in the Western Hemisphere? We should take the lead not only in doing what we can do unilaterally, yes, within our means, but bringing in the Organization of American States, let them assume the responsibility of their share with us, particularly the Republic of Mexico which has received Fidel Castro as a hero and yet is absolutely mute and silent when it comes to this cynical, cynical, inhuman treatment of their own.

Mr. Chairman, where is the leadership of Mexico now with respect to its criticism of Fidel Castro and Cuba and to some little bit of recognition for what the United States is doing? This is where we could evolve policy.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROYBAL and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I would like to compliment the gentleman in the well for a very excellent statement. It is true, of course, that the President of the United States has presented a policy to the Congress. It is now under consideration by the Senate. I do not happen to agree wholeheartedly with that particular recommendation but the policy is there.

Mr. Chairman, I think one other thing must be brought to the attention of the Congress and that is that this matter was brought to the attention of Congress in the last days of the previous Congress, the very last minute when we dealt with the matter of immigration. It was passed without discussion, without debate and it was passed in the very last seconds.

What we have at the present time, Mr. Chairman, is a situation in which we have no policy whatsoever. I agree with the gentleman from Texas and his very excellent remarks and I sincerely hope that we can work together to try to establish such a policy in this House.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman.

AMENDMENT OFFERED BY MR. M'CLORY TO THE AMENDMENT OFFERED BY MR. LEHMAN

Mr. McCLORY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. McCLORY to the amendment offered by Mr. LEHMAN: Add at the end of the amendment the following:
>
> "None of these funds shall be used to provide assistance to Cubans paroled into the United States after April 1, 1980, who have been found by an Immigration officer to have been convicted felons or to be prostitutes or have engaged in prostitution."

Mr. CONTE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. McCLORY) is recognized for 5 minutes in support of his amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I believe the sponsor of the amendment has no objection.

Mr. LEHMAN. Mr. Chairman, we have no objection to the amendment to the amendment.

Mr. McCLORY. Mr. Chairman, I am offering this amendment as a perfecting amendment to the amendment offered by my colleague from Florida (Mr. LEHMAN) in order to insure that we do not use our taxpayers' money to support those Cubans who are clearly undesirables. These are persons who have been incarcerated in Cuba for criminal activity, including robbery and burglary and other serious crimes. This would not include those who languished in Castro's prisons because they dared to speak up against the Communist regime, or who were jailed because they committed "political" crimes. I am talking about the hard-core criminals who Castro sent to the United States to embarrass us.

I want the world to know that America welcomes those refugees who are refugees in the true meaning of the term and as defined by the Refugee Act of 1980—Public Law 96-212. But we will never make room for hardened criminals or prostitutes in our society while we ask those deserving of our helping hand to wait.

The American public opposes resettlement of Castro's "undesirables." Our constituents are asking us to insure that we do not allow funds to be used for such purposes. Of course, I do not intend to limit, in any way, the use of Government funds for the purposes of law enforcement functions of detention and deportation of such felons and prostitutes. I trust that the Department of Justice will continue to fulfill such functions as required by law.

It is a very simple amendment which I offer here today and I urge my colleagues to support it.

Mr. CONTE. Mr. Chairman, I withdraw my reservation of a point of order.

Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hoped the gentleman in the well would have amended his amendment. I told the gentleman I had no objection if he struck out the last line, "to be prostitutes or have engaged in prostitution."

Mr. Chairman, I really do not know how in the world this part of the amendment can be enforced. It is an impossible amendment to administer. What procedure is going to be established to determine among the refugees, who has been engaged in prostitution? Even the good Lord—I think it was in last Sunday's Gospel—forgave Mary Magdalene who later became a saint although she had been a prostitute.

Mr. Chairman, I do not think this is a fair amendment and I am sorry that the gentleman saw fit to offer it. If the gentleman wants to keep out the felons, I am with him 100 percent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY) to the amendment offered by the gentleman from Florida (Mr. LEHMAN).

The amendment to the amendment was agreed to.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment.

The Lehman amendment would appropriate $100,000,000 during fiscal year 1980, to remain available until expended, for expenses necessary for the President to provide for migration and resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, as passed by the House of Representatives. Section 405(c)(2) permits those funds to be used to reimburse State and local authorities for expenses incurred in the resettlement of foreign nationals to whom such assistance is not otherwise authorized.

Funds appropriated by the Lehman amendment are intended to be used for the following purposes:

Initial resettlement costs, section 412(b), Immigration and Nationality Act, as amended by Refugee Act of 1980, section 311(a).

Project grants for adult services to refugees including job training, employment services, day care, English language training, and specific health, social, educational and other services, section 412(c), INA, as amended by Refugee Act of 1980, section 311(a).

Elementary and secondary education grants, including English language training, and child welfare and placement services where necessary, section 412(d), INA, as amended by Refugee Act of 1980, section 311(a).

One hundred percent reimbursement of State and local programs such as medicaid, aid to families with dependent children, and other programs of cash and medical assistance, section 412(e), INA, as amended by Refugee Act of 1980, section 311(a).

The Office of Management and Budget has estimated that $25.3 million is necessary to reimbursement to school districts for training of elementary and secondary and adult immigrants from the current flow out of the Caribbean. In addition, OMB currently estimates that the average per capita needs of those individuals for cash and medical assistance will be $1,200 per year. With over 113,000 Cubans and about 30,000 Haitians already entered, the OMB estimates indicate that $150,000,000 will be required for cash and medical assistance over the next year, or $75,000,000 for the next 6 months alone.

Several cities, counties and States are now being adversely affected by the need to make expenditures to cope with the influx of people. These expenses have been incurred and will continue. The responsibility is a Federal one since the problem occurs as a result of national policy. Local taxpayers should not carry the financial burden.

The administration will undoubtedly submit a program to deal with this problem. But this supplemental is the last appropriations bill by which money can be provided for expenses in fiscal 1980 and 1981 until such time as the administration can be submitted. If this cannot be done, States, local communities and resettlement organizations will have to wait until a fiscal year 1981 supplemental is considered in the next Congress. The need is urgent—the need is now. I urge my colleagues to agree to this amendment.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want heartily to associate with what has been said already by my colleagues, Mr. Lehman and Mr. Fascell. Before President Johnson started for a second time the Cuban airlift, the President called me and asked if I would support him in that humanitarian policy. I told him "yes," upon one condition, that the Federal Government would bear all the expenses involved in the influx of Cubans because their coming in was a Federal matter, not a State or local matter. He said I was right and he would see to it that the Federal Government would bear the cost and he said he would affirm that when he spoke at the Statue of Liberty in New York the following Sunday afternoon. I was present at the Statue of Liberty and heard the President speak. Afterwards, with other Members, I went by and shook hands with him. As I did, President Johnson said, "Did I do what I told you I would do about this being a Federal expense in respect to the influx of Cubans?" I said, "Yes, you did and I'll support you."

Now all we are asking in Florida and in Dade County and the city of Miami and in the several other communities of Florida which have administered to the Cubans coming into our State in the last 2 months is that the Federal Government, as President Johnson said he would in a parallel case earlier, bear the expense and the burden of cost in relation to the Cuban influx incurred by the State and local authorities in Florida.

You recall when the 10,000 Cubans gathered on the Peruvian Embassy grounds and some were in a desperate and destitute position they caught the sympathy of our people and of the President, and President Carter agreed to take 3,500 of the 10,000. Shortly the boatlift came into operation initiated by Cubans largely in the greater Miami area who wanted to bring their relatives from Cuba to Florida, usually Dade County. Our President did not have the heart to stop them. Accordingly, the stream grew to a great flood and now, in spite of all the efforts of our Government to curb and bring to an end the stream, there are something over 113,000 Cubans who have come into the United States through Florida in approximately the last 2 months.

Of those, some 40,000 or 50,000 have been relocated in Dade County and, undoubtedly, many more will be coming back to Dade County from where they may be located by our relocation services in the several detention areas of the country. The Federal apparatus for processing and giving necessary care to this influx of Cubans was tardily formed although it has come to be a commendable arrangement by the Federal Government for handling them. The full burden fell upon the State of Florida and Dade County and Monroe County and other of our Florida areas in the early days of the influx. They still have heavy responsibilities to discharge with respect to housing, medical care, education, and other needs of these people. In respect to the school system alone, it is estimated that from taking care of the children of the Cubans and Haitians who have recently arrived in Dade County, our county school system will have to spend some $20 million between now and October. Enough children are being enrolled from these two groups to require a new elementary school about once a week.

So, we have incurred large expenditures at State and local levels and we still, until the Federal Government makes some provision for taking care of the fundamental needs of these people, will have to continue to assist them. So far we have received nothing by way of reimbursement from the Federal Government. This is the first appropriation of funds which can go toward the reimbursement of our State and local authorities for the services they have already rendered and for services that they will still be required to render until satisfactory arrangements are made for Federal responsibility for all of the services required by these people.

To those who think that this is too much, you will note that the amendment says that the sum appropriated is "not to exeed $100 million." Of course, the President will have to expend it. He is thoroughly familiar with what our State and local authorities have done and are doing and will need to do for some time to come. Eventually, there will be a larger sum appropriated more adequately to provide for the reimbursement of our State and local authorities for the expenditures they have made in behalf of the Cubans and Hatians recently coming into our State and country and to provide adequately and reasonably for the needs of both. That sum would be a much larger sum than the amount involved in this amendment. So whatever is appropriated now will be taken into account when the overall appropriation is made by the Congress. Consequently, I urge my colleagues to give us some immediate relief from the obligations we have assumed and help us to continue to discharge necessary additional services, all of which have basically been Federal responsibilities.

Mr. NATCHER. Mr. Chairman, I move to strike the requisite number of words.

The amount already contained in the appropriation for fiscal year 1980 for refugees is $426 million. When the supplemental budget request was sent to the Congress in January an additional $107 million was requested. The subcommittee and the full Committee on Appropriations recommended $100 million.

□ 1420

That amendment is in this bill at the present time. The $426 million plus the $100 million additional, of course, would make $526 million. If the amendment that is now pending before the committee is adopted, we would then have an additional amount not to exceed $100 million. The amount requested by the President for fiscal year 1981 is $693 million.

We have a number of budget amendments which were sent up yesterday afternoon to the other body in the approximate amount of $1 billion. One hundred million three hundred thousand dollars of that approximately $1 billion is for refugee settlement assistance. In addition to that, Mr. Chairman, of that amount of a little over a billion dollars, we have disaster money in for the Mount St. Helens disaster and we have several other amounts in the overall amendments for disaster relief.

Mr. Chairman, the amendment that is now pending before this body, before the committee, as you well know, provides—and I would like to just quote that part of the amendment:

> For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, not to exceed $100 million, to remain available until expended.

Now, Mr. Chairman, this amendment provides for the additional amount, not to exceed $100 million, to be spent on Cuban and other refugees. This is virtually the same amount requested by the President for domestic resettlement costs in the budget request that was transmitted to the other body yesterday. It is our understanding that the $100 million requested by the President is provided for under the budget resolution for 1980.

Mr. Chairman, the amendment currently before the committee at this time appropriates these funds, as I pointed out a few moments ago, under section 405(c)(2) of the International Security Act of 1980. I quote that portion of the act which is the authorization of this amount not to exceed $100 million:

> For use as the President may determine to assist the resettlement in any country of foreign nationals who have fled their country of citizenship.

It is our understanding, Mr. Chairman, as the Committee on Appropriations and the Subcommittee on Labor, Health, and Human Services, and Education, that this authorization gives the President the complete discretion to allocate the funds as he sees best, including the allocation requested in the message that he sent to the Senate yesterday. It also gives him the authorization to allocate the funds differently if he determines that a change in the situation in Florida or elsewhere requires a different distribution.

Given this understanding, we have no objection, Mr. Chairman, to this amendment. Mr. Chairman, we could have offered as a substitute the requests for $100,300,000 which are now pending on the other side for this purpose. As my good friends, the gentleman from Florida (Mr. Fascell), the gentleman from Florida (Mr. Lehman), and the gentleman from Florida (Mr. Pepper) know, if that amendment was offered as a substitute, in my opinion it would have been accepted by the House and by the committee.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky has expired.

(By unanimous consent Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mr. NATCHER. Mr. Chairman, it is my contention that that substitute would have been accepted. Now, since we are talking about an amount of money not to exceed $100 million under the authorization as set forth that I just quoted to the committee, I see no difference between the use of the money in the amendment we are considering today and the use of the money as pointed out and set forth in the amendment that is now pending on the other side.

Mr. Chairman, I would at this time request that the committee accept the amendment that is now pending before the committee under the terms and conditions that we have documented here. I would like to say to the gentleman from Texas (Mr. DE LA GARZA), the gentleman from Texas (Mr. GONZALEZ), and all of those who have spoken on this amendment, I see no disagreement—I see none whatsoever—as to the use of this money.

Before I finish so that my distinguished friend, the gentleman from Massachusetts (Mr. CONTE), may proceed, I would like to commend the gentleman from Florida (Mr. LEHMAN), the gentleman from Florida (Mr. FASCELL), and the gentleman from Florida (Mr. PEPPER) for bringing this amendment at this time.

Mr. Chairman, what has happened in Florida, in Texas, California, and all of these States is a serious matter, and certainly the Appropriations Committee and certainly every member of this committee on both sides of the aisle want to do something about it. Mr. Chairman, I would like to see the amendment adopted since the colloquy that has developed in the committee up to this point makes it clear that there is really no difference as to how this money is to be used between what we are doing today and what is being requested by the President. The only difference, of course, would be that we specify "not to exceed" $100 million.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Maryland, the distinguished chairman of the Foreign Operations Subcommittee. Before yielding to you, Mr. LONG, I would say to you this: I would like to say to you that in answer to your question, Mr. FASCELL gave you the correct answer. The answer in regard to that $39 million—I do not think you have any problems. I do not think you have any problems at all.

Now, Mr. Chairman, I hope the amendment is adopted.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also support the amendment and want to point out that this is not a net addition of $100 million, but a net addition of $61 million because, in view of the fact that this $100 million has been offered, the $39 million amendment which I had proposed and which was authorized for the same purpose, will be withdrawn and not offered. So, the net amount here is $61 million, and makes it a little bit less formidable, it seems to me. I support the amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I join my chairman, Mr. NATCHER, in support of this amendment which would appropriate the $100 million to be available only for use as the President may determine. As he said, this was sent up yesterday to the Senate by the President, so it is part of our budget. Specifically, these funds are critical to the current efforts to resettle the hundreds of thousands of Cuban and Haitian refugees who have so recently inundated our shores in Florida and been moved around throughout the country.

This not only helps Florida, it will help Arkansas or any other States of the Union.

They are not yet classified either refugees or persons of asylum. They are ineligible for Federal benefits, and subsequently the burden of both processing and maintaining the immigrants has fallen unfairly on both the local and the State governments and the private organizations. Mr. Chairman, these funds will fill the gap between the already exhausted State resources and the forthcoming Federal funding should the persons be eventually classified.

☐ 1430

The funds are needed to fill the gap between what is and what is not now covered by the law. I strongly urge that the amendment be adopted.

But I might say here, Mr. Chairman, that for the 22 years I have been sitting on the Committee on Appropriations, Florida has come in under another Cuban refugee program. They have gotten over $1 billion 300 million. Now, I am for this, and I may be for it again next year, but I am serving warning right now on the Florida delegation that they should not milk the taxpayers and make this a permanent program, because those Cubans who went to Florida some 20 years ago are solid citizens.

I have been down there. They are a hard-working people, they support their families, and there is no need for the Federal Government subsidizing Florida for the support of people who came into this country 20 years ago.

Mr. McCLORY. Mr. Chairman, will the gentleman yield for an observation?

Mr. CONTE. I would be glad to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

In the immigration bill of 1980 that we passed in April, there is a provision for phasing out the traditional Federal support for reimbursement to Florida for the Cuban refugees who are already there. So the Federal funds for those purposes will be phased out over a period of 3 or 4 years.

Mr. CONTE. Mr. Chairman, I am well aware of that, it should have been phased out long before this.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sympathetic with the purposes of this amendment, but it really has bothered me for a number of years that we continue to appropriate very substantial sums of money for the Cuban refugee program of 22 years ago. In fact, there is $53 million in the 1980 bill, and they are asking for another $44 million in 1981 for those refugees who came in some 20 years ago.

I would like to address this question to the author of the amendment, my colleague, the gentleman from Florida.

Could we receive the support of the Florida delegation for a more rapid phasing out of this old refugee assistance if we are going to provide new refugee assistance to them in this amount of money?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I would tell the gentleman that we have no idea of going back to the Committee on the Judiciary and trying to enlarge that program. That is already fixed by law, and that is to be phased out. It will be phased out.

We have no idea of taking any new program and going beyond the guidelines that have been laid down by the Committee on the Judiciary for any kind of assistance of this type beyond 3 years.

Mr. COUGHLIN. How about reducing it below the amounts that are now authorized as we go into future years?

Mr. FASCELL. In the old program?

Mr. COUGHLIN. Well, we have a $44 million request for an appropriation for 1981. Would the gentleman accede to reducing that amount?

Mr. FASCELL. That is under the old program, and that is under a whole different scale of refugee assistance.

Mr. COUGHLIN. Mr. Chairman, those people have been here for 22 years.

Mr. FASCELL. No. Again, Mr. Chairman, I do not want to disagree with the gentleman, and I do not want to start a discussion on a different problem. The program has been around that long, but the flow of refugees has also been around that long, I will say to the gentleman, and the benefits which have been provided under what we will call, for the purposes of discussion, the old refugee program just encompass those people who would be entitled to the benefits for the period of time fixed under that program.

All I can say to the gentleman is that we have reached an agreement long since with the Committee on the Judiciary, with the Committee on Appropriations, and with the administration to phase that old program out within the limits laid down by the law in the Refugee Act of 1980. I would not want to change that. I could make no commitment to change that.

But I agree with the thrust of what the gentleman is saying. The Committee on the Judiciary did address that problem, which is to put a limit on it and recognize how long Federal benefits can flow to States and local governments.

Mr. COUGHLIN. Mr. Chairman, I would hope that we would address the problem of reducing that program and make sure that this program does not become another 20-year program.

Mr. FASCELL. Mr. Chairman, I understand the gentleman, and I can assure him that it will not, because the Committee on the Judiciary will not, and neither will the Committee on Appropriations, let any program run too long. This money is only for those costs which are now arising.

Mr. COUGHLIN. Mr. Chairman, I hope we do not see a renewal of requests for further funds for other programs similar to the requests for funds for the programs that preceded this.

Mr. FASCELL. Mr. Chairman, I can assure the gentleman that will not be the case; we are interested in no other programs. We have enough difficulty with the problems we are now confronted with.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of this amendment.

Mr. Chairman, we have had successive floods of newcomers to this country—call them illegal immigrants, undocumented workers, or people in search of sanctuary in our country—and so far historically in this country they have fallen as a very unfair burden on the particular regions through which they came into the United States, be it Arizona, Texas, California, or Florida.

The fact that these people come to our country is the result of a confluence of national and international factors, and their presence here should be looked upon as a national phenomenon and at a national cost. The temporary cost of settlement of these people in this country should not be thrust upon the local communities, whether it is in the area of education, health, housing, law enforcement, job training, employment, or whatever.

So I wholly support this amendment, and I hope that in the future this Congress will be examining the prospect that there will be many more millions of people from underdeveloped countries in Asia, Africa, and Latin America seeking to reach our shores, and producing a comprehensive program to meet this likelihood.

The population explosion in the developing world will bring world population from the present 4¼ billion to between 6¾ and 7 billion by the year 2000—90 percent of the increase—scheduled to take place in the less developed countries. The Third World countries by the turn of the century will need 7 to 8 hundred million additional jobs—more than the entire current employed population of the developed world—just to keep pace with the flood of new entrants in the job market and maintain their current pitifully inadequate employment levels.

The gap between the northern "have" nations and the southern "have not" nations will grow ever more painfully and the "push" pressures of poverty, illiteracy, disease, joblessness, and hopelessness, combined with the "pull" of the lure of jobs, freedom, and the fabled American way of life in our great land—could produce a flood—an avalanche of developing world poor folks seeking to enter our country over any border, by any means, under any pretext—that would make the current Cuban-Haitian influx appear in retrospect a mere trickle—a tiny microcosmic augury of things to come. This prospect will challenge our every ounce of wisdom, morality, decency, and compassion, as well as concern for country, our way of life and the living standards to which all Americans aspire. Now is the time for our Congress to commence reasoning together and producing national policies and match the awesome dimensions of these problems and these challenges.

Mr. NATCHER. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. LEHMAN), as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. BADHAM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1440

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. BADHAM) for a recorded vote.

A recorded vote was refused.

On a division (demanded by Mr. BAUMAN) there were—ayes 44, noes 23.

So the amendment, as amended was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by Section 5 of the Flood Control Act, approved August 18, 1941, as amended, $169,500,000, to remain available until expended for the Cowlitz River Basin.

Mr. BURGENER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage in a colloquy with the chairman of the Subcommittee on Energy and Water Development.

If I am at the right place here, on page 24, line 12, "Operation and Maintenance," I wish to state that from time to time the Corps of Engineers takes or transfers money from one project and puts it in another if the project is not quite ready to be funded, and then they return the transfer of money. We have a situation of $600,000 in the city of Oceanside for beach erosion and restoring the beach, which is an annual maintenance program.

So my question to the chairman is—is my understanding correct that the $600,000 is available and is it included in this larger amount of $74 million?

Mr. BEVILL. Yes, the gentleman is correct.

Mr. BURGENER. I thank the chairman.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would like to thank my colleague, the gentleman from California, for yielding, and I would like to thank sincerely the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL), for his response.

This particular area is in my district, and they have had some terrible erosion conditions there caused by actions of the Federal Government and the Corps of Engineers.

□ 1450

Unbeknownst to the gentleman in which district this situation occurred, the Corps of Engineers reprogramed without telling anybody, which is within their rights, but barely, $600,000 to another project, but now there has been more erosion, and the entire beach area, as well as the harbor, is in peril of being lost.

I thank the gentleman for his assurances that this will be in there. I thank the gentleman from California.

I would like at this point in the RECORD to include my letter to the Corps of Engineers on that subject:

JUNE 9, 1980.

Lt. Gen. JOHN W. MORRIS,
Chief of Engineers, Department of the Army, Washington, D.C.

DEAR GENERAL MORRIS: It has been brought to my attention that the $600,000 appropriation to dredge Oceanside Harbor, California, in fiscal year 1980, has been reprogramed to another Corps project in Arizona. Needless to say, I was quite displeased to learn of this transaction. Not so much because the Corps is not within its right, but because my office was never notified of the action and was told on several occasions by Corps personnel that the funds were, in fact, still available.

Oceanside Harbor is now in need of dredging with the dredge material placed on the badly eroded beaches. Unless this action is taken prior to the fall, it is likely that much damage, in excess of what has already taken place, will occur this winter.

If possible, I would like a detailed report on the actions that led to the decision to reprogram the $600,000 in this fiscal year's budget. I would also like to know the chances of this project being funded in fiscal year 1980 with the help of the funds contained in the Supplemental Appropriations bill for fiscal year 1980. As you know, this legislation contains an additional $30 million for operation and maintenance.

I appreciate your attention in this matter.

Cordially,

ROBERT E. BADHAM,
Member of Congress.

Mr. LEWIS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my colleague from California.

Mr. LEWIS. I thank the gentleman for yielding.

If the distinguished chairman would continue the colloquy further, part of the question that has caused to arise a number of our concerns in southern California relates to the moneys which have been provided for the emergency that has taken place in the Northern States. The Mount St. Helens catastrophe has attracted a lot of attention and concern. That in turn has caused us to be concerned about emergency funds being drawn away, funds that are normally provided for Public Law 99.

I am specifically interested in a question relative to $7 million for a flood control problem developed on an emergency basis in my own district. I am really looking for assurance those funds will not be withdrawn because of the Mount St. Helens problem.

Mr. BEVILL. Yes; I can say to the gentleman, actually your $7 million is protected. Actually we have about $86 million that we are preserving in the emergency fund for disasters other than Mount St. Helens.

Mr. LEWIS. In that package?

Mr. BEVILL. Yes; the gentleman's $7 million is there.

Mr. LEWIS. I appreciate the chairman's assurance.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so in order to ask the chairman, the gentleman from Alabama (Mr. BEVILL), his opinion on the language in the bill. I am interested in the Kaskaskia River development between New Athens, Ill., and Fayetteville, Ill.

That had been dredged to make it a navigable stream, but it has since filled up with silt while a new railroad bridge was being built at New Athens. I would like to ask the chairman whether there are sufficient funds available in this supplemental appropriation and in the regular 1981 bill which the gentleman reported from the committee on Monday under operations and maintenance to provide an additional million dollars for the Corps of Engineers to begin sweeping out the silt and stabilize the banks of the river between New Athens and Fayetteville.

Mr. BEVILL. If the gentleman will yield, I say to the distinguished chairman of the House Committee on Armed Services the answer is "Yes." In the operation and maintenance appropriation in this supplemental, plus what we have made available for in the regular appropriation bill for 1981 there is sufficient funds to provide for that project as you have described it.

Mr. PRICE. I thank the gentleman for his response. I thank the committee for its action.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

FUNDS APPROPRIATED TO THE PRESIDENT

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. LONG of Maryland: On page 27, after line 7 add the following:
>
> INTERNATIONAL DISASTER ASSISTANCE
>
> For an additional amount to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000 to remain available until expended.

Mr. LONG of Maryland. Mr. Chairman, this amendment contains three parts—$30 million for Cambodian refugees, $10 million for international disaster assistance, and $3 million for Italian earthquake relief.

These funds are contained in the conference report to H.R. 4473, the Foreign Assistance Appropriation Act for fiscal 1980. Inasmuch as that conference report has not been adopted, it is essential that these funds be provided. Because of the great disaster facing the Cambodians, it was necessary for the administration to divert funds from other accounts to this program. These funds have come from the disaster relief account in the Agency for International Development, the refugee program in the State Department, the U.S. Emergency Refugee and Migration Assistance Fund and the food-for-peace program. Three of these accounts, the disaster assistance account in AID, $2.1 million; the refugee program in the State Department, $25.8 million; and the refugee emergency fund, $2 million; will be repaid $30 million from this appropriation.

In the case of the refugee account, these new funds will be to provide additional assistance to Kampuchea (Cambodia) and to respond to other refugee crises, especially those of Afghan refugees in Pakistan and refugees who have fled to Somalia.

The reasons that funds will be used for needs beyond Kampuchea is that the administration has been forced to divert funds from other purposes in order to meet the needs of Kampuchea. The administration made a decision last year that the emergency needs of Kampuchea were the most severe in the world and therefore channeled much of its assistance to that program. Other needs, especially those in Pakistan and Somalia, are now nearly as severe and also demand significant new funding by the United States. The $10 million contained in the amendment will, in effect, reimburse the disaster assistance account for funds provided the Caribbean area in the aftermath of Hurricane David and Frederick, and also be used for any additional international disasters between now and October 1. It is possible some of the funds will also be used for additional disaster relief in the Caribbean. The $3 million will be used to repair the damage from the earthquake 2 years ago in northern Italy, much of the damage which has still not been remedied.

At this time, Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. CONTE), who is responsible for suggesting this amendment to explain the need for it.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the $40 million in funding for the migration and refugee account which that amendment would add plus $3 million for the Italian earthquake.

Mr. Chairman, the refugee has become a common figure in our daily lives—and his plight has become a tragedy we are all familiar with. The absence of concern with both human rights and basic human needs by various world leaders has resulted in the mass movement of peoples. It is a migration which has altered the world's demographic patterns, creating previously unaddressed problems for policymakers and economists. It is a migration whose solutions call for a critical understanding of the refugee's background and a reconciliation of his history with his present needs.

Whether we have witnessed Vietnam's boat people on nightly newscasts or been haunted by the skeletal figures fleeing from nations such as Cambodia, Somalia, and Afghanistan, we have at least become aware of the problems facing the refugee. We also know that his plight does not end once he escapes his homeland—in fact, it has only just begun. Once in the refugee camp he faces persecution, hunger, the ravages of disease. He may be separated from family and friends further weakening his resolve to start a new life. He may be stripped of all hope as he begins the seemingly endless processing associated with transport and resettlement.

Mr. Chairman, our efforts to help reconstruct the lives of these people is a costly exercise, but I have never been one to advocate a trade off between human lives and dollars. We must bear in mind that however costly these programs may appear, these costs are minimal when compared to that of even one wasted life, a life which has been shattered by hunger, disease, and separation

Mr. Chairman, immediately after the May 1976 earthquake, Congress appropriated $25 million for relief and rehabilitation. The second quake struck only 4 months later, in September, and wreaked severe damage in the Province of Pordeone. By that time all the funds appropriated in 1976 had been committed, mainly for projects in the Province of Udine, which had borne the brunt of the first tremor. Recognizing the need for funds, the Congress provided another $25 million as part of the 1978 foreign assistance legislation. These funds were very quickly committed.

Adhering to the highly successful concept of the first program, a grant totaling almost $22 million was signed on February 6, 1978, calling for the construction of six more schools and three more centers for the elderly. The remaining funds were set aside as a reserve to cover contingencies for both the first and second programs.

Design and construction of the second program is being carried out by the Associazione Nazionale Alpini. The A.N.A. is an association of retired Italian alpine troops with a glittering reputation throughout Italy for integrity and competence. The A.N.A. has in its own right been one of the most effective, beneficial forces in the overall Friuli earthquake relief program.

Architects for the second program were selected by the A.N.A. in consultation with AID. The architectural design work is now in various stages with architectural and engineering work for some already completed and required municipal construction permits granted. All construction is expected to commence by the end of 1979 and is scheduled for completion in late 1981.

The major problem now is that there are insufficient funds to contract in order to finish construction. The inflation rate is 50 percent, the dollar has declined 8 percent (and slips daily). The construction projects have been forced to come to a halt.

The successes we have registered in this program are enormous. I personally visited one school this past April, in Travesio, and was impressed with the quality of the work completed. In addition, and more important, I was overwhelmed with the feelings of brotherhood and love which those people felt toward the Americans. It would be tragic if for a figure as small as $3 million, the project would not be able to be completed.

Finally, but important, AID's administrative structure to supervise U.S. assistance to the Friuli is very lean. Arturo G. Costantino, formerly with American Schools and Hospitals Abroad, is the coordinator. He is stationed in Washington, but spends about 60 percent of his time in Italy. He is assisted by a three-man staff. He personally returned to the United States to request that additional funds be made available for his program.

Mr. Chairman, I further wish to reiterate that the administrative overhead of the project has been kept to a bare minimum. For example, the AID team is located in a space on the second floor of a factory building. The Italian subsidiary of the Carnation Co. has generously provided this space for their use for $1 a year. They are not wasting money on extravagant administrative expenses.

Mr. Chairman, I urge the adoption of this amendment.

□ 1500

Mr. LONG of Maryland. Mr. Chairman, I thank the gentleman from Massachusetts. Certainly it is the gentleman's work that has been heavily responsible for this, although the gentleman from Illinois (Mr. Annunzio) also deserves considerable credit.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding. I would like to compliment the gentleman from Maryland for offering this amendment. I had intended to offer an amendment today to appropriate $30 million for Cambodian relief, but I am happy to defer to the gentleman from Maryland.

Mr. Chairman, 8 months ago all of us were profoundly shocked by the tragic human suffering of the Cambodian people, and by the overwhelming majority of 362 to 10 we responded to that suffering by authorizing $30 million as a partial U.S. contribution to the international relief effort then starting up.

At the time, it was assumed that those funds would be appropriated through the fiscal year 1980 foreign assistance appropriations bill. Unfortunately, the conference report on that bill, which does contain the $30 million, has never been adopted by Congress for reasons totally unrelated to the situation in Cambodia.

To date, therefore, the funds needed to make good on our earlier commitment to Cambodia have never been appropriated, and the Carter administration has been able to meet the pressing needs of the Cambodian people only by reprograming funds from other vital relief activities, including programs in areas of such strategic importance as Pakistan and Somalia.

Yet, the need for these funds remains urgent. The long, dark night has not ended for the people of Cambodia. Indeed, press reports in the last several weeks have noted that the most recent harvest in Cambodia is now virtually exhausted; disease is rampant and deaths from starvation are once again mounting; the rice planting season for the year-end harvest has begun with limited seed, and therefore with limited promise; and growing numbers of Cambodians are fleeing to the Thai border.

In short, the margin of survival is once again shrinking for the Cambodian people. If a renewed famine is to be avoided, it is clear that a continued heavy flow of relief supplies will be essential. One way in which we can meet the continuing needs we face in Cambodia is for this Congress to complete the process of appropriating the $30 million originally authorized for Cambodian relief.

Moreover, appropriating these funds will also help our government to meet needs that it has consciously shortchanged during the last few months. As we have previously mentioned, the Carter administration has been forced to divert funds from other needs because of our failure to appropriate the $30 million. The two needs that have been most seriously shortchanged are those of the Afghan refugees in Pakistan and those ethnic Somalis displaced by continued fighting and drought in the Ogaden region of East Africa.

In Pakistan there are now nearly 1 million refugees who have fled from Soviet aggression in Afghanistan. The first international appeal for assistance was made by the U.N. High Commissioner for Refugees in January and totalled $55 million. That appeal was based on a projected population of 500,000 refugees. However, the number of refugees has grown steadily and there is every indication that they are digging in to stay. A new international appeal for assistance will be forthcoming shortly, and our ability to respond to that appeal depends upon passage of this amendment.

In Somalia the situation, at least from a life-threatening standpoint, may very well be more serious than in either Pakistan or Cambodia. There are at least 1,300,000 persons who have fled to Somalia. At the present time, the U.N. High Commissioner for Refugees is caring for 700,000 of these people in camps, and it has been estimated that 90 percent of all the refugees are women and children.

Aggravating this tragic situation is a serious drought which has already caused widespread agricultural devastation and threatens to cause massive loss of life unless the international community responds generously to an outstanding appeal for $120 million. As in Pakistan, however, a major U.S. commitment to this program is dependent upon passage of this amendment.

Mr. Chairman, this Nation can be proud of its efforts to provide relief in these countries and others. However, serious problems remain and they are becoming more critical each day. While the Carter administration has responded in a commendable fashion to the situation in Cambodia, we have an obligation to follow through on the pledge we made 8 months ago. Additional funds must be provided now to deal with problems in Cambodia, and to meet the urgent needs in Pakistan and Somalia that have arisen in the interim.

I, therefore, urge the adoption of the amendment offered by the gentleman from Maryland (Mr. Long).

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I would like to say at this point that the foreign aid programs have operated under a continuing resolution during this fiscal year for a variety of reasons, none of which are the fault of the gentleman from Maryland who had done an outstanding job as chairman.

The CHAIRMAN pro tempore. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. Long of Maryland was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield further, in view of the fact that they are operating under a continuing resolution and in view of the fact that these unusual and different circumstances do arise and have had to be met, for myself as chairman of the committee I have no objection to the acceptance of the gentleman's amendment.

I might just mention that the gentleman from Maryland (Mr. Long) has worked very hard to bring a final conclusion to the foreign assistance appropriation bill, fiscal year 1980. Unfortunately the committee has not been able to proceed with his conference report due to the cap placed on budget authority and outlays by the budget resolution. In the interim, the foreign assistance program does operate with the same funds as last year. As you know, the resolution revising the fiscal year 1980 budget ceilings was just adopted last week which increased the amounts. Before that time, no room was left under the old ceiling which prevented any appropriation measure from being considered.

Mr. Long has worked diligently to obtain a final foreign aid bill. As we know this is one of the most difficult bills with which we have to deal. Many hours were spent to obtain a compromise on this bill. However because of the budget ceiling problem which was completely beyond the gentleman from Maryland's control, the conference agreement was not able to be considered.

The gentleman from Maryland has worked extremely hard and ably as a member, and as chairman of the Foreign Assistance Subcommitttee on Appropriations and it should be made clear that the delay in enacting the foreign aid bill can in no way be attributed to action or nonaction by Chairman Long.

Mr. LONG of Maryland. Mr. Chairman, I thank the gentleman from Mississippi.

We have done what we can here to save as much money as possible. In view of the $100 million amendment offered by the gentleman from Florida (Mr. Lehman), I have decided not to offer the additional amendment providing $39 million; so that the net cost to the amendment of the gentleman from Florida is only $61 million.

Mr. Chairman, I yield back the balance of my time and hope that the amendment will be agreed to.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Maryland whether or not any of the money that is earmarked in this amount provided in the amendment for the disaster assistance for the Caribbean is a replenishment of funds that were diverted from that account to Nicaragua.

Mr. LONG of Maryland. Mr. Chairman, the answer to the gentleman's question is "No."

Mr. BAUMAN. I was under the impression that at some point last year when the administration was asking for the reprograming of funds within the jurisdiction of the gentleman's subcommittee, that several sources were used for funding of interim aid to Nicaragua including the Caribbean disaster assistance.

Does the gentleman recall where that money came from? It was transferred from a number of accounts. Was not one Indonesia, and I thought one was the Caribbean disaster assistance fund.

Mr. LONG of Maryland. I would have to ask the Clerk. There were some reprogramings, but that is not part of any of this and none of this money would be used like that.

Mr. BAUMAN. I thank the gentleman.

Mr. LONG of Maryland. As the gentleman knows, we operate in a totally frank and open way and never resort to any devious or indirect methods.

Mr. BAUMAN. That is why the gentleman from the Eastern Shore of Maryland asks questions. I might add the hearings indicated that more than $7 million was diverted from the Caribbean disaster fund to the current Government of Nicaragua. That was the testimony of Ambassador Pezzullo and Mr. Bushnell of the State Department.

● Mr. AKAKA. Mr. Chairman, I rise in support of the Long amendment.

Mr. Chairman, a decade of war and civil unrest, and successive years of poor to nonexistent rice harvests have brought the people of Cambodia to the point of near extinction. These people desperately need the food and medical supplies that this amendment would provide.

After a recent trip to Cambodia in March, U.S. Coordinator for Refugee Affairs, Mr. Vincent H. Palmieri, reported that the needs for food and medical assistance within Cambodia are only being partially met. In this area that once was known as the Rice Bowl of Asia, only 5 percent of the country's rice paddies were in cultivation. The prospects for a renewal of normal havests remain dim as the civil conflict continues and the population in the farmlands are forced to consume their rice seedlings to survive.

Only a few days ago, I met with Dr. Daniel C. Susott, the medical coordinator of the largest refugee camp on the Thai border. The feeding operations in such camps have proven to be the key to the survival of up to 150,000 Cambodians who have flocked to the border. Dr. Susott impressed upon me the critical need for continued food assistance. While the plight of these refugees has dropped from the public view, their situation continues to be desperate. The health and food requirements of these people are only being met on a subsistence level. Maintaining what the camps are now able to provide is their hope for survival.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. Long).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

CONGREGATE SERVICES PROGRAM (RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roybal: page 28, strike out lines 4 through 9.

Mr. ROYBAL. Mr. Chairman, this amendment restores $5 million to congregate housing services program for fiscal year 1980 and is cosponsored by my colleagues: the gentleman from Florida (Mr. Pepper), the gentleman from Iowa (Mr. Grassley), the gentleman from Arkansas (Mr. Hammerschmidt), the gentlemen from New York (Mr. Biaggi and Mr. Lundine), the gentleman from California (Mr. Burton), the gentleman from Virginia (Mr. Wampler), and the gentleman from South Dakota (Mr. Abdnor).

We offer this amendment, convinced of the great benefit being derived by the frail elderly and handicapped persons in public housing and section 202 projects and convinced of the great disservice that would be created to these individuals if $5 million are rescinded.

All of us are conscious of doing our part to achieve a balanced budget. But, the type of savings that is being proposed: Reducing by 50 percent congregate housing services to the elderly of this Nation, is counter-productive to our cost reduction efforts. In addition, this is a rescission which was not requested by the administration.

Congregate housing services actually results in savings for taxpayers of 60 to 80 percent over the amount of tax dollars now spent on medicaid reimbursement for nursing homes. It costs between $10,000 and $22,000 per year to maintain a person in a nursing home and only about $1,800 per year in congregate housing.

I ask Mr. Chairman, is it logical that in order to save $5 million we ask the Government to spend at least $35 million in increased medicare and medicaid costs? If the supportive services provided by the congregate housing services are not available to the individuals in need, they will have to go to a nursing home or some other institution.

Today, somewhere between 2 and 3 million elderly people need congregate housing services instead of institutional care. Anywhere from one-third to one-half of all those now living in nursing homes could function in less intensive care environments—if such environments existed. But they do not. Not because Congress has not passed the necessary legislation, but because Congress only appropriated $10 million in 1979 and $10 million in fiscal year 1980 through an amendment to the 1980 HUD appropriations bill on the floor of this House.

We stood together last year in voicing our support of this program and in approving the $10 million. I ask you today to stand up again and join me in restoring those funds, which we knew then, and know now, are so urgently needed for services to the elderly.

I now want to challenge the reasons given to justify the rescission. We have been told that HUD has been slow in expending the appropriated funds. The fact of the matter is that HUD has funded 38 projects with the 1979 appropriations and is in the process of evaluating approximately 380 applications for the 1980 program year. To cut the 1980 program by 50 percent would be a great disservice to the elderly population. Such an action would cripple the program and delay it since the 1980 program announcement would have to be retracted and new guidelines isused. We must also consider the administrative costs involved in this move.

We have been told that the program is partially duplicated by similar programs in the Department of Health and Human Services through the congregate nutrition program of the Older Americans Act. The fact of the matter is that the law specifically prohibits duplication of services and sets up a mechanism to prevent duplication and coordinate available services.

Congregate housing services programs are designed specifically to fill the gaps where needed services are not available. Presently available programs, by themselves, generally cannot match the special requirements of congregate housing. For example, congregate housing residents need two or three groups meals a day, 7 days a week, whereas the title III nutrition program of the Older Americans Act provides only one meal a day, 5 days a week. In such a case, congregate housing services program supplements existing services and assists local housing authorities and section 202 project sponsors in putting together comprehensive congregate services packages for their impaired residents.

Congregate housing is not an experimental concept, or a pilot project.

Congregate housing and services must be provided as an intergal package. The Congregate Housing Act of 1978 insures the availability of such a package without duplicating existing services. Today there are over 800 projects and 100,000 persons with an average age of 74 eligible for these services. In 10 years this number will increase to 700,000 individuals. Older persons who need supportive services in order to stay out of institutions are found in all of our districts.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I rise in support of the Roybal amendment to the pending legislation which will restore $5 million in funds for the congregate housing services program administered by the Department of Housing and Urban Development.

The congregate services program (CSP), designed to provide congregate services for elderly individuals residing in section 202 housing units, represents an important step in the effort to meet the needs of the elderly.

When the congregate services program was first created in 1978, many of us who had been involved in the earlier creation of the 202 program believed that it would be counterproductive to compel individuals living in these facilities to travel great distances to acquire basic, if not essential, social and human services. Under the assumption that the most appropriate and humane environment for the aged population is one which allows substantial independence yet provides easy access to supportive services, we sought to initiate a program directly in the housing facility which would offer nutritional, health, housekeeping, transportation, social, and other services to residents.

Unfortunately, the history of funding for the congregate services program has been a tragic one. The first appropriation for this important program—a modest $10 million—was not provided until 1979. Furthermore, a substantial amount of time was allowed to elapse before the recent release of the 1979 appropriation money. Today, incongruent as it may seem, we are being requested to support a major reduction in the fiscal year 1980 appropriations when in fact this program should now be operating at full capacity.

The amount involved in the amendment under discussion is $5 million. It merely seeks a restoration, not an increase, in funds. I, like many others here today, am a firm supporter of this Congress efforts to balance the Federal budget; last week I voted for the budget resolution approved by this House. However, I do not believe that this particular effort at reducing Federal spending is either warranted or wise.

In fact, the funds requested today are cost-effective in nature. It is logical to assume that greater self-sufficiency in section 202 units will lead to the reduction in the number of elderly individuals forced to rely on their ability to use public or private transportation to receive essential services. We are all aware of the soaring cost of gasoline and of the national commitment to conserve energy. Restoration of the $5 million to the congregate services program may very well effect a comparable savings in terms of averted transportation costs for these people.

Advanced age often brings on increased fraility and concomitantly, a reduction in ease of mobility. For some elderly individuals residing in 202 housing projects, the inability to obtain key social and human services could result in unnecessary institutionalization. Placing healthy and mentally alert individuals in nursing homes because they are frail is the quickest way to induce loss of self-respect and independence. Studies, including a survey conducted by the Committee on Aging, have repeatedly found that annually, large numbers of elderly are inappropriately placed in nursing homes. Surely, this runs contrary to the aging policy objectives currently being adopted in this Nation.

This is a pivotal period in the history of the congregate services program. If we fail to provide the modest funding levels appropriated by Congress, I predict that the future of the congregate services program will truly be a bleak one.

Before closing, I would like to commend my distinguished colleague, Ed Roybal, for his diligent efforts and able leadership in this important endeavor. I, like others in the Committee on Aging, regard this program as one which merits a high priority and continuing commitment. I urge all those who believe as I do in this worthwhile program to support the Roybal amendment.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman yielding.

I am willing to accept the amendment on this side.

First of all, I would want the record to show that what the gentleman from California and the gentleman from New York said is correct, that this rescission was not requested by the administration.

I might also add that the $10 million that was added on the floor last year to the 1980 bill was not requested by the administration; but having looked at the program, I am perfectly willing to accept the amendment offered by the distinguished gentleman from California.

There is one other point I believe needs to be made. This is still a pilot program. The Department's justifications indicate, it is identified as a "demonstration" program. HUD will evaluate the results of this demonstration and make a determination if this activity should become a new program or trust. That determination has not been made as yet.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I am glad to join my colleagues in sponsoring this amendment to restore $5 million to the fiscal year 1980 budget for congregate housing services for the elderly and handicapped.

Many of you must wonder why we continue to fight so strenuously for such a small program that has had only $10 million appropriated each year since its enactment in the 1978 housing and community development amendments. Those of us who have been involved with the program see congregate services as a moment of sensibility in a history of housing, health, and social legislation that while individually sound has been collectively incompatible.

Before the passage of the Congregate

Housing Services Act there were a number of attempts to coordinate and utilize existing housing programs. Several provisions in the 1970 Housing Act (sections 114 and 207) authorized the development of low cost congregate housing. Although these provisions included funds to construct a central dining facility, they did not include any funds for those services that are essential to a congregate housing program—the provision of meals, housekeeping, personal care, or transportation services. The guidelines for the development of congregate services under section 202 have similar weaknesses.

To state—as the report accompanying H.R. 7542 does—that reducing the funds would not hamper the congregate housing services program because it is duplicated by similar HHS (HEW) programs, is to be clearly misinformed. The separate eligibility requirements for the major service programs for the elderly make them virtually irreconcilable with current housing programs. In addition, funding for services under title III of the Older Americans Act is so inadequate that benefits are actually rationed out. Although title XX has the highest funding level of any social service program, its funds are subject to the competing demands of children, the physically and mentally handicapped and the blind. In this competition, the elderly frequently lose.

Since the rescission of $5 million is offered in an effort to reduce costs to the Federal Government, I believe that it is worthwhile for us to examine the accuracy of this supposition. In the past when we have been discussing costs we have simply compared the cost of congregate services to the cost of nursing home care. I think this approach is inaccurate for our purposes.

The first thing that has been left out is the Federal expenditure for subsidized housing, since the only people who qualify for this program are in section 202 or public housing. HUD estimates the average rent subsidy at $1,800 per unit per year. It seems to me that we need to combine the rent with the cost of congregate services, currently estimated at $1,875 per person. This, when we add these two figures the more precise cost to the Federal Government for congregate services is $3,675.

With regard to nursing home costs, we have previously used figures ranging from $10,000 to $22,000 when we should have actually looked at the amount of reimbursement for nursing home care paid by the Federal Government. I did a review of those States which have the highest and lowest Federal reimbursement under the medicaid program, the major program underwriting nursing home costs. For the States of Maryland and California—two States which receive the lowest Federal match—the Federal reimbursement for skilled nursing care is $6,081 per patient and $5,631 per patient, respectively. For the States of Mississippi and Alabama—two States which receive the highest Federal match—the Federal reimbursement for skilled nursing care is $7,117 and $7,037, respectively.

I know that it is tedious to listen to these statistics, but I believe that it is in these cost comparisons that we have the essence of the argument. If we compare even the lowest cost to the Federal Government for nursing home care, we see that it is almost $2,000 higher than the cost of congregate services, and if we look at the highest cost, it is almost $3,400 more per person per year.

Finally, I think we must also consider the expenses to the State for skilled nursing care. In California, one of 17 States with the lowest Federal match, its share of skilled care would cost an additional $5,631—bringing the total patient cost to $11,262 per year. In Mississippi, the State with the highest Federal match, it would cost an additional $2,007—bringing the total patient cost to $9,124 per year.

Mr. Chairman, these figures—far better than I—argue for our support of the congregate services program and the restoration of the original appropriation of $10 million for fiscal year 1980.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the minority is willing to accept the amendment, too.

This is a pilot program. I guess the concern many of us have had is that essentially we do provide a congregate services program in the Department of Health, Education, and Welfare, and whether we want to have another one in the Department of Housing and Urban Development is open to question; but we would accept the amendment.

Mr. ROYBAL. Well, I am glad the amendment is accepted; but may I say to those who accepted the amendment that this is not a pilot project. It is true that it started as a pilot project; but it is no longer that. As we look now at the various requests for funds that have been made, the Department has now under consideration 385 requests for moneys. The funds that were appropriated for 1979 are practically gone. This money is now needed not only to complete the evaluation, but commitment for more funds to congregate services; so I say to the gentlemen that this is not a pilot project any longer. It is definitely an ongoing project designed to meet the needs of senior citizens, keep them out of institutions and keep them at home where they can be taken care of properly at one-fourth the cost of institutional care.

□ 1510

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. GRASSLEY. Mr. Chairman, I thank the gentleman from California for yielding and rise in support of his amendment. I think we have had enough hearings in the Select Committee on Aging to verify everything the gentleman has said. I know it probably is surprising to some people to say that we can spend some money and save some money, but there is nothing where there is a better cost-benefit ratio than the spending of money on programs that keep people out of nursing homes. In the final analysis, that is the best investment of the taxpayers' money.

Among our specific objectives with regard to the elderly is to help them to avoid being prematurely forced to leave their homes and accept institutional care.

Congregate housing for the elderly and the disabled hits precisely at this objective, but only if it is accompanied by services that provide the essential difference between continued residence in such housing and commitment to a nursing home or other type of institution.

This difference can be spanned for many of the elderly and the disabled by the reinstatement of $5 million in the fiscal year 1980 supplemental appropriations for the congregate housing services program.

Such restoration would be a humane and proper concession to the dignity of the elderly and the disabled and to their desire to remain as independent as possible for as long as possible. Moreover, it is a cost-effective measure since support through congregate services is far less expensive than is the cost of institutional care.

I urge your support of the amendment to restore this $5 million supplement.

Mr. PEPPER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. ROYBAL) who serves with such great distinction on the Appropriations Committee and as chairman of the Housing Subcommittee of our Aging Committee.

Almost 1 year ago this House adopted an amendment offered by Mr. ROYBAL which appropriated $10 million for congregate housing. There was an overwhelming consensus that this was an appropriate spending level given the great promise congregate housing offers in reducing costly and unnecessary institutionalization of the elderly in nursing homes. This action offered new hope to thousands of older persons who took heart from the commitment of this Congress to develop alternatives to nursing homes.

Today the Appropriations Committee is asking us to turn our back on the action taken by the House over the Appropriations Committee's objection last year. The administration has not asked us to provide for this rescission and I can see no valid reason why we should do so.

As chairman of the House Select Committee on Aging, I feel compelled to say to those who would argue that the amendment we propose must be defeated to save money, that we cannot and must not sacrifice the elderly on the altar of fiscal austerity. In a Federal budget of more than $500 billion we need not be so penurious as to save $5 million by depriving older persons of the services they need to stay out of nursing homes. To do so would not only be unconscionable but result in a false economy. Studies have shown that congregate housing, with a cost of $1,500 to $2,000, is an investment that provides great savings for the Government when compared to the $9,000 per year it costs for a nursing home.

The congregate housing services program offers one of the most promising alternatives to institutionalization for those who do not need the care of an institution yet would benefit from some sort of assistance in daily tasks. It provides services such as meals, housekeeping, social services, and medical services. Because these programs are offered at the housing site, the potentially isolating effects of immobility and lack of viable transportation are overcome. And the integrated delivery of services not only is an example of Government working efficiently but also helps insure that no duplication of services occurs. In short, study after study has shown that the congregate housing program works, and it works in a careful ordered way which would be well for other programs to emulate.

It is not sufficient to provide housing for the elderly that is just four walls and a roof, for the quality of humanity exists beyond the level of the bare necessity of shelter. For too long we have failed in our responsibility to the elderly, failed in our responsibility to see that institutionalization and dehumanization are not inevitable accompaniments of the universal process of aging. The quality of life is the issue here, the quality of dignity and independence which is the very essence of America.

I urge my colleagues to join with me, the National Council of Senior Citizens, American Association of Retired Persons, National Council on Aging, and American Association of Homes for the Aging in supporting this amendment and restoring these funds for congregate housing.

● Mr. LUNDINE. Mr. Chairman, I rise in support of the amendment and wish to commend the distinguished chairman of the Subcommittee on Housing and Consumer Interests for introducing it.

The Housing and Community Development Act Amendments of 1978 authorized $25 million during fiscal year 1980 to support the development of housing projects containing crucial support services to enable frail and impaired elderly persons to remain independent and avoid unnecessary and premature institutionalization. The congregate housing program resulting from this legislation was the product of years of policy discussions, beginning in 1963 when President Kennedy proposed the development of a national congregate housing program. For almost 15 years, however, implementation of the program was precluded by jurisdictional squabbles, bureaucratic tangles and departmental indifference. More recently, the program has encountered an even more formidable adversary in the "austerity budget."

On June 22 of last year, we met, as we are today, to decide the fate of the congregate housing program. At that time, the $25 million authorized for the program had been reduced to $10 million, and even this amount had not been appropriated. This body voted decisively to restore the $10 million appropriation to enable the program to develop programs to provide elderly residents in public facilities with much needed dining, housekeeping, health and transportation services.

A year later, we again find ourselves in the position of having to prevent a further reduction in spending for the program. The current proposal to rescind $5 million, or 50 percent of funding for the current fiscal year, would have a crippling effect on the program. At the time this recission was recommended, HUD was in the process of evaluating applications for the 38 projects to be assisted this year. A 50-percent cut at this time would almost certainly delay, if not preclude, new assistance under the program during the current fiscal year, as HUD will have to issue new, more restrictive program guidelines.

The arguments justifying the rescission of $5 million in funding are essentially those which Congress rejected a year ago. The program is claimed to be too costly, of limited application and of questionable need. The argument of cost is particularly deceiving and shortsighted. If administered correctly, the congregate housing program can ultimately produce substantial savings. The premature institutionalization of elderly persons not only undermines their independence and mental health, but it can be a needless burden on taxpayers.

Recent studies suggest that for every dollar the Federal Government spends on congregate services, it can save $6 in medicaid costs which otherwise would be paid to nursing care facilities. Current estimates show that it costs approximately $1,500 a year to provide supportive services to an impaired older person through the congregate housing program, compared to between $9,000 and $9,500 to provide similar services through nursing homes or other institutions. These figures should illustrate that the savings expected by rescinding the $5 million would be false savings, since the Government would most likely have to provide more extensive care to these people through more costly and less efficient programs.

The need for congregate services is also clear and has been documented for many years. While the figures differ among various studies, it seems beyond dispute that somewhere between 1.5 and 2.5 million elderly people, whose activities and/or mobility are restricted, would benefit from congregate housing. Additional data suggests that anywhere from a third to half of all nursing home residents could function in less intensive, less costly environments—that is, if they existed.

HUD now estimates that over 800 elderly housing projects, serving more than 100,000 persons, are eligible for assistance under the program. In 10 years the number of elderly persons served by such projects is expected to increase to 700,000. For the current program year, HUD has received more than 380 applications for assistance from elderly housing projects. Of this number, the agency can provide assistance to only 38. With the proposed $5 million rescission, this number would be further reduced to less than 20 projects.

Another argument has been added to justify the proposed rescission—that the congregate housing program has been a pilot project and that $15 million during fiscal year 1979–80 is sufficient to test the concepts involved. Mr. Chairman, the program was not intended as a pilot project, nor can it be claimed that the concepts involved have been inadequately studied. Not only has Congress sought to develop the program legislatively since 1970, but a number of Government studies have confirmed the wisdom of the policy.

In 1975, for example, the Administration on Aging hosted a national conference on congregate housing. The papers presented all confirmed the fact that congregate housing was well understood as a concept and had been successfully tested in practice. More recently, a detailed study on congregate housing projects by the Department of Housing and Urban Development found that data collected from all projects "converge in the overwhelming conclusion that congregate housing does indeed effectively meet the needs of its elderly residents." On the congressional side, the numerous hearings leading to the drafting of the Housing Act amendments of 1978 also provided ample evidence of both the need for the program and the workability of its concepts.

Title IV of the Housing and Community Development Act Amendments of 1978 set forth specific guidelines for the inauguration of a new Federal program within HUD to assist the provision of congregate housing for low- and moderate-income elderly persons. Similarly, the Senate appropriations report that year specifically intended an initial $20 million allocation "to fund a new program." It was only in the compromise wording of the conference report that the program was referred to as a "pilot demonstration project."

I must say that the level of funding provided the program during the past 2 years has had the effect of insuring a pilot status for the program from the beginning. This reduced level of funding, together with the proposed rescission of fiscal year 1980 funding, will have the further effect of turning the program into a 2-year demonstration effort. It seems to me that this runs directly contrary to the intent of the authorizing legislation and that it certainly cannot be justified when both the serious need and the prior research findings are taken into account.

Mr. Chairman, it is clear that Congress, more than any time in the recent past, is sensitive to the need for fiscal restraint. However, the desire for immediate budget savings should not result in actions which cause needless hardship and greater long-term costs. A significant unmet need exists for the services offered by this program, a need that will increase dramatically in coming years. The congregate housing program has shown that it can meet this need, and do so at less cost than the available alternatives.

For this reason, I strongly support the continuation of the congregate housing program and urge my colleagues to adopt the amendment.●

● Mr. ALBOSTA. Mr. Speaker, I rise in support of the amendment by Mr. ROYBAL to restore $5 million for HUD's congregate services program which the supplemental appropriations bill proposes to rescind.

Mr. Speaker, in a time when we are encouraging home health care and independent living for our elderly citizenry, we should not rescind money for this vital program. The Congress has put itself on record a number of times in favor of establishing programs that would assist elderly citizens by offering them a chance to live independently of institutionalized care. This rescission goes counter to that opinion.

In my own congressional district, the senior citizens have appreciated the support of the Congress in establishing this program, but now we are saying that we really did not want the program funded. I say we should reject this rescission and support the Roybal amendment so that these people have a glimmer of hope to live independent lives with dignity and safety.●

● Mr. DRINAN. Mr. Chairman, I rise in support of the Roybal amendment which will restore a modest $5 million to this supplemental appropriations bill for the congregate housing services program. The rescission of $5 of the $10 million earmarked for this program makes no sense. The Department of Housing and Urban Development estimates that for every person that cannot be served because of this cutback, there is a potential 3- to 10-fold cost increase per person per year to the Government because of the need for institutional care if services are not available.

Congregate housing as an alternative to institutionalization for both the elderly and the disabled, is not an experimental project. HUD evaluations as well as testimony received by the Select Committee on Aging confirm that congregate housing effectively and efficiently meets the needs of those whose only housing alternative is a nursing home or institution.

For more than a decade the Federal Government, the courts and the States have been moving away from a reliance on institutionalization of the elderly and the disabled. The impetus for this movement is not just the cost-effectiveness of such action but the more important recognition that elderly and disabled persons are entitled as a basic right to live independent lives.

I strongly identify with the remarks of my colleagues on the Select Committee on Aging concerning the importance of this program for the elderly and I would like to add a few thoughts about the importance of this program for the disabled.

It is now well-established Federal and State policy that disabled people should live and receive services they need in their own communities, not in isolated, segregated institutions. The Health Planning Amendments of 1979, the Developmental Disabilities Act, title XX of the Social Security Act, the Community Mental Health Centers Act and the Education for All Handicapped Children Act, are but some of the Federal laws to promote this policy. A commitment to deinstitutionalization without a commitment to congregate housing is an empty gesture. I urge my colleagues to support the Roybal amendment so that the disabled citizens of this Nation will know that we again affirm all that has been accomplished in the last decade to replace isolation with integration.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Roybal).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

LOW-RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES, PAYMENTS TO THE FEDERAL FINANCING BANK

(INCLUDING TRANSFER OF FUNDS)

Unobligated balances of authority in the amount of $1,995,325,000 to be transferred from the amounts provided in prior appropriation Acts for section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437(c)) shall be available for contracts for periodic payments to the Federal Financing Bank, as authorized by section 16(b) of Federal Financing Bank Act of 1973 (12 U.S.C. 2294(b)), to offset the cost to the Bank of purchasing obligations of local public housing authorities issued for purposes of financing public housing projects as authorized under section 5(c). $1,995,325,000 shall be available until expended for liquidation of obligations incurred pursuant to these contracts.

AMENDMENT OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Boland: On page 29, after line 3, insert the following paragraph:

Government National Mortgage Association
Special Assistance Functions Fund

The amount of purchases and commitments authorized under this head for fiscal year 1980 is further increased by $300,000,000.

Mr. BOLAND. Mr. Chairman, I have discussed this amendment with the distinguished ranking minority member of the Subcommittee on the Department of Housing and Urban Development and Independent Agencies, and we have agreed that this is an amendment that ought to be adopted by the committee.

What this amendment actually does is increase the Government National Mortgage Association's tandem programs by $300 million. Of this amount, $200 million is for the section 8 tandem program and $100 million is for the targeted tandem program.

As of 10 days ago the section 8 tandem program was out of the funds. The entire $1.5 billion provided for fiscal year 1980 has been committed. Without additional authority, the section 8 private developer new and substantially rehabilitated housing program will come to an absolute halt. The $200 million provided by this amendment will support the production of some 6,000 housing units for low-income families.

The targeted tandem program is generally used in connection with the popular urban development action grant program. This program is designed to encourage moderate- and middle-income families to move into, or remain in, distressed urban areas. It is not an assisted program from the point of view of section 8 allocations. It is an important program that, in the judgment of this committee and the judgment of the Department, fosters private financial investment in urban revitalization efforts. The $100 million provided by this amendment for the targeted tandem program will provide over 3,000 additional units.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to my distinguished friend from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, it would be wrong to have the funds for these programs entirely expire at this time, and we are in agreement with the amendment.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Speaking for the committee on this side, we have no objection to the amendment.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the last word.

Would the chairman of the subcommittee tell us whether any of these section 8 funds would be used for the high-rise, elevator-operated apartment subsidies that are paid in New York City where one family can receive a subsidy for 1 month or as much as $1,226?

Mr. BOLAND. Will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. BOLAND. In response to the gentleman, I think it is important to distinguish between these funds and section 8 funds. These moneys are not directly available for rent subsidies. These funds are used to help finance the construction of section 8 units on which subsidies will be paid. But it can be fairly said it is a possibility that some of these moneys could be used to help finance the construction of multifamily housing projects in New York.

Mr. MILLER of Ohio. Practically none of the people in my district are paying that much for rent, $1.226 a month, for one family. Therefore, I feel the amendment should be defeated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the minority has no objection to the amendment.

The CHAIRMAN pro tempore (Mr. Breaux). The question is on the amendment offered by the gentleman from Massachusetts (Mr. Boland).

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count for a quorum.

Does the gentleman from Ohio insist on his point of no quorum?

Mr. MILLER of Ohio. I do.

The CHAIRMAN pro tempore. Thirty-six Members, a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1530

QUORUM CALL VACATED

One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For an additional amount for "Disaster relief", $625,000,000, to remain available until expended.

Mr. BOLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, included in the bill is $625,000,000 for the President's disaster relief fund. This money is recommended in response to various disasters experienced during the past year. The recommendation includes $314,000,000 requested in House Document 96–247, $225,000,000 requested in Senate Document 96–49 and $86,000,000 requested in the President's message transmitted June 17.

The membership should realize that appropriations are made to the President's relief fund and not in response to particular disasters or emergencies. After appropriations are made to the fund, the Federal Emergency Management Agency administers the fund and provides money in response to Presidentially declared disasters and emergencies. FEMA has—and should have—the flexibility to provide high priority individual and family assistance for recently declared disasters. It should have the flexibility to delay lower priority activities from earlier disasters. Lower priority assistance may include reimbursement to Federal agencies for work already performed.

What I am concerned about is this—I want to dissuade the Members from becoming accustomed to believing that the Congress appropriates money for specific disasters. That is not the case. We appropriate money to the fund to be used as the President determines. FEMA administers the fund—and it does a fine job in that capacity.

I might add—that if the administration made more realistic estimates of disaster activity in connection with the annual appropriations process this would not be an issue before us on the 1980 supplemental bill.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $15,000,000 are rescinded, terminating the International Solar Polar mission.

The CHAIRMAN pro tempore. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

(Mr. PRICE assumed the chair.)

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

June 5, 1980:

H.R. 4890. An act to authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.

June 6, 1980:

H.R. 3789. An act to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.

June 9, 1980:

H.R. 3236. An act to amend the Social Security Act to provide better work incentives and improve accountability in the disability programs, and for other purposes;

H.R. 6727. An act to establish the Bon Secour National Wildlife Refuge; and

H.J. Res. 445. Joint resolution to provide for designation of the week of September 21–27, 1980, as "National Cystic Fibrosis Week."

June 17, 1980:

H.R. 2102. An act pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota;

H.R. 3434. An act to establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes;

H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin;

H.R. 6285. An act to amend the Egg Research and Consumer Information Act to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets; and

H.R. 6842. An act to protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.

June 17, 1980:

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees.

The SPEAKER pro tempore. The Committee will resume its sitting.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

The Committee resumed its sitting.

POINT OF ORDER

Mr. FUQUA. Mr. Chairman, I raise a point of order.

The CHAIRMAN pro tempore. The gentleman will state the point of order.

Mr. FUQUA. Mr. Chairman, I raise a point of order that the language on page 32, lines 11 through 14, is in violation of clause 2, rule XXI, of the rules of the House.

Mr. BOLAND. Mr. Chairman, we concede the point of order.

The CHAIRMAN pro tempore. The point of order is conceded. The point of order is sustained. The paragraph is thereby stricken from the bill.

The Clerk will read.

The Clerk read as follows:

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $46,800,000.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon: Page 33, line 14: Strike the period following "$46,800,000" and insert in lieu thereof ": *Provided*, That not to exceed $8.5 million available under this title for fire suppression may be transferred to the Oregon and California Grant Land Fund: *Provided further*, That funds so transferred shall be reimbursed to fire suppression from accounts received to the O. & C. Grant Land Fund at such times as available receipts exceed amounts necessary for western Oregon timber management.".

Mr. DUNCAN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DUNCAN of Oregon. Mr. Chairman, this is a simple technical amendment that simply introduces a degree of flexibility into the administration of the Oregon-California lands in the State of Oregon. Because of the decline in the general economic picture, the decline in housing, the decline in the lumber market, there has been decline in the receipts into this fund against which budget authority is allowed when and only when the receipts are deposited into the Treasury. This would permit the transfer of $8.5 million from the fire suppression funds into the Oregon-California Grant Land Fund in the event the receipts from the sale of timber on O. & C. land do not live up to the expectations which we had at the time of the formulation of the budget.

Mr. Chairman, if the receipts are greater than what we think they are going to be, then there will be no transfer made. If a transfer is made, these funds will be paid back if, as, and when the amount of receipts permit.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I would advise the gentleman that the committee has no objection to the amendment on this side of the aisle.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I want to commend my

friend from Oregon for his usual diligence. He has always asked nothing for his district and looks only after the welfare of the State and his area of the country. We glady accept his amendment on this side.

Mr. DUNCAN of Oregon. I thank the gentleman, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from Oregon (Mr. DUNCAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $7,000,000.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would direct a question to the gentleman from Illinois (Mr. YATES), the chairman of the Subcommittee on Interior Appropriations.

Mr. Chairman, am I correct in my understanding that the funding provided in this supplemental appropriation for the Department of the Interior carries with it the restrictions that were placed on that Department regarding any Federal regulations requiring the use of steel instead of lead shot in the hunting of waterfowl in the United States?

□ 1540

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes, of course.

Mr. YATES. The gentleman is correct. The original bill providing funds for fiscal year 1980 for the Department of the Interior carried certain language which permits steel shot to be used in States that require the use of steel shot, and leave the decision for the use of lead shot in other States that want to use lead shot. That language controls this bill.

Mr. BAUMAN. I thank the gentleman for that clarification. So that, States such as Maryland that have enacted laws pursuant to that permission granted in our Federal appropriation, those laws will still remain in effect?

Mr. YATES. The gentleman is correct.

Mr. BAUMAN. I thank the gentleman.

The CHAIRMAN pro tempore (Mr. BREAUX). The Clerk will read.

The Clerk read as follows:

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $1,841,000,000, to remain available until September 30, 1981: *Provided*, That of this amount, $400,000,000 shall become available on October 1, 1980.

Mr. McDADE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have just considered in the supplemental the energy sections of this piece of legislation. There is, as many Members know, a congressional mission that started a couple of years ago under the leadership of my friend from Illinois, my friend from Utah, all the members of our committee, in a bipartisan spirit with the Senate, to get the country off the dime on the supply side and to begin to get an alternative fuels program going in this country.

We have received some disturbing reports that there is contemplated, and indeed the other body has already taken, some action which would have the effect of stopping all that work immediately. The Department of Energy is able today to go out with a request for proposals on alternative fuel supplies spanning the entire spectrum from biomass to alcohol, to ethanol, to natural gas, to oil shale, for the receipt of production later on.

The effect of what apparently is an OMB initiative would be to destroy all of those interim authorities that we worked so long and so hard to put into place to begin to solve what I conceive to be the greatest threat to this Nation's internal security, and indeed maybe the free world's; namely, developing some form of coherent energy policy in our country, attempting to break the shackles that OPEC has around our necks; attempting to set right an economy that has gone wrong because of so many energy problems, like 300,000 auto workers laid off. That is the effect of what OMB's decision to prevent this committee from proceeding on the path that we have charted and have had hearings on for 2 years is.

This administration, if they succeed in that through OMB's initiatives, would stop completely the interim authorities that we have to develop the hydrocarbons that are so abundantly found in this Nation and to apply the technologies which have existed for 50 or 60 years, and which can be brought into play within the short term—which used to be 1980 and is now 1985 and 1987.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I am delighted to yield to my chairman.

Mr. YATES. Mr. Chairman, I share the concern of the gentleman from Pennsylvania. There is something missing; there is a link that is missing here that we have been unable to discover. Apparently, it is related, the action of OMB is related in some way to the creation by the conferees of the Energy Security Corporation, and the initiative of OMB looks to the termination of funding by the Department of Energy of the alternate fuels program at such time as the Energy Security Corporation comes into existence.

What troubles us is, that at that point the Energy Security Corporation will not be in a position to carry out the alternative fuels program. If history be any test, it took the Department of Energy more than a year before it became operational. We conceive that the new Energy Security Corporation will require an extended period of time before it will be in a position to undertake the kind of initiatives that the Department of Energy is now ready to undertake. We are disturbed that rather than permit the Department of Energy to continue what it has been doing in the field of alternative energy, in going out and seeking contracts and seeking proposals from private industry in order to keep the momentum for the alternative fuels program, we are disturbed that this kind of action, I understand took place in the Senate, will terminate that momentum by the Department of Energy and it will not be recreated for an extended period to come.

So, I want my friend from Pennsylvania to know that I do share his concern, that we are now trying to find out what possible reason the administration has for terminating the funding by the Department of Energy at this time in order that we may know why it happened.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. McKAY and by unanimous consent, Mr. McDADE was allowed to proceed for 5 additional minutes.)

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to my friend from Utah, and may I say as I do that without the crucial support in that committee there would not be in existence today an alternative fuels program. There is, and we ought to use it.

Mr. McKAY. Mr. Chairman, I associate myself with the remarks of the gentleman from Pennsylvania and also those of the chairman, Mr. YATES. The history of this was that we were concerned about it. We had a lot of speeches when the first embargo came in 1973 about what we needed, what energy we needed. We worked in that committee about grant systems of all kinds to get people to start producing. They did not produce a barrel. So, we came up with what became section 4 of that bill last year, which got it on line; the effect of which now is that there is something like 800 to 900 different groups who have already made application to the Department of Energy to proceed with commercial-sized units in the various elements of synthetic fuels.

The effect of shutting this off, as it appears, would then stop everything. It would throw us back at least a year to 2 years to come up with new proposals. The RFP's are ready to go on the street, and we are on the way to building.

□ 1550

We are on the way to building. We could within a year or less have some of these plants on the way to construction. We would not just be talking about them; we would be building staff under the Energy Security Corporation. We want to have an absolute easy transfer, and for those that are moving, we would have no way to stop them.

Mr. McDADE. Mr. Chairman, I concur completely with the remarks of both my colleagues.

This is almost a rerun in miniature of something we saw the Department of Energy do just about a year ago. They sent up a request to rescind a proposal on a plant that would take coal and convert it to gas down in Memphis, Tenn. They wanted to rescind it, and the committee by unanimous vote said, "We refuse to rescind it."

Using the old George Aiken proposal, they ran up the flag and reclaimed it and ran it down, and then they announced they were going to build the first plant that would have industrial capacity to produce in this country. Then they came up in front of the committee and misled us about the amount of money needed to complete the plant in a timely way, to such an extent that they admitted their error and recanted their testimony. They refused to send up a budget amendment, and we were forced to add the money. Our committee unanimously voted, and we added $45 million to start development of that plant so we can have that first commercial-sized operation producing industrial gas from coal in this country.

This is almost a replay of what we went through in that one effort to create capacity to produce energy in this country.

So, Mr. Chairman, I join my colleagues in their statements.

Mr. McKAY. Mr. Chairman, will the gentleman yield once again?

Mr. McDADE. I am happy to yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, in my bill we had a request from the administration to beef up the military presence in the Persian Gulf. The main purpose of that, aside from the international positioning, was for the defense of the lifeline of oil from the Middle East, not only for us but for our allies, and if we ever got into trouble there, there is no backup for any supplies to be stored.

The urgency of this is to keep it on line where we are perfectly able to produce our own capacity. This is an urgent matter, it is dire, and I would urge that the House be alerted and be ready to assist the committee to see to it that what we have got started does not become deterred or stopped in any way, because it is apparent that we must move on to self-sufficiency.

Mr. McDADE. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Page 39, line 4, strike out "$1,841,000,000" and insert "$45,000,000".

On line 6, strike out "$400,000,000" and insert "$45,000,000".

On line 7, after "1980" insert ": *Provided further*, That none of the funds appropriated in this paragraph and made available on October 1, 1980 shall be used to pay trade readjustment benefits under part I of subchapter B of chapter 2 of Title I of the Trade Act of 1974 for any week to any individual who is entitled to unemployment insurance benefits for such week: *Provided further*, That none of the funds appropriated in this paragraph and made available on October 1, 1980 shall be used to pay trade readjustment benefits under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 to any individual in an amount for any week in excess of the weekly unemployment insurance benefits which he received or which he would have received if he applied for such insurance".

Mr. HILLIS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. HILLIS) reserves a point of order on the amendment.

(By unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. MICHEL) is recognized for 8 minutes.

Mr. MICHEL. Mr. Chairman, my amendment would limit assistance under the Trade Adjustment Assistance program to those individuals who have exhausted their regular unemployment benefits. Furthermore, when such trade payments are made, it would limit those payments to the amount of the individual's weekly unemployment benefits, rather than the present 70 percent of gross wages up to $269 a week. Most importantly, however, my amendment would extend total unemployment benefits from 52 weeks to 78 weeks, for those who truly lose their jobs because of imports.

This language reflects the recommendations of the General Accounting Office in its report of January 15, 1980, on the program.

Originally, I had intended that my amendment apply to both fiscal years 1980 and 1981, in which case there would have been a reduction of $837 million in this supplemental, better than half of it applying against fiscal year 1980. In view of the lateness of this supplemental, and only 3 months to go before the end of the fiscal year, I have rewritten the amendment to make it applicable only to the advance for fiscal year 1981, which represents a $355 million savings by last CBO estimates that surely will go much higher as unemployment rises even further.

Why this kind of an amendment at a time when unemployment is rising? Trade Assistance is an entitlement program that is soaring out of control. The original 1980 estimate for this program was $381 million. The estimate now is $1.4 billion. The amount needed for 1981 has already doubled since January.

Incidentally, over in the other body yesterday the Finance Committee was considering amending the Trade Adjustment Assistance Act in keeping with the reconciliation proviso of the budget resolution we recently passed. My amendment dovetails with the action being considered in the other body.

I am not engaging in wishful thinking about a balanced budget. We all gave up on that some weeks ago. What I am talking about is preventing the 1981 budget from exploding in our faces now.

We do not talk about it, but we all know that in a couple of months from now the pressure for massive injections of Federal spending to help the unemployed is going to be insurmountable. We are headed for severe times and we all know it. If we do not begin to prepare today, we may not have the money to take care of these people, without destroying everything we have tried to do about holding down the deficit.

So why pick on such a politically sensitive program as trade adjustment assistance? Is not cutting unemployment benefits—any unemployment benefits—unthinkable?

The answer is "no," unless you want to go on bestowing an extra benefit to a select group of unemployed when we are so hard pressed to take care of all the unemployed with a minimum benefit.

Trade adjustment assistance is a sea of loopholes and misdirected good intentions. It is dollar for dollar, one of the most extravagant entitlements we have ever created, and as I mentioned, it is rampaging out of control.

We enacted this program as a means of cushioning laid-off employees from the adverse impact of increased imports. We never intended that they be reimbursed at 95 to 100 percent of their take-home pay. Yet that is precisely what is happening. Under this program, they are entitled to benefits of up to 70 percent of their gross wages, up to $269 a week.

But since these benefits are basically tax-exempt, they actually amount to a much higher percentage of their net take-home pay—in the neighborhood of 95 to 100 percent. I cannot imagine that anybody here really intended for these trade benefits to be used to pay an employee virtually the entire amount he earned while working for a whole year. Making that kind of payment would be nice, if we could afford it. We cannot.

I also do not believe we intended for these benefits to be paid to employees who are laid off for 2 weeks because a plant wants to retool for new models. That layoff has nothing to do with imports, but yet the way this program works, they get trade benefits. That would be nice, too, if we could afford it. We cannot.

We surely did not intend for such benefits to be given to workers who are laid off because another industry providing needed supplies is on strike, such as in the case of the coal strike, but yet that's what happened.

Employees are also entitled to trade benefits if they go to work for another employer, unaffected by imports, and are then laid off by that employer. I cannot believe we really intended for trade benefits to be paid in such cases, but they are.

Did we really intend to make trade payments to workers even if imports represent only a small percentage of the reason for their layoff? That is the way the certification process is operating.

Did we really intend that such payments should be made to workers when they are back on the job? That is what is happening in more than 50 percent of the cases.

All of these benefits would be nice if we could afford them, but we cannot, and if we continue to pay them we are going to be caught in a squeeze between these niceties and other critical essentials later on.

The Washington Post stated editorially that—

> The country cannot afford to keep shoveling out aid that is chronically misdirected and comes to those who actually need it too late.

The New York Times says in an editorial:

> The program is now little more than a cash grant that gives some of the unemployed—those "substantially" hurt by imports—an unfair advantage over others who get only routine unemployment benefits.

The General Accounting Office, after a detailed study of the program mandated by law, found that most workers "experienced no severe economic hardship as a result of their layoff—which for most was not permanent—and were able to rely on unemployment insurance benefits and other income sources to meet their financial needs. Thus, most workers achieved the adjustment envisioned under the Trade Act without the cash assistance provided by it."

Finally, and most importantly, the House-Senate conferees on the budget resolution state in their report:

> The conferees are very concerned about the rapid growth of costs in the Trade Adjustment Assistance Program. . . . The conferees believe that reforms to reduce costs are urgently needed in the program.

My friends, the conferees are right on the mark in their exhortation. We cannot ignore the discrepancies, the inefficiencies, and the misdirection of this program. We have to get back to the basic purpose of the law.

Opponents of this amendment will use the timeworn argument that we should not attempt to repair program deficiencies in appropriation bills, that we should wait for the authorization. I think we have all heard that refrain often enough now to know that if we do not make cuts in appropriations there will never be the incentive needed to correct the authorization. We have all acknowledged the problems in entitlements, but we have never had the courage to face up to them. We put them off and put them off and put them off. Adopt this amendment and I suspect we will have some reforms.

Opponents will argue that we are cutting unemployment benefits for workers impacted by imports, true. Opponents will argue that the reduced benefits will create a great hardship. According to the GAO that's false, but even if it is, what about the millions of others who are laid-off for reasons other than imports?

What about specific Federal policies on interest rates or credit that have an equally severe impact on jobs? What about those workers? Why offer substantial assistance to a metals worker laid-off because of imports and deny assistance to a laid-off construction worker because of interest rates?

That's what we are doing. It is unfair and inequitable. It is fiscally impossible to help them all, but what we can do here is reduce the inequity a bit, and ultimately make more money available down the road for everyone who must suffer the hardships of recession.

My amendment moves us in that direction.

My amendment would spread the benefit more evenly among all those so unfortunate as to become numbered among the unemployed. For those who are permanently laid-off due to imports, my amendment will provide a 50-percent longer period of coverage, a 50-percent increase. That is the bottom line.

You have a choice. Close your eyes and ears to the real dangers ahead, or face the facts now. This entitlement program is out of control and it is misdirecting millions of Federal dollars. When unemployment gets worse, we will have a hard time explaining that we already spent what we had frivolously and there just "ain't" no more to go around.

Just let me say in conclusion, I do not have any illusions about the political popularity of an amendment of this kind. I know how easy it is to vote against it and how hard it would be to vote for it, given the climate today. I offer it because the trade assistance program as it is now structured is wrong, and there are no two ways about that. It is wrong from start to finish just like so many other entitlements.

☐ 1600

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Indiana (Mr. HILLIS) insist upon his point of order?

Mr. HILLIS. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. HILLIS. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, the amendment violates rule XXI of clause 2 of the rules of the House in that it constitutes legislation in an appropriation bill. The amendment is a change in law and not a mere limitation of the expenditure of the funds appropriated.

The amendment does not on its face retrench Federal expenditures covered by the bill. Under the precedence of the House in order for an amendment to be covered by the so-called Holman rule, it must on its face reduce Federal expenditures. Section 844 of the rules of the House states in part that:

> To an item of appropriation for inland transportation of mails by star routes an amendment was offered requiring the Postmaster General to provide routes and make contracts in certain cases, with the further provision "and the amount of appropriation herein for star routes is hereby reduced to $500." A point of order made against the first or legislative part of the amendment was sustained, which decision was, on appeal, affirmed by the committee.

Mr. Chairman, it appears to me that a similar situation is presented by the pending amendment which has two parts. Part one of the amendment would reduce the appropriations. The second part of the amendment, the legislative part, must stand by itself and on its face retrench expenditures, which it fails to do.

Chapter 26, section 10.4 of Deschler's procedure states:

> An amendment to a general appropriation bill, proposing legislation which will not patently reduce expenditures, though providing for a reduction in the figures of an appropriation, is not in order under clause 2 Rule XXI.

It is not sufficient that the reduction would probably or would in the opinion of the Chair result from the proposed language. The precedences are clear that the reduction must be conspicuous from the language itself.

The CHAIRMAN pro tempore. Does the gentleman from Illinois (Mr. MICHEL) wish to be heard on the point of order?

Mr. MICHEL. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, this is a straight limitation on an appropriations bill which does nothing more than limit the use of the funds under this program. In order to be considered as a proper limitation on the use of funds, the amendment must prohibit the use of money for some purpose already authorized by law. It has been consistently upheld that the House has the right to refuse to appropriate for any purpose which it may deem improper, even though that purpose may be authorized by law. The principle of limitations on appropriation bills is derived from this concept. If the House has the right to refuse to appropriate anything for a particular purpose authorized by law, it can appropriate for only a part of that purpose and prohibit the use of money for the rest of the purpose authorized by law. My amendment clearly passes this test.

This language will not require any extra work on the part of the executive officer administering the funds. Both the trade adjustment assistance program and the regular unemployment insurance programs are administered by the same agencies, the State unemployment insurance agencies and the amount and length of an individual's regular unemployment insurance benefits must currently be determined in order to determine the size of the trade adjustment benefit.

The language of the current law is significant in this regard; part (c) of section 232 states the following:

> The amount of trade readjustment allowance payable to an adversely affected worker . . . for any week shall be reduced by any amount of unemployment insurance which he receives, or which he would receive if he applied for such insurance, with respect to such week; but, if the appropriate State or Federal agency finally determines that the worker was not entitled to unemployment insurance with respect to such week, the reduction shall not apply with respect to such week.

The only determinations required under my amendment are: First, the point in time when an individual's regular unemployment benefits are exhausted; and second, the amount per week of such benefits.

Both such determinations are required under current law, in the section 1 just cited, as part of the process for calculating the trade adjustment benefit to which an individual may be entitled. Consequently, no additional duties are required of the executive officers administering these funds under the language of my amendment. Therefore, Mr. Chairman I submit that my amendment is not legislation and the point of order should not lie.

The CHAIRMAN pro tempore (Mr. BREAUX). The Chair is ready to rule.

For the reasons stated by the gentleman from Illinois and because a reading of section 2292 of title 19, United States Code indicates that the determinations required by the amendment offered by the gentleman from Illinois are precisely those required by the existing law in 19 U.S.C. 2292, the amendment, therefore, is in order as a negative limitation on use of funds in this bill and the "Holman rule" is not applicable.

The point of order is overruled.

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(By unanimous consent, Mr. TRAXLER was allowed to proceed for 3 additional minutes.)

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. MICHEL).

First of all, I think it is important to point out that we would not be facing the problem of the rising cost of the trade adjustment assistance program if our trade policies struck a better balance between the desire for "free trade" and the need to preserve jobs in this country. I think that the economic and personal price we are presently paying for our free trade policies is too high, and I have introduced legislation to halt the flood of foreign manufactured cars into this country. This rapid growth in imports is threatening the viability of an American auto industry in future years, and is imposing severe hardships on hundreds of thousands of workers whose jobs are dependent upon a healthy domestic auto industry. I hope my colleagues would join me in recognizing the importance of this industry to our entire Nation's economy.

Until such changes are made in our trade policies, however, we must live with them as they presently exist. An inherent part of our trade policy is the trade adjustment assistance program. TAA is a pact that we made with American workers when we opened our doors to foreign imports.

Now that the real impact of our free trade policies is being felt nationwide, we cannot turn our backs on this commitment and deny workers this help.

Trade adjustment assistance provides financial and technical assistance to workers adversely affected by import competition. The program began in 1962 as part of the "Kennedy round" of tariff and quota reductions, and it was liberalized to its current form in the Trade Act of 1974.

The TAA program recognizes that a trade expansion policy, although aimed at benefiting the Nation as a whole, may cause particular worker groups to be disadvantaged. Consequently, TAA has been considered a key element in American free trade policy since 1962, compensating those who are forced to bear the burden of increased foreign competition. It is an alternative to protectionism. The supplemental funds appropriated in this bill are needed now to pay benefits to those workers who have lost their jobs due to import competition. We have promised this help, and we should not back down on this commitment we made to American workers.

The Michel amendment would make substantive changes in the TAA program. It would reduce the benefit level under TAA and would postpone eligibility for assistance until after a person's unemployment compensation benefits have been exhausted. This is a substantive rewrite of the program, and is of questionable legality.

Although the Michel amendment would prohibit the use of the advance account to pay for the benefits, it would not remove the legal requirement that the Federal Government make assistance payments. This will result in considerable litigation.

Furthermore, if the TAA benefit level is limited to the regular State unemployment compensation levels and provided only after unemployment benefits have been exhausted, the whole nature of this program is changed. The program would be converted to an extended unemployment compensation program and the special compensatory feature of helping workers adversely affected by our import policies would be almost entirely eliminated.

The changes proposed by the Michel amendment would impose substantial economic hardship on these people we promised to help. The level of unemployment compensation paid to a laid-off auto worker in the State of Michigan, with two dependents, is $119 a week; in New York it is $125 a week; Missouri, only $85 a week; and in other States it is even less. At that income level, many of these unemployed people would be forced to draw upon other forms of public assistance such as food stamps. Any cost savings to the Federal Government under the Michel amendment is highly questionable—the human impact, however, is very real.

We were aware of the risk that American workers could lose their jobs when we opened our doors to foreign competition, and we made a commitment to help those workers and communities that might be adversely affected by our trade policies. Those trade policies are still in effect and we must now meet our commitment to the laid-off workers. I urge my colleagues to vote against the Michel amendment.

□ 1610

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Iowa.

Mr. TAUKE. I wonder if the gentleman could tell me why the workers in his district should be eligible for this kind of benefit when the workers in my district, who manufacture farm equipment, are being laid off because of the fact that the President decided to impose a grain embargo on the Soviet Union? We have two instances in which we have workers put out of work because of policies pursued by the Federal Government, and yet one set of workers which is going to receive funds, and another set of workers will not. Where is the justice and equity in that?

Mr. TRAXLER. The injustice and inequity is, one, the present act does not include the implement workers, to my knowledge. They have to be directly unemployed as a result of foreign competition. Let me say to the gentleman, I totally disagree with the President's embargo of grain with the Soviet Union. Did the gentleman notice this morning in a local newspaper announcing that Australia had shipped over a million tons of wheat to the Soviet Union? The embargo is ineffectual. It harms nobody but our farmers. I was opposed to it when it was initiated, and I remain so now.

Mr. TAUKE. It not only harms our farmers; but it also harms the manufacturing sector of the economy that sells to farmers and the workers who work in that manufacturing sector. All I am suggesting is that those workers have been put out of work because of trade policies pursued by the United States, and I do not know why they should be ineligible when your workers are eligible.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I would be pleased to yield to my colleague from Michigan.

Mr. CONYERS. I would like to commend my colleague in the well, the gentleman from Michigan, because I think he has articulated a case not just for 300,000 laid-off auto workers that go far beyond our districts and the city of Detroit and State of Michigan, but he has made clear our trade policy must be corrected, and staving off the pernicious effects of the Michel amendment is a good place to start. I associate myself with his remarks and commend him for his eloquence.

Mr. Chairman, the effort now being made with the amendment to cut trade readjustment assistance benefits (TRA) is an attempt to change the 1974 Trade Act Law itself, simply because the number of persons eligible for benefits under that law has grown beyond what was anticipated at the time. This amendment to cut supplemental funds for TRA would single out auto workers, whose massive layoffs in recent months have qualified them for the benefits, while continuing benefits to other groups of workers in the same circumstances as the auto workers.

Trade readjustment assistance was instituted to remedy the very conditions that exist in the city of Detroit and other communities, where the auto industry and is suppliers operate. These benefits were intended for workers, firms, and communities hit by structural weaknesses created by import competition. They were intended to assist workers thrown out of their jobs for extended periods of time as a result of long-term decline as well as sudden, unexpected, large-scale economic dislocations in local communities. For this reason, TRA benefits exist for longer periods and provide for training, job search, and relocation assistance, should workers require it. It was understood that regular unemployment compensation could not deal with the types of situations TRA addresses. As a matter of fact, TRA benefits are reduced to the extent that workers receive regular unemployment benefits.

The $1 billion 1980 supplemental for trade readjustment benefits was made necessary by the dramatic deterioration in the economy, the failure to anticipate economic trends, and the considerable decline in the auto industry that has resulted in the layoff of more than 300,000 auto workers, the majority of whom are laid off indefinitely. Auto imports now have captured roughly 30 percent of the domestic market, and Japanese imports account for 23 percent of this share. The decline of our auto industry is the product of a number of factors, but chief among them are Federal policies governing trade and energy. A cut in trade readjustment benefits under the supplemental bill would target auto workers, and other workers in related industries, who through no fault of their own have become casualties of Federal policies and of the economy.

Our policy of free trade is one factor that has made it possible for the Japanese to flood the domestic market with their products, especially their automobiles. Japan's auto exports over the last 9 years have accounted for more than 80 percent of their expanded auto production. This is made possible by the incredibly minimal restrictions we place on Japanese automobiles. Our 3 percent tariff—which, incidentally, is much lower than the tariff we place on other products—is less than a third of the tariff that the European Economic Community has placed on cars coming into their markets. France, for example, has kept the Japanese share of its market to under 3 percent; Italy permits only a few thousand Japanese cars to enter its market; Britain and Germany have similarly imposed strict import controls on theirs. In contrast, the Japanese by a variety of means have discouraged the entry of American cars into its market, the share of which is only 2 percent. The United States also has been slow in requiring foreign manufacturers to raise the local content of their products, as other nations such as Canada and Mexico have done. This means that over the long run, American auto workers are losing their jobs not only because of import competition, but also due to the shifts in auto production to other countries that have stiff local content requirements.

Another factor behind the auto industry's decline has been the policy of decontrolling the price of domestic oil. The decision more than 1 year ago to phase-out controls on domestic oil is a major factor behind the increases in gasoline prices, as well as the general inflation, as domestic prices have moved upwards to match world prices. As gasoline prices more than doubled this past year, auto buyers flocked to smaller, energy-saving imports. American automakers, slow to respond to shifts in consumer habits, were caught off-guard since they lacked the high volume small car production that the Japanese have. The administration's decontrol policy could have been postponed another 2 years, until October, 1981, under the law. During this time Detroit would have had some breathing-room to shift its production to smaller cars.

It does not require any sixth sense to foresee that what is happening now in Detroit and the State of Michigan is likely to spread throughout the country, unless our policies are changed to reflect the realities of life in the Nation. Detroit's jobless rate stands at 16.4 percent, more than twice the national rate, which includes one in every four black Detroiters and one in two black teenagers. Michigan's jobless rate is 14 percent. As of the third week in May, 340,000 citizens in the State were drawing unemployment benefits, the second highest weekly figure since the depth of the 1974–75 recession. The number of persons receiving public assistance has reached an all-time high, nearly 2 million citizens. The situation in my State and city is not unique.

Until we find the wisdom to address adequately the problems of the economy—of unemployment, inflation, and industrial decay—we had better prepare ourselves for the disclocations that will take place. We have to protect our workers and the communities in which they live. The supplemental for trade readjustment assistance must not be cut and those receiving its benefits must not be made the scapegoats of the failures of policy that have occurred.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Ohio.

Mr. VANIK. I want to point out to my colleague who complained about the failure of the legislation to affect his area, that his efforts should be directed to try to broaden the effect of this act and get his import impact included.

Last year we passed the Multilateral Trade Act. And doing that, we received the support of large sectors who would be affected because we had structured in the law these provisions for adjustment assistance which was specifically set forth as a promise to the industry and to workers that we will provide relief if there was impact by foreign trade imports.

Just a few moments ago, in the Committee on Ways and Means, in dealing with the issue of rescission, the committee decided to strike out the provisions of the Trade Adjustment Assistance Act, which passed the House, which had cleared the Senate Finance Committee and which included the Downey amendment, which would have extended the benefits of this legislation to trade impact in automobile component parts.

In my judgment, that legislation should have been adopted. I think it was a mistake of the Committee on Ways and Means in the face of the cascading recession to ignore the opportunity to provide relief to this group.

I would say that at least we ought to preserve what is in the law and preserve the entitlement which we promised when we passed the Multilateral Trade Agreement last year. We made a commitment to the workers of America that they would have the provisions of this act to provide relief in the event there was impact because of imports.

The CHAIRMAN pro tempore (Mr. SIMON). The time of the gentleman from Michigan (Mr. TRAXLER) has expired.

(By unanimous consent Mr. TRAXLER was allowed to proceed for 2 additional minutes.)

Mr. VANIK. If the gentleman will continue to yield, I would say to my colleague from Illinois, that the proper forum for dealing with things that ought to be corrected on adjustment assistance is in the legislative committee. We have carried through every commitment to consider changes that would improve the law. That would be the proper forum rather than forcing the change through the crash procedures that are available in the appropriation bill process.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Illinois.

Mr. MICHEL. I ask the gentleman to yield because of the observation made by our good friend, the gentleman from Ohio (Mr. VANIK). The reference he made to the legislation he has introduced would extend the current law beyond the current workers covered for trade adjustment. He would also cover those who supply the auto industry, and the estimates I have from CBO and a few other sources indicate the Vanik bill would require another $752 million if enacted.

The reason I brought this matter up is because we have over $1.4 billion in this supplemental for this trade adjustment program and its cost is running out of control. I would never have been as wise to the ways in which this program is being administered had we not had the hearing before our Appropriations Committee. Thank heavens, we give at least annual oversight to these programs so we can see how they are operating and report to you in this forum.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Ohio.

Mr. VANIK. I would like to say as a result of the action of the Committee on Ways and Means just a few moments ago, that the Adjustment Assistance Act, the revisions which passed the House earlier this year along with the Downey amendment have been made the subject of reconciliation, and that decision has already been made. These extensions of trade adjustment assistance have been dropped. What we are dealing with now is the bare entitlement that remains under existing law, and it seems to me that commitment was made to industry and to the workers. It is a commitment we should keep and carry through this present crisis.

Mr. Chairman, trade adjustment assistance is an entitlement program for workers forced to bear the burden of adjusting to increased import competition resulting from a Federal Government policy for trade liberalization and expansion benefiting the Nation as a whole. This amendment to the supplemental appropriation bill is an end run around the legislative process through the authorizing committee, in this case the Committee on Ways and Means. Any changes to the program, particularly one so drastic as to effectively abolish the program, should be done through the legislative process.

Limiting appropriations will insure that workers eligible for assistance benefits under existing law will not receive payments during the period they receive UI, but it will not change the worker's entitlement to adjustment assistance benefits during that period or remove the legal requirement that the Federal Government make the payments. Consequently, the amendment is likely to produce litigation at considerable expense to the Government—directly contrary to efforts to balance the budget. In the meantime, nearly 600,000 unemployed workers in the auto, steel and other industries will be denied benefits when they need them most. Ironically, the effect of the amendment and resulting litigation would only further delay payments when a GAO report, which apparently is the genesis of the amendment, criticized the program for not providing benefits on a sufficiently timely basis.

One of the main points in the GAO report is that most workers have not received benefits until long after they were laid off, in many cases long after they have returned to work. However, the GAO report was based on 1977 and 1978 data at a time when only 16 percent of worker certifications were issued within the statutory 60-day deadline plus an average 2 months for the States to begin weekly payments, and three-fourths of the workers were back to work by then. However, since late 1978 the timeliness of benefits has greatly improved, 70 to 90 percent of the cases being certified within 60 days, all cases certified within 90 days, the States making first payments to workers generally within 21 days, and two-thirds of all workers now receive benefits while still out of work.

The amendment would amount to a time extension of regular State unemployment compensation limited to regular State UI levels for import-impacted workers still unemployed after 26 weeks. One of the major advantages of trade adjustment assistance over State UI would thereby be lost, namely the uniform, standard maximum benefit level on a nationwide basis—70 percent of a worker's average weekly wage up to a maximum of the average weekly wage in manufacturing. Not only would the special compensation to import-impacted workers be removed, but the discriminatory and inequitable aspects of State UI substituted. An auto, steel, or textile worker in one State laid off because of increased imports would receive one benefit level while workers in the same industries in another State laid off for the same reason would receive a different payment. In short, it is totally inappropriate to respond to the results of national policies of the Federal Government to encourage increased trade with State-imposed disparities in benefit levels.

Since the beginning of the Trade Act program in April 1975, the Department of Labor has certified over 2,700 worker petitions covering more than 700,000 workers. About 22,000 workers have entered training and about 5,000 have received either job search or relocation allowances. The major recipients of program benefits have been workers in the auto, steel, apparel, shoe, and electronics industries.

To, in effect, eliminate TAA at this time of very high unemployment particularly in basic industries such as autos would likely have a major impact on labor's attitude to U.S. trade policy. It would remove an alternative to import restrictive actions; increased pressures for import protection can be expected in the absence of this program.

Mr. TRAXLER. If I may reclaim my last 10 seconds, I want to conclude by saying that I trust that my colleagues will reject this amendment. I want to tell my colleague from Illinois (Mr. Michel) that I know that he will be warmly welcomed in Detroit this summer in spite of his amendment.

☐ 1620

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, I will not be long, because it is a long day and there are other Members who would like to speak on the amendment.

I know the gentleman from Illinois (Mr. Michel). Some concern with the Trade Adjustment Act, but I think from a timing standpoint and a committee standpoint, I believe that we ought to address this through the authorizing process which writes the law.

I would like to say why. I think we are looking at a crisis in this Nation. If we had made a compact in the Trade Act of 1974, these formulas serves as a balance to compensate for those dislocated workers who are out of a job because of the export-import situation in the United States, principally with automobiles, but with other products as well. I think it would be appropriate to not compound the crisis today, because I would ask this committee here in the House that if they did not qualify and come under this Trade Adjustment Act, then what would happen? In effect, they could be drawing welfare, drawing food stamps and, quite frankly, if we were to take the cost and estimates of those programs, I would suggest it would probably cost the Federal Government more in the long run than if they were to qualify under this program.

I would think it would be appropriate for the Authorization Committee to make that study and to look at those trade-offs, so that we could get more efficient, economical use of that Federal dollar in terms of this program.

My concern in the long run is that what we are having here principally is a concern that Congress is not addressing itself to the real basic fundamental solutions for our society.

I would like to think that maybe someday that Congress would not be in an adversary position with business and labor and State leaders when we come to developing comprehensive economic policies that relate to the well-being of the State of Michigan or New York or any other State.

I would hope someday that we could be a catalyst here in this forum to work with the White House, to work with labor, to work with business, and other leaders to develop this partnership to address the long-range solutions to these problems, rather than working in a crisis vacuum.

With those comments, I would respectfully oppose this amendment at this time.

In passing the Trade Act of 1974, Congress recognized that a trade expansion policy, while benefiting the Nation as a whole, would probably cause severe disadvantages to certain groups. Accordingly, that landmark legislation, in addition to setting the stage for the trade agreements approved last year (Public Law 96-39), established a trade readjustment assistance (TRA) program to compensate those who are forced to bear the burden of adjusting to increased import competition as a result of these new policies. Special opportunities for training, job search and relocation also were provided.

This program is literally part of a "compact" with American workers whose representatives accepted the Trade Act of 1974 and the multilateral trade negotiations (MTN) that followed on the assumption that TRA benefits would be forthcoming, pursuant to the act, if problems arose because of increased imports.

Although expenditures of fairly substantial benefits long have been anticipated, for a variety of reasons the administration did not accurately estimate the level of funding needed for TRA in fiscal year 1980. Hence, the Secretary of Labor submitted the supplemental request before us today.

As a Member from Michigan, I am acutely aware of the hardships borne by autoworkers and their families who are suffering from the ill effects of the sudden flood of foreign cars and trucks, as well as the resulting increase in certifications for TRA benefits in the automotive sector. However, it should be noted that this program is in no way an "autoworkers relief program," of particular interest only to those of us from Michigan and other car producing centers. The new trade policies also are adversely affecting workers in a number of our industries—located throughout the United States—including steel, glass, textiles, and many others.

The Appropriations Committee, on which I serve, expects the Department of Labor to take whatever steps are required to produce accurate budget estimates in the future. Furthermore, in so far as the auto industry is concerned it is thought that those estimates will move in a downward direction as retooling and other adjustments are made to meet the increased demand for smaller, more fuel efficient vehicles.

When President Carter signed Public Law 96-39 into law last July he indicated that the new trade process would create jobs, spur exports, and enhance prospects for peace. This legislation, which implemented the agreements reached pursuant to the 1974 Trade Act, was approved overwhelmingly in both Houses of Congress—395 to 7 in the House and 90 to 4 in the Senate.

I am confident that Congress—and the American people—support, as much as ever, the principles and goals of this new trade policy. I am just as confident that the House today will continue to honor its covenant with American workers—an integral part of this new policy—and support the supplemental appropriations for TRA contained in H.R. 7542. Again I ask the House to oppose this amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. Yes. I would be happy to yield.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

I merely want to say that I think one thing we are overlooking in this legislation and in the appropriation is that many hundreds of small businesses, not just the automobile business but many hundreds of small businesses and employees of those businesses, are also impacted by some of the trade programs that we have entered into. I have firms in my own district now that have employees and are recipients under the benefits of this program. Without this program they would really be in a desperate situation; so we are dealing with small businesses and the people who work for them, as well as the major corporations.

I would certainly hope we would defeat this amendment.

I thank the gentleman for yielding.

Mr. BRODHEAD. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, my friend and colleague, the gentleman from Iowa, I think, asked a very cogent question and a question that I think cuts right to the heart of what this issue is all about. The gentleman asked why is it some workers receive this and not others?

The answer to that is that the Congress back in 1962 and again in 1974 made a promise to these workers. What it said to these workers was this. "We are going to liberalize the trade policies of this country. We are going to lower our tariffs. We are going to allow imported products to come into this country in greatly increased numbers."

These workers said, "Well, what about our jobs? This could cost us our jobs. We could be out of work by this."

The Congress and the administration said, "We don't think you will lose your jobs; but if you do lose your jobs, we guarantee you that we will support you at a level of 70 percent of your wages for as much as a year and provide you with special assistance to look for another job."

So we said to them, "Go along with us, because it is in the interest of our Nation to have a more open and a more free society and trade. Go along with us so that we can work with our allies, buy their products, assist them in building up their economies, and if you go along with us, we guarantee you that you won't suffer any permanent loss as a result of that."

Well, that promise was made and that promise was kept.

Now the situation has changed. The only thing that is different is that there is a large volume of imports coming into the country, a greatly expanded volume of imports, so this program is beginning to cost us some money. We are finding now we have to make good on the promise that we made. We told somebody we would stand with them in his or her time of trouble.

Now that the time of trouble has come, now that they need our help, some say, "Let's renege on our promise. Let's not do what we said we would do. It's starting to cost us some money. It's beginning to get a little painful to keep our promise; so let's break our promise."

I submit to you, my colleagues in the House, that in this time of recession, in this time of vastly increased imports, at this time when there are greatly reduced opportunities for people who lose their jobs to go out and find other jobs, we cannot let them down.

Now, we can talk about people finding other work and consulting the want ads and pounding the pavement and looking for jobs, but I think everybody here knows that when you have a 15-percent rate of unemployment, which is the rate of employment in the State of Michigan today, when you have a 15-percent rate of unemployment, there are not any jobs to be had, precious few; so it is not a question of these people being able to get other jobs. It is a question of whether they are going to go and draw benefits from the welfare program and from the food stamp program or whether they are going to get the benefits that were promised to them under the Trade Act.

I think the point is important to note that these people are not going to be totally without resources, as my colleague, the gentleman from Illinois, points out. They are eligible or will be eligible for welfare benefits which are 50 percent federally funded and 50 percent State funded. They are going to be eligible in most States for food stamp benefits which are 100 percent federally funded; so really, much of the savings that we propose to make here is illusory. What we are doing is taking them off a program which has some merit and some dignity and which gives them most of what they are entitled to. We give them somewhat less benefits, but force them to go to the welfare office and to the food stamp office to get their money.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. BRODHEAD was allowed to proceed for 3 additional minutes.)

Mr. BRODHEAD. Mr. Chairman, if we look at the committee report on the Trade Reform Act of 1974, the Congress at that time was well aware of what it was doing. It said that changes in trade policies necessitate a level of worker protection somewhat beyond what is available through regular State unemployment insurance programs; so what we are talking about here is keeping the promise, not rewriting in this appropriation bill a piece of substantive legislation, because that is really what we are talking about here is a complete rewrite of the Trade Act of 1974.

□ 1630

I think it is important to point out as well that this is a program that applies not just to the automobile industry but there are large numbers of beneficiaries in the apparel, shoe, small electrical appliance, rubber, steel, glass, ceramics, plastics, and textile industries all across the country.

Mr. MITCHELL of Maryland. Will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, that is the exact point I wanted to make. We have been focusing in on the automobile industry, but Bethlehem Steel, in my city, has massive layoffs. There were just another 1,500 people laid off at Bethlehem Steel.

In 1964, when the act went into effect, Baltimore was one of the chief centers for the apparel industry. We manufactured shirts and shoes and so forth. I have been in Congress since that time and I have seen those businesses close down one by one because of the policy of the Federal Government.

So we are not just talking about the automobile industry, we are talking about all of these other workers who would be adversely and cruelly affected, I believe, by the gentleman's proposed amendment.

I join with my colleague in the well in urging defeat of the amendment. It is a very bad amendment to offer, particularly at this time.

Mr. BRODHEAD. I thank the gentleman for that statement.

I just want to make one other point and that is my colleagues spoke of people drawing these benefits during model changeovers and things like that. That is not what is in the law. The law requires a specific finding by the Secretary of Labor, by the Secretary of Labor that increased imports of like or directly competitive articles contributed to the separation. So it cannot be used in the case of layoffs for other purposes. There has to be a specific finding and determination that the layoff was due directly to imports.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I want to congratulate the gentleman on his statement and say that I have a district that is very far from the gentleman's in Michigan in terms of miles as the crow flies but not so far in terms of the economic devastation that is coming primarily from the horrible situation in the auto industry.

We make tea bags in my district and we make wrappers for cigars but, more than anything else, we make parts for automobiles. I think the gentleman is absolutely correct when he suggests that we cannot afford to be elitist in looking at the trade adjustment assistance legislation.

The CHAIRMAN pro tempore (Mr. Simon). The time of the gentleman from Michigan has again expired.

(At the request of Mr. Moffett and by unanimous consent, Mr. Brodhead was allowed to proceed for 3 additional minutes.)

Mr. BRODHEAD. I yield to the gentleman.

Mr. MOFFETT. There is a great deal of frustration with this legislation, frustration on the part of the workers, frustration on the part of the firms, frustration on the part of the Members of Congress which the gentleman from Illinois (Mr. Michel), the sponsor of the amendment, is reflecting. It is understandable. It is not a model piece of legislation. I am very well aware of that.

But I would say to the author of the amendment, for whom I have great respect, and I know he is doing this out of conviction that the program is not a good one, I would say to the gentleman here we are at the end of a period of time where we have seen an intentional, and I think bankrupt policy of fighting inflation by having a deep recession as the cornerstone of our policy. I think the gentleman would agree with that. Here we are with these workers out there not only in Michigan, and not only in Ohio and places they make automobiles, but in Connecticut and many other places. The gentleman from Maryland (Mr. Mitchell) just mentioned Bethlehem Steel.

This is particularly true in view of the action by the Committee on Ways and Means which the gentleman just heard about, which now takes away from us this breath of hope that we had that suppliers of components would get some assistance. We are hurting, and it is not as though that on the horizon we see a Congress that is in any way prepared to deal with what the gentleman from Michigan (Mr. Pursell) said, the overall issue. We are not. It does not reflect badly on any Member of this body, but as a body we do not seem to be prepared to look into the eyes of those workers and to say that we are ready to do something.

In light of that, the gentleman from Michigan is saying, I think, we cannot walk away from this program. We cannot be cutting this program. Let us get together, formally, informally, in the appropriate committees, or in the dining room, and talk about alternatives on how to change this. I am ready to do that. I think all of the Members from Michigan are ready to do that. But let us not at this moment, on the brink of a terrible problem the gentleman from Illinois knows very much about, with workers being thrown out of work, not only because of imports of autos but dumping of components in my district, bearings, nuts and bolts, and those sort of things, it would be, I think, irresponsible to walk away from that at this point.

I think the gentleman from Michigan has made an excellent statement and I thank him for yielding to me.

Mr. BRODHEAD. I thank my colleague for his statement and urge a vote in opposition to the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I strongly support the amendment offered by the gentleman from Illinois (Mr. Michel). It limits the use of funds for worker benefits under the trade adjustment assistance program, and it attempts to realine the programs so that it complements regular unemployment insurance benefits.

This amendment is important because it is an effort to bring the wildly escalating costs of worker benefits for trade-related unemployment under control. More importantly, it is an effort to focus trade adjustment assistance benefits on those individuals who need such assistance to reestablish themselves after increased imports have disrupted their employment.

First, the amendment would prohibit any use of funds to pay trade adjustment assistance benefits to workers who are also entitled to receive unemployment insurance benefits. Second, when it becomes necessary for trade adjustment assistance benefits to be paid, that payment is limited to an amount equal to the unemployment insurance payment. What is contemplated by the proposed limitations is a realinement of the program so that trade adjustment assistance benefits will trigger in when unemployment benefits run out. The amendment would result in a cost savings to the program of $355 million for fiscal year 1981.

In addition to the cost savings, the amendment represents a strong initiative toward merging the two programs of unemployment compensation and to equate trade adjustment assistance benefits with those provided by regular unemployment compensation. It is an effort to provide benefits to trade impacted workers only when the benefits are really needed.

It is a backup to unemployment compensation of the usual kind rather than a generous supplement to them.

There simply is no justification for higher benefits being paid to workers unemployed partially as a result of imports than those benefits paid to other workers laid off for other reasons. As a matter of fact, if we take the current problem, which is principally in automobiles, there has been no change in public policy with respect to automobiles that has worsened the condition of any employee with any automotive industry. That is, we have made no trade concessions on automobiles since this law was last amended in 1974.

On the other hand, one could make a pretty good case that we have made some monstrous and disastrous economic decisions which have caused hundreds of thousands of other employees to be laid off. In one case workers are unemployed simply because their own employers have made mistakes, and in the other case the workers are unemployed because the Government has made a conscious policy. But we reward the first set of workers more generously than we reward the second ones.

So it seems to me that we are making a terrible mistake unless we accept the Michel amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield for a question?

Mr. FRENZEL. I yield to the gentleman.

Mr. MITCHELL of Maryland. Did I understand the gentleman to say that this is the first positive step toward the merging of the two programs?

Mr. FRENZEL. I said it was a positive step. I am not sure it is the first.

Mr. MITCHELL of Maryland. It seems to me that we come right to what is really the problem with this amendment, I am not questioning the decision made on the point of order, but if the intent is to merge two programs, and if this is a step in that direction, then the gentleman is legislating on an appropriations bill and we should not even be considering this amendment.

Mr. FRENZEL. I think the gentleman is taking my statement a little too literally. I believe what I am talking about here is that the awards for a person who is laid off, no matter what kind of layoff, and who is unemployed through no fault of his or her own, ought to be the same whether they are caused by our blunders in economic policy, whether they are caused by some kind of trade policy, or for any other cause. That is the only point that I was trying to make.

I notice in the case of automobiles that some of the layoffs are caused by imports of the employers that are involved; that is, Chrysler imports from Canada and other places, are apparently causing a reduction of jobs in the auto industry.

□ 1640

I also repeat often stated remarks heard in our country every day: Part of our problem is that the American companies do not seem to be able to manufacture a product that Americans want. It is not a case of imports coming in and stealing the market. It is a case of American buyers being forced to go offshore to buy the products that they want.

So it seems to me that in equity for all unemployed workers in this great country of ours, we ought to make a standard, a uniform standard. We do it through the Michel amendment. It saves $351 million and reserves trade adjustment benefits especially to trade-impacted workers, but only after they have exhausted their normal unemployment compensation benefits.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding. I am happy the gentleman made the latter point because I understand that the offering of our amendment has provoked a great deal of conversation up in the Michigan area, particularly in the auto industry. On the radio program the question was asked, "What happens after one exhausts a year of his combined unemployment and trade adjustment benefits?" The response: "Well, he is without any benefits so he probably goes on welfare."

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. Frenzel was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. MICHEL. My point is that under the terms of my amendment, what I am proposing to do is to stretch out the benefits under this program. An individual would first be eligible for 26 weeks of regular unemployment compensation, and then for a full year of trade benefits. So, a truly needy individual would be eligible for 26 additional weeks of benefits under my amendment than what he can receive at present. If a person is laid off on a long term basis because of imports, then he is truly in need and should receive extra help.

But to have this law administered in a way that allows a person to be laid off for only 2 weeks and receive trade benefits is subverting the reason for which we enacted it in the first place. I voted for this legislation. I thought it was a good thing and that we needed it, but I am telling you now how wrong we were. The gentleman from Connecticut (Mr. Moffett), said it is not perfect. It surely is not. We thought we were going to retrain these workers. Do you know how many have taken advantage of retraining? Eight percent have sought job referral assistance. Only 23 percent have sought counseling, and just 2 percent have sought training, which we give at Federal expense for up to 26 weeks. The idea was to assist worker in moving into other fields where jobs are more available, but that clearly is not happening.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. Frenzel was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. And many received their benefits after they were back at work. They got them as a nice bonus.

I think it is important, Mr. Chairman, that we pass the Michel amendment. I can understand the distress of those people who represent workers who are unemployed, and particularly those who believe that the unemployment is caused by imports. Nevertheless, this Congress at some time has to take a strong stand for fiscal responsibility, and it has to demand fairness in these programs. A person laid off for one purpose or for one reason is just as unemployed, and his or her family is in just as much distress, whether that layoff results from trade or from other conditions.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

What shocks me is that my colleague and good friend would support a program of instant legislation of this type. We have always tried to figure a way to fine-tune our programs to make them more effective. Would the gentleman prefer this kind of an approach to the proper legislative process?

Mr. FRENZEL. I would much rather have a good program carefully thought out as the gentleman suggests, and the gentleman has been a tireless worker for such good programs. Unfortunately, this is the only vehicle that is available to me, so I support the gentleman from Illinois.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I was busy at a meeting, as so many other of our colleagues are this afternoon, and I was reviewing part of this debate, and the debate drew me to the floor. I have the highest regard and respect for the distinguished gentleman from Illinois (Mr. Michel), and I know that his interest in fair play and for the needs of people throughout our Nation is well known. But then I was listening to the idea that they understand those people of distress, and let me speak to this issue.

This Friday in New Jersey, in Newark, a plant located in Newark, we are going to close down. They are going to close the Mahwah plant. They are going to lay off 5,000 people, one of the largest layoffs on the entire east coast. If it were not for the fair trade help that we need now, or the aid that we need under that legislation, those people just will not be able to make it.

Let me give you a few statistics. We are also in conference with the other body on the economic development legislation. We speak of saving $350 million, but let me point something out to you. For every new million people put out of work in this country, whether it be for an unfair trade policy or whether it be for a turndown in the economy, it is going to cost us $22 billion.

Everybody who got up and made big speeches the other day about we are balancing the budget, and hosannah, hosannah, hosannah, the whole program of inflation and problems are over, when they get to September, everyone is going to be called upon to vote on an imbalanced budget with a $40 billion deficit, and it is happening every single day as we go along.

I have never voted against the foreign aid policy, but I will tell you, I am not voting for it again, not until it is straightened out. If we speak of fair trade only, if we speak of free trade, that is something else, but it must be fair. The policies of this Nation and our trading program, our international trade program, are abominable, and our people do not even have a chance. We think that we are going to save $350 million. It is going to cost us $40 billion, and who is going to speak to those kids whom you cannot educate? Who is going to answer those people, as I have had to answer them and the gentlemen from New Jersey (Mr. Hollenbeck and Mr. Maguire) and others from New Jersey have answered them? What do you say to someone who says, "I am 57 years old. I am not eligible to retire. Where am I going to get a job?" They speak to the amendments that we cannot produce.

Let me tell you something, if it were not for the billions of dollars that we poured into Japan and into Europe after World War II, their economic complex would never have been reconstructed. They depended upon this Nation for the entire survival of the free world and its economy, and it is about time they protected it and helped this country, because if we go down the tube, so do they.

I am predicting something for you today. There is not going to be an argument in this House 2 months from today about this kind of amendment—and with no effrontery to the sponsor of the amendment. The battle that is going to be fought is how many tens of billions of dollars we are going to be appropriating in September and October to put the American people back to work so they are able to pay the taxes and keep this country going. The only covenant we have with the American people is an unemployment trust account. Trade adjustment money is all they have got going for them. What are we going to do—take that away again on a false, blind economy move? I think it is disgraceful that we should even contemplate such a move and offer an amendment at this dire time in the need of the people of our Nation.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. I thank the gentleman for yielding. I, of course, want to associate myself with the gentleman's remarks. The gentleman from New Jersey has taken the lead in trying to cooperate with the impending closedown of a large Ford plant which impacts severely on the economic situation in our districts in Bergen and Passaic Counties.

Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague Mr. Michel from Illinois. This amendment would deny payments under the trade adjustment assistance program until unemployment benefits are exhausted and then cut the benefit level to that of unemployment compensation. And I would associate myself with the remarks of the gentleman from New Jersey (Mr. Roe) who has been a leader in the battle to enable the workers soon to be laid off at Ford Mahwah to survive economically.

The U.S. Department of Labor has estimated that an additional $1.1 billion is needed in fiscal year 1980 and an additional $400 million in fiscal year 1981 in the FUBA account in order to meet the unanticipated increased costs in the trade adjustment assistance program. The House Appropriations Committee has recommended that the entire amount—$1.5 billion—be included in the fiscal year 1980 supplemental to provide flexibility if DOL's benefit estimates for 1980 should prove to be low.

This program (TAA) is a pact with American workers when the United States opened its doors to foreign imports. Now that the real impact of our trade policies is being felt throughout the Nation we cannot turn our backs on this commitment and deny these workers these benefits. In New Jersey alone an estimated 7,500 people are receiving TAA benefits with more to follow in the near future.

I further take exception to the Michel amendment as a substantive rewrite of the TAA program which should not take place in an appropriations bill. The amendment changes the nature of the program and it is of questionable legality. Although the Michel language does prohibit the use of the advance account to pay for the benefits, it would not remove the legal requirement of the Federal Government to make assistance payments. This will result in considerable litigation. The right place to make substantive changes in the program is in the authorizing committee and not by a limitation on an appropriations bill.

By relegating import-affected workers to a benefit level equal to unemployment compensation, the Michel amendment would be imposing substantial economic hardship on these people we promised to help. The average unemployed auto worker in Michigan, with two dependents, receives $119 a week; in New York $125 a week—and these are States that pay relatively high unemployment benefits. At that income level, workers would barely be able to sustain their families in food and shelter—and in many cases they would be forced to draw upon other forms of public assistance such as food stamps. Any cost savings to the Federal Government under the Michel amendment is highly questionable; the human impact, however, is very real.

This Nation knew the risks when we opened our doors to foreign competition, and we made a commitment to help those workers and communities that might be adversely affected by our trade policies. We must now meet the commitment.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite numbers of words, and I rise in opposition to the amendment.

Mr. Chairman, if this committee and the House see fit to extensively legislate in this way on this appropriations bill without benefit of hearings or due process or participation by the responsive legislative committee, if we see fit to pass this amendment, Mr. Chairman, we will do a grave disservice to thousands of workers all across the United States.

In my own congressional district of Birmingham, Ala., and in the Birmingham area, some 3,000 steel workers are in the process of being laid off this month. By the end of the process about half of our 10,000 workers will be laid off. We have applied and believe they will qualify for TRA, but it is very hard, particularly for steel workers at this point in history, to make the case that they qualify for this program because those who apply are extensively screened. It is only those who are clearly impacted by imports who do qualify to receive these benefits this amendment would deny. Only those who have great need are clearly impacted and who have proven it can so qualify.

But oh, how I wish for my steelworkers the chance to prove what I believe is true—that they have lost this employment because of the impact of importation.

I say, Mr. Chairman, the previous speaker in the well is correct. We have not protected our workers and our industry to the extent of having fair trade. We have not had reciprocity since World War II, and we do not have it now. We have not had fair trade with our trading partners. We have the freest market in the world, but it is one-way freedom with all sorts of roadblocks to our products in Japan and Europe and with dumping in the United States from those places. At least we have promised our workers that we will provide this kind of relief.

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Now, what we will do if we pass this amendment, Mr. Chairman, is to turn promises that are law, benefits guaranteed in law by Congress, into broken promises, empty words, promises on paper that are not realities at all. We will say, "OK, now that the wolf is at your door we will turn away from you. Now that the storm has come and the floods have descended and the waters have risen we will walk away and we will not fulfill those commitments, those promises of the law, itself."

Mr. Chairman, it would be unconscionable for the committee to pass this amendment and I urge its defeat.

Mr. NATCHER. Mr. Chairman, I ask unanimous consent that all debate on the Michel amendment and all amendments thereto close at 5:30.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was granted will be recognized for 70 seconds each.

The Chair recognizes the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise to speak in support of supplemental funds for trade readjustment assistance and against any fiscal cuts in that program. In 1962 through the Trade Expansion Act and again in 1974 under the Trade Act, we created a program to assure American workers, the backbone of this society, that their incomes would be protected during times of unemployment caused by an increase in imports in their industry. I want to strongly remind my distinguished colleagues that this was a contract we made with American workers. It is our obligation to keep that contract.

I believe we are making a grave mistake to even consider cutting TRA funds. These benefits are depended upon by 400,000 American workers. In Maryland, an average of 3,500 workers receive these benefits every week. On June 8, when funds ran out, those who depended upon TRA were left with a gap in their income.

It is cruel to try and solve the economic ills of the country through tight fiscal policy if that policy involves measures that hurt those who are already suffering the most. For them, the lack of TRA benefits makes a bleak future even bleaker. The economic situation in which laid-off workers find themselves today is fragile as it is: Attempts to remove these benefits spell disaster for them.

American workers are counting on TRA. They are counting each and every dollar, wondering how they are going to make ends meet in these times of high inflation and high unemployment. They are worried that their temporary layoffs may become permanent. Constituents have been frantically calling me for the past several weeks. They are scared they will not have the benefits promised to meet their bills for basic necessities, food, rent. One of my constituents is an out-of-work Vietnam veteran recently married. He will lose his new home if we do not come through as promised. He said we let him down in the war, we let him down on the assembly line, and now we are letting him down on TRA. He wonders, "why did we fight for a government that doesn't keep its commitment to its own people?"

I urge my colleagues to remember this important contract we have signed with American workers. That contract symbolizes our belief that American workers should not shoulder the responsibility for American foreign trade policy.

(By unanimous consent, Mr. MITCHELL of Maryland yielded his time to Mr. GARCIA.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment. This amendment is designed to substantially reduce the amount of trade readjustment benefits available to unemployed Americans who have lost their jobs due to the effects of competitive imports.

The trade readjustment program (TRA) was established in recognition of the fact that unrestricted trade, which was encouraged and promoted by the Trade Act of 1974, could cause unemployment here in the United States. Since the change in Federal policy was the underlying cause of this unemployment, it was felt that the Federal Government had a special obligation to those affected. Therefore, the trade readjustment program was enacted as part of the Trade Act of 1974.

The special benefits which are paid to TRA recipients can be justified because of the special nature of their unemployment situation. In cases where unemployment is caused by imports, entire industries are affected, not just isolated companies. Thus, the difficulty for workers to find other employment in their skilled professions is greatly increased as the skilled jobs become less available within the entire industry.

It should be further noted that when an entire industry is laying people off, unemployment within particular communities which house those industries tends to be extremely high. For example, there are two cities in my district that depend on the auto industry as the base of their economy.

While national unemployment is less than 8 percent, in Anderson, Ind., it is close to 16 percent and in Kokomo it is 15 percent. The prospects of finding a job in these cities is much worse than if you were unemployed in a city like Washington, D.C.

When the TRA program was first established, there was a recognition of the special type of unemployment caused by imports. Unlike most unemployment benefits which last for 26 weeks, TRA last for 52 weeks. To substantially reduce the benefit levels of TRA would cause a tremendous hardship on entire communities where industries are laying people off due to the effects of imports. Without TRA the entire economies of Kokomo and Anderson (as well as many other areas) would be substantially more depressed.

Many of the concerns and objections to the TRA program are the result of the study done by the GAO. While that report indicates that abuses do occur, I feel it fails to adequately describe how the program generally operates. Thus it misrepresents the extent of the abuses. It certainly does not reflect the situation and circumstances under which thousands of unemployed auto workers receive TRA benefits.

One of the major criticisms leveled by the GAO report against the TRA program is, and I quote:

> Weekly cash payments have helped few import-affected workers adjust to their changed economic conditions during their layoff because the payments were received by most in the form of a lump-sum payment after they had returned to work.

Such a statement simply does not come close to representing the situations in Kokomo or Anderson where thousands of autoworkers are on indefinite layoff. Many have been laid off for close to a year with little expectation of being hired back in the near future.

In any event, I do not believe this amendment will help correct the type of situation which the GAO cites. Payment of TRA benefits after a person is hired back after only a short layoff is due to poor administration of the program. During extended unemployment periods we also have to consider the extremely long time it takes for a company to be certified as import-impacted and then for individuals working for that company to apply and receive their benefits.

Although the amendment purports to save money by reducing TRA benefits, in the long run I am not sure that would be the case. Many of those whose benefits would be reduced would qualify for food stamps and other public assistance as the result of this amendment.

While there are numerous problems with the TRA program, this amendment is certainly not the appropriate response to those problems. The program expires in 2 years. During the next Congress the appropriate committees will have ample opportunity to examine all of the problems associated with the program and the suggested solutions to them. After careful review, the program can be amended before reauthorization so that many of the concerns expressed by the GAO can be addressed. In the meantime, this type of an amendment only further exasperates the problems of administering the program.

I feel it is incumbent upon us to realize that many of the policies we establish, and the manner in which those policies are administered, have added to the unemployment problem caused by imports. There are two essential elements which our trade policies must have if this Nation is to avoid higher unemployment due to imports. Those two elements are free trade and fair trade. Today, with the manner in which our trade laws are administered, we have neither free nor fair trade.

The auto industry is a good example of the point I am trying to make. While thousands of foreign cars are imported into the United States daily, there remains severe restrictions in most countries prohibiting American-made cars from being imported at competitive prices. It has often been argued that the current slump in our auto industry is a reflection of poor management decisions in not producing more fuel-efficient cars. Quite conversely, it is the result of our trade laws and the advantages foreign manufacturers receive through special arrangements with their governments; arrangements which make it extremely difficult for our manufacturers to compete against the marketplace.

Our tax laws make it much more difficult to modernize to keep pace with imports. Many of our laws and the thousands of regulations promulgated under them have strangled American productivity. The answer to the high cost of unemployment is not to reduce TRA benefits, it is to amend our laws to allow American companies to be more competitive.

Until we address these overall problems, imports will continue to take a greater share of our markets. Since it is the policies established by the Congress and administered by the President that are causing higher unemployment, it is our responsibility to provide special assistance to those whose unemployment results. The TRA program as established in 1974 did exactly that. It should be continued in its present form. The amendment should be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, while the rest of the country is suffering through a recession, it has reached the point where it would not be an exaggeration to say that people in my district are fighting against a depression. The funds contained in this bill for trade readjustment assistance will help alleviate these conditions.

The media have reported that unemployment in my district is the highest in the Nation. In April, 34,500 workers were unemployed—17.8 percent of the total work force. In the city I was born in and still live in, unemployment was 19.8 percent. Since those figures were collected, even more workers have been laid off. I have seen one estimate that unemployment will reach 25 percent by the end of the summer. The local unemployment offices paid out almost 20 times more in compensation last month than they did 1 year earlier. That unemployment is directly due to the trade policies of this Government. Japan exports to this country 2 million automobiles a year. Yet we are allowed to send to Japan 20,000. No other nation in the world allows this imbalance.

The figures are frightening, but they do not portray the problems of those who are suffering the most.

Much attention has been given here today to the SUB benefits that many workers receive. There are two things that should be emphasized with respect to these benefits. First, the unemployment problem is so great that the SUB funds may very well be exhausted soon. Second, SUB benefits are directly related to the length of seniority. The younger worker will bear a disproportionate burden.

I have met with these people virtually every week recently. Many of us may have difficulty relating to their problems. I can assure you that they would much rather be working than to face the uncertainties of unemployment. We should remember that they are not to blame for the economic conditions which have caused their personal trials.

I ask each of you to think back to your first job and the time when you may have been starting a family. How would you have felt if you faced the situation of being laid off with no immediate hope of finding a new job? Just as you might have been, these workers are experiencing frustration and insecurity. Many of us have difficulty putting large statistics into human terms, but if you take the feelings you might have in a similar situation and multiply them several thousand times, you have an idea of the magnitude of the problem we face in my district.

There is also another factor which should be considered. Almost half of those who are unemployed in my district were not employed by the auto industry. The reduction in employment in the auto plants has reverberated throughout the local economy. Virtually every small business has experienced a serious loss of sales. The impact of this amendment on these businesses will be just as devastating as it will be for those who are unemployed. Late last month I met with a group of merchants from one of the largest shopping centers in our area. They expressed strong support for the TRA program and emphasized that it would make a major difference in their businesses.

The passage of this amendment may magnify all of the economic problems in our area. Quite frankly, economic conditions in the Flint area are as bad as I have ever seen them in my adult life.

I would ask you not to add to our problems.

Finally, I would like to ask you to keep faith with the 13,000 workers in my district who have been certified for the program. Our Government has made a commitment to them. To renege on that commitment to any of them will inevitably increase the level of frustration and cynicism.

I am strongly opposed to this amendment, and I ask my colleagues to vote against it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. Davis).

Mr. DAVIS of Michigan. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Illinois (Mr. Michel). Not only am I strongly opposed to reducing the trade adjustment assistance program, I have recently introduced legislation which would further extend the program to include additional employees who may not be carried who should.

As other Members have indicated, the proposal to reduce this program is in direct conflict with the promises made to workers in 1974 during negotiations on the Trade Act. Because of the potential for adverse effects on domestic industry due to increased imports, provision was made for compensation to employees of affected industries. In addition to this problem, there is the matter of differing levels of TRA benefits being paid to workers in different States should the unemployment insurance rate be adopted. Another concern is the fact that should the benefits be lowered, most workers would become immediately eligible for the food stamp and welfare programs. With funds for food stamps already scheduled to run out before the end of this year, the addition of workers presently on TRA would necessitate increasing again the dollars for food stamps.

For these and many other reasons, Mr. Chairman, I believe this amendment should be defeated.

The other matter concerns the legislation that I have introduced. It addresses a gap in the trade adjustment amendments which passed this House last spring that has only recently been recognized. I submit that TRA benefits should be extended to employees in those industries that provide the raw materials to the import-affected industries that are directly impacted such as the auto industry. These related industries feel the same effects of import penetration into the market as do the firms that are manufacturing products on a head-to-head basis with the imports. The industry in which this is most dramatically evident is the steel and iron ore industry. Recent layoffs in Michigan and Minnesota have swelled that already huge ranks of unemployed. This past weekend, I met with iron miners in my congressional district and I can assure you that they will be just as unemployed as the auto workers in Detroit and need assistance just as much.

Since the bill has already passed the House, there is no direct action that can be taken from this side at this time. I am attempting to have this legislation amended on the Senate side to include the language of my bill. I would appreciate the support of my colleagues in this matter and again want to emphasize the importance of the continuation of the trade adjustment program.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. Blanchard).

Mr. BLANCHARD. Mr. Chairman, I want to commend a number of earlier speakers on this matter, particularly the gentleman from Michigan (Mr. Traxler). I think that gentleman made a very eloquent plea for rejection of the amendment. I wanted to rise to oppose it. I guess we can commend the gentleman from Illinois for one thing and that is, he has sparked a very spirited debate over a number of the related issues to trade, automobiles and related industries. I think a quick survey of today's discussion will reveal that this country lacks a comprehensive policy with regard to trade, with regard to jobs, and with regard to automobiles and related industries. I think the time is long overdue to begin to look at more comprehensive industrial and job policies and not take the tunnelistic approach that this amendment and so many other gestures take.

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The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Massachusetts (Mrs. Heckler).

Mrs. HECKLER. Mr. Chairman and my colleagues, adoption of the Michel amendment would involve and invoke a basic, bedrock change in the foreign policy of the United States. Nothing less than that is at issue here.

I represent a district in which there is a concentration of the apparel industry, an industry that has been victimized by the flow of imports from abroad. Throughout the trade negotiations in recent years we were told—we were assured that we must have a free trade policy—that the long range best interests of our country demanded it. Many of us accepted that reasoning on the condition that a commitment was made that a trade adjustment assistance program would be adopted which would protect American workers as imports increased.

We accepted the need for shaping our foreign policy along free trade lines but we demanded and we received the counterbalance at home, that when there was unemployment, that when our country was flooded with foreign textiles, foreign garments produced abroad, and other products there would be respite for the men and women whose jobs and pocketbooks would be hard hit.

That is the foreign policy pact which is under attack on the House floor today under the guise—I think unwittingly—but under the guise of the Michel amendment. That is the fundamental flaw in the arguments which my friend from Illinois and his allies have presented on behalf of the pending Michel amendment.

Were it prospective—if it set a new policy—I would be hard put to stand here in the well of the House and argue for the amendment's defeat.

But, Mr. Chairman, the Michel amendment seeks to change the rules of a solemn trade adjustment assistance compact first made in 1962 with tens of thousands of American working men and women—not in midstream—but almost 20 years after it had become an integral, seamless part of our whole foreign trade program.

The work force affected by this amendment is spread out across the country—in many States. They are an easy budget cutting target. Had the gentleman from Illinois done what conscience dictates he should have done—had he frontally attacked the past and present fabric of American foreign trade policy there would have been a vociferous, sustained counterattack from business—from industry and from labor.

Editorials, essays, questions at Presidential press conferences, Chamber of Commerce resolutions would have been the order of the day.

This amendment is, instead an unfair end run which leaves the floodgates of foreign imports wide open while imposing a loss of wages on those least able to bear the burden of such a major foreign policy revision.

Year after year, in decision after decision, the U.S. Government has promulgated and reaffirmed an economic policy which encourages foreign trade. An indivisible part of that package has been the promise to affected American workers that their pocketbooks would be sheltered by trade adjustment assistance.

If we adopt this amendment, we will break that promise of almost 20 years standing.

That is a shameful way to balance the budget, Mr. Chairman. It is backdoor budget boondoggling of the cruelist kind.

Unless this House is prepared to openly rip our present international trade policy to shreds, we ought to overwhelmingly reject this misguided effort to abridge a fair contract with American workers which has been in effect for 18 years.

I urge the House to sweep this amendment aside and thus to reaffirm the promise which trade adjustment assistance embodies.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. Sharp).

Mr. SHARP. Mr. Chairman, I rise with my colleagues in opposition to this amendment. The arguments have been made, but I think it is important for us who have constituents who are out of work to help reinforce the understanding in this House of how bad things are.

We have incredible unemployment in my area because of the auto industry's problems. Clearly, that is related to the importation of foreign autos, especially from Japan. We must not today make a snap decision to rip away a promised benefit to these people at this time. It will be devastating to their lives, devastating to our communities.

Sure, the criticisms in many cases are accurate about the inequities, the problems of working out the relationship between unemployment compensation and TRA benefits, but this is not the way for us to make a critical decision. We must go farther, however, than just rejecting this amendment. We must take extremely serious our relationship with Japan and be far more hardheaded in dealing with them, and we must take much greater care on our side of the aisle to make sure that we are encouraging American industry to be able to compete on the international scene. We must review the tax laws and we must review some of the regulatory laws. We must be willing to make changes to put this country on a stronger competitive footing.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. Fish).

Mr. O'BRIEN. Mr. Chairman, if the gentleman will yield, I rise in opposition to the amendment, and I ask unanimous consent to yield my time to the gentleman from New York (Mr. Fish).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FISH. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois. While the amendment attempts a laudible goal—a net savings in appropriations of some $355 million—it will only be achieved at the expense of trade displaced workers. Congress established this program—the trade adjustment program—in 1962 and liberalized it in 1974. It was the clear intent of Congress to help the displaced worker whose unemployment could be determined to be a direct result of U.S. trade policy.

It was the intent to provide the displaced worker with a higher level of worker assistance for a longer period of time than that which is available through payments under regular State unemployment insurance—benefits which, at best, provide the worker with 50 percent of his average weekly earnings and which, of course, vary from State to State. If layoffs in impacted industries—auto, garment, steel, electronics, virtually all mining, and manufacturing are due to Government trade policy which promotes the importation of foreign products at the expense of domestic industries and their products, the responsibility for these layoffs is in the hands of the Federal Government.

We are faced with a situation that now, more than ever, this program is needed. The trade adjustment program recognizes that a trade expansion policy may cause particular groups of workers to be disadvantaged. These trade readjustment benefits are, by design, an attempt at fair and equitable treatment of workers who are forced to bear the economic burden of increased foreign competition. Now that injury due to imports is being felt nationwide, we cannot turn our backs on these workers and deny them our help.

The 1962 and 1974 congressional commitments were to adjustment services and cash benefits of either 70 percent of the worker's average weekly gross earnings or the average U.S. manufacturing wage, currently $269, whichever is less. If a worker is receiving unemployment compensation, his TRA benefits are reduced by the amount of unemployment benefits he receives. The effect of the Michel amendment would be to deny the worker any TRA benefits at all and would allow payment of these benefits only after the unemployment benefit is terminated and then, and only then, would the worker receive his TRA at the lower level of the unemployment benefit. In New York, the maximum unemployment compensation level is $125 a week. At that income level, a family of four could hardly sustain itself.

While the intent of the amendment has value in the sense of saving some $355 million, to achieve these estimated savings at such great human cost, in my mind, cannot be justified.

Rather than punishing workers, the Congress should look toward a solution in two ways. There could be a better system devised for estimating these benefits needs so that large supplemental budget requests of this kind will not come at a time when we feel we cannot afford it. And more importantly, the urgency of the situation indicates there is clearly a need for action by Congress to reduce the impact of foreign competition on basic industries.

I feel the proper time to review the program and offer constructive changes is in the next Congress when the program is due to expire. A congressional reversal of intent before 1982 may very well save us some money but not without serious and painful consequences. I, therefore, urge a "no" vote.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Chairman, I rise in support of the gentleman's amendment.

It is the exact same reform recommended by the GAO on page 17 of its January 1980 report to the Congress on this program.

The problem with trade adjustment payments, as has been pointed out, is that these benefits are paid in addition to regular unemployment and company-financed unemployment benefits.

Because of this triple coverage, the GAO found that most of the autoworkers receiving these payments did not need them. In fact, most of the workers interviewed by the GAO failed to characterize their financial problems during layoffs as substantial.

And no wonder—let me remind my colleagues of what the GAO found when it reviewed this program, which I first pointed out back in April when we debated the 1980 budget: 71 percent of those receiving these payments received them in a lump sum after they had returned to work; 42 percent of those receiving these payments received in addition regular unemployment benefits and supplemental unemployment benefits financed by their companies which paid up to 95 percent of previous take-home pay; and 38 percent of those receiving these payments had working spouses who provided additional financial support during layoffs.

So it is obvious that a great many of those receiving trade adjustment payments were provided for by various other means—a conclusion reached on page 13 of the GAO's report.

The GAO did find, however, one group which was not adequately provided for—those who remained unemployed after exhausting all their other benefits.

It is this group which needs our help, and this group which should be the focus of these extra benefits.

The gentleman's amendment provides for exactly that—retargeting the program's benefits to the long-term unemployed, and cutting back funding to appropriately reflect this.

I would like to make one more point about this program, which is that it seems to be a good example of what is wrong with entitlement programs in general.

We start out by providing a financial cushion to some hard-pressed group, and then expanding coverage way out of proportion to the target population.

That is what happened to the food stamp program. We have expanded that to the point where nearly 1 in every 10 Americans is eligible for a program once targeted to the poorest and most destitute in the land.

Expanding programs in this manner needlessly saps the Treasury and creates the ill will that exists in the country against many social spending programs.

No one wants to see the truly needy left destitute and unaided. What is objected to is the abject proliferation of eligibility which brings almost everyone under the canopy meant to protect a few.

Today we are being given the perfect opportunity to clean up an entitlement program with the only side effect being that the neediest will be helped more.

I urge my colleagues to support the gentleman's amendment.

(By unanimous consent, Mr. Hall of Ohio yielded his time to Mr. Stokes.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. Stokes).

Mr. HALL of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to my colleague from Ohio.

Mr. HALL of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by my colleague, Mr. Michel, of Illinois. I do so in a realistic look of the actual situation. First, we are experiencing a plummeting economy. The national unemployment rate of 7.8 percent is proof that we have been hit by an unemployment epidemic. This epidemic is leaving no stone unturned; it is seeking out many of our important industries and laying off workers by the thousands.

As we consider this supplemental funding for trade readjustment assistance, we must take a long, hard look at the facts. We cannot blame the current unemployment situation on the people. We have to realize, and keep in mind, that these ex-workers did not ask to be relieved of their jobs. We have to place the blame on the economy, where it belongs.

I have some figures here from the Ohio Bureau of Employment Services. These numbers place some light on just how bad things have gotten. The last TRA checks sent out were dated June 6. During that same week, 2,887 individuals filed for TRA benefits. Mr. Speaker, I am talking about a 5-day period, and 2,887 applications. Even worse, as of June 11, the bureau has been forced to hold payments to 19,969 people who are eligible to receive this assistance. These payments total $5.3 million. But what can we do? We can do for Ohio the same thing that we can do for other States suffering the same problem. We can approve the full $1.5 billion supplemental funding for TRA.

Second, the TRA program was set up to aid American workers who lose their jobs because of excessive foreign imports. Let us keep within the intent of the law establishing the program. Almost 10,000 autoworkers in Ohio have been laid off in the past 2 weeks. There is no question that the increased import of fuel-efficient, compact foreign cars played heavily in these job losses. Do not think that the autoworkers are the only ones suffering. There has been a substantial decline in other manufacturing sectors as well. We are talking about the supportive industries of auto manufacturing—the aluminum, steel, plastics, glass, and the rubber industries. Jobs in Ohio's primary metals industry are down 8.7 percent. Employment in the rubber industry is down 9.6 percent.

Ohio has seven large metropolitan areas: Dayton, Cleveland, Youngstown, Toledo, Columbus, Cincinnati, and Akron-Warren. We are an industrial State; any loss in industry naturally affects our overall economy. According to the Department of Labor, Ohio has the second highest unemployment rate in the Nation—9.4 percent. And it is getting worse.

Domestic production is suffering. To put this point across honestly, we are in real trouble. In our eagerness to open our doors to world trade we overlooked what else we were inviting in. We allowed a competition in the auto industry that has gotten out of hand. Now we know, and we cannot change the outcome. But we can help the victims.

Mr. Chairman, we know the needs of the TRA recipients. The administration requested supplemental funding to aid them. The House Appropriations approved an amount of $1.5 billion to aid them. The ability to aid them now lies in our hands.

Things are not getting any better. In fact, they will get a lot worse before we come up with a cure. Assured benefits for those suffering from involuntary unemployment because of foreign trade competition calls for your vote against the $355 million reduction in TRA supplemental funds.

Mr. STOKES. Mr. Chairman, I rise in opposition to the Michel amendment. I do so because of my conviction that this Congress should not deny trade adjustment assistance benefits to thousands of American workers who are legally entitled to receive them.

Congress, not these workers, established in 1962 and, again in 1974, a national trade expansion policy. As a result of that policy, our entire Nation enjoys the advantages of greater access to imports and lower prices due to increased price competition. In enacting the trade adjustment assistance program, Congress recognized that there are workers who would be disadvantaged by such a trade policy, and that this class of worker should receive special compensation for being forced out of work. simply because benefits must now be paid to thousands of U.S. workers who are bearing the brunt of increased import competition is no reason to reneg on the Federal commitment to make special compensation to eligible workers. Through no fault of their own, these workers are being laid off their jobs.

Most of these unemployed people would rather be working. To deal a double blow under the Michel amendment by limiting trade adjustment benefit levels to regular State unemployment compensation levels would impose unfair and unnecessary hardships on these workers. In some cases, the Michel amendment would result in as much as a 50-percent reduction in weekly benefit payments for a laid-off worker.

I am greatly disturbed by the fact that the Michel amendment would substantially alter the nature of the trade adjustment assistance program. This amendment is before us, and yet, not a single hearing has been held and not a single witness has been heard. Clearly, the proposed language should be examined by the authorizing committee. Clearly, an appropriations bill is not the place to make drastic changes in an existing law. Under these circumstances, how can a responsible Congress make an informed decision about legislation which affects thousands of taxpaying citizens and which is even of questionable legality?

For those who would support the Michel amendment under the guise of fiscal restraint and balancing the Federal budget, let me disabuse you of any remaining illusions that you might have regarding a balanced budget. This recession which grips our economy is far from over; we have not yet "turned the tide." As unemployment escalates and tax revenues drop, some economists are predicting a Federal deficit as high as $50 billion by September. Even the administration concedes that the deepening recession may unbalance the Federal budget.

Thus, any cost savings achieved by limiting trade adjustment assistance benefits will do little, if anything, to alleviate our current economic woes. In fact, any cost savings stemming from the Michel amendment are highly questionable, since Federal expenditures for medicaid and food stamps will almost necessarily increase as a result of trade adjustment assistance benefit restrictions.

The sad fact is, however, that the lives of too many Americans would be hurt, perhaps even irreparably impaired—all because of an effort to achieve what may be illusory savings. Consider an auto worker with two dependents in Missouri who would be forced to live off $85 a week. Perhaps, his son might decide to forgo a college education in order to help out the family. Or, perhaps a pregnant mother decides to skimp on prenatal care to avoid expensive medical bills because the unemployment compensation which her husband is limited to is barely enough to keep food on the table.

While hypothetical, these situations are not unlikely or improbable. The point is that we are playing with the lives of human beings who would be subjected to unnecessary hardship if we adopt the Michel amendment. Accordingly, I strongly urge you to reject the Michel amendment.

☐ 1710

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I opposed this amendment in the committee, and I am opposing it on the floor because I think it comes at a bad legislative time as well as at a bad time for our economy.

The problem is not TRA. The problem is the economy—rising unemployment, a declining GNP, and the impact of inflation on the competitiveness of our industrial base.

We have a depression in the Northeast. People are being put out of work by an outdated tax and regulatory policy which is inconsistent with our desire to have a growing economy, to have more jobs for people, and to have a healthy industrial base from which to compete in the world markets.

Foreign trade is not the enemy of the American people. The real enemy is a domestic economic policy making our Nation less competitive in world markets, that is driving down auto sales and steel sales, and driving unemployment up to 9 percent. Today we have double-digit inflation, and double-digit interest rates. Soon we will have double-digit unemployment as well.

It seems to me that we should be focusing our talents, our energies, and our efforts today on trying to restore economic growth and making this Nation's industrial base competitive in world markets.

Let me say, too, that I am concerned

about how we are trying to change the trade readjustment assistance in an appropriations bill. TRA was part of an agreement we made with American workers in return for their support for fair trade. What is more, by trying to change TRA because of the structure of private supplemental benefits, we are trespassing on the sanctity of the collective bargaining process.

It seems to me that we should be focusing our talents, our energies, and our efforts today on trying to restore economic growth to our domestic economy. We would not cure our economy by attacking programs which alleviate symptoms of industrial decline. We must aim for the root causes of that decline, and devise a new strategy for reindustrializing America. We must examine all of our tax and regulatory policies, to see where they are stifling employment, production, investment, and initiative. We must consider the effect of these policies on the technological base of our Nation. Without steady economic growth and technological innovation we will never restore this Nation's industrial plant to its former position as the best, and most competitive, in the world.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. KEMP) has expired.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the garment and textile workers of New York and other areas in the Nation have been devastated not because of energy problems, lack of employment, or lack of economic growth, or need, but simply because of State Department actions and trade negotiations not favorable to American industry and workers. It would now be criminal for us to turn our backs on those who have become unemployed because of these adverse actions.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Illinois (Mr. MICHEL). The gentleman is a good friend, but I believe that he is wrong on this issue. This is the wrong kind of legislation at the wrong time.

Mr. Chairman, we are in the midst of a dangerous and difficult time for the American worker. In addition to the recession brought about by the shortsighted economic policies of this administration, we are facing an influx of goods from abroad.

Imports are not always bad. Often, they provide the American consumer beneficial competition resulting in advantages of price and quality. Imports, too, send dollars abroad which come back to us to purchase goods which we make more cheaply than foreigners.

But imports also cause dislocations, and it is important for our Nation to help those who work in industries heavily impacted by imports, such as our auto industry, to tide them over until they can find work, and to retrain them, if necessary.

To help those impacted workers, Congress passed the Trade Adjustment Act, providing for benefits ranging from income security to job relocation to retraining.

It is important to keep this program funded at a level high enough to provide all the necessary services and benefits to those workers who have been thrown out of work by imports and who are going to have a particularly hard time finding new jobs because of the present recession. In my congressional district in New York there are almost 2,000 autoworkers who are being laid off this week with the closing of Ford's Mahwah plant.

The Michel amendments are draconian—they retrench promised benefits to workers who are being thrown out of work through no fault of their own.

Accordingly, I urge my colleagues to oppose the Michel amendment reducing the funding for this vital program.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Chairman, I rise in strong opposition to the amendment, and I would like to associate myself with the remarks of the gentleman from New York (Mr. KEMP).

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I rise in opposition to the amendment.

It is interesting that those of us from whatever communities we come from are all looking at this legislation in terms of what this bill means to us. Many of the people in my district are garment workers. If we would judge ourselves and look at ourselves, I guarantee that some of us are presently, right now, wearing clothes that were made outside America and brought into this country. Those jobs at one time belonged to people who came out of communities like mine.

Mr. Chairman, not too long ago we passed a shippers' export deck here just to maintain the confidentiality of the manifests of exports from the United States to other countries, and amongst the companies that lobbied me the hardest were the Caterpillar Corp. and the Deere Corp. I know the gentleman who is sponsoring this amendment would be very interested in the Caterpillar Corp. They were very concerned that foreign governments and foreign companies would get hold of those manifests because they were afraid of that foreign competition, which would have impact on the future sales of American tractors.

Well, I am delighted to say that we maintained the confidentiality of the shippers' export deck, and as of July 1 that manifest will not be given to foreign governments under the Freedom of Information Act. We all represent our districts to the best of our ability, and I would think that if those manifests were made available by the Caterpillar Corp., they would be in deep trouble in that particular community because foreign competition would eat away at them.

I would just say to all of the Members here at this particular moment in the history of this country that this is not the right way to go, and while I understand the good intentions of the gentleman from Illinois (Mr. MICHEL), each of us representing the districts that we have must recognize that with the high unemployment rate we have, this amendment is ill-timed.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Michigan (Mr. TRAXLER), the gentleman from Michigan (Mr. BRODHEAD), and also the gentleman from New Jersey (Mr. ROE).

I rise in opposition to this amendment. The Michel amendment would perpetrate a fraud on the people of this country and of Michigan in particular.

The effect of the amendment is clear: To drastically reduce the amount of benefits laid-off workers could receive under the Trade Adjustment Assistance Act by prohibiting payment of TRA funds until a recipient's unemployment benefits have expired, and then, which is worse, reducing the TRA benefit level to that of the recipients unemployment compensation.

If this amendment is adopted we will be breaking the promise we made to American workers when we decided to allow foreign automobile imports access to our markets. When the Federal program called trade adjustment assistance was started in 1962, it was our understanding with organized labor that in return for a freer trade policy, workers displaced by the impact of free trade would be paid while they receive training to fit them for new jobs in another industry. This promise was strengthened by the Trade Act of 1974.

Under the Michel amendment, automobile workers would effectively be denied TRA benefits and would only receive their State unemployment insurance benefits. This would be contrary to what we promised the American workers when this body passed the Trade Adjustment Assistance Act of 1962 and the Trade Act of 1974.

Mr. Speaker, I believe many other pointed arguments have been made to defeat this amendment. This is not the time to restrict TRA benefits, it is the time to extend them. We must, in all fairness, extend eligibility to those who provide essential parts and services to the automobile industry, and we must extend it to those who provide the raw materials for such essential parts and services. The entire automobile industry is interdependent.

I urge my colleagues here today to vote against this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. EVANS).

Mr. EVANS of Indiana. Mr. Chairman, if the assistance program were limited to regular State UI levels and consisted only of a time extension to the period of regular State unemployment compensation, the special compensatory feature would be largely eliminated. It would indicate to the separated worker that even though increased import competition was an important factor in his separation, he was not entitled to any special benefit unless he remained unemployed for at least 26 weeks. Such a change would likely have an impact on workers' perception of U.S. trade policy. It would not be expected to lead to any action on the part of the unemployed worker to readjust to the new competitive situation, and it would remove an effective policy tool to deflect the increasing calls for protection against import competition with which the Government must constantly deal.

TRA recipients are not "double-dippers" any more than SSI recipients are considered to be double-dippers. TRA benefits are reduced by the full amount of unemployment insurance benefits. The total of the two payments equals 70 percent of a workers gross weekly wage, not to exceed $269.

While autoworkers are covered by supplemental unemployment benefits (SUB) assuring their net after-tax take-home pay at approximately 90 percent, there is a question about the viability of the SUB funds. Chrysler's fund was virtually exhausted and prior to March 1980, was only paying SUB to workers with 10 or more years of seniority. The Ford fund recently was down to a level that would assure only a month or so of continued payments to workers with less than 10 years seniority. GM's fund appears able to cover workers through the summer.

When an unemployed worker is certified for trade adjustment assistance, for any layoff occurring after the import impact date, his SUB payments are reduced (or in some cases terminated). Further, the SUB funds are replenished if the worker returns to employment since under the labor contract the worker is required to restore any SUB "overpayment" he may have received for the weeks he also received TRA.

With this amendment we will no longer have a national policy regarding an appropriate benefit amount for those workers impacted by national trade policies. Instead the amount of benefits is determined by the unemployment insurance program, which State legislatures set based on the mix and level of work in their States. For example, an autoworker laid off due to imports who worked in Missouri would receive $85 in weekly benefits, compared to a laid off autoworker who worked across the Missouri River in Illinois, who would receive from $129 to $154 in weekly benefits. This disparity in weekly benefits by States is inappropriate for unemployment caused by national trade policies.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I, like many of my colleagues, come from a district which has a high concentration of autoworkers. Some 15,000 autoworkers in my district are eligible for TRA. Many of them have endured periodic layoffs, they have been on a week, off a week, and then on a week and off a week again for the past year, so that their unemployment benefits and their SUB benefits are about exhausted. They need help, and they need it now.

In addition, I have steelworkers who are affected and will need TRA. I have rubber workers also. The Seiberling plant in my district was closed just last week, and 1,100 workers lost their jobs. The fastener industry is big in my district, and that has been similarly affected.

If we are going to change this program, let us change it for future recipients, not for present recipients, indeed not for those who became eligible in the past and are yet to receive their benefits. We do not want to pass retroactive laws here. There is human suffering that is going on and will go on if we do not renew this funding at the full level.

Mr. Chairman, I ask the House to reject the amendment which is pending before us.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I oppose this amendment because it would break faith with American wage earners. It would drastically reduce the benefits we promised to this country's working men and women in cases where their jobs are adversely affected by imports.

When we passed the trade bill, spokesmen for such groups as the automobile workers, steel workers, and garment workers pledged their support for that legislation in recognition of our having provided the trade readjustment allowances which this amendment would ravage.

Under this Michel amendment, automobile workers—severely affected by imports which now claim 28 percent of the market—would be effectively denied the benefits we promised them under the trade readjustment allowance. They would be restricted to what they could receive under State unemployment benefits. Under the circumstances that would amount to an outright abrogation of the compact.

We are the only major industrial nation on Earth whose government does not subsidize its exports. The least we owe to our working American men and women whose jobs are destroyed through no fault of their own by imports that are subsidized by other countries, is to keep faith with them as we promised to do in the trade readjustment allowance.

To do otherwise at this time would be an unconscionable breach of good faith. For that reason, I trust that this amendment will be rejected.

□ 1720

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, it is quite obvious that our discussion here was sparked by the $1.5 billion that is in this supplemental bill for trade readjustment assistance. The debate, in my judgment, has served a very good purpose. The entitlement program that is involved here was enacted with the best of intentions, but it has been quite publicly disclosed here that there is a need for the repair of that legislation and that entitlement programs such as this are simply getting out of hand. I think the debate has also shown that, rather than to try to restrain this program, there are those who would actually expand it by billions of dollars. When we get to September and October and the unemployment figures are increased, there are going to be all kinds of petitions here to do more that what we are currently doing. We are going to need billions more for food stamps, unemployment compensation, public assistance, and other such programs, just to provide a minimal level of existence for those thrown out of work. Where is the money going to come from to pay for these benefits? I submit that we are going to be looking back to today's opportunity, and if we reject this amendment, as I suspect we will, we are going to ask, "Why didn't we produce some of the funds needed to pay these benefits by reducing the waste and extravagance in the trade adjustment program?"

I would suggest that what this debate further shows is how unhappy and disgusted our Democratic friends here are with the performance of their own administration. One speaker after another has told us how many additional people are being laid off in his district. My friends, this unemployment is not due so much to imports as it is to the bankrupt economic policies of the Carter administration. And the Democratic Members of this body cannot escape partial responsibility for this state of affairs, because it has been their spending policies and their failure to do anything about wasteful entitlement programs such as this that has helped to produce the level of unemployment we have today.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Chairman, an appropriations bill is not the proper vehicle to use to change the trade adjustment law. Changing the rules in the middle of the game, Mr. Chairman, would be very unfair. I respectfully ask that this amendment be defeated.

● Mr. ATKINSON. Mr. Chairman, I rise in support of the full level of supplemental appropriations for the Trade Adjustment Assistance Act.

In 1962, when the Trade Expansion Act, which provided for significant reductions in tariffs and quotas was signed into law, a commitment was made to the

American worker to alleviate any injury which would result from increased imports. While it was believed that increased competition, together with reciprocal tariff reduction, would benefit the Nation overall, it was recognized that the Trade Expansion Act would have an adverse impact on certain groups of workers.

To ease the injury which would be experienced by American workers, the trade adjustment assistance program was included in the Trade Act.

It provides a wide range of benefits for the American worker who loses his job due to imports. Since this is an entitlement program, the benefits must be paid. Therefore, the Congress must recognize this, and appropriate the full level of the supplemental to meet the obligations of the trade adjustment assistance program for the remainder of this fiscal year.

Obviously, the Federal Government in 1962 did not foresee the extent to which those new policies would adversely affect the American worker in 1980. Such policies have fostered an era of unfair trade practices.

Furthermore, in a hostile atmosphere of unnecessary regulatory constraints and the administration's policy of benign neglect for industry's capital formation needs, our domestic industries are losing their competitive edge. Imports, whether in steel, automobiles, electronic equipment, or apparel, have gained an increased share of a declining market.

The import problem, especially for steel and steel products is further exacerbated by an administration which is content to "close its eyes" to imports entering the country in violation of the antidumping statutes.

The course the administration has pursued regarding imports is typical of the illogic and inconsistencies which permeate their policies.

On the one hand, we have administration spokesmen who unequivocally state that increased imports are not hurting domestic industries, while on the other hand we have the Department of Labor certifying group after group of workers for trade adjustment assistance because they are losing their jobs due to increased imports.

Such an example exists in my district in western Pennsylvania. St. Joe Zinc and other domestic zinc producers petitioned the U.S. International Trade Commission in 1978 for temporary relief from excessive foreign imports of slab zinc. The petition was denied. Had the request been granted at that time, the St. Joe Zinc plant in Monaca, Pa., would not have been forced to close its doors and 1,500 people would still be employed. Then, in December 1979, the employees' union filed with the Department of Labor for certification for trade adjustment assistance. They were certified eligible because their jobs were lost due to increased imports.

Trade adjustment assistance (TAA) provides financial assistance in the form of trade readjustment allowances (TRA) and opportunities for training, job search, and relocation. Trade adjustment assistance is not some "open-ended" welfare program. The trade readjustment allowances are provided for a maximum of 52 weeks, with an additional 26 weeks of eligibility available if a beneficiary is engaged in some type of education or training program. The maximum benefit is only 70 percent of a worker's gross wages and is reduced by the amount of unemployment benefits received.

The men and women who are receiving trade adjustment assistance are hardworking Americans who have been employed in factories and industries throughout the country but have lost their jobs due to deliberate Government policies. These people have pride in working and a sense of satisfaction in knowing they are providing for themselves and their families. They are looking for work, but in a period of economic recession, where the unemployment rate in Pennsylvania is over 8.4 percent, work is hard to find. Instead, they struggle to make their house payments, clothe their children, put food on the table, and put gas in their cars.

Two weeks ago, the checks for the trade readjustment allowances stopped coming. The $381,000,000 appropriated for the trade adjustment assistance program for fiscal year 1980 has been depleted.

Nearly 400,000 more people are eligible for trade adjustment assistance benefits this year than initially projected. These people are the victims of an administration whose only method for fighting inflation is a planned recession.

To my colleagues who may advocate a reduction in the level of appropriations for the trade adjustment assistance program, I say to you that your quarrel is not with the Pittsburgh steelworker, nor the Monaca Zinc Smelter employer, nor the Detroit assemblyline worker, but rather with an administration which refuses to curtail the imports coming into the country illegally. Do not penalize the American worker for the failed economic and trade policies of this administration.

We must fulfill our obligation to these American workers. I urge my colleagues to support the full level of supplemental appropriations for the trade adjustment assistance program, and to reject the Michel amendment.●

● Mr. BIAGGI. Mr. Chairman, the campaign to reduce Federal spending has reached a new low with our consideration of the pending amendment offered by my colleague from Illinois. His proposal is to reduce by some $350 million funds desperately needed by America's automobile workers—whose economic security has plummeted with the onset of the current recession.

No one wanted to be in the position of having to request as part of H.R. 7542 a $1.1 billion trade readjustment assistance. Yet, the massive numbers of layoffs which have affected the automobile industry over the past several months have made this request essential.

Specifically the trade readjustment assistance program was initially provided under the Trade Expansion Act of 1962 and liberalized under the Trade Act of 1974. Adjustment assistance for workers provides a higher level of worker assistance for a longer period than that which is available through payments under regular State unemployment insurance. In addition, special opportunities for training, job search, and relocation are provided.

Workers may apply for benefits if imports are found to have made a significant negative contribution to an industry. The impact of imports on the automobile industry has been monumental and thus the need for this assistance.

It is not the tradition of this Congress to turn its back on Americans in their most desperate hours of need.

Support for the Michel amendment would constitute callousness and abandonment and I urge the defeat of this amendment. I accompany this plea with the fervent hope that the American automobile industry and its thousands of workers can in fact rebound from the effects of this recession and resume its preeminent role among our Nation's industries.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment was rejected.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For an additional amount for "Grants to States for Medicaid", $1,159,000,000, to remain available until expended. Notwithstanding any other provision of law, no payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1, 1977; except that this provision shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions.

AMENDMENT OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NATCHER: On page 42, line 7, after "1977", strike all language through line 10 and insert a period and the following: "The provisions of section 109 of Public Law 96–123 shall continue to apply to appropriations previously made for fiscal year 1980 under this heading and to appropriations contained in this paragraph.".

Mr. NATCHER. Mr. Chairman, if this amendment is adopted, the words on page 42 of the bill, beginning with line 7 and extending through line 10, would be stricken. This would then prevent any question, Mr. Chairman, whatsoever from being raised as to whether this provision might be misinterpreted as permitting payment for abortions under medicaid.

The language in question was requested in the budget to cover circumstances where a hospital or physician might contest a medicaid reimbursement rate and the court case would go beyond the 2 years provided for States to submit bills for Federal reimbursement. That was the sole purpose for placing the words in the bill.

Mr. Chairman, since this appropriation measure was reported from the committee, I have been questioned as to whether or not this section might sanction payments in the medicaid system for abortion. That is not the case. This amendment removes any doubt about the matter, Mr. Chairman, we intend that the provisions of section 109 of Public Law 96-123 should remain in full effect throughout fiscal year 1980, and my amendment makes that very clear.

Mr. Chairman, I ask that the amendment be adopted.

● Mr. ALBOSTA. Mr. Speaker, I rise in support of the amendment to H.R. 7542, fiscal year 1980 supplemental appropriations and rescissions bill.

As a past supporter of the Hyde amendment language to appropriations bills, I fell very strongly that the Congress must be consistent with its feelings on this issue. As you probably know, in December of 1979, a U.S. district court judge in Brooklyn, N.Y., ruled that the Hyde amendment language, which prohibits Federal funding of abortions, is unconstitutional. This ruling required the Federal Government to begin funding medicaid abortions in January.

Along with many of my colleagues, I sent a letter to Supreme Court Justice Thurgood Marshall requesting that the starting point be delayed until after the Supreme Court ruled on the constitutionality of the Hyde amendment language. My letter to Justice Marshall initially received a positive response. Unfortunately, a majority of the justices ruled that until the Supreme Court rules on the constitutionality of the Hyde amendment language, the ruling by the lower court will be implemented. This means that once again Federal funding for most abortions under the medicaid program is available. Simultaneously, the Supreme Court agreed to decide the question of the constitutionality of the Hyde amendment language. This case was presented to the Court on April 21, 1980, and a decision on this issue is expected later this year.

The House of Representatives now has a chance to reaffirm its feelings on which branch of Government has the right and ability to appropriate money. I thus urge my colleagues to support this vital change to the supplemental appropriations bill.●

Mr. CONTE. Mr. Chairman, the minority is in accord with the majority on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Kentucky (Mr. Natcher).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

For an additional amount for "Grants to States for social and child welfare services", $242,000,000.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: On page 42, after line 20, insert the following paragraph:

For a further additional amount for "Grants to States for Social and Child Welfare Services", $231,750,000: *Provided*, That of this amount, $9,650,000 for activities authorized under Title IV-B of the Social Security Act shall remain available until September 30, 1981: *Provided further*, That of the $231,750,000, not to exceed $6,000,000 shall be used for training authorized by section 2001 of such Act and only for the quarter beginning July 1, 1980.

Mr. CONTE. Mr. Chairman, the amendment which I am offering will insure that there are sufficient funds to implement during fiscal year 1980 the provisions of the conference report on H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980 which passed the House and Senate last Friday and has been signed by the President. The amendment provides for the same amount of increased funding for fiscal year 1980 as proposed by the President in a supplemental appropriation request sent to the Congress on June 12.

The amendment would provide for the additional $231,750,000 for fiscal year 1980 which will be needed to fund increases in the title XX social services program and the child welfare services program. These increases were not provided for in the fiscal year 1980 supplemental appropriation bill, H.R. 7542, now being considered by the House. Such funds were not included in H.R. 7542 because the conference report on H.R. 3434 had not yet been acted on by the Congress at the time the supplemental appropriation bill was reported from the Appropriations Committee.

A number of the provisions in H.R. 3434 authorize modifications in current entitlement programs effective beginning in fiscal year 1980 but are not specifically mentioned in the President's supplemental request or the amendment, but according to the administration, will be funded through the use of the borrowing language already included in the appropriation for fiscal year 1980. This includes, for example, funding from the SSI program appropriation for the $30 million a year SSI disabled children services program which is extended in H.R. 3434 for 3 years from October 1, 1979.

This amendment will provide the additional $200 million necessary to meet the costs of the increase in the permanent title XX social services program ceiling to $2.7 billion for fiscal year 1980 as provided for in H.R. 3434. An additional $16.1 million is also included in the amendment to fund in fiscal year 1980 the separate permanent title XX funding ceiling of $16.1 million for social services in Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas. Also, the amendment provides $6 million in funds to meet the estimated additional cost of the new limitation on State title XX training funds contained in H.R. 3434.

An additional $9.65 million funding for title IV-B child welfare services program is provided for in the amendment. These funds are in addition to the $56.6 million already appropriated for fiscal year 1980 for the title IV-B program and will provide States funds to begin to improve their child welfare and foster care programs as envisioned in H.R. 3434. The amendment specifically allows States to carryover to fiscal year 1981 these additional fiscal year 1981 title IV-B funds as is authorized in H.R. 3434.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me at this point?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to say to my distinguished friend, the gentleman from Massachusetts (Mr. Conte), that one of the nicest things that has happened to me since I have been a Member of Congress has been the privilege I have had to serve with the gentleman on the Subcommittee on Labor, Education, Health and Human Services.

Mr. Chairman, we have examined the amendment that has been offered by the distinguished gentleman from Massachusetts. This amendment is authorized under a law that was signed yesterday. The conference report was adopted by the House last week. Most of it involves entitlement programs and, Mr. Conte, on this side we will accept your amendment.

Mr. CONTE. I want to thank the chairman. I also want to thank the gentleman for his kind words, and I know that the feeling has been mutual. The gentleman from Kentucky has been one of the finest chairmen we have ever had on the HEW Committee.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of my colleague, Mr. Conte.

This amendment provides the extra funds needed to implement the provisions of H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980 which was signed into law earlier this week.

The Committee on Ways and Means worked for several years on this legislation, and we believe that the bill just signed into law will result in significant improvements in the child welfare, foster care, and adoption programs in the United States. More importantly, it will mean more humane and sensible arrangements for the children and families involved in the situations which make these services necessary in the first place.

By putting the funds to implement this program into the 1980 supplemental, we are showing our support for these services and our intention that the States go ahead promptly to redirect and refocus their efforts in order to carry out the provisions of H.R. 3434.

I urge my colleagues to join me in supporting this amendment.

I do have a couple of questions I would

like to ask my colleague, the gentleman from Massachusetts.

Mr. Chairman, can the gentleman assure me that the effect of this amendment, with regard to the funds for training under the title XX social services program, is to limit training funds for fiscal year 1980 to a total of $81 million?

Mr. CONTE. The gentleman is absolutely correct.

Mr. ROUSSELOT. Can he assure me further that this limitation of $81 million for title XX training is a "complete" limitation and that there will not be any draw downs or borrowing against fiscal 1981 funds for the purpose of increasing the total fiscal 1980 funding for training beyond this $81 million?

Mr. CONTE. The gentleman is absolutely correct.

Mr. ROUSSELOT. H.R. 3434 provides for a cap on each State's title XX training funds equal to 4 percent of the State's title XX services allotment. Am I correct in my understanding that, pursuant to the provisions of H.R. 3434 which was just signed into law, the funds for the final quarter of fiscal 1980 for title XX training will be allocated under the 4-percent limitation rather than under the formula which HHS has been using during the first three quarters of the fiscal year?

□ 1730

Mr. CONTE. Let me say to the gentleman from California that we do not care how the Department administers the programs in the terms of formula. We simply want to make sure that however they administer it, the total cost does not exceed $81 million.

Mr. ROUSSELOT. I appreciate the gentleman's comments, and I thank him for offering this amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I rise in support of the amendment. This amendment facilitates the funding requested by the administration for the child welfare legislation under H.R. 3434.

As my colleagues may recall, the House accepted the conference report on H.R. 3434 last Friday on a voice vote. Senate action followed shortly thereafter; and the President signed the bill last night.

Therefore the entitlements and other spending in H.R. 3434 have now been authorized, and the programs have taken effect.

I would just like to make a few points regarding this amendment:

First, the amendment has virtually no new effect on the amount of outlays that will occur. Most of the spending under H.R. 3434 is governed by entitlements. It was the administration's intention in the absence of this amendment today to use their so-called draw down authority to borrow fiscal 1981 funds to cover the 1980 spending needs. Only the modest amount ($9.65 million) for beginning State inventories of children in foster care could not be made available through this procedure.

Second, these amounts have already been "scored" against the 1980 congressional budget ceiling. This occurred after both Houses completed action on the H.R. 3434 conference report. Therefore, this amendment has already been provided for under the budget resolution.

Finally, I would like to point out that this amendment is advisable because it would signal in a positive way that Congress intends to stand four square behind the programs authorized in H.R. 3434. Our unavoidable delay in acting on this legislation because of the budget process has held programs in States and localities in a state of limbo since last fall. With the President's signature, H.R. 3434 has taken effect and the States can begin immediately to claim funds for the title XX services program and the title XX training program and for the other entitlements provided in H.R. 3434.

Therefore, I urge my colleagues to join me in supporting this amendment to include the funds to implement the child welfare services authorized under H.R. 3434.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I would be glad to yield to my good friend from California.

Mr. MILLER of California. I want to thank the gentleman for offering his amendment. His amendment, when it is passed by this committee, will culminate years of work by many Members of this House, of the gentleman from California (Mr. BURGENER), the gentleman from California (Mr. ROUSSELOT), and the gentleman from California (Mr. CORMAN), myself and others, on bringing to fruition dramatic reforms in the adoption and foster care system in this country.

The President has just signed H.R. 3434 into law. The Adoption Assistance and Child Welfare Act of 1980 contains historic reforms of the Nation's foster care and adoption system which are long overdue. Perhaps more than any other piece of legislation which the Congress has enacted in the past decade, this act holds the potential of dramatically improving the quality of life for hundreds of thousands of families, and especially for millions of children, throughout our country.

I confess to a great deal of personal satisfaction over the enactment of this legislation. Nearly 5 years ago, I helped to initiate the congressional investigation into the allegations of abuse and failure in the foster care system. In the past 5 years, we have produced hearings, investigations, studies and legislation which blended together into the consensus legislation which on Monday became law.

During those 5 years, a great many people throughout the Nation and in the Congress have joined the effort to reform the foster care program. This has been a very long struggle, and these people have shown great tenacity and commitment. I want to take a moment to pay tribute to their contributions to the making of this legislation.

Within the Congress, I especially want to pay tribute to the Public Assistance Subcommittee of Ways and Means, and particularly to its chairman, JIM CORMAN of California. Mr. CORMAN has been an unwavering supporter of this legislation from the very outset, and his legislative skill and meticulous attention to the details of the bill were central to this great legislative victory.

Several other members of the subcommittee have also been very instrumental. BILL BRODHEAD has advocated this bill not only in Ways and Means and on the floor, but as a member of the Budget Committee, where he personally secured key provisions in the 1980 and 1981 budget resolutions to assure adequate funding for H.R. 3434.

I also want to recognize the contributions of my colleague from California, JOHN ROUSSELOT, who added a strong voice of nonpartisan support to the bill for several years. Congressmen RANGEL and DOWNEY also helped greatly with the work of the subcommittee. In the Senate, Senators MOYNIHAN, CRANSTON, and LONG were the key supporters of this legislation.

I want to recognize the efforts of Congressman BURGENER who has supported the reforms in H.R. 3434 as a key member of the Appropriations Committee. And lastly, we should recall the very early contributions of JOHN BRADEMAS, who as chairman of the Subcommittee on Select Education supported my efforts to investigate abuses in foster care.

I also want to recognize the outstanding work which was done by the committee and personal staffs of these and other Members over a very long period of time. In particular, I would like to commend the subcommittee staff, Ken Boler and Allen Jensen for the Majority, and Martha Phillips of the minority, for their fine work.

There are many, many people outside Congress and outside Washington who have made substantial contributions to the conceptualization, drafting and enacting of H.R. 3434. I cannot hope to name all of those who have provided me and the other congressional sponsors of the bill with assistance over these past 5 years, but I do want to name several who have made enormous personal contributions:

Marian Wright Edelman, Mary Lee Allen Hoffman, Jane Knitzer, Helen Blank and Steve Berzon, all of whom have been associated with the Children's Defense Fund; Liz Robbins; Candace Mueller of the Hecht Institute and Bill Pierce of the Child Welfare League; Jean Jones of the Congressional Research Service; Peter Forsythe, vice president of the Edna McConnell Clark Foundation; Betsy Cole of the North American Center on Adoptable Children; Judge John Steketee of the children in placement project of the National Council of Juvenile Court Judges; Elizabeth Berger and Brian Cahill.

Also, Prof. David Fanshel of Columbia University; Prof. Michael Wald of Stanford Law School; Prof. Robert Mnookin of Berkeley Law School; David Evans, president of the National Foster Parents' Association; and Victor Weingarten and the National Commission on Children in

Need of Parents. I also want to thank various people from the General Accounting Office who have cooperated with numerous requests concerning foster care and adoption programs.

My concern about the shortcomings of the foster care system were aroused first by press accounts of the shipment of foster children from their homes in Illinois to residential centers in Texas. As we probed deeper and learned more, the breadth of the failings of the foster care system became tragically apparent.

Throughout the country, we learned, hundreds of thousands of children drift indefinitely through the foster care system. According to numerous studies—by GAO, the Children's Defense Fund, HEW, the New York Comptroller's Office, the report of the National Commission for Children in Need of Parents—as many as two-thirds of the children in foster care are inappropriately placed, often in excessively restrictive settings for unnecessary durations.

The cost of this program is enormous. There are about 350,000 children in foster care at any time, and the Federal financing of the system has been inadvertently designed to keep many of them there despite more suitable and less costly alternatives. In our very first hearing, we were told that as many as 100,000 children might be "lost" in the foster care system, a probability which was quickly confirmed by HEW officials who told us that they were unable to identify how many children were in placement at cost to the Federal taxpayer.

The lack of accountability in the system was confirmed by a study which Congressman Brademas and I commissioned the General Accounting Office to conduct in late 1975. This report on children in foster care institutional settings, disclosed a widespread lack of adequate case monitoring, poor review procedures, unsuitable living conditions and wasteful expenditures.

Shortly after the release of that GAO report in 1977, I introduced the Foster Care and Adoption Reform Act, and we began the lengthy legislative activity 3434 after 3 years of very hard work.

The original intent of the foster care and adoption reform legislation was to improve the system through a series of incentives and imperatives for States and Federal agencies.

Instead of protecting and assisting families in crisis, we determined that the current design of the foster care laws actually encouraged the fragmentation of families. Little preventive or reunification services were available to these families; no support was provided the potential adoptive parent who wanted to assume custody of a hard to place foster child.

Yet under the law, the taxpayer would continue to pay indefinitely to maintain that child in foster care, often in inappropriate settings. While funding for services is rigidly restricted through titles IV–B and XX of the Social Security Act—the former a severely underfunded authorization, the latter an underfunded entitlement with a cap—there is no ceiling on Federal reimbursements for maintenance costs. Obviously, the financial incentive is to place a child into care, and often there is no alternative because the funding for preventive services is not available.

Similarly, we found that there was a strong financial disincentive in the law regarding adoption. If a child stays in foster care, we would pay Federal dollars toward his maintenance until he reached majority, including medicaid health care costs. But if that very same child were adopted by his foster family, maintenance payments and medicaid eligibility ceased.

The legislation which we designed in 1976 and 1977 to address these failures in the foster care and adoption system was conceptually very similar to the newly enacted law. We determined to provide additional financial support to States for the provision of services and for the creation of accountability protections, including appropriate placement requirements, periodic reviews and final determinations of placement, case planning, and reunification services. This supplemental funding ought to be utilized solely for the implementation of these program improvements, which have been proven to be highly cost effective.

We learned, for example, that the comprehensive emergency services program in Nashville registered a 51-percent reduction in the number of children removed from their homes, and even greater reductions in institutional placements and recidivism. Similar successes have been achieved in other major cities and in many other States which have employed the CES approach.

We also learned that the periodic reviews imposed by the Children in Placement (CIP) project, operated by the National Council of Juvenile Court Judges, resulted in more than half of the children being removed from care, and many of them were returned home.

Naturally, services and protections cost money. But the dramatic reduction in caseloads which we have seen result from implementation of these approaches more than outweigh perpetuation of the present costly system which is grossly unfair to children and parents. The cost of maintaining unnecessary foster care in New York City alone was estimated by the city comptroller to be in excess of a quarter of a billion dollars, which is many times the annual cost of H.R. 3434.

This legislation provides additional funds for those reforms, and restricts the new funds to that use. Failure to implement the reforms will curtail the flow of money to States, and will assure that the new funding is not squandered on the current failed program. When adequate levels of appropriations are provided under title IV–B, as has been supported by the broad spectrum of members, from conservative to liberal, we will also cap the new title IV–E maintenance amount, thereby further limiting expenditure of Federal funds.

Lastly, H.R. 3434 offers support to people who choose to adopt a child whose only alternative placement is indeterminate foster care. The question here is not whether we will expend funds on these children, but rather under which circumstances. It is universally recognized that permanent placement in an adoptive home is far preferable for parent and child than continued foster care, and it is also far cheaper because we eliminate the administrative costs of the foster care program.

What this important legislation does is to reverse a very severe defect in existing law by which the Federal Government, by providing unlimited funds for out-of-home placements and a pittance for prevention, has been subsidizing the breakup of families.

Moreover, we achieve this goal through the implementation of alternate programs which have been proven in numerous demonstration projects to reduce foster care and its duration, to encourage cost effective adoption, and to save funds which are currently expended to maintain children in long-term placement.

This legislation took a very long time to develop and to enact. We encountered many setbacks and disappointments, especially in the 95th Congress. During that work, we have educated ourselves about numerous other defects in Federal programs affecting children which hopefully we will be able to correct as successfully as we have in this case.

This is an outstanding piece of legislation. It is the product of the committed labor of many people throughout this country, some of whom I have named, but many of whom I do not even know. Each one of them has reason to be very proud of this new law, and each of us shares a responsibility to assure that it is speedily and diligently implemented.

Mr. CONTE. I thank the gentleman from California. He certainly has been a leader in this field. He has been a giant in the crusade for this legislation.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. I thank the gentleman for yielding.

I commend the gentleman for offering the amendment. I obviously support the gentleman.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. Conte) has expired.

(At the request of Mr. Michel and by unanimous consent, Mr. Conte was allowed to proceed for 2 additional minutes.)

Mr. MICHEL. If the gentleman will continue to yield, I think we ought to be making it very clear here that the $6 million added for State and local training, when coupled with the $75 million previously appropriated represents the maximum that we intend to make available for training in fiscal year 1980.

In the regular 1980 bill, we made $75 million available for training. We capped that amount because we had an open-ended entitlement program that was going out of control. Claims by the States had more than tripled from 1976 to 1979 and were projected to continue in an upward spiral without the cap.

Now a case has been made that the additional training funds are needed to help implement the new programs under H.R. 3434, and this amendment thus provides an additional $6 million in this regard, which brings the total for training, as the gentleman said, to $81 million.

I would like to make it abundantly clear we do not intend to go beyond this figure either this year or in future years to pay late claims for 1980, and the Department of Health and Human Services should administer the program accordingly.

I would like to feel that the author of the amendment subscribes to those same views that I have expressed here, as well as the gentleman from Kentucky (Mr. NATCHER).

Mr. CONTE. I did speak with the gentleman from Kentucky (Mr. NATCHER). We do concur with the gentleman's remarks.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am glad to yield to my friend from California.

Mr. CORMAN. Mr. Chairman, I rise in support of the amendment.

Mr. CONTE. I want to thank the gentleman, and he has been long interested as a leader in this field.

I urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

(RECISSION)

Of the funds appropriated under this head in Public Law 96–123 for fiscal year 1980, $15,000,000 appropriated for the purpose of title I, part A, section 116; $35,000,000 of the amount appropriated for title I, part A, section 117, and $47,600,000 of the amount appropriated for title IV, part C of the Elementary and Secondary Education Act are rescinded: *Provided*, That of the $142,400,000 remaining for title IV, part C of the Elementary and Secondary Education Act, no more than $46,000,000 may be expended for the purposes of section 521. The additional $7,400,000 appropriated for carrying out title IV, part C of the Elementary and Secondary Education Act are rescinded. The proviso that none of such funds may be paid to any State for which the allocation for fiscal year 1981 exceeds the allocation for comparable purposes for fiscal year 1980 is repealed.

Of the funds appropriated under this head in Public Law 95–482 for fiscal year 1979, $1,000,000 appropriated for the purposes of the Communications Act of 1934, as amended, are rescinded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 43, lines 6 and 7, strike out the semicolon and all that follows through "117,".

Mr. MILLER of California. Mr. Chairman, I offer this amendment at this time to point out to Members of Congress that in the next few days the Members of this House will be asked to come forward and to vote for the Youth Act of 1980, title II of which will require the expenditure of $50 million over the next year, providing funds for school districts with especially high concentrations of low-income students to enable these school districts to design programs for the following year to meet the basic and employability skills of low-income secondary students.

I bring this to the attention of my colleagues not because it is in this legislation, but because in this legislation is a misdirected rescission. In this legislation is a rescission dealing with identically the same programs of $35 million. I think at a time when the Congress is going to be asked to create a new program, to spend the next couple of years designing a new program, the intent and purpose of which is to do exactly as the existing programs, and the existing programs are being cut, I think we have got to ask ourselves what is this administration up to? Are they truly concerned about the unemployment among youth in this country? Are they truly concerned about the lack of basic skills among the youth of this country, or are they not?

The rescission seems to suggest that they are not, and yet the Youth Act seems to suggest that they are.

I would suggest that we could put this rescission back into the bill. I would hope that it would be done in the conference process with the other body, that this would be put back in the bill and we could save ourselves a lot of money and a lot of time of starting up a new bureaucratic program, the intent of which is to have the identical results of these programs that are subject to this rescission.

My other concern with this rescission is this, that this money has already been budgeted by school districts for the next school year. In Miami, where we know we have had serious trouble with youth unemployment among low-income youth, the school district would lose over $400,000. Baltimore would lose $430,000; Cleveland, $250,000; Detroit, a city which we just spent hours talking about the unemployment, $900,000; Los Angeles, $1.1 million; New York City, $3.8 million; Philadelphia, $990,000; Washington, D.C., $330,000; and Chicago, $1.5 million.

I think it is imperative that this committee make every attempt to hold on to this money, to not allow this rescission to go ahead, because the result would be the dramatic impact on these school districts that I have read to the Members; but more than that, to make up for the gaps that this rescission will create. The administration will come along and tell us this week or next week that we have got to vote to expend $50 million to redesign this identical system so somebody can say they did something for the unemployed youth. I do not think that that is the answer.

I hope that we will continue a discussion of this most important program, so that this Congress will not be burdened with voting for new programs when the current ones are working, but they are subject to cuts like this.

I would ask support of the amendment.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Kentucky, the chairman of the committee.

Mr. NATCHER. Mr. Chairman, I would like to say to the distinguished gentleman from California (Mr. MILLER), that I want to commend him on the position that he has always taken since he has been a Member of Congress in regard to education.

□ 1740

The gentleman from California is one of the stalwart defenders and supporters of education, and the gentleman has been ever since he has been a Member of Congress. As a member of the Committee on Education and Labor, our subcommittee has had an opportunity to work with the gentleman and we want to commend him on the position that the gentleman has taken not only on this matter, but on all matters pertaining to education.

Mr. Chairman, as the gentleman from California well knows, a recission of $50 million was requested by the President in the concentration grant program. Knowing what will take place on the other side, I would say to the gentleman in the well, we did not approve the $50 million. We approved $35 million.

I say to the gentleman from California (Mr. MILLER), we were just as right as we could be. The subcommittee on the other side has rescinded $200 million. They want to take the whole concentration grant program out of existence.

I would like to say to the gentleman from California, I know how the gentleman feels about it. The gentleman knows the position of our committee. I would hope that the gentleman would not insist upon his amendment.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I would certainly thank the gentleman for those remarks and also say that it is my understanding that the committee is going to make a push to uphold their position, knowing the importance of these programs. I would certainly defer to the judgment of this committee and to the subcommittee chairman.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

Administrative Provisions

(including transfers of funds)

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Committee employees", such amounts as are deemed necessary for the payment of salaries under this head may be transferred among "Special and select committees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Allowances and expenses", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Special and select committees" and "Committee employees", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Special and select committees", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Committee employees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for purposes of explanation, I wonder if the gentleman from Indiana (Mr. Benjamin), whose subcommittee handles the legislative appropriations, could explain to me the provision the Clerk is now reading. It appears to me that the Appropriations Committee is in this provision taking unto itself authority that has heretofore rested in the House Administration Committee, that is, the ability to transfer slots for statutory authority, committee appointments of staff and so on from one committee to another, select committees to standing committees.

I yield to the gentleman.

Mr. BENJAMIN. I will state to the gentleman that this is based upon a request of the House Administration Committee. We received a letter from that committee, dated June 16, which indicated as follows:

Committee on Appropriations
June 16, 1980.

Hon. Adam Benjamin, Jr.,
Chairman, Subcommittee on Legislative Branch Appropriations, Committee on Appropriations, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The staff of the Committee on House Administration has met with the budget staff of the Office of the Clerk regarding transfer language contained in the administrative provisions of H.R. 7325. It is noted that the transfer language pertains only to certain House accounts and each transfer would be subject to the approval of the Committee on Appropriations.

We are concerned that sufficient funds be available to cover obligations incurred by the House, particularly in those accounts where existing funding has been rescinded or supplemental funding denied. It is our opinion that this language is necessary inasmuch as it will allow a more efficient use of existing appropriated funds and ensure that adequate funding is available.

With kind regards,
Cordially,
Frank Thompson, Jr.

Basically, the essence of this is that the request to the committee was for an additional $7,426,000 in funding for allowances and expenses which was denied by the subcommittee. Beyond that, we also rescinded $1 million which was previously appropriated in the 1980 appropriations bill; so we have taken out almost $8,500,000 from that account. In order that the balances in the account can be employed judiciously, but with flexibility, we are requesting this language within the bill.

Mr. BAUMAN. This is then only a one-time authority to deal with this type of funding?

Mr. BENJAMIN. Absolutely. It would expire September 30, 1980.

Mr. BAUMAN. I thank the gentleman.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

Federal Bureau of Investigation

salaries and expenses

(transfer of funds)

For an additional amount for "Salaries and expenses", $6,400,000, to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

Immigration and Naturalization Service

salaries and expenses

(transfer of funds)

For an additional amount for "Salaries and expenses", $3,000,000, to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance". The number of vehicles which may be purchased for police-type use is increased to four hundred sixty-one, of which three hundred fifty-eight shall be for replacement only.

Drug Enforcement Administration

salaries and expenses

(transfer of funds)

For an additional amount for "Salaries and Expenses", $1,300,000, to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

amendments offered by mr. m'clory

Mr. McCLORY. Mr. Chairman, I offer three amendments on page 54, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. McClory: On page 54, strike lines 1 through 7.

On page 54, strike lines 8 through 17.

On page 54, strike lines 18 through 24.

Mr. McCLORY. Mr. Chairman, H.R. 7542 contains three provisions for the transfer of appropriations from the Law Enforcement Assistance Administration to other divisions of the Department of Justice. Specifically, $6,400,000 is transferred to the FBI, $3,000,000 is transferred to the Immigration and Naturalization Service, and $1,300,000 is transferred to the Drug Enforcement Administration. This constitutes a total of $10,700,000.

These provisions in H.R. 7542 are part of a concerted effort which is apparently underway to completely undermine the LEAA program. This effort climaxed with the revised budget request submitted by the administration in April, virtually eliminates the entire grant program. In addition to the attack on 1980 LEAA grant funds contained in this bill, the Department of Justice has also announced plans to transfer an additional $15,000,000 from LEAA through the reprograming mechanism to finance "other critical needs of the Department."

I submit that the LEAA program is in itself one of the most critical needs of the Department of Justice. However, it is apparently not being treated as the sole Federal program to counter the very serious problem of crime, but as a sort of "slush fund" into which the Justice Department can conveniently dip to finance its unrelated needs. This treatment is regrettable and in my experience in this body—unprecedented.

In 1979, we passed, and the President signed, the Justice System Improvement Act of 1979 (Public Law 96-157), which reauthorized and revitalized the LEAA for an additional 4 years, reflecting the high national priority accorded to the war on crime. Since, as the Attorney General announced on April 30, 1980, crime soared in 1979, I believe that the 1980 supplemental appropriations bill should reflect that the assistance of LEAA is needed more urgently than ever.

As a manager of the reauthorization in this body, I strongly object to this attack on LEAA. It runs contrary to the intent of the Justice System Improvement Act of 1979. Accordingly, we should amend H.R. 7542 to stop the dismantling of this most worthy agency and to remedy whatever financial and psychological damage has occurred.

□ 1750

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendments.

If I may have the attention of the gentleman from Illinois (Mr. McClory), I believe I heard him say this transfer is from money we appropriated for 1980.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. McCLORY. Yes.

Mr. SMITH of Iowa. Apparently there is a misunderstanding. This is money that was left over from 1979. When we made the 1980 appropriation we anticipated they would not have any money left from 1979, but they did have some funds that carried over into fiscal year 1980.

Mr. McCLORY. This is money that was in the 1980 fiscal year funds which is intended for grants being made to local communities.

Mr. SMITH of Iowa. This is money that was left over from 1979, and we would not have appropriated as much for 1980 if we had known they had this left over from 1979. So this is really not a reduction in the 1980 program.

Mr. McCLORY. We cut down the appropriation between 1979 and 1980 from about $900 million to less than $500 million. In effect, we cut the program in half last year. We restructured the whole program and, after doing that, and after laboring so hard on it, it seems to me for us to take this money from the small amount of funds that remains in the LEAA program and provide them for an unrelated purpose is wrong.

Mr. SMITH of Iowa. Mr. Chairman, I just want to make sure the gentleman understood we considered these to be moneys that were left from 1979 that we had not anticipated at the time we made the 1980 appropriation.

We also specified that none of this transferred money could come out of the criminal justice formula grants, so that means none of it will come from that source. It will come from discretionary funds, from such things as jail construction. So I do not really believe, or we did not feel that transferring this amount of money, out of the money that was left from 1979, would hurt the 1980 program.

In addition to that, OMB was not willing to send up a supplemental for the purposes for which we have transferred this money; yet, we feel that they are very justified. Let me tell the gentleman what they are on a priority basis. We increased the gasoline and travel allowance for the Federal Bureau of Investigation. In addition, the transfer provides for the increased cost of gasoline for the Immigration and Naturalization Service. We also provided for some extra fuel expenses and transportation costs for the Drug Enforcement Administration. These are all very high priority needs. The administration wanted to transfer these moneys that were left from 1979, and we felt, to the extent that we did it, that it was justified.

Mr. McCLORY. If the gentleman will yield further?

Mr. SMITH of Iowa. Yes; I yield to the gentleman.

Mr. McCLORY. I just want to call the gentleman's attention to a misstatement in the committee report. It goes specifically to what the gentleman referred to. The committee report says:

> The committee intends that none of the funds to be transferred be derived from funds allocated to criminal justice formula grants.

That is precisely the formula grants that are being bled by this appropriation or allocation of these funds.

Mr. SMITH of Iowa. The gentleman is mistaken about that. None of these funds will come from the formula grants. They will come from the planning grants, from the criminal justice programs. Those are discretionary programs. It will come from the jail construction program and the crime prevention program. That is not the criminal justice formula grants. None of it will come from that source.

Mr. McCLORY. If the gentleman will yield further, those are still grant program funds that are being diverted to the various agencies specified in this supplemental appropriation bill.

Mr. SMITH of Iowa. But they are not formula grants, they are discretionary grants that come from Washington. It is not going to come out of the criminal justice formula grants.

Mr. CONTE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

This amendment seeks to strike three paragraphs from the bill which transfer funds for the operating expenses of the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the Drug Enforcement Administration. The amendment offers no alternative funding; it just eliminates any reference in the bill to these agencies.

I recognize and sympathize with the intentions of the sponsor of this amendment as he attempts to salvage for a few more months a program authorized by his committee. However, in trying to assist that program, the Law Enforcement Assistance Administration, he would damage three of our most important law enforcement agencies.

Our committee recommended these transfers in order to allow these agencies to pay the increased costs of gasoline and air travel which are essential to ongoing investigations and operations. The funds are not for increased program levels, but merely to maintain activities in the face of gas prices which are twice the level as originally estimated.

I do not believe the goal of better law enforcement would be served by this amendment, and I urge a "no" vote.

□ 1800

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be quite brief. I have been very impressed with the argument advanced by the gentleman from Illinois (Mr. McClory). I want to remind the membership that by a 3-to-1 vote about a year ago reauthorization of LEAA was enacted by this body after very, very careful consideration of its features and its needs and its purposes and its future. We went into consideration of all those criticisms which the program had addressed, and I think we won the complete confidence of the membership of this House when by that big majority, a 3-to-1 majority, the House wanted that program continued, wanted it reauthorized, and wanted it adequately funded.

The purpose of the amendment is to leave the program where there is some vitality in it to overcome some of these transfers which would virtually destroy all that hard work done here a year ago. I strongly support the amendment offered by the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding, and I thank him for his support and for his support last year in which we did restructure and provide a very worthwhile program that has been utilized successfully throughout the entire Nation, including the monitoring of the useful programs, the evaluation of them, and the utilization of them in communities throughout the entire land. To take the funds and transfer them to purposes completely unrelated to local law enforcement, the FBI, to the DEA, and for other purposes, it seems to me to be a complete aberration, a complete departure from the entire authorization and appropriation process. It seems to me that for us to do this just means that if we establish a program and provide funds for that, we could just divert them into any other area. So I think that it is a terrible department from what the Congress did for us to support the committee, and I hope that the membership will support the motion to strike.

I thank the gentleman for yielding.

Mr. GUDGER. I thank the gentleman for his comments. I would remind the membership that it is not the formula funds that are retained, it is OJARS, and the letter here that I have from the Department of Justice confirms that it is the new discretionary program that remains under the auspices and within the appropriation. To my way of thinking, that is all wrong. These formula grants need to go out. Let us keep these programs where we structured them a year ago, and let us support the amendment of the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I will be happy to yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding. I wonder if the gentleman realizes that we provided last year $75 million, I believe, in the transportation bill for section 402, State grants, which goes to law enforcement agencies throughout the country for police traffic services, plus we appropriated another $20 million to law enforcement agencies to help them to enforce the 55-mile speed limit.

Mr. GUDGER. I do not recall the last mentioned item of the gentleman. I do recall that we did not strike out all hardware, that we allowed hardware, particularly communications hardware, to remain in because it was thought that the police information networks were vital to the security of our highways and of our country. Yes, some of these programs were retained after considerable debate here. However, it is not these restructurings that I am concerned about here; it is the virtual cutting and destruction of the entire major massive element of the program which required so much deep study and considerable debate here a year ago. I want to associate myself with the remarks of the gentleman from Illinois (Mr. McClory) who I suspect knows this reauthorization bill far better than I do. I was merely supportive of him when he presented its elements to the floor last year, and I am supportive of him now as he seeks to retain what he thinks and what I think are valuable restructuring and valuable new commitments to improve law enforcement in this country.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Illinois (Mr. McCLORY).

The amendments were rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chirman, I have taken this time to engage the chairman of the Committee on Labor-Health, Education, and Welfare, the honorable gentleman from Kentucky (Mr. NATCHER), with respect to the funding of the billingual education TV program. First, may I ask the gentleman if there are any funds in this particular House supplemental bill for a bilingual TV program?

Mr. NATCHER. Mr. Chairman, will the distinguished gentleman from Texas yield?

Mr. PICKLE. Yes, I yield to the gentleman.

Mr. NATCHER. I thank the gentleman for yielding. The answer to the gentleman's question is no, there are no funds in this bill.

Mr. PICKLE. Can the gentleman advise this body if the other body contemplates or may put in funds for this program in their supplemental bill? Is the gentleman advised?

Mr. NATCHER. If the gentleman will yield further, I would like to say to the distinguished gentleman I am unable to answer the gentleman's question at this time since the other body has not completed action.

Mr. PICKLE. As I understand it, the other body apparently has indicated in its version of the report that they might consider putting funds in this appropriation bill for a particular type of program. If funds were added, I would hope that the gentleman from Kentucky (Mr. NATCHER) would go to conference with the position that if funds were added, that any program could be considered in the version and not have a sole source funding. I noted that there is one program that was started in another State and had not been completed and that needed funding to complete it. I am not trying to stop that, but if funds were added, I would hope that our conferee would go to conference with the position that each side would have a fair chance to have its version considered in an open, competitive manner.

Mr. NATCHER. Mr. Chairman, I would like to say to the gentleman that certainly every consideration will be given to the gentleman's request when we go to conference, and the gentleman's request is not unfair by any means.

Mr. PICKLE. I thank the gentleman very much.

The CHAIRMAN pro tempore. The Committee will rise informally.

The SPEAKER. The Chair lays before the House the following enrolled bills and Senate joint resolution:

H.R. 5259. An act to name a certain Federal building in Santa Fe, N. Mex., the "Joseph M. Montoya Federal Building and U.S. Courthouse";

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes;

H.R. 6614. An act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes; and

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day."

The SPEAKER. The Committee will resume its sitting.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 54, after line 24, insert:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

LAW ENFORCEMENT ASSISTANCE

(TRANSFER OF FUNDS)

For an additional amount for "Law enforcement assistance," $7,000,000, to be derived by transfer from Federal Prison System, "Salaries and expenses": Provided, That such sum shall be available only for the Technical Assistance Program in order to fund additional security necessary for the National Political Conventions.

Mr. SMITH of Iowa. Mr. Chairman, this is simply a transfer of $7 million which I am proposing since there is an indication that the administration can spare these funds from the Federal Prison System, salaries and expenses account. The amendment transfers this amount to the Law Enforcement Assistance Administration so that it in turn can allocate these funds to Detroit and New York for extra security for the national political conventions, primarily to pay overtime for policemen. It is in line with what we did 4 years ago, and this is a method of financing it.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding. With the first of our two conventions but a month away, there needs to be at least a minimum of lead time for this equipment to be put in place. The money is essential. This is the only source that we find available to do it, and this side of the aisle supports the amendment.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. Chairman, I ask for a vote in support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

POLLUTION FUND

For an additional amount for the "Pollution Fund", $12,500,000, to remain available until expended.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 59, line 22, strike out "$12,500,000," and insert in lieu thereof "$15,500,000".

Mr. CONTE. Mr. Chairman, my amendment would increase the pollution fund by $3 million to a level of $15.5 million.

I am sure we all recognize that oil and hazardous polluting substances, such as PCB's, pose a substantial risk to our country. All we have to do is recall the human tragedy at Love Canal, N.Y., to be painfully reminded of the serious health and environmental threats to our society.

In addition, the United States suffers approximately 15,000 oil spills a year that destroy American commerce and our coast line.

It now appears that the three major agencies involved—the Environmental Protection Agency, the Coast Guard, and the Department of Transportation—are all agreed that this money is needed for the Coast Guard to fulfill its obligations under section 311(K) of the Federal Water Pollution Control Act.

At the time we marked up this bill—or, I should say, the time we marked up the various versions that resulted in this bill—we really had no firm indication from the Coast Guard that this money was needed. Various representatives from EPA told us the money was needed, but we received nothing firm from the Coast Guard.

We recently discovered that the Coast Guard has told our counterparts in the other body that the funding is badly needed. I regret that the Coast Guard did not communicate directly with me and Chairman DUNCAN. If they had done so, I believe the funds would have been included in the committee bill; and this floor amendment would have been unnecessary.

I think it is a shame that the Department of Transportation and the Coast Guard elected to let EPA do their lobbying for them, especially in this body; and I trust that communication will be more direct in the future.

This is a modest amount, $3 million, which will make it possible for the Coast Guard to fulfill its obligations.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be glad to yield to my good friend from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, we have no objection to this amendment. At the time we marked up this bill a couple of months ago we understood there was a $5.5 to $6 million unobligated fund balance which together with anticipated revenues that we expect during the balance of the year and the $12.5 million we put in the bill would come to about $20 million. Since then the unobligated balance has been reduced to about $3 million. This would restore the approximate amount we thought we were going to put in the bill at the time we marked it up.

Mr. Chairman, the gentleman from Massachusetts (Mr. Conte) and the gentleman from Pennsylvania (Mr. Clinger) enthusiasm for cleaning up these polluted substances is well known. They both deserve a great deal of credit for calling to our attention the fact that another $3 million can probably be profitably used.

Mr. Chairman, we will accept the amendment on this side.

Mr. CONTE. Mr. Chairman, I do not want to take more time except to say that the gentleman from Pennsylvania (Mr. Clinger) has been tenacious on this subject matter. The gentleman has lobbied the chairman, the gentleman has lobbied me almost daily. No man in the Congress has taken a greater interest in seeing that this is properly funded. I want to make note of that.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I do yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Tenacious is too mild a word to use in reference to the gentleman from Pennsylvania (Mr. Clinger).

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be happy to yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I want to express my thanks to the ranking minority member, the gentleman from Massachusetts (Mr. Conte) and I also express my appreciation to the gentleman from Oregon (Mr. Duncan). I know I have been something of a pest, but I do feel this is a very important amendment. I became familiar with it because of a problem in my own district but when I began to look into it I realized that the only funds available for solving these problems that are arising, the problems of pollution, hazardous waste dumps that are ignored, was the pollution fund.

Mr. Chairman, the hope is that superfunds will be coming along and that we will have another source of funding for these matters but at the moment at least and probably until March of next year we are not going to have any other source of funding except for this.

Mr. Chairman, I believe that the $8.8 million amendment which I am prepared to offer is probably still necessary but I recognize there are budget constraints and I certainly do not want to kick over the traces in that respect but I would hope when we go to conference on this bill, I would point out that I am sure the Senate is going to introduce a larger amount and I would hope that if the need is apparent at the time we go to conference that the conferees would perhaps acquiesce in a higher figure because this may be the only source of funding we are going to have.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I do yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. The Committee on Ways and Means approved the superfund bill today.

Mr. CONTE. I would assure the gentleman that the amendment I offered in subcommittee was $8.8 million and I am inclined to agree with the gentleman. We will watch this very, very closely. I will be on the conference committee. We cannot find a fairer fellow than the gentleman from Oregon. If it is in need when we are in conference, then we will take care of the matter.

Mr. CLINGER. Mr. Chairman, will the gentleman yield further?

Mr. CONTE. I do yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, there has been about $23 million appropriated to this fund since July of 1979. Five million dollars more has been funded from liable parties. We are down to $2 million now. This will put it back up to about $19 million but I think we may need more before we get to March of next year when superfund will come on stream. I appreciate the gentleman in conference perhaps looking at this again.

Mr. CONTE. I want to wind up again by commending the gentleman from Pennsylvania (Mr. Clinger).

Mr. Chairman, I yield back the balance of my time.

● Mr. RINALDO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts (Mr. Conte).

This amendment would increase funds for section 311(k) of the Federal Water Pollution Control Act, which is used for emergency cleanup actions of oil and toxic waste spills in navigable waters. I strongly support the increase in funds for this purpose.

I feel strongly that cleanup of oil and hazardous waste spills in our Nation's waters is one of the most important uses of Federal tax dollars. We must maintain section 311(k) funds at an adequate level to provide immediate response capability in the event of emergencies which would trigger the use of the fund.

At present, this pollution fund has less than $1.5 million left for current and future activities. The committee has provided supplemental funding of $12.5 million. The amendment before us today would provide an additional $3 million, in order to bring the total supplemental funding up to the original budget request of $15.5 million. This figure has been strongly endorsed by the Administrator of the Environmental Protection Agency and the Secretary of Transportation.

Mr. Chairman, I know from personal experience the importance of the immediate availability of the pollution fund. The 12th Congressional District of New Jersey, which I represent, has recently benefited from this fund, and its use has averted potentially serious harm to the public health and environment in northern New Jersey.

In late April, a serious accident involving extremely toxic chemicals occurred in Elizabeth, N.J. The Chemical Control Corp., the site of thousands of drums of chemical waste which had been accumulated and stored there illegally, caught fire. Thousands of drums of chemicals, many of the contents of which were unknown, exploded and burned. The force of the explosion sent hundreds of drums into the adjacent Arthur Kill section of the New York Harbor. Many drums which remained on the land began leaking dangerous and unknown chemicals which ran off into the water. The danger was very substantial, and fishing and water traffic were temporarily halted.

Because of the gravity of the situation, funds under section 311(k) were made available and put to immediate use by the Coast Guard. They were used to remove leaking drums from the waters of the Arthur Kill, to clean up debris in the water from the explosion, to shore up the riverbank, and to prevent leaking drums on the land from continuing to run off into the water. The use of these Federal funds not only provided immense benefit to the people of my congressional district by alleviating a potentially hazardous situation, but also reassured area residents of the commitment of the Federal Government to protecting the environment and the public health.

A total of $750,000 has been spent or obligated from the Federal pollution fund for the cleanup of the area of the Chemical Control Corp. Now that the imminent hazard to the water has been abated, State funds are being used to contain pollution on the land and to remove additional drums of chemicals from the site.

It is likely that the passage of "superfund" legislation would reduce the need for section 311(k) funds, by providing funding for cleanup of hazardous waste sites before they spill into navigable waters. I strongly support the passage of a "superfund" bill. However, there are still a number of roadblocks ahead before legislation providing Federal authority and funding for cleanup of hazardous waste sites is signed into law. More important, even if superfund were signed into law tomorrow, authority for funding would begin in fiscal year 1981. The appropriation before us today provides supplemental funds for fiscal year 1980.

We need to replenish the section 311(k) fund now, in order to maintain the immediate response capability for which the fund was designed. This amendment would bring the total supplemental funding up to $15.3 million, which is far below the $35 million authorized by law. I urge all Members to vote for the Clinger amendment.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Conte).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(TRUST FUND)

For an additional amount for Federal-aid highways, $1,400,000,000, or so much as may be available in and derived from the Highway Trust Fund, to remain available until expended: *Provided*, That (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1980 shall not exceed $7,900,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For fiscal year 1980, immediately upon enactment of this Act, the Secretary of Transportation shall control the obligation of such limitation by distribution of amounts of such limitation not obligated on the date of enactment of this Act in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year; except that no State shall receive a distribution such that the total of amounts so distributed to such State and amounts obligated by such State on or before the date of enactment of this act would exceed a distribution of such limitation made in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to such State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year and the Secretary of Transportation shall not be required to cancel any obligations incurred on or before the date of enactment of this Act.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State has indicated prior to April 2, 1980, its intention to lapse sums apportioned under subsection 104(b)(5)(A), title 23, United States Code;

(2) after August 25, 1980, revise a distribution made under subsection (b) in the event a State will not obligate the amount distributed during fiscal year 1980 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1980; and

(3) not distribute funds for administrative expenses and forest highways under such limitation.

(d) Notwithstanding any other provision of law, obligations authorized for carrying out the provisions of 23 U.S.C. 125 for the fiscal year ending September 30, 1980, are increased to $150,000,000. Such obligational authority is to remain available until September 30, 1982.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 63, line 2, strike "$150,000,000" and insert in lieu thereof: "$200,000,000".

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I will be happy to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the committee increased this contract authority by $50 million when we marked it up in April. Since then we have had tornadoes, bridge collapses, and volcanoes. We think probably the additional $50 million will be required. We are pleased to accept the gentleman's amendment.

Mr. YOUNG of Florida. I thank the gentleman.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I had the privilege of speaking in the gentleman's district several days after this bridge collapse, after it had the unfortunate experience of being struck by a ship. No one in that part of the country in Florida has worked harder than has the gentleman to my right here, the gentleman from Florida (Mr. YOUNG).

Mr. Chairman, we have no objection to the amendment. The bridge should be reconstructed.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for making this trip to see the bridge himself.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, I want to pay tribute to the gentleman from Florida (Mr. YOUNG) for the leadership he has exhibited in getting this fund considered and brought up. This is certainly badly needed. I appreciate the consideration of the committee.

Mr. YOUNG of Florida. Mr. Chairman, I yield back the balance of my time.

● Mr. DICKS. Mr. Chairman, I want to express my strong support for the amendment offered by the gentleman from Florida (Mr. YOUNG), which adds $50 million to the Federal-aid highway emergency relief fund.

This has unfortunately been a year of unprecedented natural disasters. It is my fervent hope that the Department of Transportation will take aggressive action to allocate these much-needed funds to our high-priority projects.

Among those projects which the report on this measure identifies is the Hood Canal Bridge, which is a major transportation link between Kitsap County and the Olympic Peninsula.

In addition, funding is required for reconstruction of the West Seattle Bridge and the seven bridges destroyed by the recent eruption of Mount St. Helens.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was agreed to.

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Mr. JEFFORDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to make mention of the situation which I have discussed with the applicable members of the committee concerning the distribution of funds from the Federal-aid highways account. When the administration rescinded over a billion dollars from this account, it began to then redistribute the remaining unobligated funds in a rather unusual way and created a rather severe situation in some States. The committee itself has tried to rectify these circumstances to a certain degree, but there still remains a substantial inequity to many States.

Under the distribution system, some States will get practically 100 percent of the fiscal year 1980 money they were originally slated to receive, whereas other States, such as my State, will end up with less than 50 percent. I tried to draft an amendment to rectify this, but this whole area is so complicated that this proved extremely difficult.

I think a review of just what has happened with the Federal-aid highways account this fiscal year is appropriate. As a part of his anti-inflation program, the President announced a little more than 2 months ago that outlays from the account would be cut back. Previously, $8.85 billion in obligations was available for fiscal year 1980. Mr. Carter's decision, as outlined in the deferral message sent to Congress in April, reduced the obligations ceiling to $7.6 billion. This action left roughly $2 billion in highway funds which could be distributed during the rest of the fiscal year.

This balance, according to the deferral, was to be parcelled out among the States according to the formulas contained in 23 U.S.C. 104 which guarantees every State a one-half of 1 percent minimum of the apportionment for the Federal highway systems. This double application of these formulas has the practical effect of discriminating against those States which obligate their Federal highway moneys later in the fiscal year in that it reduces their original shares by greater percentages than those for other States. As we all know, some States, because of harsh weather and other considerations, do not contract out for many of their construction jobs until after the winter months.

States particularly hard hit by this include my own State of Vermont, New Mexico, Rhode Island, Connecticut, New Jersey, Virginia, California, and Massachusetts. So inequitable is the administration's proposal that at least seven States have filed suit against the Government, including Vermont.

Let me illustrate what I think has happened under the administration's proposed deferral with an anecdote. A father is in the habit of giving each of his two sons, A and B, $10 apiece in allowance each week. Let us say that, as of Wednesday, Father has given son A $6 and son B $2. Come Thursday, Father discovers that he is running very low on money and has to revise his weekly budget. He goes to his sons and says, "Boys, I'm a little short on cash this week, and I'm afraid I've got to cut your allowances. I have got $6 left and I'm going to divide it equally between you. You'll each receive an additional $3 for the rest of the week." Thus son A received a total of $9 in weekly allowance, and son B only $5. Clearly the distribution under this scenario is inequitable, and exactly the same sort of thing has occurred with the Federal-aid highways account. Son A might represent States for whom the deferral is advantageous, son B States adversely impacted by it, like Vermont.

This supplemental appropriations bill takes a small step in terms of redressing some of the inequity. It adds $300 million to the reduced ceiling, raising it to $7.9 billion. It also provides that no State, after enactment of the bill, shall receive more than its statutory share or percentage of the $7.9 billion. Unfortunately, it does nothing to correct the fact that some 19 States have already exceeded this percentage. These 19 will not be required to pay back the amounts by which they have exceeded their limits. Moreover, it will not do anything to restore equity between the other 31 States. If a graph of States shares is described as a series of peaks and valleys, this legislation does not fill in the valleys, but rather adds to the peaks as well as the valleys.

At this point I would like to inquire of the chairman of the subcommittee involved—I know he is aware of this serious problem for some States, and I appreciate the cooperation he has given me—if, in the conference committee, some language could be provided to instruct the Federal Department of Transportation to give preference to those States that have been shortchanged by this formula application when it comes to distributing the remaining unobligated balance of Federal aid moneys for fiscal year 1980.

I think it is important that the roughly $1,184,000,000 in unobligated funds remaining, or $1,484,000,000 under this bill, be distributed so that those States which have had their original shares of the Federal-aid highways account reduced by the greatest percentage have the first shot at it.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I will be happy to yield.

Mr. DUNCAN of Oregon. Mr. Chairman, the committee will be the first to admit that the solution to this problem that we bring to the floor is not perfect, but it is infinitely better than the solution proposed by the administration. In the first place, they wanted to defer $1,150 million. The committee decided that that ought not to be done. Under our proposal $850 million would be deferred. There is $300 million available to the States of this country for highway construction this year that would not have been had we accepted the administration's recommendations.

Then, they came up with a distribution formula of the remaining moneys that would have permitted those early spending States to get in excess, really, of 100 percent of what their shares would be under the $7.9 billion ceiling. We did not think that was right, because that was benefiting the early spending States. Many other States were slower in their spending, not just because they were dilatory, but because they had environmental impact statements or other problems which were beyond the control of the States.

What we have done is come up with a distribution formula which I will admit is not perfect, but under it 34 States will get more money than they would have received under the administration distribution. Sixteen States, unfortunately, will get a little bit less. I really do not believe that it would be possible for us to come up with a formula acceptable to every Member of the House, but we will continue to study it. We will continue to work with the gentleman.

We would have appreciated it had the gentleman brought his suggestions to us while we were marking up this bill, but between now and conference, if the gentlemen and I and Mr. CONTE and others can sit down and work out a plan to refine this distribution formula even further, we will be happy to do it.

Mr. JEFFORDS. I appreciate the efforts the committee made, but I would like to point out that whereas the average distribution of funds originally anticipated for fiscal year 1980, is 89 percent overall, there are still some States which are getting roughly 50 percent of their original shares. In other words, there is a great disparity in terms of what different States are getting relative to what they anticipated getting under the normal authority of the statute.

Mr. DUNCAN of Oregon. If the gentleman would yield, I suppose that is one of the penalties of trying to come up with a balanced budget for cutting Government expenses. I agree that this formula is not perfect, and we will be glad to work with the gentleman to the extent that we can refine it and bring it closer to a state of perfection.

Mr. JEFFORDS. I appreciate that very much.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISION

(INCLUDING TRANSFER OF FUNDS)

SEC. 1. Any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation only to the extent necessary for increased pay costs authorized by or pursuant to law: *Provided, however*, That no funds may be transferred into or out of the account entitled "Payment where energy credit exceeds liability for tax".

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 68, line 19, strike the period and insert the following: "; *Provided further*, That none of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978."

Mr. ASHBROOK. Mr. Chairman, members of the committee, this is precisely the same amendment that was offered in the House last July, passed by a 297 to 63 vote. I offer it now because, if Members will read the language, it is exactly the same.

The language then said that none of the funds made available pursuant to the provisions of this act—the act being at that time, of course, the Treasury appropriation——

Mr. STEED. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Oklahoma.

Mr. STEED. Mr. Chairman, since this particular amendment was voted in the bill by such an overwhelming majority last year, in the markup the subcommittee saw fit to include it. It was taken out in the full committee, but I still think it belongs in the bill and I have no objection to it. As far as I am personally concerned, I accept the amendment.

Mr. ASHBROOK. I thank my colleague for that observation, for adding his support. My colleague from Mississippi also voted for this amendment last year.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I would like to join my colleague from Oklahoma and say that I hope the amendment is accepted at this point. It is presently in existing law and is applicable to fiscal year 1980 funding.

Mr. ASHBROOK. I thank the gentleman.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman from Oklahoma, the distinguished chairman of the subcommittee, is correct. It was taken out in full committee on the motion of Congressman STOKES of Ohio, who I do not see on the floor. Rather than agreeing to this amendment, I think I would call for a record vote in the event the committee sees fit to accept it.

Mr. ASHBROOK. I would say to my colleague from Illinois that it is perfectly all right with me.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield.

Mr. CONTE. Mr. Chairman, as the chairman of the subcommittee, Mr. STEED, has stated, we had adopted this in subcommittee and it was taken out in full committee. But, it did pass last year by a substantial vote—41 votes, I believe. Therefore, we have no objection.

Mr. ASHBROOK. Mr. Chairman, could I first say to my colleague from Illinois, what we are talking about here is the 1980 year. I would assume this entire issue would be fully debated when the Treasury appropriation for next year comes up. I am merely trying to hold the 1980 situation exactly the same as it was when we passed the amendment last July.

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I am merely trying to hold the 1980 situation exactly the same as it was when we passed the amendment last July. I know that the gentleman from New York (Mr. RANGEL), the gentleman from Ohio (Mr. STOKES), and others are going to engage in a debate on this, but I would assume that the proper time for that would be when the bill for the 1981 appropriations is before this body.

Mr. STEED. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Yes, I would be glad to yield to the gentleman from Oklahoma.

Mr. STEED. Mr. Chairman, our information was that while the ruling has been made since last year by a court which affects this matter and since the Internal Revenue Service advises us that they have no difficulty living with it, the amendment is acceptable. I do not think it makes a lot of difference whether it is in the bill or out of the bill, but it is not in conflict with what we understand the situation to be downtown.

Mr. ASHBROOK. Mr. Chairman, I would say to my friend, the gentleman from Oklahoma (Mr. STEED), of course, that the reason I am offering the amendment is that this is a supplemental appropriation. The amendment last year only reached those moneys that were included in that act. This is a new act, so, therefore, I think this amendment should go in it to keep us in the same position in the supplemental as we were in the 1980 appropriation and as the bill was amended last July.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, in reply to what my friend, the gentleman from Massachusetts (Mr. CONTE), said about there being this differential of 41 votes, I do not think that is a significant number.

Mr. ASHBROOK. Mr. Chairman, may I correct that? The vote was 297 to 63. It was just a little bit more than 41 votes.

Mr. YATES. Mr. Chairman, I think that the issue is of such importance and the question is so significant that this is a measure that the House ought to be required to vote upon again.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I do want the record to reflect the correct figure. The vote was 297 to 63.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, has the gentleman had an opportunity—and I know the answer is yes—to discuss this with the Internal Revenue Service?

Mr. ASHBROOK. Have I had an opportunity to discuss my amendment?

Mr. RANGEL. Yes.

Mr. ASHBROOK. No, I have not.

Mr. RANGEL. Mr. Chairman, does the gentleman know what impact this would have as a result of the recent court case that relates to the State of Mississippi?

Mr. ASHBROOK. Mr. Chairman, I think the Internal Revenue Service is not at the present quite sure what the impact would be because, as my friend, the gentleman from New York, knows, there were two decisions. They were contradictory opinions by Judge Hart, and I think the option of the Internal Revenue Service has is that they can implement their ruling without fear of the Ashbrook amendment. So I am not sure the Internal Revenue Service knows exactly what it will do at this point. I say that in all candor.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 3 additional minutes.)

Mr. RANGEL. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I had hoped that the gentleman would refresh my recollection that at the time we met with the Internal Revenue Service they had thought that if the gentleman offered his amendment and it became a part of the appropriation bill, we were really asking for a constitutional confrontation. I had understood they had hoped that they could work out regulations based on the court case that could satisfy the gentleman's needs and those of the gentleman from California (Mr. DORNAN).

Mr. ASHBROOK. Mr. Chairman, they had indicated they would endeavor to do that, but up to now they have not. We find ourselves now in the exact position we were in a year ago when the oversight committee of this committee indicated it was going to look into the matter.

My point then was that if we did not put the amendment on by January 1, we would be in the same position we were in last year. I assumed the IRS would come forward with the mix, as they indicated they would when they were conferring with my friend, the gentleman from New York, and myself. They said they would be glad to take a look at it, but they have not, and until they do come forward, I think that this amendment is necessary.

Mr. RANGEL. Mr. Chairman, the gentleman would acknowledge that the last time we conferred he said the only reason he wanted the amendment was that the courts had not ruled on this issue, and now the courts have made a ruling on it, at least in this area.

Mr. ASHBROOK. No, that is not correct. I think my friend, the gentleman from New York, knows, realizing that he has his opinion and I have mine also, that one Member of Congress is a long way from the Congress speaking. Similarly, one judge speaking for a decision that has not been appealed and that does not have the primacy or the impression of being a Supreme Court decision should not be the basis on which 535 Members of Congress back down.

Yes, a court has ruled. That case was unappealed, and at this point neither the IRS nor Judge Hart seems to know exactly what they are going to do. Until they come forward with some language that my friend and I can look at, I believe we need the protection of this amendment, and it is for that reason I offered it.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the real constitutional issue that should be raised here is how the Internal Revenue Service of the United States can arrogate unto itself using tax exemption as some sort of guise under which to impose its policy views on private educational institutions. That is the true issue.

That is what they have tried to do, contrary to the will of the Congress of the United States, as expressed when we voted on the gentleman's amendment the last time. And I would also suggest that in one Member's opinion the IRS acted contrary to the Constitution.

Tax exemption was never meant to be used by a Federal agency to try to enforce unrelated policies onto private educational institutions. So that is the issue.

Mr. Chairman, I urge that the House, since we have been told that we will have a rollcall vote, vote for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) by an even larger majority this time.

Mr. ASHBROOK. Mr. Chairman, I agree with my friend, the gentleman from Maryland (Mr. BAUMAN).

I want to reiterate what my friend said, that the IRS did, with a number of members of the Committee on Ways and Means, the gentleman from California (Mr. DORNAN), and myself, who were the principal offerors of the amendment, indicate last year that in light of the Ashbrook-Dornan amendment and the Hart decision, they would endeavor to come up with some language that possibly the gentleman from New York (Mr. RANGEL) and all of us could live with.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. ASHBROOK) has again expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, I want to say that that point is exactly correct. My response to the gentleman from New York (Mr. RANGEL) was very effective and very direct. They have not come up with any language, and until such time as they do, we find ourselves in the exact same position we were in last year but without the Ashbrook-Dornan amendment. If this can be worked out later, it will be worked out, but until such time as we have that language before us, let us not leave the futures of our private schools at the mercy of the IRS.

Mr. GRISHAM. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. GRISHAM. Mr. Chairman, I rise

in support of the Ashbrook amendment to the Treasury appropriations bill, and I urge that my colleagues in the House also support it.

I do not believe that it is the role of the IRS to dictate social policy, yet that is precisely what it is trying to do and what it has tried to do for the past 2 years.

In August 1978, the IRS proposed regulations that would have revoked the tax-exempt status of many private schools. Using strong-arm tactics, the IRS attempted to impose racial enrollment quotas on private schools that were formed or substantially expanded during the period in which their local communities were forcibly integrated. If a school did not meet the quotas proposed by the IRS, its tax-exempt status was at stake.

Fortunately, these regulations never went into effect because we made it clear that they were contrary to the will of Congress. Last year we adopted the very same amendment to the Treasury appropriations bill that is before us today. The vote was a resounding 297 to 63.

Mr. Chairman, I do not believe the issues have changed since last year: The function of the IRS is still to collect taxes, not to set admission quotas for educational institutions. If Congress wants to revoke the tax exempt status of private and religious schools then we—not the IRS—will do so.

In short, it is the jurisdiction of Congress rather than the IRS to legislate tax policy. I am not saying that the goals of the IRS are wrong or that truly discriminatory schools should be tax exempt. But I am saying that this is a matter that should be left to the Congress, not the IRS.

I am also concerned, Mr. Chairman, because this issue has been dragging on for more than 2 years. We were told during the debate on this amendment last year that the Ways and Means Committee was diligently working to come up with some sound recommendations to resolve this issue. But none have been forthcoming.

Mr. Chairman, repeatedly we have been told to wait. But nothing has happened. I believe that we now must put an end to this inaction.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to make something very clear. Certainly tax exemption under 501(c)(3) should not be granted to any institution which is acting contrary to law.

I would like to be sure, in voting on this, whether or not there is a requirement that tax exemption under this section of the law is given only to those institutions which are acting in accordance with the law.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. ASHBROOK) has again expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, in answer to the gentlewoman from New Jersey (Mrs. FENWICK), if my colleague would go back to our statement of last year, she would find that on the books we have the regulations—and that is why we use the date, August 22, 1978—under the broad rights of the IRS that the IRS can still investigate discrimination and can still find in individual cases that they have violated their tax exempt status. That is still on the books.

What was tried here was a whole new set of regulations and guidelines that would in effect review the situation and say that everybody is guilty until proven innocent. That is what we were trying to get rid of, not the ability of the IRS in public policy to make sure of what the gentlewoman from New Jersey is saying, that is, that tax exempt status will not go to those who discriminate.

Mrs. FENWICK. In other words, the IRS has the right to remove tax exempt status?

Mr. ASHBROOK. The IRS has always had that right. They can reject it on an individual basis but not with a dragnet.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, could I just be sure that we get this clear?

In other words, they have the right now, if the institution is acting contrary to the antidiscrimination laws, to remove 501(c)(3) status; is that correct?

Mr. ASHBROOK. They can do that on an individual basis, yes.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I want to direct my remarks to the gentleman from Ohio (Mr. STOKES), the gentleman from New York (Mr. RANGEL), and others who are against this amendment, and I will be brief because of the late hour.

There has been some confusion here. This was never in the continuing resolution. It was in the regular bill, and the gentleman from Ohio (Mr. STOKES) in full committee got it out of the regular bill. The regular bill will be before the House tomorrow. So if we stay here and debate this issue, what we are debating is an amendment for $1 million. That is all it is, $1 million.

This amendment, if it is adopted, would only affect $1 million, but tomorrow we can have a full-fledged debate and a rollcall on the issue itself in the regular bill.

Mr. Chairman, I just wanted to bring that out because the hour is late.

☐ 1840

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the hour is late and I am not going to take the 5 minutes. I am going to say some things, one or two sentences, that might sound a bit strange coming from me. The amendment is going to pass, it is going to pass overwhelmingly. Go ahead, pass it. I think it is an excellent time to pass this, when racial tensions are mounting in the country, when more and more blacks feel that the Government is betraying them. Fine. Pass it.

I yield back the balance of my time.

Mr. RANGEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I thank the Chair for the opportunity to speak against this amendment. It seems to me that this is a very sensitive subject that several Members of the Congress have some serious reservations about in order to determine whether the IRS has gone beyond its authority and is in fact indeed involved with lawmaking rather than just enforcing regulations or enforcing the law as we passed it.

Of course, with many of us, we have seen the tax structure used to encourage schools to evade Federal law and to engage in segregated policies. We know that many schools probably would fall within the criteria of tax exemption and still have just one category of people in those particular schools who did not intend to evade or avoid any regulation or law. It is for these reasons that I was under the impression that what the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from California (Mr. DORNAN) were seeking was some authority from the court to set guidelines so that the IRS would not be able to do this on its own but would be able to do it with court guidance. It appears as though the court has ruled but did not rule the way the gentleman from Ohio (Mr. ASHBROOK) would have wanted them to rule; so, therefore, he says that the district court should not be able to set law for the land.

I do not think we were saying that when we had a discussion that the district court in Mississippi would be setting law for the land. What we thought we had agreed upon was that it would be setting guidelines that could be used by the IRS and that had been defined by the court.

I also was under the further misunderstanding that the gentleman and I were supposed to get together with other interested Members and see whether or not we could work out some solution to the problem that would not lead to the type of debate that we are about to have and would not find it necessary to vote on this issue, feeling that the Ways and Means Committee, and especially the gentleman from Florida (Mr. GIBBONS), who spent so much time with the oversight committee on this subject matter, could keep the Congress together, working toward an equitable goal through the law, rather than just cutting out appropriation funds and really trying to legislate by denying the IRS money.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I would like to know, if possible, if the gentleman can tell me what was the case and what was the ruling. What was the charge, what was the case, and what was the ruling?

Mr. RANGEL. I am not that familiar with the case.

Mrs. FENWICK. Who is?

Mr. RANGEL. I am not that familiar with the case except that what it actually did was to lay out guidelines for the IRS so that they would not be able to use their own standards.

Perhaps if I yield to the gentleman from Ohio (Mr. STOKES), who has the case there, he might be able to give the gentlewoman the guidelines that were set out by the district court and which the IRS said that it was prepared to use.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Illinois.

Mr. YATES. What is the status of the discussions before the gentleman's committee on trying to come to some agreement respecting the solution of this problem? The gentleman indicated he had a preliminary conference, that the gentleman from Florida (Mr. GIBBONS) is working on it. If some progress is being made in that, perhaps the gentleman from Ohio would withdraw his amendment.

Mr. RANGEL. The gentleman from Florida (Mr. GIBBONS) had hoped that the gentleman from Ohio (Mr. ASHBROOK) and I and our staffs could get together, and the gentleman from California (Mr. DORNAN) was a part of that group, and I think there was another Member who was assigned.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, my colleague is absolutely right in what he said. We both stated what our positions were. My colleague was going to come up with some language that I thought we could talk about. That language has not come up. The moment of passing the bill is here, and, therefore, I can do nothing but offer my amendment again.

And could I say, in a most friendly way, I understand what the gentleman is saying when we all shop for court decisions that we like. But I say to the gentleman and my friend, the gentleman from Maryland, when the Bakke decision came up and my friend, the gentleman from Pennsylvania (Mr. WALKER), tried to offer legislation to implement that decision, the gentleman was the first one in the well to say it was bad policy. So please do not say to me that I am shopping for court decisions, because, in a way, we all do.

Mr. RANGEL. I do not have any objection to shopping.

Mr. ASHBROOK. That was the Supreme Court decision. This was only one district judge, a nonappealed decision, not even the court of appeals, and he even has two inconsistent decisions that need clarification. So we really do not have the same situation.

Mr. RANGEL. Mr. Chairman, let me say that it was my impression that the gentleman and I were supposed to get together, not that I was supposed to prepare the language and run it by the gentleman for approval. And, second, in reading the exchange that the gentleman had in debate on this, the gentleman did not specify that he was shopping for a favorable court decision. So I was just bound by the record.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, during debate on the House floor last year, Representative ASHBROOK made this comment:

> We are just saying do not go forward with these broad regulations or procedures, whatever you want to call them, until the Congress or a court affirmatively acts on that subject. That is all we are trying to do.

Well, the courts have acted affirmatively. On May 5, 1980, the IRS received a new court order in Green against Miller (or Green II) which provides that private schools created or expanded in the wake of public school desegregation must show by clear and convincing evidence of objective acts and declarations that they do not, in fact, discriminate in their enrollments on the basis of race.

Mr. Chairman, the court injunction explicitly spells out the standards which IRS is to use in determining whether a school should be denied tax exemptions. The court stated:

> Such evidence might include, but is not limited to, proof of active and vigorous recruitment programs to secure black students or teachers, including students' grants in aid; or proof of continued, meaningful public advertisements stressing the school's open admissions policy; or proof of meaningful communication between the school and black groups and black leaders within the community concerning the school's nondiscrimination policies, and any other similar evidence calculated to show that the doors of the private school and all facilities therein are indeed open to students or teachers of both the black and white races upon the same standard of admission or employment.

While these standards, specified by the court, apply only to schools in Mississippi, the IRS should now be allowed to implement them nationwide. The proposed amendment would prevent such a uniform national tax policy, and would force the IRS to apply two different sets of policies: One for Mississippi and one for the rest of the country.

Mr. Chairman, the Committee on Appropriations, and specifically, the Appropriations Subcommittee on Treasury, Postal Service, and General Government, has carefully considered the language proposed by Mr. ASHBROOK and Mr. DORNAN last year. Given the new court injunction, the committee felt that such language was inappropriate in this year's appropriation bill and supported my motion to strike the language. Adoption of this new language would circumvent the uniform enforcement of a long established Federal policy of nondiscrimination on the basis of race. Adoption of the proposed language would prevent the IRS from implementing fair and reasonable standards regarding this issue, based upon the same principles which govern other tax policy. Under current IRS policy, an individual taxpayer has the burden to prove that he or she is entitled to whatever tax deductions or exemptions are claimed on his or her tax return. The same principle applies here. A private school, formed or expanded during public school desegregation or adjudicated to be discriminatory, must simply make some showing that that school is entitled to tax exempt status.

Mr. Chairman, adoption of this amendment would prevent a permanent and equitable solution to the problem of Federal subsidization through tax laws of discriminatory private schools. Due to the new Green court order, the basis upon which Mr. ASHBROOK and Mr. DORNAN offered their amendments last year no longer exists. The IRS now has appropriate criteria, specified by the courts, to implement nationwide.

Mr. Chairman, I would hope that this Congress can rise above the antiaffirmative action, antibusing, anticivil rights mentality that pervades and works to destroy our Nation. Mr. Chairman, if private institutions wish to discriminate, IRS regulations will not prohibit them from doing so. But implementation of the Green II standards would prevent these institutions from being subsidized by Federal tax exemptions. The Federal Government should not be in the business of perpetuating racism by our citizens' tax dollars. Accordingly, I urge your strong opposition to the proposed amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Illinois.

Mr. YATES. In view of the action taken by the Appropriations Committee in supporting the gentleman's amendment at its meeting last week, I cannot understand how the chairman of the full committee or the ranking minority member can accept this amendment at this time. I think that they certainly should oppose the amendment and sustain the will of that committee.

Mr. STOKES. I would certainly agree with the gentleman.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I certainly yield to my chairman.

Mr. WHITTEN. The statement made earlier, this is a 1980 bill here. The other had to do with 1981. And I want to say that I spoke for myself a while ago. I had no consultation with members of the committee. I voted this way all along. So that was the only announcement I made, was my own decision. This is the 1980 bill and the other had to do with 1981. I may be in error, but I know that I am correct about my own statement.

Mr. YATES. If the gentleman will yield, it is a supplemental bill, and the gentleman offered his amendment to the bill for fiscal year 1981. The fact remains that the issue is the same and the question is the same. The Appropriations Committee has acted.

Mr. STOKES. I would say that the gentleman from Illinois is absolutely correct. In fact, I think that the amendment was sustained by the full committee because of the vigorous opposition by the distinguished subcommittee chairman.

Mr. Chairman, I would urge the defeat of this amendment.

Mr. SKELTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Ohio (Mr. ASHBROOK) a question.

I am not sure the gentleman's amendment makes sense. At least, it does not to me. And I ask about the last phrase in the gentleman's amendment:

> Internal Revenue Code of 1954 unless in effect prior to August 22, 1978.

The phrase "unless in effect prior to August 22, 1978," just is not clear language. I am not sure what it refers to.

□ 1850

Mr. ASHBROOK. That refers to the time when the Internal Revenue Service was endeavoring to change the regulations. All the regulations on the book in effect——

Mr. SKELTON. It does not say that.

Mr. ASHBROOK. It does by saying they cannot implement their policies after that date. That was what I said in response to the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. SKELTON. Should this pass, I do not think that the language would be effective, because it does not make it clear. The time element absolutely is a dangling participle and means absolutely nothing.

Mr. ASHBROOK. Could I respond to my friend and also answer my friend from Ohio, that there were two decisions, not one. Let me read what Judge Hart said. I am quoting exactly what he said, not what JOHN ASHBROOK says:

> This Court agrees that the Ashbrook and Dornan Amendments provide "a complete and total refutation of the contention . . . that existing regulations are legally insufficient, and that Section 501(c)(3) of the Internal Revenue Code requires adoption of the presumed-guilty-until-proven-innocent approach which requires of private schools "proofs" of non-discrimination . . .

It went on to indicate what was on the books after that time could be implemented. Our amendment prevented the scattergun approach and went on to say, and let me quote this:

> Congress has absolutely forbidden the IRS from adopting any new regulation concerning the tax-exempt status of private schools. If plaintiffs were to be granted the relief they seek in this case, it would be completely contrary to Congressional intent and policy. The actions by Congress are the strongest possible expressions of the Congressional intent that Section 501(c)(3) of the Internal Revenue Code is not susceptible of the construction which plaintiffs would place upon it in this case.

I would say that the court had no problem in understanding what the amendment said.

Mr. SKELTON. My simple question to the gentleman is not being answered. It just does not make sense in the King's English.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I think I have finally understood what is at stake here. If we vote for this amendment, we remove any money that the Internal Revenue Service might use to investigate discrimination in any school. Is that correct?

Mr. SKELTON. It does not say that. That is what bothers me. Is not that the effect, though, that we deny funds to the Internal Revenue Service for prosecuting schools which may discriminate?

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Concerning the question that was raised, when was the IRS ever supposed to investigate? They litigate if complaints are brought to them. Is the gentlewoman saying they are supposed to go out and investigate every school?

Mrs. FENWICK. If the gentleman will yield further, I am saying if they are told that there is discrimination in the school, they ought to make sure about it.

Mr. ASHBROOK. They can process that under 501(c)3. They cannot implement new guidelines.

Mr. SKELTON. If I may reclaim my time, Mr. Chairman, the question has not been answered. It just does not make sense as far as I am concerned at this moment. Thank you.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1900

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 326, noes 81, answered "present" 2, not voting 24, as follows:

[Roll No. 343]

AYES—326

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary

Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Marks

Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall

Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—81

Anderson, Calif.
Barnes
Beilenson
Benjamin
Bingham
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burton, John
Cavanaugh
Collins, Ill.
Conyers
Corman
Danielson
Dellums
Dixon
Downey
Drinan
Eckhardt
Edwards, Calif.
Fascell
Fazio
Fenwick
Fisher
Ford, Tenn.
Garcia
Gibbons
Gonzalez
Gray
Heftel
Jacobs
Jeffords
Jones, Okla.
Kastenmeier
LaFalce
Lehman
Leland
Lundine
McCloskey
McHugh
Maguire
Markey
Matsui
Miller, Calif.
Mitchell, Md.
Moffett
Moorhead, Pa.
Myers, Pa.
Nolan
Obey
Ottinger
Patten
Pepper
Price
Rangel
Ratchford
Richmond
Roberts
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Stack
Stark
Stewart
Stokes
Studds
Synar
Ullman
Van Deerlin
Vento
Wirth
Wolpe
Yates

ANSWERED "PRESENT"—2

Duncan, Oreg.
Steed

NOT VOTING—24

Anderson, Ill.
Boggs
Burton, Phillip
Carter
Chappell
Chisholm
Clay
Giaimo
Goldwater
Hawkins
Heckler
Holtzman
Jenrette
Kelly
Leach, La.
Madigan
Mathis
Nedzi
Rahall
Reuss
Sebelius
Weiss
Wilson, C.H.
Wydler

□ 1910

Mr. HARRIS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DAVIS of Michigan. Mr. Chairman, I move to strike the last word.

I wonder if I could seek a point of information?

The CHAIRMAN pro tempore. The gentleman will state his point.

Mr. DAVIS of Michigan. Mr. Chairman, a number of Members on this side of the aisle are wondering what the balance of the session is going to be for tonight. I wonder if we could have a comment from the chairman of the committee. Is it the intent to continue until we finish the bill, so that our Members will know?

□ 1920

Mr. WHITTEN. It was the hope of the committee that we would be able to finish by now. The last amendment was unexpected, and it has taken up a good deal of time. I will ask the Chair how many amendments there are at the desk. We have only three before us, and if that is all, I think we can get through the bill.

The CHAIRMAN. The Chair anticipates at this point about eight amendments yet.

Mr. WHITTEN. Eight amendments?

The CHAIRMAN. Eight amendments.

Mr. WHITTEN. Under the circumstances, then, Mr. Chairman, I move that the Commitee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. SIMON, Chairman pro tempore, of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the Members leave, the Chair would like to make the announcement that we can expect to be in session late tomorrow evening, until at least 7 or 8 o'clock, so the Members can make their plans. We have to continue until 7 or 8 o'clock because we must get the budget and some of the bills out of the way before we can complete our business.

TWO NEW DEFERRALS OF BUDGET AUTHORITY AND ONE REVISION TO PREVIOUSLY TRANSMITTED DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-329)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals of budget authority totalling $166.4 million and one revision to a previously transmitted deferral increasing the amount deferred by $20.6 million. These items affect programs in the Departments of Agriculture, Defense, and Transportation.

The details of the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *June 18, 1980.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that he is in receipt of letters from the gentleman from New Jersey (Mr. THOMPSON) and the gentleman from New York (Mr. MURPHY) in which they transmit notice of their intention, pursuant to provision M. XIII of the Democratic Caucus, to temporarily step aside from their positions as standing committee, joint committee, select committee, or subcommittee chairmen. This intention includes, in the case of the gentleman from New Jersey, to temporarily step aside from the positions of chairman of the Committee on House Administration, chairman of the Subcommittee on Labor-Management Relations and the Task Force on Welfare and Pension Plans of the Committee on Education and Labor, and the chairman of the Joint Committee on Printing. In the case of the gentleman from New York, this includes the positions of chairman of the Committee on Merchant Marine and Fisheries, chairman of the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries, and chairman of the Select Committee on the Outer Continental Shelf.

THE IRS VERSUS EDUCATIONAL FREEDOM

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 20 minutes.

Mr. ASHBROOK. Mr. Speaker, we probably will be voting tomorrow on amendments proposed by my colleague from California, Mr. DORNAN, and myself to the Treasury appropriations bill. These amendments would renew the restrictions passed by Congress last year on the IRS' attempted use of Federal tax policies to harass and manipulate private and religious schools.

The battle between the IRS and these nongovernment schools has receded from the headlines during the last 9 months. It has been nearly 2 years since the IRS fired the first salvo in the form of a proposed "revenue procedure"—later revised, but not improved—and the full horror of this proposal may have faded from some memories.

As we prepare for consideration of H.R. 7583, I would like to reemphasize briefly the principal outrages that IRS tried to perpetrate. Remember, these outrages would be in effect today if we had not acted last year to overturn them.

The IRS trampled on the first amendment by seeking the power to inspect, supervise, and regulate church-related schools in a way which would unconstitutionally entangle church and state. It sought to measure the ethnic composition of these schools against the ethnic composition of the surrounding geographical community, with no recognition of the fact that religious schools attract students from their own faith communities which have nothing to do with lines on a map. It sought to discriminate against the church-related schools of parish congregations whose religious convictions prevent them from organizing into a school "system" based on hierarchal forms of ecclesiastical structure.

Even more outrageous, the IRS sought to discriminate against religious bodies that do not have "a long-standing practice" of operating their own schools. As was pointed out by Harrisburg attorney William Ball, who has been described as "the Clarence Darrow of religious freedom," the IRS wanted to make religious liberty "depend upon the time at which the practice of a church's having schools originated * * *. Shorn of all tinsel, that piece of drafting seems to be taking dead aim at fundamentalist Christian schools which are indeed in a great period of new growth at the present time * * *. Throughout all of our history new religious bodies have been coming into existence." Older existing religious schools and academies could also be put under a cloud of doubt and intimidation.

In addition to its assault on religious freedom, the IRS tried to turn elementary fairness on its head by treating the victims as the aggressors—by assuming schools guilty until proven innocent. Even if a private school had never once turned down a black or Hispanic applicant, it could have been found "reviewable" simply because its minority enrollment fell short of a specific percentage quota. Once placed in that suspect category, such a school could have been found wanting in "good faith" if it failed to institute such policies as minority-oriented curricula or reverse discrimination in financial assistance. Many independent schools, of course, operate so close to the brink of survival that they simply cannot afford such programs.

Under the guise of giving what it called "greater weight to each school's particular circumstances," IRS tried to erect standards of evidence which were so elastic that no two schools could have been sure that they would be treated alike. The IRS-proposed language specifically invited Federal officials to guess just why parents had transferred their children from the public schools, or why a religious school used special curricula which turned out not to be of interest to racial minorities. Just how fair these guesses would have been may be judged from the IRS's specific provision that it would have been considered evidence of racial discrimination if most of a private school's enrollment growth had come as a result of transfers from the public schools rather than from other private schools. President Carter's IRS appointees are so obsessed with racial issues that they can't seem to recognize that families might have moral or academic reasons for seeking nonpublic education.

I regret, all these outrages would be in effect today if Congress had not acted last year to halt them through the appropriations process. And unless we do so again this year, IRS will be free to unleash the full fury of its antiprivate school bias starting on October 1. Even if the courts eventually come down on the right side of these issues, struggling independent schools will face years of expensive litigation. The only practical way to prevent that is to reenact the same restrictions we proposed last year.

Accordingly, I will offer the following amendment as a new section 103 of H.R. 7583:

> None of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978.

Mr. Speaker, I have been asked many questions about the impact of my amendment, particularly as it relates to the recent Green and Wright decisions which were handed down by Federal District Judge George Hart. Here are some brief responses I would make to those questions:

(1) DOES THE ASHBROOK AMENDMENT INCLUDE COURT RULINGS?

I do not want there to be any mistake about it; my amendment is intended to bar the Internal Revenue Service from spending appropriated funds to carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause private schools to lose their tax-exempt status—unless that rule, policy, procedure, guideline, regulation, standard, or measure was in effect before August 22, 1978. It is plain to me that this language does cover court orders. It says that no funds shall be used to "formulate or carry out" any such rule, policy, and so forth, and to "carry out" is something which the IRS clearly does with a court order. It also uses a long list of nouns, at least two of which—"measure" and "standard"—are not terms used to describe the revenue procedures devised by the Internal Revenue Service itself.

Let us not be deluded by what has happened here. This was a sweetheart litigation. The defendant was the IRS which clearly wanted to do what the plaintiffs sought court orders requiring them to do. Can anyone believe IRS was forthright in defending in this case? What position did IRS defend? Now the activists for IRS meddling who got what they wanted are trying to use the single decision of a single district court judge, unappealed, and standing alone, the basis for broad initiative and the defeat of my amendment here in the Congress. We all should be able to see through this charade.

(2) DOES THE ASHBROOK AMENDMENT INCLUDE THE RECENT HART ORDER FOR MISSISSIPPI SCHOOLS?

In my opinion last month's Hart standard is in direct conflict with the will of Congress, since it orders the IRS to spend money on measures which we specifically prohibited in the appropriations bill for fiscal year 1980. It directs the IRS to judge private schools in Mississippi according to standards which the IRS did not apply to schools anywhere before August 1978, and to deny tax exemption to the Mississippi schools which in the judgment of the IRS fail to meet such standards. Plainly this contradicts the congressional restriction on standards and measures which would cause the loss of tax exemption unless those standards and measures were in effect before August 22, 1978.

Some Members seem to believe that, because there is a conflict between the Hart standard order and the current appropriations statute, it is the Congress that must yield. But William Ball, the Harrisburg attorney who has been described as "the Clarence Darrow of religious freedom," takes precisely the opposite view. In a letter to me dated June 16, 1980, Mr. Ball points out that Judge Hart's order is—

> Not . . . in any way controlling with respect to the Congress' renewing its last years restrictions on IRS. No Federal judge has power to decide what Congress shall or shall not fund. The appropriations power is given, by article I, section 9, clause 7 of the Constitution to the Congress and not to the judicial branch. Any decision in the case of Green against Miller, as it moves up in the courts (as it likely will), will not affect the question. Even if the Supreme Court should in the end hold that the IRS may refuse to recognize the tax-exempt status of religious schools which, for religious reasons, cannot comply with the conditions which IRS is now told by the court that it may impose, there would still be nothing to bar the refusal of the Congress to fund IRS to carry out those conditions.

I made a statement which appeared in the RECORD on May 22 of this year which further explains this position. The speech is included at this point.

BIG GOVERNMENT VERSUS PARENTAL FREEDOM

Mr. ASHBROOK. Madam Speaker, last week Big Government ordered itself to grow even bigger. A Federal judge in Washington decreed that the Internal Revenue Service must deny tax exemption to all private schools in the State of Mississippi "which cannot demonstrate that they do not racially discriminate." Even if a private school has never once turned down a black applicant, it is automatically presumed guilty of racial discrimination if it was "established or expanded" at the time nearby public schools were "desegregating." The implicit assumption is that Mississippi's public-school system is so outstanding that nobody but racists would want to transfer to private schools.

This ruling, of course, is exactly what the IRS wanted. Last year the IRS proposed a new "revenue procedure" based on the same false assumption, which would have set up a series of arbitrary hurdles for private schools anxious to avoid IRS harassment. Congressman ROBERT DORNAN and I offered amendments to the fiscal year 1980 Treasury Department appropriations bill to prohibit the IRS from spending appropriated funds to implement this proposed revenue procedure. The House adopted our amendments—mine by a 297 to 63 rollcall vote, Mr. DORNAN's by an unrecorded division of 36 to 19. The Senate concurred. For the time being, the IRS attempt to set itself up as prosecutor, judge, and jury over these schools was thwarted.

But now Judge George Hart of the U.S. District Court for the District of Columbia has given the IRS most of what it originally sought. According to his ruling, the "inference of present discrimination against blacks" on the part of a private school may be overcome only by "evidence which clearly and convincingly reveals objective acts and declarations establishing that such is not proximately caused by such school's policies and practices." The arbiter of such "evidence" will be—you guessed it—the IRS.

Judge Hart's ruling shares at least three unacceptable elements with last year's IRS proposal:

First. The criteria of "evidence" by which a private school might establish its innocence are so vague that in effect they allow IRS bureaucrats to make up the rules as they go along. In Judge Hart's words:

> Such evidence might include, but is not limited to, proof of active and vigorous recruitment programs to secure black students or teacher's, including students' grants in aid; or proof of continued, meaningful public advertisements stressing the school's open admissions policy; or proof of black groups and black leaders within the community concerning the school's nondiscrimination policies, and any other similar evidence calculated to show that the doors of the private school and all facilities and programs therein are indeed open to students and teachers of both the black and white races upon the same standard of admission or employment.

Judge Hart does not define the words "active," "vigorous," or "meaningful"; the result is that no two schools could be sure they would be treated alike.

Second. The ruling pressures private schools to take steps which cost money, such as advertising and recruitment programs. Many of these new small schools are struggling at the brink of economic survival. By making them divert their meager resources from academic instruction, Washington directly threatens their very existence.

Third. In his zeal to stamp out discrimination against racial minorities, Judge Hart completely disregards the rights of religious minorities. He explicitedly enjoins the IRS to include church-related schools in its enforcement activities, and he refuses to acknowledge that many of these schools are established by church congregations as part of their religious ministries to their own communities of faith. Schools of this type do not "recruit" in the sense that secular bureaucrats understand that term. They evangelize, and evangelism is not an activity subject to judicial regulation. Like the IRS, Judge Hart is so obsessed with racial issues that he tramples on the first amendment.

Judge Hart's ruling is in direct conflict with the will of Congress, since it orders the IRS to spend money on activities which we specifically prohibited in the fiscal year 1980 appropriations bill. Even if those specific prohibitions did not exist, his order would be a classic example of judge-made law. If Congress had wanted to adopt the Hart approach to fighting discrimination, we would have amended the 1964 Civil Rights Act to require restaurants and other public accommodations to go out and recruit black customers. We did not, and I can assure you that if any Member had tried he would have been laughed off the House floor.

When the Treasury appropriations bill for fiscal year 1981 comes to the House floor next month, we will once again face the choice between protecting the first amendment rights of private-school parents and surrendering to Washington bureaucrats the power to decide which schools may survive. Last week's ruling underlines the necessity of reenacting last year's restrictions, and continuing to reenact them every year until the judicial-bureaucratic combine ends these assaults on educational freedom.

(3) DOES NOT YOUR VIEW PUT IRS INTO A DILEMMA, WHERE IT MUST CHOOSE BETWEEN DEFYING CONGRESS AND DEFYING THE COURTS?

There have been two, not one, decisions by Judge Hart in this area since the 1980 appropriations amendments went into effect: last month's order in the Green case and November's opinion in the Wright case. Only in his Wright opinion did Judge Hart specifically refer to the Ashbrook and Dornan amendments, and he concluded therein that if the minority parents suing IRS "were to be granted the relief they seek in this case, it would be completely contrary to congressional intent and policy."

He therefore dismissed the plaintiffs. I believe that the judge's May order in Green, entered without any opinion, contradicts his carefully elaborated opinion in Wright, and the May order therefore cries out for clarification.

When the Wright decision, coming from the same judge in the same term, is read in conjunction with the Green decision (and it must be so read because the two cases are not only related in subject matter, but they were in fact, given correlative status by the court and were simultaneously heard until Wright was dismissed) one must conclude that Judge Hart meant to circumscribe the effect of Green by his prior opinion in Wright. Not only did he dismiss Wright for want of standing, but he spoke to the substantive issues and made it abundantly clear that for whatever the Green case would stand, it would do so only in relation to the immediate parties and within the strict limits of the prayer for relief, that is, with respect to Mississippi schools only. It is not a precedent applicable by executive fiat to schools in the other 49 States.

There is one further aspect important to consideration of IRS intrusion into the private administration of independent schools, and that is the compliance options (with respect to the Green order) available to the Service.

The Service cannot, under presently applicable law, adopt any regulation for the purpose of enforcing the court order, but that would seem completely irrelevant because the Green order is drawn with such specificity that additional regulatory definition is unnecessary. In fact, the order extraordinarily parallels the originally proposed IRS revenue procedure (enforcement of which was specifically prohibited by the Ashbrook/Dornan restrictions). Although the Service, for what I believe are disingenuous motives, will protest that they cannot operate on the following basis, all they need do is to circulate a copy of the Green order to Mississippi schools, and in a simple letter declare that schools which fail to make available information necessary for the Service to comply with the other will lose their exempt status forthwith. The matter would be closed at that point.

The IRS attorneys would thus have three options: They could, as suggested above, mail Judge Hart's order in the Green case to the effect of schools and wait for their cooperation; or they could wait and see if in fact the Service would be asked to show cause why it should not be found in contempt, and at that point allege the inconsistency of the two decisions as its defense; or finally they could move for clarification of the Green order.

The only motive the Service would have for not doing this, as distinguished from the reasons it will allege, is its prior determination to apply the Green doctrine to a broader class of schools. It is precisely that broader class that the congressional restrictions are intended to protect.

We in the Congress often complain about bureaucrats endeavoring to use a small or partial aspect of some court decision as a grappling hook to launch them into an area they seek to regulate in. This is the case here and we should not allow it to happen as a matter of sound public policy.

The IRS attorneys thus have a number of legitimate options. They can wait to see if in fact the agency will be found in contempt, and then proceed to defend it against that charge or they can move for clarification of the Green order. Judge Hart's Wright opinion suggests that he does not want to stay on a collision course with Congress, and he may indeed clarify his order in a manner that does not challenge congressional intent. Logically he should be forced to resolve the contradiction between these two decisions, and the best way to insure that he will do so is to reenact these amendments. If anyone is on the horns of a dilemma it's not Congress, and not the IRS, but the Judge himself.

On this point, on June 2, 1980, Judge Hart issued a clarification order of his May 5 Green decision. There is no reason to believe he would not further clarify his patently inconsistent decisions in the June 2 clarification order. The plaintiffs moved for this clarification. Are we to assume the defendant IRS cannot do likewise?

(4) WHAT IF THE IRS DOES MOVE FOR CLARIFICATION, AND THE JUDGE CLARIFIES IN A WAY THAT SHARPENS CONFLICT WITH CONGRESS?

From what source does IRS derive its authority? The only possible answer is: the Congress. The activities of the IRS, its funding, its operations, and its very existence all stem from legislative enactments. The imagined "dilemma" comes from the predilections of IRS's current leadership, who fear being forced to choose between the correct choice, which they do not like, and the incorrect choice, which they do like. But obedience to the Constitution is not a matter of personal preference for any public official.

POWER OF PURSE ARGUMENT

Just 3 months ago 238 Members of Congress, including more than a majority of the Members of this House, signed an amicus brief in the abortion-funding case which is now before the Supreme Court. In this brief we point out the following:

First. The Constitution specifically provides that—

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

The phrase "by law" refers to the legislative power, all of which is vested by article I, section I, in Congress. Congress exercises that power when it says it is appropriating money and when it says it is not appropriating money. Under the Constitution no judge may turn that negative into an affirmative.

Second. The Framers were quite adamant about this power. Madison said in the Federalist that—

> The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of government . . . This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Third. Restrictions like the Hyde amendment and the Ashbrook amendment have been a central part of the appropriations process for more than a century. They have been used for purposes ranging from controlling water projects to preventing the CIA from destabilizing foreign governments.

Fourth. If such restrictive amendments are proof against attacks like that of Judge Dooling, who specifically held the Hyde amendment to be unconstitutional, then surely they are proof against court orders like last month's Hart rule, which does not even mention the Ashbrook or Dornan amendments.

Just this spring we saw an entire Federal agency, the Federal Trade Commission, forced to suspend operations altogether for the simple reason that there were no funds voted by Congress to pay for its activities. As I said at the time, this episode destroyed the myth that some sort of new law must be passed to give Congress the power of sunsetting any specific agency or project.

Mr. Speaker, the classic analysis of the legal and constitutional issues involved in this matter is last winter's testimony by Mr. William Ball before the Oversight Subcommittee of the House Ways and Means Committee. The text of Mr. Ball's testimony follows:

STATEMENT OF WILLIAM B. BALL

I am William B. Ball, partner in the firm of Ball & Skelly, Harrisburg, Pennsylvania. I am a member of the bars of New York and Pennsylvania, as well as the Supreme Court of the United States and various other federal courts. I served as national chairman of the Committee on Constitutional Law of the Federal Bar Association for a number of years and I have long been active in the field of constitutional litigation. Some of my activity has been in the area of racial civil rights, in which role I was volunteer counsel during the 1960's to the Pennsylvania Equal Rights Council and counsel to pro-civil rights amici curiae in the U.S. Supreme Court miscegenation and open housing cases. I have also handled much litigation in the field of religious liberty, in which role I have served, for example, as attorney for the National Committee For Amish Religious Freedom since its founding—in that role having defended the Amish in *Wisconsin* v. *Yoder*. I appear here today as an individual attorney.

It is the fact that the Proposed Revenue Procedure brings together both of these areas—race and religion—which especially interests me in these hearings. Two kinds of minorities are involved here not one: racial minoriites and religious minorities. I am deeply concerned, as a citizen and as a lawyer, that IRS has proceeded upon the totally false assumption that regulation to combat racial discrimination necessarily nullifies the exercise of First Amendment rights including parental rights and religious liberty—and that while racial minorities are to be aided by our tax laws, religious minorities are to be placed in a suspect class in the administration of those laws.

I am concerned, too, over IRS's assumption that the Congress has given IRS the indefinitely broad powers which it expresses in this Proposal.

I am concerned about a third thing. Only a very small percent of all school children in the nation are enrolled in private schools, and most of these schools are religious schools. Within the past ten days, the national news has published a Government report that racial segregation, a quarter century after *Brown-Topeka*, remains a major problem in the public schools—particularly in the North. Yet what appear to be leaked stories from IRS has spread a pervasive rumor, that religious private schools (and, in particular, fundamentalist Christian schools) are "racial havens" against which IRS must mount a major effort. While the great number of religious schools with which I am familiar reject, on religious grounds, the immorality of hurting, depriving or diminishing of anyone on account of the race with which God has clothed him, I cannot but wonder over the intensive zeal with which IRS is pushing its effort here today. And when I reflect that all religious schools—Catholic, Missouri Synod, Orthodox Jewish, Quaker, fundamentalist Christian, Amish and others—will suffer a major imposition upon their religious freedom if the Proposal is adopted—I cannot wonder if we are not faced with an essential hostility, upon the part of some public servants, to non-state education, a reappearance of the horror of pluralism, privacy and real religious freedom to which *Pierce* v. *Society of Sisters*[1] was so great a response.

As I have reviewed the Proposed Revenue Procedure, I have found only two conclusions possible: (1) it is unlawful in that it is without statutory authority, (2) it is unlawful in that it violates constitutionally guaranteed liberties.

1. THE PROPOSED REVENUE PROCEDURE IS UNAUTHORIZED BY ANY ACT OF CONGRESS

A Revenue Procedure is intended as law for a nation of 220 million people. All would agree that the proposal before your Subcommittee today is one of extreme importance. The IRS claims it is that. Certainly it pertains to such weighty matters as racial discrimination, the ongoing life of churches, liberties of parents, revenues for our Government, tax liabilities of citizens, and the operating of thousands of schools. It would be astonishing to imagine that any such measure would be put forward unless it were *clearly* authorized by the Congress. It would be more astonishing if the proposal were founded on a flotsam of inferences from Supreme Court decisions, predictions as to how the Court will "surely" act, IRS's own precedents, official gossip about the fundamentalist schools, and the subjective social views of brother citizens who happen to be public servants. Yet that, unhappily, is the case.

The IRS news release of February 9 well reflects IRS's view that it has accordion-like powers which are expandable or contractable at the will of the IRS administrators. It recites, in part:

The new procedure is a revision of a proposal published in the Federal Register on August 22, 1978. *It gives greater weight to each school's particular circumstances, than did the earlier proposal*, in determining whether a school is racially discriminatory as to students." (Italic supplied.)

This superbly illustrates the problem. While the August 22nd proposal was solemnly advanced as authorized, to the comma, by Congress and as necessitated, in its every word, by a compelling "national policy", the individual public servants of IRS, on February 9, felt at liberty to scrap whole portions of that which they had just contended should be "law" and to now give "greater weight" to some new considerations.

I have examined the testimonies of the chief defenders of the IRS position (including the statements of IRS itself, Professor Bernard Wolfman, ACLU, the Library of Congress Research Service,[2] and others. Their chief argument was that presented by Professor Wolfman in his testimony at the December IRS public hearings. He stated:

"The Commissioner has no authority to allow deductions or tax exemption when the private school thus subsidized is one which fails to maintain a racially non-discriminatory policy as to its students. The law forbids it. The Commissioner has no discretion. In an order affirmed by the Supreme Court, in *Green* v. *Connally*,[3] it was held that Section 501(c) (3) and Section 170(a) (c) do not permit exemption or contributions deductions to schools that discriminate." Transcript of Hearings, 178.

While this is a very flat and positive statement, I am compelled, with all respect, to say that it is utterly incorrect. Is it really true that in *Green* v. *Connally* the Supreme Court reviewed the question whether a segregative private school qualifies for tax exemption under Section 501(c) (3)? *Green* is a 1971 case. In 1974 here is what the Supreme Court said about *Green:*

"The question of whether a segregative private school qualifies under 501(c) (3) *has not received plenary review in this Court*, and we do not reach that question today. Such schools have been held not to qualify under §F01(c) (3) in Green v. Connally * * * As a defendant in Green, the Service initially took the position that segregative private schools were entitled to tax exempt status under § 501(c) (3) but it reversed its position while the case was on appeal to the Court. *Thus, the Court's affirmance of Green lacks the precedential weight of a case involving a truly adversary controversy.*" *Bob Jones University* v. *Simon*, 416 U.S. 725, 740 (fn. 11) (1974.) (Italic supplied.)

So the Supreme Court itself has informed us that in no sense has it affirmed lower court's holding in *Green*. The Library of Congress memorandum, at Page CRS-23, admits this saying:

"The Supreme Court's reference to *Green* in the *Bob Jones* decision suggests that the validity of IRS' interpretation of 501, as a matter of statutory construction, is not yet firmly settled."

Professor Wolfman seems to have said at the hearing today that the Congress, in 1976, by its adding of a new "Section 501(1)" of the I.R.C., made clear its intention to give IRS power to issue a Revenue Procedure such as the Proposal. He cites the Senate Report on P.L. 94–568, and notes that that Report says that the Supreme Court, in *Coit* v. *Green* affirmed the decision in *Green* v. *Connally* that discrimination on account of race is inconsistent with an educational institution's tax-exempt status under 501 (c) (3). This, I fear, is quite misleading. The new section relates, as Professor Wolfman noted, to social clubs and to nothing else. Social clubs and religious schools are very different things, the latter having been held by the Supreme Court in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971), to be "integral parts of the religious mission" of churches. Further, the reference to the *Connally-Coit* cases, which appears in a footnote of the Senate Report,[4] only proves that whoever drafted that Report was ignorant of the Supreme Court's *own* reading of those cases as expressed in *Bob Jones* v. *Simon*.

A further response must be made to Professor Wolfman's statement. In *Green*, the lenghty opinion of Judge Leventhal deliberately avoids any ruling on religious private schools. The opinion states:

"We are not now called upon to consider the hypothetical inquiry whether tax-exemption or tax-reduction status may be available to a religious school that practices acts of racial restriction because of the requirements of the religion." *Green, supra*, at 1169.

Another argument advanced by IRS and its supporters is contained in the statement by Commissioner Kurtz at the IRS hearings on December 5. It relies on *Green* v. *Connally*. The Commissioner stated:

"Under the common law, an organization, to be recognized as a charity, may not operate illegally or contrary to public policy. The court [in *Green* v. *Connally*] recognized those principles and ruled that private schools are not entitled to tax benefits accorded to charities if they contravene the well established federal public policy against racial discrimination in education expressed in *Brown* v. *Board of Education and the federal civil rights laws.*"[5]

The Commissioner's point was that a private school, under Section 501(c) (3), is a "charity"—*i.e.*, a private organization whose purposes are of high social interest to the community. A charity's tax exemption, so the argument goes, is conditioned upon its concordance with what, at any particular time, is considered to be "public policy." Since there is a public policy against racial

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Footnotes at end of article.

discrimination, a private school practicing racial discrimination may not be tax exempt. A basic error in the Commissioner's (and Judge Leventhal's) argument lies in its failure to reflect the plain language of Section 501(c)(3), which says the organizations are exempt which are:

> "* * * organized exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes * * *"

By familiar and inevitable construction, the word "or" is to be read after each of the listed categories—*i.e.*, "religious OR charitable OR scientific * * * (etc.)." The Congress did not, in other words, include "religious" or "educational" under the term "charitable." Had the Congress desired to classify religious purposes as a species of charitable purposes, it would have do so—*e.g.*, with phrasing such as:

> "* * * organized and operated exclusively for charitable (including, religious, scientific, testing for public safety, literary, or educational) purposes * * *"

This the Congress did not do, and it is plain that "religious" purposes cannot be slid under the heading of "charitable" and churches, by that device, made subject to the "public policy" of the moment. Here it is important to add that, as the Supreme Court recognized in *Walz*,[6] the tax exemption of religious institutions does not depend upon their serving some pragmatic community purpose. Religious purposes are unique, and religious tax exemption closely allied to religious liberty.

IRS, however, appears to have prepared a counter to the foregoing conclusion by differentiating between activities which are *"inherently"* religious and those which are not. Here is an amazing statement by IRS as part of its 1975 Revenue Ruling 75–231 (1975–1 CB 158):

> "The First Amendment * * * does bar governmental interference with religious beliefs and opinion, but it does not affect the legal consequences otherwise attending a given practice or action that is *not inherently religious.*" (Italic supplied.)

The meaning appears to be, that since religious schools teach math, English and other technical subjects, those schools are not, by and large, "inherently religious". Thus IRS—as a secular arm of the state—would set itself up as final judge of what is "inherently" in a group's religion and what is not. This attempt to get "religion" put back under "charity" is, of course, blocked by the First Amendment and by Supreme Court decisions which recognize church-related schools as inherently and pervasively religious[7] and which bar government's defining of religion.[8]

Another peg upon which IRS seeks to hang its claim of statutory authorization for the Proposed Revenue Procedure consists of some very loose generalities about "Federal public policy". For example, in the aforementioned Revenue Ruling 75–231, IRS states:

> "* * * it is well settled that a religious basis for an activity will not serve to preclude governmental interference with that activity if it is otherwise clearly contrary to Federal public policy."

I am sure that broad "reasons of state" language like that would have been completely understandable to a faithful public servant in the Germany of 1936, but I find most disturbing the principle that economic lifelines to religious liberty may be curtailed—on the basis of some civil servant's view of something called "Federal public policy". I don't know what that phrase means. Nor does anybody else.

One further theory on which the IRS position is sought to be sustained is an argument advanced in the Library of Congress memorandum. It is as follows: (1) federal tax exemption is an economic benefit conferred by government, (2) an economic benefit provided to a private entity is of major help to that entity's existence, and if that entity is engaged in discriminating against people on account of race, then the entity is engaged in "state action" prohibited by the Fifth Amendment,[9] (3) that entity's tax exemption may therefore be removed.

This last argument is baseless and speculative. In sum, it can be said that there is no case law to support it and that the principles established in *Walz* and other Supreme Court decisions completely militate against it.

Finally, resort is had to *Norwood* v. *Harrison*, *supra*, and *Runyon* v. *McCrary*, 427 U.S. 160 (1976). It is hard to see why. *Norwood* held that private schools with racially discriminatory policies were not entitled to state-owned textbooks while *Runyon* held that private schools may not discriminate racially in admissions in violation of Section 1 of the 1866 Civil Rights Act. The Supreme Court, in that case, expressly noted that it was not passing upon "racial exclusion by private sectarian schools * * * on religious grounds." *Id.* at 167. How these cases supply IRS with the missing Congressional authority for the Proposed Revenue Procedure is beyond my ability to understand.

Professor Wolfman has cited *Goldsboro Christian Schools, Inc.* v. *United States*, 436 F. Supp. 1314 (1977). That decision (which was erroneous by its application to a Free Exercise claim of tests of constitutionality under the *Establishment Clause*) was that of a lower federal court. Other lower federal courts have come up with opposite results. See, *e.g.*, *Bob Jones University* v. *United States*, —— F. Supp. —— (Civil Action No. 76–775, Dec. 26, 1978).

2. UNCONSTITUTIONALITY OF PROVISIONS

Apart from the threshold problem of lack of statutory authority for the proposed Revenue Procedure, is a series of features of the proposal which render it inescapably unconstitutional.

Many—perhaps most—religious schools[10] are not part of any "system" of "commonly supervised" schools. Many are parts of churches which are known as "independent" churches. The fact that these belong to an education association and that they provide Bible-oriented, fundamentalist Christian teaching does not render these church-schools part of any "system". Theologically, these churches cannot assent to, and indeed reject, the concept of "church" as that is known to some of the major national religious bodies. If IRS chooses, in its new proposal, to accord latitude to those church-schools which are part of a "system", this will undoubtedly be viewed as an improvement over its prior proposal as a move toward less regulation of those religious entities. But that leaves two immense questions still confronting *all* religious groups:

1. Has IRS power, under unmistakeable Congressional enactment, to make *this* regulation—a regulation which, it must be remembered, can be changed (and undoubtedly will be) as time goes on?
2. May the religious liberty of any church be made to depend upon its being part of a "system"?

We have, I believe, already answered the first question. All should understand that, once the principle is recognized that the IRS administrators have power, apart from statute, to use the tax structure to mold social policy, they can mold it today in a way that seems benign, and tomorrow manipulate that power in precisely the reverse direction.

As to the second question: the principle is unheard of, that religious liberty may be enjoyed by a church only if it will adapt itself to a scheme of organization designated by government. The form of a church's organization is an ecclesiastical question, and the Supreme Court has repeatedly held that the First Amendment bars government from *any* role in determining ecclesiastical questions. *Presbyterian Church* v. *Mary Elizabeth Blue Hull Presbyterian Church*, 393 U.S. 404, 447 (1969); *Serbian Orthodox Diocese* v. *Milivojevich*, 426 U.S. 696 (1976). Here, IRS says that it will even explore the relationship between a church and its school, and if the school is separately incorporated under civil law but united with its church under *church* law or custom, IRS will use the civil law separation as the basis for revoking tax exemption of the church and the school. IRS here treads further into the bag of church-state entanglement.

Another constitutional defect in the proposal is seen in Section 3, at Page 5. Here are listed certain facts which a private school would show in order to establish that its formation or substantial expansion was not related to public school desegregation. One of these facts would be that

> "* * * the students * * * are not to any significant extent drawn from the public school grades subject to desegregation in the community served by the school."

This provision is faulty on a number of grounds.

1. The private school does not *"draw"* any students. Unlike a public school district, the private school has no power of assignment of students. It is *parents* who enroll children in schools, and the IRS has not the slightest power to regulate parents in choosing the schools in which their own children shall enroll. Yet that is just what IRS here seeks to do. If parents choose to remove their children from any public schools, that is their *right*, whether or not that school is subject to a desegregation order. Government has no business exploring the intentions of parents in this personal and conscientious decision.[11] Particularly it may not head the school they have chosen toward economic extinction by denying it tax exempt status on the ground that parents preferred that school to a particular public school.

2. IRS persists in its home-made concept of "community." The term, "community," as used in the proposal bears no rational relationship whatever to the religious necessities of the communities of faith of, for example, Amish schools. The private school is tied to "the community served by the school." Many religious schools do not serve the community even in terms of the common understanding of the word, "community"—that is to say, the people living in a given geographical region. These schools serve, instead, *their own faith communities*. It is those communities—not the public—which founded the schools and which maintain them. Except in the sense of being a force for general good in our society (which indeed they are), these schools do not serve the general public.

But the greater error in the Proposed Revenue Procedure is that it attempts to force the schools of the faith communities to be related to population patterns of public school districts. If, during a certain period a religious school is formed or substantially expanded, it must have a student body whose percentage of Blacks, Hispanics, Asians, Pacific Islanders, native Indians or Alaskans,[12] is at least 20 percent of the percentage of the latter "minority" school age population "in the public school district where the religious school is located." It "must," or else it is prima facie discriminatory and thus threatened with economic extinction. Assuming (for the sake of argument) that the definition of "community" is in clear and stable language (which it is not), the requirement that the religious

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Footnotes at end of article.

school's enrollment is thus to be determined by public school district population is an egregious violation of the religious liberty of the religious school and the faith community to which it belongs. The church school is forced either to bear the very significant consequences of being government-classified as discriminatory or else it must accept the hitherto unheard of intrusion upon its liberties of having the government say whom it shall enroll as a student. This violates due process, but—worse—it violates religious liberty. It imposes a secular enrollment standard in schools which have been defined by the Supreme Court of the United States as "integral parts of the religious mission" of the churches which operate them.[12] This, under the First Amendment, may not be.

It would be bad enough if the definition of "community" were clear and stable. Alas, it is not. "Community" is not only the public school district in which the religious school is located; it is that "together with any other public school district from which the religious school enrolls a substantial percentage of its student body." Let us now consider a religious congregation which founds a school lying on the outer edge of School District A and which draws children of the church's faith from that and four other School Districts, B, C, D and E. Some of these districts have what the proposal calls "minority" children and some don't. Some may be involved in a desegregation order and some not, and the involvement may be in one of many different ways. The administrator of, let us say, a 50-pupil religious school is put to the exquisite task of checking out the following:

1. Find out the exact school age population of the "minority" children bears to the school age population of each of the five school districts.

2. Ascertain, exactly, the number, in School Districts A, B, C, D and E, of school age children in each of the named categories (Blacks, Hispanic, etc.)—and of any ethnic categories which might be included under "including".

3. Figure the percent which the population of the "minority" children bears to the school age population of each of the five school districts.

4. Ascertain, per district, the number of children in one's school who are residents in School Districts A, B, C, D and E.

5. Figure out whether, in each case, that number equals a substantial percent of one's student body.

6. Check to see whether any of the districts is under a desegregation order and, if so, ascertain the provisions of that order.

7. To avoid being a "reviewable school" (with all the dire consequences which that entails), admit to enrollment a sufficient number of new pupils *irrespective of any religious consideration*—in order to come up to the "20 percent" factor, even if this necessitates dismissing children from your school whose parents enrolled them in your school in obedience to religious conscience.

Section 3.03, at Page 6, says that another of the facts to be shown by the private school is that it was

"* * * formed or expanded in accordance with a long-standing practice of a religion or religious denomination which itself is not racially discriminatory to provide schools for religious education when circumstances are present making it practical to do so (such as a sufficient number of persons of that religious belief in the community to support the school), and such circumstances are not attributable to a purpose of excluding minorities."

This makes no sense at all in terms of religious liberty. It makes that liberty depend upon the *time* at which the practice of a church's having schools originated. If a religious body which has had no schools were to decide today to establish them, it would not be protected by that language. Shorn of all tinsel, that piece of dratfing seems to be taking dead aim at fundamentalist Christian schools which are indeed in a great period of new growth at the present time. Nowhere in the Constitution do I read any principle that religious liberty belongs solely to religions which have "long-standing practices" of any sort. If a church may lose the tax exemption of its school because it had no "long-standing practice" of having schools, why might it not be curtailed in other of its liberties on the ground of lack of some other "long-standing practice"? Throughout all of our history new religious bodies have been coming into existence. It is inconceivable that groups founded after the effective date of the proposal—which will not have had a "long-standing practice" of any sort—would not be equal before the law with all other religious groups.

A great number of non-"system", non-racially discriminatory religious schools will necessarily flunk the tests set out by IRS at Pages 5, 6 and 7 for determining whether the formation or expansion of a school was "related in fact to public school desegregation." Permit me to apply these tests to what I consider to be a somewhat a typical fundamentalist school, which I will call "Bible Christian School":

1. It is not part of a "system", but is the school of an independent Christian church.

2. It does not, as prior testimony has suggested, bear merely a "label" of religion. Instead, it was founded out of a deep and evident desire of Christian people to provide a God-centered education for children. When you go to that school, you have no doubt of that. The school is pervasively religious. The teacher, curriculum, textbooks, atmosphere, devotion to prayer, pursuit of a Bible-centered way of life and the sense of a community of faith all attest to that. This church-school keeps its distance from the state by accepting no state funding, services or materials.

3. Most of the children at Bible Christian have already experienced public school. The public school may or may not have been under a desegregation order. Their parents have removed them from public school for different reasons. Invariably you will find, in the positive reason of desiring the child to become fully a Christian. There is also usually a combination of other reasons, both positive and negative: the desire that the child get good education intellectually, have discipline, get accustomed to hard work, but also the powerful reaction of many parents to the widely noted deficiencies in many public schools with respect to competency in instruction, disorder, lack of discipline, drug and alcohol abuse, etc.

4. The school, and the church of which it is a part, were organized within the past ten years, IRS, by flat, (a) attributes to the school, a racist motivation in forming the school at that time, (b) makes non-existent the *actual* intention of the parents in withdrawing their children from public school and in placing them in Bible Christian at that time. This is regulating by suspicion and officially rules out the historical fact of the widespread and vibrant fundamentalist Christian *religious* movement which is occurring at this particular point in time for reasons which may be better known to God and to individual souls than to the Internal Revenue Service.

The Proposed Revenue Procedure is shot through with vagueness, and instances of indefinitely broad language occur—with unconstitutional effect—in critically important sections relating to the exercise of IRS powers. Here is but one example:

Section 2.03: All private schools must have a racially nondiscriminatory policy and "are subject to examination to verify the existence of that policy." But

"The question whether a private school has a racially discriminatory policy is *based on all the applicable facts and circumstances.*" (Italic supplied.)

As has been seen, IRS has stated a list of "facts" which will presumably aid it in making its determination. The long and short of the matter is that IRS leaves itself an almost completely free hand in weighing all these "applicable facts and circumstances."

It may be objected, a religious school may purge itself of the harsh presumption that it is racially discriminatory by evidencing, under Section 4, "good faith". But as he now comes to read Section 4, the religious schoolmaster is necessarily dismayed. I will now review several of these in light of the facts of life of the religious and private schools with which I am familiar:

1. *"Active and vigorous" minority recruitment programs*

Comment.—(1) Apart from the total unconstitutionality of government's purporting to pressure private, non-tax-supported religious institutions to engage in recruiting programs is the fact that government has no power to pressure these institutions to pay, out of their limited resources, for a non-Congressionally-authorized social program. (2) Again (here through use of the broad language, "active and vigorous") we have wording which makes the public administrator the legally uncontrolled judge of the evidence and the religious schoolmaster like a yo-yo on the string of the administrator's discretion. (3) IRS's unfamiliarity with the subjects it seeks to regulate is no more clear than here: Christian schools do not "recruit"—they evangelize—and evangelization is not a thing subject to governmental direction.

2. *Granting of scholarships or other financial assistance to minority students*

Comments.—(1) The church funds are trust funds for religious purposes. They cannot be diverted by government to other purposes save as these would relate to matters (*e.g.*, repairs for fire or safety) intimately related to health or safety and then only pursuant to patently clear and reasonable statutes. (2) I know of no religious school today which has a nickel to spare. Their resources are only as deep as their parishioners' pockets. Most of the schools are relatively small schools, not publicly funded, and parents who enroll their children there typically do so at great personal sacrifice. They already pay public school taxes. Government is without constitutional power to extract from them their moneys—dedicated to the religious education of their children—to support an administrator's social program.

3. *"Employment of minority teachers or professional staff"*

Comment.—(1) Religious schools must, as a matter of their religious commitment, select their own teachers and staff. Their prime criterion is, for example, in the case of the Amish, that these people be Amish, or, in the case of the Fundamentalist Christians that these people be "born again" Christians who totally comport with the moral and faith standards of the church appointing them. These church-schools cannot constitutionally be compelled to accept any teacher based on the factor of race. There are important court decisions vindicating their rights in this regard. (2) The church-schools in question are private, non-tax-supported entities which, as such, may not be forced to employ teachers in classifications set by government. (3) These schools, having but very limited resources, cannot expand staffs except in terms of their own economies and the necessities of their religious mission.

Footnotes at end of article.

4. Participation with integrated schools in sports, music, etc.

Comment.—(1) Most of the religious groups may not, in conscience, place their children in a non-faith school setting. The Amish will not send their children into public schools, Catholic schools, fundamentalist schools, or other than Amish schools. They do not engage in "sports", as that term is generally understood. The fundamentalists are very much the same in this respect. Their schools are sufficient for their children, and the right to choose those schools has been long vindicated by the Supreme Court in *Pierce* v. *Society of Sisters,* 268 U.S. 510 (1925) and *Wisconsin* v. *Yoder, supra.* Forcing their children to participate in activities in the schools of other religious groups—or in public schools—would violate that right. (2) The fundamentalists' views on sports and music are, by the way, closely related to their religious beliefs, and are different from the views of much of the larger community.

5. "Special minority-oriented curriculum or orientation programs"

Comment.—(1) It is a constitutional right of religious communities to determine their own curricula (assuming that the "basics" are offered—as indeed they are). (2) In the predominantly value-related areas this right is maximized. It is the conviction of these religious groups that their best contribution to justice in our society is through the grounding of children in the teachings of the Bible and in thus forming loving and responsible citizens. They do not choose to avail themselves of secular techniques to achieve this end which some others may prefer as *their* personal choice. And in this they are constitutionally correct.

6. Minority participation in the founding of the school or on board

Comment.—A person would not be excluded by the religious schools with which I am familiar from any role therein solely because he is a member of a "minority". But it is clear beyond any argument that *no* person has the right to participate in those schools *solely* because he is a member of a "minority".

This regulatory scheme also violates the Establishment Clause of the First Amendment. The Supreme Court has held that clause to be violated, not only by government action which excessively entangles government and church-schools (*Lemon* v. *Kurtzman,* 403 U.S. 602 (1971)), but also by action which poses the "potential" for such entanglement. *Public Funds For Public Schools* v. *Marburger,* 358 F. Supp. 29 (D.N.J. 1973), *aff'd.* 417 U.S. 961 (1974). The proposed guidelines bristle with entanglements actual and potential. It is important to understand that the Supreme Court has seen tax *exemption* as militating *against* entanglement, while taxation has the opposite effect. In *Walz,* the Court said that property tax exemption of churches is "simply sparing the *exercise of religion*" from the burden of taxation. *Id.* at 673. (Emphasis supplied.) It continued:

"Elimination of exemption would tend to expand the involvement of government by giving rise to tax valuation of church property, tax liens, tax foreclosures, and the direct confrontations and conflicts that follow in the train of those legal processes." *Id.* at 674.

CONCLUSIONS

1. I am here to plead with you for the continued existence of a large number of private religious schools. The schools to which I refer are threatened with shutdown, because it would be unrealistic to say that they could continue to exist in a world of spiraling inflation and ever-increasing tax burdens, were they to be denied tax exemption. I realize that there exists a theory, occasionally expressed in dicta by the courts, that tax exemption is a matter of "grace" or "privilege", and not a matter or right. It is clear, however, that where tax exemption is created for a particular group, a member of that group may not be denied tax exemption on the condition that he give up the enjoyment of a constitutional right. If tax exemption is, within a class, a general benefit, it may not be unconstitutionally conditioned, *Sherbert* v. *Verner,* 374 U.S. 398 (1963). That consideration is of particular significance where the tax exemption constitutes an economic lifeline to the tax exempt entity and where, as here, the enjoyment of parental rights and religious liberties under the First Amendment are sought to be conditioned.

2. It has been our position that you, the Congress, have not given IRS the powers which it asserts in its proposal. On its face, that would seem to indicate that there is no need for new legislation. At this point, however, I see it as important that this Subcommittee would subject IRS to the closest scrutiny in its present regulatory effort and, should it persist in his effort, to take *all* steps within its power to curb that effort.

3. One particular point, which is basic to the position of IRS and all of its supporters, is a slight-of-hand equating, *in the legal sense,* of tax exemption with subsidy. This view had been urged upon the Supreme Court in *Walz* and rejected. In his concurring opinion in *Walz,* Mr. Justice Brennan states:

"Tax exemptions and general subsidies, * * * are qualitatively different. Though both provide economic assistance, they do so in fundamentally different ways. A subsidy involves the direct transfer of public monies to the subsidized enterprise and uses resources exacted from taxpayers as a whole. An exemption, on the other hand, involves no such transfer. It assists the exempted enterprise only passively, by relieving a privately funded venture of the burden of paying taxes * * * Tax exemptions, accordingly, constitute mere passive state involvement with religion and not the affirmative involvement characteristic of outright governmental subsidy.[14]

4. In weighing the controversy in which IRS has embroiled private and religious schools this past year, I respectfully suggest that you Congressmen probe deeply into the question *why* this heated pursuit of these schools by IRS? Only a small percent of all school children in the nation are enrolled in private schools, and most of those schools are religious schools. Yet we hear it said that IRS is staffing up for all-out enforcement of this Revenue Procedure against private schools—with the little lobbyless fundamentalist Christian schools largely in mind. One wonders why, and it is to be hoped that the Congress will not suffer the funding of any official expression of religious bias.

5. If, based solely upon IRS administrators' interpretations of Supreme Court decisions (which all must admit are not in point), IRS may fasten *this* Proposed Revenue Procedure on religious schools, there is plainly no reason why, in succeeding years, the administrative imagination should not produce further and worse intrusions upon those schools. Indeed, by letter to IRS dated March 20, 1978, Mr. Jeffrey M. Miller, Assistant Staff Director for Federal Evaluation of the U.S. Commission on Civil Rights, made the following demand:

"We also believe that IRS should specifically *prohibit* racial, ethnic and *sex* discrimination in the treatment and selection of *faculty.*"

This is incredible. It is here seriously stated that IRS has power to *prohibit* discriminations, and IRS is goaded now to push into further areas in the life of a private school. But there is more. The letter further states:

"We believe that IRS should include in the revenue procedure a statement to the effect that church schools will be subject to the same rules as all other private schools."

Plainly, the present proposal is only a hint of what some public servants have in mind with respect to the rights and liberties of the citizenry. It is *no* answer to say that IRS employees are expert in all manner of religious, racial and social questions and must be relied on to deal wisely and fairly as administrators. My clients are as little desirous of the favor of public servants as they are fearful of their disfavor. Their reliance is not upon their public employees but upon laws given by the legislature and within the Constitution. With Madison, in his great Memorial and Remonstrances, they say:

"* * * [I]t is proper to take alarm at the first experiment with our liberties * * * The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedent. They saw all the consequences in *the principle,* and they avoided the consequences by denying the principle." James Madison, A Memorial and Remonstrance, II Madison 183191. (Italic supplied.)

FOOTNOTES

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[1] 268 U.S. 510 (1925).

[2] The research paper by this body, dated Nov. 21, 1978, entitled, "Proposed IRS Revenue Procedure Concerning Revocation of Tax Exempt Status of Racially Discriminatory Private Schools" can only be described as pro-Government advocacy and scarcely as an objective study of the relevant law.

[3] 330 F. Supp. 1150 (D.D.C. 1971), aff'd. sub nom. *Coit* v. *Green* 404 U.S. 997 (1971).

[4] 5 U.S. Code Cong. and Adm. News, 6051, 6058 (1976).

[5] Opening Statement by the Commissioner of Internal Revenue. Hearing on Proposed Revenue Procedure on Tax Exempt Private Schools, December 5, 1978, 3.

[6] *Walz* v. *Tax Commission,* 397 U.S. 664, 674 (1970).

[7] *Lemon* v. *Kurtzman, supra.*

[8] *United States* v. *Ballard,* 322 U.S. 78 (1944); *Presbyterian Church* v. *Mary Elizabeth Blue Hull Presbyterian Church,* 393 U.S. 440 (1969).

[9] The due process clause of the Fifth Amendment has been recognized as barring denials of equal protection by the federal government. *Bolling* v. *Sharp,* 347 U.S. 497 (1954).

[10] For example, those of the Association of Christian Schools International.

[11] If IRS should attempt to sift parental motives so as to distinguish religious from secular motivations, it would thereby violate the Establishment Clause.

[12] I mention these groups because the proposal does. But the proposal says that "'Minority' is defined as including the following separate categories * * * [Blacks, Hispanics, etc.]." That leaves up in the air whom else "including" includes.

[13] *Levon* v. *Kurtzman, supra.*

[14] *Walz, supra,* at 690–691. And see Kelley, D. M., Why Churches Should Not Pay Taxes, 33–34.

VALIUM: ITS USE, MISUSE, AND ABUSE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, as a member of the Select Committee on Narcotics Abuse and Control that has held extensive hearings on drug abuse among our youth, the elderly, women, ethnic minorities and in the military, that has reported on the deadly effects of the hallucinogen phencyclidine (commonly known as PCP or "angel dust"), cocaine, marihuana, Talwin (a painkiller), pyribenzamine (an antihistamine), that has studied international narcotics trafficking and the illicit financial transactions derived from this sordid industry, and that has conducted numerous field investigations into drug abuse prevention and control both here and abroad, I am fearful that our Nation is becoming a drug-oriented society whose citizens are more and more becoming psychologically and physically dependent upon drugs. Too many are seeking to escape into deadly mind-altering substances to resolve their personal and societal problems.

Hardly a day goes by that Federal, State, and local law enforcement agents do not seize marihuana, cocaine, heroin, PCP, quaaludes, and other dangerous drugs, not by the pound but often by the ton, by the planeload and boatload. Hardly a day goes by that U.S. Customs inspectors do not seize substantial sums of currency and monetary instruments from organized crime's attempt to launder money obtained from their nefarious drug transactions. Hardly a day goes by that a hospital emergency room does not report a drug-related injury or a death resulting from the abuse of heroin, amphetamines, barbiturates, stimulants, depressants, and tranquilizers. Each year more and more women, the elderly, and our youth resort to drugs in an effort to escape from their personal and social problems. Each year more and more of our citizens obtain drugs illicitly or through overly prescribed prescriptions.

Illicit drug trafficking is a multibillion dollar business. Its annual sales in the United States alone are estimated to exceed $50 billion, which, I understand, places this sordid trade third in sales after Exxon ($79.1 billion) and General Motors ($66.3 billion). Narcotics trafficking is not limited to organized criminal syndicates. Doctors, lawyers, educators, businesmen, and other professionals have entered the drug trafficking business as independent entrepreneurs. Unscrupulous physicians, pharmacists, nurses, hospital employees, and "patients," have garnered hundreds of millions of dollars in illicit profits from their pill pushing and illicit prescription activities.

The drug paraphernalia industry, whose neighborhood stores ("headshops") glorify the use of drugs, reap an estimated $1 billion each year through the sale of kits for inhaling, ingesting, and injecting deadly mind-altering drugs.

The trafficking and prescribing of drugs have reached epidemic proportions. The chronic use, misuse, and abuse of mind-altering substances have become a way of life for millions of our citizens, causing debilitating and deadly effects on hundreds of thousands of individuals. Dr. Joseph A. Pursch, Chief of Alcohol and Drug Rehabilitation Service at the Long Beach Naval Hospital—the hospital that helped treat Betty Ford, Senator HERMAN TALMADGE, and Billy Carter—has stated:

> Some physicians treat life itself as a Valium deficiency—that is, that you really can't live very well if you don't drink or use Valium on an ongoing basis. What the pharmaceutical companies are saying is "diabetics take insulin, cardiac patients take digitallis and nervous people take Valium."

The National Institute on Drug Abuse (NIDA) has estimated that there were 8,400 deaths and 286,000 emergency room visits related to drugs in 1978—the year for which data has been most recently reported. With more than 260,000 prescription and over-the-counter drugs on the market in the United States and the annual purchase of an estimated 275 million psychoactive drug prescriptions, it is no wonder that this Nation is fast becoming a drug-oriented society, where drugs are a way of life for relaxation and recreation or are used to sedate anxieties, tranquilize tender nerves and kill real or imaginary pain for millions of individuals who mistakenly believe that they can escape into mind-altering substances to resolve their problems.

The excessive use of marihuana, cocaine, amphetamines, barbiturates, depressants, and tranquilizers lead to psychological and physical dependence and, eventually, death. The courageous warning by our former First Lady regarding the dangers of combining alcohol and valium dramatically illustrates the cross dependence resulting from the use of these drugs and the debilitating effects of drug abuse. Commenting upon her chemical addiction, Betty Ford stated in her memoirs, "The Times of My Life":

> At first, I was bitter toward the medical profession. Fouteen years of being advised to take pills, rather than wait for the pain to hit. I had never been without my drugs. I took pills for pain, I took pills for sleep, I took mild tranquilizers. Today things are changing, doctors are being educated right along with the rest of us, but some of them used to be all too eager to write prescriptions. It was easier to give a woman tranquilizers and get rid of her than to sit and listen to her.

National statistics indicate that women are more susceptible than men to drug abuse and more vulnerable to the promotional sales pitch of the drug industry and to the eager physicians who write prescriptions. NIDA estimates that in the United States, 31 million women have used tranquilizers, compared to 18 million men; 2 million women have become dependent upon prescription drugs and 5 million women, including many who are dependent upon pills, are alcoholics. Sleeping pills are prescribed to twice as many women as men.

Mr. Speaker, the most widely prescribed drug on the market to date and one that has become a symbol of our drug-dependent society is valium (diazepam), a tranquilizer that is a household word for treating anxiety and a drug that, when abused singularly or in combination with other mind-altering substances, has sent more individuals into hospital emergency rooms than any other drug on the market. NIDA has estimated that in 1978, more than 45 million retail valium prescriptions were filled (or the dispensing of more than 2.5 billion valium tablets) to consumers to treat anxiety, conclusive disorders, skeletal muscle spasms, and alcohol withdrawal. And these statistics do not include all of the valium tablets that were illicitly obtained. In that regard, the New York State Division of Substance Abuse Services recently estimated that 552,000 men, 272,000 women, and 220,000 schoolchildren in the State of New York have taken this sedative without any prescription.

NIDA estimates that nearly 31 million prescriptions were written in 1978 for the painkiller darvon, 13.7 million prescriptions for the antianxiety sedative dalmane, and 11.1 million prescriptions for librium, the psychoactive cousin to valium. In 1978, valium overdoses accounted for an estimated 50,200 emergency room visits and an estimated 1,000 deaths * * * human tragedy and the loss of life that is statistically exceeded only by the overdose of alcohol, combined with other psychoactive drugs, accounting for an estimated 53,200 emergency room visits and 2,230 deaths. Valium/alcohol cross addiction is not uncommon among many of our citizens.

An analysis of most reported cases of drug overdosages for 1978 disclose the following hospital emergency visits: Valium (50,200), aspirin (16,900), PCP (14,400), dalmane (11,500), marihuana (10,100), darvon (9,800), heroin/morphine (9,400), elavil, a psychostimulant (8,300), librium (7,700), quaalude (5,800), and cocaine (5,100). However, this is only the tip of our national drug abuse problem since NIDA's data of recorded emergency overdosages is gathered from medical examiners and emergency room reports from only 24 metropolitan communities (or, according to some authorities, approximately 30 percent of our population) and does not include drug abuse that goes undetected and unreported.

The pharmaceutical industry spends more than half a billion dollars on product promotion of which more than $260 million is spent on the selling of psychoactive drugs and approximately $131 million is expended on direct mailing, sampling and journal advertising. Hoffman-LaRoche, Inc., the manufacturers of valium and librium, generated $370 million in drug sales in 1977, of which $250 million was derived from the sale of valium. Its advertising budget for valium was $9 million (out of a total $40 million budget).

With regard to the prescribing practices of physicians, the Narcotics Select Committee in its report entitled, "Polydrug Abuse—the Response of the Medical Profession and the Pharmaceutical Industry" (1979) found:

First. The American Medical Association (AMA) has no formal mechanism for dealing with physicians who overprescribe;

Second. No effective action has been taken by the AMA to review the credentials of physicians indicted for questionable professional practices;

Third. The AMA does not consider physicians having financial interests in pharmacies as having a conflict of interest; and

Fourth. The AMA does not view over-prescribing or misprescribing as a serious national problem to treat it as a crisis in the medical profession.

Mr. Speaker, I am concerned that not enough effort is directed by the drug industry, the medical profession, by practicing physicians and pharmacists, and by the medical and pharmaceutical schools in educating and warning the public regarding the dangers of drug abuse and the dangerous side effects from the misuse and abuse of valium and other psychoactive drugs.

Studies have shown that excessive use of valium can lead to psychological and physical dependence, withdrawal symptoms similar to alcohol withdrawal from the abrupt discontinuance of the drug (including convulsions, tremors, cramps, vomiting, sweating, dizziness, crawling and pins and needles sensations in the skin, memory impairments, depression), and congenital malformations during the first trimester of pregnancy. The psychological effects from the misuse and abuse of valium (and other mind-altering drugs) are dependent upon the state of mind and the biological/chemical balance of the individual at the time the drug is being ingested. Excessive use of valium can and has induced slurred speech, distortions of reality, anxiety, hallucinations, stumbling and disorientation (vertigo), euphoria and paranoia.

Medical research cautions prescribing Valium to individuals who evidence severe or latent depression or suicidal tendencies. Valium-treated patients should be cautioned against driving a motor vehicle, operating machinery or engaging in hazardous occupations requiring total mental alertness. An overdose can produce low blood pressure, depressed respiration, coma, and possibly death.

Valium, a central nervous system depressant, should not be combined with other tranquilizers, barbiturates, narcotics, alcohol, or other psychoactive drugs except under strict supervision of a physician who can monitor and evaluate the patient's reactions to the drugs. Valium combined with alcohol and certain other drugs operate synergistically to compound the horrendous side effects of these substances that can require emergency room treatment. A mixture of valium and alcohol can be a deadly potion.

Barbara Gordon, CBS Emmy award-winning documentary producer and author of the best-selling book, "I'm Dancing As Fast As I Can," describes her anxiety-ridden Valium addiction and the debilitating effects of abruptly withdrawing from her 30 milligram daily Valium dosage—"cold turkey" withdrawal advice given to her by her psychiatrist. Her psychiatrist also told her that Valium was not psychologically or physically addictive—and for 10 years she believed him. She vividly writes of her harrowing experience in abruptly withdrawing from valium:

> Later I must have been asked a hundred times why I stopped cold. There is no easy answer, but as usual, once I made up my mind to do something, I did it, and it didn't occur to me to do it any other way. And besides, my doctor had said to stop cold—not an ordinary doctor, but a friend, a man, a psychiatrist, who had known me for ten years. He wouldn't tell me to do the wrong thing.
>
> I knew it wouldn't be easy, of course. I had seen films about heroin withdrawal; scenes from A Hatful of Rain and The Man with the Golden Arm were etched in my mind. But I wasn't a junkie; I was going off medicine, not drugs, I thought. And it is always done cold turkey. Valium wasn't heroin; it couldn't be such a rough withdrawal.
>
> Valium is an interesting drug. It isn't an upper or a downer. It's a leveler. It evens things out silently, quietly. No rush, no thrill, no charge. It's called the safe and sane drug; millions of prescriptions are written for Valium every year, not counting hospital use. So obviously I was in good company. It had certainly helped my anxiety attacks in the past, but it didn't always work anymore, no matter how many I took. I had started taking Valium for a back problem beginning with four milligrams a day. Now I was up to thirty and couldn't get out of the house without taking them. I was taking them before an anxiety attack, trying to ward it off, or to minimize the terror. And that didn't always work either. Why bother?
>
> I didn't know why Valium worked when it did, or why it didn't. Nor did I know that withdrawal from Valium can be more difficult, even more dangerous, than withdrawing from heroin. Months later, I would see other addicts—and, believe me, tranquilizer takers can become addicts—being withdrawn from Valium five milligrams a week over a long course of treatment. I was taking thirty milligrams a day and I went off it cold. I didn't know I wasn't supposed to do it that way. I only knew I had to change things, I knew I wanted to stop. If I didn't have the courage to say no to more films, at least I could say no to the pills. It was all the same. In a few days I'd be fine, rested, refreshed, ready to face a new day, a new film, Eric, life.
>
> Instead I blew my head open. But I was lucky: I could have died.
>
> Alone in the apartment that sunny Saint Patrick's Day, I ground coffee beans, read the Times, listened to music. I was changing my life, I was intoxicated by a feeling of liberation: no pills, no work, just me, being. It was probably going to be tough, I knew, but I was ready to face it. I'd see it through. Then slowly strange things began to happen. By early afternoon I began to feel a creeping sense of anxiety. But it was different from my usual bouts of terror. It felt like little jolts of electricity, as if charged pins and needles were shooting through my body. My breathing became rapid and I began to perspire.
>
> Damn. I'd expected something to happen, but not here. I had never had an attack in the apartment before. Outside, yes. In restaurants, elevators, stores, streets. Restaurants were too noisy, streets too wide, stores too crowded, buildings too tall, elevators too fast. But home, home had to be safe. It couldn't happen here. I wouldn't let it. It was safe here, it was always safe at home. I told myself to be still, to breathe slowly. Just breathe.
>
> My scalp started to burn as if I had hot coals under my hair. Then I began to experience funny little twitches, spasms, a jerk of a leg, a flying arm, tiny tremors that soon turned into convulsions. I held on to the bed, trying to relax. It was impossible.

Obviously patients and physicians need to be better informed about the side effects of valium and other psychoactive drugs and the potential dangers of cross-addicting these substances. All too frequently physicians have justified the massive prescribing of valium on information received from the manufacturer's detailmen (salesmen) who are concerned about meeting sales quotas and upon the assertion that valium can be prescribed for an entire spectrum of anxiety disorders. Patients frequently rush to a physician to resolve their anxieties and expect or demand a valium-related prescription to relieve their problems.

In an effort to help prevent making the wrong medical diagnosis and to prevent prescribing the wrong medication, there is an urgent need for physicians to receive more formal pharmacological training in medical school and for medical school programs to devote more required study of the dangerous side effects from the misuse of drugs.

Last year, during its hearings on polydrug abuse, the Narcotics Select Committee learned that medical students receive only 3 to 6 hours of course work in pharmacology. The medical profession, the drug industry and medical/pharmaceutical schools need to devote more time, effort and funds on researching the side effects of drugs.

Physicians receive the bulk of their information regarding the use of drugs from detailmen, from journal advertisements, and direct mail advertising. It has been estimated that a drug manufacturing company spends approximately 25 percent of its budget on promotional activities and only 8 percent on research. Pharmaceutical companies should devote more of their revenues researching the side effects of drugs, and physicians should be encouraged, even required, to attend continuing education programs in pharmacology. More education regarding the use, misuse, and abuse of drugs should be required for pharmaceutical salesmen. There is an urgent need for the pharmaceutical industry, the medical profession, medical/pharmaceutical schools, and the Federal, State, and local governments to act in a concerted and cooperative manner to warn the public regarding the dangers of drug abuse. Pills per se do not solve problems; they cause problems.

The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) has reported that researchers from the National Institute of Mental Health (NIMH) have discovered evidence that the brain manufacturers its own tranquilizers. The researchers have isolated chemical compounds in the brain (purines) that appear to mimic a class of tranquilizers (benzodiazepines), which include Valium and Librium, thereby, according to the report, raising hope for the development of newer and safer drugs, free from adverse side effects of sedatives.

Mr. Speaker, the widespread use, misuse, and abuse of Valium and other drugs is evidence that our Nation is becoming a pill-popping, drug-abusing society. We need to stop and ask ourselves about the long-term implications of a society that dulls its sensibilities in the name of mental health. If our society has become too stressful and strainful without the massive use of psychoactive drugs, then the time has come to reflect upon where we have gone wrong, how we can cope with stress and strain without becoming chemically dependent upon drugs, and what these alarming trends mean for the future.

Our Nation can no longer afford to produce a society whose citizens are numbed by physical and psychological dependence upon drugs. Resorting to pills is not the way to cope with complex personal and societal problems. The pharmaceutical and medical professions have a responsibility to intensify their efforts to help warn the public regarding the use, misuse, and abuse of drugs. To do less is an abdication of their professional responsibility and their sacred public trust inviting Government intervention.

Mr. Speaker, let us call upon our Nation's drug manufacturers, physicians, pharmacists, and their professional schools and associations to act in a concerted, coordinated manner by pooling their resources, personnel, funds and expertise to formulate a highly visible, drug abuse prevention campaign that would help build a society free from the debilitating effects of drug abuse. The efforts by the medical/pharmaceutical professions are vital in helping to raise the consciousness of the public regarding the dangers of drug abuse and in helping to win the "war" on a problem that is causing so much human misery for so many of our citizens.

☐ 1940

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I will be pleased to yield to the gentleman from California, who spent a great deal of time and effort in fighting this battle against narcotics.

Mr. DORNAN. Mr. Speaker, my distinguished friend from New York is engaged in a noble effort tonight, to be sure. The suffering that has gone on in our country in the last decade due to psychotropic drugs is the hidden part of an iceberg of agony in our society.

I have been the ranking minority member on a committee, our Select Committee on Narcotics, that is chaired by the distinguished gentlewoman from Illinois, CARDISS COLLINS. I sat in on hearings on the Subcommittee on Women under the Select Committee on Narcotics last September 13, 1979, and heard testimony from women and psychiatrists and people about nightmare stories of how women across the country have been the principal targeted victims of these psychotropic drugs, particularly this drug of Valium.

I remember years ago, when the television show on at night was, "Mary Hartman, Mary Hartman." It was very popular, and produced by Norman Lear, famous television person, who is helping the other Presidential candidate. He thought it was funny, through his writers, to put on that show the following sequence: Mary Hartman was kidnaped by some psychopathic person. and at one point someone turned to a crowd gathered in the street at the kidnaping scene, and she said, "Does anyone have a valium?"

Every single person in the crowd—the firemen, the policemen, even the newsboy, reached into their pockets and whipped out a little 10 milligram blue or 5 milligram yellow Valium, and the big ha ha, the yuk there, was supposed to be that our society is saturated by tranquilizers, particularly the ultimate one—Valium.

I remember shortly after that, or maybe it was before that, we had the vice president of the multimillion-dollar successful Swiss operation, Hoffman LaRoche, before our committee. The only word to describe him was "arrogant." He just not only did not think this was a problem; he all but said that if everybody in the world was on Valium, there would be no wars. It was, I think, a disgraceful performance.

I can only say that on personal experience I have been fortunate enough never to have popped drugs of any kind. My wife has to force aspirin on me. I know how easy it is for someone to fall, so that they slowly escalate their way up the ladder of psychotropic drugs. I can personally state that I know three marriages—I think I know dozens—but I know three marriages for certain where the marriage was destroyed because one or both of the parties had this chemical put into their brains and altered their thinking processes. Two of them have come to me since. They bravely quit cold turkey, and they conceded that their marriages would have stayed together and they would have taken different roads in life and they would not have had trouble dealing with their lives if they had not been thinking differently because of the input of this drug. Valium.

One of the psychiatrists that appeared before Mrs. COLLINS' committee was Dr. Robert Seidenberg. He is a psychoanalyst and psychiatrist clinical professor of psychiatry at Upstate Medical Center in the gentleman's State of New York, at Syracuse. His testimony was given in that September 1979 hearing. The title was: "1979: Does Misogyny Still Sell Mind-Drugs?"

I do want for a minute to indicate this sort of problem affects only high school kids, college kids, or men, but I repeat, women are the specific targets of these drugs, but it appears as much respect as I have for the medical professional particularly, this is one area where I know the medical profession is stumbling, and stumbling badly. They are misogynists when it comes to dispensing this drug Valium to women. He closed with the last line, and that is why I said the gentleman is about noble work indeed.

Dr. Seidenburg said:

> The horrors of prescription, mind-drug promotion have barely been exposed in this brief discussion. Obviously affecting all patients, there is little doubt that women have been and are unabatedly the prime targets for this exploitation.
>
> To resist and counter this massive onslaught is noble work indeed.

I listened to the gentleman's statement. It is so filled with accurate nightmare statistics that I am going to ask the gentleman to join me in appealing to DeWitt Wallace of the Reader's Digest to see if they cannot do a lead cover story, as they have done with other types of drug abuse in our country today, on this one drug, Valium. For all I know, they have already done it, but I think maybe this message has to be carried across every drug body in the country, with feature stories in women's magazines, who have only played around the edges, but it has been a contributing drug in suicide, in death.

☐ 1950

Most people laugh when you tell that there have been overdose deaths from this drug alone. I have seen one woman—and doctors defied me on this until I proved it—who was taking as high as 28 to 30 double whammies a day. That is a 10-milligram blue valium. She was taking up to 30 of them a day.

It is absolutely incredible the body tolerance that can be built up. Any doctor worth his salt who knows anything about the physiology of drugs will admit that coming off heroin cold turkey is less difficult and less dangerous—and there is less danger of fatality—than coming cold turkey off Valium addiction.

The tragedy that this has spread across our country, with the heartbreak, the broken marriages, and the kids left without parents, is absolutely incredible. It just simply cannot be overstated. No hyperbolic statement is worthy of the crushing social problem of psychotropic drugs, particularly Valium.

Mr. Speaker, I am submitting for the RECORD, at the end of my remarks, all of Dr. Seidenberg's statement. I would tell any American concerned about this problem, male or female, who comes across this excellent special order today, to please go to the committee records of the Select Committee Narcotics Abuse and Control in the U.S. House of Representatives and find the hearings for the week of September 11. That is September 11, 12, 13, and 14, particularly the hearings held by Congresswoman CARDISS COLLINS on Thursday, September 13, this incredible testimony, particularly the part relating to the ads run on the mind altering drugs produced by American pharmaceutical firms and European pharmaceutical firms. These are the drugs that run in the doctors' magazines. And as a matter of fact, there is a Valium addiction problem among people in the medical profession.

You do not think so? Ask your local doctor.

Again, Mr. Speaker, I want to congratulate the gentleman from New York (Mr. GILMAN) for this special order. Let us think of any way we can to give this the widest possible circulation.

Mr. Speaker, it was an honor to join the gentleman in this special order.

Mr. Speaker, I include in the RECORD at this point the statement of Dr. Robert Seidenberg, to which I referred earlier, as follows:

1979: DOES MISOGYNY STILL SELL MIND-DRUGS?

(Statement by Dr. Robert Seidenberg)

Ten years ago, this author reported the blatant sexism and prejudice against women depicted in medical and psychiatric drug advertisements. Since these "messages" were obviously designed both to attract the attention and approval of the physician, I asked, "Does Misogyny Sell Mind-Drugs?" Since then many experts and observers have confirmed that (1) the chief target for psychotropic usage indeed is women; and (2) their representation in the advertisements are on the whole entirely reprehensible, qualitatively, and quantitatively.

For some of us, sadly, there is little wonder or mystery why twice as many women are "receiving" tranquilizers as men.

The present abbreviated presentation is a (lack of) progress report. (Many in the pharmaceutical industry claim that the advertisements have vastly improved in the last decade.) I have found scant improvement, and taking into account the run-away proliferation of "throw-away" periodicals in the last few years and the continuation of bald sexist content, one can see only an intensification of the drive to tranquilize. (Figures I, II)

There is only one area that has improved: the appearance of females as physicians is now occasionally seen. (Figure III) I repeatedly brought this "discrepancy" to the attention of the pharmaceutical industry in the early '70's. On the same figure (III), however, there appears a bit of ongoing deception in the promotion of Stelazine that should be stopped. On the left, the capition reads: "Your patient's excessive anxiety (underlining mine) is enough to worry about." However, in the fine print (on the right) the FDA has classified the indications for this major transquilizer as effective in the management of psychotic disorders (underlining mine). Again, in small print, we read that it has been determined that this drug is only possibly (underlining mine) effective in controlling "excessive neurotic anxiety."

The reasons for this questionably ethical representation are quite apparent: the market for "excessive neurotic anxiety" is far greater than for psychosis, and the patient with the former condition is more likely to be under the care of the general practitioner or internist than psychiatrist. Now over 70% of the psychotropic drugs are prescribed by physicians other than psychiatrists.

Figure IV represents another continuing and unchallenged abomination wrought by the pharmaceutical companies, that of gratuitously manufacturing new metaphorical "diseases" and "syndromes" for which their drugs are to be used. In the past, they have created "empty-nest syndrome," "sleep-cripple," "office-fixture," and the neologism, "copelessness." Here (Figure IV) we see their new "stigma" for the elderly woman, "sundown syndrome." There are many experts in the field of geriatrics who feel that the use of tranquilizers here is a form of social control, diminishing the ability of the elderly to make their needs known.

The virtues of surrealistic art aside, the one-dimensional draping of a woman's body with her walker, over the letters of "PAIN" does little to enhance the image of that sex, as seen in Figure V. Again, the portrayal of women passively and recumbently "dissolved" in pain is an all too familiar false stereotype. Men are never depicted in this pejorative manner.

Figure VI carries on an apparently fruitful advertising tradition of identifying women with pills—up to her ears in them. Here, "their" pill is supposedly the better one—to replace the others. Unwittingly, Sandoz herein projects graphically their industry's "success" with women.

This advertisement fosters and promotes the image of women as "pill-popper" as well as of that sex with the ubiquitous "headache."

The woman as child is an all too familiar theme in drug advertisement. Here, in Figure VII, she is shown on a merry-go-round. The phrase, "going around in circles" does little to enhance her value as a responsible and employable person.

The mythology of "changing" people with the use of drugs by the medical profession is one of the cruel hoaxes of our times. How ridiculous it sounded in the 60's when the "kids on the street" gave this as the rationale for doing their drugs. Figure VIII shows the distraught, disheveled female mental patient seeing everything and everyone, including the approaching male, in a negative way—"everything I saw was negative." The advertisement tells us that the anti-depressant, Norpramin, "helps change her world from negative to positive." One might add parenthetically that many men today would dearly welcome being seen more positively. It is hoped that this could be accomplished without having to drug "the other."

Lastly, we see in Figure IX, an inglorious theme that surfaces too frequently in these drug advertisements. This is the ironic dehumanization of psychiatry's own client, the mental patient, here again, the woman. She is depicted in this figure diminutively as the captive or caged bird (here in an ungilded cage.) Whether descriptive or prescriptive, this illustration sets people (patients) apart as a deranged, animal-like class, a pejoration which we generally deplore when expressed by the unsophisticated. Is it accidental that the "caged bird" is a woman?

The horrors of prescription, mind-drug promotion have barely been exposed in this brief discussion. Obviously affecting all patients, there is little doubt that women have been and are unabatedly the prime targets for this exploitation.

To resist and counter this massive onslaught is noble work indeed!

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California (Mr. DORNAN) for his kind words and for his leadership in helping us to raise the consciousness of our citizenry regarding the dangers of drug abuse, and particularly the drugs that he mentioned this evening. His personal experience and his insight into this problem are certainly an inspiration to all of us. I hope that we can work together to try to publicize this crucial problem across our Nation.

● Mr. WOLFF. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague from New York (Mr. GILMAN). Tranquilizers, as well as the interaction of alcohol and deadly substances, have become the most abused drugs in America today and I believe Mr. GILMAN's efforts to highlight this very serious problem are a great service to the Nation.

The Select Committee on Narcotics, conducted a series of hearings in 1978 on prescription drug abuse which explored factors that contribute to this most pervasive drug abuse dilemma. It was evident from the testimony we received that some of the drug advertisements that are published in medical journals are sometimes questionable in terms of the vast claims made by the manufacturers. There have been ads printed which represented some prescription drugs as a panacea for virtually all physiological and psychological ills.

In particular, the elderly and women are often stereotyped in these advertisements as requiring the most chemotherapeutic attention. This is not only a disservice to these segments of our population but it can often prove to be quite hazardous to their health as well.

In addition, pharmaceutical detailmen are sometimes overzealous in marketing these drugs irrespective of their potential adverse properties when taken in conjunction with other substances. The committee has received reports which suggest that there exists gross deficiencies in the pharmacological education of some detailmen. This has caused me to be concerned about the objectivity of some detailmen in selling their products.

Although there is always a need to improve the role of the pharmaceutical industry in making physicians and the general public aware of the potential hazards of prescription drug abuse and misuse, I believe that we must focus more specifically on the principal conduit of these drugs to patients—and that is the medical profession.

A study undertaken by the American Medical Association some time ago pointed to the tremendous influence of advertising, detailmen, and the Physicians Desk Reference, a book published by the pharmaceutical industry, upon the prescribing practices of physicians. The survey indicated that medical journal advertising was a major influence on 25 percent of the physicians queried. Additionally, 63 percent of the physicians questioned described the efforts of drug detailmen as having a marked influence on their prescribing habits.

Finally, according to this same survey, 84 percent of the responding physicians indicated that the PDR was of major importance in determining how they should prescribe drugs. I must admit that I have been greatly encouraged by indications that the AMA is willing to address this problem. Recently, the AMA announced that it intends to issue prescription guidelines to physicians. I believe that this could be a most constructive step in curbing prescription drug abuse, and I want to commend the AMA for taking this action.

The issue of prescription drug abuse raises a whole plethora of social questions, such as whether physicians are prescribing symptomatic relief through the use of psychotropics rather than providing a cure, or whether doctors are receiving adequate pharmacological training in order to be aware of the side and synergistic effects of prescription drugs. It is vitally important that pharmaceutical manufacturers advertise and market these substances in a most responsible manner while at the same time it is the duty of the members of the medical profession to write psychotropic drug prescriptions with the utmost care. In line with this, I believe it is incumbent upon the Congress to continue to monitor the misuse and abuse of prescription drugs in order to insure their legitimate and proper use.●

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6418, MOTOR CARRIER ACT OF 1980

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1101) on the resolution (H. Res. 714) providing for consideration of the bill (H.R. 6418) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7584, STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1102) on the resolution (H. Res. 715) waiving certain points of order against the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7235, RAIL ACT OF 1980

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1103) on the resolution (H. Res. 716) providing for consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. MAGUIRE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RACIAL VIOLENCE IN SOUTH AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MAGUIRE) is recognized for 60 minutes.

Mr. MAGUIRE. Mr. Speaker, 4 years ago, protests by black South African schoolchildren over that country's segregated educational system turned to violence. On June 16, just 2 days ago, the anniversary of the outbreak of the Soweto riots came. The Soweto riots staggered white South Africa, leaving 700 blacks dead and introducing new levels of oppression, with hundreds arrested and scores of black self-help organizations banned.

Over the past 3 months, a new wave of racial protests and a systematic escalation of violence by black guerrillas have raised ominous echoes of the violence of 4 years ago and threats of worse to come.

In a series of articles in the last few weeks in the Washington Post and the New York Times, particularly articles by Carol Murphy and John Burns but also some articles by others, we find the accounts of these events of recent weeks in South Africa, with headlines such as these:

"South African Police Kill Two Nonwhite Pupils in Group's Stolen Cars."

"South African Military Exerts Greater Influence on Policy."

"South Africa Prohibits Rites for 76 Rioters."

"Racial Grievances Erupt Into Fatal Riots in South Africa."

"Blacks and Police Clash on Soweto Anniversary."

And in today's Washington Star we see this headline tonight: "New Rioting Hits South Africa: 37 Reported Dead, 200 Wounded as Police 'Shoot To Kill.'"

The last element of that headline is based on a statement by Gen. Mike Geldenhuys, Commissioner of Police, who warned sternly, according to the newspaper account by William McWhorter of Time-Life News Service, that he had issued "shoot to kill" orders to the police against anyone suspected of arson and looting.

Mr. Speaker, perhaps before I continue with my statement, I should yield to my two colleagues who are here: the cochairman of the Ad Hoc Monitoring Group on Southern Africa, the gentleman from New York (Mr. DOWNEY); and I also see the gentleman from Michigan (Mr. WOLPE) is here.

Mr. Speaker, at this time I yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, Monday, June 16, marked the fourth anniversary of the spontaneous wave of protest which swept through South Africa and took on the name of the black township from which the anger and frustration of living under apartheid burst forth—Soweto. The people of Soweto were, and are used to being poor, and hungry and living in overcrowded conditions. They, like the residents of other black townships are used to making their way every morning into the white city to perform the essential blue-collar tasks necessary to keep South Africa's booming economy flourishing. What is harder for them to become used to—what many of them refuse ever to get used to—is living with an undeserved but nevertheless unerasable stigma; a social, economic, and political stigma which marks them out for unequal treatment from cradle to grave. In the Republic of South Africa that stigma is race.

The question that should be asked is what the Government of South Africa has learned in the 4 years since the violent expression of frustration and outrage by the stigmatized majority in their nation. For the answer one has only to look at what has transpired in South Africa since 1976, and what is taking place now in the summer of 1980. Once again trouble is boiling in the black schools and universities of South Africa. Black students and so-called colored students—that is Indians, Asians, and other nonwhite or mixed race students—are complaining bitterly that their government is spending three times as much on educating a white child as it does on their education. They want books, they want classrooms, and adequately trained teachers. They know that their only hope for the future depends on getting an education, and they have taken to the streets to demand one. Classes have been boycotted, universities closed, and the world has seen the indignity of South African police fighting with schoolchildren in the streets of Capetown.

Strikes have also broken out among the Black workers in textile mills and other factories in which the pay and treatment of workers differs with race, and where black labor unions are being refused recognition. Industrial unrest is not new in South Africa, and neither is dissatisfaction in the schools and universities, but the difference in 1980 from the time of the Soweto riots of 1976 is that both school strikes and labor strikes are now occurring at the same time.

On other fronts there is also alienation among the fourth estate in South Africa. The press is still reeling from the introduction of a law which would have prevented the publishing of the names of persons who had been detained by the police. This law was withdrawn under protest but it would have had the effect of allowing people arrested to virtually disappear, since no one would have known who had been detained under the broad security laws of South Africa. This is the nation which consistently brags on its anticommunism, but does not refrain from introducing laws which would make any commissar smile with understanding.

Four years after Soweto South Africa continues to operate under the world's only legalized system of racial separation. The National Party of White Afrikaners, which has ruled since 1948 with about 9 percent of the population, continues to control the reins of power for their own narrow segment of society. It goes without saying that they see the black majority of their countrymen as existing in a totally inferior milieu from themselves, but they have also separated themselves from the Asian business people, South Africans of mixed race, and even white South Africans of English descent. They have reacted to increasing protest and social discontent with increasing repression. The ranks of those arrested and imprisoned or banned include church men and women, journalists, educators, student leaders, writers, and people of social conscience both black and white.

Many of the South Africans to whom I have spoken like to compare their country to the United States. But if the Republic of South Africa is ever to convene a constitutional convention to draw up a broadly based democratic system like our own they will need to release their own potential Jeffersons, Adams, and Paines from the prison of Robben Island.

An all too familiar pattern is emerging in South Africa. It is an extremely disturbing pattern. Peaceful protests have been suppressed, peaceful protestors have been imprisoned, rational and moderate demands have been brushed aside; the belief is becoming prevalent that rational demands can only be achieved through violence. People are beginning to take to the streets with the feeling that they have nothing further to lose. Today's newspapers report at least 15 persons killed in rioting this week, and tomorrow we may read that the toll has risen even higher. Surely the South African Government can see where this trend is leading; long promised and long overdue reforms must be forthcoming if further violence is to be forestalled.

Unfortunately, if the South African Government is to be judged not by its promises but by its actions in recent months, then further retrenchment and further isolation from the people they govern—black, white, and colored—is the order of the day for the future. The lesson of Soweto 1976 has not been learned. Let us hope that the outpouring of disillusionment and frustration from the black majority in Soweto 1980 will not be similarly ignored. I firmly believe that the deaths of 600 people of Soweto 4 years ago will someday be celebrated as a national day of commemoration in a majority-ruled State of South Africa, and the sooner that is realized and accepted by the present Government of that country the better for all those of us who wish to see peaceful change rather than violent struggle there.

□ 2000

Mr. MAGUIRE. I thank the gentleman for his participation and for his leadership, along with the gentleman from California (Mr. MCCLOSKEY) in the House, of the ad hoc monitoring group, and I know that that is why the gentleman joined with two Senators, the cochairmen of the monitoring group in the other body, Senator PAUL TSONGAS and Senator MARK HATFIELD, and nine of our colleagues in the House in a recent letter to the Ambassador of South Africa in the United States on the subject of the release of Nelson Mandela.

I would like at this point in the RECORD to include the full text of the letter, "Free Mandela" campaign, which has attracted wide popular support in South Africa. The letter is as follows:

AD HOC MONITORING
GROUP ON SOUTHERN AFRICA,
April 21, 1980.

DONALD B. SOLE,
Ambassador Extraordinary and Plenipotentiary, Washington, D.C.

DEAR MR. AMBASSADOR: We have noted recent reports from South Africa of a campaign to release Mr. Nelson Mandela from confinement on Robben Island.

Inspired by the successful independence election in Zimbabwe, the "Free Mandela" campaign has attracted wide popular support in South Africa. Many participants in the campaign hope that Mandela's release will be a prelude to a national convention of all racial groups to determine South Africa's political future. The dominant theme of the campaign is a negotiated, peaceful resolution of South Africa's racial crisis.

Mandela's release is critical to the process of racial reconciliation in South Africa. Sixteen years of imprisonment have not diminished his stature as the most popular and revered black leader in the country. He personifies the black man's struggle against apartheid. Any attempt to forge a new political system in South Africa must include Nelson Mandela.

As American legislators concerned with the peace and security of Southern Africa, we wish to encourage those initiatives designed to avert racial violence and bloodshed. We support the campaign to release Nelson Mandela. We support the proposal for a national convention to be attended by authentic national leaders, many of whom are presently banned, detained, or imprisoned. We urge your government to release Nelson Mandela and to participate in a National Convention.

May we hear the views of your government on these questions?

Sincerely,

Congressman Paul N. McCloskey, Senator Mark O. Hatfield, Congressman Edward J. Markey, Congressman Tom Harkin, Congressman Melvin H. Evans, Congressman Andrew Maguire, Senator Paul E. Tsongas, Congressman Thomas J. Downey, Congressman Berkley Bedell, Congressman Julian D. Dixon, Congressman Ted Weiss.

Mr. DOWNEY. If the gentleman will yield further, it is clear to me that the imprisonment of Nelson Mandela, the banning of his wife Minnie, are perfect examples of how the Government continues to miss the boat with power sharing. These are the very people that the Government should be involving in the political process, bringing into the mainstream, and yet blindly South Africa keeps Nelson Mandela on an island about 50 miles off the coast of South Africa and does not allow any contact with his wife, who gets to visit him about once a year, but they are not able to touch. If there is any more eloquent example of their stupidity, it is the way they have handled Nelson and Minnie Mandela.

Mr. MAGUIRE. I might say to the gentleman that I had the distinct privilege of visiting briefly with Minnie Mandela when I was in South Africa in the summer of 1978, a most exuberant woman, full of hope for the future of her people and her country. Yet she is banned and restricted. We were watched very carefully during the meeting by the security police. The meeting took place in the office of her lawyer in that town, and, of course, the way that she as well as her husband have been treated over the years has done nothing but exacerbate the situation. Not only are the South African Government representatives clearly opposed to any meaningful change and willing to use whatever force is required to make sure that no change takes place of any significance, but they are also unwilling even to open a discussion about the future of the country with those in the colored and black and Asian communities in the country who have status and leadership in those communities.

The government is totally unwilling to even open the discussion in any meaningful way, never mind what the results of any discussion or convention, which is an idea that is catching on more and more among those who care about the future of South Africa both inside and outside the country. And until some indication is present that the government is prepared to change this approach, I am afraid, deeply afraid, and very concerned that we are going to have an escalating pattern of violence.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Speaker, I want to associate myself fully with the remarks of the gentleman from New Jersey, and I also want to commend him on the leadership that he has exercised today in requesting this special order and over many, many months in the past in drawing the attention of the Congress and the American public to the developments that are of such vital interest that are occurring in South Africa, a vital interest not only to the people who reside in that region, but of vital interest to all of us as Americans.

Mr. MAGUIRE. Mr. Speaker, may I just interrupt the gentleman to say how much we appreciate his leadership on African issues in the International Relations Committee on which he serves.

Mr. WOLPE. I thank the gentleman for his statement.

Mr. Speaker, the recent bombing of three South African petroleum plants—and the recent riots in South Africa cannot be looked upon as isolated incidents. They have taken place in a climate of increasing repression of South Africa's black majority and rising resistance to that repression. They are a signal that the strife in South Africa has reached a new level of intensity.

In the last few months a wave of strikes by black and colored workers has swept South Africa. From the textile mills of Durban to the meatpacking plants in Johannesburg, they are protesting low wages, of course, but more importantly they are protesting against the system of surveillance and control of movement established by the pass laws. On April 14, colored students in Durban joined in the wave of walkouts, staging a boycott of classes to demand an end to racial separation in education. The boycott, which rapidly spread to black high schools and universities, is especially significant because it was sparked by coloreds, who have until recently remained fairly passive in the conflict between black and white.

The increasing isolation of South Africa's white minority has not altered its determination to maintain its unilateral control of the country. The regime seems to believe that it can reestablish order through heightened repression. In an increasingly polarized atmosphere words of moderation and conciliation are looked upon as akin to treason. Tear gas and dogs have been used against strikers and boycotting students. Over 600 were arrested on 1 single day. Demonstraters are shot dead by the police. The regime continues its systematic persecution of leaders of the black community. On May 26, 53 churchmen, who were marching peaceably to protest the house arrest of one of their compatriots, were themselves arrested. Among them was Bishop Desmond Tutu, the chairman of the South African Council of Churches. They were charged under the Outdoor Assemblies Act, a law that prohibits the basic human right of assembly.

Mr. Speaker, it is becoming increasingly difficult to believe that a peaceful transition to a free and just society is possible in South Africa. The white minority refuses to consider serious moves in this direction. Since the Soweto uprising in 1976, when over 600 or 700 young people were killed by the police, more and more blacks have concluded that armed struggle is their only course. I hope they are wrong, but recent events are indeed ominous. Given the continued unwillingness of white South Africa to contemplate meaningful change, it may be too late to prevent a prolonged and tragic confrontation in South Africa.

Even so, the United States can still act to reduce the length and intensity of the conflict. It can withdraw its support of the current regime, cut American economic ties with South Africa, and wait for the day when it will be possible to offer our good offices as a helpful outside party in the settlement that must finally come. We have the example of the recent events in Zimbabwe to give us hope and direction. I might add that such American initiatives, in my judgment, would serve not only the interests of those decisions of achieving meaningful change in South Africa itself, but would also serve America's long-term national self-interest.

Instead, however the American Government and American business interests are involved in South Africa in ways that will in all likelihood prolong the conflict and undermine America's influence and position within this regime. To take the incident at hand, the three petroleum plants bombed recently were owned and operated by SASOL, a government-owned corporation. Two of these plants were coal conversion plants, prototypes of a process which South Africa hopes will make it self-sufficient in energy. SASOL is building these plants to guard against a day when South Africa, facing the enmity of the entire world, will be forced to rely entirely on its own resources. South African blacks view them as part of a program to insure their subjugation regardless of international pressure. The SASOL plants apparently were chosen as targets precisely because they symbolize South Africa's determination to maintain its racist system.

Mr. Speaker, these plants were built by Fluor Corp. of California, as part of a $4.8 billion contract with South African Government. Furthermore, the State Department has recently authorized other firms to do business with SASOL, allowing them to bid for the rights to SASOL's data banks. With American firms involved in such dealings, the black population of South Africa cannot fail to see us as a bulwark of the present regime. By our actions we are alienating them, as we prolong the conflict by strengthening the hand of the white minority.

For years, I have pointed out the need for our country to take a firm stand against the brutality and the racism of the South African Government. Recent events illustrate quite clearly that the need for a less business-as-usual approach by our Government and private sector institutions is more urgent than ever.

The text of the New York Times article reporting on the recent raid and the South African Government's response to it follows. Its implications should be clear to everyone familiar with the situation in southern Africa:

ATTACK ON SOUTH AFRICAN OIL PLANTS EXPECTED TO BRING STIFF RETALIATION

(By John F. Burns)

JOHANNESBURG, June 2.—The South African Government indicated today that it was contemplating stiff retaliatory action against the African National Congress, the banned black nationalist organization that took responsibility for the bombing of two synthetic petroleum plants and one of the country's largest oil refineries.

The attacks, the most serious in two decades of sporadic guerrilla actions against the white minority Government, caused giant fires at two of the three plants. The fires were still burning, though apparently under control, nearby 24 hours after the midnight blasts.

The fires caused damage estimated at nearly $8 million and led to an immediate review of security in the country's elaborate industrial complex, never before hit by a major guerrilla offensive.

POLICE HAVE NO LEADS

The police, usually successful in infiltrating the African National Congress and tracking down guerrillas, acknowledged during the day that they had no leads on the guerrillas responsible for attacking semi-secret oil-from-coal plants that are among the most strategically sensitive installations in the country.

One of the few clues was the sighting of one of the insurgents by a security guard. The guard was shot when he interrupted the attacker inside a security fence, and he was recovering in a hospital from a shoulder wound.

As the Government reviewed its options in the wake of the blasts, a fourth attack was foiled at the recruiting offices of the South African Oil, Coal and Gas Corporation, a state-owned concern that operates the plants attacked earlier in the day.

Three bombs were discovered at the offices in Springs, east of Johannesburg, and disarmed. The police minister, Louis le Grange, said the bombs were "clearly the work of the African National Congress."

The guerrilla group issued a statement in London taking responsibility for the bombings.

In a statement issued in Cape Town, Mr. le Grange gave no details of the actions planned by the Government, which was seriously embarrassed by the success of the guerrillas in simultaneously penetrating security arrangements at the two plants, 75 miles distant from each other in coal-rich regions south and east of Johannesburg.

However, the statement indicated that Prime Minister P. W. Botha and his ministers would be looking at ways of punishing the African National Congress when the ministers meet at a regular weekly session in Cape Town tomorrow.

Apart from direct retaliation against the African National Congress there was the possibility of a new round of detentions and bannings of those deemed responsible for widening unrest in the country.

Mr. le Grange singled out the activities of Joe Slovo, a white South African émigré identified by Western intelligence sources in the past as the principal planner of guerrilla actions by the African National Congress. The police minister noted that Mr. Slovo, a former Johannesburg lawyer who is an executive of the banned South African Communist Party, lives in Maputo, capital of the neighboring black state of Mozambique, and said that his purpose there was to oversee the operations of "terrorists" and "spies" infiltrating into South Africa.

BLACK NATIONS ARE WARNED

Mr. le Grange reiterated past warnings to Mozambique and other black countries on South Africa's borders, saying they should realize the risks involved in harboring individuals and organizations committed to subversion.

Government concern was reflected by a visit to Sasolburg, 55 miles southwest of Johnnesburg, by Energy Minister Frederick de Klerk, who inspected the buckled and twisted remains of fuel storage tanks at the smaller of the two plants and an adjacent refinery. The pall of black smoke from the burning gasoline, jet fuel and butadiene rose at least 10,000 feet and was visible in central Johannesburg.

Officials said production at the two Sasolburg plants had not been affected by the attacks, which were confined to the storage tanks. They also reported no significant damage at the much larger plant at Secunda, southeast of Johannesburg, where several bombs exploded without fire in the heart of the processing complex.

LITTLE SUCCESS FOR GUERRILLAS

The $3 billion plant, constructed by the Fluor Corporation of Los Angeles, began production only three months ago. This plant and a third under construction nearby are expected to provide up to half of the oil requirements of the country, which has no natural crude oil.

There was no attempt by officials to disguise the implications of the attacks. In 20 years of underground activities, the African National Congress and its smaller rival, the Pan-Africanist Congress, have made little impact with guerrilla operations that generally have been poorly organized. But the pattern of failure began to change in the last 18 months and particularly since the turn of this year, dubbed "Year of Action" by African National Congress leaders in exile in Britain and elsewhere.

The stepped-up guerrilla efforts, almost all mounted by the African National Congress, have concentrated on attacks on police stations, several of which have come under rocket and small-arms fire. At least five black policemen also have been killed while off duty. But the most sensational episode until yesterday was the hostage-taking in January at a bank in the Pretoria suburb of Silverton, where three guerrillas and two white hostages died in a shoot-out with police.

The fuel-plant attacks took the campaign a step further. The success of the guerrillas in entering the plants, detonating explosives and getting away suggested for the first time that the African National Congress might be capable of mounting a major campaign of industrial sabotage.

The firebombings followed weeks of upheaval in schools, universities and factories, centering on a boycott of classes by black, Indian and mixed-race students demanding equal education with whites.

Mr. MAGUIRE. I thank the gentleman from Michigan for participating in the special order; to remember Soweto, June 16, 1976, and what it means and also to think together about the meaning of the event of recent weeks.

□ 2010

Mr. Speaker, in mid-April, a school boycott was organized in the Cape Town area among so-called colored students, South Africans of mixed Asian, African, and European descent, defined as a separate race under the apartheid system. As many as 100,000 students, some as young as 11, boycotted classes, demanding an end to unequal spending in education and the creation of a single, nonracial educational system. The boycott spread quickly to other urban centers, with teachers and then Asian and African students joining in sympathy.

The reaction of the Government, despite some initial moderation, was painfully predictable. "People endeavoring to achieve confrontation with the Government by unconstitutional means must just accept that they will get what they deserve," Police Minister Louis Le Grange pronounced on May 27. "If anybody thinks we are going to allow any monkey business from them, they are in for a big surprise." The next day, two students, said to be about 14 years old, were shot to death by the police during a demonstration in Cape Town. Currently, with the boycott at a low ebb, over 1,000 people have been arrested. In its most recent move against the boycotters, the Government expelled every student who has boycotted classes at the 15 Government-funded colleges for mixed-race students.

At the same time, the outlawed African National Congress, or ANC, has escalated its campaign against the Government in this, their self-proclaimed "year of action," leading the Rand Daily Mail to declare that South Africa has entered a "state of revolutionary war." The successful simultaneous bombing earlier this month of two synthetic petroleum plants and an oil refinery, causing millions of dollars in damage, shows a new level of sophistication on the part of the ANC and makes a major campaign of industrial sabotage a real threat. Earlier this year, two Soweto police stations were attacked, and a bank in a Pretoria suburb was raided by three black guerrillas who took 16 white hostages, demanding the release of political prisoners. The police killed the three, but the funeral of one of the guerrillas drew nearly 20,000 people.

To many in the West, this seemingly sudden upheaval in South Africa must come as a surprise, after months of tough and forward-looking statements by Prime Minister Botha about the necessity to "adapt or die." But as the continuing unrest in the black community demonstrates, little has changed. Botha's calls for the relaxing of apartheid are merely a cruel sham, a public relations ploy to placate the West, while the fundamental tenets of apartheid remain unchallenged.

The homelands policy, which dictates that 70 percent of the population be crammed onto 12 percent of South Africa's land, continues unabated. Since 1948, 2 million blacks have been resettled, with the numbers in the past decade reaching 100,000 a year, according to the South African Institute of Race Relations. "Resettlement" is a disingenuous word; what it means is the forcible and often sudden removal of blacks from lands reserved exclusively for whites to remote rural slums with no jobs, on barren, unproductive land which often lacks adequate supplies of food and water.

Recent legal concessions won by blacks—like the right to organize unions—which appear to eliminate important aspects of apartheid—in fact, do not. Unions, which have to be registered with the Government in order to be recognized by employers, are prohibited by law from engaging in "political activities." The Minister of Labor has categorically denied that the new ruling will permit integrated unions. In fact, many companies have encouraged white unions to set up parallel black branches to counteract the influence of the new, independent black unions.

Of much more importance to blacks is the new "influx control" legislation which went into effect late last year, which imposes a 500 rand fine on those who employ an unregistered or "illegal" worker. Where previously illegal work meant survival for many families—even if the breadwinner spent several months of every year in jail—with such a powerful disincentive applied to employers, the only way blacks can now obtain legal employment is to be recruited or requisitioned from the Labor Bureau in their homeland. This further strengthens the system of apartheid. Thousands have now lost their jobs, and thousands more their chance for a job, as a result.

The crackdown on internal critics of the Government continues unabated, as the recent arrests testify. Although the Government steadfastly denies it holds any political prisoners, over 500 people convicted of political crimes are now in prison. Under such legislation as the Terrorism Act, which states that anyone can be arrested and held indefinitely without trial or charge, over 9,000 people under the age of 18 alone have been arrested in the last 3 years, according to the International Aid and Defense Fund for southern Africa.

The treatment of prisoners has not improved; 44 people have died in police custody since 1963. The police and Government continue to deny the well-documented reports that they routinely use torture to extort confessions, or that they are responsible for the deaths of prisoners. In a case now before the South African Supreme Court, police are claiming that black consciousness leader Mapetla Mohapi (CQ) committed suicide while detained, offering as proof a suicide note experts have testified is a forgery.

I stand to speak not merely on a question of human rights. To view this simply as a humanitarian question is to ignore the vital interests of the United States that are at stake. Much of the world's oil passes around the Cape of Good Hope. South Africa is the leading producer and supplier to the West of chrome, platinum, manganese and vanadium, all highly strategic metals essential to such processes as steelmaking. Many of the counties surrounding South Africa are, willingly or not, dependent on South Africa's transportation system and economy to provide jobs and keep their own economies afloat. At the same time, our unwillingness to take meaningful steps against apartheid remains a major stumbling block in our relations with other African countries.

To ignore the inevitability of full black political participation in South Africa, to ignore that the once unthinkable has now come to pass in Zimbabwe, to continue to stand in silent partnership with South Africa's cruel and unnatural system, is to risk losing all influence in that country and ultimately to produce an openly hostile nation embroiled in continuous chaos. It is a dangerously narrow definition of national security that dictates spending billions and billions of dollars on weapons systems of debatable effectiveness while we exercise no foresight, ignore the lessons of the past, and take no constructive steps to defuse such a strategic powderkeg as South Africa.

I just hope we have not reached the point where our actions have become irrelevant. A new generation of blacks—angry, self-assured, and determined—has arisen in South Africa, fostered by Steve Biko's black consciousness movement and by many others who question the accommodations of their elders, and fostered too by a violently repressive state that found it necessary last month to arrest en masse a peaceful, hymn-singing demonstration of over 50 Anglican church figures, including two bishops, with police armed with automatic rifles and attack dogs.

We must not deceive ourselves. The attitudes of the new generation and the recent escalation of sabotage are the product of nearly 50 years of strikes, marches, sit-ins, boycotts, and civil disobedience being met consistently with violence and death.

It is this conclusion—that violence is inevitable—that many South African blacks have reached. Last month students, the oldest around 18, stoned to death a man who tried to persuade them to end the boycott. The time for negotiating is quickly slipping past. We must not allow shortsighted policy to foster a growing reliance on violence on both sides.

It is in this context that the release of Nelson Mandela would be such a significant, both symbolic and substantial political act. It would signify a willingness on the Government's part for the first time to deal seriously with the issues of the future in South Africa.

Mr. Speaker, in the May issue of the Atlantic Monthly, David Halberstam, one of our most well-known and probing journalists, wrote an article entitled "The Fire To Come in South Africa." It is an excellent account of where things stand, and I think that it should be available to all Members and to the public and, at this point, I would ask that it be inserted into the Record.

The article follows:

[From the Atlantic Monthly, May 1980]

THE FIRE TO COME IN SOUTH AFRICA

(By David Halberstam)

The once unthinkable came to pass in March in a country to the north of the Union of South Africa. The white minority, after decades of suppressive rule, gave over to the black majority and Rhodesia became Zimbabwe. What does it portend for South Africa, where the white 17 percent of the population wields seemingly unassailable power and vows never to give equality to the 19 million blacks? Very little for the foreseeable future, believes an experienced reporter who spent several weeks studying the South African scene. But, as evidenced by last year's trial of the Soweto Eleven, a new generation of blacks—angry, rebellious, and determined—is rising, and with it, the prospect of growing terrorism and violence.

Kempton Park is a small suburb between Johannesburg and Pretoria. It is very near Jan Smuts Airport and many of its residents—middle-class whites—are employed in the aircraft industry. In a society where neighborhood style is often dramatic and revealing (much of Johannesburg plush and affluent, like a Beverly Hills in the African subcontinent, and Soweto, the black township of Johannesburg, an endless, sprawling Harlem), Kempton Park is so middle-class as to be invisible. It could be picked up and made part of Queens tomorrow. But that is precisely why last year the state, which is white, chose Kempton Park for the trial of eleven young blacks. It is some thirty miles from Soweto, and had the trial been held closer to home, the daily sight of Soweto's children in the dock might have inflamed passions—something the state, in a society where so much black anger rests just beneath the surface—was anxious not to do.

It was an important event, the trial of the Soweto Eleven. The eleven, ten boys and one girl, then ranging in age from sixteen to twenty-one, were among the leaders of the black student uprising of 1976, which shook Soweto, white South Africa, and, if not the world, at least foreign capital. They were charged with sedition, which, in a society given over to uncommonly harsh security laws, often harshly interpreted, is a relatively light charge. They could as easily have been tried under the state's terrorism law (under it, for example, a black cannot tell anyone that he or she thinks America should not invest in South Africa). And, if the state willed it, they could easily have been found guilty. But the state, in a gesture of unusual caution, chose to downgrade the charges. It did this not for the benefit of the accused but rather for its own sake, reflecting its pragmatic ambivalence, a desire to be secure, to keep the blacks in place, but not to do it so openly, so nakedly, as to offend the West. For the economic future of South Africa is always paramount, and foreign investment is vital. That matters more than the lives of eleven young blacks.

This trial, I think, made a break with the past. For these youth, however desperate their condition, however great their anger and their awareness of the risk they were taking, were trying to reach their government through legitimate means of protest. In 1976,(many blacks already felt that the government could not be reached. Nonetheless, they went ahead, taking most of Soweto's youths with them. Of the leadership of the 1976 protests, many are dead and many more fled the country to take up military training and study elsewhere. Those on trial were the leaders who remained, some of them deliberately deciding against leaving so that on the inevitable day when they were picked up, and when they were tried, the best of that leadership would be represented.

In those heady days of June 1976, almost all of Soweto's children marched and protested a variety of grievances. The protests of those young blacks, carrying placards, demanding better education, demanding an end to the teaching of Afrikaans in their classrooms ("If we learn Afrikaan, Vorster must learn Zulu," said one placard), were based on the assumption that the rulers of South Africa could hear, and hearing, could care, and caring, could act. The children began with their anger and their grievances and their placards; later they threw rocks; and finally, as the police used automatic weapons, they reciprocated with Molotov cocktails. In Soweto alone some 600 young people were killed; in the entire country perhaps 1,000 died.

Perhaps more. Both sides have learned their lessons from those days and they are ominously very different lessons: the blacks, that it was innocent to believe that the state would listen; the whites, that they met the black challenge with too little, not too much, force. Government officials boast of how little firepower they actually used to crush Soweto. "Only the police, not even the army," they say. Their mistake, they now believe, was that they moved too slowly with too little force. Perhaps, they say, they were too aware of foreign opinion. Next time they will not be so soft. They will teach the bloody kaffirs a real lesson.

The trial was a reminder of those days, and of how far apart the two sides are. It was the case of the state versus Wilson Welile Chief Twala, Daniel Sechaba Montsitsi, Seth Sandile Mazibuko, Mafison Marobe, Jefferson Khotso Wansi Lengane, Susan Sibongile Mthembu, Ernest Edwin Thabo Ndabeni, Kennedy Kgotsietsile Mogami, Reginald Teboho Mngomezulu, Michael Sello Khiba, and George Nkosinati Yami Twala. As the trial wound down, the prosecution deliberately tried to avoid drama. A true right of assembly, the prosecutor said, exists in South Africa, but it has limits. How much can a state take? Freedom of speech has limits as well. These people must learn that we will set the limits.

The trial became in its own way a window to South Africa, a way of seeing how little whites know of black life, innocence helping to sustain evil. The judge, Hendrik van Dyk, is not by Afrikaner standards a cruel man, although he ruled against virtually every defense motion. But he seemed to reflect Afrikaner naiveté about the lives of South African blacks. Once, early in the trial, a black witness was talking about the festering conditions in Soweto. A defense attorney pressed in: "Don't most blacks in Soweto think they are oppressed?" The judge was shocked. How could someone, he demanded, say something like that in *open court?* Later Dr. Franz Auerbach, an educational expert, was testifying about the causes of resentment in the black schools.

One very basic reason, he said, was that the average primary school class for whites contained twenty-five children; a comparable class for blacks had an enrollment of about eighty children. The judge interrupted to say he did not understand why that was a problem. Why, he said, his own son was at the University of Pretoria, and 100 students were in his first-year Latin class. Later, when Manas Buthelezi, a black bishop of Soweto, was describing the semi-prison life of men, taken from their wives and families, who live in Soweto work hostels, the judge interrupted him. I don't understand, he said.

I lived in a hostel myself when I was at the university, and it was quite pleasant. Buthelezi heard him and patiently tried to explain: My Lord, you were a student then and that was quite voluntary. These are grown men who desperately need jobs, but in order to find work they are separated from their wives and families, and they are very bitter about it. They live, My Lord, he said, in a very different kind of hostel.

This is what the Kempton Park trial was all about: the attempt of a generation to escape from a future that the state tries to impose on them and which the young blacks reject. As the defendants saw it, the entire idea of Soweto, the black servants' quarters of Johannesburg, was on trial. The student leaders, elected from each school by their classmates, were the cream of a generation. They saw themselves as a community on trial, nothing less. In the beginning, when Ernest Wentzel and Shun Chetty, the defense attorneys, first talked to them, they explained that the defendants represented something larger than themselves, the very condition of a community, and as such they would have fewer options than they would have in a normal trial; that their own comfort and ease, perhaps their own freedom, was secondary.

From then on the youths seemed to deal with every question concerning trial policy not as uncertain, nervous adolescents but almost as village elders, envisioning how their peers and, indeed, history would view them. When I was in South Africa, the trial, which began in July 1978, had been under way, on and off, for almost a year. The state's contention was that the riots of 1976 over the teaching of Afrikaans were not a reflection of deep and festering grievance in every home in Soweto, long suppressed only by harsh police measures and an insidious informer system, but rather the work of an isolated handful of students who mischievously provoked their less sophisticated but good-hearted contemporaries.

The defense for the eleven contended that the 1976 riots were spontaneous, that long before their anger exploded into the streets, it smoldered in their hearts. The state would have liked to prove that these children were an elite, richer and more advanced than most of their contemporaries. But no one who knew anything about Soweto believed that. The families were in fact the embodiment of the generation gap which marks black townships. The parents were ordinary people, much more cautions than their children, uneasy with the political course the children had taken, at once angry with the state for what it did, proud of their children, and terrified of what would happen to them.

The difference between the generations is crucial to understanding South Africa. For these young people are the reflection of a new, angry, and curiously confident black revolutionary class. The revolution that has taken place is a revolution of self. The young are poor and semi-powerless, and yet they have an almost palpable belief in their own destiny, that they will rule South Africa in their lifetime. They are more politicized and less Christian than their parents, impatient for a better life in this world rather than in the next one.

The whites like to say, and some may even believe, that the great division in Soweto is tribal; this is wrong, for the real division is generational. The whites see the blacks in their forties and fifties as accepting the whites' dictates; the young blacks see the same people, indeed their own parents, and they are terrified of becoming like them. In truth the young both love and hate their parents; their anger often extends to the oppressed as well as the oppressors.

After the state arrested hundreds of blacks involved in the Soweto riots, the most bitter arguments took place in the detention centers, where the young made their elders walk the plank, often interrogating them into the early morning. Why were they so middle-class? Didn't they know they were becoming like the whites? For the older blacks, nominally leaders in Soweto, there was a clear sense in those detention meetings of the passage of power, that the young had already taken charge.

All of that is the product of a decade which saw the rise and death of black leader Steve Biko, the collapse of the last of the Portuguese empire, the passing of a white government in Rhodesia. Pretoria did not accommodate to these changes except to isolate Soweto more, to declare that the children of Soweto would have to study Afrikaans in equal proportion to English in all subjects, including technical ones. The students already had two languages—their tribal one and English. The last thing they wanted was a difficult third language. Afrikaans was to them the language of the oppressor, a confirmation that they lived under an alien colonial regime.

To study Afrikaans was to admit that the oppression would continue through their lifetime. Though the statute about learning Afrikaans had been on the books for some time, the government had never done very much about it. Then in 1973 and 1974 Afrikaans became an issue; delegation after delegation of parents, teachers, and Soweto leaders tried to warn the authorities off, but lack of love for Afrikaans is not a subject that Pretoria enjoys hearing about. For weeks and months before, Soweto's officials, many of them mild and moderate people, had been warning the whites of an explosion. The whites did not listen. Manie Mulder, the chairman of the white body governing Soweto, told reporters in the middle of May 1976 that all this talk of growing tension was vastly exaggerated.

The blacks, he claimed, were perfectly content. "Black-white relationships are presently as healthy as can be," he said. A reporter from the Rand Daily Mail was stunned by that, and asked Mulder whether he saw any chance that Soweto might blow up. "None whatsoever," said Mulder. A month later Soweto blew.

The young blacks on trial were responsible beyond their years. In most of their homes both parents work, and, given the grim transportation system of Soweto, the parents are often gone before breakfast and home after dinner; so the older children must care for the younger brothers and sisters, cook for them, be, at times, proxy parents. Family ties are thus unusually strong and occasionally painful. When Jefferson Lengane, one of the Soweto Eleven, was in prison, he heard that his younger brother was thinking of dropping out of school. He wrote his brother: "You must remember that we go to the green pastures, not the green pastures to us, and the road to your pasture is through education."

Ernie Wentzel, the defense attorney, was struck by the young leaders' avidity for life, their desire to read everything they could, their curiosity about everything around them. Part of Wentzel's job, he soon found out, was defending them, part was finding them books to read, and part was arguing with them about what they had just read. By contrast, he found the young whites of South Africa remarkably sheltered and rigid. The young blacks, trying to come to terms with the injustice of their lot, took sustenance from examining everything around them; the more they learned, the more bearable it all became, the less their condition was their own fault.

The state became somewhat ambivalent about the trial. It cared about foreign investment and it did not want a trial about terrorism because the very word "terrorism" can scare away foreign investors; indeed, partway through the trial the state offered a deal: If the eleven would plead guilty to sedition, the state would suspend sentences against all of them. The students were made uneasy by the offer. Were they being tempted to disavow themselves and those great moments? They declined, and the judge would not go along with the deal in any case.

That deal falling through, the state concentrated on two of the eleven, Daniel Montsitsi, at twenty-three one of the oldest of the group, and Mafison Marobe, twenty-two. Montsitsi was a target, his friends thought, because he was so stolid and unflinching, so unwilling to submit to the state's power and authority. He was the leader of the protests, but only after other, more charismatic youths had fled the country. He was not the most brilliant or the most exciting of the student leaders, but he held the leadership when the risks were the greatest, when the passion of the first moment was gone and the reality of the dangers of what they had done was most obvious. To the state, his greatest sin was his failure to be afraid, to acknowledge the vulnerability and inferiority of blacks. I asked one of his lawyers why the state had come down so hard on Montsitsi.

"They think he is cheeky," the lawyer said. But he seems very reserved and polite, I said. Almost modest. "Oh, yes," said the lawyer, "he is all that. A very nice boy. Any family would be glad to have him. But he is not afraid of them. That is his cheekiness." In prison before the trial, the Special Branch had beaten Montsitsi relentlessly; when his lawyers were finally allowed to meet with him, they were appalled by his physical state. He seemed retarded, as if the beatings had damaged his brain. It was hard to imagine him as the boy who had been the leader of the Soweto Student Representatives Council. The lawyers were terrified for him; they ordered brain scans, and found that the damage was not so much physical as psychological: the combination of the beatings and the isolation had simply been too much. The other students treated him with special tenderness, as one might treat a younger and not entirely sound brother. Slowly he began to regain his faculties.

If the state was angry at Montsitsi, some officials were even angrier at Mafison Marobe, because they thought he was smarter and more knowing, and, finally, more cynical about the events. Marobe belonged to an older, smaller, and more sophisticated faction among the students who never believed the issue was Afrikaans, who never believed the state would listen. These blacks believed that Soweto was already politicized; what they wanted was to prove the futility of protest, take it a step further, and militarize it. Thus, from the start, the riots for them were not so much a challenge to Pretoria as a demonstration for Soweto. In that sense, when it was over, when the state had crushed the riots with a hard, final display of force, when hundreds of blacks were dead and thousands had fled the country to take up military training in the Soviet Union, Angola, and other neighboring countries, these blacks had made their point.

Marobe, more than anyone else, reflected their attitude. He did not dress the way a South African black should. The others hid their politics in the normality of middle-class dress; Marobe did not. He carried his political dissidence openly, his head shaved, pince-nez atop his nose. If the young Lenin had been black, he might have looked something like Marobe. Marobe was a little older than the others; he had connections with the African National Congress (ANC), the outlawed black political party now in exile and at war with Pretoria, and he had a record of political dissidence. Marobe was considered the intellectual leader of the group, probably brighter than most of the others, certainly the most advanced ideologically, more Marxist in his thinking. The others were groping in their politics; theirs were still the politics of race, whereas his were more radical, the politics of class as well. He had, the state was sure, helped the riots from one level of confrontation to another, and there was something about his very bearing in the courtroom that seemed to mock them.

Watching the trial for a time, I was struck by one other thing about it and about the defendants. They had, because of the proceedings, because the state had decided to try them, become bigger people, as had their families. All their lives they had been black and faceless, numbers on a pass at best. Here, despite the limits and controls on them, despite the knowledge that the state would determine their sentence, they had been given a dignity they never had before.

Later, a small story illustrated this. Some of the wives of the defense attorneys and their friends had gotten in the habit of bringing food to the trial for the defendants and for their families, and they had come to know and like the families. In particular, they were impressed by Mr. Montsitsi, the father of Daniel, an angry and proud man with an intense dignity of his own. The mixture of anger and pride was palpable, anger over what was happening to his son, pride that his son had done what he had. The whites came to treat Mr. Montsitsi with great respect and no small amount of awe, and they were almost childishly pleased on the relatively rare occasions when Mr. Montsitsi smiled at them and opened up. He became a figure of considerable stature in this small, separated world of the court. One day Jill Wentzel, the wife of the defense counsel, needed to get hold of Mr. Montsitsi at the office where he worked as a messenger. She called and asked if Mr. Montsitsi was there. Who? a voice answered. Mr. Montsitsi, Mrs. Wentzel said. Who? the voice asked again, Mr. Montsitsi, she repeated. We don't have anyone like that, the voice said. So Mrs. Wentzel checked the number with the voice. Yes, it was the right number. Well, Mrs. Wentzel said, she was sure Mr. Montsitsi worked there.

"Montsitsi . . . Montsitsi," said the voice, and then there was a flash of recognition. "Oh, you mean the boy."

Then finally came the judgments. The trial was over. By South African standards the sentences were light. Seven of the youths drew suspended sentences of five years each. Two other defendants drew two years each, also suspended. Daniel Montsitsi received a sentence of eight years with four suspended, and Mafison Marobe received seven with four suspended. No one was pleased; even those who received suspended sentences were bitter, since their careers in politics were proscribed. That which meant most was taken away.

Shortly after the trial was over, Shun Chetty, one of the defense attorneys, was talking with friends about the students. He was very depressed about the entire process. No, he did not want the congratulations of his friends; yes, he and Wentzel had done well; and yes, the verdict had been by South African standards rather light, but didn't his listeners understand? It was all past. Nice young men and women would not protest like this again; there would be no more picketing, no more placards. "They will not be good children anymore," he said. "You will see."

A few weeks later Chetty got a call, not from a friend, but from a contact in the Special Branch, the South African political police. "Keep your calendar clear," the Special Branch man had said. "We've got a big one for you." Indeed they had: a case of twelve blacks charged with treason and terrorism. They had been, like the others, children of Soweto, participants in the Soweto riots, but they had left the country after the riots and they had all been trained abroad, in Angola, in Tanzania, and in the Soviet Union. They had returned with weapons and the state was charging them with acts of "intended" terrorism (all but one had been caught before they had the chance to use their weapons) and acts of recruitment.

Chetty was summoned to represent them, and the moment he walked into the room he could feel the difference. These men were not students or political protesters, they were warriors; they had chosen a very different course, and he, the defense counsel, had no place in it. All their decisions on life had already been made. The veneer of pretense that the country could be changed by political means was gone. To them he was in an odd way as much a representative of the state as the prosecutor. Power in South Africa to them meant force, and force meant dying. Chetty tried to talk to them of courtroom strategies as he would talk to other clients, but they looked right past him; as the law did not exist for them, he did not exist for them.

Shortly after he met them, he went out for dinner with an American diplomat and the American asked Chetty, a South African of Indian descent, questions about foreign investment and disinvestment. Chetty, fresh from hostile confrontations with the guerrillas, raged at the American. "Don't you see that it is beyond that, that they don't care whether your corporations invest or disinvest? They are at war. They want weapons. Will you give them weapons? If you give them weapons you are their friend. If you do not, you are their enemy, and they will find someone else who is their friend. When they win, they will not say, 'Here is Shun Chetty, the good coolie lawyer who represented us, and because he was a good coolie instead of a bad one we will spare him.' They will not talk like that at all. They will kill me, too."

A few days later he was even more depressed. The state had decided to hold the new trial in secret—it did not want the public to know the full extent of the terrorist network—and the accused had decided they would not grant legitimacy to these proceedings by accepting counsel. "If you give up advocates," Chetty had pleaded with them, "you will die." "But we have to die," one of their leaders had said. "We are already at war. Of course they must kill us." Chetty, who had represented hundreds of dissidents in the past, found a coolness there, a finality, that he had never seen before. The blacks ignored the trial, they sang freedom songs, they gave black power salutes. The judge was enraged. He sentenced the leader, James Daniel Mange, to death by hanging ("How far is a traitor to be allowed to go before the death penalty is imposed?" he asked) and the other eleven to terms of from thirteen to sixteen years.

This is a country no longer at peace and not yet at war. Already guerrilla activity has started. Just a beginning. At first it was totally isolated—an occasional white soldier tripping a land mine on the northern border. But now a pattern has begun to emerge. In 1979 guerrillas struck twice against police stations in Soweto. The idea was obvious: to lessen gradually the government's police presence inside Soweto, to intimidate their black members, inhibit their movement, and, in the process, make Soweto the property of guerrillas and the movement of arms easier. So the tension is there, the incidents always escalating just a little. In January, three black guerrillas struck a suburban Pretoria bank demanding the release from prison of Nelson Mandela, the ANC leader. "We never even for a minute," said the police captain, "considered any of their demands." The three blacks and two whites were killed; sixteen others were injured.

The state alternates between suggesting that it has crushed the dissidence and terrorism, that it is completely in control (good for international and domestic confidence), and, on occasion, candidly admitting how many armed guerrillas it must contend with, how tough a task it faces (good for the *Volk*, keeping them prepared, patriotic, and willing to sacrifice). Now both sides arm, the whites publicly, boastfully, the blacks awkwardly, covertly. The state is rich and possesses some of the finest military hardware in the world; if in the struggle ahead the determining factor is weaponry, then Pretoria's might for so small a country is awesome. Pretoria can clearly win a battle with an overt exterior aggressor; the question here, as elsewhere in the past, is whether it can win a struggle within.

The state's armament includes modern French Mirage jets and French-made missile-equipped patrol boats, with sea-to-air and sea-to-sea missiles, improved with Israeli technology (the South Africans like to brag that they have access to the best of the West's technology; that even when America denies them a weapons system, they can pick up the technology through the Israelis). Nor are the South Africans dependent on foreign arms supplies. They are wary of the West and they do not want to be dependent upon the West's good will, which they do not trust, and so they have their own highly developed arms industry to produce light weapons and armored personnel carriers, the basics for a small land war. Not only are they rich enough to buy most of the best the West has to offer, but they are also, on their own, the eleventh-largest arms producer in the world.

South Africa's military strength is directly connected to the riches of its mines. Its military budget requires only some 4 percent of the gross domestic product, and thus is not particularly inflationary. South Africa is industrialized and its neighbors are not; it has electric power (about 30 percent of all sub-Saharan power) and they do not; it has a managerial class, and they do not. It dominates the region. Mozambique would like to be hostile, but Mozambique needs the South Africans to help run its railroads and its port. Since South Africa is stronger and better prepared against overt military challenges than covert ones, Pretoria, several years ago, began the process of separating itself from the white Rhodesian cause. It regarded Ian Smith with barely concealed contempt; it did not want the world to confuse what it considered its historic legitimacy upon its own terrain with the arriviste, post-World War II claims of the Rhodesians; and, above all, it calculatedly preferred a weak and insecure black nation on its border in Zimbabwe (against whose cities it could retaliate militarily) to a weak, unstable white nation unable to control its own territory and against which Pretoria could not lash out.

Meanwhile domestic efforts to stop potential black guerrillas are on the increase. The pass laws have been tightened, and the number of blacks arrested under them rose by 100,000 in one year. The message for blacks is clear: the authorities intend to throw as wide and fine a net as they can. Young whites are called up for national military service, and some patrol the northern border. From time to time discreet newspaper stories report that white soldiers have been killed on border patrol, mostly by guerrilla land mines. White citizens arm themselves. Weapons shops do a thriving, albeit monoracial, business (sales rose steadily after the Soweto riots), and on Sundays men and women drive to the countryside for target practice at private clubs.

In English-speaking homes, where many dislike the government and the Afrikaners, people constantly talk about emigrating. (The outflow now is estimated at 15,000 to 20,000 a year—doctors, lawyers, engineers, architects, teachers. They are mostly Jews and Anglo South Africans.) They feel powerless in the face of events they fear and decisions they do not agree with. Some do not want to educate their children in this country; the lessons are too painful, too much jingoism is taught. Some simply do not want their sons to die on a distant border patrol defending apartheid, killed by some black with whose anger they can sympathize. They fear the future either way. So the English make their plans to emigrate, and much of their thought is about how to get their money out of the country. For the remaining whites, the image of a black swarm is increasingly frightening; the blacks, whites complain, are so prolific. The black birthrate is now four times as great as the white. Afrikaner demographers predict that the percentage of whites in the country will decline from the present 17 percent to 11 percent by the year 2000: 37 million blacks to 5 million whites. Afrikaner ministers and Broderbund officials implore their tribe to breed larger families for the survival of the Volk. Still the gap grows.

The guerrilla war itself has, of course, not yet really started. Occasionally the government finds a weapons cache, or busts up a ring moving young blacks in and out of the country. A black places explosives on a railroad line in a distant junction. He does this to show how easily it can be done, how vulnerable the state is. But he does not set the detonator. He is picked up and tried. Whites misread the lesson and laugh—it shows the bloody kaffirs can't do anything right. But others are not so sure they want to laugh. Some government officials believe the potential is there, that the blacks are simply biding their time, waiting upon events in neighboring Rhodesia, waiting for that country to become even more heavily black.

The government, aware now of the growing pressure against it, has begun to pressure Cape Town, lovely old Cape Town with an ambience reflecting its 300-year history, to allow throughways directly into the city. Many of the residents, loving the old city, hating the fact that it is already being despoiled by skyscrapers, are opposed to the idea. They will have little say in the matter, for the government is not concerned with aiding motorists, but wants quick access to the heart of the city in case of military action, and fears the capacity of black dissidents to block off traffic in Cape Town's narrow streets.

Yet even as they prepare for the fire this time, South African whites remain remarkably disdainful of the military potential of their black adversaries. Despite the evidence of neighboring Rhodesia, where the Africans were slow and clumsy in learning guerrilla techniques for the first three or four years and then very quickly began to score a victory over the whites, the Afrikaners stand confident, not only because of their strength but because they are convinced of their adversary's weakness, nay, his incompetence. Since the Afrikaner cannot see the black as a real person with real feelings and real human potential, he cannot see him as a true military adversary—a modern man using modern weapons. One night in Cape Town, I ask a white English-speaking journalist why that is.

"Three hundred years of contempt," he answers simply. A South African major lectures high school students about prospective duty in the national service. "When all else fails you, you can count on the K factor." There it is: The K factor, for kaffirs (a term now illegal but not departed), for Africans, rife with contempt. Kaffirs cannot do anything civilized or sophisticated; kaffirs, as everyone knows, run when they hear the sound of battle. Another Afrikaner officer, talking to reporters about potential black sabotage, says that blacks will never be able to use land mines. Too complicated. "The K factor," he explains. Hearing this I am chilled, and reminded of the British in Singapore in 1941 who boasted that the Japanese could never be proper aviators because they would not be able to keep their balance, and of the first wave of American officers who came to Vietnam, ignorant of both the land and its people, but certain that the enemy was of a lesser race, and thus was a lesser man.

On one of my first days in Johannesburg, a high government official takes me aside and explains Afrikaner realpolitik to me: "Mr. Halberstam, I know the mind of the African, and the one thing the African understands is power, and we have power. You in America," he says, "lost face with the Africans because of Vietnam." I listen and I hear the proud boasts of all the American colonels in Vietnam again telling of how they would wipe up the Vietnamese.

What particularly angers South African blacks is the whites, official and semi-official, who profess to speak for them and presume to know them and talk about what is good for them. On no issue is the more clear than on the question of investment or disinvestment by American companies in their South African holdings. Though a burning question on American campuses, it is hardly a question at all in South Africa. Blacks think American corporations are like all other large companies, corrupt and cynical and socially amoral. Disinvestment, they declare, would not change anything. But what infuriates them is not just that they are forbidden by law to talk on this issue (they have to ask me to put away my pen, because if they are quoted they are subject to arrest under the terrorism statutes); worse, some whites, always sincere, who speak in their name, say they are for investment because it helps blacks, because blacks need the jobs. Most urban blacks want to scream at this. Their anger is fierce, almost shrill. One black speaks for many: "They do not want us to suffer now, they want us to have jobs. Well, we are talking about 90,000 jobs and we already have 2 million urban unemployed, so we are already suffering. Let there be no more investment since we are already suffering; let them suffer too. How dare they say they know what we want when they do not know us, when they do not talk to us, when they have never been in our homes and we have never been in theirs and they do not know the schools that our children go to? When I hear the white man say that he knows the soul of the black man, and they are always saying it, I want to freeze. They do not know our souls and I am not sure they know their own."

Many blacks are particularly enraged over the issue of investment because to them apartheid is an economic system designed not so much to keep whites pure as to keep blacks poor. It is not merely a system of racial segregation, as Americans are likely to imagine, but a highly intricate and sophisticated series of laws and structures created to deliver a supply of cheap black labor to a rich white industrial empire. Blacks are kept poor and powerless in the rural areas, and those brought in to work, desperately poor and vulnerable, have neither an economic nor a political base. Though black unions may for the first time be permitted to organize (in the past the state usually arrested black labor organizers), even this accommodation will be a limited gain, for the state controls the essential flow of labor, and the unions, if they are ever allowed to function, will do so at the pleasure of the state.

Thus, while the state boasts to the outside world of its liberalizing policies, most of its grip at the economic controls is in fact hardening. Black families living in townships are moved out, their homes are razed, and into the jobs go migrant workers in hostels, the men poorer, more vulnerable, less rooted. The pass law system is tightened, giving employers greater leverage, and all the while the government pushes for its homeland policy, which almost all blacks reject. This is a policy which would allot small slices of the poorest land in the country to blacks, giving them unwanted citizenship in bogus new countries which exist for the benefit of white South Africa, and which would guarantee, as white officials have often said, an end to citizenship for blacks in South Africa. For these reasons, black bitterness toward anything that strengthens any aspect of the South African economy is fairly complete.

Most urban black leaders are fond of Andrew Young, but they do not accept his idea (based on his experiences in the American South) that social and political progress will come only after economic progress. In sharp contrast, they believe that any investment strengthens the state, strengthens apartheid, that the heart of the state is semi-slave labor, and that the state will give blacks only a pittance of the benefits of greater investment. The real beneficiaries will be the whites—thus the intensity of black anger at precisely the moment many whites like to think that the society is in fact changing.

One of the questions that hover over South Africa is the question of time. One day, at lunch at Stellenbosch, the citadel of Afrikaner education, with Andre Du Toit, a distinguished professor there, we talked about change, about the fact that time seemed to be slipping away. Yes, he said, that was true. Indeed, he remembered a moment when he had been a university student at Stellenbosch. It was the moment of Sharpeville, the first great event in what has come to be known, among blacks, as the Struggle. White police had opened fire with machine guns on protesting unarmed blacks, killing 69 and wounding 178. "At that time," Du Toit said, "I kept thinking, 'If only we had ten more years, just give us ten more years.'" That was nineteen years ago.

In their hearts, one suspects, most Afrikaners have no real intention of changing the system. Perhaps some accommodation, some adjustment. But will it be enough change, will it be real change, and will it be in time? For time itself is tantalizing here. As there are separate worlds and separate cultures in South Africa, there are also separate clocks. The white clock leads the Afrikaners to believe that they have made vast and dramatic changes in a very short time. The black clock, given the totality of white rule and heightened black expectations, leads the blacks to believe that nothing has changed.

The whites look around and see the difference brought by the changes in apartheid—a handful of blacks at the best hotels, the beginnings of integration in sporting events—and they see a world that is vastly different; the blacks look at the same things, and they see the system remaining very much the same. In fact, they see a society where the newspapers are filled with vague promises of change, where the discussion of change is a substitute for change, perhaps tantalizing the white press and white liberals, but leaving blacks unmoved. For example, the prime minister, P. W. Botha, visits Soweto and tells blacks that they are all South Africans. He tells whites that South Africans "must adapt or die." He suggests ending more aspects of petty apartheid.

In another time, perhaps fifteen years ago, this might have raised black hopes, but now it excites foreigners more than Africans, for the blacks are wary, and, in truth, they are not much interested in ending petty apartheid or in making the system marginally better.

Bishop Desmond Tutu, the secretary general of the South African Council of Churches, says Botha (who is somewhat ahead of his own party) is talking about applying "an inhuman system more humanely." True, the white rhetoric is now gentler, but blacks want more than rhetoric, they want a genuine sharing of power, and what Pretoria will not share is power. The real decisions of the society will finally be made by white Afrikaners because white Afrikaner survival is what is at stake. On occasion this flashes through.

"Our politics are not the politics of luxury like your American politics, with all your theater, people playing their roles. Your politics is fun, ours is not." The speaker was a young Afrikaner lawyer much franker than anyone else I had met. "You had your McGovern convention in 1972 and that was fun for you. We could never afford a McGovern convention, we cannot afford to take any chance. Here we have the politics of survival. That's all that bloody matters. Here you make a mistake and it's your ass. We have our realities and our realities are that we have no acceptable alternative to what exists today. No halfway point we can work. So we are going to stay white. We will do it our way, in our time. Everything in politics in this country finally is about survival."

I mention that many Afrikaners seem to stand to the left of the government, and he agrees. "Yes, as long as they are not in power. These same men who rule us, if they were not in power, would be more liberal, more open than they are now. But the moment they are in power, the moment the responsibility is theirs, they think of that one thing—survival—and they will not take chances. They dare not. We will not permit it. Our theory," he said, "is more liberal than our practice."

I ask if blacks will long tolerate this lack of franchise, and decisions of which they are part. I point to the appearance of a powerful rising in black consciousness. "Look," he answers, "they can't wait until tomorrow, but they will have to wait. Decisions will be made without their participation. Because we will not let them participate. They have no choice because we will give them no choice. I know that you in America will not like that, but that is what we are going to do." I ask if the blacks will accept that. "No, they do not accept it. They have never accepted it. They didn't accept it twenty years ago and they don't accept it today, and yet they have to go on accepting it. Because we will give them no choice."

That was, I think, the true voice of the Afrikaner, more sophisticated than most high government officials seem to be and comparably harder and more realistic than most young liberal Afrikaners. For, despite the talk of change, government policy has hardened in a number of ways. The vaunted homeland policy, unacceptable to almost all blacks, is seen by them as a means of pushing tribalization, and depriving blacks of their legitimate rights to be South African citizens. It is regarded not as a bequest of rights and citizenship, as the government would like foreigners to think, but rather as a removal of them. The government's enforcement of pass laws, which has become tougher and more regressive, reflects, they suspect, a harder interior line, and a greater white fear of black terrorism, and it is a way of letting blacks know that the line can be even harder. In addition, the state is constantly increasing use of black worker hostels, perhaps the cruelest and most heartless aspect of the entire society. The government wants industrialization and it needs cheap labor for that industrialization, especially for the mines. But it does not want the normal social price of industrialization—black families living where the black wage earner works, on the very edge of its all-white cities. So it has plucked black males from their homes in the rural areas, where work is desperately scarce and where few workers earn more than 20 or 30 rand (about $24 or $36) a month, and brought them to the cities, by themselves, to serve the state and foreign capital.

The wealth beneath the soil is staggering, and it is the source both of white power and confidence and of black frustration and anger. Pretoria regulates the economy in a manner that is the envy of many economists and capitalists elsewhere in the West. For example, when white international capital began to waver and pull back from investment after the Soweto riots of 1976, Pretoria's economists decided to reduce imports, maximize exports, and limit their own growth. This was accomplished so effectively that South Africa showed a surplus in 1978 of 1.3 billion rand (about $1.5 billion). Very little of that government-sponsored slowdown affected the whites; the hardship was primarily passed on to blacks; an estimated million of them lost their jobs. Part of Pretoria's success that year (and since) was the luck of the dice. As the domestic political crisis was making the economy vulnerable at one level, gold was just starting to float on a free world market, the beginning of a triumphal ascent that went beyond even Pretoria's expectations. The timing could not have been better for the South Africans: gold was floating at precisely the moment that the OPEC nations were flexing their muscles, thus weakening the dollar and making gold all the more valuable. When I was in South Africa, in the late winter of 1979, the shah was in the terminal throes of his rule; gold was rising and rising fast. It was $240 an ounce then, recently up from $130, and the South Africans were pleased. They were stronger economically than they had been a year earlier, and thus they believed that they were stronger politically as well. More, it would get better: gold given OPEC's hunger and America's lack of energy discipline, could only rise. They were right. By the end of the year gold was over $500 an ounce and still rising. "Gold," one South African told me, "is our pulse beat, and it is getting stronger all the time." As I write, Iran remains in crisis, OPEC is without Western, particularly American, check, and gold in an inflated world becomes the true international currency. The South Africans now produce 73 percent of the West's gold, 58 percent of the world's production. It is a difficult, expensive process. In most other countries of the world, particularly developed countries, it might be considered almost too expensive; but in South Africa, given the semi-slave economy, the process is quite viable.

For the moment, the economy is booming. At an average price of $285 an ounce for the year 1979, gold represented some 43 percent of South Africa's 1979 export earnings. For the previous year the figure was around 34 percent. That means that South Africa is different from other Western industrialized societies: as the price of oil has risen, other countries have been weakened, their balance of payments threatened or reversed. But the rising prices of oil and gold have made South Africa, though it has no natural oil sources, richer than ever.

Gold isn't the whole story. South Africa is the richest country in the world in terms of non-petroleum wealth, and its mineral wealth has also brought it political leverage. In certain other metals crucial in defense industries, such as chrome and platinum, the only major alternative source of supply for the West is the Soviet Union. Detroit and other auto centers need platinum for pollution controls; the South Africans supply an estimated 87 percent of the West's needs and an estimated 48 percent of the world's (platinum was selling two years ago at about $180 an ounce; it reached $1085 an ounce in early March before declining to a low of $565 two weeks later).

Chrome is a vital hardening agent for steel; South Africa produces 51 percent of the West's supply, 36 percent of the world's, and has 84 percent of the West's reserves and an estimated 81 percent of the world's. Manganese is also an ingredient of quality steel; South Africa produces 37 percent of the West's supply, 22 percent of the world's, and has 77 percent of the West's reserves and 45 percent of the world's. In addition, though figures on diamonds are hard to obtain, South Africa, particularly if you include Namibia (South-West Africa), is far and away the greatest source of gem diamonds in the world.

All of this makes the Afrikaners remarkably self-sufficient and that much less dependent upon world opinion. They have the resources, they control them and a vast regional supply of labor with a very strong hand. They are rich enough to be on a partial wartime basis without a defense bill that undermines the economy.

Their only true economic vulnerability is energy; they have no natural sources of oil and they must barter on the spot market. Oil, in a largely hostile world, is their Achilles' heel. But they are beginning to develop a very important coal industry, and the way in which they are exploiting their coal resources is a reflection not only of the soil's richness but of the Afrikaners' shrewdness and toughness.

South Africa is coal-rich. It has vast reserves of low-quality steam coal, and Pretoria is just now coming into the market as a major exporter of coal (the $1.8 billion derived from coal exports last year moved coal ahead of diamonds in terms of export value, second only to gold). As the country exports coal, it not only becomes richer, but also gains additional political leverage in dealing with Western European nations that are appalled by apartheid. The coal industry is relatively recent; in 1975 South Africa exported only 2 million tons; this year it will export 22 million tons and hopes soon to go to 40 million tons. More important, the coal industry allows the South Africans to conserve on the use of imported oil. They have built their own power plants right at the sites of their mines, using coal as a source of power. Thus, where other industrialized societies rely on a relatively high consumption of oil in the industrial process (an estimated 45 percent in the United States), South Africa uses only about 20 percent. In fact, the South Africans intend to lower that figure to 10 percent, reducing even more their dependence on alien sources of energy. For they have come up with a process called "Sasol," which takes the coal, turns it into gas, and then liquefies the gas. It is expensive and difficult, and only a nation with cheap labor could afford it; but they will have three Sasol plants in operation by 1982, and hope to get almost half of their oil requirements through this process.

The Afrikaners are a single-minded, resilient people. By geography and history, and finally by their own will, they have been separated from most of the main currents of the Western world in this century. Their background is different, their language is different (and sacred to them, a symbol of their being oppressed and yet surviving), their religion is different. Though they are seen as oppressors by most blacks, they are convinced that they are the oppressed, first by the British and now by the West and the United Nations. The only drummer they hear is their own; for most, the only drummer they are allowed to hear is their own. Television is fiercely controlled by the state, its mission to propagate the faith rather than to inform the populace. Government bans what it does not want read, and detains, imprisons, banishes, or murders those who challenge it. When no longer challenged, the whites may be convinced that no challenge remains, that any decent person who knows the problem understands and consents. The educational system rigidly enforces and sanitizes history, creating a brainwashed culture.

The equation of the Afrikaners is special. They have taken the complexity of Western democratic tradition, bent it, changed it, and finally reduced it to the perpetuation of white rule. Yet they see themselves in the vanguard of the West; if others dissent, it is the dissenters rather than the Afrikaners who have strayed and become corrupted. The vital factor in all this is their church, Dutch Reform, which is at once sustaining and isolating. It teaches them that they have been placed on the African continent to do God's work, and therefore inevitably legitimizes their political system. If there is another uprising in Soweto and they put it down with machine guns, they will feel little moral anguish. Thus are power and devotion equated; as they are obedient to their God, they are permitted to rule this land. No wonder, then, they are so confident. "One day Afrikaners will rule the world," Dr. Koot Vorster, a leader in the church and the brother of John Vorster, told the BBC. "We are the most religious nation on the earth today."

Yet there are also, on occasion, flashes of doubt. One forbidden subject comes up, often late at night, volunteered by the Afrikaners, never raised by the visitor if his manners are good. This is the uneasiness, in their own minds and, they suspect, in the thoughts of foreigners, over the comparison with Hitler's Germany. Walking down the streets of Johannesburg, a handsome, smart young woman, editor of a new fashion magazine, turns and says: "We cannot say of ourselves when this is over that, like the Germans, we did not know. For we know, we are doing what we have chosen to do." Another editor spends a long evening detailing the enormity of the difficulties he faces, the labyrinth of state security laws designed to control the press. He describes how, that day, he spent more time with his lawyers than with his journalists, how his younger reporters, not understanding, believe he is weakening under pressure. Then he says, his voice resigned, "I do this so that afterwards, no one, in this country will be able to say afterwards that he did not know, that he was not warned."

A young American journalist, arriving to become the resident correspondent for a major American newspaper, was briefed by Connie Mulder, then the information minister. "We are a very open society," Mulder said, "and you may write very openly about us. But I warn you that there is one subject that you may never write about. You will not compare us to Hitler's Germany. We will not tolerate this. Do you understand me?" The correspondent somewhat surprised, acknowledged that he had heard Mulder. He was even more surprised a minute later, when Mulder leaned forward and confided: "You're a man of the world. You've been in different countries. You don't see any real comparison between us and Nazi Germany, do you? You can tell me, just in this room."

No one should take the Afrikaners lightly. They are a formidable people with what is in many ways an admirable history. They are hardworking, stern, ingenuous, and durable. They cast an unsparing eye on their own future. When Ivor Richard, then the British ambassador to the United Nations, was trying to work out a Rhodesian settlement, he

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[1] At press time the price was $563 an ounce, down from a record high of $875 on January 21.

met often with John Vorster, then prime minister. Vorster once turned to him after a long day and said, "Mister Richard, we in South Africa know that you in the West, in America and Britain, regard us white South Africans as basically expendable." At this point there was a very long pause and Vorster eyed Richard coldly. "But Mr. Richard, we do not regard ourselves as expendable and we will never be one man, one vote in this country." A granite man, Richard thought, representative of another stock, of tough pioneer people.

A new urban Afrikaner class, however, is rising out of the recent impoverished rural past. For the first time Afrikaners are involved in business and finance (the British formerly dominated the commercial aspect of the society), and a new and more enlightened class is apparent in Afrikaner academe and journalism. The political possibilities are fascinating, not only to the younger Afrikaners themselves, but to English-speaking liberals as well, for the new Afrikaners are better educated and more worldly than their parents. The new class fears the coming of black political power just as the traditional Afrikaner did, but it fears as well the growing political isolation of South Africa. Therefore, the Afrikaner political world is now divided not just along traditional regional lines, Cape versus Transvaal, but, more important, on mildly ideological grounds, with liberals (verligtes) pitted against conservatives (verkramptes). The verligtes on the whole are younger, more urban, and better educated; the verkramptes are traditionalists, the sons of their fathers.

Some of the verligtes believe in limited change; others do not welcome it but feel change is inevitable. They are largely willing to compromise over issues of petty apartheid, that is, symbolic segregation which does not really touch the system. The blacks eye the entire struggle cooly: they see it not as a reflection of a changing South Africa, but as a struggle over means rather than ends. They are suspicious of the verligtes, for they believe that the true Afrikaner is a distant, unsparing figure concerned only with himself and his family and other Afrikaners.

When I arrived in South Africa, almost everyone hastened to tell me, first, how irrelevant the English-speaking liberals were (which, regrettably, seems true), and second, how important the rise of the liberal Afrikaners was. In my first three weeks in South Africa, I spent a good many evenings with verligtes. They are often remarkable people, sensitive and intelligent. Seeing themselves as strikingly different from their parents, they cannot understand why everyone else does not detect the difference.

Yet for all their attractiveness and good intentions. I do not see them as representative of what society is, or, more important, of what it will be when it comes under increasing black pressure. Their influence and strength depend upon the blacks' remaining static, but the blacks are no longer static. Any change handed down by the state will be inadequate for the blacks; they will push for change on their terms, and as they do, they will almost surely push the liberal Afrikaner core into a more conservative position. Just as surely will come an even tougher Afrikaner attitude toward the blacks, an undermining of the few moderates on both sides, and a hardening of positions in both camps. I can see no other scenario. For the rise of the verligtes assumes that South Africa will remain an essentially static society and that its blacks will not change.

But the black revolution has already taken place. The black fathers do not know the sons, and the sons of Soweto have taken power. One day when I was in Soweto, I had a long and pleasant talk with Lekgau Mathabathe, a former high school principal and one of the nominal leaders of the township. It had started as idle talk and had ended as an interview, and when it was over I asked if I could quote him by name. Doubt immediately showed on his face. I told him I didn't think he had said anything that would cause problems with the police. "Oh," he said, "not the police. It's the boys (the young leaders of Soweto), the boys don't like it when anyone gives too many interviews and gets his name in the papers. No, the boys don't like that."

The whites do not choose to accept it as a revolution. All of this makes anyone who visits South Africa melancholy. The Afrikaners have always been contemptuous of the handful of liberals, mostly English-speaking, who have tried to form a bridge between the two societies, who have counseled tolerance and some form of gradual change. Now the blacks have become equally contemptuous of those liberals. Their hearts are in the right place, but they cannot deliver.

For the moment, the state holds all the power, and it has the will, even the desire, to use it. Anyone who comes to South Africa will be impressed by the state's access to military muscle, its organized and disciplined security systems, and by Soweto's vulnerability (it can be isolated by cutting off its water, electricity, phones, food, even physical access). But any highly industrialized society is vulnerable to urban guerrilla-terrorist attack. Transport? Every lorry on the highway is driven by a black. Access? A black can go to any place in Johannesburg as long as his pass is in order, he is dressed poorly, and he is servile in manner. Perhaps the black armored cars of this war will be garbage trucks driven by black men through the streets of the rich. Technology and weaponry? One black in an old VW, armed with a small missile, can drive by a major airport, and one man can knock out a plane or a train. Vulnerability? Every home is vulnerable, every skyscraper, every gold mine. A society which lives off black labor cannot exist in the foreseeable future without it. Where black labor goes, terrorists can go too.

One morning I sat in Cape Town asking a high official of the Foreign Ministry why South Africa had pulled back from its support of Ian Smith and Rhodesia, and he talked at great length about how stupid the Rhodesians had been. They could, he said, have gotten deal after deal, bought themselves thirty or forty years, a good transition period, but they were too arrogant, and now they would probably be left with nothing. As I sat and listened I wanted to say, "Don't you see that you're doing the same thing? You won't deal when they don't have the power, and when you're ready to deal it may be too late." But Afrikaners think they are different from the Rhodesians, and perhaps for a time, ten or even twenty years, they will be right. Probably the first two or three classes of guerrillas will not do well; they will be picked up on their way into the country, their weapons confiscated, and even those who make it to their objectives will bungle the job. Perhaps even the fourth and fifth classes will botch it. They will be laughed at and more jokes will be told about the K factor. And then slowly, quietly, the black will become skillful, and tough, and effective, and life in South Africa will be different. As Johannesburg causes pain in Soweto, Soweto will bring pain, systemic violence of its own sort, to Johannesburg. Perhaps then Pretoria will want to think about negotiating—and the time for negotiating will have passed.

Mr. Speaker, the ad hoc monitoring group will continue to alert Members to the developing situation in South Africa. Actually the need for our activity is less to the extent that the newspapers are adequately giving coverage to the momentous events that are occurring there, but we will continue to speak out, to talk about the cases in which leaders, political leaders, church leaders, social leaders, and economic leaders of the black and colored communities in South Africa have been imprisoned, banned, detained, killed, and we will continue to ask the U.S. Congress and the American people to understand the meaning of the event taking place in South Africa and to ask our Government to develop policies which will help produce a future for South Africa for all the people of that country and policies which will be consistent with the short- and long-term national security interests of the United States.

● Mr. RANGEL. Mr. Speaker, the anniversary of the 1976 Soweto riots provides an excellent opportunity to commemorate the activities of those who have fought so hard for racial equality and civil freedom in South Africa. It is also a natural occasion for reviewing some recent events in an effort to assess the current situation with respect to human rights in South Africa. Today, as in the past, the Government of South Africa maintains and reinforces the apartheid system of racial discrimination which denies the black people of that nation the most fundamental and basic freedoms. Moreover, they continue to attack with military force any efforts at resistance to these policies or attempts by organized groups or individuals to foster change.

The repressive character of the apartheid system has been well documented by our State Department as well as by private research organizations. Blacks in South Africa do not have the opportunity to choose their place of residence, to travel freely and without an identification pass, to hold certain jobs and to form certain types of political organizations. Most important, black people are not allowed to become citizens of the Republic of South Africa and are therefore effectively denied participation in the political institutions of that country and real political representation.

President Carter, the State Department and the National Security Council have all asserted that the goal of U.S. foreign policy with respect to South Africa is to encourage the development of racially integrated social, economic and political institutions and to eliminate the racial injustice which today exists. The question to be examined is whether the current policies of the administration have been successful in encouraging a sustained dialog between the white and black factions in South Africa and fostering a movement toward the sharing of political power with the black majority by the white minority.

Recent events indicate that the current approach has failed to produce the groundwork for meaningful political change. The announcement by the government of significant changes in its position with regard to black participation in labor unions turned out to be no more than a cosmetic alteration. The military incursion of a few days ago into Angola, South Africa's largest military action since WW II, is demonstrative of the government's intention to eliminate resistance to its racial and territorial policies through the use of force without permitting the opportunity for negotiation and compromise. It is tragically ironic that efforts by black organizations in South Africa to memorialize the very events we remember today have resulted in a Government ban on all political meetings of more than 10 people. The New York Times described the action as "the most severe restriction on political activity in nearly 200 years." (New York Times, June 16, 1980.)

The United States has contributed in the past to the support of the regime in South Africa through economic and military cooperation. The economic benefits and tax revenues provided by corporations doing business in South Africa today serve to strengthen the Government while perpetuating the policy of apartheid. While a complete cutoff of ties would prevent us from effectively monitoring the situation and from having open a channel of communication there, certain activities which support the South African regime should be discontinued.

During the last session of the Congress, I introduced several pieces of legislation which attempt to redress the deficiencies of our policy toward South Africa. H.R. 1448 and H.R. 1449 would prohibit the assignment of Armed Forces personnel and the sale of items which might be used for military purposes to the Republic of South Africa. This would entirely eliminate the possibility of direct U.S. complicity in the military activities of the Government.

While President Carter's Executive order banning arms sales to South Africa covers most of these items, this bill would put these provisions into law and would prevent the possibility of their repeal should there be a change of any sort in the White House. H.R. 1724 would reduce the foreign tax credit for corporations which fail to comply with fair employment principles in South Africa. I am not convinced that corporations can actually serve as effective instruments of change in that country, but if we are going to allow them to continue their operations there, we ought certainly to insure that they act in accordance with our own goals rather than serving the interests of the Government of South Africa.

The extraordinary resolution of the situation in Zimbabwe-Rhodesia provides an example of the beneficial effect that the international community can have in helping to achieve difficult political settlements and offers hope for a peaceful transition of power in South Africa. While the situation in South Africa is very different in some respects, it is again true that the concerted efforts of the entire international community will be necessary to assure a successful outcome.

Taking action on the above-mentioned legislation will not be merely a washing of our hands with respect to injustice but rather a demonstration of how strongly we as a nation feel about this matter. It will show the Government and the people of South Africa that the United States will not desist in its efforts to achieve full human rights for all the people of that nation. I can think of no greater tribute to those who have labored within South Africa for the cause of humanitarian justice than an expansion of our own efforts in this area.●

LEE WHITE—A MODERN-DAY MARK TWAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, on Saturday, June 21, 1980, I have the distinct honor and privilege of presenting one of the highest civilian awards given by the U.S. Army to a longtime resident of northeast Iowa.

The Department of Army Certificate of Appreciation for Patriotic Civilian Service will be awarded to Lee White, of Clinton, Iowa. This prestigious honor was authorized by Maj. Gen. Richard L. Harris, Division Engineer of the North Central Division, Corps of Engineers, at Chicago, Ill., for Lee's outstanding public service to the Corps of Engineers and the residents served by the Rock Island District.

I will join with Col. Frederick W. Mueller, Jr., District Engineer of the Rock Island District Corps of Engineers, in paying tribute to one of the most dedicated, civic-minded Americans I have had the opportunity to know.

I cannot think of another person more deserving of this fine honor.

As cochairman of the Rock Island District Citizens Committee who has been more than a good will ambassador for the Army Corps of Engineers and the people it serves. As a charter member of the citizens committee who has been active since its inception in 1966, Lee has played a major role in the recruitment of members and the planning of many of the organization's activities. His recruiting efforts have been carefully orchestrated to insure a membership that is representative of the area served by the Rock Island District.

Although Lee lives and works in Clinton along the bank of the Mississippi River, he is knowledgeable and concerned about corps activities whether they are in eastern or central Iowa, northwest Illinois, southern or southwest Wisconsin, northeast Missouri, or the two areas in southern Minnesota which the Rock Island District represents.

Lee has personally viewed much of the 58,000 square miles of the district and knows the entire 314 miles of the Mississippi River over which the district has jurisdiction.

He is, in a sense, a modern day Mark Twain.

His personal involvement and support for corps projects is typified by the leadership role he played in the groundbreaking and ongoing construction of the $27 million Clinton flood protection project presently nearing completion. Through his fine journalistic reporting, Lee played an instrumental role in helping protect the city of Clinton from the rampaging waters of the Mississippi during flood times.

He is also consistently concerned about the beauty of the city and the enhancement of projects which provide recreational activities for the thousands of boaters, fishermen and outdoorsmen who use the river areas. Lee's role in securing the Army Corps of Engineers' commitment to save the sternwheel steamboat *Rhododendron* as a tourist and cultural attraction, and his role in preserving the esthetic and recreational features of the Mississippi River front in addition to the flood protection project are alone worthy of the award being bestowed upon him.

Through his tireless efforts, effective leadership, and great store of practical knowledge, the Citizens Committee and the residents of Clinton and the entire Rock Island District have been truly rewarded.

Mr. Speaker, I proudly and respectfully ask that the House today join with me in saluting and honoring a caring, thoughtful, patriotic American. Lee White is truly deserving of their honor—one of the highest civilian awards our country can give—the U.S. Army Certificate of Appreciation for Patriotic Civilian Service.●

CONGRESSMAN BILL GREEN OPPOSES EFFORTS TO ARM SAUDI PLANES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 15 minutes.

● Mr. GREEN. Mr. Speaker, I am outraged by reports that the Carter administration is considering honoring a request by the Saudi Government to sell them additional military hardware for equipping their U.S.-made F–15 fighter planes with an offensive military capability. In the spring of 1978, when the Congress first considered this ill-fated decision to sell our advanced fighter planes, I vocally expressed my opposition to this sale. I believed it was wrong then, I still hold those views today, and I wish to be among the first of my colleagues to stand up loudly and oppose this plan. I firmly believe in the old adage that "two wrongs do not make a right."

The Saudis have apparently now requested that missiles, extra fuel tanks and bomb racks be supplied for the 60 F–15's which we sold them in 1978. This request confirms the worst fears which I had at the time of the sale itself, and which I warned would come to pass. In May 1978, as the only opponent of the sale to testify before the House Committee on International Relations, I stated the following about what could happen in the future if the sale went through:

> Supplying these aircraft to the Saudis is potentially fueling the tension in an already volatile area of the world, not lessening it. It is in the U.S. interests to stop the spread of weapons into that area of the world which could be used to create conflict. And, although some might argue that these advanced planes are needed only for defense, and do not include offensive capability such as sophisticated bomb racks, what will be the U.S. response 2 or 5 or 10 years from now if

a request—or demand—for more hardware is made?

We now know the U.S. response 2 years later. Yesterday, the Carter administration confirmed that the sale was "under consideration." This response is in direct contradiction to the assurances which the administration gave to the Congress when it was attempting to gain support for the sale.

In a May 9, 1978 letter from Secretary of Defense Harold Brown to Senator John Sparkman, then chairman of the Senate Foreign Relations Committee, Secretary Brown reviewed the additional hardware withheld from the planes as his response on the limited nature of the sale. In this letter Brown said:

> Saudi Arabia has not requested nor do we intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the F-15.

Much of what he described as withheld appears in current press reports as the hardware which the Saudis are now seeking.

This turnabout in policy promises should not come as a great surprise to those of us who have followed the Carter administration's twists and turns on its Middle East policy for the past 3 years. That record has been marked by inconsistency and response to domestic political expediency that only is further confirmed by this newest turn in policy.

What makes this situation all the more remarkable is that the arguments emerging in favor of the hardware sale have an all-too-familiar ring when we consider what was said back in 1978. At that time we were told that the sales had to go through so that the Saudis would be assured of our friendship and commitment as their ally. If the Saudis needed that kind of reassurance then, and were content to accept the planes without this long-range attack capability, why are they still seeking this same reassurance now? Certainly, in terms of the Arab-Israeli relations since Camp David, the tensions in that area of the world have been reduced. This new equipment would increase the range of the planes and their attack capability and enable the Saudis to reach Israel.

The administration assured Congress this would not happen when the original sale went through. Using the argument of "Afghanistan," which the State Department did yesterday, is not good enough. It seems difficult to believe that we must sacrifice the lessening of Arab-Israeli tensions to increase, on a spurious basis, our capability to respond to the Soviets in Afghanistan. Must our response to the Soviets' entrance into Afghanistan include this hardware sale in order to have a credible deterrent in this region? I think that the administration owes the Congress a great deal of explaining on the specifics of this argument. Why cannot we take measures other than undermining the potential of stability in the entire Middle East?

The Saudis' apparent need for another test of the strength of our friendship brings to sharp focus the question of how good a friend they are to us, and whether the steps they have or have not taken to enhance the Middle East peace process justifies our extending our hand to them in this manner. What concrete steps have they taken to promote stability in the Middle East recently? Where is there evidence that they have tried to use their power to bring other parties into the broader participation envisioned by the Camp David accords? What other efforts have they initiated to lessen tensions in that area? In short, why should we be told that the United States has to show how good a friend it is to the Saudis when they have not shown us that they support basic American interests in this area of the world?

Behind all of the rhetoric and diplomatic language, lies the ever-present oil well. We all know how powerful the Saudis are because of the black gold in their land. We also know that this country has made only small steps toward putting together a rational energy policy that will forever free us of this dependence on foreign sources represented by OPEC. So, once again, we are faced with the choice of oil for commitment. The administration promised that the F-15 sales were for defensive purposes. It made that guarantee knowing full well that our most reliable ally in the Middle East, the State of Israel, had justified concerns about equipping the Saudis with these advanced planes.

Even in 1978, when the original "package" deal was proposed, there were serious reservations about what such a sale meant in terms of our previous commitments to Israel. And just recently, we have seen U.S. policy switch drastically at the United Nations, again demonstrating that the Carter administration's policy is one of forgetfulness where previous commitments to Israel are concerned.

We have never been completely sure since 1978 that when the Saudis got those planes that they would not be used by them or their allies in neighboring confrontation states against Israel. If we sell this hardware now, we have no guarantees at all. I do not think that the United States can again afford to be seen as a nation that backs away from doing what it says it is going to do. Our prestige in the world and the perception of us as a nation that follows through is already at a low ebb. Acceding to this request for military hardware would lower it ever more drastically.

I believe that the Congress must act in whatever way possible to halt this proposal, and I intend to continue to express my strong opposition.●

WHO DO THESE PEOPLE REPRESENT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. HARSHA) is recognized for 5 minutes.

● Mr. HARSHA. Mr. Speaker, who does the American Farm Bureau Federation represent? For sure, it is not the American farmer.

It is my understanding that two of the principal objections that that organization has to H.R. 6418 as reported by our committee are that all processed foods are not deregulated and that the authority for agricultural cooperatives to haul nonmember traffic was not increased to 50 percent.

It was my concern and the concern of a number of members of the Public Works and Transportation Committee that if we completely deregulated the hauling of processed foods most of the independent owner-operators and small truck companies that are currently hauling agricultural products from farm to market would totally abandon that traffic in order to get into the hauling of higher value commodities. It is for that reason that H.R. 6418 now requires these people to annually certify that at least 50 percent of their tonnage is exempt commodities as a condition precedent to having authority to haul processed foods. Therefore, even though this provision would insure that this equipment would continue to serve farmers desiring to get their produce to market at least half the time, the Farm Bureau would prefer that the farmer not have this protection.

Second, existing law allows agricultural cooperatives to devote 15 percent of their hauling for nonmember traffic. H.R. 6418 increases that percentage to 25 percent. The American Farm Bureau Federation violently objects to this and feels that 50 percent of the transportation of these so-called agricultural cooperatives should be dedicated to nonmember traffic.

It is therefore my recommendation to my colleagues that should this organization call upon you and purport to speak for the American farmer, you should take it with a grain of salt.

Mr. Speaker, I am taking this time to address my colleagues that it is my current intention to offer two amendments to H.R. 6418 when it comes on the floor tomorrow. These amendments are necessitated by recent actions of the American Farm Bureau Federation.

By now, I am sure that all of you have heard about the delicate balance that this legislation represents. That balance was achieved as a result of many hours of good faith negotiation with the other body, the administration and all interested parties including the Farm Bureau. In fact, Mr. STANGELAND offered at their request an amendment in subcommittee which was defeated. At my direction, the committee staff negotiated with representatives of that organization prior to full committee markup and reached an agreement that if a certain amendment were adopted and certain language included in the committee report, they would support the bill without substantive changes. The committee has honored that agreement; the Farm Bureau has not.

Since my amendment was adopted in committee partially as a result of my representing that the bureau was on board, legislative integrity would seem to dictate that these two amendments be adopted to return the legislation to the state it was in prior to the adoption of my amendment.●

GENERAL SERVICES ADMINISTRATION SELLS GOOD COINS FOR BAD CHECKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the General Services Administration has received nearly $7 million worth of bad checks in its Carson City silver dollar sale program. Even more astonishing is the fact that some people have already received coins in return for these bad checks and the General Services Administration does not know how many of them there are. It appears that at least 150 persons have received coins even though their checks had been returned.

In February of this year the General Services Administration offered for sale nearly 1 million historic and valuable Carson City silver dollars. The public response was overwhelming and in only 10 days the General Services Administration received over 350,000 orders, far more than enough to sell all the coins. As a result of the overwhelming response, 150,000 orders, or over 40 percent of the total, had to be returned simply because there were not enough coins to go around.

As of June 10, 1980, the General Services Administration had received 3,340 returned checks with a face value of $6,778,203.30. That is an average of $2,029 per check. While I can understand that in a sale of this magnitude there are bound to be some checks returned, I was shocked to find out that some of those people who sent in bad checks have actually received coins. Not only did they receive coins, but some even received refunds for overpayments. These supposed overpayments were based on the amounts of the checks that were returned. I have written to Administrator Rowland Freeman of the General Services Administration and asked him to examine this matter further.

When I began to look into this matter, I was informed that the General Services Administration did not know how many people had received coins in return for returned checks. After I had called for an investigation, the General Services Administration announced that it had only sent coins to approximately 150 persons. It still does not know, however, the number of coins sent or the amount of refunds made. Further, checks are still being returned to the General Services Administration. I suspect that the number of customers who received coins for returned checks will increase. The final accounting is not in yet, and there is only one way the number of returned checks and coins sent can go, and that is up.

It is ironic that so many Americans who wanted coins and were willing to pay for them had their orders returned, while other people whose checks turned out to be worthless received coins. Further, there is no guarantee that the General Services Administration will be able to either get the coins back or collect that money.

Perhaps I should not be so surprised by this latest General Services Administration blunder concerning this sale. In the past we have seen the General Services Administration publish a toll-free phone number that did not work in one of the States it was supposed to, a budget designed to spend every penny of its appropriated funds, and advertisements and order blanks in a national magazine and ths military newspaper, Stars & Stripes, that contained the wrong prices.

Mr. Speaker, I have already asked the General Accounting Office to investigate the conduct of this sale. This latest revelation is just one more thing for the investigators to examine. The report on the sale should make interesting reading for anyone who wants to learn how not to conduct a sale of coins.●

"CAPITAL MARKETS AND ENERGY INNOVATION," AN ADDRESS BY JOHN C. SAWHILL, DEPUTY SECRETARY OF ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, as Congress prepares shortly to vote on legislation to provide for the creation of a synthetic fuels industry in the United States, I believe Members of the House of Representatives and Senate will read with particular interest a most thoughtful address, "Capital Markets and Energy Innovation," by the distinguished Deputy Secretary of Energy, the Honorable John C. Sawhill.

The text of Mr. Sawhill's address, delivered at the Salomon Brothers Seminar in New York City on June 3, 1980, follows:

CAPITAL MARKETS AND ENERGY INNOVATION

(An Address by John C. Sawhill, Deputy Secretary of Energy)

It is a pleasure for me to appear at the Salomon Brothers Seminar to discuss the role of private capital markets in the new energy economy of the 80s. During the next decade I believe you will find unprecedented opportunities to maximize profits while at the same time strengthening the economy as a whole, diversifying its energy base and raising productivity in the industrial, transportation, and utility sectors.

ENERGY SAVING INVESTMENTS

It has been projected that American industry will spend about $6 billion on direct energy conservation investments in 1980, about three percent of all projected capital spending. But in the more energy-intensive industries the percentages rise sharply. For example, energy conservation will amount to approximately 10 percent of all capital expenditures in the airline industry, about eight percent in iron and steel, chemicals, and paper and pulp, and about six percent in textiles.

In addition to these direct energy-savings investments, American industry is also substantially modifying its products to meet consumer demands for energy efficiency. For example, the projected volume of retooling expenditures by the auto industry—about $10–$15 billion between 1980 and 1948—is in substantial part a response to the shift towards efficient small cars.

It is well-known that capital expenditures in energy-producing industries doubled between 1973 and 1977. It is expected that an additional $800 billion will be invested in energy-producing industries between 1978 and 1990, or slightly more than $65 billion per year. While the investment requirements for energy production and conservation will be large, the experience of the past few years indicates that private institutions, responding to shifting price signals, can raise the necessary capital.

As a result of these investments, we are creating a much more efficient capital stock, In four energy-intensive industries—chemicals, metals, paper, and textiles—energy consumption per unit of output declined 14 percent since 1972. Further improvements will be forthcoming.

One essential task of the Federal government in ensuring that capital is available for energy development is to provide a stable framework in which securities markets can operate effectively. This means pursuing stable monetary and fiscal policies to ease inflationary pressure and allowing market demand to allocate capital and energy resources. The balanced budget submitted by the President for Fiscal Year 1981, the deregulation of oil prices to be completed by October 1981, and phased decontrol of new natural gas prices between 1978 and 1985, are major steps that will relieve short- and mid-term pressures on private capital markets and remove substantial barriers to energy production and conservation.

RECYCLING PETRO DOLLARS

The long-term problem is the concentration of a vital resource in a few Middle Eastern nations where revolutionary unrest, war, boycotts, or terrorism could cut off vital supplies overnight. Even if there are no disruptions of supply, the price of oil imposed by the OPEC cartel means that an unprecedented transfer of the world's wealth and economic power is taking place in an extraordinarily short time.

The United States currently spends $90 billion per year on imported petroleum, more than the total 1979 earnings of the Fortune 500. While this burden is large, it is much heavier still for LDCs without their own sources of oil. OECD data show that the current account balance-of-payments deficit of the poorer countries has grown from $6 billion per year in 1973 to a projected $60 billion per year in 1980.

The need of all consuming nations to finance an ever-rising dollar volume of oil-imports has placed enormous stress on financial institutions. It is critical that petrodollars be recycled back to the industrial states as a source of investment capital and to non-oil LDCs so they can participate in the world trading system for our benefit as well as theirs.

To facilitate this process it may be necessary to create some new financial mechanisms, perhaps under the aegis of the World Bank.

But even if we successfully address the recycling problem, we cannot be sure that oil will continue to be available at today's high prices. Any number of events in the Persian Gulf area could cause a sharp reduction in supplies, triggering a major disruption of world trade, high unemployment and explosive inflation.

INCREASING PRODUCTION OF ALTERNATIVE FUELS

The most direct way to render ourselves less vulnerable to oil supply disruptions is by building up stocks of oil. Stockpiles can be augmented either by accelerating the build-up of the Strategic Petroleum Reserve or by providing financial incentives to private companies to increase their inventories beyond normal working levels. We might also want to consider some incentives for enlarging natural gas inventories. But while stockpiling can help alleviate short-term supply disruptions, the best solution for the long-term is to reduce gradually our dependence on imported oil by increasing production of alternative fuels here at home and by practicing the strictest conservation throughout our society.

We believe synfuels represent one of the most cost-effective alternatives to continued over-dependence on foreign oil. As you know, Congress has virtually completed legislation that will establish a Federally-supported investment bank to initiate synfuel production by the private sector. Over the next four years, the Synthetic Fuels Corporation will make $20 billion worth of price guarantees, purchase commitments, loan guarantees, and direct loans for commercial synfuel projects. Up to an additional $68 billion is expected to be made available through 1995.

Our goal is to produce two million barrels per day of oil equivalent from synthetic fuels by 1990. The industry—when fully operative—will produce fuels in liquid, gaseous, and solid form from coal, oil-shale, tar sands, peat, biomass, solid waste, heavy oils and gas not recoverable by conventional means.

If we look at the potential of the resources on which the synthetic fuels industry will be based, we can see why this program is so important. U.S. coal reserves account for about one-half of the known free-world total and their energy content exceeds that of all the crude oil reserves of the Middle East. At current rates of consumption, our reserves could last two to three hundred years.

Oil shale in the Green River Formation of Colorado, Wyoming, and Utah is estimated to contain 600–700 billion barrels of recoverable oil, an amount about equal to the estimated total world proven crude oil reserves and at least 3.5 times the estimated proven reserves of Saudi Arabia.

Heavy oil and tar sands could account for another 100 billion barrels of oil, nearly four times this Nation's current proven reserves of crude oil. And unconventional gas reserves from Eastern shales, tight sands and coal-bed methane are estimated to range from 70 to 1500 trillion cubic feet, compared with proven reserves of conventional gas of about 200 TCF. Biomass, of course, is limited only by our ability to convert and exploit wood and agricultural, municipal, and industrial wastes. The resource potential is estimated to equal six to eight million barrels of oil per day.

So, clearly, the United States is rich in energy resources. With the exception of biomass, these are depletable, but they do exist on a massive scale. They can and must be used for decades as we make the transition to sources such as solar and fusion which are virtually illimitable.

An industry capable of capturing the potential of these resources will not happen by itself, certainly not in the time-frame we believe necessary. So the Federal government is taking a leadership role to develop broad-based technologies, to assess environmental and social impacts, to provide financial incentives and to remove unnecessary regulatory obstacles to construction and operation. But this must be carried out in partnership with industry, state and local governments, and financial institutions.

Some of the technologies to be used in this new industry have long been known, but their commercial development has been impeded by artificially low prices in this country for oil and natural gas. That is changing. As I said before, we are ending the 35-year history of controls on natural gas prices and phasing out price controls on domestic oil by the end of September, 1981. Decontrol will bring gas and crude oil prices up to replacement cost, making other fuels more competitive. Decontrol also makes the introduction of new technologies more attractive, but they must first be demonstrated.

For both demonstration and commercial deployment of technologies, we have developed a strategy to produce liquid fuels for transportation and gaseous and liquid fuels to displace oil in industrial and utility applications. Our coal gasification strategy contemplates the production of low, medium, and high-BTU gas. Low and medium-BTU gas can be used by nearby industries and utilities to displace oil.

Medium-BTU gas can also be converted into high-BTU gas, virtually identical to pipeline quality natural gas, and shipped through existing pipelines to homes and businesses. Coal can be liquefied to produce products such as methanol and high-octane gasoline, boiler and furnace fuel, or feedstocks for petroleum-like finished products. The strategy calls for providing incentives to move ahead with development of a broad range of technologies that can be matched to available resources and deployed nationally.

THE SYNTHETIC FUELS CORPORATION

The challenge before us now is to find a mechanism to invest the government's money wisely and to create a viable industry that will ultimately supply products at prices the market will pay without government support. We are now in the process of analyzing alternative corporate strategies and forms of organization for the Synthetic Fuels Corporation.

One issue is how to choose between the objectives of producing oil and gas quickly on one hand and demonstrating a wide variety of technologies on the other. If we channel support to methods that can be pulled right off the shelf, we might wind up demonstrating obsolete technology. But if we reach too far toward unproven technology we may succeed only in producing a series of white elephants. In any case, we must assiduously avoid technologies which generate social, economic or environmental costs that may render them non-competitive in a relatively short time.

A second issue is the choice of financing mechanisms. As I said, the law will authorize price guarantees, purchase agreements, loan guarantees, direct loans, and minority equity participation in joint ventures. Early indications are that industry would prefer either price guarantees—a floor on prices to be phased out when the market price reaches a certain level—or loan guarantees for firms unable otherwise to carry the debt on their balance sheets. But we must still determine the circumstances under which we should encourage joint ventures between companies with different financial capabilities and investment objectives, and the criteria for success or failure in a given venture.

A third issue is the organization of the SFC. Should it be modeled after the loan committees of major institutional investors or more along project-management lines? What role should the SFC staff have—as opposed to outside, private experts—in project evaluation and monitoring, business development, product marketing, and legal and financial audit and control?

While these issues and others will need to be settled, we believe the Federal government's effort should be concentrated where it can make a unique contribution. That means the principal role of the SFC should be to provide some form of insurance that may be unavailable in the private sector, and to provide direct subsidies to producers to get alternative fuels into the mainstream as rapidly as possible. At the same time, to the maximum extent possible, we want to encourage the private sector to evaluate the prospective profitability of investments, make decisions on technical design and assemble the major portion of the financing.

It would be foolish for Government to select technologies arbitrarily without regard for the realities of the marketplace, and then be saddled with huge subsidy programs to protect bad investments. Rather, it is important for the private sector to absorb some of the risk—as it has done with almost all of the important technological advances in recent years from computers to CAT scanners, and to reap the rewards for projects that pay off.

The synfuels program is already well underway. Congress has provided $2.2 billion to the DOE to lay the groundwork for the commercial synfuels effort. Two hundred million dollars of this money is available for initial feasibility studies and cooperative support agreements. We have received nearly 1,000 proposals from businesses, industries and state and local governments throughout the country. We expect to announce the award winners early this summer and soon we will be moving ahead with the remaining $2 billion of loan and price guarantees and purchase agreements for those firms that are ready to begin actual construction.

However, a proven technology, an abundant resource and financial capability do not necessarily assure prompt construction of a project. Major energy projects in recent years have been delayed as a result of cumbersome regulatory processes involving Federal, state and local governments. To move these projects ahead, we will rely upon an Energy Mobilization Board (EMB), whose purpose it will be to cut through unnecessary red tape and assure timely decision-making. Legislation establishing the EMB has passed a House-Senate conference committee and is awaiting final floor action before going to the President.

I have no doubt that American financiers and entrepreneurs will rise to the challenge of bringing to birth a new energy economy for this country. Yours has always been a spirit of risk-taking and adventure, but never has that spirit been more desperately needed than now.

It is time for the Nation to regain its confidence in its own future, in its own destiny, and it is time for you to help us in government inaugurate a new era of rational investment, wherein we learn to squeeze every last cent of value from our investments. If we do that—and I have no doubt we shall—then we and our descendants can look forward to a society born again, applying our own traditions of ingenuity, independence, hard work and self-help. With timely cooperation between private enterprise and government, we can make it happen.●

STATEMENT ON ANNOUNCEMENT OF TODAY'S ABSCAM INDICTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 30 minutes.

● Mr. MURPHY of New York. Mr. Speaker, I have taken time this evening so that I may respond to the announcement by the Justice Department that an indictment has been rendered in my case involving the so-called Abscam investigation.

I am not guilty of and categorically deny any complicity in any way, shape or form whatsoever in these charges.

I would repeat today more firmly than I did on February 5, 1980 that:

I deny any wrongful involvement with the FBI Abscam operation.

I am not in violation of any Federal or local laws.

I was not involved in any money transactions.

I have not violated the integrity of my office or the trust placed in me by the voters of the 17th Congressional District.

The Government case apparently rests on four video tapes taken of me in discussions with two bogus representatives of a nonexistent Arab Sheik. These two men were working at the direction of the Justice Department. One of them was a habitual criminal and a self-confessed convicted felon. The four tapes include one taken at Kennedy Airport on October 20, 1979. The remaining three tapes were made at the so-called W Street house on January 10, 1979.

On February 5, 1980, I demanded of the Justice Department that the tapes be released. They refused.

So on February 25, 1980, a lawsuit was filed on my behalf to release all of the video recordings of those meetings and conversations in which I was present. I asked—and continue to ask—for the tapes to be shown publicly—in their entirety—to prove my innocence.

In seeking to prevent the release of the tapes to me the Government argued, in effect, that I was in the category of a convicted killer or convicted narcotic peddler and used such "thug" cases as precedents. They denied not only me but my constituents and the media, access to the tapes because they claimed I might threaten their witnesses.

Their argument did not fool me 1 minute because I know what those tapes contain.

I have kept silent on what was in the video tapes on the advice of counsel in the firm belief that ultimately justice would prevail at the Justice Department.

Apparently this is not to be.

So I will tell you today why I feel the Department would not release their taped "evidence." In addition to the fact that I am not guilty of any crime or indiscretion the tapes will show:

That I advised the agents to talk to their own lawyers on any immigration matters.

That I advised against an attempt to get the phony Sheik into the United States in view of this administration's treatment of high ranking foreign leaders who sought sanctuary here. (Yet NBC on the night of February 3, 1980 unequivocally—and falsely—said I introduced legislation on behalf of the Sheik and it passed the House of Representatives, and attributed this report to Government sources.)

That I in no manner or form whatsoever entered into a discussion of any business arrangement from which I might benefit financially or otherwise with the agents and/or Lawrence Buser.

That, in fact, the agents repeatedly suggested such arrangements to Buser all of which were turned down.

That at one point I advised the agents that it was wrong for them to offer me or any other Member of Congress any sort of favor in return for any of their requests.

That I, in fact, lectured one of the agents on the untoward nature of any such suggestion, and told him I would not be a party to any such thing.

As a Member of Congress I am compelled to point out that the Abscam sting operation has been publicly described as the most mishandled investigation by the Justice Department in its history.

Milton S. Gould, a member of the editorial board of the New York Law Journal, described the Abscam affair as "* * * a defeat for law and order."

The ill-conceived and poorly administered Abscam operation was further flawed, when weeks before the operation was complete, newspaper and television reporters were "leaked" the details of the investigation—before grand juries were convened to hear the evidence. Ultimately, newspaper and television stories outlined the Justice Department's prosecution memorandum on February 3, 1980—days before FBI agents had the opportunity to confront all of the prospective defendants.

The flow of leaks became a hemorrhage.

Leading jurists, top lawyers, and even Attorney General of the United States Benjamin Civiletti expressed outrage at Federal employees "leaking" confidential information. Civiletti described it as a "* * * flood of leaks." On March 5, the Attorney General expressed his outrage at the perversion of the multi-million dollar investigation by the very men who were conducting it. He summoned all of his employees to the Justice Department's great hall and lectured them on their responsibilities under the law.

In that lecture as reported in the press the Attorney General of the United States of America had these things to say about the perversion of justice and denial of constitutional rights that were caused by the leaks:

> Calling leaks about undercover operations one of the low points in the Department's history, Civiletti said, "I condemn severely those few who have caused these leaks and who have violated the trust placed in them."
>
> He said the leaks "pervert" justice and "corrupt and injure all of us."
>
> Reflecting some recent congressional criticism of the effect the Abscam disclosures have had on politicians who may be innocent, the Attorney General continued, "leaks more than jeopardize, leaks wound the innocent cruelly, *many times beyond the hope or recovery, without the hope or expectation of fair process.*" (Emphasis added.)

Civiletti was so embarrassed and so outraged by the "leaks" that soon after the scope of the mismanagement became apparent he appointed Richard S. Blumenthal, a "highly-regarded" Federal prosecutor to conduct an in-house investigation at Justice to ferret out the "leakers." It was to be a no-holds-barred investigation including the use of lie detectors. Who were the principal suspects? This is what was reported in a New York paper on February 13, 1980:

> According to news sources, the major sources of the ABSCAM leaks to the N.Y. Times, Newsday and NBC were Neil Welch, head of the FBI's New York office, and Thomas Puccio, head of the Justice Department's organized crime strike force for Brooklyn and Long Island.

That was just about 3 months ago and we have heard no more about the top priority investigation—until May 7, that is—when a news story from inside sources at the Justice Department said that the results of the investigation would not be known until after indictments are handed up.

Welch is now the head of law enforcement in the State of Kentucky and Puccio a prime suspect in the commission of a crime is handing out indictments. In spite of the Attorney General's lament that I might be "without the hope or expectation of fair process", I still have faith in America's judicial process and I expect a speedy and fair trial.

In conclusion, I would say from an exhaustive review of the various reports on this operation, that Abscam was conceived in desperation—at best to regain the FBI's law enforcement image or at worst—to exact political punishment.

The hallmark of its gestation period was the fabrication of a crime where none previously existed.

Its mid-wife—aided and abetted by FBI agents with a mission—was a felon (Mel Weinberg).

Its own step-father described its birth as the most degrading episode in the history of the Justice Department.

We have all waited to see what this prematurely born child of law enforcement would grow into.

We have seen that it is a monstrous mutation of the law because:

The innocent are pronounced guilty by press leaks;

The Government criminals who leaked information in violation of the law they swore to uphold are being protected by the highest officials in Government;

The guarantees of the Constitution providing every American with a presumption of innocence—even though he may be a politician—are being trampled upon by the Government and the major news media concerned; and,

Because equal justice under the law has become perverted to a commonly accepted condition of unequal justice under the Justice Department.

Given all of the incredible events of this perversion of the law I can truthfully say today that I am not unhappy with the indictment.

It was apparently destined to happen no matter what the facts dictated.

At least now my trial and the trial of my family and friends will move from the hysterical bullring atmosphere which now exists into the calmer, judicial arena of the courts.

I have done no wrong. The Federal prosecutors know it, I know it, and now at last I can prove it in a court of law.

I do not fear the full disclosure of what is on those tapes—I welcome it.

I assure you all here today, as I assure my constituents and as I assure the American people that when this travesty is concluded justice will prevail which means I will prevail.●

A TRIBUTE TO ELWYN G. RAIDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, much to the great sadness of the Members of the House, Mr. Elwyn G. Raiden has quietly retired as Deputy Sergeant at Arms of the House of Representatives after 25 years of service.

At the time of his appointment on March 15, 1955, by the Honorable Sam Rayburn, Speaker of the House of Representatives, Elwyn was cashier of the First National Bank in Honey Grove, Tex. The Democrats had come back in control of the House in January and Congressman Rayburn was again elected Speaker of the House. Zeake W. Johnson, Jr., was elected Sergeant at Arms creating a vacancy to which Speaker Rayburn appointed Elwyn.

It will be a long time before the House finds another employee with the dedication to service which Elwyn gave as Director of Bank Operations in the Office of Sergeant at Arms. He was a special friend to Members of Congress and especially helpful to new Members in explaining to them the many functions of the Office of Sergeant at Arms.

I am very pleased to take this opportunity to congratulate him on his distinguished and devoted service to the House of Representatives—he will be greatly missed as he takes these next years to spend more time with his fine family and grandchildren.●

A TRIBUTE TO GEORGE HARDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 15 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, I rise today to pay tribute to a dear friend of mine and one of the great men of the American labor movement. George Hardy is retiring as president of the Service Employees International Union after 19 years in that position and a lifetime in union activities. George spent his childhood in San Francisco, where his father, Charles, instilled him with the union spirit. I will miss working with George, but, as a longtime friend, I am proud to honor him today.

Following is an article recounting George Hardy's outstanding achievements in the early years of his long career:

George Hardy has been in the labor movement sixty years or more. His first strike was when he was a little kid, picking hops in the Oregon fields, living in a tent. It wasn't his last.

After growing up in San Francisco, he ran away to sea for a bit, shipped out as a radio operator in the merchant marine and saw something of the Pacific. But the Depression beached him, and he was back in San Francisco again.

There in the Hayes Valley, he was the working-class son of a struggling local union leader in a tough, working-class town during hard times. He got a job through the union, but he got the union through his mom and dad.

When push came to shove, he knew which side he was on and started signing up members as part of the now historic Hardy Clan. He's never stopped.

George's dad, Charles ("Pop") Hardy was an English immigrant who came to San Francisco by way of the Canadian Northwest, where he worked on the Canadian Pacific and drove twelve-horse rigs. In Winnipeg, he met and married Bertha Fritchett; In Vancouver they had their sons.

After being wounded in World War I, Charlie Hardy became a boiler maker in the Portland shipyards in 1917, joined the union. For awhile the family "lived like kings."

But the post-war depression left him jobless, and he and his wife and kids joined the stream of migrant workers following the Oregon crops. When the growers tried to cut their pay in half, he organized the farm workers, struck, and won. But he was blacklisted and had to move on.

The family arrived in San Francisco broke. Bertha got a job in a laundry and joined Laundry Workers Local 36. Through the turbulent two decades that followed, her $16 a week often was all that kept the family afloat.

Charlie Hardy was a maverick, with as much energy as passion, and he played championship soccer on the ethnic teams that abound in San Francisco. His teammates eventually landed him a much coveted job as a union janitor in the Waiter's Union Hall. In 1926 he joined Local 9 of the five-year-old Building Service Employees International Union (BSEIU).

Like many other BSEIU locals, Local 9 had existed well before the AFL chartered the BSEIU in 1921. But with World War I the employers initiated a running battle against the unions, getting a city anti-picketing ordinance passed, and bringing in strike breakers.

By 1926 Local 9 consisted primarily of a few janitors in theaters, city buildings, labor union halls, and a small number of stores and offices.

Charlie Hardy immediately began recruiting new members and rose quickly through the ranks until he was elected secretary and business representative. He got no salary. Part of the reason that he was elected was that he fought the employers on the union floor.

COMPANY UNION

The maintenance companies were undermining the union by organizing janitors whose loyalty they could buy to join the union and make trouble. They got the upper hand. It was a company union within the union. Whatever the union planned, they knew about. Honest unionists were afraid to speak out.

Because Charlie Hardy spoke out—clearly and colorfully—he became their leader. And was blacklisted again.

"The only way my father was able to work for many months," President Hardy recalls, "was when some school employees would hire him and pay him out of their own pockets to mop a few classrooms.

"It was rough going. One day we were living good, the next day we had nothing. And this was the way we existed until the union got strong enough that he could hold a job."

TRAINED FROM INFANCY

But Charlie Hardy's steadfastness and fight was an education in unionism, not only for George and his brothers, but for many of their friends and schoolmates. "My dad had us trained from infancy to be union men," Hardy remembers. "He'd assign us to picket lines and other tasks, even though we were just kids."

The fight with the employers for Local 9 came to a head when the Depression hit. Wages had risen slowly until 1932, when the employers cut them back and tried to run the union with their stooges.

The members were demoralized, but they had their backs against the wall. Hardy's perseverance paid off, as they gradually stood up and supported him. He won contracts, established decent wages, hours, working conditions. The International put him in charge of organizing for the whole West Coast.

By this time, George was at his side.

The depression brought George Hardy home from the sea on what turned out to be a permanent furlough. George and many of his friends from the neighborhood turned to Local 9 for jobs. In 1932 he got work as a part-time union janitor, at a salary of $4.75 a day—"heaven" compared to the $2.50 to $3 a day then being paid on nonunion jobs.

In 1933 he married Norma Mitchell, a union daughter who had also pulled picket duty as a kid, marching with her mother and sister at a cannery strike.

Times had changed. Hardy and his friends from Hayes Valley began looking at the world with new eyes.

All across the country, these were make it or break it times for labor. As it turned out, 1934 was the year for San Francisco.

By 1933 the National Industrial Recovery Act had been passed requiring employers to bargain collectively with any union their employees chose. But the great shipping magnates of the West Coast had no intention of doing so. So for two months the longshoremen's union tied up West Coast ports from San Diego to Vancouver with a strike.

LONGSHOREMEN STRIKE

Then the powerful Industrial Association decided to open the San Francisco docks by force. They sent the police against the strikers in fierce battles that left two dead. The governor called out the national guard.

Realizing that if the longshoremen were broken, so was the rest of the labor movement, San Francisco labor responded with a four-day general strike that shut down the city entirely. Within a matter of weeks the longshoremen had won.

The strike laid bare the raw political power of big business and its "associations"—but at the same time it proved that united action by labor could win the essential battle to "organize or die." George Hardy learned these lessons well, but the strike taught him one other thing too—the power of communications.

After the strike Hardy was relief janitor at the longshoremen's hiring hall. He watched with amazement as endless bulletins and newsletters flooded from their mimeograph machine. He read them, learned from them, saw others read them.

COMMUNICATIONS

He remembered hearing that the great steel strike of 1919 had been lost because the employers had controlled communications and had been able to fool the strikers in one town into believing that those in another had gone back to work.

But here the workers were in control of communications—their own.

George and his friends from the Hayes Valley jumped into the labor movement with great vigor.

"A new surge of unionism was coming to San Francisco," he remembers. "We had to get in on it." Charlie Hardy had coached them in soccer, had taught them how to play to win, with teamwork. His fight for Local 9 had taught them how to struggle against difficult odds. Now the time was right for some serious business.

Workers of every kind of trade and industry were joining the old established unions or organizing new ones. "You felt sort of undressed if you weren't wearing a union button," Hardy recalls.

In 1934 Local 9 had tried to organize the office building janitors. They had responded enthusiastically by packing the union hall and throwing out the "employer stooges." But the employers had fired 150 of them the following night, and the movement collapsed.

Pop Hardy hadn't led that one, but he wasn't about to walk away. Two years later, over the objections of his executive board, he went back, carefully. Go after the small ones first, he said, pick them off one by one. He lined up support from other unions, asked for volunteers from Local 9, called a meeting, and packed the hall.

George Hardy was there signing up new members. BSEIU Local 187 was chartered with George Hardy as secretary.

ONE BY ONE

Under the Hardys' leadership, Local 87 fought to organize, building by building. The staff was energetic—and unpaid. George worked the graveyard shift as a janitor at the San Francisco library.

"Most of us went to work at midnight," he recalls. "But before we went to work, we used to meet at 5 o'clock in the evening and pamphlet every building.

"We got escorted out of a lot of buildings, but we'd meet the janitors going to work or coming off work."

It wasn't long before they had most of the janitors signed up. But the maintenance companies that manned the office buildings weren't about to give up without a fight. They sent out straw bosses to line up drifters and fired the regulars. By continually changing their workforce, they hoped to break the union's back.

BLOCKADING BUILDINGS

To combat this the Hardys organized squads of union men to blockade the entrances of the buildings and allow only men carrying union cards to go through. The maintenance companies would use union labor or they would use none at all. Local 87 stopped the firings, but they still had no contract.

It was in this atmosphere that George Hardy learned about strikes. "You can't forget those early days," he says. "The people who built the union made such tremendous sacrifices." Once, when they were picketing a hotel, the employer got an injunction. "The cops would come down and load us all in cars and take us to the police station. Then we'd get bailed out and go back to the picket line and get arrested again.

"We kept doing that. I think some members got arrested five times. One elderly man said, 'The union gave me everything I have. I'm not afraid to go to jail.' "

But they won contracts. First at the markets. Then at the bakeries. Finally with more than a hundred buildings completely organized they took on the Building Owners and Managers Association.

MUTUAL RESPECT

Refusing to bargain, the association raised wages by 10–15 percent, expecting the janitors to lose their fire. Instead they stuck by the union. They took a strike vote and got strike sanctions from the labor council. Then the mayor intervened, and the association capitulated and signed its first contract—raising wages another 15 percent.

The maintenance companies signed the same agreement, then the department stores, the laundries, the hotels.

In each campaign Local 87 had the help and support of the rest of the San Francisco labor movement, whether it was the bakery workers union or the hotel and restaurant workers. Hardy took careful note.

"These years were really the basis of my entire knowledge of what the labor movement is all about," he says. "It was just tremendous—the vitality, the mutual respect and aid unions gave to one another in times of strikes.

"Picket lines were the life lines of labor. They were never broken. When you called on a union for support, they'd send their whole hiring hall down to join with you, and, and you'd do likewise."

In 1937 Hardy formed the California State Council. What worked for the San Francisco labor movement could work for the still few and far flung locals of BSEIU.

Even a 1939 attempt by the San Francisco department store owners to break down the building service and retail clerks unions couldn't cut away the solid ground on which Local 87 was built.

The big downtown stores refused to bargain, refused even to continue to recognize the unions. There was nothing left to do but strike, but the employers hammered back with arrests. George Hardy was arrested four times in a day, Pop bailing him out each time.

Soon the treasury was empty, morale had dropped, the strike was broken—it seemed as if the union was broken.

But the Hardys went right back to work with the old strategy of the union squad, catching old and new workers as they came to work, talking to them, signing them up. Within a year they had the stores organized again and had won their first written contract.

ONE MORE FIGHT

Having thrown the employers out of the union and beaten back their attempts to break it, the Hardys had one more fight to fight for the union—this time with the mob.

All across the country, organized crime had found the union movement a good thing—if they could muscle in and take over. What the employers couldn't do for themselves, they were glad to see the mobsters do—run off the honest unionists and sell the employers labor peace for a fraction of the cost of the contracts they were having to sign.

But when Eastern mobsters—who also ran a strikebreaking agency—tried to muscle in on BSEIU, the Hardy's used the courts, the press, and honest BSEIU unionists across the country to defeat them.

Then George was off to another war, this one fought against anti-worker racketeers of the worst sort—the fascists who had destroyed the democratic labor movement throughout Europe. Serving as a radio operator with the 644th Tank Destroyer Battalion, he fought through France and Germany, earning three combat battle stars, one of them for action against the last great German panzer attack, the Battle of the Bulge.

When Hardy got home after the war, he was given two choices. He could go to Chicago and become assistant to BSEIU President William McFetridge, or he could head up an organizing drive in Los Angeles.

In 1946, Los Angeles was a tough, industrial and port city that had burst its seams from wartime expansion. Primarily nonunion, it was known as the "Siberia of American labor," and the powerful Merchants and Manufacturers Association was determined to keep it that way.

Hardy chose Los Angeles. He rounded up three veteran organizers from Local 87 and headed south. About all they took with them was the wartime motto: "The difficult we do immediately, the impossible takes a little longer."

"We came to Los Angeles without homes for our families, without even an ashtray," recalls Jack DePo. They couldn't afford rooms or apartments and slept in their hole-in-the-wall office. For a long while, they couldn't afford cars to get around the sprawling Los Angeles area, so they bussed it or hoofed it or bummed rides.

LONELY FIGHT

It was a long and lonely fight to bring unionism to L.A.'s widely separated workers. "It was like starting a whole new life," Hardy recalls. "Everything we had done back in the '30s we tried again in Los Angeles, and it failed. People were different. Employers were tougher. The labor movement was not united."

There were fewer than a thousand members in BSEIU's scattered Southern California locals in 1946, most of them covered by statewide contracts that had been negotiated with the Bank of America or the Fox Theater chain. Charlie Hardy had made a foray south in the late '30s, but hadn't accomplished much. George and his friends targeted the pinboys and janitors in the bowling alleys counting on a shoe leather strategy of signing them up one by one.

"I guess I signed up more members in Los Angeles than any union in history," Hardy recalls, "but for a long while we never had a dues paying member. We just never could get a contract."

But with financial help from the international they persevered until they did get contracts, first in the bowling alleys, then with maintenance companies and office buildings. And they began signing up hospital workers, too, both in private and public hospitals.

REACTION

Chartered in 1947 as Local 399, the union grew despite a hostile press and employers' anti-union tactics. 1947 was a year of reaction. The National Association of Manufacturers pushed through Congress the anti-union amendments of the Taft-Hartley "Slave Labor Act," as labor called it.

In Los Angeles, despite court rulings against their unfair labor practices, the Merchants and Manufacturers hired strikebreakers that busted their way through picket lines and encouraged formation of an anti-union "Women of the Pacific" to furnish scabs when employees went on strike. A police "red squad" harassed the unions.

From his San Francisco experiences of the '30s, Hardy knew that labor needed unity to beat this kind of offensive and unity required organization. He set about strengthening the California State Council that he had established in 1937, and he developed a Southern California joint council.

By April of 1948 Joint Council 8 had a newspaper that was reaching its 4,300 members—the forerunner of today's Service Union Reporter which reaches nearly 180,000 members of SEIU's California State Council.

Mr. JOHN BURTON. Mr. Speaker, I rise today to honor a good friend of mine who is one of the great figures in the American labor movement. George Hardy is retiring as president of the Service Employees International Union after 19 years in that office. George spent his childhood in San Francisco and devoted his life to union activities.

Following is an article detailing the latter years of his long and distinguished career:

In May, 1948, Pop Hardy died at his desk in Local 87. Only 56, his doctor had told him to take it easy, but it wasn't in his nature. He stayed in the thick of it, mapping new organizing strategies, planning for new contracts. Easily, calmly, quietly, he slumped from his desk one afternoon because his heart couldn't take it.

Pop had been a BSEIU international vice president. George Hardy was appointed to take his place.

At the tenth annual convention of the state council that fall, the Charles Hardy

Memorial Scholarship Fund was created. Its first recipient the following year would be Yvonne Watson, daughter of a black member of the Local 278, the movie studio janitors. She is now Yvonne Brathwaite Burke, a past member of the California Assembly and the U.S. House of Representatives, and presently a member of the board of supervisors of Los Angeles County.

The state council also passed resolutions denouncing racial discrimination and calling for the defeat of congressmen who had voted for the Taft-Hartley Act amendments. Hardy was laying the groundwork for a long and necessary fight.

INTEGRATED

BSEIU had always been a racially and ethnically integrated union, and one that took women seriously. In 1916, Local 1 in Chicago had had black officers, and International Trustee Elizabeth Grady had made a demand for equal pay for women a BSEIU principal right from the start.

Immigrant Italians had once been the backbone of Local 87, but over the years large numbers of blacks and Latin Americans had been members, as well as other European immigrants, and Local 87 had prided itself on its ability to put out organizing leaflets and union notices in a variety of languages.

There was no other way to organize in California, and there was no other way to make the Democratic Party in California into the party of labor, to give workers the political clout they'd need to resist the employer offensive.

Hardy made sure that "regardless of race, creed, or color"—or sex—became a reality for BSEIU in California. "He was the first labor leader to recognize the abilities of women," remembers Elinor Glenn. "He didn't care about anything as long as you went out and organized. He set up a tremendous training program to help people know what they were doing."

WESTERN CONFERENCE

He continued to develop the system of councils as a way of educating and organizing politically as well as for strictly trade union purposes. In 1950 he established the Western Conference, with a program to promote cooperation and communication between locals from San Diego to Seattle.

Through the councils he developed an effective research program and gave the locals legal support.

He set up "new member classes" to educate people just joining the union in the labor movement—an experience that would draw many into becoming the shop stewards, organizers, and local union leaders that made SEIU's rapid expansion possible.

In the Depression he had learned that an injury to one was an injury to all, and he worked to establish good relations with other unions and to strengthen the Los Angeles central labor body.

PIONEER

When the older, skilled trades oriented American Federation of Labor—to which BSEIU belonged—merged with the more industrial Congress of Industrial Organizations, he combined the best of both.

He had learned to aggressively organize anything that moved from watching the CIO Unions in San Francisco. But the autonomy he afforded BSEIU local unions, within the strong, cooperative structure of the local and state councils, was characteristic of the AFL.

"George was a pioneer," says Elinor Glenn. "He changed the character of the labor movement in California. He had a reputation of being the hardest working labor leader on the West Coast. And he realized the opportunity of organizing the public workers and the hospital workers."

In 1954, the Merchants and Manufacturers Association formed a political committee called the Republican Associates. Backed by a powerful anti-union press of the Chandler family, the organization conducted a well-financed campaign to blunt labor's growing successes in California.

Recognizing the threat, Hardy became the most vocal and active figure in the state, mobilizing local unions and councils to educate their members and fight the big business offensive.

But it was just a rehearsal for the fiercer battle to come. In 1958 California big business launched an attempt to pass a "right-to-work" law—the anti-union legislation made possible under Section 14(b) of the Taft-Hartley Act in 1947.

The campaign against union security was one of the most vicious in the history of California politics. Placing the anti-labor law before the voters as ballot initiative, big business spent hundreds of thousands of dollars to see it passed, while the anti-union press urged voters on.

GALVANIZED UNIONS

It was Hardy, Glenn says, who galvanized labor unions statewide to fight the proposition, and it was Hardy who realized that just getting to their membership wasn't enough. "We had to reach out and educate the community—even the small businessmen—and let them know that if a worker didn't have enough money to buy a pair of shoes, then the men who were making and selling the shoes wouldn't be in very good shape, either.

They enlisted the cooperation not only of the unions, but also of the churches and the reform element in the Democratic Party, the California Democratic Council.

Again, Hardy made education and communications the key. "We had a radio program," recalls Glenn. "We had discussions, we went to schools, to sororities, to clubs.

"Suddenly, you were hearing about what 'right-to-work' had done to Arizona, to Mississippi, to Alabama, so that people began to realize that it wasn't a right-to-work, it was a right to work cheap."

This was the first united, powerful, militant stand by the labor movement in California since the San Francisco general strike, she says. Hardy had led it.

But the campaign was more than a campaign against right-to-work, it was also a campaign for a new, labor-oriented Democratic Party, and it succeeded at both. Prominent among the labor-backed candidates elected was Governor Edmund "Pat" Brown.

During the early '50s, the Democratic Party had been declining, and for long periods it would place little importance on labor issues. Now labor has changed this. Hardy had turned it around.

The election of Pat Brown marked a dramatic change in the political climate of California. During his two administrations, more social and labor legislation was passed than in any other period in California history, including the first legislation providing for collective bargaining by public workers.

Even before this law was passed, BSEIU had some 5,000 public worker members in California. SEIU wasn't winning all the fights at the time, but it was always fighting. And public workers consistently chose Service Employees over other unions or associations, because they realized that Hardy was in the fight to win.

But once the collective bargaining bill passed, the existing public employee associations saw that their members would demand that they go into collective bargaining, for which they were unprepared, and they rushed to affiliate with SEIU.

"They fell in love with our autonomy," says Glenn—and with the organizations and program Hardy had spent so long putting together. "They chose SEIU, not because we made them the most lucrative offer—we didn't—but because they recognized that they could do their own thing and get great training in classes, in seminars, in workshops, that they could control their own destiny, they woudn't be controlled by some centralized group in Washington."

In 1968, after the death of his first wife, Hardy married Florence "Cissy" Robinson, a card-carrying member of Local 399 who has been at his side at meetings and picket lines ever since.

By 1970 he had built Local 399 into a multi-craft local of 20,000 which could repulse political threats and survive technological change. In the International, he had become First Vice President. In April of 1971, SEIU President David Sullivan retired.

By virtue of the SEIU Constitution—and with full support of the executive board—Hardy assumed the post.

Hardy threw himself into the presidency with customary vigor. After nearly forty years in the labor movement there was probably nobody better prepared to lead a growing international union.

By June he had taken stock of the International's organizing methods and decided they needed an overhaul. "He called in a group of organizers from around the country," recalls General Organizer John Geagan, "and sat us down in front of a tape recorder for a week."

By January the transcript of their brainstorming had been hammered into the SEIU organizing manual—known throughout the labor movement today as the best in the business—and Hardy was carrying it around the country to the first of dozens of seminars in which he has personally trained a core of 1500 organizers for the union.

"Organizing is a science and an art," he emphasizes. " It can be learned."

WE MUST SPEAK OUT

Then, suddenly, the members received a lively monthly newspaper. "You are holding in your hand the first issue of a completely overhauled, remodeled, and refurbished *Service Employee*," he wrote. "We want to talk about the issues that concern you—as a worker and a union member, as a citizen and a voter, and as a consumer and a warm, living, human being."

Already, too, he was speaking out in the national arena, a strong voice for the working people he represented—and for those he didn't.

"If there were no labor movement today, who would speak for the working men and women in the United States and Canada?" he asked. "We must speak not only for our members, but for all working men and women—many of them condemned to silence by right-to-work laws written by and for employers."

NO DESK JOB

Then in January, 1972, with his encouragement, the first issues of *Canadian Service Employee* rolled off the press, in English and French. The March meeting of the SEIU Civil Rights Committee he called denounced the continuing denial of equal education to minority children, and joined the AFL-CIO in demanding "quality, integrated education . . . by busing or whatever other means are required." In April, Hardy was reporting that SEIU had grown by 42,000 members in 1971.

By May, the new president was summing up his first year for SEIU's upcoming 15th convention: "I learned the presidency is no desk job," he reported. "It has kept me moving from coast to coast, from the United States to Canada and back, to the South, to the Midwest wherever our members live and work."

The truth was that the presidency could just as easily have been a desk job. It was Hardy who was keeping the SEIU president moving.

SEIU ROAD SHOW

At the AFL-CIO convention that November, Hardy was on the floor leading the

SEIU delegation in urging a legislative program for those working men and women—coverage under national labor law for hospital workers, equal treatment for public employees, federal support for day care centers, a hefty increase in the minimum wage.

Testifying before the House Committee on Education and Labor, Hardy gave public SEIU support to a bill that it had privately helped write—non-profit hospital workers should be given protection under the National Labor Relations Act (NLRA). When SEIU members struck hospitals in Chicago, he said, they had one hand tied behind their backs—the employers knew there was no law requiring them to recognize the union and negotiate.

The bill would be passed in 1974, primarily due to effective SEIU lobbying.

As Nixon's economic policies lubricated the nation's slow slide into the worst recession since the '30s, Hardy charged him with the steady rise in unemployment and demanded that the working poor be exempted from the freeze.

Confronted with Nixon's "Phase II," he went to the locals. His "SEIU Road Show" brought the International's best legal and tactical thinking to local union leaders gathered in New York, Chicago, and San Francisco. Part of the answer given them was to "bargain for all you can get and fight it out with the Pay Board." The rest was to beat Nixon in the 1972 election.

The San Francisco convention unanimously confirmed Hardy as president and enthusiastically endorsed the ten plank platform he presented to it.

The executive board should expand to further democratize the union, he urged. (By the end of his tenure fully three quarters of the members would be directly represented on the board.)

Legislative and political action should be expanded at the national, state, and local levels. (The convention authorized establishing and funding SEIU's Committee on Political Education, COPE.)

The International should improve education and training programs, strengthen its support of local unions with new equipment and personnel, and provide more research and negotiating help. (The convention approved a plan for training specialists in research and negotiation.)

Local, state, and regional councils and conferences should be broadened for greater cooperation between locals, and communications should be improved.

But above all, SEIU should *organize the unorganized*.

It was a blueprint for his next eight years.

ANTI-NIXON

In September, 1972, while many unions were sitting elections out, Hardy led the SEIU executive board in endorsing the Democratic ticket of McGovern and Shriver. With some foresight, he called the election "the most important in our times," pointing out that Nixon was dangerous, not only because of his policies, but because his appointments to the National Labor Relations Board and the Supreme Court would last beyond him.

"I know Nixon from way back," he wrote. "He voted for the restrictions on labor in the Taft-Hartley Act—not once but every time they came up."

Hardy waged a vigorous campaign for the Democratic ticket as one of ten regional directors for AFL–CIO COPE's campaign to get "marginal" Democrats elected. After the election SEIU could point proudly to the election of its close friends and supporters—neither of them "marginal"—Phillip Burton and Yvonne Brainwaite Burke, both to the House of Represeintatives.

Then Hardy was back on the road with his organizing seminars, urging local unions to "look over your jurisdictions and prospects and consider organizing campaigns at the earliest possible times." Where locals practiced what he preached, thousands were pouring into SEIU.

INDUSTRY CONFERENCES

Within a year, he was attacking from another direction. The first SEIU "industry conference"—devoted to healthcare—met in Washington to analyze the industry and discuss strategies for organizing.

Complimenting the Canadian locals for having done "an outstanding job of organizing the hospitals," Hardy exhorted local union leaders, organizers—and the new research specialists coming out of the year-long training program on the West Coast—to seize the "golden opportunity" to organize an industry holding a vast number of unorganized and exploited workers earning poverty-level wages.

There followed a public sector conference, then a conference for the building service and contracting industry, then one for the racetrack locals.

Hardy's organizational structure for local union interchange and support was complete with the founding of the Eastern and Central States Conferences—SEIU regional organizations patterned after the Western States Conference he had long led. A Central and Western Canadian Conference followed soon after. The conferences hold week-long yearly meetings.

NATIONALIZE OIL

In December, 1974, Hardy's concern for labor unity took yet another form. With SEIU initiation, the AFL–CIO founded its Public Employee Department (PED). Patterned after other long-standing AFL–CIO departments—the Industrial Union Department, the Building and Construction Trades Department—it recognized the need for united action by public employee unions. At its March, 1975, meeting, the PED adopted SEIU's urban policy calling for "a national commitment of major proportions" to reverse the cities' decline.

Support for public employees—and an aggressive urban policy—were necessary because the nation was in the depths of the '74–'75 recession. Nixon was gone—SEIU joining the AFL–CIO to be among the first to call for his resignation or impeachment. The gas crunch had brought charges by Hardy that the oil firms were "taking the public for a ride" and that taking public control of them—nationalization—was the only solution.

Trying to gain labor support, Gerald Ford had scheduled an "economic summit" at the White House at which Hardy traded hot words with Ford that were picked up by TV news. "Just how can you expect people making $2 an hour to survive!" Hardy demanded.

To the membership he commented: "I spent a good part of last month . . . participating in a series of economic summit meetings in Washington. I wish I could report that something good will come of these meetings, but my hopes aren't high."

Later he testified to the Joint Economic Committee of the Congress that some three million service workers were unemployed in the U.S., nearly half the laid off workers in the U.S. "They have heard all the rhetoric. They have listened to Congress debate. What they want now are jobs."

TO THE STREETS

The SEIU executive board followed his lead by adopting a "20-Point Program to Meet America's Economic Emergency" that included creation of a million public service jobs, a 35-hour week at 40 hours pay, a massive tax cut and significant increase of the minimum wage, federal control of energy resources, and repeal of the Taft-Hartley "right-to-work" provisions.

That done, Hardy took the union into the streets, bringing SEIU members to the AFL–CIO Industrial Union Department's "Rally for Jobs Now!" that filled JFK Stadium with a crowd of 60,000 unionists.

"We dare not limit our interest to the immediate routine of unionism," Hardy counseled the 1976 SEIU convention in Hawaii.

Unions faced unprecedented difficulties because of the continuing economic catastrophes and political corruption, in Canada as well as the United States, he said. "We must organize to survive." The several million dollars a year the International was now spending on organizing had proven an efficient way to support the efforts of local unions. The International had computerized mailing lists and created the labor movement's most extensive print shop, both for helping the locals. Eighteen research specialists had been trained and assigned to U.S. and Canadian joint councils.

But new conditions called for new tasks. "Mergers have created gigantic and diversified companies that control many facets of both our economies."

Consequently, the international must diversify in occupations and industries, he said. "We must do this to insure our long range survival and to strengthen ourselves. Through a diversified membership each of our unions can coordinate their efforts effectively against the huge corporations."

BATTLE PLAN

It was a battle plan well adapted to the times. Carter's election proved to have changed nothing, his marriage with labor going unconsummated, as high hopes for the passage of labor law reform, even the repeal of Taft-Hartley's right-to-work provisions, were abruptly dashed.

But the organization Hardy had welded together has proven as good defensively as offensively. SEIU state councils and regional conferences led the successful fight against enactment of right-to-work in Missouri in 1978. In California, SEIU—now the state's largest and most powerful AFL–CIO union—successfully beat back a right-wing attempt to destroy public sector bargaining.

In the tax rebellion the right-wing channeled people's righteous fury into passage of the bogus Proposition 13. But Hardy's brainchild, Citizens for Tax Justice—a coalition of local and national organizations united for progressive tax reform—shows every sign of putting things back on course by campaigns to shift the unfair burden of taxes from working Americans to the corporations, rather than the other way around.

In the AFL–CIO Hardy has continued to represent SEIU members and the unorganized—whether by bringing the federation slowly to understand that nationalizing the big oil companies must be a serious alternative or by striking out independently to withdraw SEIU support from the Administration's pay advisory board until it exempts low-wage workers from the "voluntary" guidelines.

Meanwhile, the International has been accomplishing the tasks he laid out for it in 1976. Locals and joint councils form senior member committees, experimenting with programs that satisfy their social needs while encouraging them to realize potential. The international begins a series of collective bargaining seminars using a new collective bargaining manual.

With university based occupational safety and health groups, hospital safety conferences are held. A training program for publications specialists—is begun. An apprenticeship program is initiated for on the job upgrading of healthcare workers.

ORGANIZING

And always the organizing—and diversification. The LPN's come in—two major state associations affiliating. RN's begin to join. The 45,000 professionals of the State of New

York's Public Employee Federation win a long hard fight to break away from their toothless employees association and join SEIU/AFT. A union of ten thousand New York cabbies affiliates, and just last month the ten thousand members of the International Jewelry Workers Union.

"Ours is the best union there is," Hardy sums up for the 17th convention.

"All our efforts these past ten years have prepared us well for the battles we continually face."

But "those who will take the reins of this union face an uncertain future. Our economy is in crisis. Our institutions are being challenged. Our people are unsure of themselves and of their government."

CHALLENGE

It is a challenge "as great as the ones we faced in the '30s and '40s when our union was just beginning. It will test our commitment and our resolve.

"But I am confident we will carry on."

They are the words of a small boy picking hops in the Oregon fields. Of a young man standing with his friends on the Embarcadero during the longshoreman's strike. Of a green trade unionist learning the hard way, passing out leaflets before going to work on the graveyard shift. Of a veteran going into battle against the Merchants and Maunfacturers of open-ship Los Angeles, armed only with determination and small change.

Of a seasoned trade union leader, his vision tempered by sixty-odd years in and around the labor movement and nine very successful years as International President of Service Employees International Union, AFL–CIO, CLC.●

GENERAL LEAVE

Mr. ANTHONY. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material, on the subject of the special order speech today by the gentleman from California (Mr. PHILLIP BURTON).

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am submitting to the House today a notification from the U.S. Export-Import Bank on proposed financing to make possible the sale of four new McDonnell Douglas DC–10–30 aircraft and related spare parts valued at nearly $193 million to British Caledonian Airways Ltd.

The Eximbank is prepared to extend a direct credit of $77.2 million and to guarantee a commercial loan of $38.6 million to facilitate this sale. The airframe components of the planes will be manufactured by McDonnell Douglas Corp. of Long Beach, Calif., and the engines will be made by the General Electric Co.'s Cincinnati, Ohio, division.

This financing notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Under section 2(b)(3)(i) of the Export-Import Bank Act of 1954, as amended, the bank must notify Congress of proposed loans or financial guarantees or combinations thereof of $100 million or more. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress following notification.

I am submitting for the RECORD a copy of the Eximbank notification giving the terms and details of the proposed transaction. I would welcome any comments or questions my colleagues might have on this proposed financing arrangement.

The Eximbank material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 5, 1980.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Eximbank has submitted a statement to the Speaker of the House of Representatives and the President of the Senate in accordance with the provisions of Section 2(b)(3)(i) of the Export-Import Bank Act of 1945. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

NANCY S. PIGMAN,
Congressional Relations Officer.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 5, 1980.

The SPEAKER OF THE HOUSE
OF REPRESENTATIVES,
The Speaker's Room, U.S. Capitol,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to the United Kingdom:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit of $77,200,000 and to issue a financial guarantee of a loan to be provided by either the Private Export Funding Corporation or another commercial lender in the amount of $38,600,000 (Guaranteed Commercial Loan) to British Caledonian Airways Limited. The purpose of this Eximbank financing is to facilitate the purchase in the United States by British Caledonian of four new McDonnell Douglas DC–10–30 jet aircraft and related spare parts. The engines for the aircraft are manufactured by General Electric Company. The total U.S. export value for this transaction is estimated to be $192,900,000.

2. Identity of the parties

British Caledonian, based in the United Kingdom, is a private company and the principal subsidiary of Caledonian Airways Ltd., a diversified company with hotel and tour operations interests. British Caledonian currently maintains a 28-plane commercial fleet comprised of eight Boeing 707s, sixteen BAC–111s and four DC–10s. The airline, incorporated in 1970, has, in a relatively short period, become an established international carrier with routes to West Africa, North and South America as well as with domestic and Continental service.

3. Nature and use of goods and services

The principal goods to be exported from the U.S. are four wide-bodied commercial jet aircraft to be used by British Caledonian on both its existing and expanded routes. The airframe components will be manufactured by McDonnell Douglas Corporation of Long Beach, California. The engines for the aircraft will be manufactured by General Electric Company's jet aircraft engine division in Cincinnati, Ohio. In addition, other U.S. firms will furnish spare parts.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank credit and financial guarantee totalling $115,800,000 will facilitate the export of $192,900,000 of U.S. goods and services. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40% of total U.S. aircraft sales. Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80% of the world market for commercial jet aircraft. In order to maintain the existing market share for U.S. commercial jet aircraft over the next several years, Eximbank must strive to meet both borrowers' needs and foreign competition, in particular that from the European consortium, Airbus Industrie.

McDonnell Douglas estimates that the export of these aircraft will provide 5,308 man/years of work for McDonnell Douglas and its sub-suppliers. Additional benefits which will flow to the United States from the transaction include sizable follow-on exports of spare parts, ground support and other related equipment.

British Caledonian has an aging fleet which it has undertaken to replace and expand. The four U.S. aircraft the subject of this letter will be utilized on existing routes and on new routes to the Far East for which the airline has made application.

The A–300 jet aircraft manufactured by Airbus Industrie provided stiff competition for the sale of these aircraft. British Caledonian has already ordered three Airbus A–310s and has options on several more. The financial plan being offered by Eximbank not only reflects the severity of the competition facing U.S. aircraft manufacturers, but also appears to have been a decisive factor in winning the sale for the U.S. suppliers.

2. The Financing plan

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

	Percent of U.S. costs	Amount
Cash payment	15	$28,900,000
Commercial loan	25	48,200,000
Guaranteed commercial loan	20	38,600,000
Eximbank credit	40	77,200,000
Total	100	192,900,000

(a) Eximbank Charges

The Eximbank credit will bear interest at the rate of 8.375 percent per annum, payable semiannually. Although Eximbank has recently increased the interest rate charged on aircraft loans, Eximbank is honoring its offer on this case made in a preliminary commitment of February 11, 1980. The offer reflects what was perceived necessary to meet foreign government-supported competition at that time.

Eximbank will charge commitment fees of ½ of 1 percent per annum on the undisbursed portion of the Eximbank credit and ⅛ of 1 percent per annum on the undisbursed portion of the Guaranteed Commercial Loan. A guarantee fee of ¾ of 1 percent will be charged on the amount of the Guaranteed Commercial Loan which is disbursed and outstanding. The Eximbank financing will be secured by mortgages and restrictive covenants.

(b) Repayment Terms

Aggregate disbursements under the Eximbank credit, the unguaranteed commercial financing and the Guaranteed Commercial Loan will be repayable in 20 equal semiannual installments beginning 6 months after the mid-delivery point of the aircraft but not later than April 20, 1981. The unguaranteed commercial financing and the Guaranteed Commercial Loan will be repaid from the earlier maturities and the Eximbank credit will be repaid from the later maturities.

Additional Information

Attached is certain additional information on Eximbank activity in and economic data on the country involved in this transaction.

Sincerely,

THIBAUT DE SAINT PHALLE.

ATTACHMENT I

Eximbank Exposure in the United Kingdom

[As of Apr. 30, 1980; in millions of dollars]

Direct Loans	$510.9
CFF Loans	------
Financial Guarantees	129.0
Bank Guarantees & Other	18.5
Insurance:	
Medium-term	5.5
Short-term	91.1
Total for the United Kingdom	755.0

Defaults and Reschedulings:

Loan No. 4097 rescheduled 11-3-77 in the amount of $1,619,998.84. This loan was paid in full January 17, 1979. No other defaults to date.

ATTACHMENT II

UNITED KINGDOM

Area and population:

Area: 244,000/sq. km.

Population (mid-1978): 55.9 million.

Population (mid-1979): 55.8 million.

Population Density: 229/sq. km.

GDP per capita (1979): $5,464.

Sources and application of national product:

Uses (1978):	*Percent*
Consumption	53.8
Government	23.2
Capital formation	20.7
Stocks	1.0
Exports	33.9
Imports	−32.6
	100

Sources (1978):	
Agriculture, forestry and fishing	2.6
Mining and quarrying	3.2
Manufacturing	28.7
Construction	6.0
Transportation and Communication	8.2
Services	51.3
	100

	1976	1977	1978	1979	1980(E)
GDP data:					
Billions of dollars (nominal)	$221	$246	$308	$342	$305
Rate of change (real) (percent)	3.6	1.4	3.3	1.0	−3.0
Fiscal and monetary data:					
Government deficit (billions)	$12.3	$7.8	$16.1	$17.4	NA
Deficit as percent of GNP	5.5	3.2	5.2	4.5	NA
Increase in money supply (M3)	11.2	9.8	14.9	7–11	9–11
Savings ratio	14.6	13.9	15.2	15.7	17.0
Price data (percent increase over preceding year):					
CPI	16.5	15.9	8.3	17.5	18.5
WPI	17.3	19.8	9.1	12.2	18
Labor data (percent increase over preceding year):					
Wages (weekly rates)	16.5	10.3	14.6	NA	NA
Unemployment	5.3	5.7	5.7	5.3	7.1
External debt (billions of dollars):					
Outstanding public debt	$14.2	$18.0	$15.8	[2] $14.8	NA
Debt/GDP	6.4	7.3	5.1	4.3	NA
Debt service ratio (public debt only)[1]	7.3	4.8	2.9	4.9	NA
Balance of payments data (billions of dollars):					
Exports	$45.9	$56.1	$70.2	$86.3	$111.5
Imports	−$52.4	−$59.2	−$67.3	−$93.3	−$119.8
Trade balance	−$6.5	−$3.1	−$2.9	−$7.0	−$8.3
Invisibles balance	$4.5	$3.8	$4.2	$1.9	$1.7
Current account balance	−$2.0	$0.7	$1.4	−$5.2	−$6.6
Capital account	−$4.6	$12.2	−$3.0	NA	NA
Overall balance	−$6.6	$12.9	−$2.2	NA	NA
Reserve data (billions of dollars):					
Foreign exchange (excluding gold)	$3.4	$20.1	$16.0	$19.9	----------
Gold (average London price)	$2.6	$3.3	$4.4	$12.1	----------

[1] For 1976 and 1977 includes only capital repayment.

[2] September.

Sources: IMF, IFS, and OECD Survey, OECD. ●

TRIBUTE TO DR. VICTORIA SCHUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, it is with sincere joy that I take this opportunity to pay tribute to one of the finest scholar, educator, and humanist that I have had the good fortune to know, Dr. Victoria Schuck, on the occasion of her retirement as president of Mount Vernon College, here in Washington, D.C.

Not too long ago, the Honorable JOHN BRADEMAS, House majority whip, delivered, as my surrogate, fond wishes from the Congress to Dr. Schuck at her inauguration as president of Mount Vernon College. Today, however, I am most pleased to stand before you, my friends and colleagues of the U.S. House of Representatives, to let you know what I think of Dr. Schuck and to express my sincere personal regards to her as she ventures forth, reaching out to new horizons and greater opportunities.

Dr. Schuck has influenced the quality of education at colleges and universities in my home State of Massachusetts more than any other single educator. Through her responsible positions as political science professor at Mount Holyoke College, South Hadley, Mass. Member of the board of trustees of the University of Massachusetts and the board of education for the Commonwealth, adviser and consultant to governors in the field of education, Dr. Schuck's methods of research and individual fieldwork have become standard curricula in the colleges and universities throughout this country.

As an educator, Dr. Schuck possesses an abundance of the fine attributes most pertinent to the field of teaching. By simplifying intricate concepts and by planting the seeds of learning in fertile minds, Dr. Schuck has set many inquiring students on the path of academic discovery.

Dr. Schuck's expansive pursuit of knowledge has benefited the welfare of all citizens, not just those involved in education. Her articles on America's role in educating young women made her a pioneer in the women's movement. Her work as a political scientist on voter registration, electioneering politics, and precinct analysis is followed and studied widely by grassroots politicians. Her involvement as a civil libertarian on behalf of individual rights for women and blacks have permanently and favorably affected American justice.

An inspiration to all, in the fields of teaching and learning, Dr. Schuck, as pioneer, feminist, author, scholar and educator, is the quintessential humanist.

My personal contact with Dr. Schuck goes back more than 30 years. From all diverse ways I have known her, I have come to admire her most for her ability to instill in her students a profound knowledge and appreciation of the legislative process, a love of government, and a passion for public service.

Those of us who search for knowledge and dedicate ourselves to our Nation's greatest resource—the education of the young—forever hold Dr. Schuck in our hearts. The U.S. Government daily reaps the benefits and rewards from the advise and counsel of her many proteges, who hold responsible positions in Washington. For this, we thank Dr. Schuck from the bottom of grateful hearts.

On June 1, 1980, Mount Vernon College awarded Dr. Victoria Schuck the doctor of humane letters. The citation read at this event is yet another example of the gratitude others feel toward Dr. Schuck.

I include the following citation at this point in the RECORD:

[Honorary degree of doctor of humane letters, awarded by Mount Vernon College, June 1, 1980]

CITATION: VICTORIA SCHUCK

Scholar, teacher, political scientist, lover of art, music, literature, champion of women's education, believer in the limitless potential of women, Dr. Victoria Schuck, we honor you today for all these things. Most of us have known you for only a brief time: three years of a rich and full life. Mount Vernon College reaps the fruits of other vineyards—Mount Holyoke College, where you taught several decades of students, many of whom are now among the leaders of this nation; Massachusetts, where you served on the Board of Higher Education and on the Board of Directors of the University of Massachusetts; Stanford University, where you combined study of the liberal and fine arts with study of politics and public administration; Washington, D.C., to which you have returned time and again to serve on commissions and committees of presidents, the congress, the city.

You came to Mount Vernon College to inspire us, to nudge us to reach higher, to think larger. We have and Mount Vernon College is the better for it.

As a scholar, you have encouraged students to love learning, to treasure books of all kinds as sources of knowledge. As a teacher, you have promoted breadth of study as the means toward fullness of living. As a political scientist, you have urged involvement in national and world concerns and have brought to the campus, men and women involved in shaping the policies that affect our future. As a lover of art, music, and literature, you have invited writers, painters, sculptors, musicians to share with us their works and their artistic sensitivities. As a champion of women, you have spoken of the values of women's education and have created a sense of pride in what women have been and are today.

Victoria Schuck, president, colleague, friend, on behalf of the Mount Vernon College community, it is my honor to confer upon you the degree of Doctor of Humane Letters.●

AMERICAN SECURITY COUNCIL NEEDS NO DEFENSE

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, earlier during special orders, reference was made by one of the speakers to the American Security Council and a film which they have produced regarding the SALT II treaties.

☐ 2020

The choice of words used by the speaker were highly unfortunate and inaccurate. The American Security Council is one of the most distinguished and reputable organizations dealing with defense matters in the United States, including as it does on its board of directors members of the Joint Chiefs of Staff formerly in that capacity and members who have served as chairmen of the Joint Chiefs of Staff, as well as Members of the other body and the House of Representatives of both political parties.

I thought the comments made were not only inaccurate, but highly unfortunate. Actually, the American Security Council needs no defense; but in view of the harsh characterization used against it, I did not want the occasion to pass without some comment and response.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Michigan) and to revise and extend their remarks and include extraneous matter:)

Mr. TAUKE, for 5 minutes, on June 18.

Mr. COLEMAN, for 30 minutes, on June 19.

Mr. GREEN, for 15 minutes, on June 18.

Mrs. HECKLER, for 5 minutes, on June 19.

Mr. HARSHA, for 5 minutes, today.

(The following Members (at the request of Mr. ANTHONY) and to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. MURPHY of New York, for 30 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. PHILLIP BURTON, for 15 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. DRINAN, for 60 minutes, on June 23.

(The following Members (at the request of Mr. MAGUIRE) and to revise and extend their remarks and include extraneous material:)

Mr. WOLFF, for 5 minutes, today.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PEPPER, to revise and extend my remarks immediately before the vote on the Roybal amendment.

Mr. ATKINSON, to insert his remarks prior to vote on Michel amendment.

Mr. RINALDO, to revise and extend his remarks in the RECORD prior to vote on Conte amendment.

Mr. LUNDINE, to revise and extend his remarks following the comments of the gentleman from California (Mr. ROYBAL) on the Roybal amendment in the Committee of the Whole today.

Mr. DICKS, to revise and extend his remarks following the statement of the gentleman from Oregon on the amendment of the gentleman from Florida in the Committee of the Whole today.

Mr. ASHBROOK, to extend his remarks at this point in the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,063.25.

(The following Members (at the request of Mr. DAVIS of Michigan) and to include extraneous matter:)

Mr. CARTER in two instances.
Mr. DAVIS of Michigan.
Mr. SHUSTER.
Mr. CAMPBELL.
Mr. MICHEL in three instances.
Mr. KEMP in three instances.
Mr. PAUL.
Mr. JEFFORDS.
Mr. ERLENBORN.
Mr. LENT.
Mr. LEE.
Mr. GRISHAM.
Mr. DERWINSKI.
Mr. HOPKINS.
Mr. DORNAN in two instances.
Mr. STOCKMAN.
Mr. PHILIP M. CRANE.
Mr. CARNEY.
Mr. HANSEN.

(The following Members (at the request of Mr. ANTHONY) and to include extraneous matter:)

Mr. DODD in two instances.
Mr. ASPIN.
Mr. LUKEN.
Mr. STARK in two instances.
Mr. WOLFF in two instances.
Mr. WON PAT.
Mr. SHELBY.
Mr. HAMILTON.
Mr. ROE.
Mr. HALL of Texas.
Mr. MINISH.
Mr. PEPPER.
Ms. OAKAR.
Mr. AMBRO.
Mr. LAFALCE in two instances.
Mr. MONTGOMERY.
Mr. PHILLIP BURTON.
Mr. JOHN BURTON.
Mr. LONG of Maryland.
Mr. SANTINI.
Mr. FAUNTROY.
Mr. DINGELL.
Mr. HIGHTOWER.
Mr. SCHEUER.
Mr. CAVANAUGH in two instances.
Mr. BINGHAM.
Mr. EDWARDS of California in three instances.
Mr. BONKER.
Mr. MCDONALD in five instances.
Mr. RANGEL.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this dav present to the President, for his approval, bills of the House of the following title:

H.R. 4887. An act to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes;

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge;

H.R. 6169. An act to establish the Bogue Chitto National Wildlife Refuge;

H.R. 6022. An act to establish the Tensas River National Wildlife Refuge; and

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

ADJOURNMENT

Mr. WOLPE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Thursday, June 19, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4643. A letter from the President of the United States transmitting a proposed amendment to the requests for appropriations for the fiscal year 1981, to increase the U.S. quota in the International Monetary Fund (H. Doc. No. 96–330); to the Committee on Appropriations and ordered to be printed.

4644. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to extend the basic allowance for quarters to members above the pay grade of E–6, to authorize special pay to aviation career officers on execution of active duty agreements; and to amend title 10, United States Code, to add additional dental care benefits to the civilian health and medical program of the uniformed services, and for other purposes; to the Committee on Armed Services.

4645. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report on the Office's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4646. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during May 1980, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

4647. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of April 1980, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4648. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1717 Pennsylvania Avenue NW., Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4649. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the U.S. Post Office and Courthouse, Salt Lake City, Utah, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4650. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 300 Seventh Street SW., Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4651. A letter from the Administrator of General Services. transmitting a prospectus proposing continued occupancy under a succeeding lease for space in the World Weather Building, 4200 Auth Road, Hillcrest Heights, Md., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4652. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation; to the Committee on Veterans' Affairs.

4653. A letter from the Administrator of Veterans' Affairs, transmitting a report on studies of pension benefits payable to persons overseas, pursuant to section 308 of Public Law 95–588 and section 402 of Public Law 96–22; to the Committee on Veterans' Affairs.

4654. A letter from the President of the United States, transmitting notice of his designation of William R. Alberger and Michael J. Calhoun as Chairman and Vice Chairman, respectively, of the U.S. International Trade Commission, pursuant to section 330(c)(1) of the Tariff Act of 1930, as amended (91 Stat. 867); to the Committee on Ways and Means.

REPORTS OF COMMITTEES IN PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 5424. A bill to amend title 44, United States Code, to provide for improved administration of public printing services and distribution of public documents; with amendment (Rept. No. 96–836, pt. 2). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations Report on the Petroleum Import Fee: Department of Energy Oversight (Rept. No. 96–1099). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 6865. A bill to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.; with amendments (Rept. 96–1100, pt. 1). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules, House Resolution 714. Resolution providing for the consideration of H.R. 6418. A bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes (Rept. No. 96–1101). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 715. Resolution waiving certain points of order against the bill H.R. 7584. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1102). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 716. Resolution providing for the consideration of H.R. 7235. A bill to reform the economic regulation of railroads, and for other purposes (Rept. No. 96–1103). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ERLENBORN (for himself, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Goodling, Mr. McCloskey, and Mr. Buchanan):

H.R. 7610. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to revise the manner of computing the benefits provided under such act, to provide for certification of physicians eligible to provide medical care to workers covered by such act, to provide for an attorney to serve as the representative of the special fund established under such act, to establish a benefits review board the members of which are appointed by the President, to establish an advisory committee to evaluate the manner in which the provisions of the act are carried out, and for other purposes; to the Committee on Education and Labor.

By Mr. GOLDWATER (for himself, Mr. John L. Burton, Mr. Clausen, Mr. Ertel, Mr. Fary, Mr. Glickman, Mr. Harkin, Mr. Harsha, Mr. Levitas, Mr. Lewis, Mr. Livingston, Mr. Lloyd, Mr. Moore, Mr. Roe, Mr. Royer, Mr. Shuster, Mr. Snyder, and Mr. Taylor):

H.R. 7611. A bill to provide that receipts and disbursements of the airport and airway trust fund shall not be included in the budget of the U.S. Government; to the Committee on Government Operations.

By Mr. HOLLAND (for himself and Mr. Bafalis):

H.R. 7612. A bill to amend section 3402 of the Internal Revenue Code of 1954 to provide that proceeds from identical wagers will not be aggregated for purposes of determining whether tax should be withheld; to the Committee on Ways and Means.

Mr. LEVITAS (by request) (for himself and Mr. Johnson of California):

H.R. 7613. A bill to amend the John F. Kennedy Center Act; to the Committee on Public Works and Transportation.

By Mr. LOWRY:

H.R. 7614. A bill to amend the Internal Revenue Code of 1954 to allow each individual to exclude $1,000 of interest on savings and to deny the deduction for interest paid or incurred with respect to credit extended through the use of any credit card; to the Committee on Ways and Means.

By Mr. NEAL:

H.R. 7615. A bill amending section 113 of title 28, United States Code, to reorganize the middle and western U.S. district court judicial districts of North Carolina; to the Committee on the Judiciary.

By Mr. PEPPER:

H. R. 7616. A bill to establish a national center for clinical pharmacology in the Department of Health and Human Services; to the Committee on Interstate and Foreign Commerce.

By Mr. RUNNELS:

H.R. 7617. A bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241); to the Committee on Interior and Insular Affairs

By Mr. SHANNON (for himself, Mr. Corman, and Mr. Smith of Iowa):

H.R. 7618. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of incentive stock options; to the Committee on Ways and Means.

By Mr. THOMPSON:

H.R. 7619. A bill to amend the National Labor Relations Act with regard to faculty; to the Committee on Education and Labor.

By Mr. CONTE:

H. Res. 717. Resolution disapproving the proposed deferral of budget authority for the Environmental Protection Agency to conduct the waste treatment construction grants program under section 201 of the Federal Water Pollution Control Act (deferral No. D–80–65); to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII,

495. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Japanese internment, which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. QUILLEN presented a bill (H.R. 7620) for the relief of Clemente Diaz Ibarra, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1002: Mr. Ritter.

H.R. 1904: Mr. Atkinson and Mr. Guyer.

H.R. 2443: Mr. Annunzio, Mr. Addabbo, Mr. Rahall, Mr. Fish, Mr. Evans of the Virgin Islands, Mr. Duncan of Tennessee, Mr. Derwinski, Mr. Porter, Mr. Oberstar, Mr. Hinson, Mr. Shumway, Mr. Scheuer, Mr. Ambro, Mr. Campbell, Mr. Lederer, Ms. Mikulski, Mr. Evans of Georgia, and Mr. Fazio.

H.R. 3655: Mr. Lungren.

H.R. 4041: Mr. Frost, Mr. Kindness, and Mr. Collins of Texas.

H.R. 4178: Mr. Preyer.

H.R. 4509: Mr. Cheney, Mr. Bereuter, and Mr. Marks.

H.R. 4624: Mr. Rosenthal.

H.R. 5033: Mr. Kildee.

H.R. 5610: Mr. Gingrich, Mr. McKinney, Mr. Marks, Mr. Nichols, and Mr. Tauke.

H.R. 5981: Mr. Moffett.

H.R. 6654: Mr. Cleveland, Mr. Erdahl, Mr. Evans of Georgia, Mr. Hubbard, Mr. Leach of Iowa, Mr. Lundine, Mr. Montgomery, Mr. O'Brien, Mr. Pursell, Mr. Sawyer, Mr. Sebelius, and Mr. Stangeland.

H.R. 6806: Mr. Grisham.

H.R. 6894: Mr. Sawyer and Mr. Corman.

H.R. 7272: Mr. Brown of Ohio.

H.R. 7307: Mr. Devine, Mr. Whitehurst, Mr. Murphy of New York, Mr. Mazzoli, Mr. Lagomarsino, Mr. Volkmer, Mr. Rudd, Mr. Wyatt, Mr. Dougherty, Mr. McDonald, Mr. Hinson, Mr. Mottl, Mr. Abdnor, Mr. Sensenbrenner, Mr. Stangeland, Mr. Evans of Georgia, Mr. Derwinski, Mr. Sawyer, Mr. Kramer, Mr. Livingston, and Mr. Tauke.

H.R. 7329: Mr. Bafalis, Mr. Bedell, Mr. Blanchard, Mr. Brown of California, Mrs. Chisholm, Mr. Clausen, Mr. Courter, Mr. Derrick, Mr. Dougherty, Mr. Ertel, Mrs. Holt, Mr. Jeffords, Mr. Lee, Mr. McHugh, Mr. Myers of Indiana, Mr. Sebelius, Mr. Spence, Mr. Stack, Mr. Vander Jagt, Mr. Weiss, and Mr. Kemp.

H.R. 7371: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Clay, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Pease, Mr. Maguire, Mr. Long of Maryland, Mr. Van Deerlin, and Mr. Evans of Georgia.

H.R. 7373: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Clay, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Whittaker, Mr. Van Deerlin, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Maguire, Mr. Long of Maryland, Mr. Weaver, and Mr. Evans of Georgia.

H.R. 7374: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Clay, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Pease, Mr. Maguire, Mr. Long of Maryland, Mr. Van Deerlin, and Mr. Evans of Georgia.

H.R. 7375: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Clay, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Maguire, Mr. Long of Maryland, Mr. Van Deerlin, and Mr. Evans of Georgia.

H.R. 7376: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Clay, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Van Deerlin, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Maguire, Mr. Long of Maryland, and Mr. Evans of Georgia.

H.R. 7394: Mr. Abdnor.

H.R. 7396: Mr. Rosenthal, Mr. Drinan, Mrs. Schroeder, Mr. Clinger, Mr. Pepper, Mr. LaFalce, Mr. Pritchard, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Downey, Ms. Mikulski, Mr. Oberstar, Mr. Stokes, Mr. Maguire, Mr. Long of Maryland, Mr. Van Deerlin, Mr. Weaver, and Mr. Evans of Georgia.

H.R. 7418: Mr. Roe, Mr. Forsythe, Mr. Winn, Mr. Badham, Mr. Burgener, Mr. Cleveland, Mr. Dougherty, Mr. Emery, Mr. Evans of Georgia, Mr. Heftel, Mr. Marks, Mr. Martin, Mr. Mitchell of New York, Mr. Murphy of Pennsylvania, Mr. Musto, Mr. Royer, Mr. Sebelius, Mr. Spence, Mr. Stangeland, Mr. Walker, Mr. Whitehurst, Mr. Won Pat, Mr. Pickle, Mr. Preyer, and Mr. Chappell.

H.R. 7479: Mr. Long of Louisiana, Mr. Jones of Oklahoma, Mr. Derwinski, Mr. Neal, Mr. Moore, Mr. Benjamin, Mr. Pritchard, Mr. Bonker, Mr. Whitehurst, Mr. Horton, Mr. Preyer, Mr. Sawyer, Mr. Abdnor, Mr. Forsythe, Mr. Evans of Georgia, Mr. Stanton, and Mr. Mineta.

H.R. 7511: Mr. Abdnor.

H.J. Res. 488: Mr. Corman.

H.J. Res. 508: Mr. Preyer.

H. Con. Res. 57: Mr. Frost, Mr. Ertel, Mr. Courter, Mr. Marks, Mr. Whittaker, Mr. Hance, and Mrs. Heckler.

H. Con. Res. 344: Mr. Michel, Mr. Hall of Ohio, Mr. Rinaldo, Mr. Erdahl, Mr. Hutchinson, Mr. Marlenee, Mr. Bevill, Mr. Wyatt, Mrs. Smith of Nebraska, and Mr. Ertel.

H. Res. 681: Mr. Philip M. Crane.

H. Res. 704: Mr. Evans of Delaware, Mr. Lujan, Mr. Satterfield, Mr. Abdnor, Mr. Hammerschmidt, Mr. Grassley, Mr. Madigan, Mr. Solomon, Mr. Daniel B. Crane, Mr. Collins of Texas, Mr. Roth, Mr. Hubbard, Mr. Frost, Mr. Mottl, Mr. Evans of Georgia, Mr. Clausen, Mr. Beard of Tennessee, and Mr. Nichols.

H. Res. 706: Mr. Blanchard.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

368. By the SPEAKER: Petition of Annemarie Renger and other members of the parliamentary group of the Social Democratic Party in the Bundestag, Bonn, Federal Republic of Germany, relative to Middle East peace negotiations; to the Committee on Foreign Affairs.

369. Also, petition of the annual conference of the Tennessee Municipal League, Nashville, Tenn., relative to Federal support for aviation and airports; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. Res. 10

By Mr. BAUMAN:

(Amendment to any amendment or resolution modifying or reenacting House Resolution 10.)

—On page 1, in the first resolved clause, strike "directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House," and insert in lieu thereof the following: "for the production or disclosure of certain and sundry papers in the possession and under the control of the House of Representatives,".

On page 2, in section 2, strike "directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House," and insert in lieu thereof the following: "for the production or disclosure of certain and sundry papers in the possession and under the control of the House of Representatives,".

—On page 2, at the end of section 3, strike the period, and insert the following: ", and in no event whatsoever shall any formal judicial determination be sought by any officer or employee without the House of Representatives having first voted affirmatively to authorize such action.".

H.R. 6418

By Mr. HARSHA:

—Page 7, lines 2 and 3, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

—Page 19, lines 16 and 17, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

H.R. 6711

By Mr. WEISS:

—Page 46, line 1, insert immediately after the comma the following: "handicapped disadvantaged youth without regard to grade.".

—Page 57, after line 13 insert the following new paragraphs:

(5) No area vocational school shall be given assistance under the subsection unless and until a majority of the members of its school site council have indicated their accord with the plan as submitted for final approval to the State board for vocational education.

(6) Subject to the availability of funds under this subsection, the State board for vocational education shall provide assistance to an area vocational school for no fewer than three consecutive years, so long as the board determines that the school is making substantial documented progress toward achieving the objectives set forth in the plan submitted under section 213.

—Page 64, line 18, insert "or resumption of school attendance" immediately after "retention".

Page 71, after line 12 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(8) programs to encourage youth who left school prior to earning a certificate of graduation to return to school;

Page 92, line 23, insert "motivating youth to continue or resume school attendance," immediately after "title,".

—Page 95, on line 2, insert the word "written" after the word "effective," strike line 3 and add a period after the word "communication".

H.R. 7262

By Mr. HUTTO:

—Page 63, after line 12, insert the following:

PUBLIC HEARINGS FOR ASSISTED HOUSING

SEC. 214. Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not approve any application for housing assistance under the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the National Housing and Urban Development Act of 1965, or section 202 of the Housing Act of 1959 unless the Department of Housing and Urban Development has—

(1) held a public hearing in the affected locality to obtain the views of citizens on (A) the location of such housing, and (B) the impact of such housing on public facilities and services near such locations; and

(2) compiled a record of such hearing.

The Secretary shall take such record into account in determining whether to approve such application for housing assistance.

H.R. 7583

By Mr. HANCE:

—Page 8, after line 22, insert the following:

SEC. 103. None of the funds appropriated by this title shall be used in connection with the withholding of any tax on interest or dividend income.

—Page 8, after line 22, insert the following:

SEC. 103. None of the funds appropriated by this title shall be used in connection with the study of or implementation of the withholding of any tax on interest or dividend income.

—Page 43, after line 5, insert the following:

SEC. 103. None of the funds appropriated by this Act shall be used in connection with the study of or implementation of the withholding of any tax on interest or dividend income.

—Page 43, after line 5, insert the following:

SEC. 614. None of the funds appropriated by this Act shall be used in connection with the withholding of any tax on interest or dividend income.

By Mr. PEASE:

—Page 27, after line 17, insert the following new section:

SEC. 4. None of the funds appropriated by this title may be used by the General Services Administration before January 1, 1981, to dispose of any United States owned agricultural land which is determined by the Administrator of the General Services Administration to be surplus.

H.R. 7584

By Mr. BURGENER:

—On page 13, line 4, delete "$347,700,000" and insert in lieu thereof "$352,644,000".

By Mr. DIXON:

—Page 16, line 9, strike out "$127,845,000" and insert in lieu thereof "$137,845,000".

Page 16, line 12, strike out the period and insert in lieu thereof the following: "and $10,000,000 of said amount shall be available only for grants authorized by subsection (b) of section 103 of the Justice System Improvement Act of 1979.".

By Mr. LEVITAS:

—Page 43, after line 5, insert the following:

SEC. 605. None of the funds appropriated or otherwise made available by this Act may be used to implement, administer, or enforce any rule, regulation, order, or other action which has been the subject of a resolution of disapproval duly adopted by a committee or committees of the Congress, one House of the Congress, or both Houses of the Congress, as the case may be, pursuant to the applicable law of the United States.

By Mr. MILLER of Ohio:

—Page 43, line 6, add:

SEC. 605. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

EXTENSIONS OF REMARKS

THE CANDLEMAKERS' PETITION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. PAUL. Mr. Speaker, Frederic Bastiat was an economist and journalist who served in the French Chamber of Deputies in the 1840's.

Bastiat's brilliant essays exposing the fallacies of economic intervention by the state are as contemporary as the 96th Congress.

In 1845, Bastiat described a mythical petition to the French Government from candlemakers who protested the Sun's unfair competition. As we continue down the road of massive interventionism, the legislation here in Congress becomes no less absurd than that lampooned by Bastiat.

I call this essay by Frederic Bastiat to my colleagues' attention.

THE CANDLEMAKERS' PETITION

(By Frederic Bastiat)

We candlemakers are suffering from the unfair competition of a foreign rival. This foreign manufacturer of light has such an advantage over us that he floods our domestic markets with his product. And he offers it at a fantastically low price. The moment this foreigner appears in our country, all our customers desert us and turn to him. As a result, an entire domestic industry is rendered completely stagnant. And even more, since the lighting industry has countless ramifications with other native industries, they, too, are injured. This foreign manufacturer who competes against us without mercy is none other than the sun itself!

Here is our petition: Please pass a law ordering the closing of all windows, skylights, shutters, curtains, and blinds—that is, all openings, holes, and cracks through which the light of the sun is allowed to enter houses. This free sunlight is hurting the business of us deserving manufacturers of candles. Since we have always served our country well, gratitude demands that our country ought not to abandon us now to this unequal competition.

We hope that you gentlemen will not regard our petition as mere satire, or refuse it without at least hearing our reasons in support of it.

First, if you make it as difficult as possible for the people to have access to natural light, and thus create an increased demand for artificial light, will not all domestic manufacturers be stimulated thereby?

For example, if more tallow is consumed, naturally there must be more cattle and sheep. As a result, there will also be more meat, wool, and hides. There will even be more manure, which is the basis of agriculture.

Next, if more oil is consumed for lighting, we shall have extensive olive groves and rape [variety of mustard] fields.

Also, our wastelands will be covered with pines and other resinous trees and plants. As a result of this, there will be numerous swarms of bees to increase the production of honey. In fact, all branches of agriculture will show an increased development.

The same applies to the shipping industry. The increased demand for whale oil will then require thousands of ships for whale fishing. In a short time, this will result in a navy capable of upholding the honor of our country and gratifying the patriotic sentiments of the candlemakers and other persons in related industries.

The manufacturers of lighting fixtures—candlesticks, lamps, candelabra, chandeliers, crystals, bronzes, and so on—will be especially stimulated. The resulting warehouses and display rooms will make our present-day shops look poor indeed.

The resin collectors on the heights along the seacoast, as well as the coal miners in the depths of the earth, will rejoice at their higher wages and increased prosperity. In fact, gentlemen, the condition of every citizen of our country—from the wealthiest owner of coal mines to the poorest seller of matches—will be improved by the process of our petition.

TO THIS PETITION OF THE CANDLEMAKERS, BASTIAT IN EFFECT REPLIED

You neglect the consumer in your plea. Whenever the consumer's interest is opposed to that of the producer you sacrifice the consumer's—for the sake of increased work and employment. The consumer wants goods as cheaply as possible, even imports, if they are inexpensive. "But," you reply, "producers are interested in excluding cheap imports. Similarly, consumers may welcome free natural light, but producers of artificial light are interested in excluding it."

Nature and human labor cooperate in the production of commodities in various proportions, depending on the country and the climate. Nature's part is always "free." If a Lisbon orange sells in Paris for half the price of a Paris orange, it is because nature and, thus, free heat does for it what artificial and, therefore, expensive heat must do for the other. A part of the Portuguese orange is furnished free.

When we can acquire goods from abroad for less labor than if we make them ourselves, the difference is a gift. When the donor, like the sun in furnishing light, asks for nothing, the gift is complete. The question we would ask—and we pose it formally—is this: "Do you prefer that our people have the benefit of consuming free and inexpensive commodities? Or would you impose on them the supposed advantages of hard work and expensive production?"●

LITHUANIAN FREEDOM DAY

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DODD. Mr. Speaker, on June 15, 40 years ago, the Soviet Union forcibly and unlawfully occupied and incorporated Lithuania. Repression continues to this day—politically, religiously, and culturally.

There are thousands of Lithuanians who attempt to exercise their basic human rights and are arrested, harassed, and pressured by the Soviet-installed government. Many others are prisoners in a different sense. In their homes, families cannot practice their unique cultural heritage and religious traditions without fear of reprisals. And, in their schools, children are exposed only to the Soviet educational system.

The struggle for freedom is a recurrent theme in Lithuanian history. As Americans, we too often take our constitutional freedoms of speech, press, assemblage, and religion for granted. By celebrating Lithuanian Freedom Day, we serve to renew our belief in the democratic principles of our Nation and reassert that we will never accept violation of human rights and human dignity by the Soviets in countries like Lithuania or Afghanistan or the Baltic States.●

THE NEIGHBORHOOD PHARMACY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. LAFALCE. Mr. Speaker, the gradual decline in the importance of the small independent pharmacy is indicative of the problems facing millions of America's small businesses. Their declining share of the market is another indication that the small, independent retailer continues to face increasing odds in competition against chainstore and nationwide pharmacies.

A recent article on this subject, printed in the Buffalo Courier-Express, explains how this decline in the numbers of neighborhood drugstores also reflects the increasing challenges faced by those who wish to preserve the neighborhood business districts of our cities. As competition drives the independent retailer out of business, the vacuum that remains often goes unfilled, leaving a neighborhood or small community without an important business or without a concerned local businessman or businesswoman. The long-term effects of this trend are to undermine an entire business district and make new investors more hesitant in opening new shops.

I am certain that readers of this commentary will gain a renewed appreciation and enthusiasm for the neighborhood pharmacies that remain in business.

The article follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

[From the Buffalo Courier-Express, June 16, 1980]

Neighborhood Pharmacies On Decline

(By Ralph W. Loew)

Revolutions can happen before our eyes without ever being seen. Customs, habits, attitudes, values and ways of thinking and acting can change radically without even a decent obituary.

For instance, when we moved to the Central Park area 33 years ago there were 13 drugstores in the immediate area. Now there are 5. The corner delicatessen is gone, the three grocery stores on and around the corner are gone but fortunately for us, the corner drugstore is still there.

So I asked Robert N. Yaeger, who has been my favorite pharmacist through the years, to comment about all of this. The Parker Pharmacy has been there since 1944. He listed some of the many developments which have threatened these small independent servants of the public good. Those situations include the growing competition of the "chain pharmacies" and the addition of drug departments to supermarkets. Then there are such practical problems as the multiplication of 'paperwork' and the spiral of inflation.

In addition, there are threats which range from the petty shoplifting to the very serious holdups. The latter are for drugs as much as for money and are a continuing danger. Add to these the long hours involved and the need for a large investment before a business can be started and you understand the problem confronting the pharmacist.

Yet communities are held together by trust and respect and the corner drugstore is one of those institutions which add quality to a city. Bob Yaeger knows our family very well. He's filled our prescriptions since the girls were children, given us advice, shared counsel and been a neighborhood friend. One can get integrity from the chainstore pharmacist too but the turnover in personnel is constant. It is encouraging and comforting to know that Bob and his colleagues are in their usual place.

Another contributing factor to change is the decline of medical offices in neighborhoods. Doctors are now frequently located in group practice or in medical buildings, all of which changed the situation for the smaller independent pharmacist.

This revolution had been going on nationally as well as locally. The small independent druggist had 12 percent of the market in 1967. By 1970 that had declined to 8 percent and by 1980 it is estimated to be but 4.9 percent. Meanwhile the chain store pharmacists have captured 49 percent of the market.

So Bob and I discussed the future of these smaller establishments. He spoke of his philosophy of business, of his personal values added to professional integrity. He is also aware of the important role he and his colleagues play in the personal lives of the neighborhood.

That's important in a time when cities are in crisis. Beyond the financial crunch and the agony of integrating varieties of ethnic and racial groups there is requirement of keeping alive every organization or group which can share in the development of the environment of opportunity which is the keynote of the city. That community is happiest which has a variety of businesses, churches, schools and public agencies which provide the glue which holds the community together.

Among these is the corner drugstore where there is someone to greet you by name, deliver prescriptions when there's an emergency, share with the family as the years go by and be available at hours beyond the 9 to 5 schedules of each day. To all of these pharmacists and those who work with them, our city owes gratitude. For our family, that salute is for Bob Yaeger and his professional family who continue to play an important role in the local neighborhood.●

H.R. 4155

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MINISH. Mr. Speaker, I would like to take a moment to applaud the action of the House yesterday in unanimously passing H.R. 4155, legislation which will strengthen the Department of Education's ability to recoup defaulted student loan money.

Under current law, the Internal Revenue Service may disclose the addresses of only a limited number of loan defaulters. H.R. 4155 will expand the authority of the IRS to provide the Education Department with the addresses of those who have failed to repay guaranteed student loans and loans made under the Migration and Refugee Assistance Act.

The problem of default on loans made in good faith by the Federal Government to thousands of college students is reaching monumental proportions. The General Accounting Office estimates that as of fiscal year 1979, there was $2 billion in default under two programs: the guaranteed student loan program and the national direct student loan program. As we strive to reduce unnecessary Government spending it is essential that we use the most effective means available to recapture these funds.

Mr. Speaker, H.R. 4155 will enable the Department of Education and the Internal Revenue Service to work closely in the attempts to crack down on defaulters. It also provides adequate safeguards to prevent the misuse of the information made available to Education Department officials.

I commend the unanimous support that my colleagues provided to H.R. 4155. It is a matter of equity for the American taxpayers.●

A TOAST TO THE TERMINAL TOWER

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Ms. OAKAR. Mr. Speaker, June 28, 1980, marks the 50th anniversary of the Terminal Tower Building located in the heart of downtown Cleveland, Ohio. From 1920 groundbreaking ceremonies to her 50th anniversary celebrations, Public Square has been the site of Cleveland's towering citadel—708 feet and 52 stories high, the Terminal Tower was in her youth the second tallest building in the Nation after New York City's Woolworth Building. For Greater Clevelanders, the Terminal Tower is our centerpiece, skylining Lake Erie's northern shores and casting a warm shadow of concern over the industry, commerce, and business enterprises that make our city great. In short, the Terminal Tower is the focal point of our downtown and our city.

As Cleveland Plain Dealer columnist and noted author and storyteller, George Condon, spells out in his latest work, "Cleveland: Prodigy of the Western Reserve," "The effect of the unprecedented building venture was to change the face of Public Square and its adjacent neighborhood." Indeed, Mr. Condon's predictions proved accurate. The Terminal Tower has and continues to stand as the imposing symbol and constant reminder of the great traditions and history of our city. She has earned center stage on her golden anniversary. I am most pleased as the congressional Representative and a member of the Greater Cleveland community to have the opportunity to contribute to the Terminal Tower's well-deserved laurels by submitting for the Congressional Record a tribute to the tower's enduring strength, grace, and beauty.

My mother and father were married in June 1931 shortly after the Terminal Tower was completed. In her diary, my mother noted: "What a beautiful building our Terminal Tower is—it will surely always be the pride and joy of our city." Her words are truly prophetic—every Clevelander is proud of the structure, and we are surely proud to be Clevelanders.

Mr. William F. Miller explains the celebration schedule in the following Plain Dealer article:

Terminal Tower Party To Be a Real Wingding

A month-long celebration is being planned for June to celebrate the golden anniversary of Terminal Tower, the symbol of Cleveland.

"The Terminal Tower 50th Birthday Celebration," will feature entertainment, a party, dinners, exhibits and art in the Terminal Tower concourse or on Public Square.

The celebration is being sponsored by U.S. Realty Investments and its Terminal Management Co.

"It is going to be the best birthday party ever thrown for a building in Cleveland," said Daniel A. FitzSimons, president of FitzSimons LeGrand Advertising, which is planning the party.

FitzSimons said large walk-through exhibit cubes, with pictures and text about the construction of the building, will be built in the concourse.

The sponsors hope to fill Public Square for a party-in-the-park celebration on Friday, June 27, at 5 p.m. It will feature music and a fireworks display. A former Army ranger who is now a stunt man will rappel himself headfirst down the face of the tower.

A carnival on the square that Saturday and Sunday will feature concerts, hot-air balloon rides, mimes and jugglers.

FitzSimons plans to post apple sellers on the corners because the peddlers were common when the building opened in the early days of the Depression.

There will be street races, films, a parade, ethnic culture shows and other events during the month, said FitzSimons.

The 52-story building contains 750,000 square feet. The developers were the Van Sweringen brothers, Mantis James and Oris Paxton, who not only built the tower, but developed Shaker Heights.●

SIMPLE WORDS, HARD FACTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MICHEL. Mr. Speaker, amid all of the sophisticated economic theories and complex political rhetoric being heard these days, it might be useful to put in simple terms what we are enduring.

The Carter administration and the Democratic leadership in the Congress, through decisions consciously taken, have brought this Nation and its working people to an historically unprecedented crisis. We are enduring high inflation and rising unemployment. We have not yet hit the bottom of this slide. "Factory Capacity Rate Low" says a headline in the New York Times, reminding us that our factories are now operating at 78.9 percent of capacity, the lowest rate in years.

At this point I insert in the RECORD, "Factory Capacity Rate Low" from the New York Times, June 16, 1980:

FACTORY CAPACITY RATE LOW

WASHINGTON, June 16.—Affected by the deepening recession, the nation's factories operated last month at only 78.9 percent of capacity, the lowest level since February 1976 and 2 percentage points below April's mark, the Federal Reserve reported today.

The Federal Reserve said that the capacity rate had dropped nearly eight percentage points from 1979's first quarter, when the economy was still expanding.

In the last four months, the rate has declined by 5.5 percentage points after remaining stable during the last half of 1979.

During the last recession in 1974-75, the operating rate fell as low as 69 percent.

Reports of declining factory use came in the wake of other recession news. Industrial production in May fell 2.1 percent. Inventories rose 1.3 percent in April, as sales by manufacturers, wholesalers and retailers slumped 3.3 percent. And unemployment rose to 7.8 percent in May, from 7 percent in April.

The Federal Reserve's report said that the drop in factory operating rates was widespread.

The utilization level for primary processing plants plummeted 3.1 percentage points in May, to 77.8 percent, more than 10 percentage points lower than a year earlier. As recently as January, this figure stood at 86.3 percent of capacity.

The rate for advanced processing in May declined more moderately—1.3 percentage points, to 79.5 percent, the Federal Reserve said.

DROP IN METALS, OIL, AND PLASTICS

The factory use rates for production of iron and steel, petroleum products, rubber and plastics and motor vehicles all fell substantially.

For motor vehicles, the operating rate was slightly above its last recession low in February 1975 of 51.3 percent, the Federal Reserve said.

Producers of durable goods operated at 75.9 percent of capacity in May, a decline of 3 percentage points from April.

Manufacturers of nondurable goods, meanwhile, operated at 84.8 percent of capacity, 1.8 percentage points less than a month earlier.

The Federal Reserve also reported that the use rate of industrial materials fell 2.3 percentage points, to 80.2 percent in May, or 7.2 percentage points less than May 1979. During the last recession, this rate fell as low as 69.4 percent.●

HEARINGS RELEASED ON CHEMICAL AND BIOLOGICAL WEAPONS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. WOLFF. Mr. Speaker, I would like to call the attention of our colleagues to a joint release today by my chairman, the Honorable CLEMENT ZABLOCKI, and I of hearings we held recently on the strategic implications of the use of chemical and biological weapons of war.

Mr. ZABLOCKI's Subcommittee on International Security and Scientific Affairs, and the Subcommittee on Asian and Pacific Affairs, which I have the honor to chair, held these hearings on April 24. They were an extension of hearings held by the Subcommittee on Asian and Pacific Affairs last December.

Building on that record, the April hearing examined the strategic implications of reports of the use of chemical agents in Laos and Cambodia, and the new charges that chemical agents were being used in Afghanistan.

In addition, we explored the sensitive issues surrounding reports of an incident involving the possible existence of high levels of biological agents in the Soviet inventory.

Chairman ZABLOCKI and I are agreed that this hearing achieved the following results, in terms of demonstrating continuing congressional interest in:

(a) Separating the true facts from rumor relative to allegations of Soviet use of lethal chemical weapons in Afghanistan;

(b) Ascertaining the facts, or what remains to be proven, regarding the April 1979 incident in the Soviet city of Sverdlovsk, which may have been connected with a biological warfare agent;

(c) The continued need to enhance U.S. chemical warfare defensive capabilities;

(d) The pursuit of arms control negotiations to avoid the costly production and destabilizing effect of new, lethal chemical weapons; and

(e) A commitment to an effective international ban on the use in war of chemical and biological weapons.

Witnesses testified that the United States was pursuing a diplomatic effort to obtain the concurrence of friends, allies, and key neutral or nonalined nations in having an impartial international investigation into the allegations of chemical weapons use in Afghanistan, Laos, and Cambodia.

In our joint press statement today releasing the hearings, Chairman ZABLOCKI made the following comment regarding this important diplomatic effort:

> I am pleased to report that preliminary responses to the administration's efforts to date are positive. Because of the need to sustain the credibility of our evidence, and to generate greater support for an impartial investigation, I would stress that it is critical that all public officials approach this effort in a responsible and non-political manner.

At our hearing, both Mr. ZABLOCKI and I indicated a concern that misleading public statements and news accounts may be contributing to a climate which obscures the actual facts on the use of lethal chemical weapons in Afghanistan, Laos, and Cambodia. This is also the case for what may—or may not—have happened in Sverdlovsk.

In our joint press statement today I noted:

> I am concerned that an atmosphere may have been created which will make it difficult for the United States to make objective decisions on critical arms control and negotiation areas regarding both chemical and biological weapons. Thus, we must strive for objectivity while at the same time recognizing the risks of actions by other nations which would have serious implications for U.S. and international security, and the continued viability of international arms control.

Based on testimony from Hon. Matthew Nimetz, Under Secretary of State for Security Assistance, Science, and Technology, Rear Adm. Thomas Davies, Assistant Director, U.S. Arms Control and Disarmament Agency, and Prof. Matthew Meselson, Harvard University, the subcommittees learned the following facts:

With respect to the situation in Afghanistan, it is highly likely that Soviet invasion forces have used nonlethal chemical irritants in their efforts to suppress the Afghan resistance. The U.S. Government has not been able to confirm, however, that the Soviets have employed lethal and incapacitating agents in Afghanistan.

Due to persistent reports that lethal chemical weapons are being used in Afghanistan, Laos, and Cambodia, the administration has initiated efforts with other countries to obtain an impartial international investigation into these charges.

As to the Sverdlovsk incident, the administration's current assessment is inconclusive as to whether or not the event involved biological warfare agents; however, pursuing this matter with the Soviets in an effort to obtain additional information is fully justified.

Based on the April 24 hearing, the House of Representatives on May 19, 1980, unanimously adopted House Resolution 644, a resolution encouraging the administration to pursue observance by all parties of the 1975 Biological Weapons Convention prohibiting biological warfare.

Commenting on the resolution in today's press statement, Chairman ZABLOCKI said:

> It is necessary that the U.S.S.R. recognize the determined interest of the House in resolving this issue. Soviet cooperation is in our mutual interest and will help to achieve the complete elimination of bacteriological and biological agents from the arsenals of all countries. In this respect, as the administration pursues its on-going negotiations with the Soviets, an acceptable procedure for both countries might be to have some international health organization, such as the World Health Organization or the International Committee of the Red Cross, conduct a thorough, impartial and independent investigation into this incident.

Copies of the hearing, entitled "Strategic Implications of Chemical and Biological Warfare," are available in room 2169 Rayburn House Office Building.

I hope this summary of our hearings will prove useful to the House as we examine this important topic in the days ahead. I urge any Members who may have questions to feel free to call either the Subcommittee on Asian and Pacific Affairs, 225-3044, or the Subcommittee on International Security and Scientific Affairs, 225-8926.●

TEXARKANA MOBILIZES TO FIGHT CRIME

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. HALL of Texas. Mr. Speaker, in the past few years there has been a dramatic increase nationally in crime in small- and medium-sized cities. A medium-sized city in my congressional district has launched a crime-fighting program that could be used as a model for other cities. The city is Texarkana, Tex., and I would like to bring this effort to the attention of my colleagues.

Entitled "Awareness of Crime in Texarkana," or A.C.T., this program is a cooperative venture involving business, government, and private citizens.

A Federal correctional institution is located in Texarkana, and prison officials have been working with the community in the A.C.T. program. In fact, the Director of the Federal Bureau of Prisons, Norman Carlson, endorsed the project last year after looking it over.

A local businessman, Josh Morriss, and president of the Junior League, Mrs. Joanne Howard, put together the original A.C.T. Action Committee, which was made up of representatives of local business, the police department and other city agencies, local universities and high schools, the Federal prison and local churches. The committee defined several goals for its work: Educate the public about the costs and consequences of crime; expose youngsters to the consequences of crime in order to discourage them from a life of crime; involve the community in crime prevention efforts; reduce crime.

The first goal of A.C.T.—to educate the public about crime—was addressed by public endorsements and speeches as well as a comprehensive media campaign.

The second goal was to reach the city's youngsters. High school students were taken to meet real prisoners. They heard about what life is like for a convict—the rigors of prison, the meaning of a life of crime. These same students were used as volunteers to distribute crime prevention materials. Scout troops were used to assemble materials. Elementary school children were given very imaginative comic papers instructing them on reporting crime. They had to take the papers home to their parents to review. If they came back to class with their parent's signature on the back of the paper, they would be designated junior deputies. The designation was made official in a ceremony in which they were awarded badges by local police officers. A Texarkana artist designed the comic papers and a local college printed them up.

Another goal of the program was to mobilize the entire community in crime prevention efforts. The first thing that had to be done was to find out which crimes the community was most concerned with preventing. To this end, a survey was designed. It was printed in local papers, distributed at civic meetings, and given to as many community members as possible. The results showed that burglary and vandalism were the crimes with which Texarkana residents were most concerned. A.C.T.'s police advisers agreed that these were in fact a high priority.

Three neighborhoods were targeted for a pilot program involving the distribution of crime prevention materials. They contained information about local burglary patterns, engravers for marking property, instructions for reporting suspicious events, and decals for display at home. The packets were distributed door to door by A.C.T. volunteers and were timed to precede the preholiday burglary season in late November. Materials for the packets were donated by Commercial Union Assurance Cos. and local businessmen.

A project director has been hired to coordinate the activities of A.C.T. funding for much of the activities are through local businesses including the Independent Insurance Agents of Texarkana and Commercial Union Insurance Co.

In its next phase of operations, A.C.T. hopes to distribute crime prevention packets citywide. The comic papers will be serialized and distributed to all elementary school students. Crime prevention information depositories will be established.

Mr. Speaker, we have become too willing as a nation to accept crime as a fact of life. But when entire communities mobilize to fight it, as did Texarkana, perhaps crime will no longer find a home.●

THE REFUGEE QUESTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, June 18, 1980, into the CONGRESSIONAL RECORD:

THE REFUGEE QUESTION

> Our recent experience with refugees—the Vietnamese in 1975 and the Cubans in the last several weeks—clearly shows the inadequacy of the laws under which we grant people entry into the United States. The central fact of our experience is that we have lost a large measure of control over who can and who cannot come into this country.
>
> Immigration policy has always been a difficult matter for Americans. We have restricted immigration for more than 100 years. Quotas have regulated the flow of immigrants, according to their national origin, since 1921. Much immigration, however, is now occurring ad hoc. For the past quarter century the United States Attorney General has had discretionary parole power under which he has permitted into the country more than one million refugees from Hungary, Cuba, the Soviet Union, and other lands. Although our laws will allow about 630,000 refugees and immigrants into the country this year, many more will come in legally outside the ceiling. Moreover, the law gives the President the authority to let in an unlimited number of refugees. In addition, thousands more will cross our borders as illegal aliens. In the last half of the 19th Century and the first half of this one, we brought people in under laws that were not always wise or fair, but at least the immigration occurred within the law. Today, the laws of the United States are being evaded.
>
> We have neither an effective emergency policy to deal with new waves of refugees nor a coherent national policy on immigration. When faced with a problem—the rapid influx of Cubans or the steady northward migration of people from the other nations of Latin America—we seem to flounder about, not knowing what we are doing or why we are doing it. The basic difficulty is that we have not determined for ourselves what our objectives are and how we can best achieve them. We have regarded immigration matters as marginal in importance and susceptible to expedient solutions. We have

set up a limit and then, through the use of the parole power or the "back door," have let in thousands more on their own initiative.

Our immigration policy must be geared to new realities. The world's population is now 4.4 billion, and it is expanding at a rate of 172 per minute, about 90 million per year. With political turmoil in many parts of the world, the number of refugees has swelled to 14 million. America is still the "promised land" for most of them, and they would flock to our shores if they could. We may be preoccupied with our own domestic troubles, but our nation is the shining hope of these homeless men and women, many of whom have felt the scourges of war, political oppression, and abject poverty. In the past, we have welcomed those who have fled their homes for racial, religious, or political reasons. We have helped them learn a new language, acquire new skills, and settle into new homes. In turn, these newcomers have enriched our national life by making remarkable contributions to their adopted homeland. We pride ourselves on being a haven for refugees and have been confident of our ability to absorb those who came here, but we cannot possibly accept all refugees. We must ask ourselves which we should admit, keeping in mind that the assimilation of refugees is not as easy for us as it once was. Unlimited immigration may have been appropriate in an earlier day, but resettlement programs can become a burden on many Americans who themselves may be faced with unemployment.

As I think about immigration policy, it strikes me that several general principles must guide us in the decisions we make:

Current immigration practices need to be looked at in their entirety, with a view toward their long-range impact and the emergence of a sound national policy on immigration. Our primary objective must be to regularize and slow the influx of people from abroad. Although we cannot afford to take in all refugees, we can afford to take in many. We are not an overcrowded country, and it is consistent with our traditions to be generous to displaced people. A chaotic avalanche of refugees, however, is something we do not want and should not tolerate.

An overall annual ceiling for refugees and immigrants is desirable. Once set, the ceiling should be strictly adhered to. Since we have accepted more refugees and immigrants this year than have all other nations of the free world combined, we need not apologize.

We should deal with all refugees and immigrants equally, not allowing the people of any foreign country special advantages. Race certainly ought not to be a factor.

We must intensify our effort to control illegal immigration. A substantial increase in the resources we commit to maintain the integrity of our borders is long overdue. Comprehensive bilateral programs with nations that "export" their people may be necessary.

We should work for the admission of "seed imigrants" who can help our nation with their talents but who have no relatives in America. Our immigration policy is too dominated by the goal of family reunification. Although that goal is a worthy one, it is not the only one. Economic and cultural development is also in our interest.

Other nations should be encouraged both to participate in the resettlement of refugees and to help lessen the tensions that generate refugees.

Finally, all refugees should be screened carefully upon arrival in the United States. In no circumstances should we accept refugees who have committed serious crimes or who would be disloyal to the United States.●

MEMBERS OF BOY SCOUT TROOP NO. 295 TO ATTEND INTERNATIONAL JAMBOREE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ZEFERETTI. Mr. Speaker, on July 26, 1980, 10 members of Boy Scout Troop No. 295 at St. Patrick's Parish in Bay Ridge, Brooklyn, accompanied by 3 Scoutmasters, will leave for a 3-week tour of Sweden. While in Sweden, the Scouts will attend a 1-week International Jamboree with Boy Scout troops from eight other countries.

The Scouts of troop No. 295 were invited to the 1980 International Jamboree by members of the Swedish Boy Scout Council. They met the Swedish Scouts while participating in a bicentennial exchange program in England in 1977. These Scouts are the only American group going to the international festival.

Troop No. 295 has contributed much to the growth of the Brooklyn community both physically and spiritually. They perform a large number of community services with great regularity. Most recently, the Scouts offered free rides to Brooklynites during the New York City transit strike.

I feel that this group of young men characterizes the qualities every individual should possess—a pride in each other and themselves. In these troubled times, their goal—to continue to improve and shape a bigger and brighter world—should give each of us a cause for optimism.

It is my hope that these Scouts, by demonstrating their ability to finance their $429 round-trip tickets through various fundraising activities, will revitalize Boy Scout organizations in Brooklyn and throughout the country. Boy Scout organizations must continue to mold our future leaders through their goals of character building, citizenship training, and physical fitness. In my opinion, the Scouts' invitation and trip to the International Jamboree in Sweden is well-deserved reward for the hours of hard work they have donated to the community and it will generate new enthusiasm for Boy Scouting in Brooklyn.●

AMERICA NEEDS REVIVAL OF PATRIOTISM

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MONTGOMERY. Mr. Speaker, I would like to take this opportunity to share with my colleagues what I consider to be an outstanding editorial written by an 18-year-old senior in high school. This young woman from Jackson, Miss., has hit at the heart of the patriotic lethargy that currently exists in this Nation. I am very encouraged by the awareness Sonja Nall displays and am hopeful that her recognition of our problems is reflective of the rest of her generation. If that is so, we can rest easy that our future will be in good hands.

I commend her editorial in the Callaway High School newspaper to my colleagues:

[From the Thunderbolt, May 9, 1980]

AMERICA NEEDS REVIVAL OF PATRIOTISM

(By Sonja Nall)

How long has it been since we have stood in the classroom to recite the pledge of allegiance? How long has it been since we have stood in the schools to sing the National Anthem? And how long has it been since each of us, as individuals, has noticed the flag of the United States of America waving in the breeze and felt a tingle spread over one's body—a tingle that was the result of awesome pride and respect for this great nation?

Now, more than ever before, it is time for the people of this nation to stand united in all that we believe. What we believe as a nation is protected through our solemn promise of allegiance to the United States of America.

This promise of allegiance is symbolized by our pledge to the American flag. Over 200 years after our forefathers fought and died for the freedom that we take for granted each day, that pledge still reads, ". . . one Nation, under God, indivisible . . ."

Are we "one Nation?" Are we a nation "under God" and "indivisible" through His strength and guidance? These questions can only be answered through our actions as a people.

The official motto of the United States was adopted on July 3, 1956 and reads, "In God We Trust." We, as a united people, must begin to entrust the welfare of this nation to God, the very God to whom we can no longer pray in the public schools and for whose worship our forefathers left Europe for the New World.

The Constitution of the United States calls for majority rule. According to World Book Encyclopedia, 95 percent of all Americans committed to any religious organization is Christian. Isn't it ironic that a majority of this size is refused the right to prayer in the public schools in order to protect the rights of an athiest in our "one Nation, under God?"

The older generation is often critical of youth who lack patriotism. Yet, who is to blame when children are no longer asked to say the pledge of allegiance in the public schools?

A case in point is the statement made recently by a 12 year-old boy who has been in the Jackson Public Schools since he entered the first grade. He was quoted as saying, "It has been so long since I have heard the pledge of allegiance that I probably could not recite it correctly if I had to." Thus, we cannot blame the youth; for they certainly cannot teach patriotism to themselves.

On the other hand, young people often criticize the older generation, who they say created our foreign policy and thus the international conflicts that it has brought about. Yet, these youth rise each morning in the free nation that those same ancestors fought and died to preserve for them.

However, now is not the time to assess blame, not to any segment of the people nor to any leader. Rather it is the time for us to unite for the love of our God and country.

Let us once again be ". . . one Nation, under God, indivisible, with liberty and justice for all."●

FATHER ROBERT DRINAN

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. HORTON. Mr. Speaker, like many of my colleagues, I was sorry to hear of Father Drinan's decision not to seek reelection to the House of Representatives this fall. For 10 years, since his election to the 92d Congress, Father Drinan has ably and effectively served his constituency and the Congress.

As a colleague of Father Drinan's on the House Government Operations Committee, I have come to know and respect his dedication to integrity in Government and his efforts on behalf of consumers all across America. Although we are on opposite sides of the aisle and do not always agree, I have witnessed, as my colleagues on the committee have witnessed, the force and conviction which characterizes his advocacy. His active participation on the Government Operations Committee will be missed.

Although Bob Drinan will no longer represent Massachusetts Fourth Congressional District, I am confident he will continue to find ways to serve his community. I wish him well and further success in whatever tasks he pursues.●

WHO IS THE REAL DEMAGOGUE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MICHEL. Mr. Speaker, a few weeks ago, President Jimmy Carter said Gov. Ronald Reagan's campaign will feature "demagoguery." Unfortunately for Mr. Carter, syndicated columnist George Will happened to come across the Carter claim. What Will has done is simply to list some of the events and incidents during the past 4 years that demonstrate that Jimmy Carter has a first-hand experience with demagoguery because he seems to be expert at it himself.

At this point I include in the Record, "Look Who's Shouting 'Demagogue,'" by George Will, Chicago Sun-Times, June 15, 1980.

LOOK WHO'S SHOUTING "DEMAGOGUE"

(By George Will)

Washington.—Jimmy Carter says Ronald Reagan's campaign will feature "demagoguery." Hmmmmmmmmmm. That's an interesting warning from the man who:

Early in 1977, said: Hey, let's mail everybody some money—a $50 tax rebate.

Attacked entire classes of Americans, including doctors and lawyers.

Pandered to other public prejudices with repeated attacks on another safe target, oil companies.

Undermined respect for, and compliance with, the tax system by ridiculing it as "a disgrace to the human race."

Further lowered the discussion of complicated tax matters by displaying, for the merriment of yahoos, a stack of volumes containing the tax code, as though the size of the volumes is self-evident proof of something.

Lowered the tone still further by harping on the "three martini lunch."

Blamed most of America's inflation on wicked foreigners—OPEC—in spite of the fact that 11 of the 13 industrial nations that are more dependent on OPEC than America have lower inflation rates than America has.

Announced, as the economy tumbled into a free-fall, that his economic policies "suit me fine."

Said, as those policies produced the worst two consecutive months of rising unemployment statistics in the history of American unemployment statistics, that "no working man or woman can find fault with our policies."

Declared, six months after his treasury secretary declared the recession half over, and shortly before the shattering unemployment figures, that the nation's economy had "turned the corner."

Submitted a budget calling for a percentage increase of federal expenditures exceeded only once in a quarter of a century, and then denounced Edward Kennedy as "the biggest spender perhaps in the history of the United States Senate."

Said that, "The differences between me and Sen. Kennedy are very minor."

Said, three months ago, shortly before even his administration began to admit that the deficit will be at least $20 billion, that: "I don't have any doubt that we will have a balanced budget in 1981."

Went on television to make a histrionic declaration that the presence of Soviet combat troops in Cuba is "unacceptable."

Went on television to say that, come to think about it, the presence is acceptable.

Solemnly said that the invasion of Afghanistan was the gravest threat to peace since the Second World War—and then cut the defense budget.

Said: "If I ever lie to you, don't vote for me."

Said, when it suited his political situation: "I want the world to know that I am not going to resume business-as-usual as a partisan campaigner out on the campaign trail until our hostages are back here—free and at home."

Went on television as the polls were opening in the Wisconsin primary, to announce, falsely, a breakthrough in the hostage crises.

Sprinted to Texas, on the eve of the Texas primary, to use a visit with the casualties of the rescue mission as a photo opportunity.

Enough already.●

ROOSTER BRIDGE

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. SHELBY. Mr. Speaker, a tribute to American ingenuity has passed from the scene and it is fitting to mark that passage.

In the early 1900's, a bridge was needed to replace a ferry across the Tombigbee River in my home district of Alabama. It was a vital link in the chain becoming a 2,700-mile expanse of highways. Money was the problem—as it still is today. The citizens of Demopolis, Ala., solved their money problem in a very unique way which deserves special recognition in these days of budget cutting and belt tightening.

To raise money to build the bridge, a rooster auction was held. Local stores were closed and at least 20,000 folks showed up—many with roosters under their arms to donate—to watch and participate in the bidding. President Woodrow Wilson, Helen Keller, Lloyd George, and Mary Pickford were among the variety of celebrities who donated roosters for the event. A syndicate won President Wilson's rooster for a mere $58,000—and the citizens of Demopolis were well on their way toward their $237,000 price tag for the bridge which was dedicated in 1919.

Now the bridge has been replaced by a wider, safer span—with a modern day cost of $8,730,000. And old Rooster Bridge will have to be torn down. But when it goes it will be remembered with New Rooster Bridge, a tribute to its predecessor and the ingenuity behind it.

WON PAT PLEDGES SUPPORT FOR RESERVES, GUARD

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. WON PAT. Mr. Speaker, I recently received the following letter from Mr. J. M. Roche, national chairman of the National Committee for Employer Support of the U.S. Guard and Reserve.

Mr. Roche is asking all Members of Congress to honor the principles of his organization by assuring that any of our employees who are Guard or Reserve members have time to honor their commitments. I fully endorse this request and am proud to say that I have signed his statement of support.

As a member of the House Armed Services Committee, I urge my colleagues to give their full support to Mr. Roche in this effort. As he notes in his letter, more than 358,000 employers across the country have pledged their support to Guard and Reserve units. This is a most laudable effort and Mr. Roche is deserving of our praise for his drive to gain increased national support for this purpose.

For any Members who may have missed Mr. Roche's fine letter, I include it in the Record along with my own response. I wish the national committee success.

The letters follow:

Office of the Assistant Secretary of Defense, National Committee for Employer Support of the Guard and Reserve,
Arlington, Va., June 3, 1980.

Hon. Antonio Borja Won Pat,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Won Pat: Since its establishment by Presidential announcement in 1972, I have been privileged to serve as chairman of this committee whose mission is to develop a better public understanding of the importance of the Reserve Forces in today's all-volunteer defense environment.

Assisted by more than 700 volunteer community and military leaders across the country, we solicit the pledge of employers, both public and private, to implement personnel policies which will permit, if not encourage, employee participation in Guard and Reserve training programs. Under the Total Force policy of defense, it is essential that we maintain strong, well trained, equipped and fully manned Reserve Forces capable of rapid mobilization and deployment in case of a national emergency. It is only with the understanding and support of their employers that reservist employees can attend scheduled training and thus achieve the high state of readiness required.

Over the past seven years we have received pledges of support from approximately 358,000 employers, thereby placing an "umbrella of support" over more than 60 percent of all working Americans. However, much remains to be done if we are to achieve our goal of 100 percent employer support and the assurance that supportive personnel policies are recognized by middle management.

I am asking you today, as an employer, to join the other members of Congress who have previously pledged their support of the Guard and Reserve. After reviewing the enclosed material, I hope that you will complete the pledge card and return it to the National Committee, thereby enabling us to forward a Statement of Support for your signature and appropriate display.

I look forward to your favorable response.

Sincerely,

J. M. Roche,
National Chairman.

Congress of the United States,
House of Representatives,
Washington, D.C., June 16, 1980.

Mr. J. M. Roche,
National Chairman, Office of the Assistant Secretary for Defense, National Committee for Employer Support of the Guard and Reserve, Arlington, Va.

Dear Mr. Roche: I am more than pleased to sign your statement as an employer supporting the national guard and the reserves. As a member of the House Armed Services Committee, I remain deeply committed to these organizations because of their deep importance to the defense role of this nation. I salute your office for its effort to increase employer awareness of the importance of the guard and reserve forces and applaud your success in this effort.

Keep up the good work. I look forward to receiving the Statement of Support from the National Committee for my office. Let me know if I can be of assistance in any way possible.

With best wishes,

Sincerely yours,

Antonio B. Won Pat,
Member of Congress.●

HARRY COPPOLA

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DAVIS of Michigan. Mr. Speaker, this week a veteran of World War II died. This in itself is not great news as veterans of that war are dying every day. This man, however, probably died sooner than he should have. That he died after much pain and suffering, there is no doubt. The man's name was Harry Coppola and he died of a disease known as multiple myeloma.

Multiple myeloma is a form of bone marrow cancer that has been associated with exposure to radiation. Harry was among a group of marines that was sent into Hiroshima and Nagasaki shortly after the dropping of atomic bombs on those cities in August of 1945. The groups, of about a thousand in each, were sent in as part of a cleanup operation. It was believed at the time that radiation levels were too low to be considered a health hazard.

Today, out of that group of marines, there are at least five cases of multiple myeloma, a very rare disease. This is only the number of cases among veterans from the group that have been located, however, even this rate is 10 times higher than expected. Additionally, there are other reported cases of radiation-related diseases in this group of veterans.

Claims for compensation by this group have been summarily turned down by the Veterans' Administration on the grounds that the radiation levels were too low at the time of the occupation, a point that has been disputed by more recent data.

Harry devoted the last years of his life to the efforts of having his and his fellow veterans' plight resolved. He died without seeing this happen.

Mr. Speaker, legislation has been introduced which would address this problem by requiring a study of the causality of the relationship between health problems of these veterans and their exposure to radiation in 1945. I have requested hearings on the bill from the subcommittee and I urge my colleagues to support this measure. It is important that we face this responsibility to Harry and the others while there is still time for some.●

AID TO ISRAEL MUST CONTINUE WITHOUT STRINGS

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. AMBRO. Mr. Speaker, on Thursday, June 5, we completed action on H.R. 6942, the International Security and Development Cooperation Act, a lengthy and complicated piece of legislation containing a variety of economic and military assistance aid programs for scores of friendly and allied nations. As in previous years, the largest portion of economic and military funds will go to countries in the Middle East to support the ongoing peace process, and most of that is slated for our good friends in the State of Israel. I might add, at this point, that most of my support for foreign assistance legislation this year and in the past is predicated upon the fact that a considerable share of these funds do go to Israel.

Perhaps the most significant feature of our lengthy and far-reaching debate on this bill is what did not take place, rather than what did. I am referring, of course, to the decision by my colleague from California, Mr. McCloskey, not to offer the three amendments that he had previously indicated that he planned to put forward. Those three amendments—to cut off $150 million in aid to Israel if she continues to expand West Bank settlements; to require a certificate by the President that this aid money is not being used for settlement purposes; and to confirm that it is the sense of Congress that none of the funds appropriated under this bill be used for the construction of new settlements or the construction of additional facilities on the West Bank—would have only served to confuse and undermine our Israeli friends while giving unwarranted hope to those forces and nations that would subvert the peace process. Beyond that, it is important to note, as stated by the chairman of the Middle East Subcommittee, Mr. Hamilton, that the United States, at the present time has an agreement with Israel which provides that any assistance from this country to Israel must be used in the geographical areas which were subject to the Government of Israel's administration prior to June 5, 1967, which agreement has been scrupulously adhered to by the Israelis. Given these facts, I am very pleased that the amendments were not presented after all.

I think it is interesting and somewhat ironic that we held the debate on the proposed amendments on the very day that we did: June 5, 1980. Let us not forget that this is the day which marks the 13th anniversary of the start of the Six Day War. Let us not forget that this conflict began because all of Israel's Arab neighbors, led by

Nasser's Egypt, had their armies poised for a massive invasion of the tiny state. Let us not forget that Jordan—which controlled both East Jerusalem and the West Bank—yes, they were Jordanian, hence Palestinian, territories until June 1967—received promises from the Israeli Government and military that they would not be disturbed, if they chose not to attack Israel. Let us not forget, that they refused that offer of security. Let us not forget that before 1967, Israel was indeed within its pre-1967 boundaries, and was forced to fight three major wars to defend even her small country. Let us not forget that before 1967, the West Bank was in Arab hands and absolutely no attempt was made to establish a Palestinian entity there. Let us not forget that prior to 1967 no Israelis—indeed no Jews—were allowed to enter, much less to settle on the West Bank or in East Jerusalem, while since then Arabs have been allowed free access to most of Israel. And finally, let us not forget that prior to 1967, East Jerusalem was an Arab city into which no Jew was ever permitted to enter, even to worship at some of Judaism's holiest shrines, in complete violation of the U.N. resolution which partitioned the British Palestinian mandate into the State of Israel and a Palestinian state, and not a single condemnation emanated from the United Nations or any other responsible international forum.

The question of the West Bank settlements is as controversial within Israel itself as it is in this country, and I believe that it is counterproductive, and indeed insulting to one of the few nations in the world on whose friendship, support, and democratic way of life we can rely. Let friend and foe alike make no mistake about it: It will never be our policy or intention to undermine the security and well-being of the State of Israel for any reason whatsoever.

I think several additional points need to be made. All of the discussion that one hears in the United States and from our fair weather friends in Europe about the participation of the PLO in peace negotiations presupposes that this terrorist band of outlaws wants to participate in a peaceful resolution of the Middle East crisis. That this is a giant and misguided presupposition is evidenced by the fact that as recently as June 2 a new political program was published by El Fatah's congress which states explicitly that "Fatah is an independent national revolutionary movement whose aim is to liberate Palestine completely and to liquidate the Zionist entity politically, economically, militarily, culturally, and ideologically. It also aims at establishing a Palestine democratic state on all the Palestinian soil. This struggle will not stop until the Zionist entity is liquidated and Palestine is liberated. * * * We will not allow anyone to interfere in our affairs or obstruct the Palestinian people's struggle to liberate its homeland." This hardly sounds like the conciliatory rhetoric of a prospective partner in the peace process.

Second, I think that a word should be said about the escalating violence on the West Bank. Certainly, any rational human being deplores the bombing and the maiming, no matter who perpetrates the violent act. I think that it is important for us to note here, that the Israeli Government was the first and the loudest in its condemnation of the attacks on the Palestinian mayors. Indeed, an Israeli policeman was gravely wounded in a successful attempt to save a third Palestinian mayor from danger. Let us stop and think for a moment and try—in vain—to recall the last time, or any time, that similar condemnations came from any Arab state in response to the murder of women, children, athletes, or any other Israeli citizens. Perhaps the sharp difference in the reactions of the two sides says it all.

Finally, I must say a few words about a matter that is not directly related to the bill under consideration, but is nonetheless of crucial importance. I am specifically talking about the request from the Saudi Arabian Government to upgrade the range and ground attack capability of the F-15 aircraft that the United States—much against my vociferous opposition—sold to them in 1978. All of my colleagues will remember the prolonged and sometimes bitter debate that ensued in this Chamber and in the other body at the time that the administration proposed to sell the Saudis these sophisticated planes. Those of us who vehemently opposed the sale felt that we were providing one of Israel's major enemies with combat equipment that could be used against our friends. In an effort to bolster its position, we all recall that the administration pledged to us that it would not supply the Saudis with the supplementary equipment that would be necessary to render the F-15's capable of attack. Many of us were not satisfied with these assurances, but unfortunately, we were outvoted by the other body which chose to accept the administration's promises. The fact that now, only 2 years later, we are faced with administration reviews of the Saudi request for this additional equipment is incomprehensible, outrageous, and indeed frightening. I call upon the administration to stand by its 1978 pledges, and I now call upon my colleagues to assure that the White House and the State and Defense Departments do not sell out our Israeli friends on the altar of petroleum.●

RALEIGH REGISTER, 100 YEARS OLD

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. RAHALL. Mr. Speaker, I rise today to congratulate the newspaper in my hometown of Beckley, W. Va., the Raleigh Register, for its 100 years of service to the community.

On June 15, 1880, the Register published its first edition, and has been doing so ever since. The newspaper has truly been a cornerstone for the city of Beckley, Raleigh County, and the State of West Virginia.

I would like to commend Mr. Lyell B. Clay, the publisher of the Register and chief executive officer of Clay Communications. Mr. Clay's leadership has been instrumental in seeing to it that the paper remains a strong force in the community.

Those who published the Register before him were: Edwin Price, 1880-90; Robert A. Spencer, 1891-96; G. W. Cook and E. Edwin Tucker, 1896-99; E. L. Elison and J. Price Beckley, 1899-1902; Joe L. Smith, 1902-11; Charles Hodel, 1921-73; John C. Hodel, 1973-76.

In its 100 years, the Raleigh Register has been under the leadership of 16 editors. The present editor being a fine man and a close friend of mine, W. R. "Bob" Wills. I congratulate Bob, and his staff, that includes: R. Keith Walter, managing editor; Nancy E. Stephen, news editor; and Bill Tolbert, city editor.

Mr. R. Sid Crim, serves as general manager of Beckley Newspapers, Inc. I also want to commend him for the job he has done in the past few years.

The Raleigh Register was named after Sir Walter Raleigh, the English adventurer and soldier. During its 100 years, the Register has certainly lived up to its namesake, and I am sure it will for the next 100 years.●

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* * * AND WHO'S THE DEMAGOGUE?

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. CAMPBELL. Mr. Speaker, columnist George Will, in his usual incisive manner, made some telling observations about our presidential candidates in a recent column. The article follows, and I commend it to the attention of my colleagues:

[From the Washington Post, June 15, 1980]

* * * AND WHO'S THE DEMAGOGUE?

(By George F. Will)

Jimmy Carter says Ronald Reagan's campaign will feature "demagoguery."

Hmmmmmmmmmmm. That's an interesting warning from the man who:

Early in 1977, said: Hey, let's mail everybody some money—a $50 tax rebate.

Attacked entire classes of Americans, including doctors and lawyers.

Pandered to other public prejudices with repeated attacks on another safe target, oil companies.

Undermined respect for, and compliance with, the tax system by ridiculing it as "a disgrace to the human race."

Further lowered the discussion of complicated tax matters by displaying, for the merriment of yahoos, a stack of volumes containing the tax code, as though the size of the volumes is self-evident proof of something.

Lowered the tone still further by harping on the "three-martini lunch."

Blamed most of America's inflation on wicked foreigners—OPEC—in spite of the fact that 11 of the 13 industrial nations that are more dependent on OPEC than America have lower inflation rates than America has.

Announced, as the economy tumbled into a free fall, that his economic policies "suit me fine."

Said, as those policies produced the worst two consecutive months of rising unemployment statistics in the history of American unemployment statistics, that "no working man or woman can find fault with our policies."

Declared, six months after his Treasury secretary declared the recession half over, and shortly before the shattering unemployment figures, that the nation's economy had "turned the corner."

Submitted a budget calling for a percentage increase of federal expenditures exceeded only once in a quarter of a century, and then denounced Edward Kennedy as "the biggest spender perhaps in the history of the United States Senate."

Said that "the differences between me and Sen. Kennedy are very minor."

Shattered the record for peacetime tax increases, proposed a budget calling for the federal government to command the highest percentage of GNP since 1944, a year of total war mobilization—and then denounced as "ideological nonsense" Reagan's idea that taxes should be cut.

Said, three months ago, shortly before even his administration began to admit that the deficit will be at least $20 billion: "I don't have any doubt that we will have a balanced budget in 1981."

Delivered, 11 months ago, one of the worst speeches in the history of speeches, the "malaise" sermon in which he told the nation: I'm unpopular, so you're sick.

Followed that performance with yet another flamboyant visit to the porch of "average Americans."

Described SALT II, which not even a Democratic-controlled Senate would ratify, as "a major achievement of my administration."

Went on television to make a histrionic declaration that the presence of Soviet combat troops in Cuba is "unacceptable."

Went on television to say that, come to think about it, the presence is acceptable.

Solemnly said that the invasion of Afghanistan was the gravest threat to peace since the World War II—and then cut the defense budget.

Deliberately supported a grossly anti-Israel U.N. resolution, and then, when surprised by the public's revulsion, had his secretary of state say, in effect: Oops! It was all a misunderstanding.

Said: "If I ever lie to you, don't vote for me."

Said, when it suited his political situation: "I want the world to know that I am not going to resume business-as-usual as a partisan campaigner out on the campaign trail until our hostages are back here—free and at home."

Bashed the ayatollah with the national Christmas tree.

Went on television, as the polls are opening in the Wisconsin primary to announce, falsely, a breakthrough in the hostage crisis.

Said, months after two U.S. servicemen were killed defending the U.S. embassy in Pakistan: "We've not had any loss of life during this administration because of people being sent into combat."

Sprinted to Texas, on the eve of the Texas primary, to use a visit with the casualties of the rescue mission as a photo opportunity.

Baptized the rescue calamity "an incomplete success."

Having done his best to hold down military pay, used the men of the USS *Nimitz*, returning from an unreasonably long voyage, as props in a skit in which he said, in effect: Come to think about it, I'm for the pay increase I opposed until last week.

Enough, already.

Carter says Reagan is a demagogue. But, then Carter called Hubert Humphrey a "loser," LBJ a liar, and Edward Kennedy a "demagogue" whose campaigning is "very dangerous to our country," its principles and peace. When Carter, directed by his inner compass to the low road, issues warnings about "demagoguery," he is indulging, characteristically, in that against which he pretends to be warning.●

IN HONOR OF WILLIAM E. HESS ON RECEIVING A DISTINGUISHED SERVICE AWARD

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to recognize and commend former Representative William E. Hess for his years of dedicated service to the Second District, Cincinnati, and the Nation. Mr. Hess will be receiving a distinguished service award for these efforts later this week at a picnic held in his honor.

During his 28 years of public service to the people of Cincinnati, William Hess provided vital leadership through some of the most trying times in this country's history. Through the depression years, he assisted his constituents with great compassion and a remarkable understanding of their needs, hopes, and dreams. His work on several committees on which he served was most carefully done, but his work on the old Naval Affairs Committee throughout World War II was outstanding. In later years, as chairman and ranking member of a special subcommittee investigating defense contracts and military spending, Mr. Hess saved this country millions of dollars by exposing waste and extravagance in military procurements, and brought about economies which saved millions of dollars in taxpayers money. Yet, most Members of Congress remember him most for his personal warmth, fine character, and legendary guitar playing.

Speaking for the people of the Second District, Cincinnati and the Nation as a whole, I would like to thank William E. Hess for his long years of dedicated and distinguished public service.●

CONTROVERSIAL DRUG—DMSO

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. PEPPER. Mr. Speaker, I introduce for appropriate reference a bill to create a national center for clinical pharmacology in the Department of Health and Human Resources. This bill is an outgrowth of our recent hearing on the controversial drug, dimethyl sulfoxide, otherwise known as DMSO.

DMSO is a common industrial solvent. It is a byproduct of the papermaking process. The medicinal properties of this agent were discovered less than 20 years ago.

Dr. Stanley Jacob of the University of Oregon Health Sciences Center is the strongest advocate of DMSO. He has led the battle to have it approved by the Food and Drug Administration for use in this country. It is presently approved for use in about a dozen foreign countries.

Dr. Jacob has met with a great deal of success. About 10 years ago he helped obtain FDA approval for the use of DMSO in veterinary medicine. Not long ago, the FDA approved the first use of DMSO in humans. At the present time, the drug can legally be used only to combat an uncommon bladder disease.

DMSO appears to have great promise. Hearings by our committee and an independent investigation by the excellent news program, CBS "Sixty Minutes" have established several points without doubt. First, the drug is an effective pain killer. In normal use it is applied topically to the skin. The drug penetrates the skin and within a matter of seconds, enters the bloodstream. This ability to enter the bloodstream and to carry with it other drugs which can be mixed with it is one of DMSO's most exciting attributes. The third conclusion which we reached is that the drug aids in the healing of soft tissue injuries. We heard testimonials from team physicians from various pro sports teams who talked about DMSO's ability to promote healing rapidly in the bumps and bruises which are the bane of a pro athlete's existence.

The drug has additional potential value which is supported by anecdotal references but not yet by the kind of objective proof which the FDA says it needs. The claim is that DMSO potentiates the effects of other drugs—it makes the other drugs more effective. It is also claimed, with fairly good authority, that DMSO helps heal burns and that it is helpful in healing painful skin ulcers such as bedsores and those common to the disease scleroderma.

Finally, there is a category of uses for DMSO where there is yet little evidence but great hope. We heard testimony that DMSO is helpful in reducing intracranial pressure common when serious head injuries occur and that it helps relieve pressure on the spinal cord in the event of injury to this mainline of the human nervous system. Finally, the drug is thought to be of benefit in lessening the effect of strokes and in aiding victims to a speedy recovery.

With such a great potential and in view of the mountains of testimonials, the obvious assumption is that there must be serious side effects or the drug would be commonly available. If there is one conclusion that is well documented, it is that there is no history of dangerous side effects with DMSO. The FDA considers it a safe drug. The agency has said so explicitly and implicitly by approving the drug for use in humans in the bladder disease known as interstitial cystitis.

What then prevents DMSO from being made available to the American public? The FDA says that it needs more proof. From my point of view, based on our investigation and testimony before our committee, the drug should be approved for use in humans as an agent to help relieve pain, to promote healing of soft tissue injuries, for use in scleroderma, and to promote healing in bedsores. There is no excuse for holding up its approval in these areas.

The FDA has promised our committee that it would expedite its considerations of any requests to test DMSO presented by any pharmaceutical company. And here is the problem. The FDA, for the most part, must sit back and wait until it is approached by a drug company which asks to test a particular agent. The FDA then reviews the plan for the investigation and approves the investigator who will do the study. If satisfied with the study design, the company may go forward. FDA monitors the tests and reviews the results. Thereafter, FDA decides whether or not to give its approval to the drug in question.

The simple fact of the matter is that drug companies will not come forward and ask to test a drug unless they deem it in their financial interest to do so. With respect to DMSO, several drug companies told us that they have not filed with the FDA because the drug is a common chemical agent and not thought to be patentable. The drug companies ask why they should be expected to spend millions of dollars to test and win FDA approval for a drug when they would not, as a result, secure a patent or some kind of exclusive right of sale which would allow them to recover their costs and then some. It might also be pointed out in the case of DMSO that it would be competitive with a host of medicines, elixirs, and remedies being sold by the drug companies, and it would be cheaper. DMSO is currently being produced for $3 a gallon. On the black market, the drug is being sold for more than 100 times this amount.

This experience with DMSO convinced me that we need some means of testing these orphan drugs which have been abandoned by major drug companies. One approach is a bill I will soon introduce which would give an exclusive right of sale in interstate commerce for a certain period of time to the drug company which bears the cost of testing and gaining FDA approval. The bill I am introducing today would establish a drug testing center within the Department of Health and Human Services.

We hear so much about drug lag in this country. We hear that foreign countries are fast pulling ahead of us in their testing of new medicines. We hear that our own drug firms are shifting more and more of their resources abroad, taking American jobs and productivity with them. I am hopeful that my bill will be one small step toward reversing this process. The American public deserves the best in health care and medicines that we can provide. I pledge my best effort to make sure that the best we have is available. I ask the Members of the House to join me in cosponsoring this important legislation.

In closing, let me acknowledge that this bill is a modification of a concept contained in a bill originally authored by Congressman JOHN MURPHY of New York. He is to be commended for this fine idea.●

THE "ME GENERATION" IS NOT A SOLID FRONT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. STARK. Mr. Speaker, at one time or another, I suspect, we have all bemoaned the political apathy of today's college students. I am certainly troubled by the lack of political awareness, concern, or activism that I have encountered when speaking with college-age Americans.

But not every 18- to 24-year-old belongs to the "me generation." I was particularly gratified to come across a letter written by one of my interns, a University of California student, John Godwin, and his two brothers. The letter displays an unusual amount of political awareness—both international and domestic—and I'm pleased to be able to share it with my colleagues. The text of the letter follows:

26141 VEVA WAY,
Calabasas, CA, June 12, 1980.

To the Congress and the President of the United States of America:

In the arena of world affairs, it is generally accepted that morality plays a minor role in the anarchistic nature of international relations. Based on this premise, to attempt to apply morality to the actions of one nation towards another is futile. It is left to the individual to conduct his or her personal affairs with some code of ethics and morality.

For these reasons, the undersigned formally protest the active support by the United States Government of the military dictatorships of, among others, Batista of Cuba, Park Chung Hee of Korea, Marcos of the Philippines, Pinochet of Chile, Somoza of Nicaragua, and Shah Mohammad Reza Pahlavi of Iran, as well as the many years of involvement in Viet Nam, and all other aggressive and violent activities to be conducted by the U.S. Government in the future.

As conscientious objectors, we must protest the current movement to reinstate draft registration and any form of military conscription. If drafted, we will not fight, but we will not flee. With honor, we will suffer the consequences and accept punishment as designated under United States law, because we have a higher law, a stricter judge to answer to; our conscience.

This decision is not rooted in the fears of cowards, but in the love of God, belief in non-violence, and the respect for humanity, of heroes.

Sincerely,
ROBERT WILLIAM GODWIN, JR.
JOHN MOREL GODWIN.
DANIEL SIDNEY GODWIN.●

THE NORTHEAST IS ALIVE, WELL, AND LIVING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. LAFALCE. Mr. Speaker, the rumors that the Northeastern region of the United States is dead are, to say the least, highly premature. Yet persistence of this and similar rumors has contributed in some instances to a psychological malaise in that region—a sense of pessimism about the future economic vitality of America's industrial heartland.

For this reason I was particularly pleased to see an article entitled "Northeast on the Move" on the op-ed page of the New York Times yesterday. This article was written by William D. Hassett, Jr., New York State's Commissioner of Commerce, and it makes an excellent case for optimism about the future of the Northeast's economic conditions.

Mr. Hassett's article raises a number of facts about the Northeast that back up his upbeat view of the region's future. There is no doubt that the region has problems and that those problems will not be resolved overnight, but, nonetheless, on balance there is great reason to be hopeful about the future. Accordingly, I would like at this time to insert Mr. Hassett's article in the CONGRESSIONAL RECORD in the hope that it will spur even more positive thinking about the Northeast.

The article follows:

NORTHEAST ON THE MOVE

(By William D. Hassett, Jr.)

The energetic Northeastern states that 150 years ago led our nation into the industrial age are now leading it into the post-industrial age. Despite a clouded recent economic past, and less-than-cheerful short-term national and international projections, many factors that contributed to our temporary regional eclipse behind the Sun Belt are emerging as our greatest strengths. How have these onetime liabilities suddenly become assets?

The Northeast (New York, New Jersey, Pennsylvania, the six New England states) was considered even recently too crowded to be of any further economic use—at best, a questionable judgment. We form the core of the largest, most affluent consumer market in the hemisphere, if not the world. Put the point of a compass at Syracuse, which is not far from our region's center, and draw an arc 750 miles in radius—that is, 24 hours by road, a relatively short distance by interstate-trucking standards. In this area are 54 percent of the population of the United States and Canada and 54 percent of the countries' personal income; 65 percent of the total United States-Canadian manufacturing output in dollar value; 55 percent of all United States wholesale sales.

This market, which goes as far West as Chicago-Milwaukee, as far South as Charlotte, N.C., reveals another former "liability" turned asset: our labor force. The conventional wisdom is that most of our skilled workers have moved away; those who were left are libeled as unproductive, expensive, selfish, lazy. The truth is that New York, New Jersey, and Massachusetts are among the five top industrial states (California and Texas are the other two) in terms of added wage-dollar value, and Pennsylvania is not far behind. As for the myth of selfish unions, the five industrial states with the least time lost through work stoppages in recent years included New York, New Jersey, and Massachusetts.

To give an idea of our strength: If New York State's output of goods and services alone were considered to be that of a separate country, New York would rank among the world's 10 top economic powers.

Northeastern towns that lay idle a few decades ago are humming again; new factories and industries are springing up or expanding.

The economic future to a great extent lies with regions such as ours that not only have a closely knit, rich, diverse market, but also a labor force that is skilled or easily trained, and is mature and responsible.

We led America into industrial and commercial greatness because of a tradition of craftsmanship and cooperation; that tradition is even more valuable now because tomorrow's technically demanding industries will require it even more.

Furthermore, the Northeast is roomy enough to grow, yet compact enough so that we don't go broke or dry getting from one part of the region to the other. In urban centers—Philadelphia, New York, Buffalo, Hartford, Providence, Boston—are amassed the service skills to nurture our economic growth. Our regional energy costs are in many cases competitive with our rivals', and that "many" will soon be "most." We have easy access to the American and Canadian hinterlands and to markets and suppliers abroad. This does not add up to a moribund "mature economy"—that neat euphemism for high costs, low profits and falling-down factories predicted for us. The spiritual descendants of the people who got this region started, grew with it and made it prosper are doing it again. I can't imagine a more exciting future.●

THE 40TH ANNIVERSARY OF THE SOVIET ANNEXATION OF LITHUANIA

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity and call to the attention of my distinguished colleagues the 40th anniversary of the Soviet annexation of Lithuania. It is an anniversary that shows the world that the seeds of current Soviet aggression were planted many years ago.

On the outside of the famed National Archives is the inscription, "What is past is prologue." It is an inscription which I believe we all should think of when pondering Soviet activities in Afghanistan and in other parts of the world, because Soviet policy toward territoriality is merely a reflection of the past. If there is one nation on this Earth that understands all too well that the Soviet policy of violating the national integrity of free nations is not a recent development, it is the tiny country of Lithuania. It is a country that for the past 40 years has lived under the weight of Soviet interference and control.

The United States is fortunate in that it is surrounded by neighbors who respect our rights as a sovereign nation. Lithuania has not been accorded that luxury, its freedom, for all sufficient purposes, ending on June 15, 1940. It was on that day Soviet troops occupied Lithuania. Thousands of people lost their lives resisting the invasion and over 300,000 were sent to Soviet labor camps in Siberia when Russification took place. Since that day, Lithuanians have lived in a nation where outside forces deny them their basic human rights.

But there is one thing the Soviets have been unable to deny the Lithuanian people—their spirit to return to a time when their fate was in their hands, not in the Soviets. The people of Lithuania are strong willed. They have suffered so much, and still their will to regain their freedom is as strong as ever. Unfortunately, they cannot do it alone. The United States must continue to fight for their cause. It must continue to stand up to the Soviets when they insist on violating the integrity of nations, and refusing to honor the Helsinki accords. We know the Soviets game plan and it is up to us to react accordingly. If we fail to do so, then all we are doing is inviting more Lithuanias and Afghanistans.●

DR. DONALD S. FREDRICKSON

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. CARTER. Mr. Speaker, as ranking member of the Subcommittee on Health and Environment, I have had the privilege over the years of working closely with Donald S. Fredrickson, M.D., who now serves as Director of the National Institutes of Health. In that position, Dr. Fredrickson has done an outstanding job of enhancing the overall mission of the NIH, while at the same time dealing effectively and fairly with the challenges and politics of the biomedical research field, including the pressures of tightening budgets and sometimes competing research needs. There is no doubt but that this Nation has been extremely well served by Dr. Fredrickson who has dedicated so much of his career to public service. I include a recent article from the Journal of the American Medical Association about Dr. Fredrickson's contributions, and I commend it to the attention of my colleagues.

DONALD FREDRICKSON, M.D.: "HIGH PRIEST"

Known in Washington political circles as the "high priest" of biomedical research, Donald S. Fredrickson, M.D.—scientist, politician, and bureaucrat—has had what can only be described as a highly successful career spanning almost 30 years.

Director of the National Institutes of Health (NIH) since 1974, Fredrickson has proved himself adept at treading the political terrain. He is also a survivor. Nominated by Gerald Ford (the NIH directorship is a presidential appointment requiring congressional ratification), he has served both Democrat and Republican administrations. He is the only top official of the Department of Health and Human Services (DHHS—formerly the Department of Health, Education, and Welfare) to withstand the wholesale firings carried out by former Secretary Califano in 1976. Now Califano is gone and Fredrickson serves his fourth DHHS Secretary, Patricia Harris.

Politics aside, Fredrickson has, so far, been adroit as well in handling the tough challenges that the 36-year-old NIH has faced recently. An unprecedented budget squeeze, an endless new series of fragmented public health concerns ranging from recombinant DNA to medical ethics, saccharin, laetrile, and ionizing radiation all have been laid at the doorstep of NIH.

"Without a doubt, NIH is the biggest, most powerful biomedical research institution in the world. No other country has anything remotely like NIH," Fredrickson told JAMA Medical News. "But we are facing mounting pressures. Trying to define clearly the proper role of NIH in terms of performing biomedical research while being responsible to the public health is perhaps the most important task of the director."

Fredrickson is eminently qualified to discuss the NIH, having been a part of the institution since 1953 with only a 12-month hiatus in 1974 when he went across town to head the National Academy of Sciences' Institute of Medicine. The year of his arrival at the NIH was the same year the massive clinical center was opened as, according to some, a gigantic version of the famous Rockefeller University research hospital.

Muses Fredrickson: "Some kind of fate brought me to the coils of this serpent [NIH], and I'm not able to get away."

Born in Canon City, Colo., in 1924, Fredrickson is a graduate of the University of Colorado and the University of Michigan Medical School, Ann Arbor. He began his career as a house officer in a Boston hospital and became a research fellow at Massachusetts General Hospital in 1952. The following year he moved to the fledgling National Heart Institute. He was one of the first group of 12 clinical associates at the institute and had planned to stay only the usual two years.

Instead, Fredrickson rose through the ranks at what is now the National Heart, Lung, and Blood Institute and pursued special research interests in lipid transport and metabolism, the cause and prevention of atherosclerosis, and medical genetics. In 1966 he became director of the institute; from 1969 to 1974 he was director of intramural research.

However, the nature of the NIH directorship is primarily political, a milieu that Fredrickson now relishes. He made 35 appearances before the 95th Congress to provide testimony, opinion, or advice—at least ten more congressional audiences than any NIH director before him. While this partially reflects the growing pressures on health science to account for itself publicly, it also says something about the personality of Donald Fredrickson. One longtime Washington observer describes him as "the consummate bureaucrat." Says Fredrickson, "It is clear that one has to combine political sense with all the other medical and technical aspects that make up this job."

One of the most difficult challenges that NIH must meet is to referee the occasional conflicts between the more formal health sciences and the everyday practice of medicine.

Says the director, "NIH is the knowledge agency par excellence related to health. It is crucial that we nurture the flow of new scientific knowledge in order to maintain the enormous scientific edge we have today in both the practice and teaching of medicine."

As Fredrickson and other top administrators at the NIH point out, the institutes are in a unique position to influence the practice of medicine in this country. It is sometimes forgotten that the NIH may push hard on Capitol Hill for the interests of medicine when others in government may have opposite concerns.

Says Fredrickson, "We have taken steps to try and get the whole medical community involved in evaluating their own performance. If we don't do this, medicine will find that decisions about practice are made by a few bureaucrats in small offices far from the mainstream. What will happen is more programs like Medicare or a national health plan."

He touts the NIH Consensus Development Program as the primary link between the NIH and the medical community. Now in its third year, the program (a series of conferences on different subjects) has regularly considered some of the most controversial areas of medicine, from the treatment of primary breast cancer to intraocular lens implantation.

The conferences are sponsored with government funds, and while they do attract the participation of outside physicians and scientists, there has been some soul-searching as to how the resulting information should be used. Should the NIH take any role in government regulation of medicine?

According to Fredrickson this may be a moot point, since the institutes cannot ignore demands from elsewhere in DHHS for information regarding various medical procedures. "We are providing information that is used for regulatory purposes," he says. "But we have consciously drawn back from any active role in the regulatory process. I see nothing wrong, however, with making a scientific determination of what should be in the doctor's bag in terms of recommending which services and procedures should be made available."

Still, to the physician charged with managing the NIH and its $3.6 billion annual budget, the most important subject right now—in the current period of austerity—is money.

"There was a tremendous growth of the NIH budget annually until 1961," he says. "Then there was modest growth until 1969, and then a period of erratic, almost bizzare growth which saw cancer and a few other areas get the biggest slice of the pie. Now we are hunkering down for a period of serious economic uncertainty."

So far Fredrickson has withstood the cries of outrage over the initial tough budget cuts he has been forced to make. On-campus (intramural) NIH research programs, training programs for new scientists, off-campus (extramural) NIH-supported research centers, and clinical trials all have felt the knife that the director wields. A the same time, Fredrickson has made the decision to go all out to defend a high number of extramural, investigator-initiated research grants that he believes are at the heart of the NIH mission.

"Our attempt to stabilize the number of these new grants at 5,000 a year [an effort that appears successful] is an honest attempt to broker between the executive and legislative branches of government for a willingness to maintain this tremendous apparatus which had made American medicine the greatest in the world," says Fredrickson.

In fact, much of his description of his work involves the metaphors of give and take. His is a world of perpetual exchange, bartering with Congress and the Administration, maneuvering for a better position from which to negotiate for more money or more time or more attention. He speaks of "cashing in all his chips" to win a point with Congress, or "going to the wall" to defend his agency within the gargantuan DHHS. More often than not it is. Fredrickson who comes out on top, with the integrity of the NIH intact.

"The NIH is a remarkable organization," he says. "It cares enormously about the way it runs. It demands excellence and its reputation for such is well earned."

Fredrickson likes to point out that in more than 30 years of existence, NIH has never suffered a really serious scandal. This would be a startling claim for any government agency, but it is exceptional in that the NIH is a community that has always had control over the distribution of its money. "There is a great tradition to preserve here," says Fredrickson. "American science and medicine are good enough and big enough to overcome conflicts of self interest."

Fredrickson, who maintains wide outside interests in art, who plays the piano, and who describes himself as the "mad skier," has perhaps made his greatest contribution to the NIH in his responsiveness to Congress. The myriad special health interests that face lawmakers in Washington today have brought the legislators to the NIH. Fredrickson sees that they get the answers they seek.

"This is an enormous challenge," Fredrickson told *JAMA* MEDICAL NEWS. "You have a chance to make a real difference here. But I'll tell you, it's an erosive job. In a Sisyphean sense, you never get through pushing the rock up on the mountain before another one falls down. One wouldn't want to try to go on and do this for more than a decade or so."

In Fredrickson's case, I wouldn't count on that.

JOHN ELLIOTT.●

SUPPORT FOR PASSAGE OF H.R. 2510, BILL THAT ALLOWS FOR REVIEW OF DISABILITY RETIREMENT DETERMINATIONS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. FAUNTROY. Mr. Speaker, I am very pleased with the passage of H.R. 2510, a bill which would permit Federal employees to obtain judicial review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system.

Essentially, this bill is an effort to respond to a concern about the use of psychiatric examinations to determine an employee's fitness for duty, where an adverse finding about the employee could cause mandatory retirement or a permanent stigma which would jeopardize future employment and promotional opportunities.

Even though the Office of Personnel Management believes that it has adequate safeguards to protect employees, both the Subcommittee on Compensation and Employee Benefits and myself, acting independently several years ago in conducting a series of ad hoc hearings, have concluded that past practices left considerable doubt as to the efficacy of the protection of the rights of the individual, especially when there was disagreement over the findings. At present, when adverse findings are made, the employee has virtually no formal opportunity to adequately raise questions concerning the findings, or the procedures used in reaching them. There are numerous convincing examples of the kinds of misunderstandings and abuses which judicial review can eliminate, and they are well documented in the committee report—(H. Rept. 96-1080).

While the Office of Personnel Management has indicated that these kinds of determinations are essentially technical and medical, which should be undertaken by medical doctors, and are not suitable for a court, the fact of the matter is that these types of issues are taken up before the courts all of the time at present. In any event, it is essential and justifiable to provide a party who believes that he/she is aggrieved with a procedure that will assure that such matters are adequately considered and studied, and that a fair, unbiased decision is handed down.

It seems that the only fair and justifiable way to conduct such matters is to allow the employees a greater opportunity to challenge findings which can have such an adverse impact on their future employment and reputation. H.R. 2510 accomplishes this, and I fully support its passage.●

AIR FORCE ACADEMY GRADUATION

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. HIGHTOWER. Mr. Speaker, on Wednesday, May 28, 1980, the 22d class of the U.S. Air Force Academy received its wings at Colorado Springs.

The remarks on this occasion by Hon. Hans M. Mark, Secretary of the Air Force, are worthy of the attention of the Members of Congress:

COMMENCEMENT SPEECH FOR THE AIR FORCE ACADEMY GRADUATION

(By Hans Mark, Secretary of the Air Force)

Distinguished guests, parents, families and friends of the graduates, ladies and gentlemen of the Cadet Wing.

I am very honored and pleased to be here with you to celebrate this day. It is an important day for all of us: a beginning for you who today become officers in the United States Air Force and a time of renewal for the rest of us who have the privilege of watching this great event.

It is a time for us to think of who we are, where we have been and where we are going. The ability of man to fly, the advent of powered flight is a uniquely American invention. In fact, I would assert that powered flight is perhaps the primary hallmark of American technology in this century. We have turned the earth's atmosphere into an ocean on which to travel and, in doing this, we have given new dimensions of freedom to people all over the world.

What is perhaps most remarkable is that it all has happened in such a short time. Members of the first generation of aviation—those who flew with the Wright Brothers, those who served with General Arnold—are still with us. They, the members of that first generation, not only created the airplane, but moved flying out of the category of daring stunts and turned it into a natural, routine activity.

I count myself as a member of the second generation of American aviation. My contemporaries and I have seen aviation become not only an enormous commercial enterprise but also a decisive factor in military conflicts around the world. We have also watched and participated as we have taken the first tentative steps into man's newest frontier—the vast reaches of space.

You who are graduating today are members of the third generation of American aviation. I have no doubt at all that you will see changes that are equally profound in your lifetimes. I believe that aeronautical vehicles will become more specialized and more attuned to working with little or no supporting facilities on the ground. I speak here of vertical takeoff and landing vehicles and airplanes that can operate in environments that are not available to us today. You will see space operations become routine, and before your own careers end, many of you will actually have conducted such operations and will have touched the edge of what my generation has called the space frontier. All of you will participate in the adventure that is aviation. Some as flyers, some as flight crews and some—like me—in supporting roles, but there is no doubt that you will have your eyes on the sky. I can promise you from personal experience that this will be a most exciting adventure for you.

But most important of all, you must also remember that you are soldiers. You will soon become the custodians of this nation's defense and this responsibility will be the central one in your careers. The next decade will probably see a realignment of some basic relationships around the world, relationships that were established at the end of the Second World War. Today's power balance is different than it was a generation ago so it is not surprising that there will be changes. Change always brings crisis and it is not at all difficult for me to predict that crisis will be the common denominator of the coming years. I prefer to look at crisis in the manner of the Chinese, whose ideograph for that word is a combination of the symbols meaning danger and opportunity. There will be danger, yes, but much more important, there will be opportunities to establish a global position for the United States much more advantageous than the one in which we find ourselves today. We bring great strengths to this enterprise. We are the world's leading agricultural nation; we are unsurpassed in the development and application of new technology and, most important of all, we are the only major nation in the world founded on a clear idea of what human freedom is all about. As long as people wish to live here rather than elsewhere—and we have recently had another example of this—those who intend to restrict liberty around the world must reckon with us.

The world being what it is, we will be engaged in conflict at various times during your careers as officers in the Air Force. When that happens, you will be asked to take extraordinary risks and tap reservoirs of courage and determination that you do not now know that you possess. You will be asked to prevail over whatever opposition you encounter and you must never forget that basic objective. It is the essential purpose of your existence as soldiers and it is, on this point that the continued future of the United States as a great and free nation will rest.

Finally, in addition to being airmen and soldiers, you will also be citizens. In that role, you will be called upon through our democratic processes to shape the principles and policies by which our nation lives. Almost twenty years ago, one of this country's great soldiers, General Douglas MacArthur, in addressing the Corps of Cadets at West Point, provided some thoughts on how soldiers should behave as citizens. I think that it is appropriate to repeat what he thought military life should teach to those people who have chosen the profession of arms. He said: "It teaches you to be proud and unbending in honest defeat but humble and gentle in success, not to substitute words for action, not to seek the path of comfort but to face the stress and spur of difficulty and challenge, to learn to stand up in the storm, but to have compassion on those who fall, to master yourself before you seek to master others, to have a heart that is clean, a goal that is high, to learn to laugh yet never to forget how to weep, to reach into the future yet never to neglect the past, to be serious yet never to take yourself too seriously and to be modest so that you will remember the simplicity of true greatness and the open mind of true wisdom."

I cannot possibly improve on those words. And so, in the ancient farewell of the sea, let me wish you, the sailors on the new ocean of air and space, "Godspeed, a fair wind and a following sea."●

A TRIBUTE TO ELIZABETH L. FAGAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ANDERSON of California. Mr. Speaker, I take this moment to give special recognition to Elizabeth L. Fagan, a resident of the 32d Congressional District I represent who will soon complete her 1-year term as president of the San Pedro Chamber of Community Development and Commerce. Known as Liz to her friends, this woman has a longstanding career of community service. Today I share with my colleagues a review of the many ways in which she has contributed her time and energies to the betterment of her community.

Liz Fagan has resided in the harbor area for over 20 years. Before her arrival in California, she lived in the Midwest, where she attended the University of Minnesota and received a bachelor of science degree in medical technology. In 1959 she marrried Jerry Fagan, an engineer presently employed by the Rockwell Corp.

Her civic involvement has been steady and substantial. For many years she served as volunteer for numerous organizations. Among them are the San Pedro Community Concerts Association, as a member and former president; the United Way as a board member; the Red Cross as speakers bureau chair; and the Parents and Teachers Association as a member and former vice president.

One of her most outstanding community contributions has been the leadership she has given as president of the San Pedro Chamber. Since her election as the chamber's first woman president, the organization has embarked on an aggressive program to aid the gowth and prosperity of the local community. The organization of Greater San Pedro Merchants Association, approval by the Los Angeles Bicentennial Committee to revive the popular Fisherman's Fiesta, and achieving progress on efforts to release Federal lands needed for the San Pedro Marina project, are all credited to her successful term as chamber president.

Mr. Speaker, on June 21, at a dinner sponsored by the San Pedro Chamber, Liz Fagan's friends and associates will express their appreciation for her service and devotion to her community. My wife, Lee, joins me in extending our own congratulations to her on the accomplishments of her term as chamber president. This is a highlight of her long career of community service, one which we know is bound to extend many more years. We also offer Liz; her husband, Jerry; and their four children; Michelle, Jo-etta, Gizele, and Shawn, our best wishes for future years of success and good fortune.●

PORTRAIT OF A CONGRESSMAN: DON EDWARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. BROWN of California. Mr. Speaker, an excellent profile on our colleague, Don Edwards, appeared in a recent issue of Congressional Quarterly. While it is not often that a good legislator and politician gets a favorable profile before retirement, defeat, or death, sometimes the unusual happens. Don has genuinely earned this unusual treatment.

I commend the following article, which says much about the man, to my colleagues:

[From the Congressional Quarterly, June 14, 1980]

Don Edwards: Fair Housing Engineer

(By Nadine Cohodas)

On a hot July day in 1979 when the House defeated a constitutional amendment to ban school busing, California Democrat Don Edwards was an island of calm in a sea of activity.

While spectators in the gallery hissed or cheered members' pleas, Edwards, who led the fight against the ban, patiently waited for the vote.

The reason for Edwards' tranquillity was tucked in his coat pocket—a well-worn packet of paper with members' votes personally tallied by the congressman.

When the balloting was over, the amendment was defeated 209-216—just two off Edwards' prediction.

That kind of meticulous preparation is the hallmark of Don Edwards' congressional career, according to colleagues. History repeated itself last week as Edwards, chairman of Judiciary's Civil and Constitutional Rights Subcommittee, engineered a one-vote victory on an amendment to a fair housing bill (H.R. 5200). His move saved the bill's key element—new federal powers to end housing bias.

"He's a tiger on legislation," his close friend, Robert W. Kastenmeier, D-Wis., said. "I don't think by nature he's a legislative technician, but he's learned that's the way to do it."

John H. F. Shattuck, director of the American Civil Liberties Union's Washington office, called Edwards the most effective congressman on civil liberties issues. "Lots of others are devoted to civil liberties," Shattuck said, "but none has been as consistently effective."

Edwards has been the principal mover behind some of the most sensitive legislation in the last decade:

The Equal Rights Amendment (H.J. Res. 208). (1971 Almanac p. 656)

The Voting Rights Act Extension of 1975. (1975 Almanac p. 521)

District of Columbia Voting Representation (H.J. Res. 554). (1978 Almanac p. 793)

The Equal Rights Amendment Extension (H.J. Res. 638). (1978 Almanac p. 773)

Edwards also was among the first congressmen to oppose the Vietnam War, and he led the effort to abolish the House Un-American Activities Committee (HUAC). He cast his first vote against the committee in 1963, and 12 years later, the panel finally went out of business. (1975 Almanac p. 31)

"I prepare my bills better than some members," Edwards said when asked recently about his legislative victories. "You have to have a good issue," he added, "and you have to sincerely believe in it."

The congressman said he's developed some guidelines from his legislative battles: First, "You have to have Republican support for civil rights bills." Second, "you try never to have fights where the hurts go deep, where tempers are lost." And third, "You never burn bridges around you. An opposing member on five issues in a row can be a supporter on the sixth."

Edwards has few, if any, enemies in Washington or in his district, which includes part of Santa Clara and Alameda counties south of San Francisco. Working class whites and Mexican Americans make up a majority of the district.

"I don't know anyone who thinks ill of him," said former colleague Abner J. Mikva, D-Ill. (1975-79)—now a federal appeals court judge. "He never jabs people, he never does them in."

Among Republicans, Edwards is considered fair and generally cooperative. Henry J. Hyde, R-Ill., who serves on Edwards' subcommittee, called Edwards a "superior guy. I have my disagreements with him . . . but I find him to be a very professional guy."

PLAYING TOUGH

Despite his friendly demeanor, Edwards will play tough on the issues. For example, to help stymie the effort to enact a constitutional ban on abortion, Edwards recently juggled his subcommittee membership to make sure he had a majority to prevent hearings on the matter. "That's all part of the game," Edwards said.

"That's hard-ball politics, and Don is as capable of that as anyone," Hyde said.

On paper, Edwards is an unlikely candidate to carry the liberal standard. He was born into a family he describes as "conservative Republican," was a Republican until after college, and served as chairman of the state Young Republicans. After law school, he worked a year as an FBI agent.

A Navy intelligence officer during World War II, Edwards said seeing the atomic bomb dropped on Hiroshima started him moving toward a different philosophy. He said he left the Republican Party in 1950 when he sensed the party was not interested in addressing the need for international agreements to promote peace.

Edwards also began reading biographies of Thomas Jefferson and Abraham Lincoln, among others, and, he said, "That gave me confidence I was heading in the right direction."

After running a title insurance company in San Jose for several years, Edwards was elected to Congress in 1962.

Always impeccably dressed, Edwards looks nearly two decades younger than his 65 years. That's partly the result of his long interest in athletics. He was an excellent golfer in college, and in 1950, he won the Bing Crosby National Pro-Am championship with his partner, Marty Furgol.

Though he is considered more liberal than his district, Edwards has consistently been re-elected by wide margins. San Jose Mayor Janet Gray Hayes said Edwards "projects honesty and sensitivity and judgment. People just buy that. He also has a reputation for sticking his neck out for unpopular causes long before they're popular."●

ROBERT DRINAN

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. LONG of Maryland. Mr. Speaker, I rise in recognition of the service rendered to our country, to this body, to his constituents, by our friend and colleague, Bob Drinan.

Father Drinan has achieved distinction in an impressive list of endeavors: As lawyer, as academician, as a Member of Congress, as a clergyman. His vocations, his avocations, underscore his commitment to service.

Bob has always been a warrior of conscience. His decision to enter the House, in 1969, was prompted by his well-placed belief that his presence could help end the Vietnam war. He served on the House Committee on Un-American Activities with the express intent of abolishing it, which he was instrumental in doing. On the Judiciary Committee, Bob was a hard but fair judge of President Nixon. And through his chairmanship of the Criminal Justice Subcommittee he has worked to reform and revise the Criminal Justice Code.

Father Drinan's decision to leave the House of Representatives is very much in character. He has applied a rigorous and strict logic in coming to it. Bob Drinan has always been, and I am certain, will continue to be, a part of the solution. We are all the better for the example he sets, and the poorer from the loss to this Chamber which is occasioned.●

STREAMLINING THE BUREAUCRATIC PROCESS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ASPIN. Mr. Speaker, I want to take note of a most helpful new provision in this year's housing bill, H.R. 7262, as reported by the House Committee on Banking, Finance and Urban Affairs.

I am referring to that provision streamlining the bureaucratic process which handles historic preservation issues. Let me first explain what the amendment does:

1. It sets a 90-day finite time limit within which historic preservation issues are handled. No such limitation exists now.

2. It sets up an incentive to both localities and historic preservation groups to get their historic properties on the register. No such incentive exists now.

3. It allows for local-level conflict-resolution by a stricter definition of what constitutes successful conflict-resolution: An agreement between localities and the State Historic Preservation Office. Right now, the Advisory Council on Historic Preservation can unilaterally preempt such agreements.

All this does not sound like a great accomplishment. We can all be for a little less redtape. But the provision is the best news possible for city administrators, who have been mired in the self-imposed Kafkaesque kangaroo court of the bureaucracy at the Advisory Council on Historic Preservation.

Of this I am certain: If the real advisory council knew of what is being done, in its good name, it too, would support the change. Unfortunately, the real council never really meets and we have got a cadre of bureaucrats who have become a small U.S. Housing and Urban Development Department, U.S. Department of Transportation, and U.S. Commerce Department.

WHY AND HOW THIS HAPPENED

No one can legislate esthetic judgment, so the legislation authorizing the advisory council is accordingly flexible.

The bureaucrats there have assumed a license to do virtually anything they please at considerable costs to localities and their taxpayers.

Examples of regulations which provide de facto decisionmaking power include: (1) A requirement that project work be suspended as part of "good faith" consultations; (2) a requirement that localities submit to "memoranda of agreement" which have legally binding commitments in excess of legislative intent; (3) a requirement that delegates historic resource identification responsibility to the other Federal agencies and localities before undertaking a project.

These regulations have led to several abuses by council staffers that merit attention. For example:

Unilateral council requests that structures be listed in the National Register.

Coercing a city to submit to the council procedures, including the memorandum of understanding, even though an agreement on the dispute has been struck at the local level.

Unilaterally writing to a city when no specific project was involved and requesting that it sign a "blanket memorandum of agreement" and that it cease all federally funded activities until it does so.

The council's regulations fail to discriminate between projects requiring their involvement and those that do not. Moreover, the council has clearly exceeded in practice and in its regulatory language the legislative intent.

Briefly, the council's bureaucrats have designed an elaborate consultative procedure covering, for all practical purposes, just about any project in an urban area in which the Federal Government is involved. Moreover, the regulations are written in such a way as to give the council bureaucrats de facto decisionmaking power over a project, something never intended in the legislation. As a byproduct, the regulations can involve the council bureaucrats in local-level disputes having little to do with historic preservation.

THE HORROR STORIES

Over the past year, I have carried out an informal pathological survey to try to ascertain why the problems arise. Here are some examples which help to illustrate my conclusions:

Oklahoma City, Okla. (Hales Building, 1978): A 1967 urban renewal project approved in compliance with all requirements called for demolition of the Hales Building. In 1978 it was the last building remaining to be cleared. The city and State historic preservation officer (SHPO) on three separate occasions agreed the building did not merit National Register listing. However, advisory council staff raised a question about its value and the Secretary of the Interior unilaterally, after demolition bids were let in 1978, placed the building on the National Register contrary to State recommendations. Development of a $30 million commercial complex was halted pending disposition of a suit brought against the Oklahoma City renewal authority.

Milwaukee, Wis. (Plankington Mansion, 1978): In 1978, 10 years after the urban renewal project was approved, the advisory council raised questions about the demolition of the Plankington Mansion which was placed on the National Register by Interior in 1978.

Faneuil Hall project, Boston—Involving shadow of 60 State Street: In a downtown urban renewal project the council objected to possible effects, including shadows, on the Faneuil Hall Market Area. After some delay, a memorandum of agreement between the council, and the city of Boston was executed and carried out. The redesign required by the memorandum was undertaken. Though a success in the conflict-resolution sense, the whole question of a shadow being the cause for a project to grind to a halt is of concern.

Denver Urban Renewal project, D and F Tower: The D and F Department Store was demolished, with agreement that its corner clock tower be preserved. The tower continues to stand, but it presents a never-ending series of problems, both as to design and the effect of other buildings in the project on the tower. After much local effort to secure a purchaser failed, while deterioration goes on, the council will not agree to alternative designs to make it more useful. The council and the State historic preservation officer are concerned that other project activities would reduce the view of and from the now vacant tower.

Hudson, N.Y., 1977-78: This involves demolition of badly deteriorated workers' homes built in the 1840's which are located in a block grant project area where flooding and drainage have been a longstanding problem.

In mid-1978, after HUD approved the release of funds for the project, which included demolition of the structures, the advisory council raised questions as to the existence of buildings possibly eligible for National Register. The city employed a preservation consultant who recommended demolition of some structures as not significant but retention of others. The city agreed and requested HUD to release grant funds. SHPO staff disputed the quality of the consultant's report, the council contended its procedures had not been completed and funding was held up. The dispute continued some months, involving HUD, the city, the council and the State.

The city and the SHPO finally agreed that only three of the structures have any possible historical value and that the others may be demolished. However, the city was still formally requested to complete the advisory council's procedures including the execution of a memorandum of agreement between the city, SHPO, and the advisory council before the project can proceed—though the agreement has already been struck.

Fort Wayne, Ind.: This is a policy matter raised in correspondence between the city's development agency and the advisory council. This is an instance in which the council made strong requests of the city the authority for which is highly questionable.

First, the council staff demanded that the city make a choice between (a) entering into a blanket memorandum of agreement to cover all future cases which may involve activity effects on historic properties versus (b) a choice to enter agreements with the council on individual projects.

Second, the council staff requested the city to cease all federally assisted activity pending compliance with sec. 106 of the National Historic Preservation Act of 1966.

The council letter did not cite any specific project effects on historic properties. Council standing to require memorandum of agreement arises only from projects which specifically affect Register-eligible properties. It is not unusual for the council to request a blanket agreement covering future clearance as part of settling a particular project. What makes this a notable case is that there was not a project to justify the council staff's demands.

Of even greater concern was the council request that the city cease all federally assisted activity. The council has no authority for this. It is unlikely that a Federal agency would order a shutdown of all its activities on historic preservation grounds except in the rare instance where all such activity affected historic properties. Yet, here were the council bureaucrats asking for just this type of action.

CONCLUSION

The change in the housing bill will not guarantee that such abuses will end. It does point, if marginally, in the right direction.

If I were to choose which element in the change is most responsible for such welcome success it is the local-level SHPO-locality agreement provision. It insures that, among other things, the council will have priorities because only truly important and seemingly unresolvable issues will surface in Washington. Right now any structure having a doric column is fair game.

I urge my colleagues to support it.●

A VIGIL ON BEHALF OF THE RYNSKY FAMILY

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. SANTINI. Mr. Speaker, I am pleased to participate in the "Spirit of Helsinki, Vigil 1980," on behalf of all prisoners of conscience and all who are being detained in the Soviet Union as a result of that Governments repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

Unfortunately, the Soviet Government has regarded the human rights provisions of the Final Act as empty promises. This is most apparent now in the Soviet Union's restrictive emigration policies.

We who take freedom from such harassment for granted must do all we can to change these practices.

Today, I would like to bring to my colleague's attention, for the third year, the plight of Edouard Mikhailovich Rynsky and his family in Moscow. He, his wife Natalya, his daughter Yelena, and his mother Mariya, have now applied over six times for emigration visas since 1974, and have been refused each time, ostensibly for "state interests."

This continued refusal of their emigration applications is entirely groundless. Mr. Rynsky had left his position as a design engineer engaged in elevator design projects—with a second class security clearance—in 1972, 2 years prior to first applying for his emigration visa. He found another job as an engineer with a passenger elevator operation and maintenance agency, in no way associated with sensitive matters. Since 1974, he has been employed as a mechanic at a small factory. Although trained as a mechanical engineer, he has been unable to find employment in his field since applying for exit visas for his family.

Edouard Rynsky and his family have no idea how long they will have to wait—days, months, or years—before they will be allowed to emigrate. It is my sincere hope that this vigil for freedom will result in early emigration to Israel for this family.●

TWENTY-YEAR REUNION OF CAPITOL PAGE SCHOOL CLASS OF 1960

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DINGELL. Mr. Speaker, over the weekend of June 6, 15 of the original 23 members of the Capitol Page School class of 1960 gathered in the Nation's Capital for their 20-year, and also first, reunion. It was the first such reunion in the long history of the Capitol Page School and was a great success.

The celebration got underway with a welcome reception at the Capitol Hill Club. It was the first time in two decades that many of the former page boys—it would be yet another 12 years before the appointment of the first girl page—had seen each other. Joined by their wives, children, and former faculty members they quickly brought one another up to date on education, careers, and the contribution of the page experience to their lives.

On Saturday morning the group went to the White House for a special tour and photographs. The 1960 class was one of the few which did not have White House ceremony so the visit was happily received as better late than never.

The return to the Capitol was the next and certainly most nostalgic event. The former pages return to the House and Senate floors which had been the scene of their former congressional service. There was a flood of memories as they saw each other in their old and familiar settings. A highlight of the Capitol visit was a climb to the top of the dome. While most had made the climb in years gone by, this was the first time that they did not have to sneak up the stairs.

Later in the day the reunion group visited the Kennedy Center for a special behind-the-scences tour. The Kennedy Center was only a dream in 1960.

Saturday evening the alumni gathered for an elegant banquet at the Georgetown Club. The Reverend Dennis Trout, a class member and Lutheran minister, led the friends in prayer before the dinner. Reverend Trout called to mind the fellowship of page days, the sweetness of renewed friendship, the recollection of the five absent members, and the memories of the three deceased classmates. After dinner each member proposed a toast in which he expressed his thoughts on the meaning of the occasion.

On Sunday all drove to Burnside's Manor in Fredricksburg, Va., the home of classmate Duke Zeller, for a Virginia country buffet on the lawn. It was a beautiful climax to an all too short weekend of companionship. The former pages agreed that they would reunite in 5 years to celebrate their 25th jubilee.

Mr. Speaker, I feel that it is important to note that the 1960 Page School class reunion reflects the significance which service as a page has been to the thousands of young men and more recently young women who have had the opportunity. While only two members of the 1960 class have continued their congressional service and one holds State elective office, all members of the class are active in the affairs of their communities. They all maintain a high level of concern for the people and affairs of their Government. In larger measure the experience has given them a depth of understanding and affection for people of diverse background and regional difference. I know that my colleagues join me in congratulating the Capitol Page School class of 1960 on this landmark event.

Those who attended were: Donn Anderson, Tony and Malka David, Michael and Lynne Freehill, Steve Goad, Tom and Nancy Junkersfeld, Jim and Sarah Kolbe, Ron Lasch, Dave and Judy Loge, William and Shirley McIntyre, Dave and Judy Miller, John and Katherine Nolan, Bill and Nancy Owens, Dennis and Christal Trout, Sam and Pat Williams, and Fritz "Duke" Zeller.

Those who could not attend were: Wayne and Nina Moore, Mike Sprague, Paul and Nancy Stanford, Jim Wrobel, and Bob Chritesen.

Those who had passed away tragically were: Steve Smith, Scott Shoemaker, and Oswald Glymph.●

TRIBUTE TO REPRESENTATIVE JOHN W. WYDLER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. LENT. Mr. Speaker, I wish to call the attention of his many friends in this Chamber to a notable tribute paid to the dean of our New York Republican delegation in Congress, Hon. JOHN W. WYDLER, who recently announced his intention to retire from the U.S. Congress upon completion of his present term.

On May 15, 1980, the Nassau County, N.Y., Republican Committee held its annual dinner at Colonie Hill, Happauge, N.Y. Over 4,000 guests attended. Gov. Ronald Reagan, who undoubtedly will be our party's candidate for President this fall, was the guest of honor.

But, Mr. Speaker, I think it would be fair to say—with all due respect to Governor Reagan—that our good friend JACK WYDLER was the real guest of honor at that dinner. In recognition of his 18 years of service to Nassau County as the Representative of the fabulous Fifth Congressional District, JACK WYDLER received a tremendous ovation and a special award honoring him for his distinguished and dedicated service to America.

I enjoyed the privilege of making the presentation to JACK WYDLER, and I insert in the RECORD my remarks in presenting the award and JACK WYDLER's response:

REMARKS OF REPRESENTATIVE NORMAN F. LENT, AT NASSAU COUNTY REPUBLICANS' ANNUAL DINNER

Chairman Joe Margiotta, Governor Reagan, Party leaders, Committeemen, officeholders and candidates, distinguished guests and friends:

Along with most of you, I'm really optimistic about the election prospects for this fall, even though we'll be campaigning without one of Nassau County's top vote-getters.

I refer, of course, to my good friend, Jack Wydler. Along with all of you, I was really saddened when I heard that Jack had decided against continuing his truly outstanding career in the U.S. Congress.

I don't know of anyone who is more respected by his colleagues in the House of Representatives, or who has worked more effectively in the Congress for Long Island than Jack. As a senior member of the Government Operations Committee, Jack has exerted tremendous influence in shaping the revenue sharing program so that suburban areas like Long Island would be able to share in its benefits.

As Co-chairman of the Suburban Caucus in the Congress, Jack has accomplished wonders in building the political strength needed to make sure that suburban areas receive fair treatment in the Congress.

As ranking Republican on the Committee on Science and Technology, Jack has been a major influence in shaping the scientific development of our Nation.

Yes, the Fabulous Fifth District, Nassau, and America all have reason to be very grateful to Jack Wydler. We will all miss his dedicated efforts on our behalf. But those of us who have worked more closely with Jack in the Congress and in the Republican organization of Nassau have even more reason to be grateful to him. His political judgment and leadership, and the hard work he has put into his District have helped strengthen the Republican organization of Nassau.

In the nine successful elections in which he was a candidate, John Wydler was a top vote-getter. His vote-pulling power helped countless other candidates. We're all going to have to work harder to make up for Jack's absence on the ticket this November. But, I know we can get the job done, and with the superbly qualified Ray McGrath, *keep* the Fabulous Fifth in the Republican column where it belongs!

Jack, as a token of our deep gratitude and appreciation for your dedication and many years of loyal service to the Republican Party of Nassau, on behalf of the County Republicans I'd like to present you with this gift. It is a beautiful clock suitably engraved.

Jack, I hope you'll use it to reserve a lot of time to give advice and counsel to your many, many friends among the Nassau Republicans. Thank you for your great work, and your friendship! May you, your lovely wife, Brenda, and your three youngsters enjoy many beautiful years ahead!

RESPONSE OF HON. JOHN W. WYDLER TO TRIBUTE AT NASSAU COUNTY REPUBLICAN DINNER, MAY 15, 1980

Chairman Joe Margiotta—looking over this impressive audience of more than 4,000—more than anything else it represents *you:* Your stewardship of the Party, and why you are the most successful political leader in the United States!

Governor and Mrs. Reagan—Our hope for the future of the country, and I'm proud to be a congressional member of the Reagan for President Committee!

Bill Casey—Long Island's contribution to a winning Presidential campaign! Norm Lent—my colleague and friend in the House for the past 10 years, who has been a rock I could always depend upon!

All distinguished guests (everyone in the room), and friends:

This is obviously a night of high emotion for me, but I have a word to say about the past, present, and future.

As for the past, the word is Thanks! Thanks to those who helped me at the beginning—the most important time! And do as much for my successor's first run for the Fabulous Fifth seat, the good-looking Irishman who's going to succeed me, Assemblyman Ray McGrath!

Thanks to the friends who stuck with me when the going got tough; thanks to my wife Brenda, who like all politicians' wives suffers more than we.

Thanks for the opportunity to have the best job in the United States! And thanks for the good memories of 18 exciting years.

But that's the past. As for the present: The time has simply come for me to make a change in my life; time for a new life for me and my family; time to come back to Long Island—it really looks good when you're away—and time to undertake a new challenge in the private sector, trying to live under the rules I helped make in Washington.

But I can assure all those present that I will always keep an active interest in government and politics, which have been such an important and rewarding part of my life.

And—finally—a word about the future; not mine, but the future of our country. And that, Governor Reagan is where you come in!

Whatever anyone in this audience—or in this country—may think on a particular issue, one thing is clear: It's time for a change!

It's time to stop using up our hard-earned wealth and influence pursuing outdated social programs at home, and non-productive foreign programs around the world.

Governor Reagan, this will be a difficult election. President Carter will run on a platform of good intentions. Your problem is to make the American people judge him on his record of failures. It's just not enough for an American President to be good—or to be well meaning—or to try hard, he must be able to perform and win in the economic and military arenas of the world. The future is a time for change, not only for me, but for our country.

We must have a White House foreign policy of level-headed self interest in place of moralistic jingoism.

We must recapture the spirit of the old Yankee trader in foreign commerce and change the international bureaucracy with its red tape rules and regulations that deny us one world market after another.

The job of this audience, and this country is simple: It's to make Governor Reagan into Mr. President, and thereby make a bewildered America into the strong country it used to be, and which it can be again!●

MISS VERMONT NATIONAL TEENAGER FOR 1980 TELLS WHAT'S RIGHT ABOUT AMERICA

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. JEFFORDS. Mr. Speaker, today I wish to share with my colleagues an essay entitled, "What's Right About America."

Pamela J. Bordeau is 14 years old and recently was selected Miss Vermont National Teenager of 1980. In addition, Pamela received the winner's trophy in the essay contest, as well as for the Volunteer Community Service Leadership Award and Miss Hospitality. I am proud of Pamela and want to share with you that excellent essay she has written:

WHAT'S RIGHT ABOUT AMERICA

Freedom is what's right about America. The history of man has been a proud and arduous struggle for freedom. The fundamental freedoms of expression, religion and personal choice founded this country, have sustained it, and will be the core of its survival.

The right of expression includes our freedoms of thought, speech, actions and communications. This right has enabled Americans to relate and record their ideas and opinions for all time.

Religion has given strength and unity to man historically through belief in a higher level of existence. Our right to individually and collectively assemble in the practice of our faiths has nourished the spirit of all Americans since our Nation began.

Personal choice: Our right to love and marriage, education, individual lifestyles and occupations are of great importance to man in his pursuit of happiness.

Freedom is not a luxury to indulge in but rather an absolute necessity to maintain our country's growth and ensure its enrichment.●

AMERICAN FARMER NEEDS OUR ATTENTION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MICHEL. Mr. Speaker, on one of my recent trips back to my district, I met with a group of farmers and their wives and some businessmen whose livelihood is greatly dependent on the farm economy.

Their message to me was that American agriculture is in serious trouble and no one, especially the USDA, seems to be paying attention.

While the U.S. Department of Agriculture is turning its attention away from the farm, and busying itself teaching good nutrition and the art of gardening in the inner city, the family farm is being devastated by high interest rates, low prices, inflation, and a government that is doing more damage than good.

If we had a Department of Agriculture interested in agriculture then the American people would probably be more aware of the serious problems we have on the farm today. The public would probably have greater respect for the farmer and the means by which he supplies the world with food.

Those constituents of mine presented me with some information that might help get the message across.

They showed me a chart which itemized the specific costs of producing their corn and soybean crops in 1980, based on projections compiled by the University of Illinois, which collected data from more than 500 farms in central Illinois.

As it turned out, the average cost for producing a bushel of corn in 1980 is expected to be assuming a good yield of 136 bushels per acre. That price took into consideration such items as fertilizer, weedkillers, crop drying and storage, fuel, labor, buildings, taxes, and machinery. Several days ago I checked in Peoria for the current price of corn being paid to farmers on the open market. I was quoted a price of $2.59 a bushel. So if a farmer in central Illinois, where we have some of the finest and most productive farmland in the world, plants 150 acres of corn and puts out $2.81 a bushel to produce that corn, he has spent $57,324 for a crop that he sells at $2.59 a bushel for a total of $52,236, taking a loss of $5,088.

Now for the soybeans. The charts put the average cost per bushel of soybeans at $6.95. The market in Peoria quoted me a price the other day of $5.91 per bushel. With an average yield of 44 bushels to the acre, that means the farmer is going to lose about $6,864.

There is not much incentive in those figures to produce food for a growing America.

About the time I got these charts, another constituent of mine who raises hogs, took some to market and sold them for 29 cents a pound. If you go into a popular supermarket in the Washington, D.C., area and buy some center cut pork chops which could have come from a hog exactly like the ones my constituent sold for 29 cents a pound, you would pay about $2.29 per pound for that meat.

Something is horribly wrong with the system when the individual who produces the food gets only 12.6 percent of that same food's total retail cost. The University of Illinois calculations, by the way, showed that the average Illinois pork producer lost money on hogs in 1979, by about a half a cent per pound.

I hope these illustrations will help focus a little more attention on the plight of the American farmer today. If we do not start paying more attention there is going to be trouble.

One other point needs to be made. When I called and got my quotations on corn and soybeans I also got a quotation on wheat, because the day we were making those calls the U.S. Department of Agriculture was dumping on the American market wheat and corn that it promised to buy up and hold after the Soviet grain embargo. So much for promises. The day after the Government dumped corn and wheat, corn went down to $2.57 a bushel and wheat dropped from $3.67 to $3.62. That is the way the administration protects us from its errant and unpredictable foreign policy.

At this point I insert in the RECORD the summaries of average costs for the production of corn, soybeans, and hogs, compiled from the reports from more than 500 central Illinois farms in 1978 and 1979.

ILLINOIS—1979 COST AND RETURNS TO PRODUCE 100 LB OF PORK

Item	Amount
Building repairs	$0.20
Building depreciation	2.38
Total building	$2.58
Utilities	1.02
Machinery equipment repairs	.65
Machinery hire	.20
Gas and oil	.26
Auto expense	.02
Machinery-equipment depreciation	.81
Total machinery-equipment	2.96
Unpaid labor	1.17
Hired labor	3.43
Total labor	4.60
Livestock expense	1.09
Insurance	.55
Taxes	.20
Miscellaneous	.21
Interest on capital	3.78
Total other	5.83
Total nonfeed cost	15.97
Value feed fed	22.92
Total all cost	38.89
Total returns	38.48
Management return	−.41

PER ACRE COSTS TO GROW CORN AND SOYBEANS—CENTRAL ILLINOIS GRAIN FARMS

	1980 projections	
	Corn	Soybeans
Nonland costs:		
Variable costs:		
Soil fertility	$60	$19
Seed, crop, and drying	$41	$26
Machinery replacement, fuel and hire	$31	$26
Total variable	$132	$71
Percent increase over 1979	16	15
Other nonland costs:		
Labor	$28	$28
Buildings and storage	$11	$6
Machinery depreciation	$32	$27
Nonland interest	$45	$40
Overhead	$11	$11
Total other	$127	$112
Total nonland costs	$259	$183
Percent increase over 1979	14	13
Land costs per acre:		
Taxes	$19	$19
Adjusted net rent	$104	$104
Total land cost	$123	$123
Total, all costs per acre	$382	$306
Percent increase over 1979	9	8
Yield, per acre, bushel	136	44
Nonland costs per bushel	$1.90	$4.16
All costs per bushel	$2.81	$6.95

●

THE SQUARE DOUGHNUT

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. LEE. Mr. Speaker, if your doughnut maker is giving you square doughnuts, you will probably blame the machine, not the doughnuts.

America's Presidential politics machine, however, seems to escape this kind of logic. Now that the arduous primary system has concluded for another Presidential election year, it may be worthwhile to examine a new phenomenon generated around it.

Less than a third of the eligible American electorate took part in the 5-month primary campaign voting. Almost universally, however, there is the feeling that this year's Presidential race presents a choice of probably adequate but not very glamorous contenders.

Excitement being created for this summer's nominating conventions and the later general election is something closer to shopping for laundry detergents than national leaders.

TED KENNEDY and JOHN ANDERSON would have us believe that the two major parties' candidates are responsible for that apathy. As such, they are offering themselves in self-sacrificing fashion as alternatives to the apparent Republican and Democrat standard bearers.

Somehow, both KENNEDY and ANDERSON are losing sight of the fact that they were not the primary voter's first choices.

I choose to think that there are other reasons for the coast-to-coast "who cares" attitude developing today. The first, and most important reason, is that there has just been too much politicking.

The first shots of this Presidential campaign were fired nearly a year ago. The first primary, in Iowa, was held 1 day short of a year ahead of the next President's inauguration.

National news media have hyped us into thinking that no other news can or should capture our interest.

Let me say without hesitation that the election of a President of the United States ranks at the top of the list in our important-things-to-do category. Without a doubt, there is serious business to be done in the White House that should be attended by the most competent person we can find.

But there is also a matter of perspective that seems to be missed at the evening news and front page level: Americans tire easily, with virtually anything.

There are those who claim today that the average American's attention span is just about 11 minutes, the time we have most often devoted to television program segments between commercials.

At times, we can hold out for an hour during the super bowl or as many as seven games of a world series. But the plain fact is that no one can keep us on the edge of our seats through months and months of Presidential primaries without wearing out their welcome.

In quick summary, we have tired of Presidential politics and nothing but rest will help.

Reforms in the delegate selection and the nominating systems of both parties which were spawned in equality movements of the 1960's have contributed to our weariness. They have also helped the campaigns to become multi-million-dollar productions which drain as much of our money as our energy.

The national weariness we are experiencing now is not adequate reason to send conventioneering back to precinct bosses and smoke-filled rooms, but it is enough to make us once again seriously consider some of the alternatives.

This may well be the time to think about compacting the primary schedules which lead up to candidate selection and to reduce the lengthy, blow-by-blow news coverage and analysis.

It could also be that it is time to consider an idea that has long been floating about as a possibility: To extend the term of office of President to 6 years. We would then close the door to reelection distractions by limiting each holder to only one 6-year term.

Debate will continue until one of the many possible methods of change has been effected. Until a change is made, however, we should not write off anyone as being too dull or lackluster, too right or too left, too disliked or unsupported to become President.

For now, let us just rest up from the wave of completed primaries and begin making personal pledges to participate this fall.●

CORRECTING THE LONGSHOREMEN'S ACT'S DEFECTS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ERLENBORN. Mr. Speaker, the time has come to focus attention on one of the most ill-conceived pieces of legislation passed by Congress in recent years—the Longshoremen's and Harbor Workers' Act Amendments of 1972. The term "crisis" has been used to describe the situation that has developed under this law, and that terminology is hardly an exaggeration.

First, I would like to discuss some of the serious problems created by this statute, problems which are clearly evident even to those who are unfamiliar with Federal workers' compensation laws. Second, I would like to discuss a bill that I am introducing today, together with Mr. EDWARDS of Alabama, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. MCCLOSKEY, and Mr. BUCHANAN, which will address many of those problems and restore some semblance of workability to the Longshoremen's Act.

Before discussing some of the costly problems created by the 1972 amendments to the Longshore Act, I would like to emphasize the fundamental purpose of any program of workers' compensation; that is the payment of medical expenses and replacement of lost earnings stemming from a job-related injury. This is a simple and equitable standard; however, the Longshore Act, as presently drafted and administered, goes well beyond this legitimate concept, incorporating the principles of life insurance, pensions, supplemental income, and punitive damages.

Workers' compensation programs evolved as a no-fault system of replacing the wages of an employee injured on the job. Originally, an employee was required to sue his employer in order to recover any form of compensation for an injury on the job. The difficulties of determining liability and the delays encountered in obtaining benefits rendered this system unacceptable. States eventually drew up their own programs of workers' compensation.

The Longshoremen's and Harbor Workers' Compensation Act was enacted in 1927 to cover employees working on navigable waters, in coastal ports, and river terminals who did not qualify for State compensation programs. Several problems stemming from court decisions developed under the law. By 1972 there also was a general recognition that the maximum benefit under the act of $70 per week should be raised. Congress responded by passing the 1972 amendments. The amendments were far-reaching, however, addressing areas not initially contemplated. Since then, it has become apparent that this cure was far worse than the disease.

Basically the 1972 amendments cracked the longshoremen's program wide open. The number of claims skyrocketed and the levels of benefits soared; the costs of insuring workers against injury exploded; the question of who was covered under the act and who was not became confused; litigation increased drastically. But the bottom line is that for all of the above reasons, the higher cost of shipping goods is ultimately passed on to the consumer, creating additional pressure on our inflationary economy.

A quick look at some of the pertinent statistics is convincing evidence that something is seriously wrong with the 1972 amendments.

Prior to 1972, injuries reported under the Longshore Act were steadily decreasing, dropping 25 percent in the course of the preceding 3 years. The 1972 amendments reversed this trend. According to the Department of Labor, claims rose from about 72,000 in 1972 to 205,500 in 1977. This 185-percent increase in the number of workers claiming injury in only 5 years did not occur because the maritime industry suddenly became more hazardous. It occurred because, under the 1972 amendments, benefits became much more generous; they became easier to get and more people could get them.

The 1972 amendments brought about a quantum leap in the weekly benefit levels which were indexed to increases in the nationwide average weekly wage. Under the current law, there is no limit to the annual escalation and all benefits are tax free. The maximum weekly compensation in 1972 was $70—it is now $426, and will rise again in October.

The sharp escalation of benefits, spurred by the 1972 amendments, has driven up the costs borne by employers under the Longshore Act to the point where the premiums for workers' compensation insurance come close to a worker's actual salary. For example, in 1972 the premium established by the New York State Compensation Board for general stevedoring was $29.90 for every $100 of payroll. Today that rate is $87.24 per $100 of payroll. This means for a longshoreman in New York earning $20,000 a year, his employer would have to pay $17,448 in longshore insurance premiums.

For many employers under the act, workers' compensation is the second greatest cost after direct payroll. A recent study shows that 6 percent of gross industry revenue is spent on Longshore Act compensation.

The high cost of the Longshoremen's Act is passed ultimately along to the consumer. For example, in the case of stevedoring companies, their higher costs are transferred to the shipowners, who in turn pass the cost on to the shipper. Higher shipping rates are eventually reflected in higher retail prices which are paid by the American consumer.

The automatic escalation of benefits mandated by the 1972 amendments makes cost liability so unpredictable that the act is virtually uninsurable. Insurance companies cannot accurately determine how inflation will affect future benefits; they have no way of knowing who might be covered under the act. Therefore, they cannot project the risks involved in underwriting a longshore insurance policy and they refuse to insure an employer. Self-insurers face the same problems.

Perhaps the saddest aspect of the 1972 amendments is the fact that they have discouraged rehabilitation and the return to work. Because current benefits approach or even exceed preinjury take-home pay, disabilities may be unnecessarily prolonged and the severity of claims may be exaggerated.

The 1972 amendments confused the question of exactly which workers are covered by the Longshore Act and which are covered by State workers' compensation laws. Since 1972 many workers who work far landward of the water's edge have come under longshore coverage. Today the jurisdiction of the act remains uncertain and is the underlying cause of a great amount of litigation.

We have such serious problems under the Federal longshoremen's compensation program today because the 1972 amendments were passed hastily in the waning days of the 92d Congress. In fact, the origins of many of the provisions remain somewhat of a mystery. But one thing is certain, many important policy changes in the 1972 amendments were not supported by reliable studies or hard information, and there was virtually no consideration of the long-term costs to the legislation.

The imprecision of the act prompted the Chief Justice in the *Caputo* case, decided in 1977, to remark that the law was "* * * about as unclear as any statute could conceivably be * * *."

Numerous congressional hearings have been held to examine the deficiencies in the Longshore Act, but no serious effort has been made to amend this troublesome law. I was hopeful that Congress would recognize the error of its ways last November when hearings were held by the Education and Labor Subcommittee on Labor Standards. Unfortunately, they failed to produce any tangible results.

The legislation I am introducing today is the beginning of a concerted drive to correct many of the problems created by the 1972 Amendments to the Longshore Act. The forerunner of today's bill is H.R. 2448 which I and several of our colleagues introduced in February of 1979. The new bill embodies most of the major concepts in H.R. 2448, but it goes much further and addresses many additional problems. H.R. 2448 was introduced primarily as a vehicle for discussion, rather than a polished legislative remedy. The bill being introduced today comes much closer to a final workable solution.

The new bill makes major changes relating to the computation and payments of benefits under the Longshore Act. These changes are designed to restore reasonable standards in the way benefits are awarded to control the runaway costs which have occurred since 1972. The new bill would place a 3-percent cap on the annual increase in benefits which is calculated to offset the effects of inflation. Under the current law, the annual increase, which is based upon the increase in the national average weekly wage, can rise without limit. This is the principal reason why many insurers will no longer underwrite longshore policies. It is important to realize that the 3-percent cap applies to nontaxable income, and as such is comparable to a 5- or 6-percent increase in before tax earnings.

Under the new bill, benefits will be tied to 80 percent of the individual's after tax income, rather than the current rate of two-thirds of the individual's average weekly wage. This change reflects a recommendation by the National Commission on State Workmen's Compensation Laws. The bill also updates the method for determining the individual's average weekly wage.

For the first time, the bill provides a mechanism for offsetting Longshore Act benefits with receipt of other benefits including social security old age and disability benefits, pensions, unemployment compensation, and any other workers' compensation benefits. This provision will prevent the pyramiding of benefits which often results in a worker receiving more income from benefits than he or she ever made on the job. The offset applies to survivors as well.

The bill continues full compensation to an injured employee while undergoing a program of rehabilitation, but would suspend benefits if the employee unreasonably refuses rehabilitation. The bill would also suspend compensation during any period when an employee refuses to submit to medical treatment by an approved physician.

Two other changes under the new bill apply specifically to death benefits. First death benefits will be subject to a cap of 200 percent of the national average weekly wage—the same limit applicable to benefits paid to living recipients. Without such a cap the survivors of an injured worker may receive more in benefits than if the injured worker had lived.

The second change would prohibit the payment of unrelated death benefits. Under current law, death benefits are paid to survivors of employees who die from causes totally unrelated to the injury associated with their job, such as an automobile accident.

The new bill will end the uncertainty over which workers are covered under the Longshoremen's Act by clearly defining the jurisdiction of the act. Employees will not be faced with walking in and out of coverage. The bill eliminates the confusing maritime employment test while spelling out the specific type of occupations that would be covered under the act, including the definition of a harbor worker which does not exist in the current law.

The bill excludes employees providing services on or for a vessel under 65 feet in length, thus exempting recreational boat builders whom Congress never intended to cover in the first place. Pleasure boat builders having factories far inland have been brought under the act by Department of Labor interpretations.

Finally, the new bill would make administrative changes to speed up the delays in adjudicating contested workers' compensation claims. It would impose deadlines for decisions at each stage of the adjudication process. In addition, it would depoliticize the Benefits Review Board by giving it more independence from the Department of Labor.

The legislation I have briefly described marks the first step of a broad-based effort to reverse the damage done by the 1972 amendments to the Longshoremen's and Harbor Workers' Act. Joining this drive is an ad hoc coalition of over 50 groups representing all aspects of the maritime industry and the insurance industry. The coalition includes other industries which are forced to absorb the steep costs of the program; it includes associations representing the national business community as well. Support for revisions of the Longshore Act comes from all areas of the country.

The problems created by the 1972 amendments are serious; the costs are severe. The 1972 amendments strayed from the only ligitimate purpose of workers' compensation. By incorporating the principles of life insurance, pension income, and punitive damages, the 1972 amendments have spawned a new form of social welfare.

The bill I am introducing today is intended to reverse this trend. It is not designed to help or harm any particular group or organization. It is intended solely to bring the soaring costs of the Longshoremen's and Harbor Workers' Compensation Act back under control. My bill will accomplish this end by restoring the original purpose of the program; namely, the replacement of earnings lost as a result of a job-related injury.

A brief comparison of this new bill and its predecessor H.R. 2448 follows:

SCOPE OF AMENDMENTS

Both H.R. 2448 and the new Erlenborn bill to amend the Longshoremen's and Harbor Workers' Compensation Act (Act of

March 4, 1927 chapter 509, 44 Stat. 1424, as amended by Public Law 92-576, 86 Stat. 1251, 33 U.S.C. § 901, et seq.) address the major source of escalating costs experienced since 1972—uncertain jurisdiction, payment for deaths unrelated to employment, absence of a ceiling on death benefits, and an uncapped escalation of benefits geared to increases in the national average weekly wage—and institutional shortcomings in placement of the Benefits Review Board under authority of the Secretary of Labor.

MAJOR PROVISIONS OF H.R. 2448 AND NEW ERLENBORN BILL

(1) Contract jurisdiction to more certain parameters; coverage would be dependent on status of an employee at the time of injury and on the point of injury. Covered employees are longshoremen, ship repairmen, shipbuilders, shipbreakers, and harbor workers. The troublesome, confusing "maritime employment" test enacted in 1972 is eliminated.

(2) Death benefits, payable to survivors of injured employees receiving compensation who die from causes unrelated to an employment injury are eliminated. No other workers' compensation law, State or Federal, includes this life insurance provision which was added in 1972.

(3) Death benefits are capped at 200 per cent of the national average weekly wage—the same cap applicable to living employee beneficiaries. Absence of this cap is admitted even by the Labor Department to be an oversight in drafting the 1972 Amendments. Without a cap, survivors of injured workers may receive more in benefits than the injured worker would have, had he lived. No other workers' compensation law contains this premium on death.

(4) The automatic annual cost-of-living benefits escalator is capped at 3 per cent, based on increases in the national average weekly wage. Open-ended indexing, adopted in 1972, has created a most significant risk-assessment problem for employers and insurance carriers. A rise in the annual escalator increases employer-carrier liability exponentially, leading to serious reserving problems.

(5) Integrity of the claims adjudication process is addressed in H.R. 2448 by deleting Benefits Review Board jurisdiction over Longshore Act cases. Compensation orders issued by Deputy Commissioners would be appealable to U.S. District Courts—the practice prior to 1972 when the Board was created by the Longshore Amendments.

The new bill establishes the Board as an agency independent of the Secretary of Labor whose members are appointed for fixed terms by the President and confirmed by the Senate. Administrative law judges are appointed by the Board, not the Secretary of Labor.

MAJOR ADDITIONAL CHANGES SOUGHT BY THE NEW ERLENBORN BILL

(1) The new bill includes a definition of harbor worker which is not defined in existing law or H.R. 2448. This category encompasses miscellaneous employees who are providing services on or for a vessel upon navigable waters, are not covered by a State workers' compensation act, and do not fall within the definitions of other covered employees—longshoreman, shipbuilder, ship repairer, or shipbreaker.

(2) The net tonnage exemption in the present Act (and not modified in H.R. 2448) is altered to a vessel-length exemption as a more appropriate and readily determinable measure of exclusion. Presently, any vessel under 18 net tons (capacity tons) is excluded. The new bill excludes any employee providing services on or for a vessel under 65 feet (about 70 net tons) if covered by a State workers' compensation program. Intent: Exclude recreational boat builders whom Congress never intended to cover but who were brought under the Act through Department of Labor interpretations.

(3) For the first time, provides a mechanism for offsetting Longshore Act benefits with the receipt of other benefits—Social Security old age and disability benefits, pensions, unemployment compensation, and any other workers' compensation benefit—to prevent pyramiding of benefits.

(4) Creates a Longshore Act advisory committee.

(5) Establishes a Conservation Committee, patterned after New York's statute, which is financed and operated by employers and insurance carriers who would have the responsibility of defending claims made on the Special (Second Injury) Fund. Liabilities against the Fund are increasing exponentially, as the Act's tremendous costs provide employers and insurance carriers with incentive to assert second-injury claims and assert Fund jurisdiction which limits employer-carrier liability.

(6) Re-defines wage-earning capacity for purposes of partial disabilities, by reference to the formula recently adopted by Florida and the District of Columbia which requires an employee to establish the relationship between wage loss and employment. Measures wage-earning capacity with reference to actual post-injury earnings, and earnings which would have been realized should an employee voluntarily limit his income.

(7) Prohibits double recovery for scheduled and unscheduled awards (made pursuant to loss in wage-earning capacity).

(8) Pays employee full compensation while undergoing rehabilitation but suspends benefits while he unreasonably refuses rehabilitation.

(9) Permits an employee to choose a treating physician from an approved listing qualified by the Deputy Commissioner, suspends compensation during period of unreasonable refusal to submit to medical treatment, modifies reporting requirements of attending physicians, and generally transfers Secretary's authority to suspervise medical treatment to deputy commissioners. The trust is to insulate the process from proven abuses by physicians and employees.

(10) Updates method for determining average weekly wage—the basis on which benefits are determined.

(11) Gears benefits to 80 per cent of after tax income, instead of 66⅔ per cent of average weekly wage.

(12) Speeds up claims process and expedites issuance of compensation orders.

(13) Repeals numerous obsolete provisions which have been in the Act since its initial passage in 1927.

COST REDUCTION ESTIMATES

The National Council on Compensation Insurance, a voluntary, nonprofit, unincorporated association of insurers licensed by State insurance agencies in 31 jurisdictions and filling an advisory role in others, estimated that the combined effect of removing unrelated death benefits and of placing a maximum on weekly benefits in death cases of 200 per cent of the national average weekly wage would reduce premiums 2.5 per cent. In combination with a 3 per cent cap on the annual benefits escalator, premiums would fall 9.9 per cent.●

PROPOSED SALE OF NUCLEAR FUEL TO INDIA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DODD. Mr. Speaker, 2 years ago, I introduced a resolution disapproving President Carter's decision to sell to the Government of India, 7,638 kilograms of low-enriched uranium. At the time I expressed my concern that India was unlikely to comply with the requirements of the Nuclear Nonproliferation Act of 1978, which requires that every nation receiving U.S.-supplied nuclear fuel accept full-scope international atomic energy safeguards on all its nuclear facilities.

Considering the fact that India is the only nation which exploded a nuclear weapon using materials from a civilian nuclear program, I felt that it would be unwise to continuing supplying India with nuclear fuel when it showed absolutely no intention of agreeing to put its nuclear facilities under safeguards. When India exploded its nuclear device in 1974, the plutonium used had been extracted from a reactor supplied by Canada and run in part with U.S.-supplied heavy water. In response Canada ended its nuclear cooperation with India; the United States continued to supply India with nuclear exports and technology.

I felt it was important 2 years ago that our nonproliferation strategy be strong and clear, and that we not continue to sell nuclear materials to nations which had misused nuclear technology in the past. However, the State Department and the President asked that the uranium sale go through, and they promised Congress that they would try to use the 2-year grace period contained in the Nonproliferation Act of 1978 to convince India to accept full-scope safeguards on its nuclear facilities.

The 2 years have come and gone and India has still not accepted full-scope safeguards. India has also not signed the Nonproliferation Treaty and has reserved the right to conduct more nuclear weapons tests in the future. India's continuing nuclear ambitions and the fact that India already has enough spent fuel available for reprocessing to manufacture scores of nuclear weapons is destabilizing the entire south Asian region.

I was therefore surprised when President Carter has once again asked that nuclear fuel be sold to India. The President intends to sell India almost 38 tons of enriched uranium to power India's Tarapur reactors for about 2 years. However, the President immediately ran into opposition from the Nuclear Regulatory Commission which is charged with reviewing U.S. nuclear exports. On May 16, 1980, the NRC voted unanimously not to permit the sale, citing the provisions of the Nuclear Nonproliferation Act probibiting such sales to nations which have not accepted full-scope safeguards. The President may now decide to try and override the NRC and ask Congress to permit the sale.

Considering the fact that 2 years have past and absolutely no progress has been made in convincing India to accept international safeguards, I would advise the President not to submit a request to Congress.

Two years ago, the House of Representatives, in a closer-than-expected 227-to-181 vote, permitted the President to go through with the sale after accepting the argument that the State Department needed more time to convince India to accept safeguards. Today there can be no such argument. If we allow the current sale to proceed, we will simply be handing India nuclear material with no guarantee that it will not be misused.

Personally, I believe that preventing the proliferation of nuclear weapons capability is one of the most important foreign policy goals this country can pursue. After having failed to halt our nuclear exports when India exploded an atomic bomb, our nonproliferation policy would be shown to be meaningless if we now failed to stop our exports after India has refused to comply with the safeguards provision of the Nuclear Nonproliferation Act of 1978.

The fact that India has just concluded a $1.6 billion arms deal with the Soviet Union should leave us with no illusions that continuing our nuclear relationship with India would keep India from growing closer to the Soviets.

Instead, we should take the opportunity to strongly reaffirm that we are indeed committed to the principle of nuclear nonproliferation.●

THE MILITARY MANPOWER PROBLEM: SENATOR ARMSTRONG ON THE NEED FOR A GI BILL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. KEMP. Mr. Speaker, new reports of problems in maintaining military manpower levels, particularly in the skilled middle-grade enlisted personnel, seem to arrive every day. As a member of the Defense Subcommittee of the Committee on Appropriations, I have taken a personal interest in addressing the military manpower problem. The manpower problems in the armed services have many origins, but the most fundamental is also the most obvious and remediable: declining real incomes. When one takes into account the effect of pay caps and the forcing of military personnel into ever higher personal income tax brackets, the real income of military personnel has declined significantly since 1977. This attrition in military pay has caused the comparability of pay with civilian occupation to suffer, causing the loss of thousands of skilled enlisted personnel and officers.

History has demonstrated that one of the most powerful incentives to joining the Armed Forces is an opportunity for higher education. As military compensation has declined in real terms in the past few years, without a GI bill, the opportunity for a soldier to acquire an advanced education fades, and with it, his incentive to join or remain in the armed services.

Senator BILL ARMSTRONG has introduced a two-part effort that addresses the very heart of our military manpower problem: a GI bill to aid recruiting, and a reform of military compensation to assist retention. This proposal was described in a recent essay published in the June 9, 1980, edition of the New York Times. I strongly endorse this approach, and look forward to an opportunity to assist its passage through the House of Representatives.

NEEDED: A G.I. BILL

(By William L. Armstrong)

WASHINGTON.—When Congress killed the G.I. Bill in December 1976, the Army gloomily concluded that the pool of potential recruits would shrink by as much as 36.7 percent. Today, the Army has the right to tell Congress: "I told you so." Defense Department officials estimate that the Army is 50,000 short of its peacetime strength of 774,000 and 80,000 below projected wartime requirements.

Military manpower problems have gotten so bad that it is doubtful our armed forces could respond effectively to a major crisis. All Army units in the continental United States, except the 82d Airborne Division, are substantially under strength. The Navy, in April, had to tie up a frontline ship, the oiler U.S.S. Canisteo, for lack of skilled sailors to man it.

Along with the decline in numbers, there has been a precipitous drop in aptitude. Army manuals have been rewritten downward, to eighth- and even seventh-grade levels, but commanders still report that many soldiers have difficulty understanding them.

With world tensions rising, it is vital that Congress take action now to improve both the quantity and quality of the young men and women entering the armed forces. A step that some advocate is resumption of the peacetime draft, but, in addition to being divisive, the draft is a cumbersome, expensive means of resolving a relatively small recruiting shortfall. Furthermore, a two-year draft would not fill the Army military occupation specialities where shortages are most critical.

A far more effective, and cost-effective, step would be to reinstitute G.I. Bill education benefits nearly on the scale of those provided by the World War II G.I. Bill. That bill and successive G.I. Bills have proved to be among the most successful Government social programs ever instituted, returning to the Treasury in tax revenues several time their costs as a result of increased earnings by veterans who otherwise would not have been able to afford to continue their education.

The rate of attrition in the Army is nearer 40 percent than the 18 percent that the Army, in March 1975, predicted Congress would find "unacceptable." Properly tailored educational incentives almost certainly would bring into the armed forces at least 50,000 high-quality recruits each year. This would be enough to resolve current recruiting shortfalls, and to replace, in all the armed forces, 15,000 to 20,000 enlistees from the lowest mental-aptitude levels with recruits from the highest categories.

On April 22, a proposed G.I. Bill of 1980 was introduced in the Senate. It is based on comprehensive research done by Prof. Charles Moskos of Northwestern University, a prominent military sociologist. Under the bill, a serviceman or woman who completes two years of honorable service would earn the following benefits: 100 percent of tuition and fees at an accredited college or university, to a maximum of $3,000 a year, for a maximum of four years, and a subsistence allowance of $300 per month while enrolled in an accredited college or university, for a maximum of 36 months.

Because two years of honorable service would have to be performed before a serviceman would become eligible for benefits, there would be no cost for the G.I. Bill in the 1981 and 1982 fiscal years.

If 50,000 new recruits took advantage of the G.I. Bill benefits each year, the cost would be about $840 million in fiscal 1986, the first year in which there could be four classes attending school under the program.

After luring high-quality people into the armed forces, the next step would be to encourage them to stay by providing fair pay. Many military families struggle at near-poverty levels. For example, a plane handler on an aircraft carrier works 100 hours a week for less pay than a 40-hour-a-week cashier at McDonald's.

To correct this inequity, in April a National Defense Compensation Act was introduced in the Senate: a four-part package of pay raises that would enable military families to meet basic financial obligations. The raises range from 9 percent for lower grades to 100 percent for special-duty pay such as submarine and parachute pay. Many of these special pays have not been increased since 1955.

Prospects are growing for approval of some form of military pay raise. President Carter recently said that he would support a pay package that would include higher pay for sea and flight duty, an increase in food allowances, and higher housing allowances in high-cost areas of the United States. This Senate legislation, already introduced, is a useful first step. With its approval and, I hope, acceptance of a more-extensive across-the-board pay package, we will be able to provide military families with a living wage.

With the G.I. Bill to boost recruiting, and pay increases to ease the retention problem, the all-volunteer military forces can be preserved and we can end the disgraceful treatment of Americans in military uniform.●

TENTH ANNIVERSARY OF THE ARREST OF THE LENINGRAD GROUP

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. CARNEY. Mr. Speaker, 10 years ago, on June 15, 1970, 20 courageous men and women were arrested for attempting to flee the Soviet Union to Israel and were tried in the infamous Leningrad trials. Sentenced to terms of up to 15 years, they languished in prison while the world continued to protest their punishment.

In April 1979, in an unprecedented series of events, seven of the defendants were suddenly released and allowed to rejoin their families in Israel. Today, only Iosif Mendelevich, Yuri Federov, and Alesksei Murzhenko remain imprisoned.

Isoif Mendelevich has adhered to religious practice under the most adverse conditions. Yuri Federov and Aleksei Murzhenko, two non-Jews who offered their support to the Jewish activist cause, have become symbols of fortitude and humanitarian spirit upon which all freedom-loving societies are based.

Soviet aggression in Afghanistan and Russian intolerance within it own society achieves a striking similarity of results: Utter contempt for the individual, complete disregard for human rights, and an unwillingness to abide by the basic human rights recognized by the free world. Increased vigilance in the face of Soviet oppression and aggression is necessary. Failure to recognize the true threat posed by the Soviets will result in continued loss of liberty.●

FAIR HOUSING ACT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. McDONALD. Mr. Speaker, the following excellent editorial is from the Washington Post of June 6, 1980, and compliments the House of Representatives on passing the fair housing bill.

A WIN FOR FAIR HOUSING

There was only a little cheering on Capitol Hill Thursday when the House passed legislation amending the 1968 Fair Housing Act. Too bad there wasn't more. If the Senate can now be persuaded to go along with what the House has done, the major weakness—a lack of effective enforcement provisions—in that 12-year-old statute will have been eliminated.

The final vote in the House, 310 to 95, was deceptive. Amendments designed to gut the legislation had failed by as little as one vote. But when the final count came—the count that will be examined during this fall's election campaigns—more than a hundred members who had previously voted to perpetuate the law's principal weakness lined up with the old civil-rights coalition.

The main argument in the House—and it will be repeated in the Senate—concerned where the power to enforce this law's provisions barring discrimination should be lodged. The civil-rights groups (and the administration) wanted and got it put in the hands of administrative law judges; the opponents of this bill wanted to leave it with the federal courts.

In theory, the whole argument was frivolous, since this law, like others, can be enforced by either group fairly and efficiently. But in practice, that is not the case. The federal courts are so busy with criminal and major civil cases that complaints about violations of the fair housing law drag on unresolved for months. And the truth of the old adage—justice delayed is justice denied—has been especially sharply illustrated all too often when the question is who will get to buy a particular house or rent a particular apartment.

Members of the House who wished to gut the bill contended that administrative law judges would be biased in favor of those who claim some property owner has discriminated against them. No one ever adequately explained why the opponents believed judges handling these cases would be biased while similar judges who handle cases involving the enforcement of dozens of other federal laws are not.

In other words, the principal objection to the legislation is phony. Unless those who raise the question of bias are prepared to dismantle the whole system of administrative law now in place and dump tens of thousands of cases on an already crazily busy court system, they should give up this objection.●

HONORING JOHN F. GREEN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DORNAN. Mr. Speaker, on Friday evening, June 27, the Torrance Area Chamber of Commerce will be honoring John F. Green with its presentation of the George H. Whittlesey Memorial Award at their annual installation dinner. I will be unable to attend this event, so I would like to take this opportunity to honor Mr. Green before this distinguished body.

John Green first joined the Torrance Chamber of Commerce board of directors in 1973 as plant manager of PPG Industries' Torrance facility. He was subsequently elected to a 3-year board term and reelected to this position in 1977. He served as vice president of the Economic Development Division in 1975 and has actively participated in the South Bay Association of Chambers of Commerce, South Bay Economic Education Foundation, and South Bay Medal of Valor Committee. Only days after his retirement from PPG Industries, John took over the duties as chamber president in 1977 and was renamed president in 1978.

John was selected as the recipient of the Whittlesey Award by a special committee for his individual contributions to the chamber. These contributions include work on committees, task forces and special projects, dedication to the general well-being of the organization, and promotion of the chamber's free enterprise ideology. He has distinguished himself as a leader in promoting and fostering business enterprise and has supplemented this leadership role by actively participating in fundraising activities as a trustee for the Torrance Memorial Hospital Medical Center and serving many volunteer positions with the United Way.

I am confident that the recognition John will receive next Friday evening will quickly be set aside as he continues his efforts on behalf of others. I would like to take this opportunity to express my personal admiration to John for the example he has set. John and his lovely wife, Mary, have been personal friends of mine for years and I look forward to working with them both in the years to come.

I offer my colleagues this brief commendation as a reminder of the tremendous impact one man can have, especially when backed by a talented and supportive wife.

Thank you, John. The South Bay is fortunate to have Mary and John.●

H.R. 7230

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. BONKER. Mr. Speaker, at the beginning of last May, I introduced H.R. 7230, "Export Promotion and Export Trading Company Act of 1980." The bill was referred to the Foreign Affairs Subcommittee on International Economic Policy and Trade on which I have the privilege of being its ranking member and which is ably chaired by my distinguished colleague, Mr. BINGHAM.

I want to commend the chairman for moving so swiftly to hold hearings on this important legislation and other related measures that were subsequently introduced. We have now heard from numerous witnesses and hope to mark up the Export Trading Companies Act this week.

I am delighted to see the strong interest of my distinguished colleagues in trading company legislation. I would hope that this strong interest will translate itself into overwhelming support as the bill reaches the House for consideration. The time has never been better for Congress to exercise some leadership in the area of promoting exports.

Trade is round-the-clock, day-in-day-out activity. Never have we begun a decade with the massive trade deficits facing us today. As a trading Nation, we need to expand our penetration into foreign markets. In the last 3 years, we have been running the biggest deficits in our history and our share of world trade has declined steadily. It dropped from 20 percent in 1960 to 17 percent in 1970 to about 14 percent today.

Unfortunately, there are tens of thousands of American producers who do not export to their fullest potential. Some 98 percent of all companies do not export. A mere 200 companies export 80 percent of our entire trade outside our borders.

As Dr. Michael Samuels said in testifying before the subcommittee:

> The national political and economic interest justifies, indeed requires, an active export policy. Bold steps are called for. Awareness is demanded. The trading company idea captures this need. . . .

I want to recommend to my distinguished colleagues Dr. Samuel's timely and excellent testimony. He is currently the executive director of the Center for Strategic and International Studies of Georgetown University, in charge of Third World studies. His testimony follows:

TRADING COMPANIES ARE NEEDED TO ASSIST OUR EXPORT COMPETITIVENESS

(By Michael A. Samuels [1])

Mr. Chairman and Members of the Committee, let me thank you for giving me the opportunity to testify this afternoon during your important efforts to examine legislation to permit the creation of trading companies. I appreciate your willingness to accept, in lieu of a prepared statement due to my just concluded international travel, a speech I delivered recently in San Diego entitled "Let's Make Our Exports Competitive" which I understand will be inserted in the record.

Concerned about what I have felt to be a relative decline in American economic and political capabilities internationally, we at CSIS have spent the last two years trying to examine in particular the decline in U.S. export competitiveness. Many of our studies are complete, and I am pleased to be able to share with you some of our tentative conclusions today.

First, economically speaking at least, the world *is* interdependent. Our relatively open markets are increasingly attracting foreign competitors. Our competitors not only provide a wide array of incentives to aid the exporting of domestically produced products but do not abide by the same standards that we have imposed on our private business community in the interest of freer trade. We ignore foreign market opportunities at our own peril both economically and politically. Our study shows that the U.S. market share for manufactured products in the developing world market declined from 28 percent in 1970 to 22 percent in 1978. While our competitors France, Germany, Italy and England were able at least to maintain their market shares of 1970, Japan significantly increased its share of the market from 22 percent in 1970 to 26 percent in 1978. We are losing our footing abroad, and something must be done. Expanding exports should be a higher national priority.

Second, the customs of the international market place are different from those of our domestic market place. Institutional patterns that make sense domestically do not always make sense in international competition with foreign exporters whose governments encourage sufficient flexibility to adapt to the market conditions of the real world.

Third, after decades of self-satisfaction with both the size and rate of growth of our domestic economy, many of our producers, especially small and medium sized companies, lack the interest, will, and capability by themselves to become involved in a meaningful way in gaining export markets. The creation of new incentives is required to overcome this structural problem.

Fourth, the range of disincentives with which our exporters have been saddled—The Foreign Corrupt Practices Act, tax laws harmful to business overseas, human rights policy restrictions, antitrust restrictions and others—often deter small and medium sized companies from even trying. Our antitrust laws not only inhibit competition abroad by U.S. companies, but, especially through their extra-territorial reach, create international hostility and friction that makes it very difficult to negotiate and to implement further removal of trade restrictions by our competition. There is a need for larger institutional structures that could unfathom these restrictions and disincentives that many companies see as barriers even to involvement in international business in the first place.

Fifth, we have been misled by the passivity indicated by those traditional economists whose confidence in the rectifying capabilities of flexible exchange rates has led and could continue to lead to complacency and an unwillingness to fashion new mechanisms to rectify the clear competitive disadvantages of our institutions.

Sixth, even large companies are finding that certain foreign buyers—non-market economies and some developing countries for example—are not able to pay in currency and must exchange other products or raw materials. Counter trade (or barter trade) is a system of barter that requires downstream sales of unfamiliar products. It calls for new approaches that remove traditional shackles on corporate cooperation. The Japanese may have created the most efficient system to deal with this situation, and we may not be able to match them. We can, however, create institutions to allow our private sector to compete better with these arrangements.

Seventh, aiding the expanding of exports could be accomplished through a number of governmental actions. Many of these would require increased government budget allocations. At a time of belt tightening, such allocations, especially given OMB's apparent aversion to funding the export sector, may not be forthcoming. Thus, actions that do not require significant allocations but that still will make a difference should be identified. Once identified they should be actively encouraged—and now. To delay is to short change our own economic well-being.

The above background has led me to the conclusion that the creation of trading companies would be an important and wise step.

Suffice it to say that the trading company concept is an important one to be sanctioned by law. I fear, however, that among those who may speak out against such a concept will be a Justice Department reluctant to change and unwilling to accept the very basic fact that the inernational business climate is different from the domestic one. One of the great things about our system of government, however, is that it is you, the Congress, that makes new laws, even—or in some cases especially—when the Executive Branch takes an uncreative and short-sighted view.

Let me give you an example of a situation where a trading company is required. There are ever decreasing volumes of non-dedicated crude oil available in world markets. For a U.S. oil company, energy embedded in aluminum ingots is difficult to commercialize. But for a Japanese trading combine, which may produce aluminum through one affiliate and refine and market fuel oil through another, the trade off is straightforward and the adjustment can be accommodated within the firm.

One of the major observations of the Congress's Joint Economic Committee after their Mission to East Asia earlier this year to study the competitiveness of U.S. exports was the extent to which other countries use trading companies to their advantage. They noted in particular the involvement of private banks and government backing for the success of these companies. They identified situations where European and Japanese trading companies have had immense plantations, major raw material holdings, captive banks, or other assets to permit their expansion and development of a wide network of complementary services. I would urge this Committee to coordinate your activities on this subject with those of the Joint Economic Committee and others interested in this subject such as Senators Stevenson, Roth and Danforth and Congressmen AuCoin and LaFalce, to maximize your effect.

Let me address one specific issue that will come before you as you consider this legislation. First is the issue of the participation of commercial banks. By all means they should be allowed to participate. To me, arguments sometimes put forward about the need for separation of banking and commerce and the creation of the possibility of conflicts of interest are arguments not against their participation, but cautions on the way and extent of their participation. U.S. banks should be encouraged to offer more export services. Present law and practice aids the local branches of foreign banks and hurts especially small and medium sized companies that can not afford the requisite in-house staff.

As I look at the bill before you, it seems to me that it does not go far enough. I would urge you to bring your bill closer to the Senate's version (S. 2379), the Stevenson-Danforth bill. Even more importantly, let me urge you to act fast on this issue so that it can be passed this year. I know that this important bill faces some substantive disagreement and some internal House committee rivalries. For these latter to impede progress would be a serious setback for the national interest.

Mr. Chairman, the national political and economic interest justifies, indeed requires, an active export policy. Bold steps are called for. Awareness is demanded. The trading company idea captures this need. I urge this Committee to refine the legislation well and promptly so that this nation's exporters move one more step toward becoming competitive once more.

It is an important step to break with a legal past that impedes our adjustment to new world realities. The precedent could open the way for other much needed steps to insure a healthy America in need of increasing uncertainty and more dramatic change.●

TRIBUTE TO CLARE MUSGROVE

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. STOCKMAN. Mr. Speaker, I would like to take this opportunity to honor Clare Musgrove, who will soon be retiring from his services as an educator, adviser, and community leader. Mr. Musgrove devoted his life to community service through his leadership as county extension director of Berrien County, Mich. Mr. Musgrove developed and implemented agricultural education programs that have helped Berrien County become one of the Nation's leading agricultural counties.

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[1] Ambassador Samuels is executive director of the Center for Strategic and International Studies of Georgetown University in charge of Third World Studies.

The broad range of community service positions held by Mr. Musgrove is a clear indication of his devotion to the citizens and well-being of Berrien County. Mr. Musgrove served as an adviser to the following associations and community activities: Berrien County Youth Fair, Family Living Council, County Farm Bureau Board of Directors, 4-H Councils, Berrien County 4-H Foundation, Future Farmers of America, Dairy Herd Improvement Association, Farm Loan Officers, Twin City and Niles Model Cities, Inc., County Agricultural Service Club, Berrien County Blossom Time Festival, and Board of Trustees of the United Methodist Church of St. Joseph, Mich.

Since 1966 Mr. Musgrove has served as the county extension director of Berrien County. Through the years his work has not gone unnoticed. He has been the recipient of distinguished service awards from both the Michigan and National Associations of Agricultural Agents. Mr. Musgrove was also the first extension cooperative service employee to receive the honor of a Michigan State University Distinguished Faculty Award.

I call on my colleagues to join with me in acclaiming an outstanding citizen, Mr. Clare Musgrove.●

RAMSEY CLARK'S VISIT TO IRAN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. BINGHAM. Mr. Speaker, in the acrimonious discussion about whether or not Ramsey Clark should be prosecuted for his recent visit to Iran, it has been generally assumed that he violated the law. That conclusion is by no means clear.

What Mr. Clark did was to act in defiance of a Presidential order banning "transactions" that "relate" to travel to Iran. The President's order was issued under the authority of the International Emergency Economic Powers Act of 1977.

As the principal author of that act, I should like to point out that the law does not expressly authorize the President to ban travel by American citizens. I can state further that such a ban was not in the minds of the Foreign Affairs Committee when the bill was considered in that committee and in the House.

Thus the question of whether Mr. Clark's travel was effectively prohibited by a valid Presidential order is not an easy one to answer.

In determining whether or not Mr. Clark should be prosecuted, the Attorney General will no doubt consider carefully whether the President had the authority effectively to ban travel to Iran under the act, and, if so, whether that authority was constitutional.

A negative answer to both questions is effectively argued by our distinguished and learned colleague from Massachusetts (Mr. DRINAN) in an article appearing this week in the Boston Globe. That article follows, together with an article on the same subject from today's New York Times:

[From the Boston Globe, June 17, 1980]

WHY CLARK SHOULD NOT BE CHARGED

(By ROBERT F. DRINAN)

Ramsey Clark's recent visit to Iran was not the first time he has traveled outside the United States against the wishes of the American government, and it was not the first time he has been threatened with criminal proceedings because of his independent-minded missions. An examination of the United States overriding national and international interests, coupled with a dispassionate legal appraisal of his case, suggest that Ramsey Clark and his colleagues should not be prosecuted under the law.

In 1972, Clark and actress Jane Fonda visited Hanoi to meet with POW's much to President Nixon's consternation. Shortly thereafter, the House of Representatives considered legislation that would have prevented the travel of US citizens to nations designated by the President as restricted areas, and where such travel might endanger national security.

At that time, I argued on the floor of the House that the bill was unconstitutional "on a number of grounds, perhaps most importantly its proposed deprivation of the right to travel without provision of substantive or procedural due process." The bill was defeated by a narrow margin.

Last week, President Carter stated his "inclination" to prosecute Clark under the authority granted to him by the International Emergency Powers Act which passed Congress in 1977. This legislation was designed to establish standards for the Executive use of emergency powers in the absence of any previously mandated guidelines. One of the authors of the legislation, Rep. Jonathan Bingham (D-N.Y.), said then that it would be ". . . the height of folly to make emergency powers routinely available to the President with no standards to guide their use and no opportunity for congressional review."

The powers addressed in the bill relate directly to the commercial exchanges between citizens of nations, rather than the freedom of movement of individuals between, in this case, the United States and Iran.

If the President determines that a threat of imminent hostilities between nations is apparent, he may also, the law states, suspend postal, telegraphic, and other personal communications with that country. Still there is no specific mention in the statute of a prohibition on travel.

The principle in this case, as in the case of the Clark visit to Hanoi, is the extent to which the President may restrict travel abroad. This has been examined on several occasions by the Supreme Court. Most recently, in U.S. v. Laub (1967), the Court confirmed that the "right to travel is protected by the Fifth Amendment" in the case of a professor who desired to travel to Cuba in violation of a travel restriction to that country. The Court concluded that ". . . it does not follow that travel to Cuba with a passport which is not specifically validated for that country is a criminal offense."

Even more convincing, in the context of building American confidence abroad, are the international agreements which the United States has pledged to uphold. Take for example the Helsinki Accords, signed in 1975 by 35 nations, including the Soviet Union. This document, among other things, binds its signatory nations to ensure the freedom of movement across national borders. This principle has been invoked by our country time and time again as we have called to the attention of the world the Soviet injustices against its Jewish population. From Romania, to Argentina, to Syria, we have called upon the nations of the world to protect freedom of movement across international borders.

The powers granted under the International Emergency Powers Act, then, offer slim justification for the prosecution of Ramsey Clark. In the international sphere, our commitment to freedom of movement, as witnessed by our signing of the Helsinki Accords, mandates that we demonstrate our credibility by adhering to that principle even in the face of the difficult situation in Iran.

But more important than the narrow legal interpretation of the President's emergency powers, or the image we project to the world, is the damage a prosecution of Ramsey Clark and his nine colleagues would do to our constitutional freedoms here at home.

Those who framed the Constitution and those who have sought to protect it for nearly 200 years have held that the free flow of ideas, even unpopular ideas, is essential to a healthy democracy. It is that principle of freedom which should guide us now.

[From the New York Times, June 18, 1980]

CARTER AIDES SAY DECISION TO ACT ON CLARK WAS PUT UP TO CIVILETTI

(By Steven R. Weisman)

WASHINGTON, June 17.—Senior officials in the Carter Administration said today the White House had told Attorney General Benjamin R. Civiletti that the decision on whether to bring an action against Ramsey Clark for traveling to Iran was "up to him."

Despite President Carter's expressed "inclination" to seek to punish Mr. Clark, one Administration official said, "no one at the White House has ever suggested to the Attorney General that he ought to bring a case whether or not he thought there was a case."

However, Mr. Civiletti has been told that "if he decided he had a case, he might want to review with the President and other members of the Cabinet any foreign policy or national security issues involved," this official said.

The Administration officials declined to be identified, but they said that they were familiar with the White House deliberations on Iran and on the President's ban on travel to that country.

CLARIFICATION OF CARTER ROLE

Their comments were intended to clarify Mr. Carter's role, which has become controversial since he said last week that it was his "inclination" to prosecute Mr. Clark.

Along with nine other Americans, Mr. Clark, a former United States Attorney General, flouted the travel ban by attending a conference in Teheran this month on American "crimes" in Iran.

Many legal experts joined with the American Civil Liberties Union in contending that Mr. Clark's trip was protected by the United States Constitution and by rulings of the

Supreme Court upholding the right to travel. Many of these critics also said that Mr. Carter had prejudged the case against Mr. Clark and jeopardized the independence of the Justice Department by saying that he was "inclined" to take action against him.

The statute being invoked by the White House as a possible cause for action against Mr. Clark is the International Emergency Economic Powers Act of 1977. The act was passed as an amendment to the Trading With the Enemy Act dating to World War I.

MONEY TRANSACTIONS BANNED

The emergency economic powers statute was passed with little fanfare at a time when apparently little consideration was being given to its possible use to enforce bans on travel by individual Americans. Since taking office, Mr. Carter has generally favored broadening the right of Americans to travel to areas from which they were previously barred.

Strictly speaking, the President's use of the 1977 statute does not ban travel. It simply bans any financial "transactions" that "relate" to such travel in Iran, and its definition of "transaction," as stated in a regulation issued last May 2, includes "acceptance of free sponsorship or support" for travel in Iran.

Mr. Clark has said that he did not pay for his trip, but Administration officials said that his acceptance of free accommodations fell within the regulation.

A VERY BROAD TERM

"The law in question does not directly ban travel," said Robert H. Mundheim, general counsel to the Treasury Department. "It does encompass transactions in connection with travel. As a matter of law, the word 'transaction' is a very broad term" * * *.●

TALL SHIPS AT BOSTON

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MOAKLEY. Mr. Speaker, recently the tall ships were in Boston to help the city celebrate its 350th birthday. The citizens of Boston are grateful to the crews of these ships for participating in this special event and went to considerable efforts to repay the graciousness of the crews. The Boston Globe of June 8 reports on the efforts of one remarkable Bostonian to make the stay of the crew of the *Christian Radich* memorable. I would like to share the report with my colleagues:

TALL SHIPS AT BOSTON

(By John Ahern)

The Tall Ships finally have left our port and it's no cliche to say they won't be forgotten. Thousands of sea lovers who get to see the ocean once every 10 years, including many who don't know that the sun rises in the East, appreciated the majesty of it all. Zillions never will forget the traffic problems and there are hundreds of young ladies in this town who will carry fond memories of young, handsome Scandinavians to their graves.

But there's one of our best-known citizens who never will forget the crew of Christian Radich and, in turn, the crew of the full ship never will forget Harry McDonough.

Two weeks ago the full ship arrived here and immediately sought a sailing facility where the sailors could sharpen up their small boat skills for the upcoming regattas. The facilities on the Charles were filled up, as was Pleasure Bay Sailing Facility at Castle Island. But McDonough made it very available at once. For hours, for days those handsome kids practiced. When the time came, they triumphed easily.

Hospitality didn't end there. Harry escorted them around town, taking them to Marblehead for parties at Eastern YC and at Frank Scully's house. He made sure they met lovely-looking young girls. In short he made their stay in Boston memorable. And they did not forget. First, they invited Dot and Barbara McDonough, Harry's wife and daughter, aboard the ship for the parade. Then there was a presentation to Harry himself. It is a silken scroll mounted on a staff and the message was from the heart.

It read: "Dear Harry: Thanks for everything that you have done for us while visiting Boston and your sailing program. The Norwegian sailors never will forget you!". It was signed by the captain and the entire crew, who will make sure that Harry McDonough will be as well known, respected and loved in Oslo as he is here in Boston.●

WOMEN VERSUS MEN: ARE THEY BORN DIFFERENT?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. McDONALD. Mr. Speaker, some years ago, in a display of "legalism over realism," the Congress passed the equal rights amendment. We have been having problems ever since. We placed women in the military academies and now we are well on the way to having them killed in large numbers on the battlefield in a unisex Army. We will become the laughing stock of the world, as it will appear that American men no longer have the will to fight, but will sacrifice our women first. The differences between the sexes are just too basic and fundamental to ignore. In Mainliner magazine of May 1980, Mr. Tim Hackler wrote an excellent article pointing out some of the recent scientific findings, which he states, "mothers and poets have known all along." I commend this article to the attention of my colleagues who may still be confused on this issue:

WOMEN VERSUS MEN: ARE THEY BORN DIFFERENT?

These are the words of Dr. Alice Rossi, a University of Massachusetts sociologist. If they make her appear a bedrock conservative who would send every female vice-president back to her PTA meetings and cookbooks, they are misconstrued. In fact, Dr. Rossi has long advocated that women seek work outside the home and demand equality with men.

Yet as more and more women take their places alongside men in the ranks of management, the question arises: What is equality? Today, the weight of scientific and medical opinion says that equality does not mean sameness. Men and women not only look different, they act differently and think differently, and no amount of dolls for boy babies and trucks for girls can completely alter this.

Recent research has established beyond a doubt that males and females are born with a different set of "instructions" built into their genetic code. Science is thus confirming what poets and parents have long taken for granted.

Studies at Harvard University and elsewhere show that marked differences between male and female baby behavior are already obvious in the first months of life. Female infants are more oriented toward people. Girls learn to recognize individual human faces and to distinguish between individual voices before male babies of the same age. By four months, a female infant is socially aware enough to distinguish between photographs of familiar people. Girls learn to talk earlier than boys; they articulate better and acquire a more extensive vocabulary than boys of a comparable age. They also begin to smile earlier than boys. (More than one study has found that females continue to smile more than males throughout life.)

Male infants, on the other hand, are more interested in things. At four months a boy will react to an inanimate object as readily as to a person. Given the choice between a mother's face and a bright geometric object hanging over his crib, the boy, unlike the girl, will just as frequently babble at the inanimate object as at his mother. A few months later he will begin trying to take it apart. When boys and girls of pre-elementary-school age are asked to manipulate three-dimensional objects, boys overwhelmingly outperform girls. Boys also show more rough-and-tumble play than girls—as almost any parent can attest—and tend to explore away from their mothers earlier and more often. Stanford psychologists Karl Pribram and Dianne McGuinness conclude that women are "communicative" animals and men are "manipulative" animals.

But to what extent are these sex differences learned. and to what extent are they genetically determined?

Until recently it was widely assumed that most human behavior could be explained by "socialization." In the heredity versus environment argument—sometimes phrased as nature versus nurture—environment was considered of overwhelming importance in determining human behavior. To suggest that any human behavior could even remotely be compared to the instinctive behavior that we see in animals was dismissed as barbarian. Indeed, extreme environmentalists remain committed to the idea that mankind is unlike all other animal species by insisting that heredity has nothing to do with the differences in the ways males and females act and think. If boys and girls were brought up in exactly the same way, they contend, then all behavioral differences between men and women would evaporate.

This notion has all but collapsed, however, as researchers in both the social and natural sciences are finding what they believe is evidence of a genetic component in certain kinds of behavior—for example, aggression or nurturance—that have traditionally been identified as masculine or feminine.

Of all the behavioral differences between men and women, aggression presents the most clear-cut case for a biological connection. "The evidence cited in favor of genetically based sex differences is more compelling for aggression than for any other temperamental qualities," writes psychologist Janet T. Spence of the University of Texas. Evidence for greater inherent male aggressiveness comes from such diverse sources as ethnology, anthropology, endocrinology and experimental psychology.

In most animal species, and in all primate species, males are more active, exploratory and aggressive than females. The primate species Homo sapiens is no exception. In no human culture ever studied has the female been found more aggressive than the male. The argument that parents tolerate aggression in boys but discourage it in girls, and that therefore aggression is not genetically determined but culturally taught does not stand up to recent evidence linking aggression specifically to the male hormone testosterone.

Numerous studies have shown that when testosterone is administered to pregnant laboratory animals, the female offspring show an increase in the incidence of rough-and-tumble play and a decrease in the tendency to withdraw from threats and approaches of other animals.

In a famous decade-long series of studies at Johns Hopkins University, Drs. Anke Ehrhardt and John Money demonstrated that the same phenomenon seems to be true for human beings as well. They studied girls who had been accidentally exposed prenatally to male hormones and found that these girls considered themselves—and were considered by their mothers—to be more tomboyish than girls in control groups. They showed relatively little interest in dresses and dolls and a greater incidence of rough-and-tumble play. Ehrhardt and Money concluded that the genetically determined presence of male or female sex hormones tends to "wire" the brain for male and female behavior. (It should be emphasized that all of these studies are dealing with the behavior of the average man and the average woman. We can look around and see that there are many exceptions to the rule.)

If the studies on hormones and aggression make a good case for at least one kind of genetically predisposed sex difference in behavior, they at the same time illustrate the fundamental interaction between heredity and environment. In tests to determine if dominance among laboratory animals was correlated with testosterone levels, Dr. Robert Rose of Boston University put thirty-four male rhesus monkeys into a cage and let them fight it out until they had established their own dominance hierarchy, or "pecking order." He found (from blood samples) that a high positive correlation existed between the amount of testosterone and the level of aggression the animals displayed.

But he then asked himself whether the level of testosterone might be an *effect* as well as a cause of their dominance. In a following series of studies he showed that if a lone male monkey is introduced into a strange group in which the dominance hierarchy has already been established, the intimidated newcomer shows a sharp drop in testosterone after only half an hour. But if the same male monkey is introduced into a cage of twelve female monkeys in heat, his testosterone level shoots up dramatically.

Thus, while males carry a considerably higher level of these hormones than females, the level of the male hormone fluctuates substantially and is to some extent determined by conditions in the environment. (Men and women carry both testosterone and the female hormones, estrogens, but men carry a higher proportion of male hormones and women a higher proportion of female hormones.)

If the difference in aggression patterns between the average male and the average female can partially be explained by the effects of genetically determined hormones, what about other differences in the way men and women think and act? We have already seen that one of the most pronounced differences between men and women—a difference that is already present in the first months of life and continues through adulthood—is that women show verbal superiority, while men show "spatial superiority," a quality that shows up in such tasks as map reading, solving mathematical problems and perceiving depth.

Researchers have found that this sex difference in skills apparently has something to do with the organization of the brain. It has been known for a decade that the two cerebral hemispheres of the brain are functionally different, and that in the large majority of individuals the left hemisphere specializes in verbal tasks while the right hemisphere specializes in spatial perception. It is only recently, however, that neuropsychologists have noticed that males and females differ in their tendencies to use these hemispheres.

Dr. Sandra F. Witelson of McMaster University in Hamilton, Ontario, was among the first to show that males tend to specialize in use of the spatially oriented left hemisphere, while females tend to use their left and right hemispheres about equally, thus implying a relatively greater usage of the linguistically oriented right hemisphere.

Dr. Marylou Reid of the University of Massachusetts has shown that differences in utilization of the hemispheres has already taken place among normal five-year-olds. She concludes: "Since the differences in the sexes are apparent well before puberty, it seems reasonable to suggest that the fetal sex steroids [hormones] may play a critical role in determining relative maturational rates of the two half-brains and, possibly, of some other bodily regions as well."

Dr. Jerre Levy of the University of Chicago found that girls who had received excessive testosterone prenatally do, as she predicted, show a greater degree of malelike hemispheric specialization than normal females. Furthermore, researchers have identified a sex-linked recessive gene that seems to be associated with high spatial skills, and have found that the gene will not be expressed, or "put into effect," without the presence of male hormones.

It bears repeating that all of the sex differences described here represent differences *on the average*. That is to say, a minority of women will be found to be more interested in "masculine" pursuits than the average man, and vice versa. Also, there is some evidence that the more creative the individual, the more he or she tends to include both typically male and female behavior in his or her personality. Finally, no experts suggest that the culture in which we live is unimportant in shaping male and female behavior; indeed it is probably more important than genetic considerations.

It does seem certain, however, that the extreme environmental explanation for behavior, which has been so dominant in political and academic thought for the past few decades, is no longer tenable. Males and females may in fact be marching to the beat of a different drummer or, as Harvard psychologist Jerome Kagan puts it, they "are sensitized to different aspects of experience and gratified by different profiles of events."

MEN AND WOMEN: PRIMAL DIFFERENCES

Dr. Richard M. Restak, a neurologist at Georgetown University School of Medicine, has summed up the growing number of typical masculine and feminine behaviors and skills that seem to have a genetic component this way: "Men are more curious as to how things work and are more exploratory. They are object people who like to examine and take things apart and excel in a wide range of skills that require mechanical manipulation." Women, by comparison, "are people people. They rely on social cues, can pick up on body language and emotional tones in speech, remember names and faces better and are more empathetic."

The most commonly offered explanation for these differences is that such a division of skills had survival value for our ancestors, when men were specialized for skills involved in hunting, and women were specialized for skills involved in rearing children and tending to domestic tasks. (There is some evidence that women may have invented pottery, and it is almost certain that in most cultures they tended to the sewing. This is reflected today in the fact that women are able to perform better at manual dexterity tasks involving fine finger coordination than man.) Even though such division of tasks may have less survival value today than for our ancestors, such specialization has to some extent found its way into our genes, since mankind existed in a hunter/gatherer state for the first 99 percent of his history.●

HONORING C. MARVIN BREWER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DORNAN. Mr. Speaker, on Friday evening, June 27, the Torrance area Chamber of Commerce will be honoring C. Marvin Brewer at their annual installation dinner for his outstanding service as their president during 1979-80. I will be unable to attend this dinner, so I would like to take this opportunity to honor Mr. Brewer before this distinguished body.

C. Marvin Brewer is a long-time executive and current chairman of the board of Dominguez Water Corp. Mr. Brewer has an extensive background in finance and administrative management which has greatly assisted his efforts on behalf of the Torrance area Chamber of Commerce.

Mr. Brewer has served as a chamber director since 1974 and as vice president of the governmental affairs division from 1976 to 1979.

Several new chamber projects have been initiated during Marvin's tenure. These projects include:

The Traffic and Transportation Committee's commuter bus pooling plan. This plan calls for institution of a private sector commuter bus system that would be shared by South Bay industries.

Formation and operation of the Private Industry Council, a group of local businessmen and community leaders that supervises private sector employee training under the CETA program. The Torrance Chamber had a leadership role in organizing the council.

The Paul Revere Committee, a grassroots political awareness effort which encourages members to write letters to legislators on a few crucial business issues.

The Small Business Council, offering improved and expanded services to the small business members of the Chamber.

The Future Quarters Committee which is formulating a plan for expanded chamber office space.

The George H. Whittlesey Memorial Award in honor of the past chamber president.

Mr. Speaker, while Marvin will be honored next week by his friends, family, and associates, I want to express my own personal admiration for the example he has set. I offer my colleagues this brief commendation as a reminder of the dedication and service men such as Marvin have given to local business in our country.●

WATCHING THE WORLD GANG UP ON ISRAEL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. KEMP. Mr. Speaker, the spate of attacks on Israel in the past 2 years has assumed a level of intensity not experienced in the three decades of Israel's existence. After four major wars in the first 30 years of Israel's existence as a nation, its opponents in the Middle East and elsewhere were unable to destroy the state by force. The diplomatic assault on Israel's legitimacy has begun in deadly seriousness.

It is regrettable that the administration and State Department have so often become a party to the attack on Israel. Prof. John Roche, a senior White House official in the Johnson administration, has provided a useful catalog of a few of the most recent attacks on Israel to which the United States has been either an inadvertent participant, or has failed to provide a modicum of diplomatic support for Israel. Indeed, in the most recent outrage in the United Nations, the United States abstained from voting in the Security Council's condemnation of Israel in the terrorist bombing of several West Bank Arab mayors, although no evidence was presented that would link Israel with the crime—indeed the evidence suggested the contrary. Yet, the United States did not veto the resolution. As a result, the United States becomes a contributor to the weight of the diplomatic barrage Israel is now obliged to absorb. The evidence Professor Roche provides is worth pondering for it provides a helpful summary of the increasingly weak-kneed support of Israel by the admininstration—a view that cannot be lost on America's remaining allies.

[From the Washington Star, June 17, 1980]

Watching the World Gang Up on Israel

Anybody in politics who thinks a straight line is the shortest distance between two points always makes me profoundly nervous. Israeli Prime Minister Menachem Begin falls into this category, but Begin can hardly be blamed for the virtually worldwide gangup on Israel that has been building up since 1973. After all, while it didn't shout statistics from the housetops, the Israeli Labor government put more settlements on the West Bank than has Begin.

Let us take, for starters, the Security Council condemnation of Israel for the bomb attacks on the West Bank Arab mayors. No one in his senses actually believes the Israeli government aided and abetted this squalid act. Begin has denounced it, and the security forces have grapped right-wing Jewish fanatics under the Emergency Powers Act.

Yet the United Nations Security Council unanimously approved this inane pronouncement with the United States abstaining. Moreover, Hodding Carter III, the State Department's spokesman, registered our official disapproval. This could easily become a growth industry: Will the State Department protest to Britain every time a Catholic is murdered in Northern Ireland?

The rationale seems to be that even if the Israeli government had no hand in the bombings, it should have prevented them. It is responsible for acts of violence that take place within its jurisdiction.

But that is a private issue—Israel will surely compensate the victims. The question before the house is when the PLO killed the American ambassador to the Sudan and later our ambassador in Lebanon, did the United Nations rise in its wrath and denounce the governments of Sudan and Lebanon for aiding and abetting these heinous deeds? Further, as Israeli Ambassador to the U.N. Blum noted, he hadn't heard any screams of rage when the PLO assassinated Arab magnates.

Throughout the whole Andrew Young imbroglio I was convinced that Young's sin in Carter's eyes was not that he rattled ice cubes with the PLO spokesman, but that he got caught.

For reasons difficult to understand, the Carter administration has an anti-Israel tic. Like one of Pavlov's pups, who salivated whenever the bell rang, Israel generates automatic id-discharges in Washington.

On the fundamental level, Israel—Carter and Co. feel—simply shouldn't be there. It is a damned nuisance constantly interfering with the big stakes game. After all, in 1977 Cy Vance and Andrei Gromyko were ready to settle the whole Middle Eastern problem once and for all. On Sept. 1 they issued a communique urging a United Nations initiative with the U.S. and USSR at point.

This was absolute lunacy—the whole point of the bilateral feelers which had been going on surreptitiously between Sadat and Begin was to keep the Soviet Union out of play. Both Begin and Sadat denounced the scheme, but somehow Vance's minions made Israel out to be "intransigent."

More of this subterranean anti-Israel sentiment emerges in an interview in the New Leader between Gertrude Samuels and U.N. Ambassador Donald F. McHenry. Recall McHenry was instructed to vote for a March 1 Security Council resolution calling for a "Judenrein" (Jewless) West Bank and East Jerusalem. He did, Israel's friends went up in smoke, and President Carter repudiated the vote, taking personal blame.

In fact, Brzezinski's staffer on the Middle East had not even seen the exact text of the resolution before the vote; Vance must have told Carter not to worry. Vance may not have read it either: He may have accepted the assurances of one of State's many anti-Israel senior officers.

Samuels, in the New Leader, raised this vote with McHenry who denied that the president had disavowed it! "He," said McHenry, "said the United States would have abstained with regard to Jerusalem . . . He (Carter) went on to reiterate the policy with regard to the settlements."

In short, according to McHenry, Carter only wants the West Bank, not Jerusalem, "Jew free." No wonder our NATO allies feel free to love it up with Arafat. Maybe a compromise is in order: Should Jews be permitted to settle on the West Bank if they wear yellow stars?●

CONGRESS RESTRICTS IRS PROPOSED SCHOOL REGULATIONS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, when the Carter administration's Internal Revenue Service attempted to harass and manipulate private schools through new proposed regulations concerning nondiscriminatory policies for private schools, this Congress acted to restrict the IRS from enforcing these arbitrary regulations through amendments to the Treasury appropriations bill. It is important that we reenact these restrictions on the Treasury appropriations bill for fiscal year 1981.

One of the mistaken ideas which has circulated is that these private schools are segregation academies and the IRS needs new tools to prevent discrimination by removing the tax exemption of these schools. The IRS already has the power to do so and has exercised that power on a number of occasions. If we look at the entire picture, we see that the schools that have grown most rapidly have been private religious schools, especially Christian schools, and not so-called segregation academies.

I would like to point out a very interesting study entitled "More Than Segregation Academies: The Growing Protestant Fundamentalist Schools" by Virginia Davis Nordin and William Lloyd Turner which appeared in the February, 1980 issue of Phi Delta Kappan. These scholars point out that between 1965 and 1975, total enrollment in nonpublic schools declined by 28 percent while the enrollment in so-called Christian or fundamentalist schools climbed about 118 percent. It is this group of private schools which would be hurt most by the proposed IRS regulations.

I urge my colleagues to again adopt restrictions on the proposed IRS regulations and enter into the Congressional Record the article from Phi Delta Kappan.

More Than Segregation Academies: The Growing Protestant Fundamentalist Schools

(By Virginia Davis Nordin and William Lloyd Turner)

The most rapidly growing segment of American elementary and secondary education is that of private Protestant fundamentalist schools. The percentage of students attending nonpublic elementary and secondary schools in the U.S. declined from 13.6 percent in 1961 to 10.1 percent in 1971 (the most recent year for which figures are available).[1] This decline was due almost entirely to a decrease in the enrollment of Roman Catholic schools. Roman Catholic enrollment reached a peak of 5,600,519 in the 1964-65 academic year; it had declined to 3,364,000 by 1976-77, or 40 percent.[2]

During the same period, the enrollment in non-Catholic, nonpublic schools was increasing. Between 1965 and 1975 the number of students enrolled in such schools increased from 615,548 to 1,433,000, or 134.4 percent, according to an estimate by the Bureau of the Census.[3] Total enrollment of all nonpublic schools has declined 22.7 percent during the years 1965-75, according to these estimates.[4] This increase has been unevenly distributed among non-Catholic populations. While Lutheran school enrollment remained relatively stable during the decade and Adventist and Christian Reformed schools experienced slight declines,[5] the so-called "Christian" or fundamentalist schools grew rapidly. Exact figures for these schools are difficult to obtain, as they do not all belong to one central organization as is the case with Catholic schools. The majority of such schools, however, belong to one of four major organizations: the National Association of Christian Schools, the American Association of Christian Schools, the Association of Christian Schools International, and Christian Schools International. Enrollment in the schools holding membership in these four organizations has increased from 159,916 in 1971 to 349,679 in 1977, or 118 percent.[6]

Although both the number of fundamentalist schools and the number of students enrolled in them appear to be increasing rapidly in virtually all sections of the U.S., few reliable figures are available, nor do we know much about their methods of operation or the quality of education they provide.[7] In several states fundamentalist schools have filed suit to prevent the collection of these data; in most states regulation of nonpublic schools is not attempted.

Many authors have charged that these "Christian" schools are only a new type of segregation academy, similar to those that sprang up in the South after passage of the 1965 Civil Rights Act. These "new segregation academies" are said to be adopting a religious guise in order to claim First Amendment guarantees of religious protection and thus escape federal desegregation regulations.[8] But research conducted in early 1979 on fundamentalist schools in Kentucky and Wisconsin disputes this claim and suggests that the factors producing this new wave of fundamentalist schools are more complex than previously supposed.[9]

This research shows that fundamentalist schools are growing rapidly in both states at present. The number of fundamentalist schools in Kentucky had increased from eight in 1969 to 33 in 1978, or 313%. In Wisconsin the number increased from five to 26 during the same period—420%. Enrollment in Kentucky fundamentalist schools increased from 787 in 1969 to 4,090 in 1978, or 420%. In Wisconsin fundamentalist enrollments increased from 426 in 1969 to 1,592 in 1978, or 274%.[10] This study also found that 72% of Kentucky and 50% of Wisconsin fundamentalist schools did not belong to any national "Christian" school organization, suggesting that the total number of students enrolled in fundamentalist schools in the U.S. is substantially larger than the totals reported by the four national organizations.

While some of the Kentucky schools appear to have profited by widespread public opposition to racial integration, the growth of fundamentalist schools in rural Wisconsin, where integration is not a factor, indicates that "Christian" education is a national, not a regional, phenomenon. Unlike the "segregation academies" that appeared in the South, these schools do not appear to attract students from a cross section of the community. Parents who enroll their children in these schools tend to come from churches of the sponsoring denomination or from churches holding similar doctrinal positions. The parents and students who patronize them are regular in church attendance and participate actively in the life of their congregations.

As part of the above research, William Turner analyzed two fundamentalist schools in Louisville, Kentucky, and one such school in Madison, Wisconsin. Approximately 20 of these schools have been founded in Louisville during the past decade, and it is frequently asserted that they are being used as one-year "havens" by parents wishing to avoid forced busing. This research does not support that assertion, as the percentage of students in the two fundamentalist schools who were subject to busing during the current school term was smaller than the percentage of such students in the general population. Furthermore, the average student in the survey was found to have been enrolled in his or her present school for a period of four years. Only one of the 68 families surveyed in the Louisville fundamentalist schools was using the nonpublic schools as a "haven" to avoid busing for one year.

While there is no question that nonpublic enrollments in Louisville have increased substantially since the implementation of forced busing in the fall of 1975, families who are entering the nonpublic sector are not doing so on a one-year basis. This research found that once parents had decided to leave the public sector of education, they usually withdrew all of their school-age children simultaneously; and once they had entered the nonpublic sector they tended to remain there for the duration of their children's school careers. There was also little tendency to move from one nonpublic school to another. The majority of persons surveyed also indicated their willingness and ability to continue bearing the cost of nonpublic tuitions for the foreseeable future.

Although the two cities surveyed are geographically distant and have differing cultural backgrounds, fundamentalist parents in both gave the same reasons for withdrawing their children from public schools. Most frequently they alleged poor academic quality of public education, a perceived lack of discipline in public schools, and the fact that the public schools were believed to be promulgating a philosophy of secular humanism that these parents found inimical to their religious beliefs.

While both parents and administrators of "Christian" schools in both states insisted that they were not opposed to integrated education, it was found that more than 95 percent of the students enrolled in fundamentalist schools in these states are white; fewer than 2 percent are black. No black teachers were employed by fundamentalist schools in either state.

The segregated nature of these schools might merely reflect the segregated nature of the sponsoring churches, or it could be a reflection of divergent values in the black and white communities, since respondents indicated that the only blacks who would be permitted to enroll were "those who are willing to abide by our standards." A more basic issue than integrated schools, it appears, is integrated marriage. All respondents from both states strongly opposed interracial marriage, although their reasons for doing so remain unclear.

The majority of students enrolled in these schools also seem to come from relatively stable home backgrounds. Most of the families surveyed could be characterized as middle income (the average family income was $25,000); 89 of the 91 families surveyed owned their own homes. Only two of the 91 families surveyed had experienced divorce and remarriage, while the divorce rate in the general population is one in two.

While there are relatively few of these schools at present, their potential for growth is considerable, both in number and in enrollment. Baptist schools comprised the largest group of schools in both states. Baptist churches in the U.S. had a total membership in excess of 25 million in 1975, and are the largest Protestant body in this country.[11] When other fundamentalist groups that operate schools are added to the Roman Catholics, Lutherans, Adventists, and various Jewish groups engaged in nonpublic education, it is apparent that the impact on public education would be considerable should they withdraw even a slightly larger percentage of their children from the public schools. Any significant trend in this direction could make it far more difficult for public school districts to pass tax referenda and approve bond issues.[12] Furthermore, this trend would be accelerated should any of the tuition tax credit plans now before Congress be enacted.

There is little or no regulation of nonpublic schools in most states, and fundamentalist groups are resisting attempts to impose any.[13] While this resistance has been successful to date, the issue has not been finally resolved, and its seems likely to be a source of continued controversy. For related reasons, these schools will continue to resist data collection concerning their growth.

The motivation for founding and maintaining nonpublic schools appears to be more than racial prejudice. In recent decades religious influences in American public education have eroded rapidly. Many evangelical Protestants have come to believe that the public schools now espouse a philosophy that is completely secular, perhaps even antireligious. Hence many conservative Protestants have withdrawn their children from public schools and have established sectarian schools with quite different standards and curricula.

Fundamentalist educators perceive a basic philosophical difference between themselves and the leaders of public education. Like the seventeenth-century Puritans, they believe in the "Innate depravity of man." Because they believe that the corrupt nature of humanity can be changed only through a supernatural infusion of Divine grace, religious "conversion" becomes the basis of all education. Furthermore, since human nature is utterly depraved, children require strict supervision and authoritarian guidance if they are not to be overcome by Satan and the evil within their own nature.

Fundamentalists see public education, by contrast, as proceeding on John Dewey's conviction that human nature is basically good, that students will naturally seek the highest and best if left to themselves, and that the adversary is therefore not Satan or an evil nature but poverty, ignorance, and prejudice. Fundamentalists try to approach the educational task from a different philosophical perspective, using different methodology and pursuing different goals.

Because they perceive that the Protestant ethic has disappeared from public education philosophy, fundamentalists have voiced an increasing nostalgia and a desire to return

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Footnotes at end of article.

to the practices of former days. One hears frequent references to the "old-time religion," "old-fashioned" virtues, and the "faith of our fathers." This has produced schools that attempt to recreate the environment of past generations. "Rock" music, movies, and most television programs are forbidden; hair and clothing styles resemble those of a by-gone era; textbooks stress "traditional" concepts in math, while education gets "back to the basics." Sex roles are sharply defined, and school policies are enforced through the administration of corporal punishment by an authoritarian teacher or principal.

Like the Amish, with whom they share a common origin, fundamentalists seek the security of the past and have rejected the values of modern society in favor of an earlier and simpler mode of life. This similarity was acknowledged by courts in Kentucky and Ohio, which have granted fundamentalist schools an exemption from state regulation similar to that earlier accorded the Amish.[14]

While the Amish are readily identified as a distinct cultural group by the fact that they live in separate communities, reject modern technology, and dress in a distinctive manner, the fundamentalist subculture is less readily apparent. Fundamentalists are dispersed through the larger community, accept most modern technology, and dress in a more conventional (though distinctive) manner. However, like the Amish, they comprise a distinctive cultural group based on religious beliefs. Also, like the Amish, their practice of religion extends to virtually all areas of life. The Kentucky District Court took note of this fact in a recent case involving regulation of private schools, saying:

> In the face of truancy charges leveled by the state, what is shown by these plaintiffs . . . is a sober and devout belief that their religious faith should and does pervade every aspect of their lives, their churches, and their schools.[15]

Earlier research has failed to grasp this point. Focusing only on the issue of race, researchers have confused fundamentalist religious schools with segregationist academies and have failed to discover the true nature of fundamentalist education. While fundamentalist schools deny that they discriminate on the basis of race, they admit that they discriminate on the basis of religion, and they feel that they have a constitutional right to do so. They cannot recruit mathematical quotas of students randomly from the larger community, as advocated by the Internal Revenue Service, when their institutions are based on religious adherence. In view of the predominantly religious nature of their schools, fundamentalists feel that they are entitled to the same exemption from federal regulations accorded the Amish and other religious groups.

In their 1953 study, *The Small Town in Mass Society*, Arthur Vidich and Joseph Bensman found that the only ties fundamentalists had to the larger community were political and educational.[16] In this context, the development of religious schools by fundamentalist churches may be viewed as representing a severing of the educational tie and as another step in their withdrawal from the community and from modern society. This withdrawal seems likely to continue and even accelerate, as fundamentalists remain locked into rigid, theologically based positions on many issues while American society moves forward. As this occurs, it seems likely that increasing numbers of fundamentalist parents will withdraw their children from public schools.

As this process accelerates, and we believe it will, American education must assess the impact on society of the withdrawal of large numbers of students from public education. The courts must weigh the parents' right to direct the religious upbringing of their children against the rights of the children as citizens to know, to be exposed to a wide diversity of viewpoints, and to join the mainstream of American society. As is true with all cultural minorities, the relationship of fundamentalists to the larger society presents both a problem and a challenge. At issue is the right to maintain cultural diversity in an increasingly complex and interdependent society.

In the early days of our republic, Henry David Thoreau wrote, "If a man does not keep pace with his companions, perhaps it is because he hears a different drummer. Let him step to the music which he hears, however measured or far away."[17]

Fundamentalists are listening to a different drummer, and they are marching resolutely toward the values of their past. While their right to do so is beyond dispute, one may question whether they should take a growing percentage of America's youth there with them.

FOOTNOTES

1. National Center for Education Statistics, *Statistics of Non-Public Elementary and Secondary Schools, 1971-1972* (Washington, D.C.: NCES, 1973), pp. 5, 6.

2. Department of Health, Education, and Welfare, *Statistics of Public Elementary and Secondary Day Schools* (Washington, D.C.: National Center for Education Statistics, 1976), p. 47.

3. Ibid., p. 6.

4. Ibid.

5. National Union of Christian Schools, *1977-1978 Directory* (Grand Rapids, Mich.: NUCS, 1978), p. 21.

6. Based on a telephone interview with Herman Van Schuyver, executive director of the National Association of Christian Schools, 25 September 1978.

7. While total enrollment figures for fundamentalist schools are not available, enrollment in those schools belonging to the four largest fundamentalist school organizations (American Association of Christian Schools, Association of Christian Schools International, National Association of Christian Schools, and Christian Schools International) increased by 118.7% from 1971 to 1977 (the most recent year for which figures are available). The number of member schools in these organizations has increased by 144.8% during the same period.

8. "In the past year, die-hard segregationists who are the parents of school-age children have financed the opening of almost 50 new 'Christian Academies' (in North Carolina). . . ." Harry Golden, *The Nation*, 22 December 1969, p. 697. See also David Nevin and Robert E. Bills, *The Schools That Fear Built* (Washington, D.C.: Acropolis Books, 1976).

9. William Lloyd Turner, "Reasons for Enrollment in Religious Schools: A Case Study of Three Recently Established Fundamentalist Schools in Kentucky and Wisconsin" (Doctoral dissertation, University of Wisconsin, Madison, 1979).

10. It should be noted that these data are based on a response rate of 50% from Kentucky schools and 35% from Wisconsin schools. This underscores the difficulty of collecting such data, and the reluctance of these schools to reveal any information about their educational programs.

11. Frank S. Mead, *Handbook of Denominations in the United States*, 6th ed. (Nashville, Tenn.: Abingdon Press, 1975), p. 32.

12. Albert Shanker, president of the American Federation of Teachers, stated his belief that a loss of as little as 5%-7% of students of these schools would severely "cripple" public schools by depriving them of their best-motivated students and parents. *Education Daily*, 17 January 1979, p. 1.

13. Fundamentalists successfully challenged the right of the state to regulate their schools in Ohio (*Ohio* v. *Whisner* 351 N.E. 2d 750, Ohio, 1976) and Vermont [*Vermont* v. *Lebarge*, 134 Vt. 276 (1976)]. Similar challenges are under way in Kentucky (*Kentucky State Board of Education* v. *Hinton*, Franklin Circuit Court, Division 1, Civil Action No. 88314, 1978) and North Carolina (*State of North Carolina* v. *Columbus Christian Academy et al.*, 78-OVS-1678).

14. *Kentucky State Board of Education* v. *Hinton, supra; Ohio* v. *Whisner, supra.*

15. *Kentucky State Board of Education* v. *Hinton, supra.*

16. Arthur J. Vidich and Joseph Bensman, *The Small Town in Mass Society* (Princeton, N.J.: Princeton University Press, 1968), p. 255.

17. Henry David Thoreau, *Walden*, XVIII (1854).●

THE ANTIPRIVATE SCHOOL BIAS OF IRS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. HANSEN. Mr. Speaker, the House will vote on whether to amend the Treasury appropriations bill to block the Internal Revenue Service from harassing private schools. Because we passed two amendments which did just that last year, the IRS has had a very low profile on this issue since then. So let us refresh my colleagues' memories on just one aspect of the proposed revenue procedures which the IRS issued in February of 1979.

IRS wanted to place in a suspect category private schools which were "formed or substantially expanded" during a period of public school desegregation. Once placed in that category, such schools would be assumed guilty until proven innocent: They would bear the burden of satisfying IRS that they do not discriminate.

The implicit assumption behind this proposal is that the main reason why families turn to private schools is racism. The IRS language actually specified that it would be evidence of racial discrimination for a private school to have grown as a result of transfers from the public schools. This assumption is so brazen in its simple mindedness that you would think IRS must be talking about voluntary withdrawals from the Harvard School of Business. But in fact IRS is talking about a school system which, during the last 15 years, has seen the following: A massive shift of decisionmaking power away from parents and local boards toward militant teachers unions and State and Federal bureaucrats; steady decline in academic achievement as measured by standardized tests; an epidemic of theft, vandalism, and violence which has become so serious in some schools that it is necessary to post uniformed guards in the corridors; and a series of mindless experiments in open classrooms, sensitivity training, and other trendy gimmicks. Incredibly, IRS wants to erect as a principle of evidence the assumption that the reason families flee these schools is white racism.

We cannot avoid questioning how the salutory will of the Congress was removed from this year's appropriation bill. Is Internal Revenue still lobbying in this House for the right to interfere in the free exercise of religion? Its unsavory record in the past on interfering with the civil rights of citizens is too well known to need repetition here. It is sufficient to say that the fight to keep private sectarian education out of the brutalizing hands of the IRS is a matter of public record.

Do we need new reminders that Commissioner Kurtz of IRS claimed to strike down private religious schooling as a matter of implementing national social policy. Part of his claim then was that he found that policy in statute. Was the restriction placed in last year's appropriation lost on him? Does he have a source of national public policy unknown to any other Government official?

We are told that a shabby district court decision which ignores the will of Congress binds this body. If we fail to exert our will and if we allow the Jerome Kurtz' of the country to decide what is the national policy on freedom of religion, then we will, by default, have deeded the power of this body to the agencies we are charged to control.

Do we forget so soon that it is the same judiciary which has told us how we may spend the money of the country which now attempts to set the national policy with respect to the free exercise of religion?

Last week Time magazine, June 16, 1980, which is hardly a bastion of racism, devoted its cover story to the crisis in public education. Here are some highlights:

> In spite of declining real achievement, "students today get at least 25 percent more A's and B's than they did 15 years ago."
>
> High school seniors who plan to major in education "score lower in English than majors in almost every other field."
>
> Last year 110,000 teachers reported that they had been attacked by students.

I think we can all agree that elected officials at every level should be working to reverse the deterioration of our public schools. But at the same time we need to protect the right of parents to choose private schools. That is why this House voted for tuition tax credits 2 years ago, and that is why we must now vote against the brazenly antiprivate school bias of IRS. There follows a slightly abridged text of last week's article in Time:

HELP! TEACHER CAN'T TEACH!

Like some vast jury gradually and reluctantly arriving at a verdict, politicians, educators and especially millions of parents have come to believe that the U.S. public schools are in parlous trouble. Violence keeps making headlines. Test scores keep dropping. Debate rages over whether or not one-fifth or more adult Americans are functionally illiterate. High school guaduates go so far as to sue their school systems because they get respectable grades and a diploma but cannot fill in job application forms correctly. Experts confirm that students today get at least 25% more As and Bs than they did 15 years ago, but know less. A Government-funded nationwide survey group, the National Assessment of Educational Progress, reports that in science, writing, social studies and mathematics the achievement of U.S. 17-year-olds has dropped regularly over the past decade.

Rounding up the usual suspects in the learning crisis is easy enough. The decline of the family that once instilled respect for authority and learning. The influence of television on student attention span. The disruption of schools created by busing, and the national policy of keeping more students in school longer, regardless of attitude or aptitude. The conflicting demands, upon the public school system, which is now expected not only to teach but to make up for past and present racial and economic injustice.

But increasingly too, parents have begun to blame the shortcomings of the schools, on the lone and very visible figure at the front of the classroom. Teachers for decades have been admired for selfless devotion. More recently, as things went wrong, they were pitied as over-worked martyrs to an overburdened school system. Now bewildered and beleaguered, teachers are being blamed—rightly or wrongly—for much of the trouble, in the classroom.

One reason is simply that it is easier for society to find someone to blame than to hold up a mirror and see that U.S. culture itself is largely responsible. But the new complaints about teaching also arise from a dismaying discovery; quite a few teachers (estimates range up to 20%) simply have not mastered the basic skills in reading, writing and arithmetic that they are supposed to teach.

Of course, among the 2.2 million teachers in the nation's public schools are hundreds of thousands of skilled and dedicated people who, despite immense problems, manage to produce the miraculous blend of care and discipline, energy, learning and imagination that good teaching requires. Many newcomers to the field are still attracted by the dream of helping children rather than for reasons of security or salary. The estimated average salary of elementary school teachers is $15,661, and of high school teachers $16,387, for nine months' work. The average yearly pay of a plumber is about $19,700; for a government clerk it's approximately $15,500. The best-educated and most selfless teachers are highly critical and deeply concerned about the decline in teaching standards and educational procedures. Their frustration is perhaps the strongest warning signal of all.

Horror stories about teaching abound. In Oregon a kindergarten teacher who had been given As and Bs at Portland State University was recently found to be functionally illiterate. How could this be? Says Acting Dean of the School of Education Harold Jorgensen: "It was a whole series of people not looking closely at her."

In Chicago a third-grade teacher wrote on the blackboard: "Put the following words in alfabetical order." During the weeklong teacher strike last winter, many Chicago parents were appalled by what they saw on television news of schools and teachers. Recalls one mother. "I froze when I heard a teacher tell a TV reporter, 'I teaches English.'"

In the Milwaukee suburb of Wales, Wis., school board members were outraged when teachers sent them written curriculum proposals riddled with bad grammar and spelling. Teachers had written dabate for debate, documant for document. Would was woud, and separate was seperate. Angry parents waved samples of their children's work that contained uncorrected whoppers, marked with such teacher comments as "outstanding" and "excellent."

A Gallup poll has found that teacher laziness and lack of interest are the most frequent accusations of half the nation's parents, who complain that students get "less schoolwork" now than 20 years ago. Whether the parent perceptions are fair or not, there is no doubt that circumstances have certainly changed some teacher attitudes. At a Miami senior high school this spring, one social studies teacher asked his pupils whether their homework was completed. Half the students said no. The teacher recorded their answers in his gradebook but never bothered to collect the papers. Says the teacher, who has been in the profession for 15 years and has now become dispirited: "I'm not willing any more to take home 150 notebooks and grade them. I work from 7:30 a.m. to 2 p.m., and that's what I get paid for." A longtime teacher in a large suburban school outside Boston told Time it is common knowledge that some of her colleagues, anxious to preserve their jobs as enrollments dwindle, fail children simply to ensure hefty class size the next year.

The new doubts about teachers have led to a state-by-state demand from legislators and citizen groups that teachers take special examinations to prove they are competent, much like the student competency exams that they have become a requirement in 38 states. Asks Indiana State Senator Joan Gubbins: "Shouldn't we first see if the teachers are competent before we expect the kids to be competent?"

With 41 million pupils, public school education is one of the nation's largest single government activities. Current expenditures (federal, state and local) run to $95 billion. So vast and costly an educational system does not cheerfully react to criticism or adapt to change.

The push toward testing teacher competency, however, depends less on Washington than on state and local governments. One of the most instructive battles fought over the issue occurred in Mobile, Ala., and was led by conservative attorney Dan Alexander, president of the board of education. In 1978, after the board required competency testing of Mobile high school seniors, Alexander was besieged by angry parents, at least partly because 53 percent of the students who took the city's first competency exam flunked it. Recalls Alexander: "Parents came out of the woodwork saying, 'If you're going to crack down on my child, let me tell you about some of my children's teachers.'" One parent brought him a note sent home by a fifth-grade teacher with a master's degree, which read in part: "Scott is dropping in his studies he acts as if he don't Care. Scott want pass in his assignment at all, he had a poem to learn and he fell to do it." Says Alexander: "I was shocked. I could not believe we had teachers who could not write a grammatically correct sentence. I took the complaints down to the superintendent, and what shocked me worse was that he wasn't shocked."

Alexander made the note public as the kickoff of a campaign for teacher testing. Says he: "Competency testing is probably a misnomer. You cannot test a teacher on whether he's competent, but you certainly can prove he's incompetent." The proposed exams for veteran teachers were blocked by Alexander's colleagues on the board. But they agreed that all new teachers should score at least 500 on the Educational Testing Service's 3¼-hr. National Teacher Examination (N.T.E.) which measures general knowledge, reading, writing and arithmetic. Only about half of the Mobile job applicants who took the N.T.E. in 1979 passed.

The American Federation of Teachers, which has 550,000 members, is opposed to testing experienced teachers, though it approves competency exams for new candidates. The much larger National Education Association is against any kind of competency testing for teachers, claiming teacher competency cannot be measured by written tests. Even so, some form of teacher testing has been approved in twelve states.[1] Proposals for teacher testing have been introduced in Colorado, Illinois, Iowa, Kansas, Missouri, New York, Vermont and Wisconsin, and a bill in Oklahoma is scheduled to be signed into law this week. Polls say the teacher-testing movement is supported by 85% of U.S. adults.

Thus far actual test scores of teacher applicants seem depressing. In Louisiana, for instance, only 53% passed in 1978, 63% last year. What about the ones who fail? Says Louisiana Certification Director Jacqueline Lewis: "Obviously they're moving out of state to teach in states where the tests are not required." The results of basic achievement tests taken by job applicants at Florida's Pinellas County school board (St. Petersburg, Clearwater) are not encouraging. Since 1976, the board has required teacher candidates to read at an advanced tenth-grade level and solve math problems at an eighth-grade level. Though all had their B.A. in hand, about one-third of the applicants (25% of the whites, 79% of the blacks) flunked Pinellas' test the first time they took it in 1979.

In 1900, when only 6% of U.S. children graduated from high school, secondary school teachers were looked up to as scholars of considerable learning. Public school teachers were essential to what was regarded as the proud advance of U.S. education. By 1930, 30% of American 17-year-olds were graduating from high school, and by the mid-1960s, graduates totaled 70%. The American public school was hailed for teaching citizenship and common sense to rich and poor, immigrant and native-born children, and for giving them a common democratic experience. "The public school was the true melting pot," William O. Douglas once wrote, "and the public school teacher was the leading architect of the new America that was being fashioned."

The academic effectiveness of the system was challenged in 1957, when the Soviet Union launched its Sputnik satellite. Almost overnight, it was perceived that American training was not competitive with that of the U.S.S.R. Public criticism and government funds began to converge on U.S. schools. By 1964, achievement scores in math and reading had risen to an alltime high. But in the '60s the number of students (and teachers too) was expanding tremendously as a result of the maturing crop of post-World War II babies. In the decade before 1969, the number of high school teachers almost doubled, from 575,000 to nearly 1 million. Writes Reading Expert Paul Copperman in The Literacy Hoax: "The stage was set for an academic tragedy of historic proportions as the nation's high school faculty, about half of whom were young and immature, prepared to meet the largest generation of high school students in American history." To compound the problem, many teachers had been radicalized by the 1960s. They suspected that competition was immoral, grades undemocratic, and promotion based on merit and measurable accomplishment a likely way to discriminate against minorities and the poor. Ever since the mid-1960s, the average achievement of high school graduates has gone steadily downhill.

Ironically, the slide occurred at a time when teachers were getting far more training than ever before. In the early 1900s, few elementary school teachers went to college; most were trained at two-year normal schools. Now a bachelor's degree from college is a general requirement for teaching. Today's teaching incompetence reflects the lax standards in many of the education programs at the 1,150 colleges around the country that train teachers. It also reflects on colleges generally, since teachers take more than half their courses in traditional departments like English, history and mathematics.

Research by W. Timothy Weaver, an associate professor of education at Boston University, seems to confirm a long-standing charge that one of the easiest U.S. college majors is education. Weaver found the high school seniors who planned to major in education well below the average for all college-bound seniors—34 points below average in verbal scores on the 1976 Scholastic Aptitude Test, 43 points below average in math. Teaching majors score lower in English than majors in almost every other field.

Evidence that many graduates of teacher-training programs cannot read, write or do sums adequately has led educators like Robert L. Egbert, president of the American Association of Colleges for Teacher Education, to urge higher standards on his colleagues. The National Council for Accreditation of Teacher Education has become warier about issuing its seal of approval, which is largely honorific, since state boards of education issue their own, often easygoing approval for teacher-training programs. Nevertheless, with an awakened interest in "consumer protection" for parents and pupils, the council denied accreditation to teacher-training programs at 31% of colleges reviewed in 1979, compared with 10% in 1973. Says Salem, Ore., School Superintendent William Kendrick: "For too long, we've believed that if you hold a teaching certificate you can do the job."

Many teachers favor rigorous teaching standards, including the use of compulsory minimum-competency tests—at least for candidates starting out in their careers. They are dismayed by the public's disapproval. Says Linda Kovaric, 32, a teacher at Olympic Continuation High School in Santa Monica, Calif.: "The administration tells you you're doing a crummy job, parents tell you you're doing a crummy job, kids even tell you you're doing a crummy job. A lot of teachers these days feel and look like soldiers who returned from Viet Nam. You see the same glazed look in their eyes."

Many teachers have come to see themselves as casualties in a losing battle for learning and order in an indulgent age. Society does not support them, though it expects them to compensate in the classroom for racial prejudice, economic inequality and parental indifference. Says American School Board Journal Managing Editor Jerome Cramer: "Schools are now asked to do what people used to ask God to do." The steady increase in the number of working mothers (35% work full time now) has sharply reduced family supervision of children and thrown many personal problems into the teacher's lap, while weakening support for the teacher's efforts. Says Thomas Anderson, 31, who plans to quit this month after teaching social studies for seven years in Clearwater, Fla.: "I know more about some of my kids than their mothers or fathers do."

A teacher's view, in short, of why teachers cannot teach is that teachers are not allowed to teach. "The teacher today is expected to be mother, father, priest or rabbi, peacekeeper, police officer, playground monitor and lunchroom patrol," says David Imig, executive director of the American Association of Colleges for Teacher Education. "Over and above that, he's supposed to teach Johnny and Mary how to read." Adds Edith Shain, a veteran kindergarten teacher at the Hancock Park School in Los Angeles: "The teacher doesn't know who she has to please. She's not as autonomous as she once was."

In the past 15 years the number of teachers with 20 years or more experience has dropped by nearly half. Four out of ten claim they plan to quit before retirement. In 1965 more than half of America's teachers told polltakers they were happy in their work. Now barely a third say they would become teachers if they had to make the choice again.

For many teachers, whether to leave their profession is not seen as a question of choice, or economics, but as a matter of emotional necessity. The latest pedagogic phenomenon is something called "teacher burnout." It is a psychological condition, produced by stress, that can result in anything from acute loss of will to suicidal tendencies, ulcers, migraine, colitis, dizziness, even the inability to throw off chronic, and perhaps psychosomatic, colds.

This spring the first national conference on teacher burnout was held in New York City. Surprisingly, the syndrome seems nearly as common in small towns and well-off suburbs as in big cities. The National Education Association has already held more than 100 local workshops round the country to help teachers cope with the problem, which University of California Social Psychologist Ayala Pines defines as "physical, emotional and attitudinal exhaustion." Last March, Stress Consultant Marian Leibowitz held a burnout seminar in Edwardsville, Ill. (pop. 11,982). It drew a paying audience of 250 to a hall big enough for only 100.

According to Dr. Herbert Padres, director of the National Institute of Mental Health, what emerges from the familiar litany of teacher complaints is that administrative headaches and even physical assaults on teachers can be psychologically less wounding than the frustrating fact that teachers feel unable to do enough that is constructive and rewarding in their classrooms. Whether it is blackboard jungle, red-tape jumble, a place of learning or a collective holding pen for the hapless young, the modern classroom, teachers claim, is out of teachers' control. Some reasons:

DISCIPLINE AND VIOLENCE

Last year 110,000 teachers, 5% of the U.S. total, reported they were attacked by students, an increase of 57% over 1977-78. Teachers believe administrators tend to duck the subject of violence in the schools to avoid adverse publicity. More than half the teachers assaulted feel that afterward authorities did not take adequate action. Today one in eight high school teachers says he "hesitates to confront students out of fear." One in every four reports that he has had personal property stolen at school.

Since the *Wood* vs. *Strickland* Supreme Court decision of 1975, which upheld the right to due process of students accused of troublemaking, the number of students expelled from school has dropped by about 30%. As always in a democracy, the problem of expulsion turns in part on the question of concern for the rights of the disruptive individual vs. the rights of classmates and of society. School officials argue that it is wiser and more humane to keep a violent or disruptive student in school than to turn him loose on the streets. But, says John Kotaskis of the Chicago Teachers Union, "schools are now being asked to be more tolerant of disruptive or criminal behavior than society." In a Washington, D.C. high school, a jealous boy tried to shoot his girlfriend in class. The boy was briefly suspended from school. No other action was taken. Says a teacher from that school: "These days if you order a student to the principal's office, he won't go. Hall monitors have to be called to drag him away."

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[1] Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.

STUDENT ATTITUDES TOWARD LEARNING

In a current hit song called *Another Brick in the Wall*, the rock group Pink Floyd brays: "We don't need no education." There is near unanimity among teachers that many students are defiantly uninterested in schoolwork. Says one West Coast teacher: "Tell me kids haven't changed since we were in high school, and I'll tell you you're living in a fantasy world." A New York panel investigated declining test scores and found that homework assignments had been cut nearly in half during the years from 1968 to 1977. Why? Often simply because students refuse to do them. Blame for the shift in student attitude has been assigned to such things as Watergate, the Viet Nam War, the Me culture. Also to television, which reduces attention span. Now there are 76 million TV homes in the U.S., vs. only 10 million in 1950. By age 18, the average American has spent an estimated 15,000 hours in front of the set, far more time than in school. Whatever the figures, teachers agree, television is a hard act to follow.

SHIFTING TIDES OF THEORY

Because it is American, American education dreams of panaceas—universal modern cures for the ancient pain of learning, easy ways to raise test scores and at the same time prepare the "whole child" for his role in society. Education has become a tormented field where armies of theorists clash, frequently using language that is unintelligible to the layman. Faddish theories sweep through the profession, changing standards, techniques, procedures. Often these changes dislocate students and teachers to little purpose. The New Math is an instructive example. Introduced in the early '60s without adequate tryout, and poorly understood by teachers and parents, the New Math eventually was used in more than half the nation's schools. The result: lowered basic skills and test scores in elementary math. Exotic features, like binary arithmetic, have since been dropped. Another trend is the "open classroom," with its many competing "learning centers," which can turn a class into a bullpen of babble. There was the look-say approach to reading (learning to read by recognizing a whole word), which for years displaced the more effective "phonics" (learning to read by sounding out syllables).

Pedagogues seeking a "science of education" are sometimes mere comic pinpricks in a teacher's side. For example, Ph.D. theses have been written on such topics as Service in the High School Cafeteria, Student Posture and Public School Plumbing. But many studies are hard on teacher morale. Sociologist James S. Coleman's celebrated 1966 survey of pupil achievement seemed glum news for teachers. That study argued that family background made almost all the difference, and that qualities of schools and teachers, good and bad, accounted "for only a small fraction of differences in pupil achievement." Later researchers, examining Coleman's work, found that pupils do seem to learn more when they receive more hours of instruction.

The sensible thing for any effective teacher would be to fend off such theories as best he can and go on teaching. As teachers are fond of saying, "Teaching occurs behind closed doors." But theory, some of it foolish and damaging, inexorably seeps under the doors and into the classrooms. For example, the sound idea that teachers should concentrate on whetting the interests of students and stirring creativity has been unsoundly used as an excuse to duck detailed schoolwork. Says Columbia's Teachers College Professor Diane Ravitch: "It is really putting things backward to say that if children feel good about themselves, then they will achieve. Instead, if children are learning and achieving, then they feel good about themselves." Ravitch believes U.S. education has suffered much from such pedagogic theories, and especially from the notion, which emerged from the social climate of the 1960s, that the pursuit of competency is "elitist and undemocratic."

TEXTBOOKS AND PAPERWORK

Teachers are consulted about textbooks but rarely decide what books are finally bought. The textbook business is a $1.3 billion a year industry. Books are ordered by editorial committees and updated at the pleasure of the publisher to sell in as many school systems as possible. Since the late 1960s, according to Reading Expert Copperman, publishers have found that if a textbook is to sell really well, it must be written at a level "two years below the grade for which it is intended."

Paperwork done by teachers and administrators for district, state and national agencies proliferates geometrically. Though it all may be necessary to some distant bureaucrat—a most unlikely circumstance—when teachers comply they tend to feel like spindling, folding and mutilating all the forms. Paperwork wastes an enormous amount of teaching time. In Atlanta, for example, fourth- and fifth-grade teachers must evaluate their students on 60 separate skills. The children must be rated on everything from whether they can express "written ideas clearly" to whether they can apply "scarcity, opportunity cost and resource allocation to local, national and global situations."

ADMINISTRATIVE HASSLES

School procedures, the size and quality of classes, the textbooks and time allotted to study are all affected by government demands, including desegregation of classes, integration of faculty, even federal food programs. One way or another, teachers are bureaucratically hammered at by public health officials (about vaccinations, ringworm, cavities, malnutrition), by social workers and insurance companies (about driver education and broken windows), by juvenile police, civil liberties lawyers, Justice Department lawyers, even divorce lawyers (about child custody).

MAINSTREAMING AS NIGHTMARE

Since the passage of Public Law 94-142 in 1975, it has been federal policy that all handicapped children, insofar as possible, be "mainstreamed," *i.e.*, educated in the same class with everyone else. The law is theoretically useful and just, as a means of avoiding unwarranted discrimination. But in practice it often puts an overwhelming strain on the teacher. "Mainstreaming is ludicrous," says Detroit Counselor Jeanne Latcham. "We have children whose needs are complicated: a child in the third grade who has already been in 16 schools, children who need love and attention and disrupt the classroom to get it. Ten percent of the students in Detroit's classrooms can't conform and can't learn. These children need a disproportionate amount of the teacher's time. It's a teacher's nightmare—she can't help them, but she never forgets them."●

ON ALERT FOR MISSILE ATTACK

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. HOPKINS. Mr. Speaker, the House Armed Services Committee took the opportunity a few weeks ago to listen to the testimony of Colonel Beckwith, leader of the Delta team which attempted the Tehran rescue mission. Because the Congress has not investigated thoroughly the malfunctions experienced by another Delta team, this one from the Strategic Air Command, I am submitting a reporter's documentation of the events which took place on June 2 in an underground command post at Cheyenne Mountain, Colo. The Pentagon stated its belief at a press conference yesterday that a dime-sized piece of hardware probably caused two false alarms last week in the Nation's strategic early warning system.

While the Congress was assured that there would be no recurrence of last November's false warning, the Pentagon is currently exploring ways to improve the error detection and correction abilities of this important component in our national security. We have been assured that there never was any danger due to other controls, including human judgments. I hope my colleagues, the American people, and all nations of the world can feel safer after reviewing the events of June 2 as interpreted by this journalist.

[From the Atlanta Constitution, June 16, 1980]

ON ALERT FOR MISSILE ATTACK

(By Joseph Albright)

OMAHA, NEB.—A few minutes before midnight on June 2, the five members of the Strategic Air Command's Delta Team descended into the underground command post, carrying their lunch in brown bags, ready for another eight-hour wait to see if the computers would say the Soviet Union had started World War III.

Their mission was to make certain America's nuclear forces aren't destroyed in a Pearl Harbor-like missile attack. They have to do it in a way that won't dispatch even one American warhead toward Russia by accident.

Delta Team was about to be thrown up against a different kind of threat, this one from an errant computer at another underground command post at the North American Air Defense Command's Cheyenne Mountain complex in Colorado.

Their performance was less dashing, but much more successful and maybe just as heroic, as that of the similarly named Army Delta Team which led the U.S. commando raid to rescue American hostages in Iran.

For security reasons, SAC has not identified the five Air Force officers and enlisted men who, along with counterparts at NORAD and in Washington, kept the false computer alert from triggering anything worse. But SAC did allow a Cox Newspapers reporter to spend about an hour in the command post watching an emergency action team at work.

From interviews with SAC command-and-control officials and other sources in Washington, one impression emerged quite clearly: this time, at least, the United States really wasn't—as one headline writer put it—"one moment from Nuclear War."

Of course Delta Team didn't know that when the first warning came in from NORAD between 1 and 2 a.m. on June 3.

The team's Warning System Controller—a captain or a major—received that staggering message on one of the two TV-like screens of his computer terminal. The terminal looks like a small piano organ with two computer keyboards instead of musical keys.

Although SAC won't discuss this warning message, sources elsewhere have said it reported a very large Russian missile attack, with scores and scores of warheads already flying toward America from Russia and from Russian submarines off U.S. coasts.

A single one-megaton warhead detonated in the air over a metropolitan area would kill one million people and wound two million others, not counting additional casualties from radiation, a spokesman for the U.S. Defense Nuclear Agency said last week.

So in the first few instants, Delta Team had to deal with a situation that might be either a computer glitch or an attack that might kill 50 million Americans.

The Warning System Controller, nicknamed the "Wisc," had only to turn to his right to inform the key senior SAC duty officer in the command post, known as the SAC senior controller. He sits at a desk of his own which looks like a telephone operator's work place.

No doubt the senior controller and the 10 or so other men in the Command Post knew already knew something was up. As soon as NORAD transmits an alert message, the Wisc's terminal starts bleeping.

Almost immediately, the Wisc tapped a command on one of his two keyboards to display the all-important "decision matrix" from the memory of a SAC computer. The matrix, whose details are classified, is a checklist telling the senior controller precisely what he can do on his own and what actions certain higher officials, such as the four-star general in charge of SAC, can take on their own.

The senior controller is always a full colonel whose personal life has been checked by Air Force security agents to make sure he is stable and unsusceptible to blackmail.

At any time, five colonels serve on a rotating basis as senior controllers, each heading one of the alphabetically-designated SAC emergency action teams. All his subordinates on the team are checked with equal rigor under the so-called Personnel Reliability Program, as are the six others who serve in supporting jobs in the command post on any shift.

During the three-minute, 12-second alert, the senior controller took at least three actions. He called his superior, a brigadier general. He called Gen. Richard Ellis, the four-star who commands SAC. And most important, he used the red telephone to order all SAC's bomber and missile units to a slightly higher state of readiness.

The red telephone is SAC's primary alerting system for the crews of U.S. Minuteman and Titan missiles and for the B-52 and FB-111 nuclear bombers. "It's hot to all units of SAC," explained Maj. Jim Platt, a briefing officer.

To use it, the senior controller touches a red button on his switchboard, which activates a warbling tone throughout the tennis court-sized command post. Immediately, a red whirling light—like that of a speeding police car—casts eerie arcs across the six huge display boards that cover the front wall of the commandpost.

To reach all SAC command posts simultaneously, the senior controller uses a call signal, "Skybird." That means the message applies to every unit.

In the June 3 false alert, the senior controller—possibly after checking with higher officers in SAC—took at least three precautionary steps. He ordered all 153 U.S. missile launch crews at their remote launching sites in the Western United States to stay by their consoles for further instructions. If some of them were reading or making lunch, the order from SAC brought them to attention—but did not change the condition of their missiles.

As for the nuclear bombers at SAC's 20 bomber bases around the country, the SAC controller took two quick steps. He rousted the crews out of their alert shelters and ordered them to their battle stations inside the planes. Next, requiring a separate decision by the SAC senior controller, he ordered pilots to fire up the sometimes balky engines of the bombers—but not to begin taxiing.

Under SAC's long-standing and laboriously constructed procedures, the controller did not simply pick up the red phone and start talking.

It is up to the man sitting at a desk on his right, known as the Emergency Action Officer Controller, to prepare an exact written message that includes everything the senior controller wants to say. The Emergency Action Officer Controller—a major—must always be checked by a senior non-commissioned officer, known as the Emergency Action NCO Controller, to make sure the message is accurately transcribed.

Once these two have drafted the message, the senior controller checks it, and then one of the three reads it over the red phone while a second looks over his shoulder to make sure the words were read clearly.

All this is part of SAC's adherence to the nuclear "two-man" rule, which holds that no one person can do anything with a nuclear weapon. It is a derivative of an even more fundamental rule that only the President is allowed to release a nuclear weapon.

Actually, it takes less time to get a message onto the red phone than it takes to describe the safeguard procedures surrounding it. "You can do it damn quickly but you can do it exactly right," said one Air Force colonel.

Despite widespread myths, the hotline from Washington is not a red telephone. It is yellow. On its dial the inscription: "JCS Alerting Network to All Units/Specified Commands."

It is over the yellow telephone that the SAC commander in chief can expect to receive an order passed down from the president to launch an American retaliatory attack. That is, if the SAC command post hasn't already been demolished. In that case, both the president and surviving SAC officers would presumably be transmitting orders from their separate flying command posts—planes kept constantly ready for takeoff at Andrews Air Force Base near Washington and at Offutt Air Force Base, where SAC's command post is situated.

To make sure that some SAC official will always be at the other end of the yellow telephone, SAC keeps a succession of "looking glass" communications planes flying random eight-hour shifts over the central United States.

One little-known aspect of the system is the SAC senior controller's "patch." It is a simple electronic switching devise that allows him to "patch" the yellow phone into the red phone. Once the "patch" has been connected, the top officials in the Pentagon's command center can talk directly to all missile launch and bomber crews.

Using a separate electronic patch between the White House and the Pentagon, the president himself could theoretically talk to the missile crews.

At least in theory, this system would allow the president to retain absolute control over the release of nuclear weapons. He could, if he chose, require that the firing codes for nuclear weapons consist of two sets of digits—one to be transmitted by the president and another by SAC headquarters.

On June 3, the supposed threat evaporated even as the SAC bomber pilots in places like Loring Air Force Base, Maine, were running toward their planes.

Someone in the SAC command center, presumably the Wisc officer, figured out that the warning from NORAD was based on faulty information of some sort. Within 15 seconds, one of the Delta Team members tapped out the appropriate instructions on the computer console to get direct readings from the country's array of missile warning sensors. What the computer reported back is that none of the sensors had noticed anything wrong.

"We get our tactical information from NORAD," said briefer Jim Platt. This is part of an old division of labor within the Air Force—that NORAD has the radars and satellites and assimilates the information to issue battle alerts. Then it is up to SAC to keep its force from being wiped out on the ground.

As warning times have shortened, succeeding Secretaries of Defense have found it wise to bypass NORAD with some of the warning signals, making sure that it as well as SAC and the Pentagon's command post have the same sensor data simultaneously.

So it was possible, within seconds, for Delta Team to query the huge PAVE PAWS radar installation in Massachusetts to find that it had found no sign of a submarine-launched missile rising off the East Coast. PAVE PAWS, which sends 1,000 pulsing radar beams in a 240 degree arc, became operational under SAC's direct management in early 1980.

Another PAVE PAWS installation is still being tested in California. Until it goes on line later this year, the Air Force must rely on an older radar network to detect sub launches, known as the FSS-7, or "Fuzzy 7", system.

The Delta Team may also have had the ability to bypass NORAD and obtain direct readings from the radar systems in Greenland, Alaska, England and several other classified sites that are assigned to detect launches of missiles from Tyuratam, a big missile base in the Soviet Union, as well as all other Russian ground-based sites.

Still other sensor readings were no doubt available from America's spy satellites, which detect the booster flame of any missile and report the data to NORAD.

As it happens, it was the Delta Team which acted first, within 15 seconds, to figure out that some computer somewhere was wrong. If the men on duty—no females have yet been assigned to emergency action teams—had been more opaque that morning, their counterparts at NORAD or at the Pentagon command post could have solved the computer glitch by taking the same set of actions.

The alert ended with a telephone conference call between a SAC general—presumably one of those roused by the senior controller—and the ranking duty officers at NORAD and the Pentagon command post. Using a long-established procedure, they "voted" that there was no real threat all along.

For Delta Team, it was back to the old routine, with no secret meetings with the president, no book offers, no medals.●

HONORING GEORGE A. ESCOFIE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DORNAN. Mr. Speaker, on June 25, 1980, the Redondo Beach Chamber of Commerce holds its 59th annual installation and awards banquet to honor its 1979-80 president, George A. Escofie. I would like to take this opportunity to join in paying tribute to Mr. Escofie before this distinguished body.

George, the assistant branch manager at Home Bank in Redondo Beach, Calif., has a long record of community activism. His civic involvement has led to service on the Redono Beach City Board of Education as a trustee, the Redondo Beach Coordinating Council, and the Aviation/Artesia Task Force. He is also a past president of the Redondo Beach Jaycees.

As a member of the Independent Bankers Association and a one-time regional credit manager for the Firestone Tire and Rubber Co., George's business and financial background enabled him to revitalize many chamber of commerce committees. His energizing approach greatly accounts for the 25 percent chamber membership increase in 1979-80.

Among the innovative projects initiated by Mr. Escofie during his tenure are the beach cleanup program, a summer old-fashioned community picnic/concert, a new Community Business magazine, a holiday decorating contest, and an export symposium. These events complemented the chamber's existing calendar which includes the international surf festival, the South Bay Medal of Valor luncheon, and the Redondo Beach super bowl 10K run, which is the west coast's largest.

This former Outstanding Young Man for the City of Redondo Beach (1979) and Redondo Beach Jaycee of the Year (1978) has given a great deal to his community. George's years of dedicated service are a reminder of the tremendous impact one man can have in our society.

Well done, George. Redondo Beach is indeed lucky to have you.●

STILL CHASING LOBBYISTS TOO FAR

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. EDWARDS of California. Mr. Speaker, an excellent editorial recently appeared in the New York Times which addresses one of the central concerns with lobby disclosure legislation being considered in Congress. I feel that the article is worth calling to the attention of my colleagues.

The editorial explores the difficulties in requiring disclosure of the grassroots efforts of lobbying organizations. It makes the point in a cogent way that these grassroots efforts ought not to be hampered—rather they should be encouraged. Grassroots lobbying efforts are a key element in the exercise of our constitutionally guaranteed rights of freedom of speech and petitioning the Government. No compelling case has been made for a regulation of the exercise of this right.

When the House Judiciary Committee marked up lobbying disclosure legislation earlier in this Congress, it wisely chose not to attempt to require disclosure of grassroots efforts. As the Senate Government Affairs Committee takes up this sensitive issue later this week, I hope that they will reach the same conclusion. Our respect for the Constitution and the rights it guarantees demands that they do.

The editorial from the June 17, 1980, New York Times follows:

STILL CHASING LOBBYISTS TOO FAR

Senator Lawton Chiles and some fellow reformers in Congress simply will not let go of their misguided pursuit of the "grassroots lobbyists." Having usefully made lobbyists accountable for their conduct on Capitol Hill, they insist on pursuing them out among the citizenry to require disclosure of their propaganda tactics, sources of money and hidden hand in organized letterwriting to Congress.

We think we understand the problem. Lawmakers' lives have, in fact, been complicated by the growing skill of special interest groups at stirring up the folks back home. But one group's special interest is another's public interest. And while a lobbyist in Congress and his paymasters should be known, their political communication and activities among the public should normally be free and uncontrolled. If Congressmen cannot distinguish between private mail from constituents and an organized barrage of letters from the National Rifle Association or Common Cause, they're probably in the wrong line of work. And if on some new issue they're in doubt, what's wrong with a little concern about the true views of their constituents?

The effort to regulate grassroots politicking has at least become more moderate. The reformers are willing to settle now for civil instead of criminal penalties for violations of their code. They still want disclosure of the names of companies that donate money to lobby groups but no longer the names of individuals. They would still, however, require elaborate disclosures, including the names of all involved and itemized expenses, from any group that spends $5,000 to promote a legislative purpose. The law would apply even to Boy Scout headquarters if, besides talking to Congressmen, it spends $5,000 to ask old Scouts to support a bill aimed at delinquency. It would cover a group that, besides lobbying legislators, spends $5,000 on a newspaper ad exhorting readers to urge Congress to block nuclear plants.

Without such disclosure, the reformers contend, existing controls on lobbyists will become meaningless. All their major activities must be known, they say, and this can be revealed without infringing the rights of citizens.

But lobbyists are citizens, guaranteed free speech. Political debate, in Justice William Brennan's words, "should be uninhibited, robust and wide open." Grassroots lobbying presents no compelling danger that justifies interference with organized petition. Indeed, we find it hard to distinguish from other political activity. The proposed regulations would impose legal and accounting costs that amount to a tax on political effort and would be especially burdensome to smaller groups. Those letter-blizzards in Congress may occasionally make it harder to know what the voters really think. But the public in fact is never unprompted, and the right to prompt is worth cherishing.●

APPROPRIATE TECHNOLOGY: THE DEBATE SHIFTS FROM TECHNOLOGY TO POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. BROWN of California. Mr. Speaker, the term "appropriate technology" is now commonly used, even though the definition continues to be debated. The success of individual appropriate technology programs, such as the Department of Energy's small grant program for appropriate technology, has only added to the acceptance of this concept in certain circumstances.

Today the appropriate technology debate is moving away from arguments of technological feasibility to more fundamental discussions of economies of scale, local control over development policies, and concepts of efficiency. While any policy can be oversold, and any program can be improperly implemented, I believe the return to appropriate technologies is a trend which will continue, and should be encouraged by the Federal Government. Certainly our Federal policies in the past have strongly encouraged the development of large-scale technologies, including many of those which have been identified as part of the problem in modern society. But beyond this question of individual technologies is the mindset about development which is, in my view, at the center of the debate over the role of appropriate technology.

An excellent article on this topic appeared in a recent edition of Chemical and Engineering News. I commend it to my colleagues.

The article follows:

[From the Chemical and Engineering News, June 16, 1980]

Appropriate Technology Prods Science Policy

(By Wil Lepkowski)

Some call it "Tinkertoy technology." Others are even less kind and dub it the plaything of assorted dropouts, gurus, radicals, activists, utopians, and other inarticulates of the blue jeans set. The science establishment shuns it. A growing portion of the public wants it. The country grew up on it.

The "it" is appropriate technology. And by now it has so many meanings and connotations that its originators want to drop the name altogether and focus on its economic and political aims of community self-reliance. But what seems clear is that the movement is growing, is beginning to penetrate the thinking of such staid institutions as various state agricultural extension services, and is fast developing a theoretical base that could be hard to assail.

The hardware of appropriate technology is well known: windmills, greenhouses, aquaculture systems, solar panels, geodesic domes, wood-burning stoves, compost heaps, methane generators, waterless toilets, alcohol stills, all the way down to the humble shovel.

Appropriate technology's literature is colorful—from the thoughtful journal *Ambio*, published in Sweden, to *Mother Earth News* of Hendersonville, N.C. Its "official" journal is *Co-Evolution Quarterly*, published by those who produced "The Whole Earth Catalogue." Its middle class sophisticates read *Country Journal*. Those with their fists in the air and fire in their eyes read *Science For The People*.

What the movement all too obviously lacks is a solid social analysis. But its founding father was a solid economist, E. F. Schumacher, author of "Small is Beautiful—Economics as if People Mattered." Its theoretical foundations lie in the book, "The Entropy Law and the Economic Process," by Nicholas Georgescu-Roegen, an international luminary in analytical economics.

In the U.S. appropriate technology boasts almost 3000 separate centers of activity around the country, according to the National Center for Appropriate Technology (NCAT), a federal agency located in Butte, Mont.

There are two roots now from which appropriate technology is feeding, explains Ed Kepler, director of the national center. "One is the counterculture orientation that had as its model pretty much the overseas application of technologies described by Schumacher. The other is the interest of government and the private sector in solving the energy problem. The people who come out of the movement side fear that social values and cultural change—the values of democracy—will be lost sight of as big money comes through.

"To me," he says, "if appropriate technology didn't move out of that counterculture phase, it would be seen just as a cult phenomenon. What NCAT is trying to do is play it both ways and preserve the best of both roots."

Many in the appropriate technology movement fear that during the 1980's two opposing lines will form, separating what they view as the big and the mighty from the many hankering for the simple life devoid of the confusions and complexities wrought by technologies that violate the natural laws of the biosphere. They charge that conventional science policy, which sets research and technological priorities, is stuck in the paradigm of separate disciplines and by the attitude of "objectivity" is a passive and sometimes active coconspirator in a general rape of the Earth.

They believe that the decay process is already moving at an alarming rate and point to the soon-to-be-released Global 2000 study being done by the White House Council on Environmental Quality that bears out their apocalyptic vision. Acid rain is lowering the pH level of countless lakes and ponds, rendering them lifeless. Atmospheric carbon dioxide levels are continuing to rise from the burning of fossil fuels so that the global climate will shift irrevocably. The soil is losing its biologically essential trace mineral content under intense treatment with chemical fertilizers. Seed strains compatible with a more "natural" system of agriculture are being lost in favor of those designed to produce crops under an energy-intensive agriculture. All groups keeping watch over such trends are worried.

When out, the study will say that the systems of resource forecasting by the different government agencies are so disorganized, contradictory, and misinformed that the President is getting no useful advice on the near-term dangers.

These are harsh indictments of the current science policy process. The preservers and the protectors of science policy—the symbolic chieftains being White House Science Adviser Frank Press and National Academy of Sciences president Philip Handler—represent the view that science is neutral, its endeavor is pure, and any criticisms of its content simply constitute a shameless assault on the citadel.

The appropriate technology community, however, doesn't agree. Its members say that the methods of science may be unassailably neutral but the choice of the things science does isn't. They charge that the scientific establishment is interested in only two things: the funding of disciplines and the preservation of its own form of power detached from the needs of people. They say further that it is so unwilling to undertake or sanction truly interrelated assessments of social/environmental/ecological interactions that when called upon its advice only worsens the predicament.

"I think it is unrealistic to expect the tall hogs of science in [Washington] to show much interest or enthusiasm for anything that is out of their paradigm," declares Richard Holt, a policy analyst with the Department of Energy. "In general, I don't think people like Frank Press or Phil Handler are against appropriate technology. I just don't think they would consider it as a possible model for the future undertakings of science.

"I think they would continue to see continued specialization rather than diversification and generalization. They would not admit that the social, environmental, political, and institutional effects of the scientific endeavor are as tangled as they really are. They'd rather think of science as the source of truth."

Handler clearly expressed his attitudes toward "alternative" science not long ago in a speech at Duke University. "Today," he said, "there has arisen an antiscientific, antirationalist trend that should give us pause. At its ugliest—or most absurd—it funds expression in gurus, tarot cards, astrology, faddist approaches to nutrition, and easy assertion and acceptance of unfounded allegations of environmental hazard. That antiscience attitude perniciously infiltrates the news media, affecting the intelligentsia and decision makers alike. It must be confronted at every opportunity."

The appropriate technology leaders would like nothing better than an honest confrontation. Believing much of Handler's rhetoric is directed at them, they would put him to the task of contrasting "his" subjective view of science against their own subjective view. As their armamentarium they would apply theories of mind, consciousness, perception, cybernetics, thermodynamics, even his own field of biochemistry in attempts to demonstrate to him that his method of thought is out of tune with the times, that one can attune science to a deeper and at the same time broader conception of reality. They would tell him his approach to science is not so value-free as he might think, and that writers such as Michael Polanyi and a host of others have asserted that the basis of scientific objectivity is the subjectivity and institution that motivates the researcher.

One leader of the appropriate technology movement was asked recently what she would tell a President's science adviser on his responsibilities to science and the public. She is Hazel Henderson, who was active in the consumer and environmental movements of the 1970's and during that time served on the Office of Technology Assessment's Council, was an adviser to the National Science Foundation's now defunct Research Applied to National Needs Program, and consulted with the National Academy of Engineering's Committee on Public Engineering Policy.

"I would tell him," she says, "that this country has 10 years to transfer from a nonrenewable to a renewable energy base. It will require a monstrous effort that can't be done without his type of leadership. It will be no less than something on the scope of the Manhattan Project. We would amplify the examples of appropriate technology and help people understand what is happening. Everything the Administration does must be geared toward that shift." Naturally, as the President's science adviser, Press can advocate no such thing, especially when Administration energy policy is leaning heavily toward coal.

But what are these examples of appropriate technology that, according to Henderson, need amplification? Some can be found at the New Alchemy Institute on Cape Cod, run for the past 10 years by biologist John Todd. The institute is one of the most mature of appropriate technology research centers and is based on the types of knowledge and hardware required to establish self-sufficiency in any community in any climate.

What the institute most resembles is a small farm, or agricultural experiment station, which in fact it is. (Ties are being developed with the Massachusetts State Agricultural Extension Service to share information and counsel.) Rows of crops labeled for variety and growing conditions run across the 17-acre site. Jutting up here and there are windmills either spinning or under repair or construction. A geodesic dome raises its hump at intervals. A small forest is under cultivation. The scene is idyllic and obviously what the new alchemists see as the shape of things to come. In cities the view would be somewhat different, with crops grown on roofs, vacant lots, basements, and in attached greenhouses. Windmills would rise from roofs, supplying small amounts of electrical power to households.

"Here at the New Alchemy Institute," says Todd, "we use a way of thinking about the future that makes certain assumptions. For us, an appropriate technology would be an adaptive technology—sophisticated but simple—that would minimize the side effects of nature. It would focus on the nature of materials rather than on the burning of fuels. Also, we are looking at organisms that would take over the work of capital-intensive hardware."

Todd says his 25-member group uses sophisticated technologies such as microprocessors to interact with the subtle biological systems in the growing of crops and the heating of shelters. "In a way," he says, "the biological era that will be coming into full bloom had to wait on modern electronics to mature. The trouble has been that appropriate technology came to be seen in the public eye as crude if not dumb technology. But we think our designs here are at the forefront of intellectual activity.

"When we started this activity 10 years ago, we felt that science was reaching a plateau. Modern knowledge was being reformed because its product was presenting the world with insurmountable problems. So we decided to work on very-small-scale projects. For example, the first dome shelter built was an example of the kind of thinking we wanted to explore. We wanted to find out if it were possible in a tiny space to produce much of the protein for a small group of people."

The result is something the institute calls the Ark, which is in a sense a highly sophisticated greenhouse designed to provide heat in cold weather by the cultivation of fish in closed-system tanks. Todd says that the Cape Code Ark isn't totally self-sufficient yet—"we can't tell the sun to do its job just yet"—but a more highly developed ark, used also as a four-room residence, is working splendidly on Prince Edward Island in Canada.

Another model of appropriate technology is the Rock Castle Research Center, part of the Appalachian Science in the Public Interest program in Livingston, Ky. The project is supported by the National Science Foundation's Science for Citizens Program and is run by chemist Alfred J. Fritsch, also, a Jesuit priest.

In contrast to the New Alchemy Institute, Fritsch's "public service science" center is located in a newly built passive solar house in the woods off a road leading to a strip mine.

Loaded coal trucks thunder by every quarter hour, undoing freshly repaired holes in the road. The building demonstrates the "appropriateness" of solar energy to Appalachian people while inside the staff is developing an Appalachian Technical Network linking other public interest and appropriate technology groups throughout the Appalachian region.

Fritsch is against wreckage of the land and the human spirit by irresponsible technology in the form of illegally loaded coal trucks, or the damage to homes by blasting at strip mines, or the unauthorized disposal of chemical wastes. Priests are known to get angry, and this priest-scientist harbors a sense of moral outrage at those who wield technology's power without a sense of human impact.

So the aim of the center is to spark citizen involvement in the laws and regulations that supposedly control abuse. The entire aim is to use technical data to educate citizens in the use of it to pressure the political structure toward reform. Fritsch uses the "neutrality" of science to measure results and design observation. But its neutrality serves the purpose of a moral goal. Fritsch would argue that all scientists and engineers should be educated in the logical, ethical, and humanistic principles at the very least to be well-rounded human beings.

But to Fritsch, appropriate technology is not immune to fault.

"It can be very passive, and that bothers me," he says. "Many times the people in it are dropouts from the system." To him, the field has to mature constantly in the way it goes about assessing science, proposes solutions to its abuses, and involves itself in the basic process of institutional change so that political decisions are not made out of ignorance or greed."

Fritsch pretty much typifies the public interest scientist in his opposition to the philosophy of bigness. "The question is whether solar energy and appropriate technology will be put in the control of large companies or whether the small guys will be given some leeway to develop their own approaches.

"We're at about the same state as the country was when Henry Ford came along with mass production of the automobile. So much depends on whether we can preserve and protect the ideas the true entrepreneur has. If big industry takes over appropriate technology, it will be lost. We could actually develop a solar energy policy that is totally decentralized. A lot of the people who are entrepreneurial really want to see their ideas incorporated into small business. We already have opted for a policy of individual homes long ago. The danger is that we will opt for solar energy as part of a centralized power grid network."

Currently, Appalachian Science in the Public Interest has developed affiliations and cooperative activities with 70 organizations in the central regions of the Appalachians as part of its function to establish a network. That brings up another characteristic of the appropriate technology movement, a phenomenon analogous to the "invisible college" feature of academic science. Some groups already are establishing computer teleconferences. Others are establishing computerized data banks, hoping to provide functional—"community sharing"—alternatives to the more commercial approach Control Data Corp. is taking. The sharing philosophy is so central to the appropriate technology movement that its importance shouldn't be overlooked. Its economic base is largely, but not exclusively, barter. Its business ethic corresponds to that of the small town and big city neighborhood shopkeeper. And it is this feature that appeals to the country's old-line conservatives, despite appropriate technology's roots in the 1960's counterculture. In a way, there's something in it for everyone.

Technical people in industry have their own ideas, too, about the appropriateness of technology. Richard Quisenberry, director of feedstock research and development at Du Pont, acknowledges shifts in values toward naturalness in, say, fibers and respect for the land. But he doubts that the appropriate technology movement will envelop the country.

"The bigness associated with industrialization, we have to remember, is really economies of scale," he says. "You can have a lot of little gasohol plants or a few very large ones." The issue is what is least expensive to produce.

As for the protests by the appropriate technology community against bigness, Quisenberry differs.

For industry to survive, Quisenberry points out, it will require large amounts of electrical power even as the cities are turned into high-technology gardens. Du Pont and other companies will provide the panels. He believes, however, that holding out for solar substitutes in large-scale systems "is a mistake."

But he worries about some of the same things that the appropriate technology community does: carbon dioxide and the greenhouse effect, acid rain. He says he wonders whether it is ethical to divert cropland away from food and toward the production of ethanol when more than half the world is starving. And, of course, he opposes arguments that favor the constraint on growth. He also agrees that on the global economic scale the practices and laws of supply and demand that served the industrial countries well are undergoing change. U.S. technology and industry will have to adapt to that truth. He is certain, furthermore, that appropriate technology as a whole does not represent the majority views of people in the U.S.

So appropriate technology seems to have a long way to go before being seen as a legitimate factor in the planning and operation of science policy. The big, recently released five-year outlook for science and technology, prepared for the Office of Science & Technology Policy by the National Science Foundation and National Academy of Sciences, makes no mention of it either by name or implication. It is as if the two cultures exist in different worlds of value.

But the problems the report lists all speak to the solutions the appropriate technologists claim to offer: the need to "identify new alternatives that would ease the access of small- and part-time farmers to markets and enhance the opportunities for consumers to obtain high-quality food at reasonable prices." Or on energy: "Production of onsite energy from agricultural wastes holds promise. Plants are the only renewable raw material that produces some hydrocarbons now obtained from petrochemicals . . . the conversion of biomass to energy competes with other uses for which the economics may be more favorable."

NSF has just established a small grants program in appropriate technology, directed by Robert Lamson, and so far has received about 100 unsolicited proposals. As Lamson sizes the science policy issue vis-à-vis appropriate technology, he sees the appropriate technology philosophy making inroads into science policy through existing programs oriented toward environmental management and quality.

"But my perception," he says, "is that people tend not to start with the environmental and human values and move back into how technology can be designed for them. Rather, they still tend to start with the technology and push it to the forefront for its own sake. On the whole, the vulnerability of systems doesn't get much into science policy. I see it as a legitimate science policy issue. But at the National Academy of Sciences, what you find is that the mind set there tends to challenge that attitude as an issue and subsequently dismisses it. The whole thing is about nourishing people's capacity for self-government."

There is an interesting—even fascinating—appropriate technology issue that could easily merge as a scientific/philosophical debate over coming years. That issue is the meaning and implications of entropy.

In September, Viking Press will publish a book entitled "Entropy: A New World View" by Jeremy Rifkin. The author, one of the directors of People's Business Commission in Washington, is no friend of the science establishment. Rifkin was one of the leading opponents of recombinant DNA research and proposed in an earlier book that giving corporations patent rights to new forms of life would constitute eventual danger to human freedom.

In any case, Rifkin was smitten with the ideas of economist Nicholas Georgescu-Roegen and produced the book that popularizes the complex ideas of the Vanderbilt University economist. Rifkin believes that once the social, economic, and technological implications of the second law of thermodynamics set in, the world will be forced to become one big New Alchemy Institute with not only an ecologically based technology but a flowering of the arts and labor intensive industry.

The gist of the argument is that modern technology uses energy at such a rate that it also causes accelerated complexities.

Simply put, man is producing entropy faster than nature is. But man is part of nature. Therefore if he is outproducing nature, he must at some point come back into equilibrium with nature. Because he is living off a finite amount of stored energy, giving him some extra entropy to play around with, the scales will balance. But he should not be caught unprepared.

There is another angle. According to Rifkin, the speed of energy dissipation also frames the structure and design of institutions. At the same time, institutions affect individual lives. As technology becomes more complex, so do the institutions and their impact on personal lives. Stress increases, uncertainties breed anxiety over the future; economic perturbations are the order of the day—all because conventional technology forces a design that maximizes the production of entropy. The technology becomes more complex. Nations compete for the edge in "technological innovation," while simultaneously time runs out. Entropy has been called the "arrow of time." That means the mechanics of energy are not reversible. Once used it is gone. And it is being used too fast today.

Concludes Rifkin: "The Entropy Law destroys the notion of history as progress. The Entropy Law destroys the notion that science and technology create a more ordered world. In fact, the Entropy Law transcends the modern world view with a force of conviction that is every bit as convincing as was the Newtonian world machine when it replaced the Medieval Christian world view of the Roman Church."

One of the best sources of information and evaluation of appropriate technology could come from Congress' Office of Technology Assessment this summer. The project—"Assessment of Technology for Local Development"—is a series of on-site surveys of about 15 centers of activity in appropriate technology ranging from architectural experiments to cost-efficient health systems. The project could be interesting to track because its director, Michaela Walsh, has left the project in dispute over its handling. The final report, compared with Walsh's original rendering, may provide clues to how an institution such as Congress reacts to ideas that pose a challenge to the conventional ways of paying for and doing technology.

"Appropriate technology is still fighting the rap that it's a Tinkertoy technology," says Scott Sklar, head of NCAT's Washington office. "But that's how the centralized technologies want people to perceive it.

"I'm trying to get science decision makers in this town to have a basic understanding that sound technology does not have to come from the laboratory or from approved think tanks or universities or the R&D divisions of large corporations. I'm trying to convince these people that technology can have a value at the site where it is needed by people who need it."

Nevertheless, approaches proliferate. At Massachusetts Institute of Technology, a group under David Noble in the program on science, technology, and society, is setting up a program on "alternative industrial technology." The idea, says Noble, is to "design machinery to the specification of workers—machine tools that allow the workers themselves to do more of the programing, software systems that enhance communication between people."

What appropriate technology represents is the emergence of a new value in science and technology: that the decisions around science and technology are not objective and cannot be. As James Nolfi, dean at Goddard College in Vermont puts it, "The question seems to be how much should modern man surrender his historical goal of self-sufficiency to modern technology. We want to stress the psychological, spiritual, and emotional importance of having some control over the technologies we are working with."●

NATIONAL SCIENCE FOUNDATION AUTHORIZATION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. SCHEUER. Mr. Speaker, I rise to urge my colleagues to support the full amount of the authorization reported by our Committee for the National Science Foundation.

Chairing a subcommittee in another committee as I do, I have come to realize the critical underpinning role played by the National Science Foundation for activities in many other areas, such as my own Subcommittee on Consumer Protection and Finance. Foundation-sponsored basic research in the physical, biological, and social sciences lays the groundwork for advances in energy and materials, health and medicine, and in the understanding of our economy and social programs.

In recent years, I have been particularly concerned with the development of new drugs to ease the pain and suffering of many of our life-threatening and chronic diseases. Many of the fundamental biochemical mechanisms discovered through work such as that supported by the biological, behavioral, and social sciences division of the NSF have been translated into a capability to design molecules with specific curative properties, and in such a way to minimize undesirable side effects. Most important has been the Foundation's high prestige and strong network of contacts in international science, often enabling research undertaken under its aegis to become rapidly diffused into world scientific literature and practical application. Probably nowhere has this strength been better demonstrated than in the connection of basic biochemical advances to biomedical applications. I should add, parenthetically, that many of those strange-sounding and sometimes ridiculed research projects involving animal behavior have been the very ones which have demonstrated the efficacy of new classes of neural and other vital pharmaceutical compounds.

Another area of special interest to me and one which shows the vital "balance wheel" role the Science Foundation plays in our Nation's science and technology base, has been the national emphasis on, and allocation of resources to the very important area of population and demographic research and impact assessment. With the demise of the House Select Committee on Population, a key element in oversight over, and stimulation of, this important area has been lost.

Fortunately, in our committee's extensive review of the National Science Foundation's effort in social and behavioral sciences, it has become clear that this is typical of the important areas in which the Foundation can help insure that we have the knowledge for optimal allocation of our society's resources. If we are not to be trapped into wasteful investments, we must understand the implications of the changing age patterns of our population, its changing geographical distribution, and its relationship to similar changing population, immigration, and emigration patterns of our neighbors in this continent and the rest of the world. Similarly, such an understanding is crucial to our foreign policy strategy formulation, and to the determination of the most effective role we can play in promoting world economic developing and stability.

Given the significance of this area, the committee has stressed its intent that the National Science Foundation give this area of research special attention. In its program planning, the Foundation will assess the overall state of population research, along with its own optimal role in the area. As in many other areas, I fully expect that the Science Foundation will lay the groundwork for an effort which will multiply the Foundation's direct contribution manifold.

This is the basic reason why so many of us view the Foundation's budget as an investment on the future, rather than a current expenditure. It is the reason I counsel my colleagues to fully support this vital authorization bill before us today.

It is now increasingly understood that U.S. society and economic policies are being strongly affected by population changes. The pressure in the 1960's on our schools, the decline of productivity, the growth of crime, the trend toward the suburbs and now toward rural areas and refurbished central cities, the high cost of housing—all of these trends are in substantial part the consequence of the dramatic effects of the postwar baby boom generation as it worked its way through childhood into young adulthood.

Many of these trends were quite predictable once the baby boom generation had been born, but a broad array of Federal agencies—and indeed Congress itself—failed to anticipate it. In all likelihood, tens of billions of dollars have been wasted on overexpansion of our educational facilities alone, not to mention the many other areas of waste resulting from our failure to plan policies effectively.

Other developments are of great policy significance—for example, the growing problem of early teenage pregnancy. It is now reliably estimated that fully one-half of aid for dependent children and related welfare expenditures are related to teenage pregnancy, amounting to at least $4.65 billion in 1975—and probably much more now.

In another example, last year the Congress passed a synthetic fuels production bill at a cost of $20 billion, which was intended to make this country energy independent. But no thought was given to the fact that with the increase in the production of synfuels, U.S. farmers will have a new market here for their surplus grains and most likely would not sell it to the Government at a lower price for distribution abroad in the developing world. The result of this shift in markets could be worldwide famine unless a thoughtful policy is developed.

Finally, in the international sphere it is apparent that unprecedentedly high rates of population growth in many developing countries are contributing substantially to severe economic, political, and social problems. Many of these countries are barely able to increase their economic production sufficiently to stay even with population growth, thereby frustrating sincere efforts by the Government of the United States and by other countries to assist in improving the standards of life for the bulk of these poor populations. Such imbalances give rise to increased political turmoil and instability around the developing world, and also represent a major factor in the rapid escalation of refugee and immigrant populations, many of whom seek to settle in the United States.

The executive and legislative branches of Government are poorly organized to deal systematically with this set of problems. In both branches of Government, responsibility for population and closely related issues is widely dispersed among a large number of committees, departments, and agencies.

Nowhere is there a central core of expertise and attention that seeks to consider population change in all of its ramifications for public policy. The Select Committee on Population sought to serve this function in a modest way for the House, but it had no links to the Senate or to the executive branch—and was a temporary body in any case.

The intent of my resolution is to establish a more secure and well-positioned center of expertise on these complex issues and to advise both the Congress and executive branch on demographic change and its public policy significance. The cost of such a venture would be very small indeed, and the potential savings from even a small improvement in our capacity to plan effectively would be enormous, as evidenced by the massive waste that has resulted from our failure to plan in the sphere of education alone.

Thus, such a new population commission will help in planning efficiently the optimal use of our scarce research funds, not only in demography and the social sciences but also in biomedical and technical areas.●

ABSCAM

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. MATTOX. Mr. Speaker, the public first learned of the FBI's Abscam investigation on February 3, 1980. After reading the news accounts, I realized that there had been attempts to draw me into it.

Almost immediately the spotlight turned to a Member of Congress who was making headlines because he had been lured into the trap but refused to take the bait.

It went through my mind, then, that I should do the same thing myself—stand up, beat my chest, and cry, "Me, too. I'm an honest man."

I decided not to. I thought that the appropriate thing to do, instead of trying to make headlines, was to talk about these matters at my town hall meetings and to discuss it with anyone who asked me. I did this on a number of occasions.

I assumed the press in my district would be asking about Abscam. Only one editor did, and we discussed it fully. I also visited with my pastor about it and asked him to continue to pray for all of us.

I felt at that time, and I still do, that it is wrong to glorify anyone simply for being honest. In my regular weekly column, dated February 15, 1980, I wrote:

> Congress is still reeling from Abscam—the FBI investigation that uncovered eight members who allegedly took bribes up to $50,000.
>
> The investigation and its premature disclosures are questionable on a number of points, and the Justice Department needs to ferret out those employees who leaked the investigation to the press.
>
> Most importantly, the individuals who took the bribes should receive swift and firm punishment. Congress must not interfere with the prosecution of those who violated the law.
>
> But what about Congress as an institution? What, really, is its trouble?
>
> The 535 men and women who compose it are average people dealing with extraordinary problems. They are different from the rest of the population only in a desire for public service. Other than that, they reflect the same morality that is found in the communities they represent. They are no different from the business people, the lawyers, the doctors, accountants, farmers, laborers—you name it—who make up their constituency * * *.
>
> More than one congressman turned down the FBI's illegal overtures. A number, in fact, held themselves so aloof from the possibility of being bribed that the FBI didn't have a chance to make them an offer they could refuse. This didn't make headlines. And perhaps it shouldn't. The day that routine honesty on a large scale is news will be a sorry day for all of us.

Mr. Speaker, because of a recent newspaper column by Jack Anderson, we may be dangerously close to that day. I want to relate to you and my colleagues the Abscam story as it happened to me. What follows is a summary of the chronology:

Dallas attorney J. Richard Whittington received a telephone call from Philadelphia attorney Howard Criden during the last week in September 1979. See the following statement and letter.

Whittington said he met Criden when the two of them were attorneys representing opposite sides of a lawsuit.

Criden asked Whittington if Whittington "knew any Texas Senators or Congressmen." Whittington said he did not—but that he had met Congressman JIM MATTOX's law partner, A. Don Crowder, at the courthouse.

Criden asked Whittington, as a favor to him, to please call Crowder, give him an introduction, and ask Crowder to accept a call from Criden.

Whittington agreed to do so. He called Crowder, and Crowder agreed to accept the call from Criden.

Shortly thereafter, Crowder received a call from Howard Criden, the Philadelphia attorney. After the conversation, Crowder called me and related the substance of it. Crowder told me he was somewhat alarmed, and suspicious of Criden, but perhaps he had taken what Criden said wrong.

He said Criden told him that he represented several "wealthy Arab businessmen" who wanted to meet as many Congressmen as they could. Criden said they might need to gain admittance into the United States in case anything went wrong in their own country. Then Criden told Crowder that a "substantial campaign contribution" could be made in order to be able to "plead their case." Crowder was immediately alarmed by that statement. He told Criden that he did not have to give me anything to see me, that I was a very accessible individual and that if he wanted to meet with me, all he had to do was call my office and make an appointment. Crowder said he would call me and ask me to expect a call from Criden—but that he could "leave his checkbook at home." Crowder said that he thought that I should talk to Criden, but that I should be on guard for any improper overtures.

After my conversation with Crowder, I received a call from Criden, and I returned his call. Criden told me he represented "wealthy Arab businessmen" who were interested in making a $200 million investment in my district. He asked me if I would join him and his clients for dinner so they could discuss the matter.

At this point, my suspicions were aroused further since Criden had mentioned to Crowder that his clients were interested in possibly gaining entry into the United States—and now

Mr. Criden was telling me that his clients were interested in making a sizable investment in my district. Of course, I was interested in getting a large business investment for my district.

Pursuant to a long standing rule about meeting people in circumstances such as this and also because of my suspicions in this particular case, I told Criden that I would meet with him, but that I would prefer to meet in my office.

This seemed to frustrate him, and he said his clients were "very well-to-do people" and that they would probably be willing to make a campaign contribution.

I immediately said: "You understand that contributions from foreign nationals are illegal—I would not be interested in that." Criden assured me that he meant nothing inappropriate or illegal. After his assurance, I was not quite as concerned, because I felt that I had dealt with the matter in a firm way.

I told Criden that I was soon leaving Washington to return to Dallas for the district work period which began September 29 and lasted through October 8. I told him I could see him before I left, or he could call me in about a week when I returned from my district.

While I was in Dallas during the district work period, I received a second telephone call from Criden. Criden said he and his clients would like to come to Dallas to see me. I told him I was extremely busy, that I saw no reason for them to come from Philadelphia and that I would prefer to meet with them in Washington. The conversation was very brief, and he agreed to call me in Washington.

The third and last call from Criden came when I was back in Washington. Criden again asked me if I would join him and his clients for dinner to discuss his clients' business investment. I told him again that I preferred to meet with him in my office and offered to set up an appointment. He tried to persuade me to go out to dinner, but I politely declined. An appointment was made for 5:30 p.m. on Tuesday, October 9, 1979. I had another engagement at 6 p.m. On the afternoon of October 9, I was in my office but neither Criden nor anyone else associated with him showed up. I left the office for the evening, and I never heard from Criden again.

In hindsight, I can see that my refusal to meet with them anywhere but my office frustrated their attempts to steer me into their den of iniquity. Since the foregoing events occurred, I have talked with the FBI about being a witness in the Criden matter and with the House Ethics Committee investigators.

Mr. Speaker, I would also like to share a portion of another of my weekly columns with you and the Members of the House. This one is called:

GOOD RULES TO LIVE BY

How can a thing like this Abscam happen? people demand to know.

The temptations are great, I tell them. Congressmen deal with so much money that the idea of it is almost impossible to grasp. There's no denying that directing the distribution of $700 billion bestows on an ordinary man or woman power and influence.

I personally handle this problem in two ways. (I don't think my approach is unique.) The most important thing is to have a sense of moral direction. In my case, this comes from the Judeo-Christian principles I learned from my family and my church. Secondly, it's helpful to have practical guidelines for carrying on the business of being a congressman. You have to avoid the appearance of evil. Like Caesar's wife, you have to be above reproach.

The guidelines I try to apply take several forms. One is not to accept personal gifts. Let me give you an example. After my first election as a congressman, a friend offered me an expensive pen and pencil set. He told me that he wanted to be able to say, "My congressman signs his mail and legislation with the pen that I gave him." He felt it was an honor to give it to me and meant nothing improper. I told him that I loved and appreciated him and his family, but that I had set up a rule that I would not accept any personal gifts.

Another important rule I try to abide by is to meet whenever possible in my office with people who want to talk about legislation in which they have a personal financial interest. This is not an easy rule to follow because I practice an opendoor policy for my constituents and my goal is to be "the most accessible congressman in Washington." There's a line to be drawn between talking with a constituent on the street about Social Security legislation and talking with someone I don't know about help in getting grants for personal or business projects, immigration assistance, or other topics that could directly benefit that person. If people are talking with me in my office, they are a lot less willing to make offers that could be construed as improper. I think a lot of potentially improper overtures are not made thanks to the fact that I try to shroud myself in the dignity of the office that surrounds me. A country club, a bar, or a restaurant wouldn't have the same prohibitive atmosphere. Having staff members around is helpful, too, in lending an aura of officialdom that discourages impropriety.

I've discussed, in my Town Hall meetings, how I believe that many times these rules have kept me out of questionable circumstances, including the FBI's Abscam. A number of us in Congress were offered the opportunity to venture into compromising circumstances. Some apparently allowed themselves to be tempted, and accepted what was offered; some were tempted, but refused. Some of us had rules like the ones I've described that kept us out of compromising situations, making it unnecessary for us even to have to refuse an improper offer.

Every single member of Congress daily comes across the opportunity to engage in something illegal. By the same token, so does every businessman or woman, or every employee. It's just plain honesty that keeps people straight, after all. When you have to stand up and say, "Hey, look at me. I'm an honest man," and thereby imply that you're the exception, it's a poor day.

Mr. Speaker, I hope that day has not arrived.

I might add that I also have another rule. I do not accept honoraria for speaking engagements. Many Members accept such honoraria, and certainly there is nothing wrong with this. Nevertheless, I believe that public speaking is all part of the public job I was elected to do and I do not want to create even the impression that a large honorarium would affect my judgment.

I have set up these rules, Mr. Speaker, to try to insure that I do nothing, even inadvertently, to dishonor this great institution. I further pledge to you, my colleagues, and constituents, that I will continue to do everything within my power to conduct myself in a way that will reflect how seriously I take the responsibilities that have been bestowed upon me.

Mr. Speaker, I would also like to add several items for the RECORD. The following is a statement and letter I received from J. Richard Whittington and a formal statement issued by the FBI following the publication of the Anderson column.

These items make it clear that there was no preexisting list of targeted public officials. The members were contacted by so-called middlemen who did not know they were part of any investigation.

The information follows:

BENTLEY, PATTERSON & WHITTINGTON,
Dallas, Tex., June 12, 1980.

Hon. JIM MATTOX,
c/o A. DON CROWDER,
Dallas, Tex.

DEAR JIM: In light of the recent news stories concerning your alleged involvement in the Abscam matter, I believe it only fair to provide you with my statement detailing my knowledge of the events which led to such alleged involvement.

Enclosed herewith you will find such statement and you have my permission to use it as you deem best.

My father asked me if I had learned anything from this experience and I had to tell him that I was really not sure that there was a lesson to be learned since I would help out any attorney who I believed to be honest and reputable with such a simple matter as Mr. Criden's request. I did tell him however that after all I had been through as a result of my telephone conversation with Don, that I probably would be suspicious if my best friend asked me to help him get in touch with Dr. Criswell of the First Baptist Church.

Very truly yours,

J. RICHARD WHITTINGTON.

Enclosure.

STATEMENT

To my knowledge, Congressman Jim Mattox's alleged involvement in the current Abscam matter was by pure chance. I received a telephone call from Howard Criden, an attorney in Philadelphia, whom I had met two years ago through a legal matter that was finalized last summer. From such dealings with him, I believed Mr. Criden to be an honest and highly respected attorney. Mr. Criden asked me if I knew any Texas senators or congressmen inasmuch as he had a new client who was interested in meeting them. I told Mr. Criden that I did not and he then asked if I knew anyone associated with any members of Congress. I informed Mr. Criden that I casually knew Jim Mattox's law partner as a result of an earlier court case. He then asked me if I would mind calling Mr. Mattox's law partner, A. Don Crowder, for the purpose of introducing Mr. Criden to him. I told him I would be glad to and called Mr. Crowder. I told Mr. Crowder who Mr. Criden was and how I knew him and that Mr. Criden would be calling him.

After the Abscam story broke, I was troubled by the fact that I might have inadvertently involved a United States Congressman in the Abscam matter. Thereafter, in mid-March, while on a business trip to Washington, D.C., I stopped by Mr. Mattox's office. I introduced myself to Mr. Mattox and apologized for any problems that I may have caused him as a result of my telephone call to Mr. Crowder. Mr. Mattox then told me that he wanted me to know the rest of the story so that I would not have to wonder about his actions regarding Mr. Criden. He then told me the same story that appeared in Wednesday's newspapers. I thereafter told Mr. Mattox that I believed him and even though we differed politically, I was proud of him for his honesty. He then accepted my apology and thanked me for my visit.

Afterwards, I was interviewed by the FBI and asked me not to discuss this matter. However, in light of recent news stories, it is only fair that this statement be made.

J. RICHARD WHITTINGTON.

DEPARTMENT OF JUSTICE,
June 13, 1980.

FBI Director William H. Webster and Assistant Attorney General Philip B. Heymann, in response to recently published material regarding the Abscam investigation, today furnished the following statement:

The decision as to when to terminate the undercover phase of the Abscam investigation was based upon professional and not political considerations. No public official was in any way shielded from legitimate inquiry. We jointly made the final decisions based on the evidence that had been developed and our assessment that the time for the overt phase of the investigation had arrived.

Adverse inferences about any public official should not be drawn simply because a name may have appeared in accounts of an investigation or have been mentioned or discussed by a third-party during the investigation.●

AMERICANS, STOP THINKING LIKE COMMUNISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. McDONALD. Mr. Speaker, Julia Brown, who was for many years an undercover member of the Communist Party of the United States for the FBI, addressed the council of the John Birch Society here in Washington on June 9, 1980. She felt it appropriate at that time to restate her testimony before the Senate Judiciary Committee of 1 year ago pertaining to the possible enactment of a Federal paid holiday in honor of the late Martin Luther King. Her testimony, then, as now, is deserving of wider attention. This lady has given a lot to her country and her views are not popular in some circles but they are valid in my view. I commend it to the attention of my colleagues.

Her testimony follows:

MRS. JULIA BROWN—JUNE 9, 1980

Thank you Mr. Welch.

Members of the council, ladies and gentlemen, it is an honor to attend a gathering such as this—even more of an honor to be asked to speak.

I have done a great deal of speaking throughout the United States, and I have come to Washington on many occasions to testify before various government agencies. I believe this is the first time that I have ever appeared before an audience in this city to deliver a speech, instead of to provide testimony.

My most recent visit to Washington occurred just about one year ago when I addressed the Senate Judiciary Committee. The matter under consideration was a bill to declare a national holiday in honor of Martin Luther King. As you know, the measure did not pass last year. Unfortunately, however, it is still being promoted by a large number of Senators and Congressmen. I am strongly opposed to such a proposal. If I may, I would like to repeat the short testimony I gave to the Senate Judiciary Committee last June.

Mr. Chairman, I, Julia Brown, joined the Communist Party in December, 1947, thinking I was joining a legitimate civil rights movement. Finding out that I was a true member of the Communist Party which advocated the overthrow of the U.S. Government, I decided to leave the organization, but I had to bide my time to avoid suspicion. Subsequently I went to the FBI to report what I had heard and seen. In 1951, I was asked by the FBI to go back into the Communist Party as an undercover agent to report on their subversive activities.

While at the Communist Party meetings, which only Party members attended, I frequently heard Martin Luther King discussed, and was told by Frieda Catz that he was in training for a civil rights movement. Frieda Catz was a Party member from Cleveland, Ohio, who had been assigned to my training and education within the Communist Party. On learning this, I reported it to my contact in the FBI. He told me that the Bureau knew that Martin Luther King had high level connections with the Communist Party, and I should report anything else that I heard about his activities. I continued to report until 1960, over ten long years.

In Martin Luther King's early years of agitation, he was the hero of America's communists. The cells that I was associated with in Cleveland were continually being asked to raise money for Martin Luther King's activities and to support his civil rights movement by writing letters to the press and influencing local clergymen, and especially black clergymen, that Martin Luther King was a good person, unselfishly working for the American Negro, and in no way connected with the Communist Party.

There are many great American Negroes such as George Washington Carver and Booker T. Washington who provide the youth of America with an example they can follow. Martin Luther King provides an example of agitation and manipulation for goals dictated by hatred and envy. The memory of Carver and Washington would be dishonored if your committee acts favorably in this matter.

Mr. Chairman, while I was in the Communist Party, as a loyal American Negro, I knew Martin Luther King to be closely connected with the Communist Party. If this measure is passed honoring Martin Luther King, we may as well take down the stars and stripes that fly over this building and replace it with a red flag.

And that was my message to the Senate Judiciary Committee on June 2, 1979.

I would like to believe that what I said would have been enough to stop the glorification of Martin Luther King. But we all know that, even if they never name a holiday after him, there are still too many Americans who hold that man to be like a god. What has happened, of course, is that there are too many of our fellow citizens who actually have been conditioned to think exactly the way Communists want them to think.

And not just about Martin Luther King! Right now, in America, huge numbers of our people have been convinced that they should rely on government to provide all the necessities of life, and even to provide the distinction between right and wrong. Government has become the source of everything for many Americans. Such attitudes never built this great country and made it such a wonderful land of plenty.

On the contrary, the attitude that holds that government is the provider is the one that dominates countries like Soviet Russia, China and Cuba. But Americans who think like the Communist do not appreciate the difference between a free country such as ours, and a slave country such as exists in Red Russia.

When I was working for the FBI as a member of the Communist Party, it became evident to me that the Party's open and announced intention regarding our country was quite different from its quiet and more important intention. The announced intention was to overthrow the United States government by force and violence.

But, while all Communists were told to build for the day when that overthrow could be accomplished, a great deal more of the Party's efforts were directed towards making the United States government larger and more of a dominant influence over the lives of the American people. Actually, Communists were seeking to strengthen the federal government all the time—through socialistic legislation and through increasing government control over the free enterprise system. Communists were seeking to destroy the U.S. government and to build it into an all-powerful force at the same time.

Except for the area of military defense, no American should want a powerful central government. This is what Communists want. Yet, today, millions of Americans not only want a big, federal bureaucracy—they also want to cut back on needed military and defense programs. They have been led to think exactly like the Communists want them to think.

A good example of what is happening to America came to mind with the establishment of the new cabinet-level Department of Education. This is something that Communists have always wanted. And just a few weeks ago, this new Department came into existence.

William Z. Foster called for this Communist goal in a very explicit way in his famous book "Toward Soviet America". In that book, Foster, who was the National Chairman of the Communist Party of the United States actually stated that one of the steps toward the creation of a Communist America was the creation of a National Department of Education. And he wrote his book in 1932! His book was so important to the Communists that it was published simultaneously by two publishing houses, only one of which was openly Communist.

Only a short time after Foster wrote his book, however, American Communists received orders to suppress it. The book turned out to be too explicit. And so, from that time on, American Communists did whatever they could to hide the publication of Foster's plans by destroying Toward Soviet America. Communists were allowed to read it, but no one else was to see it. Through the efforts of some patriotic anti-Communists, however, this book was re-published in 1961. It carried a Foreword by Congressman Francis Walter, who was at that time the Chairman of the House Committee on Un-American Activities.

On page 316 of Toward Soviet America, Communist Party Chairman William Z. Foster wrote as follows: "Among the elementary measures the American Soviet government will adopt to further the cultural revolution are the following; the schools, colleges and universities will be coordinated and grouped under a National Department of Education and its state and local branches." Then he said: "The studies will be revolutionized, being cleansed of religions, patriotic and other features of the bourgeois ideology. The students will be taught internationalism and the general ethics of the new Socialist society."

So, here we have the National Chairman of the Communist Party calling for the establishment of a National Department of Education. And he wanted it to remove religion and patriotism from the schools, and at the same time promote internationalism and Socialist ethics. Socialist ethics means that whatever is good for the state is right; whatever is not good for the state is wrong. That amounts to no real ethics at all.

In 1979, Congress passed the legislation which set up this Communist-desired Education Department. Then, President Carter selected as the nation's first Secretary of Education a Los Angeles Judge named Shirley Hufstedler who is a member of the Board of Trustees of the Aspen Institute for Humanistic Studies. In other words, the lady chosen to run the Department of Education, which Communists have wanted since 1932, is a Humanist.

What do Humanists believe in? Well, the Humanist Manifesto published in 1973 says that Humanists do not believe in God; reject any standard of ethics; and oppose national sovereignty. According to the same document, Humanists are for: world government, sexual freedom, abortion, and an end to parental control over children. Does any of that differ from William Z. Foster or any other Communist's design for America? No, it does not!

Am I saying that Mrs. Hufstedler is a Communist? No, I'm saying that she is a Humanist. And although not all Humanists are Communists, my experience tells me that all Communists are Humanists.

So, not only have Congress and the President followed Communist desires in creating a federal Education Department, but an ideal Communist choice to head it has been chosen by Mr. Carter.

You are not going to read or hear about this shocking information in the public news media. It takes a group like The John Birch Society to focus attention on these matters. And, without information such as this, most of the American people will end up thinking exactly as Communists want them to think—that a federal Department of Education is a good thing, and that the lady judge will be a good administrator.

Years ago, this Society produced a film about the civil rights movement called Anarchy USA. I was pleased to appear in a portion of that film. And I was even more pleased to know that the film did a great deal of good.

Many times, in Anarchy USA, Soviet dictator Lenin was quoted as saying: "Communism must be built with non-Communist hands." That lesson was drummed into all Party members when I was in the Party. The Communist strategy aimed at deceiving people into accepting and working for Communist programs, without ever letting it be known that Communism was the result.

This strategy is still working very well today. If you need proof that it is, I ask you: How long has it been since you took a look at the Communist Manifesto? Or, have you ever looked at it? If you have, you know how many present federal programs have been called for by Karl Marx in his famous document. And you know how many other programs dreamed up by Marx are being proposed.

The heavy progressive income tax and the Federal Reserve System are planks in the Communist Manifesto. Federal takeover of land and land-use controls can be found in it. The Manifesto calls for an end to the rights of inheritance, which has largely been accomplished. Yet, all these Communist programs were sold to Americans as something else.

The Manifesto calls for federal control of communications and transportation—and the appropriate federal agencies are already in place to accomplish those tasks. Government ownership of business is called for, and we are well along this road. Establishment of industrial armies is proposed, and we have VISTA, CETA and other such agencies. Finally, the Communist Manifesto calls for free education for all in government schools. The Communists want no diversity in education. They want a government controlled by them to be everyone's teacher.

Maybe we should extend a great big thank you to all the people who in recent years, have started private schools. They may not know that they are refusing to go along with Karl Marx's program, but they know enough to know that something is terribly wrong in the government schools. I certainly hope that the private school movement grows stronger and stronger in America.

What I am telling you, of course, is that America is being converted into a Communist country. It is not hard to see this if you know what to look for. This conversion is certainly being accomplished by Communists. But they get tremendous help from Democrats and Republicans. The problem is that the American people do not know what the Communist program is. And they also do not know what the American system is supposed to be.

One of the greatest goals of Communism has always been to get people dependent on government. The American system has always meant that government should leave us alone and merely protect our rights.

The Communist way costs tremendous amounts of money. The taxes and controls that result from government taking care of huge numbers of people actually lead to a destruction of jobs and businesses. In turn, this leads to more people becoming dependent on government.

We all read recently about the horrible riot in Miami. It resulted in fifteen deaths, 370 injuries and millions of dollars in property damage. The riot was a chilling reminder of what happened twelve to fifteen years ago—in Watts, Detroit, Newark and so many other places.

One aspect of the Miami riot that has received little attention was its terrible savagery. One of the victims was killed after being dragged from his car and beaten. He died when a car was driven back and forth over his body—several times. A group standing by cheered! Another victim was so badly mutilated that he could not even be identified.

We like to think that, because there have been no large riots in over a decade, there has been a big improvement in race relations. I wish I could say that such was the case.

What has happened is that Communists and those who do their will have accomplished two major goals. First, they have convinced a great many Americans that government is supposed to be the provider. And, second, they have slowed down American industry—which means that there are fewer jobs, fewer opportunities to start a small business, and fewer Americans able to be independent of government.

When America's productivity slows down, who gets hurt first? The unskilled worker who lives in the inner city gets hurt first. And, because of what he has been told, he immediately looks to government to take care of him. What he doesn't know, and what leaders like Martin Luther King never told him is that too much government took away his job in the first place.

The government programs that are supposed to help him actually turn out to make him a slave—to government! Deep down, he knows this. He ends up hating the system, and hating the people who administer it. It is then very easy to make his hatred racial in nature.

As I see reports in the newspaper about steel mills closing, and automobile plants shutting down, and America not growing the way it always has grown, I become very concerned. It has been almost twenty years since I served the FBI in the Communist Party. The Party members that I know were all trained to use this type of economic disorder to further the cause of Communism and to further the destruction of America. And, even though the Communist Party receives little attention today, its people are still active and still able to turn many things to a Communist purpose.

Even worse, self-serving politicians of all races continue to push for the same goals as the Communists. They have no regard for the people they claim to be helping. And they have no regard for the country they are supposed to be serving.

It is more than foolish to make government larger and more powerful. Doing so is the certain road to a Communist America. And I, for one, think that the Carters, the Kennedys and lots more like them don't even care about what they are doing to America—as long as their own nests are feathered.

The task that remains for real Americans is to tell the truth about where this country is headed—and who is taking all of us down the road to a Communist America. What has to be done is to get more Americans to stop thinking like the Communists want them to think.

It has been obvious to me for a long time that this organization is doing the right thing. I have travelled all over the United States to speak for the John Birch Society's speakers bureau. The Society members that I met in cities and towns everywhere were fine people who were not taken in by Communist propaganda.

They helped to slow down the rush toward Soviet-style rule here in America. But there is still plenty left to be done. Only now, there is less time to do it.

So I urge all of you who are part of this wonderful group to keep working hard. You're on the right track. And, to those of you who are not members, or who are not hard-working members, I ask you to get busy. If you don't, the Communists will win with all the help that they're getting from those Democrats and Republicans. They will win because the American people did not know the difference between Americanism and Communism.

Julia Brown does not ever want a situation to develop where she has to say: "I told you so!"

Julia Brown would much rather be able, in a few years to say: "I was part of a great team that helped to save America."

Thank you very much.●

FAIR HOUSING ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues the editorial that appeared in the Los Angeles Times shortly after passage of the fair housing bill. It shows a sensitive and sensible attitude on this important civil rights bill.

The article follows:

[From the Los Angeles Times, June 16, 1980]

SHOWING THAT AMERICA STILL CARES

In 1968 Congress passed the Fair Housing Act amid much drama and debate. Opponents in the Senate staged a six-week filibuster before action was finally taken. In contrast, amendments that would strengthen the enforcement of that act have passed the House after relatively low-key discussion despite heavy opposition from realtors.

The original act bars housing discrimination on the basis of race, color, religion, national origin or sex. If someone charges discrimination, the U.S. Department of Housing and Urban Development can try to settle the dispute by conciliation. If that does not work, the aggrieved individual—not the government—may file suit. The Justice Department can file cases only if it finds discrimination patterns.

The amendments, sponsored by Rep. Don Edwards (D-Calif.), would allow HUD to initiate hearings before an administrative-law judge, who could order a violator to stop discriminatory practices and assess a civil penalty of up to $10,000. That decision could be appealed to a federal district court judge. Realtors complain that these administrative-law judges may not render independent decisions because they are hired and promoted by the department. The bigger problem may be that the hearing procedure may be no quicker than going to court now is, but we agree that some administrative mechanism is needed to help make fair housing a reality.

The House also passed changes in the 12-year-old law that would forbid appraisers and insurance companies from discriminatory judgments. Unfortunately, the companion Senate bill contains no authority for the government to initiate administrative actions, nor does it cover appraisers or property insurers. The bill will go before the Senate Judiciary Committee later this month.

Lack of tension in the halls of Congress over this measure should not be confused with lack of hostility among minorities denied housing because of who they are. Passage of this bill would show that the nation still cares about eliminating discrimination, which is no more right today than it was 12 years ago.●

NEW FOCUS NEEDED ON FOREIGN AID

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. BROWN of California. Mr. Speaker, many in this body have been critical in recent years of American foreign policy. While the criticism has ranged across a broad spectrum, there has been general agreement that we have been doing something wrong. Many of the complaints from my congressional colleagues have focused on the contentions that our foreign policy lacks consistent direction and that despite our generosity we have been losing friends in the international arena.

But part of the blame for that failure lies right here with the Congress and its policies. In simple words, the bills we have passed send out blurred signals. Our recent efforts seem to view foreign policy as the sum of domestic political considerations and our perceived need to emphasize military assistance. But we must ask how such a policy plays to the people of a developing nation whose economy is likely suffering from the escalating price of oil and whose people are likely suffering from inadequate food.

It seems to me, Mr. Speaker, that the missing element in our foreign policy is our seeming inability to see the value of economic assistance. Our foreign policy has not realized that we are more likely to head off social unrest and to win friends by helping to alleviate poverty and hunger than by paying for military weapons to be used to ward off future social upheavals.

Among the trenchant remarks made recently by former Secretary of State Cyrus Vance in his excellent Harvard University commencement address was the observation that this country needs to reevaluate the basic assumptions of its foreign policy. I offer the following two commentaries in the hopes they will help focus thought on the comprehensive foreign policy we must follow in order to reassert our rightful place in world affairs.

The articles follow:

[From the Los Angeles Times, June 12, 1980]

VANCE IS RIGHT—U.S. AID EFFORT IS A DISGRACE

(By Philip Geyelin)

In his farewell address at Harvard the other day, former secretary of state Cyrus R. Vance used uncharacteristically sharp words ("dangerous . . . naive . . . foolish") to deplore the "new nostalgia" for military solutions as a substitute for diplomacy.

Without mentioning names, he took unmistakable issue with the Administration that he served and resigned from on a matter of principle, and took a calculated whack at the Kissingerian "grand design" approach to foreign policy as well. And that's what caught the attention, understandably.

But the fact remains that the issue that he spoke of most passionately—his most "heartfelt concern," according to associates—was not the failure to ratify SALT II, or the overemphasis on arms spending, or the "perverted hubris that overestimates our power." Vance's sharpest words were reserved for the state of the American foreign-aid effort in recent years:

"American aid programs . . . make the most difference in supporting our Third World diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in Congress and elsewhere.

"The result is—I can think of no other word—disgraceful."

That statement attracted no notice. And that, alas, is also understandable. The American public, Congress and the executive branch all seem to be about equally turned off by the idea of providing economic development assistance to the dangerously destitute and politically turbulent nations of the so-called Third World.

Long gone is the spirit of the Marshall Plan or the days of Harry S. Truman's Point Four, or the time when a secretary of defense, Robert S. McNamara, could devote a major address to a global challenge as far removed from the traditional preoccupations of the Pentagon as economic development.

Yet McNamara spoke eloquently nearly 20 years ago of the problems of poverty and hunger and overpopulation as the root cause of the sort of economic deprivation and consequent social unrest that offer easy targets of opportunity for communist expansion and lead us, ultimately, into confrontation with the Soviets.

It was never such a large leap for McNamara from the Defense Department to the presidency of the World Bank. He saw it the way Vance sees it—as the difference between the operating table and preventive medicine.

But Congress, it is all too evident, does not believe in preventive medicine. As Vance also noted bitterly: "We are far in arrears in meeting the pledges we have made to the multilateral development banks, and likely to slip still farther."

All the while, Congress strains to spend more money to build rapid-deployment forces for instant intervention in Third World internal upheavals on behalf of governments that have their own "Vietnam complexes" and no great yearning to be saved from themselves by force of American arms.

This is not to knock military preparedness, or the prudent application of American force when diplomacy and deterrence fail. It is merely to commend Vance's sober balancing of risks and needs—military, economic, diplomatic.

It is undeniably "disgraceful," as Vance noted, that the United States now ranks 13th among the world's 17 largest industrial nations in the percentage of gross national product that it devotes to development assistance, and is about to be knocked down another notch by Japan.

It is no more defensible that American foreign aid, as Vance also pointed out, has been reduced by 25% over the last 20 years, even as the number of needy new nations—and potential trouble spots—has rapidly grown. Economic development now accounts for only about 1.5% of the entire federal budget.

True, there is waste in these efforts. There is also corruption; we are talking about nations newly formed. But there is also more than enough evidence that economic development can be made to work; that it offers diplomatic leverage for the short haul, if your interests are pragmatic and immediate, and that doing nothing to ease the Third World's economic misery is a certain prescription for trouble even if doing something is no guarantee of tranquillity.

What economic development aid won't do, of course, is measurably improve the welfare of mankind within the term of an incumbent member of the House, or of a President, or even of a senator. And because it is preventive medicine, you can't even prove beyond doubt that what you set out to prevent was ever going to happen. It is not rewarding, in that sense.

And yet there is a certain nuttiness in spending greatly increased amounts of money so that sophisticated new weapons now on drawing boards will be ready 10 years from now to deal with crises and conflicts directly related to social and political unrest that relatively inexpensive economic-development programs, launched today, might do much to alleviate.

Foreign aid is a way of hedging bets, I suppose, and only really worth doing if you think that it matters what sort of world awaits your children—and theirs.

[From the Christian Science Monitor, June 12, 1980]

GUNS AND BUTTER, CLARIFIED

(By Joseph C. Harsch)

Cyrus Vance, recent U.S. secretary of state, has done all of us a service by identifying coolly, lucidly, accurately the reasons for what has been bothering a lot of his fellow citizens about their country's place in the world.

If you have not yet done so, I recommend a careful reading of the speech he made at the Harvard graduation ceremonies this spring. The full text was printed in the New York Times June 6.

For example, there is a decline in U.S. ability to influence events around the world. Why? Mr. Vance notes two major reasons:

". . . by 1985 world demand for oil is likely to outstrip global oil production by two million barrels a day."

"Productivity in the United States declined in every quarter of 1979 after the rate of increase in our productivity had steadily slowed over the previous two decades."

In other words, U.S. economic vitality has been slowing down for a long time, indeed for 20 years.

One result of declining productivity has been a trade deficit. In spite of that deficit the U.S. has continued to be the world's heaviest importer and user of oil, thus hastening the day when there will be a shortage of oil for everyone. Continued importation of oil plus the continuing trade deficit has fueled the inflation which in turn further damages the U.S. economy. The weakening of the economy undermines U.S. influence with other countries, particularly with the allies who are all threatened with oil shortage by the high rate of U.S. consumption.

Inflation and declining productivity also make it more expensive to try to keep up with the Soviets in military weapons.

Right now there is a rising demand, particularly on the election year hustings, for regaining U.S. military superiority over the Soviets. Mr. Vance calls this ". . . a pervasive fallacy that America could have the power to order the world just the way we want it to be. It assumes, for example, that we could dominate the Soviet Union—that we could prevent it from being a superpower—if we chose to do so."

That fallacy, he says, has "more to do with nostalgia than with present-day reality." Why?

Because, says Mr. Vance, "it is naive to believe that they [the Soviets]—any more than we—would willingly accept a position of second best in military strength."

In other words, in the years ahead there will be two global superpowers, the U.S. and the U.S.S.R., of roughly equal strength and range of influence. "We must preserve and manage a position of essential equivalence with the Soviet Union." But if the U.S. cannot convert equivalence into superiority then what is to be done?

Mr. Vance's answer is that the U.S. must direct its long-term efforts toward achieving "a strong American economy in a strong international economy." That means heavy emphasis on improving relations with the allies. This in turn depends on curing the inflation, curbing excess use of oil, "a higher rate of capital investment," "a willingness to shift from obsolete industries instead of propping them up with protectionist trade barriers."

This world, says Mr. Vance, is no longer in the "good old days" when the U.S. was the only true global power. "The international diffusion of power" is the new fact which will not go away. The U.S. must learn to come to terms with this new and diffuse world. It will require, he says, more than just keeping up with the Soviets in military power. There must also be a return to diplomacy in order to "limit the costs, and to increase our safety." Mr. Vance wants SALT II ratified because "without this treaty both sides will have more nuclear weapons than with it. In particular the Soviet Union will have thousands of additional warheads."

But above all, according to Mr. Vance, the U.S. must regain its economic health in cooperation with its allies in order to build "a strong American economy in a strong international economy."

Obviously, this speech is the distillation of Mr. Vance's three years as head of the State Department. It explains why he resigned over the unsuccessful resort to military power in Iran. It is written partly because, in his opinion, "it is far too easy, in an election year, to let what may seem smart politics produce bad policies." But it ends on an optimistic note.

"If we are prepared to accept the implications of a world of diffuse power, and work with others where we cannot succeed alone, there need be no insurmountable barriers to our progress."

In my opinion it is the finest, most balanced, and most perceptive discussion of U.S. foreign policy since the great days of Acheson and Dulles.●

AMERICA'S HUMAN CAPITAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. KEMP. Mr. Speaker, capital is not just money. If it were, then government could solve its problems by printing more of it, or we could double—triple—government aid to industry. Capital, in my view, is productive capability and thus exists in the minds, hands, and creativity of the people.

As Warren Brookes incisively argues in a June 10 editorial for the Boston Herald-American, "America's greatest assets"—our human capital—"all come here on boats from over the seas." The Cubans, Indochinese, and Haitians are only the latest in our long history of new arrivals. All have contributed to the economic development of our Nation. The Cubans in particular have contributed mightily to Florida. That State's personal income and jobs have grown twice as fast as the Nation's, and its unemployment declined in precisely those years when the influx of Cuban immigrants was greatest. Today the percentage of Florida residents on welfare is half the national average.

I commend Warren Brookes' generous and thoughtful editorial to your attention.

[From the Boston Herald-American—June 10, 1980]

IMMIGRANTS ARE A NATIONAL ASSET, NOT A LIABILITY

A recent cartoon on this page showed two native American Indians standing astride Plymouth Rock, skeptically eyeing the approaching Mayflower, loaded with Pilgrims.

One of them was saying, "There goes the neighborhood," and the other, "just more unemployment and welfare, and besides, they talk funny."

The cartoon was an ironic reminder that of the 222 million Americans, less than 1 million can trace their original roots to this land. The other 99.6 percent of us are rooted in other lands, and are the offspring of descendants of immigrants.

It was also a commentary, by inversion, on an economic reality: While the Indians, themselves, were brutalized by the arrival of immigrants, this nation's great economy was entirely built by them.

When the Pilgrims landed, there were fewer than 300,000 native American Indians living on 3.5 million square miles—or less than one individual eking out the barest subsistence from 10 square miles.

Today, there are more than 600 Americans on every 10 square miles of our country, living at a level of affluence undreamed of in most of the rest of the world.

Yet, given today's spectre of limited energy resources, and deepening recession, it is not surprising that Americans are now taking a somewhat mixed view of the arrival of 100,000 Cuban refugees on Florida's shores.

On the one hand, we are inspired by their courage, and proud that they have reached out to America, and on the other hand we wonder if they will take our jobs, or consume too many of our tax dollars.

Indeed, part of the stimulus for the Miami riots may well have been fear and resentment over the influx of so many new mouths to feed, and hands to employ.

Americans would do well to remember, however, that this nation's greatest economic growth took place from 1880 to 1930, when we took in 37 million immigrants who, with their offspring, accounted for fully 60 percent of our huge population growth in that period.

It must be apparent that not all of these 37 million were ideal, and that among them were the usual number of "undesirables." Yet, without this huge influx, America could never have achieved its economic supremacy in the world—a supremacy that developed almost entirely during the period of the greatest immigration to our shores.

It is a useful reminder that the wealth of any nation is not in the ground, but in its people, and in the qualities, ideas, energies, hopes and dreams they express.

If you don't think this is still true, consider Japan whose 114 million people are now crowded on less than 144,000 square miles of some of the lowest-resource territory in the world. Yet, with a population density of over 900 per square mile (15 times that of the U.S., and 11 times that of the world as a whole), Japan is not the world's leading export nation, its third richest nation, and its fastest-growing economy in terms of productivity!

When you compare Japan, with its per capita GNP of more than $9,000 a year from a population density of 900 per square mile, with Zaire, one of the richest resource countries of Africa, with its per capita output of less than $120 from a population of only 30, you realize that even in this age of resource scarcity, a nation's wealth has more to do with its people than its territory.

This is, of course, because, our individual wealth has always had more to do, not only with our individual abilities, motivations, capacities and ideas, but with the political and economic opportunity to express them, than it has to do with "ground wealth."

The best modern proof of this lies in the more than 600,000 Cuban Americans who have emigrated to our shores since 1958, most of them settling in Florida.

This huge influx of Cubans has done far more for Florida's economy than against it. While Florida's population has grown three times as fast as the nation, its personal income and jobs have consistently grown twice as fast as the nation, and its unemployment rate actually fell sharply throughout the 1960's, the period of the greatest influx of Cuban immigrants. What's more, while the average Cuban in Cuba still produces less than $700 a year in gross product the average Cuban in Florida produces more than $9,000, thirteen times as much.

What is more important, the percentage of Florida's population on welfare has actually declined since 1970 by 18 percent, even as it has grown by 31 percent in the nation, and over 75 percent in Massachusetts. Today, only 2.7 percent of Florida's vastly inflated population is receiving AFDC welfare, compared with 4.7 percent of the nation and 6.3 percent of Mass.

Today, less than 5 percent of the Cuban-American population in Florida is on welfare, and less than 7 percent are unemployed—compared with 24 percent of urban blacks on welfare, and 16 percent unemployment.

It is abundantly clear that the infusion of nearly half a million Cubans into the Florida economy has been one of the primary reasons why it has now outstripped, in total Gross State Product, many northern urban states like Massachusetts, which it used to trail before the Cuban migrations began.

In other words, the Cubans have "brought their wealth with them," in their energies, ambitions, hopes and qualities of thought, with which they have created their own economic progress, despite the fact that they came here without the English language, and with only the clothes on their backs.

It is one more demonstration that, within a context of political and economic freedom, the wealth of a population is limited only by its individual human capacities, and not by its natural environment.

Today, less than 30 percent of even our reduced annual population growth is coming from immigration (compared with 40-50 percent from 1900-1930). The Florida experience suggests that the nation as a whole may well be suffering more from restricted immigration, than benefitting from it. It is no accident that three of the world's richest nations—Canada, Australia, and the U.S.—were all built by immigrants.

The present boom in the Massachusetts economy, coming as it does entirely from high technology and in the face of severe state limitations in energy and the environment, is a reminder that the most important component of wealth is still ideas, and the individual human capacity to express and develop them. Massachusetts is being richly blessed by an "immigration" of engineers, and their products.

One cannot help seeing in the faces of those eager Cubans, who gave up everything and risked their lives to find freedom in America, exactly the kind of social and economic stimulus we now so urgently need—a stimulus that does not depend on the turgid programs of federal buureacracies, but on the spirit the hearts and the minds of individuals.

It is also a reminder that Amercia's greatest assets, its people, have, in our deepest roots, all come here on boats from over the seas.●

CONGRESSIONAL SALUTE TO HON. JAMES SALVATO OF NEW JERSEY, OUTSTANDING CITIZEN, SPORTSMAN, AND CONSERVATIONIST

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. ROE. Mr. Speaker, on Friday, June 20, the residents of my congressional district and State of New Jersey will join together in testimony to an outstanding sportsman, distinguished conservationist, leading citizen, and good friend, the Honorable James Salvato, whose birthday celebration commemorating the 80th year of his birth will provide an opportunity for his relatives and many, many friends to express tribute to his lifetime of good works. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to him, his good wife, Ina, daughter Joan, and sons Jim, Jr., and Lou on this most joyous occasion in testimony to the quality of his leadership and professional expertise in his field of endeavor, the warmth of his friendship, and his standards of excellence in our American way of life.

Mr. Speaker, we are proud to boast that Jim Salvato was born and raised in the city of Paterson, N.J. Immediately upon his graduation from high school he entered the business world as an accountant/bookkeeper. In 1926 he joined in a partnership and founded the Paterson Rod & Gun Store, Inc., a most prestigious establishment of long standing for the sportsmen of New Jersey.

As an active outdoorsman, he joined the Passaic County Fish & Game Protective Association in 1927 and was one of the founders of the Izaak Walton League of Paterson. He was also instrumental in helping commence the Passaic County Deputy Fish & Game Warden Association.

Jim Salvato is a lifetime member of the Consolidated Sportsmen of New Jersey and the Wortendyke Field & Stream Association.

As an active participant in these most esteemed organizations, Jimmy was in the vanguard of the humanitarian efforts of caring for and feeding the wildlife. He would accompany his fellow members on snow-laden woodland trails during the dead of winter with stale bread from local bakeries, produce from the marketplace, corn and alfalfa from the State division of fish and game, and when the trails were impassable food would be dropped by air to the starving animals.

Mr. Speaker, in addition to his conservation endeavors, Jim Salvato is a highly respected hunter and fisherman. During the 1930's Jim embarked on his career as a writer. He has become a most adroit and highly acclaimed author on hunting, fishing, conservation, and environmental concerns and his colunm entitled "The Great Outdoors" is, and will long be remembered as, one of the most popular among the outdoor enthusiasts and sportsmen of our State and Nation. He served as president of the New York Metropolitan Outdoor Writers Association and continued for many years as treasurer of that organization. For many years he also wrote a column on dog care, field trials, and show competitions.

Mr. Speaker, Jim Salvato helped organize and establish the Paterson Casting Club and competed in many casting events, becoming eastern U.S. champion on several occasions.

In 1948, the sportsmen of the North Jersey district nominated Jim for appointment by the Governor to the New Jersey Fish and Game Council where he served for 8 years. While on this commission, he was in charge of the trout stocking program and field trial chairman. During his tenure he earned the title "Mr. Rabbit" for his efforts in having the State adopt a program to stock rabbits for the sportsman.

His achievements as a hunter are renowned. In fishing he has recorded, personally, over 3,000 smallmouth bass caught on a bass bug at Lake Cananoque, Canada, and is proud of the fact that he never destroyed one of these bass.

Mr. Speaker, there is so much that could be said of the friendship and good will that he has so willingly and abundantly given over these many years that mean so much to the lives of all of us who have had the good fortune to know him.

As we join together in a birthday celebration to a good friend and distinguished citizen, we extend the appreciation of the Congress to James Salvato for his outstanding contribution to the quality of life and way of life here in America as an outdoorsman, sportsman, conservationist, environmentalist, and writer who has truly enriched our community, State, and Nation.●

THE SECRET CLUB OF PARIS

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. CAVANAUGH. Mr. Speaker, the June 1980 issue of Institutional Investor contains an article, "Inside the Paris Club" by Vivian Lewis, which offers an unique and significant public view of the ad hoc group of nations which have for the past 25 years managed the economic and, therefore, social destinies of the debtor nations of the world. As the decisions made by the Paris Club increasingly affect not only the international credit worthiness and resulting developmental capacity, economic, social, and political stability of the less developed countries of the world but also significantly influences U.S. global, political, and economic policies and goals, it is important that Members of Congress and the American people acquire an understanding of the operations and influences of the Paris Club. Since 1973 the economic and political faith of our Nation has become inextricably entwined with the economic and political fate of the developing debtor nations of the world. For the first time in history, collapse and chaos among the poor nations of the world directly threatens the stability of the rich. The dependence of the world economic order on the continued recycling of the oil petroleum countries surplus dollars through the private banking system means that a default by a major debtor nation such as Turkey, Brazil, or Indonesia or the collapse of groups of smaller borrowers such as Zaire, Peru, or Sudan could severely threaten the soundness of the major banks of this country and the safety of the entire banking system. This article is essential reading for those who wish to understand the dangers and weaknesses of an international economic system which operates without goals or rules and yet determines the destiny of nations and their people:

[From the Institutional Investor, June 1980]

INSIDE THE PARIS CLUB

(By Vivian Lewis)

Terror and futility haunt the hallways of the old Hotel Majestic on Paris' Avenue Kléber. It was formerly the headquarters of the Gestapo, and subsequently the scene of abortive attempts at international cooperation like the 1977 North-South Conference that collected richer and poorer countries for a round of frustrating talks. And many people the world over are familiar with the building from its appearance on television as the site of the Vietnam peace negotiations—four-sided table and all.

These days, rechristened the Center for International Meetings, the Majestic building is the locale for the Paris Club, the informal, ad hoc institution that brings together country debtors unable to pay up and their Western country creditors. And today, with LDC indebtedness growing at an alarming pace, the club has never been busier—nor more under fire from critics, who charge that its mechanisms are now inadequate to deal with the huge debt problems of developing nations.

If little is known about the Paris Club—and how it goes about its business of rescheduling country-to-country loans—it is not because the organization is a newcomer to the scene. It dates back, in fact, to 1956, when Argentina, a year after the demise of the Peron regime, needed to consolidate some $350 million debts incurred under bilateral trade agreements with European countries. Argentina wanted to deal with as many of its creditors as possible at once, rather than go through the time-consuming process of negotiating with each separately. The IMF had no interest in putting together such a group; the fund, after all, has always said it is not a creditor but a buyer and seller of foreign currency. The World Bank would have been a more likely candidate to sponsor a meeting. But the bank, which considers itself the world's preferred creditor that must be paid all debts precisely when due, was not about to chair a conference to talk about debt renegotiations.

What the World Bank has done it considers quite different. Since 1958, in response to a call from India, it has sponsored a host of gatherings to study the needs of third-world countries and rally the support of industrialized nations for development programs. And if necessary, the bank would later convene and "aid consortium" to discuss how the debt portion of the aid to a struggling nation might be restructured or even forgiven—a format that has also been used by the OECD, officials of creditor countries and even once, in the case of Ghana, by the IMF. But the context of these meetings is not debt relief per se; in 1976, in fact, the U.S. announced flatly that debt relief was no substitute for aid and that henceforth it would discuss debt restructuring only through the medium of creditor clubs. As a result, consortia have been little used in recent years.

Argentina, moreover, did not want the glare of publicity that would result from World Bank involvement. It wanted, instead, a quiet, informal meeting where finance ministers could sit down in relative obscurity and talk things over. The result was an invitation from Argentina's public creditors to a face-to-face negotiation in Paris. Thus, the pattern was set for future club responses to debt repayment problems. The debtor country would ask for a hearing and a meeting would be called—normally for about two days—to work out terms to reschedule its debt payments.

Why Paris, with the French as official hosts? The French claim it was because they are known to be more open to the Third World, but one wonders how true that could have been in 1956, when France—although out of Indochina for two years—was still very much embroiled in Algeria. More to the point, a South American debtor like Argentina didn't want to turn to the U.S. for help—the U.S. didn't even participate in the first Paris meeting—and Britain was considered too closely linked to the U.S. France has always been more independent, and Paris was second to London as a European financial center; the IMF and World Bank both have their European headquarters there. Besides, Paris itself is always a pleasant lure. A recent Paris Club luncheon to celebrate the completion of Sierra Leone talks went on until four in the afternoon. "Sometimes if creditors take too long agreeing to terms, we tell them they won't be allowed for dinner unless they sign," jokes one of the club bureaucrats. Others note that even the poorest countries manage to put up their Paris Club delegation at the best hotels.

France had its own motives for welcoming a sponsor position. There would be advantages in being at the center of things; knowing, for example, what terms Western countries were asking borrowers could prove useful in negotiating France's own arrangements, particularly government-insured credits for private loans. Also, debtor countries initiate there requests for a club convocation with the French Treasury; if there are political reasons for being friendly toward that country, the ministry can speed up the process; if, on the other hand, the politics are unfriendly, it can stall. And, in point of fact, creditors and debtors alike, from time to time, have accused France of politically motivated favoritism.

Be that as it may, the Paris Club meetings are chaired by a representative of the French Treasury, currently Michel Camdessus, who heads a section that also deals with France's other international finance commitments. According to one club staff officer, "Judicially we do not exist. The French taxpayer pays us, however." Backing Camdessus at the Finance Ministry is a staff of two executives, Isabelle Cheyvialle and Gérard Pfauwadel. This lean structure had been adopted to underscore the fiction that the Paris Club debt rescheduling exercises are a rare and exceptional phenomenon.

In reality, they aren't. Argentina revisited the Paris site three times after its initial foray in 1956, and other countries that have renegotiated their debt payments with the club include Brazil, Cambodia and Sierra Leone, twice; Pakistan, Peru and Zaire, three times; Chile, Ghana and Indonesia, four times; Sudan, Togo and Turkey, five times; and India, a whopping nine times, most recently last year. To further confuse matters, other countries have sometimes sponsored the meetings in different cities, such as London, The Hague and Brussels. But the label "Paris Club" has been slapped on all occasions when creditor governments meet to discuss debt relief for developing countries. Last year the club met five times, and this year it gathered twice during the first three months. "Ours is a booming business, thanks to the growing volume of LDC debt," says one private banker close to the club.

EMPHASIS ON SECRECY

In spite of the fact that the Paris Club has met regularly for almost 25 years now, it has been singularly successful in keeping its proceedings quiet. Hardly anything has appeared in print about the club, and none of the government officials, private bankers, diplomats and academics from nearly a dozen nations interviewed by *Institutional Investor* for this article would talk on the record. (The one exception was Peruvian Finance Minister Javier Silva Ruete: "I too preferred secrecy when we were in a bad situation," he says. "But now that we are doing well, I want everyone to know.")

This emphasis on secrecy has helped the club maintain the pretense that mechanisms for debt relief are almost nonexistent, that they involve extraordinary favors or dire political consequences to the debtors, that the system will somehow collapse if creditors are not paid on the nail to the very last penny. And that impression in turn discourages debtor countries from using the club's facilities too liberally.

Nevertheless, this magazine's off-the-record sources drew a fascinating picture of how the club's increasingly important role has embroiled it in controversy and how in its secretive, low-key manner it actually functions. When a debtor nation calls for a meeting, the French secretariat invites all Western creditor countries to attend, and although not all necessarily show up, the terms of the agreement are binding on all. There is no legal basis for this arrangement; it is simply a matter of convenience. At a March debt rescheduling for Turkey, for example, treasury representatives from nineteen countries appeared—a tribute to Turkey's political importance.

Observers from the IMF and the World Bank are normally present—and kept informed of between meeting developments by telexes from Camdessus' office—and since the middle of last year, representatives of the United Nations Conference on Trade and Development have been included as well. And while the Paris Club meets solely to discuss debt relief, the IMF and World Bank provide information about the development and balance-of-payments status of the debtor country. In fact, creditor nations often request the debtor country to seek standby credits from the IMF, which in other cases is asked to play a monitoring role. As Constantine Michalopoulos, deputy administrator for economic affairs at the Agency for International Development in Washington, has written, "The creditors thus use the IMF conditionality as a means of assuring the restoration of debt-servicing capacity for the debtors."

While it remains a fundamental condition of the international finance system that debts are not normally renegotiated but simply paid, the terms of club deals have tended to soften in recent years. They now amount to something like five years' grace (during which interest is payable at varying below-market rates) and ten years during which debt is rescheduled. Usually a country's total loan portfolio is not discussed; only the debt falling due in a given year is rescheduled at one convocation of the club, and, in principle, debt rescheduled cannot be rescheduled again. As we have seen, however, countries do make repeat visits to ask for further help.

NEW FIRE

But today, the club is under increasing fire from critics, who insist that its 25-year-old mechanisms are no longer adequate to deal with the growing volume of LDC debt. Officials of UNCTAD, for example, criticize the club's traditional emphasis on short-term solutions, which, they say, only because of Western prejudice are kept independent from the aid measures that developing countries need to ensure their economic recovery. They point out that countries win a round of concessions only to return seeking more, wasting time and goodwill on both sides. What is needed instead, they argue, is long-term remedial planning to ensure continued development. An UNCTAD official close to the Sierra Leone talks in February points out, for example, that the main reason the negotiations went so smoothly is that the club had been through the same exercise less than three years earlier. But an official of the French Treasury sees it differently. In his view, the club has assumed an ongoing educational role: "We have a civilizing mission to help debtor countries recognize the nature of their problems and the kind of international help they require."

But UNCTAD's credibility as a critic has been considerably eroded by its recent participation in the debt rescheduling business; it now seems to be subscribing to the system it has been attacking. And UNCTAD's clamor to have debt relief more closely linked to aid is criticized by some people in the development lobby quite as severely as by Paris Club creditor participants. "The real world does not correspond to UNCTAD rhetoric," sniffs one of the latter. "There is no conflict between debtors and creditors as soon as there is a real danger to a country's ability to repay." At the same time, an academic spokesman for third-world interests remarks that "UNCTAD, by pressing for a medium-term, aid-linked alternative to the club process, is opening the way to setting up institutions like the International Monetary Fund as policemen of all lending and refinancing, from government or from private banks. I, for one, think it would be a disaster to remove the Paris Club crack between which debtors now fall."

SPECIAL DEALS

But UNCTAD also charges that the club does not treat all countries equally, and today has assumed the role of monitor to make sure all debtor nations get the same terms. But this will not be easy. Special deals have characterized club exercises from the start. During the late 1960s, the club managed to win a certain reputation for evenhandedness by its handling of negotiations over Chile (with first the Frey and then the Allende and the Pinochet governments). But at the same time, invidious comparisons were being regularly drawn between the alleged easy terms that had been granted to Indonesia and the toughness shown toward Ghana after each country struggled to pick up the pieces following the fall of a dictator.

Critics charged that the Indonesians had won softer terms from the Paris Club by bringing in as friend of the court Hermann Abs, the chairman of the board of Deutsche Bank and a distinguished international economist, who himself had been principal negotiator for the German Federal Republic in the 1953 London Conference on German External Debt. The Indonesians got a precedent-breaking, no-interest grace period for rescheduling what they owed—which did not, however, prevent their having to return a total of four times to the negotiating table, to be saved, finally, by the rise in oil prices.

The situation of Ghana (which resorted to a Paris Club-type mechanism on official debt run, on that occasion, out of London) is cited as a contrast. World Bank expert Albert Cizaukas recently wrote that the settlements, "while more innovative and less commercial than earlier Paris Club reschedulings, provided only partial and short-term debt relief largely at market rates of interest. Ghana could not understand or accept the contrast in treatment accorded to it and to Indonesia by virtually the same creditors at virtually the same time." French Treasury officials, in fact, blame the bitterness over the Ghana renegotiations on the change of venue from Paris to London (reflecting the disproportionate volume of British credits and loans). "The whole atmosphere was poisoned by colonial memories," says one official. "We have greater experience in defusing the issue." And, in fact, after the January 1972 coup, the new army regime repudiated some medium-term debts and unilaterally rescheduled the remainder.

But Ghana's problem with the club mechanism may not have been only the terms at which debt was rescheduled. According to one recent study, in fact, Ghana's terms involved "a larger grant element—61 per cent—than any country had hitherto received from a debt settlement." More difficult was the creditors' insistence that all debt, including that tainted by bribery or "project mongery," be treated equally.

It may well be that the secret of why Indonesia came out so well has nothing to do with having had Hermann Abs stick up for it; the real key to its preferred treatment may be the fact that it owed sums to creditors wholly outside the Western private and public system, namely the Soviet Union. For political reasons, the Soviets offer their debtors extremely soft terms when things go wrong, and Indonesian President Sukarno's successors were able to defer repayment (at zero interest) on part of their Western debt because they also owed socialist countries (which refused to join club talks).

The East Bloc continues to boycott Paris Club exercises (although, significantly, some developing countries from the oil bloc, like Abu Dhabi and the Emirates, have participated). So, the Russian connection can be turned to advantage even today. Peru's canny Finance Minister, Javier Silva Ruete, during his country's most recent club negotiation in 1978, was able to cite the generous concessions offered by the U.S.S.R. and the Andean bloc a mere week earlier in order to force extremely advantageous terms from the Western developed country governments.

Early this year, Silva Ruete informed the club that its services would not be required in rescheduling debt that would fall due in 1980. Then, he tried to force the private banks to accept accelerated payment of the debt that they had rescheduled in the wake of the 1978 Paris Club talks. After all, why pay for a moratorium you do not need? Questioned about his country's success, Silva Ruete was sufficiently in tune with the UNCTAD line to insist that the Paris Club had been no more than "fair" with his negotiating team. He attributed the success of his country's recovery program to a combination of "sound and realistic policies" and "a good measure of luck. With Peruvian oil production rising and the prices of traditional exports of silver, copper and gold going up, Peru does not need any more refinancing," he says. "From 1980, we can pay our debts."

ANOTHER FICTION

Another sign that some debt-burdened countries are more equal than others is provided by Turkey's saga, which officially transpired outside the context of the Paris Club, thanks to yet another fiction. The most recent Turkish rescheduling exercise, in March, although held at the OECD with a triad of private bank advisers from Lazard Frères, Warburgs and Lehman Brothers, nonetheless involved a Paris Club cast of characters, including as chairman of the meeting the French Treasury's Camdessus. Turkey got to hold its rescheduling exercises at the Château de la Muette rather than the Majestic because it is a member of NATO and the OECD.

Although earlier Turkish refinancing programs included uninsured private credits at more generous terms that the Paris Club was awarding at that time, the more liberal treatment has nonetheless been carried out recently by the same representatives who attend the more stringent Paris Club.

Turkey has managed, thanks perhaps to its strategic importance, to win a whole host of concessions no one else has ever received. They range from the re-rescheduling of debt already rescheduled once to officially recognized non-uniform terms for creditors, from inclusion of balance-of-payments loans in the club program to the association of debt relief with aid (Turkey had already met with the OECD and IMF before the March meeting). For Turkey (and no other country), very short-term debt not normally included in multilateral relief operations has been thrown in—including such creations as convertible Turkish lira deposits, third-party reimbursable credits and short-term debt of less than one year. (In addition to its OECD refinancing exercise in 1979, Turkey was also advised by the triad of banks led by Lazard over its negotiations with 24 commercial banks.)

Another cloud on the club's horizon is the growing conflict between private and public lenders. Officially, the club speaks only for government creditors, and no private banks are present, even as observers. Still, in the club's early days, when discussion centered on trade financing, there seemed to be some direct coordination between the two groups. Back then it was common for the club terms to be made public, along with mention of the conditions under which private banks from some or all of the creditor nations would take part in the consolidation scheme.

But after 1961, the club was no longer able to broadcast information about what private banks were doing. As the volume of bank lending to governments mushroomed, the coordination became increasingly complicated and, more importantly, governments involved in club negotiations were terrified of any public suggestions that taxpayers' money was being used to bail out the private banks. "Thanks to a kind of hide-and-seek game," says a close observer of the club's operations, "the club normally manages to insure that debtor countries are not borrowing from Peter to pay Paul—or using official debt relief to repay private creditors."

Today, a debtor country meets with private creditors beforehand, to get some idea of the terms it can bargain for—a matter that is then considered during the club negotiations. The final club deal has a standard clause requiring that the private sector provide similar and parallel concessions. Then, about one or two weeks later, a still more informal club of private bankers—called the New York Club or the London Club, depending on location—meets to work out its debt relief. "Banks can do things we cannot do, and we can do things they cannot do," says a club expert. "But normally, our interest rates are lower than the LIBOR-plus banks charge."

GETTING TOUGHER

But today, club critics charge that this ad hoc system no longer works so neatly. Zaire was a prominent case in point. In June 1976, the Paris Club rescheduled the payment of some billion dollars Zaire owed government creditors, including the granting of a three-year moratorium. Zaire expected the private banks to fall in line with similarly liberal terms. But some 100 private creditors, led by Citibank (Institutional Investor, March 1977), firmly insisted that they should not, like governments, rewrite the terms of existing loans, and the debt restructing was only a fallback position. Instead, they demanded that Zaire retain its creditworthiness by serving its outstanding debt, and then use IMF help and new credit arrangements from the private sector to get back on its feet. Paris Club members were obviously distressed at this stubbornness by the private sector, and again raised charges that the banks were being bailed out. But the private arrangements stuck, and the Paris Club itself now usually insists on tough work-out conditions, with IMF surveillance. Zaire is presently against discussing refinancing arrangements with private creditors following the Paris Club rescheduling arranged last year.

Another current problem is Sudan, a country entangled in a frustrating morass of debt-management difficulties. The private banks refuse to discuss their arrangement with Sudan until the nation settles with its public creditors, with whom it has been talking individually. But a Paris Club intervention may be the next step. "This conflict between public and private creditors is the greatest area of potential trouble," admits a club participant. "In a crisis, people often forget the convergence of their individual interests—which is that the debtor country recover its ability to repay its debts." The potential fight for funds between creditors, in fact, is a far more potent threat to the club system than UNCTAD's agitation for greater liberality from creditors—or for that matter the persistent exaggerated concern about some sort of liquidity crisis among the banks.

After the Sudanese problem is wrapped up—if this happens at all—the club, in the view of private bankers, must again tackle Zaire. "It will have to happen in a couple of months," one banker guesses. Furthermore, Senegal may also be in need of club help soon. "1980 will be a busy year," this banker adds. Indeed, the next few years are likely to be very busy. For one thing, much of the huge debt incurred as a result of the 1973 oil crisis is now coming due. And while much of it is held by private banks, they are already talking about sizable cutbacks in LDC lending. More importantly, worldwide inflation has exacerbated debt problems in two ways—by increasing the internal difficulties of the third-world countries and making it harder for the industrialized world to help them with their development programs.

Irving Friedman, who spent 28 years with the IMF and World Bank, and who recently left Citibank to join First Boston as senior international adviser, believes this situation may well affect the Paris Club mechanism. As developed countries, weighed down by their own economic problems, become increasingly reluctant to sustain foreign aid programs, they could well turn to a restructuring of old debt as a surrogate measure. "A more generous attitude toward outstanding debt may be a more acceptable form of development assistance than finding new money on generous terms," says Friedman.

If such is the case, there may be a move away from the club mechanism, which separates debt from assistance considerations, in favor of some sort of aid consortia approach, probably under World Bank auspices. LDC countries would certainly prefer this alternative, where long-term development goals are discussed in an atmosphere of collaboration rather than confrontation. But as we have seen, the U.S. has been opposed to viewing debt relief as a form of aid, and presumably, a change in U.S. policy would be necessary before the Paris Club could be eclipsed.

Meanwhile, with all of its faults—the short-term nature of its approach, its tendency to treat some debtors better than others and its difficulties in meshing its decisions with those of the private sector—the Paris Club has played, and can continue to play, a valuable role in giving developing countries a way to service their debt without undermining their growth objectives or upsetting the international monetary system.●

LOS ANGELES LITHUANIAN COMMUNITY PLANS WEEKEND DEMONSTRATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. DORNAN. Mr. Speaker, the youth of the Los Angeles Lithuanian community, with the coordinated efforts by the San Francisco Lithuanian and Latvian communities, are organizing weekend demonstrations at the Soviet mission in San Francisco on the 20th and 21st of June. The goals of the demonstrations are: To insure the immediate withdrawal of all Soviet troops and personnel from Afghanistan, Baltic States, and all other Soviet-occupied areas; to request an international investigation of war crimes and genocide committed by the Soviets against Afghanistan and Lithuanians; and to request economic and military aid by the United States to Afghanistan.

The demonstration will indicate to the American public that what has recently occurred in Afghanistan runs parallel to the Soviet's illegal seizure of the Baltic States in 1940 and 1944. Although in 1920 the Soviets signed a treaty recognizing the sovereignty and independence of the state of Lithuania, in 1940 the U.S.S.R. positioned troops in Lithuania under the guise of providing military protection against Germany. The troops never left despite the Soviet promise to recognize the Lithuanian Government's sovereignty. To add to the irony of the situation, 9 months after the Soviet invasion of the Baltic States, Stalin signed the Atlantic Charter with the United States and Great Britain. This agreement allegedly respects the right of all nations to choose for themselves the form of government under which they want to live. It was stated in the charter that the Soviets would "strive to reestablish the sovereign rights and self-rule of all nations which were deprived of these by means of force." The Baltic States and several newly occupied nations still remain under Soviet control.

The Lithuanian Americans are demonstrating to remind all Americans of the men and nations who have been deprived of their sovereignty by Soviet force. Lithuania, its Baltic neighbors Latvia and Estonia, Hungary, and Poland, to name a few, have all suffered Afghanistan's recent fate. Those nations now living under Soviet tyranny must be remembered and we must continue to work for their freedom.●

TERRORISM IN EL SALVADOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. McDONALD. Mr. Speaker, while Cuban-backed Marxist revolutionary forces smuggle increasing numbers of weapons into El Salvador and as foreign Marxist-Leninist mercenaries, so-called international brigades, mass along the Nicaraguan border for an invasion, support groups for the Marxist organizations who have been waging an unrelenting terrorist campaign against the Salvadorean people are working here in the United States to insure that our country takes no action to oppose the Communist conquest of Central America.

The pressure campaign involves considerable lobbying by the Coalition for a New Foreign and Military Policy (CNFMP) which takes a radical, extreme isolationist position against U.S. action to interfere with Soviet-backed revolutionary terrorist organizations. Leaders of the CNFMP have ties to the U.S.S.R.'s principal international propaganda front, the World Peace Council (WPC), and the coalition staff have coordinated additional lobbying by CNFMP affiliate organizations that range from Americans for Democratic Action (ADA) through a variety of terrorist support groups to the bureaucratic structures of several religious denominations to join the pressure campaign against El Salvador.

In addition to the lobbying, Salvadorean Marxists living in New York, San Francisco, Los Angeles, and other cities, joined by United States and Central American supporters, have been holding street demonstrations to attract publicity for their demands. The New York support group for the Salvadorean Marxists, the Committee in Support of the Salvadorean People's Struggle-Farabundo Marti (CALPS-FM), in which members of the Salvadorean Communist Party are playing a leading role, has called for a demonstration outside the United Nations in New York for June 28, as part of the pressure campaign.

An emergency demonstration in New York on March 25, 1980, was called by the Coordinating Committee of Solidarity with El Salvador (CCSS). This is composed of the U.S. arms of the three principal Salvadorean revolutionary terrorist groups:

Comite de Apoyo a la Lucha Popular Salvadorena—Farabundo Marti (CALPS-FM)—Committee in Support of the Salvadorean People's Struggle—Farabundo Marti—operating from P.O. Box 748, Old Chelsea Station, New York, N.Y. 10013. It should be noted that Farabundo Marti was a founder of the Communist Party of Central America in 1925, which by 1930 had been broken into national Communist parties in Nicaragua, El Salvador, Costa Rica, and other Central American nations. Marti served as a top aide to rebel Gen. Augusto Sandino in Nicaragua in the early 1930's, and was killed in a Communist uprising in El Salvador.

Frente Solidario Salvadoreno, P.O. Box 208, Bronx, N.Y. 10468.

Comite de Solidaridad Anastasio Aquino, P.O. Box 180, Bronx, N.Y. 10468.

These were joined in the CCAS rally by members of the Moscow-line Communist Party, U.S.A. (CPUSA); the Trotskyite-Communist Socialist Workers Party (SWP) which has reaffirmed its full support for Fidel Castro's regime in Cuba; the militant, violence-oriented Workers World Party which uses the North Korean and Cuban dictatorships as its international leaders; the Coalition for a Free Nicaragua (CFN), a FSLN support group; Non-Intervention in Chile (NICH), a support group for the terrorist Movement of the Revolutionary Left (MIR) of Chile; and the intelligence-gathering arm of U.S. Castroites, the North American Congress on Latin America (NACLA).

In San Francisco, under the banners of the three terrorist-operated mass-front groups—the Popular Revolutionary Bloc (BPR), the United Popular Action Front (FAPU) and the 28th of February Popular Leagues (LP-28)—supporters of the terrorist movements have held a series of rallies that commenced with the March 15, 1980, observances of the "International Day of Solidarity With the People of El Salvador," marked by demonstrations in several Latin American and European countries by the affiliates of the U.S.S.R.'s World Peace Council (WPC), solidarity groups and Havana's Organization of Solidarity With the Peoples of Africa, Asia, and Latin America (OSPAAL), the Cuban tricontinental apparatus for the coordination and export of revolutionary subversion and terrorism.

Participating in the San Francisco demonstrations have been the following groups:

U.S. Friends of the BPR (Popular Revolutionary Bloc), P.O. Box 4084, San Francisco, Calif. 94140.

Casa El Salvador—Farabundo Marti, 3557 Twentieth Street, San Francisco, Calif. 94110, the headquarters for supporters of the terrorist Popular Liberation Forces-Farabundo Marti (FPL).

Comite de Salvadorenos Progresistas (CSP)—Committee of Salvadorean Progressives—P.O. Box 12355, San Francisco, Calif. 94112, which reportedly is under the control of the Communist Party of El Salvador (PCES).

Bloque de Solidaridad, P.O. Box 31424, San Francisco, Calif. 94131. The Solidarity Bloc's literature and spokesmen have identified themselves in San Francisco rallies as members and representatives of the Popular Revolutionary Bloc (BPR), the mass front of the terrorist FPL-Farabundo Marti. The Solidarity Bloc in San Francisco is really a local U.S. office of the BPR.

ADDITIONAL SALVADOREAN TERRORIST SUPPORT GROUPS IN THE UNITED STATES

Support organizations for the Salvadorean Marxist revolutionary organizations are operating in at least five additional cities. These are to a large extent composed of Salvadorean nationals, with admixtures of members who hold Nicaraguan, Costa Rican, United States, and other citizenship. They include:

Bloque de Salvadorenos Unidos en Washington, P.O. Box 884, Adelphi, Md. 20783, which receives support from the local Nicaraguan Sandinista backers.

Comite Centro Americano, P.O. Box 8971, Boston, Mass. 02114.

Salvadorenos Unidos, P.O. Box 162, Oglesby, Ill. 61348.

Comite Francisco Morazan, P.O. Box 31047, Cincinnati, Ohio 45231.

Front in Solidarity with the Salvadorean People (FSPS), P.O. Box 15213, Los Angeles, Calif. 90015; and MASPS, P.O. Box 38735, Los Angeles, Calif. 90038.

Solidarity groups for the Salvadorean revolutionaries are operating in most Latin American capitals including Caracas; San Jose, Costa Rica; Mexico City; and of course Cuba, Panama, and Nicaragua. A Canadian support group, the El Salvador Committee, operates at 41 George Street, South, Toronto, P.O., Canada.

During April, while the Cuban Government worked to impose unity on the Salvadorean terrorist factions as it had on the factions of the Sandinista National Liberation Front (FSLN) of Nicaragua last year, the east coast solidarity groups met in Yonkers, N.Y., to discuss coordination of a nationwide campaign to prevent the United States from taking any action to block the Communist subversion, and planned invasion from Nicaragua.

On April 4, the National Council of Churches issued a statement demanding that America end all aid and support for the Salvadorean Government. On the following day, a Comparative Law Seminar in Havana organized by the regional affiliates of the Soviet-controlled International Association of Democratic Jurists (IADL) issued a resolution calling for identical U.S. abandonment of the Salvadorean people. Later the same day, April 5, 1980, Havana's International Service reported that the ambassador of the Marxist-Leninist Puerto Rican Socialist Party (PSP) in Havana, PSP Central Committee member Felipe Chirino, revealed the PSP was organizing "a committee of support for the revolutionary struggle in El Salvador whose only goal will be an absolute people's victory over the forces of imperialism and the national oligarchy."

In mid-May, one of the Marxist-Leninist terrorist organizations in El Salvador, the Armed Forces of National Resistance (FARN), called for a general insurrection. FARN was not joined in this premature uprising by the other terrorist armed branches of the Communist and Castroite organizations, More that 100 FARN terrorists were killed by the Salvadorean Armed Forces.

On May 17, following this series of attacks, the AFP press service carried a report from San Salvador that strong international brigades of close to 3,000 men are in the Tamarindo area in Nicaragua, near the Honduran border, some 50 kilometers from El Salvador, prepared to intervene at any given moment.

The international brigades were reported to be composed basically of Chileans, Argentinians, Venezuelans, Panamanians, Costa Ricans, Nicaraguans, and Cubans. The Cubans are believed to be mostly military instructors and technicians, not ground troops.

Two months ago the former head of El Salvador's military intelligence, Maj. Robert d'Aubuisson, spoke on Capitol Hill and stated that the Nicaraguan FSLN regime had made two bases available for the training of Salvadorean terrorists by Cuban instructors. These were at the Montelimar Estate on the Pacific coast and at a tobacco farm near Esteli called La Milla. Guns were being smuggled into El Salvador by boats across the Gulf of Fonseca and by small light aircraft, some of which were using an airstrip near Chinandega, Nicaragua.

Major d'Aubuisson, a leader of a moderate-conservative political alliance of businessmen, middle-class professionals and some retired military officers called the Broad National Front (FAN), also charged that the Marxist forces based in Nicaragua had hired mercenary pilots who usually made their living smuggling drugs and weapons between the United States Southwest and Central America, had been hired to fly small planes of arms and ammunition into El Salvador, principally from Panama and Costa Rica, which served as staging areas for the FSLN invasion of Nicaragua last year.

That air smuggling operation appears to have stepped up. Last Sunday, on June 15, a Panamanian Air Force plane carrying 22,000 pounds of 7.62 caliber ammunition for rifles and carbines crashed on the outskirts of San Miguel, El Salvador, some 75 miles south of San Salvador. The plane was an Aerocommander 560-A, bearing the Panamanian registration No. 776, registered to Gen. Omar Torrijos' Panamanian Air Force. The plane made an emergency landing at a small airstrip, lost control on the ground, and crashed into a tree. Its pilots were injured.

However, within a few minutes, a second plane of an identical type landed and took on board the injured pilot and copilot. Press reports indicated that the second plane immediately took off.

The ammunition was found to bear Venezuelan markings. This was the second time Salvadorean authorities discovered ammunition of Venezuelan origin, the first being after a terrorist attack on the port of Acajutla, on the Pacific coast 20 miles from the Guatemalan border. Salvadorean military authorities said they believed the ammunition, and such weapons seized as U.S. M-1 carbines and other weapons that are not part of the equipment of the Salvadorean Army, were donated to the terrorists by the Nicaraguan FSLN.

On May 27, Col. Jaime Abdul Gutierrez, the Salvadorean Minister of Defense in the present military/Christian Democratic Party center-left junta, told the press that some 1,500 Nicaraguans had entered El Salvador, probably to reinforce the local Marxist terrorist forces. He said that the entry of the Nicaraguans had coincided with the outbreak of armed attacks in mid-May.

Colonel Gutierrez also said that the Salvadorean Government has proof that diplomats from the Nicaraguan FSLN Embassy in San Salvador have been present at meetings of the Revolutionary Coordinating Board of the Masses (JCRM) held at the National University. He said it was a violation of the principle of nonintervention and that the Nicaraguan Government had been informed.

The Salvadorean Defense Minister confirmed the earlier charges of former military intelligence chief Major d'Aubuisson when he revealed that Salvadorean Foreign Minister Fidel Chavez had spoken with the Sandinista regime's Foreign Minister, Fr. Miguel D'Escoto—former director of public information of the U.S. Maryknoll Order in New York—regarding the reports that mercenaries were training at a camp in El Tamarindo, in Chinandega Department, Nicaragua.

Colonel Gutierrez confirmed that many of the weapons captured at Acjutla could have come from Nicaragua, since there are indications that some of them were sent by the Venezuelan Government to Nicaragua during the Sandinist insurrection. In light of the change in government in Venezuela to a more moderate Social Christian (COPEI) government, the Salvadorean Government had turned over information on the weapons to the Venezuelan Embassy to facilitate an investigation.

HUMAN RIGHTS

The disaster of cataclysmic proportions known as the Carter administration foreign policy is beginning to reap the whirlwind in Central America. The revolutionary turmoil and terrorism now attacking El Salvador is the result of the administration's appeasement policies toward the Soviet Union, its satellites, surrogates, and client states. Fidel Castro's regime for the past 20 years has been nothing more than the Kremlin's attack dog in the Western Hemisphere. Communist Cuba has tried to sow revolution, terrorism, and civil war in virtually every country in the Western Hemisphere. The record is public and consistent.

Nevertheless, this administration's first actions were to initiate diplomatic contacts with Castro, cut U.S. defense forces, and unilaterally hand over the strategic American-owned canal and Canal Zone to the leftist military dictatorship in Panama which is alined with the Communists and takes its cues in the international political arena from Cuba.

Under the guise of protecting human rights, this administration began a campaign of destabilizing anti-Communist governments in Central America which were reliable free-world allies. At the same time, the Soviet Union and Cuba commenced a propaganda campaign in the free-world press—a disinformation campaign that depicted anti-Communist governments as uniquely and terribly repressive by the mere fact of restrictions of some political activities. No attention was paid to the systematic total repression of all human rights by Communist dictatorships whether in Cuba, Mozambique, Vietnam, or the Soviet Union.

Among the most active organizations in this human rights attack on anti-Communist governments has been Amnesty International. This is perceived by the media as a humanitarian organization, yet since the fall of 1978, the director of Amnesty International's central research department in London has been Derek Roebuck, a leading Australian Communist Party member active in the Soviet Union's international lawyers' front, the International Association of Democratic Lawyers (IADL).

Members of an orgainzation called the Human Rights Commission of El Salvador led by one Ivan Escobar have been touring the United States charging that conservatives and anti-Communists in El Salvador are the ones who oppress human rights, not the revolutionaries.

On May 24, 1980, Ivan Escobar, treasurer of the commission, and Father Cuchulain Moriarty of the Social Justice Commission of the Archdiocese of San Francisco, gave an exclusive interview to the Communist Party, U.S.A. newspaper, Daily World, which reported June 6, 1980:

> Escobar emphasized the important role being played by the Communist Party of El Salvador (PCES) in support of the revolutionary movement, noting both its part in the armed struggle and in the mass organizations. He cited the fact that the PCS "is really involved in the El Salvadorean people's liberation struggle."

In Chicago on May 10, 1980, the local United Salvadorean Solidarity

Committee of Chicago, in which local Communist Party members play a role, held a rally in Shoeworkers Hall—a site provided through the good offices of a veteran CPUSA activist Jack Spiegel, a United Shoe Workers official. The Daily World reported the evening as a show of support for the Revolutionary Democratic Front of El Salvador, and noted:

> The committee has also begun publication of a monthly newspaper, La Voz de El Salvador, which is directed to the Spanish-speaking community of Chicago.

The Revolutionary Democratic Front is the umbrella organization for the terrorist groups, their controlling political parties, their mass fronts, the Communist Party, its fronts, and controlled unions. Its representatives are currently touring Europe and the Western Hemisphere trying to gain support as the legitimate government.

In order to clarify the political conflict in El Salvador, a brief summary may be helpful.

In the mid-1960's under the Cuban influence, a proterrorist faction arose in the Moscow-line Salvadorean Communist Party (PCS) which was led by poet and intellectual Roque Dalton Garcia, who provided essays in support of using "all forms of struggle" for World Marxist Review, October 1968, and Tricontinental, March-April 1969.

The first Castroite terrorist organization appeared in 1970, the Fuerzas Populares de Liberacion—Farabundo Marti (FPL)—Popular Liberation Forces—Farabundo Marti—named for the founder of the Salvadorean Communist Party who had been an aide to Nicaraguan Gen. Agusto Sandino, and who was killed in an insurrection in 1932.

In 1975, the FPL organized a mass front, the Bloque Populares Revolucionario (BPR), which included students, Christian socialist groups and radicalized clergy including some from the Jesuit-run Central American University. The leader of the FPL/BPR is "Compañero Marcial"—Salvador Cayetano Carpio, formerly a member of the PCS Central Committee, who is expected to be named to any future Revolutionary Democratic Government.

Another split led by Dalton resulted in formation of the Partido Revolucionaria Salvadoreña (PRS) and its terrorist arm, the Ejercito Revolucionario Popular (ERP). This was a Castroite and Trotskyist amalgam modeled after the ERP of Argentina. A second split developed late in 1974 when Dalton and his close followers organized the Frente de Accion Popular Unida (FAPU)—United Popular Action Front—to increase the party's influence. The extreme proterrorism wing murdered Dalton in May 1975. Dalton's faction left to form the Resistencia Nacional (RN) and their own terrorist armed branch, the Fuerzas Armadas de Resistencia Nacional (FARN). On February 28, 1977, the ERP staged uprisings in four Salvadorean cities which were quashed. Later in the year, various student, peasant, and professional groups were organized under PRS/ERP leadership into the February 28th Popular Leagues (LP-28).

The upsurge of terrorism and sabotage, combined with labor strife instigated by the Communist-controlled FUSS labor federation and student disorders, began in 1975, shortly after El Salvador established trade relations with the Soviet Union. After 1977, U.S. human rights foreign policies became the springboard for agitation against the strict anti-Communist military junta and the 12 ruling families which control the country's economic life.

The FPL traditionally had close ties with the Nicaraguan FSLM, and after the Sandinista takeover, weapons formerly used by the Nicaraguan National Guard including M-16's, Galils, and Uzis have been captured from the new unified revolutionary forces, directed by the Revolutionary Coordinating Board of the Masses (JCRM).

Terrorism by the revolutionary left has been countered by terrorism by the anti-Communist right's clandestine groups like the White Warrior's Union (UGB). On April 4, the EPL was reported to have shot and hacked to death at least 20 men and women believed to have been former members of the now-disbanded group ORDEN, an anti-Communist group once sponsored by the National Guard.

The focus of leftist organizing is to prevent the intervention of U.S. Marines when full-scale civil war and insurrection breakout.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 19, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 20

9:30 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To hold hearings on S. 2402, 2403, 2404, and 2405, bills relating to the use of Internal Revenue information and personnel in non-tax-related criminal enforcement investigations, and to make changes to the duties of third parties who are asked to turn over tax information in their possession.
2221 Dirksen Building

10:00 a.m.
Governmental Affairs
Business meeting, to resume consideration of S. 2160, to require public disclosure of certain lobbying activities to influence issues before the Congress.
3302 Dirksen Building

JUNE 23

9:30 a.m.
Judiciary
Jurisprudence and Government Relations Subcommittee
To hold hearings on S. 2483, to require the Chief Justice of the United States to periodically address a joint session of Congress on the state of the judiciary.
2228 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of section 404, relating to wetlands, of the Clean Water Act.
4200 Dirksen Building

JUNE 24

9:00 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 983, to establish national standards for State and local governments to impose sales and use taxes on out of State businesses, and income taxes on out of State corporations; and S. 1688, to limit the use of the worldwide combined reporting system a State may apply to a corporation operating under its jurisdiction.
2221 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider S. 2827, to provide for improved domestic and international telecommunications development; and other pending calendar business.
235 Russell Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold joint hearings with the House Post Office and Civil Service's Subcommittee on Human Resources on the Federal government's use of consultant services, focusing on the Department of Energy.
318 Russell Building

Select on Small Business
To resume hearings on small businesses and their contributions to economic growth.
424 Russell Building

10:00 a.m.

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of section 301(h), relating to modification of secondary treatment requirement, of the Clean Water Act.
4200 Dirksen Building

Foreign Relations
Business meeting, to consider the agreement with the International Atomic Energy Agency for the Application of Safeguards in the United States (Ex. B, 95th Congress, 2d session); and to discuss the status of arms control agreements and negotiations.
4221 Dirksen Building

Judiciary
Business meeting, to consider pending legislation and nominations.
2228 Dirksen Building

Select on Intelligence
To hold hearings on section 4, to provide for the protection of identities of certain U.S. undercover intelligence officers of S. 2216, proposed Intelligence Reform Act.
1202 Dirksen Building

11:00 a.m.

*Labor and Human Resources
Business meeting, to mark up S. 2375, authorizing funds for fiscal years 1982, 1983, and 1984 to provide support for the training of professionals in health service needs.
4232 Dirksen Building

2:00 p.m.

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Department of Transportation.
1224 Dirksen Building

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on the following miscellaneous tax legislation, S. 1614, 2075, 2493, 2547, 2646, 2660, 2757, 2766, 2783, 2784, and H.R. 5391.
2221 Dirksen Building

Office of Technology Assessment
The Board to hold a meeting on pending business items.
EF-100, Capitol

JUNE 25

9:30 a.m.

Select on Small Business
To continue hearings on small businesses and their contributions to economic growth.
424 Russell Building

10:00 a.m.

Finance
Business meeting, to consider miscellaneous tax proposals, and other pending legislation.
2221 Dirksen Building

Judiciary
Criminal Justice Subcommittee
To hold oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.
457 Russell Building

Rules and Administration
Business meeting, to consider S. Res. 448, to establish the Select Committee on Indian Affairs as a permanent Senate committee, and other legislative and administrative business.
301 Russell Building

Select on Indian Affairs
To hold hearings on S. 2829, authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.
1202 Dirksen Building

2:00 p.m.

Environment and Public Works
To hold hearings on Federal building prospectus.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To hold an open and closed business meeting, to consider criminal contempt or civil enforcement proceedings against a witness.
3302 Dirksen Building

Select on Intelligence
To continue hearings on section 4, to provide for the protection of identities of certain U.S. undercover intelligence officers of S. 2216, proposed Intelligence Reform Act.
1202 Dirksen Building

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the administration's transition plans to develop an operational land remote sensing satellite system.
235 Russell Building

Select Committee on Small Business
To hold hearings on the impact of nontariff barriers on American small businesses' ability to export to Japan.
424 Russell Building

10:00 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To resume oversight hearings on the implementation of the Department of Energy's Building Energy Performance Standards (BEPS), providing for energy efficiency standards for new building construction.
3110 Dirksen Building

Finance
Business meeting, to consider pending health insurance proposals.
2221 Dirksen Building

Judiciary
Criminal Justice Subcommittee
To continue oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.
318 Russell Building

Select on Indian Affairs
To continue hearings on S. 2829, authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.
1202 Dirksen Building

2:00 p.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 2283, 2418 and 2321, bills to increase the earned income exclusion for U.S. citizens working abroad who are bona fide residents of a foreign country.
2221 Dirksen Building

JUNE 27

10:00 a.m.

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of sections 404 and 301(h) of the Clean Water Act.
4200 Dirksen Building

Finance
Business meeting, to continue consideration of pending health insurance proposals.
2221 Dirksen Building

JUNE 30

10:00 a.m.

Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings to examine overall efforts by the Federal Government and certain medical services to reduce infant mortality and birth defects.
4232 Dirksen Building

JULY 1

9:30 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.
5110 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.
235 Russell Building

Select on Small Business
To resume hearings on small businesses and their contributions to economic growth.
424 Russell Building

10:00 a.m.

Veterans' Affairs
To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.
412 Russell Building

JULY 2

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.
235 Russell Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.
4232 Dirksen Building

10:00 a.m.

Select on Small Business
Taxation, Financing, and Investment Subcommittee

To hold hearing on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

JULY 15

10:00 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold joint hearings with the Labor and Human Services' Subcommittee on Aging on the impact of senile dementia on older Americans.

4232 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the Appropriations' Subcommittee on Labor, Health and Human Services, and Education on the Impact of senile dementia on older Americans.

4232 Dirksen Building

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings on the Federal Trade Commission's review of the rulemaking procedures of the mobile home industry.

235 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

JULY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

CANCELLATIONS

JUNE 19

10:00 a.m.

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, June 19, 1980*

The House met at 10 a.m.

Rev. Walter D. Marshall, United Methodist Church, Valley, Nebr., offered the following prayer:

Our Heavenly Father, we bow before Thee in this moment of destiny—not out of routine, nor as a polite nod in Thy direction, but out of the deep yearnings of our hearts, opening to Thy presence, seeking Thy guidance.

Thou knowest the problems and decisions these men and women face—national and international issues, complicated by pressures of powerful individuals and groups, pressures of economics and politics, popularity and pride.

Oh God, in the midst of all this, we give thanks for the commitment of these men and women—dedicated to the ideals to which Thou hast called America.

Give them Thy guidance, Thy wisdom, and the courage to stand unconquerable for what they know is right; through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on June 18, 1980, the President approved and signed a joint resolution of the House of the following title:

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 101. Concurrent resolution to promote the competitiveness of U.S. industry in the world automobile and truck markets.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6942) entitled "An act to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Church, Mr. Pell, Mr. Biden, Mr. Glenn, Mr. Javits, Mr. Percy, and Mr. Hayakawa to be the conferees on the part of the Senate.

REV. WALTER D. MARSHALL

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, it is a privilege to tell you something about Rev. Walter Marshall, who has just opened our session with prayer.

The Reverend Mr. Marshall is devoting his life to the ministry, and he is making his ministry one of faith, deep human understanding and compassion, refreshing and stimulating thoughtfulness, along with deep Christian love.

For 5 years, he was not only our minister, but our "across-the-street neighbor" and a friend whom we grew to love deeply. He undergirded our community in sorrow. He shared with us in joy. He inspired our youth. And he won the love and admiration, not only of every member of his Methodist congregation, but of all in our community whose lives he touched.

The Reverend Mr. Marshall earned a master's degree in theology from Southern Methodist University. He attended Midshipman's School at Cornell University in Ithaca, N.Y., and was commissioned as a lieutenant, junior grade. During the war, he served in the Pacific Theater.

The Nebraska Methodist Conference has recognized the Reverend Mr. Marshall's outstanding abilities by selecting him to serve in a number of key State responsibilities.

Ione, and Angela, wife and daughter of this distinguished clergyman, are with us today—along with other relatives.

PERSONAL EXPLANATION

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, yesterday on vote No. 326 on the Ashbrook amendment to the supplemental appropriations bill, I was recorded as having voted "aye." I should have been recorded as having voted "no." I ask that the record reflect my vote.

The SPEAKER. The gentleman's statement will appear in the Record.

CONCURRENT RESOLUTION TO PROMOTE THE COMPETITIVENESS OF THE U.S. AUTOMOBILE INDUSTRY IN THE WORLD MARKET

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I am today introducing, on behalf of myself and my distinguished colleagues, the majority leader, Mr. Wright, of Texas; the minority leader, Mr. Rhodes, of Arizona; the chairman of the Subcommittee on Energy and Power, Mr. Dingell, of Michigan; the minority whip, Mr. Michel, of Illinois; and the chairman of the National Republican Congressional Committee, Mr. Vander Jagt, of Michigan, a concurrent resolution expressing our conviction that the American automobile and truck industry is a strategic national industry essential to the economic stability of our country; and that Congress and the administration must take effective action on a broad front to assure that this industry regains a strong, competitive position in both domestic and international markets.

Mr. Speaker, the difficulties of the American automobile industry are familiar to all of us. A shift in demand to smaller cars exploded with the rapid increase in gasoline prices in 1979, a time when American manufacturers were unable to meet the growing demand for fuel-efficient automobiles. The results have been devastating.

Imports accounted for almost 27 percent of the domestic market during the first 4 months of this year, nearly a 10-percent increase in just 2 years. Japanese imports alone now take 23 percent of our market.

Mr. Speaker, as of June 1, some 500,000 American automotive industry workers were unemployed; and if we include workers in auto-related industries, that figure jumps to over 1 million.

At least 850 auto dealers have gone bankrupt since January 1979; many hundreds more face a similar fate if the situation is not reversed soon. Yet just last week we learned that auto sales for early June plunged more than 20 percent, to the lowest rate for this period in almost 20 years.

The long-term prospects for the industry, however, are encouraging. The industry is in the midst of an $80 billion effort to redesign its products and retool its assembly lines in order to be able to offer an adequate number of fuel efficient cars to American consumers. But raising the capital to finance this conversion will severely test the financial resources of the auto firms.

Mr. Speaker, it was against this backdrop that President Carter ordered ad-

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ministration policymakers, under the direction of Secretary of Transportation Neil E. Goldschmidt, to conduct a wide-ranging review of all Federal policies affecting the automotive industry. This review will be completed soon.

Passage of this resolution, Mr. Speaker, will let the President know that we in Congress are receptive to positive initiatives designed to enable the industry to make the transition required of it over the next 2 to 3 years.

The resolution does not require the adoption of any specific policy but rather establishes guidelines for the policy review currently underway.

Those guidelines call, first, for taking steps substantially to reduce the high level of unemployment in the auto and auto-related industries.

Second, the resolution urges that during the next few years—while American manufacturers complete their $80 billion retooling effort—national fiscal, import, and regulatory policies be adjusted to create a climate to assist the conversion of the industry to small-car production.

Finally, the resolution declares that, for the long term, we must follow policies which will enable us to maintain America's technological superiority and assure our competitive position at home and abroad.

Mr. Speaker, adoption of this bipartisan resolution would also demonstrate to our Japanese ally that we are concerned about our more than $9 billion auto trade deficit with that country at a time when Japan refuses to dismantle its existing trade barriers against cars made in the United States.

Mr. Speaker, for almost three quarters of a century, our country's industrial strength has been intimately connected with the health and prosperity of the American automotive industry. No American can be sanguine about the prospect of the permanent decline of that industry. I hope that the rapid adoption of this resolution will be but the first expression of our commitment to restore the vitality of the auto and auto-related industries and will encourage the administration to put forward a comprehensive strategy adequate to this challenge.

Mr. Speaker, the automotive industry is heavily concentrated in the Midwest. In my home State of Indiana alone, 484,000 people—22.7 percent of the State's work force—are employed in auto-related industries, with a large percentage of workers living in St. Joseph, Elkhart, and La Porte Counties.

Mr. Speaker, although the resolution I am today introducing is obviously not going to solve the problems of poor car sales and increasing unemployment overnight, my hope is that it will provide encouragement to the administration and to American auto manufacturers to take action to get our assembly lines moving at full speed again and to get American workers back on the job.

I urge all of my colleagues to join me in supporting this resolution.

Mr. Speaker, the text of the resolution follows:

H. CON. RES. 366

Resolved by the House of Representatives (the Senate concurring),

Whereas, the American automobile and truck industry produces 1,750,000 jobs, or one out of every twelve manufacturing jobs in the United States and also supports thousands of jobs in other key industries such as steel, rubber, glass, plastics, aluminum, copper, malleable iron, textiles and electronics;

Whereas, the American automobile and truck industry is a major customer for 50,000 small and medium size businesses located in every State, and a healthy and strong domestic automobile industry is necessary to the livelihood of 28,000 domestic auto dealers; and

Whereas, the domestic automobile manufacturers have undertaken an all-out effort to retool facilities for the production of small, fuel efficient autos and trucks in response to the sudden and unprecedented shift in consumer demand that occurred in 1979; and

Whereas, in the spirit of free trade, the United States has provided an open door to automobile and truck imports regardless of domestic content while most other countries including Japan have virtually closed their auto markets to United States produced vehicles through local content requirements, tariffs, or elaborate and indirect taxes; and

Whereas, Japanese automobile manufacturers, confronted with slack Japanese demand and tight import restrictions in other countries, have increased overtime and added auto production capacity in Japan in a massive effort to expand auto exports to the United States, raising their market share from 12 percent in 1978 to over 21 percent in the first quarter of 1980 with an eventual market target of 30 percent or greater; and

Whereas, the United States incurred an auto trade deficit with Japan of more than $9 billion in 1979 with estimates that the deficit will exceed $10 billion in auto and truck trade in 1980, thereby worsening inflation in the United States; and

Whereas, the massive unemployment resulting from the decline in U.S. auto production has imposed major costs on Federal, State and local governments across the country in the form of trade adjustment assistance, unemployment benefits, social services and large losses in tax revenues; and

Whereas, the present economic difficulty in the American automobile and truck industry results from more than a downturn in the business cycle, is not self-correcting and threatens to inflict lasting structural deterioration and dislocation on the industrial base of the United States; now, therefore, be it

Resolved by the Congress that:

1. It is a goal of the United States to achieve technological superiority in the world automobile and truck industry; and

2. The American automobile and truck industry is a strategic national industry that is essential to the economic stability and national security of the United States; and

3. Economic, fiscal and import policies should be designed to create adequate capital and to produce a climate for the American automobile and truck industry to achieve a rapid conversion of plant capacity to the production of increasingly safe, high quality, fuel efficient automobiles and trucks; and, in addition, the Administration and the Congress should review regulatory and import policies to assess their possible effect on the efforts of U.S. industry to retool for lighter, fuel efficient cars; and

4. It is in the national interest of the United States to reduce substantially the high level of unemployment in the automobile, truck and related industries; and the Congress therefore calls on the Administration, foreign governments, foreign and domestic manufacturers and affected labor unions to take immediate steps to alleviate short-range unemployment in the United States and to encourage these basic industries to build U.S. employment for the future; and

5. During this period of transition for the U.S. auto industry, reasonable restraint should be exercised by all affected parties with respect to prices and wages so as not to place undue burden on American consumers.

A BIBLICAL LOOK AT BUDGETING

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, the current national concern over budget balancing is finally achieving a long-sought objective—making people budget conscious.

Public discussion of fiscal matters is taking many forms, as evidenced by a statement brought to my attention by Joseph A. Jennings, chairman and chief executive officer of United Virginia Bankshares, Inc., Richmond, Va.

With due apologies for the satirical style, "A Biblical Look at Budgeting" makes a very valid point—and the obvious question arises, "What lies ahead?"

A BIBLICAL LOOK AT BUDGETING

GENESIS

In the beginning was Budgeting
Man spendeth only what he hadth
No person would covet his neighbor's deficit
Budgets were balanced.

EXODUS

But Man was not content with his lot
One called out, "Come let us spend together."
I will give thee "guns and butter"
And he decreed Planning-Programming-Budgeting.

LEVITICUS

The anger of the Lord waxed mightily
His Work was mocked by the Best and the Brightest
Whiz kids, Computers, and Analysts challenged His Rule
And the Lord destroyed Planning-Programming-Budgeting.

NUMBERS

He turned the Bureau into an Office of Management and Budget
Sent Malekmen to spread the New Public Administration
Ordered that deficit spending shall not cease from the face of the Nation
And cast Budgeting into a babble of many jargons.

DEUTERONOMY

These were the generations of Budgeting
Budgeting begat Line Items

Line Items begat Performance Budgeting
Performance Budgeting begat Program Budgeting
Program Budgeting begat Planning-Programming-Budgeting
Planning-Programming-Budgeting begat Management-by-Objectives
Management-by-Objectives begat Zero base Budgeting
Zero base Budgeting begat Evaluation
Evaluation begat Experimentation
Experimentation showed that nothing works.

TRIBUTE TO STEVE JANGER, PRESIDENT AND FOUNDER OF THE CLOSE UP FOUNDATION

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I stand today to pay tribute to a man whose work I have come to know and respect. I speak of Steve Janger, president and founder of the Close Up Foundation.

During my tenure in the House, I have become a most enthusiastic supporter of the close up program. It is by far the most impressive way I have seen for stimulating involvement in and understanding of the political process. Equally as important, the program's participants come away from their week in Washington with a new respect and appreciation for other points of view.

Today in the Senate, my colleague, BENNETT JOHNSTON, is paying tribute to the 10 years of dedication and hard work that have made the close up program a success. I know that my colleagues in the House, many of whom have been intimately involved in this fine educational institution, join me in underscoring the words of the Senator from Louisiana.

The full impact of the contribution that Steve Janger and the Close Up staff continue to make may not be known for years to come when the Close Up participants of this decade assume the ranks of leadership in this country. But the 80,000 students and teachers, who have had the opportunity to participate in the close up program over its 10-year history, know how the democratic process works much better as a result of one man's dream and his dedication to make it work.

ACTION BY WAYS AND MEANS COMMITTEE SUPPORTS RECONCILIATION PROCESS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, one of the challenges facing the House over the next few weeks as a part of the budget process is reconciliation. The Congress has instructed eight House committees to come up with $6.4 billion in savings, and to report those savings to the Budget Committee by July 2 of this year.

We all recognize the difficulty that these committees will face. But we are encouraged by the fact that the committees' staffs have been working with the Budget Committee staff and progress is being made.

The best example of that progress was yesterday in the Ways and Means Committee. The Ways and Means Committee was instructed with the highest target of all the committees for reconciliation: $2 billion in savings and $4.2 billion in revenues. They achieved full reconciliation yesterday and made that recommendation to the House. It is a tribute to Chairman ULLMAN and a tribute to all of the members of the committee. It is an example to others that we can achieve full reconciliation. It is an opportunity to achieve savings, and an opportunity to make that budgetary tool work in the effort to restrain spending and make the budget process work.

OIL INDUSTRY LOBBYING GROUP NOW SUPPORTING CONCEPT OF GASOLINE DEREGULATION

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, a number of us last year urged the passage of the Courter amendment which had to do with lifting gasoline allocation and price controls. Those people who feel as I did at that particular time, as did approximately half the House, that this was an extremely important step, are now receiving into our ranks a new ally, an anti-oil industry lobbying group. Energy Action is saying now that they are supporting the concept of gasoline deregulation. Mr. Rothschild, the director of Energy Action, recently said:

> Department of Energy officials, in an effort to discredit regulation, have devised the most complicated, most inept, most confusing, most contradictory, most unreasonable, most unworkable, most economically devastating set of gasoline regulations imaginable.

We are glad to see that they agree with decontrol. We certainly welcome this new organization to our ranks.

LEGISLATION TO PROHIBIT FIRST INSPECTION CITATIONS BY OSHA

(Mr. DECKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DECKARD. Mr. Speaker, I am today introducing legislation to prohibit the issuance by OSHA of first inspection citations.

The need for such legislation is, I am sure, familiar to most Members. Few regulatory tactics have been more counterproductive to an agency's efforts, more destructive of cooperative efforts with industry, and more fundamentally unfair than OSHA's cite now, abate later approach to enforcement.

The first inspection citation is based on two erroneous assumptions: That American businessmen are so chronically irresponsible that only the fear of punitive action can induce them to run a safe shop; and that OSHA's regulations are of such marvelous clarity and innate reasonableness that noncompliance is prima facie evidence of deliberate—and probably malevolent—negligence.

If any Member subscribes to those views, I hope that he will have the courage to defend that position honestly before his own business—particularly small business—constituency.

If, on the other hand, a Member recognizes that OSHA regulations are frequently ambiguous, occasionally absurd, and often altered, I invite him to support this bill. It is simple. It would provide that, on a first inspection, instead of a citation for violation of some OSHA regulation, an employer would be issued a warning notification. At least 90 days—perhaps longer, at the discretion of the agency, some violations being more difficult than others to correct—would be permitted in which to resolve the problem. Compliance may be certified through reinspection or through some other mechanism designated by OSHA, but should the noncompliance persist, that employer would be subject to citation, at the end of the 90-day, or more, period.

Such legislation would do much to eliminate the element of harassment which now poisons OSHA's relations with the business community. It does not in any way limit OSHA's powers of inspection or rulemaking. It merely extends a fair shake to those businessmen who cannot afford to spend their days reading the Federal Register.

TENTH ANNIVERSARY OF CLOSE UP FOUNDATION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, this year is the 10th anniversary of the Close Up Foundation. Today I would like to pay tribute to the foundation in general and more specifically to one of its employees, Margery Kraus.

Margery was in on the beginning of the Close Up Foundation along with the founder, Steve Janger. Close Up has brought hundreds of thousands of young high school students to Washington to give them an experience in Government. Margery, to me, has been the spirit and the soul and the vitality of the Close Up organization. She has been a curricula director. She works with the kids. She recruits the staff. She recruits Congressmen. She has hustled money from the titans of industry to finance the operation. In the last year, she has literally become a television producer and director as Close Up has expanded its program to cover students at home through the C-Span network.

I congratulate Close Up on its work, and I particularly congratulate Margery for her efforts for Close Up and for young people in the United States.

PETER J. SOLOMON

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

● Mr. ADDABBO. Mr. Speaker, I welcome this opportunity to pay tribute and call to the attention of my colleagues, the work of Peter J. Solomon, formerly New York City's deputy mayor for economic policy and development, who recently announced he will be leaving to take a position with Treasury Secretary G. William Miller. If ever a single person was going to be missed by an entire city, it is Peter Solomon, a man who has labored long hours in the goal of bringing "the Big Apple" back on its feet.

I have had the privilege of working with Peter on numerous economic issues affecting the city, and can honestly say that few men have ever worked as brilliantly for their city, as Peter. His seemingly endless energy, combined with a sincere love for New York City, enabled him to tackle issue after issue head on. No matter how complex and immense the problem, Peter Solomon always seemed to find a workable solution.

His accomplishments read like a Who's Who of economic development. He was a major force in attracting business to the city and retaining firms that had been here. He recognized the value of the private sector in helping the city reach financial solvency and always made sure the important lines of communication were kept open at all times. He was equally adept in securing many Federal grants for the city, as well as luring trade from mainland China. One of his biggest coups was securing the Democratic National Convention at Madison Square Garden, benefiting both the city and the party. In addition to all this, much of his time was spent developing real estate projects, the thriving tourist industry, as well as encouraging motion picture and television production in the city.

New York City owes a great deal to Peter Solomon. He took the most difficult of positions and handled it with expertise. In a few years, when the city has reached financial security, it will look back and thank Peter for the fine groundwork he laid. If a man's past is truly the reflection of his future, then Peter will most certainly achieve success at the Treasury Department. It goes without saying, that "the Big Apple's" loss is Washington's gain, and I wish him the best of luck that I am sure he will enjoy.●

EXECUTIVE ORDER AUTHORIZING EXPORT OF LOW OIL-ENRICHED URANIUM TO INDIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-331)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of today, June 19, 1980.)

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7542, and that I may be permitted to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION BILL, 1980

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30 1980, rescinding certain budget authority, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7542 with Mr. Simon (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 18, 1980, the Clerk had read through line 19 on page 68.

The Clerk will read.

The Clerk read as follows:

General Services Administration

FEDERAL BUILDINGS FUND LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1980, $6,144,000 shall be available for such purposes in the aggregate amount of $1,433,412,000, of which (1) not to exceed $1,514,000 shall remain available until expended for construction as follows:

New construction:

Illinois: Chicago, Social Security Administration Program Center (claim), $600,000;

Louisiana: New Orleans, Customhouse, $914,000: *Provided*, That the immediately foregoing limits of costs may be exceeded to the extent that savings are affected in such other projects, but by not more than 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date; (2) not to exceed $630,000, which shall remain available until expended, for alterations and major repairs as follows:

Arizona: Phoenix, Federal building and court house, $630,000:

Provided, That funds in the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefore, except each project may be increased by an amount not to exceed 10 per centum: *Provided further*, That all funds for Alterations and Major Repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date; (3) not to exceed $4,000,000 for payment on purchase contracts entered into prior to July 1, 1975: *Provided*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1980, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of $1,433,412,000 shall remain in the Fund and shall not be available for expenditure except as authorized in Appropriation Acts.

AMENDMENTS OFFERED BY MR. STEED

Mr. STEED. Mr. Chairman, I offer four amendments to this section, and since they all deal with the same subject, I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Steed: On page 69, in line 17, strike "$1,433,412,000" and insert "$1,526,177,000" in lieu thereof.

On page 69, in line 18, strike "$1,514,000" and insert "$94,279,000" in lieu thereof.

On page 69, on line 23, strike the colon after $914,000 and insert the following: "New York:

Queens-Jamaica Federal Office Building, $92,765,000:".

On page 70, in line 24, strike "$1,433,412,000" and insert "$1,526,177,000" in lieu thereof.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oklahoma (Mr. Steed).

Mr. STEED. Mr. Chairman, this construction project would have been included in the supplemental bill by the subcommittee had the final approval of the prospectus been completed by the time the subcommittee marked up the bill. The project is now fully approved by both the House and Senate and is in order. This amendment does not provide additional appropriations but, rather, permits the construction of this Federal building with funds in the Federal buildings fund under the General Services Administration which accrue from rental payments by Federal agencies. The Public Buildings Amendments Act which established this fund did so for the express purpose of providing funds to construct public buildings without causing a severe drain on the Treasury in the form of direct appropriations. In view of the fact that this is a supplemental, these amendments would not result in the outlay of but a very small amount of money by the end of this fiscal year. I have been informed that the Senate Committee on

Appropriations will recommend that the Senate include the project in the Supplemental when it is considered in that body.

Mr. Chairman, I strongly urge the adoption of the amendments.

☐ 1020

Mr. CONTE. Mr. Chairman, the minority is in complete agreement with the amendments.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Oklahoma (Mr. STEED).

The amendments were agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $269,000;

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 74, line 11, after the semicolon, insert the following: "*Provided*, That, none of the funds provided or made available herein shall be available for salaries and expenses of any employee of the Congressional Budget Office in excess of 218 staff employees;".

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished chairman of the Committee on Appropriations.

Mr. WHITTEN Mr. Chairman, on this side we will be glad to accept the amendment. The matter is in existing law, it is sound and we accept the amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, the minority has no objection to this amendment.

Mr. BAUMAN. Mr. Chairman, I thank both of my distinguished colleagues for their support. This amendment simply continues an existing restriction on the CBO which I have offered for the last several years.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title II of the bill be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

"Salaries and expenses, National Gallery of Art", $400,000;

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 99, strike out lines 24 and 25.

Mr. YATES. Mr. Chairman, the purpose of the amendment is to delete funds for pay costs, for the National Gallery of Art. We are informed that in view of the hiring freeze, the National Gallery will not be able to use these funds and, therefore, I am requesting that the funds be deleted.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

The Clerk will read.

The Clerk read as follows:

SEC. 303. No funds appropriated or made available by this Act or any other Act shall be used to pay any member of the Senior Executive Service an aggregate amount of more than $60,660 in total remuneration during fiscal year 1980 as a result of either (1) lump-sum payments for rank authorized during fiscal year 1980 by section 4507 of title 5, United States Code, or (2) performance awards authorized during fiscal year 1980 by section 5384 of title 5, United States Code. Nor shall any such funds be used to authorize or to pay comparable cash awards under any personnel system established on or after October 13, 1978, similar to the Senior Executive Service for any office or position in grade GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or any comparable office or position in the executive (including the United States Postal Service or any Government corporation), judicial, or legislative branch or in the government of the District of Columbia at a rate in excess of that allowed under this section for a member of the Senior Executive Service.

Mr. BENJAMIN (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read and open for amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENJAMIN: On page 101, in line 4, strike "$60,660" and insert in lieu thereof "$52,750".

Mr. BENJAMIN. Mr. Chairman, this amendment would conform the senior executive service bonus language in the supplemental to the same figure adopted this morning by the Committee on Appropriations in ordering the report on the legislative branch appropriation bill for 1981.

Under section 303 in the bill before the House today, the 7,000 members of the SES would be eligible for bonus awards in varying amounts up to $12,771. Only a percentage of the SES would be so eligible but figures we have already seen indicate that close to the maximum eligible, or 50 percent, are being recommended for bonuses.

This amendment, Mr. Chairman, would reduce the bonus maximum, but all those now eligible would still be eligible. It would still allow a bonus to be paid for clearly superior and outstanding service. With the limit on total remuneration set at $52,750—as it would be in my amendment—a bonus up to $4,861 can be paid to SES personnel.

A few SES employees—those at the very top—who now make $52,750 would not be eligible for bonuses because that is the cap set in my amendment. There are only about 40 of these high-ranking employees in the SES, and their remuneration will be frozen just like all other high-ranking Government officials whose salaries are frozen.

Mr. Chairman, this is a most fair and reasonable solution to the bonus problem and I urge the adoption of the amendment.

☐ 1030

Mr. McDADE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think this is an important amendment. Like so many that get passed around here, this has the potential to save $44 million, not an insignificant amount of money. Neither the chairman of the committee nor myself nor any members of our committee wish to rip out the reform that permits merit increases. What we do seek to do is what we do accomplish by this amendment, to stop what are clearly abuses of that program.

I know that my colleague from Indiana, the chairman of the committee and ranking minority member on my side, have all had appropriate conservations with the members of the House Post Office and Civil Service Committee, all of whom concur in this amendment and promise to hold oversight hearings to go into this problem.

It is important that when they do, they get beyond the SES program, because we have heard, for example, of many other areas where it is beyond the Civil Service Reform Act that we passed, and which I supported, and which holds this concept of merit award, a similar kind of provision where people are using this particular program as an in lieu of salary increase. For example, we have a very small agency that comes before our committee with 38 people working, which distributed 14 of them. The top individual under the old law paid himself $5,000 as the head of the select committee. When asked why, he said, "Well, I can't meet my living expenses."

A lot of people are having that problem. Neither program, neither the original incentive program that is still part of the basic law nor the reform to which my friend's amendment addresses itself contemplated that this would be in lieu of salary increases. So I applaud the gentleman. I think his amendment is important.

As I said, I think we are in a range of $44 million. Some say $25 million. To paraphrase a famous Senator from Illinois, give a million, take a million, we start getting into a few dollars. The savings will be between $25 million and $44 million. Most importantly, we can give the oversight committee in the promised hearings a chance to look into this program to make sure it does what it was intended to do; that is, to give increases based solely on merit.

● Mr. DERWINSKI. Mr. Chairman, the practical effect of this amendment goes far beyond the usual scope of an appropriation restriction for it will seriously impair a fundamental provision of the Civil Service Reform Act of 1978. I urge we reject this amendment and accept the provisions on bonus awards as reported by the Committee.

A review of the legislative history of the Civil Service Reform Act of 1978 will show that the senior executive service is a key element of successful reform. The act created the senior executive service to attract and develop a corps of especially competent and dedicated executives, fully accountable for the administration of governmental programs. Members of the SES do not have lifetime tenure and, if they perform below acceptable standards, may be removed.

But the system is also structured so that the most outstanding executive performers would be eligible to receive financial recognition in the form of both performance and Presidential rank awards. Any prohibition of payment of these awards, considering the conditions under which Federal executives serve in the SES, would severely damage the motivational system created by civil service reform.

The performance appraisal system in the SES and the successful implementation of this concept will have a cascading effect throughout the entire civil service.

Mr. Chairman, if this body feels constrained to restrict SES merit payments I hope that restriction will be limited only to fiscal year 1980 and will set no precedent, nor influence language in the coming appropriations for fiscal year 1981.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. BENJAMIN).

The amendment was agreed to.

Mr. ABDNOR. Mr. Chairman, the South Dakota Division of Railroads is concerned about the seventy-five-million-dollar rescission in previous appropriated funds for sections 505 through 509 of the Railroad Revitalization and Regulatory Reform Act.

While the Milwaukee Railroad has not yet submitted an application to the Federal Railroad Administration, the South Dakota Division of Railroads has been assured that such an application would be filed and that, in fact, about thirteen million in fiscal year 1980 funds would be made available under section 505 for rehabilitation work on the Miles City line.

The concern is that the rescission of seventy-five million dollars and the language in the committee report referring to existing applications may preclude funding for the Miles City line this year.

According to the committee report, $202 million remains unobligated, and existing applications which have a high likelihood of approval total 106 million. The difference is ninety-six million, so a rescission of 75 million would appear to leave about 21 million which could be devoted to the Miles City line.

It is my understanding that the committee intends to recommend rescission of these funds, but that sufficient reserve funding will remain so that the Federal Railroad Administration can follow through on its avowed intent to fund rehabilitation work on the Miles City line during the remainder of this fiscal year.

Mr. DASCHLE. Mr. Chairman, I wish to voice my concern for the rescission of $75 million of funds previously appropriated for sections 505 through 509 of the Railroad Revitalization and Regulatory Reform Act (4–R Act). My understanding is the Appropriations Committee has said that no more 505 applications can be considered this fiscal year, even though 5 months remain in the fiscal year. This rescission was not requested by the administration.

It could have negative ramifications in many States and the effect in South Dakota could be serious. The Milwaukee Railroad is currently undergoing restructuring. The Milwaukee line from St. Paul/Minneapolis to Miles City, Mont. will be kept in the Milwaukee core system only if this line can be rehabilitated. Because the Milwaukee Road already has pending 505 applications at the Federal Rail Administration, they have not yet filed the application to rehabilitate the Twin Cities to Miles City line. This rescission may well mean that there will be no money to rehabilitate the Twin Cities line, causing the collapse of the only main rail line in South Dakota, which in turn would kill the branch lines currently being purchased by the State of South Dakota.

The rail deregulation bill which we will soon consider contains a 2-year extension of the 505 program and creates a new rail rehabilitation program in the form of a new section 518 to the 4–R Act. I am concerned that the new rehabilitation program as contained in the rail deregulation bill would benefit mainly profitable railroads wishing to purchase other lines, and not help railroads such as the Milwaukee Road which is trying very hard to restructure into a profitable core system.

● Mr. FRENZEL. Mr. Chairman, I shall vote against this supplemental appropriation. It contains some valuable spending and much inevitable spending, but in general, just too darned much spending.

Fourteen billion dollars is simply too much money for any supplemental appropriation. A supplemental is intended to cover emergencies or unforeseen events; $14 billion is an awful lot of unforeseen events.

My negative vote is more a vote against the procedures than against the substance. This House should not under appropriate at the beginning of a fiscal year and then drop a $14 billion expense bomb on the Members when the fiscal year is three quarters over.●

● Mr. BAUMAN. Mr. Chairman, before the final passage of the pending bill I want to commend the gentleman from Kentucky (Mr. NATCHER) for offering yesterday the amendment on page 42 which was adopted by the House. His amendment means that the more than $1 billion of medicaid funds in the bill will be subjected to the current Federal legal restrictions which forbid taxpayer funding of abortions except in certain limited instances.

While I am opposed to any abortions and have always supported the Hyde amendment which permits no funding of abortions except when the life of the mother is in danger, the gentleman's amendment imposes what is the current law on the funds in this bill, which is perhaps the best we can achieve in this Congress.

That is a very important achievement in view of the current challenge to the Hyde amendment now pending in the U.S. Supreme Court. While the Court is expected to rule on this matter very shortly, it is significant that this House has now adopted once again the very language which is before the Court. This certainly should be a strong indication of the wishes of Congress. A majority wants to support the right to life and to prevent Federal funding of abortions. While we will continue to seek further restrictions to save lives, at the very least the current law will be upheld in this bill.

For the interest of the Members I include at this point the current law which this amendment continues and imposes on this bill:

SEC. 109. None of the funds provided by this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.●

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PRICE) having assumed the chair, Mr. SIMON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. ASHBROOK. Mr. Speaker, I demand a separate vote on the so-called Lehman amendment, as amended.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 15, after line 11, insert the following new chapter:

CHAPTER III—FUNDS APPROPRIATED TO THE PRESIDENT

SPECIAL MIGRATION AND REFUGEE ASSISTANCE

For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, not to exceed $100,000,000, to remain available until expended.

Add at the end of the amendment the following:

"None of these funds shall be used to provide assistance to Cubans paroled into the United States after April 1, 1980, who have been found by an Immigration officer to have been convicted felons or to be prostitutes or have engaged in prostitution."

Redesignate the succeeding chapters accordingly.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 188, not voting 35, as follows:

[Roll No. 344]

YEAS—210

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Annunzio
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bedell
Beilenson
Bennett
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Brodhead
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corman
Dannemeyer
de la Garza
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Green
Guarini
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Howard
Hutchinson
Hutto
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lungren
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stokes
Studds
Swift
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vento
Walgren
Walker
Weaver
Whitten
Williams, Mont.
Wilson, Bob
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—188

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Badham
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bereuter
Bevill
Boner
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Collins, Tex.
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
Deckard
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ind.
Fenwick
Findley
Fithian
Flippo
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leath, Tex.
Lent
Levitas
Lewis
Loeffler
Lott
Lujan
Lundine
McCloskey
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Oakar
Panetta
Pashayan
Paul
Pickle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Vanik
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Tex.
Winn
Wylie
Young, Mo.

NOT VOTING—35

Anderson, Ill.
Ashley
Clay
Conable
Conyers
Danielson
Davis, S.C.
Evans, Del.
Garcia
Giaimo
Gray
Holtzman
Ichord
Jenrette
Kelly
Kemp
Leach, La.
Lee
Luken
Markey
Mathis
Mitchell, Md.
Murphy, N.Y.
Nolan
Pepper
Quayle
Rousselot
Runnels
Sebelius
Thompson
Waxman
Weiss
Wilson, C.H.
Wydler
Young, Alaska

□ 1050

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Conable against.

Mr. Mitchell of Maryland for, with Mr. Rousselot against.

Mr. Murphy of New York for, with Mr. Sebelius against.

Mr. Jenrette for, with Mr. Wydler against.

Mr. Garcia for, with Mr. Young of Alaska against.

Mr. Pepper for, with Mr. Runnels against.

Until further notice:

Mr. Markey with Mr. Kelly.

Mr. Waxman with Mr. Quayle.

Mr. Ashley with Mr. Weiss.

Mr. Danielson with Mr. Clay.

Mr. Davis of South Carolina with Mr. Conyers.

Mr. Gray with Mr. Luken.

Mr. Ichord with Mr. Kemp.

Mr. Charles H. Wilson of California with Mr. Leach of Louisiana.

Mr. Nolan with Mr. Mathis.

Ms. Holtzman with Mr. Evans of Delaware.

Mr. Giaimo with Mr. Lee.

Messrs. RITTER, SKELTON, PASHAYAN, STOCKMAN, and ERDAHL changed their votes from "yea" to "nay."

Messrs. MOORE, YATRON, CLINGER, and TAUZIN changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MICHEL. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the bill, H.R. 7542, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 294, nays 106, not voting 33, as follows:

[Roll No. 345]

YEAS—294

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Davis, Mich.
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Goldwater
Gonzalez
Gore
Gradison
Green
Guarini
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marriott
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Scheuer
Schrceder
Seiberling
Shannon
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—106

Archer
Ashbrook
Badham
Barnard
Barnes
Bauman
Beard, Tenn.
Broyhill
Burton, John
Butler
Campbell
Carney
Cheney
Cleveland
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derwinski
Devine
Dornan
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ga.
Fenwick
Findley
Forsythe
Fowler
Frenzel
Gephardt
Ginn
Glickman
Goodling
Gramm
Grassley
Grisham
Gudger
Hagedorn
Hall, Tex.
Hance
Hansen
Holt
Hopkins
Hughes
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Levitas
Lewis
Loeffler
Lungren
McDonald
Marks
Marlenee
Martin
Mattox
Michel
Miller, Ohio
Moorhead, Calif.
Mottl
Myers, Ind.
Obey
Panetta
Pashayan
Paul
Petri
Porter
Ritter
Roth
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Tauke
Taylor
Thomas
Walker
Weaver
Whittaker
Winn
Wylie

NOT VOTING—33

Anderson, Ill.
Ashley
Boggs
Clay
Conable
Conyers
Danielson
Davis, S.C.
Garcia
Giaimo
Gray
Hawkins
Holtzman
Jenrette
Kelly
Kemp
Leach, La.
Lee
Luken
Markey
Mathis
Mitchell, Md.
Murphy, N.Y.
Nolan
Pepper
Quayle
Rousselot
Runnels
Sebelius
Staggers
Weiss
Wydler
Young, Alaska

☐ 1110

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Rousselot against.

Mr. Kelly for, with Mr. Sebelius against.

Until further notice:

Mrs. Boggs with Mr. Kemp.

Mr. Weiss with Mr. Quayle.

Mr. Staggers with Mr. Wydler.

Mr. Pepper with Mr. Luken.

Mr. Murphy of New York with Mr. Young of Alaska.

Mr. Danielson with Mr. Lee.

Mr. Garcia with Ms. Holtzman.

Mr. Giaimo with Mr. Gray.

Mr. Markey with Mr. Conyers.

Mr. Leach of Louisiana with Mr. Nolan.

Mr. Clay with Mr. Runnels.

Mr. Jenrette with Mr. Conable.

Mr. Hawkins with Mr. Mathias.

Mr. Ashley with Mr. Davis of South Carolina.

Mr. DICKINSON and Mr. LLOYD changed their votes from "nay" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

H.R. 7325 was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE A PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 1981

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight tonight to file a privileged report on a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices, for the fiscal year ending September 30, 1981, and for other purposes.

Mr. MYERS of Indiana reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 20, 1980, TO FILE REPORT, ALONG WITH ANY MINORITY OR SEPARATE VIEWS, ON H.R. 85, COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight, Friday, June 20, 1980, to file the report, along with any minority or separate views, on H.R. 85, to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 20, 1980, TO FILE REPORT, WITH ANY MINORITY OR SEPARATE VIEWS, ON H.R. 7020, HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight, Friday, June 20, 1980, to file the report, with any minority or separate views, on H.R. 7020, to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 2698, SMALL BUSINESS DEVELOPMENT ACT OF 1980

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the Senate bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 12, 1980.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. McDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provisions of this bill have been before the House on more than one occasion, that is, at least 98 percent of the provisions in the bill. The last time they were before the House, they were in the bill S. 918 and it passed the House by a vote of 384 to 17.

Now, this bill is a very comprehensive bill. It has very wide ranging implications for small business.

☐ 1120

It helps to give the new direction that we are trying to provide which emphasizes that small business must be treated with due accord for its importance.

Most of the new jobs in this country are provided by small business and in many instances big government, and big business both have a tendency not to recognize the importance of small business and their special problems. We are trying very much to provide additional help so that small business can survive and expand.

This bill could have been probably 40 or 50 different bills. We have, for example, in here authorizations for six different loan programs, both the direct loans and guaranteed loans, for 4 years, along with authorizations for other guarantee programs. It contains an SBDC program. It contains a new employee stock ownership plan program, a debentures program, one dealing with getting the public sector involved.

A number of important bills are all wrapped up into this one overall bill.

I want to also pay a great compliment to all the subcommittees of the Small Business Committee, especially the subcommittee chaired by the gentleman from New York (Mr. LAFALCE) and the subcommittee chaired by the gentleman from New York (Mr. NOWAK) and the various subcommittees of the Small Business Committee who have important sections in this bill.

Also this is a bipartisan bill. The minority and the majority have agreed on 98 percent of this bill. I think it is a very good bill and is worthy of passage today.

I will insert at this point an extended summary of the bill in detail.

As agreed to by the conferees this bill:

First. Sets SBA program levels and provides authorizations for fiscal years 1981 through 1984.

Second. Revises the disaster assistance program administered by both the SBA and the FmHA.

The interest rates on loans to offset net losses on principal residences and personal property contained therein will remain at 3 percent on losses up to $55,000 and under certain conditions up to an additional $50,000 at 8¼ percent;

The Small Business Administration will continue to make all loans on homes and personal property contained therein, whether located in cities, in rural areas or on farms;

Businesses, including the owners of residential buildings rented to others, who cannot obtain sufficient credit elsewhere may receive a loan at 5 percent to offset net losses up to a maximum of $500,000, whether the applicant goes to SBA or is qualified at FmHA (this is the existing law except for the $500,000 cap);

Businesses, including farmers, which do not have a bad credit rating and which feel they need a short-term loan to handle cash flow problems, avoid high costs of temporary financing, and so forth, shall have a right to obtain a loan up to a maximum of $500,000 at a rate of interest equal to the cost of money to the U.S. Government for comparable length bond issues, plus not more than 1 percent. At the present time this would be a maximum of 11½ percent. This applies whether the applicant is being processed by SBA or FmHA. After 3 years, these loans are subject to being reviewed to see if the borrower is able to obtain a loan elsewhere at reasonable rates and on acceptable terms.

Since the above provisions now will provide equal terms for those who are eligible at FmHA with those who are eligible under the SBA administered program, those eligible for FmHA loans would be required to apply there first; however, if declared ineligible at FmHA or if the FmHA declines to make them a loan at an interest rate susbtantially similar to that in effect at SBA, they can then go to SBA. In other words, no one will be discriminated against because they happen to be in one kind of business rather than another kind of business.

An exception to the $500,000 loan limit to businesses could be made by SBA if the applicant is a major employer in the community.

Also, for the first time SBA would be authorized to obtain capital for its loan programs by selling notes to the Treasury. This is basically the same authority now used by FmHA except that the SBA would be permitted to sell such notes only in the amounts and to the extent approved in advance in appropriations acts.

SBA would pay interest to the Treasury on loan disbursements. On the loans outstanding on the date of enactment, or on those made with funds appropriated to take effect before October 1, 1980, SBA will pay over to Treasury only that interest income it receives from borrowers from any of the financing functions of the agency. Such payments shall be treated by the Treasury as interest income, not as retirement of indebtedness.

The SBA would not be prohibited by this bill from making new loans from repayments of principal from loans made with appropriated funds; however, moneys in either fund not needed for current operations may be paid over to Treasury, and credited to the Government as miscellaneous receipts.

On new loans made from the repayment of principal from loans made from appropriated funds, or originating from new budget authority appropriated to become effective on or after October 1, 1980, or on amounts received by either of the funds from the sale of notes to Treasury as authorized by this bill, SBA would pay interest based on a statutory formula for determining cost-of-money to the Treasury, and calculated solely on the amount of outstanding loan disbursements net of losses. This computation would eliminate payment of interest on prior grants, losses and interest on interest as is required under existing law.

I also want to note that these provisions have been agreed to by the administration as is stated in the attached letter from the Director of the Office of Management and Budget.

Third. Authorizes SBA to make grants through a small business development center pilot program. If fully funded at the end of the pilot, it probably would be a $65 million national program in 1979 dollars; however, during the pilot the program is authorized funding at $20 million in fiscal year 1981. Grant applicants, primarily universities, would be required to obtain matching funds on a 50/50 basis from non-Federal sources and would be entitled to a maximum SBA grant based on the percentage of the population proposed to be served as compared to total population in the United States. The grant recipients would provide management, technical, and technological assistance to small business concerns.

Fourth. Directs the compilation of information needed to assess fully the current status of small business and its needs, including:

A listing of small businesses so that SBA could notify them of appropriate programs of Federal assistance and export opportunities;

An economic data base showing employment, sales, purchases, and other numerical data on the small business sector of the economy;

A Presidential report on small business and competition; and

An interagency study of small business credit needs.

Fifth. Authorizes organizations of handicapped in fiscal 1981–83 to bid on up to $100 million in small business set-aside contracts.

Sixth. Authorizes Federal guarantees of debentures issued by certain State and local development companies for investment in small business.

Seventh. Makes permanent and revises the labor surplus area factor in setting priorities for awarding small business set-aside contracts.

Eighth. Allows SBA to guarantee loans to qualified Employee Stock Ownership Trusts or Plans for the purchase of a small business or qualified corporation.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 11, 1980.

Hon. NEAL SMITH,
Chairman, Committee on Small Business, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the agreement reached Wednesday, June 4, 1980 in the Roosevelt Room, staffs representing principals have now reached agreement on language covering interest payments to the Treasury from SBA's business and disaster loan revolving funds.

Accordingly, the Administration agrees that S. 2698, as modified by the attached language, is acceptable.

I want to personally thank you for your leadership on behalf of this legislation.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

I want to also point out on the disaster assistance there has been some controversy about the eligibility of farmers for the SBA program. It was proposed by the administration that farmers not be eligible to receive SBA administered disaster loans at all. In other words, not be treated, as we have decreed they shall be, as small businessmen. We have said that farmers can go to the Farmers Home Administration for assistance under their program but, if they do not provide the same treatment there that they would get from the SBA, then they have a right to come right back to the SBA. They were not getting the same treatment at FmHA and so, in this bill, the Farmers Home Administration program is changed so it provides essentially the same benefits as the SBA administered disaster program. So long as it does, small businessmen who are farmers will go to FmHA for some of their disaster assistance, not for homes and not for buildings, but for some of their disaster assistance. But the very minute, FmHA would discriminate against them or not provide equal treatment, they will be eligible to go back to SBA and then be treated as all other small businessmen are in this country.

I think this is a good bill. The gentleman from Pennsylvania (Mr. MCDADE) and I are almost in full agreement. He has a little difference of opinion on a few points. But I want to say again that 98 percent of this bill is the product of the various subcommittees of the Small Business Committee, and a bipartisan product. I urge its adoption.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a Member who has witnessed the effects of natural disasters on homeowners and businessmen, as a Member who believes that our Government has an obligation to assist disaster victims as quickly and as efficiently as possible, as we have in the past, I cannot support the conference report before us today. Although, I am in general support of S. 2698, I feel that the increased interest rates and credit-elsewhere test for disaster victims outweighs the merits of other provisions in the bill.

I will not go into a lengthy history of the report we are considering. However, I must remind the Members of the House that the present administration has been consistent in its stand on raising the interest rates for disaster victims and demanding that business-disaster victims must seek credit elsewhere before this Government will lend them—not give them—any money. I will also point out that many of us have consistently fought for reasonable interest rates, and no "credit-elsewhere test." The fact of the matter is, if the President had not pocket vetoed our omnibus bill in October of 1978, there would be no high interest rates for any disaster victims. In fact, we would not be forcing those disaster victims to go out and find credit elsewhere or be here debating the issue.

Simply put, since the President's pocket veto of H.R. 11445 in October 1978, the omnibus small business bill, which passed this House by a vote of 396 to 10, the respective committees of both Houses have spent considerable time in attempting to pass substitute legislation. Although we passed H.R. 11445 by a 386-vote margin, the President has succeeded in bludgeoning some of the leadership of the committees into the "philosophy" that higher interest rates and credit-elsewhere tests for disaster victims are necessary.

Those in favor of a credit-elsewhere test and higher interest rates feel that disaster loan programs are too costly and that the higher the interest rate charged the victim, the less expensive the program will be for the Government. I say these people are penny wise and pound foolish.

I must remind the Members that SBA disaster programs are loan programs, meaning the money will be returned to the Treasury with interest. In addition, it must be remembered that although individuals and businesses may lose everything in a disaster, they must continue to pay any outstanding debts incurred prior to the disaster. The disaster loan repayments are always in addition to payments on existing debts the individuals have.

Let me give you a real life example from a recent disaster. A truck driver supporting three children on an income of $7,200 a year suffered $32,000 in damage to his $37,000 home, on which he owed $18,000. Since his previous mortgage was not washed away by the flood waters, he is now paying on a $45,000 mortgage. His debt increased 2½ times while his income remained virtually the same.

Up until April of last year when the Small Business Committee by a vote of 25 to 2 passed H.R. 90, which didn't contain a credit-elsewhere test and had disaster loans at 3 percent for homeowners and 5 percent for businesses, the committee felt that businesses who had suffered disasters should not have to bear the additional burden of seeking commercial credit first, before turning to their Government for help. A few of the committee members, because of pressure from the White House, have changed their minds. Under S. 2698, after a disaster has occurred small businesses will be forced to find a bank that is open for business in their area, submit financial statements if they have not been destroyed by the disaster and then wait for an answer from the bank before they can even go to the SBA for assistance. The process is time consuming and very costly to both the businessman and taxpayer.

Despite the fact that we had "philosophical" agreement in conference on low interest rates, some of the conferees, in order to expedite the passage of S. 2698, voted against a lowering of interest rates for future disaster victims. I believe that we should not have given in to the President's threat of veto and we should now, not only philosophically but actually support lower disaster interest rates.

Let us now consider the chief argument used by the White House in support of increased interest rates and the imposition of a credit-elsewhere test for businesses which have suffered uninsured loss in a disaster.

The argument proposed by the administration is that lower interest rates are subsidies and cost the taxpayer too much money. I propose that lower interest rates without a credit-elsewhere test do not cost the taxpayers but save the taxpayers money.

The argument is made that making disaster loans at 8¼ percent interest is subsidizing businesses. We are told that the drain on the Treasury produced by these loans to disaster victims is too great. I look at disaster loans from a different standpoint. They do not drain the Treasury but fatten it up. They create jobs.

For instance, in 1979, we invested $210 million in disaster business loans for an average term of 7.8 years. Because of these loans, over 5,200 businesses were helped in keeping their doors open and as a result $310 million was paid back into the Treasury from payroll and income taxes alone. In effect, we loaned $210 million which we will get back with interest and we will receive an additional $310 million in tax revenues to the Treasury. If that is subsidizing business, we should do more of it.

The negative effect of high interest rates is the closing of businesses because they are simply unable to make the loan payments. Let us assume that only 3 percent of future business disaster victims are unable to pay these higher loan interest rates and as a result close their doors. What will the direct cost be to the Treasury?

Based on the Department of Commerce figure that the average business employs 12 people, and assuming that in fiscal year 1981 only 3 percent of those businesses otherwise eligible for loans decide not to reopen their doors, the loss to the Treasury in personal and business income taxes will be $17 million for the first year alone. Added to this loss is an additional $7.7 million, which will be paid out in unemployment and other transfer payments. If we extend the loss in tax revenues to the life of the loan, the cost is overwhelming—$82.8 million.

It appears that the Treasury gets a very good return on its disaster loan money. For $210 million in loans made, the Treasury received $310 million in taxes plus the original $210 million with interest. And if unreasonable disaster loan rates force even a minute percentage of businesses to fold, we will lose more money in taxes and transfer payments than we would have gained in charging exorbitant interest rates.

One other point before closing. I believe that this body should be as concerned, if not more concerned about its disaster victims as it is with our allies in foreign countries. We currently lend money to many of our foreign friends at

3 percent interest over a 30-year period with neither principal nor interest being paid for the first 10 years of the loan.

As I have already stated I cannot support the conference report accompanying S. 2698, because I believe that disaster victims in this country, their communities, and the taxpayer deserve better treatment.

□ 1130

Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, we are faced with a proposition now of our businessmen who are affected by disasters having to pay no less than 11¼ percent interest when that loan is above $500,000. It seems passing strange, Mr. Speaker, that the Eximbank within the past few weeks lent to Mr. Murdoch, the owner of the New York Post, $290 million at 8.1 percent interest, after Mr. Murdoch had been down to the White House. Previously he had visited the Eximbank. Then after his luncheon at the White House, he went back to New York City, and in a few days he endorsed the present incumbent. What man in the United States, what businessman in the United States, even if he suffers a gigantic disaster, can borrow money over the $500,000 mark at 8.1 percent interest? Not one. Not one. I say absolutely if this had been done under a different administration, I believe it might well have been brought before this Congress. I do not think it was right. I think it smelled to high heaven. It seemed very, very political, and it is not fair to the people of a disaster area, not when we go to 11¼ percent interest for those of us with disasters, and many of them were in the Pennsylvania area, and many of them were in my area of Kentucky, which was hit by serious floods in 1977, and had to borrow money in excess of this amount.

Let us look again not only at the Murdoch loan, but let us look at some of the other loans that we have made. For instance, last year we gave to, or practically gave to, Zambia, some $35 million, and at the same time Zambia was buying Soviet planes and war materiel. How in the world can we do such a thing as this and neglect our own people who are suffering from disasters? It beggars the imagination that this Government of ours would be so unfavorable to people who are suffering in our country.

I think that that interest rate should be brought down. It is what the Federal Reserve says it is anyway.

We saw it go up to 20 percent. We saw building diminish by at least 40 percent in this country. We have seen our automobile industries go down, down, down. We see hundreds of thousands of unemployed people today, and there is not a day goes by but what they come to my office or call me and say, "Please help me get a job. I want a job." Yet we are insensitive to this. We have kept that high interest rate up. Finally, they are bringing it down. I knew it would come down before the election. But when the discount rate was 13 percent and the prime rate was 20 percent, my goodness, businesses were failing. Bankruptcies were up all over our country. But before the election here, it comes down.

I ask the defeat of this legislation until we can give to our people the same interest rates which we are giving to Mr. Murdoch and to others of his ilk. I urge the defeat of the conference report.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Kentucky yield?

Mr. CARTER. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I want to compliment the gentleman from Kentucky for pointing out the disparity between the treatment received by most American citizens at the hands of the Carter administration and the treatment given to special friends of that administration and to those in foreign countries.

□ 1140

In the last few weeks we have considered in the House the multilateral lending institutions bill, almost $4 billion. Those institutions lend Americans money—our taxpayers pay a good part of that—at rates of 1 percent, 3 percent, for 30 and 40 years. Some of those loans are never paid.

Mr. Speaker, this Congress also passed aid to Nicaragua which will provide low-interest loans for the businesses in Nicaragua that have not suffered a disaster. Now we are told this conference report imposes a much higher interest rate on Americans who suffer natural disasters.

Mr. Speaker, I do not understand why President Carter wants to kick people in America when they are down with these high interest rates, and the gentleman is quite right in opposing this bill.

The SPEAKER. The time of the gentleman has expired.

Mr. McDADE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. If we continue this just a little further, Mr. Speaker, we will find that for the first 10 years our loans to foreign countries, which are actually in effect grants, for 10 years they do not have to pay any interest whatsoever. Last year this amounted to $1.763 billion. The term is 30 years. Supposedly we are to get 2 percent for the first 10 years and 3 percent thereafter. How can we afford to disfurnish the people of our country and lend to other countries at such rates.

Mr. Speaker, I urge defeat of this conference report and reserve the balance of the time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out two or three things in view of the recent remarks we have heard. One is, the credit-elsewhere test is not new in this bill. The credit-elsewhere test is now in effect and has been in effect since last summer. This only continues the existing credit-elsewhere test.

Mr. Speaker, we also have and continue to have in this bill disaster loans to homeowners at 3 percent for the first $55,000 of borrowing, the Carter amendment. We continue the 5-percent rate for businesses who cannot get credit elsewhere.

Now, Mr. Speaker, we come to the interest rate on loans to businesses which are not poor credit risks. What is the interest rate? We have fluctuations in interest rates. There is a slight change in the formula. It is not different than the formula we had in S. 918 which passed here on February 6 with only 17 votes against it. It has been before the House two or three times, but here is what the effect of it will be: The interest rate presently is calculated on an annual basis. They calculate it on the 1st of October. Under existing law the interest rate as of October 1 for those who can get credit elsewhere will be 9⅜. Under this bill it will be 9.94, unless interest rates go down further, which they are expected to do, and if they do there may be no difference at all. It is just not as has been represented here. We are not changing the credit-elsewhere test that is in existing law now. As of October 1, there will be hardly any difference at all in interest rates.

Mr. Speaker, foreign aid provisions can easily be argued on any bill that comes up here, whether it is a public works bill or anything else. We can say we give better treatment to some foreigners than we give people in this country. However, that is no excuse. I do not think, for defeating a bill that will help the people in this country. We can defeat all the bills we have before the Congress to help people in this country and you will still probably have a foreign aid program. That does not provide a sufficient excuse.

Mr. Speaker, I urge this conference report be adopted.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, first of all, the conference report we are today considering has been around for a long time. We first passed this bill in the previous Congress, in 1978. We then passed this omnibus bill in early 1979, as did the U.S. Senate, and there was virtual unanimity of opinion over most of the provisions of this bill.

As the distinguished chairman has said, about 98 percent of this bill is not in dispute whatsoever. But the conferees were in deadlock from early 1979 to the present, and we have not had legislation on the books since 1978, and all I have heard thus far today has been a discussion of disaster loan interest rates. We have heard no discussion of the tremendously important provisions in the bill dealing with guarantees of debentures for local development companies, with procurement preferences for labor surplus areas, the authorizations levels, ESOPS, and so forth.

However, let us look at the specific issues that have been debated thus far, disaster interest rates. The fact of the matter is: We are going to be giving homeowners 3-percent interest rates. A 3-percent interest rate looks pretty good to me, and I do not think we should denigrate that.

What are we going to do for businesses? We are going to have credit-elsewhere tests. That is not new. That is the existing law. All we are doing is again repeating existing law. We are saying for the first $500,000, the interest rate for businesses will be at 5 percent. Now, 5 percent is not exactly a high-interest rate in today's economy.

If they can get credit elsewhere, then we are going to go to the cost of money to the government, which again, basically, is very, very similar to existing law. It is about two- or three-tenths of 1 percent different, as the distinguished chairman of the committee has pointed out.

Certainly I think there is not only little cause but virtually no cause for anybody to oppose this bill. There is great cause for everyone to vote for it, as did the U.S. Senate yesterday by a bipartisan vote of 91 to 2.

Mr. Chairman, I want to stress there is one provision of this bill that I think is especially important, that I think could be especially meaningful in the revitalization of our cities and give a tremendous additional supplemental tool to the Small Business Administration to go about the task of rebuilding our cities—that is section 503, which I had the privilege of authoring.

As the principal author of section 503 of S. 2698, I would like to make a few remarks on section 503 and related conference committee report language.

Let me say, at the outset, that I wholeheartedly endorse the intent of section 503, to create a new financing mechanism for development companies beyond the direct Federal financing mechanism provided for in section 502. The development company program, authorized by section 502 of the Small Business Investment Act of 1958, has proven to be one of the most cost-effective Federal programs of assistance to urban and rural areas in their efforts to promote the expansion of small businesses. This program has played a particularly key role in downtown revitalization efforts, providing the financing for smaller businesses while EDA's business development program and HUD's UDAG program provide the financing for larger businesses. The development company program has done all of this without generating large losses; indeed, the current loss rate on loans made under section 502 is lower than that for SBA's basic business loan programs.

Let me also say, at the outset, that I wholeheartedly endorse the financing concept embodied in section 503. Section 503 would authorize SBA to provide a guarantee of timely payment of principal and interest on debentures issued by qualified development companies. The attractiveness of this financing mechanism from a budgetary standpoint is obvious. It would require no outlay of Federal funds except when a default occasionally occurs; private capital markets would provide the basic financing for a program with a public purpose.

Notwithstanding my wholehearted endorsement of the concepts behind the 503 program and the language of the bill itself, I fear that the conference report does not provide the Small Business Administration with adequate guidance for the implementation of the 503 program. I intentionally drafted section 503 in general terms to provide the responsible congressional committees with some room for interpretation in their reports. They have not provided as much guidance to the agency as I expected.

Therefore, as the principal author of section 503, I would like to take this opportunity to relate to the Small Business Administration what was contemplated when section 503 was drafted. I intend to hold oversight hearings on the implementation of section 503 to insure that SBA does give serious consideration to the appropriate intent of the 503 program.

First, the term "debenture" is used generally in section 503 to include all debt instruments, not just unsecured, long-term obligations. Because development companies typically have no equity behind them, SBA would be exercising poor judgment if it did not ordinarily require development companies to agree to assign their secured interest in the assets being financed under section 503 to SBA as a condition of guaranteeing debentures. However, this general prescription does not preclude SBA from guaranteeing the unsecured obligations of development companies with enough equity behind them to cover their potential losses; nor does it give SBA license to require additional security beyond the assets being financed under section 503 as a condition of guaranteeing debentures.

Second, SBA was given the authority to provide investment guarantees under section 503—that is, to guarantee timely payment of principal and scheduled interest over the term of a debenture—in order to make the debentures it guaranteed readily marketable to private investors. Two references to section 503 in the conference report could, if interpreted mistakenly, change the nature of the marketing mechanism and the Federal guarantee. Reference to the sale of debentures to private markets through the Federal Financing Bank, if interpreted restrictively, would effectively convert guaranteed debentures into direct Federal loans, albeit ones that are made off-budget by the Federal Financing Bank rather than on-budget by the Treasury. It was our intention to allow for the sale of guaranteed debentures directly to private investors in order to hold down the Federal debt.

The reference to SBA's repurchase of debentures in default for an amount equal to the principal outstanding plus any interest accrued until the date of repurchase would effectively convert the investment guarantee authorized by section 503 into a default guarantee against loss of principal, a less marketable guarantee among institutional investors.

It was our intention to give development company debentures the marketability of an investment guarantee but limit Federal liability in case of early default on a debenture by requiring that SBA, as a condition of guaranteeing debentures under section 503, secure the right to repurchase any debenture in default at a price set at the time the debenture is guaranteed; the price would be high enough, as it is under the debenture guarantee program for small business investment companies, to compensate the private investor for accelerated repayment of the debenture. Yet the Federal Government would not be liable for interest payments on a debenture years after a default occurs.

Third, the provision of section 503 limiting the use of proceeds of loans made under section 503 to "purposes set forth in section 502" was intended to cover not only the type of investments financed but the size of loans, the security required, the paid-in capital required, and the maturities of loans. Under section 502, loan proceeds may be used only for "plant acquisition, construction, conversion, or expansion," including leasehold improvements and equipment purchases as part of "plant" expansion; in addition, loans must be adequately secured, backed by a 10-percent equity or subordinated debt contribution, limited to $500,000 per small business concern, and limited to 25-year terms, with extensions. All of these conditions of assistance were intended to apply to the 503 program in order to guard against excessive loss and target assistance on creditworthy small businesses.

Fourth, section 503 allows loans made with the proceeds of guaranteed debentures to cover up to 50 percent of the total project cost. However, we expected SBA to administratively limit most loans to less than 50 percent of project cost, as it has for direct loans made under section 502. Such a limitation would allow SBA to leverage more private capital with its limited guaranteed authority and would increase the exposure of commerical lenders making loans secured by first liens on the property being financed, thus allowing SBA to rely more heavily on their credit judgment than the agency could if it were guaranteeing a higher percentage of total project cost.

The typical 503 project will be financed with a bank loan in a first position covering 50 to 60 percent of project cost, a development company loan effectively guaranteed by SBA in a second position covering 30 to 40 percent of project cost, and an equity or subordinated debt contribution by the small business concern or the development company in a third position covering 10 percent of project cost. As a general rule, any 503 project financed with a bank loan covering less than 50 percent of total project cost should be approved by SBA only if the collateral securing the loan is of such a specialized nature or is in such a distressed area as to potentially liquidate for less than 50 percent of project cost, thus leaving the bank at least somewhat at risk.

Fifth, section 503 places no restriction on the extent of development company participation in the 503 program, requiring only that development companies have a full-time staff, professional management ability, and a functioning board of directors. Section 503 differs in this respect from section 303 of the Small Business Investment Act, which authorizes SBA to guarantee debentures issued by small business investment companies only up to 300 or 400 percent of the combined paid-capital and paid-in surplus of the small business investment company. To be sure, a development company is not comparable to a small business investment company in its need for an equity base to cover its losses since its liability will normally end when it assigns its note and deed of trust to SBA. Nonetheless, a development company should be carefully scrutinized before SBA guarantees its debentures to be sure that it has the capacity to effectively administer loans in the amount of the debentures. SBA may wish to relate the amount of debentures it will guarantee to some objective measure of development company capacity to make and service loans under section 503.

Sixth, section 503 requires SBA to approve each loan made with the proceeds of debentures guaranteed under section 503. This provision was included in section 503 to insure that all statutory requirements of section 503 are observed by development companies as they finance individual projects. It does not give the agency license to second-guess development companies on other matters. This being the case, I would expect SBA to process projects more expeditiously than it has under section 502, maintaining a turnaround time from the day a completed application is received to the day a project decision is made of no more than 30 days. SBA should begin to function more as a wholesaler of financial assistance to small business, using development companies to perform the retailing function.

Finally, and most importantly, section 503 was intended to provide an additional source of funding for development companies beyond that provided by section 502; it was never intended to substitute one funding source for another; even if it had been, direct funding for section 502 would be required during the time it takes SBA to implement the 503 program.

Yet some individuals within the Small Business Administration and a minority of members of the House Appropriations Committee would like to eliminate direct funding for the 502 program in fiscal year 1981. That should never be allowed to happen. At the very least, funds for the 502 program should remain available until the 503 program has been fully implemented, and that will probably take years. I would also hope that SBA will begin immediately to implement the 503 program so that it can begin to fund such projects in October of 1980.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Nowak) who, I might mention, is the author of an important title of this bill on ESOP's. The distinguished senior Senator from Louisiana was the author in the other body. The bill came over here and the gentleman from New York did a lot of work on it. It has been rewritten so they both mutually agree that it is better now than it had ever been proposed.

Mr. NOWAK. Mr. Speaker, I would like to make a few remarks about section 503 of S. 2698, the Small Business Development Act of 1980. As chairman of the House Small Business Subcommittee on Access to Equity Capital and Business Opportunities, I have a special interest in this measure.

Let me begin by saying that I concur with the remarks of my distinguished colleague from New York, John J. LaFalce, and applaud the leadership role he has taken.

The concept of section 503 is clear:

It authorizes the Small Business Administration to provide a guarantee of timely payment of principal and interest in debentures issued by qualified development companies. This new financing technique will enable small businesses to secure necessary funds for plant expansion. The so-called section 502 local development company program has already been extremely successful in this area and has worked to greatly aid downtown revitalization efforts. Section 503 will serve the same purpose.

Several specific points need to be emphasized. First, although SBA must approve each loan made with the proceeds of debentures guaranteed under section 503, I would expect SBA to process projects more expeditiously than it has under section 502. The turn-around time from the day a completed application is received to the day a project decision is made should be no longer than 30 days.

Second, I expect SBA to promulgate regulations promptly upon enactment of this legislation.

Third, qualified State or local development companies should be certified by SBA as eligible for section 503 debentures, in a timely, manner. The SBA should look most favorably on qualified State or local development companies which have a track record for making small business loans including working capital loans and industrial revenue bonds. Special attention should be paid to assure that the loan companies' staff have sufficient experience in making business loans of this type.

Lastly, in view of the sad state of our Nation's urban economies the administration should endeavor to earmark sufficient funds for the 502 program for fiscal year 1981.

The continuance of this program is vital and necessary in order to assure adequate financing for small business expansion in our urban areas. This is even more imperative when one considers the high unemployment rate and the fact that small business generates more jobs than larger businesses.

□ 1150

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take just a few minutes because it is important that the House know exactly where we are. First, there is no danger—none—that the various small business programs would be discontinued by rejecting this conference report. As a matter of fact, both sides of the aisle, House and Senate, are in general agreement. We can have this conference report back on suspension, if we cure this problem, in a week or 10 days, whenever we want it. There is not any problem.

Second, my friend from Iowa says existing law contains a credit elsewhere clause, and it is the existing law. He states that accurately. What he fails to tell the Members is that it became existing law in—would you believe—in an appropriation bill, in a conference between the House and the Senate on a supplemental appropriation bill in which OMB again bludgeoned people to insert that credit-elsewhere test which was never in the history of this country in the law as it pertained to disaster victims.

There were powerful men in the Senate in trouble in their States. They needed help. Sure, we were glad to see that they would get some kind of help, but that was bludgeoned into that conference on an appropriation bill, not a legislative bill. We are the group that is supposed to legislate on how these interest rates are handled. That is how it got into the law. Our committee did not speak to it. Our committee, everytime we have spoken to it, has rejected it.

Once again conferees again said they were philosophically in favor of reasonable rates and no credit-elsewhere tests. So, do not buy the argument, because it is inaccurate in the sense of how it got into the law. It was put in, as I say, in a supplemental appropriations bill. Members have been around here long enough to see those conference reports come back, and if anybody believes they had a clear-cut vote on whether or not to have a higher interest rate on disaster victims, I ask them to point it out in the Record. It is not there, but it will be today, I guarantee you.

We are all going to vote on one issue. The Senate is not the body that we should all capitulate to. I do not care what they voted on yesterday. I have seen them, and so have the Members of this House, vote all kinds of ways I disagreed with, and I could not fundamentally disagree with them more than I do today. In a short time we will ring the bells and we will call the roll on whether or not we are going to increase disaster loans to 11.25. That is what it is. Do not be persuaded that there is no differential. There is a 3-point differential, 3 points between what the current law is and what the administration and someone at OMB wants it to be.

Three percentage points to a business man or woman, a small business man or woman, can mean life or death. That can mean jobs or no jobs. That can mean recovery or no recovery. I just point out to the Members that if only 3 percent of them, just 3 percent of them employing 12 people each, could not handle that extra 3 percent, they could not make it, the Treasury would lose over the life of those loans $82 million of that loan and principal and income taxes that come into the Treasury from productive people.

I cannot calculate the transfer payments cost or food stamps, unemployment, or the rest of it. We do not hear a word either, may I say, in the appropriation bill we passed yesterday about this roughly $600 million which comes out of my Committee on Appropriations for FEMA, the Federal Emergency Management Agency. We passed it. We rebuild infrastructures, and we should. We do not ask anybody to repay anything. We go out and fix city halls, repair streets, and we do not ask municipalities to pay back. I do not believe we should—it is a disaster.

Let me also emphasize this to the

Members: My friend from Iowa knows we have not had authorization for the small business program for some time. My friend from New York pointed out that we have not had a law since 1978, and that is because it was pocket vetoed by the President. He never gave us a chance to vote on it. Of course, we have not had a law. We have not had authorization, but we have carried appropriations every year, thank God, because we contain in the statutes of the Small Business Administration general authorization to appropriate, and when we come up with the small business accounts in appropriation bills, Members will find money in them to carry on the essential programs, the direct loan programs, and others, all of which we concur with, support, et cetera.

In just a few minutes we are going to decide for the first time in this body whether we are for letting this administration kick those interest rates up 3 percent. Let me close by asking: How do they treat Chrysler Corp? I do not know how many Members supported that bill. I supported it because I believe in jobs, I believe in the free enterprise system, and I saw that one as thousands of people out of work, a new stimulus to this administration; recessionary policies, and so we ought to help. The loan interest rate in that particular bill calls for prime minus 2. Prime is around 11 percent now. So Chrysler may be able to borrow at 9 percent. Go home and explain to your friends how you gave Chrysler 9 percent—but a small business in a disaster area? No, sir, 11.25 percent. Remember that this statute was put in, in an appropriations bill, and allows them to add a 1-percent premium at SBA at their discretion over and above—over and above—what the cost is.

So, let me say to my colleagues; my friend from Iowa and I have worked together on this bill a long time, and all of us have. We can settle this question by going back to conference with the Senate and saying that the House is on record overwhelmingly, that we refuse to be bludgeoned into voting to increase disaster rates 3 percent. If the prime is indeed coming down, it is another reason to go back to the historic rates, which were 3 percent and 5 percent across the board, not 11.25 percent because you happen to be a small business person, not 11.25 percent as opposed to 9 percent to Chrysler.

Let us vote on it. Let us tell the Senate that we are a coequal body and we do not have to take their messages. Let us tell whoever that person is down at OMB that we want to invest in America, in disaster areas as well as nondisaster areas, and we want to see the principal repaid, the interest repaid, and get the taxes and the jobs that flow from it, that makes this country great at a time when we are running into what may be the deepest depression in the history of the Nation.

□ 1200

We want to see the principal repaid and the interest repaid, and we want to get the taxes and the jobs that flow from it that make this country great at a time when we are running into what may be the deepest depression in the history of the Nation. We have 400,000 autoworkers out of work. Farm income in our economy is at the lowest level since 1921. Housing starts are at their lowest level since 1921. Millions of people are unemployed. That is what the state of the economy of this country is, and this program helps change that.

So let us recognize that we are agreed on the major substantive issues. We can just send the Senate the message, and we can send it to whoever it is at OMB, that we will not buy their arguments, and that we will not accept high interest rates in disaster areas.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me repeat that this bill is 98 percent a bipartisan bill. A number of Members have remarked on it. One of the provisions in it is one which the gentleman from Kentucky (Mr. CARTER) authored. Another one is the Murtha amendment, which was strongly supported by the gentleman from Pennsylvania (Mr. McDADE). If this bill does not pass, certain Pennsylvania disaster victims will not receive the net benefits of a State grant program.

Without this provision, they will have the amount of the State grant subtracted from the amount of disaster loan eligibility. That is the Murtha amendment, and in the Senate it was the Heinz amendment. That is in this bill and a vote against the bill would deny those citizens the benefits of this provision.

I want to point out again that while the credit-elsewhere test, as the gentleman said, did come in, in an appropriation bill, the fact is that it is law. It has been law for a year, and it is far better to have this program extended than it would be the way we used to do it. We used to come in after each one of these disasters and pass a new bill with different terms than we had in the previous bill. They sent a bunch of people from a half dozen different departments out into the local area, and the people were confused. Now we have one agency, the Small Business Administration, as the lead agency. They go out there and hire temporary personnel and are prepared to administer a disaster program quickly in a professional manner.

This is a good program, and the net cost to the Government is only about a dollar per person per year. If we had an insurance program, it would cost more than that to send out one letter.

Mr. Speaker, this is the cheapest and best program to handle this kind of a problem that this Government has had. It is one of the best programs this Government has ever had.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, indeed it has been a good program, and we ought to keep it that way. The gentleman is quite right. I pointed out, and the gentleman agrees, that what happened was that this was put in an appropriation bill.

This House has never been given an opportunity to address itself as to what those rates ought to be. Everytime we voted on it in the committee, it has been unanimous. The only time it was in the House it was passed, with 10 dissenting votes, and it was pocket-vetoed.

Mr. Speaker, I say to my friend, "You and I are on the same side on the whole bill, including disaster interest rates."

Mr. SMITH of Iowa. Mr. Speaker, I would point out that on February 6 we did vote on the exact same formula in S. 918. At that time the interest rate would have been 10.44 percent; now it will be 9.94 percent. We have already voted to approve what would have been higher interest rates than these.

Mr. McDADE. Mr. Speaker, if the gentleman will yield further, the gentleman knows that is in the bill that he saw fit to send to the Committee on Rules, and I agreed to help him get it over to the Senate for conference. That is the reason we voted on it.

That is part of the convoluted history of the effort to kick up interest rates that this administration has continually pressed upon disaster victims. We went up to the Committee on Rules with one bill, and my friend, as he has stated, sent it up there, and I said, "OK, Mr. Chairman, I understand the problem. We have got to get it over into the Senate, and I will help you do it."

And working together, as we have so many times, we did. But we have been euchered. Now the Senate has a gun. The Senate holds a gun at our heads, and the OMB holds a gun at our heads. We never had a chance to act, but we will in a few minutes.

Mr. SMITH of Iowa. Mr. Speaker, I point out that this provision is the same as the one in S. 918. The Senate first passed it in S. 918 but then went back and turned it down. They are the ones who backed down.

Mr. LaFALCE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. LaFALCE. Mr. Speaker, is it not true that the credit-elsewhere test is primarily a means of giving the SBA the ability to deal with abuses of SBA programs?

Mr. SMITH of Iowa. Well, it is, but again really it is not. I was originally against a credit elsewhere test, but I have been practical about it and believe it is acceptable to continue it as part of the compromise.

This bill has so much in it that no one would agree with every provision in it 100 percent but everyone should support most of it. It is a good bill. This bill previously passed the House 384 to 17, with essentially the same provisions. It passed the Senate, Tuesday, 91 to 2. It contains so much that is so good, and it helps give direction to small business in this country. It helps to recognize that small business is so important.

Mr. Speaker, I hope that we will get

this conference report behind us. This bill should not be delayed. Passing it does not keep us from bringing other bills up on the floor in the future to improve any of the various programs covered. We have a half dozen other bills we will be trying to get through the House, and we can consider them separately. Let us pass this conference report now.

I urge a favorable vote.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield further?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, it is my understanding that even under the traditional SBA guarantee programs, the ordinary way of dealing with the SBA is to indicate that you have gone to a bank and the bank has declined to give you a loan—and then with that declination, you are, therefore, then able to get a guarantee from the SBA.

Mr. SMITH of Iowa. Mr. Speaker, that is true, but I do not want to put too much emphasis on that part of the bill because it is really an insignificant part of the bill. The other things in this bill are so important. We have the ESOP's, we have the debentures, we have the small business development center program, and we have the authorizations for a half dozen different programs. There are many beneficial rates and programs created or extended. That interest rate provisions on disaster loans is just a little part of this bill, and I hope we will adopt the conference report.

Mr. McDADE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, here is what the Small Business Administration did just a couple of months ago. We told them to go back downtown. They wanted to increase the interest rate for the direct loan program, up to 10¼ percent, plus a point. That is their testimony. And why?

Somebody in OMB gave instructions. We did not have the Administrator present the testimony; he would not come, but he sent his deputy. This is the Small Business Administration. What an organization. They wanted 11½ for small business direct loans. SBA, in testimony before us, certainly knew what raising the interest rate would raise for the Treasury, but they did not know how many jobs or how much revenue the direct loan program brings to the Treasury. At the end of the hearing, in desperation, I asked the SBA to provide that data for the record. As you can see the answer to date, devastating silence so far. The hearing was on March 3, this year.

Mr. McDADE. Does anybody have the figure today in the room?

Mr. MAUK. No.

Mr. McDADE. Would you let us know what we are getting for that so-called subsidy, how many jobs are being created under the direct loan period over the last three years? Furnish for the record how many new jobs have been created, and how many loans were successful, in other words how many of the businesses kept operating, and if you have it in your files—and it is easy to get—what kind of tax revenues did the businesses and individuals pay the Government from being started under the direct loan program?

Mr. MAUK. I will be more than happy to.

We have yet to get one single answer.

I believe that this tells us a great deal about the attitude of some of the OMB and administration officials.

My God, let me tell the Members this. Credit-elsewhere tests? Try that when the banks are 15 feet under water. Try it in a community in the West that is under a ton of ash from Mount St. Helens. Try it in any area of this country that has been devastated by a disaster.

I was up in Pennsylvania when Hurricane Agnes hit, and I saw what it did. I saw what it did to communities and to small business and to people in this country.

But this administration tries to bludgeon us and bludgeon disaster victims. Try to find some way of getting commercial loans before you even get access to Federal disaster credit when a community and its people are, for example, inundated in a flood.

We are loaning Chrysler 9 percent and giving foreign governments, as my friend pointed out, 30 years at 3 percent and 40 years at 1 percent. Sometimes, these so-called loans are converted to grants.

However, if you happen to be small business, you have got to go through credit-elsewhere and if you can stay alive long enough, you will have to pay 11¼. That is a 3-percent increase, and I say to the Members, as I said in my general statement, that that will cost the Treasury money. Penny wise, pound foolish and cruel to disaster victims.

Mr. Speaker, I urge the defeat of this conference report. May I say as a matter of personal history, having been a Member of this body for roughy 18 years, that today I will make my first request to require a recorded vote on this conference report. This will be the first recorded vote in 18 years that I have demanded. Probably my friend, the gentleman from Ohio, sets the course record, but this will be the first one for me, and I am going to call for it.

Mr. Speaker, I hope the Members will support us and go back to the Senate and OMB, whoever it is, and say, "We won't take it. We are going to represent the small business community of this country."

Mr. SMITH of Iowa. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just urge that this bill be adopted. It is a good bill.

I want to repeat that as of October 1, the estimated difference in interest rates is this: It is the difference between 9⅜ and 9.94 percent and will be only applicable to disasters which occur after this bill is signed by the President. This is a very good bill. We have been almost unanimously bipartisan on all parts of this bill, and I am very sorry there is a little difference of opinion here today. But that should not defeat this bill.

Mr. Speaker, the small business community of this country needs this bill, almost all small business groups support it, we need it now, and we do not want to delay it again to the point where it could be pocket vetoed next fall.

● Mr. ALBOSTA. Mr. Speaker, I rise in opposition to the conference report, and would like to associate my views with the remarks of the gentleman from Pennsylvania, Mr. McDADE.

I oppose the report, not because I do not favor the programs that are authorized and extended in this bill, but because of a specific section dealing with interest rates on disaster loans, and the "credit-elsewhere test" that is written into that section.

Disaster assistance, and in particular the loan program is one of the most vital programs our Government can offer small businesses. This year is a good example, because of the many natural disasters that have occurred. My own State of Michigan has been plagued by many of these disasters. The winter resort business was devastated by a warm winter, causing great economic loss to the small businesses in my area. And everyone remembers the tragedy that took place in Kalamazoo, Mich., when a tornado touched down. These small businesses in Michigan, and others across the Nation do not have the time to go shopping around for a loan.

The Small Business Administration's disaster assistance program was created to provide speedy assistance after a disaster has been declared. In addition, this speedy assistance was designed to be low cost as well. I believe my colleagues will agree that a small businessman should not be forced to suffer a penalty of high interest rates because an uncontrollable event occurred, causing his business great loss.

This conference report we are considering today, raises the Small Business Administration's disaster loan rate to a level that I believe, would cause small businesses undue strain. In addition, the credit-elsewhere provision would require small businessmen to delay their rebound from disaster until after they find a bank that is open in their area, submit financial statements and wait for a determination by the bank. The businessman cannot go to the Small Business Administration until that process is completed. This, I feel, is an unfair burden on small businessmen who have just experienced a disaster.

It is for these two reasons that I oppose the passage of the conference report.●

● Mr. GRASSLEY. Mr. Speaker, I am opposed to the conference report on 2698, the small business programs authorization.

As we are all aware, existing law requires disaster victims who cannot establish that they cannot obtain credit from any other source to pay an interest rate equal to the Government's cost of money. Currently, the Small Business Administration's formula produces an interest rate of 8¼ percent. This conference report changes the interest rate to 11¼ percent by changing the formula for determining the cost of money to that used by FmHA and further stipulating an addition of up to 1 percent.

I know that proponents of this change hope that equalizing the rates in such a manner will encourage farmers to go back to FmHA for loans, but I am afraid that we may outsmart ourselves if we adopt the new interest rate called for in this bill. What we will be faced with, if we increase the interest rate on Small

Business Administration disaster loans is a situation wherein businesses will find the interest rates too high to reopen. The Treasury will end up paying more in benefits for disaster victims than it will receive in higher interest rates.

Mr. Speaker, this legislation is counterproductive. Therefore, I must cast my vote in opposition.●

Mr. SMITH of Iowa. Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McDADE. Mr. Speaker, I make this request for the first time in 18 years.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 193, not voting 30, as follows:

[Roll No. 346]

YEAS—210

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Breaux
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Cavanaugh
Chappell
Chisholm
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Daschle
de la Garza
Dellums
Dingell
Dixon
Dodd
Donnelly
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.

English
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Howard
Huckaby
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
LaFalce
Leach, Iowa
Leath, Tex.
Lehman
Leland
Levitas
Lloyd
Long, La.

Long, Md.
Lundine
McCloskey
McHugh
Markey
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon

Sharp
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart

Stokes
Stratton
Studds
Stump
Synar
Tauzin
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer

Watkins
Waxman
Weaver
Whitley
Williams, Mont.
Wolff
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—193

Abdnor
Albosta
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Bonker
Bowen
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carr
Carter
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dicks
Dornan
Dougherty
Downey
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Foley
Forsythe
Fountain

Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hyde
Jeffords
Jeffries
Johnson, Colo.
Kazen
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Lederer
Lent
Lewis
Livingston
Loeffler
Lott
Lowry
Lujan
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Musto

Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Walgren
Walker
Wampler
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—30

Anderson, Ill.
Ashley
Bingham
Boggs
Cheney
Clay
Conable
Danielson
Davis, S.C.
Derrick

Fuqua
Garcia
Giaimo
Holtzman
Jenrette
Kelly
Leach, La.
Lee
Luken
Maguire

Mathis
Mazzoli
Quayle
Rousselot
Runnels
Sebelius
Weiss
Wilson, C. H.
Wirth
Wydler

□ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Leach of Louisiana for, with Mr. Wydler against.

Mrs. Boggs for, with Mr. Sebelius against.

Mr. Garcia for, with Mr. Conable against.

Mr. Fuqua for, with Mr. Rousselot against.

Mr. Clay for, with Mr. Cheney against.

Mr. Charles H. Wilson of California for, with Mr. Lee against.

Mr. Danielson for, with Mr. Kelly against.

Until further notice:

Mr. Bingham with Mr. Quayle.

Mr. Derrick with Mr. Davis of South Carolina.

Mr. Maguire with Mr. Ashley.

Mr. Jenrette with Mr. Anderson of Illinois.

Ms. Holtzman with Mr. Giaimo.

Mr. Luken with Mr. Mazzoli.

Mr. Wirth with Mr. Mathis.

Mr. Weiss with Mr. Runnels.

Messrs. CLAUSEN, CHARLES WILSON of Texas, APPLEGATE, MYERS of Pennsylvania, LOWRY, FOLEY, KOSTMAYER, WHITE, SHELBY, ALBOSTA, DOWNEY, and FOUNTAIN changed their votes from "yea" to "nay."

Mr. MURTHA, Mr. ROE, Mrs. HECKLER, and Mr. HANCE changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1230

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its amendment to the title of the Senate bill, S. 2698.

The motion was agreed to.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and that I may be permitted to do so immediately preceding the vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, SATURDAY, JUNE 21, 1980, TO FILE CONFERENCE REPORT AND STATEMENT ON S. 1308, PRIORITY ENERGY PROJECT ACT OF 1979

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Saturday, June 21, 1980, to file a conference report and statement on the Senate bill, S. 1308, which is the energy mobilization bill.

This unanimous-consent request has been cleared with the gentleman from Ohio (Mr. BROWN), the senior minority member of the subcommittee and also the senior Republican conferee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 932, ENERGY SECURITY ACT

Mr. MOORHEAD of Pennsylvania submitted the following conference re-

port and statement on the Senate bill (S. 932) to extend the Defense Production Act of 1950, as amended.

CONFERENCE REPORT (H. REPT. No. 96-1104)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Security Act".

TITLE I—SYNTHETIC FUEL

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FINDINGS AND PURPOSE

SEC. 100. (a) The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of nationa lsecurity;

(2) dependence on foreign energy resources can be significantly reduced by the production from domestic resources of the equivalent of at least 500,000 barrels of crude oil per day of synthetic fuel by 1987 and of at least 2,000,000 barrels of crude oil per day of synthetic fuel by 1992;

(3) attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(4) establishment of an independent Federal entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuel will facilitate the expeditious achievement of synthetic fuel production from domestic resources.

(b) (1) The purpose of this title, and the amendments made by this title, are to utilize to the fullest extent the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(2) Congress finds and declares that these purposes can be served by—

(A) demonstrating at the earliest feasible time the practicality of commercial production of synthetic fuel from domestic resources employing the widest diversity of feasible technologies;

(B) fostering the creation of commercial synthetic fuel production facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally acceptable manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2,000,000 barrels of crude oil per day by 1992;

(C) creating the United States Synthetic Fuels Corporation, a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(D) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel;

(E) encouraging private capital investment and activities in the development of domestic sources of synthetic fuel and to foster competition in the development of the Nation's synthetic fuel resources;

(F) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuel;

(G) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies; and

(H) giving special consideration to the production of synthetic fuel which has national defense applications and expediting its initial development through the Defense Production Act of 1950.

PART A—DEVELOPMENT OF SYNTHETIC FUEL UNDER THE DEFENSE PRODUCTION ACT OF 1950

SHORT TITLE

SEC. 101. This part may be cited as the "Defense Production Act Amendments of 1980".

DECLARATION OF POLICY

SEC. 102. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs.".

RESTRICTION ON RATIONING

SEC. 103. Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end thereof the following:

"SEC. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.

"SEC. 106. For purposes of this Act, 'energy' shall be designated as a 'strategic and critical material' after the date of the enactment of this section: *Provided*, That no provision of this Act shall, by virtue of such designation—

"(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock (including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

"(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production.".

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 104. (a) (1) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by inserting "(1)" after "(a)" and by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce,".

(2) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

"(2) Except as provided in section 305 and section 306, no authority contained in sections 301, 302, or 303 may be used in any manner—

"(A) in the development, production, or distribution of synthetic fuel;

"(B) for any synthetic fuel project;

"(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

"(D) to provide any assistance to any person for the purchase of synthetic fuel.".

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the";

(2) by striking out "$20,000,000" and inserting in lieu thereof "$38,000,000"; and

(3) by adding at the end thereof the following:

"(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.".

(c) The second sentence of section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended by striking out "$25,000,000" and inserting in lieu thereof "$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and metals" each place it appears therein and inserting in lieu thereof ", metals, and materials".

(2) Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1995".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended—

(A) by striking out "and upon a certification" and all that follows through "other national emergency,"; and

(B) by striking out "such" after "of substitutes for".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy;

"(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the Unied States Synhetic Fuels Corporation Act of 1980.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

"(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

"(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan for guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

"(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

"(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

"(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)

(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

"(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

"(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a gaurantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act Relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or atleration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

"(j)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

"(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

"Sec. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

"(3) No court shall have the authority to review any determination made by the President under this subsection.

"(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy; and

"(ii) through the Department of Defense and any other Federal department or agency designated by the President.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(C)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

"(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

"(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

"(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

"(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

"(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

"(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

"(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

"(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

"(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

"(ii) transport and store and have processed and refined such synthetic fuel.

"(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

"(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

"(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

"(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

"(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

"(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

"(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

"(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

"(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

"(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to suparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

"(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

"(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

"(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

"(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost in the Government as determined annually by the President; and

"(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

"(3) if more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes,' approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

"(k)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any State; or

"(c) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(l) renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

"SEC. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3).

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the   does not object to the synthetic fuel action numbered   received by the Congress on   , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the   does not favor the synthetic fuel action numbered   received by the Congress on   , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been discharged to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

"(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

"SEC. 308. (a) For purposes of this Act, the term 'Government synthetic fuel project' means a synthetic fuel project undertaken in accordance with the provisions of section 303(c).

"(b)(1)(A) For purposes of this Act, the term 'synthetic fuel' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

"(i) coal, including lignite and peat;

"(ii) shale;

"(iii) tar sands, including those heavy oil resources where—

"(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

"(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 or section 306; and

"(iv) water, as a source of hydrogen only through electrolysis.

"(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

"(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

"(2)(A) For purposes of this Act, the term 'synthetic fuel project' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

"(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

"(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

"(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

"(I) which—

"(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

"(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

"(II) which is necessary to the project; and

"(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

"(I) which is for the exclusive use of the project;

"(II) which is incidental to the project; and

"(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

"(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

"(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

"(aa) any mineral right; or

"(bb) any facility or equipment for extraction of any mineral;

"(II) used solely for the commercial production of hydrogen from water through electrolysis; and

"(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

"(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

"(C) For purposes of this paragraph—

"(i) the term 'exclusive' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

"(ii) the term 'incidental' means a relatively small portion of the total project cost; and

"(iii) the term 'necessary' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

"(C) For purposes of section 305 and section 306, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

GENERAL PROVISIONS

SEC. 105. (a) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by inserting ", but excluding sections 305 and 306" after "payment of interest under subsection (b) of this section";

(2) by inserting "pursuant to this paragraph" after "Funds made available";

(3) by striking out "Three" and inserting in lieu thereof "(1) Except as provided in paragraph (2), there"; and

(4) by adding at the end thereof the following new paragraphs:

"(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

"(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

"(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2).".

(b) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "August 27, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1980".

REPORTS

SEC. 106. Beginning one year after the effective date of this part, and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950.

EFFECTIVE DATE

SEC. 107. The amendments made by this part shall take effect on the date of the enactment of this part.

PART B—UNITED STATES SYNTHETIC FUELS CORPORATION

Subtitle A—General Provisions

SHORT TITLE

SEC. 111. This part may be cited as the "United States Synthetic Fuels Corporation Act of 1980".

GENERAL DEFINITIONS

SEC. 112. For purposes of this part:

(1) the term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the six other Directors.

(2) the term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, or an Indian tribe, or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this part;

(D) foreign government or agency thereof when participatnig in joint ventures with any entity described in subparagraph (A) or (B); or

(E) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project pursuant to this part.

(4) The term "corporation" means the United States Synthetic Fuel Corporation.

(5) The term "Corporation construction project" means a synthetic fuel project undertaken in accordance with the provisions of subtitle E.

(6) The term "Director" means a member of the Board of Directors, including the chairman.

(7)(A) The term "financial assistance" means any of the following forms of financial assistance, or combinations thereof, as provided in subtitle D—

(i) loans;

(ii) loan guarantees;

(iii) price guarantees;

(iv) purchase agreements;

(v) joint-ventures; and

(vi) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

(B) such term shall not include any form of grant, except cost-sharing agreements pursuant to section 131(u).

(8) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "joint venture" means a synthetic fuel project module undertaken in accordance with the provisions of section 136.

(10) The term "loan" means a loan, or commitment to loan, made under section 132;

(11) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness, which is made under section 133.

(12) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

(13) The term "price guarantee" means a guarantee of, or commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only a guarantee, or commitment to guarantee, which is made under section 134.

(14) The term "purchase agreement" means any contract to purchase synthetic fuel, any guarantee thereof, or a commitment thereof, which is made under section 135.

(15) The term "qualified concern" means a concern which demonstrates to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of a proposed synthetic fuel project.

(16) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17) (A) The term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal and tar sand resources (other than heavy oil) qualifying for financial assistance under this part; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(18) (A) The term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only——

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B) (i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for financial assistance pursuant to section 133 or section 136, but not both, and shall not be authorized for purposes of subtitle E.

(iii) Such a synthetic fuel project for commercial production of hydrogen from water shall not be eligible for financial assistance pursuant to section 136.

(C) For purposes of this paragraph—

(i) the term "exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes;

(ii) the term "incidental" means a relatively small portion of the total project cost; and

(iii) the term "necessary" means an integrated part of the project taking into account considerations of economy and efficiency of operation.

EFFECTIVE DATE

SEC. 113. This part shall take effect on the date of the enactment of this part.

Subtitle B—Establishment of Corporation

Establishment

SEC. 115. (a) There is hereby created the United States Synthetic Fuels Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

(c) The general powers of the Corporation are those powers specified in section 171.

BOARD OF DIRECTORS

SEC. 116. (a) (1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this part.

(2) The Board of Directors shall consist of a Chairman and six other Directors appointed by the President by and with the advice and consent of the Senate. Not more than four Directors shall be members of any one political party. The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

(b) (1) The Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors, the President shall appoint, by and with the advice and consent of the Senate, an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director may be removed from office by the President only for neglect of duty, or malfeasance in office.

(c) The President shall designate, at the time of appointment of a Director, whether such Director, other than the Chairman, will serve in either a full-time or part-time capacity. Directors serving in a part-time capacity may not hold any full-time salaried position in the Federal Government or in any State or local government. Directors serving in a full-time capacity shall hold no other salaried position.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f) (1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose—

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, minerals, or land; or

(ii) impede—

(I) the ability of the Corporation to establish procurement or synthetic fuel project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to

the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(g) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board of Directors and concurrence of the President.

OFFICERS AND EMPLOYEES

SEC. 117. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section: *Provided, however,* That the Corporation shall not be authorized to employ more than three hundred individuals in full-time professional positions at any time: *And provided further,* That for purposes of the preceding limitation, individuals employed for Corporation construction projects under subtitle E shall not be counted.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 116(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURES

SEC. 118. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; P.L. 95–521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation and to employees of the Corporation whose position in the schedule established by the Board of Directors pursuant to section 117(b)(2) is compensated at a rate equivalent to that payable for grade GS–16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 116(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 119. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors' functions, powers, and duties assigned to the Corporation under this part other than those expressly vested in the Board of Directors pursuant to sections 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b), and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c) and 191(b). The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time Directors, officers, or employees of the Corporation as the Chairman deems appropriate.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

SEC. 120. (a)(1)(A) The Corporation is authorized to expend during any fiscal year for—

(i) subject to paragraph (2), reasonable and necessary administrative expenses, not to exceed $35,000,000; and

(ii) subject to paragraph (4), generic studies and specific reviews of individual proposals for financial assistance, not to exceed $10,000,000.

(B) For purposes of section 122(e), and from the amount specified in subsection (a)(1)(A)(i), the Inspector General may expend not more than $2,000,000 during any fiscal year for reasonable and necessary administrative expenses.

(2) For purposes of this section, administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses. For each fiscal year commencing after September 30, 1980, the $35,000,000 limitation in subsection (a)(1)(A)(i) and the $2,000,000 limitation in subsection (a)(1)(B) shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or its successor, for the year then ended over the level so established for the year ending September 30, 1979.

(3) Administrative expenses include reimbursement to Directors for reasonable expenses which are incurred in connection with their service as Directors of the Corporation.

(4) Expenditures authorized under subsection (a)(1)(A)(ii) shall not be available—

(A) for administrative expenses;

(B) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation;

(C) to exceed the personnel limits established pursuant to section 117(d); or

(D) for operating expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to Corporation construction projects pursuant to subtitle E.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives in accordance with the provisions of section 153 along with the President's proposed budget for such fiscal year: *Provided,* That such expenditures for fiscal years 1980 and 1981 may be made without such prior statement. It is the intention of this section that the Corporation's expenditures for administrative expenses shall reflect due consideration for economy and efficiency.

PUBLIC ACCESS TO INFORMATION

SEC. 121. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities: *Provided,* That the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 116(f) of this part as it pertains to minutes of meetings of the Board of Directors.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

INSPECTOR GENERAL

SEC. 122. (a) (1) In addition to the officers provided for in section 117(b) (1), there shall be in the Corporation an officer with the title of "Inspector General" who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report directly to, and be under the general supervision of, the Board of Directors, and shall not be under the control of, or subject to supervision by, any other officer of the Corporation.

(2) Neither the Board of Directors nor any other officer or employee of the Corporation shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, or inspection.

(3) There shall also be in the Corporation a Deputy Inspector General who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy Inspector General shall assist the Inspector General in carrying out his duties under this section and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(4) The Inspector General or the Deputy Inspector General may be removed from office by the President only for neglect of duty, or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress.

(5) The Inspector General and the Deputy Inspector General shall be compensated at a rate fixed by the Board of Directors in accordance with section 117(b) (2), which rate for the Inspector General shall be not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and for the Deputy Inspector General not less than the rate provided for level IV of such schedule under section 5315 of title 5, United States Code.

(b) (1) It shall be the duty and responsibility of the Inspector General—

(A) to supervise, coordinate, and provide policy direction for auditing, investigative, and inspection activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud and abuse in, programs and operations of the Corporation;

(B) to determine the extent to which such programs and operations are consonant with the purposes of this title, and in compliance with the provisions of this part;

(C) to make recommendations for correcting deficiencies in, or improving, the programs and operations of the Corporation; and

(D) to keep the Board of Directors and the Congress fully and currently informed, by means of the reports required by subsections (c), (d), and (h), and otherwise, concerning problems, abuses, and deficiencies relating to the administration of programs authorized by this part, to recommend corrective action concerning such problems, abuses, and deficiencies and to report on the progress made in implementing such corrective action.

(2) In carrying out his duties and responsibilities, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States in relation to the Corporation, with a view toward avoiding duplication and insuring effective coordination and cooperation.

(3) In carrying out his duties and responsibilities, the Inspector General shall report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law.

(c) The Inspector General shall, not later than November 30 of each year, prepare an annual written report summarizing the activities of his office during the immediately preceding fiscal year. Each such report shall include—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Corporation disclosed by such activities;

(2) a description of recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1); and

(3) a summary of matters referred to law enforcement authorities and the extent to which prosecutions and convictions have resulted.

(d) The annual report of the Inspector General shall be furnished to the Board of Directors not later than November 30 of each year and shall be transmitted by the Board of Directors to the President, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives within thirty days after the receipt of the report, together with a report by the Board of Directors containing any comments it deems appropriate. The Board of Directors shall make copies of each annual report available to the public upon request and at a reasonable cost within sixty days after its transmittal to the Congress.

(e) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Corporation which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) to select, appoint, and employ such employees as may be necessary for carrying out the functions, powers, and duties of the Inspector General, which employees shall be compensated in accordance with salary schedules established pursuant to section 117(b) (2);

(6) to obtain services of consultants at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code; and

(7) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(f) (1) Upon request of the Inspector General for information or assistance under subsection (e) (2), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (e) (1) or (e) (2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(g) The Board of Directors shall make available to the Inspector General appropriate and adequate office space at offices of the Corporation.

(h) The Inspector General—

(1) may make such additional investigations and reports relating to the operations of the corporation as are, in the judgment of the Inspector General, necessary or desirable; and

(2) shall provide such additional information or documents as may be requested by any committee or subcommittee of either House of Congress with respect to matters within their jurisdiction.

(i) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Board of Directors and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval.

ADVISORY COMMITTEE

SEC. 123. (a) There is hereby established an Advisory Committee to the Board of Directors for the purpose of—

(1) reviewing the Corporation's solicitations of proposals for financial assistance proposed for issuance pursuant to section 127; and

(2) advising the Corporation in relation to other matters within the expertise of the Advisory Committee, or any member thereof, as the Board of Directors may request of the Advisory Committee from time to time.

(b) The Advisory Committee is composed of the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Energy Mobilization Board. The Chairman of the Advisory Committee shall be designated by the President from among its members.

(c) The Advisory Committee shall meet with the Board of Directors not less than semiannually, and the Corporation shall furnish to the Advisory Committee such professional, secretarial, and other services as the Advisory Committee may request.

(d) During any meeting with the Board of Directors or in any communication with the Corporation, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflicts of interest applicable to their respective departments and agencies as such laws and regulations relate to meetings with representatives of a private corporation.

Subtitle C—Production Goal of the Corporation

NATIONAL SYNTHETIC FUEL PRODUCTION GOAL

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

PRODUCTION STRATEGY

SEC. 126. (a) (1) In order to assure achievement of the purposes of this title and the national synthetic fuel production goal set forth in section 125, the Corporation—

(A) shall, pursuant to section 127(a), solicit proposals for synthetic fuel projects;

(B) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Board of Directors;

(C) shall, after soliciting proposals pursuant to subparagraph (A) and reviewing such proposals, if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

(D) may, only after fulfilling the requirements of subparagraphs (A), (B), and (C), and paragraph (3), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in paragraph (2) and subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this title.

(2) (A) Prior to the approval of a comprehensive strategy pursuant to subsection (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board of Directors, (i) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (ii) offer the potential for achieving the national synthetic fuel production goal set forth in section 125.

(B) For the purposes of this paragraph, the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources.

(3) Prior to undertaking a Corporation construction project pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to undertake a Corporation construction project and the objectives of such a Corporation construction project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Corporation may undertake such a Corporation construction project pursuant to subtitle E.

(b) (1) Subject to the requirements of paragraph (2), the Corporation shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national synthetic fuel production goal established by section 125. In the formulation of such comprehensive strategy, the Corporation—

(A) shall consider all practicable means for the commercial production of synthetic fuel from domestic resources, employing the widest diversity of feasible technologies; and

(B) after consultation with the Secretary of Defense, shall consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced pursuant to the provisions of this part.

(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125.

(3) The proposed comprehensive strategy shall—

(A) to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement;

(B) directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve the national synthetic fuel production goal established by section 125;

(C) specifically address how any Corporation involvement recommended in the comprehensive strategy will be expressely limited and ultimately terminated upon a date or event certain in the future;

(D) include a financial or investment strategy prospectus which sets forth the justification for the requested authorization of appropriations;

(E) include findings, based upon accompanying comprehensive reports, regarding synthetic fuel projects which received financial assistance prior to submission of such comprehensive strategy to the Congress with respect to—

(i) the economic and technological feasibility of each such project including information on product quality, quantity, and cost per unit of production; and

(ii) the environmental effects associated with each such project as well as projected environmental effects and water requirements; and

(F) include recommendations based upon accompanying comprehensive reports concerning the specific mix of technologies and resource types which the Corporation proposes to support after approval pursuant to subsection (c) of the comprehensive strategy.

(4) After the approval of the comprehensive strategy, the Board of Directors may request, pursuant to subsection (c) (10), additional authorizations of appropriations. Such requests shall include a financial or investment prospectus which sets forth the justification for the requested authorizations of appropriations.

(c) (1) (A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b) (2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved. For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10) (B).

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c) (1) (A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on   and   dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6) (A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9) (A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7) (A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amend-

ment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on this joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the first House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed $68,000,000,000.

(d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

SOLICITATION OF PROPOSALS

SEC. 127. (a)(1) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. The Corporation shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings.

(2) All proposed solicitations under paragraph (1) shall be submitted to the Advisory Committee established under section 123. The Advisory Committee shall have 30 calendar days to review and comment on such solicitations prior to their initial issuance.

(3) Within six months after the date of the enactment of this part, the Corporation shall make an initial set of solicitations directed by paragraph (1). Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques) for each potential domestic resource as well as all of the forms if financial assistance is authorized in subtitle D.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

(d) Each solicitation for proposals pursuant to the authortiy of this section shall set forth general evaluation criteria, as determined by the Board of Directors, taking into account—

(1) the achievement of the national synthetic fuel production goal established in section 125; and

(2) the requirements of section 126(a), for a general type of synthetic fuel project concerning—

(A) the type of domestic resource to be used by the proposed synthetic fuel project;

(B) the type or types of technologies to be employed; and

(C) the type and amount of synthetic fuel to be produced.

(e) Thirty days after the date of the enactment of this part, the Secretary of Energy, on behalf of the Corporation and pursuant to the authorities in this part, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this part.

(f) The Corporation shall give priority consideration to applications for financial assistance from any concern proposing a synthetic fuel project in any State which, in the judgment of the Board of Directors, indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(g) The Corporation shall consult with the Governor of any State in which a proposed Corporation construction project or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of such project development, licensing, and operation.

CONGRESSIONAL DISAPPROVAL PROCEDURE

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g) (1) For purposes of subsection (b), the term "resolution" means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the ——— does not favor the Corporation synthetic fuel action numbered ——— received by the Congress on ———, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action.

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3) (A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4) (A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subpargraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5) (A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

CONGRESSONAL APPROVAL PROCEDURE

SEC. 129. (a) (1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a) (1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on ___________.", the blank space therein being filled with the date and the year.

(f) (1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g) (1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

SEC. 131. (a) Financial assistance shall be awarded to a qualified concern whose proposal is most responsive to a solicitation for proposals, issued under the authority of section 127 and is most likely to advance the purposes of this title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this part, the Corporation is authorized, upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the awarding of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125. Preference in such selection shall be given to—

(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

(i) price guarantees, purchase agreements, or loan guarantees;

(ii) loans; and

(iii) joint-ventures.

(3) The Corporation shall also consider, in awarding financial assistance, among other relevant factors—

(A) the diversity of technologies (including differing processes, methods, and technique); and

(B)(i) the potential cost per barrel or unit production of synthetic fuel from the proposed synthetic fuel project:

(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource and its geographic distribution, and the potential end use; and

(iii) the potential of the technology for complying with applicable regulatory requirements.

(4) If after a formal solicitation for competitive bids no bids are received during the period for response, or those received are not acceptable to the Board of Directors, and the Board of Directors makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal established under section 125 and the requirements of section 126 (a) and (b) that competitive bids are not appropriate, the Board of Directors shall report such findings to the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

(c) All contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(d) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate State agencies.

(f) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or department of the United States, except as provided in section 151.

(g) No financial assistance may be awarded unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in awarding financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this part shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the provisions of this part. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this part. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was awarded.

(j)(1) In no case shall the aggregate amount of financial assistance awarded or committed under this part exceed at any one time 15 per centum of the total obligational authority of the Corporation authorized under section 152—

(A) to any one synthetic fuel project, either directly or indirectly; or

(B) to any one person, including such person's affiliates and subsidiaries, either directly or indirectly.

(2) For the purpose of determining compliance with paragraph (1)(B), any financial assistance to a synthetic fuel project under this part shall be allocated among the project participants in direct proportion to each person's participation in such project.

(k)(1) Any contract for financial assistance shall specify in dollars the maximum amount of the liability of the Corporation under such contract, as computed in accordance with section 152.

(2) The Corporation shall notify the Secretary of the Treasury of its intention to enter into a contract for financial assistance prior to the execution of such contract.

(3) Any such contract shall be accompanied by a certification by the Secretary of the Treasury pursuant to section 195(a) (3) that sufficient unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligation of the contract.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, or with regard to a synthetic fuel project the management of which proposes to sell synthetic fuels to a person whose rates for the use or transportation of such fuels are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) For the purposes of determining (1) the total costs of the synthetic fuel project for sections 132 and 133, and (2) the total costs of the synthetic fuel project module for section 136, any real or personal property or services obtained for the facility in a transaction with any person or concern (including an affiliated company as defined in section 2(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(2)) and an affiliated person as defined in section 2(a)(3) of such Act (15 U.S.C. 80a–2(a)(3)) who has, or will have, an ownership or profit interest in the facility shall be valued at the lower of the cost to the project or fair market value, disregarding any portion of such fair market value which is attributable to the prospect of receiving financial assistance under this part.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project: *Provided, however,* That any person who is solely in the position of a lender shall not be required to bear such risk. The Corporation shall not award more than a single form of financial assistance under this part unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further, that the project is necessary to achieve the purposes of this title and the provisions of this part.

(p) The Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project.

(q) The Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance (after evaluating the financing of the synthetic fuel project, the tax benefits which would be available to investors in the synthetic fuel project, and any regulatory actions associated with the synthetic fuel project) as may be necessary to assure that any investors having an ownership or profit interest in the synthetic fuel project bear a substantial risk of after tax loss in the event of any default or other cancellation of the synthetic fuel project.

(r) The Corporation shall insure that financial assistance awarded under this part for (1) loans pursuant to section 132, (2) loan guarantees pursuant to section 133, (3) joint ventures pursuant to section 136, or (4) any combination of forms of financial assistance including one or more of the aforementioned forms, in the judgment of the Board of Directors, encourages and supplements, but does not compete with or supplant, any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. To that end, the Corporation shall establish internal procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project and, further, the Board of Directors shall determine, in its judgment, that any financial assistance by the Corporation for the project will not compete with nor supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken.

(s) Any price guarantee pursuant to section 134 or purchase agreement pursuant to section 135 shall include an express provision to the effect that the price guarantee or purchase agreement shall be the subject of review and possible renegotiation, pursuant to section 131(b)(1)(B), within ten years from the date of initial production by the synthetic fuel project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such price guarantee or purchase agreement.

(t) The Corporation shall, in its determination of the need for financial assistance awarded pursuant to this part, take into consideration (1) any specific tax credit directly associated with a synthetic fuel project, (2) any financial assistance that has been or will be provided by Federal or State agencies, and (3) the potential revenues generated by the project from the production of non-synthetic fuel products.

(u)(1) The Corporation is authorized to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. In the event of an award of a loan or loan guarantee, the Corporation's share of any such cost-sharing agreement shall be incorporated in such loan or loan guarantee.

(2) Such cost-sharing agreements shall not exceed 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project.

(3) The Corporation is authorized to expend not to exceed 1 percent of the aggregate obligational authority under section 151 for cost-sharing agreements under this subsection.

LOANS MADE BY THE CORPORATION

SEC. 132. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, loans to any concern for a synthetic fuel project.

(2)(A) Subject to the limitation contained in subparagraph (B), loans under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan.

(B) Any loan under this section shall be limited to the lesser of 49 per centum of the initial total estimated cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that the limits established in this subparagraph would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary.

(3) In the event the total cost of the project is thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), the Corporation may, upon application therefor lend additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided*, That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

(4) The per centum specified in the exception contained in paragraph (3)(B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(b) Each loan made under this section shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided*, That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal established under section 125.

(c) Loans may be made either directly or in cooperation or participation with banks or other lenders. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that the borrower is unable to meet payments under a loan agreement and is not in default, it is in the public interest to permit the borrower to continue to pursue the purposes of the synthetic fuel project, and the probable net benefit to the corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default, and if the borrower agrees to make such payments to the Corporation on terms and conditions including interest, which are satisfactory to the Corporation, then the Corporation may forbear from exercising its rights under the loan agreement.

(e) No loan under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less.

LOAN GUARANTEES MADE BY THE CORPORATION

SEC. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

(2) Loan guarantees under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee.

(3) In the event that the total cost of the project is thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), by the Corporation, the Corporation may, upon application therefor, guarantee additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided*, That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost, exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(C) The per centum specified in the exception contained in subparagraph (B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(4) The Corporation, in reviewing the need for financial assistance pursuant to applications for loan guarantees, shall consider whether the concern or concern making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project.

(5) Any loan guarantee made by the Corporation under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such loan guarantee complies fully with the provisions of this part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(6) The Corporation is authorized pursuant to paragraph (1) to award loan guarantees to any concern with a partial interest in a synthetic fuel project.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Corporation in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay and which the Corporation has guaranteed under such agreement.

(c) No loan gauranteed under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less.

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided*, That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a "cost plus" arrangement or variant thereof: *Provided further*, That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated. In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuel purchased meets standards for the use for which such fuel is purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retain the right to refuse delivery of the synthetic fuel involved upon such terms and conditions as shall be specified in the purchase agreement.

(d) The Corporation is authorized to take delivery of synthetic fuel pursuant to a purchase agreement and, subject to section 172 (d), to sell such synthetic fuel. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuel to a person, such synthetic fuel may be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for the product which such synthetic fuel is replacing from sums appropriated to such Federal agency for the purchase of fuel.

(e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuel obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

SEC. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In the selection of a concern or concerns for a joint venture and in the negotiation of a joint venture agreement pursuant to this section, the Corporation may, to the extent that the Corporation does not have available sufficient capability for evaluation or management of the proposed joint venture, utilize personnel of the Department of Energy pursuant to section 171 (a)(9), to the extent that such personnel have technical expertise related to the technical matters associated with such selection and negotiation. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however*, That the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement.

(b) Any joint venture shall be restricted to a synthetic fuel project module which, in the judgment of the Board of Directors, will—

(1) demonstrate the commercial feasibility of a technology for the production of synthetic fuel from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal set forth in section 125; and

(2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided*, That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement, shall dispose of its participation in such agreement pursuant to section 181.

(d)(1)(A) For the purposes of this section, the term "synthetic fuel project module" means any facility located in the United States which—

(i) is of a size smaller than a synthetic fuel project;

(ii) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels; and

(iii) can eventually be expanded at the same site into a synthetic fuel project.

(B) Such term may include the necessarily related transportation or other facilities, equipment, plant, machinery, supplies, other materials, land, and mineral rights as described in section 112(18), (including all limitations and requirements in section 112 (18)) associated with a synthetic fuel project module.

(2) For purposes of this section, the term "joint venture" means an agreement under which the Corporation and one or more persons participate in construction and operation of a synthetic fuel project module: *Provided*, That the interest of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture.

(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module, other than as provided in subsection (f). Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status.

(f)(1) Nothing in this section shall prohibit the Corporation from negotiating, as part of the joint venture agreement pursuant to this section, such participation of the Corporation in the management decisions of the joint venture as the Board of Directors deems appropriate and necessary pursuant to the Corporation's financial interest in the joint venture.

(2) In no event, however, shall the persons in the joint venture agreement be denied the primary responsibility for management of the joint venture. The Corporation shall be liable only to the extent of its contractual commitment to contribute capital to the venture. No additional liability shall ensue even if, and to the extent that, the Corporation were to assume a role which might be construed to constitute the role of a general partner.

CONTROL OF ASSETS

SEC. 137. (a) The Corporation may acquire or retain control of a synthetic fuel project only—

(1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;

(2) pursuant to section 136 or subsection (b) of this section; or

(3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant to section 126(c), is the subject of financial assistance under this part under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the purposes of this title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability of the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the Board of Directors determines that the concern is in default or immediately will go into default: *Provided*, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section: *Provided, further*, That completion of the construction or operation of any such project, the control of which was acquired pursuant to this subsection, may only be undertaken by contract: *Provided additionally*, That authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements.

(c) With respect to a synthetic fuel project subject to a loan or loan guarantee where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuels from such project consistent with the purposes of this title: *Provided*, That the Corporation may not lease back such a project until it has submitted a plan regarding such lease-back to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(d) For the purposes of this section, the term—

(1) "operating asset" means any real or personal property used in the synthetic fuel project; and

(2) "control" means the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided*, That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased back in accordance with subsection (c).

(e) Any control of synthetic fuel projects obtained pursuant to subsections (b) or (c) must be disposed of within not more than five years after the date of the acquisition of such control.

UNLAWFUL CONTRACTS

SEC. 138. Sections 431 and 432 of title 18, United States Code, shall apply to all contracts, instruments, or agreements of the Corporation, other than those contracts, instruments, or agreements of the Corporation which are exempted from the application of such sections by section 433 of such title, as if the Corporation were an agency of the United States. Such contracts, instruments, or agreements include financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof.

FEES

SEC. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this part: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this part of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the Energy Security Reserve and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this part.

DISPOSITION OF SECURITIES

SEC. 140. The Corporation shall, as soon as practicable, sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness (except for the instrument of indebtedness received by the Corporation for any loan pursuant to section 132) of any other person ownership of which is acquired by the Corporation pursuant to this part: *Provided*, That, in the case of joint ventures pursuant to section 136 and Corporation construction projects, any contract by the Corporation in connection therewith shall provide for the disposition, as soon as practicable, of any notes, bonds, or other evidences of ownership acquired by the Corporation pursuant to this part.

Subtitle E—Corporation Construction Projects

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of section 126(a)(1)(D), section 126(a)(3), and section 142, the Corporation is authorized to own synthetic fuel projects, and the Corporation shall contract for the construction and operation of any such synthetic fuel project (hereinafter referred to as a "Corporation construction project"): *Provided*, That, prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 126(a)(2) and would not otherwise be constructed with financial assistance awarded under subtitle D.

(b) The power of the Corporation to own and contract for the construction and operation of a Corporation construction project shall include, among other things, the authority to—

(1) take delivery of synthetic fuel from such project;

(2) transport and store and have processed and refined such synthetic fuel;

(3) subject to section 172(d), sell such synthetic fuel to a person; and

(4) take all actions reasonably necessary therewith: *Provided*, That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 127: *Provided*, That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved.

(e) The Corporation is authorized to undertake contractual agreements with, among others, any Federal department or agency (including the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction, or the management of the operation of Corporation construction projects: *Provided*, That in the case of a Federal department or agency, such department or agency has the available, experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

SEC. 142. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 126(a)(1)(D) and 141.

(b) After the approval of a comprehensive production strategy pursuant to section 126(c), the Corporation shall not undertake any new, or expand any existing, Corporation construction project.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

SEC. 143. (a) Construction projects and projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and nondiscriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this part and other similarly situated and used property.

(b) Contracts for the construction or operation of any Corporation construction project shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

SEC. 144. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including—

(1) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;

(2) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);

(3) the effect on regional and local water supplies of the project and the commercial operation of such technology;

(4) the health effects on workers and other persons of the project including any carcinogenic effects; and

(5) the social and economic impacts on local communities which were most directly affected by such project.

FINANCIAL RECORDS

SEC. 145. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including records which fully disclose the disposition of the proceeds of such assistance, the cost of any Corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents.

Subtitle F—Capitalization and Finance

OBLIGATIONS OF THE CORPORATION

SEC. 151. (a) (1) Subject to the limitations in section 152 and to the extent provided in advance in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall purchase within five days of each such issuance and retain), notes or other obligations of the Corporation in the aggregate principal amount of $20,000,000,000—

(A) plus such sums as are authorized pursuant to section 126; and

(B) less such sums—

(i) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

(ii) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93-577; 42 U.S.C. 5901 et seq.), up to a maximum of $2,208,000,000.

(2) Such aggregate principal amounts shall become available to the Corporation upon the date of enactment of this part or under paragraph (1)(A) upon satisfying the requirements of section 126.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses pursuant to section 120 and operating expenses, in excess of the aggregate principal amount of $20,000,000,000—

(1) plus such sums, if any, as are authorized pursuant to section 126; and

(2) less such sums—

(A) as are obligated for purposes of carrying out section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

(B) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93-577; 42 U.S.C. 5901 et seq.) up to a maximum of $2,208,000,000.

(b)(1) For purposes of determining the Corporation's compliance with this section—

(A) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

(B) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

(C) price guarantee and purchase agreements shall be valued by the Corporation as of the date of each such contract, based upon the Corporation's estimate of its maximum potential liability;

(D) joint ventures and Corporation construction projects shall be valued at the current estimated cost to the Corporation, as determined annually by the Corporation; and

(E) any increase in the liability of the Corporation pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Corporation construction project shall be counted.

(2) Determinations made under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

SEC. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget.

RECEIPTS OF THE CORPORATION

SEC. 154. (a) Subject to the limitations contained in section 152, moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation by check drawn on the Treasury of the United States by a Treasury disbursing officer; or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank.

(c) In the event that moneys of the Corporation, including moneys received pursuant to sections 139(b) and 151, exceed the limitation set forth in section 152, such surplus shall be deposited as miscellaneous receipts in the general fund of the Treasury of the United States.

(d) Not later than 10 calendar days after the end of each fiscal quarter, the Corporation shall submit a written report to the Secretary of the Treasury detailing all moneys received by the Corporation during the previous fiscal quarter. Such reports shall be incorporated in the quarterly and annual reports required under section 177.

TAX STATUS

SEC. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that—

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, without discrimination in valuation, classification, or assessment thereof;

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation; and

(3) with respect to any Corporation construction project undertaken pursuant to subtitle E, the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on—

(A) the extraction or severance of minerals owned or leased by the Corporation; and

(B) the purchase or lease of tangible personal property.

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this part by, or on behalf of, any State or any political subdivision or governmental entity thereof, (2) guaranteed or otherwise secured by the Corporation prior to the approval of a comprehensive strategy under section 126(c), and (3) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954: *Provided,* That with respect to the amount of such obligations that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Corporation is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed or otherwise secured by the Corporation and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Corporation, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

Subtitle G—Unlawful Acts, Penalties, and Suits Against the Corporation

FALSE STATEMENTS

SEC. 161. Whoever makes any false statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this part, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this part, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

SEC. 162. Whoever—

(1) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or

(3) falsely alters any agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation; or

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation, knowing the same to be falsely altered.

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. (a) Whoever—

(1) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation;

(2) makes any false entry in any book, report, or statement of or to the Corporation or, without being duly authorized, draws any bond, other obligation, draft, bill of exchange, mortgage, judgment, or decree thereof, with intent to defraud the Corporation, any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation;

(3) participates in, shares in, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, with intent to defraud; or

(4) gives to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation, receiving financial assistance from the Corporation, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to paragraph (4), the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

(b) Whoever falsely assumes or pretends to be a Director, officer, or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

CONSPIRACY

SEC. 164. If two or more persons conspire to commit any of the acts made unlawful by section 161, 162, or 163, each such person shall be fined or imprisoned, or both, as if such person committed the unlawful acts.

INFRINGEMENT ON NAME

SEC. 165. (a) No person or other government entity may use the words "United States Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive.

(b) A violation of this section may be enjoined at the suit of the Corporation.

ADDITIONAL PENALTIES

SEC. 166. In addition to any penalties imposed as a result of a violation of any provision of this subtitle or section 138, the Corporation shall have the authority to bring an action to recover damages for losses incurred by the Corporation or any profit or gain acquired by the defendant as a result of a violation of any section of this subtitle.

SUITS BY THE ATTORNEY GENERAL

SEC. 167. (a) If the Corporation shall engage in or adhere to any action, practices, or policies inconsistent with the provisions of this part, or if the Corporation or any other person shall violate any provision of this part or shall obstruct or interfere with any activities authorized by this part, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this part, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, or upon petition of the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this part.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this part by appropriate officers of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

SEC. 168. District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (97 Stat. 1265), shall have original jurisdiction for all civil actions against the Corporation: *Provided, however,* That the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds: *And provided further,* That the Corporation shall be liable for contract claims only if such claims are based upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

Subtitle H—General Provisions

GENERAL POWERS

SEC. 171. (a) In carrying out the provisions of this part, the Corporation shall have the power, consistent with the provisions of this part—

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities: *Provided, however,* That the Corporation shall not provide any financial assistance except as specifically permitted under this part;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to section 117, to select, employ, and fix the compensation (including, without limitation, pension plans, health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out the provisions of this part and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with, as authorized by this part, administrative activities, financial assistance, and Corporation construction projects and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by—

(1) a fine of not more than $10,000 or by imprisonment for not more than five years, or both;

(2) additional penalties pursuant to section 166; and

(3) relief pursuant to section 167.

(c) In addition to the powers granted under subsections (a) and (b), and only in connection with Corporation construction projects, the Corporation is authorized to exercise the power of eminent domain in the United States district court for the district in which the real property is located to acquire interests in real property, including property owned by any State or local government body or entity or any Indian tribe, in the following cases: (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline: *Provided,* That such power shall not be exercised to acquire property for the site of any Corporation construction project, or property for any coal slurry pipeline except within the immediate vicinity of the site of such a project: *Provided further,* That the Corporation may acquire property or interests in property by eminent domain only upon a finding by its Board of Directors that the property in question is necessary for a Corporation construction project and that no other alternative property is reasonably available. These findings of the Board of Directors shall not be subject to judicial review in any court.

COORDINATION WITH FEDERAL ENTITIES

SEC. 172. (a) Prior to awarding, or making any commitment to award, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal department or agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however*, That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency involved.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the provisions of this part.

(c) The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development.

(d)(1) The Corporation is authorized and directed to consult with the Secretary of Defense in order to identify those national defense fuel supply requirements which may be achieved under this part. Such consultation shall include identification of the technical specifications for particular fuels and such other information as may be necessary to facilitate the production of synthetic fuel under this part for the purposes of national defense.

(2) With regard to any synthetic fuel which may be acquired by the Corporation through purchase agreements, joint ventures, or Corporation construction projects, the Corporation shall offer to sell such fuels first to the Department of Defense for national defense needs in accordance with such terms and conditions as the Corporation and the Secretary of Defense may provide by contract.

PATENTS

SEC. 173. (a) Any contract to provide financial assistance under subtitle D in the form of a loan, a loan guarantee, or a joint venture may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract, title to the patent for such invention shall vest in the Corporation. The Corporation shall have the right to license the patent on a nonexclusive basis.

(b)(1) The Corporation may grant a nonexclusive license for the use of any invention for which it holds the patent but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license for the use of any invention for which it holds the patent to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license for the use of an invention granted under subsection (b) shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (1) it has not been applied to the commercialization of domestic energy resources or (2) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to section 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreement or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f)(1) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to subsections (a) through (m) of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908(a) through (m)). In applying such subsections to subtitle E—

(A) the term "Administrator" in such subsections shall mean the Chairman of the Board of Directors;

(B) the term "Administration" in such subsections shall mean the Corporation;

(C) the term "United States" in such subsections shall mean the Corporation;

(D) the term "Government" in subsections (a) and (d) of such sections shall include the Corporation for purposes of such subsection; and

(E) the term "any Government agency" in subsection (h)(2) of such section shall mean the United States.

(2) Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall not apply to financial assistance granted pursuant to subtitle D.

(g) The United States Government shall have a royalty-free, nonexclusive license to any invention in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title to any invention in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to Corporation construction projects under subtitle E.

RELATIONSHIP TO OTHER LAWS

SEC. 175. (a) No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this part.

(b) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, and with respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

(c) The provisions of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act, and the provisions of the Service Contracts Act shall apply to the Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this part shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act commonly known as the Davis-Bacon Act. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of a synthetic fuel project unless a certification is provided to the Corporation prior to the commencement of construction, or at the time of filing an application for a loan or loan guarantee if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(d) The securities laws of the United States as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) shall apply to the Corporation as if it were an agency or instrumentality of the United States.

(e) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(f) The Government Corporation Control Act (31 U.S.C. 841 et seq.) shall not apply with respect to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) The Longshoremen's and Harbor Workers' Compensation Act shall apply with respect to the injury and disability or death resulting from injury as defined in section 2(2) of such Act occurring to any Director, officer, or employee of the Corporation.

(i) Nothing in this part shall be deemed to limit the powers of the Energy Mobilization Board with respect to a synthetic fuel project or synthetic fuel project module receiving financial assistance under this part or Corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3300), a petitioner under such section shall be deemed to have made the demonstrations required by section 211(b)(1) and section 211(b)(2) of such Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuel for the future delivery of sufficient quantities of synthetic fuel to be used at the facility for which the exemption is sought. The submission to the Secretary of Energy of evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement of section 211(b) of such act that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) of such act.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuel" if he received financial assistance in the form of a loan, loan

guarantee, purchase agreement, or price guarantee pursuant to subtitle D.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for the initial delivery of synthetic fuel within the period of time during which such facility is exempted pursuant to section 211(e) of such Act.

(4) For purposes of section 211(b) of such Act, an extension or renewal under section 211(e)(1) of such Act or section 211(e)(2)(B) of such Act may be granted at the time the original exemption is issued or at any subsequent date.

(5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with subtitle A of title II of the Powerplant and Industrial Fuel Use Act of 1978.

(k) This part shall not affect any authority contained in the Defense Production Act of 1950.

SEVERABILITY

SEC. 176. If any provision of this part, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

SEC. 177 (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b) (1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare, in accordance with generally accepted accounting principles, and report an annual audit of the accounts of the Corporation including statements of the type required in section 106 of the Government Corporation Control Act (31 U.S.C. 851).

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as the General Accounting Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers, and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c) (1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel project liquidated by the Corporation pursuant to subtitle I. Each report shall contain a list of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditure or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles, consistently applied, as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

(d) (1) Not later than 120 days after the end of each fiscal year, the Corporation shall submit to the Congress and the President an annual report containing, in addition to the information required in the quarterly report required under subsection (c)(2), (A) a general description of the Corporation's operations during the year, (B) a specific description of each synthetic fuel project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the purposes (including the national synthetic fuel production goal established in section 125) of this title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the purposes of this title. The annual reoprt shall address the environmental impacts of the Corporation's generic programs and decisions.

(3) the Annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles, consistently applied, and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation, will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in carrying out such liquidation plan.

WATER RIGHTS

SEC. 178. (a) Nothing in this part shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(b) No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

WESTERN HEMISPHERE PROJECTS

SEC. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance.

(b) The Corporation may use the authority of subsection (a) if the Coporation determines that—

(1) the project will use a c'ass of resource that is located in the United States but that such class of resource will not be subject to timely commercial production in the United States even if the Corporation provided financial assistance;

(2) the project will receive financial assistance from the government of the country in which the proiect is located;

(3) the synthetic fuel produced by such project will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of financial assistance; and

(4) all technology, patents, and trade secrets developed in connection with such project shall be available to citizens of the United States through rights in the Corporation or through licensing at reasonable cost for use in the United States.

(c) There is authorized for the purpose of this section not to exceed 10 percent of the aggregate obligational authority under section 152(a). Such authorization shall terminate upon approval of the comprehensive production strategy pursuant to section 126(c).

COMPLETION GUARANTEE STUDY

SEC. 180. The Corporation shall conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon shall be included in the comprehensive strategy submitted under section 126(b).

Subtitle I—Disposal of Assets

TANGIBLE ASSETS

SEC. 181. (a) (1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when such disposal is in the best interests of the Corporation for purposes of carrying out the provisions of this part either—

(A) on the basis of competitive bids, by selling to any person or concern any portion of the assets of the Corporation; or

(B) by transferring to a Federal agency of any portion or all of the tangible assets of the Corporation; or

(C) on the basis of a negotiated contract, consistent with paragraph (2), by selling to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to subsection (a)(1)(C), the Corporation shall—

(A) publish in the Federal Register notice of the proposed sale of such asset;

(B) convene a prospective bidders conference; and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives of the intended disposal of such tangible asset.

(b) For the purpose of this section, the term "tangible asset" means any single asset, or aggregation of assets, with a value of $1,000,000 or more.

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets;

(2) to foster competition within the industry to which the assets are to be sold; and

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to achieve the greatest financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

SEC. 182. Except as provided for in section 181, the Corporation is authorized, from time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion or all of the assets of the Corporation.

Subtitle J—Termination of Corporation

DATE OF TERMINATION

SEC. 191. Notwithstanding any other provision of this title—

(1) the Corporation shall make no new awards or commitments for financial assistance under Subtitle D for synthetic fuel projects after September 30, 1922; and

(2) the Corporation shall terminate on September 30, 1977: *Provided, however,* That the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1992.

TERMINATION OF THE CORPORATION'S AFFAIRS

SEC. 192. (a) On and after the final commitment date under section 191(1), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an orderly termination of the Corporation's affairs on or prior to its date of termination pursuant to section 191(2).

(b) The steps taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation, any contract or obligation for financial assistance pursuant to Subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

SEC. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the termination of its affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this part and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such termination of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the general fund of the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

Subtitle K—Department of the Treasury

AUTHORIZATIONS

SEC. 195. (a)(1)(A) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes and other obligations of the Corporation, $20,000,000,000—

(i) plus such sums, if any, as are authorized pursuant to section 126; and

(ii) less such sums—

(I) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

(II) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93–577, 42 U.S.C. 5901), up to a maximum of $2,208,000,000.

(B) Such moneys shall be deposited in the Energy Security Reserve established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980 (93 Stat. 954; Public Law 96–126), which account, and the appropriations therefor, shall be available to the Secretary of the Treasury for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in such appropriations Act are hereby authorized without fiscal year limitation.

(2) On the basis of each notification by the Corporation made pursuant to section 131(k)(2) to the Secretary of the Treasury of an award of financial assistance by the Corporation, and consistent with provisions of section 152, the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the amount determined pursuant to section 131(k)(1).

(3) Upon receipt of notification from the Corporation under section 131(k)(2), the Secretary of the Treasury, within 15 calendar days, shall certify to the Corporation that the amount required by paragraph (2) has been reserved within the Energy Security Reserve.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.), and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

SHORT TITLE

SEC. 201. title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980".

FINDINGS

SEC. 202. The Congress finds that—

(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy resources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

DEFINITIONS

SEC. 203. As used in this title—

(1) The term "alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

(2)(A) The term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and aquatic plants.

(B) For purposes of subtitle A, such term does not include municipal wastes; and for purposes of subtitle C, such term does not include aquatic plants and municipal wastes.

(3) The term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

(4) The term "biomass energy" means—

(A) biomass fuel; or

(B) energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(5) The term "biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for—

(A) the production of biomass fuel (and byproducts); or

(B) the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(6) The term "Btu" means British thermal unit.

(7) The term "cogeneration" means the combined generation by any facility of—

(A) electrical or mechanical power, and

(B) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

(8) The term "cooperative" means any agricultural association, as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

(9)(A) The term "construction" means—

(i) the construction or acquisition of any biomass energy project;

(ii) the conversion of any facility to a biomass energy project; or

(iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy.

(B) Such term includes—

(i) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and

(ii) the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project.

(C) Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(10) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11)(A) The term "financial assistance" means any of the following forms of financial assistance provided under this title, or any combination of such forms:

(i) loans,

(ii) loan guarantees,

(iii) price guarantees, and

(iv) purchase agreements.

(B) Such term includes any commitment to provide such assistance.

(12) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term "motor fuel" means gaso-

line, kerosene, and middle distillates (including diesel fuel).

(14) (A) The term "municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system, or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

(B) Such term does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title.

(15) (A) The term "municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(i) the production of biomass fuel (and byproducts) from municipal waste; or

(ii) the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

(B) Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) The term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220.

(17) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) The term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year, or its energy equivalent of other forms of biomass energy.

FUNDING FOR SUBTITLES A AND B

SEC. 204. (a) To the extent provided in advance in appropriation Acts, for the two year period beginning October 1, 1980, there is authorized to be appropriated and transferred $1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes" (Public Law 96-126; 93 Stat. 970) and made available for obligation by such Act only to the extent provided in advance in appropriation Acts, as follows:

(1) $600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A, except of the amount of the financial assistance provided by the Secretary of Agriculture under subtitle A, up to one-third shall be for small-scale biomass energy projects;

(2) $600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities, and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subtitle B.

(b) Funds made available under subsection (a) shall remain available until expended.

(c) (1) For purposes of determining the amount of such appropriations which remain available for purposes of this title—

(A) loans shall be counted at the initial face value of the loan;

(B) loan guarantees shall be counted at the initial face value of such loan guarantee;

(C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and

(D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

(2) Determinations under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

(4) Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this subsection; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this subsection.

(d) Financial assistance may be provided under this title only to the extent provided in advance in appropriation Acts.

COORDINATION WITH OTHER AUTHORITIES AND PROGRAMS

SEC. 205. The authorities in this title are in addition to and do not modify (except to the extent expressly provided for in this title) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

Subtitle A—General Biomass Energy Development

BIOMASS ENERGY DEVELOPMENT PLANS

SEC. 211. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a plan for maximizing in accordance with this subtitle biomass energy production and use. Such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

(b) (1) Not later than January 1, 1982, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a comprehensive plan for maximizing in accordance with this subtitle biomass energy production and use, for the period beginning January 1, 1983, and ending December 31, 1990. Such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the level of gasoline consumption within the United States as estimated by the Secretary of Energy for the calendar year 1990.

(2) The plan prepared under this subsection shall evaluate the feasibility of reaching the goals set forth in such subsection.

(c) The plans prepared under subsections (a) and (b) shall each include guidelines for use in awarding financial assistance under this subtitle which are designed to increase, during the period covered by the plan, the amount of motor fuel displaced by biomass energy.

PROGRAM RESPONSIBILITY AND ADMINISTRATION; EFFECT ON OTHER PROGRAMS

SEC. 212. (a) (1) Except as provided in paragraph (2), in the case of any financial assistance under this subtitle for a biomass energy project, the Secretary concerned shall be—

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and

(B) the Secretary of Energy, in the case of any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy).

(2) (A) Either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned in the case of any biomass energy project which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and—

(i) which will use wood or wood wastes or residue, or

(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

(B) Financial assistance may not be provided by either Secretary under subparagraph (A) without the written concurrence of the other Secretary. Such concurrence shall be granted or denied by such Secretary in accordance with subparagraph (C) and on the same standards as that Secretary applies in making his own awards of financial assistance under this paragraph.

(C) (i) In the case of a project described in subparagraph (A), the Secretary concerned shall provide the other Secretary a copy of the application and such supporting information as may be material, and shall provide the other Secretary at least 15 days to review the project. If during such 15-day period the reviewing Secretary provides written notification to the Secretary concerned specifying reasons why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

(ii) The project applicant may reapply for financial assistance for such project, after making such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

(D) Both Secretaries may jointly act as the Secretary concerned in accordance with such procedures as the Secretaries may jointly prescribe, in which case—

(i) subparagraphs (B) and (C) and subsection (c) shall not apply, and

(ii) the proportion of financial assistance provided by each Secretary shall be determined in accordance with the procedures jointly prescribed.

(b)(1) Each Secretary shall take such action as may be necessary to assure that—

(A) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after the date of the enactment of this Act;

(B) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established;

(C) additional applications for financial assistance are solicited within 1 year after the date of the initial solicitation;

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including review under subsections (a)(2)(C), (a)(2)(D), or (C); and

(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—

(i) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;

(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.

(2) The procedural requirements of subparagraph (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

(c)(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—

(A) a copy of the application and such supporting material as may be appropriate, and

(B) an opportunity of not less than 15 days to review the application.

This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C).

(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary's review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.

(3) Reviews of projects under the provisions of subsection (a)(2)(C) or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.

(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and (2) shall not apply. Within 90 days after the date of the enactment of this Act, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

(d) If any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.

(e)(1) The functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.

(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subtitle.

(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

(f) The functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.

(g) For purposes of this subtitle, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after the date of the enactment of this Act.

INSURED LOANS

SEC. 213. (a) Subject to sections 212 and 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed $1,000,000 per project for the construction of small-scale biomass energy projects.

(b)(1) Any insured loan under this section—

(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and

(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total costs initially estimated.

(c)(1) The Secretary of Agriculture shall make insured loans under this section using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act (hereinafter in this section referred to as the "Funds"). The Secretary of Agriculture may not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and administrative costs appropriated and transferred under section 204. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subtitle.

(2) There shall be reimbursed to the Funds, from appropriations made under section 204, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section.

(3) Notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

(4) For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

(d) An insured loan may not be made under this section unless the applicant for such loan has established to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

LOAN GUARANTEES

SEC. 214. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, against loss of principal and interest, loans which are made to provide funds for the construction of biomass energy projects.

(b)(1) Any guarantee of a loan under this section may not exceed 90 per centum of the cost of the construction of the biomass energy project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(2) In the event the construction costs of the project are thereafter estimated by the Secretary concerned to exceed the construction costs initially estimated by the Secretary, the Secretary may in addition, upon applicaiton therefor, guarantee, against loss of principal and interest, a loan for up to 60 per centum of the difference between the construction costs then estimated and the construction costs initially estimated.

(c) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is guaranteed or committed to be guaranteed by the Secretary of Agriculture or the Secretary of Energy under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

(d) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary concerned makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(e) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(f) If the Secretary concerned determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue with such project and

(3) the probable net benefit to the United States in paying the principal and interest due under the loan will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(g)(1) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary concerned that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

(2) The Secretary concerned shall ensure that the lender bears a reasonable degree of risk in the financing of such project.

PRICE GUARANTEES

SEC. 215. (a) Subject to section 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, that the price that the owner or operator of any biomass energy project will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the price guarantee or commitment to guarantee.

(b)(1) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Each price guarantee, or commitment to guarantee, which is made under this section shall specify the maximum dollar amount of liability of the United States under that guarantee.

(d) If the Secretary determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.

PURCHASE AGREEMENTS

SEC. 216. (a) Subject to sections 212 and 217, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

(1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and

(2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies.

Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

(b) The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title.

(c) The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

(1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;

(2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(d) The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

(e) The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section.

(f) Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement.

(g) Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

(h) If the Secretary concerned determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 217. (a)(1) Priority for financial assistance under this subtitle, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that—

(A) uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or

(B) applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project which does not use such a fuel or apply such a technology.

(2)(A) Financial assistance under this subtitle shall be available for a biomass energy project only if the Secretary concerned finds that the Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exceed the Btu content of the biomass fuel produced in the facility.

(B) In making the determination under subparagraph (A), the Secretary concerned shall take into account any displacement of motor fuel or other petroleum products which the applicant has demonstrated to the satisfaction of the Secretary would result from the use of the biomass fuel produced in the facility involved.

(3) No financial assistance may be provided under this subtitle to any person for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(4) Financial assistance may not be provided under this subtitle to any person unless the Secretary concerned—

(A) finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future, and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities;

(B) has obtained assurance that the person receiving such financial assistance will bear a reasonable degree of risk in the construction and operation of the project; and

(C) has determined that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(5) In providing financial assistance under this subtitle, the Secretary concerned shall give due consideration to promoting competition.

(6) In determining the amount of financial assistance for any biomass energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the potential value of such byproducts and the costs attributable to their production.

(b) An insured loan may not be made, and a loan guarantee may not be issued, under this subtitle unless the Secretary concerned determines that the terms, conditions, maturity, security, and schedule and amounts of repayments with respect to such loan are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States.

(c)(1) No financial assistance may be provided to any person under this subtitle unless an application therefor—

(A) has been submitted to the Secretary concerned by that person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the biomass energy project involved, and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary concerned may require.

(d)(1) Every recipient of financial assistance under this subtitle shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

(2) With respect to each biomass energy project for which financial assistance is provided under this subtitle, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(f) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(g)(1) A fee or fees may be charged and collected by the Secretary concerned for any loan guarantees, price guarantee, or purchase agreement provided under this subtitle.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the amount of the financial assistance provided.

(h) All amounts received by the Secretary of Agriculture or the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by either Secretary from activities under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts. The preceding sentence shall not apply to insured loans made under section 213.

REPORTS

SEC. 218. (a) The Secretary of Agriculture and the Secretary of Energy shall each prepare and submit to the President and the Congress quarterly reports on their activities under this subtitle.

(b) Within 120 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Agriculture shall submit to the Congress a comprehensive list of all the types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for production of alcohol to be used as a motor fuel or petroleum substitute.

(c)(1)(A) The Office of Alcohol Fuels shall submit to the Congress and the President annual reports containing a general description of the Office's operations during the year and a description and evaluation of each biomass energy project for which financial assistance by the Office is then in effect.

(B) Each annual report shall describe progress made toward meeting the goals of this subtitle and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

(C) Each annual report under this subsection shall contain financial statements prepared by the Office.

(2) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each biomass energy project which has received financial assistance under this subtitle from the Office. Such report shall contain a plan for the termination of the work of the Office.

REVIEW; REORGANIZATION

SEC. 219. (a) The President shall review periodically the progress of the Secretary of Agriculture and the Secretary of Energy in carrying out the purposes of this subtitle.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of chapter 9 to title 5, United States Code, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subtitle.

ESTABLISHMENT OF OFFICE OF ALCOHOL FUELS IN DEPARTMENT OF ENERGY

SEC. 220. (a) There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b)(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary of Energy.

(2) The Director shall be responsible directly to the Secretary of Energy.

(c) In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (1) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any formal legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(d) The Secretary of Energy, after consultation with the Director, shall consult with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, in order to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in such Federal agencies, which are related to the production of alcohol.

TERMINATION

SEC. 221. No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary concerned to spend funds after such date pursuant to any contract for financial assistance made on or before that date under this subtitle.

Subtitle B—Municipal Waste Biomass Energy

MUNICIPAL WASTE ENERGY DEVELOPMENT PLAN

SEC. 231. (a) The Secretary of Energy shall prepare a comprehensive plan for carrying out this subtitle. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the head of such other Federal agencies as the Secretary deems appropriate.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive plan to the President and the Congress.

(c) The comprehensive plan under this section shall include a statement setting forth—

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

(d) Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from municipal wastes.

CONSTRUCTION LOANS

SEC. 232. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects.

(b)(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

(c) A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

GUARANTEED CONSTRUCTION LOANS

SEC. 233. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(b) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

(c) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(e) If the Secretary of Energy determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(f) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(g)(1) With respect to any loan or debt obligation which is—

(A) issued after the date of the enactment of this Act by, or on behalf of, any State or any political subdivision or governmental entity thereof,

(B) guaranteed by the Secretary of Energy under this section, and

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer,

the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

(h)(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.

PRICE SUPPORT LOANS AND PRICE GUARANTEES

SEC. 234. (a)(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold.

(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

(iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and

(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—

(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) $2.00, whichever is lower, multiplied by

(B) the amount of such biomass energy sold (in millions of Btu's).

(b)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a), except as provided in paragraph (2).

(2) In the case of any loan under this subsection for a new municipal waste energy project—

(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods with reductions as provided in subsection (a)(2)(A)(ii));

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); and

(C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

(c)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price guarantee for the operation of such project which guarantees that the price the owner or operator will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the guarantee agreement.

(2)(A) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(B) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of subparagraph (A).

(3) In the case of any price guarantee under this subsection for a new municipal waste energy project—

(A) disbursements under such guarantee may not be made for more than 7 consecutive 12-month periods; and

(B) amounts paid under this subsection may be required to be repaid to the Secretary of Energy under such terms and conditions as the Secretary may prescribe, including interest at a rate not in excess of the rate prescribed under subsection (a).

(d) For purposes of this section—

(1) The term "new municipal waste energy project" means any municipal waste energy project which—

(A) is initially placed in service after the date of the enactment of this Act; or

(B) if initially placed in service before such date, has an increased capacity by reason of additional construction, and as such is placed in service after such date.

(2) The term "existing municipal waste energy project" means any municipal waste energy project which is not a new municipal waste project.

(3) The term "placed in service" means operated at more than 50 percent of the estimated operational capacity.

(4)(A) Except as provided in subparagraphs (B) and (C), the term "standard support price" means the average price (per million Btu's) for No. 6 fuel oil imported into the United States on the date of the enactment of this Act, as determined, by rule, by the Secretary of Energy not later than 90 days after the date of the enactment of this Act.

(B) In any case in which the fuel displaced is No. 6 fuel oil or any higher grade of petroleum (as determined by the Secretary of Energy), the term "standard support price" means 125 per centum of the price determined by rule under subparagraph (A).

(C) In any case in which biomass energy produced and sold by a project is steam or electricity, the term "standard support price" means the price determined by rule under subparagraph (A), subject to such adjustments as the Secretary of Energy may authorize by rule.

(5) The term "cost of the fuel displaced" means the cost of the fuel (per million Btu's) which the purchaser of biomass energy would have purchased if the biomass energy had not been available for sale to that purchaser.

(6) Any biomass energy produced by a municipal waste energy project which may be retained for use by the owner or operator of such project shall be considered to be sold at such price as the Secretary of Energy determines.

(7) Not later than 90 days after the date of the enactment of this Act, the Secretary of

Energy shall prescribe, by rule, the manner of determining the fuel displaced by the sale of any biomass energy, and the price of the fuel displaced.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 235. (a) (1) Priority for financial assistance under the provisions of sections 232, 233, and 234, and the most favorable financial terms available, shall be provided for any municipal waste energy project that will—

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

(2) (A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 232, 233, and 234 shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel.

(3) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy finds that necessary municipal waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 232, 233, or 234, the Secretary of Energy shall give due consideration to promoting competition.

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under sections 232, 233, or 234 for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recovery of reusable materials from municipal waste; and

(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(b) Financial assistance may not be provided under section 232, or 233, or 234 unless the Secretary of Energy determines that—

(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and

(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

(c) (1) No financial assistance may be provided to any person under section 232, 233, or 234 unless an application therefor—

(A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary of Energy may require.

(d) (1) Every person receiving financial assistance under section 232, 233, or 234 shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.

(2) With respect to each municipal waste energy project for which financial assistance is provided under section 232, 233, or 234, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 232, 233, or 234 shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 232, 233, or 234 shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

SEC. 236. The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 232, 233, or 234 as may be necessary to carry out the plan established under section 231.

COMMERCIALIZATION DEMONSTRATION PROGRAM PURSUANT TO FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

SEC. 237. (a) (1) The Secretary of Energy shall establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974, an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes.

(2) The provisions of subsections (d), (m), and (x) (2) of section 19 of such Act shall not apply with respect to the program established under this section.

(3) As part of the program established under this section, the Secretary, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall undertake—

(A) the research, development, and demonstration of technologies to recover energy from municipal wastes;

(B) the development and application of new municipal waste-to-energy recovery technologies;

(C) the assessment, evaluation, demonstration, and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to capital costs, operating and maintenance costs, total project financing, recovery efficiency, and the quality of recovered energy and energy intensive materials;

(D) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects to recover energy from municipal wastes; and

(E) research studies on the size and other significant characteristics of potential markets for municipal waste-to-energy recovery technologies, and recovered energy, and energy intensive materials.

(b) Under such program, the Secretary of Energy may provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilities, and, in the case of existing facilities, modifications of such facilities solely for demonstration purposes, for the conversion of municipal wastes into energy or the recovery of materials.

(c) Priority for funding of activities under subsection (a) and financial assistance under subsection (b) shall be provided for any activity or project for the demonstration of technologies for the production of liquid fuels or biomass energy which substitute for petroleum or natural gas.

(d) The Secretary of Energy may not obligate or expend any funds authorized under this title in carrying out subsection (b) of this section until the plan required under section 231(a) has been prepared and submitted to the Congress.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

JURISDICTION OF DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AGENCY

SEC. 238. The provisions of section 20(c) of the Federal Nonnuclear Research and Development Act of 1974, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subtitle to the same extent and in the same manner as such provisions apply to actions under section 20 of such Act.

ESTABLISHMENT OF OFFICE OF ENERGY FROM MUNICIPAL WASTE IN DEPARTMENT OF ENERGY

SEC. 239. (a) There is hereby established within the Department of Energy an Office of Energy from Municipal Waste (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the Secretary of Energy.

(b) It shall be the function of the Office to perform—

(1) the research, development, demonstration, and commercialization activities authorized under this subtitle (including those authorized under section 237), and

(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

(c) In carrying out functions transferred or assigned to the Office, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the heads of such other Federal agencies, as appropriate.

(d) The Secretary shall provide for the transfer to the Office of the functions relating to, and personnel of the Department who are responsible for the administration of, programs in existence on the date of the enactment of this Act which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

TERMINATION

SEC. 240. No financial assistance may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date.

Subtitle C—Rural, Agricultural, and Forestry Biomass Energy

MODEL DEMONSTRATION BIOMASS ENERGY FACILITIES

SEC. 251. (a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States.

(b) For purposes of carrying out subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

BIOMASS ENERGY RESEARCH AND DEMONSTRATION PROJECTS

SEC. 252. Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) by striking out "colleges and universities" the first place it appears and inserting in lieu thereof "colleges, universities, and Government corporations";

(2) by striking out "(2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products," and inserting in lieu thereof the following new paragraph: "(2) alcohol and other forms of biomass energy as substitutes for petroleum or natural gas,";

(3) by inserting after the first sentence thereof the following: "The authority to conduct research under paragraph (2) does not include authority to conduct research with respect to technology demonstrations of integrated systems for commercialization of technologies for applications other than agricultural or uniquely rural applications. The Secretary may make grants under this subsection to such colleges, universities, and Government corporations for the purpose of conducting research relating to the development of the most economical and commercially feasible means of collecting and transporting wastes, residues, and byproducts for use as feedstocks for the production of alcohol and other form of biomass energy. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the production of alcohol, to identify and develop agricultural commodities, including alfalfa, sweet sorghum, black locust, and cheese whey, which may be suitable for such production. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.";

(4) by striking out "section" each place it appears and inserting in lieu thereof "subsection";

(5) by inserting "(a)" after "Sec. 1419.";

(6) by adding at the end of subsection (a), as so designated, the following new sentence: "In addition to the authorization of appropriations provided in the preceding sentence, there is authorized to be appropriated for grants to conduct research described in paragraph (2) and in the third sentence of this subsection $12,000,000 for each of the fiscal years ending September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984."; and

(7) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)—

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).".

APPLIED RESEARCH REGARDING ENERGY CONSERVATION AND BIOMASS ENERGY PRODUCTION AND USE

SEC. 253. The third sentence of section 1 of the Act of June 29, 1935 (49 Stat. 436; 7 U.S.C. 427), commonly known as the Bankhead-Jones Act, is amended by inserting "applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use;" after "irrigation);".

FORESTRY ENERGY RESEARCH

SEC. 254. Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

(1) in paragraph (1) by inserting "energy production, activities related to energy conservation," after "wilderness,"; and

(2) in paragraph (4) by inserting "producing and conserving energy;" after "wood fiber;".

BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE

SEC. 255. (a) Subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121–3128) is amended by adding at the end thereof the following new section:

"BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE PROGRAMS

"SEC. 1413A. (a) The Secretary, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, shall provide educational programs for producers of agricultural commodities, wood, and wood products to—

"(1) inform such producers of the feasibility of using biomass for energy;

"(2) disseminate to such producers information regarding the results of research regarding the use of biomass for energy;

"(3) inform such producers of the best available technology for the use of biomass for energy;

"(4) provide technical assistance to such producers to improve their ability to efficiently use biomass for energy; and

"(5) disseminate to such producers the results of research on energy conservation techniques and encourage such producers to adopt such techniques.

"(b) All appropriate educational methods, including meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs, may be used to carry out subsection (a).

"(c) The State director of cooperative extension in each State shall develop a single, comprehensive, and coordinated plan which includes every biomass energy educational and technical assistance program in effect or proposed in such State, except that in those States which contain more than one land-grant college or university, such plan shall be jointly developed by the administrative heads of extension of such institutions. Such plan shall be developed with the full participation of the State forester or the equivalent State official of such State. Each State's plan shall be submitted to the Secretary annually for approval. The Advisory Board shall review and make recommendations to the Secretary pertaining to programs conducted under this section. Each State shall submit an annual progress report on the operation of its plan to the Secretary before January 1 following the fiscal year for which such report is made.

"(d) Funds made available under this section shall be provided to the State director of cooperative extension and the administrators of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of this section.

"(e) For purposes of this section—

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

"(f) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by inserting after the item relating to section 1413 the following new item:

"Sec. 1413A. Biomass energy educational and technical assistance programs.".

RURAL ENERGY EXTENSION WORK

SEC. 256. The Act of May 14, 1914 (38 Stat. 372; 7 U.S.C. 341-349), commonly known as the Smith-Lever Act, is amended—

(1) in section 1 by striking out "and home economics," and inserting in lieu thereof ", home economics, and rural energy,"; and

(2) in section 2 by striking out "and home economics" and inserting in lieu thereof ", home economics, and rural energy".

COORDINATION OF RESEARCH AND EXTENSION ACTIVITIES

SEC. 257. (a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subtitle and under the amendments made by this subtitle to section 1419 and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 1 of the Bankhead-Jones Act, section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978, and sections 1 and 2 of the Smith-Lever Act with the programs of the Department of Energy.

(b) In carrying out this subtitle and the amendments made by this subtitle, the Secretary of Agriculture shall consult on a continuing basis with—

(1) the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology;

(2) the Joint Council on Food and Agricultural Sciences; and

(3) the National Agricultural Research and Extension Users Advisory Board;

for the purpose of coordinating research and extension activities.

LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

SEC. 258. The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects.

AGRICULTURAL CONSERVATION PROGRAM; ENERGY CONSERVATION COST SHARING

SEC 259. Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) in the first sentence by inserting "(including energy conservation)" after "conservation"; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraph:

"The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs of and poviding technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, and (6) such other land, water, and related resource management practices as the Secretary may determine to have significant energy-conserving effects.".

PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

SEC. 260. (a) The Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new title:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"SEC. 2001. (a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

"(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

"(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

"(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new items:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"Sec. 2001. Production of commodities on set-aside acreage.".

UTILIZATION OF NATIONAL FOREST SYSTEM IN WOOD ENERGY DEVELOPMENT PROJECTS

SEC. 261. The Secretary of Agriculture may make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by biomass energy projects.

FOREST SERVICE LEASES AND PERMITS

SEC. 262. It is the intent of the Congress that the Secretary of Agriculture shall process applications for leases of National Forest System lands and for permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any plan being prepared under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

Subtitle D—Miscellaneous Biomass Provisions

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

SEC. 271. (a) The President shall, by executive order, require that motor vehicles which are owned or leased by Federal agencies and are capable of operating on gasohol shall use gasohol where available at reasonable prices and in reasonable quantities.

(b) The President may provide for exceptions to the requirement of subsection (a) where necessary, including to protect the national security.

(c) Such executive order shall specify the alcohol-gasoline mixture or mixtures which shall constitute "gasohol" for purposes of such order, as well as specifications for its use.

MOTOR VEHICLE ALCOHOL USAGE STUDY

SEC. 272. The Secretary of Energy shall, in consultation with the Secretary of Transportation, submit to the Congress within 9 months after the date of the enactment of this Act a report on—

(1) the need for, and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using alcohol as a motor fuel in specified alcohol-gasoline mixtures, or using alcohol as the only fuel;

(2) the need for any other legislation to address technical or institutional barriers to the widespread marketing of alcohol, including requirements that would mandate specified proportions of alcohol in all motor gasoline sold; and

(3) any other aspects of the use of alcohol as a motor fuel, as the Secretary considers appropriate.

NATURAL GAS PRIORITIES

SEC. 273. For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621), the term "essential agricultural use" shall—

(1) include use of natural gas in sugar refining for production of alcohol;

(2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and

(3) for the 5-year period beginning on the date of the enactment of this Act, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on the date of the enactment of this Act which do not have the installed capability to burn coal lawfully.

STANDBY AUTHORITY FOR ALLOCATION OF ALCOHOL

SEC. 274. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(f)(1) If the President finds that there are significant quantities of alcohol available for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a refiner or unavailability of gasoline with respect to persons engaged in marketing of petroleum products, the President shall, to the extent practicable and subject to the provisions of this Act, use the authorities under subsection (a) to provide for the allocation of—

"(A) crude oil to refineries engaged in the production of refined petroleum products to be mixed with alcohol, and

"(B) refined petroleum products to persons engaged in the marketing of petroleum products,

so as to result in the use of such quantities of alcohol in motor fuel.

"(2) In exercising such authorities pursuant to this subsection, the President shall—

"(A) seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol, and

"(B) give due consideration to the adequacy of quality control in any refinery operations related to the receipt of an allocation of crude oil.

"(3) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.

"(4) Nothing in this subsection shall limit the allocation authorities under subsection (a).".

TITLE III—ENERGY TARGETS

PREPARATION OF ENERGY TARGETS

SEC. 301. (a) During the first calendar week in February of 1981, and of every second year thereafter, the President shall transmit to the Congress energy targets for net imports, domestic production, and end-use consumption of energy for the calendar years 1985, 1990, 1995, and 2000. Such targets shall be transmitted in the form prescribed in section 303.

(b) In preparing energy targets under this section, the President shall take into account anticipated energy conservation and anticipated production of energy from new technologies, and shall transmit with the targets supporting data together with a statement of the assumptions on which the targets are based.

(c) During the first calendar week beginning in February of 1982, and of every second year thereafter, the President shall transmit to the Congress reports regarding the energy targets transmitted during the preceding year.

(d) The President shall not transmit any revised target (or supporting data) for any calendar year which has then elapsed.

CONGRESSIONAL CONSIDERATION

SEC. 302. (a)(1) Any Department of Energy authorization bill for fiscal year 1982 and any such bill for fiscal year 1984 which is proposed in an executive communication to the Congress shall include the targets required by section 301(a) to be transmitted in February of the preceding fiscal year. Such targets shall be in the form prescribed in section 303 and shall be set forth as a separate title at the end of the proposed bill.

(2) The energy targets transmitted to the Congress under section 301 shall be considered by any committee of the House of Representatives or the Senate in connection with any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984. This paragraph shall apply during the Ninety-seventh Congress and the Ninety-eighth Congress, and during any subsequent Congress (with respect to Department of Energy authorization bills for later fiscal years) to the extent expressly provided in any Act (other than an appropriation Act) approved after the date of the enactment of this Act.

(3)(A) During the Ninety-seventh Congress and the Ninety-eighth Congress, it shall be in order (notwithstanding any rule or provision of law) during the consideration in the House of Representatives, in the Senate, or in any committee of either, of any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984, or a joint resolution (as defined in subsection (d)(1)(B)), to offer and consider, except as provided in subparagraph (B)—

(i) any amendment (or series of amendments) only changing the number of any energy target contained in such bill or resolution, or

(ii) in the case of any such authorization bill, any amendment only adding a title containing only energy targets in the form prescribed in section 303 if such bill does not contain such a title, or only deleting such a title contained in such bill.

(B) Any amendment (or series of amendments) referred to in subparagraph (A) shall not be in order unless it continues or achieves mathematical consistency within the targets.

(b)(1) If—

(A) on or before May 15, 1981, no Department of Energy authorization bill for fiscal year 1982 has been reported to either House of the Congress by any of the respective authorizing committees, or

(B) no committee which has reported such an authorization bill in either House by such date has included energy targets in the form prescribed in section 303 as a separate title, a joint resolution introduced in the Senate or the House of Representatives after such date shall be subject to the provisions of this section and shall immediately be referred to the appropriate authorizing committees, which shall have until July 15, 1981, to consider and report such resolution.

(2) If on or before July 15, 1981, the appropriate authorizing committees of the House of Representatives or the Senate have not reported such a joint resolution, such committees of that House may be discharged from further consideration of such joint resolution (or any other joint resolution) in accordance with paragraph (4) of section 552(d) of the Energy Policy and Conservation Act (as if it were a resolution relating to a contingency plan) if a motion for such a discharge is made during the period of 20 calendar days of continuous session of Congress which follows July 15, 1981.

(3) The provisions of subsections (c) and (d) (5) and (6) of section 552 of such Act shall apply with respect to the consideration of such a joint resolution in either House, except that—

(A) debate on such joint resolution shall be limited to not more than 3 hours,

(B) it shall be in order (notwithstanding any rule or provision of law) to offer and consider any amendment (or series of amendments) permitted under subsection (a)(3), and

(C) the references in such provisions to any resolution relating to a contingency plan shall be considered to refer to a joint resolution under this section.

(c) In the consideration of any Department of Energy authorization bill containing a title setting forth energy targets, the question of whether any amendment (other than an amendment referred to in subsection (a)(3)) to any portion of such bill (including such title) is in order in the House of Representatives, in the Senate, or in any committee of either, shall be determined as if the title containing such targets were not in the bill.

(d)(1) For purposes of this section—

(A) the term "Department of Energy authorization bill" means any general authorization of appropriations for the civilian programs and activities of the Department of Energy;

(B) the term "joint resolution" means only a joint resolution of either House of Congress (i) which is entitled "Joint resolutions relating to energy targets.", (ii) which does not contain a preamble, and (iii) the matter after the resolving clause of which only contains energy targets in the form prescribed by section 303; and

(C) the term "energy target" means any number contained in the form prescribed in section 303.

(2) This section is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of Department of Energy authorization bills and joint resolutions described by paragraph (1) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith: and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

ENERGY TARGET FORM

SEC. 303. (a) For purposes of this title, energy targets shall be set forth in the following form:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Crude oil and NGL				
Natural gas				
Coal				
Nuclear				
Renewables and geothermal				
Other				
Subtotal				
Imports:				
Crude oil and refined petroleum				
Natural gas				
Coal				
Other				
Subtotal				
Total supply				
End-use consumption:				
Petroleum liquids				
Natural gas				
Direct coal				
Electricity				
Decentralized renewables				
Other				
Subtotal				
Conversion loss				
Total consumption				

(b) As used in subsection (a)—

(1) the term "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) the term "coal", when used under the domestic production category, includes coal which is converted to gaseous or liquid fuels;

(3) the term "renewables" includes energy or fuel derived directly from sunlight or from biomass (as defined in section 203), and hydropower sources;

(4) the term "end-use consumption" does not include exports of fuel or electricity;

(5) the term "decentralized renewables" does not include electricity produced for delivery to multiple points of end-use consumption; and

(6) the term "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels, or electricity into alternate form prior to delivery for end-use consumption.

GENERAL PROVISIONS REGARDING TARGETS

SEC. 304. (a) The energy targets set forth pursuant to this title in any joint resolution or any Act authorizing appropriations for the Department of Energy shall be considered as an expression of national goals and shall not be considered to have any legal force or effect.

(b) Expenses paid or incurred by the President for preparing the energy targets and reports under this title shall be from funds otherwise available to the Department of Energy, consistent with otherwise applicable law. Such targets and reports shall be prepared using the minimum extent of contracting assistance that is required for their preparation. If any assistance is required to be obtained by contract for the preparation of the targets and reports, that assistance shall be limited to the providing of supporting information and may not include the preparation or recommendation of any proposed or final energy target.

(c) The preparation and transmission of such targets or reports shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969.

TITLE IV—RENEWABLE ENERGY INITIATIVES

SHORT TITLE

SEC. 401. This title may be cited as the "Renewable Energy Resources Act of 1980".

PURPOSE

SEC. 402. The purpose of this title is to establish incentives for the use of renewable energy resources, to improve and coordinate the dissemination of information to the public with respect to renewable energy resources, to encourage the use of certain cost effective solar energy systems and conservation measures by the Federal Government, to establish a program for the promotion of local energy self-sufficiency, to broaden the existing program for accelerating the procurement and use of photovoltaic systems, and to provide further encouragement for the development of small hydroelectric power projects.

DEFINITIONS

SEC. 403. For purposes of this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "renewable energy resource" means any energy resource which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.

COORDINATED DISSEMINATION OF INFORMATION ON RENEWABLE ENERGY RESOURCES AND CONSERVATION

SEC. 404. In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable energy resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall—

(1) take affirmative steps to coordinate all of the activities of the Department of Energy, whether conducted by the Department itself or by other public or private entities with assistance from the Department which are aimed at or involve the dissemination of information with respect to renewable energy resources or energy conservation, and

(2) report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the field of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

ESTABLISHMENT OF LIFE-CYCLE ENERGY COSTS FOR FEDERAL BUILDINGS

SEC. 405. Section 545(a)(1) of the National Energy Conservation Policy Act is amended by inserting before the period at the end thereof the following: ", using the sum of all capital and operating expenses association with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary and a discount rate of 7 per centum per year".

ENERGY SELF-SUFFICIENCY INITIATIVES

SEC. 406. (a) There is hereby established under the direction of the Secretary a 3-year pilot energy self-sufficiency program to demonstrate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States.

(b) As a part of the pilot program, the Secretary shall establish such subprograms as the Secretary determines are necessary to achieve the purpose of this section, including subprograms—

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government;

(3) to stimulate private industry participation in the realization of the objective stated in subsection (a); and

(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid waste, agricultural waste, or forest products waste.

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking and carrying out the subprograms established under subsection (b). In addition, the Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth (1) the 3-year pilot program itself, and (2) any additional Federal actions needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall submit to the Congress, within one year after the date of the enactment of this Act, the plan prepared under the second sentence of subsection (c) along with a report suggesting the legislative initiatives needed to fully implement such plan.

PHOTOVOLTAIC AMENDMENTS

SEC. 407. The Federal Photovoltaic Utilization Act (42 U.S.C. 8271 et seq.) is amended—

(1) by adding at the end of section 562(1) the following new sentence: "Such term also applies to facilities related to programs administered by Federal agencies.";

(2)(A) by inserting before the period at the end of the first sentence of section 565 the following: ", and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary";

(B) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the third sentence of section 565;

(C) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the second sentence of section 567(a);

(D) by inserting "and other Federal agencies acting under delegation from the Secretary" after "Secretary" in the third sentence of section 567(a);

(3) by striking out "rules and regulations" in section 566(2) and inserting in lieu thereof "requirements"; and

(4) by adding at the end of section 566 (after and below paragraph (3)) the following new sentence: "Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part.".

SMALL-SCALE HYDROPOWER INITIATIVES

SEC. 408. (a) Section 408(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(1)) is amended by striking out "15,000 kilowatts" and inserting in lieu thereof "30,000 kilowatts".

(b) Section 405 of such Act (16 U.S.C. 2705) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS FROM LICENSING REQUIREMENTS IN CERTAIN CASES.—The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act with respect to determinations made and exemptions granted under subsection (a) of such section 30; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.".

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title"; and

(2) by adding at the end thereof the following new subsection:

"(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this title which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

"(1) from the definition contained in such subsection (a)(1), or

"(2) from any other provision of this title, any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.".

(d) The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of the Public Utility Regulatory Policies Act of 1978), of such rules and regulations as may be necessary to fully implement his responsibilities under title IV of the Public Utility Regulatory Policies Act of 1978 and the amendments thereto made by this section.

(e) Not later than three months after the date of the enactment of this Act, the Secretary shall complete a study of the existing Federal programs and policies relating to the development and commercialization of small-scale hydropower, including (1) a survey and description of such Federal programs and policies, (2) an assessment of the efficacy of such Federal programs and related policies, and (3) an identification of any need for consolidation, reorganization, or change in such programs and policies in order to improve and insure their effectiveness.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 409. (a) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $10,000,000 for loans under section 402 of the Public Utility Regulatory Policies Act of 1978, in addition to any amounts authorized for such loans by that Act; and the amounts appropriated pursuant to this subsection shall remain available until expended.

(b) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $100,000,000 for loans under section 403 of the Public Utility Regulatory Policies Act of 1978; and the amounts appropriated pursuant to this subsection shall remain available until expended.

(c) There is authorized to be appropriated for the fiscal year 1981 not to exceed $10,000,000 to carry out section 406 of this Act (relating to energy self-sufficiency initiatives).

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

SHORT TITLE

SEC. 501. This title may be cited as the "Solar Energy and Energy Conservation Act of 1980".

Subtitle A—Solar Energy and Energy Conservation Bank

SHORT TITLE

SEC. 502. This subtitle may be cited as the "Solar Energy and Energy Conservation Bank Act".

PURPOSE

SEC. 503. It is the purpose of this subtitle to encourage energy conservation and the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank (hereafter referred to as the "Bank").

DEFINITIONS

SEC. 504. For purposes of this subtitle—

(1) the term "Board" means the Board of Directors of the Bank, which is established pursuant to section 506(a);

(2) the term "residential building" means any building used as a residence which contains not more than 4 dwelling units and has a system for heating or cooling, or both;

(3) the term "multifamily residential building" means any building used as a residence which contains 5 or more dwelling units and has a system for heating or cooling, or both;

(4) the term "commercial building" means any building other than a residential, or multifamily residential, building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(5) the term "agricultural building" means any building used exclusively in connection with the production, harvesting, storage, or drying of agricultural commodities;

(6) the term "residential energy conserving improvements" means, with respect to a residential, or multifamily residential, building—

(A) caulking and weatherstripping;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials;

(G) devices associated with load management techniques;

(H) such other improvements (not including solar energy systems) as the Board by rule identifies for purposes of this subtitle; and

(I) planning and technical services, any residential energy audit, and any conversion from master utility meters to individual utility meters, which are directly related to and undertaken with the installation of any of the items specified in subparagraphs (B) through (H);

(7) the term "commercial energy conserving improvements" means the installation or the modification of an installation which is designed primarily to reduce the consumption of petroleum, natural gas, or electrical power in a commercial or agricultural building, including—

(A) caulking and weatherstripping;

(B) the insulation of the building structure and any systems within the building;

(C) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

(D) automatic energy control systems;

(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems;

(F) furnace, or utility plant and distribution system, modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Board) substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building (unless the increase in illumination is necessary to conform to any applicable State or local law or the increase is considered appropriate by the Board);

(H) energy recovery systems;

(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Board may by rule prescribe;

(J) such other improvements (not including solar energy systems) as the Board identifies, by rule, for purposes of this subtitle; and

(K) planning and technical services, and any commercial energy audit, which are directly related to and undertaken with the installation, or the modification of an installation, which includes any of the items specified in subparagraphs (B) through (J).

(8) the term "solar energy system" means, with respect to a building, any addition, alteration, or improvement which is designed to utilize wind energy, energy produced by a wood-burning appliance, or solar energy, either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer (or some combination of these types), to reduce the energy requirements of the building, and which is in conformity with such criteria and standards as shall be prescribed by the Board in consultation with the Secretary of Housing and Urban Development, the Secretary of Energy, and the National Institute of Building Sciences, except that such term shall include solar process heat devices, solar electric devices, and any earth sheltered building where such sheltering substantially reduces the energy requirements of such building from nonrenewable energy sources and shall include only those fireplaces which are integral parts of a system which is designed to utilize passive type solar energy;

(9) the term "financial institution" means any lender (including any nonprofit entity and any State or local governmental entity) designated by the Board based on the qualifications established for the insurance of financial institutions under section 2 of title I of the National Housing Act, or any utility providing financing for the purchase and installation of residential energy conservation measures in accordance with the requirements of title II of the National Energy Conservation Policy Act:

(10) the term "residential energy audit" means—

(A) an inspection or energy audit of a residential, or multifamily residential, building, or a dwelling unit in such building, performed for purposes of title II or VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a residential, or multifamily residential, building, or a dwelling unit in such building, which includes a determination of and provides information on—

(i) the type, quantity, and rate of energy consumption of such building or dwelling unit;

(ii) energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit;

(iii) in the case of a residential building, a multifamily residential building which does not contain a central heating or cooling system, or a dwelling unit in such building, the cost of purchasing and installing appropriate residential energy conserving improvements, a solar energy system, or both, and the savings in energy costs which are likely to result from the installation of such improvements or system; and

(iv) in the case of a multifamily residential building which contains a central heating or cooling system, or a dwelling unit in such building, the need if any, for the purchase and installation of appropriate residential energy conserving improvements, a solar energy system, or both; and

(11) the term "commercial energy audit" means—

(A) an energy audit performed for purposes of title VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a commercial or agricultural building which includes a determination of, and provides information on—

(i) the type, quantity, and rate of energy consumption of such building;

(ii) appropriate energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building; and

(iii) the need if any, for the purchase and installation of commercial energy conserving improvements, a solar energy system, or both, in such building.

PART 1—ESTABLISHMENT AND OPERATION OF THE BANK

ESTABLISHMENT OF THE BANK

SEC. 505. (a) There is hereby created the Solar Energy and Energy Conservation Bank which shall be in the Department of

Housing and Urban Development and shall have the same powers as those powers given to the Government National Mortgage Association by section 309(a) of the National Housing Act. The Bank shall not exist after September 30, 1987.

(b) The General Accounting Office shall audit, not later than the date occurring 2 years after the date of the enactment of this subtitle, and not later than each date occurring 3 years after such audit, the financial transactions of the Bank, and for this purpose shall have access to all of the books, records, and accounts of the Bank.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

BOARD OF DIRECTORS

SEC. 506. (a) The Bank shall be governed by the Board of Directors. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of Treasury, the Secretary of Agriculture, and the Secretary of Commerce.

(b) Three members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The President of the Bank shall be the Secretary of the Board.

(e) The Board shall carry out the functions of the Bank as set forth in this subtitle and shall adopt such regulations, subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), as the Board determines are necessary to carry out such functions.

(f) The Board shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no individual is allowed for the same expenditure both—

(1) a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954; and

(2) financial assistance under this subtitle.

OFFICERS AND PERSONNEL

SEC. 507. (a) There is established in the Department of Housing and Urban Development the position of President of the Bank, which shall be filled by an individual appointed by the President of the United States with the advice and consent of the Senate and which shall be compensated at the rate now or thereafter prescribed for executive level V by section 5316 of title 5, United States Code.

(b) The President of the Bank shall appoint an Executive Vice President for Energy Conservation, and an Executive Vice President for Solar Energy, who shall be paid at a rate set by the Board and shall have the functions, powers, and duties prescribed by the President of the Bank.

(c) Subject to the direction of the Board, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform any functions of the Bank which the Board may prescribe.

(d) The Secretary of Housing and Urban Development may permit the Bank to utilize the services or personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out this subtitle.

ADVISORY COMMITTEES

SEC. 508. (a) As part of the Bank, there is established an Energy Conservation Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to residential and commercial energy conserving improvements. The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and exprience.

(4) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience. tion, training, and experience.

(5) One individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training, and experience.

(b) As part of the Bank, there is established a Solar Energy Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to solar energy systems. The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of the solar energy industry as a result of the individual's education, training, and experience.

(c)(1) Except as provided in paragraphs (2) and (3), members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall be appointed for terms of 2 years.

(2) Of the members first appointed, those appointed pursuant to paragraphs (1) and (2) of subsections (a) and (b) shall be appointed for a term of 3 years and those appointed pursuant to paragraphs (3), (4), and (5) of subsections (a) and (b) shall be appointed for a term of 2 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) If any member of the Energy Conservation Advisory Committee or the Solar Energy Advisory Committee becomes an officer or employee of any governmental entity, the member may continue as a member of such advisory committee for not longer than the 90-day period beginning on the date the member becomes such an officer or employee.

(e) Subject to the advisability of appropriations, members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for each day (including travel time) during which they are engaged in the actual performance of the duties vested in such advisory committee.

(f) Three members of the Energy Conservation Advisory Committee shall constitute a quorum, and 3 members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members of either advisory committee may hold hearings.

(g) The Chairperson of the Energy Conservation Advisory Committee and the Chairperson of the Solar Energy Advisory Committee shall each be elected by the members of such advisory committee.

(h) The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall not terminate until the Bank ceases to exist.

PROVISION OF FINANCIAL ASSISTANCE

SEC. 509. (a) Subject to the conditions contained in sections 513, 514, and 515 and the limitations contained in sections 516 and 517, the Bank may make payments to financial institutions to provide financial assistance in the form of—

(1) reductions of the principal obligations of loans, or portions of loans, made—

(A) (i) to owners of, and tenants in, existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings; and (ii) to owners who occupy, and tenants in, existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements in such buildings; and

(B) (i) to owners of existing residential, multifamily residential, commercial, and agricultural buildings for the purchase and installation of solar energy systems in such buildings; (ii) to builders of newly constructed or substantially rehabilitated residential buildings for the purchase and installation of solar energy systems in such buildings; and (iii) to purchasers of newly constructed or substantially rehabilitated residential, multifamily residential, commercial, and agricultural buildings which have such systems;

(2) prepayments of the interest which would otherwise be due with respect to such loans, or portions of loans; and

(3) grants to owners of, and tenants in, existing residential buildings and tenants in existing multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings.

(b) Financial assistance may be provided under subsection (a) only if—

(1) the expenditures for residential and commercial energy conserving improvements and solar energy systems, made using financial assistance provided under this subtitle, are made after the date of the enactment of this subtitle; or

(2) the financial assistance is provided in the form described in paragraph (1) or (2) of subsection (a) and—

(A) the financial assistance is for the purchase and installation of residential or commercial energy conserving improvements;

(B) the purchase and installation of residential or commercial energy conserving improvements was financed by a loan made after January 1, 1980, and before the date of the enactment of this subtitle;

(C) the financial assistance is provided not later than 90 days after the date of the promulgation by the Board of regulations with respect to such financial assistance;

(D) the determination of the amount of the financial assistance pursuant to section 511 is made on the basis of the amount of the principal obligation of the loan outstanding on the date of the provision of such financial assistance; and

(E) the owner or tenant receiving such loan has not applied for or received any credit against taxes allowed by section 38 or section 44C of the Internal Revenue Code of 1954 for the expenditures made with the proceeds of such loan, or portion of a loan.

(c) The amount of any financial assistance provided under this subtitle shall not be included in the gross income of any person for purposes of the Internal Revenue Code of 1954, and such person shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to the amount of any financial assistance provided under this subtitle.

ESTABLISHING LEVELS OF FINANCIAL ASSISTANCE

SEC. 510. (a) The Board shall establish, from time to time, the various levels of financial assistance which will be made under section 509, subject to the maximum amounts allowed under sections 511 and 512.

(b) In establishing such levels the Board shall consider at least—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, commercial and agricultural building loans, and Federal Government and corporate bonds;

(2) the availability of other Federal incentives and subsidies for energy conservation expenditures and solar energy system expenditures, including Federal tax credits;

(3) the costs and efficiencies of nonrenewable energy resources and systems, residential and commercial energy conserving improvements, and solar energy systems; and

(4) the levels of financial assistance needed to induce owners and tenants from various income groups to purchase and install residential and commercial energy conserving improvements and solar energy systems in residential, multifamily residential, commercial, and agricultural buildings and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

SEC. 511. (a) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a residential building may not exceed—

(1) in the case of an owner or tenant whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the residential energy conserving improvements; or

(B) $1,250 in the case of a residential building with one dwelling unit, $2,000 in the case of a residential building with 2 dwelling units, $2,750 in the case of a residential building with 3 dwelling units, or $3,500 in the case of a residential building with 4 dwelling units,

whichever is less;

(2) in the case of an owner or tenant whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 100 percent, of the median area income—

(A) an amount equal to 35 percent of the cost of the residential energy conserving improvements; or

(B) $875 in the case of a residential building with one dwelling unit, $1,400 in the case of a residential building with 2 dwelling units, $1,925 in the case of a residential building with 3 dwelling units, or $2,450 in the case of a residential building with 4 dwelling units whichever is less;

(3) in the case of an owner or tenant whose income exceeds an amount equal to 100 percent, but does not exceed an amount equal to 120 percent, of the median area income—

(A) an amount equal to 30 percent of the cost of the residential energy conserving improvements; or

(B) $750 in the case of a residential building with one dwelling unit, $1,200 in the case of a residential building with 2 dwelling units, $1,650 in the case of a residential building with 3 dwelling units, or $2,100 in the case of a residential building with 4 dwelling units,

whichever is less; and

(4) in the case of an owner or tenant whose income exceeds an amount equal to 120 percent, but does not exceed an amount equal to 150 percent, of the median area income—

(A) an amount equal to 20 percent of the cost of the residential energy conserving improvements; or

(B) $500 in the case of a residential building with one dwelling unit, $800 in the case of a residential building with 2 dwelling units, $1,100 in the case of a residential building with 3 dwelling units, or $1,440 in the case of a residential building with 4 dwelling units,

whichever is less.

(b) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a multifamily residential building may not exceed—

(1) an amount equal to 20 percent of the cost of such improvements; or

(2) the sum of $400 times the number of dwelling units in such building in the case of an owner, or $400 in the case of a tenant, whichever is less.

(c) The maximum amount of financial assistance which may be provided under this subtitle to an owner of, or tenant in, a commercial or agricultural building for the purchase and installation of commercial energy conserving improvements may not exceed an amount equal to 20 percent of the cost of such improvements or $5,000, whichever is less.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

SEC. 512. (a) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing residential building for the purchase and installation of a solar energy system in such building, or to a purchaser or builder of a newly constructed or substantially rehabilitated residential building which has such a system, may not exceed—

(1) in the case of an owner or purchaser whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(2) in the case of an owner or purchaser whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 160 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(3) in the case of an owner or purchaser whose income exceeds an amount equal to 160 percent of the median area income—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less; and

(4) in the case of a builder of a residential building—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less.

(b) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing multifamily residential building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated multifamily residential building which has such a system, either—

(1) may not exceed—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less; or

(2) if the owner or purchaser certifies pursuant to procedures established by the Board that a majority of the dwelling units in such building are occupied by tenants whose income does not exceed an amount equal to 80 percent of the median area income, may not exceed—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less.

(c) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing commercial or argicultural building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated commercial or agricultural building which has such a system, may not exceed an amount equal to 40 percent of the cost of the solar energy system or $100,000, whichever is less.

(d) In the case of financial assistance provided under this subtitle for the purchase and installation of a solar energy system in a building or for the purchase of a building which has such a system—

(1) with respect to any active type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)), the amount of such assistance provided after January 1, 1983, shall vary by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

(2) with respect to any passive type solar energy system (despite the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)), the amount of such assistance shall vary (to the extent practicable) by the estimated amount of energy to be saved by the use of such sys-

tem, except that the amount of such assistance may not exceed $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, $10,000 in the case of a residential building with 3 or 4 dwelling units, $100,000 in the case of a commercial or agricultural building, or the sum of $2,500 times the number of dwelling units in a multifamily residential building in the case of such a building.

GENERAL CONDITIONS ON FINANCIAL ASSISTANCE FOR LOANS

SEC. 513. Financial assistance may be provided by a financial institution under this subtitle with respect to a loan only if—

(1) the loan bears a rate of interest acceptable to the Board;

(2) the security for the loan meets the requirements of the Board;

(3) in the case of prepayment of interest by the Bank with respect to a loan, the financial institution agrees to repay to the Bank that portion of such prepayment which is in excess of the actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan, except that the Bank may waive the repayment where such excess is minimal; and

(4) the borrower agrees to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a solar energy system or residential or commercial energy conserving improvements, or to purchase a building with such a system, immediately after such purchase and installation or purchase of a building, which certification shall be made available to the Bank by the financial institution upon the request of the Board.

CONDITIONS ON FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

SEC. 514. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or tenant with respect to a loan made for the purchase and installation of residential or commercial energy conserving improvements in a building only if—

(1) the term of repayment of the loan is not less than 5 years and does not exceed 15 years, except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

(2) (A) the manufacturer of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that the owner or tenant receiving the proceeds of such loan, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential or commercial energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving the proceeds of such loan a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(3) the residential or commercial energy conserving improvements are installed in a building which was completed before January 1, 1980;

(4) in the case of a loan made to a tenant, the owner of such building agrees in writing to the installation of such residential or commercial energy conserving improvements before the making of the loan;

(5) in the case of a loan made for the purchase and installation of residential energy conserving improvements, the financial institution informs the borrower before the loan is made of the availability of residential energy audits;

(6) in the case of a loan made for the purchase and installation of commercial energy conserving improvements in a commercial or agricultural building, the borrower submits to the financial institution before the loan is made a copy of a commercial energy audit of such building;

(7) in the case of a loan made to an owner of, or tenant in, a residential building, or a tenant in a multifamily residential building, the income of such owner or tenant does not exceed 150 percent of the median area income; and

(8) in the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant are not more than $1,000,000 during the fiscal year of such owner or tenant preceding the fiscal year in which such loan is made.

(b) Financial assistance may be provided by a financial institution under this subtitle in the form of a grant to an owner or tenant only if—

(1) the owner or tenant has income which does not exceed 80 percent of the median area income;

(2) the owner or tenant certifies to the financial institution, as prescribed by the Board, that financial resources are available to the owner or tenant which when added to the financial assistance provided under this subtitle will be sufficient to pay the cost of the residential energy conserving improvements purchased and installed with such grant;

(3) the total cost of the residential energy conserving improvements to be purchased and installed with such grant exceeds $250;

(4) the supplier or contractor who sells or installs the residential energy conserving improvements purchased and installed with such grant is included on a list provided under section 213(a) of the National Energy Conservation Policy Act;

(5) (A) the manufacturer of the residential energy conserving improvements to be purchased and installed with such grant shall, in connection with such improvements, warrant in writing that the owner or tenant receiving such grant, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving such grant a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(6) the financial institution informs the owner or tenant of the availability of residential energy audits;

(7) in the case of a grant made to a tenant, the owner of the building in which the residential energy conserving improvements are to be installed agrees in writing to the installation before the making of the grant;

(8) the owner or tenant agrees to certify to the financial institution, immediately after such installation, that such owner or tenant has purchased and installed with the grant residential energy conserving improvements, which certification shall be available to the Bank upon request; and

(9) any residential energy conserving improvements purchased and installed with such grant are purchased and installed in a residential, or multifamily residential, building which was completed before January 1, 1980.

CONDITIONS ON FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

SEC. 515. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or builder with respect to a loan made for the purchase and installation of a solar energy system, or to a purchaser for the purchase of a newly constructed or substantially rehabilitated building with such a system, only if—

(1) the term of repayment of the loan—

(A) in the case of a residential building, is not less than 5 years in the case of an owner or purchaser, and does not exceed 30 years; or

(B) in the case of multifamily residential building, commercial building, or agricultural building, is not less than 5 years and does not exceed 40 years,

except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

(2) (A) the manufacturer of such solar energy system, shall, in connection with such system, warrant in writing that the owner, builder, or purchaser receiving the proceeds of the loan, the installation contractor who installs the system, and the supplier of the system shall (for those solar energy systems found within 3 years from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such solar energy system shall, in connection with such system, provide, at a minimum, to such owner, builder, or purchaser a warranty equivalent to that required under clause (A), (C) the contractor for the installation of such solar energy system shall, in connection with such system, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time, and (D) the contractor for the installation of such solar energy system shall provide an onsite inspection of the system and its components for the purpose of discovering and remedying any defects during the 15 day period before the expiration of the warranty under clause (C), if the Board decides to require such an inspection;

(3) in the case of a loan made to a purchaser or builder or a newly constructed or substantially rehabilitated residential or multifamily residential building, the purchaser or builder provides certification that the building meets or exceeds the cost-effective energy conservation standards established by the Secretary of Housing and

Urban Development, which are in effect on the date of the enactment of this subtitle and as such standards may be revised after such date by the Secretary after consultation with the Board, the Secretary of Energy, the Secretary of Agriculture, the National Institute of Building Sciences, the National Bureau of Standards, and any other Federal agency which is responsible for developing such standards; and

(4) in the case of a loan made to an owner of an existing residential building after December 31, 1985, the income of such owner does not exceed an amount equal to 250 percent of the median area income.

(b) (1) In addition to the conditions contained in section 513 and subsection (a), financial assistance may be provided by a financial institution to a builder under this subtitle for the purchase and installation of a solar energy system in a residential building only if—

(A) the Board determines that—

(i) in order to encourage the construction or substantial rehabilitation of a greater number of residential buildings containing solar energy systems it is necessary to provide financial assistance under this subtitle directly to builders;

(ii) providing any financial assistance under this subtitle directly to builders is a more effective expenditure of such assistance to encourage the construction or substantial rehabilitation of residential buildings containing solar energy systems than providing such assistance only to the purchasers of such buildings; and

(iii) the Board, in consultation with the Secretary of the Treasury, is able to establish a procedure which will prevent the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

(B) the Board establishes a procedure which prevents the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

(C) the builder agrees to, and does, disclose to the purchaser (who buys the building from the builder) in writing at the time of signing the sales contract for such building—

(i) the expenditures with respect to such building for which the builder received financial assistance under this subtitle; and

(ii) that the purchaser may not be allowed a credit against taxes for such expenditures under section 38 or section 44C of the Internal Revenue Code of 1954; and

(D) in addition to any other information required by this subtitle to be provided, the builder agrees to, and does, provide to the Bank such information as the Board determines, in consultation with the Secretary of the Treasury, is necessary to assure that the purchaser (who buys the building from the builder) is not allowed a credit against taxes for such expenditures under section 38, or section 44C, of the Internal Revenue Code of 1954.

(2) Any expenditures, made by a builder for the purchase and installation of a solar energy system in a building, for which the builder received financial assistance under this subtitle shall be considered expenditures from subsidized energy financing by the purchaser (who buys such building from the builder) for purposes of section 38 and section 44C of the Internal Revenue Code of 1954.

(c) Payments may be made to a utility for the provision of financial assistance under this subtitle for the purchase and installation of a solar energy system only if the financial assistance is used for such purchase and installation in existing buildings.

(d) In providing financial assistance with respect to loans for newly constructed and substantially rehabilitated residential buildings with solar energy systems, the Board shall establish a priority for residential buildings which contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to establish such a priority.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

SEC. 516. (a) An amount equal to not less than 80 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of residential energy conserving improvements in residential and multifamily residential buildings.

(b) (1) An amount equal to not less than 15 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance for the purchase and installation of residential energy conserving improvements in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for residential and commercial energy conserving improvements.

(c) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (a) or subsection (b) shall not delay the provision of other financial assistance under this subtitle.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

SEC. 517. (a) (1) The total amount of all payments made to utilities in any fiscal year for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall not exceed 10 percent of the amount of funds appropriated for such fiscal year under the authorization contained in section 522(b), except that the Board may allow the total amount of such payments to exceed 10 percent of the amount of such funds, but not to exceed 20 percent of the amount of such funds, if the Board determines that it would further the purpose of this subtitle of encouraging the use of solar energy.

(2) The total amount of any payments provided to utilities for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall be distributed regionally, among utilities throughout the United States, in a reasonable manner.

(b) An amount equal to not less than 70 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential and multifamily residential buildings and for the purchase of residential and multifamily residential buildings which have such systems.

(c) (1) An amount equal to not less than 5 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for solar energy systems.

(d) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (b) or subsection (c) shall not delay the provision of other financial assistance under this subtitle.

PROMOTION

SEC. 518. (a) The Bank shall promote the program established by this subtitle by informing financial institutions, builders, and consumers of the benefits of this program and by actively seeking their participation in the program. The Bank shall not duplicate any promotion or assistance activities undertaken by the Department of Energy, the Department of Housing and Urban Development, or other Federal agencies to encourage greater use of residential and commercial energy conserving improvements and solar energy systems, but shall cooperate with those agencies in—

(1) the dissemination of information relating to residential and commercial energy conserving improvements and solar technology and their applicability to new and existing construction;

(2) the development and dissemination of reliable appraisal techniques with respect to residential and commercial energy conserving improvements and solar energy systems;

(3) the provision of technical assistance to nonprofit entities, low-income groups, and local governments in the use of financial assistance under this subtitle to undertake solar and conservation strategies; and

(4) the provision of such other assistance and information as the Board determines is necessary to encourage the use of residential and commercial energy conserving improvements and solar energy systems.

(b) The Bank shall seek the advice and assistance of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association in coordinating the programs of the Bank with the secondary market for loans used to finance the purchase and installation of residential and commercial energy conserving improvements and solar energy systems.

(c) Where possible the Bank shall coordinate its promotional program with promotional and assistance programs undertaken by State, regional, and local governments.

(d) The Secretary is authorized to use any available means of communication to accomplish the goals of this section by using the electronic media, print media, and the United States Postal Service.

REPORTS

SEC. 519. (a) The Board shall submit an annual report, to the Congress and to the President of the United States, which includes, among other matters, the views of the President of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee, with respect to—

(1) the operation of the Bank during the previous year;

(2) the problems of the energy conservation and solar energy industries, the Federal Government, and financial institutions which may be inhibiting the operation of the Bank or the acceptance by the public of the use of residential and commercial energy conserving improvements and solar energy systems;

(3) the cost effectiveness of the program in terms of expenditure, specific residential and commercial energy conserving improvements, and energy savings, using statistically valid samples of the improvements assisted under this subtitle;

(4) the relative number of persons from various income groups who have received financial assistance under this subtitle;

(5) the total energy savings achieved because of the assistance provided under this subtitle, based on an estimate of such savings using a statistically valid sample; and

(6) recommendations for improvements in the operation of the Bank.

(b) The Board shall submit to the Congress not later than 2 years after the date of the enactment of this subtitle a report on the limitation on the amount of financial assistance provided to utilities pursuant to section 517(a), including the recommendations of the Board on the continuation of the limitation and the level of such limitation.

RULES AND REGULATIONS

SEC. 520. As soon as practicable, but not later than 180 days after the date of the enactment of this subtitle, the Board shall issue such final rules and regulations as the Board determines are necessary to carry out this subtitle, including rules and regulations to assure that there will be no fraud in the provision of financial assistance through grants under this subtitle, except that any final rules and regulations with respect to multifamily residential, commercial, or agricultural buildings may be issued later than 180 days after such date but not later than 270 days after such date.

PENALTIES

SEC. 521. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance provided under this subtitle, or fails to make any disclosure or statement required by this subtitle, shall be fined not more than $10,000 or imprisoned not more than one year, or both, for each offense.

FUNDING

SEC. 522. (a) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conserving improvements—

(1) the sum of $200,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $625,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518;

(3) the sum of $800,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518; and

(4) the sum of $875,000,000 for the fiscal year ending on September 30, 1984, of which not more than $7,500,000 may be used to carry out section 518.

(b) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of solar energy systems—

(1) the sum of $100,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $200,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518; and

(3) the sum of $225,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518.

(c) Any funds appropriated under the authorizations contained in this section shall remain available until expended.

PART 2—SECONDARY FINANCING

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR RESIDENTIAL ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS

SEC. 531. (a) Section 315(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "(1) Whenever" and all that follows through "direct the Association" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation in residential buildings, the Board shall direct the Bank"; and

(2) by striking out paragraph (2).

(b) Section 315(b) of such Act is amended—

(1) by striking out "Secretary" and "Association" and inserting in lieu thereof "Board" and "Bank", respectively; and

(2) by striking out "which are insured under title I" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", including loans and advances made by public utilities in accordance with the requirements of title II of the National Energy Conservation Policy Act, which are made for the purpose of financing, in whole or in part, the purchase and installation of residential energy conserving improvements or solar energy systems in residential buildings.".

(c) Section 315(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 315(d) of such Act is amended—

(1) by inserting "or advance of credit" after "loan" each time it appears; and

(2) by striking out "Association" and inserting in lieu thereof "Bank".

(e) Section 315(e) of such Act is amended by striking out "Association" and inserting in lieu thereof "Bank".

(f) Section 315(f) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Board".

(g) Section 315(g) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "residential" before "energy conserving" in paragraph (2);

(3) by inserting "or solar energy system" after "improvements" in paragraph (2);

(4) by inserting ", in whole or in part," after "financed" in paragraph (2);

(5) by striking out "of this section." in paragraph (2) and inserting in lieu thereof "of the Solar Energy and Energy Conservation Bank Act;" and;

(6) by adding the following new paragraphs after paragraph (2):

"(3) the term of repayment of such loan or advance of credit is not less than 5 years and not more than 15 years, except that there shall be no penalty imposed if the borrower repays the loan before the established repayment period;

"(4) the interest rate charged and the security required with respect to such loan or advance of credit is acceptable to the Board;

"(5) the amount of such loan or advance of credit does not exceed $15,000;

"(6) the entity from which such loan or advance of credit is purchased agrees to loan or advance credit for the purpose specified in subsection (b) in an amount equal to the amount of the loan or advance of credit which is purchased; and

"(7) such loan or advance of credit meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner."

(h) Section 315 of such Act is amended by adding the following new subsection at the end thereof:

"(h) For purposes of this section and section 316—

"(1) the term 'Bank' means the Solar Energy And Energy Conservation Bank established under section 505 of the Solar Energy and Energy Conservation Bank Act;

"(2) the term 'Board' means the Board of Directors of the Bank;

"(3) the term 'residential building' has the meaning given such term in section 504 (2) of the Solar Energy and Energy Conservation Bank Act;

"(4) the term 'residential energy conserving improvements' has the meaning given such term in section 504(6) of the Solar Energy and Energy Conservation Bank Act; and

"(5) the term 'solar energy system' has the meaning given such term in section 504 (8) of the Solar Energy and Energy Conservation Bank Act.".

(i) The section heading of section 315 of such Act is amended to read as follows:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS".

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS

SEC. 532. (a) Section 316(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation through the use of solar energy systems in residential buildings, the Board";

(2) by striking out "Association" and inserting in lieu thereof "Bank"; and

(3) by striking out "loans and advances of credits" and inserting in lieu thereof "mortgages".

(b) Section 316(b) of such Act is amended—

(1) by striking out "Secretary", "Association", and "loans and advances of credit" in the first sentence and inserting in lieu thereof "Board", "Bank", and "mortgages", respectively;

(2) by striking out "which are made to owners" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof "which are secured by newly constructed one- to four-family dwelling units with solar energy systems and residential energy conserving improvements meeting or exceeding cost-effective energy conservation standards established by the Secretary of Housing and Urban Development";

(3) by striking out "loan or advance of credit" the first time it appears in the second sentence and inserting in lieu thereof "mortgage";

(4) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "thirty";

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs;

"(2) the interest rate charged with respect to such mortgage is acceptable to the Board;

"(3) the principal amount of such mortgage does not exceed the principal amount which could be insured under section 203(b) of the National Housing Act with respect to the dwelling unit concerned;";

(6) by striking out "loan or advance of credit" in paragraphs (1), (4), and (5) and inserting in lieu thereof "mortgage";

(7) by striking out "Secretary" in paragraph (4) and inserting in lieu thereof "Board";

(8) by striking out "and" at the end of paragraph (5); and

(9) by striking out paragraph (6) and inserting in lieu thereof the following new paragraphs:

"(6) the dwelling which secures such mortgage is purchased after the date of enactment of the Solar Energy and Energy Conservation Bank Act; and

"(7) such mortgage meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

(c) Section 316(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 316(d) of such Act is amended by striking out "loan" and "Association" each time they appear and inserting in lieu thereof "mortgage" and "Bank", respectively.

(e) Section 316(e) of such Act is amended by striking out "Association" and "loans and advances of credit" and inserting in lieu thereof "Bank" and "mortgages", respectively.

(f) Section 316(f) of such Act is amended by striking out "Secretary" and "$100,000,000" and inserting in lieu thereof "Board" and "$800,000,000", respectively.

(g) Section 316(g) of such Act is amended by striking out "Secretary", "Association", "loans and advances of credit", "loan or advance", and "loans and advances" and inserting in lieu thereof "Board", "Bank", "mortgages", "mortgage", and "mortgages", respectively.

(h) Section 316 of such Act is amended—

(1) by striking out subsections (h), (i), and (j); and

(2) by striking out the section heading and inserting in lieu thereof the following:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR REPEAL ENERGY SYSTEM".

SEC. 533. Section 314 of the Federal National Mortgage Association Charter Act is repealed.

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION AND BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 534. (a) (1) Section 305(a) (1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence: "or from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

(2) Section 302(h) of such Act is amended by inserting ", or made by a public utility and purchased by the Corporation pursuant to the first sentence of section 305(a) (1)," after "credit for such purposes" in the third sentence.

(b) Section 302(b) (3) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end of the first sentence: ", including loans or advances of credit made, by any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in a residential building".

Subtitle B—Utility Program

DEFINITIONS

SEC. 541. Section 210 of the National Energy Conservation Policy Act is amended by striking out paragraph (9) and inserting in lieu thereof the following:

"(9) The term 'residential building' means any building used for residential occupancy which—

"(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, and

"(B) contains at least one but not more than four dwelling units and has a system for heating or cooling, or both, except that, after January 1, 1982, such term shall also include any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.".

STATE LIST OF SUPPLIERS AND CONTRACTORS—REQUIRED WARRANTY

SEC. 542. (a) Section 210(11) of the National Energy Conservation Policy Act is amended by striking out the last sentence.

(b) Section 212(b) of such Act is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting the following new paragraph after paragraph (2):

"(3) shall include provisions requiring that—

"(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

"(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

"(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and".

(c) Section 213(a) (2) (B) of such Act is amended by inserting "and who agrees to comply with the provisions promulgated under section 212(b) (3)" after "(E)".

(d) Section 220(d) of such Act is amended to read as follows:

"(d) WARRANTIES.—With respect to section 212(b) (3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section.".

STATE LIST OF FINANCIAL INSTITUTIONS

SEC. 543. Section 213(a) (3) of the National Energy Conservation Policy Act is amended by inserting the following before the semicolon at the end thereof: ", and provides that such list shall include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from such lending institutions".

TREATMENT OF UTILITY COSTS

SEC. 544. Section 215 of the National Energy Conservation Policy Act is amended—

(1) by striking out everything that follows "subsection (b) to be" in subsection (c) (1) (C) and inserting in lieu thereof the following: "recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.";

(2) by striking out subsection (c) (1) (D);

(3) by striking out subsection (c) (2) (A);

(4) by striking out "(B)" in subsection (c) (2) (B) and inserting in lieu thereof "(2) (A)";

(5) by striking out "(C)" in subsection (c) (2) (C) and inserting in lieu thereof "(B)"; and

(6) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) LOANS.—In the case of a loan which is arranged by a public utility under subsection (b) (1) (C), the utility, at the request of the person making such loan, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the person making such loan the cost incurred by the utility in carrying out such manner of repayment.".

TAX TREATMENT

SEC. 545. Section 216 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof:

"(i) TAX TREATMENT.—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residential energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.".

SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES

SEC. 546. (a) Section 216 of the National Energy Conservation Policy Act is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.";

(3) by striking out "(1)" in subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

"(A) is on the list of suppliers and contractors referred to in section 213(a)(2);

"(B) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

"(C) if selected by the utility, is selected in a manner consistent with paragraph (2).

"(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

"(A) may not involve unfair methods of competition;

"(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

"(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor on the lists referred to in section 213(a)(2) or to finance the purchase of such measures to be installed by the customer;

"(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

"(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1).".

(b) Section 213(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

"(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c)."

(c) Section 213(a) of such Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective."

AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, AND FINANCING BY UTILITIES

SEC. 547. Section 216(g) of the National Energy Conservation Policy Act is amended to read as follows:

"(g) AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, OR FINANCING BY UTILITIES.—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

"(2) After the date of the enactment of this subsection, no public utility may make any loan or finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

"(A) such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

"(B) such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner which does not comply with subsection (c)."

UNFAIR COMPETITIVE PRACTICES

SEC. 548. Nothing in any amendment made by this subtitle shall be construed to—

(1) bar any person from taking any action with respect to any anticompetitive act or practice related to activities conducted under any program established under this title; or

(2) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.

EFFECTIVE DATE

SEC. 549. (a) The amendments made by this subtitle shall become effective on the date of the enactment of this Act.

(b) As soon as practicable, but in no event later than 120 days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act so that the amendments made by this subtitle will be carried out.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle; except that, for the purposes of the application described in the first sentence of such section, the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to 180 days after the promulgation of rules required by subsection (b).

(d) Nothing in this Act shall have the effect of delaying the date required for submission and approval or disapproval of residential energy conservation plans meeting the requirements of the National Energy Conservation Policy Act in effect before the enactment of this Act.

RELATIONSHIP TO OTHER LAWS

SEC. 550. Section 220 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof:

"(e) PUBLIC UTILITY HOLDING COMPANY ACT.—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conservation measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system.".

Subtitle C—Residential Energy Efficiency Program

PURPOSE

SEC. 561. It is the purpose of this subtitle—

(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 562. The National Energy Conservation Policy Act is amended by adding after section 255 the following new part:

PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

"SEC. 261. DEFINITION.

"As used in this part, the term 'residential building' means any building used as a residence which is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

"SEC. 262. APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS AND PROVISION OF FINANCIAL ASSISTANCE FOR SUCH PROGRAMS.

"(a) PLAN APPROVAL.—The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 263, the application is approved pursuant to section 264, and the plan provides for—

"(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of the utility's service area designated by the contract, which contract includes the provisions described in subsection (b);

"(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

"(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

"(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract;

"(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

"(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b).

"(b) CONTRACT REQUIREMENTS.—Any contract entered into by a public utility under subsection (a)(1) shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility's service area designated in the contract, without charge—

"(1) an inspection of such building to determine and inform such owner or occupant of—

"(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

"(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

"(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

"(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

"(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

"(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a).

"(d) LIMITATION.—The Secretary may approve under subsection (a) not more than 4 plans for the establishment of prototype residential energy efficiency programs.

"SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"Each application for the approval of a plan under section 262(a) for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

"(1) a description of the plan, including the provisions of the plan specified in section 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

"(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

"(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

"(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

"(5) any other information determined by the Secretary to be necessary to carry out this part.

"SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"(a) APPROVAL REQUIREMENTS.—The Secretary may approve an application submitted under section 263 for a plan establishing a prototype residential energy efficiency program only if—

"(1) the application is approved in writing—

"(A) by the public utility which is to enter into the contract under the plan;

"(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

"(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

"(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

"(b) FACTORS IN APPROVING APPLICATIONS.—The Secretary shall take into consideration in approving an application under subsection (a) for a plan establishing a prototype residential energy efficiency program—

"(1) the potential for energy savings from the demonstration of the program;

"(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

"(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

"(4) such other factors as the Secretary determines are appropriate.

"SEC. 265. RULES AND REGULATIONS.

"(a) PROPOSED RULES AND REGULATIONS.—The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after the date of the enactment of this part.

"(b) FINAL RULES AND REGULATIONS.—The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a).

"SEC. 266. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION TO EXEMPT APPLICATION OF CERTAIN LAWS

"The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (17 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having ratemaking authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 262(a), if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program.

"SEC. 267. APPLICATION OF OTHER LAWS.

"(a) LACK OF IMMUNITY.—No provision contained in this part—

"(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

"(2) shall provide to any person any immunity from civil or criminal liability;

"(3) shall create any defenses to actions brought under the antitrust laws; or

"(4) shall modify or abridge any private right of action under the antitrust laws.

"(b) UTILITY PROGRAMS UNDER PART 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a) shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

"(c) DEFINITION.—For purposes of this section, the term 'antitrust laws' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act entitled 'An Act to amend section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes' approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

"SEC. 268. RECORDS AND REPORTS.

"(a) RECORDS.—Each State and local government submitting any application for a plan which is approved under section 262(a), and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

"(b) REPORTS.—The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) and which shall contain—

"(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

"(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 262(a);

"(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 262(a); and

"(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) to establish prototype residential energy efficiency programs, and the provision of financial energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

"SEC. 269. REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE.

"The Secretary shall revoke the approval of any plan under section 262(a) for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and after notice and the opportunity for a hearing, that carrying out such plan—

"(1) causes unfair methods of competition;

"(2) has a substantial adverse effect on competition in the portion of the service area of the public utility designated by the contract entered into under the plan; or

"(3) provides a supplier or contractor of energy conservation measures with an unreasonably large share of the contracts for the supply or installation of such measures under such plan in the service area of the public utility designated by the contract entered into under such plan.

"SEC. 270. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part—

"(1) the sum of $10,000,000 for the fiscal year ending on September 30, 1981; and

"(2) the sum equal to $10,000,000 minus the amount appropriated for the fiscal year ending on September 30, 1981, under the authorization contained in this section, for the fiscal year ending on September 30, 1982.

"(b) AVAILABILITY.—Any funds appropriated under the authorization contained in this section shall remain available until expended.".

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 563. The table of contents of the National Energy Conservation Policy Act is amended by inserting after the item relating to section 255 the following new items:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

"Sec. 261. Definition.
"Sec. 262. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs.
"Sec. 263. Applications for approval of plans for prototype residential energy efficiency programs.
"Sec. 264. Approval of applications for plans for prototype residential energy efficiency programs.
"Sec. 265. Rules and regulations.
"Sec. 266. Authority of the Federal Energy Regulatory Commission to exempt application of certain laws.
"Sec. 267. Application of other laws.
"Sec. 268. Records and reports.
"Sec. 269. Revoking approval of plans and terminating financial assistance.
"Sec. 270. Authorization of Appropriations.".

Subtitle D—Energy Conservation for Commercial buildings and multifamily dwellings

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 565. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"SEC. 710. DEFINITIONS.

"(a) APPLICABILITY OF TITLE II DEFINITIONS.—The definitions in section 210 are applicable to this title, except as otherwise provided in this section.

"(b) ADDITIONAL DEFINITIONS.—As used in this title—

"(1) The term 'building heating supplier' means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"(2) The term 'commercial building' means a building—

"(A) which was completed on or before the date of enactment of this title,

"(B) which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities or administration of a State or local government,

"(C) which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities, and

"(D) for which the average monthly use of energy for the calendar year 1980 is less than 4,000 kilowatt hours of electricity or 1,000 therms of natural gas or the Btu equivalent thereof of any other fuel;

except that such term does not include a Federal building as defined in section 521(2).

"(3) The term 'multifamily dwelling' means a building which is used for residential occupancy, was completed on or before the date of enactment of this title, and contains five or more dwelling units and a central heating or central cooling system.

"(4) The term 'energy efficient improvements' means any change in the operation or maintenance of a commercial building or multifamily dwelling, which change is designed primarily to reduce energy consumption in such building or dwelling and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under section 731, 732, or 741.

"(5) The term 'commercial energy conservation measure' means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electrical power in a multifamily dwelling or commercial building, including—

"(A) caulking and weatherstripping;

"(B) the insulation of the building or dwelling structure and systems within the building or dwelling;

"(C) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

"(D) automatic energy control system;

"(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, or ventilating systems;

"(F) furnace, or utility plant and distribution system, modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Secretary) substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building is necessary to conform to any applicable State or local building code or the increase is considered appropriate by the Secretary);

"(H) energy recovery systems;

"(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Secretary may, by rule, prescribe;

"(J) a solar energy system, as defined in section 504(8) of the Solar Energy and Energy Conservation Bank Act; and

"(K) such other measures as the Secretary identifies, by rule, for purposes of this title.

"(6) The term 'eligible customer' means—

"(A) with respect to a public utility, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that public utility sells natural gas or electricity for use in such building or dwelling, or

"(B) with respect to a building heating supplier, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in such building or dwelling.

"(7) The term 'energy audit' means an onsite inspection of a commercial building or a multifamily dwelling which determines and informs the eligible customer of at least—

"(A) the type, quantity, and rate of energy consumption of such building or dwelling;

"(B) energy efficient improvements appropriate to such building or dwelling; and

"(C) the need, if any, for the purchase and installation of commercial energy conservation measures in such building or dwelling.

The Secretary, after consulting with appropriate State officials, may establish criteria for such audits on a regional basis to account for regional variations in energy use.

"(8) The term 'utility program' means a program meeting the requirements of section 731.

"(9) The term 'building heating supplier program' means a program meeting the requirements of section 732.

"SEC. 711. COVERAGE.

"This title shall apply to any public utility for which coverage is provided under section 211.

"SEC. 712. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

"(a) PROMULGATION OF RULES BY THE SECRETARY.—The Secretary shall, not later than 120 days after enactment of this title and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as the Secretary deems appropriate, publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

"(b) ENERGY EFFICIENT IMPROVEMENTS OF DIFFERENT TYPES AND CATEGORIES.—The rules promulgated under subsection (a) may identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate. Such improvements shall be considered in the energy audits offered to eligible customers under sections 731, 732, and 741.

"(c) COORDINATION.—The rules promulgated under subsection (a) shall, to the extent practicable, coordinate the requirements of this title with the provisions of section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II, part 1 of this Act. Such rules shall not have the effect of delaying the submission, approval, or implementation of residential energy conservation plans under title II, part 1 of this Act.

"(d) OTHER RULES.—The Secretary may prescribe any other rules necessary to carry out the provisions of this title.

"PART 2—ENERGY CONSERVATION PLANS

"SEC. 721. PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

"(a) SUBMISSION AND APPROVAL OF STATE PLANS.—Not later than 180 days after the promulgation of rules under section 712(a), the Governor of each State (or any State agency specifically authorized to do so under State law) may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of subparagraphs (B) and (C) of section 212(c)(1).

"(b) NONREGULATED UTILITIES.—Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor if he notifies the Secretary within 30 days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this subsection, the term 'nonregulated utility' shall not include any public utility which is a Federal agency.

"(c) PLAN FOR BUILDING HEATING SUPPLIERS.—A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

"(d) TENNESSEE VALLEY AUTHORITY.—In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

"SEC. 722. REQUIREMENTS FOR STATE PLANS FOR REGULATED UTILITIES.

"No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

"(1) requires each regulated utility to implement a program which meets the requirements of section 731 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712, except that no such program may be required to apply to all of the multifamily dwellings and commercial buildings located within such utility's service area if, within 6 months from the date on which the Secretary's rules are promulgated with respect to such program, the State regulatory authority which exercises ratemaking authority over such utility determines that the inclusion of such additional buildings or dwellings would significantly impair such utility's ability—

"(A) to fulfill the requirements of section 215, or

"(B) to provide utility service to its customers.

"(2) provides adequate State procedures for implementing the enforcement of the plan;

"(3) provides procedures for insuring that effective coordination exists among various local, State, and Federal agency conserving programs within and affecting such State; and

"(4) is adopted after notice and public hearing.

"SEC. 723. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS.

"(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 722 for regulated utilities. In applying the requirements of section 722 in the case of a plan for a nonregulated utility under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility and the reference to the State regulatory authority shall be treated as a reference to the Governor.

"(b) REQUIREMENTS FOR PLANS FOR BUILDING HEATING SUPPLIERS.—No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under paragraphs (3) and (4) of section 722 and—

"(1) meets the requirements of section 732 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

PART 3—UTILITY PROGRAMS

"SEC. 731. UTILITY PROGRAMS.

"(a) GENERAL REQUIREMENTS.—Each utility program shall include procedures designed to provide that each public utility—

"(1) offers to each eligible customer, no later than 12 months after the approval of the applicable plan and every 24 months thereafter until 1990, an energy audit of the eligible customer's commercial building or multifamily dwelling;

"(2) conditions the availability of an energy audit in the case of a multifamily dwelling upon the agreement by the eligible customer to provide to the tenants of the customer's multifamily dwelling the information developed by such audit concerning energy efficient improvements and commercial energy conservation measures applicable to the individual dwelling units in such dwelling;

"(3) maintains a report of each audit performed pursuant to this subsection with respect to a commercial building or multifamily dwelling for not less than 10 years, which report shall be available to any subsequent eligible customer of such commercial building or multifamily dwelling; and

"(4) shall not be required to conduct an energy audit of a commercial building or multifamily dwelling which has been audited previously pursuant to this title or title III; except that any public utility may contract with one or more persons, including another utility, to carry out directly some or all of the responsibilities required by this subsection.

"(b) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—Each State regulatory authority or nonregulated utility shall, within 180 days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

"(1) that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 741) are accounted for on the books and records of the public utility separately from amounts attributable to all other activities of such utility;

"(2) that all amounts expended by a utility for providing information concerning the availability of the energy audit offered pursuant to subsection (a)(1) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service; and

"(3) that all other amounts expended by a public utility to carry out the provisions of this title, are recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that, in the case of a multifamily dwelling, the amount which may be recovered directly from an eligible customer for whom the activities described in subsection (a) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this paragraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

"(c) RATEPAYER.—For purposes of subsection (b), the term 'ratepayer' means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility for purposes other than for resale.

"SEC. 732. BUILDING HEATING SUPPLIER PROGRAM.

"(a) REQUIREMENTS.—Except as may be provided by the Secretary, the procedures for each building heating supplier program shall be identical to the procedures required for utilities in section 731(a).

"(b) WAIVER.—The Governor may waive, for any building heating supplier, any requirement established pursuant to this section, upon demonstration to the Governor's satisfaction that the resources of such supplier do not enable the supplier to comply with such requirement.

"PART 4—FEDERAL IMPLEMENTATION

"SEC. 741. FEDERAL STANDBY AUTHORITY.

"(a) PROMULGATION OF PLAN BY THE SECRETARY.—If a State does not have a plan approved under section 721 within 270 days after promulgation of rules under section 712(a), or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

"(1) promulgate a plan which meets the requirements of section 722; and

"(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its eligible customers a utility program prescribed in such order which meets the requirements specified in section 731.

"(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 721 does not have a plan approved under such section within 270 days after promulgation of rules under section 712(a) or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility—

"(1) to promulgate a plan which meets the requirements of section 723 and which applies to the commercial buildings and multifamily dwellings which would have been covered had such a plan been so approved or implemented; and

"(2) no later than 90 days following the date of issuance of such order, to offer to its customers a utility program prescribed in such plan which meets the requirements specified in section 731.

"(c) ENFORCEMENT.—If the Secretary determines that any person has violated any provision of this title, any plan approved or promulgated under this title, or any order issued pursuant thereto, the Secretary may file a petition in the appropriate United States district court to enjoin such person from violating such provision, plan, or order. The provisions of subsections (c) and (d) of section 219 shall apply to any violation of any order or plan promulgated by the Secretary under authority of subsections (a) and (b) of this section.".

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 566. The table of contents of the National Energy Conservation Policy Act is amended by adding the following new items at the end thereof:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"Sec. 710. Definitions.
"Sec. 711. Coverage.
"Sec. 712. Rules of Secretary for submission and approval of plans.

"PART 2—ENERGY CONSERVATION PLANS

"Sec. 721. Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings.
"Sec. 722. Requirements for State plans for regulated utilities.
"Sec. 723. Plan requirements for nonregulated utilities and building heating suppliers.

"PART 3—UTILITY PROGRAMS

"Sec. 731. Utility programs.
"Sec. 732. Building heating supplier program.

"PART 4—FEDERAL IMPLEMENTATION

"Sec. 741. Federal standby authority.".

Subtitle E—Weatherization Program

LIMITATIONS ON ADMINISTRATIVE EXPENDITURES

SEC. 571. Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out ", except that" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ". Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes."

EXPENDITURES FOR LABOR

SEC. 572. Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting the following new paragraph at the end thereof:

"(3) In areas where the Secretary, after consultation with the Secretary of Labor, determines that there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary may increase the limitation of $800 to not more than $1,600 to cover the costs of paying persons who will install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973."

SELECTION OF LOCAL AGENCIES

SEC. 573. (a) Section 415(b)(2) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Section 413(c) of such Act is amended by striking out the second sentence thereof.

(c) Section 414(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and "; and

(3) by adding the following new paragraph at the end thereof:

"(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit activities auhorized by this title: *Provided*, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.".

STANDARDS AND PROCEDURES FOR THE WEATHERIZATION PROGRAM

SEC. 574. Section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new paragraph at the end thereof:

"(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.".

LIMITATIONS ON EXPENDITURES

SEC. 575. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out "$100" and inserting in lieu thereof "$150".

AUTHORIZATION OF APPROPRIATIONS

SEC. 576. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of $55,000,000 for the fiscal year ending on September 30, 1977, the sum of $130,000,000 for the fiscal year ending on September 30, 1978, the sum of $200,000,000 for the fiscal year ending on September 30, 1979, the sum of $200,000,000 for the fiscal year ending on September 30, 1980, and the sum of $200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 577. Part A of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out section 412(1) and inserting in lieu thereof the following:

"(1) The term 'Secretary' means the Secretary of Energy.";

(2) by striking out "Administrator" each time it appears therein and inserting in lieu thereof "Secretary"; and

(3) by striking out "Administrator's" in the first sentence of section 419(a) and inserting in lieu thereof "Secretary's".

Subtitle F—Energy Auditor Training and Certification Purpose

SEC. 581. It is the purpose of this subtitle to encourage the training and certification of individuals to conduct energy audits for residential and commercial buildings in order to serve the various private and public needs of the Nation for energy audits.

DEFINITIONS

SEC. 582. For the purposes of this subtitle—

(1) the term "Governor" means the chief executive officer of each State, including the Mayor of the District of Columbia;

(2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands;

(3) the term "energy audit" means an inspection as described in section 215(b)(1)(A) of the National Energy Conservation Policy

Act, or an energy audit as defined in section 710(b)(7) of such Act, which in addition may provide information on the utilization of renewable resources and may make energy-related improvements in the building; and

(4) the term "Secretary" means the Secretary of Energy.

GRANTS

SEC. 583. (a) The Secretary may make grants to any Governor of a State for the training and certification of individuals to conduct energy audits.

(b) Before making a grant under subsection (a) to a Governor, the Secretary must receive from the Governor an application containing—

(A) any information which the Secretary deems is necessary to carry out this subtitle; and

(B) an assurance that the grant will supplement and not supplant other funds available for such training and certification and will be used to increase the total amount of funds available for such training and certification.

(c)(1) Before making any grant under subsection (a) the Secretary shall establish minimum standards for the training and certification of individuals to conduct energy audits.

(2) The Secretary shall require each Governor receiving any grant under this subtitle to agree to meet the standards established pursuant to paragraph (1) in any training and certification conducted using funds provided under this subtitle.

AUTHORIZATION OF APPROPRIATIONS

SEC. 584. (a) To carry out this subtitle there is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending on September 30, 1981, and the sum of $15,000,000 for the fiscal year ending on September 30, 1982.

(b) Any funds appropriated under the authorization contained in this section shall remain available until expended.

Subtitle G—Industrial Energy Conservation

AUTHORIZATION OF APPROPRIATIONS

SEC. 591. To accelerate the program of the Department of Energy involving the research, development, and demonstration of energy conserving activities designed to substantially increase productivity in industry, there is authorized to be appropriated to the Secretary of Energy for industrial conservation demonstration projects designed to substantially increase productivity in industry, in addition to any other sums which may be available for such purposes, the sum of $40,000,000 for each of the fiscal years ending on September 30, 1981, and on September 30, 1982.

Subtitle H—Coordination of Federal Energy Conservation Factors and Data

CONSENSUS ON FACTORS AND DATA FOR ENERGY CONSERVATION STANDARDS

SEC. 595. The Secretary of Energy shall assure that within 6 months after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Defense, the Administrator of the General Services Administration, and the head of any other agency responsible for developing energy conservation standards for new or existing residential, commercial, or agricultural buildings shall reach a consensus regarding factors and data used to develop such standards. This consensus shall apply to, but not be limited to—

(1) fuel price projections;

(2) discount rates;

(3) inflation rates;

(4) climatic conditions and zones; and

(5) the cost of energy saving characteristics of construction materials.

USE OF FACTORS AND DATA

SEC. 596. Factors and data consented to pursuant to section 595 may be revised and agreed to by a consensus of the heads of various Federal agencies involved. Such factors and data shall be used by all Federal agencies in establishing and revising various energy conservation standards used by such agencies, except that other factors and data may be used with respect to the standards applicable to any program if—

(1) the other factors and data are approved by the Secretary of Energy solely on the basis that such other factors and data are critical to meet the unique needs of the program concerned;

(2) using the consented to factors and data would cause a violation of an express provision of law; or

(3) statutory requirements or responsibilities require a modification of the consented to factors and data.

REPORT

SEC. 597. The President shall report to the Congress on January 1, 1981, and annually thereafter, with respect to—

(1) the activities which have been carried out under this subtitle; and

(2) other efforts which are being carried out to coordinate the various Federal energy conservation programs.

TITLE VI—GEOTHERMAL ENERGY

SHORT TITLE

SEC. 601. This title may be cited as the "Geothermal Energy Act of 1980".

FINDINGS

SEC. 602. The Congress finds that—

(1) domestic geothermal reserves can be developed into regionally significant energy sources promoting the economic health and national security of the Nation;

(2) there are institutional and economic barriers to the commercialization of geothermal technology; and

(3) Federal agencies should consider the use of geothermal energy in the Government's buildings.

Subtitle A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

SEC. 611. (a) The Secretary of Energy (hereafter in this title referred to as the "Secretary") is authorized to make a loan to any person, from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144), to assist such person in undertaking and carrying out a project which (1) is designed to explore for or determine the economic viability of a geothermal reservoir and (2) consists of surface exploration and the drilling of one or more exploratory wells.

(b) Subject to subsection (c) and to section 613(b), any loan under subsection (a) shall be repayable out of revenue from production of the geothermal energy reservoir with respect to which the loan was made, at a rate, in any year, not to exeed 20 per centum of the gross revenue from the reservoir in that year; except that if any disposition of the geothermal rights to the reservoir is made to one or more other persons by the borrower, the full amount of the loan balance outstanding, or so much of the loan balance outstanding as is equal to the full amount of the compensation realized by the borrower upon such disposition, whichever is less, shall be repaid immediately. In any case where the reservoir is confirmed (as determined by the Secretary), the Secretary may impute a reasonable revenue for purposes of determining repayment if—

(1) reasonable efforts are not made to put such reservoir in commercial operation,

(2) the borrower (or any such other person) utilizes the resources of the reservoir without a sale of the energy or geothermal energy resources therefrom, or

(3) a sale of energy or geothermal energy resources from the reservoir is made for an unreasonably low price;

except that no such imputation of revenue shall be made during the three-year period immediately following such reservoir confirmation. In the event of failure to begin production of revenue (or, where no sale of energy or geothermal energy resources is made, to begin production of energy for commercial use) within five years after the date of such reservoir confirmation, the Secretary may take action to recover the value, not to exceed the amount of the unpaid balance of the loan plus any accrued interest thereon, of any assets of the project in question, including resource rights.

(c) The Secretary may at any time cancel the unpaid balance and any accrued interest on any loan made under this section if he determines, on the basis of evidence presented by the loan recipients or otherwise, that the geothermal energy reservoir with respect to which the loan was made has characteristics which make that reservoir economically or technically unacceptable for commercial development.

(d) As used in this subtitle, the term "person" includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the entities included within such term under 1 U.S.C. § 1.

LOAN SIZE LIMITATION

SEC. 612. The amount of any loan made under section 611(a) with respect to a project described in that section shall not exceed 50 percent of the cost of such project, except that if the loan is made to a person proposing to make application of the resources of the reservoir involved primarily for space heating or cooling or process heat for one or more structures or facilities then existing or under construction, the loan may be in any amount up to 90 per centum of such cost. In any event no loan shall be made in an amount in excess of $3,000,000.

LOAN RATE AND REPAYMENT

SEC. 613. (a) Each loan made under section 611 shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)–17(a)).

(b) Each such loan shall be for a term which the Secretary deems appropriate, except that no loan term shall exceed twenty years beyond the date on which production of energy or geothermal energy resources begins from the reservoir involved. If revenues are inadequate (as determined by the Secretary) to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

SEC. 614. No new loans shall be made under this subtitle after September 30, 1986. Amounts repaid on or before September 30, 1986, on loans theretofore made under section 611 shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle. Amounts repaid after that date on loans theretofore made under section 611, and amounts deposited in the Fund for purposes of this subtitle which remain in the Fund after that date and are not required to secure outstanding obligations under this subtitle, shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

SEC. 615. The Secretary shall promulgate regulations to carry out this subtitle no later than six months after the date of the enactment of this Act.

AUTHORIZATIONS

SEC. 616. There are hereby authorized to be appropriated for loans under this subtitle not to exceed $5,000,000 for fiscal year 1981, and not to exceed $20,000,000 for each of the four succeeding fiscal years. Amounts so appropriated shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle, and shall remain available for such purposes until expended.

Subtitle B

RESERVOIR INSURANCE PROGRAM STUDY

SEC. 621. The Secretary shall conduct a detailed study of the need for and feasibility of establishing a reservoir insurance and reinsurance program incorporating the terms, conditions, and provisions set forth in section 622, and shall submit to the Congress within one year after the date of the enactment of this Act a report on the results of such study including his findings and recommendations with respect thereto.

ESTABLISHMENT OF PROGRAM

SEC. 622. (a) If the report of the Secretary submitted pursuant to section 621 affirmatively recommends the establishment of the program and the Congress by law (after review of such recommendation) specifically authorizes the establishment of the program, the Secretary shall establish and implement within six months after the date of the enactment of such authorization a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to qualified eligible applicants in accordance with this section.

(b) For the purpose of this section—

(1) the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase or construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) the term "geothermal resource" means a resource in the United States including (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) the term "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) the term "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) the term "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) the term "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource; and

(7) the term "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which is a United States citizen as determined by application of the test for United States citizenship contained in section 2(a)—(c) of the shipping Act, 1916 (46 U.S.C. 802), or in the first sentence of section 27A of the Merchant Marine Act, 1920 (46 U.S.C. 883-1(a)—(e)).

(c) Any person with a total direct investment of not less than $1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of the investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir, stated with as much specificity as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; (4) the extent to which the applicant has been able to obtain other insurance against the risk; and (5) such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days after receipt of a satisfactory application, shall determine in writing and submit to the applicant (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of the lesser of 90 per centum of, or $50 000,000 of, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days after making and submitting the determinations under subsection (e), and upon agreement of the applicant to such determinations, shall issue a certificate of insurance containing such terms and conditions as the Secretary shall specify, which shall not be transferrable without the express approval of the Secretary for good cause shown, and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance and such other provisions as may be necessary to protect the interests of the United States, including provisions with respect to the ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made and any right, title, claim, or course of action existing in relation thereto.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of value of his investment by reason of the specified risk shall receive compensation, to the extent the Secretary determines that the holder is eligible to receive compensation pursuant to the certificate and the contract, in the amount of the loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section solely because such person is the recipient of other Federal assistance under this or any other Act.

(j) There may be appropriated to the Geothermal Resources Development Fund (established pursuant to section 204 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144)), for purposes of this section, such amounts as are authorized for such purposes in the law referred to in subsection (a) or in other legislation hereafter enacted.

(k) The Secretary may enter into agreements to reinsure any private insurer for any risk associated with insurance for the development and utilization of a geothermal resource and associated reservoir, using the procedures set forth in subsections (c) through (i), to the extent that he deems it appropriate in order to provide an incentive for the participation of the private insurance industry in geothermal development; and he may also use any other available authority to obtain such participation. The Secretary shall submit a report to the Congress, within one year after the enactment of the law referred to in subsection (a), on the need for any additional authority to obtain such participation.

Subtitle C

FEASIBILITY STUDY LOAN PROGRAM

SEC. 631. (a) The Secretary is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts, and other persons.

(b)(1) In providing assistance under the program established pursuant to subsection (a), the Secretary is authorized to make a loan to any person to defray up to 90 per centum of the costs of (A) studies to determine the feasibility of any geothermal development described in such subsection, and (B) preparing applications for any necessary licenses or other Federal, State, and local approvals respecting such development.

(2) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted for a study pursuant to clause (A) of paragraph (1) if he determines, on the basis of the study, that the geothermal development is not technically or economically feasible.

(c) In providing assistance under such program, the Secretary is also authorized to make a loan to any person to defray up to 75 per centum of the costs directly related to the construction of a system or systems for nonelectric geothermal development pursuant to such subsection, where the Secretary finds that—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of such system or systems have been or will be issued,

(2) the project involved will comply with

all applicable laws relating to protection of the environment, and

(3) the applicant requires such assistance to undertake and complete the project.

(d) Each loan made pursuant to this section shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Each loan shall be for such term as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) or thirty years for loans under subsection (c).

(e) Loans pursuant to this section shall be made from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144); and amounts repaid on such loans shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle.

(f) For loans under clause (A) of subsection (b)(1) for fiscal year 1981, there is authorized to be appropriated to the Geothermal Resources Development Fund not to exceed $5,000,000, which shall remain available until expended. For loans under such clause (A) for subsequent fiscal years, and for loans under clause (B) of subsection (b)(1) or under subsection (c) (for any such subsequent fiscal year), there may be appropriated to such Fund only such sums as are authorized by legislation hereafter enacted.

(g) As used in this section, the term "person" includes municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection (a) and the other entities included within such term under 1 U.S.C. § 1.

Subtitle D

AMENDMENTS TO GEOTHERMAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 641. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101 et seq.) is amended—

(1) by striking out the period at the end of the first sentence in section 201(c) and inserting in lieu thereof the following: ", except that any guarantee made for a loan to an electric, housing, or other cooperative, or to a municipality (as defined in section 3(7), part I, of the Federal Power Act), may apply to so much of the principal amount of the loan as does not exceed 90 percent of the aggregate cost of the project. In determining the aggregate cost of a project for purposes of the preceding sentence, there shall be excluded the cost of constructing electrical transmission lines to the extent that the cost of constructing such lines exceeds 25 percent of the aggregate cost of the project (as determined without regard to this sentence); except that the Secretary may waive or limit the application of this sentence with respect to any project located in the State of Hawaii upon a finding that such project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the particular transmission line involved will be used for more than the plant which is the subject of the loan guarantee.";

(2) by striking out "the ten-calendar-year period following the date of enactment of this Act" in section 203 and inserting in lieu thereof "fiscal year 1990"; and

(3) by adding at the end thereof the following new sections:

"APPROVAL OR DISAPPROVAL OF LOAN GUARANTEE APPLICATIONS

"SEC. 206. The Secretary, within sixty days after the enactment of this section, shall establish and implement procedures providing for a final decision on any loan guarantee application within four months of the date of filing. To the maximum extent practical, an applicant should be advised (prior to the submission of the application) of all information which will be required of the applicant in processing the application; and the date of filing shall be considered to be the date when all of such information has been submitted by the applicant. Any application proposed and filed as of the date of the enactment of this section shall be subject to final decision within not more than four months after such date.

"APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 207. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 which is associated with the granting of a loan guarantee under this title takes the maximum cognizance allowable under law of any other action theretofore undertaken pursuant to such section 102(2)(C) with respect to the project which is the subject of such loan guarantee, and that no such action associated with the loan guarantee shall duplicate any action theretofore undertaken under such section 102(2)(C) in connection with such project, so long as all of the requirements which are applicable to such project under such section 102(2)(C) will have been satisfied.".

USE OF GEOTHERMAL ENERGY IN FEDERAL FACILITIES

SEC. 642. The option of using geothermal energy or geothermal energy resources shall be considered fully in any new Federal building, facility, or installation which is located in a geothermal resource area as designated by the Secretary.

AMENDMENTS TO FEDERAL POWER ACT AND PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 643. (a) The Federal Power Act is amended—

(1) by inserting "geothermal resources," after "renewable resources," in section 3(17)(A)(i);

(2) by inserting "geothermal power producer (including a producer which is not an electric utility)," after "Federal power marketing agency," in section 210(a)(1); and

(3) by striking out "Any electric utility" at the beginning of section 211(a) and inserting in lieu thereof "Any electric utility, geothermal power producer (including a producer which is not an electric utility),".

(b) Section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended—

(1) by inserting ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity," after "to encourage cogeneration and small power production" in the first sentence of subsection (a);

(2) by striking out "qualifying cogeneration facilities" in subsection (e)(1) and inserting in lieu thereof "geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities,"; and

(3) by inserting ", or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source," after "30 megawatts" in subsection (e)(2).

REGULATIONS

SEC. 644. All regulations made with respect to this subtitle shall be promulgated no later than six months after the date of the enactment of this Act.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

Subtitle A—Acid Precipitation

SHORT TITLE

SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—

(1) could contribute to the increasing pollution of natural and man-made water systems;

(2) could adversely affect agricultural and forest crops;

(3) could adversely affect fish and wildlife and natural ecosystems generally;

(4) could contribute to corrosion of metals, wood, paint, and masonry used in construction and ornamentation of buildings and public monuments;

(5) could adversely affect public health and welfare; and

(6) could affect areas distant from sources and thus involve issues of national and international policy.

(b) The Congress declares that it is the purpose of this subtitle—

(1) to identify the causes and sources of acid precipitation;

(2) to evaluate the environmental, social, and economic effects of acid precipitation; and

(3) based on the results of the research program established by this subtitle and to the extent consistent with existing law, to take action to the extent necessary and practicable (A) to limit or eliminate the identified emissions which are sources of acid precipitation, and (B) to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation.

(c) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds.

INTERAGENCY TASK FORCE; COMPREHENSIVE PROGRAM

SEC. 703. (a) There is hereby established a comprehensive ten-year program to carry out the provisions of this subtitle; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force"), of which the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration shall be joint chairmen. The remaining membership of the Task Force shall consist of—

(1) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

(2) the director of the Argonne National Laboratory, the director of the Brookhaven National Laboratory, the director of the Oak Ridge National Laboratory, and the director of the Pacific Northwest National Laboratory; and

(3) four additional members to be appointed by the President.

(b) The four National Laboratories (referred to in subsection (a)(2)) shall constitute a research management consortium having the responsibilities described in section 704(b)(13) as well as the general responsibilities required by their representation on the Task Force. In carrying out these responsibilities the consortium shall report to, and act pursuant to direction from, the joint chairmen of the Task Force.

(c) The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subtitle.

COMPREHENSIVE RESEARCH PLAN

SEC. 704. (a) The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation.

(b) The comprehensive plan shall include programs for—

(1) identifying the sources of atmospheric emissions contributing to acid precipitation;

(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation;

(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

(4) development and application of atmospheric transport models to enable prediction of long-range transport of substances causing acid precipitation;

(5) defining geographic areas of impact through deposition monitoring, identification of sensitive areas, and identification of areas at risk;

(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

(9) economic assessments of (A) the environmental impacts caused by acid precipitation on crops, forests, fisheries, and recreational and aesthetic resources and structures, and (B) alternative technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

(10) documenting all current Federal activities related to research on acid precipitation and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

(11) effecting cooperation in acid precipitation research and development programs, ongoing and planned, with the affected and contributing States and with other sovereign nations having a commonality of interest;

(12) subject to subsection (f)(1), management by the Task Force of financial resources committed to Federal acid precipitation research and development;

(13) subject to subsection (f)(2), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

(14) analyzing the information available regarding acid precipitation in order to formulate and present periodic recommendations to the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and its effects.

(c) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within six months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3).

(d) The Task Force shall convene as necessary, but no less than twice during each fiscal year of the ten-year period covered by the comprehensive plan.

(e) The Task Force shall submit to the President and the Congress by January 15 of each year an annual report which shall detail the progress of the research program under this subtitle and which shall contain such recommendations as are developed under subsection (b)(14).

(f)(1) Subsection (b)(12) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (A) the department or agency to which funds are appropriated, or (B) the obligations of such department or agency with respect to the use of such funds.

(2) Subsection (b)(13) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

IMPLEMENTATION OF COMPREHENSIVE PLAN

SEC. 705. (a) The comprehensive plan shall be carried out during the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in its final form under section 704(c)(3); and—

(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (11) of section 704 (b);

(2) shall be managed in accord with paragraphs (12) through (14) of such section; and

(3) shall be funded by annual appropriations, subject to annual authorizations which shall be made for each fiscal year of the program (as provided in section 706) after the submission of the Task Force progress report which under section 704(e) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

AUTHORIZING OF APPROPRIATIONS

SEC. 706. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 704 there is authorized to be appropriated to the National Oceanic and Atmospheric Administration for fiscal year 1981 the sum of $5,000,000, to remain available until expended.

(b) Authorizations of appropriations for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 704 (c)(3), for purposes of carrying out the comprehensive ten-year program established by section 703(a) and implementing the comprehensive plan under section 704 and 705, shall be provided on an annual basis in authorization Acts hereafter enacted; but the total sum of dollars authorized for such purposes for such nine fiscal years shall not exceed $45,000,000 except as may be specifically provided by reference to this paragraph in the authorization Acts involved.

Subtitle B—Carbon Dioxide

STUDY

SEC. 711. (a)(1) The Director of the Office of Science and Technology Policy shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study of the projected impact, on the level of carbon dioxide in the atmosphere, of fossil fuel combustion, coal-conversion and related synthetic fuels activities authorized in this Act, and other sources. Such study should also include an assessment of the economic, physical, climatic, and social effects of such impacts. In conducting such study the Office and the Academy are encouraged to work with domestic and foreign governmental and non-governmental entities, and international entities, so as to develop an international, worldwide assessment of the problems involved and to suggest such original research on any aspect of such problems as the Academy deems necessary.

(2) The President shall report to the Congress within six months after the date of the enactment of this Act regarding the status of the Office's negotiations to implement the study required under this section.

(b) A report including the major findings and recommendations resulting from the study required under this section shall be submitted to the Congress by the Office and the Academy not later than three years after the date of the enactment of this Act. The Academy contribution to such report shall not be subject to any prior clearance or review, nor shall any prior clearance or conditions be imposed on the Academy as part of the agreement made by the Office with the Academy under this section. Such report shall in any event include recommendations regarding—

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of varying levels of atmospheric carbon dioxide should be structured, including comments by the Office of the interagency requirements of such a program and comments by the Secretary of State on the international agreements required to carry out such a program;

(2) how the United States can best play a role in the development of such a long-term program on an international basis;

(3) what domestic resources should be made available to such a program;

(4) how the ongoing United States Government carbon dioxide assessment program should be modified so as to be of increased utility in providing information and recommendations of the highest possible value to government policy makers; and

(5) the need for periodic reports to the Congress in conjunction with any long-term program the Office and the Academy may recommend under this section.

(c) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Office or the Academy upon request any information which the Office or the Academy determines to be necessary for purposes of conducting the study required by this section.

(d) The Office shall provide a separate assessment of the interagency requirements to implement a comprehensive program of the type described in the third sentence of subsection (b).

AUTHORIZATION OF APPRORIATIONS

SEC. 712. For the expenses of carrying out the carbon dioxide study authorized by section 711 (as determined by the Office of Science and Technology Policy) there are authorized to be appropriated such sums, not exceeding $3,000,000 in the aggregate, as may be necessary. At least 80 percent of any amounts appropriated pursuant to the preceding sentence shall be provided to the National Academy of Sciences.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

PRESIDENT REQUIRED TO RESUME FILL OPERATIONS

SEC. 801. (a) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b) and the requirements of section 159, the President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for fiscal year 1981 and for each fiscal year thereafter.

"(2) The requirement in paragraph (1) shall cease to apply when storage in the Strategic Petroleum Reserve equals or exceeds the final storage level set forth in the Strategic Petroleum Reserve Plan.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter).

USE OF CRUDE OIL FROM ELK HILLS RESERVE

SEC. 802. (a) Section 160 of such Act (42 U.S.C. 6240), as amended by section 801, is further amended by adding at the end thereof the following:

"(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

"(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

"(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

"(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

"(i) sold to small refiners under section 7430(d) of title 10, United States Code;

"(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

"(iii) produced for national defense purposes under section 7422(b)(2) of title 18, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.".

(b) The amendments made by subsection (a) shall take effect October 1, 1980.

SUSPENSION DURING EMERGENCY SITUATIONS

SEC. 803. Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240), as amended by sections 801 and 802, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

"(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

"(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

"(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

"(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

"(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

"(A) subsections (d)(2) and (d)(7) shall not apply; and

"(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

"(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any crude oil involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.".

NAVAL PETROLEUM RESERVES

SEC. 804. (a) Section 7430(b) of title 10, United States Code, is amended by striking out "for periods of not more than one year," and inserting at the end thereof the following: "Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.".

(b) Section 7430(k) of title 10, United States Code, is amended to read as follows:

"(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (43 U.S.C. 6231–6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

"(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.".

(c) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section.".

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL; USE OF FEDERAL ROYALTY OIL

SEC. 805. (a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall, within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

(b) In addition to the requirement under subsection (a), the President may direct that—

(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

(c)(1) Any proceeds—

(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act, such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

(d) For purposes of this section—

(1) the terms "entitlements", "crude oil", and "allocation" shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 (and the regulation thereunder);

(2) the term "lower tier crude oil" means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

(3) the term "Federal royalty oil" means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(4) the term "proceeds from the sale of Federal royalty oil" means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

S. 932, Defense Production Act Extension Amendments, 1979 (for all titles):

Henry S. Reuss,
Jim Wright,
William S. Moorhead,
Thomas L. Ashley,
James J. Blanchard,
Bruce F. Vento,
Thomas S. Foley,
Don Fuqua,
Harley O. Staggers,
John D. Dingell,
Philip R. Sharp,
Albert Gore, Jr.,
Stewart B. McKinney,
Chalmers P. Wylie,
John Wydler,
Bill Wampler,
Managers on the Part of the House.

Henry M. Jackson,
Frank Church,
J. Bennett Johnston,
Dale Bumpers,
Wendell H. Ford,
John A. Durkin,
Howard M. Metzenbaum,
Spark M. Matsunaga,
John Melcher,
Paul E. Tsongas,
Bill Bradley,
Mark O. Hatfield,
James A. McClure,
Lowell P. Weicker, Jr.,
Pete V. Domenici,
Ted Stevens,
Henry Bellmon,
Malcolm Wallop,
Managers on the Part of the Senate.

S. 932, Defense Production Act Extension Amendments, 1979 (titles I, V, IX, and XI):

Anthony Moffett
(title V only) (solely for consideration of title V of the Senate amendment),
Richard Ottinger
(title V only) (solely for consideration of title V of the Senate amendment),
Ken Kramer
(title IX only) (solely for consideration of title IX of the Senate amendment),
Steve Neal
(title IX only) (solely for consideration of title IX of the Senate amendment),
Managers on the Part of the House.

Alan Cranston,
Harrison A. Williams, Jr.,
Adlai E. Stevenson,
Robert Morgan,
Don Riegle,
Paul Sarbanes,
Donald Stewart,
John Heinz,
Managers on the Part of the Senate.

S. 932, Defense Production Act Amendments, 1979 (titles II and III) of the Senate amendment:

Herman E. Talmadge
(solely for consideration of title II of the Senate amendment),
George McGovern
(solely for consideration of title II of the Senate amendment),
Jesse Helms
(solely for consideration of title II of the Senate amendment),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

This Act may be cited as the "Energy Security Act".

The Act is divided into eight titles, which are reflected in the Table of Contents, as follows:

TITLE I—SYNTHETIC FUEL

Sec. 100. Findings and purpose.

PART A—DEVELOPMENT OF SYNTHETIC FUEL UNDER THE DEFENSE PRODUCTION ACT OF 1950

Sec. 101. Short title.
Sec. 102. Declaration of policy.
Sec. 103. Restriction on rationing.
Sec. 104. Expansion of productive capacity and supply.
Sec. 105. General provisions.
Sec. 106. Reports.
Sec. 107. Effective date.

PART B—UNITED STATES SYNTHETIC FUELS CORPORATION

SUBTITLE A—GENERAL PROVISIONS

Sec. 111. Short title.
Sec. 112. General definitions.
Sec. 113. Effective date.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

Sec. 115. Establishment.
Sec. 116. Board of Directors.
Sec. 117. Officers and employees.
Sec. 118. Conflicts of interest and financial disclosure.
Sec. 119. Delegation.
Sec. 120. Authorization of administrative expenses.
Sec. 121. Public access to information.
Sec. 122. Inspector General.
Sec. 123. Advisory Committee.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

Sec. 125. National synthetic fuel production goal.
Sec. 126. Production strategy.
Sec. 127. Solicitation of proposals.
Sec. 128. Congressional disapproval procedure.
Sec. 129. Congressional approval precedure.

SUBTITLE D—FINANCIAL ASSISTANCE

Sec. 131. Authorization of financial assistance.
Sec. 132. Loans made by the Corporation.
Sec. 133. Loan guarantees made by the Corporation.
Sec. 134. Price guarantees made by the Corporation.
Sec. 135. Purchase agreements made by the Corporation.
Sec. 136. Joint ventures by the Corporation.
Sec. 137. Control of assets.
Sec. 138. Unlawful contracts.
Sec. 139. Fees.
Sec. 140. Disposition of securities.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

Sec. 141. Corporation construction and contractor operation.
Sec. 142. Limitations on Corporation construction projects.
Sec. 143. Environmental, land use, and siting matters.
Sec. 144. Project reports.
Sec. 145. Financial records.

SUBTITLE F—CAPITALIZATION AND FINANCE

Sec. 151. Obligations of the Corporation.
Sec. 152. Limitations on total amount of obligational authority.
Sec. 153. Budgetary treatment.
Sec. 154. Receipts of the Corporation.
Sec. 155. Tax status.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

Sec. 161. False statements.
Sec. 162. Forgery.
Sec. 163. Misappropriation of funds and unauthorized activities.
Sec. 164. Conspiracy.
Sec. 165. Infringement on name.
Sec. 166. Additional penalties.
Sec. 167. Suits by the Attorney General.
Sec. 168. Civil actions against the Corporation.

SUBTITLE H—GENERAL PROVISIONS

Sec. 171. General powers.
Sec. 172. Coordination with Federal entities.
Sec. 173. Patents.

Sec. 174. Small and disadvantaged business utilization.
Sec. 175. Relationship to other laws.
Sec. 176. Severability.
Sec. 177. Fiscal year, audits and reports.
Sec. 178. Water rights.
Sec. 179. Western hemisphere projects.
Sec. 180. Completion guarantee study.

SUBTITLE I—DISPOSAL OF ASSETS

Sec. 181. Tangible assets.
Sec. 182. Disposal of other assets.

SUBTITLE J—TERMINATION OF CORPORATION

Sec. 191. Date of termination.
Sec. 192. Termination of the Corporation's affairs.
Sec. 193. Transfer of powers to Department of the Treasury.

SUBTITLE K—DEPARTMENT OF THE TREASURY

Sec. 195. Authorizations.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Funding for subtitles A and B.
Sec. 205. Coordination with other authorities and programs.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

Sec. 211. Biomass Energy Development Plans.
Sec. 212. Program responsibility and administration; effect on other programs.
Sec. 213. Insured loans.
Sec. 214. Loan guarantees.
Sec. 215. Price guarantees.
Sec. 216. Purchase agreements.
Sec. 217. General requirements regarding financial assistance.
Sec. 218. Reports.
Sec. 219. Review; reorganization.
Sec. 220. Establishment of Office of Alcohol Fuels in Department of Energy.
Sec. 221. Termination.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

Sec. 231. Municipal waste energy development plan.
Sec. 232. Construction loans.
Sec. 233. Guaranteed construction loans.
Sec. 234. Price support loans and price guarantees.
Sec. 235. General requirements regarding financial assistance.
Sec. 236. Financial assistance program administration.
Sec. 237. Commercialization demonstration program pursuant to Federal Nonnuclear Energy Research and Development Act of 1974.
Sec. 238. Jurisdiction of Department of Energy and Environmental Protection Agency.
Sec. 239. Establishment of Office of Energy From Municipal Waste in Department of Energy.
Sec. 240. Termination.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

Sec. 251. Model demonstration biomass energy facilities.
Sec. 252. Biomass energy research and demonstration projects.
Sec. 253. Applied research regarding energy conservation and biomass energy production and use.
Sec. 254. Forestry energy research.
Sec. 255. Biomass energy educational and technical assistance.
Sec. 256. Rural energy extension work.
Sec. 257. Coordination of research and extension activities.
Sec. 258. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives.
Sec. 259. Agricultural conservation program; energy conservation cost sharing.
Sec. 260. Production of commodities on set-aside acreage.
Sec. 261. Utilization of National Forest System in wood energy development projects.
Sec. 262. Forest Service leases and permits.

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

Sec. 271. Use of gasohol in Federal motor vehicles.
Sec. 272. Motor vehicle alcohol usage study.
Sec. 273. Natural gas priorities.
Sec. 274. Standby authority for allocation of alcohol fuel.

TITLE III—ENERGY TARGETS

Sec. 301. Preparation of energy targets.
Sec. 302. Congressional consideration.
Sec. 303. Energy target form.
Sec. 304. General provisions regarding targets.

TITLE IV—RENEWABLE ENERGY INITATIVES

Sec. 401. Short title.
Sec. 402. Purpose.
Sec. 403. Definitions.
Sec. 404. Coordinated dissemination of information on renewable energy resources and conservation.
Sec. 405. Establishment of life-cycle energy costs for Federal buildings.
Sec. 406. Energy self-sufficiency initiatives.
Sec. 407. Photovoltaic amendments.
Sec. 408. Small-scale hydropower initiatives.
Sec. 409. Authorizations of appropriations.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Sec. 501. Short title and table of contents.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Sec. 502. Short title.
Sec. 503. Purpose.
Sec. 504. Definitions.

PART 1—ESTABLISHMENT AND OPERATION OF THE BANK

Sec. 505. Establishment of the Bank.
Sec. 506. Board of Directors.
Sec. 507. Officers and personnel.
Sec. 508. Advisory committees.
Sec. 509. Provision of financial assistance.
Sec. 510. Establishing levels of financial assistance.
Sec. 511. Maximum amounts of financial assistance for residential and commercial energy conserving improvements.
Sec. 512. Maximum amounts of financial assistance for solar energy systems.
Sec. 513. General conditions on financial assistance for loans.
Sec. 514. conditions on financial assistance for residential and commercial energy conserving improvements.
Sec. 515. Conditions on financial assistance for solar energy systems.
Sec. 516. Limitations on the provision of financial assistance for residential and commercial energy conserving improvements.
Sec. 517. Limitations on the provision of financial assistance for solar energy systems.
Sec. 518. Promotion.
Sec. 519. Reports.
Sec. 520. Rules and regulations.
Sec. 521. Penalties.
Sec. 522. Funding.

PART 2—SECONDARY FINANCING

Sec. 531. Authority of solar energy and energy conservation bank to purchase loans and advances of credit for residential energy conserving improvements or solar energy systems.
Sec. 532. Authority of solar energy and energy conservation bank to purchase mortgages secured by newly constructed homes with solar energy systems.
Sec. 533. Repeal.
Sec. 534. Secondary financing by Federal Home Loan Mortgage Corporation and by Federal National Mortgage Association.

SUBTITLE B—UTILITY PROGRAM

Sec. 541. Definitions.
Sec. 542. State list of suppliers and contractors—required warranty.
Sec. 543. State list of financial institutions.
Sec. 544. Treatment of utility costs.
Sec. 545. Tax treatment.
Sec. 546. Supply, installation, and financing by public utilities.
Sec. 547. Authority to monitor and terminate supply installation, and financing by utilities.
Sec. 548. Unfair competitive practices.
Sec. 549. Effective date.
Sec. 550. Relationship to other laws.

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

Sec. 561. Purpose.
Sec. 562. Amendment to the National Energy Conservation Policy Act.
Sec. 563. Amendment to the table of contents.

SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

Sec. 565. Amendment to the National Energy Conservation Policy Act.
Sec. 566. Amendment to the table of contents.

SUBTITLE E—WEATHERIZATION PROGRAM

Sec. 571. Limitations on administrative expenditures.
Sec. 572. Expenditures for labor.
Sec. 573. Selection of local agencies.
Sec. 574. Standards and procedures for the weatherization program.
Sec. 575. Limitations on expenditures.
Sec. 576. Authorization of appropriations.
Sec. 577. Technical amendments.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

Sec. 581. Purpose.
Sec. 582. Definitions.
Sec. 583. Grants.
Sec. 584. Authorization of appropriations.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

Sec. 591. Authorization of appropriations.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

Sec. 595. Consensus on factors and data for energy conservation standards.
Sec. 596. Use of factors and data.
Sec. 597. Report.

TITLE VI—GEOTHERMAL ENERGY

Sec. 601. Short title.
Sec. 602. Findings.

SUBTITLE A

Sec. 611. Loans for geothermal reservoir confirmation.
Sec. 612. Loan size limitation.
Sec. 613. Loan rate and repayment.
Sec. 614. Program termination.
Sec. 615. Regulations.
Sec. 616. Authorizations.

SUBTITLE B

Sec. 621. Reservoir insurance program study.
Sec. 622. Establishment of program.

SUBTITLE C

Sec. 631. Feasibility study loan program.

SUBTITLE D

Sec. 641. Amendments to Geothermal Research, Development, and Demonstration Act.
Sec. 642. Use of geothermal energy in Federal facilities.

Sec. 643. Amendments to Federal Power Act and Public Utility Regulatory Policies Act.
Sec. 644. Regulations.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBTITLE A—ACID PRECIPITATION

Sec. 701. Short title.
Sec. 702. Statement of findings and purpose.
Sec. 703. Interagency Task Force; comprehensive program.
Sec. 704. Comprehensive research plan.
Sec. 705. Implementation of comprehensive plan.
Sec. 706. Authorization of appropriations.

SUBTITLE B—CARBON DIOXIDE

Sec. 711. Study.
Sec. 712. Authorization of appropriations.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

Sec. 801. President required to resume fill operations.
Sec. 802. Use of crude oil from Elk Hills Reserve.
Sec. 803. Suspension during emergency situations.
Sec. 804. Naval petroleum reserves.
Sec. 805. Allocation to strategic petroleum reserve of lower tier crude oil; use of Federal royalty oil.

TITLE I—SYNTHETIC FUELS

The purpose of Title I is to accelerate the development of a synthetic fuel industry in the United States. To accomplish this objective, this title is divided into two parts. Part A, which amends the Defense Production Act of 1950, (DPA), provides authortiy for a "fast start" interim program utilizing existing Federal departments and agencies to expedite the development and production of synthetic fuels to meet national defense needs. The President of the United States is directed to put this program into effect immediately upon enactment. The conferees believe that no time should be lost during the period before the United States Synthetic Fuels Corporation established in Part B becomes fully operational. Once the President has determined the Corporation is fully operational, these Part A authorities are placed on a "standby" basis for possible reactivation in serious energy supply shortage situations. The two parts of title I are separate and independent authorities.

FINDINGS AND PURPOSES (SEC. 100)

Findings (Sec. 100(a))

Section 100(a) sets forth Congressional findings that energy security is essential to the United States and that dependence on foreign energy resources can be significantly reduced by the production by 1987 of at least 500,000 barrels of crude oil equivalent per day of synthetic fuels and by 1992 of at least 2,000,000 barrels of crude oil equivalent per day of synthetic fuels from domestic resources.

In addition, the Congress finds that the attainment of these synthetic fuel production goals requires a commitment of Federal capital through the establishment of an independent Federal entity of limited duration to provide financial assistance in conjunction with private sources of capital of facilitate the expeditious achievement of synthetic fuel production from domestic resources.

Purposes (Sec. 100(b))

Section 100(b) states that among the purposes of this part is the utilization to the fullest extent of the Constitutional powers of Congress to improve the nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions, and increase the nation's security by reducing dependence upon imported oil. The section contains Congressional findings that these purposes can be served by early demonstration of the practicality of commercial production of synthetic fuels from domestic resources employing the widest diversity of feasible technologies, by fostering the creation of commercial synthetic fuel production facilities of diverse types, by creating the United States Synthetic Fuels Corporation which would be a Federal entity of limited duration to provide financial assistance to undertake synthetic fuel projects, by providing financial assistance to encourage the flow of capital funds, by encouraging private capital investment in the development of domestic sources of synthetic fuel, by encouraging and supplementing private capital investments, by fostering greater energy security so as to reduce the nation's economic vulnerability from disruptions and imported energy supplies, and by giving special consideration to the production of synthetic fuels which have national defense application and expediting their initial development through the Defense Production Act of 1950.

PART A—DEVELOPMENT OF SYNTHETIC FUELS UNDER THE DEFENSE PRODUCTION ACT OF 1950

PREFACE

Part A amends the Defense Production Act of 1950 to undertake the "fast-start" interim program. When the President has determined that the United States Synthetic Fuels Corporation is fully operational, the "fast start" authorities go into "standby" status, for possible reactivation, along with certain additional authorities, when severe energy supply shortages require their use. However, any existing contracts may be renewed and extended subject to the appropriation of funds after the President's determination. Part A modernizes and updates long standing provisions of the Act in the context of today's problems and challenges. The following describes those changes along with their intent:

Short title—(Sec. 101)

Section 101 provides that the short title of this part may be cited as the "Defense Production Act Amendments of 1980."

Declaration of policy—(Sec. 102)

This section amends the "Declaration of Policy" of the Defense Production Act of 1950 to add as one of the Act's purposes U.S. Government responses to foreign actions which could reduce or terminate the availability of strategic and critical materials, and states that "energy" is to be included in that category. The conferees note that existing law encourages the geographic dispersal of industrial facilities of the United States and believe, to the extent practicable, that this policy also should apply to the establishment of a synthetic fuel industry. The "Declaration of Policy" is amended to make it clear that it is necessary and appropriate, indeed essential, "to assure domestic energy supplies for national defense needs."

Amendments to title I—(Priorities and allocations)

A new section 105 is added to make clear that nothing in the DPA shall be construed to authorize the President to institute, without the approval of Congress, a program for gasoline rationing.

A new section 106 specifically designates "energy" as a "strategic and critical material" for the purposes of the DPA. This section makes it clear that by virtue of such designation the President is not granted any new direct or indirect authority for the mandatory allocation or pricing of any fuel or feedstock including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal or electricity or any other form of energy. Nor does this section grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever such as oil and gas exploration and development or any energy facility construction except as expressly provided in sections 305 and 306 for synthetic fuel production. However, it should be stressed that these prohibitions would not in any way limit any existing authorities of the President under the Defense Production Act of 1950 that otherwise may exist.

Title III—(Expansion of productive capacity and supply)

Section 104 amends section 301(a) of the Defense Production Act of 1950 to update the specified agencies which may use the authority of this section by changing the Departments of the Army, Navy, and Air Force to the "Department of Defense," and by adding "the Department of Energy."

This section also is amended to make clear that, except as provided in sections 305 and 306, no authority contained in sections 301, 302, or 303 may be used in the development, production, or distribution of synthetic fuel; for any synthetic fuel project; to assist any person for the purpose of providing goods or services to a synthetic fuel project; or to provide any assistance to any person for the purchase of synthetic fuel. The effect of this prohibition is to consolidate synthetic fuel authorities in sections 305 and 306.

Section 104(b) amends subsection 301(e) (1) of the Defense Production Act of 1950 to increase the amount of discretionary loan guarantee authority under this section from $20 million to $38 million. It also changes the congressional oversight mechanisms for loan guarantees exceeding the discretionary amount from the present requirement of an affirmative act of Congress to a one-House disapproval mechanism. These changes, as in section 104(c), apply to other than synthetic fuel loan guarantees.

Section 104(c) amends section 302 of the Defense Production Act of 1950 to increase the discretionary direct loan authority from $25 million to $48 million. The changes in the loan guarantee and direct loan authorities are made to reflect increased costs due to inflationary pressures which have occurred since the provisions were written a number of years ago.

The discretionary levels described in sections 104(b) and (c) above are really trigger points beyond which some Congressional notification and possible disapproval are required.

Section 104 (d)(1) adds Presidential authority under section 303 (a) of the DPA to make provision for the encouragement of the development of strategic and critical materials, metals, and minerals. This is intended to make it clear that existing authorities in the DPA would include energy, consistent with the new section 106 designating energy as a critical and strategic material.

Section 104(d)(2) amends section 303(b) of the DPA by extending the maturity date for the purchase, commitment and sales authority of this section to September 30, 1995.

Section 104(d)(3) deletes the requirement of a certification (section 303(g) of the DPA) by the Secretaries of Agriculture or Interior of a shortage of a strategic and critical material before the President could use the authority of this subsection to make provision for the development of substitutes for such strategic and critical materials. The conferees expect that the President would in any event be likely to consult with the appropriate Federal officials before exercising such authority.

"Fast-start" interim synthetic fuel authorities (Sec. 104(e))

Section 104(e) adds a new section 305 to title III of the Defense Production Act of 1950.

Subsection (a)(1)(A) of the new section 305 directs the President to take immediate action to achieve production of synthetic fuel to meet national defense needs, utilizing the provisions of this Act and any other applicable provision of law. The only exceptions would be the use of sections 101(a), 101(b), 301, 302, 303 of the DPA, and standby authorities which are contained in section 306 of the DPA.

Whenever needed, the President would be expected to invoke the authorities contained in section 101(c) of the DPA requiring the allocation of materials and equipment, or the priority performance under contracts or orders in order to maximize domestic energy supplies, if he makes the necessary findings.

Subparagraph (B) directs the President to exercise the authorities of new section 305 in consultation with the Secretary of Energy; through the Department of Defense and any other Federal department or agency designated by the President; and consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980 (Part B of this title).

The Department of Defense, in carrying out the consultation requirement above, should provide the Secretary of Energy as rapidly as possible with its total requirements for mobility synthetic fuels and other alternative fuels by specification and quantity and the rate at which they are required for use in lieu of conventional fuels.

Paragraph (2) states that the new section 305 shall not affect the authority of the United States Synthetic Fuels Corporation.

Subsection (b)(1)(A) authorizes and directs the President, under certain conditions as specified in section 305, to contract for purchase of or commitments to purchase synthetic fuel for Government use to meet defense needs. He also shall issue loan guarantees and make direct loans in accordance with special procedures outlined in new sections 305(b)(3) and 307 of the DPA. These forms of assistance may be provided only to persons who are participating in a synthetic fuel project, except that for purposes of fabrication or manufacture of any component for use in synthetic fuel projects, these types of assistance may be provided to any fabricator or manufacturer of such components. The conferees recognize that the rapid development of the synthetic fuel industry may require additional capacity to produce needed components to prevent delays and cost overruns.

In the use of loan guarantees and direct loans when those amounts exceed the limitations established in sections 301 or 302, the President must notify Congress and submit them to a procedure outlined in section 307. His proposed action is then either approved under expedited procedures or automatically permitted to go into effect unless disapproved by either House of the Congress.

Subsection (c) of the new section 305 authorizes the President to make purchase agreements and commitments to purchase, including advance payments, without regard to the limitations of existing law regarding the procurement of goods or services by the Government, other than the limitations contained in this Act. Purchases or commitments to purchase involving higher than established ceiling prices (or if there are no established ceiling prices, current prevailing market prices) shall not be made unless it is determined that supplies of synthetic fuel cannot be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for national defense purposes.

However, advance payments may not be made unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

Under subsection (d), any purchase of or commitment to purchase synthetic fuel shall be made by solicitation of sealed competitive bids. However, in any case in which no such bids are submitted, or the President determines that none submitted are acceptable, he may negotiate contracts for such purchases and commitments to purchase.

A price guarantee feature is contained in subsection (d)(3). Under this provision, any contract for such purchase or commitment to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price as specified in the contract exceeds the market price for such synthetic fuel on the delivery date. The market price shall be determined by the Secretary of Energy.

The new section 305 also contains safeguards designed to promote competition in the synthetic fuel industry by limiting Government purchases to not more than 100,000 barrels a day crude oil equivalent of synthetic fuel from any one company.

In addition, the President may not award any single contract to purchase or commit to purchase more than 75,000 barrels per day unless he submits a notification to Congress and the proposed contract is either approved under expedited procedures or not disapproved by either House of the Congress.

The new section 305 also has a number of other requirements. Foremost among these is that only synthetic fuel which is produced in the United States may be purchased. In addition, loans and loan guarantees are limited to synthetic fuel projects in the United States.

Each contract must also provide that the Government and all parties shall agree to review and possibly renegotiate the contract not later than ten years after the date of initial production. At the time of the review, the President shall determine the need for continued financial assistance. The conferees interpret the above provision to provide for renegotiation by mutual consent.

Under the provision of the new section 305, synthetic fuel delivered under contract will be used by the appropriate Federal agency. That Federal agency shall pay the prevailing market price for the product which the synthetic fuel is replacing, as determined by the Secretary of Energy, from money appropriated to the Federal agency for the purchase of fuel. In turn, the President shall pay from sums appropriated for this Act an amount equal to the amount by which the contract price for the synthetic fuel involved exceeds the prevailing market price.

The new section 305 also requires the President, in the consideration of any proposed contract, to take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under the contract. The procurement power granted to the President shall include the power to transport and store and have processed and refined any synthetic fuel product procured. However, to the greatest extent feasible, any synthetic fuel contracted for purchase should be suitable for direct use by the Armed Forces.

The President must determine that such synthetic fuel is needed to meet national defense needs and it is not anticipated that such synthetic fuel will be resold by the Government. In the event synthetic fuel is acquired by the Government and is no longer needed to meet national defense needs and that fuel is not accepted by a Federal agency, the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve. The conferees further note that authority already exists for the exchange of such synthetic fuel for petroleum to help fill the Strategic Petroleum Reserve and intend that such authority be used to obtain other fuels for the Strategic Petroleum Reserve. If the fuel is not accepted by the Secretary of Energy, it shall be sold in accordance with applicable Federal law.

Any contract under new section 305, including any amendment or other modification, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under the contract determined as follows:

1. Loans shall be valued at the initial face value of the loan;

2. Guarantees shall be valued at the initial face value of the guarantee, including any amount of interest which is guaranteed;

3. Purchase agreements shall be valued as of the date of the contract based upon the President's estimate of its maximum liability; and

4. Any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with each of the above, as the case may be.

If more than one form of assistance is provided to any synthetic fuel project, then the maximum liability under such contract shall be valued at the maximum potential exposure on the project at any time during its life.

The maximum liability calculated in accordance with this procedure is to be used to determine compliance with the limitation that there be no obligations in excess of appropriations.

This section requires that contracts be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of the contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts covered by this section.

Any commitment made under section 305 which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of the above paragraph.

In regard to Federal requirements for environmental impact statements, the new section 305 stipulates that no action in providing any loan, guarantee, or purchase agreement under section 305 of this Act shall be determined to be a major Federal action significantly affecting the quality of the human environment. The conferees firmly believe that the vulnerability of U.S. national security to current and possible fuel shortages requires the development of the synthetic fuel industry as quickly as possible. Even so, the conferees believe that environmental impact statements should be undertaken where applicable, for individual projects made possible under this program.

In regard to labor, the new section 305 provides that the Davis-Bacon Act shall apply to the construction, repair or alteration of any synthetic fuel project assisted by any loan or loan guarantee contract awarded under its provisions. However, purchase agreements would not be covered.

Part A provides that nothing in section 305 shall affect the jurisdiction of States or the Federal Government over waters, affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

Section 305(k)(1) terminates the authority of the President to enter into any new contract or commitment on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980. The conferees expect that the Corporation will be fully operational within nine months of enactment and not later than fifteen months after enactment. However, contracts entered into under section 305 before that date may be renewed and extended by the President after that date, but only to the extent that Congress has specifically appropriated funds for those purposes.

"STANDBY" SYNTHETIC FUEL AUTHORITIES

Section 104(e) creates a new section 306 of the Defense Production Act of 1950, which permits the President to invoke the "standby" authorities for the production of synthetic fuel and establishes the circumstances under which those authorities may be invoked. Section 306 also spells out what the "standby" authorities are.

Section 306(a) requires the President to make certain findings before he may invoke the "standby" authorities. Those findings are: (1) That a national shortage of energy has resulted, or is likely to result, in a shortage of petroleum in the United States which is likely to exist long enough to threaten the adequacy of fuel supplies needed for the country's direct defense and direct defense industrial base programs; (2) The continued adequacy of needed supplies cannot be assured and requires expedited production of synthetic fuel; (3) The United States Synthetic Fuels Corporation is unable to accomplish such expedited production in a timely manner; and (4) It is necessary to use the "standby" authorities to obtain the expedited production. Section 306 makes clear that the President may invoke these authorities at any time after the enactment of the section, subject to making the findings, and the transmittal to Congress of a report setting forth the findings.

Section 306(a) also requires the President to include in his report to Congress his determination of what the extent of the anticipated petroleum shortage will be. If the President determines the shortage will be greater than 25 percent, the authorities are immediately invoked, subject to authorization and appropriations acts by Congress. If the anticipated shortage is determined by the President to be less than 25 percent, the President's findings and report to Congress are subject to Congressional approval or disapproval under a special expedited procedure spelled out in section 307. This Presidential transmittal to Congress is designated, for purposes of section 307, a "synthetic fuel action."

Section 306(a)(3) states that no court may review any determination made by the President with respect to the findings and anticipated shortage.

Section 306(b) directs the President to utilize the provisions of the Defense Production Act of 1950 (other than sections 101(a), 101 (b), 301, 302, 303, and 305), and any other applicable law, to expedite synthetic fuel production to meet national defense needs. The President must exercise the authorities of section 306 in consultation with the Secretary of Energy and through the Department of Defense and any other Federal agency or department he so designates. This subsection makes clear that section 306 shall not affect the authority of the United States Synthetic Fuels Corporation.

Section 306(c) specifies the mechanisms the President may use for expediting the production of synthetic fuel. These include (1) contracts for purchases of commitments to purchase synthetic fuels for Government use for defense needs; (2) loan guarantees; (3) direct loans; (4) the authority to install additional equipment, facilities, processes or improvements in Government-owned plants, and to install Government-owned equipment in privately owned facilities; and (5) the authority to construct Government-owned, contractor-operated synthetic fuel projects.

The mechanisms listed previously also include the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet national defense needs. But nothing in this particular authority shall grant the President the power to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or intending to produce synthetic fuel. The conferees agree that the language of this provision, section 306(c)(1)(A)(iv), is intended to provide authority in cases where suppliers are already producing synthetic fuels or synthetic chemical feedstocks, or in situations in which the President determines that Federal contracts for fuels or chemical feedstocks for national defense purposes should be restricted to contracts for synthetic fuels or synthetic chemical feedstocks.

Section 306(c) limits assistance under the section to participants in a synthetic fuel project, except that loan and loan guarantee assistance may be extended to fabricators or manufacturers of components of synthetic fuel projects.

Section 306(c)(2) sets forth certain requirements for Government-owned synthetic fuel projects. The Government must contract with the private sector for the construction and operation of any such project, and the private sector must be utilized to the maximum extent feasible in any activities connected with a Government-owned synthetic fuel project. Contracts for the construction and operation of such projects must be solicited by sealed competitive bids, unless no acceptable bids are submitted, in which case the President may negotiate contracts for the construction and operation of such project.

Loan and loan guarantee authority under section 306 is authorized in the same manner and to the same extent as in section 305, and is subject to the same dollar limitations as in section 305 ($38 million for guarantees and $48 million for loans). Proposed loans or guarantees over those amounts are subject to the expedited approval or disapproval procedures of section 307.

The authority for purchases and commitments to purchase is to be exercised under section 306 in the same manner as is spelled out in section 305.

Section 306(c) requires that, before the President may utilize any of the authorities under this section, he must certify to Congress that each of the circumstances relating to actual or anticipated petroleum shortage which triggered his invocation of the section 306 authorities still exists at the time he proposes to use the authorities.

Section 306 also requires that there be an Act of Congress authorizing the President to utilize certain section 306 authorities before they may be exercised, since Part A provides no authorization of appropriations for carrying out the provisions of the section. Such an authorization is required for carrying out the loan, loan guarantee, and purchase authorities of section 306 of the DPA. And appropriations for the exercise of such section 306 authorities are required.

However, the exercise of the authorities to contract for Government-owned synthetic fuel projects and for expansion of Government-owned plants or the installation of Government-owned facilities at private plants would require specific authorization and appropriations acts by Congress on a project-by-project basis.

Section 306(d) reiterates the provisions of section 305 governing the purchase, and commitment to purchase, authority of section 306.

Section 306(e) reiterates the limitations on the purchase authority contained in section 305. Sealed competitive bidding is required and, if no acceptable bids are received, negotiated contracts are authorized. The right to refuse delivery and to pay the supplying contractor the difference between the contract price and a lower existing market price must be included in any purchase contract.

Safeguards designed to promote competition also are included. They restrict purchases from any one company to no more than 100,000 barrels per day. In addition they permit a single contract for more than 75,000 barrels per day only after the approval or disapproval review by Congress under the expedited procedures contained in section 307. All synthetic fuel under section 306 contracts must be produced from plants in the United States. Parties to each contract must agree to review and possibly renegotiate the contract within ten years. Synthetic fuels acquired by the Government under section 306 contracts may be sold to Federal agencies under the same payment provisions of section 305. The socioeconomic impact on communities must be one of the factors taken into account in the consideration of any contract. The procurement power of section 306 also includes the power to transport and store synthetic fuel and to have the fuel processed and refined. No authority may be used under section 306 to acquire synthetic fuel by the Government unless the President determines the fuel is needed for national defense purposes, and such acquisition must not intend resale by the Government. These requirements apply to the acquisition of synthetic fuel from Government synthetic fuel projects, as well as to the fuel acquired under contracts utilizing the other authorities of section 306.

Any synthetic fuel which is acquired by the Government and not needed for national defense or purchased by a Federal agency must be offered to the Secretary of Energy for possible storage in the Strategic Petroleum Reserve. Only after all of these requirements have been met, may the synthetic fuel acquired by the Government be sold, and such sales must be made in accordance with applicable Federal law.

Any contract under new section 306, including any amendment or other modification, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under the contract determined as follows:

1. Loans shall be valued at the initial face value of the loan;

2. Guarantees shall be valued at the initial face value of the guarantee, including any amount of interest which is guaranteed;

3. Purchase agreements shall be valued as of the date of the contract based upon the President's estimate of its maximum liability; and

4. Any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with each of the above, as the case may be.

If more than one form of assistance is provided to any synthetic fuel project, then the maximum liability under such contract shall be valued at the maximum potential exposure on the project at any time during its life.

The maximum liability calculated in accordance with this procedure is to be used to determine compliance with the limitation that there be no obligations in excess of appropriations.

The costs of expanding Government-owned plants and installing Government-owned equipment in private plants must be valued at the initial face value of each contract. Government construction projects must be valued at the estimated cost to the Government at any one time, with this cost to be computed annually by the President. Any increased costs resulting from amendments or modifications to contracts for the above two types of projects must be added to the valuation of the Government's liability.

This section requires that contracts be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of the contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts covered by this section.

Any commitment made under section 306 which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of the above paragraph.

The provision of any loan, loan guarantee, or purchase agreement under section 306 is not deemed to be a major Federal action for purposes of section 102(c) (C) of the National Environmental Policy Act of 1969.

Synthetic fuel projects assisted by loans or loan guarantees under the provisions of section 306 are subject to the provisions of the Davis-Bacon Act.

Part A provides that nothing in section 306 shall affect the jurisdiction of States or the Federal Government over waters shall affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this Part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

Section 306(1) authorizes the President to extend or renew contracts made under the provisions of section 306, provided that funds for this purpose have been appropriated in advance.

EXPEDITED PROCEDURES FOR CONGRESSIONAL CONSIDERATION OF SYNTHETIC FUEL ACTIONS

Section 104(e) of the Energy Security Act creates a new section 307 of the Defense Production Act of 1950. Section 307 establishes the expedited procedures to be followed in the Senate and the House of Representatives whenever the President transmits any matter required by section 305 or section 306 to be submitted to the Congress for consideration subject to approval or disapproval.

Section 307(a) establishes the term "synthetic fuel action" for any transmittal to Congress for consideration in accordance with the section 307 procedures.

Section 307(b) requires that a transmittal from the President shall bear an identification number and shall be transmitted to both Houses of Congress on the same day. Receipt by Congress is to be the first date after the transmittal on which both Houses are in session.

The effect of section 307(b) is to permit the President to go ahead with the proposed synthetic fuel action at the end of 30 calendar days of continuous session if, within that 30 days, neither House of Congress has enacted a resolution of disapproval of the proposed synthetic fuel action. The President may proceed with the action before the expiration of the 30-day period if both Houses have passed a resolution approving the action.

Under section 307(d), the counting of the 30 calendar day period is as follows: (1) continuity is broken if the Congress adjourns sine die; and (2) any adjournment of either House for 3 days to a day certain is not counted.

The effect of section 307(e) is to permit any provision of a synthetic fuel action to be put into effect later than the date on which the proposed action is approved.

Section 307(f) incorporates the procedures of the section as part of the rules of the House of Representatives and the Senate, and establishes that such rule supersedes other rules of the respective bodies only to the extent that it is inconsistent with other established rules. Section 307(f) also recognizes the constitutional right of either House of Congress to change the rule established by section 307 at any time.

Sections 307(g)(2) and 307(g)(3) provide the specific language to be used for a resolution of approval or disapproval. The only words which may be inserted in either resolution are the name of the resolving House, the identification number of the proposed synthetic fuel action, and the date on which the proposed action was received.

Section 307(g)(4) requires that a resolution, once introduced, must be referred, whether in the House or the Senate, to a committee. This paragraph also requires that all resolutions pertaining to the same synthetic fuel action must be referred to the same committees.

Section 307(g)(5) provides a mechanism for discharging a committee from consideration of a synthetic fuel action. If the committee has not reported a resolution of approval or disapproval of the action within 20 days after the referral of the resolution, any member who favors the particular resolution may move on the Floor of the respective House to discharge the committee from further consideration of the resolution. Such a motion shall be a highly privileged motion, debate on the motion is limited to one hour divided equally between those favoring and those opposing the motion, and amendments to the motion or motions to reconsider the vote on the motion shall not be in order. Further, once the vote to discharge has been taken, the motion may not be renewed and no other motion to discharge the committee from consideration of any other resolution concerning the same synthetic fuel action may be made.

Section 307(g)(6) establishes the procedures in the Senate and House of Representatives for consideration of a resolution of approval of a synthetic fuel action once such resolution has been reported from committee or the committee has been discharged from further consideration of the resolution.

A motion to proceed to consideration of the resolution is in order at any time after the committee has reported or been discharged from consideration. That motion is highly privileged, not debatable, not amendable, and not subject to a motion to reconsider the vote on the motion.

Debate on the resolution of approval or disapproval of the synthetic fuel action is limited to five hours, divided equally between those approving and those opposing. A motion to further limit debate is not debatable. Only an amendment to the resolution in the nature of a substitute is in order, and a motion to recommit the resolution is not in order, nor is a motion to reconsider the vote on the resolution.

An amendment in the nature of a substitute must contain the exact words of the resolution under consideration, with only the words pertaining to approval or disapproval being substituted, as the case may be. Substitute amendments are not themselves amendable, and debate of substitute in the House of Representatives is subject to the 5-minute rule.

Section 307(g)(7) makes out of order any debate on motions to postpone motions to discharge, to consider a resolution, to consider a resolution of approval or disapproval, and to proceed to the consideration of other business. Also nondebatable are appeals from the decision of the Chair applying the rules of the respective body to the procedures relating to a resolution.

Section 307(g)(8) makes out of order in each House a motion to recommit a resolution once that resolution has been approved by that House.

Also, once a resolution pertaining to a synthetic fuel action has been approved in either House, a motion to consider any other resolution pertaining to that synthetic fuel action shall not be in order in that House.

Section 308 defines the various terms used throughout Part A of Title I of the Energy Security Act.

Section 308(a) defines a Government synthetic fuel project as a project undertaken under the provisions of section 306(c).

Section 308(b) defines the terms "synthetic fuel" and "synthetic fuel project."

"Synthetic fuel" is defined as any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of the following domestic resources: coal, including lignite and peat; shale; tar sands, including certain heavy oil resources; and water, as a source of hydrogen only through electrolysis. Heavy oil resources are included where (a) the cost and technical and economic risks make extracting and processing of a heavy oil resource uneconomic under applicable pricing and tax policies, and (b) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance. For the purpose of this Act the term synthetic fuel includes mixtures of coal and combustible liquids including petroleum. Synthetic fuel does not include biomass (including timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants and other organic matter). Financial assistance for biomass is provided pursuant to Title II.

"Synthetic fuel project" is defined as any facility using an integrated process or processes which converts indigenous resources at a specific geographic location in the United States for the purpose of the commercial production of synthetic fuel. The term includes any necessarily related transportation or other facilities and includes the equipment, plan, and other materials associated with the facility. It may also include land, mineral rights, services and working capital which are directly required for use in connection with the facilites for the production of synthetic fuels. Specifically, the project may include only the facility which converts the domestic resource into a synthetic fuel and any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion which (a) is co-located with the conversion facility or if not co-located with the conversion facility or if not co-located or located in the immediate vicinity is incidental to the project, except that in the event of a coal mine where no other reasonable source of coal is available to the project, the extraction facility is not limited to being incidental to the project; and (b) is necessary to the project.

Any transportation facility or electric powerplant or electric transmission line may only be included in a synthetic fuel project if it is (1) for exclusive use of the project, (2) incidental to the project, and (3) necessary to the project, except that any transportation facility used to transport synthetic fuel away from the project shall be used exclusively to transport such synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

A synthetic fuel project is also defined to be a project used solely for production of a mixture of coal and petroleum for direct use as a fuel; however, such a project may not include any mineral right, or facility or equipment for the extraction of any mineral. A synthetic fuel project also may include any project used solely for the commercial production of hydrogen from water by electrolysis. In addition, a synthetic fuel project may include any magnetohydrodynamics (MHD) topping cycle used solely for the commercial production of electricity; however, such a project would only be eligible for financial assistance in the form of a loan guarantee. For projects for coal-oil mixtures. MHD, and hydrogen from water, the President is to use a test that the projects will result in the replacement of a significant amount of oil. In the case of coal-oil mixtures, the conferees intend that the mixture contain a significant percentage of coal.

In the context of a definition of synthetic fuel project, definitions are provided for the terms "exclusive", "incidental", and "necessary". "Exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes. "Incidental" means a relatively small portion of the project cost. Examples of such "incidental" byproducts are waste heat, excess electricity from a powerplant, cogeneration power, and residues from a synthetic fuel process (including coal fines), which may be sold for other uses. "Necessary" means that the facility or equipment must be an integrated part of the project taking into account considerations of economy and efficiency of operations.

Section 308(c) defines the term "United States" as it is used in sections 305 and 306.

GENERAL PROVISIONS

Section 105 of Title I of S. 932 contains further amendments to the Defense Production Act of 1950 other than the amendments contained in sections 102, 103 and 104.

Section 105(a) amends section 711 (the basic authorization section) of the Defense Production Act to conform that section to the various amendments made by sections 103 and 104.

The existing Section 711(a) (redesignated by these amendments as 711(a)(1), provides that "funds made available for purposes of this Act may be allocated or transferred for any of the purposes of this Act . . ." This section is amended by adding the words "pursuant to this paragraph" immediately after the word "available", to clarify the conferees' intent that existing DPA authorities to transfer funds among traditional DPA program activities would remain unaffected, but that funds made available for purposes of Section 305 or 306 could only be used for purposes of those particular sections and could not be transferred for other DPA programs.

Section 105(a) also authorizes the appropriation, without fiscal year limitation, of the sum of $3 billion to carry out the provisions of section 305. These funds are to remain available until the date the President determines the Synthetic Fuels Corporation is fully operational. After that date, any funds which have not been expended or obligated are to be transferred to the Energy Security Reserve in the Department of the Treasury to be available for the use of the Synthetic Fuels Corporation.

Section 105(a) also authorizes the retention of funds not expended or obligated under section 305 authorities if they are required to be retained as a reserve against contingent obligations incurred before the President determines that the Synthetic Fuels Corporation is fully operational.

Section 105 also authorizes appropriation of such sums as are necessary for the renewal and extension of contracts entered into under the provisions of section 305.

Section 105(b) extends all the authorities of the Defense Production Act of 1950 to September 30, 1981.

The effect of section 105(c) is to require a study within six months of the enactment of this Part by the Office of Defense Mobilization (now superseded by various executive branch reorganizations) of the distribution of defense contracts to small businesses.

Section 106 requires the President to report annually to Congress on his activities under the provisions of sections 305 and 306.

Section 107 makes the amendments in Part A of Title I effective on the date of enactment of Part A.

PART B—UNITED STATES SYNTHETIC FUELS CORPORATION

SHORT TITLE

Section 111 provides that the part may be cited as a "United States Synthetic Fuels Corporation Act of 1980".

General definitions (sec. 112)

Section 112 provides a list of general terms and their definitions as used in the part.

The term "Board of Directors" is defined (112(1)) as the Board of Directors of the Corporation, including the Chairman and the six other Directors.

The term "Chairman" is defined (112(2)) as the Chairman of the Board of Directors of the United States Synthetic Fuels Corporation.

The term "concern" is defined (Sec. 112 (3)) to include any person, State, local political subdivision, or multi-state entity provided such bodies possess necessary legal powers themselves. The term also includes any foreign government which is participating in a joint venture with any person, State, local subdivision, or multi-state entity; and any combination of the aforementioned.

The term "Corporation" is defined (Sec. 112(4)) as the United States Synthetic Fuels Corporation.

"Corporation construction project" is defined (112(5)) as only a synthetic fuel project undertaken in accordance with the provisions of Subtitle E.

"Director" is defined (112(6)) as a member of the Board of Directors, including the Chairman of the United States Synthetic Fuels Corporation.

"Financial assistance" is defined (Sec. 112 (7)) to specifically include loans, loan guarantees or commitments to guarantee indebtedness, price guarantees or commitments to guarantee synthetic fuel prices, purchase agreements, and limited joint ventures. In addition, financial assistance is defined to include purchase and lease-back of facilities pursuant to the restrictions provided in Section 137(c). Financial assistance does not include grants except for cost-sharing agreements pursuant to section 131(u).

"Indian tribe" is defined (Sec. 112(8)) as any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Joint ventures" is defined (112(9)) as a synthetic fuel project module undertaken in accordance with the provisions of section 136.

"Loan" is defined (112(10)) as a loan, or commitment to a loan, made under section 132.

"Loan guarantee" is defined (112(11)) as guarantees of, or commitments to guarantee, indebtedness, including principal and interest which are made under section 133.

"Person" is defined (Sec. 112(12)) as an individual, company, cooperative, partnership or other specified business association or entity organized for business purposes.

"Price guarantee" is defined (112(13)) as a guarantee of, or a commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only the guarantee or the commitment to guarantee which is made under section 134.

"Purchase agreement" is defined (112(14)) as a contract to purchase synthetic fuel, a guarantee thereof, or a commitment thereof made under section 135.

"Qualified concern" is defined (112(15)) as a concern which shall demonstrate to the satisfaction of the Board of Directors evidence of its capacity directly or by contract to undertake and complete the design, construction, and operation of the proposed synthetic fuel project.

"State" is defined (Sec. 112(16)) to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Synthetic fuel" is defined (112(17)) as any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivative thereof including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking or desulfurizing) of the following domestic resources: coal, including lignite and peat; shale; tar sands, including certain heavy oil resources; and water, as a source of hydrogen only through electrolysis. Heavy oil resources are included where (a) the cost and technical and economic risks make extracting the processing of a heavy oil resource uneconomic under applicable pricing and tax policies, and (b) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance. For the purpose of this Act the term synthetic fuel includes mixtures of coal and combustible liquids, including petroleum. Synthetic fuel does not include biomass (including timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and arrestrial plants and other organic matter). Financial assistance for biomass is provided pursuant to Title II.

"Synthetic fuel project" is defined (Sec. 112(16)) as any facility using an integrated process or processes which converts indigenous resources at a specific geographic location in the United States for the purpose of the commercial production of synthetic fuel. The term includes any necessarily related transportation or other facilities and includes the equipment, plant, and other materials associated with the facility. It may also include land, mineral rights, services and working capital which are directly required for use in connection with the facilities for the production of synthetic fuels. Specifically, the project may include only the facility which converts the domestic resource into a synthetic fuel and any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion which (a) is co-located with the conversion facility or if not co-located or located in the immediate vicinity is incidental to the project, except that in the event of a coal mine where no other reasonable source of coal is available to the project, the extraction facility is not limited to being incidental to the project; and (b) is necessary to the project.

Any transportation facility or electric powerplant or electric transmission line may only be included in a synthetic fuel project if it is (1) for exclusive use of the project, (2) incidental to the project, and (3) necessary to the project, except that any transportation facility used to transport synthetic fuel away from the project shall be used exclusively to transport such synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

Section 112(18) (B) states that a "synthetic fuel project" is also defined to be a project used solely for production of a mixture of coal and petroleum for direct use as a fuel; however, such a project may not include any mineral right, or facility or equipment for the extraction of any mineral. A synthetic fuel project also may include any project used solely for the commercial production of hydrogen from water by electrolysis; however, such a project would not be eligible for financial assistance in the form of a joint venture. In addition, a synthetic fuel project may include any magnetohydrodynamic (MHD) topping cycle used solely for the commercial production of electricity; however, such a project would only be eligible for financial assistance in the form of a loan guarantee or joint venture, but not both, and is not authorized for the purposes of Subtitle E. The corporation is to use a test that the projects included in subparagraph (B) will result in the replacement of a significant amount of oil. In the case of coal—oil mixtures the conferees intend that the mixture contain a significant percentage of coal.

In the context of the definition of synthetic fuel project, definitions are provided for the terms "exclusive" (paragraph (C)(i)), "incidental" (paragraph (C)(ii), and "necessary" (paragraph (C)(iii)). "Exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes. "Incidental" means a relatively small portion of the project cost. Examples of such "incidental" byproducts are waste heat, excess electricity from a powerplant, cogeneration power, and residues from a synthetic fuel process (including coal fines), which may be sold for other uses. "Necessary" means that the facility or equipment must be an integrated part of the project taking into account considerations of economy and efficiency of operation.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

Establishment (Sec. 115)

Section 115(a) creates the United States Synthetic Fuels Corporation as a special purpose Federal entity to carry out the national synthetic fuel development program established in this part. Under this part the Corporation will provide financial assistance to the private sector for the purpose of bringing about the commercial production of synthetic fuel by private industry.

In order to expedite the achievement of the highly important national objectives of the legislation and obviate the delays that often beset programs administered by the departments and agencies of the Executive Branch this entity is established free of many of the constraints placed on such departments and agencies.

The powers and authorities contained in Part B have been developed and perfected after months of effort in the House-Senate conference following passage by the Senate of S. 932 on November 8, 1979. These new authorities contained in Part B are granted by the Congress exclusively for implementation by the independent Federal entity, the United States Synthetic Fuels Corporation.

The Federal powers and authority granted under this part shall constitute the sole and exclusive powers and authority of the Corporation. Federal and State laws made specifically applicable by this part will apply to the Corporation. For purposes of the application of laws generally, and except as expressly provided otherwise, it is intended that the Corporation be subject to Federal and State law to the extent such law is not incompatible with achievement of the national purposes of the legislation. The Corporation will be accountable for its actions in accordance with the provisions of this part. Because of the nature of its activities, which are principally to provide financial assistance to the private sector, the Corporation is expected to function much like a private corporate entity such as a bank or other financial institution.

The principal office of the Corporation is to be located in the District of Columbia. The Corporation is authorized to establish offices elsewhere in the United States as determined appropriate by the Board of Directors (Sec. 115(b)).

The general powers of the Corporation are described in Section 171.

Board of Directors (Sec. 116)

Section 116(a) (1) vests in a seven-member Board of Directors the powers of the Corporation, except for those functions, powers and duties vested in the Chairman of the Board by or pursuant to this part. Section 116(a) (2) provides that the Chairman and the Directors shall be appointed by the President by and with the advice and consent of the Senate.

The Board of Directors is composed of a Chairman and six other Directors. (Sec. 116(b) (2)). (A non-voting Advisory Committee is established in Section 123.) Not more than four of the Directors may be members of any one political party. The Chairman shall serve full time and hold no other salaried position. Compensation of the Directors would, under Section 116(g), be fixed initially by the President and may, with the concurrence of the President, be subsequently adjusted by the Board of Directors.

Subsection 116(b) provides that the Directors shall serve seven-year staggered terms, with the term of the Chairman being 7 years. Provision is made for appointment of a replacement for any Director in the event of a vacancy, however, upon expiration of a term, a Director may continue to serve up to a maximum of one year or until a replacement member has been confirmed, whichever is lesser. Prior to the expiration of his or her term, any Director may be removed from office by the President only for neglect of duty or malfeasance in office.

Subsection 116(c) provides that the President, at the time of appointment of each Director, other than the Chairman, shall designate whether a Director will serve either in a full-time or part-time capacity. Directors who are serving in a part-time capacity may not hold full-time salaried offices or full-time salaried positions in any federal, state or local unit of government. Directors who are serving in a full-time capacity shall not hold any other salaried position.

The prohibitions against outside employment by Directors contained in Section 116 (c) are intended to insure that full-time Directors devote their full time and attention to the service of the Corporation and that part-time Directors not be full-time salaried officers or employees of the Federal or of any unit of state or local government. The Conferees intend that this subsection not preclude membership by Directors of the Corporation on public bodies such as local school boards or the boards of public eleemosynary institutions. The Conferees intend that no government official or employee be appointed to the Board of Directors or be employed by the Corporation. This subsection is not intended to prohibit service by Directors for compensation on private boards of directors provided that such membership is consistent with applicable law and not in conflict with or incompatible with a Director's obligations to the Corporation.

Subsection 116(d) provides that before assuming office, each Director shall take an oath to faithfully discharge the duties of the office. In addition, all directors must be citizens of the United States.

Subsection 116(e) provides for meetings of the Board of Directors as specified in the bylaws which provides that a majority of the Directors shall constitute a quorum; however, any action of the Board of Directors shall be effected only by majority vote of all the Directors.

Section 116(f) requires that all meetings of the Board of Directors of the Corporation held to conduct official business be preceded by reasonable public notice and be open to public observation. Meetings may be closed to the public only for reasons described in the section, which reasons are either identical or comparable to provisions which permit agency meetings to be closed by the Government under the provisions of the Sunshine Act (5 U.S.C. 552b). The subsection is not intended to make 5 U.S.C. 552b applicable to the Corporation. However, in patterning the grounds for the closing of meetings after those provided by that statute, the Conferees do intend that the body of law developed in litigation construing the exemptions provided in subsection (c) of Section 552b of Title 5 serve as precedent for construing the exemptive provisions of subsection 116(f).

Officers and employees (Sec. 117)

The Chairman of the Board of Directors shall be the Chief Executive Officer of the Corporation responsible for its management and direction (Section 117(a)).

The Board of Directors shall establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties (Sec. 117(b)(1)).

The compensation of the officers, and categories of employees shall be established by the Board of Directors taking into consideration the Executive Schedule prescribed by subchapter II and the General Schedule prescribed by subchapter III of Chapter 53 of Title 5, United States Code. The Board may establish a compensation level for such officers or categories of employees' positions at a higher level than such schedule if not disapproved by the President within 30 days of such a recommendation by the Board of Directors to him (Sec. 117(b) (2)).

The Conferees intend that, to the maximum extent practicable, the rates of compensation of the Corporation's officers and employees will be fixed within the range of compensation in effect for Federal officers and employees under the Executive Schedule and General Schedule prescribed by subchapter II and III of chapter 53 of Title 5 of the United States Code. The Conferees recognize that such rates of compensation may prove inadequate to attract and retain the qualified, experienced professional personnel needed to carry on the business of the Corporation. The Conferees intend that the Board of Directors will identify officer positions and categories of employees for which higher levels of compensation are necessary; that the Board of Directors will recommend such higher levels to the President; and that such compensation be payable by the Corporation unless the Board's recommendation is disapproved by the President within thirty days after it is transmitted to him.

The Chairman of the Board shall, without regard to political factors, appoint, promote and may discharge all employees of the Corporation (Sec. 117(d) and (e)). Compensation of such employees shall be set by the Board of Directors (Sec. 117(b)(2)). The compensation for categories of employees of the Corporation shall be comparable to the General Schedule prescribed by subchapter III of chapter 53 of title 5, United States Code, unless the Board of Directors recommends to the President a higher compensation level for a category of employees and such recommendation is not disapproved by him within 30 days.

The Corporation is restricted to not employing more than 300 full-time professional employees at any one time. However, such limitation does not apply to Corporation

construction projects (GOCO's) pursuant to subtitle E.

Except as specifically provided herein, Directors, officers and employees of the Corporation shall not be subject to the laws of the United States Government relating to Federal government employment (Sec. 117(c)).

It is acknowledged that the nature of the functions vested under this part with the Board of Directors of the United States Synthetic Fuels Corporation may impose upon the Directors the status of officers of the United States with a respect to financial aswhere performing such functions as (a) pledging the full faith and credit of the United States with respect to financial assistance agreements or (b) performing "significant governmental duties" imposed by this part within the meaning of *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

However, it is intended that irrespective of the constitutional status of the Board of Directors, neither the Directors, the officers or the employees shall be regarded as officers or employees of the United States, except as specifically provided herein. Thus, for example, Directors, officers and employees of the Corporation are not to be regarded as employees of the United States for the purpose of eligibility for civil service retirement benefits.

Conflict of interest and financial disclosure (Sec. 118)

The financial disclosure provisions of the Ethics in Government Act of 1978, which are applicable to Federal Executive Schedule employees, shall apply to all Directors, officers and employees of the Corporation "whose position is such that if he were employed by a Federal agency, the position would be classified as a GS-16 or above." This provision is tied to the schedule developed by the Board of Directors pursuant to Section 117 and is not a direct salary comparison with the civil service schedule. (Sec. 118(a))

Former Federal employees while employed by or acting on behalf of, the Corporation are not subject to the provisions of law governing post-Federal employment activities (Sec. 118(b)).

Subsection 118(c) provides that a member of the Board of Directors shall disqualify himself from any decision in which he, his immediate family, or any entity which he is or will be employed by has a financial interest except that a majority of the Board may determine that the interest is too remote or inconsequential and permit the member to participate. While failure to disqualify himself, or disclose the interest and obtain permission of the other members of the Board constitutes ground for removal of the member (paragraph 2), the validity of the decision of the Board of Directors is not affected.

The conferees also intend that the Board of Directors will establish guidelines to provide a requirement for officers and employees to disqualify themselves from taking any personal and substantial action on any matter affecting the type of actual or prospective financial interest described in Section 118(c)(1).

Subsection 118(d) applies the general Federal post-employment conflict of interest provisions to employees of the Corporation as if they were former Executive Branch employees.

Delegation (Sec. 119)

The powers of the United States Synthetic Fuels Corporation are vested in the Board of Directors, except as provided for in section 116(a)(1); however, the Board may delegate, by resolution, certain functions, powers and duties to the Chairman as well as to other Directors (Sec. 118(a)). The Chairman of the Board may, in turn, by written instrument, delegate such functions, powers, and duties vested in or delegated to him to other full-time Directors, officers, or employees of the Corporation as he or she deems appropriate.

The Board of Directors is prohibited from delegating certain functions, powers and duties expressly vested in it. Such functions, powers and duties include those specified in the following sections: 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131 (a), (b) and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b).

Section 119(b) provides that notwithstanding any other provision of law, the President or any other officer or employee of the United States is prohibited from delegating to the Chairman, the Board of Directors, or the Corporation any powers, function or authority not expressly authorized by the provisions of this Part. The only exception is where such delegation is pursuant to an authority in law which expressly makes reference to this subsection (Sec. 119(b)(2)). Consistent with this policy, notwithstanding any other provision of law, the Legislative Reorganization Act of 1977 would not apply to the transfer to the Corporation of any power, function, or authority (Sec. 119(b)(2)).

Authorization of administrative expenses (Sec. 120)

The Corporation is authorized not to exceed $35 million per year for administrative expenses of which not to exceed $2 million per year may be used for the Inspector General. Both these amounts are subject to annual inflation adjustments. In addition, the Corporation is authorized not to exceed $10 million per year for generic contract studies and specific reviews by the private sector or with Federal agencies (Sec. 120). Such sums may not be used for acquisition of real property or for acquisition of Corporation construction projects or for joint ventures.

(Sec. 120(b)). Compensation of employees includes reimbursement of employees for travel expenses and per diem.

Funds for outside contracts for generic studies and specific reviews of individual applications could be drawn from the authorized amount of $10 million per year but the funds for generic studies and specific reviews are not available for use of payment of any salaries or administrative expenses, or for reimbursement for personnel from government agencies. Funds for generic studies may not be used by the Corporation to exceed the personnel limits established by this part.

Section 119(c) authorizes the aforementioned expenditures without further appropriation; however, such expenditures must be in accordance with the Corporation's detailed statement of such expenditures which must be submitted annually to the Congress, except for fiscal years 1980 and 1981. The Conferees intend that such detailed statement provide sufficient information for Congressional oversight.

Public access to information (Sec. 121)

Section 121 requires the Corporation to make information regarding its organization, procedures, requirements, and activities available to the public upon request. The section establishes an obligation on the Corporation to inform the public of its activities, subject to the same limitations and prohibitions on the disclosure of information that are applicable to federal agencies and federal officers and employees under 5 U.S.C. 552(b) and 18 U.S.C. 1905. Section 117 does not intend that the Freedom of Information Act (5 U.S.C. 552) be applicable as such to the Corporation. However, in patterning the present exemptions from disclosure to those contained in that statute, the Conferees do intend that the body of law developed in litigation construing the exemptions in 5 U.S.C. 552(b) serve as precedent for construing the exemptive provisions of Section 117.

Inspector General (Sec. 122)

Section 122 establishes an office of Inspector General within the Corporation and defines its function and responsibilities. The compensation of the Inspector General shall be fixed by the Board of Directors at a rate not less than that provided for Level III of the Executive Schedule under Section 5314 of Title 5, United States Code and, in the case of the Deputy Inspector General, at a rate not less than Level IV of the Executive Schedule.

Advisory Committee (Sec. 123)

Section 123 establishes a six-member Advisory Committee to the Board of Directors composed of the Secretaries of Defense, Energy, the Interior, and of the Treasury, the Administrator of the Environmental Protection, and the Chairman of the Energy Mobilization Board. The Chairman is appointed by the President (Sec. 123(b)). During meetings with the Board of Directors, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflict of interest applicable to their respective Departments and agencies as such laws and regulations govern meetings with representatives of the private organization.

PRODUCTION GOALS OF THE CORPORATION (SUBTITLE C)

Overall production goal (Sec. 125)

Section 125 establishes as the national goal for the United States Synthetic Fuels Corporation for synthetic fuel production capability of 500,000 barrels per day of crude oil equivalent by 1987 and 2,000,000 barrels per day of crude oil equivalent by 1992, from domestic energy resources.

Production strategy (Sec. 126)

Section 126 sets forth procedures for the solicitation and award of financial assistance, and establishment, within four years of enactment, of a comprehensive strategy to achieve the national synthetic fuel production goal established in Section 125.

Solicitation procedure: The procedure for awarding financial assistance is as follows: first, proposals are solicited pursuant to section 127(a) for synthetic fuel projects; second, financial assistance is awarded to those qualified concerns submitting proposals in response to the solicitation which the Board of Directors finds to be acceptable; third, if after soliciting and reviewing proposals there are insufficient acceptable proposals for financial assistance, the Board of Directors is authorized to negotiate contracts as necessary to achieve the purposes of this title, and fourth, and only in the event that there still are, in the judgment of the Board of Directors, insufficient proposals to achieve the purpose of this Title, the Corporation, subject to the requirements and limitations of Subtitle E, may contract for construction of Corporation construction projects.

Prior to undertaking Corporation construction projects pursuant to Subtitle E, the Corporation shall publish in the *Federal Register* its intent to establish such a Corporation construction project and the objectives of such project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under Subtitle D. If, within thirty days after the publication of such objectives, the Corporation does not receive an acceptable notice of intent to submit such a proposal, the Corporation may undertake such Corporation construction projects pursuant to Subtitle E.

Prior to the approval of a comprehensive production strategy, the statute sets forth as an objective for the Corporation that the Corporation shall employ financial assistance so as to both incorporate a technological diversity of processes, methods and techniques for each domestic resource which offers significant potential for use as a synthetic fuel feedstock as well as support those projects which have significant potential to achieve the national synthetic fuel production goal (Sec. 126(a)(3)).

Comprehensive Strategy: Section 126(b) directs the Corporation, within four years of enactment, to prepare a comprehensive strategy to achieve the national synthetic fuel production goal and to submit its proposed strategy to the Congress for approval pursuant to Section 126(c).

The comprehensive strategy must set forth the recommendations of the Board on the goals of the United States Synthetic Fuels Corporation and schedules for their achievements. Such strategy shall include comprehensive reports on the findings from the facilities funded during the first phase of funding under this Part. Such reports shall cover: (a) the economic and technical feasibility of each facility including but not limited to information on product quality, quantity and cost per unit of production; (b) the environment effects associated with each facility as well as projected environmental effects; and water requirements; and (c) recommendations concerning the specific mix of technologies and resource types to be supported during the second and subsequent phases of the Corporation's funding, which follows approval of the strategy (Sec. 126(c)(3)).

The comprehensive strategy shall directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve such goal, and additionally shall specifically address how any Corporation involvement recommended in the strategy will be expressly limited and ultimately terminated upon a date or event certain in the future. Such strategy, when approved pursuant to subsection (c), shall become the strategy of the Corporation for the achievement of the national synthetic fuel production goal set forth in section 125.

Section 126(c) requires Congressional approval of the comprehensive strategy by joint resolution. The initial comprehensive strategy will be submitted to the Congress by the Corporation and will lie before the Congress for 90 days. After such layover period, the joint resolution approving the strategy and the level of authorization for Corporation activities will be introduced and referred to the appropriate committees.

Sixty days after introduction and referral, committees to which the resolution has been referred are subject to discharge.

The resolution may be amended in committee but only as to the total authorization level. No amendments providing limitations on the use of funds either for specific projects or for certain uses are permitted. The conferees except that the Committee report filed with the joint resolution could include the views of the committee as to why the reported authorization level may be different from that recommended by the Corporation.

In addition, when taken up on the floor of either House, the joint resolution is subject to the usual amending process subject to a total limitation on time, including debate on the resolution and all amendments thereto, of 10 hours. Floor amendments may only be to the total authorization level.

Only when the joint resolution is approved by both Houses in identical form and signed by the President, will the strategy be deemed approved.

At any time prior to the adoption of a joint resolution by either House, the Corporation may withdraw such strategy. Once withdrawn, further consideration of any such joint resolution by either House would not be in order. The conferees intend that this procedure for withdrawal be the same as under the Executive Reorganization Act (5 U.S.C. 902–912; P.L. 81–109, as amended by P.L. 95–17).

Section 126(d) makes provision for the Corporation to request a one-year extension for submission of the comprehensive strategy.

Solicitation of proposals (Sec. 127)

The Corporation is directed, from time-to-time, to solicit proposals for financial assistance. Notice of such solicitations must be provided in the Federal Register and by such other means as are customarily used to inform the public of financial assistance for major research and development undertakings (Sec. 127(a)(1)). All proposed solicitations must be submitted to the Advisory Committee established by Section 123 for 30 days review and comment prior to their issuance (Sec. 127(a)(2). Within six months from the date of enactment. Section 127 (a)(3) requires that the Corporation issue solicitations encompassing both a diversity of technologies for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

In addition, each solicitation must set forth general criteria, as determined by the Board of Directors, taking into account (a) achievement of the national synthetic fuel production goal, and (b) the requirements of Section 126(a) for a general type of synthetic fuel project considering three stated factors (Sec. 127(d)).

The solicitations of proposals made by the Corporation should not contain detailed specifications with respect to the nature of the technology or process, nor should they unnecessarily delineate the distribution of product output from the proposed facility. Further, the conferees intend that the solicitations shall be brief and designed to encourage innovative synthetic fuel proposals and not constrain bidders to compromise the quality of desirable proposals because of narrowly delineated requirements in such solicitations. In this way, the Conferees hope to encourage the submission of the broadest range of synfuel concepts allowing for combinations of desirable approaches while moving toward an industry infrastructure to support achievement of the national synthetic fuel production goals.

Such solicitations must be conducted in a manner so as to encourage maximum open and free competition (Sec. 127(b)).

At the request of any concern, the Board of Directors may issue a solicitation for a general type of synthetic fuel project the Board of Directors to be in accordance with the purposes of this Title and the provisions of this Part. (Sec. 127(c)).

During the transition period between the date of enactment and the time the Board of Directors takes office, the Secretary of Energy on behalf of the Corporation and pursuant to the authorities granted in this Part, may make a solicitation for commercial scale high-Btu coal gas plants (Sec. 127(e)). In authorizing the Secretary to undertake such solicitation, the Committee does not intend that any future actions by the Board of Directors be prejudiced. The Committee's only intention is to assure that current efforts to commercialize high-Btu coal gasification not be delayed or held up by the act of creation of this Corporation.

The Conferees agreed to delete the requirement in the Senate bill that during the transition period between the date of enactment and the time the Corporation becomes fully operational, the Secretary of Energy on behalf of the Corporation and pursuant to the authorities granted in this part, may make a solicitation for commercial scale methanol from coal plants. By this action, the Conferees did not intend that any future actions of the Board of Directors be prejudiced with regard to technologies for the production of methanol from coal, which clear is contained in the definitions of "synthetic fuel" and "synthetic fuel project." In the judgment of the Conferees technologies for the production of methanol from coal offer promise. The Conferees intend that the Corporation give such technologies consideration. In addition, such technology would be eligible for assistance pursuant to either Section 305 of the Defense Production Act Amendments in Part A or the Federal Non-Nuclear Energy Research and Development Act of 1978, or both.

In awarding financial assistance, Section 127(f)(1) requires the Corporation to give priority consideration to any project which would be located in a State which indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

The Corporation is required to consult with the Governor of any State in which any proposed Corporation construction project or joint venture project would be located with regard to the manner in which the project would be developed and regulatory licensing and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of project development, licensing, and operation. (Sec. 127(g))

In the consideration of the suitability and the risk of any non-Government proposal for financial assistance or any proposal for a Federally constructed synthetic fuel project pursuant to the Authorities of Part A or for a Corporation construction project under Part B of this Title, the Conferees intend that the Corporation under Part B or the head of the designated agency under Part A shall, first, consider whether an adequate supply of water for the construction and operation of the project will be available pursuant to applicable state law; second, consult with the Governor of the State in which such proposed project is located and appropriate State and local officials designated by such Governor, concerning the impacts which the proposed project, the attendant development necessitated by the project, and any potential future expansion of synthetic fuels development, will have on water users in the project area; third, advise the President and the Congress on any apparent conflicts between synthetic fuel project proposals or potential future synthetic fuel development and other current or projected water uses at any time such conflicts are discovered by the Corporation or head of such designated agency or brought to its attention by a State or local official; and fourth, advise the President and the Congress on the relationship, if any, between any reported conflicts or any deficiency in water supply for a proposed synthetic fuel project and Federal policies or projects for water resources development. However, the Conferees intend that such a report shall not constitute an Executive recommendation for authorization of, or appropriations to, a Federal water resource development project or program.

Congressional disapproval procedure (Sec. 128)

Section 128 establishes the expedited Congressional Review procedures for consideration of resolutions of disapproval of certain actions by the Corporation.

Congressional approval procedures (Sec. 129)

Section 129 establishes the expedited Congressional Review procedures for consideration of concurrent resolutions of approval of certain actions by the Corporation.

SUBTITLE D—FINANCIAL ASSISTANCE

Authorization of financial assistance (Sec. 131)

Section 131(a) requires financial assistance to be awarded to the qualified concern whose proposal (1) is most responsive to a solicitation for proposals and (2) is most likely to advance the purposes of this title. Whenever practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

In accordance with such terms and conditions as the Board of Directors shall determine, Section 131(b) requires among other things that financial assistance be awarded to a qualified concern whose proposal is responsive to a solicitation with preference being given to proposals which represent the least Corporation financial commitment and the lowest unit production cost within a given technological process taking into account the amount and value of the anticipated synthetic fuel products. Section 131(a) requires that financial assistance pursuant to Subtitle D be awarded to "qualified concerns with the exception of the award of loan guarantees to concerns with a partial interest in a synthetic fuel project." In order to qualify, a concern must demonstrate, to the satisfaction of the Board of Directors, evidence of such concern's capability directly or by contract to undertake successful completion of the design, construction and operation of the synthetic fuel project on the terms proposed.

Within this general framework, it is required that preference be given, in decreasing priority, to the following categories of financial assistance: (1) purchase agreements, price guarantees, and loan guarantees, (2) loans, and (3) joint ventures. In providing financial assistance, the Corporation is directed to require appropriate security and collateral for the repayment to the Corporation of any fixed or contingent obligations. With the consent of the recipient, authority is provided to renew, modify and extend financial assistance.

In addition, the Corporation shall also consider, in awarding financial assistance, among other relevant factors, the following:

(a) diversity of technologies;

(b) the potential cost per barrel or unit of production of synthetic fuel from the proposed project;

(c) the overall production potential of the technology, considering the potential for replication and extent of the resource, its geographic distribution and the potential end use; and

(d) the potential of the technology for complying with applicable regulatory requirements. (Sec. 131(a)(3)).

In the event that, after a formal solicitation for competitive bids, no proposals are received or those received are unacceptable to the Board of Directors, contracts for financial assistance, may, upon notification to the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives, be negotiated with qualified concerns upon a finding that (a) the synthetic fuel project is essential for achievement of the national synthetic fuel production goal and (b) competitive bids are not appropriate. (Sec. 127(a)(4))

All contracts or instruments of the Corporation, including financial assistance agreements, are backed by the full faith and credit of the United States (Sec. 131(c)) and holders are protected with respect to their rights under such agreements, except as to fraud or material misrepresentation on the part of the holder (Sec. 131(d)).

Any contract for financial assistance is required to include such terms and conditions as required by the Corporation. But such contracts must specifically require the recipient of financial assistance to prepare an environmental monitoring plan acceptable to the Board of Directors. In preparing such plan, the recipient must consult with the Administrator of the Environmental Protection Agency, the Secretary of Energy and appropriate State agencies (Sec. 131(e)).

The monitoring of emissions—gaseous, liquid or solid—and the examination of waste problems, worker health issues and other research efforts associated with any synthetic fuel project receiving assistance pursuant to this Part will help to characterize and identify areas of concern and develop an information base for the mitigation of problems associated with the replication of synthetic fuel projects. The Corporation is not expected to involve itself in the development or execution of such plans except for the necessary approval. The Conferees intend that development of the plans and actual data collection be reserved to the applicants for financial assistance after consultation with appropriate federal and state agencies.

Section 131(f) provides that, notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or Department of the United States, except as provided in Section 151.

Section 131(g) prohibits financial assistance to concerns which do not provide the Corporation with an application containing such information as it may require.

The Corporation is directed in providing financial assistance to give due consideration to promoting competition in the industry (Sec. 131(h)).

Subsection 131(i) requires that all applicants for and recipients of financial assistance keep such records and consent to such examinations thereof as the Corporation may require to ensure compliance with the terms and conditions upon which financial assistance is requested or provided. The subsection intends that the Corporation shall have full authority to require the keeping of whatever records it deems necessary for the proper conduct of its affairs and to safeguard the public investment. At the same time, the Conferees intend that the Corporation avoid requiring duplicative and unnecessarily burdensome recordkeeping requirements on recipients of assistance. To minimize recordkeeping burdens, the Corporation is expected to utilize to the maximum extent possible records and information which a recipient of assistance is already required to maintain for regulatory and other purposes.

The Corporation, directly or indirectly, is prohibited from providing more than 15 percent of the authorized obligation authority under Section 152—

(a) to any one synthetic fuel project; or

(b) to any one person, including such person's affiliates and subsidiaries.

For the purpose of determining compliance with this limitation, any financial assistance to a synthetic fuel project under this Part is to be allocated among the project participants in direct proportion to each person's participation in such project.

For the purpose of this provision, a corporation and all of its subsidiaries and affiliates are to be treated as one person. Indian tribes, and entities of State, local or foreign governments are also treated as persons.

Section 131(k) requires that any contract for financial assistance specify the maximum amount of liability of the Corporation under the contract as determined in accordance with the procedure in section 152(b). Prior to the execution of such contracts the Corporation is required to notify the Secretary of the Treasury of the Corporation's intention to do so. The Secretary of Treasury is required under section 195(a)(3) to certify to the Corporation, within 15 days of receipt of the notification that the necessary unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligations of the Corporation under the contract. Such certifications shall accompany the contract when executed.

When awarding financial assistance for a synthetic fuel project proposed by a concern whose rates are regulated, the Corporation is authorized to consider as a factor in any decision whether the regulatory body, or bodies, is likely to set a rate which protects the financial interests of the investors and the Corporation, and to also consider, in the case where synthetic fuels will be committed to be sold to a person whose rates for the use of such synthetic fuels are regulated, whether such regulated purchaser is likely to be issued a ratemaking decision which will protect the financial interest of the investors and the Corporation (Sec. 131(1)).

With regard to the award of price guarantees for fuel committed to be sold to a person whose rates for use of such fuels are regulated, the Corporation should consider whether future regulatory decisions will increase the financial exposure of the Corporation.

Section 131(m) requires that, for the purposes of determining the total costs of the synthetic fuel project pursuant to Sections 132 and 133 and the total costs of the synthetic fuel project module pursuant to Section 136, real and personal property or services obtained for the facility in a transaction with any person or concern, (including an affiliated company and affiliated person as defined in 15 U.S.C. 80a–2(a) (2) and (3)) which has or will have an ownership or profits interest in the facility shall be valued at the lower of cost to the project or fair market value, disregarding any portion of such market value which is attributable to the prospect of receiving financial assistance under this Part.

The Corporation is authorized as a term and condition of any contract for financial assistance, except for loans and loan guarantees, to require, on a fair basis, that any profits from the eventual operation of a synthetic fuel project be shared. Whether or not to require profit sharing or to what degree profits would be shared should be a part of negotiations of the terms and conditions of a contract (Sec. 131(n)).

The Corporation is prohibited under Section 131(o) from awarding more than a single form of financial assistance under this Part to any synthetic fuel project unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further that the project is necessary to satisfy the purpose of this Title and the provisions of this Part.

When the Corporation awards a combination of financial assistance, such as a loan guarantee and a purchase agreement or price guarantee, to a single synthetic fuel project, the Corporation is required to insure that the recipient of financial assistance bear a reasonable degree of risk in the construction and operation of a project. Require a recipient of financial assistance to bear a reasonable degree of risk will serve as an incentive for the eventual successful construction and operation of a synthetic fuel project. Parties solely in the position of a lender are not subject to risk sharing. The Conferees thus intend that combinations of financial assistance not be used as a mechanism to transfer a greater portion of the risk of failure to the Corporation than the minimum necessary for the proposed project to proceed (Sec. 131(o)).

Section 131(p) requires that the Corporation not award financial assistance in the form of loans pursuant to Section 132 or joint ventures pursuant to Section 136 unless the Board of Directors determines that price guarantees, purchase agreements and loan guarantees will not adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for that project.

Section 131(q) requires the Corporation to impose such terms and conditions on any financial assistance under this Title (after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility and any regulatory actions associated with the facility) as may be necessary to assure that any investors having an ownership or profit interest in the facility bear a substantial risk of after tax loss in the event of any default or other cancellation of the project. It is likely that several of the synthetic fuel projects receiving financial assistance under this part will include as participants concerns which are economically regulated by one or more government agencies. For example, natural gas transmission and distribution companies and electric utilities, among other possible synthetic fuel project participants, are subject to various forms of economic regulation by Federal and State authorities. Often such regulation is located organizationally in independent or quasi-independent regulatory bodies. Such regulation also involves, in many cases, a regulatory determination of customer rates, after tax profits, rates of return on investment, and apportionment of losses, risk of losses, etc. pursuant to applicable Federal, State or local statutory authorities.

The Conferees recognize that the risk of aftertax loss by regulated concerns may be directly the subject of federal or state ratemaking or other applicable regulatory authorities. Consequently, the application by the Corporation of the "risk of after loss" requirement to a regulated concern necessarily will involve allowance for and consideration of such regulation. The Conferees do not intend that this requirement bias or prejudge any existing or future ratemaking decision or other applicable regulatory action by a federal or state regulatory authority. For example, the requirement should not preclude providing financial assistance to concerns which are subject to a "cost of service" tariff, or any other tariff. Similarly, the Corporation shall not use this requirement to demand directly or by implication that an applicant obtain a particular method or type of tariff as a condition precedent to receipt of financial assistance under this part.

The regulatory process applicable to any applicant for financial assistance should remain undisturbed by the Corporation and this part.

Section 131(r) requires that the Corporation shall insure that financial assistance awarded under this Part encourages and supplements, but does not compete with or supplant any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. This provision applies only to loans under section 132, loan guarantees under section 133, joint ventures under section 136, and to any combination of forms of financial assistance including one or more of the aforementioned. To that end, the Corporation shall establish internal procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project, and further the Board shall determine that any financial assistance by the Corporation for the project will not compete with or supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. Any determination under this subsection shall be in the judgment of the Board.

This provision is not intended to require the Corporation to do exhaustive analyses of financial markets or of the economy, but rather is intended to require the Corporation to conduct the kind of careful examination of the applicant's financial condition which would be done by a prudent lender. In making this determination, the Corporation should take into consideration whether it would constitute a prudent business judgment for the applicant to make available additional capital. In making its determinations, the Corporation should require the applicant to provide appropriate and relevant information.

The conference agreement expands the scope of the Board of Directors' consideration of the availability of financing from the private sector to include a review of the reasonableness of the terms and conditions upon which such assistance is being provided. Ultimately, it is the Board of Directors who, in their sole discretion, must make a final and independent judgment of the reasonableness of the terms and conditions of financial assistance available from the private sector, and it is not the intent of the Conferees in any way to prejudice the Board's judgment in regard to providing financial assistance to those applicants in a manner which will best achieve the purposes of the title.

Section 131(s) requires that any price guarantee pursuant to Section 134 or purchase agreement pursuant to Section 135 shall include an express provision to the effect that the price or purchase agreement shall be the subject of review and possible renegotiation, pursuant to Section 131(b)(1)(B), within ten years from the date of initial production by the project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such agreement.

Section 131(t) requires that (1) any specific tax credit directly associated with a synthetic fuel project; (2) any financial assistance that has been or will be provided from other federal or state agencies; and (3) the potential revenues generated by the project from the production of non-synthetic fuel products shall be taken into consideration in determining the need for financial assistance awarded pursuant to this Part.

The Conferees intend that any tax credit which inures directly to the benefit of a synthetic fuel project be taken into consideration in determining financial need. The Conferees recognize that regulated utilities involved in a synthetic fuel project may be required to pass any tax credits they receive on to their customers in the form of lower cost of service. The Conferees intend that in any such situation the Corporation will have to discount such tax credit when determining financial need.

Section 131(u)(1) authorizes the Corporation to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. The conferees intend that this practice be used to improve project control so that costs which exceed the initial total estimated costs are minimized. In the event of a subsequent award of a loan or loan guarantee, the Corporation's share of such agreement shall be incorporated in such loan or loan guarantees when awarded. For the purpose of such cost-sharing agreements, the Corporation is authorized to award up to one percent of the preliminary total estimated cost of the proposed project, and the Corporation is limited to the use of no more than one-percent of the aggregate obligation authority under Section 152 for such cost-sharing agreements.

The Conferees intend that any valuations of real and personal property or services obtained for a facility in transactions specified in the subsection shall be reviewed by an independent auditor or other recognized public appraiser as part of the indicated determinations of total costs.

Loans made by the Corporation (Sec. 132)

The Corporation is authorized to commit to or enter into loan agreements with a concern for a synthetic fuel project. The terms and conditions for a loan must be established by the Board of Directors (Sec. 131(a)). Such a loan would be limited to not more than 75 percent of the initial estimated cost of the synthetic fuel project. However, a loan also must be limited to the lesser of 49 percent of the initial total estimated project cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that such limits would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary. (Sec. 132(a)(2))

In the event that actual costs exceed the initial total estimated costs, the Corporation is authorized to provide additional loan assistance:

(a) up to 50 percent of the difference between the revised total estimated cost as determined by the Corporation and the initial total estimated cost: *Provided*, That the total estimated revised cost does not exceed 200 percent of the initial total estimated cost; and

(b) if the revised total estimated cost exceeds 200 percent of the initial total estimated cost, up to 40 percent of the amount in excess of 200 percent of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 percent of the initial total estimated cost, the Corporation shall transmit such proposed extension of the loan to the Congress. Such extensions shall be subject to disapproval by either House.

(c) The 250 percent specified in the exception shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved (Sec. 132(a)(2)). Such appropriate indices are routinely published in the *Engineering News Record.*

Each loan would be required to bear interest at a rate determined by the Corporation taking into account the needs and capacities of the recipient and the prevailing rates of interest. However, such interest shall not be less than the rate determined by the Secretary of the Treasury taking into consideration current yields on outstanding obligations of the United States. (Sec. 132(b))

Section 132(b) also specifies that unless the Corporation determines that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic project will have a substantial value in helping to meet the national synthetic fuel production goal, a loan under this section would be prohibited. The Conferees intend that the substantial value provision not represent a loophole, and that the Corporation weaken its "reasonable prospect of repayment" criterion as a last resort and for good cause.

The Corporation may enter into loans either directly or in cooperation or participation with banks or other lenders. Such loans can be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for that purpose (Sec. 132(c)).

The Board of Directors is authorized to forbear from exercising its rights under a loan agreement if (a) the borrower is not in default, (b) the public interest is better served by continuation of the project, and (c) the probable net benefit to the Corporation is greater from forbearing than from a default. However, the borrower must agree to reimburse the Corporation for such payment on terms and conditions including interest which are satisfactory to the Corporation. (Sec. 132(d)).

Section 132(e) requires that any loan shall carry a maturity date of no longer than 30 years or the useful life of the project, whichever is less.

Loan guarantees made by the Corporation (Sec. 133)

Section 133 authorizes the Corporation to commit to, and to guarantee, principal and interest on loans for synthetic fuel projects. The terms and conditions (including the right of subrogation) must be established by the Board of Directors (Sec. 133(a)). The Corporation may not guarantee more than 75 percent of the total project costs. In the event that the project costs exceed the initial total estimated costs, the Corporation is authorized to provide additional loan guarantee assistance as follows:

(a) up to 50 percent of the difference between the revised total estimated cost as determined by the Corporation and the initial total estimated cost: *Provided*, That the total estimated revised cost does not exceed 200 percent of the initial total estimated cost; and

(b) if the revised total estimated cost exceeds 200 percent of the initial total estimated cost, up to 40 percent of the amount in excess of 200 percent of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 percent of the initial total estimated cost, the Corporation shall transmit such proposed extension of the guarantee to the Congress. Such extension shall be subject to Congressional disapproval within thirty days.

(c) The 250 percent specified in the exception shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved. (Sec. 132(a)(3)). Such appropriate indices are routinely published in the *Engineering News Record*.

Such guarantees may not be terminated, cancelled or otherwise revoked except in accordance with the terms thereof.

The Corporation in reviewing the need for financial assistance pursuant to applications for loan guarantees shall consider whether the concern or concerns making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project. (Sec. 133(a)(4)).

Section 133(a)(5) provides that any guarantee made by the Corporation under this Section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof. Any loan guarantee by the Corporation shall be conclusive evidence that such guarantee complies fully with the provisions of this Part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Loan guarantees may be issued to guarantee obligations of a person having a partial interest in a synthetic fuel project (Sec. 133(a)(6)).

In exercising its authority under Section 133, it is anticipated that the Board of Directors will participate in negotiations for the financing of loans sought to be guaranteed by the Corporation. The Conferees expect that, in carrying out its responsibility under Section 131(b)(2) the Board of Directors will give preference to proposals which, among other criteria, represent "the least Corporation financial commitment", and insure that the rate on guaranteed loans are not excessive, taking into account the range of rates for similar loans in the private market and the risks assumed by the Corporation.

Loan guarantees, as for other forms of financial assistance, are general obligations of the United States backed by its full faith and credit.

In the event that the Board of Directors determines that a borrower is unable to meet payments but is not yet in default, the Corporation may elect to pay the lender an amount not greater than the principal and interest which the borrower is obligated to pay and which the corporation has guaranteed in order to assure continuation of a project (Sec. 133(b)).

The Conferees intend that the Board establish rights of subrogation by contract. If there is a default by the borrower, the holder of the obligation should have the right to demand payment of the unpaid amount from the Corporation. Within such period as may be specified in the guarantee or related agreements, the Corporation shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Corporation finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. However, forebearance by the holder of the obligation should not be precluded if such forebearance is agreed upon by the parties, including the Corporation.

If the Corporation makes a payment under Section 133(b), the Corporation must be subrogated to the rights of the recipient of such payment (and such subrogation must be expressly set forth in the gauarantee or related agreements). The rights of the Corporation with respect to any property acquired pursuant to a guarantee or related agreement, shall be the same as the rights of the recipient of a payment or payments made by the Corporation (Sec. 133(c)).

Section 133(c) requires that loan guarantees shall have a maturity date of not more than 30 years or the useful life of a synthetic fuel project, whichever is less.

As discussed earlier (Sec. 131(f)), the Federal Financing Bank shall not be allowed to purchase obligations issued, sold, or guaranteed by the Synthetic Fuels Corporation. It is important to note, though, that any potentially defaulting loan guarantees could still be paid off immediately by the Corporation by borrowing from the Treasurer against its appropriated line of credit in the Energy Security Reserve in the Department of the Treasury.

Price guarantees (Sec. 134)

The Corporation is authorized to commit to, or enter into, price guarantees for all or part of the production from a synthetic fuel project at a specific sales price. The Corporation may not enter into any "cost plus" arrangement or variation thereon in order to guarantee a profit to the concern. However, if the Corporation subsequently determines that the project would not otherwise be completed or continued and that the product is necessary to achieve the purposes of the Title, it may renegotiate the sales price.

In awarding price guarantees, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project.

The Conferees intend that the Board of Directors when prescribing terms and conditions for price guarantees, including establishment of the price set forth in the contract, shall assure that an appropriate risk will be borne by the recipient, that an appropriate level of price competition will be encouraged in the production and sale of synthetic fuel, that the price support will phase out if marketplace forces make such support unnecessary, or such other conditions which the Corporation determines would achieve the purposes of this section and this title. In the event that prevailing market prices for synthetic fuels are greater than a price guaranteed by the Corporation, the Corporation should allow the marketplace to operate.

The Conferees were concerned that the prohibition in Section 134 against price guarantees based upon a "cost-plus" arrangement or variant thereof might be construed to include "cost of service" pricing arrangements. Accordingly, the provision was clarified to provide that conventional "cost of service" pricing mechanisms shall not be deemed to be a "cost plus" arrangement or variant thereof.

A "cost plus" arrangement is prohibited because in the normal context it would guarantee an entity a negotiated fee based upon a percentage of the expenses of the project or a specified fee regardless of cost without independent restrictions. Thus, if "cost plus" contracts were permitted, there would be little if any financial discipline on the part of the recipient of financial assistance.

In contrast, cost of service pricing mechanisms, such as those used by the Federal Energy Regulatory Commission (or other regulatory bodies or those used by a concern pursuant to law) only assure the regulated company or such other concerns recovery of depreciation, actual operating expenses, taxes, interest on debt and a reasonable return on equity invested. All these expenses are subject to administrative and judicial review as specified in other law, such as that by the Federal Energy Regulatory Commission (or other regulatory bodies for concerns subject to their jurisdiction) throughout the life of the project and possible disallowance if found to be unjustified.

Purchase guarantees (Sec. 135)

The Corporation is authorized to commit to, or enter into purchase guarantees for all or part of the production from a synthetic fuel project. The sales price specified in the purchase agreement cannot exceed the estimated prevailing market price on the date of delivery, as estimated by the Secretary of Energy, unless the Corporation determines that a higher price is necessary in order to insure the production of synthetic fuel to achieve the purposes of this Title (Sec. 135(a)).

The Corporation may also provide in the contract awarding the purchase agreement that the Corporation may, at its option, if such is consistent with the purposes of this Act, terminate a purchase agreement and pay liquidated damages.

When entering into such an agreement, the Corporation is directed to obtain assurance that the quality of the synthetic fuel meets standards for the use of such fuel and that the ordered quantities are delivered on a timely basis as well as such other assurances as may reasonably be required (Sec. 135(b)).

In addition, each such agreement must provide that the Corporation retains the right to refuse delivery upon such terms and conditions as specified in the agreement (Sec. 135(c)).

Section 135(d) authorizes the Corporation to take delivery of synthetic fuels and to, subject to Section 172, sell such fuels to any other person. Section 172 provides the Department of Defense with a right of first refusal. In the event that the Corporation accepts delivery but does not sell such fuels, they may be purchased by an appropriate Federal agency at the agency's discretion. If exercised, the Federal agency would pay the prevailing market price of the product being displaced and the Corporation would pay the difference.

The Corporation is authorized to transport and store, and to have processed and refined, any synthetic fuels obtained pursuant to such a purchase agreement (Sec. 135(e)).

The Conferees intend that the Corporation, to the maximum extent feasible, utilize purchase agreements to obtain synthetic fuel from synthetic fuel projects in a form which can be directly substituted for conventional supplies. The Conferees thus intend that the authorities of subsection 135(e) to process and refine synthetic fuel obtained pursuant to purchase agreements be exercised as a last resort. Use of such authorities to directly or indirectly fund activities that would not otherwise qualify for financial assistance would be inconsistent with Congressional intent.

Joint ventures (Sec. 136)

Prior to approval of the comprehensive strategy, the Corporation is authorized to undertake joint ventures for synthetic fuel project modules. The Corporation's ownership and risk capital financing may not exceed 60 percent. Synthetic fuel project modules are defined to be demonstration projects of a size smaller than a synthetic fuel project which can eventually be expanded at the same site into a full scale commercial synthetic fuel project.

In order to assure the demonstration of the maximum number of potentially viable synthetic fuel technologies from the widest variety of domestically available feedstocks, it is important that the Corporation's incentives be as flexible as possible. The Conferees intend that the Corporation attempt to limit its financial participation in synthetic fuel projects to price guarantees, purchase agreements, loan guarantees, and loans, but recognize that these incentives may be insufficient to induce private sector participation in demonstrating all of the synthetic fuel technologies which must be demonstrated if the program goals are to be realized.

The economics of producing synthetic fuel from the various feedstocks and by the various possible technologies are uncertain. In some instances full scale facilites would not be practical because of technical and economic risks.

Section 136 allows for participation by the Corporation in joint ventures of up to 60 percent equity interest, where it is determined that a joint venture is the only feasible means of attracting private sector participation on the scale necessary to "prove" a given technology, utilizing a given feedstock.

Should the venture prove successful, with the plant achieving commercial production from the module, it is contemplated that the Corporation's equity ownership would be sold to the private partner (or other entity) on terms (specified in the initial contract) which would ensure the full return of the Corporation's investment. Should the venture prove unsuccessful, however, costs would be incurred by the Corporation in proportion to its equity ownership. It is not contemplated that the Corporation's participation in the initial contract would "carry-over" to a full scale commercial plant, but be restricted to a single commercial scale module for any given projects.

Section 136(e) provides that the Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module. Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status. Subsection (f) provides that the Corporation may negotiate participation in the management decisions of the joint venture, as the Board of Directors determines appropriate and necessary, pursuant to the Corporation's financial interest. The conferees do not, however, intend to suggest in subsection (f)(1) that the Corporation must or should attempt to negotiate a role in decision making or management linked to the Corporation's level of financial participation in the the joint venture. And in no event shall the persons in the joint venture agreement be denied the primary responsibility for management.

In circumstances in which the partner cannot or will not continue to participate in the program, and cannot find a substitute acceptable to the Board of Directors to assume its equity ownership and responsibilities under the project the Corporation is authorized to take control of the project to protect its investment. In no case would the Corporation retain control of the management of a facility under this program for more than five years from the day that commercial production from the module was achieved. The Corporation would be required to find a buyer based on bids maximizing return of its investments.

Control of assets (Sec. 137)

Section 137 imposes limits on the Corporation's acquisition of a synthetic fuel project. The Corporation may acquire and retain control only (1) through foreclosure of a security interest or pursuant to default under a financial assistance contract; or (2) pursuant to a corporation construction project under subtitle E.

Section 137(b) authorizes the Corporation to acquire control of a synthetic fuel project under specified circumstances. The authority to acquire control may be exercised only with regard to projects which have been awarded financial assistance during the first phase of the Corporation's operations, although the acquisition of control may occur at any time so long as (1) substantial progress toward the completion of the project has been made and the Board of Directors determines that the Corporation's acquisition of control is necessary to assure the commencement of operation or to prevent a termination of operation of the project, (2) the operation of the project will contribute to the achievement of the purposes of this title, (3) possible losses to the Corporation will not outweigh potential benefits resulting from the demonstration of technology, (4) financial losses to the Corporation would be greater without Corporation acquisition, and (5) in the case where Corporation financial assistance has been provided in the form of loans and loan guarantees, the Board of Directors determines that the concern is in default or immediately will default.

A determination by the Corporation to acquire control shall be made, and a written plan prepared, which shall be approved by the President and submitted to the Congress. Congressional approval shall be deemed to have occurred in the event neither House passes a resolution of disapproval within thirty days of continuous session following the submission of the plan. However, the authorities of this section shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements. Moreover, completion of construction and operation of a project may not be directly undertaken by the Corporation, but may only be undertaken by the Corporation through contracts with others (Sec. 137(b)).

Section 137(c) authorizes the Corporation, as one form of operation of an acquired project, to lease a project to the concern from which it was acquired. Such an arrangement is authorized for projects for which financial assistance was received in the form of loans or loan guarantees from the Corporation and where the lease will assure production of synthetic fuels consistent with the title. A plan containing the terms and conditions of the proposed leaseback shall be approved by the President and is subject to disapproval by either House within 30 days pursuant to Section 128.

For the purpose of this section, the term "operating asset" is defined (Sec. 137(d)(1) to mean any real or personal property used in a synthetic fuel project and control to mean the power to direct the use or disposition of operating assets of the synthetic project either by direct ownership, ownership of a majority of the voting securities of the Corporation which owns or leases a synthetic fuel project, except that control will not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased to and in the possession of parties independent of the Corporation.

Subsection 137(e) provides that any Congressional review and disapproval pursuant to subsection (b) and (c) shall utilize the procedures specified in Section 128.

Subsection 137(f) provides that any control of synthetic fuel projects obtained pursuant to subsections (b) or (c) must be disposed of within not more than five years after acquisition of such control.

Unlawful contracts (Sec. 134)

The Corporation shall be treated as if it were an agency of the United States for the purposes of Title 18, U.S. Code, Sections 431 and 432, and the exemption contained in Section 433 thereof, which prohibit contracts and agreements between agencies of the United States and Members of the Congress and provide criminal penalties for violation thereof. The effect of this section is to provide that Members of the Congress may not directly be a party to any financial assistance under this Part.

Fees (Sec. 139)

Administrative fees.—The Corporation may charge and collect fees in connection with financial assistance not to exceed 1 percent of the amount of the financial assistance. Such fees may be applied against the administrative expenses of the Corporation (Sec. 139(a)).

Loan guarantee fee.—The Corporation is directed to prescribe and collect an annual fee in connection with each loan guarantee. Such fee shall be 0.5 percent of the loan guarantee. Sums so collected shall be deposited in the Energy Security Reserve (Sec. 195(a)(1)) and set aside to be used solely to meet obligations arising from default by a recipient of financial assistance. Such sums from loan guarantee fees shall be retained in a subaccount of the Energy Security Reserve and accounted for as such.

Disposition of securities (Sec. 140)

Section 140 requires the Corporation to dispose of as soon as practicable by public or private sale any note, bond, or other security of another party title to which is acquired by the Corporation.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

Corporation construction and contractor operation (Sec. 141)

Subject to the limitations in section 142, sections 126(a)(1)(D) and 141(a) authorize Corporation construction projects (which would be owned by the Corporation but contractor constructed and operated) only prior to the approval of the comprehensive strategy for one-of-a-kind technologies and only after no participant could otherwise be found who would be willing to proceed under one or more of the above forms of financial assistance.

Section 141(b) provides that the power of the Corporation with respect to Corporation construction projects shall include (1) the delivery of synthetic fuel from the project; (2) transportation, storage, processing and refining of such fuel; and (3) the sale of such fuel to any person subject to Section 172(d). The Corporation, however, is directed to utilize the private sector for such activities to the maximum extent feasible. Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids and shall be expressly contingent upon the availability of sufficient funds (Sec. 141(c)).

The Corporation may contract with Federal agencies to provide the design, the construction, or management of operations of a Corporation construction project (Sec. 141(d)). If the Corporation does contract with a Federal agency for such services, such Agency must have the available experienced personnel to perform such management function.

Limitations on corporation construction projects (Sec. 142)

Section 142 sets forth limitations on corporation construction projects. Prior to approval of the comprehensive strategy, up to three such projects would be authorized on the last resort basis set forth in Sections 126(a)(1)(D) and 141. No such projects would be authorized after approval of the comprehensive strategy, nor would expansion of any then existing Corporation construction projects be permitted.

Environmental, land use, and siting matters (Sec. 143)

Section 143(a) provides that a Corporation construction project or joint venture shall be subject to all Federal and non-discriminatory State and local environment, land use and siting laws to the same extent as privately sponsored synthetic fuel projects. However, nothing in the section shall be deemed to limit the powers of the Energy Mobilization Board with respect to such projects or joint ventures.

Corporation construction project contracts shall provide for monitoring of environmental and health related emissions after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy. (Sec. 143(b)).

Project reports (Sec. 144)

Within three years from the initial operation of each Corporation construction project, the Corporation shall publish a report indicating among other things (a) whether the synthetic fuel product can be sold at a price competitive with imported crude oil, (b) whether the technology employed in the project can be operated on a commercial scale in compliance with applicable environmental requirements, (c) the effect on regional and local water supplies of the project and commercial operation of that particular technology, (d) the health effects on workers and other persons including any carcinogenic effects, and (e) the social and economical impacts of local communities most directly affected by such project.

Financial records (Sec. 145)

Recipients of contracts for a Corporation construction project shall keep such records and other documents as are necessary for the purposes of audit. The Corporation and the Comptroller General of the United States shall have access to such records for the purpose of audit.

SUBTITLE F—CAPITALIZATION AND FINANCE

Obligations of the Corporation (Sec. 151)

Subject to appropriations pursuant to Section 195, the Corporation is authorized to issue to the Secretary of Treasury (who shall purchase and retain) any note or other obligations of the Corporation in the aggregate amount of $20,000,000,000 plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k)(1) of said Act up to a maximum of $3,000,000,000, and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93–577, 42 U.S.C. 5901), up to a maximum of $2,208,000,000 (Sec. 151(a)(1)).

Such initial aggregate principal amounts shall become available to the Corporation upon the date of enactment of this Title and the additional amounts upon satisfying the requirements of Section 126 for approval of a comprehensive strategy (Sec. 151(a)(2)). Such notes and other obligations to the Secretary of Treasury shall not be issued prior to consultation by the Corporation with the Secretary of the Treasury. (Sec. 151(b)).

Limitations on total amount of obligational authority (Sec. 152)

Subject to the limitations of Section 151, the Corporation may not incur obligations or make commitments, including administrative expenses and operating expenses, in excess of $20,000,000,000, plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k)(1) of said Act, up to a maximum of $3,000,000,000 and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93–577, 42 U.S.C. 5901) up to a maximum of $2,208,000,000. However, prior to the approval of a comprehensive strategy pursuant to Section 126, such obligations shall not exceed $20,000,000,000 in the aggregate.

In order to calculate the extent of the Corporation's obligations subject to these limits: loans by the Corporation shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated to cover cost-overruns (Sec. 132(a)(3)); loan guarantees shall be valued at the initial face value of the loan guarantee plus such amounts as are subsequently obligated to cover cost over-runs (Sec. 133(a)(4)); and price guarantees and purchase agreements shall be valued as of the date of each such contract based upon the Corporation's estimate of its total potential liability under such contract. Corporation construction projects and joint ventures shall be valued at the current estimated cost (Sec. 152(b)). Any increase in the liability of the Corporation due to any amendment or modification of a contract also shall be counted. It is the intention that all obligations of the Corporation be counted against the obligation authority.

Section 152(a) provides that commitments of the Corporation to provide financial assistance which are nullified or voided shall not be considered in the aggregate for the purpose of subsection (a).

Budget treatment (Sec. 153)

When the Secretary of the Treasury upon a requisition of funds from the Corporation transfers such funds to the Corporation, the incurred obligations and outlays shall be included in the total of the budget of the United States Government. However, since the Corporation is an independent entity, the receipts and the disbursement of the Corporation although presented for the information of the public in the annual budget of the United States Government shall not be included in the totals of the budget. Thus the transactions between the Corporation and the Secretary of the Treasury will be on budget. The transactions between the Corporation and the recipients will be off budget. When the Corporation needs funds to provide financial assistance, it will borrow from the Secretary of the Treasury and such transaction will be reflected as an outlay in the Federal budget.

Receipts of the Corporation (Sec. 154)

Subject to the limitations of Section 152, monies received by the Corporation from other than annual loan guarantee fees (Sec. 139(b)) and notes and other obligations issued to the Secretary of the Treasury (Sec. 151), are to be used to offset transactions which otherwise will be reflected as outlays in the Federal budget. Such monies shall be used in the following order of priority: first, to defray administrative expenses; second, to provide financial assistance; and, third, to redeem and retire any notes or other obligations issued by the Corporation to the Secretary of the Treasury (Sec. 154(a)).

Any monies not otherwise employed may be either deposited with the Treasury of the United States subject to withdrawal by the Corporation or deposited in any Federal Reserve bank or deposited in a Federally insured interest bearing account subject to withdrawal (Sec. 154(b)).

In the event that moneys of the Corporation, including moneys received pursuant to Sections 139(b) and 151 exceed the limitation set forth in Section 152, such surplus shall be deposited as miscellaneous receipts to the General Fund of the Treasury of the United States (Sec. 154(c)). The Corporation is required to submit a written statement to the Secretary of the Treasury detailing all receipts during any fiscal quarter within 10 days of the end of such fiscal quarter (Sec. 154(d)).

Tax status (Sec. 155)

Section 155(a) provides that the Corporation, its franchise, capital, reserve, surplus, income and intangible property shall be exempt from all Federal, State and local taxes, except that (1) any real property owned in fee by the Corporation shall be subject to nondiscriminatory State and local taxes to the same extent as other similarly situated and used property; and (2) its employees shall be subject to any non-discriminatory payroll and employment tax levied for the purpose of employee benefits and to the same extent as any privately owned corporation. In addition, the Corporation construction projects shall be subject to any non-discriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on those assets of the Corporation construction project pursuant to Subtitle E, including only

(i) the extraction or severance of minerals owned or leased by the Corporation, and

(ii) on the purchase or lease of tangible personal property.

Subsection 155(b)

Section 155(b) establishes debt obligations the Federal tax policy to be followed for

Federal taxation of gross income from State and local bonds, which are guaranteed by the Corporation pursuant to Section 133 or which are secured by financial assistance from the Corporation pursuant to Subtitle D during Phase I. The interest paid on any such State or local loan or debt obligations issued after the enactment of this Title is to be included in the gross income of obligation purchasers to the extent that such obligations are not supported by the full faith and credit as a general obligation of the issuer. Because it is anticipated that the taxation of this interest will impose additional costs on issuers than would otherwise be paid in connection with tax-exempt issuances, the Secretary of the Treasury is authorized to determine, and the Corporation is authorized to pay an interest differential payment to issuers for the purpose of compensation for these increased costs incurred as the consequence of taxable status of interest on the obligations. In calculating the amount of the payment which may be made respecting each specific issue of obligation, the Secretary of the Treasury shall take into account the interest which would have been paid if the obligations were issued as tax exempt obligations, and the interest rate actually paid on the taxable obligations.

A price support commitment from the Corporation may be used for a project financed tax exempt bond if, but only if, there is no pledge of the price support commitment as security for the bonds. It is the intention of the Conference Committee that a bond be considered secured by a price support and thus taxable if the bondholders are given a pledge of the price support payments which would entitle the bondholders to receive the price support payments prior to any other creditors of the owners and/or operators of the facility subject to the price support payments. Where bondholders have rights to the price support payments only as general creditors of the owners or operators of the facility, the Conference Committee does not intend that such bonds be deemed to be "otherwise secured" and thus taxable under Section 155(b).

In order that this interest differential payment authority shall not have the effect of encouraging applicants to seek project financing through State and local governments or agencies, the Conferees intend that the Corporation will exercise this payment authority only where there are clear public benefits to be derived from a project in excess of the benefits which would be derived if the payment were not made. The Conferees do not expect the Corporation to make extensive use of this payment provision. Nor is it expected that the full amount of the interest differential will be paid in all cases. Further, the Conferees direct the Corporation to assure in each instance that the entire value of the payment will be used to reduce the debt service cost of the project.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES AND SUITS AGAINST THE CORPORATION

False statements (Sec. 161)

Whoever makes any statement, knowing or having reason to believe it to be false, in order to obtain financial assistance or anything of value under this Part shall be punished by a fine of not more than $5,000 or imprisonment for not more than two years, or both (Sec. 161).

Forgery (Sec. 162)

Whoever is guilty of forgery shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both (Sec. 162).

Misappropriation of funds and unauthorized activities (Sec. 163)

Any person connected in any capacity with the Corporation who is found to be guilty of misappropriation of funds, making false entry in any book with intent to defraud, providing unauthorized information concerning future plans of the Corporation, or who having such knowledge invests or speculates in the securities and property of any company receiving financial assistance from the Corporation, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to this section, the Corporation is authorized to obtain injunctive relief against the threatened misuse of information (Sec. 163(a)).

Whoever falsely assumes or pretends to be a Director, officer or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both. (Sec. 163(b)).

Conspiracy (Sec. 164)

If two or more persons conspire to accomplish any of the acts made unlawful by Section 161, 162, or 163 each such person shall be subject upon conviction to the same fine or imprisonment as is applicable in the case of conviction for such acts themselves (Sec. 164).

Infringement on name (Sec. 165)

The words "United States Synthetic Fuels Corporation" may not be used by any person in any manner which is likely to mislead or deceive (Sec. 165(a)). The Corporation may avail itself of relief, both at law and in equity, to remedy the misuse, or threatened misuse, of its name under this section. A violation of this restriction also may be enjoined by the Corporation. (Sec. 165(b)).

Additional Penalties (Sec. 166)

In addition to any other penalties provided in the subtitle, the Corporation is authorized to bring an action to cover damages for any losses suffered by the Corporation as well as for any profit or gain acquired by the defendant as a result of the conduct constituting the offense (Sec. 166).

Suits by the Attorney General (Sec. 167)

Section 167 authorizes the Attorney General of the United States or the Comptroller General of the United States to sue the Corporation or any other person to prevent acts of omission or commission in violation of the legislation. The section creates a public cause of action, maintainable by the Attorney General or the Comptroller General, to enforce the duties and responsibilities imposed by the legislation. The Conferees do not intend that mandamus actions would lie against the Attorney General or the Comptroller General to compel action under Section 167(a). The provision was patterned after a similar statutory authorization providing for suits by the Attorney General to enforce legal obligations of the Communications Satellite Corporation under the provisions of 47 U.S. Code 743 and the National Railroad Passenger Corporation (Amtrak) under the provisions of 45 U.S. Code 547.

The need for such an authorization arises out of the unique character and status of the Corporation and is intended to provide an effective mechanism of oversight to assure compliance by the Corporation with the legal obligations imposed upon it.

The authority provided to the Attorney General is not intended to be exclusive or in derogation of enforcement authorities existing in other Federal Agencies under other Federal law.

Civil actions against the Corporation (Sec. 168)

The United States District Court shall have original jurisdiction for all civil actions against the Corporation. The section does not bar actions by or against the Corporation in state courts. The Conferees intend, however, that actions brought against the Corporation in state courts may be removed to Federal courts pursuant to Title 28, United States Code.

The Corporation is to be regarded as a Federal agency for the purposes of the Federal Tort Claims Act.

The liability of the Corporation for claims arising out of any contract is limited to valid claims based upon a written contract properly executed by the Corporation.

With regard to all legal claims against the Corporation, the liability of the Corporation, and any judgment or compromised claim against the Corporation shall be paid from its funds.

SUBTITLE H—GENERAL PROVISIONS

General powers (Sec. 171)

Section 171(a) provides the Corporation with general powers, including the ability to adopt, alter and rescind bylaws; to adopt and alter a corporate seal; to make agreements and contracts, except that financial assistance contracts are authorized only to the extent expressly provided for: to lease, purchase, accept gifts and donations, and otherwise to own, hold and improve property; to sue and be sued subject to Section 168; to represent itself or to contract for representation (except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which action it will be represented by the Attorney General; to select, employ and fix the compensation of officers, employees, attorneys and agents; to make provision for, and designate such committees and functions thereof as the Board deems appropriate; to indemnify directors, and officers of the Corporation; to determine and prescribe the manner in which obligations of the Corporation shall be incurred; to obtain the services and fix the compensation of experts; to use the United States mail on the same terms and conditions as the Executive Departments of the United States Government; and to exercise all of the lawful powers necessary or reasonably related to the establishment of the Corporation and to carry out the provisions of this Part and the exercise of its powers, purposes, functions, duties and authorized activities.

The foregoing powers may only be exercised in connection with administrative activities, financial assistance, and Corporation construction projects (Sec. 171(b)). And, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this Part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other government function; and any violation of this subsection shall be punished by a fine of not more than $10,000 or by imprisonment for not more than 10 years or both; additional penalties pursuant to Section 166; and relief pursuant to Section 167.

Eminent Domain (Sec. 171(c)): This provision authorizes the Corporation to exercise the Federal power of eminent domain in connection with Corporation construction projects for certain limited purposes. The Corporation may acquire real property, including property owned by a State or local political subdivision, Indian tribe, and private parties. The use of the eminent domain authority is limited to property (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline.

However, eminent domain may not be used to acquire the project site, or property for a coal slurry pipeline, except within the immediate vicinity of the site of the project.

Prior to exercising the power of eminent domain, the Board of Directors shall make a finding that the property is necessary for the

Corporation construction project and that other reasonable property is not available. These findings shall not be reviewable in any fashion or by any court.

Coordination with other Federal entities (Sec. 172)

Prior to awarding, or making any commitment to award, financial assistance, the Corporation may seek the advice and recommendations of or information maintained by any Federal agency in order to assist the Corporation in making determinations, related to awarding financial assistance for synthetic fuel projects. Agencies are required to provide the Corporation, to the extent permitted by law, with such information within 30 days of the request provided that the Corporation shall agree to receive any data which comprises a trade secret or confidential or proprietary nature on the same terms of confidentiality agreed to by the agency, 18 U.S.C. 1905 dealing with restrictions on disclosure of proprietary information by Federal employees shall apply to employees of the Corporation as if they were employees of a Federal agency. (Sec. 172(a)).

The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development. (Sec. 172(c)).

Patents (Sec. 173)

Section 173(a) authorizes the Board of Directors, at its discretion, to require that title to the patents for inventions arising out of projects assisted through loans, loan guarantees, and joint ventures be vested in the Corporation and that the Corporation shall have a right to license the patent on a non-exclusive basis. This provision is intended to provide the Corporation with the flexibility, in the case of loans, loan guarantees and joint ventures, to negotiate title to patents as part of the terms and conditions of a contract for financial assistance so as to achieve the purposes of this Title.

The Corporation is authorized to grant non-exclusive licenses to the patent for any invention the title to which is vested in the Corporation. Exclusive or partially exclusive licenses are authorized only on the basis of competitive bids and following an opportunity for a hearing and only when, in the judgment of the Board, such a restricted license is necessary to assure substantial utilization of such invention within a reasonable time (Sec. 173(b)). In the event that an exclusive or partially exclusive license is issued, it shall contain such terms and conditions as necessary to protect the interests of the United States and the general public. Such terms and conditions shall contain provision for the Corporation, at any time after two years after granting an exclusive or partially exclusive license, to terminate such license if (A) it has applied, within a reasonable time to the commercialization of domestic resources or (B) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time (Sec. 173(c)).

Loan agreements and loan guarantee agreements must include such terms and conditions as are necessary with respect to patents to protect the interests of the Corporation in the case of default. The agreements must provide that all necessary patents, technology and other proprietary rights shall be available to the Corporation or its designee to complete and operate any such defaulting project, without the interference of any blocking patents or background trade secrets.

Upon termination and liquidation of the Corporation, all patents, technology, and proprietary rights vested in the Corporation as a result of default or pursuant to subsection 173(a) shall be transferred to the Secretary of Energy for administration.

Any contracts entered into by the Corporation for corporation construction projects will be the subject of Section 9, subsections (a) through (m) of the Federal Non-Nuclear Energy Research and Development Act of 1974, with the Corporation acting in the place of the Secretary of Energy in implementing the Act. The conferees intend that such implementation shall be consistent with the policies developed by DOE and predecessor agencies under Section 9.

The United States Government shall have a royalty free non-exclusive license to any patent in which the Corporation owns title or reserves a license pursuant to this section.

Small and disadvantaged business utilization (Sec. 174)

Section 174 provides that the Corporation shall require the recipient of any financial assistance to provide fair and reasonable participation by small and disadvantaged businesses, and the Corporation shall do the same in the case of Corporation construction projects pursuant to Subtitle E.

Relationship to other laws (Sec. 175)

No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this Part. (Sec. 175(a)).

National Environmental Policy Act: Section 175(b) provides that no action of the Corporation, except for the construction and operation of Corporation construction projects, shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for the purposes of the National Environmental Policy Act.

With respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of NEPA. The Corporation itself would be required to prepare an environmental impact statement for a Corporation construction project. The Corporation also, as a Federal agency for such project, shall be subject to the Council on Environmental Quality guidelines and could request the Council on Environmental Quality to designate it or another agency as the lead agency in order to expedite the preparation of an environmental impact statement at the earliest possible time.

Davis-Bacon (Sec. 175(c)): The Davis-Bacon Act and Service Contracts Act shall apply to the Corporation and any project assisted by any loan or loan guarantee awarded by the Corporation and any joint venture as though the Corporation were an agency of the United States.

Securities Laws (175(d)).—For purposes of the securities laws of the United States as defined in Section 21(g) of the Securities Exchange Act of 1934. (15 U.S.C. 78u (g)), the Corporation shall be deemed to be an agency or instrumentality of the United States. This provision gives the Corporation the same legal status as instrumentalities of the United States for the purposes of all federal securities laws. Thus, the Corporation will enjoy all benefits, exemptions, and limitations, and will be responsible for any duties or obligations, imposed on Federal agencies or instrumentalities of the United States under these securities laws.

Anti-Trust Laws (Sec. 175(e)).—The antitrust laws of the United States shall apply to the Corporation as if it were an agency of the United States. Section 175(d) is not intended to confer or imply any immunity from the antitrust laws. It is simply designed to subject the Corporation's governmental and commercial activities to those laws to the same extent as any other Federal agency.

Allocation and Price Regulation.—In dropping the Senate provision regarding the preemption of Federal and State allocations and pricing laws, the conferees take cognizance of the fact that synthetic fuel produced by synthetic fuel projects are presently exempt from regulations under the Emergency Petroleum Allocation Act, which expires on September 30, 1981. The conferees intend that synthetic fuel not be subject to price controls and that pricing policy regarding synthetic fuels track present law as set forth in the Natural Gas Act and the Natural Gas Policy Act.

Government Corporation Act (Sec. 175 (f)).—Section 175(f) makes the Government Corporation Act inapplicable to this Corporation.

Subsection 175(g) provides that except to the extent expressly provided in this part the Corporation shall not be deemed to be an agency or instrumentality of the United States.

Subsection 175(h).—The provisions of the Longshoremen's and Harbor Worker's Compensation Act will cover employees of the Corporation.

Energy Mobilization Board (Sec. 175(i)).—Nothing in this Part shall be deemed to limit the powers of the Energy Mobilization Board with respect to synthetic fuel projects receiving financial assistance or Corporation construction projects.

Fuel Use Act.—Section 175(j) establishes the relationship between the requirements of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95–620 (1978), and the purposes of this Part to foster the development of synthetic fuels production.

Among other purposes, the FUA undertook to "encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source." In generally requiring under certain circumstances the conversion to fuels other than petroleum and natural gas, the FUA recognized the future potential offered by synthetic fuels. Under Section 211(b) of FUA, the Secretary of Energy was authorized to issue temporary exemptions from prohibitions against the use of petroleum and natural gas by certain powerplants and industrial installations which would undertake eventual compliance with FUA requirements through the use of synthetic fuels.

The need to clearly reconcile the provisions of FUA and the purposes of this Part arises out of the desire to assure that the synthetic fuels exemption under FUA is used effectively and in conjunction with this Part.

This provision would therefore permit those subject to FUA to avail themselves of exemptions under Section 211 of FUA if they can demonstrate the existence of a legally valid agreement for the future delivery of sufficient quantities of synthetic fuels to be used at facilities for which the exemption is sought. Such synthetic fuels must be produced by a concern receiving a loan, loan guarantee, purchase agreement, or price guarantee pursuant to this title, and the agreement for the delivery of such fuels must provide for initial deliveries of fuel within the time periods establishing the length of exemptions to FUA requirements under Section 211(e) of FUA.

Where temporary exemptions based upon the future use of synthetic fuels under Section 211(b) of the FUA are granted on the basis of synthetic fuel deliveries produced with financial assistance provided under this title, an extension or renewal of the time period for compliance under Sections 211(e) (1) or 211(e)(2)(B) of the FUA may be granted at the same time the original exemption is granted or at any time thereafter.

The filing of evidence with the Secretary of Energy documenting the existence of a legally valid agreement for the future delivery of synthetic fuels produced with financial assistance provided under this Part is to be deemed to discharge the obligations under Section 214(b) of FUA to file and maintain an acceptable compliance plan.

Severability (Sec. 176)

Section 176 is a general severability clause providing that if any provision of this part shall be deemed to be invalid, the remainder of the part or the application of such provision to other circumstances shall not be affected thereby.

Fiscal year audits and reports (Sec. 176)

The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government (Sec. 176(a)).

The Corporation is required to retain a firm or firms of recognized public accountants to prepare annual audits. The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress as the GAO shall deem necessary or as the Congress may request, but not less than every three years. However, the authority of the General Accounting Office to conduct audits does not include any authority to control the financial activities of the Corporation. All books, accounts, financial records, etc., of the Corporation shall be available to persons conducting audits (Sec. 176 (b)).

Quarterly Reports.—The Corporation is directed to submit quarterly reports to the Congress and the President which will state the aggregate sums then outstanding or committed for financial assistance and for corporation construction projects together with a summary of any financial assistance retired or any synthetic fuel projects liquidated by the Corporation. The report is to contain a listing of the concerns receiving financial assistance involved in Corporation construction projects. The quarterly report which first notes an expenditure or commitment to a concern or synthetic fuel project shall contain a brief description of the factors considered by the Corporation in making the judgment of the factors considered by the Corporation in making the judgment to enter into the commitment. The report is to contain financial statements prepared in accordance with generally accepted accounting principles and shall also contain the compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

Annual Reports (Sec. 176(d)).—The Corporation shall submit an annual report containing in addition to the information required in the quarterly report a general description of the annual operations, a specific description of each project in which the Corporation is involved, a status report, and an evaluation of the contribution which the project has made, and is suspected to make in fulfilling the purposes of this Title. The annual report shall describe the progress made toward meeting the objectives and the goal of the Title and contains specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation. The Conferees intend that such annual reports contain sufficient information to facilitate oversight by the appropriate Congressional committees.

Liquidation Plan (Sec. 176(e)).—On or before September 30, 1990, the Corporation is required to submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current project. The report also shall contain a liquidation plan describing how each project and every substantial asset or liability of the Corporation will be liquidated. Each annual report thereafter will describe the progress made in effecting the liquidation plan.

Water rights (Sec. 178)

This section provides that nothing in this part shall affect the jurisdiction of States or the Federal government over water, affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or an assignment of water rights.

Western hemisphere projects (Sec. 179)

Prior to approval of the comprehensive strategy, up to two synthetic fuel projects located in the Western Hemisphere outside of the United States may receive financial assistance of (1) a class of resource will be utilized that is located in the United States but will not be subject to timely commercial production in the United States, even if the Corporation provided financial assistance; (2) the projects will receive financial assistance from the host-country; (3) the synthetic fuel produced will be available to users in the United States in equitable quantities considering the form of the financial assistance; and (4) all technology patents, and trade secrets developed in connection with the project shall be available to citizens of the United States through the Corporation or through licensing at reasonable costs for use in the United States (Sec. 179(a)).

Section 179 provides that before awarding any financial assistance the Corporation must submit its proposed western hemisphere projects to the Congress which shall consider the proposal subject to one-House disapproval pursuant to section 128. If neither House disapproves the proposed project then the Corporation may award the financial assistance.

Section 179(c) provides an authorization of up to 10 percent of the aggregate obligations authority under Section 152(a) for such purposes.

Completion guarantee study (Sec. 180)

The Corporation is directed to conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon must be included in the Corporation's report to the Congress under Section 126(b), which accompanies the comprehensive strategy.

SUBTITLE I—DISPOSAL OF ASSETS

Tangible assets (Sec. 181)

This provision authorizes the Corporation, through the Board of Directors, to dispose of certain tangible assets of the Corporation, in order to carry out the purposes of the title, and establishes the procedures to be used by the Corporation for such disposal of assets.

For the purposes of this provision a "tangible asset" means a single asset or an aggregate of assets with a market value of $1,000,000 or more.

Three means of disposal are authorized. First, the Corporation may sell assets through competitive bidding. Second, the Corporation may transfer assets to a Federal agency. Third, the Corporation may sell assets to persons or concerns through negotiated contracts. In case of the third alternative, the Corporation is obliged to publish notice of the proposed sale of assets in the Federal Register, to convene a conference of prospective purchasers, and to undertake negotiations of a sales contract no sooner than thirty days after the requisite notice and conference.

With regard to disposal of assets by any of the three methods, the Corporation is required to notify the President, the Senate Committee on Energy and Natural Resources and the appropriate committees of the House of Representatives of proposed disposal of assets at least thirty days prior to such disposal.

The Corporation shall make every reasonable effort to recover the financial investment in such assets; to assure competition within the industry to which the assets are sold; and assure that such assets will be productively utilized and, if possible, continued in operation (Sec. 181(c)). Where such assets constitute other than a synthetic fuel project, or portion thereof, or a corporation construction project, the Corporation shall establish such terms and conditions as are necessary to maximize the financial return to the Corporation (Sec. 181(d)).

Other assets (Sec. 182)

The Corporation is authorized to sell consistent with the requirements of the Federal Property and Administrative Services Act (but not directly subject to such Act as a Federal agency), or transfer to any Federal agency, any portion or all of the other assets of the Corporation other than tangible assets covered by Section 181, as the Corporation determines to be in its best interest.

SUBTITLE J—TERMINATION OF CORPORATION

Date of termination (Sec. 191)

Notwithstanding any other provision of this Title, the Corporation may make no new commitments of financial assistance under subtitle D after September 30, 1992 (Sec. 191 (a)).

The Corporation shall terminate on September 30, 1997, unless the President on recommendation of the Board of Directors by Executive Order, terminates the Corporation at an earlier date; however, in no event may be do so prior to September 30, 1992 (Sec. 191(b)).

Termination of Corporation's affairs (Sec. 192)

Section 192 provides for the winding up of the Corporation's affairs and requires after September 30, 1992, that the Board of Directors shall diligently commence all practical steps to achieve an orderly termination of the Corporation's affairs including the disposal of the tangible assets (pursuant to Section 181) and the disposal of other assets (pursuant to Section 182).

After termination any contract or obligation for financial assistance is to be administered in accordance with Section 193, which transfers powers of the Corporation to the Department of the Treasury.

Transfer of powers to the Department of the Treasury (Sec. 193)

Section 193 provides that if, on the date of termination, the winding up of the Corporation's affairs has not been completed, the duty of completing such winding up shall be transferred to the Secretary of the Treasury who for such purposes shall succeed to all powers, duties, rights and obligations of the Corporation. The Secretary of the Treasury may assign such duties to any officer or officers of the United States in the Treasury Department (Sec. 193(a)).

When the Secretary of the Treasury finds that the liquidation of remaining assets will no longer be advantageous to the United States and that all legal obligations have been provided for, he shall pay into the Treasury as miscellaneous receipts the unused balance of the monies belonging to the Corporation and shall make a final report of the Corporation to the Congress. At such time, the Corporation shall be deemed to have been dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

Authorization (Sec. 195)

Section 195 authorizes an appropriation of $20,000,000,000 plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k)(1) of said Act up to a maximum of $3,000,000,000, and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93-577, 52 U.S.C. 5901), up to a maximum of $2,208,000,000. Such monies shall be deposited within the "Energy Security Reserve" established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980, which account, and the appropriations therefor, shall be available to the Secretary for the purpose of carrying out the purposes of this Title.

On the basis of notification by the Corporation to the Secretary of the Treasury of financial assistance, consistent with the requirements of Section 152(b), the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the maximum liability in the contract. The Secretary of the Treasury, within 15 calendar days of the notification of the Corporation, must certify that the funds have been reserved within the Energy Security Reserve.

The Secretary of the Treasury is authorized to utilize both general revenues and borrowing authority under the Second Liberty Bond Act in order to finance the purchase of obligations of the Corporation. (Sec. 195(c)).

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Short title

Section 201 provides that this title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980".

Findings

Section 202 contains Congressional findings as follows:

(1) United States dependence on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy sources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

Definitions

Section 203 defines certain terms used in this title as follows:

(1) the term "alcohol" means methanol, ethanol and any other alcohol produced from biomass which is suitable for use by itself or in combination with other substances as a fuel, or as a substitute for petroleum or petrochemical feedstocks in nonfuel applications. The term does not include alcohol for beverage purposes.

(2) the term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants. For purposes of subtitle A, such term does not include municipal wastes since financial incentives for municipal waste energy projects are provided for in subtitle B. For purposes of subtitle C, which provides for USDA research and extension activities, such term does not include municipal wastes or aquatic plants.

Wood and wood wastes and residues means forest products derived from trees after they are cut, trees not harvested for forest products, portions of trees such as roots, limbs, tops and stems, dead, dying and down trees, and wastes and residues of timber harvesting and processing such a bark, sawdust, and other wastes and residues.

(3) the term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass, including fuels such as alcohol, pyrolitic products, char, densified wood and methane and other gases.

(4) the term "biomass energy" means—

(A) biomass fuel; or

(B) the energy or steam derived from the combustion of biomass for the generation of electricity, mechanical power or industrial process heat.

(5) the term "biomass energy project" means any facility or portion of a facility located in the United States which is primarily for the production of biomass fuel and byproducts, or the combustion of biomass for the purposes of generating industrial process heat, mechanical power, or electricity (including cogeneration). The term does not include machines which only alter the size or shape of units of biomass.

(6) the term "Btu" means British thermal unit.

(7) the term "cogeneration" means the combined generation by any facility of both (A) electrical or mechanical power, and (B) steam or other forms of useful energy (such as heat) which are used for industrial or commercial applications including heating and cooling; such term includes district heating.

(8) the term "cooperative" means any agricultural association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j). The Conferees intend that the term "farmers" as used in section 15(a) of that Act means producers of agricultural commodities and other agricultural products. Such producers include, among others, ranchers, dairymen, planters, and nut and fruit growers.

(9) the term "construction" means (A) the construction of any biomass energy project; (B) the acquisition of any facility which has not been operated as a biomass energy project; (C) the conversion of any facility which has not been operated as a biomass energy project to a biomass energy project; or (D) the expansion or improvement of any biomass energy project to the extent such expansion or improvement increases the capacity or efficiency of that facility to produce biomass energy.

Such term includes (1) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and (2) the acquisition of land and improvements thereon for the construction, expansion, or improvement of a biomass energy project, or the conversion of a facility to such a project to the extent such expansion, improvement or conversion is related to the production of biomass energy. Such term also includes capital costs necessary to meet environmental standards.

Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition. The Conferees do not intend that this provision discourage the providing of financial assistance for the conversion or expansion of idle distilling capacity. Construction costs eligible for assistance with respect to a facility or a portion of a facility which produces biomass energy other than biomass fuel, include only costs related to constructing or converting boilers, on-site machinery and handling equipment and other equipment, which is necessary for the use of biomass as a fuel. With respect to projects producing biomass fuel and byproducts, such term may also include, consistent with section 217(a)(6), portions of such facility related to the production of such byproducts.

(10) the term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11) the term "financial assistance" means loans, loan guarantees, price guarantees, or purchase agreements, or any combination of such forms of financial assistance. As used in this term "loans" mean insured loans for purposes of Subtitle A, and direct loans and price support loans for purposes of Subtitle B. Such term also includes any commitment to provide any such form or combination of forms of assistance.

(12) the term "Indian tribe" means any Indian tribe, band, or nation.

(13) the term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(14) the term "municipal waste" means any organic matter including sewage, sewage sludge, and industrial or commercial waste and mixtures of such matter and inorganic refuse from a public or private municipal waste collection or similar disposal system or from similar waste flows (other than such flows which constitute agricultural wastes or residues, such as milk and cheese processing wastes; or wood wastes or residues from wood harvesting activities or production of forest products). The term "municipal waste" does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title. Organic matter also includes plastics and other materials derived from petroleum or natural gas.

(15) the term "municipal waste energy project" means any facility or portion of a facility located in the United States primarily for a) the production of biomass fuel and byproducts from municipal waste or b) the combustion of municipal wastes, for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity, including cogeneration. The term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) the term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220 of this title.

(17) the term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(19) the term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) the term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol, or its energy equivalent of other forms of biomass energy.

Funding for subtitles A and B

Section 204 provides that for the two-year period beginning October 1, 1980, there is authorized to be appropriated and transferred to the extent provided in advance in appropriation acts, $1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States pursuant to Public Law 96-126. These funds shall be available to the Department of Agriculture and Department of Energy as follows:

(1) $600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A of which up to one-third shall be for small scale biomass energy projects;

(2) $600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the

Secretary, including authorities under subtitle A; and

(3) $250,000,000 to the Secretary of Energy for carrying out activities under subtitle B.

Funds made available under this section shall remain available until expended.

The Conferees intend that the funds provided pursuant to this authorization shall be provided directly for the use of the Secretaries, as provided for in this title.

For purposes of determining the amount of such appropriations which remain available for purposes of this title: (a) loans shall be counted at the initial face value of the loan; (b) loan guarantees shall be counted at the initial face value of such loan guarantee; (c) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and (d) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

Determinations shall be made in accordance with generally accepted accounting principles, consistently applied. If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this section; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this section.

Financial assistance may be provided under this subtitle only to the extent provided in advance in appropriations acts.

Coordination with other authorities and programs

Section 205 provides that the authorities contained in this title are in addition to and do not modify (except to the extent expressly provided for in this title) the authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

Biomass energy development plans

Section 211(a) requires the Secretary of Agriculture and the Secretary of Energy within 180 days after enactment jointly to prepare and transmit to the President and the Congress, a plan for maximizing, in accordance with the purposes, goals, terms, conditions and restrictions in this subtitle, biomass energy production and use. In addition to establishing a goal for the production of other forms of biomass energy, such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

Section 211(b) requires the Secretary of Agriculture and Secretary of Energy, not later than January 1, 1982, jointly to prepare and transmit to the President and the Congress, a comprehensive plan for maximizing biomass energy production and use in accordance with the purposes, goals, terms, conditions, and restrictions of this subtitle, for the eight-year period beginning January 1, 1983, and ending December 31, 1990. In addition to establishing a goal for the other forms of biomass energy such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the estimated level of gasoline consumption in the United States for the calendar year 1990. This plan shall include an evaluation of the feasibility of reaching the goals set forth in the plan.

Section 211(c) requires the plans prepared under subsections (a) and (b) to include guidelines to be used in awarding financial assistance under this subtitle. The guidance shall be designed to increase during the period covered by the plan the relative amount of motor fuel displaced by the production of biomass energy. The Conferees anticipate that one of the significant aspects of such displacement will be achieved through the increased use of alcohol fuels in a manner which maximizes the octane enhancement qualities of such fuels.

The Conferees believe that rural electric cooperatives can contribute significantly toward achieving increased biomass energy production and would encourage DOE to consider participation by such cooperatives in promising energy demonstration projects.

Program responsibility and administration; Effect on other programs

Section 212(a)(1) provides that, except as provided in paragraph (2) for projects which are eligible for financial assistance from either or both USDA or DOE, the Secretary concerned with respect to any financial assistance under this subtitle for a biomass energy project shall be (A) the Secretary of Agriculture, for any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol, or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and (B) the Secretary of Energy, for any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy). The term "feedstocks other than aquatic plants" is only used to clarify the respective jurisdictions of USDA and DOE.

Subsection (a)(2)(A) provides that either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned for any biomass energy project which will have an anticipated annual production capacity of 15,000.000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and which (a) will use wood or wood wastes or residues, or (b) is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

When either Secretary is considered the Secretary concerned, financial assistance may not be provided without the written concurrence of the other Secretary. Concurrence shall be granted or denied on the same standards as that Secretary applies in making his own awards of financial assistance to ensure that concurrence will not be denied on an inequitable basis. Reviews under this provision shall use the following procedure:

The Secretary shall provide the other Secretary with a copy of the application and such supporting information as may be material and an opportunity of 15 days to review the project. If, during the 15-day period, the reviewing Secretary provides written notification to the Secretary concerned specifying reasons why such project should not proceed, the Secretary concerned shall defer a final decision on the application for an additional 30 days.

The criteria established in subsection (c)(3) shall apply to review by the reviewing Secretary under this paragraph. During such 30-day period, the Secretaries shall attempt to resolve all issues raised in such written notice.

Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of the 30-day period, concurrence by the reviewing Secretary shall be deemed to have been given. At that time, the Secretary concerned may provide financial assistance to the project without consulting further with the reviewing Secretary.

In the event a project application is disapproved, the project applicant may resubmit an application to the Secretary concerned for the same project, modified to address concerns raised by both Secretaries. Review of such project by the reviewing Secretary shall be limited to those specific concerns specified in the initial notice of disapproval and any issues raised by changed circumstances.

Subsection (a)(2)(D) provides that the Secretaries may jointly provide financial assistance according to such procedures as they jointly prescribe to (1) projects over 15 million gallons of annual capacity operated by cooperatives or (2) projects over 15 million gallons of annual capacity involving wood and wood waste feedstocks. In the case of joint projects, the proportion of financial assistance provided by each Secretary shall be determined by joint agreement of the Secretaries.

Subsection (b) requires each Secretary to take such action as may be necessary to assure that (1) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after the date of the enactment; (2) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established; (3) additional applications for financial assistance under this subtitle are solicited within one year after the date of the initial solicitations; (4) any application is evaluated and a decision made on such application within 120 days after receipt of the application, including any consultation or concurrence provisions under subsection (a)(2)(C), (a)(2)(D) or (c); and (5) all interested parties are provided the easiest possible access to the application process. A decision can include an award of assistance, a commitment to award assistance or a disapproval of the application.

Subsection (b)(2) provides that the procedural requirements of subparagraph (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

Subsection (b) does not require that applications be considered on a simultaneous consideration (batch) basis. The Conferees encourage the Department of Agriculture to use existing Farmers Home Administration procedures which provide for a single ongoing solicitation with projects reviewed on a sequential basis for purposes of expediting administration of this title. In the interest of expediting implementation of the authorities contained in this title, the Conferees would encourage the use of interim final regulations which conform existing FmHA procedures to the provisions of this title.

Subsection (c) contains consultation provisions which require that after evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with (1) a copy of the application and any other appropriate supporting material, and (2) an opportunity to review the project involved.

Reviews of projects under subsection (a)(2)(C) (requiring concurrence) and paragraph (1)(B) of this section (providing for consultation) shall be on the following basis: (1) the Secretary of Agriculture shall review projects for the purpose of considering national agricultural policy issues including national, regional, and local impact of such project on agricultural supply, production and use; and (2) the Secretary of Energy shall review projects for the purpose of considering national energy policy impacts and the technical feasibility of the project.

The following procedure applies to all projects except those requiring concurrence under subsection (a)(2). The Secretary concerned shall notify the reviewing Secretary prior to approving a project. If the reviewing Secretary provides written notice specifying issues concerning matters subject to its review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned may not award or commit to award financial assistance on the application for an additional 30 days to provide an opportunity during which time both Secretaries shall attempt to resolve issues raised by the reviewing Secretary in his notice. At the expiration of the 30-day period, the Secretary concerned may take final action with respect to the application, using his best judgment to resolve any remaining issues.

The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which the consultation provisions shall not apply. Within 90 days after the date of enactment, the Secretaries shall review potential categories and make an initial determination of exempted categories.

The Conferees intend that appropriate categories of exempted projects would include projects with insignificant impacts such as projects which, under normal agency procedures, would be processed solely at the local level, projects which replicate proven technologies or projects which only have minimal impact on agricultural or energy policy considerations.

Subsection (d) provides that if any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval. Prompt and precise notification will enable the applicant to make necessary changes and resubmit the application.

Subsection (e) provides that the functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities within the Department which the Secretary of Agriculture may designate. The Secretary of Agriculture is required, within 30 days after the date of enactment to make such designation and notify the Congress of the administrative entity or entities so designated and the officials within such administrative entity or entities who are responsible for such function.

The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out the provisions of this title.

The entity designated by the Secretary shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

Subsection (f) provides that the functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol fuels are assigned to the Office of Alcohol Fuels established under section 220. Any function not assigned to the Office of Alcohol Fuels shall be assigned by the Secretary pursuant to the DOE Organization Act.

Subsection (g) requires the Secretary of Agriculture and the Secretary of Energy to jointly prescribe, within 30 days of enactment, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol for purposes of administering the provisions of this subtitle.

Insured loans

Subsection (a) provides that, subject to section 212 and section 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not in excess of $1,000,000 per project for the construction of small scale biomass energy projects. Small scale projects are projects which have an anticipated annual production capacity of less than 1,000,000 gallons of ethanol or its energy equivalent of other forms of biomass energy.

Subsection (b) provides that insured loans (1) may not exceed 90 percent of the total estimated cost of the construction of the biomass energy project involved, and (2) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of 1 percent.

In the event the total estimated construction costs of the project exceed the total costs initially estimated by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 percent of the total costs initially estimated.

Subsection (c) provides that the Secretary of Agriculture must make insured loans under section 213 using, to the extent provided in advance in appropations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act. The Secretary of Agriculture could not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregeate amount for insured loans and related administrative costs appropriated and transferred under section 204. The terms, conditions, and requirement applicable to such insured loans would be in accordance with subtitle A.

Subsection (c) provides that there will be reimbursed to the Funds, from appropriations made under section 204 of this title, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section. It is understood that losses resulting from lending under this section would be considered an operating costs.

Subsection (c) provides that, notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans may be used for any other purpose. For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

Subsection (d) requires that prior to making an insured loan, the applicant for such loan must establish to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

Loan guarantees

Section 214(a) provides that, subject to the requirements of sections 212 and 217, the Secretary of Agriculture or the Secretary of Energy (as the case may be) is authorized to commit to guarantee and to guarantee against loss of principal and interest for loans which are made to provide funds for the construction of biomass energy projects.

Section 214(b) provides that no commitment or guarantee under this section shall exceed 90 percent of the cost of construction of the project involved, as estimated by the Secretary concerned on the date of the commitment or guarantee.

In the event the cost of construction of a project for which a commitment or loan guarantee has been made thereafter exceeds the cost of construction initially estimated by the Secretary, upon application therefor, the Secretary concerned may provide loan guarantees for up to 60 percent of the difference between the initial cost of construction and the increased cost of construction, as estimated by the Secretary concerned.

Section 214(c) provides that no loan or other debt obligation which is guaranteed or committed to be guaranteed under this section shall be eligible for purchase by, or sale or issuance to the Federal Financing Bank.

Section 214(d) requires that the terms and conditions of loan guarantees under this section shall expressly provide that if the Secretary concerned makes any payment of principal or interest upon the default of the borrower, the Secretary shall be subrogated to the rights of the recipient of such payment.

Section 214(e) provides that any loan guarantee under this section should not be terminated, cancelled, or revoked except in accordance with its terms, and shall be conclusive evidence of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Section 214(f) provides that in the event that the Secretary concerned determines that the borrower under a loan guarantee is unable to meet payments but is not in default; that it is in the public interest to permit the borrower to continue with the project; and that the benefit to the United States in advancing the principal and interest due under a guaranteed loan will be greater than that which would result in the event of a default, then the Secretary concerned may pay to the lender under the loan guarantee an amount up to the principal and interest which the borrower is obligated to pay if the borrower agrees to reimburse the Secretary on terms and conditions, including any requirement for collateral or other security, the Secretary deems necessary to protect the financial interests of the United States.

Section 214(g) provides that no loan shall be guaranteed under this section unless the applicant establishes to the satisfaction of the Secretary concerned that the lender is unwilling without such guarantee to extend credit to the applicant at reasonable terms to finance the construction of the biomass energy project for which such loan is sought.

Section 214(g) requires the Secretary concerned to ensure that the lender bears a reasonable degree of risk in the financing of the project. The conferees intend that the lender should bear a reasonable degree of the risk in order to assure the lender's full participation in financing. The lender should bear enough risk to assure that he will fully evaluate and scrutinize the loan for viability. In addition, this will also assure that the lender will fully service the loan during the life of the loan. The Secretary concerned may take into consideration the total financial exposure of the lender to the project.

Price guarantees

Section 215 provides that subject to the requirements of section 212 and 217, the Secretary of Agriculture and the Secretary of Energy, as the case may be, are authorized to commit to, or enter into, price guarantees providing that the price received by the owner or operator of any biomass energy project for all or part of the production from the project involved shall not be less than a specified sales price determined as of the date of execution of the commitment or guarantee.

No such price guarantee may be used upon a cost plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved. However, the use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost plus arrangement, or variant thereof, for purposes of this provision.

Any price guarantee, or commitment to guarantee, under this section must specify the maximum dollar amount of liability of the United States.

If the Secretary determines that a biomass energy project would not otherwise be satisfactorily completed or continued, and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee and maximum liability under such guarantee may be renegotiated.

Purchase agreements

Section 216 authorizes the Secretary of Agriculture or the Secretary of Energy, as the case may be, subject to sections 212 and 217, to commit to and enter into purchase agreements for all or part of the biomass energy production of any biomass energy project, if he determines 1) that the biomass energy involved is of a type, quantity, and quality that can be used by Federal agencies; and 2) that if delivery is accepted, the quantity involved would not exceed the anticipated likely needs of Federal agencies.

In order to avoid excessive purchases for delivery to Federal agencies, the Secretaries must consult with one another before making any determination regrading quantities and agency needs.

The sales price specified in a purchase agreement may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title. The Conferees intend that in making this determination, the Secretary concerned will act to advance the purposes of this title including the goals set forth in Section 211.

In entering into, or committing to enter into, a purchase agreement under this section, the Secretary concerned shall require assurances that the quality of the biomass energy purchased will meet standards for the use for which it is purchased; that the product will be delivered on a timely basis; and such other assurances as may reasonably be required.

The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. The Conferees intend that consultations under subsection 216(e) will be undertaken in order to determine appropriate arrangements for the distribution and use of fuel accepted for delivery under any agreement. It is expected that the Secretary concerned, in order to avoid the delivery of excessive or unusable amounts of product, as appropriate, will exercise the right to refuse delivery reserved to the Government in the contract as provided in subsection 216(f). Federal agencies receiving such energy shall be charged (in accordance with otherwise applicable law), from sums appropriated to them, the prevailing market price as of the date of delivery, for the product which the biomass energy is replacing, as determined by the Secretary of Energy.

The Secretary concerned is required to consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section for purposes of determining Federal agency needs and making appropriate arrangements for delivery.

Each commitment to purchase and purchase agreement under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement, including lack of a Federal agency use for the biomass energy, and shall specify the maximum dollar amount of liability of the United States under the agreement.

If the Secretary concerned determines that a biomass energy project would not otherwise be satisfactorily completed or continued, and that completion or continuation of the project is necessary to achieve the purposes of this title, the sales price set forth in the purchase agreement, and maximum liability under the agreement, may be renegotiated.

General requirements regarding financial assistance

Section 217 requires that in establishing and implementing their procedures for evaluating applications for financial assistance, both Secretaries shall include procedures which will provide a priority for those biomass energy projects that use a primary fuel other than petroleum or natural gas in the production of biomass fuel. Examples of such alternatives would be geothermal energy resources, solar energy resources, waste heat, or coal. Solar energy resources is given its broadest meaning and includes wood, bagasse, and corn stover. This list of alternative fuels is not considered to be all inclusive. For purposes of this provision, the use of petroleum or natural gas does not include fuels which are commercially unmarketable by reason of quality, quantity or distance from existing transportation systems, such as the flaring of natural gas. A primary fuel is considered to be the predominate fuel used by the biomass energy project and does not include incidental use of petroleum or natural gas, for example, for flame stabilization.

In addition, each Secretary shall accord the same priority treatment for biomass energy projects which apply new technologies that expand possible feedstocks for biomass energy projects, which produce new forms of biomass energy, or which produce biomass fuel using improved or new technologies. In addition, each Secretary is to attempt to accord the most favorable financial terms to such projects to encourage such projects to maximize the production of biomass energy. In designing the overall program for financial assistance, the Secretary concerned should assure that the duplication of the technologies used by biomass energy projects receiving assistance under this subtitle is minimized in cases where there is a variety of available technologies. The preceeding sentence does not apply to the production of liquid biomass fuels.

This priority is not to be used in any way to exclude a project from financial assistance which does not use such a fuel or apply such a technology. Priority treatment can be provided only if the project complies with the terms and conditions provided for in this title.

Section 217 provides that financial assistance can only be given to a biomass energy project which produces a biomass fuel if the Secretary concerned finds that the Btu content of motor fuels to be used in the project does not exceed the Btu content of the biomass fuel produced by the project. In making such a determination the Secretary shall consider only the project for which financial assistance is requested.

In making such a determination the Secretary concerned shall also take into account any displacement of motor fuel or other petroleum products which occurs after the production of biomass fuel. Such displacement could occur after the fuel is produced, as a result of the marketing operation or because of the manner in which the biomass fuel is used such as through octane enhancement. Characteristics of ethanol blending would allow a refiner to reduce the severity of reforming and to produce gasoline of a sufficient octane level for market, resulting in decreased consumption of fuel by the refinery. This provision requires that the applicant bear the burden of proof that such displacement will occur.

Section 217 provides that no financial assistance may be provided for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed, or for resale for such use, for readily available markets in any case in which to do so would be technically and economically practicable. The burden of making such a finding is on the Secretary concerned.

Section 217 provides that financial assistance may not be provided under this subtitle to any person unless the Secretary concerned finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future; and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities.

The Conferees are concerned that adequate supplies of wood and wood wastes and residue be maintained for the production of both wood products and biomass energy. While the Conferees believe that a greater use of wood and wood wastes and residue for biomass energy can be entirely consistent with maintaining an adequate wood fiber supply for the production of wood and wood products, the Conferees believe that it is necessary that the Secretary concerned consider the effects of a biomass energy project using wood and wood wastes and residues from the National Forest System lands on the local timber market supply before awarding any financial assistance as provided for under this subtitle. Sufficient availability of wood and wood wastes and residues from the National Forest System lands for existing and proposed facilities is the primary concern addressed by this provision.

Section 217 provides that no person may qualify for financial assistance unless he has provided the Secretary with assurance that he will bear a reasonable degree of risk in the construction and operation of the project, considering all financial aspects of the project.

Section 217 provides that in order to maximize the production of biomass energy, and for the other purposes of this subtitle the Secretary shall award only the amount of financial assistance necessary for a biomass energy project. The Secretary concerned shall take into account the other types of financial assistance requested and awarded.

Section 217 requires that in providing financial assistance, the Secretary concerned may evaluate the markets involved, and shall give due consideration to promoting competition.

Section 217 provides that the Secretary must consider any potential revenues from byproducts in addition to biomass energy, which are produced by a biomass energy project, and the costs attributable to their production. Such consideration shall go toward the Secretary's determination of the amount of financial assistance which should be awarded to the project.

Section 217 provides that insured loans

and loan guarantees may not be made unless the Secretary concerned determines that the financial interests of the United States are sufficiently protected. He shall make this determination by considering the terms, conditions, maturity, security and scheduled amounts of repayments with respect to such loan.

Section 217 provides that no financial assistance may be provided by the Secretary concerned unless the application has been submitted and approved according to procedures established under this subtitle.

Section 217 requires the applicant to provide the Secretary concerned information regarding the construction costs of the biomass energy project involved, estimates of operating costs and income, and income from the sale of any byproducts, and such other assurances as the Secretary may require. In addition, the applicant shall provide to the Secretary access to the information required by such Secretary at all reasonable times thereafter. The Secretary concerned may require the recipient of financial assistance to consent to examinations and reports, as a condition precedent to the award of financial assistance. The Secretary concerned will prescribe the manner in which the recipient shall keep records necessary for the Secretary's information. The Conferees expect that the Secretary concerned will require recipients of financial assistance to maintain and make available whatever records may be necessary to safeguard the interests of the Government. At the same time, recipients are not to be subjected to unnecessary recordkeeping burdens. The Conferees intend that such requirements be formulated so as to avoid unnecessary recordkeeping. To minimize such burdens, the Secretaries are expected to use to the maximum extent practicable records and information a recipient of assistance is already required to maintain for regulatory and other purposes.

Secton 217 provides that all contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

Section 217 provides that, subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

Section 217 authorizes the Secretary concerned in the case of loan guarantees, price guarantees, or purchase agreements to charge and collect a fee for providing such financial assistance. The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that the fee may not exceed 1 percent of the maximum financial assistance provided.

Section 217 requires that, except for insured loans under section 213, all amounts received by either Secretary from operations under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports

Section 218 requires the Secretaries of Agriculture and Energy to report to the Congress quarterly on biomass activities relating to this subtitle. The Secretaries shall file a comprehensive list with Congress within four months of enactment that outlines existing or proposed financial assistance programs available for alcohol fuel production from Federal, State, or private sources.

Section 218(c) contains additional reporting requirements for the Office of Alcohol Fuel as follows:

(1) The submission of an annual report to the Congress and President highlighting the status of individual alcohol fuel projects that received financial assistance from the Office, and a statement reviewing the Office's activities (including a financial statement), the progress made toward meeting the production goals established in the subtitle and any further recommendations to the Congress on how to meet these goals; and

(2) The writing and filing of a report to the Congress and President prior to September 30, 1990 summarizing the overall impact of the program, the status of the individually-financed alcohol projects, and a plan for terminating the operation of the Office.

Review; reorganization

Section 219 provides for the periodic review of the progress of both Departments under this title. The President may recommend reorganization, specifically any realignment of the responsibilities of the two Departments under this subtitle. The President would propose such a reorganization pursuant to the authority in Chapter 9 of title 5 of the United States Code.

Establishment of Office of Alcohol Fuels in Department of Energy

Section 220 establishes, within the Department of Energy, an Office of Alcohol Fuels, as an independent office in the Department of Energy. The Office will be headed by a Director, appointed by the President and confirmed by the Senate. The Director will be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol production. He shall be responsible for all matters, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary. For all other matters the Director shall be subject to the Secretary's authority. The Director will report directly to the Secretary, and shall report to no other officer or employee of the Department.

Section 220 requires the Office to submit a separate report in the annual budget submission for DOE. The Secretary, after consulting with the Director, is required to consult with named heads of other departments and agencies, or their appointed representatives and to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in the named departments and agencies.

Termination

Section 221 prohibits the commitment or negotiation of new insured loan agreements, loan guarantees, price guarantees, or purchase agreements after September 30, 1984.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

Municipal waste energy development plan

Section 231(a) directs the Secretary of Energy to prepare a comprehensive plan for carrying out the authorities and responsibilities in subtitle B. In so doing, the Secretary must consult with the Administrator of the Environmental Protection Agency, Secretary of Commerce and the heads of the other Federal agencies as may be appropriate.

The Conferees intend that the Director of the Office of Energy from Municipal Waste will have chief responsibility for the preparation of the comprehensive plan. The Conferees stress that the intent of this legislation is to expedite the commercialization of municipal waste-to-energy technologies.

Section 231(b) directs the Secretary to transmit the comprehensive plan within 90 days of enactment of this Act to the President and the Congress.

Section 231(c) prescribes those elements which should be contained in the comprehensive plan including the anticipated objectives to be achieved, a description of the management structure and the approach to be used, the program strategies including detailed milestones, and the funding requirements for each program element and activity and the expected contribution from the non-federal participants in the program.

Section 231(d) directs the Secretary to prepare and submit to the President and the Congress no later than January 1, 1982, a report containing a complete description of the financial, institutional, environmental and social barriers to the development and applications of technologies for the recovery of energy from municipal waste. The Conferees intend that the Secretary should solicit the views and comments of the Administrator of the Environmental Protection Agency and the Secretary of Commerce (or their designees) prior to the preparation of this report.

Construction loans

Section 232(a) provides authority to the Secretary of Energy to commit to make and make loans for the construction of municipal waste energy projects, consistent with certain limitations required under section 235 and 236.

Section 232(b) limits the construction loans to a maximum of 80 percent of the total estimated cost of the construction project and specifies that the interest rates will be determined by the Secretary of Energy considering the current average market yield and outstanding marketable obligations in the United States with a maximum addition of 1-percent rounded off to the nearest one-eighth of 1 percent. It also allows the Secretary to make an additional loan available to an applicant for costs that exceed the initial estimate up to a maximum amount of 10 percent of the initial total estimated costs of construction.

Section 232(c) requires the applicant to satisfy the Secretary of Energy that without such a loan the applicant would not be able to obtain sufficient credit elsewhere at reasonable rates and terms to finance the construction of the project.

Guaranteed construction loans

Section 233(a) grants authority to the Secretary of Energy to commit to guarantee and guarantee against loss of up to 90 percent of the principal and interest on loans consistent with certain limitations required under Sections 235 and 236, which are made solely to provide funds for the construction of municipal waste energy projects.

Section 233(b) allows the Secretary to make an additional loan guarantee available to an applicant on up to 10 percent of the costs that exceed the initial total estimated costs of construction. The loan guarantee is restricted to 90 percent of such cost overruns.

Section 233(c) requires that the terms and conditions of loan guarantees under this section shall expressly provide that if the Secretary of Energy makes any payment of principal or interest upon the default of the borrower, the Secretary shall be subrogated to the rights of the recipients of such payment.

Section 233(d) provides that any loan guarantee under this section may not be terminated, cancelled, or revoked except in accordance with its terms, and shall be conclusive evidence of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Section 233 (e) provides that in the event that the Secretary of Energy determines that the borrower under a loan guarantee is unable to meet payments but is not in default; that it is in the public interest to permit the borrower to continue with the project; and that the benefit to the United States in advancing the principal and interest due under a guaranteed loan will be greater than that which would result in the event of a default, then the Secretary may pay to the lender under the loan guarantee an amount up to the principal and interest which the borrower is obligated to pay if the borrower agrees to reimburse the Secretary on terms and conditions, including any requirement for collateral or other security, the Secretary deems necessary to protect the financial interests of the United States.

Section 233(f) provides that no loan shall be guaranteed under this section unless the applicant establishes to the satisfaction of the Secretary of Energy that the lender is unwilling without such guarantee to extend credit to the applicant at reasonable terms to finance the construction of the municipal waste energy project for which such sum is sought.

Section 233(g) provides that interest paid on loans or debt obligations, which are issued after the date of enactment of this Act, and are guaranteed by the Secretary, and are not supported by the full faith and credit of the issuer, must be included as gross income by the purchaser. With respect to such guaranteed obligation, the Secretary is authorized to pay the issuer an interest differential payment for the purpose of compensating the issuer for increased costs as a consequence of the taxable status of interest on the obligation.

Section 233(h) provides the Secretary with the authority to charge and collect fees for a loan guarantee in an amount which does not exceed 1 percent of the maximum value of the guarantee.

Price support loans and price guarantees

Section 234 provides the Secretary of Energy with the authority to make price support loans for the operation of either new or existing municipal waste energy projects and price guarantees for the operation of new municipal waste energy projects.

A new municipal waste energy project is one placed in service after the date of enactment of the Act or is an existing facility which significantly increases its capacity after the date of enactment of the Act. A facility is considered "placed in service" if it has operated at more than 50 percent of its estimated operational capacity.

In each case, financial assistance becomes available only if biomass energy is produced and sold. Biomass energy in this context means electricity or steam produced by direct combustion of municipal waste or gaseous, liquid or solid fuels derived from municipal waste. It does not include metals or other byproducts separated from the municipal waste for recycling and, thus, the financial assistance is expressly limited to energy sold and does not extend to the sale of other recovered materials produced by the municipal waste energy project. In order to minimize the need for subsidies to municipal waste energy projects the Conferees encourage the Administrator of EPA to vigorously enforce the provisions of the Resource Conservation and Recovery Act, so that tipping fees reflect the real costs of waste disposal in landfills.

Section 234(a) restricts the time during which an existing facility can get financial assistance in the form of a price support loan to five years and requires that the loan be paid back during the next 10 year period. If the economic life of the plant is less than 10 years, then the loan repayment term will be set equal to the economic life of the plant. The amount of the price support loan granted each year is diminished by 20 percent so that after five years the amount of the price support loan is reduced to zero.

No interest is charged during the first five years but it is expected that an interest rate equal approximately to the "cost of money" to the Government will be charged over the repayment period.

The amount of the price support loan is the lesser of:

(1) \$2.00×(biomass energy produced and sold during the first year); or

$$(2)\quad \left[\begin{pmatrix}\text{Price of imported No. 6 fuel oil at the}\\ \text{date of enactment as determined}\\ \text{by the Secretary}\end{pmatrix} - \begin{pmatrix}\text{Cost of the energy dis-}\\ \text{placed by the biomass}\\ \text{energy}\end{pmatrix}\right]$$

×(biomass energy produced and sold during the first year).

All quantities in the formula are computed in units of "dollars per million Btu's." If the energy displaced is petroleum or a petroleum product, the price of imported #6 fuel is increased by 25 percent.

For example, if the Secretary determines that the price of imported #6 fuel oil at the time of enactment is \$3.70 per million Btu's (\$23 per barrel) and that the fuel displaced by the sale of the biomass energy from the municipal waste energy project is natural gas priced at \$2.70 per million Btu's, then the amount of the price support loan would be \$1.00 per million Btu's (\$3.70–\$2.70) produced and sold. If the fuel displaced is, for example, #2 fuel oil, then the \$3.70 is adjusted up to \$4.63 (1.25×3.70) and the price support loan is \$1.93 per million Btu's.

Section 234(b) provides the Secretary with the authority to make price support loans for the operation of new facilities. These authorities are similar to those in subsection (a) except that the initial disbursement period is increased from five to seven years during which the loan amount is decreased one-seventh per year and the repayment period is set at the lower of the economic life of the facility or fifteen years.

Section 234(c) provides the Secretary with the authority to make price guarantees for the operation of a new facility. The guarantee would state that the price the owner or operator of the project will receive for all or part of the production from a facility would be not less than a specified sales price determined as of the date of execution of the guarantee agreement. No guarantee agreement can be on a cost-plus arrangement and no guarantee may last more than 7 years.

The Secretary may require the funds disbursed under the price guarantee agreement to be repaid. The Act allows the Secretary to set the terms and conditions of such a repayment requirement including interest at a rate not in excess of the rate provided for under subsection (a).

Section 234(d) defines the terms used in this subtitle. It specifies that for either an existing or a new facility which produces electricity or steam, the Secretary can, in the price support formula, multiply the price of No. 6 fuel oil by adjustment factors which he determines to be appropriate.

This section clarifies that any biomass energy from a municipal waste energy project may be retained for use by the owner or operator of such project and shall be considered as sold at such price as the Secretary of Energy determines. This section requires the Secretary to prescribe by rule within 90 days of enactment the manner of determining the fuel displaced by biomass energy sold or considered as sold, and the price of the fuel displaced.

General requirements regarding financial assistance

Section 235(a)(1) gives priority for financial assistance (consistent with Section 232, 243, and 234) to those municipal waste energy projects which produce a liquid fuel or which replace petroleum or natural gas as a fuel. Such priority should not be given for a project that intends primarily to displace the use of coal.

Section 235(a)(2) provides that financial assistance will only be available to projects which directly combust municipal waste if such projects do not use petroleum or natural gas except for flame stabilization or start up. For projects which produce biomass fuel, financial assistance may only be provided if the Btu content of any biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the facility.

Section 235(a)(3) limits financial assistance to those projects which will have adequate municipal waste feedstocks for the expected economic life of the project.

Section 235(a)(4) requires the Secretary to give due consideration to the promotion of competition in providing financial assistance.

Section 235(a)(5) directs the Secretary to consider the potential value of byproducts and the cost attributed to their production in determining the amount of financial assistance for any municipal waste energy project. Such byproducts include metals, paper, glass and other similar recycleable materials.

Section 235(a)(6) restricts the financial assistance for municipal waste energy projects to those where the Secretary first determines that the project will be technically and economically viable. In addition, the municipal waste energy project shall not use in any substantial quantities wastepaper that could otherwise be recycled for use other than fuel. Such projects shall not substantially compete with facilities engaged in the separation of reuseable materials such as source separate wastepaper. The Conferees, in protecting existing recycling facilities, do not intend to preclude the expansion of materials recycling to fulfill market demand for such recycled materials. That the financial assistance provided encourages and supplements but does not compete with or supplant any private capital investment which otherwise would be available to the project on reasonable terms and conditions, and that the financial assistance provided to the project is only what is necessary in order to make the project viable. The Conferees also intend that the Secretary should consider whether the project will unnecessarily disrupt the existing municipal waste collection and disposal systems. The proposed municipal waste energy project should be coordinated with local or regional planning activities and be consistent with existing municipal services to the extent possible. Priority should be given to those projects for which planning and feasibility studies have been completed under existing authorities.

Section 235(b) limits financial assistance to those projects where the Secretary of Energy determines that the terms, conditions, maturity, security and schedule and amounts of repayment, with respect to any assistance are reasonable and meets such standards as the Secretary determines are sufficient to protect the financial interests of the United States. He must also determine that the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

Section 235(c) limits financial assistance to a person who makes application to the Secretary of Energy in the form and under such procedures as he may prescribe and whose application has subsequently been approved by the Secretary. It further states that each application shall include information regarding the cost of the municipal waste energy project involved including the construction and operation costs as may be applicable. In addition, each applicant shall also provide access at reasonable times to such other information and such assurances as the Secretary of Energy may require.

Section 235(d) states that every person receiving financial assistance shall consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require. With respect to each municipal waste energy project for which financial assistance is provided, the Secretary must require the person receiving financial assistance to provide such reports as he deems are appropriate, prescribe the manner in which the person receiving assistance shall keep records, and have access to those records at reasonable times for the purpose of insuring compliance with the terms and conditions of the assistance provided.

Section 235(e) states that all amounts received by the Secretary of Energy as fees, interest, repayment of principal and any other moneys received from operations under this title shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

Section 235(f) provides that all obligations of the Secretary providing financial assistance shall be considered general obligations of the United States and backed by the full faith and credit of the United States.

Section 235(g) states that contracts in the hands of the holder shall be incontestable except as to fraud or material misrepresentation on the part of the holder.

Section 235(h) provides that no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed under sections 232, 233, or 234 shall be eligible for purchase by the Federal Financing Bank or any other Federal agency.

Financial Assistance Program Administration

Section 236 directs the Secretary to establish procedures and other actions as may be necessary regarding the solicitation, review and evaluation of applications for awarding of financial assistance as may be necessary to carry out the plan.

Commercialization demonstration program

Section 237(a)(1) directs the Secretary of Energy to establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974, an accelerated research, development and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes.

Section 237(a)(2) exempts the provisions of subsections (d), (m) and (x)(2) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 from applying to the program established under this section.

Section 237(a)(3) directs the Secretary, after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, to undertake a) the research, development and demonstration of methods to recover energy from municipal waste; b) the development and application of new municipal waste-to-energy recovery technologies; c) the assessment, evaluation, demonstration and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to their cost; d) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects; and e) research studies on the size and other significant characteristics of potential markets for energy resource recovery technologies and recovered energy and energy intensive material products.

Section 237(b) allows the Secretary of Energy to provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilites, and, in the case of existing facilities modification of those facilities solely for demonstration purposes, for the conversion from municipal waste into energy or the recovery of materials.

Section 237(c) gives priority funding to those activities which demonstrate technologies for the production of biomass energy which substitute for fuels derived from petroleum and natural gas.

Section 237(d) restricts the Secretary of Energy from obligating or expending any funds authorized by this title in carrying out the commercial demonstration activities prior to the submittal of the comprehensive plan required under section 231 to the Congress.

Section 237(e) provides that all amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general Treasury of the United States as miscellaneous receipts.

Jurisdiction of the Department of Energy and Environmental Protection Agency

Section 238 states that the provisions of section 20(c) of the Federal Nonnuclear Energy Research and Development Act relating to the responsibilities of the Environmental Protection Agency and the Department of Energy will apply with respect to actions taken under the commercial demonstration program.

Establishment of Office of Energy From Municipal Waste in the Department of Energy

Section 239 establishes the Office of Energy From Municipal Waste in the Department of Energy. The Office is to be headed by a Director who will be appointed by the Secretary.

The Conferees intend that the Office be established with minimal disruption to and minimal reorganization of the existing programs.

Section 239(b) states that the function of the Office will be to perform the research, development and demonstration and commercialization activities under Subtitle B as well as such other duties as the Secretary may have assigned to the Office.

It is intended that the Secretary will delegate the new authorities in Subtitle B to the Director of the Office.

Section 239(c) directs the Secretary to consult with the Administrator of the Environmental Protection Agency and the Secretary of Commerce and the heads of other Federal agencies as he deems appropriate in carrying out his functions assigned to the Director of the Office.

Section 239(d) directs the Secretary to transfer such functions and personnel to the Department of Energy as may be necessary and appropriate to the Office of Energy From Municipal Waste to carry out the purposes of this subtitle. The Conferees intend that the Office established will be staffed by those individuals who are presently running the existing Urban Waste and Municipal Waste to Energy program within the Department.

Termination

Section 240 provides no financial assistance loan may be committed to or made under this subtitle after September 30, 1984.

SUBTITLE C—RURAL, AGRICULTURAL AND FORESTRY BIOMASS ENERGY

Model demonstration biomass energy facilities

Section 251(a) requires the Secretary of Agriculture to establish up to ten model demonstration biomass energy facilities to demonstrate the most advanced technologies available for producing biomass energy. The facilities and information regarding the operation of the facilities would be made available for public inspection. To the extent practicable, the facilities would be established in various regions of the United States so that the technology for a variety of different agricultural and forestry feedstocks would be demonstrated. The facilities could be established in cooperation with other appropriate departments, agencies, or other instrumentalities of any State or the Federal government, including the Tennessee Valley Authority.

Section 251(b) authorizes appropriations of $5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984 for the model demonstration biomass energy facilities.

Biomass energy research and demonstration projects

Section 252 amends Section 1419 of the Food and Agriculture Act of 1977, which requires the Secretary of Agriculture to make grants for research related to the production and marketing of alcohol and industrial hydrocarbons made from agricultural commodities and forest products.

Under the amendments, eligibility for grants under Section 1419 would be extended to government corporations (such as the Tennessee Valley Authority), as well as to colleges and universities, as under existing law.

Section 252 strikes from Section 1419 the provisions that grants for alcohol-related research are to be made for research relating to the production and marketing of *alcohol made from agricultural commodities and forest products*, and substitutes a provision requiring the making of grants for research that focuses on the production and marketing of *alcohol and other forms of biomass energy as substitutes for petroleum or natural gas.*

Under the amendment, new authority would be given to the Secretary to make grants for research relating to the development of the most economical and commercially feasible means of collecting and transporting waste residues and byproducts for use as feedstocks in producing alcohol and other forms of biomass energy.

The amendment adds a sentence to Section 1419 providing that alcohol and biomass related research grants may not be used to conduct research for the primary purpose of demonstrating intergrated biomass energy systems for commercialization of technologies for applications other than agricultural or uniquely rural applications.

Under the amendment, at least 25 percent of the amount appropriated in any fiscal year under Section 1419 for alcohol and biomass related research would be required to be made available for grants for research relating to the production of alcohol that identifies and develops wood and wood waste and residues and agricultural commodities (including, among others, alfalfa, sweet sorghum, black locust, and cheese whey) that may be suitable for such production. An additional 25 percent of such amount appropriated for alcohol and biomass related research would have to be made available for grants for research relating to the development of technologies for increasing the energy efficiency and commercial and economic feasibility of alcohol producton, including processes of cellulose conversion and cell membrane technology.

The amendment would add new authorities (in addition to those under existing law) for appropriations of $12,000,000 for each of the fiscal years 1981, 1982, and 1983, and 1984 for alcohol and biomass related research under Section 1419.

Under the amendment, Section 1419, as contained in existing law and amended as described above, would be designated as subsection (a) and a new subsection (b) would be added to the section.

New subsection (b) would define the terms "biomass", "biomass energy", and "municipal waste", as used in Section 1419.

The term "biomass" would be defined to mean any organic matter that is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, but would not include aquatic plants or municipal wastes. The term "biomass energy" would be defined to mean any gaseous, liquid, or solid fuel produced by the conversion of biomass, and energy derived from the combustion of biomass for the generation of electricity, mechanical power, or industrial process heat. It is understood that the word "conversion", as used in the definition, means the physical, chemical, or biological transformation of biomass into a usable energy resource, including the physical conversion of wood and wood wastes and residues into chips, pellets, and similar biomass energy products.

The definitions are consistent with the definitions of such terms contained in Sections 203 and 255 of this title.

Applied research regarding energy conservation and biomass energy production and use

Section 253 amends Section 1 of the Act of June 29, 1935 (commonly known as the Bankhead-Jones Act), which directs the Secretary of Agriculture to conduct research into the laws and principles underlying the basic problems of agriculture, to include among the Secretary's responsibilities (1) agricultural, forestry, and rural energy conservation applied research, and (2) biomass energy production and use applied research.

Forestry energy research

Section 254 amends Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 to authorize the Secretary of Agriculture to conduct, support, and cooperate in energy production and conservation research and associated activities relating to the forest and rangeland renewable resources under that Act.

Biomass energy educational and technical assistance

Section 255 amends the National Agricultural Research, Extension, and Teaching Policy Act of 1977 by adding a new section 1413A to establish a biomass energy education and technical assistance program.

New Section 1413A(a) requires the Secretary of Agriculture, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, to provide educational programs for producers of agricultural commodities and wood and wood products to: (1) inform such producers of the feasibility of using biomass for energy; (2) disseminate the results of research on the use of biomass energy; (3) inform producers of the best available technology for use of biomass for energy; (4) provide technical assistance to producers to improve their ability to efficiently use biomass for energy; and (5) disseminate to such producers the results of research on energy conservation techniques and encourage producers to adopt such techniques.

New Section 1413A(b) authorizes the use of all approprate education methods including meetings, short courses, workshops, tours, demonstrations, publications, news releases and radio and television programs, to implement new Section 1413A.

New Section 1413A(c) establishes the procedures under which State biomass energy educational and technical assistance plans will be developed. In those States that have only one land-grant college or university (as defined in Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977), the State director of cooperative extension would develop a single, comprehensive, and coordinated plan that includes every biomass energy educational and technical assistance program in effect or proposed in the State. In those States that have more than one land-grant college or university, such plan would be jointly developed by the administrative heads of extension of such institutions. The State plans would be developed with the full participation of the State forester or equivalent State official.

Plans developed under this subsection would be submitted to the Secretary of Agriculture annually for his approval. Each State would be required to submit an annual progress report on the operation of its plan. The National Agricultural Research and Extension Users Advisory Board would review and make recommendations on programs conducted under new Section 1413A.

New Section 1413A(d) provides that funds be made available to the State director of cooperative extension and the administrator of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of new Section 1413A.

New Section 1413A(e) contains definitions of "biomass", "biomass energy", and "municipal wastes". The definitions are consistent with the definitions of such terms contained in Sections 203 and 252 of this title.

New Section 1413A(f) authorizes appropriations of $10 million annually for each of the fiscal years 1981, 1982, 1983, and 1984 to carry out new Section 1413A.

Rural energy extension work

Section 256 amends the Smith-Lever Act (which provides for cooperative extension work by State extension services) to include rural energy as part of the cooperative extension work to be conducted under that Act.

Coordination of research and extension activities

Section 257 requires the Secretary of Agriculture to coordinate the applied research and extension programs conducted under (1) subtitle C of Title II, and (2) Subtitle B and Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, the Bankhead-Jones Act, the Forest and Rangeland Renewable Resources Research Act of 1978, and the Smith-Lever Act, as amended under subtitle C, with the programs of the Department of Energy. The Secretary also would be required to consult on a continuing basis with the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, the Joint Council on Food and Agricultural Sciences, and the National Agricultural Research and Extension Users Advisory Board, for the purpose of coordination.

The conferees intend that the Energy Extension Service coordinate its programs with the Cooperative Extension Service of the Department of Agriculture to maximize outreach impact.

Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives

Section 258 directs the Farm Credit Administration to encourage production credit associations, Federal land banks, and banks for cooperatives to use the existing authorities under the Farm Credit Act of 1971 to make loans for commercially feasible biomass energy projects.

Agricultural conservation program; energy conservation cost sharing

Section 259 amends Section 8 of the Soil Conservation and Domestic Allotment Act to authorize the Secretary of Agriculture to provide cost sharing and technical assistance to farmers under the Agricultural Conservation Program in order to encourage energy conservation. Cost sharing and assistance would be provided for: (1) shelter belts to conserve energy on farmsteads and feed lots; (2) minimum tillage systems; (3) the efficient storage and application of manure and other wastes for land fertility and soil improvements; (4) the use of integrated pest management; (5) the use of energy-efficient irrigation water management; and (6) other land, water, and related resources management practices that the Secretary may determine to have significant energy conserving effects.

Production of commodities on set-aside acreage

Section 260 amends the Food and Agriculture Act of 1977 by adding, at the end, a new title XX containing one section designated as Section 2001 and entitled "Production of Commodities on Set-Aside Acreage".

New Section 2001(a) requires the Secretary of Agriculture to permit, subject to such terms and conditions as the Secretary prescribes, all or any of the acreage set aside or diverted from production for any crop year (under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor or other fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

The Agricultural Act of 1949 authorizes agricultural commodity price support operations, and set-asides and acreage diversion programs in connection with price support operations.

With respect to the uses to which alcohol produced from commodities grown on the set-aside acreage could be put, it is understood that new Section 2001 would permit the blending of such alcohol with gasoline or other fossil fuels for use as motor fuel or other fuels.

New Section 2001(b)(1), in years in which there is no set-aside or acreage diversion under the Agricultural Act of 1949, would authorize the Secretary of Agriculture to formulate and administer a program for the production of commodities for conversion into alcohol or hydrocarbons for use as motor or other fuel, subject to such terms and conditions as the Secretary may prescribe. Under the program, producers of wheat, feed grains, upland cotton, and rice would be paid incentive payments to devote a portion of their acreage to such production.

New Section 2001(b)(2) would require that payments under new Section 2001(b) be at fair and reasonable rates determined by the Secretary, taking into consideration the participation necessary to ensure an adequate supply of agricultural commodities for conversion into alcohol or hydrocarbons for use as motor or other fuels.

New Section 2001(b)(3) would authorize the Secretary of Agriculture to issue regulations to carry out the provision of new Section 2001(b).

New Section 2001(b)(4) would authorize appropriations of sums as may be necessary to carry out the provisions of new section 2001(b).

Utilization of the national forest system in wood energy development projects

Section 261 authorizes the Secretary of Agriculture to make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sales procedures, for use by biomass energy projects. This provision is designed to clarify existing law. The Conferees believe that the use of wood and wood wastes and residues for the production of biomass energy can, consistent with the purposes of this Act, make a significant contribution in meeting our total energy needs.

Forest Service leases and permits

Section 262 states the intent of Congress that the Secretary of Agriculture process applications for leases of National Forest System lands and permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any land and resource management plan being prepared under Section 6 of the Forest and Rangeland Renewable Resources Planning Act.

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

Use of gasohol in Federal motor vehicles

Section 271 directs the President to issue an Executive Order requiring all Federal agencies which own or lease motor vehicles capable of using gasohol, to use gasohol where it is available at reasonable prices and in reasonable quantities. The President may include exceptions to this general requirement, such as where the operation of military vehicles would be adversely affected.

The "Report of the Alcohol Fuels Policy Review," issued by the Department of Energy in June 1979, referred to recent actions by the Administration in support of alcohol fuels. One major action was listed as "Federal fleet use of alcohol fuels where available". The Conferees understand that implementation of this policy was achieved in the form of a GSA directive and was never elevated to the force of an Executive Order.

The Conferees anticipate that the Order will provide exceptions for programs to test fuels other than gasohol in Federally owned or leased motor vehicles.

The Executive Order should also define to what extent gasohol must be available before the general mandate to use gasohol applies. For example, if the nearest gasohol supplier is such a distance away as to make travel to and from this supplier clearly result in increased overall petroleum consumption, then the purpose of this section would be defeated.

The Order should also define the term "gasohol" and what percentage blend or blends of alcohol and gasoline constitute "gasohol". In defining the specifications for the use of gasohol, the Order might also consider the minimum octane requirements for vehicles owned or leased by Federal agencies, so as to prevent octane underbuying, which may reduce the useful life of the motor vehicle, and octane overbuying which may result in unnecessarily high petroleum consumption at the gasoline refinery and in an unnecessarily high purchase price at the pump.

It is intended that this Section's reference to motor vehicles leased by Federal agencies is with respect to long-term leases and not, for example, with respect to one-day leases.

Motor vehicle alcohol usage study

Section 272 requires the Secretary of Energy in consultation with the Secretary of Transportation to submit within nine months after the date of enactment of this Act a report to the Congress on the use of alcohol as a fuel in motor vehicles. Specifically, the study would address the need for, and practicality of, mandating that new motor vehicles be capable of using alcohol as a fuel; legislative recommendations for removing barriers to the widespread marketing of alcohol; and other appropriate aspects regarding the use of alcohol as a motor fuel.

It is the intent of the Conferees that this study will examine the effects on the motor vehicle itself of the use of alcohol as a motor fuel, both as a blend with gasoline or as a pure fuel.

The Conferees anticipate that the Secretary of Energy will also consult with the Administrator of the Environmental Protection Agency in conducting this study, so as to include an assessment of the effects on the environment of increased use of alcohol as a motor fuel.

Natural gas priorities

Section 273 defines three uses of natural gas which for purposes of Section 401 of the Natural Gas Policy Act (Public Law 95–521) are each to be regarded as an "essential agricultural use." Section 401 of the Natural Gas Policy Act limits the extent to which a curtailment plan of an interstate pipeline may provide for the curtailment of deliveries of natural gas for any essential agricultural use.

The three uses of natural gas covered by this section are: (1) the use of natural gas in sugar refining for production of alcohol; (2) the use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and (3) the use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass.

The third use is limited to a five-year period and to existing plants which do not have the installed capability to burn coal lawfully.

It should be noted that the curtailment priority under Section 401 of the Natural Gas Policy Act is not applicable if the Federal Energy Regulatory Commission finds that an alternative fuel (other than natural gas) is available (see Section 401(b) of NGPA).

Standby authority

Section 4 of the Emergency Petroleum Allocation Act directs the President to establish a mandatory allocation program for crude oil and petroleum products. The current gasoline allocation program is based on this authority.

Section 274 would authorize the President to allocate crude oil and gasoline in the marketplace so as to assure that there will be sufficient gasoline available to blend with any available quantities of alcohol suitable for use in gasohol. If the President finds that significant quantities of alcohol are available and suitable for use in motor fuel, but are not being used for that purpose, then he is directed to exercise the authorities provided him under this section so as to permit the utilization of that alcohol in motor fuel.

The President's authority under this section would also extend to other refined products in addition to gasoline if they are available and suitable to be blended with alcohol for use as a motor fuel.

The Conferees intend that for purposes of this section the term "alcohol" includes any alcohol produced from any source, whether renewable or not, so that, for example, methanol made from coal would qualify as alcohol under this section.

TITLE III—ENERGY TARGETS

Preparation of energy targets

Section 301 requires the President to prepare and submit to Congress during the first week of February 1981, and every second year thereafter, specific energy targets (in quadrillion British thermal units per year) for net imports, domestic production and end use consumption for the years 1985, 1990, 1995 and 2000. In preparing these targets the President must estimate the amount of conservation which will take place, the supply of energy from conventional sources and the energy production which will be available from new technologies. These targets must be submitted in the form of a table as prescribed in section 303.

This table would be composed of a mathematically consistent set of numbers describing the President's best estimate of projected supply, net importation and consumption of energy by energy source in each of the specified years. "Mathematical consistency" in this context means that the total energy supply (the sum of domestic production and imports less exports) must equal total energy consumption (the sum of end-use consumption and conversion loss).

The targets are required to be submitted for years in the future only. Thus, in 1986, targets would be submitted for 1990, 1995 and 2000 only.

The targets must be accompanied by a statement of the assumptions and supporting data upon which they are based. The conferees expect that these assumptions will include estimates of the uncertainties associated with any of the targets.

During the first week of February, 1982, and every second year thereafter, the President must transmit to Congress a comprehensive report on the targets transmitted in the previous year. This report will contain comments of appropriate Federal departments and agencies on the targets, including evaluation of the impact of any additional relevant information acquired in the previous year on the targets transmitted, recommended modifications, if any, made in the targets as a result of Congressional consideration under this title.

In addition, such report should identify energy production, consumption, conservation, or other programs necessary to achieve the energy targets (or proposed revisions thereof); the strategies that should be followed and the resources that should be committed to implement these programs; a comparison between these strategies and the most recent plan or plans developed pursuant to title VIII of the Department of Energy Organization Act (42 U.S.C. 7321); and the legislative and administrative actions necessary to achieve the energy targets (or proposed revisions thereof) including recommendations on taxes or tax incentives, Federal assistance, regulatory actions, antitrust policy, foreign policy, and international trade policy.

In any year which is (or for which the previous year is) one for which targets have been set (1986, 1990, 1995 and 2000), the report submitted should discuss the reasons why any target established for such year is not likely to be achieved (or was not achieved).

Congressional consideration

Section 302 sets forth the procedures for consideration of the targets by Congress during the 97th and 98th Congresses. Energy targets in the form specified in section 303 must be included in the general authorization legislation submitted by the President for civilian programs and activities of the Department of Energy for fiscal year 1982 (submitted in 1981) and for fiscal year 1984 (submitted in 1983) as a separate title at the end of each bill. This separate title would contain energy targets only.

The appropriate committees of the House and Senate must consider the targets when the Department of Energy authorization legislation containing the targets is considered. Such consideration would take place under whatever rules any such committee normally follows in the conduct of committee business, except only that amendments to the title which modify any target in a way which preserves the mathematical consistency of the table containing the targets are always in order. The conferees intend that rules of the House and Senate with respect to the referral of Department of Energy authorization legislation containing the title required by this section as they exist at the time the bill is introduced be applied and that appropriate referral of the legislation under those rules be made.

The requirements that a separate title containing energy targets be included in Department of Energy authorization legislation submitted by the President and that these targets be considered by Congress apply only during the 97th and 98th Congresses. A subsequent Act of Congress would be necessary to extend these requirements beyond the 98th Congress.

During the 97th and 98th Congresses amendments to the Department of Energy authorization legislation submitted with the separate title containing energy targets are in order as follows.

Such amendments to the title containing energy targets may only change one or more energy targets and then only in a manner which continues or achieves mathematical consistency within the targets contained in the table. Such amendments may not contain provisions other than provisions amending energy targets in this manner.

In the case that the Department of Energy authorization bill for fiscal year 1982 or 1984 does not contain a title setting forth energy targets in the form prescribed in section 303 (for example, because such title was deleted at some point after transmission of the bill by the President), it will always be in order to offer an amendment to such bill adding a title containing a mathematically consistent set of energy targets in such form. The question of whether any other amendment to an authorization bill containing a title setting forth energy targets is in order must be determined as if the title were not in the bill.

In the case that the Department of Energy authorization bill for these years does contain a title setting forth energy targets, it will always be in order to offer an amendment deleting the title.

In the 97th Congress a special procedure is established to provide an opportunity for Congress to adopt energy targets in the case that no Department of Energy authorization bill is reported in both the House and Senate by all respective authorizing committees by May 15, 1981 or, if one or more of these bills have been reported in either House by May 15, 1981, no committee which has reported such a bill by the May 15 deadline has reported such a bill including energy targets as a separate title. If either of these situations obtain any member of either House may introduce a joint resolution containing a mathematically consistent set of energy targets in the form prescribed in section 303.

Such resolution must be immediately referred to the appropriate committees which shall have until July 15, 1981 to consider and report the resolution. If the committees of the House or of the Senate have not reported the resolution by July 15, 1981, during a period of 20 calendar days of continuous session of Congress following that date any member may move to discharge such committees with respect to the resolution under the expedited procedures which apply to resolutions with respect to contingency plans under section 552 of the Energy Policy and Conservation Act (EPCA).

If the motion to discharge fails no such motion may be made with respect to that (or any other) joint resolution under the expedited procedures of EPCA. If the motion succeeds, the House in question would proceed immediately to the consideration of the resolution, and all other such joint resolutions would no longer be subject to consideration. Proponents of alternative sets of energy targets (whether or not embodied in one of the joint resolutions which may no longer be considered by virtue of the successful discharge motion) may offer amendments to the resolution named in the successful discharge motion.

These amendments must also continue or achieve mathematical consistency within the targets and may not contain any provisions other than provisions modifying one or more energy targets in this manner.

General debate on any joint resolution reported or discharged petition is limited to not more than 3 hours.

For purposes of this section a Department of Energy authorization bill means the general authorization legislation for the civilian programs and activities of the Department of Energy which is normally submitted by the executive branch early in each session of Congress authorizing appropriations for the fiscal year beginning in October of that session. This term does not include supplemental authorization bills which may be submitted.

Energy target form

Section 303 sets forth the form of the table in which the energy targets referred to in this title must be displayed and includes certain definitions to clarify the terms appearing in the table.

General provisions regarding targets

Subsection 304(a) states that any resolution or Act enacted which contains energy targets as prescribed in this table shall be considered a statement of national goals but shall not have legal force or effect.

Subsection 304(b) requires that funds for preparation of energy targets and reports under this title shall be drawn from funds otherwise available to the Department of Energy. The conferees expect that the work associated with the preparation of these targets and reports will be carried out by employees of the Department responsible for policy development and evaluation. The use of contracting assistance is to be minimized and the nature of any such assistance which is used is limited in certain specific ways.

The preparation and transmission of energy targets shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969.

TITLE IV—RENEWABLE ENERGY INITIATIVES

Short title

Section 401 cites this Title as "The Renewable Energy Resources Act of 1980".

Purpose

Section 402 states that the purpose of this Title is to promote and encourage the use of renewable energy resources and conservation through the establishment of various new programs and amendments to existing law.

Definition

Section 403 defines the terms "Secretary" and "renewable energy resource".

Coordinated dissemination of information on renewable energy resources and conservation

Section 404 requires the Department of Energy to coordinate its solar and conservation outreach activities and report annually to Congress on their status and the status of the efforts of the Department to coordinate with similar outreach activities conducted by other agencies.

The Conferees intend that the Secretary make whatever criteria are used in the evaluation of coordination activities explicit.

Establishment of life-cycle energy costs for Federal buildings

Section 405 amends Sec. 545 of the National Energy Conservation Policy Act to specify that in establishing methods for estimating and comparing life cycle costs of conventional heating, cooling and hot water systems with solar heating, cooling and hot water systems and energy conservation measures for Federal buildings, the Secretary must use: (1) the sum of all capital and operating expenses associated with the energy system of the building over the expected life of the system or a period of 25 years (whichever is shorter), (2) a 7 percent discount rate, and (3) marginal fuel costs as determined by the Secretary.

The Conferees intend that "marginal fuel costs" are the marginal costs which a customer would pay for fuel or energy available in the region of the country where the Federal building is located.

Energy self-sufficiency initiatives

Section 406 creates a 3-year pilot energy self-sufficiency program within the Department of Energy to demonstrate self-sufficiency through the use of renewable energy resources in one or more States in the United States. As part of this program, the Secretary is to take steps to promote and encourage self-sufficiency initiatives. The Secretary must prepare within 180 days of enactment of this Act, a detailed plan which includes a description of any additional Federal actions needed to encourage and promote energy self-sufficiency programs.

Photovoltaic amendments

Section 407 contains several amendments to the Federal Photovoltaic Utilization Act. These amendments expand the definition of "Federal facility" to include facilities related to programs administered by Federal agencies, provide the authority to allow an agency to make procurements under this Act of photovoltaic systems for that agency's use, and exempt the development of program criteria from the rule-making requirements and certain other procedures of the Administrative Procedures Act.

Small-scale hydropower initiatives

Section 408 amends the definition of "small hydroelectric power project" in Title IV of the Public Utility Regulatory Policies Act (PURPA) by increasing the 15 megawatts limitation to 30 megawatts and by expanding the interpretation of "at the site of" or "in connection with" an "existing dam" to include projects which are located at sites where there is no need for an impoundment structure. Additionally, the bill allows the Federal Energy Regulatory Commission (FERC) to grant exemptions on a case-by-case basis or by class or category from licensing requirements from small hydroelectric power projects under 5,000 kilowatts. Such exemptions are subject to the limitations which apply to the exemption of man-made conduit projects from Federal licensing requirements in PURPA.

The Secretary of Energy is required to promulgate rules and regulations to implement certain provisions of this section and the loan program in Sec. 403 of the Public Utility Regulatory Policies Act within six months of the date of enactment of this Act. The Secretary is also required to prepare a study of existing Federal small-scale hydropower programs.

It is not intended that FERC issue new regulations which in any way slow the permitting process now used by FERC. Additionally, the Conferees would expect that FERC would revise existing permitting procedures so that the provisions of this section do not slow the permitting of qualified projects.

The conferees intend that, in granting an exemption from license requirements, the Federal Energy Regulatory Commission will reach its determination only after full compliance with the requirements of the Fish and Wildlife Coordination Act, the National Environmental Policy Act, the Endangered Species Act, and any other provision of Federal law. Further, the conferees do not intend that an exemption be granted without careful consideration of the full implications of such an exemption. In addition, in any case where an applicant wishes to obtain a license, that applicant is entitled to go through the full licensing process and (if qualified under applicable law and regulation) to obtain the license even though an exemption has been granted for the project or the class of projects involved.

In considering a license appliaction for a small hydroelectric project at a site not needing any dam or impoundment, the conferees expect the Federal Energy Regulatory Commission to insure that the use of such site for electrical power production will not have any adverse effect upon the natural water features at the site, including water flow and water level, or on fish and wildlife.

Authorizations

Section 409 authorizes $10 million for loans for small-scale hydropower projects under Sec. 402 of the Public Utility Regulatory Policies Act and $100 million for loans under Sec. 403 of the Public Utility Regulatory Policies Act for Fiscal Years 1981 and 1982. Additionally, $10 million is authorized for Fiscal Year 1981 to carry out the self-sufficiency initiatives in Sec. 406 of this Title.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Section 501 provides that this title may be cited as the "Solar Energy and Energy Conservation Act of 1980".

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Short title

Section 502 provides that this subtitle be cited as the "Solar Energy and Energy Conservation Bank Act".

Purpose

Section 503 states that the purpose of the subtitle is to establish a Solar Energy and Energy Conservation Bank in order to encourage energy conservation and the use of solar energy and to reduce thereby the nation's dependence upon foreign sources of energy supply.

Definitions

Section 504 provides definitions of terms used in the subtitle.

The conferees intend that the term "residential building" primarily apply to buildings having year-round occupancy, so that the ratio of energy savings to Federal assistance is maximized.

The Conferees wish to clarify with respect to the definition of "commercial building" that "non-profit business" includes non-profit entities such as churches, but does not include government-owned buildings used for the general functions of government.

The Conferees wish to clarify that, with respect to the definition of residential and commercial energy conserving improvements, the words "planning and technical services" include services such as architectural and engineering services.

Additionally, the Conferees recognize that many new products which have great potentional for energy savings in residential and commercial buildings, and which are under development or already being marketed, have not been included on the list of qualified items. (One example is a heat pump water heater.) The Conferees expect the Board will rely on DOE and HUD to determine the reliability, safety, and performance of such new energy conserving improvements and further expect the Board will develop a mechanism for moving expeditiously to add to the list of subsidizable energy conserving improvements those items which meet established standards and which will contribute significantly to reducing energy use.

With respect to the definition of "solar energy system", it is expected that any system which contains the following components will be considered a passive solar system: a solar collection area, a hard absorber surface, a storage mass capable of retaining heat, a heat distribution method, and a means to regulate heat to prevent overheating and solar energy loss. Any regulations identifying a passive system are not to exclude systems which do not include all five components but do comply with such criteria and standards as the Board may determine. The Conferees expect the Bank to be responsive to and to encourage new developments in passive and active solar designs and products and to develop a process by which these new concepts and products can be qualified for assistance as rapidly as possible. Since some of the newer passive technologies may not fit neatly into the five recognition factors listed above, it is expected that from time to time the Bank will inform financial institutions of alternative technologies which qualify for assistance.

The definition of "solar energy system" is purposefully broad in order to include any solar technology likely to be commercially available during the life of the Bank. Some technologies such as photovoltaics and other solar electric devices are presently in transition from a developmental phase and may not be currently commercially viable in all applications. The Conferees expect the Bank, during its first years of operation, to focus on subsidizing commercially viable solar technologies and to specify the circumstances under which products presently under development could be considered commercially viable and eligible for subsidy. The criteria developed by the Bank are not to discriminate against simple passive or hybrid solar energy systems.

The term "financial institution" is intended to include State/and local governments providing loans for housing, rehabilitation, conservation or solar improvements, and other entities such as Neighborhood Housing Services.

Furthermore the Conferees expect that in addition to utilities which participate in the Residential Conservation Service Program established in Title II of the National Energy Conservation Policy Act (NECPA), any other utility could qualify as a financial institution if it meets the qualifications as designated by the Board.

Additionally, nothing in this subtitle should be considered to affect any activities conducted by utilities in accordance with any other law. This subtitle extends only to their activities as financial institutions.

PART 1—ESTABLISHMENT AND OPERATION OF THE BANK

Establishment of the Bank

Section 505 establishes the Solar Energy and Energy Conservation Bank in the Department of Housing and Urban Development and provides the Bank with the same corporate powers as those of the Government National Mortgage Association. The Bank will cease to exist after September 30, 1987.

The General Accounting Office is directed to audit the financial transactions of the Bank within two years after enactment of this subtitle and each three years thereafter.

The Bank may impose fees and charges for its services which would be deposited into the miscellaneous receipts of the Treasury.

Board of Directors

Section 506 provides that the Bank shall be governed by a Board of Directors consisting of the Secretaries of Housing and Urban Development, Energy, Treasury, Agriculture, and Commerce. Three Board members will constitute a quorum; the Chairperson of the Board shall be the Secretary of Housing and Urban Development; and the Board Secretary shall be the President of the Bank. The Board is directed to carry out the functions of the Bank and adopt regulations, subject to the provisions of Section 7(o) of the Department of Housing and Urban Development Act, which provides a procedure for the review of such regulations by the Banking Committees of the House of Representatives and the Senate. The Board is required to provide such information as the Secretary of the Treasury determines is necessary to insure that, for the same solar energy or energy conservation expenditure, no individual is allowed both a credit against taxes under Section 38, or Section 44C, of the Internal Revenue Code of 1954 and financial assistance available under this subtitle from the Bank.

The Conferees intend that the administration of the solar and conservation programs be performed jointly where appropriate for efficiency but separately where necessary as a result of program differences.

Additionally, the Board of Directors is authorized to establish general levels of assistance and should establish broad guidelines for the Bank. However, the Conferees expect that the Board will not engage in consideration of minute details of the Bank's operations.

It is the agreement of the conferees that the Congressional review provisions should apply only to the regulations of the Bank. No Congressional review provisions apply to any DOE programs or to any other programs of this Title.

Officers and personnel

Section 507 establishes in the Department of Housing and Urban Development the position of President of the Bank, appointed by the President of the United States with the advice and consent of the Senate and compensated at the rate prescribed for Executive Level V. The Bank President shall appoint Executive Vice Presidents for Energy Conservation and Solar Energy, paid at a rate set by the Board and having the functions, powers, and duties prescribed by the President of the Bank. Subject to Board direction, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform such other functions as the Board may prescribe. If permitted by the Secretary of Housing and Urban Development, the Bank may use the services or personnel of the Department of Housing and Urban Development.

The Conferees intend that all conflict of interest laws and regulations applying to employees of HUD will apply to all employees of the Bank.

Advisory committees

Section 508 establishes two advisory committees, an Energy Conservation Advisory Committee and a Solar Energy Advisory Committee. The five members of each committee would be appointed by the Board and no member could be an officer or employee of any governmental entity.

Four members of each committee shall include a representative of consumers, of financial institutions, of builders, and of architectural or engineering interests. The Energy Conservation Advisory Committee, which shall advise the Board regarding Bank activities related to residential and commercial energy conserving improvements, shall include a fifth member representing producers or installers of such improvements. The Solar Energy Advisory Committee, which shall advise the Board regarding Bank activities related to solar energy systems, shall include a fifth member representing the solar energy industry. The first committee members appointed to represent consumers and financial institutions shall be appointed for a three-year term while all other members, including all subsequent consumer or financial institution representatives, shall be appointed for two years. This section also establishes the process for filling committee vacancies and the rate of compensation for members performing committee duties. Three members of each committee constitute a quorum; however, hearings may be held by a lesser number. The Chairman of each committee shall be elected by the committee members and these committees shall not terminate until the Bank terminates.

It is the Conferees' intent that the member of the Solar Energy Advisory Committee representing the solar energy industry be knowledgeable about the various solar applications covered by the program established in this subtitle and the member representing the architectural or engineering field be knowledgeable about passive and hybrid solar energy systems. Any consumer representative appointed to the Advisory Committees should be able to represent the views of low-income persons as well as of the general public.

Provision of financial assistance

Section 509 establishes, subject to conditions and limitations contained in Sections

513 through 517, who may receive financial assistance, what kind of activities will qualify for assistance and what form of financial assistance may be provided. The Bank may make payments to financial institutions for the purpose of providing financial assistance: (a) to owners of and tenants in existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in those buildings; (b) to owners who occupy and tenants in existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements; (c) to owners of existing buildings for the purchase and installation of solar energy systems; (d) to builders of newly constructed or substantially rehabilitated residential buildings that will contain solar energy systems; and (e) to purchasers of new or substantially rehabilitated buildings containing solar energy systems. The financial assistance for solar energy systems or energy conserving improvements may be in the form of a reduction in the principal obligation of a loan or the qualifying portion of a loan or a prepayment of the interest otherwise due on such loan or portion of such loan. In the case of an owner of an existing residential building or a tenant in an existing residential or multifamily residential building, the assistance for residential energy conserving improvements may be in the form of a grant.

Financial assistance may only be provided for solar energy systems installed after the date of enactment of this subtitle. A similar restriction applies to financial assistance for energy conserving improvements. However, during the 90-day period following the date of promulgation of regulations governing the provision of financial assistance, such assistance may also be provided for residential and commercial energy conserving improvements which were financed with a loan made between January 1, 1980 and the date of enactment of the subtitle, provided that the person receiving such assistance has not applied for or received any tax credit allowed by Section 38 or 44C of the Internal Revenue Code of 1954 for the expenditure that would otherwise qualify for assistance under this provision. Any individual receiving any financial assistance from the Bank shall not include such assistance as gross income or as an increase in the basis of any real property.

The Conferees expect that any payment made by the Bank to a financial institution with respect to any loan or qualifying portion of a loan will be made in the form of a lump sum payment.

The Conferees would like to clarify that in the case of a loan which finances more than a solar energy system or an energy conserving improvement, only that portion of the loan attributable to the system or improvement may qualify for assistance.

Establishing levels of financial assistance

Section 510 provides that the Board shall, from time to time, establish the various levels of financial assistance provided under Section 509, subject to the maximum allowable amounts permitted under Sections 511 and 512. In establishing such levels, the Board is to consider a variety of factors including at least: the prevailing market rates of interest for various types of loans and bonds; the availability of other federal incentives (including tax credits for energy conservation and solar energy system expenditures); costs and efficiencies of nonrenewable energy resources and systems, energy conserving improvements, and solar energy systems; and the levels of subsidy needed to induce owners and tenants from various income groups to purchase and install solar energy systems and energy conserving improvements in buildings, and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

The Conferees intend that the Board minimize the frequency with which the levels of assistance are altered for either the solar or conservation program so as to maximize continuity in the administration of the programs.

Maximum amounts of financial assistance for residential and commercial energy conserving improvements

Section 511 establishes the maximum amounts of financial assistance which may be provided for the purchase and installation of residential or commercial energy conserving improvements. These maxima are summarized in the following table:

MAXIMUM ASSISTANCE LEVELS FOR RESIDENTIAL OR COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

Building type	Assistance as percentage of improvement cost	Maximum assistance			
		1 unit	2 unit	3 unit	4 unit
(1) 1 to 4 unit residential buildings:					
Income of owner or tenant:					
Less than 80 percent of area median.	50 percent up to.	$1,250	$2,000	$2,750	$3,500
80 to 100 percent of area median.	35 percent up to.	875	1,400	1,925	2,450
100 to 120 percent of area median.	30 percent up to.	750	1,200	1,650	2,100
120 to 150 percent of area median.	20 percent up to.	500	800	1,100	1,440
(2) Multifamily residential building: No income differential for owner or tenant.	20 percent up to.	$400 per dwelling unit			
(3) Agricultural or commercial building: Gross annual sales of owner who occupies buildings or tenant may not exceed $1,000,000.	20 percent up to.	$5,000 per building			

The Conferees expect that in establishing the median income for an area, the Board will rely on the data developed by the Department of Housing and Urban Development and used for establishing the median income for the area in the program authorized by Section 8 of the U.S. Housing Act. It is also expected that for the purposes of receiving assistance a person's income will be treated as it is under Section 8 of the U.S. Housing Act and shall include a total of the income of all members of the household.

The amounts of assistance prescribed in this section are the maximum total subsidy amounts available for conservation expenditures to persons in various income groups. In order to encourage individuals to increase such investments, the Bank may structure the incentive so that within these limits the subsidy percentage will increase as the amount of the investment increases. For instance, in the case of an individual whose income is between 120–150 percent of area median, the Bank could provide a maximum subsidy of 15 percent of the first $750 expenditure, 20 percent of the next $1,000 expenditure and 25 percent of the next $750 expenditure, for a total subsidy of $500 on a $2,500 expenditure.

However, in providing assistance to low-income families, the Board should not apply a sliding subsidy scale. The maximum percentage subsidy level set by the Bank for these families should be available for those persons even for small investment amounts. The Conferees are concerned, however, that whatever subsidy variation system the Board determines is needed to induce persons from various income groups to purchase and install energy conserving measures should be designed so that local financial institutions will not be discouraged from participating by the complexity of the system.

Maximum amounts of financial assistance for solar energy systems

Section 512 establishes the maximum amounts of financial assistance which may be provided for the purchase and installation of solar energy systems. The following table summarizes these maximum amounts;

MAXIMUM ASSISTANCE LEVEL FOR SOLAR ENERGY SYSTEMS

Building type	Assistance as percentage of system cost	Maximum assistance			
		1-unit	2-unit	3-unit	4-unit
(1) 1 to 4 unit residential building					
Income of owner or purchase:					
Less than 80 percent of area median	60 percent up to.	$5,000	$7,000	$10,000	$10,000
80 to 160 percent	50 percent up to.	5,000	7,500	10,000	10,000
Above 160 percent of area median	40 percent up to.	5,000	7,500	10,000	10,000
(2) 1–4 unit new or sub-rehabo residential building: Builder	40 percent up to.	5,000	7,500	10,000	10,000
(3) Multifamily residential building:					
In general	40 percent up to.	$2,500 per dwelling unit			
Except owner of building where majority of tenants have incomes below 80 percent of median	60 percent up to.	$2,500 per dwelling unit			
(4) Agricultural or commercial buildings	40 percent up to.	$100,000 per building			

The amount of assistance available for a passive solar energy system will be based on the estimated amount of energy saved by the use of such system. It is recognized that cost-of-system estimates for passive solar may be difficult to establish, and that percentages based on cost as in the above table may be meaningless. It is expected that the Bank will establish a financial assistance scheme for passive solar that varies with the percentage of energy saved and remains within the dollar ceilings for each type of building as indicated in the above table.

After January 1, 1983, the Bank will be required to vary financial assistance for active solar systems by the amount of energy such systems will save, unless the Board determines this is not practicable. This variation is to be accomplished within both the percentage and dollar limitations outlined in the table above.

The determination of whether it is practicable to apply the energy efficiency principle to active solar energy systems should be based, among other factors, upon whether a reliable industry-wide energy efficiency rating system is in place and whether the Bank can develop an uncomplicated method of applying this concept to active solar systems. It is not the intent of the Conferees that the energy efficiency test act as an impediment to the acceptance of solar systems rather it is the intent of the Conferees that persons purchasing solar energy systems should be encouraged to purchase those systems that would save the greatest amount of energy.

It is the intent of the Conferees that every savings are to be estimated using the difference on an annual basis between 1) the amount of oil, gas, electricity or other conventional fuels required to meet the heating/cooling load of the solar equipped buildings, and 2) the amount of such fuels required to meet the heating/cooling load of a reference residential building in a similar location. No assistance in excess of the amounts specified in subsection (a) of this section shall be provided. Additionally, the Conferees intend that the installation of a solar energy system on an existing building does not constitute *per se* a substantial rehabilitation of the building.

General conditions on financial assistance for loans

Section 513 establishes various conditions which must be met if financial assistance is to be provided under this program. In the case of prepayment of interest by the Bank, a financial institution must agree to repay to the Bank that portion of such prepayment which is in excess of the actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan; the Bank may waive the repayment where such excess is minimal. In addition, each borrower receiving an assisted loan must agree to certify to the financial institution, immediately after completion of the installation of energy conserving improvements or a solar energy system, that the proceeds of such loan have been used for such improvements or systems and that such installation has been completed; such certification shall be available to the Bank.

The Conferees expect that an applicant who qualifies for both solar and conservation subsidies will be able to receive assistance through a single loan transaction.

The Bank is directed not to establish security requirements for small loans for energy conserving improvements that would effectively prohibit low-income families from being able to borrow under this program and is directed to require assurances that any financial institutions providing loans pursuant to this program would not set a minimum loan requirement greater than $600 where a borrower requests a loan term of less than five years.

In addition to the individual loan repayment requirement in paragraph 513(3). The conferees intend that where the Bank determines that a pattern of "bad loans" is developing in a given area, with certain lenders or particular technologies, the Bank should impose a repayment requirement similar to the one contained in section 513 (3). However, the Bank should consider appropriately the potential chilling effect any such terms and conditions may have on participation by lenders in the solar program. Any such requirements should not be adopted generally on a nationwide basis, but rather should be applied to a specific area, lender or technology.

Conditions on financial assistance for residential and commercial energy conserving improvements

Section 514(a) establishes conditions which must be met on loans made in connection with the provision of financial assistance for the purchase and installation of residential or commercial energy conserving improvements. These conditions include a minimum and maximum loan term, a one-year warranty to be provided by the manufacturer, supplier and installer, and where a loan is made to a tenant, an agreement in writing by the owner of the building that the residential or commercial energy conserving improvements may be installed. Any building in which the energy conserving improvements are installed must be an existing building, completed before January 1, 1980. Before a loan is made for residential energy conserving improvements, the financial institution must inform the borrower of the availability of residential energy audits. Before a loan is made for commercial energy conserving improvements, a borrower must provide to the lending institution a copy of a commercial energy audit previously conducted for such building. Finally, no loan may be made to a tenant or an owner who occupies a commercial or agricultural building unless the owner or tenant has gross annual sales of $1 million or less, based upon the total annual sales achieved in the accounting year used by the owner or tenant.

The conferees have provided requirements for warranties to assure that borrowers and grantees will be protected against poor quality of energy conserving improvements and solar energy systems assisted under this subtitle. There is a considerable body of Federal and State law which governs warranties. Some of these laws applicable to warranties may operate to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws, or portions thereof, will be superseded only to the extent necessary to make them consistent with this subtitle. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this section. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranties specified in this subtitle be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that persons involved with the programs of the Bank are free to offer any warranty they desire, consistent with applicable State and Federal law, as long as this warranty meets or exceeds the minimum requirements of this section.

There is no intention by inclusion of these warranty provisions to specify or otherwise affect arrangements which may be made among manufacturers, suppliers, and contractors with respect to transportation, storage or maintenance. The purpose of these provisions is to insure that the borrower or grantee have at least the warranty protection set forth in these provisions.

The conferees intend that a supplier could satisfy the warranty requirement by an assignment of the manufacturers warranty to the person to whom the system or improvement is supplied.

Section 514(b) also establishes conditions on financial assistance in the form of grants. A grant may be made only to an owner or tenant whose income does not exceed 80 percent of the median income for the area to help finance the installation of energy conserving improvements in a residential or multifamily residential building which was constructed before January 1, 1980.

The grantee must certify to the financial institution that financial resources are available which when added to the grant will be sufficient to pay for the total cost of the residential energy conserving improvements. The conditions include the requirements that: the total cost of the installed residential energy conserving improvements must exceed $250; and supplier or contractor selling or installing any residential energy conserving improvements and paid by the grantee for such work must be included on the state residential conservation service list distributed by utilities as required under Section 213(a) of the National Energy Conservation Policy Act; the financial institution distributing the grant must inform the owner or tenant of the availability of residential energy audits; any tenant must get agreement in writing from the building owner regarding the installation of energy conserving improvement with the grant proceeds; and any grantee must agree to certify to the financial institution immediately after completion of the installation of the improvements, that such purchase and installation has been accomplished. This certification shall be available to the Bank if the Bank so requests. Finally, any residential energy conserving improvement purchased and installed with the grant must be covered by the same warranties as required for improvements purchased and installed with an assisted loan.

With respect to the grant program established in this title, the Conferees are concerned that the Bank design the program so that the administrative costs will be held to a minimum while assuring that financial institutions will be compensated for the reasonable costs of participating in the program. In this context, the Bank should determine the frequency with which any individual may apply for additional assistance up to the maximum permitted by statute.

The Conferees intend that the Bank adopt the following approach for the operation of the grant program: require that a grant applicant provide the lending institution with his or her share of the cost of the conservation improvements or provide certification from a source of alternative financing that such share will be available at the time of final disbursement of the grant by the financial institution to the installing contractor upon completion of the installation; and for any grant applicant who will perform the work or purchase the materials directly, require that the applicant provide similar assurances, with respect to his or her share of the cost and that the financial institution shall provide the grant by means of check (or other comparable disbursement) payable to the supply company or companies from which such person has arranged to purchase conservation materials.

When residential energy conserving improvements have been purchased and installed by an owner or a tenant prior to applying for a grant, certification of the purchase and installation should be provided by the owner or tenant upon receipt of the grant. The conferees intend that the certification cover both the grant and the matching financial resources provided by the grant recipient. However, the conferees do not anticipate that post-installation certification by the owner and tenant is an adequate mechanism, in and of itself, to protect the grant program from fraud on the part of grantees. The conferees expect the Bank grant delivery system to provide such protection.

The Bank may design an alternative delivery system to be used by financial institutions which protects against fraud and abuse, minimizes administrative expenses, and is sufficiently simple to not be a deterrent to either financial institutions or to prospective grantees.

Additionally, individuals receiving grants would not be required to make a normal loan application but rather would be required to complete a simple form including at least the grantee's name, the address and owner of the house to be weatherized, the individual's income, a list of the materials to be purchased, their cost and estimated labor costs, the name of the contractor (if any), and a declaration that the grant will be used to pay for the materials and labor listed and that the information on the form is true and correct. The simple form should not require a declaration of current debts, savings, property owned, or other such information normally needed by the financial institution to establish credit and collateral for a loan.

Conditions on financial assistance for solar energy systems

Section 515 establishes conditions applying to loans made for a solar energy system or for newly constructed or substantially rehabilitated buildings containing such systems. These conditions include the requirement that unless the borrower requests a shorter term, the loan repayment may not be less than 5 years nor more than 30 years for a residential building and may not be less than 5 years nor more than 40 years for a multi-family, agricultural or commercial building, except in the case of a loan to a builder where no minimum term shall apply. No prepayment penalty may be charged on any such loan. The solar energy system purchased and installed with such loan must be covered by a warranty requiring the manufacturer to remedy without charge any manufacturing, design or material defects that become evident within 3 years from the purchase date, requiring the supplier to make a warranty equivalent to the manufacturer's warranty except that the warranty period shall be one year, and requiring the installer to remedy any manufacturing, design, material or installation defects that become evident with one year of installation. The Board may require a longer warranty period and may require the installer to conduct an on-site inspection of the system during the 15-day period prior to the expiration of the installation warranty.

In addition, a purchaser or builder of a newly constructed residential or multifamily residential building must provide certification to the lending institution that the building meets or exceeds cost-effective energy conservation standards established by the Secretary of Housing and Urban Development. Finally, no assistance may be made to an owner of an existing residential building after December 31, 1985, if the income of the owner exceeds 250 percent of median area income.

The Conferees intend that with respect to the establishment of requirements for cost-effective energy conservation standards pursuant to paragraph 513(a)(6), the HUD Minimum Property Standards (and any amendments to the minimum property standards dealing with energy conservation and solar energy requirements which are in effect as of the date of the loan application) are appropriate cost-effective standards to be used by the Bank. Additionally, the Conferees expect that in establishing these requirements, the Secretary of HUD will consult with the Board, DOE, National Bureau of Standards, National Institute of Building Sciences, the Department of Agriculture and any other Federal agency with expertise or interest in the establishment of such requirements.

Section 515(b) provides that financial assistance may be provided to a builder for the purchase and installation of a solar energy system in a newly constructed residential building, if certain findings and conditions are met. The Board must make three findings: First, that in order to encourage the construction or substantial rehabilitation of a greater number of single family residential buildings containing solar energy systems, financial assistance must be provided directly to builders; second, that providing such assistance directly to builders is a more effective expenditure of the Bank funds than providing assistance only to the purchasers of the newly constructed or substantially rehabilitated homes; and third, that in consultation with the Treasury Secretary, the Board is able to establish a procedure which will prevent the purchaser who buys the home built by a builder receiving direct assistance from the Bank, from receiving additional assistance from the Bank, or from being allowed a tax credit under Sections 38 or 44C of the Internal Revenue Code of 1954 for the same solar energy system expenditures.

If the Board is able to make these determinations and establishes direct builder assistance, the Board must establish a procedure to prevent both the purchaser and the builder from receiving financial assistance or a tax credit for the same expenditure. The builder would also be required to disclose to the purchaser of the home at the time of signing the sales contract for the home, the amount of the solar energy system expenditures for which the builder received assistance from the Bank and would have to inform the purchaser that he may not be allowed a federal tax credit for those assisted expenditures. In addition, the builder must provide to the Bank any information the Board, in consultation with the Treasury Secretary, determines is necessary to comply with such restriction. Finally, for purposes of the Federal solar energy tax credit, any expenditures made by a builder which receive Bank assistance shall be considered expenditures from subsidized energy financing by the purchaser of that home.

For the purposes of developing procedures to prevent double subsidization of expenditures, the Board should examine existing State programs developed for this purpose.

Sections 15 (c) and (d) establish two other conditions on providing Bank assistance for solar energy systems. The first permits such assistance to be made available through utilities only for the purchase and installation of solar energy systems in existing buildings. The second requires that in providing financial assistance with respect to loans for newly constructed and substantially rehabilitated single family residential buildings containing solar energy systems, the Board shall establish a priority for those buildings that contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to do so. The conferees expect it would be impractical or inefficient to establish such a priority where such priority would constitute a disincentive to market penetration of independent solar hot water systems, or where heating or cooling systems would be impractical due to the regional climatic conditions or other factors. This priority does not preclude the provision of subsidies to buildings containing only a solar hot water system but does reflect the concern of the Conferees that when new buildings are constructed, architects and builders should be encouraged to include solar heating or cooling systems.

Limitations on the provisions of financial assistance for residential and commercial energy conserving improvements

Section 516 states that not less than 80 percent of the funds appropriated in any year to provide financial assistance for energy conserving improvements shall be allocated for residential energy conserving improvements in single and multifamily residential buildings and not less than 15 percent of the total amount of the appropriation for energy conserving improvements shall be allocated to assist residential and multifamily residential buildings occupied by persons whose incomes are 80 percent of area median or less.

Funds made available for low-income persons which are not expended in any fiscal year shall be available for any qualifying individual during the following fiscal year.

The Conferees intend the 15 percent set-aside for assistance to low-income persons for residential and commercial energy conservation improvements be regarded as a minimum and that the Bank should increase the percentage if the needs of low-income persons can be better served.

Limitations on the provision of financial assistance for solar energy systems

Section 517 establishes limitations on the use of funds for solar energy systems. No more than 10 percent of the annual appropriation for solar energy assistance may be passed through utilities except that the Board may increase this amount to not more than 20 percent if such an increase will further the purpose of this subtitle. In addition, not less than 70 percent of the funds appropriated in any year to provide financial assistance for solar energy systems shall be allocated to residential and multifamily residential buildings.

Not less than 5 percent of the funds appropriated during any fiscal years shall be allocated for residential buildings owned by individuals whose income is below 80 percent of area median and for multifamily buildings with majority of low-income occupants. Failure to provide financial assistance under the low-income allocation shall not delay the provision of other financial assistance under this subtitle and funds made available for financial assistance to low-income persons which are not expended in any fiscal year shall be available for the provision of financial assistance to any qualifying individual during the following fiscal year.

For purposes of determining whether a multifamily building contains a majority of low-income tenants, the Conferees intend that income certification procedures for tenants of such buildings be developed to be consistent with existing HUD procedures for such certifications.

Promotion

Section 518 authorizes the Bank to conduct a promotional program related to the Bank activities which does not duplicate the promotion activities conducted by other Federal agencies but which is designed to complement those activities.

Reports

Section 519 directs the Board to submit an annual report to Congress regarding the operations of the Bank and the impact of its programs on the increased use of solar energy systems and energy conserving improvements. Within two years of enactment, the Board is also to report on the effects of limiting the amount of Bank funds available through utilities for solar energy systems.

The Conferees intend that the Bank utilize, to the maximum extent feasible, the expertise of HUD and DOE in performing the analyses required by this section.

Rules and regulations

Section 520 directs the Board to issue final rules and regulations, including those necessary to prevent fraud, within six months from the date of enactment, except that rules and regulations applying to multifamily residential, commercial and agricultural buildings needs not be promulgated until nine months after the date of enactment.

It is the Conferees' intent that the later deadline for issuing rules and regulations with respect to multifamily residential, commercial, and agricultural buildings not delay the Bank's commencement of operations with respect to residential buildings.

Penalties

Section 521 provides that any person who knowingly makes a false statement, or misrepresents a material fact with respect to financial assistance provided by this subtitle, or fails to make disclosure or statement as required, shall be fined no more than $10,000 or imprisoned not more than one year, or both, for each offense.

Funding

Section 522 authorizes to be appropriated to provide financial assistance for the purchase and installation of solar energy systems the following amounts: $100 million for fiscal year 1981; $200 million for fiscal year 1982; and $225 million for fiscal year 1983.

Of those amounts, no more than $10 million for fiscal year 1981 and no more than $7.5 million in each of fiscal years 1982 and 1983 may be used for the promotional activities of the Bank that relate to solar energy systems.

The following amounts are authorized to be appropriated to provide financial assistance for the purchase and installation of residential and commercial energy conserving improvements: $200 million for fiscal year 1981; $625 million for fiscal year 1982; $800 million for fiscal year 1983; and $875 million for fiscal year 1984.

Of these amounts, not more than $10 million for fiscal year 1981 and not more than $7.5 million in each of fiscal years 1982, 1983, and 1984 may be used for the promotional activities of the Bank that relate to residential and commercial energy conserving improvements.

PART 2—SECONDARY FINANCING

Authority of Solar Energy and Energy Conservation Bank to purchase loans and advances of credit for residential energy conserving improvements or solar energy systems

Section 531 amends Section 315 of the Federal National Mortgage Association Charter Act by deleting the provisions in existing law under which the HUD Secretary is authorized to direct the Government National Mortgage Association to purchase loans made for the purchase and installation of residential energy conservation improvements insured under Title I and Section 241 of the National Housing Act. Instead, the Bank is directed to purchase any loans made in whole or in part for such improvements or solar energy systems, unless the Board finds such authority unnecessary to advance the national program of energy conservation in residential buildings.

The Bank could purchase a loan or advance of credit only if the energy conserving improvements or solar energy systems involved are installed in residential buildings and are purchased and installed, after the date of enactment of the Solar Energy and Energy Conservation Bank Act. These loans and advances of credit must meet other requirements established by the Board, must involve repayment terms of not less than 5 years and not more than 15 years (without prepayment penalty), must have an interest rate and security acceptable to the Board, and must not exceed $15,000. The entity from which a loan or advance of credit is purchased must also agree to lend or advance credit for the purchase of residential energy conserving improvements or solar energy systems in amounts equal to the amount of the loan or advance of credit purchased by the Bank.

The reference to public utilities in section 531(a) should not be deemed to exclude utilities not covered under section 211 of NECPA if such utilities are undertaking financing programs.

Authority of Solar Energy and Energy Conservation Bank to purchase mortgages secured by newly constructed homes with solar energy systems

Section 532 amends section 316 of the Federal National Mortgage Association Charter Act by deleting certain requirements including the authority of the Secretary of HUD to direct the Government National Mortgage Association to purchase title I insured loans and advances of credit made for the purchase and installation of solar energy systems in residential buildings. Instead, the amendment provides that the Bank shall make purchases of mortgages secured by newly constructed residential buildings containing solar energy systems and meeting or exceeding cost effective energy conservation standards established by the HUD Secretary, unless the Board finds such activity unnecessary to advance the national program of energy conservation through the use of solar energy systems in residential buildings. A mortgage may be purchased if it meets several conditions including the requirements that: the mortgage term is not less than 5 years and does not exceed 30 years (with no prepayment penalty); the interest rate charged is acceptable to the Board; the principal amount of the mortgage does not exceed the maximums established under section 203(b) of the National Housing Act (presently $81,000 for a single unit residence containing a solar energy system); and the dwelling which secures the mortgage is purchased after the date of enactment of this title. The amendment also deletes several requirements in existing law including the requirements: that there be recourse to the originator of any loan purchased; that the interest rate on purchased loans be lowered if less than fifty percent of the funds available in any year are not used; and that the purchase authority provided in the section be terminated within 5 years of enactment. The authorization of appropriations for this section is increased from $100 million to $800 million.

Repeal

Section 533 repeals section 314 of the Federal National Mortgage Association Charter Act which authorized $3 billion for GNMA to purchase at subsidized interest rates loans made to low- and moderate-income families for the purchase and installation of energy conserving improvements in residential buildings owned by such families.

Secondary financing by Federal Home Loan Mortgage Corporation and by Federal National Mortgage Association

Section 534(a) amends section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act to permit FHLMC to make commitments to purchase and to purchase residential mortgages from any public utility carrying out lending activities in accordance with title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit whose original proceeds are used to finance the installation of residential energy conserving improvements or a solar energy system in residential real estate.

Section 534 amends section 302(b)(3) of the Federal National Mortgage Association Charter Act to permit FNMA to purchase loans or advances of credit made, by any public utility carrying out lending activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the installation of residential energy conserving improvements or the addition of a solar energy system to a residential building.

SUBTITLE B—UTILITY PROGRAM

Definitions

Section 541 expands the definition of buildings covered by the Residential Conservation Service Program under the National Energy Conservation Policy Act (NECPA) by including, after January 1, 1982, multifamily residential buildings which do not have central heating or central cooling sytsems.

State list of suppliers and contractors—Required warranty

Section 542 deletes the provision in NECPA which requires that manufacturers provide a three-year warranty for products to be included on the list of eligible residential energy conservation measures, and replaces it with new warranty requirements. Specifically, this section provides that a written warranty must be provided for any energy conservation measures supplied or installed under the Residential Conservation Service Program. It also sets forth the minimum terms of this warranty: any defect in materials, manufacture, design or installation found within one year after installation must be remedied without charge and within a reasonable period of time. This section also amends NECPA so as to leave existing Federal and State laws in force with respect to warranties unless those laws are inconsistent with the provisions of this section.

Finally this section provides that only a supplier or installer who agrees to comply with these warranty provisions may be included on approved State lists of suppliers and contractors.

There is a considerable body of Federal and State law which governs warranties. Some of these laws applicable to warranties may operate to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws, or portions thereof, will be superseded only to the extent necessary to make them consistent with this section. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this section. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranty specified in this section be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that persons involved with a utility program under NECPA are free to offer any warranty they desire, consistent with applicable State and Federal law, as long as the warranty meets or exceeds the minimum requirements of this section.

There is no intention by inclusion of this provision in NECPA to specify or otherwise affect arrangements which may be made among manufacturers, suppliers, and contractors with respect to transportation, storage or maintenance of residential energy conservation measures. The purpose of the provision is to insure that the customer for whom residential energy conservation measures are installed under a utility program have at least the warranty protection set forth in this provision.

The conferees intend that a supplier could satisfy the warranty requirement of section 212(b)(3)(C) by an assignment of the manufacturers warranty to the person to whom the measure is supplied.

State list of financial institutions

Section 543 provides that State lists of lending institutions, required under NECPA to be provided by utilities to customers, shall indicate that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available through such lending institutions.

Treatment of utility costs

Section 544 revises the requirements concerning utility recovery of costs associated with the project manager requirements under NECPA to provide that the State regulatory authority or the nonregulated utility will determine how these costs will be recovered, except that no more than $15 per dwelling unit may be charged to a customer for such activities.

This section also deletes the NECPA provisions relating to utility recovery of costs for labor and materials in providing energy conservation measures, leaving this matter to the discretion of State regulatory authorities or the nonregulated utilities. This section also simplifies the provisions relating to the repayment of loans through utility bills, and permits a utility to recover from other lenders the costs which a utility incurs in providing a loan repayment service.

The conferees intend that any utility conducting a financing program shall appear on the State list of qualified lenders described in Section 213(a)(3) of NECPA.

Tax treatment

Section 545 provides that any subsidy provided to a customer by a utility's financing program for residential energy conservation measures shall not be treated as income or as an increase in the basis of the customer's residence for tax purposes.

The conferees intend that any financial assistance which is provided to a customer by a utility for residential energy conservation measures and which does not include Federal, State or local governmental financial assistance (such as assistance from the Solar Energy and Energy Conservation Bank) shall not be considered subsidized energy financing for the purposes of the Internal Revenue Code, and shall not, therefore, disqualify such a customer from receiving the relevant tax credits for expenditures so financed.

Supply, installation and financing by public utilities

Section 546 deletes the prohibition in NECPA against utility financing of energy conservation measures, thus permitting utilities to undertake lending programs subject to State law. It also revises the prohibition in NECPA on utility supply and installation of conservation measures. This section exempts utilities from the prohibition on supply and installation of such measures if supply and installation is undertaken through independent suppliers and contractors which are (1) on the State list required under the NECPA utility program; (2) not under control of the utility except as to performance of their contracts; and (3) if selected by the utility, are selected fairly and openly from among those on the State lists. Further, any utility supply and installation program must not involve unfair methods of competition or have a substantial adverse effect upon competition, must not allow any supplier or contractor to gain an unreasonable share of the business in a utility program area, and, where a utility offers financing in connection with a supply or installation program, must also make available such financing for similar measures to be installed by any contractor on the State list or by the individual customer. Utilities must seek to minimize the cost of supply and installation to their customers, and must make available information on average costs of conservation measures installed under such programs.

This section further provides that a State plan must require any utility undertaking a financing program for which it seeks capital from financial institutions to seek such capital from financial institutions located throughout the utility's lending area, but this requirement applies only to the extent such utility determines this method of raising capital is feasible, consistent with good business practice, and not disadvantageous to its customers. This section also requires that if State plans permit or require utility supply and installation programs, the plans will include provisions to assure that such programs will be undertaken only in full compliance with the conditions on utility supplying and installing described above. Finally, the section requires a utility which undertakes a financing, supply or installation program to notify the Secretary of Energy at the commencement of such a program.

The conferees recognize that utilities have great potential for encouraging energy conservation improvements by their customers, and desire to remove the unnecessary obstacles in NECPA to such activities. However, the conferees are very concerned that any such utility activities be carried out in a fashion which will not be deceptive or anticompetitive. The conferees are aware that many businesses, including small businesses, are active in supplying and installing energy conservation measures, and thus intend that no utility unfairly discriminate against any such business' participation in a utility supply and installation program. The conferees intend that utilities, in carrying out such programs, select contractors or suppliers in a fair and open process from among those on the State lists.

For utilities undertaking programs to supply or install energy conservation measures, the conferees intend that sufficient protections against anti-competitive practices be insured. In revising the statute, the conferees intend that there be three basic tests: (1) before a utility can undertake a program, a State plan must include protection against anti-competitive acts or practices as described in section 216(c)(2); (2) a utility must notify the Secretary of Energy at the time of commencement of such a program; and (3) the Secretary of Energy must monitor utility programs and, if the Secretary (in consultation with the Federal Trade Commission) determines that unreasonable rates or unfair methods of competition are resulting from a particular program, the Secretary can order the utility program terminated.

In requiring that a utility commencing a program for financing, supplying or installing energy conservation measures notify the Secretary of Energy, and in requiring all such programs to be in conformance with the procedures specified in a State plan, the conferees do not intend any requirement for submission of any individual utility's program to the Secretary, or approval of such individual program by the Secretary prior to its going into effect. While it is the intent of the conferees that a State plan cover utility financing, supplying and installing before a utility in such State commences any such program, it is not the intent of the conferees to require any State to submit an amendment to the State plan in each case where a utility undertakes a new program. Rather, the State should submit a general amendment to the State plan which will inform the Secretary of Energy of the procedures the State will utilize to insure that the requirements of this subtitle are met and which amendment must be approved by the Secretary. The conferees expect that the Secretary, in consultation with the Federal Trade Commission, shall fully carry out the responsibilities to monitor utility programs as required under section 216(g) of NECPA and, in the event that anticompetitive practices or unreasonable rates have resulted from any particular utility program, to seek rectification or termination of such program in accordance with the procedures under section 216(g).

The conferees intend that a utility shall treat the cost associated with a supply or installation or financing program in any way it determines appropriate, subject to approval of the State regulatory authority in the case of regulated utilities, and subject to discretion of the utility in the case of the non-regulated utility. The conferees are concerned that any utility undertaking such a program not establish rates or surcharges which would directly penalize customers for any conservation initiatives they might undertake.

The conferees did not include any additional statutory requirements for post-installation inspections of buildings in which residential energy conservation measures are installed under utility programs. However, the conferees believe that the States, in complying with the provisions of Section 213 (b) of NECPA, are already required to adopt procedures to protect consumers against fraud and to investigate and resolve any complaints regarding fraud. The conferees are agreed that at least during the first year of any utility program, it is essential to perform a sufficient number of post installation inspections to assure that a high quality performance be provided by the installers or suppliers. The conferees assume that in addition to adopting procedures to protect consumers against fraud, States, in the interest of maximizing the conservation benefits of utility programs, will also adopt procedures to assure that high quality installation work is accomplished. The conferees expect that States will utilize information obtained from any post-installation inspections in determining whether suppliers and installers on the State list should be removed from such list due to poor workmanship, or unfair, fraudulent or deceptive practices.

While it is the intent of the conferees to have utilities give consideration to financing their lending programs through local banks, it is not intended that utilities be required to incur costs or other terms or conditions they deem to be unacceptable.

The conferees wish to make clear that utility programs operating under the exemption provisions contained in section 216(d) and the waiver provision of section 216(e) are not affected by the provisions of this subtitle.

Authority to monitor and terminate supply, installation, and financing by utilities

Section 547 requires the Secretary of Energy, in consultation with the Federal Trade Commission, to monitor financing, supply and installation activities of public utilities. In the event the Secretary finds that a utility program is resulting in unreasonable rates, terms, or conditions, is resulting in adverse effects upon competition, or does not comply with the section 216(c) requirements regarding supply and installation programs, the Secretary may, after notice and a public hearing, order such program terminated.

This section also requires the Secretary of Energy to report annually to the Congess on the conduct of utility programs.

Unfair competitive practices

Section 548 provides that nothing contained in these amendments shall be construed to bar any action with respect to anticompetitive acts or practices or to provide to any person exemption from antitrust laws.

Effective date

Section 549 provides that the amendments made herein shall become effective on enactment. The Secretary shall promulgate such rules as are necessary to implement the amendments contained herein no later than 120 days after enactment. The amendments made by this title shall not delay the submission, approval, or disapproval of any other plans required by the National Energy Conservation Policy Act as passed in 1978.

Relationship to other laws

Section 550 provides that any public utility or utility holding company system subject to the Public Utility Holding Company Act (PUHCA) of 1935 shall be entitled to undertake programs for financing, supply, or installation of residential conservation measures without regard to the divestiture provisions of the Public Utility Holding Company Act.

This section applies only to Section 11(b) of PUHCA and seeks to address potential impediments to utility activities under Title II of NECPA due to the Securities and Exchange Commission opinion arising from the Michigan-Consolidated case. This provision is not to be construed as an exemption from any other provision of law, including antitrust law.

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENT PROGRAM

Purpose

Section 561 sets forth the purpose of the subtitle which is to establish a program in the Department of Energy to encourage up to four demonstrations of the prototype residential energy efficiency plan described in the subtitle.

AMENDMENT TO NECPA

Section 562 amends title II of the National Energy Conservation Policy Act (NECPA) by adding a new part V composed of sections 261 through 270.

Definition

Section 261 of NECPA defines a residential building as a building used as a residence (without regard to the number of dwelling units contained in such building) which is not a new building to which final performance standards under the Energy Conservation and Production Act apply and which has a heating or cooling system or both. Except for this change, the definitions of section 210 of NECPA apply to this part.

Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs

Section 262 of NECPA describes the provisions of a residential energy efficiency plan.

A residential energy efficiency plan and the program under such a plan would involve several provisions. These are described in subsection 262(a).

A public utility (or several public utilities) would enter into a contract with one or more independent persons to implement a comprehensive energy conservation program in all or a portion of the utility's service area. This program would include the supply and installation, without charge, of energy conservation measures in residential buildings in the designated portion of the utility service area. The program may also include provisions for consumer education, for the adoption of "low-cost no-cost" energy conservation techniques, and other activities designed to maximize the energy savings achieved in the designated area under the program. The energy conservation measures installed and the conditions under which any individual measure might be installed would be set forth in the contract. These measures need not be the same as the measures enumerated in section 210 of NECPA.

The person or persons with whom the utility enters into a contract under this part must be selected in a fair, open and nondiscriminatory manner. The contract would provide for the payment by the utility to the person or persons conducting the energy conservation program of a specified price for each unit of energy saved as a result of the program over the period of the contract. This price is to be based on the value to the utility of the energy saved. The conferees intend that the value associated with any deferral in the expansion of energy production, conversion, or distribution facilities owned by the utility (resulting from reduction in energy demand because of the program) may be included in the value of the energy saved.

The measurement of the energy saved as a result of the program implemented under the contract would be accomplished under a procedure established by the State or local government submitting the application covering the residential energy efficiency plan. This procedure, the terms of payment for saved energy and the contract itself would be subject to the approval of the entity exercising ratemaking authority over the public utility entering into the contract.

The plan must include effective provisions for the enforcement of the contract.

Additional required elements of the contract are set forth in subsection 262(b). This contract must require the person or persons operating the energy conservation program under the residential energy efficiency plan to offer to the owner or occupant of each residential building in the designated portion of the utility's service area, without charge, an inspection to determine which energy conservation measures will be installed in that building under the plan. In connection with this inspection, information would be provided concerning the savings in energy costs likely to result from the installation of the measures determined to be appropriate for that building. This information would include suggestions and advice about modifications in household activities which could significantly reduce energy consumption without the installation of energy conservation measures, and would include the savings in energy costs likely to result from these modifications.

If the owner or occupant agrees, the energy conservation measures determined in the inspection to be appropriate for the building in question would be installed without charge. In addition, low-cost modifications in the building may be made at the time of the inspection. These modifications might include such things as the use of insulating tape, weatherstripping or small amounts of insulation or other techniques to seal off paths along which heat flows into and out of the building and adjustments in heating and cooling equipment to optimize energy efficiency.

A written warranty must be provided for any energy conservation measure supplied or installed under the residential energy efficiency plan. The statute sets forth the minimum terms of this warranty; any defect in materials, manufacture, design or installation found within one year after installation must be remedied without charge and within a reasonable period of time.

There is a considerable body of Federal and State law which governs warranties, some of which may operate so as to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws or portions thereof, will be superseded only to the extent necessary to make them consistent with this part. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this part. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranty specified in this part be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that the person or persons operating a residential energy efficiency plan are free to offer any warranty they desire, consistent with applicable State and Federal law, as long as the warranty meets or exceeds the minimum requirements of this part.

Subsection 262(c) limits to four the number of applications for financial assistance and plan approval which the Secretary may approve. The conferees intend that the authority available under this part to implement a residential energy efficiency plan to be limited to no more than four demonstration plans even if financial assistance is not provided under one or more of the approved applications covering these plans.

Applications for approval of plans for prototype residential energy efficiency programs

Section 263 of NECPA authorizes the Secretary of Energy to provide financial assistance for applications containing the minimum information set forth in subsection 263(b) and approved under section 264. All applications are required to include: a description of the prototype residential energy efficiency plan to be implemented and of the portion of the utility service area in which such implementation is intended; a description of the manner in which the requirements for such plans and contracts under this part are met; and the record of the required public hearing conducted on the proposed application. In addition, the Secretary may require applicants to submit such other information as the Secretary determines is reasonably necessary to carry out his duties under this part.

Approval of applications

Section 264 of NECPA sets forth the requirements for approval of applications for financial assistance and for authority to implement a residential energy efficiency plan under this part. Any such application must be approved in writing by the public utility involved, the entity exercising ratemaking authority over the utility and the Governor (or any State agency specifically authorized to grant such approval under State law) of the State in which the portion of the utility service area covered by the application is located.

Before the application is submitted, the State or local government planning to submit an application must publish a proposed application. After such publication and adequate notice to the public, the applicant must conduct a public hearing at which interested members of the public may comment on the proposed application. Modifications in the proposed application may be made to take into account what is learned at this hearing.

In deciding which applications to approve, the Secretary must take into consideration several factors set forth in this section, including the potential for energy savings from the plan to be implemented, the likelihood that the value of the energy saved to the public utility under the program will be sufficient to cover the estimated cost of supplying and installing energy conservation measures under the proposed plan and the likely effects on competition in the utility service area covered by the application. The conferees also expect that the Secretary will take into account the need to test the viability of the residential energy efficiency plan concept as set forth in this part in a variety of circumstances. The Secretary should strive to select the four demonstrations of residential energy efficiency plans so as to reflect different climatic conditions, energy supply sources, energy use patterns and forms of utility ownership. In particular the conferees expect the Secretary to be mindful of the desirability of assessing the value of residential energy efficiency plans in assisting public utilities to defer decisions to construct or expand facilities.

Rules and regulations

Section 265 of NECPA requires the Secretary to issue proposed rules and regulations for the program authorized by this part within 120 days after the enactment of this part and final rules and regulations within 90 days after publication of proposed rules and regulations.

Authority of the Federal Energy Regulatory Commission to exempt application of certain laws

Section 266 of NECPA authorizes the Federal Energy Regulatory Commission to exempt the sale or transportation of natural gas conserved as a result of a residential energy efficiency plan from provisions of certain Federal laws if the Commission determines that such exemption is necessary to make feasible the demonstration of that plan. The volume of natural gas subject to such exemption would be determined by the State agency exercising ratemaking authority over the utility, local distribution company or pipeline seeking the exemption. A nonregulated utility, local distribution company or pipeline, would itself certify the volume of gas saved. The authority under this section is intended to give the Commission broad discretion to fashion any exemption to facilitate a test of the residential energy efficiency plan concept. The use of this authority is limited to the four demonstration projects authorized by this part. There is no intention to authorize under this part any exemptions by the Commission for energy conservation plans undertaken by public utilities based on authorities other than those contained in this part.

Application of other laws

Section 267 of NECPA states that no provision of this part shall result in any immunity from the antitrust laws as such laws are defined in subsection (c) of this section. Subsection (b) authorizes the Secretary of Energy to relieve a public utility from the obligation to inspect any residential building as required under part 1 of the National Energy Conservation Policy Act if equivalent actions with respect to such building are taken under a residential energy efficiency plan approved under this part.

Records and reports

Section 208 of NECPA provides that each state and local government whose application for a residential energy efficiency plan is approved and each utility and person entering into a contract under the plan shall keep such records and make such reports to the Secretary as the Secretary requires. The Secretary and the Comptroller General shall have access at reasonable times and under reasonable conditions to any information pertinent to this part. The conferees expect that the Secretary and the Comptroller General will make use of the authority under this section to closely monitor the operation of residential energy efficiency plans approved under this part so that the maximum practicable amount of information is obtained concerning the viability of the plan concept. On the other hand, the conferees do not intend that unreasonably burdensome reporting requirements be imposed under this section.

The Secretary is required to make an annual report on activities under this part in connection with the annual report prepared by the Secretary under the Department of Energy Organization Act. The report is to fully analyze the Department's experience with the program under this part and must include certain elements enumerated in the section. The conferees understand that certain of these analyses may be difficult to fully carry out in the first annual report submitted after enactment of this subtitle. For example, the impact of a residential energy efficiency plan on competition in a utility service area in which the plan has been implemented may only become clear after a period longer than a year. In addition, the Secretary may decide to defer making recommendations concerning the impact of expanding the implementation of the residential energy efficiency plan concept on a nationwide basis until the four demonstration plans authorized under this part have had considerable operating experience.

Revoking approval of plans and terminating financial assistance

Section 269 requires the Secretary of Energy to revoke approval of any application under this part and to terminate any financial assistance being provided under such application if the Secretary, in consultation with the Federal Trade Commission, makes any of the determinations relating to the competitive impact of a residential energy efficiency plan enumerated in the section. No such determination may be made without notice and opportunity for a hearing. The conferees intend that the Secretary take into account the purposes set forth in section 561 in making a determination under this section. The conferees do not intend to imply by this section that certain specific determinations relating to the competitive impact of a residential energy efficiency plan are the only basis upon which an application may be revoked. The conferees included this section to emphasize their concern with the potential for adverse competitive impacts under any plan which centralizes management of the delivery of energy conservation services. These adverse impacts can be avoided if adequate precautions are taken in the design of a residential energy efficiency plan. The conferees expect that the Secretary will be especially attentive to the need to maximize participation in residential energy efficiency plans by independent persons engaged in the supply or installation of energy conservation measures in the rules promulgated under this part and in the Secretary's monitoring activities in connection with the demonstration plans approved under this part.

Authorization of appropriations

Section 270 provides an authorization of no more than a total of $10,000,000 over fiscal years 1981 and 1982. That is, the authorization available for fiscal year 1982 is to be the difference between $10,000,000 and the amount actually appropriated pursuant to the authorization in this part for fiscal year 1981. Any such appropriation is to remain available until expended.

SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

Section 565 amends the National Energy Conservation Policy Act (NECPA) to add a new title VII requiring the establishment of utility audit programs for multifamily dwellings and small commercial buildings.

Definitions

The new section 710 of NECPA provides that the definitions contained in section 210 of NECPA will apply except with regard to terms which are defined specifically in this section.

With respect to the definition of a commercial building, which is limited to buildings with maximum consumption levels of electricity, gas or the Btu equivalent of gas for other fuels, the conferees intend to include only small commercial enterprises in the expanded energy audit program. While it is recognized that 4,000 Kwh is not the exact equivalent of 1,000 therms, testimony before Congress indicated that the two consumption levels would, in fact, identify businesses of similar size.

The conferees intend that in developing regulations to implement the expanded Residential Conservation Service program, the Secretary should recognize that the maximum energy consumption limitation for commercial buildings is expected to restrict the program to small commercial enterprises. However, consistent with this goal, the Secretary's directives for the determination of which buildings meet these criteria should require only the use of information readily available to utilities covered by this subtitle.

The definition of a multifamily dwelling in this title is distinguished from that of a multifamily building under title II of NECPA in that the former has no central system for heating or cooling whereas the latter does.

Coverage

Section 711 of NECPA provides that only those public utilities which are required to participate in the Residential Conservation Service Program of Title II of NECPA would be required to participate in this program.

Rules of Secretary for submission and approval of plans

Section 712 of NECPA specifies the time period within which the Secretary of Energy must issue rules for this program. These rules may identify energy efficient improvements appropriate in various climatic regions and for various types of buildings. To the extent practicable, the rules for this program should coordinate the requirements of this program with the Supplemental State Plans required under section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II of NECPA. The rules for this program should not have the effect of delaying the submission, approval or implementation of the utility program required under title II of NECPA.

Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings

Section 721 of NECPA provides that each governor and nonregulated utility must submit a plan concerning the expanded audit program to the Secretary within 180 days of promulgation of final rules. The Secretary may extend the submission period for good cause shown. The section also provides that, with the exception of Federal agencies, a governor may include nonregulated utilities in the State plan. If the governor chooses to include nonregulated utilities in the plan, they will be treated as though they were regulated utilities under this new title and plans will not be required of them. The governor may also include building heating suppliers in the plan. In addition, the section provides that the Tennessee Valley Authority will submit the plan for utilities over which it has ratemaking authority.

Requirements for State plans for regulated utilities

Section 722 provides that no proposed energy conservation plan for commercial buildings and multifamily dwellings shall be approved by the Secretary unless that plan: (1) requires that each utility offer an energy audit to each eligible commercial building or multifamily dwelling in compliance with Section 731 of NECPA; (2) provides adequate procedures for enforcement of the plan; (3) includes procedures for coordination among various local, State, and Federal energy conserving programs within the State. The State regulatory authority, or the governor in the case of nonregulated utilities, may determine that a utility within its jurisdiction need not fully comply with Section 731 if it is found that the inclusion of eligible commercial buildings and multifamily dwellings would impair such utility's ability to satisfy its requirements under Title II of NECPA or provide reliable utility service to its customers.

Plan requirements for nonregulated utilities and building heating suppliers

Section 723 of NECPA provides that no plan proposed by a nonregulated utility may be approved by the Secretary unless such plan meets the same requirements provided for regulated utilities. No plan proposed for building heating suppliers may be approved by the Secretary unless such plan: (1) meets the requirements contained in section 722 regarding coordination with various local, State, and Federal energy conserving programs within the State; (2) meets the notice and public hearing requirements contained in section 732 (including adequate enforcement procedures); and (3) takes into account the resources of small building heating suppliers.

Utility programs

Section 731 of NECPA establishes the requirements for each utility program. Under such programs, each utility within one year after approval of the program plan and every two years thereafter until 1990 must offer energy audits to eligible customers who own or rent small commercial buildings or multifamily dwellings. In the case of a multifamily dwelling, the availability of such audit is conditional upon the building owner's agreement to provide to the tenants of such building the information revealed by the audit that is applicable to individual dwelling units. Utilities must retain reports of audit results for ten years, must make such reports available to eligible customers who subsequently occupy the audited buildings, and need not re-audit buildings for which audits have already been conducted. Utilities may contract, with other entities, including other utilities, to conduct the audits required by this title. The section provides for the separate accounting of costs of the audit program and for the treatment of the cost of providing information concerning the availability of the audit as current operating expenses to be charged to all of the utility's ratepayers.

The section leaves discretion with State regulatory authorities for determining the appropriate audit charges for commercial building audits, but limits the charge for multifamily dwellings to $15 per unit. However, the conferees intend that charges for commercial building audits shall not exceed the actual cost of the activity. In setting any allowed charges for audits, State regulatory authorities are required to take into account a customer's ability to pay and likely participation levels.

The conferees do not expect utilities to make dwelling unit by dwelling unit inspections in a multifamily dwelling. It is expected that a sampling of the types of units in the building and an inspection of the central features, especially the heating and/or cooling system, will suffice. Additionally, building owners are expected to make available to the occupants of the building such information from the audit as would apply to measures which may be installed in the individual dwelling units.

Building heating supplier program

Section 732 of NECPA provides that, except as may be provided by the Secretary, the procedures required for a building heating supplier program will be the same as those required for utility program under section 731 (a). However, a governor who has chosen to include a building heating supplier program in the State plan may waive any requirement established under this section if a heating supplier demonstrates that it does not have the resources to comply with the requirement.

Federal standby authority

Section 741 of NECPA provides that if a State does not have a plan approved within 270 days (or such longer period as the Secretary may allow) after the Secretary's promulgation of rules for title VII, the Secretary will promulgate a plan which meets the requirements for these programs under title VII and order all regulated utilities in such State to carry out the program described in the Secretary's plan. In the cases of nonregulated utilities without an approved plan, the Secretary will order such utilities to promulgate a plan and offer the program to their customers within 90 days of such order.

This section also provides that the Secretary may enforce the provisions of title VII by petitioning the appropriate U.S. district court to enjoin any person from violating any provision, plan or order under title VII.

SUBTITLE E—WEATHERIZATION PROGRAM

Limitation on administrative expenditures

Section 571 amends Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 to provide that not more than 10 percent of any grant made under the Department of Energy weatherization grant program may be used for administrative purposes, except that a state may not use more than 5 percent of the total state grant for such purpose.

Expenditures for Labor

Section 572 amends Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 to provide that in areas where the Secretary, after consultation with the Secretary of Labor, determines that there are insufficient volunteers and CETA workers available to work on weatherization projects under qualified supervisors and foremen, the Secretary may increase from $800 to $1,600 per dwelling unit the amount available to cover the costs of paying persons who will install weatherization materials and to the maximum extent practicable who would have otherwise been eligible to participate as CETA workers.

The conferees intend that where there are no volunteers or CETA workers available and where workers are not available who would otherwise have been eligible to participate as CETA workers, workers may be hired from the general labor pool. In addition, where specially skilled workers (such as master electricians) are necessary to accomplish specific weatherization activities, such workers may be hired. The conferees also intend that in jurisdictions where adequate weatherization materials can be purchased within the $800 limit, but volunteer or CETA workers are not available to install such materials, funds may be used to hire workers under the guidelines of this section. The conferees intend that the increase in available funds from $800 per dwelling unit should not mean an automatic increase to $1,600. but should be limited to the amount necessary to accomplish the purposes of this program in those areas of the country where volunteer or CETA workers are not available.

Selection of local agencies

Section 573 amends the Energy Conservation in Existing Buildings Act of 1976 to delete the priority given to community action agencies under the weatherization grant program. In addition, the section establishes a procedure to be followed by each state in selecting the local agencies to conduct the weatherization program. These agencies, which may be community action agencies or other public or nonprifit entities, are to be selected on the basis of information received during public hearings regarding each agency's experience and performance in weatherization or housing renovation activities, in assisting low-income persons and such agency's capacity to undertake a weatherization program. Preference in such selection is to be given any community action agency or other public or nonprofit entity which is carrying out, or has conducted, an effective weatherization program under Department of Energy or Community Services Administration programs.

It is intended that this provision assure that State procedures for the selection of local agencies to carry out weatherization activities will be based on past performance in weatherization programs, experience in assisting all groups of low-income persons, and the capacity to undertake a weatherization program.

Because of the need to maintain continuity in the weatherization program, it is not the intention of the Conferees to replace an agency currently operating a program under this title unless it can be shown that an alternative agency can provide superior program administration. Further, it is intended that changes in the administration of the program at the local level be undertaken as seldom as possible so that disruptions in service delivery can be cut to an absolute minimum.

Standards and procedures for weatherization program

Section 574 clarifies that in carrying out the weatherization program, the Secretary shall establish standards for weatherization materials and energy conservation techniques and procedures for determining the optimum set of cost-effective measures in a manner so as to achieve uniform results among all states in any area with a similar climate.

Limitations on expenditures

Section 575 increases the individual dwelling unit limit on expenditures from $100 to $150 for incidental repairs as may be necessary to make the installation of weatherization materials effective.

Authorization of appropriations

Section 576 authorizes for fiscal year 1981 an appropriation of $200 million for this weatherization program.

Technical amendments

Section 577 replaces the term "Federal Energy Administrator" with the term "Secretary of Energy" wherever it appears in the law authorizing the weatherization program.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

Purpose

Section 581 states that the purpose of this subtitle is to encourage the training and certification of individuals to conduct energy audits of residential and commercial buildings.

Definitions

Section 582 provides a list of general terms and definitions used in the subtitle.

The definition of "energy audit" expands the meaning from that in section 215(b)(1)(A) and section 710(b)(7) of the National Energy Conservation Policy Act in order to include provision of information on the utilization of renewable energy resources and include installation of energy-related improvements. The conferees intend, therefore, that grants under this subtitle also be available for training for these expanded activities.

Grants

Section 583 provides that the Secretary of the Department of Energy may make grants to the Governor of any state for the training and certification of individuals to conduct energy audits. Applications for such grants must contain an assurance that the grants will supplement and not supplant other funds available for this purpose. Before making grants, the Secretary shall establish minimum standards for training and certification of individuals to conduct energy audits. The Secretary shall require that any Governor receiving a grant under this section agree to comply with the minimum requirements for auditor training and certification.

The Conferees intend that minimum training and certification standards should be sufficiently flexible to permit innovation in training and auditing techniques.

Although applications for auditor training funds may be submitted with State Supplemental Energy Plans, the Conferees do not intend that the distribution of such funds be governed by the allocation formula used to fund State Supplemental Energy Plans. Funds under this subtitle should be distributed based on the scope of the program proposed in each application and should not be concentrated in only a few states.

Authorization of appropriations

Section 584 authorizes an appropriation of $10,000,000 for fiscal year 1981, and $15,000,000 for fiscal year 1982. Such sums shall remain available until expended.

SUBTITLE G—INDUSTRIAL ENERGY

Authorization of appropriation

Section 591 authorizes, in addition to other funds available for such purposes, $40 million for each fiscal years 1981 and 1982 for industrial energy conservation demonstration projects designed to substantially increase productivity in industry.

The Conferees intend that the additional funds authorized by this section will be used under existing DOE programs and on projects which place an emphasis on achieving the greatest amount of energy savings for the smallest Federal investment.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

Consensus on factors and data for energy conservation standards

Section 595 provides that the Secretary of Energy shall assure that within 6 months from enactment, the Secretaries of Energy, Housing & Urban Development, Agricultural, Health and Human Services, Defense, the Administrator of the General Services Administration and the head of any other agency responsible for developing energy conservation standards for new or existing residential (including multifamily), commercial, or agricultural buildings reach a consensus regarding factors and data used to develop those standards. This consensus shall apply, but not be limited, to: fuel price projections, discount and inflation rates, climate conditions and zones, and the cost and energy saving characteristics of construction materials.

The conferees intend that the Secretary of Energy take responsibility for the operation of a working group to develop such consensus factors and data, and that this group shall complete the identification of and agreement regarding these factors and data within 6 months of the date of enactment of this Act.

Use of factors and data

Section 596 provides that these consensus factors and data (1) may by consensus be revised, and (2) shall be used by all Federal agencies in establishing and revising their energy conservation standards. Other factors and data may be used for specific program standards if the Secretary of Energy approves the use of other factors and data on the basis that they were critical to the unique needs of the program concerned. An agency may use other factors and data if using the consensus factors or data would violate an express provision of law or if statutory provisions require a modification of such factors or data.

Report

Section 597 provides that the President report on January 1, 1981, and annually thereafter, to the Congress with respect to the activities carried out under this subtitle and other efforts to coordinate Federal energy conservation programs.

TITLE VI

SUBTITLE A—LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

Section 602. This section provides for certain findings by the Congress.

Section 611. This subtitle establishes a new loan program to assist the geothermal industry in exploring for and confirming the economic viability of geothermal reservoirs. A project is considered to be one which is designed to explore for or confirm the economic viability of a geothermal reservoir, including surface exploration and any other tests or procedures, up to and including the drilling of one or more exploratory wells.

The Secretary is authorized to make loans from funds authorized to be appropriated to the Geothermal Resources Development fund, pursuant to this title. Loans are to be paid back at a rate of not more than 20 percent of annual gross revenue from the sale of either electrical energy or direct energy from geothermal resources, from the confirmed reservoir. If the reservoir is confirmed but not used commercially, a revenue may be imputed by the Secretary. The Secretary of Energy will determine when a reservoir is confirmed, based upon criteria utilized by industry, and pursuant to information provided to him by the borrower, or otherwise.

The Secretary may cancel the unpaid balance on any loan if the geothermal reservoir is determined to be technically or economically unacceptable for commercial development. "Person" is defined to include all entities in the statutory definition in 1 U.S.C. 1, and specifically includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes.

Section 612. No loan may exceed 50 percent of the costs of such project, except that for a project primarily for space heating or cooling or process heat, the loan may be up to 90 percent of the project costs. In no event shall a loan exceed $3 million for a project.

Section 613. Loans are made at the same rate as water resources planning projects, for a period of 20 years. If revenues are inadequate to fully repay the principal and accrued interest within 20 years after production begins, any remaining unpaid amounts shall be forgiven.

Section 614. No new loans shall be made after the end of fiscal year 1986. All funds received pursuant to loans made under Section 611 after this fiscal year shall be deposited as miscellaneous receipts in the United States Treasury.

Section 615. The Secretary shall promulgate all regulations made with respect to this subtitle within six months after the date of enactment.

Section 616. For fiscal year 1981, $5 million is authorized to be appropriated to the Geothermal Resources Development Fund for the purposes of this subtitle; $20 million is authorized to be appropriated for each of the four succeeding fiscal years.

SUBTITLE B—RESERVOIR INSURANCE PROGRAM STUDY

Section 621. Within one year after the date of enactment the Secretary is to transmit his report to the Congress on the results of a detailed study of the need for and the feasibility of a Federal program establishing a geothermal reservoir insurance and reinsurance program. The Secretary shall consider, among other things, the role of the reinsurance industry in such report.

Section 622. Upon review of the report, and if the report affirmatively recommends the establishment of the program, the Congress by subsequent act, may specifically authorize this program to be established.

The report shall specifically focus on the language included in this section which sets forth such a program of insurance and reinsurance for geothermal reservoirs but will not be limited to such language. Such a program would provide insurance and reinsurance against the risks associated with the geothermal reservoir failure or partial failure after significant investment in development and use (at least $1 million) has occurred at a geothermal energy project dependent upon the reservoir. The DOE reservoir insurance program would provide direct insurance only as necessary to supplement any existing private or public insurance available from commercial insurers or other public insurance programs, up to a maximum total insurance from private, public, and DOE sources of $50 million or 90 percent of the investment, whichever is less. The program would also include DOE reinsurance of any direct reservoir insurance provided by a private insurer, and would include other efforts under other authority to obtain greater participation of the private insurance industry in the area of reservoir insurance by providing an appropriate reserve for the contingent obligations associated with direct insurance and reinsurance commitments resulting from the program. The subsequent legislation required by this Act will provide authorization for such sums as are necessary to be appropriated to the Geothermal Resources Development Fund for use, pursuant to this section. Also, any revenue from premiums paid on DOE insurance or reinsurance would be deposited in the fund in the account established for this purpose.

SUBTITLE C—FEASIBILITY STUDY LOAN PROGRAM

Section 631. There is established in the Department of Energy a new loan program for 90 percent of the cost of feasibility studies and regulatory applications, and 75 percent of costs of construction programs for the development of a proposed nonelectric geothermal system which are shown to be feasible. The loans for feasibility studies may be cancelled if the development of the proposed system is not technically or economically feasible. All loans under the program will bear the interest rate specified for water resources planning projects. A designated subaccount in the Geothermal Resources Development Fund will be the source of all funds for the loan program, and $5 million is authorized to be appropriated to this subaccount for the purpose of feasibility study loans. Loans for preparing regulatory applications and for construction purposes will be authorized for appropriations in subsequent legislation. The definition of "person", as used in this section contains all entities listed in 1, U.S.C. 1, and is expanded to include municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection A of this section.

SUBTITLE D—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Section 641. This section contains several amendments to the organic loan guarantee legislation, contained in Title II of the Geothermal Energy Research, Development and Demonstration Act of 1974, (30 U.S.C. 101, et seq.). This Act is amended by raising the maximum loan guarantee limit from 75 percent to 90 percent of the costs of any project if the guarantee is made for a loan to an electric, housing or other cooperative, or a municipality.

This act is also amended to exclude all costs of constructing electrical transmission lines which exceed 25 percent of the aggregate cost of the project. In determining this percentage, the amount used in the denominator shall be the total aggregate cost of the project, including the total cost of constructing the electric transmission lines.

An exception to the limitation on funding electric transmission lines is provided in the case of the State of Hawaii, if the Secretary finds that a transmission line is required before the geothermal reservoir can be developed and the project will be remote from the area of primary consumption. On-site consumption is not to be considered for the purpose of this determination. In addition, the transmission line must be capable of being utilized for more than the plant which is the subject of the loan guarantee.

It is the Conferees' intent that only the transmission lines and related equipment necessary for support, maintenance, and interconnect would be eligible for financial assistance as part of the total project cost.

The loan guarantee program has been extended until the end of fiscal year 1990.

A new section, Section 206, is added to the loan guarantee provisions to require the Secretary of Energy to institute a series of procedural reforms to implement more orderly and expeditious processing of geothermal loan guarantees. This new procedure will include a deadline of four months for processing and reaching a final decision on a loan application.

A new section, Section 207, is added to the geothermal loan guarantee provisions to require the Secretary to take the maximum cognizance allowable of any other action previously undertaken pursuant to the National Environmental Policy Act. Section 102 (2)(C). This requirement is designed to prevent any significant duplication in the Secretary's considerations pursuant to such section, in connection with the application for a loan guarantee. However, all of the requirements which are applicable to such project under such Section 102(2)(C) must be fully satisfied.

Section 642. The Federal government is required to consider the option of using geothermal energy or geothermal energy resources fully in any new Federal building, facility, or installation which is located in a geothermal resource area which may be designated by the Secretary.

Section 643. This section makes certain amendments to the Federal Power Act and the Public Utility Regulatory Policies Act of 1978.

Subsection (a) contains three amendments to the Federal Power Act. Subsection (a)(1) clarifies the authority of the FERC to classify geothermal resources as a primary energy resource for the purpose of the definition of a "small power production facility" under Section 3(17)(A). The Conferees do not intend to cast the FERC's present regulations under 3(17) of the Federal Power Act into doubt by reason of this amendment.

Subsection (a)(2) and (a)(3) amend the Federal Power Act to provide that any geothermal power producer may apply for interconnection and wheeling orders under Sections 210 and 211(a) of the Federal Power Act, regardless of whether the producer is an electric utility or not.

Subsection (b) contains three amendments to Section 210 of the Public Utility Regulatory Policies Act of 1978. Section 210(a) requires the Commission to prescribe certain rules to encourage cogeneration and small power production. Subsection (b)(1) amends Section 210(a) to expand the scope of these rules to encourage geothermal small power production facilities of not more than 80 megawatt capability.

Subsection (b)(2) amends Section 210 (e) to authorize the FERC to exempt geothermal small power production facilities of not more than 80 megawatts capacity from the laws and regulations specified in Section 210(e).

Subsection (b)(3) contains an amendment which removes the limitations on the exercise of the FERC's authority under subsection 210(e)(1), which is contained in subsection (e)(2). In effect, this amendment allows the Commission to exempt from all the laws and regulations specified in Section 210(e)(1) any qualifying small power production facility using geothermal energy as the primary energy source without regard to capacity, as long as it does not exceed 80 megawatts capacity. The Conferees expect that the Commission exercise this authority promptly and in no event later than six months after the date of enactment, because this limitation appears to be a significant disincentive to some geothermal small power production development.

The Conferees intend that any required changes to existing or proposed regulations under these sections of PURPA shall be made by amendments to such regulations and shall not delay the effectiveness of any regulations thereto.

The Conferees intend that the amendments to the Federal Power Act and the Public Utility Regulatory Policies Act contained in Section 643 be implemented by amendment of existing regulations, rather than reissuance of such existing regulations.

All references in Section 643 to megawatt capacity refer to megawatt electric capacity.

General

The Conferees intend that any new authority for granting financial assistance under this Title will not be used for any proposed project in the Island Park Geothermal Area which is within 35 miles of the boundary of Yellowstone National Park, unless there has been enacted into law, legislation which provides for protection of the nationally significant thermal features located in the Park (as contained in H.R. 6080, as passed by the House of Representatives, and S. 1388, as reported by the Senate Committee on Energy and Natural Resources, in the 96th Congress).

The Conferees suggest that the Secretary of Energy should conduct three (3) parallel studies related to the accelerated development of geothermal resources in the United States, including (1) geopressured methane, (2) hot dry rock systems, and (3) environmental control technology. The Conferees recognize that the third study is nearly completed.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

PART A—ACID PRECIPITATION PROGRAM

SECTION 701—SHORT TITLE "ACID PRECIPITATION ACT OF 1980"

Statement of findings and purposes (Sec. 702)

Congress finds that there could be serious impacts due to acid precipitation from manmade sources and declares the purposes of this Part to be identification, evaluation and research on such efforts.

The definition of acid precipitation was written to make clear that natural effects are not excluded from the research program. However, the Conferees wish to emphasize their concern that the research be focused on the acid precipitation caused by man-made sources so that a better understanding can be obtained of what practical applications will be required to reduce or eliminate these sources of acid precipitation.

Interagency Task Force: Comprehensive program (Sec. 703)

Section 703 establishes a 10-year comprehensive program to be implemented by an Acid Precipitation Task Force chaired by NOAA, USDA and EPA with representatives from other Departments and agencies, four of the National Energy Laboratories, and four additional Presidential appointees and authorizes the National Energy Laboratories consortium to act at the direction of the joint chairmen and appoints the Administrator of NOAA as Director of the research program.

The Conferees intend that the Acid Precipitation Task Force should, to the extent practicable, use members of the general public, including appropriate university scientists, qualified to assist in the gathering of data and information required for the research conducted under this Part.

The Conferees expect that the President, in appointing four additional members to the Task Force, will seek to have them represent the various regions of the country.

The Conferees intend that the Task Force program authorized in this Part shall incorporate to the extent feasible and not duplicate the programs incorporated in the Presidential Directive dated August 2, 1979.

Comprehensive research plan (Sec. 704)

The Task Force is directed to prepare a Comprehensive Research Plan for a program to identify causes and effects of acid precipitation and possible actions. The plan includes individual research, economic assessment, federal coordination, international cooperation, and management requirements. The plan is to be submitted to Congress, subject to public comment and provided in final form to the President. The Task Force must meet at least twice a year and submit an annual report to the President and the Congress.

Implementation of comprehensive plan (Sec. 705)

The Plan is to be implemented in a 10-year period to meet specific objectives and managed as outlined in Section 704, subject to annual authorization.

Subsection 705(b) is not intended to expand or diminish existing regulatory authorities, nor establish new regulatory criteria, standards, or requirements under existing law. The view of the Conferees is that the scientific information provided by the Task Force may be considered by the regulatory agencies in accord with existing procedures.

The annual report required of the Task Force shall be prepared in a format that delineates achievements and anticipates resource requirements.

Authorization and appropriations (Sec. 706)

The Task Force is authorized $5 million for FY81 with a maximum aggregate of $50 million for the 10-year program subject to annual authorizations and appropriations. The Conferees intend this authorization should not override appropriations laws but appropriated funds would be distributed in a coordinated manner through the joint management of the Task Force.

PART B—CARBON DIOXIDE STUDY

Study (Sec. 707)

(a) The Study—The Director of the Office of Science and Technology Policy shall contract with the National Academy of Sciences to carry out a comprehensive study on the level of carbon dioxide in the atmosphere. Broad participation including international involvement is encouraged.

(b) A report is required within three years of enactment and should include recommendations on (1) the composition of a long-term carbon dioxide assessment program, (2) the U.S. role in the program, (3) domestic resource requirements, (4) enhancement of its specific utility for government policy-makers, and (5) need for periodic reporting requirements.

(c) Certain Departments are directed to provide necessary information to the Office or the Academy and the Office shall provide an assessment of interagency requirements

Authorization and appropriation (Sec. 708)

For the study, $3 million is authorized with at least 80 percent of appropriations to be provided to the National Academy of Science.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

President required to resume fill operations

Section 801 amends the Energy Policy and Conservation Act (EPCA) by adding a mandate to begin crude oil fill of the Strategic Petroleum Reserve (SPR). The President is directed immediately to undertake and continue crude oil acquisition, transportation and oil injection activities at a level sufficient to assure that crude oil in storage will be increased at an average rate of at least 100,000 barrels per day. He must do so without regard to the objectives of section 160 (b), but the Conferees expect that the Secretary will abide by these objectives to the extent they are compatible with the mandated fill. The reference to section 159 is intended to relieve the Secretary of any obligation to amend the SPR plan in implementing this section, regardless of the type or source (foreign or domestic) of the oil.

This requirement to fill ceases when the storage level reaches the amount set forth in the SPR plan. That level, which presently is set by the terms of the plan at one billion barrels, may be changed by an amendment to the plan in accordance with the procedures set forth in EPCA. The Conferees intend that if a government agency transfers oil to the SPR, this would be included within the meaning of the term "acquisition", even though there may not be a sale, as such.

The Conferees express in the strongest possible terms their insistence that the President commence and continue filling the SPR as mandated in this Act. The Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance. The specified minimum rate of injection—100,000 barrels per day—is intended to be a minimum and is not to be considered the appropriate rate of injection.

Use of crude oil from Elk Hills Reserve

Section 802 recognizes the Department of Energy is currently producing about 160,000 barrels per day of crude oil from Elk Hills petroleum but the Administration refuses to fill the SPR. Since existing law creates a budgetary incentive to defer the fill while maintaining the oil sales, the Conferees agreed upon a self-enforcing mechanism to remove this incentive. As long as the Department of Energy is filling the SPR at the average rate of at least 100,000 barrels per day from whatever source, Elk Hills production, sales, and other disposal may continue. If, the mandated fill rate of the SPR is not achieved for whatever reason, then the United States may not sell or otherwise dispose of its share of crude oil from Elk Hills except to fill the SPR directly or by exchange for other oil, as provided under section 804 (b), with certain specified exceptions.

The specified exceptions are: (1) amounts of production set aside for small refiners as provided under existing law, (2) minimal amounts necessary for reservoir protection, (3) production for national defense requirements under the provisions of section 7422 (b)(2) of title 10, United States Code, limited to a period of no more than 9 months and (4) suspension under section 803.

This restriction terminates when the storage level has reached 500 million barrels.

The reference to "the United States' share of crude oil" is intended to distinguish crude oil to which the United States has title from that owned by others.

Although this section measures the rate of fill of the SPR based on the per day rate averaged over the fiscal year, the Conferees emphasize that this section is prospective in nature. A determination of noncompliance might be made prior to the end of the fiscal year after assessing the past and present fill rate for that fiscal year and the contracts for future acquisition of crude oil in the remainder of the fiscal year.

It is the intention of the Conferees that the Administration will compensate for deficiencies in the rate of storage in the SPR by increasing the storage activities, even in a succeeding fiscal year, so as to maintain a minimum of 100,000 barrels per day rate of fill.

Suspension during emergency situations

Section 803 would relieve the President of the requirements established by sections 801 and 802 of this title during emergency situations. The President is given discretion to request an exemption from the fill requirements if he finds that compliance with those provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program. He may then transmit such finding to the Congress in accordance with section 552 of the EPCA, together with a request for a suspension of such provisions. The provisions of section 552 regarding energy conservation contingency plans would be applicable to the request for suspension. This suspension would terminate 9 months thereafter, unless an earlier date is specified in the Presidential transmittal.

This section would also create a temporary exemption to the requirements of section 801 and 802 in the event of a drawdown of the SPR. The exemption would last from the date that the President issues an order or directive to commence a drawdown as permitted under section 161 of EPCA, until the date that the drawdown ceases in fact.

The Conferees intend that if a suspension of the requirements of Subsections 160 (c) and (d) of EPCA occurs, then the requirement under each subsection for a mandated minimum fill rate of 100,000 barrels per day will not apply to the period of suspension. That is, any such period will not be counted for purposes of determining what the average fill rate is for the fiscal year.

Naval petroleum reserves

Section 804 amends existing provisions in title 10, United States Code, relating to the production of crude oil from the naval petroleum reserves. It would permit the Secretary of Energy to enter into contracts for the sale or exchange of natural gas (which is included within the definition of petroleum) from the naval petroleum reserves for periods of more than one year.

The section authorizes the President to direct the Secretary of Energy to place oil produced from the naval petroleum reserves in the SPR. The Secretary may do so by exchanging the oil, directly or indirectly. An indirect exchange is intended to include matching purchase and sale transactions involving different parties. For the limited purpose of complying with this section, the Secretary may do so without regard to existing Federal procurement statutes and regulations. This would, of course, include exchanges of crude oil produced from the Elk Hills petroleum reserve as specified in section 802. The Conferees intend that to comply with these provisions the Secretary is authorized to make exchanges, swaps or enter into other forms of direct and indirect transfers, including partial cash payments which reflect differences in quality and location of the oils being exchanged. The Conferees intend that any exchanges will reflect the fair market value of the petroleum being exchanged.

In adopting section 804(b) the conferees do not intend to affect the percentage set-aside provisions for small refiners at 10 U.S.C. 7430(d).

This section also authorizes the Secretary to make available to the Department of Defense, on request, petroleum produced from the naval petroleum reserves to meet petroleum product requirements of the Department of Defense. In such case, however, appropriate reimbursement must be made. That reimbursement should reasonably reflect the fair market value of the petroleum provided so as to avoid unjust enrichment of any party in the transaction.

These exchanges could be made without regard to otherwise applicable Federal procurement statutes and regulations. However, the Conferees would encourage the Department of Defense and the Department of Energy to abide by existing procurement laws and regulations where they deem it consistent with the objectives of this section. It is not the intention of the conferees to prohibit or discourage DOD from abiding by the small business preference provisions of 15 U.S.C. 644 where use of such preferences would not inhibit provision of crude oil from the naval petroleum reserves to the Department of Defense for the purposes of this subsection.

Allocation to Strategic Petroleum Reserve of lower tier crude oil; use of Federal royalty oil

Section 805(a) directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act so as to have the effect of allocating lower tier oil to the Federal Government for acquisition to deposit in the Strategic Petroleum Reserve (SPR). Given the limited financial resources available to purchase oil for the SPR, this would increase the amount of oil that can be obtained to fill the SPR. The President shall implement this requirement through the use of the entitlements program, but not with respect to any crude oil acquired after September 30, 1981, for storage in SPR. Subsection (b) provides the President with discretionary authority (1) to place Federal royalty oil in the Reserve; (2) to exchange, either directly or indirectly, Federal royalty oil for other oil to be stored in the SPR; or (3) to transfer proceeds from the sale of Federal royalty oil to a special Treasury account to be used to acquire more crude oil for the SPR.

Subsection (c) describes the special Treasury account into which are deposited the proceeds from the sale of entitlements and royalty oil. The account is available for use by the Secretary of Energy to purchase crude oil for the SPR, but such use is subject to any DOE authorization bill, and advance appropriation (after the date of enactment of this Act) is required.

There is one exception. Amounts in the account which are proceeds from the sale of entitlements under subsection (a) are available to the Secretary for fiscal year 1981 without any further appropriation.

Subsection (d) contains definitions of terms for this section.

In providing for the allocation of lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve, the conferees could have simply directed the Government to attempt to acquire in fact only lower tier crude oil at lower tier prices, but this would have necessitated breaking supplier-purchaser relationships to acquire that oil. Or the Government could attempt to swap (with appropriate reimbursement) its oil for lower tier oil held by refiners or traders of crude oil, but protracted delay would have ensued. Instead of specifying these methods to acquire exclusively lower tier oil for the SPR, the conferees direct the President to use the entitlements program to achieve the same result, namely, providing to the SPR program the benefits of increased access to domestic price-controlled lower tier oil.

Use of the entitlements program results in the Government in effect paying lower tier prices for oil to fill the SPR, but avoids the delay and disruption in the marketplace that would accompany an effort to acquire the lower tier oil molecules themselves.

The approach adopted by the conferees follows the approach taken (and the basic purpose achieved) in the current entitlements program established under the Emergency Petroleum Allocation Act, as amended, namely, to spread the benefits of access to domestic, price-controlled crude oil equitably among all domestic refiners. The conferees would note that the approach adopted in subsection (a) is consistent with this basic purpose of the entitlements program, as the SPR would afford protection for all the Nation's refiners (and the public as well) from the potentially disastrous consequences of petroleum supply interruptions.

The conferees intend that the per barrel entitlements benefit that the Government receives when it purchases uncontrolled crude oil for the SPR will not exceed the difference between the average cost of uncontrolled oil and the lower tier price. Consequently, if the Government purchases spot market crude to fill the SPR the entitlements benefit will be the same as if it had purchased crude at the average price for uncontrolled oil. This creates an incentive for the Government to seek the lowest price uncontrolled oil it can obtain. However, there is no suggestion here that the Administration may refuse to purchase oil for the SPR because they prefer to wait for lower prices. The use of the entitlements program is a very limited opportunity as it expires September 30, 1981. The Government is unlikely ever again to find crude oil at what amounts to lower tier prices.

The conferees recognize that the entitlements program involves some delay between when crude oil is acquired and the time entitlements benefits are received. It is their intention that although after September 30, 1981, crude oil acquisitions will not be subject to the entitlements program, the Government will still receive the entitlements benefits attributable to oil acquisitions prior to that date even if these benefits are received after September 30, 1981.

Section 805(a)(3) was added by the conferees as a precaution to ensure that procedural requirements will not prevent the President from meeting the deadline of issuing amendments to the regulation within 60 days of enactment of this Act. The conferees urge the President to use the administrative procedures that would otherwise apply to the extent that he can and still achieve the specified deadline.

In adopting subsection (b) the conferees are offering the President an additional means of facilitating SPR storage, namely the flexible use of Federal royalty oil. Under the Energy Policy and Conservation Act (sec. 160(a)) the Secretary of Energy already has authority to place Federal royalty oil in the SPR by storage, transport, or exchange. The conferees do not intend to override or place any restrictions on that authority of the Secretary of Energy.

The reference to an indirect exchange in section 805(b)(2) is intended to include matching purchase and sale transactions involving different parties.

In adopting subsection (b) the conferees do not intend to affect the provisions of otherwise applicable law regarding the sale of Federal royalty oil to small refiners and independent refiners.

It is the conferees' intent that the President, to the maximum extent practical so as not to unduly disrupt existing supply contracts or other supply obligations, fully utilize the discretionary authority contained in section 805(b) to deposit Federal royalty oil, or oil traded for such oil, in the SPR. Furthermore, since it is the Conferees' desire to minimize the disruptive impact on the world oil market of filling the SPR, in exercising this authority the President shall give first priority to directly inserting, and indirectly inserting through trades, Federal royalty oil in the SPR.

Section 805(c)(2)(A) states that use of the special account is limited "to the extent provided in advance in appropriation Acts." This is intended to refer to appropriation Acts enacted after the date of enactment of this Act.

Finally, the term "proceeds from the sale of Federal royalty oil" is defined so as to exclude the disposition provided by current law to the States, to any reclamation fund, or any similar disposition of proceeds from the sale of royalty oil. Current law credits to the Treasury's account known as "miscellaneous receipts" all proceeds from the sale of royalty oil that are not earmarked for other disposition.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to extend the Defense Production Act of 1950, and for other purposes.".

And the Senate agree to the same.

S. 932, Defense Production Act Extension Amendments, 1979 (for all titles):

Henry S. Reuss,
Jim Wright,
William S. Moorhead,
Thomas L. Ashley,
James J. Blanchard,
Bruce F. Vento,
Thomas S. Foley,
Don Fuqua,
Harley O. Staggers,
John D. Dingell,
Philip R. Sharp,
Albert Gore, Jr.,
Stewart B. McKinney,
Chalmers P. Wylie,
John Wydler,
Bill Wampler,
Managers on the Part of the House.

Henry M. Jackson,
Frank Church,
J. Bennett Johnston,
Dale Bumpers,
Wendell H. Ford,
John A. Durkin,
Howard M. Metzenbaum,
Spark M. Matsunaga,
John Melcher,
Paul E. Tsongas,
Bill Bradley,
Mark O. Hatfield,
James A. McClure,
Lowell P. Weicker, Jr.,
Pete V. Domenici,
Ted Stevens,
Henry Bellmon,
Malcolm Wallop,
Managers on the Part of the Senate.

S. 932, Defense Production Act Extension Amendments, 1979 (titles I, V, IX, and XI):

Anthony Moffett
(title V only) (solely for consideration of title V of the Senate amendment),
Richard Ottinger
(title V only) (solely for consideration of title V of the Senate amendment),
Ken Kramer
(title IX only) (solely for consideration of title IX of the Senate amendment),
Steve Neal
(title IX only) (solely for consideration of title IX of the Senate amendment),
Managers on the Part of the House.

Alan Cranston,
Harrison A. Williams, Jr.,
Adlai E. Stevenson,
Robert Morgan,
Don Riegle,
Paul Sarbanes,
Donald Stewart,
John Heinz,
Managers on the Part of the Senate.

S. 932, Defense Production Act Amendments, 1979 (titles II and III) of the Senate amendment:

Herman E. Talmadge
(solely for consideration of title II of the Senate amendment),
George McGovern
(solely for consideration of title II of the Senate amendment),
Jesse Helms
(solely for consideration of title II of the Senate amendment),
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON FRIDAY, JUNE 20, 1980, DURING 5-MINUTE RULE

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is under the 5-minute rule on Friday, June 20, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, do I understand from the distinguished gentleman from Massachusetts that this request reflects a truce between the gentleman from Massachusetts and the gentleman from Wisconsin (Mr. Sensenbrenner)?

Mr. DRINAN. Mr. Speaker, if the gentleman will yield, harmony and kindness and love prevail this morning and all is in order.

Mr. BAUMAN. Mr. Speaker, the gentleman should have said that in Latin.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT OF AVAILABILITY OF CLASSIFIED ANNEX TO REPORT ACCOMPANYING H.R. 7152, INTELLIGENCE AUTHORIZATION ACT, 1981

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, I would like to remind all Members that the classified annex to the report which accompanies H.R. 7152, the Intelligence Authorization Act of fiscal year 1981, is available to be read by Members only in the committee rooms of the Permanent Select Committee on Intelligence.

Those rooms are located in suite H-405 of the Capitol and the report will be available from 8:30 a.m. until 5 p.m. every day.

Mr. Speaker, I understand this bill is scheduled to be on the floor sometime next week.

MOTOR CARRIER ACT OF 1980

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 714 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 714

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6418) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. It shall be in order to consider en bloc the amendments to said substitute printed in the Congressional Record of June 17, 1980, by Representative Howard of New Jersey, and said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 6418, it shall be in order to take from the Speaker's table the bill 2245, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6418 as passed by the House.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. Long) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio (Mr. Latta) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 714 provides for the consideration of H.R. 6418, the Motor Carrier Act of 1980.

H.R. 6418 represents a carefully worked out, compromise approach toward deregulation of the trucking industry. Regulation of the trucking industry was instituted during the Great Depression. At that time, anyone owning a truck was entering the industry. The rapid entry of new carriers led to cut-throat competition and raised serious problems of safety on our highways. Regulation was then justified in order to establish a stable, well-integrated, and safe trucking industry.

The situation today is different. As in many industries, Government regulation has too often served to stifle competition among the Nation's truckers. It has led to a series of inefficient and arcane rules. Examples are regulations requiring circuitous routes and encouraging trucks to return with empty loads. In a time of inflation and energy shortages, these regulations need to be reexamined.

H.R. 6418 offers a reasonable approach to deregulation. It would lower the "barriers to entry" in the industry, making it easier for new firms to enter the marketplace and existing firms to compete on more routes. It would limit the ability of rate bureaus to engage in collective price setting. Trucking firms would be allowed to raise or lower rates by 10 percent in order to spur competition. The legislation contains a strong mandate that all circuitous routings be ended.

The ultimate beneficiary of the elimination of these wasteful regulations will be the consumer. It is the consumer that in the end pays for the empty truckloads and roundabout truck routings. The price savings will not only be realized by those living in the cities, but in small towns as well. As a member who represents many small towns, my concern is that small communities not become the "losers" of deregulation by suffering cutbacks in service.

I am all too familiar with the problems created by airline deregulation in this regard. To the contrary, studies by the Department of Transportation show that here small towns are more likely to gain than lose. The DOT study indicates that most small town service is now provided by the deregulated sector of the trucking industry, not the regulated carriers that H.R. 6418 affects. In addition, the removal of intermediate-stop restrictions and easier entry mandated by H.R. 6418 should serve to benefit small towns. Unlike the airline industry, where small town service was subsidized by the more lucrative routings, profitability is the reason that the unregulated truckers have provided service to small towns. For these reasons, the experience of the smaller communities is a reason to support this bill, not oppose it.

House Resolution 714 provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. The first reading of the bill will be dispensed with, and the committee amendment is made in order as original text for the purpose of amendment. The bill will be read for amendment by section, and each section will be considered as having been read. The rule makes in order the consideration en bloc of amendments printed in the Congressional Record of June 17, 1980, by Representative Howard of New Jersey.

The question on these amendments shall not be subject to division either in the House or the Committee of the Whole, but a separate vote may be demanded in the House on any amendment adopted in the Committee of the Whole. Taking care of these amendments, which I understand are purely technical and clarifying, through en bloc consideration will conserve time.

The rule provides for one motion to recommit with or without instructions. After passage of H.R. 6418, it shall be in order to take from the Speaker's table the bill S. 2245, to move to strike out all after the enacting clause, and to insert in lieu thereof the provisions contained in H.R. 6418 as passed by the House.

House Resolution 714 contains a waiver of clause 7, rule XVI, the germaneness rule, against the committee substitute. The waiver of germaneness was a focus of the testimony and discussion in the hearing on this legislation in the Committee on Rules. The controversy surrounded section 8 of the bill, which permits a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up in his own truck on an actual rather than average cost basis. It was argued that this amendment is nongermane, and would more properly be taken up in the context of the Robinson-Patman Act protections against discriminatory pricing.

It was the committee's determination, however, that the issue could be fully debated and decided by a majority vote under the open rule provided by this resolution. Had the committee exempted section 8 from this waiver of germaneness, then section 8 would have fallen on a point of order and the view that section 8 was properly included as a part of the trucking deregulation program would not have been presented to the House. After full discussion on the issue, the committee agreed on a voice vote to reject a motion to exempt section 8 from the waiver of germaneness to the committee substitute. The rule was then reported as requested by the Committee on Public Works on a voice vote.

Mr. Speaker, I believe this rule provides a fair and reasonable vehicle for the presentation of all points of view on the complicated issue of deregulating the trucking industry. I urge the adoption of the rule so that the House may proceed to the consideration of this important bill.

□ 1240

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Louisiana has done an adequate job in describing the rule. I would, therefore, like to make a couple of comments about the bill.

By nature I am opposed to regulation, and certainly favor deregulation. But I did not favor the deregulation of the airlines because I thought at that time, and I think time has proven me right, the airlines would pull out of their lower profit areas and stop only in the major cities of the country and force the people who wanted to fly to go to the major cities for service. This has happened with the deregulation of the airlines. I think this Congress had better take another look at what it did to the people of this country and make some corrections in that legislation.

For example, at Toledo, Ohio, we have a very modern airport. We have the ramps and everything that goes with a modern airport. We had quite a few airlines using it before deregulation became a reality and the airlines could forget their obligation to serve the public. Eastern moved out, TWA moved out, United canceled its eastern flights, and we do not know who is next. This has been happening to smaller cities throughout the United States.

I mentioned earlier, Congress ought to take another look at what is happening to the people of the country under deregulation.

From this experience, need I say that I have some fear about the effect on deregulation of the trucking industry on our rural areas. In my district, we do not have a city much larger than 25,000. We are made up of a lot of small communities now served by regulated trucklines. I can see some of these trucklines leaving these small communities and saying, "Get your freight to us at some major city and then we will ship it for you." This would certainly be harmful to a lot of small communities, not only in my district but throughout the Nation.

Hopefully this will not happen because I think we do need some deregulation of the trucking industry as well as of the railroad industry. Speaking now of this bill, let me say there are a couple of amendments floating around which I think the House ought to be aware of.

I understand there is a $100 million amendment floating around at this very moment hoping to find somebody to introduce it when we get into the 5-minute rule which would pay truckers for not trucking. I think we have enough of this nonsense already in the railroad industry without going into the trucking industry and saddling the taxpayers of this country with $100 million to pay people for not working. Our falling productivity cannot afford this and neither can our taxpayers. If that amendment would happen to pass, and I pray that it will not, they will certainly lose me on this bill on final passage.

There is an amendment to be introduced by the gentlewoman from New Jersey, Mrs. FENWICK, which would exempt all food, whether it is processed or nonprocessed, from regulation. This amendment is supported by a number of organizations throughout the country and should receive proper consideration by the House.

Speaking of the new section 8 which took the form of a nongermane amendment introduced by Senator LONG of Louisiana, let me say this section is filled to overflowing with controversy. Members have had numerous communications from their districts on this section—both for and against—because there is so much confusion about it. We have people saying we have to be for section 8 because it contains the "backhaul" provision which everpbody needs; nobody wants to see these trucks coming back empty from a point of delivery. However, there is nothing in section 8 dealing with backhaul. This is dealt with in section 6.

Let me read section 8 as now before us:

> Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered price system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

Under rule 147 of the Federal Trade Commission, the seller can now make a reimbursement for such a pickup based on the average cost. This change from average to actual cost is the only change to be made by section 8(a). How they ever got into this idea that section 8 deals with backhaul is more than I know.

When this matter was before the Rules Committee I specifically inquired of the gentleman from New Jersey, Mr. HOWARD, about this and he concurred with what I have just stated.

Let me say there is something else in section 8(b) that ought to be called to the attention of the House. Let me read this to my colleagues:

> It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a), should be passed on to the ultimate consumer or retail customer. The Interstate Commerce Commission shall monitor, the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after date of enactment of this legislation.

□ 1250

So we are getting some additional inspections and regulation in this new section as the Interstate Commerce Commission will be monitoring the grocery businesses to see whether or not these savings are being passed on to the ultimate consumer, and I think the House ought to be aware of this new provision.

Let me also point out that we have large and small grocery stores for and against this legislation. I have received communications—and I know other Members of the House have—from both large and small. I did receive on yesterday a communication from the National Small Business Association opposing this legislation. Let me read that letter:

> DEAR MR. LATTA: The Carter Administration has broken the enclosed 1976 campaign promise to small business by endorsing Section 8 of the Motor Carrier Act, H.R. 6418. As reported by the House Public Works & Transportation Committee, Section 8 not only undercuts the Robinson-Patman Act protection small business now has from price discrimination in the food and grocery industry, but thereby sets a precedent for all industry.
>
> Please don't join the Administration in forsaking small business. Please oppose Section 8.

It is signed "Herbert Liebenson, President." He included one of President Carter's campaign promises. It says:

> If elected—

Meaning Jimmy Carter—

> I will be the first small businessman since Harry Truman to serve as President. I have a deep and sincere concern for the future of America's nine million small businessmen and women and the 40 million Americans who work for small business concerns.

Then a little further down it reads:

> We need to have tough enforcement of the antitrust laws and the Robinson-Patman Act—

Which this bill in section 8 seeks to amend. Continuing to quote—

> our system of competitive free enterprise must be preserved, as anything that lessens competition hurts us all.

The question is whether or not he is breaking this promise by supporting the amendment to the Robinson-Patman Act which now appears as a nongermane amendment in this piece of legislation? The National Small Business Association thinks he is and so do I.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

I merely point out that the reason for the passage of the Robinson-Patman Act in 1936 was the abusive use of their tremendous economic power by giant grocery chains to extract discriminatory prices from the manufacturers of grocery products to the detriment of the small and independent grocer. The chains were able to extract these unfair price advantages because of the importance of their volume of purchases to the manufacturers, especially the small manufacturers who were heavily dependent upon a large volume purchaser for a sizable amount of their sales, and, indeed, for their continued existence. The Robinson-Patman Act was specifically aimed at ending the chair store practices of gaining unfair price advantages. And it was intended not only to protect the smaller manufacturers from the coercive tactics of the chains aimed at securing discriminatory prices but also to protect the smaller competitors of the chains from the competitive harm that resulted from these tactics.

The economic power of the grocery chains has not diminished. If anything, it has increased. Since 1936 the chains have grown tremendously in terms of volume. But they have also become vertically integrated as well, to the extent that they now directly compete for sales to the consumer through their private brands with both large and small manufacturers. Since the chains control the shelf space within their own stores, they determine not only how much of a manufacturer's products they will carry, but also the positioning of the product on the shelf. This ability to substitute their own product for the independent manufacturers, when coupled with the ability to control the amount of "shelf space" a manufacturer gets, literally enables the large chain to control whether a manufacturer can survive. This economic power consequently places the chain in a position to demand preferential and unfair price concessions.

Lest there be any doubt that the food chains are willing to carry out this "economic blackmail" to obtain unfair advantage over their smaller competitors, let me make it clear that it is apparent after discussing this issue with many manufacturers that even now they are doing so. Although the Robinson-Patman Act has inhibited their ability to openly engage in this type of activity to some degree, it has not eliminated it entirely and cannot. And the chains have not been loathe to take advantage where they can. Their efforts go on all the time. In the real world, we are all aware of the unstated threat, the suggestion, the practice of the trade.

For example, they will demand special discounts by advising that they would like to buy a product from a manufacturer but have no room in their warehouse for it. But, if the manufacturer will only give them an additional amount of money, they will find a slot for his product. This is called a slot discount. Or a large chain will advise a manufacturer that it will take a certain amount of goods offered on a "special deal," if the manufacturer will extend him the special deal for an amount of time after it has been withdrawn from general offering. Still another example is for a chain to ask for "last year's price," whereby the chain will want the manufacturer to sell at the current price but store the goods and deliver them at a later date after there have been one or more price increases.

Several other forms of economic blackmail, all aimed at giving the power buyer a price advantage, are also being used today. Passage of section 8 will legalize under the Robinson-Patman Act still another opportunity for this type of economic blackmail to take place—this time in the transportation area. Permitting "customer pickup" allowances to be computed on the basis of so-called actual cost will allow the chains to use all the leverage of their tremendous economic power to extort all that that vague and fluid term will allow. Who can say definitely what "actual cost" means? It could theoretically mean almost anything—including depreciation, wear and tear, proportional operating expenses for the seller's loading platform. Allowing the chains to use this method of computing their pickup allowances will open the door to the same destructive effect on competition—and small business—that led to enactment of the Robinson-Patman Act 45 years ago.

I hope I am wrong. My record of support for free enterprise and small business, indeed business generally, speaks for itself. I have never been known as antibusiness, a business baiter, or a Ralph Nader-type. In this flap over section 8, my nose tells me I smell something here and if, unfortunately, section 8 should remain a part of this trucking bill and be enacted into law, time and time alone will tell. My record has been pretty good in the area of predicting what really would happen in civil rights, environmental and consumer advocacy-type legislation. All were popular at the time I opposed them and with the passage of time, those predictions I made about their true impact have become more and more fulfilled.

The history of section 8 makes it suspect. As I have pointed out, the right Senator offered a questionable amendment of great impact in the wrong committee, a committee without jurisdiction over the subject matter of that amendment. It was adopted without debate on a voice vote. It went piggy back through the other body without a whimper from those usual protectors of the public interest. It was included in the House bill and made in order by a vote of the Rules Committee which waived the obvious point of order which could have been lodged against it. It has magically transformed the calendar here for the next 2 days. Just an hour ago the schedule of today was rearranged and this bill rushed in. Why? Because Members are starting to ask many questions on section 8. All of this should make Members suspicious. It is known as the Winn-Dixie amendment and referred to as such by most of those who handle the bill. Small businessmen can well ask what is in it for them. My guess is that they will find out sooner than they think.

Mr. Speaker, out from under all the propaganda, all the debate, all the reams and binders of finely printed, duplicated and mimeographed pages, one final, central and overriding fact has managed to find its way to daylight about section 8 in the Motor Carrier Act, H.R. 6418: It can raise food prices, potentially threefold—or retailers' profits.

I learned this firsthand late today from a man who is in the business of distributing food and other products. He did not need to convince me that section 8 was wrong, because I already believe that, as you all know if you have been reading the RECORD. But, in the span of 5 short minutes with this gentleman, I know better than ever why section 8 must be defeated.

His story, as I said, is simple. Using my State of Ohio as an example, assume four food manufacturers now store and ship their products in a public warehouse in Columbus, Ohio. A major food retailer places an order with each of these four manufacturers for a 10,000-pound shipment of food to the retail warehouse in Cincinnati.

At the present time, the public warehouse performs a valuable service by "consolidating" the four 10,000-pound shipments into one full truckload shipment of 40,000 pounds. The cost for this service at today's rates would be $364 to move the 40,000 pounds from Columbus to Cincinnati.

Under section 8, if the retailer picked up his four shipments at the Columbus warehouse he would receive compensation from each of the four suppliers at the 10,000-pound shipment rate. The total cost to the four manufacturers based on four 10,000-pound shipments would be $1,026. This is almost a 300-percent increase—I repeat, a 300-percent increase—in the cost of transporting just this one truckload of food products.

Mr. Speaker, imagine the inflationary impact when you multiply this one truckload 100,000 times a year.

The economic impact of section 8 on the consumer is staggering. We would be making an error of tragic proportions for our economy and the people of this country, and allowing profits of windfall proportion to accrue to supermarket chain grocery retailers, if we allow section 8 to pass.

I earnestly request each of my colleagues to join with me in opposing section 8 of the trucking bill, H.R. 6418, with all their energy.

Mr. LONG of Louisiana. Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in opposition to the rule. I want to start off by saying that I believe the bill, with one or two exceptions and one or two areas for improvement, is an outstanding accomplishment and will deregulate substantially the trucking industry, and I think that will inure to the benefit of all Americans. Therefore, I intend to support the bill after offering several amendments. But as good as the bill is, that is how bad the rule is. This rule—I cannot really say it is the worst rule that has ever come out of the Committee on Rules because that is covering too much territory, but it has to be in the top 10. I will tell you why. Section 8 of the bill as reported by the Committee on Public Works and Transportation has absolutely nothing to do with trucking deregulation. Section 8 is a bill that changes the Robinson-Patman Act and provides for a method of paying allowances to customers who pick up their goods different from the way the Robinson-Patman Act is applied today. There is not anything in section 8 that approaches having to do with transportation, much less trucks.

A customer who comes to a seller's dock with a boxcar, a railroad boxcar, will benefit from the provisions of section 8. A person who comes to a seller's dock on a bicycle or walks up with a paper bag would benefit from section 8. Section 8 does not have anything to do with transportation; it has to do with a payment of what would otherwise be discriminatory, anticompetitive allowances.

But what happened when this proposal was offered in the Committee on Public Works and Transportation? This gentleman from Georgia made a point of order that it was not in order, and after some discussion, the chairman, of whom I am very fond and for whom I have the greatest respect, in my judgment made an erroneous ruling on that point of order. When the matter came to the Committee on Rules, I asked the Committee on Rules to let the Chairman of the Committee of the Whole House on the State of the Union, in consultation with the parliamentarian, have an opportunity to decide whether there was any germaneness to this provision—any germaneness at all. And what did the Committee on Rules do? The Committee on Rules said, we do not even want you to have the opportunity of finding out whether this amendment, this section 8, should even be in the bill to begin with. Is that not interesting if the point of order to be made against section 8 was without merit, you would not need to waive the point of order. You would not need to waive it if it was going to be sustained. But why was the waiver of the point of order put into this rule? Because every member of the Committee on Rules who addressed the issue during their hearing conceded, if you will, that the point of order would very likely be sustained by the Chair if it could be made. What did the Committee on Rules do? They passed a rule which said section 8, albeit having nothing to do with trucking deregulation, amending the Robinson-Patman Act, which should be in another committee, is going to be voted on today, and it has no place in this bill. Under that same logic, the Committee on Public Works and Transportation could have not only amended the Robinson-Patman Act, but why stop there? Let us be courageous and vote. Why not amend or repeal the Clayton Act? And the Sherman Act? Let us change all the antitrust laws in this Nation on a trucking deregulation bill.

What did the Committee on Rules do? They prayed over it. They blessed it, and they sprinkled holy water on it and said, we are not even going to let the Chairman of the Committee of the Whole House have a chance to establish and confirm once and for all that that section should not even have been in the bill to begin with. So, therefore, I urge my colleagues to take a close look at this rule and to vote against it when the time comes.

□ 1300

Mr. BAUMAN. Will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I share some of the concerns about section 8, but I was there during the entire hearing before the Committee on Rules. I regret to say I saw no holy water sprinkled there at any time.

Mr. Speaker, I would say the gentleman's position was presented to the Committee on Rules by the gentleman from Maryland as an amendment to the rule in an effort to at least have a decision on the gentleman's suggestion which I think has some merit. The Committee on Rules rejected it, so this is now the proper forum and the gentleman has properly raised the issue.

The SPEAKER. The time of the gentleman has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield to the gentleman 2 additional minutes.

Mr. LEVITAS. Mr. Speaker, I would like to express my appreciation to the gentleman from Maryland who did sit in on the hearings and who did have the courtesy to offer the proposal which I made, which was simply to let the Chairman of the Committee of the Whole House on the State of the Union to have an opportunity to rule on that particular proposal.

Mr. Speaker, I would like to address a question to my colleague.

Mr. KAZEN. Mr. Speaker, will the gentleman yield at this point?

Mr. LEVITAS. I will be happy to yield to the gentleman from Texas.

Mr. KAZEN. Is there anything which would keep the gentleman from offering an amendment to strike section 8?

Mr. LEVITAS. Yes; the defeat of this rule and bringing out a rule which would let the Chairman of the Whole House on the State of the Union——

Mr. KAZEN. Mr. Speaker, the gentleman misunderstands my question:

If this rule is adopted, is there anything during consideration of the bill under the 5-minute rule which will keep the gentleman in the well from offering an amendment to strike the entire section?

Mr. LEVITAS. No; there will be an amendment offered to do that. I would also like to point out to my good friend from Texas, under the rule that the Committee on Rules brought out, it would have been possible for the Public Works——

Mr. KAZEN. It would have been possible to avoid an amendment and a vote.

Mr. LEVITAS. They could have abolished the Defense Department, changed our whole nuclear energy program, anything they wanted to because there are no points of order that could be made against it.

Mr. Speaker, I would like to address myself to my friend from Maryland (Mr. BAUMAN) for whom I have the greatest respect and who listened to the presentations before the Rules Committee:

Would the gentleman say, at the very least, there is a question as to whether section 8 is germane to the bill?

Mr. BAUMAN. If the gentleman will yield, there is no question in my mind that the section is not germane to the bill and the only way it could be protected would be with a rule of this nature. Simply on the procedure, I object to that. I do not think we should be hanging little baubles on the Christmas tree as did the author in the other body but then that, of course, is a well-established tradition in the other place.

Mr. LEVITAS. Mr. Speaker, I thank my friend from Maryland.

Mr. Speaker, the whole purpose for germaneness is to stop the practice of Christmas treeing any bill that comes out, with nonrelevant, nongermane matters. If there has ever been a nongermane amendment, that is it. It has nothing to do with transportation, nothing to do with trucking, and I urge defeat of the rule.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ) for purpose of debate.

Mr. GONZALEZ. Mr. Speaker, I rise at this point in the consideration of the rule because it follows an appearance that I tried to make before the Rules Committee, ending up in submitting testimony to the Rules Committee. It also follows 3 successive days of remarks that I have made to the House in special orders with respect to this very troubling section 8.

It has been discussed here earlier by the gentleman from Georgia—and he is correct, very much so, when he says that it is nongermane; that section 8 has nothing to do with trucking regulation or deregulation. It has nothing to do with the thrust of the bill. It was appended in the Senate by the Senator from Louisiana with no debate, no public consideration at any time, nothing out of any committee or subcommittee of the Senate or the full Senate. It never had any hearings or consideration in the House.

By the time the Senate had this amendment offered, and I went over to the Senate Small Business Committee, it was too late for that committee to do anything because the amendment was offered as a nongermane—under the Senate rules—amendment to this truckers deregulation bill. There was not anything that could be done, but when it got over to the House I did get the joinder of the chairman of the Small Business Committee, the Honorable NEAL SMITH of Iowa, and the chairman of the Small Business Subcommittee on Antitrust, Mr. BEDELL, also from Iowa; and drafted an extensive letter to the chairman of the subcommittee handling this bill, Mr. HOWARD, in which we asked that the committee entertain at least some consideration of this nongermane amendment which, if allowed to go on these greased skids that it is on already, is going to mean the death of over 40,000 small businesses.

Let me assure every Member of this House that this innocuous, innocent-looking, nongermane portion known as section 8 is a dagger aimed at the existence of an infinite number of small busiesses, not only food and grocery small business, but many others, including some warehousemen, and so forth and so on.

Now, nothing has ever been more misleading than the discussions I have heard on this. It has been defined as a food back haul. This has nothing to do with back hauling. In fact, it will provide front hauling—not only back hauling—front hauling.

It vitiates that section of the Clayton Antitrust Act which was amended and known as a part of the Robinson-Patman Act many years ago. This is the first successful attack, which unsuccessfully for 40 years has been attempted, to get away and escape the price discrimination that means the doom of many small businesses in America.

Mr. Speaker, I thank the gentleman.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—yeas 24; nays 12.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6418) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6418, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. HOWARD) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. HARSHA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today, the Members of the House will decide how the Nation's trucking industry is to be regulated by the Congress and by the respective Federal agencies, namely, the Interstate Commerce Commission and, to some extent, the Department of Transportation.

The initial decision to economically regulate this industry was made 45 years ago. Since 1935, regulatory changes have been made. The major economic aspects of the industry that are regulated are entry and pricing. In other words, who can operate as an interstate carrier, how they can operate, and what price they can charge for their services. Perhaps the most important change was made in 1948 when the Reed-Bulwinkle Act was passed. That act permitted trucking companies to collectively set rates pursuant to agreements approved by the ICC. Once approved, any action carried out pursuant to that agreement was immune from the antitrust laws. Other changes were not so significant, and certainly, none have been so sweeping as those that are contained in H.R. 6418, the Motor Carrier Act of 1980.

Here, let me describe very briefly the scope of the trucking industry. The trucking industry generates $108 billion in revenues on an annual basis. Approximately 40 percent of truck transportation is regulated by the Interstate Commerce Commission. The remaining portion operates in the private or exempt sector and is not regulated.

The regulated industry is comprised of about 17,000 carriers; it generates annual revenues of about $41 billion; it handles about 1 billion tons of freight in intercity service each year; it operates almost 1 million pieces of equipment; it employs over 800,000 employees; it logs over 21 billion miles on an annual basis; and it consumes over 8 billion gallons of fuel each year.

Many of the companies are large but most are not. These companies provide service to thousands of communities. How they operate and what price they charge affects the life of every American.

For years, there has been a demand for regulatory reform of the industry. This demand has intensified in recent years. The first notable response was made by the Interstate Commerce Commission. It initiated sweeping changes on an administrative basis. Those changes pleased some and alarmed others. Many of the changes faced a lengthy and costly judicial challenge essentially on the issue as to whether or not the agency had the necessary statutory authority to effect those changes.

Plainly, it was incumbent upon the Congress to act and for it to determine the policies that govern the regulation of the trucking industry.

The subcommittee which I chair began hearings on the issue in the last Congress. Those hearings were brief, but they were significant because they signaled the intent of Congress to act. In this Congress, the effort was intensified. Sixteen days of hearings were held. Those hearings were conducted in Washington, D.C., Denver, Colo., Boston, Mass., Harrisburg, Pa., Savannah, Ga., and San Diego and San Francisco, Calif. Joint hearings with the Senate Commerce Committee were held in Chicago, Ill. Hundreds of witnesses were heard, thousands of pages of testimony were submitted, and thousands of letters were received.

Recommendations ranged from total deregulation to maintenance of the status quo. Most, however, recommended a change in the regulatory structure.

To construct a reform piece of legislation was difficult. To construct a reform piece of legislation that would have a broad base of support was even more difficult. Certainly by now, all of you have heard that the legislation before you today has a broad base of support and that it was carefully constructed to achieve that support. You also know that the committee is committed to oversight hearings on an annual basis for the next 5 years. This commitment was made: First, so that any unforeseen adverse effects can be remedied quickly; second, so that any thwarting of congressional intent can be readily overcome; and third, so that any additional changes can be made which will enhance this reform measure.

The Public Works Committee has worked hard to forge a workable, practical, reasonable piece of legislation that will modernize the current regulatory system. It reflects the committee's concern for small community service, safety, inflation, energy efficiency, regulatory lag, owner-operators, and consumers.

Improved service to small communities is expected as a result of sections 5, 6, and 10, which provide for increased entry opportunities and removal of wasteful operating restrictions. None of these provisions eliminate or weaken the carriers' obligation to perform the service they are authorized to perform under their certificate. Section 4 includes as one of the specific goals of the regulatory system the provision of services to small communities. Further, section 28 provides for a study by the Commission of the bill's impact on small communities.

The committee's concern for safety is expressed in section 30, which contains specific minimums for motor carriers' financial responsibility. The promotion of safety is also one of the goals identified in section 4, which amends the national transportation policy.

To reduce prices and slow inflation, the bill includes provisions aimed specifically at service and price competition. For example, sections 5, 6, and 10 of the bill will make it easier for new motor common and contract carriers to get into the trucking business and for existing carriers to expand their service. Further, sections 7, 8, 9, 21, and 24 of the bill will enable carriers of all types to enhance their operating efficiency, which should mean cost savings that can be passed along to their customers. To encourage price competition, sections 11 and 12 give carriers greater freedom to set rates in response to market demands. Also, section 14 limits the permissible scope of collective ratemaking.

In the area of energy efficiency, the bill includes provisions to reduce empty mileage and allow the most productive use of carriers' equipment. Specifically, sections 5, 6, 7, 8, 10, and 24 allow carriers of all types to reduce empty backhaul. Further, sections 6 and 21 allow carriers to mix loads of regulated and exempt commodities or loads of commodities transported under different types of operating authority. Section 20 encourages carriers to pool their services with other carriers where there is not enough traffic for both to operate efficiently. Similarly, section 22 establishes a procedure for joint rate and through route arrangements between common carriers.

The bill includes several sections aimed at reducing redtape. Most importantly, section 25 establishes procedures to govern all nonrail cases that come before the Commission those procedures include strict deadlines for Commission decisions in entry cases. Section 6, 20, 23, and 27 also contain deadlines for Commission decisionmaking.

To help independent owner-operators, sections 5 and 10 of the bill ease the way for them to get operating authority from the Commission to transport processed foods, agricultural fertilizers, and soil conditioners. Also, section 7 exempts certain items from Commission regulation which the owner-operator will be able to transport. Sections 15 and 16 provide new protections for owner-operators regarding the loading and unloading of trucks and contracts for their services.

The bill does not require contracts for brokerage and transportation services for regulated commodities because the Commission already possesses such authority. In addition, the Commission now has authority to protect owner-operators by issuing rules governing the leasing of equipment. Under the bill, all lease agreements must specify the loading and unloading duties of the owner-operator.

The committee expects that the bill will result in cost savings to the consumer through increased service and price competition as provided in sections 5, 6, 7, 8, 9, 10, 11, 12, 14, 21, and 24; improved energy efficiency in sections 5, 6, 7, 8, 10, 20, 22, and 24; and the elimination of unnecessary restrictions on the movement of foods and property, as provided in sections 5, 6, 8, 10, 21, and 24.

The end result of the committee's work on this bill, Mr. Chairman, is reflected by the support H.R. 6318 is receiving from so many of those concerned or affected by this legislation. The White House and the Department of Transportation are pleased with the bill. President Carter called me personally to voice his support. Included among those supporting H.R. 6418 are, also, the Interstate Commerce Commission, consumer groups and leaders like Mrs. Esther Peterson, shippers, independent owner-operators, the International Brotherhood of Teamsters, and the American Trucking Associations.

I believe support from such divergent interests indicates the Committee on Public Works and Transportation has in H.R. 6418 a bill that will implement a reform of motor carrier transportation that is in the overall public interest.

□ 1320

Mr. GONZALEZ. Mr. Chairman, will the distinguished gentleman yield for a question?

Mr. HOWARD. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, the main purpose in mind is to establish some legislative definitions and interpretations. I wish to inquire of the gentleman concerning the meaning of the language of section 8, and I quote from the language which appears in section 8: "* * * and does not exceed the actual cost to the seller * * *."

Does this mean that with respect to sales by the seller to a big buyer and sales to a small buyer, the actual cost phrase means that in those particular transactions the differences in prices allowed will amount to no more than the differences in the cost to the seller in those transactions?

Mr. HOWARD. Mr. Chairman, the difference is the actual cost. It applies to those who pick up their own commodity, yes.

What we feel this does is this: We have got differences here because some of the smaller businesses to which the gentleman referred allegedly may not be able to take advantage of this, whereas some of the larger food businesses will be able to take advantage of it. But the fact is that by having this in here, we do have the opportunity for foods to be sold at a cheaper price to all of the consumers.

□ 1330

Later on there will be an amendment offered by the gentleman from Georgia to strike this section, and if we do strike the section, then we say that we treat all of the sellers equally, but then we take away the opportunity of providing cheaper food for people. So that is the kind of situation we are going to be in.

The committee has come down on the side of having this opportunity available so that some food can be sold at a lower price to the consumer. Other people wish to change that in behalf of some people who will not be able to take advantage by picking up their own products of having the actual price cut.

Mr. GONZALEZ. In other words, will the seller in a particular transaction allow a big buyer no more than he is cost-justified in a particular transaction as against a small buyer?

Mr. HOWARD. That is my understanding, yes.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank my chairman for yielding.

Mr. Chairman, I want to publicly commend the chairman of the subcommittee for the outstanding work that he has done in bringing this very complex piece of legislation to the floor.

Mr. HOWARD. I thank the gentleman.

Mr. LEVITAS. I think that, considering all of the competing concerns and interests and the complexity of this piece of legislation, with one or two exceptions, it is an outstanding job well done.

On that section 8 point, I would just like to point out one other thing about the ultimate consumer benefiting from it. As the gentleman will recall, I was the author of the amendment which is now in subsection (b) in that section, which says that it is the sense of Congress that the ultimate consumer should benefit by reason of any compensation permitted under this section. That is the reason it is in there.

Mr. HOWARD. Yes.

Mr. LEVITAS. It was not put in by the gentlemen on the other side of this Capitol. But what struck me was that when I offered that amendment in the committee, there were some who opposed it on the basis that these allowances would not be passed on to the ultimate consumer but might provide an additional source of capital formation be available for further reinvestment of the business that is receiving it. And that sounded to me like it might not benefit the ultimate consumer but really might flow into the pockets of those who have the economic power to benefit from it.

Mr. HOWARD. I thank the gentleman for his statement, and I want to say that I am very happy that he and I prevailed in this idea, because this is the one reason why I did support the inclusion of this as it came from the other body, but only under that condition. And that is why I did support the gentleman, although the vote was not unanimous.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield for a final question? I had two questions I had intended to ask.

Mr. HOWARD. I yield to the gentleman from Texas.

Mr. GONZALEZ. The second question is: In the opinion of the distinguished chairman, does this proposed legislation mean that any discount in price not justified by differences in cost and which may adversely affect small business to the point of injuring competition will continue to be actionable under the Robinson-Patman Act?

Mr. HOWARD. I am afraid I cannot answer the gentleman on that particular question at this time, but I will get him an answer in a moment or two.

I would like to state to the gentleman that, in case there might be any abuses at all, that is another reason why we have mandated that we ourselves must go over this legislation every single year for the next 5 years, to see the results of the actions we take, as in section 8 specifically.

I will be happy to yield to the gentleman from Ohio (Mr. HARSHA), who may be able to answer the gentleman's question.

Mr. HARSHA. I thank the gentleman for yielding.

Mr. Chairman, in response to the question of the gentleman from Texas, the Robinson-Patman Act will still be in effect and still deal with price discrimination, irrespective of this section in this bill. This bill does not suspend or revoke the Robinson-Patman Act.

Mr. GONZALEZ. So the interpretation, as viewed from the committee standpoint, if I can use that phrase, is that this price differential subject matter would still continue to be a matter of action under the Robinson-Patman Act?

Mr. HARSHA. The answer to that, if the gentleman will yield, is yes.

Mr. HOWARD. Mr. Chairman, I yield back the balance of my time.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Motor Carrier Act of 1980 represents a gradual and balanced approach to the reform and modernization of our Nation's motor carrier regulatory system.

That system has served this Nation well. We have unquestionably the finest transportation system in the world, and the range of services provided by our trucking industry touches virtually every American in some way. Our growing dependence on motor carrier service is reflected in figures which show that of the more than 61,260 communities in the United States, 65 percent are completely dependent on motor carriers for their freight service.

The industry as a whole generates approximately $108 billion in revenues annually, and that is about 75 percent of the revenues earned by all forms of transportation. As a jobs-producer, Interstate Commerce Commission-regulated carriers directly employed some 825,000 full-time personnel and thousands more on a part-time basis in 1979.

The motor carrier industry is both large and complex. While the exact number of intercity trucking firms is not known, the total is believed to be in excess of 100,000 firms, with some estimates as high as 250,000. They range from the lone trucker, who picks up full truckloads of freight wherever he can in competition with others of his kind, to the $2.4 billion United Parcel Service, which competes mainly with the Post Office and whose average shipment is an 11½-pound shipment.

The intercity trucking industry accounts for about 22 percent of all intercity freight transportation—by all modes—measured in terms of ton-miles, about 39 percent measured in terms of tons carried, or about 70 percent measured in terms of revenue.

The intercity trucking industry consists of two major sectors: The ICC-regulated sector and the unregulated sector. The ICC-regulated sector of the industry, consisting of motor common carriers and motor contract carriers, accounts for less than half of all intercity freight transportation by truck. In 1979, revenues of regulated motor carriers amounted to an estimated $41.2 billion, or 45 percent of the total intercity freight bill, and they handled over 1 billion tons of freight.

The unregulated sector of the industry, consisting of private and exempt carriers is the dominant sector. It accounts for about 56 percent of all intercity truck transportation measured in terms of ton-miles, about 59 percent measured in terms of tons carried, and about 54 percent measured in terms of revenue.

The bill before the House right now, H.R. 6418, is a bill which will affect each sector of the trucking industry. It will reduce Federal regulation and will make each sector more competitive with each other and within each sector.

Clearly, this Nation's trucking industry has an important job to do, and they are doing it well. In fact, shipper satisfaction with the quality of motor carrier service was revealed in a 1974 Department of Transportation study rating the performance of all transportation modes, excluding pipelines. Motor carrier transportation was used by the greatest number surveyed, and almost 67 percent rated the motor carrier service they received as either excellent or quite good.

It was, therefore, incumbent on the committee that we approach reform of the motor carrier regulatory system with great care, drafting a piece of legislation that would reduce regulation and increase competition without disrupting the basically sound trucking industry that has served us so well.

Accordingly, the Motor Carrier Act of 1980 was the subject of a year and a half of continuous study, during which the committee held 16 days of hearings and received the testimony of more than 200 witnesses.

Given the far-reaching impact of any degree of deregulation in the industry and the widespread interest expressed from so many segments of our society, it developed into one of the most difficult pieces of legislation ever considered by the committee.

The finished product, H.R. 6418, is a very delicate and, I might add, a very good compromise. It was reached only after many long hours of tough negotiations with the Senate, the administration, and many interested parties.

No one is fully satisfied with everything in the bill, but in the final anlaysis, we have achieved a good compromise and one that is acceptable to most of those involved in the drafting process.

And while reaching the final agreement on compromise language was a difficult task, I am pleased to say that it now has the support of the Senate and the administration, as well as most of the parties concerned. I consider this meeting of the minds a substantial accomplishment, because the bill as reported by the Public Works and Transportation Committee is different from both the Senate-passed bill and that originally introduced in the House prior to this year's hearings on trucking deregulation.

However, we do not simply have before us a different bill—we have a better bill. I would emphasize again, that this is a fragile compromise at best. The committee has been advised that if the House passes H.R. 6418, free of substantive change, the Senate will pass it, and President Carter will sign the bill into law. Importantly, there will be no need for a conference. In this regard, the House committee report will essentially serve as a "conference report" since the report was reviewed by the Senate prior to its being filed and, indeed, was changed in a number of important respects at the request of the Senate.

In drafting H.R. 6418, the committee chose the middle course in approaching the subject of regulatory reform of this most vital industry. We sought to strike a balance between no change at all in the 1935 law still administered by the Interstate Commerce Commission, and the complete deregulation of the industry.

Using that approach, we have moved with great care and deliberation to open the industry to greater competition by cutting through a substantial amount of redtape and the maze of restrictions which have for so long needlessly burdened the industry.

Changes in the regulatory system would be phased in gradually, and congressional oversight would be conducted annually to assess the impact of overhauling the regulatory mechanisms which characterize the present system.

For too long Congress has basically been on the sidelines, while the Interstate Commerce Commission exercised unduly wide discretion in regulating the Nation's motor carrier industry. Operating with the 1935 statute, the ICC has found it difficult, no doubt, to determine congressional intent in this area. Accordingly, in the past several years, it has made changes in the regulatory system on its own initiative and in the absence of congressional guidance, if not consultation.

The Motor Carrier Act of 1980 will correct that situation, for clearly it was never the intent of Congress that an unbridled Federal bureaucracy would control and set policy and guidelines for the conduct of interstate commerce. If longstanding precedents in the regulating of the motor carrier industry are to be overturned, as some have been recently, it must only be done in accordance with congressional intent, and not in a show of agency independence.

It is not the intent of the committee, and I am certain that it is not the will of Congress, that while we reduce the amount of needless regulation in the trucking industry, we increase the regulatory powers of ICC bureaucrats.

Therefore, H.R. 6418 will give clear guidelines to the ICC on how to administer the law. In so doing, the committee expects the Commission to stay within the explicit powers invested by the new statute. And I want to emphasize that the committee expects the Commission to obey the explicit mandate delegated to them by the Congress in furtherance of our constitutional responsibility.

I can assure my colleagues that it is the intent of the committee that the implementation of the guidelines contained in this legislation be carefully monitored to ascertain that they are being strictly adhered to by the Commission. That is why we have mandated, in the legislation, that our committee conduct oversight hearings each year for the next 5 years. This is a very important aspect of this legislation.

Before turning to a discussion of the bill, I would like to highlight one extremely important provision, section 3: Congressional Findings. There are two key aspects of this provision. First, it clearly states our intent that the ICC comply with, and not go beyond, the explicit directives given to it by the Congress. Second, the provision requires the Committee on Public Works and Transportation to hold annual oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment.

This will serve several purposes. It will allow Congress to see how well the law is working. This is especially important with respect to small community service, safety, and pricing flexbility. It will also allow us to look at the effects of the legislation on employment in the industry and on the industry itself. If there is a widespread loss of jobs, or if operating certificates undergo a significant loss in value, then Congress will be able to consider appropriate legislation to deal with these problems. And most important, annual oversight will allow Congress to monitor the activities of the ICC to determine if it is implementing the act in accordance with congressional intent.

In the recent past, the ICC embarked upon a program to review and reevaluate its long-standing interpretations and implementation of the Interstate Commerce Act. In effect, the ICC embarked upon a course of action to redefine completely and unilaterally our national transportation policies. This has contributed to the growing sense that the Government has become so large and unwieldy. That it is virtually out of control. Moreover, there is a widespread belief that the ICC is oblivious to the wishes of Congress.

Within the Congress, there is a deep sense of frustration about our ability even to keep apprised of what the massive Federal bureaucracy is doing, much less provide adequate guidance along the way. As Senator CANNON has said:

> The Congress increasingly looks upon itself as the modern day Frankenstein with creations on the prowl that we can barely control.

Well, Mr. Chairman, I think that the annual oversight provisions in H.R. 6418 will allow us to keep control over the ICC. We expect the ICC to act within the statutory framework and respect the intent of Congress; the Congress does not expect any independent agencies to act in "novel" ways to achieve their own special goals. It is not the responsibility of the regulatory agencies to determine how the American economy should operate on a day-to-day basis. Such broad policy decisions will be for Congress to decide and the agencies to implement.

I am hopeful that the ICC will stay within the guidelines set forth in H.R. 6418. I realize that the agency is now preparing an extensive set of rulemakings to implement the act. Many of these proposals were obviously first drafted at a time when it was not clear what the exact provisions of the statute would be. It is now incumbent on the ICC to thoroughly review these proposals to assure that they comply with the intent of Congress as expressed in H.R. 6418.

There are those who would like the Congress to provide for a legislative veto of ICC rules and regulations. I do not think we need to do that in this legislation. I am confident that the extraordinary oversight provisions in H.R. 6418 will be adequate to moniter the implementation of this important piece of legislation.

Now I would like to turn to an explanation of the major provisions of the bill. But rather than going through the bill on a section-by-section basis, I want to describe the provisions as they relate to various subjects. Specifically, I will address the following subject areas: motor common carriers, motor contract carriers, private carriers, exempt carriers, independent owner-operators, small communities, food transportation, and safety.

First, motor common carriers. Motor common carriers offer their services to any shipper to transport his goods between designated points at published rates under authority granted them by the ICC. About three-fourths of the roughly 17,000 ICC-regulated carriers are common carriers, accounting for a substantial part of the $41 billion in revenues in 1979.

The bill liberalizes entry for motor common carriers. Before a new carrier may enter the industry or before an existing ICC carrier may expand its authority, he must obtain a "certificate of public convenience and necessity" from the ICC authorizing the service. H.R. 6418 contains a number of provisions designed to make it easier for new and existing carriers to obtain ICC certificates.

First, entry standards are relaxed. Under existing law, the ICC must make a determination that the applicant is "fit, willing, and able" and that the proposed service is required by the "public convenience and necessity" before it can issue a certificate authorizing the service. In making the determination relating to public convenience and necessity, the ICC has historically required the applicant to demonstrate: First, that the proposed service serves a useful purpose or is responsive to a public demand or need; second, that this purpose cannot be served as well by existing carriers; and third, that the proposed service will not endanger or impair the operations of existing carriers. These are the well-known Pan-American criteria.

Section 5 of the bill relaxes these entry standards. It provides for a balanced approach to entry. The new entry section retains the traditional test that all applicants must be "fit, willing, and able." However, it revises the public convenience and necessity test. Specifically, it reduces the burden of proof on applicants and correspondingly increases the burden on persons opposing the application. Applicants would be required to show that the proposed service serves a useful public service, responsive to a public demand or need. The ICC would then be required to issue the certificate unless persons opposing the application demonstrate that the proposed service is inconsistent with the public convenience and necessity.

In deciding whether to issue a certificate, the ICC would be required to consider and, where applicable, make findings on at least the following: First, the factors in the national transportation policy; and second, the effect on existing carriers, except that diversion of traffic or revenue is not in and of itself inconsistent with the public convenience and necessity. By bringing several new policy objectives into the statement of National Transportation Policy, H.R. 6418 recognizes the changes in our economy and the maturing of the motor carrier industry which have occurred over the course of the last 40 years of regulation. Healthy competition, efficient carrier operation, assurance of service to small communities and small shippers, adequate profits to attract capital and increased opportunity for minority entrepreneurs are important new objectives which the Interstate Commerce Commission is to consider in its decisionmaking process. The legislation provides for a careful balancing of these and the other objectives of the National Transportation Policy so as to assure a safe, sound, privately owned motor carrier industry able to meet our present and future needs for responsive service.

While lessening the burden of proof on applicants seeking authority from the Commission, the legislation substantially increases the burden of persuasion for those opposing an application. An applicant must only demonstrate fitness and provide evidence of public support that the proposed service will serve a useful public purpose responsive to a public demand and need. As the Commission found in its Ex Parte MC-121 proceeding, the most satisfactory way to establish this is for applicants to submit evidence of those who would use the service proposed.

Once an applicant's prima facie case is established, protestants will have the opportunity of persuading the Commission that the proposed service is, in some way, inconsistent with the public convenience and necessity. Thus, protestants will have a heavy responsibility for developing the record before the Commission. The Commission then will be expected to carefully consider the record and to make specific findings concerning each of the relevant National Transportation Policy objectives raised in the proceeding.

We believe that healthy competition will be chiefly instrumental in assuring reasonable rates and the availability of service and price options for shippers. Of no lesser concern to the committee is adequate service to small communities and shippers, fair wages and working conditions, productive use of equipment and energy resources, and adequate profits to maintain a sound privately owned motor carrier system. We expect the Commission to carefully weigh each of these objectives in making its determination. While competition is an important factor, additional competition, in and of itself, is not necessarily a sufficient basis for granting new authority.

I would ask the gentleman from New Jersey (Mr. HOWARD), am I making a correct statement as to the intent of the committee and as to the manner in which we expect the ICC to administer this legislation?

Mr. HOWARD. I would say essentially the gentleman is absolutely correct in his statement.

Mr. HARSHA. And, am I correct in stating that the Public Works and Transportation Committee intends to use its oversight functions to assure that the ICC acts accordingly?

Mr. HOWARD. I would say to the gentleman, not only intends, but absolutely will.

Mr. HARSHA. Mr. Chairman, I thank the gentleman.

In sum, the committee believes that a balanced policy on entry, as set forth in the goals listed in the National Transportation Policy, is in the best interest of the Nation and our transportation system.

Second, a fitness test only would be required for some classes of service.

The "public convenience and necessity" test would be eliminated altogether for five classes of service. Applicants would be required to demonstrate only that they were "fit, willing, and able." The following service would be subject to a fitness test only:

First, service to communities not regularly served;

Second, service which would be a direct substitute for abandoned rail service;

Third, transportation of U.S. Government property;

Fourth, transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

Fifth, transportation of processed foods, limestone and other soil conditioners, and agricultural fertilizers if the service is performed by an independent owner-operator who is in the vehicle and an equal amount of exempt agricultural products are hauled on an annual basis.

And third, the bill would limit the right of those holding ICC licenses to protest applications by individuals seeking new certificates. Protests as a matter of right would be limited to existing carriers who had provided transportation within the scope of the application within the previous 12 months or had actively solicited the traffic in good faith within the previous 12 months. Historically, the ICC had permitted existing carriers to protest even though their route authority might have been dormant.

The bill would also exempt certain commodities from ICC regulation, thereby eliminating the need for an ICC certificate as a motor common carrier to transport these commodities. Under existing law, certain types of interstate for hire transportation are exempted from economic regulation based on the commodities involved or upon the area served. Exempt commodities may be transported by any type of motor vehicle without ICC regulation; thus, a certificate of public convenience and necessity is not needed to transport exempt commodities. The exemptions are very specifically defined in the Interstate Commerce Act. Section 7 of H.R. 6418 would broaden the list of exemptions.

In addition, H.R. 6418 increases the exemption for agricultural cooperatives. Under existing law, farmer cooperatives are permitted to haul regulated products, but no more than 15 percent of their loads can consist of regulated products for nonfarmers. Section 24 increases, from 15 percent to 25 percent, the exempt tonnage of freight that can be carried each year by agricultural cooperative associations.

The bill also eliminates wasteful operation restrictions for motor common carriers. Many ICC certificates and permits today are subject to a host of artificial operating restrictions. These regulatory restrictions control every aspect of a motor carrier's operations, including what commodities he can carry, in what direction he can carry them, what routes he must travel, and what points he can serve. Some of the restrictions impede improvements in productivity and efficiency in the motor carrier industry. Several provisions of the bill will reduce inefficiencies caused by wasteful, unnecessary operating restrictions.

In some instances, carriers are required to take an indirect route—circuitous route—or travel through a designated "gateway city" to reach their destination. For example, Denver, Colo., and Albuquerque, N. Mex., are connected to each other via Interstate 25, a distance of 442 miles. Garret Freight Lines is permitted to haul freight from Denver to Albuquerque—but only if it goes by way of Salt Lake City, a distance of 730 miles. Gateways and circuitous routings waste fuel and increase costs and prices.

Section 6 makes some substantial improvements in carrier operating practices. It would establish procedures to evaluate carrier applications to remove several types of operating restrictions. It is intended that the removal of these restrictions by the Commission be on a case-by-case basis upon individual carrier application.

One example of this relates to commodity restrictions. ICC certificates specify in detail the commodities a carrier is authorized to haul. Those restrictions sometimes follow no logical pattern and serve no apparent purposes. This provision would allow the ICC to reasonably broaden, and I repeat, reasonably broaden the categories of commodities which a carrier is authorized to transport. This provision is not intended to give ICC the authority to generalize or standardize all commodity descriptions. It is intended to benefit individual carriers and shippers where such benefits can be proven.

A third restriction that would be eliminated relates to intermediate points. Many certificates prohibit carriers from making intermediate stops between authorized points. This, in some instances, prevents carriers from maximizing their loads, increases costs, and keeps many towns, especially smaller ones, from receiving the best possible service. Section 6 of H.R. 6418 directs the ICC to establish expedited procedures for authorizing service to intermediate points.

H.R. 6418 also revises the rule of ratemaking for motor common carriers. Under the present law, the ICC has broad authority to determine the lawfulness of a proposed rate in terms of whether or not the rate is "reasonable." This term is not defined in the Interstate Commerce Act. Section 13 of the bill directs the ICC to develop formal criteria for determining the revenue needs of motor common carriers which gives proper allowance to the impact of rising costs and other important factors in maintaining adequate revenue levels. This provision should help to resolve many of the cost recovery problems now affecting motor common carriers.

In addition, section 11 of the bill reduces ICC interference in the setting of rates by motor common carriers. Currently, the ICC can suspend a proposed rate; that is, prohibit it from going into effect during the time the ICC is considering its lawfulness. This procedure delays the implementation of new rates. Section 11 will allow carriers to adjust rates freely within a zone of rate freedom without threat of ICC suspension on the grounds that the rate is too high or too low. Rates could be suspended, however, if they were discriminatory or predatory,

The zone of rate flexibility established in this legislation will give carriers the ability to raise their rates by up to 10 percent plus the percentage change in the producers price index over the rate that was in effect 1 year prior to the effective date of the new rate. The Committee believes that this 10 percent upward flexibility in real dollars is justified. It is a reasonable zone given the increased competition that motor common carriers will encounter as a result of the provisions in the bill. For example, sections 5, 6, 7, 8, 9, 10, 21, and 24 will give expanded opportunities to motor contract carriers, private carriers, exempt carriers, and independent owner-operators. This will result in a substantial increase in the competitive pressures on the motor common carrier sector of the industry. And, of course, competition among motor common carriers themselves will be increased as a result of sections 4, 5, 6, 12, 14, 20, 21, 23, and 25. The cumulative effect of all of the reforms in this bill clearly justifies the increased rate flexibility which, in and of itself, will also increase competitive pressures.

The bill would also make changes in the rate bureau process used by motor common carriers. Under existing law, the Commission has the discretion to approve rate bureau agreements that provide for collective ratemaking among motor common carriers. Such approval exempts such agreements from the antitrust laws. Section 14 makes a number of changes in the way rate bureaus operate.

First, it makes a number of procedural reforms in the rate bureau process. For example, section 14—

Places strict limitations upon rate bureau treatment of independent actions of member carriers;

Prohibits rate bureau protest or complaint of independent actions of any motor carrier;

Prohibits rate bureau employee actions with respect to member's proposals;

Provides for "total sunshine" on discussion and voting;

Requires specific written authorization for proxy voting;

Limits voting on those carriers who can practicably participate in the transportation to which the rate applies—after January 1, 1981; and

Sets strict time limits on rate bureau actions.

Second, it eliminates the antitrust immunity for single-line rates. Effective in 1984, rate bureau agreements would no longer be able to confer antitrust immunity on motor common carriers with respect to establishing single-line rates. These rates would have to be set independently, although general rate increases and broad tariff changes could still be made collectively.

And third, section 14 also establishes an Independent Study Commission to study collective ratemaking, for both study collective ratemaking, for both single-line and joint-line rates. The Commission's report is due on January 1, 1983. Two of the 10 members of the Commission would be motor common carriers that are members of the American Trucking Association.

The second major sector affected by the bill is the motor contract carrier portion of the industry. The essential distinction between motor common carriers and motor contract carriers is that contract carriers do not hold themselves out to provide service on demand. They provide dedicated service and often specialized equipment to meet the unique transportation needs of individual shippers. Unlike common carriers, the rates charged for these movements are negotiated between the carrier and the shipper, and the ICC has only minimum rate authority. The contractual agreement can be long-term in nature, and is filed with the ICC.

Section 10 of the bill contains several provisions making it easier for an applicant to obtain a permit from the ICC authorizing contract carrier operations. This includes relaxed entry standards and limited protest standards.

The bill also encourages dual operations. Historically, the ICC has limited ability of a contract carrier to provide dual operations; that is, both common and contract carriage by the same operator. Section 10(b) would eliminate current restrictions on a carrier operating in both a common and contract carrier capacity.

In addition, the bill would eliminate a number of restrictions on motor contract carriers. Until recently, the ICC limited contract carriers to serving no more than eight shippers. Section 10 prohibits the ICC from specifying the number of persons that a motor contract carrier may serve. This will allow contract carriers to serve more than eight shippers. However, they will be required to retain the characteristics of a contract carrier.

Section 10 also limits the conditions which the ICC can impose on contract carriers. Specifically, the Commission may not require a contract carrier to limit its operations for a particular industry or within a particular geographic area. In the past, the ICC has interpreted the language in the statute to mean that a carrier cannot provide service for diverse industrial entities throughout wide geographical areas.

The third sector affected by the bill is the exempt carrier portion of the industry. A special statutory exemption allows certain goods—primarily unprocessed agricultural products—to be transported by truck without ICC regulation. Carriers operating under this exemption are called exempt carriers.

H.R. 6418 would broaden the list of exempt commodities. Under existing law, certain types of interstate for-hire transportation are exempted from economic regulation based on the commodities involved or upon the area served. Exempt commodities may be transported by any type of motor vehicle without ICC regulation; thus, a certificate of public convenience and necessity is not needed to transport exempt commodities. The exemptions are very specifically defined in the Interstate Commerce Act. Section 7 of H.R. 6418 would broaden the list of exemptions to include:

Fish and shellfish byproducts not intended for human consumption;

Livestock and poultry feed, agricultural seeds, and plants if such products are transported to agricultural areas;

Incidental to air transportation—no mileage limitation as had been the case under existing law;

Used pallets, used empty containers, and other used shipping devices;

Natural, crushed, vesicular rock to be used for decorative purposes; and

Wood chips.

In addition, H.R. 6418 increases the exemption for agricultural cooperatives. Under existing law, farmer cooperatives are permitted to haul regulated products, but no more than 15 percent of their loads can consist of regulated products for nonfarmers. Section 24 increases from 15 to 25 percent the exempt tonnage of freight that can be carried each year by agricultural cooperative associations.

Section 15 of the bill would address the problem that some motor carriers and independent owner-operators have had with being coerced by so-called "lumpers" into paying to have their trucks loaded and unloaded. This is a particular problem in the exempt agricultural area and the red meat area. The ICC is directed to eliminate all unfair loading and unloading practices, especially in the perishable commodity area.

Section 16 authorizes the ICC to require, where appropriate, the use of written contracts for the interstate movement of agricultural commodities and for any brokerage services associated with such service. The purpose of this section is to eliminate some abuses in this area. It will provide protection for the independent owner-operator.

The bill does not require contracts for brokerage and transportation services for regulated commodities because the Commission already possesses such authority. The Commission's authority has been exercised in Ex Parte MC-43 to protect owner-operators by issuing rules governing the leasing of equipment.

This section authorizes the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, to require, where appropriate, the use of written contracts for the interstate movement of agricultural commodities and for any truck brokerage services to be provided in connection with such movement. Currently, the Commission does not have jurisdiction over the movement of numerous agricultural commodities. As a result, the agricultural community has expressed its concern to the Committee on Public Works and Transportation about future Commission regulation in this previously exempt area. The committee is sympathetic to these legitimate concerns and would like to take this opportunity to clarify its intention concerning the regulatory scheme of the contract of haul provision.

This provision is not intended to subject these previously exempt agricultural commodities to the economic regulation of the Commission. The committee expects a close working relationship between the Interstate Commerce Commission and the U.S. Department of Agriculture to develop, implement, and administer the contract of haul provision, section 16, of the Motor Carrier Reform Act. The statute directs the Interstate Commerce Commission to proceed in cooperation with the Secretary of Agriculture. The committee fully expects, however, that the Secretary will be consulted by the Commission to the fullest extent possible in this matter. As the committee report states, the only restriction on USDA participation with the Commission is that the Secretary of Agriculture shall not have veto power over a contract of haul.

The development of this written contract provision is a two-step process. First, the Commission shall conduct a rulemaking proceeding. The Secretary of Agriculture and the USDA staff shall participate in this proceeding with Commission personnel to the fullest extent possible. The expertise of USDA in the area of agricultural commodities, in general, and in the transportation of such commodities, in particular, is well-known to the committee. The Department-cosponsored Rural Transportation Advisory Task Force, with the Department of Transportation, studied this subject closely.

As a result, the Department is intimately familiar with the unique problems and needs associated with the movement of exempt agricultural commodities. The Department's invaluable participation in last year's White House-sponsored Working Party on Independent Truckers Problems further confirms the view of the committee that broad participation by the Department of Agriculture in the ICC rulemaking proceeding is essential for the development of a viable, workable contract of haul.

In addition to the Commission and the Department, participation in the rulemaking proceeding shall also include the viewpoints of the interested members of the agriculture community, such as growers, shippers, receivers, distributors, truck brokers, and truckers.

Second, once developed, the contract of haul must be properly implemented and administered. While the initial rulemaking proceeding is under the auspices of the Interstate Commerce Commission, the committee believes that the Department of Agriculture is especially suited to oversee its implementation and administration. This second step requires oversight on a day-to-day basis. Unlike Commission personnel, the Department has agents appropriately situated throughout the agricultural community to insure that the written contracts are used in accordance with this act.

This effective placement of staff personnel, together with the above-noted agricultural expertise of USDA, has prompted the committee to statutorily insure that the Secretary of Agriculture will be consulted thoroughly in this matter.

To accomplish these ends, the committee urges the Commission and the Secretary to enter into agreements, such as a memorandum of understanding, providing for joint administration of the contract of haul provision. Such mutual participation is consistent with the intent of Congress and in the best interest of all parties associated with agricultural commodities.

Finally, the committee believes that the study and report concerning loading and unloading practices within the motor carrier industry shall include a review of the contract of haul provision of this act. Specifically, the report shall include recommendations for legislative and regulatory changes in the area and other changes which are considered appropriate. This study shall be completed and reported to Congress not later than 18 months after the date of enactment of this act.

The fourth subject area I want to discuss relates to private carriers. Private carriers, shippers using their own trucks for transportation of their own goods, are not directly regulated by the ICC. Even though these carriers are not directly subject to regulation, they are indirectly regulated since they cannot provide forhire transportation of the goods of other shippers. Private carriage accounts for the largest single component of intercity motor freight traffic.

At the present time, private carriers are prevented by the ICC from entering into forhire operations for their own corporate subsidiaries. Section 9 would allow intercorporate hauling for wholly-owned (100 percent) subsidiaries. In addition, section 8 of the bill authorizes food or grocery sellers who usually deliver their goods to customers to reduce the price of those goods by the actual amount of the transportation costs if the customers pick up the goods themselves—normaly private carriers.

Now I would like to turn to the effects of the bill on independent owner-operators.

The independent owner-operator represents an essential element of our transportation industry. The number of owner-operators has been estimated at as high as 250,000, and these owner-operators are found in virtually every segment of the motor carrier industry.

The owner-operator was not contemplated when the present regulatory framework, under which he must operate and attempt to survive, was created. The committee recognizes the importance of the independent owner-operator, and H.R. 6418 will improve opportunities for owner-operators and contains several reforms which will benefit this critical segment of the trucking industry.

The bill allows carriers, many of whom may be owner-operators, to show only safety and financial fitness if they are seeking authority to serve communities not regularly served by a motor common carrier, to transport shipments of 100 pounds or less, or to provide service as a direct substitute for abandoned rail service.

H.R. 6418 will allow the independent owner-operator who transports exempt agricultural commodities to transport an equal amount of processed food and other commodities with a minimum of Federal regulation. Owner-operators seeking to carry food and other edible products, agricultural limestone and other soil conditioners, and agricultural fertilizers as a common or contract carrier will only have to show safety and financial fitness if the transportation is provided with the owner in the vehicle and if this transportation does not exceed the vehicle's transportation—measured by tonnage—of commodities exempt from ICC regulation. This provision will reduce empty backhauls and increase the opportunities for the independent owner-operator.

The bill addresses the problem of lumping, an especially significant problem for owner-operators. The bill seeks to promote a system which will preclude the use of force or coercion at loading docks. The bill authorizes motor carriers to transport in the same vehicle mixed loads of regulated and exempt commodities without affecting the regulatory status of the vehicle or commodities. This will allow owner-operators possessing ICC certificates or permits to make more efficient use of their equipment and thus lower their costs. The bill promotes the development of such written contract requirements as may be needed to assure that owner-operators hauling agricultural goods are treated fairly by brokers. Other provisions, such as restriction removal, commodity exemptions, uniform State regulations, taxation, and procedural reform, will also benefit the independent owner-operator.

The sixth matter that I would like to address is the effect of H.R. 6418 on small communities. H.R. 6418 has been drafted to remove impediments to small town service in the present system. Numerous provisions in the bill will improve trucking service to small and rural communities.

The new National Transportation Policy emphasizes improved small community service. The ICC will be required to consider the need to provide and maintain service to small towns and small shippers in entry, restriction removal, and all other proceedings.

Carriers seeking to serve certain markets will be required to show only safety and financial fitness. Entry is eased in the following cases related to small towns:

First. Service to any community not regularly served by a motor common carrier of property;

Second. Transportation services which will be a direct substitute for abandoned rail service if that abandonment results in a community not having any rail service;

Third. Transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

Fourth. Transportation of food and other edible products, agricultural limestone and other soil conditioners, and agricultural fertilizers by owner-operators, if this transportation does not exceed the vehicle's transportation (measured by tonnage) of commodities exempt from ICC regulation.

In addition, it will be easier for new and existing trucking companies to obtain ICC certificates under the new relaxed entry provisions of the bill.

Expedited procedures are to be implemented to lessen commodity restrictions, allow service to intermediate points on a carrier's routes, provide round-trip authority where only one-way authority exists, eliminate unreasonable or excessively narrow territorial limitations, and eliminate other unreasonable restrictions, as determined by the ICC.

The agricultural commodity exemption is broadened and the agricultural co-op exemption is expanded to help balance the operations of co-ops by allowing them to carry 25 percent of total interstate tonnage in regulated, nonmember goods.

The bill allows greater pricing freedom which will encourage competition in both service and pricing. This will benefit small communities by giving carriers and the shipping public the ability to structure their transportation systems and needs around a variety of service and price options. Motor carriers are allowed to carry mixed loads of regulated and exempt commodities in the same vehicle without affecting the regulatory status of the vehicle or the commodities. This should increase the use of carriers' equipment and thus improve their operating efficiency. This in turn should lower the carriers' costs and the costs to their customers. Motor carriers are encouraged to enter into pooling arrangements when such arrangements are in the interest of better service. This will help to improve service to small communities which are marginally profitable for one carrier.

And, finally, the ICC is required to study motor carrier service to small communities, with emphasis on communities with populations of 5,000 and under, and report its findings by September 1, 1981. The ICC's report will be expected to include specific recommendations as to ways of insuring motor carrier service to small communities. A committee amendment will extend the reporting date to September 1, 1982.

A seventh area is the transportation of food. H.R. 6418 takes a somewhat different approach than does S. 2245 in the area of transportation of processed food. Whereas S. 2245 completely exempts processed food from regulation, H.R. 6418 would permit fit, willing, and able independent owner-operators to carry processed food on backhauls, up to 50 percent of their annual tonnage. Fit carriers would simply file for this authority without having to prove public convenience and necessity.

Other sections of H.R. 6418 will also interact to improve the conditions for food carriage. Freer entry and broadening of commodity and geographical authorities will allow many carriers to fill empty backhauls with food and other agricultural products. Allowing mixed loads of exempt and regulated commodities will also help, as will the expansion of the allowed proportion of nonexempt commodities carried for nonmembers of agricultural cooperatives. Also, carriers with contract and common carrier authority for food and other commodities will be allowed to consolidate and coordinate shipments.

Leaving food carriage mostly under the control of the Commission will keep the established damage claims process intact.

And finally, I want to spend a few moments on safety. Section 30 establishes minimum levels of financial responsibility for persons transporting property by motor vehicles having a gross vehicle weight rating of 10,000 pounds or more. The purpose of this provision is to create additional incentives to carriers to maintain and operate their trucks in a safe manner as well as to assure that carriers maintain an appropriate level of financial responsibility.

The relaxation of entry, coupled with the establishment of a zone of rate freedom as proposed in section 11 of this act, may produce economic gains to the country, but it also runs the risk that safety standards will be pushed even lower than they are today unless increased enforcement action is taken. First, the relaxation of entry will open the highways to new undisciplined truckers, thereby increasing the risk of accidents and, accordingly, the incidence of personal injury and property damage. Second, relaxation of entry coupled with downward pricing freedom should intensify price competition. But competition that forces prices down may tempt some carriers to "cut corners" in the area of safety. For example, a carrier might operate equipment which is overdue for replacement and not reline brakes as often as they should be relined.

The problems of motor carrier safety are well illustrated by an unannounced roadside inspection by the Department of Transportation on Interstate 80, New Berwick, Pa., on August 7 to 11, 1978. Of the 676 vehicles inspected, the Department found that 352 (52 percent) had to be placed "out of service" for one or more violations. The principal defect was brakes. In addition, it detected 271 "hours of service" violations by drivers and placed 25 drivers out of service; 63 percent of all exempt and 55 percent of all authorized for-hire vehicles and drivers were declared out-of-service. Unacceptable safety problems such as these could easily be exacerbated with relaxed regulation.

The insidious nature of downgrading safety, should it happen, is at once apparent. The carrier who wants to maintain high safety levels will be under pressure to cut his costs to meet the prices of his competitors who operate at lower safety levels. Specifying minimum insurance levels is one way to help improve motor carrier safety. Insurance companies are equipped to evaluate the performance of the motor carriers. The premiums they assess are in direct relation to the risks they assume. Therefore, an unsafe carrier will have an increased premium, and a totally unsafe carrier may not be able to obtain the insurance necessary to operate, or at best will be at an insurance cost disadvantage. These carriers will be forced to improve safety. The minimum of $750,000 insurance coverage mandated by this legislation, as amended, is necessary to protect the public and the environment.

Section 30(e) of H.R. 6418 requires the Secretary of Transportation to report to Congress not less than 1 year after the date of enactment upon minimum levels of financial responsibility. It is the intent of the committee that the Secretary make recommendations in his report to Congress and propose regulations only after full consideration of comments by affected persons. The Secretary shall provide all affected persons an opportunity to present their data, views and arguments.

In making recommendations in the report to Congress, the Secretary shall consider, among other things, the following: First, the ability of commercial motor vehicles to obtain coverage at the levels set forth in this section; second, the potential cost increase of the insurance; and third, the impact of minimum levels of financial responsibility upon the economic condition of the motor carrier industry, including but not limited to, small and minority motor carriers and independent owner-operators. The Secretary shall make recommendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be modified.

In closing, I want to commend the chairman of our committee, Harold T. "Bizz" Johnson, for having not only the stamina of a Greek hero but also the patience of Job during the last several months when we have worked together with the other body, the administration, and the affected parties in the detailed consultations which have made possible the important legislation which we have before us today

The ranking minority member of the Subcommittee on Surface Transportation, Bud Shuster, also played an important role in the development of this legislation. As the former chairman of the National Transportation Policy Study Commission, he made a valuable contribution to the effort.

I would be remiss if I did not express The ranking minority member of the Subcommittee on Surface Transportation, Jim Howard, who has worked hard and displayed an extraordinary knowledge of the subject. He has worked with a formidable command of detail to make this a measure which is not only of advantage to the American consumer but also assures that our transportation system will remain the best in the world. This bill would not be on this Floor today had it not been for Jim Howard; and that it is, is a tribute to his work.

Thank you, Mr. Chairman.

□ 1350

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield for a further discussion of section 8?

Mr. HARSHA. I yield very briefly to the gentleman.

Mr. GONZALEZ. Mr. Chairman, in furtherance of the reply and explanation given by the distinguished gentleman, the report by the committee on section 8 says that its purpose is to eliminate confusion as to the law resulting from FTC advisory opinion 147 regarding a zone delivered pricing system. It has nothing to do with backhauling.

In light of the answer given by the gentleman with respect to the applicability of Robinson-Patman, I think the gentleman ought to be aware that the FTC takes the position that this section 8 would make it impossible for them to enforce those pertinent provisions of the Robinson-Patman Act.

Mr. HARSHA. Well, in my judgment, the FTC, if they made that statement, are entirely wrong. There is no intent whatsoever in this legislation to repeal the Robinson-Patman Act.

Now, it does involve prices and costs, but it also involves backhaul; because what happens is that a truck that has made a delivery to some of its stores and is on the way back to its warehouse frequently passed the warehouse or the location of the manufacturer empty. He can pick up his next order right there and deliver it to his main base or deliver it to his other stores, eliminating that backhaul.

As a matter of fact, by this elimination of backhauls, it has been estimated that over 100 million gallons of gasoline may be saved annually by this one simple little amendment that is in section 8.

Mr. GONZALEZ. But ironically, this also provides and will permit fronthauling, which can hardly be saving or conserving energy.

This provision really will allow fronthauling, as well as backhauling.

Mr. HARSHA. Absolutely.

Mr. GONZALEZ. But backhauling now, the situation the gentleman just pictured, it is not illegal now, provided that there is no price discrimination in the backhauling journey for the so-called empty truck.

Mr. HARSHA. This bill specifically mandates that there shall be no price discrimination, either in the backhaul or the headhaul.

Mr. GONZALEZ. Well, I thank the gentleman.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. McCormack), a member of the committee.

Mr. McCORMACK. Mr. Chairman, at the proper time I will submit an amendment to H.R. 6418 to provide fairness to farmers and consumers and to save energy and take a step toward a more realistic commonsense in trucking deregulation.

The "trucking deregulation" bill, as reported by committee, would in effect, require that, in many cases, trucks hauling bulk agricultural products, such as fruits and vegetables, to the major metropolitan markets of the country, return home to the agricultural areas empty.

Of course, this is not a direct regulation, and supporters of the committee bill will attempt to make the situation appear much more legally complicated than it needs to be. The fact is that many trucks will return empty under the bill as written, fuel will be needlessly wasted, and metropolitan consumers will pay more for fruit and vegetables.

The amendment I will offer will add "agricultural limestone and other soil conditions, agricultural fertilizers, farm implements, machinery, parts and accessories used in agricultural production" to the exemption section of the bill. This will mean that these agricultural materials may be hauled back to agricultural areas in the trucks which bring the produce to market.

As reported by the Public Works Committee, the bill exempts a number of argricultural commodities from ICC regulation. The purpose of the committee's expanded exemption section is to address the existing problem of empty backhauls for trucks carrying exempt agricultural products. I agree with the committee action, as for as it goes, and I believe that by adding the items included in my amendment we will responsibly address current energy supply problems and economic conditions in the agricultural community and the Nation as a whole.

The Rural Transportation Advisory Task Force, in its January 1980 report, listed as the primary objective of the Federal agricultural policy, "to assure the efficient movement of agricultural products and farm inputs." Adding the items contained in my amendment to exempt materials is consistent with, and would significantly contribute to, that objective.

You will hear a great deal about the "delicate balance" which should not be upset on this bill. A similar argument was used in subcommittee and committee to defeat this and other amendments. The argument was that a delicate compromise had been worked out between various groups interested in the legislation, and that any amendment would upset that balance. The fact is that soil conditioners such as limestone and fertilizers such as phosphates are exempted under the version of this bill passed by the Senate, so the only items which this amendment adds are "farm implements and machinery"—less than 2 percent of the regulated freight revenues—hardly enough to upset any "delicate balance."

The concept of broadened exemption enjoys considerable support from the administration and from interested farm groups.

Transportation Secretary Goldschmidt, in a letter to Senator STEVENSON stated:

> The broadened exemption is very desirable for a number of reasons . . . Agricultural shippers would enjoy lower freight rates and improved trucking service, and would be able to ship to wider areas, hence expanding their markets.

Agriculture Secretary Bergland has expressed his support for expanded agricultural exemptions:

> I wish to add my personal emphasis to one of the Administration's highest priority areas, the agricultural sector of the trucking industry. Past studies conducted by the Department of Agriculture . . . have shown significant cost savings in the form of lower transport rates resulting from changing the status of certain agricultural products from regulated to exempt.

Groups which support the amendment include:

The National Grange;

The National Milk Producers Federation;

The National Council of Farmer Cooperatives;

The Farm Bureau;

The National Agricultural Transportation Association;

The Fertilizer Institute;

The National Cattlemen's Association; and

The United Fresh Fruit and Vegetable Association.

We cannot afford bureaucratically created waste and inefficiency in our transportation system. This amendment will result in substantial energy savings and reduced transportation costs for our agricultural products. Consumers will benefit directly from these savings. I hope that you will join in this effort, and vote for this commonsense amendment.

□ 1400

Mr. HARSHA. Mr. Chairman, I yield 7 minutes to the distinguished ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I thank my distinguished ranking minority leader of our committee.

Mr. Chairman, this is landmark legislation, indeed the first major change in 45 years, in a very vital national industry, the trucking industry. It should be said from the outset that this is a compromise. There is no group in America that I know of which is completely happy with the results of this bill. But, on the other hand, almost every interested group, indeed, every interested group that I know of, has received consideration in this legislation and at least is the beneficiary of some of the things in which they were interested.

This bill being a compromise, therefore, it has the support, we are told, of the other body and we do not need to go to conference on it. It has the support of the administration. It has the support of the ICC. Indeed, this is a bill with very broad support.

Now, what would happen if we did not pass this bill? What would happen if this compromise fell apart?

Without this compromise, without this legislation, the ICC, the bureaucrats downtown, would proceed to deregulate the trucking industry.

What does that mean? That means, particularly for the rural areas of America, we would find ourselves in a position where service would be under serious jeopardy. Many Members have come up to me over the past few weeks and expressed their deep concern about the impact of the airline deregulation on their districts and said they would be against this bill if it did the same thing that airline deregulation has done.

We were very mindful of this problem and for that reason this bill does not go the whole way with regard to deregulation. This bill does provide, and this is an extremely important point, this bill continues to provide for the common carrier obligation. If a common carrier today has a certificate requiring him to provide service to a particular area, be it rural or urban, he has that obligation under this legislation and that obligation continues. That is an extremely important aspect of the legislation before us.

This bill, in a nutshell, preserves the national system. I emphasize the word "system." This is a transportation system we have and we cannot simply throw it open without any kind of control and expect there to be a well-functioning system to serve the needs of America.

However, there are fundamental changes, and those changes do several things.

First of all, this eases entry. What does that mean? It means there will be more competition in the trucking industry, more people can get into the business. Beyond that it means there also can be price competition.

The legislation provides for a zone of pricing freedom up or down 10 percent, which means there can be real price competition. One trucker can increase his price by 10 percent, another can decrease by 10 percent, and in the first year we can have a 20-percent price spread. That is real price competition which is available in this language.

Beyond that, this legislation eliminates the antitrust immunity for single-line ratemaking by 1984. But it quite properly keeps joint ratemaking because if several different trucking firms haul a particular commodity, they obviously have to get together to figure out what the charges are going to be.

Beyond that, this expands the agricultural exemptions to include feed and seeds and plants and, very significantly, this increases the insurance requirements because if we are going to open this up and say there can be ease of entry and say that more truckers can come into the business, it is vital that the public be protected on our Nation's highways. It is vital that these truckers using the highways carry adequate insurance in the event of accident or injury.

Let me deal now momentarily with section 8, the so-called food and grocery transportation section. We have heard a great deal of controversy about this, and yet this is not even the tail of the dog. This is not the tip of the tail of the dog. In fact, I am not even sure that this is the flea on the tip of the tail of the dog. This is a very, very minor part of an enormously large and significant and complex legislation.

So whatever the position of my colleagues on section 8, let us not get carried away and let the flea on the tip of the tail of the dog wag the dog. This legislation deals with the fundamental trucking industry in America. The part we are talking about in section 8 deals with less than 1 percent of the entire question.

So I urge my colleagues to support this complex, carefully crafted, balanced legislation. This has bipartisan support of your committee.

The alternative, if we do not have this bill and if this compromise falls apart, is we will have bureaucratic deregulation from the ICC, and it is the rural parts of America which will suffer most under that. Indeed, bureaucratic deregulation could clog our urban areas with unsafe trucks, while abandoning service to rural areas. We do not want that, so let us support this carefully crafted piece of legislation.

Mr. DAVIS of Michigan. Mr. Chairman, will the gentleman yield for a question?

Mr. SHUSTER. I yield to the gentleman.

Mr. DAVIS of Michigan. Mr. Chairman, I am one of those concerned about the deregulation of the trucking industry, and I have not made up my mind about how I am going to vote. I am concerned about what happened with airline deregulation. I was not here when we voted on that particular bill. I find that there are some of my communities now that are going to be cut off from service.

Am I correct that the gentleman is saying if we do not pass this bill, if we let the ICC go ahead, that we could very likely end up not having service in some parts of the country?

Mr. SHUSTER. The direction the ICC is going in now could lead us in the direction of de facto deregulation. It is the small areas of America which could be injured, and I emphasize that this bill keeps the common carrier obligation to serve. It does not touch that. It keeps it. And that is fundamental.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman.

Mr. McCLORY. Mr. Chairman, I am one who is concerned about the subject of section 8 of the bill, and I know there are differences of opinion and different economic interests that are involved here.

I would be deeply concerned about the language of the bill if the effect of section 8 would dilute or repeal protection afforded by the Robinson-Patman Act.

The committee reports in the Senate and in the House declare flatly that section 8 does not constitute the repeal of or an amendment to the Robinson-Patman Act, Also, these committee reports declare that the Federal Trade Commission will be expected to vigorously enforce the Robinson-Patman Act protections against discriminatory practices.

My vote on section 8 will be cast in reliance on the clear language of these committee reports—as I am determined that we shall retain the validity of the Robinson-Patman Act. I will endeavor to clarify this issue when we reach the amendatory stage of the debate under the 5-minute rule.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HARSHA. Mr. Chairman, I yield my remaining 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. HOWARD. Mr. Chairman, I yield my remaining 2 minutes to the gentlewoman from New Jersey if she needs more than the 1 minute.

Mrs. FENWICK. I thank the gentlemen for their generosity and their kindness. I would like to congratulate them, too.

This is an enormously complex bill and anybody who has ever had any interest in trucking knows how complicated it is.

I have an amendment, and it is a great credit to the committee and the hard work that has been given to this bill and what has come out, but I have an amendment which is very simple. It addresses itself to food, the distribution of food. As my colleagues all know, agricultural commodities are exempt under certain conditions. It is rather complicated. Raisins coated with honey are exempt.

☐ 1410

Raisins which are covered with chocolate are not. It takes 33 pages to say exactly which of these foods are exempt and which are not. My amendment simply says that all food for human consumption, with the exception of alcoholic beverages, shall be exempt from regulations of the Interstate Commerce Commission.

Let us see what would happen, for example, to small towns which have been mentioned. This is a study of the Department of Transportation, not the Interstate Commerce Commission. It finds that 80 percent of all trucking services—if the Members would be interested in this—all trucking services to small towns and small communities are currently provided by unregulated carriers. Eighty percent of all the trucking that goes to small towns and communities is provided by unregulated carriers. Regulated carriers provide 20 percent of the service. The Department of Transportation study shows that service to these towns is adequate largely because of the unregulated carrier service. The service provided by regulated carriers, according to the Department of Transportation, in these small communities was "infrequent, slow, and often at rates which were perceived as high." That is from the Department of Transportation study.

The National Association of Counties which represents mostly rural areas is heartily in favor of this amendment, and so, I may say, is the American Farm Bureau Federation, the Consumer Federation of America, Common Cause, the American Association of Retired Persons—because this is particularly addressed to the cost of food and to the retired people living on small and fixed incomes and pensions—the American Frozen Food Institute, the National Council of Farmer Cooperatives, the National Retired Teachers Association.

Again we speak to the retired and the elderly. The National Federation of Independent Business, the United Fresh Fruit and Vegetable Association, the California Frozen Foods Industry, the New York Association of Meat and Poultry Dealers, the National Cattlemen's Association, the Fertilizer Institute, Congress Watch, Cooperative League of the U.S.A., Consumers Union, Association for Protection of Rights of Truckers Engaged in Commercial Transportation, Pacific Coast Owner-Operators Association, Florida Independent Truckers, Independent Truckers United, National Agricultural Transportation Association, National Grange, National Association of Manufacturers, National Milk Producers Federation, and the National Association of Counties.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I rise to state my support of this legislation, and in particular, my support for section 8, which is the food backhaul provision. I will say at the outset that I am disappointed that the Rules Committee did not see fit to allow this body to debate the germaneness of this issue. I for one, would have been most interested to hear the argument of the gentleman for Georgia (Mr. LEVITAS). But I wish to underscore by belief that the germaneness question should not undermine what is, in substance, a sound idea.

I have spent a good deal of time studying the impact of section 8. I had reservations about this section. I had heard reports that section 8 would further concentrate power in the hands of large food retailers who own their own fleets of trucks. I have spoken with both opponents and proponents of the food backhaul provision. I have read the material from both sides, and I have come to the conclusion that section 8 merits the support of this body.

In my mind the issue boils down to whether large food buyers will thwart the intent of this legislation by using their purchasing power to negotiate unfair price discounts at the loading docks of food manufacturers. But I believe we should not hesitate to pass meritorious laws out of fear that some people will not obey them. Such a practice would clearly conflict with the intent of Congress and, in my judgment, would be deemed unlawful in the courts.

In a more practical sense, I am convinced that section 8 will save energy. It is unacceptable to have four out of every ten grocery trucks running empty in this country. I believe section 8 will address this problem by making it truly economic to backhaul. By offering discount allowances commensurate with the distance of the haul, a real incentive exists to fill up trucks before returning home. Again, I support passage of this legislation.

Mr. HOWARD. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. LEDERER).

Mr. LEDERER. Mr. Chairman, I rise in opposition to H.R. 6418, the Motor Carrier Act of 1980.

I believe this legislation does not include an adequate labor protection provision.

I believe as in the Airline Deregulation Act, financial assistance for employees should be included, in the bill before us.

I do not believe the job referral provision goes far enough to help displaced workers.

Others have and will direct their remarks to worker and highway safety, and I will not belabor those points at this time.

I am concerned that existing carriers will fail, with an undue or unnecessary hardship on investors and employees.

Mr. Chairman, I ask for the defeat of H.R. 6418.

Mr. HOWARD. Mr. Chairman, I yield myself 1 minute.

In response to the gentleman from Pennsylvania I would like to say that the labor practices section in the bill now is one that I put in in the full committee at the request of and in agreement with the Teamsters who at that time said they totally supported the bill.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I appreciate the gentleman's yielding.

For the purpose of making some legislative history, Mr. Chairman, in section 7 under "Exemptions," page 13 of the bill under section (E), the gentleman says "livestock and poultry feed." In using the word "livestock" is the gentleman using the usual definition of that word as defined in the Webster's New Collegiate Dictionary as "animals kept or raised for use or pleasure," so that pet food would be included in that?

Mr. HOWARD. I will have to say if that is the dictionary definition, I would support that. We can get an answer on that later.

Mr. Chairman, now that I have had an opportunity to look into this matter, I would like to clarify my answer to the question of the gentleman from North Dakota.

It seems to me that that section as written is clear. Further, pages 18 and 19 of the committee report also explain the provision by stating:

> To help alleviate this backhaul problem, the Committee believes that the unregulated motor carrier should be allowed to transport certain farm supply items back to areas of agricultural production. Accordingly, section 7 provides that the transportation of livestock and poultry feed and certain seeds and plants (that are not now exempt) be exempt from regulation by the Commission. The Committee expects this provision, along with other sections in the bill which help ease the way for owner-operators to get operating authority from the Commission to transport processed foods and agricultural fertilizers, should improve the operating efficiency of those carriers engaged in agricultural transportation and save fuel. In turn, that should help reduce the transportation costs on food items and on commodities used by farmers.
>
> This section of the bill also exempts the transportation of fish or shellfish by-products not intended for human consumption. Currently, fish and shellfish (except if treated for preserving) are exempt, but such by-products as fish meal, fertilizer, and pet food are not exempt. As a result of this situation, fish and shellfish processing plants must make separate arrangements with regulated carriers for the transportation of these by-products, which constitute a very small percentage of the items they ship. The Committee believes that no public purpose is served by the requirement that these shipments be handled separately.

Mr. Chairman, the Committee used the historical definition of the Interstate Commerce Commission as to what is livestock and poultry and therefore the feed that would be exempted would comport with that definition. Or to put it another way, certain seeds or plants, feed for domestic animals as traditionally defined by the ICC plus fish or shellfish by-products not intended for human consumption, transportation incidental to air, shipping devices, vesicular rock and wood chips are the only new exemptions added to title 49, section 10526(a) of the United States Code.

Mr. ANDREWS of North Dakota. I appreciate the gentleman's clarification.

Mr. HOWARD. Mr. Chairman, I have no further requests for time.

● Mr. HOLLENBECK. Mr. Chairman, the House today is considering H.R. 6418, the Motor Carrier Act which was recently reported by the Committee on Public Works and Transportation.

Among its other objectives, the bill will reduce waste and help keep down the cost of distributing products. Section 8 entitled "food and grocery transportation" has as its primary objective, the reduction of empty trucks engaged in the transport of food and grocery products. Considerable attention has been focused on this section with the grocery wholesalers and retailers favoring enactment and some manufacturers opposing it. I want to call to the attention of the Members of the House, however, that there are manufacturers who recognize the opportunities for energy savings and are currently providing cost-justified backhaul or customer pickup allowances. One such manufacturer, I am proud to say, is headquartered in my home district. In a June 9, 1980 notice to the trade, the Thomas J. Lipton, Inc., Co. states that it has an established cost-justified backhaul program. Cost-justified backhaul will allow food distributors to transport grocery products in a more efficient and a less costly manner. Section 8 works to accomplish that objective and I hope that you will join with me in supporting that section should there be a move to kill or cripple the provision. The Thomas J. Lipton letter follows:

> THOMAS J. LIPTON, INC.,
> *Englewood Cliffs, N.J., June 9, 1980.*
>
> *All Members of the Grocery Trade:*
>
> There seems to be quite a bit of confusion in the industry today as to what the position of the grocery manufacturer is on Backhaul. It is important for me at this time to state that Lipton is not opposed to Cost-Justified Backhaul, and has so advised GMA.
>
> Lipton has an established Cost-Justified Backhaul program. This program has been operational in some parts of the country for almost two years. We have rolled out our program on a Lipton warehouse by warehouse basis, and are currently encouraging members of the trade where this program is available to participate.
>
> We will continue to work with the trade to keep our industry strong and productive, and feel that a Cost-Justified Backhaul program is one step in that direction.
>
> Very truly yours,
> ELWOOD L. QUALLS,
> *Vice President, Sales Division.*●

● Mr. SYMMS. Mr. Chairman, I wish to rise at this time to make some general comments about the Motor Carrier Reform Act of 1980, and the need to retain section 8 of this bill. The House Public Works Committee has worked very diligently on this bill in consultation with the Senate to reach a balanced compromise which will ease the regulatory burden on the trucking industry and provide greater savings for the shippers and the consumer. And this bill will bring about this deregulation of the industry in an orderly fashion. I wish to compliment the members of this committee for the bill which they have sent to the House floor.

I know there is a great deal of concern over section 8, the food backhaul provision, as some groups feel it will cause problems in the food and grocery distribution system. I was first contacted by opponents of this backhaul provision who were concerned about the effect of section 8.

However, I then began hearing from the people in my district who wholeheartedly support the backhaul provision. Grocery store operators of all sizes have contacted me and assured me that section 8 of this bill will greatly help them. I have had telegrams and letters from the smallest grocery store operators to the Idaho Retailers Association. They have told me that they wish to speak for themselves as far as this provision is concerned; that they have no concerns that the big food chains will take unfair advantage of the food retail independent; that their small, independent members think there is no Robinson-Patman impact whatsoever; and that they believe that the independent will benefit incrementally more from food backhauling than will the big chains.

These independent food retailers in my district are good businessmen, and they would not be supporting section 8 if they had the slightest concern that it would hurt them. And they are not misinformed about the issue, as some have claimed. They understand the issue very well; they know exactly how the food distribution system works; they know they will benefit from the enactment of section 8; and they are angry that their position has been misrepresented by the opponents of section 8.

They are particularly concerned that the Members of Congress have been told by the opponents of section 8 that the small business groceryman opposes backhaul. That simply is not true. They are concerned that you have been told section 8 will increase food prices when the opposite is true.

If there is one among you who is planning to vote to strike or cripple section 8, I urge you to leave the Chamber now and just place a phone call to any food retailer or wholesaler in your district. Call one of the associations in your State—the retail association or the grocer association—and ask them how they feel about food backhaul. You will find, as I did, that your constituents support section 8 overwhelmingly.

As I stated in the beginning of my statement, the members of the committee worked extremely hard to develop a good bill which will strengthen this Nation's transportation system. Section 8 is an important part of this bill, and I am pleased that I took the time to hear all of the arguments on this amendment. We must not allow ourselves to be confused by deceptive claims that this amendment will hurt the small grocer. I urge you to stand firm and retain this section in the bill. Thank you, Mr. Chairman.●

● Mr. HAGEDORN. Mr. Chairman, I

rise in strong support of H.R. 6418, the Motor Carrier Act of 1980, and I urge my colleagues to vote in favor of this bill as it was reported by the Public Works and Transportation Committee.

I first want to compliment the leadership on the full committee and the subcommittee for their skill in guiding this very complex and difficult issue through committee. The task has been mammoth. The bill before us today is the product of over 18 months of hard work during which 16 days of hearings were conducted and over 215 witnesses presented their views on a matter which affects the lives of every American. Congressmen JOHNSON, HARSHA, HOWARD, and SHUSTER deserve credit for their diligence in seeing this very difficult matter through.

Like everyone else, Mr. Chairman, I am not totally satisfied with this bill. In my opinion, it would take nothing short of an act of God to please everyone on this issue, and while I am amazed sometimes at the things which the Congress has done, I am certain we cannot live up to that standard. It is important to note, however, that this bill represents a reasonable compromise. The phrase we heard so much in markup was "delicate balance." This bill is a delicate balance between the many diverse interests who have a stake in the outcome, as well as a balance between a totally free market and necessary Federal regulation. As a result of this balance, the bill has in its present form the support of the administration, the Senate, and most of the major interest groups. As reported, it will increase competition, do away with wasteful, restrictive practices, and allow the industry greater opportunity to meet the needs of shippers, receivers, and consumers.

For these reasons, it is essential that we adopt this legislation without substantial change, and therefore, I intend to oppose any amendment which would substantially alter the bill or upset the compromise that we have worked so hard to achieve. Let me repeat that I do not agree with every section of the bill, but it is a good compromise that received extensive attention by the committee and that can only be held together if it remains essentially in its present form.

Mr. Chairman, there are several areas of particular concern to me which, I understand, may be subject to amendment and which I would like to briefly comment on.

The most controversial of these is section 7 of the bill, which deals with exemptions. The proposed Fenwick amendment, which seeks to expand the commodities included in this section to all food products, should be opposed, not only because of its potential impact on the compromise that has been agreed to but, more importantly, because it could be harmful to the interests of family farmers and rural communities.

The amendment would make it more difficult for farmers to obtain adequate supplies of trucks for transporting their products to the marketplace. If all food products were "deregulated," independent owner-operators would find it more profitable to haul processed foods to large population centers than to travel to remote rural areas where balanced hauls are difficult to obtain. In its present form, section 7, in conjunction with section 5, will improve the operating efficiency of those carriers engaged in agricultural transportation and save fuel, thereby reducing the transportation costs on food items and commodities used by farmers.

An additional matter of concern and importance to me, Mr. Chairman, is to make certain that this legislation not weaken the protection of the shippers. I would expect the ICC to retain and enforce existing regulations as to the processing of loss, damage, and overcharge claims in an effort to protect the public interest. In addition, the Commission should assure the continuation of reasonable regulation of cargo insurance, liability standards, and contracts of carriage under law.

In this area specifically, section 12 of the bill allows carriers to file released value rates without first securing permission from the ICC. While I agree with the intent of this section, which is to foster more competition in the pricing of transportation service, I believe, contrary to the language of the bill, that the ICC should require a carrier filing such a rate to also keep on file a rate which does not limit his liability. In this way, a shipper would be given the flexibility in deciding whether to contract under a released value rate or a fixed rate.

One final area of concern to me, and which I have watched closely throughout the entire process on this matter, has been the potential impact of this legislation on service to small communities. I am pleased to note that this has been a major concern for the committee also. It has been my firm belief that any reforms we enact must assure continued service to small rural communities like those in southern Minnesota. This bill authorizes a study by the ICC on the impact of regulatory reform on service to small communities, and I am satisfied with the assurances of the Department of Transportation, which conducted a survey of several communities in Minnesota's Second District, that motor carrier service to small communities will not be impaired.

In conclusion, Mr. Chairman, I believe the committee has worked hard to fashion a reasonable, workable bill which will address our Nation's motor carrier needs and demands in the decades ahead. The measures enacted by this legislation will increase competition, thereby improving service and lowering prices to the consumer, ease the regulatory burden on the private industry, and take a giant step toward getting the Federal Government out of the private sector. H.R. 6418 as reported by the Public Works and Transportation Committee has my strong support and I believe it warrants the support of all Members.●

● Mr. GOLDWATER. Mr. Chairman, I rise today in support of H.R. 6418, the Motor Carrier Act of 1980, a bill which will partially deregulate the trucking industry. I do so with major reservations which I intend to address, but I feel sincerely that this bill will permit a studied approach to the deregulation of the industry. A number of adjustments will have to be made during or after the phase-in period. I fully expect that Congress will be back within the next 2 or 3 years to address such changes. I want to commend my colleagues on the Public Works Committee; particularly the members of the Surface Transportations Subcommittee, who put in long, hard hours in the consideration of this legislation.

Broadly speaking, this bill moves in the right direction. For instance, the antitrust and entry provisions and the additional exempted commodities are good starts. However, I believe that the bill does not go far enough toward deregulation of the industry and I have grave reservations about the actual practical effect of this bill on the independent owner-operator and small trucking concerns. There is some concern that this bill, in practice, could create a near-monopoly in the large truck company (common carrier) area. I would like to take a few minutes to address those areas which could be strengthened to foster the interests of the small businessman. Some of these were the topic of controversy in committee. I hope that my colleagues may appreciate the impact of these points and come to a compromise with which the Senate can concur so that the ICC may get on with the task of relaxing the cumbersome routing, entry and hauling restrictions the motor carrier industry now has to comply with.

First, I am quite disturbed over what I feel are excessive minimum insurance requirements provided for in section 30 of the bill. The levels required are $1 million/$5 million for nonhazardous/hazardous liability coverage. This is roughly 10 times what is now required by the ICC. An increase of this magnitude will have a number of undesirable effects, none of which is the intended "incentive for safety."

The estimated cost of this increased coverage will cost about $600–$1,000 per insured vehicle. This additional cost alone will shut some independents out of the market in the first place. Even if they can afford it, the insurance industry indicates that it will have difficulty in underwriting this much additional coverage. This will throw smaller companies, usually those marginally capitalized, into the "assigned risk plans," joint underwriting associations and other mechanisms required of the insurance industry by law whose express duty is to provide coverage for companies who cannot get insurance through the voluntary insurance market. The cost will be spread through the entire vehicle insurance industry and raise rates across the board.

Every indication today is that the current coverage required by the ICC is adequate. A study conducted in 1979 showed that only 4 percent of all cargo coverage claims were in excess of $5,000. Equally, there is no indication that the current liability coverage levels required the ICC are less than adequate. The somewhat hackneyed example of the accident involving a schoolbus hit by a truck is misleading; in that instance, the driver had a bad driving record and lacked a medical certificate. The coverage required by H.R. 6418 would have no bearing on this type of incident. That type of driver could not get coverage now. Under the provisions of this bill he would be just as uninsurable in the future. As such, this argument is moot.

There is no guarantee that raising the insurance liability rates will "insure trucking safety." Indeed, there is some speculation that raising rates to these irrational levels will simply cause many truckers to self-insure themselves; or, drive without any insurance at all. Simply raising insurance rates is not an enforcement tool. I believe the case is clear. These unreasonably high levels are simply a mechanism for selling deregulation out to the hidden interests of the trucking industry who want to protect their formerly secure share of the market. I believe that this body should concur with the Senate language and allow the Secretary of Transportation the discretion to set minimum insurance limits as it is more accurately a regulatory, not legislative, matter.

My second concern is the committee's failure to add processed foods to the exempted commodity list. I do not believe that any telling arguments have been presented to support the claim that exempting processed food would result in lesser service or higher prices to rural areas. On the contrary, in every instance where either a State has deregulated processed foods for intrastate transportation or an item has been added to the ICC exempt list, the cost of transporting that item has dropped. The allegation has been made that owner-operators hauling currently-exempted loads will abandon that service to compete with common carriers for the processed foods market. I believe that the market is large enough for everyone and again, experience does not bear out the assumption. Exempting processed foods will force common carriers to perform efficiently and provide good service at attractive rates to compete with independents. Transportation constitutes a sizable percentage of the cost of processed foods on supermarket shelves. I feel strongly that adding processed foods to the exempt list will result in lower prices to the consumer.

The Public Works Committee has added various livestock feed, agricultural seeds, and fish meal to the exempt list as a means to provide some backhaul for trucks hauling agricultural products to the processing plant. Additionally, owner-operators may be allowed to obtain a waiver from the ICC to backhaul processed food items but the requirements are extremely complex. The motivation is good but my feeling is that we are simply exchanging one set of excess regulations for another. The exemptions section of the bill, section 7, provides for largely cosmetic changes. I commend my colleague from New Jersey for her amendment to add all processed food products to the exempted commodities list. Her amendment is supported by the chairman of the Interstate Commerce Commission, the Honorable Darius Gaskins, Jr., Agriculture Secretary Bob Bergland and Transportation Secretary Neil Goldschmidt. I suggest to my fellow Members that these individuals' views are telling and I urge support for the Fenwick amendment.

I would like to offer observations on other points which impact on agricultural industry. California is the largest agricultural producing State in the Nation. As such, the ratio of trucks leaving the State loaded with exempt commodities and returning empty is substantial. I would like to see the agricultural cooperative exemption provision (section 24) increased to a minimum of 35 percent; preferably 50 percent, of total nonfarm interstate backhaul. There is no indication that the co-op members would suffer decreased service as a result of this amendment. There is also substantial evidence justifying the need for establishing minimum truck lengths at 65 feet. This is particularly important for Western States where most trucking is double hauling (one power unit and two trailers). Codification of varying State truck length requirements would allow freer transportation of such doubles.

Finally, I would like to observe that although an initial approach was taken toward eliminating the antitrust ratemaking immunity the trucking industry has enjoyed for 50 years, I do not see how open entry can possibly work unless antitrust immunity is lifted for both discussion of and voting on single-line rates. Discussing single-line ratemaking is tantamount to setting the rates. I do not believe that a distinction can be made. The House bill should be amended to track the Senate in lifting the single-line ratemaking antitrust immunity. Last, concerning the open entry provisions; the full burden of proof should be placed solely on the protestant rather than even partially on the applicant in disputes over the granting of an operating certificate. This open entry, combined with the aforementioned abolition of the antitrust immunity, is the key to the success of the deregulatory attempt.

Again, I would like to commend my colleagues on both the subcommittee and the full committee for long, arduous hours spent on this piece of legislation. I know that great emphasis has been placed on the need for maintaining the "delicate compromise" worked out between various elements of the legislative and executive branches of Government. I believe that we are committing a serious error in not completely examining this bill's specific deficiencies and merits. I would point out that it can be a breach of order to "notice what has been said * * * on a particular issue in the other House" according to Mr. Jefferson's Manual. I say this with the confidence of a Member of the House who has an unusually close working relationship with at least one Member of the other body and I maintain that a negotiated, rather than considered, piece of legislation could constitute a stifling of the legislative process. Deregulation of the motor carrier industry is a badly needed reform and can do much good if carefully studied and implemented. I urge my colleagues to closely review this bill on its merits.●

● Mr. HARRIS. Mr. Chairman, I rise in support of H.R. 6418, the Motor Carrier Act of 1980, which will substantially reduce the regulation of the trucking industry. The reduction of cumbersome and unrealistic regulations in the trucking industry makes good hard anti-inflationary sense. By increasing competition and promoting efficient energy use, this legislation will help reduce transportation costs, saving consumers billions of dollars every year.

Under the present system, smaller carriers are often stymied for years in their attempts to gain operating certificates from the ICC. They also suffer from burdensome restrictions on the kind of commodities they can carry and the routes they may cover. These restrictions make it extremely difficult for a small carrier to operate effectively and efficiently. H.R. 6418 would ease these restrictions and open the industry to smaller operators who would like to get into the trucking business.

The reform of trucking regulations will significantly reduce the current excesses of Government regulation that prevent free market conditions from guiding the trucking industry toward more efficient pricing decisions that benefit shippers, carriers, and consumers. Competition can make the trucking industry stronger, but the success of these reforms will ultimately depend on the efforts and response of the trucking industry itself. Trucking firms already productive and reliable will benefit from regulatory freedom. Consumers, shippers, and the economy as a whole will benefit from the increased efficiency and competition provided by this measure.

The challenge of freeing Americans from unreasonable, unnecessary and outdated governmental regulation must continue to be a high priority of this Congress. The worst kind of regulation is the kind of industry protection which rewards inefficiency and hinders productivity to the detriment of consumers and small entrepreneurs. The experience we have had as a result of our fight to deregulate the airline industry is encouraging and must be repeated in other areas—like trucking—where it is applicable. We must remove the Federal Government from the role of regulator wherever possible, so as to limit the impact Federal regulation exerts on marketplace competition.

I urge my colleagues to support this long overdue reform of trucking industry regulations.●

● Mr. FRENZEL. Mr. Chairman, I have followed the progress of H.R. 6418, the trucking deregulation bill with more than passing interest. Before coming to Congress I was employed by a trucking company. That experience gives me a pretty strong prejudice against deregulation bills.

However, I find that the committee has given us a moderate, reasonable bill which will not, I hope, unnecessarily disrupt our overall national transportation system. It is far less aggressive than the Senate version. Because the committee did such a good job I find it necessary to set aside my normal urges, and therefore I shall vote for the bill.

H.R. 6418 contains a number of features to which I object, like the notorious section 8. But on balance, the bill deserves the approval of this body, and it will get mine.●

The CHAIRMAN. All time has expired on general debate.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Section 1 and the balance of the committee amendment in the nature of a substitute reads as follows:

H.R. 6418

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Motor Carrier Act of 1980".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in some operating inefficiencies and some anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 10101(a) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers; (F) improve and maintain a sound, safe, and competitive privately-owned motor carrier system; (G) promote greater participation by minorities in the motor carrier system; and (H) promote intermodal transportation.".

MOTOR CARRIER ENTRY POLICY

SEC. 5. (a) Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carrier";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds—

"(A) that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(B) on the basis of evidence presented by persons supporting the issuance of the certificate, that the service proposed will serve a useful public purpose, responsive to a public demand or need;

unless the Commission finds, on the basis of evidence presented by persons objecting to the issuance of a certificate, that the transportation to be authorized by the certificate is inconsistent with the public convenience and necessity.

"(2) In making a finding under paragraph (1) of this subsection, the Commission shall consider and, to the extent applicable, make findings on at least the following:

"(A) the transportation policy of section 10101(a) of this title; and

"(B) the effect of issuance of the certificate on existing carriers, except that the Commission shall not find diversion of revenue or traffic from an existing carrier to be in and of itself inconsistent with the public convenience and necessity.

"(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(4) The provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide—

"(A) transportation to any community not regularly served by a motor common carrier of property certificated under this section;

"(B) transportation services which will be a direct substitute for abandoned rail service to a community if such abandonment results in such community not having any rail service and if such application is filed within 120 days after such abandonment has been approved by the Commission:

"(C) transportation for the United States Government of property other than used household goods, hazardous or secret materials, and sensitive weapons and munitions;

"(D) transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

"(E) transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the certificate, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this clause and provides to the Commission such information and records as the Commission may require.

"(5) Notwithstanding any other provision of law, any carrier holding authority under paragraph (4)(D) of this subsection operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or more shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary of Transportation pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(6) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of certificates to which the provisions of paragraph (4)(E) of this subsection apply.

"(7) No motor common carrier of property may protest an application to provide transportation filed under this subsection unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(8) No motor contract carrier of property may protest an application to provide transportation filed under this subsection.".

(b) Section 11145 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Commission shall streamline and simplify, to the maximum extent practicable, the reporting requirements applicable under this subchapter to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

(c)(1) Section 10762(a)(1) of title 49, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year or a motor common carrier of property providing transportation under a certificate to which the provisions of section 10922(b)(4)(E) of this title apply may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.".

(2) Section 10762 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The Commission shall streamline and simplify, to the maximum extent practicable, the filing requirements applicable under this section to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(h)(1) Not later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, procedures to process expeditiously applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) reasonably broaden the categories of property authorized by the carrier's certificate or permit;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other unreasonable restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to paragraph (1)(B) of this subsection shall provide for final Commission action upon an application not later than 120 days after the date the application is filed with the Commission, except that in extraordinary circumstances, the Commission may extend such deadline for a period of not to exceed 90 additional days. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under paragraph (1)(B) of this subsection, the Commission shall (A) consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title, and (B) give special consideration to providing and maintaining service to small and rural communities and small shippers.

"(i) A person holding (1) a certificate issued under subsection (b) of this section to provide transportation as a motor common carrier of property, and (2) a permit issued under section 10923 of this subchapter to provide transportation as a motor contract carrier of property, may transport property under the certificate in the same motor vehicle and at the same time as property under the permit.".

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) by inserting "or by-products thereof not intended for human consumption," after "fresh shellfish," in subparagraph (D);

(2) by striking out "and" at the end of subparagraph (C);

(3) by inserting "and" after the semicolon at the end of subparagraph (D); and

(4) by adding at the end of such section the following new subparagraph:

"(E) livestock and poultry feed, agricultural seeds, and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Civil Aeronautics Board or its successor agency) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;".

(c) Section 10526(a) of title 49, United States Code, is further amended by (1) striking the period at the end thereof and substituting a semicolon, and (2) adding at the end thereof the following new paragraphs:

"(10) transportation of used pallets, used empty containers (including intermodal cargo containers), and other used shipping devices;

"(11) transportation of natural, crushed, vesicular rock to be used for decorative purposes; or

"(12) transportation of wood chips.".

FOOD TRANSPORTATION

SEC. 8. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10732. Food and grocery transportation

"(a) Notwithstanding any other provision of law it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual costs to the seller of delivery to such customer.

"(b) It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer. The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment of the Motor Carrier Act of 1980 and not less often than once a year thereafter. For purposes of this subsection, the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

(b) The index for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10732. Food and grocery transportation.".

PRIVATE CARRIAGE

SEC. 9. (a) Section 10524 of title 49, United States Code, is amended by inserting "(a)" before "The" and by adding at the end of such section the following new subsections:

"(b) The Commission does not have jurisdiction under this subchapter over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family if—

"(1) the parent corporation notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a copy of the notice is carried in the cab of all vehicles conducting the transportation.

"(c) In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.".

(b) Section 10102(13) of title 49, United States Code, is amended by inserting "(including a member of a corporate family as defined in section 10524(c) of this title)" after "means a person".

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended to read as follows:

"(12) 'motor contract carrier' means—

"(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person; and

"(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person.".

(2) Section 10923(b) of title 49, United States Code, is amended by—

(A) inserting in paragraph (2) "of passengers" after "motor contract carrier"; and

(B) redesignating paragraph (3) (and any references thereto) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider—

"(A) the nature of the transportation proposed to be provided;

"(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

"(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

"(D) the changing character of the requirements of those shippers.

"(4) No motor carrier of property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byprducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

"(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

"(6) With respect to applications of persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.".

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(B) in paragraph (2) by striking "including each person or number or class of persons" and substituting "including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)".

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting ", or a motor contract carrier of property," after "carrier"; and

(2) in subsection (b)(1) by inserting ", or motor contract carrier of property," after "water common carrier".

(d) Section 10766(b) of title 49, United States Code, is amended—

(1) by inserting ", and motor contract carriers of property," after "carriers" in the first sentence;

(2) by inserting "or the motor contract carrier of property" after "carrier" in the third sentence; and

(3) by striking the fifth sentence.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) On application of a motor contract carrier of property who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier of property who holds a certificate under section 10922(b) of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof—

"(A) do not conform with the operations of a motor contract carrier of property; and

"(B) are those of a motor common carrier of property;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

"(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922(b) of this title which authorizes the holder of such certificate to provide transportation as a motor common carrier of property between the same points or within the same territory as authorized in the permit or part thereof.".

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that—

"(A) there is sufficient actual and potential competition to regulate rates; and

"(B) there are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;

except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

"(3) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, the following adjustments shall be made:

"(A) in the case of a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate; and

"(B) in the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the rate in effect one year prior to the effective date of the proposed rate shall be adjusted to reflect changes in the Producers Price Index, as published by the Department of Labor, that have occurred during the one-year period prior to the effective date of the proposed rate.

"(4) Any rate implemented by a carrier pursuant to this subsection shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), except that the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

RATES AND LIABILITY BASED ON VALUE

SEC. 12. Section 10730 of title 49, United States Code, is amended by inserting "(a)" before "The Interstate Commerce Commission", by inserting "(including a motor common carrier of household goods but excluding any other motor common carrier of property)" after "authorize a carrier", and by adding at the end thereof the following new subsection:

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not limit the liability of the carrier.".

RULE OF RATEMAKING

SEC. 13. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706(b) of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall allow the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable estimated or foreseeable future costs.".

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property, the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.".

RATE BUREAUS

SEC. 14. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) (and any references thereto) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by inserting the following new subsection after subsection (a).

"(b)(1) In this subsection, 'single-line rate' refers to a rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier.

"(2) As provided by this section, a motor common carrier of property providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may enter into an agreement with one or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them. Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 1010(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and ownership' means equity holdings in a business entity of at least 5 percent.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal;

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items;

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented; and

"(vii) the organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

"(D) No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

"(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposed and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission and if discussion of such increases or decreases is limited to industry average carrier costs and, after the date of elimination of the antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates.

"(ii) changes in commodity classifications;

"(iii) changes in tariff structures if discussion of such changes is limited to industry average carrier costs and, after the date of elimination of antitrust immunity by this subparagraph does not include discussion of individual markets or particular single-line rates;

"(iv) publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

"(4) Notwithstanding any other provision of this subtitle, before the date on which the antitrust is eliminated for discussion of or voting on single-line rates by paragraph (3)(D) of this subsection, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of property from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, classifications, or divisions, except that before such date, the Commission may issue regulations which take effect on or after such date to carry out the provisions of such paragraph.".

(b)(1) There is hereby established a Study Commission to be known as the Motor Carrier Ratemaking Study Commission, hereinafter in this section referred to as the "Study Commission".

(2) The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and upon the need or lack of need for continued antitrust immunity therefor. Such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. The study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

(3) The Study Commission shall be comprised of ten members as follows:

(A) three members appointed by the President of the Senate, two from the membership of the Committee on Commerce, Science, and Transportation and one from the membership of the Committee on the Judiciary.

(B) three members appointed by the Speaker of the House of Representatives, two from the membership of the Committee on Public Works and Transportation and one from the membership of the Committee on the Judiciary; and

(C) four members of the public appointed by the President, two from the membership of national trade associations of shippers, one who is a motor common carrier of property from the membership of the national trade association of motor carriers, and one who is a motor common carrier of property from the membership of a major regional motor common carrier rate bureau.

(4) The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations. The Study Commission shall cease to exist 6 months after submission of such report. All records and papers of the Study Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(5) The Chairman of the Study Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to motor carrier collective ratemaking to appoint, and the

head of such department or agency shall appoint, a liaison officer who shall work closely with the Study Commission and its staff in matters pertaining to this subsection. Such departments and agencies shall include, but not be limited to, the Department of Transportation, the Interstate Commerce Commission, the Federal Trade Commission, and the Department of Justice.

(6) In carrying out its duties, the Study Commission shall seek the advice of various groups interested in motor carrier collective ratemaking including, but not limited to, State and local governments and public and private organizations working in the field of transportation.

(7) (A) The Study Commission or, on authorization of the Study Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this subsection, hold such hearings and sit and act at such times and places as the Study Commission or such authorized committee may deem advisable.

(B) The Study Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subsection and each department, agency, and instrumentality is authorized and directed to furnish such information to the Study Commission upon request made by the Chairman.

(8) (A) Members of Congress who are members of the Study Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Study Commission.

(B) Members of the Study Commission, except Members of Congress, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of duties while serving as a Study Commission member.

(9) (A) The Study Commission is authorized to appoint and fix the compensation of a staff director and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Study Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall an employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(B) The staff director shall be compensated at the rate of pay for a position at Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(10) The Study Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this subsection to carry out such of its duties as the Study Commission determines can best be carried out in that manner.

(11) Any vacancy which may occur on the Study Commission shall not effect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(12) There are hereby authorized to be appropriated, for fiscal years commencing on or after October 1, 1980, an amount not to exceed $3,000,000 to carry out this subsection. Funds appropriated under this subsection shall be available to the Study Commission until expended, except that any such funds which remain unobligated on the date that the Study Commission ceases to exist shall be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

(c) Section 10706(c) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor common carrier of property)".

(d) Section 10706 of title 49, United States Code, is further amended—

(1) in subsections (d), (f), and (g), as redesignated by subsection (a) of this section, by striking "subsection (a) or (b)" and substituting "subsection (a), (b), or (c)"; and

(2) in subsection (f), as redesignated by subsection (a) of this section, by inserting "or (c)" immediately before the period at the end of the first sentence.

LUMPING

SEC. 15. (a) (1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following new section immediately after section 11108:

"§ 11109. Loading and unloading motor vehicles

"(a) (1) A person shipping property which is transported by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) shall load such property onto such vehicle or shall employ or pay one or more persons (other than the person providing such transportation) to load such property onto such vehicle, unless a tariff relating to such transportation of, or a written contract relating to such transportation entered into by, the person providing such transportation provides otherwise.

"(2) A person receiving property which is transported by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) shall unload such property from such vehicle or shall employ or pay one or more persons (other than the person providing such transportation) to unload such property from such vehicle, unless a tariff relating to such transportation of, or a written contract relating to such transportation of, or a written contract relating to such transportation entered into by, the person providing such transportation provides otherwise.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload such property onto or from such vehicle or to employ or pay one or more persons to load or unload such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.".

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"11109. Loading and unloading motor vehicles.".

(b) (1) Chapter 119 of title 49, United States Code, is amended by inserting the following new section immediately after section 11902:

"§ 11902a. Penalties for violations of rules relating to loading and unloading motor vehicles

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(b) Any person who knowingly violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(2) The analysis for chapter 119 of title 49, United States Code, is amended by inserting the following immediately after item 11902:

"11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.".

(c) Section 11702(a) (2) of title 49, United States Code, is amended by inserting "or 11109" after "10930".

WRITTEN CONTRACTS PERTAINING TO CERTAIN INTERSTATE MOVEMENTS BY MOTOR CARRIER

SEC. 16. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10527. Written contracts pertaining to certain interstate movements by motor vehicle

"Notwithstanding the provisions of section 10526(a) (6) of this subchapter, the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, shall, where appropriate, require by regulation the use of written contracts for the interstate movement by motor vehicle of property described in such section and for brokerage services to be provided in connection with the interstate movement of such property. In promulgating such regulations, the Commission shall prescribe the minimum requirements and conditions of such written contracts.".

(b) The analysis of subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.".

(c) Section 11702(a) (2) of title 49, United States Code, is amended by inserting "10527 or" before "10930".

(d) The Interstate Commerce Commission and the Secretary of Agriculture may enter into agreements (including, but not limited to, memorandums of understanding) in carrying out the provisions of section 10527 of title 49, United States Code.

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 17. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers or household goods" after "transportation" the first place such term appears; and

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and

by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the person to be a broker for transportation of property (other than household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that the person is fit, willing, and able—

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission.".

(b) Section 10925(d)(1)(A) of title 49, United States Code, is amended by striking out "10924(d)" and inserting in lieu thereof "10924(e)".

FINANCE EXEMPTIONS

SEC. 18. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking "more than $300,000" and substituting "more than $2,000,000".

UNIFORM STATE REGULATION

SEC. 19. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act.

POOLING ARRANGEMENTS

SEC. 20. (a) Section 11342(a) of title 49, United States Code, is amended by striking out "The Commission may" and inserting in lieu thereof "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the Commission may".

(b) Section 11342 of title 49, United States Code, is amended by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Any motor common carrier of property may apply to the Commission for approval of an agreement or combination with another motor common carrier of property to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Commission not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Commission shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall, to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable.".

MIXED LOADS

SEC. 21. (a) Section 10526(a)(6) of title 49, United States Code, is amended by striking out "a motor vehicle carrying, for compensation, only property and that property consists" and inserting in lieu thereof "transportation by motor vehicle".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10528. Mixed loads of regulated and unregulated property

"A motor carrier of property may transport property exempt from the jurisdiction of the Commission under paragraph (6), (10), (11), or (12) of section 10526(a) of this subchapter in the same vehicle and at the same time as property which the carrier is authorized to transport under a certificate issued under section 10922(b) of this subtitle or under a permit issued under section 10923 of this subtitle. Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such certificate or permit.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10528. Mixed loads of regulated and unregulated property.".

JOINT RATES AND THROUGH ROUTES

SEC. 22. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)," immediately after "subchapter I".

(b) Section 10705 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), and (f) (and any references thereto) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a motor common carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with another such carrier or with a water common carrier of property.

"(2) The Commission may not require a motor common carrier of property, without its consent, to include in a through route substantially less than the entire length of its route and the route of any intermediate carrier which is operated in conjunction and under common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless inclusion of such routes would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established, or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient, or more economic transportation. In prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the preceding sentence, give reasonable preference to the carrier which originates the traffic.".

(c) Section 10705(c) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "or (b)" after "subsection (a)" in the first sentence and by striking out "or water carrier" in the second sentence and inserting in lieu thereof "carrier, water carrier, or motor common carrier of property".

(d) The fist sentence of section 10705(e) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "a rail or water common carrier tariff" and inserting in lieu thereof "a tariff of a rail carrier, water common carrier, or motor common carrier of property".

(e) Subsection (f)(1) of section 10705 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

(f) Section 10705 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) Any motor common carrier of property who is a party to a through route and joint rate, whether established by such carrier under section 10703 of this title or prescribed by the Commission under subsection (b) of this section, shall promptly pay divisions or make interline settlements, as the case may be, with other carriers which are parties to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.".

(g) Section 10705(g) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (f)".

(h) Section 10703(a)(4) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(E) A freight forwarder may enter into contracts with a rail carrier or with a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843–848). Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations implementing the provisions of this subparagraph.".

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 23. Section 10928 of title 49, United States Code, is amended by—

(1) inserting "(a)" before "Without";

(2) inserting "of passengers" after "motor carrier" each place such term appears; and

(3) adding at the end thereof the following new subsections:

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 270 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c) (1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area if the Commission determines that, due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection not later than 15 days after the date of the application is filed with the Commission.".

COOPERATIVE ASSOCIATIONS

SEC. 24. (a) Section 10526(a)(5)(A)(ii) of title 49, United States Code, is amended by striking out "15 percent" and inserting in lieu thereof "25 percent".

(b) (1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10529. Limited authority over cooperative associations

"(a) Notwithstanding section 10526(a)(5) of this title, any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or a federation of cooperative associations which is required to notify the Commission under such section 10526(a)(5) shall prepare and maintain such records relating to transportation provided by such association or federation, in such form, as the Commission may require by regulation to carry out the provisions of such section 10526(a)(5). The Commission or an employee designated by the Commission, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

"(2) inspect and copy any record of such association or federation.

"(b) Notwithstanding section 10526(a)(5) of this title, the Commission may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Commission containing answers to questions about transportation provided by such association or federation.

"(c) The Commission may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Commission issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

"(d) (1) A person required to make a report to the Commission, answer, a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not maintain the record in the form and manner prescribed by the Commission, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

"(2) Trial in a civil action under paragraph (1) of this subsection shall be in the judicial district in which (A) the cooperative association or federation of cooperative associations has its principal office, (B) the violation occurred, or (C) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

"(f) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission under this section, (6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the Commission issued under this section, shall be fined not more than $5,000.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10529. Limited authority over cooperative associations.".

(c) Subsection (c) of section 11144 of title 49, United States Code, is hereby repealed.

PROCEDURAL REFORM

SEC. 25. (a) Section 10322 of title 49, United States Code, is amended to read as follows:

"§ 10322. Commission action and appellate procedure in non-rail proceedings

"(a) This section applies to a matter before the Interstate Commerce Commission over which the Commission has jurisdiction under chapter 105 of this title, other than a matter involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of such chapter. The deadlines set forth in this section do not apply to the following sections of this subtitle: 10525(c), 10708(b), 10922(h)(2), 10928, 11345a, and 11701(c).

"(b) (1) Except as provided in paragraph (2) of this subsection, a division, individual commissioner, employee board, or an employee delegated under section 10305 of this title to make an initial decision in a matter related to a carrier (other than a rail carrier), or, in the case of a matter referred to a joint board under section 10341 of this title, such joint board—

"(A) shall, in any case in which an oral hearing is held or the Commission has found that an issue of general transportation importance is involved, complete all evidentiary proceedings related to the matter not later than the 180th day following institution of the proceeding and shall issue in writing the initial decision not later than the 270th day following institution of the proceeding; and

"(B) shall, in the case of all other proceedings subject to this section, issue in writing the initial decision by the 180th day folowing institution of the proceeding.

If evidence is submitted in writing or testimony is taken at an oral hearing, the initial decision shall include specific findings of fact, specific and separate conclusions of law, an order, and justification for the findings of fact, conclusions of law, and order.

"(2) In any case involving an application for authority to provide motor carrier transportation incidental to trailer-on-flatcar or container-on-flatcar service by rail under subchapter II of chapter 109 of this subtitle, a final decision on such application shall be issued in writing not later than the 180th day following the date such application is filed with the Commission.

"(3) At the earliest practicable time after the filing of an application for authority under subchapter II of chapter 109 of this title, the Commission shall publish in the Federal Register notice of the filing of such application.

"(c) The Commission, or a division designated by the Commission, may waive the requirement for an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance or that waiver of the initial decision is required for the timely execution of the Commission's functions. If the requirement for an initial decision is waived, a final decision shall be issued in writing within the time limit established for the issuance of the initial decision under subsection (b) of this section.

"(d) In a proceeding under this section in which the parties have had at least an opportunity to submit evidence in written form, such parties shall have an opportunity to present arguments to the initial decisionmaker. The decisionmaker shall determine whether the arguments should be presented orally or in writing and may require that written arguments be submitted simultaneously with written submissions of evidence and that oral arguments be presented at an oral hearing. Upon issuance of an initial decision under this section, copies of such decision shall be served on the parties and submitted to the Commission.

"(e) An initial decision under this section becomes a final decision on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period or, if authorized by the Commission or division designated by the Commission, by the end of an additional period of not more than 20 days; or

"(2) the Commission stays or postpones under subsection (f)(1) of this section the initial decision not later than the 20th day following the date it is served on the parties.

"(f) (1) Before an initial decision under this section becomes a final decision, the Commission or a division or an employee board designated by the Commission, may review the initial decision on its own initiative and shall review an initial decision if a timely appeal is filed under subsection (e) of this section.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter and it becomes a final decision only after the final determination is made. If a timely appeal is filed under subsection (e) of this section, the final determination shall be made not later than the 50th day after the appeal is filed. If an initial decision under this section is reviewed by the Commission or a division or an employee board designated by the Commission on its own initiative, the final decision shall be made not later than the 50th day after initiation of such review.

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, if an initial decision under this section is reviewed by further hearing, such review shall be completed, and a final decision made, not later than the 120th day following the date the further hearing is granted.

"(4) Review of or appeal from, an initial decision under this section shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under subsection (b) of such section.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division or an employee board designated by the Commission if it finds that—

"(A) the action involved a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

"(3) If the Commission initiates any action under paragraph (1) of this subsection, final disposition under such paragraph shall be made not later than the 120th day following the date action is initiated.

"(h) A final decision under this section shall be effective on the date it is served on the parties, and a civil action to enforce, enjoin, suspend, or set aside the decision may be filed after that date.

"(i) In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any matter subject to the provisions of this section shall not exceed 90 days.".

(b) Section 10323 of title 49, United States Code, is hereby repealed.

(c)(1) Section 10324(a) of title 49, United States Code, is amended by striking out the last sentence.

(2) Section 10324(c) of title 49, United States Code, is amended to read as follows:

"(c) An action of the Commission under section 10327 of this title is enforceable, unless the Commission stays or postpones such action.".

(d) Section 10325 of title 49, United States Code, is hereby repealed.

(e) Section 10327(a) of title 49, United States Code, is amended by striking out "Notwithstanding sections 10322, 10323, and 10324(c) of this title, this" and inserting in lieu thereof "This".

(f) The index for subchapter II of chapter 103 of title 49, United States Code, is amended by striking out the items relating to sections 10322, 10323, 10324, and 10325 and inserting in lieu thereof the following:

"10322. Commission action and appellate procedure in nonrail proceedings.
"10323. Repealed.
"10324. Commission action.
"10325. Repealed.".

ENFORCEMENT

SEC. 26. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 1170(e) of title 49, United States Code, is amended by adding the following at the end thereof: "For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.".

(c) Section 1114 of title 18, United States Code, is amended by inserting "Interstate Commerce Commission," after "Consumer Product Safety Commission,".

MERGER PROCEDURE

SEC. 27. (a) Subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after section 11345 the following new section:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure

"(a) If a motor carrier of property providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final decision of the Commission under section 10322 of this title.

"(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section.

"(c) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(d) The Commission may waive the requirement that an initial decision be made under section 10322 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final decision under section 10322 of this title.".

(b) The analysis of subchapter III of chapter 113 of title 49 United States Code, is amended by inserting after

"§ 11345. Consolidation, merger, and acquisition of control; rail carrier procedure."

the following:

"§ 11345a. Consolidation, merger, and acquisition of control; motor carrier of property procedure.".

SMALL COMMUNITY SERVICE STUDY

SEC. 28. (a) The Interstate Commerce Commission shall make a full investigation and study of motor carrier service to small communities (with emphasis on communities of population 5,000 and under), and shall submit a report, including legislative or other recommendations, to the President and the Congress not later than September 1, 1981.

(b) The report shall include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of whether the Commission is enforcing such obligation. If the Commission determines that it is not fully enforcing such obligation, then it shall explain why not, and detail what steps it would need to take and what resources it would have to have in order to enforce such obligation. The report shall also describe the extent to which motor carriers were providing service to small communities prior to the date of enactment of this Act, and evaluate the effect of this Act on such service. The report shall include specific recommendations regarding ways to ensure the provision and maintenance of motor carrier service to small communities.

(c)(1) To develop data for its report, the Commission shall monitor—

(A) complaints to determine the number and kinds of complaints by small community shippers; and

(B) applications for new and expanded service to determine whether motor carriers are seeking to serve small community shippers.

(2) The Commission may develop additional data by any other means, including surveys of small community shippers and motor carriers providing service to such communities to determine the reliability of such service and the availability of quality and price options. The Commission is authorized to enter into contracts or agreements with public and private organizations to carry out such surveys of shippers and motor carriers.

(d) There is hereby authorized to be appropriated for fiscal year 1981 such sums as are necessary to carry out the provisions of this section.

INSURANCE

SEC. 29. Section 10927(a)(1) of title 49, United States Code, is amended by striking out "approved by the Commission." and inserting in lieu thereof "approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 30 the Motor Carrier Act of 1980.".

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle from a place in one State to a place in another State or from a place in a State to another place in such State through a place outside of such State.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $1,000,000, except that the Secretary, by regulation, may

reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under such paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $1,000,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, and (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(c) Financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owned by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry, and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recommendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be required.

(f) This section shall only apply to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

IMPOSITION OF STATE TAX ON MOTOR CARRIER TRANSPORTATION PROPERTY

SEC. 31. (a)(1) Chapter 115 of title 49, United States Code, is amended by inserting after section 11503 the following new section:

"§ 11503a. Tax discrimination against motor carrier transportation property

"(a) In this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Interstate Commerce Commission, owned or used by a motor carrier of property providing transportation in interstate commerce whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title; and

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection;

"(3) levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.".

(2) The chapter analysis of chapter 115 of title 49, United States Code, is amended by inserting after

"11503. Tax discrimination against rail transportation property."

the following:

"11503a. Tax discrimination against motor carrier transportation property.".

(b) Section 10521(b)(4) of title 49, United States Code, is amended by inserting "section 11503a and" after "in".

RATES FOR TRANSPORTATION OF RECYCLABLE MATERIALS

Sec. 32. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10733. Rates for transportation of recyclable materials

"(a) A motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may provide transportation of recyclable materials without charge or at a reduced rate.

"(b) In this section, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.".

(b) The analysis for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10733. Rates for transportation of recyclable materials.".

CUSTOMER SOLICITATION EXPENSES

Sec. 33. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Customer solicitation expenses

"(a) Any business solicitation or entertainment expense incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to such jurisdiction of the Commission.

"(b) Any business solicitation or entertainment expense authorized under this section that is paid or incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the date of enactment of the Motor Carrier Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business solicitation and entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this subtitle, including competing unregulated surface transportation carriers.".

(b) The analysis for chaper 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Customer solicitation expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

(d) Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply to expenses authorized under section 10751 of this title.".

COORDINATED TRANSPORTATION SERVICES

Sec. 34. (a) Section 10922 of title 49, United States Code, is amended by adding the following new subsection:

"(j) A motor common carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic."

(b) Section 10923 of title 49, United States Code, is amended by adding the following new subsection:

"(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

JOB REFERRAL

Sec. 35. The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers of property holding certificates or permits issued by the Interstate Commerce Commision under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. In order to carry out this section, the Secretary may require regulated motor carriers of property to file reports, data, and other information.

ADMINISTRATION

Sec. 36. Section 10344(f) of title 49, United States Code, is amended by inserting ", without charge," after "assign" each place it appears.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer a series of amendments to the committee amendment in the nature of a substitute, made in order by the rule.

The CHAIRMAN. It shall be in order to consider en bloc the amendments to said substitute printed in the Congressional Record of June 17, 1980, by Representative Howard of New Jersey, and said amendments shall not be subject to a demand for a division of the question.

The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Howard: Page 9, line 21, strike out "common".

Page 9, line 23, after "this title apply" insert "or under a permit to which the provisions of section 10923(b)(5) of this title apply".

Page 14, line 5, strike out the comma and insert in lieu thereof "and" and after "empty" insert "shipping".

Page 14, line 6, strike out the comma.

Page 14, line 7, before the semicolon insert "(other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles)".

Page 15, line 14, strike out "(a)".

Page 16, strike out lines 16 through 19.

Page 24, strike out line 20 and all that follows through line 18 on page 25 and insert in lieu thereof the following:

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

Page 41, after line 7, insert the following new subsection:

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

Page 41, strike out line 13 and all that follows through line 9 on page 42 and insert in lieu thereof the following:

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

Page 42, line 15, after "unload" insert "any part of".

Page 42, line 16, after "unload" insert "any part of".

Page 43, after line 18, insert the following new subsections:

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.".

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, reecivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

Page 44, line 3, after the quotation marks, insert "(a)".

Page 44, line 10, strike out "In promulgating" and all that follows through the second period on line 12 and insert in lieu thereof the following:

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

Page 44, line 21, after "10527" insert "(a)".

Page 49, strike out lines 13 through 16, and insert in lieu thereof the following:

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property"

Page 68, line 8, strike out "September 1, 1981" and insert in lieu thereof "September 1, 1982".

Page 69, line 17, strike out "fiscal year 1981" and insert in lieu thereof "fiscal years 1981 and 1982".

Page 70, line 10, after "motor vehicle" insert "in the United States".

Page 70, line 11, strike out "or" and insert in lieu thereof a comma.

Page 70, line 13, before the period insert the following: ", or between a place in a State and a place outside the United States".

Page 70, line 16, strike out "$1,000,000," and insert in lieu thereof "$750,000,".

Page 71, line 7, strike out "$1,000,000" and insert in lieu thereof "$750,000".

Page 75, line 20, after "motor carrier industry" insert "(including, but not limited to, small and minority motor carriers and independent owner-operators)".

Page 75, line 25, strike out "required" and insert in lieu thereof a "modified".

Page 80, strike out line 13 and insert in lieu thereof the following:

BUSINESS ENTERTAINMENT EXPENSES

Page 80, strike out line 17 and insert in lieu thereof the following:

"§ 10751. Business entertainment expenses

Page 80, line 18, strike out "solicitation or".

Page 81, line 1, strike out "solicitation or".

Page 81, line 12, strike out "solicitation and".

Page 81, strike out the matter following line 19 and preceding line 20 and insert in lieu thereof the following:

"§ 10751. Business entertainment expenses.".

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Chairman, this is a series of technical and clarifying amendments that have been discussed and brought before the Committee on Rules. It has been known publicly by Members of the House that it would be requested that they would be considered en bloc.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I will be happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

In those amendments the gentleman refers to the Producers Price Index. I brought that up with the gentleman and the committee staff. In the letter I received from Mrs. Rivlin, she indicates that there are four producer price indices and so, therefore, it is unclear as to which Producer Price Index the gentleman is applying. Second, it seems to me there is a substantial change from the bill, and instead of being the floor, it is the average where that goes into effect. I am just asking, No. 1, which one does the gentleman intend to apply here? I know that his committee staff is working on it, but let me read what Mrs. Rivlin said about it so he has an understanding.

ADJUSTMENT FOR PRICE LEVEL INCREASES

With respect to the adjustment of the zone of rate making freedom for changes in the PPI, it should be pointed out that neither bill specifies which PPI index is to be used. The Department of Labor publishes four PPIs: crude goods, intermediate goods, finished goods, and all commodities. The all commodities index, formerly known as the Wholesale Price Index, has long been criticized because it double counts price changes. This is the basic reason why the Department has gone to the revised system. The PPI is a fairly narrowly based index which concentrates on mining and manufacturing rather than services. Each of the PPI indices is also quite volatile compared to more broadly base price measures such as the GNP deflator. If a PPI is to be used to index the base rate, the finished goods PPI is probably the least objectionable, because it is somewhat less volatile and somewhat broader than the others.

I think this is something that was not anticipated. To clarify the language, I would suggest that we take what Mrs. Rivlin has suggested, which would be the finished goods PPI. I have no detailed knowledge of these indexes in any way, shape, or form other than what Mrs. Rivlin has told me.

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Assuming she is correct, it is a broad-based index and, in fact, it is more reflective of the economy. I would think that would be the proper one to apply. I would suggest that possibly that might be the one the gentleman intends to apply.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent to withdraw the technical amendments at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I might have the attention of the chairman of the subcommittee, I would like to address some questions to the gentleman which have arisen in my particular congressional district, answers to which were not covered in the explanation of the legislation by the ranking minority leader and the gentleman from New Jersey.

One question, Mr. Chairman, relates to individual truckers, a person who has one truck who wants to haul in interstate commerce. Does he still have to apply for a permit from the Interstate Commerce Commission to haul for hire to New York or Chicago, does this regulation do away with that particular part of the law?

Mr. HOWARD. What we have for the owner-operator, in expanding this we have permitted the owner-operator, on the 50 percent of his yearly haul, to have absolute authority to handle any processed food. Beyond that, if he wants to expand beyond that, he would have to apply but could very easily get certification.

Mr. DE LA GARZA. In my particular area we have those who haul produce, for example. To that extent there are certain areas here that are trying to assist him, the provisions for back haul and other items. I am not thinking of that particular thing. I am speaking of one individual who has two or three trucks where now they will not even listen to him at the ICC. Where does he stand?

Mr. HOWARD. Under this all he has to do is prove that is fit, willing and able to be able to carry that, rather than also providing public convenience and necessity on this.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield.

Mrs. FENWICK. Mr. Chairman, under an amendment which I hope to offer shortly, the trucker of whom the gentleman speaks will have nothing to do with anything but the Department of Transportation which is concerned with the safety, cleanliness, insurance and his license. He will not have to apply to the ICC for anything because food will be exempt and he takes back processed food.

Mr. DE LA GARZA. I appreciate the gentlewoman's interest and would support such an amendment but I am directing myself to the nonfood exemption. I refer to an individual who has two or three trucks who would like to haul for hire other commodities in addition to processed food.

Mrs. FENWICK. My amendment would not apply.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Ohio.

Mr. HARSHA. If one has an independent owner-operator and he wants to get into the business, all he has to do is make a showing of fitness and if he is going to serve a community which has not now service, or if he is going to replace a community's rail service that has been discontinued and they no longer have rail service, he can then apply for an application and go through the fitness test, only, and get a certificate to operate there. Or if he is going to transport certain processed foods, he can apply for a permit to do that, provided he is in the cab of the truck and he has transported at least 50 percent of his cargo as exempt foods in the last year.

In addition to that, he can get a rather relaxed permit on the fitness test, only, if he is hauling packages that weigh 100 pounds or less in his truck.

Those four or five different provisions allow him to come in and get his certificate without much of a showing, other than that he is fit, willing, and able.

Mr. DE LA GARZA. Mr. Chairman, I would also like to ask some member of the committee about the proposition where one is not allowed to mix loads. Under the legislation could one now be allowed to mix exempt and nonexempt commodities in the one load?

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield.

Mr. HARSHA. The gentleman is absolutely right. There have been some court decisions holding you cannot mix exempt commodities with regulated commodities. The courts have made those decisions. We have a provision in here which says you can mix regulated commodities with unregulated commodities and you do not, in that event, lose the regulated status if you have it or the exempt status if you have it.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 5 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield to my colleague.

Mr. ERTEL. Mr. Chairman, I would like to address the gentleman's question. If the gentleman has an owner-operator who has three trucks and wants to go into the regulated business, he must go to the ICC, prove he is fit, willing and able is the general rule, and also prove there is a need for the service. He has to go through the regulatory process of the ICC. There are a few exceptions in the rule and that is the subject to which Mr. HARSHA was referring, if there is an abandoned rail service or if it is a town that has had no service before. However, there are limited exceptions. If the man is going to handle regulated goods he must go to the ICC and apply, he must show some sort of support from a shipper somewhere along the line so that he can apply to get rights over that particular route. I believe that is a correct statement.

Mr. DE LA GARZA. That is what I understood from the gentleman from Ohio (Mr. HARSHA).

It does not help my little one very much, but at least I have the explanation.

Also, Mr. Chairman, I would like to ask this question: Does this legislation in any way address the regulation as to length and weight and other differences between the several States? Is that in this legislation?

Mr. ERTEL. Mr. Chairman, I would say to the gentleman it is not involved in this legislation. The studies are ongoing concerning the advisability or nonadvisability, that it would be better to wait for the completion of those studies before any changes are made in that. That is not addressing this legislation at all.

Mr. DE LA GARZA. There is a provision as I read the legislation that I interpret to mean that if you are hauling exempt produce from one area to another that you must have a written contract supervised by the ICC and/or the Secretary of Agriculture. Would the gentleman give me a simple explanation of that provision?

Mr. HOWARD. If the gentleman would yield, he has to have a written contract where appropriate. The ICC makes the regulation and they do that in instances where there have been abuses and where the trucker has been abused by the shipper or by the receiver; therefore, it protects the independent trucker.

Mr. DE LA GARZA. To what extent is the Secretary of Agriculture involved now?

Mr. HOWARD. The Secretary of Agriculture is very much involved in it. He is to be advised and must consult with the ICC about the contract and we have expressed the hope that the Secretary of Agriculture or the Department of Agriculture, and the ICC will enter into a memorandum of understanding so there will be the greatest input possible by the Secretary of Agriculture in this written contract provision.

Mr. DE LA GARZA. Mr. Chairman, who has the say-so, the Secretary of Agriculture or the Interstate Commerce Commission?

Mr. HOWARD. Mr. Chairman, I must be frank with my good friend. The ultimate say-so is in the office of the Interstate Commerce Commission, but with the consultation, guidance, and advice of the Secretary of Agriculture.

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Mr. DE LA GARZA. Mr. Chairman, I have one final question addressed to the term "lumpers." As I read the report, it provides for some study or some contract. How is that handled, the problem of lumpers? How is that handled in this legislation?

Mr. HARSHA. If the gentleman will yield further, we have a provision in the legislation now, and there will be an amendment offered by the distinguished chairman of the subcommittee further revising that lumping provision. We are outlawing lumping as such by this legislation because of the many abuses that have occurred when the independent operator comes up to an unloading dock and is refused assistance, or has to sit there with a load of perishables while a bunch of thugs demand $400 or $500 from him to unload.

We are trying to obviate and get away from that kind of practice and make it unlawful. In fact, we have made a criminal penalty, have we not?

Mr. HOWARD. We have criminal penalties for that.

Mr. DE LA GARZA. I appreciate the cooperation in this matter, and I thank the gentlemen.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, may I make a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. HARSHA. Mr. Chairman, it is my understanding that the bill is considered as read and is open to amendment at any point. Is that correct?

The CHAIRMAN. That is correct.

AMENDMENTS OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The Clerk read as follows:

Amendments offered by Mrs. FENWICK: Page 12, line 20, after the semicolon, insert "and".

Page 12, strike out lines 21 and 22.

Page 12, line 23, strike out "(4)" and insert in lieu thereof "(3)".

Page 12, line 24, strike out "subparagraph" and insert in lieu thereof "subparagraphs".

Page 13, line 7, strike out the quotation marks and the period and insert in lieu thereof "and".

Page 13, after line 7, insert the following:

"(F) food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption;".

Page 6, line 24, strike out "food and" and all that follows through "human consumption," on line 2 of page 7.

Page 7, line 3, strike out the comma.

Page 19, line 13, strike out "food and" and all that follows through "consumption," on lines 15 and 16.

Page 19, line 16, strike out the comma following "conditioners".

Mrs. FENWICK. Mr. Chairman, as you will have noted, all the amendments with the exception of the one on page 13, after line 7, are technical and of no substantive import. But, I would like to speak about the effect of this amendment. I was first introduced to the problems of trucking through a minority trucker, a member of a minority group, who wanted to get into trucking, and the complexity of it absolutely astounded me. I have been working in it ever since. It is an enormous, complex, profitable industry. We have franchises that were bought by one company for $970,000, and sold for $20 million. It is indeed a fine and, thank heaven, a profitable industry.

But, we have a problem of injustice in some respects to the independent truckers who are confined to the trucking of agricultural commodities for the most part. Now, our colleague from Texas (Mr. DE LA GARZA) spoke of the man with three trucks, hoping to make a living. Maybe he rides one, one has a son, and the other one is driven by somebody he hires to drive the truck for him. This man would be able to take asparagus up to New Jersey in the spring, and come down with Boston baked beans in the same truck.

What does he do now? Under my amendment, he would be free to do that. Under the law as it stands now, he has to trip lease. He has to find somebody who has a franchise which gives permission to carry processed food back from Boston to New Jersey, and he pays 25 or 30 percent of the cost of shipping that food, to the franchise owner, who never has lifted a finger. But, it is still worth his while to do so rather than to go back empty.

If he could be sure of taking back processed food, it would cut the cost of his initial delivery, and therefore cut the cost of asparagus to consumers of Boston, and it would cut the cost of his return trip and therefore the cost of processed foods he comes back with. It is essentially a sensible, simple amendment. It is directed not only to the independent trucker, but perhaps more particularly to the consumers who are suffering so terribly from the cost of food in times of inflation.

That it will affect great changes in the cost of distribution is absolutely clear. In the Department of Justice, Antitrust Division, Mr. Shenefield, has pointed out over and over again, and so have many others, that it will drop the cost of distributing food by between 19 and 33 percent. Senator STEVENSON, who put in a similar bill in the Senate, has said that it will cut distribution costs by between 10 and 15 percent. We know what happened to the cost of delivering plucked, eviscerated chickens when they were declared exempt in the regulations of the Interstate Commerce Commission in the 1950's. The cost of distributing them dropped 33 percent.

There is absolutely no reason to continue high food costs in these days when we have a simple, just, and compassionate way of dropping those costs.

Mr. DE LA GARZA. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentlewoman yielding to me. My understanding of the gentlewoman's amendment is that to the exempt commodities she adds now processed food. Is that the thrust of the amendment?

Mrs. FENWICK. All food for human consumption with the exception of alcoholic beverages; anything that people eat or drink is now going to be exempt. Milk, for example, is now exempt, but certain kinds of skimmed or treated milk are not.

This is the problem we have. I would like to point out, if we are worried about small towns, small towns are receiving 80 percent of their trucking from unregulated carriers now, and the people who receive the services of the regulated services describe it as "infrequent, slow," and the rates are high. But, it is interesting that no certificate has ever been removed from a regulated carrier for failure to deliver adequately whereas the shipping in unregulated, exempt carriers is considered to be adequate.

Mr. DE LA GARZA. Does the gentlewoman's amendment apply both ways, front haul and back haul?

Mrs. FENWICK. Yes. If you are carrying anything a human being is going to eat, you are free. You do not have to ask for a certificate from the ICC. You go to the Department of Transportation to make sure you have a proper truck. Insurance is provided for in another section of the bill. You have to have a license; you have to be in business.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in the long deliberations on the legislation processed food was certainly one of the items, and also the small operator, the owner-operator which had been handling only unregulated commodities. That would be raw produce. What the committee did, in order to give that small operator—I might say to the gentleman from Texas—benefit for the small operator, is certainly better, we feel, than it will be with the adoption of this amendment, because we allow this small operator to be able on a back haul or any time for 50 percent of his yearly carriage, to be able to carry any processed food whatever.

□ 1440

This is a special thing for the owner-operator or the small operator. However, if we adopt this amendment and we totally exempt processed foods for anybody, then the small operator is going to find that an awful lot of these big and very wealthy trucking operations will also be able to get into that market and will thereby probably squeeze out the small operator.

This is a first step. This is a step that we believe will help the small operator. He can carry any processed food he wishes to under this legislation. He could not do that under the legislation before, and so what we are doing is permitting him to be able to expand and expand in a very practical way, because there are very, very many processing plants where a person, for instance, could carry raw produce such as tomatoes and other things from the Carolinas up to perhaps western New Jersey where there is a Campbell's Soup Co. plant and then be able to carry their processed foods back. That is only for the small owner-operator.

I certainly feel that if we allow this to be open totally, it is not the small operator who is going to get this extra business; it is going to be the wealthy ones who will be able to take that business away and squeeze out the small operator.

This was not done until after a great deal of deliberation as to what would be the best way to expand and specifically to address the problem of transportation of all this processed food in the Nation.

We are going to be monitoring this program under mandate by this bill every year for the next 5 years. So we certainly are going to be looking at this next year to see how this is working out. If something is bad and we have to retract something, then we will be able to do it; if it can be expanded, then we will expand it.

This amendment, the amendment that has been offered by the gentlewoman from New Jersey (Mrs. FENWICK), was put in the other body by the Senator from Illinois. However, after our committee had completed its work on this diverse, complex legislation, the author of that amendment in the other body has signed off, and he now agrees that perhaps this is the best way to move in this area of processed food.

So, Mr. Chairman, I hope that the amendment will be defeated.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to my friend, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

Let me ask the gentleman, why are the independent truckers in favor of my amendment?

Mr. HOWARD. Well, an awful lot of them are in favor of the bill as it stands.

Mrs. FENWICK. It is not possible for them to be. It is going to take 43 staff-years just to monitor this, if half of the eligible people get into it.

Mr. HOWARD. Mr. Chairman, if I may be allowed to reclaim my time, I would point out that there are many independent owner-operators who favor this bill and who do not favor the gentlewoman's amendment.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, some of them own a second truck, and they cannot do this because they have to be on the truck themselves.

Mr. HOWARD. They can easily arrange to get a certificate for that if they can prove they are fit, willing, and able. There is no problem, even if they have two, three, or four trucks. All they have to do is show they are fit, willing, and able, and they can get in under that provision.

Mrs. FENWICK. But the bill provides that the owner has to be the driver.

Mr. HOWARD. He has to be able to handle it, without any question, but if he has two trucks, there is no big problem with that now because he only has to prove he is fit, willing, and able. I believe that is the responsibility of the people to whom they are shipping, the people who are receiving the goods. They at least have to have some proof that the person is fit, willing, and able.

Mrs. FENWICK. Is it not true that the unregulated carriers now give better service than is given by the regulated carriers?

Mr. HOWARD. That is the opinion of the gentlewoman from New Jersey.

Mrs. FENWICK. No; that is from the Department of Transportation study.

Mr. HOWARD. I have a lot of information that deals with both the regulated and unregulated carriers, and a significant number of people were asked who they would rather receive service from, and they say they prefer regulated carriers now.

Mrs. FENWICK. If we look at the Florida fruit people and the New York meat people, all the people who are on the list tell us they are in favor of this exemption for small operators.

Mr. HOWARD. Mr. Chairman, I suspect anything where somebody says "all of them" feel one way, just as I would if somebody said all the people do not support this legislation.

Mr. Chairman, I urge defeat of the amendment.

Mr. ERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have looked at the proposal of the gentlewoman from New Jersey (Mrs. Fenwick), and I have heard the argument by the chairman of the subcommittee.

The gentlewoman's provision would exempt all food from the regulatory process. At the present time basically agricultural products do move in the unregulated sector, and in fact we have adequate fresh fruits and vegetables throughout the Nation in every small town.

What the gentlewoman now wants to do is to add on all processed foods or, basically, all foods. Those people who are agricultural haulers can in fact on a back haul carry processed foods.

For instance, if I go to a canning factory with a raw product, after I go to that canning factory I can then carry away, under the gentlewoman's amendment, the product that has been produced at that factory. If in fact that factory makes spaghetti and I carry tomatoes or flour to that factory, I would then be able to carry away the spaghetti as it has been processed.

Under the present law, a person cannot do that; he must return empty. He must not carry any of those products because they are regulated.

The bill has a provision in it, as the gentleman from New Jersey (Mr. Howard) has said. It says that if you carry 50-percent exempt products, you can carry 50 percent of the regulated product away. However, there is a catch 22 with the provision in the House bill, and that provision says, to get in that 50-percent category, you must be an owner-operator and you must drive your own truck.

That means that if I am married and the truck is in a joint name, I cannot get in under that provision. It means that if I have more than one truck, I cannot get within that provision. It means that I must personally drive that truck and only carry 50 percent of regulated freight.

Now, this provision was analyzed by the ICC, and I have a letter from Mr. Gaskins, and he says in that letter that the enforcement of this provision is horrendous.

I quote from Mr. Gaskins' letter as follows:

> The staff resources required to enforce the restrictions contained in Section 5 depend on the number of owner-operators who obtain these certificates and the intensity of the Commission's enforcement efforts. If only 10 percent of the owner-operators working in this segment of the industry obtain certificates and the Commission performed compliance surveys on a 10 percent sample of these certificate holders, a minimum of 3 staff years would be needed.

That is, if 10 percent of the people who could apply, apply for certificates, and if we monitor only 10 percent of those who apply, which is 1 percent of all the people in the industry today, it would take 3 staff-years. This is a regulatory reform bill. I ask the Members to remember that.

Second, Mr. Gaskins goes on, as follows:

> On the other hand, if 50 percent of these owner-operators applied and the Commission surveyed a 25 percent sample for compliance, at least 43 staff years would be required.

That is 43 staff-years for the present ICC staff. That means we have got to expand their staff 43 times if we want to do the survey in 1 year. That is what the provision would mean if they tried to force compliance.

I do not think that is workable, and that is why I say that provision in the bill is unworkable. Although I am not totally happy with the provision of the gentlewoman from New Jersey (Mrs. Fenwick), it certainly is better.

Let me go on and refer to a letter I have received from Mrs. Rivlin. She says that most people who are owner-operators, that is, the bulk of them, own three trucks. That means they have to apply for a certificate under the provision in the bill, for only one of those trucks will be able to operate under this provision.

Mr. Chairman, I would submit that no one is going to go through this regulatory process to get a certificate to run one truck 50 percent of the time in the regulated sector, especially when they have three trucks and the other two have to stay in the unregulated sector.

It seems to me that the gentlewoman's provision makes sense.

Furthermore, according to Mrs. Rivlin, if this amendment were to go through, it would in fact make this bill better. It would make it better from an inflation standpoint. It would reduce inflation; rather than be inflationary. As I indicated when we talked about the rule, Mrs. Rivlin says the bill is inflationary in the short run—inflationary for it is for about a 5-year period. If this provision were to go through, it would cut down that inflationary impact.

Mr. Chairman, I support the gentlewoman's language.

□ 1450

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Ertel) has expired.

(On request of Mr. Howard and by unanimous consent, Mr. Ertel was allowed to proceed for 1 additional minute.)

Mr. HOWARD. If the gentleman will yield, I would like to comment on one thing the gentleman talked about, that one person must be in the truck driving the truck or else that truck cannot be used. The gentleman from Pennsylvania, in bringing this up before the subcommittee and the full committee, did have a provision put in which does permit for an emergency waiver. So I would just like to get that on the record. And I would also like to add that we hear a great deal of Mr. Gaskins, the head of the ICC. In a letter that I received and I believe that the committee received this morning, he is in total support of the legislation, without any conditions at all saying that he disagrees with this part or that part, just commending the committee on its work and urging that this legislation be passed.

Mr. ERTEL. If I may reclaim my time, the gentleman is correct. In the committee I put in a provision that if a person broke his leg, under those emergency conditions, or if he got sick, or something like that, under an emergency provision, the truck could in fact be operated.

Mr. HOWARD. If the gentleman will yield again, I would like to say that he did not have any specific provisions put in, such as breaking a leg, or something like that.

Mr. ERTEL. I did not say that. "Emergency condition," I believe was the wording.

Mr. HOWARD. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Ertel) has again expired.

(On request of Mr. Heftel and by unanimous consent, Mr. Ertel was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Chairman, since I was not able to participate in the proceedings as the gentleman did, am I correct that a compromise was reached and that many who would support the provision proposed by the gentlewoman from New Jersey would in fact support this provision had they not reached a compromise to the contrary?

Mr. ERTEL. I am not sure that I follow the gentleman's question.

Mr. HEFTEL. As many who now are supporting the bill in its present form and opposing the gentlewoman's amendment are doing so as a part of a compromise process in which they disagree with this provision but had to do it to get enough agreement for the bill to come out?

Mr. ERTEL. Of the committee?

Mr. HEFTEL. Yes.

Mr. ERTEL. I think I would be the improper one to respond to that. I think the chairman would be the better person to respond to that, and I yield to the chairman. I would assume that is correct.

Mr. HOWARD. What? That we would be supporting this provision?

Mr. HEFTEL. I cannot address who, but many within the Department of Transportation, many who are supporting this bill in its present form, other than the compromise process that necessitated giving in on this provision, would otherwise have mandated this provision be in the legislation and would now be supporting the gentlewoman's amendment.

Mr. ERTEL. That is correct. That is my understanding. In fact there are a lot of people who signed off on the bill who would prefer this provision, including Gaskins, including the ICC, and, as I understand it, even the administration.

Mr. HOWARD. If the gentleman will yield, I would say that perhaps that is true on some other provisions, perhaps, on some things like the antitrust or ratemaking immunity, and such, but not specifically on this amendment, where the gentleman's assumption may apply.

Mr. HEFTEL. If I may address another question, if the Chairman please. The gentleman has suggested that under the present language, a waiver could be obtained.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(By unanimous consent, Mr. ERTEL was allowed to proceed for 1 additional minute.)

Mr. ERTEL. I yield to the gentleman from Hawaii.

Mr. HEFTEL. A waiver could be obtained to make it possible for the owner-operator to actually operate more than one truck.

Mr. HOWARD. No. To have someone else operate.

Mr. HEFTEL. To have the truck operated by someone other than that person.

Mr. ERTEL. If I may reclaim my time, just to clarify that, I put that amendment in. That is under emergency conditions. The specific argument I made was if he got sick or got hurt, or something like that.

Mr. HEFTEL. So this was put in under an emergency situation. It is now being utilized to handle still another situation not originally envisioned when the proposal was offered by the gentleman from Pennsylvania in committee?

Mr. ERTEL. If I may address that for just a moment, the provision was that you had to have 50 percent of your haul in unregulated freight, and, secondly, you had to be the owner-operator at all time.

I suggested that if someone broke a leg, he is out of business right then, since he could not make his truck payment. I added the emergency conditions for that specific provision to have a substitution. The provision does not allow him to have a second truck, it does not allow him to have anything else. I would have preferred what the gentleman suggests.

Mr. HEFTEL. I thank the gentleman very much.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I always prefer to agree with my distinguished and more senior colleague from the State of New Jersey (Mr. HOWARD) the very fine chairman of the committee; but I do have some concerns and some questions, and I wonder if perhaps I could engage the gentleman for a moment of discussion.

It is my impression that economists for some years have pointed out that the exclusion of back haul is an inflation-causing rigidity which ought to be eliminated. I seem to recall, when I was preparing to come to Congress for the first time, reading treatises by people like Otto Ekstein and Walter Heller and others saying that this was the kind of thing that both parties really ought to take a look at and cutback on. Alfred Kahn, the President's inflation fighter, has been quoted as follows, and I would like the gentleman to comment on this, if he would. Kahn says:

> Ending these irrational distinctions should have a powerful anti-inflationary effect. The historical evidence shows that when agricultural exemption was last expanded, in the mid-1950's, transportation rates for the newly exempt commodities fell from 19 to 33 percent, while services improved.

So I guess my question to the gentleman is: Is there, really, finally, any argument to the effect that the move proposed by the gentlewoman from New Jersey and by others over the years would not in fact increase competition and decrease prices?

Mr. HOWARD. I believe, if I could answer the gentleman's question—and he said that these great brains and universities I could never afford to go to, Harvard or Yale, would do a deep study and then come out with the profound observation that if you drive a truck empty it is more wasteful than if you drive it when it is full—I would accept their statement on that.

However, in the regulated area, you will find that the trucks that are empty are in the neighborhood of 3 percent or less, because in this highly competitive field you cannot operate if you have got a lot of backhauls.

Unfortunately, the empties seem to be with the small owner-operators and the people who are running exempt commodities because they cannot carry processed foods, and such things. So in order to hit the problem where it exists the most, what the committee did was to exempt processed foods. For whom? For all of the people? For these very efficient ones who may be able to take all of the extra business? Or specifically for the owner-operators, the small ones, and permit them, and them alone at this time, to be able to get into that market and to be able to take the bite out of the empty backhauls where it exists the most?

And that is what this committee did, and that is why it is in this legislation, and that is why we feel that this legislation is best as it is, if you want to get to the backhaul problem; because if you do not, and if you open it up completely, the poor owner-operator, who now has a chance to get something, will find probably that the more efficient and wealthy operator is going to take it away from him. So I thank the gentleman for bringing it up. The legislation as it is in the bill is really aimed toward where the empty backhauls are, and that is what we would like to eliminate.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentlewoman from New Jersey?

Mrs. FENWICK. The point is that the independent owner-operator now goes out with agricultural produce. When he gets to the place where that is to be delivered, he is now unable to return with anything in his truck other than more fresh produce unless he pays a franchise-regulated carrier for the privilege of carrying. And he pays 30 percent, about, of the shipping cost.

That is the regulation as it stands now. The bill proposes something different. The bill says if you are an exempt carrier, carrying agricultural produce, and if you are the owner and driver of that truck, you may take that processed food back only if, however, in the course of a year, at least 50 percent of everything you carry is now exempt.

Mr. MAGUIRE. I believe that is the point the gentleman from Pennsylvania (Mr. ERTEL) was discussing a moment ago.

Mrs. FENWICK. There is the difficulty, because you will have endless bookkeeping, you will have endless problems for the small independent who has to keep track of every single pound and load. It is impossible.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Could I just ask the chairman, is it not, finally, a question of whether there are going to be more or fewer options available and whether more or fewer trucks are actually going to be able to carry these commodities and, therefore, whether there is going to be a greater or lesser effect on energy conservation and inflation? Is that not really what this argument finally is all about? Or is it more complicated?

Mr. HOWARD. If the gentleman will yield, I would say no, the argument is about to whom will the options occur, who will be able to utilize the options. And we say in our bill that the owner-operators, the ones who are now carrying exempt commodities, should be the ones to be able to get this option, not all of the others.

Mrs. FENWICK. If the gentleman will yield, independents usually have three trucks. What is the independent owner-operator who now, according to Mrs. Rivlin, has three trucks going to do with the other two? He can only be on one at a time.

Mr. HOWARD. If the gentleman will yield, an entry provision for truckers is very, very easy to get under this legislation if he is fit, willing and able.

Mrs. FENWICK. It is never easy to get a permission from the ICC.

Mr. HOWARD. It will, after this bill passes.

The CHAIRMAN. The time of the

gentleman from New Jersey (Mr. Maguire) has again expired.

(On request of Mr. Ertel and by unanimous consent, Mr. Maguire was allowed to proceed for 3 additional minutes.)

□ 1500

Mr. ERTEL. I just wanted to direct one statement, that if the gentleman applies under this provision he only has to meet the fit, willing and able test. That is for one truck. If he goes to three trucks, he must go through the shipper provision as well. He must show shipper support. He has to go through a more elaborate provision in the bill.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New Jersey.

Mr. HOWARD. Not only that, but he must have someone who will give him the business, or it could even be a mayor of a town or public official who wants service to come to that community. That is all they need besides fit, willing and able. I do not think that is too much to ask in behalf of the shipper and in behalf of the customers who expect to get the commodity.

Mr. MAGUIRE. Could I ask the gentleman from Pennsylvania, who indicated a moment ago on balance he would be going with the Fenwick amendment, what his reaction is to the argument the chairman has made that in order for the owner-operators not to be crunched by the big operators that the number of options under the law ought to be limited, as the chairman has described?

Mr. ERTEL. If the gentleman will yield, quite frankly, one can make that argument, but in actuality it does not happen. We have an exempt sector. The exempt sector is the agricultural goods. That is fragmented all over with small people. To suggest if we expand that into the food, all food areas, that then we are going to have these tremendous big operators just undercutting all those people, I do not think makes sense, because, in fact, the record shows it is different than that. We have small operators. Many of your owner-operators, the small ones where an owner has three trucks, are in the exempt area. So as a practical matter, one can make that argument, but I do not really believe the facts would support it.

Mr. MAGUIRE. I thank the gentleman.

Mr. Chairman, I believe I will support the amendment. The amendment would exempt from ICC regulation all truck transportation of food intended for human consumption. This would have a direct and beneficial anti-inflationary impact on consumer's home budgets.

Currently, unprocessed foods—raw agricultural products—are exempt while processed foods are regulated. This has produced an absurd and arbitrary classification system where chocolate-covered raisins are regulated and honey-covered raisins are not, where wheat germ is regulated, but whole wheat is not. Moreover, it has resulted in transportation inefficiency, empty backhauls and wasted fuel. Unregulated truckers carrying the raw agricultural goods to food processing plants are unable to haul the processed food products away from the plants and most return empty.

Studies by the Department of Agriculture since the early 1950's on ICC exemptions have produced the same results time and time again. They show that service improves, freight rates decline, and processors' market areas expand when commodities are exempt from ICC regulation. The amount of processed food presently hauled by regulated motor carriers amounts to about 3 percent of total interstate truck traffic—by revenue. This amendment would not make regulated carriers ineligible, but rather, it would provide the shipper with more options thus increasing competition and decreasing prices. We would be remiss if we passed by this opportunity to bring at least one aspect of the trucking regulations out of the dark ages. I urge support of what I believe is a consumer-oriented, energy-saving, anti-inflationary amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

I must tell my dear friend from New Jersey that it is with great reluctance that I must oppose the gentlewoman's amendment. I must oppose the gentlewoman's amendment, because I am informed that, should this amendment pass, this bill would be dead. I am informed that the coalition, that the compromise which exists between the House and the other body and the administration and the interested parties would not hold; and if those are the stakes which we are dealing with, I cannot in good conscience do anything but oppose an amendment which would cause this legislation to go down the tube.

I am informed that the legislation would be pulled, that we simply would not have a bill, and it is for that reason, if I might conclude my statement, I would say further that I think those who feel so strongly about this, that they would pull the bill and we would not have legislation.

I have to say in fairness to them that they do not do this in a capricious way. They do this because they, too, feel they have good reasons, and some of those reasons are, first of all, that there is a substantial increase in the ease of entry for shippers hauling food products in two different respects. In the first respect, which already has been debated here, and that is the so-called 50-percent provision where an independent owner-operator with his own truck, if he is hauling 50 percent agricultural goods, can then haul processed foods either on a backhaul, or fronthaul for that matter, so this does ease entry for the shippers hauling food goods.

Beyond that, the second provision that also opens it up for more competition is the general entry provision, which provides that, using the example of my good friend from Pennsylvania, an independent operator is hauling raw agricultural produce to a factory and he wants to bring canned goods back, even though he is not the owner of the truck or even though he does not do 50 percent agricultural produce business, he still can get a certificate from the ICC in a greatly simplified fashion as compared to the present system under which he must operate.

All he needs do is get a letter from a shipper which shows that the shipper wants his services. Then he applies to the ICC, and at that point, all he has to be is fit, willing and able, and the burden of proof shifts. Now the burden is not on that independent operator to prove that he should have the certificate, but rather the burden is on those who would oppose him. So this is another way in which there is a great easing of entry.

So, while I would quickly concede that this does not provide for complete deregulation of processed foods, there are a couple of different ways in which entry is eased.

Now I would ask that we focus on the other side of the coin. The other side of the coin is why should not there be complete deregulation of food? I think we must remember as we focus on this food question that in this legislation we still carry the requirement for the common carrier obligation, and that segment of the trucking industry which is still regulated which does operate under certificate has a common carrier obligation to serve; whereas, the unregulated portion, the independent trucker who wants to get in and haul the unregulated goods and produce has no such obligation. He has no obligation to serve a rural community. He has no obligation to live up to the certificate because he does not have a certificate, and beyond that, the last point I would make with regard to the certificates is that the certificate itself is very significant in terms of providing a mechanism for promoting highway safety.

If one does not have a certificate from the ICC, the question of whether or not one is carrying insurance is a question which is oftentimes only dealt with after one has had an accident. But if one has an ICC certificate, and indeed must have proof of insurance to have that certificate, this becomes a mechanism by which increased safety is provided for on our highways.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Shuster) has expired.

(By unanimous consent, Mr. Shuster was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

In regard to the small towns and the shippers, 80 percent of all the trucking that goes into small communities now goes on unregulated carriers. Those unregulated carriers are now subject to the Department of Transportation concerning safety. Those unregulated carriers, if my amendment should pass, would still be subject to the insurance provisions of the rest of the bill, so that there is no danger. They are already serving every community, and although the people in the small community will tell you that the unregulated service is more satisfactory than the regulated, no regulated carrier has ever had his certificate removed because they are more powerful.

Let us talk about the consumers sitting in their homes just waiting for a little drop in the cost of food. Is there anything in the compromise? Who speaks for them here?

Mr. SHUSTER. Would the gentlewoman concede, while this does not go all the way to deregulation of processed foods, it does indeed provide for a significant easing of entry compared with the present law?

Mrs. FENWICK. The easing of entry makes a tremendous difference certainly to the minority truckers who have been kept out, there is no doubt. I am talking now about those truckers. And is it not significant that just last month the first minority trucker in the history of the United States got a certificate from the ICC to be a common carrier across the roads of this Nation?

Mr. SHUSTER. We expect more of that under this bill.

Mrs. FENWICK. This has been a restrictive practice. But what we are moving toward is not only justice for the independent, which I grant you he will get a more ease of entry, but we are talking about the consumers who are going to have to eat, and we are going to have to try to cut the cost of that food.

Mr. SHUSTER. The overriding point I make to my good friend is this bill would be scuttled. The compromise would be scuttled.

Mrs. FENWICK. Why? Who cares so much about this small section of the trucking business? The fact is that I hope to touch only food. Only 3.5 percent would be affected. 96.5 percent of all of the revenues of the trucking industry is not involved in transporting goods.

☐ 1510

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, let me address first the very last statement that the gentlewoman said, that 3.5 percent of the revenues in the trucking industry were involved in the transportation of processed food. Let me point out that that 3.5 percent refers to the total revenues in both the regulated and unregulated trucking industry in this country and amounts to 3.5 percent of some $108 billion, which in round rough figures is in the neighborhood of $4 billion.

Now, that is the amount of money that is involved in the processed food hauling section of this industry, $4 billion a year. If you are going to take that kind of a chunk or bite out of the regulated trucking industry, you are going to do exactly as the gentleman from Pennsylvania says, upset this very fragile compromise that we have worked out.

But let me make some other points that the gentlewoman has raised. First, the gentlewoman said this expanded exemption would result in lower freight rates, and thus lower food rates. Well, that would not necessarily be true. Let me cite an example. In Knoxville, Tenn., the total cost of a recently purchased bag of groceries, consisting of a number of processed foods, was $25.78. The total regulated motor carrier transport cost of this item was 37 cents, or 1.5 percent of the retail price of those products.

Now, I submit to you that it is certainly unreasonable to think that transportation costs are going to get any lower than that.

Now, let me cite another example by comparing a carrier's revenue per mile on exempt and regulated traffic transported on the same day.

Its return per mile amounted to, in this case 235 loaded miles for the transportation of poultry, which is exempt, was $2.10, while its return per mile for the transportation of oleomargarine which is regulated, was $1.85; so to say that the further exemption of processed foods will result in lower food costs is just not an accurate assumption, based on the experience we have had in recent years.

Mrs. FENWICK. Mr. Chairman, would the gentleman yield?

Mr. HARSHA. Not at this time. I will yield when I finish my statement.

Let me make another point. One of the very reasons that we have a requirement in this legislation that the operator must haul at least 50 percent of the exempt commodities that he hauled before he can get into this hauling processed food is the very fact that the transportation facilities for hauling exempt and agricultural products is insufficient. There is a lack of transportation facilities to haul it.

Now, if you permit the exempt hauler who is now hauling the agricultural commodities to get into the more lucrative hauling of processed foods, then he is going to consume most of his time in the more lucrative aspect of his transportation and further neglect the area of transporting exempt foods, and thus reflect adversely on the farmer's ability to get his produce to the market; so that is one aspect of the gentlewoman's amendment that we will have and that is one reason we have the restriction of the operator having to be in the cab and of the owner-operator having to haul at least 50 percent of exempt commodities in the previous year.

Now, let me point out another example of what the amendment of the gentlewoman would do. It would do away with the fitness test and have no requirement for any application for a certificate of any kind. Now, the fitness test goes to safety. One of the biggest problems with safety on the highways at this particular time insofar as trucks is concerned is the independent operator, because there is no way to police these independent operators, there are so many of them. The ability of the Motor Safety Bureau to police the highways is totally inadequate. They do not have enough employees and could not get enough and the Congress would not authorize enough; so you are going to have many trucks out there that do not live up to the safety requirements of either the Federal Government or the State safety laws.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 3 additional minutes.)

Mr. HARSHA. Under the amendment of the gentlewoman, there would be no regulation at all and prices could go any direction, up or down, and not necessarily down, as I have indicated by my example.

One of the big items is that there would be no requirement for cargo liability coverage. There would be no way to determine loss and damage claims that are now regulated by the ICC.

The gentlewoman cited a number of institutions and food manufacturers that were in support of her bill. Let me cite a number that are not in support of her amendment. We received a recent letter, as recently as this week, from the Cooperative Food Distributors of America, who are not in favor of her amendment; the Food Marketing Institute; the National Association of Wholesale Grocers; the National Association of Manufacturers; the American Frozen Food Institute; the Standard Brands; Oscar-Mayer; Stouffer's; Bordens; Hormel; Nestle's, and the National Meat Association are also opposed to a complete exemption of processed foods.

Let me just exhibit to my colleagues a list of all the marketing agents of the various processed foods around the country that are opposed to the amendment of the gentlewoman.

Now, the gentlewoman hardly has the unanimous support that the gentlewoman is indicating that she has; but one other important factor that the gentlewoman has overlooked in those independent owner-operators that are supporting her have overlooked, and that is the surcharge they are allowed for hauling regulated foods now. We had a strike here a year or so ago or 2 years ago, a long difficult strike. The economy was tied up. That strike was instigated by the independent owner-operators because they could not get enough expenses to cover their fuel charges and fuel costs; so the Government gave them a fuel surcharge to be allowed to try to defray some of this additional cost of fuel.

Now, if they get into the exempt commodities and have no requirements or no restrictions or no certificates, then they are going to lose that surcharge and then we are going to have another strike on our hands trying to determine——

Mrs. FENWICK. Mr. Chairman, could I respond to that?

Mr. HARSHA. When I get through with my statement, I will be glad to yield to the gentlewoman.

So there is a very real danger of these independent owner-operators losing their entire surcharge that they now have.

One final point is that the letter that the chairman referred to from Secretary Gaskins, the Chairman of the Interstate Commerce Commission, the chairman pointed this out:

> While the individual reforms in H.R. 6418 are each valuable when taken alone, the true value of this bill lies in the balance struck among these various reforms.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) had again expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 1 additional minute.)

Mr. HARSHA. Now, that is what this is all about. We have struck a balance here. We have not given everybody everything they wanted. We have tried to retain a balance. Somebody has gotten a little of this. Somebody has gotten a little of that; but when you try to get more, you upset that balance and that is when the bill falls apart and we do not have any regulatory reform under this legislation.

So I urge defeat of the amendment.

I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, the only thing I wanted to say is that there is insurance in the bill that would still cover the exempt carriers, whether they carry processed foods or not. They will still be under the provisions for insurance; but more than that, why do the agricultural carriers ask for that surcharge?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has again expired.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

□ 1520

Mr. Chairman, I rise in support of this amendment. I have listened quite closely to the arguments here, and I think as the arguments have gone I have become even more convinced that the position of the gentlewoman from New Jersey (Mrs. FENWICK) is the proper one.

First of all, I think there may be some improvements in this bill as far as entry goes. As I understand it, if a husband shuts his wife out of the business, never lets anybody else drive his truck, and keeps track to make sure that at least 50 percent of the time he has one thing in it and 50 percent of the time he has something else in it, then might be all right. Now that does not sound like the kind of entry that is going to do much for competition or much to lower the cost of food. I might say it is just an example, however, of some of the real, or should I say unreal, discriminations that someone has to make in this area of processed and unprocessed food.

Let me give a couple of examples. It is all right if you carry hay, but if you spill any molasses on the hay and make it sweet, as many farmers do to feed the cows, why, then, that becomes regulated. If you carry just clean hay, that is unregulated.

Now, if you take manure and carry it around, fresh manure, that is fine, unregulated. If you have got some rotten manure in there that smells, then you cannot carry it. It is regulated.

Well, it seems to me our regulators ought to have more to do than run around finding out who is driving trucks to see if it is the same driver all the time, or smelling manure to see if it is new or old, or seeing whether the hay is sweet or not. It seems to me the simple thing to do here is just unregulate all food and let it go.

I am not one to quote the inflation fighter, Mr. Kahn, with any enthusiasm, but I would like to point out that in reference to this he says, in a letter from the White House—

> By ending these irrational distinctions, S. 2245 should have a powerful anti-inflationary effect. The historical evidence shows that when the agricultural exemption was last expanded, in the mid-1950's, transportation rates for the newly exempt commodities fell from 19 to 33 percent—while service improved.

Those services improved, and that sounds just like what we are trying to do here. So I do not understand what the objection is. This amendment seems like a good one to me and seems to be accomplishing the purposes everyone has in mind to do. I cannot see anything wrong with it.

That is all I have to say, unless the gentlewoman from New Jersey wanted to add anything that she did not get a chance to.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to say in reference to the chickens in comparison to the oleomargarine, it is a little difficult to compare chickens and margarine. But you can compare chickens and chickens, and these chickens that are plucked and eviscerated were under the regulations of the Interstate Commerce Commission, the Poultry Association took this to the Supreme Court of the United States and the U.S. Supreme Court said, "No, they are exempt." Then the cost of distributing those chickens dropped 33 percent. Everybody will tell you that, the Farm Bureau, the Department of Justice, the Attorney General in charge of antitrust. Every single consumer group in America knows it.

Now, what are we really talking about here? Why is there any suggestion that we should not be able to carry food freely without asking anybody's permission? If a person has a truck and a son, if they have that, why should they not drive the three trucks, which is what the exempt haulers have now? Why? Why would they have to go to somebody provided that they had the Department of Transportation saying the truck is safe, the tires are adequate, the brakes work, they have the proper license? In other words, every State in the Union has some kind of inspection of motor vehicles, and the Department of Transportation still would retain jurisdiction. So you have the protection for the public and the highway through the State and Federal Department of Transportation. There is no question that there would be a lot, in fact those trucks are on the road now, and 80 percent of all the trucking that goes to the small communities is done by them.

Mr. JEFFORDS. I think the gentlewoman has made a very excellent case, and I certainly think we all ought to support her amendments.

Let me add a few words. Moreover, the expansion of exemptions provided for in this amendment will cut back on empty backhaul mileage in the trucking industry, thus reducing fuel waste. This advantage cannot be considered lightly when we find ourselves in the middle of an energy crisis, when we are fighting to reduce our dependence on OPEC oil by conserving energy here at home.

Finally, this amendment will do much to relieve the beleaguered farmers of this country and their cooperatives from confusing regulations and redtape to which they have been subjected. By way of illustration, agricultural cooperatives can now haul farm crops to market, but are restricted as to what they can haul back, in terms of fertilizers and the seeds they need for planting. An impressive number of national agricultural and farmer groups support the Fenwick amendment. They include: The American Farm Bureau Federation, the National Grange, the National Milk Producers Federation, and the Food Marketing Institute.

In closing, I realize there has been talk of a "delicate balance" and an "agreement" reached between the House and Senate with regard to this bill. If we adopt the bill as it came out of committee, we are told, a conference may not be necessary. Well, I submit to you that what we should be doing is coming up with the best legislation we can on this issue. We should be giving highest priority to good laws, not to avoiding a conference.

Mrs. FENWICK. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. FENWICK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 113, noes 287, answered "present" 1, not voting 32, as follows:

[Roll No. 347]

AYES—113

Addabbo
Bafalis
Baldus
Barnes
Beilenson
Bereuter
Bingham
Boland
Bonior
Brodhead
Buchanan
Burlison
Burton, John
Carr
Chisholm
Conable
Conte
Conyers
Coughlin
Courter
Crane, Daniel
Crane, Philip
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Dornan
English
Erlenborn
Ertel
Evans, Del.
Fenwick
Fish
Fisher
Forsythe
Garcia
Gephardt
Gibbons
Gilman
Goldwater
Goodling
Gradison
Gramm
Green
Hall, Ohio
Harkin
Harris
Heckler
Heftel
Hughes
Jeffords
Kemp
Kostmayer
Kramer
LaFalce
Leach, Iowa
Lehman
Lent
Lujan
Lundine
Lungren
McCloskey
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Minish
Moore
Mottl
Myers, Ind.
Nelson
O'Brien
Ottinger
Panetta
Pashayan
Paul
Perkins
Porter
Pritchard
Pursell
Quayle
Rangel
Rosenthal
Russo
Shannon
Simon
Smith, Nebr.
Solarz
Spellman
Stack
Stenholm
Stockman
Stokes
Stratton
Studds
Traxler
Van Deerlin
Vanik
Waxman
Weaver
Wilson, Tex.
Wirth
Wolff
Yates

NOES—287

Abdnor
Akaka
Albosta

Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Corcoran
Corman
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gingrich
Ginn
Glickman
Gore
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Lagomarsino
Latta
Leath, Tex.
Lederer
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
McClory
McCormack
McKay
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Michel
Mikulski
Mineta
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Patten
Patterson
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Snowe
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Trible
Udall
Ullman
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zefferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—32

Anderson, Ill.
Boggs
Bolling
Clay
Danielson
Davis, S.C.
Derrick
Ford, Mich.
Giaimo
Holtzman
Hyde
Ichord
Jenrette
Jones, Tenn.
Kelly
Leach, La.
Lee
McEwen
Mitchell, Md.
Moffett
Nedzi
Nolan
Reuss
Runnels
Santini
Sebelius
Solomon
Stewart
Weiss
Wilson, Bob
Wilson, C. H.
Wydler

☐ 1540

Mr. AKAKA changed his vote from "aye" to "no."

Messrs. PASHAYAN, RANGEL, CARR, HUGHES, and GILMAN changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. LEVITAS. Mr. Chairman, I have asked at this time to address the Committee of the Whole House in light of some of the comments made during the debate on the last amendment.

Mr. Chairman, I voted against that amendment because I did not think it was a good amendment, on its merits. During the course of the debate on that amendment, I heard some statements made that we ought to vote against that amendment regardless of its merits, whether it is a good amendment or a bad amendment. That we ought to vote against the amendment because if we adopt the amendment—mind you, elected Representatives of the people of the United States adopt an amendment—that it was going to disturb the delicate balance of the agreement that has been worked out—by whom I do not know, but it was going to disturb the balance and, therefore, it would be a very bad thing for us to adopt the amendments.

Now, Mr. Chairman, I do not know about every Member of this House but when I sought the office I now hold and asked people to give me their trust and confidence, they assumed I was going to come to this body and vote what I thought was right or wrong, not concern myself with some "delicate balance."

Mr. Chairman, I did not know what a "delicate balance" was until I heard about this bill. Under a delicate balance, one is not supposed to amend this bill.

A "delicate balance", I tell my friends, is when a committee of the House goes into conference with the committee in the other body before the bill has been voted on. Now, that is what a "delicate balance" is.

Mr. Chairman, that is not what I understand the Constitution of the United States to mean when it says that legislation will be passed by both Houses of Congress.

I respect a delicate balance. I understand this is a complex bill. But the reason Members of this House of Representatives, being true to the oath they took are here, is to vote on legislation. If there is an amendment that is offered and if we think it is a bad amendment, we should vote against that amendment. If it is a good amendment, we should vote for it. We should not go back and try to explain to our constituents. "Well, yes, it was a bad amendment but I voted for it because of the 'delicate balance.'"

I would like to be present when Members go before their constituents and try to tell what that meant.

☐ 1550

I would hope that as we consider amendments to this legislation, that any suggestion that is made that you should not vote what you think to be right on an issue because of some delicate balance is rejected, because if that is your position, then you might as well stay at home because you are not contributing to the process that you were sent here to participate in.

AMENDMENTS OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. McCormack: Page 13, line 2, strike out the first comma and insert after "plants," the following: "agricultural limestone and other soil conditioners, agricultural fertilizers, and farm implements, machinery, parts, and accessories used in agricultural production,".

Page 7, lines 2 and 3, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

Page 19, lines 16 and 17, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

Mr. McCORMACK. Mr. Chairman, this amendment is somewhat similar to, but much more limited than, the Fenwick amendment which the House just considered. I think it is an amendment that we all can support. First of all, I want to thank the gentleman who just spoke about "delicate balance." Mr. Levitas is completely correct. I do not believe that the Members of this House want their hands to be tied from any serious consideration of any amendment to this bill simply because some Members of Congress made agreements which they now refer to as a "delicate balance."

This amendment of mine would change the provisions of this bill very, very slightly. As a matter of fact, part of the provisions of my amendment are included in the Senate version of the bill.

Fundamentally, what I am getting at is that the bill, in effect, requires that trucks hauling bulk agricultural produce such as fruits and vegetables to the major metropolitan markets of this country must, in many cases, return home to their agricultural areas empty. Now, of course, the bill does not say they must return home empty, and the supporters of the committee will attempt to make the situation appear to be much more legally complicated than it really is or needs to be, but the fact is that trucks will return home empty under the bill as written.

What I am trying to do in this amendment is simply broaden the number of exempted materials that apply to agriculture so that trucks carrying agricultural products to markets may then bring agricultural products back to the agricultural area. So that, for instance, the truck taking apples and oranges to New York or Chicago or Washington may take back again limestone, soil conditioners, or phosphate fertilizer, or farm implements or parts. That is what it is all about.

I think we should look at an example. I come from Washington State. In case any Members do not know it, we raise more apples in my congressional district than the next three States combined, and they are the best quality. When one goes down to the store to buy these apples, these red or golden delicious apples, one is paying 12 cents a pound more for those apples just because of the shipping fuel costs—that is per pound.

That could be cut in half if there was a backhaul for the truck that brought them. This is what we are getting at, simply trying to provide a full backhaul. Also, we are trying to help the farmer and trying to help the consumer, and we are trying to use less fuel. That is all the whole thing amounts to.

It is not as if it is a completely new idea. The bill exempts a number of agricultural commodities now; for instance, livestock and poultry feed, agricultural seeds and plants. The committee addressed this problem in the House and discussed this subject and provided some exemptions, but in an inadequate manner.

I agree with this section of the bill, as far as it goes, but I believe that by adding fertilizers and soil conditioners such as limestone and phosphate rock and farm implements and machinery—the items that are included in my amendment—we will take a small additional step toward addressing current energy supply problems and economic conditions in agricultural communities. So. it is a commonsense amendment which will improve efficiency in transportation, lower freight rates, and improve trucking service.

To me, this amendment is a commitment to the agricultural community, providing assistance in obtaining transportation service for delivering their goods to market, and for shipping items related to agriculture back to the farms. It is keeping faith not only with the farmers, but with the consumers, those consumers who will be paying less for fruits and vegetables if we allow these exempted materials.

I do not support sweeping changes in the system of regulation that presently governs truck transportation, but this is a small change in a system that, overall, has worked very well. But, I am committed to helping the agricultural community and the consumers of this country; and exempting from regulation certain items that are closely related to agriculture production in order to insure that trucks hauling produce to market will not have to return to the farm empty makes eminently good sense.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, I want to point out that the Senate bill included soil conditioners and fertilizers the same way my amendment does. So, what I am adding is agricultural equipment, machinery, parts, and accessories. These exemptions were originally recommended by the Department of Transportation, the Department of Agriculture, and the Rural Transportation Advisory Task Force. I previously, in general debate, read quotes into the RECORD from former Congressman Bob Bergland, Secretary of Agriculture, and the Secretary of Transportation, both endorsing these broader exemptions.

The amendment is supported by the Farm Bureau; National Milk Producers Federation; National Grange; National Agricultural Transportation Association; National Council of Farmer Cooperatives; Fertilizer Institute; National Cattlemen's Association; and Fresh Fruit and Vegetable Association.

Voting for this amendment is a concrete effort on our part to assist both the farmers and the consumers of this country. If we are truly serious about our commitment to energy efficiency and savings, this is a small opportunity to demonstrate our commitment in a responsible manner.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. PEPPER and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I used to practice a little law in the area of the Department of Transportation. Would the gentleman require that the truck returning from the city after delivering the farm produce in the city would have to have any certificate from the Interstate Commerce Commission, or would he just pick up anything along the way he wanted to?

Mr. McCORMACK. Under the law there is regulated trucking now. Most of the traffic would be by regulated trucking. This bill provides that unregulated trucking that is hauling raw produce, such as fresh apples and oranges, to market may then take these items back: Soil conditioners, fertilizer, and farm implements and accessories. They may take these back to the agricultural areas.

Mr. PEPPER. Without a certificate?

Mr. McCORMACK. Without a certificate.

Mr. PEPPER. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, this amendment was offered in committee and was soundly defeated, and I urge its defeat here today. The committee did adopt an amendment that was known as the Stangeland amendment. I offered it in full committee. That placed agricultural limestone and other soil conditioners and agricultural fertilizer in a special category of commodities which can be hauled by owner-operators under a certificate obtained by making a showing of fitness only. It is a very relaxed requirement from what the existing law is now.

This very significantly limits any restrictions as to those commodities, and subjects regulated carriers now hauling them to significant new competition for that business.

☐ 1600

At the same time it retains the safety and compliance functions of the fitness test. And by virtue of the requirement that 50 percent of the owner-operators' transportation remain in the exempt agricultural sector, it assures that the agricultural fleet will be available to perform its primary role of hauling agricultural produce.

The McCormack amendment goes much further than that. It would simply exempt all of these commodities. In addition, it would exempt farm machinery, parts, and accessories. Those would be made exempt also. This is about a $500 million annual business that the gentleman wants to exempt and take completely out of regulation, as opposed to what the committee did. This $500 million represents, obviously, a huge new diversion from the freight base of the common carriers.

The legislation leaves in place most of the burdens, obligations, and costs of regulation borne by the regulated carriers, and we cannot continue, then, to expose more and more of the freight now hauled by regulated carriers to transportation by the exempt fleet and still retain all of these obligations and responsibilities on the regulated sector of the industry. The exempt haulers share none of these burdens and costs.

The bill already substantially expands the list of exempt commodities, as well as the commodities that can be hauled under the fitness finding only, and we should not take on more at this stage of the proceeding.

This is especially true of farm-related commodities. The regulated carriers who serve under their certificates and who are required to serve the small and rural communities where farm equipment dealers are usually found need the volume of freight represented by these commodities to provide frequent and economical service to the very farmers the gentleman is endeavoring to help. The more freight that is taken out of the system and taken away from the regulated carriers who are required to serve these communities, the less ability they will have to serve them, and the reduced service will affect all commodities shipped to those communities.

If we are to retain regulated carriers, we cannot continue to erode their freight base.

Many farm groups, interestingly enough, it should be noted, such as the National Farmers Union, do not believe that increasing the exemption of farm related commodities will improve the competition. They believe, quite to the contrary, rather, that it would harm them.

I feel compelled to point out that limestone and fertilizer were added to the list of owner-operator certified commodities by the committee as part of the compromise agreed to by some of these same groups that are now pushing for the amendment. It is not fair, in my judgment, with all of the other interests involved, including the truckers, that these groups are now seeking more.

Mr. Chairman, I urge defeat of the amendments.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Ohio (Mr. HARSHA) has very well explained why we should oppose these amendments.

As the gentleman said, in the committee we did provide a great number of exemptions for people in the agricultural area.

Without this regulation, Mr. Chairman, there is no requirement at all that the carriers have minimum cargo insurance. Let us take an average tractor that today costs in the vicinity of $40,000 to $60,000. A farmer or a manufacturer would have little or no recourse if that farm tractor were lost or damaged. That is why the manufacturers support the continuation of this requirement.

Mr. Chairman, I oppose the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. MCCORMACK).

The question was taken, and on a division (demanded by Mr. MCCORMACK) there were—ayes 9, noes 24.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. I offer an amendment to section 36 on page 83.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 83, strike out lines 11 through 13 and insert in lieu thereof the following:

SEC. 36. Section 10344(f) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The Commission shall pay the rent for any space or facilities assigned under this subsection at rates determined in accordance with section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)).".

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, essentially, this amendment would require that the Interstate Commerce Commission (ICC) pay the General Services for space and services that are now being used by the National Association of Regulatory Utility Commissioners (NARUC) in the ICC building.

The National Association of Regulatory Utility Commissioners is a quasi-governmental nonprofit organization founded on March 5, 1889, pursuant to a meeting called by the ICC to discuss mutual regulatory problems with State commissions. When Congress enacted the Federal Motor Carrier Act of 1935, the General Services Administration was required to furnish NARUC with office space in or close to the ICC building to strengthen Federal-State cooperation in the regulation of utilities and carriers. Pursuant to this statute, NARUC has continuously occupied office space in the ICC building without charge for over 40 years.

However, the Public Buildings Amendments of 1972, directed the Administrator of the General Services to charge anyone furnished space and services at approximate commercial charges for comparable space and services. An exemption from these charges is permissible only if the Administrator determines charges to be infeasible or impractical. GSA in assessing charges for space and services to organizations other than Federal agencies, has adhered to a strict policy of billing the Federal agencies that sponsor these organizations. In this case, the ICC is billed for NARUC space and this amendment will make it clear that the ICC should pay for the NARUC space due to their interface with the ICC and continue to allow NARUC to occupy such space at no cost.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I have had a chance to review the amendment. I understand this is the amendment dealing with the housing of the Utility Regulatory Commissioners?

Mr. LEVITAS. The gentleman is correct.

Mr. HARSHA. Mr. Chairman, I have no objection to the gentleman's amendment.

Mr. HOWARD. Mr. Chairman, if the gentleman will yield, I agree with the gentleman from Ohio (Mr. HARSHA).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. FLIPPO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will direct these remarks to the chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD).

I note that in section 16 of the bill, written contracts, where appropriate, are required for the transportation of exempt agricultural commodities. Apparently, the words "where appropriate" are meant to be limiting in that not all the transportation of all agricultural commodities will be subject to the provision.

Mr. HOWARD. Mr. Chairman, if the gentleman will yield, I will say to the gentleman that he is correct. Written contracts will be required where the Interstate Commerce Commission determines that there is a need for them. Essentially, they will be used where there is a need to prevent practices which are abusive to the owner-operators and to the consumer, such as "lumping." In other words, they will be required in only those transportation segments where there are abuses and there is a clear need for them.

Mr. FLIPPO. Mr. Chairman, I note that the Department of Agriculture plays a very significant role in the formulation and use of contracts.

Mr. HOWARD. The gentleman is correct. The Commission has been given the principal role because of its expertise in transportation.

The Department of Agriculture has been given a role because of its expertise. Those roles are almost, but not quite, equal. However, the bill provides for a cooperative effort in both the issuing and the administering of the regulations governing the contracts. Of course, the committee also expects them to consult with interested members of the agricultural community.

Mr. FLIPPO. May I inquire, is there any possibility that at some future time, the Department will assume a greater role in this area?

Mr. HOWARD. Yes. As we oversee the effects of this legislation, if we see that the provision has been effectively implemented and that for some reason the Department can better administer it and enforce it, we might possibly assign it the principal role. In the meantime, the Department, because of its size and expertise, will and should assist the ICC in the implementation and administration of this section.

Mr. FLIPPO. One last question. Mr. Chairman, I assume the provision is not meant to affect economic regulation of the transportation of agricultural commodities. Is that assumption correct?

Mr. HOWARD. The gentleman is correct.

Mr. FLIPPO. Mr. Chairman. I thank the gentleman.

Mr. DODD. Mr. Chairman, I am very concerned about the mandatory insurance provisions which the Committee on Public Works has written in sections 29 and 30 of the Motor Carrier Act, H.R. 6418. The insurance provisions were included in the bill without extensive background information of what impact these provisions would have on the competitive insurance market. I am concerned that if these provisions are implemented by the Department of Transportation, sections 29 and 30 may have a negative impact on the competitive insurance market and could cause an increase in insurance premiums for trucking firms. I believe that the committee should have had hearings on sections 29 and 30, so that we would have some idea of its total impact on the motor carrier industry and the insurance industry.

Today the competitive market for commercial motor vehicle insurance is working well. Several large insurance companies located in my home State of Connecticut are among those in the property casualty insurance industry which provide the necessary capacity to insure commercial motor vehicles. During the hearing before the Rules Committee it is my understanding that Mr. HARSHA indicated that he had contacted and had the support of the National Association of Independent Insurers (NAII). This association does not represent the large insurance companies in my State and the insurance companies that belong, collectively, do not underwrite a large amount of trucking insurance in comparison.

The amount of capital now available in the United States for underwriting property-casualty insurance is finite. American insurers in this business have assets of approximately $100 billion.

The demand for insurance coverage today substantially exceeds that amount.

Section 30 could require excessive amounts of coverage for existing motor carriers under ICC regulation, that could further reduce capital available to underwrite risks where high levels of coverage are essential, and reduce an insurer's capacity to underwrite new entries into interstate trucking.

When the competitive insurance market proves unable to provide insurance for those who want it, residual markets exist in various States to provide coverage. The insurance provisions in this bill could force many smaller trucking companies to turn to the residual market for the high level of mandated coverage. In residual markets, all applicants are to receive insurance coverage for a price regardless of the risks presented. I am concerned that this issue has not been thoroughly explored and hope that the study authorized to review this insurance provision will address these key issues.

Mr. MINETA. Mr. Chairman, I join in the remarks by my distinguished colleague from the Rules Committee, Mr. DODD. As an insurance broker, by background, and as a member of the Committee on Public Works and Transportation, I am disappointed in the way the committee has gone about inserting provisions into H.R. 6418 requiring very high levels of insurance coverage. I understand that after our committee adopted sections 29 and 30, the Department of Transportation—DOT—telephoned four insurance underwriters in an attempt to assess the impact. In a report back to the committee on May 28, 1980, DOT stated:

> A $1 million requirement could possibly have a significant adverse impact on smaller carriers; while it is being met by most class I ICC-regulated carriers, carriers not currently covered to this extent would have to pay roughly 25 to 40 percent above the current level in additional premiums. . . . The $5 million proposed coverage for hazardous materials carriers could cause serious problems for these carriers and insurance carriers alike. Most hazardous materials carriers tend to carry no more than $1 million of insurance. It would probably be very difficult and costly for carriers to obtain insurance above the $1 million level.

In effect, the committee has adopted a provision contrary to our professed goal of deregulation. The high levels of insurance coverage required by H.R. 6418, and the increased premiums necessary to fund them. may operate as an anticompetitive barrier to entry by unregulated carriers, small and minority motor carriers into markets now served by regulated carriers. The status quo will be preserved. I hope the Department of Transportation will report back to us early in the next Congress on the impact of these insurance amendments. I do not believe we know what will occur. A number of members of the Public Works and Transportation Committee would not have supported these insurance provisions if the anticompetitive impact had been explained.

● Mr. RAHALL. Mr. Chairman, as a member of the Committee on Public Works, I share the concern of my colleague, the distinguished member from California, Congressman MINETA, about the way the insurance requirements in Sections 29 and 30 of H.R. 6418 were inserted into the bill. The committee never had hearings on these provisions, and they have never been subject to public comment. This is not a responsible way to legislate. Insurance coverage for commercial motor vehicles is a complicated area. The committee has few, if any, facts available to justify the very high minimum insurance requirements in sections 29 and 30. We should direct the Secretary of Transportation to study types of commercial motor vehicles as well as owner-operators, and then to recommend to Congress where higher minimum insurance coverage might be necessary.

This is an area where regulation rather than legislation is the appropriate place to specific dollar amounts of minimum coverage. The Committee on Public Works is using a meat ax where a surgeon's scapel is needed. If the Department of Transportation implements sections 29 and 30 the way they are written in H.R. 6418 it will have the same impact on the competitive market for commercial motor vehicle insurance as utilizing a meat ax in a brain surgery.

By requiring more insurance for some types of vehicles and some types of transportation than may be necessary, the Secretary could cause unnecessary disruptions in transportation service and in the ability of smaller trucking operators to obtain insurance in a competitive market. Congress must legislate outlines of programs which require continuing adjustment. Administrative agencies should be given the tasks of working out specific application. Congress cannot successfully prescribe detailed levels and types of insurance by writing the dollar amounts and types of coverage directly into law.●

□ 1610

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I note, in section 8 of the bill which has been referred to in general debate, there is a clause which states:

> Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up . . .

And then it says that the amount that can be allowed for the pickup shall be not more than the actual cost.

The committee reports in the Senate and in the House of Representatives declare flatly that this language will not result in any violation of the Robinson-Patman Act.

I know that there were extensive discussions as to whether or not this measure would be sequentially referred to the Judiciary Committee. It was not rereferred. I think there was an exchange of correspondence between the chairman of the committee, the gentleman from New Jersey (Mr. RODINO) and the gentleman from New Jersey (Mr. HOWARD).

The question that I have—and this is a very difficult question, as this is a very controversial issue as the Members know—but the question I have is this: How is it possible for a customer to pick up and receive compensation for the actual cost of the pickup deducted from the product cost plus the zone delivered price without there being price discrimination as between retail outlets? In other words, it seems to me that a large chain that picks up is going to be given compensation for the actual cost under the formula, and the small, independent retailer, the corner grocer, is going to have to pay an average zone price, and we are going to be discriminating against that independent grocer. At least, that is my question. I would like to be assured that no price discrimination is going to occur under this provision of the bill.

I yield to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. There is no intention of being inconsistent with the Robinson-Patman Act, I would say to the gentleman, and the differentials as they could occur under Robinson-Patman. And we do have language on page 20 of the report concerning this.

Mr. McCLORY. It is my understanding that the Robinson-Patman Act would prohibit price discrimination with regard to the sale of the same product to two different retail outlets. I was just wondering how we avoid violating the Robinson-Patman Act under this provision.

I yield to the gentleman.

Mr. HOWARD. There cannot be price discrimination; but there can be price differential, I would say to the gentleman. Beyond that, I would defer to the gentleman from Ohio.

Mr. McCLORY. I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. The Robinson-Patman Act prohibits discriminatory practices of pricing but does not prohibit differential cost due to delivery. That is an accepted practice. It is authorized under the law now. But the cost that the gentleman is talking about is easily figured because right now they are using the uniform pricing system. Do you know how they get the uniform pricing system? They take all of their costs and then average them. That is how they get it. They already know their actual cost. So there is not any problem in determining their actual cost. Under the existing law and under the Robinson-Patman Act, price differential is permitted.

Mr. McCLORY. Is it my understanding that there will be no price discrimination between the retail outlets, so that we may preserve the viability of the small, independent retailer?

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, the fact of the matter is that we are not talking about the same prices to the same purchasers. Where uniform delivered prices based on average transportation costs are offered, it is lawful to deduct all or part of the average cost as long as the resulting price at the dock is the same to all. Where actual delivered prices, however, are not uniform but based on the seller's actual freight cost to each individual buyer, it is lawful to deduct part or all of the actual freight cost on a uniform, nondiscriminatory, loading-dock price. What you cannot do, without creating a discriminatory price, is to deduct actual from average or average from actual.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McClory) has expired.

(On request of Mr. Levitas and by unanimous consent, Mr. McClory was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. If there is an average delivered price from which the actual transportation cost is deducted, you automatically end up with a discriminatory or different price to the purchaser. It is arithmetic. It is not law. If you got an average price from which is deducted an actual transportation cost rather than deducting an actual transportation cost from an actual price, you have got to have this in there.

Mr. McCLORY. That would seem to follow. But since the reports say specifically that Robinson-Patman Act is not being amended, and since this was not referred to the Judiciary Committee, which has jurisdiction of antitrust laws, it seems to me there must be some mechanism through which it is intended to avoid this price discrimination.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, it should be pointed out that section 8 of the bill constitutes an amendment or a major repealer of the Robinson-Patman Act.

First of all, there is currently no prohibition in the law against backhauling practices; but there is a prohibition against the kind of practice which would be sanctified by section 8, which would permit the owner of a truck—let us say, from a large grocery chain—to arrive at a destination to pickup certain commodities and to demand the right to receive a rebate for the entire or actual amount of transporting the goods. Under current law, this is a violation of the Robinson-Patman Act, and it has been so found repeatedly by the Federal Trade Commission.

Mr. McCLORY. The Federal Trade Commission, of course, is charged with enforcement of the Robinson-Patman Act, and the report does say that the Federal Trade Commission retains its authority to enforce the Robinson-Patman Act.

So there is a difficulty in reconciling the different points of view, and it does present an extremely difficult dilemma for many of us here in this Chamber, I know.

Mr. DINGELL. If the gentleman will yield further, there is no prohibition against allowing backhauls to be properly compensated, but there is a prohibition against allowing a backhaul compensated by a deduction of the actual cost of transportation because this action has the effect of discrimination. As a matter of fact, this practice would encourage people to engage in fronthauling—to pick up goods with an empty truck because they get such an inflated price for carrying their own goods back.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, the report says clearly that it is not a change, not an amendment to the Robinson-Patman Act. The language of the bill itself sets forth that this allowance or rebate can be given only if such compensation is available to all customers on a nondiscriminatory basis.

Mr. McCLORY. The only part that bothers me is that it says, "notwithstanding any other provision of law."

AMENDMENTS OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

One amendment is at page 14, and the other is at page 80.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. HARSHA. Mr. Chairman, I reserve the right to object.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, the first amendment strikes section 8, and the second amendment is a technical amendment renumbering the appropriate sections in the index. The first amendment is the one that strikes section 8.

Mr. HARSHA. What is the second amendment?

Mr. LEVITAS. It is on page 80. It is the one dealing with the numbering of the sections in the United States Code.

It has the effect of striking out the figure "10733" and inserting in lieu thereof "10732."

Mr. HARSHA. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Levitas: Page 14, strike out line 11 and all that follows through the line immediately following line 12 on page 15.

Redesignate succeeding sections accordingly.

Page 80, line 1, strike out "10733" and insert in lieu thereof "10732".

Page 80, in the line immediately following line 12, strike out "10733" and insert in lieu thereof "10732".

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

□ 1620

Mr. LEVITAS. Mr. Chairman, this amendment would have the effect of striking section 8 in the bill. Section 8 in the bill has nothing to do with truck deregulation. It has to do with the allowances which purchasers will receive for picking up commodities they purchase at the seller's dock as opposed to delivering, having them delivered where there is a zone-delivered price.

In the interest of simplifying the basic situation as it now exists under the present law, under the Robinson-Patman Act, a seller of commodities can establish a zone and within that zone charge a zone-delivered price which is the same to every purchaser on a nondiscriminatory basis, so that any purchaser within that zone can buy the same goods for the same price, delivered to his place of business.

If the customer wants to pick up those goods rather than have them delivered by the seller, under the present law he can do that. There is no prohibition in the present law. This section does not give any rights to pick up goods which cannot be picked up at the present time. Under the present law, a purchaser picking up those goods is also entitled to an allowance for picking up those goods, and that allowance is a deduction from the delivered-zone price based on the average delivered transportation cost within that zone.

What this amendment attempts to do is provide that purchasers could require or insist or use their economic power to extract from sellers the actual delivered transportation cost from the zone-delivered price, which automatically results in different prices to different purchasers of the same commodities within that zone.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Or such larger figure as they can by their economic power extort from the seller? Is that not right?

Mr. LEVITAS. Up to the actual transportation cost. The gentleman is correct.

Obviously, those purchasers who have the ability through their economic position or through their ownership of a vast fleet of trucks will be able to avail themselves of that opportunity and the use of that economic power, where the small businessman and the small purchaser will not, and the consequence of that is that the purchaser who is not able to compete with the giants in this field will become at the economic mercy of this discrimination.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I support the Levitas amendment to strike section 8 of this bill. It is my judgment that section 8 is clearly an amendment to the Robinson-Patman Act. As a member of the House Judiciary Committee and one who is aware of the significance of the Robinson-Patman Act to the vitality of competition in the United States, I was surprised to learn that the Judiciary Committee has yet to hold a single hearing, or even a discussion on this proposed change in the Robinson-Patman Act, even though it is a matter that comes within the jurisdiction of the Judiciary Committee.

Now I am frank to say that I do not pretend to understand all of the issues involved in this proposed amendment. I have learned enough, however, to know that the matter is very complex and that it can be extremely confusing. I trust that will be true for anyone who has not had the opportunity to sit down and analyze the questions involved and obtain the views of all the various parties that are affected, or claim to be affected, by this proposal. I have heard from all sides on this issue and have given their arguments careful thought.

While as I say the issues involved seem highly complex to me, the fact that there is so much interest in the amendment does make it a matter of concern.

As I understand what is happening, the proponents propose an exception to the Robinson-Patman Act limited to food and grocery products. It is claimed that this is important as an energy saving device; yet, I am also advised that while the House and Senate committees with energy jurisdiction have at one time or another considered similar customer pickup amendments, neither committee has seen enough justification to move the matters to the floor of the Senate or the House on the basis of energy savings arguments. The National Small Business Association is so upset about the proposal that it has argued that something akin to disembowelment of the Robinson-Patman Act would occur if this exception goes into effect. The Federal Trade Commission has said that it feels the amendment is wrong and will merely legitimize actions that the FTC now considers to be discriminatory and anticompetitive. The only other independent agency to review the matter, the ICC, said last year that in its judgment the proposal would have such minimal effect on energy and that all of the economic issues involved should be considered and disposed of before any action was taken.

I know that as a member of the House Judiciary Committee this matter has not been considered by our committee at least since I have served there; we have not had an opportunity to look at all of the economic issues that are generated by the amendment. Mr. Chairman, without arguing one way or the other on the merits, I must say that I find the procedure involved with this particular section of H.R. 6418 to be very curious. It seems to me that it is a very disorderly way of doing business. A body the size of the House of Representatives must necessarily operate with fairly stringent rules, so that the business of the House can proceed in an orderly fashion.

Those rules rely heavily on the expertise of our various committees. But, here we have what appears to me to be a circumvention of jurisdiction of the substantive committee charged with responsibility by the full House for examining amendments to the Robinson-Patman Act to a committee that admittedly has no expertise in the area of the Robinson-Patman Act. If this provision is to be retained, the House needs to fully understand what it is doing here. By precedent, should section 8 be retained, next year if the House Judiciary Committee decides to consider amendments to the Robinson-Patman Act, perhaps we will decide to append amendments to the trucking act that is being regulated by the Interstate Commerce Commission; or maybe we can do some work on the Federal Aviation Act; or perhaps we could throw in a few amendments to the Internal Revenue Code.

It just seems clear to me that this is a very improper way for this body to proceed unless we are about to have all business dealt with initially by a Committee of the Whole.

Mr. Chairman, we have rules in this body for a very good reason. We ought to abide by those rules unless there are extremely good reasons for making exceptions. No such good reason has been advanced in this case.

Again, Mr. Chairman, I raise this argument without taking a position on the merits. Should the Judiciary Committee decide next year that it wants to take major action to rewrite the Robinson-Patman Act, our options may be limited by steps that have been taken by the House Public Works Committee. As a member of the House Judiciary Committee, I think the inclusion of section 8 in the trucking bill is improper and very bad precedent that could prove to be very unsettling to the business of the House if we allow it to happen in this case. I strongly support eliminating section 8 of the trucking bill, and I commend my colleague from Georgia for his amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New Jersey.

Mr. MAZZOLI. I thank the gentleman for yielding.

I have been listening with interest, because this is a very confusing section of the law. I appreciate the gentleman's view that this does not belong in a trucking deregulation bill.

I would ask the gentleman this question: He says this would be discriminatory in favor of those groups, those companies which have fleets of trucks, and discriminatory against the small purchaser who does not have such trucks. Do we not have cooperatives and other joint ventures which even today allow smaller grocery stores to purchase and get bulk rates and so forth—and maybe the gentleman could address that to the gentleman from Kentucky—would that not be a solution which would allow the small businesses, to which my friend from Kansas just alluded, to compete?

Mr. LEVITAS. In all candor, I would tell the gentleman that if a grocer was a member or a retail outlet was a member of a cooperative that had the purchasing——

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS (continuing). That they could indeed avail themselves of the same type of purchasing power and allowances which would be provided to the large chain operations under this amendment.

I would simply say to the gentleman that a large number of our retail supermarkets or grocery outlets in this country choose, as they have the right to choose, not to be part of a chain, not to be part of a cooperative. I do not think that we should tamper with the Robinson-Patman Act, which would have the only way in which a person can continue to be an independent businessman in the competitive atmosphere that you have in the grocery business—it is highly competitive—is to affiliate with a cooperative. I would have to agree in all honesty if you are a member of a cooperative you would probably be in the same situation as if you were a retail supermarket or chain outlet.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. SCHEUER. I want to strongly support my colleague in this amendment. I am the chairman of the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, which has jurisdiction over the Federal Trade Commission.

Section 8 properly does not belong in the jurisdiction of the Committee on Public Works and Transportation or an amendment to the Motor Carrier Act, H.R. 6418. Section 8 addresses matters that are administered, interpreted, and policed by the Federal Trade Commission, which is subject to the jurisdiction of the Committee on Interstate and Foreign Commerce, and the committee report, 96–1069, makes that perfectly clear.

The report states that section 8:

> It is designed, however, to eliminate the confusion as to the law resulting from FTC Advisory Opinion 147.

And it goes on to term this opinion:

> An FTC-created roadblock.

And further the Commission declares:

> The Federal Trade Commission will be expected vigorously to enforce the Robinson-Patman Act protections against discriminatory pricing.

Now that gives me very great concerns over section 8 as written, because there can be no question but that this is an FTC issue, the Robinson-Patman Act, as well as coming under the jurisdiction of the Committee on the Judiciary.

Mr. LEVITAS. If I may reclaim my time, I would like to agree with the gentleman, because the committee report also says, I think it is interesting to note, "The purpose of this provision is to make it clear that subtracting actual transportation savings from the delivered price of these goods is not a violation of the Robinson-Patman Act."

I think that is a giveaway.

Mr. SCHEUER. If the gentleman will continue to yield, let me add this matter never was considered in any hearing. It seems to have come full blown from the heavens. Let me say the Committee on Interstate and Foreign Commerce has spent the last 4 years working on a very systematic and thoughtful set of reforms for the Federal Trade Commission. No Member of this House has had a more active and contributory role in etching those reforms than the Member in the well, the gentleman from Georgia (Mr. LEVITAS). So I must say for another committee of Congress to involve itself in the matter of reforming the FTC without hearings, without the thoughtful, reasoned process in which the Member from Georgia involved himself so creatively, I find unacceptable.

Therefore, I strongly object to the inclusion of section 8 in this bill. I strongly support the amendment.

I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I merely say to my colleague, and to the Members that we are not blaming the gentleman from Ohio (Mr. HARSHA), or the gentleman from New Jersey (Mr. HOWARD). This was not their proposal. We know where this came from. I spent 4 hours at the Committee on Rules with my friend from Georgia and I know that wherever the subject came up, they were quite gingerly in defending it. Not necessarily on principle they averred but because it is a part of a bill and a package that has been agreed to.

I think the Members ought to know in a way our friends on the committee have really been victimized because it has been put in there and a virtual ultimatum issued that it has to stay.

□ 1630

I think that ought to be explained. We have nothing that we would disagree with the gentleman from New Jersey (Mr. HOWARD) or the gentleman from Ohio (Mr. HARSHA). It is just the way this thing was put together and many of us who are interested in small business object. I know my friend, the gentleman from Michigan, and my friend, the gentleman from Georgia and myself are known for that interest.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 5 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I think most of us have a reasonably clear record in support of small business and free enterprise. It is in that particular stance that we want to oppose this amendment.

I appreciate the leadership that my friend, the gentleman from Georgia, has given to this important issue. I only hope the Members listen, because I do not think this delicate, fragile compromise bill, will fall apart if we do the right thing on section 8.

I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, for the benefit of my colleagues, I read some language. This is on the stationery of the Federal Trade Commission. At the appropriate point I will put it in the RECORD. It is signed by the Assistant Director of the Bureau of Competition on behalf of the Federal Trade Commission and states that:

> The Federal Trade Commission neither prohibits nor discourages back-haul by trucks. In this respect, Kroger's recent statement suggesting that the Commission has discouraged back-haul is simply wrong. Indeed, the Commission's policy consistently has been to favor back-haul allowance deductions as long as those deductions result in a price at the seller's shipping dock that is the same to all buyers, avoiding injury to competition and unlawful price discrimination.

Now, I would point out to my colleague that what section 8 of the bill does: it favors the big chains, many of which have their own transportation systems and it disadvantages the little guy.

Now, this is not a recent issue. As early as 1973 I wrote the Federal Trade Commission about this issue of backhauling and its impact on competition and antitrust laws. In a subsequent statement by the Federal Trade Commission, which I will also insert into the RECORD at the appropriate place, the witness on behalf of the Federal Trade Commission said as follows:

> My proposal to remedy the pricing backhaul problem is similar to the one made by John D. Dingell in an August 1973 letter to then Federal Trade Commission Chairman Lewis A. Ingram. Congressman Dingell suggested it could be required that as an alternative to any delivered price an undelivered price must be offered which would be equal to the delivered price minus the average cost of delivery.

Backhauling is currently allowed. Section 8 is nothing other than a fraud, and it is opposed not only by small business groups, the Federal Trade Commission, and by the Consumers Federation of America, whose comments on this outrageous thing I will read to you on my own time.

I thank the gentleman for yielding.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman.

I might take this moment to explain what is a very complex issue in simple terms just for a moment, because there are many Members who have not had the opportunity of studying it as closely as other Members.

Let me give an illustration. Suppose the uniform delivered price on a product is $100, including the average transportation cost. One buyer is located close to the seller and another is located three times further away. The actual cost of delivery by the seller to the close-in buyer is $5.00. To the distant buyer the actual cost is $15. To be able to charge both buyers the same delivered price, $100, the seller must average his freight costs, which works out to $10 for each of the two buyers. A buyer taking advantage of section 8 would be in this situation, the distant buyer would get a $15 allowance and the loading dock price would become $85. The close-in buyer who would get the same allowance would receive $5, and therefore his loading dock price is $95.

If the two buyers compete, supermarket A, little grocer B, the close-in buyer is clearly disadvantaged by what is now a $10 price spread between the seller's two prices, though both buyers arrive at the same dock for the same goods with the same size truck. You have a price discrimination pure and simple. It is arithmetic. It is not a matter of law and it is a provision which deserves a great deal more scrutiny.

You are going to be told that there was testimony about this before the Public Works and Transportation Committee. I have looked through the record. All I can find so far is one page of testimony in which a group that came before us said it should not be in this bill. It has nothing to do with trucking deregulation, and they attached some information about it. This was not a matter which addressed itself to the Public Works Committee. It should have been considered by at least two other committees.

I agree with my colleague, the gentleman from Ohio. It is not the mischief of the Public Works Committee. We were victims of circumstances and the remedy for it is to strike it from the record.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I know the gentleman from Georgia is not concerned about upsetting the delicate balance and I admire him for his tenacity in attempting to do so; but I put this question to him when he was before the Committee on Rules and I think it might be helpful to the members of the committee now to have the gentleman's response.

Why is section 8 called the Winn-Dixie amendment?

Mr. LEVITAS. In order to respond to that question, I can only rely upon hearsay evidence mostly received from reading the Washington Post and other journals. I cannot attest to the reliability of that source of information.

I would say that it has been suggested that the major beneficiaries of this particular provision in the law would be the large chain supermarket operations.

I also believe, and in fairness to the Members of the House, that other groups would benefit also; but to a much, much less degree. As I told the gentleman from Kentucky, I think cooperatives will benefit. I think many wholesalers will benefit; but so much inferior in terms of benefits, that the cumulative economic effect in a very short period of time will place the large chains at a competitive advantage, to the great disadvantage of small business in this country. That is why I think it should be stricken from the record.

Mr. FISH. Mr. Chairman, will the gentleman yield to me?

Mr. LEVITAS. I would be happy to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I rise in support of the amendment by my colleague from Georgia (Mr. LEVITAS) to strike section 8 from H.R. 6418, the Motor Carrier Act of 1980.

Section 8 of H.R. 6418 will change the entire system of delivering goods to grocers all over the United States, a system which is presently working very efficiently for the manufacturer, the trucking industry, and the consumer. The present system, as sanctioned by the Robinson-Patman Act, bars discriminations in price that injure competition and are not based on savings in cost or the good faith meeting of a competitor's price. The Robinson-Patman Act permits only uniform delivered pricing systems to be utilized in a broad area surrounding the manufacture's shipping point.

Section 8 would allow customer pickup of goods with an allowance granted to the customer based on "actual cost" of transportation. Thus, customers who decide to pickup their goods will no longer be paying the same price for the same amount of the same product at the shipper's dock—precisely the type of price discrimination prohibited by the Robinson-Patman Act. This is not, as proponents have characterized, a backhaul provision—it is a change in the antitrust laws of this country that will adversely and devastatingly affect small independent grocers who have long had the protection of the Robinson-Patman Act.

A brief explanation of the distinction between backhaul and customer pickup allowances will serve to clarify why this really is a matter for consideration by the Judiciary Committees in the House and Senate rather than a measure which should be voted on today.

When a seller offers a f.o.b. shipping point price that is substantially the same to all customers showing up at the loading dock, there is no issue or price differences for the customers. When the seller uses delivered prices with actual freight costs, which, in turn, may be deducted as actual cost backhaul allowances under present law, there is also no price advantage for the customer. The problem of potentially discriminatory prices arises, then, only when actual costs are deducted from the average or common costs contained in a delivered price.

If a manufacturer's delivered price is $100, and one buyer is close and another is twice as far away, the actual cost of delivery to the close-inbuyer is $10. To the other buyer, the actual cost of delivery is $20. If both buyers claim the allowance offered by the manufacturer as proposed in section 8, the total price to the close-inbuyer is $90, and the total price to the distant buyer is $80. Whether the close-in buyer elects to pay a delivered price of $100, or a pickup price of $90, the distant buyer can undersell him by at least $10. It is precisely this type of price discrimination that is banned by the Robinson-Patman Act. Uniform delivered zone pricing would become obsolete, and we will have amended the Robinson-Patman Act without the Judiciary Committees of either body reviewing this action.

The different prices in the above example cannot be justified by different costs faced by the manufacturer. The seller's cost is the same if the buyers arrive at the dock with the same size truck for the same goods. However, the seller has the option under section 8 to cause the buyer to pay very different prices for these goods. If the costs are equal, the price should be equal as well. Actual cost of delivery is an elusive concept—introducing competition to the freight allowance for goods will work to great advantage to the large chain buyer and to the detriment of the small store.

The customer already has the right to pick up his goods at the seller's dock. In fact, many warehouses have the majority of their customers picking up their goods. These customers are allowed a pickup allowance, which is the same for everyone who comes to the seller's dock. Under section 8, regardless of the fact that the Robinson-Patman Act prohibits price discrimination for the same product, that product could be sold for different prices to each and every customer who comes to the seller's dock. Buyers from the large chain stores will negotiate lower prices based on "actual cost of freight" and use their power to influence the rate charged, while smaller stores will not have the leverage to request lower rates from the seller. This would clearly constitute price discrimination and would cause prices charged by the small stores to go up.

The FTC has continuously opposed this provision, stating that it could not enforce the Robinson-Patman Act if section 8 were enacted. As the FTC noted in testimony before the House Small Business Committee, "backhaul allowances can be offered to buyers confronting uniform delivered price systems, as long as the price that results from the deduction is the same for all buyers, thereby preventing price discrimination." The examples I have cited clearly demonstrate that there would be price differences for buyers if section 8 were approved. The FTC would find it impossible to monitor what the actual cost of delivery would be in each case, as conditions continually change that will affect the patterns, volume and price of pickup.

As large buyers make pickups to suit their own purposes, the probable effect will be to raise distribution costs overall and to increase transportation costs to buyers not making pickups. Sellers are presently able to minimize distribution and transportation costs by consolidating shipments. If volume declines and pickups increase, higher costs and higher prices will ultimately result. Loss of central shipper control over timing of shipments will interfere with the effective and efficient flow of goods. Those who do not make pickups will find delivered prices increased due to higher distribution and transportation costs of the supplier. The ultimate impact, and one which I find most devastating, is that differing pickup allowances may induce sellers of grocery and food products to shift to a pricing system in which buyers are charged the actual cost of transportation. For consumers who live far from the shipping point, the price of their goods could increase dramatically.

Despite the inclusion of the gentleman from Georgia's amendment in committee which directs the buyers and the retailers to pass on any cost savings through the pickup allowance to the consumer, there is no indication how such a laudable goal will be monitored and instituted. The ICC and the FTC clearly do not have the personnel to assure compliance with this law. We cannot depend on the largess of the retailers to pass on any savings without an effective deterrent for failure to do so.

Section 8 would permit large chains to justify selling the same goods for different prices at different locations. Through selective price-cutting, a small competitor located not far from two large chains, could be completely undercut in price as the larger stores receive a higher pickup allowance. Provisions such as that contained in section 8 have repeatedly been rejected by the House and the Senate over the last 5 years. The reason this was accepted in the State is due to the failure of that body to permit open and fair debate on the issue. I urge you not to allow the same problem to occur in the House of Representatives.

The Robinson-Patman Act is a major reason for the survival of this Nation's small businesses. At a time when we seek much-needed and vital legislative initiatives on behalf of small businesses, we should not capriciously amend the Robinson-Patman Act, which prohibits various discriminatory practices which hinder, injure and eliminate small business from the competitive aspects of our economy. Neither the Small Business Committees nor the Judiciary Committee have had an opportunity to consider the potentially detrimental effects of section 8 on the Nation's small businesses.

I urge support of the amendment to strike section 8 as a vote of confidence in our competitive system and in the provisions of the Robinson-Patman Act.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. COLLINS of Texas. Mr. Chairman, I rise in support of section 8. I have heard much discussion about grocery stores and, really, my support comes from the grocery stores. I do not know where your wife buys her groceries, but most people today buy them from these big grocery chains. Now, these grocery chains today, 4 out of every 10 of their grocery trucks are running empty. This means fuel energy savings for America if we have this section 8 in the bill.

Now, I am not just talking about the grocery chains, because one essential question was raised while we were discussing section 8. The issue was raised, in groceries: What about the small, little independents?

Down in our metropolitan area, I went to the small independent little grocery store, and I said, "How do you work?" Well, they have a big association. Small independents work together. It would be to their advantage. I would say that probably 98 out of 100 grocery stores will benefit if we maintain this section 8. When the grocery stores buy for less, it means the food on your counter is going to be selling for less.

This section 8 makes sense. It means fuel savings for America. It means lower food costs for Americans, too. Both ways, this country is the winner.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. COLLINS of Texas. I would be glad to yield.

Mr. ASHBROOK. Mr. Chairman, could my colleague explain to me what changes the gentleman is talking about? What economies do these companies want to institute that they cannot now, but could under section 8?

Mr. COLLINS of Texas. Well, what they do now, when they come in they do not get any freight savings for buying their groceries. In other words, it is a flat price to them.

Mr. ASHBROOK. But when they have their own trucking—and we are essentially talking about chains that have their own trucking operation—they can operate them now in the most economical manner available to them.

Mr. COLLINS of Texas. Well, let us give an example. We have one called Tom Thumb in Texas that runs up and down through the State. If they carried groceries from Dallas down to Houston, they would like to pick up a truckload and bring it back from Houston to Dallas.

Mr. ASHBROOK. They can now.

Mr. DINGELL. Mr. Chairman, will the gentleman from Texas yield?

Mr. COLLINS of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, that is not now prohibited. They can do it under existing law and section 8 is not needed to permit them to do so.

Mr. ASHBROOK. They have their own trucks right now operating that way, the most economical manner available to them.

Mr. COLLINS of Texas. As I understand it, when they go to a place to pick up deductions, they do not get the full freight allowance if they are hauling it themselves. Let us just say that some outfit down there is selling Mexican tortillas in San Antonio and they are going to go down and pick them all up. They want to get the full freight allowance when they pick them up to haul them back to Dallas. I think they are entitled to have that full freight allowance. If they are in the grocery business, they ought to be allowed to haul at every discount they can get.

□ 1640

Mr. ASHBROOK. My good friend from Texas, and I have followed him for many years, usually is on the right track. But I have to honestly suggest that the gentleman may have his hypothetical just a little bit off what the actual fact is.

The point is the large chains have their own trucks right now. These large chains who have their own trucks are the ones who are going to benefit from section 8.

Mr. COLLINS of Texas. That is right.

Mr. ASHBROOK. They will receive the benefit in the sense of being able to extract higher prices. At the present time they can pick up. They do not have problems of backhaul. They can arrange their drops at their own stores. They can pick up, drop off at their own places. Section 8 will allow them to get out from under the small business protections of Robinson-Patman.

Mr. COLLINS of Texas. Let me come back now and emphasize that grocers. as we all know, only make a cent on a dollar of groceries they sell.

I do not know of any business in the world that operates as efficiently as grocery stores do. What we are talking about is how they can keep the prices of groceries lower.

Now, I do not know whether the gentleman buys from Safeway or A. & P., or a big grocery chain such as a fine group in our town which is Tom Thumb. Whoever the grocer happens to be, when they can sell the gentleman his groceries cheaper, we are all better off. It so happens that most of the independents work through a co-op syndicate and they like this idea of section 8. If everybody likes section 8 that is in the retail grocery business, it seems like a good idea to me.

Mr. Speaker, the House will soon begin consideration of H.R. 6418, the Motor Carrier Act. I believe it is essential to maintain section 8, the food and grocery transportation provision. The grocery wholesalers and retailers have informed me that this provision will make it possible for them to conserve energy and hold down the costs of distributing food and grocery products.

I would like to say a few words about section 8 of H.R. 6418, the Motor Carrier Act of 1980. There have been a lot of charges and countercharges about this section; but it seems to me there is one fundamental fact that has been lost in the shuffle. Section 8 will result in significant fuel savings.

And it seems to me that at a time when this country is so dependent on foreign oil, we ought to be taking every possible step to reduce fuel consumption.

H.R. 6418 contains a number of provisions which will save energy by eliminating restrictions on motor carrier operations. Section 8 is one of those provisions.

Four out of ten grocery trucks on our highways are running empty. One of the reasons for this is the zone delivered pricing system, which removes any incentive for a customer to pick up his own product in his own truck and eliminate an empty backhaul. The incentive is not there because the customer is already paying for transportation as part of the price of the product. The attached Justice Department letter notes the energy inefficiencies caused by zone delivered pricing, in addition to the other problems with that pricing system.

Every item in the grocery store arrives by truck. That truck comes from a food wholesaler—not directly from the manufacturer. It seems obvious that there will be energy savings if the wholesaler's truck instead of returning empty after a delivery to a retailer can stop off at a manufacturer's plant on the way back and pick up a load destined to the warehouse—a load which the manufacturer would have had to send out in its own truck., One truck would be doing the work of two.

Now, of course, there will be situations where pickup will not be possible or where the manufacturer's truck will need to make a run anyhow. But looking at the whole system, there has to be savings.

In 1975 a Federal Energy Administration task force estimated 100 million gallons would be saved from customer pickup. The ICC, Department of Energy, General Accounting Office, and National Commission on Productivity and Work Quality have all concluded that "there will be savings."

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I was wondering, listening to all of this, if we just say food is free, and whoever can pick it up, and they do not have to pay a dime if they have got their own little car, or whoever has a big car, if they can pick it up, why is it not free? Why do we have to have these things? Obviously if someone is going to have to take from Houston to Dallas, I mean more than that, Amarillo to Corpus, it is going to be an expense. Somebody is going to have to pay it. Maybe it will encourage canneries in Corpus instead of having them all up in Houston.

The point is we have gotten ourselves in a box with all of these regulations. If we simply said, "Here is the food, it costs so much per case, and anybody who comes and picks it up, you get it at that price. Now, then, if you want it delivered, we will charge so much."

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding I just want to support his position on this.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. REGULA and by

unanimous consent, Mr. Collins of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. REGULA. I would just say that the independent grocers in my area strongly support the retention of section 8. Many of them are in co-ops, and this benefit could flow to their co-ops, and they come back to them in the form of rebates, and we will end up with a lower cost to the consumer. This is why it is vital that this be retained.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. Collins).

Mr. Chairman, I rise in support of section 8 of the Motor Carrier Act. My distinguished colleagues on the Committee of Public Works and Transportation have worked long and hard to attain a resolution of this matter, and I believe their version is a good one. I am a daughter of a small, independent grocer, a distinction I am proud to share with Prime Minister Margaret Thatcher. I know the problems these business people face. And, I have spoken with constituents who are grocers, and they tell me this bill is a good one. They believe it will help their businesses—not hurt them.

Mr. Chairman, section 8 is energy-efficient, cost-effective, and equitable. I urge my colleagues to oppose the Levitas amendment.

The backhaul provision in the bill is energy-efficient because it stops the current practice that results in one of three trucks on the highway being empty. In this time of high energy costs and growing conservation awareness, how can we continue a practice that is so wasteful of gasoline and so costly to the consumer? This dead-heading costs hundred of gallons of precious fuel yearly. In 1975, it boosted transportation costs by $330 million. This kind of waste hurts everyone— the food wholesaler, the food retailer, and the consumer. I believe section 8 would go a long way toward eliminating this waste.

The backhaul provision is cost-effective because competition in transportation costs will ultimately benefit the consumer. The independent food retailer is supportive of this section because he or she knows his or her wholesaler or co-op will benefit—intense competition in the wholesale food business guarantees that any transportation savings will be passed along to the retailer. Furthermore, an independent grocer does not have to own a truck to benefit.

Section 8 is equitable. Manufacturers would be permitted, but not required, to reduce the price of goods by the actual amount of transportation costs if the customer picks up the goods themselves. The compensation allowance must be available to all customers on a nondiscriminatory basis. The present interpretation of the FTC advisory opinion 147 by some manufacturers has resulted in discrimination against the distant buyer who receives less for hauling his goods than it cost him.

On this basis, I urge my colleagues to support the committee version of this bill. It is energy-efficient, cost-effective, and equitable.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding. I would like the attention of the gentlewoman from New Jersey (Mrs. Fenwick) so I may respond to her comments.

If the cost of the goods that were being picked up at the dock were the same to everybody concerned, and the allowance available was the same to everybody concerned, there would be no problem and I would agree with the gentlewoman. That is not what is in this section.

What is in this section is permitting an actual deduction of transportation expense from an average delivered price which already has transportation costs included in it. So that is why it creates a discrimination. If my colleagues care about small business, who cannot avail themselves of that, then they had better vote to strike this section.

The other point is about passing on the cost savings to the consumers. I kept hearing that while people were talking about this legislation, so I offered an amendment in the committee which would have required that the cost savings be paid.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. Levitas and by unanimous consent, Mr. Collins of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. LEVITAS. To my chagrin, what I found out was that people who were promoting section 8, which was going to save the consumers a lot of money, when I said would they not pass it on to the consumers they said, "No, wait a minute, we may not have to do that. This may be a way to assist us in capital formation or reinvestment in our business," which I also support. I support all of those approaches, but not through this device.

Now, I was able, through the great cooperation of the chairman of the subcommittee, Mr. Howard, to get a sense of Congress that this is what should be done. But the fact of the matter is the people who were selling this to the public and selling it to the Congress on the basis that it was going to benefit the consumer, when I suggested that is what they do, they were not in favor of it. So I just began to wonder whether or not the consumer is really going to be the beneficiary, or whether it was a means to help big business as opposed to small business.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I would like to support the gentleman in his remarks. I represent mainly a rural area, and it is my understanding that this section 8 will enable the wholesalers serving rural areas like my district to balance their operations, improve their efficiency and, by doing that, hopefully lower their prices. But the gentleman mentioned something, if I am not mistaken, and I would like to clear this up. Was it the Department of Energy or the Department of Transportation had estimated that section 8 could mean a savings of 100 million gallons of gasoline per year?

Mr. COLLINS of Texas. Would the gentleman tell us how much that is? I would like to repeat it.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. HARSHA. In response to the gentleman from Tennessee's question, the Department of Energy has estimated that there will be 100 million gallons of fuel saved annually by this section.

Mr. BEARD of Tennessee. I thank the gentleman and give my support to section 8.

Mr. COLLINS of Texas. I think that really sums up the big savings in cost of groceries. This means 100 million gallons of fuel will be saved, and it means 4 out of 10 grocery trucks that are now running empty are going to be full hauling groceries. It means when grocery stores buy for less they will sell for less, that food will cost less for the housewife when she buys her groceries.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment to strike section 8 of H.R. 6418. In the past, I have sponsored legislation similar to section 8 and I strongly support its inclusion in the bill.

Section 8 will conserve fuel and keep down food prices. It will not damage the Robinson-Patman Act and will not hurt the small retailer.

The fuel savings are obvious. Trucks which would otherwise go back to the warehouse empty would be encouraged to pick up goods from the manufacturer. A 1975 study suggested that 100 million gallons of fuel a year could be saved. Whether or not one accepts that particular figure, the fact that a substantial amount of fuel would be conserved is incontrovertible.

The consequence of these fuel savings and better utilization of trucks carrying grocery products would be lower costs to the retailer and ultimately to the consumer. The rate of inflation has not yet diminished to the point where we can ignore the potential for cutting down on the cost of food.

This provision will not change or weaken the Robinson-Patman Act. It simply clarifies an FTC advisory opinion which has discouraged manufacturers from offering backhaul allowances. The language of the bill requires that such compensation should be "available to all customers of the seller on a nondiscriminatory basis and * * * not exceed the actual cost to the seller of delivery to such customer."

One of the arguments against section 8 has been the charge that it will hurt small businessmen. This is just not true. As I described in my "Dear Colleague" letter last week, the small retailer can benefit just as much as the large food chains.

Mr. Chairman, a vote in favor of this amendment is not a vote in favor of small business, it is a vote in favor of inefficiency and higher costs for food. I urge my colleagues to defeat it.

Mr. DINGELL. Mr. Chairman, I move to strike the words, and I use in support of the requisite number of amendment to strike section 8.

Mr. Chairman, I want to express my support for the case made by the distinguished gentleman from Georgia for striking section 8 of the substitute amendment, and, in particular, I want to endorse his views that this section is not a backhaul measure.

With respect to energy savings claimed for section 8, I want to point out that a bill, H.R. 1681, containing provisions very similar to those in section 8 but covering not just the food and grocery industry but all industries, is pending in my Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee. It was referred to us there on the basis of its claimed energy savings.

Now our subcommittee held hearings on that bill last summer with only Government witnesses appearing. Both the DOE and the ICC, the latter elaborating its views in a subsequent letter, concluded that, while there were not data to validate the large savings claimed, some savings might result but that these should be balanced against the economic efforts on the concerned industries. In this connection, note that the energy savings claimed for section 8 in the committee report are the same large figures the DOE and the ICC refused to endorse although the report makes no mention of that.

The press of business in the form of major national energy legislation proposed by the administration prevented us from devoting further attention to H.R. 1681. I am not aware that any other hearings have been held on customer pickup legislation in this Congress, nor am I aware of any congressional or executive branch evaluation of the potential economic effects of such allowances on the food and grocery industry and the American consumer.

Because of the referral of H.R. 1681 to the House Interstate and Foreign Commerce Committee, I was disturbed when section 8 unexpectedly appeared in the substitute amendment for H.R. 6418 without any hearings being held or without any opportunity for further consideration by the Energy and Power Subcommittee.

In the interest of facilitating action on trucking deregulation, I did not seek formal sequential referral of section 8 nor request that action on the deregulation legislation be deferred.

However, I find myself in basic agreement with the gentleman from Georgia that to adopt section 8 under these circumstances is to legislate in the dark. Since this is obviously an unacceptable way for the House to proceed, section 8 should be rejected.

□ 1650

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, we are just about to vote on this amendment, and we have heard a great deal from lawyers and attorneys talking about the Judiciary Committee, talking about the Robinson-Patman Act. and we also heard a very little bit about the consumer. As the gentlewoman from New Jersey (Mrs. FENWICK) said several times in debate this afternoon, we ought to start concerning ourselves a bit more with the consumer in relation to this section 8. The person who has, I believe, the highest position in the Nation as an advocate of the consumer, the Special Assistant to the President for Consumer Affairs, Ms. Esther Peterson, has stated her position in this situation and that is in strong support of keeping section 8 in this bill and opposing the present amendment. As Ms. Peterson says, keeping this in by voting no to strike it, by keeping it in, it "will provide consumer benefits from increased efficiency and cost savings in the marketing and delivery of food products."

Later on in this letter she says, most importantly, this provision, section 8, will benefit the consumer.

So as we vote, we have a very simple choice. We can vote no and give our people around the country the chance to pay less money for food, or we can vote yes and deny the people the opportunity to pay less for food. I hope we reject this amendment.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it has been very interesting to not only hear the obviously malinterpreted and either misunderstood or deliberate distortion about the section 8 that is in question. There is no denial that section 8 was never considered in a hearing as such. It never had the benefit of discussion, the presentation of witnesses for or against. There is no question that the committee itself either in one House or the other ever considered this as anything such as a backhaul provision. As a matter of fact, I ask you to look at the committee report itself, and the report says that it is specifically aimed at clarifying the interpretation of the Federal Trade Commission with respect to their special rule 147. And what has that got to do with? It has to do with pricing. Pricing is the issue. What kind of pricing? Pricing that would allow discriminatory preferential rates for a certain privileged type of carrier. This is all that is involved here. As a matter of fact, if it has anything to do with backhaul, it has just as much to do with fronthaul, and if fronthaul is involved, then where is the argument that was given in the Senate by the Senator who appended this as a sleeper clause in this legislation? This is all that section 8 is. It is what we call a sleeper clause. It is nongermane. In order to make sure that this would not be corrected in the House in accordance with the House Rules, the committee in the House had to ask for a rule waiving points of order with specific reference to section 8. I deplore the use of my good friend Esther Peterson's name, who is, of course, well known as a consumer advocate, in justification of section 8.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman. It may be that Ms. Peterson, who is an official of the Administration, urges the adoption of section 8, but the Consumer Federation of America which speaks on behalf of all consumers very sternly and very strongly opposes it as not only being anticompetitive but hurtful to the interests of the consumer.

Mr. GONZALEZ. I thank my friend, the gentleman from Michigan.

Let us not kid ourselves. I really deplore the use of somebody's name like Ms. Peterson, because Ms. Peterson I know has not interpreted section 8 in the light of either its history or its true meaning in the light of Robinson-Patman and the Clayton Antitrust Act. Let us not kid ourselves. What is involved here is the death knell for thousands, and not just tens of thousands but more than hundreds of thousands of truly small businesses in the United States. That is all this is.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman. Maybe the gentleman from New Jersey (Mr. HOWARD) could tell us which of the food chains it was that Esther Peterson worked for before she got her present job. It seems to me she worked for the Giant Food Corp.; did she not?

Mr. HOWARD. Mr. Chairman, will the gentleman yield for me to respond to this personal attack on Ms. Peterson?

Mr. DINGELL. If the gentleman will yield, it is not a personal attack; it is just a question.

□ 1700

Mr. GONZALEZ. If I may reclaim my time, Mr. Chairman, I will not yield. I do not think it is proper to inject Ms. Peterson's name in that light. I know the lady was employed by the Giant Food chain in Washington, D.C., but that has nothing to do with this. She is an honorable lady.

Mr. Chairman, I think I am correct when I say that the injection of Ms. Peterson's name here has been done by using her loyal support of an administration supported bill that, incidentally, the other hand of the administration, the Chief Domestic Adviser to the President himself was not aware of this particular section until we brought it to his attention and then he discovered that there is a contradiction in two portions of the administrative branch.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. In one other section of the administration we were referred to as being in support of the position that we expressing but, again, all that means is that the sorry history and the way this section has bound itself into this bill shows how well greased the skids have been, and we are aware of that. In this case the alleged freedom for competition to bring this illusory benefit to the consumer is just the same old story, the liberty for the pike means death for the minnow.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I have listened to a lot of arguments on this particular amendment. I am amazed at the amount of misunderstanding on this particular issue.

Mr. Chairman, the gentleman just preceding me in the well said this will do irreparable harm, in so many words, to the small business retailer and to the small business operator. Let me point out that the small grocers themselves or the groups that represent them endorse section 8. They have sent to each Member a letter, a copy of which I have here. It is from the National Association of Retail Grocers of the United States. Every Member got this letter. Certainly, that association is not going to support this section 8 if it is going to destroy the very members the organization depends upon for its livelihood.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, there is a history in that, too. I was alerted on that message by one of my closest friends in San Antonio. That is how I first became aware of the thrust of this amendment, or even the existence of it.

Mr. Chairman, since the circulation of that note I have literally been flooded by messages from components of this organization saying they have misinterpreted, they were not aware of the real thrust of the amendment and they asked that we oppose it.

Mr. HARSHA. Mr. Chairman, all I can go on is the record and the number of mailings that I and other Members have received from organizations such as this and I do know that I received a number of inquiries from independent grocers themselves from the State of Ohio all endorsing the provision.

Mr. Chairman, I have also been informed the Consumer Federation of America supports this amendment. That is not true, because as of this date I have a letter dated June 18 from the Consumer Federation of America which takes precedent over the letter the gentleman refers to by several weeks. This letter says:

> We inform you and the members of your subcommittee that the Board of Directors have voted to state its neutrality on section 8.

Therefore, they are taking no position on section 8. This is a part of the misunderstanding and misinformation that is being alluded to here.

Now, why would all these small independent grocers support this legislation if they felt it was going to drive them out of business. Do you know what is the real issue here? It is the big grocery manufacturers, such as General Mills and General Foods. General Foods does $5.5 billion in sales a year. General Mills does $3.75 billion sales in a year. They are the ones who are presenting the opposition to this bill. They are not interested in the welfare of the little retailer, they are looking after their own billion dollar sales. This is an argument between big business, gigantic business, and the small individual retailer who wants to take advantage of this particular issue.

Mr. Chairman, one other point being overlooked is that the entire section is permissive. You do not have to employ it if you do not want to. The manufacturers do not have to employ it if they do not want to. It is permissive. However, if they do, they must give the same treatment to each and everyone concerned. They cannot discriminate.

Mr. Chairman, let me point out that the Department of Energy, as has been indicated earlier, has estimated they will save a few $100 million in fuel each year. That is quite a savings.

Why all the mom and pop stores are writing Members of Congress about this section and asking your support when it is going to destroy them is beyond my comprehension.

If we want cheaper food prices, we vote down the amendment. If we want to save fuel, we vote down the amendment. If we want to look after our little independent grocers, vote down the amendment.

Mr. Chairman, I urge the defeat of the amendment.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Levitas amendment to delete section 8 of the bill.

Mr. Chairman, since this year is not yet half over, no seer or crystal ball can predict certainties for 1980's final 6 months. But I believe that when the curtain finally does come down on the first year of this new decade, 1980 will fairly be described as a year of inflation and recession.

That is why adoption of this bill is so important; it is consumer legislation. It is legislation which strikes the shackles of Government regulation from an industry which touches the lives of all of us.

The pages of the CONGRESSIONAL RECORD for many months and, indeed, many years have been full of deregulation sermons; H.R. 6418—obliquely titled—the "Motor Carrier Act of 1980" transforms those noble words into a legislative deed. A less than perfect deed, to be sure. But a very palpable and needed deed nonetheless.

I will vote for passage of H.R. 6418. It breaks valuable new, needed ground which I hope will soon be further plowed with additional deregulation legislation, on many fronts.

It is especially important that the House, this afternoon, keep the strong and needed provisions of the bill which has been reported to the floor intact.

The effort by the gentleman from Georgia to strike section 8 from the pending bill will seriously downgrade the overall impact and effectiveness of this deregulatory legislative package.

Let me, first of all, emphasize that the provisions of the section now under debate—the concept and practice of pickup allowances—are voluntary. No trucker, no trucking company has to use the rights and privileges which section 8 confers. This is a sound, consistent move away from regulation, not toward it. But it is the positive aspects of section 8 which most commend this part of H.R. 6418 to me. Enactment of this section and the bill will help to fill trucks which existing Federal regulations now keep empty. By using that "dead-head" space, an estimated 100 million gallons of fuel will be saved each year. This strikes a welcome double-edge blow—for energy conservation, independence, and against inflation. With savings to consumers on both counts.

Section 8 does more. It promotes efficiency—it cuts costs—in the giant, awesomely complex food distribution system of our country. That, too, will benefit consumers in the form of lower prices at the checkout supermarket counter where so much of the weekly paycheck is spent.

The section treats small and large food retailers with an even hand. The benefits are available to both; neither gets a preferred position.

The thrust of section 8's language will end existing discrimination in the price of transportation which has long been in place because of uniform zone—delivered pricing schemes and stratagems.

Section 8 is a good, sound piece of legislative craftsmanship. It is, like H.R. 6418 in its totality, in the public interest. It solves problems; it helps, in a very practical way, the consumers of our country who need the relief section 8 of this bill provides. I commend its authors and the bipartisan leadership which brought it to the House floor today; I am proud to be its partisan and I urge the House to reject the motion of the gentleman from Georgia which would strike section 8 from the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEVITAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 57, noes 338, not voting 38, as follows:

[Roll No. 348]

AYES—57

Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Barnard
Beilenson
Bennett
Brinkley
Broomfield
Carr
Carter
Conable
Davis, Mich.
Devine
Dingell
Early
Erlenborn
Fenwick
Fish
Ford, Mich.
Forsythe
Fowler
Frenzel
Ginn
Glickman
Gonzalez
Grisham
Holt
Ichord
LaFalce
Latta
Lent
Levitas
Mathis
Mattox
Michel
Mineta
Mitchell, Md.
Mollohan
O'Brien
Panetta
Pease
Pepper
Perkins
Petri
Pritchard
Pursell
Rhodes
Russo
Scheuer
Sensenbrenner
Staggers
Stewart
Vanik
Wilson, Bob
Wirth
Yates

NOES—338

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Lederer
Lehman
Leland
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Paul
Peyser
Pickle
Porter
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—38

Anderson, Ill.
Badham
Boggs
Bolling
Brown, Ohio
Burton, John
Chisholm
Clay
Danielson
Davis, S.C.
Derrick
Edwards, Okla.
Fazio
Hance
Hinson
Holtzman
Hyde
Jenrette
Jones, Okla.
Jones, Tenn.
Kelly
Leach, La.
Leath, Tex.
Lee
McEwen
Moffett
Nedzi
Reuss
Richmond
Runnels
Santini
Sebelius
Solomon
Ullman
Weiss
White
Wilson, C. H.
Wydler

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Fazio for, with Mr. Jones of Tennessee, against.

Mr. PORTER, Mr. SEIBERLING, Mrs. SPELLMAN, Mrs. COLLINS of Illinois, and Messrs. MARRIOTT, WHITLEY, and LEACH of Iowa changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 7, lines 2 and 3, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

Page 19, lines 16 and 17, strike out ", agricultural limestone and other soil conditioners, and agricultural fertilizers".

Mr. HARSHA. Mr. Chairman, my amendment strikes out the language, "agricultural limestone and other soil conditioners, and agricultural fertilizers."

This amendment was put into the bill when it was considered by the full committee. It was offered in subcommittee by the gentleman from Minnesota (Mr. STANGELAND), and it is known as the Stangeland amendment.

The subcommittee saw fit to defeat the amendment, and then when we had the full committee markup, I offered the amendment in conjunction with the gentleman from Minnesota. We modified it somewhat, and the committee accepted it.

But we offered the amendment on the premise that we would have the support of the American Farm Bureau Federation when we offered it. Since that time they have withdrawn their support from sections of the bill, and because they have withdrawn that support, after making an agreement, what I thought was a binding agreement, with me. I have difficulty doing business with people who have difficulty living up to their agreement.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I can understand the gentleman's concern and his feeling about this legislation. With the great amount of work that has gone into this legislation and with the great amount of effort on the part of the gentleman from Ohio (Mr. HARSHA), the chairman of the subcommittee, Mr. HOWARD, the chairman of the full committee, Mr. JOHNSON of California, and the ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER), it is somewhat disturbing sometimes when things start to break down. I think it just goes to show that there is a delicate balance in the legislative process in drafting legislation.

I think this amendment is an important amendment to the bill. I think it is an important amendment for a certain segment of our economy, and therefore, I hope that the gentleman will withdraw his amendment and not pursue it.

Mr. Chairman, in order to assure passage of meaningful regulatory reform legislation, I rise in strong support of H.R. 6418 as reported out of the Public Works and Transportation Committee. Contrary to what some would like us to believe, this legislation provides agriculture and agricultural interests with substantial benefits. This legislation was arrived at after hours of good faith negotiations on the part of all interested parties. Part of the agreement reached with the Public Works Committee was that if a particular amendment and report language were accepted, the American Farm Bureau would support this bill without substantive change. As a member of the Farm Bureau, I was especially happy that this organization agreed with me that the committee-passed bill would be beneficial to agriculture.

Let me point out some of the benefits for farming in the committee-passed bill. An amendment I offered in the subcommittee on behalf of the Farm Bureau, which, subsequently was buffered by Mr. HARSHA in the full committee, would allow independent owner-operators to transport agricultural soil conditioners, agricultural limestone, and fertilizers upon meeting a "fit, willing and able" test. The effect of this provision is to significantly ease requirements for hauling these agricultural products, thereby greatly assisting the farmer and other independent owner-operators by reducing empty backhauls.

Other provisions beneficial to agriculture include increasing the number of exempt commodities including livestock and poultry feed and agricultural seeds and plants that are hauled to a farm or business that sells to producers of goods used in agricultural production. Additionally, this bill allows agriculture cooperatives to haul up to 25 percent of their total interstate tonnage in nonfarm, nonmember goods in movements incidental and necessary to their primary business as cooperatives.

Legislative integrity requires me to support the committee and honor previous good faith agreements. While there is always the possibility of improving on a specific piece of legislation, there comes a time when a complex bill such as this must be considered an acceptable compromise for all concerned parties. In this particular case, there is a very real threat that this carefully drafted compromise will disintegrate should major substantive amendments be accepted at this time, particularly in light of previous commitments made by some who are now apparently going against those agreements. This could leave us with no trucking reform legislation at all, thereby depriving the farming community of the important benefits now contained in H.R. 6418. This must be avoided at all costs.

Mr. HARSHA. Mr. Chairman, I know how much this amendment means to the gentleman from Minnesota and to the constituents in his area.

Because of the gentleman's vital interest in the amendment, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1730

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MINETA: On page 14, line 22, strike the remainder of the sentence after the phrase "non-discriminatory basis" and insert "and uniform in amount and does not exceed the average cost to the seller of delivering such purchased food and grocery products within the zone."

Mr. MINETA. Mr. Chairman, I regret that the House chose not to eliminate section 8 from the amendment in the nature of a substitute for H.R. 6418, the Motor Carrier Act of 1980. I felt the distinguished gentleman from Georgia made a compelling case for striking this section.

Now that the House has seen fit to take the action it did, I have an amendment which I would like to offer, a compromise amendment which I think moves in the direction the proponents of section 8 are interested in, yet one that avoids most of the drawback inherent in the kind of customer pickup allowances the section would authorize, especially the watering down of the Robinson-Patman Act.

My concern about section 8 and the amendment I have drafted to meet that concern grow out of the manner in which the section was handled and its potential adverse effects.

The gentleman from Georgia has already gone into this at some length so I will only say this. This so-called Long customer pickup amendment was added as a rider in the Senate Commerce, Science, and Transportation Committee without hearings, without discussion, and without a recorded vote and essentially the same pattern was followed in the Public Works and Transportation Committee although there was some nonsubstantive discussion of it in committee and a consumer pass-on provision was added to the language as reported.

Moreover, no hearings on section 8 were ever held in the Judiciary Committee even though it makes major changes in an important antitrust statute, the Robinson-Patman Act, over which that committee had clear jurisdiction. I believe that such hearings can and should have been held there, given the controversial nature of customer pickup allowances and the strong evidence that they could drive up food prices.

Now I was concerned about the matter and so I proposed in the Public Works and Transportation Committee the same amendment I am offering today. My amendment is designed to retain basic Robinson-Patman Act protections and prices.

In essence, my amendment permits buyers of food and grocery products who pickup such products at the seller's dock to receive an allowance not to exceed the average cost to the seller of delivering such products. Such uniform allowances would be in lieu of the variable pickup allowances that would be authorized by section 8, allowances that mean different prices for the same product at the same dock depending on the distance to the buyer's facilities.

Unfortunately my amendment was defeated in committee, but the concerns I have already referred to impel me to try again here before the Committee of the Whole House in the hope that my colleagues will be persuaded to share my concerns.

I have already touched on the basic arguments behind my amendment—avoiding discriminatory treatment among buyers depending on their distance from the seller's dock, thereby assuring a uniform dock price that preserves fundamental Robinson-Patman Act protections. In so doing, we will retain the existing pricing structure of the food and grocery distribution system, the most efficient such system in the world.

My amendment builds on present pricing practices by encouraging sellers not now using the average approach to adopt it, thereby moving in the direction of improved allowances sought by buyers. At the same time, it removes the temptation for some buyers to claim allowances for transportation to distant facilities even though they intend to deliver the products to much closer facilities.

So, Mr. Chairman, while I would have preferred to see section 8 deleted, I believe that my amendment will allow us to accept it as a compromise that strikes a proper balance and, most important of all, does not put this House in the position of enacting legislation that will drive up food prices.

Accordingly, I strongly urge the adoption of my amendment.

Mr. HOWARD. Mr. Chairman, I reluctantly oppose the amendment.

Mr. Chairman, we just went through lengthy debate on the amendment offered by the gentleman from Georgia (Mr. LEVITAS). The whole idea was that there was objection by some, apparently, on the minority that the average cost had been changed to the actual cost. The committee just voted overwhelmingly for the actual cost.

The amendment of the gentleman from California before us now would change the actual to the average. So I submit that it in effect is exactly the same in result as the Levitas amendment, and I would urge the committee to vote it down.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I think the point I am trying to make here is that there were many Members who did not want to strike section 8 and yet wanted to see some kind of compromise relative to the costs involved on transportation. So that is why I say that my amendment is a compromise, in that it deals with the average of the actual cost of the zone delivery pricing, and I think that many Members would be willing to support that provision because they were not willing to strike section 8 which would have eliminated backhauls.

Mr. HOWARD. Mr. Chairman, I would say to the gentleman that the idea was they wanted the actual cost rather than the average cost. This amendment provides for eliminating the actual cost and putting in the average cost, and if we did have to have—which I hope we do not—a recorded vote, I am sure it would turn out to be exactly the same as the last vote.

Mr. Chairman, I urge defeat of the amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support the amendment to section 8 offered by the gentleman from California, and I think he has made a compelling case for its adoption.

Like him, I feel we would have been far better off striking the section. It just has too many problems to justify its enactment, as the gentleman from Georgia has so ably pointed out.

But that is behind us now, and I am in complete agreement that the amendment now before us will go far to control the damage.

How will it do this? Let me focus my remarks on the economic aspects of that question.

As we have heard, these so-called customer pickup allowances would be based on the cost the seller would have incurred had he delivered the goods. Remember now, we have a buyer who is doing the delivering but his allowance would be based on the cost he claims the seller would have incurred had the seller done the delivering.

See the economic contradiction in this situation. The seller would obviously be interested in securing the lowest cost transportation while the buyer will be pressing to use the highest possible cost as a yardstick because that will mean a bigger allowance for him, that is, a lower dock price.

Let us add the other major economic ingredient to this witch's brew. That is the vast economic bargaining power the large chains and other high volume buyers have in dealing with sellers, even the largest ones. It is called shelf space, meaning that the buyer controls how prominently products are displayed and in what amount and variety and thereby can affect sales levels dramatically one way or another.

There can, of course, be only one end result of all of this—higher costs for the manufacturers, meaning higher costs to the consumer.

The amendment of the gentleman from California will preclude this inequitious result. It does so by saying that pickup allowances must be uniform and that they cannot exceed the seller's average transportation cost for deliveries of like products in like amounts within the geographical zone established for uniform delivered prices. Thus, the costs of the seller who has an incentive to hold them down will be controlling and, equally important, all buyers will be treated equally and fairly. The result will also be fair treatment of those buyers who, for lack of trucks or other resources, are unable to pickup.

Mr. Chairman, I consider it imperative that we adopt this amendment to preserve the viability of our food distribution system, the finest in the world, and to continue to bring the benefits of it to the American consumer at the lowest possible prices.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is another way to offer the same amendment in behalf of big business that we just soundly defeated. We are now operating under the uniform zone delivered price system, and that is discriminatory because the uniform zone can be the whole country. And do the Members know that the people in Miami, Fla., where they raise the oranges and manufacture the orange juice, may pay the same price for a can of juice as they pay in the State of Washington because of this uniform zone delivered price system that they are talking about?

What happens in this situation is that they take the average cost from the closest guy to the delivery point and from the farthest guy to the delivery point and average them. And they charge everybody that. So the guy at the closest end of the totem pole is subsidizing the guy at the far end of the totem pole. That is why I say this is discrimination.

Mr. Chairman, the amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MINETA).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. MINETA. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1740

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. MINETA) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to comment on section 28 of H.R. 6418, which provides for a study of motor carrier service to small communities.

Mr. Chairman, many of us are seriously concerned that the regulatory changes brought about by H.R. 6418 may result in a deterioration of motor carrier service to our Nation's small and difficult-to-serve communities.

Many small-town shippers fear that the bill's greater rate and route freedom for carriers will work to the disadvantage of small communities, reducing their present service and raising the costs of those services that are maintained as carriers gravitate to larger and more profitable markets.

The Small Business Committee has expressed concern at the potential loss to independent retailers in these towns of the less-than-truckload freight service by certificated carriers that now keeps their shelves stocked.

The oft-cited experience of airline deregulation has not been one of unmixed benefit for small communities, is not fully parallel to deregulation of the trucking industry, and cannot be used to dissipate these concerns.

Section 28 of H.R. 6418 directs the Interstate Commerce Commission to study motor carrier service to small communities, with an emphasis on communities with fewer than 5,000 residents, and to report its findings to the President and Congress by September 1, 1981. The committee amendment would extend this reporting date by 1 year.

The ICC's report is to include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of the ICC's enforcement of this obligation. If it is not being enforced, the ICC is to explain why and detail steps to be taken and resources that are needed to enforce the obligation.

The report is also to describe the character and extent of service to small communities prior to the date of enactment of H.R. 6418 and evaluate the effect this act has on such service, offering specific recommendations of means to insure the provision and maintenance of motor carrier service to small communities. The ICC is to develop data by monitoring shipper complaints and applications for new and expanded service; it may develop additional data by surveys of small community shippers and motor carriers.

This is all well and good, but I would also call it the fox guarding the chicken coop. The ICC, which has been deregulating trucking administratively for many months and in fact had to be restrained from going farther in deregulation than the present bill, has a decided position on the effects that regulatory reform will have on service to small communities.

Many of us have seen the ICC's March 1980, staff report entitled "An Evaluation of Charges That Regulatory Reform Will Degrade Small Community Motor Carrier Service." According to the report's preface, the ICC's Office of Policy and Analysis—

> Has not discovered persuasive arguments supporting the contention that small community shippers will be hurt by regulatory reform. The evidence suggests that regulation does not force unprofitable service, that a freer entry policy and pricing flexibility should not result in small community market failures, that short-run disruptions are unlikely, and that maintaining the present system for use as a tool for economic development of small communities would be both impractical and unwise.

Testifying before the Surface Transportation Subcommittee on February 28, 1980, Transportation Secretary Goldschmidt reiterated the administration's contention that—

> Our studies of this issue demonstrate that small town service will not be hurt by reform. In fact, we have found that small community service can be improved by reform. In short, the state of small community service is a reason for proposing change, not a reason for resisting change, and this is borne out by the facts.

I hope these views are right, but I continue to maintain a healthy skepticism. Despite these references to "facts" and "studies," any conclusions at this point can be predictive only, as the act has not yet gone into effect. However, there is reason to fear that any post-enactment study whose performance is left to the ICC will reflect its previously announced conclusion that deregulation will have no adverse impact on motor carrier service to small communities.

It is therefore essential that other agencies be involved in the development and evaluation of this study, agencies like the GAO and the Census Bureau whose disinterested objectivity could not be called into question.

The Census Bureau's record of high-quality work in defining and identifying small communities will facilitate the setting-up of the study. Without violating title 13 U.S.C., which prohibits the Bureau from disclosing any information, the disclosure of which is prohibited under section 9, of title 13, a census can provide a data base that will be of great usefulness in determining the reliability of service and the availability of quality and price options to shippers in small communities.

The GAO will also be of great assistance to the Congress and the American public by monitoring, reviewing, and evaluating the study performed by the ICC in order to assess and assure the validity of its conclusions.

Given the importance of this issue, any study of the effect of regulatory reform on motor carrier service to small communities must be generally regarded as well-designed, thorough, and free from bias. There are approximately 34,000 rural communities of fewer than 5,000 residents. Nearly 20 million people live in these towns, and revenue from general commodity shipments moving into or out of these communities totaled more than $1 billion in 1976.

The loss of transportation services to our smaller communities was clearly documented in last year's White House study on "Improving Transportation in Rural America": Intercity buslines now serve only half the Nation's towns of 50,000 or fewer; since 1972, 1,800 small towns have lost intercity bus service; regulated air service carriers have dropped nearly 200 service points—30 percent of the total served in 1960—in the last 20 years. The continued economic health of these towns depends in large part on the availability of high-quality motor carrier service to their shippers. The residents of these towns need reassurance that the Government does care about their future; this study must provide such reassurance.

The expert assistance of the Census Bureau and careful monitoring by the GAO, together with the extra year for data gathering and evaluation offered by the committee amendment, can provide us with a study that will be of genuine use in understanding the effects of this legislation on the service received from certificated carriers by our Nation's smaller communities.

It had been my intention to offer an amendment at this point directing the GAO rather than the ICC to conduct the small communities service study, but I am advised that the Comptroller General would prefer to evaluate the study rather than to conduct it. For that reason I will not offer the amendment, but I hope that the committee can assure us that the Census Bureau will take a primary role in data collection for the study and that the GAO will be instructed to monitor the study in progress and evaluate it when completed.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the observations and concerns expressed by the gentleman from Pennsylvania. As no amendment is to be offered, I am even more committed to assuring the understanding and acceptance of the committee for the problems I too can foresee in having the ICC conduct a study for which they appear to have already reached a conclusion.

The healthy skepticism mentioned a few moments ago is perfectly in order here, considering the enormous reliance small communities now place on the motor carrier industry for their continued existence. Sixty-five percent of the communities of this Nation are totally dependent on trucks to move goods in and out. Totally dependent.

It is with this frame of reference that we must construct and charter a study which will fairly and honestly report failures as well as successes, losses as well as gains, and harmful impact as well as beneficial impact. For the sake of the small communities of America, we cannot afford to leave total discretion to an agency of an administration which has decided before any hard experience data has been collected that small communities will not lose service and will not experience inordinate price increases.

I believe there are many positive features of this act that will enhance trucking service to small communities, essentially by removing previous Interstate Commerce Commission restrictions prohibiting intermittent stops between points served. I am hopeful that such features will produce an overall effect of increased service at reasonable rates. I simply want to be able to monitor with a high degree of confidence the actual impact this legislation will have.

The combined use of Census Bureau expertise and General Accounting Office auditors as the study progresses will demonstrate the committee's constructive search for truth and add much needed credibility to future considerations the committee may examine in its oversight role.

I commend Mr. CLINGER for raising our collective consciousness on this section of the Motor Carrier Reform Act of 1980 and endorse his request for assurance of Census Bureau and GAO participation and evaluation in this study.

Mr. Chairman, it need not be stressed how important transportation is to our economy. We all know that it is the first essential. Legislation which deals with transportation should have as its objective the best and most reliable system of transportation possible at a reasonable cost.

We should strive to eliminate unnecessary Government requirements, but I believe there are some very basic reasons why the proposal to remove all regulation of truck transportation of foodstuffs is not in the consumers' interest or in the public interest generally.

When we stop to think about it, a shipper is not only our most unbiased witness in this controversy, he is also the most knowledgeable. A shipper knows that the quality and cost of his transportation can make him competitive or cause him to lose out. When he is competitive the consumer wins.

When the other body was dealing with this legislation a letter was made available which merits our attention. It was written by Mr. Cecil A. Wohler, vice president of physical distribution for MBPXL Corp., speaking for the meatpacking concern which operates in several States. Mr. Wohler speaks out against the extension of the agricultural exemption to include all food and edible products whether they are processed or not.

Mr. Wohler states:

> We are strongly opposed to the extension of the agricultural exemption to include meat and meat products. . . . We are concerned that there will be significant problems in relation to the protection of the cargo. . . . A load of carcass beef is valued at $45,000 to $50,000 while a load of processed beef is valued at approximately $75,000. Our fears concerning insurance are well founded.

Mr. Wohler then goes on to make a very important point. He says:

> MBPXL is fearful of the loss of service to its remote plant sites.

He makes the point that a regulated carrier has an obligation under his certificate to serve the territory including remote points.

Mr. Chairman, this shipper then makes a point that is a complete answer to the argument of deregulation of the transportation of all items relating to food. He says:

> A second reason that I have heard for the inclusion of meat in the exemption is that it will reduce the freight cost to the consumer. Based upon our experience with independent owner-operators, we feel any rate reduction will only be short term. We believe that the owner-operators will initially leave the presently regulated companies and will engage in price cutting but that this will be short lived. The cut throat competition which would result will eventually mean fewer trucks available because the owner-operators will not be able to survive the cost of operating at the low rate involved. This will ultimately lead to a concentration in the industry in the few large carriers who can afford to weather the storm at the lower rates for short periods of time. Ultimately this will lead to higher rather than lower costs to the consumer.

Mr. Chairman, the committee bill represents the judgment of the members who have given attention to this matter for several months. I shall support the bill as they have reported it because I believe it is in the best interest of the consumer. It is a balanced bill, it is a compromise bill, with no group interested in the substance and specifics of the legislation completely satisfied, but willing to accept the committee's effort as the best attainable under the circumstances.

Therefore, I join in supporting the committee's effort.

Mr. CLINGER. I thank the gentleman for his comments, and I yield back the balance of my time.

PERFECTING AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Perfecting amendment offered by Mr. DINGELL: Page 14, strike out line 24 and all that follows through line 9 on page 15 and insert in lieu thereof the following:
>
> "(b) The Interstate Commerce Commission shall, by rule, require that any savings accruing to a customer by reason of the compensation permitted by subsection (a) of this section are passed on to the ultimate consumer. For purposes of this subsection the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

Mr. DINGELL. Mr. Chairman, we have been told time after time today by the committee that section 8 of the bill would assure that savings are ultimately passed on to the consumer. With all respect for my good friend, the gentleman from Georgia (Mr. LEVITAS), who has so ably authored a perfecting amendment which is intended to protect the antitrust laws and which is intended to protect the consumers and small businessmen, the portion that he has offered which my amendment would strike has no more effect than the Lord's Prayer or the prayer which was said at the commencement of the session today. The provision I refer to in section 8 is simply an abjuration to the ICC to monitor the behavior of the large food chains who would ultimately be the beneficiaries of this proposal.

The amendment that I offer is almost written in the exact wording of section 8. What it says is really very simple. My amendment stipulates that the Interstate Commerce Commission shall, by rulemaking, require that the savings derived as a result of the operation of section 8 will be passed on to the ultimate consumers.

Now, section 8 of this legislation has been described as something which will benefit the consumers, which will save the consumers money; but in point of fact, it will not. However with the adoption of this amendment, it will, because this amendment converts what is merely a monitoring section to a provision which requires the ICC to exercise its rulemaking authority to insure that the benefits accruing from this legislation are passed on to the ultimate consumers.

□ 1750

So if you want high cost food, vote against the amendment. If you want savings for the consumer, vote for the amendment. The current language in section 8 simply takes the Public Works Committee at its word that it will save the consumer money but my amendment assures that the ICC will have the necessary powers to see to it that the beneficiaries of section 8, who are the large food chains, will pass those benefits on to the consumer and it charges the ICC with appropriate responsibilities, and gives the ICC the necessary powers, to see to it this objective is accomplished. If you like consumers, vote for the amendment. If you like large food chains, vote against it.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this subject did receive a lot of attention in the committee and it certainly is the intent, as the gentleman from Michigan states, that the savings accured under section 8 should go down to the ultimate consumer; so in the legislation we wrote, beginning on the bottom of page 14:

> It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

Further:

> The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment and not less often than once a year thereafter.

Now, this is one of the reasons why we put in this whole piece of legislation a mandate that the subcommittee must come back and review this entire piece of legislation at least once a year for the next 5 years; so we did consider the wording, as the gentleman from Michigan has, but after a great deal of deliberation it was felt that this wording would be sufficient for this first year. If the ICC should come back and find that there is any difficulty with the intent of the Congress as to the savings involved here, it will let us know and we will then write the appropriate language. We just feel it would be inappropriate at this time to put in that strict language, not knowing just how it was going to be implemented.

I yield to the gentleman from Pennsylvania; although, I totally say that I agree, and as we stated, that this is where the money should go if section 8 stays in the bill.

I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the distinguished chairman for yielding.

I support our distinguished chairman in opposing this amendment. The gentleman is quite right when he says this is new language in the bill. Let us not lock ourselves in. Let us wait and see what happens. Let us proceed as we say here to have the ICC monitor the extent to which such savings are being passed on and then in our oversight let us make any final decisions based on experience, rather than flying blind.

I support my chairman in opposing this amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

Will the gentleman tell me what force and effect of law the committee bill language that is stricken by this amendment has? Does it have any more force and effect in law than the prayer that the Chaplain said at the beginning of the session?

Mr. HOWARD. I think it has quite a bit of force. I think that the ICC and others in seeing how the subcommittee and the full Committee on Public Works and Transportation have operated in the last year and a half, showing a very, very strong intent to take a strong hand in this whole broad field, will be very cooperative. I think that the Congress has quite a bit of weight.

Mr. DINGELL. Will the gentleman tell me, how much money is required to be passed through under the language of the committee bill?

Mr. HOWARD. All the money is actual additional profits, so that they will not be making any additional profit out of this.

Mr. DINGELL. What do the words "It is the sense of Congress" mean? What is the force and effect of law of the sense of Congress?

Mr. HOWARD. "It is the sense of Congress" means it is the feeling of the Congress.

Mr. DINGELL. It is the feeling of the Congress?

Mr. HOWARD. Yes.

Mr. DINGELL. Does that in any way have the force and effect of law?

Mr. HOWARD. No, I do not believe it does; but I believe that the committee has the force and effect equal to the law as far as the ICC is concerned.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the thing that troubles me about the Dingell amendment, and perhaps the gentleman can help me on this, I do not see how the ICC can assure that the benefits go to the consumer, unless the ICC both controls rates and controls prices of the shipper. Can the gentleman tell me how the ICC could implement the amendment of the gentleman from Michigan?

Mr. HOWARD. We are hoping that the ICC will be able to monitor this program in such fashion as to see whether or not generally this provision that is in here is being abused and that the extra money occurring here will be actually made to a savings to the consumer. That is why we did not put in this firm law now, but put in this sense of Congress where they have come back and we can look at this next year, as we have to do every single year for the next 5 years and perhaps then we will have enough background information to write in something more firm should it be necessary.

I thank the gentleman for his comments.

Mr. SHUSTER. Mr. Chairman, will the distinguished chairman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman from Texas makes an excellent point. It may be quite difficult to ascertain the accuracy of this matter. That is precisely why we say the ICC should monitor it and report its findings to the Congress. If its findings are that it is impossible or difficult, then it cannot be done.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Michigan (Mr. Dingell).

The perfecting amendment was rejected.

Mr. FITHIAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, I would like to seek clarification of a technical question concerning the expanded agricultural exemption contained in this bill. In expanding the current exemption, which primarily includes only raw agricultural products such as whole grains, the committee included provisions to exempt livestock and poultry feed as well. Am I correct that such an exemption covers the grain and oilseed ingredients which are combined in the formulation of livestock and poultry feed? I have reviewed the committee's report and have not found guidance on this question.

Mr. HOWARD. The gentleman is correct. This question was brought to my attention yesterday, and to clarify for the gentleman, I wish to add some additional remarks to be printed in the Record on the expanded agricultural exemption.

Among the items which have been added to the list of agricultural commodities which will be exempt from regulation are livestock and poultry feed, provided that this feed is shipped to either a farm or a facility which is involved in supplying farmers with their production needs. This change in current law recognizes the economic and energy logic of allowing truckers who bring in unregulated grains to feed processing facilities to leave with a load of the prepared feeds destined for the farm.

There have been some questions raised concerning the scope of this exemption because of imprecision in the bill which I would like to clarify. Generally, a number of agricultural ingredients are combined at feed mills to produce prepared animal feeds. Such ingredients include whole grain, which is currently exempt from regulation, and a number of oilseed meals and grain product feed ingredients. These ingredients, which include such agriculturally derived items as soybean meal, cottonseed meal, corn gluten meal and feeds, sunflower meal, peanut meal and wheat millfeed, are transported in the same manner as prepared feeds and have only one end-use that is, animal feed.

I would like to note that such grain and oilseed-based feed ingredients should be considered to fall under the scope of the expanded agricultural exemption contained in the measure before us. Current tariffs in use in the industry and the language of the bill differ in the terminology use to describe finished feeds and agricultural ingredients. In order that there be no confusion in implementation of this provision, I would like to point out that, as written by the committee, the terms "livestock and poultry feed" include both the prepared feed and the oilseed meal and grain product feed ingredients which are shipped in conformance with all other conditions of this act.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Fenwick: On page 55, line 9, strike out "25" and insert in lieu thereof "35".

Mrs. FENWICK. Mr. Chairman, I am beginning to get a feel for this delicate balance that has swept through the House with unaccustomed speed and fervor, but I would like to offer this little amendment. All it does is to place the House bill in line with the Senate bill. It allows these farm cooperatives to take 35 percent of nonmembers' goods when they are operating in this country. It does not seem to me to be an extraordinary thing. The bill stands at 25. The Senate bill is at 35 and I think it would be a very good move if we could move toward them to this extent.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, under existing procedures and law, cooperatives are permitted to transport up to 15 percent of regulated goods in their trucks under the existing system. The committee has raised that to 25 percent.

Now, these cooperatives generally are farm cooperatives. To go to 35 percent will mean that much less cargo that can be transported by the cooperative shipping concerns to go to the farmer; so obviously, they are getting out of the farming business and out of the agricultural business and getting into some other business, to the detriment of the people they were organized to serve.

I would urge defeat of the amendment. I think that 25 percent is a moderate increase and justifiable, but beyond that I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewomen from New Jersey (Mrs. Fenwick).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: At the end of the bill; insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

Sec. 37. (a) Notwithstanding any other provision of law, simultaneously with prescribing any rule under subtitle IV of title 49, United States Code, relating to motor carriers of property (other than a rule relating to rates), the Interstate Commerce Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives, and simultaneously with prescribing any rule relating to motor carriers of property, the Secretary of Transportation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b), the rule shall not become effective, if—

(1) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule prescribed by the ———— dealing with the matter of ————, which rule was transmitted to Congress on ————.", the first blank space therein being filled with the Interstate Commerce Commission or the Secretary of Transportation, as appropriate, and the other blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule described in subsection (a) is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a).

(c) Congressional inaction on, or rejection of, a resolution of disapproval under this section shall not be deemed an expression of approval of the rule involved.

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60 and 90 calendar days of continuous session of Congress.

(e) For purposes of this section, the term "rule" has the same meaning such term has in section 551(4) of title 5, United States Code.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this is an amendment which would provide that any rule or regulation issued by the Interstate Commerce Commission or the Secretary of Transportation under this legislation would be subject to review by the elected Congress, and if it is so determined, the Congress would have the right and authority to veto that rule or regulation.

Now, in the absence of having a procedure of this sort, what we will be doing is turning over to the unelected Secretary of Transportation and the unelected ICC commissioners vast authority to change in great dimensions the entire regulatory structure which is being established by this new legislation. This is not simply some idle or hypothetical possibility.

☐ 1800

This Commission has shown that it really does not pay a great deal of attention to what the Congress cares about matters relating to legislative decisions.

In 1980, in a decision issued by the Interstate Commerce Commission, it had been called to their attention that the Appropriations Committee and the Congress, Members of the Congress in powerful positions had expressed some great concern about regulatory action that was being taken, and that Congress had called upon the Commission to stay the Commission's policy statement. The Commission stated, for the world to see, and said that pending legislation, expressions of an Appropriations Committee have no really binding effect, and we are going to do what we want to do.

Last year the Interstate Commerce Commission started passing regulations changing the entire regulatory system. My good friend, the chairman of the Subcommittee on Surface Transportation, and my good friend, the chairman of the full Committee on Public Works and Transportation, wrote letters to the ICC and said you cannot do that, that is a legislative decision, we are calling up legislation to deal with this, it is not your province. The ICC said we are not going to do that, we are going to do what we want to do.

Now, they have not been elected to their positions by anybody. They have great power. But they are accountable to the Congress of the United States, and it is the Congress of the United States that is accountable to the people. It is a simple proposition. Who should make the laws in this country? Should it be the unelected bureaucrats who, in this case, have already said they are not going to pay attention to the law? Or is it the elected officials of Congress who should make these laws?

Let me tell my colleagues two other things. My good friend, the gentleman from New Jersey (Mr. HOWARD) is going to tell my colleagues, No. 1, that this legislation is different, that this legislation provides for annual oversight hearings and that the Committee on Public Works and Transportation will pursue that oversight with diligence and vigor, and the concerns and interests of the American people will be protected.

Let me tell my colleagues what is wrong with that argument and why it does not wash. No. 1, we do not need legislation to have oversight hearings. We can have them anyhow.

No. 2, oversight hearings, by their very nature, are ex post facto. They are retrospective. They talk about the damage that has been done, not how to avoid the damage. They talk about why Love Canal was a mess and why the Great Teton Dam broke down. They do not keep people from suffering or being washed away in the flood.

The legislative veto cuts them off at the pass. It gets them before the infliction of harm on the American public occurs, and oversight can be no substitute for a legislative veto. Oversight is like going into a battle wearing armor but carrying a wet spaghetti for a sword.

You cannot do anything with it except posture on oversight. When there is a legislative veto, then we can stop the damage before it occurs.

The gentleman from New Jersey will also indicate to my colleagues, because he is a very diligent chairman of the subcommittee, that we really do not want to have a legislative veto because of the myriad of regulations and the heavy burden of work that is going to be imposed.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. I did some checking. I did some checking and found out that except for regulations relating to rates, and I want to call this to the attention of my good friend from New York, and rates and regulations relating to rates are not covered by this amendment, that during 1979 the ICC issued and finalized 11, listen now, 11 rules dealing with entry, carrier practices, finance, merger, and acquisition. There is no tremendous burden on the Congress to do its job.

But I will tell my colleagues what there is if we do not do our job and oversee these regulations and veto them if we need to. Then it is the American people who suffer.

One last observation. I have checked a lot of the statements Members of this House have made in the past about the legislative veto, and I have even observed how they voted on this subject before. I can assure my colleagues that their constituents remember what they have said about it and how they have voted on it. They are going to be reminded, and they are going to be called upon to explain why they could justify a different vote on a legislative veto when it relates to this crowd of unelected bureaucrats, as it does to any other crowd of unelected bureaucrats. Here is a self-professed group of people who are not going to follow the law when Congress tells them what it is, and if my colleagues are not willing to exercise their right as an elected official to make the laws, and turn it over to the unelected bureaucrats, then I think their constituents should ask what your responsibilities are.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I want to concur with what the gentleman says.

I know that we have heard a lot of jocular reference to the "delicate balance" and the supposed need not to adopt any amendments. But, as one who has supported the concept of legislative veto throughout my entire career, I cannot make an exception in this case when the issue is so important. I want these regulations to protect the people in my district. I think all of us should want that. The only way I can see to insure that is to have the legislative veto available to us as a check on what this Commission may do. I urge support of the gentleman's amendment.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I would like to rise in support of the gentleman's amendment and commend the gentleman for offering this amendment, which I think is a very necessary check and balance system on the regulatory system of this Government.

Mr. LEVITAS. I thank the gentleman from Tennessee, because I know he recognizes, as a majority of the Members of this House do, that the American people are sick and tired and fed up of having regulations crammed down their throats by unelected bureaucrats. We are the only ones who can put an end to it.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. ALBOSTA and by unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. ALBOSTA. Mr. Chairman, I want to concur with the gentleman. I agree with the gentleman's statement and I want to relate to this body the fact that it is not only the ICC that we need to have oversight review through a one-House veto on. I can tell my colleagues of many problems that I have in my congressional district with other agencies. I think it is very important we apply this to them to show that we are interested in what they are doing and we are going to watch over them, and we are going to make sure by a one-House veto.

Mr. LEVITAS. I thank the gentleman. I would say this to those of my colleagues who concur with that position, that if they let the administration and the bureaucrats roll them on this one, then we are just beginning an avalanche down the hill. I would urge my colleagues to remember how crucial it is. The ICC is no elitist special group that should be protected from something that ought to apply to the Federal Trade Commission, the Environmental Protection Agency, and many other agencies of Government. We are the lawmakers, not the unelected bureaucrats.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. HEFNER and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. HEFNER. I would like to ask the gentleman a couple of questions as one who has supported the one-House veto. We wrote to have this language in, it is written into this bill that we will have oversight hearings. What would be the procedure in a one-House veto if we were to disagree with some of the regulations? What procedure would we go through to have this one-House veto? Would the gentleman just briefly tell me that?

Mr. LEVITAS. Yes. The way it works under the amendment I have offered is that when a regulation has been finalized and promulgated, before it becomes effective it is transmitted to the Congress. If any Member of Congress introduces a resolution of disapproval within a period of 60 days, and that is voted on with approval, after it has been referred to the committee of jurisdiction, then the regulation would become null and void, unless the other body rejects that action.

Mr. HEFNER. Could not, within this committee, under the legislation we have here, could we not exercise that same oversight? Could we not bring it to the committee, could we not support out a disapproval and go through the committee as we have with this legislation? Could that not be done?

Mr. LEVITAS. This has one major difference. There are several others, but there is one major difference. The major difference is that we have the legislative power and, therefore, we, as the Congress, ought to exercise it. If we use the route the gentleman from North Carolina has suggested, it would not simply be the Congress, but it would also require the President to go along with it. Since the President is on the side of the executive branch in this matter, it would require his concurrence and not just the Congress, and that would immediately switch it from a majority vote to a two-thirds majority vote.

Mr. HEFNER. Would the gentleman not agree with the support we have had in this House and the other body, that we have a problem?

□ 1810

I know it has been referred to as a delicate balance, and it is a delicate balance. Also we have been lectured on a couple of occasions in this House that our constituents are going to remember how we voted and how we operated on this particular bill, not only by the gentleman in the well but by other Members in past legislation.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HEFNER, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. HEFNER. If the gentleman will yield further, we are constantly reminded of it. Your constituents are going to remember how you voted in November because we are going to inform them. But I have supported the one-House veto. This is, to use an old phrase, a delicate balance, and we all know that. One of the reasons this was written into the legislation was to see that we could get a bill that we could go to conference with where we could hold this delicate balance together, and the gentleman in the well knows this situation.

Mr. LEVITAS. Let me reclaim my time to respond to that. I understand this. I hope I am not oversimplifying this situation. I hope I am not, but the fact of the matter is that the Senate, the other body, has gone along with one-House vetoes. The President of the United States—this President of the United States—has signed 47 bills containing legislative vetoes. This is not the first time for this situation. But what is worse, and that is why we need to have it this way and not just a piece of legislation, as the gentleman from North Carolina suggested, do you know that the administration has publicly said that they are not going to follow the vetoes even after they have been exercised and written into law and signed by the President?

Mr. HEFNER. If the gentleman will yield further, the point is moot, then. They are not adhering to them anyway.

Mr. LEVITAS. But there are other ways to get them. Once it is vetoed, if these appropriations bills start coming up next week—if we ever get them—then we can put limitations in the appropriations bill not to appropriate funds for something that is vetoed.

Mr. HEFNER. Will the gentleman agree that the one-House veto is not critical in this particular piece of legislation because of the fact that we have it written into the law?

Mr. LEVITAS. No, sir.

Mr. HEFNER. It is not as critical as in other legislation.

Mr. LEVITAS. I think it is absolutely critical, because I read to the gentleman a statement by the ICC Commissioners themselves who said they do not pay any attention to what Congress says.

Mr. HEFNER. They have not been paying attention to the other bills?

Mr. LEVITAS. The ICC in this case has said, we do not have to pay attention to what Congress has said. They said that in an opinion of March 13, 1980.

Mr. STANGELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess next to the gentleman who just left the well, the distinguished Member from Georgia (Mr. LEVITAS), there is no one who has stronger feelings than this Member from Minnesota on the one-House veto and legislative veto rules and regulations. I believe very strongly in that, but I am going to tell you, if you want a bill, you vote this amendment down because if you do not vote this amendment down, we are going to lose this bill. The bottom line is do you want some modest regulatory reform in the trucking industry, or do you not?

I think we have to salute the chairman of the full committee, the gentleman from California (Mr. JOHNSON), the chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD), the ranking member of the full committee, the gentleman from Ohio, (Mr. HARSHA), and the ranking member of the subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER). This bill has had extensive hearings, and an extensive amount of travel has been done so that everybody throughout this country would have input into this legislation. Wherever we went, the polls were polarized, and some came in whether they represented the trucking industry or labor, and said, "Do not make any changes." The shippers said, "Do not deregulate." There appeared to be no middle ground.

We have had some fun poked at this delicate balance. Mr. Chairman, the art of legislating is the art of compromising. There is a delicate balance, and the delicate balance does not take away your right as Members to vote on amendments. But what this delicate balance means is that everyone who is concerned with this legislation—labor, the trucking industry, the shipper, agricultural interests, and, yes, the Senate of the United States—have all had a hand in looking at what these people have worked so hard to put together. There is a very good possibility that this legislation can go right to the President, right to the Senate for concurrence and to the President's desk, if we refuse this amendment. But if this amendment goes on, this legislation is going to conference, and if this legislation goes to conference, you can kiss trucking regulatory reform goodbye.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. STANGELAND. I would be happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Why does the gentleman believe, since this is not relating to the regulation or deregulation per se of trucking, that for the Congress to exercise its responsibility to review and veto regulations, the legislation would be lost? Because the Senate will not take it?

Mr. STANGELAND. The Senate has been historic in opposing it. They have yielded on a few occasions, but they have been historic in opposing the power of a legislative veto.

Mr. LEVITAS. They have voted that also. I do not want to overstate the case, but they have taken it before. They are not virgins on this issue. They have taken it during this Congress 47 times. The President is going to sign any piece of legislation that comes over there reading "trucking deregulation." I think it is not fair to the Members of this House to say, either you take this as it is right now or you do not have anything, because I do not think that is true.

Mr. STANGELAND. I have a great deal of respect and admiration for the Member who chairs the Subcommittee on Public Buildings and Grounds whom I serve with, but on this one I disagree with him.

Mr. Chairman, I yield back the remainder of my time.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we are coming near the end of a long afternoon. I wish to thank the members of the committee for their attention and their debate. We are doing something rather historic. We are setting precedents in an area where we have been regulated since 1935. We have had 45 years of regulation of this industry by this legislation. Mr. Chairman, even though we have talked about just a few of such things in amendments in this bill, this is a comprehensive bill. It does an awful lot of things. It sets us out in new directions in many areas. We have an 83-page bill with 36 sections in it, and even though a lot of people, myself included, want to stand up for all the rights of this body and of the legislative branch of Government, and although many of us have supported right down the line legislative vetoes, I would like to ask you to think that perhaps this is one case that is a little bit different where perhaps we might vote down an amendment for a legislative veto. If we have a transportation bill generally on highways and mass transit where occasionally the Secretary of Transportation will have to promulgate a regulation, it might not be so bad for the committee to be able to look that over and to be able to bring out a veto on that, but this is different.

As the gentleman from Georgia said, and I would indicate, this is a regulation bill. We can have a situation with 5, 10, or 15 regulations coming out a day, and I would ask you not to submit the Subcommittee on Surface Transportation to a requirement of meeting day and night, day after day, and regulation after regulation after regulation. We have other work to do. We have to pass mass transit legislation. We have highway safety legislation. We have to do something about the bridges. We would not be able to do anything else. But we do have a provision to oversee this.

This bill demands and mandates that the Subcommittee on Surface Transportation oversee this legislation at least every single year for the next 5 years. The gentleman from Georgia was slightly mistaken when he said oversight has no teeth; there is a lot of armor and a spaghetti sword. This subcommittee that will oversee this legislation is a legislative committee, and we can pass out legislation to the ICC anytime we want. We can be responsive as we have been responsive in other areas to every Member of this House. If we feel that there is a regulation which ought to be looked at, we will certainly look at it. We are just asking you this one day on a regulation bill not to subject the Subcommittee on Surface Transportation to a job that it could not physically do and still take care of all the rest of its work. So you can be for legislative vetoes, a one-House veto, and still justify very easily a sensible vote against this amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. I want to commend the gentleman. I want to commend the gentleman from Ohio also and the entire committee for bringing forth this Truck Deregulation Bill, and I support the whole principle of truck deregulation. I do not know that it was necessary really to not refer the section 8 part of the bill to the Committee on the Judiciary. I think it would have been preferable to do that and to give us a day or two just to go over the question as to the antitrust aspects, if any, and resolve that.

I voted with the gentleman because I have the gentleman's assurance that it is not going to result in price discrimination. It is not going to adversely affect the small independent grocer.

□ 1820

I do feel the legislative process should be observed. I recognize the need here. I am hopeful the response of the gentleman to my inquiry will be upheld. If not, I hope in the exercise oversight corrections can be made so we do not do harm to one segment of the retail grocery business and benefit another.

Mr. Chairman, I thank the gentleman for yielding. I shall vote with the gentleman on this issue as well.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 2 additional minutes.)

Mr. HOWARD. Mr. Chairman, I would like to state this subcommittee is very well aware that this may not be a perfect bill. We are in unchartered waters in many areas here. That is why we put in this provision that we will constantly be looking at the results of legislation we will pass today. If we find we did make a mistake in an area, we will be able to correct it. If we found we took some small steps in the right direction, we will be able to expand them. We feel confident we have a good bill. We have all kinds of provisions in it so that the wishes of the Members of the body that supports this bill will be followed and we will be able to pay attention to any questions or problems you have including the regulations that are put out and we do not need an automatic mandated one-House veto provision in order to do that.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I vigorously support the committee chairman's position in opposition to this one-House veto. I have voted in favor of the one-House veto every opportunity I have had since I have been in Congress, but this is different. This is a regulatory reform bill. This is a bill which does give guidance to the ICC and it is a bill which mandates oversight.

Mr. Chairman, let us not jeopardize this bill at this late hour. Let us support the compromise we have before us. We perhaps have been derelict in not taking the time today to go through all the parts of the bill in which the House prevailed in our discussions with the Senate and the administration.

Mr. Chairman, at this late hour I will not do that. Suffice it to say, we did prevail in many sections. Let us not jeopardize this compromise we have. Let us support the chairman. Let us support the committee on a bipartisan basis. Let us oppose this amendment which we have before us now.

Mr. HOWARD. Mr. Chairman, I thank the gentleman and I urge defeat of the amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a quite different amendment than those that have been adopted by the House because it addresses itself to an entirely different problem.

Mr. Chairman, I wonder why the gentleman from Georgia (Mr. LEVITAS), I wonder why the argument that rules should not be made by unelected bureaucrats should not also apply to rules relating to rates. Under this provision, it is stated that a rule under subsection 4 of title 49, United States Code, relating to motor carriers of property, other than a rule relating to rates, is subject to legislative veto.

I had always thought that main purpose of the ICC was to make rules relating to rates. I am not at all sure what that exception exempts and I think if we pass this amendment to the bill we will have an interminable litigation over what rules relate to rates.

The ICC does make several types of rules and regulations. For instance, the ICC makes regulations with respect to its procedures. Are these rules that may be subjected to legislative veto?

In section 10.701 of the act it is stated a rate, classification, rule, or practice related to transportation or service provided by a carrier to the jurisdiction of the Interstate Commerce Commission under title 105 must be reasonable.

Mr. Chairman, does that relate to rates, and is that therefore exempt, or is it one of the rules that must be submitted to us?

In section 10.702—authority for carriers to establish rates, classifications, rules, and practices, it is provided that a common carrier providing transportation or service may make rules that relate to issuing tickets, receipts, bills of lading and manifests, carrying of baggage, the manner and method of presenting marketing, packing and delivering property for transportation and facilities for transportation.

Mr. Chairman, are we going to sit here in this Congress and determine whether or not the method of carrying baggage is a rule which we should accept or we should veto? Furthermore, is such a rule one relating to rates? Does it affect rates, and is it therefore subject to this limitation or is it not?

Mr. Chairman, this is the difficulty with attempting to pass exactly the same amendment without considering the substance of the bill on every bill that comes before this House. If it were not for the fact that I know my colleague from Georgia is a man who would not engage in activities which are not well thought out, and I know he is one who would not impugn this body, I would think it rather presumptuous of the gentleman from Georgia to say that because a Member of this House feels that this is a different proposition because it applies to a different law, it applies to different types of rules, I would think it presumptuous for him to say you cannot go back and tell your constituents that you made an intelligent judgment on the facts before you today, and that you did not automatically vote in the manner which the gentleman prescribes to every piece of legislation.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely, I will yield to the gentleman.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I will first state that the regulatory powers of the ICC and of the Department of Transportation are spelled out and I refer to them in my additional remarks filed with the committee report which I am sure the gentleman has read.

Such things as determining what constitutes fit, willing and able, such things as determine what are the certificates of authority, what are gateways, a whole variety of things relating to certification, relating to licensing, are covered by regulations, and that is well defined and well known to be different from the setting of specific rates.

Mr. ECKHARDT. If the gentleman will yield back the time, the problem I have is that the gentleman does not say what rules he addresses. He simply says he addresses all rules except those relating to rates.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment because I think it gets to one of the key issues that all of us are addressing constantly on this House floor and consistently in our constituencies, I think, and that is the whole business of the regulatory stranglehold that has been put on economic productivity in this country. The one thing that you can look at, the one area you can look at that it seems to me is a base of that stranglehold is the idea that one can be held responsible for it. The bureaucrats say, "We are not responsible for it because Congress has mandated that we move in a particular direction."

If we come to Congress, Congress says, "Well, do not blame me for what those idiots downtown are doing. I had no idea when I was a Member of the Congress helping to pass that bill that this is the kind of form the regulations would take."

Mr. Chairman, ultimately you have to have some authority as a part of the process. It seems to me that authority should rest in the hands of the elected Representatives of the people. That is what a legislative veto is all about.

A number of my colleagues will say to you, "Well, all right, I am for the legislative veto, but it seems that we are for a legislative veto only when it is convenient to be for a legislative veto, when it does not really seem to do much harm."

Here we are talking about a major piece of regulatory legislation. We are talking about the future of an entire industry. If we are not really willing to stand up and say, "We will take responsibility for the regulations in this particular area," we will never get legislative veto passed and it is the one thing probably where we have some hope in the future of really taking control of the regulatory process. I think that is important and I think this is an important place to address that particular issue. I would hope we would support the gentleman from Georgia in his attempt to do so in this particular amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be gled to yield to the gentleman from Texas.

Mr. ECKHARDT. The argument of the gentleman is persuasive but if it be true, why does this amendment not apply to rules relating to rates? It would seem to me that is an area in which unelected bureaucrats impinge most strongly on the public. Why is that exempted?

Mr. WALKER. Mr. Chairman. I would have the gentleman from Georgia reply to the gentleman here in just a moment as he is the author of the amendment.

Mr. Chairman, I would say to the gentleman I think the important thing is, if this is, as one sepaker said here earlier, a modest attempt at attempting to get control of the trucking industry, of reregulating, then I say this is a modest attempt to attempt to get a legislative veto as a part of that regulatory process.

□ 1830

I will be glad to yield to the gentleman from Georgia for an explanation of his amendment on that point.

Mr. LEVITAS. Mr. Chairman, I will be glad to answer. The rate-making process is a well-known, well-identified, separate procedure involving a whole raft of different types of evidentiary considerations made by the ICC, and before this legislation came into effect as a result of the rate process activities. The type of regulations made by the ICC and Department of Transportation in other areas relating to certification, relating to mergers, are quite different in nature, and their evidentiary provisions are different.

I can assure the gentleman from Texas that as a result of having served on the committee of jurisdiction in this area, and having spent the better part of the last 3½ years studying this issue, it is quite clear to me from my reading of the law that there is a difference, and the ICC knows the difference; it is in that area where evidentiary considerations are being taken into account to establish what is a fair rate on their investment that different types of decisions should and could be reached.

Mr. ECKHARDT. Mr. Chairman, I am not unaware of this, because I have been on the committee of jurisdiction with respect to these matters longer than the Public Works Committee has been on them, in connection with railroad matters, and I know that in rate making there is frequently the process of, in effect, making the rule on which the rates are based as a general rule in a particular case. It is done both ways. It is done by general rule, and it is done case by case as a precedent for further action. There is a tremendous overlapping with respect to general rule making and rate rule making in the ICC's procedure.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not plan to take a lot of time. I would first like to inquire of the gentleman from Georgia, if he is present, on a couple of little questions I still have to make sure that we all know exactly what we are voting on. In the first place, as I understand the gentleman's amendment—and correct me if I am wrong—it applies to all ICC rules and regulations other than ratemaking. Is that not correct?

Mr. LEVITAS. That is correct.

Mr. VOLKMER. It does not apply just to those rules and regulations that may be imposed or permitted under this bill?

Mr. LEVITAS. That is correct.

Mr. VOLKMER. So, what we are talking about is the full Interstate Commerce Commission operation, and that is far reaching throughout this country on many businesses and individuals?

Mr. LEVITAS. And to many private citizens who have to ship their goods through moving companies and other operations, and the recovery of damages through administrative procedures.

Mr. VOLKMER. Much more far reaching than the FTC and others that we have imposed the legislative veto review upon?

Mr. LEVITAS. I would think on the average it would probably have more impact, yes, than the FTC.

Mr. VOLKMER. Under the regulatory farm bill that is presently pending in one of the committees that I now serve on, I do not find any exemptions for the ICC, and I do not really understand why some of the Members who are now espousing, and have stated in the past that they have voted for legislative veto, but on this bill we cannot—I would like to ask the gentleman from New Jersey, is this bill so fragile?

Mr. HOWARD. If the gentleman will yield, this has nothing to do with any delicate balance or fragility or anything else. What I am saying is different about this bill, is not like a normal bill that comes out of my Subcommittee on Highways and Mass Transit, where occasionally the Secretary of Transportation will promulgate a regulation in some area of the legislation which we would look at, this is a bill which will have many, many, many regulations put out—perhaps daily, several of them.

It has nohting to do with any delicate balance. It is just that physically it might be almost impossible for this subcommittee to act in the broad field of surface transportation if the rest of the Members put us under the gun of public hearings and discussion of every single regulation that comes out.

I would like to ask the gentleman, does he feel that he has such little faith in the subcommittee and the full committee that we are not going to be aware of what the ICC is doing; that we are not going to hold the oversight every single year that we must, or does he feel somehow or other that somebody is going to put a regulation through that no one who objects to it will know anything about it? Does the gentleman not think that they will be coming to us whenever there is a controversial one, as they have in the past? Yes, it is different, but not in any way to which the gentleman has alluded.

Mr. VOLKMER. Could I answer the question? I do have faith in the gentleman's subcommittee and in the full committee, and I think he has done an outstanding job on this bill, and I will not disagree with that. But, what concerns me is, if we do not have the legislative one-House veto on the bill, and if we do find where a rule has been promulgated and it is going to become final if we pass the legislation through both Houses——

Mr. HOWARD. We will do it.

Mr. VOLKMER. If it is signed by the President, and the gentleman has to get it through both Houses—not just this House—and the gentleman probably will be supported in this House, but the question is, would he be supported in the other body? I seriously question that, knowing the other body's past history.

Even though the gentleman does oversight; even though the gentleman can yell and holler, he may not get anything done. We have enough problems with the legislative veto now, as the gentleman from New York said, where they can say what has recently happened, where one of our departments is saying, "We are not going to bother; we do not care what they say."

This is what is permeating from the bureaucracy. It does not make any differensce what you say, gentleman from New Jersey. Unless we do something about this, we are going to do what the gentleman does willy-nilly. We are going to go back home and tell our people that we are trying, but we are not getting it done. That is what bothers me.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to point out to the gentleman from New Jersey that last year other than on ratemaking, the ICC issued a total of 11 regulations for the whole year. Second, it is my understanding, what the gentleman's case on the one hand is, they would have too much work to do to deal with the regulations; and on the other hand, that we should not worry that many would get by without them being checked up on. I do not think the gentleman can take both positions at the same time.

I think the only way that we can control the ICC, and the only way we can assure that the bureaucracy is responsive to what Congress wants to do, is for Congress to have under its legislative power the right to veto.

Mr. HOWARD. If the gentleman will yield, I would like to say one word—let us vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEVITAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 192, not voting 52, as follows:

[Roll No. 349]

AYES—189

Albosta
Alexander
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
AuCoin
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Boner
Bouquard
Breaux
Brinkley
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carr
Carter
Chappell
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Giaimo
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Heftel
Hightower
Holland
Holt
Hopkins
Horton
Huckaby
Hughes
Hutchinson
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lederer
Lent
Levitas
Lloyd
Loeffler
Lott
Lujan
Lungren
McDonald
McKinney
Marks
Marlenee
Martin
Mathis
Mattox
Mazzoli
Mikulski
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nelson
Nowak
O'Brien
Panetta
Paul
Perkins
Petri
Porter
Pritchard
Quayle
Railsback
Ratchford
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Smith, Nebr.
Snowe
Spence
Stenholm
Stump
Tauke
Tauzin
Thomas
Trible
Vanik
Volkmer
Walker
Wampler
Watkins
Weaver
Whitehurst
Williams, Ohio
Winn
Wolff
Wolpe
Wright
Wyatt
Young, Alaska
Young, Fla.

NOES—192

Addabbo
Akaka
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Baldus
Barnes
Bedell
Beilenson
Bevill
Bingham
Blanchard
Boland
Bonior
Bonker
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Daschle
Dellums
Dickinson
Dixon
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Fary
Fascell
Ferraro
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Glickman
Gray
Green
Gudger
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hillis
Hollenbeck
Howard
Hubbard
Hutto
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Kastenmeier
Kazen
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lewis
Livingston
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marriott
Matsui
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Nichols
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Rinaldo
Rodino
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Seiberling
Shuster
Simon
Skelton
Smith, Iowa
Snyder
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Taylor
Thompson
Traxler
Udall
Vento
Walgren
Waxman
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—52

Abdnor
Anderson, Ill.
Badham
Beard, R.I.
Biaggi
Boggs
Bolling
Brown, Ohio
Burton, John
Clay
Danielson
Davis, S.C.
Derrick
Dodd
Edwards, Okla.
Fazio
Fithian
Gibbons
Guyer
Hance
Hinson
Holtzman
Hyde
Jenrette
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Leach, La.
Leath, Tex.
Lee
McEwen
Mavroules
Moffett
Nedzi
Nolan
Pursell
Reuss
Richmond
Runnels
Santini
Sebelius
Shannon
Solarz
Solomon
Ullman
Van Deerlin
Vander Jagt
Weiss
White
Wilson, C. H.
Wydler

☐ 1850

The Clerk announced the following pairs:

On this vote:

Mr. Santini for, with Mr. Solarz against.

Mr. Guyer for, with Mr. Jones of Tennessee against.

Mr. Pursell for, with Mr. Edwards of Oklahoma against.

Mr. Fazio for, with Mr. Moffett against.

Mr. Solomon for, with Mr. Charles H. Wilson of California against.

Mr. Hinson for, with Mr. Richmond against.

Mr. Lee for, with Mrs. Boggs against.

Mr. Kelly for, with Mr. Clay against.

Mr. Wydler for, with Mr. Mavroules against.

Mr. DE LA GARZA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LOWRY

Mr. LOWRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOWRY: Page 82, strike out line 21 and all that follows through line 9 on page 83 and insert in place thereof the following:

EMPLOYEE PROTECTION PROGRAM

SEC. 35. (a) GENERAL RULE.—(1) The Secretary of Labor shall make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual the Secretary finds, upon application, to be an eligible protected employee. Government liability for such payments is not to exceed a total of $75 million. An eligible protected employee shall be a protected employee who on account of a qualifying dislocation (A) has been deprived of employment, or (B) has been adversely affected with respect to his compensation.

(2) No employee who is terminated for cause shall receive any assistance under this section.

(b) Petitions.—(1) A petition for a certification of eligibility to receive monthly assistance or reimbursement payments under this chapter may be filed with the Secretary by a protected employee or group of protected employees or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(2) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c) Group Eligibility Requirements.—The Secretary shall certify a group of protected employees as eligible for monthly assistance under this chapter if he determines that a significant number or proportion of the protected employees in such employees' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated by reason of a qualifying dislocation.

(d) Monthly Assistance Computation.—(1) Upon application to the Secretary, members of a group of protected employees certified to be eligible for benefits under this section shall, subject to the $75 million cap which governs Government liability for labor protection provisions under this Act, receive a monthly assistance payment in the amount of 80 percent of his average monthly wages after taxes, for each month in which he is an eligible protected employee. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have been entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (g).

(e) Assistance for Relocation.—If an eligible protected employee relocates in order to obtain other employment, such employee shall, on application to the Secretary and subject to the $75 million cap which governs Government liability for labor protection under this Act, receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in cancelling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(f) Job Referral.—(1) The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers holding certificates or permits issued by the Interstate Commerce Commission under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. Any protected employee receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require regulated motor carriers to file reports, data, and other information.

(2) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall make arrangements to continue and shall make payments to fund the health and welfare coverage of eligible protected employees during the period of their eligibility for monthly assistance payments.

(g) Period of Monthly Assistance Payments.—(1) Monthly assistance payments computed under subsection (d) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 24 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(h) Rules and Regulations.—The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(i) Motor Carrier Employees Protective Account.—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Motor Carrier Employees Protective Account. There are authorized to be appropriated to such account annually, subject to the $75 million cap governing Government liability for labor protection under this Act, beginning with the fiscal year ending September 30, 1982, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provisions of this section.

(j) Definitions.—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least four years by a motor carrier holding a certificate or permit issued by the Interstate Commerce Commission. Such term shall not include any members of the board of directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of a motor carrier holding a certificate or permit issued by the Interstate Commerce Commission, occurring during the first 10 complete calendar years occurring after the date of enactment of the Motor Carrier Act of 1980, a major cause of which is the change in regulatory structure provided by such Act, as determined by the Secretary of Labor.

(3) A "major cause" means a cause which is important but not necessarily more important than any other causal factor.

(4) The term "major contraction" means a reduction by at least 7½ percent of the total number of full time employees of a motor carrier within a 12-month period. Any particular reduction of less than 7½ percent may be found by the Secretary to be part of a major contraction of a motor carrier if the Secretary determines that other reductions are likely to occur within a 12-month period to the extent that the total reduction will exceed 7½ percent. In computing a 7½ percent reduction under this paragraph, the Secretary shall not include employees who are deprived of employment because of a strike or who are terminated for cause.

(5) The term "Secretary" means Secretary of Labor.

(6) The term "reasonably comparable employment" means a job comparable with that which an employee would be required to accept pursuant to the seniority provisions of an applicable collective bargaining agreement or, if not covered by such an agreement, in accordance with the usual practice of the affected employer.

Mr. LOWRY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, is this the teamster amendment?

Mr. LOWRY. Yes.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of obligation.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. LOWRY. Mr. Chairman, this amendment that I offer would afford, if needed, financial assistance to those employees who have worked for years to provide needed trucking transportation for the United States of America. Only those trucking employees who can establish that this legislation was a cause of their loss of employment would receive financial assistance under the amendment. The assistance would be limited to not more than 2 years at 80 percent of pay previously received by the dislocated employees. A cap of $75 million is placed on the funds available for the financial assistance in recognition of budgetary concerns.

Like the current section 35 of H.R. 6418, the amendment provides that the Secretary of Labor shall assist unemployed truckers in locating new jobs.

I commend the work that has been done by this committee and specifically by the minority and by the chairman in assuring that this legislation will not dislocate any of these deserving employees. I know that that is the intent of this legislation. But there is understandable concern by these employees who have served so long that this legislation may cause dislocation. The purpose of this amendment is to say that if this legislation causes that dislocation, we will take our responsibility and recognize their rights.

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Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. LOWRY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I want to commend the gentleman for offering this amendment. I think it is a very considerable improvement in the bill. Some of the people think this will not dislocate employment, but in the event it does, we should be prepared to see that the people who are affected are not just tossed out on the street. I think this is an absolutely essential amendment if this bill is going to pass.

Mr. LOWRY. I thank the gentleman for his comments.

If the legislation does what it is our intent and the committee's intent then there will not be dislocation; but we are concerned that the Interstate Commerce Commission may not implement our legislative intent. That is the reason for the amendment.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. LOWRY. I yield to the gentleman from Ohio.

Mr. LUKEN. As I understand it, there is a cap of $75 million on the benefits under this amendment?

Mr. LOWRY. That is correct.

Mr. LUKEN. I think the gentleman has provided a very equitable amendment.

Mr. Chairman, I rise in support of the amendment.

The airline deregulation legislation provided for financial and other assistance to dislocated employees. This amendment is patterned on the airline employee protection provision.

All rail legislation passed in recent years, commencing with the Regional Reorganizational Act of 1973, has contained provisions for financial assistance to employees who lost their jobs or were forced to relocate. These acts include the Rail Service Passenger (Amtrak) Act, the Railroad Revitalization and Regulatory Reform Act of 1976, the Milwaukee Railroad Restructuring Act of 1979 and the Rock Island Transition and Employees Assistance Act which was signed by the President as recently as Friday, May 30. The first three of these specifically provide for 6 years of financial assistance at 100 percent of the rail employees' prior compensation. No rail worker is required to show a casual connection between his loss of employment and the action of Congress. The so-called 3R Act of 1973 authorized the expenditure of $300 million for financial assistance. The recent Rock Island Act provided $75 million. Thus in the transportation industry, Congress has uniformly provided financial and other assistance to employees who lost their jobs other than because of an economic downturn.

The precedents for this amendment are not liimted to the transportation industry. The Trade Act of 1974 provided financial assistance to workers adversely affected by the importation of commodities from foreign countries. The Redwood National Park Expansion Act provided worker protection for forestry workers.

The Carter administration recently announced that it would seek an appropriation of $300 million for financial assistance to Cuban aliens who have entered this country recently, many of them illegally. Unlike the motor carrier employees, the Cubans are not citizens of the United States and have not made an important contribution to our Nation. They are not even taxpayers. If railroad employees, auto workers, steel workers, forestry workers and even illegal aliens are entitled to financial assistance, why are not workers in the motor carrier industry?

I am hopeful that the legislation before us will not cause any disruption in the motor carrier industry. If it is administered as I understand its intention, we should not see a measurable dislocation of employees. But, in truth, the legislation does make changes in regulatory policy which understandably concern industry employees pending the results of the evenhanded and balanced implementation we would expect.

This amendment calls for a far smaller measure of financial assistance than has been accorded to airline and rail workers and a casual connection between H.R. 6418 and loss of employment is required. I see no justification for singling out and discriminating against workers in the motor carrier industry. Workers have not advocated—in fact many have opposed—the legislation which is before us today. No action on their part gave rise to this legislation. If any group of workers is entitled to financial assistance, it is the employees of our trucking industry.

The advocates of H.R. 6418 have been urging, and I am sure will be arguing, that there are sound reasons for not supporting this amendment. First they will point to the fact that there is an oversight provision in the bill and that there are a few pious statements in the report regarding oversight. But an oversight investigation will not help the driver when he needs help; namely, when he loses his job. Oversight in reality for him will be an empty sham. It would not pay the rent; it would not buy food; it would not buy clothes; and it would not let the children continue in school. By the time an oversight investigation is concluded, even if it results in financial assistance, it will come far too late to help the individual who does not have the financial means to meet his essential needs during the period when he is looking for another job. Of course, the minute he finds a job, the financial assistance under the amendment would terminate.

Second, the opponents of the amendment will say they have developed concensus legislation; that they have an arrangement with the Senate to accept the legislation passed by the House providing its provisions are acceptable to the Senate. Well, who says the Senate would not accept a worker protection provision? The Senate agreed to each and every piece of legislation for the protection of the airline and railroad workers. Senator CANNON, chairman of the Senate committee and sponsor of the Senate legislation, if my memory serves me, was a sponsor of the Airline Deregulation Act and voted for worker protection for railroad workers. It just does not make any sense to believe that the Senate, in view of these precedents and the logic and reasonableness of this amendment, will not accept legislation which includes a fair measure of protection of employees of the motor carrier industry. Therefore, the legislation will not necessitate a conference with the Senate. Financial assistance for motor carrier employees was not rejected by the Senate and, as I pointed out, the President has signed into law many acts which will provide greater financial assistance for workers than that called for by this amendment.

I hope my colleagues will vote for this amendment and thus refuse to discriminate against motor carrier employees. They have done nothing which warrants reducing them to third-class citizens below those who are employed in other industries.

Mr. LOWRY. I thank the gentleman for his comments.

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LOWRY. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. I thank the gentleman for yielding.

Does the amendment include a provision to hire those people first who are laid off?

Mr. LOWRY. It is a first-call amendment, I would answer the gentleman.

Mr. BONIOR of Michigan. I thank the gentleman.

Mr. LOWRY. Mr. Chairman, I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there has been concern developing about this legislation as to whether or not there would be dislocations among employees. We do not think so. The largest representative of the drivers unions came to the committee after the subcommittee meeting, before the full committee meeting, and asked that a labor protection section be put in. At that time they requested that we put a special provision in the legislation that would require anyone losing their jobs in the country due to this legislation must have their names and information about them sent to the Secretary of Transportation. The Secretary of Transportation should keep on file and available the names of these people, where they are, what their talents are, and should make every effort to see that should there be an expansion in some other area of the country that these people would be the ones who would be available.

We put that in the full committee. It is in the legislation now. At that time, it completely satisfied the representatives of the union representing the drivers.

Now we come back at the last minute with an indication that they would like something additional beyond what regular unemployment benefits there are to the tune of $75 million in special money for these people. All of a sudden, the bill they were totally for when we put in what they wanted to in the full committee is not sufficient. This bill contains no money. This is not involved in the budget act or the budget process. This amendment is not needed.

I hope we can quickly defeat this amendment by voice vote and complete the legislation. We have kept our faith all the way through the process. I think the others ought to be keeping their faith, also.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. I hope the gentleman is absolutely right that this legislation will not cause any dislocations. If he is correct, then this amendment will not involve spending any money. So what is the harm of putting it in?

Mr. HOWARD. Well, because there are provisions for people who lose their jobs, just like anyone else who loses their job. There are certainly Federal programs that do take care of them. I do not see why we need this special one at this time in this legislation when we had already agreed on what would be there.

I would say to the gentleman once again he knows the legislation provides for this committee to hold oversights mandated every single year for the next 5 years. If there is a lot of trouble, this subcommittee will respond to that need as we have in the past.

I urge defeat of the amendment.

Mr. HARSHA. Mr. Chairman, I rise to strike the requisite number of words.

I support the chairman of the subcommittee in opposition to this amendment. There are a number of amendments I personally put in the legislation to help protect the Teamsters Union. There is no necessity for it. It provides for unlimited payment almost for 2 years, 80 percent of their wages after taxes, housing relocation; they can even sell their house, and they do not have to sell it at the fair market value. They will be paid. They can sell their house at whatever sum they want to and be reimbursed from this fund at the fair market value. It pays their health and welfare benefits for 2 years. It is difficult to determine whether or not you have to actually prove that they were retired or laid off because of this deregulation bill.

I join the chairman in urging defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. LOWRY).

The amendment was rejected.

Mr. BAUMAN. Mr. Chairman, I rise in support of H.R. 6418, the Motor Carrier Act of 1980, as it is now before us.

This bill has received the backing of a wide range of people concerned about the future of trucking in the United States, including the American Trucking Association and, in my district, truckers who were fearful of any deregulation bill. They see the bill as it emerged from committee as a carefully crafted and effective compromise, allowing careful deregulation to stimulate competition in the trucking industry while retaining existing laws necessary to guarantee service to rural areas such as I represent.

In my district, which is mostly rural and suburban in nature, trucking plays a vital role in the economy. Although we have some rail service, ConRail has had its ups and downs, and is far from being the prime transportation medium in the region. Without a doubt, a healthy trucking industry is critical to the needs of the people I represent, and I would not support this legislation if I felt that it would harm their interests.

I favor deregulation and this bill provides for some needed deregulation to reduce costs to consumers while injecting fresh blood into the trucking industry. It protects farmers, small businessmen, and others who need trucking. This bill is not perfect but it is a good agreement, one worthy of our support, and I urge my colleagues who value independent, efficient and productive truck service to support this legislation.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the distinguished chairman in a colloquy with regard to section 5, for purposes of illustration.

In section 5, the committee has fashioned a new entry policy for persons seeking a certificate. The standards for issuance of a certificate are modified to cut redtape and ease entry while keeping the fundamental requirement of a certificate in most cases.

In a similar vein, section 6 establishes a schedule and procedure for the removal of various operating restrictions which are contained in the motor carrier's certificates and permits. As a point of clarification, it is intended that the ICC should not utilize this section to circumvent the requirements of the new entry policy established as controlling on all major entry questions in the field of common carriage of property.

Further, any broadening of the categories authorized under a certificate under section 6 must be "reasonable." Any major application for new authority should, under the terms of the committee's bill, be processed under the traditional certification process, with opportunity for an oral evidentiary hearing subject to the limitations of the act and the bill. In addition, there is no intent, that in granting the ICC authority to remove unreasonable and excessively narrow artificial restrictions, to extend to the Commission the authority to change substantially the character or pattern of service provided by any carrier. There can be no effort to establish nationwide authority for general freight common carriers, or to eliminate commodity restrictions imposed upon irregular route carriers, unless those restrictions are "excessively narrow" territorial limitations or "unreasonable" commodity limitations.

Mr. Chairman, for the purposes of illustration, I would like to ask Mr. HOWARD a question, let us assume that an irregular route carrier holds special authority, under his certificate, to transport upholstered furniture from a plant site in Los Angeles, Calif., to five named Eastern States. Would it be appropriate for that carrier to apply for restriction removal, under section 6, for a reasonable broadening of his authority to include all types of furniture, to be transported from any plant site in Los Angeles County to the five named Eastern States?

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. The gentleman from Pennsylvania's hypothetical example appears to comply with the legislative intent. That carrier might well apply for authority to transport all types of furniture, and if the Commission determines that an expansion of authority from "upholstered furniture" to "all furniture" was reasonable, under the facts and circumstances, it could grant the restriction removal in that case. The elimination of an excessively narrow territorial restriction, such as the gentleman suggests, could be accomplished by granting authority to transport from the county instead of from, simply, the plantsite within the county.

It should be stressed that if the carrier seeks a fundamental change in his certificate, his remedy clearly lies elsewhere, namely, in applying for new or expanded authority.

Mr. BONER of Tennessee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to ask two questions of the gentleman from New Jersey.

First, am I correct that the meaning of a "recognized pollution control program" in section 10733 refers to any project, enterprise or undertaking which assists in the removal of solid waste accumulations by regularly receiving such waste, and that "recyclable materials" is limited to inbound movement of waste which in its present state has little or no economic value, and therefore that the amendment is rather limited in scope?

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. BONER of Tennessee. I yield to the gentleman from New Jersey.

Mr. HOWARD. The references to a "recognized pollution control program" and to "recyclable materials" in new section 10733 are based on a 1971 ICC proceeding entitled ex parte No. MC-85, transportation of "waste" products for reuse and recycling (general motor carrier licensing). In that proceeding the ICC sought to encourage energy conservation and regular campaigns against litter by making it easier for carriers to get authority to transport such items as newspapers, glass containers, and cans to recycling plants, and from the recycling plants to manufacturing plants. New section 10733 will allow carriers to provide such transportation without charge or at reduced rates.

Mr. BONER of Tennessee. Second, I note that section 14A of the bill contains a provision that expressly retains antitrust immunity for rate bureau discussions of and voting upon changes in tariff structure, provided discussions of such changes are limited to industry average carrier costs. Am I correct in stating that changes in tariff structure include rate changes that are broad in scope and nature which may affect both single-line and joint-line rates? That is to say, for example, that changes in tariff structure may involve a large geographic area or a multiplicity of commodities, rates, rate scales, origins and/or destinations. Is it not also the case that these changes may involve rates which apply from, to, or between various points or broad geographic areas within the jurisdiction of a bureau and that both increases and or reductions in rates may result from the same tariff structure changes? That is to say, for example, a change in a tariff structure could result in increases in rates applicable to shipments of 500 pounds or less and decreases in the higher minimal LTL rates and truck loads. And finally is it not also true that these changes could cover a broad geographic area such as from origins in the State of Ohio to all destinations in Tennessee, New Jersey, Massachusetts, Virginia, California, Pennsylvania, and Nebraska? Would these points which I just mentioned be proper explanations of what is meant by "changes in tariff structure"?

Does the gentleman agree?

Mr. HOWARD. I agree.

Mr. BONER of Tennessee. Mr. Chairman, the legislation which the House of Representatives passed today, represents a course upon unchartered waters. After all of the discussion, debate and hearings over the past 18 months, I am still not sure that we fully know or understand the ramifications of the legislation we have just passed. Even though I voted for this legislation on final passage, I have three major areas of concern:

First. That this regulatory reform will result in an economic benefit to the consumer;

Second. That the employees of the motor freight industry are not placed in jeopardy of their jobs; and

Third. That the small trucking companies are not placed in a competitive disadvantage to the large motor carriers.

When this legislation becomes law, it requires that the Congress, in conjunction with the Department of Labor, conduct congressional oversight hearings to insure that my fears are not realized. As a member of the committee in the House which will have the responsibility to conduct those hearings, I intend to monitor very closely the ramifications which this legislation will have on those three areas. I will place special emphasis during these turbulent economic times to insure that we have not placed an unjust burden upon those who have devoted their lives to the motor carrier industry.

If we find that we have saddled any portion of our society with an unjust economic hardship, or placed competitive advantage upon any other segment of our society, I shall lead the fight to see that the wrong is corrected by any necessary remedial action.

Mr. MINETA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to take this opportunity to commend the gentleman from New Jersey (Mr. HOWARD) for his splendid efforts in pulling this important public interest legislation together. Its passage will stand as a hallmark to his outstanding leadership.

The committee's report at page 12 emphasizes in no uncertain terms that:

> It is clearly the Committee's intent that the Commission must recognize the importance of competition and efficiency in motor carrier operations as the most desirable means for achieving national transportation goals and objectives.

Again at page 14, the report states that:

> Section 5 reflects the Committee's strong belief that increased competition and potential competition will bring about the most efficient and economical delivery of transportation service to the public.

These repeated directives favoring competition and the benefits flowing from it reflect the specific intent of the committee.

The first situation involves a monopoly or a near monopoly in the regulated transportation of a particular commodity or range of commodities. Should such a situation exist—and at least in certain areas of motor carriage, such as theatrical equipment, this is the fact—would the gentleman agree that the committee's directives takes on all the more significance?

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New Jersey.

Mr. HOWARD. The gentleman is quite correct. Obviously, since the committee has recognized competition to be beneficial and important, the authorization of a new carrier where a monopoly or a near monopoly exists has all the more merit consistent with the committee's intent.

Mr. MINETA. I thank the gentleman. Would he further agree that if there is a possibility of reduced rates resulting from a new entrant's competition, particularly when the existing carrier is a monopoly, or a near monopoly, that such benefits are desirable, are contemplated by the committee, and should be encouraged through new entry?

Mr. HOWARD. The gentleman is again correct. One of the primary concepts in the committee's thinking and a concept that permeates virtually every feature of this legislation is that competition is not merely to be theoretical. We want its benefits to be realized. Competitive rate reductions are benefits that should be encouraged and are significant factors to be considered in weighing applications for authority, certainly in the situation the gentleman has described as well as in all applications.

Mr. MINETA. I thank the gentleman.

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer amendments.

The Clerk read as follows:

> Amendments offered by Mr. HOWARD: Page 13, line 1, strike out the comma and insert in lieu thereof "and".
>
> Page 13, line 2, strike out the first comma.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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Mr. HOWARD. Mr. Chairman, before a vote on this, I would just like to state that the intent of the committee is that the ICC use the composite producer current price index as published by the Department of Labor.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. HOWARD).

The amendments were agreed to.

Mr. HOWARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank my colleagues for their great support.

I would like to say that our subcommittee may bring one bill per Congress to the floor of this House. This has been a wonderful afternoon, I think, for transportation in general; but I would like to state that I want to express the appreciation of myself and all the members of our subcommittee and the full committee for the great amount of work, effort, and support in behalf of this legislation, by the gentleman from Ohio (Mr. HARSHA).

The gentleman from Ohio (Mr. HARSHA) has been the ranking minority member of our full committee for many, many years. He has been a tremendous worker. Perhaps the highlight of his career has been work in highway safety. I know an awful lot of people in this Nation are alive today who might not be were it not for his work in highway safety, in water resources, in transportation, and everything else.

I just do not want to let this bill close without saying, "We are going to miss you a great deal, Mr. HARSHA," and I am sure that the Committee on Public Works and Transportation will never be the same, unfortunately.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have had a long and hard debate all day. This bill has been with us for about 4 years. We have gotten into it in the last 18 months. Our whole staff has been involved. They have done a very fine job.

The gentleman from New Jersey (Mr. HOWARD) and the gentleman from Pennsylvania (Mr. SHUSTER) have had the brunt of this. They have held hearings throughout the United States.

I think we have developed a very fine bill that has been fully debated here today. I hope it will be passed later this evening.

I want to take this time to thank the ranking minority member of our committee, who is leaving the Congress after a very distinguished career. Working with the gentleman from Ohio, BILL HARSHA, has been a pleasure for me and a pleasure for all the other members of the committee. We have had our disagreements. We have worked them out. He is a person that is a team player. He makes a very fine person to work with, and putting this bill together after meeting with all of the diverse interests in the trucking industry and all of the consumer groups and others that were involved, including the staff of the Senate, including the administration, we have a well-rounded bill. I just hope that we will all support the bill.

I give much credit to the gentleman from Ohio (Mr. HARSHA) who has worked day in and day out to bring this bill to a conclusion where we are about to vote on it.

Mr. Chairman, I rise in support of H.R. 6418, the Motor Carrier Act of 1980. In so doing, I want to associate myself with the remarks of Chairman HOWARD and to thank publicly the ranking minority member of our committee, Congressman BILL HARSHA, and the ranking minority member of the subcommittee, Congressman BUD SHUSTER. H.R. 6418 represents the bipartisan effort of the Committee on Public Works and Transportation, and it was achievable only through the magnificent joint effort by our minority colleagues.

The legislation which the House will consider today represents hours and hours of long and hard work and difficult negotiations with all of the interested parties. Proposals were discussed by members of our committee among themselves, as well as with members of other committees. In addition, discussions were held with the Senate, the administration, the Interstate Commerce Commission, the trucking industry, labor groups, shippers, receivers, consumer groups, independent owner-operators, and others. The final product is a compromise between all of the interested parties. I have served in the House of Representatives for 20 years, and I believe the same thing can be said about all major legislative efforts.

The bill's reforms are major. It changes things. The trucking industry will be regulated in a different way. Consequently, key changes will be made in the manner in which the industry operates.

The industry is now competitive. As a result of H.R. 6418, it will be more competitive.

The industry is now regulated. It will be regulated less, especially in the area of entry and pricing. This lessening of regulation will provide more flexibility for meeting marketing demands. Consequently, it should benefit all of our citizens.

The Interstate Commerce Commission needed congressional direction in formulating policies for the country's major transportation industry. It now has it, and the committee and the Congress fully intend that the Commission will carry out that policy.

H.R. 6418 addresses all of the issues that acted as stimuli for regulatory reform, such as entry, pricing, regulatory lag, antitrust immunity, more efficient use of fuel, and help for the independent owner-operator, and more service and pricing options for shippers and receivers.

For the first time, there are explicit policy directives to the ICC to consider the needs of the consumer, to consider greater participation by minorities in the motor carrier system, and to provide and maintain service to small communities and small shippers.

By bringing several new policy objectives into the statement of national transportation policy, H.R. 6418 recognizes the changes in our economy and the maturing of the motor carrier industry which have occurred over the course of the last 40 years of regulation. Healthy competition, efficient carrier operation, assurance of service to small communities and small shippers, adequate profits to attract capital, a safe, sound, privately owned motor carrier industry able to meet our present and future needs for responsive service are important new policy objectives which the Interstate Commerce Commission is to consider in its decisionmaking process. The legislation provides for a careful consideration of these and the other objectives of the national transportation policy.

We believe that healthy competition will be chiefly instrumental in assuring reasonable rates and the availability of service and price options for shippers and also in assuring adequate service to small communities and shippers, fair wages and working conditions, productive use of equipment and energy resources, and adequate profits to maintain a sound, privately owned motor carrier system. We expect the Commission to carefully weigh policy objectives in making its determinations. While competition is an important factor, additional competition, in and of itself, is not necessarily a sufficient basis for granting new authority if it does not carry out the objectives of that new transportation policy.

The committee has tried very hard to produce a progressive reform measure. It has produced a good bill; we will, however, oversee the effects in an aggressive manner in order to assure the best possible results.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. Yes. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank my good friend, the gentleman from California, for yielding. I just want to associate myself with the remarks that he has made and those that the gentleman from New Jersey made before him concerning the service of the gentleman from Ohio, BILL HARSHA, on this committee and also in the House. He is truly one of the finer Members of the House and we will all have more to say about this later; but nevertheless, because this bill is so important and he has played such an important part in it, it certainly is appropriate that the gentleman from California has said what he did about the service in general of the gentleman from Ohio, BILL HARSHA.

We will miss him, there is no doubt about that.

I thank the gentleman.

Mr. JOHNSON of California. Mr. Chairman, I thank the gentleman for his contribution.

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer a series of 11 technical amendments, as permitted under the rule.

The Clerk read as follows:

Amendments offered by Mr. HOWARD: Page 9, line 21, strike out "common".

Page 9, line 23, after "this title apply" insert "or under a permit to which the provisions of section 10923(b)(5) of this title apply".

Page 14, line 5, strike out the comma and insert in lieu thereof "and" and after "empty" insert "shipping".

Page 14, line 6, strike out the comma.

Page 14, line 7, before the semicolon insert "(other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles)".

Page 15, line 14, strike out "(a)".

Page 16, strike out lines 16 through 19.

Page 24, strike out line 20 and all that follows through line 18 on page 25 and insert in lieu thereof the following:

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

Page 41, after line 7, insert the following new subsection:

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

Page 41, strike out line 13 and all that follows through line 9 on page 42 and insert in lieu thereof the following:

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

Page 42, line 15, after "unload" insert "any part of".

Page 42, line 16, after "unload" insert "any part of".

Page 43, after line 18, insert the following new subsections:

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.".

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

Page 44, line 3, after the quotation marks, insert "(a)".

Page 44, line 10, strike out "In promulgating" and all that follows through the second period on line 12 and insert in lieu thereof the following:

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to United States Government for a civil penalty or not more than $10,000) for each violation.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

Page 44, line 21, after "10527" insert "(a)".

Page 49, strike out lines 13 through 16, and insert in lieu thereof the following:

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property.

Page 68, line 8, strike out "September 1, 1981" and insert in lieu thereof "September 1, 1982".

Page 69, line 17, strike out "fiscal year 1981" and insert in lieu thereof "fiscal years 1981 and 1982".

Page 70, line 10, after "motor vehicle" insert "in the United States".

Page 70, line 11, strike out "or" and insert in lieu thereof a comma.

Page 70, line 13, before the period insert the following: ", or between a place in a State and a place outside the United States".

Page 70, line 16, strike out "$1,000,000," and insert in lieu thereof "$750,000,".

Page 71, line 7, strike out "$1,000,000" and insert in lieu thereof "$750,000".

Page 75, line 20, after "motor carrier industry" insert "(including, but not limited to, small and minority motor carriers and independent owner-operators)".

Page 75, line 25, strike out "required" and insert in lieu thereof a "modified".

Page 80, strike out line 13 and insert in lieu thereof the following:

BUSINESS ENTERTAINMENT EXPENSES

Page 80, strike out line 17 and insert in lieu thereof the following:

"§ 10751. Business entertainment expenses

Page 80, line 18, strike out "solicitation or".

Page 81, line 1, strike out "solicitation or".

Page 81, line 12, strike out "solicitation and".

Page 81, strike out the matter following line 19 and preceding line 20 and insert in lieu thereof the following:

"10751. Business entertainment expenses.".

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. I would like to take a moment to explain the amendments:

Contract Carriers

(SECTION 5)

These amendments rectify a drafting omission in the legislation. Section 5 provides that owner-operators which acquire either common or contract authority to transport processed food and certain other commodities need only file minimum rates with the Interstate Commerce Commission. As drafted, the section omits owner-operators with contract carrier authority. These amendments add such owner-operators to the provision.

Exemptions

(SECTION 7)

These amendments clarify the Committee's intent with respect to certain transportation which section 7 exempts from ICC regulation. First, this section exempts the transportation of "shipping" containers, and not other types of containers. Second, it does not exempt the transportation of certain containers or devices used for the transportation of motor vehicle parts.

Private Carriage

(SECTION 9)

These amendments eliminate from section 9 of the bill any change in the definition of "private carrier". As reported, the bill amended the definition to expressly include corporations providing intercorporate hauling under section 9. Later, we determined that no change in the definition was necessary since the term "person" already picked up corporations. Further, the change raised a potentially controversial question over whether a regulated motor carrier could provide such intercorporate hauling.

Zone of Rate Freedom for Motor Carriers of Property and Freight Forwarders

(SECTION 11)

The bill establishes a 10-percent zone of rate freedom. It also provides that the base rate around which the zone operates is to be adjusted to coincide with changes in the Producers Price Index (PPI). This is to take into account inflation. Following the Committee markup, some groups expressed concern that the adjustment language could be construed as providing automatic indexing or could serve as a psychological benchmark for price increases. Neither of these results was intended. This amendment addresses those concerns. It clarifies that the upper limit of the zone of rate freedom is equal to 10 percent plus the percentage change in the PPI during the preceding 12 months. Thus, if the increase in the PPI during the past year was 8 percent, then the upper limit of the zone would be 18 percent.

Transition Period for Rate Bureaus

(SECTION 14)

This amendment does no more than provide for a transition period for the rate bureaus to revise their collective ratemaking agreements so that the agreements will meet the new conditions imposed by the bill. Rate bureaus are given 120 days after date of enactment to file new agreements. During that time and during the time it takes the Commission to review and to take action on the agreements, the bureaus may continue to function under their old agreements.

This amendment does not postpone the reforms made by this legislation. The bureaus must comply immediately. Plainly, this is in accordance with the Committee's intent to retain rate bureaus and the intent to reform them.

This transition period was implied by the legislation; this amendment eliminates any doubt as to that intent.

Lumping and Written Contracts

(SECTIONS 15 AND 16)

Section 15 of the bill, as reported, addresses certain concerns regarding loading and unloading practices. Following the Committee markup, many suggested that the "words" in section 15 could be construed in a much broader manner than intended by the Committee. These amendments to sections 15 and 16 are intended to eliminate any question as to the Committee's intent.

Let me say, that the Committee's original intent was (1) to eliminate extortionate practices that occur on the docks, (2) to ensure that clear notice is given to owner-operators when they are responsible for loading and unloading their trucks, (3) to identify any compensation that the owner-operator is to receive for such loading or unloading, and (4) to ensure that any compensation provided for is received by the owner-operator. These amendments convey this intent in a more clear manner than does the bill as reported.

The amendments also provide for a study of loading and unloading practices. The study was added because the Committee wishes to know more about these practices so that it can more accurately deal with any other problems in this area. It is a matter that will be scrutinized closely in the Committee's annual oversight hearings on the effects of this legislation.

Mixed Loads

(SECTION 21)

This amendment deals with mixed loads of regulated and exempt freight. The bill now permits a regulated carrier to transport in the same vehicle at the same time mixed loads of regulated and exempt freight. The bill lists the types of exempt freight that carriers can transport under this provision. Freight transported incidental to air transportation inadvertently was left off of the list. This amendment adds such freight to this list.

Small Community Service Study

(SECTION 28)

This amendment extends by 1 year the period of time the Interstate Commerce Commission has to study the effect of the bill on small community service. The bill now directs the Commission to submit its report by September 1, 1981. We now are convinced that that simply is not enough time to assess all of the effects of the legislation. Accordingly, the amendment changes the report date to September 1, 1982.

Minimum Financial Responsibility for Motor Carriers

(SECTION 30)

These amendments make three changes. First, they reduce the minimum level of financial responsibility for interstate for-hire carriers of general freight from $1,000,000 to $750,000. The purpose of this change is to meet recently expressed concerns about the ability of the insurance industry to write $1,000,000 policies for entire truck fleets; $750,000 is a more approachable figure for this type of freight. The bill's minimum levels of financial responsibility for the transportation of hazardous materials will not be changed by these amendments.

Second, these amendments ensure that DOT, in reporting to Congress on the effect of minimum insurance requirements, reports specifically on their effect on small and minority motor carriers and owner-operators.

Third, the amendments make a technical change in the definition of interstate commerce. As drafted, the definition does not include transportation between the United States and another country. The Committee clearly intended that such transportation be covered.

Customer Solicitation Expenses

(SECTION 33)

The last amendments are intended to clear up a problem related to the meaning of the terms "business solicitation" and "entertainment expense." In the Committee report, we indicated that the two terms are intended to be synonymous. However, it turns out that they are not. To eliminate any misunderstanding as to what constitutes normal sales expenses, these amendments strike the reference to "business solicitation" expense. This is consistent with the Committee's original purpose.

Mr. Chairman, in addition to that series of amendments which were considered en bloc, I offered another technical amendment. The House also agreed to that amendment which made clear that section 7 of the bill exempts the transportation of certain "agricultural" plants from ICC jurisdiction, and not all plants.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Howard).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Beilenson, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6418) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes, pursuant to House Resolution 714, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentlewoman opposed to the bill?

Mrs. FENWICK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Fenwick moves to recommit the bill, H.R. 6418, to the Committee on Public Works and Transportation.

The SPEAKER. Without objection, the previous question is ordered to the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 367, nays, 13, not voting 53, as follows:

[Roll No. 350]

YEAS—367

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard

Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Ferraro
Findley
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—13

Dingell
Ertel
Fenwick
Gonzalez
Gore
Hutchinson
Lederer
McCormack
Mollohan
Musto
Rahall
Vanik
Williams, Mont.

NOT VOTING—53

Abdnor
Anderson, Ill.
Badham
Boggs
Bolling
Brown, Ohio
Burton, John
Clay
Danielson
Davis, S.C.
Derrick
Dodd
Edwards, Okla.
Fazio
Fish
Fithian
Gibbons
Guyer
Hance
Hinson
Holtzman
Hyde
Jenrette
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Leach, La.
Leath, Tex.
Lee
McEwen
Mitchell, Md.
Moffett
Moorhead, Calif.
Nedzi
Nolan
Pursell
Reuss
Richmond
Rodino
Santini
Sebelius
Shannon
Solarz
Solomon
Ullman
Van Deerlin
Vander Jagt
Weiss
White
Wilson, C. H.
Wright
Wydler

☐ 1930

The Clerk announced the following pairs:

On this vote:

Mr. Edwards of Oklahoma for, with Mr. Abdnor against.

Mr. Hyde for, with Mr. Lee against.

Until further notice:

Mrs. Boggs with Mr. Sebelius.

Mr. Richmond with Mr. Brown of Ohio.

Mr. Mitchell of Maryland with Mr. Kemp.

Mr. Jenrette with Mr. Vander Jagt.

Mr. Fithian with Mr. Wydler.

Mr. Fazio with Mr. Badham.

Mr. Santini with Mr. Fish.

Mr. Rodino with Mr. McEwen.

Mr. Nedzi with Mr. Moorhead of California.

Mr. Moffett with Mr. Pursell.

Mr. Charles H. Wilson of California with Mr. Kelly.

Mr. Wright with Mr. Hinson.

Mr. Van Deerlin with Mr. Solomon.

Mr. Weiss with Mr. Guyer.

Mr. Jones of Tennessee with Mr. Ullman.

Mr. Shannon with Mr. Solarz.

Mr. Davis of South Carolina with Mr. Clay.

Mr. John L. Burton with Mr. Dodd.

Mr. Jones of Oklahoma with Mr. White.

Mr. Nolan with Mr. Hance.

Mr. Reuss with Mr. Derrick.

Mr. Danielson with Mr. Gibbons.

Ms. Holtzman with Mr. Leach of Louisiana.

Mr. Leath of Texas with Mr. Anderson of Illinois.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HOWARD. Mr. Speaker, pursuant to the provisions of House Resolution 714, I call up from the Speaker's table for immediate consideration the Senate bill (S. 2245) to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HOWARD moves to strike out all after the enacting clause of the Senate bill, S. 2245, and to insert in lieu thereof the provisions of the bill, H.R. 6418, as passed, as follows:

That this Act may be cited as the "Motor Carrier Act of 1980".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in some operating inefficiencies and some anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 10101(a) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers; (F) improve and maintain a sound, safe, and competitive privately-owned motor carrier system; (G) promote greater participation by minorities in the motor carrier system; and (H) promote intermodal transportation.".

MOTOR CARRIER ENTRY POLICY

SEC. 5. (a) Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carrier";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b) (1) Except as provided in this section, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds—

"(A) that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(B) on the basis of evidence presented by persons supporting the issuance of the certificate, that the service proposed will serve a useful public purpose, responsive to a public demand or need;

unless the Commission finds, on the basis of evidence presented by persons objecting to the issuance of a certificate, that the transportation to be authorized by the certificate is inconsistent with the public convenience and necessity.

"(2) In making a finding under paragraph (1) of this subsection, the Commission shall consider and, to the extent applicable, make findings on at least the following:

"(A) the transportation policy of section 10101(a) of this title; and

"(B) the effect of issuance of the certificate on existing carriers, except that the Commission shall not find diversion of revenue or traffic from an existing carrier to be in and of itself inconsistent with the public convenience and necessity.

"(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(4) The provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide—

"(A) transportation to any community not regularly served by a motor common carrier of property certificated under this section;

"(B) transportation services which will be a direct substitute for abandoned rail service to a community if such abandonment results in such community not having any rail service and if such application is filed within 120 days after such abandonment has been approved by the Commission;

"(C) transportation for the United States Government of property other than used household goods, hazardous or secret materials, and sensitive weapons and munitions;

"(D) transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

"(E) transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the certificate, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this clause and provides to the Commission such information and records as the Commission may require.

"(5) Notwithstanding any other provision of law, any carrier holding authority under paragraph (4)(D) of this subsection operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or more shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary of Transportation pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(6) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of certificates to which the provisions of paragraph (4)(E) of this subsection apply.

"(7) No motor common carrier of property may protest an application to provide transportation filed under this subsection unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(8) No motor contract carrier of property may protest an application to provide transportation filed under this subsection.".

(b) Section 11145 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Commission shall streamline and simplify, to the maximum extent practicable, the reporting requirements applicable under this subchapter to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

(c)(1) Section 10762(a)(1) of title 49, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year or a motor carrier of property providing transportation under a certificate to which the provisions of section 10922(b)(4)(E) of this title apply or under a permit to which the provisions of section 10923(b)(5) of this title apply may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.".

(2) Section 10762 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The Commission shall streamline and simplify, to the maximum extent practicable, the filing requirements applicable under this section to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(h)(1) Not later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, procedures to process expeditiously applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) reasonably broaden the categories of property authorized by the carrier's certificate or permit;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other unreasonable restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to paragraph (1)(B) of this subsection shall provide for final Commission action upon an application not later than 120 days after the date the application is filed with the Commission, except that in extraordinary circumstances, the Commission may extend such deadline for a period of not to exceed 90 additional days. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under paragraph (1)(B) of this subsection, the Commission shall (A) consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title, and (B) give special consideration to providing and maintaining service to small and rural communities and small shippers.

"(i) A person holding (1) a certificate issued under subsection (b) of this section to provide transportation as a motor common carrier of property, and (2) a permit issued under section 10923 of this subchapter to provide transportation as a motor contract carrier of property, may transport property under the certificate in the same motor vehicle and at the same time as property under the permit.".

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) by inserting "or byproducts thereof not intended for human consumption," after "fresh shellfish," in subparagraph (D);

(2) by striking out "and" at the end of subparagraph (C);

(3) by inserting "and" after the semicolon at the end of subparagraph (D); and

(4) by adding at the end of such section the following new subparagraph:

"(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Civil Aeronautics Board or its successor agency) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;".

(c) Section 10526(a) of title 49, United States Code, is further amended by (1) striking the period at the end thereof and substituting a semicolon, and (2) adding at the end thereof of the following new paragraphs:

"(10) transportation of used pallets and used empty shipping containers (including intermodal cargo containers) and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

"(11) transportation of natural, crushed, vesicular rock to be used for decorative purposes; or

"(12) transportation of wood chips.".

FOOD TRANSPORTATION

SEC. 8. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10732. Food and grocery transportation

"(a) Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

"(b) It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer. The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment of the Motor Carrier Act of 1980 and not less often than once a year thereafter. For purposes of this subsection, the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

(b) The index for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10732. Food and grocery transportation.".

PRIVATE CARRIAGE

SEC. 9. Section 10524 of title 49, United States Code, is amended by inserting "(a)" before "The" and by adding at the end of such section the following new subsections:

"(b) The Commission does not have jurisdiction under this subchapter over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family if—

"(1) the parent corporation notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries;

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a copy of the notice is carried in the cab of all vehicles conducting the transportation.

"(c) In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.".

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended to read as follows:

"(12) 'motor contract carrier' means—

"(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person; and

"(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person.".

(2) Section 10923(b) of title 49, United States Code, is amended by—

(A) inserting in paragraph (2) "of passengers" after "motor contract carrier"; and

(B) redesignating paragraph (3) (and any references thereto) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider—

"(A) the nature of the transportation proposed to be provided;

"(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

"(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

"(D) the changing character of the requirements of those shippers.

"(4) No motor carrier of property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

"(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

"(6) With respect to applications if persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.".

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(B) in paragraph (2) by striking "including each person or number or class of persons" and substituting "including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)".

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting ", or a motor contract carrier of property," after "carrier"; and

(2) in subsection (b)(1) by inserting ", or motor contract carrier of property," after "water common carrier".

(d) Section 10766(b) of title 49, United States Code, is amended—

(1) by inserting ", and motor contract carriers of property," after "carriers" in the first sentence;

(2) by inserting "or the motor contract carrier of property" after "carrier" in the third sentence; and

(3) by striking the fifth sentence.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) On application of a motor contract carrier of property who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier of property who holds a certificate under section 10922(b) of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof—

"(A) do not conform with the operations of a motor contract carrier of property; and

"(B) are those of a motor common carrier of property;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

"(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922(b) of this title which authorizes the holder of such certificate to provide transportation as a motor common carrier of property of the same property between the same points or within the same territory as authorized in the permit or part thereof.".

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the gounds that such rate is unreasonable on the basis that it is too high or too low if—

"(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that—

"(A) there is sufficient actual and potential competition to regulate rates; and

"(B) there are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;

except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

"(4) Any rate implemented by a carrier pursuant to this subsection shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), except that the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

RATES AND LIABILITY BASED ON VALUE

SEC. 12. Section 10730 of title 49, United States Code, is amended by inserting "(a)" before "The Interstate Commerce Commission", by inserting "(including a motor common carrier of household goods but excluding any other motor common carrier of property)" after "authorize a carrier", and by adding at the end thereof the following new subsection:

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not limit the liability of the carrier.".

RULE OF RATEMAKING

SEC. 13. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706(b) of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall allow the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable estimated or foreseeable future costs.".

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property, the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.".

RATE BUREAUS

SEC. 14. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) (and any references thereto) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by inserting the following new subsection after subsection (a):

"(b)(1) In this subsection, 'single-line rate' refers to a rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier.

"(2) As provided by this subsection, a motor common carrier of property providing transportation or services subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may enter into an agreement with one or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them. Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal;

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items;

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented; and

"(vii) the organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

"(D) No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

"(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission and if discussion of such increases or decreases is limited to industry average carrier costs and, after the date of elimination of the antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(ii) changes in commodity classifications;

"(iii) changes in tariff structures if discussion of such changes is limited to industry average carrier costs and, after the date of elimination of antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(iv) publishing of tariffs, filing of independent actions for individual members carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

"(4) Notwithstanding any other provision of this subtitle, before the date on which the antitrust immunity is eliminated for discussion of or voting on single-line rates by paragraph (3)(D) of this subsection, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of property from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, classifications, or divisions, except that before such date, the Commission may issue regulations which take effect on or after such date to carry out the provisions of such paragraph.".

(b)(1) There is hereby established a Study Commission to be known as the Motor Carrier Ratemaking Study Commission, hereinafter in this section referred to as the "Study Commission".

(2) The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and upon the need or lack of need for continued antitrust immunity therefor. Such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. The study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

(3) The Study Commission shall be comprised of ten members as follows:

(A) three members appointed by the President of the Senate, two from the membership of the Committee on Commerce, Science, and Transportation and one from the membership of the Committee on the Judiciary;

(B) three members appointed by the Speaker of the House of Representatives, two from the membership of the Committee on Public Works and Transportation and one from the membership of the Committee on the Judiciary; and

(C) four members of the public appointed by the President, two from the membership of national trade associations of shippers, one who is a motor common carrier of property from the membership of the national trade association of motor carriers, and one who is a motor common carrier of property from the membership of a major regional motor common carrier rate bureau.

(4) The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations. The Study Commission shall cease to exist 6 months after submission of such report. All records and papers of the Study Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(5) The Chairman of the Study Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to motor carrier collective ratemaking to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Study Commission and its staff in matters pertaining to this subsection. Such departments and agencies shall include, but not be limited to, the Department of Transportation, the Interstate Commerce Commission, the Federal Trade Commission, and the Department of Justice.

(6) In carrying out its duties, the Study Commission shall seek the advice of various groups interested in motor carrier collective ratemaking including, but not limited to, State and local governments and public and private organizations working in the field of transportation.

(7)(A) The Study Commission or, on authorization of the Study Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this subsection, hold such hearings and sit and act at such times and places as the Study Commission or such authorized committee may deem advisable.

(B) The Study Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subsection and each department, agency, and instrumentality is authorized and directed to furnish such information to the Study Commission upon request made by the Chairman.

(8)(A) Members of Congress who are members of the Study Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Study Commission.

(B) Members of the Study Commission, except Members of Congress, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of duties while serving as a Study Commission member.

(9)(A) The Study Commission is authorized to appoint and fix the compensation of a staff director and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Study Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall an employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(B) The staff director shall be compensated at the rate of pay for a position at Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(10) The Study Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer

funds to Federal agencies from sums appropriated pursuant to this subsection to carry out such of its duties as the Study Commission determines can best be carried out in that manner.

(11) Any vacancy which may occur on the Study Commission shall not effect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(12) There are hereby authorized to be appropriated, for fiscal years commencing on or after October 1, 1980, an amount not to exceed $3,000,000 to carry out this subsection. Funds appropriated under this subsection shall be available to the Study Commission until expended, except that any such funds which remain unobligated on the date that the Study Commission ceases to exist shall be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

(c) Section 10706(c) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor common carrier of property)".

(d) Section 10706 of title 49, United States Code, is further amended—

(1) in subsections (d), (f), and (g), as redesignated by subsection (a) of this section, by striking "subsection (a) or (b)" and substituting "subsection (a), (b), or (c)"; and

(2) in subsection (f), as redesignated by subsection (a) of this section, by inserting "or (c)" immediately before the period at the end of the first sentence.

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Codes, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

LUMPING

SEC. 15. (a) (1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following new section immediately after section 11108:

"§11109. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly know as the Norris-LaGuardia Act.".

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"11109. Loading and unloading motor vehicles.".

(b)(1) Chapter 119 of title 49, United States Code, is amended by inserting the following new section immediately after section 11902:

"§11902a. Penalties for violations of rules relating to loading and unloading motor vehicles

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(b) Any person who knowingly violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(2) The analysis for chapter 119 of title 49, United States Code, is amended by inserting the following immediately after item 11902:

"11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11109" after "10930".

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof of the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle."

(c) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

WRITTEN CONTRACTS PERTAINING TO CERTAIN INTERSTATE MOVEMENTS BY MOTOR CARRIERS

SEC. 16. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10527. Written contracts pertaining to certain interstate movements by motor vehicle

"(a) Notwithstanding the provisions of section 10526(a)(6) of this subchapter, the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, shall, where appropriate, require by regulation the use of written contracts for the interstate movement by motor vehicle of property described in such section and for brokerage services to be provided in connection with the interstate movement of such property.

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whatever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

(b) The analysis of subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "10527 or" before "10930".

(d) The Interstate Commerce Commission and the Secretary of Agriculture may enter into agreements (including, but not limited to, memorandums of understanding) in carrying out the provisions of section 10527(a) of title 49, United States Code.

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 17. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers or household goods" after "transportation" the first place such term appears; and

(2) by redesignating subsections (b), (c), and (d) (and any references thereo) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the person to be a broker for transportation of property (other than household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that the person is fit, willing, and able—

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission.".

(b) Section 10925(d)(1)(A) of title 49, United States Code, is amended by striking out "10924(d)" and inserting in lieu thereof "10924(e)".

FINANCE EXEMPTIONS

SEC. 18. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking "more than $300,000" and substituting "more than $2,000,000".

UNIFORM STATE REGULATION

SEC. 19. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act.

POOLING ARRANGEMENTS

SEC. 20. (a) Section 11342(a) of title 49, United States Code, is amended by striking out "The Commission may" and inserting in lieu thereof "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the Commission may".

(b) Section 11342 of title 49, United States Code, is amended by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Any motor common carrier of property may apply to the Commission for approval of an agreement or combination with another motor common carrier of property to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Commission not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Commission shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall, to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable.".

MIXED LOADS

SEC. 21. (a) Section 10526(a)(6) of title 49, United States Code, is amended by striking out "a motor vehicle carrying, for compensation, only property and that property consists" and inserting in lieu thereof "transportation by motor vehicle".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10528. Mixed loads of regulated and unregulated property

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a certificate issued under section 10922(b) of this subtitle or under a permit issued under section 10923 of this subtitle. Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such certificate or permit.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10528. Mixed loads of regulated and unregulated property.".

JOINT RATES AND THROUGH ROUTES

SEC. 22. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)," immediately after "subchapter I".

(b) Section 10705 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), and (f) (and any references thereto) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a motor common carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with another such carrier or with a water common carrier of property.

"(2) The Commission may not require a motor common carrier of property, without its consent, to include in a through route substantially less than the entire length of its route and the route of any intermediate carrier which is operated in conjunction and under common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless inclusion of such routes would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established, or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient, or more economic transportation. In prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the preceding sentence, give reasonable preference to the carrier which originates the traffic.".

(c) Section 10705(c) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "or (b)" after "subsection (a)" in the first sentence and by striking out "or water carrier" in the second sentence and inserting in lieu thereof "carrier, water carrier, or motor common carrier of property".

(d) The first sentence of section 10705(e) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "a rail or water common carrier tariff" and inserting in lieu thereof "a tariff of a rail carrier, water common carrier, or motor common carrier of property".

(e) Subsection (f)(1) of section 10705 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

(f) Section 10705 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) Any motor common carrier of property who is a party to a through route and joint rate, whether established by such carrier under section 10703 of this title or prescribed by the Commission under subsection (b) of this section, shall promptly pay divisions or make interline settlements, as the case may be, with other carriers which are parties to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.".

(g) Section 10705(g) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (f)".

(h) Section 10703(a)(4) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(E) A freight forwarder may enter into contracts with a rail carrier or with a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843–848). Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations implementing the provisions of this subparagraph.".

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 23. Section 10928 of title 49, United States Code, is amended by—

(1) inserting "(a)" before "Without";

(2) inserting "of passengers" after "motor carrier" each place such term appears; and

(3) adding at the end thereof the following new subsections:

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 270 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may isue, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area if the Commission determines that, due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection not later than 15 days after the date the application is filed with the Commission.".

COOPERATIVE ASSOCIATIONS

SEC. 24. (a) Section 10526(a)(5)(A)(ii) of title 49, United States Code, is amended by striking out "15 percent" and inserting in lieu thereof "25 percent".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10529. Limited authority over cooperative associations

"(a) Notwithstanding section 10526(a)(5) of this title, any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or a federation of cooperative associations which is required to notify the Commission under such section 10526(a)(5) shall prepare and maintain such records relating to transportation provided by such association or federation, in such form, as the Commission may require by regulation to carry out the provisions of such section 10526(a)(5). The Commission or an employee designated by the Commission, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

"(2) inspect and copy any record of such association or federation.

"(b) Notwithstanding section 10526(a)(5) of this title, the Commission may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Commission containing answers to questions about transportation provided by such association or federation.

"(c) The Commission may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Commission issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

"(d)(1) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not maintain the record in the form and manner prescribed by the Commission, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

"(2) Trial in a civil action under paragraph (1) of this subsection shall be in the judicial district in which (A) the cooperative association or federation of cooperative associations has its principal office, (B) the violation occurred, or (C) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

"(f) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission under this section, (6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the Commission issued under this section, shall be fined not more than $5,000.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10529. Limited authority over cooperative associations.".

(c) Subsection (c) of section 11144 of title 49, United States Code, is hereby repealed.

PROCEDURAL REFORM

SEC. 25. (a) Section 10322 of title 49, United States Code, is amended to read as follows:

"§ 10322. Commission action and appellate procedure in non-rail proceedings

"(a) This section applies to a matter before the Interstate Commerce Commission over which the Commission has jurisdiction under chapter 105 of this title, other than a matter involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of such chapter. The deadlines set forth in this section do not apply to the following sections of this subtitle: 10525(c), 10708(b), 10922(h)(2), 10928, 11345a, and 11701(c).

"(b)(1) Except as provided in paragraph (2) of this subsection, a division, individual commissioner, employee board, or an employee delegated under section 10305 of this title to make an initial decision in a matter related to a carrier (other than a rail carrier), or, in the case of a matter referred to a joint board under section 10341 of this title, such joint board—

"(A) shall, in any case in which an oral hearing is held or the Commission has found that an issue of general transportation importance is involved, complete all evidentiary proceedings related to the matter not later than the 180th day following institution of the proceeding and shall issue in writing the initial decision not later than the 270th day following institution of the proceeding; and

"(B) shall, in the case of all other proceedings subject to this section, issue in writing the initial decision by the 180th day following institution of the proceeding.

If evidence is submitted in writing or testimony is taken at an oral hearing, the initial decision shall include specific findings of fact, specific and separate conclusions of law, an order, and justification for the findings of fact, conclusions of law, and order.

"(2) In any case involving an application for authority to provide motor carrier transportation incidental to trailer-on-flatcar or container-on-flatcar service by rail under subchapter II of chapter 109 of this subtitle, a final decision on such application shall be issued in writing not later than the 180th day following the date such application is filed with the Commission.

"(3) At the earliest practicable time after the filing of an application for authority under subchapter II of chapter 109 of this title, the Commission shall publish in the Federal Register notice of the filing of such application.

"(c) The Commission, or a division designated by the Commission, may waive the requirement for an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance or that waiver of the initial decision is required for the timely execution of the Commission's functions. If the requirement for an initial decision is waived, a final decision shall be issued in writing within the time limit established for the issuance of the initial decision under subsection (b) of this section.

"(d) In a proceeding under this section in which the parties have had at least an opportunity to submit evidence in written form, such parties shall have an opportunity to present arguments to the initial decisionmaker. The decisionmaker shall determine whether the arguments should be presented orally or in writing and may require that written arguments be submitted simultaneously with written submissions of evidence and that oral arguments be presented at an oral hearing. Upon issuance of an initial decision under this section, copies of such decision shall be served on the parties and submitted to the Commission.

"(e) An initial decision under this section becomes a final decision on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period or, if authorized by the Commission or division designated by the Commission, by the end of an additional period of not more than 20 days; or

"(2) the Commission stays or postpones under subsection (f)(1) of this section the initial decision not later than the 20th day following the date it is served on the parties.

"(f)(1) Before an initial decision under this section becomes a final decision, the Commission or a division or an employee board designated by the Commission, may review the initial decision on its own initiative and shall review an initial decision if a timely appeal is filed under subsection (e) of this section.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter and it becomes a final decision only after the final determination is made. If a timely appeal is filed under subsection (e) of this section, the final determination shall be made not later than the 50th day after the appeal is filed. If an initial decision under this section is reviewed by the Commission or a division or an employee board designated by the Commission on its own initiative, the final decision shall be made not later than the 50th day after initiation of such review.

"(3) Nowithstanding the provisions of paragraph (2) of this subsection, if an initial decision under this section is reviewed by further hearing, such review shall be completed, and a final decision made, not later than the 120th day following the date the further hearing is granted.

"(4) Review of, or appeal from, an initial decision under this section shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under subsection (b) of such section.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission. An interested party may petition to reopen and reconsider an action of the Commission under this paragraaph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division or an employee board designated by the Commission if it finds that—

"(A) the action involved a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

"(3) If the Commission initiates any action under paragraph (1) of this subsection, final disposition under such paragraph shall be made not later than the 120th day following the date action is initiated.

"(h) A final decision under this section shall be effective on the date it is served on the parties, and a civil action to enforce, enjoin, suspend, or set aside the decision may be filed after that date.

"(i) In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any matter subject to the provisions of this section shall not exceed 90 days.".

(b) Section 10323 of title 49, United States Code, is hereby repealed.

(c)(1) Section 10324(a) of title 49, United States Code, is amended by striking out the last sentence.

(2) Section 10324(c) of title 49, United States Code, is amended to read as follows:

"(c) An action of the Commission under section 10327 of this title is enforceable, unless the Commission stays or postpones such action.".

(d) Section 10325 of title 49, United States Code, is hereby repealed.

(e) Section 10327(a) of title 49, United States Code, is amended by striking out "Notwithstanding sections 10322, 10323, and 10324(c) of this title, this" and inserting in lieu thereof "This".

(f) The index for subchapter II of chapter 103 of title 49, United States Code, is amended by striking out the items relating to sections 10322, 10323, 10324, and 10325 and inserting in lieu thereof the following:

"10322. Commission action and appellate procedure on nonrail proceedings.
"10323. Repealed.
"10324. Commission action.
"10325. Repealed.".

ENFORCEMENT

SEC. 26. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11707(e) of title 49, United States Code, is amended by adding the following at the end thereof: "For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.".

(c) Section 1114 of title 18, United States Code, is amended by inserting "Interstate Commerce Commission," after "Consumer Product Safety Commission,".

MERGER PROCEDURE

SEC. 27. (a) Subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after section 11345 the following new section:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure

"(a) If a motor carrier of property providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final decision of the Commission under section 10322 of this title.

"(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section.

"(c) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(d) The Commission may waive the requirement that an initial decision be made under section 10322 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final decision under section 10322 of this title.".

(b) The analysis of subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after

"11345. Consolidation, merger, and acquisition of control: rail carrier procedure."

the following:

"11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure.".

SMALL COMMUNITY SERVICE STUDY

SEC. 28. (a) The Interstate Commerce Commission shall make a full investigation and study of motor carrier service to small communities (with emphasis on communities of population 5,000 and under), and shall submit a report, including legislative or other recommendations, to the President and the Congress not later than September 1, 1982.

(b) The report shall include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of whether the Commission is enforcing such obligation. If the Commission determines that it is not fully enforcing such obligation, then it shall explain why not, and detail what steps it would need to take and what resources it would have to have in order to enforce such obligation. The report shall also describe the extent to which motor carriers were providing service to small communities prior to the date of enactment of this Act, and evaluate the effect of this Act on such service. The report shall include specific recommendations regarding ways to ensure the provision and maintenance of motor carrier service to small communities.

(c)(1) To develop data for its report, the Commission shall monitor—

(A) complaints to determine the number and kinds of complaints by small community shippers; and

(B) applications for new and expanded service to determine whether motor carriers are seeking to serve small community shippers.

(2) The Commission may develop additional data by any other means, including surveys of small community shippers and motor carriers providing service to such communities to determine the reliability of such service and the availability of quality and price options. The Commission is authorized to enter into contracts or agreements with public and private organizations to carry out such surveys of shippers and motor carriers.

(d) There is hereby authorized to be appropriated for fiscal years 1981 and 1982 such sums as are necessary to carry out the provisions of this section.

INSURANCE

SEC. 29. Section 10927(a)(1) of title 49, United States Code, is amended by striking out "approved by the Commission." and inserting in lieu thereof "approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 30 the Motor Carrier Act of 1980.".

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle in the United States from a place in one State to a place in another State, from a place in a State to another place in such State through a place outside of such State, or between a place in a State and a place outside the United States.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under such paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financed responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $750,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may

only make reduction in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, and (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(c) Financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry (including, but not limited to, small and minority motor carriers and independent owner-operators), and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recommendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be modified.

(f) This section shall only apply to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

IMPOSITION OF STATE TAX ON MOTOR CARRIER TRANSPORTATION PROPERTY

SEC. 31. (a)(1) Chapter 115 of title 49, United States Code, is amended by inserting after section 11503 the following new section:

"§ 11503a. Tax discrimination against motor carrier transportation property

"(a) In this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Interstate Commerce Commission, owned or used by a motor carrier of property providing transportation in interstate commerce whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title; and

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection;

"(3) levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.".

(2) The chapter analysis of chapter 115 of

title 49, United States Code, is amended by inserting after

"11503. Tax discrimination against rail transportation property."

the following:

"11503a. Tax discrimination against motor carrier transportation property.".

(b) Section 10521(b)(4) of title 49, United States Code, is amended by inserting "section 11503a and" after "in".

RATES FOR TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 32. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10733. Rates for transportation of recyclable materials

"(a) A motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may provide transportation of recyclable materials without charge or at a reduced rate.

"(b) In this section, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.".

(b) The analysis for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10733. Rates for transportation of recyclable materials.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 33. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Business entertainment expenses

"(a) Any business entertainment expense incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to such jurisdiction of the Commission.

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the date of enactment of the Motor Carrier Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this subtitle, including competing unregulated surface transportation carriers.".

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Business entertainment expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

(d) Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply to expenses authorized under section 10751 of this title.".

COORDINATED TRANSPORTATION SERVICES

SEC. 34. (a) Section 10922 of title 49, United States Code, is amended by adding the following new subsection:

"(j) A motor common carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

(b) Section 10923 of title 49, United States Code, is amended by adding the following new subsection:

"(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

JOB REFERRAL

SEC. 35. The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers of property holding certificates or permits issued by the Interstate Commerce Commission under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. In order to carry out this section, the Secretary may require regulated motor carriers of property to file reports, data, and other information.

ADMINISTRATION

SEC. 36. Section 10344(f) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The Commission shall pay the rent for any space or facilities assigned under this subsection at rates determined in accordance with section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (j)).".

Amend the title so as to read: "An Act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "A Bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6418) was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR PROCEDURE TO CONCUR IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 521, MAKING ADDITIONAL FUNDS AVAILABLE BY TRANSFER FOR FISCAL YEAR 1980 FOR SELECTIVE SERVICE SYSTEM

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 96-1110) on the resolution (H. Res. 718) providing for a procedure to concur in the Senate amendment to the joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 96-1111) on the resolution (H. Res. 719) waiving certain points of order against the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7592, MILITARY CONSTRUCTION APPROPRIATION, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 96-1112) on the resolution (H. Res. 720) waiving certain points of order against the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7593, LEGISLATIVE BRANCH APPROPRIATION, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 96-1113) on the resolution (H. Res. 721) waiving certain points of order against the bill (H.R. 7593) making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROPOSED: A MARSHALL PLAN FOR COAL

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEDERER. Mr. Speaker, I would like to share with my colleagues the thoughts of Steven Friedman from his article in the Philadelphia Inquirer entitled "Proposed: A Marshall Plan for Coal." The importance of revitalizing our coal industry to establishing energy independence for the United States cannot be overestimated. Mr. Friedman's proposals can be the foundation upon which a truly strong U.S. coal industry can be built.

The article is as follows:

PROPOSED: A MARSHALL PLAN FOR COAL

(By Steven L. Friedman)

Ever since OPEC first exercised its energy stranglehold on the world in 1973, there has been an amazing concensus and rising crescendo: Let's return to coal as major source of energy. Officials from the President down to local representatives have paid strident lip service in echoeing this theme.

Now that we may encounter or face a shutoff of Mideast oil, coal's importance is paramount. Unfortunately, in spite of seven years of time and continued pronunciamentos on increasing coal production, production and use are not increasing in line with the volume of the chorus for more coal. Why?

Pennsylvania and American coal production and use reached peak levels in 1917—almost 50 years before OPEC transformed the world's economic landscape. From 1927 until 1973, the coal industry and its support infrastructure including rail transport, shipping and coal processing facilities experienced a steady decline. The railroads seriously declined after World War II as the federal government subsidized competing transport modes—trucking and air transport.

Coal used by utilities precipitously declined as ready cheap oil became our energy policy in the 1950s. With an ongoing supply of cheap oil at several dollars a barrel from the 1950s through the early 1970's, coal became a forgotten asset.

Other economic forces have contributed to coal's decline. The steady decay of the U.S. steel industry has cut off a major source of coal use—metallurgical or coking coal. Now, the major metallurgical coal market is abroad. And local steel plants are actually importing metallurgical coal in the heart of the American coal fields.

The restrictions of the Federal Clean Air Act, in particular, sulfur emission limits, have played a major role in coal's decline and produced Kafkaesque anomalies. Pennsylvania industry cannot burn Pennsylvania coal although Ohio's industries can because of Ohio's aggressive action to get a statewide exemption under Section 125 of the Federal Clean Air Act. The reaction of Pennsylvania to this exemption was not to seek its own from EPA but rather to petulantly sue EPA for granting Ohio the exemption.

As a result, many major Pennsylvania producers must seek Canadian or Midwest markets, using the Great Lakes to ship or go abroad to Europe or the Far East.

Major electric producing utility plants in the heart of Pennsylvania coal fields are still burning oil. And yet, the growing concern for "acid rain" has revealed that the source of much of the sulfur is not the American coal industry but rather Canadian sources including the large sulfur mines in northern Ontario. In any event, we now have the technology—scrubbers, etc.—to deal with excessive sulfur emissions. The question is whether we have the will and the commitment to implement the technology.

Finally, Pennsylvania's operators, especially the surface mining operators. still confront an incredibly restrictive labyrinth of regulation under the federal and state Black Lung acts, the Federal Mine Health and Safety Act and the Federal Surface Mining Control and Reclamation Act of 1977.

It is not a question of eliminating any necessary protective or environmental regulations but rather reducing the massive burden of unnecessary, often conflicting regulations.

For example, under the Federal Surface Mining Act, Congress intended the states to take the lead in enforcing the unusually detailed minimum environmental performance standards set forth in the act. However, the Office of Surface Mining in the Department of the Interior (OSM) has designed such exhaustively detailed and restrictive guidelines for state regulation, that the regulatory lead still comes from Washington, not the states, contrary to Congress' intent.

Furthermore, OSM has set up incredibly burdensome, unnecessary requirements for submitting data for permits that will curtail coal production and increase production costs without any environmental benefits.

In spite of the massive problems of decline, neglect and regulatory overkill, the coal industry, and in particular the surface mining coal industry, still believes it can provide emergency short-term relief and long-term solutions to the energy crisis. In Pennsylvania alone, there are at least 30 billion tons of recoverable coal. Pennsylvania's annual production in the past couple years for bituminous coal has ranged from approximately 85 million tons in 1976 to 80 million tons in 1978. Anthracite production has remained constant at 5 million tons.

The revival of the industry and the ability to answer the rising crescendo and clamor for coal requires tremendous public commitments and private investment. A productive environment for coal must be insured.

The following is the skeletal outline of an agenda or a Marshall Plan for coal:

1. Coal utilization must be increased by the electric utilities. This can be accomplished in several ways. Pennsylvania must seek an exemption under Section 125 of the Clean Air Act as Ohio did so that present coal burning utilities can and will use Pennsylvania coal rather than out of state coal.

President Carter's just announced utility conversion and oil backout legislation submitted to Congress must be passed and implemented.

The practices of Pennsylvania utilities, which own or control their own coal sources and pass on costs to the consumer at $50 or $60 a ton, when the utility can buy Pennsylvania coal for half the price on the spot market must be eliminated. These practices unfairly burden consumers with higher utility costs and preempt and destroy the market for Pennsylvania surface coal mine operators.

2. Pennsylvania rail facilities must be revitalized. The recently announced investment of $4 million to expand and revitalize the Greenwich pier, the Philadelphia port coal loading facility, is a critical step for Pennsylvania coal. For example, although New England Power wants 900,000 tons of Pennsylvania coal annually, only 100,000 tons can be shipped annually because of the outdated port loading facility (built during World War II).

As important, there is still the amazing deficiency of Conrail's tracks and coal shipment capacity between the central Pennsylvania coal fields and Philadelphia. As a result, no matter how much is spent on Philadelphia's coal loading port facility, it will be in vain if the increased coal production cannot reach Philadelphia for shipment.

3. A more productive regulatory climate is needed. Passage of S. 1403 in Congress will be an important step in the right direction. S. 1403 would allow a state like Pennsylvania to get state program approval to enforce the act by changing its laws and not having to duplicate OSM's absurd regulations.

4. The Small Operator's Assistance Program (SOAP) set up under the Federal Surfacing Mining Act of 1977 is ineffective. The program should be expanded, using the Small Business Administration definition of small business and authorizing SBA to assist operators by guaranteeing reclamation bonds.

5. Tax Relief. Small and medium sized operators (under 300,000 tons a year) who are the heart of Pennsylvania's surface mining industry are beset by inflation, increased reclamation costs including an inability to get the legally required reclamation bonds, and a cash flow crisis. Tax relief that would allow operators to charge future reclamation costs against current mining revenues is essential to match coal income and expenses in order to give smaller operators more rational, dependable cash flow.

The coal industry is like a slumbering giant awaiting to be awakened from three decades of hibernation. It can't be expected to immediately revive and answer the universal call for more coal and coal now unless there is a crash program or Marshall Plan for coal.

☐ 1940

FEDERAL EMPLOYEE PAID TO COUNT HOLES IN CEILING TILE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. COLEMAN) is recognized for 30 minutes.

Mr. COLEMAN. Mr. Speaker, in recent days there have been disturbing disclosures of alleged corruption and abuse in the Federal Crop Insurance Corporation. Again, American taxpayers are asking what kind of people we have running this country.

A copyrighted article in yesterday's—June 18, 1980—Kansas City Times alleges that the administration and the FCIC spent $500,000 to create a bureaucratic Siberia in Kansas City for employees who would not go along with their schemes or who did not share their political affiliations. Persons banished to the Kansas City office were assigned meaningless tasks, apparently with the expectation that boredom would prompt them to resign or retire.

Among other allegations in the article were:

First. That one administrator promoted a female friend in violation of Federal employment policies and civil service regulations;

Second. That administrators—political appointees—created a "bonepile" or "turkey farm" in the Kansas City office of the FCIC where employees of different political convictions were exiled;

Third. That, under the guise of business trips, FCIC administrators took hunting or fishing trips where drinking was so heavy one participant observed, "we couldn't remember what we said afterward"; and

Fourth. That FCIC officials established a slush fund to provide liquor and entertainment for trips. Indeed, one office had all employees contribute to a fund in order to entertain FCIC brass.

Mr. Speaker, the list of allegations goes on and on. In fact, one "banished" employee in the Kansas City "bonepile" kept a diary. This employee cataloged a disturbing waste of manpower and tax money. Being deliberately deprived of productive work, the employee writes of counting cars in a parking lot, counting the 104,286 holes in the acoustic tiles of his office ceiling, and developing skills as a doodler.

Today's—June 19, 1980—Washington Star has an article which alleges that for 3 days a $40,000-a-year GS-14 worked on an elaborate baseball puzzle, the only piece of work that crossed his desk that week in the Kansas City FCIC office.

All this might be humorous if it were not for the fact that these people are paid between $22,000 and $40,000 per year; that we have confirmed such allegations of waste, favoritism and mismanagement in other Government agencies; and, saddest of all that the American people have lost confidence in their Government.

Mr. Speaker, it is my understanding that the Departments of Agriculture and Justice are investigating the allegations. The investigations must be complete, thorough and expeditious. If we are to restore the public trust we must see to it that any FCIC employee guilty of wrongdoing is punished and removed from the public payroll.

It is unfortunate that the great majority of devoted, competent public servants must be continually embarrassed by such allegations against officials. I am hopeful that FCIC employees will come forward with the information we need to straighten out this mess.

It is time—far past time—for Congress to show that it will not tolerate such abuses by those in whose hands we place responsibility for carrying out the Nation's business.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Speaker, I want to commend the gentleman for his fine statement. As a member of the House Committee on Agriculture and having participated in the hearings we had this week, I would like to say that it is a matter we are going to have to clarify very quickly. Across the country we are dealing with people's lack of trust and confidence in government and certainly this is another example of that. I, therefore, commend the gentleman on his statement. I certainly want to work with the gentleman to see that this problem is addressed as soon as possible.

Mr. COLEMAN. Mr. Speaker, I thank the gentleman from South Dakota for his remarks. I acknowledge the gentleman is an active member of the House Committee on Agriculture who, along with myself and others, is quite concerned about these allegations. We have no doubt that the Inspector General is pursuing this with much vigor and that the report coming back to the Secretary of Agriculture as well as, we hope, to the appropriate subcommittees of the Congress will be done in all deliberation and speed in order that these people can be brought before the proper authorities, either personnel or criminal.

Mr. Speaker, I thank the gentleman for his contribution and I yield back the balance of my time.

THE BENEFITS OF PICKUP ALLOWANCE PROVISION OF MOTOR CARRIER ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, the enclosed letter—from the President's Consumer Affairs expert, Esther Peterson to our colleague James Howard of New Jersey who serves as chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation—cogently argues a case which every Member of the House should carefully consider before voting on the issue of trucking deregulation. I place Mrs. Peterson's letter in the RECORD in the belief that it raises the level of a very important public policy debate:

THE WHITE HOUSE,
Washington, D.C., June 18, 1980.

Hon. JAMES J. HOWARD,
Chairman, Subcommittee on Surface Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: I write to express my strong support for the customer pickup allowance provision of H.R. 6418, the Motor Carrier Act of 1980. This is an issue which I have studied as a part of my work in both the public and private sectors. It is my belief that Section 8 of H.R. 6418, as written, will provide consumer benefits from increased efficiency and cost savings in the marketing and delivery of food products. In addition, small and large businesses can benefit.

There are several important points to be made with respect to customer pickup allowances in the food industry. First, the provision as written is consistent with the Robinson-Patman Act. All allowances granted by food sellers under this provision must be cost-justified; the Robinson-Patman Act imposes the same limitation on other discounts or allowances. While the concern of the Robinson-Patman Act is the pricing of goods, Section 8 concerns the pricing of transportation. Enactment of this section will help end existing discrimination in transportation prices caused by uniform zone-delivered pricing schemes.

Second, the granting of pickup allowances is entirely voluntary. The bill does not require anyone to either grant or use a pickup allowance.

Third, the benefits of pickup allowances will be equally available to small and large retailers who receive their grocery products through a warehouse distribution system. The support of the major trade associations representing small independent retailers and independent wholesalers is telling evidence of the broad backing for this measure.

Finally, and most importantly, the consumer will benefit. By providing food buyers and sellers with the opportunity to distribute and receive products in a more efficient fashion, Section 8 offers consumers the rewards of reduced energy consumption and lower food transportation costs. These savings are important goals for this section, goals shared by other provisions of H.R. 6418. I believe that the entire package provides needed reform of government regulation which has denied consumers the fruits of competitive, efficient transportation. I commend you and the Committee on Public Works and Transportation for including Section 8 in H.R. 6418 and urge the House to resist efforts to strike or weaken the provision.

Sincerely,
ESTHER PETERSON,
Special Assistant to the President for Consumer Affairs.●

SPRING INTERPARLIAMENTARY UNION CONFERENCE, OSLO, NORWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

○ Mr. DERWINSKI. Mr. Speaker, I am pleased to have this opportunity to provide an additional report on the recent spring meeting of the Interparliamentary Union Conference held in Oslo, Norway on April 7-12. I commend the gentleman from North Carolina (Mr. PREYER) for his outstanding leadership as chairman of the U.S. delegation at this Interparliamentary Union meeting.

The Interparliamentary Union is an excellent forum for valuable exchanges of information and helpful discussions among parliamentarians. These meetings give the United States and the other delegations in attendance an opportunity to receive the benefit of each other's thinking without any binding effect, force or obligation on the United States or on any other member nation. The IPU serves a greatly beneficial function in broad parliamentary exchanges.

A full report on the Oslo IPU meeting has been prepared by our delegation and should be available this summer. This report, hopefully will prove to be a useful tool for our foreign affairs deliberations here in Congress as well as in the executive branch.

I would like to include with my remarks, several of the resolutions that were adopted by the IPU Council. Members of the world's parliaments voted overwhelmingly to condemn the continued detention of American hostages in Iran and to denounce the acts of terrorism in Colombia and Iran. This resolution, which follows, was adopted by 88 countries. The Soviet Union and Eastern Bloc groups abstained from the vote.

TAKING OF HOSTAGES, WITH PARTICULAR CONSIDERATION OF THE RECENT OCCURRENCES IN IRAN AND COLOMBIA

(Item XVIII of the agenda)

(Draft resolution presented by the Swiss Group and supported by the Groups of Austria, Belgium, Finland, France, Ivory Coast, Senegal, Sweden, Tunisia and Zaire)

The Inter-Parliamentary Council,

Alarmed by the growing number of acts of terrorism against the premises and personnel of diplomatic missions, particularly the taking of hostages,

Considering that the maintenance of normal relations among States presupposes absolute respect for the inviolability of the personnel and premises of diplomatic missions,

Affirming its commitment to the principles set out in the Vienna Conventions of 1961 and 1963 on diplomatic and consular relations,

Concerned at the possible consequences for international peace and security of the acts, contrary to those principles, committed in recent months in several countries, particularly Iran and Colombia,

1. Condemns the continued detention of

the American hostages in Iran in violation of the fundamental rules of international law, the resolutions of the Security Council and the ruling of the International Court of Justice, and denounces the complacent attitude of the Iranian authorities with regard to this detention;

2. Condemns also the detention in Colombia of diplomatic and consuler personnel of many countries;

3. Urges the authorities of those States on whose territory hostages are still held to take all necessary measures to guarantee their safety and ensure their earliest possible release;

4. Calls on all States to strengthen the measures of protection required by international law for the safety of the personnel and premises of diplomatic missions, and to co-operate in preventing the acts of taking of hostages committed against this personnel;

5. Requests the Parliaments represented in the Inter-Parliamentary Union to call on their respective Governments:

(a) To reaffirm their will fully to respect in their countries the international rules and conventions for the protection of the personnel and premises of diplomatic missions;

(b) To take joint action at the international level for the ending of the violations of these rules and for the universal re-establishment of the conditions for the normal exercise of diplomatic relations among States;

(c) To do their utmost to expedite the ratification of the international convention against the taking of hostages adopted by the UN General Assembly at its 34th session on 17 December 1979.

The U.S. delegation requested that the issue of international terrorism, with particular consideration of the recent occurrences in Iran and Colombia be considered as a supplementary agenda item because of the many incidents of seizures of diplomatic missions and threats to diplomatic personnel of many countries during the past decade, but particularly because of the most condemnable situations in Iran and Colombia. These two major incidents and the several others that have occurred during the past decade are most deplorable. They violate fundamental principles and procedures necessary to maintain a functioning world order. They violate individual human rights. Therefore it is essential that the IPU speak out forcefully on this subject.

While our attention was most immediately drawn to the hostage situation in Iran and Colombia, our delegation note the many terrorist incidents against diplomatic personnel and premises that have occurred in other countries in the past 10 years. During this period, missions have been occupied and diplomatic personnel threatened in Switzerland, Yugoslavia, Federal Republic of Germany, Israel, Saudi Arabia, France, Sweden, Egypt, Syria, Chile, Iraq, Mexico, Costa Rica, Venezuela, South Africa, Guatemala, United Kingdom, Panama, Spain, Denmark, Belgium, Dominican Republic. and El Salvador. Our particular concern for the situation in Iran and Colombia serve to emphasize our strong feeling that the recent history of terrorist attack on diplomatic missions and personnel should be deplored in its entirety.

As a member of the Political Committee, I represented the viewpoint of the United States in the debate over a resolution denouncing Soviet aggression and manipulations in Afghanistan as a threat to world peace and which called for special support for the over 700,000 Afghan refugess. This resolution, overwhelming adopted by a vote of 96 to 25, explicitly "condemns the occupation of Afghanistan by the armed forces of the Soviet Union" and calls for "the immediate withdrawal of foreign armed forces from Afghanistan." This resolution follows:

THE SITUATION IN AFGHANISTAN AND ITS IMPLICATIONS FOR INTERNATIONAL PEACE AND SECURITY

(Supplementary item)

(Resolution presented by the Groups of the following countries: Bangladesh, Gabon, Indonesia, Malaysia, Morocco, Philippines, Senegal, Sudan, Tunisia, Turkey, United Arab Emirates, Zaire)

The Inter-Parliamentary Council,

Recalling resolution A/RES/ES-6/2 adopted by the United Nations General Assembly on 15 January 1980 at its special session on the situation in Afghanistan and its implications for international peace and security.

Recalling the final declaration of the special session of the Islamic Conference of Ministers of Foreign Affairs held in Islamabad from 26 to 28 January 1980,

Considering that the occupation of Afghanistan constitutes an act contrary to the right of sovereignty and independence of States, and creates a situation likely to increase hotbeds of tension in the world and seriously threaten international peace and security,

1. Condemns the occupation of Afghanistan by the armed forces of the Soviet Union;

2. Calls on Parliaments to exert pressure on their Governments so that they contribute to strengthening international peace and détente through the implementation of resolution A/RES/ES-6/2 adopted by the United Nations General Assembly at its special session held on 15 January 1980, particularly of the part concerning the immediate withdrawal of foreign armed forces from Afghanistan;

3. Expresses its deep concern at the continuing increase in the number of Afghan citizens obliged to seek refuge in neighboring countries, and urgently appeals to the international humanitarian organizations to provide without delay the necessary aid to alleviate the sufferings of these refugees.

In the debate, in which I participated, Mr. Koop, a Soviet parliamentarian, viewed the Soviet invasion of Afghanistan "as an effort to combat overt CIA actions," and "to counteract reactionary forces in Afghanistan because of threat to the security of the U.S.S.R." This, however, was properly put in perspective by many other parliamentarians who joined with me in expressing great concern for the freedom of this nation and of its people, and for their right of self-determination.

Other areas of interest which were included for consideration were that of detente, arms control and disarmament, the problems of refugees, the third U.N. Developemnt Decade, and progress toward the achievement of decolonization which was another of my committee assignments. After intensive work in committees, in drafting sessions, and in full committee debates, resolutions on these subjects were adopted for consideration by all national groups before the final adoption at the fall IPU Conference.

At a time when our foreign policy appears to be on the downgrade, when aggressive actions of the Soviet Union and its satellites are penetrating into the governments of Asia, Africa, and Latin America and when subversion as practiced by the Soviet bloc is more threatening than at any time in history, it is vital for our national leaders to develop as broadbased contacts as possible with the leaders of other nations with whom we have the opportunity to develop mutual understanding. The significant role of the United States, because of its size and strength, must continue to be instrumental in such international bodies as the IPU.

There are several parliamentary associations where representatives meet to share ideas and views and seek common directions and solutions. The IPU, however, is the oldest and largest and is the only parliamentary group where representatives from the United States and virtually all the eastern bloc nations can meet. It also presents a unique opportunity for north-south dialog between the developed and developing countries.

Mr. Speaker, in closing I would like to commend those Members who attended the 126th session of the IPU, and to especially thank the staff members who assisted us. A special tribute goes to Miss Ellen Rayner, who filled in for our distinguished Clerk, Ted Henshaw. She was extremely efficient and able in carrying out the responsibilities of that position.●

THE SPIRIT OF HELSINKI, VIGIL 1980: IGOR GUBERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 10 minutes.

● Mr. STARK. Mr. Speaker, this statement in behalf of prisoner of conscience Igor Guberman is part of a continuing effort—organized in 1980 by the gentleman from New Jersey (Mr. MAGUIRE) and I commend him for his work—to publicize the situations of those on the receiving end of Russian internal repression.

Long before the invasion of Afghanistan and the brutal Russian subjugation-effort there, many Soviet citizens felt the mailed fist of the state when they tried to exercise their rights to free speech, freedom of religion, and freedom of emigration. Igor Guberman is one of those who is suffering—in prison—because he worked to publicize the cultural and historic aspects of Jewish life in the Soviet Union in the unofficial publication "Jews in the USSR," because he finally decided to leave the Soviet Union for Israel and because he refused to become a stool pigeon—he was asked to inform on his friends and associates and he said "no."

Today, for these "crimes," Igor Guberman's property has been confiscated and he is serving a strict regime 5-year sentence as a common criminal. He was convicted, on flimsy evidence, of buying stolen icons. In fact, his only "crimes" are a sensitivity to the oppressed condition of Soviet Jewry, a desire to go to Israel and a mocking, biting wit that surfaces in the satiric verse he has authored.

Some of his latest words have been smuggled out of prison and made public by his wife. Our colleagues from California, Mr. WAXMAN, and Michigan, Senator LEVIN, have introduced these into the RECORD—see page 10686 of May 8 and 10089 of May 6—but I would like to repeat one here:

Russia is immune to plan—undefinable is she.
Where else must the common man
Go to prison to be free?

Mr. Speaker, there is no good reason why a man of Igor Guberman's talent and strength of character should be in prison in any land. There certainly is no reason why he should be in prison in a country he wants to leave and when other lands want his presence. I say to the Soviet authorities, let Igor Guberman go.●

SOVIET COMMUNISTS CONTINUE REFUSAL TO ALLOW AMERICAN CITIZEN ABE STOLAR AND FAMILY TO EMIGRATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, for 5 years now the Communists in Moscow have cruelly denied the request of an American citizen to leave the Soviet Union. Since 1975, Abe Stolar and his wife and son have sought permission to emigrate to Israel, but in direct contravention of the provisions of the Final Act of the Conference on Security and Cooperation in Europe signed by the U.S.S.R., they have been refused—even at one point when they were about to board their flight out of the country.

It was for this reason that I have contacted Mr. Alfred Moses, special adviser to the President, to ask him to bring the President's attention to this matter so that the resources of our country and our government can be brought to bear on urging the communist authorities to allow the Stolar family to emigrate.

I call the attention of my colleagues to an article on the sad plight of the Stolar family which appeared some years ago in the Chicago Tribune, as well as one of the letters I have written during the last 5 years to Soviet officials and a copy of the reply I received:

STATELESS, BROKE JEW YEARNING FOR DIVISION STREET HOME

(By James O. Jackson, Moscow Correspondent)

MOSCOW.—Abe Stolar was born on West Division Street in Chicago and loves the city. As a boy he roamed its streets, played ball in its parks, went to movies in the Loop, and looked at the pictures in the Art Institute.

He would very much like to visit his home town once more, but he cannot. Forty-four years ago he came to the Soviet Union, and the Russians have never let him out.

Stolar, 63, told his strange, sad story this week after he had exhausted his efforts to obtain official permission to emigrate with his wife, Gitta, and his 16-year-old son, Mikhail.

"We're stateless, broke, and desperate," Stolar said, his speech edged with the flat Midwestern accent he picked up on the streets of Chicago so long ago. "I figure our best hope is to make as much noise as we can."

Stolar does not look like the noisy type. He is shy and bookish, with thinning gray hair and sad brown eyes. He has never before delivered a protest, sought publicity, nor talked with foreign newspapermen.

He began by explaining how he came to be transplanted from Division Street to Moscow. He said his father, who was a Jew and a Communist, fled the persecutions of Czarist Russia in 1909 and settled in Chicago. He worked as a printer, but the Depression struck so in 1931 he took his family and returned to Russia, full of hope and Communist fervor.

Soon, hope turned to anxiety, and then to fear as the great Stalinist terror of the thirties swept the land.

"They arrested my father one night in 1937," Stolar said. "They just took him away for no reason, and of course we never heard from him again. Things like that happened all the time in those days."

Stolar said he managed to avoid arrest, altho both his sister and her husband were taken. He worked first as a poster artist, and then as a translator for Moscow radio. Sometimes he dreamed of leaving, he said, "But I didn't try to get to the American embassy. In those days, people who went to the American embassy always disappeared later."

But in 1971 when other Jews began getting permission to emigrate to Israel, Stolar decided to try. He applied, with his family, to go to Israel.

"At first things went well," he said. "In May, they finally said we could go so we sold all our things, got rid of our apartment, and on June 18 we went to meet the flight."

"We cleared customs," he said, "but at passport control they said something was wrong with my wife's visa."

The Stolars went back to the city to straighten out the problem, but at the visa office officials took all their documents from them.

"The officials said my wife, who was a chemist, had done secret work," he said. He shook his head ruefully. "But she retired two years ago, and she hasn't done any secret work since the war. It's rediculous, and we just don't understand."

Now, he said, he is without work, low on money, and low on hope. He is especially worried about his son, who is nearing the age for the military draft. Once in the army, it would be years before he could hope to leave the country.

"He's a bright kid," Stolar said. "I don't want him to have to live here. I don't want him to have to think one thing, but say another, like I have done all my life."

Stolar said he has visited the United States embassy and asked for help. Embassy officials are checking to determine if he still is considered a U.S. citizen, and, if so, they can formally intervene with the Soviet government.

Solarz said he does not know whether he would rather go to Israel or to America. "We have a joke here," he said. "It's not so much a matter of where you're going to. What's important is where you're going from."

But Chicago was the place of his youth, he said, and his eyes soften when he remembers it. "I used to play in Humboldt Park, and later we lived out by Portage Park," he said. "I worked in my uncle's drug store on Grand Avenue."

"I loved that city, I really did," he said. "I have lots of good memories."

Stolar sit silent, looking at the gray Moscow day.

"I'd sure like to see that town again," he said.

AUGUST 26, 1975.

Hon. ANATOLY F. DOBRYNIN,
Ambassador of the Union of Soviet Socialist Republics, Office of the Embassy, Washington, D.C.

DEAR MR. AMBASSADOR: In view of the recent agreement between the United States and the Soviet Union signed in Helsinki, Finland, providing for less restrictive emigration procedures, I appeal to you on behalf of Mr. Abe Stolar, who along with his wife and son requested permission from Soviet authorities to emigrate to Israel in 1971 but have never been allowed to leave the Soviet Union.

I urgently request that you use your good offices to facilitate the grant of permission to emigrate as requested by these individuals.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

EMBASSY OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, D.C., September 3, 1975.

Hon. FRANK ANNUNZIO,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. ANNUNZIO: With reference to your letter of August 26, 1975, I would like to inform you that the Embassy does not deal with questions concerning Soviet citizens' departure from the USSR for permanent residence elsewhere.

These matters come under the jurisdiction of appropriate authorities in the Soviet Union, which consider them only on the basis of applications by Soviet citizens themselves.

Sincerely,

Y. GALISHNIKOV,
Chief, Consular Division.

THE SATURDAY MAIL DELIVERY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

(Mr. DASCHLE asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. DASCHLE. Mr. Speaker, the House has just recently completed action on the congressional budget resolution for the next fiscal year. This was a wrenching process and the result was an imperfect document. I will not belabor my general objections to the budget resolution, but will speak directly to one specific, serious flaw and the immediately perceived, and likely long term, wholly unacceptable consequences of this flaw. This is the required reduction in appropriations for the Postal Service and the resulting likely elimination of Saturday mail delivery.

The proposed elimination of Saturday mail delivery is without redeeming merit. Every American depends on the Postal Service. It is hard to imagine what life would be like without the Postal Service, but that is what the Budget Committees in Congress want us to discover—what it is like to live without Saturday mail delivery. As part of the balanced budget juggling act, the

Budget Committees decided by itself the American people could live without Saturday mail delivery. The Postal Service hardly protested and Postmaster General Bolger called the elimination of Saturday mail delivery a "workable alternative."

The 56 million Americans who live in rural areas will bear the brunt of this action. It seems that the trend to continually ask this sector of America to sacrifice, as they did with the Soviet grain embargo, as they did with fuel price increases, and as they did with high interests rates, is one which needs be halted. Farmers in South Dakota rely upon the mail for the latest, up to the minute crops forecasts, information, and other related important news.

Small businesses are also heavily dependent upon mail received on Saturdays for the continuation of effective and reliable service to the customers whose needs they serve. The elderly will also suffer, as many of them are dependent upon the timely arrival of their social security checks. The high percent of elderly who live in rural areas only compounds the magnitude of hardship. These are the people then, who will be directly harmed by a reduction of postal service. These are the people who shall cope with the demise of our historic, 200-year-old tradition of postal service delivery 6 days a week. Yet, as formidable a consideration as they are to not eliminating Saturday mail delivery, rural and elderly Americans are by no means the only reason to reject this notion.

Recently, the Postal Service has asked for a 33⅓ percent increase in first class postage, from 15 to 20 cents. How is it possible to ask the American people, with a straight face, to accept a massive decrease in service while at the same time ask them to gulp down a huge cost increase. I submit that it is simply not possible. Such a move would also have a serious and detrimental effect on our national economy at precisely the time we can least afford it. Twenty to thirty thousand jobs would be lost by the elimination of Saturday mail delivery, to say nothing of the estimated $86 million that would be needed in unemployment compensation benefits. The postal subsidy is actually a small price to pay for the benefits received—5-day delivery would prove a disaster.

Eliminating Saturday mail delivery would be a mistake of the first order. A task force assembled by the Postal Service to study 5-day delivery said as much. The special task force said (May 19, 1980):

> It is extremely difficult to adequately describe, in quantitative terms at least, the possible impact that five day delivery would have on levels of service to various classes of mail.

What is more, the task force realized:

> We cannot ignore the fact that, over time, customers will realize that the delivery time for mail (especially for preferential, important mail) has increased and that service has been degraded.

Another factor is the Monday "peaking" which will inevitably create a decrease in the efficiency level of service. The report of the task force addressed this concern and noted:

> Aside from the service problem, we will face equipment shortages, such as trays, rolling stacks, etc; we will have locations with inadequate space for storage of mail; and we may have problems with the adequacy of capacity of our present vehicles and those presently being planned for future operations.

The concern shown about the private express statutes should not be overlooked. If the Postal Service goes to 5-day delivery, private carriers will move to fill the gap created by those many people and companies who need 6-day delivery of mail. Many such carriers believe that if a cut in delivery does take place, their right to take up the slack, and in the process to throw out the private express statutes, would be sustained in court. The danger and threat is clear: Once the Postal Service cuts back its entire base of operations its subsequent reasons for existing become extremely vulnerable to successful challenge.

I would further note that private carriers providing the sixth day of delivery does not mean that all who need such service will be served. Indeed, private carriers will provide this limited service in only the most populous metropolitan areas and rural sections of our Nation would again be neglected.

I believe that careful reflection of the ramifications resulting from a lifting of the private express statutes alone, is more than sufficient cause to retain our present delivery schedule.

All of which is not to say the Postal Service has performed poorly in recent years. In fact, considering the complexity of their work and the sheer volume of mail to move, they have done quite well. Our mail system is a high profile government function with which almost all Americans have regular contact. As such, it is an easy target for public and political criticism. All things considered, especially the odds facing them, the Postal Service has done a remarkable job over the past decade.

It is irony of a very high order indeed, that in the same week as the administration sends to Congress the standby gasoline rationing plan, Congress itself adopts a budget resolution premised on the notion of eliminating 6-day delivery of the mail. The administration will invest more than a year and $100 million for preimplementation activities so the plan could be implemented after a Presidential declaration of an energy emergency.

The irony, of course, is that the standby gasoline rationing plan hinges upon ration coupons being mailed to each motor vehicle registrant. Yet if the 6-day delivery of mail is simply allowed to die an untimely death, the viability of the Postal Service itself would be threatened at a time when its services are needed most. We face the prospect of having no way to deliver these coupons to millions of Americans because our Postal Service has been decimated. That is, the elimination of 6-day delivery could coincide with the operational readiness of the rationing plan. Who, if not the Postal Service, will deliver ration coupons in the small towns and communities throughout America? The answer is obvious: no one. Congress alone will bear full responsibility to the American people if this faux pas of the decade comes about.

Political expediency, not economy, is the real reason Americans face the loss of 6-day delivery by the Postal Service. I doubt if one iota of consideration was given to the consequences. The supposed savings resulting from the elimination of 6-day delivery are as elusive and figmentary as the budget surplus contained in the first budget resolution for next fiscal year. We are told it exists, but in reality it does not and we should all know better. The same applies to the "savings" to be gained from downgrading our national mail service. In the name of economy, and in name only, the Postal Service's foundation is being eroded, its future is being undermined, and its ultimate demise openly courted.

Let there be no misunderstanding—at issue is whether the American people will have a Postal Service.

In the final analysis, 6-day delivery is a service which we can ill-afford to abandon. The number of people—rural, urban, and suburban—who need this service, the minimal gains alleged to be incurred but at great risk and loss of efficiency, the substantial loss of jobs and all their many repercussions, the serious dangers that would come from a lifting of the private express statutes, are all compelling reasons to retain our 6-day delivery schedule. Together, they form an almost open and shut case to reject, in the strongest terms possible, the ill-founded, detrimental and limited vision of 5-day delivery. Toward the conclusion of its report, the task force stated:

> In the absence of reliable information about the effect on our market share and the extent of the potential revenue loss if Saturday is eliminated as a delivery day, the Task Force is reluctant to endorse five-day delivery as being in the best interests of the Postal Service and its customers.

I am not only reluctant, I am adamant.

So too, I believe, is the Congress.

Mr. Speaker, I insert text of the Saturday Mail Delivery Act in the RECORD at this point:

H.R. 7622

A bill to amend title 39 of the United States Code to provide that regular daily mail delivery shall not be limited by the Postal Service to fewer than 6 days each week

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Saturday Mail Delivery Act of 1980".

SEC. 2. Section 3684 of title 39, United States Code (relating to limitations on changes in postal services), is amended—

(1) by inserting "(a)" before "Except as provided"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this title, the Postal Service shall maintain the nature of postal services so that the frequency of mail delivery service in effect on June 1, 1980, shall remain in effect.

"(2) As used in this subsection, the term 'frequency of mail delivery' means the number of days in any calendar week on which any delivery of mail is made."

□ 1950

THE SUPREME COURT'S KISSINGER PAPERS DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, last March the Supreme Court handed down its decision in the case involving access to former Secretary of State Henry Kissinger's telephone transcripts (100 S. Ct. 960). The Court decided that if a document requested under the Freedom of Information Act is wrongfully in the possession of a party outside the scope of the act, the Federal agency which received the request does not "improperly withhold" those materials by its refusal to institute an action to retrieve the documents.

The decision has been widely reported in rather ominous terms. Characterizations of the decision vary from significantly expanding the Government's ability to keep things secret to placing new limits on the FOIA. I believe a more careful examination of what was before the Court, what the Court decided, and what it did not decide, would be useful.

The suit was initiated in the U.S. District Court for the District of Columbia by several plaintiffs claiming that the State Department had improperly withheld Agency records that had been requested under the Freedom of Information Act. The materials in question were detailed summaries and verbatim transcripts of telephone conversations of Henry Kissinger during his service as National Security Adviser (1969–75) and as Secretary of State (1973–77). The materials were prepared by his secretaries, who monitored telephone conversations at his request.

Before leaving office, Mr. Kissinger executed two deeds of gift to the Library of Congress: The first, in November of 1976, deeded personal papers other than those involving notes of telephone conversations; the second, executed in December of that year, was for the telephone notes. The materials that were the subject of the latter deed had, in October of 1976, been transferred from the State Department to the New York estate of Nelson Rockefeller.

These documents, which were subsequently transferred to the Library of Congress along with other materials, were removed from the State Department without review by either that Department's records official or by the Administrator of General Services. The GSA Administrator has Government-wide responsibility for records preservation. Mr. Kissinger did, however, obtain an opinion from the State Department's legal adviser that the telephone notes were his personal property.

The State Department received three separate FOIA requests for the donated materials. Two of the requests were received after the materials had been transferred to the Library of Congress. These requests were rejected on the grounds that the materials requested were not agency records and, in any event, the agency no longer had the materials. The third request, which preceded the transfer, was rejected because it sought access to notes of conversations that took place while Kissinger served solely as the President's National Security Adviser and, hence were deemed to be White House documents, not Federal agency records subject to the act.

The request denials were upheld on administrative appeal, and the requesters then sought a judgment declaring that the telephone summaries were agency records that had been unlawfully removed and were being improperly withheld from the public. The district court found for the plaintiffs with respect to the conversations that took place while Kissinger was Secretary of State. The court invoked its equitable powers to order return of the wrongfully removed agency materials, since no statutorily-based retrieval action was likely. Kissinger and the private parties appealed, and the U.S. Court of Appeals in the District of Columbia affirmed the trial court's judgment.

The Supreme Court affirmed the lower court's determination that the records created while Mr. Kissinger was a special assistant to the President are not agency records within the meaning of the FOIA, but reversed the lower court's order that the remaining materials be returned to the State Department and made available under the act. In doing so, the Court determined that it "need not * * * decide whether the telephone notes are agency records, or were wrongfully removed. * * *" Its decision turned, instead, on: First, whether a private right of action to see the records exists under either the Records Disposal Act, 44 U.S.C. 33030, or the Federal Records Act of 1950, 44 U.S.C. 2901 et seq; and second, whether private access assured by the FOIA, 5 U.S.C. 552, implies that an agency must retrieve documents that have escaped its possession. The Court decided in the negative, perhaps correctly, on each of these issues.

At this juncture, one might ask what difference does it make? Are not the documents in question in the hands of the Government anyway? The answer is that the documents are, indeed, in Federal hands—the Library of Congress. The problems, though not as ominous as the characterizations I mentioned above, are twofold: First, because the Court's decision allows the Kissinger deeds of gift to stand as stipulated, the public will gain access to the materials in the year 2001 at the earliest. It is likely that this period far exceeds the time for which documents could otherwise be withheld under the FOIA. For example, even those portions of the material that could be properly classified for national security reasons, and therefore withheld under the FOIA, would be declassified under Executive Order 12065 far in advance of the year 2001. The second, and perhaps more important problem stemming from the decision is, as Justice Stevens noted in his dissent:

> An incentive for outgoing agency officials to remove potentially embarrassing documents from their files in order to frustrate future FOIA requests.

I dare say that Justice Stevens was being kind in suggesting that such mischievous behavior would be the sole province of outgoing officials. I suspect that an even greater danger exists with respect to those who would remain in Government service but who would be encouraged to achieve anonymity and avoid accountability by shifting records outside the Government.

This scenario need not come to pass. We need only heed the advice of Justice Brennan who, joining in the dissent, noted that the key to whether Government officials will be allowed to raid files rests with the Congress, which "has the responsibility to fashion a rule about document retention that comports with the objectives of the FOIA."

The Congress has, of course, already fashioned what it thought to be a rule of reason in this area. Section 2906 of title 44 of the United States Code gives the Administrator of General Services the authority to inspect agency records. Under sections 2905 and 3106 of that title, the Congress delegate to the Administrator of General Services and other agency heads the responsibility for informing the Attorney General of the impending or actual wrongful removal or destruction of agency records. The Attorney General is, in turn, empowered to bring suit to cover such records. As the Court noted, the Archivist—on behalf of GSA—did request return of the Kissinger telephone notes. However, despite the former Secretary of State's refusal to comply with this request, no suit was ever initiated against Kissinger to retrive the records. This inaction may be due to the continuing dispute between GSA and State Department officials concerning the status of the documents in question as agency, rather than personal, records—a dispute which, I might add, if resolved at the outset would have rendered moot the need for litigation.

The case law on ownership seems clear. The principles set forth in the leading cases, United States against First Trust Company of Saint Paul, and Public Affairs Associates against Rickover, provide that if a document is a written record of a Government official executed in the discharge of his official duties, it is a public document and ownership is in the United States. The Congress confirmed the applicability of these principles to even the most senior of Government officials when it enacted the Presidential Records Act of 1978. The circumstances surrounding the preparation of the documents in Kissinger would appear to indicate Government ownership.

State Department regulations in effect during Mr. Kissinger's tenure prohibited telephone monitoring, with certain limited exceptions. One exception was to permit third party monitoring of the conversations of senior officials for the purpose of taking notes, when such action was deemed necessary for the conduct of officials business. Even the Solicitor General was moved by the case law and facts. He concluded in his brief to the Court that—

> At least some of the transcribed notes of Kissinger's telephone conversations are Federal records.

As yet, however, no action has been taken to recover even this material.

The only executive branch reaction to the Court's ruling has been a promise of action aimed at avoiding future incidents. This promise was in the form of a statement by Attorney General Civiletti who told the American Newspaper Publishers Association on March 11 that he was preparing legislation which, had it been in effect, would have altered the outcome in Kissinger. This and other long awaited Freedom of Information Act amendments were to have been presented, according to Mr. Civiletti, within from 3 to 8 weeks. The outside date has come and gone without receipt of the promised legislative proposal.

In the absence of any significant action by the responsible executive branch officials to either recover the Kissinger documents or take the steps necessary to assure that similar incidents do not occur in the future, I have today taken steps that will, I believe, serve as an impetus for action: First, I have written the Secretary of State to ascertain his agency's intentions with respect to initiating a recovery action under existing law; second, I have introduced legislation that is designed to simplify the recovery process by vesting authority solely in the Archivist to initiate such an action, should the responsible agency officials fail to do so; and finally, I have introduced a second bill that would insulate the Archivist from pressures which might be brought to bear on his decision to take action to prohibit the removal or recover wrongfully removed documents. The insulating effect would be achieved by elevating the Archivist to a Presidential appointee, subject to Senate confirmation, and by vesting in him all title 44 records management authority. This latter bill will also, I hope, serve to stimulate a thoughtful and serious discussion of the issues associated with a view espoused by many historians, genealogists and other scholars—that the National Archives should be an independent entity, separate and apart from GSA.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 85, THE COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN), is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on June 13, 1980, the Committee on Ways and Means ordered favorably reported to the House H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act, with certain changes relating to matters within the jurisdiction of the Committee on Ways and Means. This legislation has been favorably reported to the House by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation, and was sequentially referred to the Committee on Ways and Means until June 20, 1980. In general, the changes made by the Committee on Ways and Means would replace the funds and the fees contained in H.R. 85 as reported by the other committees with: First, two new trust funds—an oil pollution trust fund and a separate trust fund for hazardous substance pollution; and second, new excise taxes on petroleum and specified chemicals, respectively to be deposited into these funds. These excise taxes and trust funds are similar to other excise taxes and trust funds over which the Committee on Ways and Means has legislative jurisdiction. In addition, the changes made by the Committee on Ways and Means would impose responsible limitations on the liability of these trust funds for the payment of claims.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of this matter on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified closed rule on the amendments reported by the Committee on Ways and Means which would only provide for:

First, Ways and Means Committee amendments, which would not be subject to amendment;

Second, the following amendments, which would not be subject to amendment, if printed in the CONGRESSIONAL RECORD and if offered on the floor: An amendment by Mr. JACOBS; an amendment by Mr. DUNCAN of Tennessee; and three amendments by Mr. GUARINI.

Third, 1 hour of general debate, to be equally divided; and

Fourth, waiving all necessary points of order.

In addition, the Committee on Ways and Means is requesting that the Committee on Rules not permit any amendments to other sections or titles of the bill as they relate to fees, funds, and permissible spending purposes and payments from the trust funds which would be inconsistent with the amendments reported by the Committee on Ways and Means.

We intend to officially report and file H.R. 85 with the House on June 20, 1980. It is our intention to request to be heard before the Committee on Rules concurrently with the other committees involved in this legislation.●

NORTH CAROLINA SUPPORTS AGRICULTURAL CONSERVATION PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of North Carolina. Mr. Speaker, as we prepare to act on the agricultural appropriations bill for fiscal 1981, I want to emphasize my continued strong support for the agricultural conservation program (ACP). Farmers in North Carolina have enthusiastically participated in this cooperative endeavor by teaming with the Federal Government to promote wise soil and water conservation practices.

An attractive feature of ACP is that most decisions are made by local people who are cognizant of the special conservation problems encountered in their own communities. In addition, ACP's Federal moneys will be committed to constructive and effective projects. A farmer who must put in some of his own hard-earned assets is not about to invest in a frivolous venture.

In the past years, some persons in the administration have tried to cut back on ACP. This is, indeed, a shortsighted approach; one which fortunately has been rebuffed on Capitol Hill. I am pleased that ACP enjoys this continued widespread support in Congress.

North Carolinians have traditionally been active in ACP in high numbers. In fiscal 1979 there were 35,720 farmers in our State who participated with a total investment of $4,741,173. I hope that ACP s popularity in North Carolina will endure and that the Federal Government's commitment to the program will continue undiminished. Therefore, it is most encouraging that the fiscal 1981 agriculture appropriations bill contains $190 million for ACP.●

CAPS ON FEDERAL PAY FRUSTRATE COMPARABILITY AND ERODE MORALE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, the House voted today to limit the salaries of Federal employees in the senior executive service (SES) to $52,750. This action represents a total reversal in the position of this House since it enacted the President's civil service reform proposal in 1978.

Members of this body have consistently frustrated the comparability concept by allowing executive "caps" on comparability and establishing a ceiling on upper level Federal pay. This has resulted in a GS–18 being paid 46 percent less than his or her private sector counterpart.

Because of these artificial caps, individuals with widely disparate duties and responsibilities are being compensated at equal rates of pay. Morale has suffered tremendously, and top Federal officials are fleeing to more lucrative private sector jobs, or retiring earlier than intended. The Federal Government is losing an irreplaceable resource.

During the consideration of civil service reform the administration argued that morale was suffering at the upper levels of Government. Viewing the history of executive and legislative tampering with the pay process, is it any wonder?

The administration proposed and Congress enacted, over my objections, a system of bonuses for senior executives employed by the Government. This system was touted as the linchpin of reform.

I opposed this approach because I was afraid this bonus system would be subjected to severe political manipulation.

The action of this House today bears out my prediction. The $52,750 cap effectively guts the legislatively mandated bonus system for the SES and will further erode morale at the upper levels of Government.

The fact that Federal employees have once again been made scapegoats for the Nation's economic ills underscores my belief that the Federal pay system must be totally insulated from political tampering. Although this conclusion appears obvious, the lesson is lost on those who support a new administration initiative to "reform" the Federal pay system. The proposed system would vest the President with increased authority to tamper with comparability. I will continue to oppose this and all other proposals which deviate from or frustrate the principles of pay comparability.●

SHIPMENTS OF NUCLEAR FUEL TO INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, today, the President forwarded to Congress an Executive order authorizing the export of nearly 40 tons of nuclear fuel and a number of nuclear components to India. This action reflects his decision to overrule the Nuclear Regulatory Commission's vote against the license applications and will be subject to congressional review and veto over the next 60 days.

At this time, I would like to indicate that the Foreign Affairs Committee will begin its consideration of this very sensitive issue next week and that I am today introducing together with many of my Foreign Affairs colleagues resolutions disapproving the two proposed exports of nuclear ·fuel. Joining me are the distinguished chairman of the committee, Clement Zablocki, and Messrs. Wolff, Fascell, Broomfield, Derwinski, Rosenthal, Findley, Wolpe, Lagomarsino, Winn, Studds, and Barnes. We have specifically chosen not to oppose the five export licenses for nuclear components for the Indian Tarapur facilities as they appear to be necessary for the safe operation of those plants.

I am extremely concerned about the grave proliferation and national security implications of sending any more nuclear fuel to India and I will make my views clear during the committee's deliberations. But I would like to emphasize at this time that I certainly hope that, irrespective of any congressional action against nuclear fuel transfers, the United States and India will continue to cooperate in those many areas of mutual longstanding interest and concern.●

THE 125TH ANNIVERSARY OF ONONDAGA SAVINGS BANK

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, at the close of business on its first day, the total assets of Onondaga Savings Bank in Syracuse, N.Y., were $143.93. One hundred and twenty-five years later, its assets well over $900,000,000, the same personal service philosophy prevails in the bank that prevailed that June day in 1855 when it opened for business in a second floor office over a hat shop.

In opening the institution's 125th anniversary recently, Onondaga Savings president Russel C. Carlson stated:

> An organization does not prosper over 125 years without learning something. Our tradition, our heritage, has been founded on some very basic precepts conceived and directed by the past 10 presidents of this bank including names like Harold Stone, Perrin Babcock, and William Morton, who continues to play an important role as a trustee.
>
> In managing this bank in the years ahead, we expect to preserve the fundamentals established by these leaders. The fundamentals are twofold. First, to serve the needs of our community and its people; and, second, to invest wisely.
>
> Alvin Toffler says we are entering a Third Wave. A "wave" of continuing technological change in the computer and telecommunication areas. A wave that puts increasing emphasis on servicing individual needs of people. That's our mission.

Onondaga Savings Bank certainly has carried out that mission over the past years, too.

The bank was founded by two Syracusans who saw the need for a source for home mortgage funds for the average working man, James L. Bagg and Allen Munroe. It was Munroe who opened the first account for his daughter, Mary Louise, on June 12, 1855. The deposit of $100 plus 12 other deposits that first day brought the total to $143.93. What was to become one of the major financial institutions in upstate New York was off and running.

Savings banks, traditionally have been identified as "People Banks" implying a special closeness to average families—families interested in buying their own homes, saving on a regular basis, planning for home improvements and children's education. By paying attention to these average American dreams, the dream of a prosperous positive banking entity became a reality for Onondaga Savings Bank.

From its imposing limestone structure, which overlooked the Erie Canal for many years, on Syracuse's Clinton Square, millions and millions of dollars have been reinvested in home mortgages in central New York, thus contributing to a stability and serenity which make this area an ideal place to live and raise a family.

Onondaga Savings Bank certainly has lived up to the vision of its founders. Drawing on the legacy of the past and determination of the present, the people of central New York will be well served in the future by such a vital financial organization.●

LITTLE ATTENTION PAID TO DAILY PERFORMANCE OF NATIONAL GUARD PERSONNEL

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, the day-in, day-out performance of our service personnel in the National Guard is not the type of item to which much attention is paid.

But the job is vital and critically important to our total defense posture, no matter how mundane the day-to-day activity may seem. Nonetheless, there are highlights, and the performance sustained over an 11-month period by a particular unit at Hancock Field in Syracuse, N.Y., is a fine example.

If I may quote from the citation awarded the 108th Tactical Control Flight; New York Air National Guard:

> The 108th Tactical Control Flight, New York Air National Guard, Tactical Air Command, distinguished itself by exceptionally meritorious service from 15 Jan. 78 to 15 Dec. 78. During this period, the 108th provided outstanding aircraft control of military aircraft to include, Air Defense, Tactical Fighters, Refueling Tankers and Electronic Warfare Aircraft.
>
> They were the leaders in total missions among all the USAF and National Guard units in their field, handling several emergency situations with no loss of life or equipment. The training provided for the air crews was in the highest tradition of military standards. To accomplish this the unit had to maintain its equipment in extremely cold weather conditions for the majority of time. No missions were lost due to equipment failure. During the unit's Operational Readiness and Management Inspection, their performance was rated outstanding and far exceeded all other units in this area. The professionalism and dedication to duty demonstrated by the members of the 108th Tactical Control Flight reflects great credit on themselves, the Air National Guard and the United States Air Force.

I wish to call the attention of my colleagues and my constituents to this signal achievement. My association with and knowledge of all the air defense components at Hancock Field in Syracuse have been a source of pride for many years. This is evidence that that pride is well-founded.

On behalf of the people of the 32d New York Congressional District, a grateful well done to Lt. Col. John Ianuzzi and the personel of the 108th Tactical Control Flight (NYANG).●

SAGA OF HUMAN RIGHTS COURAGEOUS STRUGGLE

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, 40 years ago the free people of Lithuania were deprived of the right to determine their own destiny, when on June 15, the independent Lithuanian Republic was forcibly annexed by the Soviet Union. Since that date theirs has been a saga of courageous struggle against the repression of those basic human rights that are indivisible with true liberty.

The people of Lithuania still hold the same love of freedom and independence they did when they formed a republic in 1918. Events of the past decade testify to the determination of these brave people; petitions and demonstrations against the religious repression of their Soviet rulers; protest involving the self-immolation of religious leaders; the story of Simas Kurdika, the Lithuanian sailor who sought sanctuary on a U.S. Coast Guard cutter; and the memory of 50,000 Lithuanians who died during 10 years of guerrilla warfare against Soviet domination.

We must continue our awareness and support for the plight of these people. On August 14, 1941, the President of the United States, Franklin Delano Roosevelt, and the Prime Minister of Great Britain, Winston Churchill, signed the so-called Atlantic Charter. Point 2 of this Charter declared that the United States of America and England "do not consent to any territorial changes which are not in agreement with the freely expressed wishes of the nations involved." Point 3 adds that, "They respect the right of all nations to choose for themselves the form of government under which they want to live; that they strive to reestablish the sovereign rights and self-rule of those nations which were deprived of these means by force." We must stand by this resolve. As a nation based on the principles of human rights and personal liberty we can only offer every avenue of support possible for these people.

Only 4 years ago we celebrated the 200th anniversary of our independence. Not only was this a milestone in the history of the world, it is a milestone in the continuing revolution for the freedom of man. Let the remembrance of Lithuania's loss of freedom be a reminder to us that liberty is not found easily, and once achieved is maintained only by continued effort. Their fight is both a lesson and a call to the American people.●

PERSONAL STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, on Friday, June 13, I missed two rollcall votes. The votes are as follows:

Rollcall No. 324, on House Resolution 672, the rule providing for the consideration of H.R. 6413, NASA Authorization for fiscal 1981. The resolution was agreed to by vote of 307 to 0. I was paired for the resolution and had I been present, would have voted for it.

Rollcall No. 326, on an amendment to H.R. 6413 NASA Authorization, fiscal 1981, offered by Mr. WEISS of New York. The amendment was rejected by vote of 90 to 225. Had I been present, I would have voted for the amendment.

Mr. Speaker, on Tuesday, June 17, I missed two rollcall votes. The votes are as follows:

Rollcall No. 338, on a motion that the House resolve itself into the Committee of the Whole for consideration of H.R. 7542, supplemental appropriations, fiscal 1980. The motion was agreed to by vote of 394 to 7. Had I been present, I would have voted "aye."

Rollcall No. 339, on an amendment to H.R. 7542, supplemental appropriations, fiscal 1980 offered by Mr. FITHIAN of Indiana. The amendment was agreed to by vote of 346 to 47. Had I been present, I would have voted "aye." ●

CONGRESSMAN JOHN BRADEMAS AWARDED HONORARY DOCTOR OF LAWS DEGREE BY UNION COLLEGE

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. STRATTON. Mr. Speaker, on June 15, 1980, our colleague, the Honorable JOHN BRADEMAS, the distinguished majority whip of the House, served as honorary chancellor for the 186th Commencement of Union College in Schenectady, N.Y., in the district I have the honor to represent.

Congressman BRADEMAS was also awarded the honorary degree of doctor of laws on this occasion and I ask unanimous consent at this point in the record to include the text of the citation; and I wish to extend my hearty personal congratulations on this well-deserved honor, and on joining me as an honorary alumnus of this very old and distinguished liberal arts college.

The citation follows:

JOHN BRADEMAS, MAJORITY WHIP, UNITED STATES HOUSE OF REPRESENTATIVES

Social Sciences lost a professor but education gained a champion when you were elected Congressman from Indiana. For more than twenty-two years you have practiced the art of government and sought to bring into our society, through legislative leadership, practical measures that touch directly on the cultural lives of millions of Americans. For early childhood to graduate education, for the arts and humanities to vocational training, for the elderly and the handicapped, you have led the way in bringing education to Americans both within and beyond the formal walls of academe through support for libraries and museums. You have brought forcefully to the floor of the Congress the values that express our culture and inform us as a people.

By the authority vested by the Regents of the University of the State of New York in the Trustees of Union College and delegated by the Trustees to me, I am happy to confer on you the degree of Doctor of Laws *honoris causa* with all the rights and privileges appertaining thereto.

JOHN S. MORRIS,
President.

Union College Commencement.
JUNE 15, 1980. ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ADDABBO, for June 20, 1980, on account of official business.

Mr. DANIELSON (at the request of Mr. WRIGHT), for June 19 and 20, 1980, on account of official business.

Mr. MOFFETT (at the request of Mr. WRIGHT), after 2 p.m. today, on account of illness in the family.

Mr. GUYER (at the request of Mr. RHODES), after 6 p.m. today, and June 20, on account of official business in congressional district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. COLLINS of Texas, for 20 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. ULLMAN, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ABDNOR, to submit a statement just prior to vote on supplemental appropriations bill.

Mr. BAUMAN, to revise and extend his remarks and include extraneous material just prior to vote on supplemental appropriations bill.

Mr. DERWINSKI, to revise and extend his remarks during debate on supplemental appropriations bill following Mr. BENJAMIN offering the Benjamin amendment this morning.

Mr. DASCHLE, to insert a statement prior to vote on H.R. 7542.

Mr. GOLDWATER, in support of H.R. 6418 during general debate in the Committee of the Whole today.

Mr. RAHALL, to extend his remarks immediately following colloquy between Mr. MINETA and Mr. DODD on H.R. 6418.

Mrs. HECKLER, to extend her remarks prior to the vote on the Levitas amendment.

(The following Members (at the request of Mr. DAVIS of Michigan) and to include extraneous matter:)

Mr. HYDE.

Mr. GREEN in two instances.

Mr. TAUKE.

Mr. GRADISON.

Mr. BEREUTER.

Mr. GOODLING in two instances.

Mr. DANNEMEYER.

Mr. DERWINSKI.

Mr. Collins of Texas in three instances.

Mr. Bethune in two instances.

Mr. Gilman.

Mr. Kramer.

(The following Members (at the request of Mr. Rahall) and to include extraneous matter:)

Mr. Mavroules in two instances.

Mr. Solarz in three instances.

Mr. Skelton.

Mr. Carr.

Mr. Florio.

Mr. Ullman.

Mr. Ginn.

Mr. Stokes in two instances.

Mr. Gaydos.

Mr. Peyser.

Mr. Fascell.

Mr. Daschle.

Mr. Wolff in three instances.

Mr. Ottinger.

Mr. McDonald in two instances.

Mr. Murphy of New York.

Mr. Bennett.

Ms. Mikulski.

Mr. Applegate.

Mr. Russo.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 7 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Friday, June 20, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4655. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the motor vehicle maintenance function at the U.S. Army Communications and Electronics Materiel Readiness Command, Fort Monmouth, N.J., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

4656. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Saudi Arabia (Transmittal No. 80-71), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4657. A letter from the Secretary of Housing and Urban Development, transmitting an addendum to the first annual report on the urban initiatives anticrime program, previously submitted pursuant to section 207(e) of Public Law 95-557; to the Committee on Banking, Finance and Urban Affairs.

4658. A letter from the Secretary of Labor, transmitting a report recommending improvements in the Wagner-Peyser Act, pursuant to section 5(a) of Public Law 95-524; to the Committee on Education and Labor.

4659. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 80-71), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4660. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552 a(o); to the Committee on Government Operations.

4661. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims; to the Committee on Veterans' Affairs.

4662. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1980 annual report of the Board, pursuant to section 201(c) of the Social Security Act (H. Doc. No. 96-332); to the Committee on Ways and Means and ordered to be printed.

4663. A letter from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting the 1980 annual report of the Board, pursuant to section 1817(b) of the Social Security Act (H. Doc. 96-333); to the Committee on Ways and Means and ordered to be printed.

4664. A letter from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting the 1980 annual report of the Board, pursuant to section 1841(b) of the Social Security Act (H. Doc. No. 96-334); jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 5424. A bill to amend title 44, United States Code, to provide for improved administration of public printing services and distribution of public documents; with amendment (Rept. No. 96-836, pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD of Pennsylvania: Committee of conference. Conference report on S. 932 (Rept. No. 96-1104). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. Report on Allocation of Budget Totals for Fiscal Year 1981 (Rept. No. 96-1105). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN. Committee on Ways and Means. H.R. 6571. A bill to amend the Tariff Act of 1930 to temporarily continue the present duty-free status of the cost of fish net and netting purchased and repaired in Panama; with amendments (Rept. No. 96-1107). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6975. A bill to eliminate the duty on hardwood veneers; with amendments (Rept. No. 96-1108). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5047. A bill to provide for the temporary suspension of duty on the importation of color couplers and coupler intermediates used in the manufacture of photographic sensitized material (provided for in items 405.20 and 403.60, respectively); with amendments (Rept. No. 96-1109). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 718. Resolution providing a procedure to concur in the Senate amendment to House Joint Resolution 521. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System (Rept. No. 96-1110). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 719. Resolution waiving certain points of order against H.R. 7590. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1111). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 720. Resolution waiving certain points of order against H.R. 7592. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1112). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 721. Resolution waiving certain points of order against H.R. 7593. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1113). Referred to the House Calendar.

Mr. BOLAND: Committee on Appropriations. H.R. 7631. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1114). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5829. A bill for the relief of the Foundry United Methodist Church; with amendments (Rept. No. 96-1106). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BOUQUARD (for herself, Mr. Bevill, and Mr. Hall of Texas):

H.R. 7621. A bill to amend the Immigration and Nationality Act to provide for a one-House congressional veto of Presidential determinations that the number of refugee admissions in a fiscal year should exceed 50,000; jointly, to the Committees on the Judiciary and Rules.

By Mr. DASCHLE (for himself, Mr. Corman, Mr. Madigan, Mr. LaFalce, Mr. Roe, Mr. White, Mr. Horton, Mr. Volkmer, Mr. Dougherty, Mr. Udall, Mr. Gaydos, Mr. Hughes, Mr. Jenrette, Mrs. Byron, Mr. Mitchell of Maryland, Mr. Wolff, Mr. Hubbard, Mr. Price, Mr. Bonior of Michigan, Mr. Shelby, Mr. Marlenee, Mr. Myers of Pennsylvania, Mrs. Smith of Nebraska, Mr. Lott, Mr. Lent, Mr. Blanchard, and Mr. Garcia):

H.R. 7622. A bill to amend title 39 of the United States Code to provide that regular daily mail delivery shall not be limited by the Postal Service to fewer than 6 days each week; to the Committee on Post Office and Civil Service.

By Mr. DECKARD:

H.R. 7623. A bill to amend the Occupational Safety and Health Act of 1970 to prohibit the issuance of a citation by the Secretary of Labor after the initial inspection of any workplace of an employer, and for other purposes; to the Committee on Education and Labor.

By Mr. LEDERER (for himself, Mr. Murphy of Pennsylvania, and Mr. Musto):

H.R. 7624. A bill to amend the Internal Revenue Code of 1954 to provide that the excise tax on the sale of coal shall be applied at the coal preparation plant instead of at the mine; to the Committee on Ways and Means.

By Mr. MICA:

H.R. 7625. A bill to amend title 28, United States Code, to remove the States of Alabama, Florida, and Georgia from the fifth judicial circuit, to create an additional judicial circuit to be composed of the States of Alabama, Florida, and Georgia, and for other purposes; to the Committee on the Judiciary.

By Mr. NICHOLS (for himself, Mr. Mitchell of New York, Mr. Bennett, Mr. Mollohan, Mr. Aspin, Mr. Emery, Mr. Davis of South Carolina, Mrs. Byron, Mr. Courter, Mr. Mavroules, Mr. Wyatt, Mr. Evans of the Virgin Islands, Mr. Leach of Louisiana, Mr. Dougherty, and Mr. Hutto):

H.R. 7626. A bill to amend title 37, United States Code, to improve certain special pays and allowances for members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Mr. PREYER (for himself and Mr. Weiss):

H.R. 7627. A bill to amend title 44, United States Code, to authorize the Archivist of the United States to commence actions to recover agency records wrongfully removed from the custody of Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mr. PREYER:

H.R. 7628. A bill to make the office of the Archivist of the United States an independent establishment in the executive branch, and for other purposes; to the Committee on Government Operations.

By Mr. WILLIAMS of Montana:

H.R. 7629. A bill to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BOLAND:

H.R. 7631. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. BROWN of Ohio (for himself, Mr. Collins of Texas, Mr. Stockman, Mr. Loeffler, and Mr. Corcoran):

H.J. Res. 575. Joint resolution relating to a rationing contingency plan; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.J. Res. 576. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life; to the Committee on the Judiciary.

By Mr. BRADEMAS (for himself, Mr. Wright, Mr. Rhodes, Mr. Dingell, Mr. Michel, and Mr. Vander Jagt):

H. Con. Res. 366. Concurrent resolution to promote the competitiveness of the U.S. industry in the world automobile and truck markets; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

By Mr. BINGHAM (for himself, Mr. Zablocki, Mr. Wolff, Mr. Fascell, Mr. Broomfield, Mr. Derwinski, Mr. Wolpe, Mr. Rosenthal, Mr. Findley, Mr. Lagomarsino, Mr. Studds, Mr. Barnes, and Mr. Winn):

H. Con. Res. 367. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM-1569; to the Committee on Foreign Affairs.

H. Con. Res. 368. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM-1379; to the Committee on Foreign Affairs.

By Mr. DODD:

H. Con. Res. 369. Concurrent resolution disapproving the proposed exports to India of low-enriched uranium and replacement parts for the Tarapur Atomic Power Station; to the Committee on Foreign Affairs.

By Mr. GUYER (for himself, Mr. Broomfield, and Mr. Latta):

H. Con. Res. 370. Concurrent resolution to promote the competitiveness of U.S. industry in the world automobile and truck markets; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and and Labor, Interstate and Foreign Commerce, and Ways and Means.

By Mr. LUJAN:

H. Con. Res. 371. Concurrent resolution recognizing the period of August 9 through 21, 1980, as a time of commemoration of the tricentennial of the Pueblo revolt of 1680; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

496. The SPEAKER presented a memorial of the Assembly of the State of New York, relative to Indian land claims, which was referred to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FAZIO presented a bill (H.R. 7630) for the relief of Theodore Anthony Dominguez, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 109: Mr. Simon.

H.R. 113: Mr. O'Brien.

H.R. 365: Mr. Stanton, Mrs. Smith of Nebraska, Mr. McClory, and Mr. Bethune.

H.R. 5610: Mr. Edgar and Mr. Hollenbeck.

H.R. 6528: Mr. Horton.

H.R. 7023: Mr. Neal, Mr. Russo, Mr. Wirth, and Mr. Annunzio.

H.R. 7106: Mr. Moore.

H.R. 7107: Mr. Jeffries.

H.R. 7189: Mr. Philip M. Crane.

H.R. 7313: Mr. Addabbo, Mr. Applegate, Mr. Corrada, Mr. Downey, Mr. Hightower, Mr. Hollenbeck, Mr. Hughes, Mr. Kindness, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Long of Maryland, Mr. McDonald, Mr. Murphy of Pennsylvania, Ms. Oakar, Mr. Ottinger, Mr. Roe, Mr. Whitehurst, and Mr. Wolff.

H.R. 7411: Mr. Conte.

H.R. 7472: Mr. D'Amours.

H.R. 7555: Mr. Loeffler, Mr. McClory, and Mr. Roth.

H.R. 7556: Mr. Seiberling.

H.J. Res. 300: Mr. Mottl and Mr. Lent.

H. Con. Res. 122: Mr. Stump.

H. Res. 709: Mr. Simon, Mr. Mazzoli, Mr. Winn, Mr. Guarini, Mr. Roe, Mr. Ottinger, Mr. Beilenson, Mr. Porter, Mr. Mottl, and Mr. Scheuer.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

370. By the SPEAKER: Petition of the City Council, Philadelphia, Pa., relative to Ireland; to the Committee on Foreign Affairs.

371. Also, petition of the Western States Land Commissioners Association, Sacramento, Calif., relative to the Bureau of Land Management; to the Committee on Interior and Insular Affairs.

372. Also, petition of the Western States Land Commissioners Association, Sacramento, Calif., relative to crude oil transportation; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

373. Also, petition of the Western States Land Commissioners Association, Sacramento, Calif., relative to wild horses and burros; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6711

By Mr. WATKINS:

—Page 74, line 4, insert "(1)" immediately before "Vocational"; on page 74, lines 6, 8, 13, and 20 and on page 75, line 1, redesignate paragraphs (1) through (5) as subparagraphs (A) through (E), respectively; and on page 75 after line 3 insert the following new paragraph:

(2) Vocational education services supported under this section may include, to the extent determined by the Secretary, provision of services for the establishment of vocational-based youth enterprises to stimulate community improvement and to serve as learning activities which will contribute to the ability of participants to secure and retain stable employment or self-employment.

H.R. 6790

By Mr. SIMON:

—Page 79, after line 4, insert the following:

(c) Not later than January 1, 1983, the Secretary of State shall designate one United States Embassy, located in a country in which English is not a common language, as a model foreign language competence post. Notwithstanding any other provision of law relating to assignment of Government employees abroad, all Government employees assigned to the embassy so designated must possess at least a minimum level of competence in the language or dialect common to the country in which that embassy is located. Such minimum level of language competence shall be established by the Secretary of State using the language competence standards of the Foreign Service Institute.

H.R. 7584

By Mr. FISH:

—On page 13, line 4, strike "$347,700,000" and substitute in lieu thereof "$370,073,000".

H.R. 7591

By Mr. HARRIS:

—Page 51, after line 26, add the following:

Sec. 612. No more than 20 percent of the total appropriations made available for any agency for any fiscal year under this Act may be obligated during the last two months of such fiscal year.

By Mr. LEVITAS:

—Page 51, after line 26, add the following:

Sec. 612. No part of any appropriation contained in this Act may be used to implement, administer, or enforce any rule, regulation, order, or other action which has been the subject of a resolution of disapproval duly adopted by a committee or committees of the Congress, one House of the Congress, or both Houses of the Congress, as the case may be, pursuant to the applicable law of the United States.

By Mr. MITCHELL of Maryland:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes, namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $4,569,500: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: *Provided further*, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

DEPARTMENTAL ADMINISTRATION

For Budget, Planning and Evaluation, and Public Participation, $3,457,800; for Operations and Finance, Personnel, Equal Opportunity, Safety and Health Management, Management Analysis and Small and Disadvantaged Business Utilization, $9,292,200; for Capper-Volstead Monitoring, $200,000; making a total of $12,950,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, of which not to exceed $10,000 is for employment under 5 U.S.C. 3109.

GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving governmental and public affairs and emergency preparedness; acting as liaison within the executive branch and with the Congress on legislative matters; and for the dissemination of agricultural information and the coordination of information work and programs authorized by Congress in the Department, $8,609,850; of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and, not to exceed $2,748,000 may be used for farmers' bulletins and not less than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $27,752,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95–452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and in addition, $10,000,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses, including payment of fees or dues for the use of law libraries by attorneys in the field service, $11,028,550.

FEDERAL GRAIN INSPECTION SERVICE

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109, $22,457,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require non-export, non-terminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94–582 other than those necessary to fulfill the purposes of such Act.

SCIENCE AND EDUCATION ADMINISTRATION

AGRICULTURAL RESEARCH

For necessary expenses to enable Agricultural Research to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $356,610,600: *Provided*, That appropriations hereunder shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That of the appropriations hereunder, not less than $9,473,940 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building (except headhouses connecting greenhouses) shall not exceed $88,000, except for ten buildings to be constructed or improved at a cost not to exceed $165,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $88,000 whichever is greater: *Provided further*. That the limitations on construction contained in this Act shall not apply to the establishment of a fruit and nut germ plasm repository at Davis, California: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $100,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a).

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

SCIENTIFIC ACTIVITIES OVERSEAS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1)(3)), $5,000,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines as needed, and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1914 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

COOPERATIVE RESEARCH

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $112,603,500 to carry into effect the provisions of the Hatch Act, approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a–361i), and further amended by Public Law 92–318 approved June 23, 1972, and further amended by Public Law 93–471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended: $9,381,600 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582a–7), as amended by Public Law 92–318 approved June 23, 1972, including administrative expenses, $18,543,000 for payments to the 1890 land-grant colleges, including Tuskegee Institute, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95–113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee Institute; $16,963,200 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $475,000 for grants in accordance with section 1419 of Public Law 95–113; $617,500 for research authorized by the Native Latex Commercialization and Economic Development Act of 1978; and $1,512,000 for necessary expenses of Cooperative Research activities, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109; in all, $160,095,000.

EXTENSION ACTIVITIES

Payments to States, Puerto Rico, Guam, and the Virgin Islands: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341–349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341–349), to be distributed under sections 3(b) and 3(c) of the Act, for retirement and employees' compensation costs for extension agents, and for costs of penalty mail for cooperative extension agents and State extension directors, $199,896,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $55,017,000; payments for the urban gardening programs under section 3(d) of the Act, $3,000,000; payments for the pest management program under section 3(d) of the Act, $7,435,000; payments for the farm safety program under section 3(d) of the Act, $1,020,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,805,000; payments for the energy demonstration program under section 3(d) of the Act, $300,000; payments for nonpoint source pollution program under section 3(d) of the Act, $1,300,000; payments for extension work under section 209(c) of Public Law 93–471, $910,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–236, 328) and Tuskegee Institute under section 1444 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Public Law 95–113), $10,898,000; and for carrying out the provisions of section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), $11,500,000; in all, $293,081,000, of which not less than $78,600,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93–471, and the Act of September 29, 1977 (7 U.S.C. 341–349), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $5,948,000, of which not less than $2,100,000 is for Home Economics.

TECHNICAL INFORMATION SYSTEMS

For necessary expenses of the Technical Information Systems, $8,113,950: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $100,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c) necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $250,138,000, of which $2,500,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided*, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten the livestock or poultry industries of the country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, extension, alteration, purchase and improvement of fixed equipment or facilities, $3,186,000, to remain available until expended: *Provided*, That this appropriation shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements: *Provided further*, That unless otherwise provided, the cost of constructing any one building shall not exceed $88,000, except for one building to be constructed for biological control activities at a cost of $1,400,000; four buildings to be constructed or improved at a cost not to exceed $175,000 each; and $100,000 for planning a rearing facility: *Provided further*, That the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

FOOD SAFETY AND QUALITY SERVICE

For necessary expenses to carry on services related to consumer protection and agricultural market and distribution, $292,818,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed $90,000, except for two buildings to be constructed or improved at a cost not to exceed $150,000, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $5,210,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

For necessary expenses of the Economics, Statistics, and Cooperatives Service to carry out the Act of July 2, 1926 (7 U.S.C. 451–457), and as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and other laws, in conducting: statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys; research relating to the economic and marketing aspects of farmer cooperatives; economic research and service relating to agricultural production, marketing, and distribution, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, cost and returns in farming, and farm finance; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development an its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; $85,322,700 of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said administrator, other agencies or before the Courts: *Provided*, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further*, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in work trade on a competitive basis: *Provided further*, That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $140,000 shall be available for employment under 5 U.S.C. 3109.

WORLD FOOD AND AGRICULTURE OUTLOOK AND SITUATION BOARD

For necessary expenses of the World Food and Agricultural Outlook and Situation Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,644,450, of which $500,000 shall be available only for the establishment of a secure lock-up facility: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry on services related to agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 for employment under 5 U.S.C. 3109, $44,198,100; of which not less than $1,365,000 shall be available for the Wholesale Market Development Program and $819,000 for the Information Offices: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

TRANSPORTATION OFFICE

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $1,699,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(a) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,600,000.

FARM INCOME STABILIZATION

Agricultural Stabilization and Conservation Service

SALARIES AND EXPENSES

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(d) 16(e), 16(f), 16(i), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g, 590o, 590p(a) and 590(q); sections 1001 to 1008 and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1508 and 1510); the Water Bank Act U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); and laws pertaining to the Commodity Credit Corporation, $195,525,000: *Provided*, That, in addition, not to exceed $159,634,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed $44,994,000 under the limitation on Commodity Credit Corporation administrative expenses for a total of $355,159,000: *Provided further*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 705(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in such a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and to beekeepers who through no fault of their own have suffered losses as a result of the use of economic poisons which had been registered and approved for use by the Federal Government, $1,700,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

Federal Crop Insurance Corporation

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, $10,635,250.

FEDERAL CROP INSURANCE CORPORATION FUND

Not to exceed $18,363,000 of administrative and operating expenses may be paid from premium income.

Commodity Credit Corporation

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a–11, 713a–12), $3,299,887,000.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $52,750,000 shall be available for administrative expenses of the Commodity Credit Corporation: *Provided*, That this authorization shall be available to support the General Sales Manager who shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corporation) pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further*, That none of the funds in this Act may be used to carry out an Export Credit Sales program in excess of $2,200,000,000 in fiscal year 1981: *Provided further*, That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof: *Provided further*, That none of the funds in this Act may be used to carry out a program of loan guarantees by the Corporation for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products in excess of $500,000,000.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, $24,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $4,125,600,000, of which not less than $3,245,600,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary; and not to exceed $5,000,000 for advances as authorized by section 501(e) of such Act and not to exceed $2,000,000 for compensation of construction defects as authorized by section 509(c) of such Act.

During fiscal year 1981, no more than 17,230 units may be assisted under rental assistance agreements entered into during the year pursuant to authority under section 521(a)(2) of the Housing Act of 1949, as amended, and the total obligation incurred over the life of these agreements shall not exceed $393,000,000 to be added to and merged with the authority provided for this purpose in prior fiscal years.

For an additional amount to reimburse the rural housing insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including $8,712,000, as authorized by section 521(c) of the Act, $504,318,000, and for an additional amount as authorized by section 521(c) of the Act may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

AGRICULTURE CREDIT INSURANCE FUND

For an additional amount to reimburse the agricultural credit fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1983(a)), $297,032,000.

Loans may be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, or guaranteed, as follows: real estate loans, $949,600,000, including not less than $870,000,000 for farm ownership loans of which $50,000,000 shall be guaranteed loans; and not less than $60,500,000 for water development, use, and conservation loans of which $6,000,000 shall be guaranteed loans; operating loans, $875,000,000 of which $25,000,000 shall be guaranteed loans; and emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

RURUAL DEVELOPMENT INSURANCE FUND

For an additional amount to reimburse the rural development insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $143,282,000.

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661–664, as follows: insured water and sewer facility loans, $700,000,000; industrial development loans, $751,000,000 of which $10,000,000 shall be for insured loans and $741,000,000 shall be for guaranteed loans; and insured community facility loans, $240,000,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $200,000,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the elderly pursuant to section 504 of the Housing Act of 1949, as amended, $25,000,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $25,000,000.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

During 1981 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $2,000,000.

For an additional amount to provide capitalization to the self-help housing land development fund under section 523(f) and (g), $1,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipment for rural volunteer fire departments.

RURAL DEVELOPMENT PLANNING GRANTS

For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), $5,000,000.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

For grants pursuant to section 525(a) of the Housing Act of 1949, as amended (42 U.S.C. 1490(e)), $1,500,000.

RURAL DEVELOPMENT GRANTS

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $10,000,000.

SALARIES AND EXPENSES

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), as amended, title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title IIIA of the Economic Opportunity Act of 1964 (Public Law 88–452, approved August 20, 1964), as amended, and such other programs for which Farmers Home Administration has the responsibility for administering, $239,684,000, of which $50,112 shall be available only for one additional top-level deputy with an actual background in modern farming and agricultural financing, and $1,730,000 for the coordination of rural development activities as authorized by section 603 of the Rural Development Act of 1972, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended, *Provided*, That, in addition, not to exceed $500,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $850,000,000, nor more than $1,100,000,000, and rural telephone loans, not less than $250,000,000 nor more than $325,000,000, to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts, but during 1981, total commitments to guarantee loans pursuant to section 306, shall be not less than $5,145,000,000, nor more than $6,655,000,000 of contingent liability for loan principal.

RURAL TELEPHONE BANK

For purchase of Class A stock of the Rural Telephone Bank, $22,500,000, to remain available until expended (7 U.S.C. 901–950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1981, and within the resources and authority available, gross obligations for the principle amount of direct loans shall be not less than $160,000,000 nor more than $220,000,000.

RURAL COMMUNICATION DEVELOPMENT FUND

For loan to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1928 and 86 Stat. 661–664 as follows: Community Antenna Television loans under Section 306 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926, $5,000,000. Community Antenna Television loans under Section 310B of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932, $20,000,000.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to carry out a loan and loan guarantee program for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S. 2225), and not to exceed $150,000 for employment under 5 U.S.C. 3109, $24,947,000.

CONSERVATION

Soil Conservation Service

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f), including preparation of conservation plans and establishment of measures to conserve oil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant material centers; classification and mapping of soil; dissemination of information; purchase and erection or alteration of permanent buildings; and operation and maintenance of aircraft, $254,700,900, of which not less than $3,396,000 is for snow survey and water forecasting and not less than $2,933,000 is for operation of the plant materials centers: *Provided*, That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $5,000, except for one building to be constructed at a cost not to exceed $50,000 and eight buildings to be constructed or improved at a cost not to exceed $30,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $1,000 per building: *Provided further*, That no part of this appropriation shall be available for the construction of any such building on land not owned by the Government: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $16,569,900: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $10,660,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $167,524,000 (of which $18,500,000 shall be available for the watersheds authorized under the Flood Control Act, approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205) and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $26,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32 (e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), $30,641,400 of which $390,000 shall be for the authorization of 6 new areas: *Provided*, That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $19,987,000, to remain available until expended.

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in section 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), and 590q, and sections 1001–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $171,000,000 to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetland Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program, $20,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $9,000,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $9,000,000 to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

TITLE III—DOMESTIC FOOD PROGRAMS

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1787); $3,638,776,000, of which $1,759,123,000 is hereby appropriated, and $1,879,653,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including $80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act: *Provided*, That of the foregoing total amount there shall be available $15,000,000 for the food service equipment assistance program: *Provided further*, That funds provided herein shall remain available until September 30, 1982: *Provided further*, That only claims for reimbursement for meals served during fiscal year 1981 submitted to State agencies prior to January 1982, shall be eligible for reimbursement: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the

Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private-nonprofit schools including colleges and universities, (4) private nonprofit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs: *Provided further*, That none of the funds appropriated in this Act shall be used to provide meal services at or for Job Corps Centers.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $176,200,000, to remain available until September 30, 1982: *Provided*, That only claims for reimbursement for milk served during fiscal year 1981 submitted to State agencies prior to January 1, 1982, shall be eligible for reimbursement.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c(note)), $924,540,000: *Provided*, That funds provided herein shall remain available until September 30, 1982.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2027), $9,451,276,000: *Provided*, That funds provided herein shall remain available until September 30, 1981, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3697 of the Revised Statutes, as amended, for use in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That no part of the funds appropriated by this Act shall be used during the fiscal year ending September 30, 1980, to make food stamps available to any household, to the extent that the amount otherwise available to such household is attributable to an individual who: (i) has reached his eighteenth birthday; (ii) is enrolled in an institution of higher education; and (iii) is properly claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011–2027), $288,000,000, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1981.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965 (42 U.S.C. 303a), $128,660,000.

Food Program Administration

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,000,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service.

For necessary expenses for the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $75,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $54,481,500: *Provided*, That not less than $255,000 of the funds contained in this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

Office of International Cooperation and Development

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan and direct activities involving international development, technical assistance and training, international scientific and technical cooperation in the Department of Agriculture, $1,800,000, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, not more than $892,400,000, of which $406,330,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances; and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $822,600,000, of which $822,600,000, is hereby appropriated and the balance to be derived from Commodity Credit Corporation funds and from carryover balances: *Provided*, That not to exceed 10 percent of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

TITLE V—RELATED AGENCIES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Food and Drug Administration; for payment of salaries and expenses for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; for rental or special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $10,000; $303,558,250.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $25,427,700.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) including the purchase and hire of passenger motor vehicles; the rental of space in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $15,547,700 to be available as authorized by law: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses.

Farm Credit Administration

LIMITATION ON ADMINISTRATION EXPENSES

Not to exceed $12,100,000 (from assessments collected from farm credit agencies) shall be obligated during the current fiscal year for administrative expenses including the hire of one passenger motor vehicle.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1981 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed six hundred eighty-nine (689) passenger motor vehicles of which six hundred fourteen (614) shall be for replacement only, and for the hire of such vehicles.

Sec. 602. Funds available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

Sec. 603. Not less than $1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621–1629; 42 U.S.C. 1891–1893), shall be avaliable for contracting in accordance with said Acts.

Sec. 604. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporation who harvest or knowingly permit to be harvested for illegal use, marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

Sec. 605. Advances of money from any

appropriation for the Department of Agriculture may be made by authority of the Secretary of Agriculture to chiefs of field parties.

SEC. 606. Obligations chargeable against the Working Capital Fund during the period October 1, 1980, through September 30, 1981, shall not exceed $63,773,000: *Provided*, That no funds appropriated to any agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 607. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Scientific Activities Overseas (Special Foreign Currency Program); Public Law 480; Rural Housing for Domestic Farm Labor; Watershed and Flood Prevention Operations; Resource Conservation and Development; Agricultural Stabilization and Conservation Service Salaries and Expense funds made available to country committees; and Buildings and Facilities, Food and Drug Administration.

SEC. 608. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 609. Not to exceed $50,000 of the appropriations available to the Department of Agriculture shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 610. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation County Committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized.

SEC. 611. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SENATE—*Thursday, June 19, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. David Pryor, a Senator from the State of Arkansas.

PRAYER

The Reverend Dr. Calvin V. French, pastor, The Reorganized Church of Jesus Christ of Latter-Day Saints, Washington, D.C., offered the following prayer:

Our Father, we come as Thy servants, with varied backgrounds but with a single calling, to be matched against this hour in our Nation's history. The times are stressful, and we feel the burden of our inadequacies and the enormity of our task. In the quiet of Thy spirit, may we learn wisdom, for it is wisdom which brings power to our lives and effectiveness to that which we do. Help us to order our priorities, that the direction in which we lead may be in keeping with Thy divine will for our Nation and for all mankind.

We thank Thee for our heritage. We thank Thee for our Founding Fathers who raised their eyes unto the spiritual hills for help and reassurance. May we depend upon Thee as did they, knowing that He who watches over us neither slumbers nor sleeps.

As we ask for a blessing upon this body, our hearts reach beyond these walls to our fellow servants who have been called to serve in the outposts of the world and to those whose banners of service are unfurled in captivity. May they share in the power of Thy love and feel the warmth of our concern.

Father, these are times in which our people need encouragement. Remind us in our deliberations that glory will not come by man's rhetoric or might or power, but that it is righteousness that exalts a nation.

Quicken our minds to recognize that when we are in the service of our fellow beings, we are only in Thy service. Accept our efforts that we may become instruments of Thy justice. And finally, when our labors are ended, may we experience the peace that comes from having been faithful to our mission.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., June 19, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable David Pryor, a Senator from the State of Arkansas, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HELMS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their name:

[Quorum No. 9 Leg.]

Baker
Boren
Byrd,
Harry F., Jr.
Byrd, Robert C.
Domenici
Hatfield
Helms
Long
Pryor
Sarbanes
Thurmond

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore.

The question is on agreeing to the motion of the Senator from West Virginia (Mr. Robert C. Byrd) to direct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from South Dakota (Mr. McGovern), and the Senator from Montana (Mr. Melcher) are necessarily absent.

Mr. BAKER. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Pennsylvania (Mr. Heinz), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Wyoming (Mr. Simpson), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 1, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—85

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—1

Weicker

NOT VOTING—14

Cochran
Goldwater
Gravel
Heflin
Heinz
Inouye
Javits
Kennedy
Matsunaga
McClure
McGovern
Melcher
Simpson
Stevens

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, the time of the two leaders was not used because a quorum call is in order at the beginning of a session. It is not necessary that it be charged against the two leaders.

Mr. LEAHY. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would like to go to the synfuels conference report under a time limitation. It is important that the Senate act on the synfuels conference report and get it over to the other body so that that body can soon act on it.

It is also vitally important that a good many other measures be acted on before the Fourth of July recess.

I would like for Senators to understand what remains to be done, if Senators will listen.

Mr. President, I would like to have the attention of Senators because it is in their interest that they hear.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Members will please take their seats.

Mr. ROBERT C. BYRD. Remaining for the Senate to take action on before the Fourth of July recess are the following:

The supplemental appropriations bill, which has trade assistance payments in it, black lung payments, Mount St. Helens funding, and a good many other items that are vitally important.

The National Science Foundation authorization bill. This is an expiring authorization.

Biomedical Research, National Institutes of Health. That is an expiring authorization.

Higher Education Act amendments, expiring authorization; Housing and Community Development, expiring authorization; flooding mapping, expiring authorization; rural housing, expiring authorization; Urban Mass Transportation, expiring authorization; Clean Water Act, expiring authorization; Nuclear Regulatory Commission, expiring authorization; Securities and Exchange Commission, expiring authorization; Department of Treasury, International Affairs, expiring authorization; Department of Energy, which we had cataloged yesterday but we will have to wait until we can work something out on the nuclear waste legislation before we proceed with that.

The Mental Health Services bill, expiring authorization; Department of Defense Military Procurement, which will be ready next week, expiring authorization; Military Construction, expiring authorization; Coast Guard, expiring authorization; Extension of the Debt Limit; Synfuels Conference Report; the Coal Conversion Utility Back-out bill; the Energy Mobilization Board conference report.

Those are, for the most part, the matters that have to be taken up before the Fourth of July recess.

We also have the nomination of General Jones, whose term will expire, I believe, tomorrow.

One might say, "Well, why all this backlog now?"

Is is for the simple reason that on May 15 the committees reported out a lot of measures to meet the deadline under the Budget Reform Act and now the calendar is filled with measures that have been reported since May 15.

Another problem the Senate had, of course, was the first concurrent budget resolution, and the conference report thereon which has now been disposed of. So, we are faced with a very heavy workload.

In July, we have the break for the Republican Convention; in August, we have the break for the Democratic Convention. It is my intention to adjourn on October 4, sine die or no. If the Senate has completed its work by October 4, we shall go out sine die and not come back this year. If the Senate has not completed its work by October 4, we shall go out anyhow, but we shall come back after the election. Every day of delay that we encounter now is 1 more day after the election that we are going to have to be back in session.

DEPARTMENT OF JUSTICE AUTHORIZATION BILL

We had up last evening the Department of Justice authorization bill. The distinguished Senator from North Carolina offered his amendment on the death penalty. I pleaded with my colleagues and with the distinguished Senator that we not proceed with the death penalty bill as an amendment to the Department of Justice bill, there being only a 1-hour time limitation on the amendment. I gave my assurance that, later in the session, I would call up the death penalty bill if the amendment were withdrawn or rejected.

Well, the able Senator from North Carolina sort of had the bit in his teeth. I can understand that when one has the horses on the run downhill and there are no brakes on the wagon, they just go. He just lays the whip on.

So I exhorted my colleagues to vote for a motion to recommit and bring the thing back and a lot of people asked, "Why that?" I wanted to get that bill back without the Helms' amendment pending so I could offer one. But the Senate rejected my motion.

Now, we are faced this morning with Mr. HELMS' death penalty amendment. I no longer feel any commitment to call up that bill this year. I may do it, but I am not committed any longer to calling that up, because I offered the commitment last night that I would call it up. I figuratively cut my finger with a razor and was ready to write in blood that I would bring it up if he would call this amendment back—"just take it off, JESSE, I will call it up. I will call up that bill."

Senator HELMS would not let me do it. He said, "Just squeeze your finger a little tighter, put the tourniquet up here."

Now, here we are today with his amendment still pending and I no longer feel committed to call up that bill.

So, even though I favor the Helms' amendment, we may be around here all day on this Department of Justice authorization bill. The longer we are on it, the more we are going to be delayed in getting to these other bills.

Why not set this bill temporarily aside from time to time and act on some of the other measures that we have to dispose of? Then we shall come back to the Department of Justice bill at some point.

Mr. President, a motion to go to a privileged matter is not debatable. A motion to go to a nonprivileged matter is debatable, except in certain circumstances. I shall not attempt to talk of them now.

Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

(Mr. MORGAN assumed the chair.)

Mr. BAKER. Mr. President, reserving the right to object, before we get to the business of trying to set the switches and proceed with whatever we are going to do, I should like to make a remark or two, either on the reservation or on my own time under the standing order. If the majority leader will withdraw the request for a moment, I shall consume my time under the standing order and we can proceed that way.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I understand the majority leader's predicament. To a degree at least—not completely, but to a degree—I share his predicament in trying to complete the work of the Senate while accommodating the maximum number of Members. I should like to do it with more soldiers, but right now, we just do the best we can.

Mr. President, the question at hand is not delay, the question at hand is finishing the bill. If I understand the position of the Senator from North Carolina, and I believe I do, his request is very simple: Let us get on with the business at hand. Let us get on with the bill as it has been amended by the Senator from North Carolina.

He won. Why not let him go on and win? Why not finish this bill? I predict we can finish the Department of Justice authorization bill pretty fast, provided we just get on with the business of trying to do it now.

On the matter of the synfuels conference report, yesterday, I had agreed with the majority leader that we would proceed, after we finished with DOJ, to the consideration of the synfuels conference report. We had negotiated a time limitation of 4 hours on that conference report. I shall make him the same offer today, that as soon as we finish DOJ, we shall proceed to the synfuels conference report.

The majority leader, of course, is correct. It is a privileged matter and he can ask, as a matter of right, for the clerk to state the conference report and lay it before the Senate. But it is a matter of a motion to proceed to consider it. I suppose it is a privileged matter and we can play around with that a while. But we should not. In my judgment, we should finish the bill that we began.

On the question of the list of matters that the majority leader has read from, I share some of the responsibility. As I have reported to our colleagues and on this floor before, the majority leader has been kind enough to meet with me on more than one occasion to try to work out a list of items that we have to deal with between now and the July 4 recess. This is the list he is reading from.

As I said, I think on the day before yesterday, we really have made good progress on this thing. In a moment of temptation the other day, on Tuesday, I was prepared to ask the majority leader to recess until Monday, since we had finished all the bills that we had lined up for the rest of that week—four bills from the Foreign Relations Committee, with a few others thrown in for good measure. My point is we are doing very well with this list.

I want to continue to do very well with this list, I want to finish the bill we are on, I want to go then to the synfuels conference report, and finish the other matters we have discussed.

I say for the record it is not Members on this side, last of all the Senator from North Carolina, who are trying to delay the progress of the Senate. Our colleagues should know that we have already cleared for consideration on our side, a number of measures, not only the synfuels conference report, but also the DOE, which was announced and has now been taken down, I understand, because of complications on the majority side of the aisle.

There is NSF, which we cleared, but I understand we cannot proceed with because Senator Kennedy is not here. I understand that. I have been sort of in that spot a time or two myself.

On the question of the balance of the list, I pledge to the majority leader, and I shall not cut my finger, but I shall give him my word that I shall work with him in trying to do as much of this must list that he has referred to as possible. But the way to get on with this must list is to finish what we have begun. There is not a single reason, in the rulebook or the precedents of the Senate, that says Jesse Helms cannot win. He did win. His amendment won. That should not disqualify this bill from final detrmination.

So, I hope, Mr. President, that what the majority leader will do is go on as we originally arranged, finish the DOJ bill and proceed then to the synfuels conference report, and we shall give him a time limitation.

Mr. HELMS. Will the Senator yield?

Mr. THURMOND. Will the Senator yield?

Mr. BAKER. I am happy to yield first to the Senator from North Carolina, if I may.

Mr. HELMS. First, I appreciate genuinely the comments of the distinguished Senator from Tennessee. I wonder if I may pose a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Will the Chair first state what the pending business is after the conclusion of the remarks by the leadership?

The PRESIDING OFFICER. The pending business is S. 2377 and the pending question is the amendment of the Senator from North Carolina.

Mr. HELMS. The second inquiry, Mr. President, is the time agreement on the bill itself, is the Senator from North Carolina correct when he says that 19 minutes, approximately, remain on the bill; is that correct?

The PRESIDING OFFICER. There are 41 minutes.

Mr. HELMS. Forty-one minutes. I stand corrected.

Is the Senator from North Carolina further correct when he asks if it is not true that only one amendment in addition to the pending amendment of the Senator from North Carolina remains to be brought up?

The PRESIDING OFFICER. There is only one amendment remaining of those specified.

Mr. HELMS. The Chair is correct.

Mr. President, I think the response of the Chair, clearly, would indicate who is holding up the Senate and who is not.

We could finish this bill by noon at the very latest. The Senator from North Carolina implores the distinguished majority leader not to put us in a position of having to come back here after the election. I do not want Christmas season with Bob Byrd or anybody else. I would rather be in Raleigh, N.C.

Several Senators address the Chair.

Mr. BAKER. I thank the Senator from North Carolina.

I yield to the Senator from South Carolina.

Mr. THURMOND. The distinguished Senator from North Carolina brought out the point that there is only one amendment, and that amendment may be accepted. So it could be possible that we may finish this bill in about 45 minutes if we proceed as now scheduled.

Mr. BAKER. I thank the Senator.

Mr. SARBANES. Will the minority leader yield?

Mr. BAKER. I am happy to.

Mr. SARBANES. I have a great deal of respect for the minority leader. I know he is now engaged in the effort to try to be the majority leader. I am just curious as to his view of how the Senate ought to do its business and whether it is a serious institution on serious issues.

Mr. BAKER. Mr. President, I reply to my friend from Maryland that, of course, it is a serious institution. This was serious attention, and, were we in the majority, I assure the Senator from Maryland that we would proceed to the extent possible for me to do so to complete the business at hand.

I think it is the very essence of the responsibility of the majority leadership to see, notwithstanding the success or failure of an individual Senator, that we fulfill the commitment we have made to our colleagues to finish the measure at hand.

That is all I would do, and very much wish to do. The Senator from Arkansas came by and said, "Tell him it is a lie, you are not working to be majority leader," but it is not a lie.

Mr. SARBANES. Does the Senator from Tennessee regard the death penalty as a serious issue?

Mr. BAKER. Of course, I do.

Mr. SARBANES. Does the Senator then feel it is a reasonable way to consider that issue?

Mr. BAKER addressed the Chair.

Mr. SARBANES. To have it, in effect, brought in under a—as I understand it, the statement was, "I have an amendment and an hour will do."

Mr. BAKER addressed the Chair.

Mr. SARBANES. An hour of debate.

Mr. BAKER. Mr. President, I do not yield for the purpose of a statement by the Senator from Maryland. I yield no further.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I will reply in this form, and then I will yield back my time, if there is any remaining time of the leadership, if the majority leader wishes to do so.

Nobody was caught by surprise by Senator Helms' amendment. We provided that in the time agreement for days. Everybody knew.

As a matter of fact, there was a distinct special request to know what these amendments were. There is no element of surprise.

I will not accept the suggestion that Senator Helms has snuck up on anybody. He has not. This amendment was fully within his rights, and it is a serious matter.

There is an effort now by procedural motion to deprive him of the fruits of his victory. I will not permit that, if I can help it.

That is a serious responsibility I have as minority leader, or would have as majority leader.

Mr. President, I am prepared to yield back my time.

Mr. SARBANES. Would the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. I simply want to make the observation that I think it is a serious issue. The parliamentary situation is such that while amendments to the Helms amendment can be offered, there is no time for debate. Debate on the Helms amendment itself was limited to 1 hour. I do not regard that as a reasonable and proper way for the Senate to proceed to consider an issue of this magnitude.

Mr. BAKER. Mr. President, if I may use 30 seconds in that respect, I point out for the Record that it was not this side, not the Senator from North Carolina who requested the time limitation. It was the request of the majority side, to which we acceded.

So there is no element of surprise, nor effort to restrict the discretion of the Senate to deal with this matter.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. ROBERT C. BYRD. Mr. President, it is true that the distinguished minority leader and the minority do cooperate with the majority, but a little bit at a time.

I have no way of telling my colleagues what we are going to have up tomorrow, or what we are going to have up Saturday, or what we are going to have up Monday, because I am kept on a short leash. They give me one little bill at a time, or two, at most, so that we never really run out of business.

But I cannot tell my colleagues standing here right now what we will have up tomorrow. Tomorrow is Friday. I cannot tell my colleagues what we will have up Saturday. And this is something that the majority leader needs to know, and our colleagues are entitled to know. He needs this kind of cooperation, not one little bill at a time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAKER. Do I have time remaining, Mr. President?

The PRESIDING OFFICER. The Senator has approximately 45 seconds.

Mr. ROBERT C. BYRD. I have run out of time.

Mr. BAKER. Mr. President, I have nothing further to say except that we have worked very well, I think, on trying to arrange a schedule for this week and the following week, and what is left of the week after that.

I reiterate once more, we had the Department of Energy authorization bill up, and it was taken down. We had the synfuels conference report. We had NSF. We have had a number of matters.

I think it has worked very well. I will continue to work with the majority leader in trying to arrange a reasonable schedule for the Senate. But a reasonable schedule at this time is to finish the matter at hand.

TRIBUTE TO REV. DR. CALVIN FRENCH AND SENATOR MILTON YOUNG

Mr. BAKER. Mr. President, I would like to take a few moments at this time to express my admiration of two very special gentlemen who honored this Chamber this morning.

One of them, the Reverend Dr. Calvin French of the Reorganized Church of Jesus Christ of Latter Day Saints, was with us for the first time today. His thoughtful and compassionate prayer, Mr. President, made his first visit a most moving and memorable occasion for us all.

The other gentleman of whom I speak has been gracing this Chamber with his presence for more than 35 years. I refer, of course, to the distinguished Senator from North Dakota (Mr. YOUNG).

I have often wondered, Mr. President, how our distinguished colleague from North Dakota was so inspired and so incisive as he faced the daily demands of his duties during his remarkable career in this body.

Having heard his pastor this morning, I am beginning to understand.

At this time, I would like to quote just a brief passage from the prayer with which we began our deliberations this morning:

> We feel the burden of our inadequacies and the enormity of our task. In the quiet of Thy spirit, may we learn wisdom, for it is wisdom which brings power to our lives and effectiveness to that which we do . . . Remind us in our deliberations that glory will not come by man's rhetoric or might or power, but that it is righteousness that exalts a nation . . . Quicken our minds to recognize that when we are in the service of our fellow beings, we are in Thy service. Accept our efforts that we may become instruments of Thy justice . . .

Those are words we shall all do well to carry with us through our efforts in this Chamber. It is that type of devotion that has guided the distinguished Senator from North Dakota through more than three decades of service to this Senate and a rich lifetime of service to God.

The Senator from North Dakota, Mr. President, is the only member of the Reorganized Church of Jesus Christ of Latter Day Saints to have served in the U.S. Senate. From his long record of statesmanship and the inspiring words of Dr. French, I can only conclude that this body and this Nation would be well served to have more men and women of such unwavering devotion to God and country.

Since the Church of Jesus Christ of Latter Day Saints was organized by Joseph Smith in 1830, its members have enriched this Nation. I would note, Mr. President, that the Reorganized Church of Jesus Christ of Latter Day Saints, now headquartered in Independence, Mo., has today as its leader a direct descendent of Joseph Smith, the Reverend Dr. Wallace B. Smith.

I have had the honor, Mr. President, of knowing and speaking before many members of that church—at Graceland College in Lamoni, Iowa, which has among its graduates both the Senator from North Dakota and Dr. French—and also at Drake University in Iowa, where Dr. French earned his doctorate degree.

I have come, through my long relationship with the Senator from North Dakota and through my acquaintance with his church's dedicated servants of God, such as Dr. French, to have a deep affection for the piety, gentleness, and devotion of the members of their faith.

I thank the Senator from North Dakota and Dr. French for sharing their devotion with us and I congratulate all members of their faith as they this year celebrate the 150th anniversary of the organization of their churches.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981

The PRESIDING OFFICER. The Senate will now resume the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 2377) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981.

The Senate resumed with the consideration of the bill.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from North Carolina.

UP AMENDMENT NO. 1198

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1198 to amendment numbered 1903.

Mr. ROBERT C. BYRD. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE V—FAIR HOUSING

SEC. 501. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting immediately after the comma at the end of the enacting clause the following: "That this Act may be cited as the Civil Rights Act of 1968.".

SHORT TITLE FOR TITLE VIII

SEC. 502. Title VIII of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting immediately after the title's catchline the following new section:

"SHORT TITLE

"SEC. 800. This title may be referred to as the 'Fair Housing Act'.".

AMENDMENTS TO DEFINITIONS SECTION

SEC. 503. (a) Section 802(f) of the Act entitled "an Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "section 804, 805, or 806" and inserting "this title" in lieu thereof.

(b) Section 802 of such Act is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment; but such term does not include any current impairment that consists of alcoholism or drug abuse, or any other impairment that would be a direct threat to the property or the safety of others.

"(i) 'Aggrieved person' includes any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur.".

MODIFICATION OF OWNER-OCCUPIED EXEMPTION

SEC. 504. Section 803 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended—

(1) by inserting "and before the date of the enactment of the Fair Housing Amendments Act of 1980," immediately after "1968," in subsection (a)(2);

(2) by inserting "and (e)" after "subsection (c)" in subsection (b); and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) After the date of the enactment of the Fair Housing Amendments Act of 1980, to all dwellings except as exempted by subsection (b).".

DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

SEC. 505. (a) The catchline of section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

(b) Section 804 of such Act is amended by inserting ", 803(d)," immediately after "803(b)".

(c) Section 804 of such act is amended by adding at the end the following:

"(f) For a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a dwelling because of the race, color, religion, sex, handicap, or national origin of persons owning, or residing in or near, the dwelling.

"(g)(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, a dwelling to any person because of a handicap of a prospective buyer or renter or of any person associated with such buyer or renter unless such handicap would prevent a prospective dwelling occupant from conforming to such rules, policies, and practices as are permitted by paragraph (2) of this subsection.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of handicap. For purposes of this paragraph—

"(A) discrimination includes—

"(i) refusal to permit reasonable modifications of premises occupied, or to be occupied, by persons with a handicap which are necessary to afford such handicapped persons access to premises substantially equal to that of nonhandicapped persons, but in the case of a rental, only if the renter makes an agreement to restore the premises to the condition which existed before such modification, reasonable wear and tear excepted; and

"(ii) refusal to make reasonable accommodations in policies, practices, rules, services, or facilities, when such accommodations are necessary to afford handicapped persons enjoyment of dwellings substantially equal to that of nonhandicapped persons; and

"(B) discrimination does not include—

"(i) refusal to make alterations in premises at the expense of sellers, landlords, owners, brokers, building managers, or persons acting on their behalf;

"(ii) refusal to make modification of generally applicable rules, policies, practices, services, or facilities where such modification would result in unreasonable inconvenience to other affected persons; or

"(iii) refusal to allow architectural changes to, or modifications of, buildings which would materially decrease the marketability or value of a building or alter the manner in which a building or its environs has been, or is intended to be, used.".

(d) Subsections (c), (d), and (e) of section 804, and section 806 of such Act are each amended by inserting "handicap," immediately after "sex," each place it appears.

(e) Section 805 of such Act is amended to read as follows:

"DISCRIMINATION IN CERTAIN TRANSACTIONS THAT AFFECT HOUSING FINANCING

"SEC. 805. (a) It shall be unlawful for any person whose business includes the making, purchasing, or insuring of loans, or selling, brokering, or appraising of real property, to deny or otherwise make unavailable a loan or other financial assistance which is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of race, color, religion, sex, handicap, or national origin.

"(b) Notwithstanding any other provision of this title, it is not a violation of this title for a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex or handicap.".

(f) Section 807 of such Act is amended by adding at the end the following: "Nothing in this title shall prohibit a minimum lot size requirement for residences unless such requirement is imposed with intent to discriminate against a class protected by this title.".

FUNCTIONS OF SECRETARY

SEC. 506. (a) Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended—

(1) by striking out the second sentence and inserting in lieu thereof the following: "The Secretary shall delegate such function with respect to hearing, determining, and ordering under section 811 of this title to administrative law judges appointed by the Attorney General and serving in the Department of Justice in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code.";

(2) by inserting "and hearings" after "possible conciliation meetings";

(3) by striking out the last sentence and inserting in lieu thereof the following: "An administrative law judge conducting a hearing under section 811 of this title may not consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate. An employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development in a case may not, in that or a factually related case, participate or advise in any decision made in such hearing except as witness or counsel in public proceedings. A person may become an administrative law judge for hearings under section 811 of this title only by appointment from the administrative law judge register established by the Office of Personnel Management as the result of competitive examination. A person may not function as an administrative law judge in such a hearing if such person has, within the 2-year period immediately before the commencement of such hearing, been an employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development. An administrative law judge position may be filled by appointment from that register or by reinstatement, reassignment, transfer, or promotion of a person who has formerly received an appointment from that register. Such an administrative law judge is removable by the Attorney General only for good cause established and determined by the Merit Systems Protection Board after opportunity for hearing and upon the record thereof.".

(b) Section 808(d) of such Act is amended by inserting "(including any Federal agency having regulatory authority over financial institutions)" after "urban development".

(c) Section 808 of such Act is amended by adding at the end the following:

"(f)(1)(A)(i) Simultaneously with promulgation or repromulgation of any rule, issued for the purpose of compliance with this title, the agency promulgating such rule shall transmit a copy thereof to the Committees on the Judiciary of the House of Representatives and the Senate. Except as provided in clause (ii) of this subparagraph, rules other than emergency rules shall not become effective, if—

"(I) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by ——— dealing with the matter of ———, which rule was transmitted to Congress on ———.', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third being filled with the date of transmittal of the rule to Congress; or

"(II) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in clause (i) of this subparagraph.

"(B)(i) An agency may not promulgate a new rule or an emergency rule identical to one disapproved under this paragraph unless an Act of Congress is adopted affecting the agency's powers with respect to the subject matter of the rule.

"(ii) If an agency proposes a new rule dealing with the same subject matter as a disapproved rule, the agency shall comply with the procedures required for the issuance of a new rule, except that if less than 12 months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"(2)(A) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. The matter after the resolving clause of such a resolution shall be as follows: 'That the ——— directs ——— to reconsider its rule dealing with the matter of ——— which rule is found at ———.' (or if a new rule 'was transmitted to Congress on ——— .'), the first blank being filled with the House of Congress adopting the resolution, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records or, if it is a new rule, the date on which it was transmitted to Congress.

"(B)(i) If a resolution for reconsideration of a rule, other than an emergency rule, is adopted by either House within 90 calendar days of continuous session of Congress after the date the rule was promulgated, the rule shall not go into effect. The agency shall reconsider the rule and within 60 days either withdraw or repromulgate the rule with such changes and with such public participation as the agency determines appropriate. If the agency takes no action within 60 days such rules shall lapse. If promulgated, the rule shall be subject to congressional review and go into effect as provided in this subsection.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a resolution of reconsideration of a rule, the rule may go into effect at the end of such period. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation.

"(C) One hundred and eighty days after passage of a resolution for reconsideration with respect to a rule which has taken effect, the rule shall lapse unless repromulgated by the agency. Unless excepted by subsection 553(a) of title 5, United States Code, the agency shall, not less than 60 days prior to repromulgating such a rule, give notice of a proceeding to consider its repromulgation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of title 5, United States Code, except that the exceptions contained in the matter which follows paragraph (3) in section 553(b) shall not be available to the agency and the agency shall hold a hearing for oral presentations. Rules repromulgated pursuant to this clause within 180 days of the passage of the resolution for reconsideration shall take effect as provided in paragraph (1)(A) of this subsection; and during the period for congressional review provided in that paragraph the reconsidered rule may remain in effect.

"(D) A concurrent resolution of disapproval supersedes a resolution for reconsideration of the same rule or part thereof.

"(3) If a resolution of Congress disapproves or directs reconsideration of a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"(4) For the purposes of this subsection—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"(5)(A) The provisions of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraphs (1) and (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B)(i) Resolutions of disapproval and resolutions for reconsideration of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Representatives to the standing committee having oversight and legislative responsibility with respect to this title in accordance with the rules of the respective House; and such resolutions shall not be referred to any other committee.

"(ii) If a committee to which is referred a resolution which has not been adopted by the other House of Congress, does not report out such resolution—

"(I) within 45 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove or to require reconsideration of a rule pursuant to paragraphs (1)(A) or (2)(B) of this subsection; or

"(II) within 90 calendar days of continuous session of Congress after referral, in the case of a resolution to require reconsideration of a rule pursuant to paragraph (2)(C) of this subsection;

it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iii) If a committee to which is referred a resolution which has been adopted by the other House of Congress does not report out such resolution within 15 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove a rule pursuant to paragraph (1)(A) of this subsection, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iv) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(i) Except as provided in clauses (ii) and (iii) of this subparagraph, consideration of a resolution of disapproval or for reconsideration shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(ii) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iii) Debate on the resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit, the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"(6) Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration shall not be deemed an expression of approval of such rule.".

ENFORCEMENT CHANGES

SEC. 507. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1978) is amended by striking out sections 810 through 815 and inserting in lieu of the matter so stricken the following:

"ENFORCEMENT BY SECRETARY; PRELIMINARY MATTERS

"SEC. 810. (a)(1) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. At any time after the filing of a charge, the Secretary shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year. An aggrieved person shall file a charge under this section with the Secretary not later than 1 year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(2)(A) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(B) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under clause (A) of this paragraph.

"(C) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(D) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(E) Any person who willfully fails to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(3) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency. Except with the consent of such certified agency, the Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before 90 days after the date the alleged offense has been brought to such official's attention, commenced proceedings in the matter, and, having so commenced proceedings, carries forward such proceedings with reasonable promptness. An agency shall be certified under this paragraph if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed 90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(4) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"(b) If the Secretary concludes on the basis of a preliminary investigation of a charge that the Secretary is unable to obtain voluntary compliance and prompt judicial action is necessary to carry out the purposes of this title, an action may be brought on behalf of the Secretary for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. An application for relief under this paragraph shall not affect the initiation or continuation of administrative proceedings under sections 810 and 811 of this title.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall file an administrative complaint under section 811(a) of this title or refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. The Secretary shall so refer any such matter in which land use controls are claimed to be in violation of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 270 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each aggrieved person and each respondent a copy of the findings of such investigation.

"ENFORCEMENT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; HEARING PROCESS

"SEC. 811. (a) Upon filing an administrative complaint, the Secretary shall cause a copy of such complaint to be served on the respondent, together with a notice of opportunity for a hearing on the record at a place and time (not less than 30 days after the service of such complaint) specified in such notice. On the request of the respondent and with the consent of all other parties, a hearing may be rescheduled for a time earlier than the time specified in such notice. Any resolution of a charge or complaint by means of conciliation shall require the consent of the person who filed the charge, and any such resolution following the service of a complaint under this subsection shall also require the approval of the Secretary. No hearing may commence under this section until the Secretary certifies that conciliation has been attempted with respect to the charge or complaint on which such hearing is to be held. The respondent shall have the right to file an answer to the administrative complaint and to appear in person or otherwise and give testimony at a hearing on the record. Any aggrieved person may be allowed to intervene in the proceeding, to appear in person or otherwise, to obtain the issuance of a reasonable number of subpenas in the manner set forth in section 810 of this title, and to present testimony. After the conclusion of such hearing, the administrative law judge conducting the hearing shall make finding of fact and conclusions of law, and may issue an order providing such relief as may be appropriate, and may impose a civil penalty of not to exceed $10,000. The administrative law judge shall not announce or otherwise make available such findings of fact, conclusions of law, or such order before 5 days after the conclusion of such hearing, and the parties may resolve the charge by conciliation during that period. No such order shall affect any contract of sale, encumbrance, or lease executed before the issuance of such order, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title. The Secretary is not authorized to modify any order under this section, or the decision of the administrative law judge.

"(b) The findings of fact and conclusions of law made with respect to a final order issued under subsection (a), together with a copy of such order, shall be served on each aggrieved person and each respondent in the proceeding.

"(c) Any petition for judicial review of a final order under subsection (a) shall be filed in the Federal district court for the district in which the property is located not later than 30 days after service of such order. The petition may be amended after a reasonable opportunity to review the record of the administrative proceeding. For the purposes of judicial review of such an order, any aggrieved person shall be deemed a party in the administrative proceeding reviewed. The petition shall contain written objections to such order and shall specify those portions of the record or findings of fact and conclusions of law to which objection is made. The court shall make a de novo determination of the adequacy of the findings of fact and conclusions of law to which objection is made. The court may receive further evidence, or recommit the matter to the administrative law judge with instructions, if such evidence was improperly excluded by the administrative law judge or if the court determines that there is a compelling need for further evidence to support a factual determination. To the extent that further evidence is received by the court, such evidence shall be deemed a part of the record and shall be considered in the determination of whether to accept, reject, or modify the findings of fact and conclusions of law of the administrative law judge. Based on a review of the record as a whole, the court may accept, reject, or modify, in whole or in part, the findings of fact and conclusions of law made by the administrative law judge. All proceedings under this subsection in the Federal district court shall be given precedence over other civil proceedings pending therein and shall be in every way expedited.

"(d)(1) Any person who violates a final order under subsection (a) shall be subject to a civil penalty assessed by the administrative law judge holding the hearing of not more than $1,000 for each day during which such violation continues after the date on which such final order becomes unreviewable.

"(2) For the purposes of paragraph (1) of this subsection, a final order becomes unreviewable—

"(A) if a petition for review has not been filed in the appropriate Federal district court on the day 30 days after the service of such final order, or

"(B) if such a petition is so filed within such 30-day limit, on the date on which the last appellate court's decision becomes final and not subject to any further appellate proceeding.

"(e) The United States district courts shall have original jurisdiction over petitions for judicial review of final orders under subsection (a) of this section without regard for the amount in controversy.

"PRIVATE ENFORCEMENT

"SEC. 812. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than 2 years after the alleged discriminatory housing practice occurred or terminated.

"(2) After an aggrieved person has commenced a civil action under this section, the Secretary may not commence or continue proceedings toward the issuance of a remedial order based on such charge.

"(3) An aggrieved person shall not commence a civil action under this subsection with respect to a charge made by that person to the Secretary if the Department of Housing and Urban Development (or a State or local agency to which the Secretary refers such charge) has commenced the hearing on the record with respect to that charge.

"(4) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of a willful violation, punitive damages.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"Sec. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice if resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court (1) to enforce any final order under section 811(a) of this title that is referred for enforcement by the Secretary; (2) to collect any civil penalty assessed under section 811 of this title; and (3) to remedy any discriminatory housing practice (A) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (B) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"Sec. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determines substantial rights of the parties.

"(b) In any administrative proceeding based on a charge under section 810(a) of this title, any prevailing party (other than the United States with respect to attorney fees) may be awarded reasonable attorney and expert witness fees as a part of a final order under section 811(a) of this title.

"(c) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(d) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

"EFFECT ON OTHER LAWS

"Sec. 815. (a) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any such law that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

"(b) Nothing in this title shall be construed to repeal, supersede, or diminish the protection provided to handicapped persons by any other Federal law.".

INTERFERENCE COERCION, OR INTIMIDATION

Sec. 508. Section 817 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "section 803, 804, 805, or 806." and inserting "this title," in lieu thereof.

CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL RIGHTS ACT

Sec. 509. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting ", handicap (as defined in section 802 of this Act)," immediately after "sex" each place it appears.

BUDGET AUTHORITY

Sec. 510. This Act shall not be construed to authorize the enactment of new budget authority for the fiscal year ending September 30, 1980. However, effective October 1, 1980, sums are authorized to be appropriated to carry out this Act.

TITLE VI

That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out " and" after "1977," and by inserting after "1978" the following: ", and $8,998,823 for the fiscal year ending September 30, 1980": *Provided*, That none of the funds appropriated hereunder for the fiscal year 1980 shall be used by the Federal Election Commission to audit a House or Senate candidate or his or her authorized committee, unless such audit is based on a finding by the Federal Election Commission of reason to believe that a violation of the Federal Election Campaign Act of 1971 has occurred: *Provided further*, That none of the funds appropriated hereunder, in excess of $400,000, for fiscal year 1980 shall be used, directly or indirectly, by the Federal Election Commission for the operation or support of the clearinghouse functions authorized in section 315 of the Federal Election Campaign Act of 1971 or any activities related thereto.

TITLE VII

This title may be cited as the "Campaign Contribution Reform Act of 1979".

Sec. 202. (a) Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(i) No multicandidate political committee (other than a multicandidate committee of a political party) shall make contributions to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees aggregating more than—

"(1) $6,000 (but not more than $5,000 for one election) with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $6,000 (but not more than $5,000 for one election) with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(2) $9,000 (but not more than $5,000 for one election) with respect to a general election both a primary and a runoff election relating to such general election; and $9,000 (but not more than $5,000 for one election) with respect to a special election and both a primary election and a runoff election relating to such special election.".

(b) Section 320(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "No multicandidate" and inserting in lieu there of "Subject to subsection (i), no multicandidate".

Sec. 203. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after paragraph (2) the following new paragraph:

"(3) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than—

"(A) $70,000 with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $70,000 with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(B) $85,000 in the case of a candidate who is a candidate in a general election and both a primary election and a runoff election relating to such general election, and $85,000 in the case of a candidate who is a candidate in a special election and both a primary election and a runoff election relating to such special election.

For purposes of this paragraph, any contributions made after the date of a general or a special election shall be considered a contribution to such election only if the candidate at the time of receipt does not have sufficient funds to pay obligations incurred with respect to that election."; and

(2) redesignating paragraph (3) through (8) as paragraphs (4) through (9), respectively.

Sec. 204. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(1) inserting after paragraph (9) as so redesignated by section 203 of this Act the following new paragraph:

"(10) Any contribution to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees that is made in the name of an individual and in a manner which creates the appearance that the contribution was made by or on behalf of a political committee shall be reported by such political committee as a contribution to such candidate and shall be treated as a contribution by such political committee for purposes of the limitations imposed by this section."

Sec. 205. Section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) is amended—

(1) by inserting after paragraph (4) the following new paragraphs:

"(5) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Ccmmissioner to, the Congress and his authorized political committees, any extension of credit by a person (other than a broadcasting station, newspaper or magazine, and who is not otherwise prohibited from extending credit under this Act) providing goods or services in connection with preparing or purchasing advertisting on broadcasting stations, in newspapers or magazines or other similar types of general public political advertising, if such extension of credit is beyond the normal period of credit extended by such person in the ordinary course of business or 60 days from the date on which such goods or services are provided, whichever is less;

"(6) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees, any extension of credit or advance of funds in connection with the preparation for mailing, or mailing, of any materials which solicit funds for the purpose of influencing the election of such candidate; but";

(2) in paragraph (4), by striking out "but" after the semicolon at the end thereof; and

(3) redesignating paragraph (5) as paragraph (7).

SEC. 206. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after the last paragraph the following new paragraph, to be designated appropriately:

"( ) No candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress shall use contributions to such candidate and his authorized committees aggregating more than $35,000 to reimburse himself for expenditures from his personal funds (including funds derived from loans or from the personal funds of his immediate family) made by such candidate and his authorized committees in connection with (i) a general election and any primary or runoff election relating to such general election and (ii) a special election and any primary election or runoff election relating to such special election. For purposes of this paragraph, the term "immediate family" means a candidate's spouse and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons."

SEC. 207. If any provision of any amendment made by this Act, or the application of such provision to any person or circumstance, is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby, except that if any provision of an amendment made by section 203 of this Act or the application of such provision to any person or circumstance is held invalid, the amendments made by section 202 shall have no further effect.

SEC. 208. The amendments made by this Act shall take effect upon the enactment of this Act and shall not apply to contributions received before such enactment.

Several senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. HELMS. Mr. President, let the RECORD show that the Senator from North Carolina sought recognition first.

UP AMENDMENT NO. 1199

Mr. ROBERT C. BYRD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1199, to the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator is.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The legislative clerk read as follows:

At the end of the bill, insert the following:

TITLE VI

That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and by inserting after "1978" the following: ", and $8,998,823 for the fiscal year ending September 30, 1980": *Provided*, That none of the funds appropriated hereunder for the fiscal year 1980 shall be used by the Federal Election Commission to audit a House or Senate candidate or his or her authorized committee, unless such audit is based on a finding by the Federal Election Commission of reason to believe that a violation of the Federal Election Campaign Act of 1971 has occurred: *Provided further*, That none of the funds appropriated hereunder, in excess of $400,000, for fiscal year 1980 shall be used, directly or indirectly, by the Federal Election Commission for the operation or support of the clearinghouse functions authorized in section 315 of the Federal Election Campaign Act of 1971 or any activities related thereto.

TITLE VII

This title may be cited as the "Campaign Contribution Reform Act of 1979".

SEC. 202. (a) Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(i) No multicandidate political committee (other than a multicandidate committee of a political party) shall make contributions to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees aggregating more than—

"(1) $3,000 (but not more than $5,000 for one election) with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $6,000 (but not more than $5,000 for one election) with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(2) $9,000 (but not more than $5,000 for one election) with respect to a general election and both a primary and a runoff election relating to such general election; and $9,000 (but not more than $5,000 for one election) with respect to a special election and both a primary election and a runoff election relating to such special election.".

(b) Section 320(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "No multicandidate" and inserting in lieu thereof "Subject to subsection (i), no multicandidate".

SEC. 203. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after paragraph (2) the following new paragraph:

"(3) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than—

"(A) $70,000 with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $70,000 with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(B) $85,000 in the case of a candidate who is a candidate in a general election and both a primary election and a runoff election relating to such general election, and $85,000 in the case of a candidate who is a candidate in a special election and both a primary election and a runoff election relating to such special election.

For purposes of this paragraph, any contributions made after the date of a general or a special election shall be considered a contribution to such election only if the candidate at the time of receipt does not have sufficient funds to pay obligations incurred with respect to that election."; and

(2) redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively.

SEC. 204. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(1) inserting after paragraph (9) as so redesignated by section 203 of this Act the following new paragraph:

"(10) Any contribution to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees that is made in the name of an individual and in a manner which creates the appearance that the contribution was made by or on behalf of a political committee shall be reported by such political committee as a contribution to such candidate and shall be treated as a contribution by such political committee for purposes of the limitations imposed by this section."

SEC. 205. Section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) is amended—

(1) by inserting after paragraph (4) the following new paragraphs:

"(5) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized political committees, any extension of credit by a person (other than a broadcasting station, newspaper or magazine, and who its not otherwise prohibited from extending credit under this Act) providing goods or services in connection with preparing or purchasing advertising on broadcasting stations, in newspapers or magazines or other similar types of general public political advertising, if such extension of credit is beyond the normal period of credit extended by such person in the ordinary course of business or 60 days from the date on which such goods or services are provided, whichever is less;

"(6) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees, any extension of credit or advance of funds in connection with the preparation for mailing, or mailing, of any materials which solicit funds for the purpose of influencing the election of such candidate; but";

(2) in paragraph (4), by striking out "but" after the semicolon at the end thereof; and

(3) redesignating paragraph (5) as paragraph (7).

SEC. 206. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after the last paragraph the following new paragraph, to be designated appropriately:

"( ) No candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress shall use contributions to such candidate and his authorized committees aggregating more than $35,000 to reimburse himself for expenditures from his personal funds (including funds derived from loans or from the personal funds of his immediate family) made by such candidate and his authorized committees in connection with (i) a general election and any primary or runoff election relating to such general election and (ii) a special election and any primary election or runoff election relating to such special election. For purposes of this paragraph, the term "immediate family" means a candidate's spouse and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons."

SEC. 207. If any provision of any amendment made by this Act, or the application of such provision to any person or circumstance, is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby, except that if any provision of an amendment made by section 203 of this Act or the application of such provision to any person or circumstance is held invalid, the amendments made by section 202 shall have no further effect.

SEC. 208. The amendments made by this Act shall take effect upon the enactment of this Act and shall not apply to contributions received before such enactment."

UP AMENDMENT 1200

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. HEFLIN). The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), proposes an unprinted amendment numbered 1200 to unprinted amendment numbered 1199.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE III—FAIR HOUSING

SEC. 2. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting immediately after the comma at the end of the enacting clause the following: "That this Act may be cited as the Civil Rights Act of 1968.".

SHORT TITLE FOR TITLE VIII

SEC. 3. Title VIII of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting immediately after the title's catchline the following new section:

"SHORT TITLE

"SEC. 800. This title may be referred to as the 'Fair Housing Act'.".

AMENDMENTS TO DEFINITIONS SECTION

SEC. 4. (a) Section 802(f) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by striking out "section 804, 805, or 806" and inserting "this title" in lieu thereof.

(b) Section 802 of such Act is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment; but such term does not include any current impairment that consists of alcoholism or drug abuse, or any other impairment that would be a direct threat to the property or the safety of others.

"(i) 'Aggrieved person' includes any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur.".

MODIFICATION OF OWNER-OCCUPIED EXEMPTION

SEC. 5. Section 803 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) by inserting "and before the date of the enactment of the Fair Housing Amendments Act of 1980," immediately after "1968," in subsection (a)(2);

(2) by inserting "and (e)" after "subsection (c)" in subsection (b); and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) After the date of the enactment of the Fair Housing Amendments Act of 1980, to all dwellings except as exempted by subsection (b).".

DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

SEC. 6. (a) The catchline of section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES."

(b) Section 804 of such Act is amended by inserting ", 803(d)," immediately after "803(b)".

(c) Section 804 of such Act is amended by adding at the end the following:

"(f) For a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a dwelling because of the race, color, religion, sex, handicap, or national origin of persons owning or residing in or near, the dwelling.

"(g)(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, a dwelling to any person because of a handicap of a prospective buyer or renter or of any person associated with such buyer or renter unless such handicap would prevent a prospective dwelling occupant from conforming to such rules, policies, and practices as are permitted by paragraph (2) of this subsection.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of handicap. For purposes of this paragraph—

"(A) discrimination includes—

"(i) refusal to permit reasonable modifications of premises occupied, or to be occupied, by persons with a handicap which are necessary to afford such handicapped persons access to premises substantially equal to that of nonhandicapped persons, but in the case of a rental, only if the renter makes an agreement to restore the premises to the condition which existed before such modification, reasonable wear and tear excepted; and

"(ii) refusal to make reasonable accommodations in policies, practices, rules, services, or facilities, when such accommodations are necessary to afford handicapped persons enjoyment of dwellings substantially equal to that of nonhandicapped persons; and

"(B) discrimination does not include—

"(i) refusal to make alterations in premises at the expense of sellers, landlords, owners, brokers, building managers, or persons acting on their behalf;

"(ii) refusal to make modification of generally applicable rules, policies, practices, services, or facilities where such modification would result in unreasonable inconvenience to other affected persons; or

"(iii) refusal to allow architectural changes to, or modifications of, buildings which would materially decrease the marketability or value of a building or alter the manner in which a building or its environs has been, or is intended to be, used.".

(d) Subsections (c), (d), and (e) of section 804, and section 806 of such Act are each amended by inserting "handicap," immediately after "sex," each place it appears.

(e) Section 805 of such Act is amended to read as follows:

"DISCRIMINATION IN CERTAIN TRANSACTIONS THAT AFFECT HOUSING FINANCING

"SEC. 805. (a) It shall be unlawful for any person whose business includes the making, purchasing, or insuring of loans, or selling, brokering, or appraising of real property, to deny or otherwise make unavailable a loan or other financial assistance which is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of race, color, religion, sex, handicap, or national origin.

"(b) Notwithstanding any other provision of this title, it is not a violation of this title for a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex or handicap.".

(f) Section 807 of such Act is amended by adding at the end the following: "Nothing in this title shall prohibit a minimum lot size requirement for residences unless such requirement is imposed with intent to discriminate against a class protected by this title.".

FUNCTIONS OF SECRETARY

SEC. 7. (a) Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) by striking out the second sentence and inserting in lieu thereof the following: "The Secretary shall delegate such function with respect to hearing, determining, and ordering under section 811 of this title to administrative law judges appointed by the Attorney General and serving in the Department of Justice in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code.";

(2) by inserting "and hearings" after "possible conciliation meetings";

(3) by striking out the last sentence and inserting in lieu thereof the following: "An administrative law judge conducting a hearing under section 811 of this title may not consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate. An employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development in a case may not, in that or a factually related case, participate or advise in any decision made in such hearing except as witness or counsel in public proceedings. A person may become an administrative law judge for hearings under section 811 of this title only

by appointment from the administrative law judge register established by the Office of Personnel Management as the result of competitive examination. A person may not function as an administrative law judge in such a hearing if such person has, within the 2-year period immediately before the commencement of such hearing, been an employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development. An administrative law judge position may be filled by appointment from that register or by reinstatement, reassignment, transfer, or promotion of a person who has formerly received an appointment from that register. Such an administrative law judge is removable by the Attorney General only for good cause established and determined by the Merit Systems Protection Board after opportunity for hearing and upon the record thereof.".

(b) Section 808(d) of such Act is amended by inserting "(including any Federal agency having regulatory authority over financial institutions)" after "urban development".

(c) Section 808 of such Act is amended by adding at the end the following:

"(f)(1)(A)(i) Simultaneously with promulgation or repromulgation of any rule, issued for the purpose of compliance with this title, the agency promulgating such rule shall transmit a copy thereof to the Committees on the Judiciary of the House of Representatives and the Senate. Except as provided in clause (ii) of this subparagraph, rules other than emergency rules shall not become effective, if—

"(I) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by ——— dealing with the matter of ———, which rule was transmitted to Congress on ———.', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third being filled with the date of transmittal of the rule to Congress; or

"(II) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in clause (i) of this subparagraph.

"(B)(i) An agency may not promulgate a new rule or an emergency rule identical to one disapproval under this paragraph unless an Act of Congress is adopted affecting the agency's powers with respect to the subject matter of the rule.

"(ii) If an agency proposes a new rule dealing with the same subject matter as a disapproved rule, the agency shall comply with the procedures required for the issuance of a new rule, except that if less than 12 months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"(2)(A) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. The matter after the resolving clause of such a resolution shall be as follows: 'That the ——— directs ——— to reconsider its rule dealing with the matter of ——— which rule is found at ———.' (or if a new rule 'was transmitted to Congress on ———.'), the first blank being filled with the House of Congress adopting the resolution, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records or, if it is a new rule, the date on which it was transmitted to Congress.

"(B)(i) If a resolution for reconsideration of a rule, other than an emergency rule, is adopted by either House within 90 calendar days of continuous session of Congress after the date the rule was promulgated, the rule shall not go into effect. The agency shall reconsider the rule and within 60 days either withdraw or repromulgate the rule with such changes and with such public participation as the agency determines appropriate. If the agency takes no action within 60 days such rules shall lapse. If promulgated, the rule shall be subject to congressional review and go into effect as provided in this subsection.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a resolution of reconsideration of a rule, the rule may go into effect at the end of such period. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation.

"(C) One hundred and eighty days after passage of a resolution for reconsideration with respect to a rule which has taken effect, the rule shall lapse unless repromulgated by the agency. Unless excepted by subsection 553(a) of title 5, United States Code, the agency shall, not less than 60 days prior to repromulgating such a rule, give notice of a proceeding to consider its repromulgation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of title 5, United States Code, except that the exceptions contained in the matter which follows paragraph (3) in section 553(b) shall not be available to the agency and the agency shall hold a hearing for oral presentations. Rules repromulgated pursuant to this clause within 180 days of the passage of the resolution for reconsideration shall take effect as provided in paragraph (1)(A) of this subsection; and during the period for congressional review provided in that paragraph the reconsidered rule may remain in effect.

"(D) A concurrent resolution of disapproval supersedes a resolution for reconsideration of the same rule or part thereof.

"(3) If a resolution of Congress disapproves or directs reconsideration of a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"(4) For the purposes of this subsection—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"(5)(A) The provisions of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraphs (1) and (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B)(i) Resolutions of disapproval and resolutions for reconsideration of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Rrepresentatives to the standing committee having oversight and legislative responsibility with respect to this title in accordance with the rules of the respective House; and such resolutions shall not be referred to any other committee.

"(ii) If a committee to which is referred a resolution which has not been adopted by the other House of Congress, does not report out such resolution—

"(I) within 45 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove or to require reconsideration of a rule pursuant to paragraphs (1)(A) or (2)(B) of this subsection; or

"(II) within 90 calendar days of continuous session of Congress after referral, in the case of a resolution to require reconsideration of a rule pursuant to paragraph (2)(C) of this subsection;

it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iii) If a committee to which is referred a resolution which has been adopted by the other House of Congress does not report out such resolution within 15 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove a rule pursuant to paragraph (1)(A) of this subsection, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iv) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An announcement to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(i) Except as provided in clauses (ii) and (iii) of this subparagraph, consideration of a resolution of disapproval or for reconsideration shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(ii) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iii) Debate on the resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit, the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"(6) Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration shall not be deemed an expression of approval of such rule.".

ENFORCEMENT CHANGES

SEC. 8. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by striking out sections 810 through 815 and inserting in lieu of the matter so stricken the following:

"ENFORCEMENT BY SECRETARY; PRELIMINARY MATTERS

"SEC. 810. (a) (1) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. At any time after the filing of a charge, the Secretary shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year. An aggrieved person shall file a charge under this section with the Secretary not later than 1 year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(2) (A) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitation as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(B) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under clause (A) of this paragraph.

"(C) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(D) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(E) Any person who willfully fails to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(3) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency. Except with the consent of such certified agency, the Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before 90 days after the date the alleged offense has been brought to such official's attention, commenced proceedings in the matter, and, having so commenced proceedings, carries forward such proceedings with reasonable promptness. An agency shall be certified under this paragraph if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed 90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(4) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"(b) If the Secretary concludes on the basis of a preliminary investigation of a charge that the Secretary is unable to obtain voluntary compliance and prompt judicial action is necessary to carry out the purposes of this title, an action may be brought on behalf of the Secretary for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. An application for relief under this paragraph shall not affect the initiation or continuation of administrative proceedings under sections 810 and 811 of this title.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall file an administrative complaint under section 811(a) of this title or refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. The Secretary shall so refer any such matter in which land use controls are claimed to be in violation of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 270 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each aggrieved person and each respondent a copy of the findings of such investigation.

"ENFORCEMENT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; HEARING PROCESS

"SEC. 811. (a) Upon filing an administrative complaint, the Secretary shall cause a a copy of such complaint to be served on the respondent, together with a notice of opportunity for a hearing on the record at a place and time (not less than 30 days after the service of such complaint) specified in such notice. On the request of the respondent and with the consent of all other parties, a hearing may be rescheduled for a time earlier than the time specified in such notice. Any resolution of a charge or complaint by means of conciliation shall require the consent of the person who filed the charge, and any such resolution following the service of a complaint under this subsection shall also require the approval of the Secretary. No hearing may commence under this section until the Secretary certifies that conciliation has been attempted with respect to the charge or complaint on which such hearing is to be held. The respondent shall have the right to file an answer to the administrative complaint and to appear in person or otherwise and give testimony, at a hearing on the record. Any aggrieved person may be allowed to intervene in the proceeding, to appear in person or otherwise, to obtain the issuance of a reasonable number of subpenas in the manner set forth in section 810 of this title, and to present testimony. After the conclusion of such hearing, the administrative law judge conducting the hearing shall make findings of fact and conclusions of law, and may issue an order providing such relief as may be appropriate, and may impose a civil penalty of not to exceed $10,000. The administrative law judge shall not announce or otherwise make available such findings of fact, conclusions of law, or such order before 5 days after the conclusion of such hearing, and the parties may resolve the charge by conciliation during that period. No such order shall affect any contract of sale, encumbrance, or lease executed before the issuance of such order, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title. The Secretary is not authorized to modify any order under this section, or the decision of the administrative law judge.

"(b) The findings of fact and conclusions of law made with respect to a final order issued under subsection (a), together with a copy of such order, shall be served on each aggrieved person and each respondent in the proceeding.

"(c) Any petition for judicial review of a final order under subsection (a) shall be filed in the Federal district court for the district in which the property is located not later than 30 days after service of such order. The petition may be amended after a reasonable opportunity to review the record of the administrative proceeding. For the purposes of judicial review of such an order, any aggrieved person shall be deemed a party in the administrative proceeding reviewed. The petition shall contain written objections to such order and shall specify those portions of the record or findings of fact and conclusions of law to which objection is made. The court shall make a de novo determination of the adequacy of the findings of fact and conclusions of law to which objection is made. The court may receive further evidence, or recommit the matter to the administrative law judge with instructions, if such evidence was improperly excluded by the administrative law judge or if the court determines that there is a compelling need for further evidence to support a factual determination. To the extent that further evidence is received by the court, such evidence shall be deemed a part of the record and shall be considered in the determination of whether to accept, reject, or modify the findings of fact and conclusions of law of the administrative law judge. Based on a review of the record as a whole, the court may accept, reject, or modify, in whole or in part, the findings of fact and conclusions of law made by the administrative law judge. All proceedings under this subsection in the Federal district court shall be given precedence over other civil proceedings pending therein and shall be in every way expedited.

"(d)(1) Any person who violates a final order under subsection (a) shall be subject to a civil penalty assessed by the administrative law judge holding the hearing of not more than $1,000 for each day during which such violation continues after the date on which such final order becomes unreviewable.

"(2) For the purposes of paragraph (1) of this subsection, a final order becomes unreviewable—

"(A) if a petition for review has not been filed in the appropriate Federal district court on the day 30 days after the service of such final order, or

"(B) if such a petition is so filed within such 30-day limit, on the date on which the last appellate court's decision becomes final and not subject to any further appellate proceeding.

"(e) The United States district courts shall have original jurisdiction over petitions for judicial review of final orders under subsection (a) of this section without regard for the amount in controversy.

"PRIVATE ENFORCEMENT

"Sec. 812. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than 2 years after the alleged discriminatory housing practice occurred or terminated.

"(2) After an aggrieved person has commenced a civil action under this section, the Secretary may not commence or continue proceedings toward the issuance of a remedial order based on such charge.

"(3) An aggrieved person shall not commence a civil action under this subsection with respect to a charge made by that person to the Secretary if the Department of Housing and Urban Development (or a State or local agency to which the Secretary refers such charge) has commenced the hearing on the record with respect to that charge.

"(4) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of a willful violation, punitive damages.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"Sec. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court (1) to enforce any final order under section 811(a) of this title that is referred for enforcement by the Secretary; (2) to collect any civil penalty assessed under section 811 of this title; and (3) to remedy any discriminatory housing practice (A) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (B) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"Sec. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of an interlocutory order which determines substantial rights of the parties.

"(b) In any administrative proceeding based on a charge under section 810(a) of this title, any prevailing party (other than the United States with respect to attorney fees) may be awarded reasonable attorney and expert witness fees as a part of a final order under section 811(a) of this title.

"(c) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(d) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

"EFFECT ON OTHER LAWS

"Sec. 815 (a) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any such law that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

"(b) Nothing in this title shall be construed to repeal, supersede, or diminish the protection provided to handicapped persons by any other Federal law.".

INTERFERENCE, COERCION, OR INTIMIDATION

Sec. 9. Section 817 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "section 803, 804, 805, or 806." and inserting "this title." in lieu thereof.

CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL RIGHTS ACT

Sec. 10. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting ", handicap (as defined in section 802 of this Act)," immediately after "sex" each place it appears.

BUDGET AUTHORITY

Sec. 11. This Act shall not be construed to authorize the enactment of new budget authority for the fiscal year ending September 30, 1980. However, effective October 1, 1980, sums are authorized to be appropriated to carry out this Act.

TITLE I

That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and by inserting after "1978" the following: ", and $8.998 823 for the fiscal year ending September 30, 1980": *Provided*, That none of the funds appropriated hereunder for the fiscal year 1980 shall be used by the Federal Election Commission to audit a House or Senate candidate or his or her authorized committee, unless such audit is based on a finding by the Federal Election Commission of reason to believe that a violation of the Federal Election Campaign Act of 1971 has occurred: *Provided further*, That none of the funds appropriated hereunder, in excess of $400,000, for fiscal year 1980 shall be used, directly or indirectly, by the Federal Election Commission for the operation or support of the clearinghouse functions authorized in section 315 of the Federal Election Campaign Act of 1971 or any activities related thereto.

TITLE II

This title may be cited as the "Campaign Contribution Reform Act of 1979".

Sec. 202. (a) Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(i) No multicandidate political committee (other than a multicandidate committee of a political party) shall make contributions to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees aggregating more than—

"(1) $6,000 (but not more than $5,000 for one election) with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $6,000 (but not more than $5,000 for one election) with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(2) $9,000 (but not more than $5,000 for one election) with respect to a general election and both a primary and a runoff election relating to such general election; and $9,000 (but not more than $5,000 for one election) with respect to a special election and both a primary election and a runoff election relating to such special election.".

(b) Section 320(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "No multicandidate" and inserting in lieu thereof "Subject to subsection (i), no multicandidate".

Sec. 203. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441 a(a)) is amended by—

(1) inserting after paragraph (2) the following new paragraph:

"(3) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than—

"(A) $70,000 with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $70,000 with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(B) $85,000 in the case of a candidate who is a candidate in a general election and both a primary election and a runoff election relating to such general election, and $85,000 in the case of a candidate who is a candidate in a special election and both a primary election and runoff election relating to such special election.

For purposes of this paragraph, any contributions made after the date of a general or a special election shall be considered a contribution to such election only if the candidate at the time of receipt does not have sufficient funds to pay obligations incurred with respect to that election."; and

(2) redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively.

Sec. 204. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(1) inserting after paragraph (9) as so redesignated by section 203 of this Act the following new paragraph:

"(10) Any contribution to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees that is made in the name of an individual and in a manner which creates the appearance that the contribution was made by or on behalf of a political committee shall be reported by such political committee as a contribution to such candidate and shall be treated as a contribution by such political committee for purposes of the limitations imposed by this section."

Sec. 205. Section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) is amended—

(1) by inserting after paragraph (4) the following new paragraphs:

"(5) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized political committees, any extension of credit by a person (other than a broadcasting station, newspaper or magazine, and who is not otherwise prohibited from extending credit under this Act) providing goods or services in connection with preparing or purchasing advertising on broadcasting stations, in newspapers or magazines or other similar types of general public political advertising, if such extension of credit is beyond the normal period of credit extended by such person in the ordinary course of business or 60 days from the date on which such goods or services are provided, whichever is less;

"(6) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees, any extension of credit or advance of funds in connection with the preparation for mailing, or mailing, of any materials which solicit funds for the purpose of influencing the election of such candidate; but";

(2) in paragraph (4), by striking out "but" after the semicolon at the end thereof; and

(3) redesignating paragraph (5) as paragraph (7).

Sec. 206. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after the last paragraph the following new paragraph, to be designated appropriately:

"( ) No candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress shall use contributions to such candidate and his authorized committees aggregating more than $35,000 to reimburse himself for expenditures from his personal funds (including funds derived from loans or from the personal funds of his immediate family) made by such candidate and his authorized committees in connection with (i) a general election and any primary or runoff election relating to such general election and (ii) a special election and any primary election or runoff election relating to such special election. For purposes of this paragraph, the term 'immediate family' means a candidate's spouse or any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons."

Sec. 270. If any provisions of any amendment made by this Act, or the application of such provision to any person or circumstance, is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby, except that if any provision of an amendment made by section 203 of this Act or the application of such provision to any person or circumstance is held invalid, the amendments made by section 202 shall have no further effect.

Sec. 208. The amendments made by this Act shall take effect upon the enactment of this Act and shall not apply to contributions received before such enactment.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT REQUEST—ENERGY SECURITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on S. 932, which is the synfuels conference report, with the proviso that there be a 3-hour time limitation overall, and that the motion to reconsider the disposition of the conference report be a nondebatable motion.

Mr. BAKER. Mr. President, reserving the right to object, I reserve for the purpose, Mr. President, of saying that I had understood yesterday that we had made good progress on a time limitation of 4 hours. My first inquiry would be of the majority leader, whether or not he would be agreeable to a 4-hour time limitation instead of a 3-hour limitation.

Mr. ROBERT C. BYRD. Yes, I would be.

Mr. BAKER. And my next point on reservation, Mr. President, is that I do not know of any particular reason not to proceed to the synfuels conference report at this point, but I wonder what is going to happen after that. If we in fact do not object to the unanimous-consent request, the synfuels conference report would become the pending business with, say, a 4-hour time limitation, and after that we would be in the same position we are in now.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. That is, the DOJ authorization would be the pending business. On further reservation, Mr. President, I assume as well that the distinguished majority leader could move to the consideration of this matter.

Mr. ROBERT C. BYRD. He could.

Mr. BAKER. Since it is a privileged matter he could ask the Chair to place before the Senate the conference report and move that we proceed to the consideration of that matter.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. And that would be a nondebatable motion.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. At that point, Mr. President, we also would have the situation, as I understand it, where, after the conclusion of the synfuels conference report, with or without a time limitation, the Senate would return to the consideration of the DOJ authorization bill.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. So in any event, the situation, unless we modify it by some other measure or by unanimous-consent, is that after 4 hours, and 4 hours indeed was the time submitted for the consideration of the synfuels conference report, we would be back on this matter.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Mr. President, I have no particular objection to that. I am not prepared now to accede to the request. I see the distinguished Senator from North Carolina on the floor. I will permit him to reserve on this request, if he wishes.

Let me make one further point on the reservation, Mr. President. I would hope that we could find a way to deal with this matter and, indeed, with the other matters that are on this list that we discussed this morning. We are playing Russian roulette with this measure, with DOJ. We have every emotional issue that is just about likely to come before this body on this measure.

I want to work with the will of the Senate. I want to arrange the schedule. But this is a heavy shell. to put all of this loading on this one measure.

On this reservation, Mr. President, I

ask the majority leader if he would be willing to try to work out some sort of an arrangement so we could find a time to reconsider the vote of the distinguished Senator from North Carolina and have another vote.

Mr. ROBERT C. BYRD. Mr. President, if this is Russian roulette, it was initiated on the other side of the aisle.

Mr. BAKER. Mr. President, that——

Mr. HELMS. Mr. President, I have to object to that statement. That is not true.

Mr. BAKER. Mr. President, not one single thing has been done on this side to bring these matters to the present position they are in the Senate.

Mr. ROBERT C. BYRD. Mr. President——

Mr. BAKER. The Senator from North Carolina simply offered an amendment and he won it. We are paying the price.

Mr. ROBERT C. BYRD. That amendment began the Russian roulette. The Senator from North Carolina did not win it. His amendment has not yet been voted on.

Mr. HELMS. Reserving the right to object, the question is who lost yesterday, not who won. That is the issue. I must reject as categorically as I can, Mr. President, the assertion by the majority leader. He knows better than that. I regret that he said it. I think in a cooler moment he will realize that he overspoke himself.

Mr. BAKER. Mr. President, the question before us, I assume, is the request of the majority leader on the unanimous consent request to proceed to the consideration of the synfuels conference report.

Mr. HELMS. I object.

Mr. BAKER. I yield to the Senator from North Carolina.

Mr. HELMS. I object.

The PRESIDING OFFICER. The question is on the amendment No. 1200. The amendment is not debatable.

Mr. BAKER. Mr. President, I move to table amendment No. 1199 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 10 Leg.]

Baker
Boren
Bumpers
Byrd, Robert C.
Hatfield
Heflin
Helms
Jackson
Levin
Pryor
Sarbanes
Thurmond

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators present desiring to vote?

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—92

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—2

Garn
Weicker

NOT VOTING—6

Baucus
Goldwater
Gravel
Javits
McGovern
Melcher

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, have the yeas and nays been ordered on my motion to table?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question occurs on the motion to table the amendment of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 53, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—41

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
Mathias
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NAYS—53

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Levin
Magnuson
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NOT VOTING—6

Goldwater
Gravel
Javits
McGovern
Melcher
Talmadge

So the motion to lay on the table Mr. ROBERT C. BYRD's amendment (UP No. 1199) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—S. 932

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on the synfuel legislation, S. 932, is called up and made the pending business before the Senate there be a time limitation thereon of 4 hours overall, the time to be equally divided between Mr. JOHNSTON and Mr. HATFIELD, and that there be no time for debate on any motions which would otherwise be debatable, such as a motion to reconsider following the final disposition of the conference report.

It would be my intention, if the agreement is entered, to immediately move to take up the synfuel legislation.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the majority leader and I have reached an arrangement whereby the time for debate on this measure would be limited as he has described. We cannot give unanimous consent to proceed to the consideration of the synfuels bill, but it is my understanding that he will proceed, assuming this arrangement is granted, to move the consideration of the conference report, and I would expect that motion would prevail without a record vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. ROBERT C. BYRD. It is my understanding that moving to take up a privileged matter does not place back on the calendar a pending unprivileged matter; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ENERGY SECURITY ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I move to proceed to the consideration of the conference report on S. 932.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield to the Senator from Washington (Mr. Jackson).

Mr. JACKSON. Mr. President, the conference report before the Senate today represents the culmination of a year and a half of work on the Energy Security Act.

In a broader sense, however, it represents the culmination of more than 10 years of congressional effort to bring a major national synthetic fuels program to fruition.

The subject is hardly new to the Committee on Energy and Natural Resources or to the Senate. The promise of synthetic fuels has occupied our attention since the O'Mahoney-Randolph Synthetic Fuels Act was passed back in 1944. It has figured prominently in every major plan for energy self-sufficiency developed over the years.

In the early 1970's I introduced legislation to establish a Coal Gasification Development Corporation. It was opposed by the then administration and no final action was taken.

In the Federal Non-Nuclear Energy Research and Development Act of 1974 we authorized a broad program to foster commercial-scale demonstration of coal gasification, oil shale, and coal liquefaction.

The Senate has consistently supported efforts to achieve a national synthetic fuels production capability. In 1975, we approved the Synthetic Fuels Act to authorize $5 billion in loan guarantees for new energy technologies—only to have the provision rejected by the House.

The Department of Energy has been given authority to guarantee loans, to provide price guarantees, purchase agreements, and the authority for government-owned/contractor operated synthetic fuel projects.

But, none of these authorities has produced any major demonstrations of synthetic fuels technologies.

At every step of the process, there has been general agreement on the need for actual operating experience from several commercial scale synthetic fuel plants.

Both Republican and Democratic administrations have recommended substantial financial assistance to advance such programs.

But despite all this, we have failed to bring even one such project on line. We have lagged far behind other nations, some of which have far less economic ability, fewer resources, and, perhaps, far less urgent needs for new energy sources.

Canada is developing its tar sands.

South Africa is greatly expanding its coal liquefaction capability.

China is producing a portion of its oil requirements from shale.

Instead, we are still immersed in largely academic arguments over the potential merits, hazards, and economic viability of synthetic fuels.

Continuing arguments that further delay will improve the technological basis for commercial demonstration; continuing reluctance to make the necessary financial commitment; and the idle hope that industry will do the job on its own have sapped our will to proceed.

Our programs to explore this vital energy option have been stifled in the annual budgetary process and by the vagaries of bureaucratic decisionmaking.

Mr. President, I say to the Senate that it is time to put away our indecision. It is time to recognize today's energy reality and the hazard to our future national security. It is time to take the bull by the horns and get about the business of bringing commercial synthetic fuel projects on line.

Finally, Mr. President, I want to commend the distinguished junior Senator from Louisiana (Mr. Johnston) for the hard work and leadership he has displayed throughout Senate and conference work on this measure. He was the leader, he was the one who was there day in and day out, week after week, month after month.

I also want to say to the minority that under the able leadership of the distinguished senior Senator from Oregon (Mr. Hatfield) that we had the wholehearted and full support from the minority side of the aisle under Senator Hatfield's able direction.

I also want to commend the Senator from New Mexico (Mr. Domenici), who has taken an important role from the beginning of Senate action on this measure.

I want to thank the chairmen of the other Senate committees which have been involved in the measure, Senator Talmadge and Senator Proxmire, for their cooperation and assistance.

On the House side, the hard work and initiative of Mr. Moorhead has made the bill a possibility in this Congress and the untiring support of the majority leader (Mr. Wright) has been vital to its success.

Chairmen Ashley, Fuqua, Staggers, and Dingell have contributed to the measure in their areas of interest, and the staffs of all the committees involved have been worked long and hard, on weekends and frequently through the night, to meet the deadlines for completion of the conference.

I urge my colleagues to approve this conference report as a signal that this Nation intends to carry its own energy needs with domestic resources and to declare its independence from energy servitude.

I ask unanimous consent that a summary of the measure be included in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary: S. 932, Energy Security Act as Agreed to by the Senate-House Conferees on June 16, 1980

In summary, on Monday, June 16, 1980, the Senate-House conferees on S. 932, the Energy Security Act, agreed to the following:

SYNTHETIC FUELS (TITLE I)

Title I, Synthetic Fuels, is comprised of two parts: Part A, Development of Synthetic Fuels under the Defense Production Act of 1950, and Part B, the United States Synthetic Fuels Corporation Act of 1980.

United States Synthetic Fuels Corporation

The United States Synthetic Fuels Corporation Act of 1980 (Part B) creates an independent, Federal entity called the United States Synthetic Fuels Corporation, and establishes national goals for the production of synthetic fuels in the United States of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992.

The United States Synthetic Fuels Corporation is structured to be a Federally chartered financial enterprise and empowered to provide various forms of financial assistance to private sector applicants to permit achievement of the purposes of the Act. The financial structure of the Corporation has been formulated to provide a substantial degree of independence to its operations, while preserving the integrity of the Federal budgetary process.

The purpose of the United States Synthetic Fuels Corporation would be to foster, by financial assistance, commercial production, by private industry, of synthetic fuel which is obtained from coal (including lignite and peat), shale, tar sands (including heavy oil), and in the case of water, hydrogen, and which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks). Also eligible for financial assistance would be facilities (a) used solely to produce mixtures of coal and petroleum for direct fuel use; (b) used solely for commercial production of hydrogen from water; and (c) any MHD (magnetohydrodynamic) topping cycle used solely for the commercial production of electricity.

The financial resources available to the Corporation over its 12-year lifetime would be up to a maximum of $88 billion, subject to appropriations. Appropriations are to be deposited in the Energy Security Reserve (established by the Department of the Interior and Related Agencies Appropriations Act, 1980) in at least two installments. The first installment of $20 billion is authorized upon enactment, and would be subject to appropriations. The second and subsequent installments would be authorized (up to a maximum of $68 billion) by joint resolution, subject to appropriations.

Powers

The powers of the Synthetic Fuels Corporation are vested in a seven member Board of Directors to be appointed by the President and confirmed by the Senate for seven year staggered terms. The Chairman, who would be designated for an initial seven year appointment, must be full-time. The other six Directors could be part-time. The Corporation can employ up to 300 full-time professionals. An annual authorization of $35 million for administrative expenses and $10 million for contract studies is provided.

A six member Advisory Committee also is established and is composed of the Secretaries of Energy, Interior, Defense and Treasury, the Chairman of the Energy Mobilization Board, and the Administrator of the Environmental Protection Agency.

Goals and Comprehensive Strategy

The Congressionally established national synthetic fuels production goals are at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992. The initial emphasis of the Corporation's activities will be to develop within a broad spectrum of financial and industrial firms experience with a technological diversity of processes, methods and techniques for commercially producing synthetic fuels from domestic resources, while, at the same time, developing the industrial base to undertake achievement of the national synthetic fuel production goals. The Corporation's initial authorization for this purpose is $20 billion, subject to appropriations. (An initial appropriation of up to $18,792,000,000 already is provided by P.L. 96–126.)

Within four years of enactment the Corporation is required to develop and submit to the Congress a comprehensive strategy for achievement of the national synthetic fuel production goals, which must be approved as a condition precedent to subsequent authorizations of appropriations. The comprehensive strategy, which must be accompanied by a financial or investment prospectus, would emphasize private sector responsibilities and describe how specific limitations will be placed on Federal involvement. In formulating the comprehensive strategy, the Corporation must consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced by synthetic fuel projects assisted by the Corporation.

Congressional approval of the comprehensive strategy would be by joint resolution under expedited procedures. Besides approval of the comprehensive strategy, the resolution would authorize budget authority up to an additional $68 billion for the Corporation's synthetic fuel activities (for a maximum of $88 billion). Given Congressional approval and subject to the availability of the necessary appropriations, implementation of the strategy would proceed. Similar 90-day expedited procedures would apply to any subsequent authorization requests by the Corporation until the full $88 billion appropriation is approved. The Corporation cannot enter into any obligations for financial assistance which could expose the Federal government to a greater liability than $20 billion prior to Congressional approval of the comprehensive strategy and appropriation of the necessary funds.

Financial Assistance

The Corporation is empowered to provide financial assistance to the private sector for commercial synthetic fuel projects in the following order of decreasing priority:

(1) purchase agreements, price guarantees and loan guarantees, up to 75 percent of the project costs;

(2) loans up to 49 percent of initially estimated project costs unless such limits would prevent the financial viability of the proposed project in which case up to 75 percent would be authorized; and

(3) a minority equity interest, under partnership law, in a joint venture (where the government could provide up to 75 percent of project costs) for commercial modules prior to approval of the comprehensive strategy.

Multiple forms of financial assistance are authorized only if required for the viability of a project and necessary to satisfy the goals and purposes of the Act.

In awarding financial assistance the following limitations, among others, would apply: (a) due consideration must be given by the Corporation to promoting competition; (b) any specific tax credit directly associated with a project also must be taken into consideration in determining the need for financial assistance; and (c) before awarding loans and joint ventures, the Board must determine that purchase agreements, price guarantees and loan guarantees (i) will not adequately support the construction and operation of a synthetic fuel project or (ii) will restrict the available participants for such project.

In the case of loans and loan guarantees the Corporation is authorized: (a) to extend financial assistance, subject to appropriations, to cover (i) 50 percent of cost overruns up to 100 percent of the initially estimated project cost and (ii) 40 percent of additional cost overruns, subject to Congressional notification in the event that the project cost exceeds 250 percent of the estimate upon which the initial award of financial assistance was based; and (b) to award financial assistance to qualified concerns to refine the design of proposed synthetic fuel projects to improve the accuracy of the initial estimated costs on which loans and loan guarantees are awarded.

Up to two synthetic fuel projects located in the Western Hemisphere could receive financial assistance if (1) a class of resources will be utilized that is located in the United States but will not be subject to timely commercial production; (2) financial assistance also will be provided by the host country; (3) the synthetic fuel will be available on equitable terms to users in the United States; and (4) all technology, patents and trade secrets developed are available to citizens of the United States. This authority is only available prior to approval of the comprehensive strategy, subject to one-House Congressional disapproval and is limited to 10 percent of the available obligation authority of the Corporation.

Also the Corporation, under certain limited circumstances, would be authorized to acquire control or to purchase and leaseback synthetic fuel projects, subject to Congressional review and veto. Such control must be disposed of within five years after acquisition.

Corporation construction projects, which would be Corporation owned but contractor constructed and operated, would be authorized only prior to approval of the comprehensive strategy and only for one-of-a-kind facilities which employ technologies utilizing significant domestic resources, and only after no participant could otherwise be found who would be willing to proceed under one or more of the above forms of financial assistance. During this period, up to three such projects would be authorized on such a last resort basis, after 30 days notice of the Corporation's intent to establish such a Corporation construction project if no acceptable notice of intent to submit a proposal is received. No such projects would be authorized once the comprehensive strategy is Congressionally approved.

In the case of Corporation construction projects and joint ventures, the Corporation is required to consult with the affected Governors with respect to such project's development and related regulatory and other government activities.

Any synthetic fuels acquired by the Corporation through purchase agreements, joint ventures or Corporation construction projects, must be offered first to the Department of Defense for national defense needs before being offered to other Federal agencies and the private sector.

Treasury Operations

When the Corporation proposes to award financial assistance, it must notify the Secretary of the Treasury of its maximum liability under the proposed contract or other obligation agreement. Upon the receipt of notification from the Corporation that amount of borrowing authority in the Energy Security Reserve would be set aside and otherwise be unavailable to the Corporation. The Treasury, within 15 days, must certify to the Corporation that such amounts had been set aside at which time the proposed contract or other obligation agreement could be finalized.

For example, when the Corporation needs actual funds for administrative expenses or to support financial assistance such as loans, the Secretary of the Treasury would be authorized to purchase notes of the Corporation to the extent of its appropriated borrowing authority from the Energy Security Reserve in the United States Treasury. Notes would be retired from revenues or upon dissolution of the Corporation.

An initial appropriation of $20 billion to the Secretary of the Treasury is authorized, as well as additional amounts upon approval of the comprehensive strategy up to a total of $88 billion, in the aggregate. As mentioned, any appropriations are to be deposited in the Energy Security Reserve and available to the Corporation only so far as necessary to meet obligaitons.

Budgetary Aspects

All financial transactions between the Secretary of the Treasury and the Synthetic Fuels Corporation will be reflected in the budget of the United States. Thus the extent of actual borrowing by the Corporation from the Department of the Treasury (from the Energy Security Reserve) will be reflected as outlays of the United States Government.

The internal financial operations of the Corporation are not reflected in the Federal budget since it is to be an independent (off-budget) entity. However, the salaries and expenses of the Corporation, its contractual obligations, and its accounting system will be available for scrutiny through statutorily required annual and quarterly reports and audits as well as General Accounting Office review and audit.

Relationship to Other Laws

The Sunshine Act (5 U.S.C. 552b) would apply to the Corporation. Also the financial disclosure provisions of the Ethics in Government Act of 1978 (P.L. 95–521) shall apply to all directors, officers and certain employees of the Corporation.

Corporation construction projects would be subject to the EIS requirements of the National Environmental Policy Act and Federal, State and local environmental, land use and siting laws to the same extent as a privately sponsored project.

Davis-Bacon and Service Contracts Act would apply to loans and loan guarantees by the Corporation.

The recipients of financial assistance and the Corporation construction projects are required to provide for reasonable participation by small and disadvantaged businesses.

Termination

The authority of the Corporation to obligate funds would cease after September 30, 1992. And the Corporation must terminate its affairs by September 30, 1997. Upon termination the outstanding contracts for financial assistance would be transferred to the Secretary of the Treasury for administration.

DEVELOPMENT OF SYNTHETIC FUELS UNDER THE DEFENSE ACT OF 1950—(PART A)

Under the Defense Production Act Amendments of 1980 (Part A), before the Synthetic Fuels Corporation is fully operational, the President would have authority to offer (through the Department of Defense and other Federal agencies) purchase agreements, loans and loan guarantees to stimulate synthetic fuels development to meet national defense needs pursuant to a new section 305 of the DPA. Up to $3 billion, subject to appropriations, is available for these activities. Once the Corporation is established, these DPA authorities will convert to a standby basis.

In the event of a national energy supply shortage threatening the adequacy of fuel supplies to meet direct defense and defense industrial base needs, these standby authorities could be activated on a specified Presidential determination to meet such needs. In addition to purchase agreements, loans and loan guarantees, these Presidential standby authorities, subject to appropriations in advance, include authority to install government owned equipment in private facilities and to install private equipment in government-owned facilities; to construct government-owned but contractor operated synthetic fuel projects; and to mandate fuel suppliers to provide synthetic fuel.

The existing non-synthetic fuel authorities of the Defense Production Act are amended to designate "energy" as a "strategic and critical" material.

BIOMASS AND ALCOHOL FUELS URBAN WASTE (TITLE II)

The Biomass Energy Act of 1980 establishes a comprehensive biomass and alcohol fuels program. Part A relates to activities of both the Department of Agriculture (USDA) and the Department of Energy (DOE) regarding all forms of biomass (including crops and crop waste, timber, animal and timber waste). Part B relates only to DOE urban waste activities.

Biomass and Alcohol Fuels (Part A)

USDA is provided jurisdiction over all projects which annually produce less than 15 million gallons (or equivalent of other synthetic fuel) involving agricultural and forestry resources.

Both USDA and DOE, subject to concurrence of the other agency, are authorized to initiate those projects which produce over 15 million gallons per year using forestry resources, and those projects, owned and operated by cooperatives, which produce over 15 million gallons per year using agricultural resources. The other agency will be involved in a concurrence role as soon as possible.

DOE alone will have jurisdiction over all other alcohol and biomass projects which produce over 15 million gallons per year.

USDA and DOE would be required to prepare an overall Federal plan for biomass energy development within six months of enactment, which maximizes biomass energy production and is designed to achieve an alcohol production level of 60,000 barrels per day by the end of 1982. In addition, both agencies must submit by January 1, 1982, a comprehensive strategy for the period 1982 to 1990 which maximizes biomass energy production and use, and achieves an alcohol production level equal to not less than 10 percent of estimated gasoline consumption in 1990.

USDA will have authority to reveiew DOE projects, on a consultation basis, for national, regional and local impact on agricultural supply, production and use, and likewise, DOE will have authority to review USDA projects for technical and national fuel policy considerations—each agency will have 15 days in which to review the projects of the other agency, with 30 days for the other to respond before proceeding.

Priority for financial assistance and the most favorable financial terms available will be given to projects that use a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy, solar energy, and cogeneration facilities, or which apply new technologies which expand the possible resources. However, this shall not be interpreted to exclude projects utilizing more traditional fuels.

FEDERAL MOTOR VEHICLES

The Federal government is required to use gasohol in any motor vehicle capable of using gasohol, which it owns or leases. Exceptions apply where gasohol is not available in reasonable quantities or at reasonable prices, or where the President finds an exemption is necessary to protect the national security.

Motor Vehicle Study

The Secretary of Energy in consultation with the Secretary of Transportation, within nine months of enactment, is directed to submit to Congress a study on whether legislation is needed to require that any new motor vehicle be capable of operating on gasohol or on pure alcohol; and to address institutional barriers that inhibit the widespread marketing of gasohol, including requirements for specified amounts of alcohol in all gasoline.

Natural Gas Priorities

For purposes of natural gas supply priority under section 401 of the Natural Gas Policy Act, the term "essential agricultural use" shall, for a period of five years from the date of enactment, include sugar refining for production of alcohol; and the use of natural gas in the distillation of fuel grade alcohol from food grains or biomass by existing facilities which do not have the installed capability lawfully to burn coal.

Standby Allocation

The Emergency Petroleum Allocation Act of 1973 is amended to require the President to exercise his standby allocation authority if he finds that significant quantities of alcohol suitable for use in motor fuel would not otherwise be used for that purpose because of an unavailability of refined petroleum products with which the alcohol would be blended. Specifically, where the President finds such situation exists, he shall use his authority to allocate crude oil to specific refiners or petroleum products to gasoline marketers so that the available alcohol will be blended into motor fuel. Consideration is to be given to quality control in refinery operations affected by the President's actions under this provision so as to avoid disruption of the markets for crude oil or refined petroleum products, and to avoid causing unreasonable increases in the price of alcohol.

Urban waste (part B)

A new Office of Energy from Municipal Waste will be established in DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization.

General criteria for providing commercial financial assistance include:

(a) giving priority funding to commercialization of technologies which can displace oil or gas;

(b) using the amount and type of assistance that will minimize potential liability of the Federal government; and

(c) providing assistance only to facilities which are both technically and economically feasible.

Financial assistance for construction projects may be in the form of loans and loan guarantees not to exceed 75 percent of total capital costs.

Price support loans may be provided to new and existing urban waste facilities under certain conditions. Price support loans will be available only for recovery energy or fuel products actually produced, sold to a buyer and used. Authority to grant price support loans terminates December 31, 1994.

In addition, the Secretary has the discretion to provide price supports with no repayment of principal and interest for new facilities.

Financial assistance

The Title II authorizations for Fiscal Years 1981 and 1982 are, in the aggregate, $1,200,000,000 for the comprehensive biomass and alcohol fuels activities (Part A), and $250 million for urban waste activities (Part B).

Specifically, under Part A $600 million will be available for USDA activities (including up to $200 million for small-scale biomass energy projects of less than one million gallons per year) and $600 million will be available for DOE activities, other than urban waste (including not less than $500 million to the DOE Office of Alcohol Fuels for financial assistance to alcohol fuel projects). The remaining DOE authorization, $100 million, shall be available for biomass energy systems development.

ENERGY TARGETS (TITLE III)

Title III requires the President to prepare and submit annually as a separate title of the Department of Energy Annual Authorization bill, energy targets for net imports, domestic production, and end-use consumption, after considering conservation, for the years 1985, 1990, 1995, and 2000 together with supporting data and a statement of all assumptions adopted in preparing the targets.

The purpose of Title III is to establish a process for the Congress to debate and vote on, and the President approve, a comprehensive and internally consistent set of energy targets for the United States during the first sessions of the 97th and 98th Congresses. During the 97th Congress only, special procedures would be established to insure that a vote on the initial targets is obtained in each House.

The energy targets shall be considered goals that are not binding on the Congress or any of its Committees or on the Executive Branch. They shall not be, nor have the effect of, law.

No new funds are authorized for preparation of the energy targets.

RENEWABLE ENERGY INITIATIVES (TITLE IV)

The Omnibus Solar Commercialization Act of 1980 establishes incentives for the use of renewable energy resources to coordinate information dissemination and outreach programs and to promote the use of renewable energy resources, and establishes a three-year pilot program to promote local energy self-sufficiency.

Information dissemination and outreach services

The Secretary of Energy is directed to coordinate solar and conservation information dissemination activities funded by the DOE and report annually to the Congress on the status of such activities, including providing a summary of how the services of DOE are coordinated with services in other agencies.

Energy initiatives in new and renovated Federal buildings

The National Energy Conservation and Policy Act is amended to require the Secretary of Energy to use a 7 percent discount rate and marginal fuel costs in calculat-the life-cycle costs of conservation and solar investments in Federal buildings.

Energy self-sufficiency initiatives

A three-year energy self-sufficiency program, with a $10 million authorization in Fiscal Year 1981, shall be established to demonstrate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States. Within 180 days of enactment, the Secretary of Energy is required to prepare a detailed program plan, and within one year of enactment, submit to the Congress suggested legislative initiatives needed to implement the plan.

Photovoltaic

The Federal Photovoltaic Program in the National Energy Act is amended by expanding the definition of "Federal facility" to incorporate greater flexibility in the deployment of photovoltaic systems, and by exempting certain program activities from the rulemaking requirements of the Administrative Practices Act.

Small-scale hydropower initiatives

The small-scale hydropower provisions in the National Energy Act are amended to expand the definition of small-scale hydropower facilities for a maximum capacity of 15 megawatts to 30 megawatts, and to include the case of a turbine which is associated with a natural water feature without the need for any impoundment. Additionally, the Federal Energy Regulatory Commission is allowed under the Federal Power Act to exempt projects below 5 megawatts from certain licensing requirements on a case-by-case basis.

The Secretary of Energy is required to promulgate regulations to implement the financial assistance programs for small-scale hydro in the National Energy Act within six months, and to prepare a study of Federal small-scale hydro commercialization programs. Additionally, an extension is provided of the $110 million authorization in the National Energy Act for each of the two fiscal years 1981 and 1982.

SOLAR ENERGY AND ENERGY CONSERVATION (TITLE V)

Solar Energy and Energy Conservation Bank

A Solar Energy and Energy Conservation Bank will be established in the Department of Housing and Urban Development (HUD) to provide subsidized loans to persons who make energy conservation improvements or install solar applications in residential or commercial buildings. The new Bank will exist until September 30, 1987, with the same corporate powers as the Government National Mortgage Association.

The Bank will have a President, an Executive Vice President for Energy Conservation, an Executive Vice President for Solar Energy, and will be governed by a Board of Directors. The Board will be composed of the Secretaries of HUD (designated as Chairperson), Energy, Treasury, Agriculture and Commerce. Serving the Board will be Advisory Committees on Solar Energy and Energy Conservation.

The Bank will be authorized to make payments to local financial institutions willing to provide below-market rate loans or a principal reduction on loans to borrowers for solar and conservation improvements. Eligibility for subsidized loans would depend upon both the income of the borrower and the type of structure to be improved.

Assistance for energy conservation improvements would be provided to owners and tenants of existing one-to-four-family residential buildings whose household income does not exceed 150 percent of area median income levels (approximately $25,000). The maximum subsidy available for a single-family residence would range from 20 percent of the project cost (with a $500 limit on the subsidy) for borrowers with incomes between 120–150 percent of area median (approximately $20,000–$25,000) to 50 percent of the cost (with a $1,250 limit on the subsidy) for borrowers with incomes below 80 percent of area median (approximately $13,500). The following table summarizes the maximum subsidy levels based on income for one-to-four-family residential buildings:

Income level of borrower	Maximum subsidy levels				
	Percent	1 unit	2 units	3 units	4 units
<80 percent of area median	50	Up to $1,250	Up to $2,000	Up to $2,750	Up to $3,500
80 to 100 percent of area median	35	875	1,390	1,915	2,440
100 to 120 percent of area median	30	750	1,200	1,650	2,100
120 to 150 percent of area median	20	50	800	1,100	1,440

Subsidy levels for conservation improvements also would be established for multi-family and commercial buildings at a maximum subsidy rate of 20 percent of cost up to $400 per unit for multi-family buildings, and 20 percent of cost up to $5,000 for commercial buildings.

Assistance for solar energy projects would be provided to owners or builders of residential and commercial buildings. For one-to-four family residential buildings the maximum subsidy would be: 60 percent of cost for owners whose income is below 80 percent of area median income (approximately $16,000); 50 percent of cost for owners whose income is between 80–160 percent of area median income; and 40 percent of cost for owners whose income is above 160 percent of area median income (approximately $32,000).

For a single residence, the maximum subsidy would be $5,000. For a two-unit residential building, the maximum subsidy would be $7,500; and for a three-to-four-unit building, the maximum subsidy would be $10,000.

The maximum subsidy for multi-family (5 or more units) residential buildings would be 40 percent or $2,500 per unit. For commercial buildings (including certain agricultural buildings), the maximum subsidy would be 40 percent or $100,000. Builders would be eligible for up to 40 percent subsidies at the limits specified above. Any subsidy for a subsequent owner could not cause the combined subsidy to exceed the builder limit.

Solar Energy and Energy Conservation Bank authorizations include $2.5 billion for fiscal years 1981–1984 for conservation purposes, and $525 million for fiscal years 1981–1983 for solar purposes. Up to $10 million in fiscal year 1981 and $7.5 million in fiscal year 1982 and thereafter would be available annually out of each appropriation to promote the solar and conservation loan programs.

Residential energy conservation grants

A Residential Energy Conservation Office would be established within the Department of Energy to supervise a State-run grant program in which the Federal government would share the cost of residential energy conservation measures.

A matching grant program for energy conservation expenditures is set up for persons whose income is 80 percent of the area median income or below. Under the grant program, the Solar Energy and Energy Conservation Bank could set a maximum subsidy level of 50 percent of the cost of conservation measures up to a maximum of $1,250 (1 unit), $2,000 (2 units), $2,750 (3 units) or $3,500 (4 units), and $1,000 per unit in multi-family buildings. No grant would be provided unless it applies to a total conservation expense of at least $250.

The Conservation Bank would require a grant applicant to provide the lending institution with 50 percent of the cost of the conservation project or to certify that such amount will be available upon completion of the project when the grant is made to the installing contractor. For any person who will perform the work or purchase the materials directly, similar assurance of financial resources would be required. The financial institution shall provide the grant by means of a check payable to the supply company from which the materials are to be purchased. Also, persons receiving grants would be required to complete a simple application form.

No less than 15 percent of the funds authorized for conservation under the Solar Energy and Energy Conservation Bank will be reserved for residential energy conservation grants.

Residential energy efficiency program

The National Energy Conservation Policy Act (P.L. 95–619) is amended to authoize the Secretary of Energy to establish a program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas. Such companies would be compensated under contracts with State or local agencies according to energy actually saved.

Initially, up to four demonstration projects could be authorized, with DOE reporting to Congress after two years on progress of the demonstrations. Participation in the program is voluntary. Public hearings must be held before the program is undertaken.

A utility would contract with one or more energy conservation companies to purchase saved energy at a price and over a period of time determined by negotiation. The price would be based on the value of the energy saved over the contract period.

The Federal Energy Regulatory Commission would be authorized to prescribe rules to exempt under certain conditions the sale or transportation of conserved natural gas from certain laws in order to promote greater residential energy efficiency.

The energy conservation companies must

undertake a house-by-house, block-by-block retrofit of homes in designated areas. The companies must be independent of the utility and selected in a fair, open and nondiscriminatory manner.

Funding for the demonstration projects would be authorized at a total of $10 million for fiscal years 1981 and 1982. Funds could be paid only to States or local units of government.

Utility residential conservation programs

The conference agreement includes several amendments to the portion of the National Energy Conservation Policy Act (NECPA) which requires the nation's larger electric and gas utilities to establish "utility programs" offering residential customers inspections and management services in arranging for the installation of certain residenial energy conservation measures. These amendments provide for—

A removal of the Federal prohibition in NECPA on the financing of residential energy conservation measures by utilities;

Assurance that utilities will seek funds for the financing of utility programs from local financial institutions as well as traditional sources of funds;

Elimination of Federal rules with respect to utility cost recovery under utility programs with one exception: the charge to a customer for an inspection under any utility program may not exceed $15;

Establishment of one year manufacturers', suppliers' and installers' warranty requirements for measures installed under any utility program; and

Modification of the Federal prohibition in NECPA on utility supply or installation of residential energy conservation measures to permit utilities to subcontract with qualified independent firms for such supply or installation provided that these activities meet certain tests related to preservation of competition.

Energy auditor training and certification

The Secretary of Energy is authorized to make grants to States to support training and certification of energy auditors of residential and commercial buildings. The Secretary also shall develop training standards, sufficiently flexible to permit innovation in training and auditing techniques, to be used by the States receiving assistance.

An "energy audit" is an onsite inspection by a trained and certified auditor of a residential or commercial building to evaluate, and provide useful information on the various energy-related aspects of the building, as appropriate. The energy audit may deal with the potential of the building for improved energy efficiency, for enhanced utilization of renewable resources, and for switching from one fuel source to another, and may include actions by the auditor to improve the energy efficiency of, or to make other energy-related improvements in the building.

Training and certification programs would be managed by the States and conducted by the States, local or regional governments, utilities, or private firms.

To be eligible for financial assistance under the auditor training program, the Governor must submit an application to the Secretary of Energy, containing such information as the Secretary may require. The application shall also contain an assurance that the financial assistance provided will be used to supplement State or local funds, and to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of the auditor training program.

Funding for this program is authorized at $10 million for fiscal year 1981 and $15 million for fiscal year 1982, which shall remain available until expended.

Industrial energy conservation

The Secretary of Energy is authorized to accelerate research, development, and demonstration of energy productivity in industry not to exceed $40 million for each of fiscal years 1981 and 1982, in addition to funds authorized for this activity in other measures for high pay-off Industrial Conservation Demonstration projects under the existing DOE program.

Weatherization grant program

The low-income weatherization assistance program authorized by Title IV of the Energy Production and Conservation Act (P.L. 94–385) would be amended to limit administrative expenses to not more than 10 percent of any weatherization grant and not more than one-half of such amount may be used by any State for such purposes.

The Secretary of Energy also would be authorized to increase the $800-per-dwelling-unit-limit to not more than $1,600 to secure installation of weatherization materials where the Secretary determines that an insufficient number of volunteers, training participants and public service employment workers are available.

For any dwelling unit, the limit on the cost of making incidental repairs necessary to make the installation of weatherization materials effective is increased from $100 to $150.

The priority for the management of local weatherization programs given to Community Action Agencies is repealed. However, a preference is given to a CAA to continue managing a weatherization program where it has demonstrated that its program is an effective one.

GEOTHERMAL ENERGY (TITLE VI)

The Geothermal Energy Act of 1980 establishes financial assistance programs in DOE to promote exploration and confirmation of geothermal reservoirs, and provides funding for feasibility studies and construction of specific geothermal projects.

DOE is also directed to conduct a reservoir insurance study in cooperation with the insurance and reinsurance industry.

A total of $85 million in Federal loans and loan guarantees for geothermal reservoir confirmation is authorized for Fiscal Years 1981 to 1985 (including $5 million for FY 1981 and $20 million for each fiscal years 1982 through 1985). In addition, $5 million is authorized for feasibility studies in FY 1981. Funding for construction loans is deferred until FY 1982.

A number of other amendments were made to ease the regulatory burdens on small geothermal plants and to provide special help for direct heat utilization projects.

STUDIES (TITLE VII)

Acid precipitation

The Acid Precipitation Act of 1980 would establish an interagency task force to conduct a comprehensive ten-year research program to identify the causes and effects of acid precipitation. The Acid Precipitation Task Force would be jointly chaired by the Administrators of the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA) and the Secretary of Agriculture.

The comprehensive plan for the ten-year program shall encompass a number of programs including, identifying the sources of atmospheric emissions contributing to acid precipitation; establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation; research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation; and analyzing the information available in order to formulate and present periodic recommendations to Congress and the appropriate agencies about actions to be taken to alleviate acid precipitation and its effects.

For the purpose of establishing the Task Force and developing the comprehensive plan there are authorized to be appropriated $5 million to NOAA to remain available until expended.

Authorization of appropriations for the succeeding nine years for the comprehensive ten-year plan and program will be provided in subsequent authorization acts. The total sum of dollars authorized shall not exceed $45 million except as may be specifically provided.

Carbon dioxide study

The Director of the Office of Science and Technology Policy (OSTP) shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study on the projected impact of fossil fuel combustion, coal conversion and related synthetic fuels activities, and other sources on the level of carbon dioxide in the atmosphere. This study should also include an assessment of the economic, physical, climatic and social effects of such impacts.

A report including major findings and recommendations resulting from the study shall be submitted to the Congress not later than three years after enactment of this Title.

The determination as to the expenses which will be required to conduct this study shall be made by OSTP but shall not exceed $3 million, of which at least 80 percent of the amount appropriated shall be provided to the National Academy of Sciences.

STRATEGIC PETROLEUM RESERVE (TITLE VIII)

The conferees agreed to require the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day. In addition, if this specified SPR fill rate is not achieved, then any production from Naval Petroleum Reserve No. 1 (Elk Hills) must be sold or exchanged so as to be stored in the SPR. Exceptions to this fill requirement would apply if at least 500 million barrels of crude oil are stored in SPR, where the Elk Hills oil is sold to small refiners under section 7430(d) of title 10 of the U.S. Code, if (a) the oil is produced to prevent a reduction in the amount of ultimate recovery from the Elk Hills reserve, or (b) the oil is produced for national defense purposes under section 7422(a) of title 10, U.S. Code, or (c) if a drawdown of the SPR occurs, or (d) if the President requests a suspension of the fill rate requirement and the Congress approves by a resolution of approval in each House.

The conferees also agreed to:

Remove the one year contract limitation on sales of associated gas from the Naval Petroleum Reserve;

Authorize the President to provide with appropriate reimbursement, petroleum directly or by exchange from the Naval Petroleum Reserves to the Department of Defense for their petroleum product needs. The small refiner set aside in existing law would be preserved. Exchanges of oil would not be subject to Federal procurement statutes.

In summary, the authorizations in the Energy Security Act (S. 932) are as follows:

DOE's authority to obtain oil for the SPR would be made more flexible, including authorizing DOE to conduct exchanges of Naval Petroleum Reserve oil or other oil for the SPR without having to follow the usual procurement laws and regulations and eliminating the requirement that DOE submit amendments to the Strategic Petroleum

Reserve Plan prior to taking actions authorized under this Act.

The conference agreement directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act so as to have the effect of allocating lower tier oil to the Federal Government for acquisition to deposit in the Strategic Petroleum Reserve (SPR). Given the limited financial resources available to purchase oil for the SPR, this would increase the amount of oil that can be obtained to fill the SPR. The President shall implement this requirement through the use of the entitlements program, but not with respect to any crude oil acquired after September 30, 1981, for storage in SPR. In addition, the agreement provides the President with discretionary authority (1) to place Federal royalty oil in the Reserve; (2) to exchange, either directly or indirectly, Federal royalty oil for other oil to be stored in the SPR; or (3) to transfer proceeds from the sale of Federal royalty oil to a special Treasury account to be used to acquire more crude oil for the SPR.

The special Treasury account into which are deposited the proceeds from the sale of entitlements and royalty oil is available for use by the Secretary of Energy to purchase crude oil for the SPR, but such use is subject to any DOE authorization bill, and advance appropriation (after the date of enactment of this Act) is required.

There is one exception. Amounts in the account which are proceeds from the sale of entitlements under subsection (a) are available to the Secretary for fiscal year 1981 without any further appropriation.

SUMMARY OF AUTHORIZATIONS

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985	Other
Title I	[1]20,000					[2]68,000
Title II	[3]1,450	([3])				
Title III						
Title IV	120	110				
Title V	[4]360	[5]880	[6]1,025	875		
Title VI	[8]10	20	20	20	20	
Title VII	5	([9])	([9])	([9])	([9])	[9]45
Title VIII						
Total	21,945	1,010	1,045	895	20	68,045

[1] Up to $3 billion, subject to appropriations, is available for synthetic fuels projects under the Defense Production Act (part A).

[2] Upon congressional approval of the comprehensive strategy, up to an additional $68 billion could be authorized for a total of $88 billion.

[3] Authorizations for fiscal years 1981 and 1982, are, in the aggregate, $1.2 billion for the comprehensive biomass and alcohol fuels activities (part A), and $250 million for urban waste activities (part B).

Under part A, $600 million will be available for USDA activities, and $600 million will be available for DOE activities.

[4] Title V authorizations for fiscal year 1981 include the following amounts for:

	Millions
Conservation	$200
Solar	100
REEP (total for fiscal years 1981 and 1982)	10
Auditor training	10
Industrial	40
Total	360

Title V authorizations for fiscal year 1982 include the following amounts for:

	Millions
Conservation	$625
Solar	200
REEP (included in fiscal year 1981)	
Auditor training	15
Industrial	40
Total	880

[6] Title V authorizations for fiscal year 1983 include the following amounts for:

	Millions
Conservation	$800
Solar	225
Total	1,025

[7] $875 million is authorized for the Energy Conservation and Solar Energy Bank for conservation purposes only.

[8] Title VI authorizations for fiscal year 1981 include $5 million for geothermal reservoir confirmation, and $5 million for feasibility studies.

[9] $45 million is authorized under title VII for fiscal years 1982–90 for the comprehensive 10 yr acid precipitation research program.

Disclaimer: This summary was prepared by the Staff of the Committee on Energy and Natural Resources of the U.S. Senate for information purposes only and does not fully present the tentative conference agreement as of May 21, 1980. The final agreement of the conference will be reflected in the conference report only.

Contact: Richard D. Grundy (49894), Michelle R. McElroy (42219): Press Inquiries. June 2, 1980.

(Mr. STEWART assumed the chair.)

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, that great philosopher Pogo had a remark which I think sums up this country's energy problems. He said:

> We are surrounded on all sides by insurmountable opportunity.

This bill, S. 932, the synthetic fuel bill, the Energy Security Act of 1980, is the first long step toward surmounting that opportunity, toward getting this country moving.

My distinguished colleague from Washington (Mr. JACKSON), put the first synthetic fuel bill in in 1975, and we were able to pass it at that time.

Indeed, our synthetic fuels efforts in this country go back even before the Jackson bill of 1975. They go back to the first retort for shale oil back in Rifle, Colo., in 1906. But here we are in 1980, Mr. President, finally beginning to move on synthetic fuels.

This bill is the first long step toward finally getting this country on the road to energy independence. It has taken a long time, beginning with the Jackson bill in 1975, beginning with floor passage of this bill on November 8 of 1979, when the Senate passed a bill to establish the United States Synthetic Fuels Corporation to encourage the creation of a synthetic fuels industry in the United States. The House of Representatives had previously passed a bill with similar objectives; but implemented through the Defense Production Act rather than a new Federal entity.

Today, the Senate is considering the conference report on the Energy Security Act. The conference has been a long and complicated one. But it has been a constructive and bipartisan effort. There has been no basic disagreement between the Senate and the House concerning the need for a major synthetic fuel initiative in this country. There really has been very little disagreement among the conferees about the principal components which such an initiative must have.

Similarly, there has been general agreement that the synthetic fuels initiative should be accompanied by new and expanded Federal support for energy conservation, solar, geothermal, alcohol, and other renewable and alternative energy measures. No single response to our national energy crisis can alone make the difference. We will have to aggressively pursue every opportunity.

The conference has been long and difficult, not because of basic disagreement, but because of the magnitude and complexity of the programs and policies which are necessary to achieve the objectives of this act.

Mr. President, this bill is the joint effort of many, many people, not only the distinguished Senator from Washington, Mr. JACKSON, the chairman of the Energy Committee, but particularly our Republican colleagues, Senator HATFIELD, the ranking minority member of the Energy Committee and Senator DOMENICI, who put in a bill from which many of the concepts were taken. His hard work and cooperation were very important to this measure.

The chairman of the standing committees in the Senate, including Mr. PROXMIRE and Mr. TALMADGE, of the Banking, Housing, and Urban Affairs Committee and Agriculture, Nutrition, and Forestry, respectively; and in the House, the majority leader, Mr. WRIGHT; Mr. MOORHEAD, the chairman of the Banking Committee; Mr. DINGELL, who is chairman of the Energy and Power Subcommittee, played very important parts, as did Chairman FUQUA of the Science Committee and Mr. ASHLEY of the Banking Subcommittee, and Mr. FOLEY of the Agriculture Committee.

The conference agreement preserves all of the critical provisions of the Senate bill. The most significant difference has been to supplement the Synthetic Fuels Corporation's program by providing for an interim effort under the Defense Production Act of 1950 which would provide initial Federal assistance to synfuels proposals to meet defense needs during the Corporation's organizational period. Furthermore, standby authorities would be provided to the President to act under the Defense Production Act to augment synfuels activities in times of a national energy emergency to meet defense needs.

Mr. President, we have done a great deal in this bill. First of all, we have established authority for a United States Synthetic Fuels Corporation. It will be operated as a Federal entity, under a seven-member board appointed by the President but operating independently of the Congress in the sense that the Corporation's funding will not be on the basis of annual project-by-project approvals, but the total $20 billion phase I funding will, under the bill and under Appropriations Committee action, be made available in one increment, thereafter to be obligated by them independent of Congress.

We also have an Energy Conservation and Solar Bank, some $825 million in scope. We have a gasohol program, $1.2 billion in scope. We have a $250 million urban waste program. We have a provision for targets and goals for energy conservation and energy use in this country, which will require the President to submit and Congress to approve energy targets and goals for the production and consumption of energy in 5-year increments from now to the year 2000.

Mr. President, we will never have an energy policy until we take that action, until we decide where it is we want to go and how it is we expect to get there. Otherwise, the future will be the same kind of disarray, in terms of energy, that the past has been.

These procedures for targets and goals will lay out that plan, that road map, for both the administration and Congress so that we can say, once that is adopted, that we do have a national energy plan which will tell us how much coal, how much nuclear energy, how much solar energy, how much energy from hydroelectric sources, how much of each resource we expect to produce and consume in each of the outyears.

We have a utility conservation program that will be very important; renewable energy, including photovoltaic, low-head hydroelectric, and geothermal programs as well as a special provision on energy self-sufficiency is principally designated for the Island of Hawaii. We have an acid precipitation provision to begin the study of that very difficult phenomenon that threatens our lakes and their productivity in terms of fish, and threatens our croplands, principally, from the burning of coal.

Finally, Mr. President, the last piece put into the puzzle was an amendment on the strategic petroleum reserve. The conferees, without a dissenting vote on this particular provision, first provided that the Government would have to resume a filling of the strategic petroleum (oil) reserve at a rate not less than 100,000 barrels per day and continue at that rate. We also provided that oil cannot be withdrawn from the Elk Hills Reserve, unless that 100,000-barrel rate is met. In effect, that means that the administration must meet the 100,000-barrel-a-day goal, because you must withdraw the oil from Elk Hills.

What we are trying to do and did, in fact, accomplish in this conference report is to lock in the requirement to make it, I believe, foolproof, to leave at least that 100,000 barrels a day going into the Nation's strategic petroleum reserve.

We also provided, Mr. President, that the Government's purchases for the strategic reserve shall be on a basis of lower tier prices. Mr. President, lower tier prices for oil are now running at about $7 per barrel. What, practically, this amendment means is that the Government, with the same amount of dollars, will be able to acquire five or six times as much oil as it could have under the old program, because, under the old program, if the Government bought lower tier oil at $7 a barrel, they would have to pay into the entitlements fund, bringing their average cost of oil up to the average world price. Similarly, if they bought oil at the average world price, they would have to pay that average world price, which was, in my judgment an artificial requirement. The Government should have been able to purchase the oil at the lower tier price without paying an entitlement penalty, which is principally a program for refiners.

What we have done here is not only give them the right to acquire oil at lower tier price, but acquire oil at any price and have the difference made up by the entitlements fund which will, in effect will guarantee the Government the right to acquire oil at lower tier prices. Any oil acquired will be at $7 per barrel, or whatever the lower tier price is at that time, which will be very close to $7 a barrel and will enable the Government to purchase five or six times as much oil.

Mr. President, in 1973 we had the first oil shock, attenuated by gas lines, by the October war and its embargo, by a shaking to the very foundations of the sensibilities, the psyche, of the American people. That oil embargo, first made us realize that we were, in fact, dependent on some sheiks in some far distant land, that this country was, in fact, not self-sufficient in everything, as many Americans thought at that time.

Since that time, Mr. President, the American people and the Congress to a large extent have been transfixed like a rabbit before a snake, immobilized, unable to act, unable to strike out with any bold action, unable to shake off the chains of energy dependence, indeed, as some have described, a sleeping giant.

It takes this country a long time to get aroused, Mr. President, it takes the sleeping giant a long time to awaken. We have seen this time after time in wartime, as it takes us a long time to mobilize.

What S. 932 says, Mr. President, is that the sleeping giant is at long last beginning to awaken; that we are beginning to take those first bold steps that will, in fact, insure not immediately but in the outyears our energy independence.

I do not mean to overstate or make claims that are too great for S. 932 because, indeed, it does not solve the whole energy problem. But it does make a first step. We still have problems of coal, of nuclear, of oil and gas leasing, of the whole energy spectrum yet to be solved. But by S. 932 we take those first steps to give us gasohol in the short term, to begin to take important steps in conservation, with the Energy Conservation and Solar Bank, and to give us in the outyears large amounts of synthetic fuels, 500,000 barrels a day by 1987, 2 million barrels a day by 1992.

At long last, Mr. President, the United States is beginning to act and S. 932 proves that fact.

Mr. President, as I said earlier, today the Senate will consider the conference report on the Energy Security Act, S. 932, and will determine whether the United States is ready in 1980 to take the essential step to free itself from its unacceptable dependence on imported petroleum. That step is the development of the capability to produce gaseous, liquid, and solid hydrocarbons from abundant domestic resources of coal, shale, tar sands and heavy oils. This is a step we have failed to take several times in the past when specific opportunities were presented. It is a step we must take now.

The world price of crude oil is now limited only by the fear of the oil producing countries that further price increases will bring economic chaos and ruin their investments which are measured in the currencies of the consuming countries. The minute the oil producer cartel convinces itself that the Western economies have managed to absorb the latest round of increases in energy costs, it imposes another one on us.

So our efforts to adjust to higher and higher energy prices will ultimately fail unless we take that essential step to establish a program to set a limit on the price we can be forced to pay for oil.

There is only one real way to set such a limit. That is to develop the capability to produce other domestic sources of energy, particularly gaseous and liquid hydrocarbon fuels, as alternatives to imported oil.

That is the purpose of the Energy Security Act, S. 932, as agreed to by the Senate House conference on Monday of this week. This bill establishes the fundamental elements of Federal policy to develop the real alternatives to imported oil:

A comprehensive, credible commitment to develop synthetic gaseous, liquid, and solid fuels from abundant domestic resources of coal, shale, tar sands, and heavy oil;

The largest, most flexible set of energy conservation initiatives ever enacted by the Congress, including authority which will result in nearly $2,140,000,000 in Federal outlays for energy conservation between now and 1985 (and a far greater expenditure of private funds) to produce energy by improving the efficiency with which we use it;

A major effort to speed the production of gasohol, derived from abundant domestic biomass, as a substitute for the commodity which is most affected by our need for imported oil: high octane, unleaded gasoline; and

Initiatives in solar energy, and other renewable sources of energy which, taken together, constitute a watershed in Federal commitment to a mature, major program to commercialize alternative renewable sources of energy.

The Energy Security Act is comprehensive. Its major provisions complement and reinforce each other. Each of these provisions is needed if an effective policy is to be established. In the case of this measure, the whole is greater than the sum of its parts.

This concept is important, because it is evident that a meaningful synthetic fuels program must be accompanied by many of the other key provisions of the Energy Security Act.

The United States Synthetic Fuels Corporation, established by the measure, is authorized $20 billion in the first phase of the synthetic fuel program, and, ultimately, $88 billion; if Congress approves the comprehensive production strategy and additional authorizations and appropriations.

Mr. President, these elements of the Energy Security Act are precisely the ones which guarantee the credibility—to OPEC and to the world—of the commitment of the United States to the development of domestic alternatives to imported oil. The essential features of the conference committee proposal are three:

First, we need a Synthetic Fuels Corporation. We do not need a replica or, worse, some segment of the existing energy bureaucracy. The Synthetic Fuels Corporation will be a financial institution with technical expertise but first and foremost a financial institution. While subject to congressional oversight it will not be snarled in the redtape which so characterizes the bureaucratic experience. The Corporation will be able to make realistic and credible commitments to private industry for large projects with long lead times without the uncertainty of year-to-year budgetary second guessing.

The United States Synthetic Fuels Corporation is a sui generis special purpose Federal entity to carry out the national synthetic fuel development program established in this part. Under this part the Corporation will provide financial assistance to the private sector for the purpose of bringing about the commercial production of synthetic fuel by private industry.

In order to expedite the achievement of the highly important national objectives of the legislation and obviate the delays that often beset programs administered by the departments and agencies of the executive branch this entity is established free of many of the constraints placed on such departments and agencies.

Second, there is a significant Federal commitment of funds of sufficient size to attract, and support, a broad spectrum of private sector efforts at synthetic fuels commercialization. This commitment by the Congress is credible in financial terms and large enough to permit more than the few major international oil companies to participate.

This Federal synthetic fuels policy will permit the initiation of a diverse group of commercial scale projects. Actual experience—as opposed to conjecture and study—can then provide us with the necessary information upon which to base decisions to move forward. The key is diversity. It represents a series of options we should long ago have begun to clarify with real experience. We as a nation can no longer afford to wait for others to decide whether or not to investigate these options further.

Mr. President, I now yield to my distinguished colleague, Senator Hatfield, the ranking minority Member, with my thanks to him for his great work, to the minority for their great work, and particularly to Senator Domenici, who is not here at the moment, for his hard work.

I would like to say one final thing, Mr. President. This whole year we have had total cooperation from the minority in the field of energy. I think it speaks well for the minority. I think it speaks well for the country that on this critically important subject we are able to get together and lay aside partisan differences. We are going to continue to have partisan differences on bills like the Department of Justice authorization bill that was pending before this matter was brought up, but I hope we will continue with this same bipartisan spirit on energy matters.

Mr. HATFIELD. Mr. President, I express my appreciation for the kind remarks made by the Senator from Louisiana. This cooperation, which has been very real, is basically due to the simple reason that this is a subject which transcends partisan and philosophical differences. Of course, the minority has been as keenly concerned about these matters as the majority, and we have enjoyed this working relationship. I am hopeful that it will continue on many other issues. Perhaps this morning as we take up this matter we will bring the Senate back to this kind of cooperation. For this, indeed, it would be a very well timed bill.

Mr. President, the Energy Security Act represents congressional determination to break the economic and technological impasses that have left America energy-weak and imports-dependent. Were this simply a synthetic fuels act, it would not represent such determination. But I believe that all who read this act will understand that it is more than that.

Congress is recognizing, in the titles of this bill beyond the synfuels, that energy conservation and renewable energy resources are critical components to our energy solution. In fact, we are finally beginning to treat conservation as though it were a fuel.

In this bill, we are literally buying barrels of conservation, cubic feet of conservation, metric tons of conservation, and kilowatt-hours of conservation. There is no cheaper source of new oil, gas, coal, or electricity than conservation, unless OPEC happens to cut their prices back to the real cost of production.

The actions of the foreign oil cartel have been both a stimulant and a depressant to American energy development. On the one hand, the higher prices of foreign oil have made the more expensive alternatives economically more attractive. On the other hand, the oil price increases have been so precipitous, so unpredictable, and so unrealistic in relation to true cost, that they have paralyzed our economic decisionmaking and shaken our very economic foundations.

Ours is an economy based on cheap oil. High and unstable oil prices send shock waves rippling throughout American enterprise, including the American effort to develop new energy resources. It is the responsibility of Government to act to stabilize such a situation. This is exactly what the Energy Security Act does for synthetic fuels development.

But, again, I want to emphasize that synthetic fuels are not a complete response to the American energy problem—first, because they have no short-term impact; and second, because we cannot consume them with the same voraciousness with which we have consumed our conventional oil and gas resources. They will be too expensive for the traditional American energy appetite.

The only application of energy-related technology which can have a large impact in the near term is conservation. We can and will, through this bill, back foreign oil out of our economy with conservation, and at a cost that is less than half the going OPEC rate.

We also can and will, through this bill, make a near-term difference by applying certain renewable energy resource technologies to the task. They, too, are available at costs below that of international oil.

Mr. President, in the Energy Security Act, title V, the "Solar Energy and Conservation Act of 1980," establishes a system for assisting through America's financial institutions the installation of conservation and solar measures by residential, commercial and agricultural energy users. It removes the Federal prohibitions on utilities in financing, supplying and installing such measures for their customers, so that the pioneering experience of Oregon's Pacific Power & Light Co. and Portland General Electric Co. might be applied elsewhere in the country.

It authorizes pilot projects for advanced delivery systems for conservation measures in the home, expands the residential conservation service program, extends the weatherization program, and accelerates conservation research and development.

I view it as just a first step. We will have to do more in order to turn the corner on energy, but I am very pleased with it as a first step.

Mr. President, I strongly support passage of the conference report on S. 932. I commend my colleagues on the committee of conference for their months of very difficult work, especially our subcommittee chairman and co-chairman of the conference (Mr. Johnston) and the ranking Republican on the subcommittee (Mr. DOMENICI), who, as the Senator from Louisiana indicated earlier, introduced the original bill dealing with the establishment of a synthetic fuels agency in this Congress. His work in previous Congresses, as well, laid the foundations for this bill.

I want to take some time, Mr. President, to commend the joint staff with whom we have worked over these long months. Mr. President, we come on the floor and oftentimes pay tribute to each other, very much in a traditional and sometimes cursory manner and we pay tribute to the staff in a similarly traditional way. But I want to say in this particular instance, which is only representative of many others that I could enumerate, that the staff on both sides has performed labor far beyond the call to duty. They have worked, literally, from 8 a.m. to midnight over a period of the last 20 consecutive days in order to turn hundreds of pages of conference agreements into a statute.

I think it is a good example of why we have specifically exempted Congress from unionization. I am sure after conferences like this the committee staffs would be prime areas for unionizing. These kinds of hours and, oftentimes, working conditions and, in many instances, the wages paid would all be prime targets in a union movement. I think this is an example of the dedication and the devotion of these individuals.

So I want to make not only the traditional comments of gratitude to them, but I want to say to them and, through them, to their families that I understand that 20 days of working on an 8 a.m.-to-midnight basis does not help family relationships. It does not build strong family ties. It cannot help but have an impact on the children and the spouses of these staff members. So I think that this is an example where we should take time to make a little bit more than just the traditional comments of commendation, and to recognize the kind of staff work that has been rendered for this bill.

This bill would not be here today—this conference report, I doubt, would be back before this Congress—if it were not for those long hours given by the staff to bring together the work of the conferees, who, in many instances, find it easier to agree and then to say to the staff, "Now you draw it up."

Oftentimes, that agreement is very vague. Oftentimes, it is the result of a long and convoluted debate, and we dump it into the laps of the staff and say, "Now you draft what we really need."

So we expect the staffs to be mindreaders; we expect the staffs to be brilliant logicians; and generally, they come forward and live up to those expectations. They certainly have in this case.

They have to read our minds. They have to read our motives. They have to read our intentions. And they also have to be politically sensitive. That this is all wrapped up in just a few individuals who perform so nobly is something I want to bring to the whole Senate's attention.

Let me add one further detail. This conference report embodies 425 pages of statutory language developed from our conference agreements. But that does not tell the full story. It was developed from conference agreements which, if they were printed in the same line-of-type format, would have comprised 10 times that number of pages—not 425, but 4,000. Here, again, is evidence of the kind of work that has been performed by the staff for the benefit of the whole Senate and the whole Nation.

I am very proud of their work, and I am speaking of the staff on both sides of the aisle. I am speaking of their joint effort.

Mr. President, I want to pay special tribute to the pioneering work of the Senator from New Mexico (Mr. DOMENICI). I know of no man in the Senate who has a longer involvement in the subject of synthetic fuels and who has developed greater expertise than has the Senator from New Mexico.

But many people have made this possible. I am grateful to have been part of this exercise, which I believe has demonstrated to the American people that Congress is a responsive institution, which can do the job and do it in spite of great differences—partisan, political, and philosophical.

This report is a good product, and I think the Nation has been waiting for this kind of product for a long while. So I am very happy to have been a contributor. But I have been a minor participant compared to the major job that has been carried out by the Senator from New Mexico on our side of the aisle and the Senator from Louisiana on the other, and many other Senators.

I note the presence of the Senator from New Jersey (Mr. BRADLEY). I want to say that it has been a great pleasure to work with Mr. BRADLEY in the area of conservation. He has been as deeply committed to energy conservation and as willing to consider it a new source of energy as I have. He has brought great leadership to that part of this bill, and to the urban waste initiatives. This is what makes all the effort worthwhile, when we see the results of all those long days and hours and weeks and months of labor.

Mr. President, I yield to the Senator from New Mexico at this time to make an opening comment.

Mr. DOMENICI. I thank my good friend from Oregon very much.

Mr. President, if the Senator from Oregon thinks we have enough time, I shall yield myself 15 minutes.

Mr. HATFIELD. I yield 15 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, tributes have been paid here today from both sides of the aisle. It would be redundant if I tried to mention all of the Senators and the fantastic staff people, majority and minority, and the great efforts that they made, in bringing this bill to this point. I think they know not only how much the Senator from New Mexico appreciates what they have done, but how cognizant he is of the fact that we would not be here today but for their extreme dedication and sacrifices. I should like to mention for the record one staff member who, I believe, should be part of this history.

The Synthetic Fuel Corporation, as has been indicated here, came from a bill that the Senator from New Mexico introduced. It was prepared with a lot of help, but I want to pay tribute to a member of my staff, Steve Bell, who was the principal staff person involved in drawing up the initial Synthetic Fuel Corporation, S. 1377.

We nicknamed S. 1377 "Rocky 2." The film, "Rocky 2" was around prominently in those days and since we borrowed significantly from what we called Rocky 1, which was the Rockefeller Energy Independent Authority of some 4 or 5 years ago, we felt the name was appropriate.

I want at this point to thank a number of staff from the majority side.

I wish to commend Dan Dreyfus, Richard Grundy, and Owen Malone of the majority side and Chuck Trabandt and Dave Swanson of the minority side of the Energy and Natural Resources Committee; Bob Poling from the Congressional Research Service for his legal assistance and policy advice. And I want to thank Leon Reed of the Banking Committee. Everyone has clearly indicated that he has made a major contribution to the drafting of this measure, and while members of the committee he serves on do not necessarily support this measure, we are appreciative of the contribution he has made.

Having said that, I know that all of those staff members, those sitting with me and those on the majority side, know what they have done.

This was an extremelv difficult conference. As the various titles will indicate, there was multiple jurisdiction, and, on the House side, we took them a bill that had not only a Synthetic Fuel Corporation but several other titles as well. When you understand that the House did not even have a Synthetic Fuel Corporation or are of the other nine titles in their bill, then my colleagues here in the Senate can understand how difficult this conference report was to accomplish.

I also want to thank Senator HATFIELD, our ranking Member, not only for his kind words, but, in a very real sense, he was the ranking Republican, and knowing that I was involved in the synthetic fuel, or security corporation, aspects, he most generously permitted me to not only take care of the bill in committee, but to take the lead in conference. I want him to know I am most appreciative.

I also want to say here that I really could not have done the detailed and difficult work on the corporation, or the other titles, without the absolutely excellent contribution of the Senator from Idaho (Mr. MCCLURE).

Having said that, I will quickly say to the Senate, that the titles that refer to the solar bank, to the conservation bank, to geothermal, to gasohol, obviously, have already been addressed. They are of tremendous importance. Conservation is an absolutely important ingredient in our energy future.

The other alternates promoted, solar,

geothermal, wind, biomass, obviously, make this a superb package.

I will spend a few moments talking about synthetic fuels.

I believe today, and when the House passes this conference, that we are about to witness the birth of a new industry. That is what this is all about.

The solutions to America's energy crisis will not be simple, in this Senator's opinion. The solutions are not going to be as forthcoming and as timely unless we are willing to be innovative, to try things we have never tried before.

In this instance, it appears to me that whether or not the United States of America is going to have a synthetic fuel industry—and I use the word "industry" in its broadest sense to mean the infrastructure, the ability to manufacture the parts, the manpower that can put together, literally, billions of dollars worth of synthetic fuel plants might very well have come in due course in this country without this bill. The ability to use the 600 years of coal, the 200 million barrels of oil locked in shale, and the 30 billion barrels locked in tar sands, might have all come, one day or another.

But I predict they would be a long time in coming because of difficulties encountered in how long it takes to get permitted, and how difficult it is to finance.

In today's energy market, plants cost anywhere from $1 to $3 billion, take anywhere from 5 to 9 years to build, require manpower on site between 2,500 full-time workers, as high as 9,000 or 10,000 to construct them, and we have not, as of today, tried a single one.

So I perceive that what we are doing here in a marriage between the Federal Government and the private sector, an innovative and diverse partnership, is that we are giving birth to a new and exciting industry which will move America significantly down the road toward energy independence.

At the bare minimum, in a few years, we will know, as a people, whether or not these huge resources that are convertible through the synthetic processing, will be available over the next 10, 20, 30, or 40 years for Americans in the form of natural gas, in the form of liquid petroleum, and other combinations thereof.

While I am today grateful after many months that we are giving birth to this new industry, I am aware that it will be difficult. It will take a rare combination of good leaders appointed to the corporation's board, and a commitment on the part of the private sector of America, to come forth with significant ingenuity and to take some significant risks, for while we will aid them with financing, they will have to put up 25 percent of the equity. For a $2 billion plant that may take 9 years to build, that is a rather significant commitment.

That last might indicate why we have to try something different and innovative, why we cannot have the bureaucracy of the Department of Energy managing this approach, and why I think we opted, quite properly, for an independent Federal entity, not truly a corporation in every respect, but an entity with the autonomy and inhibitions this statute itself both gives to it and burdens it with.

Having said that, I predict today, and with reasonble certainty, that we will reach the goal of 500,000 barrels of oil equivalence by 1986. I predict that we will reach the goal of 2 million barrels by 1992.

In fact, I am confident that by the time that last date arrives, unless we run into some environmental or technical problems which will be evaluated in the phasing of this bill, that we will produce more than 2 million barrels by 1992, and that this bill will be the vehicle to break the OPEC stranglehold on America if we will follow through with it, insist on excellence, and if our President will appoint the kind of people to this board, the kind of people that are here in this country that are capable of managing an effort of this type and that will do so, not for financial gain, but because they are part of an exciting venture, moving America toward energy independence.

Last, I predict that when we finally have completed our mission that this will not have cost the American taxpayer any money.

I am absolutely confident and predict that when we have completed these synthetic fuel plants, their product in the marketplace will have reached a value that will assure that the Federal Government will be repaid its loans, its loan guarantees, and whatever financial assistance has been forthcoming.

When I approach it that way, and I hope the Senate does today when we vote, and I hope by overwhelming numbers in support of this, it seems there could be no logical reason for not approving this kind of approach.

If we get started quickly and the price of oil continues to rise, we will be producing synthetic fuels from various technologies, from both coal shale and tar sands at prices that this Senator is confident will make those investments excellent marketplace investments. We will be repaid all the money we invested and America will be the better for it.

Mr. President, there are many other portions of this bill that are significant.

There is the strategic reserve, which the distinguished Senator from New Jersey, now managing the bill for the majority, has been vitally interested in.

Certainly, we have found a way, I believe at a minimal cost to the American taxpayer, to begin at least 100,000 barrels a day fill, and hopefully more.

These are all important parts of America, through its elected representatives, even with diverse views and diverse philosophies, coming together and making one major effort in this bill to direct our private sector resources and our governmental efforts toward breaking the stranglehold of the OPEC cartel, and making this great Nation of ours energy independent as soon as possible, while we are also able to participate as world players.

Mr. PROXMIRE. Mr. President, will the Senator yield me 5 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, do I have any time remaining of the 15 minutes?

The PRESIDING OFFICER. The Senator has used 13 minutes of his 15 minutes.

Mr. DOMENICI. I yield the remainder of the time back to Senator HATFIELD, and I yield the floor.

Mr. JOHNSTON. Mr. President, I yield to Senator PROXMIRE such time as he may need, to Senator FORD such time as he may need, to Senator BRADLEY such time as he may need, then to Senator RANDOLPH, should he so desire, such time as he may need. I ask unanimous consent that the last speaker be able to yield back the remainder of my time or yield to such other Senators who wish to speak.

Mr. PROXMIRE. I need only 5 minutes, but I will speak against the conference report, so perhaps I should take time from the minority.

Mr. JOHNSTON. I will be happy to yield time to the distinguished Senator, even though he is against the conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, while I believe the conference committee on S. 932 has made considerable improvements in the bill which passed the Senate last November, I am still compelled to oppose this legislation. My problems are with title I which would create not one, but two synthetic fuel programs.

When the Banking Committee considered the synthetic fuels legislation, we adopted an aggressive program which would have provided Federal assistance for up to 12 first-generation synfuel projects. The Banking Committee felt that synfuels are an important energy option and that limited Federal financial assistance would help speed commercialization of this energy resource. But we did not feel that a crash program, seeking to obtain an attainable goal by the force-feeding of Federal dollars would represent a wise investment. Nor did we feel that synfuels alone represent the answer to our energy needs. So we proposed to create both a Solar Energy Development Bank and a Conservation Bank to assist consumers in their efforts to reduce their consumption of nonrenewable energy resources. I believe S. 932 provides several important programs to stimulate increased conservation and the use of solar energy.

But, this bill's high marks on conservation and solar energy do not balance its low marks on synfuels.

To begin with, why do we need two synthetic fuels programs? Proponents of the Synthetic Fuels Corporation argued that the primary purpose for creating a Corporation was to avoid the redtape which inhibits Federal agencies and to speed implementation of the synfuels program. But the conference decided that establishing the Corporation would take time, so they adopted a modified version of the House-passed program on an interim basis. This transitional program, under the auspices of the Defense Production Act, is almost identical to the bill approved last summer by the Committee on Banking, Housing, and

Urban Affairs. While it is supposed to terminate once the President determines that the Synthetic Fuels Corporation is functioning, the President retains broad standby authority under the DPA to stimulate further production of synfuels.

I thought we were creating the Synthetic Fuels Corporation because it was not possible to provide effective and timely Federal assistance through existing agencies. But the work of the conference committee appears to belie this argument. Not only are we using existing agencies under the DPA program, but also, we are using these agencies precisely because they are a quicker and perhaps more efficient means of expanding synfuel production.

Because it was felt that a Federal agency could not administer a synfuels program properly, proponents of the synthetic fuels corporation argued that an independent corporation is needed. But the bill we have before us no longer creates an independent corporation. Instead, as the last order of business on the last day of the conference, without any previous discussion, seven amendments were approved which transformed the corporation into a "Federal entity" which is, I am informed, the functional equivalent of a Federal agency. I honestly do not understand why a new Federal agency can do the job that existing agencies supposedly cannot do.

I am also concerned about the methods of financial assistance that are provided in this bill, and the potential for wasteful contracting practices. We have all seen how waste can occur in major Federal contracting programs, and I am concerned that the same sorts of inefficiency and waste could be built into this program.

Despite my concerns, I would be less than honest if I did not say that I consider the conference report to be in many respects, a great improvement over the original Senate bill. Given the raw material that it had to start with, I believe that the conference committee has done an admirable job. The bill before the Senate is no longer an irreversible commitment of $88 billion to synfuels technologies. Mechanisms written in during Senate floor debate, and modified further in the conference, insure that Congress will be given a fair opportunity to rethink this program before making further financial commitments beyond the initial $20 billion.

Thus, what started as an all-out $88 billion crash program has become a phased commercial demonstration program. I still believe the production goal is too ambitious and could strain the Nation's productive capacity, but the general emphasis of the bill, which provides for congressional review and approval of the second phase, is much more in keeping with our original Banking Committee proposal.

The Corporation will not operate entirely free of legal restraints. Some State and Federal laws, relating to environmental, land use, and water rights matters, are specifically made applicable to the Corporation, and I hope that the 11th-hour decision of the conference to change this corporation into a Federal entity will not affect the application of these laws.

In numerous other ways, the bill has been greatly improved, and it is with great reluctance that I will be voting against it.

In closing, Mr. President, I thank and congratulate the chairman of the Committee on Energy and Natural Resources, Senator JACKSON, as well as Senator HATFIELD and the floor manager of the bill, Senator JOHNSTON. Senator JOHNSTON has devoted endless hours, weeks, and months to this bill. He has shown great wisdom and judgment. He has been a most effective leader. In the time I have been in the Senate, I have seen few Senators who have demonstrated greater legislative ability in any matter than Senator JOHNSTON has shown in connection with this bill. Senator DOMENICI, too, was very helpful on the bill and argued his position with great effect.

I thank these Members for their unfailing courtesy during the debate and the conference, and I express my admiration and amazement at their ability and willingness to take on this incredibly difficult task.

I also offer my congratulations, in advance, to Representative BILL MOORHEAD, whose efforts last year have culminated in this bill. I also thank the members of the Banking Committee for their willingness to tackle a new and strange issue. Particularly, I thank the junior Senator from Colorado, Senator ARMSTRONG, and the junior Senator from Massachusetts, Senator TSONGAS, for their outstanding efforts during the committee and Senate deliberations.

Finally, I offer congratulations and thanks to Energy Committee staff members—Chuck Trabandt, Pete Smith, Steve Hickock, Owen Malone, Dave Swanson, and most especially Richard Grundy—for an outstanding effort and for the great courtesy they have shown to our committee throughout the process. I fully recognize their tremendous accomplishment, and commend them for the willingness to accept the occasionally helpful, occasionally irritating advice from our committee and staff.

Finally, I acknowledge the genuine efforts made by the floor managers and conference staff to respond to our concerns, especially those concerns raised by Senator ARMSTRONG and others about water, land use, and other issues of concern in Western States. I do not deny these efforts; I deeply appreciate them.

The will of Congress will soon be expressed, and this bill will undoubtedly become law within a few weeks. I promise that the Committee on Banking, Housing, and Urban Affairs will do its best to see that programs authorized by this act which are within its jurisdiction will operate as efficiently as possible in accordance with congressional intent.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the Conference Report on S. 932 is a milestone. A milestone that has been long in coming.

All the various pieces are falling in place as far as a national energy policy is concerned. S. 932 provides the necessary support and direction to move a national synthetic fuels program off the drawing board and into the mainstream.

This legislation stresses both the increased use of domestic energy resources as well as a greater emphasis on conservation measures. The major focus on the bill is to take those technologies that we know can work and give them the necessary push to make them available on a large-scale basis.

The bill includes major incentives for increased production of many domestic-based alternatives to imported oil, including synthetic oil and natural gas from coal.

This legislation recognizes the fact that coal has a vital role to play if this country is to substantially reduce its dependence on foreign energy. Strong support also is given to other promising new energy sources, such as solar, which need to be developed to the fullest.

The legislation includes a $1.2 billion biomass program to encourage communities to convert waste to energy, a $1.75 billion energy bank to make loans and grants for solar and conservation work in homes, small apartments, and commercial buildings, and other conservation measures, including home energy audits by electric utilities.

Another program established by the bill requires the Federal Government to offer loan, price, and purchase guarantees to stimulate the production and commercialization of alcohol fuels. Price guarantees for fuel produced under the program would be limited to fixed-price agreements, and loan guarantees for construction would be limited to 90 percent of capital costs.

The bill also provides $50 million for a Government study of acid rain. The study would examine the causes and effects of acid precipitation and develop recommendations for addressing the problems by acid rain.

Mr. President, I have served and worked with the members of our Energy Committee. I compliment each of them, because each has made a major contribution to this piece of legislation.

We have diverse views on the Energy Committee, and I think the views of the regions and philosophies of this country will be found in this piece of legislation. I compliment those members of the Banking Committee that came and served on the conference committee and those Members of the House of Representatives who worked long and hard to see that a good piece of legislation came before each body of Congress and that it is in the best interest of the security of this country.

I regret that the chairman of our Banking and Housing and Urban Affairs Committee must oppose this piece of legislation. Not only the chairman and the ranking minority member, but the floor manager of the bill complemented the piece of legislation in particular. His major concern seemed to be the placing of the word "entity" as it related to the Synfuels Corporation.

We have done this in the past. We

have used this term or a like term when we were going into something new, and I just suggest the TVA that was new. It was an entity. It was a corporation limited.

It was the protection in this bill, I think, that we wanted to give to the communities and to the States and yet travel a path that would expedite the construction of these plants, the research and development in other areas, and the help that is necessary for individuals as they endeavor to conserve and to help back off the use of foreign energy.

Mr. President, I compliment each and every one for their input. I sincerely believe that this country will be in a better position as a result of this legislation and that the bottom line is our very security.

I yield the floor.

Mr. BRADLEY. Mr. President, this is a day when I think the Senate can be proud of its Members and of the Energy Committee because in the last year we have taken a rather narrow bill that was directed primarily at synthetic fuels and transformed it into a bill which addresses the range of energy problems that confront our country today in a thorough and precise manner.

Mr. President, since the first Arab oil embargo we have been grappling as a Nation and as a Congress with the concept of energy dependence. As we become more preoccupied with that concept we have become less vigilant about our vulnerability to an oil supply interruption and about the questions that pertain to economic growth that are essential in the transition from where we are now to an alternative energy future.

Congress has debated this issue and proposed remedies which are long term in nature while in part ignoring the hard choices of that transition and the particular vulnerabilities that dependence on insecure sources present for our Nation.

That is why this bill that comes before the Senate today as the work of the conference of the House of Representatives and the Senate is one that does address all three of those phases in the energy problem.

Mr. President, title I, the synthetic fuel bill, the solar bank, the titles that apply to biomass and urban waste, all are directed at an alternate energy future that awaits this country out around 1990.

In addition to those, though, we have had I think major effort in the area of energy efficiency, in the conservation bank and the residential energy efficiency plan and the various utility conservation plans, all of which accept the premise that the most easily produced energy in this country lies in the homes of our people and in the plants and equipment of our industries.

And this bill goes after that source of energy, that source of energy which will give us breathing room to move from where we are now in a position of great overdependence on insecure sources to an alternate energy future when energy will decrease in price as more and more people use it instead of increasing in price as more and more people use it in our present energy application today.

So, Mr. President, those two are addressed.

I wish to make the argument that one of the more significant aspects of this piece of legislation is the strategic petroleum reserve which is directed precisely at our most vulnerable area in energy policymaking, an area which unfortunately has been neglected in the past by an administration and by Congress. We rectified that in this bill by beginning the fill of the strategic petroleum reserve at a level of at least 100,000 barrels a day.

Mr. President, as we stand and sit in the Senate and drive our automobiles in this country and continue to live in energy inefficient homes, we sometimes focus on the short-term problems that affect us in our pocketbooks and in our views of what the good life might be, unaware that it is quite possible that in the next 48 hours or 6 months or 2 years we could suffer an oil supply interruption that would create economic chaos and endanger the democratic institutions of our country.

It is, therefore, with a great deal of pride and I think some effort that we were able to address this question of contingency planning through the strategic petroleum reserve. We have not solved any of the three phases of our energy crisis in this bill. But we have begun to address them in a thorough and precise way.

That is why, Mr. President, I am pleased to support this conference report and I feel that the Senate will have something to go home to its constituents and tell them what we have done, something that we can be proud of, something which is an important beginning in three phases of energy policy, two of which have been neglected for at least 6 years, and in the process of this legislation, I think all of us came to know each others regional problems better, came to know each others stresses and each others vulnerabilities, and I think as a result of that we produced a better bill.

Particular distinction should be given I think to Senator JOHNSTON and Senator DOMENICI, who on the majority and minority side, mastered the most arcane aspects of the financing for the Synthetic Fuels Corporation and even came to understand the workings of the residential energy efficiency plan and throughout asked the difficult questions that pertained to the strategic reserve.

So there are a lot of people to whom credit can be given on this day. But there is much to do again. So in supporting this bill I do so as it is an important beginning in the solution to our energy crisis. It is not a final solution. In subsequent Congresses I hope we will return to address in an even more thorough and precise way our continuing vulnerability to supply interruptions and our continuing misuse and waste of energy within our country for, as I said earlier, what is at stake is not simply this election, but the economic viability of our country and the continued vitality of our democratic institutions.

Mr. DOMENICI. Mr. President, does the Senator from West Virginia desire to speak?

Mr. RANDOLPH. Mr. President, if it is agreeable with my colleague at this time under the control of the Senator the schedule.

The PRESIDING OFFICER. The Senator from West Virginia has been yielded time under the control of the Senator from Louisiana.

The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, this is one of the most important legislative proposals that has been brought into this forum for discussion and decision that we have had before us, not in this year 1980, or 1979, or 1978, or the 10 years preceding that. Mr. President, this legislation, very frankly, will indirectly affect the livelihood of every American person and our collective ability to come to grips with subject matter on which not only the stabilization of our American way of life is involved but also the security of 230 million men, women, and children who live in this country.

I do not want to be nostalgic in any great degree, but this is a subject that, as the able chairman of the Energy and Natural Resources Committee (Senator JACKSON) said earlier today, had been around for a long time. That certainly is true.

I wish to commend by name—and I shall place the names in the RECORD—all the members of the Energy and Natural Resources Committee, the Senate Banking Committee, and the members of the four House committees who have done the minute-by-minute, hour-by-hour job—a very difficult job—of reaching a final conference agreement on the Energy Security Act of 1980:

SENATE CONFEREES

Jackson, Henry M., Church, Frank, Proxmire, William*, Williams, Harrison A.*, Cranston, Alan*, Stevenson, Adlai E.*, Johnston, J. Bennett, Bumpers, Dale, Ford, Wendell H., Morgan, Robert*, Durkin, John A., Metzenbaum, Howard M., Riegle, Donald W.*, Matsunaga, Spark M., Melcher, John, Sarbanes, Paul S.*, Stewart, Donald W.*, Bradley, Bill, Tsongas, Paul E.

Tower, John*, Hatfield, Mark O., Stevens, Ted, Bellmon, Henry, Weicker, Lowell P., Domenici, Pete V., McClure, James A., Garn, Jake*, Heinz, John*, Lugar, Richard G.*, Wallop, Malcolm, Kassebaum, Nancy L.*, Armstrong, William.*

HOUSE CONFEREES

Staggers, Harley O. (W. Va.)**, Ashley, Thomas L. (Ohio)***, Dingell, John D. (Mich.)**, Reuss, Henry S., (Wis.)***, Wright, James C., Jr. (Texas)***, Moorhead, William S. (Pa.)***, Fuqua, Don (Fla.)****, Foley, Thomas S. (Wash.)*****, Neal Stephen L. (N.C.), Ottinger, Richard L. (N.Y.)**, Blanchard, James J. (Mich.)***, Sharp, Philip R. (Ind.)**, Moffett, A. Toby (Conn.)**, Gore, Albert A., Jr. (Tenn.)**, Vento, Bruce F. (Minn.)***, Broyhill, James T., (N.C.)**, Wydler, John W. (N.Y.)****, Brown, Clarence J., Jr. (Ohio)**, Stanton, J. William (Ohio)***, Wampler, William C. (Va.)*****, Wylie, Chalmers P. (Ohio)***, Mc-

Kinney, Stewart B. (Conn.)***,
Kramer, Ken (Colo.).

Senate Energy Committee (18)
*Senate Banking Committee (14)
**House Interstate & Foreign Commerce Committee (8)
***House Banking Committee (10)
****House Science and Technology Committee (3)
*****House Agriculture Committee (2)
Senate 32; House 23; total 55.

I think it appropriate in consideration of this agreement that we go back and talk about the Synthetic Liquid Fuels Act of 1944. The responsibility was mine as chairman of the Subcommittee on Coal in 1942, to hold the hearings which eventually led, along with the work of Senator O'Mahoney, to passage of that act.

I do this to remind not only those in the Chamber but the country as a whole, that we often act in this country at every level of our society, including the legislative branch after the fact rather than before the fact. In the middle forties we were faced with the crisis of World War II, and thus faced with immediate crisis it was believed that something should be done in research and development in synthetic liquid fuels.

In the legislation we developed at that time, we also thought of a broad range of alternative fuels, including forestry and agricultural products. As Senator Jackson, Senator Johnston, Senator Domenici, Senator Bradley, and all who have dealt with this subject matter on a historical basis know, with the full support of the Secretary of the Interior, Harold Ickes. We knew the job had to be done.

What happened? Eighty-five million dollars authorized by the 1944 act is not very much money now, but a considerable amount of money then, was placed into the program for research and development. But the U-boats went home, and no longer threatened the east coast of our country from being cut off from the supply of petroleum we needed. Then, we were not the mobile Nation we are today. We did not need the comparative amounts of fuel that we need now.

Everybody said, "The war is over. The U-boats have gone home, we have no problems in this country. We need no backup of synthetic liquid fuels."

So of the $85 million originally authorized I remind my colleagues and the citizens who will read this Record, $3 million was returned unused to the Federal Treasury.

I wish I had been in Congress during the years when the decision to abandon this effort was made. Someone might say that I retired from the House of Representatives in 1946. I did not retire. I was defeated. It is pointless to debate whether I was more valuable to the district I represented in 1945 and 1946 than any other period over the 14 years. It is a fact—and we are realists here—that when the people decide to make a change, they decide to make it. Many of us went back home in 1946, not only Democrats but Republicans as well. A conscious choice was made.

So I was not given the privilege and the great responsibility to return here to the Hill until 1958, taking my office a few days after being elected in November because of an unexpired term which had been occupied by Senator M. M. Neeley from West Virginia for many years.

My purpose at this juncture, however, is to thoroughly endorse what is being done now. The conferees did not subscribe to some of the debate of a few months ago when it was said here, "We should not do this job now," Senator Jackson, "because we will not have any of the beneficial effects of synthetic fuels for 7, 8, or 10 years—so let us do nothing about it."

I did not and do not subscribe to that argument, of course, because you start to do something you must do it today, not wait another year and another year until it is absolutely too late. If we wait, our Nation, even in time of peace, can be easily frustrated, and in time of war can suffer tragic consequences.

This Energy Security Act of 1980 signifies congressional awareness and support for synfuels production as a welcome replacement for oil imports. This action initiates a new beginning as will the Powerplant Fuels Conversion Act of 1980 which will come before the Senate shortly. We are now seriously attempting to stem the tide of petroleum from overseas.

It has been said before, and I only repeat it that $95 billion will be spent in 1980 for petroleum that comes largely from unstable and unfriendly countries overseas. Domestic funds which end up in foreign treasuries and thus cannot be spent on needed programs at home.

(Mr. EXON assumed the chair.)

Replacement of these oil imports is absolutely imperative. The prices will soon range from $33 to $37 a barrel. I say to the Senator from New Mexico (Mr. Domenici) that it might be $40 in a few days or a few weeks. It might be any amount. We are faced not only with our hostages in the embassy in Tehran or elsewhere in that country; we are a hostage people from a nation within to the OPEC countries and the other oil-producing countries where they set the price and they set the amount they permit us to buy.

And so this conference report is a long awaited and wonderful response from the membership. I repeat it has been a tough job, the product of 8 months of intensive study, work, and negotiation. It is encouraging to me, as one who was working this subject in 1942, to work it again in 1980, even though we talk in terms of $20 billion, rather than $85 million of the original effort.

And so this is a commitment long overdue. Passage of this legislation sends a message to OPEC stating that we are encouraging rather than discouraging the construction of synthetic fuel plants—not only through subsidy support where needed to assure early commercialization of these plants, but with unwarranted regulation and inflationary impacts.

Realistically, we will need many different kinds of plants to produce many different kinds of fuels: Low, medium, and high Btu gases, heavy and light boiled fuels, distillate, naphtha, gasoline, and alcohol—as well as a number of petrochemicals and other valuable byproducts. Most of the proposed plants would produce several of these fuels. In the largest projects, the feedstocks are most likely to be coal or oil shale; but peat, wood, and trash could be used in some situations.

Certainly, I talk perhaps too often about coal, but we cannot overstate its importance. It is found not only in West Virginia, but it is found in Wyoming, it is found in 26 States across America—coal, ready to be used, ready to be used in many, many ways, cleanly burned, to help take care of the problem that is addressed in synfuels legislation.

There is also oil shale, certainly, in the Rocky Mountain regions of this country. I remember when we opened up the first project out at Rifle, Colo., after the 1944 legislation that passed. You see, we had it underway. We were doing then what was to be dropped. I always hoped it would not be as the poet said:

> Dropped like a ragged old coat in the street
> and never put on again.

Well, we are putting on a coat again. I believe it is a coat that we understand must be used, because it is a protection against the evil winds that blow against this country from many parts of the world.

Approval of this conference report also signals our domestic energy industry that we want immediate action on synthetic fuels. The President, acting under the amended Defense Production Act of 1950 can initiate the activities necessary to reach the goal of 500,000 barrels per day of synthetic fuels production by 1987, until the Synthetic Fuels Corporation is operational, hopefully within 9 to 15 months.

And so the White House can help, Congress can help, but most of all the American people must understand that it is imperative—even though we are late, acting after the fact—that domestically produced synthetic fuels are necessary for our collective survival.

Once industry is headed toward a commercial basis with regard to synthetic fuels, I believe they should be able to develop the 1992 goal of 2 million barrels of synthetic fuel a day without Federal help other than price guarantees. If industry does not accomplish this, we should then go to government owned, company operated projects, which could use any patented process, could make rapid adjustments for presently unforseen environmental problems that would only become apparent with time, and reduce the tendency to overemphasize the cost reserves necessary to build plants by private industry to cover all conceivable risks.

Mr. President, the Senator from Nebraska (Mr. Exon), who now occupies the chair, comes from the Midwest, not Appalachia, where I was born and where I lived. The Senator comes from a part of the country, as does every region of our Nation, that has a tremendous stake and opportunity in what is being done here, because there are many energy forms, alternatives, and opportunities. I say to the able Presiding Officer from Nebraska (Mr. Exon) that this is a nationwide crusade to which all the people of this country must enlist.

The measure we approve today gives us a domestic energy option. In addition the agreement contains provisions for a $20 billion U.S. Synthetic Fuels Corporation, a $3.1 billion energy conservation and solar energy bank, a $1.4 billion biomass-to-energy program jointly run by the Energy and Agriculture Departments, other incentives for the use of renewable energy and studies of the environmental impact of fossil fuel burning. In all, the bill authorizes, but does not appropriate, roughly $25 billion for fiscal years 1981 through 1985.

After being on the first airplane flight in the United States using a gasoline produced from coal by the Bureau of Mines in November of 1943, I realized the value of having the capability to produce fuel from our abundant coal resources.

I took this flight with another West Virginian, a young man from South Branch, W. Va., I say to my colleagues. We flew from Morgantown to National Airport here in Washington. We were flying in a little single-engine aircraft, not the wide-bellied ships you see today. We had taken out the regular aviation fuel and we had placed in the tank 40 gallons of synthetic fuel which had been processed by the Bureau of Mines in its facilities near Pittsburgh, Pa.

I remember Senator Mahoney, of Wyoming, who was here, who cosponsored the legislation, met us at the airport. I have photographs showing the House and Senate Members who were there on that occasion.

During that same year in writing for the West Virginia Review, I stated:

> In the future we will not be able to depend on the importation of oil from any foreign country, even though it may appear to be a friendly one now, for then a major portion of our economy could be subjected to the whims and controls of outside powers. Unless we have our own sources for gasoline and oil in time of peace, we might be forced to pay exorbitant prices; and, if supplies were cut off in time of war, our entire military machine would be helpless.

I said earlier I did not want to overemphasize these words that I spoke in 1943. I am only saying them again because they are valid expressions of the realism of the challenge we meet with this legislation.

Yes, I shall not forget April 5, 1944. I shall not forget the signature of the President as he signed that bill nor the 78th which passed it. Tragically, when the synthetic fuel program was terminated, our national knowledge and skill on processes for the conversion of coal to synthetic products also was lost.

I again state that $82 million was committed and then the program was terminated; $3 million was returned to the Treasury from the original $85 million.

The conversion program, the synthetic program, went down the drain. It literally went down the drain because people were not understanding of the subject matter potential clamity that could be just around the corner for America. We knew then and are now forced to admit that the domestic scarcity of liquid fuels we faced during World War II has come again. What we found then in a slight degree, although it was an important degree, is now here to haunt us again. Not just coming again, but to haunt us again.

On my return to the Senate in 1958, I began to work for a national fuels and energy policy, including syn-fuels. For example, I testified before the Senate Interior Committee in 1961 and said:

> Every year that passes in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer to disaster. We are gambling on our country's future.

Now we are in 1980.

Now, a majority of my colleagues, both Republican and Democrat, in the 96th Congress realize we are again at a turning point where coal synthetics must substitute for foreign petroleum. This Senate, faced with a scarcity of oil, is moving with dispatch to provide a clear and decisive Federal policy to foster the private development of alternative domestic fuels.

So we take a new look, a fresh look. Lincoln often talked about how we must think anew and must act anew. That is what he said a long time ago when he was faced with a crisis. Think anew and act anew. "The dogmas of the quiet past are not adequate to the stormy present." Then he added, "If we work together, we can win." That is what we must do in this Senate, not because of a Democratic majority or a Republican majority, but a majority of the Members of this Senate, I hope with very few dissenting votes, to pass this legislation as quickly as possible.

By doing so we shall be responsive, although late, to the needs.

The synthetic fuels industry which we will build will produce positive results from the investment in our own country's energy future. If our national energy policies are to be responsive to national needs, we must use energy resources of every form—not competition between energy resources.

During the last few years we have witnessed energy decisions based on the short-term perspective, at great expense to public confidence. Because of our preoccupation with minimizing the short-term effects of inadequate domestic energy supplies we have failed to act to solve the longer-term supply problems. We now must correct this situation, Mr. President. We absolutely must do it.

So, once again, one of the most important national commitments that we shall ever make—not as Democrats or Republicans, but as the Congress of the United States, responsive to the American people—is a commitment to synthetic fuels to stop, insofar as possible, at the earliest date, the purchase of foreign petroleum, now 1,600 percent more expensive per barrel than in 1970.

I once more congratulate and am grateful to my colleagues. While not a member of the Energy and Natural Resources Committee, I have been privileged and have appreciated the opportunity to work not only with the members of that committee but also with the leadership of the Senate, particularly the majority leader (Mr. Robert C. Byrd).

I say only that time, Mr. President, is of the essence. I hope that the Senate today and the House soon after will act to place a bill on the President's desk. I would like to think that the American people—and I wish they could all be there to see the signing on July 4, 1980—completely realize of what import this bill signifies with regard to our own "domestic energy independence." I sincerely believe that the American people, the White House, and the Congress all understand that now, not later, is the time to become energy self-sufficient as a nation.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Johnston, I yield myself some time that I may reply.

Mr. President, I congratulate the conferees on both sides of the aisle for the work that they have done so well. This basic measure has been in conference for many months. The conferees met scores of times, last year and this year. And I am sure that, in many instances, they were discouraged. But they continued to be dedicated to reaching the final goal.

The conference report is now before the Senate and it represents a major victory for this country in its efforts to become self-sufficient in respect to energy. Mr. President, the energy problem is probably the most serious problem confronting this country. The problem underlies our problem of inflation. It impinges upon our national security. With each barrel of oil imported into this country, we import inflation, we import unemployment, and we further put out of balance our trade accounts.

Ten years ago, this country imported oil in the amount of $3.7 billion. That was 1970. This year, this country is importing about $95 billion worth of oil—$94 or $95 billion. Ten years ago, the price of oil was under $3 a barrel. Today, the price of oil is over $30 a barrel. The price of imported oil has increased over 1,000 percent in 10 years.

Any morning, the American people could awaken to see in the headlines of their local newspapers a startling and unsettling story to the effect that oil exports from the Persian Gulf have been interrupted. Those interruptions could occur because of an embargo—and we have seen that occur, in 1973. They could occur by the overthrow of a regime, and we have seen that occur in the case of Iran. They could occur by accident, by invasion, by terrorist acts.

Any interruption of that oil supply

from the Persian Gulf, any significant interruption, would be a very damaging blow to the economy of this country. This country imports 25 percent of its oil from the Persian Gulf.

As badly as this country would be affected, the countries of Western Europe, our allies, would be affected even more. They import 50 percent of their oil from the Persian Gulf. Japan would be affected even more than our European allies. Japan imports 90 percent of its oil needs from the Persian Gulf.

So the balance between peace and war is a very delicate one. A major interruption of that oil supply would bring war. Ships cannot sail without oil. Planes cannot fly without oil. Tanks cannot move without oil. Armies must have oil. So one need not look at tea leaves to recognize the jeopardy in which our country would be placed—and our allies in Europe and Japan, as well—if there were to occur a major interruption of the oil supplies from the Persian Gulf.

An interruption amounting to 3 million barrels per day would damage our economy to the tune of $100 billion annually. A total cutoff would damage our economy, according to one report I have read, to the tune of $700 billion annually. That would be absolutely devastating!

Now, a partial cutoff of that supply would impact on every American and on American jobs, and factories, and farms. Factories, farms, jobs, automobiles, trains, planes, ships, are slowed down or stopped when the supply of oil slows down or is stopped.

There is no weapons system, no weapons system that I can imagine, that would be as important to this country's national defense and to the defense of the free world as energy independence would amount to.

Control over our energy destiny is worth far more to the national security than any weapons systems, any new weapons systems, we can conceive of. The energy dilemma impacts upon peace and the prospects for peace. For too long, this country has failed to recognize the danger to its economy and to its military security which results from our dependence for oil on sources that may be unreliable, under certain circumstances.

Many of our people do not believe there is an energy problem. All they need, in order to understand fully that there is an energy problem, is to take a look at the dollar amounts this country is spending for imported oil—$94 billion a year!

There are no gas lines right now, so many people think the problem has gone away.

It is a good bit like a cancer. The victim walks around, his color is good, his pulse is good, he has not begun to lose any weight, he feels good, and just underneath the surface that person is being devastated. It will only be a matter of 2 or 3 months, perhaps, or a year, until the victim will have gone beyond the stage of treatment and it will become a terminal case.

It is much the same with our energy problem. There are no gas lines. It does not appear there is a problem, and many people do not think there is a problem. Yet, it could quickly become critical for all Americans.

Many people think the problem, if there is one, has been contrived—contrived—by the oil companies, contrived by the Government.

I have no brief for the oil companies. But for many years, the Government did not want to spend money on synthetic fuels research because synthetic fuels could not be produced at a price that was competitive with the oil and the refined petroleum products this country was importing from abroad.

I used to go down to the gasoline station. My wife would say, "Well, this time get cloves."

Cloves. Get the gas tank filled, and I would get a nice little canister of cloves from the station attendant.

The next time, she would say, "This time get cinnamon." The next time, "red pepper." The next time, "black pepper." And so on until we had collected all the different kinds of canisters of spices.

Then the next time she would say, "By the way, they have a nice little rack down there. When you get the tank filled, this time get the rack so that I can put it on my kitchen wall and we can put those nice little spice containers on there."

Gasoline was 23 cents a gallon, 24 cents, 25 cents, 26 cents, 27 cents, 28 cents, 29 cents.

We could get the gas tank filled at a price that was dirt cheap and in addition get a nice little glass, a very nice looking glass tumbler, a lot of spices, and a rack to put the spices on—all for free.

So the oil companies were able to deliver that gasoline to the American gasoline tank at a price cheaper than in other industrial countries of the world.

By the way, that was my first job after I graduated from high school. It took me almost a year to get a job. It was not working in a service station. They did not have service stations in those days. Those were gas stations.

Well, the oil companies were able to deliver that gasoline from sources thousands of miles away at prices that were dirt cheap.

I came to the Congress in 1953. In the House of Representatives, I urged repeatedly that this country get away from imported oil, and use coal instead—c-o-a-l.

I pleaded that we spend more money on coal research. Then we fought to establish an Office of Coal Research, and George Fumich, a West Virginian, became the first Director of the Office of Coal Research.

For years in the Senate Appropriations Committee I attempted to increase the appropriations for coal research. I could not get the administrations' ear, whether it was Democratic or Republican.

Why not? Because it was not thought that the taxpayers' money should be spent to produce oil from coal that would cost a price of $35 or $40 a barrel when we could buy it abroad for $1.80 a barrel?

So it did not make sense to spend that kind of money for coal research. We could buy oil dirt cheap, transported thousands of miles, at $1.80 a barrel, 27 cents a gallon, and get a nice piece of glassware, and all those fancy spices. No matter whether we ever used them or not, they looked nice on the kitchen wall.

So there came a time when the embargo occurred. Then the price quintupled overnight. Gasoline lines came. We read about the people who would get into fights with each other, with guns and knives, and endanger life and limb because they wanted to get up to that gasoline tank and they did not want anyone running up ahead of the line.

Today gasoline is about to be produced competitively through the synfuels process at a price that may be cheaper one day soon than the cost of imported oil.

So we have, at last, produced legislation which will put us in line in the synthetic fuels process.

This measure we are debating and soon will act upon will provide for the production of 500,000 barrels of oil by 1987. The production goal is to increase that to 2 million barrels a day by 1992.

So, Mr. President, we are ready to go. But how many years will it take the United States to produce this equivalent of imported oil? Most of it will be produced from coal.

In 1987, 7 years from now, we hope to be producing 500,000 barrels a day. In 1992, 12 years away, we hope to be producing 2 million barrels a day.

This is something we should have been doing 20 years ago, but we did not do it. Now we are about ready to do it. We are about ready to get the package passed, get the process moving.

The Germans, of course, fueled their war machine in World War II from coal, but it was a matter of necessity. They were able to do it. We can do it, also. We are trying to refine the process. But we have had to be driven to act finally in our own interests, for lack of foresight and vision in the past.

Now the oil-producing countries have us over a barrel—if I may use a pun. They continue to raise the price.

The American people pay 4 cents a gallon Federal tax. The West Germans pay $1.14. The French pay $1.62. The Italians pay $1.83. We pay 4 cents a gallon tax.

Those of us who supported the President in respect to the import fee do not like to vote increased taxes on our people. My wife pays the same for gasoline as any other citizen pays. My daughters and their husbands pay the same for gasoline as other citizens pay.

I do not like to support the President in a matter that means an increased tax of 10 cents, but that tax was to be used as a cushion—in the event it was needed as a result of slippage in the economy—to balance the budget. If the budget could be balanced without it, it was hoped that it would be used as a productivity tax and/or as a reduction in social security withholding taxes.

Next January, the social security withholding tax is scheduled to go up 1 percent. It was the thought of those of us who supported the President's import fee that that money would be used as a productivity tax or as a reduction in the withholding taxes for social security.

This country turns its industrial plant over about once every 30 years. The Japanese modernize their industrial plant once every 10 years. Because of that, their plants are more cost efficient than are ours.

So it was hoped that that money would be used as a productivity tax to modernize our industrial plant. Well, it went down the drain. From 4 cents, it would have gone to 14 cents. The Congress killed it.

The following week, the OPEC countries, the oil-producing countries, got together and jacked up the price of oil—it amounts to a tax on Americans—1 or 2 cents a gallon. The oil-producing countries are taxing the American people today to the tune of $400 for every man, woman, boy, and girl in this country. We pay $94 billion for oil and refined products, and we have 220 million people. That is $400 for every man, woman, boy, and girl in this country.

The Constitution gives Congress the power to raise taxes, but Congress is not levying this tax. The OPEC countries levy what amounts to a tax on gasoline and oil. They say they will increase it $1, $2, or $3 on the barrel. That is an increased tax on the American people—every man, woman, boy, and girl, poor and rich, white and black, in this country.

That "tax" goes not into the U.S. Treasury but into the treasuries of the oil-producing countries. We are at their mercy. Two hundred twenty million Americans are held hostage, as are our Western European allies and Japan. There is not a vote in this Congress, in accordance with the Constitution, to raise that tax. The OPEC countries just get together—the oil-producing countries get together—and say, "We are going to raise the price of oil." As that price goes up, every American pays more money for gasoline, and its amounts to a tax. It does not go into the U.S. Treasury.

When the American people really understand that we have a serious energy problem, perhaps they will be willing to conserve more than they are conserving now. If the price is going to go up, let it go into the U.S. Treasury, not for more Government programs that will not work. Let it go into the U.S. Treasury, to be rebated to the American people, so that those who conserve will benefit and those who will not conserve will pay.

It is going to take that kind of sacrifice, it is going to take a greater sacrifice on the part of the American people and our allies before the energy problem can be brought under control. The synfuels legislation will not do it alone, but it is part of the answer.

I congratulate the conferees and the committee members on both sides of the aisle. The Senate is in their debt; the country is in their debt. This has been a long time awaiting. Once this measure is passed, the conference report on the Energy Mobilization Board will soon be before the Senate, and then the coal conversion bill will be before the Senate by next week. All these are building blocks in the temple of energy, self-sufficiency for the United States.

The way has been long, and the strife has been difficult. I congratulate the conferees on the victory that will be theirs this afternoon—a victory for the United States, a victory for energy independence, and a victory for peace.

Mr. DOMENICI. Mr. President, how much time remains of the 2 hours on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 94 minutes, and the Senator from Louisiana has 22 minutes.

Mr. DOMENICI. I yield myself 5 minutes, and then I will yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, will the Senator permit me to make a unanimous-consent request?

Mr. DOMENICI. If the Senator wishes to speak now, I will be delighted to wait.

Mr. MATSUNAGA. I will take 1 minute from the majority.

Mr. DOMENICI. The Senator may have the time from our side.

Mr. MATSUNAGA. I thank the Senator.

Mr. President, I rise in strong support of the conference report on S. 932, the Energy Security Act, a product of 58 Senators and Representatives comprising the largest conference committee in the history of the U.S. Congress.

Each and every title is important, and much has already been said about synfuels from indigenous resources, biomass, energy targets, solar energy, conservation, geothermal energy and the possible environmental effects of the different types of energy. I would like to address myself in particular, to two titles, of special importance to the Nation and my home State of Hawaii: title IV, the Renewable Energy Resources Act of 1980, and title VIII, the mandate to fill the strategic petroleum reserve.

Mr. President, with reference to title VIII, the Senate Energy and Natural Resources Committee this year has received testimony in closed and open sessions from every knowledgeable source involved with the geopolitics of oil. Every witness has warned us about the dangers of our petroleum dependency, and the frightening prospects of any dislocations. The fact of the matter is, Mr. President, the probability of a major conflagration in the Persian Gulf area in this decade is so high that refusal to build up a strategic petroleum reserve would constitute an inexcusable shortsightedness. There is less than 100 million barrels of oil presently in our national reserve. The mandate to fill the strategic petroleum reserve at a rate of at least 100,000 barrels per day would be a gratifying start to paving the way for the regional SPR program.

Title IV, on renewable energy resources, in many ways, could be the most important and far-reaching of all the titles, for this title is the only one which brings together individual technologies and conservation programs on a total systems basis. Nowhere else is there a stress on coordination and comprehensive planning to integrate the various technologies and programs.

Title IV gives my home State of Hawaii the mandate to lead the Nation in pioneering renewable energy self-sufficiency. If acid rain and the carbon dioxide problems become unsurmountable, and if solutions cannot be found to handle nuclear wastes, the Nation and World will then only be able to turn to the renewable resources.

Mr. President, by way of providing some background on the matter of renewable energy independence, let me say that:

During the month of November in 1978, I chaired a series of hearings for the Senate Subcommittee on Energy Research and Development to address alternative energy technologies and their effects on small island economies.

On July 1, 1979, President Carter pronounced that:

> He would like to see the State of Hawaii become completely energy independent by the year 1990.

On a number of occasions this year I have communicated with key officials of the Department of Energy, including the Honorable John Sawhill, the Honorable William Lewis, and the Honorable Thomas Stelson, on Hawaii and energy self-sufficiency. I am happy to be able to report that Hawaii energy independence is high on their priority list.

Title IV will enable the Department of Energy to embark on an endeavor which has the potential of capturing the imagination of the Nation on a grand scale with the impact of Project Apollo. The pinpointing of Hawaii as the primary site for initiation of a national program on renewable energy self-sufficiency is, of course, only one of the steps to be taken in parallel with other initiatives provided in S. 932 for nationwide energy independence.

Mr. President, in closing, may I say that the Department of Energy will be sponsoring its first conference ever to be held on renewable energy technologies in Hawaii in December of this year. I would like to invite my colleagues to join me in experiencing the genesis of a coming new age—one powered by natural energy—for this conference will symbolize the commitment of a State and Nation to an energy future fueled by renewable alternatives.

Mr. DOMENICI. Mr. President, I will yield 5 minutes to the Senator from Kansas after yielding myself 2 minutes to address a few remarks for the record and to our distinguished majority leader.

Mr. President, I commend our distinguished majority leader for the remarks he made during the last 10 or 15 minutes in the Chamber. I do not commend him because of what he advocates as goals, although I share those goals precisely. But I commend him because I was here and I observed that the distinguished majority leader was not reading from some prepared remarks. He literally stood here for 15 minutes and gave about as good a description of the dilemma that the United States is in because of its overdependence on crude oil and natural gas as I have heard.

There was his analysis of the marketplace problems. How could synthetic fuel compete with dirt-cheap oil and natural gas? And I commend him for those remarks.

I make just two observations to further emphasize the concern he expressed. He described the cancer victim that has not yet felt the full impact of the disease that is within. I would say that he should have also said and most experts predict that there is a significant probability, not possibility, significant probability of a major supply interruption in the next 10 years.

If that would have followed the description of the cancer victim it would have told this Senate we better not wait around until we die. The best evidence is predicting the economic and security problems that were alluded to.

Second, as he described what would happen to the United States if we were 3 million barrels a day short by cutoff, war, invasion, or terrorism, he was absolutely right. I think our people still do not quite understand why we cannot do with 3 million barrels less, why we cannot just wave a wand and cure that.

When the oil embargo hit, I say to my good friend, in 1973, these United States consumed 33 percent of all of the energy consumed in the world, No. 1. Our gross national product was 30 percent of all of the productivity of the world.

And 40 percent of all of the energy consumed came from oil at that point in time and it was a totally market-oriented system. We bought as much as we needed, and there were millions of people who were on that particular supply line buying what they needed, filling the tanks of industry. There were then 115 million individual motor vehicles, trucks and cars of various sizes and dimensions, all pulling up to get that very tight market supply, 40 percent crude oil and its derivative gasoline.

We have to make our people understand that if we pull out of that market 2 or 3 million barrels of oil and try to spread that shortage around, we are trying to spread it around in the most complicated, the most difficult market in the world. That is why it is important that we take steps of 500,000 barrels in this bill, conserve a half million here, and the like, because an America to be 40 percent dependent on crude oil, almost half of which comes from overseas, is an America that is asking for disaster, economic disaster, foreign policy disaster, disaster with our military preparedness and all the other aspects that were discussed by the leader.

I yield 5 minutes to my good friend from Kansas.

The **PRESIDING OFFICER** (Mr. Baucus). The Senator from Kansas.

Mr. **DOLE**. Mr. President, first I commend the conferees for their final efforts.

Mr. President, over 7 months have passed since the Senate acted on this very important piece of energy legislation. During the debate on S. 932 I tried to make the point that in all of the flurry with which we debated the synfuels bill, we were leaving out one very vital link in our energy/national security chain. For that reason, I was joined by the distinguished Senator from New Jersey, Mr. Bradley, in offering an amendment that would require the President to resume filling our strategic petroleum reserve at the average daily rate of 100,000 barrels.

I will not retrace the various steps taken by myself and Senator Bradley as we attempted to restore the SPR program to its proper place on our list of national priorities. There have been many votes taken on this issue, and the Senate has engaged in very heated and expanded debate on our entire strategic reserve policy. I would, however, like to say that perhaps the most important vote which occurred on this issue was taken November 8, 1979. It was on that day that the Senate adopted the Dole-Bradley amendment and put this administration on notice that we were fed up with their poor excuses and delaying tactics concerning the filling of our petroleum reserve.

Mr. President, the SPR issue is not a partisan one. It cuts across both ideological and party lines. This widespread and diverse support for the SPR build-up was evidenced by the various votes taken on the first budget resolution dealing with restoring funds for the program. Liberal, moderate, and conservative Senators joined in the various efforts taken by myself and Senator Bradley to restore the much needed funding slashed from the budget in the name of holding the line on Federal spending. As I stated during the debate on the several amendments to restore funding, no one more than the Senator from Kansas wants to see Federal spending held down, but the strategic petroleum reserve is a matter of national security. We must not be penny wise and pound foolish.

Frank Zarb, a former administrator of the Federal Energy Administration during the Ford Presidency, recently stated that "the A-1 priority of the U.S. must be to build up our strategic oil reserve." Mr. Zarb, as FEA Administrator, submitted a plan establishing such a reserve to the Congress, in 1976. During this time, OPEC applied continued pressure on the Ford administration to not build our strategic petroleum reserve. Despite this pressure, the Ford administration proceeded to submit a formal SPR plan, and began implementing the plan by contracting with the Army Corps of Engineers to construct oil reserve storage facilities in Texas and Louisiana.

Indeed, under President Ford, the Congress passed the "Energy Policy and Conservation Act" of 1975, Public Law 94–163, which mandated that an SPR be built, and that it contain 150 million barrels (later amended to 250 million barrels) within 3 years after its enactment.

Mr. President, if President Ford's plan to build our SPR had continued to be carried out under the Carter administration, our reserve would today have contained at least 300 million barrels, well on the way to the 1 billion goal. But, President Carter has apparently acquiesced to OPEC's pressure. Faced with a weak administration on retreat everywhere, OPEC's sheiks pressed their advantage. They have succeeded in getting the United States to violate the very provisions of the Energy Policy and Conservation Act of 1975, Public Law 94–163, by ceasing to build up this reserve as of November 1978.

DANGEROUS DEPENDENCE ON FOREIGN OIL

Mr. President, however much we talk of building a synthetic fuels program, however much we may talk about the need for "energy conservation," we cannot escape the fact that throughout the 1980's, we will be dangerously dependent on foreign oil. So long as we are so dependent, it is imperative that we build up a viable strategic petroleum reserve. Common prudence requires that we build up this reserve in order to have a cushion in the event of an oil embargo, or a temporary interruption to our supply of foreign oil. We need only remember the consequences of the Iranian shutdown to see the need for such a backup. Indeed, we need and must possess an oil reserve if we are to remain independent from foreign domination and continue strong in our geopolitical position.

If our OPEC oil supplies are shut off for any reason, such as a deliberate embargo or an unforeseeable circumstance, such as internal "revolution" or an act of terrorism aimed at the supply routes, our economy will be devastated beyond belief. We need a viable SPR to act as a cushion in such circumstances.

In such an eventuality, our only alternative without this cushion will be to intervene militarily in the Middle East in order to seize the oil fields, or else sit back and suffer massive economic chaos, and unprecedented unemployment which no president whether he be Democrat or Republican could hope to pull us out of.

CARTER ANTI-SPRO POLICY

In April of 1977 President Carter declared before a national audience his famous "moral equivalent of war speech." He stated in that address that "we must reduce our vulnerability to potentially devastating embargoes" and proposed a doubling of the strategic petroleum reserve build-up schedule. It was unfortunate that this promise made to the American people was never made good. Our commitment to a strong viable reserve was forgotten by the President and his energy secretaries. Had Senator Bradley and I not insisted on even the bare minimal provisions called for by the Dole-Bradley amendment, I fear our Nation's policy toward SPRO would be one of continued neglect.

Mr. President, it seems to me, and I suggest that there are a number of important measures in this legislation, we talk about the national security of America. I know of no other provision any more important than the SPRO provision.

The actions, or better yet, inactions of this administration on the SPRO issue have left our Nation vulnerable and placed our national security in jeopardy. Our strategic petroleum reserve lies at very low levels. We today possess less of a reserve than West Germany, and France; 92 million barrels is all our reserves hold. That amounts to approximately an 11 day reserve should we be found with a severe energy supply interruption.

I might say whatever the cost and whatever the circumstances might be, an 11-day reserve is not a very secure reserve.

It is common knowledge that the Department of Energy bought oil for this reserve for about a year, and then abruptly ceased purchases in November, 1978. I want to stress once again that our reserve now has only 92 million barrels—a far-cry from the Presidents' promise of 1 billion barrels by the 1980's. What circumstances have changed to alter U.S. policy? I am one Senator who feels that no circumstance could ever exist which would be compelling enough to place us at a strategic disadvantage.

Mr. President, in light of the clear and present danger to our national security posed by our dependence on OPEC oil, the Senator from Kansas finds it highly disturbing that President Carter has stopped building our reserve, and that in his July 15, 1979, television address he pledged to impose oil import quotas of 8.5 million barrels per day, which may further constrain our ability to bulid up our strategic petroleum reserve. It does not make sense to limit our intake of foreign oil and thereby create a shortage, when by the imposition of that very same policy you fail to adequately protect our citizens from such a severe shortage by ignoring the need for a strong well-stocked oil reserve.

This is unconscionable, and the blame for our incredible energy vulnerability must lie with the Carter administration. It has been virtually impossible to get this administration into any decision-making sequence with respect to SPRO. Their attitude towards our reserve program has been characterized by flip-flops and inconsistency. The administration has stated their reasons for not filling SPRO as have the opponents of the SPRO program in the Congress. However, it is my belief that there is no excuse at all for placing our Nation in such a precarious position. Of all the dangers we face in terms of our national security interests, perhaps the most grave is oil vulnerability.

NO NATIONAL ENERGY POLICY

Mr. President, regardless of what President Carter may state, our Nation still has no coherent national energy policy. Today we are found with massive synfuels conference report and soon we will have the fast-track energy mobilization board before us for consideration.

The President's proposed synfuels program estimated to cost over $88 billion when in full swing will turn out at most 2 to 4 million barrels per day of synthetic fuel, by the 1990's. Yet, it is important to note that today we import over 8 million barrels of oil per day, half of our daily requirement of oil. Therefore, even by realizing the maximum results of the synfuel program, we cannot escape our dependence on foreign oil in the foreseeable future. Once again, we can see that without a strategic petroleum reserve, even with our possibly reduced future dependence on foreign oil we will still be placed in a dangerous position.

A 10 percent shortfall occurring during full scale synfuel production would place the United States in an unhealthy position without an SPR. Synfuels are not our only alternative. But new and untried technologies are necessary to develop these fuels, and until these are developed, we will be independent on foreign oil. Until we are able to substantially reduce this dependence, we must have, as part of a national energy plan, the serious commitment by our Government to build and maintain our SPR.

Mr. President, a synfuel program is needed but at best is a long-term prospect and may quite possibly do little to address our short-term problems as to how do we get over the energy needs of the next 10 years. To deal with these problems, we need a national "energy security policy" to protect the United States against attempts by OPEC to use the oil weapon in dictating our national policy. The key element of such a plan must be to build up our reserves to the point where we can withstand an interruption in the supply of oil, and where we can let our potential adversaries know that we have such a reserve.

Otherwise, the OPEC states may threaten to suspend oil sales to us at any time in order to coerce us to alter our Middle East policies or any other policy with which they are not happy. The linkage between the "oil" weapon and our foreign policy is being made stronger each day that we fail to build up our reserves.

DOLE-BRADLEY AMENDMENT AND THE BATTLE TO BUILD SPRO

Mr. President, the Senator from Kansas has fought long and hard to insure that our Nation once again reaffirm its commitment to the strategic petroleum reserve. During the many battles fought on this issue there was one great victory on November 8, 1979, when the Senate adopted the Dole-Bradley amendment and many defeats during the skirmishes to secure the much needed funding. The Senator from Kansas must state that he is very pleased with the outcome of the synfuels conference and how it relates to the strategic reserve issue. It is my understanding that the conferees agreed to require the President to resume filling SPRO; at the minimum average daily rate of 100,000 barrels.

This provision is very similar to the original Dole-Bradley amendment with some modifications. It is my belief that the modifications to the original amendment made during the conference committee have added to the strength of the amendment. The most important modification to the Dole-Bradley amendment was the requirement that if the specified fill rate is not achieved then any production from the Naval Petroleum Reserve No. 1 (Elk Hills, Calif.) must be sold or exchanged so as to be stored in the SPR. I have been very concerned for some time about our policy of depleting Naval reserves and introduced S. 2598, a bill which deals with this problem.

The danger of the Carter administration's policy against filling the SPR is compounded by the fact that the administration is currently depleting our naval petroleum reserve at Elk Hills, Calif., at the rate of 130,000 barrels per day. They are selling this oil to private oil companies in California. California obtains approximately 18 percent of its oil needs from the petroleum reserve.

This policy of net depletion of our oil reserves amounts to "national security suicide." Presumably, our "friends" and "allies," the OPEC Arabs, are gleeful that we are engaging in a systematic net depletion of our oil reserves. This depletion only makes us more vulnerable to their pressure and leaves our military reserves frightfully low.

The provision adopted in conference dealing with Elk Hills produced oil is sound policy and I wholeheartedly agree with its thrust. The other modifications of the Dole-Bradley amendment are agreeable to me, and I am quite confident they will also add to the revitalization of our national policy on SPRO.

Mr. President, there has been great controversy surrounding the strategic petroleum reserve for some time now. I can only hope that this congressionally mandated policy is carried out by the administration to the exact letter of the law. There can always be arguments made and conjured-up to downplay the importance of our reserve program. However, I believe that the filling of SPRO is essential. It is a matter of national security and must not be ignored any longer.

SPRO IS GOOD INSURANCE

Mr. President, most everyone in this country owns an insurance policy, to protect himself against unforeseen circumstances over which he has no control. But, we as a Nation do not have a national energy insurance policy to cover the lifeblood of our economy, because we do not have a viable strategic oil reserve. Aside from the long-term solutions to our crisis such as synfuels, what type of administration do we have which does not even possess the prudence to provide our country with the very type of insurance every man and woman knows is needed? The SPR is America's insurance policy against an unforeseen, unexpected energy supply interruption. The amendment proposed by the Senator from Kansas November 8, 1979, adopted by the Senate, and contained in this conference report will insure that this vital aspect of our overall energy policy will be reinstated and maintained.

Mr. President, U.S. Energy and national security policy cannot be dictated by foreign governments. We must not allow our future to be held ransom by the OPEC oil ministers. The Saudis have threatened to cut back production and raise prices if we resume filling SPRO. Sheikh Yamani is reported to have guaranteed the United States that "we will be your oil reserve." Perhaps the administration believes that the Saudis can live up to that promise, but I do not. I am not questioning the Saudis' sincerity, only their ability to fulfill that large promise. The Persian Gulf is the most volatile region in the world, at the present time, and the Saudis are not immune from terrorist actions, revolutionary uprisings, or outside aggression; all or any of which may have profound consequences to the United States.

SPRO IS GOOD INSURANCE

Mr. President, there is one final point I would like to make with respect to Saudi opposition to our resumed filling of SPRO and the proposed F-15 sales to Saudi Arabia.

There are some who now say that we must be prepared to guarantee Saudi Arabia the sale of certain ancillary military equipment that will expand the capabilities of the F-15 fighter aircraft the Carter administration gave to them in 1978. It is not enough that the United States agreed to sell the Saudis one of the most advanced fighters in the world today, even though they refuse to enter the middle east peace process or otherwise assure Israel that these deadly weapons will not some day be turned on our most faithful ally in this region.

Well, it just seems to the Senator from Kansas that this is a spurious issue. It has nothing to do with filling the strategic petroleum reserve. There is no quid pro quo to be won by trading aircraft for oil. The United States is vitally concerned that Saudi Arabia continue to be able to resist outside aggression. We have an interest there. But we also have an interest and commitment to peace in the Middle East and to a safe and secure Israel. The Saudis have been no help, and any implied threats to cut off oil supplies or to continue the unwarranted increase in oil prices strike at the foundations of American and world security and stability. This is what makes SPRO so necessary in the first place.

The United States has guaranteed oil to Israel in the event of an embargo. It is in Israel's interest for us to acquire a meaningful SPRO. But Israel's first problem is not oil but blood. If peace cannot be assured or Israel's national security provided, then Israel stands to run out of blood before it runs out of oil.

To discuss the sale of bomb racks to Saudi Arabia is detrimental to the delicate negotiations concerning the peace process and the autonomy issue between Egypt and Israel. The Saudis have been told—have been guaranteed—the delivery of these weapons. They will not even begin to be delivered until 1981, and the full complement will not have been received until 1984. There is plenty of time and opportunity in the future to upgrade the fighters from their present defensive to a future offensive character.

The Senator from Kansas is not ready to say that such an increase in capability may not be in the U.S. strategic interest. It may ultimately be in the interests of Israel, and all countries of the region who desire stability and peace through strength. It is not necessary to make that decision now. It is not necessary to buy our rights to fill SPRO in this way and at this time. SPRO is in our interest and, ultimately, it will be in the Saudis' interest, too. Furthermore, consideration of the F-15 issue now is counterproductive to the present negotiations and the peace process. The Senator from Kansas believes it would be best to shelve this issue until a more reasonable and appropriate time down the line.

TIME FOR TREND REVERSAL IS NOW

Mr. President, it is time for the Congress to reverse the dangerous trend set by this administration and immediately mandate the filling of SPRO. Even with the massive synfuels program contained in this conference report, or with increased domestic energy production our Nation will continue to be dependent on imported crude for at least the next decade, barring any unforeseen technological advances in the energy area.

Mr. President, in closing I just want to compliment the conferees on this massive piece of legislation, for their diligence in assuring the Dole-Bradley amendment was included in the final product. And, I would also like to express my gratitude to Senator BRADLEY who worked very hard with me to insure the realization of our goal—the renewed national commitment to SPRO.

Finally, the Senator from Kansas would say that it may be said by some that we are on the way to a comprehensive energy policy. The Senator from Kansas has serious doubts, as he looks at some of the legislation. One of the centerpieces or the centerpiece of the administration's energy policy is the so-called windfall profit tax. It did not produce any energy, and it imposed a tax of $270 billion on royalty owners and landowners over a 10-year period, and that is a conservative estimate.

It may—and the evidence is rather strong that it may—actually reduce production in this country. There is some hope we may now salvage some relief for the small royalty owners because some of them are beginning to understand that we imposed the heaviest tax of all on the small royalty owners and the small landowners who are paying taxes at a 60-percent rate in the so-called windfall profit tax.

I just suggest we can say what we want to about energy policy, that the windfall profit tax was not an energy policy. It was a revenue policy, it was a tax measure. We did not produce any energy, and it probably will not produce any energy so far as the tax provisions are concerned. It may, in effect, as I say, be a disincentive for production in America.

So I hope that notwithstanding many good features in this legislation, and some good features in the so-called windfall profit tax legislation, there will not be a feeling that we have now achieved some energy policy in America and that we can rest on what has been accomplished by Congress and proposed by this administration.

Mr. DOMENICI. Mr. President, a number of Senators have alluded to the very excellent work and contribution of Senator MCCLURE with reference to this entire bill. I ask unanimous consent that a statement he prepared be made a part of the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. McCLURE. Mr. President, much has been said already today on the floor regarding the many significant and far reaching energy initiatives included in this bill. I wish to join with my many colleagues on and off the committee in congratulating Senator DOMENICI, Senator JOHNSTON, and other members of the conference committee for the fine product which they have brought us today. I believe, as they do, that this bill will be seen in years to come as the first major domestic energy production initiative taken by the Congress since the Arab embargo of 1973.

I am particularly proud to join them in bringing back a conference report which is carefully crafted to maximize new energy production in synthetic fuels, gasohol, other biomass energy, geothermal energy, low-head hydro, and other potentially significant domestic sources of energy. I also am proud that this bill will accomplish such maximized production by stringently limited Federal Government role in the area of energy supply and production. All of these programs will be accomplished almost exclusively by Federal financial assistance and incentives to America's innovative and strong private industry. The new Synthetic Fuels Corporation will only have the limited and specified functions to provide the designated forms of financial assistance for private sector synthetic fuel development. The authorities and powers of this new Federal entity are strictly limited by the provisions of this bill and the bill makes clear that the Corporation can have no other authorities, functions or powers beyond those included in the bill. Strict enforcement of these statutory limitations and prohibitions on the Corporation and its directors and officers include injunctions that may be brought by the Attorney General or the Comptroller General, civil and criminal penalties, and other measures. The bill expressly prohibits any delegation by the President or any other Federal official to the Corporation and disables the application of the Reorganization Act for purposes of transferring the function into the Corporation. A series of other specific provisions in the bill prevent the Corporation from acquiring and holding or otherwise controlling any energy properties, projects or securities except on the most limited basis.

Mr. President, all of these provisions will insure that the new Synthetic Fuels Corporation will not become a Federal oil and gas corporation or another Tennessee Valley Authority or other examples of the Federal Government's intervention into traditional private sector activities. As the author of almost all of these safeguards against Federal intrusion into the energy production and supply arena, I believe that we have properly fashioned and tailored this limited purpose, limited function, Federal entity to carry out only those specified forms of financial assistance to accelerate the development of synthetic fuels in the United States. It is on that basis that I am able to support the conference report today. Mr. President, I truly believe that this bill will demonstrate that Congress can effectively develop new and imaginative approaches to our national energy problems without destroying the essential fabric of our American free enterprise system.

At this time, Mr. President, I would

like to clarify several aspects of the conference report which have been discussed of recent days. First, the Synthetic Fuels Corporation clearly is a special purpose, limited function entity of the Federal Government. It does not have the broad general grants of power and authority associated with traditional agencies or departments of the executive branch. At the same time, it clearly is not a stock corporation incorporated under either State corporation laws or chartered by the Federal Government.

Rather, it is a Federal entity which only has the authorities and powers included within the four corners of this bill for the very specific and limited financial assistance functions contained in the bill. It cannot have any expanded authorities, functions, or powers in the absence of an amendment to this act because of the many limitations and prohibitions I discussed earlier. I do not believe that there should be any difficulty reaching these conclusions on the face of the bill.

Mr. President, title II of the bill establishes an aggressive and well-balanced gasohol and biomass program in the Department of Energy and the Department of Agriculture. The combined $1.2 billion program will provide the necessary assistance and incentives to support a near term multiplication of the Nation's gasohol and biomass energy production and will move us swiftly towards a 1990 goal of 10 percent of gasoline consumption using gasohol. Title II includes a number of provisions such as acreage set-asides, natural gas priorities, special gasoline allocation, mandatory time limits and solicitations and a $500 million minimum authorization for DOE's gasohol program which I authored. These provisions will insure an aggressive, near-term gasohol program rapidly spreading throughout the agricultural sector of the Nation. Assuming that we are successful in obtaining near-term funding for the title II program, as I believe we will be, the gasohol and biomass programs will serve to establish new frontiers in both energy production and a stabilized agricultural economy for America.

Finally, Mr. President, I want to briefly comment on title VI, the geothermal title which I also originally authored in S. 1330, the omnibus geothermal energy bill I introduced a year ago. Title VI establishes exciting programs in reservoir confirmation drilling, reservoir insurance, nonelectric feasibility studies and construction loans and amendments to the Public Utility Regulatory Policy Act to insure that both utility and nonutility geothermal electric projects are giving the full advantages of title II of Purpa, including the rate benefits in section 210.●

Mr. DOMENICI. Mr. President, for the benefit of minority Senators, we have asked if any of them desire to speak either for or against the conference report, and two have responded, indicating they will be here around 3:30. If there are any other Senators on our side, we do have time, and we hope they will join in this debate as soon as possible, because if we do not have to use the entire 4 hours, we would want to yield back the remaining time after those indicating they want to speak have spoken. Hopefully that will save an hour or so.

Mr. President, I want to yield myself 5 additional minutes at this point.

I would like to take a few moments to explain some of the major differences between this conference report and the bill which the Senate passed. Before doing that I want to commend the distinguished Senator from Kansas (Mr. DOLE) for his dedicated and diligent efforts with reference to SPRO, the strategic petroleum reserve. I think he was not generous enough in talking about his efforts. Without his efforts and the efforts of Senator BRADLEY pushing very hard for the reserve and the commencement of filling it I do not think we would have the aspect of the bill that has been described with reference to that particular standby facility and standby need.

The first major difference in this bill is the conferees approved a $3 billion interim House program to be made immediately available in the Department of Defense using amendments to the Defense Production Act as authority. This interim program would:

Use money made available upon subsequent appropriation;

Use authorities including purchase and price agreements, loans and loan guarantees;

Not include any GOCO authority;

End when President determines Corporation is "fully operational." Then this aspect of the DPA will cease and a standby synthetic fuel authority will be in place.

The conferees approved a standby synfuel authority in the Defense Production Act to be available only when a severe energy shortage exists (25 percent of defense fuel supplies).

Authorities available in the standby program would include:

Purchase and price agreements, loans and loan guarantees, as in the interim program;

Authority to construct GOCO's except each must be specifically approved by the Congress through the regular authorization process;

Authority to require suppliers of fuels to provide synfuels for defense needs;

Authority to install Government-owned equipment in Government or privately owned facilities.

I mention once again that these are all predicated upon 25-percent supply interrupton, and they are standby at this point.

The conferees agreed to the following major changes in the Senate-passed bill:

GOALS

National synthetic fuel production goals are 500,000 barrels per day by 1987 and 2,000,000 barrels per day by 1992 instead of 1,500,000 barrels per day by 1995.

CORPORATION AND BOARD

Corporation is named the United States Synthetic Fuels Corporation;

Board will consist of seven members rather than five and each will be appointed for a 7 year term after the first initial staggered appointments;

The Secretaries of Energy, Treasury, Defense, and Interior, the Administrator of EPA and the Chairman of the Energy Mobilization Board will comprise an Advisory Committee rather than sit on the Board as nonvoting members;

An office of Inspector General has been established all of which was aimed at making sure that the entity we create in the statute was in deed following the law and responsive to the will of the Congress as described in this bill.

The phases are phase I and phase II. Phase I is funded to the limit of $20 billion, less the amount obligated to the Defense Production Act, and DOE; $2.2 billion under the Federal Non-nuclear act program, to the extent that that is not used or that its projects can be transferred they would go to the corporation. Other authorities under phase I are essentially unchanged.

In phase II, the comprehensive strategy remains intact with a few modifications. It comes to the Congress in 4 years, rather than 5, and Congress must approve the resolution providing funds by joint rather than concurrent resolution, but under expedited procedure. Committees and individual Members on the floor could amend the funding level in the resolution but only as to the total amount. No program limitations could be placed on the funds. The strategy would include not only a description of the technical strategy of the corporation, but its financial strategy as well.

I believe it is important to note that the essentially private corporation character of the Senate bill has been preserved, although the conferees have, in my opinion, properly and prudently clarified the degree to which this corporation is considered to be a Federal entity.

The water policy worked out in discussions here in the Senate, after many hours in committee, has been preserved. In other words, the water rights and water laws of the respective States will govern water availability for synthetic fuels.

The GOCO policy, which was of great concern here on the floor when we debated the issue and still legitimately concerns a number of Senators, that policy basically provides that there will be only three GOCO's possible—and I say "possible" in its literal meaning—and they would all have to occur in phase I. The proposal for phase II cannot contain any GOCO's.

Now, these three are available under some strict conditions. Basically, those conditions all move to the proposition that we did not want GOCO's unless there had been a total failure in obtaining production proposals from any other means. That was the will of the Senate when the bill left here and it is preserved in this conference.

The GOCO authority in the Defense Production Act amendments conforms with this policy. Only in the standby activities could the President engage in

GOCO construction and then only after the project is specifically authorized by Congress.

Mr. President, I wish to conclude these remarks by once again saying to my good friend from Louisiana (Mr. JOHNSTON) that it has been a real pleasure and privilege to work with him for all these many months on this bill.

I do not think there is any doubt in anyone's mind of the 56 conferees from the House and the Senate—it has been reported here on the floor that is the largest conference we have had on any major legislation in the history of the Congress—I do not thing anyone could have held that together, with the diversity of views, the expertise, the tremendous disparity between the bills that went to conference, I do not think anyone other than the Senator from Louisiana could have maintained that in a posture of "Let's get it done." I do not think we would have had the bill here but for that commitment on the Senator's part and the consistent effort to work on the Senate side in a bipartisan manner and to work with all the various committees in the House over these many months.

I thank the Senator again. I am sure this bill is going to be a giant step forward, the birth of a new major industry, and a real commitment toward energy independence. I know the Senator is going to take a great deal of credit and he is going to be very proud as it begins to function toward making this great Nation of ours use its resources so that we can continue to grow, prosper, and rid ourselves of the yoke of dependence that befuddles us today.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wish to thank my distinguished colleague from New Mexico for his very generous remarks. It is customary in these matters to congratulate everyone concerned. But when I congratulate the Senator from New Mexico (Mr. DOMEINCI) for the work he has done, it goes beyond the usual and customary and simply surface congratulations, because it has been his work, to a very large extent, that has made this bill possible, not only in drafting of the initial bill in which so many of the concepts here were taken, but the work through the long hours and days and weeks and months of this conference committee.

This was an extremely diverse and disparate group on both the Senate and the House sides. Many, many different interests had to be reconciled.

Mr. President, I am extremely pleased with our product, considering the diversity of the interests, the disparate nature of all of the players involved in this, that we came up with a product which is so good and so workable.

I say, without any hesitation, that the bill we finally came up with is much better than the product as it left the House and much better than the Senate product as it left the Senate. We have all of these titles, each one of which I think is extremely workable. And that is testimony to a real team effort on behalf of the Democrats and Republicans in both the House and the Senate.

I can only say, Mr. President, that I am extremely glad that I did not say what I was thinking at times about some of our colleagues in the House as we were unable to get agreement, as we would make an arrangement with one group and have it vetoed by another group. Sometimes it seemed as though we did not know who to negotiate with and, when we thought we knew, we turned out to be wrong so much of the time. But we ended up, Mr. President, with an extremely cooperative attitude with all of the diverse groups in the House.

As I said initially, great credit goes to the majority leader and the committee chairmen in the House for bringing their groups together. It was not because of willfulness or being arbitrary that made it difficult. It was simply because there are so many points of view and so many interests to be reconciled that it made it so difficult. So the enormity of the accomplishment, I think, cannot be underestimated in bringing from what seemed to be confusion a project that is going to work.

The United States Synthetic Fuels Corporation will work. The Defense Production Act, in its limited scope initially and in its standby scope later, will work. We will put on line synthetic fuels from this bill. This is our best defense so far, in my judgment, against predatory pricing practices of OPEC.

I again thank my distinguished colleague from New Mexico (Mr. DOMENICI). And I especially wish to thank, Mr. President, our staff on the majority side who have labored literally around the clock. They have been up all night, literally, for days on end. Richard Grundy, of our staff, who was recently wed, has not seen his wife for a matter of weeks. She will now be glad to get reacquainted with him.

Mr. DOMENICI. We hope.

Mr. JOHNSTON. We hope she will still allow him in the door.

On the Republican side, Mr. President, they have an outstanding staff that have gone above and beyond physical efforts, in just staying up, and mental efforts in being really creative and helping us to put together this bipartisan effort.

Particular mention should be made of the following majority staff from the Committee on Energy and Natural Resources: Dan Dreyfus, Owen Malone, Ben Cooper, Jim Bruce, Pete Smith, Lee Wallace, Ira Dorfman, and Veronica Keen; minority staff of the Committee on Energy and Natural Resources: Steve Hickok, Chuck Trabandt, David Swanson, David Russell, and Howard Useem; and from the staff of the Committee on Agriculture: William Lesher, Philip Iraas, and John Bode; and from the staff of the Committee on Banking, Housing, and Urban Affairs: Paul Winslow, Leon Reed, and Linda Zemke; and from the Congressional Research Service: Robert D. Poling; as well as Richard Olson from the office of the House majority leader.

Mr. President, as I said in my opening remarks, I think this is a tribute to the fact that energy is so important that we can operate on a bipartisan relationship in this Congress. We have done it all year in virtually every major piece of legislation we have put out—I think every piece, as a matter of fact. It has been a joint project.

The Senator from New Mexico and the Senator from Oregon are certainly to be congratulated.

Mr. DOMENICI. The Senator does not include the windfall profit tax as an energy-producing measure in the list of bipartisan-supported measures, is that correct?

Mr. JOHNSTON. I did not include that because that did not come from the Energy Committee.

Mr. DOMENICI. I thank the Senator.

Mr. JOHNSTON. Mr. President, I yield to the Senator from West Virginia such time as he desires.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I had the privilege, through the generosity of those who are managing this bill, to speak earlier this afternoon.

My purpose now is not to be one of the last to speak, or to speak a second time, except to speak in words of truism and realism about the importance of this measure to not only the strength of America during these troubled times of so-called peace, but, certainly, a measure that in the years ahead will help to buttress this Nation and all our people against the vulnerability that can and would take place from nations that are today not only unstable but unfriendly, nations and countries which supply us with petroleum in the amounts they desire to sell us and at prices they wish to charge us.

Earlier today I spoke of my commendation, a very sincere one, for the initiative and the leadership of the Senator from Louisiana (Mr. JOHNSTON), and of others as the RECORD will indicate.

I placed in the RECORD, not that I felt that it might be done by me but it seemed appropriate, not being a member of the committee or a member of the conference but one intensely interested in what we have done, all the names of the conferees of the Senate and House because I believed that here is a catalyst of commitment that has seldom been seen in the Senate. For that reason, all the names of the Senate and House conferees, even with varying viewpoints, have been included.

Mr. President, no navigator ever distinguished himself on a calm sea. We are in troubled, rough waters in this country. I believe those who are at the rudder of our ship of state, including the crew on Capitol Hill, are doing something in the next few minutes, I hope, which will find practically every Member of this body pulling his or her oar.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from West Virginia for his remarks. I congratulate him for his work not only on this bill but on energy through the years.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Idaho such time as he may desire.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it is my hope and belief that with the passage of the Energy Security Act, the United States will finally turn the corner in our fight for energy independence.

What makes me optimistic is the approach that this legislation takes. The availability of financial incentives for the commercialization of a variety of technologies assures us that not only will we avoid placing all of our monetary eggs in one basket, but also that it reserves a place for the participation of farmers and small business people in the development and growth of these energy industries. Thus, the Energy Security Act can become not only our declaration of independence from OPEC oil, but also from the major oil companies of this country.

It gives me some measure of assurance knowing that the farming community, the backbone of our economy, will have a major role to play in the development of the alcohol fuels portion of the synthetic fuels program.

I am especially pleased that the conference report has retained the bulk of both my gasohol and geothermal bills. With the production goals for alcohol fuels, originally established in my gasohol legislation, retained by the conference committee, we aim to increase the current national production levels of alcohol by more than tenfold by the end of 1982, and replace a full 10 percent of our gasoline consumption by 1990. Such ambitious goals will create healthy new markets for our farmers. I have no doubt that Idaho, blessed with much fertile cropland and an abundance of natural hot water to facilitate alcohol production, will play a leading part in the gasohol program.

To assure that we can meet these goals, the conference committee has also retained my bill's provision to establish within the Department of Energy an independent Office of Alcohol Fuels, the Director of which will be accountable directly to the Secretary of Energy.

Financial assistance in the form of loans, loan guarantees, price guarantees, and purchase agreements should provide the incentives that are required to reach these goals. It is important to note that these funds will be used to construct plants, not to expand the Federal bureaucracy. We have gone to great lengths in the conference report to assure that existing agencies are utilized to the fullest extent possible in administering this program. Consequently, a large portion of the alcohol fuels program will be run through the Farmers Home Administration, to avoid unnecessary and wasteful duplication.

We will also require the Federal Government to stand ready to take action by requiring it to become the purchaser of last resort of the alcohol for use in its fleet vehicles, should alcohol producers be unable to find purchasers elsewhere.

Mr. President, I also wish to call the attention of my colleagues to title VI, much of which was derived from my bill S. 1388. The title provides significant financial assistance for the development of geothermal energy, especially for direct heat uses in industry and for space heating.

Geothermal energy has been long recognized and used in various places throughout the West. In Boise, we have one of the oldest natural hot water heating systems in the United States. Idaho has also been leading the way in geothermal-based electric generation, with the Raft River pilot plant. This plant will test a new technology, the binary cycle, at a sufficient size to go to the next step, to demonstrate the economic viability. If successful, this plant could open up vast underground reservoirs of natural hot water which are now considered of dubious use.

Just as important as these new technological developments are the entrepreneurs who need to take the risks of going out to drill the wells. Geothermal energy is about at the same point of development as petroleum was in the latter part of the last century. At present, geothermal drilling prospects are usually located by surface manifestation such as geysers or hot springs. What is needed now is a burst of drilling activity to accumulate much more information about locating reservoirs and understanding their characteristics.

Title VI will establish financial assistance programs in DOE to promote exploration and comfirmation of geothermal reservoirs, pursuant to the reservior confirmation loan provisions originally contained in S. 1388. Five million dollars is authorized for the next fiscal year for this program, while $20 million is authorized for the following 4 fiscal years. The title also contains $5 million for fiscal year 1981 for loans for feasibility studies for direct heat applications of geothermal resources. DOE is also directed to conduct a study of reservoir insurance, in cooperation with the insurance and reinsurance industry, utilizing the language adopted previously in title VI. No additional funding would be authorized for this study.

The conference also adopted provisions which would allow geothermal loan guarantees of up to 90 percent for an electric cooperative or a municipality. The loan guarantee program was extended until 1990, and authority was added for loan guarantees for transmission lines, up to 25 percent.

In addition, the conferees adopted an amendment to the Public Utility Regulatory Policy Act, which would exempt small geothermal plants—that is, under 80 megawatts—from Federal and State regulation.

Mr. President, I urge my colleagues to adopt the conference report. It represents a plan of action that is well balanced, thoughtfully assembled, and absolutely essential if we are to achieve the energy independence our country so urgently needs.

I will conclude by congratulating the distinguished Senator from Louisiana for his heroic efforts in the conference and the success that he has realized in finally bringing the energy bills to consumation, this being one of them. I commend him for the hard work he has done through many, many months. I want him to know how much I admire his patience and tenacity.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Idaho for his very generous remarks.

I might say, Mr. President, that, in my judgment, we would not have a gasohol section in this bill were it not for the heroic efforts of the distinguished Senator from Idaho who introduced the initial amendment, and who helped us negotiate through many long hours. We have a workable gasohol provision here, $1.2 billion in scope. It will produce a lot of gasohol. It is there to a predominant extent because of the efforts of the Senator from Idaho.

Mr. CHURCH. I thank the Senator.

Mr. DOMENICI. Mr. President, I yield 15 minutes to the Senator from Colorado.

Mr. President, a parliamentary inquiry. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 66 minutes remaining.

Mr. DOMENICI. I thank the Chair.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator for yielding to me. The fact that the energy security bill, S. 932, is before us today is attributable in large measure to the legislative skills of the Senator from New Mexico, the distinguished Republican manager of this bill, and also a tribute to the great precision, patience, skill and dedication of the chairman of the conferees, the Senator from Louisiana.

I have said privately to my two friends who have been instrumental in bringing about the passage of this bill that I regard it as a masterful accomplishment of legislation. I regret that my purpose in rising is to invite other Senators to join me in killing this bill. I do so knowing full well that this achievement which they have brought to the floor today may be the single most skillful exhibition of legislative craftsmanship we have seen in many, many years.

It was a difficult bill to begin with. The conference was incredibly complicated. I congratulate my friends for their efforts.

Nonetheless, it is my conviction that this is a very undesirable piece of legislation. I made that observaton at the time the Senate considered it. I would be remiss if I did not point out that the conference committee has greatly improved this bill. In my judgment, it is a far better piece of legislation than either the Senate bill or the House bill which preceded it.

For example, the conference bill contains important restrictions on the President's power to compel private sector synthetic fuel production. It makes the new Synthetic Fuels Corporation more accountable for its actions than than the original version of this legislation.

The bill earmarks less than a quarter of the $88 billion originally proposed for the Synfuel Corporation.

So there have been important improvements made in this legislation.

However, even with these desirable improvements, in my judgment the bill does not represent a sound legislative approach to the Nation's energy needs. Of particular concern to me, and of very special and eminent concern to the people of my State, is title I, the Synfuels title. This proposal to create a Synthetic Fuels Corporation which would use loans, loan guarantees, purchase and price guarantees and joint ventures to stimulate a domestic synthetic fuels industry, and then, if an industry does not develop under those terms, create up to three Government-owned synfuel plants, sounds like a very glamorous and desirable proposal. However, in my judgment, it also has the potential for great mischief.

Just to review where we are, while the corporation is being established the President could use his authority under the Defense Production Act to purchase up to $3 billion in synfuels. Once the corporation is established the DPA authorization would then be put on standby to be used only in case of war or national emergency. The Corporation's first job is to establish a $20 billion phase I synthetic fuels program designed to reach by 1987 an interim production goal of 500,000 barrels per day, about 4 percent of the current U.S. oil consumption.

This concept has considerable superficial appeal. Obviously the Nation does need synthetic fuels.

With the OPEC nations becoming more and more intransigent, a crash program such as seems to be contemplated by this legislation seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sources. It is bold, it is dramatic. Unfortunately, it seems to me that it is the kind of move that arises when people reach the point that they think we have to do something, even if it is wrong. For this idea, the Synthetic Fuels Corporation, is a seriously flawed concept, in my judgment. The Synthetic Fuels Corporation may actually impede, rather than stimulate, synthetic fuel production and it threatens serious adverse environmental consequences.

Let me explain why I feel this way. The Synthetic Fuels Corporation is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not, so far as I am aware, supported by those who are knowledgable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal, and other synthetic fuel substances.

In fact, I think it is very instructive, Mr. President, that over the months leading up to the passage of this legislation, the committees of the Senate and the other body heard much testimony from industry experts, economists, engineers, financiers, scholars, and consultants. We called these authorities in and, in effect, we said to them, "what will it take to get synthetic fuel production moving?" Interestingly, practically none of them suggested creation of the Synthetic Fuels Corporation or a similar massive bureaucracy. Instead they have recommended the following kinds of measures designed to cut redtape and provide incentives for the private sector: Fast track permitting process; decontrol of oil and natural gas prices; production tax credits (such as $3 per barrel tax credit) for oil shale which has now been enacted; accelerated depreciation; guaranteed purchased plans or similar incentives.

They did not recommend at that point the creation of a bureaucracy such as is entailed in this Synthetic Fuels Corporation.

No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel seems to be going up every time a new study is made. "Although there are many contributing factors * * * the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants who have looked at this issue.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But only under the private approach, only when individual firms or consortia are willing to risk their own money on an idea, will large sums be spent. Government administrators, on the other hand, often push expensive large-scale programs when technological or economic factors do not warrant such development.

I am not talking about just in synthetic fuels; I am talking about the common experience of large-scale government programs.

Hundreds of millions of dollars have already been committed by private-sector companies to the production of synthetic fuels. Some companies say they are awaiting only the release of Federal lands for development, a step which we think is imminent. Another company states it will proceed at once with a large-scale synthetic fuel production plan immediately upon the enactment of a $3 per barrel tax credit which has been approved. Under the circumstances, I suggest to my colleagues that it may turn out that creation of another large government bureaucracy may ultimately slow down, rather than stimulate, existing and contemplated synthetic fuel production plans and discourage companies from going ahead.

After all, what company, what chief executive officer, what board of directors will be willing to proceed to do on their own, at their own expense, risking their own capital, to do something without a subsidy when the same task may be done with a Government subsidy?

Let me also point out two other concerns that trouble me about this legislation. The Synthetic Fuels Corporation has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: The U.S. Government. And for these projects, cost and economic factor was not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

Finally, let me make this point about the bill itself. If the Government bulldozes ahead with a large-scale program, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small-scale efforts are undertaken within the discipline of the private economic market. A crash program, based on political rather than economic or technological considerations, is likely to have seriously adverse environmental and social consequences.

For these reasons, Mr. President, I believe it would be wise not to enact this legislation.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ARMSTRONG. Mr. President, I should like to use those 3 minutes to express one additional concern which does not relate directly to the bill, but, rather, to the process by which this bill has been brought up for a final vote. I do not mean to be a crank about this, but, Mr. President, we do not have a printed conference report. This bill has been under development for more than a year. The synthetic fuels legislation is one of the largest and most costly pieces of legislation to come before this Congress. The bill is 400 pages in length. It creates a new synfuel corporation that could cost upward of $23 billion and may go ultimately to $88 billion. We do not have the facts before us in a time sequence that permits Senators to evaluate carefully what we are voting on.

That is the same thing we did on the Chrysler bill, it is what we always seem to do on tax legislation. I want to suggest, Mr. President, that that is not a responsible way to go forward.

The distinguished Senator from Louisiana pointed out, properly, how hard staff has worked, how they have been up all night and have not been home to see their families. I believe that is true. I think that is symptomatic of a very bad custom in this body, which is to take the most complex legislation and high-pressure it through, both at the staff and Member level so that we do not have the kind of time, Members or staff, for study and reflection to really know what we are voting on. That is exactly what leads to the passage of ill-considered legislation, not well understood by the Members or the public, and, frequently, the mistakes—the classic mistake of that kind being the decedent's carryover basis which was put by a conference committee in a tax bill when none of the Senators knew what was going on.

I do not say this in any way to deny the tremendous effort put in on this by staff but to raise the procedural question, as I have before, that it is not right to ask Senators to vote on legislation when they have not had an opportunity to know what it is they are voting on.

The point has been made or could be made that many Members participated in this conference—I, indeed, was one of those who did participate—that therefore, since so many Members participated, they really had a chance to know what they are voting on. Yet when we realize that staff was staying up all night or late into the night, even this week, that, as a practical matter, is not the case.

Moreover, let me suggest that even if every Member of the Senate understood fully what was being voted on here today, that still does not fulfill the even more important need for the public to have the right to know what is being voted on before it is voted on so that the public, whose interest we are here to serve, has the opportunity to react, to give advice, to give us feedback. In effect, the public is denied that opportunity of participation.

Mr. President, it seems to me that, at the right time, the Senate should adopt a rule which would preclude such hasty consideration of conference reports. I should like to express that concern. It relates not just to this bill, but to many.

I hope that many of my colleagues will join me, at the appropriate time, either to amend the rules or at least to establish a new tradition that a conference report should be printed and made available to Members at least 72 hours before we are called upon to vote on matters such as this.

Again, my thanks to the Senator from New Mexico for his courtesy in permitting me this opportunity to speak.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 53 minutes and 22 seconds remaining.

Mr. DOMENICI. How much time does the Senator from Minnesota want?

Mr. BOSCHWITZ. Five or six minutes.

Mr. DOMENICI. I am going to give him 5 or 6 minutes, whatever he would like. First, I should like to thank the Senator from Colorado and comment on his remarks.

Mr. BOSCHWITZ. Surely. I am going to comment on the same matter, I say to the Senator.

Mr. DOMENICI. I certainly was not going to compliment him for the last part of his statement, but somewhere in the middle.

Mr. President, I think the Senator knows that we on the conference and those of us who were involved in the whole thing, as compared with one title, are extremely grateful for the help the Senator provided in two or three major areas that this bill encompasses.

The partnership relationship with the States, where we have clearly indicated that we intend this to be as cooperative as possible, where we actually will ask the States if they are interested in this kind of project and want to work with the Federal Government to expedite, that State will be given preference in terms of a project. But their laws will be complied with.

In the water section, it was through the Senator's efforts that we took the issue of States' right to manage water and moved it over to the Defense Production Act. It was not in there.

I think the Western States in particular, when they understand the full scope of this policy change, especially if DPA gets moving with some synthetic fuel production, it will be an enduring aspect and the Senator can take great credit for it.

So while he does not feel title I will stimulate the industry, we both probably feel it must commence in this Nation.

While we do not agree we should use this corporation as a financing mechanism, and that is what it is principally, I think we do agree that significant financing, in the billions of dollars, will be required for American companies to create this new industry.

I think it could be this way, the Senator thinks it could be another way.

I merely want to add one observation. Generally, I agree philosophically with the Senator. But I am extremely suspect of the witnesses that said, "We can do it alone, just give us tax cuts, give us accelerated depreciation," because I really believe they have been saying that for a long time and nothing has happened significantly.

Second, and more important, I just do not believe there will be any diversity of ownership.

When we look at American companies to find ways to finance a $2 billion plant without the Government saying, "We will lend you part of it," we will encourage consortium to be formed.

I submit that only a few major, major American companies, predominantly huge major oil companies, will end up owning this whole new industry, apart from some involvement in diversifying the financing mechanism and encouraging diversity of ownership, all coal oriented, all technology development oriented.

I am not suggesting they will do a better or worse job, just suggesting the Senator ought to understand, and I know he does, that it is these kind of things that caused the Senator from New Mexico to be supportive of this measure and to have been a part of encouraging its finality and adoption here today.

I thank the Senator for his participation and his comments.

Mr. ARMSTRONG. Will the Senator yield 1 minute?

Mr. DOMENICI. I am pleased to.

Mr. ARMSTRONG. I want to make an observation, Mr. President, that the Senator from New Mexico has responded to my earlier statement in a way that underscores why he is one of the most widely admired men in our body and why he is admired by people all over the country.

I have spent 15 minutes criticizing a piece of legislation which is really a monument to his legislative skills and his response to me is to compliment me for the very small participation I had.

Even though we disagree on this particular issue, I treasure our friendship. It pains me that we are not in full agreement on this particular issue.

But I wanted to express how much I appreciate not only his response to me today, but over the last year. While we have disagreed on this issue, and even though I will not vote for this bill, I presume it will pass. I compliment him on his victory and hope that the bill does everything he expects it will.

Mr. DOMENICI. I thank the Senator.

I yield as much time as Senator BOSCHWITZ desires.

Mr. BOSCHWITZ. I thank the distinguished Senator from New Mexico.

Mr. President, I hope that he is correct when he says that, indeed, other than the very large oil companies of the country, who are going to enter into the production of synthetic fuels.

In my judgment, from looking at the bill, in all probability, it will be just those people who will receive the benefits of the bill and that at the end, the $88 billion, or many billions that will be on the bill, will probably be in relief and assistance of those companies.

I simply cannot believe that companies of smaller stature, less stature, of smaller capitalization, will be able to become involved in this.

Of course, as the Senator from New Mexico knows, the U.S. Government can become involved in the ownership of these plants, at least, as I understand it, to the extent of 49 percent, and financing up to 75 percent.

But I want to join my colleague from Colorado in objecting to the fact that we have not had a conference report prepared on this, making quite clear my understanding that it came up today, to some degree, as an accommodation to Members on this side of the aisle, inasmuch as we wanted to get together with our Presidential candidate, and other things were before us.

So my objection, really, is the idea of a bill coming without a conference report.

I also have the understanding that in this particular case the bill was cleared with many people, I understand upwards of 60 people, in both Houses, which is about 1 out of 10 Members.

Nevertheless, I see the end of a session coming, which will be very busy. I have never been in the legislature before. I have never been in the final 2 or 3 days of a session.

I wonder if we are going to, at that time, also have a large number of bills that will be without conference reports, in which case I, and I believe other Members, perhaps of my vintage, new Members of the Senate, will object and perhaps delay the proceedings.

I remember very well my colleague from Colorado speaking as we were about to adjourn for the Christmas season, about the fact that we were considering at that time a bill and the conference report had not been prepared and distributed, or it had not been distributed, or prepared in a very rough manner.

I know that this is a most complex bill. I congratulate the Senator from Louisiana for his part, and my friend from New Mexico. I do not serve on this committee, but on another committee with him. I always enjoy his comments and his insights.

But this is a bill that is hundreds and hundreds of pages long, that involves nearly $90 billion, that has been under consideration for a good long time.

So, indeed, we have a pretty good understanding of it. It would not take long to consider and observe the conference report which, to a large degree, would be a repetition, but not always, as the Senator from Colorado points out.

So without expressing my objections to the bill, which are somewhat along the line of the Senator from Colorado, I do want to express my objection to the fact that we are without a conference report.

My understanding is that the lack of the conference report was, to some degree, an accommodation of our side of the aisle, and I understand that. But, more from the standpoint of alerting the leadership and other Members, we hope that at the very end of our session, we are not going to be confronted with a large number of bills, without proper time to consider them, proper time to study them, without the public having proper time to give them consideration as well.

I thank the Senator from New Mexico.

Mr. TSONGAS. Mr. President, this bill has been popularly referred to as the synfuels bill, but that is a misnomer. It is an omnibus bill that goes well beyond synfuels. The actual title is the Energy Security Act. If the appropriations come through this year, it truly will improve our Nation's energy security. Though I still feel that the bill overemphasizes synfuels, it is a comprehensive approach that has major new initiatives for conservation and renewable resources. Now that the bill has been approved, I hope that increasing attention is given to the conservation and renewable resource provisions, which include a broad range of initiatives.

For wood and alcohol fuels biomass production, there is a $1.2 billion program of loans and loan guarantees. For urban waste, there is $250 million in price support loans. For hydro, there is extension of the $110 million feasibility loan program. For geothermal, there is $90 million for feasibility studies, loans, and guarantees.

The Energy Security Act also establishes a Conservation and Solar Bank, which I introduced last year. The bank will provide subsidies to local financial institutions that offer below-market-rate loans or principal-reduced loans for conservation or solar improvements in existing homes. The bill provides $2.5 billion for conservation loan subsidies during the first 4 years, and $525 million for solar loan subsidies during the first 3 years.

The interest subsidy mechanism is a highly effective one that overcomes high initial cost and high carrying costs. The subsidy levels are adjusted to give moderate- and low-income individuals higher subsidies—up to 50 percent for conservation and 60 percent for solar. For low-income individuals, the 50 percent conservation subsidy can be in the form of a grant. The bank also will provide subsidies for commercial and multifamily buildings. Unlike current tax credits, this subsidy mechanism can benefit nonprofit organizations that incur no tax liability. Unlike existing tax credits, the Conservation and Solar Bank includes passive solar as an eligible activity.

There are also other important conservation measures. These include an innovative residential conservation program utilizing private energy companies; a program to train energy auditors; modifications to the weatherization program to make it more effective; and modifications to the utility conservation program to encourage utilities to take a more active role in delivering conservation. The bill requires the Federal Government to use life cycle costing in evaluating conservation and solar improvements in Federal buildings, and to use gasohol in Government fleets.

This legislation lays out a strong, comprehensive program. It is a good first step for us in the first year of what will be a difficult decade. Its effectiveness will depend on how well we appropriate funds to make these programs operate. If we want to use this bill to protect this Nation's security in the near term, we must fully fund those programs with quick paybacks, such as the Conservation and Solar Bank.

The President's original budget request called for $300 million for the Conservation Bank and $150 million for the Solar Bank. The budget resolution accounted for these full amounts. Last year in the Interior appropriations bill, as a result of an amendment I offered, the Congress set aside $1 billion to protect funding for these solar and conservation programs in the first few budget years. S. 932 authorizes only $200 million for the Conservation Bank and $100 million for the Solar Bank in fiscal year 1981, in order to take into account startup time and the tight budget situation. I urge my colleagues to support full appropriations for these critical programs.

We must decide energy policy in the context of national security. This year the United States will send approximately $90 billion overseas for oil. The unreliability of foreign supplies is even more dangerous. We are caught up in a dangerous game of OPEC roulette.

Mr. President, I am pleased that the Energy Security Act is about to become law. It is a positive, comprehensive contribution to American energy security. But we must remember that there is much unfinished business on energy. We must resolve to finish it, or be resigned to our Nation's decline.

Mr. STEWART. Mr. President, I would like to commend the Senators from Washington, Louisiana, and Wisconsin for the leadership they have shown in bringing this conference to a successful conclusion. It has been a long, difficult, and enormously complicated process, and their patience and forbearance has been indispensable.

This omnibus legislation will serve as a key underpinning of our national energy program. I supported the creation of an Energy Mobilization Board to cut through bureaucratic redtape and expedite the permitting and regulatory process for designated priority energy projects. I also supported the placing of a windfall profit tax on the massive, unearned profits realized by the oil companies as a result of the President's decision to decontrol the price of domestic crude oil. Without this tax, today's legislation would be unthinkable, and a whole range of promising alternative technologies, many of which have the potential to provide liquid fuel alternatives to foreign oil, would have been neglected.

It is no secret that our excessive and dangerous dependence on foreign oil has reached catastrophic proportions. Our $90 billion annual fuel bill for foreign oil wreaks havoc on the domestic economy. Our reliance on foreign oil to meet over 40 percent of our oil needs seriously compromises our foreign policy objectives. Failure to take strong and decisive action in the face of this clear and present threat would, in my opinion, be a grievous error.

It has been a long time since my Subcommittee on Agricultural Research and General Legislation first held hearings on alcohol fuels last August. It has been almost as long since I introduced the Rural Energy Independence Act. I must say today that the wait has been worth it. With passage of this legislation the Senate sends a loud and clear signal to the American people that alcohol fuels are to be an important and significant portion of our future energy mix.

I believe the level of funding established in this legislation will launch a viable alcohol fuels program. I am also pleased that the conference has recognized the delivery capabilities of the Agricultural Extension Service. I am perhaps most pleased that the conference has recognized the vital contributions small-scale, onfarm stills are capable of making, and has tailored the legislation to meet the special needs of farmers for technical information, demonstrations, and financing.

There is an unfortunate tendency in this country to always assume that bigger is better. In the energy field, this attitude is translated into a preoccupation with large-scale, capital-intensive, multimillion-dollar projects. Sometimes, I think the 11th commandment around here is "economies of scale." But in the field of alcohol fuels, there are other economies involved—economies in transportation, storage, and byproduct utilization—all of which favor the small producer. There is no doubt in my mind that the day is not far off when the American farmer and our rural communities will be energy independent.

This legislation represents a major commitment to alternative energy technologies. I would note, however, that one funding mechanism, purchase agreements and price guarantees, will ultimately cost the Government nothing at all if OPEC price increases follow current trends. Furthermore, the Government could well wind up making money off the interest paid on loans and loan guarantees, the other major financing mechanism.

Ultimately, the money spent or loaned or pledged by the Government will be of little importance compared to the time, energy, and resources that will need to be mobilized by the private sector. I have full confidence that the American people will meet the energy challenge. I can state without reservation that the people of Alabama stand ready to make their contribution to this great national cause.

● Mr. BUMPERS. Mr. President, S. 932 is undoubtedly important legislation, and I rise to express both my support and my reservations.

This omnibus bill embodies the national energy policy for which we have been working for 7 years. It addresses both sides of the so-called "energy equation," that is, both supply and demand. The most important feature of the bill is the creation of the solar and conservation bank which will subsidize the conservation efforts of individual homeowners and renters and of some commercial enterprises.

Conservation is the most important element of this energy policy, and the method employed by this bill to achieve conservation is its most important innovation. Although many people pay lip service to conservation, they do not really want to practice it. Some people equate conservation with a reduced lifestyle, but it should be the opposite. For example, a well-insulated home is much more comfortable than an uninsulated one. Some people argue that increases in energy consumption mean improvements in the economy, but the opposite may be true. Certainly, a large portion of our current inflation is traceable to rising energy prices. A recent study by the Congressional Budget Office, for example, has revised upward the estimated impacts of oil decontrol upon the consumer price index. The CBO now estimates that consumer prices will increase by about 2.6 percent by 1982 purely as a result of oil price decontrol.

Also, a recent study by the Harvard Business School demonstrates that there has never been a correlation between gross national product and the consumption of energy. This is understandable, because energy which is wasted cannot contribute to the gross national product. Only productive uses of energy can make such a contribution.

It is essential to note that the cost to the economy of imported oil is far greater than its nominal cost would indicate. The Harvard Business School study concluded that the ripple effect of energy prices would cost the economy $80 for a barrel of imported oil costing $16.

In addition, we have a great potential for conservation, because we waste nearly 40 percent of the energy that we use. If we eliminated that waste today, we would today eliminate the need to import any oil. That would give us the time and the opportunity to plan carefully for future energy development. We could proceed to develop synthetic fuels and renewable resources with the assurance that the environmental consequences will be acceptable.

Clearly, conservation is a quick, cheap, certain and permanent, and necessary solution to the energy problem.

The difficulties with achieving better conservation have not been with the recognition of its value, but rather with disagreements over the best method of achieving it. Conservation cannot be merely equated with higher prices, which are a means of punishment, not encouragement. Thus, the true significance of the conservation title of this measure is its determination that conservation should be encouraged, not as a temporary lowering of thermostats in the winter, but as permanent, structural alterations of buildings. The bill acknowledges that there are many people who recognize the need to conserve but who can only conserve by suffering in the cold, rather than by weatherizing their homes, simply because they do not have the money to do a thorough job of it. It provides matching funds for those people to make complete weatherization possible. For those who are better off, the bill provides subsidized loans as an inducement to make their homes as energy efficient as possible.

In addition, the bill makes important strides in developing renewable resources. It provides subsidized loans for the installation of solar devices. It also provides support for biomass activities. These are essentially conservation activities because they conserve nonrenewable resources.

I am certainly hopeful that the vast amounts of money which are targeted for synthetic fuels will successfully hasten the development of fuels which are environmentally acceptable and commercially competitive. That would be a triple success, because it would not only insure the clean use of our huge coal reserves, but would also provide for the export of both the coal and the associated technology.

I would be remiss, however, if I did not express my reservations about the large amounts of money and the great store of hope which are being devoted to this enterprise. We clearly are placing our faith in technology, which we must pray will not prove to be a false god. The great promise of synthetic fuels carries with it the danger that we may use them to the irreversible detriment of the air we breathe and the water we drink.

I have supported this legislation despite my own reservations and despite the anomolous opposition of both the environmental and business community to some of its aspects. The business community has opposed the use of Government-owned enterprises, fearing that they would be the first instance of Government ownership of energy enterprises generally. The environmentalists fear that the Government will assume risks that are unacceptable to business. Neither fears are justified.

Businesses need not fear Government encroachment, because the Government will only delve into areas which businesses have refused to enter. Environmentalists should welcome that action, because it may develop the technologies which are made more expensive because of their environmentally preferable aspects.

My reason for mentioning these particular fears is to point out that they can needlessly freeze our progress and forestall solutions to problems. A fearful nation cannot succeed, and a fearful people will tear itself apart. We cannot be governed by fear. We must try untried solutions. Therefore, we must proceed with the synthetic fuels program.●

Mr. TALMADGE. Mr. President, the adoption by the Senate of the conference report on S. 932, the Energy Security Act, will represent a milestone in the Nation's efforts to achieve energy independence.

It was a privilege for me to serve as a member of the committee of conference, and I am delighted that the committee adopted the major thrust of the agricultural, forestry, and rural energy bill (S. 1775) that I introduced last September. That bill, in modified form, was unanimously adopted by the Senate last November as title II of S. 932.

I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a summary of the conference agreement on the biomass energy provisions in S. 932.

The adoption of the conference report on S. 932 will clear the way to get the Nation moving, at last, an all-out program to produce energy from renewable farm and forestry energy sources. This program can be implemented quickly. Scores of biomass energy production facilities can be in place in a relatively short time.

In my opinion, this program will provide the most economical and practical means for significantly increasing domestic energy production over the next few years while a large-scale synthetic fuels industry is being developed.

I consider the conference substitute a major breakthrough in assuring that the vast potential of biomass energy will be exploited to help meet the country's energy needs and end our dependence on imported oil.

S. 1775, and the amendment I offered to S. 932, were based on extensive hearings, held over the last 2 years by the Senate Committee on Agriculture, Nutrition, and Forestry, on the energy issue as it pertains to agriculture and rural United States. The testimony at these hearings was persuasive that small- and intermediate-scale production of alternative fuels from agricultural and forestry biomass offers one of the most practicable and least costly ways of filling the energy gap in rural United States created by the escalating costs and reduced availability of petroleum and natural gas. The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for onfarm and small- and intermediate-scale commercial application.

It was also pointed out during these hearings that methods to conserve the amount of energy used by farmers, rural residents, and rural communities are now available and can substantially reduce rural energy consumption.

What is urgently needed, it was learned through these hearings, is an effort by the Federal Government—using the efficient delivery system now in place—to provide the necessary applied research, technical know-how, and financial assistance in these areas. It is this need that title II of S. 932 is designed to serve. Under the conference substitute, the Department of Agriculture is to play a major role in affording financial assistance for the development of biomass energy. The Department of Energy is also to play a major role, and the conference substitute contains provisions to assure that there is close coordination between the two Departments.

While title II would provide authority for a comprehensive energy program for rural America, most of the programs are authorized only through fiscal year 1984 and are subject to the appropriations process. The necessary funding for the financial assistance to be made by the Secretaries of Agriculture and Energy for biomass energy projects will be accomplished by a transfer to them of spending authority in the energy security reserve, which Congress established last year. This transfer must be made in an appropriations act, and I am confident that Congress will take the necessary action.

Energy independence for agriculture and forestry is of great importance to the Nation. A continuous and reasonably priced energy supply is vital to the production of food and fiber and the economic and social well-being of every citizen. In addition, the rapid development of agricultural biomass energy under title II can make a significant contribution in meeting our total energy needs and in stabilizing the farm economy.

I would like to take this opportunity to thank all the Senate and House conferees on S. 932 for their hard work and dedication in developing a workable compromise bill. As you are all aware, the conference committee has completed a massive task in sorting through and resolving the many differences between the House and the Senate versions of this important legislation.

I especially want to compliment Senator JOHNSTON for his competent and effective leadership of the Senate conferees on S. 932. It is due, in no small measure, to his efforts, along with those of House Majority Leader JIM WRIGHT, that Congress is now in a position to send S. 932 to the President for his signature.

Also, I wish to single out for thanks Chairman FOLEY of the House Agriculture Committee for his work on the biomass energy provisions of S. 932. His efforts were, I believe, invaluable in facilitating the development of title II of the conference substitute.

I urge all my colleagues to join me in supporting the conference report.

SUMMARY OF THE CONFERENCE AGREEMENT BIOMASS ENERGY PROVISIONS OF S. 932—THE ENERGY SECURITY ACT

I

S. 932, as passed by the Senate, contained authority for financial assistance for biomass energy projects in titles I, II, and III. Title I authorized the Synthetic Fuels Corporation to provide up to $1 billion in financial assistance to biomass energy projects that are of a size offering "a significant potential" for achieving the national goal for production of synthetic fuel. Title II authorized the Department of Agriculture to provide up to approximately $1 billion a year, through fiscal year 1984, in financial assistance to all types and sizes of biomass energy projects, provided that for projects producing more than one million gallons per year of alcohol (or equivalent of other forms of biomass energy), the Secretary of Agriculture would be required to obtain the concurrence of the Secretary of Energy. Title III authorized the Secretary of Energy to provide up to $1.2 billion in financial assistance to all sizes of alcohol production facilities.

S. 932, as passed by the House, did not contain any provisions comparable to titles I, II, and III.

II

On May 14, a meeting of the committee of conference on S. 932, the House offered a proposal concerning biomass energy in substitution for titles I, II, and III of the Senate bill. On May 20, the Senate offered a counterproposal amending the House proposal of May 14. The conferees agreed to the House proposal with the Senate changes. The conference substitute would:

(1) Consolidate the biomass energy provisions of titles I, II, and III of S. 932 into title II, and establish a comprehensive biomass energy program for fiscal years 1981 through 1984 under title II.

(2) Provide the Secretary of Agriculture with *exclusive* jurisdiction over all projects, except those involving the production of biomass energy from municipal waste or aquatic plants, that produce less than 15 million gallons of ethanol per year (or equivalent of other forms of biomass energy).

(3) Provide the Secretary of Energy with *exclusive* jurisdiction over (a) all projects involving the production of biomass energy from municipal waste or aquatic plants and (b) all projects (except projects that use forestry feedstocks to produce biomass energy or projects that are owned and operated by agricultural cooperatives) that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy).

(4) Provide the Secretary of Agriculture and the Secretary of Energy with *shared* jurisdiction over projects that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy) *and* that use forestry feedstocks to produce biomass energy or that are owned and operated by agricultural cooperatives. For such projects, both the Secretary of Agriculture and the Secretary of Energy would be authorized to solicit proposals for and provide financial assistance to these projects, subject to the concurrence of the other Secretary. (The provisions setting forth the conditions and procedures for concurrence are similar to those for review of applications described in item (6).) The Secretary of Agriculture and the Secretary of Energy would be encouraged to develop joint projects from proposals that fit into this category.

(5) Require the Secretary of Agriculture and the Secretary of Energy, within six months after date of enactment of the bill, to prepare a comprehensive plan for maximizing biomass energy production and use. The plan would be designed to achieve an alcohol production level, to the maximum extent possible, of not less than 60,000 barrels per day by the end of 1982. The Secretary of Agriculture and the Secretary of Energy would also be required to jointly submit, by January 1, 1982, a comprehensive plan for the period 1983 through 1990 to (a) maximize biomass energy production and use, and (b) achieve an alcohol production level equal to not less than 10 percent of estimated gasoline consumption in 1990. This report would address the feasibility of reaching this goal.

(6) Require the Secretary of Energy to review Department projects for technical and national energy policy considerations, and require the Secretary of Agriculture to review all Department of Energy projects for national, regional, and local effects on agricultural supply, production, and use. Each Secretary would have 15 days in which to review the projects of the other Department. If concerns are raised within that 15-day period, both Secretaries would have an additional 30 days to resolve the issues raised. Following the consultation period, the Secretary providing assistance could proceed with the project. The Secretary of Agriculture and the Secretary of Energy could jointly establish categories of projects to which the consultation provisions shall not apply. Within 90 days after the date of enactment, the Secretaries would review potential categories and make an initial determination of exempted categories.

(7) Provide for the transfer of $1,450,000,000 (for the two-year period beginning October 1, 1980, to the extent provided in advance in appropriations Acts) from the special fund established in the Treasury of the United States by Public Law 96–126 (designated the "Energy Security Reserve" and made available for obligation by such law only to the extent provided in advance in appropriations Acts) for financial assistance to biomass energy projects. Of such amount, $600,000,000 would be available for biomass energy projects funded with financial assistance by the Secretary of Agriculture. Up to one-third of the amount of financial assistance provided by the Secretary of Agriculture would be for small-scale biomass energy projects (producing 1 million gallons or less of ethanol or energy equivalent per year). Also, $600,000,000 would be available to the Secretary of Energy—of which at least $500,000,000 would be made available to the Office of Alcohol Fuels for alcohol projects. Any amount not made available to the Office of Alcohol Fuels would be available to the Secretary of Energy for biomass energy production as authorized in title II or other existing authorities.

The remaining $250,000,000 would be available to the Secretary of Energy for projects producing energy from municipal waste.

These funds would be available until expended. There would be no authorization provided at this time for appropriations for the second two-year period of the program.

The Secretary of Agriculture and the Secretary of Energy could use this funding for guaranteed loans, price guarantees, and purchase agreements to stimulate the production of biomass energy.

The Secretary of Agriculture would also be authorized to make insured loans, but only in amounts not in excess of $1 million per project, and only for projects having an annual production capacity of one million gallons or less of ethanol (or its equivalent of other forms of biomass energy). No insured loan could exceed 90 percent of the construction costs of the project (cost overruns—not exceeding 10 percent of initial cost estimates—would also be eligible for insured loan financing).

The Secretary of Agriculture and the Secretary of Energy would be authorized to guarantee loans for up to 90 percent of the construction costs of a project (up to 60 percent of any cost over-run would also be eligible for a loan guarantee). The Federal Financing Bank could not participate in any guaranteed loan transaction. [Note: The amount of financial assistance that may be provided to projects producing biomass energy from municipal waste are different, and the terms are not explained in this summary.]

Projects involving the combustion of wood either directly or indirectly, to produce biomass energy would be eligible for financial assistance (except for fireplaces, wood-burning stoves, and other related activities of a non-commercial nature).

Priority for financial assistance would be given to projects that (a) do not use petroleum or natural gas as the primary fuel in the production of biomass fuel or (b) that use new technologies or produce new forms of biomass energy. Projects not meeting these criteria, however, would not be excluded from receiving financial assistance. Each biomass energy project receiving financial assistance under this title would have to have a positive net energy balance and a reasonable expectation that the feedstock used in the production of biomass energy would be available in the future.

In determining the amount of financial assistance for any biomass energy project that will yield byproducts, in addition to biomass energy, the Secretary must consider the potential value of such byproducts and the costs attributable to their production.

No financial assistance could be provided to any person for any biomass energy project if the Secretary finds that the process to be used by the project will not extract the protein content of the feedstock for use as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(8) Give the President authority to alter the division of administrative responsibilities between the Department of Agriculture and the Department of Energy if he finds such action to be necessary to achieve the purposes of title II.

(9) Adopt statutory requirements to provide times certain for (1) solicitation guidelines (90 days after date of enactment of the bill); (2) first solicitation (30 days later); (3) receipt, evaluation, and awards for proposals (120 days after first solicitation) subject to availability of appropriations and the acceptability of the proposals; and (4) second solicitation (one year after first solicitation). These provisions would not apply to the extent either Department has existing procedures to process applications more expeditiously.

The Secretary of Agriculture and the Secretary of Energy would be expected, to the maximum extent practicable, to approve or disapprove any application for financial assistance within 120 days after receipt of the application.

(10) Make it clear that the authorities in title II will be in addition to, and not modify (except to the extent expressly provided for in the title), the authorities of the Secretary of Agriculture and the Secretary of Energy under other provisions of law.

(11) Provide authorization for appropriations of $12 million per year to the Secretary of Agriculture for biomass energy research through fiscal year 1984, and $10 million per year through fiscal year 1984 for the State cooperative extension services to provide educational programs for rural residents and producers of agricultural commodities and forest products concerning the production of biomass energy and the conservation of energy. The substitute would also authorize appropriations of up to $5 million per year through fiscal year 1984 for up to ten biomass energy production model demonstration facilities to exhibit the most recent technologies available for producing alcohol fuel and other forms of biomass energy.

(12) Delete the provisions in title II of the Senate bill that would provide for (a) new Farmers Home Administration loan programs for energy production and conservation; (b) a special rural electrification loan and grant program for producing electricity from nonfossil energy sources; (c) financial assistance to State foresters and expansion of the Forestry Incentives Program; and (d) a pilot loan program for small, private forest landowners to encourage better forest management for energy purposes. The substitute would not include a provision in title III of the Senate bill that would require the Secretary of Agriculture to sell excess sugar stocks for use in producing alcohol without regard to minimum price considerations.

(13) Provide for (a) a change in existing law to *require* the Secretary of Agriculture to permit crops that could be used in producing alcohol to be grown on set-aside or diverted acreage if certain conditions are met; (b) the burning of gasohol in motor vehicles owned or leased by the Federal Government when such fuel is available at reasonable prices and in sufficient quantities; (c) a study by the Secretary of Transportation to be completed within 9 months after enactment of the bill to determine (i) the need for legislation requiring that all *new* motor vehicles be capable of burning gasohol and (ii) the need for legislation to reduce technical or institutional barriers to widespread use of gasohol; (d) natural gas priorities for sugar refining for the production of alcohol, for agricultural production on set-aside or diverted acreage when such production is used for alcohol production, and (for the next 5 years) for the distillation of fuel-grade alcohol from biomass at existing production facilities that do not have the capability of lawfully using coal; and (e) authority for the President to allocate supplies of refined petroleum, if shortages exist, for blending with alcohol to make gasohol.

Mr. BAKER. Mr. President, I was pleased to see the Senate act so expeditiously today to approve the Energy Security Act of 1980.

And I wish to commend the Senator from Washington (Mr. JACKSON), chairman of the Energy and Natural Resources Committee, the Senator from Oregon (Mr. HATFIELD), ranking member of that committee, the Senator from Louisiana (Mr. JOHNSTON), the Senator from Idaho (Mr. McCLURE), and the Senator from New Mexico (Mr. DOMENICI) on the thoughtful consideration they gave this measure and the prompt manner in which they brought it to the floor.

Our continuing dependence on foreign oil imports, the constant increases in the price of that oil, and the ever-present risk of another embargo make it imperative that this Nation move expeditiously to develop alternative fuel sources, particularly when we possess such vast quantities of raw materials from which these resources can be derived.

In all candor, Mr. President, I must note that I am less than overjoyed at the prospect of the Federal Government establishing the Synthetic Fuels Corporation and, perhaps, ultimately becoming directly involved in the development and production of synthetic fuels. I have long maintained that the Federal Government should not engage in such activities, historically the domain of private enterprise, which, I would add, has a much better record at such endeavors than does the Government.

Nonetheless, development of our vast supplies of shale and coal is of such critical importance to the future of this country that I support this effort to hasten that development.

Other areas of the legislation I find wholly acceptable, Mr. President.

Until we are able to generate sufficient synthetic fuels and other alternative sources of energy, it would be foolhardy indeed for the United States not to take every safeguard to insure an adequate supply of oil. The filling of the strategic petroleum reserve will do much toward that end and I applaud the inclusion of this provision in the bill.

And there are many, many other aspects of the bill that I support—the home weatherization program, the energy conservation measures, the research in geothermal, solar, and renewable energy sources.

All of these are most worthy and long overdue advancements in our quest for energy independence, Mr. President.

By approving them, today, the Senate has acted in a most responsible fashion that will serve this Nation well for years to come.

Mr. HELMS. Mr. President, much time and a great deal of effort have been dedicated to what is now title II of S. 932. Frankly, there is much in this conference report which I cannot support. But, my endorsement of title II is unwaivering.

I believe the compromise concerning title II, adopted by the conferees, is a sound proposal that meets the important primary objective of providing a meaningful incentive for biomass energy development.

The manner in which jurisdiction is divided between the Departments of Energy and Agriculture is logical as well as equitable. Advantage is taken of the expertise each has developed and provision is made for cooperation between the Departments. It makes sense, for example, that USDA serve farmer cooperatives and that DOE work on the development of municipal waste.

And, perhaps, most important, is the financial assistance that will be available to farmers and small businessmen in the form of guaranteed and insured loans. This badly needed boost will serve as a shot in the arm to help America move toward meeting more of her energy needs with domestically produced fuels.

Mr. President, though thanks is due to many, the Senator from North Carolina takes this opportunity to express my admiration and gratitude for the tireless dedication that the Senator from Georgia (Mr. TALMADGE) has given this legislation.

Mr. President, I was privileged to cosponsor with the Senator from Georgia the forerunner of title II—S. 1775—when it was introduced last August. Of course, under the able leadership of the Senator from Georgia, S. 1775 was reported from the Committee on Agriculture with every member of that committee cosponsoring the bill.

Then, for strategic reasons, it became advantageous to attach S. 1775 to this bill, S. 932. I was pleased to join the Senator from Georgia in the extensive negotiations that preceded that merger and be here on the floor with the Senator from Georgia when it was accepted as an amendment to the synfuels bill—thus becoming title II. And, as a member of the S. 932 conference committee, I know the Senator from Georgia's leadership was again critical in the progress on title II as that lengthy conference drug on.

Mr. President, these many hours of work on title II have yielded a fine product. And in turn, as title II is implemented and its effects are felt, I believe Americans will find that it too yields bountifully—in the production of domestic energy.

THE ACID RAIN TITLE OF THE SYNTHETIC FUELS CONFERENCE REPORT

Mr. MOYNIHAN. I am pleased to join my colleagues in supporting the conference report on S. 932 the synthetic fuels bill. This is a splendid effort, and one that I believe is our first serious step toward breaking our long-term dependence on foreign sources of oil. I commend my colleagues Senator Jackson, Senator Johnson and Senator Domenici for their valiant efforts on this bill.

I would like to take particular note of title VII which contains an acid rain proposal based upon the amendment I offered to the synthetic fuels bill last November. Title VII creates a Federal acid precipitation task force directed to carry out a 10-year program to address the acid rain problem. Designed to be the legislative underpinning of the acid rain program initiated by President Carter last August, this program would build upon the work of the existing Acid Rain Coordinating Committee within the administration.

Over its 10-year life it will coordinate and conduct our Federal effort to monitor acid rain and to carry out detailed research on its causes and effects. The task force will be responsible for an annual report to Congress, in which it will detail the results of its research and recommend to Congress actions that should be taken by various Government agencies and the Congress to alleviate acid precipitation and its effects. Five million dollars is authorized for the first year of this effort, and $45 million is set as a limit for the remaining 9 years.

As a member of the Senate Environment and Public Works Committee, the committee of jurisdiction over environmental research programs including this program, I am particularly pleased that the conferees agreed to retain the acid rain title of S. 932. The Environment Committee has held several days of hearings on acid rain to date, documenting the degree to which acid rain has developed into a major national environmental problem.

In my own State of New York, for example, 91 lakes in the Adirondacks are known to be devoid of fish life as a result of increasing acidification, and hundreds of other lakes are threatened. But it is not only portions of the Northeast that are threatened by acid rain. The Boundary Waters Canoe Area in Minnesota and parts of the Rocky Mountains in Colorado are also known to be particularly vulnerable. Evidence has also been presented by such notable scientists as Gene Likens of Cornell University, Ellis Cowling of North Carolina State University, James Galloway of the University of Virginia and others, indicating that the acid rain problem is increasing not only in geographic scope, but also is acidifying further in areas already affected.

It has also been made clear that much more research is needed on acid rain before we are fully able to understand the chemical and physical processes that facilitate the long-term transport of sulfur and nitrogen oxides, their conversion to acids, and the particular pathways through which they damage lakes, plantlife and other resources. I would like to stress, however, that we do know enough to indicate that this is a major problem, and that action in the near future is warrantd to control it. I therefore do not want this program interpreted by anyone as a means of delaying action on acid rain for 10 years. Rather, it is to be an ongoing effort, in the course of which we can begin to implement a solution.

Mr. President, I again commend the conferees for their efforts in presenting us this bill.

Mr. PERCY. Mr. President, the Energy Security Act represents an important step toward moving our Nation to a more secure energy future. This act attacks our energy problems from a number of different fronts. Title I establishes a program for the development of a synthetic fuel industry that will enable us to use our vast coal resources in an environmentally acceptable way. Increased coal utilization must be an important priority for the United States if we are to reduce our dangerous dependence on foreign energy sources; synthetic fuels production represents a means of directly substituting for imported oil.

The Energy Security Act goes well beyond the scope of developing a synthetic fuels industry, however. It also provides substantial incentives for equally-important approaches to solving our energy problems, including energy conservation and the use of renewable energy resources. These are the approaches that will, over the long-term, supply the vast majority of our energy needs, but in the near-term also, they can help to relieve the severity of our energy predicament. Energy conservation especially has a vast potential for supplying near-term benefits at relatively low costs. Various recent studies have discussed the potential of energy conservation; it has been determined that about 40 percent of the energy we consume is currently wasted.

The Energy Security Act will provide incentives for recovering some of this wasted energy. The act's solar energy and conservation bank, for example, will provide financing to encourage various residential energy-saving measures. In addition, the act will result in greater utility participation in residential energy conservation and also promote energy conservation in the industrial sector.

The Energy Security Act will also encourage greater utilization of renewable energy resources such as solar energy, alcohol fuels, geothermal energy, and municipal waste. The previously noted energy bank, for example, will encourage residential and commercial solar applications, and in so doing, will stimulate our domestic solar industry. Other provisions of the act will offer encouragement to our Nation's alcohol fuel industry. These could stimulate up to 60,000 barrels per day of alcohol fuel production from biomass within 3 years. This would provide a source of badly needed fuel to help relieve our reliance on oil imports.

Mr. President, in light of the many important benefits that the Energy Security Act will provide, I encourage the approval of this conference report and I look forward to the enactment of this legislation into law. I commend the Committee on Energy and Natural Resources on their outstanding work on this bill.

Mr. JOHNSTON. Mr. President, I believe the moment of truth has arrived. If my good friend from New Mexico is ready, we are ready to hear, we hope, the vote of progress for this Nation.

Mr. DOMENICI. I say to my good friend from Louisiana that I have been waiting for this day for many, many months.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. Melcher) would vote "yea."

Mr. BAKER. I announce that the Senator from New York (Mr. Javits), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

I further announce that, if present and voting, the Senator from Texas (Mr. Tower) would vote "nay."

The PRESIDING OFFICER (Mr. Mitchell). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 78, nays 12, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—78

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—12

Armstrong
Boschwitz
Cochran
Garn
Hatch
Helms
Humphrey
Jepsen
Laxalt
Proxmire
Schmitt
Weicker

NOT VOTING—10

Culver
Goldwater
Gravel
Javits
Kennedy
McGovern
Melcher
Stevens
Talmadge
Tower

So the conference report on S. 932 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MORGAN. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

Mr. MORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABUSE OF RULE XIV

Mr. HATCH. Mr. President, Senate rule XIV has become an increasingly used tool by some Senators to place bills directly on the Senate Calendar before they receive thorough committee review. Only yesterday, this procedure was resorted to in placing H.R. 5200, the Fair Housing Act Amendments, directly on the Senate Calendar. This is particularly ironic in view of the fact that the Senate counterpart to this legislation, S. 506, had been reported out of the Senate Judiciary Subcommittee on the constitution only 1 day earlier. It was scheduled to have been placed on the full Judiciary Committee calendar next week. It is unfortunate when rule XIV becomes a matter of course for Senators who are simply dissatisfied with the results of the Democratic process at the committee and subcommittee levels. Rule XIV has become an important problem that this body ought to address.

WHAT IS RULE XIV?

Section 4 of rule XIV allows a Senator to place a bill on the Senate Calendar, thus bypassing the Senate Committee system. The entire rule should be examined to view section four in context. Rule XIV states:

> RULE XIV
>
> BILLS, JOINT RESOLUTIONS, AND RESOLUTIONS
>
> 1. Whenever a bill or joint resolution shall be offered, its introduction shall, if objected to, be postponed for one day.
>
> Jefferson's Manual. Sec. XXIII.
>
> 2. Every bill and joint resolution shall receive three readings previous to its passage, which readings shall be on three different days, unless the Senate unanimously direct otherwise; and the Presiding Officer shall give notice at each reading whether it be the first, second, or third:* *Provided*, That the first or second reading of each bill may be by title only, unless the Senate in any case shall otherwise order.
>
> Jefferson's Manual. Sec. XXII.
>
> 3. No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee; bills and joint resolutions introduced on leave, and bills and joint resolutions from the House of Representatives, shall be read once, and may be read twice, on the same day, if not objected to, for reference, but shall not be considered on that day† nor debated, except for reference, unless by unanimous consent.
>
> Jefferson's Manual. Sec. XXIV.
>
> 4. Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the Calendar in the order in which the same may be reported; and every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the Calendar.
>
> Jefferson's Manual, Sec. XXV.
>
> 5.†† The Secretary of the Senate shall examine all bills, amendments, and joint resolutions before they go out of the possession of the Senate, and shall examine all bills and joint resolutions which shall have passed both Houses, to see that the same are correctly enrolled, and, when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the Senate, to the President of the United States and report the fact and date of such presentation to the Senate.
>
> 6.†† All resolutions shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.
>
> Jefferson's Manual, Sec. XXV.

THE ORIGIN OF RULE XIV

The origin of section 4, rule XIV, is found in Jefferson's Manual, which provides:

> In the Senate of the United States, the President reports the title of the bill, that this is the second time of reading it: That it is now to be considered as in a Committee of the Whole; and the question will be whether it shall be read a third time, or that it may be referred to a special committee.[1]

Unfortunately, it appears that the Founding Fathers left no written sources which discuss the explicit purpose for which section 4 was to be used.

HISTORY OF RULE XIV

Rule XIV was adopted in 1877.[2] Historically, rule XIV, section 4, has been used infrequently by Senators with the intent to bypass a Senate committee by directly placing a bill on the Senate Calendar. According to reports of different Senators, rule XIV has been used for this purpose only 18 to 30 times.[3]

Highlighting a few examples of the use of rule XIV illustrates how it has been traditionally interpreted. In 1928, Senator Reed of Pennsylvania objected to a House bill brought over to the Senate. The objection occurred immediately after the second reading of the bill. The Vice President, under rule XIV, then placed the bill on the Senate Calendar, stating, "objection is made, and under rule XIV the bill will be placed on the calendar."[4] The effect was to bypass the Senate committees, as long as a Senator made an objection after a second reading of the bill.

In 1931, the same procedure was used to place a Senate bill on the calendar without reference to a committee. As the Congressional Record notes:

> Mr. Barkley. Mr. President, . . . I ask unanimous consent out of order to introduce a bill to correct that situation, and then I shall ask unanimous consent for its present consideration.
>
> The Vice President. Let the bill be read.
>
> The bill (S. 6269) relating to the making of loans to veterans upon their adjusted service certificates was read the first time by its title, and the second time at length, as follows:
>
> * * * * *
>
> Mr. Smoot. Mr. President, I ask the Senator to let the bill go to the Finance Committee. I will get a report on it today. I should like to see just what the effect of it might be.
>
> Mr. Barkley. I do not want to consent to a reference at this time because the committee is not in session and has not been called in session.
>
> Mr. Smoot. The committee was in session this morning and held a meeting, and the committee will be called together again.
>
> Mr. Barkley. The commitee was called in session to pass on nominations and not for legislative purposes.

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*As amended, S. Jour. 71, 63–2, Jan. 14, 1914.

†As amended, S. Jour. 357, 71–2, May 16, 1930.

††As amended, S. Jour. 60, 80–1, Jan. 17, 1947.

Numbered footnotes at end of article

Mr. SMOOT. It was for all purposes.

The VICE PRESIDENT. Objection is made to the request of the Senator from Kentucky.

Mr. BARKLEY. I desire to enter a motion to suspend the rules so as to consider and pass the bill.

The VICE PRESIDENT. The motion will be entered. (March 2, 1931, 71–73, Journal, P. 309)

An objection to a request for the consideration of the bill having been interposed by Mr. Smoot,

Ordered. That the bill, under Rule XIV, paragraph 4, be placed on the calendar. (March 2, 1931, 71–73, Journal, p. 309).[5]

In 1932, rule XIV was used to place a Senate bill—concerning the Reconstruction Finance Corporation—on the Senate Calendar without referring the bill to committee. Objection to present consideration of the bill was made by a Senator after the second reading, thus placing the bill on the calendar.[6]

In the 1940's, the Reorganization Act raised the possibility that the Senate had overruled the use of rule XIV to bypass referral to Senate committees. The concurrent resolution creating the Joint Committee on the Organization of the Congress, which resulted in the Reorganization Act (La Follette-Monroney Act) is found on page 69, the Journal of the Senate, February 12, 1945.

It states:

> *Provided*, That nothing in this concurrent resolution shall be construed to authorize the committee to make any recommendations with respect to the rules, parliamentary procedure, practices, and/or precedents of either House, or the consideration of any matter on the floor of either House.

However, the Senate later passed the Reorganization Act, which may have specifically overruled the use of rule XIV to bypass Senate committees. The Senate certainly had the ability to change its mind from session to session.

The dispute centers upon rule XXV, as amended by section 102 of the Reorganization Act, which contains language indicating that bills "shall be referred" to different committees. Whether that language is mandatory has been hotly contested. At a minimum, section 102 was intended to provide guidance for the Presiding Officer when deciding to which committee to send a bill; this was particularly important if there was a possible jurisdictional dispute.[7]

The tidelands and oleomargarine disputes of 1948 indicate how the Senate interpreted the issue of whether the revised rule XXV superseded rule XIV. The Presiding Officer of the Senate was the late Senator Vandenberg, of Michigan. He was President pro tempore of the Senate, and the only legal Presiding Officer the Senate had at the time, because at that point in time there was no Vice President.

The tidelands bill was passed by the House and came to the Senate. After the second reading of the bill, Senator Downey placed the bill on the Senate Calendar by motion—under rule XIV—although there had never been a reference of the bill to a Senate committee. Rule XXV was not used to mandate referral to a committee.

The next day, an attempt was made by Senator Fulbright to place another House passed bill—the oleomargarine bill—on the Senate Calendar without reference to a Senate committee. However, at the same time that Senator Fulbright was seeking to be recognized to make his motion, Senator Wherry of Nebraska also sought recognition. The President pro tempore (Senator Vandenberg) chose to recognize Senator Wherry before Senator Fulbright. Mr. Wherry then prosuperseded rule XIV in that instance tion, arguing that the bill should go to the Committee on Agriculture rather than another committee. Because the jurisdictional question was raised before Senator Fulbright made the motion to place the bill on the calendar, the jurisdiction issue was deemed as controlling.

Senator Vandenberg said:

> It is needless to go into the details of this conflict, but it turns finally, apparently, upon the pure question as to who is first recognized by the Chair to assert his rights under these two conflicting rules.[8]

Senator Vandenberg allowed the Senate to vote to determine which committee the bill should go to, and possibly set a precedent that rule XXV may have superseded rule XIV in that instance (whether or not that was intended is a matter of later dispute among Senators).

Senator Vandenberg said:

> There is no collision whatever between the precedent of yesterday [tidelands bill] and the precedent of today. [Oleomargine bill.][9]

He later explained:

> It is the view of the Chair that the question of precedence in a case of this character depends entirely on who raises the point first. Since the question of jurisdiction has been raised first, [rather than placing the bill on the calendar under rule XIV] it is the view of the Chair that the question of jurisdiction takes priority.[10]

In 1957, the Vice President dealt directly with the question whether rule XXV supersedes rule XIV. The bill being discussed at the time was the civil rights bill, which several Senators wished to place on the calendar, thus bypassing further consideration by the Judiciary Committee. Several Senators argued that rule XXV mandated that any bill be referred to a committee, while several other Senators argued that rule XIV was independent of rule XXV.

The Vice President said:

> As the Senator from California [Mr. Knowland] pointed out in the debate on a similar issue in 1948, two interpretations of the rules of the Senate are possible. In the opinion of the Chair the rules should be amended to clarify this question. Until this is done, it is the responsibility of the Chair to interpret the rules as fairly as possible. . .
>
> In the Chair's opinion, rule XXV does not require mandatory referral of all bills to committee, and, therefore, does not supersede paragraph 4 of rule XIV.[11]

Yet, in order to allow the Senate to vote as a body, the Vice President submitted the question of committee referral or placing the bill on the calendar, to a vote. The Senate voted to place the bill on the calendar.[12] The Vice President pointed out that it was still possible to send the bill to committee even after it was placed on the calendar under rule XIV:

> Once the bill is taken up for consideration, any Senator may move to refer it to a committee, and that may be done by a majority vote.[13]

Footnotes at end of article.

PRESENT DAY USE OF RULE XIV

The use of rule XIV to place a bill on the Senate Calendar without reference to a committee is not limited to bills that come over from the House. Under current procedure of rule XIV, after a bill—including a House-passed bill presented to the Senate—is read a second time and objection is made to its further consideration at that time, the Chair will order the bill placed on the Senate Calendar.[14] A Senator has a right to object to further proceedings after the second reading which would place it on the calendar until the Senate takes some other action on the bill.[15]

By order of the Senate, a bill may be introduced during a recess of the Senate, the first and second readings waived, and the bill referred; or if an original bill is reported by order during a recess the first and second reading will be waived and the bill placed on the calendar.[16]

In short, procedures may be utilized by a single Senator to place a bill on the Senate Calendar, preventing it from being considered by a committee.

The use of rule XIV to bypass committee consideration has increased in recent years. In the past year, the most frequent use of rule XIV to bypass committee consideration has been the distinguished Senator from Indiana (Mr. BAYH). Senator BAYH has frequently used the procedure to bypass the Judiciary Committee consideration of legislation referred to the Subcommittee on the Constitution. The issues involved include the District of Columbia representation amendment, civil rights of institutionalized persons, the equal rights amendment extension, and direct election of the President. The justification given for using rule XIV on civil rights of the institutionalized (H.R. 10) by Senator BAYH is that it provides insurance against the possibility that his own subcommittee may reject S. 10. the Senate counterpart.

THE DISADVANTAGES OF RULE XIV

The strongest objection to the use of rule XIV, particularly its frequent use, is that it will disrupt the committee system. The numerous bills considered by the Senate need careful and thorough committee review. The last thing the Senate needs, and the last thing this country needs, is to bring ever-increasing numbers of legislation to the Senate floor without thorough committee review. With many problems facing the Nation, the Senate must divide legislation up into committees in order to consider and draft individual bills carefully. Placing a bill on the Senate Calendar through the use of rule XIV bypasses this vital committee step of the legislative process.

Because Senators are very busy serving on various committees, we depend to a large extent upon the studies and reports of the committees on which they do not serve. Circumvention of the committee process through rule XIV means that the matter will not be thoroughly considered by the committee having expertise in legislation of that type. Bills are often substantively amended in committee, improving the first draft of a bill. Bills are scrutinized carefully for technical flaws and loopholes, which the committee can perform much more efficiently than the Senate body as a whole. Rule XIV erodes all these advantages of the committee process, particularly when it is used frequently.

Not only does the body of the Senate suffer when rule XIV is used liberally, but so do the people of the United States. The opportunity to appear before a congressional committee and testify is part of the strength of our democratic process. Citizens, scholars, and others should have the opportunity to appear before the appropriate Senate committee, to present their views, and have them recorded.

If bills are not thoroughly reviewed in committees, and thorough reports not issued, the work of the courts will also be harmed. The courts, being charged with the responsibility of interpreting congressional statutes, frequently make use of Senate hearings and committee reports to discern the intent of Congress concerning specific statutes.

The desire of one Senator should not be allowed to dictate what the Senate shall hear on the floor. The current interpretation of rule XIV allows one Senator to place a bill on the calendar even though the rest of the Senate is opposed to this procedure.

Finally, a liberal use of rule XIV would vest a great deal more power in the majority leader, since he has the greatest power to determine what is actually debated upon the floor. If many more pieces of legislation are placed upon the Senate Calendar because rule XIV is increasingly relied upon, it will place more discretionary power in the majority leader than necessary, particularly when decisions are made as to what legislation shall be taken off the calendar to be voted upon. Although majority leaders may generally try to be completely fair in managing their duties, the potential for abuse is expended if Senators make liberal use of rule XIV.

The case against the use of rule XIV is made stronger when it is noted that in extraordinary circumstances—when a minority may be blocking a majority of the Senate from considering a bill—a simple majority is capable of discharging the committee responsible for obstructing legislation. For example, by majority vote the Senate can place a House bill on the calendar without first going to a Senate committee, under rule VII. If a bill is being unduly obstructed by a committee, a majority possesses the resources to stop the committee. Rule XIV would not be needed.

Indeed, a motion to suspend the rules could be used instead of rule XIV.

ADVANTAGES OF RULE XIV

In extraordinary circumstances, the use of rule XIV might benefit individual Senators who wish to have a matter heard by the body of the Senate. If a Senator in the minority point of view is continually blocked in committee from bringing legislation he/she considers important before the Senate as a whole, that Senator may feel an obligation to bring the legislation to the Senate calendar by way of rule XIV. An individual Senator may not have been able to even obtain hearings or discussion of particular issues at the commitee level, and may feel compelled to give the issued a greater chance of notice and passage by placing it on the Senate calendar through rule XIV. Without a majority to support a particular Senator, a committee could not be discharged.

There is also the possible advantage of speed. Although ill-conceived legislation may reach the Senate calendar by rule XIV, there may be instances where there is a need to quickly bypass committee consideration without the time delay that might be involved in discharging a committee. This may not be an advantage when weighed against the harms that rule XIV causes, but many Senators in the civil rights debates used this rationale to justify the use of rule XIV.

CONCLUSION

Frequent use of rule XIV would be chaotic—and the growing tendency to rely upon the rule is dangerous. Few would argue that the rule should be used as a matter of course, although its use might be justifiable in extremely limited circumstances.

FOOTNOTES

[1] See page 330 of Jefferson's Manual. Also CONG. REC. p. 9271 (Sen. 1957).

[2] CONG. REC. p. 9260 (Sen. 1957); CONG. REC. p. 9808 (Sen. 1957). The exact day was January 12, 1877.

[3] CONG. REC. p. 9360 (Sen. 1957).

[4] May 29, 1928, 70–71, Journal, p. 576, CONG. REC. p. 10616. See also CONG. REC. p. 9786 (Sen. 1957).

[5] March 2, 1931, 71–73, Journal, p. 309; CONG. REC. p. 9786 (Sen. 1957).

[6] January 16, 1932, 72–71, Journal, p. 2114; CONG. REC. pp. 9786–9787 (Sen. 1957).

[7] See S. Rept. No. 1400, 79th Cong., 2d sess., pp. 2–3, 10–11; CONG. REC. p. 9624 (Sen. 1957).

[8] CONG. REC. p. 5219 (Sen. 1948). Exact day was May 4.

[9] CONG. REC. p. 5219 and subsequent pages (Sen. 1948).

[10] Ibid.

[11] CONG. REC. p. 9811 (Sen. June 30, 1957).

[12] Ibid, pp. 9811–9828.

[13] Ibid, p. 9827.

Footnotes 14, 15, and 16, all concerning present day use of rule 14 were taken from the summary sheet of the Standing Rules of the Senate, which is attached:

SUMMARY SHEET ON PRESENT DAY USE OF RULE XIV

Placed on Calendar—Objection Heard to Consideration After Second Reading:

See also "Bills and Resolutions, Reference to Committees," pp. 721–725.

After a bill or joint resolution has been read a second time, if objection is heard to its further consideration at that time, under Rule XIV, the bill will be placed on the Calendar by order of the Chair.[71]

When a bill is laid before the Senate which came over from the House, it will be read a first time, and if an objection to its second reading is heard, the second reading will go over until the next legislative day. This technique is used to get a House-passed bill on the Senate Calendar without reference to a committee.[72]

Third Reading:

In the consideration of a bill or joint resolution, when the stage is reached that no amendment is pending and no one is seeking recognition, the measure is ordered engrossed (or the Senate amendments to a House measure) and read a third time.[73]

After a bill or resolution has been read a third time,[74] or has been engrossed and read a third time,[75] an amendment is not in order except by unanimous consent,[76] unless its previous action is reconsidered,[77] likewise, should a vote rejecting a joint resolution be reconsidered, an amendment thereto is not in order unless the votes ordering the engrossment and third reading of the bill have been reconsidered.[78]

By unanimous consent, an amendment may be added to a bill after it has passed, as was done on one occasion in 1888, when an order was adopted changing the *Journal* to show that the bill was amended prior to its third reading and passage.[79]

In the case of the third reading, further amendments will be in order if a Senator was trying to get recognition at the time the third reading was had.[80]

After the third reading of a bill, a motion to reconsider the vote agreeing to an amendment is not in order until the vote ordering the engrossment and third reading has first been reconsidered.[81]

FOOTNOTES

[71] Aug. 5, 1971, 92–1, *Record*, pp. 30046–48; Aug. 6, 1971, 92–1, *Record*, pp. 30213–16; Sept. 8, 1971, 92–1, *Record*, p. 30889; Apr. 29 and 30, 1971, 92–1, *Record*, pp. 12779–81, 12792–93.

[72] Dec. 12, 1969, 91–1, *Record*, pp. 38717–18.

[73] *See* Aug. 30, 1960, 86–2, *Record*, p. 16910.

[74] Sept. 6, 1888, 50–1, *Record*, p. 8335; Apr. 2, 1952, 82–2, *Record*, p. 3370; June 14, 1954, 83–2, *Record*, p. 8153; July 23, 1953, 83–1, *Record*, p. 9616; July 5, 1952, 82–2, *Record*, p. 9491; Jan. 14, 1921, 66–3, *Record*, p. 1415; Feb. 10, 1919, 65–3, *Record*, pp. 3052, 3060; Apr. 2, 1952, 82–2, *Record*, p. 3370.

[75] Jan. 10, 1907, 59–2, *Record*, p. 894.

[76] Feb. 1, 1945, 79–1, *Record*, p. 691; Apr. 10, 1945, 79–1, *Record*, p. 3248; July 27, 1955, 84–1, *Record*, pp. 11667–68; June 28, 1955, 84–1, *Record*, pp. 9337–38; June 10, 1948, 80–2, *Record*, p. 7680; Dec. 18, 1945, 79–1, *Record*, p. 12254; Feb. 10, 1919, 65–2, *Record*, pp. 3052, 3060; *see also* Mar. 8, 1941, 77–1, *Record*, p. 2096; Apr. 8, 1943, 78–1, *Record*, pp. 3122–23; Feb. 7, 1944, 78–1, *Record*, p. 1291: Apr. 2, 1936, 74–2, *Record*, pp. 4799–4804.

[77] Mar. 12, 1940, 76–3, *Record*, p. 2695; *see also* Apr. 8, 1943, 78–1, *Record*, pp. 3122–23; Feb. 7, 1944, 78–1, *Record*, p. 1291.

[78] May 22, 1934, 73–2, *Record*, p. 9241.

[79] Apr. 4, 1888, 50–1, *Record*, p. 2683.

[80] June 14, 1943, 78–1, *Record*, p. 5824.

[81] Mar. 19, 1934, 73–2, *Record*, p. 4818.

Amendments to Bill on Call of Calendar:

See also "Vote on Amendments by Yeas and Nays," p. 196.

Bills and resolutions when considered on a call of the Calendar are open to amendment, but an amendment to a bill or resolution is not in order during the call, when a reservation of objection is made to its consideration; the bill must be before the Senate an amendment is in order.[1]

Bills placed on Calendar cannot be reported; *See* "Reports," "Bill on Calendar Cannot Be Reported." p. 744.

Bills placed on Calendar, objection to consideration having been heard after second reading: *See* "Placed on Calendar—Objection Heard to Consideration After Second Reading," pp. 176–177; *see also* pp. 721–725.

CALENDAR OF BUSINESS

Bills and Resolutions on Calendar:

The Calendar of Business of the Senate is composed of all bills and resolutions, including original bills and resolutions, reported by committees,[2] even if previously recommended,[3] as well as House bills passed and messaged to the Senate which are identical or substantially so to Senate bills already reported and on the Calendar.[4]

Bills and resolutions are also placed on the Calendar under the following circumstances:

(1) A resolution coming over under the rule from a previous day, which has been laid before the Senate, but has not been disposed of by 2 o'clock,[5] or before the expiration of the Morning Hour;

(2) A motion, in the form of a resolution, proposing to discharge a committee, which is under consideration but not disposed of before the expiration of the Morning Hour; [6]

(3) A bill or measure which has been discharged from a committee,[7] which can be taken up for consideration only by unanimous consent at that time or on that same day; [8]

(4) A resolution laid before the Senate as coming over from a previous day and displaced on motion prior to the expiration of the Morning Hour; [9]

(5) "Every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committes * * * if objection be made to further proceeding thereon," [10]

(6) A resolution or an original resolution [11] when reported from a committee,[12] or if objection is made to its consideration when reported, does not go over a day under the rule, nor does it lie upon the table, but is placed upon the Calendar.[13]

Where a resolution, submitted on a previous day, was laid before the Senate, and the doors were immediately closed under Rule XXXV, and stayed closed beyond the expiration of the Morning Hour, during which time the resolution was being discussed, the Presiding Officer, when the doors were opened, held the resolution had properly been placed on the Calendar and that it could only be taken up for consideration on motion or by unanimous consent.[14]

A report of a committee on a resolution should be placed on the Calendar under Rule VIII and not under Rule IX.[15]

FOOTNOTES

[1] *See* May 17, 1951, 82–1, *Record*, pp. 5425–26.

[2] May 23, 1929, 71–1, *Journal*, p. 74, *Record*, p. 1792; May 16, 1918, 65–2, *Record*, pp. 6579, 6580; July 27, 1916, 64–4, *Journal*, p. 532, *Record*, p. 11687; Jan. 22, 1901, 56–2, *Record*, p. 1287; July 30, 1886, 49–1, *Record*, p. 7718; Feb. 20, 1885, 48–2, *Record*, p. 1932; *see also* Mar. 1, 1917, 64–2, *Record*, p. 4565.

[3] Oct. 4, 1949, 81–1, *Record*, pp. 13791–92.

[4] Rule XIV, clause 4; Dec. 10, 1941, 77–1, *Journal*, p. 476, *Record*, p. 9607; Sept. 23, 1970, 91–2, *Record*, p. 33405; *see also* Jan. 26, 1931, 71–3, *Record*, p. 3169; June 19, 1957, 85–1, *Record*, pp. 9625–26.

[5] Jan. 14, 1942, 77–2, *Record*, pp. 329–330; Feb. 15, 1943, 78–1, *Record*, p. 916.

[6] Dec. 19, 1945, 79–1, *Record*, p. 12311.

[7] Apr. 24, 1924, 68–1, *Record*, p. 7003.

[8] Jan. 24, 1924, 68–1, *Record*, pp. 1391–92; *see also* June 6, 1924, 68–1, *Record*, p. 10993.

[9] Apr. 26 and 27, 1894, 53–2, *Record*, pp. 4106, 4152; *see also* Feb. 7, 1895, 53–3, *Record*, p. 1885.

[10] Rule XIV, clause 4; Mar. 2, 1931, 71–3, *Journal*, p. 309; May 29, 1928, 70–1, *Journal*, p. 576, *Record*, p. 10616; May 3, 1948, 80–2, *Record*, pp. 5168–69; May 3, 1948, 80–2, *Record*, pp. 5170–72, 5176; Jan. 16, 1932, 72–1, *Journal*, p. 154.

[11] May 23, 1929, 71–1, *Journal*, p. 74, *Record*, p. 1792.

[12] May 16, 1918, 65–2, *Record*, pp. 6579, 6580.

[13] Jan. 22, 1901, 56–2, *Record*, p. 1287; Feb. 20, 1885, 48–2, *Record*, p. 1932; Mar. 1, 1917, 64–2, *Record*, p. 4565; July 27, 1916, 64–1, *Journal*, p. 532, *Record*, p. 11687; July 30, 1886, 49–1, *Record*, p. 7718.

[14] Jan. 9 and 11, 1906, 59–1, *Journal*, p. 91, *Record*, pp. 851, 946–948.

[15] Dec. 5, 1913, 63–2, *Record*, pp. 245. 246.

Amendments to a Bill, Reference of:

A motion to refer a pending amendment to a bill or resolution to a committee is not in order,[4] even if accompanied with instructions to report the same back within a certain period of time.[5]

It is not in order to move to refer or to commit to a committee a pending amendment to a bill before the Senate; it would be in order to table the amendment or move to commit the bill.[6] There have been instances, contrary to the rule, where amendments to pending bills were referred to a committee.[7]

A motion to refer to a committee an amendment proposed to a bill that is not before the Senate is not in order, when the committee is different from that which considered the bill,[8] but by unanimous consent an amendment offered to a pending bill was referred to a different committee from that which considered the bill itself, and was later reported with an amendment.[9]

Amendment to Motion To Refer:

A motion to refer is subject to amendment by the addition of instructions,[10] but such a motion to refer is not open to amendment except to add instructions.[11] Such a motion cannot be amended by the substitution of another committee,[12] or by providing for its reference to a different committee.[13]

After the yeas and nays have been ordered on a motion to refer, and a response has been made, it is too late to move to amend the motion to refer and the rollcall must proceed.[14]

Appeals From References:

An appeal will lie from any decision by the Chair as to the reference of any bill.[15]

While an appeal from a decision of the Chair referring a bill is pending, a motion that when such committee has concluded its hearing the bill be referred to another committee is not in order.[16]

A motion to refer the bill to two committees while the appeal is pending would be in violation of the rule providing for a mandatory reference to the committee having jurisdiction over the preponderance of the subject matter in the bill.[17]

Appeals on References, Debate of:

"*See* "Appeals, Debate of," pp. 390–392.

Appropriations, References of:

See "Committee on Appropriations, Jurisdiction of," p. 109.

Bills and Resolutions, Reference to Committees:

See also "Reading of Bill," pp. 174–179; "House-Passed Bill and Like Senate Bill, No Reference of," pp. 727–728; "Reference of," p. 561; "Reference of Resolution To Change Rules," p. 778; "Treaties," "Reference to Committee" p. 826.

Bills and resolutions nominations messages and communications petitions memorials and other matters are referred to one of the standing committees as provided for

Under Rule XX, the Chair then submitted the following question to the Senate for decision: "Is the point of order of the Senator * * * well taken?' The point of order was not sustained and the Chair under Section 137 of the Legislative Reorganization Act of 1946 made the reference, from which an appeal was in order.[38]

In 1957, and on other occasions under a like situation, an objection, under paragraph 4 of Rule XIV, having been made to further proceedings on a House bill which had been read twice without being referred, the Senate reversed its decision of 1948, and decided that Rule XXV, which provided, among other things for mandatory references of bills, as amended by the Legislative Reorganization Act of 1946, did not supersede and annul said paragraph 4 of Rule XIV.[39]

A point of order under such circumstances is not debatable, if the Chair chooses to rule, but if an appeal is taken from the decision of the Chair, that would be debatable; if the ruling of the Chair is sustained, the bill will be placed on the Calendar,[40] and a motion to refer at the point with or without instructions, would not be in order.[41]

Thus under current procedure, under Rule XIV, after a bill, including a House-passed bill messages to the Senate, is read a second time and objection is heard to its further consideration at that time, the Chair will order the bill placed on the Calendar; [42] and a Senator has a right to object to further proceedings after the second reading which would place it on the Calendar until the Senate takes some other action on the bill.[43]

In 1919 the Chair ruled that a bill or joint resolution after its second reading must be referred to a committee when objection was made to placing it in the Calendar.[44]

By order of the Senate, a bill may be introduced during a recess of the Senate, the first and second readings waived, and the bill referred; or if an original bill is reported by order during a recess the first and second reading will be waived and the bill placed on Calendar.[45]

By unanimous consent bills and messages of the President of the United States have been referred to two committees jointly.[46]

Under unanimous consent procedure, a bill referred to a committee was reported with a substitute, and then referred to another committee, which reported the bill with an amendment to the substitute; then, under an agreement, the bill as reported from the latter committee was considered as an original bill, and the amendments presumed to have been agreed to.[47]

Nominations, under unanimous consent procedure, have been confirmed without reference to a committee.[48]

In 1933 certain Senate bills which had been duly passed by the two Houses too late to be presented to the President before the expiration of Congress, were reintroduced in the next Congress and passed without reference to a committee.[49]

Under a unanimous consent agreement limiting the transaction of business in the Senate for a certain period, the reference of House bills and the presentation of reports of committees were held not to be in order.[50]

Calendar, bills on:

See also "Motions To Refer," pp. 729–731.

A bill having been placed on the Calendar under Rule X.V, Clause 4, a motion to refer the bill, with or without instructions, is not in order until the bill is before the Senate; a unanimous consent request would be in order.[51]

FOOTNOTES

[4] May 9, 1906, 59–1, *Journal*, p. 480, *Record*, pp. 6552–59; May 13, 1935, 74–1, *Journal*, p. 339, *Record*, p. 7380; June 5, 1952, 82–2, *Record*, p. 6605; Sept. 12, 1945, 79–1, *Record*, p. 8532; Mar. 15, 1945, 79–1, *Record*, p. 2272; June 24, 1919, 66–1, *Record*, p. 1654; June 12, 1952, 82–2, *Record*, p. 7090; *see also* Apr. 2. 1937, 75–1, *Record*, pp. 3065, 3078–80; June 7, 1961, 87–1, *Record*, pp. 9749–50; *see* May 25, 1964, 88–2, *Record*, pp. 11851–54.

[5] Mar. 7, 1951, 82–1, *Record*, p. 2072.

[6] Mar. 19, 1973, 93–1, *Record* (daily), pp. S5128–34.

[7] Oct. 22, 1942, 77–2, *Record*, pp. 8536–45; July 7, 1932, 72–1, *Journal*, p. 686, *Record*, p. 14755; July 11, 1932, 72–1, *Journal*, p. 705, *Record*, p. 15011; Apr. 28, 1917, 65–1, *Record*, pp. 1454–55; *see also* July 18, 1916, 64–1, *Record*, p. 11219.

[8] Sept. 21, 1942, 77–2, *Record*, pp. 7200–01.

[9] Apr. 20, 21. and 22, 1933, 73–1, *Record*, pp. 2004, 2079, 2170; *see also* Sept. 21, 1942, 77–2, *Record*, pp. 7200–01.

[10] May 9, 1913, 63–1, *Record*, pp. 1393, 1408–00; Apr. 5, 14, 1922, 67–2, *Record*, pp. 5049–54, 5497; June 7, 1886, 49–1, *Record*, p. 5339; Mar. 26, 1890, 51–1, *Record*, p. 2660; Jan. 29, 1923, 67–4, *Record*, pp. 2649–50; Feb. 12, 1915, 63–3, *Record*, p. 3628; Mar. 14 and 16, 1910, 61–2, *Journal*, p. 216, *Record*, pp. 3129, 3232, 3233.

[12] May 31, 1916, 64–1, *Record*, pp. 8933–36; June 7, 1886, 49–1, *Record*, p. 5339; Mar. 14 and 16, 1910, 61–2, *Journal*, p. 216, *Record*, pp. 3129, 3232, 3233; Feb. 4, 1943, 78–1,

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Footnotes at end of article.

Record, pp. 588, 589; July 11, 1939, 76–1, *Record*, pp. 8808, 8809; Feb. 1, 1932, 72–1, *Record*, pp. 2981–84; Jan. 29, 1923, 67–4, *Record*, pp. 2649, 2650; Apr. 5, 1922, 67–2, *Record*, pp. 5049–54; Feb. 12, 1915, 63–3, *Record*, p. 3628; Mar. 28, 1914, 63–2; *Record*, p. 5651; Mar. 20, 1914, 63–2; *Record*, pp. 5162–63; May 19, 1884, 48–1, *Record*, p. 4273.

[13] July 11, 1939, 76–1, *Record*, pp. 8808–09.

[14] May 23, 1908, 60–1, *Record*, p. 6805.

[15] P.L. 601 of 79th Congress, sec. 137; *see* Jan. 25, 1962, 87–2, *Record*, pp. 941–43.

[16] *See* Mar. 18, 1959, 86–1, *Record*, p. 4474.

[17] *Ibid.*

[38] May 3 and 4, 1948, 80–2, *Record*, pp. 5170–72, 5176, 5219–29; *see also* July 23, 1962, 87–2, *Record*, pp. 14503–04; Aug. 9, and 13, 1962, 87–2; *Record*, pp. 16112, 16317–21, 16325.

[39] Feb. 26, 1964, 88–2; *Record*, pp. 3693–97, 3719; June 20, 1957, 85–1, *Journal*, pp. 332–333, *Record*, pp. 9778–9827, 9814; *see also* June 19, 1957, 85–1, *Record*, pp. 9624, 9627; June 17, 1957, 85–1, *Record*, pp. 9257–93.

[40] Feb. 26, 1964, 88–2, *Record*, pp. 3693–97, 3719.

[41] *Ibid.*

[42] Aug. 12, 1966, 89–2, *Record*, p. 19174; Apr. 29 and 30, 1971, 92–1, *Record*, pp. 12779–81, 12792–93; Dec. 22 and 28, 1970, 91–2, *Record*, pp. 43188, 43590; Aug. 31, 1964, 88–2, *Record*, pp. 21070–71; Feb. 25, 1964, 88–2, *Record*, pp. 3497–3500; Feb. 26, 1964, 88–2, *Record*, pp. 3693–97, 3719; Aug. 11, 1970, 94–2, *Record*, p. 28257; Dec. 15, 1969, 91–1, *Record*, pp. 39098–100; *see* Aug. 10, 1966, 80–2, *Record*, p. 18872.

[43] *See* Dec. 15, 1969, 91–1, *Record*, pp. 39098–100.

[44] May 23, 1919, 66–1, *Record*, pp. 128–129.

[45] Sept. 10 and 14, 1942, 77–2, *Record*, pp. 7098, 7117; Feb. 5, 1954, 83–2, *Record*, p. 1390; Mar. 7 and 12, 1946, 79–2, *Record*, p. 2168.

[46] July 28, 1949, 81–1, *Record*, p. 10327; Aug. 5, 1949, 81–1, *Journal*, p. 621; Jan. 23, 1951, 82–1, *Record*, pp. 544–546; July 30, 1951, 82–1, *Record*, p. 9136; Apr. 26, 1951, 82–1, *Record*, pp. 4395–97; *see also* Mar. 13, 1952, 82–2, *Record*, p. 2276.

[47] Feb. 9 and 13, 1940, 76–3, *Record*, pp. 1270, 1404.

[48] July 2, 1945, 79–1, *Record*, p. 7110; *see also* "Nominations," "Reference of," p. 561.

[49] Mar. 10, 1933, 73–1, *Journal*, p. 17, *Record*, p. 126.

[50] May 29 and June 10 and 13, 1916, 64–1, *Journal*, p. 412, *Record*, pp. 9431, 9432, 9481.

[51] *See* Dec. 15, 1969, 91–1, *Record*, pp. 39098–100.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today?

The PRESIDING OFFICER. No, there has not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, that Senators may speak therein, and that the period not extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, and upon the recommendation of the minority leader, appoints the Senator from Utah (Mr. HATCH) to attend the Sixty-Sixth Conference of the International Labor Organization (ILO), to be held in Geneva, Switzerland, June 4–25, 1980, in lieu of the Senator from New York (Mr. JAVITS), resigned.

DEATH OF CHARLES (CHUB) SMITH III

Mr. BAKER. Mr. President, it was with extraordinary sadness that I learned this past evening of the death of a good friend and one of the most distinguished citizens of my home State, Charles H. (Chub) Smith III, the president and publisher of the Knoxville Journal.

Chub's untimely passing yesterday at the age of 42 is an indescribable shock and loss to his family, his friends, and the thousands of Tennesseans who benefited from his patronage of the University of Tennessee's academic and athletic programs and so many other civic and charitable causes.

Chub had served as president and publisher of the Knoxville Journal since the death of his father, Charles H. Smith, Jr., in 1972. In his brief tenure as president and publisher, Chub sustained the independence and vigor which had been a trademark of the Journal.

But he also took the paper to even higher plateaus of excellence, modernizing and revitalizing its service to east Tennessee.

Because of his dedication to the profession in which he had spent his entire career, Chub was a leader in the successful movement to enact the Newspaper Preservation Act, which guaranteed newspapers' independence while enabling them to operate in an efficient corporate structure.

His tragic death, Mr. President, serves to remind us all the frailty and brevity of our tenure on this Earth and the need for us to make the very most of each day of our lives, as Chub did.

His family and friends can take some solace in the fact that Chub lost his life pursuing his dearest avocation—flying one of the two, World War II-era Navy Bearcat fighter planes he so lovingly owned.

I wish to extend my deepest sympathies, and those I am certain of all the Members of the Senate. to his wife, his sister, and his five daughters.

Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXPORT OF SPECIAL NUCLEAR MATERIAL AND COMPONENTS TO INDIA—MESSAGE FROM THE PRESIDENT—PM 216

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am transmitting with this message, pursuant to Section 126b. (2) of the Atomic Energy Act of 1954, as amended, an Executive Order authorizing the export of 39,718 kgs. of low-enriched uranium to India for use in fueling its Tarapur Atomic Power Station and authorizing the export of replacement parts for this station.

Two applications for licenses to export the fuel were submitted to the Nuclear Regulatory Commission in September 1978 and August 1979 respectively. After a careful review of these applications, and the applications for replacement parts for the Tarapur reactors, the Executive Branch concluded that the proposed exports would not be inimical to the common defense and security, that they met all applicable statutory criteria under the Atomic Energy Act, and that the licenses should be issued. The Commission was notified of these Executive Branch findings and recommendations on March 28, 1979, and on May 7, 1980.

On May 16, 1980, the Nuclear Regulatory Commission decided that it could not find that the criteria for issuing the licenses had been met. Pursuant to the law, the Commission then referred these applications to me.

In reaching its decision, the Commission argued that the full-scope safeguards export criterion of Section 128a of the Atomic Energy Act applies to these applications because they do not fall within the grace period provided in the law. The Department of State, on the other hand, concludes that this statutory criterion does not apply to these two applications because they were submitted before September 10, 1979, the cutoff date specified in the law, because the first shipment under each was reasonably planned to occur before March 10, 1980, and because there is no reason to believe that the applications were filed early as a way of circumventing the September 10, 1979, deadline.

In any event, the license criteria specified by statute, of which Section 128a is one, are not the same as the export criteria on the basis of which I must determine whether to issue an Executive Order. As the Commission noted, its inability to issue the licenses "should not be read as a recommendation one way or the other on the proposed exports." As the Commission noted further, in such cases the law provides that the President may authorize such exports by Executive Order if he determines that withholding them would be seriously prejudicial to the achievement of United States non-proliferation objectives or would otherwise jeopardize the common defense and security.

I have determined that to withhold these exports would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security. I have made this determination for the policy reasons discussed below. However, I want to make it clear that I do in fact regard these export applications as having fallen within the statutory grace period before the full-scope safeguards requirement of action 128a takes effect. Thus, my authorization of these exports does not constitute a precedent for an exception to the full-scope safeguards criterion. Further, this action in no way indicates a change in the high priority I attach to preventing the spread of nuclear explosives. On the contrary, this action reflects my judgment that non-proliferation would be set back, not advanced, by withholding these exports, and that our failure to supply this fuel could seriously jeopardize other important U.S. interests.

India's failure to accept international safeguards on all its peaceful nuclear activities and its failure to commit itself not to conduct further nuclear explosions are of serious concern to me. These exports will help us to maintain a dialogue with India in which we try to narrow our differences on these issues.

The exports will avoid the risk of a claim by India that the United States has broken an existing agreement between the two governments and has thereby relieved India of its obligation to refrain from reprocessing the fuel previously supplied by the United States.

Supply of this fuel will also ensure the continuation of safeguards and other U.S. controls on disposition of U.S.-origin fuel that has been supplied to India.

Approval of these exports will help strengthen ties with a key South Asian democracy at a time when it is particularly important for us to do so. Insecurity in South and Southwest Asia has been greatly heightened by the crisis in Iran and the Soviet invasion of Afghanistan. We must do all we reasonably can to promote stability in the area and to bolster our relations with states there, particularly those that can play a role in checking Soviet expansionism.

When I signed the Nuclear Non-Proliferation Act of 1978, I expressed reservations about the constitutionality of provisions of law which purport to allow the Congress to overturn my decisions by actions not subject to my veto power. In transmitting this Executive Order, I also want to make it clear that I am not departing from those reservations.

JIMMY CARTER.

THE WHITE HOUSE, *June 19, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following joint resolutions:

On June 17, 1980:

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27. 1980, as "Helen Keller Day"; and

On June 18, 1980:

S.J. Res. 89. Joint resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a 3-month extension of the taxes which are transferred to the Airport and Airway Trust Fund; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4050. A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1980 in the amount of $60,893,298 and amendments to the request for appropriations for the fiscal year 1981 in the amount of $157,600,000; to the Committee on Appropriations.

EC–4051. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to extend the basic allowance for quarters to members above the pay grade of E–6, to authorize special pay to aviation career officers on execution of active duty agreements, and to amend title 10, United States Code, to add additional dental care benefits to the Civilian Health and Medical Program of the Uniformed Services, and for other purposes; to the Committee on Armed Services.

EC–4052. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4053. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of April 1980, on (1) total itemized revenues and expenses, (2) revenues and expenses of each train operated, and (3) revenues and total expenses attributed to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC–4054. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a suceeding contract lease for space in the World Weather Building, 4200 Auth Road, Hillcrest Heights, Maryland; to the Committee on Environment and Public Works.

EC–4055. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes alterations at the U.S. Post Office and Courthouse, Salt Lake City, Utah, in the amount of $4,778,000; to the Committee on Environment and Public Works.

EC–4056. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 300 Seventh Street, S.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC–4057. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 1717 Pennsylvania Avenue, N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC–4058. A communication from the President of the United States, reporting, pursuant to law, that William R. Alberger and Michael J. Calhoun have been designated Chairman and Vice Chairman, respectively, of the United States International Trade Commission, to the Committee on Finance.

EC–4059. A communication from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the Board's annual report for 1980; to the Committee on Finance.

EC–4060. A communication from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting, pursuant to law, the Board's annual report for 1980; to the Committee on Finance.

EC–4061. A communication from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the Board's annual report for 1980; to the Committee on Finance.

EC–4062. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by GAO for the month of May 1980; to the Committee on Government Affairs.

EC–4063. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need to Ensure Nondiscrimination in CETA Programs," June 17, 1980; to the Committee on Labor and Human Resources.

EC–4064. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to protect the confidentiality of data made available to the Bureau of Labor Statistics, and for other purposes; to the Committee on Labor and Human Resources.

EC–4065. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation; to the Committee on Veterans' Affairs.

EC–4066. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on veterans and their survivors who are residing outside of the fifty states and the District of Columbia, including those receiving pension benefits under veterans' programs; to the Committee on Veterans' Affairs.

EC–4067. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

ENERGY SECURITY ACT—CONFERENCE REPORT

By Mr. JOHNSTON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended (Rept. No. 96–824).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 468. An original resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1280. Referred to the Committee on the Budget.

By Mr. FORD, from the Committee on Energy and Natural Resources and the Committee on Governmental Affairs, jointly:

A report to accomoly S. 1699, a bill to amend title VI of the Powerplant and Industrial Fuel Use Act of 1978 to provide financial and technical assistance to States, local governments, and regional agencies to promote the establishment of consolidated programs to mitigate certain adverse social and economic impacts caused by major energy developments, and for other purposes (reported on May 15, 1980) (Rept. No. 96–825).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 454. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1972, a bill to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corporation.

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 469. An original resolution to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 4084, authorizing funds for Fiscal Year 1981 for the Suisun Marsh, California. Referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. Boren, Mr. Bellmon, Mr. Wallop, Mr. Bentsen, Mr. Domenici, Mr. McClure, Mr. Tower, Mrs. Kassebaum, Mr. Percy, Mr. Pryor, Mr. Simpson, Mr. Young, Mr. Cochran, Mr. Hayakawa, Mr. Heflin, Mr. Armstrong, Mr. Melcher, Mr. Helms, Mr. Laxalt, Mr. Bumpers, Mr. Johnston, Mr. Randolph, Mr. Glenn, Mr. Schmitt, Mr. Jepsen, and Mr. Goldwater):

S. 2848. A bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax; to the Committee on Finance.

By Mr. INOUYE:

S. 2849. A bill for the relief of Charles Jeffrey Greene; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 2850. A bill to improve the management of the National Forests through amendment of certain public laws affecting public land exchange and withdrawals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. RANDOLPH:

S. 2851. A bill to amend the Act of June 30, 1944 (58 Stat. 645); to the Committee on Energy and Natural Resources.

By Mr. MORGAN:

S. 2852. A bill to provide for the establishment of the National Archives and Records Administration; to the Committee on Governmental Affairs.

By Mr. STONE:

S. 2853. A bill to provide loans under the Fish and Wildlife Act of 1956; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2854. A bill for the relief of Rocco A. Trecosta; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. Boren, Mr. Bellmon, Mr. Wallop, Mr. Bentsen, Mr. Domenici, Mr. McClure, Mr. Tower, Mrs. Kassebaum, Mr. Percy, Mr. Pryor, Mr. Simpson, Mr. Young, Mr. Cochran, Mr. Hayakawa, Mr. Heflin, Mr. Armstrong, Mr. Melcher, Mr. Helms, Mr. Laxalt, Mr. Bumpers, Mr. Johnston, Mr. Randolph, Mr. Glenn, Mr. Schmitt, Mr. Jepsen, and Mr. Goldwater):

S. 2848. A bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax; to the Committee on Finance.

SMALL ROYALTY OWNERS

● Mr. DOLE. Mr. President, the Senator from Kansas would like to introduce today a revised bill to exempt small royalty owners from the windfall profit tax.

On April 2, 1980, President Carter signed the windfall profit tax into law. On that same day, April 2, the Senator from Kansas introduced S. 2521, which would exempt up to 10 barrels per day of royalty interest from the windfall profit tax. The Senator from Kansas was joined in introducing S. 2521 by Senators Boren, Bellmon, Wallop, Bentsen, Domenici, McClure, Tower, and Kassebaum. Since S. 2521 was introduced, it has attracted a considerable amount of support, so that today the bill has a total of 27 cosponsors. We understand that three identical bills that were subsequently introduced in the House collectively have about 80 House cosponsors.

Since S. 2521 was introduced, my staff has called to my attention a drafting error in the bill which would have the effect of not extending the royalty owner exemption to all three tiers of oil as originally intended. Accordingly, the bill introduced today is drafted to correct that error. Also, this bill would make it clear that the proposed exemption covers overriding royalties, as well as the typical landowner royalty. This addition was made to respond to a number of inquiries we have had about whether overriding royalties were included within the scope of the bill.

Mr. President, there is a growing recognition that the windfall profit tax swept far too broadly in imposing stringent taxes on small royalty owners. Under the Windfall Profit Tax Act as it finally passed, royalty owners are subjected to the same rates of tax as Exxon and the other giant international oil companies: 70 percent on upper and lower tier oil, 60 percent on stripper oil, and 30 percent on newly discovered, incremental tertiary and heavy oil.

This heavy tax has caused a great hardship among the approximate 2 million small royalty owners throughout this Nation. I have received hundreds of letters and telephone calls from royalty owners who are suffering as a result of this tax. For example, I have heard from an 80-year-old couple from El Dorado, Kans., who have not had to pay income taxes in years and who depend on their royalty income to supplement their social security. Nevertheless, this couple was dismayed to find their royalty check cut by one-third by this tax. I have also received similar accounts from a divorced mother of two children from Wichita, a disabled veteran from Hutchinson, a civil service retiree from McPherson, and from countless small farmers who are also victimized by high interest rates and low farm prices.

Senator Boren and I recently conducted hearings on this issue in Oklahoma City and in Great Bend, Kans. Nearly 2,000 people turned out for each of these hearings, a powerful indication of the deep concern about the effect this harsh tax on royalty owners is having.

I ask unanimous consent that the bill and a recent article from U.S. News & World Report on this issue be printed in the Record.

There being no objection, the bill and article were ordered to be printed in the Record, as follows:

S. 2848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Royalty Owner Exemption.

(a) In General.—Subsection (b) of section 4991 of the Internal Revenue Code of 1954 (relating to exempt oil) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

(3) by adding at the end thereof the following new paragraph:

"(5) any exempt royalty owner oil.".

(b) Royalty Owner Oil.—Section 4994 of such Code (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Exempt Royalty Owner Oil.—

"(1) General rule.—For purposes of this chapter, the term 'exempt royalty owner oil' means that portion of a royalty owner's exempt production for the quarter which does not exceed such person's exempt amount for such quarter.

"(2) Exempt amount.—For purposes of this section—

"(A) In general.—A person's exempt amount for any quarter is the product of—

"(i) 10 barrels, multiplied by

"(ii) the number of days in such quarter (31 in the case of the first quarter of 1980).

"(B) Production exceeds amount.—If a person's exempt production for any quarter exceeds such person's exempt amount for such quarter, the exempt amount shall be allocated—

"(i) between tiers 1, 2, and 3 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and

"(ii) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(3) Exempt production defined.—For purposes of this section, a royalty owner's exempt production for any quarter is the number of barrels of taxable crude oil—

"(A) of which such person is the producer,

"(B) which is removed during such quarter, and

"(C) which is tier 1 oil, tier 2 oil, or tier 3 oil.

"(4) Royalty owner.—For purposes of this section, the term 'royalty owner' means any person who is the holder of any royalty or similar interest, including the holder of any overriding royalty interest.

"(5) Allocation within related group.—

"(A) In general.—In the case of persons who are members of the same related group at any time, the 10 barrel amount contained in paragraph (2)(A)(i) for days during such quarter shall be reduced for each such person by allocating such amount among all persons in proportion to their respective exempt production for such quarter.

"(B) Related group.—For purposes of this subsection, persons shall be treated as members of a related group if they would be treated as members of a related group under section 4992(e).

"(C) Members of more than one related group.—If a person is a member of more than one related group during any quarter, the determination of such person's allocation under subparagraph (A) shall be made by reference to the related group which results in the smallest allocation for such person.".

Sec. 2. Effective Date.

The amendments made by section 1 of this Act shall apply with respect to taxable periods ending after February 29, 1980.

"Windfall" Tax Claims Some Unlikely Victims

Beatrice Wright, a Pauls Valley, Okla., widow who supplements her income by giving piano lessons, was outraged to discover that the U.S. government is now taxing away half the $2,180 she earns each year from an investment left by her late husband.

John B. Davis, a retired Milwaukee chemical engineer, reacted with shock when notified that Washington is suddenly taking an extra $75.43 bite out of his monthly income.

Mrs. Freida M. Brewer of Winfield, Kans., discovered the other day that one source of her retirement income has been reduced by 30 percent.

These three are among an estimated 2 million Americans—most of them farmers ranchers, retirees and others of modest incomes—who own royalty shares of oil wells. And they are angry.

Royalty owners have belatedly discovered that Congress included them in the controversial "windfall profits" tax recently enacted to siphon off some of the record earnings of "big oil."

"I was all for the tax because I thought it was going to take away some of the profits of the big oil companies," reports an elderly Oklahoma woman who earns around $20 a month from a share of an oil well inherited from her husband. "Now I find out that I have to pay the same rate as Exxon."

A MISLEADING NAME

Part of the confusion stems from the label attached to the "windfall profits" tax. The tax is not really levied against oil-company profits at all, but is an excise tax on oil production. It is designed to recoup, in addition to regular taxes, 227 billion dollars of the estimated 1 trillion that oil companies will earn over the next 10 years as price controls on U.S. oil are gradually lifted. Royalty owners are expected to pay about 30 billion dollars in new taxes.

Not only will individuals be taxed at the same 30 to 70 percent rate as major oil companies, royalty owners complain, but they will not be able to pass the tax on to consumers in the form of higher fuel prices as oil companies are expected to do.

Says Representative Wes Watkins (D-Okla.): "These people cannot in any way be considered engaged in profiteering or plundering. How the administration and Congress can justify taxing them at the same rate as major oil companies is beyond my comprehension." Watkins is one of several lawmakers from oil-producing states who are trying to persuade Congress to reopen the windfall-profits issue to grant an exemption to royalty owners.

Leading the drive are Senators Robert Dole (R-Kans.) and David Boren (D-Okla.), who are sponsoring legislation exempting royalty owners from the tax on up to 10 barrels of oil a day.

Senator Lloyd Bentsen (D-Tex.) is backing a bill that would exempt royalty owners and independent oilmen from the tax on the first 1,000 barrels of oil per day.

Similar measures were rejected during the grueling debate on the "windfall profits" tax approved by Congress in March. Oil-state congressmen admit that they are facing an uphill struggle to persuade their colleagues to amend the measure in the near future.

Pressures for such changes, however, are mounting fast. At hearings held by Dole and Boren in late May in Oklahoma City and Great Bend, Kans., more than 4,000 outraged royalty owners showed up. Many of those attending were farmers who claimed that they need all their royalty income to help them survive the high interest rates and the downturn in farm prices. Also attending were a number of widows and retirees, who said they depend on monthly royalty checks to supplement their Social Security income.

James L. Stafford of Ada, Okla., representing a group called the Royalty Owners Action Committee, described the tax as "the biggest step towards nationalization of assets since Hitler seized control of Germany's industrial organization."

Representative Watkins says the new tax forced one of his constituents, a retiree, to go on welfare in order to keep his wife in a nursing home.

"The vast majority of royalty owners have small incomes from that source, many under $100 a month," declares Senator Boren. "Many did not even realize that their interests were included in the tax."

Experts disagree on just how hard royalty owners will be hit by the tax. Along with farmers and widows in nursing homes, the ranks of royalty owners include wealthy oilmen and major landowners.

One petroleum-industry executive argues that, in the long run, royalty owners will benefit from high oil prices along with oil companies. And the "windfall" tax can be deducted from regular income as a business expense.

However, Julian G. Martin, executive vice president of the Texas Independent Producers and Royalty Owners Association, contends that about 60 percent of royalty owners receive income from "stripper wells" that produce less than 10 barrels of oil a day. He points out that the administration lifted price controls on stripper wells four years ago in an effort to encourage more production, sending the price to around $35 a barrel. As a result of the tax, Martin says, owners of stripper-well production will receive no benefit from decontrol while paying $12 to $14 a barrel in new taxes.

Analysts also warn that the tax is likely to turn into a bookkeeping nightmare for small royalty owners who cannot afford to hire accountants.

Declares Gene Howard, an Oklahoma state senator from Tulsa: "If the tax is designed to punish large corporations whose profits are deemed excessive, then it misses its mark. Instead, it uses a hammer to kill an ant—and it comes down much more heavily on a lot of little people than it does on any faceless corporation." ●

By Mr. JACKSON (by request):

S. 2850. A bill to improve the management of the national forests through amendment of certain public laws affecting public land exchange and withdrawals, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL FORESTS MANAGEMENT

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to improve the management of the national forests through amendment of certain public laws affecting public land exchange and withdrawals, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of Agriculture, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Secretary be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to improve the management of the National Forests and increase the efficiency with which lands within the boundaries of the National Forests are exchanged or withdrawn the following acts are hereby amended:

(1) The Act of July 8, 1943 (57 Stat. 388, as amended; 7 U.S.C. 2253) is amended by deleting the following clause from the first sentence: "other than land acquired by exchange of public domain land or resources,".

(2) Section 24 of the Federal Power Act of 1920 (41 Stat. 1075; 16 U.S.C. 818) is amended by inserting at the beginning of the section the subsection designation "(a)" and adding at the end of the section the following subsection (b):

"(b) Any lands reserved under subsection (a) of this section, after the date of enactment of this subsection, pursuant to the filing of a preliminary permit application shall be unconditionally restored to the status they would have had if the reservation under subsection (a) had not occurred, if:

(1) No license application or new preliminary permit application for a project that would use or occupy those lands has been accepted for filing within 5 years from either:

(i) the expiration date of the preliminary permit for the project that would have used those lands, if a preliminary permit was issued; or

(ii) the date of a final Commission order denying a preliminary permit; and

(2) The Secretary of Agriculture or of the Interior has given notice to the Commission of intention to initiate action to restore those reserved lands to their prior status and the Commission has not within 60 days from the date of the notice issued notice to the respective Secretary that the condition specified in paragraph (1) has not been fulfilled."

Department of Agriculture,
Washington, D.C., May 22, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Transmitted herewith for the consideration of Congress is a draft bill "To improve the management of the National Forests through amendment of certain public laws affecting public land exchange and withdrawals, and for other purposes."

The Department of Agriculture recommends introduction and enactment of the draft bill.

The proposed legislation would amend two public laws that bear upon the exchange and withdrawal of lands in the National Forest System.

Subparagraph (1) would amend the Act of July 8, 1943 (57 Stat. 388, as amended; 7 U.S.C. 2253) by extending the authority of the Secretary of Agriculture to provide a quitclaim deed to interests erroneously acquired by the United States when an exchange involves public domain land or resources. Interests of a private party who was not a proponent in an exchange of public domain may be acquired through error or inadvertent action. Since land acquired in exchange for public domain land or resources has been held to acquire the same status as the land of resources used in its acquisition, any erroneously acquired interest presently is not subject to disposal under the Act of July 8, 1943 (57 Stat. 388, as amended; 7 U.S.C. 2253). There is presently no way for the Department of Agriculture to clear an erroneously acquired interest in land of a third party. The landowner must seek private legislation or judicial relief.

Subparagraph (2) amends section 24 of the Federal Power Act of 1920, as amended (41 Stat. 1075, as amended; 16 U.S.C. 818), to provide that any lands of the United States, reserved from entry, location, or other disposal as a result of a filing of an application for a proposed power project under provisions of this act, would be returned to their former status if no license application or new preliminary permit has been filed within 5 years after the expiration date of a preliminary permit granted by the Federal Energy Regulatory Commission or after a denial of a preliminary permit by the Commission. The Secretary of Agriculture or the Secretary of the Interior would be required to notify the Commission of their intention to restore the reserved lands to their former status. The Commission would have 60 days to respond to the Secretary's notice before the restoration became final and the public land records were changed. The present language provides that these lands once such a filing for a proposed power project is made, will remain withdrawn until restored by specific action of the Commission regardless of whether the project is ever built. Several hundred withdrawals exist on National Forest System lands. Management of these lands is impaired by this restriction. Resource development or land exchange cannot occur unless and until the Commission acts. This proposed amendment will have the effect of continuing in force any withdrawals on constructed projects but, in the case of lands withdrawn after enactment, will cause the restoration of lands where no project materializes. This proposal has been concurred in by the Department of the Interior.

The proposed amendments would not require additional outlays by the Federal Government. Savings to the Government should result in each case due to reduced administrative costs.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

A similar letter is being sent to the Speaker of the House.

Sincerely,

BOB BERGLAND,
Secretary.●

By Mr. MORGAN:

S. 2852. A bill to provide for the establishment of the National Archives and Records Administration; to the Committee on Governmental Affairs.

AN INDEPENDENT NATIONAL ARCHIVES

● Mr. MORGAN. Mr. President, a short time ago this Nation celebrated its 200th birthday. In a few years we shall mark the anniversary of two centuries of constitutional government in this land. And for both of these historic occasions, the original primary documents—the Declaration of Independence and the Constitution of the United States—remain preserved and available for viewing by the American people. Since 1952, these two great charters of freedom have been in the custody of the National Archives and Records Service. At the time of their transfer to this agency, the National Archives had been in existence for 18 years and recently had been subsumed by the newly established Federal property management entity, the General Services Administration. Since 1949, the National Archives, with its unique and cherished collection of historical materials, has remained in the shadow of GSA. It is time to provide the invaluable and irreplaceable records holdings of the National Archives with a new status. To that end, I am introducing the National Archives and Records Administration Act of 1980.

Members of Congress, I would observe, are keenly aware of the traditions and historical precedents of American governmental policy and practice. The proposal that I offer today seeks to enhance institutional arrangements for cultivating and sustaining such awareness not only within the Federal Government, but among the Nation's populace as well, so that all might pursue knowledge and guidance from the documentary resources collected and maintained by the National Archives. The importance of these historical materials for a self-governing citizenry such as ours is well stated in the often quoted aphorism of the philosopher George Santayana:

> Those who cannot remember the past are condemned to repeat it.

Mr. President, I seek a revitalized and independent National Archives establishment. My bill is a first step toward that goal. I welcome suggestions for refining and developing this legislation, but I am convinced of the basic concept of returning the National Archives once again to an independent status with a distinct identity.

The National Archives and Records Service and the office of Archivist of the United States are little more than four decades old. Indeed, the late arrival of these entities has had somewhat tragic consequences not only for the practice of archival administration, but also for the preservation of the Federal Government's historic documents as well.

Early in the 19th century, prominent historians were successful in persuading individual States to preserve and protect their public records. Little consideration was given to such archival policy at the national level until the 1870's when a disastrous fire in a Government building prompted a recommendation by President Rutherford B. Hayes that Congress appropriate $200,000 for an inexpensive and fireproof hall of records. The Congress, unfortunately, was not responsive to this plea. Fires in the War Department in 1880 and again in 1881 prompted the Senate to agree to the construction of a safe records storage facility, but the House did not pursue the matter. Subsequently, between 1881 and 1912, 42 proposals for a Federal archive building failed to pass both Houses of Congress even though almost every Chief Executive and their Cabinet officers during this period supported the concept. A sense of urgency was added to the discussion of this question as a consequence of some 250 fires occurring in Government buildings during the years 1873 to 1915.

Finally, in 1913, Congress authorized funds for the construction of a National Archives facility but required that the planners of such a building must have inspected similar such modern structures in Europe before beginning their own preparations. This delaying provision was eliminated in June 1916. Then, just as efforts were getting underway for the construction of an archival edifice, America entered World War I and devoted its energy to the successful resolution of the European conflict.

Demobilization and a return to "normalcy" preoccupied the Nation's leaders sufficiently so that decisive action on the National Archives project did not resume until 1925 when President Calvin Coolidge recommended the construction of new Federal buildings for housing both Government employees and records. Congress responded with a series of appropriations, beginning in 1926, and the cornerstone of the new archival facility was laid by President Herbert Hoover as one of his last official acts in 1933.

As the construction of the National Archives Building developed, the creation of a supervisory system to manage the edifice and its contents took shape as well. Legislation to establish an office of Archivist had been introduced in Congress as early as 1930. Debate on the question was not over the necessity of the position but on the issue of the organizational status of the Archivist and the agency supervised by this official. In 1931, Senator Reed Smoot simultaneously offered two proposals on these matters. One bill provided for the Presidential appointment of the Archivist with confirmation by the Senate. The Archivist was to be assisted by a council composed of the Chairman of the Public Buildings Commission, the chairman of the Senate Committee on the Library, the Director of Public Buildings and Public Parks, one of the Executive Secretaries to the President, and the Librarian of Congress. The holdings of the National Archives were determined to consist of all Government records dating prior to 1860 with 5-year accumulations from that benchmark to be transferred to the archival facility every 5 years.

The other Smoot bill provided for the appointment of the Archivist by a council "from among such persons as are qualified for the professional and scientific service, as defined in the Classification Act of 1923." The appointing panel was to be composed of two members of the Public Buildings Commission and its executive officer, the chairmen of the House and Senate Committees on the Library, the Librarian of Congress, the incumbent Archivist, and one representative from each agency transferring over 50,000 cubic feet of records to the National Archives.

Subsequently, proposals offered by Representative Sol Bloom and Senator Kenneth McKellar were developed into a statute (48 Stat. 1122) establishing the National Archives of the United States in 1934 as an independent agency headed by the Archivist of the United States, appointed by the President with the advice and consent of the Senate, and guided by a National Archives Council composed of departmental secretaries, congressional figures, and the head of the Smithsonian Institution. The statute established the basic organization and functions of the Archives until 1949.

While the primary mission of the new National Archives was caring for the retired historic records of the Federal Government, it also took an active role in developing techniques and policy regarding the management of active documents and files within the departments and agencies. It was this latter undertaking which brought the Archives to the attention of the Commission on the Organization of the Executive Branch of the Government, commonly known as the first Hoover Commission. The national study panel, headed by the man who had laid the cornerstone of the National Archives building, initiated a task force on records management policy. Directed by Emmett J. Leahy, this group recommended that "a Federal Records Administration be established and that the existing National Archives Establishment become an integral part thereof." The same consideration, however, had been addressed by others before the Hoover Commission in an inverse manner: grant the National Archives additional responsibilities in records management policy and practice, making it a Federal records administration.

While the task force report, published in January 1949 caused considerable anxiety among archivists, there was reason to expect that the full Hoover Commission would not accept its recommendation. Nevertheless, the report's emphasis on records supervision as a management function persuaded the Commission to view archival programs and responsibilities as being within the ambit of a general services agency then under consideration. The priceless historical records of the Nation were relegated to the same category as toilet paper and brooms.

When the Commission's report on an Office of General Services appeared in February 1949, the concept of an independent Federal Records Administration had been vacated with the suggestion of a Records Management Bureau within the proposed General Services entity taking its place. Our historical heritage became secondary to property management.

The proposed reorganization of the National Archives was effected in June 1949 with the adoption of the Federal Property and Administrative Services Act (63 Stat. 377, 381). The Archivist became a subordinate official to the Administrator of the General Services and was no longer appointed by the President or subject to Senate confirmation. The following year, the Federal Records Act (64 Stat. 583) repealed the National Archives Act, as amended, and vested virtually all archival and records management authority in the Administrator of General Services. Thus began a working arrangement which, I submit, has been neither an efficient nor an economic manner of operations for the National Archives.

Several months ago, it came to my attention that there was a plan underway to transfer some of the records from the National Archives to regional records centers. After a closer look at the relationship between the GSA and the National Archives, I became convinced that this decision to disperse records epitomized the adversary relationship that had developed over the years between these two quite different entities.

First, let me outline this dispersal issue. A closer examination of this issue led me to see that this action would greatly inconvenience historians, archivists, genealogists, and other interested users, for the concept of record groups has an integrity that enables researchers to find the material that they need. If some of these records were relocated, it would mean that historians would have to crisscross the country to pursue these resources.

Naturally, I opposed this decision by the General Services Administration, and I expressed my concern to Admiral R. G. Freeman, the Administrator. The more I examined this issue, the more I became convinced that there was a problem—perhaps one of many—with the connection between the General Services Administration and the National Archives. Indeed, I have not yet found anyone ready to take credit for the idea to relocate these historic materials. Admiral Freeman insists that he got the idea from the Archives administrators, and they point to his office as the source of the order. I am left asking, who is in charge of the Archives?

This problem of moving Archives holdings proved to be just one of many issues that besets this important institution. After talking to oversight committee staffers in the House and their counterparts in the Senate, I became convinced that Archives administrators were either unable or unwilling to explain their problems.

We all recall that in the final days of the Nixon administration GSA Administrator Arthur Samson was willing not only to allow the President to assert complete ownership over White House records, but also agreed to provide a secure depository for these materials so that no one could examine them except persons agreeable to Mr. Nixon. There was also the danger that the tapes could have been destroyed. I do not think that National Archives administrators or archival professionals were in sympathy with this unilateral action by Mr. Samson. Congress, of course, overturned the Nixon-Samson compact with the Presidential Recordings and Materials Preservation Act of December 1974 (88 Stat. 1695).

The so-called Public Documents Act also created the National Study Commission on Records and Documents of Federal Officials (88 Stat. 1698). This distinguished national study panel, which included my distinguished colleagues Senators GAYLORD NELSON and LOWELL WEICKER, examined a variety of "problems and questions with respect to the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials, with a view toward the development of appropriate legislative recommendations and other recommendations regarding appropriate rules and procedures with respect to such control, disposition, and preservation." Reporting in the spring of 1977, the Commission recommended that the National Archives "should be independent of the General Services Administration (GSA) and insulated from partisan political influences."

In response to other recommendations of the National Study Commission, Congress adopted the Presidential Records Act of 1978 (92 Stat. 2523). As introduced in the House, this legislation (H.R. 13500) would have established a 10-year term for the Archivist who would have been appointed by the President with Senate approval. This provision, granting a degree of political independence to the Archivist, subsequently was removed from the bill when it was reported from committee for reasons of being nongermane to the primary purpose of the legislation. My proposal now directly addresses this issue.

Recent subcommittee hearings in the House, supported by the independent findings of the General Accounting Office, have established that the archives trust fund has been mishandled. When Archives personnel attempted to explain this situation, their answers were unclear, obscure, and, according to subcommittee staffers, misleading. The fire at the Suitland Records Center on December 7, 1978, that burned vast quantities of newsreel film provided another example of the Archives not having a firm grasp on its policy. The problem of dispersal of records, then, was but one more in a long line of decisions by the Archives or GSA that defied explanation.

I am aware that the National Archives is in a difficult position, relying as it does on GSA for funds and for supervision. But could this explain all of the problems there? I think not. The fact is that for years the Archives has existed in a twilight zone, in part hobbled by its subordinate position within GSA and in part handicapped by its own poor management.

The fact is, the Archivist of the United States has statutory duties to perform. In accordance with the provisions of title 44 of the United States Code, the Archivist, under the direction of the Administrator of General Services, has overall responsibility for the management and disposal of governmental records.

The following categories of records must be preserved:

First. Those that contain "documentation of the organization, functions, policies, decisions, procedures, operations, and essential transactions of an agency."

Second. Those having "sufficient historical or other value to warrant their continued preservation."

Third. Those which are necessary to protect the financial and legal rights of persons directly affected by an agency's activities.

Fourth. Those which have sufficient "administrative, legal, research, or other value to warrant their further preservation."

The Archivist must set up guidelines to manage this task. The different agencies prepare lists and schedules and determine which records are most important and which can be disposed of. I will not go into the details of this mandate. Essentially, the Archivist decides which records of every agency must be kept and which can be disposed of, and the law binds him to this duty.

Some of you may be familiar with the U.S. District Court opinion filed January 10, 1980, American Friends Service Committee, et al. against William H. Webster, et al. This case cuts to the very core of what I see as wrong with the present organization of the National Archives.

Users, or potential users, of FBI records under the Freedom of Information Act, filed this case to prevent the FBI from destroying any more of its records. According to the law, which I just mentioned, the Archivist was supposed to review the records of the FBI and make decisions regarding their disposal. Judge Harold H. Greene ruled that:

> The evidence before the Court shows that the Archivist and those under his supervision have failed for a period of over thirty years adequately to carry out these statutory and regulatory responsibilities with respect to the records of the Federal Bureau of Investigation.

He continued:

> During that entire period, neither in connection with the approval of the various plans and schedules nor during the interim years did a single employee of the Archives see a single FBI file.

Why did the Archivist not perform his duty? Judge Greene observed again that the Archivist relied on the FBI to make the decisions, and the Archives concurred by, as he said, "remote control."

But the real reason that the Archives did not do its duty, he concluded, was that:

> The FBI, in accordance with the policies established by its then Director J. Edgar Hoover, was not in the habit of granting access to its files; that the employees of the Archives were aware of this policy; and that in view of what they regarded as the futility of making access demands they did not even attempt to conduct personal inspections of the FBI's records.

The Archivist not only reneged on his duty, he failed to examine the schedules and allowed the FBI to ignore the retention plans required of it. It took 7 years for the FBI to return a form requested by the Archives, and then it was incomplete.

Judge Greene concluded:

> The reality of the situation is that between 1946 and 1976, a period of thirty years, when the FBI was experiencing an unparalleled growth in personnel and importance, it was operating its records retention and disposal programs without the archival supervision and guidance required by law.

I am even more upset that the Archives is still stalling on carrying out its duty.

The Archivist was also unsuccessful in recovering the records that former Secretary of State Henry Kissinger took with him when he left office. Two appeals from the Archivist failed—Kissinger refused to comply with the first request and did not even answer the second. In the recent decision handed down on March 3, 1980, by Justice Rehnquist, Henry A. Kissinger against Reporters Committee for Freedom of the Press, et al., the Supreme Court ruled that Kissinger did not have to comply with the Freedom of Information Act.

Both the FBI case and the Kissinger case raise grave questions about how the Archives has carried out its duty over the years. When I hear of plans to disperse records and put regional records in charge of people untrained as archivists, I fear that our country is drifting away from a sense of the value of the past.

There are historical examples of what happens when a country loses sight of history. Hitler distorted the German past to capitalize on the prejudices and vanity of the German people. In Russia, the official history changes with every new wind that blows to justify government policy. I am sure that the Afghan invasion will furnish a new challenge to Soviet historians.

There are not just historical examples of distortion, but there are literary ones as well. I need not remind my colleagues that we are rapidly approaching 1984, and that George Orwell's novel about how a government can control information must never come true in our country. Unless we preserve our records, Orwell's novel 1984 could become reality.

Mr. President, I have what could be called an old fashioned reverence not only for the past but also for the image that our Government projects in the present. When I look across the street at the three Library of Congress buildings, I feel a sense of pride. We have a consciousness of the importance of literature and learning, and so we preserve our books, manuscripts, and photographs, knowing that scholars utilize these sources for understanding our world.

I am likewise proud of the Smithsonian Institution complex on the Mall. These tasteful and imposing buildings and treasures tell the world that we have a high regard for the arts and for the history of our past. As a Regent of the Smithsonian Institution, I feel doubly proud of the role that this institution plays in our country.

Yet, when I think about the National Archives Building, which houses the key documents of our past, which is utilized by academic and Federal historians, archivists, and genealogists, and which is bursting at the seams with historical material, I ponder why we have not made provisions for more space.

The answer that the records could be shipped off to regional repositories is not satisfactory any more than decentralizing the Library of Congress or the Smithsonian Institution would be satisfactory. As I have pointed out, it is crucial that the archival material be located here in Washington.

In this connection, there was a plan, now discarded, for Archives to expand into a new building near the old one. There is certainly need for more space. I cannot see why this Nation cannot afford adequate, attractive, and convenient space for storage of our records. Surely, if we can afford to build stately libraries and museums, we can certainly afford buildings that house the documentary records of the past. I mention this because I hope that in the future with an independent National Archives that we can address this problem.

The National Archives serves not just academic historians but also genealogists, Government agency historians, film specialists, and others who use archival material daily. To dispense records to regional centers would cause incredible problems for these researchers. To do their research, they would be skipping across the country in search of material. Again, this accentuates the problem between GSA and the Archives.

The regional records centers have always been understaffed with people poorly trained for records management. Recently, however, they are becoming submerged beneath budget and "real property management" offices in the GSA regions. Thus, we have a situation where people insensitive to and ignorant of archival and records management are supervising people who know only slightly more. Service in regional records centers has always been lacking, many historians tell me, but this could become worse if archival records are transferred to the centers. This means that researchers will have an even more difficult time locating and retrieving records that they need.

Federal agencies must be able to communicate with the Archivist of the United States to express their concerns and provide advice when it comes to developing disposition schedules, determining which papers should be destroyed, and other questions. Being able to deal with an archivist who has total control of the budget and personnel of the archival system would considerably improve the process. Federal records managers and historians could be more confident that decisions were being made in a logical and professional manner.

An Archivist totally responsible for the preservation of the official papers of the U.S. Government would be able to speak with a certainty heretofore unknown; no longer would his decisions be overruled or modified by Administrators blind to the legitimate requirements of the historical community, archival professionals, genealogists, and the needs of a wide variety of users all over the United States and the world. That, in itself, would be a major gain. In consultation with Federal agencies, professional historians, and his colleagues, the Archivist of the United States could finally fulfill the charge given him.

Mr. President, I should also like to remind my colleagues that among the records in the National Archives' custody are approximately 15,000 cubic feet of the Senate's official files. Dating back to the First Congress in 1789, this unsurpassed collection includes both floor and committee papers. It consists of manuscript journals and minutes of legislative proceedings; bills and resolutions; memoranda and reports of Senate committees; petitions and memorials from organizations and individuals; and files relating to treaties, nominations, and impeachments. These materials are basic sources for the study and understanding not only of the Senate's history and the role in the legislative process, but also the general history of the American people.

More than 40 years ago, at the time when the Senate agreed to transfer its records to the newly opened (and then independent) National Archives, a professional appraiser examined the Senate's entire collection. He concluded that "from the standpoint of historical as well as intrinsic interest, this is perhaps the most valuable collection of records in the entire United States Government."

During the three decades since the Archives has come under the General Services Administration's control, the Senate has added many valuable, as well as sensitive, records to its collection. Among the most significant are the files of the Senate Internal Security Subcommittee, the Permanent Subcommittee on Investigations, and most recently the complete files of the Select Committee on Presidential Campaign Activities. Known also as the Watergate Committee, this panel was chaired by my illustrious and distinguished predecessor, Sam Ervin.

Although the National Archives has demonstrated extreme caution and diligence in complying with the letter and spirit of committees' directives about public access to their individual records, the potential for direct GSA interference does exist. I would be remiss if I did not call my colleagues' attention to this particular feature of an unfortunate administrative relationship. Decisions regarding the allocation of staff and support resources reside ultimately with the GSA. I happen to believe that professional archival decisions should be made by professional archivists and that the Senate's priceless documentary heritage will be secure only when the Nation's archives is totally free of its GSA encumbrance.

A few weeks ago, GSA Administrator R. G. Freeman appointed Dr. Robert M. Warner to the position of Archivist of the United States. Dr. Warner, who is now director of the Bentley Historical Library at the University of Michigan, will face a tough challenge when he assumes his duties in July. I would like to stress that this bill is in no way an attack on Dr. Warner. Indeed, I hope that under his wise leadership the Archives will be able to solve some of the problems that I have mentioned and strengthen the move for independence. Dr. Warner's scholarly, administrative, and archival background plus the wide support that he has from the historical and archival community should enable him to meet this challenge.

In this connection, Mr. President, I would be remiss if I did not mention that under the able leadership of Admiral R. G. Freeman, the General Services Administration has made great strides in removing the taint of corruption that surrounded it. I have been in contact with Admiral Freeman about this bill, and I want to stress that this bill is not an attack on the Administrator. The fact is that I am urging an institutional change. The dangers to our documentary heritage should be removed by separating the GSA and the National Archives. I am sure that Admiral Freeman understands my position.

Mr. President, the bill that I introduce today is the beginning of the second movement for an independent National Archives. Another independence movement began in 1966 when the American Historical Association, the Organization of American Historians, and the Society of American Archivists formed a committee to "report upon the status of the National Archives in the Federal Government, particularly with reference to the question whether it should exist as an independent agency. * * *" After careful study, these organizations agreed not only that independence was the correct course of action but also that "loss of independence was a serious blow to the morale of the staff of the National Archives Establishment, to the pride of the archival profession, and to the standing of the institution among the cultural agencies of the world."

The report came out adamantly for independence. "The national archival and records management system should be restored to independent status as the National Archives and Records Authority, administered by an Archivist of the United States appointed by the President. * * *"

The independence movement begun in 1966 faltered 2 years later. I will not go into the details of that failure, but I do want to stress that I think the report made then is still relevant today. For anyone who wants to pursue this issue more fully, let me recommend two books: H. G. Jones, "The Records of a Nation: Their Management, Preservation, and Use" (New York, 1969), and Donald R. McCoy, "The National Archives: American's Ministry of Documents" (Chapel Hill, 1978).

The movement that did not reach fruition in 1968 has been revived. The threat of dispersing the vital records of the Archives aroused historians, genealogists, archivists, and other users of the Archives. In their responses to my stand on this issue, I have received not only support for preventing the dispersal of records but also in nearly every letter a plea for independence. There is widespread support for this bill among the users of the National Archives.

Finally, Mr. President, let me reiterate that I am not attempting to place blame either on the GSA or on the National Archives for the shortcomings of the past. I think that hearings on this bill will reveal the proper medicine to revive the patient, and of course I think that separation should be prescribed. The National Archives has a statutory duty to perform, and this concerns preserving the vital records of our past. Without such documents there can be no history of the United States.

As I mentioned earlier, I have what can be called an old-fashioned regard for the past. I love history, and I especially love the history of our country. I believe that creating an independent National Archives is the best way to insure that the records of our Government are preserved. The National Archives and Records Administration Act is an initial, but major, step toward corrective action.●

By Mr. STONE:

S. 2853. A bill to provide loans under the Fish and Wildlife Act of 1956; to the Committee on Environment and Public Works.

● Mr. STONE. Mr. President, today I am introducing legislation to revitalize the fisheries loan fund established under the Fish and Wildlife Act of 1956, which is due to expire on September 30, 1980.

American commercial fishermen have been beset by a combination of serious problems which include skyrocketing fuel prices, unfair competition from subsidized foreign fishermen, and high interest rates.

In my own State of Florida, the shipbuilding industry is being hit by canceled orders for construction, and as a result the laying off of employees.

The shrimp industry understands, that in some cases, the available stock is diminishing and they are prepared to embark on refitting their boats to fish for other kinds of shrimp or a combination of shrimping and long lining for tuna and swordfish. However, Mr. President, they cannot find the capital to refit these boats or refinance their mortgage at reasonable interest rates.

This fisheries loan fund would help the effort to refinance mortgages and refit boats for combination fishing. The commercial fishing industry in Florida is seriously undercapitalized and it is preventing young people who want to fish commercially from finding the money to start out on their own. In fact, the average age of a commercial fisherman in Florida is well over 40 years old, young people simply cannot find the financing to begin any business, especially commercial fishing.

Mr. President, my bill is similar to part of the American Fisheries Promotion Act, H.R. 7039, introduced by Congressman JOHN BREAUX, of Louisiana. It is my hope that when this bill comes before the Senate, that no effort be made to delete the revitalization of the loan fund from the measure.

I believe the moneys for this fund should come from an increase in the fees the United States charges foreign vessels to fish in our waters, and not an increase in the Federal budget. Once the transition period expires, so should the fund for this specific purpose. Federal programs have a way of outliving their usefulness, and so I believe "sunset" language is an important prior restraint on funds such as this.

None of the fishermen or shrimpers I have talked to are looking for a Federal handout, just an opportunity to compete with foreign vessels on a fair basis. I intend to work to make this a reality, by seeking the revitalization of the fisheries loan fund.●

ADDITIONAL COSPONSORS

S. 100

At the request of Mr. PACKWOOD, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 100, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for expenses incurred for reforestation, and for other purposes.

S. 336

At the request of Mr. MATHIAS, the Senator from Idaho (Mr. McCLURE) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 517

At the request of Mr. RANDOLPH, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 517, a bill to redesignate May 30 of each year as Memorial Day and to make such a day a legal public holiday.

S. 878

At the request of Mr. ROTH, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 878, a bill to streamline and simplify the generally applicable requirements attached to Federal assistance programs and their implementation; to facilitate the consolidation of assistance programs; to provide for multiyear funding of certain grant programs; to expedite the processing of applications for Federal assistance involving more than one grant; to extend and amend the law relating to in- other purposes.

S. 1095

At the request of Mr. MOYNIHAN, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

S. 1435

At the request of Mr. NELSON, the Senator from South Dakota (Mr. McGov-

ERN) was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 2283

At the request of Mr. CHAFEE, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 2283, a bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad.

S. 2357

At the request of Mr. METZENBAUM, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2357, a bill to eliminate the amount in controversy requirement for Federal question jurisdiction.

S. 2512

At the request of Mr. MATHIAS, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2512, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for service liability losses and expenses of design professionals, to provide a deduction for certain amounts paid to captive insurers, and for other purposes.

SENATE JOINT RESOLUTION 123

At the request of Mr. HEINZ, the Senator from Florida (Mr. STONE), the Senator from North Dakota (Mr. BURDICK), the Senator from New Mexico (Mr. SCHMITT), The Senator from New Hampshire (Mr. HUMPHREY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Utah (Mr. GARN) were added as cosponsors of Senate Joint Resolution 123, a joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

AMENDMENT NO. 1888

At the request of Mr. CRANSTON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of amendment No. 1888 intended to be proposed to S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes.

SENATE RESOLUTION 467—SUBMISSION OF A RESOLUTION TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JOHNSTON submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 467

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2189. Such waiver is necessary because S. 2189 authorizes appropriations for the fiscal year 1980 but was reported after May 15, 1979.

SENATE RESOLUTION 468—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 468

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1280. Such waiver is necessary because S. 1280, the Energy Management Partnership Act, provides an authorization for the Department of Energy for the Fiscal Year ending September 30, 1981 of such sums as may be provided for the purposes of S. 1280 in appropriations Acts within the authorization ceiling in S. 2332 (a bill to authorize appropriations to the Department of Energy and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980) for the appropriations account entitled "Energy Conservation".

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1980 since the administration's proposed amendment in the nature of a substitute to S. 1280 was not transmitted to the Committee until April 15, 1980.

SENATE RESOLUTION 469—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 469

Resolved, the legislation, which was unanimously approved by the Environment and Public Works Committee on March 24, 1980, addresses the problem of salt water intrusion in the Suisun Marsh area in the State of California.

The bill recognizes that the Federal Government's Central Valley project contributes to the deterioration of the marsh and authorizes the Secretary of the Interior to share 50 percent of the costs ($2.5 million) of the initial mitigation facilities under construction by the State.

The Senate Energy Committee, to which H.R. 4084 was jointly referred, approved it on June 3. Therefore, a budget waiver is requested for consideration of fiscal year 1981 funding.

SENATE RESOLUTION 470—SUBMISSION OF A RESOLUTION TO DISAPPROVE DEFERRAL OF BUDGET AUTHORITY FOR EPA GRANTS FOR WASTE TREATMENT WORKS

Mr. NELSON submitted the following resolution, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975:

S. RES. 470

Resolved, That the Senate disapproves the deferral of $3,647,948,114 of budget authority (Deferral No. D80–65A) for Environmental Protection Agency grants for waste treatment works (authorized under section 201 of the Federal Water Pollution Control Act) set forth in the special message transmitted by the President to the Congress on May 23, 1980, under section 1013 of the Impoundment Control Act of 1974.

● Mr. NELSON. Mr. President, I am submitting for appropriate referral another resolution relating to the President's proposed deferral of budget authority for the Environmental Protection Agency's wastewater treatment construction grant program.

On June 17, 1980, I submitted two other resolutions, Senate Resolution 461 and Senate Resolution 462. Both of those resolutions do exactly what I want to do—overturn a portion of the President's proposed deferral.

However, in the interim, the question of the legal effect of the Senate disapproving only a portion of the President's deferral has come to my attention.

I believe the Senate has the power to disapprove a portion of the President's action. But to insure that the time does not run against those of us who seek to overturn the President's action, and to insure that the appropriate committees of the Senate have the opportunity to fully analyze the legal question of whether overturning a portion of the deferral will have binding effect on the President, I am introducing a resolution to disapprove the entire deferral.

I have not sought the cosponsorship of my colleagues on this resolution, although I believe the budget impact of this deferral resolution is the same as the budget impact of the earlier resolutions.●

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on the impact of nontariff barriers on American small businesses' ability to export to Japan.

The hearing will begin at 9:30 a.m. in room 1114, Dirksen Senate Office Building, on Wednesday, June 25, 1980.●

ADDITIONAL STATEMENTS

LESSON FROM "MEIN KAMPF"

● Mr. LAXALT. Mr. President, it is often said that those of us who neglect to learn from history are condemned to repeat it. Let us hope sincerely that this is not the case.

On Christmas Eve, 1979, Soviet forces crossed the border into Afghanistan. The Western response was eerily reminiscent of the 1930's and the nonreaction to Hitler's activities in the Rhineland, Czechoslovakia, and Austria.

But not everyone has forgotten Mein Kampf. Vermont Royster, in the Wall Street Journal, recently pointed out some disturbing parallels in Soviet activities from Cuba to Afghanistan. For the information of my colleagues and so none of us will forget, I ask that Mr. Royster's column entitled, "Lesson From 'Mein Kampf,'" which appeared in the Wall Street Journal on Wednesday, June 4, 1980, be printed in the Record.

The article follows:

Lesson From "Mein Kampf"

Hardly anybody, so it seems, reads "Mein Kampf" any more. There's a 1962 edition still in print but it isn't stocked by two local bookshops and at the town library no one could recall when there last was a request for it.

That's not too surprising. Adolf Hitler's prose was prolix, his narrative rambling and his rhetorical style ranting. For the modern reader, Hitler's ravings must now seem totally irrelevant. After all, we all now know how the story came out. So there's not even suspense left in the account of this Austrian house painter planning to rule the world.

Yet it's a pity "Mein Kampf" has been so completely forgotten. For there remains in it a lesson that is very relevant indeed to our own times.

Published in 1924, "Mein Kampf" (My Struggle") was written while Hitler, then in his mid-thirties, was in prison for an abortive attempt to overthrow the Bavarian government. The story of his life up to that point, even as he tells it, is that of a misfit who failed in almost everything he tried. But by the time the world began to pay attention, a decade later, this Adolf Hitler was the Fuhrer of the German Reich, soon to be the conqueror of Europe.

What is fascinating about that prison-written book is that in it Hitler told the world exactly what he intended to do and how he intended to do it. He told how he would undermine the Weimar Republic, arouse the German people demoralized in the aftermath of World War I, seize control of the government and, using the Nazi Party of his own devising, make himself, absolute dictator.

He explained how, once master of Germany, he would proceed to divide and conquer Europe. He outlined the technique of advancing boldly in small but increasing increments of conquest, no one of which—as he foresaw—would seem to the European powers worth a war to halt. After each one he would pause, publicly forswearing further ambitions, until ready for the next step. It worked from the seizure of the Rhineland, to Czechoslovakia to Austria.

He was equally frank about his internal plans for Germany. Foreshadowed there was even what became his "final solution" of the "Jewish problem."

What was astonishing about all this is that the world—including its statesmen—read "Mein Kampf" avidly and hardly anybody believed him. Few believed him because nobody wanted to believe him. In France, in Great Britain, in the United States there was no effort to prepare for war until it was too late to avoid the holocaust of world war.

What remains astonishing is how slow the world has been to learn the lesson of Hitler.

At any rate the rulers of the Soviet Union have never made any secret about their ambitions for conquest. In Marxist theory communism need only wait for the "internal contradictions" of the capitalist West to cause its collapse. In practice the men in the Kremlin, without any dissimulation about it, have built a huge military force with the intention of speeding the Western collapse by force whenever and wherever the opportunity presents.

Thus far they have skillfully used Hitler's incremental technique. In the chaotic aftermath of World War II they seized half of Western Europe, including much of Germany, and all of Poland, Hungary, Czechoslovakia. They missed Austria only by a miscalculation and Yugoslavia only because of Tito.

Elsewhere they have extended their reach wherever opportunity presented, from Cuba to Afghanistan. They assumed that if they followed each nibble with peace-loving words none would arouse peace-loving peoples to their own defense. If imitation is the best form of flattery Hitler would admire his former foe.

For those of a certain age this is bound to leave a sense of deja vu. A traveler in Europe this spring, for example, found himself amid ceremonies marking the 40th anniversary of Hitler's "blitzkrieg"; in Holland there was a special celebration of the 35th anniversary of its liberation at war's end. Everywhere the prayers said "never again." Yet almost everywhere too there was a reluctance, as there was 40 years ago, to man the ramparts against another formidable foe.

Of course as before there are warning voices. In Britain Sir John Hackett, former British commander in NATO, has drawn a familiar scenario for World War III. In West Germany Franz Joseph Strauss, leader of the opposition, cries the danger in the Soviet arms buildup. In our own country there are those, including a former Secretary of State and a former President, who urge us to those ramparts that we not tempt a foe by being weak.

But in many quarters all who speak so are branded as "hawks," a pejorative term. Its intended implication is that anyone who argues the need to build up the military defenses of the West is someone who would lead us to war. Anyone who suggests that Soviet ambitions are what they have always said they were, that their huge rearmament program is not purposeless, is decried as an alarmist.

This mood is, I recognize, understandable. You cannot look at the welltended fields of France and Germany, or the tulip fields of Holland, without a feeling of horror that they might be overrun again by tanks and marching troops as they have been over and over. And when all is serene the temptation is to believe that earthquakes never come, that volcanos never erupt.

All the same I find it surprising, in Europe especially, that so soon after the agony of World War II the lesson of "Mein Kampf" should be so quickly forgotten.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on June 3, 1980, three on June 11, 1980, one on June 12, 1980, and three on June 17, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., June 3, 1980.

In reply refer to: I–1291/80ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA,
Director.

Defense Security Assistance Agency,
Washington, D.C., June 3, 1980.

In reply refer to: I–479/80ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA,
Director.

Defense Security
Assistance Agency,
Washington, D.C., June 11, 1980.

In reply refer to: I–381/80ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 11, 1980.

In reply refer to: I-477/80ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 11, 1980.

In reply refer to: I-382/80ct.

Dr. HANS BINNENDIJK,
Profesional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 12, 1980.

In reply refer to:I-985/80ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 17, 1980.

In reply refer to: I-5923/80 ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 17, 1980.

In reply refer to: I-1881/80ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S. Army,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 17, 1980.

In reply refer to: I-1881/80ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S. Army,
Director.●

THE EXECUTIVE ORDER ON FEDERAL COMPLIANCE WITH FUEL USE PROHIBITIONS

● Mr. HUDDLESTON. Mr. President, I want to highly commend President Carter for his action yesterday in issuing an Executive order to promote the conversion of oil- and gas-burning Federal facilities to coal and other alternative fuels.

The order specifically directs Federal agencies to survey their electric powerplants and fuel-burning facilities and prepare plans for converting those facilities capable of using coal and other alternative fuels. All agencies with major oil-consuming facilities are expected to complete an initial draft of their plans by September 1 of this year as a basis for their fiscal year 1982 budget request. Each agency is further ordered to include in its budget request the funds needed to carry out the requirements of the Executive order so that the Office of Management and Budget may give special consideration to funding the proposed conversions.

The use of domestic coal at Federal facilities will help relieve our Nation's excessive dependence on foreign oil and on natural gas, and will provide a much lower cost source of fuel to the Government which will translate into long-term savings. The conversion potential of Federal facilities Government wide is not known at this time. We do know, however, that the Department of Defense alone has 60 installations which are primary candidates for conversion. Conversion of these 60 facilities would mean oil savings of over 28,000 barrels of oil per day equivalent. The difference in cost between oil and coal would mean annual fuel savings of over $196 million per year, so that the conversion of these plants will pay for themselves in less than 8 years. After that, the fuel savings will go straight into the Federal Treasury.

It is both important and appropriate that Government lead the way in proceeding with the oil and gas displacement programs that we are requiring utilities and private industry to undertake. With this action, President Carter has made it clear that coal is the fuel of preference for major fuel-burning installations in this country and that, at long last, the Federal Government is going to start practicing what it preaches with regard to conversions.

The framework for converting Federal facilities is now in place. We now look to the Office of Management and Budget to vigorously enforce the Executive order.

I ask that the Executive order and the factsheet accompanying it be printed in the RECORD.

The material follows:

EXECUTIVE ORDER: FEDERAL COMPLIANCE WITH FUEL USE PROHIBITIONS

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 403(a) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3317; Public Law 95-620) and Section 301 of Title 3 of the United States Code, and, to ensure Federal compliance with applicable requirements governing the construction or conversion of powerplants and major fuel-burning installations, it is hereby ordered as follows:

1-1. *Applicability of Fuel Use Requirements.*

1-101. The head of each Executive agency is responsible for compliance with applicable fuel use prohibitions established pursuant to, but not limited to, the following:

(a) Title II of the Powerplant and Industrial Fuel Use Act of 1978, with respect to new facilities.

(b) Title III of the Powerplant and Industrial Fuel Use Act of 1978, with respect to existing facilities.

1-102. The head of each Executive agency is also responsible for compliance with applicable pollution control standards, in accord with:

(a) Subtitle G of Title VII of the Powerplant and Industrial Fuel Use Act of 1978.

(b) Executive Order No. 12088 of October 13, 1978.

1-2. *Agency Coordination.*

1—201. Each Executive agency shall cooperate with the Secretary of Energy, hereinafter referred to as the Secretary, in the achievement of the requirements of the Powerplant and Industrial Fuel Use Act of 1978.

1-202. Each Executive agency shall consult with the Secretary concerning plans for the construction or conversion of electric powerplants and major fuel-burning installations.

1-203. The Secretary shall provide advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable fuel use prohibitions.

1-3. *Fuel Use Conversion.*

1-301. Each Executive agency shall survey its electric powerplants and major fuel-burning installations in order to identify those subject to the Act and shall transmit the results of the survey to the Secretary. The Secretary shall establish guidelines for accomplishing the survey.

1-302. (a) Each Executive agency shall submit to the Director of the Office of Management and Budget, through the Secretary, and annual plan, including cost estimates, for the fuel use conversion of electric powerplants and major fuel-burning installations.

(b) The plan shall identify all powerplants and major fuel-burning installations which are subject to the fuel use prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

(c) The Secretary shall establish guidelines for developing such plans.

1-303. In preparing its plan, each Executive agency shall ensure that the plan provides for compliance with all applicable fuel use prohibitions.

1-304. The plan shall be submitted in accordance with any other instructions that the Director of the Office of Management and Budget may issue.

1-4. *Funding.*

1-401. The head of each Executive agency shall ensure that funds for compliance with applicable fuel use prohibitions are requested in the agency budget.

1-402. The head of each Executive agency shall ensure that funds appropriated and apportioned for the fuel use conversion of electric powerplants and major fuel-burning installations are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1-5. *General Provisions.*

1-501. Exemptions from applicable fuel use prohibitions may only be granted under the provisions of the Powerplant and Industrial Fuel Use Act of 1978.

1-502. The Secretary of Energy shall prepare for the President's consideration and transmittal to the Congress the report required by Section 403(c) of the Act.

White House Fact Sheet: Executive Order on Increased Use of Coal in Federal Facilities

The President today issued an Executive Order to promote the conversion of oil- and gas-burning Federal facilities to coal and other alternative fuels. The President places a high priority on the cost-effective reduction of oil consumption in government powerplants. The Executive Order requires Federal Agencies to develop programs to achieve this objective.

The President expects the heads of Executive Branch departments and agencies to provide leadership in the nationwide effort to reduce oil and natural gas consumption through the greater use of coal and other alternate fuels. To achieve this objective all Federal agencies are expected to take appropriate steps, where feasible and environmentally acceptable, to:

Insure that existing Federal electric powerplants and major fuel-burning installations which currently use coal or another alternate fuel as a primary energy source are not converted from those fuels to petroleum or natural gas;

Insure that new Federal electric powerplants and major fuel-burning installations use alternate fuels as a primary energy source in lieu of petroleum or natural gas;

Accelerate the rate at which existing Federal electric powerplants and major fuel-burning installations which use petroleum or natural gas as a primary energy source convert to coal or other alternate fuels, and accelerate the rate at which those facilities which cannot use alternate fuels are modified or replaced in order to conserve petroleum and natural gas;

Encourage, where appropriate, the use of advanced coal utilization technologies such as fluidized bed combustion, synthetic gas derived from coal and coal liquefaction;

Use coal and petroleum mixtures where total alternate fuel burning is not feasible.

The Order specifically directs Federal agencies to survey their electric powerplants and fuel-burning facilities and prepare plans for converting those facilities capable of using coal and other alternative fuels. It is expected that each agency with major oil-consuming facilities will complete an initial draft of its plan by Sept. 1, 1980, as a basis for its FY 1982 budget request. If an agency cannot complete its final, overall plan by that date, its final plan should be completed and submitted to the Secretary of Energy and to the Office of Management and Budget as soon thereafter as possible. The Order requires each agency to include in its budget request the funds needed to carry out the requirements of the Executive Order so that the Office of Management and Budget may give special consideration to funding proposed conversions within overall fiscal constraints. General oversight, coordination and compliance responsibility for development and implementation of the plans is lodged with the Department of Energy. The Secretary of Energy is directed to establish promptly guidelines and schedules for completion of the surveys and plans.

The facilities covered by the Executive Order, and the procedures for exemptions, are consistent with the requirements for non-Federal facilities in the Powerplant and Industrial Fuel Use Act. That Act permits the President to exempt a Federal facility from compliance in two cases which do not apply to non-Federal facilities: when an exemption for a specific military facility is found to be in the paramount interest of the United States, and when Congress has specifically denied appropriations requested for a conversion. The President has not proposed any such exemptions at this time.

This Executive Order is one in a series of actions taken by the President to make the Federal Government a leader in conserving scarce oil and gas and using alternative, abundant domestic fuels. The benefits which will accrue to the Nation are reduced petroleum imports and reduced vulnerability to energy supply interruptions from foreign sources.●

A GUIDE TO HEALTH INSURANCE FOR PEOPLE WITH MEDICARE

● Mr. NELSON. Mr. President, enactment of medicare in 1965 represented a landmark legislative achievement for older Americans.

Medicare provides valuable protection for elderly and disabled persons against the high cost of hospitalization and other covered medical services.

But, gaps in coverage still exist, including reimbursement for out-of-hospital prescription drugs, physical checkups, eyeglasses, dentures, hearing aids, and others.

In addition, older Americans are subject to deductible and coinsurance charges for most covered services under medicare.

Many older Americans have purchased private health insurance to fill in the medicare gaps.

In fact, the House Committee on Aging estimates that about two out of every three persons 65 or older have Medi-Gap protection.

This coverage helps to supplement medicare protection for most elderly persons.

However, some insurance agents use pressure tactics and other unscrupulous practices to induce the elderly to purchase health insurance policies of questionable value or inappropriate for their needs.

The House Committee on Aging estimates that senior citizens spend about $4 billion for Medi-Gap protection, and one-fourth of this total—or $1 billion—is for unnecessary or duplicative coverage.

The Congress recently enacted legislation, with my support, to help assure aged consumers that their supplemental insurance policies provide effective protection.

The new law would establish a voluntary certification program. States would be responsible for developing a certification program which first, complies substantially with the National Association of Insurance Commissioners' model regulation and second, imposes minimum "loss ratios" of at least 75 percent for group Medi-Gap policies and 60 percent for individual and mail-order policies. A "loss ratio" compares benefits paid by insurance companies to the amount of premiums paid by the insured.

If States do not establish a satisfactory program by July 1, 1982, a Federal certification program would become applicable.

To provide further protection for consumers, the Health Care Financing Administration and the National Association of Insurance Commissioners have developed a "Guide to Health Insurance for People with Medicare."

This pamphlet provides helpful tips on shopping for private health insurance and practical information about medicare.

Mr. President, I ask that the "Guide to Health Insurance for People with Medicare" be printed in the Record.

The material referred to is as follows:

Guide to Health Insurance for People With Medicare

SOME BASIC THINGS YOU SHOULD KNOW

Medicare pays a large part of your health care expenses. It does not pay them all. There are limits on some covered services and you must pay certain amounts called deductibles and co-payments.

Medicare does not cover some services at all. Neither does most private insurance, for example:

What many people think of as nursing home care is not usually covered by Medicare or insurance policies on the market today.

Medicare and most private health insurance policies pay only charges Medicare considers reasonable. You pay the rest. To avoid extra charges, ask your doctor to accept assignment of Medicare benefits. Assignment means that your doctor (or other supplier) agrees to accept Medicare's reasonable charge as the total charge for covered services and supplies.

Insurance to supplement Medicare is not sold or serviced by the government. Do not believe advertising or agents who suggest that Medicare supplement insurance is a government-sponsored program.

Before you consider buying insurance to supplement Medicare, you should know what Medicare benefits are. Pages 4 through 7 explain your Medicare coverage. Please review them carefully.

DO YOU NEED PRIVATE HEALTH INSURANCE IN ADDITION TO MEDICARE?

Not everyone does . . .

Low-income people who are eligible for Medicaid do not need additional insurance. Medicaid pays almost all costs including long-term nursing care. Contact your local social service agency to find out if you qualify and what the benefits are in your state.

Whether you need health insurance in addition to Medicare is a decision which you should discuss with someone you know who understands insurance and your financial situation. The best time to do this is before you reach age 65.

HINTS ON SHOPPING FOR PRIVATE HEALTH INSURANCE

Shop Carefully Before You Buy . . . policies differ widely as to coverage and cost, and companies differ as to service. Contact different companies and compare the policies carefully before you buy. To help decide, complete the checklist on page 6. If an agent won't help you complete the checklist, don't buy from that agent.

Don't Buy More Policies Than You Need . . . duplicate coverage is costly and not necessary. A single comprehensive policy is better than several policies with overlapping or duplicate coverages. For comprehensive coverage, consider continuing the group coverage you have at work; joining an HMO; buying a catastrophic or major medical policy or buying a Medicare Supplement policy.

Check For Preexisting Condition Exclusions . . . which reduce or eliminate coverage for existing health conditions. Many policies exclude coverage for preexisting health conditions.

Don't be misled by the phrase "no medical examination required." If you have had a health problem, the insurer might not cover you for expenses connected with that problem.

Beware of Replacing Existing Coverage . . . be suspicious of a suggestion that you give up your policy and buy a replacement. Often the new policy will impose waiting periods or will have exclusions or waiting periods for preexisting conditions your current policy covers. On the other hand, don't keep inadequate policies simply because you have had them a long time. You don't get credit with a company just because you've paid many years for a policy.

Be Aware of Maximum Benefits . . . most policies have some type of limit on benefits which may be expressed in terms of dollars payable or the number of days for which payment will be made.

Check Your Right To Renew . . . beware of policies that let the company refuse to renew your policy on an individual basis. These policies provide the least permanent coverage.

Most policies cannot be canceled by the company unless all policies of that type are canceled in the state. Therefore, these policies cannot be canceled because of claims or disputes. Some policies are guaranteed renewable for life. Policies that can be renewed automatically offer added protection.

Policies to Supplement Medicare Are Neither Sold nor Serviced by State or Federal Government . . . State Insurance Departments approve policies sold by insurance companies but approval only means the company and policy meet requirements of state law. Do not believe statements that insurance to supplement Medicare is a government-sponsored program. If anyone tells you that he or she is from the government and later tries to sell you an insurance policy, report that person to your State Insurance Department.

Know With Whom You're Dealing . . . a company must meet certain qualifications to do business in your state. This is for your protection. Agents also must be licensed by your state and must carry proof of licensing showing their name and the company they represent. If the agent cannot show such proof, do not buy from that person. A business card is not a license.

Keep Agents' and/or Companies' Names and Addresses . . . write down the agent's and/or companies' names and addresses or ask for a business card.

Take Your Time . . . do not let a short-term enrollment period high pressure you. Professional salespeople will not rush you. If you question whether a program is worthy, ask the salesperson to explain it to a friend or relative whose judgment you respect. Allow yourself time to think through your decision.

IF YOU DECIDE TO BUY

Complete Application Carefully . . . some companies ask for detailed medical information. If they do, omitting specific medical information can be costly to you. Do not believe anyone who tells you that your medical history on an application is not important. If you omit requested information the company can refuse coverage for an omitted condition for a period of time or it may deny a claim and/or cancel your policy.

Look for an Outline of Coverage . . . you should be given a clearly worded summary of the policy . . . read it carefully.

Do Not Pay Cash . . . pay by check, money order or bank drafts made payable to the insurance company, not the agent or anyone else.

Check For a Free Look Provision . . . most companies give you at least 10 days to review the policy. If you decide you don't want to keep it, send it back to the agent or company within 10 days of receiving it and you will get a refund of all premiums you have paid.

Policy Delivery or Refunds Should Be Prompt . . . the insurance company should deliver a policy within 30 days. If not, contact the company and obtain in writing a reason for failure to deliver. If 60 days go by without information, contact your State Insurance Department. The same schedule should be followed if you return the policy but do not receive your refund.

TYPES OF PRIVATE HEALTH INSURANCE

Private health insurance is available through group and individual policies. It is offered by some companies through agents and by other companies directly through advertising media and mail. Coverages offered and their values differ widely among both group and individual policies.

Types of individual and group health insurance coverages:

Medicare Supplement . . . pays some or all of Medicare's deductibles and co-payments. Some policies may also pay for some health services not covered by Medicare. (See page 4.)

Medicare pays only for services determined to be medically necessary and only to the extent of what Medicare determines to be a reasonable charge (see pages 4 through 7). Most Medicare supplements follow the same guidelines and pay nothing for services Medicare finds unnecessary.

Catastrophic or Major Medical Expense . . . helps cover the high cost of serious illness or injury, including some health services not covered by Medicare. These policies usually have a large deductible and may not cover Medicare's co-payments and deductibles. It can be a better dollar value to insure only for catastrophic expenses than to buy coverage for the Medicare deductibles and co-payments.

Health Maintenance Organizations (HMOs) . . . there may be one or more HMOs in your area which participate in the Medicare program. HMOs both insure health care and provide the service. People who join HMOs pay a membership fee, or premium, and then receive health services directly from physicians and other providers affiliated with HMOs. Services are prepaid, so there are no claims forms to process. For Medicare covered services, there are no separate charges for deductibles or co-payments. If you are willing to receive your care from a specified group of providers, HMOs may provide the most complete service for your health care dollar.

Group insurance is available through employers and through voluntary associations.

Employer Group Insurance . . . many people are covered by a group plan while they are employed. Find out before you retire if your group coverage can be continued or converted to a suitable individual Medicare supplement policy when you reach age 65. Check carefully the price and the benefits, including benefits for your spouse. Employer continued or conversion group insurance usually has the advantage of having no waiting periods or preexisting condition exclusions.

Association Group Insurance . . . many organizations, other than employers, offer various kinds of group health insurance coverage to their members over age 65.

Beware of claims of low group rates because coverage under group policies may be as expensive or more costly than comparable coverage under individual policies. Be sure you understand the benefits included and then compare prices.

The following coverages are limited in scope and are not substitutes for Medicare Supplement, Catastrophic, Major Medical Expense or HMOs.

Nursing Home Coverage . . . usually pays a stated amount a day for required skilled nursing service furnished in a skilled nursing facility. Intermediate care, rest care and custodial care are generally not covered under any policy on the market today. Most people in nursing homes are receiving custodial care. Be sure you know which nursing homes and services are covered.

Hospital Confinement Indemnity Coverage . . . pays a fixed amount for each day you are hospitalized up to a designated number of days. Some coverage may have added benefits such as surgical benefits or skilled nursing home confinement benefits. Premiums do not ordinarily increase, but the fixed benefits do not rise to meet increasing costs of hospitalization.

Specified Disease Coverage . . . (Not available in some states) . . . provides benefits for only a single disease, such as cancer, or a group of specified diseases. The value of such coverage depends on the chance you will get the specific disease or diseases covered. Benefits are usually limited to payment of a fixed amount for each type of treatment. Benefits are not designed to fill the Medicare gaps.

WHAT MEDICARE PAYS AND DOESN'T PAY

Medicare is divided into two parts—hospital insurance (Part A) and medical insurance (Part B). This page describes Part A benefits and page 7 describes Part B benefits. The chart on page 5 gives brief outlines of both Part A and Part B. Please refer to Your Medicare Handbook for any Social Security Office for more information.

Medicare does not pay the entire cost for all covered services. You pay for deductibles and co-payments. A deductible is an initial dollar amount which Medicare does not pay . . . a co-payment is your share of expenses for covered services above the deductible.

MEDICARE HOSPITAL INSURANCE BENEFITS (PART A)

What medicare part A pays

When all program requirements are met, Medicare Part A will help pay for medically necessary in-hospital care . . . and after a hospital stay, for medically necessary inpatient care in a skilled nursing facility or for home health care.

Part A covers all services customarily furnished by hospitals and skilled nursing facilities. Part A does not cover private duty nursing, charges for a private room unless medically necessary, or convenience items such as telephones or television. Part A also does not cover the first 3 pints of blood you receive during an inpatient stay (but you cannot be charged for blood if it is replaced by a blood plan or through a blood donation in your behalf).

Benefit periods

Medicare A benefits are paid on the basis of benefit periods. A benefit period begins the first day you receive Medicare covered service in a hospital and ends when you have been out of a hospital or skilled nursing facility for 60 days in a row. If you enter a hospital again after 60 days, a new benefit period begins. All Part A benefits (except for lifetime reserve days you have used) are renewed. There is no limit to the number of benefit periods you can have.

Inpatient hospital care

Part A pays for all covered services for the first 60 days of inpatient hospital care in a benefit period except for $160, the current Part A deductible. For the next 30 days, Part A pays for all covered services except for $40 a day. Every person enrolled in Part A also has a 60-day lifetime reserve for inpatient hospital care which can be drawn from if more than 90 days are needed in a benefit period. When lifetime reserve days are used, Part A pays for all covered services except for $80 a day. Once used, lifetime reserve days are not renewable.

Skilled nursing facility care

A skilled nursing facility is a special kind of facility which primarily furnishes skilled nursing and rehabilitation services. It may be a separate facility or a part of a hospital. Medicare benefits are payable only if the skilled nursing facility is certified by Medicare. Most nursing homes in the United States are not skilled nursing facilities and many skilled nursing facilities are not certified by Medicare.

Part A pays for all covered services for the first 20 days of medically necessary inpatient skilled nursing facility care during a benefit period. For the next 80 days, Part A pays all except $20 a day.

Medicare Part A will not cover your stay in a skilled nursing facility if the services you receive are mainly personal care or custodial services, such as help in walking, getting in and out of bed, eating, dressing, bathing, and taking medicine.

Home health care

Part A pays the entire cost of up to 100 medically necessary home health visits, after a hospital stay, for each benefit period. These visits must be used within 1 year from your most recent discharge. Part A covers part-time services of a visiting nurse or physical or speech therapist from a Medicare certified home health agency. If you receive any of these services, Part A can also cover part-time home health aide services, occupational therapy, medical social services and medical supplies and equipment. Part A does not cover full-time nursing care, drugs, meals delivered to your home or homemaker services that are primarily to assist you in meeting personal care or housekeeping needs.

MEDICARE—HOSPITAL INSURANCE BENEFITS (PART A)

Service	For covered services—each benefit period		
	Benefit	Medicare pays	You pay[1]
Hospitalization: Semiprivate room and board, general nursing and miscellaneous hospital services and supplies. Includes meals, special care units, drugs, lab tests, diagnostic X-rays, medical supplies, operating and recovery room, anesthesia and rehabilitation services.	1st 60 days	All but $160	$160.
	61st to 90th day	All but $40 a day	$40 a day.
	91st to 150th day[2]	All but $80 a day	$80 a day.
	Beyond 150 days	Nothing	All costs.
	A benefit Period begins on the 1st day you receive services as an inpatient in a hospital and ends after you have been out of the hospital or skilled nursing facility for 60 days in a row.		
Posthospital skilled nursing facility care: In a facility approved by Medicare. You must have been in a hospital for at least 3 days and enter the facility within 14 days after hospital discharge.	1st 20 days	100 percent of reasonable costs.	Nothing.
	Additional 80 days	All but $20 a day	$20 a day.
	Beyond 100 days	Nothing	All costs.
	Medicare and private insurance will not pay for most nursing home care. You pay for custodial care and most are in a nursing home.		
Posthospital home health care.	Up to 100 visits	100 percent of reasonable costs.	Nothing.
Blood	Blood	All but 1st 3 pints	For 1st 3 pints.

[1] These figures are for 1979 and are subject to change each year.
[2] 60 Lifetime Reserve Days may be used only once; days used are not renewable.

MEDICARE—MEDICAL INSURANCE BENEFITS (PART B)

Service	For covered services—Each calendar year		
	Benefit	Medicare pays	You pay
Medical expense: Physician's services, inpatient and outpatient medical services and supplies, physical and speech therapy, ambulance, etc.	Medicare pays for medical services in or out of hospital. Some insurance policies pay less (or nothing) for hospital outpatient medical services or services in a doctor's office.	80 percent of reasonable charge (after $60 deductible).	$60 deductible[1] plus 20 percent of balance of reasonable charge (plus any charge above reasonable)[2]
Home health care	Up to 100 visits	100 percent of reasonable charge (after $60 deductible).	Subject to deductible.[1]
Outpatient hospital treatment.	Unlimited as medically necessary.	80 percent of reasonable charge (after $60 deductible).	Subject to deductible[1] plus 20 percent of balance of reasonable charge.[2]
Blood	Blood	80 percent of reasonable charge (after 1st 3 pints).	For 1st 3 pints plus 20 percent of balance of reasonable charge.[2]

[1] Once you have had $60 of expense for covered services in a calendar year, the part B deductible does not apply to any further covered services you receive in that year.
[2] You pay for charges higher than reasonable charges allowed by Medicare unless the doctor or supplier agrees to accept Medicare's reasonable charge as the total charge for services rendered. (See page 7.)

EXPENSES NOT COVERED BY MEDICARE

Medicare does not cover certain kinds of care. Most private insurance does not cover them either. Among them are:

Private duty nursing.

Skilled nursing home care costs (beyond what is covered by Medicare).

Custodial nursing home care costs.

Intermediate nursing home care costs.

Home health care (above number of visits covered by Medicare).

Physician charges (above Medicare's reasonable charge).

Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay).

Care received outside the U.S.A.

Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for and the cost of eyeglasses or hearing aids.

MEDICARE MEDICAL INSURANCE BENEFITS (PART B)

What medicare Part B pays

Medicare Part B helps pay for doctors' bills and many other medical services. You are automatically enrolled in Part B when you enroll in Medicare Part A . . . although you may state that you don't want it. Part B currently costs you $8.70 a month. Your premium for Part B may go up each year. You don't have to purchase Part B . . . but it is an excellent buy because the Federal Government pays more than two-thirds of the actual cost.

You pay the first $60 of charges each year. This is the Part B deductible. After that, Medicare Part B generally pays 80 percent of the amount Medicare determines is a reasonable charge for covered services you receive the rest of the year. You pay the remaining 20 percent. This is the Part B copayment. Unless your doctor or supplier accepts assignment (see explanation below), you are responsible for charges above the amount Medicare determines to be a reasonable charge.

Services covered

Physicians' and surgeons' services no matter where you receive them . . . at home, in the doctor's office, in a clinic or in a hospital. Routine physical exams are excluded.

Home health visits up to 100 visits each year under an approved plan. They can be in addition to the 100 visits covered under Part A, but under Part B there is no need for prior hospitalization.

Physical therapy and speech pathology services, in a doctor's office or as an outpatient and, on a limited basis, in your home.

Other medical services and supplies . . . such as outpatient hospital services; X-rays and laboratory tests; certain ambulance services; and purchase or rental of durable medical equipment, such as wheel chairs.

Part B will not pay for any services which Medicare does not consider medically necessary . . . neither will most insurance policies.

Reasonable charge

In deciding whether a charge is reasonable, Medicare reviews each year the usual charge by the doctor or supplier for each covered service, and the charge of other doctors and suppliers in the area for the same service. The reasonable charge is often lower than the actual charge made by the doctor or supplier.

Most insurance policies you can buy to supplement Medicare only pay 20% of Medicare's reasonable charge. You might not get 100% coverage for your Part B bills even if you have Medicare Part B and private insurance. Here's how this could happen:

Suppose your doctor charges you $500 for an operation and Medicare determines the reasonable charge to be $360. You would pay the first $60 (the Part B deductible) yourself. The rest of the reasonable charge would be $300. Medicare would pay 80 percent of that $300, or $240. Most insurance policies would pay 20 percent of that $300 or $60. You would pay a total of $200 . . . the $60 Part B deductible plus the $140 difference between your doctor's actual charge and the reasonable charge determined by Medicare. However, you may avoid this extra payment if your doctor accepts assignment.

Ask about assignment

Because you can't tell in advance whether the reasonable charge and the actual charge will be the same, always ask your doctors or other medical suppliers, such as laboratories and therapists, if they will accept assignment of Medicare benefits. Assignment means that the doctor or supplier will accept Medicare's reasonable charge as full payment and cannot legally bill you for anything above that amount. In the example above, if your doctor agreed to assignment, he or she would accept $360 as payment in full and you would not have to pay the $140 difference yourself. Doctors and suppliers do not have to accept assignment, but many do.

FOR ADDITIONAL HELP

If you need additional help or advice on Medicare benefits or eligibility, contact your nearest Social Security Office or the Health Care Financing Adminsitration. For information on private insurance to supplement Medicare, check with your State Insurance Department or State Consumer Protection Agency.

If you bought or are considering buying a health insurance policy, the company or its agent should answer your questions. If you do not get the service you feel you deserve, discuss the matter with your State Insurance Department.

The medicare information in this pamphlet is for 1979. It may change from year to year. For a more detailed and current explanation of Medicare and its benefits, obtain a free copy of Your Medicare Handbook from your local Social Security/Health Care Financing Administration Office.●

RED BANK, TENN.

● Mr. SASSER. Mr. President, the great and scenic city of Red Bank, Tenn., celebrates its 25th anniversary, Saturday.

Folks around southeast Tennessee need no introduction to Red Bank and its many fine citizens. For others not familiar with the area, Red Bank is a next door neighbor to Chattanooga, with the big sister covering most of its borders.

On June 21, 1955, Red Bank was incorporated and since then has grown and prospered in a manner which makes it the envy of municipalities nationwide.

Red Bank has grown in 25 years to a population of 15,100, and its residents enjoy one of the lowest municipal property tax rates in the Nation. For 31 cents per $100 of assessed value, the city provides police and fire protection, wastewater treatment, senior citizens activities, an ambulance service, and recreation centers along with the routine public works services.

The low tax rate and high level of services is a reflection of the dedication and leadership of this Hamilton County community. Business has prospered along the city's main thoroughfare, U.S. 27 (Dayton Boulevard) and the thriving commerce returns more to the city's coffers through sales tax rebates than the return to the city from property taxes.

The civic and political leaders of Red Bank are to be congratulated and commended for the hard work and unselfish personal contributions which have carried it through its first two and a half decades. The citizens of Red Bank have ample reason to be proud of their "silver anniversary" and to celebrate their city's existence.

Red Bank has developed a reputation for independence and community involvement. Its may fine churches are catalysts for volunteer work in several areas.

Red Bank is governed by a five-member commission, and the members select a mayor from their own ranks. The mayor is Ralph Barger and the other commission members are John D. Carnes, Sue B. Cox, Thomas R. Dodd, and Lester Barnette. The day-to-day administrator of city business is city manager Robert E. Taylor.

All are to be commended, along with the citizens who make Red Bank a coveted and admirable slice of Americana. We from Tennessee are especially proud that we have such an energized and progressive community.

I salute Mayor Barger, the city commission, former city officials, and the citizens of the community who have laid the ground work for this historic occasion.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the 3 notifications I have just received.

The notifications follows:

Defense Security Assistance Agency,
Washington, D.C., June 11, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-67, concerning the Department of the Army's proposed Letter of Offer to India for defense articles and services estimated to cost $32.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-67]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: India.

(ii) Total estimated value: Major defense equipment,* $29.0 million; Other, $3.0 million; Total, $32.0 million.

(iii) Description of articles or services offered: Sixty (60) TOW launchers, three thousand seven hundred twenty-four (3,724) TOW attack missiles, six hundred thirty (630) TOW practice missiles, eight (8) TOW field test sets, ten (10) M70 trainers, twenty (20) missile simulation rounds, twelve thousand six hundred (12,600) blast simulators, ten (10) battery chargers, spares, and field engineering services.

(iv) Military department: Army (ULX).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 31 December 1979.

(viii) Date report delivered to congress June 11, 1980.

Defense Security Assistance Agency,
Washington, D.C., June 11, 1980

Hon. Frank Church,
Chairman, Committee on Foreign Relations
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-68, concerning the Department of the Army's proposed Letter of Offer to Austria for defense articles and services estimated to cost $13.1 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-68]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Austria.

(ii) Total estimated value: Major defense equipment*, $12.1 million; Other, $1.0 million; Total, $13.1 million.

(iii) Description of articles or services offered: Eighteen (18) 155mm M109A2 self-propelled howitzers.

(iv) Military department: Army (USR).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 31 March 1980.

(viii) Date report delivered to Congress: June 11, 1980.

Defense Security Assistance Agency,
Washington, D.C., June 11, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-69, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $1,214.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-69]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major defense equipment,* $83.0 million; Other, $1,131.5 million; Total, $1,214.5 million.

(iii) Description of articles or services offered: An extension for a period of three years of the Saudi Ordinance Corps Program (SOCP), calling for the U.S. Army Corps of Engineers to provide contract management, construction, and fiscal services support of commercial procurements of vehicles, spare parts and maintenance services by the Saudi Arabian Army Ordnance Corps.

(iv) Military department; Army (HDY).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 March 1980.

(viii) Date Report Delivered to Congress: 11 June 1980●

STEVE JANGER

● Mr. JOHNSTON. Mr. President, I rise today to recognize the work of a unique American. Ten years ago, Steve Janger had an idea. He believed that the future of America was dependent upon an informed citizenry. With this in mind, he developed an extraordinary learning experience about our system of government for young people and their teachers.

Since its birth in 1970, the Close Up Foundation, under Steve's skilled direction, has excited a whole generation of our young people about the opportunities for involvement in American society. Almost 80,000 citizens have been personally touched by his efforts. Many thousands more are reached through the new programs and developments launched during the initial decade of the foundation's work.

As Close Up completes its first decade, it is important that we who serve in public office take this opportunity to highlight the impressive accomplishments of this organization and salute Steve Janger and his staff for their dedication and commitment.

During its first 10 years, Close Up provided a first-hand look at government in action for people from 30 areas of the country. Students and teachers from these areas have met with people throughout the Washington political community. They have come away with a clearer understanding of how government works and of their role in it.

Measured solely by the achievements of its Washington-based programs, Close Up is a resounding success story. But the impact of the program reaches far beyond these participants. Close Up affects thousands more through its State and local programs. Its special programs for the handicapped, the visually and hearing impaired, and its fellowship program for low- to moderate-income students assure that a true cross section of American society is able to participate.

In spite of all these accomplishments, Steve restlessly pursues new ways of reaching more and more Americans with his programs based upon the principle of citizen involvement and participation. This year, for example, the reach of the program has been extended to include students and teachers from American schools abroad. A newly expanded program for teachers was established which many have described as the best inservice experience available for high school civics teachers. By teaming with the Cable-Satellite Public Affairs Network (C-SPAN), the Close Up Foundation now has the potential to take its programs, through television, directly into the classroom and to a wide national audience.

These innovations in citizenship education really are the future of our democratic society. We on Capitol Hill who watch our young constituents go through all levels of the "Close Up learning experience" marvel at the work the foundation does and the indefatigable spirit of its founder and president, Steve Janger.

It is essential to note the support of his wonderful family who have worked alongside him and shared his dreams: his wife, Kathie, and his children, Margi, Jay and Andrea. I know that many people from all levels of government would join me in this brief tribute to Steve Janger for his vision and for his hard work and that of the remarkable Close Up staff he has put together to make his dream a reality.

We eagerly await Close Up's next decade.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 4, 1980.

In reply refer to: I-1358/8Oct

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-64, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Japan for defense articles and services estimated to cost $27.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-64]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Japan.

(ii) Total estimated value: Major defense equipment* $24.2 million; other, 3.0 million; total, $27.2 million.

(iii) Description of Articles or Services Offered: Two (2) Harpoon Weapon Systems with support and four (4) Phalanx Close-In Weapon Systems with support.

(iv) Military Department: Navy (LGK).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: June 4, 1980.

STEVE MADIGAN

● Mr. COHEN. Mr. President, students across America have graduated, or will shortly receive degrees from thousands of educational institutions. The annual June ritual of the commencement address will be received by this generation of students as it has been received for decades—with a mixture of boredom, attention, inspiration, disbelief, and anxiety.

If there is a student in America who collects his or her diploma without a sense of inspiration having been transmitted from a commencement speaker, let that student look to a member of the class of 1980 which graduated from the Georgetown University Medical School. There is a young man in this class who offers inspiration enough for every graduating senior.

Steve Madigan, from Portland, Maine, graduated last week from Georgetown and, according to all accounts, is headed for an outstanding career as a doctor. There is one thing that sets him apart from his colleagues in the class of 1980. Steve Madigan is paralyzed from the waist down, and spends most of his life in a wheelchair.

Steve Madigan is not the first paraplegic medical student to graduate from the medical school. The fact that he completed his course of study despite his paralysis is not the source of Steve Madigan's inspiration. Steve Madigan has a special outlook on life—and on continuing his life.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

I request that a recent profile of Steve Madigan, which appeared in the Washington Post be printed in full in the RECORD.

THE ORDEALS OF YOUNG DOCTORS: STEVE MADIGAN WINS HIS M.D. ON WHEELS

(By Sandy Rovner)

When 28-year-old Steve Madigan goes down the hospital corridor, he leaves in his wake:

Nurses sighing.

Doctors nodding approvingly.

Happier patients.

Tire tracks.

The first because he is strikingly handsome and naturally flirtatious. The second because he is a brilliant medical student. The third for the same reason as the second. The last because he goes down the corridor in a wheelchair. In fact, he spends most of his life in a wheelchair because he's paralyzed from the waist down.

On Saturday Madigan will roll across the stage of the Kennedy Center Concert Hall and fulfill his earliest lifetime goal. He will graduate—with honors—from Georgetown University Medical School. His parents from Portland, Maine, will be there. So will his brother, the insurance businessman, his brother the priest (almost—he'll be ordained next month), his sister the law student, his sister the nurse, his sister the department store buyer and his college student brother Peter.

The family Madigan will be some cheering section for Steve, but then Steve is some cheering section for his family.

"They're, well, kinda crazy," Madigan says of his family, "you know, wild, always clowning around, vying for attention . . . they're all theatrical."

But infinitely supportive.

Maybe that is part of what is so special about Steve Madigan—because his very special problem turned out not to be much of a problem at all.

He is sitting in the doctors' lounge off the lobby of Fairfax Hospital where he is on the final service (surgery) of his medical school career.

He is trying to think of how his wheels may have slowed him down as a student, and all he can come up with is a flat tire or two, the occasional need for a bit of mechanical ingenuity, of which he has plenty, and an occasional double take from a patient or a nurse.

And an occasional misunderstanding:

When Steve Madigan came to the hospital as a beginning medical student, his sister recalled, he got into an elevator with his group. A nursing supervisor spotted him and promptly scolded him for appropriating a wheelchair for his own use. (Medical students are notoriously over worked and tired and will often use any excuse to rest.) Madigan just shrugged. Later on he met the same nurse in another elevator. "Didn't I tell you wheelchairs were for patients?" she snapped. "Yes ma'am," said Steve Madigan, no doubt with his secret Madigan smile.

It was Easter Sunday morning of 1975. Steve Madigan had been out of school for some two years, trying so far unsuccessfully, to get into medical school. He'd been at loose ends for months, he recalled, and had been "partying a lot."

A car freak and a natural mechanic, he had a "hot rod" he'd done a lot of tinkering on. "I'd had several beers . . . and I can't remember much . . . but I went on this road I never go on. Apparently passed a car. I guess I oversteered because there was a median strip . . . I don't remember the chronology, but it went off the side of the road, knocked out the guard rails on the side. The windshield apparently went out, then I went out over the hill. It was about a 75-foot embankment. The car went end over end . . ."

"The next thing I knew I was in the intensive care unit, coughing . . ."

Judy Madigan said she was thinking about renting a band for Steve's graduation.

"I know he's my brother and you tend to be prejudiced, but he's unique. He never complains. He's a total inspiration . . . I've sat on my bed and tried to imagine what it's like not to be able to move my legs . . . My high point is going to be when he wheels across that stage, because it's not just the M.D., it's so much more . . ."

Judy Madigan is plainspoken and forthright. She describes herself as "the one who pushes Steve over the bumps," and she seems to be talking about more than just the wheelchair.

Ten years her brother's senior, Judy Madigan, now a buyer at Woodward and Lothrop in Washington, says she always did think of Steve as "her baby." After the accident, she recalled "the nurses told us that 90 percent of his rehabilitation depended on us. We shouldn't avoid saying "paraplegic" for example.

"So when he'd been there [the hospital] about four months and was complaining about not being able to get into medical school, I said, 'Never mind, Stephen, I'll just give you an accordion and a box of No. 2 pencils . . .' "

Madigan was in the hospital for seven months. For much of that time he was totally immobilized. It was the Madigan humor and his music that got him through, he says.

"If it wasn't for his symphonies and his opera," his mother says, "I just don't know. He had headphones and his music."

Alice Madigan, Steve's mother, who works in her husband's podiatry office in Portland, was "devastated of course" by the accident, but organized the family so that someone was with him around the clock.

"When he came home, Stephen once asked me, 'Mother, didn't you ever cry?' and I said, 'Stephen, that's something I would never let you know.' "

Steve resubmitted his applications for medical school from his hospital bed with the help of his family. "I knew he'd be accepted," says Judy Madigan, "Now he was a minority."

Steve Madigan is not the first paraplegic medical student, but he is certainly the first to be certified in cardiopulmonary resuscitation (CPR). "I told him we could waive that requirement," said Hap Arnold, who teaches the required CPR and advanced life support to the medical students at Georgetown. "But he didn't want that, so at least he decided he needed to watch. But that didn't satisfy him either, so we devised a new system."

Eventually the "new system" will be submitted to the American Heart Association for use with other paraplegics. Meanwhile, Madigan was recertified only a few weeks ago.

During the process, "he seemed to be getting so fatigued that we were afraid we'd have to give it up," Arnold said recently. "So I called over another student and asked him if he could figure out why Steve was so tired. He looked for a second and said; 'Sure. He's not breathing.' We realized that the muscles he was using for the CPR are his breathing muscles, so as soon as we gave him the opportunity to breathe, the fatigue problem was solved."

Steve Madigan had an assortment of medically related jobs before he entered medical school itself, including a post-accident position as the Maine coordinator for the New England Spinal Cord Injury Foundation, which gave him a bridge between hospitals—as patient and student.

"The great thing about medical school," he says, "is that I was never treated as anybody different. Of course, I never felt different, and that," he says very seriously, "is probably related to my sense of humor."

It is a humor that is quiet—he was, after all, the second-youngest in a family of seven boisterous kids, he points out—but rather impish. It is the way he throws himself on the ever-so-willing mercies of young nurses, often when he doesn't need to.

His sister, though, doesn't let him get away with it. "Once he said to me, 'Oh, I would just love to get up and dance,' and I said, 'You never could dance worth a darn, what are you talking about?' And he said, a little sheepishly, 'Oh yeah.' "

Then there is the side of Madigan humor that is largely unprintable. That is one thing that endeared him to Dr. Thomas Lee, Georgetown surgeon and associate professor in the medical school. That and the fact that Lee finds him "the best medical student I've ever had."

"Steve has got it all together," says Dr. Lee.

Lee likes Madigan for another reason, too. The medical student once thought about opera as a career ("I'm a pretty fair bass-baritone," he brags.) and Dr. Lee's wife loves opera. Dr. Lee doesn't. So Steve Madigan takes Mrs. Lee to the opera and everybody is happy.

For a while, Steve Madigan planned to go into surgery, but a growing love affair with the whole new world of radiology, and some of the mechanical problems associated with operating rooms versus wheels, tipped the scales to radiology as a specialty.

"He has a surgeon's personality," says Dr. Lee, "whatever that is, but I think he made the right choice. I only regret that he is leaving Georgetown." (Madigan will be at the Maine Medical Center in a rotating internship.)

Dr. Lee says he's learned a lot from Steve Madigan. For one thing, he won't ever park again in a place reserved for the handicapped.

"Well," said Ronald Eden, a surgery patient at Fairfax Hospital, "the first time I saw him wheel in here I thought, 'Jeez, what gives here,' but, boy, he really is a nice guy and a good doctor."

Eden, 33, a Falls Church, Va., accountant, had had chest surgery to remove a benign cyst. He was recovering nicely and Madigan was removing the medical staples. As Madigan leaned solicitously over his patient, he chatted easily, effectively distracting his patient's attention from the prickly procedure.

Then it was time for the day's operation, exploratory surgery on a young woman who had had successful bypass surgery for a weight problem, had lost 100 pounds and then developed what the doctors call "f.u.o."—a fever of unknown origin.

Before the operation Madigan accepted help from a nurse in hiking himself up onto a platform rig to make him high enough to help in the surgery.

Then he was capped and gowned and gloved and wheeled up to the table. His share of the operation consisted of a quick internal feel and snipping off of the thread the surgeon was using. (Nothing serious was found, "but it was important to rule out" a lot of things, Madigan says.)

One thing that kept Steve Madigan going in the early days after his accident was the knowledge "that it was my own fault. So I really had nobody to blame. And I really didn't feel sorry for myself. I just knew I had to get going."

Dr. David Pearle, Madigan's cardiology professor who thought he would make a first-rate cardiologist, says he was "intellectually one of the strongest students I've ever encountered . . . and I'm sure it's not true, but it seems like he's always happy."

Madigan says, "There are days when you're down, but you rally."

Dr. Lee, Steve Madigan's friend and mentor, paints pictures of birds as a hobby. He gave Madigan a painting of an eagle with this inscription:

"EAGLES. When they walk, they stumble. They are not what one would call graceful. They were not designed to walk. They fly. And when they fly, oh, how they fly, so free, so graceful. They see from the sky what we never see. Steve, you are an eagle."

"I'm not handicapped," Steve Madigan once told his sister. "I just can't walk."●

GREG SUHLER

● Mr. HART. Mr. President, I would like to share with my colleagues an article which recently appeared in the Denver Post about Mr. Gregg Suhler, a farmer from southeastern Colorado currently serving as a White House Fellow, who has been a good friend and valued counselor to me and my staff over the past 5 years.

The White House Fellowship Program, in which Mr. Suhler is participating, is designed to expose a select group of men and women from different backgrounds and careers to the high-level workings of government. Mr. Suhler, who has worked with me in the agricultural community, and who was one of the founders of the American Agricultural Movement, is the only farmer to have been awarded this prestigous fellowship. His impressive achievements serve as an example to all young Americans.

Mr. President, the leadership of this country has, and will continue to come from very diverse backgrounds and professional experiences. We must continue to encourage such a broad leadership base if our Nation is to maintain its capacity to solve the many problems confronting it.

I commend Gregg Suhler for the many contributions he has already made. I know our Nation's agricultural community is well served by having him work with the White House staff.

I ask that the article from the Denver Post be printed in the Record at this point.

The article follows:

Gregg Suhler: Farming's No. 2 Man

(By Tom Gavin)

Washington.—Gregg Suhler is a little out of the ordinary. Yes he is.

For one thing he's a long way from the southeastern Colorado farm he grew up on, sitting there in the old Executive Office Building beside the White House.

As far as that goes, he's a long way from the Pennsylvania Avenue route of march he and 30,000 other American Agriculture movement farmers used in noisy demonstrations against federal policies just two years ago. The distance is a few yards, if you're pacing it off, light years if you are measuring the difference between being on the inside or on the outside.

But somehow all this does not surprise, for what we have here is a farm kid who went off to study physics instead of animal husbandry, mathematics rather than agronomy, but who yet says:

"I'm a farmer. That's where my values are."

He's also, at the moment, a White House Fellow, one of 17 young Americans who are two-thirds of the way through a year of working in the executive branch of the federal government.

And in one of those peculiarities that abound in these United States, one of the five men who helped found the American Agriculture movement—yes, Gregg Suhler is that, too—he has ended up as one of the top agricultural voices within the White House he was not long ago demonstrating against.

White House Fellows can be scattered anywhere in the Executive Department, working as special assistants to Cabinet secretaries or undersecretaries. Or they can, like Suhler, work on the White House staff. The Coloradan is on the Domestic Policy force, which is headed by Stuart Eizenstat, one of President Jimmy Carter's top assistants, and works under Lynn Daft, "the No. 1 man in agriculture."

"As such, I'm the No. 2 man in the White House for agriculture," Suhler says in the quiet tone of a man imparting information, not boasting.

He's also, he noted at another point in a long conversation, one of only two physics-trained farmers in the White House. The office of the other is spacious and oval; Suhler's is longer than it is wide and about two-thirds of a boxcar in size. Oh, well.

There are, yes, more impressive digs in the old Executive Office Building. It's the wedding cake gothic edifice at 17th and Pennsylvania, and it's a magnificent old pile—huge, gabled, chimneyed. It has, as public buildings once did, a sense of scope and style. It is vast. Public structures now tend to be, uh-huh, half-vast.

Once EOB housed both the State and War departments in high-ceilinged grandeur. Now it accommodates only part of the elephantine White House staff—there's a New Executive Office Building up the street, too—and the building is more enjoyable to look at than be in.

Still, in the graceful phrasing of our time, it's where it's at.

When Carl Gregg Suhler was born 32 years ago—on March 12, 1948, for those who suffer from astrology—his mother was in the small city of Lamar, Colo. That tells you something the land that helped shape him, for southeastern Colorado is a place of distances, and while the Suhlers have a three-generation identification with Springfield—Baca County's largest community, with a population of 1,660—the nearest hospital was 50 miles away in Lamar. So . . .

Baca County is, yes, remote. It's High Plains farm-becoming-ranch country and the borders of Kansas, Oklahoma and New Mexico are closer to Springfield than is Lamar. Denver? Denver's a dimly distant place, and Baca County residents like that just fine.

There are no more reliable stereotypes, though—the country bumpkin is an endangered species—and the Springfields of America are now producing the Gregg Suhlers of America, young people who go off to Colorado State University for a degree in physics, and then to the University of Illinois for a master's degree in the same discipline.

Why physics?

"It's intellectually exciting and challenging. I've always enjoyed technical subjects and mathematics and their study, ultimately, gives you some understanding of how the world works, how it moves."

Yes, that training has been a help in the White House, and was earlier, too, when Suhler was one of the soft-spoken firebrands who began the agitation that became the American Agriculture movement.

"While not an economist, I have the technical background for economic issues, technical issues, which has stood me in good stead working in areas of agricultural policy and trade. I'm able to quickly grasp and assimilate a number of technical issues—issues involving energy, agriculture, transportation, business and economics because of my background in math, numerical analysis and modeling theory."

All of which may partially explain his selection as a White House Fellow.

Don't misunderstand about the fellowships. They are not designed for professional students. Their aim is to expose men and women already established and showing promise in a career to the high-level workings of government. Those selected have somehow survived a most-exhaustive winnowing process and, as nearly as possible, are compensated at their regular income level during the September-to-September experience.

This year's average age is 31, this year's average pay is $32,000, although it can exceed $40,000. Among the 17 are a Roman Catholic priest, a Jewish rabbi with a doctorate in mathematical logic, and a corporate vice president who is also a woman. Educational seminars are a part of the program, but work—head-down, rump-up hard work—is the larger share.

"What we do on the Domestic Policy staff is pull the best detailed information in from a number of agencies on a given issue, then try to consolidate and advise the senior White House staff on which options look best.

"It's a coordinating, and to some extent an intelligence role."

In one respect the job's a lot like farming, Suhler says: "You have to get by on five or six hours of sleep."

The Coloradan leaves his Capitol Hill basement apartment early enough to arrive at the office at 7:30 a.m. The days extend to somewhere between 6:30 and 8 in the evenings, and along with him as he leaves is a bundle of material to read in preparation for the next day; and the day after that.

Weekends? More of the same at-home reading. And chopping away, too, at six newspapers, three newsmagazines, two Congress-oriented publications and, for pleasure, Science Magazine and Scientific American.

Of social life and personal entertainment there is, in Suhler's phrase, damn little.

"It's too full," he says of each day, and he hasn't even found time for the jogging that might have kept his weight from rising 10 pound, to 195.

He tries to get together with other Fellows at least one night a week for conversation and dinner, and maybe a movie, he says, but films have been few—six weeks since the last.

Chances for a racy, tell-all insider's novel about the White House Fellows do not look good do they?

Gregg Suhler is square-faced and serious. His answers are thoughtful, considered. Ask a question and likely as not the inquiry will itself be restated in the reply. He is methodical, deliberate.

He paused, examining the toes of his cowboy boots as he thought, when asked if his Washington experience has altered his views of government and how it works.

"I'm impressed with the sincere efforts many capable, sincere people are putting forth on agriculture, housing and health problems," he said, finally, "but I don't see a consensus on the answers, and that consensus is something that's required by our democratic institutions.

"The other Fellows have made the observation that they have found most people in government in Washington to be very capable and very dedicated, very hard working, and that outside government—and certainly outside Washington—people have convinced themselves that that is definitely not the case.

"In rural Colorado, and throughout the West, are some pretty severe disaffections, to put it mildly, with the federal government's involvement with a wide range of issues."

That's too bad, Suhler says, adding:

"The federal government isn't all that it could be, but it certainly is not as bad as may be believed."

Suhler agreed that the very formation of the American Agriculture movement was a declaration of disagreement—strong disagreement—with government programs and attitudes. Does he now feel differently?

"It's a mixed response," he said. "I believe that 45 years of dealing with agricultural problems has resulted in a lot fewer farmers and largely the same problems that we had 45 or 50 years ago.

"We have the opportunity now to reexamine where we are in agricultural policy, and we should take advantage of that opportunity because it is becoming increasingly clear that America's agriculture will ultimately be more important than Arabia's oil in the future of the world."

His White House Fellows experience has encouraged him to believe, Suhler said, that many persons both in and out of government now know that agriculture is important and are searching for helpful answers.

But there are, of course, no easy answers. The easy answers have all been taken.

Gregg Suhler does not think the Carter administration helped either itself or agriculture with its post-Afghanistan ban on grain sales to Russia. It sidetracked, "with temporarily disastrous consequences," a farmer-owned reserve concept Suhler believes to be the ultimately wisest way of controlling prices, and "placed the government in the grain business, where it doesn't belong."

Don't look for him to say anything snippy about Carter, though, for even if he were inclined in that direction he wouldn't risk imperiling the Fellows program by giving voice to criticisms in his present position.

He's had a little contact with the president, but not much. "This is a presidency which functions by memoranda, and most of my involvement has been with the staff," he says.

The Coloradan-turned Fellow—the only farmer to participate in the White House program—showed an interesting ambivalence when asked whether he now thinks the traffic-snarling, police-clashing, attention-getting American Agriculture movement's Washington demonstrations were worthwhile.

The technique can be effective, he said. "For the most part demonstrations are no more or less than political devices used to gain the attention of the powers-that-be when all other avenues seem to have failed."

But in the same breath he said one of the nation's most ominous problems "is the proliferation of very narrowly defined single-issue groups who do not think in national terms."

Recalling the definition of a fanatic as one who cannot change his mind and will not change the subject, Suhler said he's worried that single-issue groups—"and demonstrations focused around single-issue groups"—will become so preoccupied with their special concerns that they forget "their relationship to the nation as a whole." That could lead, he said gravely, to "considerable trouble" for the country.

Does all this sound like a man not yet finished with government, one who might ultimately seek public office?

"I may stay on in Washington for another year or two, if I can find a way to allow me to do something worthwhile," Suhler acknowledged. And, yes, he has thought of public life and "will probably seriously consider it at some point in the future."●

THE STRUGGLE FOR LITHUANIAN FREEDOM

● Mr. WILLIAMS. Mr. President, this week marks the tragic 40th anniversary of the occupation and incorporation of Lithuania into the Soviet Union.

Lithuania was one of the first countries to suffer from the aggression of both the Nazis and the Soviets. As the outbreak of the Second World War appeared imminent, Lithuania steadfastly attempted to maintain total neutrality, but gradually became engulfed in that worldwide conflict. Throughout the years since the outbreak of World War II, hundreds of thousands of brave Lithuanians were arrested and deported. Many thousands were executed or died in exile. Others survived to continue their heroic resistance to foreign oppression. Despite the overwhelming odds, constant harrassment, and innumerable obstacles, the Lithuanian people still maintain organized resistance and vocal dissent to their oppressors today.

Dramatic examples of the courageous struggle which is being waged are provided by Balys Gajuaskas and Viktoras Petkas who have spent much of their lives in Soviet concentration camps since they became active in the anti-Soviet resistance movement in the 1940's. Both men have been harassed, interrogated, and imprisoned for their steadfast support of fundamental humanitarian and religious rights.

Both men have been designated "prisoners of conscience" by Amnesty International and both men were nominated for the Nobel Peace Prize by congressional members of the Commission on Security and Cooperation in Europe. In recognition of the heroic examples set by these and many others, the Congress passed a concurrent resolution earlier this year urging the President to seek free elections and independence for the Baltic States.

The ongoing resistance to Soviet domination has showed the entire world that the Lithuanian spirit has survived the most repressive efforts of the Soviet tyrants. Demonstrations, petitions, and underground journals detail discrimination and human rights violations. Regardless of all the reprisals the Soviets have imposed, resistance continues. Therefore, it is most appropriate that we recognize the indomitable will of the Lithuanian people this week.

During their brief period of independence from 1918 to 1940, the Lithuanian people espoused the same spirit of freedom that was manifested during our own early struggle for independence. Once again, we express our admiration for the courage of the Lithuanian people, and we voice our steadfast support for the ongoing efforts of the Lithuanian people to gain liberation from foreign occupation.●

SALT

● Mr. HUMPHREY. Mr. President, Charles Burton Marshall, last year, wrote an excellent article which parodies the SALT process. His work was published in the Washington Star on May 20, 1979. Since there are rumors to the effect that President Carter might send the SALT Treaty to the Senate this year, perhaps my colleagues will find the article relevant if not incisive.

Mr. President, I submit for the Record that article from the Washington Star.

The article follows:

Policies Clear as MUD Humbled England Before the Spanish Armada

(By Charles Burton Marshall)

The switch came in 1579—year 22 of Elizabeth's reign. As England's queen explained in an overture to Spain's King Phillip, the mounting animosities of recent years, if not throttled down, might well bring on a ruinous war, which neither country could afford. "The peace issue is bigger than both of us," her letter observed.

A renewal of collaboration in the degree obtaining under Elizabeth's predecessor, with its apogee an alliance and joint war against France, was beyond reach, so London's envoy explained at the Escorial. Divisive issues—notably over ecclesiastical authority in western Christendom and over access to vast lands and riches revealed in a century of discovery—would persist. Even so, confrontations must be avoided. Cooperation must mitigate competition. With good will and good faith, such a blend was feasible.

The core of the English proposal was a prolonged negotiation—to be called the Anglo-Spanish Security Sessions (ASSS)—primarily to bridle naval rivalry. As proof of sincerity, Elizabeth decreed immediate unilateral suspension of new warship designs. This decision sidetracked two projects dear to England's strong-navy advocates. One was for developing a counterpart to Spain's galleon, equally gunned but made more wieldy and weatherly by reducing superstructure and bulwarks and increasing the keel-to-beam ratio. The other was for producing armed craft of modest weight and armament, sufficiently low-slung to get in close under a galleon's line of fire.

A prompt favorable response from Phillip heartened the queen and her counselors, consisting mostly of new faces at court with a sprinkling of flexible old-timers held over from earlier phases when a hard-line approach had been in vogue. Englishmen in the main warmed to the new policy, especially after a speech from the throne urging an easing of inordinate fears of Spanish ambitions and encroachments.

ASSS I proved an easy success. The halt in new ship designs was made reciprocal. Both parties pledged abstention from building war vessels beyond numbers then existing or in the works. In a surprise breakthrough, the sovereigns agreed to progressive reductions of shore defenses in the form both of fortifications and coastal vessels. The underlying aim was to subject each country to retaliatory raids in event of its ever trying an all-out naval attack on the other. As Elizabeth's ministers explained to skeptics, "Nothing could stop our intrepid captains from getting in unacceptable licks on such places as Cadiz, Cartegena, or Alicante, if Phillip should ever move against England. So he won't dare." The deterrent concept was termed Mutually Unacceptable Damage (MUD).

New worries arose, however, among English skeptics soon after the onset of ASSS II negotiations, supposed to focus an equilibrating overall naval strength. The worriers—called Sea Dogs in general parlance for the presence among them of such nautical figures, now under eclipse, as Drake, the Hawkins brothers, and Lord Howard—coalesced around such court has-beens as Lord Burghley and Francis Walsingham.

The insiders and their followers in championing the queen's initiative were nicknamed the House Cats. It is pertinent to sum up the opposing cases.

The Sea Dogs worried primarily about Phillip's aggregation of galleons. For all their cumbersomeness, these packed a hitting power unprecedented in the annals of sea warfare, and their numbers had recently been virtually doubled by Phillip's gain of command over Portugal's navy as a result of accession to the throne at Lisbon. The restrictions on designs—so the Sea Dogs contended—constituted a bar to providing a counterweight necessary to preserve England's security.

In arguing for either a cut in Phillip's galleons or an end to the ban on design innovations, the Sea Dogs stressed Spain's world position and the character of its rulership. Besides now controlling all Iberia, Phillip dominated the Low Countries, was known to entertain designs on strife-riven France's throne, and surely had not forgot having once been titled King of England when consort to Elizabeth's predecessor—a consort frustrated in designs for Spanish dominion there only by failure to beget an heir. Beyond Europe, Spain's sway was unimaginably extensive and still expanding.

Spain, as the Sea Dogs saw it, was in position to reach for world domination. England's potential provided the sole appreciable impediment—hence Spain's enmity and urge to hamper and reduce English power in every feasible way. However, diplomatically dissimulated, Spain's relentless ambitions fed upon a doctrinal presumption identifying its purposes with God's manifest will. In absolutist Spain the regime counted for everything, and a regime so disposed could not be relied on to abide by even a disproportionately advantageous contract. With Walsingham shelved and his once effective intelligence outfit consigned to limbo, England now lacked means for checking on compliance.

The House Cats' rejoinder was ingenious. The Sea Dog's glum assessments were either right or wrong. If they were correct, the situation was beyond redress, and—so the House Cats argued—England's only recourse was accommodation. In a ghost-writer's version voiced by Elizabeth, the necessity for ASSS II was because of, not in spite of, Spain's aggrandizing power and adversary aims. Conversely, if their assessments were wrong, the Sea Dogs' proposals were uncalled-for and dangerous, according to the House Cats. Concentrating on the latter component of their case, they strove to discount every point averred by the Sea Dogs.

In the House Cats' version, Spain's ranging interests and dominions, far from representing assets, were proving vexatious. The Portuguese connection would surely not last. Recalcitrant subjects in the Low Countries were giving Phillip trouble to no end. His designs on France and England were fantasies of a brooding imagination. Phillip's overseas subjects were sullen. All the silver from Mexico and Peru was not making Spain prosper. Enterprise there languished—a consequence of general apathy and stifling regulations. The reign in Spain was plainly on the wane. Phillip was not up to managing what he already possessed. Spaniards—the House Cats emphasized this point—did not want a war, sure to aggravate problems already proving too hard to handle. High-blown talk in Madrid about being agents of God's will was but a ritualistic echo of outdated devotion to a faltering faith. No one should take serious account nowadays of motivations linked to religious conviction—the latter "a mere bagatelle," as the queen herself remarked to the Spanish ambassador.

MUD, the House Cats insisted, constituted the proper principle by which to calculate interplay between naval factors and notional outcomes of war. In the MUD perspective, Spain's numerical edge in heavy-hitting galleons became portrayed as a qualitative inconsequentiality. Moreover, English superiority in seamanship and marksmanship was an offset to Spain's firepower. ASSS II would equalize aggregate numbers of ships on each side, assuring rough balance overall.

The House Cats declared the standoff to be adequately verifiable and therefore wholly reliable. To try to match Spain's naval resources, category by category—proliferating a lot of heavy-hiting ships-of-the-line so as to ward off an imaginary attack that was just not in the cards—would be, they added, expensive and pointless. Spain would not hear of abandoning any galleons or loosening the ban on innovations, and so—said the House Cats—pressing either proposal would abort ASSS II and jeopardize the whole ASSS process, with results of dangerously exacerbating relations with Spain, diminishing the queen's authority abroad, and giving England a reputation for perfidy and warmongering.

ASSS II was completed and ratified in due time. Relations between the contracting parties soon worsened signally. The execution of Mary Stuart for treason—many thought her to be Phillip's choice to replace Elizabeth if he ever got an opening—embittered the connection. What brought the countries to loggerheads, however, was Spain's insistence, in ASSS III, on terms requiring England's desistance from abetting dissidence in the Low Countries and from playing a hand in France's conflicted affairs, acknowledgement of Spain's monopolistic supremacy in other quadrants, forbiddance of English mariners to traverse waters adjoining the Americas or to round Cape Horn or the Cape of Good Hope, and dismantlement of the English high-seas fleet.

England's initially bold resistance crumbled when Phillip assembled at Lisbon in the summer of 1588 the bulk of his naval strength, numbering 132 ships with 3165 cannon and including all of Spain's and Portugal's galleons, to carry out a scarcely concealed plan for deploying northward into the English Channel so as to facilitate and protect a movement of some 40,000 of Spain's then matchless infantry, mostly to be ferried from the Low Countries, for an invasion of England. England's anticipated acquiescence in face of paramount force spared Spain from levying a war truly contrary to its preference.

Many Englishmen rued the upshot. The deplorers agreed on the improvidence of acquiescing in Spain's heavy-hitting preponderance but were divided over where to put the blame. Some said the main fault lay in the way the queen's ministers, relying on such a frail theory as MUD, had handled the ASSS process. Others called ASSS per se an inherent trap because it was a process impossible to engage in both devoutly and prudently.

The repiners could not refrain from the bitter pastime of pondering might-have-beens. Thus, they said, if England had declined to hobble inventiveness and instead had kept its sea forces fit to cope with the adversary's, the country would have been spared having to knuckle under to the threat posed by the Armada. If the Armada had moved anyway, English seamanship and gunnery, operating in proper craft, would have prevailed and might well have delivered such a drubbing as to make Phillip count himself lucky to get back any of his ships and men. England would have remained untethered to its island. Who could say as to the scope of its achievements thereafter over the great globe? Conceivably, England might even have eventually supplanted Spain as hub of an empire upon whose reach the sun never set.

The House Cats pooh-poohed the vanity of reconstruction events by hypothesis. Anyway, they said, to be shut out of empire meant to elude grief more than to miss out on glory. They asked: Who could rightly deplore confinement to a green island away from power politics?

The House Cats' rationale continued: ASSS III only registered the realities. By reconciling to them England placed its peaceableness beyond question, and its moral standing now among nations was higher than ever. Along with peace, the priceless ASSS process was preserved. Any marginal inequitableness could be rectified in ASSS IV. Phillip's demonstrated magnanimity in letting bygones be bygones in the matter of Mary Stuart and in permitting Elizabeth to retain her crown—subject, naturally, to undisclosed conditions—warranted that happy anticipation.●

ANNOUNCEMENT OF POSITION ON VOTES

● Mr. HART. Mr. President, on June 16, I was necessarily absent for consideration of the State Department authorization bill, the IMF funding increase, and the multilateral development banks bill.

If present, I would have voted "yea" on the State Department authorization. The bill carefully balanced the needs of the Department to fund necessary programs—including U.S. contributions to the International Labor Organization, increased funds for migration and refugee assistance and for the Board for International Broadcasting—and to keep Federal spending as tight as possible. In fact, some of the current increases in spending are designed to provide for long-term savings, such as the transfer back to the United States of some personnel of Radio Liberty and Radio Free Europe who now reside in Germany.

I also would have voted favorably on the IMF bill.

The International Development Association is the so-called "soft loan" window of the World Bank, providing loans that conventional lending institutions would turn down, and financed entirely by contributions by member states. It is being replenished for the sixth time, and I would have voted favorably on behalf of U.S. participation in that increase. The U.S. share of the replenishment has been cut from the 31.5 percent share of the last increase to 27 percent of the current one. It also is a drop from the 42.3 percent U.S. share of IDA's original funding. This bill also will permit U.S. participation in the African Development Bank. The United States will provide less than 6 percent of the Bank's total capital.

All of these bills provide for continued funding for the carrying out of U.S. foreign policy responsibilities. We have made clear that we cannot bear the lion's share of funding for international financial organizations, but that we will continue to contribute our fair share to help the most needy nations of the world and those particularly hard-hit by oil price hikes and resultant balance of payments problems.●

THE PROPOSED EXPORT OF NUCLEAR FUEL TO INDIA

● Mr. CRANSTON. Mr. President, President Carter is expected to act shortly on a State Department recommendation that he issue an Executive order approving the shipment of 38 tons of enriched uranium to India. Congress would have 60 legislative days after issuance of such an order to block the export by adoption of a concurrent resolution.

I am opposed to this export for reasons which I stated in testimony before the Senate Committee on Foreign Relations this morning.

I urge my colleagues to study this matter very closely and to act in due course to adopt a resolution disapproving this sale.

Mr. President, I ask that the full text of my testimony before the Foreign Relations Committee be printed in the RECORD.

The statement follows:

STATEMENT OF SENATOR ALAN CRANSTON

Mr. Chairman, I appreciate the opportunity to testify before your committee this morning to explain my reasons for opposing the proposed export of nuclear fuel to India.

I believe that export of this additional nuclear fuel to India without India's adherence to international safeguards on its nuclear program would do grave injury to the nuclear nonproliferation and foreign policy interests of the United States.

I oppose the export because I believe it would harm our interests in South Asia, including our desire to improve our relations with Pakistan, as well as our effort to discourage the Pakistanis from their pursuit of a nuclear weapons capability and our effort to reduce the dangerous instability brought to South Asia and other tense areas of the globe by regional nuclear arms races.

I also oppose this sale because I believe that if permitted by the Senate—and I understand the full House is expected to block the sale—it would undermine the central pillar of our worldwide nonproliferation effort. This centerpiece of the Nuclear Nonproliferation Act, passed by the Senate 88 to 3, is the requirement that all non-nuclear-weapons-states accept international safeguards on their nuclear programs—the functional equivalent of signing the Nonproliferation Treaty—as a condition of U.S. supply. Such safeguards are widely recognized as the *sine qua non* of an effective nonproliferation regime. Their achievement has been the primary goal of U.S. efforts in bilateral and multilateral nonproliferation discussions for many years now. Continued export of fuel to India—which persists in rejecting this essential norm of international nuclear commerce—will raise questions about our seriousness in all of these discussions.

There are several basic questions to be asked here which we must not lose sight of in our pursuit of the elusive prospect of improved U.S.-Indian relations.

Should the U.S. be routinely fueling the nuclear program of a nation which has violated its "peaceful use" assurances to us by using U.S.-supplied materials—heavy water—in its nuclear explosive program?

Should the U.S. continue to export nuclear fuel to a nation which rejects international safeguards, which refuses to foreclose further development of nuclear explosives, and which persistently threatens to breach our supply agreement by extracting nuclear explosive material—plutonium—from U.S.-supplied spent fuel?

If we do supply such a nation, what credibility will our non-proliferation policy have?

The principal Administration arguments put forward in support of this export derive from the crisis atmosphere created by the Soviet invasion of Afghanistan. The Administration's stated view is that we must aggressively court the Indians, that a breach of U.S. fuel supply could harm nonproliferation efforts, and that we may be obligated to send the fuel.

I believe each of these arguments can be refuted on the merits.

The Administration case on foreign policy grounds is weak. To permit this nuclear fuel export would likely harm our relations with Pakistan with no significant gains from the Indians in return. I do not believe that India will significantly alter its response to the Soviet invasion as a consequence of the U.S. decision on fuel supply. India will clearly make its strategic national security decisions on the basis of far broader concerns.

It isn't necessary for the U.S. to gut its nonproliferation policy in order to indicate our good will towards India. We have other, less harmful means of achieving this goal. For example, just last week, President Carter indicated his desire to sell 3,700 TOW anti-tank missiles to India.

And over the past three decades, the U.S. has provided over $10 billion in development and food assistance for India. Since 1977, when the Carter Administration resumed AID assistance to India as a gesture of good will, the U.S. has made $388 million in development grants and loans, as well as more than $500 million in Food for Peace grants. These figures—which include an increase in the FY 1981 Administration request to a total of $287 million in loans and grants for India—complement a strong bilateral trade relationship between the U.S. and India, and indicate the considerable interest the Indians have in maintaining a working relationship with the United States.

We will continue to seek the friendship of the people and the government of India although this task is made more difficult because of the fact that Indira Gandhi has this month signed a $1.6 billion military supply agreement with the Soviet Union and a new, far-reaching trade pact with Iran. But I believe there must be limits to the lengths to which the U.S. will go to demonstrate our desire to have good relations with India. We must expect some cooperation and respect for our interests, in return.

The Administration's case on nonproliferation grounds is even weaker.

I believe that the harm done to our nonproliferation policy should we abandon the full-scope safeguards standard clearly would far outweigh any good which might be achieved by continuing to fuel the Indian's nuclear reactors at Tarapur. The requirement that full scope safeguards by a condition of U.S. export was the signal achievement of your committee in winning overwhelming Congressional adoption of the 1978 Act. The Carter Administration acknowledged this fact in its letter of endorsement contained in the 1978 Act's Senate report stating that:

"This provision represents the heart of the compromise between previous Senate bills and the Administration bill . . . in view of the crucial and pivotal importance of full-scope safeguards to an effective nonproliferation policy, the Executive Branch is ready to support (this provision)".

The House Foreign Affairs Committee underscored this view in its report on the 1978 Act, noting:

"(t) his requirement is an essential element of the bill, and in the committee's view, (is) indispensable to any comprehensive nonproliferation policy . . . the committee feels strongly that the currently unsafeguarded facilities in India must be brought within the framework of the International Atomic Energy Agency safeguards systems if American nuclear cooperation is to continue."

Indians—and Carter Administration policymakers—have been fully aware of this requirement, although the Act deferred its application for two years to permit bilateral negotiations. The Administration did not question the legality of the requirement when it was before the Senate, or thereafter.

Yet the third principal Administration argument in support of this export holds that since the Indians believe the U.S. is legally bound to supply this fuel, the requirements of the 1978 Act notwithstanding, the U.S. must send the fuel. This argument applies, of course, not just to the fuel at issue today, but to all shipments until the end of our 30-year agreement. While I am not a legal scholar, I believe there are major weaknesses in this Administration contention. I think that the State Department should confidently defend the position that the U.S. would be legally justified in blocking this export.

For example, the current export license is applied for under a 1963 Contract of Sale of Enriched Uranium between the U.S. and India which, under a 1971 conforming amendment, states that India has agreed to "comply with all applicable laws, regulations and ordinances of the United States" in connection with the material to be supplied under the contract—language which clearly encompasses the requirements of the 1978 Act.

I also believe the U.S. has grounds for terminating supply based upon the Indian breach of the peaceful use assurance attendant our supply of heavy water to India which began in 1956. This heavy water was used in fabricating the Indian nuclear explosive device detonated in May 1974 after India received a 1971 diplomatic note from the U.S. making it clear that such use of U.S.-supplied heavy water would violate the 1956 assurances. India also turned aside a 1974 note seeking a pledge that no U.S.-supplied material would be used in nuclear explosives and has persistently rejected the U.S. view that the 1963 Agreement for Cooperation and uranium contract require safeguards to be applied in perpetuity to fuel supplied by the U.S. for the Tarapur reactors, not just for the 30 year life of the Agreement, as the Indians contend.

The U.S. has made concessions to India in the past to avoid interrupting fuel supplies for the Tarapur reactors. For example, in May 1978, when the NRC was unable to find that India had met minimum U.S. safeguards requirements of the new Nonproliferation Act, Congress permitted an export to go forward to India for three principal reasons.

First, it was hoped that a two year "grace period" after adoption of the 1978 Act would provide for meaningful negotiations with the Indians to gain their adherence to full-scope safeguards. Second, because the authoritarian, pro-Soviet regime of Mrs. Gandhi had been replaced by that of the more democratic Mr. Desai, the U.S. hoped for progress through negotiation. And thirdly, Desai foreswore any need for additional nuclear weapons testing by India.

Today, as we meet to consider the Indians' latest export application, none of these conditions obtain. There are no negotiations under way with India. Gandhi is in power once again, tilting toward the Soviets, and under her leadership the Indians now won't rule out further nuclear tests.

The U.S. is left with the choice of standing by our principles and defending our nonproliferation policy designed to enhance our national security, or of submitting to Indian pressure and consenting to supply Tarapur through the life of the 1963 contract, fully aware that India may detonate new nuclear weapons and will continue to reject international safeguards.

It is widely recognized that in taking its present position, the Indian government is attempting to blackmail the U.S. with its threat to extract plutonium from supplies of U.S.-origin spent fuel if we do not capitulate and send them still more enriched uranium. We should assert our rights under the 1963 contract and require Indian adherence to U.S. export controls contained in the 1978 Act as a condition of continued U.S. supply.

Mr. Chairman, under the leadership of your commitee and the Governmental Affairs Committee, Congress began shortly after the Indian explosion of 1974 to head toward a cut-off of U.S. nuclear supply to violators of essential nonproliferation standards. Congress acted in large part out of frustration over the Executive Branch's failure to protest strongly misuse of U.S. materials by the Indians. Finally, in 1978, after four years of work by Congress, the Carter Administration joined in support of the Nonproliferation Act which required a date certain cut-off, to begin March 10, 1980. Thus the Administration's new sensitivity to India's distorted view of the 1963 contract's terms can be no excuse for delaying the cut-off of U.S. nuclear supply any further.

One of the principal causes of proliferation is the fact that the U.S. government has frequently given in to the temptation to use nuclear exports as carrots to improve specific bilateral relationships. It was to correct this problem—and to ensure that long-term national security concerns will take priority over transitory bilateral interests—that Congress enacted comprehensive legislation establishing clear standards and licensing procedures for nuclear exports.

The Executive Branch has indicated its intention to come before your committee to argue once again that in the vain hope of advancing one bilateral relationship, the U.S. must severely weaken its global nonproliferation effort.

This request presents a critical test case. I believe that Congress should exercise its review authority to insure that the Administration has the strength of the President's articulately expressed convictions on nonproliferation. We must hold the line on further nuclear exports to India until that nation indicates a willingness to join the community of over 100 nations in accepting the basic norm of international nuclear commerce—full-scope safeguards—which are implemented for the good of all humankind.

Should the Administration send forward an export license by Executive Order, I urge my colleagues to report a resolution of disapproval and to join together with the House in blocking this proposed export to India.

Thank you.●

FEDERAL RESERVE BOARD POLICIES

● Mr. SASSER. Mr. President, in recent months, I have become increasingly disturbed by the policies of the Federal Reserve Board. A number of my colleagues in the Senate have joined me in expressing opposition to some of those policies, especially the Board's misguided belief that high interest rates are necessary to control inflation.

It is now the opinion of several leading economists that the policies of the Federal Reserve Board were too stringent, that the policies have been destructive rather than helpful. We are now facing perhaps the worst recession since World War II, and I believe the Board's policies have contributed to the severity of the situation.

The policies of the Reserve Board have been particularly harmful to the farmer, who must borrow money on a seasonal basis to plant crops. The farmer this spring could not delay borrowing until interest rates went back down; he had to pay an exorbitant price for money. A number of farmers have gone out of business, and others are struggling to stay afloat.

During a recent confirmation hearing for a nominee to the Reserve Board's Board of Governors, my distinguished colleague from Iowa, JOHN CULVER, questioned whether there is adequate representation of agricultural interests on the Board. I also feared that the Reserve Board was insensitive to the needs of farmers in formulating policy.

The controversy prompted me to request the Library of Congress to survey the backgrounds of past and present members of the Federal Reserve System to determine the extent of input into policy decisions by representatives of the agricultural sector.

This study has confirmed my fears. The representation of agricultural interests on the Federal Reserve System has been grossly inadequate.

The Federal Reserve is headed by a seven-member Board of Governors. In addition to the Board of Governors, each of the 12 regional Federal Reserve Banks has a Board of Directors consisting of nine individuals.

For the past 13 years, no person having a primary interest in agriculture has served on the Federal Reserve's Board of Governors. And of the 108 directorship positions on the regional banks' board, only three positions are currently filled by people who appear to have agriculture as their principal occupations. That amounts to a whopping 2.8 percent of the 108 positions nationwide.

One would hope that this alarming statistic is an abnormally low figure. But, unfortunately, that is not the case.

For a 20-year period from 1950 to 1970, 756 positions on the 12 regional boards were filled. Of those 756 directors, only 27—or a mere 3.6 percent—were classified as having agriculture as their principal occupation.

These dismal figures are in direct contradiction to the clear intent of Congress to insure that agricultural interests be fairly represented on the Federal Reserve.

The Federal Reserve Act, as amended in 1922, calls for the President to demonstrate "due regard to a fair representation of financial, agricultural, industrial, and commercial interests" in making appointments to the Board of Governors.

But the Library of Congress study shows that the last member of the Board with a primary background in agriculture retired in April of 1967. No President since Dwight Eisenhower has appointed an individual from the agricultural sector to the Board of Governors.

Mr. President, I find this situation intolerable. This study confirms what many Members of this body suspected. There are not enough farm representatives on the Federal Reserve Board of Governors and on the Boards of the 12 regional Federal Reserve Banks.

This lack of representation is a threat—not only to farmers—but to many others who also cannot afford the economic burden of high interest rates. Like farmers, our small business people depend on borrowed money and cannot afford high interest rates. High interest rates have also devastated the home building industry.

Yet, we have seen that the Fed is ready and eager to apply the broad stroke of record high interest rates to our complex economy.

Congress has already amended the Federal Reserve Act to call for adequate representation of our Nation's agricultural interests. That happened more than half a century ago. The problem is not with the statutory language, but with how it is being ignored.

On May 15 of this year we passed by unanimous vote Senate Resolution 434 which I cosponsored with Senator CULVER and 15 others.

Congress has made clear to the President and the Board of Governors that it expects the intent of its laws to be followed.

This study underscores the need to increase representation of farming interests in the formulation of monetary policy. The Federal Reserve System is dominated by representatives from other sectors of the economy, and the resulting policies are sometimes detrimental to farmers.

The Senate, by way of the Culver resolution, has voiced its objection to continuing this pattern.

As positions on the Federal Reserve System become vacant in the future, we must monitor the nomination process closely to insure that persons with agricultural backgrounds receive due consideration.

Mr. President, a memorandum detailing the findings of the Library of Congress study follows:

To Senate Committee on Governmental Affairs, Subcommittee on Intergovernmental Affairs.

From Roger S. White, Specialist in Money and Banking, Economics Division.

Subject Federal Reserve officials with agricultural interests.

Your request concerns agricultural backgrounds of members of the Board of Governors of the Federal Reserve System and of directors of the 12 regional Federal Reserve Banks. This memorandum presents statutory provisions relating to representation of agricultural interests on the Board of Governors and on the boards of directors of the regional banks. In addition, it provides information on agriculture related backgrounds of those who have served on the Board of Governors and its predecessor, the Federal Reserve Board, from 1914 to date and of those who have been in office as directors of the regional Federal Reserve Banks for selected periods since 1950. Biographical sketches containing references to agricultural interests and backgrounds appear in appendices, with those for past and present Board members beginning on page 7, and those of current directors beginning on page 18.

MEMBERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

From 1914 to 1936, the principal policy making body within the Federal Reserve System was known as the Federal Reserve Board. In 1936, the Board was reconstituted and renamed as the Board of Governors of the Federal Reserve System. The Federal Reserve Act initially provided for 5 appointive members, and was amended in 1922 to provide for one additional appointive member. Throughout the 1914–1936 period, the Act granted ex officio membership to the Secretary of the Treasury and the Comptroller of the Currency. In 1922 amendment included a change relating to backgrounds of appointive members, calling for the President, in making appointments, to have "due regard to a fair representation of financial, agricultural, industrial and commerical interests, and geographical divisions of the country." This phrase replaced original language which read as follows: "due regard to a fair representation of the different commerical, industrial and geographical divisions of the country."

The next change made in statutory requirements concerning the composition of the Board is also the most recent. The Banking Act of 1935 changed the title of the Board to the Board of Governors of the Federal Reserve System, removed ex officio members from the Board and provided for 7 appointive members. Provisions enacted in 1922 concerning the backgrounds of members of the Board were retained by the Banking Act of 1935.

Other provisions regarding the appointment and qualifications of members of the Board appear in a CRS report on the subject.[1]

On reviewing biographical sketches of past and present members, we have noted agricultural backgrounds of varying degrees for 10 of the 60 individuals who have served as appointive members. We, of course, cannot assess the intent of those nominating and confirming these or other members of the Board with respect to providing for fair representation of agricultural interests. The 10 members, the Federal Reserve districts from which they were appointed and their years of service are as follows:

Milo D. Campbell, Chicago, March 14, 1923 to March 22, 1923.

Edward H. Cunningham, Chicago, May 14, 1923 to November 28, 1930.

Eugene Meyer, New York, September 16, 1930 to May 10, 1933.

Wayland W. Magee, Kansas City, May 18, 1931 to January 24, 1933.

Ralph W. Morrison, Dallas, February 10, 1936 to July 9, 1936.

Chester C. Davis, Richmond, June 25, 1936 to April 15, 1941.

Rudolph M. Evans, Richmond, March 14, 1942 to August 13, 1954.

Paul E. Miller, Minneapolis, August 13, 1954 to October 21, 1954.

Chas. N. Shepardson, Dallas, March 17, 1955 to April 30, 1967.

G. H. King, Jr., Atlanta, March 25, 1959 to September 18, 1963.

Copies of biographical sketches of these 10 members, obtained from the Board, are appended to this memorandum.

DIRECTORS OF REGIONAL FEDERAL RESERVE BANKS

The Federal Reserve Act provides for 9 directors for each of the 12 regional Federal Reserve Banks. Each board of directors consists of an equal number of Class A, Class B, and Class C directors. Provisions concerning qualifications and appointment differ among the director classes. Mention of agricultural interests appeared in initial Federal Reserve Act provisions for Class B directors and appear in the Act as amended by Public Law 95–188 in connection with both Class B and Class C directors. Relevant provisions, excerpted from section 4 of the Federal Reserve Act are set forth below with additions or changes effected by Public Law 95–188 denoted by italics:

Paragraph 10: Class A shall consist of three members, *without discrimination on the basis of race, creed, color, sex, or national origin*, who shall be chosen by and be representative of the stockholding banks.

Paragraph 11: Class B shall consist of three members, *who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.* [Italicized portion replaced original language which read as follows: who at the time of their election shall be actively engaged in their district in commerce, agriculture or some other industrial pursuit.]

Paragraph 12: Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. *They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, service, labor, and consumers* . . .

Characteristics of directors serving the regional Federal Reserve Banks during selected periods have been examined in several studies. A study which appeared in the December 1973 issue of the Social Science Quarterly includes data on characteristics of Class B and Class C directors appointed or reappointed during the 21-year period 1950 to 1970.[2] In this study, each director was classified according to his primary economic activity or occupation, such classification being made on the basis of principal business address. Thirteen occupational classes used included agriculture, extractive industry (mining and drilling), manufacturing and academic. Of the 252 appointments and reappointments made to Class B positions during the 21 year period, 16 were classified as having agriculture as their principal occupation. For the same number of Class C positions, there were 11 classed under agriculture. The total number of director positions for the 21-yeaı period, including Class A directors who represent member banks, was 756, 27 of whom, or 3.6 percent, were classed as having agriculture as their principal occupation.

A study published in the June 1972 Federal Reserve Bulletin, prepared by Andrew F. Brimmer, a member of Board of Governors at that time, analyzes characteristics of directors of the regional Federal Reserve Banks as of January 1, 1972.[3] In classifying "industrial origins of directors, 1972", this study used 13 industrial classifications similar to those used in the study discussed above. Of 108 directors serving as of January 1, 1972, 4 or 3.7 percent, were classed as having agriculture as their industry origin.

We have obtained copies of the Federal Reserve's Form 242 "Director's Biographical Sketch" for each of the directors currently in office. Our review of this information, which follows, does not constitute an assessment of whether or not there has been due consideration to the interests of agriculture in selecting directors.

Three of the current directors, all Class B, appear to have agriculture as their principal industrial occupations. Three positions constitute 2.8 percent of the total 108 directorship positions. These directors, their Federal Reserve banks and information on principal occupations are as follows:

Mary Garst, Chicago, Cattle Manager, The Garst Company (nature of business: agriculture-farming, cow-calf, feedlot, chemical, fertilizer).

Donald P. Helgeson, Minneapolis, Secretary-Treasurer, Jack Frost, Inc. (nature of business: agribusiness-integrated poultry, grain elevators and food distribution—180 employees, 160 contract farmers).

Alan Roy Sleeper, Kansas City, Company name: Alan R. Sleeper (nature of business: livestock and ranching, investments).

In addition, the biographical sketches contain information indicating varying degrees of background and interest in agriculture for 11 directors who would be classed as having other principal industrial occupations. These include directors who earned degrees in agriculture or agricultural economics but are employed in banking, educators, whose fields of expertise are in agriculture, and those who own farms but list unrelated principal business affiliations. Copies of the biographical sketches of these 11 directors and of the 3 referred to above are appended, grouped by Federal Reserve districts.

Please let us know if we can be of further assistance.●

ANDREI SAKHAROV, CONSCIENCE OF HIS NATION

● Mr. DOLE. Mr. President, concerned about the direction of international relationships in which the United States and Russia play vital roles, Andrei Sakharov, a prominent Russian scientist and Nobel Laureate, recently released his first statement since his seizure and subsequent exile last January to Gorky, a city closed to all foreigners. Sakharov warns us of the converging, antithetical themes of communism and democracy which he sees coming to a head.

In his assessment of the impending crisis Sakharov tries to alert the West to misconceptions about the Soviet regime which may lead to miscalculation. He warns the Western World of a militarized economy and a bureaucracy of centralized control far greater than that experienced by people beyond the Iron Curtain. All weaponry and foreign policy decisions which ultimately lead to either war or peace rest in the hands of the most extreme elite in the history of the world: the Politburo.

The Politburo also controls the content and flow of information to the people of the Soviet Union. Thus, they have little opportunity to learn what is happening in the world other than what their leaders wish them to know. The people of the Soviet Union are fed anti-American propaganda. Their awareness of the immediate world situation is kept at a minimum. For a long while they were kept in virtual ignorance of the invasion of Afghanistan, and even now receive the scantest, slanted minimum of information about the land where many sons of Mother Russia are dying.

SANCTIONS IMPORTANT

The areas of Soviet expansion have been chosen carefully for their economic and strategic potential. The Soviet involvement in South East Asia, Cuba, Ethiopia, Yemen, and the recent invasion of Afghanistan should be a matter of concern to all nations. Sakharov believes the imposition of economic and political sanctions are vital—the signal it sends to both the Soviet hierarchy and people is more important than we realize. The Soviet dissident claims those who participate in the Moscow Olympics are giving indirect support to the Afghan invasion. The Soviets must not be allowed to commit such actions without censure from the world community. However, he also recognizes the traditional Russian xenophobia and fear of encirclement, and to ease the Soviet apprehension Sakharov suggests that a neutral Moslem country should be recreated in Afghanistan.

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[1] U.S. Library of Congress. Congressional Research Service. Members of the Board of Governors of the Federal Reserve System: Requirements for Appointment and a Listing of Appointees, Their Federal Reserve Districts and Years of Service [by] Roger S. White. [Washington] May 28, 1980. 9 p.

[2] Havrilesky, Thomas, William P. Yohe and David Schirm. The Economic Affiliations of Directors of Federal Reserve District Banks. Social Science Quarterly, v. 54, Dec. 1973. Pp. 608–622.

[3] Brimmer, Andrew F., Characteristics of Federal Reserve Bank Directors. Federal Reserve Bulletin, V. 58. June 1972. p. 550–559.

Sakharov, while in detention and supposed isolation, has spoken of many things of importance to the Western World. He has not allowed his confinement and constant surveillance by the KGB to silence his views on human rights. He speaks of the horrors undergone by those who speak out for individual human rights in the Soviet Union. They are often confined to psychiatric jails or labor camps to suppress their views. They often stand accused of parasitism or slander of the Soviet system in mock trials of foregone conclusion. Often they are given drugs that alter their behavior and suffer cruel physical treatment. He reports as one example of torture how wet canvas is tightly wrapped around the body until the canvas dries and shrinks, causing the victim excruciating pain. It is no wonder that many "confess" whatever crimes of which they are accused.

THE VOICE OF A NATION'S CONSCIENCE

Sakharov stressed in his letter to the West that the human rights movement has no hidden motive nor does it quest for political power. Many of those jailed in the Gulag under subhuman conditions are there for their religious beliefs or for defending their personal rights guaranteed under the Helsinki Final Act on Human Rights—an accord to which the Soviet Union is a signatory.

The charges that were brought against Sakharov are "contempt of the people and their aspirations and slander of the Soviet system." Sakharov vigorously denounces these charges.

For his "crimes" Sakharov was stripped of all his awards and forbidden contact with foreigners. Now the leading scientist of his generation is seen only by family members and those found suitable by the KGB. There is a 24-hour guard stationed around him at all times. His wife and friends frequently receive threats and harassment. Radio jamming equipment has been installed by the KGB to block perception of incoming signals in an effort to cut him off completely from the outside world. Nevertheless, he manages to get some information through a transistor that he carries with him on his nightly walks.

Though now his constant harassment and persecution have become formalized by internal exile, leaving his means of communication with his people and the world tenuous and uncertain, Andrei Sakharov has shown a remarkable level of perseverance, and durability. The KGB has not reached his threshold of endurance. Nothing the Soviets have done to him has made him give up in his efforts to alert the world to the truth about Soviet persecution. He shows no signs of weakening. He is the spirit and conscience of Russia. It is our fervent hope his voice and pen are never silenced.●

MENDELEVICH, MURZHENKO. AND FEDEROV—STRUGGLE FOR FREEDOM

● Mr. DeCONCINI. Mr. President, a decade of imprisonment is the tragic fate of three courageous Soviet dissidents who participated in a last-resort effort to escape from the Soviet Union in June 1970. Iosif Mendelevich, an orthodox Jew, and two non-Jews, Yuri Federov and Aleksei Murzhenko, were part of a 12-member group formed to passively oppose the rigid policies of the Soviet Government. Most of these men had repeatedly applied for emigration visas and had been consistently refused without any official explanations. Because life in the Soviet Union had become unbearable, and because there seemed to be no hope of ever leaving Russia legally, the 12 Soviet citizens became involved in a plot to rent a small Aeroflot plane and fly it across the Soviet border, eventually to Israel.

The participants in this plot were not criminals. They were unarmed, and had carefully planned this operation to avoid inflicting harm on anyone. They merely wished to fulfill their personal desires to live in a society where individual freedom is not repressed.

Because these men were under close surveillance, information was leaked to authorities before the mission was completed. All participants were arrested at the Leningrad airport on June 15, 1970. Their attempt to fly the aircraft out of the country had failed and their attempt at obtaining freedom has resulted in severe punishment.

Though at the time of their trial there was no Soviet law which dealt with the hijacking of an airplane, these men were tried, sentenced, and imprisoned as hijackers and received extremely harsh penalties for the aborted theft. In response to the unjust treatment, a massive publicity campaign in the West succeeded in helping most of these men. Eduard Kuznetsov and Mark Dymshits, originally sentenced to death, later received 15-year sentences and actually served only 9 of those years before they were exchanged for Soviet spies in April, 1979. To date, however, there are still three men who remain behind bars.

Mr. President, it is even more inconceivable that these three men have not been set free since a new Soviet law was enacted less than 3 years after their trial which makes a completed hijacking a maximum 10-year sentence. Furthermore, they have already served a sentence which is greater than the legal penalty for a successful hijacking (not a mere attempt).

Mendelevich, Murzhenko, and Federov are confined to harsh labor camps for their purely humanitarian motives. These men have fought most of their lives for the freedom to express their religious and political beliefs. They have been unafraid to speak out for what they believe in and at the same time have endured numerous hardships difficult for a civilized society to comprehend.

For 10 long years a small cell has been their only home. For 10 long years a pitifully meager food ration has been their only nourishment. For 10 long years they have worked many tortuous hours doing menial labor. As a result, each of these men suffers from poor health; yet, they are deprived of adequate medical attention. Their painful existence and moral burdens have nearly destroyed whatever self-dignity these three brave men may have left.

Mr. President, I believe these men have suffered enough for their "crime" of attempted theft. Their cases should be reexamined, especially in light of the fact that all the other participants are free.

It is a fact that there are numerous incidents in the Soviet Union where men are relentlessly pursued not because their underlying motives are criminal in nature; rather, it is because their religious or political beliefs do not conform to the rigid policies of Soviet Government. They are arbitrarily abused—singled out to symbolize the potential fate of any who try to threaten the totalitarian state.

As a free society, the very least we can do is vehemently protest the atrocities and injustices the Soviet Government imposes on many of its citizens. As long as persons are harassed and needlessly abused for pursuing their inherent rights to freedom of religion, thought and conscience, we must be persistent in expressing our outrage. Persecution and repression can never be condoned. And until all men have been granted their basic human rights, our consciences cannot rest.

As John Kennedy so eloquently stated in his inaugural address:

> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

There are no simple solutions to this serious matter which threatens the ideals of democracy, but men like Mendelevich, Federov and Murzhenko deserve to be praised for their determination in the face of tremendous adversity. They are to be commended for their patience and tolerance. They are to be honored for their humanitarian goals.●

SENATOR HOWARD BAKER

● Mr. DANFORTH. Mr. President, Senator HOWARD BAKER is universally recognized as a skilled leader in the U.S. Senate. Today's column by George Will speaks for itself in expressing his value to his party.

I ask that the column be printed in the RECORD.

The column follows:

WHEN IN THE COURSE OF HUMAN EVENTS . . .

A canoeist with a popgun has just fired a warning shot across the bow of a battleship. Or, if you prefer, a gnat has threatened an elephant with reprisals.

An editor of Human Events, an excitable right-wing weekly, warns that if Ronald Reagan picks Howard Baker as his running mate, Human Events may not throw its weight behind Reagan. Human Events, which does not have a spacious sense of proper Republicanism, thinks the Republicans' Senate leader is improperly liberal.

It has been years since I last saw Human Events, but I remember when Human Events spotted me as a left-winger. Ten years ago I came to Washington to join a senator's staff. Before long, the keen nose of Human Events sniffed a whiff of sedition. It wrote:

"Conservative staffers on Capitol Hill are becoming increasingly irked at the activities of Dr. George Will, an assistant to Sen. Gordon Allott (R-Colo.). They say that Will, an avowed conservative, has acquired a growing habit of aloofness toward right-of-center projects and legislation, thus dooming many of them to defeat. Sen. Allott, the powerful and respected chairman of the Republican Policy Committee, has conservative instincts, but some Capitol observers are saying that Will is playing an active role in moderating Allott's stance in such policy areas as defense appropriations and domestic giveaways."

Drats. They noticed my guilty secret is out: I adore domestic "giveaways" and think defense appropriations are icky. But wasn't I a powerful rascal? My mere "aloofness" doomed legislation. Not bad, for one member of the staff of one Republican in a Senate controlled by Democrats.

Among the many things beyond Human Events' understanding is the limited influence of staffers, at least those working for conscientious, energetic, strong-willed senators like Allott, who knew his own mind. Anyway, as I recall, when liberal organizations rated Allott's voting record during my three years with him, his rating fluctuated between 2 and 3 (on a scale in which 100 was liberal perfection, and 60 was creeping Toryism).

I have recounted this sample of Human Events' nuttiness because light shed on Human Events sheds light on a Reagan problem, and an opportunity. The Human Events ultimatum to Reagan is, of course, a triviality, but it is not quite trivial as a symptom of something significant: Reagan has long been plagued by some supporters unworthy of him. The hectoring of him by presumptuous cabals with lists of "unacceptable" running mates gives Reagan a chance to reassure millions by annoying a few thousands.

A politician must be gifted at losing as well as winning votes, at accepting the fact that he can't please everyone and at judiciously choosing whom to lose and, in some cases, how to lose them. Baker should be high on any sensible person's list of admirable running mates. Baker is the Republican most respected by professionals in both parties, and he would be the best Republican to debate Walter Mondale.

Reagan, who really needs no new reason for considering Baker, has a new reason. The fact that some pipsqueak "purist" groups are presuming to assert a veto right, and have concentrated their popguns on Baker, means that if Reagan chooses Baker, he will get not only an able running mate, but also a bonus: He will send a signal to millions of moderates. He will reassure them by sending the "purists" packing.

Reagan sent such a signal—or at least avoided sending an opposite signal—when he disappointed those Reaganites who were trying to purge one of the Republican Party's most liked, admired and valued servants, the national chairman, Bill Brock.

Brock once was what Baker is: a senator from Tennessee. Brock, like Baker, is a southern conservative of the sort who understands how to take on Carter in his southern sanctuary. Purging Brock would have been dumbness in several dimensions. It would have squandered talent. And it would have suggested that the Reagan organization, swollen by victory, had surrendered to a swaggering desire to discover ideological differences where no significant ones exist.

Republicans can't leave well enough alone. They survive the marathon primary season with few bruises or contusions, and then get an itch for utterly optional bloodletting. As is often the case in campaign organizations, it was unclear who was doing what with whose approval in the attacks on Brock. But this much is clear: if Reagan wins the presidency, one reason will be that, thanks especially to Brock, candidate Reagan was powered toward victory by a party in the pink (if Human Events will pardon the expression) of health.●

AFGHANISTAN

● Mr. LUGAR. Mr. President, news of Afghanistan has receded from the front pages of American newspapers. But the resistance of the Afghan people continues, and it is becoming clearer by the day that current Soviet force levels will be far from sufficient to pacify the country. At some point, the Soviet Union will be required to make another set of decisions regarding its policy there. The brutal reality of Soviet imperialism has revealed itself to the world, and provides an opportunity for common understanding and common initiatives on the part of the West and the Moslem nations.

The situation in Afghanistan has been well described in a recent article by Cord Meyer. The article, entitled "Getting Away with Murder," appeared in the Washington Star on June 14, and I ask that it be printed in the Record.

The article follows:

Getting Away With Murder

The Soviets are getting away with murder in Afghanistan by excluding American TV cameras. Except for the brief foray of CBS' Dan Rather across the Pakistan border, the national insurrection of the Afghan people might as well be taking place on the dark side of the moon as far as American viewers are concerned.

With the notable exception of a few intrepid journalists, the American press has not done much better than the TV networks in covering the extraordinary story of how 85,000 Soviet troops have completely failed to suppress the Afghan resistance.

Initially resigned to the successful installation of a Soviet puppet government as in Hungary and Czechoslovakia, Carter administration officials have been compelled by mounting evidence to conclude that the Russians have bitten off more than they can chew.

Although the Soviets have largely succeeded in imposing a zone of silence by banning Western media, intelligence reports, communication intercepts and defector debriefings leaking through this iron curtain have convinced State Department officers that 95 per cent of the Afghan population is now in seething revolt. But when official press briefings are held to convey this information to the American public, the news media, lacking independent confirmation and naturally suspicious of government handouts, tend to downplay the story.

After a thorough review of the available evidence, this reporter is convinced that the Soviets are in even deeper trouble in Afghanistan than the cautious State Department assessments suggest. Although a new influx of Soviet troops is expected after the indecent Olympic ceremonies in Moscow, there is now a very real question whether additional forces can control a religiously-motivated rebellion that extends throughout the length and breadth of the country.

The Afghan army that once numbered 100,000 has been so decimated by defection to the rebel side of individual soldiers and entire units that only 16,000 remain effective and even these are unreliable. As a result, when Russian armored columns and helicopter gunships have laid waste a rebel area, the Afghan troops left behind to hold the region either defect or are driven out.

Of the major cities, only Kabul remains firmly under Russian control, and martial law has just been declared in Herat and Kandahar where Soviet troops make sporadic forays from isolated garrisons. After the killing of protesting Afghan high school girls by Russian gunfire in the streets of Kabul, the situation in the capital itself is described as explosive, with insurgent forces massing in the the surrounding mountains.

As if to disprove the Soviet allegations that the insurgency is the work of American and Chinese "imperialists" infiltrating from Pakistan, two of the northern provinces on the Russian border are almost entirely in rebel hands. The governor of Qonduz province was heard last week desperately calling for Russian help to save his last beleaguered garrison.

If the military situation is worse for the Russians than when they launched their invasion, political developments have been even more disastrous for their cause. In trying to impose their rule on 17 million Afghans, the Soviets have had to rely on no more than 10,000 Afghan communists, but this minuscule minority is itself bitterly divided into two murderous factions.

Ministers from the Khalqist and Parchmist wings of the party in the Russian-imposed cabinet have to be prevented by Soviet guards from assassinating each other. Last week a Russian officer was killed in the cross fire as he tried to settle an internecine quarrel.

In fact, the Afghan government has ceased to exist as a functioning entity, and Soviet officials are now overtly running all ministries except for foreign affairs where a thin layer of Afghans are propped up in office. As a State Department expert remarked, "The Soviet no longer have even a fig leaf to hide behind."

The Carter administration must bear part of the blame for the slowness of opinion both here and abroad to grasp the meaning of the Afghan revolt. Although it paid off in the early primaries, the president's Rose Garden strategy diverted attention from Afghanistan without helping the hostages. Only when a press story noted that VOA was broadcasting in little-understood Persian to Afghanistan did the Carter administration authorize broadcasts in the widely-spoken Dari language, and it will be three months before intelligible broadcasts are on the air.

Contrary to Soviet accusations, the Carter administration has also been terribly slow in responding to urgent requests of the Afghan guerrillas for arms capable of coping with the Russian tanks and helicopters. There are rumors that shoulder-fired missiles may be on the way but so far the guerrillas seem to be relying mainly on old-fashioned British rifles and captured Russian arms.

As the struggle to succeed Brezhnev looms in Moscow the Soviets will be more reluctant than ever to admit the magnitude of their miscalculation in Afghanistan. If they think they can control the news they will be tempted to apply the genocidal strategy of a Stalin rather than accept the replacement of their communist regime by a neutral government.

The Afghan fighters have offered the Western world and the Islamic nations the great gift of their courage in standing up to the Red Army. The least we can give them in return is the means to defend themselves, food for their refugee families and perhaps most important of all the spotlight of focused world opinion to prevent their secret destruction behind a wall of pervasive censorship.●

A TEMPORARY WORKER PROGRAM

● Mr. SCHMITT. Mr. President, yesterday the Senate adopted to the Department of Justice authorization bill the Huddleston amendment as amended addressing immigration to this country. This amendment was prompted by the recent influx of refugees. It seems that we only deal with immigration issues when we are faced with what appears to be a crisis.

This most recent example of "boat people," both the Cubans and the Haitians, are evidence to the fact that the United States is still viewed as both the land of freedom and the land of economic opportunity. These views are shared by the most visible migrations such as the Indochinese, Cuban, and Haitian as well as the less dramatic migrations including the undocumented workers entering this country, particularly from our neighbor to the south, Mexico.

It is estimated that between 2 and 4 million illegal Mexican nationals are presently in this country. They come to the United States seeking economic opportunity and generally stay for 6 to 8 months at a time. These undocumented workers fill jobs that are going unfilled by Americans.

This situation poses us with a challenge and requires careful Congressional consideration. We must amend our immigration laws to deal with the reality of undocumented workers and the economic situations in both the United States and Mexico. Last year, I, for myself, Senator HAYAKAWA, and Senator GOLDWATER, introduced the United States-Mexico Good Neighbor Act of 1979, S. 1427. This bill addresses the situation of massive unemployment in Mexico, unfilled jobs in the United States, and the natural tendency of migration to fill those jobs.

Mr. President, since the Senate has now addressed the issue of immigration to the United States, I ask my colleagues to spend a few minutes and review the major aspects of S. 1427, the United States-Mexico Good Neighbor Act of 1979 or companeros program. Last month I testified before the Republican Party Platform Committee on this bill. My testimony serves as an outline of S. 1427. I ask that the testimony be printed in the RECORD.

The testimony follows:

STATEMENT OF THE HONORABLE HARRISON H. SCHMITT

Mr. Chairman, it is a pleasure to appear before this Committee as it holds hearings on issues which Republicans wish to see addressed by the Platform Committee.

Being from New Mexico, naturally it has been one of my priorities to attempt to resolve the problems associated with undocumented workers from Mexico. No social problem facing the people of these two countries has greater significance. Hopefully this Committee will carefully consider this issue and recommend a policy that will be fair to all sectors of our society. In making your recommendations, I would like you to consider the approach taken by S. 1427, the U.S.-Mexico Good Neighbor Act of 1979 (or Companeros Program), a bill introduced by Senator HAYAKAWA, Senator GOLDWATER and myself.

This bill establishes a legal framework by which Mexican nationals could enter the U.S. for temporary employment without adverse impact on U.S. workers.

The presence of undocumented Mexican workers poses many diverse problems for both countries:

In the U.S. there is a growing shortage of workers in jobs that only the very poor from Mexico will take, even though these jobs are important to our economy.

The present restrictive immigration system aggravates Mexico's unemployment; people in both countries are harmed by present laws, whether they be the undocumented aliens who are often times exploited or whether they be employers in this country who need workers.

The Administration proposal of increased border enforcement, economic employer sanctions and a partial amnesty is neither workable nor humane.

New sociological studies indicate that the typical undocumented Mexican worker is a young male here due to a temporary economic crisis—normally staying around 6 months. Those who stay longer usually do so because of the difficulty encountered in repeatedly crossing the border; thus, they develop roots in this country causing them to remain permanently.

Immigration between the two countries is naturally beneficial. The Mexican workers fill jobs in this country that would ordinarily go unfilled; thereby, contributing to the tax base and economic productivity of this Nation. For Mexico, the wages earned constitute an indirect measure of foreign aid while the workers increase the national pool of skilled manpower upon their return to Mexico.

A practical solution to this problem seems to me to be one which allows Mexican nationals to legally enter this country for a temporary period of time while they seek employment in fields and locations that do not compete with American workers. S. 1427 takes such an approach as it:

Establishes a visa program with monthly and annual quotas to be set by the Attorney General, acting in consultation with the Secretaries of Labor, Agriculture and Commerce;

The visas would be issued on a first-come, first-serve basis with the visa holder then being eligible to enter the U.S. for 6 months to seek employment;

There would be no geographical restriction; nor would there be any prohibition on the type of work the visa holder could undertake, although the Secreary of Labor could certify that there were adequate qualified and willing domestic workers at a particular work site; such a certification would restrict the Mexican national from being employed at that location.

Stiff prohibitions on their eligibility for future visas on those visa holders who failed to return upon the expiration of their visa. Since a worker could return later under another temporary visa, it is not expected that large numbers of Mexican nationals would over-stay their visa permit.

A Republican Administration and the Congress must establish and administer a rational, humane solution to this burgeoning problem. Let me describe its magnitude. In FY 1967, the Immigration and Naturalization Service (INS) apprehended 161,608 illegal aliens while in FY 1976 that figure had risen to 875,915, of which 781,474 were Mexican nationals. It is estimated that between 2 million to 4 million illegal Mexican nationals are presently in this country. We cannot seal a 1,900 mile border, nor can we effectively legislate against the entrance of these aliens.

Economic pressure in a land where half the population is under 15, with an unemployment rate of 20–30 percent, ensures that hundreds of thousands of Mexicans will illegally enter this country on an annual basis seeking employment.

Obviously, the long-term solution to this problem is the rapid economic development of underdeveloped lands such as Mexico. In the short-term, however, we must adopt policies that stabilize the situation while we develop the long-term solution. S. 1427 would be a first step in stabilizing this troublesome area while our two countries build for the future.

This concludes my prepared statement. I hope that a Temporary Worker Program, such as the Companeros Program proposed in S. 1427, will become a part of our Party Platform this year.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORT ON H.R. 6974, DOD PROCUREMENT BILL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority.

I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on H.R. 6974, the DOD procurement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have discussed the current legislative situation, and I believe progress can be made.

The package which the distinguished minority leader and I have discussed with our colleagues would include the following:

The Department of Justice bill would be shorn of all amendments now pending, which would include Mr. HELMS' amendment, my amendment to Mr. HELMS' amendment, and my amendments in the first and second degrees to the bill.

The Senate would proceed with the consideration of that measure, with no further amendments in order, except one amendment by Mr. BIDEN, on which a time limitation of 30 minutes, equally divided, was ordered yesterday.

Upon the disposition of the amendment by Mr. BIDEN, if he were to call it up, the Senate would proceed to final passage of the measure, and that would dispose of the Department of Justice bill.

Following that, the Senate would proceed to the consideration of Calendar No. 764, the Health Sciences/National Institutes of Health bill, under an agreement that would preclude any nongermane amendments.

Following the disposition of the bill, the Senate would take up the Public Buildings Act, S. 2080, Calendar No. 823, again with no nongermane amendments, the one exception there being an amendment by Mr. JEPSEN dealing with Davis-Bacon.

Upon the disposition of that measure, the Senate would take up the housing and community development bill, S. 2719, Calendar No. 786, again with no nongermane amendments in order.

There are two amendments on the health sciences bill that would be provided for: An amendment by Mr. MELCHER and Mr. INOUYE to establish an associate director for Reye's syndrome and an amendment by Mr. PRYOR to continue funding for medicaid fraud units at a 90-to-10 ratio.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I have a notation of a couple of other amendments on Calendar No. 823, the Public Buildings Act. Did the majority leader mention an amendment by the Senator from New York (Mr. JAVITS)?

Mr. ROBERT C. BYRD. I did not.

Mr. BAKER. I am in error, Mr. President. I thought an amendment was to be offered by Senator JAVITS, and I am told that he will not offer an amendment to that measure.

I have a notation of an amendment by Mr. MCCLURE to Calendar No. 764, having to do with research activity at NIH, and a Schweiker amendment dealing with management information systems for medicare and medicaid.

I think they are germane; but in an abundance of caution, I suggest that these amendments be included in the request as well and identified as exceptions to the nongermane provision.

Mr. ROBERT C. BYRD. Furthermore, Mr. President, on housing, there may be two nongermane amendments—one by Mr. TSONGAS, redefining liquidity for mutual savings banks and savings and loans, and one by Mr. JAVITS, a second-degree amendment to the Tsongas amendment, on the same subject.

In addition to the foregoing, it would be understood that, at any time, the majority leader could move to go into executive session to take up the Jones nomination.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. My understanding is that there is a second-degree amendment by the Senator from New York (Mr. JAVITS) to the Jepsen amendment.

Mr. ROBERT C. BYRD. Any amendment, so long as it is germane to the Jepsen amendment.

Mr. DOLE would have an amendment naming a Federal building after Frank Carlson. That would be an amendment to Calendar No. 823.

Mr. BAKER. Mr. President, reserving the right to object, I inquire of the majority leader if that concludes his request at this point.

Mr. ROBERT C. BYRD. Mr. President, I understand that in respect to Calendar Order No. 890, which is the Department of Justice bill, Mr. HATCH may have an amendment to Mr. BIDEN's amendment. Mr. HATCH's amendment would not be germane.

Mr. HATCH. Mr. President, the amendment would not be germane but it would be acceptable.

Mr. ROBERT C. BYRD. It would be agreeable to the committee?

Mr. HATCH. We believe it would be, yes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator state what the substance of the amendment is?

Mr. HATCH. The purpose of the amendment is to express the sense of the Senate supporting the Judiciary Committee and requiring cooperation with the Department of Justice. We believe that will be acceptable.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STAFFORD. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. STAFFORD. Mr. President, I ask the majority leader, has an order of consideration been established for the three bills that have been listed tomorrow?

Mr. ROBERT C. BYRD. Yes. They would be in the following order: S. 988, the health sciences; S. 2080, public building; and S. 2719, housing and community development.

Mr. STAFFORD. I thank the majority leader.

Mr. ROBERT C. BYRD. That is with the understanding that General Jones' nomination could come in at any time and also with the understanding that action would be completed on the Department of Justice bill first before any of these.

Mr. STAFFORD. I thank the majority leader.

Mr. BAKER. Mr. President, reserving the right to object, I am curious about that remark by the majority leader, that the Jones nomination could come up at any time. I do not plan to object to the Jones nomination. I probably will vote for him. But it was not my understanding that any matter dealing with the Jones nomination was a part of this request.

Mr. ROBERT C. BYRD. No. I simply stated that I could take up the Jones nomination at any time. I thought the minority leader had understood me to say earlier that I intend to move to that before this day is over.

Mr. BAKER. All right.

Mr. ROBERT C. BYRD. But not necessarily. I could wait.

Mr. BAKER. In any event, it would be according to the rules of the Senate and the precedents in respect to the majority leader's right to move to go into executive session, consider items on the Executive Calendar in the usual way.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I notice, of course, there are items ahead of the Jones nomination on the calendar.

Mr. ROBERT C. BYRD. I would move to go into executive session to consider the Jones nomination, which is not debatable.

Mr. BAKER. But nothing in this unanimous-consent request deals with the Jones nomination in the request.

Mr. ROBERT C. BYRD. Nothing deals with that, but nothing waives my right under the rules to move to that.

Mr. BAKER. I understand. I want to make certain there is no implication that we dealt with the rights either of the majority leader in this respect or the rights of other Members who might not support the Jones nomination.

Mr. ROBERT C. BYRD. The Senator is correct.

There is one more amendment on Calendar Order No. 823 by Mr. HART on life cycle costs.

Mr. DOMENICI. Mr. President, reserving the right to object, I ask the leader, as I was not on the floor when he started his statement regarding the three bills, does the unanimous-consent agreement provide what day or days those three bills in the order stated would come up?

Mr. ROBERT C. BYRD. It does not. It simply states the sequence of the measures and it would be assumed that today, Friday, and Saturday would be consumed on the three bills and possibly it would even flow over into Monday.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

Mr. McCLURE. Mr. President, reserving the right to object, it is not my intention to complicate this, but I am a little concerned about and I do not want anyone to be misled as to where we might stand with respect to moving to the Executive Calendar for the David Jones' nomination.

My understanding of the precedents is it has been established now that we can go to the Executive Calendar without going through the treaties before we get to the nominations. But we have not yet established the precedent here that we can pick out a particular nomination. We take them in the order in which they appear.

Mr. ROBERT C. BYRD. No. I think the Senator is incorrect, if I may say respectfully. We have established the precedent that the Senate may move to take up a particular nomination.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. The Senator addresses the Chair.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. I might be very willing to go to the Jones nomination, but my understanding has been we have done that by unanimous consent in the past.

The PRESIDING OFFICER. The precedent has been established and used on two separate occasions that the Senate can move to go into executive session to take up a particular nomination without it being a debatable motion.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is it not so in both of those precedents that the nomination which was the subject of that precedent was indeed the No. 1 name on that list?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, then a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is it not true, then, that we have not established a precedent that we can go beyond that point?

The PRESIDING OFFICER. It is the Chair's understanding of the precedent that it was by happenstance in each case that it was the first on the list.

Mr. BAKER. Mr. President, I do not think we need to get bogged down now into the effect of that happenstance. I rather suspect we are going to do a good day's work if we get out of this quagmire we are already in, but I must say, in further reference to the statement just made by the Chair, that I simply cannot reconcile that position, as a precedent of the Senate when never in the history of the Senate of which I am aware have we gone to the Executive Calendar and proceeded beyond the first name on the Executive Calendar.

I do not want to prolong the issue any further here except to record in this colloquy that I do not agree with that interpretation of that precedent at that time.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as we are recording our positions in this colloquy, I agree with the Chair, and I am not interested in carrying on the debate further at this time. But I feel that the precedent has been adequately established that the Senate can move to go to a precise nomination on the Executive Calendar without having first to go to the treaties, if there be such on the calendar, or any other nominees that precede the nominee to which the motion attaches.

Mr. BAKER. Mr. President, I have already stated I have no desire to press this matter any further. But I expect that it will be dealt with in due course.

I now have a request on this side for a quorum which I will suggest in just a moment.

Mr. President, I might say that if this consent is granted, and I rather expect it will be, it will be my intention after the consent is granted to deal with the matters that the majority leader has identified and we have discussed to make a motion to recommit.

I have now a request from another Member on this side for a quorum call and at this point I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, will the leader withhold that for one further inquiry on my part?

Mr. ROBERT C. BYRD. Mr. President, before the Senator puts in the quorum call, there would be no need for the motion to recommit because the unanimous-consent request would accomplish what the Senator seeks to do by the motion to recommit. It would immediately clean the bill of all pending amendments. That is what the Senator seeks to do.

Mr. BAKER. That is what I seek to do.

Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, if the minority leader will yield for a question, there was nothing in the unanimous-consent agreement that precluded a germane amendment that is filed at the desk on, for instance, the housing bill that referred to my name. I have such an amendment and my amendment was not identified.

Mr. ROBERT C. BYRD. No, if the amendment is germane there is no problem.

Mr. DOMENICI. There is no reason to mention it. I thank the majority leader.

Mr. BAKER. Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the following change in the unanimous-consent request, to wit: that that verbiage dealing with the cleaning of the Department of Justice bill of all pending amendments be taken out of the request and that the rest of the request depend on the favorable outcome of Senator BAKER's motion to recommit that bill with instructions that it be reported back forthwith shorn of all pending amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move that the bill be recommitted to the Committee on the Judiciary and that it be reported back forthwith carrying those amendments that were adopted by the Senate on yesterday and the committee substitute.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Mr. President, does that mean that amendments that are pending to that bill now are wiped out?

Mr. ROBERT C. BYRD. Mr. President, all amendments pending but the amendment of the Senator from Delaware. He has 30 minutes on his amendment.

Mr. BIDEN. Mr. President, I think we have an agreement on it.

Mr. ROBERT C. BYRD. Yes; the Senator's rights would not be affected.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER).

The motion was agreed to.

Mr. BAKER. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The chairman of the committee or the manager of the bill should now report the bill back.

Mr. ROBERT C. BYRD. Mr. President, has the unanimous-consent request been agreed to?

The PRESIDING OFFICER. Yes, it has.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, the Senator from Arizona, on behalf of the Judiciary Committee, reports back to the Senate the pending bill, S. 2377.

The PRESIDING OFFICER. The bill is open to further amendment pursuant to the unanimous-consent agreement.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BIDEN. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank all Senators who have participated in the agreement which allows the Senate to complete action on the Department of Justice bill today and which sets in motion the process by which the Senate can take action on the three bills that are included in the unanimous-consent request.

I particularly appreciate the support and the efforts by the distinguished minority leader (Mr. BAKER), the distinguished Senator from North Carolina (Mr. HELMS), the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from California (Mr. CRANSTON), the distinguished Senator from Arizona (Mr. DECONCINI), and all Senators who participated.

UP AMENDMENT NO. 1201

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN), for himself and Mr. HOLLINGS, proposes an unprinted amendment numbered 1201.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, strike out lines 21 and 22 and insert in lieu thereof the following:

"SEC. 1004. (a) Notwithstanding any other provision of this title,".

On page 70, strike out lines 7 through 16, and insert in lieu thereof the following:

"(b) (1) Except as provided in part N and in paragraph (2) of this subsection, no funds may be".

On page 70, between lines 19 and 20, insert the following:

"(2) There is authorized to be appropriated for the fiscal year ending September 30, 1981, $19,000,000 to carry out the provisions of parts B and C of this title.".

Mr. BIDEN. Mr. President, there is a 30-minute time limitation on this amendment. Since I think we have an agreement, I do not intend to take more than 2 minutes.

The essence of this amendment is to see to it that the limited amount of LEAA funding which exists within this bill is apportioned in a way that gives priority, first, to policemen benefits; second, then to State and local grants; and third, to the National Institute.

We have worked out—and I will not bore the Senate with the details of it—the specifics of that priority listing which, essentially, sets a cap on the national portion, being a cap of $20 million, roughly, if memory serves me correctly; $36 million to State and local governments, the remainder to the policemen benefits with a total of $12 million.

In summary, what has happened with the Judiciary Committee's amendment in title III of S. 2377 is as follows: When we were processing the Justice authorization bill, we realized that through Budget Committee action the total amount of money available for the LEAA program was going to be so small that only the smallest feasible grant program was going to be possible and that our committee should play some role in how a scaled-down program should operate.

Therefore, we developed this new language to express our view on how that program should operate in essence, the committee decided upon a prioritization for the expenditure of the funds available for an LEAA program. The first priority was to be police death benefits; the second priority was to be the grant-in-aid program, and the third priority was to be a federally controlled research and statistics program. I had some concerns about that because, as I will describe later, I felt that the primary role of the Federal Government in criminal justice in a time of fiscal austerity ought to be the last area—research and statistics. However, since there was a possibility of funding those programs under the committee approved bill, I was satisfied that we could argue that out in the Appropriations Committee.

However, since the Justice authorization bill was reported out after the May 15 deadline a budget committee waiver was required. The Budget Committee objected to the prioritization scheme that we had adopted and insisted that it be dropped as a price for obtaining a waiver. My problem is that the Judiciary Committee staff apparently agreed to a change in the language with which I disagree. That language, in essence, drops the prioritization but also drops the research and statistics program.

My amendment, which is acceptable to the Budget, the Judiciary and the Appropriations Committees, simply makes it possible for the Appropriations Committee to make up to $19 million available for research and satistics as well as money for grants in aid and police benefits. It seems to me that the Appropriations Committee ought to have the freedom to hear the arguments why a limited amount of money ought to be spent on this part of the Federal program. Indeed, my position is that with the possible exception of death benefits for police, the research and statistics programs should be funded before a grant-in-aid program. Certainly we should not be precluding the advocates of those two programs the opportunity to make their case. The fact of the matter is that no hearings were ever held on this technical change in the authorization bill abolishing these programs, and indeed as chairman of the subcommittee which theoretically has jurisdiction over them, I believe they should receive full consideration by this body. First, let me say that the provision of criminal justice is and has always been, largely the responsibility of local and State governments.

The Federal Government has traditionally stayed clear of direct intervention in these activities, and rightly so. History shows that LEAA was the Federal Government's first major effort to affect the operations of law enforcement and the criminal justice system, and—as I will describe a bit later—I think we have learned a lot about how limited a role the Federal Government can legitimately expect to play.

But ironically, in times of economic turmoil—above-average unemployment, inflation, and so on—crime, delinquency and all other forms of social unrest inevitably become more significant problems.

I am aware of the fiscal condition of most States and cities—and very clearly there is no room at any level to waste money or allow inefficient activity.

LEAA has spent a lot of money—about $7 billion in fact—seeking to improve criminal justice functions, and the police community has received its share. Much of what LEAA has accomplished has been very good. Some important reforms and improvements have been developed with LEAA funds.

But there has been considerable waste as well—some activities have simply not deserved Federal assistance. Frequently, it has seemed to me that LEAA has spent its funds in a scatter-shot manner that has never adequately focused on priority topics.

I also feel that LEAA has gradually allowed its expenditures—particularly the block grants to the States—to be used to supplement regular operating budgets of justice system agencies, a purpose of which I disagree.

The commitment of both the administration and the Congress to achieve a balanced budget for fiscal year 1981 has resulted among many other cuts.

Though final appropriations will not be made for several months yet, it is already clear to me that no miraculous restoration of funds for the program is possible, and that it is the best interest of all of us to plan how to save the most and the best of what LEAA has accomplished.

As chairman of the Subcommittee on Criminal Justice of the Senate Judiciary Committee, legislative oversight authority for LEAA is my responsibility and it is crucial that I provide direction and control to efforts currently underway to save various pieces of the program.

From where I sit, it does not appear that we will not have a block grant program—there will simply not be enough money to justify it.

With the current formula for fund distribution, some States would not even be entitled to enough funds to maintain any sort of administrative staff, let alone establish any action programs.

The question that remains, then, is what else can the Federal Government do that would be most useful to law enforcement and the other components of the criminal justice system?

The Federal responsibility—whether or not we are in a period of tight Federal budgets—should be limited to carrying out those activities that are critical for improvement and are beyond the capacity of States or localities to conduct for themselves.

The Federal Government should conduct research about the most basic questions—why are some people criminals? How can we effectively get someone out of crime? There are many such questions—and we have few answers, yet we must continue to look for them.

The Federal Government should also conduct a program of applied research. It is critical to improvement that knowledge be applied, new strategies be developed and tested, the number of programs that have come up through a reasoned development process and then institutionalized at State and local levels is great.

As in basic research some directions taken will be proven wrong.

But lessons learned from failure can be as significant as lessons learned from successes. I do not think we have paid adequate attention to that fact, instead—and for this I do fault LEAA—we have been unwilling to admit mistakes and go on from there.

Again, this phase of improvement is one that would seem to be largely beyond the financial capability of States and locals so I feel it is legitimately a responsibility of the Federal Government, assuming we have the Federal dollars available.

It is the responsibility of the Congress and the Department of Justice to recognize and be responsive to the fiscal crises in which almost all levels and units of Government find themselves, to do so, we must concentrate on helping them find ways, as I said before, to do more with less, and then implement them.

Obviously, some programs or strategies will save money, while others do not. I think we should be focusing on those that will ultimately reduce the cost of operation or increase productivity while holding costs steady.

Another important activity that seems to me to also be beyond the ability of State and local governments to support which makes it legitimately the Federal Government's responsibility—is the criminal justice statistics program of the Bureau of Justice Statistics. Federal funding and leadership is crucial if the development and reporting of reliable and useful data on crime and the operations of the criminal justice system is to exist.

Further, the LEAA operates the public safety officer's death benefits program, in which the survivors of officers killed in the line of duty are paid a direct sum of $50,000. This program also deserves the continued support of the Congress.

I wish to thank Senator THURMOND and the extremely cooperative Judiciary staff for accommodating and facilitating so easily this amendment, which was brought about as a consequence of the need to technically comply with the Budget Committee.

I would be delighted to yield to whomever on the committee would like to respond, but first let me say one more thing. Senator THURMOND was particularly concerned that the policemen's benefits be accommodated. That was a major concern of his.

Mr. THURMOND. And their widows.

Mr. BIDEN. And their widows and dependents. I believe that has been taken care of. I think everyone is happy, and I yield the floor to whomever would like to respond.

Mr. DECONCINI. Mr. President, I rise in support of the Senator's amendment now. There has been a struggle here that has not occupied the time on the Senate floor as the one that we have just set to rest for a time.

Yesterday, there was tremendous give and take in behalf of the Senator from Delaware (Mr. BIDEN), Senator HOLLINGS, Senator BAUCUS, Senator THURMOND, and, of course, the chairman of the Judiciary Committee (Mr. KENNEDY), along with Senator HEFLIN, in resolving this matter in support of the LEAA.

I appreciate and respect the concern of the Senator from Delaware on the technical aspects of the budget problem, and thank him for his consideration in being able to resolve this without any greater confrontation. I think it takes into effect all the needs of the Senator from South Carolina and myself, and, of course, Senator KENNEDY's concern with the LEAA program.

With that, I am prepared to accept the amendment.

Mr. BIDEN. Mr. President, before we yield back the remaining time, I would like to make one further comment. Senator BAUCUS has been particularly concerned that State and local governments are not shut out of this proposal and have the major share of what is a diminished number of dollars for LEAA. I would like to suggest for the record that he has been tenacious beyond my hopes on that call. I happen not to agree with him, but he has won, and he has accomplished his point. I compliment him. I must say that if I were a State or local official feeling strongly about this, I would have to turn to Senator BAUCUS and thank him for it. I do not thank him for it. I wish I had been able to convince him of the wisdom of my position. Unfortunately, I was not able to do that.

Mr. President, I yield the floor.

Mr. President, I yield to Senator BAUCUS.

Mr. BAUCUS. I thank the Senator from Delaware.

Mr. President, the Department of Justice authorization bill includes a provision which—for all practical purposes—is the last best hope for continuing the law enforcement assistance program to State and local governments. We are all aware of recent efforts to balance the budget and meet our obligations to the American people. Unfortunately, while I wholeheartedly agree that fiscal responsibility must be a top priority of the Congress, I must express my concern that when it comes to the Department of Justice, fiscal austerity somehow requires a termination of the LEAA program. I disagree. The DOJ authorization bill mandates that—for the next fiscal year—Washington-based research and statistics programs should take a back seat to the need to continue some modest form of financial assistance to State and local governments. This is the sole purpose of my amendment which was endorsed unanimously by 15 members of the Senate Judiciary Committee. It has the support of virtually all State and local governments which continue to benefit from the LEAA program. The purpose of the amendment is straightforward—to encourage and support State and local criminal justice initiatives in the struggle against crime.

Mr. President, any realistic evaluation of the Department of Justice budget for fiscal year 1981 cannot help but conclude that LEAA has suffered unfairly from efforts to develop a workable Justice Department budget. The DOJ budget is in excess of $2 billion; yet we hear criticism of my amendment on the ground that what little money is to be appropriated for LEAA related programs should be spent by the Department of Justice here in Washington. I cannot agree with this argument. My amendment guarantees that money appropriated should be used to: First fund the police death benefits program and second, provide financial assistance—however modest it may be—to State and local governments on the basis of a competitive, discretionary process.

Mr. President, my amendment will also protect the LEAA program by prohibiting the reprograming or transfer of existing LEAA money out of LEAA to other Department of Justice functions. This part of the legislation is designed to provide an orderly transition for LEAA and State and local governments during this period of fiscal austerity. Many LEAA programs and projects are ongoing and are achieving success. This portion of my amendment assures continued funding for the operation of these programs and projects without requiring any additional LEAA appropriations. It simply would prohibit the removal of money already appropriated for LEAA in order to satisfy other Justice Department needs.

Mr. President, I am well aware of the criticisms that have been leveled at LEAA over the years. These criticisms may have been justified in the past; but since the passage of the LEAA reauthorization bill last year, major improvements in the program have been made and even more are anticipated as a result of that legislation. We need LEAA; but we need a program that serves the best interest of the American people in combatting crime in America. The DOJ authorization bill is a guarantee that LEAA will not die and that State and local criminal justice assistance will continue in a very modest way. I agree with the unanimous view of the Senate Judiciary Committee that the program should continue and should not bear a disproportionate burden of Department of Justice budget cuts.

Mr. President, I appreciate the efforts of the Senator from Delaware and others concerning the authorization of funds for research and statistics. The Senator's amendment would place an authorization cap of $19 million on research and statistics. It is the committees desire that all LEAA funds be available for local efforts. I might say that that certainly is my understanding, that after the $19 million amount is spent, if it is spent, any future moneys available would be available for State and local efforts. I thank the Senator.

Mr. BIDEN. The Senator is correct.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment has been carefully considered and we have agreed to accept it.

The distinguished Senator from Delaware spoke of my interest in the police death benefits. I was and am especially interested in that feature. I was one of the authors of this bill several years ago which provided a $50,000 benefit to families and spouses of law enforcement officers and firemen who were killed in the line of duty. This $50,000 has been a lifesaver for many women and children, the families of these officers who have been killed. I am willing to yield back the remainder of my time.

Mr. President, I yield back the remainder of my time.

Mr. BIDEN. Mr. President, I yield back the remainder of my time.

UP AMENDMENT NO. 1202

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1202 to Biden unprinted amendment numbered 1201.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the end of the amendment:

On page 61, between lines 10 and 11, insert the following:

SEC. 120. It is the sense of the Senate that the Department of Justice comply with the request of the Committee on the Judiciary to produce files and information relating to the Committee's oversight of the Public Integrity Section of the Criminal Division of the Department of Justice.

Mr. HATCH. Mr. President, this is a simple amendment which I believe will be accepted. It expresses the sense of the Senate asking the Department of Justice to comply with the request of the Judiciary Committee. On behalf of Mr. DeConcini and myself we have been in a bipartisan manner trying to encourage in a gentle way the Department of Justice to comply with the request of the Judiciary Committee to produce certain files and information relating to the committee's oversight of the Public Integrity Section of the Department of Justice. I believe the Senator from Delaware will accept this as well as the floor managers of the bill.

Mr. BIDEN. Mr. President, because I think it is unnecessary. I am apparently in a minority as a member of the Judiciary Committee, but as a member of the committee I am willing to be bound by the will of the committee and, as a consequence, am willing to accept it. I do not want my acceptance to lead anyone to believe that I am favoring this action. But if the committee is willing to accept the amendment, I will accept the amendment.

Mr. DeCONCINI. Mr. President, I thank the Senator from Utah for bringing this amendment. It is only a sense of the Senate amendment. I appreciate the personal concerns of the Senator from Utah and thank him for going along with what I believe is as of today, at least, an overwhelming majority of the Judiciary Committee feeling that we should have a better cooperative effort with the Department of Justice on oversight. I still am hopeful that this can be resolved.

I am, as I indicated, still hopeful that on a nonpartisan basis we can put this together not in a destructive manner in any way but in a progressive manner, in a manner of building a strong Department of Justice with confidence not only in the Senate Judiciary Committee and this body but in the entire public.

Mr. President, for the last 2 months the Senate Judiciary Committee has been attempting to hold an oversight hearing on the Public Integrity Section of the Department of Justice. In order to complete a comprehensive examination of the Public Integrity Section the committee has determined that it needs to review certain closed cases. Since April 21, 1980, extensive efforts have been made by the committee to gain access to these files. There have been two hearings, extensive correspondence between the committee and the Department, and many meetings and telephone discussions. Both Senator Hatch and I believe that the committee's efforts have been more than accommodating to the Department's concerns.

Last Wednesday, June 11, 1980, the committee began what we had hoped would be the first of a 3-day oversight hearing on the Public Integrity Section. Unfortunately, these hearings did not take place as originally planned since the Department had not agreed to provide us with the necessary records.

At this point I ask unanimous consent to have printed in the Record my statement of June 11, 1980. Basically this will summarize the events up to June 13, 1980. In this statement the committee offered to comply with 9 specific conditions and set a deadline of 5 p.m. on June 13, 1980. As of today, the Department has not provided us with access to the documents.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator DeConcini

The Committee on the Judiciary will come to order.

This morning we are beginning what we had hoped would be a three day oversight hearing into the operation of the Justice Department's Public Integrity Section. Unfortunately, these hearings will not be able to proceed as planned for reasons that I intend to outline.

Attention was originally drawn to the Public Integrity Section and, in particular, to its Section Chief, Mr. Thomas Henderson, by press accounts alleging certain improprieties in the handling of certain closed criminal cases. Prior to the committee's April 23 oversight hearing, 9 members of the committee transmitted a letter to Attorney General Civiletti requesting Mr. Henderson's appearance. Since the committee had not previously evaluated the Public Integrity Section, it was determined that Mr. Henderson's appearance and cooperation was necessary. During the course of the April 23 hearing, this issue was again pursued by my colleague, Senator Hatch. At that time, Senator Hatch requested that Mr. Henderson appear before this committee. Mr. Philip Heymann, Assistant Attorney General of the Criminal Division, Mr. Henderson's immediate superior, declined to allow Mr. Henderson to appear to address Senator Hatch's concerns.

Subsequent to the April 23 hearing, I was asked by my colleagues to assist in obtaining the appearance of Mr. Henderson and to chair such hearings should they materialize. I insisted upon two stipulations. First, that the focus of the hearings be shifted away from Mr. Henderson and onto the operation and activities of the Public Integrity Section. And second, that the full Judiciary Committee arm me with a subpoena to compel the appearance of Mr. Henderson prior to undertaking any negotiations with the Department of Justice.

Thus, another letter signed by the same nine members of the committee was sent to Chairman Kennedy requesting that he issue a subpoena compelling the appearance of Mr. Henderson. Senator Kennedy complied with the request. Naturally, our intent was to resolve the difficulty in an amicable manner—the way most difficulties between the Justice Department and the Judiciary Committee are resolved. Following a lengthy meeting on May 15 in my office, Judge Renfrew, Mr. Heymann and I agreed that Mr. Henderson would voluntarily appear before the full committee to answer questions about the operation of the Public Integrity Section. However, I did agree to two conditions: one, that Mr. Henderson would not be placed under oath unless that became imperative; and two, that Mr. Henderson be accompanied by Mr. Heymann.

At that point in our discussions, the issue of access to documents had not yet crystallized. I took it for granted that documents would be made available, especially in light of the fact that fourteen closed criminal cases had been provided to the Committee on Governmental Affairs for their upcoming nomination hearing on Mr. Henderson. Furthermore, on April 23 of this year, Mr. Heymann, in his testimony before the Judiciary Committee, stated that "Once a case is closed, it is also our policy to make the case files available on request to congressional committees charged with oversight where law enforcement considerations permit."

Subsequent to the meeting at which agreement was reached on the appearance of Mr. Henderson for questioning under the conditions requested by the Department, I established a team of staff investigators to develop materials for the oversight hearing which was to focus specifically on the Public Integrity Section. I asked the staff to prepare a list of documents that would be necessary to effectively examine the functioning of the Public Integrity Section. We distilled our request into twenty-one cases and two reports. The request for the documents was included in a letter dated May 21, which also, at the insistence of the Department, designated the staff that would be assisting in the investigation.

After that letter was received by the Department of Justice, I was informed that Judge Renfrew and Mr. Heymann wanted yet another meeting. The second meeting which was held in my office on May 28 lasted approximately two hours. The basic position of the Department's representatives was that the Judiciary Committee had no real business in examining the materials. However, they did indicate that access might be possible if we agreed to a number of onerous conditions. In fact, I did agree to a number of such conditions as a demonstration of my willingness to be cooperative and accommodating. A few days later, a seven page letter dated June 2, 1980, arrived from Judge Renfrew embodying his understanding of the substance of our meeting. My understanding of that agreement was different on a number of key points.

Thus negotiations once again broke down. As a consequence, I asked Mr. Steven Breyer, Chief Counsel of the Judiciary Committee, to contact the Justice Department to renew negotiations. Late last week, he believed, as I had before him, that an agreement had been reached. However, yesterday it became apparent that, in fact, the Justice Department did not agree to what we believed they had agreed to previously with Mr. Breyer.

By this time, we had reduced the number of cases at issue from twenty-one to fifteen. Of the fifteen cases nine had been previously given to the Governmental Affairs Committee staff without question and without any conditions or restrictions. I cannot help but note the disparity in treatment between the two Senate committees—a fact more difficult to comprehend when it is recalled that the Judiciary Committee and not the Governmental Affairs Committee has oversight responsibility for the Department of Justice.

It is true that the purposes of the two committees are different. The Judiciary Committee assembled an investigative staff generally familiar with the cases for the purpose of conducting thorough oversight hearings. I certainly would agree that nomination hearings tend to be less focused because their purpose is a general examination into the qualifications and background of the individual nominee. This still does not seem to be sufficient justification to deny documents that the Assistant Attorney General of the Criminal Division only weeks earlier had testified were legitimate objects of congressional oversight.

Over the last few months, a number of serious allegations have been made concerning the functioning of the Public Integrity Section. Some of these allegations have been made in the press, while others have been conveyed privately to individual Senators and their staffs. At the very least, these allegations have cast sufficient doubt over the proper functioning of the Public Integrity Section to warrant examination.

This Committee is well aware that spurious allegations can and often are made. But there is no way of ascertaining whether the allegations contain any validity unless this committee has access to the relevant documents. Oversight without documents is a meaningless and empty exercise carried on only for amusement; almost by definition they can have no serious purpose. At worst, such exercises in futility can become sideshows with unsubstantiated allegations being bandied about with the same abandon that they are denied. The end product is undignified and unsatisfactory. I can assure my colleagues on the committee that I would neither preside at nor take part in such an affair.

These are serious matters before us. The Public Integrity Section is designed to be a watchdog, helping to protect us from public corruption. To be effective, it must be above reproach and it must be above poliitcal influence. Furthermore, it must be manned by skilled and dedicated professionals. The allegations levied against the Public Integrity Section range from ineptness and lack of aggressiveness to the political manipulation of sensitive cases. I personally believe that the more extreme of these charges are without foundation. However, it is not inconceivable that there has been, under Mr. Henderson, a tendency to avoid highly sensitive issues, nor is it inconceivable that the policies adopted have been too lenient towards offenders.

However, the answer to these questions lies in the documents that are now being denied the Judiciary Committee. Our goal is to examine those closed cases where serious charges have been raised. We expect that such an examination could result in a finding that no impropriety occurred and that the allegations were without foundation. Should inconsistencies exist, we would question Mr. Henderson and his superior, Mr. Heymann, in an effort to dispel those inconsistencies. This we would be prepared to do in executive session if the reputation of an individual or some other legitimate purpose made that desirable.

Without access to the documents in question, this committee cannot exercise its lawful oversight functions. I recognize that for at least the last decade, the Justice Department has escaped serious scrutiny. I also believe that no governmental agency is sacrosanct; each agency is responsible to the public and to the public's elected representatives. In denying the United States Senate those records, the Department is holding the America people in contempt. Quite frankly, I believe the Department is hiding behind the doctrine of "prosecutorial discretion" to avoid review and oversight.

As I review the events of the last month, I must conclude that this committee has made every reasonable effort to reach an accommodation with the Department of Justice. I, alone, have spent hours in meetings with the Deputy Attorney General and the Assistant Attorney General. My staff and the staff of the full committee has spent many hours seeking to resolve this matter. Yet, at every juncture we have been thwarted. The situation has become intolerable. Therefore, I have proposed to my colleagues that we make clear in a public forum the conditions we will impose upon ourselves when we gain access to the documents in question.

First, we will request nine of the fourteen cases given to the Governmental Affairs Committee plus six other cases, and delete from our request the two reports. Paranthetically, however, I would like to remind the Justice Department that the DeFeo Report has still not been made available to my Appropriations Committee staff even though it was promised nine months ago. Second, in those closed cases involving sitting Federal judges only the Chief Counsel and Chief Minority Counsel of the committee will be permitted access. This, of course, would not limit the right of any Senator on the committee to review these files. Third, each of the remaining cases will have only one majority and one minority staff member assigned. Fourth, these cases will be reviewed at the Department of Justice with notetaking but not physical removal being allowed. Fifth, we expect these cases to be complete and unexpurgaged with the following exceptions: any classified material and any privileged material may be removed if notation is made that such removal has occurred. Sixth, the names of confidential informants will be marked out of the files. Seventh, the copying of documents will only occur on a selective basis. Eighth, the staff persons involved will sign pledges to the Chairman of the committee that all matters will be kept confidential and no materials will be given to an outside person. And ninth, I will ask all the Senators involved to agree that any use of documents or materials will be limited to these hearings.

I believe that these conditions are reasonable. Indeed, they go well beyond what was required of the Governmental Affairs Committee for essentially the same materials.

However, having stated those conditions, I am publicly and formally declaring to the Department of Justice that we expect formal concurrence by five p.m. on Friday, June 13. If the Department has not agreed by that time, Senator Hatch and I intend to ask our colleagues to support us at the next meeting of the Judiciary Committee for a subpoena duces tecum—that is, a subpoena that requires the production of specified documents.

I am saddened that this step appears to be the only remaining course of action. I am confident that my nine colleagues who have assisted me will continue to offer their support. In informal discussions, I have received the support of other colleagues who did not sign the original letters but who agree that the committee must be able to discharge its oversight functions without undue hindrance. But there is little question that this step will carry with it ill-feeling and ill-will. To date, this committee has been fortunate in enjoying excellent relations with the Department of Justice. Unfortunately, the confrontation that the Department is forcing will necessarily change the nature of that relationship.

Following a statement by Senator Hatch and statements by any other Senator who wishes to make one, this hearing will stand in recess at the call of the Chairman. When the documents are provided, the committee will require a reasonable period of time to examine those documents and to prepare questions. The representatives of the Department of Justice will be notified as to the exact dates when the hearings will resume. In the meantime, the chair would like to thank those representatives of the Justice Department who came today. It is my earnest hope that this matter will be resolved quickly so we can proceed with the important business at hand.

Mr. DECONCINI. Mr. President, in order to insure that the committee obtains access to the records, I would like to endorse the amendment offered by the Senator from Utah.

Mr. President, I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. THURMOND. Mr. President, we are willing to accept the amendment on this side. I yield back any time remaining.

Mr. HATCH. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Delaware, as amended.

Mr. BIDEN. Mr. President, I move the amendment.

The PRESIDING OFFICER. Without objection, the amendment, as amended, is agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the authorization process for the Department of Justice provided the members of the Judiciary Committee with an excellent opportunity to review certain departments within the Department of Justice. The Drug Enforcement Administration, the Civil Rights Division, the Antitrust Division, the Immigration and Naturalization Service, The Federal Bureau of Investigation, the National Crime Information Center, and the Law Enforcement Assistance Administration were among the organizations within the Department of Justice that were reviewed by the Judiciary Committee.

The Attorney General on January 30, 1980, transmitted a detailed request for authorization of appropriations of $2,664,546,000 for fiscal year 1981. This amount had been approved by the Office of Management and Budget and reflected the President's fiscal year 1981 budget for the Department of Justice.

On March 31, 1980, the committee was advised of a reestimate in the level of that request, reflecting a $420,953,000 reduction in Department of Justice programs.

In April, the committee was further informed of the administration's proposal to transfer the foreign claims settlement commission, previously an independent agency, to the Department of Justice. This transfer would add $840,000 to both the January and the March budget requests.

The committee determined that it was necessary to remain within the revised January budget levels, as that was the amount allocated for the Department of Justice in the first concurrent budget resolution. The committee expects that this level of funding should provide the Department sufficient authority to perform its mission.

It is important to note that the proposed total budget of $2,097,217,000 represents a 25-percent cut in the Department's budget for fiscal year 1980. The 25-percent cut in the Justice Department budget can largely be attributed to an 81-percent decrease in the budget of the Law Enforcement Assistance Administration. The Senator from Kansas is well aware of the fact that in these austere times, the Federal Government must tighten its belt, but it appears that some departments within the Government will feel the effects of the tightened belt to a greater degree than other departments.

DRUG ENFORCEMENT ADMINISTRATION

Mr. President, during the committee hearings on the Drug Enforcement Administration, testimony centered on the question of how the DEA plans to meet the challenges of changes in drug trafficking. During the 96th Congress, the Judiciary Committee held hearings on domestic and international narcotic matters. In that regard, the representative from the DEA stated that several major cases with international implications had been brought to fruition. Additionally, the use of money-flow investigations have been accelerated. The marked decline in the number of phencyclidine laboratories was attributed to congressional enactment of controls on piperidine.

Witnesses from DEA noted that cocaine continues to be widely abused and according to all available indicators, its popularity is continuing. In 1979, the drug alert warning network emergency room noted an average of 629 per quarter, which is in sharp contrast to quarterly averages of 479 in 1978, 397 in 1977 and 312 in 1976. It is significant to note that these long-range increases are not limited to a few areas, but have been reported in a vast majority of cities from which data is available.

Marihuana is considered an enforcement priority because of the extensive criminal organized networks involved in its distribution and because of the financial implications associated with trafficking of the drug.

DEA believes that the greatest hope for control of the cocaine and marihuana problems rests in the drug source countries.

The committee is greatly concerned about the overwhelming evidence that heroin originating in Southwest Asia is appearing in ever increasing quantities in the United States. Southwest Asian heroin first appeared in New York in recent months and has been found in other major cities, including Dallas, Los Angeles, San Francisco, and Chicago. The quality and quantity of the heroin has led DEA to conclude that the United States is in the beginning stages of an epidemic of heroin abuse.

There is also evidence that organized crime syndicates are increasingly controlling the production, transshipment, and distribution of Southwest Asian heroin. According to DEA, some of the individuals previously identified with the so-called French connection are now bringing heroin originating in Southwest Asia into this country. Available information indicates that organized crime is establishing sophisticated European production laboratories, and establishing new transshipment routes.

These developments have even greater significance because source country crop eradication, traditionally our most successful means of controlling heroin availability, may no longer be effective. The political relationship between the United States and the major opium-producing countries of Pakistan, Afghanistan, and Iran makes it highly unlikely that they will cooperate in the near future in a crop eradication program sponsored by the United States. Although the United States will work with some of the European countries in their efforts to assist production countries in crop eradication, it is clear that we must rely on means other than crop eradication to reduce the heroin supply in this country.

The committee has concluded that the most effective means of stopping the spread of Southwest Asian heroin in the United States is through disruption of organized crime networks. According to the Administrator, the Drug Enforcement Administration has reached the same conclusion and is making efforts to redirect its resources.

The committee also believes that disruption and seizure of foreign laboratories is essential. The Administrator provided examples of international efforts which resulted in laboratory seizures, including those in Marseilles, France, and in San Remo, Italy. Coordinated international efforts are necessary to disrupt laboratories. They are an extremely important link in the connection between raw opium, morphine base, and heroin. The committee recommends that DEA should make disruption of laboratories a top priority and allocate sufficient resources to insure cooperation with countries in which the laboratories are located.

THE ANTITRUST DIVISION

The Antitrust Division has been carefully scrutinized by the committee on several recent occasions. The division's performance was considered during hearings on the nomination of former Antitrust Assistant Attorney General Shenefield to become Associate Attorney General and the nomination of Sanford Litvack to become Assistant Attorney General of the Antitrust Division.

The Antitrust Division has made an effort to upgrade management and control of pending litigation and investigations.

The Assistant Attorney General for the Antitrust Division has stated that the priorities of that Division are to streamline and sharpen litigation and management efforts; step up criminal enforcement efforts; emphasize the prevention of anticompetitive mergers, competition advocacy, and analysis in regulated industries; vertical restraints; insure that outstanding decrees are effectively enforced; and the professionalism of the Division's attorneys and economists.

The Senator from Kansas applauds the Division's past accomplishments and offers encouragement to them in their future endeavors.

IMMIGRATION AND NATURALIZATION SERVICE

The recent developments in Cuba, Haiti and Cambodia have served to bring into clearer focus the important role that the Immigration and Naturalization Service plays. INS is charged with the administration of the Immigration and Nationality Act of 1952 as amended. The difficulty of this responsibility was thoroughly explored during hearings before the Judiciary Committee.

It has become increasingly clear, however, that despite increased resources INS is still unable to meet its responsibilities. The committee is, therefore, urging more reliance on long-term management solutions to INS problems. Until the committee can be satisfied that additional resources will be allocated effectively and absorbed efficiently, it will retain this position.

Currently, according to an internal audit report of the Department of Justice, the Immigration and Naturalization Service can account with certainty, by budget activity, for only one out of $7 that it has been appropriated. That level of and budgetary accountability is not sufficient to persuade the committee that increased resources would be allocated for the activities for which they were authorized. Accordingly, the committee has authorized the March request of the administration ($247,700,000) for the Immigaration and Naturalization Service.

The committee suggests that one cause of INS fiscal confusion is that INS lacks many of the management tools necessary for an effective and efficient operation. The financial system that insures control and accountability is weak and unused. Planning, program development, and evaluation capabilities need to be considerably strengthened. Moreover, the agency collects voluminous amounts of trivial information; the reliability of the data base is questionable, as is its relevance to program activities.

During committee hearings on the INS, acting Commissioner Crossland stated that it was his belief that many of the division's management problems stemmed from a lack of clear authority and accountability of managers of their programs. As a possible solution to this situation, the committee suggested that changes be made in the INS central office. Instead of having the central office staff serve as an extension of day to day field operations, it might be more effective if they played more of a management policy role. The Senator from Kansas wholeheartedly supports this suggestion.

The committee encourages INS initial steps toward greater automation of its functions, clearly the only long-term solution. INS is far behind in the use of modern automation techniques and is now paying the price for such delay. It is hoped, however, that while planning and development of data processing are underway, steps will also be taken to improve the existing situation. The huge backlog of pending cases simply must be eliminated. The committee suggests that INS propose to the committee priorities among the various applications and other documents now processed so that ultimately there can be agreement on the most important.

CIVIL RIGHTS DIVISION

Drew Days, Assistant Attorney General for the Civil Division, testified that during fiscal 1981 the division will focus on improving in three areas—criminal prosecutions, coordination of federal title VI efforts and administrative services. He further stated that in fiscal 1980 the division worked closely with the United States attorneys offices across the country so that they assist in many areas of our responsibility—particularly in criminal prosecutions. This division also implemented a management information system which permitted them to monitor case activity, attorney productivity and case impact.

It is the opinion of the Senator from Kansas that the civil rights division has made a significant effort to improve its case management system. Last year, the committee found that the department of Justice did not manage its civil caseload but it was driven by it. This year, after conducting hearings on the Civil Division's relationship with its client agencies, the committee found that although the civil division is lacking in resources, the committee could not determine to what extent a clearer statement of civil litigation would mitigate the need for additional resources.

CRIMINAL HISTORY EXCHANGE

This committee amendment is an effort to resolve the longstanding controversy on the upgrading of the computer facilities of the Federal Bureau of Investigation to permit the switching of messages relating to the interstate exchange of criminal history records. For the past two fiscal years, the Department of Justice authorization act has contained language restricting the Department of Justice and the FBI from upgrading FBI computer hardware for this purpose.

It is regrettable that the circumstances which led to the language restricting this upgrade have not been corrected. The longstanding controversy has been a significant inhibition on the orderly development of Federal, State, and local criminal justice information systems. At the same time, it is apparent that the impass has resulted in too many instances where these vital records have been disclosed to others in violation of the privacy rights of the subjects of these files and in ways which compromise the overall security of the criminal justice systems involved.

Over the decade in which the prolonged controversy has developed, numerous interested groups have been concerned that the upgrade of the FBI computer facility for this purpose would not only preempt the appropriate role of State and local criminal justice agencies, but could lead to the establishment of "big brother" automated data bases of dossiers containing sensitive information on those persons who were the subjects of the files. Yet the legitimate needs of the criminal justice community and others for rapid access to criminal history information have been steadily growing. Life and death decisions bearing on all aspects of the criminal justice process from arrest to final release depend on the timeliness, accuracy, and completeness of these records.

The Law Enforcement Assistance Administration has invested many millions of dollars in developing State and local capabilities. It has supported numerous efforts such as project search, the national law enforcement telecommunications system, the establishment of centralized State identification bureaus, and many others. From the very beginning of these efforts, major consideration has been given to protection of privacy and system security.

Yet, despite all these Federal, State, and local efforts, systems development at the Federal level has essentially been frozen since 1973 and the potential good is largely still to be realized.

Section 113 provides that the Attorney General, after appropriate consultation with the House and Senate Judiciary Committees, shall contract with an appropriate independent contractor to prepare a plan no later than October 1, 1982. This plan to be submitted to the respective judiciary committees shall contain recommendations as to whether and to what extent the Federal Government, either the FBI or other Federal agency, should provide systems networks and data bases for the exchange of criminal history records between cooperating Federal, State, local, foreign, or private entities. The recommendations shall include an assessment of the feasibility and advisability of continuing the National Crime Information Center (NCIC) and its computerized criminal history program (CCHP). Also, to be included are the other criminal record operations of the FBI and its identification division which has been responsible for the development of the automated identification system (AIDS). The committee is concerned about the redundancy and the potential overlapping of the AIDS and the CCH systems, not only within the FBI itself, but also the redundancy with respect to the duplication of complete criminal history record systems at the Federal, State, regional, and local levels.

It is expected that an advisory committee will be formed by the Attorney General after appropriate consultation with the respective judiciary committees, which shall include appropriate representation from Federal, State, and local and other users of the systems. It is expected that there will be appropriate representation from those involved in law enforcement, civil liberties, and crimnal justice operations, research, statistics, and evaluation.

The plan to be prepared shall include, but not necessarily be limited to, determinations of the processes and uses of the criminal history systems and related data bases by user agencies, including what access foreign entities should have for purposes not directly related to domestic U.S. criminal justice needs.

The plan should contain a determination also of the functional informational, and data service requirements to meet those uses with special emphasis being placed on the intergovernmental exchange of data.

The plan should also establish standards for system and data security, integrity, and quality of service including timeliness, accuracy, reliability, and comprehensiveness of data accessible in or through the system, as well as the development of purging routines to identify and correct or eliminate obsolete or incomplete data, including bare arrest records. In this regard, it is vitally important that the cooperation any participation of court agencies be sought with due regard being given for their status as an independent and equal branch of government at all levels.

The plan should also establish appropriate standards for privacy, confidentiality, and system security for participating user organizations so that they can effectively gain access to and participate in any resulting system. This recommendation shall include standards as to use, who is to be responsible for maintaining the data, who has access, what type of data are to be maintained, and the development of appropriate mechanisms for insuring accuracy, reliability, security, and completeness. It is expected that draft agreements will be prepared such as appropriate State compacts enabling Federal or State legislation and bilateral international agreements for the exchange of criminal history information and the development of audit and compliance procedures to implement these standards.

The standards to be developed should further require that criminal justice arrest and disposition data for Federal offenders be submitted by all Federal law enforcement and criminal justice agencies.

In addition, the plan would be required to establish audit procedures for contributors and users of criminal histories and other data. It is expected that effective sanctions would be developed for misuse or improper disclosure of data in the systems including recommendations for legislatively imposed civil and criminal penalties. A very important dimension of the plan would be that it is expected to provide procedures to enable an individual access to any information relating to the individual for purposes of review, challenge or correction. The current privacy and security regulations issued by the Law Enforcement Assistance Administration do contain such provisions pursuant to the requirements of the LEAA enabling legislation. It is expected that similar provisions would be developed.

The plan should also contain recommendations with respect to the existing LEAA regulations and make provision for their modification or replacement should LEAA, the bureau of justice statistics, or the office of justice assistance, research and statistics not be in a position to offer additional financial and technical assistance to the States and local governments for the development of their criminal justice information systems. It is expected that the plan will include provisions for comprehensive annual reporting to Congress and its Judiciary Committees covering all aspects of the system and its dynamics and legislative or regulatory recommendations with respect to the improvement of the system.

The plan should include appropriate timetables for implementation and the identification of costs of this timetable to the Department of Justice and other Federal agencies, as well as States and local governments and other users of the system, including recommendations for the funding sources. Consideration should be given to the establishment of a schedule of user fees to make the system self supporting, if at all possible.

The plan also shall include recommendations on the establishment and composition of a permanent national advisory board for the planning and management of the systems to insure the usefulness and accountability of the system. As in the case of the advisory board to be appointed during the duration of the study, this board should be representative of user agencies and organizations.

The plan should examine the merits of various officials for the organizational structure for the operation and management of the system including the most desirable administrative mechanism and whether or not maintenance and management of the system should be performed by the States pursuant to Federal guidelines, the Federal Bureau of Investigation or another appropriate organization within the Department of Justice, or some combination of these groups. The committee is mindful of the long and successful experience of the national Law Enforcement Telecommunications System and of Search Group, Incorporated—formerly known as Project Search. These groups have demonstrated that States can responsibly and cost-effectively develop and manage a system such as that, to be designed in this plan.

The plan should consider the separation of the computerized criminal history program from its present situs in the national crime information center. A range of organizational options should be identified with a discussion of the advantage and disadvantages for each option as well as a ranking of those options according to preference. It would be advisable to poll interested potential user organizations on these options to obtain their preferences.

The plan is expected to have recommendations on the requirement that each State have a single-State designated repository to insure compliance and to be the principal entity for participation in an interstate or national system. This repository should have the full authority to represent the State's interest in the system. Arrangements should be made with the chief judicial officer of the State or his designated representative so that the repository could include judicial participation without the compromise of the State judiciary's independence.

The plan also shall recommend whether a requirement should be established that criminal fingerprint cards only may be included in the Federal component of a system for single-State offender criminal history information. The use of the criminal fingerprint card shall include, but shall not be limited to, actual fingerprint cards and may provide for the use of facsimile reproduction of cards, such as those that were developed for the project search satellite telecommunications feasibility study or the digital fingerprint coding system developed by the national crime information center and adopted by the Florida Department of Law Enforcement and other States. Thorough consideration should be given to the utilization of technology so as to facilitate the interstate exchange of reliable criminal history information to reduce or eliminate redundancy wherever possible and yet still retain accuracy and completeness of the identification process.

Similar consideration should be given to multi-State offenders and appropriate policies and procedures for maintenance of information about them. It could be reasonably expected that many so-called multi-State offenders are really only acquainted with the criminal justice systems of one or more adjoining States and although the total group may approach one-third of those offenders for whom serious criminal history information should be kept at some appropriate level, probably only in a small percentage of the multi-State offender cases, would complete records need to be kept at the Federal level.

The plan should contain recommendations for the establishment, as appropriate, of an automated interstate identification index, such as that conceived in the original project search demonstration in 1970. This index would contain only descriptive identifier information to be made available to inquiring agencies, such as the individual's FBI number, State identification number, and personal identifier such as name, date of birth, and physical characteristics. The index data would not include any ciriminal history information as such, but would merely serve as a pointer to the location of complete data in the relevant repository.

The plan also should contain recommendations on message switching of criminal history information or index information and whether it should be allowed and if so, which entity should perform these functions. The Senator from Kansas recognizes that this term has been the subject of swirling controversy through the years and has raised the specter of big brotherism and the establishment of Federal data bases on millions of our citizens, so it is expected that careful attention will be paid to this issue, with particular emphasis whether or not any message switching software programs should provide for the monitoring of information to be "switched" or whether or not there should be an ability to monitor the message traffic as it is being transmitted. In 1974, the jet propulsion laboratory of the National Aeronautics and Space Administration developed a plan for national criminal justice information system utilizing satellite-based telecommunications links. This plan included regional message switching features. Whatever structure is conceived, full cognizance should be taken of the developments in computer and telecommunications technology. It can be reasonably anticipated that in the next few years the costs of large-scale computer and information storage technology will decrease quite dramatically. These advances will make feasible systems designs which could provide for almost complete decentralization of the relevant data bases and yet have high-speed access to them by appropriate users, if considerations of system security and privacy protection were fully met. The cost of computing is rapidly approaching zero. The cost of mass information storage is not far behind. Criminal justice must be in a position to take full advantage of these technology breakthroughs. It cannot remain tied to the first and second generation computer technology of the late 1960's and early 1970's.

The plan should also consider whether or not the system management organization should be required to update fingerprint cards and delete indexing entries upon request of submitting organizations and, if so, under what circumstances.

The plan should contain recommendations for staffing and training of personnel to operate the system at all levels of government and to make recommendations for the development of appropriate manuals and training materials for operation and maintenance of the system, as well as instructions for the development of standardized formats for data entry, storage, retrieval, and purging.

The plan should anticipate that updated technology and equipment should be utilized in the development of the system and should provide for ways to keep abreast in the latest development in the state of the art in computer telecommunications and information storage technology.

The use of the term "system" includes the National Crime Information Center, the criminal record operations of the identification division of the Federal Bureau of Investigation, AIDS, CCHP, the National Law Enforcement Telecommunications System, and any other proposed system which may result from the merger or operation of any such systems.

An interim report shall be provided no later than October 1, 1981, wherein the Attorney General shall submit to the respective House and Senate Judiciary Committees, a status report on the implementation progress with respect to the development of the plan required by this provision. Although it should take approximately 2 years to develop the plan in its entirety, much work has already been done and many studies and operational tests of various system configuration and alternatives have already been completed. If the plan can be completed in less than 2 years, there should certainly be no objection to an acceleration of the final completion date, so long as the plan contains all the information described in this provision.

Until the plan is completed, reviewed, and approved by the respective Judiciary Committees, the prohibition on the use of funds for message switching by the Department of Justice or the Federal Bureau of Investigation continues in effect.

The sum of $1 million is authorized to be appropriated for the purposes of carrying out the first year of this study. Again, heavy reliance will be placed on prior studies already completed so that it may be possible to complete this effort for less than the amount which is being authorized.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. President, approximately 6 months ago, Congress passed by an overwhelming margin the Justice System Improvement Act of 1979. Signed into law on December 27, 1979, this measure substantially revised and reorganized what was formerly the Law Enforcement Assistance Administration program. In addition to a streamlined LEAA grant program for State and local law enforcement and criminal justice projects, the act established a National Institute of Justice (NIJ) and Bureau of Justice Statistics (BJS) as independent entities within the Department of Justice. The activities of all three agencies were to be coordinated by the Office of Justice Assistance, Research, and Statistics.

The Justice System Improvement Act held great promise for local law enforcement officials faced with ever-increasing responsibilities. The myriad of human-service programs supported by LEAA to accomplish such objectives as increased community involvement in anticrime activities and improved services to victims of crime, anticipated greater effectiveness. Public agency officials and private nonprofit organization representatives at all levels hoped to see further development of a criminal justice system that would deal fairly with all people. Now, all of these hopes and expectations have been dashed. Instead of improvement, we are forced instead to speak in terms of survival. The fight against crime has taken second place to the fight against inflation. Thus, Congress finds itself in the position of having to revise a law which was enacted less than a half year ago.

Shortly after the Justice System Improvement Act was signed, the President requested that Congress appropriate $571 million for LEAA, NIJ and BJS for fiscal year 1981. This was an increase over the 1980 level, and would help assure that the reforms of the new law could be fully implemented. In March, however, this recommendation was reconsidered. Instead of the original figure, the President decided that only $177 million was needed. These funds would support juvenile justice and delinquency prevention, NIJ, BJS, and the public safety officers' benefits program. Formula grants to assist State and local programs have been proposed to be eliminated. If this recommendation is even partially accepted, the Justice System Improvement Act cannot work. The formulas of the legislation require an adequate funding level to be effective. For this reason, an amendment was included in S. 2377 which makes adjustments for a lower appropriation than anticipated in fiscal year 1981.

The Committee on the Judiciary found it objectionable that in proposing reductions, continuing the Federal-level research and statistics effort took precedence over local-level action programs. Three months after accepting the priorities established by the Justice System Improvement Act, and 2 months after an initial budget request which proposed a $84 million increase, the President sent us a revised budget that stood these priorities on their heads. The committee is now attempting to make some sense out of the administration's reversal. It is attempting to act responsibly to prevent the total dismantling of the administrative machinery which still must administer an $800 million of formula funds previously appropriated and obligated which are still in the pipeline. This amendment is an effort to assure that this does not occur. Furthermore, this amendment does not foresee the complete destruction of LEAA. Rather, it expects that there will be a 1-year hiatus in fiscal year 1981, with a return to normalcy thereafter when the negative implications of destruction of the program are fully realized.

Title II of S. 2377 as reported from committee amends the Justice System Improvement Act in a number of respects to meet the current emergency situation. In fiscal year 1981, prior-year block/formula funds which have not been expended may be used for other purposes of the act. Up to 15 percent of these moneys may be used for the administrative costs of State and local planning bodies. It is expected that each State criminal justice council will identify those unexpended funds from each block/formula grant and submit appropriate reprograming requests for LEAA approval to assure that the 15-percent limitation is observed. It is also intended that from this 15-percent portion, the criminal justice councils will make available to local planning units funds in a reasonable ratio to the unexpected subgrant funds under their administration. These entities are charged by statute with responsibility for administering LEAA grants and assuring proper expenditure of funds. Under the President's revised budget, these activities would have to be eliminated. With no monitoring agents at the local level, we would be faced with the prospect of no accountability for the hundreds of millions of dollars in grants which have been obligated but not yet expended. The committee also did not want to abandon the coordination and planning which have been a strength of the LEAA program.

If, as is the case with the President's revised budget request, less than $100 million is allocated for the Justice System Improvement Act, then parts B and C of that act would be suspended, effective upon enactment of S. 2377. These parts authorize the activities of the National Institute of Justice and the Bureau of Justice Statistics. As I indicated, the committee abhorred the idea that the Federal bureaucracy was being continued at the expense of the local governments which are the primary constituency of the LEAA program.

If the actual appropriation for the Justice System Improvement Act exceeds $100 million, then funds may be used to support the activities of NIJ and BJS. All other program funds will go into a discretionary fund for use to support programs of proven effectiveness. While the Director of OJARS will have a role in setting the priorities for the use of funds, as in the other parts of the act, the Director's role is limited. Actual determination of the projects to be funded will be the sole responsibility of the Administrator of LEAA. OJARS will continue to function as a coordinating organization for the activities of NIJ and BJS, if any, and the activities of LEAA.

The suspension on the activities of NIJ and BJS included in the amendment is absolute. We would not look favorably on any effort by the Justice Department to transfer LEAA funds to continue the activities of NIJ or BJS, or to construe LEAA awards in such a way that the result would be continuation of Federal research and statistics programs. The fund provided is primarily to continue essential efforts at the State and local levels.

The amendment also precludes the transfer of Justice System Improvement Act funds for activities not authorized by the act. The purpose of this limitation is to put an end to the looting of LEAA that is now being carried out by the Justice Department. The Department is poised like a vulture, ready to consume any unspent funds held by LEAA. In fact, they are not even waiting until the victim is dead. On May 20, Congress received a notice of a deferral of $19.4 million in fiscal year 1980 LEAA funds. The purpose is to "help offset supplemental funding requirements for other Department of Justice activities." Money intended and appropriated for LEAA grants is being held for transfer to the FBI, DEA, INS, Federal Prison System, U.S. attorneys and marshals, and general legal activities. This proposed deferral is in addition to $12.4 million in unobligated balances for the Law Enforcement education program (LEEP) which has been proposed for recission to the Treasury.

The requirement that a percentage of Justice System Improvement Act funds be utilized for juvenile delinquency programs would be waived by the amendment to S. 2377 in fiscal year 1981. Requirements are included that the problems and needs of a State be taken into account, that there be consultation with governments and agencies, and that public comment be invited and encouraged, an effort would have to be made by the Administrator to fund a State, a local, and private nonprofit projects in each program category selected. Provision is made to assure that all necessary funds are made available to the public safety officers death benefits program. If more than $250 million is actually appropriated for the act, then these emergency provisions would not apply.

LEAA was established largely in response to the riots of the late 1960's. The early days of the program were marked by urgency. Acting with haste, however, led to some mistakes—mistakes which have now been corrected. The agency has worked diligently to change its direction, with the result that it has a broader base of support than ever before. This support has regrettably not been enough to carry the program through the fiscal hysteria which envelopes the current administration.

Law enforcement officials are hard-pressed by special circumstances in several parts of the country at this time. Miami, Fla., has been battered by several days of rioting. In the State of Washington and other parts of the Northwest, police department resources are being restrained almost to the breaking point. In the past, officials could have turned to LEAA for support. While the administration appears ready to slam this door in their faces, I hope that Congress can act to prevent abolition of this essential program.

The Senate Budget Committee, in an attempt to superimpose its judgment for that of the Judiciary Committee, has seized on the technicality of the waiver process, and has now forced an elimination of the priorities which the Judiciary Committee has set forth. I will support any reasonable effort to overturn this ill-advised action in a return to the priorities which the Judiciary Committee has established. At the very least, the Appropriations Committee should now have the flexibility to provide for LEAA funding to give priority and emphasis to State programs. To do less would be an almost criminal neglect of the funds in the pipeline and the administrative machinery necessary to properly administer, monitor and evaluate those funds.

CONCLUSION

Mr. President, I have discussed those aspects of the Department of Justice, that were reviewed by the committee, that were of particular concern to me. The Senator from Kansas is certain that through this authorization process members of the Judiciary Committee have reached a better understanding of goals, problems, and accomplishments of the Department of Justice. In recommending a funding level of $2,097,217,000, the committee remained within the January budget levels for the Department of Justice in the first concurrent budget resolution.

Mr. President, this level of funding should provide the Department with sufficient authority to effectively perform its mission. The Senator from Kansas urges his colleagues to support the measure.

Mr. BAKER. Mr. President, we have considered a substantial number of amendments to the Department of Justice authorization legislation.

I trust our vigorous debate on these additions has not diminished the admirable efforts of the Judiciary Committee in reporting out a bill which I believe substantially improves this Nation's judicial system.

In my 13 years in the Senate, I have consistently sought to reduce the autonomous power of the Federal bureaucracy. It has not been an easy matter. All too often, our citizens find themselves hopelessly ensnarled by bureaucratic inertia.

Unable to marshal the considerable resources necessary to challenge an agency or bureau action, our citizens many times simply have to give up their rights rather than assert them.

It is indeed a sad commentary on this Government, Mr. President, when protecting one's rights have become more costly than losing them.

I need not belabor this body with tales of the increasingly pervasive influence Federal regulations have on our citizens. Suffice it to say that only the very wealthy can muster the resources and expertise to challenge an unreasonable exercise of Government authority. Regulations should not stand or fall on the inability of a single individual or a small business to contest them.

We must not allow the endless litigating strength of a Federal agency to become a blunt instrument with which we bludgeon our citizens into compliance with the whimsy of the bureaucracy.

It is for this reason that I am delighted to see incorporated into title IV the precise language of Senate bill 265, the Equal Access to Justice Act, which now awaits House action, having been overwhelmingly approved in this Chamber last year.

This measure will reduce the economic deterrents to contesting Government actions by allowing citizens and small businesses, in certain instances, to recover from the Federal Government the costs of obtaining an attorney and expert witnesses if the Government's action is found not to be "substantially justified."

The language of the committee report on this matter is worth repeating:

> The expense of correcting error on the part of the Federal Government should not rest wholly on the party whose willingness to litigate or adjudicate has helped to define the limits of federal authority. Where parties are serving a public purpose, it is unfair to ask them to finance through their tax dollars unreasonable government action and also bear the costs of vindicating their rights.

Mr. President, it is the duty of this Congress to find some method by which we can protect our citizens from unjustified bureaucratic interference. Until we are able to devise such a method, it is the least we can do to make certain that a citizen is not penalized for protecting his rights.

● Mr. GLENN. Mr. President, I want to take this opportunity to express my appreciation for the fact that both S. 2377 and its House counterpart provide for the continuation of the program begun in 1977 to require the classification of the offense of arson as a part I crime in the Federal Bureau of Investigation's uniform crime reports.

Testimony gathered by the Intergovernmental Relations and Permanent Investigations Subcommittees of the Committee on Governmental Affairs reveals that arson has become the fastest growing crime in America, increasing an estimated 400 percent over the past decade. Today, arson accounts for about one in four fires, causes perhaps 10,000 deaths a year, and results in staggering insurance losses, not to mention increased insurance premiums across the land for homeowners, businesses, and other policyholders.

For all these reasons, it is imperative that we find more effective means of addressing the arson problem.

Just recently, I met here in Washington with a group of public officials and corporate representatives, who gathered largely at the instigation of Ohio State Senator Charles Butts of Cleveland, to work on plans for a National Legislative Conference on Arson, scheduled to take place in Cleveland this December. I have confidence that this conference will help various State and local officials in their efforts to stem the disastrous escalation of the arson problem.

Soon, I trust, there will be hearings in the Judiciary Committee on S. 252, the proposed Anti-Arson Act, which was favorably considered by the Committee on Governmental Affairs in 1979. That bill, among other things, would provide a permanent requirement for the part I classification of arson in the uniform reports. It is a necessary step to take if we are to really inform ourselves on the scope and nature of the arson problem in America, learn to identify the crime when it occurs, and move at all levels of government to quash it.●

● Mr. HOLLINGS. Mr. President, I speak now as chairman of the State-Justice Appropriations Subcommittee. Due to the so-called technical amendment adopted earlier, the subcommittee will be precluded from considering approximately one-third of the budget of the Office of Justice Assistance, Research, and Statistics (LEAA). Instead we now have the choice, under our amount in the concurrent budget resolution, of appropriating for the new part N and not funding parts B and C for research and statistics; or not appropriating anything at all for any of these parts.

Mr. President, it is no less improper to appropriate in an authorization bill than it is to authorize in an appropriation act.

The Subcommittee on Appropriations has held hearings on all of the budget requests for 1981. The floor manager of the bill, Senator DECONCINI, was of major assistance in holding our hearings. He can tell you as well as I can that there is nothing in the OJARS budget for this new part N program that was conceived at the 11th hour in the Judiciary Committee. Under the camouflage of a technical amendment, the Senate has supposedly now made a policy decision that part N be funded and that the research and statistics programs should be eliminated during fiscal year 1981.

Mr. President, the Committee on the Judiciary certainly has the right to their priorities, but that does not mean that the Appropriations Committee should be virtually mandated to fund a new program for which no hearings have been held.

Over the last several years our subcommittee has tried to recognize, to the fullest extent possible, the priorities of the Judiciary Committtee. The manager of the bill, and the chairman of the Judiciary Committee know we have provided increases to the FBI, the Criminal Division, the Lands and Natural Resources Division, the Civil Rights Division, and the Immigration and Naturalization Service.

Mr. President, the Biden amendment restores the appropriation process parts B and C will again be authorized under a cap of $19,000,000. We will have the chance to look at all three of these parts in marking up the bill, instead of cavalierly throwing parts B and C in the trash can without hearings or debate on the relative merits of the various programs involved.

As the floor manager of the bill knows, we hope to mark up the State, Justice, Commerce bill momentarily. Inasmuch as the Committee on the Judiciary has handed us the new part N program, I wonder if he could elaborate a little on this program for which there is little information in the committee's report:

First. What is to be the purpose of this new discretionary program to support State and local projects of proven effectiveness?

Second. Under what basis are the funds to be awarded to the State and local projects?

Third. Will we be in any way assured that this money will go to States that need it the most?●

Mr. THURMOND. Mr. President, I suggest the absence——

Mr. DeCONCINI. Will the Senator withhold that?

Mr. President, assuming that we are about to commence third reading and passage of this bill, I want to take a moment to express my thanks, as manager——

The PRESIDING OFFICER. Such a statement would not be in order at this point.

Mr. DeCONCINI. What is the order of business? Is there an amendment pending?

The PRESIDING OFFICER. The pending question is the committee amendment in the nature of a substitute, as amended.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, in order to expedite this evening's agenda and facilitate the distinguished majority leader so he does not have to stay any longer than he already has, I would like to express my thanks to the Senator from South Carolina and the minority staff, Emory Sneeden and Eric Hultman and to Ava Abramowitz, Ken Feinberg, Stephen Breyer, Catherine Clark, Romano Romani, Mike Altier, Ken Kay, Mark Gitenstein, Henry Ruempler, and Linda Townsand of the majority staff, people who have labored a long time here. Without the effort of the majority leader and the cooperation of members of the minority, we could be here for several weeks.

I express to them my thanks, because I have other things to do, as I know each of them does. It has been an effort here, and I think we have a bill that is reasonable, that is in the best interest of the country and the Department of Justice. Ken Feinberg has given the staff tremendous support and we appreciate that effort and that of Catherine Clark.

With that, Mr. President, I am willing to yield the floor.

Mr. THURMOND. Mr. President.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. BAUCUS. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I express my appreciation to the distinguished Senator from Arizona for the outstanding leadership he provided on this bill and especially for his courteous manner and cooperative spirit shown on this floor during consideration and passage of the bill.

I also express my appreciation to the staff members on my side, who worked very hard on this bill, Emery Sneeden and Eric Hultman, and to the majority chief counsel, Steve Breyer, and Ava Abramowitz, Mike Altier, and Romano Romani.

Mr. President, this has been a very fine working arrangement that we have had with the majority on this bill. Again, I thank my friend (Mr. DeConcini) for all he has done to promote this bill in such a fine way.

Mr. BAUCUS. Mr. President, I want to thank the managers of the bill for all of their work.

Mr. President, I strongly support title II of S. 2377. This title would create a statutory charter to address employee misconduct at the Department of Justice.

It is my view that the proper investigation and handling of misconduct by Government employees should be a high priority of every Federal agency. As the law enforcement arm of Government, the Department of Justice must be particularly committed to pursuing such issues.

In my view, however, the existing structure at the Department of Justice does not place enough emphasis on this important area.

In order to handle properly the sensitive issues involved in internal Justice Department investigations, the Department needs a permanent, independent, and respected investigative office. Such an office must be able to demonstrate to the public and to the Congress that it is in control of its own investigations.

The Office of Professional Responsibility (OPR) is currently the office responsible for investigating allegations of Justice Department employee misconduct. Many of the allegations handled by OPR are sensitive and complex and may involve complaints against the highest officials in the Department, such as the Attorney General, the U.S. attorneys, or the FBI.

The question is whether OPR is structured to investigate these complaints.

In my view, the Attorney General's recent appointment of a special investigator to oversee the Abscam news leaks underscores the Justice Department's failure to make OPR a mechanism to handle problems of employee misconduct.

If the Attorney General had a high enough regard for OPR's ability to effectively investigate a sensitive issue of public concern, he would have assigned the Abscam leaks investigation to OPR directly, instead of creating a special investigator who reports to OPR.

How can the public possibly have confidence in the internal investigations of Justice Department employees if the Attorney General does not respect the office charged with the responsibility for conducting these investigations?

The Abscam leaks investigation not only raises questions of the adequacy and stature of OPR, it also highlights problems inherent in the OPR counsel's ability to control investigations conducted by Attorney General designees or other special task forces. The OPR counsel claims that OPR is responsible for the Abscam leaks investigation conducted by the special investigator.

Yet the OPR counsel has been unable to control the special investigator's active pursuit of publicity even though such exposure is a violation of OPR policy of maintaining a low and discreet public profile. If the counsel does not have control over the conduct of the special investigator, how can he maintain OPR control over the intricacies of the Abscam leaks investigation?

In response to these concerns, the Senate Judiciary Committee adopted title II of S. 2377, which Senators COCHRAN, KENNEDY and I proposed. It is intended to give the Office of Professional Responsibility and the Department of Justice a structure that would insure confidence in the integrity of the Department. We believe this is accomplished by creating a statutory charter for the Office of Professional Responsibility.

On March 13, I chaired a Senate Judiciary Committee hearing on OPR. Testimony at that hearing supported the view that the lack of statutory protection for the office is a major weakness.

Because OPR is established only by Federal regulations, its continued existence cannot be guaranteed. In fact, the office could easily be abolished or have its powers curtailed simply by changing the regulations. Such changes in the regulations could be initiated by Department officials who are subject to investigation by OPR.

How can the public have confidence in the integrity of any investigation performed under such circumstances?

Title II creates a permanent OPR statutory charter which protects and increases the powers of the office. Such a charter can only be altered by Congress. Thus, the office would be protected from intervention, the threat of intervention, or the appearance from Justice Department officials.

Under a statutory charter, OPR will become a permanent fixture at the Department of Justice until Congress, not the officials who are subject to investigation, determines changes in the structure are appropriate.

Our hearing highlighted another flaw in the current structure of OPR. The OPR counsel is appointed by the Attorney General rather than by the President. He is in the position of being appointed by the Attorney General, reporting to the Attorney General, and investigating allegations involving the Attorney General.

An additional problem occurs because the counsel does not have the status of the numerous Presidential appointees within the Department. In fact, the counsel is in the position of investigating Presidential appointees when his status is inferior to those who are being investigated. Even if investigations of the Attorney General and other Presidential appointees are conducted with independence, questions of integrity and deference will always be raised about such investigations.

Title II makes the OPR counsel a Presidential appointee to be confirmed by the Senate. The counsel would continue to report directly to the Attorney General, but as a Presidential appointee, the counsel would be more independent and have the appearance of independence so necessary for public trust in OPR operations. As a Presidential appointee, the OPR counsel will have the highest possible status.

Another issue discussed at our hearing was the conflict of interest caused by an OPR investigation involving the Attorney General. This conflict surfaced in the OPR investigation of the Attorney General and other Department officials concerning their connection with the "Marston Affair" which the OPR counsel readily admits was "the lousiest incident that OPR has ever gotten involved with."

In order to protect the need for independence and to insure a thorough investigation of allegations involving the Attorney General, Title II provides for the direct reporting to the Congress of any such investigation.

Testimony at our hearing revealed that the Department of Justice has never established adequate standards of discipline which can be uniformly applied throughout the Department. According to the OPR counsel, there is a "disparate arrangement now, a disparate system, and inequitable application of sanctions or corrective behavior."

For example, employees found guilty of comparable violations may be given widely disparate discipline if they are employed in different divisions of the Department. Because of the lack of standards, discipline is even haphazard within the six internal investigation units that report regularly to OPR.

Title II charges OPR with the responsibility of formulating disciplinary standards for the Department and it also gives the office the power to monitor the imposition of these standards. Under title II, OPR also has the power to recommend both administrative sanctions and prosecution to the appropriate officials. If an OPR disciplinary recommendation is not followed, then the OPR counsel has the right of appeal to the Attorney General.

OPR must be an independent, strong, active and highly visible Office in order to both properly conduct its investigations and to give the appearance of properly conducting investigations into sensitive Justice Department issues. It must be structured to command the respect of the Department's employees, the Attorney General, the Congress, and most importantly, the public.

Title II answers these concerns by providing a statutory charter for OPR which will protect and increase its independence, improve its stature and preserve the uniqueness of its investigative powers. Title II also protects OPR's ability to rely on personnel from other components of the Department such as the FBI, thus enabling the office to remain small, cost-effective and focused on investigation rather than administration.

Congress has a major responsibility to insure the integrity of the Department of Justice. It can not fulfill that responsibility if there is not a permanent structure that the Congress can establish a relationship with and help improve. The Senate Judiciary Committee can not conduct adequate oversight over a series of "special investigators". If the Department continued to appoint special investigators to handle the most difficult cases of employee misconduct, the committee would not be able to conduct adequate oversight over all of their activities. Rather, one person in the Department should clearly be given that responsibility and the Attorney General and the Senate and House Judiciary Committees should work with that individual to insure that the office's investigations are handled as independently and professionally as possible. We believe that title II of S. 2377 will give the Office of Professional Responsibility and its counsel the status that it needs and deserves. We are confident that this particular title will help the Department of Justice in maintaining its integrity and in communicating deserved perception of integrity to the American public.

SECTION 109

Mr. President, section 109 of S. 2377 addresses an area of longstanding congressional neglect: the manner in which the Federal Government conducts litigation. As a member of the Judiciary Committee, I am concerned that Congress is becoming increasingly insensitive to the essential role of the Department of Justice in the area of Government litigation. At the same time, my experience as an attorney for an independent regulatory commission has made me sensitive to the concerns of Federal agencies in this area. In my view, a strong Department of Justice is in the best interest of the Federal Government. The growing tension between the Department and other agencies over litigation authority is counterproductive and largely attributable to inadequate oversight by Congress.

Section 109 is a first step toward improving congressional oversight of Government litigation. This provision addresses some of the current factors which have led to the fracturing of litigation authority at the Federal level.

CONGRESSIONAL DELEGATION

Congress recognized the need for the Government to speak with a single voice in legal matters when it established the Department of Justice in 1870. However, this single-voice concept has never existed in practice. Exceptions have always been provided by statute, and there are presently approximately 27 agencies with some degree of independent litigation authority.

Several pieces of legislation have been introduced in the 96th Congress that would give additional litigation authority to specific agencies. The problem is that Congress examines each of these proposals within the context of the individual agency but has not examined the larger picture of Government litigation as a whole. Often the Judiciary Committees will not be aware of the impact of a bill until it reaches the floor of the Senate or House. This almost occurred when the Senate Commerce Committee recently considered legislation to increase the Interstate Commerce Commission's litigation authority. Due to the efforts of Senator HEFLIN, who is a member of both the Commerce and Judiciary Committees, this legislation was amended to retain the Commission's present authority.

Section 109 would require the Attorney General to submit to the Senate or House Judiciary Committees every 2 years a written statement on any legislation introduced in the previous Congress that affects the litigation authority of the Department of Justice but was not enacted. In this way, the Judiciary Committees will be fully informed and aware of the impact of proposed legislation on the Department's authority. This would be a first step in creating a congressional structure that would more effectively review Government litigation policy.

An additional step is needed, however, which is the requirement that every piece of legislation affecting the Department's litigation authorty be referred to the Senate and House Judiciary Committees prior to floor consideration by either the full House or the Senate. Two years ago, Senators Eastland, THURMOND, and KENNEDY urged the majority leader to adopt such a policy. I believe their request was a sound one, and I intend to work with Senators KENNEDY and THURMOND and the Senate leadership to revive the discussions of this proposal.

EXECUTIVE ORDERS

Most recently, President Carter has attempted to counteract the growing disorganization of Government litigation by means of an Executive order. The Executive order created the Federal legal council to explore a variety of issues related to problems of Federal litigation and to improve communications between the Attorney General and General Counsels. Unfortunately, the Congress has not adequately reviewed the Executive order or monitored its implementation.

Section 109 would require the Attorney General to report every 2 years to Congress on efforts made to coordinate activities and resolve conflicts between the Department and other Federal agencies with respect to Government litigation.

MEMORANDA OF UNDERSTANDING

Another important way to address the problem of Government litigation has taken the form of agreements between the Department and the individual agencies. Often these memoranda of understanding determine which agency will litigate and under what circumstances. But in many instances, these memoranda of understanding tend to be ambiguous or unnecessarily complex. Consequently, a substantial degree of agency time and legal resources may be spent solely on interpretation of such memoranda. In this regard, I am aware that there are ambiguity problems with the memorandum of understanding between the Justice Department and the Department of Energy.

For the most part, Congress has had no voice in reviewing these memoranda. In some cases, specific committees have had an interest in these memoranda, but the Senate and House Judiciary Committees have not been able to insure that these memoranda are in the best interests of Government litigation policy as a whole.

Section 109 requires the Attorney General to submit to Congress a copy of any agreement with any other agency that affects the basic litigation authority of the Department. Moreover, the bill would require that the Attorney General submit such agreements no later than 30 days prior to their effective date. This provision is not intended to provide for a congressional veto of memoranda of understanding. Rather, this provision will substantially increase congressional awareness of agreements made which affect Government litigation authority. In this way, ample opportunity will be provided for congressional consultation.

ATTORNEY GENERAL AUTHORITY

Finally, section 109 provides the Attorney General with the authority to resolve all legal disputes between Federal executive agencies with respect to litigation authority. Current law implicitly grants the Attorney General the authority. In my view, it is important to make this authority explicit. As chief legal officer of the United States, the Attorney General is best able to resolve disagreements or uncertainties about litigation authority. This provision will result in more efficient use of tax dollars and Federal legal resources by eliminating costly court battles between agencies who are trying to decide which agency has jurisdiction to litigate. The need for this statutory authority is evidenced by the findings of the President's reorganization project study on Federal legal representation. That study found that, in 1977, there were at least 150 cases filed in court where two Government agencies were litigating against each other.

Mr. President, I want to make clear that section 109 is not a panacea to Government litigation problems. Rather, this provision represents a constructive, flexible approach to deal with an increasingly uncoordinated Government litigation policy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank Mr. DeConcini and Mr. Thurmond for their able management of this bill, for the cooperation they have given to each other, and for their skillful leadership. I express appreciation to both of them on behalf of the leadership and on behalf of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the bill in accordance with the proceedings here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DeCONCINI. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. Melcher), would vote "yea."

Mr. BAKER. I announce that the Senator from Maine (Mr. Cohen), the Senator from New York (Mr. Javits), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Boren). Is there any other Senator desiring to vote?

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—86

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Byrd,
Harry F., Jr.
Helms
Proxmire

NOT VOTING—11

Cohen
Culver
Goldwater
Gravel
Javits
Kennedy
McGovern
Melcher
Stevens
Talmadge
Tower

So the bill (S. 2377), as amended, was passed, as follows:

S. 2377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1981".

TITLE I—AUTHORIZATIONS

Sec. 101. There are authorized to be appropriated for the fiscal year ending September 30, 1981, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For general administration, including—

(A) hire of passenger motor vehicles,

(B) not to exceed $12,576,000 to remain available until expended, for financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity, and all related support activities, and

(C) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration: $44,059,000.

(2) For the United States Parole Commission for its activities, including the hire of passenger motor vehicles: $5,868,000.

(3) For the Foreign Claims Settlement Commission for its activities, including the hire of passenger motor vehicles: $5,868,000.

(3) For the Foreign Claims Settlement Commission for its activities, including—

(A) services as authorized by section 3109 of title 5, United States Code,

(B) allowances and benefits similar to those provided under title IX of the Foreign Service Act of 1946, as amended, as determined by the Commission,

(C) expenses of packing, shipping, and storing personal effects of personnel assigned abroad,

(D) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad.

(E) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties,

(F) advances of funds aboard,

(G) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission,

(H) hire of motor vehicles for field use only, and

(I) employment of aliens: $840,000.

(4) For general legal activities, including—

(A) hire of passenger motor vehicles,

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration,

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529),

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities,

(F) not to exceed $50,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia,

(G) not to exceed $2,387,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals: $119,897,000.

(5) For the Antitrust Division for its activities: $47,105,000.

(6) For United States attorneys, marshals, and trustees for their activities, including—

(A) purchase of firearms and ammunition,

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year,

(C) supervision of United States prisoners in non-Federal institutions,

(D) bringing to the United States from foreign countries persons charged with crime, and

(E) acquisition, lease, maintenance, and operation of aircraft: $273,610,000.

(7) For support of United States prisoners in non-Federal institutions, including—

(A) necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a), and

(B) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of title 18, United Sates Code: $23,000,000.

(8) For fees and expenses of witnesses, including expenses, mileage, compensation, and per diems of witnesses in lieu of subsistence, as authorized by law, including advances of public moneys: $27,000,000. No sums authorized to be appropriated by this title shall be used to pay any witness more than one attendance fee for any one calendar day.

(9) For the Community Relations Service: $5,773,000.

(10) For the Federal Bureau of Investigation for its activities, including—

(A) expenses necessary for the detection and prosecution of crimes against the United States,

(B) protection of the person of the President and the person of the Attorney General,

(C) acquisition, collection, classification, and preservation of identification and other records and the exchange of such records with duly authorized officials of the Federal Government, States, cities, and other institutions for official use by such officials, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies,

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General,

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles,

(F) acquisition, lease, maintenance, and operation of aircraft,

(G) purchase of firearms and ammunition,

(H) payment of rewards,

(I) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under the regulations issued by the Secretary of State,

(J) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General, and

(K) classification of the offense of arson as a part I crime in its Uniform Crime Reports: $632,850,000, of which not to exceed $1,000,000 shall be made available to conduct investigations under section 1073 of title 18 of the United States Code in parental kidnapping cases arising under State law. None of the sums authorized to be appropriated by this title for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(11) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route,

(B) payment for allowances to aliens for work performed while held in custody under the immigration laws,

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies,

(D) payment of rewards,

(E) not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles,

(G) acquisition, lease, maintenance, and operation of aircraft,

(H) payment for firearms and ammunition, and attendance at firearms matches,

(I) operation, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto,

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money,

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens,

(L) acquisition of land as sites for enforcement fences, and construction and maintenance of such fences,

(M) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under regulations issued by the Secretary of State, and

(N) research related to immigration enforcement which shall remain available until expended: $347,700,000. Not to exceed $100,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(12) For the Drug Enforcement Administration for its activities, including—

(A) hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year,

(B) payment in advance for special tests and studies by contract,

(C) payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2)),

(D) payment of expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General,

(E) payment of rewards,

(F) payment for publication of technical and informational material in professional and trade journals, and purchase of chemicals, apparatus, and scientific equipment,

(G) payment for necessary accommodations in the District of Columbia for conferences and training activities,

(H) acquisition, lease, maintenance, and operation of aircraft,

(I) research related to enforcement and drug control to remain available until expended,

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management,

(K) benefits in accordance with, or comparable to, benefits provided under sections 911 (9)-(11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11), 1157, 1160), under regulations issued by the Secretary of State,

(L) payment for firearms and ammunition and attendance at firearms matches, and

(M) payment of tort claims against the United States when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad:

$205,615,000. For purposes of section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)), such sum shall be deemed to be authorized by section 709(a) of such Act.

(13) For the Federal Prison System, including—

(A) for administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions,

(B) purchase and hire of law enforcement and passenger motor vehicles.

(C) compilation of statistics relating to prisoners in Federal penal and correctional institutions,

(D) assistance to State and local governments to improve their correctional systems,

(E) purchase of firearms and ammunition, and medals and other awards,

(F) payment of rewards,

(G) purchase and exchange of farm products and livestock,

(H) construction of buildings at prison camps, and acquisition of land as authorized by section 4010 of title 18 of the United States Code,

(I) transfer to the Health Service Administration of such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that administration for medical relief for inmates of Federal penal and correctional institutions,

(J) for Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

(K) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this subparagraph, and

(L) for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, relating to a National Institute of Corrections, to remain available until expended: $363,000,000.

SEC. 102. (a) The Attorney General shall report annually to the Committees on the Judiciary of the Senate and of the House of Representatives, beginning on January 1, 1984 and not later than January 1 of each year thereafter, on the reporting, investigation, and prosecution of the offense of parental kidnapping during the previous calendar year, including—

(1) the number of parental kidnappings reported during the previous calendar year to Federal, State, and local law enforcement authorities, setting forth—

(A) the percentage of cases in which a right of custody awarded by judicial decree has been violated;

(B) the percentage of cases in which the parental kidnapping occurred prior to the entry of a judicial decree as to custody rights;

(C) the number of wholly intrastate parental kidnappings;

(D) the number of interstate parental kidnappings; and

(E) the number of international parental kidnapping;

(2) a listing by State of the number of requests for assistance by the Federal Bureau of Investigation under section 1073 of title 18 of the United States Code, in the investigation of parental kidnapping cases arising under State law, the disposition of each such request, and an explanation of the disposition of each such request; and

(3) an estimate, based on the findings submitted under paragraphs (1) and (2), of the costs to investigate parental kidnapping cases under section 1073 of title 18 of the United States Code.

(b) The Attorney General shall report to the Committees on the Judiciary of the Senate and of the House of Representatives on January 1, 1982, and on January 1, 1983, a listing by State of the number of inquiries received by the Federal Bureau of Investigation in the previous calendar year for assistance in locating, apprehending, or prosecuting parents who are alleged to have violated State laws respecting child custody. This report shall include, but shall not be limited to—

(1) the percentage of cases in which a right of custody awarded by judicial decree has been violated;

(2) the percentage of cases in which the parental kidnapping occurred prior to the entry of a judicial decree as to custody rights;

(3) the number of wholly intrastate parental kidnappings;

(4) the number of interstate parental kidnappings;

(5) the number of international kidnappings;

(6) a statement as to the number of cases in which the Federal Bureau of Investigation was requested to conduct an investigation pursuant to section 1073 of title 18 of the United States Code, the disposition of each such request, and an explanation of the disposition of each such request; and,

(7) an estimate of the costs to investigate parental kidnapping cases under section 1073 of title 18 of the United States Code.

(c) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $250,000 to carry out the provisions of this section.

SEC. 103. (a) None of the sums authorized to be appropriated by this title may be used to pay the compensation of any person employed after the date of the enactment of this title as an attorney (except foreign counsel employed in special cases) unless such person is, at the time so employed, duly licensed and authorized to practice as an attorney under the laws of a State, a territory, or the District of Columbia.

(b) The Department of Justice shall not be required to absorb from sums appropriated pursuant to the authorization provided in this title, other than sums appropriated pursuant to section 105(f) of this title, any increases in salary, pay, retirement, and other employee benefits authorized by law, or other nondiscretionary costs.

SEC. 104. (a) Sums authorized to be appropriated by this title which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations issued by the Attorney General.

(b) Sums authorized to be appropriated by this title may be used for the purpose of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this title for salaries and expenses shall be available for services as authorized by section 3109 of title 5, United States Code.

(d) Sums authorized to be appropriated by this title may be used, in an amount not to exceed $35,000 for official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.

(e) Sums authorized to be appropriated by this title may be used for—

(1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of the cost for which payment is authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may issue, determines that such schools are not accessible by means of public transportation.

(f) There are authorized to be appropriated for the fiscal year 1981, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States attorneys and marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5, United States Code.

(h) Sums authorized to be appropriated by this title may be used to provide benefits related to educational travel for dependents of Department of Justice personnel stationed abroad comparable to benefits related to educational travel provided for dependents of Department of State personnel.

(i) Sums authorized to be appropriated by this title may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this title which specifically refers to this subsection.

SEC. 105. Notwithstanding the second undesignated paragraph relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this title for such salaries and expenses may be used for the purposes described in such paragraph until October 1, 1981.

SEC. 106. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this title may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this title may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 869),

(3) sums authorized to be appropriated for the Federal Bureau of Investigation by this title, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and sec-

tion 3639 of the Revised Statutes (31 U.S.C. 521), and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484),

only upon the written certification of the Director of the Federal Bureau of Investigation (or by a person designated to act for the Director in his absence, such person to be at the level of an Executive Assistant Director or higher) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), (3), or (4) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(2) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Director of the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury as miscellaneous receipts.

(d)(1) The Director of the Federal Bureau of Investigation shall conduct detailed financial audits of each closed undercover operation, and—

(A) report the results of each audit in writing to the Attorney General, and

(B) report annually to the Congress, not later than one month after the end of each fiscal year, concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $50,000, and

(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)).

SEC. 107. During the fiscal year for which appropriations are authorized by this title, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, other appropriate committees, and the ranking minority members thereof, a minimum of fifteen days before—

(1) reprograming of funds in excess of $250,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives;

(2) reprograming of funds in excess of $500,000 or 10 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 108. (a) Section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)) is amended by inserting ", or deemed by any statute of the United States to be authorized," after "authorized".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by striking out "(d) The provisions" and inserting in lieu thereof "d)(1) Subject to the limitation provided in paragraph (2), the provisions";

(2) by inserting "and the award of compensation to informers in respect of such forfeitures" immediately after "compromise of claims"; and

(3) by adding at the end thereof the following:

"(2) The award of compensation to informers in respect to such forfeitures may be paid from, and may be based on the value of, the seized property or the proceeds from the sale of such property, except that no award may be paid from or based on the value of seized contraband.".

SEC. 109. (a) The Attorney General shall perform—

(1) periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this title, and

(2) annual specific program evaluations of selected subordinate organization's programs,

as determined by priorities set either by the Congress or the Attorney General.

(b) Subordinate organizations of the Department of Justice and officials of such organizations shall provide all the necessary assistance and cooperation in the conduct of the evaluations described in subsection (a), including full access to all information, documentation, and cognizant personnel, as required.

(c) Completed evaluations shall be made available to the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and to other appropriate committees.

(d) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the kind described in subsection (a) of this section, the Attorney General shall submit to the committee making the request, not later than thirty days after the date the request is made, a design and timetable for making the requested evaluation. If the projected time period for completing the evaluation exceeds six months, the Attorney General shall, during the course of the evaluation, submit intermittent reports on the progress of the evaluation to the committee making the request.

SEC. 110. (a) Section 516 of title 28, United States Code, is amended by inserting "(a)" immediately before "Except as otherwise authorized".

(b) Section 516 of such title is amended by adding at the end thereof the following new subsections:

"(b) The Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases. Each agreement shall be submitted no later than thirty days before the agreement is effective.

"(c) Unless specific statutory authority for litigation responsibility is otherwise provided, the Attorney General shall be the exclusive arbiter for the resolution of any legal dispute between two or more executive agencies or departments, including a dispute as to which agency or department shall litigate an action, administer a particular program, or regulate a particular activity.

"(d) The Attorney General shall report, at the beginning of each Congress, to the Committees on the Judiciary of the Senate and of the House of Representatives on—

"(1) bills or resolutions affecting the litigation authority of the Department of Justice, of which the Attorney General is aware, that were introduced in the previous Congress but were not enacted;

"(2) the status of litigation authority in the Federal Government, including the extent to which agencies other than the Department of Justice are authorized to litigate and whether such agencies are conducting litigation by formal or informal agreement with the Department of Justice;

"(3) the Attorney General's assessment of each agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases, including—

"(A) a description of any problems relating to any such agreement;

"(B) the steps the Attorney General intends to take to remedy those problems; and

"(C) any legislative recommendations the Department of Justice may have to improve the coordination of legal activities between the Department of Justice and its client agencies; and

"(4) the efforts the Attorney General has undertaken in the preceding two years and the efforts the Attorney General expects to undertake during the forthcoming years to coordinate activities and resolve conflicts between the Department of Justice and other Federal agencies, and to increase the efficient and effective operation of Federal litigation resources.".

SEC. 111. (a) Section 1921 of title 28, United States Code, is amended to read as follows:

"§ 1921. United States marshals' fees

"(a)(1) Except as otherwise provided, the United States marshals or deputies shall collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b)(1) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a). Such regulations shall include a schedule of fees which, at a minimum, equal the total costs of providing the services under subsection (a).

"(2) The Attorney General shall prescribe regulations which provide that the marshal's fees to be collected and taxed under subsection (a) shall be waived upon the authorization by the court, pursuant to section 1915 of this title, of the commencement, prosecution, or defense of any civil or criminal action or proceeding without prepayment of fees and costs or security therefor.

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, except that the amount of the commission shall be within the range prescribed by the Attorney General under paragraph (2). If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range prescribed by the Attorney General under paragraph (2), as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.".

(b) The amendments made by this section shall take effect on October 1, 1981.

SEC. 112. (a) The Attorney General shall prepare and submit to the Committees on the Judiciary of the Senate and House of Representatives a systems development plan for the activation and coordination, within the Department of Justice, of compatible, comprehensive case management information and tracking systems for each of the judicial districts of the United States as described in chapter 5 of title 28 of the United States Code and for each of the divisions of the Department of Justice.

(b) The plan shall—

(1) determine the functional, informational, and data service requirements of each of the legal divisions of the Department, the United States Attorneys Offices, and a representative sampling of key client agencies;

(2) from the requirements determined under paragraph (1), identify data that should be uniformly collected for purposes of inclusion in the systems, how such data should be defined for purposes of inclusion in and access to the systems;

(3) evaluate existing case management information and tracking systems to determine the responsiveness of such systems to the requirements determined under paragraphs (1) and (2);

(4) assess what data are required to be collected to improve the effectiveness and responsiveness of the existing systems and develop the policies and procedures for the collection and generation of such data;

(5) have as its goal, maximum service and data quality, retrievability, and utility to the users;

(6) include a timetable for the implementation of such plan, and an assessment of the costs for implementation of such plan.

(c) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $300,000 for the purposes of development and implementation of a systems development plan as described in this section.

SEC. 113. Not later than January 1, 1981, the Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives on the extent to which the Department of Justice has collected all judgments owed to the United States as of September 30, 1980. The Attorney General shall include in the report—

(1) a breakdown, by each division and the Executive Office of the United States Attorneys, on the amounts owed and the amounts collected as of September 30, 1980;

(2) an assessment of the collection practices of the Department of Justice;

(3) the steps that the Attorney General intends to take to improve those collection practices; and

(4) any legislative recommendations the Department of Justice may have to improve those collection practices.

SEC. 114. Not later than February 1, 1981, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on the status of civil and criminal fraud cases as of December 31, 1980. The Attorney General shall include in the report—

(1) a description of the case backlog, if any, including a general description of the types of cases, amounts, and the agencies involved, and the steps the Attorney General intends to take to decrease any such backlog;

(2) any legislative recommendations the Department of Justice may have with respect to decreasing any such backlog; and

(3) any legislative recommendations the Department of Justice may have to facilitate the coordination of civil and criminal fraud prosecutions.

SEC. 115. (a)(1) The Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, shall make arrangements with an appropriate independent entity to prepare and submit, not later than October 1, 1982, to the Committees on the Judiciary of the Senate and the House of Representatives a recommendation as to the extent, if any, the Federal Government should provide communications systems, networks, and data bases, for the distribution and use by Federal, State, local, or foreign governments or private entities, of records compiled as a result of arrests of individuals or any other criminal records. The recommendation shall include an assessment of the feasibility and advisability of continuing the National Crime Information Center (NCIC), including the Computerized Criminal History Program (CCHP), and the other criminal record operations of the Federal Bureau of Investigation (FBI), including but not limited to the criminal records operations of the FBI Identification Division and the Automated Identification Systems (AIDS), and, if feasible and advisable, a plan to improve the operations of those systems and reconcile the operational redundancies among such systems.

(2) The policy for the preparation and development of the recommendation and plan, if any, required under paragraph (1) shall be made in consultation with, and with the recommendation of, an advisory panel. The advisory panel shall be selected by the Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, and shall consist of representatives of the Attorney General (including the Director of the Federal Bureau of Investigation and the Director of the Bureau of Justice Statistics), representatives of the Governors of the States and other users of the systems, including parties representing the concerns of law enforcement, civil liberty, and criminal justice operations, research, and evaluation.

(3) The plan shall—

(A) determine the purposes and uses of the system and related data bases by Federal, State, and local law enforcement and criminal justice agencies, by Federal, State, and local, and foreign governments, and by private sector organizations;

(B) determine whether foreign entities and agencies other than law enforcement and criminal justice agencies should be allowed access to data contained in the system for purposes which are not related to law enforcement and criminal justice needs of the United States, and, if so, the policies and procedures for such access;

(C) determine the functional, informational, and data service requirements to meet those recommended purposes and uses, with particular regard to the intergovernmental exchange of data;

(D) establish standards for system and data integrity and quality of service, including standards for the relevancy, accuracy, reliability, and completeness of data accessible in or through the system, as well as methods for insuring that irrelevant, inaccurate, obsolete, or incomplete data is identified in a timely fashion and corrected or eliminated from the system;

(E) establish privacy, confidentiality, and security requirements that any Federal, State, or local agency, or private sector organization, shall meet in order to gain access to the system, including standards as to use, who is responsible for maintaining the data, who has access to the data, what types of data are to be maintained, mechanisms for insuring data accuracy, reliability, security and completeness, and an agreement by the State or Federal agency to be audited for compliance with such standards;

(F) require that data be submitted by all Federal law enforcement and criminal justice agencies, including data with respect to the arrest and disposition of Federal offenders;

(G) establish procedures for the audit of Federal, State, and local level programs;

(H) develop effective sanctions for misuse of data and improper distribution of data, including legislative recommendations with respect to such sanctions;

(I) provide procedures to enable an individual to have access to, review, and challenge any information pertaining to him contained within the system;

(J) provide for an annual report to Congress, on the system including problems relating to the data contained in the system, the technology employed, the utility of the system, a breakdown (by level of government) of the number of files maintained in the system on multi-State offenders, Federal offenders, and single-State offenders, a breakdown (by category of users) of requests for information, and legislative and regulatory recommendations with respect to improvement of the system; and

(K) provide a timetable for the implementation of the plan, the costs of such implementation (including the costs to the Department of Justice, other Federal law enforcement and criminal justice agencies, the States, and other users of the system), and recommendations for the funding of the system.

(4) The plan shall include recommendations on—

(A) the appropriate composition and selection of a national advisory board on the planning and management of the system to ensure the utility and accountability of the system;

(B) the merits of various organizational arrangements for management of the system, including the most desirable administrative mechanism, and whether maintenance and management of the system, in whole or in part, should be by the States pursuant to Federal guidelines, the Federal Bureau of Investigation, or another organization within the Department of Justice, or a combination thereof;

(C) the separation of the Computerized Criminal History Program from the National Crime Information Center;

(D) a requirement that each State have one State-designated repository to insure compliance, and to respond and provide entries for each system;

(E) with respect to criminal history information for single-State offenders, a requirement that criminal fingerprint cards only may be included in the Federal component of the system;

(F) the definition of "multi-State offender", and appropriate policies and procedures for the maintenance of information on multi-State offenders;

(G) the establishment of an automated interstate identification index to provide identifying information to Federal and State agencies, such index to consist solely of personal identifiers of an individual, the individual's FBI number, the individual's State identification number, and a notation of the existence of a criminal fingerprint card, and not to include charge or offense data;

(H) whether message-switching of information contained in any system should be allowed;

(I) whether the organization charged with the management of the system shall be required to return any fingerprint card and delete the index entry upon request by the submitting State;

(J) the staffing of appropriately trained personnel for the system at all levels of government;

(K) the acquisition of updated technology and equipment; and

(L) any other matter determined appropriate by the Attorney General or the advisory panel.

(5) For the purposes of paragraphs (3) and (4), the term "system" includes the NCIC, the criminal record operations of the FBI Identification Division, AIDS, CCHP, and any proposed system resulting from the merger or separation of any of such systems.

(b) Not later than October 1, 1981, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives an interim report on the implementation progress with respect to the provisions of subsection (a).

(c) None of the sums authorized to be appropriated in this title may be used for the purposes of engaging in the activity of message-switching until such time as the Committees on the Judiciary of the Senate and the House of Representatives have each approved the plan required to be submitted under subsection (a) of this section. For the purposes of this subsection, the term "message-switching" means the use of electronic equipment to receive a message, store that message until an outgoing line is available and then retransmit the message without any direct connection between the line on which the message was received and the line on which the message is retransmitted.

(d) In addition to any other sums authorized to be appropriated by this title, there are authorized to be appropriated $1,000,000 for the purpose of carrying out the provisions of this section.

Sec. 116. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Solicitor General of the United States.

"Associate Attorney General.".

(b) Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Solicitor General of the United States"; and

(2) by striking out "Associate Attorney General".

(c) The amendments made by this section shall apply with respect to pay periods beginning after the date of the enactment of this title.

Sec. 117. (a) In addition to those senior trial attorney positions previously authorized, the Attorney General is authorized to appoint not more than thirty senior trial attorneys without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. In accordance with regulations prescribed by the Attorney General under subsection (b), such attorneys shall be entitled to rates of pay and benefits provided under the following provisions of such title:

(1) Section 3396(c), relating to sabbatical leave.

(2) Section 4507, relating to the awarding of ranks.

(3) Subchapter VIII of chapter 53, relating to pay for the Senior Executive Service.

(4) Sections 5723 and 5752, relating to travel and transportation expenses.

(5) Section 6304(f), relating to accrual of annual leave.

(6) Section 8336(h), relating to immediate retirement.

(b) Regulations prescribed by the Attorney General shall conform to the extent practicable to regulations prescribed by the Director of the Office of Personnel Management with respect to the application of such provisions to positions in the Senior Executive Service.

Sec. 118. Section 203 of the Speedy Trial Act of 1974 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for the fiscal year ending September 30, 1981, to remain available until expended, the sum of $5,000,000.".

Sec. 119. (a) Chapter 85 of title 28, United States Code, is amended—

(1) by redesignating section 1364 (relating to Senate action) as section 1365;

(2) by redesignating section 1364 (relating to construction of references to laws of the United States or Acts of Congress) as section 1366; and

(3) in the table of sections for such chapter—

(A) by amending the item relating to section 1364 (Senate actions to read as follows:

"1365. Senate actions.";

and

(B) by amending the item relating to section 1364 (construction of references to laws of the United States or Acts of Congress) to read as follows:

"1366. Construction of references to laws of the United States or Acts of Congress.".

(b) Section 705(a) of the Ethics in Government Act of 1978 (Public Law 95–521) is amended by striking out "section 1364" and inserting "section 1365".

Sec. 120. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this title, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this title, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

Sec. 121. (a) Section 591 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The Attorney General shall notify the Chairman and Ranking Member of Committees on the Judiciary of the Senate and the House of Representatives whenever an investigation is initiated on the basis of specific information received under the provisions of subsection (a) of this section. The information contained in such notification shall not be disclosed to any third party.".

(b) Section 592(b)(1) of such title is amended by adding at the end thereof the following: "In addition to notifying the division of the court specified in section 593(a) of this title, the Attorney General shall notify the Committees on the Judiciary of the Senate and the House of Representatives.".

(c) Section 592(b)(3) of such title is amended to read as follows:

"(3) Such memorandum shall not be disclosed to persons other than an individual employed by the division of the court, the Department of Justice, or members or employees of the Committees on the Judiciary of the Senate and the House of Representatives, unless—

"(A) leave is granted by the division of the court upon the request of the Attorney General; or

"(B) a committee determines that disclosure of such memorandum to the public will not, in the committee's judgment, prejudice the rights of any individual.".

(d) Section 593(b) of such title is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding the following at the end thereof:

"(2) The division of the court shall notify the Committees on the Judiciary of the Senate and the House of Representatives of the appointment of a special prosecutor under paragraph (1). The special prosecutor shall, within 15 days from the date of appointment, disclose to the Committees on the Judiciary of the Senate and the House of Representatives the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as counsel to a party in the investigation or action.".

(e) Section 593(d) of such title is amended to read as follows:

"(d) (1) Any person who is offered a position of special prosecutor shall, prior to the appointment to such position, notify the division of the court of the identity and nature of each Federal investigation and each civil or criminal action to which the United States is a party, in which he is involved, or in which he has reason to believe he is likely to become involved, other than as a counsel to a party in the investigation or action.

"(2) The division of the court may not appoint as a special prosecutor—

"(A) any person who holds or recently held any office of profit or trust under the United States; or

"(B) any person who is involved in any Federal investigation or any civil or criminal action to which the United States is a party, other than as a counsel to a party in the investigation or action.".

(f) The provisions contained in this section shall expire two years after enactment of the section.

SEC. 122. It is the sense of the Congress that the United States recognize the Khmer people and others who have fled from their homeland in Cambodia and who are currently being kept in holding centers in Thailand as legitimate refugees seeking resettlement, and that the United States do all in its power to speed the processing and resettlement of refugees from the official refugee camps and to encourage the United Nations High Commissioner for Refugees and the Kingdom of Thailand to transfer with all due speed those refugees in the holding centers to the refugee camps for further processing and eventual resettlement by the international community, each nation doing its fair share.

SEC. 123. It is the sense of the Congress that the United States should not admit more than an additional one hundred thousand immigrants, special immigrants, refugees, those seeking asylum in the United States of those paroled into the United States, but not including immediate relatives of United States citizens in the period July 1, 1980 through the end of fiscal year 1980, and the President should submit to the Congress an annual total immigration goal for the United States.

SEC. 124. (a) The Congress finds that:

(1) the government of Iran continues to hold hostage fifty-three American citizens in defiance of international law; and

(2) the Congress of the United States continues to urge the government of Iran to release the hostages immediately; and

(3) the Congress of the United States fully supports every diplomatic effort by the United States Government, foreign governments, and international bodies, to secure the immediate release of the hostages; and

(4) the Senate on November 28, 1979, by a vote of 98 to 0, expressed its sense that there must be an immediate, safe, and unconditional release of United States hostages, that the American people and their representatives are united in their determination and efforts to achieve the release of the hostages, and that the United Nations should take all measures necessary to secure the release of the hostages.

(5) the Senate on December 15, 1979, called upon the followers of the religion of Islam throughout the world to prevail upon their brethren to permit the Americans being wrongfully held hostage in Iran to return home immediately, by a vote of 93 to 0; and

(6) the Senate agreed by voice vote on December 20, 1979, to fully support the President's efforts and the cooperative efforts of other nations and international organizations, to win the freedom of Americans being held captive in Iran.

(b) It is the sense of the Congress that:

(1) Congress opposes efforts by private citizens, undertaken without approval of the United States Government, to involve themselves in negotiations regarding the hostages; and

(2) Congress deplores such actions as counterproductive, subject to misrepresentation, and undermining the unity of purpose necessary to gain the hostages release; and

(3) Calls on all Americans to support the United States Government's efforts to negotiate the release of the hostages; and

(4) Supports the enforcement of any applicable statutes not excluding the Logan Act or any other Act that may be violated in the course of private negotiating initiatives.

SEC. 125. It is the sense of the Senate that the Department of Justice comply with the request of the Committee on the Judiciary to produce files and information relating to the Committee's oversight of the Public Integrity Section of the Criminal Division of the Department of Justice.

TITLE II—DEPARTMENT OF JUSTICE PROFESSIONAL RESPONSIBILITY ACT

SEC. 201. This title may be cited as the "Department of Justice Professional Responsibility Act".

SEC. 202. (a) There is established within the Department of Justice, under the general authority of the Attorney General, an Office of Professional Responsibility (hereinafter referred to as the "Office").

(b) The Office shall be headed by a Counsel appointed by the President, by and with the advice and consent of the Senate. The Counsel shall be subject to the general supervision and direction of the Attorney General, or when appropriate, of the Deputy Attorney General, the Associate Attorney General, or the Solicitor General.

(c) The Attorney General may delegate to the Counsel the functions of any other bureau, office, board, division, commission, or subdivision thereof within the Department of Justice (hereinafter referred to as the "Department") as the Attorney General determines are properly related to the functions of the Office and would, if so delegated, further the purposes of this title.

SEC. 203. (a) The Counsel shall—

(1) initiate or order, as he deems appropriate, an investigation of any information or allegation relating to the conduct of an employee of the Department that is or may be in violation of a law, a regulation or order of the Department, or any applicable standard of ethics or conduct;

(2) establish a mechanism for receiving and processing requests for investigations made by persons employed by the Department as well as persons outside the Department, and insure the confidentiality of the source and nature of any such request;

(3) prepare or review, as the case may be, any findings and reports filed as the result of an investigation under paragraph (1), and make recommendations to the Attorney General, or when appropriate, to the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, concerning such findings and reports;

(4) in addition to any investigation initiated or orderd under paragraph (1), undertake any relevant investigation assigned by the Attorney General, or when appropriate, the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, and cooperate as directed with any other organization, task force, or individual that may be assigned by the Attorney General to undertake such an investigation;

(5) establish uniform standards for the conduct of investigations by internal inspection units with such responsibilities;

(6) monitor and evaluate the performance and procedures for investigations conducted by the internal inspection units within the Department;

(7) establish procedures and format guidelines for reporting to the Office by internal inspection units in accordance with section 206(c);

(8) in consultation with the Attorney General and the head of the unit, require procedural changes in the operation of any internal inspection unit;

(9) not later than two years from the date of enactment of this title, establish uniform standards for the administration of disciplinary sanctions for each bureau, office, board, division, commission, or subdivision thereof;

(10) monitor and evaluate the implementation of the standards established under paragraph (9) for the administration of disciplinary sanctions;

(11) undertake any other appropriate responsibilities assigned by the Attorney General, including responsibilities relating to the improvement of the ethics and conduct of Department personnel;

(12) submit recommendations to the Attorney General, or when appropriate, to the Deputy Attorney General, the Associate Attorney General, or the Solicitor General, on the need for changes in the standards and procedures that become evident during the course of implementing responsibilities under this title; and

(13) report annually to Congress in accordance with section 207.

(b) The Counsel shall establish such rules as may be necessary to carry out the provisions of this title.

SEC. 204. (a) The Counsel may, on the basis of any findings reported to him, or an investigation conducted by him—

(1) recommend to the Attorney General or any appropriate supervising official within the Department that administrative sanctions be taken against a Department employee; and

(2) recommend the prosecution of a Department employee to the appropriate Assistant Attorney General of division or the appropriate United States Attorney.

(b) If the Counsel makes a recommendation under subsection (a) to any Department official other than the Attorney General, and that official declines to implement the recommendation, the declining official shall report in writing to the Counsel within thirty days of the receipt of the recommendation, the reason for declining to prosecute or administer such sanctions. If the Counsel disagrees with the position of the declining official, the Counsel may appeal to the Attorney General for implementation.

(c)(1) If the Counsel makes a recommendation under subsection (a) to the Attorney General, the Attorney General shall report in writing to the Counsel within thirty days of the receipt of the recommendation, his proposed action on the recommendation.

(2) Any recommendation by the Counsel to the Attorney General or to a declining official which is not followed by the Attorney General shall be identified in the annual report to Congress under section 207.

SEC. 205. (a) The Counsel is authorized to appoint such additional staff personnel as he deems necessary, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) Upon request of the Counsel and in consultation with the Attorney General and the head of the unit to which the employee is regularly assigned, an employee of the Department may be assigned to the Office on a case-by-case basis to perform such duties as are designated by the Counsel. Employees assigned to the Office shall work under the direction of the Counsel.

SEC. 206 (a) The internal inspection units within each bureau, office, board, division, commission, or subdivision thereof, of the Department of Justice shall retain the primary responsibility for receiving information on allegations concerning employees within their respective entities, and for conducting investigations, subject to the reporting requirements of subsection (c) of this section.

(b) The heads of each bureau, office, board, division, commission, or subdivision thereof shall provide information and assistance requested by the Counsel in connection with any investigation conducted by the Office or an internal inspection unit, and by any other person assigned to conduct an investigation.

(c) The head of each internal inspection unit shall report monthly to the Counsel. Each report shall include notification of initiation of any investigation, and shall conform with the procedures and format guidelines established by the Counsel under section 203(a).

SEC. 207. (a) On or before September 30th of each year, the Counsel shall report to the Congress on the number and a brief description of each allegation of employee misconduct received by the Office, a description of the manner in which such allegation was handled, and the final disposition of each such allegation. The information required under the preceding sentence shall include an identification with respect to the unit or Office which received the allegation and performed the investigation, if any.

(b) In addition, the Counsel shall include in such report—

(1) a description of any significant problems, abuses, and deficiencies in the policies and procedures which have become evident during the course of any investigation;

(2) a recommendation for action that may be taken by the Office or by a bureau, office, board, division, commission, or subdivision thereof to correct such problems, abuses, or deficiencies;

(3) a summary of the recommendations submitted in any previous annual report under this section upon which corrective action has not been completed, with an explanation of the reasons action has not been completed; and

(4) a description of any recommendation for administrative sanctions or prosecution made under section 204(c) by the Counsel to the Attorney General or a declining official which is not followed.

(c) If the Counsel conducts, or orders to be conducted, an investigation of information or an allegation that the Attorney General may be in violation of a law, a regulation or order of the Department, or of any applicable standard of ethics or conduct, he shall report the findings of his investigation to the Committees on the Judiciary of the House of Representatives and the Senate upon the completion of the investigation.

(d) No later than three years from the date of enactment of this title, the Counsel shall submit to the Committees on the Judiciary of the House of Representatives and the Senate—

(1) an evaluation of the procedures and standards for administrative sanctions and prosecution established under sections 203 (a)(9) and 204;

(2) a comprehensive evaluation of the implementation of the provisions of this title; and

(3) specific legislative recommendations designed to remedy any problems or deficiencies in the implementation of the provisions of this title.

SEC. 208. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Counsel, Office of Professional Responsibility, Department of Justice.".

SEC. 209. There are authorized to be appropriated, for the fiscal year ending September 30, 1981, and for each succeeding fiscal year, such sums as may be necessary to carry out the provisions of this title.

TITLE III—AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SEC. 301. (a) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"PROGRAM FOR FISCAL YEAR 1981

"SEC. 1004. (a) Notwithstanding any other provision of this title, funds available for expenditure in fiscal year 1981 from appropriations for prior years to carry out the activities of this title may be obligated or expended to carry out such activities, of which not to exceed 15 percent of such funds may be obligated or expended for the payment of administrative costs, including the costs of administering grants received under this title for operating criminal justice councils, judicial coordinating committees, and local offices, without regard to the requirements of section 401(c).

"(b)(1) Except as provided in part N and in paragraph (2) of this subsection no funds may be appropriated for fiscal year 1981, pursuant to the authorization provided in section 1001 of this part or any other provision of law, to carry out the activities of this title other than to carry out the activities of part L.

"(2) There is authorized to be appropriated for the fiscal year ending September 30, 1981, $19,000,000 to carry out the provisions of parts B and C of this title.

"(c) Notwithstanding any other provision of law, funds appropriated for this title may be used only to carry out activities authorized by this title. Such funds may not be transferred during fiscal year 1981 for carrying out any activities not authorized by this title.

"(d) Notwithstanding any other provision of law, all of the funds appropriated for this title shall remain available until expended.

"(e) Notwithstanding any other provision of this title, the provisions of section 1002 of this part shall not apply to fiscal year 1981.".

(b) The table of contents of such title is amended by adding at the end of the items relating to part J the following:

"Sec. 1004. Program for fiscal year 1981.".

SEC. 302. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following:

"PART N—EMERGENCY ASSISTANCE FOR EFFECTIVE PROGRAMS

"PURPOSE

"SEC. 1401. (a) Notwithstanding any other provision of this title, it is the purpose of this part to provide Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations, for purposes of supporting their efforts to implement programs and projects which are of proven effectiveness or have a record of proven success in improving the functioning of the criminal justice system.

"(b) The Federal portion of any grant made under this part may be up to 100 percent of the cost of the program or project specified in the application for such grant.

"(c) There is authorized to be appropriated for the fiscal year ending September 30, 1981, such sums as may be necessary to carry out the provisions of this part.

"PROCEDURE FOR ESTABLISHING PROGRAMS

"SEC. 1402. (a) The Director of the Office of Justice Assistance, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration shall jointly establish priority programs and projects for Federal financial assistance under this part.

"(b) In establishing such priority programs and projects, the Director and the Administrator shall—

"(1) assure that the problems and needs of all the States are taken into account;

"(2) consult with officials of States and units of local government, and other appropriate public and private agencies; and

"(3) invite and encourage public comment concerning such priority programs and projects.

"APPLICATION REQUIREMENTS

"SEC. 1403. (a) No grant may be made under this part unless an application has been submitted to the Administrator in which the applicant—

"(1) sets forth a program or project which is eligible for funding under this part;

"(2) describes the services to be provided, performance goals, and the manner in which the program or project is to be carried out; and

"(3) demonstrates that the program or project is of proven effectiveness or has a record of proven success in improving the functioning of the criminal justice system.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administrator.

"CRITERIA FOR DISTRIBUTION AND PERIOD FOR AWARD

"SEC. 1404. (a)(1) The Administrator shall, according to the criteria, terms, and conditions as he determines consistent with this part, provide Federal financial assistance to those programs or projects which most clearly satisfy the priorities established under this part.

"(2) In distributing funds under this part, the Administrator shall, to the extent practicable, provide Federal financial assistance to—

"(A) a State,

"(B) a unit of local government, or a combination of such units, and

"(C) a private nonprofit organization, within each category of priority programs and projects.

"(b) The Administrator may provide Federal financial assistance to priority programs and projects under this part for a period to be determined by the Administrator.".

(b) The table of contents of such title is amended by adding at the end thereof the following:

"PART N—EMERGENCY ASSISTANCE FOR EFFECTIVE PROGRAMS

"SEC. 1401. Purpose.

"Sec. 1402. Procedure for establishing programs.

"Sec. 1403. Application requirements.
"Sec. 1404. Criteria for distribution and period for award.".

TITLE IV—EQUAL ACCESS TO JUSTICE ACT

Sec. 401. This title may be cited as the "Equal Access to Justice Act".

Sec. 402. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b) (1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c) (1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d) (3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails for any sums appropriated to such agency.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annally to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of Chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this title, section 504 of title 5, United States Code, as added by subsection (a) of this section, is re-pealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal.

Sec. 403. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and Fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c) (1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d) (1) In addition to the costs which may be awarded pursuant to subsection (a) and except as otherwise specifically provided by statute, a court shall award fees and other expenses to any party other than the United States which prevails in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this title, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

SEC. 404. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code.".

SEC. 405. Nothing in section 2412(d) of title 28, United States Code, as added by section 403(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

SEC. 406. (a) Except as provided in subsection (b), this title, and the amendments made by this title, shall apply to any adjudication or civil action which is pending on the date of enactment of this title, or which is commenced on or after the date of enactment of this title.

(b) This title, and the amendments made by this title, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of this title or which is commenced on or after such date.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH SCIENCES PROMOTION ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 988, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 988) entitled the "Health Sciences Promotion Act of 1979."

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Health Sciences Promotion Act of 1979".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

SEC. 101. (a) Title IV is amended by adding at the end thereof the following new sections:

"ESTABLISHMENT OF PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

"SEC. 491. (a)(1) There is established the President's Council for the Health Sciences (hereinafter in this section and sections 492, 493, 494, and 495, referred to as the 'Council') which shall be composed of sixteen members appointed by the President by and with the advice and consent of the Senate. The members of the Council shall be appointed as follows:

"(A) Eight of the members shall be appointed from among individuals who are distinguished in the biomedical sciences.

"(B) Five of the members shall be appointed from among individuals who are disdistinguished in the behavioral, social, physical, mathematical, or general sciences.

"(C) Three of the members shall be individuals appointed from the general public who by virtue of their training, experience, and background are especially qualified to serve on the Council.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Council. The Secretary of Health, and Human Services, the Secretary of Defense, the Secretary of Energy, the Secretary of Agriculture, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, the Director of the National Science Foundation, the Assistant Secretary for Health of the Department of Health, Education, and Welfare, the Director of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the National Institutes of Health, the Director of the National Institute of Handicapped Research, and the Administrator of the Health Care Financing Administration (or their designees) shall serve as nonvoting ex officio members of the Council.

"(3) No individual may be appointed to serve as a member of the Council if such individual has served on the Council for two complete terms.

"(4) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(b)(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) five shall be appointed for terms of three years,

"(B) five shall be appointed for terms of four years, and

"(C) five shall be appointed for term of five years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy shall be appointed within ninety days of the date the vacancy first occurred, and the appointment shall be only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Chairman of the Council shall be appointed by the President from among the members appointed under subsection (a)(1), by and with the advice and consent of the Senate, from among the members of the Council.

"(d)(1) Eight voting members of the Council shall constitute a quorum except that fewer members, as determined by the Chairman, may conduct hearings.

"(2) The Council may establish such subcommittees as it deems necessary to carry out its duties under section 492. A majority of voting members of any subcommittee of the Council shall constitute a quorum of such subcommittee.

"(3) The Council shall meet at the call of the Chairman or at the call of a majority of the members.

"(e)(1) Each appointed member of the Council shall receive compensation at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule (including traveltime) for each day they are engaged in the actual performance of duties vested in the Council.

"(2) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COUNCIL

"SEC. 492 (a) The Council shall, after consultation with appropriate public and private entities, prepare a National Health Sciences Research Plan (hereinafter referred to in this section as the 'Plan') to be simultaneously transmitted to the President, the Secretary, and the Congress no later than August 1 of each year, the first Plan to be submitted no later than August 1, 1981.

"(b) The Plan shall include—

"(1) policy recommendations concerning health sciences research conducted and supported by the Department of Health and Human Services;

"(2) recommended goals for the health sciences research conducted and supported by the Department of Health, Education, and Welfare;

"(3) recommended budget ranges for health sciences research within the Department of Health and Human Services, for the fiscal year commencing October 1 of the calendar year immediately following the submission of the Plan, and recommended spending priorities for such research for the subsequent four fiscal years; and

"(4) identification of those areas of health sciences research that have been relatively underfunded or underdeveloped and measures needed to promote research in such areas.

"(c) In preparing the Plan under this section, the Council shall—

"(1) take into consideration at least—

"(A) the basic processes of human growth, development, and aging;

"(B) the mortality and morbidity rates of diseases and other health problems which are, or may be, the subject of health sciences research;

"(C) the areas of health sciences research that show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of diseases, the principles of human growth, development, and aging, and other health problems;

"(D) the past levels of spending for health sciences research by Federal agencies other than the Department of Health, Education, and Welfare; and

"(E) the level of public concern for the burden of illness of particular diseases and other health problems;

"(2) recommend spending levels for—

"(A) health sciences research directly or potentially relevant to fundamental knowledge concerning health and disease;

"(B) health sciences research directly or potentially relevant to the primary and secondary prevention of disease and disability;

"(C) health sciences research directly or potentially relevant to the treatment of disease and disability;

"(D) health sciences research directly or potentially relevant to the care and rehabilitation of victims of disease and disability;

"(E) health sciences research directly or potentially relevant to the delivery and financing of health care;

"(F) health sciences research within the Department of Health, and Human Services, directly or potentially relevant to the missions of Federal regulatory agencies; and

"(G) after consultation with the Commission on Human Resources of the National Research Council, training of research personnel in the health sciences; and

"(3) in making specific recommendations for budget ranges for any fiscal year, set forth, at a minimum, budgets that conform to each of the following possible conditions as compared to the congressionally approved level of appropriations for the previous fiscal year;

"(A) a 5 per centum net decrease;

"(B) no change;

"(C) an increase to keep pace with the rate of inflation; and

"(D) a 10 per centum net increase over the rate of inflation.

"(d) By March 1 of each year beginning with March 1, 1981, the Council shall submit to the President, the Secretary, and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives an evaluation of the President's budget for the fiscal year beginning October 1 of such calendar year as it relates to health sciences research conducted and supported by the Secretary.

"(e) The Council may undertake or support, through grant or contract, activities designed to—

"(1) improve the methodology of evaluating the results of health sciences research;

"(2) improve the methodology of allocating resources for health sciences research;

"(3) improve the methodology of measuring the burden of disease;

"(4) increase the effectiveness of transfer of knowledge;

"(5) evaluate public attitude toward disease; and

"(6) evaluate the health sciences research undertaken or supported by the Secretary.

"ADMINISTRATIVE PROVISIONS

"SEC. 493. (a) The Council may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council may deem advisable.

"(b)(1) The Council may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(3) Upon request of the Council, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its duties under this title.

"(4) Any Federal employee subject to the civil service laws, rules, and regulations may be detailed to the Council, and such detail shall be without interruption or loss of civil service status or privilege.

"(c) The Council, to assist it in performing its duties and functions, may make grants or enter into contracts with appropriate public or private entities. The authority of the Council to make such grants or enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(d)(1) The Council may secure directly from any Federal agency information necessary to enable it to carry out its duties. Upon request of the Chairman of the Council, the head of such agency shall furnish such information to the Council.

"(2) The Council shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties.

"(3) The Council shall not disclose any information reported to or otherwise obtained by the Council which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) The Council is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

"(f) The Council may at any time publish and disseminate to the public reports respecting its activities.

"(g) For purposes of this section and section 492, the term 'agency' means an executive agency (within the meaning of section 105 of title 5, United States Code) or unit thereof.

"FINANCING OF COUNCIL; TERMINATION OF COUNCIL

"SEC. 494. (a) To support the activities of the Council and to support the study required by section 102 of the Health Sciences Promotion Act of 1979, the Council may expend annually no more than one-tenth of the funds made available under section 513 for the evaluation of programs authorized by title IV.

"(b) The Council shall terminate on December 31, 1985.".

(b) Section 513 is amended by striking "Such" and substituting "Subject to section 494, such".

STUDY OF MAJOR ISSUES IN HEALTH SCIENCES RESEARCH FOR THE TIME PERIOD 1985 THROUGH 2000

SEC. 102. (a) The President's Council for the Health Sciences (hereinafter in this section referred to as the "Council") shall arrange, in accordance with subsection (b), for a study of the major issues in health sciences research for the time period 1985 through 2000. The study shall address, at a minimum, the following issues:

(1) the present status of health sciences research in the United States, with special attention being given to such research most in need of further development;

(2) the adequacy of present and planned health sciences research facilities to meet the needs of health sciences research for the time period 1985 through 2000;

(3) the adequacy and distribution of health sciences research personnel to meet the needs of health sciences research for the time period, 1985 through 2000;

(4) the need for the development of advanced research equipment and instrumentation to meet the needs of health sciences research for the time period 1985 through 2000;

(5) the means by which knowledge and techniques developed in basic research can effectively be translated into the prevention, early identification, and treatment of disease in order to avoid undue delay or premature application;

(6) the present patterns of public and private support for health sciences research, and the need for support from such sources during such time period;

(7) the appropriate role for the private sector and the Federal Government in the support and conduct of health sciences research; and

(8) the optimal organizational arrangements within the Department of Health, Education, and Welfare for the support and conduct of health sciences research.

(b)(1) The Council shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through the Institute of Medicine, to conduct the study required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study shall be paid by the Council. If the Academy agrees to such request, the Council shall enter into such an agreement with the Academy.

(2) If the Academy declines the Council's request to conduct such study under such an arrangement, the Council shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Any arrangement entered into under paragraph (1) or (2) of this subsection for the provision of a study shall require that such study be completed and reports thereon be submitted within such period as the Council may require in order to meet the requirements of subsection (c).

(c) By December 1, 1985, the Council shall simultaneously transmit to the President, the Congress, and the Secretary of Health and Human Services, (1) the results of the study (including supporting data and other materials provided by the entity which conducted the study) conducted pursuant to subsection (a), and (2) the comments of the Council concerning such study and its recommendations for action based on such study.

ADVISORY COUNCILS

SEC. 103. (a) Section 217(a) is amended to read as follows:

"SEC. 217. (a) The National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism shall each consist of the Surgeon General, who shall be chairman, the chief medical director of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, as ex officio members, and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health and Human Services. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism, are outstanding in the study, diagnosis, or treatment of psychiatric disorders and alcohol abuse and alcoholism, respectively. Each appointed member of each such council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.".

(b) Strike out subsection (b) of section 217.

(c) Subsections (c), (d), (e), and (g) are redesignated as (b), (c), (d), and (e), respectively.

(d)(1) Section 301(a)(3) is amended by—

(A) striking out "as are recommended by the National Advisory Health Council,";

(B) striking out ", upon recommendation of the National Advisory Health Council,"; and

(C) striking out "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council".

(2) Section 301(a)(8) is amended by—

(A) striking out ", upon recommendations of the National Advisory Health Council, or"; and

(B) striking out "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council".

TITLE II—NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTES OF HEALTH

Sec. 201. (a) The heading of title IV is amended to read as follows:

"TITLE IV—NATIONAL INSTITUTES OF HEALTH".

(b) The heading of part A of title IV is amended to read as follows:

"PART A—ESTABLISHMENT OF NATIONAL INSTITUTES OF HEALTH".

(c) Section 400 is amended to read as follows:

"Sec. 400. (a) There is established in the Public Health Service the National Institutes of Health (hereinafter referred to in this title as the 'Institutes').

"(b) In carrying out the purposes of sections 301 and 307 of this Act, the Secretary, acting through the Institutes, shall endeavor to improve the health of the people of the United States through the support of research, development and research training in the health sciences concerning—

"(1) the processes underlying human health, disability, disorder, and disease;

"(2) the normal and pathological functioning of the body and its organ systems including the aging process;

"(3) the interaction between the human organism and the environment;

"(4) the response of the human organism to environmental stress;

"(5) improved methods of detecting, diagnosing, and treating disease; and

"(6) improved methods for the prevention of disease and the maintenance of good health, to which the highest priority shall be given.

"(c) In order to meet the objectives of subsection (b), the Secretary, acting through the Institutes, shall—

"(1) encourage, conduct, and support efforts to expand the base of scientific knowledge through research in the health sciences;

"(2) encourage, conduct, and support the development and maintenance of research resources;

"(3) encourage, conduct, and support training programs for research personnel;

"(4) identify research advances that have significant potential for clinical and technological application;

"(5) encourage, conduct, and support research and demonstrations concerning new and existing health care technologies, in a manner consistent with the policies and procedures of the National Center for Health Care Technology;

"(6) facilitate the transfer of new health care technologies into practice in a manner consistent with the policies and procedures of the National Center for Health Care Technology, and in collaboration with other Government agencies, educational institutions, and professional and voluntary organizations;

"(7) foster the dissemination and exchange of scientific and technical information in medicine, health, and related fields;

"(8) participate with governmental agencies, educational institutions, private and voluntary organizations, other countries, and international organizations in cooperative endeavors in biomedical research, training, resource development, and communications;

"(9) develop and disseminate policy recommendations related to the support of health sciences research and development; and

"(10) cooperate with and assist other Federal agencies charged with protecting the public health in conducting research, demonstrations, and evaluations.".

(d) Title IV is amended by adding the following new sections after section 400:

"DIRECTOR

"Sec. 400A. (a) The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate.

"(b) The Director, in order to carry out the objectives of the National Institutes of Health under section 400, may take appropriate action including—

"(1) acquiring, constructing, improving, repairing, operating, and maintaining centers, laboratories, research facilities, other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings for the use of the Institute for a period not to exceed ten years;

"(2) chartering and appointing one or more advisory committees, including peer review study sections, composed of such private citizens and officials of Federal, State, and local governments as the Director deems desirable to advise him with respect to his functions;

"(3) utilizing, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(4) accepting voluntary and uncompensated services;

"(5) accepting unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(6) entering into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his function, with any public agency, or with any person, firm, association, corporation, or educational institutions; and

"(7) ensuring that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institutes and the other national and international scientific, medical, and biomedical organizations.

"(c)(1) The Director shall set aside for expenditure during the fiscal year ending September 30, 1981, one-half of 1 per centum, during the fiscal year ending September 30, 1982, 1 per centum, and during the fiscal year ending September 30, 1983, 2 per centum, of the total amount of all funds appropriated to the Institutes and other entities within the Institutes in such fiscal year, for—

"(A) research in areas of the health sciences identified by the President's Council for the Health Sciences as being underfunded, underdeveloped, or of high priority;

"(B) research that is distinguished by its innovative or unconventional character;

"(C) cooperative research conducted by two or more institutes or two or more Federal entities at least one of which is within the Department of Health, Education, and Welfare;

"(D) research involving more than one scientific discipline;

"(E) research to be conducted by individual investigators who have not, as individuals, previously received research funding from the Institutes; and

"(F) research in any other health sciences areas that the Director believes are of high priority, and deserving of support.

"(2) Funds set aside by the Director in any fiscal year under paragraph (1) may be carried forward to the next fiscal year, and may be returned, in whole or in part, to the Institute from which they were withdrawn.

"(3) Not later than December 31, 1981, and not later than December 31, 1982, the Director, Secretary, shall submit through the Secretary to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report identifying the research projects supported under this subsection and describing any progress under such projects.

"(d) The Director shall assure that, in any given fiscal year, not less than 45 per centum of all funds expended by the Institutes shall be used to support research by individual investigators who are not full-time employees of the Institutes and whose applications for such support were unsolicited.

"(e) All grants and contracts funded under this section shall be subject to peer review as provided in section 475.

"DEFINITIONS

"Sec. 400B. For purposes of this title, the term—

"(1) 'primary prevention' means the prevention of the development of a disease in healthy individuals, and

"(2) 'secondary prevention' means the early detection, referral for diagnosis and treatment of disease in asymptomatic individuals.".

(e) Section 479(a) is amended by striking "two hundred" and substituting "three hundred".

APPEALS PROCESS DEMONSTRATION PROJECT

Sec. 202. (a) Within six months of the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall establish an appeals process for applicants whose applications for grants under title IV have been denied. Such appeals process shall operate for at least three years.

(b) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the appeals process established under subsection (a) including a detailed description, and an evaluation, of the effectiveness of such process and a recommendation as to whether such process should be made permanent.

PEER REVIEW DEMONSTRATION PROJECT

Sec. 203. (a) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall establish, within six months of the date of enactment of this Act, a program for the purpose of demonstrating and evaluating alternative methods of conducting peer review of applications for research grants. Such program shall provide for, at a minimum, the inclusion of social scientists, biomedical scientists with broad general interests, and other scientists whose expertise is not in the biomedical sciences in selected peer review groups, and the inclusion of lay persons in at least five peer review groups. Such program shall operate for three years.

(b) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the program established under subsection (a), including a detailed description and an evaluation of the effectiveness of alternate methods of conducting peer review.

INNOVATIVE REVIEW PROCESSES PROJECT

SEC. 204. (a) The Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall provide for the development and preliminary testing of not less than three models each of the following two programs to be carried out in not less than two of the National Institutes of Health:

(1) Demonstrating and evaluating alternative methods of identifying innovative and unconventional research proposals with a potential for major scientific achievement and providing them assistance in developing acceptable proposals for appropriate funding.

(2) Seeking out and utilizing generalist scientists (those with broad general training and experience who are able to generalize across separate scientific disciplines and make connections in basic research applicable to current clinical problems) to identify research findings that have a potential for application across scientific disciplines and in areas posing major threats to human health and survival and to facilitate the transfer and cross-fertilization of such findings across scientific disciplines in order to develop major scientific achievements.

(b) Not later than twenty-four months after the date of the enactment of this Act, the Assistant Secretary for Health shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report on the programs developed and tested under subsection (a), including a detailed description and an evaluation of the feasibility and desirability of implementing such programs in one or more of the following places: within the National Institutes of Health, within the Office of the Assistant Secretary, elsewhere in the Department of Health and Human Sciences, and outside the Department.

REDESIGNATION

SEC. 205. (a) Title IV is amended by redesignating parts B, C, D, E, F, G, and H as parts C, D, E, F, G, H, and I, respectively.

(b) Title IV is amended—

(1) by redesignating part I as part N; and

(2) by striking section 471.

NATIONAL CANCER INSTITUTE

SEC. 206. (a) Title IV is amended by adding the following heading before "SEC. 401.":

"PART B—NATIONAL CANCER INSTITUTE".

(b) Section 401 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c);

(2) by adding the following after "SEC. 401.":

"(a) There is established in the National Institutes of Health the National Cancer Institute (hereinafter in this part referred to as the 'Institute').";

(3) by striking "(b)" in subsection (b)(6) (as redesignated by paragraph (1)) and substituting "(c)";

(4) by striking "(a)" in subsection (c) (as redesignated by paragraph (1)) and substituting "(b)"; and

(5) by inserting the following new subsection at the end thereof:

"(d) The Director of the National Cancer Institute shall be appointed by the President.".

(c) The heading to section 403 is amended to read as follows:

"CANCER PREVENTION, EDUCATION, AND CONTROL PROGRAMS".

(d) Section 403 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) the education of health professionals in, the demonstration of, and the evaluation of—

"(A) effective methods for the primary prevention of cancer;

"(B) effective methods for the secondary prevention of cancer, including the early detection of cancer and the identification of individuals with a high risk of developing cancer; and

"(C) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and"; and

(2) by striking "the early detection and treatment of cancer" in paragraph (3) and substituting "the prevention, especially the primary and secondary prevention, and the treatment of cancer".

(e) Section 404(a) is amended by striking paragraph (9) and substituting the following:

"(9) as soon as practicable after the end of each fiscal year, prepare a report in consultation with the National Cancer Advisory Board, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Board, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of cancer,

"(ii) secondary prevention of cancer, and

"(iii) treatment and cure of cancer.

The Director of the Institute shall also provide to the President's Council on the Health Sciences a plan of the proposed activities of the Institute for the next five years.".

(f) Section 406(b) is amended by striking out the last sentence thereof.

(g) Section 407(a) is amended—

(1) by striking "President" in paragraph (1)(B) and substituting "Secretary";

(2) by amending paragraph (2)(A) to read as follows:

"(2)(A) Appointed members shall be appointed for four-year terms.";

(3) by adding at the end of paragraph (2)(B) the following: "The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.";

(4) by striking "President" in paragraph (3) and substituting "Secretary";

(5) by striking paragraph (7) and renumbering paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(6) by inserting "and shall conduct a formal orientation program and training sessions for new members of the Board in order to provide such new members with the necessary information and training for effective participation on the Board" before the period at the end of paragraph (8) (as renumbered by paragraph (5)).

(h) Paragraph (1) of section 408(a) is amended by adding at the end thereof the following: "At least one of the members of the Panel shall be a member of the National Cancer Advisory Board.".

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 207. (a) Section 411 is amended—

(1) by striking "hereby"; and

(2) by striking "Public Health Service" and substituting "National Institutes of Health".

(b) Section 415(b) is amended by striking out the second to last sentence thereof.

(c) Paragraph (1) of section 412 is amended by striking "researches" and substituting "research".

(d) Section 413(b) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of disease,

"(ii) secondary prevention of disease, and

"(iii) treatment and cure of disease.

"(3) The Director of the Institute shall also provide to the President's Council on the Health Sciences a plan of the proposed activities of the Institute for the next five years.".

(e) Section 413(d) is amended by inserting before the period ", including appropriate emphasis on such lifestyle factors as they affect the present and future health of children".

(f) Section 417(a) is amended—

(1) by striking "two" after "diseases of the heart, blood vessels, lungs, and blood;" and substituting "one"; and

(2) by striking "five" after "lung or blood diseases; and" and substituting "six".

(g) Section 417(b) is amended—

(1) by adding at the end of paragraph (1) the following: "The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(h) Section 417(c) is amended to read as follows:

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.".

(i) Section 417(d) is amended—

(1) by striking "and" after "Secretary of the Council,"; and

(2) by inserting before the period the following: ", and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council".

(j) Section 418(b) is amended—

(1) by striking "(1)"; and

(2) by striking paragraph (2).

(k) The second sentence of section 419B is amended by striking out "under this section" and substituting "for the purpose of carrying out this part (other than section 414)".

NATIONAL INSTITUTE OF DENTAL RESEARCH

SEC. 208. (a) Section 421 is amended—

(1) by striking "hereby"; and

(2) by striking "Public Health Service" and substituting "National Institutes of Health".

(b)(1) Sections 422 and 424 are amended by striking "Surgeon General" each place it appears and substituting "Secretary".

(2) Section 423(a) is amended to read as follows: "In carrying out the provisions of section 422, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.".

(3) Section 423(b) is amended by striking out "Surgeon General" and substituting "Director of the Institute".

(c) Section 422 is amended—

(1) by striking "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council"; and

(2) by striking "researches" each place it appears and substituting "research".

(d) Section 423 is amended by adding at the end thereof the following new subsections:

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the National Dental Research Advisory Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into dental practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of dental disease,

"(ii) secondary prevention of dental disease, and

"(iii) treatment and cure of dental disease.

"(2) The Director of the Institute shall also provide to the President's Council on the Health Sciences a plan of the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research and training in dental diseases after appropriate review for scientific merit. If the direct costs of a grant for such research and training will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Dental Research Advisory Council.".

(e) Part D of title IV, as redesignated by this Act, is amended by adding after section 423 the following:

"NATIONAL DENTAL RESEARCH ADVISORY COUNCIL

"SEC. 423A. (a) There is established in the Institute a National Dental Research Advisory Council (hereinafter in this part referred to as the 'Council') to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to dental diseases, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular penses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.".

NATIONAL INSTITUTE ON ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

SEC. 209. (a) Part E of title IV, as redesignated by this Act, is amended by striking sections 431, 432, and 433.

(b) The title to Part E of title IV, as redesignated by this Act, is amended to read as follows:

"PART E—NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES".

(c) Section 434 is amended to read as follows:

"NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

"SEC. 434. There is established in the National Institutes of Health a National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (hereinafter in this part referred to as the 'Institute').".

(d) Part E of title IV, as redesignated by this Act, is amended by inserting the following after section 434:

"ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES RESEARCH AND TRAINING

"SEC. 434A. In carrying out the purposes of section 301 with respect to arthritis, musculoskeletal and skin diseases; diabetes, endocrinology and metabolism, kidney, urologic. and hematologic diseases, and digestive diseases, the Secretary, acting through the Institute and its associate directors for Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrinology and Metabolism; Kidney, Urologic, and Hematologic Diseases; and Digestive Diseases, and in cooperation with the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other institutes, agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, unrologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases.

"ADMINISTRATION

"SEC. 434(B). (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention or methods of diagnosis or treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, or for the acquisition of grounds or equipment, or for the construction, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council and the Associate Directors, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute which supported research concerning—

"(i) primary prevention of disease,

"(ii) secondary prevention of disease, and

"(iii) treatment and cure of disease.

"(2) The Director of the Institute, after consultation with the Associate Directors, shall provide to the President's Council on the Health Sciences a plan of the activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research and training in arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases after appropriate review for scientific merit. If the direct costs of a grant for such research and training will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) (1) There are established within the Institute the positions of Associate Director for Arthritis, Musculoskeletal, and Skin Diseases; Associate Director for Digestive Diseases and Nutrition; Associate Director for Kidney, Hematology; and Associate Director for Diabetes, Endocrinology, and Metabolic Diseases. The Associate Directors shall report directly to the Director of such Institute, and shall be under the supervision of the Director of such Institute. The Associate Directors shall be responsible for programs regarding their respective diseases; and shall report (and make recommendations) on a regular basis, through the Director of such Institute, to the Director of the Institutes concerning the duties described in paragraph (2).

"(2) The duties of the Associate Directors shall include—

"(A) developing a coordinated plan for the Institutes with respect to research and training concerning their respective diseases;

"(B) assessing the adequacy of management approaches for the activities within the Institutes concerning their respective diseases and developing improved approaches if needed;

"(C) monitoring and reviewing expenditures by the Institutes concerning their respective diseases;

"(D) performing the information and data collection and dissemination functions under section 301 concerning their respective diseases;

"(E) identifying research opportunities concerning their respective diseases and recommending ways to utilize such opportunities; and

"(F) preparing a recommended annual coordinated budget for all activities undertaken and supported by the Institutes concerning their respective diseases.

"(3) The Director of the Institute, upon receiving any reports or recommendations submitted to the Director of the Institute by an Associate Director the scope of which relates to the Institutes, shall submit such reports or recommendations to the Director of the Institutes without alteration. The Director of the Institute may attach any comments he may have relating to such reports or recommendations to such reports or recommendations.

"(4) In performing the information and data collection and dissemination functions under paragraph (2) (D), the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases shall act through the National Diabetes Data Group and the National Diabetes Information Clearinghouse.

"(f) The Director of the Institute, acting through the Associate Directors for Arthritis, Musculoskeletal and Skin Diseases, Kidney Diseases, Urology and Hematology, Digestive Diseases and Nutrition and Diabetes, Endocrinology and Metabolic Diseases, shall carry out programs of support for training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis, digestive diseases, diabetes mellitus, and endocrine metabolic, kidney, urologic, and hematologic diseases, including support for training in medical schools, graduate clinical training, graduate epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs.

"NATIONAL ARTHRITIS, DIABETES, AND DIGESTIVE DISEASES ADVISORY COUNCIL

"SEC. 434C.(a) There is established in the Institute a National Arthritis, Diabetes and Digestive and Kidney Diseases Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to arthritis, musculoskeletal and skin diseases, diabetes, metabolism, endocrinology, kidney, urologic and hematologic diseases, and digestive diseases, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 434D. (a) The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of the causes, prevention, and methods of diagnosis and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study:

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the causes, prevention, or methods of diagnosis and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes, mellitus, and endocrine and metabolic diseases, by correspondence or by personal investigation of such studies, and with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part after consideration of the recommendations of the appropriate subcommittees; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeship relating to the diagnosis, prevention, and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"(b) There are established within the Council a subcommittee on diabetes and endocrine and metabolic diseases, a subcommittee on arthritis and musculoskeletal and skin diseases, a subcommittee on digestive diseases, and a subcommittee on kidney, urologic, and hematologic diseases. The subcommitees shall be composed of members of the Council who are outstanding in the diagnosis, prevention, and treatment of diabetes, arthritis, digestive diseases, and kidney, urologic, and hematologic diseases, respectively, and individuals selected from the Council's public membership. The subcommittees are authorized to review applications made to the Director for grants for research and training projects relating to the diagnosis, prevention, and treatment of diabetes, endocrine and metabolic diseases, arthritis, musculoskeletal and skin diseases, digestive diseases, and kidney, urologic, and hematologic diseases and shall recommend to the Council those applications and contracts that the subcommittees determine will best carry out the purposes of this part. The subcommittees shall also review and evaluate the diabetes and endocrine and metabolic diseases, arthritis, musculoskeletal and skin diseases, digestive diseases, and kidney, urologic, and hematologic diseases programs under this part and recommend to the Council such changes in the administration of such programs as the subcommittees determine are necessary.".

(e)(1) Section 435 is amended by—

(A) redesignating subsection (b) as subsection (c);

(B) inserting the following new subsection (b) after subsection (a):

"(b) In connection with training programs conducted in accordance with subsection (a), the Secretary shall provide from the amounts appropriated under subsection (d), not more than ten training stipends through each center in any fiscal year.";

(C) redesignating subsection (c) as subsection (d);

(D) striking the word "and" after "1979," in subsection (d) as redesignated by this subsection, and inserting before the period in subsection (d) ", $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.".

(2) Section 436A(a)(1) is amended to read as follows:

"(1) The following nonvoting ex officio members: the Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Metabolism, Diabetes, and Digestive and Kidney Diseases, the Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, the Director of the Center for Disease Control, the Administrator of the Health Resources Administration, the Administrator of the Health Services Administration, and the chief medical director of the Veterans' Administration, or their designees, a medical officer designated by the Department of Defense, and the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases.".

"(e) The appointed members of the Board shall be appointed for terms of three years each, except that, of the appointed members serving on the date of enactment of the Health Sciences Promotion Act of 1979, six shall be reappointed for terms of two years each.".

(4) Section 436A(f) is amended by—

(A) striking the word "and" at the end of paragraph (1) and substituting ", as amended pursuant to paragraph (2),"; and

(B) redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph (2):

"(2) periodically amend the Diabetes Plan to ensure its continuing relevance, and".

(5) Section 436A(k) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(6) Section 436A(l) is amended by striking "1980" and substituting "1983".

(7) The third sentence of section 437(a) is amended by inserting "and the National Arthritis Advisory Board" after "Secretary".

(8) The first sentence of section 438(a) is amended by inserting "and the appropriate official responsible for administration of titles 18 and 19 of the Social Security Administration" after "Health".

(9) Paragraph (2) of section 438(d) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(10) Paragraph (3) of section 438(d) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(11) Section 439(f) is amended to read as follows:

"(f) In connection with training programs conducted in accordance with this section, the Secretary shall provide, from the amounts appropriated under subsection (g), not more than ten training stipends offered through each Center in any fiscal year.".

(12) Section 439(g) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "$14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

"(e) The appointed members of the Board shall be appointed for terms of three years each, except that, of the appointed members serving on the date of enactment of the Health Sciences Promotion Act of 1979, six shall be reappointed for terms of one year each, and six shall be reappointed for terms of two years each.".

(14) Section 440(j) is amended by striking "One year after the date of its establishment and each year thereafter" and inserting in lieu thereof "On January 15 of each year".

(15) Section 440(k) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(16) Section 440(l) is amended by striking "1980" and substituting "1983".

(17) Title IV is amended by adding the following new section after section 440A:

"NATIONAL DIGESTIVE DISEASES ADVISORY BOARD

"SEC. 440B. (a) The Secretary shall establish a National Digestive Diseases Advisory Board (hereinafter referred to as the 'Board') no later than the ninetieth day after the date of the enactment of this section. The Board shall be composed of twenty-one members as follows:

"(1) Six members shall be appointed by the Secretary from among individuals who, in accordance with this subparagraph, are scientists, physicians, and other health professionals, who are not employed by the Federal Government, and who represent the specialties and disciplines relevant to digestive diseases. Of the members appointed under this subparagraph, two shall be individuals engaged primarily in basic biomedical research relevant to the gastrointestinal tract, two shall be individuals engaged primarily in the treatment and study of diseases of the gastrointestinal tract, one shall be an individual engaged in the treatment and study of diseases of the liver and biliary tract, and one shall be an individual engaged primarily in the practice and study of pediatric gastroenterology.

"(2) One member shall be appointed by the Secretary from among individuals who are nurses, public health personnel, or members of the allied health professions who are not employed by the Federal Government and who have training or experience in the treatment of digestive diseases.

"(3) Six members shall be appointed by the Secretary from among the general public. At least two of such members shall be individuals who have experienced significant personal or family involvement with digestive diseases.

"(4) The following shall be nonvoting ex officio members: The Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive Diseases, the Director of the National Cancer Institute, the Director of the National Institute of Allergy and Infectious Diseases, the Director of the National Institute on Alcohol Abuse and Alcoholism, and the chief medical director of the Veterans' Administration or their designees, and a medical officer designated by the Department of Defense.

"(b) The members of the Board shall select a chairperson from among the appointed members.

"(c) The Secretary shall, after consultation with the Board, provide the Board with appropriate staff and administrative support services as the Secretary determines are necessary for the Board to carry out its functions.

"(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(e) The appointed members of the Board shall be appointed to serve until the termination of the Board (as provided in subsection (l)).

"(f) The Board may, from time to time, establish subcommittees.

"(g) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

"(h) One year after the date of its establishment and each year thereafter, the Board shall submit to the Secretary and to the Congress a report that—

"(1) describes the Board's activities during the year for which the report is made;

"(2) describes and evaluates the progress made in such year in digestive diseases research, treatment, education, and training; and

"(3) summarizes and analyzes expenditures made by the Federal Government for digestive diseases-related activities during the year for which the report is made.

The annual digestive diseases report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

"(i) There are authorized to be appropriated to carry out the purposes of this section $100,000 for the fiscal year ending September 30, 1981, $100,000 for the fiscal year ending September 30, 1982, and $100,000 for the fiscal year ending September 30, 1983.

"(j) The Board shall terminate on September 30, 1983.".

NATIONAL INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND GENERAL MEDICAL SCIENCES

SEC. 210. (a) Part F (as redesignated by this Act) is amended to read as follows:

"PART F—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT AND NATIONAL INSTITUTE FOR THE GENERAL MEDICAL SCIENCES

"Subpart I—National Institute of Child Health and Human Development

"ESTABLISHMENT OF NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

"SEC. 441. There is established in the National Institutes of Health the National Institute of Child Health and Human Development (hereinafter in this subpart referred to as the 'Institute').

"RESEARCH ON CHILD HEALTH AND HUMAN DEVELOPMENT

"SEC. 441A. (a) In carrying out the purposes of section 301, with respect to child health and human development, the Secretary, acting through the Institute and in cooperation with the Child Health and Human Development Advisory Council (hereinafter in this subpart referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to maternal health, population research, reproductive health, child health, sudden infant death syndrome, and human development, including the special health problems and requirements of mothers and children, and conduct, assist, and foster research investigations, experiments, and studies in the basic sciences relating to the process of human reproduction, growth and development, including prenatal development;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in child health and human development.

"(b) Pursuant to section 4(6) of the Family Planning Services and Population Research Act of 1970, activities conducted under this section relating to research described in section 1004(a) of this Act shall be carried out in coordination with the Deputy Assistant Secretary provided for in such Act.

"ADMINISTRATION

"SEC. 441B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into child health and human development, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases and conditions affecting maternal, reproductive and child health,

"(ii) secondary prevention of diseases and conditions affecting maternal, reproductive and child health, and

"(iii) treatment and cure of diseases and conditions affecting maternal, reproductive and child health.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences of the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research reproductive and in child health and human development and population after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL CHILD HEALTH AND HUMAN DEVELOPMENT ADVISORY COUNCIL

"SEC. 441C. (a) There is established in the Institute a National Child Health and Human Development Advisory Council to be composed of twenty-four members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Deputy Assistant Secretary for Population Affairs, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to maternal health, population research, reproductive health, child health, and human development, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 441D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by it relating to the studies of maternal health, population research, reproductive health, child health, and human development, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to maternal health, population research, reproductive health, child health, and human development, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to maternal health, population research, reproductive health, child health, and human development, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to maternal health, population research, reproductive health, child health, and human development; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"Subpart II—National Institute of General Medical Sciences

"NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

"SEC. 443. There is established in the National Institutes of Health a National Institute of General Medical Sciences (hereinafter in this subpart referred to as the 'Institute').

"RESEARCH IN THE GENERAL MEDICAL SCIENCES

"SEC. 443A. In carrying out the purposes of section 301 with respect to general medical sciences the Secretary, acting through the Institute, and in cooperation with the National General Medical Sciences Advisory Council (hereinafter in this subpart referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the general or basic medical sciences and related natural or behavioral sciences, which have significance for two or more other institutes within the National Institutes of Health, or are outside the general area of responsibility of any other institute within the Institutes;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the general medical sciences.

"ADMINISTRATION

"Sec. 443B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the general medical sciences, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of disease,

"(ii) secondary prevention of disease, and

"(iii) treatment and cure of disease.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in general medical sciences after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL GENERAL MEDICAL SCIENCES ADVISORY COUNCIL

"Sec. 443C. (a) There is established in the Institute a National General Medical Sciences Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the general medical sciences, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime, and all members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"Sec. 443D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council relating to the studies of the general medical sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the general medical sciences, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to the general medical sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to the general medical sciences;

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the general medical sciences; and

"(B) certify its approval of such applications for grants-in-aid to the Secretary.

"PRESERVATION OF EXISTING AUTHORITY

"Sec. 444. Nothing in this part shall be construed as affecting the authority of the Secretary under section 2 of the Act of April 9, 1912 (42 U.S.C. 192), or title V of the Social Security Act (42 U.S.C., ch. 7, subch. 1), or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this Act for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.".

NATIONAL EYE INSTITUTE

Sec. 211. Part G of title IV, as redesignated by this Act, is amended to read as follows:

"Part G—National Eye Institute

"ESTABLISHMENT OF NATIONAL EYE INSTITUTE

"Sec. 445. There is established in the National Institutes of Health the National Eye Institute (hereinafter in this part referred to as the 'Institute').

"EYE RESEARCH

"Sec. 445A. In carrying out the purposes of section 301, with respect to blinding eye diseases and visual disorders, the Secretary, acting through the Institute and in cooperation with the National Eye Advisory Council (hereinafter in this part referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to blinding eye diseases and visual disorders, including the special health problems and requirements of the blind, and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in blinding eye diseases and visual disorders.

"ADMINISTRATION

"Sec. 445B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into blinding eye diseases and visual disorders, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of eye disease,

"(ii) secondary prevention of eye disease, and

"(iii) treatment and cure of eye disease.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in blinding eye diseases and visual disorders after appropriate review for scientific merit. If the direct costs of a grant for research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) The Secretary, through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public and nonprofit private vision research facilities.

"NATIONAL EYE ADVISORY COUNCIL

"SEC. 445C. (a) There is established in the Institute a National Eye Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to blinding eye diseases and visual disorders, including the special health problems and requirements of the blind, and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 445D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of blinding eye diseases and visual disorders, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the blinding eye diseases and visual disorders, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to blinding eye diseases and visual disorders, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of blinding eye diseases and visual disorders; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.".

NATIONAL INSTITUTE ON AGING

SEC. 212. Part I of title IV, as redesignated by this Act, is amended to read as follows:

"PART I—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 447. There is established in the National Institutes of Health the National Institute on Aging (hereinafter in this part referred to as the 'Institute').

"RESEARCH ON AGING

"SEC. 447A. In carrying out the purposes of section 301, with respect to aging, the Secretary, acting through the Institute and in cooperation with the National Aging Advisory Council (hereinafter in this part referred to as the 'Council')—

"(1) shall conduct, assist, and foster research, investigations, experiments, studies, and training relating to the biomedical, social, and behavioral elements of the aging process and the other special problems, needs, and diseases of the aged;

"(2) shall promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) shall secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in aging and research on aging;

"(4) shall conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare;

"(5) shall carry out public information and education programs designed to disseminate the findings of Institute-sponsored and other relevant aging research, and studies and other information about the process of aging that may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older;

"(6) in carrying out health personnel training responsibilities, shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged;

"(7) may provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged; and

"(8) may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as deemed necessary, and provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions.

"ADMINISTRATION

"SEC. 447B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into aging, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to Congress. Such report shall account and evaluate the activities, accomplishments, and progress of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases and other health problems associated with aging,

"(ii) secondary prevention of diseases and other health problems associated with aging, and

"(iii) treatment and cure of diseases and other health problems associated with aging.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research on aging, after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL AGING ADVISORY COUNCIL

"SEC. 447C. (a) There is established in the Institute a National Aging Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to the aging process and the diseases and other special problems and the needs of the aged, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often that four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 447D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of aging, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to aging, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to aging, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to aging; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.".

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, NATIONAL INSTITUTE OF NEUROLOGICAL, AND COMMUNICATIVE DISORDERS, AND STROKE, DIVISION OF RESEARCH RESOURCES

SEC. 213. Title IV is amended by adding the following new parts immediately after part I (as redesignated by this Act).

"PART J—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

"ESTABLISHMENT OF INSTITUTE

"SEC. 449. There is established in the National Institutes of Health a National Institute of Allergy and Infectious Diseases (hereinafter referred to in this part as the 'Institute').

"ALLERGY AND INFECTIOUS DISEASES RESEARCH

"SEC. 449A. In carrying out the purposes of section 301 with respect to allergy and infectious diseases, the Secretary, acting through the Institute, and in cooperation with the National Allergy and Infectious Diseases Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to allergy and infectious diseases;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in allergy and infectious diseases.

"ADMINISTRATION

"SEC. 449B. (a) In carrying out the provisions of this part, appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into allergy and infectious diseases, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of allergy and infectious diseases,

"(ii) secondary prevention of allergy and infectious diseases, and

"(iii) treatment and cure of allergy and infectious diseases.

"(2) The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in dental diseases after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL ALLERGY AND INFECTIOUS DISEASES ADVISORY COUNCIL

"SEC. 449C. (a) There is established in the Institute a National Allergy and Infectious Diseases Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to allergy and infectious diseases, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 449D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council relating to the studies of allergy and infectious diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to allergy and infectious diseases, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to allergy and infectious diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of allergy and infectious diseases;

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, for carrying out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of allergies and infectious diseases; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PART K—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

"ESTABLISHMENT OF INSTITUTE

"SEC. 451. There is established in the National Institutes of Health a National Institute of Environmental Health Sciences (hereinafter referred to in this part as the 'Institute').

"ENVIRONMENTAL HEALTH SCIENCES RESEARCH

"SEC. 451A. In carrying out the purposes of section 301, with respect to environmental health sciences, the Secretary, acting through the Institute and in cooperation with the National Environmental Health Sciences Advisory Council (hereinafter in this part referred to as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the environmental health sciences;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the environmental health sciences.

"ADMINISTRATION

"SEC. 451B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the environmental health sciences, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases linked to environmental factors,

"(ii) secondary prevention of diseases linked to environmental factors, and

"(iii) treatment and cure of diseases linked to environmental factors.

"(2) The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in environmental health sciences after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL ENVIRONMENTAL HEALTH SCIENCES ADVISORY COUNCIL

"SEC. 451C. (a) There is established in the Institute a National Environmental Health Sciences Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the environmental health sciences, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 451D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of environmental health sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge wtih respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country wtih regard to the environmental health sciences, by correspondence or by personal investigation of such studies, and with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to the environmental health sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the environmental health sciences; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PART L—NATIONAL INSTITUTE OF NEUROLOGICAL, COMMUNICATIVE DISORDERS AND STROKE

"SEC. 453. There is established in the National Institutes of Health, the National Institute of Neurological and Communicative Disorders and Stroke (hereinafter in this part referred to as the 'Institute').

"ESTABLISHMENT OF NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

"RESEARCH ON NEUROLOGICAL AND COMMUNICATIVE DISORDERS, AND STROKE

"SEC. 453A. In carrying out the purposes of section 301, with respect to neurological and communicative disorders and stroke, the Secretary, acting through the Institute and in cooperation with the Neurological and Communicative Disorders, and Stroke Advisory Council (hereinafter in this part referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to neurological and communicative disorders and stroke, including the special health problems and requirements of victims of neurological, communicative disorders and stroke, and relating to the basic and clinical sciences regarding neurological and communicative disorders and stroke;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in neurological and communicative disorders and stroke.

"ADMINISTRATION

"SEC. 453B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into neurological and communicative disorders and stroke, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities of the Institute supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of neurological and communicative disorders and stroke,

"(ii) secondary prevention of neurological and communicative disorders and stroke, and

"(iii) treatment and cure of neurological and communicative disorders and stroke.

The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research on neurological and communicative disorders and stroke after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) There is established within the Institute the position of Associate Director for Hearing. Such Associate Director shall report directly to the Director and shall be responsible for programs regarding hearing disorders within the Institute and for the coordination of activities supported or conducted by the Institute concerning hearing disorders with the activities of other Federal agencies and appropriate public and private entities. Acting through the Associate Director for Hearing, the Director shall carry out programs of research and training in the diagnosis, prevention and treatment of hearing disorders.

"NATIONAL NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE ADVISORY COUNCIL

"SEC. 453C. (a) There is established in the Institute a National Neurological and Communicative Disorders and Stroke Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary. Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to neurological and communicative disorders and stroke, including the special health problems and requirements of victims of neurological, communicative disorders and stroke, and the basic and clinical sciences relating to the neurological, communicative disorders and stroke, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 453D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of neurological and communicative disorders and stroke and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to neurological and communicative disorders and stroke, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publication for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to neurological and communicative disorders and stroke, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of neurological and communicative disorders and stroke; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PART M—DIVISION OF RESEARCH RESOURCES

"ESTABLISHMENT OF DIVISION

"SEC. 455. There is established in the National Institutes of Health a Division of Research Resources (hereinafter referred to in this part as the 'Division').

"DEVELOPMENT AND SUPPORT OF RESEARCH RESOURCES AND RELATED ACTIVITIES AND TRAINING

"SEC. 455A. In carrying out the purposes of section 301 with respect to research resources, the Secretary, acting through the Division, and in cooperation with the Research Resources Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) encourage, conduct and support the development and maintenance of research resources in the biomedical, clinical and behavioral sciences;

"(2) make grants-in-aid to public or private nonprofit institutions for the general support of health sciences research;

"(3) make grants-in-aid to public or private nonprofit entities to increase the number of women and ethnic minority faculty, students, and investigators engaged in biomedical research;

"(4) promote the coordination of activities conducted by the Division, and similar activities conducted by other agencies, organizations, and individuals; and

"(5) secure for the Division consultation services and advice of persons from the United States or abroad who are experts in areas relevant to the activities of the Division.

"ADMINISTRATION

"SEC. 445B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Division shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for development, support, study or investigation of, or research into, research resources, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Division. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Division of suitable memorials to the donors.

"(c) The Director of the Division shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year. The Director of the Institute shall also provide a plan to the President's Council oh the Health Sciences for the proposed activities of the Division for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Division may approve grants under this Act for the development and support of research resources and for related research and training after appropriate peer review. If the direct costs of a grant will exceed $35,000, the Director may approve such grant only after appropriate review and recommendation for approval by the Council.

"NATIONAL RESEARCH RESOURCES ADVISORY COUNCIL

"SEC. 455C. (a) There is established in the Division a National Research Resources Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to research resources, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Division shall—

"(1) designate a member of the staff of the Division to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 455D. The Council is authorized to—

"(1) review projects and programs submitted to, or initiated by, such Council relating to the activities of the Division, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the activities of the Division, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), health care professionals, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for activities relating to the purposes of the Division, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions with respect to the purposes of the Division; and

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, to carry out the purposes of this part.".

TITLE III—PAPERWORK

REDUCTION OF PAPERWORK

SEC. 301. (a) In order to increase the productivity of research undertaken and supported by the Department of Health and Human Services while at the same time maintaining adequate accountability for the funds expended for such research, the Director of the Institutes shall conduct experimental programs to reduce paperwork associated with the application for, and administration of, research grants. Such experimental programs may include—

(1) the elimination or modification of effort reporting by investigators for selected grants and the utilization of alternative indicators of work performance;

(2) the delegation, to nonprofit and public entities engaged in health sciences research of authority to approve—

(A) the carrying over of not more than 15 per centum of the grant award for a given year to the next year of the grant;

(B) the transfer of not more than 10 per centum of grant funds from one grant to another grant, but only if—

(i) the principal investigators on both grants are the same;

(ii) the purposes of the grants are closely related; and

(iii) the transfer does not alter the purpose of any individual grant or impair successful completion of research work undertaken through any grant;

(3) the grouping of an institution's individual biomedical research grants into a single entity for purposes of administration;

(4) the development of alternative methods to document compliance with any requirements for cost sharing, cost transfers, equipment purchases and other expenditures;

(5) the elimination of any obligation of recipients of grant funds to account for nonexpended equipment when the original cost of the equipment was less than $1,500; and

(6) the elimination of some or all reporting requirements, other than a final report, for individual investigators for grants the applications for which were unsolicited.

(b) The aggregate amount of all the awards for grants under subsection (a) shall in any year be no more than one-half of 1 per centum of all research grant funds expended by the Institutes. In order to assure adequate accountability for the funds expended to support such grants, the Director shall provide, on an experimental basis, alternative methods for assuring accountability, including—

(1) periodic review to determine the extent to which research projects have achieved their intended purpose; and

(2) audit of individual grants, on a random basis, to assure that grant funds were expended appropriately.

(c) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the programs established under this section including a detailed description, and on evaluation, of the effectiveness of such programs.

Amend the title so as to read: "A bill entitled the 'Health Sciences Promotion Act of 1980'.".

Mr. METZENBAUM. Mr. President, I urge the Senate to adopt a measure today that is designed to insure that the people of this country get a maximum return on the Federal dollars we invest each year in biomedical research.

We are proud—and justifiably so—of the outstanding contributions that American science has made to improving the health of all mankind. The bill before us today, which is entitled "The Health Sciences Promotion Act of 1980," will enhance those contributions in the future by bringing coherence to the confusing and fragmented process through which we now establish our research priorities.

The National Institutes of Health, for example, currently derive their authorities from a variety of public laws. As a result, Congress does not consider NIH as a cohesive whole in either the authorization or appropriations process. Similarly, the research agenda and budget recommendations for the NIH come from a variety of governmental and private sources—no body exists whose charge is to consider the program as a whole and to establish a sound set of priorities.

The bill before us today clarifies congressional jurisdiction by making conforming statutory changes in the authorities of the various NIH Institutes and their advisory committees. It also requires the NIH to make other reforms—broadening the peer review process by including nonscientists on some peer review committees, combating the "old boy network" in the area of grants by establishing an appeals process for dissatisfied grant applicants and cutting back the paperwork involved in grant applications and administration.

The bill also looks to the future of the health sciences by establishing a blue ribbon 16 member President's Council for the Health Sciences. That Council, which will be appointed by the President with the advice and consent of the Senate, will report to the Congress and the President in each of the next 5 fiscal years on how best to utilize the research budgets of the Department of Health and Human Services. The Council will also make recommendations regarding areas that require increased research attention and fiscal support. A major task of the Council will be to oversee and support a study into the major issues facing health sciences research in the time period 1985 to 2000. And above all, the Council will provide a source of expert, objective opinion regarding health sciences research to the Congress and the President.

Mr. President, for the past 2 years, this measure has been the subject of very close and careful attention by the Committee on Labor and Human Resources. The committee has held 6 days of hearings on this topic, both here in Washington and in the field. In the process, we have heard from a wide variety of scientists, administrators, public policy experts, and the members of the public regarding the needs and priorities for support of health sciences research.

It is very accurate to say that this legislation represents a bipartison consensus on how best to proceed in health science research. Senator Kennedy introduced the original legislation, but I want to take this opportunity to express my admiration and appreciation for the outstanding contributions made by the ranking minority member of the subcommittee, my good friend from Pennsylvania, in bringing this legislation to its final form.

I believe that this legislation represents a sound, thoughtful and responsible approach to the problems of health science research. It will insure the continuity of investigations into the causes of and treatment for our most fearsome and debilitating diseases, and it will provide us in the Congress with better and more timely advice on research opportunities and priorities within this enormously complex field.

Mr. President, the nation's health research efforts urgently need the streamlining that this legislation will provide. I urge its speedy adoption.

Mr. SCHWEIKER. Mr. President, I rise in support of S. 988, the Health Sciences Promotion Act.

For the last several years, the Health and Scientific Research Subcommittee has been conducting a comprehensive review of Federal support of biomedical and behavioral research, particularly at the National Institutes of Health. The bill before us today is an outgrowth of hearings and discussions with the scientific community and concerned citizens' groups in the health field. As the ranking Republican on the Health Subcommittee and its parent Committee on Labor and Human Resources, I have been active in this process, and I believe it has resulted in legislation worthy of the Senate's support.

S. 988 overhauls the existing NIH statute to develop a more consistent but flexible set of authorities for the various research institutes, and places renewed emphasis on prevention-oriented research, innovative research and long-range planning for research support.

The bill as reported by our committee also reflects the need to strengthen programs within the National Institute of Arthritis, Metabolism and Digestive Diseases (NIAMDD) incorporating the key concepts of the diabetes research and training amendments (S. 451) I introduced in February 1979. Because diabetes is a systemic disease, leaving virtually no part of the body unaffected, it cuts across the traditional boundaries of the NIH Research Institutes. The lead institute for diabetes research remains the NIAMDD, but nearly half of research expenditures are made through the other institutes.

Recognizing this fact, and responding to the needs identified by the National Commission on Diabetes in its long range plan to combat diabetes and its complications, the Congress has acted through authorizing and appropriations legislation to place greater emphasis on diabetes research and to improve coordination of diabetes programs—including NIH programs, the State diabetes control projects administered by the center for disease control, the Indian health service model diabetes care program, and private sector activities. The result of these efforts, which began in earnest when my national diabetes mellitus research and education act was enacted in 1974, has been the development of a model approach for dealing with a chronic disease that transcends traditional categorical boundaries.

S. 988 will extend and strengthen these important programs. The bill continues the diabetes research and training centers program for 3 years, providing additional authority for up to 10 training stipends through each center. It strengthens the statutory role of the associate director for diabetes within the NIAMDD as the primary Federal official with responsibility for diabetes research and training, and, through the National Diabetes Data Group and the Diabetes Information Clearinghouse, for education, data collection and information dissemination activities. The National Diabetes Advisory Board, which brings together Federal officials, concerned scientists and lay people to keep our diabetes programs on track, is reauthorized for 3 years and charged with updating the long-range diabetes plan. To highlight the importance of research in diabetes (now the largest single program at the NIAMDD) and kidney diseases, S. 988 changes the name of the Institute to the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases.

In addition, this section of S. 988 establishes a new digestive diseases advisory Board, as recommended by the Commission on Digestive Diseases, embodied in bills sponsored by Congressman CARTER and Senator COCHRAN, and already approved by the House of Representatives.

Mr. President, I have also been concerned about the need to provide a better focus for hearing research at NIH. S. 988 would accomplish this by pinpointing responsibility in the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) for carrying out research and coordinating programs concerning hearing disorders, which affect more than 15 million Americans.

Lastly, S. 988 contains a number of experimental provisions, designed to test out new approaches to research issues. Of particular interest to me are experiments to reduce the paperwork burdens now facing researchers. I hope these provisions will help improve the research environment significantly by enabling us to find new ways of eliminating unnecessary paperwork, while maintaining accountability for the use of Federal funds.

Mr. President, we in the United States can be justly proud of our accomplishments in health research. The creative partnership between the Federal Government, which supports most basic research through the National Institutes of Health, and talented investigators working outside Government in medical centers and universities, has led to significant advances. I believe that our health research programs represent a wise investment and should be strenghened in ways that insure continued excellence and encourage innovation. I urge my colleagues to join me in support of S. 988.

● Mr. KENNEDY. Mr. President, I am pleased to have the opportunity today to support the favorable consideration of Senate bill 988, "The Health Sciences Promotion Act of 1980." This bill was introduced, under the sponsorship of Mr. Schweiker, Mr. Williams, and myself after a series of regional hearings held by the Subcommittee on Health and Scientific Research, which I chair, over the past 2 years. Upon its introduction, the committee heard an additional 2 days of testimony from a variety of professionals and experts in the field of health sciences research. The bill as amended reflects considerable attention and effort on the part of the subcommittee and its members and is the first thorough legislative reexamination of the National Institutes of Health in over 10 years. During this period, the activities within the NIH have grown rapidly in both scope and complexity. Although the NIH and its programs appeared to the committee to be generally stable, effective, and well received, it was clear to us that the passage of time called for a thorough reexamination of the direction and scope of all health sciences research activities within the Department of Health and Human Services.

Mr. President, I believe it is fair to say that the major element in this bill is the creation of a President's Council for the Health Sciences. This Council will carry out functions similar to those advocated by the President's Biomedical Research Panel and the Institute of Medicine. It will provide us, Congress and administration alike, for the first time with a high-level, objective panel of experts to recommend the priority directions for health sciences research over a 5-year future. I am convinced that the existence of such a body is critical to the continuing ability of the Congress to be able to make reasonable and rational decisions regarding the allocation of scarce resources among a myriad of worthy competing priorities.

I am also convinced that the provisions of the bill having to do with certain experimental programs in the NIH peer review grants administration process are long overdue. Although the peer review process is generally well respected within the scientific community, it operates in a vacuum of understanding for most nonscientists. We have seen over the last 10 years that the congressional directive that nonscientists be added to various advisory committees of the NIH has been increasingly well accepted. The provisions of this bill would provide, in a modest and cautious way, for the opportunity to examine whether or not the addition of similar groups of nonscientists to the basic peer review process might similarly be a prudent and profitable step.

Perhaps no provision in the bill has elicited such generally positive response as that dealing with the initiation of projects to reduce paperwork. We are all aware of the increasing burdens placed upon individuals who must deal with the Federal Government, and nowhere has this been a greater and more rapidly growing problem than in the field of biomedical research. The provisions in this bill will, again in a modest and cautious manner, attempt to find ways that are mutually acceptable to investigators and Federal officials to reverse this spiraling dependence on paperwork as the only possible method of accountability.

Mr. President, let me say in closing that it has been my pleasure to work with the members of the subcommittee over the past 2 years on this bill. Their input and thoughtfulness about this complex set of issues has contributed immeasurably to the stepwise improvement of the first draft of the bill. I would particularly like to thank my friend and colleague Mr. Richard Schweiker, the ranking minority member on the committee, for the intensive attention that he has given to all sections of the proposal and for the major contributions that he has made in its final format.●

UP AMENDMENT NO. 1203

(Purpose: To conform S. 988 with Section 401 of the Budget Act)

Mr. METZENBAUM. Mr. President, I send to the desk an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Metzenbaum) proposes an unprinted amendment numbered 1203:

On page 212, insert the following after line 6:

Sec. 214. The authority to enter into contracts and to incur any indebtedness under this Act is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

Mr. METZENBAUM. Mr. President, the purpose of the amendment is to conform the provisions of the bill before us with section 401 of the Budget Act.

The amendment is being offered at the request of Senator Hollings, chairman of the Budget Committee.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I yield the floor to the Senator from Hawaii.

AMENDMENT NO. 1896

(Purpose: To establish the position of Associate Director for Reye's Syndrome Within the National Institute of Allergy and Infectious Diseases)

Mr. INOUYE. Mr. President, on behalf of Senator Melcher I wish to call up printed amendment No. 1896, to establish the position of Associate Director for Reye's Syndrome within the National Institute of Allergy and Infectious Diseases, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. Inouye), on behalf of Mr. Melcher, proposes an amendment numbered 1896.

The amendment is as follows:

On page 186, line 12 add the following new subsection (d) (1):

There is established within the National Institute of Allergy and Infectious Diseases an Associate Director for Reye's Syndrome who shall be under the supervision of the Director of such Institute. The Associate Director shall be responsible for programs regarding Reye's Syndrome and shall report (and make recommendations) on a regular basis through the Director of such Institute, to the Director of the Institutes concerning the following duties:

(2) The duties of the Associate Director shall include—

(A) developing a coordinated plan for the Institutes with respect to research and training concerning Reye's Syndrome;

(B) assessing the adequacy of management approaches for the activities within the Institutes concerning Reye's Syndrome and developing improved approaches if needed;

(C) monitoring and reviewing expenditures by the Institutes concerning Reve's Syndrome;

(D) promote basic and clinical research relating to the causes diagnosis and early detection of Reye's Syndrome;

(E) preparing a recommended annual coordinated budget for all activities undertaken and supported by the Institutes concerning Reye's Syndrome.

Mr. INOUYE. Mr. President, on behalf of Senator Melcher I called up his printed amendment No. 1896 to establish the position of Associate Director for Reye's Syndrome within the National Institute of Allergy and Infectious Diseases.

Earlier this year, Reye's syndrome was exposed nationally for exactly what it is, a serious threat to the lives of children recovering from viral illnesses like the flu or chicken pox. It can strike with terrific speed a week or so after the child appears to be recovering from a virus. Its symptoms can include persistent vomiting, listlessness, disorientation, convulsions, hallucinations or hyperactivity. Coma can follow because of lack of brain oxygen which can result in permanent damage to the brain of those who survive. The moratality rate for Reye's syndrome is high, ranging from 20 to 40 percent. Once the patient slips into a coma, the chances for recovery decline dramatically. The median age of the victims is 11 years.

Last September Senator Melcher introduced S. 1794, the Reye's Syndrome Act of 1979. I am among the 15 cosponsors of that measure which would set up two Reye's research centers, fund independent research at a level of $500,000 annually and set up a Reye's Syndrome Coordinating Committee at NIH. I would point out that the Senator from Ohio, Mr. METZENBAUM, is also a cosponsor of S. 1794. Since that bill was introduced, Senator MELCHER has campaigned hard to draw attention to the need for more work on Reye's. It is a measure of his success that the amendment I offer today is necessary. Let me explain.

A consensus development meeting is tentatively scheduled on Reye's syndrome for March 1981, something for which Senator MELCHER pushed very hard. That meeting will bring together the relevant Institutes at NIH plus the Center for Disease Control and the Food and Drug Administration to try to reach consensus on the diagnosis, prevalence and therapy for Reye's. These meeting is are far more than state-of-the-art gatherings. They get the message out to physicians and the public better than anything else NIH does. So far, there have been three planning meetings to prepare for the conference with a fourth planned for July. That conference will get the word out on what parents should look for when they suspect their children are ill. It will get the word out to physicians on what treatments work best when Reye's has been diagnosed. It is a major step toward coming to grips with the threat of Reye's.

On another level, the National Institutes of Health in May sent out a solicitation for research proposals specifically related to Reye's. That, too, is a major step since there are so many unanswered questions about Reye's Syndrome. For example, the seasonal patterns of Reye's occurrence are poorly understood. We do not really understand the connection between Reye's and influenza's various strains. We are unable to identify the high-risk population.

Those are questions raised in the report NIH provided the Senate Appropriations Committee this February. At Senator MELCHER's request, the committee asked for that report and in itself the report has triggered a great deal of activity on Reye's.

That brings us to the need for the amendment. The post this amendment creates is necessary to coordinate these new activities, efforts which are belated and long overdue. The amendment creates no new executive network. It simply establishes one additional personnel position at NIAID to coordinate Reye's activities. In that sense it is no different than the four Associate Directors' posts established in the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases under section 434 of the bill.

Reye's exacts a terrible price in young human life. This amendment, costing no more than the salary of the Associate Director, is a very small price to pay to help coordinate the fight against Reye's syndrome. I hope the committee will accept and the Senate will approve this amendment.

Mr. President, I have been advised that the members of the staff o: the committee and those of Senato: MELCHER have been meeting for the past several hours and they have reached agreement relating to this amendment.

Am I correct?

Mr. METZENBAUM. The Senator from Hawaii is correct. There has been agreement, and I am prepared at the appropriate time when the Senator from Hawaii yields the floor to offer an amendment as a substitute amendment which I think has been agreed to.

Mr. INOUYE. Mr. President, I am prepared to yield.

Mr. METZENBAUM. Mr. President, I wish to send to the desk an amendment.

Mr. HAYAKAWA. Mr. President, will the Senator from Ohio yield?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. HAYAKAWA. Mr. President, may I interrupt to ask the Senator from Hawaii a question about the Reye's syndrome.

Mr. METZENBAUM. I yield to the Senator from California for such purpose.

Mr. HAYAKAWA. I thank the Senator from Ohio.

I have not been fully informed about this, I say to Senator INOUYE. What is this Reye's syndrome that this amendment deals with?

Mr. INOUYE. It is a disease that is a serious threat to the lives of children recovering from viral illnesses like the flu or chicken pox. According to our studies it strikes with terrific speed a week or so after the child appears to be recovering from a virus. Its symptoms can include persistent vomiting, listlessness, disorientation, convulsions, hallucinations or hyperactivity. Coma can follow because of lack of brain oxygen which can result in permanent damage to the brain of those who survive. The mortality rate for Reye's syndrome is high, ranging from 20 to 40 percent. Once the patient slips into a coma, the chances for recovery decline dramatically. The median age of the victims is about 11 years.

Mr. HAYAKAWA. I thank the Senator from Hawaii.

Is it quite widespread? Is the occurrence of this Reye's syndrome quite widespread?

Mr. INOUYE. There were about 500 cases reported last year.

Mr. HAYAKAWA. In the whole United States?

Mr. INOUYE. Yes.

Mr. HAYAKAWA. I have no objection, and I thank the Senator very much.

I thank the Senator from Ohio.

UP AMENDMENT NO. 1204

(Purpose: To specify the responsibility of the National Institute of Allergy and Infectious Disease for research into Reye's Syndrome)

Mr. METZENBAUM. Mr. President, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1204 in the nature of a substitute to printed amendment 1896:

In lieu of the language proposed, insert the following: ", and also Reye's Syndrome" after "infectious diseases"

Mr. METZENBAUM. Mr. President, there is no question that all of us recognize what a devastating and fearful condition Reye's syndrome is and what a tragedy it can visit upon a family.

I commend the distinguished Senator from Hawaii as well as the Senator from Montana who has given their attention to this subject.

I might say that I have also been a cosponsor with the Senator from Montana and the Senator from Hawaii of legislation that was introduced as a total bill.

I believe that it is a subject which is deserving of our attention and concern. I believe that the language that has been agreed upon will provide explicit authority for the responsibilities of the National Institute of Allergy and Infectious Diseases to assure that there will be long-term stable research into the causes and cure of this terrible condition.

The Senator from Hawaii and the Senator from Montana have provided very able leadership in bringing this subject to the attention of the Senate. I think as a consequence of the substitute amendment there will be action in this area that would not otherwise have occurred.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Hawaiii.

Mr. INOUYE. Mr. President, before voting on this measure, may I inquire as to the disposition of Senate bill 1794? I believe Senator MELCHER introduced this measure last September and there were 15 cosponsors and the Senator from Ohio and I were privileged to be cosponsors of this measure.

Does the Senator from Ohio plan to have hearings on this measure?

Mr. METZENBAUM. The Health Committee does plan to have hearings on this measure. As of this moment there have not been any hearings, but I am advised by Senator KENNEDY, chairman of the committee, that there will be hearings on the subject.

Mr. INOUYE. I believe Senator MELCHER will be pleased to hear that.

With that assurance I yield back the floor.

Mr. SCHWEIKER. Mr. President, the minority has seen the amendment submitted by the Senator from Ohio and we support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. METZENBAUM. There is no time agreement.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute of the Senator from Ohio.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. METZENBAUM. I do not see anyone else on the floor who seeks recognition for the purpose of addressing themselves to the substance of this bill. As far as I am concerned, and I believe as far as Senator SCHWEIKER is concerned, I think we are ready to take the matter to a vote.

I had thought there was no one else on the floor seeking recognition, but I see the distinguished Senator from Arkansas.

Mr. BAKER. Mr. President, I understand under the order previously entered, there is a provision for an amendment by the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Idaho (Mr. MCCLURE). It is also my understanding that neither of them is going to offer his amendment on this measure, and I know of no other——

Mr. METZENBAUM. I think the Senator from Arkansas seeks recognition.

Mr. BAKER. I wonder if I may conclude this inquiry first. Is the Senator from Pennsylvania going to offer his amendment?

Mr. SCHWEIKER. I will offer the amendment on a subsequent bill, not on this bill.

Mr. BAKER. Is the Senator from Idaho going to offer his amendment?

Mr. McCLURE. The Senator is correct. The Senator from Idaho does not intend to offer his amendment on the bill today.

Mr. BAKER. I thank the Senator. As far as I know then this concludes the amendments to be offered on this side on this bill.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 1205

(Purpose: To extend the period for funding of State Medicaid fraud control units)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) on behalf of himself and Mr. CHURCH, proposes an unprinted amendment numbered 1205.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE IV—MEDICAID PROVISION

EXTENSION OF PERIOD FOR FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 401. (a) Section 1903(a)(6) of the Social Security Act is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1982".

(b) Section 1903(b)(3) of such Act is amended—

(1) by inserting "(A)" immediately after "(3)",

(2) by redesignating clauses (A) and (B) thereof as clauses (i) and (ii), respectively, and

(3) by adding at the end thereof the following new subparagraph:

"(B) No amount shall be paid to any State under subsection (a)(6) with respect to sums expended during any quarter after the twelve-quarter period which commences with the first quarter with respect to which an amount is paid to such State under subsection (a)(6).".

Mr. PRYOR. Mr. President, my amendment extends for 2 years, until October 1, 1982, the period when increased Federal matching funds are available for State medicaid fraud control units. No State would be able to receive such matching funds for longer than 3 years, however.

Under current law, 90-percent Federal funding was made available for only 3 years and is scheduled to expire on September 30, 1980. Thereafter, the Federal matching payment will drop to 50 percent.

To date, 29 States and the District of Columbia have established medicaid fraud units and an additional 13 States are planning to institute such units. If current 90-percent Federal funding ceases on the scheduled expiration date, many State units will be closed down and other States now interested in establishing units would not do so. In addition, the present uncertainty over continued funding is hampering units now in place in their ability to hire needed staff to fill authorized positions and to retain experienced staff.

A recent report dated May 27, 1980, from the Office of Inspector General of the Department of Health and Human Services attests to the cost/benefit of the program. The report concludes that the medicaid fraud units "are an essential mechanism of control in the medicaid program which must be continued if we ever want to achieve public confidence in our ability to provide health care to the poor without a large amount of the money going to providers who steal, provide substandard care, or otherwise defraud and abuse the program. Their benefits from recoveries, deterrence and cost avoidance far and away exceed their costs." Mr. President, I ask unanimous consent that the entire report from the Office of Inspector General be included in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. In its 1½ years of existence, the Medicaid Fraud Division of the office of attorney general in my State of Arkansas has recovered or is in the process of recovering more than $250,000 with much more to come.

On the criminal side, it has convicted one pharmacist who was sentenced today, Thursday, June 19, to 2 months in Federal prison and a fine of $3,600 for dispensing generic drugs to medicaid patients and billing the Government for the higher-priced brand name. The Federal judge who heard the case stated that he had been convinced of the pervasiveness of the fraud.

The Medicaid Fraud Division has uncovered and virtually eliminated the practice in a number of Arkansas nursing homes of "overcrowding" medicaid patients, meaning the housing of more patients than the licensed bed capacity of the homes allows.

It uncovered a computer error by the State agency which administers the medicaid program which caused the recovery from nursing homes of some $30,000 in 1 month. Had the error not been caught, the nursing homes, in the space of 1 year, would have been overpaid by approximately $350,000.

The Medicaid Fraud Division has also made any number of suggestions and recommendations to the State agency with respect to ways the administration of the program could be improved.

It is currently investigating more than 100 criminal fraud cases where substantial medicaid fraud is suspected to be involved.

It has caused the passage of a State Medicaid Fraud Act which has been stated by Federal HHS officials to be one of the stricter such laws in the country.

Perhaps most notably, however, the attorney general of Arkansas and his Medicaid Fraud Division have just this week signed what is an historic agreement with the prosecuting attorney in Little Rock which calls for cross-deputization between the two offices and which will allow the Medicaid Fraud Division's lawyers to prosecute criminal medicaid fraud cases on a statewide basis. Quite a few of these cases are ready to be prosecuted, and the process will begin within weeks. This has never before been done in the history of my State, and it indicates major recognition by the parties involved that medicaid fraud cases are highly significant and must be handled on a priority basis by the experts in the field. It is those experts who will continue to be funded by this legislation.

Nationwide, this effort has come a very long way in a short period of time. I believe we owe it to the integrity of Government-funded welfare programs to continue this excellent investment at what is a very modest price.

Mr. President, the text of my amendment has been reported out of the Senate Finance Committee as part of H.R. 934, the Medicare-Medicaid Administrative and Reimbursement Reform Act of 1979. It is my understanding that Chairman LONG supports separating this provision from the act and having it considered today in order to facilitate expeditious action. This will allow State medicaid fraud programs to continue uninterrupted and avoid further uncertainty which the impending funding cut-off creates.

I understand that the distinguished manager of the bill has no objection to this amendment, and I hope the Senate will give its favorable consideration to this proposal.

EXHIBIT 1

OFFICE OF THE INSPECTOR GENERAL,
May 28, 1980.

MR. JAY CONSTANTINE,
Senate Finance Committee,
Washington, D.C.

DEAR MR. CONSTANTINE: You have asked my evaluation of the benefits from the State Medicaid Fraud Control Units in comparison to their costs. I believe that the units have become the most effective force for the control of fraud and abuse in the Medicaid program. By all accounts most State Medicaid programs have been the victims of substantial and widespread fraud, abuse, waste, and mismanagement.

This Department has historically not had the resources to adequately detect, investigate, prosecute, or otherwise control Medicaid fraud, abuse, or waste. Certainly this Office and the Department of Justice have never had enough auditors, investigators, and prosecutors to attempt to directly perform this responsibility in this State administered program.

The units have, in a very short time, made dramatic improvement in Medicaid frauds, abuse, and waste control. I have enclosed a summary of their activities from my most recent Quarterly Report which analyses, unit by unit, their accomplishments both in the area of the case by case investigation and prosecution and, perhaps even more importantly, in significant program administration recommendations and improvements that are an obvious by-product of the investigations and prosecutions.

The unit's case work has two areas of obviously measurable benefits: (1) overpayments recovered, fines, and restitutions; and (2) immediate cost-avoidance from the exclusion or terminations resulting from the conviction. As reported in the Quarterly Report, in the first area the units are producing savings equal to approximately 70 percent of direct costs. I have conservatively estimated that the practitioner exclusions by units last year will save another $2.2 million this year from fraudulent billings from these providers alone—bringing the directly measurable and extremely conservative estimate of percentage of costs covered to over 80 percent. It would not be unreasonable to assume that providers excluded from convictions were abusing the program through over-utilization, etc., at least as much as they were defrauding the programs. It would also be reasonable to assume that the cost-avoidance continues for two years rather than just one.

With these two assumptions, the units should be estimated to be saving over 110 percent of their costs. Further, one should note that these statistics came from primarily young units which are not yet fully staffed with highly trained professionals. It takes several years to pull together a fully effective team knowledgeable about Medicaid fraud control in a state. We expect these units to become more effective over the next several years given the opportunity to do so.

We must state that it is obvious that there is an enormous deterrent effect from the existence of these units, from each investigation, and especially from each conviction. Medicaid fraud is generally a crime of rationally calculated opportunity. The risks of being caught and punished have been so small and the rewards so great, that many have been unable to resist the opportunity. It would not be unreasonable to assume that for every provider convicted, several of his peers will decide that whatever the benefits, the risks are too high. If the risk is perceived as only going from 0 percent to 10 percent, this will be for most providers too high a risk of disgrace, loss of license, and possibly jail.

We are presently unable to make any estimates of deterrent value with any confidence. There are examples of its effects that are quite persuasive, however. New York has demonstrated that many in the nursing home industry are unwilling to get involved in previously prevalent practices (such as bribes and kickbacks and certain kinds of cost report fraud) for fear of getting caught by the unit. Similarly, in New Jersey many lab and pharmacy frauds have substantially declined as a result of a series of convictions by the unit. Ohio has demonstrated that many providers that are found to be defrauding the program almost drop out of the program (or at least stop the fraud), simply when they hear the unit may be investigating them. Similarly, the value from cost avoidance from unit program recommendations cannot now be reasonably estimated, but I believe that this alone would cover the costs of the effective unit.

I would note that GAO has informed my staff that their in-depth study of the units has resulted in a very favorable overall opinion and that they expect to recommend an extension of 90 percent funding (for maximum of three years for each State) to be followed by 75 percent permanent funding even though cash recoveries do not exceed costs. I understand that GAO representatives are available to discuss their findings and recommendations with you even though their official report is not yet complete.

In conclusion, I believe that the units are an essential mechanism of control in the medicaid program which must be continued if we ever want to achieve public confidence in our ability to provide health care to the poor without a large amount of the money going to providers who steal, provide substandard care, or otherwise defraud and abuse the program. Their benefits from recoveries, deferrence, and cost avoidance far and away exceed their costs.

Let me know if I can be of further assistance.

Sincerely yours,
Richard B. Lowe III,
Acting Inspector General.

Mr. PRYOR. Mr. President, I also ask unanimous consent that the statement of the Senator from Idaho in support of the amendment be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Church

I am glad to join with Senator Pryor in an amendment to S. 988 which would extend the authorization for increased Federal Medicaid matching funds for State Medicaid Anti-Fraud units for a period of two years, until October 1, 1982.

Public Law 95–142 recognized the significant impact States could play in combatting Medicaid fraud and abuse by authorizing 90 percent Federal matching funds for establishing and operating special State Medicaid fraud units. This higher match was authorized for a period of three years, through 1980, in order to provide a full three years for State investigative units to become fully operational.

Very few States have actually had the opportunity to develop their units for a full three years, however, as the original legislation intended. Currently, 28 States have established Medicaid anti-fraud units, but most of them have been in operation for less than two years. Many of them will not be able to continue with the third year of funding. An additional 13 States are planning to set up anti-fraud units this year, but this new activity will come to a halt unless the period of funding is extended.

Recognizing that many States were making a good faith effort toward certification, but would not have a full three years of funding, as originally intended by Congress, I introduced legislation in 1978 to extend the period of 90 percent Federal funding for start up of these State units until October 1, 1982. This amendment accomplishes this change. No State would be entitled to more than 3 years of 90 percent Federal match, but the amendment would ensure that many more States could participate.

The program has been highly successful. By the end of 1979, 2,400 cases were under investigation by the States, 160 indictments had been obtained and 125 convictions of Medicaid fraud had been obtained. Many units have successfully recommended improved Medicaid program procedures to State legislatures and Medicaid agencies. Even though most of these State units were operational less than one year, they had recovered $14 million in fraudulent Medicaid expenditures.

Adoption of this amendment will allow this experience to mature and enable many more States to participate.

Mr. METZENBAUM. Mr. President, the Senator from Arkansas is correct. The subject to which he addresses himself is, in our opinion, desirable legislation, and we are prepared to accept the amendment, subject only to the comments of the ranking minority member.

Mr. SCHWEIKER. Mr. President, I, too, commend the distinguished Senator for his amendment. We certainly support the amendment, and we have no questions about it whatsoever.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. METZENBAUM. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I want to thank the managers of the bill for bringing this bill to the Senate floor today.

I just wanted to call the attention of the Senate to the committee report and, in particular, to that portion of the report dealing with title II, the National Institutes of Health, beginning on page 4.

The National Institutes of Health is one of the most remarkable institutions which is supported by the Federal Government. Those who question whether the Federal Government does good things ought to know more about the National Institutes of Health. In the past 35 years the National Institutes of Health has supported the work of 58 Nobel Prize winners. There are now, I believe, four Nobel laureates working daily on the campus of the National Institutes of Health in Bethesda. About a dozen more are associated in the work of the National Institutes of Health in other campuses all across the country. Eighty percent of the work of the National Institutes of Health is done in institutions of higher learning, institutions of research and scientific effort in all parts of the country.

So I particularly wanted to call the attention of the Members of the Senate to the report and to its description of what has been accomplished at the National Institutes of Health.

When people say, "Well, nothing good ever comes out of Washington, "tell them to read the report of this committee.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. MATHIAS. Yes.

Mr. METZENBAUM. Mr. President, will the Senator be good enough to yield for a question?

Mr. MATHIAS. Surely.

Mr. METZENBAUM. Where is the National Institutes of Health located, what State?

Mr. MATHIAS. I am happy to be able to advise the Senator from Ohio, the distinguished Senator from Ohio, that the National Institutes of Health is located in the Free State of Maryland.

Mr. METZENBAUM. I had some suspicion along that line.

They are doing a great job, and I am very happy to have the support of the distinguished Senator from Maryland.

Mr. SCHMITT. Mr. President, if the Senator will yield further for a comment, I think it is important to note as a consequence of the work of the National Institutes of Health and of other medical researchers, in cooperation with and independent of that organization throughout the country and, to some degree throughout the world, we are approaching a time, unknown exactly when it will come, where we can extract a major set of breakthroughs in the prevention of disease.

We now largely treat disease, and usually in very expensive ways, in ways which result in a great deal of discomfort, cost, and other adverse impacts, the principal benefit being the prolongation and increase in comfort of life.

But what is the ultimate goal of health research today, and what it must be, is the prevention of disease, and that is with the kinds of research that are going on today in all areas of biochemistry, biomedicine, and so forth, we are, in fact, approaching that time where we will be able to predict a susceptibility to disease, and do something about it before it strikes the individual or groups of individuals.

It is a tremendously exciting time to live in, and certainly the Senator's home State, and its taking good care of the National Institutes of Health, should be complimented, as should the Senator.

Mr. MATHIAS. I thank the Senator. He is exactly right. I have observed in our work together in the Appropriations Committee that he has followed this rule of true economy. It sometimes requires spending a little money to reach the real economy.

The Institute of Child Health and Human Development, for example, is dealing with problems of premature births, which cost the American economy $8 billion a year, and by investing a few dollars in research we can, perhaps, save a third or half of this enormous expenditure for premature births and, of course, save a great deal of trouble and human anguish, pain and suffering and, on top of that, perhaps prevent a lifetime of institutional care, which is often assiciated with premature births.

So the real economies, the real place that the budget will ultimately be balanced is in research institutions such as the National Institutes of Health. We will go bankrupt in a hurry if we have to put everybody who might get sick in the hospital. We will save money and we will balance the health budget if we can keep people out of hospitals.

Mr. SCHMITT. If the Senator will yield further, we do not have to look to the future to know that these things are possible. The Senator already illustrated success of the fight against smallpox and the success in the fight against polio, we have already seen the kind of thing that can happen again and again, disease after disease, to the benefit of the American people and the world.

Mr. MATHIAS. I thank the Senator.

● Mr. WILLIAMS. Mr. President, I am pleased to cosponsor and urge approval of S. 988, the Health Science Promotion Act of 1980, which continues support for health sciences research and training and substantially revises existing provisions of law pertaining to the National Institutes of Health.

This bill attempts to emphasize the importance of planning and the establishment of priorities for health and scientific research, for the purpose of making the best use of limited resources. One of the significant and most important provisions of S. 988 is the creation of the President's Council for Health Sciences whose function it would be to review research efforts. Most importantly, S. 988 will establish and revise each year a 5-year plan for the funding of health research in the Department of Health and Human Services. This comprehensive plan is to be presented to Congress and the President for the purpose of guiding decisions with regards to budget levels and research priorities. This can be an excellent mechanism for providing important expert advice to both the President and Members of Congress.

The 11 Institutes of Health address, through biomedical research, the major afflictions facing persons in this country. Over the years, much critical information and data has emerged which assists in the prevention, diagnosis, and treatment of many diseases. It is important that research efforts not be hindered by shifting priorities or uncertain support, particularly at a time when great scientific advances are being made for the better treatment and perhaps cure of many diseases.

S. 988 also provides authority to the Secretary of HHS and the Director of NIH to experiment with changes in the peer review system and for providing an appeals process to investigators who are denied funding. In addition, I am pleased that S. 988 extends for 3 additional years the National Diabetes Advisory Board, whose function it is to review, evaluate and advise the scientific community on the implementation of a plan to combat diabetes. The Board is expected to review and amend, if appropriate, the diabetes plan.

S. 988 will hopefully strengthen and improve the work of the National Institutes of Health. It is intended that these provisions will create an effective and efficient effort by our country to support biomedical research and training.●

Mr. CRANSTON. Mr. President, S. 988 as reported, the Health Sciences Promotion Act of 1980, is designed to create the opportunity and provide the mechanisms for the biomedical research programs of the National Institutes of Health to continue their sound contributions to biomedical science and at the same time create the flexibility necessary to respond immediately to new findings and to encourage the transfer of new knowledge across disciplines so that it can be applied most effectively as soon as possible.

This country's research policies have produced brilliant scientists. These policies have generated great enthusiasm among them for biomedical research and have built up superlative research resources in our centers of learning and of science.

In short, our research policies have produced the tools to mount massive attacks against all the diseases that threaten our lives.

As we have developed this exciting capacity to combat diseases, we have also come face to face with the reality of budget limitations.

That reality means we must develop policies to utilize these limited financial resources effectively to get maximum benefits from biomedical research.

I have taken an intense personal interest in developing policies to improve our Nation's biomedical research approaches.

As a member of the Senate Health and Scientific Research Subcommittee, and as chairman of the Veterans' Affairs Committee, with tremendous health responsibilities for veterans, I follow closely our progress in biomedical research. Often I invite research scientists to my office in the Capitol. There, we take sometimes hours on a Sunday or Friday night or some other time to discuss their work in an informal, cross-disciplinary forum. They share new research findings with others working in parallel and complementary research.

What I have heard is truly astonishing to a layman. I suspect many scientists, too, would be surprised to learn how quickly we are assembling the pieces of very fundamental puzzles. Researchers are probing basic mechanisms at the cellular and molecular level with tools that were unknown and unavailable just a few years ago.

These scientists have opened up exciting possibilities for the future of biomedical research and have candidly discussed how that future can be made the most productive possible.

Through these discussions I have come to some conclusions of my own on some new policies for biomedical research.

I have worked hard to see that these policies are carefully considered and that they have been enunciated in the legislation under consideration today.

I believe the first policy that must be adopted is to place a greater emphasis on basic research. I believe that the missing piece of the puzzle than can make many apparently unrelated pieces fit together will be found only through basic research.

We know a great deal about a great many aspects of what makes humans ill—but in many cases we do not know the triggering mechanisms. This is true of arthritis, it is true of many forms of cancer, it is true of the process which is affecting each of us every day of our lives—the process of aging—and it is true of many other diseases that threaten each and all of us.

Thus, I am pleased that the bill as reported requires that not less than 45 percent of all funds expended by the institutes shall be used to support unsolicited research grants by individual investigators—the best measure we have of basic research.

This concept is carried out in another amendment I offered to require that, in developing the 5-year research plan, the President's Council take into account among other concerns, the various basic processes of human growth, development, and aging, which are, or may be, the subject of health sciences research.

A second policy that I believe must be

encouraged is that of identifying and promoting innovative research. The answers to many of the questions confronting scientists today—or perhaps even the ability to ask the questions that can produce the answers we need—may elude them because of preconceptions that prevent them from seeing something that is really right in front of them. Steps must be taken to encourage the unconventional scientists to explore problems from new directions.

In doing so, however, we must, of course, protect the public and the scientific community from exploitation, charlatans, and quackery.

We must find ways to permit some research to be funded apart from the normal peer review system. I believe that system has a tendency to stultify innovative research.

I believe the peer review system, which is almost universally used now in the granting of research funding, tends to reward caution and excessive reliance on the "establishment" scientists. I think it is ingrown. I think that the people serving on the peer review panels tend to pat each other on the back and to promote each other's programs. I think it is ultraconservative. And I think it tends to fund programs where the risks of failure are very slight, the chances of success very great—in a most conservative way where the funding goes to a program where a tiny incremental gain is apt to be made. Meanwhile, the broader risks entailed in innovative "breakthrough" research where a finding may be of tremendous significance if accomplished, but where the risks are such that it may not be accomplished, tend not to receive support. While I believe in the careful, methodical moving forward that is entailed in the peer review process, I think that we need a mechanism to give some funding in a better, stronger, wiser way, to programs where some larger breakthroughs may be possible.

Mr. President, that is why I authored section 204, a portion of whose provisions grow directly from this conviction.

These provisions require the Secretary, acting through the Assistant Secretary for Health, to provide for the development and preliminary testing of at least three models in at least two of the National Institutes of Health that would demonstrate and evaluate alternative methods of identifying innovative and unconventional research proposals with a potential for major scientific achievement and providing assistance in their development into acceptable proposals for appropriate funding.

A third policy that I believe must be adopted is that of integrating the findings of research efforts across interdisciplinary lines. Mechanisms must be developed to encourage the transfer of knowledge from one research field to another at the most propitious time. All too often research done in one field does not become known to people working in some other fields. Unfortunately, it often does not even become known to those working in the same field. One of the most exciting things I have witnessed during meetings I have held with scientists in my office is the exchange of ideas between scientists in unrelated fields as they discern the possibilities of applying a new technique to research with which they have been wrestling.

Mr. President, another provision of section 204 grew directly out of my personal experience over the past 2 years meeting with and listening to scientists working on the frontiers of biomedical research.

These specific provisions would require the Secretary, through the Assistant Secretary for Health, to provide for the development and preliminary testing of at least three model programs in at least two of the National Institutes of Health that would seek out and utilize generalist scientists, who would work together with other generalist scientists and specialists to identify research findings that have a potential for application across scientific disciplines and in areas posing major threats to human health and survival and to facilitate the transfer and cross-fertilization of such findings across scientific disciplines in order to develop major scientific achievements, including, of course, a major target—the reduction of disabilities and deaths, and the prolongation of a healthy life span.

As I indicated earlier, frequently I encourage research investigators to come together in my office. There they have an opportunity to air new research data and to share insights with others working in parallel and complementary research fields. I have been impressed by the catalytic role which is played by certain generalist scientists. A few gifted individuals have the ability to conceptualize rapidly from the theoretical to the practical, promptly making connections between new observations in basic science and pressing clinical needs. These generalists possess the capacity to extrapolate from the specific to general observations, crossing the lines of various scientific disciplines with apparent ease. By giving the specialists the benefit of overview and a sense of urgency, the generalists often succeed in identifying critical interconnections which are not perceived in the first instance by the specialists. In this way, I believe from my own observations that the progress of scientific inquiry is accelerated and the rate of discovery is advanced. This is a most important dynamic in the life sciences, where the acquisition of knowledge and its application to human health conditions can lead to the salvaging of human lives and human potential.

This provision of section 204 is designed to test the incorporation of this interplay between specialists and generalists into the present system of awarding and monitoring Federal research grants.

First, this section addresses the urgent need to weigh innovation and creative potential in the present system of peer review. I recognize that when research dollars are scarce, as they are now and probably will be for some time, there is a tendency to favor safe bets. As I noted earlier, in my view, grant money tends to go to research proposals that produce predictable—and therefore, minimal—results. Venturesome, innovative, truly original proposals often are not funded. Yet it is precisely the latter which will likely speed us toward answers we need to overcome major medical problems.

A senior scientist with the National Air and Space Administration summed up the condition of life sciences this way:

> While the life sciences face problems of great complexity, separate disciplines remain concerned with provincial issues, disconnected and isolated from one another. My conviction is that stunning successes are within the grasp of the present generation if existing talents and capabilities are integrated capably and systematically applied to critical problem areas.

These same concepts are reflected in the provisions of the bill establishing a discretionary fund for the Director of NIH to use for certain specified purposes. These purposes are research that is distinguished by its innovative or unconventional character; cooperative research conducted by two or more institutes or two or more Federal entities—one of them being within the Department of Health and Social Services—research involving more than one scientific discipline, research to be conducted by individual investigators who have not, as individuals, previously received research funding from NIH, and research in any other health sciences areas that the Director believes are of high priority and deserving of support.

This provision will permit a certain amount of flexibility to NIH to meet new opportunities for scientific breakthroughs or significant advances quickly and effectively. I am very pleased that, as I proposed, a specific amount of the funds appropriated for the institutes must be set aside for the support of these kinds of projects. However, to assure that these funds are used wisely and not under the pressure of obligating funds before the end of a fiscal year, the bill expressly provided that these funds may be carried forward to the succeeding fiscal year and may be returned, in whole or in part, to the institute from which they were withdrawn.

I was also pleased that an amendment I offered—included in section 203 of the bill—to include biomedical scientists with broad and general interests on selected study sections was accepted. I believe their inclusion will prove beneficial in identifying research proposals that hold unusual potential but whose potential may not be fully recognized by a specialist in only one area.

A fourth policy that must be adopted, I think, is to encourage the private sector to invest in biomedical research. Federal dollars alone are not enough to meet the need for progress in biomedical research. Philanthropic funds have been reduced at the same time that the substantial growth in Federal funding for biomedical research that we saw in the 1960's ground to a halt. Industry's investment in research in new drugs has been affected by the high costs of research and the many years required to test new products fully for safety and effectiveness.

I have met with philanthropic organizations and with private industry encouraging them to invest in biomedical research as a public service. I am also working with HHS Secretary Pat Harris to make sure that the patent policy outlined by President Carter in his Industrial Innovation message last October is implemented and publicized within NIH and within industry.

This policy is one that I have urged for several years. It would permit the Secretary to provide recipients of Federal contracts for product development with appropriate exclusive marketing rights for the product that is developed. It seems reasonable to me, that if a private company is asked to commit its resources and its knowledge of a research program under contract to HHS that company must be provided assurance that it will be able to benefit from the product that may be developed. Such agreements, of course, must include conditions to protect the public interest.

I am very pleased that the committee report, No. 96–714 on page 15, reiterates the importance of applying this policy.

As chairman of the Subcommittee on Child and Human Development, I also offered an amendment, adopted by the committee, providing that research conducted in the National Institute on Child Health and Human Development related to population research shall be carried out in coordination with the Deputy Assistant Secretary for Population Affairs. This provision places in the statutory provisions authorizing NICHD, provisions included in section 4(6) of Public Law 91–572, the Family Planning Services and Population Research Act of 1970, and carries out the concept of that act that the DASPA have a coordinative role in all matters in the department related to family planning programs and population research. The DASPA's role with respect to population research should be one of full involvement in the development of priorities and policies with respect to such research, with the right to appeal major policy decisions to the Secretary, although it is not intended that the DASPA can overrule national advisory council decisions on individual population research grants. Moreover, the DASPA is added to the NICHD Advisory Council by provisions in the committee bill, and as a member, is expected to be fully involved in the Council's decisionmaking.

Among other amendments I offered that are included in S. 988, as reported, are provisions extending the authorities for funding the multipurpose arthritis centers and extending the life of the National Arthritis Advisory Board. The annual reports of this Board have been of tremendous assistance to the scientific community in summarizing achievements in arthritis research, and pointing out new directions requiring attention, as well as in reporting to the Congress and the public on the state of arthritis research and training generally. Hence, it is important that this legislation would assure the continued publication of these reports and the information they provide.

Mr. President, I am pleased that an amendment I offered to conform the statutory language governing grant awards for research center programs is included in the bill as reported.

This amendment conforms the statutory language with respect to the duration of initial grants for NIH supported centers and for renewal grants for those centers. Current law limits initial cancer and arthritis center grants to 3 years with a renewal limitation of 3 years; limits initial grants for heart centers to 5 years with a renewal limitation of 5 years; and is silent with respect to the duration of diabetes center initial and renewal grants. NIH practice in the case of diabetes centers has been to award grants for periods of up to 5 years, with renewals of 5-year periods permissible as long as the center is showing satisfactory progress.

My amendment has eliminated the statutory limitations on the duration or renewal center grants with the intent that the Department follow the current diabetes and heart center policies of awarding initial and renewal grants for periods of 5 years each as long as satisfactory progress is being made.

I believe that many of the provisions of S. 988 are excellent ones that will advance NIH's ability to meet new scientific challenges and continue this truly outstanding record of achievement.

I urge my colleagues to support S. 988 as reported.

Mr. METZENBAUM. Mr. President, I see no one else in the Chamber who seeks recognition. I believe we are ready to vote on the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. On the committee amendment?

Mr. McCLURE. Mr. President, I thought it was on final passage.

The PRESIDING OFFICER. Does the Senator withdraw the request?

Mr. McCLURE. I withdraw the request.

The PRESIDING OFFICER. Is the request on final passage?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, before acting on that request, may I say to the Senator from Idaho that some of the Members have indicated that they had some difficulty getting back, had some little inconvenience. If the Senator insists upon a vote, no problem at all, of course. But I am just wondering whether we need a rollcall vote. I do not know that there is much division.

Mr. HELMS. Mr. President, if the Senator will yield, there will probably be several more rollcall votes tonight.

Mr. ROBERT C. BYRD. Mr. President, will the Senators agree to have the rollcall occur at 8:30?

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I must say that I have tried to accommodate my friends on the other side of the aisle in many instances by delaying rollcall votes, and I did even today. Now, I would like to have a little bit of the courtesy returned. It is not for my personal convenience.

But we have colleagues who are away until 8:30 p.m., and I would hope that I could get some consideration for those colleagues tonight, as I have often given consideration to my friends on the other side of the aisle.

So I ask unanimous consent that the vote not occur until 8:30 p.m.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the distinguished minority leader would speak to this.

Mr. BAKER. Mr. President, I am happy to. I indicated to the majority leader earlier that I appreciated his forbearance on other occasions, and the like. But I must say, Mr. President, there is simply nothing I can do about it. I have presented to a number of people who have strong concerns about these measures the situation as I see it. I am afraid there is more than one objection on this side.

I will not object. I will not urge others to object. But there is an objection and I am afraid I must tell the majority leader that I do not know what I can do to help.

Mr. ROBERT C. BYRD. Mr. President, I hope, then, I will get no more requests from the other side to hold off rollcall votes to accommodate Members on that side. I do it in every possible instance. I try to accommodate the minority in every possible way I can. And I did today; today.

I would hope that I could continue to do it. I want to do it.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. Mr. President, some of us were interested in voting today and continue moving the processes of the Senate along. Is it not a fact that between the hours of 12 and 2:30 no votes were taken because a major national political leader was here in a meeting?

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader wrote me a letter several days ago asking me to protect him and his Republican colleagues for that purpose. I responded to the distinguished minority leader and said I would do everything I could to accommodate him. I have done that before. I have on occasion even put the Senate in recess in order to protect the Republicans.

It is fine when somebody else wants a favor and I do it for them, and I will try to continue. But I would like to have a little reciprocity when I try to protect Senators on this side.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I know how the majority leader feels and I know how I feel and I know this has been a long day. I know tempers are fraying.

But I would also point out that when I wrote the majority leader and asked for that, that the response was that there could be no protection; that if we could find something that we could do that they would do the best they could.

Well, we took up the synfuels conference report. Frankly, I did it over the protest of some of my Members who pointed out, very properly, that the conference report had not yet been printed. But there was a 4-hour time limitation on that conference report and it was inserted in the schedule and accomplished that purpose.

I am grateful that it worked out that way. But that was not exactly the most cooperative thing that we had in respect to the Reagan luncheon today.

Mr. President, I do not doubt for one moment that when you add up the ledger the distinguished majority leader has the best end of that, because he has accommodated us on a number of occasions. But this has been a tough day and I am simply saying it is a matter of realistic observation that it is not going to work.

I do not think this is the time for us to say that we are never going to accommodate each other again on any unanimous-consent agreements. But I do say, Mr. President, that this is out of an obligation to protect those who wish to object—and there is more than one objection—to postponing votes on this side.

Mr. ROBERT C. BYRD. Mr. President, this is a two-way street. The minority often asks "Can you protect us? We have a luncheon on Tuesdays. Protect us from 12:30 to 2 o'clock."

I do the best I can. Sometimes I catch a little heck from my own people over here for protecting my friends on my right hand.

And I am willing to put the letter in the RECORD from the distinguished Senator, and my response. I told the Senator I would do the best I could to accommodate him, and I did. And if it had meant recessing the Senate to do it, I would have done it to carry out my word.

But there comes a time when I think there ought to be a little reciprocity, and we are not getting it.

The Senators know that we have some Senators out for a little while this evening. I would hope they would rethink this. There does not even have to be a rollcall vote on this bill. There has been no controversy about it.

I want to continue to cooperate, but it is a two-way street.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, it is a two-way street. But it does not stretch the memory too long to recall that the majority leader and I had a conversation just a few moments ago about the possibility of postponing a proposed motion to proceed to the consideration of the David Jones nomination tonight and do it tomorrow instead. I offered the majority leader a time limitation of 2 hours. There is none if we take it up tonight.

I did it because some of the Members on this side had been on their feet and involved in controversy all day and it is late. But, Mr. President, that was not done.

It creates a situation where I do not think, reasonably, you could expect that we are going to have the maximum cooperation.

Mr. President, I do not object, but there are objections and I will protect those objections as best I can.

Mr. ROBERT C. BYRD. Mr. President, the objections protect themselves. The distinguished Senator talks about Members on his side being tired; they have been in a tense situation all day. Well, I will not say anything about that with respect to myself. But that has nothing to do with the business of the Senate. We have work to do.

The distinguished Senator talks about the nomination of General Jones. I wanted to get the nomination of General Jones up before tonight, before today. But there has been objection to taking it up. We have heard that there would be extended talk on it. The nomination of General Jones would have been out of the way before this time. Tomorrow is the last day. His term expires tomorrow. Senator STENNIS has been wanting me to get this nomination up for 2 or 3 days, at least, and I assured Senator STENNIS that it would be called up today. It is going to be voted on sooner or later.

It does not require extended debate. We have already taken enough time to have passed this bill by a voice vote and to have been on the Jones nomination.

Mr. McCLURE. Will the majority leader yield, Mr. President?

Mr. ROBERT C. BYRD. I yield

Mr. McCLURE. Mr. President, I make the request for a rollcall vote on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I would like to address myself to my friend from North Carolina. I am not up tight about this matter. I do not feel strongly about it. The measure is not a controversial measure. But I have to ask my friend from North Carolina, what is the great objection to permiting us to vote at 8:30? It is obvious to the Senator from North Carolina and obvious to all of us on the floor of the Senate at the moment that that objective can easily be achieved merely by our talking until 8:30, which would be a way of just wasting an hour and a half of the Senate's time and no different result would occur. There is not much merit in doing that. I am trying to get the rationale of the Senator from North Carolina, whom I respect, who is a good battler for his position. But in this instance I am not certain that I can understand what the objective is. He will get his rollcall vote at 8:30. If we stand here and talk for an hour and a half the rollcall vote will come at 8:30. I wonder if we cannot do this in a manner that accommodates all of us.

Mr. HELMS. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. HELMS. I will say to the Senator that we would not be here this evening if Senators had not voted themselves into this position earlier today. If they had tabled the amendment of the distinguished Senator from West Virginia, which should have been tabled, we would have passed all of the legislation, we would have been through with the Jones nomination and we could all be home now.

Reciprocity has been mentioned several times here this evening. I do not recall ever having asked the distinguished majority leader to delay a vote for me. I can assure him that I will never again ask him to delay a vote for me if, indeed, I have ever done so.

I simply feel, under the existing circumstances, that we ought to vote on the measures as they come up. There is no comity in the Senate. We saw that today. We saw it last night. The distinguished majority leader is in control, in an adversary position, the Chair; he influences and persuades Senators to reverse their votes. I do not fault him, but we should view the situation as it is, and not try to disguise it with a lot of rhetoric about comity. It is the present intention of the Senator from North Carolina to decline to participate henceforth in any time agreements and to object to unanimous consents that I think are subject to objection.

Mr. SARBANES. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. SARBANES. Mr. President, I think from the practice which has been initiated on the other side, the principle of accommodation and comity in the Senate is breaking down very rapidly.

The tactic that was used by the Senator from North Carolina to get a time limit—and I will defer for a moment if they want to ask the Senator to return to the Chamber, but apparently the Senator has made the choice not to return.

Mr. BAKER. Mr. President, the Senator from North Carolina is on his way, if the Senator from Maryland will bear with us for a moment.

Mr. SARBANES. Mr. President, I suggest to the Members of the Senate that what the developments which have transpired mean is that any time we are on the floor and seeking unanimous consent for time limits on amendments, that contrary to past practice where a Member would stand up and say, "I have an amendment requiring 30 minutes," fine, "I have an amendment, 20 minutes equally divided" or "I have an amendment and it requires 1 hour, equally divided," we will now have to go through the process of asking the question, "What is your amendment about?"

We can no longer make the assumption which I believe we have made in the past that in those instances a Member is not intending to bring before the Senate a major piece of legislation. In other words, that a Member would not stand up and say, "Well, I agree to 30 minutes," intending then with a 30-minute time limitation to bring in unbeknownst to all a major piece of legislation which is worthy of extended debate, and perhaps significant amendment.

The minority leader earlier during the day when I made this point made some reference that the nature of the amendment of the Senator from North Carolina was known. I have since looked into that matter. It is certainly not reflected in the record. I am informed by the manager of the bill that he did not know the nature of that amendment which was eventually offered by the Senator from North Carolina.

So, in effect, what happened was in the normal course we were getting time agreements on amendments, as we always do, with the assumption I submit that they were amendments either relevant to the bill or not of major consequence, and all of a sudden we are faced with a major piece of legislation, with 1 hour of debate. Furthermore, under the time agreement when that time period expires, amendments can be offered to the amendment but with no time available for any debate on such amendments.

The consequence of that procedure now means, as I perceive it, that if the rights of all Senators are to be protected and we are to avoid a repeat of that situation, every time a Member says, "I have an amendment and I would like 20 minutes," a half-hour, 1 hour, "equally divided," while we are trying to put together unanimous-consent requests, he will be asked, "What is your amendment about?" in order to assure Senators that a Senator will not come in under that circumstance and offer a major piece of legislation with 20 minutes, 40 minutes, 1 hour of debate, and then no time for debate on amendments to the major piece of legislation.

I think that is a breakdown of comity between the Members of this body. If that is the way it is going to be, so be it. We will have to adjust to a new set of circumstances brought about by such practices. If Members feel that they want to proceed in that fashion, in which there is not a sense of mutual restraint and reciprocity, then we will have to make basic adjustments on how we are going to function in this institution.

All that occurred yesterday evening and this morning followed upon the use of a time agreement on an amendment and a time limit on the bill to put forward a major piece of legislation and to effectively preclude any effort to amend it.

This is a procedural point which would apply whatever the piece of major legislation which was presented without notice.

I think the response of the majority leader was justified in every regard. If we are establishing new ways of doing business and new ways of dealing with one another and new definitions of what constitutes accommodation in this institution, then we should know it ahead of time and establish appropriate procedures for dealing with it.

I commend the majority leader for the effort in which he engaged in order to prevent the consequences of a new departure, which came unexpectedly and as a great surprise to a great number of people. If that is how Members are going to do business then we ought to know it in advance and adjust accordingly.

I regret that it happened. I do not think it was consistent with the general practice. I have not found, as the minority leader said earlier, anywhere a knowledge of the nature of the amendment that was forthcoming. It simply means that, in the future, we are going to have to deal with one another in a very different manner. That is reflected, I think, again this evening, in the colloquy that just previously took place.

Mr. HELMS. Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think it was Shakespeare who said, "The lady doth protest too much, methinks."

The Senator from Maryland has certainly protested too much. Let us get the record straight as to the scenario last evening and today.

The Senator from North Carolina did not ask for a time limitation on his amendment. He was besieged by both sides of the aisle to agree to a time limitation. I reluctantly agreed, trying to be accommodating.

I was not asked the nature of the amendment. I would have been glad to tell anybody who wanted to know what was the nature of the amendment. But I was not asked. Furthermore, I placed a copy of the amendment on the desks of the managers of the bill before submitting it. I think Mr. DeConcini will testify to that. Both Senator DeConcini and Senator Thurmond voted with me last evening. So I do not know what the Senator from Maryland is protesting about.

I can assure him of this: He is not going to have any problem henceforth about amendments with a 1-hour time limitation as long as I can get to this floor. We have had too much of that. We have raced too much bad legislation through this Senate too often.

I have no ill feelings toward the Senator from Maryland or the Senator from West Virginia or anybody else. But I am getting a little weary of self-righteous fingerpointing toward me.

The fact is that this is the second time the Senator from North Carolina has been rolled by the majority leader. The first time was on my prayer amendment. He did precisely, in that case, what he did in the instance of the legislation last night. He offered generously last evening to set a time certain for consideration of the capital punishment bill, but he knows full well that when the Senate gets around to considering that piece of legislation, if and when it is passed by the Senate, it will go over to the House of Representatives, and to the House Judiciary Committee, and the Honorable Peter Rodino will sit on it and effectively kill it for the year, just as he is trying to kill my school prayer amendment.

The Senator from North Carolina confesses that he is interested in getting certain pieces of legislation enacted. I confess also, Mr. President, that I believe the right of voluntary prayer should be restored to the schools. I confess further, Mr. President, that I feel that the Senate should act on this capital punishment bill in a way that will insure its enactment by Congress.

It is a matter of whose ox is gored, and last night, the wrong ox was gored. The majority leader's ox was gored and he did not like it.

I go back farther than that, Mr. President. When I came to the Senate, there was comity even in the matter of who would preside over the Senate. There was a Republican Vice President at the time, and Republicans shared with Democrats the responsibility of presiding over the Senate. I asked the distinguished occupant of the chair (Mr. Boren) when was the last time he has seen a Republican in the chair? If he has seen one, it was as a spectator before he came to the Senate. The majority leader allows no Republican to preside—not even for 1 minute.

The question today turned on who would be recognized by the Presiding Officer to send forward a perfecting amendment. I was on my feet, and I think that I am safe in saying that I preceded the distinguished majority leader by a split second in seeking recognition.

Mr. SARBANES. Will the Senator yield at this point?

Mr. HELMS. No, sir, I do not yield. I did not interrupt the Senator when he had the floor.

Mr. SARBANES. I just want to say I do not agree with the Senator on the recognition issue.

Mr. HELMS. I know the Senator does not. We do not agree on much of anything. That is one of the problems.

Mr. SARBANES. Mr. President——

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. So, Mr. President, I think before this episode of last evening and today occurred, the distinguished majority leader may have been willing to say that the Senator from North Carolina has, on countless occasions, worked to cooperate in expediting various affairs of the Senate. But I must confess that I do not like to be rolled and I do not like to be rolled by those who then say, with injured innocence, "Look what you caused."

I did not cause it. Nobody on this side caused it. The delay of last evening, the delay today, both were purely the responsibility of the distinguished majority leader.

Now, I will say this, Mr. President: I am perfectly willing to reach an accommodation. But it has to be a two-way street of accommodation. Without that, there can be no comity.

That is about it, Mr. President. We are going to decide now whether we are going to be in a state of conflict or whether we will not. I hope that we can work this thing out, but there has to be a little more accommodation than I have seen on crucial issues.

I won the fight last night. I did not expect to win, I acknowledge that. I assumed that when the Senator from Ohio moved to table my amendment, that would be the end of it, and I was just as astonished as he appeared to be when the motion to table failed. The point is, the Senate worked its will last evening, and the able majority leader did not like it.

My friend from West Virginia used the rules, which he knows so well and which he practices so adroitly. He knew what he was doing. And I do not complain about it, if he understands now that I will feel free to exercise my rights from this point on.

Let me say again, Mr. President, I bear no Member of the Senate ill will, but I think it is time we backed off and looked at ourselves in terms of how this Senate is being controlled and how it is being operated. It is all very well and good to talk about comity accommodations, but the real issue, Mr. President, is how much legislation is being affected by the exercise of power in the Senate.

I yield the floor.

Mr. SARBANES. Mr. President, I simply want to make one point for the RECORD, because when the majority leader was recognized by the Chair today, the Senator from North Carolina asserted that the record should show that he was on his feet seeking recognition prior to the majority leader.

It was my perception that this assertion is not correct; it was my perception that the majority leader was on his feet first seeking recognition.

I think this should be entered in the RECORD as a contrary view to that offered by the Senator from North Carolina.

It was my perception that the majority leader had first been on his feet seeking recognition. I think the record ought to show this so that the assertion of the Senator of North Carolina is not left unchallenged with respect to the issue of recognition by the Chair.

Mr. HELMS. Mr. President, the record will show that the Senator from Maryland said that, but it cannot show that it is accurate.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I am reluctant to inject myself into this controversy, but I was the Senator in the Chair today when the question arose.

I was very cognizant of what was about to happen because I knew the parliamentary moves that were being played on both sides.

I was one of those who was somewhat critical of my leader a couple of years ago, and so I was very careful today to call and recognize the Senator that I believed sought recognition first.

I resent the statement or innuendo from my colleague, or any other Member of this Senate, that I intentionally violated the rules of this Senate.

In my opinion, and I was in the chair at the time, the Senator from West Virginia called for recognition first and I recognized him first.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, not wishing to prolong this, but having been sitting in the back row at the time and watching with some interest, and not being aware of what the parliamentary situation might be, but being particularly interested because I had another place I was supposed to go to and wondering what was going to happen next, I must concur with what Senator MORGAN just said.

There was no question from where I sat, that was precisely the way, and there is no question in my mind that Senator MORGAN did as I would have done in that he recognized the person he heard first, and the person I heard first from back here.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I think we are ready for a rollcall vote on this matter. I do not think there is any further debate.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. BAKER. I announce that the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—82

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—18

Church
Cohen
Culver
Goldwater
Gravel
Huddleston
Javits
Johnston
Kennedy
McGovern
Melcher
Pressler
Stevens
Stevenson
Talmadge
Tower
Wallop
Young

So the bill (S. 988), as amended, was passed, as follows:

S. 988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Health Sciences Promotion Act of 1980".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

SEC. 101. (a) Title IV is amended by adding at the end thereof the following new sections:

"ESTABLISHMENT OF PRESIDENT'S COUNCIL FOR THE HEALTH SCIENCES

"SEC. 491. (a) (1) There is established the President's Council for the Health Sciences (hereinafter in this section and sections 492, 493, 494, and 495, referred to as the 'Council') which shall be composed of sixteen members appointed by the President by and with the advice and consent of the Senate. The members of the Council shall be appointed as follows:

"(A) Eight of the members shall be appointed from among individuals who are distinguished in the biomedical sciences.

"(B) Five of the members shall be appointed from among individuals who are distinguished in the behavioral, social, physical, mathematical, or general sciences.

"(C) Three of the members shall be individuals appointed from the general public who by virtue of their training, experience, and background are especially qualified to serve on the Council.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Council. The Secretary of Health and Human Services, the Secretary of Defense, the Secretary of Energy, the Secretary of Agriculture, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, the Director of the National Science Foundation, the Assistant Secretary for Health of the Department of Health, Education, and Welfare, the Director of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the National Institutes of Health, the Director of the National Institute of Handicapped Research, and the Administrator of the Health Care Financing Administration (or their designees) shall serve as nonvoting ex officio members of the Council.

"(3) No individual may be appointed to serve as a member of the Council if such individual has served on the Council for two complete terms.

"(4) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(b) (1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) five shall be appointed for terms of three years,

"(B) five shall be appointed for terms of four years, and

"(C) five shall be appointed for terms of five years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy shall be appointed within ninety days of the date the vacancy first occurred, and the appointment shall be only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Chairman of the Council shall be appointed by the President from among the members appointed under subsection (a)(1), by and with the advice and consent of the Senate, from among the members of the Council.

"(d)(1) Eight voting members of the Council shall constitute a quorum except that fewer members, as determined by the Chairman, may conduct hearings.

"(2) The Council may establish such subcommittees as it deems necessary to carry out its duties under section 492. A majority of voting members of any subcommittee of the Council shall constitute a quorum of such subcommittee.

"(3) The Council shall meet at the call of the Chairman or at the call of a majority of the members.

"(e)(1) Each appointed member of the Council shall receive compensation at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule (including traveltime) for each day they are engaged in the actual performance of duties vested in the Council.

"(2) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COUNCIL

"SEC. 492. (a) The Council shall, after consultation with appropriate public and private entities, prepare a National Health Sciences Research Plan (hereinafter referred to in this section as the 'Plan') to be simultaneously transmitted to the President, the Secretary, and the Congress no later than August 1 of each year, the first Plan to be submitted no later than August 1, 1981.

"(b) The Plan shall include—

"(1) policy recommendations concerning health sciences research conducted and supported by the Department of Health and Human Services;

"(2) recommended goals for the health sciences research conducted and supported by the Department of Health, Education, and Welfare;

"(3) recommended budget ranges for health sciences research within the Department of Health and Human Services, for the fiscal year commencing October 1 of the calendar year immediately following the submission of the Plan, and recommended spending priorities for such research for the subsequent four fiscal years; and

"(4) identification of those areas of health sciences research that have been relatively underfunded or underdeveloped and measures needed to promote research in such areas.

"(c) In preparing the Plan under this section, the Council shall—

"(1) take into consideration at least—

"(A) the basic processes of human growth, development, and aging;

"(B) the mortality and morbidity rates of diseases and other health problems which are, or may be, the subject of health sciences research;

"(C) the areas of health sciences research that show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of diseases, the principles of human growth, development, and aging, and other health problems;

"(D) the past levels of spending for health sciences research by Federal agencies other than the Department of Health, Education, and Welfare; and

"(E) the level of public concern for the burden of illness of particular diseases and other health problems;

"(2) recommend spending levels for—

"(A) health sciences research directly or potentially relevant to fundamental knowledge concerning health and disease;

"(B) health sciences research directly or potentially relevant to the primary and secondary prevention of disease and disability;

"(C) health sciences research directly or potentially relevant to the treatment of disease and disability;

"(D) health sciences research directly or potentially relevant to the care and rehabilitation of victims of disease and disability;

"(E) health sciences research directly or potentially relevant to the delivery and financing of health care;

"(F) health sciences research within the Department of Health and Human Services, directly or potentially relevant to the missions of Federal regulatory agencies; and

"(G) after consultation with the Commission on Human Resources of the National Research Council, training of research personnel in the health sciences; and

"(3) in making specific recommendations for budget ranges for any fiscal year, set forth, at a minimum, budgets that conform to each of the following possible conditions as compared to the congressionally approved level of appropriations for the previous fiscal year:

"(A) a 5 per centum net decrease;

"(B) no change;

"(C) an increase to keep pace with the rate of inflation; and

"(D) a 10 per centum net increase over the rate of inflation.

"(d) By March 1 of each year beginning with March 1, 1981, the Council shall submit to the President, the Secretary, and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives an evaluation of the President's budget for the fiscal year beginning October 1 of such calendar year as it relates to health sciences research conducted and supported by the Secretary.

"(e) The Council may undertake or support, through grant or contract, activities designed to—

"(1) improve the methodology of evaluating the results of health sciences research;

"(2) improve the methodology of allocating resources for health sciences research;

"(3) improve the methodology of measuring the burden of disease;

"(4) increase the effectiveness of transfer of knowledge;

"(5) evaluate public attitude toward disease; and

"(6) evaluate the health sciences research undertaken or supported by the Secretary.

"ADMINISTRATIVE PROVISIONS

"SEC. 493. (a) The Council may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council may deem advisable.

"(b)(1) The Council may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(3) Upon request of the Council, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its duties under this title.

"(4) Any Federal employee subject to the civil service laws, rules, and regulations may be detailed to the Council, and such detail shall be without interruption or loss of civil service status or privilege.

"(c) The Council, to assist it in performing its duties and functions, may make grants or enter into contracts with appropriate public or private entities. The authority of the Council to make such grants or enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(d)(1) The Council may secure directly from any Federal agency information necessary to enable it to carry out its duties. Upon request of the Chairman of the Council, the head of such agency shall furnish such information to the Council.

"(2) The Council shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties.

"(3) The Council shall not disclose any information reported to or otherwise obtained by the Council which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) The Council is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

"(f) The Council may at any time publish and disseminate to the public reports respecting its activities.

"(g) For purposes of this section and section 492, the term 'agency' means an executive agency (within the meaning of section 105 of title 5, United States Code) or unit thereof.

"FINANCING OF COUNCIL; TERMINATION OF COUNCIL

"SEC. 494. (a) To support the activities of the Council and to support the study required by section 102 of the Health Sciences Promotion Act of 1979, the Council may expend annually no more than one-tenth of the funds made available under section 513 for the evaluation of programs authorized by title IV.

"(b) The Council shall terminate on December 31, 1985.".

(b) Section 513 is amended by striking "Such" and substituting "Subject to section 494, such".

STUDY OF MAJOR ISSUES IN HEALTH SCIENCES RESEARCH FOR THE TIME PERIOD 1985 THROUGH 2000

SEC. 102. (a) The President's Council for the Health Sciences (hereinafter in this section referred to as the "Council") shall arrange, in accordance with subsection (b), for a study of the major issues in health sciences research for the time period 1985 through 2000. The study shall address, at a minimum, the following issues:

(1) the present status of health sciences

research in the United States, with special attention being given to such research most in need of further development;

(2) the adequacy of present and planned health sciences research facilities to meet the needs of health sciences research for the time period 1985 through 2000;

(3) the adequacy and distribution of health sciences research personnel to meet the needs of health sciences research for the time period, 1985 through 2000;

(4) the need for the development of advanced research equipment and instrumentation to meet the needs of health sciences research for the time period 1985 through 2000;

(5) the means by which knowledge and techniques developed in basic research can effectively be translated into the prevention, early identification, and treatment of disease in order to avoid undue delay or premature application;

(6) the present patterns of public and private support for health sciences research, and the need for support from such sources during such time period;

(7) the appropriate role for the private sector and the Federal Government in the support and conduct of health sciences research; and

(8) the optimal organizational arrangements within the Department of Health, Education, and Welfare for the support and conduct of health sciences research.

(b)(1) The Council shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy", acting through the Institute of Medicine, to conduct the study required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study shall be paid by the Council. If the Academy agrees to such request, the Council shall enter into such an agreement with the Academy.

(2) If the Academy declines the Council's request to conduct such study under such an arrangement, the Council shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Any arrangement entered into under research (1) or (2) of this subsection for the provision of a study shall require that such study be completed and reports thereon be submitted within such period as the Council may require in order to meet the requirements of subsection (c).

(c) By December 1, 1985, the Council shall simultaneously transmit to the President, the Congress, and the Secretary of Health and Human Services, (1) the results of the study (including supporting data and other materials provided by the entity which conducted the study) conducted pursuant to subsection (a), and (2) the comments of the Council concerning such study and its recommendations for action based on such study.

ADVISORY COUNCILS

SEC. 103. (a) Section 217(a) is amended to read as follows:

"SEC. 217. (a) The National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism shall each consist of the Surgeon General, who shall be chairman, the chief medical director of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, as ex officio members, and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health and Human Services. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism, are outstanding in the study, diagnosis, or treatment of psychiatric disorders and alcohol abuse and alcoholism, respectively. Each appointed member of each such council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.".

(b) Strike out subsection (b) of section 217.

(c) Subsections (c), (d), (e), and (g) are redesignated as (b), (c), (d), and (e), respectively.

(d)(1) Section 301(a)(3) is amended by—

(A) striking out "as are recommended by the National Advisory Health Council,";

(B) striking out ", upon recommendation of the National Advisory Health Council,"; and

(C) striking out "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council".

(2) Section 301(a)(8) is amended by—

(A) striking out ", upon recommendations of the National Advisory Health Council, or"; and

(B) striking out "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council".

TITLE II—NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTES OF HEALTH

SEC. 201. (a) The heading of title IV is amended to read as follows:

"TITLE IV—NATIONAL INSTITUTES OF HEALTH".

(b) The heading of part A of title IV is amended to read as follows:

"PART A—ESTABLISHMENT OF NATIONAL INSTITUTES OF HEALTH".

(c) Section 400 is amended to read as follows:

"SEC. 400. (a) There is established in the Public Health Service the National Institutes of Health (hereinafter referred to in this title as the 'Institutes').

"(b) In carrying out the purposes of sections 301 and 307 of this Act, the Secretary, acting through the Institutes, shall endeavor to improve the health of the people of the United States through the support of research, development and research training in the health sciences concerning—

"(1) the processes underlying human health, disability, disorder, and disease;

"(2) the normal and pathological functioning of the body and its organ systems including the aging process;

"(3) the interaction between the human organism and the environment;

"(4) the response of the human organism to environmental stress;

"(5) improved methods of detecting, diagnosing, and treating disease; and

"(6) improved methods for the prevention of disease and the maintenance of good health, to which the highest priority shall be given.

"(c) In order to meet the objectives of subsection (b), the Secretary, acting through the Institutes, shall—

"(1) encourage, conduct, and support efforts to expand the base of scientific knowledge through research in the health sciences;

"(2) encourage, conduct, and support the development and maintenance of research resources;

"(3) encourage, conduct, and support training programs for research personnel;

"(4) identify research advances that have significant potential for clinical and technological application;

"(5) encourage, conduct, and support research and demonstrations concerning new and existing health care technologies, in a manner consistent with the policies and procedures of the National Center for Health Care Technology;

"(6) facilitate the transfer of new health care technologies into practice in a manner consistent with the policies and procedures of the National Center for Health Care Technology, and in collaboration with other Government agencies, educational institutions, and professional and voluntary organizations;

"(7) foster the dissemination and exchange of scientific and technical information in medicine, health, and related fields;

"(8) participate with governmental agencies, educational institutions, private and voluntary organizations, other countries, and international organizations in cooperative endeavors in biomedical research, training, resource development, and communications;

"(9) develop and disseminate policy recommendations related to the support of health sciences research and development; and

"(10) cooperate with and assist other Federal agencies charged with protecting the public health in conducting research, demonstrations, and evaluations.".

(d) Title IV is amended by adding the following new sections after section 400:

"DIRECTOR

"SEC. 400A. (a) The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate.

"(b) The Director, in order to carry out the objectives of the National Institutes of Health under section 400, may take appropriate action including—

"(1) acquiring, constructing, improving, repairing, operating and maintaining centers, laboratories, research facilities, other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings for the use of the Institute for a period not to exceed ten years;

"(2) chartering and appointing one or more advisory committees, including peer review study sections, composed of such private citizens and officials of Federal, State, and local governments as the Director deems desirable to advise him with respect to his functions;

"(3) utilizing, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(4) accepting voluntary and uncompensated services;

"(5) accepting unconditional gifts, or donations of services, money, or property, real personal, or mixed, tangible or intangible;

"(6) entering into such contracts, leases, cooperative agreements, or other transactions, without regard to section 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(7) ensuring that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institutes and the other national and international scientific, medical, and biomedical organizations.

"(c)(1) The Director shall set aside for expenditure during the fiscal year ending September 30, 1981, one-half of 1 per centum, during the fiscal year ending September 30, 1982, 1 per centum, and during the fiscal year ending September 30, 1983, 2 per centum, of the total amount of all funds appropriated to the Institutes and other entities within the Institutes in such fiscal year, for—

(A) research in areas of the health sciences identified by the President's council for the Health Sciences as being underfunded, underdeveloped, or of high priority;

"(B) research that is distinguished by its innovative or unconventional character;

"(C) cooperative research conducted by two or more institutes or two or more Federal entities at least one of which is within the Department of Health, Education, and Welfare;

"(D) research involving more than one scientific discipline;

"(E) research to be conducted by individual investigators who have not, as individuals, previously received research funding from the Institutes; and

"(F) research in any other health sciences areas that the Director believes are of high priority, and deserving of support.

"(2) Funds set aside by the Director in any fiscal year under paragraph (1) may be carried forward to the next fiscal year, and may be returned, in whole or in part, to the Institute from which they were withdrawn.

"(3) Not later than December 31, 1981, and not later than December 31, 1982, the Director, Secretary, shall submit through the Secretary to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Represenatives a report identifying the research projects supported under this subsection and describing any progress under such projects.

"(d) The Director shall assure that, in any given fiscal year, not less than 45 per centum of all funds expended by the Institutes shall be used to support research by individual investigators who are not full-time employees of the Institutes and whose applications for such support were unsolicited.

"(e) All grants and contracts funded under this section shall be subject to peer review as provided in section 475.

"DEFINITIONS

"SEC. 400B. For purposes of this title, the term—

"(1) 'primary prevention' means the prevention of the development of a disease in healthy individuals, and

"(2) 'secondary prevention' means the early detection, referral for diagnois and treatment of disease in asymptomatic individuals.".

(e) Section 479(a) is amended by striking "two hundred" and substituting "three hundred".

APPEALS PROCESS DEMONSTRATION PROJECT

SEC. 202. (a) Within six months of the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall establish an appeals process for applicants whose applications for grants under title IV have been denied. Such appeals process shall operate for at least three years.

(b) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the appeals process established under subsection (a) including a detailed description, and an evaluation, of the effectiveness of such process and a recommendation as to whether such process should be made permanent.

PEER REVIEW DEMONSTRATION PROJECT

SEC. 203. (a) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall establish, within six months of the date of enactment of this Act, a program for the purpose of demonstrating and evaluating alternative methods of conducting peer review of applications for research grants. Such program shall provide for, at a minimum, the inclusion of social scientists, biomedical scientists with broad general interests, and other scientists whose expertise is not in the biomedical sciences in selected peer review groups, and the inclusion of lay persons in at least five peer review groups. Such program shall operate for three years.

(b) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the program established under subsection (a), including a detailed description and an evaluation of the effectiveness of alternate methods of conducting peer review.

INNOVATIVE REVIEW PROCESSES PROJECT

SEC. 204. (a) The Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall provide for the development and preliminary testing of not less than three models each of the following two programs to be carried out in not less than two of the National Institutes of Health:

(1) Demonstrating and evaluating alternative methods of identifying innovative and unconventional research proposals with a potential for major scientific achievement and providing them assistance in developing acceptable proposals for appropriate funding.

(2) Seeking out and utilizing generalist scientists (those with broad general training and experience who are able to generalize across separate scientific disciplines and make connections in basic research applicable to current clinical problems) to identify research findings that have a potential for application across scientific disciplines and in areas posing major threats to human health and survival and to facilitate the transfer and cross-fertilization of such findings across scientific disciplines in order to develop major scientific achievements.

(b) Not later than twenty-four months after the date of the enactment of this Act, the Assistant Secretary for Health shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report on the programs developed and tested under subsection (a), including a detailed description and an evaluation of the feasibility and desirability of implementing such programs in one or more of the fololwing places: within the National Institutes of Health, within the Office of the Assistant Secretary, elsewhere in the Department of Health and Human Sciences, and outside the Department.

REDESIGNATION

SEC. 205. (a) Title IV is amended by redesignating parts B, C, D, E, F, G, and H as parts C, D, E, F, G, H, and I, respectively

(b) Title IV is amended—

(1) by redesignating part I as part N; and

(2) by striking section 471.

NATIONAL CANCER INSTITUTE

SEC. 206. (a) Title IV is amended by adding the following heading before "SEC. 401.";

"PART B—NATIONAL CANCER INSTITUTE".

(b) Section 401 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c);

(2) by adding the following after "SEC. 401.":

"(a) There is established in the National Institutes of Health the National Cancer Institute (hereinafter in this part referred to as the 'Institute').";

(3) by striking "(b)" in subsection (b) (6) (as redesignated by paragraph (1)) and substituting "(c)";

(4) by striking "(a)" in subsection (c) (as redesignated by paragraph (1)) and substituting "(b)"; and

(5) by inserting the following new subsection of the end thereof:

"(d) The Director of the National Cancer Institute shall be appointed by the President.".

(c) The heading to section 403 is amended to read as follows:

"CANCER PREVENTION, EDUCATIONAL, AND CONTROL PROGRAMS".

(d) Section 403 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) the education of health professionals in, the demonstration of, and the evaluation of—

"(A) effective methods for the primary prevention of cancer;

"(B) effective methods for the secondary prevention of cancer, including the early detection of cancer and the identification of individuals with a high risk of developing cancer; and

"(C) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and"; and

(2) by striking "the early detection and treatment of cancer" in paragraph (3) and substituting "the prevention, especially the primary and secondary prevention, and the treatment of cancer".

(e) Section 404(a) is amended by striking paragraph (9) and substituting the following:

"(9) as soon as practicable after the end of each fiscal year, prepare a report in consultation with the National Cancer Advisory Board, and submit such report to the Secretary, for simultaneous transmittal, not later than November 30 of each year to the President and to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Board, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of cancer,

"(ii) secondary prevention of cancer, and

"(iii) treatment and cure of cancer.

The Director of the Institute shall also provide to the President's Council on the Health Sciences a plan of the proposed activities of the Institute for the next five years.".

(f) Section 406(b) is amended by striking out the last sentence thereof.

(g) Section 407(a) is amended—

(1) by striking "President" in paragraph (1)(B) and substituting "Secretary";

(2) by amending paragraph (2)(A) to read as follows:

"(2)(A) Appointed members shall be appointed for four-year terms.";

(3) by adding at the end of paragraph (2)(B) the following: "The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.";

(4) by striking "President" in paragraph (3) and substituting "Secretary";

(5) by striking paragraph (7) and renumbering paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(6) by inserting "and shall conduct a formal orientation program and training sessions for new members of the Board in

order to provide such new members with the necessary information and training for effective participation on the Board" before the period at the end of paragraph 8) (as renumbered by paragraph (5)).

(h) Paragraph (1) of section 408(a) is amended by adding at the end thereof the following: "At least one of the members of the Panel shall be a member of the National Cancer Advisory Board.".

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 207 (a) Section 411 is amended—

(1) by striking "hereby"; and

(2) by striking "Public Health Service" and substituting "National Institutes of Health".

(b) Section 415(b) is amended by striking out the second to last sentence thereof.

(c) Paragraph (1) of section 412 is amended by striking "researches" and substituting "research".

(d) Section 413(b) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of disease,

"(ii) secondary prevention of disease, and

"(iii) treatement and cure of disease.

"(3) The Director of the Institute shall also provide to the President's Council on the Health Sciences plan of the proposed activities of the Institute for the next five years.".

(e) Section 413(d) is amended by inserting before the period ", including appropriate emphasis on such lifestyle factors as they affect the present and future health of children".

(f) Section 417(a) is amended—

(1) by striking "two" after "diseases of the heart, blood vessels, lungs, and blood;" and substituting "one"; and

(2) by striking "five" after "lung or blood diseases; and" and substituting "six".

(g) Section 417(b) is amended—

(1) by adding at the end of paragraph (1) the following: "The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(h) Section 417(c) is amended to read as follows:

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.".

(i) Section 417(d) is amended—

(1) by striking "and" after "Secretary of the Council,"; and

(2) by inserting before the period the following: ", and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council".

(j) Section 418(b) is amended—

(1) by striking "(1)"; and

(2) by striking paragraph (2).

(k) The second sentence of section 419B is amended by striking out "under this section" and substituting "for the purpose of carrying out this part (other than section 414)".

NATIONAL INSTITUTE OF DENTAL RESEARCH

SEC. 208. (a) Section 421 is amended—

(1) by striking "hereby"; and

(2) by striking "Public Health Service" and substituting "National Institutes of Health".

(b)(1) Sections 422 and 424 are amended by striking "Surgeon General" each place it appears and substituting "Secretary".

(2) Section 423(a) is amended to read as follows: "In carrying out the provisions of section 422, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.".

(3) Section 423(b) is amended by striking out "Surgeon General" and substituting "Director of the Institute".

(c) Section 422 is amended—

(1) by striking "National Advisory Dental Research Council" and substituting "National Dental Research Advisory Council"; and

(2) by striking "researches" each place it appears and substituting "research".

(d) Section 423 is amended by adding at the end thereof the following new subsections:

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the National Dental Research Advisory Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into dental practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of dental disease,

"(ii) secondary prevention of dental disease, and

"(iii) treatment and cure of dental disease.

"(2) The Director of the Institute shall also provide to the President's Council on the Health Sciences a plan of the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research and training in dental diseases after appropriate review for scientific merit. If the direct costs of a grant for such research and training will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Dental Research Advisory Council.".

(c) Part D of title IV, as redesignated by this Act, is amended by adding after section 423 the following:

NATIONAL DENTAL RESEARCH ADVISORY COUNCIL

"SEC. 423A. (a) There is established in the Institute a National Dental Research Advisory Council (hereinafter in this part referred to as the 'Council') to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to dental diseases, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.".

NATIONAL INSTITUTE ON ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

SEC. 209. (a) Part E of title IV, as redesignated by this Act, is amended by striking sections 431, 432, and 433.

(b) The title to Part E of title IV, as redesignated by this Act, is amended to read as follows:

"PART E—NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES"

(c) Section 434 is amended to read as follows:

"NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

"SEC. 434. There is established in the National Institutes of Health a National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (hereinafter in this part referred to as the 'Institute').".

(d) Part E of title IV, as redesignated by this Act, is amended by inserting the following after section 434:

"ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES RESEARCH AND TRAINING

"SEC. 434A. In carrying out the purposes of section 301 with respect to arthritis, musculoskeletal and skin diseases; diabetes, endocrinology and metabolism, kidney, urologic, and hematologic diseases, and digestive diseases, the Secretary, acting through the Institute and its associate directors of Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrinology and Metabolism; Kidney, Urologic, and Hematologic Diseases; and Digestive Diseases, and in cooperation with the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other institutes, agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases.

"ADMINISTRATION

"SEC. 434B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention or methods of diagnosis or treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endorcrine and metabolic diseases, or for the acquisition of grounds or equipment, or for the construction, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council and the associate Directors, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute which supported research concerning—

"(i) primary prevention of disease.

"(ii) secondary prevention of disease, and

"(iii) treatment and cure of disease.

"(2) The Director of the Institute, after consultation with the Associate Directors, shall provide to the President's Council on the Health Sciences a plan of the activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research and training in arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases after appropriate review for scientific merit. If the direct costs of a grant for such research and training will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) (1) There are established within the Institute the positions of Associate Director for Arthritis, Musculoskeletal, and Skin Diseases; Associate Director for Digestive Diseases and Nutrition; Associate Director for Kidney, Hematology; and Associate Director for Diabetes, Endocrinology, and Metabolic Diseases. The Associate Directors shall report directly to the Director of such Institute, and shall be under the supervision of the Director of such Institute. The Associate Directors shall be responsible for programs regarding their respective disease; and shall report (and make recommendations) on a regular basis, through the Director of such Institute, to the Director of the Institutes concerning the duties described in paragraph (2).

"(2) The duties of the Associate Directors shall include—

'(A) developing a coordinated plan for the Institutes with respect to research and training concerning their respective diseases;

"(B) assessing the adequacy of management approaches for the activities within the Institutes concerning their respective diseases and developing improved approaches if needed;

"(C) monitoring and receiving expenditures by the Institutes concerning their respective diseases;

"(D) performing the information and data collection and dissemination functions under section 301 concerning their respective diseases;

"(E) identifying research opportunities concerning their respective diseases and recommending ways to utilize such opportunities; and

"(F) preparing a recommended annual coordinated budget for all activities undertaken and supported by the Institutes concerning their respective diseases.

"(3) The Director of the Institute, upon receiving any reports or recommendations submitted to the Director of the Institute by an Associate Director the scope of which relates to the Institutes, shall submit such reports or recommendations to the Director of the Institutes without alteration. The Direactor of the Institute may attach any comments he may have relating to such reports or recommendations to such reports or recommendations.

"(4) In performing the information and data collection and dissemination functions under paragraph (2) (D), the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases shall act through the National Diabetes Data Group and the National Diabetes Information Clearinghouse.

"(f) The Director of the Institute, acting through the Associate Directors for Arthritis, Musculoskeletal and Skin Diseases, Kidney Diseases, Urology and Hematology, Digestive Diseases and Nutrition and Diabetes, Endocrinology and Metabolic Diseases, shall carry out programs of support for training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis, digestive diseases, diabetes mellitus, and endocrine metabolic, kidney, urologic, and hematologic diseases, including support for training in medical schools, graduate clinical training, graduate epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs.

"NATIONAL ARTHRITIS, DIABETES, AND DIGESTIVE DISEASES ADVISORY COUNCIL

"SEC. 434C. (a) There is established in the Institute a National Arthritis, Diabetes and Digestive and Kidney Diseases Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to arthritis, musculoskeletal and skin diseases, diabetes, metabolism, endocrinology, kidney, urologic and hematologic diseases, and digestive diseases, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 434D. (a) The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of the causes, prevention, and methods of diagnosis and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the causes, prevention, or methods of diagnosis and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, by correspondence or by personal investigation of such studies, and with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make reommendations to the Secretary with respect to carrying out the provisions of this part after consideration of the recommendations of the appropriate subcommittees; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of arthritis, musculoskeletal and skin diseases, digestive diseases, kidney, urologic, and hematologic diseases, diabetes mellitus, and endocrine and metabolic diseases; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"(b) There are established within the Council a subcommittee on diabetes and endocrine and metabolic diseases, a subcommittee on arthritis and musculoskeletal and skin diseases, a subcommittee on digestive diseases, and a subcommittee on kidney, urologic, and hematologic diseases. The subcommittees shall be composed of members of the Council who are outstanding in the diagnosis, prevention, and treatment of diabetes, arthritis, digestive diseases, and kidney, urologic, and hematologic diseases, respectively, and individuals selected from the Council's public membership. The subcommittees are authorized to review applications made to the Director for grants for research and training projects relating to the diagnosis, prevention, and treatment of diabetes, endocrine and metabolic diseases, arthritis, musculoskeletal and skin diseases, digestive diseases, and kidney, urologic, and hematologic diseases and shall recommend to the Council those applications and contracts that the subcommittees determine will best carry out the purposes of this part. The subcommittees shall also review and evaluate the diabetes and endocrine and metabolic disease, arthritis, musculoskeletal and skin diseases, digestive diseases, and kidney, urologic, and hematologic diseases programs under this part and recommend to the Council such changes in the administration of such programs as the subcommittee determine are necessary.".

(e) (1) Section 435 is amended by—

(A) redesignating subsection (b) as subsection (c);

(B) inserting the following new subsection (b) after subsection (a):

"(b) In connection with training programs conducted in accordance with subsection (a), the Secretary shall provide from the amounts appropriated under subsection (d), not more than ten training stipends through each center in any fiscal year.";

(C) redesignating subsection (c) as subsection (d);

(D) striking the word "and" after "1979," in subsection (d) as redesignated by this subsection, and inserting before the period in subsection (d) ", $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.".

(2) Section 436A(a) (1) is amended to read as follows:

"(1) The following nonvoting ex officio members: the Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Metabolism, Diabetes, and Digestive and Kidney Diseases, the Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, the Director of the Center for Disease Control, the Administrator of the Health Resources Administration, the Administrator of the Health Services Administration, and the chief medical director of the Veterans' Administration, or their designees, a medical officer designated by the Department of Defense, and the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases.".

(3) Section 436A(e) is amended to read as follows:

"(e) The appointed members of the Board shall be appointed for terms of three years each, except that, of the appointed members serving on the date of enactment of the Health Sciences Promotion Act of 1979, six shall be reappointed for terms of two years each.".

(4) Section 436A(f) is amended by—

(A) striking the word "and" at the end of paragraph (1) and substituting ", as amended pursuant to paragraph (2),"; and

(B) redesignating paragraph (2), as paragraph (3) and inserting after paragraph (1) the following new paragraph (2):

"(2) periodically amend the Diabetes Plan to ensure its continuing relevance, and".

(5) Section 436A(k) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(6) Section 436A(1) is amended by striking "1980" and substituting "1983".

(7) The third sentence of section 437(a) is amended by inserting "and the National Arthritis Advisory Board" after "Secretary".

(8) The first sentence of section 438(a) is amended by inserting "and the appropriate official responsible for administration of titles 18 and 19 of the Social Security Administration" after "Health".

(9) Paragraph (2) of section 438(d) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(10) Paragraph (3) of section 438(d) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(11) Section 439(f) is amended to read as follows:

"(f) In connection with training programs conducted in accordance with this section, the Secretary shall provide, from the amounts appropriated under subsection (g), not more than ten training stipends offered through each Center in any fiscal year.".

(12) Section 439(g) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "$14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

(13) Section 440(e) is amended to read as follows:

"(e) The appointed members of the Board shall be appointed for terms of three years each, except that, of the appointed members serving on the date of enactment of the Health Sciences Promotion Act of 1979, six shall be reappointed for terms of one year each, and six shall be reappointed for terms of two years each.".

(14) Section 440(j) is amended by striking "One year after the date of its establishment and each year thereafter" and inserting in lieu thereof "On January 15 of each year".

(15) Section 440(k) is amended—

(A) by striking "and" after "1979,"; and

(B) by inserting before the period the following: "and for each of the next three fiscal years".

(16) Section 440(l) is amended by striking "1980" and substituting "1983".

(17) Title IV is amended by adding the following new section after section 440A:

"NATIONAL DIGESTIVE DISEASES ADVISORY BOARD

"SEC. 440B. (a) The Secretary shall establish a National Digestive Diseases Advisory Board (hereinafter referred to as the 'Board') no later than the ninetieth day after the date of the enactment of this section. The Board shall be composed of twenty-one members as follows:

"(1) Six members shall be appointed by the Secretary from among individuals who, in accordance with this subparagraph, are scientists, physicians, and other health professionals, who are not employed by the Federal Government, and who represent the specialties and disciplines relevant to digestive diseases. Of the members appointed under this subparagraph, two shall be individuals engaged primarily in basic biomedical research relevant to the gastrointestinal tract, two shall be individuals engaged primarily in the treatment and study of diseases of the gastrointestinal tract, one shall be an individual engaged in the treatment and study of diseases of the liver and biliary tract, and one shall be an individual engaged primarily in the practice and study of pediatric gastroenterology.

"(2) One member shall be appointed by the Secretary from among individuals who are nurses, public health personnel, or members of the allied health professions who are not employed by the Federal Government and who have training or experience in the treatment of digestive diseases.

"(3) Six members shall be appointed by the Secretary from among the general public. At least two of such members shall be individuals who have experienced significant personal or family involvement with digestive diseases.

"(4) The following shall be nonvoting ex officio members: The Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive Diseases, the Director of the National Cancer Institute, the Director of the National Institute of Allergy and Infectious Diseases, the Director of the National Institute on Alcohol Abuse and Alcoholism and the chief medical director of the Veterans' Administration or their designees, and a medical officer designated by the Department of Defense.

"(b) The members of the Board shall select a chairperson from among the appointed members.

"(c) The Secretary shall, after consultation with the Board, provide the Board with appropriate staff and administrative support services as the Secretary determines are necessary for the Board to carry out its functions.

"(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(e) The appointed members of the Board shall be appointed to serve until the termination of the Board (as provided in subsection (l)).

"(f) The Board may, from time to time, establish subcommittees.

"(g) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

"(h) One year after the date of its establishment and each year thereafter, the Board shall submit to the Secretary and to the Congress a report that—

"(1) describes the Board's activities during the year for which the report is made;

"(2) describes and evaluates the progress made in such year in digestive diseases research, treatment, education, and training; and

"(3) summarizes and analyzes expenditures made by the Federal Government for digestive diseases-related activities during the year for which the report is made.

The annual digestive diseases report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

"(i) There are authorized to be appropriated to carry out the purposes of this section $100,000 for the fiscal year ending September 30, 1981, $100,000 for the fiscal year ending September 30, 1982, and $100,000 for the fiscal year ending September 30, 1983.

"(j) The Board shall terminate on September 30, 1983.".

NATIONAL INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND GENERAL MEDICAL SCIENCES

SEC. 210. (a) Part F (as redesignated by this Act) is amended to read as follows:

"PART F—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT AND NATIONAL INSTITUTE FOR THE GENERAL MEDICAL SCIENCES

"Subpart I—National Institute of Child Health and Human Development

"ESTABLISHMENT OF NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

"SEC. 441. There is established in the National Institutes of Health the National Institute of Child Health and Human Development (hereinafter in this subpart referred to as the 'Institute').

"RESEARCH ON CHILD HEALTH AND HUMAN DEVELOPMENT

"SEC. 441A. (a) In carrying out the purposes of section 301, with respect to child health and human development, the Secretary, acting through the Institute and in cooperation with the Child Health and Human Development Advisory Council (hereinafter in this subpart referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to maternal health, population research, reproductive health, child health, sudden infant death syndrome, and human development, including the special health problems and requirements of mothers and children, and conduct, assist, and foster research investigations, experiments, and studies in the basic sciences relating to the process of human reproduction, growth and development, including prenatal development;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by older agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in child health and human development.

"(b) Pursuant to section 4(6) of the Family Planning Services and Population Research Act of 1970, activities conducted under this section relating to research described in section 1004(a) of this Act shall be carried out in coordination with the Deputy Assistant Secretary provided for in such Act.

"ADMINISTRATION

"SEC. 441B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into child health and human development, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases and conditions affecting maternal, reproductive and child health,

"(ii) secondary prevention of diseases and conditions affecting maternal, reproductive and child health, and

"(iii) treatment and cure of diseases and conditions affecting maternal, reproductive and child health.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences of the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research reproductive and in child health and human development and population after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000 the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL CHILD HEALTH AND HUMAN DEVELOPMENT ADVISORY COUNCIL

"SEC. 441C. (a) There is established in the Institute a National Child Health and Human Development Advisory Council to be composed of twenty-four members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Deputy Assistant Secretary for Population Affairs, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientifiic authorities who are skilled in the sciences relating to maternal health, population research, reproductive health, child health, and human development, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 441D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by it relating to the studies of maternal health, population research, reproductive health, child health, and human development, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to maternal health, population research, reproductive health, child health, and human development, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public:

"(3) review applications for grants-in-aid for research projects relating to maternal health, population research, reproductive health, child health, and human development, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institutions for grants-in-aid for training, instruction, and traineeships relating to maternal health, population research, reproductive health, child health, and human development; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"Subpart II—National Institute of General Medical Sciences

"NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

"SEC. 443. There is established in the National Institutes of Health a National Institute of General Medical Sciences (hereinafter in this subpart referred to as the 'Institute').

"RESEARCH IN THE GENERAL MEDICAL SCIENCES

"SEC. 443A. In carrying out the purposes of section 301 with respect to general medical sciences the Secretary, acting through the Institute, and in cooperation with the National General Medical Sciences Advisory Council (hereinafter in this subpart referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the general or basic medical sciences and related natural or behavioral sciences, which have significance for two or more other institutes within the National Institutes of Health, or are outside the general area of responsibility of any other institute within the Institutes;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the general medical sciences.

"ADMINISTRATION

"SEC. 443B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the general medical sciences, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of disease,

"(ii) secondary prevention of disease, and

"(iii) treatment and cure of disease.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in general medical sciences after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL GENERAL MEDICAL SCIENCES ADVISORY COUNCIL

"SEC. 443C. (a) There is established in the Institute a National General Medical Sciences Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the general medical sciences, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime, and all members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 443D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council relating to the studies of the general medical sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the general medical sciences, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to the general medical sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to the general medical sciences;

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the general medical sciences; and

"(B) certify its approval of such applications for grants-in-aid to the Secretary.

"PRESERVATON OF EXISTING AUTHORITY

"SEC. 444. Nothing in this part shall be construed as affecting the authority of the Secretary under section 2 of the Act of April 9, 1912 (42 U.S.C., 192), or title V of the Social Security Act (42 U.S.C. ch. 7, subch. V), or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this Act for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.".

NATIONAL EYE INSTITUTE

SEC. 211. Part G of title IV, as redesignated by this Act is amended to read as follows:

"Part G—National Eye Institute

"ESTABLISHMENT OF NATIONAL EYE INSTITUTE

"SEC. 445. There is established in the National Institutes of Health the National Eye Institute (hereinafter in this part referred to as the 'Institute').

"EYE RESEARCH

"SEC. 445A. In carrying out the purposes of this section 301, with respect to blinding eye diseases and visual disorders, the Secretary, acting through the Institute and in cooperation with the National Eye Advisory Council (hereafter in this part referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to blinding eye diseases and visual disorders, including the special health problems and requirements of the blind, and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight;

"(2) promote the coordination of research conducted by the Institute, and similar reseach conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in blinding eye diseases and visual disorders.

"ADMINISTRATION

"SEC. 445B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into blinding eye diseases and visual disorders, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of eye disease,

"(ii) secondary prevention of eye disease, and

"(iii) treatment and cure of eye disease.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in blinding eye diseases and visual disorders after appropriate review for scientific merit. If the direct costs of a grant for research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) The Secretary, through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public and nonprofit private vision research facilities.

"NATIONAL EYE ADVISORY COUNCIL

"SEC. 445C. (a) There is established in the Institute a National Eye Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to blinding eye diseases and visual disorders, including the special health problems and requirements of the blind, and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 445D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of blinding eye diseases and visual disorders, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the blinding eye diseases and visual disorders, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to blinding eye diseases and visual disorders, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of blinding eye diseases and visual disorders; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.".

NATIONAL INSTITUTE ON AGING

SEC. 212. Part I of title IV, as redesignated by this Act, is amended to read as follows:

"PART 1—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 447. There is established in the National Institutes of Health the National Institute on Aging (hereinafter in this part referred to as the 'Institute').

"RESEARCH ON AGING

"SEC. 447A. In carrying out the purposes of section 301, with respect to aging, the Secretary, acting through the Institute and in cooperation with the National Aging Advisory Council (hereinafter in this part referred to as the 'Council')—

"(1) shall conduct, assist, and foster research, investigations, experiments, studies, and training relating to the biomedical, social, and behavioral elements of the aging process and the other special problems, needs, and diseases of the aged;

"(2) shall promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) shall secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in aging and research on aging;

"(4) shall conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare;

"(5) shall carry out public information and education programs designed to disseminate the findings of Institute-sponsored and other relevant aging research, and studies and other information about the process of aging that may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older;

"(6) in carrying out health personnel training responsibilities, shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged;

"(7) may provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged; and

"(8) may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as deemed necessary, and provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions.

"ADMINISTRATION

"SEC. 447B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into aging, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c)(1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to Congress. Such report shall account and evaluate the activities, accomplishments, and progress of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases and other health problems associated with aging,

"(ii) secondary prevention of diseases and other health problems associated with aging, and

"(iii) treatment and cure of diseases and other health problems associated with aging.

"(2) The Director of the Institute shall provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research on aging, after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL AGING ADVISORY COUNCIL

"SEC. 447C. (a) There is established in the Institute a National Aging Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to the aging process and the diseases and other special problems and the needs of the aged, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 447D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of aging, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to aging, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to aging, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to aging; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.".

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, NATIONAL INSTITUTE OF NEUROLOGICAL, AND COMMUNICATIVE DISORDERS, AND STROKE, DIVISION OF RESEARCH RESOURCES

SEC. 213. Title IV is amended by adding the following new parts immediately after part I (as redesignated by this Act).

"PART J—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

"ESTABLISHMENT OF INSTITUTE

"SEC. 449. There is established in the National Institutes of Health a National Institute of Allergy and Infectious Diseases (hereinafter referred to in this part as the 'Institute').

"ALLERGY AND INFECTIOUS DISEASES RESEARCH

"SEC. 449A. In carrying out the purposes of section 301 with respect to allergy and infectious diseases, the Secretary, acting through the Institute, and in cooperation with the National Allergy and Infectious Diseases Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to allergy and infectious diseases, and also Reye's syndroms;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in allergy and infectious diseases.

"ADMINISTRATION

"SEC. 449B. (a) In carrying out the provisions of this part, appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into allergy and infectious diseases, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) call health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of allergy and infectious diseases,

"(ii) secondary prevention of allergy and infectious diseases, and

"(iii) treatment and cure of allergy and infectious diseases.

"(2) The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in dental diseases after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL ALLERGY AND INFECTIOUS DISEASES ADVISORY COUNCIL

"SEC. 449C. (a) There is established in the Institute a National Allergy and Infectious Diseases Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to allergy and infectious diseases, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 449D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council relating to the studies of allergy and infectious diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to allergy and infectious diseases, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to allergy and infectious diseases, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of allergy and infectious diseases;

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, for carrying out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of allergies and infectious diseases; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PARK K—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

"ESTABLISHMENT OF INSTITUTE

"SEC. 451. There is established in the National Institutes of Health a National Institute of Environmental Health Sciences (hereinafter referred to in this part as the 'Institute').

"ENVIRONMENTAL HEALTH SCIENCES RESEARCH

"SEC. 451A. In carrying out the purposes of section 301, with respect to environmental health sciences, the Secretary, acting through the Institute and in cooperation with the National Environmental Health Sciences Advisory Council (hereinafter in this part referred to as the 'Council') shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the environmental health sciences;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the environmental health sciences.

"ADMINISTRATION

"SEC. 451B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the environmental health sciences, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and acomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of diseases linked to environmental factors,

"(ii) secondary prevention of diseases linked to environmental factors, and

"(iii) treatment and cure of diseases linked to environmental factors.

"(2) The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Directors of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research in environmental health sciences after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"NATIONAL ENVIRONMENTAL HEALTH SCIENCES ADVISORY COUNCIL

"Sec. 415C. (a) There is established in the Institute a National Environmental Health Sciences Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the environmental health sciences, and six of the appointed members shall be selected from the general public.

"(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"Sec. 451D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of environmental health sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the environmental health sciences, by correspondence or by personal investigation of such studies, and with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to the environmental health sciences, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6) (A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the environmental health sciences; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PART L—NATIONAL INSTITUTE OF NEUROLOGICAL, COMMUNICATIVE DISORDERS AND STROKE

"ESTABLISHMENT OF NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Sec. 453. There is established in the National Institute of Health, the National Institute of Neurological and Communicative Disorders and Stroke (hereinafter in this part referred to as the 'Institute').

"RESEARCH ON NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

"Sec. 453A. In carrying out the purposes of section 301, with respect to neurological and communicative disorders and stroke, the Secretary, acting through the Institute and in cooperation with the Neurological and Communicative Disorders, and Stroke Advisory Council (hereinafter in this part referred to as the 'Council'), shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to neurological and communicative disorders and stroke, including the special health problems and requirements of victims of neurological, communicative disorders and stroke, and relating to the basic and clinical sciences regarding neurological and communicative disorders and stroke;

"(2) promote the coordination of research conducted by the Institute, and similar research conducted by other agencies, organizations, and individuals; and

"(3) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in neurological and communicative disorders and stroke.

"ADMINISTRATION

"Sec. 453B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Institute shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into neurological and communicative disorders and stroke, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"(c) (1) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year, and shall include a listing of—

"(A) all health care technologies (as defined in section 309(h)) under development through activities supported or undertaken by the Institute that, in the view of the Director and the Council, are suitable for incorporation into medical practice; and

"(B) all activities of the Institute supported or undertaken by the Institute relating to the prevention of disease, and a statement of the proportion of the funds appropriated for the Institute that supported research concerning—

"(i) primary prevention of neurological and communicative disorders and stroke,

"(ii) secondary prevention of neurological and communicative disorders and stroke, and

"(iii) treatment and cure of neurological and communicative disorders and stroke.

The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Institute for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Institute may approve grants under this Act for research on neurological and communicative disorders and stroke after appropriate review for scientific merit. If the direct costs of a grant for such research will exceed $35,000, the Director may approve such grant only after appropriate review for scientific merit and recommendation for approval by the Council.

"(e) There is established within the Institute the position of Associate Director for Hearing. Such Associate Director shall report directly to the Director and shall be responsible for programs regarding hearing disorders within the Institute and for the coordination of activities supported or conducted by the Institute concerning hearing disorders with the activities of other Federal agencies and appropriate public and private entities. Acting through the Associate Director for Hearing, the Director shall carry out programs of research and training in the diagnosis, prevention and treatment of hearing disorders.

"NATIONAL NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE ADVISORY COUNCIL

"SEC. 453C. (a) There is established in the Institute a National Neurological and Communicative Disorders and Stroke Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to neurological and communicative disorders and stroke, including the special health problems and requirements of victims of neurological, communicative disorders and stroke, and the basic and clinical sciences relating to the neurological, communicative disorders and stroke, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Institute shall—

"(1) designate a member of the staff of the Institute to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 453D. The Council is authorized to—

"(1) review research projects and programs submitted to, or initiated by, such Council, relating to the studies of neurological and communicative disorders and stroke and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to neurological and communicative disorders and stroke, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefits of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for research projects relating to neurological and communicative disorders and stroke, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of research;

"(4) recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, to carry out the purposes of this part;

"(5) make recommendations to the Secretary with respect to carrying out the provisions of this part; and

"(6)(A) review applications from any public or nonprofit institution for grants-in-aid for training, instruction, and traineeships relating to the diagnosis, prevention, and treatment of neurological and communicative disorders and stroke; and

"(B) certify the Council's approval of such applications for grants-in-aid to the Secretary.

"PART M—DIVISION OF RESEARCH RESOURCES

"ESTABLISHMENT OF DIVISION

"SEC. 455. There is established in the National Institutes of Health a Division of Research Resources (hereinafter referred to in this part as the 'Division').

"DEVELOPMENT AND SUPPORT OF RESEARCH RESOURCES AND RELATED ACTIVITIES AND TRAINING

"SEC. 455A. In carrying out the purposes of section 301 with respect to research resources, the Secretary, acting through the Division, and in cooperation with the Research Resources Advisory Council (hereinafter referred to in this part as the 'Council') shall—

"(1) encourage, conduct and support the development and maintenance of research resources in the biomedical, clinical and behavioral sciences;

"(2) make grants-in-aid to public or private nonprofit institutions for the general support of health sciences research;

"(3) make grants-in-aid to public or private nonprofit entities to increase the number of women and ethnic minority faculty, students, and investigators engaged in biomedical research;

"(4) promote the coordination of activities conducted by the Division, and similar activities conducted by other agencies, organizations, and individuals; and

"(5) secure for the Division consultation services and advice of persons from the United States or abroad who are experts in areas relevant to the activities of the Division.

"ADMINISTRATION

"SEC. 455B. (a) In carrying out the provisions of this part, all appropriate provisions of section 301 shall be applicable to the authority of the Secretary.

"(b) The Director of the Division shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for development, support, study or investigation of, or research into, research resources, or for the acquisition of grounds or equipment, or for the construction or maintenance of premises, buildings, or equipment of the Division. Donations of $50,000 or more to carry out the purposes of this part may be acknowledged by the establishment within the Division of suitable memorials to the donors.

"(c) The Director of the Division shall, as soon as practicable after the end of each fiscal year, prepare a report in consultation with the Council, and submit such report to the Secretary, for simultaneous transmittal not later than November 30 of each year to the President and to the Congress. Such report shall account and evaluate the activities, progress, and accomplishments of the Institute during the preceding fiscal year. The Director of the Institute shall also provide a plan to the President's Council on the Health Sciences for the proposed activities of the Division for the next five years.

"(d) Under procedures approved by the Director of the National Institutes of Health, the Director of the Division may approve grants under this Act for the development and support of research resources and for related research and training after appropriate peer review. If the direct costs of a grant will exceed $35,000, the Director may approve such grant only after appropriate review and recommendation for approval by the Council.

"NATIONAL RESEARCH RESOURCES ADVISORY COUNCIL

"SEC. 455C. (a) There is established in the Division a National Research Resources Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, the chief medical director of the Veteran's Administration (or their designees), and a medical officer designated by the Secretary of Defense, as nonvoting ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary.

Twelve of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to research resources, and six of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office. The Secretary shall, within ninety days of an expired term, or a vacancy occurring for any other reason, appoint a successor to fill such vacancy.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Members of the Council who are not officers or employees of the United States shall receive, for each day they are engaged in the performance of the functions of the Council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime. All members, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Director of the Division shall—

"(1) designate a member of the staff of the Division to act as Executive Secretary of the Council;

"(2) make available to the Council such staff assistance, information, and other assistance as it may require to carry out its functions; and

"(3) conduct a formal orientation program and training sessions for new members of the Council in order to provide such new members with the necessary information and training for effective participation on the Council.

"(e) The Council shall meet at the call of the Chairman but not less often than four times a year.

"FUNCTIONS OF THE COUNCIL

"SEC. 445D. The Council is authorized to—

"(1) review projects and programs submitted to, or initiated by, such Council relating to the activities of the Division, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions to human knowledge with respect to such areas of study;

"(2) collect information as to studies that are being conducted in the United States or any other country with regard to the activities of the Division, by correspondence or by personal investigation of such studies, and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), health care professionals, or any other scientists, and for the general public;

"(3) review applications for grants-in-aid for activities relating to the purposes of the Division, and certify its approval of any such projects to the Secretary upon a finding that such projects have the potential of making valuable contributions with respect to the purposes of the Division; and

"(4) recommend to the Secretary acceptance of conditional gifts pursuant to section 501, to carry out the purposes of this part.".

SEC. 214. The authority to enter into contracts and to incur any indebtedness under this Act is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

TITLE III—PAPERWORK

REDUCTION OF PAPERWORK

SEC. 301. (a) In order to increase the productivity of research undertaken and supported by the Department of Health and Human Services while at the same time maintaining adequate accountability for the funds expended for such research, the Director of the Institutes shall conduct experimental programs to reduce paperwork associated with the application for, and administration of, research grants. Such experimental programs may include—

(1) the elimination or modification of effort reporting by investigators for selected grants and the utilization of alternative indicators of work performance;

(2) the delegation, to nonprofit and public entities engaged in health sciences research of authority to approve—

(A) the carrying over of not more than 15 per centum of the grant award for a given year to the next year of the grant;

(B) the transfer of not more than 10 per centum of grant funds from one grant to another grant, but only if—

(i) the principal investigators on both grants are the same;

(ii) the purposes of the grants are closely related; and

(iii) the transfer does not alter the purpose of any individual grant or impair successful completion of research work undertaken through any grant;

(3) the grouping of an institution's individual biomedical research grants into a single entity for purposes of administration;

(4) the development of alternative methods to document compliance with any requirements for cost sharing, cost transfers, equipment purchases and other expenditures;

(5) the elimination of any obligation of recipients of grant funds to account for nonexpended equipment when the original cost of the equipment was less than $1,500; and

(6) the elimination of some or all reporting requirements, other than a final report, for individual investigators for grants the applications for which were unsolicited.

(b) The aggregate amount of all the awards for grants under subsection (a) shall in any year be no more than one-half of 1 per centum of all research grant funds expended by the Institutes. In order to assure adequate accountability for the funds expended to support such grants, the Director shall provide, on an experimental basis, alternative methods for assuring accountability, including—

(1) periodic review to determine the extent to which research projects have achieved their intended purpose; and

(2) audit of individual grants, on a random basis, to assure that grant funds were expended appropriately.

(c) The Secretary, after consultation with appropriate public and private entities, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than forty-eight months after the date of the enactment of this Act a report on the programs established under this section including a detailed description, and an evaluation, of the effectiveness of such programs.

TITLE IV—MEDICAID PROVISION

EXTENSION OF PERIOD FOR FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 401. (a) Section 1903(a)(6) of the Social Security Act is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1982".

(b) Section 1903(h)(3) of such Act is amended—

(1) by inserting "(A)" immediately after "(3)",

(2) by redesignating clauses (A) and (B) thereof as clauses (i) and (ii), respectively, and

(3) by adding at the end thereof the following new subparagraph:

"(B) No amount shall be paid to any State under subsection (a)(6) with respect to sums expended during any quarter after the twelve-quarter period which commences with the first quarter with respect to which an amount is paid to such State under subsection (a)(6).".

The title was amended so as to read: A bill entitled the "Health Sciences Promotion Act of 1980."

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Gen. David C. Jones.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF GEN. DAVID C. JONES TO BE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

The assistant legislative clerk read the nomination of Gen. David C. Jones, U.S. Air Force, to be Chairman of the Joint Chiefs of Staff for an additional term of 2 years.

Mr. STENNIS. Mr. President, General Jones has been renominated as Chairman of our Joint Chiefs of Staff for another 2-year term. The law provides that the term for this office be a term of 2 years, and a person is eligible for reappointment for an additional 2 years.

General Jones was first appointed in 1974 by former President Nixon as Chief of Staff of the Air Force. At the end of that 4 years, he was appointed by President Carter for the present office that he is now holding.

This position is peculiar in that it was created as a part of the machinery of the Chiefs of Staff under the National Security Act of 1947. The act provides that each of the services shall have a chief and they shall constitute the Joint Chiefs. An additional provision, which was later enacted, provides for a Chairman of the Joint Chiefs who shall not have a vote except in case of a tie and who shall not be in command. He cannot have a command under the law even though he is a four-star general and continues to be a member of the service to which he belongs. The provision further states that he shall be the chief adviser on military matters to the President but shall serve only at the pleasure of the President.

That is not exactly a contradiction but it is almost a contradiction. But the certainty was that a President would not have anyone in this role unless he was suitable to him.

That situation does not look too good on paper as a system, but it has worked mighty well now for more than 30 years. After all, a pretty good test is how a thing works.

Even though this nomination is for an additional term, I have always taken the position that the nominee should come back for a hearing before our committee. We held the hearing in the usual way as soon as we reasonably could after his name came to our committee. In checking into just when the 2-year term that he is serving expires, it will expire tomorrow night at midnight.

Under our rule we let nominations stay on the table a week before we take them up. The Senator from New Hampshire (Mr. HUMPHREY) had spoken to me about wanting to be heard and to have a chance to prepare the hearing. So we did not set the hearing. Senator HUMPHREY, was very prompt in getting ready, and we did not set the hearing until we had finished the authorization bill on Thursday afternoon. I called and asked for the hearing next Monday. The committee agreed, and we held the hearing Monday of this week.

There was an afternoon, open hearing. At some time during the hearing, every committee member was there, and every Senator engaged in the questioning of General Jones. Any who wanted to had additional opportunity to go around for questioning another time. Several Senators made statements about him and his record. After the testimony had been taken, the rollcall vote was taken on Monday afternoon of this week. The vote was 16 for the motion to confirm the nomination and 1 was against.

So that is a brief. I have a prepared statement here, and it is not lengthy, but that is a brief summary of the legal situation and the man.

I remember quite well when he was appointed Chief of Staff of the Air Force. Those were troublesome years in 1974 when he started his service, and I have observed him rather closely. I have been associated with him on an official basis, and his record I certainly think is very good indeed. The time in which he served has been very trying and difficult. But he met those situations and it has been difficult, of course, for the past 2 years as Chairman of the Chiefs. He has had nothing that one would call trouble. His counsel to our committee has been good and willing, not the slightest intimation of anything except what the first class officer, gentleman, and man who is very keen in his application to his duties should be.

I think that vote there of 16-to-1, with all deferrence to the 1 whose judgment just did not lead him that way, but a vote of 16-to-1 is very strong proof about the impressions made on the membership, and I submit the matter here to the Senate. Of course, confirmation requires majority vote which I hope we can get tonight.

I do not understand the reason why the legislative branch of the Government does not handle this matter in such a way as to avoid leaving an office of this worldwide significance open and uncertain by letting a hiatus develop when it would neither be clear nor certain by any means under the law what the situation is.

Mr. President, in considering the reappointment of Gen. David C. Jones to the highly important position of Chairman of the Joint Chiefs of Staff. I wanted to take this opportunity to refresh the recollection of the Senate on the creation and duties of this, the highest military office in the land.

President Truman recommended the establishment of this position early in 1949 as part of his proposal to modify the National Security Act of 1947 which, as you know, was the law unifying the military services and setting up the single Department of Defense. Under the law, the Chairman of the Joint Chiefs of Staff, while serving in that position, outranks all other officers of the armed services although he is prohibited from exercising military command. The Chairman wears the uniform of one of our military services, but he does not represent the Air Force, Army, Navy, or Marine Corps. This balance was carefully drawn after the Second World War in an attempt to provide some centralized management of our Armed Forces while at the same time preserving the unique skills and character of each of the four military services.

When the very comprehensive reorganization of our military departments was enacted in the National Security Act of 1947, the services were able to keep their identity, and each would have an independent chief, independent to a degree, but that chief would also have a second role of being a member of the Joint Chiefs charged with the high responsibility of planning and coordinating and making recommendations in many fields. Then, in 1949, an amendment was passed starting the chairmanship, an additional office, for the purpose of organizing and directing the deliberations of the Joint Chiefs on matters of common effort of all services.

The 1947 law expressly made the Chiefs advisors, principal military advisors to the President of the United States and also the National Security Council, as well as to the Secretary of Defense. The law also specifically charges the Chairman with informing the Secretary of Defense and, when the President or Secretary considers it appropriate, informing the President also of those issues on which the Joint Chiefs have not agreed.

With that background, Mr. President, I would now like to comment on the man, Gen. David C. Jones, the nominee for reappointment to this high office. General Jones has had an outstanding career of over 37 years of active duty in the U.S. Air Force culminating in his appointment by President Nixon as Chief of Staff on July 1, 1974, and, by that appointment, becoming a member of the Joint Chiefs of Staff.

President Carter appointed General Jones Chairman of the Joint Chiefs of Staff on June 21, 1978, which means he now has had almost 6 years of continuous active participation at our country's highest level of national defense planning and coordination.

General Jones, while serving on the Joint Chiefs of Staff, has seen a great deal of change in our country. When he began, we were still winding down the buildup that had taken place for the Vietnam war. About 4 or 5 years ago, the winding down ended and a gradual buildup of our military spending began. He has seen a much more aggressive Soviet role in the world highlighted by their invasion of Afghanistan and a use of Cuban troops in Africa and other places. During this period, we have also seen the Volunteer Force experiment tried which is now running into increasing difficulty. Thus, General Jones has served through a time of profound change which will likely continue for the additional 2-year term for which he has been nominated.

I think we are extremely fortunate to have a man with General Jones' demonstrated ability, seasoned by long experience of the most demanding kind, to continue to fill the highest military position in our country.

So I hope we can proceed to get this matter disposed of after everyone has had a reasonable chance, of course, to speak or to otherwise present the matter as they see fit.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition? The Senator from Virginia is recognized.

Mr. STENNIS. May we have quiet? I hope we can get better attention.

Mr. WARNER. Mr. President, I will make my remarks brief at this late hour tonight as an expression of consideration to my fellow Senators.

Mr. President, during the course of the hearing on Monday, June 16, 1980 I advised General Jones that, while I did not agree with certain positions on national defense issues he has taken during his tenure as Chairman of the Joint Chiefs of Staff, I believed that our disagreements should not override the right of the President to have General Jones serve in his position for an additional 2 years. Based on my interpretation of the law, the legislative history, and precedents followed with prior nominations for the Joint Chiefs of Staff, and the qualifications possessed by General Jones to be the President's military adviser, I have decided not to oppose the nomination. Senators TOWER, THURMOND, GOLDWATER, COHEN, and JEPSEN, also voted favorably to report out of Committee the nomination.

In order to clarify press statements which preceded the hearing of the Armed Services Committee on June 16, 1980, reporting on the conditions under which General Jones would allegedly step down from his office, I place in the RECORD an excerpt from the transcript:

Excerpt of Hearing Before SASC on June 16, 1980

Chairman Stennis. Gentlemen, I said I hope it is the will of the committee that we proceed to finish the testimony this afternoon. It seems to me that we ought to have a discussion of it and perhaps vote on it, although I am not trying to rush it.

Senator Warner.

Senator Warner. Thank you, Mr. Chairman.

General Jones. Since Senator Jackson has brought up the issue of the press reports I feel obligated to have a follow-on. As you know, when this story came into the press I purposely refrained from getting involved for two reasons. One, in my judgment it was not beneficial to our overall national defense policy and, secondly, out of respect to the office of Chairman, JCS and as a personal courtesy to you Gen. Jones, I felt that any public statement I wished to make on that subject should be made in your presence such that you could rebut any misunderstanding I had gained.

As you know, I did telephone you; for it is a regular practice of mine to talk to all Presidential appointees coming before the Senate committees of which I am a member. I have, as a Senator with "advise and consent" responsibility, a duty to resolve my questions if possible.

So I talked with you by telephone rather than in person since we frequently see each other and know each other quite well.

Now my only purpose in bringing the subject of press reports up is to give you the opportunity to publicly and freely state whether or not in your judgment the conversations we exchanged had any element of impropriety, any element of politization of the office of Chairman, or in any way deviated from a clear and concise discussion of the law, and legislative history, and precedents covering the office of Chairman, JCS?

General Jones. Senator Warner, I do not believe anything you did or said was improper. We have had a number of conversations about the rescue operations, direct conversations. Your inquiry as to how I understood the law was fully proper and I think my response proper to say that I served at the pleasure of the President. That is the law and I follow laws.

Senator Warner. My recollection is that at the conclusion of our conversation I stated that you and I had a common understanding of the law and legislative history, history and precedents dating back to the late 1940s when this post was created. Following our conversation, I made notes which reflect a word—"gracefully"—you used earlier in this hearing.

My notes reflect: "Further, he (General Jones) freely advised me that if at any time his relationship with any President"—my recollection there was no mention of any specific President—"was not working out in a manner satisfactory to both parties, he would gracefully and expeditiously step aside in a manner consistent with the dignity of the Office of the Chairman and consistent with the right of the President to have a chairman of his choice."

During our conversations I referred to a Congressional committee report, House of Representatives report 221, dated May, 1967, which is probably the most precise statement by Congress with respect to appointments to the Joint Staff.

It reads as follows: "But each member of the Joint Chiefs of Staff hereafter appointed will know that he can be removed by the President at any time and for any reason whatsoever. Under the proposed title a member of the Joint Chiefs of Staff will be removable at the pleasure of the President and at the complete and sole discretion of the President. Thus, under the proposed title the President would not be required, forced or compelled to retain any officer as a member of the Joint Chiefs of Staff."

In our discussion—on the legislative history and the law—we reached a common understanding. I, therefore, indicated to the general it was my intention, as I restate now, to support your renomination.

General Jones. Thank you, Senator Warner.

I want to make sure on the word "graceful" used that no one misinterprets, and I know you did not misinterpret but others may have misinterpreted, that somehow I would quietly sail off into the sunset at the slightest hint. That is a totally inappropriate conclusion, one that you have not drawn.

Just so that no one misunderstands, any action at any time would have to come at the initiative of the President and he would under law implement the action and in that case I would be a good soldier and comply with the law. I withdraw that word gracefully if someone thinks that it means sailing off in the sunset.

I mean by that I am not going to kick and scream and go to Court to try to stop that type of action.

Senator Warner. In keeping with the dignity of the office of Chairman and in recognition of the right of the President to have a person of his choice, that is the context in which you used this word. It was clearly understood by me. Thank you, General.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I voted against reporting the nomination of General Jones to the floor.

The PRESIDING OFFICER. If the Senator will suspend for a moment, there is no limitation of time, and there is no control of time.

Mr. HUMPHREY. Mr. President, I voted against reporting out the nomination of General Jones to the floor, and I shall vote against his confirmation this evening.

With all due respect to General Jones as a person and an officer, I cannot help but reach the conclusion and judgment that basically he has not done well in his post. I am sensitive to the dilemma in which the chiefs may find themselves from time to time. I am as proud as they are of the tradition which the military has upheld for centuries of staying out of politics. May it always be so.

On the other hand, if Members of Congress cannot rely upon the frankness and forthrightness of the chiefs and the chairman for their expertise, then I do not know upon whom we can rely. We do not call them down to committee rooms to hear the administration line. We can hear that from the Secretary of Defense. We call them down to hear their expertise based on 30 some odd years of military experience.

Yet, in the case of General Jones, whose confirmation is under consideration here this evening, in my view—and others may differ honestly—General Jones has not been as forthright as he might have been. He has, to my way of thinking, followed the administration line on defense matters, and whatever there may be on that point, whatever differences in judgment, there can be no doubt, it seems to me, that during his watch, during the tenure of General Jones as Chief of Staff, our defense situation has deteriorated critically, and I think he must bear some of the responsibility for that because he has not spoken out when he has had the opportunity to do so before the various committees of Congress, he has not spoken out strongly, and he has in most cases endorsed and supported the defense policies of the President, which have led to this great weakening in our capabilities, this great weakening in our preparedness.

In my view, Mr. President, we are being drawn toward war in much the same way the West was drawn into war, the Western allies, in the late 1930's, being drawn towards war by our unpreparedness.

It is a frightening situation. I think every Member of this body is aware of just how badly things have deteriorated. Those of us who serve on the Armed Services Committee perhaps know better than other Members just how bad it is, and I believe General Jones has to bear a share of the responsibility for that.

Recently General Jones testified before the House Armed Services Committee in support of increased defense expenditures for fiscal year 1981. Just a few months ago he testified against increased defense spending.

I asked him this past Monday, when the Senate Armed Services Committee was considering his confirmation, what brought about his change of mind. He replied that it was the Russian invasion of Afghanistan. That brought to my mind the statement of President Carter some months back when he said, to paraphrase him loosely, that "there was no event during my Presidency which taught me more about the Russians than the rape of Afghanistan." That statement was taken by me to be a further indication of the President's naivaté in dealing with the Russians. But I never would have expected to hear that kind of thing from the Nation's top military officer, that he supported increased defense spending because of Afghanistan.

I will tell you why that is so. I believe the United States should peg its defense expenditures based upon the capability of our adversary; not on any estimate about what he might or might not do, but on his capabilities. For General Jones to testify that he felt we needed increased defense expenditures or to change his view because of Afghanistan about the level of adequate defense expenditures is to me a shockingly similar statement, a statement which is shockingly similar, to that made by the President.

I believe either General Jones has not been forthright, has pulled his punches, if you will, in testifying before Congress to support the President when we were relying upon him to give us his best professional opinion or he genuinely supports the disastrous defense policies of the United States advocated by President Carter.

In either case I believe there are grounds for finding him not worthy of another term. Things have gone to hell on his watch. When you speak to senior military officers outside the confines of committee rooms you find they are pulling out their hair. They do not know what to do, things are so bad. Yet within committee rooms it is the same old thing whether you are listening to Defense Secretary Brown or you are listening to General Jones or one of the other Joint Chiefs of Staff. Almost always—sometimes under extraordinary circumstances, they will differ with the President, but almost always—you hear them repeating the administration line, denying Congress, in my opinion, the expertise to which we are entitled.

It does not add up, Mr. President. I cannot put my finger on it, but it does not add up. We know that we are in bad shape and yet General Jones, in essence, has told us, "Everything is OK; relax. Long-range programs are on schedule to rectify the situation." And yet others, other senior military officers, tell us just the opposite.

I think we are reasonably justified in opting for change. As I pointed out at the outset, I have nothing against General Jones. I know he is in a difficult spot. But in my personal judgment he has failed and it is time for a new man.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there is another Member from my side who is due momentarily on the floor.

Mr. President, I yield the floor to the Senator from Nebraska, Mr. EXON.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. EXON. Mr. President, as a member of the Armed Services Committee who was there all during the hearings, I rise in support of the nomination of the President of General Jones for another 2-year appointment.

During those hearings, we questioned General Jones at great length on a whole scope of issues, as our distinguished chairman has said, from very early in the morning until I think almost 6 o'clock or shortly thereafter at night.

There are some things with which I have not agreed with General Jones on, but I think one of those is not the fact that, nor do I think it is legitimate to criticize him because he has generally gone along with the President of the United States. Those of us who have had any length of service in the military have some basic understanding of an obligation of, especially, a member of the Joint Chiefs of Staff to the Commander in Chief.

Under our law, thank God, the President of the United States is a civilian authority over the military. And he has at his disposal the Chairman of the Joint Chiefs of Staff and the other members of that very important body affecting our overall defense posture.

I, for one, would not have much respect for General Jones or any other members of the Joint Chiefs if they felt in good conscience that the President of the United States was not following the policies that were in the best interest of the overall defense structure of our Nation, the leader of the free world.

Therefore, I tend to believe—and I think the fact that the vast majority of the committee approved General Jones, as they have approved him before since he was first appointed by President Nixon—that he is not only a dedicated military man, but he is an outstanding chief of the Joint Chiefs of Staff.

During the questioning this week in committee, I told the general that had I been here in the Senate 2 or 3 years ago, I likely would not have followed his advice to vote for the Panama Canal Treaty. I also told the general that, had I had an opportunity to vote on the floor of the U.S. Senate last year or this year, I likely would not have followed his recommendation to vote for the SALT II treaty. But I said to him at that time, "Just because you supported the Panama Canal Treaty and just because you supported SALT II, that in my humble opinion did not necessarily disqualify you as a Vice Presidential nominee on either ticket."

The point here, Mr. President, is that I think it is very wrong, regardless of who the President of the United States is, for this body to turn down the selection of the President of the United States for most positions, because the President of the United States is charged with a rather awesome responsibility. As a part of that responsibility, unless there is something basically wrong with the individual, I have followed the procedures that the U.S. Senate should review carefully, should hold hearings, but then should promptly and timely confirm that individual.

Once again I emphasize that like most of us in the U.S. Senate, I suspect that General Jones is not infallible. I suspect that he has made some mistakes from time to time. I suspect that he is somewhat like the junior Senator from Nebraska who has been a Member of the Senate long enough to know only that I do not know all of the answers. I suspect that he is one of those individuals who is a man of not only compassion, but a great deal of expertise in his chosen profession, a young man born in South Dakota, educated in North Dakota, has spent his whole adult career in the service of the United States of America. I do not think it is proper for us to criticize General Jones basically for following the President of the United States in defense matters.

It has not been proven yet that the President of the United States or the one before him, or the one before him, were all right on all matters regarding national defense or otherwise.

Nevertheless, I am supporting General Jones not only because of his distinguished record, not only because he was first selected by Richard Nixon to be Chief of the Air Force, not because of those things, but because of his overall record. Granted, he and I do not agree on what I happen to consider are some very important issues, but I happen to believe that Gen. David Jones is a man that if he did not fundamentally agree with the President on the overall structure of our defense posture, he would step aside very bluntly and very plainly.

That is why, again, I was not disturbed, despite the unfavorable newspaper publicity that alleged at one time that General Jones had agreed to withdraw as Chairman of the Joint Chiefs of Staff in the event there was a change in the Presidency come next January.

I was more impressed than ever with David Jones, when, in my office, I received a communication from him—even before I had an opportunity to hear about or read the newspaper article that said that he had made a deal that he would step aside if there were a change in the Presidency, there was on my desk a statement from David Jones that not only was that statement not true, but that that statement would have been an abdication of his responsibility to the military establishment over which he has been a leader for so very, very long.

I think that fact alone would indicate that General Jones is a man in his own right. Therefore, Mr. President, it is my suggestion that we move ahead to the up-or-down vote on the nomination by the President of General Jones for a 2-year period as Chief of Staff. I would say to you, Mr. President, that I have every conviction, not just on what General Jones said before our committee this week, but because I think I have a basic understanding of the man himself, if General Jones did not respect the man who was President of the United States and his Commander in Chief, and if he did not basically agree with the positions of the Commander in Chief on fundamental defense policy, I think you would find General Jones to be a man who would automatically step aside.

That is the making of a good man. That is the making of a good military man. I think no one can argue with the fact that Davy Jones fits what most of us would expect to see in the Chairman of the Joint Chiefs of Staff.

Therefore, Mr. President, I am hopeful we can move on with an up-or-down vote on this nomination as quickly as possible. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the 2 years that have transpired since Gen. David C. Jones assumed his duties as chairman of the Joint Chiefs of Staff and America's top soldier have not been good years for the United States or American interests worldwide.

Those 2 years have witnessed the fall of stability in Iran and its replacement with chaos and anarchy. In the wake of that fall, the United States found itself confronted with the brutal kidnaping of American diplomatic personnel—against all conventions of international law. We have witnessed the capture of our Embassy in Teheran—in another day with an America more confident of itself, an act tantamount to a declaration of war against the United States. Yet the rabble which seized our Embassy seemed to have felt no fear of the United States.

Those 2 years have witnessed the sacking of our Embassy in Pakistan's capital, with two Americans dead. Again, the perpetrators of this act of international terrorism seemed to have felt no constraints on their action.

Those 2 years have seen events go sour in our own back yard. First to come was the toppling of the Government of Nicaragua and its replacement with a ruling junta which has openly proclaimed its devotion to the principles of Marxism, which has welcomed thousands of Cuban "technicians" to help run the country, and which is strengthening daily its ties to the Soviet bloc and the Communist world.

On the heels of the Sandinista takeover of Nicaragua came the news of the presence of a brigade of Soviet combat troops stationed in Cuba. This signal of an ever-growing Soviet military presence in the Caribbean was met first with alarm by the Carter administration; then it was dismissed almost routinely after the United States acquiesced in a Soviet pledge that the troops—the very same troops—no longer served in a combat status.

Next came the destabilization of tiny El Salvador. Murders and random acts of terrorism inspired more terrorism as Salvadorian Marxists tried to make it "two in a row" for communism in Central America.

Now we are learning of Cuban-Soviet activities in Grenada, with reported airfield construction and even the possibility that a submarine base is being built for the tiny island nation.

As events slowly fall apart in Central America, in Afghanistan the Soviet Union marched its own troops out of the traditional Soviet bloc for the first time, engaging in the most brutal invasion of a defenseless country in modern times. The slaughter there can be described as little else than genocide for Afghan natives, whose love for freedom is matched only by their hatred of their Soviet captors.

Meanwhile, in the capitals of Europe, one leader after another questions the willingness of the United States to defend its interests in the world, let alone the interests of its allies in the West. As nagging doubts about the value and strength of the American commitment to the freedom of the West slowly become fear of abandonment by the United States, nation after nation in Europe slowly turns to the East. Already, we have witnessed the spectacle of the sudden French move toward Moscow. President Giscard's hastily-arranged trip to Warsaw to meet with Soviet boss Brezhnev shocked President Carter and thoughtful Americans everywhere. But should it have? Now, German Chancellor Helmut Schmidt in turn makes his pilgrimage to Moscow, conferring a legitimacy on the Soviet actions in Afghanistan that no Olympic boycott can detract from.

The murder of Adolph Dubs, the soaring price of gold, an economic recession that is spreading throughout the Western world as confidence in the dollar plummets—these are but a few of the signs that the world believes that the United States is retreating from its position as defender of freedom, the leader of the West.

These are the outward and visible signs. But what are the real reasons for a growing belief that the United States is losing its ongoing confrontation with the Soviet Union and the forces of tyranny?

THE DECLINE OF U.S. POWER

The answer, I submit, is the realization by our allies and enemies alike that the United States is quickly becoming a military power inferior to the Soviet Union in almost all measures of strength.

I do not lay at the feet of General Jones the woes of the world during the past 2 years. I do not—I cannot—lay the blame for the events I have cited on him personally.

But I must say that he has presided over the most rapid period of decline in America's military strength relative to that of the Soviet Union, that I can recall.

With General Jones as Chief of Staff of the Air Force, and later as Chairman of the Joint Chefs of Staff—in all cases advising the President—the Carter administration participated in what can only be described as the weakening of our Nation's defenses in time of crisis.

The list is long. I shall recite only a few of the most obvious Carter initiatives relating to defense. In the 3½ years of the Carter administration, President Carter has:

First, killed the B-1 bomber;

Second, delayed the MX program for a period of 3 years; and, because of the failure to communicate on the part of the Air Force, may have delayed it indefinitely, if not permanently.

Third, delayed cruise missile and Trident I development for a period of 2 years;

Fourth, refused timely development of the Trident II submarine ballistic missile system;

Fifth, terminated Minuteman production;

Sixth, destroyed the Minuteman production lines;

Seventh, ended Minuteman II modernization;

Eighth, canceled the enhanced radiation warhead (so-called neutron bomb);

Ninth, delayed the Pershing II missile to the point where now, with Chancellor Schmidt going to Russia, we are in danger of even deploying the Pershing II missile.

Tenth, terminated Lance I missile production;

Eleventh, vetoed a new nuclear aircraft carrier, thus delaying its production;

Twelfth, severely cut a badly-needed naval shipbuilding program;

Thirteenth, cut the size of our Army, Navy and Air Force;

Fourteenth withdrawn troops from Korea in spite of continued warnings from the Army of a massive North Korean arms build-up; and, I might add, continued warnings from almost everybody.

Fifteenth, stymied Lance II missile production;

Sixteenth, relinquished control of the Panama Canal;

Seventeenth, allowed our nuclear weapons production capability to degrade so badly that production of new warheads is seriously in question;

Eighteenth, allowed U.S. inventories of weapons to get so low that many units are without more than one day's supplies;

Nineteenth, kept U.S. air defenses at a minimum; and

Twentieth, generally let the level of preparedness of U.S. forces sink to such a low level that there is serious question whether the United States could respond with force in real time in any emergency situation.

Mr. Presidnt, is there any wonder why our allies question our ability, let alone our resolve, to come to their aid in the face of an ever more powerful Soviet war machine?

In light of the above, can we not now understand why our foes no longer see real cause to fear the United States?

Have we become the helpless Gulliver, tied down by Lilliputian enemies, who snip at us here, strike us there, always challenging with full knowledge of America's growing weakness and helplessness?

THAT ABOUT A NEW NATIONAL MOOD?

Mr. President, I sense a new mood in the land, a mood of frustration at America's obvious weakness and growing helplessness to control events. I am sure that many of my colleagues, as they talk with the voters, sense the same mood. Some pundits label it a shift to the right. I don't know if that is so or not. But I do know that Americans are sick and tired of seeing their Nation pushed around. They are ready to see a rebuilding of America's military might, and, from what I can sense, they are willing to pay the cost, even if it means increased taxes, belt-tightening or cutting back on other federal government programs.

Yet, today we are asked to vote against that mood. We are asked to confirm for a second term as Chairman of the Joint Chiefs of Staff Gen. David C. Jones, whose advice to the President and statements to the Congress gave no clear warning that I know of, of the rapid U.S. military decline vis-a-vis the Soviet Union.

I can put no other light on the actions of General Jones over the past 2 years. Nor can any reasonable man ignore General Jones's record as Chairman of the Joint Chiefs.

WAS A CLEAR WARNING OF AMERICA'S DECLINE GIVEN?

If, as General Jones is reported to have told the Committee on Armed Services on Monday, the United States is moving to the edge of strategic inferiority vis-a-vis the Soviet Union, why were the warning bells not sounded earlier? Where was General Jones 3, or even 2 years ago, when the signs of America's impending inferiority already must have been obvious to the man who has command of the Armed Forces of this country?

Some of us warned then—we warned before then—that we were going to have these problems. And we were scoffed at by the press, the media, the people here on the Hill, staff, the bureaucracy, and, of course, I think in manys ways, by those who have run the armed services of our country.

In fulfilling his duty to the Constitution, General Jones is required not only to advise the President, but also to advise the Congress. Why were we not so advised? No amount of duty to follow the orders of the Commander in Chief relieves General Jones of his duty to warn the Congress when America's defenses become weakened.

No amount of loyalty to the Commander in Chief allows General Jones to substitute the promise of an as yet unratified SALT II treaty for the reality of a strong national defense.

Mr. President, I repeat what I have stated already. I do not have any ill will toward General Jones. Nor am I engaged in this debate to question the loyalty of General Jones to the Nation we both love. But I do question his judgment, and the quality of his fulfillment of his duty to keep the Congress informed of the perilous decline of America's strategic forces.

Regardless of General Jones' personal loyalty to the President in matters where his advice may have been given and later rejected, that same advice should have been made available to the Congress, so that Congress could make its own independent judgment concerning controversial matters that, after all, affect the very survival of the United States.

WHAT ABOUT THESE DEBILITATING DEFICIENCIES

The fact that General Jones did not step forward to warn the Congress and the public in clear and concise terms that the United States was moving toward the "edge of strategic inferiority" before we got to that edge is reason enough in itself for the Senate to deny General Jones a second term as Chairman of the Joint Chiefs of Staff.

This deficiency alone is sufficiently debilitating for Senators to cast their vote against the reconfirmation of General Jones' nomination.

But there are other deficiencies as well.

One goes to the heart of the question of civilian versus political control of the military. The question is, Does General Jones' allegiance to the President of the United States in his role as Commander in Chief extend to following what can only be described as the political wishes of the President as well?

The case of SALT II sheds light on this question.

General Jones supported the SALT II treaties that President Carter's administration negotiated, in spite of warnings of serious problems with the treaties from his own man on the SALT II delegation, Gen. Edward Rowny. In memorandum after memorandum, General Rowny pointed out the serious weakness of the treaties that were being negotiated. Yet General Jones seem to have chosen to ignore General Rowny's many warnings, and give support to the SALT II treaties. And, as part of the SALT II process, General Jones went along with Carter administration cuts in badly needed military spending, lest the United States offend the Soviet Union into backing out of SALT II. While some of us find the thought of the Soviets backing out of a treaty that is so advantageous to them and disadvantageous to the United States almost ludicrous, nonetheless, the SALT advocates in the administration pursued military cuts as a means of showing American good faith with the Soviets in the SALT process.

In the meantime, surely General Jones saw the warning signs of America's precipitate fall to the "edge of strategic inferiority." Why did he not warn us? Was it because such warnings might frighten the Congress and the public away from the SALT II treaties?

Only General Jones knows the answers to those questions. Whether he answered them on Monday, I do not know. We have no transcripts of the hearings to serve as our guide to his most recent thinking on these and other subjects.

As regards General Jones' decision to "obey an order" we are told "he didn't agree with" in the case of the B–1 bomber decision of President Carter: while General Jones may be bound to follow the decisions of the President of the United States as Commander in Chief, in the case of the President's decision to cancel production of the B–1 bomber, was General Jones also bound to tell the Congress that the B–1 was no longer the bomber best suited for the United States? If 1 week before the President's decision to cancel the B–1, General Jones was arguing for the B–1, as his supporters claim, did the B–1 have less merit as America's advanced manned bomber 1 week after the President's political decision to cancel the aircraft?

If we assume that General Jones also has a duty to give his best advice to the Congress as well as the President, then why did General Jones follow the dictates of a political decision of the President, rather than the dictates of good judgment in his analysis of the need of America for the B–1 bomber?

Did the President of the United States convince General Jones that, on the merits of the capability of the B–1 bomber, it was inferior to other advanced manned bomber aircraft? If the President did not convince General Jones of this, then why did he not present the facts to Congress in a clear and concise manner and let the Congress decide, on the merits of the case, whether or not to continue the B–1?

I might add, Mr. President, that the House of Representatives this year voted funds for the B–1 bomber.

I also might add, Mr. President, that the Senate has yet to take up the SALT II treaty.

Finally, Mr. President, was it the proper role of General Jones, in support of the President's decision to give away the Panama Canal, to warn the officers of the Air Force not to speak out on the question of the canal?

"It is important that our personnel, particularly our senior people, understand our support for the proposed treaties," General Jones warned senior Air Force commanders in a memorandum circulated by him in the late summer of 1977. Thus, Mr. President, the Senate was to be denied once again the best military advice on a matter of far-reaching national security concern. Officers were warned, ever so subtly, that they were to toe the line. The military was being enlisted by the President and the Chief of Staff of the Air Force in the President's political battle with the Senate over ratification of the Panama Canal treaties.

As Senators are aware, the battle was a long and sometimes bitter one.

I believe that my dear friend in the Senate, Senator James Allen, basically gave his life in that debate, because he was so torn up afterwards and so completely worn out as a result of that debate. I think the Senate is worse off for it.

General Jones and the other Chiefs followed the President's line. Military officers who wanted to present other views—and there were many; I know that from my own personal experience—were effectively muzzled.

The Senate was denied the opportunity to hear conflicting views, and thus the decision we made was flawed for lack of full knowledge.

WHAT ABOUT POLITICAL VERSUS CIVILIAN CONTROL OF THE MILITARY?

The examples I have given, the deficiencies I have pointed out, lead to the inescapable conclusion that there is no room for political control or use of the military.

There is a fine line, I submit, between civilian control of the military, and political use of it.

Political use falls in the category of a President ordering the military to toe the line on a political decision made by the President. Into this category, I would place the pressure put on the military to follow the President's lead on SALT II, the Panama Canal treaties, the B–1 bomber, and the other decisions I have talked about earlier today.

This is a far cry from civilian control of the military. Civilian control means that the civilians are ultimately responsible for making the final decisions about the national security policies of the United States. In the executive branch, that is the President; in the legislative branch, it is the Congress. To the extent possible, both should be able to avail themselves of the best judgments of the military. On matters of policy that may be in controversy, the Congress as well as the President should be partners in making decisions. The Constitution provides for this in making the President Commander in Chief of the Armed Forces, while giving the Congress control of the purse-strings, the power to levy armies and to declare war.

Thus, in the case of SALT II, the best military judgments should include an unvarnished presentation of all major arguments within the military both for and against important aspects of the treaties; the same alcohol should apply for the Panama Canal treaties and the B–1 bomber decision, to cite two other examples.

Mr. President, America needs a military as constitutionally responsive to the Congress as it is to the executive branch. General Jone's stewardship of the Chairmanship of the Joint Chiefs of Staffs has not demonstrated that responsiveness.

America needs a military free from debilitating and demoralizing political usage. It is certainly arguable that the military under General Jones' command has not been free from political pressures and the yielding to those pressures.

Mr. President, I urge my colleagues to weigh these considerations as they cast their vote on the nomination of General Jones. Do we want civilian control? Will we allow political use of the military? I say we do not, and we should not.

I am going to cast my vote against the continuance of General Jones as the Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I rise to add my voice to those who are here tonight supporting the confirmation of the nomination of Gen. David Jones to continue in the office of Chairman of our Joint Chiefs of Staff.

General Jones, to my knowledge, has a distinguished military career, a man of high confidence, great dedication, and very great competence.

Beyond that, he has served with great distinction as Chairman of our Joint Chiefs of Staff and, as such, the No. 1 military man in this country.

As the Senator from Utah has recited the difficult times this country has faced during his tenure of office, it is no more appropriate to lay at the feet of this general these difficulties, certainly not nearly as appropriate as to lay those difficulties here on the floor of the Senate of the United States and in the House of Representatives.

I have had many occasions to work with General Jones through my work in the Senate, as a member of the Defense Subcommittee on Appropriations, which is ably chaired by the distinguished Senator from Mississippi (Mr. STENNIS), as chairman of the Military Construction Subcommittee of the Appropriations Committee, and as a member of the Intelligence Committee of the Senate.

During the entire service of General Jones in his present capacity, I can say to the Senate that not on one single occasion during this service, when we had been called upon to deal with General Jones on matters of great importance affecting the very security of this country, was there a time when General Jones was less than candid, when he attempted to portray the military situation in this country through rose-colored glasses, or when he attempted in any way to let whatever personal feelings he may have had about political issues we were confronted with influence his decision about the military situation as he saw it.

In my judgment, General Jones is more than just an outstanding military man. He is, in fact, a national treasure.

I commend the President for his renomination. I look forward to continuing to serve with General Jones in his capacity as Chairman of the Joint Chiefs.

While I think that his service itself recommends him far above anything that we will say here on the floor of the Senate, and certainly discounts those who would criticize him for various situations that may have developed throughout the world, I did want to add my viewpoints in this brief way of support of General Jones.

I hope that we move as rapidly as possible to the vote to confirm Gen. David Jones as Chairman of the Joint Chiefs of Staff.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, earlier today I had a brief conversation with the finest gentleman I have ever had the pleasure of knowing, the distinguished chairman of the Armed Services Committee. He and I made a little agreement. I told him that, depending on the circumstances, I did not intend to take very long because I want a resolution of this, as does he.

Senator STENNIS has been sort of my leader, Mr. President, dating back to years before I came to the Senate.

I remember in the early 1950's when I was here serving as administrative assistant to two North Carolina Senators, one of whom died in office, Senator STENNIS was on the job performing in the statesmanlike manner that continues today.

But, in any event, Mr. President, it was just a little secret between the Senator and me that I was not going to take too long in discussing the nomination now pending in the Senate, and I shall not.

I do want to have my say and then we can go to a vote, when all Senators have spoken.

Mr. President, there is a myth current in Washington that a Senator should vote to confirm every nominee that the President of the United States puts forward unless the Senator can find some debilitating aspect of the nominee's personality or record which disqualifies him from service.

Thus, we are, in effect, urged to vote for just about any nominee that has not been found guilty of some act of misfeasance or malfeasance in public or private life.

Mr. President, the Senator from North Carolina views the responsibility of advice and consent far differently from that.

The Constitution is plain in conferring upon the U.S. Senate and each Senator the duty to advise and consent.

Now, let us read what the Constitution says. It says the President:

> Shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

Mr. President, that is article 2, section 2.

Obviously, Mr. President, the Senate has the duty to give its advice and consent. There are no qualifications, no restrictions on that mandate. Each Senator is left to make a decision and cast his vote solely on criteria which he or she, the Senator, sets for himself or herself.

For some, consent is given almost automatically, without question, because the argument is often heard that the President should be able to choose his own men and women to perform the task he delegates to them and that Congress should accede to the President's wishes. But the Constitution responds to that faulty and specious reasoning in article II, section 2, which allows the President to appoint a vast number of public servants without the advice and consent of the Senate. Article II, section 2 says:

> but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

For those appointments which are subject to the will of the Senate and to the judgment of each Senator of the United States the constitution imposes a special obligation, for Senators to weigh carefully those nominations on which it mandates the Senate to offer advice and consent. This means that every Senator must follow his own guidelines in considering the various constitutionally mandated nominations that come before the Senate. Because of the special mandate the Constitution places upon the Senate alone, factors other than the mere wishes of the President must be considered if Senators respond to their duty.

Admittedly, Mr. President, for some Senators, fulfilling their obligation to offer advice and consent may rest upon their personal view of the nominee; for others, on the nominee's record for prior service.

But in any consideration of a nominee, there is one overriding test which stands above all others: We must look at the question, What is best for the country?

Mr. President, I hope I have made clear, in various comments in earlier days, the criteria on which I shall base my vote on this and all other nominations. In this case, has General Jones, in his first term of office, fulfilled his constitutional duties in a manner sufficient to justify the confirmation of his nomination by the Senate for a second term?

Regardless of what criteria are set for each Senator's vote on this nomination, we have a duty, an inescapable duty, to consider it carefully, and I hope that will be the case in this instance.

Senators do not have the benefit of the hearing transcript of the Committee on Armed Services when it considered, on Monday, the nomination of General Jones. Frankly, I feel at a disadvantage at this moment in not having before me the precise text of General Jones' most recently expressed views on, among other things, the state of our national security.

I hope it would not be accurate to surmise that the committee felt this nomination to be so insignificant that Senators would not be given an opportunity to study the committee's inquiry of General Jones. I assume that it is a matter of the Senate's being rushed to confirm this nomination, for whatever reason.

There is one other aspect of the advice

and consent role of the Senate in considering a nomination. That is the role to give advice. Too often, I fear, we lose sight of that mandate, that obligation, from the Constitution. Nevertheless, that duty is imposed on us in considering this nomination and other nominations, to offer our best advice on how we feel the nominee should carry out his duties.

Mr. President, I say in all candor, and with all the sincerity I possess, that I am motivated solely by what I regard as my duty under the Constitution and by the respect I hold for the position of Chairman of the Joint Chiefs of Staff.

There is nothing personal about my opposition to General Jones. He is a most personable man, a most attractive man. I would like nothing better than to have been able to stand on this floor and say "Amen" to the nomination of General Jones. It is not pleasant to oppose anybody whom you personally like. But there comes that duty, as I perceive it, a duty which I envision as a result of having watched the deterioration of this Nation's defense capability over the past 2 years.

That is why I believe the Founding Fathers were absolutely correct when they decided to require Senate oversight of officers of Government through the confirmation process. By requiring the Senate to give advice and consent to the President's nominees, the Constitution confirms that ours is Government of divided responsibilities, in which checks on the conduct of one branch of government serve to balance the power of all branches.

I say again, Mr. President, that it gives me no pleasure to stand here tonight, at 4 minutes to 10 o'clock, in opposition to the confirmation of the nomination of General Jones. I say again that I harbor not the slightest ill feeling personally toward him. I have met with him privately. I did so just prior to the confirmation of his nomination as Chairman of the Joint Chiefs back in 1978. I recall it as a most agreeable conversation.

I can almost hear General Jones now, as he sat on the couch and leaned forward and said to me that he would resign that high post rather than be a part of any action or judgment that might jeopardize the national security of our Nation. I was impressed. I regarded it as a pledge lightly. I watched General Jones day after day and week after week.

So where are we today, 2 years later? Are we not faced with a serious threat to this Nation's very survival? General Jones, if the news reports are correct, told the Committee on Armed Services, on Monday, that America is at the very edge of strategic inferiority vis-a-vis the Soviet Union. Of course, that is correct. This is what some of us tried to tell General Jones during the hearings on SALT II.

I recall, in particular, a very candid line of reasoning directed to the general by the distinguished Senator from Tennessee (Mr. BAKER). General Jones said, in effect, "No problem. SALT II is good." There was some frustration on our side of the table at that response.

In any case, Mr. President, the slow decline of American superiority, to the point of what is called "rough equivalence," has taken nearly two decades. That decline has been hastened over the past couple of years by a combination of factors.

On the one hand, the Soviet Union has continued a steady and growing program of weapons building, leading the Soviet Union to a solid position of superiority in conventional weaponry and a decisive edge over the United States in many, many areas of strategic forces.

But what has happened to our defense capability during those 2 years?

Is it not true that the United States has been standing virtually still in the face of this steady Soviet growth, preferring to rely on the pledges of a still unratified and so badly flawed arms control agreement, so-called SALT II, in the place of modernization of our own forces during the past 2 years?

Mr. President, General Jones has presided, when one stops to think about it, over the decline of U.S. strategic and conventional forces vis-a-vis the Soviet Union. During that time he has indicated over and over and over again a preference for arms control agreements over force building in response to this growing Soviet threat.

Over and over again he has presented himself as an enthusiastic advocate of disastrous judgments and decisions presumably advanced by others in the administration.

That, Mr. President, is why I am standing here at 1 minute past 10 tonight. Instead of warning Congress in the strongest of terms about the danger signals which he surely must have seen leading to the point that he now acknowledges—a point he is quoted as having said, "On the edge of strategic inferiority"—can it be denied that General Jones offered false assurances about the usefulness of arms control agreements as an integral part of military strategy?

As a matter of fact, Mr. President, I cannot recall one instance, not one, when General Jones came forward and spoke forcefully to Congress about the precipitate decline in our Nation's defense capability.

I am aware that some say, "Well, that was not General Jones' duty. His duty was to obey the Commander in Chief."

But was his duty not a little different than that? Was his duty not to advise both the President and Congress that there was a serious deterioration in the defense capability of the United States of America? And he did not do it.

It is true that Chairman of the Joint Chiefs answers to the President. Such is the nature of our civilian control of the military. That is the chain of command, and I agree with it. I have never questioned it. But there is something more to it than that. It is that duty under the Constitution.

The Chairman of the Joint Chiefs of Staff takes an oath to the Constitution of the United States. His primary duty and loyalty are not to any one man. His duty and loyalty are to the people of the United States and to the Constitution. It is his duty to protect and defend the United States to the best of his ability regardless of who may be serving as President, even if he has to resign when he fears for the security of this country as a result of disastrous policies by the political forces in the administration.

Civilian control of the military is not vested simply in the President of the United States. It is vested in the Congress of the United States as well.

The Constitution wisely gave to Congress the role of appropriating money for the military and of raising armies and of declaring war.

Thus, I submit, Mr. President, that the Chairman of the Joint Chiefs of Staff has a constitutional duty to offer allegiance and his best advice to Congress as well as to the President.

This is important because Congress has that constitutional duty itself to provide for the "common defense."

Thus it is not simply a matter of being a good soldier. The job of the Chairman of the Joint Chiefs of Staff is not merely to salute when the President gives him an order. The duty of the Chairman of the Joint Chiefs is to say, "Wait a minute, Mr. President. You are making a mistake. You are making a mistake." And to let the Congress know when the security of the United States is in jeopardy. This General Jones has not done adequately.

There is yet another constitutional issue surrounding this nomination. Put in the form of a question, What is the proper advice and consent role of the Senate in the nomination process?

I said earlier there are those who contend that the Senate should automatically ratify any nomination that the President sends to Congress unless the nominee is found to have committed some act of misfeasance or malfeasance. I say again it goes further than that.

I came here in January 1973 as a Senator, and I have felt obliged as a Senator to vote against nominees put forward by two Republican Presidents as well as one Democratic President. In none of the cases did I relish taking that position.

I do not want to make any self-serving declarations, Mr. President, but I could not in good conscience do otherwise regarding those nominations. I cannot take the position, "Well, I do not like this nominee, but the President is entitled to have whomever he wishes."

That is not consistent with our duty as Senator under the Constitution as I perceive it.

The criterion is this, in the case of General Jones and every other nominee who comes before the Senate for reconfirmation: Has he or she fulfilled his or her constitutional duties in a manner sufficient to justify confirmation by the Senate for another term?

And sadly and regretfully in this instance I must say "No."

Reference has been made earlier this evening to the role of General Jones in advising Congress of the warning signs that the United States has been moving to "the edge of strategic inferiority" vis-a-vis the Soviet Union. That warning came for the first time last Monday. But where has he been prior to last Monday?

Part and parcel of any inquiry concerning this nomination has to include consideration of General Jones' role in the so-called SALT II treaty, the Strategic Arms Limitation Treaty.

I say again, Mr. President, as I have said before, that if there were a truth-in-labeling law applicable to the naming of treaties, whoever decided to call this a limitation treaty should be put in jail for misrepresentation of the facts because this is a treaty that in no way limits strategic arms. It is an escalation treaty, an escalation treaty so much to the advantage of the Soviet Union that it is almost unthinkable.

Yet General Jones came before the Foreign Relations Committee and I understand before the Armed Services Committee and said, "Oh, this is a good treaty," when there were dozens of top military men, past and present, retired and active, who came to this Senator alone, and I am sure to other Senators, and saying "SALT II is a disaster."

Why did not General Jones in his appearance before the Foreign Relations Committee speak candidly to the committee in response to questions by the distinguished Senator from Tennessee and others, including the Senator from North Carolina, in terms of the deterioration of the defense capability of the United States? He did not do it. He led the committee to believe and the media circulated the impression that SALT II was a fine thing and that America had not too much to worry about as far as national security was concerned.

What was the general's role in the giveaway of the Panama Canal, those two treaties? Again I had a steady stream of distinguished military people, retired and active, come to me and say, "We must not turn over that canal to the Marxist regime in Panama," and they emphasized, as some of us on this Senate floor tried to emphasize, the relationship between the Marxist Torrijos and the Maxist Castro, and Castro's relationship as a surrogate of the Soviet Union in our own hemisphere.

General Jones said the Panama Canal treaties would be helpful.

What role did General Jones play in the aborted raid to rescue the Americans who are still to this good hour being held hostage in Iran? Just how close to war did America come as a result of that raid?

To what extent were the various judgments and statements of General Jones influenced by political considerations?

These are areas of concern, certainly they are areas for valid inquiry. Our distinguished colleague from New Hampshire, Mr. HUMPHREY, I understand already has examined a number of aspects of the Jones record tonight. Other Senators, including the distinguished Senator from Utah (Mr. HATCH) also have pointed out important parts of the Jones record as Chairman of the Joint Chiefs. We would be derelict in our duty if we do not do it.

But back to the general's appearance Monday before the Committee on Armed Services. I do wish I had a copy of the transcript of his testimony. I assume that those news accounts were accurate when they quoted him as acknowledging that the United States is, and I am quoting "on the edge of strategic inferiority." Taken at face value that is a chilling assessment, assuming that the quote was accurate. It has not been denied or challenged.

Thus I find it a little bit surprising we are being asked to deal with this nomination when we do not even have the general's testimony available. I have been told that the hearing testimony has not been transcribed.

Mr. President, let me read the general's statement again. He said the United States "is on the edge of strategic inferiority." I wonder if this statement by the Chairman of the Joint Chiefs is not an indictment of his own capability to function in the office?

It seems to me that the Chairman of the Joint Chiefs, by his own acknowledgement, lacks the ability or the willingness or both to convince his superiors of the need for greater defense capability to meet the threat this Nation faces, and I have to assume the general believes we ought to have the military strength necessary to preserve our national independence.

Having presumed that much, I cannot imagine any Chairman of the Joint Chiefs who would not count it as a matter of personal honor if his superiors chose a military program that was anything less than necessary to maintain clear strategic deterrence. Every Chairman of the Joint Chiefs takes an oath to uphold the Constitution. It is, therefore, his duty to resign if he cannot function in his job of defending that Constitution.

General Jones says, "We are on the edge of strategic inferiority." Yet there he is, still there, serving as Chairman of the Joint Chiefs.

What is the job of the Chairman of the Joint Chiefs except to avoid precisely the condition he now acknowledges to exist? He reminds me a little bit of the fellow who murdered his mother and father and then went before the court pleading for mercy on the grounds that he was an orphan.

The job of the Chairman of the Joint Chiefs—what is the job description for it? I looked it up in the Government Organization Manual for the precise definition. It said:

The Joint Chiefs of Staff (JCS) are the principal military advisers to the President, the National Security Council, and the Secretary of Defense. They constitute the immediate military staff of the Secretary of Defense, serving in the chain of command that extends from the President to the Secretary of Defense, through the Joint Chiefs of Staff, to the commanders of unified and specified commands.

Mr. President, in the interest of time, I am not going to read all of the job description, but I ask that it be printed in the Record as if read.

There being no objection, the job description was ordered to be printed in the Record, as follows:

JOB DESCRIPTION

The Joint Chiefs of Staff (JCS) are the principal military advisers to the President, the National Security Council, and the Secretary of Defense. They constitute the immediate military staff of the Secretary of Defense, serving in the chain of command that extends from the President to the Secretary of Defense, through the Joint Chiefs of Staff, to the commanders of unified and specified commands.

Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff, in addition to such other duties as the President and the Secretary of Defense may direct, have the following responsibilities:

Preparation of strategic plans and provisions for the strategic direction of the Armed Forces, including the direction of operations conducted by commanders of unified and specified commands;

Preparation of integrated plans for military mobilization and integrated logistic plans;

Recommending to the Secretary of Defense the establishment and force structure of unified and specified commands and the assignment to the military departments of responsibility for providing support to such commands;

Review of plans and programs of commanders of unified and specified commands;

Review of major personnel, materiel, and logistic requirements of the Armed Forces in relation to strategic and logistic plans;

Establishment of doctrines for unified operations and training and for coordination of the military education of members of the Armed Forces;

Providing the Secretary of Defense with statements of military requirements and strategic guidance for use in the development of budgets, foreign military aid programs, industrial mobilization plans and programs of scientific research and development:

Recommending to the Secretary of Defense the assignment of primary responsibility for any function of the Armed Forces requiring such determination and the transfer, reassignment, abolition, or consolidation of such functions; and

Providing the United States representation on the Military Staff Committee of the United Nations, and when authorized, on other military staffs, boards, councils, and missions.

The Joint Chiefs of Staff consist of the Chairman of the Joint Chiefs of Staff; the Chief of Staff, United States Army; the Chief of Naval Operations; the Chief of Staff, United States Air Force; and the Commandant of the Marine Corps. The Joint Chiefs of Staff are assisted in the performance of their responsibilities by the Joint Staff and the other agencies of the Organization of the Joint Chiefs of Staff.

(Mr. TSONGAS assumed the chair.)

Mr. HELMS. Mr. President, we see from this job description that the Joint Chiefs, and particularly the Chairman, have the responsibility for preparing all of the plans and providing the readiness necessary for the defense of this Nation, and if the plans for our defense are not adequate, there is nowhere else to look for assigning responsibility for our not having it. If the plans are not fulfilled by their superiors, I do not see how the Joint Chiefs can say, "Well, we will go along with the political figures in the administration and keep quiet."

As for the role of the Chairman of the Joint Chiefs in that job description I just cited, is as follows:

The Chairman of the Joint Chiefs of Staff while holding such office takes precedence over all other officers of the armed services. Besides participating as a member, the Chairman serves as presiding officer of the Joint Chiefs of Staff, provides agenda for

> their meetings, and works to ensure that business is carried out as promptly as is practicable. He informs the Secretary of Defense on issues before the Joint Chiefs of Staff, including those upon which agreement among the Joint Chiefs of Staff has not been reached. The Chairman manages the Joint Staff through its director. In consultation with the Joint Chiefs of Staff and with the approval of the Secretary of Defense, he selects the Director, Joint Staff. The appointment of officers to serve on the Joint Staff is subject to his approval.

Mr. President, I read all of that into the RECORD for one purpose: to demonstrate that the Chairman of the Joint Chiefs of Staff is the one person in charge of all planning. He takes precedence over all other officers of the armed services. It is his job to see that the business of the Joint Chiefs is carried out. The advice rendered to the Secretary of Defense and the President is inadequate to the task at hand, the responsibility for that failure can rest nowhere—nowhere—except upon his shoulders.

So if the Chairman of the Joint Chiefs now comes before the Armed Services Committee, seeking confirmation for a second term, and says that we are on the edge of strategic inferiority, the responsibility for that grave decline rests squarely on his shoulders. If his counsel could not arrest that decline by convincing his superiors to avert that danger then, in my judgment, he should have done precisely what he said in my office 2 years ago—he should have resigned. But he did not resign, and he is seeking reconfirmation.

If any Senator infers from my remarks that I am suggesting that General Jones should be insubordinate to his superiors or that he should go over the heads of his superiors to Congress or to the people, or that he should try to deceive his superiors by failing to carry out their orders, then let me disabuse that notion.

As long as he is the first-ranking military officer in the Nation, his duty is, in fact, to obey; but it is his higher duty to resign if he cannot conscientiously carry out his orders and keep his oath to defend the Constitution.

But instead, General Jones became the defender of the strategic decline which he now admits. I cannot conceive of a military adviser giving advice that leads to strategic decline. We must assume that he did not advise a decline. But the decline was programed by the administration anyway. We must assume that the decline was the result of political decisions. The general therefore became the defender of those political decisions, by presenting military rationalizations for them, even though he knew that those political decisions were leading to decline.

The prodefense rhetoric of the present administration is fundamentaly deceptive. American military power has eroded during the Carter administration to a point at which the national security of the United States is in clear jeopardy. Now even the Chairman of the Joint Chiefs says we are on the edge of inferiority.

Mr. President, the processes of history are not inevitable. The decline of American power is the product of actions of men and of the ill-conceived ideas of a generation that has been frequently wrong, but never uncertain. What we need to do is to break with the past, and take practical actions to build the forces necessary to preserve American independence through the 1980's. But how can we do this if we have, as Chairman of the Joint Chiefs, a man who has presided over that decline, and defended it to the American people?

The civilian corporate-like structure of the Department of Defense has tended to cause even the Armed Forces to lose sight of their real function, which is war, should it occur, or preparedness for war during peace. The corporate mind at the Department of Defense has discouraged nonconforming judgment and has stifled initiative in the military. Management by objective has replaced leadership by example. Commonality and cost effectiveness as principles of defense have replaced security, surprise, maneuver, firepower, and shock actions as principles of war.

Purporting to seek efficiency and economy as a first and often single goal, the corporate managers of the Department of Defense have failed to understand that war and the preparation for war are inherently wasteful, but that the alternative is defeat or dependence. They have spent billions of dollars seeking to manage efficiently and cheaply and have, instead, obtained less for more. They have, in short, managed the decline of what was once the strongest Armed Force of history.

The Chairman of the Joint Chiefs has sat at the top of this pyramid. His underlings have only the Chairman as their guiding example. If they see weakness, maneuvering, and readiness to bend to political judgments—whatever the cost to the country—then they will reproduce the same mentality on their own levels.

It is only because our decline in military power began from such a strong initial position and because the world still remembers the days of our succeses that the damage wrought by them has not had even worse consequences. Our country has become weak because our leaders have forgotten that in this world only the strong can be free.

Mr. President, how can we get a fresh start on rebuilding our freedom if the same man who has presided over the decline is confirmed in office for another 2 years? It is not impossible to redress the balance if we look at the situation realistically, assess where we are, and decide what has to be done in every aspect of our fighting forces.

Such an assessment has just been made available this week. A task force of congressional staff experts, working outside the committee process, has, on their own, made a careful, item-by-item estimate of where we are and what we can do if we want to do so. The authors have elected to remain anonymous so that the assessments could be made without being attached to any particular political or bureaucratic factions. These assessments stand on their own merits, on the quality of the work done, and their over-all impact. It is one of the finest technical military analyses that I have ever seen.

This work has been published this week by the Institute for American Relations.

Mr. President, I would like to read from the introduction to this work, which tells the story in a nutshell:

INTRODUCTION

> The Russian[1] invasion of Afghanistan, at a time of America's impotence in Iran, demonstrated to the world the tangible results of an altered balance of power that now favors the Soviet Union. In graphic fashion, both the invasion and the long imprisonment of American hostages have signalled new Russian ascendency and apparent Amercan weakness.
>
> As a result, a clear majority of the American electorate now favor increased levels of military spending. There is almost no opposition in the general population to increased efforts in national defense. In many respects, the American people are well ahead of Congress in their appreciation of the present danger.
>
> The Soviet Union is now verging on decisive strategic nuclear superiority—decisive in the sense that the outcome of any potential war will increasingly favor the Soviet Union. The strategic nuclear threat provided by the United States (which heretofore has been the core of NATO doctrine) is no longer sufficient to deter Russia in Europe or elsewhere. NATO is disintegrating. A single major breakthrough in weapons technology by Russia could leave our own country effectively defenseless.
>
> Almost without doubt, regardless of American actions, things are going to get much worse before they get better.
>
> The Chairman of the Joint Chiefs of Staff has just reported to Congress in an election year (when candor is not normally expected) that "the Soviets now possess an accumulated capital stock some 25 to 50 percent larger than that of the United States . . . the differential is projected to increase to the 40 to 60 percent range in favor of the Soviet Union by the mid 1980s."
>
> On February 20, 1980, the Commander of the Strategic Air Command, in explaining the military balance, stated categorically to the Senate Committee on Armed Services that the United States does not now have even those minimum strategic forces needed for "essential equivalence" with Russia. Since the term "essential equivalence" is itself already considered a euphemism for inferiority, the testimony of the SAC Commander was, to many, startling new evidence of the woefully inadequate state of our strategic forces.
>
> Administration spokesmen are hardly trying to paint the worst picture of U.S. military preparedness they can. Yet in an election year, they have admitted that the United States cannot successfully defend the oil fields in the Persian Gulf, without which the economies of the Western world cannot long survive. They have admitted American military inferiority.
>
> The so-called five percent increase in defense procurement in the revised Carter military budget has been, from the begin-

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[1] The terms "Russia," "Soviet Union," "Russian," "Soviet," etc. are used interchangably herein primarily for reasons of style and notwithstanding the objection to equating the country, Russia, with its Soviet dictatorship. Although Communism itself is the primary threat to freedom and independence, the chief military potential of Communism is embodied in the forces of the Soviet Union. In the event of war, therefore, Americans would be required to kill Russians and would find little use for the weaponry of semantics. Cf. Aleksandr Solzhenitsyn, "Misconceptions about Russia are a Threat to America." *Foreign Affairs*, March 1980.

ning, fraudulent gimmickry and shows the folly of dealing in percentages instead of weapons systems and force structure. No battle was ever won by a percentage point and no country saved by posturing demands for that which is essentially insignificant and cosmetic.

The real dollar increase in procurement over the five-year program is about half the level claimed by President Carter. Under the Administration plan, actual procurement of end-item weapons and equipment would decline from last year. Nothing has been added to the budget after the invasion of Afghanistan except empty threats and bristling speeches by the chief architects of our present dilemma.

The Central Intelligence Agency now estimates that the Soviets are spending more than 50 percent more in military accounts than the United States, 80 percent more in military procurement, two and one-half times as much on ground forces, and 2.6 times as much on strategic forces. Defense Intelligence Agency estimates are even higher and are probably more accurate.

The Soviets have made enormous strides in closing the gaps in technology, frequently with American assistance. Thanks largely to American equipment and technology exports to Russia, the Soviets will very soon be ahead of the United States in missile accuracy. They have been ahead of us in tanks and armored vehicles since 1970. Many of their ground force weapons are clearly better than ours. They have the only long-range (100-mile or more) cruise missile operational in the world today.

The challenge is not being met. According to the very recent testimony of the Joint Chiefs of Staff, the "funding deficiency" of the Carter military budget "must inevitably translate to reduced capability and greater risk." To say that the conclusion of the Joint Chiefs is understated is to put the matter very mildly.

STRATEGIC FORCES

The Soviet Union already has moved ahead of the United States in perhaps 75 percent of all measures of strategic power and will close much of the remaining gap by 1981 or 1982. The U.S. ICBM force is vulnerable to near-complete destruction. The U.S. bomber force, the Administration admits, is potentially vulnerable to both ICBM attack and SLBM attack. The bomber force is incapable of penetrating advanced Russian air defenses or of surviving electromagnetic pulses from nuclear weapons detonated exoatmospherically. There exists no survivable command and control system for U.S. missile submarines.

By 1985, under the Carter defense plan, the strategic forces of the United States will have 6,000 fewer nuclear weapons than were planned under the Ford Administration, and those additional weapons under the Ford plan would have been carried by the most modern of our strategic delivery systems. President Carter killed the B–1, delayed the MX three years, delayed cruise missiles and Trident I development by two years, refused timely development of Trident II, terminated Minuteman production, destroyed the Minuteman assembly line, ended Minuteman II modernization, cancelled the neutron warhead, delayed Pershing II, terminated Lance I missile production, stymied Lance II, vetoed a nuclear carrier stalling its construction, cut naval shipbuilding in half, cut the size of the Army, Navy, and Air Force, withdrew troops from Korea, and relinquished the Panama Canal.

In the same period, the Soviet missile threat, in terms of high accuracy, advanced by about five years in state of technology. Russia has continued development of five new fifth generation ICBMs and several new SLBMs, one recently tested. Through selective use of power and proxies, Russia has made enormous gains in the Persian Gulf region, in Africa, and in Central America and the Caribbean, Europe, perceiving American weakness, has moved toward neutrality and toward satisfaction of a long-term objective of Soviet policy.

THEATER NUCLEAR FORCES

The Chairman of the Joint Chiefs of Staff acknowledges that the Soviet Union will "hold an advantage in long-range theater nuclear forces by the early 1980s," that in "equivalent megatons and hard target kill capability, the Soviet advantage will range from two-to-one to four-to-one," and that "these advantages will continue to increase throughout the 1980s" even if we deploy the Pershing II and ground-launched cruise missiles (GLCM).

The recent introduction of Russian nuclear artillery and three new theater nuclear missiles has dramatically changed the balance of power in Europe. Most U.S. tactical nuclear weapons are obsolete and were introduced prior to 1964. President Carter's decision against the neutron warhead will assure that perhaps half the U.S. nuclear weapons in Europe during the 1980s will have only about 30 or 40 percent of the military effectiveness they would have had if the Ford Administration plan had been carried out.

The Soviets have gone ahead of the United States in tactical nuclear weapons delivered by fighter bombers because America has not produced long-range replacements for either the F–4 or F–111 aircraft while Russia has developed the long-range nuclear-capable MIG–27 Flogger D and Su-19 Fencer aircraft.

The United States does not have a single modern naval nuclear weapon. The current situation is almost the reverse of that in the 1960s when the United States had a great advantage in effective naval nuclear forces. The vulnerability of the U.S. Navy to nuclear long-range cruise missiles launched from submarines, from Tu-26 Backfire bombers, or from surface ships is particularly severe. The U.S. has no modern, nuclear-capable anti-aircraft, anti-submarine, or anti-surface ship weapon. The nuclear air strike capability of the Navy is limited primarily to subsonic aircraft, which carry no standoff nuclear weapons.

AIR FORCES

The Soviet Union has far more aircraft than the United States, is producing several times as many modern aircraft each year as the United States, and has closed much of the technical gap. Long-range U.S. fighter bombers are now 1960s products, and the Administration is developing no modern versions to replace them. American F–14 and F–15 fighters are very good, but they have been procured in inadequate numbers, and the advanced Soviet MIG–25 Foxbat approaches their capability and is expected to be deployed in far greater numbers. The Soviets have under deployment a wide range of aircraft that will present a severe threat in the mid- to late 1980s. Even today, the production of the MIG–27 Flogger and the Su–19 Fencer has eliminated the traditional U.S. advantage in long-range tactical air power.

American aircraft production programs currently emphasize cheaper, less capable aircraft that have limited range and cannot fight at night or in bad weather. Moreover, aircraft production levels do not even approach those required for a solution to the Russian quantitative advantage in fighters and attack aircraft.

Even with improved production levels, sustainability of U.S. air forces would still be exceedingly low. Ordnance and spare parts for the existing force is not sufficient to support in combat more than one and a half sorties per aircraft.

Does the Administration plan to order unarmed Kamikaze attacks as second or third combat missions? Perhaps cost effectiveness is the motivating factor.

Immediate steps should be taken to procure and stockpile sufficient ordnance and spare parts to sustain combat for at least 30 days. Thereafter, the goal should be raised to 60 days and thereafter to 90 days.

NAVY

The Russian Navy is engaged in a major qualitative and quantitative expansion program which threatens U.S. naval superiority and, unless met, which foreordains unacceptable conditions in the mid-1980s. The Soviets have under construction at least four nuclear carriers, a large nuclear "battle cruiser," a new, extremely large nuclear submarine, and a variety of new advanced cruisers and amphibious ships. The greatest short-term threat is the Soviet advantage—indeed, monopoly—in modern naval weapons with nuclear capability, the overwhelming size of the Soviet submarine fleet, and the growing number of long-range naval bombers.

Russia would win a naval war today if her fleet struck first with nuclear weapons. Even in a conventional naval war, the United States would face major sea control problems. The U.S. Navy is not structured, as it once was, to choke off the breakout capability of the Soviet Navy and to defeat the Russians in their home waters.

The revised Carter naval construction program, although slightly improved from the original Carter plan, is still about 60 ships less than would have been procured by the Ford Administration. This deficit is astonishing. But even the Ford program was not comparable to the Russian plan to build a global navy of modern, heavily armed vessels.

All of the new proposals in the current President's shipbuilding plan are proposals which call for lower capability ships than the United States is currently producing. The largest combatant ship in the new program is a destroyer (DG–47 class) that was reclassified a cruiser (CG–47) at the last moment—a renaming exercise that no doubt struck the same degree of fear in the hearts of Russian admirals as confidence it inspired in our disillusioned allies.

Moreover, despite the current major problems Americans face in the Indian Ocean, the new Carter budget contains no carriers and only three amphibious ships over the full five-year shipbuilding program.

Some critics feel that these deficiencies border on culpable negligence. They do, at a minimum, guarantee clear American naval inferiority by about 1985.

Unless the Carter Administration shipbuilding plan is revised, there will be only 18 ships in the U.S. Navy in 1990 that have a modern air defense system using phased array radar technology. The least number needed to protect the current carrier force is 24 modern air defense vessels, and that number would leave none to escort quick response amphibious ships or to perfrom other missions.

Unless the Carter Administration's shipbuilding plan is scrapped, there will be mass obsolescence in amphibious ships in the late 1990s. Of 63 amphibious ships in current inventory, only five can be kept in service beyond 1999. Three amphibious ships a year must be constructed just to break even by 1995. The Administration proposes three for the entire five-year period.

The attack submarine construction program is also grossly inadequate to meet a stated (and modest) goal of 90 attack submarines. Additionally, the existing Trident construction program, assuming a 25-year life span for Poseidon submarines, will result in only about 15 Trident boats in 1992 and these would be armed with inferior missiles not capable of counterforce missions. In the face of remarkable Soviet progress in high-speed, deep-diving submarines, the Administration proposes to retreat to the less-capable SSN–X submarine (Fat Albert), the only attack submarine in history deliberately designed to be inferior to its opposition.

Meanwhile, one critic contends that the Carter Rapid Deployment Force is proceeding from Washington at a flank speed of .21 knots and should reach the Persian Gulf sometime in 1986. The point, well taken, is that when the RDF does arrive, it will be too late to do the job and too late to be remembered.

ARMY

The U.S. Army, and NATO in general, are dramatically outclassed by the quantity and quality of forces available to Russia and the Warsaw Pact. Soviet T–64/72 tanks are a generation more advanced than any that exist in the West. The T–80 will be even more advanced. The Soviet BMP outclasses any Western armored personnel carrier. Russian armored vehicle production capacity is more than five times that of the United States. In numbers of armored vehicles, artillery, and personnel, the Russian margin of supremacy is truly overwhelming.

Popular mythology notwithstanding, the West does not enjoy an advantage in precision guided munitions. The Soviets have introduced these in large numbers, and their quality is roughly comparable to our own. Where they are deficient in technology, they have compensated in size and numbers.

Russia now also holds an advantage in tactical nuclear weapons and a near monopoly in chemical and biological weapons. Russian armed forces are designed to fight to a nuclear, biological, and chemical environment. Ours are not.

THE WORLD SITUATION

The 1980s will not be a pleasant decade for the United States or its remaining allies. According to the Chairman of the Joint Chiefs of Staff, "over the past decade the balance of conventional forces in Europe and at sea has been moving against the United States and its allies." The Chairman believes that "the possibilities of a military confrontation with the Soviet Union will increase significantly in the first half of the decade". If anything, this view understates the threat.

A strong possibility exists that the Soviet Union will take military action against Iran during 1980 or 1981, and the possibility of a move against Pakistan or Yugoslavia within the next year or two is real. The Soviets are on the verge of seeing their allies achieve major successes in Central America, and their next target may be Mexican and Caribbean oil. The open stationing of Russian nuclear weapons in Cuba is a distinct possibility. Prospects which would have been considered preposterous five years ago have become probable under the spreading umbrella of Russian strategic nuclear supremacy.

MEETING THE IMMEDIATE SECURITY PROBLEM

The primary national security problem of the United States is, as it long has been, prevention of a direct nuclear attack on this country or on our allies, limitation of damage in the event of war, preventing Russian conquest of America, of Europe, or of the Persian Gulf littoral and the Middle East. and halting the establishment of pro-Soviet/anti-U.S. regimes in Africa, Asia, and Latin America.

A primary problem Americans face is assuring that our strategic forces can deter a Soviet nuclear attack on the United States. In a nuclear war there is no second place winner. A retaliatory capability that can simply blow up Soviet cities is not enough because, aside from its essential barbarism, it would do no good at all simply to destroy people. America needs forces that can threaten what the Communist leadership regards as valuable—the sources of social and political control, their government structure, their armed forces, their military-related industry, and of course, Soviet strategic weapons.

Unless present plans are changed, for the entire decade of the 1980s the United States will not be able to threaten in a retaliatory attack the Soviet regime, the Soviet strategic force, or even an acceptable percentage of Soviet conventional and general forces.

In order to be able to threaten what Soviet leaders regard as valuable, the United States—among other actions—must rapidly deploy the MX missile in an effective basing mode (probably vertical silos); must deploy a portion of the Minuteman III force in a vertical, multiple protective structure system (MPS) at existing missile fields; must deploy an anti-ballistic missile defense of MX and (initially) of MPS-based Minuteman IIIs; must deploy a new manned strategic bomber (preferably the B–1); must accelerate Trident submarine construction; and must immediately begin the Trident II missile program.

In order to build a strategic defense, the United States must deploy modern interceptors for defense against aircraft and cruise missiles. These interceptors could serve additionally as a strategic reserve. A basic air defense system should include, too, a wide-scale deployment of modern surface-to-air missiles of the most advanced type.

Also for strategic defense, America cannot afford not to develop an orbital laser weapon to defend against ballistic missiles. The space laser weapon could revolutionize warfare by the mid- to late 1980s. If the United States develops such weapons first, then America could gain a substantial measure of safety against Soviet ICBM, SLBM, and bomber attack. But if Russia achieves success first and the United States has ignored the opportunity, then the Soviets would have a powerful new weapon for the achievement of Communism, and Russia could be put in a position to forbid American development of a comparable system. In the new field of developing laser weaponry, the danger of surprise in strategic laser systems is very great.

While pursuing advanced technology and building strength at home, the United States also must promptly strengthen its forces in Europe. This step must include rapid mass production of the XM–1 tank with its new advanced armor (XM–1 is the only tank that can match the T–72/80 tanks), accelerated production of the new armored personnel carrier (IFV/CFV), mass procurement of advanced anti-tank munitions to defeat the T–72/80, immediate deployment of enhanced radiation weapons, and a major upgrade of the almost non-existent U.S. Army capability to fight in a nuclear, chemical, or biological environment.

The Soviet use of nerve gas in Afghanistan—and possible use of biological agents—strongly suggest that a decision to use or not to use weapons of mass destruction, including nuclear weapons, would not be left exclusively to the United States.

Against the backdrop of these sobering realities, the United States must now obtain a capability to prevent a Russian victory in any of the nations of the Persian Gulf littoral. This power will not be achieved by local alliances (the Egyptians are not going to defeat the Soviet Union) or even by appeals to long-term European allies. No one will pull our chestnuts out of this fire.

The United States needs at least four additional carrier task groups to operate more than token forces in the Indian Ocean without abandoning Europe or Japan.

The Administration must be forced to recognize that America cannot take military forces that are needed in Europe and move them to the Persian Gulf in time of crisis without practically inviting Russia to attack Europe in the event of war elsewhere.

The United States must increase the U.S. Army and its Reserve Components by at least five divisions and Air Force, Navy, and Marine tactical air power by at least nine wings if Americans are to obtain adequate capability in the Persian Gulf area and still be in a position to be effective in other theaters.

Going the route of rapid deployment capability is more costly. However, whether we forward-deploy Army forces or depend on rapid deployment, we will need additional carriers and increased amphibious capability. As the Chairman of the Joint Chiefs reports, "Amphibious shipping is not sufficient to embark more than one Marine amphibious brigade (MAB) on each coast."

The Soviets moved six divisions into Afghanistan in less than a month. Showing the flag in the Indian Ocean is not going to keep Russia from seizing the Persian Gulf, nor will inadequate forces in NATO prevent the neutralization of Western Europe. And lamentably, that process already has begun.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr President, I did not intend to speak again, but I just cannot say how much I disagree with my friend from North Carolina (Mr. HELMS).

I take exception to the fact that a U.S. Senator gets up on the floor of the U.S. Senate and, in my opinion, impugns the motives of a great American like General Jones.

Had the Senator from North Carolina been here earlier, he would have heard the Senator from Nebraska say that there are many things on which I did not agree with the Chairman of the Joint Chiefs of Staff. I said at that time that, had I been here, I probably would not have agreed with that individual that we should have entered into the Panama Canal Treaty. I said that, had I voted on SALT II, I suspect I would not have agreed with that individual, in this case, General Jones, on SALT II.

But I take exception to the fact that just because I do not agree with someone on what I think is an important issue, or the Senator from North Carolina disagrees with someone on an important issue, that they can, therefore, conclude that they should not and are not qualified to serve.

I would ask the Senator from North Carolina: If there is a change in the Presidency of the United States come January, would the Senator from North Carolina think that all of the other members of the Joint Chiefs of Staff should be replaced? Because I think the Senator from North Carolina knows how those men felt about SALT II. I did not agree with them, but they happen to have a right to their opinion.

I suspect that we are being very narrow minded, indeed. I suspect that we are doing more harm to the character and strength of all of the Armed Forces of the United States if we allow words to be said on the floor of the United States Senate that were just said, without someone having the courage to get up and say: "Senator, I do not agree with you."

I think if we are going to move ahead with building up the strength of the United States of America, we are going to have to do it working together. I do not think it contributes very much to the feelings of the people of the United

States as a whole to have a man of the character of David Jones, although I do not agree with him on many issues, to have his character, in essence, assissinated in debate on the floor of the United States Senate.

I happen to have a high regard, a very high regard, for, I think, one of the most important men in the defense of the whole free world, who, I think, happens to know more about nuclear defenses than even General Jones, and that happens to be General Ellis, who commands that very, very important facility that we happen to have in my home State at Omaha. And yet I would say that the SAC commander, indeed, testified in support of the SALT II treaty. I did not agree with him, but it might be that I was wrong.

I still have enough humility to recognize that once in a while the Senator from Nebraska could conceivably be wrong. Therefore, I think it is important that before we impugn a great American like General David Jones that we recognize that maybe, just maybe, some of the criticisms that have been advanced against him here on the floor of the Senate tonight are not appropriate.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, the Senator said he was asking me a question. Would the Senator repeat the question?

Mr. EXON. Mr. President, I did not ask the Senator a question, but if the Senator wants to ask me one I would be glad to respond.

Mr. HELMS. Mr. President, I thought the Senator began by saying he wanted to ask me a question.

Mr. EXON. If I did, I stand corrected. Is that what the record shows, Mr. President?

Mr. WARNER. Mr. President, will the Senator yield?

Mr. EXON. Yes.

Mr. WARNER. Mr. President, I have followed very carefully the colloquy here with the term "character assassination." I think my colleague from North Carolina has been very careful in his observations and has pointed out the basic differences that he has had, and others, with respect to positions taken by Chairman Jones during his tenure.

It is for that reason, I think, the hour being late, that this colloquy has pretty well exhausted the viewpoints of all. I suggest to my colleagues that we summon the leadership and proceed to a vote at this time.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. Mr. President, before the Senator does that, may I finish my comment to the able Senator from Nebraska?

The Senator said something to the effect, I believe, that somebody ought to have the courage to stand up and disagree with the Senator from North Carolina. I hope my friend will never feel that he needs courage to disagree with me. I respect him so much and I count him as a close personal friend.

But the point that I tried to make, I say to the Senator, is that all of us are judged on our record. The Senator will be judged on his record when he seeks reelection to the Senate, and I hope he will.

The same is true with General Jones or any other nominee. I have no other yardstick by which to measure a public servant except what he has done.

It is not a matter of my considering myself impossible of error. I have not contended that. But I submit that by his own testimony this past Monday, he indicted himself, because, up until last Monday, almost without exception, he had said, in effect, "We are coming along all right." He said the Panama giveaway was going to result in benefits. He came before the Foreign Relations Committee and he represented SALT II as being a fine treaty in terms of the United States best interest.

I think his judgment to that effect would be severely questioned by his peers if we polled the top military people in this country. I am sorry the Senator from Nebraska and I do not agree on this, but I appreciate his comments very much.

Mr. EXON. I would like to pose a question to the Senator from North Carolina, since he indicated he would answer my question.

Mr. HELMS. I will answer if I know the answer.

Mr. EXON. I pose a question not directly to the Senator, I do not think, but I certainly would take it from the statements the Senator made that, among other reasons, he feels that the nomination should not be confirmed because General Jones has openly supported SALT II.

Mr. HELMS. No. I have said that the deterioration of our defense capability is a measurement of his competence on the job. He testified this past Monday, unless he was misquoted by the news media, that we are on the threshold of strategic inferiority.

Mr. EXON. And the fact that the General testified in support of SALT II and was for it does not figure into the Senator's intentions to not support his nomination?

Mr. HELMS. Certainly it does, because I think he was 180 degrees wrong. That is just one factor.

I will be glad to discuss this with the Senator as long as he wishes and we will go chapter and verse. For example, I would like to ask the Senator to specify one judgment of the Chairman that he thinks has been beneficial to this country, aside from his Johnny-come-lately decision to advocate a higher defense spending level than the President recommended.

Mr. EXON. I am sure the Johnny-come-lately category fits exactly into what the Senator from North Carolina has indicated in constructive criticism of the general.

Mr. HELMS. I am sorry, I did not understand the Senator.

Mr. EXON. I would suggest to the Senator that from what he said for the record, and I listened to him here and in the cloakroom, I would have to conclude that one of the main reasons he feels that General Jones should not be confirmed is that, among other things, principally he was against SALT II, that he should have stated some warnings, and that the Senator feels very strongly about that, which is certainly his right.

Again, a question I would pose to the Senator from North Carolina is, does he feel likewise that the other members of the Joint Chiefs of Staff should be replaced come next January if we have a new President, for the same reason?

Mr. HELMS. I would say to the Senator, sufficient unto the day is the evil thereof. When their nominations come up, we will consider them.

SEVERAL SENATORS. Vote!

Mr. ROBERT C. BYRD. Mr. President, Gen. David C. Jones has proved himself to be a military leader of integrity and exceptional ability in serving as Chairman of the Joint Chiefs of Staff. He has been farsighted in recognizing many defense needs, needs that are now acknowledged by the public and by Congress; and he has represented the best interests of the uniformed services, while respecting the fundamental principle of civilian control.

While General Jones has been Chairman of the Joint Chiefs of Staff, a number of major defense initiatives have taken place. Our capabilities in the Pacific and Indian Ocean theaters have been strengthened. The Navy has launched a 5-year plan to rebuild its active ship inventories. Major increases in advanced Air Force aircraft have been undertaken. Army equipment has been substantially modernized. The cruise missile program has been emphasized, and the development of the MX is underway. The Rapid Deployment Force is being created. General readiness has been identified as a key objective of our Armed Forces. And the defense budget has assumed a path of significant and steady growth.

These accomplishments are the result of the efforts of many individuals, both civilian and military, both in and out of the adminstration and of Congress. But it is significant that General Jones has been able to put together, and lead, a team of military leaders that has been instrumental in bringing about these achievements.

I commend General Jones for his performance. The Committee on Armed Services has reviewed his nomination, and, by a vote of 16 to 1 recommends that the full Senate confirm the nomination.

I urge the Senate to approve General Jones' nomination for a second 2-year term as Chairman. It is important that the Nation continue to benefit from the efforts of this dedicated and able officer.

Mr. HATFIELD. Mr. President, in rising to support the confirmation of Gen. David Jones to be the Chairman of the Joint Chiefs of Staff, I am reminded of that old political exchange that takes place between two political friends. One indicates to the other that he would like to be helpful in a reelection campaign and would be happy to come to his constituency and speak either for or against him, whichever would help him most.

I suppose in that sense, my standing to urge the confirmation of General Jones may hurt him or help him. I am not quite sure which it would do.

But I do want to take this occasion to say that I have known Gen. David Jones for a number of years that he has been serving as Chairman of the Joint Chiefs of Staff. I have known him in a social way. I have known him as a member of a prayer group that meets regularly.

I say that I have the highest admiration for him as a man of quality, a man of great substance, a man of great military leadership capability, as he has proven over the years; and a man of great spiritual depth, as well.

Even though I, perhaps, rise more frequently to debate against increased military spending and certain weapons systems, and so forth, the draft, registration, what have you, I want it clearly understood I have nothing but the deepest affection and admiration for our military leadership, our military institutions, and especially as personified today by the outstanding members representing all the branches of the armed services serving as part of the Joint Chiefs of Staff, and especially the Chairman, Gen. David Jones.

I am very delighted to cast my vote in support of his confirmation.

I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. STENNIS. Mr. President, as a practical matter it seems to me that this matter has now been rather fully presented. There is no control of time. I am not trying to cut anyone off or anything like that. I said in the beginning that it is by nature an international office and the term expires tomorrow. I asked the membership to stay and vote on this tonight, if possible. I am willing to submit the case. I believe it has been covered.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there other Members who wish to speak? If not, the question is, Will the Senate advise and consent to the nomination of Gen. David C. Jones for reappointment as chairman of the Joint Chiefs of Staff? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. BAKER. I announce that the Senator from Maine (Mr. COHEN), the Senator from New York, (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. STONE). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 9—as follows:

[Rollcall Vote No. 231 Ex.]

YEAS—66

Armstrong
Baucus
Bayh
Bellmon
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stennis
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—9

Baker
Garn
Hatch
Hayakawa
Helms
Humphrey
Laxalt
McClure
Schmitt

NOT VOTING—25

Bentsen
Biden
Church
Cohen
Culver
Durkin
Goldwater
Gravel
Javits
Johnston
Kassebaum
Kennedy
Magnuson
McGovern
Melcher
Moynihan
Nelson
Ribicoff
Stafford
Stevens
Stevenson
Talmadge
Tower
Wallop
Young

So the nomination was confirmed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT S. McNAMARA TO RETIRE AS WORLD BANK PRESIDENT

Mr. PERCY. Mr. President, with the statement that "Timely change in leadership is salutory both for institutions and for individuals," Robert S. McNamara has given notice that he intends to step down next June as president of the World Bank. During his 12 years of leadership the Bank has become the world's leading international development institution.

Although Robert McNamara has been described as a controversial figure, in my judgment he has demonstrated outstanding leadership during his tenure at the World Bank and I have been pleased to have been a consistent and strong supporter of that institution. But even those who differ with him on policy, respect his immense abilities.

The World Bank was originally established to facilitate reconstruction after World War II. Over time its role has evolved to one of providing financial and technical assistance to the world's developing nations. Under Mr. McNamara's leadership the World Bank has become the preeminent instrument of resource transfers from rich nations to poor in such a way as to enable them to work toward greater self-sufficiency primarily.

Since he took over the reins in 1968, the Bank's lending has increased elevenfold. He has also led a shift in emphasis of Bank lending from large capital projects to projects in agriculture, primary health care, education, and environmental protection. One of the most significant new initiatives—which I strongly support—is lending to spur energy development in non-OPEC developing countries.

But Robert McNamara would be quick to say that there is still much urgent work that needs to be done. Described in a recent Washington Post article as "the conscience of the rich nations," he has urged that much more development assistance is needed by beleaguered Third World countries which face soaring energy costs and continuing serious food and population problems.

In response to Mr. McNamara's call for an independent panel to seek solutions to North-South problems, the so-called "Brandt Commission," chaired by former West German Chancellor Willy Brandt, has issued an outstanding report which merits serious attention by all concerned citizens. Its conclusion: Closing the gap between rich and poor nations quickly is vital to the very survival of mankind.

When he retires officially next June, Robert McNamara will be leaving a job he has performed with strength and vision. His leadership will be sorely missed but his great work has made an indelible mark upon the history of our time and its effect shall be demonstrated in the near and long term future.

HERMAN H. DINSMORE: AUTHOR, EDITOR, AND LECTURER

Mr. HELMS. Mr. President, the United States has produced many distinguished publicists, among them Herman H. Dinsmore, former editor of the international edition of the New York Times.

After retirement from active service with that newspaper, he did not rest, but became a widely known author and lecturer on matters of economic and geopolitical significance. His writings include two notable books: "All The News That Fits," a critical analysis of the editorial policies of the New York Times; and the "Bleeding of America," a summation of the processes by which the United States is being drained of its resources. His lectures included addresses before notable gatherings in various parts of the Nation, such as the Military Order of the World Wars and the Cosmos Club as well as congressional groups.

In recognition of the importance of his contributions, the National Educator, a monthly newspaper of which Mr. Dinsmore was a contributing editor, dedicated its June 1980 issue to him.

Mr. President, in order that some of the significant works of Mr. Dinsmore shall be recorded in the annals of the Congress and thus be made known to the Nation at large, I ask unanimous consent for an obituary notice published in the indicated issue of the National Educator be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DINSMORE: NEWSMAN AND PATRIOT

(By Jim Townsend)

The National Educator and its thousands of subscribers lost their Contributing Editor, Herman Dinsmore, who died at his home in Memphis, Tennessee, on Thursday, April 24. He was the former editor of the international edition of The New York Times, working for that paper for 22 years. He was Contributing Editor for this newspaper for almost 10 years, having joined the staff in 1971 and in 1978 was offered the job of Managing Editor.

In addition to his brillant newspaper career, he was the author of two best-selling books, "All The News That Fits," and "The Bleeding of America." The first book blew the whistle on the New York Times and resulted in Dinsmore being blacklisted from the major newspapers for the last 20 years of his life. "The Bleeding of America" detailed how the U.S. was responsible for the buildup of Communist Russia and her allies.

Dinsmore did more than just use his writing skill to support free enterprise and Constitutional government. He ran for Congress against Bella Abzug (D) on the Conservative Party ticket in 1976. He traveled and lectured wherever people wanted to hear the truth about politics or communism.

He was graduated from Johns Hopkins University in 1922, was a visiting lecturer at Columbia University in the 1940's, taught graduate-level journalism at Seton Hall University in Orange, New Jersey, and was a visiting professor of journalism at Long Island University from 1966 to 1968.

Herman Dinsmore was not only a patriot who loved his country, family and friends, he was of the root stock that made America great. He was a decent and honest man and his national voice will be missed. God rest his soul.

CLOSE UP FOUNDATION

Mr. DURENBERGER. Mr. President, it is my great honor to pay tribute to the Close Up Foundation as it begins the celebration of its 10th anniversary.

I worked closely with the Close Up Foundation long before I came to the U.S. Senate. I had the good fortune to become involved in Close Up through the efforts of one of the most remarkable people I know, Margery Kraus. I first met and worked with Margery in Minnesota when I helped her develop financial support for the fellowship program that allows high school students and teachers to spend a week of intensive Government study in the Nation's Capital.

Margy Kraus, vice president of the Close Up Foundation, has through her enormous energy and administrative talents worked to develop Close Up into an educational program that is without parallel. This year alone about 13,500 young Americans and their teachers traveled to Washington from communities throughout the country to learn firsthand how their Government operates.

Although most Members of Congress have participated in some way in Close Up as a speaker or supporter, I may be the only Member who has participated fully in the whole 1-week experience, and I can assure my colleagues that it is as strenuous and challenging a week as I have ever spent. Now, I welcome the opportunity to speak with Close Up groups every chance I get, because they represent the best hope for the future of our country.

The many accomplishments of Close Up in extending its reach through publications and, most recently, through cable television are due, in large part, to Margery Kraus' leadership and educational commitment. In conjunction with Close Up president, Stephen A. Janger, Margy has worked vigorously to assure that the goals of Close Up remain firmly focused on the most important educational needs of America's youth.

Because of her belief in citizenship, her dedication to youth and her commitment to education, I would like to ask my colleagues, on this 10th anniversary year of Close Up, to join me in recognizing the contributions and achievements of my friend, Margery Kraus.

WINNING THE WAR AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, yesterday, the ghettos of Capetown, South Africa, were ablaze. Thousands were rioting to protest apartheid. They roamed the streets, which still smouldered from the night before. Fifteen people died and 50 were wounded when police opened fire on a crowd of demonstrators, according to the Washington Post.

Anyone who follows events in South Africa will not be surprised. Who can forget the bloody riots of Soweto which claimed hundreds of lives 4 years ago this week? And who doubts that this is not the last time South Africa will be rocked by violence?

The slaughter in Capetown is not an example of genocide. It would not be covered by the International Convention on the Prevention and Punishment of Genocide, which includes a very narrow definition of that crime. But it is an example of the fight for human rights that we must redouble our efforts to win. The violence over apartheid is just one battle in the ongoing war for human rights—a war that is lost every time an innocent man, woman, or child is slain.

We can win that war. But we need the right weapons. We need the Genocide Convention. It is not merely a scrap of paper—it is a potent device to restrain the bloody actions of tyrants and butchers.

We initiated this vital treaty in 1949. It is now 1980 and we are yet to ratify it. These past 31 years cast a shadow of hypocrisy over our claim to be the champions of human rights.

The Genocide Convention will not quench the blaze in South Africa. But it will douse the flames that consume the innocent every day in many parts of the world.

Let us reenter the war against genocide. This time, however, let us enter to win. And let us enter with the best weapon we have got.

Let us ratify the Genocide Convention.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW AND FOR CONSIDERATION OF THE PUBLIC BUILDINGS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders under the standing order be vitiated tomorrow, and that Mr. JAVITS be recognized for not to exceed 15 minutes after the prayer and the approval of the Journal or, if objected to, in either event, Mr. JAVITS be recognized for not to exceed 15 minutes, and that upon the completion of his order, the Senate then proceed to the consideration of the public buildings bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 9:45 tomorrow morning.

The motion was agreed to; and at 11:01 p.m., the Senate recessed until tomorrow, Friday, June 20, 1980, at 9:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 19, 1980:

DEPARTMENT OF DEFENSE

Gen. David C. Jones, U.S. Air Force, for reappointment as Chairman of the Joint Chiefs of Staff for an additional term of 2 years.

EXTENSIONS OF REMARKS

IN MEMORIAM—RUSSELL W. JELLIFFE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. STOKES. Mr. Speaker, thank you for extending me this opportunity to memorialize a man of great vision and one who had the fortitude to make it a reality—Mr. Russell W. Jelliffe. On Saturday, June 7, 1980, Russell W. Jelliffe, founder and director emeritus of the famous Karamu House in Cleveland died. Mr. Speaker, the many Clevelanders and friends around the world who loved and respected him will participate in a memorial service on June 25, 1980.

Many of my colleagues are familiar with Karamu House and the exemplary dramatic arts, music, dance, and theater it has provided to people throughout the years regardless of race, social status, or economic level. The idea of Karamu House and its overriding philosophy of racial harmony was the dream of Russell Jelliffe and his lovely wife, Rowena. This dream has stood the test of time and has weathered the ups and downs of race relations in this country to become a shining symbol of both theatrical and social and racial cooperation.

But, this dream was not always a pleasant one. When Karamu House was founded, the Jelliffes were considered to be radicals. At that period in our history, Mr. Speaker, it was not fashionable for whites to be concerned about the well-being of blacks. However, the Jelliffes were atypical and stood fast to their dream.

From its inception as a community settlement house in 1915, the primary purpose was to apprise blacks from the great migration from the South to the North on how to find jobs and housing. Later, Karamu House grew into a parent organization for adult education programs, a children's nursery, and dance, quartet, chorus, and art groups. Probably most notable was the fact that the theater became internationally known as the first outlet for black playwrights and actors in the United States.

It was Russell Jelliffe's dream that the theater could be a place where black plays as well as white plays and actresses could be judged fairly on their merits. With the inequitable situation with black plays and actors at that time in this country, Russell and Rowena Jelliffe fought an uphill battle to rectify this situation.

As a result, playwright, poet, and actor Langston Hughes, and television performers Ivan Dixon and Robert Guillaume got their starts in Karamu House. Local talent like Dr. Zelma George, a superb opera singer, were also provided a showcase at Karamu House.

With the Jelliffes playing such a vital role in black theater in this country, I shudder to think what would have happened if it had not been for their unfledging commitment.

In addition to Karamu House, both Russell and Rowena Jelliffe were very involved in the improvement in the quality of life for blacks and the poor in Cleveland and around the country. Mr. Jelliffe was one of the founders of the Cleveland Metropolitan Housing Authority and the Cleveland Urban League. Additionally, he was a member of the executive committee of the NAACP.

Mr. Speaker, I must reiterate that Mr. Russell Jelliffe and his wife Rowena dedicated their lives to the less fortunate people in our society—the ones America had turned its back on. After his retirement from Karamu House in 1963, the Jelliffes traveled around the country helping other groups establish theaters like Karamu House. Because of this compassion and achievement, I feel honored to be on the board of Karamu House.

Mr. Speaker, it is virtually impossible to bid Russell Jelliffe goodbye. As long as Karamu House is open, he will live with us.

Russell Jelliffe did so much for so many. I think that an analogy can be drawn between what Russell Jelliffe did for the performing arts and the following verse written by Mr. Langston Hughes:

I too sing America
I am the darker brother.
They send me to eat in the kitchen when company comes,
But, I laugh and eat well, and grow strong.
Tomorrow, I'll be at the table when company comes;
Nobody'll dare say to me, "Eat in the kitchen,"
Then, besides, they'll see how beautiful I am—
And be ashamed—
For I too, am America

Russell Jelliffe demonstrated that we are all a part of America. His preoccupation with this extended from community affairs to business to the performing arts. In this day of increasing racial strife, he leaves us a dream and a powerful legacy.

At this time, Mr. Speaker, I enter two articles written about Russell Jelliffe in the CONGRESSIONAL RECORD:

RUSSELL W. JELLIFFE

Men of foresight and wisdom struggle diligently to fulfill their dreams, never counting the cost or the sacrifice such devotion demands. Such a man was Russell W. Jelliffe. Long before legislation decreed civil rights, he and his wife, Rowena, championed human rights and equal opportunities at a time (1915) when such liberal views were considered radical. They concentrated their efforts on the underprivileged, the deprived and the displaced regardless of race, creed or color.

The success of the Jelliffe's Karamu House was the fruition of years of constant struggle, and an unnerving belief in the dignity of men. Its inter-racial and cultural arts program, under their guidance, nurtured painters, dancers, actors, singers and musicians who achieved national and international fame while the founders continued to concentrate on the local black and white residents of Cleveland. The Jelliffes were an unbeatable team.

Now that partnership has been dissolved by his death. Now in the hectic times of the present day, our city and our nation need persons of the caliber of Russell Jelliffe, men of faith and unselfish dedication who are willing to sacrifice private gain for public good.

Unfortunately, the ranks of such individuals are slowly dwindling and few, if any, are ready to take his place. Does his death mark the end of an Era?

[From the Cleveland Press, June 10, 1980]

JELLIFFE WAS BROTHERHOOD'S CHAMPION

The world of race relations (to use the current term) or of humanity (to use a more accurate one) lost a great champion over the weekend with the death of Russell Jelliffe, who with his wife Rowena founded, in 1915, what was to become Cleveland's famous Karamu House.

Thus, for 65 years, our town and that institution have been known for their efforts at recognizing that all of mankind has within it the capacity not only for tolerance but, far more important, for active cooperation and good will.

Karamu's success over the years and the Jelliffes' many honors are far too familiar stories to recount here. Each person who has been touched by them has his own story to tell. And while the details will differ with the individual, the principle, the thread that runs so true through the whole fabric, is the same: The conviction they held that with either individuals or groups, working with one another is better by far than working against one another.

My first association with Russell Jelliffe came at the time of the opening of the then brand new Karamu Theaters at the corner of 89th St. and Quincy Ave.

The year 1949 saw Karamu House well along toward its international fame as an example—more than that, a showcase—for the blending of the artistic talents of blacks and whites.

But the building of the theaters, small but modern and well equipped, was a milestone that required putting the very best foot for-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ward with exciting and dramatic fare that would make the world sit up and take its second look at what Cleveland had here.

I personally felt highly honored to be asked, at the time, to be the musical director of the opening presentation, Gian-Carlo Menotti's gripping opera "The Medium." Russell Jelliffe convinced me, in about four sentences, of the historic nature of the venture—just as he was able to do with almost everyone he talked to about it.

Dr. Zelma George, opera singer, sociologist and a pillar of strength for artistic causes, black and white, had been cast as Madame Flora, the phony spiritualist who gets caught up in her own machinations and superstitions. The late Benno Frank, a product of the Max Reinhardt school of the theater in Germany and at that time head of Karamu's lyric-theater endeavors, was the stage director.

In all, we gave about 75 performances of the show, and a truly gala opening production it turned out to be: Dr. George, in fact, made such a spectacular hit in the title role that she was invited by the composer himself to go down to New York and star in a similar production of "The Medium."

The point is that Jelliffe instinctively knew just how this and other musical, theatrical and artistic ventures would help promote his original thesis, that the races could successfully intermingle and produce something that was exciting and entertaining and that eventually it would be seen that the differences between the races had nothing to do with it. These were people, not blacks or whites or Jews or WASPS. They were either good, mediocre, or bad, but certainly not along racial lines.

The show, in other words, would rise to great heights or fall on its face not only according to what each individual brought to it but what the melding of talents would produce.

Russell Jelliffe lived through several vacillations of the racial-strife/racial-cooperation situation. He saw the ups and downs and faced them with a kind of placid equanimity, knowing that one would follow the other, and that with perseverance and confidence they would level off.

The process is by no means complete. Karamu itself has gone through those ups and downs. It has been run by whites, by blacks, and by a mixture of both. It has done many so-called white shows. It has done many black shows. It has on occasion been criticized by blacks as being too white, by whites as being too black.

But it has never really lost sight of the Jelliffes' original idea: The ongoing cooperation of the races. Which, over the years, is what it has always done best.

It would be difficult to think of anyone who so confidently persevered in his principles as Russell Jelliffe, or who made and kept so many friends in so doing.●

JAY MOGAVERO AND THE BARRACUDA SWIM CLUB

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. MAVROULES. Mr. Speaker, I would like to bring to the attention of my colleagues the great personal sacrifice a constituent of mine, Jay Mogavero, of West Peabody, Mass., has made with regard to the boycott of the summer Olympic games in Moscow.

Jay Mogavero and his New England Barracuda Amateur Swimming Team were invited last winter by the Soviet Union to represent the United States in a special international swimming meet that was to have taken place this past January. Mogavero's team, consisting of 10 senior-level girls and an equal number of boys, was to have taken on the Russians in one of a long series of preparations the Russians were staging in preparation for the summer Olympic games.

Mogavero, a former high school and college All-American, stated that this was the first team not from California to ever receive such a distinction. The Barracudas were invited by the Soviets after research found the team to be the best in New England and one of the very top on the entire eastern seaboard.

After painful preparation and extensive fundraising efforts were undertaken, President Carter issued his threat to boycott the Olympics if Soviet troops were not evacuated from Afghanistan by the end of February. As a good and true American and as a member of an American delegation of young people, Mogavero felt he had a moral responsibility to cancel what was clearly a dream for all of the Barracudas.

For his selfless sacrifice and true dedication to his country, I would like to take this opportunity to commend Jay Mogavero and his team of Barracudas. They clearly deserve the commendation of the entire House of Representatives.●

FREEDOM NEEDED FOR LENINGRAD TRIAL PRISONERS

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GREEN. Mr. Speaker, on June 15, 1980, the Soviet Government shocked and outraged the free world by sentencing 11 persons to death or lengthy prison terms in what has come to be known as the Leningrad trial. It was the first in a series of such prosecutions for an unsuccessful attempt to seize an Aeroflot plane to emigrate from the Soviet Union. They were eventually convicted on a series of trumped-up charges of treason and various crimes against the state.

Despite a 99-percent certainty that they would be caught and sentenced to labor camps, the Leningrad group carried out the attempt as one of the only means available to them to capture international attention for the dissidents' movement. They wanted their cause, that of all human rights activists and themselves individually, to get as much attention and support as possible.

The beginning of the trial immediately generated public interest which greatly increased when the sentences were announced in December. In fact, the international reaction to the severe sentences was so strong that the Soviet Government had to reduce all of them. Of those convicted all have gotten to the West except three men who still remain in prison camps: Iosif Mendelevich (32), Yuri Federov (37), and Aleksei Murzhenko (37).

Mendelevich, the heart and spirit of the operation, was a student/engineer from Riga who was given a sentence of 12 years in strict regime. Despite the fact that he had a lighter sentence than some of the others convicted along with him, his release has seemed incomprehensibly remote. During the past 10 years of internment he has courageously persisted in strict adherence of his religious beliefs despite the resulting harassment and persecution. Mendelevich's health is deteriorating rapidly and he is in grave jeopardy.

Federov and Murzhenko were both student/workers in major Soviet cities. They had been in prison camps before this occurred for distributing antigovernment leaflets, had suffered persecution after their release from prison and then joined forces with the Soviet Jews involved in the incident. They are serving 14 and 15 year terms respectively for varying charges of treason. Both feel strongly that they have never pursued criminal aims. In his statement at the close of the trial Federov said, "I do not feel guilty * * * as a matter of conscience—I have done nothing."

The time is especially ripe on the 10th anniversary of the arrests for the Members of Congress to continue our protest against the imprisonment of Mendelevich, Federov, and Murzhenko and the treatment of all Soviet Jews and other human rights activists. We must continue the international pressure on the Soviet Government to fulfill the pledges they made under the Helsinki accords, the U.N. Human Rights Covenants, and other international agreements. The release of the five Soviet prisoners of conscience last May in exchange for two captured Soviet spies confirms the belief that persistence can get results. I have joined my House colleagues in writing to Chairman Leonid Brezhnev to protest their imprisonment and urge their release.

I am dismayed that these three Leningrad defendants still languish in Soviet prison camps under conditions that almost defy description. We cannot sit in silence in the face of such suffering, repression, and denial of basic human rights, which continues unabated for countless thousands. These courageous men must not be forgotten; the world must continually be made aware of their condition and their desire to be free. In the interest of humanity we must forcefully voice our outrage and express our deepest hopes for their imminent release.●

THE SPIRIT OF LITHUANIA STILL LIVES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. McDONALD. Mr. Speaker, 40 years ago, the Soviet Union forcibly incorporated Lithuania into the U.S.S.R. Except for a short period of German occupation, Lithuania has been a forced member of the U.S.S.R. ever since. The Soviet Union does not like to review that part of her history concerning the balmy days of cooperation between two of history's bloodiest dictators—Hitler and Stalin. The facts remain, however, and in the cause of human freedom, we should not permit the Central Committee of the Communist Party of the Soviet Union to forget these facts. Since becoming part of the Soviet Union, hundreds of thousands of Lithuanians have been deported to Siberia, thousands have died in Soviet forced labor camps, others have suffered untold miseries and persecutions, particularly those strongly adhering to the Catholic faith. Information reaching the United States indicates that the struggle for human freedom and dignity goes on in Lithuania in spite of the Communist Party and the KGB. And the Lithuanians now have some support for their cause from such Soviet dissidents as Malva Land, Viktor Nekipelov, Tatiana Velikanova, Andrei Sakharov, and Arina Ginzburg, who all signed a letter of support of the rights of the Baltic nations to be free last year. May the fires of freedom burn more strongly in the land of Lithuania in the years to come.●

WEB AGREEMENT REACHED

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. DASCHLE. Mr. Speaker, in culmination of weeks of negotiation with the administration, the South Dakota delegation has reached agreement with the administration to pursue the authorization and fiscal year 1981 funding for the WEB rural water system.

The importance of this agreement is very obvious. It allows the South Dakota delegation to proceed in seeking the authorization of WEB, while at the same time giving the State of South Dakota a 15-month period whereby it can be determined whether an acceptable Oahe deauthorization package which identifies other water projects can be developed.

I insert the text of Secretary Andrus' response to the delegation's May 12 letter, along with the South Dakota delegation's response into the RECORD, in addition to a news release I issued describing my thoughts regarding this agreement.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 18, 1980.

Hon. THOMAS DASCHLE,
House of Representatives,
Washington, D.C.

DEAR MR. DASCHLE: I am writing in response to your letter of May 12, 1980, and pursuant to the consultations which have occurred between us since that time.

I want to begin by thanking you for the constructive nature of your letter, and the extraordinary effort and care you have given to resolving the difficult questions regarding the future water resource needs of South Dakota. In spite of differences which may exist regarding some specific issues, I am convinced we share a commitment to meeting South Dakota's needs through sound water management and development, and seeing that the Federal role is a major and cooperative one.

The Administration has made clear its view that it cannot support the permanent authorization of the WEB project in the absence of a deauthorization of the Oahe Unit, and I believe the reasons for this are well understood. You have made clear, in return, two central points. First, that if Oahe is to be deauthorized, you must consider and address other water development needs in the state in addition to the WEB project. Second, that additional time is needed to identify and analyze other proposals and to permit adequate public consideration of them.

Our reaction to these points is favorable, and with some variation, we are able to accept the basic premise of your May 12 letter. What we propose is a process which would create the time and opportunity for development of other responses to state needs, yet leave you in a position in mid-1981 similar to that which exists today—a choice between the continued authorization of Oahe (but without an authorization for WEB) or a deauthorization of Oahe, predicated on authorization and funding for WEB plus other proposals which might be agreed upon in the interim.

Specifically, we would not object to the authorization of the WEB project immediately, as well as first-year funding of approximately $1.9 million if provided within the Administration's overall budget request for the Department. By mutual agreement with you, a provision would be included in the WEB authorization which would establish a "trigger date" of September 30, 1981 (the end of FY 1981), at which time the future of the WEB and Oahe projects would be firmly decided. Should Oahe be deauthorized by this date, WEB automatically would be authorized for completion, including adequate authority for all necessary funds. (A copy of the proposed language to achieve these purposes is enclosed as amendments to H.R. 6320.)

As you suggest, a "clean" deauthorization bill for the Oahe project will be introduced immediately with the joint sponsorship of the delegation (a draft of such legislation is enclosed). We would have no objection to the introduction of such a bill on request. While the Administration favors passage of such a bill, it would be understood that actual passage is not anticipated until mid-1981, after consideration of other South Dakota water needs. Accordingly, the "clean" bill for Oahe deauthorization would be agreed to be introduced again at the beginning of the next Congress.

During the period between now and mid-1981, when a definitive choice on Oahe deauthorization will be required, a concerted and cooperative effort will be made to better assess South Dakota water resource needs, and to develop agreement on other possibilities for development in addition to the WEB pipeline. We realize that, within the state and even within the delegation, views may differ on various alternatives and priorities, and the Administration has strong views as well. We should use the next 12 to 14 months as a period of working together toward agreement on issues important to the water resource needs of South Dakota and the appropriate contribution of the Federal Government to those needs.

We would approach this effort with great but realistic expectations, and expect all others to do the same. A common initial understanding of the conditions which will determine ultimate agreement will vastly improve our capability to work together. Obviously, there must be a mutual understanding that the package put together in the coming months will require Administration agreement. From the Administration's viewpoint, you should understand that support for any additional future projects or programs will be based on established planning and evaluation procedures, consistency with existing Federal programs, standards set forth in the President's water policy message of June 6, 1978, and consistency with existing budgetary constraints. Such standards are indeed more demanding, in some cases, than those being applied to the WEB proposal itself.

It should also be understood that, the prior decision to authorize and fund the Oahe unit, or any speculative evaluation of that authorization, cannot serve as a measure of what might be agreed upon in coming months. While no reasonable alternative can be ruled out at the beginning of this process, it is equally important to understand that agreement is unlikely if it is predicated on unresolvable budgetary, legal or political basis. We have previously indicated our feeling that the formulation advanced by the South Dakota legislature cannot be the basis of agreement, and although you may initially wish to use it for discussion, we believe it is important for our views to be known at the outset.

The greatest opportunity for success rests in an effort to focus on water resource needs and sound planning to address them, rather than on settlement of legal or political differences. We are willing to take a number of steps to facilitate this effort, and ensure that it is as constructive as possible. For instance, we will support a decade-long reservation of Missouri River water for the state, as proposed by Senator McGovern, in an amount of water equal to that anticipated for the Oahe unit. In addition, we will take several specific steps related to the role of the Water and Power Resources Service in South Dakota. We will retain adequate staff in the Huron office to assist in this effort, and will review all presently authorized planning in South Dakota, and where possible, accelerate work on individual projects.

Most importantly, we want to contribute to the establishment of a new atmosphere of cooperation among State, Federal and local interests to address common problems. We will gladly enter into such an effort at the field and policy levels with the possibility of identifying new appraisal and feasibility level studies which can be supported for authorization by all the parties concerned.

Overall, we believe this approach meets the basic objectives set out in your May 12 letter, and does so in the manner most likely to yield subsequent agreement based on cooperative efforts over the coming months. We would appreciate an early response from the delegation, as time is drawing short to address the various legislative matters which are essential.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CECIL D. ANDRUS,
Secretary.

CONGRESS OF THE UNITED STATES,
Washington, D.C., June 18, 1980.

Hon. CECIL D. ANDRUS,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter of June 18, 1980 addressing the issue of Oahe deauthorization, WEB project authorization, and future water resource development in South Dakota. We are most appreciative of the Department's efforts to resolve these difficult issues and of your willingness to seek an effective resolution of them.

We are pleased to inform you that your letter represents a satisfactory response to our proposal of May 12, 1980. Under the joint terms of our letter and yours, we are prepared to advance the WEB project authorization, at the first available opportunity with the expectation of a supportive Administration position. The authorization will include the specific "trigger date" of September 30, 1981, and the Oahe deauthorization contingencies contained in your letter. We are also prepared to jointly introduce the "clean" Oahe deauthorization bill "by request" immediately, with the understanding that its passage will not be pursued until just prior to the end of fiscal year 1981 (September 30, 1981). The clean bill will again be jointly introduced at the beginning of the 97th Congress.

During the interim, the WEB project may move forward and we can cooperatively address the additional water resource needs of South Dakota. As you understand, we will consider all alternatives enjoying local support and will rely on the State and other interests to assist us in this regard. Each of us reserves the right to advocate a variety of ideas and proposals during this period as we seek State consensus, and ultimately agreement with the Administration.

We appreciate your offers of assistance from the Water and Power Resources Service and the Department, and we will seek to foster a cooperative effort to get work underway at the State level. We also understand the perspective from which the Administration must and will approach this work with regard to established planning and evaluation procedures, water policy, budgetary considerations, and assumptions regarding the Oahe authorization. Our intention is to deal realistically with these considerations with the knowledge that our best opportunity for resolving differences rests in agreement.

If we are unable to agree prior to September 30, 1981, we retain the option we now have of maintaining the Initial Stage, Oahe Unit authorization, but, under the terms of our agreement, the WEB authorization and opportunity for continued funding will be lost.

Thank you again for your efforts in helping frame this approach.

Sincerely,

GEORGE S. MCGOVERN.
JAMES ABDNOR.
LARRY PRESSLER.
THOMAS A. DASCHLE.

[News from Congressman TOM DASCHLE, June 19, 1980]

ADMINISTRATION ACCEPTS DELEGATION'S OFFER ON WEB-OAHE PROPOSAL

WASHINGTON, D.C.—In a culmination of months of negotiations, the Carter Administration today agreed to a South Dakota Congressional Delegation proposal securing Administration support for authorization and funding of the WEB Water System this year and setting in motion a 15 month process aimed at deauthorization of the Oahe Project on terms acceptable to both the Administration and the people of South Dakota.

"This agreement with the Administration has the potential of becoming a turning point for water development in our state," according to First District Congressman Tom Daschle. "It will allow the Delegation to pursue authorization and funding for the WEB pipeline project while providing our state with a 15 month grace period to consider the terms under which deauthorization of the Oahe Project might be accomplished."

Daschle cited Assistant Secretary of the Interior Guy Martin for his support of the WEB System and his assistance in obtaining a favorable response to the Delegation's May 12, 1980 proposal.

Daschle cautioned South Dakotans that Administration support for the WEB System does not insure passage of the separate authorization and funding legislation required to get the System underway in FY 1981. But he said, "Administration support gives us a fighting chance to secure WEB funding despite the lateness of the hour and the strong cost cutting mood in Congress."

He also cautioned that today's agreement does not guarantee deauthorization of Oahe either. "What we have agreed to do is to make a strong, good faith effort to arrive at deauthorization terms acceptable to us, to the people of South Dakota and to the Administration."

"This effort is significantly underway and will continue until the deadline set as October 1, 1981. By that date, South Dakota must decide whether we wish to deauthorize Oahe on the best terms we can arrange to benefit water development in South Dakota," he said. "If we choose not to deauthorize then, under terms of the agreement we have reached, continued funding and authorization will be lost."

NOTE TO THE MEDIA

As is apparent from the attached letters exchanged by the South Dakota Congressional Delegation and the Administration, the agreement concerning WEB and Oahe is a complex one involving several months of negotiation. Each part of the agreement is important and omission of any part could have jeopardized the entire agreement.

In considering this agreement however, it is important to note one overriding point. This agreement is not a trade of Oahe for WEB. Because a part of the agreement consists of the Delegation agreeing to introduce Oahe deauthorizing legislation by request of the Administration, and another part of the agreement consists of the Administration supporting fiscal year 1981 authorization and funding of WEB, the misimpression that this is an Oahe for WEB trade is possible at first reading.

But closer examination of the letters makes it perfectly clear that what is being traded is Administration support for authorization and funding of WEB now in return for Delegation agreement to commence a 15 month process which could, but will not necessarily, lead to deauthorization of Oahe on the most advantageous terms obtainable for our state. The Delegation is pledged to make a good faith effort to reach an Oahe deauthorization agreement which is satisfactory to South Dakota. Such an agreement could take many shapes, all of which will be explored in the months ahead. It could include provisions providing a number of other South Dakota water projects. It could include establishing a new funding process for state water projects. It could include reserving Missouri water for use in our state, altering aspects of power sale to the benefit of our state or many other beneficial provisions.

The essential point of the agreement described above is that 15 months are provided to seek agreement on the very thorny matter of Oahe deauthorization and, during those 15 months, we will be able to proceed with the battle for WEB Water System authority and funding with Administration support. We may or may not succeed in this fight, but we have at least secured a fighting chance to succeed. In return we have pledged only to take the hard look at Oahe we ought to take anyway and to recognize the obvious fact that the views of the Administration must be considered and an accommodation achieved with them during the 15 month period if a successful compromise on the Oahe issue is to be achieved.●

KEEP SATURDAY MAIL DELIVERY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. CONYERS. Mr. Speaker, the amendment to the Postal Service appropriations bill to eliminate Saturday mail delivery and cut $500 million from the Federal post office budget ought to be soundly defeated. The proposed cutback, contrived as a dramatic symbol to create the appearance of balancing the Federal budget, makes no sense whatsoever either in terms of budgetary savings, congressional policy to strengthen the operation of the Postal Service, or present economic conditions in the Nation.

The Postal Service has made great strides in the past several years to raise its efficiency. The delivery of overnight and 3-day mail is now running at 96-percent efficiency, up from 90 percent 10 years ago. Similarly, productivity gains have shown a marked increase, averaging 3 percent a year during the last 5 years, which is a far higher rate of increase than has occurred in the economy as a whole. The attempt to cut the Federal share of the post office budget flies completely in the face of the progress that the post office is making in placing itself on a sound footing for serving the public.

A cutback in Saturday mail delivery would also mean a loss of between 20,000 and 40,000 postal jobs, during a period when the communities of this Nation cannot afford any more unemployment. The loss of jobs would most affect new employees, minority and female workers. These are the postal workers who disproportionately have been hired since October 1978, and who are not protected by the no-layoff clause that went into effect for employees at that time.

The irony of the situation is that this amendment to save Federal funds, earmarked for the Postal Service, is likely to wind up costing citizens as well as postal workers far more over the long run. Elimination of Saturday delivery would lead to major bottlenecks in the handling of mail. It is estimated that, as a result, 30 percent or more of the mail handled during any given week would pile up for Monday delivery, and require additional costs in storage, overtime pay, and the need for additional equipment. Since it has been estimated that the reduction to a 5-day service actually would only save half of the amount proposed, it is possible that elimination of Saturday service would bring about another hike in postal rates to make up the difference.

There is no good reason to hamstring the Postal Service, demoralize the post office, cause further loss of jobs, encourage yet another postal rate hike, or deny citizens the full 6-day service that they are entitled to. Not even mentioned is the harm that would be done to rural postal districts that particularly depend on full postal services.

The U.S. post office is not the place to make budgetary savings. It is, indeed, bewildering that a major change in public services, that an elimination of Saturday mail delivery represents, is being proposed solely for the sake of a symbolic effort to balance the fiscal year 1981 budget, which is no longer possible or desirable.

There are many other areas of the Federal budget that could better absorb a funding cutback, as every one of my colleagues is aware. After all, there are more than $200 billion in tax expenditures that benefit various groups, individuals, and corporations, the elimination of a tiny portion of which would more than make up for the budgetary savings now required. Other candidates for budget reductions are a variety of weapon programs, such as the MX missile, for which there has been runaway spending of late.

I urge my colleagues to maintain the Postal Service as it is, and resist all attempts to weaken its operation. I urge them to oppose the attempt underway to eliminate a major part of the Postal Service, its Saturday mail delivery.●

NATIONAL PORT WEEK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. MURPHY of New York. Mr. Speaker, Chairman "BIZZ" JOHNSON of the Public Works and Transportation Committee and I have put out the call to our colleagues to join us in cosponsoring House Joint Resolution 551, National Port Week. We have had a very enthusiastic response and we are confident we will receive the requisite number of cosponsors to have the resolution brought to the floor.

If there remains any doubt in the minds of any of our colleagues about the importance of America's ports to commerce, industry, agriculture, the distribution of goods, finance, and the national defense, I would urge those colleagues to read the following article published in a recent issue of Sea Power magazine. It is entitled "The U.S. Port System—Expanding Capabilities and Major Challenges." It is one more very fine reminder that the U.S. port system is a vital element in our economy and deserves the recognition it will receive with the adoption of the National Port Week proclamation.

The article follows:

THE U.S. PORT SYSTEM

(By J. Ron Brinson)

For more than 300 years, U.S. seaports have been, in numerous discernible ways, the nation's taproot—the first population centers, the gateways to the hinterland, the essential building block of first local, then state and regional economic development.

To millions of immigrants, they have been havens of comfort, safety, and promise. For U.S. farmers, miners, and manufacturers, they have been the ports of embarkation to the trading markets of the world.

Finally, in all of the nation's wars—including the Civil War, when the blockade of Confederate ports was essential to eventual Union victory—the U.S. port system was a vital if often ignored element of overall U.S. defense strategy—ignored because, like public utilities (which seaports resemble in several ways), seaports are taken for granted. They are always there, ready to be of service, and not noticed except on those rare occasions when that service is suddenly not available.

Those services, and the seaports which provide them, should not be taken for granted, however. For, as the nation's defense and economic planners know—or should know—if the U.S. seaport system should shut down, the national economy would grind to a sudden stop and the nation itself would shut down. In time of conflict, moreover, U.S. and allied forces overseas would be isolated, without supplies and reinforcements, except for a thin trickle which might be flown in by air.

Consider the following:

In his State of the Union message, President Jimmy Carter said that one out of every seven U.S. jobs in manufacturing now depends "upon our export performance" and that the country's exports of agricultural and industrial goods last year "grew by an unparalleled $35 billion, reaching a level of over $180 billion." That performance was, of course, dependent in no small part on the ability of U.S. seaports to handle the ever growing volume of U.S. foreign trade.

According to Commerce Department estimates, the present volume of U.S. export/import bulk tonnage will more than double over the next 20 years, to over 600 million tons annually, or almost two million tons per day. To accommodate that increase will require a huge investment in new port facilities because, according to "U.S. Life Lines," a Navy Department publication, more than 99 percent of the nation's two-way foreign trade tonnage goes by ship.

Admiral Isaac C. Kidd, Jr., before he retired a little more than a year ago as Supreme Allied Commander Atlantic, told Congress that during a NATO/Warsaw Pact conventional conflict in Europe it would take anywhere from 3,000 to 6,000 West-to-East ship crossings per month to resupply and reinforce European NATO. As the recent Exercise "Nifty Nugget" demonstrated, without a viable U.S. seaport system—a key component of the vital "infrastructure" essential to military success in modern warfare—those ships could not be berthed, serviced, and expeditiously loaded, and U.S. and allied combat forces overseas would, within a matter of weeks, no longer be able to hold out against an enemy blessed with short overland lines of communication.

U.S. seaports, in short, are essential not only to the nation's continued economic growth, but also to U.S. defense strategy. Regretably, as with the U.S. merchant marine itself, there is a real danger that short-sighted government policies might soon cripple, if not render completely ineffective, the thus far efficient operation of the U.S. seaport system.

U.S. seaports currently represent a facility investment of some $7 billion—replacement costs would be much higher. These ports are administered, and, in many cases, operated as publicly-owned enterprises by local or state entities chartered to use to maximum public advantage the area's God-given resources of deepwater and protected harbors. Traditionally, the U.S. seaport function revolves around a partnership between local port authorities and the federal government. That partnership, forged through history since the days of the country's founding fathers, holds that the federal government, when general economic or defense benefits are to accrue, will build and maintain navigational shipping channels. Local and state port entities build and operate shoreside cargo handling facilities.

That partnership, which is the essence of what, for all practical purposes, is the national seaport system of the United States, is today in danger of dissolution because of potentially damaging changes in public policy.

Complicating the situation is the fact that U.S. seaports are in the midst of an extensive, and expensive, technological metamorphosis which has characterized the international maritime industry in the last decade. The problems are many, but technological and economic forces and general historic trends have always challenged the development of the U.S. seaport industry. The relevant point is that the current upgrading and modernization of U.S. port facilities have severely taxed the industry's financial resources, making them less economically viable at a time when, as indicated, the nation's overseas trade is expected to increase geometrically.

In the Colonial and Early National periods, America was essentially a producer of raw materials. The bulky, low valued commodities of her farms and forests were by necessity shipped to market by water. The primitive and poorly constructed highways of that era were inefficient and high-cost carriers of commerce. For that reason, almost all of the nation's early settlements were located chiefly near or on navigable streams and harbors. Thus, it is not surprising that the country's first large cities—Portland, Portsmouth, Boston, Providence, New Haven, New York, Philadelphia, Baltimore, Charleston, and Savannah—were ports. (The word "port" is taken from the Latin *porta*, or gate, and a port is, in truth, the gateway to a state, region, or country. The word "airport" has, of course, the same derivation and meaning.)

The nation's early settlements clustered near the sea for a variety of sensible reasons. Fishing on the rivers and in the nearby ocean provided food and employment. Until some sort of communal self-sufficiency could be developed, colonists were highly dependent on supplies brought in from the Old World. As fishing fleets increased and commerce developed, numerous small businesses sprang up to cater to the needs of the maritime industry. Exports consisted mostly of raw materials and foodstuffs. Imports were comprised largely of manufactures and luxuries that Americans could not make for themselves.

In addition to the nation's foreign commerce, which by 1800 had spread from Europe to Asia, Africa, and South America, domestic traffic moved in and out of the early ports. Tiny, shallow-draft vessels called at coastal towns from Maine to Florida, performing much the same delivery and pickup services that truckers provide today. Moreover, until the coming of the railroads, most travelers preferred to go by water rather than risk the long, uncomfortable, and often dangerous journey by overland conveyance.

The U.S. port system was radically transformed in the first half of the 19th century by the rapid rise of manufacturing and a veritable revolution in transportation. By 1860, American factories were turning out a vast array of manufactures—from shoes and foodstuffs to steel, industrial machinery, and railway locomotives. Within 50 years, the United States would surpass Great Britain to become the world's leading industrial power.

Equally significant and, indeed, prerequisite to the economic expansion of the United States, was the so-called Transportation Revolution. The opening of the Erie Canal in 1825 gave impetus to a massive investment in railroads and canals which, in time, dramatically lowered the cost of overland transportation and made it both faster and safer.

Previously, ports had served as outlets for what were essentially local economies. Trade with and development of the hinterlands were constrained by the distance that waterborne commerce could penetrate the interior without the necessity of trans-shipment. But railroads and canals provided the means to tap markets many miles inland and led to the growth of vigorous inter-port competition. Port development was further affected by important changes in marine transportation—the appearance of packet service and the invention of steamships, iron hulls, and screw propulsion.

Certainly, the U.S. seaport industry today must be viewed as important as it has ever been—and, in some ways, more so. The United States leads the world in the volume of both imports and exports. It is the world's leading supplier of agricultural commodities and manufactured goods. Foreign trade now accounts for some 20 percent of the total U.S. gross national product. And, although air cargo has grown significantly over the past two decades, ocean carriers still can be expected, for the foreseeable future, to handle up to 98 or 99 percent of the tonnage moving in U.S. foreign trade.

As the points of interchange where cargoes are transferred between inland and ocean carriers, ports are essential components in a vast logistical network. Projections in a report recently published by the National Transportation Policy Study Commission (NTPSC) indicate that, under conditions of only moderate economic growth, U.S. waterborne foreign trade will increase from the 622.2 million long tons reported in 1975 (tanker and liner trades, as well as the bulk tonnage previously mentioned) to 970.0 million tons by 1985, 1.1 billion tons by 1990, and 1.4 billion tons by the year 2000. (The NTPSC was established under the Federal-Aid Highway Act of 1976 and directed to formulate guidelines for U.S. transportation policy through the year 2000.)

But the significance of U.S. seaports is not measured solely in terms of tonnage handled over the docks. According to a U.S. Maritime Administration study, the U.S. seaport industry in 1978 alone directly generated more than one million jobs. Gross sales were measured at $60 billion. Port operations fostered a $32.1 billion contribution to gross national product, personal income of $20.6 billion, business income of $7.9 billion, federal tax and customs revenues of $11.1 billion, and state and local tax revenues totalling $4.3 billion.

Dramatic developments in marine technology have in recent years had a major impact on port operations. Most prominent has been the rapid displacement of the traditional break-bulk cargo ship by large container, roll on/roll off (RoRo), and barge ships in the general cargo trades. Modern containerships may carry 2,200 containers in twenty-foot equivalents (TEUs) at speeds in excess of 30 knots. Because of their superior speed and ability to drastically cut the amount of time required to load and unload cargo, containerships can do four times the work of a conventional break-bulk ship. Container traffic was projected to exceed 30 million TEUs for the first time in 1979. Containerships now dominate the general cargo trades between the major industrial nations and are also moving rapidly into other trades, particularly in the Middle East. They also have excellent military potential, and are being considered for use both in the recently created Rapid Deployment Force and in the Navy's "ARAPAHO" program (which would outfit merchant ships with self-defense ASW capabilities).

The ports, for their part, have responded to the growing demands of U.S. waterborne commerce by investing heavily in new facilities. Facility investment by U.S. ports totaled $4.86 billion between 1946 and 1978. Investment during the period 1973 to 1978 came to $1.68 billion, of which 15 percent was geared to the movement of conventional general cargo, 40 percent to the handling of specialized general cargo (container, LASH, and Ro/Ro ship terminals), and 45 percent to liquid and dry bulk facilities. At many ports, well over half the general cargo handled is already containerized, and the trend is expected to continue.

The heavy investment in modern port facilities has had a marked effect on cargo handling efficiency. Data gathered by the Pacific Maritime Association shows that the per ton cost of longshore labor at West Coast ports dropped from $4.64 in 1967 to $3.31 ten years later. In that same period, tons of cargo handled per longshore hour increased from .837 to 4.699—better than a fivefold increase in productivity, at only three-fourths the cost. There has, of course, been a direct effect on employment. The longshore registry of persons employed by the Port of New York fell from 24,000 in 1967 to 10,500 in 1978. That decrease of 55 percent contrasts, however, with a 10 percent increase in tonnage.

In the face of continuing future growth in U.S. foreign commerce, ports must invest even more in new and rehabilitated facilities. The National Transportation Policy Study Commission projects in its "medium growth" scenario that investment in U.S. port and harbor facilities dedicated to international commerce will total some $13 billion (in constant 1975 dollars) from 1975 through the year 2000, with $9.4 billion of the total coming from local and state governments and the private sector, and the remainder from the federal government.

But there are problems. Public port agencies already operate very close to the break-even point; many lose money. That fiscal fact of life is compounded by the bite of inflation. Ten years ago, it cost $1,500 a running foot to build a cargo-handling commercial dock. Today, the cost is $6,000 per running foot. Container cranes, priced in the $500,000 range in 1970, now sell for $2.5 million. Terminals that once cost ports $160,000 an acre to develop now cost $500,000.

There also is an ever-spreading web of complex government standards and regulations which further adds to the burden of costs. A recent Maritime Administration study (*The Effect of Federal Standards on U.S. Public Port Development*) estimates that local expenditures by public ports to meet federal environmental protection, employee health/safety, and cargo security standards totaled nearly $194 million over the period 1970-76.

Perhaps the most ominous problem facing the U.S. port system today, however, relates to recent federal government plans to change the nature of the traditional "partnership" pattern of port development. Historically, it has been the federal government—specifically, the U.S. Army Corps of Engineers—that has undertaken the full cost and responsibility of dredging harbors and main ship channels. Local, state, and private interests have provided the shoreside facilities—the docks, wharves, warehouses, transit sheds, berths, loading equipment, connections with inland carriers, and so forth. Moreover, even under that traditional partnership division of responsibility and costs, federal participation in dredging and other deepwater navigation projects has been conditioned on local agreement to provide easements, rights of way, land, and disposal areas, and to satisfy other requirements that have had the effect of forcing non-federal participants to shoulder more than 30% of total project costs. (Those costs have increased in recent years, because project authorizations are subject to lengthy hearing and permitting processes that have contributed considerably to the escalating costs of port development.)

U.S. seaport managers are understandably wary of certain "water policy initiatives" proposed by the Carter administration which, they believe, threaten the traditional partnership in ways which could have serious consequences for not only the port industry, but the nation itself. The administration's policy is directed at three certainly worthy goals: promotion of water conservation; elimination of low benefit or wasteful water projects; and the formation of an equitable partnership with state governments to share the cost of future water projects.

The administration's belief, apparently, is that better water policy will result if the fiscal responsiblity for project decisions is shared with local authorities. Heretofore, cost-sharing for federal water projects has not required state contributions. The new White House plan changes that pattern, and sets three cost-sharing levels: for non-revenue producing projects, the state would be expected to pick up 5 percent of total project costs: projects with "revenue potential" would cost states 10 percent; flood control projects, including "structural" construction (e.g., dams and levees) would require a 20 percent share. (Navigation projects are proposed for inclusion in the 5 percent category.)

The position of the U.S. seaport authority is that cost sharing of the type proposed could perhaps be justified where the benefits of specific projects redound primarily to the benefit of a state or local community. But industry officials believe it not only illogical, but economically inequitable and, in the end, self-defeating to group deepwater navigation projects in the same classification as flood control dams, irrigation canals, water conservation, hurricane projection, and beach erosion projects, and hydropower facilities. Benefits from the latter clearly accrue almost entirely to local or state interests, but the benefits derived from deepwater ports are regional, and very often—particularly from a defense point of view—national in scope.

There is little dispute that ports serve the commerical, fishing, and defense needs of the entire nation, and not merely the states and local communities where they happen to be located. The literally millions of bushels of wheat and other grains that contribute billions of dollars to the U.S. balance of payments position move from points many miles inland to the Gulf Coast for export. Vast oceans of petroleum and thousands of other commodities enter the Port of New York for ultimate delivery to customers throughout the United States. The hinterland served by the Port of Charleston, S.C., covers more than 20 states. Assessing the local port authorities of one state for the costs of dredging and maintaining the harbors and channels that serve the commerce of many states in a region, it would seem obvious, would be most inequitable.

That is particularly so when it is realized that, even now, America's seaports are a source of considerable direct benefit to the federal government itself. In addition to the indirect revenue arising from port economic activity (such as income taxes), the federal government in fiscal year 1978 collected $5.6 billion in customs duties and $12 million in vessel fees at U.S. ports. (Moreover, port operators are required to furnish the Customs Service with office facilities at minimal or no cost.)

In contrast, expenditures by the Corps of Engineers that year for the operation, maintenance, and construction of navigation projects came to only $410.4 million—adding Coast Guard expenditures for aids to navigation brings the total to $690 million. In short, federal port expenditures are but a fraction of U.S. revenue intake from port activities.

The U.S. seaport system has developed almost entirely as a result of state, local, and private initiatives. Public port agencies are, under the U.S. system of government, established under state laws, and function either as independent local authorities or as divisions of state or local governments. That process has over the past twc centuries produced a healthy and competitive trade environment which has contributed immeasurably to the growth of American's sophisticated and highly efficient port industry.

Until now, the policy of the federal government has been to treat all ports equally and to leave the initiative and responsibility for port development to local and state governments. The U.S. Constitution (Section 9, Article I) declares: "No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another."

Further support for that principle is provided by the Shipping Act of 1916, which forbids any conference, pooling, or related shipping agreement that discriminates between ports. The traditional policy of the federal government has, therefore, clearly been one of neutrality in matters affecting inter-port relationships. Just as clearly, the port industry wants to keep it that way, but fears that the new cost-sharing proposals could change things.

Wealthier ports might well be able to absorb the extra costs which would be involved, but other ports which, for whatever reason, could not come up with the necessary funds for essential navigation improvements, would have to go without, thus placing them at a competitive disadvantage vis-a-vis their more affluent rivals.

A more important consideration for national policymakers: Higher costs undermine the ability of the U.S. seaport system in general to provide the facilities that are needed for national commerce and defense purposes. When passed along to shippers, they make American exports more costly in relation to those of other nations, thus weakening the overall ability of the United States to compete in world markets. Adding to the staggering cost burdens already being shouldered by ports, the proposed action of the federal government could have only negative results. Over the long run, the consequence could be such a severe deterioration in the financial condition of the port industry that the only way out would be a massive infusion of federal funds. Such an outcome is clearly undesirable and, indeed, would undercut the very rationale advanced by the administration in support of cost sharing.

The seaport industry suggests that the considerations enumerated dictate that, at the very least, any decision by the federal government on the cost sharing question should be preceded by a much more careful study of the potential impact and long range effects. Yet, despite the absence of express statutory authority, the Corps of Engineers, apparently under orders from the Office of Management and Budget, is making cost sharing a condition for approval of new project authorizations. The ports naturally object, arguing that to proceed in that manner without the prior consent of Congress is both arbitrary and contrary to the national interest.

The issue ultimately will be decided by Congress, of course. In a way, however, the controversy could prove salutary—by bringing to the recognition of both Congress and the executive branch the complex and increasing needs of an industry which has so well served the nation as a whole in the past—and which is essential both to U.S. defense strategy and the nation's future economic viability.

America needs its ports, in both war and peace. But as the country enters a new decade those ports face new and challenging problems. Expanding commerce and the pressures of national defense requirements will continue, and undoubtedly increase. In the future as in the past, the federal/state/local traditional partnership in the port system will help the U.S. seaport industry meet those challenges—to the benefit of the entire nation.●

NONPROLIFERATION IS ENDANGERED BY ENRICHED URANIUM SALE TO INDIA

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. OTTINGER. Mr. Speaker, President Carter's Executive order to sell 38 tons of nuclear fuel to India, a nation which has steadfastly refused to sign a nonproliferation agreement with the United States, flies in the face of the very policies the administration purports to uphold.

Mr. Carter, who once called nonproliferation one of mankind's most pressing challenges, has announced he will override a unanimous May 16 decision by the Nuclear Regulatory Commission to deny export licenses for nuclear fuel destined for India.

In 1974, India exploded the so-called peaceful nuclear device, in direct violation of a special agreement signed with this Nation in 1963. Since that time, India has sharply rejected all agreements regarding the manufacturing of atomic bombs.

The law provides that the President may authorize such exports by Executive order—if he determines that withholding them would be seriously prejudicial to the achievement of the U.S. nonproliferation objectives or would otherwise jeopardize the common defense and security.

Mr. Carter, meanwhile, claims that—

> India's failure to accept international safeguards on all its peaceful nuclear activities and its failure to commit itself not to conduct further nuclear explosions are of serious concern to me. These exports will help us to maintain a dialogue with India in which we try to narrow our differences on these issues.

In essence, the President is offering a potential gunman bullets while asking him not to shoot.

The President further claims that approval of these exports will increase stability with a key South Asian democracy in the shadow of Soviet expansionism. Handing over enriched uranium to a nation which has already shown it cannot be trusted to use such fuel in a consistently peaceable manner does not promote stability; it makes mockery of the goals of nonproliferation which the administration espoused such a short time ago.

I urge my colleagues to join my friend from Massachusetts, Mr. MARKEY, in signing a resolution of disapproval of President Carter's Executive order that permits shipments of enriched uranium to India. The resolution is not subject to a Presidential veto.

Mr. Carter is right on one point—we cannot allow actions which would expose our own Nation to further nuclear threats. The administration's proposed solution to the apparent stalemate with India is not one of stability, but, instead, is an example of inept foreign policy which could prove disastrous.●

PROCEDURES IN COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. BENNETT. Mr. Speaker, during consideration of "In the matter of Representative CHARLES H. WILSON," several criticisms were made on the floor of the House regarding the procedures and safeguards employed in the disciplinary proceedings conducted by the Committee on Standards of Official Conduct. It is important that these matters be addressed promptly. At the outset, let me say that the committee followed its rules and established procedures without deviation and abided by the Rules of the House without exception.

The major criticism levied against the committee's handling of the Wilson matter is that the committee failed to grant Mr. WILSON due process and that he was not treated with fundamental fairness. This criticism is unfounded. The committee provided Mr. WILSON with all of the safeguards of due process. Mr. WILSON was provided, pursuant to Committee Rules, the right to counsel, a complete bill of particulars specifying the charges against him, complete right of discovery including unfettered access to documents discovered and held by committee staff, timely notice of all committee proceedings, the right to present evidence and call witnesses and to cross-examine committee witnesses. Mr. WILSON was given a full and fair hearing in accordance with fundamental due process of law.

It was argued that due process was effectively denied because the same individuals were in both the investigative and adjudicative processes, in other words, that the same persons served as prosecutor, jury, and judge. The question, as to the combined functions performed by the committee, is whether such a combination residing in one body, inherently violates the due process rights of a Member who is the subject of committee inquiry? This committee does do the research, brings charges, accumulates, and hears evidence and then makes recommendations based on their view of whether the evidence presented is clear and convincing. But, the House is the final arbiter and determines the sanctions.

Supreme Court case law states that such a combined function is fully consistent with the constitutional requirements of due process. For a due process violation to exist, and it is not apparent that such a question would have legal standing in court with regard to Congress, the combined functions must be accompanied by special facts and circumstances which indicate a significant risk of unfairness. The mere exposure to evidence presented at the investigative stage of the proceedings is insufficient in itself to impugn the fairness of the same Members at a later adversary hearing. Additional facts, suggestive of a high probability that the Members would be unable to render an unbiased final judgment, are required before a constitutional violation of due process could be raised. The Supreme Court, in *Withrow* v. *Larkin* (421 U.S. 35, 1975), found no violation of due process in circumstances even where the final arbiter was exactly the same group which received the charge, heard the evidence, held hearings and determined the sanctions. Thus, the committees exercise of both investigative and adjudicative functions is clearly not constitutionally proscribed.

Again, to reiterate, the committee's procedures could be found to violate due process requirements only if there were reason to believe that the committee could not render an impartial and unbiased decision with respect to the charges it undertook to adjudicate. There are no facts or circumstances alleged or known which indicate that this might have been the case in the matter of CHARLES H. WILSON. We have formulated our procedures and rules to meet the unique requirements of the Congress, and in the case of this committee have adhered to a format widely employed by other agencies and bodies engaged in functions closely comparable to those performed by this committee.

Opponents of committee action have charged that some members of the committee were often absent from committee hearings, had no opportunity to hear the evidence presented and, ultimately based their findings and recommendations on less than a full and complete knowledge of the record. Because of the unique nature of this body it is true that Members were not always able to arrive on time for one or another hearing or were forced to excuse themselves prior to the conclusion of a hearing. The many aspects of congressional business necessitate committee procedures that permit this flexibility, but to infer from a Member's occasional absence that he based his decision, a very serious decision, on less than the full record is to impugn the honesty and integrity of that Member and the committee, as well as this body. The committee took great effort to insure that those Members absent from any part of the proceeding were, as soon as possible, provided with a transcript of that proceeding. Members were free to discuss the content of the proceeding from which they were absent with other members of the committee and committee staff. Members were welcome to review copies of the documentary evidence presented in their absence. I am, therefore, certain that no member of this committee made findings of facts or recommendations without first making himself privy to the totality of the record. Moreover, there was always present a full quorum of the committee.

It has been said that the proceedings of the committee did not meet the principles of equity, that the committee members were not impartial and that the proceedings were not conducted by a neutral party. In the first place, the investigative phase of the committee proceedings were conducted, insofar as possible, in secret. We do so in order to protect the reputation of innocent outside persons as well as the Members under investigation. As to the adjudicative phase, I find it in direct conflict with the basic principles of democracy to suggest that proceedings involving recommendations for disciplining Members, which is the adjudicative phase, be held in secret from the public. The public clearly has a right to full information once charges have been brought.

Another element involves the decision of the committee to make recommendations for disciplinary action. This committee went to great lengths to insure that the charged Member had ample opportunity to present himself and his defense before the committee. He and his counsel were provided full access to information in the possession of the committee staff, going even beyond traditional rules of discovery. He and his counsel were permitted to introduce evidence on their own behalf and were permitted to call witnesses and to cross-examine witnesses brought forward by committee staff. They were also granted more time than fairness dictates, including numerous delays and extensions based, at times, on reasons that no court would tolerate. The committee, therefore, went beyond the normal bounds of fairness and decency so as to insure that the accused Member was treated equitably. The proceedings were conducted with neutrality and fairness. Rulings from the Chair reflected great concern for the rights of the accused. Numerous motions and requests by counsel were granted by the Chair that might well have been denied in a court of law. As to the impartiality of the committee, it is a matter of record that several of the counts—some quite serious—were dismissed by the committee. The dismissal of these charges was based on the committee's finding that they were not proved by clear-and-convincing evidence. Clearly a committee lacking impartiality would not have dismissed those serious charges.

There has also been criticism relating to both the standard of proof used and on whom rests the burden of proof in disciplinary proceedings. As we know, the charges must be proved by clear-and-convincing evidence, not beyond a reasonable doubt. This is not an easy standard to meet but, in the opinion of the majority of the members of the committee, it was met. It is the burden of the committee to prove its case, and this was done. Once clear-and-convincing evidence has been presented the burden shifts and it becomes incumbent on the accused to come forward with evidence which refutes the evidence before the committee.

Criticism has also been made of the fact that there is not a statute of limitations for violations of House Rules. There have been calls for imposition of a 5-year rule similar to that afforded those accused of crimes other than those crimes where the imposition of the death penalty is a possibility. There is, however, no statute of limitations for violations of the Code of Ethics and the House has chosen not to impose such a limitation. However, this committee was nonetheless sensitive to the fact that some of Mr. WILSON's alleged transgressions took place a number of years ago. The committee in reviewing the quantity of available evidence, found that the evidence, old and new, clearly demonstrated serious violations of the Rules of the House. The mere fact that the violations occurred several years ago did not diminish their seriousness nor eliminate the requirement that this body deal with them.

The criticism that this committee is the final arbiter in disciplinary matters is unfounded. This committee makes findings of fact and makes a recommendation for disciplinary action to the House. It is the House that determines the merit of the findings and recommendations and ultimately passes judgment on the Member.

It is for this reason that any Member, at any time before final vote, may speak to the merits of the case, present new evidence or refute that which has already been presented. The floor debate, therefore, becomes a trial de novo wherein the parties may present their case to the entire House.

It has been said that to disallow counsel on the floor of the House is unfair. To the contrary, under the procedures of this committee, counsel for the accused Member is given every opportunity to defend his client before the committee. When the House takes up the matter it does so according to historical precedents. These precedents and parliamentary procedures have traditionally fostered open and productive debate. To believe that this historical tradition would fail when dealing with disciplinary matters is unrealistic. The Constitution seems to contemplate virtually unlimited authority to punish Members for any conduct it deems to be disorderly behavior and specifically allows the House to expel a Member by a two-thirds vote. It was in the wisdom of the framers of our Constitution to accord the House this power. A Member's misconduct is not only an embarassment to the House but it impairs the productivity, authority, and prestige of the legislative process. It would be in conflict with the longstanding precedents of the House to allow someone other than a Member to debate on the floor of the House. Moreover, this is not a matter which the committee controls and if a change is to be made, the House controls that issue.

Finally, it has been alleged that the true facts have not been brought forth by this committee. I believe they were. Every possible attempt to ascertain the truth was made by this committee. The hearings that were conducted in this matter were open hearings. Counsel for Mr. WILSON was present and given full opportunity to raise questions and examine witnesses and was allowed to present as vigorous a defense as he wished. The fact that these hearings were conducted in an open forum speaks highly of this committee and its procedures. Had any failure of justice taken place during those hearings, surely it would have been brought to the attention of the full House at that time.

The Committee on Standards of Official Conduct endeavors, in a timely yet fair manner, to recommend discipline of Members of Congress when the evidence warrants such action. This committee has recommended that Members found in violation of the public trust be removed from positions of authority in the Congress. This is as it should be. Our willingness to take action in disciplining erring Members of this body is expected by the public and is something which we must continue to do when necessary.

The House of Representatives as a body, as an institution, and as the representative of the people has incumbent upon it an obligation to insure that its Members behave in a manner fully consistent with both the spirit and letter of the law and the Rules of the House. It is for this reason that we have a code of conduct and a Committee on Standards of Official Conduct. It is to insure that the public trust remains intact that this House must take action on matters indicating ethics violations in a timely and efficient manner so as to insure that we preserve the honor of this House and the trust of the American people.●

IMPROVING OUR EDUCATIONAL POLICIES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. DERWINSKI. Mr. Speaker, Mr. Frank Brown, chairman of the National Association for Personal Rights in Education (NAPRE) and also a professor of economics at DePaul University, recently spoke before the national platform committees of both the Republican and Democratic national parties. I wish to insert Mr. Brown's recommendations on improving our educational policies for the attention of the Members from both sides of the aisle. His remarks follow:

STATEMENT BEFORE THE NATIONAL PLATFORM COMMITTEE OF THE DEMOCRATIC PARTY

As a parental group now into its 21st year in the struggle for the educational freedom of choice of parents and students, the National Association for Personal Rights in Education (NAPRE) respectfully urges the Democratic Party to include in its 1980 national platform the following three planks:

First, the Democratic Party affirms that the primary right of education belongs, not to the state and federal governments, but to parents;

Second, the Democratic Party supports the adoption of equitable tax-supported parental grants or vouchers through which families could be assisted to enroll their children in the elementary and secondary schools, public or private, of their choice.

Third, the Democratic Party calls for the establishment of a high-level commission to investigate the growing discontent of many parents with the expanding state and federal education monopoly and with the historical distortions and fraudulent court decisions on which this monopoly is based.

In 1976 the Democratic Party national platform promised equity to parents seeking tax-supported educational choice. In 1976 candidate Carter stated in Today's Catholic Teacher (Oct. 1976): "When I was Governor of Georgia, voters authorized annual grants for students attending private colleges in Georgia. We must develop similar, innovative programs elsewhere for nonpublic elementary and secondary schools if we are to maintain a healthy diversity of educational opportunity for all our children."

But when congressional tuition tax credit bills for public and private education were subsequently proposed, the current Democratic administration scuttled them. Despite the fact that federal legislation of this sort had never been tested in the courts, President Carter proceeded against it on the strength of an Attorney-General opinion which was rooted in Know-Nothingism, the mid-19th century movement which spearheaded the drive to deny a share of the education tax to families which through religious conviction did not accept the then-developing state public schools. Finally, our recommendation to the 1976 Democratic platform committee to investigate the relevant court decisions was ignored by the committee and the president.

The Democratic Party should realize that many parents have interpreted these developments to be political deceptions, and, having concluded that the present Democratic administration is owned by the National Education Association, are looking elsewhere for justice for their children. The party should know that many of these disaffected parents have long been loyal Democrats.

We are aware of the standard objections to the parental grant, with the principal one being its alleged unconstitutionality on church-state grounds. But our research demonstrates that the related court decisions have been based not on the constitution but on Know-Nothingism and that, in the distribution of the education tax, parents and students have personal civil and constitutional rights that may not be denied by reason of any relationship between the state and any church or school. On these points many families view the court decisions with the same contempt that the Jews had for the Nuremberg Decrees and that Dr. Martin Luther King had the *Dred Scott* and *Plessy* v. *Ferguson* (separate-but-equal) decisions.

A second objection is that the parental grant would lead to widespread discrimination against such groups as minorities and the poor. Here no one can deny the lamentable failures of some private schools anymore than those who so self-righteously criticize such schools can deny that in important areas public schools have been the prime architects of racial segregation. But, whatever the past, inner-city private schools, hanging on desperately in these inflationary times, are providing a rich source of quality education for many minority and poor children.

Actually, while government denial of tax equity for alternative schooling falls on families from all classes, it weighs particularly heavily on families which are economically incapable of making a choice and thus remain in a state of dependency on government teachers. Further this condition is being politically reinforced by the National Education Association, the American Federation of Teachers, and other enemies of parental choice. From our inner-city experience we assert that minority and poor families are generally capable of making the right choices with parental grants. In any case we contend that the parental grant would prove to be the most effective weapon against discrimination and injustice.

There are other matters to be discussed, even if only briefly. One is that quality education cannot be mass-produced or conducted by armies of educational bureaucrats far removed from the scene, but must rather be carried on by parents and teachers cooperating as teams under conditions of smallness and freedom and individual attention in a family atmosphere of love and work personal dignity. Such closeness was the secret of many of the original public schools. It is the secret of many hardy inner-city private schools. It can be the secret of attaining quality education for American children if parental power is restored through parental grants.

On a second point the role of schools in teaching, character formation, and preparation of students for economic life should be studied. As to the unemployment of so many young minority and poor and as well to the nonproductivity of so many young people from all backgrounds, we ask this committee to examine to what extent this unemployment and nonproductivity may be—in part—attributed to their schooling or lack thereof.

We also plead with this committee to consider that more serious threats to American freedoms are arising from the expanding of the state and federal controls over schooling. Many good-willed legislators support practically any proposal to fund government education, but they should stop to think that most of the proposals are structured to put power over schooling not into the hands of parents but rather into the grip of unelected government education bureaucrats.

In conclusion, holding that the education of children is a sacred trust of parents and that this trust involves the personal civil and constitutional rights of parents and students to academic freedom and religious liberty, we again respectfully urge the Democratic Party platform committee to adopt our three proposals calling for parental power in education, the enactment of the parental grant, and the investigation of the unjust judicial barriers to parental and student freedom of education.

STATEMENT BEFORE THE REPUBLICAN PARTY NATIONAL PLATFORM COMMITTEE

As a parental group now into its third decade in the defense against the American state of the personal education rights of parents and students to religious liberty and academic freedom, the National Association for Personal Rights in Education (NAPRE) respectfully urges the Republican Party to adopt the following three planks in its 1980 national platform:

The Republican Party affirms that the primary right of education belongs, not to the state and federal governments, but to parents;

The Republican Party endorses tax-supported parental grants or vouchers through which parents could be assisted in enrolling their children in public or private elementary and secondary schools of their choice;

The Republican Party calls for an examination of the relations of American governments to parents and students in the field of schooling, with particular emphasis on the distribution of education taxation.

One basic principle for such an examination should be that for many families religion is essential to schooling and that, if governments tax the public for schooling, they should so distribute the taxes as to protect religious rights. Unfortunately American governments have generally allocated a monopoly of the tax to support preferred schools without regard for religious dissenters.

A first example is seen in the colonial New England congregational schools, which were based on a preferential tax arrangement between the political community and one church. A second example is the state public school system, which was, as the research of Professor Jorgenson of Missouri and other scholars have demonstrated, founded in the mid-19th century in great part on a preferential tax collusion between the American state and the dominant Protestant churches of the day, with dissenters being denied tax equity. A third example is that, with the private Protestant values on the decline in the public schools, the tax monopoly today preferentially supports the private values of secular humanism—a life orientation that looks only to man without reference to God—as the new educational establishment, with the National Education Association being a new national priesthood.

The U.S. Supreme Court, proceeding under the illusion that the public school is or can be genuinely neutral, has played a disastrous role in this matter. Thus by ousting residual elements of Protestantism from the public schools, the Court has given powerful impetus to the takeover by secular humanism. The Court has also struck down—with decisions vitiated by historical ignorance and documentary distortion—all but a few of the many state laws enacted to rectify deep-rooted tax inequities to dissenters.

A second basic principle for examination should be that, under conditions of government taxation, families should have the tax-supported academic freedom of choice to have their children in schools, public or private, that provide quality education.

Based on these two principles, the proposed examination should note that, in addition to the value changes already discussed, the public schools have undergone growth patterns that have seriously undermined the religious liberty and academic freedom of families. Thus the original community school has over the decades come increasingly under the sway of state education bureaucrats and in more recent years into the orbit of unelected and power-seeking federal education officials far removed from parents and teachers.

The examination should consider that, since all schooling has both public and private aspects, it cannot be enacted into an exclusively-public operation. It should demonstrate that the purpose of collecting education taxes from the public is to assist parents to educate their children and not to give government officials control over schooling, as, for instance, through imposing secular humanism or academic imperialism on the children of this nation. It must conclude that if parents become burdened with government education officials determined to control schooling, they must consider the curtailment of taxation.

The examination must highlight that the personal constitutional rights of parents and students under the establishment and freedom clauses cannot be denied by reason of any church-state controversy. It should demonstrate that the U.S. Supreme Court, while ignoring the establishment involved in assigning the tax monopoly to preferred schools and values, has incredibly concluded that the Establishment Clause would be violated by giving dissenters an equitable share. In his dissent in *Meek* v. *Pittenger* (1975) Chief Justice Burger referred to such court action as not simply tilting the Constitution against religion but literally turning the Religion Clause on its head.

The examination would reveal the widespread dissatisfaction of parents with the academic and moral tone in many public schools, with a striking example being the large-scale ongoing abandonment by many Protestants of their once-cherished public schools in favor of private Christian schools.

In conclusion, with the hope that the Republican Party will wholeheartedly join the struggle to make certain that every American family that wishes so, whether in public or private schools, can at long last have equitable access to the education tax dollar, we again respectfully request the Republican Party to take a strong stand in its 1980 national platform for parental rights in education, for tax-supported parental grants, and for the long-overdue examination of the relationships between the American state and its citizens in the matter of schooling.●

CONGRESSMAN GREEN NOTES PASSING OF RABBI BERNARD J. BAMBERGER

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GREEN. Mr. Speaker, it is with a profound sense of grief that I rise to note the passing last Saturday of

Rabbi Bernard J. Bamberger, rabbi emeritus of Temple Shaaray Tefila.

Rabbi Bamberger had been the leader of Temple Shaaray Tefila from 1944 until his retirement in 1971. The temple, located in the 18th Congressional District at 250 East 79th Street, is this year observing its 135th anniversary. It is one of New York's oldest and most prominent reform Jewish synagogues.

Among his many accomplishments, Rabbi Bamberger served as president of the Central Conference of American Rabbis and the Synagogue Council of America, chairing many of their projects and committees. He achieved reknown as well as a scholar of reform Judaism and was the author of many important works of Judaica.

He will be remembered as an author, scholar, teacher, and spiritual leader. Rabbi Bamberger's stimulating congregational and international leadership will be sorely missed, for he has left us with a memory of indelible contributions.●

SOVIET MEDICINE FROM THE INSIDE: BRIBERY AS A DOCTOR'S WAY OF LIFE—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. McDONALD. Mr. Speaker, one of the things that apologists for Communist regimes always tell us is that medical care is free and it is good in socialist countries. This is not true and informed people know this. The free world countries deliver the best medical care and discover most of the new medicines. However, the myth continues to outlive the facts. Dr. Vladimir Golyakhovsky, a former Soviet doctor, wrote several articles that appeared in Medical Economics on February 18, 1980, and March 3, 1980, graphically describing how Soviet medicine really operates. No American would wish to go near a Soviet hospital after reading these articles. Part I describes his experience with the medical education system in the U.S.S.R. Part II will describe Soviet medicine in actual operation. I commend these articles to the attention of my colleagues:

SOVIET MEDICINE FROM THE INSIDE: BRIBERY AS A DOCTOR'S WAY OF LIFE—PART I

In 1953, the Soviet Union's secret police, the KGB, herded nine of the country's most brilliant physicians into a dungeon and tortured them until they "confessed" to poisoning several top Communist officials, in what the press dutifully recorded as the Doctors' Plot. That same year, I began my own medical career in Petrozavodsk, a principal city near the Finnish border.

Since that time, I have observed the whole range of Soviet health delivery, from a small wooden district hospital with five cots serving lumbermen in the frozen north to the offices of the Ministry of Health. I have treated patients, performed research, taught medical students, and served as an orthopedic consultant. At the time of my emigration to the United States, I was head of traumatology, orthopedic surgery, and military surgery at a major 250-bed Moscow clinic.

Soviet medicine is not what it seems to Western visitors. For security reasons, they are never admitted to our finest medical facilities. These are the "palace hospitals" created by the Communist Party to serve its own elite—perhaps 2,000 top Party officials and their families—and administered by Dr. Eugeni Chazov, a cardiologist who is Leonid Brezhnev's personal physician. To conceal this sophisticated level of medical treatment from lesser comrades, armed guards patrol all entrance doors, and this so-called Fourth Department's scientific publications are classified "secret." For the same reason, guided tours for medical dignitaries never visit the special hospitals for the KGB, police, and foreign ministry. For this small Communist aristocracy, the finest care available—not as good as only average U.S. health care—is a fringe benefit of power.

Neither do visitors see the care that Russia's 260 million ordinary citizens receive in city and rural hospitals and at outpatient departments—care that in many respects has improved little over what author and physician Anton Chekhov described a century ago. The grand tour for foreigners is of the Institutes—an intermediate level usually affiliated with a medical school, but in no way approaching the level of care at a U.S. counterpart.

Most foreigners assume that in this socialized state treatment is free and readily available. It is neither. The hospitalized Soviet citizen pays for everything out of his own pocket. He buys his own meals (since the hospital usually embezzles the miserly 82 kopecks the government allots for food each day). He hires someone to spoon-feed him if necessary; he rents his sheets and hospital clothing; his family buys much of his medicine elsewhere, since the hospital doesn't stock it; and he hands out money to his nurses and doctor in the hope that they will give him special care and attention.

Often, especially if he suffers from a serious condition, he must pay for the privilege of being hospitalized. Mothers of asthmatic children not only must pay—unofficially—1,000 rubles to have their children admitted to the bronchial asthma ward of Moscow's Hospital No. 52, but then must come to the hospital after work and clean floors.

Why is health care in the wealthiest and most powerful nation in the Communist world in so sick and sorry a state? There are three principal reasons:

The Soviet government allots too little money for medicine because it receives no cash return from this investment. Medicine gets only what budgetary crumbs remain after the government has paid for propaganda, the military, and the inefficient economy. Thus, Soviet doctors lack equipment adequate to diagnose, to treat, or to operate.

The morale of doctors and nurses is very low. They feel they are ruining their own health in exhausting, round-the-clock labor for a miserly monthly stipend. They continue to practice medicine out of compassion for the suffering, but many have fallen into corruption and apathy.

Soviet medical administrators are corrupt, incompetent, arrogant, and wasteful. There are too many of them, and they are too powerful. They manage to impose Marxist ideology even on the physical sciences. They seriously hamper the work of doctors who treat the sick. They have put Soviet physicians 25 to 50 years behind their American colleagues.

BRIBERY BEGINS EARLY

The problems of Soviet medicine begin in the medical schools. There the practice of paying bribes for admission is so well established and widespread that its study becomes a special discipline of the science of geography.

In Soviet Georgia, bribery is a way of life. So Dr. Otary Gelbakhiani, dean of the Tbilisi medical school, routinely demanded a bribe of 40,000 rubles from every enrollee. (In Russia, the ruble is set officially each month. Currently the exchange rate is 1 ruble = $1.50. The actual U.S. exchange rate is 1 ruble = 20 cents selling, 32 cents buying.)

His students paid close attention to the role model provided by their distinguished patron, who had more titles than a Spanish grandee: Doctor of Medicine, Professor, Honored Scientific Worker, Academician, Member of the Central Committee of the Communist Party of Georgia, Deputy, and National Representative. Seven years ago, titles and all, Dr. G. was convicted and sentenced to 15 years in prison—one year for every 1 million rubles he had amassed.

In the Soviet Union, a medical orderly's salary is 60 rubles a month, a nurse's is 70, and a beginning doctor's monthly salary is 110 rubles—the cost of a pair of women's boots. An ordinary clinic doctor (with a 10-ruble-a-month raise every five years, enough to buy his family one chicken dinner) would have to work 90 years to attain the wage of a beginning bus driver. My own years of experience and level of specialization were such that, at the end, I earned the maximum possible doctor's salary—500 rubles a month. However, stipends from my consultancies at the "special" hospitals and occasional royalty checks from my books almost doubled my income in some years.

How then is it possible to pay a 40,000-ruble bribe to enter medical school, when during his first five years of practice, the ordinary doctor earns a grand total of only 6,600 rubles, progressing in his fifth five-year period to 9,000 rubles? After 25 years, such a doctor has officially earned a grand total of only 39,000 rubles—still not enough to cover the bribe he paid to get into medical school.

To explain this paradox, I give you the case of a graduate of the very same Tbilisi medical school. A specialist in venereal diseases in the beautiful little Black Sea resort town of Gagra, he was able to pay for his "free" medical education in two months with his earnings from our "free" medical care. Every morning, his senior nurse explains to the queue of unfortunate tourists lined up from office door to the shore that the doctor treats patients at his house—a charming cottage next door, set among grape arbors. Sometimes a disgruntled patient complains, "I've already paid for sex in this town, and I don't intend to pay for my venereal disease, too." The nurse gives him an appointment for two weeks hence and calls the police to report him as a VD carrier. The disgruntled patient now has to bribe the nurse and the policeman, too.

In season, this doctor treats 40 to 50 patients a day, charging about 25 rubles each. His fees are flexible, though—from 10 rubles for students to 50 rubles for fat officials or their wives. At the end of a long day, the doctor cheerfully empties his pockets of envelopes. This is his moment of triumph, because he makes about 1,000 rubles a day. I saw it with my own eyes. He would laugh at me and say, "Well, Mr. Moscow Professor, can you make as much as an ordinary doctor like me?"

The answer, which I did not feel comfortable discussing with him is that, of course, I could if I so chose. In Russia, *vzyatka*—bribery—in the medical system is all-pervasive. But I found it distasteful to demand bribes for operating, and neither was I happy to accept envelopes afterward, although several times they were forced on me by grateful patients who wouldn't take Nyet for an answer. There were occasions, however, when regular patients offered tokens of appreciation—like the expensive foreign record player I received from Bolshoi prima ballerina Maya Plysetskaya—and occasional special privileges.

The most memorable came when the father of an important military engineer I had operated on told me to be sure to contact him when I had time for a holiday in an official resort rest home in the Caucusus. Three years later, I remembered his offer, called, and was invited to spend a month in an elegant dacha. It was La Dolce Vita as I have never experienced it before or since. My wife and I, pampered by five servants, were the sole inhabitants of a luxurious three-story villa whose most recent vacation occupants had been the president of Finland and Prime Minister Alexei Kosygin.

The dean of the Moscow Medical Stomatological Institute demanded bribes of only 15,000 to 20,000 rubles (preferably in the form of diamonds) from new students—Muscovites cannot afford to pay the outlandish bribes that affluent Georgians can. On the basis of titles, he could have demanded more than Dr. Gelbakhiani, for he was the assistant to the Minister of Health and the head of the Medical Department of the Central Committee of the Communist Party. He always wore the platinum Lenin medal that he had received for service to his nation.

Not far from Moscow, the dean of the Kalinin Medical Institute takes bribes of 5,000 rubles from enrollees—except students from the more prosperous Caucasus, of whom he demands more. In Riga, Latvia (fee: 5,000 rubles), the whole hierarchy of crooked officials eventually was sentenced to prison. In Tashkent, Uzbek, where nobody has been arrested yet, "enrollment fees" are the highest in the Soviet Union—about 40 years' worth of a doctor's official salary. In poor, remote areas like Kazan, the medical-school dean graciously accepts small gifts of fresh honey, fresh fish, and bottles of cognac. During vacations, he travels the Volga tributaries, where his students' parents spend thousands of rubles to entertain him.

This geography of bribery has led many medical applicants to forsake the wealthy edges of the Soviet empire and converge on the poorer heartland. One police official, who specializes in bribery cases, has publicly warned that all medical schools are now under his microscope. Inspectors disguised as applicants are using marked money. They have become interested, too, in murders connected with this corruption—several in Baku alone. I was questioned several times when a clerk to the registrar was murdered in my own school. Fortunately for me, at the time of the crime I was on vacation.

QUALIFIED INSTRUCTORS ARE FEW

From my experience as a medical-school professor, I would estimate that only about three-fourths of the students who finally enroll meet the necessary standards. This is a better ratio, however, than exists in the faculty, where the quota calls for two Party members for each non-Party member. The former are not only useless, but generally manage to bring along two other teachers who are barely literate medically. The result is one good instructor out of five, with the other four largely dedicated to the propagation of pseudoscience.

In 1948, for example, medical officials began a campaign to canonize Ivan Pavlov's physiology teachings as the foundation of all medical disciplines. Millions of empty words were spoken at hundreds of conferences and published in thousands of dissertations and articles. Any scientific work that didn't quote Pavlov was unacceptable, and any scientist who neglected to join the choir of praise found himself jobless. Pavlov, recognizing many mistakes in his theories, had intended to rewrite them before he died, but this did not stop Soviet medical teachers from mindlessly parroting his physiological teachings.

Until the early 1960s, Soviet professors taught that Mendelian genetic theory was a bourgeois fraud and that Lysenko's stupid magic tricks were true because they were confirmed by the teachings of Marx and Engels. Then came the long campaign of praise for a Lysenko protégé, an undereducated veterinarian named Gevorg Boshyan, who claimed that he could create life and change the structure of any living organism. There was also Dr. Olga Lepeshinskaya, an old woman whose principal credential was a friendship with Lenin. She reported that she became younger when she bathed in soda water. Our medical teachers wrote volumes on this senile gibberish.

Such pseudoscience exists to this day, the most enduring falsehood being that all Russian science is superior to all Western science. Soviet administrators insist that no more than 25 to 30 percent of the citations in any scientific work be from Western sources, and that the author criticize their "bourgeois pollution."

Another weakness of Soviet medical education was exposed several years ago when the World Health Organization produced a highly unflattering report on how Soviet schools teach medical skills. Embarrassed, Minister of Health Boris Petrovsky ordered the number of hours of training in such basic skills increased. As a member of the Ministry's Commission on Educational Methodology, I participated in the effort to carry out Comrade Petrovsky's instructions. We failed. We could not touch the seven ideology departments sacred in every medical school: Communist Party History, Historical Materialism, Political Economics, Dialectical Materialism, Scientific Communism, Marxism-Leninism, and Marxist Philosophy. These courses take up about a third of a student's six years in medical school and are the principal reason why students don't have enough time to learn practical medical skills.

EXAMS ARE OFTEN A FARCE

Incompetence and corruption are so widespread in Soviet medical schools that teachers routinely sell quizzes (25 to 50 rubles) and exams (250 rubles). Alcoholic teachers prefer cognac. More cultured teachers prefer rare art books. A student with enough money can graduate without studying. One lad spent an entire semester courting his girlfriend, then took off on his honeymoon. An attempt to expel him ended when his adoring mother paid the dean's assistant 1,000 rubles.

The price for inflated exam scores in the seven tedious departments of Communist thought is high. Few students want to miss classes that actually teach medicine, so less bribe money is expended there. Still, it is done. An assistant professor of obstetrics regularly takes bribes. It runs in the family. That was the reason why her husband had been fired earlier from his position as head of finances in the Ministry of the Interior.

Final exams culminating six years of medical school are a total farce. The government has spent about 18,000 rubles on each student, and the Ministry of Health has already decided on all the new doctors' assignments, so the school fails nobody. The students understand this and consider the tests a formality.

The first exam—which all must pass before they can take the medical science examinations—is on Marxist philosophy. Professors struggle to stifle their yawns as students babble incoherent answers to three or four randomly chosen questions. Then the professors give totally arbitrary grades that depend more on what they had for breakfast than on what the students said. If everyone is feeling especially jolly, the students get good grades without even answering any questions. I saw one student get two 2's (D's) yet end up with a final grade of 5 (A) because the Party committee's representative had handed down special instructions to that effect.

Examinations on medical knowledge are no different. For five years I served on various examination commissions. Even in Moscow, where quality is highest, these commissions fraudulently passed 10 to 15 percent of the students. At medical schools where quality is lowest (because bribery is worst), commissions "help along" 25 to 30 percent of the graduates. I estimate that nationwide, about 20 percent of all medical students get their diplomas without the minimum knowledge necessary to practice medicine.

The other 80 percent include many promising future doctors. Yet with few exceptions, the best graduates get the worst assignments, and the worst get the best. This whole illogical process is conducted by the Moscow Ministry of Health's personnel director, Nikolai Bokov, whose assignments are based on influence, bribes, whim, and one ironclad rule: No Jew gets an assignment for less than 1,000 rubles.

I wanted very badly to keep one particularly bright student on as a graduate assistant in my surgery department. Ten letters to the dean and three personal visits finally exacted his promise. His mind was changed by a single phone call ordering him to give the position to Vera Trofimova, niece of the Minister of Health. You can't appeal an order like that.

My candidate complained bitterly to me: "Do the officials think the students don't realize what's going on? They sell everything and make every decision illogically. I wanted to become a surgeon so badly that I volunteered for night duty in the operating room to learn to assist. I won first prize for my reports at the student scientific conference. So they are sending me to Tmatarakan to specialize in infectious disease control, while the Minister's niece, who is so clumsy that you wonder if her fingers are attached to her hands the right way, wins the surgery department position. I don't even want to work in medicine anymore. In fact, I would prefer to drive a taxi."

Rarely was it possible to converse this openly with a student. If the Party committee learned that a teacher had dinner or an after-school meeting with a student, the incident was relentlessly investigated. A talented biochemist, Dr. Yevgenii Pokrovsky, was fired from his teaching post at the Kalinin Medical Institute for such informal contacts. The Party committee terrorized him, and the newspaper Komsomolskaya Pravda slandered him so viciously that he eventually committed suicide.

I liked and sympathized with the students, and I observed their character and attitude from first year to last. They were full of love for knowledge and justice, but their idealism quickly evaporated. They graduated as skeptics who didn't believe anybody or value anything.

(Scores of Russian doctors have emigrated to these shores in the past 10 years. Few, if any, however, brought the bottom-to-top medical hierarchy experience and thorough notes that orthopedic surgeon Vladimir Golyakhovsky carried with him when he arrived here in mid-1978. Skilled with pen as well as scalpel (a poet and author, he had eight books selling 2.5 million copies published in Russia), he has now produced one of the most fascinating inside views of Soviet medicine ever to emerge from that carefully censored land.

(Dr. Michael DeBakey is one reason why Golyakhovsky no longer practices orthopedic surgery in the Soviet Union. In 1973, the Houston supersurgeon was quietly invited to perform complex aortal heart surgery on Mstislav Keldysh, president of the Academy of Sciences of the U.S.S.R. The Minister of Health, Dr. Boris Petrovsky, had offered to perform the procedure. But, according to Golyakhovsky, the ailing scientist, remembering how Sergei Korolev, father of the Sputnik, had died on the operating table under Petrovsky's knife, sensibly demurred. Later, when Golyakhovsky's medical students asked why an American surgeon had been chosen, his candid reply—that Russians lacked the sophisticated equipment and experience for this procedure—caused a scandal. Letters that his assistants wrote denouncing him for his "Western orientation" ultimately cost him his job.

(There were other reasons for his emigration—among them increasing feelings of frustration with the Soviet medical system and the tightening vise of anti-Semitism. "I thought also about our son, Vladimir," he says. "My wife and I understood it would be hard for us to become winners in full in a new country, but he can be a full winner." Young Vladimir, who was a third-year medical student in Russia, is now in premed here.

(Golyakhovsky—whose wife Irina's work at Columbia Presbyterian Hospital in New York City as a laboratory research assistant has supported the family in their cramped Manhattan apartment—failed his first ECFMG exam. Language was an important factor. "But," he says frankly, "it was also because in Russia my specialty is about 30 years behind the level here—and also because I didn't prepare myself well enough." He assiduously studies both language and U.S. medicine daily and hopes to pass next time around. Then comes a hospital orthopedic residency—which, because of his experience and department chairmanship in Moscow, may require fewer than the customary five years—and the FLEX hurdle for licensure.)●

THE MAJORITY'S MISAPPROPRIATIONS BILLS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. DANNEMEYER. Mr. Speaker, on April 2, I rose to identify responsibility for having caused and exacerbated our present inflationary spiral. At that time I illustrated how the majority party has consistently voted for budget deficits, specifically in the period from 1975 to 1979.

I thought it would make an interesting and appropriate sequel to show how this same majority voted on this year's appropriations bills. Here again as in previous years, Democrats were twice as likely to vote for these high-spending, deficit-ridden budget busters as were those of us on the minority side. A comparison of rollcall votes on appropriations bills from 1975 to 1979 reveals that the Democrat propensity for increased spending was supported by 91 percent of that party's members in 1975 and 1976, 89 percent in 1977, 88 percent in 1978, and 79 percent in 1979.

Although Republicans as a party have voted for these bills each year, opposition was considerably and consistently greater: 19 percent in 1975, 20 percent in 1976, 29 percent in 1977, 25 percent in 1978, and 40 percent in 1979. And in each of these years, Republicans voted against these spending bills twice as often as Democrats.

Furthermore, there is a significant and unmistakable trend toward increased opposition to these appropriations measures. Votes in favor of the bills have steadily declined, from 357 yeas in 1975 to 288 yeas in 1979; conversely, votes against have increased from 48 nays in 1975 to 111 nays in 1979. These figures are averages of all rollcall votes on these bills in respective years. Nay votes have increased by 131 percent since 1975, an average increment of 16 votes per year.

Especially noteworthy is the fact that some Democrats have awakened to the fact that Federal spending—especially deficit spending—is a chief contributor to inflation. Democrat opposition to these bills has grown from 9 percent of its members in 1975 to over 20 percent in 1979, from 24 nay votes to 52.

However, the fact remains—clearly and indisputably—that it has been and continues to be the Republican side of the aisle which has voted most consistently against these inflation-fueling appropriations bills, in numbers twice as great as their Democrat counterparts. This should clearly indicate which party has a more realistic and legitimate approach to fiscal responsibility.

TREND 1975–79

Year	Votes		Percent against		
	Yea	Nay	Total	Democrats	Republicans
1975	357	48	11.85	8.89	18.52
1976	324	47	12.67	8.91	20.16
1977	328	68	17.17	11.45	28.57
1978	309	61	16.49	11.93	25.20
1979	288	111	27.82	20.55	40.41
5-year change	−69	+63	+15.97	+11.66	+21.89
Percent change	−19.3	+131.3	+134.8	+131.2	+118.2

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1975

Bill No. and description	Date	Vote	
		Yea	Nay
H.J. Res. 210, supplementary further urgent.	Feb. 20	273	134
Vote by party:			
Democrat		207	62
Republican		66	72
H.J. Res. 219, further continuing	Feb. 25	308	75
Vote by party:			
Democrat		228	28
Republican		80	47
H.R. 4481, emergency employment	Mar. 12	313	113
Vote by party:			
Democrat		258	25
Republican		55	88
H.R. 4592, foreign assistance	Mar. 13	212	201
Vote by party:			
Democrat		153	122
Republican		59	79
H.J. Res. —, VA additional	Apr. 15	386	0
Vote by party:			
Democrat		261	0
Republican		125	0
H.R. 5899, second supplemental	Apr. 15	380	14
Vote by party:			
Democrat		261	3
Republican		119	11
H.R. 6894, Vietnam refugee assistance	May 14	381	31
Vote by party:			
Democrat		246	24
Republican		135	7
H.J. Res. 492, supplementary urgent/summer youth.	June 10	408	8
Vote by party:			
Democrat		273	1
Republican		135	7
H.J. Res. 499, continuing	June 17	400	16
Vote by party:			
Democrat		278	1
Republican		122	15
H.R. 8070, HUD/Space/Veterans	June 24	391	25
Vote by party:			
Democrat		269	8
Republican		122	17
H.R. 8122, Public Works/Energy	June 24	377	28
Vote by party:			
Democrat		258	8
Republican		119	20
H.R. 8069, Labor/HEW	June 25	368	39
Vote by party:			
Democrat		262	8
Republican		106	31
H.R. 8365, Transportation	July 10	392	13
Vote by party:			
Democrat		259	5
Republican		133	8
H.R. 8561, Agriculture	July 14	353	38
Vote by party:			
Democrat		249	16
Republican		104	22
H.R. 8597, Treasury/Postal	July 17	393	18
Vote by party:			
Democrat		261	14
Republican		132	4

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1975—Continued

Bill No. and description	Date	Vote	
		Yea	Nay
H.R. 8773, Interior	July 23	417	8
Vote by party:			
Democrat		281	2
Republican		136	6
H.R. 9861, Defense	Oct. 2	353	61
Vote by party:			
Democrat		211	59
Republican		142	2
H.R. 10029, military construction	Oct. 8	353	51
Vote by party:			
Democrat		231	46
Republican		122	5
H.R. 10647, supplementary	Nov. 13	334	47
Vote by party:			
Democrat		236	19
Republican		98	28
Average of 19 rollcall votes		357	48
Vote by party:			
Democrat		246	24
Republican		110	25

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1976

Bill No. and description	Date	Vote	
		Yea	Nay
H.J. Res. 801, supplementary railroad	Feb. 18	298	95
Vote by party:			
Democrat		215	47
Republican		83	48
H.J. Res. 811, supplementary legislative	Feb. 24	336	52
Vote by party:			
Democrat		240	21
Republican		96	31
H.R. 12203, foreign assistance	Mar. 4	214	152
Vote by party:			
Democrat		161	89
Republican		53	63
H.J. Res. 857, further continuing	Mar. 16	309	75
Vote by party:			
Democrat		227	30
Republican		82	45
H.J. Res. 890, supplementary health	Apr. 5	354	12
Vote by party:			
Democrat		234	6
Republican		120	6
H.R. 13172, second supplementary	Apr. 13	352	35
Vote by party:			
Democrat		248	9
Republican		104	26
H.R. 13965, District of Columbia	May 26	350	13
Vote by party:			
Democrat		239	6
Republican		111	7
H.R. 14261, Treasury/Postal	June 14	258	99
Vote by party:			
Democrat		203	34
Republican		55	65
H.R. 14236, Public Works	June 15	378	20
Vote by party:			
Democrat		257	8
Republican		121	12
H.R. 14235, military construction	June 16	361	22
Vote by party:			
Democrat		227	21
Republican		134	1
H.R. 14237, Agriculture	June 16	377	26
Vote by party:			
Democrat		260	8
Republican		117	18
H.R. 14262, Defense	June 17	331	53
Vote by party:			
Democrat		200	51
Republican		131	2
H.R. 14239, State/Justice	June 18	208	9
Vote by party:			
Democrat		146	1
Republican		62	8
H.R. 14233, HUD	June 22	369	18
Vote by party:			
Democrat		246	3
Republican		123	15
H.R. 15194, Public Works/Employment	Aug. 25	311	72
Vote by party:			
Democrat		243	13
Republican		68	59
H.J. Res. 1096, supplementary Guam	Sept. 21	372	0
Vote by party:			
Democrat		248	0
Republican		124	0
Average of 16 rollcall votes		324	47
Vote by party:			
Democrat		225	22
Republican		99	25

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1977

Bill No. and description	Date	Vote	
		Yea	Nay
H.J. Res. 227, supplementary power	Feb. 7	341	5
Vote by party:			
Democrat		229	5
Republican		112	0
H.J. Res. 269, supplementary disaster	Mar. 3	411	4
Vote by party:			
Democrat		278	1
Republican		133	3
H.R. 4876, economic stimulus	Mar. 15	281	126
Vote by party:			
Democrat		237	31
Republican		44	95
H.R. 4877, supplementary	Mar. 16	306	98
Vote by party:			
Democrat		246	20
Republican		60	78
H.R. 7552, Treasury, Postal	June 8	359	45
Vote by party:			
Democrat		244	24
Republican		115	21
H.R. 7557, Transportation	June 8	391	11
Vote by party:			
Democrat		263	3
Republican		128	8
H.R. 7636, Interior	June 9	395	7
Vote by party:			
Democrat		266	2
Republican		129	5
H.R. 7556, State/Justice	June 13	353	42
Vote by party:			
Democrat		253	8
Republican		100	34
H.R. 7553, Public works	June 14	356	54
Vote by party:			
Democrat		239	32
Republican		117	22
H.R. 7554, HUD	June 15	374	32
Vote by party:			
Democrat		260	8
Republican		114	24
H.R. 7555, Labor/HEW (Hyde amendment).	June 17	*201	*155
Vote by party:			
Democrat		103	134
Republican		98	21
H.R. 7558, Agriculture	June 21	380	28
Vote by party:			
Democrat		264	4
Republican		116	24
H.R. 7589, military construction	June 21	391	6
Vote by party:			
Democrat		255	14
Republican		136	2
H.R. 7797, foreign assistance	June 23	208	174
Vote by party:			
Democrat		157	95
Republican		51	79
H.R. 7932, legislative branch	June 29	250	156
Vote by party:			
Democrat		202	63
Republican		48	93
H.R. 7933, Defense	June 30	333	54
Vote by party:			
Democrat		208	51
Republican		125	3
H.R. 9005, District of Columbia	Sept. 16	298	64
Vote by party:			
Democrat		219	20
Republican		79	44
H.R. 9375, supplementary	Oct. 25	313	98
Vote by party:			
Democrat		223	48
Republican		90	50
Average of 18 rollcall votes		328	68
Vote by party:			
Democrat		232	30
Republican		95	38

*Hyde amendment, yea/nay votes are counted in reverse.

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1978

Bill No. and description	Date	Vote	
		Yea	Nay
H.J. Res. 746, supplementary power	Mar. 7	353	50
Vote by party:			
Democrat		257	8
Republican		96	42
H.J. Res. 796, supplementary disaster relief.	Mar. 23	393	4
Vote by party:			
Democrat		260	2
Republican		133	2
H.J. Res. 859, supplementary USRA	Apr. 27	202	196
Vote by party:			
Democrat		158	98
Republican		44	98
H.J. Res. 873, supplementary SBA	May 8	346	23
Vote by party:			
Democrat		229	15
Republican		117	8
H.R. 12930, Treasury, Postal	June 7	297	98
Vote by party:			
Democrat		202	54
Republican		95	44
H.J. Res. 945, black lung program	June 9	237	72
Vote by party:			
Democrat		185	13
Republican		52	59
H.R. 12933, Transportation	June 12	347	25

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1978—Continued

Bill No. and description	Date	Vote	
		Yea	Nay
Vote by party:			
Democrat		225	16
Republican		122	9
H.R. 12929, Labor/HEW	June 13	338	61
Vote by party:			
Democrat		231	28
Republican		107	33
H.R. 12934, State, Justice	June 14	359	34
Vote by party:			
Democrat		242	15
Republican		117	19
H.R. 12935, legislative branch	June 14	279	90
Vote by party:			
Democrat		207	36
Republican		72	54
H.R. 12927, military construction	June 16	278	13
Vote by party:			
Democrat		183	10
Republican		95	3
H.R. 12928, Public Works	June 16	263	59
Vote by party:			
Democrat		173	37
Republican		90	22
H.R. 12936, HUD	June 19	332	47
Vote by party:			
Democrat		231	13
Republican		101	34
H.R. 12932, Interior	June 21	356	50
Vote by party:			
Democrat		251	16
Republican		105	34
H.R. 13125, Agriculture	June 22	326	59
Vote by party:			
Democrat		233	21
Republican		93	38
H.J. Res. 1024, supplementary agriculture.	July 11	340	48
Vote by party:			
Democrat		230	22
Republican		110	26
H.R. 13467, secondary supplementary	July 20	311	60
Vote by party:			
Democrat		217	28
Republican		94	32
H.R. 13468, District of Columbia	July 21	215	32
Vote by party:			
Democrat		156	11
Republican		59	21
H.R. 13635, Defense	Aug. 9	339	60
Vote by party:			
Democrat		208	56
Republican		131	4
H.R. 12931, foreign assistance	Aug. 14	223	167
Vote by party:			
Democrat		166	93
Republican		57	74
H.J. Res. 1139, continuing	Sept. 26	349	30
Vote by party:			
Democrat		241	10
Republican		108	20
Average of 21 rollcall votes		309	61
Vote by party:			
Democrat		214	29
Republican		95	32

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1979

Bill No. and description	Date	Vote	
		Yea	Nay
H.R. 4289, supplemental 1979	June 6	127	270
Vote by party:			
Democrat		103	148
Republican		24	122
H.R. 4390, legislative branch 1980	June 13	186	232
Vote by party:			
Democrat		159	108
Republican		27	124
H.R. 4388, Energy/Water resources 1980.	June 18	359	29
Vote by party:			
Democrat		225	22
Republican		134	7
H.R. 4391, military construction	June 18	366	21
Vote by party:			
Democrat		227	18
Republican		139	3
H.R. 4387, agriculture	June 19	391	30
Vote by party:			
Democrat		258	9
Republican		133	21
H.R. 4394, HUD	June 27	359	53
Vote by party:			
Democrat		250	13
Republican		109	40
H.R. 4389, Labor/HEW	June 28	327	84
Vote by party:			
Democrat		239	18
Republican		88	66
H.R. 4392, State, Justice, Commerce	July 12	299	93
Vote by party:			
Democrat		218	30
Republican		81	63
H.R. 4393, Treasury/Postal	July 16	344	49
Vote by party:			
Democrat		225	22
Republican		119	27
H.R. 4580, District of Columbia	July 17	272	147
Vote by party:			
Democrat		205	62
Republican		67	85
H.R. 4930, Interior	July 30	344	42
Vote by party:			
Democrat		229	12
Republican		115	30
H.R. 4473, foreign assistance	Sept. 6	224	183
Vote by party:			
Democrat		170	90
Republican		54	93
H.R. 4440, Transportation	Sept. 18	335	71
Vote by party:			
Democrat		235	22
Republican		100	49
H.J. Res. 399, continuing authorizations 1980.	Sept. 20	*196	*212
Vote by party:			
Democrat		157	100
Republican		39	112
H.J. Res. 404, continuing 1980	Sept. 25	208	203
Vote by party:			
Democrat		164	95
Republican		44	108
H.R. 5359, Defense	Sept. 28	305	49
Vote by party:			
Democrat		180	46
Republican		125	3
H.J. Res. 413, continuing Labor/HEW	Oct. 9	162	234
Vote by party:			
Democrat		136	118
Republican		26	116

VOTE BREAKDOWN ON HOUSE APPROPRIATIONS BILLS—1979—Continued

Bill No. and description	Date	Vote	
		Yea	Nay
H.J. Res. 430, supplementary	Oct. 25	290	105
Vote by party:			
Democrat		200	46
Republican		90	59
H.J. Res. 440, continuing 1980	Nov. 13	379	0
Vote by party:			
Democrat		246	0
Republican		133	0
Average of 19 rollcall votes		288	111
Vote by party:			
Democrat		201	52
Republican		87	59

*Final of 5 votes.●

RESETTLING CUBAN REFUGEES

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. BETHUNE. Mr. Speaker, yesterday our distinguished colleague from Florida (Mr. LEHMAN) offered an amendment to the supplemental appropriations bill that would relieve Arkansas taxpayers and those in other States who have shouldered the responsibility and assumed a tremendous financial burden in helping to resettle thousands of Cuban refugees. We have the amendment before us again today, and I would urge my colleagues to lend their full support.

The $100 million appropriated by this provision would help American townspeople, and State and local officials in areas like Fort Chaffee, Ark., to recover from the staggering costs of resettling Cuban refugees for whom no other assistance is available under existing Federal law. These funds would be used to reimburse entities involved in the resettlement effort whose resources have been strained to the breaking point. State and local police, for example, who were called in to quell the disturbances at Fort Chaffee, and were paid with tax-supported dollars, could be eligible for reimbursement. What this $100 million appropriation is most definitely not, however, is a cash benefit for the refugees.

Ever since the Federal Government opened our doors to the Cuban refugees on April 21, our people have been struggling to cope with a staggering human problem—a problem they did not create. The Federal Government has an obligation to relieve some of their burden, and approval of the Lehman amendment would help meet that responsibility. I support its approval.●

THE DOE'S HYPOTHETICAL ATTEMPTS TO SAVE ENERGY

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. KRAMER. Mr. Speaker, I support the amendment by Mr. BROWN to H.R. 7262. This amendment requires that the DOE delay the implementation of the proposed building energy standards.

Like many of my colleagues, I have heard from those involved in all areas of construction including builders, union workers, and local and State government employees who regulate the construction industry. All have expressed their deep concern about the complexity, cost, and feasibility of the proposed building energy standards. In testimony to the Department of Energy a recent study was cited which indicated that the standards could add as much as 20 percent to the price of new homes. Letters I have received have described the numerous technical problems with the standards. They explain that the problems are extensive because the standards are based on hypothetical assumptions rather than on practical experience and actual climatic conditions in each region of the country. All in the industry are deeply concerned that attempts to meet these complex standards will greatly disrupt the industry. Small building firms have questioned whether they will have the resources to comply with the standards.

While these comments are of great import, the most disturbing criticism which they have expressed is that the standards will not result in the desired energy savings. The reason for this major problem lies in the manner in which the DOE has proposed that energy efficiency be determined. The DOE approach is concerned with overall energy efficiency rather than the amount of energy used directly by a building. This philosophy is translated into the formula which DOE devised to determine energy efficiency.

This formula uses weighting factors to calculate energy efficiency of a building. Each type of fuel is assigned a weighting factor by DOE based on the DOE's determination of that fuel's efficiency. For example, because only about 35 percent of the potential energy in coal is convertible into usable electricity, the weighting factor for electric heating and cooling systems is three times as high as for natural gas, which is considered by DOE to be 100 percent efficient in comparison to other systems. Therefore, after plugging the variables into the DOE formula, a natural gas building heating system half as efficient as an equivalent electric heating/cooling system will be rated as more efficient by DOE. The effect will be to encourage the installation of heating and cooling systems which use natural gas or oil, which is considered substantially more efficient by DOE than electricity generated by burning coal, although less efficient than natural gas, and will discourage the use of electrical systems and indirectly the use of coal.

DOE justifies this by saying that because energy is lost in converting coal to electricity more energy is used in electricity. However, this ignores the fact that coal is in abundance in this country. In addition, encouraging builders to install heating/cooling equipment which uses oil and natural gas is clearly contrary to our national goal of reducing reliance on foreign energy supplies. In a letter I received from the Department of Energy about this matter, Mr. John Millhone, Director of Building and Community Systems, admitted that this problem existed and that there was a need for the DOE to review this matter.

In response to the sharp increase in energy costs, builders have successfully initiated changes in construction which have and will continue to result in substantial energy savings. My own State of Colorado has developed an effective and practical energy conservation program. The people of my State are saving energy at record levels.

Because these standards will greatly increase the cost of housing, create unnecessary disruption for the construction industry, and run counter to the successful efforts being made to save energy, I support Representative BROWN'S amendment to delay the implementation of the standards until it can be proved that they are in this country's best interests.●

THE F-15, SAUDI ARABIA—NO OIL TAP DIPLOMACY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. WOLFF. Mr. Speaker, once again this Nation's foreign policy is being tested for cohesiveness, consistency, sincerity, and resolve. This week's request from the Kingdom of Saudi Arabia for the sale of auxiliary fuel tanks and air-to-surface attack bomb racks for retrofitting on the F-15 fighter-bomber aircraft sold to them by the United States in 1978 is a blatant effort by an OPEC nation to utilize U.S. oil dependence as a means of pressuring this country into changing its foreign and defense policies. In 1978 I vigorously opposed the sale of our most advanced fighter-bomber aircraft to Saudi Arabia because I felt that this plane could pose a serious threat to the security of Israel. In addition, I maintained that the sale of our most advanced military technology to the less stable states of the Middle East could endanger the security of the United States itself. Today I reiterate my original objections to this sale of the F-15 to Saudi Arabia, and I do so armed with the indisputable benefit of hindsight. Since the 1978 sale of the F-15 to the Saudis the revolution in Iran has covered the front pages of the world's newspapers, and what has been called the key to the defense of this Nation's aircraft carrier task forces, the F-14 Tomcat aircraft armed with the Phoenix air-to-air missile, has fallen into the unpredictable hands of the Ayatollah Khomeini. Following immediately on the heels of the Iranian revolution was the attack on the Holy Mosque of Mecca, which threatened to topple the fragile Saudi monarchy. The parallels are indeed alarming.

The Saudi request for auxiliary fuel tanks and air-to-ground attack bomb racks is a shocking attempt at energy blackmail in a Presidential election year. The supporters of Saudi Arabia in the United States have long assured us that this sort of activity was not expected of our close friends the Saudis. In fact, they utilized this argument in their support of the original sale of the F-15 to Saudi Arabia by saying that if we sell these planes to the Saudis they will remain our friends and the oil will flow, uninterrupted. Today I ask why. Why are our friends the Saudis requesting this additional sale of offensive military equipment, when in 1978 they agreed to the conditional sale of the F-15 without this equipment? Could it be that they have waited for the most opportune moment to ask for this material which they intended to obtain from the start?

The Congress agreed to the 1978 sale of the F-15 to Saudi Arabia only on the condition that the planes delivered did not possess the auxiliary fuel tanks and ground-attack bomb racks which are standard equipment on the world's most advanced fighter-bomber. This reservation was intended to diminish the threat these aircraft would pose to the security of Israel. I feel that even without these embellishments the sale of F-15's to the Saudis was an unacceptable danger to the existence of Israel and the stability of this most volatile region.

This is not the time to further upset the strategic balance in the region. The United States, under President Carter's leadership, has done much to further peace in the region. The Camp David initiative and the subsequent peace treaty between Egypt and Israel, were historic first steps in a delicate and continuing process. Egypt and Israel have gone back to the negotiating table after a temporary setback on the autonomy talks. This is not the time to make Israel feel that her staunchest ally is arming a potential adversary with sophisticated machinery, the delivery of which was previously prohibited.

I would like to assure the administration that the American people will not accept any form of surrender to oil tap turning. The most sacred principles of this Nation cannot be compromised for short-term expediency. The people will not stand for it, and neither will the Congress. This additional sale will not go through.●

LAYOFF TIDE RIPPLES ACROSS THE COUNTRY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. SOLARZ. Mr. Speaker, despite the continuing decline of the prime interest rate, and the fact that mortgage money is again becoming available across the country for thousands of American workers inflation is no longer the chief problem facing them—it is unemployment.

I urge my colleagues to keep in mind what unemployment means to the average worker, the tremendous financial strain to the family, as well as the psychological blow of losing one's job.

Mr. Speaker, I insert these two articles from the Christian Science Monitor detailing the impact of the current recession on American workers and businesses.

[The Christian Science Monitor, June 13, 1980]

SOME SAY U.S. BUSINESS REVIVAL MAY NOT BE SO QUICK

(By Guy Halverson)

The current economic slump—which could turn out to be the second-worst recession since World War II—is already showing signs of being especially damaging to a hefty portion of US industries.

For some key sectors of the economy a quick rebound from the downturn later this year or early in 1981 is unlikely, some economists now predict. This delayed recovery, they add, could well post long-range problems for such important parts of the economy as lumber and home building, appliances, autos, and the furniture industry.

Moreover, consumer product and retail firms owned by minorities—particularly blacks—are assumed to be particularly vulnerable during the downturn.

Dr. Beryl W. Sprinkel, for one, who is chief economist and vice-president of Harris Bank, in Chicago, says he believes the recession will be both lengthy and "severe." He projects that by the end of this year unemployment will be over 9 percent.

Perhaps more disturbing, he says, it does not look as though there will be the more normal V-shape recovery—i.e., a rapid drop in economic activity followed by a sharp upswing. Rather, he suggests, there will likely be a "moderate policy response" at the federal level, which means that such industries as autos and durable goods will register only "moderate increases" in employment and sales right through 1981 and into 1982.

Chase Econometrics also suggests a sluggish recovery. Lawrence Chimerine, chairman and chief economist at this economic consulting firm, does not believe the recession will be as severe as the 1974-75 downturn. But at the same time, he sees no evidence for a quick snap-back during the next several years.

The Chase forecast, for example, now projects that gross national product (the value of all goods and services produced in the United States) will fall 1.4 percent during 1980. But in 1981, the Chase analysis suggests, GNP will rise only 0.4 percent. For 1982, the rise is projected at 3.3 percent.

Sandra Shaber, a senior economist at Chase Econometrics, sees three main reasons suggesting a sluggish and difficult recovery:

1. The rate of inflation next year will likely not drop below 9 or 10 percent, she says. That means a "modest" growth in real income, which would "obviate" any major upsurge in consumer goods spending.

2. Employment is not expected to rebound quickly. Again, that will dampen consumer spending.

3. Finally, because inventory levels have remained fairly low during the recession—geared to lessor demand—there will not be a big burst in inventory replenishment (and hence, a big jump in production of goods) during the next year or so. Business inventories jumped sharply in April—up 1.3 percent—according to the US Commerce Department. Still, government analysts do not believe the rise is excessive yet.

One other factor that could definitely affect the duration and impact of the recession, Dr. Shaber says, is the timing of the recession overseas. If major importing nations plunge into the depth of the recession later this year or next year, as the US presumably comes out of recession, that could mean a sharp drop in demand for American exports.

Chase Econometrics is now forecasting that housing starts (which affects sales of appliances and other consumer goods) and autos will show only slow growth in 1981 and 1982:

[In millions]

	1980	1981	1982
Housing starts	1.05	1.41	1.63
New-car sales	9.1	9.4	10.4

Economic Week, published by Citibank, in New York, is projecting sharp declines during the current recession for key consumer goods industries that will pose difficult long range problems.

For example, Citibank projects a real sales decline of more than 7 percent this year for appliance manufacturers. That would be two percentage points worse than the 1973 downturn.

Household furniture sales will drop 9 to 10 percent, Citibank reckons, about equal to 1973. Clothing and shoe manufacturing will drop 5.5 percent by midyear 1980, it says, worse than the 4.5 percent drop in 1973-75.

[From the Christian Science Monitor, June 13, 1980]

LAYOFF TIDE SPREADS ACROSS U.S. ECONOMY

(By Ed Townsend)

Layoffs that first were concentrated in the auto and construction industries now are spreading through the economy.

When the nation's unemployment rate went up sharply again in May, to 7.8 percent of the work force, major job losses were reported in rubber, glass, steel, electrical manufacturing, wood, paint, furniture, carpet, cement, and other industries, broadening the heavy impact of layoffs.

The end is not in sight. The unemployment situation is generally expected to get worse through the summer months.

Since the US Labor Department's Bureau of Labor Statistics counted 8,154,000 jobless in May, up 889,000 from the previous month, business news reports from across the country tell of further plant closings and layoffs, with unofficial figures for June already up into the hundreds of thousands.

Within the past week, the United States Steel Corporation announced that it was shutting down a major part of a Fairfield, Ala., plant because of a severe decline in steel orders. That will add 3,000 workers to the 2,000 already idle there. The steelmaker also reported layoffs of 1,700 open-hearth workers in Fairless Hills, Penn.

The Kelly-Springfield Tire Company, a subsidiary of Goodyear Tire & Rubber Company, announced the closing of plants in Maryland, Texas, North Carolina, and Illinois during June, idling 5,400 workers. In a single recent day, Dana Corporation announced that it was closing a Wisconsin axle plant that employs 300; Sheller-Globe Corporation said it will shut down operations at a Niles, Mich., auto parts plant, idling 165, and Deere & Co. of Moline, Ill., announced further layoffs at an Iowa plant that would bring the number idled there to 4,000.

Meanwhile, the big-three auto manufacturers announced that 34,965 more workers would be laid off at assembly plants this week. General Electric announced that 400 salaried workers at its household appliance plant in Louisville has been laid off indefinitely and 3,700 production workers face layoffs in July.

So far the unemployment impact has been heaviest in the Mid-Atlantic states and the Midwest because of the concentration of industrial operations and in many instances the marginal nature of old plants in the regions. But layoffs are beginning to rise sharply in the South, and many industrial cities such as Birmingham, Ala., have been hard hit.

Tourism and service trades—including retail stores—are beginning to feel the impact of inflated costs and squeezed incomes. Layoffs are beginning.●

STEEL INDUSTRY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. APPLEGATE. Mr. Speaker, today I wish to address an issue that should concern all Members of Congress because of its importance to the Nation as a whole. I am referring to one of America's most necessary and vital industries, the basic steel industry.

It has become very apparent to even casual onlookers that the steel industry is suffering from several ills, among them a persistent importation of foreign steel, a chronically ill U.S. auto industry, a depressed housing industry, and continued aggravation over Government regulations. In a relative very short period of time, perhaps 6 months, we have seen the industry fall from a production capacity level of 90 percent or better to one of less than 60 percent and falling. Over 33,500 employees in the steel industry, both salaried and hourly workers, have lost their jobs over the last year. The April 1980 all-employees total was the lowest since July 1939, and hourly workers employed was at its lowest level since June of 1933. Further, one does not need a crystal ball to realize that the situation is continuing to deteriorate, and will only worsen in the coming months if corrective action is not taken.

Representing southeastern Ohio, an area that thrives on steel production, I am obviously greatly concerned about what lies ahead for the industry, for as the steel industry goes, so goes our local economy. I would like to inform my colleagues of just what kind of situation we have in the upper Ohio Valley.

There are two major steel producers in my area, Wheeling-Pittsburgh Steel and Weirton Steel, a division of National Steel Corp. Wheeling-Pittsburgh Steel Corp. has about 14,500 employees, half of which are in the plants in my district or across the Ohio River from it and where hundreds of my constituents go to work each day, that is, when they are not laid off. But this is occurring at alarming rates today. Wheeling-Pittsburgh has about 3,500 people laid off; that is 1 of every 4 are laid off, a frightening statistic. Thirty percent of Wheeling-Pittsburgh's sales is to the auto industry which obviously makes matters that much worse. Weirton Steel is doing somewhat better, but not by much as they have about 1,000 of their 12,000 work force out of jobs. While this company has little dependence on the auto industry it is nevertheless being injured quite severely.

According to company officials for both firms, the main product being sold is tinplate and oil company tubular products in the case of Wheeling-Pittsburgh Steel. But even the tinplate market, on which Weirton Steel was built and Wheeling-Pittsburgh heavily depends, is getting very soft with orders continuing to decline. Both companies call third-quarter prospects bleak at best.

There are not isolated examples however. United States Steel, also working at about a 60 percent capacity, has about 17,000 employees laid off and 7,000 on short workweeks. Company officials call 1980 third-quarter prospects disasterous. Such as the case at Republic Steel, although not to as much of a degree currently, but prospects for the future appear as dark.

The time has come for decisive and immediate action to be taken by the Congress and this administration if we intend to revive the steel industry as a whole and put our people back to work. Decisions must be made. We must demonstrate leadership and prove that we are capable of solving our problems. There are remedies for these problems but they are the kind that may mean a change, a break with tradition, and we all know how difficult changing tradition can be.

One such change must come in the area of foreign trade and commerce. We must develop a fair and equitable trading policy that allows us to compete with foreign producers. This is not protectionism, but equality and fairness. We must enact legislation that allows for an expedient recovery of capital cost. Tax credits are also needed. We must also make a conscious effort to reduce bureaucratic regulation wherever and whenever possible, particularly in the area of environmental regulation. I have argued this point many times before, but cannot stress this too much. We, ourselves, are actually killing our own industries because of current policies.

Change, Mr. Speaker, is what is needed now. It is quite obvious that current policies are not working. We must be willing to bend. We cannot be brittle, for if we are, current economic winds will surely break us.●

WHO OWNS CONGRESS?

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. RUSSO. Mr. Speaker, on Sunday June 8, the Washington Post ran an article entitled, "Who Owns Congress?" The authors of the article raise a very serious question about campaign financing that has been of concern to me for many years. They also present some thinly veiled inferences throughout the article and include errors in the article, some relating to my legislative work. I feel their remarks should be addressed. The article reflects on all of us here.

One of the authors, Mark Green—Jack Newfield is the other author—is now running for the Congress. I would assume he is accepting campaign contributions. If he is successful in his pursuit of office, it will be interesting to follow Mr. Newfield's writings in the Village Voice. For these two gentlemen believe even if one receives money from a special interest, one may not even know he has been bought. Also, it does not matter how much money one receives, there is always an unspoken promise of future reward. Using their own logic, Mr. Green is already bought off by his contributors no matter how large or small the amount of any contributions. Perhaps he will vote "present" on all legislative matters and start a new trend in congressional voting.

The authors fail to point out that everyone who contacts the Congress is a special interest. What disturbed me during the Federal Trade Commission debates was the fact that union and business groups are in the eyes of some, special interest groups, but consumer groups are not. They are in some unnamed group, but apparently have no interest in legislation or whatever. This is absurd. Anyone who contacts the Congress and contributes money in any form or who does not but is interested in something, is a special interest.

The authors obviously know little about the substantive issues of the FTC debate. For example, they claim Congress decides who get regulated. This is incorrect. Congress has allowed unelected bureaucrats to write thousands of new laws each year and it is almost to the point where the Federal Government regulates everything. The Congress is now trying to correct this. That is why there was such vigorous debate about what the FTC is doing. That is why now there is a two-House legislative veto and perhaps there will be a one-House veto soon. At the present time, Congress does not control who gets regulated.

Another assumption made by the authors is that because someone heavily outspends an incumbent, victory is assured. This ignores all the issues that arise during a campaign and is a rather simplistic explanation of an election victory.

As for my FTC amendment concerning the funeral industry, I will point out another of the authors' errors on the subject. Sometimes I believe I will spend the rest of my life trying to assure that journalists get their facts straight on this particular issue.

The article supposedly identifies which big business interests control Members of Congress. In this regard, I am mentioned along with the funeral industry at some length. Let me respond:

First, a funeral home is not a big business. I cannot think of a smaller, more local, and intrastate industry. The average funeral home grosses about $150,000 a year. The average number of employees is three per home. To my knowledge there are only about 22,000 funeral homes in the Nation, not 34,000 as the authors contend.

Second, the funeral rule I fought was not a modest one simply requiring itemized prices over the phone and telling the truth about State codes. The revised rule had six major sections, including paperwork requirements, and raised many purposely unanswered legal questions.

Third, the FTC, in fact, had very few funeral complaints. Under oath, FTC officials told me they began their investigation with less than a dozen complaints. After 5 years of investigation they finished with a little over 1,000 complaints, many of which were not substantive. Ten million Americans died during the 5 years. In addition, the FTC staff themselves admitted in their final report that complaints were few and most consumers were satisfied.

Fourth, the rule would have cost a minimum of $50 million. I revised the industry's study and adjusted it to a revised funeral rule. I used the figure of $50 million without computing the cost of refrigeration facilities which probably would be required by new embalming procedures. My figure was conservative at least.

Fifth, it is true I received very little money from funeral interests. The money was from funeral directors in my home district who gave money to me in appreciation for my efforts on behalf of all small business. This occurred long before my amendment fight.

Sixth, the authors imply that I honestly believe that consumers are not entitled to price information. This is ridiculous. I have never said that and, in fact, I believe the opposite. My own State of Illinois has a price disclosure law. In addition, the funeral directors do not object to full price disclosure. The argument centers on how it should be done.

The subject of campaign financing is a critical one and goes far beyond the issues raised by the authors. In my opinion, it is unfortunate that they at times are inaccurate and often are too simplistic. Their basic thesis is that no matter when you get a contribution or accept money for a speaking engagement or no matter how much money or how little you are given, you are bought, whether you know it or not. Therefore, any vote is subject to this type of Monday morning quarterbacking. An example—three different interests give a Congressman money and then a vote comes up in which the groups are interested. It doesn't matter how you vote, you lose. Even if you vote the way favored by the one of the three who gave you only a small amount of money, you could be voting for future gain. So this type of logic convicts you of conflict of interest no matter how you vote, unless you do not accept any money. Of course in that case you would not be in office anyway.

Another point I would like to make is about the media. If a large newspaper or TV station runs a favorable story about a large company who owns a lot of their stock, is this a conflict? What about advertisers? If a newspaper chooses not to tell the local public about severe union problems at the stores of one of their largest advertisers, is the paper owned by the advertiser? Does the media not have its own axes to grind?

The authors have taken a very serious subject and treated it in a rather unserious and simplistic manner. Nor did they or the paper feel any obligation apparently, in terms of fairness, to contact Members included in the article for their comments. Nor have they offered any constructive suggestions for change and improvement. By doing this, they have done us all a disservice.●

FAIR HOUSING ACT AMENDMENTS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. FISHER. Mr. Speaker, the House has just passed by a considerable margin H.R. 5200, the Fair Housing Act Amendments of 1980. This bill, which I voted for, establishes an administrative enforcement mechanism for certain kinds of housing discrimination complaints in an attempt to make the existing 1968 law more effective and more equitable. Even with so noble a purpose, the bill was controversial in some respects. Some people thought that the bill would give HUD the authority to overturn and rewrite local zoning ordinances. Others thought that the bill established broad new housing discrimination laws that would interfere with the rights of individuals to sell their homes. Still others were outraged because they thought that HUD could levy civil penalties but not provide compensation for the victims. I would like to address these three objections and make it clear what the final version of the bill would and would not do.

I approach this bill from a background and perspective which may be unique among my colleagues in the House. Some years ago, as a member of the county board of Arlington, Va., I sponsored the first local fair housing ordinance ever to become law in a southern State. This was done before the first national fair housing legislation was passed by Congress. I mention this to point out that I do have a unique perspective on the bill.

The principal argument against the Fair Housing Act amendments seemed to be that the bill would allow HUD to rewrite local zoning laws. The final version of the bill, however, prohibits any administrative law judge from hearing any land use planning cases. Cases involving land use, which includes zoning, must be referred to the Attorney General, who has the two options of referring the case to the courts or dropping it altogether.

A second argument against the Fair Housing Amendments Act was that HUD would be given broad new housing discrimination authority. Several things argue against this. First, a floor amendment by Congressman SYNAR was adopted which changes the original bill by requiring that the administrative law judges, who would deal with questions of housing discrimination, be appointed by and under the direction of the Attorney General rather than the Secretary of HUD. Second, provision was made to continue the current exemption in existing law for owners of up to three single-family units who do not use a real estate broker and do not sell more than one home every 2 years. Finally, the bill offers additional protection to State and local governments by requiring HUD to refer any case involving housing discrimination to local and State fair housing boards where the local laws are substantially equivalent to Federal fair housing laws.

A third objection to the Fair Housing Amendments Act was that it provided for a civil penalty of up to $10,000, payable to the Federal Government, but not for compensation to the victims of housing discrimination. This has always been a misunderstanding of the bill. Under H.R. 5200, the administrative law judge may levy a civil penalty as well as any other appropriate relief, including compensatory and injunctive costs to the prevailing party in a housing discrimination case.

As I said earlier, I believe that the objections I have cited have all been answered satisfactorily in the bill. I am dismayed, though, in the controversy over these few provisions in the bill, that more attention was not focused around those matters on which people could and did unanimously agree: That fair housing is a desirable thing, and that the existing law has not been very effective. The central purpose of H.R. 5200 is simple: To enforce existing fair housing laws more quickly and with less cost to those involved. I think the administrative enforcement mechanism is a legitimate means to accomplish this, and I believe this legislation will help to reduce discrimination in housing.●

FILIPPINI SISTERS MARK JUBILEE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GUARINI. Mr. Speaker, this weekend, in New Jersey, there will be a ceremony honoring an individual who was born many years ago and thousands of miles away but who has influenced the hearts and minds of millions of people here in the United States.

On Sunday, June 22, 1980, in the community chapel of Villa Walsh, motherhouse since 1930 of the Religious Teachers Filippini, retired Bishop George W. Ahr of Trenton will be principal concelebrant of a Mass commemorating the 50th anniversary of the canonization of St. Lucy Filippini.

Bishop Ahr's presence will mark in a special way that it was in the Trenton Diocese that the community founded by St. Lucy 300 years ago established its first U.S. motherhouse.

Concelebrating with Bishop Ahr will be pastors of parishes served by the order. Homilist will be Father Angelo Palermo, a former student of the Filippini Sisters, now principal of Bishop Eustace High School, Pennsauken. Following the liturgy, an anniversary dinner will be served in Mother Ninetta Hall.

St. Lucy was an early pioneer in the education of women, particularly poor women. Her first schools were in Montefiascone, Tarquinia and Rome, Italy. Today, the order also serves in Brazil, Africa, England, Ireland, and Switzerland.

Five Sisters of the order first came to America in 1910 at the request of Pope Pius X to staff St. Joachim School in Trenton. In 1921, Bishop Thomas J. Walsh of Trenton established a motherhouse for the order at Villa Victoria. Today, the New Jersey province of St. Lucy Filippini staffs 45 schools and 4 mission centers.

Sister Lucy Filippini organized the worldwide Religious Teachers Filippini. I am especially proud because of the great work that the Filippini sisters have done in Hudson County where they operate elementary schools and day nurseries, including:

Our Lady of Lourdes-St. Anthony's, Union City, Sister Anna Cascio, M.P.F., principal; St. Rocco's Day Nursery, Union City, Sister Mary Capozzelli, directress; Our Lady of Libera, West New York, Sister Geraldine Contento, principal; Our Lady of the Assumption, Bayonne, Sister Esther D'Alessio, principal; Our Lady of Mt. Carmel, Jersey City, Sister Rose Vallelunga, principal; Our Lady of the Holy Rosary School, Jersey City, Sister Irma Papalco, principal; and St. Nicholas School, Palisades Park, Sister Angelina Pecoraro, principal.

I am also very proud because a Jersey City-born nun, Sister Geraldine Calabrese, M.P.F., coauthored with Sister Giacinta Basile, M.P.F., the book, "Forever Yes: The Story of Lucy Filippini."

Sister Geraldine is one of the eight daughters of Frank Calabrese and Rose Georgia Calabrese of Jersey City, and has been blind since she was 24 years old; but this has not deterred her from her life of teaching and writing. Sister has been a member of the Religious Teachers Filippini since 1939. A graduate of St. Peter's College in Jersey City, Sister did her graduate work at Dunbarton College in Washington, D.C., where she majored in theology. The author of "Better Composition for Everyone," a workbook for the elementary grades, Sister is presently coordinator of the House of Prayer in Trenton, N.J.

Sister Giacinta Basile, M.P.F., has been a member of the community of Religious Teachers Filippini since 1940. She has been an elementary and high school teacher of English and French and has served as a principal on both levels.

Born in Watertown, N.Y., of Italian immigrant parents, Leo Basile and Mary Frances Agnesita, Sister received her undergraduate degree at Notre Dame College of Maryland. She did her graduate work in English and educational administration at Catholic University of America.

I join in the worldwide salute to this devoted order of nuns who have more than 1,100 members in the world and more than 400 in the United States.

The order in New Jersey is under the direction of Sister Clare Testa, Provincial, of Nutley, N.J.

The contributions of Sister Lucy are being spotlighted on this golden jubilee because she truly lived the title of the book. Indeed, she was in tune with the Word of God within her, within others, and within every circumstance of life.

Sister Lucy Filippini's teaching has been described as dynamic, prophetic, and magnetic. Her openness to the moment and her gospel-rooted life are evidenced in her "Forever Yes."

Lucy was an extraordinary woman—judicious, happy, practical, farsighted, perspicacious. Her oneness in God gifted her with wisdom to clarify doubt, courage to proclaim justice, zeal to develop talents, strength to overcome all obstacles joyfully, freedom to spend herself totally and daring to raise the dignity of women. Yes, she was truly an extraordinary woman!

Yesterday Lucy enlightened the dark corners of her world as she penetrated the superficialities, the ignorance, the materialism of her age.

Today Lucy enlightens the dark corners of our world as her teachers penetrate the superficialities, the ignorance, the materialism of our age.

When Pope Pius XI solemnly inscribed Lucy Filippini in the annals of the saints on June 22, 1930, he did so because she stands for all time as a woman who speaks to women of all cultures, a woman who challenges all personalities to respect their dignity and beauty, to recognize their sacredness and power.

However, I think a synopsis of the book "Forever Yes" best describes Sister Lucy Filippini:

> "Forever Yes" is the story of Lucy Filippini, a woman whose constant affirmative response to the wishes of her God made her an inspiration to all those with whom she came into contact.
>
> Lucy was a woman of accomplishment: Her work in founding the Religious Teachers Filippini was in large measure responsible for restoring the dignity of the less privileged women of her day. Lucy and her teachers gave these women an education—the key to freedom of mind and body from the slavery of ignorance. And, of course, in restoring dignity to women, Lucy's work resulted in a new affirmation of the importance of the family, of which women are the heart and soul.
>
> Perhaps Lucy's greatest accomplishment was in her ability to inspire those around her. Lucy set an example of what a truly liberated woman can be—free from the shackles of her own selfish whims and desires, free from living up to an image set by those who would exploit her, free to allow her instinctive goodness and purity to guide her relationships with others—free in effect to say "yes, forever yes" to her Creator. This is what will leap from the pages of this well written biography and give the reader a new understanding of all women.

I am pleased to inform my colleagues of this tribute. I am sure they will join with me in extending their congratulations to this religious order which has contributed so greatly to the moral, religious, and intellectual fiber of mankind.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 169 Rockland County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

John Joseph Conlon, Ariol Louis Charles, Fernande Colin, Jaime Agustin Pozo, Jacqueline Vivy, Anna D'Avanzo, Choung Cha Oh, Sang Sun Oh, Pauline Deshomme, Eliana Guzman, Aubrey Lloyd Birch, Teodoro Brach, Paris Papasophocles, Maria Luz Rodriguez.

Em-Orn Bonyaviroch, Roberto Helowa Arias, Yeh Ooh Lai, Fazlur Rahman Chowdhury, Mario Antunes Luis, Eliezer Shoer, Giovanna Caruso, Teresa Miriam Smith, Fritznel Jean-Louis, Pradeep Madhusudhan Gupte, Saidapet Lakshmanan Balakrishnan, Michael Edward Bastone, Manjulekha Joarder, Borianka Iliev.

Vijayabhanu Mangalam Nair, Ming-Gee Lee, Mary Sullivan, Rosina Cirina Viscardi, Yechiel Mechel Ciment, Han Yung Lee, John Joseph Brady, Ngurthangmawi Sanate, Fotini Apostolopoulos, Kyriakos Somos, Rogelio Marcelino Rivera, Nella Puglionisi, Madone Phanor.

Elizabeth Sutton, Gertraude Roth Li, Wendelin Glaser, Kahee Park, Marie Yva Toussaint, Sara Berger, Raymonde Ceran, Benno Bayer, Joseph Avigder Altman, Henny Rosenberg, Nehame Butin, Periklis Mitakeas, Afroditi Mitakeas.

Tula Katsihtis, Esther Segelman, Catherine Frances Martin, Maria Da Paz Figueiredo, Esperanta Joseph, Shirley Wellington, Ingrid Georgiewna Lukashova-Tsibulia, Josef Benjaminowitch Tsibulia, Mercedes Esperanza Cruz, Christoper Soundang Liu, Rampersaud Sukhnanand, Hong Ja Sheen, Turan Mithat Itil, Marie Antoinette Alexandre.

Jean Mary Cham, Marie Rose Mirville, Ana Julia Chavez, Wilston George Malcolm, Isabel Maria Pereira Luis, Pete Anthony Morisseau, Kei Kau Chan, Preeti Bagchi, Diana Rose Fergus, Veronica Lynette Wooley, Jacques Jacob Lauture, Ofelia Tolentino Roxas, John Yiu-Kong Chan, Jong Chul Sheen.

Ernst Regis, Arnold Regis, Gatien Desir, Nilly Wizman, Rufina Antonia Gomez, Laure Margareth Alzuphar, Joseph Edanat Mathew, Clara Luz Zarzuela, Lourdes Aquino Mangonon, Berl Kind, Kyo Jung Koh, Francois Audalbert Cadet, Marie Francoise Cadet, Yekutiel Zeeshe Rub.

Jocelyne Regis, Chiao-Nung Chen, Li-Fan Rau Chen, Tosca Irene Cooney, Miriam Taub, Helene Tumanoff, Augustus Hansraj, Anjanie Hansraj, Annette Sohandrie Hansraj, Janet Beshandrie Hansraj Dukhram, Lynet Mohandrie Hansraj, Maria Altagracia Pichardo, Sushma Meera Singh, Govind Singh, Steven Yadoonauth Kistoo.

Virginia Cacho Almiron, Antonio Pasqua, Eliseo Ahmad Moreno, Leon Malebranche, Alicia Villena Flores, Mireille Lamarque, Altagracia Escribano, Geraldine Euphemia Grant, Jessie Moise Nicolas, Clifton Edwin Peruza, Manu Shivram Patel, Yolaine Apachie Toto, Eva Frank, Evelyne Laine.

Christiana Filosca, Annamma John, Mei-Tze Shaw, Sakti Prasad Bagchi, Chi Kuen Chan, Chi Ngai Chan, Iluminada Nieves Fernandez, Clarise Chisholm, Charmaine Eleanor Denise Downie, Jeremiah O'Dowd, Raynault Louis Milord, Marie Yvrose Charlot, Daniela Borovec, Bohumil Borovec.

Chin Ho Shaw, Benjamin Rimando Rillera, Trinidad Pulido Rillera, Armando Abanes Lagda, Jr., Andromeda Rillera Lagda, Indira Narasimhan, Marie Therese Bazile, Derrick Hugh Creighton, Bonifacio Bello Brillantes, Jr.

Laurette Mary McKercher, in behalf of Scott Francis McKercher; Gary Roger Lawrence, in behalf of Matthew Joseph Lawrence; Thomas Michael Demeola, in behalf of Andrew Peter Demeola; Stephen Leonard Horowitz, in behalf of Amy Dawn Horowitz; Andrew Eanniello, in behalf of Christina Elizabeth Eanniello.

Norman Steven Dauber, in behalf of Melissa Elizabeth Dauber; Audrey Gastel, in behalf of Scott Jason Gastel; Scott Gordon Reed, in behalf of Jessica Lindsay Reed; Scott Gordon Reed, in behalf of Scott Gordon Reed, Jr.; Roberta Gladys Jackson, in behalf of Carianna Edith Jackson.

Roberta Gladys Jackson, in behalf of Robert John Jackson; Eliel Mamousette, in behalf of Ruth Danielle Mamousette; Eliel Mamousette, in behalf of Eliel Mamousette, Jr.; David Kwilecki; Abraham Deutsch; Jean Beaurel Lynce; Chung Kowk Chow; Micheline Jeanne Vanderbly; Rosaria Sarah Sanzo.●

THAI OFFICIALS ANNOUNCE EFFORTS TO REPATRIATE CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. SOLARZ. Mr. Speaker, the humanitarian tragedy of the Cambodian refugees continues. At the same time, there is very little international response.

I ask my colleagues to take note of the following articles from the Philadelphia Inquirer which spells out the harsh choices awaiting the Cambodians in Thailand—repatriation to war and famine in Cambodia—or endless years of waiting in Thai holding centers.

THAI OFFICIALS ANNOUNCE PROGRAM TO REPATRIATE CAMBODIAN REFUGEES

(By Rod Nordland)

BANGKOK.—Thailand yesterday began an extensive program to return Cambodian refugees voluntarily to their homeland.

It is the first organized mass movement back to Cambodia since refugees began streaming into Thailand last fall. In the weeks to come, the program could affect as many as 25,000 of the 175,000 Cambodians who now live in two of eight refugee camps here, to which they fled from their war-torn homeland.

More than 800,000 refugees now pack the eight camps in Thailand, straining Thai resources and hospitality. For most of them, there is little hope of resettlement in the West, and Thai officials have become increasingly frustrated at the growing refugee population.

Now, the officials are fearful that impending famine in Cambodia will push more refugees across the border, causing those numbers to swell still more.

At the Khao I Dang camp, where 130,000 refugees now live, 506 Cambodians signed up for repatriation on the opening day of the program. Most were members of family groups—children, parents, grandparents—who elected to return to Cambodia together. The program moves to the Sa Kaeo Camp today.

The program, jointly conducted by the Thai military's Task Force 80 and the United Nations High Commissioner for Refugees (UNHCR), was officially kept secret until only three days before it began. There had been rumors for weeks that Thailand would try to repatriate many of the refugees, but as late as last week officials were denying that any such efforts were planned. Thus, the announcement caught many relief agencies by surprise.

Simultaneously, That authorities banned journalists from the Cambodian border regions where refugees who volunteer to return are to be taken, and also forbade journalists to talk to any refugees in the camps.

Returnees, a UNHCR spokesman said, are to be equipped with food supplies, farm implements and rice seed. A U.S. official, an interpreter who speaks the Khmer language and a Thai military official are to be present while refugees in the Thai camps are screened to see who wants to go back, the spokesman said.

The UNHCR spokesman said his organization was satisfied that the repatriation would indeed be voluntary and that any refugees returning to Cambodia would be doing so of their own free will.

But the program was denounced by the Vietnamese-backed government in Cambodia, which sees it as an effort to supply fresh supporters to the guerrilla factions that operate along the border, where the refugees will cross back into Cambodia. And some relief agency officials criticized it because, they say, it lacks safeguards to prevent refugees being forced back against their will.

They said most refugees being interviewed had little idea of their alternatives and, in many cases, were being pressured by guerrillas in the camps to agree to return.

Those guerrillas—members of both the Khmer Rouge (the Communists) and the rival Khmer Serei (the Free Khmer)—want to build up the strength of their own encampments along the border, from which they strike out to skirmish both with each other and with the Vietnamese troops that now rule Cambodia.

"Nobody had time to get ready for this," said one highly placed relief official with one of the agencies who will be supplying food and medical services to the refugees being repatriated.

"They just dropped this in everyone's laps, and the Khmers (Cambodians) don't even know what hit them."

Relief workers at the two principal refugee camps involved, Sa Kaeo and Khao I Dang, said that guerrilla cadres in each camp have been waging a campaign of misinformation among refugees to convince them that they have no choice but to agree to return to Cambodia.

In fact, one relief worker who tried to tell refugees in Sa Kaeo of their choices was arrested by Thai officials.

The workers say the only action taken by the United Nations to inform refugees of their rights has been to post copies of the document that refugees must sign if they return.

Although the document asks refugees whether they are returning of their own free will, it does not explicitly state that they can choose to stay where they are. A large proportion of the refugees—perhaps 60 percent in Sa Kaeo—cannot read their own language.

In Sa Kaeo, which houses about 30,000 refugees, the Khmer Rouge guerrilla in residence have threatened to execute anyone who refuses to return. Members of the Khmer Rouge support the ousted Pol Pot regime, which during its four years in power (1975-79) caused the deaths of thouands of Cambodians through widespread executions and starvation.

In Khao I Dang, most of the anti-Communist guerrillas working for the Khmer Serei Leader Son Sann have been actively recruiting returnees inside the camp, telling them that if they do not return voluntarily now, the Thai army will force than back at gunpoint.

In 1979, thousands perished when the Thai army repatriated 40,000 Cambodian refugees by forcing them at gunpoint into a minefield along the northern Cambodian border.

The UNHCR has pledged that it will fight any such forcible repatriation, but it favors the repatriation for willing refugees when it is safe for them to return.

The Cambodian border, however, continues to be a region marked by constant strife between various guerrilla factions and the Vietnamese troops occupying the country since Pol Pot was driven from power in January 1979.

Vietnam and Cambodia reacted strongly to the planned repatriations, particularly of the Khmer Rouge followers who fled their country because of famine and who have made no secret of their plans to head for their hidden catches of weapons and return to battle against the Vietnamese troops.

For the past year, the Vietnamese have scrupulously avoided attacking the guerrilla border camps in all but a few isolated instances.

But after the repatriation plan was announced Friday, SPK, the Cambodian news agency, darkly hinted that the country's forces would attack the repatriation points.

Refugees who agree to return, the Thai military's Supreme Command announced, will be taken to one of four points on the 500-mile-long border, the exact locations of which are being kept secret.

They will have a choice of points controlled by the Khmer Rouge or the Khmer Serai.

The Thai government's Task Force 80, which oversees border area security and the operation of the refugee camps, appears willing to adopt stern measures to prevent relief workers from informing refugees that they have the right to remain in the refugee camps under U.N. protection.

Last week, Peter Pond, an official of the Thai Refugee Committee, a voluntary charitable relief organization, passed out leaflets in Khmer inside the Sa Kaeo camp telling refugees they could demand the right to stay and that the U.N. and other agencies would protect them.

Khmer Rouge cadres quickly moved to confiscate the leaflets, beating up several refugees helping Pond distribute them, and Pond promptly was arrested by Task Force 80. He was charged with entering a restricted military area and was jailed. Pond, an American citizen and the son of the wife of a former U.S. ambassador to Thailand, was moved from a refugee camp jail, where he spent the weekend, to an undisclosed location in Bangkok on Monday.

He remained in custody Monday, and sources close to his relief agency said they expect him to be expelled from Thailand.

The sources said that Pond had military permission to enter Sa Kaeo camp, despite the charges against him.●

ANNIVERSARY OF THE ANNEXATION OF THE BALTIC STATES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. WOLFF. Mr. Speaker, this summer the people of Estonia, Latvia, and Lithuania will observe the 40th anniversary of the Soviet Union's forcible occupation and annexation of their nations. It was in 1940 that the Soviets made an ultimatum to the three governments that new pro-Soviet governments be formed. When these patriotic Baltic States refused to submit to the Soviet ultimatum the Soviet Union invaded all three nations.

The subsequent formation of Soviet puppet governments in Latvia, Lithuania, and Estonia soon led to the annexation of these formerly independent nations. In spite of Soviet measures aimed at the contrary, the people of these Baltic lands have maintained their strong sense of nationalism. Their desire for independence has not decreased at all over the past 40 years.

The United States has never recognized the Soviet acquisition of the Baltic States. Today we are witnessing a possible replay of history. The forcible occupation of Afghanistan will perhaps prove to be another similar event. Just as we condemn past Soviet aggression in Afghanistan, we must condemn it in the Baltic States. The fact that the aggression occurred 40 years ago has not lessened the opposition of the Estonians, Latvians, or Lithuanians nor has it lessened the U.S. opposition. What is currently happening in Afghanistan has only strengthened our resolve to continue our support for a free Estonia, Latvia, and Lithuania.●

ITALIAN-AMERICAN COOPERATION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. FASCELL. Mr. Speaker, whenever differences arise between our country and any of our NATO allies, we are quick to learn of them. We hear less when things are going well. Perhaps that is why our relations with Italy are not often in the headlines.

The United States and Italy have been close allies for so long, bound by special ties of culture, kinship, and political alliance, that we may take this happy state of affairs for granted. Yet like any success, it required continuing effort and strengthening.

The current administration has, in my view, worked very effectively to broaden and deepen our close relationship with this key ally. Our able Ambassador to Italy, Richard N. Gardner, has instituted a series of low-budget and very useful bilateral programs designed to work to our mutual benefit. I would like to share with our colleagues a recent article from the Italian daily newspaper Il Tempo describing these programs, called cumulatively our strategy of cooperation with Italy.

The article follows:

THE RICH DOSSIER OF COOPERATION

Some time ago, Richard Gardner, who had just been named Ambassador of the United States to our country, said—during a conference that aroused great interest—that relations between technologically advanced nations and the other nations must not be merely considered as a series of technical and economic questions but rather as elements of broad political negotiations; they can be seen as part of a survival pact that provides mutually agreed restrictions on the sovereignty of each in order to protect the sovereignty of all.

On the basis of this approach, Gardner, a diplomat and politician, but above all a man of culture, has tried, while pursuing his public activity, to start with Italy a cultural and "political" dialogue in its broadest sense. In other words, he has always tried to base the cooperative relationship between Italy and the United States first of all on a mutual understanding of the two cultures and their needs generated by a wide spectrum of problems.

The strategy of cooperation between the two countries stems from this "philosophy". The American Embassy in Rome recently issued a voluminous dossier on the progress made in recent years in this direction. Ten "key sectors" of bilateral cooperation are analyzed in this dossier. This precise and detailed report, which ranges over the sectors of energy and trade, agriculture and law and the legal system, social security and the exchange of students and "brains," underscores the scientific and technological aspects of cooperation. In the latter sector, many Italian minds have found fertile ground in U.S. research laboratories and in study and experimentation circles often with excellent results.

Particularly interesting are the aspects of cooperation in the energy field. Through joint projects for research and demonstration, it develops exchanges of personnel and technical cooperation, exchanges of information and agreements on joint private undertakings, and deals with a large range of sectors: from solar energy to energy conservation and geothermal energy and finally nuclear energy. And one should not forget that in October 1979 the two countries signed in this connection a memorandum of understanding.

But the joint progress made in the health and environment protection fields is no less important, for example, the fight against cancer and the cooperation programs already underway—at various levels—in the struggle against drugs and pollution. Nor must we forget the agreements on social security and initiatives in the cultural fields, such as the famous Fulbright Program which promotes the exchange of American and Italian students and scholars. (In 1979, this "movement" totaled 170 people, involving teachers, technicians and scholarship winners.)

As already mentioned, the "dossier" also deals with two very important sectors in the economy of bilateral relations: on trade (in which a 50 percent increase was recorded in 1978 and 1979) and investment (U.S. investment in our country amounts to over 3 billion dollars); it details what has already been done and underscores as well the enormous possibilities of development in this area.

In short, a rather complex panorama, behind which one sees—beyond figures and statistical data—the American will to intensify and broaden a cooperative relationship that is amply justified on the political plane. And this is an extremely important fact for Italy, which is at a stage of productive and social development, requiring a great effort towards the reconversion of industrial structures, innovations in the agricultural area, services and the organization of the bureaucracy. In fact, at a time when the country is undergoing a rapid process of modernization, the American experience can be very valuable and speed up the successful completion of our efforts.●

ENERGY ALLOWANCE CHECK RETURNED

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. CARR. Mr. Speaker, the news media have called our national attention to the fact that some of the energy allowance checks mailed out earlier this winter to assist poor families and individuals were not properly screened. Some recipients had no fuel bills to pay and were thus the happy beneficiaries of a bonus from Uncle Sam. The stories reflected poorly both on our Federal energy assistance program and on recipients, who were reported to be planning the purchase of frivolous items with the tax dollars aimed at alleviating suffering and hardship. Today I have the pleasure of setting the record straight.

Jean Lyons of Lansing, Mich., recently sent me a check for $177 which she had received as an energy allowance for her sister, who is on social security disability and SSI. Ms. Lyons explained that her sister lives in an adult foster care home, that she does not pay utility bills herself, and that she had no need for the check, which Ms. Lyons asked that I return to the proper Federal authority. I did so with a profound sense of gratitude for her civil responsibility.

I hope, and I expect, that other checks came back to Washington from every congressional district in our Nation. But I could not let the opportunity go by without sharing with you my own experience. Facing the huge volume of mail that comes into my office every day can be a dismaying task. Ms. Lyon's letter will keep me energized for months.●

IRS REVENUE PROCEDURES

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GOODLING. Mr. Speaker, Congress is again debating the issue of the IRS revenue procedures which were ostensibly designed to allow the IRS to revoke the tax-exempt status of private schools which practice racial discrimination. The problem, however, is that the IRS proposal is constructed in such a way as to trample on private schools' first amendment rights of religious freedom and on basic standards of fairness—by treating schools as guilty unless they prove themselves innocent and by arbitrarily requiring schools to take burdensome actions in order to clear themselves of suspicion.

As you know, Congress temporarily resolved the controversy by blocking the IRS from putting the proposed revenue procedures into effect during fiscal year 1980. But since these amendments lose their force at the end of the fiscal year, Congress must act again to keep the IRS at bay.

At this point I would like to share with my colleagues a statement by Mr. William Ball, an attorney from Harrisburg, Pa. Mr. Ball, who has been described as the "Clarence Darrow of religious freedom," brings out an important point:

> Two kinds of minorities are involved here, not one: racial minorities and religious minorities * * * IRS has proceeded upon the totally false assumption that regulation to combat racial discrimination necessarily nullifies * * * first amendment rights.

STATEMENT BY WILLIAM BALL

Unfortunately absent from the entire debate over this amendment has been any real consideration of public policy. First, we must point out, that any vaguely stated "public policy" is not superior to the commands of the Constitution of the United States. "Public policy" merely suggests a national consensus that a certain thing is desirable or undesirable, right or wrong. If we carry out "public policy" we must do so by enactments which are valid according to the Constitution.

A second major point to be noted about "public policy," in the specific context of the debate over this amendment, is that there is more than one "public policy" involved. The nation indeed embraces a salutary public policy against racial discrimination. But it also has embraced, from its very beginning, a public policy which fosters and favors and sponsors religious liberty. It is to be feared that, in the consideration of this amendment, this latter public policy has been totally ignored. Just as you cannot put down a person's freedom to be educated without regard to his race, so you cannot smother a person's religious liberty in the name of a "public policy" against racial discrimination.

From earliest times, there has been a manifest American public policy favoring religious liberty. The history of the colonies is in considerable part the history of a struggle for religious liberty. All of the Founding Fathers were profoundly conscientious of the great values of religious liberty. The writings of Thomas Jefferson, the great Memorial and Remonstrance of James Madison, the many statements of George Washington, of Franklin and others all stand as historic testimony to the orienting of the young nation toward freedom of conscience and liberty of religion. The religion clauses of the first amendment were put through many drafts, while the first constitutional convention earnestly debated the meaning of religious liberty. From that time forward, the fame of America has grown as the world's greatest practitioner of religious freedom. Many of the refugees who have come to these shores have done so on account of religious oppression somewhere else and the sure realization that they would find religious liberty here. The backgrounds of Puritans, Catholics, Amish, Jews and many other religious groups testify to this.

The lengthy jurisprudence of the Supreme Court of the United States has been devoted, in significant part, to the development of constitutional principles protective of religious liberty. Decisions of the court in recent years have made it totally clear that everyone is entitled to the free exercise of his religion and that the government, by virtue of the principle of Church-State separation, shall largely keep its hands out of churches and their schools. Decisions of the Court, such as *Lemon* v. *Kurtzman, Walz* v. *Tax Commission, Sherbert* v. *Verner* and *Wisconsin* v. *Yoder* should be carefully read before anyone ventures to assert that some generally stated "public policy" shall be used as an engine to override religious freedoms.●

RETIREMENT OF TILTON DAVIS, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. SKELTON. Mr. Speaker, Tilton Davis, Jr., a native Missourian, recently retired from 30 years of distinguished service to the cause of military education. On February 29, he was honored by his friends and colleagues at the Adjutant General Center for his dedicated contribution to building a stronger military force.

Mr. Davis was studying at the University of Chicago when World War II called him into service, and he served in the South Pacific as a meteorologist for the Army Air Force. He obtained the rank of captain before his discharge from the Army.

Returning from the war, Mr. Davis continued to work with the Army by coordinating the branch's efforts in the field of language study. His outstanding service while stationed in Chicago, as a civilian consultant, vaulted him to a similar position for the American Army in Europe. He served in that position for 4 years.

He returned to Washington, D.C. and continued his work for the Army at the Pentagon. While there, he continued to develop new ideas and approaches in the field of language.

Tilton Davis, Jr. grew up in Lexington, Mo., and received his early education at Wentworth Military Academy. His early interests in education stem mainly from his family's involvement in that field. His dedication to the pursuit of education for our armed services is something of which we can be proud.

John F. Kennedy once observed, that as Americans we would be judged by the following set of criteria:

> First, were we truly men of courage.
> Second, were we truly men of judgment.
> Third, were we truly men of integrity * * *
> Finally, were we men of dedication.

Tilton Davis, Jr.'s strong and convincing record clearly answers the challenges set forth by President Kennedy and deserves the praise of the House.

Mr. Davis is continuing to work as a consultant for the Serviceman's Opportunity College. He and his wife now reside in Alexandria, Va.●

WASHINGTON'S UNION STATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. FLORIO. Mr. Speaker, I was pleased to read in the Washington Post recently an article about Amtrak's plans to develop commercially some of its stations. Years ago, railroads played a prominent role not only in this country's transportation system but also in the growth patterns of our cities. Commercial and industrial businesses vied for the land surrounding rail passenger stations. With the decline of rail passenger service during the 1950's and 1960's however, businesses began to relocate to other parts of the city, abandoning the rail station areas. Today, just as rail passenger transportation has reemerged as a desirable way to travel, I believe that rail stations and their surrounding areas will begin to attract the business interest they once did.

Of particular interest to me is the Northeast rail corridor. The Federal Government has made a significant commitment to the revitalization of the corridor to allow for reliable, efficient and comfortable rail travel between cities in the Northeast corridor. As part of this improvement program, $129 million has been set aside for station improvements. Improvements, such as high-level platforms, ticketing, and interior modification for the comfort of rail passengers, are planned for 15 stations along the corridor.

An important part of assuring that this revitalization effort is successful is the final resolution of Washington's Union Station, the southern terminus of the Northeast corridor. As many of my colleagues know, Amtrak has been operating its rail passenger services out of a temporary terminal behind Union Station. The terminal is grossly inadequate for current ridership let alone the significant increase expected when the Northeast corridor improvement project is finished.

Legislation is currently pending before the House which would remedy the situation. H.R. 6674, a bill to amend the National Visitor Center Facilities Act of 1968, provides for the return of the rail passenger terminal to the concourse, the back half of Union Station. The legislation also authorizes $36.1 million for desperately needed repairs and improvements to the historical building and for the completion of the 1,400-space parking facility, ramp, and taxi loop.

Opening the entire concourse for a rail passenger terminal for which funds already exist and concessions will allow for greater and fuller use of Union Station. Furthermore, Amtrak has commissioned a study to examine the commercial development potential of the concourse. Amtrak believes that mixed retail development can be integrated with the other uses of Union Station in a complementary manner. Commercial development would provide jobs and generate tax revenues for the District of Columbia. In addition, private sector commitment in the building would help to defray the significant cost to the Federal Government of maintaining and operating Union Station.

It is my understanding that H.R. 6674 will be coming to the House floor for a vote the week of June 23. If the building is to remain open as the National Visitor Center and for future use as a rail passenger terminal, it is imperative that Congress act quickly and in an affirmative manner on this legislation.

I insert the following Washington Post article in the RECORD:

[From the Washington Post, May 25, 1980]

AMTRAK: NEXT STOP

(By Martha M. Hamilton)

Amtrak could be going into the real estate development business, turning some of the country's ornate but faded train stations—such as D.C.'s Union Station—into the newest Faneuil Hall or Ghiradelli Square.

Following the example of railroad barons who made fortunes off real estate holdings, Amtrak has begun looking for ways to exploit commercially the stations that came with the trains and the tracks.

"We've done passenger service-type concessions, but we haven't really moved to take advantage of the commercial possibilities and the romance of train stations" or the impact stations may have on urban development, said Lawrence A. Gilson, vice president for government affairs for Amtrak.

Many of the stations that Amtrak is looking at with an eye toward development are in the heavily traveled Northeast corridor. Besides Union Station, the railroad corporation also is interested in potential commercial development of the railroad station and surrounding property in Philadelphia, some development of the Newark station in the middle of an urban renewal area and more development within New York's Pennsylvania Station where a major restaurant already is set to open in July.

Amtrak also is interested in the potential of the Baltimore station, although development interest in that city is focused on the inner harbor area.

What prompted the interest in development was a need to diversify Amtrak's revenue base to reduce its deficit and the public-private corporation's sense that "our obligation extends beyond just providing rail service," Gilson said.

Amtrak has contracted with the Urban Land Institute to put together a panel of land-use planners and developers to devise plans for developing Union Station commercially, and has talked to city officials about prospects for developing the station. The city would be happy to see some development such as restaurants and boutiques at the train station, as long as development there didn't compete with the city's plans for a major retail development in the old downtown area near Metro Center, said John Fondersmith, of the city's planning office.

Union Station "is a different kind of thing," he said. "We talked to them about it and expect their panel would reinforce that," said Fondersmith. Commercial development at Union Station "could be exciting and create much more activity, but it won't be and nobody should think it would be on the same scale as downtown," he said.

Actual development of Union Station, however, depends on passage of legislation pending in the House of Representatives that would turn the building's concourse back into a train station augmented by commercial outlets.

When the National Visitors Center was built in the early 1970s, the train station was moved into a temporary rail terminal behind the concourse. The Visitors Center opened on July 4, 1976, but 4,000 parking spaces, a ramp and a roadway circulation system never were completed. In the years since it opened, the Visitors Center has gathered as many cobwebs as visitors. The Visitors Center would be confined to the front of the building with Amtrak taking over the concourse.

With a Metro stop there, "the whole lunch-time crowd from Capitol Hill and an improving neighborhood with no real commercial space in it," the train station's commercial possibilities are attractive, Gilson said.

"We're looking at a Faneuil Hall or Ghiradelli Square-type proposition that would take advantage of the architectural beauty of the station," he said. Faneuil Hall in Boston and Ghiradelli Square in San Francisco are modern commercial developments that preserved distinctive older parts of those cities.

With the revenue it made from leasing commercial space, Amtrak could help defray annual federal costs of $3.5 million for space in the station, Gilson said.

In New York, expanded commercial use of Pennsylvania Station is under way. A $2 million restaurant that will seat 650 diners will open there in July. The restaurant, Leo Lindy's, is being built by the owners of Luchow's, Toots Shor's and Mama Leone.

Additional development of railroad stations along the Northeast rail corridor, where Amtrak owns the stations, depends on legislation approved Friday by Congress allocating $750 million to complete improvements in the corridor. Some of the stations, such as the Trenton station, are scheduled for such improvements as major cleanup and better connections with intercity buses but not for commercial development.

Amtrak also is looking at possible commercial development of stations in other parts of the country where it leases space.

"We've been approached about stations in our Northeast corridor and all over both by public entities and private interests," Gilson said. "We're in serious discussions in about half a dozen large cities around the country, including Washington."●

OPERATION YOUTH

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GRADISON. Mr. Speaker, I would like to take this opportunity to recognize formally what I feel is a valuable program—Operation Youth—which recently took place in my district. Operation Youth is a week-long conference during which interested young men and women learn about our system of government.

This year's conference was held June 7-14 at Xavier University in Cincinnati, and 78 high school students from Ohio, Kentucky, and Indiana participated in the program. The agenda included speeches by leaders of the government, education, and the media on topics such as "Political Image in America," "Nuclear Energy—Facts and Figures," and "Free Enterprise in the 1980's." Forums were then set up so the students could discuss these topics and other current issues. In addition, the students formed political parties and elected officials to a mock municipal government. I am proud to recognize those who were elected to office as well as those who participated in all other aspects of this program.

They are as follows: Jean Bolen of London High School, mayor; Dan Eddingfield of Moeller High School, vice mayor; Paul Sunderhaus of Elder High School, city manager; Mark Toft of Moeller High School, clerk of council; and council members, Beth Brand, Cheryl Carrelli, Cliff Chang, Mark James, Elizabeth McClure, Joe Oka, and Rob Semmel.

Also participating in the conference were:

Teresa Behnen, Steven Berger, Cindy Boyd, Jay Brinker, Cathy Clements, Angie Cooper, Joseph Cronin, Robin Dahill, Larry DeMuth, Lisa Donisi, Lynn Dorsey, Valerie Edwards, Frank Ehlman, Pamela Ehrman, Karen Fahlbusch, Bill Fairburn, Matthew Fantin, Marie Fletcher, Pam Fulmer, Timothy Haverland.

Jeff Hawk, Julie Heckman, Michael Herring, Carrie Holtz, Carl Horst, Gary Humbert, Mary Ade Hurlburt, Joyce Jackson, Mark Jenkins, Scott Jordahl, Mary Krusling, John Landen, Felecia Kay Liston, Samuel Lockwood, Melissa Maier, Craig Malblanc, Judy Masset, Ken McRoy, Jon Mitchell, James Murphy.

Sondra Norviel, Constance Panos, Susan Poorman, Edward Pratt, Lauri Reder, Troy Richburg, John Riesenberg, Amy Ross, Kurt Ruffing, Karen Schilling, Colleen Seithel, Edward Slonkosky, Sheri Smith, Bettie Stuart, David Subar, Marilyn Thomas, Maureen Tobin, Marie Vigue, Paul Vogelgesang, Thomas Vorjohan, Theresa Watkeys, James Weber, Cindy Weis, Stachia Wicker, Diana Wood, Irvin Yarbrough, Thomas Zins.

I would especially like to honor Mr. William E. Smith, director of operation youth and professor of accounting and finance at Xavier University. His efforts, as well as those of his staff, Allen Burke, Rev. Lee J. Bennish, Jan Thompson, Thomas Gardner, Marilyn Mayer, Maureen Murphy, Sue Tepe, Kevin Bien, Ed Bracke, Clark Deer, Suzanne Murdock, and Glen Napolitano, enabled 78 young citizens to gain new insight into the workings of democracy.●

LIFE INSURANCE BUSINESS URGES PLATFORM COMMITTEES TO ATTACK INFLATION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. SOLARZ. Mr. Speaker, the current rate of inflation continues to have a devastating impact on the Nation's economy. It threatens our national security and erodes the United States political and economic leadership in the world.

Inflation is something which affects every citizen. Everyone feels the pinch—when we shop at the supermarket, purchase gasoline, buy new clothes, pay the doctor's bill or last month's electric bill, or borrow to finance a new car. In just over 10 years average prices paid by consumers have more than doubled. Clearly, affirmative and aggressive steps must be taken to deal with this critical national problem.

Recently the Nation's life insurance business, through its trade association, the American Council of Life Insurance, has urged the platform committees of our two major parties to focus on this issue. Testifying before the 1980 Democratic Platform Committee last Saturday, B. Larry Jenkins, chairman, president, and chief executive officer of Peoples Life Insurance Co., speaking on behalf of the industry, declared: "Reducing the present high rate of inflation must be the highest priority among the objectives of our national economic policy."

J. Edwin Matz, chairman and chief executive officer of John Hancock Mutual Life Insurance Co., presented a similar statement to the 1980 Republican Platform Committee earlier in the month.

"The platforms of our Nation's major political parties should not only squarely address these economic factors which have precipitated and fueled inflation, but should encourage a commitment by both Government and individual citizens to take steps toward the effective control of inflation," the life insurance business has stated.

Mr. Speaker, while I do not personally endorse all the positions taken by the council, I believe our colleagues will find the life insurance industry's statement on economic policy issues and inflation before the Democratic and Republican platform committees to be timely, informative, and thought provoking.

STATEMENT BY B. LARRY JENKINS, ON ECONOMIC POLICY ISSUES AND INFLATION ON BEHALF OF THE AMERICAN COUNCIL OF LIFE INSURANCE

We appreciate the opportunity to make this presentation on behalf of the American Council of Life Insurance, a national trade association with a membership of 504 life insurance companies which account for 95 percent of the legal reserve life insurance in force and 97 percent of the total assets of all U.S. life insurance companies. At the end of 1979, total assets of the life insurance business aggregated more than $430 billion, representing the funds that have been entrusted to our business by millions of individual policyholders and employee benefit plans.

THE NEED TO REDUCE INFLATION

Reducing the present high rate of inflation must be the highest priority among the objectives of our national economic policies. With prices advancing at an annual rate of 18 percent earlier this year, and still rising in the double digit range, inflation has become a prime consideration in almost every decision in economic life, to the detriment of this nation's economic progress and stability. Incentives to save are diminished by concern over the future real value of such saving. Incentives to borrow are heightened by the expectation that later repayment will be made in cheaper dollars. Incentives to spend in advance of present needs are sharpened by fears that high prices will move still higher. Speculation becomes the apparent better gamble in a climate of double digit inflation, often adding to upward price pressures.

In only three years the inflation rate in the United States has more than doubled, moving from under 5 percent in 1976 to over 13 percent in 1979. We have had 15 consecutive months of inflation rates over 10 percent. A major reason this has been allowed to happen is that anti-inflation policies of earlier years were applied with less than full vigor, partly in the fear that more stringent measures would produce rising unemployment. For far too long the effective control of inflation has not been addressed as a national priority. Our nation's leaders have avoided the tough political decisions which must be made if we are to deal with this pressing issue. Uncontrolled inflation poses a greater threat to employment than the policies of restraint, since the distortions and speculation fostered by inflation have too often in the past brought on a corrective downturn that means a widespread loss of jobs.

PERSONAL IMPACT ON INFLATION

Not only has this situation had a tremendous impact on the individual's pocketbook, but it has seriously shaken American confidence in public institutions. The research firm of Yankelovich, Skelly and White, for example, reports that in 1979 "Fully 76 percent of the public indicated in late spring (1979) that they expected inflation to get worse . . . and as many as 69 percent said that they expected the President's anti-inflation program to fail."

On a particularly human level, inflation does the greatest harm to those least able to match rising prices with rising incomes. Those on the lower end of the economic ladder—the unskilled, the disadvantaged, the younger workers—are among the first to suffer. Those living on static incomes, whose salaries are slow to adjust or whose pension payments are at a fixed level, likewise suffer from accelerating inflation.

One disheartening statistic after another can be cited; the bottom line remains that the Nation's economy is in grave condition and that, unless effective steps are taken to bring it under control, inflation will continue at a high rate, thus further draining America's economic lifeblood and threatening our basic national security. Yet, while the average citizen continues to complain about higher and higher prices every time he or she purchases groceries or clothes, buys gasoline or visits a doctor or deals with virtually any aspect of the economy, there appears to be a lack of personal commitment to curb spending habits, to expect fewer government services, to limit personal energy consumption, to carefully consider credit purchases. While we will endure a recession of sizeable proportions, there remains a lack of personal resolve to contribute to the control of inflation. Simply stated, Americans understand at first-hand what the problem of inflation is but they have failed to accept its reality and to deal with it.

GOVERNMENT ECONOMIC POLICY

Certainly any Federal budget proposed by the Executive Branch and debated by the Legislative Branch directly impacts on the manner in which inflation will be fought. Unfortunately, the Administration's projection of a much lower inflation rate by the end of 1980 is unlikely to occur, unless we can keep the budget under control and avoid enlarging the Federal deficit by more spending, major tax cuts, or a combination of both. Our demonstrated need for greater defense spending further suggests that we must forego additional outlays for nondefense programs in the Federal budget for the time being.

If there is one lesson that history has taught, it is that a policy of "guns and butter" can be a dangerous game. This basic truth was ignored in the early stages of the Vietnam war when we tried to sustain domestic spending programs while escalating military outlays, although the economy has no spare capacity to cushion the impact. Many analysts trace the origins of our present high inflation to that basic policy mistake. We urge the Congress and our political leaders not to repeat such a mistake in the present situation of higher defense mobilization. More specifically, we urge the Congress to carefully assess additional outlays for nondefense programs in the Federal budget. Despite the merits that might be cited for many of these programs, we believe that planned expansion of such spending must yield to the more critical goal of reducing inflation.

We further believe the Congress must stand firm against proposals for tax reductions, either for individuals or corporations, despite the strong political pressures to enact such tax cuts in an election year. We recognize that a genuine need exists to restructure our tax system in a way that will encourage greater capital investment to modernize plant and equipment and to reverse the declining trend of productivity. Over the long run, capital formation can be an important factor in aiding business productivity and thus lowering price levels. But we believe that these considerations must be deferred, in view of the pressing and immediate problem of our current inflation. As a practical matter, we feel that revision of business taxes cannot be considered by the Congress this year without parallel proposals to cut personal taxes. But these measures would serve to increase the budget deficit and heighten inflationary pressures.

APPLICATION OF WAGE-PRICE STANDARDS

In seeking solutions to our inflation dilemma, sympathy has been expressed in some quarters for the application of mandatory controls over wages and prices, to supersede the voluntary wage-price standards that have been in effect for well over a year. Adoption of mandatory controls would be truly an act of desperation, appropriate perhaps to all-out war mobilization but not to our present situation.

In our view, proposals for mandatory controls reflect an ill-founded hope for a short-run panacea to our inflation problem. But we do not believe that "quick fix" remedies in the form of mandatory wage and price controls provide a workable solution. We are opposed to mandatory controls for several reasons: (1) they distract public attention from the need to pursue fundamental policies of greater budget discipline and sustained monetary restraint; (2) they introduce distortions and inefficiencies in the functioning of our market economy; (3) they eventually create inequities among different groups and various sectors of the economy; and (4) they are powerless to deal with fundamental forces that bring about higher prices.

The present system of voluntary wage-price standards avoid most of the drawbacks of a mandatory system, although the question of fair and equitable treatment of different groups and sectors is always difficult. These voluntary standards have been a useful supplement to monetary and fiscal policies but their primary advantage is to provide time for fiscal and monetary restraint to take hold. Voluntary wage-price standards are not in themselves a solution to the inflation problem.

LIFE INSURANCE BUSINESS FOCUSES ON INFLATION CONTROL

Reflecting its deep concern with the inflation problem, the life insurance business two years ago inaugurated a wide-ranging study of the causes and possible solutions to the problem of inflation. This effort initially took the form of a comprehensive study of the inflation problem, enlisting representatives from various segments of American society—government officials, corporate executives, trade union leaders, and educators, as well as academic specialists in the economic aspects of inflation. Following a series of workshops on special topics, the study process culminated in a three-day conference held in February 1979 in Williamsburg, Virginia, involving more than 80 participants representing a broad cross section of groups within the economy and the varying points of view they brought to the discussion. The outcome of their deliberations was a consensus document, the Williamsburg Assembly Report.

The Williamsburg Report dealt in summary fashion with such issues as Federal budgetary policy, monetary policy, the role of government regulations and subsidy programs, the importance of improving productivity, and the use of incomes policies. In its concluding section, the Williamsburg Report emphasized an aspect of the inflation fight which is all too often neglected, namely, the need for communication throughout our society with regard to the causes and cures of inflation. In the period since the Williamsburg Assembly was convened, the life insurance business has taken up the challenge to communicate with the American public and to stimulate wider discussion of the inflation problem with a view to getting people to recognize the painful choices that must be made if inflation is to be reduced.

The life insurance anti-inflation program has taken a variety of forms. In its early stages beginning last summer, a series of public messages about the Williamsburg Assembly and its findings were communicated through two-page advertisements in national magazines and newspapers. The messages dealt primarily with the importance of budgetary discipline, monetary restraint, improved productivity, and more sensible cost-effective, government regulation as key factors in reducing the pace of inflation.

The communications program developed by the life insurance business for 1980 centers on a unique 8-page booklet inserted in the March Reader's Digest and circulated to 18 million families in America, with a wider campaign of distributing this same booklet to the public through life insurance agents, company channels, and various national groups. This booklet is entitled, "The Consumer's Inflation Handbook—A Plain-English Guide To What You Should Know About Inflation And What You Can Do About It." It concludes with a ballot which gives the individual an opportunity to indicate his or her personal commitment to the control of inflation by returning the ballot to the American Council of Life Insurance for tabulation. Similar citizens' ballots have been distributed throughout the country in a coordinated campaign of bringing public attention to the possibilities of reducing inflation, using the theme "Inflation—Let's Self-Control It."

In addition to the Reader's Digest insert effort, the Council has continued to place advertisements on inflation in its regular schedule of national magazines, reaching 30-40 million thought leaders with each message.

This campaign is being conducted in the belief that the power to control inflation lies within the hands of the American people if they can recognize that painful decisions and difficult choices must be made to exercise self-restraint in their own demands—demands upon government to provide social programs, upon the monetary authorities to provide credit, and upon government agencies to impose costly regulations on business activity. By election time, we expect that we will have received, tabulated, and communicated the message of at least one million signed ballots to every U.S. Senator and Representative.

The life insurance business has made a moral and financial commitment to address this most severe economic problem which threatens our basic national security. We will continue to communicate with the largest number of Americans possible on the continued serious implications of inflation in order to break the apathy of the average citizen and the psychology of inflation, to stimulate further personal and group initiatives to face the problem squarely and develop solutions, and to effectively deliver a message to legislators and administrators at all levels of government that not only our business but most Americans continue to be troubled over the economic and social ramifications of inflation. Our political, legislative, and administrative leaders must no longer pay lip service to balancing the budget and carefully scrutinizing spending and regulation; they must now deliver on their promises. Pointing to the causes of inflation is not difficult.

SUMMARY

Regardless of the general public perception that there is some light at the end of the tunnel and that inflation may be not as bad as had been anticipated, the simple fact remains that inflation will *not* be effectively controlled or even moderated in the short term. The majority of those concerned with this issue believe that we are in for several years of economic trouble. As a news magazine article so aptly noted, "Inflation has built up such fearful momentum that it can be brought down only slowly and with much paid." It will take several years of discipline to achieve price stability and some experts predict that it will take more than six months for any real deflationary impact to occur, assuming a 12 percent inflation rate by 1981 is actually achieved.

Historically, in times of crisis such as we are now in, the American people have been able to work through a problem by recognizing that self-control and self-restraint can make the difference in achieving common goals. The present ongoing rate of inflation has approached the crisis stage in its effect on the lives of many, endangering the economic lifeblood of the nation and the well-being of millions of American families. We believe that the public will support the adoption of policies needed to reduce the rate of inflation to a level that will promote balanced growth and sustained prosperity in the decade ahead.

The resources of America's life insurance business have been marshalled to help our fellow citizens understand the various causes of inflation and those steps which can be taken, individually and collectively, to help bring the problem under the control. Through our more than 800,000 member-company employees and agents, and numerous national service organizations working with us, we will continue to help drive home to every citizen the need to take meaningful initiatives to address the inflation problem head-on and to make a personal decision to deal with it effectively. All of this is through voluntary efforts. That is how we like to get things done in this country. And that's how we overselves can help to put a brake on inflation—before it breaks us.

We believe that the platforms of our nation's major political parties should not only squarely address these economic factors which have precipitated and fueled inflation, but should also encourage a commitment by the Executive Branch, the Congress, and individual citizens to take steps toward the effective control of inflation. We stand ready to cooperate fully in this important undertaking and hope the concerns outlined in this session, will be given close and careful consideration by members of the Platform Committee and candidates supported by your party.

Thank you.●

NO TIME FOR COMPUTER ERRORS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. BEREUTER. Mr. Speaker, on June 3 and June 6 an equipment failure in our national defense warning system caused a false alert of a Soviet nuclear attack. These were not the first instances of a breakdown in our warning system. As a recent editorial in the Lincoln (Nebr.) Journal points out, these computer errors cannot be shrugged off easily. Certainly we cannot leave our defense to chance when countless human lives are at stake. I would like to share with my colleagues the editorial to which I referred.

[From the Lincoln Journal, June 10, 1980]

COMPUTER ERROR . . . BOOM!

President Carter owes the country a report on the frightening peril of the Defense Department equipment which twice in three days and three times in seven months gave false signals that the United States was under attack by Soviet missiles.

Are such errors likely to recur? If so, what safeguards have been taken to prevent their leading to tragedy? Or have the malfunctions, beyond all doubt, been corrected? Can they be corrected? The people need answers to these questions and, if possible, reassurance.

Modern man, surrounded by technology of wildly varying degrees of efficiency and accuracy, tends to shrug off "computer errors." But that is not an acceptable response where world peace—indeed, world survival—is at stake.

The Journal never expected to find itself agreeing with any organ of Kremlin propaganda, but Tass, the official Soviet news agency, spoke the truth when it said the Pentagon's computer malfunction meant that "during several minutes the world was on the brink of nuclear war."

Luckily, in the two computer malfunctions last week, the error was discovered quickly. But not before engines of Strategic Air Command bombers at Omaha and elsewhere had been started. What if the false alarm had gone on a few minutes longer? Presumably U.S. missiles would have been on their way toward Moscow in retaliation for the supposed attack. Would the men in the Kremlin have been satisfied with an "Oops, sorry—our mistake," assuming we could have contacted them in time?

Or consider another scenario. What if this week or next the Soviets' computers malfunction? Will the Russian generals take time to check that possibility, or will they conclude that by mistake we have in fact launched an attack? Or that we have done it by design, of which last week's purported errors were actually a cunning part?

Again: What if the Russians should within the near future, commence a genuine attack? Will our president hesitate, hoping and believing it's another false alarm?

Obviously, allowing the peace and future of the world to ride on equipment susceptible to glitches and gremlins is intolerable. The American people have a right to ask, What about it, Mr. President?●

RIGHT TO SELF-GOVERN

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GINN. Mr. Speaker, one of the most important issues facing this Congress is the work to eliminate the burden of unnecessary Federal regulations. Our distinguished colleague, the Honorable ELLIOTT LEVITAS, is a leader in this effort, and he recently authored an article on the subject in the Atlanta Business Chronicle. I commend this article to the attention of my colleagues and ask that it appear in the RECORD at this point.

BUREAUCRACY STIFLING AMERICA'S RIGHT TO SELF-GOVERN

Too many of this nation's laws and regulations are issued by bureaucrats who are not accountable to American voters. U.S. Congress may enact 500 laws during a two-year tenure, but during the same time, bureaucracies will issue 10,000 rules and regulations which have the same effect as acts passed by Congress.

So says Georgia's 4th District Congressman Elliott H. Levitas. He addressed the issue in a speech to the American Society of Civil Engineers in Atlanta.

Since his speech, Levitas has claimed a victory by having the Federal Trade Commission reauthorization bill pass Congress and be signed by President Carter. This bill contains a legislative veto provision which will apply to all rules and regulations promulgated by the FTC.

In addition, a bill introduced by Levitas, which would apply legislative veto power to all rules and regulations by all agencies, now has 230 co-sponsors.

The following remarks were adapted from Levitas' Atlanta speech:

The relationship between popular government and government by regulation has become of overriding concern to more and more people during recent years, not because of the parochial or specific interest that any group might have, but because of the pervasive impact this development has had in recent American history.

We have become a government, not of laws passed by elected officials and representatives, but a government of regulation. These regulations are established by people who are not elected and who do not suffer the inconvenience of going before the voters every two years to have their records examined. They have no constituency to whom they are responsible.

When the U.S. Constitution was written, it was inherent in this document that we were going to become a government in which the people of this country made the final decisions about those laws under which they would be governed, those laws which would affect the quality of their lives, their businesses and their professions.

Inherent in this whole concept was the idea the people of this country, through their elected representatives, who are accountable to them, would make the final decisions. This was fundamental. This was Article I of the Constitution.

Now, as a result of technological changes and great growth and complexity of our social and economic systems, we have begun to move away from this fundamental concept. This was necessary in the beginning, when it became clear the elected Congress could not by itself deal with every aspect of our society, of our economy, of our technology. We needed expertise both in the executive branch and in the independent agencies.

But, during the last 50 years, this process has grown into a Frankenstein's monster. We have gotten to the point where government by bureaucracy has overwhelmed government by people and their elected officials.

Recently our experience has been that a Congress of the United States will enact 500 laws during its two-year tenure. During that same period of time, the bureaucracies will issue 10,000 rules and regulations which have the same force and effect of law as an act passed by the Congress.

These rules frequently are issued by people who are not as familiar with the problems, the public concerns and the possible solutions, as the people in the private sector who have to confront these problems on a daily basis or the elected officials who must listen to their constituents.

The result has been the growth of a lack of accountability on the part of the rule makers and a growing lack of belief in the process by the public.

Congress must bear the initial blame for this responsibility. It is easy for people who are elected to Congress to pass laws which say, "Clean up the air, clean up the water, end discrimination, provide safe and healthy work environments"—and then leave it to the secretary or the administrator to issue the difficult and detailed regulations that are needed to implement these laws.

This creates problems not only for people in their professional and private lives, but it also creates problems for those dedicated professional civil servants who have to deal with and implement these rules and regulations. This is because the regulations are written and issued in Washington and they have to be implemented and carried out all across America.

Often, messages that come from Washington and the bureaucracies—and the Congress as well—are conflicting. As a result, a great deal of cynicism, a great deal of frustration has grown in this country. People who feel they should have a voice in the laws that govern them and people who feel it is their country and their government, often have felt shut out of the whole process.

Consequently, in the last few years a movement for regulatory reform has grown: for less government, for less regulation, for more responsive government and for more responsive regulation. This is perhaps one of the most pervasive movements occurring in the United States today.

It is my feeling that Congress cannot avoid its responsibilities in this area. We are the accountable public officials who have to face the music every two years, and we cannot pass the buck to others who don't have to face those voters. That is what the American system is all about.

What is this regulatory reform movement? The regulatory reform movement covers a variety of areas. It includes requiring the government to find out how much a regulation is going to cost the public before putting that regulation into effect. It includes cutting down on unnecessary and burdensome regulations. It means eliminating and shortening the red tape procedures.

We have taken some steps in this direction, but there is more to be done. The problem still is that rules issued by unelected bureaucrats have the force and effect of law. And that is directly contrary to the entire thrust of our system of government. The problem is a simple one: Who makes the laws in this country? Is it the unelected bureaucrats or is it the elected Congress?

In order to return the lawmaking power to the elected Congress, I have proposed a legislative veto mechanism. This would require that rules and regulations proposed by the unelected bureaucracies would have to be submitted to the elected Congress before they go into effect. If, after a certain period of time, the Congress had not acted to veto them, they would go into effect.

The idea of a legislative veto is not revolutionary; there have been more than 200 legislative veto provisions enacted into law since 1932. The Congress exercised its legislative veto power just recently by rejecting regulations the Federal Energy Regulatory Commission had proposed on the pricing of natural gas. Congressional veto power simply means that anytime a rule having the effect of law is issued, we have a shot at deciding whether it ought to be the law or not. I think that is pretty simple.

But, the real importance is not that Congress is going to spend days and hours, weeks and months, just voting on regulations. The real benefit will be that it will sensitize the people in Washington who are writing those rules and regulations. It will let them know there is something that can be done about those rules, that citizens have some recourse.

Today, that is almost impossible. Yes, we can have oversight hearings and instruct the agency to go back and try again, but there is no real power to enforce those instructions. And, yes, a citizen can spend hundreds of thousands of dollars to challenge a regulation in court. But that does not get at the heart of the problem, which is the regulation process itself.

The question of who makes the laws in this country is not a question which addresses itself simply to the parochial interest of any group; it's a question that goes to the heart and soul of our entire system of government. If we can not reclaim for the American people their right to govern themselves, all the other good and great aspects of our democratic system will go by the boards, and we will be well on our way to a tyranny by the bureaucracy.

The responsibility for the legislative process under our system must remain with elected officials. It may not be the most efficient system. I would be the first to tell you that most members of Congress, indeed all members of Congress, don't possess the expertise to deal with water pollution one day, atomic energy the next day, the space program the next day, our budgetary constraints and inflation the day after that. Ours may not be the most efficient system, but it is the freest system, and it is the system which provides each of us the greatest control over our destiny.

Congress may not always exercise the power of legislative veto wisely, but that judgment will be made by the voters—which is precisely the way it should be. And that is why legislative veto is so important.●

H.R. 7020, THE HAZARDOUS WASTE CONTAINMENT ACT

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. ULLMAN. Mr. Speaker, on June 18, 1980, the Committee on Ways and Means ordered favorably reported to the House H.R. 7020, the Hazardous Waste Containment Act, with certain changes relating to matters within the jurisdiction of the Committee on Ways and Means. This legislation has been favorably reported to the House by the Committee on Interstate and Foreign Commerce, and was sequentially referred to the Committee on Ways and Means until June 20, 1980. In general, the changes made by the Committee on Ways and Means would replace the funds and fees contained in H.R. 7020 as reported by the Committee on Interstate and Foreign Commerce with a new hazardous waste response trust fund and new excise taxes on petroleum and specified chemicals to be deposited into this fund. These excise taxes and trust fund are similar to other excise taxes and trust funds over which the Committee on Ways and Means has legislative jurisdiction.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of this matter on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule on the amendments reported by the Committee on Ways and Means which would only provide for:

(1) Ways and Means Committee amendments, which would not be subject to amendment;

(2) Two hours of general debate, to be equally divided;

(3) Waiving all necessary points of order; and

(4) One motion to recommit, with or without instructions.

In addition, the Committee on Ways and Means is requesting that the Committee on Rules not permit any amendments to other sections or titles of the bill as they relate to fees, fund, and permissible spending purposes and payments from the trust fund which would be inconsistent with the amendments reported by the Committee on Ways and Means.

We intend to officially report and file H.R. 7020 with the House on June 20, 1980. It is our intention to request to be heard before the Committee on Rules concurrently with the other committee involved in this legislation.●

A NUTRITIONAL CHALLENGE FOR THE EIGHTIES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. STOKES. Mr. Speaker, thank you for this opportunity to apprise my colleagues in the U.S. House of Representatives of a nutrition conference held on the campus of Meharry Medical College in Nashville on May 7, 8, and 9, 1980. The conference entitled, "A Nutritional Challenge for the Eighties," was sponsored by the Congressional Black Caucus, the Meharry Medical College, and ITT Continental Baking Co.

At this unique forum on nutrition, numerous educators, nutritionists, legislators, Government agency representatives, scientists, and members of private industry met to explore the impact that processed food has on the American diet, survey the broad spectrum of nutrition and establish priorities for nutritional planning in this new decade.

The first step in this process was the establishment of a clear idea about the nutritional requirements needed to maintain a well-balanced diet. The conferees concluded that it is the responsibility of the Federal Government, the business community, and the consumer to promote good nutritional habits through accurate information. If our Nation's health is to improve, then we must all be concerned about the quality, safety, and cost of foodstuffs.

Sessions during the conference also focused on the nutritional habits of the various age groups. The conferees noted the many studies on child nutrition and the impact of educational achievements as a result of inadequate diets. Articles have also been printed on the social and economic problems of diet deficiencies of our teenagers, particularly pregnant adolescents. More recently, through congressional hearings, we find evidence of malnutrition of our elderly, because of the lack of financial resources. Noting these circumstances, the conferees reiterated the need for nutrition education to improve the health problems of this Nation.

In order to tackle this problem, the conferees recommended a collaborative effort on the part of educational institutions, medical facilities, business corporations, clinical and scientific researchers, and Federal and local community leaders. The task that lies before these persons will be to translate hard data about nutrition to understandable terms for the layperson. It may mean telling the hypertensive patient on a sodium-reduced diet what foods he should or should not eat. It may mean providing accessible hot meal programs to the elderly. Or, it may mean understanding the food labels for adequate nutritional requirements.

Mr. Speaker, more than 100 panelists and participants gathered in Nashville for what you can see was a very successful conference.

Keynote speakers for the 3-day conference were Dr. Mark Novitch, Acting Deputy Commissioner, Food and Drug Administration and Dr. Channing H. Lushbough, vice president for quality assurance at Kraft, Inc.

Noted panelists who addressed nutritional concerns were as follows: Dr. John Bieri, National Institute of Arthritis, Metabolism, and Digestive Diseases; Dr. James C. Smith, Jr., Nutrition Institute, USDA; Dr. Ruth Schwartz, professor, Cornell University; Dr. Rida Ali, senior manager, Nutrition and Health Sciences, General Foods Corp.; Dr. Theresa Volpe, group leader, New Products and Applied Nutrition, ITT Continental Baking Co.; Dr. Johnnie Prothro, professor, Georgia State University; Dr. Robert E. Landers, director, Nutrition and Toxicology, Best Foods; Dr. Clinton Chichester, vice president, Nutrition Foundation; Dr. David Kritchevsky, associate director, Wistar Institute; Dr. George Miller, professor, Morehouse Medical School; Dr. Nathaniel Revis, senior scientist, Oak Ridge National Laboratory; Dr. Paul C. Alexander, Department of Internal Medicine, Hubbard Hospital; and Dr. Edward High, chairman, Department of Biochemistry and Nutrition, Meharry Medical College.

Mr. Richard Lewis, president, Citizens Saving Bank & Trust Co., Nashville and Mr. Francis Guess, commissioner, General Services Department of the State of Tennessee, hosted a reception in honor of the Congressional Black Caucus on Thursday, May 8, 1980.

Warren G. Jackson, president of Circulation Experti, Ltd., Hartsdale, N.Y., was the forum coordinator and helped bring together this coalition of Government, the private sector, and education. Millicent Gorham from my staff and Mr. William Toles, vice president of public affairs of ITT Continental Baking Co. assisted Mr. Jackson.

A special thanks is extended from the Congressional Black Caucus to Dr. Lloyd Elam, president of Meharry Medical College and to Mr. Robert B. Keane, vice president of ITT Continental Baking Co. for joining the Congressional Black Caucus in addressing a major American priority, the nutrition of its citizens.

It is evident, Mr. Speaker, that the conferees issued an appeal to all parties concerned that nutrition education would be a favorable step toward the better health status of this Nation. The text of the panelists will be made available to the public. I am sure that the papers will be of value toward developing a national policy on nutrition.•

NEW CENTRAL STATION POWERPLANTS: WILL WE NEED THEM?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

• Mr. BROWN of California. Mr. Speaker, much of the national energy debate has confused an oil supply problem with an electrical energy problem. In fact, during the past decade projections of electrical energy demand have fallen like a rock, which has vast complications upon U.S. capital projections and certainly affects other policy questions, such as the need for breeder reactors.

Electric utility forecasters, as might be expected, have been the slowest to recognize this downward trend in electric energy demand, but as the cancellations in orders for nuclear and coal-fired powerplants have demonstrated, this new reality is slowly being accepted even in utility board rooms. Today, the most cost-effective means of supplying energy is through cogeneration and other energy-efficiency measures. As the largest consumer of capital in the United States, utilities have a special need to look for the lowest capital cost alternative, thus freeing up scarce capital for other sectors of the economy.

Because of the important implications of reduced electrical energy demand upon a vast array of public policy decisions facing the Congress, I commend the following article to my colleagues:

[From Science magazine, June 20, 1980]

Energy Forecasts: Sinking to New Lows

Although some astute energy watchers predicted early in the 1970's that demand would soon level off, the big institutional forecasters have only begun to consider this a real possibility in the last couple of years. Large outfits move slowly. And their forecasts are slow to change—partly because they often represent a record of investment, not just an analysis of trends. But even the most cautious energy forecasters are making revisions today, for a new reality has forced itself upon them.

Since 1978, actual sales of petroleum in the United States have declined, and electricity demand has grown at unprecedentedly slow rates. While demand for electricity used to increase by 7 percent annually, it is now going up less than 3 percent a year. In 1979, total energy use in the nation declined. Yet economic growth, measured by the gross national product (GNP), has continued to rise.

The most striking indication of change lies in the shifting relation between energy and BNP. Before the oil embargo of 1973–1974, energy use increased each year faster than economic growth. Since then the trend has reversed, with energy demand growing less rapidly than the economy. It now takes 10 percent less energy to produce a dollar's worth of GNP than it did in 1973. The fact that energy demand is growing more slowly than the economy could wreck the plans of some energy suppliers.

One hears exasperation, for example, in the voice of Michehl R. Gent, executive vice president of the National Electric Reliability Council (NERC). NERC is a cooperative formed by electric utilities after the New York City blackout in 1964; its purpose is to see that power-generating capacity keeps pace with demand. Gent said, "We've gone through the age of laying a straight edge on a piece of graph paper, and we've just gone through all the econometric models [for energy forecasting] and shown they're no good. And so we're back to crystal ball gazing. The effect is so enormous, on our industry anyway, because of the capital requirements. To be wrong is just catastrophic." Is it possible that all the forecasts are wrong? "Absolutely," Gent said. Does that mean the future could be catastrophic for some? "It could be; the worst thing would be if demand is greater than we've predicted."

Like others, NERC has lowered its expectations, and Gent said that some utilities will be canceling orders for coal and nuclear generating plants. But Gent remains firm in his conviction that there cannot be any real growth in the economy without increased demand for energy—and particularly electricity. NERC's decision to lower its forecast, incidentally, has shaken others in the field, even though NERC still is among the high-growth forecasters. The chief forecaster for one very large company that makes electrical appliances said that NERC's forecast for electricity demand upset him this year because, for the first time ever, it was lower than his own. He likes to think that his work is conservative, for it is used in making business decisions. NERC's forecast has served him in the past as a marker of the too-optimistic point of view. Next year, he expects he will scramble down to a lower point on the range in order to stay below NERC. Thus the entire pack of prophets moves downhill.

A graphic illustration of this behavior has been put together by Amory Lovins, British representative for Friends of the Earth and bête noire of the utility industry. He is one of many who argue that enormous efficiency improvements can and will be made in technology in the next two decades, and that these will reduce energy demand far below the present level of 78 quadrillion British thermal units (quads) per year.

ENERGY FORECASTS

Year of forecast	Beyond the pale	Heresy	Conventional wisdom	Superstition
1972	125 (Lovins)	140 (Sierra)	160 (AEC)	190 (FPC)
1974	100 (Ford zeg)	124 (Ford tf)	140 (ERDA)	160 EEI
1976	75 (Lovins)	89–95 (Von Hippel)	124 (ERDA)	140 (EEI)
1977–78	33 (Steinhart)	67–77 (NAS I, II)	96–101 (NAS III, AW)	124 (Lapp)

Abbreviations: Sierra, Sierra Club; AEC, Atomic Energy Commission; FPC, Federal Power Commission; Ford zeg, Ford Foundation zero energy growth scenario; Ford tf, Ford Foundation technical fix scenario; Von Hippel, Frank Von Hippel and Robert Williams of the Princeton Center for Environmental Studies; ERDA, the Energy Research and Development Administration; EEI, Edison Electric Institute; Steinhart, 2050 forecast by John Steinhart of the University of Wisconsin; NAS I, II, III, the spread of the National Academy of Sciences Committee on Nuclear and Alternative Energy Systems (CONAES); AW, Alvin Weinberg study done at the Institute for Energy Analysis, Oak Ridge; Lapp, energy consultant Ralph Lapp.

Lovins points out that, no matter what the bias of the forecaster, all energy predictions for the year 2000 have been dropping at about the same speed since the oil embargo. He divides the prophecies into four groups: beyond the pale (made by low-growth advocates like himself), heresy (put out by moderate conservationists), conventional wisdom (this includes government scenarios), and superstition (the work of high-growth advocates). Lovins notes that what was beyond the pale in 1972—an expected 125 quads of demand at the end of the century—became mere heresy in 1974, conventional wisdom in 1976, and superstition in 1978. Publication of the table, he says, has speeded up the process, for at least one branch of the Department of Energy (DOE) is about to publish a low-growth plan this year that goes almost beyond the pale, estimating we may need only 57 quads in year 2000. This report is being prepared for DOE Under Secretary John Sawhill, and its summary chapter is due to be completed this month.

The Lovins table amuses Lincoln Moses, head of the DOE's Energy Information Administration, and, in Lovin's sense, the spokesman of conventional wisdom. More than anything else, says Moses, the table illustrates the hazard of extrapolating from the historical record. It suggests that all one need do is wait 8 or 10 years and "our forecasted energy needs will have gotten down to the point where we have nothing to worry about." That, he thinks, is a "ridiculous result." He agrees, however, that he has seen signs that a "sea change may be taking place in energy using habits." His own agency's forecast (part of its 1979 annual report) will not be out until August. Meanwhile, it undergoes continuous revision.

Those who believe a sea change has occurred received a vote of confidence this year from several conservative institutional forecasters. Exxon's World Energy Outlook, published last December before the latest OPEC oil price increases, predicted that energy demand would grow in the United States by less than 1 percent a year through 1990, and by 1.6 percent after 1990. Before the oil embargo, the rate of demand growth was about 4.3 percent a year. Petroleum demand in America has passed its peak forever, Exxon concluded. The report also estimated that the recent pattern of efficiency improvement will continue, so that the already achieved 10 percent decline in energy needed per dollar of GNP will fall to 22 percent by 1990 and 30 percent by the end of the century. This represents radical change.

The National Petroleum Council (NPC), which looks into the future for the major oil companies, also predicts that petroleum demand in the United States will never again be as high as it was in 1978. The NPC made two surveys of 32 petroleum forecasters, one in the spring of 1979, and one in early 1980. According to coordinator Joan Cassedy, the NPC found a considerable drop in demand forecasts between the two dates, and "the feeling is that a third survey would have come out even lower."

John Lichtblau's Petroleum Industry Research Foundation, a private consulting group, predicts in a May publication that U.S. oil demand will drop 5 percent in the 1980's, and that gasoline demand will drop by 20 percent. Energy demand may grow by 1.4 percent a year. Unlike Exxon, it predicts that gains in conservation will be accomplished more slowly in the 1980's than in the last 6 years, but it noted: "U.S. primary energy consumption has changed radically since 1973." The fastest growing major energy sector, according to this report, will be nuclear power. This conclusion is reached simply by assuming that only those nuclear plants "in an advanced stage of construction by the end of 1979 will be in operation by 1985," and only those 20 percent completed by the end of 1979 would be in operation by 1990. Coal supplies will outstrip demand, and so on. The study assumes an annual GNP growth rate of 2.3 percent in the 1980's; a lower actual rate would, of course, imply less energy demand.

In reports like these, it seems to be taken as obvious that petroleum demand is on the decline. What is not agreed, but is hotly disputed, is what will happen to electricity. The utilities are in a difficult spot because they have made long-term financial commitments to build new plants, commitments which they justified at the time by reference to their own rising demand forecasts. But the forecasts were wrong. Demand has slowed, costs have increased, and many utilities have been forced to increase the rates charged to consumers—putting an additional damper on demand. Some nonindustry analysts think that the utilities may be caught in a quicksand of stagnant demand and rising costs from which they will not easily escape.

The utilities respond by saying the economy must grow at a rate of more than 2 percent a year to maintain such things as "reasonable social balance." And demand for electricity will grow slightly faster than the economy because "electricity will prove increasingly attractive relative to other forms of energy." For one thing, prices are likely to climb more slowly than those for oil or natural gas. These are the views of the Edison Electric Institute (EEI), an association of investor-owned utilities. EEI releases a report this month (Economic Growth in the Future II) predicting that if the GNP grows at roughly 3 percent a year—EEI's "preferred rate"—total energy demand will grow by 1.9 percent a year, and installed electric capacity will grow by 3.8 percent a year.

An earlier forecast of sorts by EEI President William McCollam used stronger language. He told the New York Society of Security Analysts early this year that the industry was being constrained by the antinuclear lobby, and that electricity shortages might appear in the 1980's as a result. These might drive companies to find substitutes for electric power that could "downgrade productive efficiency, move the U.S. toward economic decline, weaken its ability to compete on the international scene, and, with rising unemployment and declining living standards, set the stage for the eclipse of American civilization as we know it. . . . This is an objective of a well-financed, well-organized political movement which has as its goal the restructuring of the society, and which has chosen the destruction of nuclear power as its focal point."

Both the forecast and the fiery words seem laughable to Roger Sant, the former chief of conservation policy for the Ford Administration and current director of the Mellon Institute's Energy Productivity Center. The EEI, Sant thinks, is one of the worst offenders in forecasting in that it clings to an old paradigm that is based on low-cost energy.

"They're living in a dream world," he says. The utilities, according to Sant, "continue to make us feel like the world won't work without them, but maybe it won't work with them." If the utilities are to survive, he thinks, they must become peddlers of energy services, not raw electricity. In his vision of the future, the utilities will compete with other companies to provide customers with the most efficient lighting, heating, cooking, and refrigeration services. If the utilities fail to take advantage of new markets for energy-saving technologies, others will. Thus Sant thinks it is "totally feasible" for the economy to shift into a long-term pattern of declining energy use.

Sant's own study (*The Least-Cost Energy Strategy*) led him to conclude that the United States could have improved energy efficiency by 32 percent in the years since 1973, rather than the actual 10 percent, if the government had encouraged an all-out investment in new energy-saving technology. Sant bases his argument in part on the work done by the National Academy of Sciences' Committee on Nuclear and Alternative Energy Systems (CONAES), which "illustrated how incredibly flexible the system is." The CONAES study found that with continued high energy prices and low growth in GNP (less than 3 percent annually), the United States could, if it wished, decrease energy consumption from the present 78 quads to 58 quads by 2010 (see *Science*, 25 January 1980).

Richard Holt, a policy analyst in DOE's solar energy office, is another forecast watcher who thinks most of the studies done before CONAES were inadequate because they simply extrapolated from historical trends. Like Sant, he thinks it makes more sense to look at the "end-uses" of energy and ask whether those patterns of use will continue as prices rise. After reading many papers of this sort, Holt concludes that industry forecasters are off target. For example, he is certain that the electric utilities are wrong in predicting that more consumers will choose electric heat.

Holt has just finished reviewing 10 major studies of the potential for a low energy economy (including CONAES). He found that all agree the United States could lower its demand for primary energy in the next 20 years while population and GNP increase. They agree as well that pursuing efficiency would be cheaper for the nation and individual energy buyers than expanding "conventional" supply systems. They disagree on the potential contribution of solar and renewable forms of energy, and on the relative importance of electricity, particularly as it applies to transportation. If these forecasts have any salient flaw, Holt says, it is that they may have underestimated the rate at which energy prices will increase. Oil prices, for example, have nearly jumped above the highest rate of increase projected in these studies. This suggests that conservation may occur more rapidly, too.

It is plain that what was once considered a utopian vision—the possibility of improving the economy with "zero energy growth"—is becoming accepted among forecasters as a plausible way out of the current energy bind. That does not mean that the new trend in energy prophecy, the scramble for low demand estimates, will produce more accurate information than the old trend. But the abrupt reversal does suggest that a radical change is working its way through the economy.●

ESSENTIAL READING FOR FOREIGN POLICY EXPERTS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. HYDE. Mr. Speaker, I wish to share with my colleagues an article which appeared in the June 8 edition of the Chicago Tribune, concerning Tom Hutson, a career Foreign Service officer who recently resigned after nearly 13 years of service.

Mr. Hutson's comments should be required reading for all foreign policy experts, including those of my colleagues in the Congress who view themselves as more knowledgeable than our Foreign Service officers.

The article follows:

Ex-Aide Blasts U.S. Foreign Policy

(By Bruce Keidan)

Omaha.—Before he quit the game, Tom Hutson was a career foreign-service officer with 12½ years experience, first secretary and chief consular officer of the United States Embassy in Moscow, father of three children, husband of a dual U.S.-Soviet citizen, and a staunch Republican with secret aspirations to run for Congress in another 10 years.

Last month, Tom Hutson did the unthinkable. Not only did he quit the State Department, but he also did so with a public blast at the department and the Carter administration. Suddenly he traded his good standing in the foreign-service old-boy network for the role of American dissident.

Gone is the security of a post that Hutson says would have netted him $80,000 in salary and allowances next year. Gone, too, is his wife, who disagreed with his decision to quit and who has returned to the Soviet Union.

In their place are some embryonic plans to work for Ronald Reagan and perhaps to put together what he calls "a shadow State Department." And in their place is a license to say exactly what he believes.

Hutson, 40, used that freedom shortly after his return from Moscow. Drawing on experience from work in Iran, Yugoslavia, Canada, and the Soviet Union, he painted a grim picture of American foreign policy.

"There is no policy," Hutson said. "I don't know what the policy is. I know what certain elements are, certain goals, and objectives. But a foreign policy?

"I studied international relations at the University of Nebraska when 'bipartisan foreign policy' . . . were inseparable words. We don't have a foreign policy now because we go from one administration to the next now, and foreign policy [remains] a political issue.

"[In the past,] at least there was some attempt made at bipartisan foreign policy, some lip service paid to this idea." Now he says it is a fight among those who can get the most political mileage out of international situations.

Hutson's own criticism of the State Department is bipartisan. The department, he maintains, has been mismanaged grossly under the last four secretaries of state.

"I guess what I damn Dean Rusk, William Rogers, Henry Kissinger, and Cyrus Vance about is sort of a small-mindedness as secretary of state," he said. "These people in the foreign service are bright people, and they're willing to fight for their turf. They spend most of their time maneuvering for perks and angling for jobs.

"You have an elite foreign service, but they don't have any power. So they sit there feeling that the less people know about them, the better. If people find out, they're going to start taking away the perks we have overseas.

"What we need is somebody who can take the heat, who'll go in there and fire people, really shake that place up. Move people in and out of the foreign service. Eliminate this elitist thing."

Hutson said he worked for "a bungling professional foreign service that has no power to be heard and believed."

"After the hostage-taking in Iran and South America, we have a constituency now," he said. "People are interested. It's time to go out on the sidewalk and say, 'Look, my friends, the world is more complicated now than it was 10 or 15 years ago. And yet we have a foreign service the same size, [and] people are so overworked they can't absorb all the information.'

"It's really insane. The foreign service has an enormous information-handling task, and yet it's only recently that we're starting to get the kind of [computer] technology that the Omaha World Herald has had for years."

The result of all the bureaucratic maneuvering and the overwork, Hutson said, is an increase of political in-fighters and squandering of the foreign service's best minds.

"When I went to Iran, my first post, in 1968, there was a guy in a small consulate on the Soviet border. A guy named Walter Cutler. Extremely capable operational manager, in-fighter, operator. He went sky-rocketing from that post to African affairs and then was ambassador to Zaire. . . .

Walter Cutler was succeeded [at that consulate] by a guy named Ernest Thomas Green, Tom Green had a Ph.D. in Persian studies, and ran a beautiful little post up there. I thought he was the ideal foreign service officer. But he used to write 20- to 30-page dispatches from Tabriz about the unrest of the clergy, the turmoil at the university, the problems with land reform, all of it backdropped by a deep perspective of history, language, and culture.

"Geez, I used to read those things and say, 'My God, that's what we should all be doing.' But I noticed that people in State would laugh at Tom Green and say, 'We don't have time for that bleep.'

"The problem was that because of the small-mindedness of our secretaries of state . . . they had to give the weight of budget and positions to the operators, the Walter Culters. They had to cut off . . . the Tom Greens. But it was the Tom Greens who would have seen what was coming in Iran."

Hutson called America's policies on Iran "a disaster." He said Kissinger was right: It was immoral for the U.S. to abandon the shah, though it was "time for something other than a one-party system in Iran."

He said the revolutionary government in Iran forfeited whatever standing it held in the world the day it took American diplomats hostage.

His solution to the hostage crisis: "We'll tell them: We'll take out the air base in Shiraz, using conventional weapons, if you don't release the hostages in 72 hours. After that, if you take any action against our hostages . . . we will bomb the holy city of Qom, and Khomeini, and any of his people we can find anywhere in the country. Naturally, there will be many civilian casualties.

"That's a declaration of war. We will move in and occupy the oil fields. The Soviets will obviously move in and occupy the northern part of Iran like they did in World War II. What price martyrdom, Ayatollah Khomeini?

"'It seems to me that his lieutenants would then say to him: We think, your imamship, that you are not very well. We think you need to be in the hospital."

Hutson is an open admirer of President Carter's policy elsewhere in the mideast terming the Camp David accords between Egypt and Israel "remarkable." But his assessments of American foreign policy in general tend toward the pungent. For example:

"Cuba keeps tying us up in knots around the world. I still regret that when we carried out the Bay of Pigs, we didn't do it right."

On the use of ambassadorships as presidential patronage jobs: "I think it's an inevitable problem. I think that all we can do is to attempt to minimize the disasters."

On our China policy: "The only thing I know about it is that it causes the Soviets great unease. But the Chinese have not been noted for their consistency. We're in bed with them now, but it could begin to get uncomfortable."

On Yugoslavia: "I still can't believe that Jimmy Carter didn't go to Marshal Tito's funeral. And the really incredible thing is that we were 'surprised' that [Soviet President] Leonid Brezhnev went. My God, Brezhnev was going to be there even if they had to wheel him in in an oxygen tent."

And on Carter's appointment of the Rev. Andrew Young as his original ambassador to the United Nations: "[It was] refreshing as a breeze from the Omaha stockyards. There was clearly a breeze, and it contained a lot of things I suppose had to be said, but not by our ambassador to the United Nations."

Hutson said he believes the U.S. is losing ground daily to the Soviet Union.

"We're so uncertain about what direction we're going," he said.

"The Soviets call us imperialists, and we apologize for it. Hell, imperialism is how this country grew up and thrived. And it didn't do such a bad job. That's what we are, an empire. I don't apologize for it at all.

"We want everybody to love us, and they do. But what they really love is a strong and powerful United States. They don't love a shrinking violet, a paper tiger embarrassed by its own incompetence.

"The Soviet Union understands what power is, and it doesn't hesitate to use it. This man [Carter] doesn't understand what power is; he doesn't understand how the world works."●

WHY NOT COAL?

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. RAHALL. Mr. Speaker, on numerous occasions I have addressed this body on the importance of moving coal to the forefront of our Nation's energy picture. I have stated that the American people are fed up with rising energy prices resulting from the constant increases in OPEC oil.

This week, Mr. Speaker, I have received a substantial number of letters which read as follows:

> I have had it with OPEC oil. I have had it with OPEC blackmail. I have had it with prices skyrocketing because of OPEC.
>
> We have lots of coal miners hungry for work. We have giant industries hungry for energy. And the eastern United States has lots of coal, just sitting there waiting to be mined and used.
>
> Any nation that can put men on the moon, transplant hearts, and walk on the ocean floor seven miles down can certainly develop ways to make coal burn cleanly and safely for the environment. But Congress

has failed to put together a viable energy program for over 5 years. And now it is long overdue.

I suggest the following steps:

1. Convert our industries and utilities from oil to coal as fast as possible. This must be an urgent program.

2. Develop coal gasification-liquefaction. Right now, there are plants in operation in other countries. A highly successful process to convert coal to gas has been in operation for 25 years. The fact that a United States corporation was a designer and builder of these plants makes it clear we could do this too.

3. Continue and accelerate energy conservation programs throughout the United States for everyone.

Without coal, this nation's industry could never have been developed. Now, coal power can save us. We've got to break the blackmail of OPEC oil. Stand up for coal. Make coal a top national energy priority.

Mr. Speaker, it is up to us, as the Federal elected body closest to the people, to halt this OPEC blackmail. It is up to us to move quickly on the coal conversion plan that is presently in the Energy and Power Subcommittee chaired by Mr. DINGELL. It is up to us to approve the conference report on the Energy Security Act, a measure that provides: $20 billion for the development of a synthetic fuels program, synfuels made from coal and other natural resources; $3 billion for solar energy research; and new initiatives for conservation, among many other provisions.

Also, I believe we should give our support to President Carter as he leaves for the economic summit, because one of the objectives of the President's trip is to reach agreement on a long-range energy plan with our allies, based significantly on America's vast coal resources and potential for developing synfuels.

World coal reserves already discovered constitute five times currently proven world oil reserves. Under projected rates of increase in coal use, which would mean a tripling of coal production by the end of the century, only 15 percent of coal reserves would be used up by the year 2000. And new coal reserves are being discovered daily.

Mr. Speaker, we have the answers for those Americans who are asking the question, why not coal? We must now move forward to formulate our answers into real policy.●

YOUTH'S INTERPRETATION OF MEMORIAL DAY SIGNIFICANCE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. MICA. Mr. Speaker, last Memorial Day, I had the opportunity to listen as young people spoke on the impact and significance of the veterans' sacrifices to our great Nation.

At this time, I would like very much to share with my colleagues these remarks, which I found very gratifying to hear from our future leaders.

MEMORIAL DAY'S SIGNIFICANCE TO OUR COMMUNITY YOUTH

(By Ronald Tyson of Okeechobee, Fla.)

As I stand before you today, I thank God for two things: first, that I have the privilege and freedom to stand before you and speak as an American youth, and second, that I am an American that is able to celebrate this Memorial Day.

Originally called Decoration Day when it was originated on May 30, 1868, General John F. Logan set this one day aside to mark the tribute made in the United States to the dead of all our wars.

Unfortunately, like what so many other Americans have done to other holidays, Memorial Day has lost most of its meaning to commercialism. One-fifth of the people in America couldn't tell you what Memorial Day even stands for. To them it is another three day weekend in which they can have drinking parties, fool around, and ignore all Memorial Day connotations. It's a shame how one of the most glorious days of the year will end in tragedy for so many people. Some of you are probably saying, what do you mean tragedy? Well, it's quite simple.

All the people that are driving drunk that have fatal accidents will never live to see another Memorial Day. All the people that take their own lives or die in other careless ways won't even be able to enjoy the day in which we commemorate our war heroes. We the people of America should do what we can to get rid of commercialism and put Memorial Day back into its right perspective.

Now, taking a completely different aspect, I would like to convey to you a youth's view of Memorial Day.

First, I see it as a day of celebration. Especially here today when this whole program is dedicated to us, the youth of America. So many times you hear only the bad we are doing and the good things are overlooked. When the draft is brought up again, who will be required to go? Not the older generation, but we, the 18-25 years old who are just starting out in life. Now don't get me wrong. I'm not saying the youth are perfect, but I am saying we are the future generation and it's up to us to make sure our country retains its democratic freedom. The only way we can do this is through the support, the caring, and the trust that we receive from our elders.

Second, as youth we are facing many problems as we go out into life: Iran, Iraq, Afghanistan, and the Soviet Union. Names of countries that will have great effects on our entire lives as well as add names to our veterans lists. We as American youth have a battle to fight. It is not a battle that is a dead end street but rather one that can be a victorious feat. This battle of democracy retainment cannot be won if the youth of America sits back and takes an "I don't care attitude". We must fight for what we believe in, accomplish what we strive for, and retain what we are rewarded.

The poem, "I Am The Nation" by Otto Whittaker tells us of a striving nation and best tells aspects of Memorial Day being shown throughout history.

"I was born July 4th, 1776, and the Declaration of Independence is my birth certificate. I am many things to many people. I am 20 million living souls and ghosts of many who died for me. I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard around the world. I am Washington, Jefferson and Patrick Henry. I am the green mountain boys, Davy Crockett, Lee, Grant and Lincoln. I remember the Alamo, the Maine and Pearl Harbor. I answered and stayed until it was over. I left my heroic dead on Flanders Field, Corregidor and the slopes of Korea. I am the Brooklyn bridge, the wheatlands of Kansas and the granite hills of Vermont. I am forest, field, mountain and desert. I am quiet villages and cities that never sleep. I am Babe Ruth and the World Series. I am 169,000 schools and colleges and 250,000 churches. I am a ballot dropped into a box. I am Eli Whitney, Stephen Foster, Thomas A. Edison, Billy Graham, Walt Whitman, George Washington Carver and Thomas Paine. Yes, I am the nation. I was conceived in freedom, and God willing may I always possess the integrity, the courage and the strength to keep myself unshackled, to remain a citadel of freedom and a beacon of hope to the world."

At this time, I would like everyone who is age 25 and younger to please stand. (Applause.) Please remain standing for just a moment. Ladies and Gentlemen . . . I present to you the future generation of the United States of America. And members of this generation, I challenge you to go out into the world striving for a democratic future, living by God's word and excelling in His grace. Yes, we are the future generation, and let's be one that many generations to come will be proud of.

Thank you.●

TRUTH IN TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GOODLING. Mr. Speaker, for the benefit of my colleagues, I would like to include a synopsis of the remarks of New York State Commissioner of Education Gordon Ambach which were submitted to the Elementary, Secondary, and Vocational Education Subcommittee on June 11, 1980, during hearings on H.R. 4949, the Educational Testing Act. Commissioner Ambach is truly an expert witness—he is the individual charged with the responsibility for administering the newly enacted New York State law on which H.R. 4949 is modeled. An understanding of his experience with this legislation is valuable to those of us in Congress who are considering national legislation to regulate college and professional school admissions testing, which includes a requirement for question and answer disclosure. Commissioner Ambach's remarks follow:

TRUTH IN TESTING

The concern of the Regents and the Department throughout the discussion of admissions testing legislation has been that the interests of test candidates as a class not be harmed because of the concerns of those candidates who might seek the opportunity to review test questions and to compare their own answers with the correct answers. Our concern has been that access to examinations in New York would be substantially reduced and that the cost of examinations to New York candidates would be greater than that charged in other states because of the added administrative costs of the New York disclosure law to test agencies. In other words, we have been concerned that the remedy not exceed the problem or, indeed, become the problem.

Test Availability—The enactment of the New York testing law has created difficulties for candidates by reducing their access to undergraduate, graduate, and professional admissions tests.

The administrations of the two major admissions tests used by colleges nationwide—the Scholastic Aptitude Test (SAT) and the Graduate Record Examination (GRE)—have been reduced. For example, the availability of the GRE during the period from January 1, to September 30, 1980 has been reduced from thirteen dates to three in New York State only, including one special administration for Saturday Sabbath observers * * *

Due to this severe reduction in available testing dates, walk-in registration, a normally acceptable practice in the past, was prohibited as a result of larger than usual attendance for the reduced administration. In addition, the use of braille and cassette editions of the GRE for handicapped examinees was withdrawn in New York because of the very small number of examinees relative to the high cost of developing special editions of the test, according to the GRE Board. Also, as of December 31, 1979, the New York City Special Administration Service test center for the GRE program was closed.

Similarly, SAT administrations were reduced from eight to five in New York State between January and June, 1980, with three regular test dates and two test dates for Saturday Sabbath observers and, once again, drastically reduced special test administrations for handicapped students. The January administration of the SAT in New York was cancelled as was the January Achievement Test administration. While specifically exempt under the law, the Achievement Test was cancelled because of the high cost of opening test centers for a comparatively small volume of candidates. The College Board, sponsor of the above mentioned tests, has indicated that it is seriously considering cancellation of all future January and November testing dates in the state. In addition, the Spanish version of the SAT has been withdrawn entirely because the sponsor does not feel it is economically feasible to identify even one form of the test for disclosure in New York.

One of the more disturbing aspects, however, is the dramatic affect the statute has had on the health professions field, where virtually all test sponsors in that area indicated they would withdraw their services from the state entirely. Of those tests originally scheduled to be withdrawn from the state, two—the Pre-Admission Assessment for Practical Nursing and the Pre-Nursing and Guidance Examination—probably will be available. The Dental Admission Test (DAT) originally scheduled to be administered in April 1980 was withdrawn but may be rescheduled specifically for New York State examinees at a later date in the year, if the law is amended, to exempt the perceptual ability component of the test which measures manual dexterity and spatial relations abilities. There is, however, no specific amendment to the law pending in the state at this time which would exclude this component.

The Medical College Admission Test (MCAT), originally cancelled for New York State, *was* held in April of this year as a result of a temporary injunction set by the Federal District Court in Rochester, New York, on January 21 in a suit brought by the American Association of Medical Colleges seeking exemption of the test from the requirements of Chapter 672. The suit is based on several constitutional and statutory challenges, including circumvention of due process and equal protection rights, infringement of copyright laws, unlawful seizure of property without compensation, and violation of trade secret laws * * *

Conclusion—The New York State experience with standardized test disclosure is far from complete. Our admissions testing law has been in effect for five and one half months. We expect that at least a full year will be needed before the full impact can be assessed. The statements I have made today indicate where we and members of the New York State legislature perceive revisions to be needed based upon our observations to date. It should also be noted by this Subcommittee that the Committee on Ability Testing of the National Academy of Sciences is preparing a report, due for release in early fall, on the value of standardized testing in general, the question of what such tests are attempting to measure, the meaning attached to test scores, and their importance as a selection criteria. Also being drafted at this time is a set of objectives entitled "Public Interest Principles for the Design and Use of Admissions Testing Programs" by the major testing agencies. Both the study and draft will be of interest and benefit to the members of this Subcommittee.

I have presented these observations for your consideration in the hopes that they will prove helpful as you continue your deliberations on a national test disclosure policy. I urge you not to enact new Federal policy in this area until there is more experience with state laws such as those in New York. The New York State Education Department will be pleased to provide this Subcommittee with any further documentation and material developed over the next few months.●

MINE SAFETY AND HEALTH ADMINISTRATION EXTENDS THE DEADLINE FOR COMMENTS ON REVIEW OF STANDARDS RELATING TO STONE, SAND, AND GRAVEL MINES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. GAYDOS. Mr. Speaker, I would like to inform my colleagues that the Department of Labor's Mine Safety and Health Administration has recently announced that it will extend the deadline for comments on its review of safety and health standards contained in parts 55, 56, and 57 under title 30 of the Code of Federal Regulations. The standards being reviewed are those which relate to stone and sand and gravel mines as well as those for metal and nonmetallic open pit mines, and metal and nonmetallic underground mines.

In the April 1 issue of the CONGRESSIONAL RECORD, I reminded my colleagues that the final date on which they or their constituents could provide comment on these standards was May 27, 1980. However, since then, MSHA has announced in the June 6, 1980, issue of the Federal Register that it will extend the period for comment to August 5, 1980.

At this time, I insert MSHA's Federal Register announcement in the RECORD:

DEPARTMENT OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION

30 CFR PARTS 55, 56, AND 57

Review of Standards; Advance Notice of Proposed Rulemaking; Extension of Comment Period

Agency: U.S. Department of Labor, Mine Safety and Health Administration.

Action: Notice to extend period for public comment.

Summary: On March 25, 1980 (45 FR 19267), MSHA issued an advance notice of proposed rulemaking which invited the public to participate in the initial stages of its review of safety and health standards applicable to metal and nonmetal mining and milling. These regulations appear in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. Interested persons were given until May 27, 1980, to submit comments and data. The comment period is extended to August 5, 1980.

Date: Comments must be received on or before August 5, 1980.

Address: Interested persons are invited to submit written comments and suggestions to the Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

For further information contact: Frank A. White, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

Supplementary information: On March 25, 1980 (45 FR 19267), MSHA announced its intention to solicit public comment in conjunction with its comprehensive review of safety and health standards applicable to the metal and nonmetal mining and milling industry. Interested persons were urged to describe any problems relating to organization, indexing, style and format, as well as particular areas of substantive concern, with respect to any regulation appearing in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. The comment period was scheduled to close on May 27, 1980. Although the agency has received many comments in response to the notice, several organizations and other interested parties have requested an extension of time so that their input could be included at an early stage of the standards review process. In order to allow the fullest possible public participation, MSHA has decided to extend the comment period until August 5, 1980. Persons who have not yet submitted their comments are urged to participate during this phase of the rulemaking process. MSHA appreciates the efforts of many persons and organizations who have submitted written comments by May 27, 1980. They may submit additional comments within the extended time. In reviewing its regulations, the agency will conduct an evaluation based on many factors such as: the need for clarity; technical accuracy; redundancy; necessity; and relevancy.

Because many MSHA standards incorporate a variety of requirements from sources outside the agency, MSHA also specifically requests public comment with respect to the appropriateness of the incorporation of such documents.

Dated: May 29, 1980.

Frank A. White, Director, Office of Standards, Regulations and Variances.●

CAPITAL COST RECOVERY ACT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1980

● Mr. MAVROULES. Mr. Speaker, as one of the 296 cosponsors of H.R. 4646, the Capital Cost Recovery Act, I would like to share with my colleagues a recent letter from Mr. Weston Figgins, of the Filene's Corp., a large retailer with operations in my district.

Furthermore, I would like to draw to the attention of my colleagues that while there is great hope for the passage of H.R. 4646, it alone will not be enough to increase productivity and investment in our sagging economy. Complementary legislation such as H.R. 4041 and H.R. 4042 will be needed to extend further the investment tax credit if we are serious about setting forth a new foundation from which to rebuild our economy.

The following is the text of the Figgins letter.

May 21, 1980.

Hon. Nicholas Mavroules
1204 Longworth House Office Building, Washington, D.C.

Dear Congressman Mavroules: As Chairman of Filene's, a company that employes over 12,000 workers and generates $9 million in local and state taxes every year, I want to express my deep concern about the negative impact of the present tax structure on the retailing industry and the economy as a whole.

I have been impressed with your understanding of economic issues, and your concern for the domestic issues which so affect your district. I hope that the thought I outline in this letter will be the basis for continued discussion between us on the best ways to bring about the economic strength we both desire for our Commonwealth.

In my view, as well as the view of other retailers and members of the business community, (H.R. 4646/S.1435), the Capital Cost Recovery Act, is critical to dampening inflation, increasing productivity, increasing employment and creating a more efficient distribution sector.

More equitable tax rules for retailers would be of significant benefit to the entire American economy. In a recent study, Robert R. Nathan Associates, Inc., a Washington, D.C. economic consulting firm, concluded after an analysis of the investment tax credit: "Applying the investment tax credit to retail structures will not only add to capacity, employment, and productivity in that sector, but will also reverberate through construction and other industries, including manufacturing, because it provides markets for manufactured goods."

Of major importance, from retailing's view, is the inclusion of structures and buildings in the proposed legislation. A significant portion of our capital is invested in buildings. For this reason, the retailing industry also strongly supports legislation, such as H.R. 4041, which extends the investment tax credit to other tangible property, like parking spaces, used as an integral part of the retail and wholesale trade and H.R. 4042, which extends the investment tax credit to buildings.

The new ten year write-off period for nonresidential buildings will particularly help retailers. The shortened recovery period for buildings is especially important to retailers because investment in these assets does not currently qualify for the investment tax credit, which is available to a considerable greater extent to manufacturers for their investment in capital assets like machinery and equipment.

Because retailing is labor intensive, tax incentives provided to it are magnified as they are transformed into jobs. There is a major advantage to retail investment in terms of a multiplier effect. According to a recent study by the Northwestern University Graduate School of Management $100 million of capital investment in the distribution sector will involve approximately 3800 jobs—more than three times the number of jobs associated with a like investment in the manufacturing sector. Any increase in retail capital investment as a result of the CCRA is therefore likely to have a strong positive impact on employment.

Moreover, this increased employment in retailing would likely benefit the economic groups most in need of employment opportunities. Retailing provides many of the jobs held by those most likely to be unemployed—the unskilled, the young, part-timers, minorities and those returning to the work force.

Much has been said about the revenue loss generated by capital cost recovery. A study by Data Resources, Inc. ("DRI") estimates that the CCRA would result in "static" revenue loss ranging from $4.8 billion in 1980 to $32.0 billion in 1984, based on a ten year phase-in period. (The actual revenue loss would be somewhat higher because of the five year phase-in for buildings compared with their ten year lifetime.) It is important to note, however, that the Treasurer would realize a feedback of tax revenues from the newly stimulated economic activity. The CCRA would raise fixed business investment by an average of $10 billion a year between 1980 and 1984, would add 0.3 percent to the Gross National Product, would increase growth and labor productivity by 0.7 percent, and would increase employment gains by an average 200,000 jobs per year over the next five years. Because of this "feedback" of induced economic activity, the net cost of CCRA as simulated in the DRI model would be only $4.2 billion in 1980, rising to $16.1 billion in 1984. Thus, the CCRA would be self-financing to some extent.

We are also aware of recent attempts to have retail buildings excluded from the capital cost recovery proposal. We feel strongly that that would be a mistake. In the DRI study mentioned earlier, it was pointed out that the shortened recovery period for buildings represents only 25% of the total loss in the capital cost recovery package. This is based on the estimated static revenue loss of $3.9 billion average loss between 1980 and 1984 in the category for buildings, and an average loss of $14.3 billion for equipment and light vehicles. Capital Cost Recovery is not a radical departure from the present depreciation system. It is merely the next logical step in the process of the evolution away from useful life depreciation. The shortened recovery periods in the CCRA substantially increase the cash flow of businesses and enhance their ability to make large new capital investments to increase productivity. Capital cost recovery is not a "give-away" to business because business must make its investment before it obtains any deduction for capital recovery.

And better productivity is the key to revitalizing the economy without fueling inflation. I hope you will support these measures personally and that you will urge your colleagues' support.

Thank you for considering these views.

Sincerely,

Weston P. Figgins,
Chairman.●

HONORING THE SONS OF ITALY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. PEYSER. Mr. Speaker, June 22, 1980, marks the 75th anniversary of the founding of the Order of the Sons of Italy. For the past 75 years, the order has worked in many ways to better the lives of Americans of Italian descent.

In 1820, 34 Italian immigrants landed on the shores of this country. They were the first of 5 million Italian immigrants to come to America. The Order of the Sons of Italy was instrumental in helping the immigrants of the early 20th century in adjusting to a new life in a new world. The order has since built and maintained orphanages for Italian children left homeless in America, and created "Operation Heartbeat," a program which has brought over 50 children to America for open heart surgery.

The Order of the Sons of Italy has raised literally millions of dollars for such charitable organizations as the American Cancer Society and the American Heart Association. Last year alone, the Sons of Italy donated over $2 million to the March of Dimes.

As the oldest and largest Italian-American charitable organization in America, with over 300,000 members, the Order of the Sons of Italy was instrumental in founding the American Federation of Labor in New York City in 1911. The order was one of the first fraternal organizations in the United States to give women equal status in the organization.

The list of contributions by the Order of the Sons of Italy is virtually endless. It is only proper that on the 75th anniversary of this outstanding organization, we honor them, and, by so doing, honor the 20 million Americans of Italian descent that have made immeasurable and important contributions to this great country of ours.●

HOUSE OF REPRESENTATIVES—*Friday, June 20, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord of life, who has promised us the gifts of faith, hope, and love, help us to open our hearts to receive the goodness and the healing of Your Spirit. Cast away from us our pretensions and allow us to see ourselves as we truly are and as You would have us be. May we, O Lord, forgiven and made well by Your life-sustaining love, strengthen our resolve to live with dignity, courage, and sincerity until our final day. In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 17, answered "present" 3, not voting 126, as follows:

[Roll No. 351]

YEAS—287

Abdnor
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carter
Chappell
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Devine
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rosenthal
Roth
Rousselot
Royer
Rudd
Satterfield
Scheuer
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Taylor
Thomas
Thompson
Traxler
Trible
Vento
Volkmer
Walgren
Wampler
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—17

Carr
Coughlin
Derwinski
Dickinson
Forsythe
Gingrich
Goodling
Harkin
Heckler
Holt
Jacobs
Lloyd
Mitchell, Md.
Sabo
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—3

Barnard
Ottinger
Sawyer

NOT VOTING—126

Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Applegate
Badham
Beilenson
Bevill
Blanchard
Boggs
Boland
Bolling
Brademas
Breaux
Brown, Ohio
Buchanan
Burton, John
Byron
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Corman
Cotter
Crane, Daniel
Danielson
Daschle
Davis, S.C.
Derrick
Dingell
Dodd
Donnelly
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Evans, Del.
Fazio
Fenwick
Fithian
Ford, Mich.
Fountain
Frost
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Guyer
Hagedorn
Hance
Heftel
Hinson
Holland
Holtzman
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Okla.
Kazen
Kelly
Leach, La.
Leath, Tex.
Leland
Lott
Lujan
Lundine
McCloskey
McCormack
McDonald
McEwen
McKay
Mathis
Mazzoli
Mineta
Moffett
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nolan
Nowak
Pashayan
Pepper
Pursell
Quayle
Reuss
Richmond
Rinaldo
Rodino
Rose
Rostenkowski
Roybal
Runnels
Russo
Santini
Schulze
Sebelius
Shannon
Spellman
St Germain
Stark
Stratton
Symms
Tauke
Tauzin
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Watkins
Waxman
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Young, Alaska

☐ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 932) entitled "An act to extend the Defense Production Act of 1950, as amended."

ADMINISTRATION OPPOSED TO FURTHER FLOODING OF MARKET BY JAPANESE AUTOMOBILES

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAXLER. Mr. Speaker, I wish to call the attention of the House to an article that appeared in the New York Daily News dated June 19, 1980, and it is an interview with Secretary of Transportation Neil Goldschmidt.

The significant thing in this interview was that Secretary Goldschmidt said "the economic well-being of the U.S. automobile industry is a matter of national security."

He went on further to say that the continued flooding of the American market with Japanese automobiles will not be tolerated by this administration. This is the best news I have heard from the Carter administration in 3 years.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

VA HAS NOT DONE ITS JOB WITH RESPECT TO VIETNAM-ERA VETERANS

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, between 1965 and 1971, our Government sprayed 11 million gallons of substance known as agent orange in Vietnam. An article today in the Washington Post points out that it is only one of many deadly poisons that were sprayed there that are having very serious side effects on Vietnam veterans and their progeny.

Mr. Speaker, it is important that the VA and the GAO do an exhaustive survey of all of the chemicals that were sprayed in Vietnam. The VA must conduct exhaustive medical tests that use state of the art medical technology on all Vietnam-era veterans who request them. The VA needs to have an extensive outreach program to alert Vietnam-era combat vets to the possible consequences of their service in Vietnam.

We have failed to live up to our responsibilities as a government with respect to our Vietnam-era combat vets. Each passing day of inaction is further evidence of that fact.

U.S. FOREIGN POLICY UNCLEAR

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I was shocked to hear speculation this morning that the administration is reversing itself on the Soviet grain embargo just 1 day after it reversed its policy on the sale of uranium to India.

I am glad the President has gone to Italy to explain the ups and downs of U.S. foreign policy to our European allies.

I hope when he gets back home he will explain them to Congress and to the American people.

As it now stands, the only ones who are not confused are our athletes who apparently are still not going to the Moscow Olympics.

My advice to them is: Do not stop training.

LET US TAKE THE CRIMINALS OFF SOCIAL SECURITY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the Washington Post this morning has revealed again that the social security system is in trouble. In a few minutes, I and some of our colleagues will appear before the Committee on Ways and Means urging that social security benefits not be paid to people who are confined to the penal institutions and correction facilities.

A man, for example, who murdered two policemen and two women is receiving $195 a month because he was said to have mental disability. A 16-year-old who murdered both of his parents is receiving some $200 a month because he is an orphan.

Any system that has a loophole big enough for David Berkowitz, the infamous Son-of-Sam, receiving benefits means, there is something terribly wrong with that system.

I say let us save the social security system, and the right place to begin is by taking the criminals off social security.

ATHEISTIC ASSAULT ON RELIGIOUS FREEDOM

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I am outraged as I am sure many Members are outraged by the Federal court suit brought by a notorious atheist who wants the court to declare unconstitutional, expenditures for House and Senate Chaplains, and the practice of printing in the CONGRESSIONAL RECORD the prayers that precede the opening of our daily legislative sessions.

Our Declaration of Independence recognizes God as the Creator of nature and mankind.

Our country has always acknowledged direction from Almighty God.

This suit by a single atheistic individual is an attempt to use the courts to destroy something near and dear to us—the right of Congress to openly acknowledge its reliance upon and allegiance to Diety and a Divine Power.

If necessary, I hope that Congress will devote every possible effort against this atheistic assault to destroy our religious freedom and expression so necessary to our lives.

What a tragedy it would be to try to live without God.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under the rules of the House, the gallery is not to respond to any Member's speech.

CARTER'S REQUEST FOR AUTHORITY TO CALL UP RESERVISTS SHOULD NOT BE GRANTED

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, President Carter's request for the power to call up 100,000 reservists, on his own authority in a so-called emergency, should not be granted.

The President already has the ability to send 50,000 reservists helter-skelter around the world without congressional approval, which is dangerous enough by itself.

Planning to send our troops to the Persian Gulf for defense of the oil fields is hardly in the best interests of the U.S. citizen. Our shortages and dependency on imports are due to Federal controls, regulations, allocations, and taxes, and they cannot be cured through military action.

Sending 100,000 reservists, along with the regular troops in the "Rapid-Deployment Force," is tantamount to a declaration of war, and should never be allowed without full and deliberate consideration by Congress.

We need to reconsider our policy of policing the world, and subsidizing the defense of wealthy allies, in this day of austerity. A more limited world military involvement would not weaken our defenses, it would strengthen them. We could then concentrate on the protection of the United States and the building of a sound economy. Strength comes from defending our interests, not the perpetual masochistic self-sacrifice of the American taxpayer and American lives.

☐ 1030

SALE OF ENRICHED URANIUM TO INDIA CONTRARY TO U.S. INTERESTS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, now that the President has decided, against the unanimous decision of the NRC, to sell nuclear fuel to India, the task of remedying the President's mistakes is left once again to the Congress.

I have joined many of my colleagues from the Foreign Affairs Committee in cosponsoring a resolution of disapproval to block the sale of 38 tons of enriched uranium to India.

I believe the failure of Indira Gandhi to promise not to produce a nuclear bomb plus her recent refusal to adhere to international safeguards on nuclear nonproliferation make it obvious that we should reject the President's decision to go ahead with the sale.

Moreover, the latest news from India indicates that Gandhi is planning to cooperate with Iranian officials to replace goods embargoed as a result of the economic sanctions placed by the United States and our Western allies, to say nothing of the billion-dollar-plus India arms deal with the Soviets.

I see no reason why we should be rewarding India for policies which run exactly counter to our own interests.

POLITICS OF CONVENIENCE AND INCONSISTENCY—SALE OF URANIUM TO INDIA

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I was shocked this morning to learn that President Carter has agreed to sell 38 tons of enriched uranium to India. This is just another example of politics of convenience and inconsistency.

It will be interesting to hear the President attempt to justify this new policy to Pakistan and other nations which have shown a desire to build their own nuclear weapons. Since coming to office President Carter has been outspoken against supplying other countries with uranium in an effort to prevent further proliferation of nuclear weapons. This policy has served us well up to now. However, I fear the President's latest decision will completely undermine this effort.

India's refusal to sign the Nuclear Nonproliferation Treaty prohibiting the spread of nuclear weapons and to submit its nuclear facilities to international inspection is apparently unimportant to the President. For the future of mankind it is essential that such minimum standards be met before we sell enriched uranium to any nation. To be shortsighted in our goals to slow the proliferation of nuclear weapons is inexcusable.

I strongly urge every Member of the House to oppose this latest example of Presidential incompetence. How can we expect other nations to follow our lead in international affairs when our policies are subject to the whims of momentary considerations?

NEED FOR BORDER PATROL

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, today we consider the appropriation bill for the Justice and State Departments there will be at least one, if not several amendments dealing with the question of border patrol. Those of us on the Immigration Subcommittee who have dealt with the question for some period of time recognize that our overall immigration policy is something that takes a multifaceted solution. But I think all of us agree that part of that solution is having law enforcement with respect to our borders, particularly the Southwest border.

This is something that has been absolutely ignored by this administration. In the authorization bill we did increase the number of border patrol officers for the specific purpose of having increased enforcement along the Southwest border. Amendments will be offered so we will fund that previously authorized level of personnel.

I would ask my colleagues to look at this seriously and at least help us to supply one part of the solution to a very, very difficult and vexing problem.

CRUEL ECONOMIC POLICIES OF CARTER ADMINISTRATION

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the ultimate failure of the Carter administration's economic policies is to permit the social security fund, the only source of income for many of this country's elderly, to be dried up.

This is another example of how cruel our economic policies have become under 3 years of a Carter stewardship. Despite the fact that one of the first acts of the Carter administration was to sign into law the most massive tax increase in the history of the Nation, the social security system is all but bankrupt. What has the President been doing with the money? In the last 3 years, the Carter administration has managed to wreck the housing and auto industries. We are experiencing a record high peacetime inflation rate. The economic policies at the same time, under this administration have put nearly 8 million people out of work. And now we learn that there will be no money to pay senior citizens their just and due retirement benefits. It is a sad hour for America when our elderly are mistreated.

SCANDALOUS CAMPAIGN TACTICS IN CALIFORNIA

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, with a little luck today we might begin to deal with the Postal and Treasury bill. I am as yet undecided over whether or not to submit amendments to try and correct the gross inefficiency and lack of investigative skill or professionalism in the Office of the General Counsel of the Federal Election Commission, which is funded under the Treasury appropriations.

I would implore the Speaker and every fair Member of this House and of the other body to read the column of the skilled investigative reporter, Jack Anderson, in this morning's Washington Post, June 20. Most urgently and particularly I recommend Jack Anderson's column of tomorrow, June 21. Remember that Mr. Anderson's words are carried in 950 newspapers across our land. His column Saturday, tomorrow, involves the sordid facts involving $1 million of funds stolen from California, then laundered in Alabama banks and pumped back into my district in 13 illegal $1,000 sequentially numbered cashier's checks. Thirteen thousand that we know of, that is. There may have been cash, also.

The former head of the FEC Office of General Counsel went to work for Senator KENNEDY last fall in the midst of his foul mishandling of the largest series of campaign illegalities in FEC history and the current FEC Counsel has done nothing to correct the "coverup" type mess. Ladies and gentlemen, I have had it. I hope that every American citizen watching on "C-Span" television channels this morning across the country will read Jack Anderson's excellent and thoroughly researched facts today and tomorrow and help me secure justice in this rotten deception and campaign fraud. Please help the Justice Department with any information that anyone who hears or reads my words may have concerning this outrageous scandal.

Read Jack Anderson today and tomorrow Saturday, June 21.

CARTER ADMINISTRATION BYPASSES PROVISIONS OF 1980 REFUGEE ACT

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I am quoting from this morning's Washington Post.

> The Carter administration has decided to bypass the provisions of the 1980 Refugee Act and create a special category for dealing with the thousands of illegal Cuban and Haitian immigrants who have flooded into south Florida, officials said last night.
>
> Victor Palmieri, the State Department's coordinator for refugee affairs, is expected to say in an official announcement this morning that the newcomers will be given "indefinite parole," allowing them to stay in the country for about a year. This will permit the administration to get past the November election before having to send legislation to Congress to clarify the refugees' legal status.

Here is the unbelievable part, or it would be if we did not recognize that unfortunately it is so typical of the Carter White House.

> In addition, the new policy will provide benefits to be shared by federal, state and local governments, officials said. This will be about half as costly as the full federal reimbursement of local costs called for under the Refugee Act.

When we passed the supplemental appropriation bill here in the House yesterday we should have mandated how that $100 million for Cuban applicants for asylum is to be spent. It is my hope that the other body will mandate how the President spend those funds. It is a national burden, created by Presidential edict that should not be shared by State and local governments. And Federal reimbursement to them should be 100 percent.

The only possible bright spot about this alarming news article may be that the White House may change the policy—for the fifth time—by this afternoon.

□ 1040

HERALDED DEMISE OF THE SOCIAL SECURITY SYSTEM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I would like to alert my colleagues to expect a flood of mail from social security beneficiaries. This morning on nationwide television, former Secretary of Health, Education, and Welfare, Joseph Califano, told the American people that next year the social security program could go belly up, it would be bankrupt, and suggested among other things that we should now go to the Treasury to fund the social security program.

Mr. Speaker, the social security beneficiaries, the elderly people in this country will be frantic, afraid they will lose their social security benefits. This Congress, no Congress is going to permit this program to go bankrupt. We have an obligation to keep it funded, but to suggest we raid the Treasury, which is already virtually bankrupt, really would not solve the problem.

Mr. Speaker, when social security was enacted in 1935, it was never intended to be a total retirement program for persons beyond their productive years. It was to be a supplement. Unfortunately, the public has been educated to expect this would take care of all of their retirement needs and it just will not do it.

The social security fund is in trouble because of all of the add-ons, never originally intended. These have caused the program to become actuarilly unsound.

The better part of wisdom would suggest disability benefits, medicare, and student tuition should not be funded from the social security fund. Perhaps the broad base of general revenues should be considered for funding of programs not originally included under social security, to address the cause rather than the effect. But the bottom line is that no Congress will permit the social security program to go to the wall.

WIND ENERGY SYSTEMS RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1979

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, with Senate amendments thereto, concur in the Senate amendment to the text with an amendment, and concur in the Senate amendment to the title.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the text and the Senate amendment to the title, as follows:

Strike out all after the enacting clause and insert:

TITLE I—WIND ENERGY SYSTEMS

SEC. 101. This title may be cited as the "Wind Energy Systems Commercialization and Utilization Act of 1979".

FINDINGS

SEC. 102. The Congress finds and declares that—

(a) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(b) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand on existing non-renewable fuel and energy supplies;

(c) the use of wind energy for certain applications has already proven feasibly economical;

(d) an aggressive commercialization program could provide an assured and growing market for wind energy during the next decade, and maximize the future contribution of wind energy to this Nation's future energy production;

(e) it is the proper and appropriate role of the Federal Government to undertake such a commercialization program in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies; and

(f) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment.

PURPOSE

SEC. 103. The purpose of this title is to establish the following wind energy program objectives—

(a) to reach by fiscal year 1986, the installation to the maximum practicable, of the maximum megawatt capacity of the United States from wind energy systems which are life-cycle cost effective in comparison with conventional energy sources;

(b) to reduce by the end of fiscal year 1986, the average cost of electricity produced by installed wind energy systems to a level competitive with conventional energy sources;

(c) to accelerate the growth of a commercially viable and competitive industry to make wind systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(d) to reduce fossil fuel costs to the Federal Government; and

(e) to stimulate the general use within the Federal Government of methods for the minimization of life-cycle costs; and to develop performance data on wind systems.

DEFINITIONS

SEC. 104. For the purposes of this title—

(1) the term "Secretary" means the Secretary of the Department of Energy;

(2) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others;

(3) the term "wind energy system" means a system of components, or a series of systems, which converts the kinetic energy of the wind into electricity or mechanical power, including all components necessary to provide electricity or mechanical power for individual, agricultural, commercial, industrial, or governmental use and use by utilities;

(4) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts at a wind speed of twenty miles per hour;

(5) the term "Federal facility" means any building, any commercial, agricultural, or industrial complex, or any device, and the land necessary for such building, complex or device, and includes facilities connected with programs administered by Federal agencies;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "cost-effective" means the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using noninflating dollars, marginal fuel costs as determined by the Secretary, and a real discount rate of 3 per centum per year. The marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 10 per centum of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the least cost new supply which would have been charged by the utility in the service area supplying the facility. Least cost new supply may, if appropriate, include externally purchased power and demand management. In the case where new capital is required the assumption shall be that the new capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

WIND ENERGY SYSTEMS COMMERCIALIZATION PROGRAMS

SEC. 105. (a) The Secretary shall establish such commercialization programs as the Secretary determines are necessary to meet the purposes of this title, including programs—

(1) to promote and accelerate research, commercialization of wind energy systems and components thereof; and

(2) to coordinate Federal efforts to accomplish the objectives outlined in section 103.

(b) In carrying out the provisions of this section, the Secretary shall establish a program to allow public or private entities wishing to install a wind energy system in conjunction with any new or existing facility or to undertake a project to facilitate the utilization of a wind energy system, to apply for Federal assistance in investigating, designing, fabricating, testing, purchasing, installing, and marketing such wind energy system.

(c) In carrying out the provisions of this section, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts—

(1) to enter into agreements with any entity applying under subsection (b), based on the need to obtain scientific, technological, economic, market, environmental, and safety information from a variety of wind energy systems under a variety of circumstances and conditions, on land and offshore, for the investigation, design, purchase, fabrication, testing, installation, and commercialization of such a system, as well as the identification of suitable sites for wind installations;

(2) to provide as part of any agreement entered into under paragraph (1), loans to cover the estimated difference in costs between a wind energy system and available conventional power sources at the time the loan is to be made: *Provided, however*, That the Secretary in his sole discretion may provide loans for the total purchase and installation costs of wind energy systems providing in the aggregate up to three hundred and twenty megawatts peak generating capacity: *Provided further*, That at a minimum, 30 per centum of the amount of loans for such total costs shall be for small wind energy systems. The estimated cost difference shall be determined in the following manner:

(A) In the case in which the wind energy system represents a displacement for conventional fuels, such difference in cost shall be considered to be the difference between the annual capital, operation, and maintenance costs of the wind energy system, which, for the purposes of this subsection only, shall include any new transmission system unless the Secretary determines it is not required to be constructed in order to connect the wind energy system into the electrical system, and the annual cost of available conventional fuels;

(B) In the case in which the wind energy system represents base-load generating capacity, the difference in cost shall be considered to be the difference in power production costs between the power produced by the wind energy system, which for the purposes of this subsection only, shall include any new transmission system unless the Secretary determines it is not required to be constructed in order to connect the wind energy system into the electrical system, and power produced by available conventional fuels;

(C) The percentage of the purchase and installation costs of such wind energy system covered by such loan shall be set as to cover the cost differential between the wind energy system and available conventional power sources as determined in paragraphs (A) and (B);

(D) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system is energized into the electrical system; and

(E) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

(3) to enter into such contracts and make such grants or cooperative agreements as may be necessary or appropriate for the development of wind energy systems including the field experimentation of prototype systems for commercial production and utilization, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906, 5907 and 5908) and with procedures established in conjunction with subsection (b);

(4) to enter into arrangements with appropriate Federal agencies to carry out such projects and activities with respect to Federal facilities as may be appropriate for the development, field experimentation, and commercialization of wind energy systems which are suitable and effective for use in Federal facilities; and

(5) to undertake other programs and activities which further the purposes of this title.

(d) For the purposes of paragraphs (c) (3), (4), and (5), title to and ownership of the wind energy systems constructed or installed, or both, under the provisions of this section may be conveyed to purchasers of such systems under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of any such wind energy system for a period of five years and that such purchaser (including any subsequent owner of the system) shall regularly furnish the Secretary with such reports on such system as the agreement may require.

(e) For the purposes of this section, with the exception of subsections (c) (1) and (2), the Secretary shall terminate Federal subsidization of purchases of wind energy systems by profitmaking entities when the Secretary determines that wind energy systems have become competitive with conventional energy sources, or September 30, 1986, whichever occurs first.

CRITERIA FOR PROGRAM SELECTION

SEC. 106. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this title and which are set in accordance with the following criteria:

(a) The construction, operation and maintenance costs of wind energy systems shall be minimized;

(b) Programs established under this title shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems; and

(c) Priority shall be given in the conduct of programs established under this title to those projects in which funds are provided by private, industrial, agricultural, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 107. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this title;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this title; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when appropriate) as may be necessary to assure that the programs for which the Secretary is responsible under this title effectively carry out the purposes of section 103.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this title are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure subject to 5 U.S.C. 552 and 18 U.S.C. 1905 that full and complete information with respect to any program, project, or other activity conducted under this title is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 108. The Secretary of Energy shall—

(a) initiate and conduct a "Federal applications study for Wind Energy Systems", cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(1) include an analysis which determined those sites that are currently cost-effective for wind energy systems as defined by section 104(6), as well as those which would be cost-effective at expected future market prices;

(2) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary:

(A) the Department of Defense;

(B) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(C) the Department of Commerce;

(D) the Department of Agriculture; and

(E) the Department of the Interior;

(3) provide a preliminary report to the Congress within nine months following the enactment of this title; and

(4) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months following the enactment of this title;

(b) initiate and conduct a study of the effects of the widespread utilization of wind energy systems on the existing electrical utility system;

(c) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this title; and

(d) in carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject. The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or other Federal Agency with those required under this section to avoid any unnecessary duplication of effort or funding.

FEDERAL WIND UTILIZATION PROGRAM

SEC. 109. (a) There is hereby established a wind energy utilization program for the accelerated procurement and installation of wind systems for power production in Federal facilities.

(b) The program established by subsection (a) shall provide for the acquisition of wind systems by the Secretary or other Federal agencies under delegation from the Secretary for their use by Federal agencies. The acquisition of wind systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary or other Federal agencies under delegation from the Secretary is authorized to make such acquisition through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

(c) The Secretary shall administer the program established under this section and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of wind systems pursuant to this section shall not interfere with defense-related activities;

(2) implement practices to monitor and assess the performance and operation of wind systems installed pursuant to this section; and

(3) report annually to the Congress on the status of the program.

(d) (1) The Secretary shall establish, within sixty days after the date of the enactment of this title, a wind systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this title. In acquiring wind energy systems under this section, the Secretary, or other Federal agencies under delegation from the Secretary, need not require that such systems be life-cycle cost effective at the time of purchase, but that, to the maximum extent practicable, by the making of the purchase there is a probability that they could become life-cycle cost effective in the future and shall schedule purchases in a manner which shall stimulate the early development of a permanent low-cost private wind production capability in the United States, and to stimulate the private sector market for wind systems.

(2) Nothing in the section shall preclude any Federal agency from directly procuring a wind system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall notify the Secretary before procuring such a system.

(e) (1) There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this section.

(2) Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

SMALL BUSINESS SET-ASIDE

SEC. 110. Not less than 30 per centum of the total dollar amount of all contracts and grants awarded pursuant to sections 105 and 109 of this title for the procurement of goods and services shall be reserved exclusively for small business concerns, unless the contracting officer is unable to obtain two or more small business concerns that are competitive in terms of the demands of any particular grant or contract.

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1981, the sum of $100,000,000 to be used for the programs authorized in this title.

TITLE II—OCEAN THERMAL ENERGY CONVERSION

SEC. 201. This title may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act."

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) a strong and innovative industry committed to the commercialization of ocean thermal energy conversion must be established; and

(5) it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion.

(b) Therefore the purpose of this title is to—

(1) establish as a goal the demonstration of an electrical and energy product equivalent capacity of at least one hundred megawatts from ocean thermal energy conversion systems by 1986;

(2) establish as a goal the demonstration of an electrical and energy product equivalent capacity of at least five hundred megawatts from ocean thermal energy conversion systems by 1989;

(3) establish as a goal the reduction of the average cost of electricity and energy product equivalent produced by installed ocean thermal energy conversion systems to a level competitive with conventional energy sources by the end of fiscal year 1993;

(4) establish as a national goal an electrical and energy product equivalent capacity of ten thousand megawatts from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PLAN AND PROGRAM

SEC. 203. (a) The Secretary is authorized and directed to prepare a comprehensive plan and program for the conduct of the research, development, and demonstration activities under sections 204 and 205. Such plan and program shall include at a minimum—

(1) a detailed description of the functional organization of the program management;

(2) a presentation of the program strategy, including identification of milestones and critical paths, which will be used to achieve the purposes of this title;

(3) a five-year program implementation schedule with associated budget and program management resources requirements;

(4) risk assessments;

(5) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(6) an analysis of the environmental acceptability of ocean thermal energy conversion facilities.

(b) The Secretary shall transmit such comprehensive plan and program to the Congress by June 30, 1980.

RESEARCH AND DEVELOPMENT

SEC. 204. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this title.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 205. Specific technical areas to be addressed shall include, but not be limited to—

(1) heat exchangers;

(2) interface requirements between the platform and cold water pipe;

(3) cold water pipe deployment techniques;

(4) control system simulation;

(5) stationkeeping testing; and

(6) energy delivery systems for electrical power and energy products.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this title, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

DEMONSTRATION

SEC. 205. (a) The Secretary is authorized and directed to initiate a program to design, contruct, and operate ocean thermal energy conversion facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of an electrical and energy product equivalent operating capacity of at least one hundred megawatts with expansion capability to at least two hundred megawatts by the year 1986;

(2) the demonstration of an electrical and energy product equivalent capacity of at least five hundred megawatts from ocean thermal energy conversion systems by 1989;

(3) the delivery of baseload electricity to utilities located on land or other end use applications and the production of commercial quantities of energy product; and

(4) the continuous operation of each demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) To facilitate development of a strong industrial basis for the commercialization of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected to achieve the goals of this section.

COMMERCIALIZATION

SEC. 206. (a) The Secretary is authorized and directed to prepare a comprehensive commercialization plan that will permit realization of the ten thousand-megawatt national goal by 1999. Such plan shall include at a minimum—

(1) the identification of the efforts necessary to establish a sufficient industrial infrastructure to meet the national goal;

(2) analysis of the necessary government actions to aid the industry in minimizing and removing any legal and institutional barriers such as establishment of a single regulatory authority, designation of a lead agency, or other means; and

(3) an assessment of the necessary government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) As part of the competitive procurement initiative for design and construction of the demonstration projects authorized pursuant to section 211, each respondent shall include in its proposal (1) a plan leading to a full-scale, commercial facility based on the proposed demonstration system; and (2) a commercialization strategy which includes the respondent's plans for future participation toward meeting the national goal.

(c) The Secretary shall transmit such comprehensive commercialization plan to the

Congress within six months after receipt by the Secretary of the proposal pursuant to subsection (b) of this section but in any event within two years after the date of enactment of this title.

PROGRAM SELECTION CRITERIA

SEC. 207. The Secretary shall, in fulfilling his responsibilities under this title, structure the program and set priorities consistent with the following criteria:

(a) Realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(b) Priority for proposals which demonstrate a viable, long-term commitment by the respondent to the development of ocean thermal energy conversion technology and intent to become an integral part of the industrial infrastructure necessary to meet the goals of this title;

(c) Encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems; and

(d) Promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply.

ADVISORY COMMITTEE

SEC. 208. (a) There is hereby established an Ocean Thermal Energy Conversion Advisory Committee, which shall, at a minimum, study and advise the Secretary with regard to—

(1) implementation and conduct of the programs established by this title;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(b) The Committee shall be composed of at least seven members appointed by the Secretary from industrial, academic, financial, legal, and labor organizations and such other entities as he deems appropriate. The appointments shall be made within ninety days after enactment of this title. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least four times annually notwithstanding section 10 (e) and (f) of Public Law 92-463, until such time as the demonstration program goals in section 205 are met.

(e) The Committee shall prepare and submit anually to the Secretary a report. Such report shall include at a minimum—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this title; and

(3) suggestions for improvements in the comprehensive plan and program described in section 203 and the commercialization plan described in section 206.

(f) The Secretary shall provide adequate staff and other support and shall insure that funds are available to enable the Committee to carry out its functions pursuant to this section.

REPORTS

SEC. 209. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this title. Such report shall include—

(a) a current comprehensive plan and program for implementing this title;

(b) an evaluation of the state of ocean thermal energy conversion system research and development in the United States;

(c) a description of the contracts and grants made under this title;

(d) an analysis of the progress made in commercializing ocean thermal energy conversion system technology; and

(e) suggestions for improvements in ocean thermal energy conversion system research and development, including recommendations for legislation.

DEFINITIONS

SEC. 210. As used in this title, the term—

(a) "ocean thermal energy conversion" means a method of converting part of the heat which is stored by the sun in the surface layers of the ocean into electrical energy or energy product equivalent;

(b) "energy product equivalent" means an energy carrier such as ammonia, electrometals, hydrogen, or molten salts used to transport ocean thermal energy conversion generated energy to shore for use in generation of electricity or as an energy-intensive commodity; and

(c) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

SEC. 211. (a) There is hereby authorized to be appropriated to carry out the purposes of this title the sum of $25,000,000 for operating expenses for the fiscal year ending September 30, 1981.

(b) Funds are hereby authorized to be appropriated to carry out the purposes of section 205 of this title for plant and capital equipment as follows:

Project 81-ES-1, Ocean Thermal Energy Conversion Demonstration Plants with an electrical and energy product equivalent capacity of at least one hundred megawatts, sites to be determined, conceptual and preliminary design activities only, $15,000,000.

Amend the title so as to read: "An Act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.".

The Clerk read the House amendment to the Senate amendment to the text as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following :

TITLE I—WIND ENERGY SYSTEMS

SHORT TITLE

SEC. 101. This title may be cited as the "Wind Energy Systems Research, Development, and Demonstration Act of 1980".

FINDINGS AND PURPOSE

SEC. 102. (a) The Congress finds—

(1) that the United States is faced with a finite and diminishing resource base of native fossil fuels and, as a consequence, must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) that the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) that the early demonstration of the feasibility of using wind energy for the generation of electricity and for mechanical energy could lead to relief in the demand for existing fuel and energy supplies;

(4) that the use of wind energy for certain limited applications has already proven feasible;

(5) that an aggressive research and development program should solve existing technical problems of converting wind energy into electricity and mechanical energy and, supported by an assured and growing market for wind energy during the next decade, should maximize the future contribution of wind energy to the Nation's future energy production;

(6) that it is the proper and appropriate role of the Federal Government to undertake research, development, and demonstration programs in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies;

(7) that the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity would have a beneficial effect upon the environment;

(8) that the evaluation of the performance and reliaiblity of wind energy technologies can be expedited by the testing of prototypes under carefully controlled conditions;

(9) that innovation and creativity in the development of components and systems for converting wind energy into electricity and mechanical energy can be fostered through encouraging direct contact between the manufacturers of such systems and utilities and other persons interested in utilizing such systems; and

(10) that, consistent with the findings of the Domestic Policy Review on Solar Energy, wind energy can potentially contribute 1.7 quads of energy per day by the year 2000.

(b) It is declared to be the policy of the United States and the purpose of this title to establish during the next eight years an aggressive research, development, and demonstration program for converting wind energy into electricity. It is declared to be the further policy of the United States and the purpose of this title that the objectives of such program are—

(1) to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources; and

(2) to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems.

Nothing in this title shall be construed as preventing the Secretary from undertaking projects or activities in addition to those specified in this title if such projects or activities appropriately further the purposes set forth in this subsection.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which includes all components necessary (including energy storage, power conditioning, and control systems where appropriate) to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, and governmental use;

(2) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts;

(3) the term "large wind energy system" means a wind energy system having a capacity of one hundred kilowatts or more;

(4) the term "facility" means any building, residential, commercial, agricultural, or industrial complex, utility networks, or device which employs wind energy systems, and

the land necessary for such building, complex, networks, or device;

(5) the term "public and private entity" includes any individual, corporation, partnership, firm, association, agricultural cooperative, public- or investor-owned utility, public or private institution or group, State or local government agency, or other entity;

(6) the term "known wind resource" means a site with an average annual wind velocity of at least twelve miles per hour; and

(7) the term "Secretary" means the Secretary of Energy.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR SMALL WIND ENERGY SYSTEMS

SEC. 104. (a) The Secretary shall establish a six-year small wind energy system research, development, and demonstration program to carry out the purposes of this title. As part of such program, the Secretary shall—

(1) promote the coordination and acceleration of research, development, and applications testing of small wind energy systems and components thereof; and

(2) promote the initiation and coordination of demonstrations of small wind energy systems and components which could be used in applications dependent on the wind for their energy.

(b) In carrying out the provisions of subsection (a)(1), the Secretary is authorized to enter into agreements with public and private entities, based on the need to obtain scientific, technological, and economic information from a variety of small wind energy systems under a variety of circumstances and conditions, for the design, fabrication, purchase, installation, and testing of prototype small wind energy systems.

(c)(1) In carrying out the provisions of subsection (a)(2), the Secretary is authorized to establish procedures to allow any public or private entity wishing to install a small wind energy system to apply for and (upon meeting such terms and conditions as the Secretary may prescribe) to receive assistance in purchasing such wind energy system. Assistance under the preceding sentence with respect to a small wind energy system shall be provided in the form of payment (by the Secretary) of a portion of the purchase cost of such system, in an amount (subject to paragraph (5)) not exceeding (A) 50 per centum of the capital cost of the system in the case of a small wind energy system purchased during any of the first four years of the program under this section, (B) 35 per centum of such cost in the case of a system purchased during the fifth year of the program, and (C) 25 per centum of such cost in the case of a system purchased during the sixth year of the program.

(2) Title to and ownership of the demonstration systems purchased with assistance under paragraph (1) may be conveyed to the purchasers of such systems upon terms and conditions prescribed by the Secretary.

(3) The terms and conditions prescribed by the Secretary under paragraph (1) for the provision of assistance in purchasing a small wind energy system, or under paragraph (2) for the conveyance of such a system to the purchaser, shall require an express agreement that the entity receiving the assistance or conveyance will (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of the system for a period of five years and that such entity (including any subsequent owner of the system or the facility containing the system) will regularly furnish the Secretary with such reports thereon as the agreement may require and will at reasonable times permit members of the public to view and inspect the system.

(4) Notwithstanding the specific provisions of paragraph (1), Federal subsidization of purchases of small wind energy systems by public or private entities under this subsection shall terminate when the Secretary determines, in the annual update of the comprehensive program management plan pursuant to section 107, that small wind energy systems have become competitive with conventional energy sources, or on September 30, 1986, whichever occurs first.

(5) The amount of the assistance to which any entity is otherwise entitled under paragraph (1) with respect to the purchase of a wind energy system shall be reduced by the amount of any credit which such entity claims and is allowed under subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (for the taxable year or other period involved) for renewable energy source expenditures made in purchasing such system; and the terms and conditions prescribed by the Secretary under paragraph (1) for the provision of such assistance shall require the entity's express agreement to establishment and implementation of specific procedures for the recovery from such entity (or from a subsequent owner of the system), in the event that such a credit is claimed and allowed, of the appropriate portion of any assistance theretofore so provided.

(d) In carrying out his duties under subsection (a)(2), the Secretary (1) shall set aside approximately 10 per centum of the funds appropriated to carry out that subsection and use the funds so set aside for the accelerated procurement and installation of small wind energy systems by Federal agencies, and (2) shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities (including demonstration projects) as may be appropriate for the demonstration of small wind energy systems which are suitable and effective for use by such Federal agencies.

(e) Within ninety days after the termination of the six-year program established under this section, the Secretary shall by rule promulgate voluntary performance standards for small wind energy systems. The standards so prescribed shall take into account (but need not be limited to) the reliability and safety of such systems and the cost of electrical or mechanical power. In developing such standards the Secretary shall consult with appropriate experts concerning performance needs for small wind energy systems; and such performance standards shall be revised periodically, by rule, as the state-of-the-art improves.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR LARGE WIND ENERGY SYSTEMS

SEC. 105. (a) The Secretary shall establish an eight-year large wind energy system research, development, and demonstration program to carry out the purposes of this title. As part of such program, the Secretary shall—

(1) promote the coordination and acceleration of research, development, and applications testing of large wind energy systems and components thereof; and

(2) promote the initiation and coordination of demonstrations of large wind energy systems and components which could be used in applications dependent on the wind for their energy.

(b) In carrying out the provisions of subsection (a)(1), the Secretary is authorized to enter into agreements with public and private entities, based on the need to obtain scientific, technological, and economic information from a variety of large wind energy systems operating in a variety of utility and other applications, for the design, fabrication, purchase, installation, and testing of prototype large wind energy systems.

(c)(1) In carrying out the provisions of subsection (a)(2), the Secretary is authorized to establish procedures to allow any public or private entity (including a public or investor-owned utility) wishing to install a large wind energy system to apply for and (upon meeting such terms and conditions as the Secretary may prescribe) to receive assistance, on or after October 1, 1982, in purchasing such wind energy system. Assistance under the preceding sentence with respect to a large wind energy system shall be provided in the form of payment (by the Secretary) of a portion of the purchase cost of such system, in an amount (subject to paragraph (5)) not exceeding (A) 50 per centum of the capital cost of the system in the case of a large wind energy system purchased during the first six years of the program under this section, and (B) 25 per centum of such cost in the case of a system purchased during the seventh or eighth year of the program.

(2) Title to and ownership of the demonstration systems purchased with assistance under paragraph (1) may be conveyed to the purchasers of such systems upon terms and conditions prescribed by the Secretary.

(3) The terms and conditions prescribed by the Secretary under paragraph (1) for the provision of assistance in purchasing a large wind energy system, or under paragraph (2) for the conveyance of such a system to the purchaser, shall require an express agreement that the entity receiving the assistance or conveyance will (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of the system, and permit public access to the system, for a period of five years, and that such entity (including any subsequent owner of the system or the facility containing the system) will regularly furnish the Secretary with such reports thereon as the agreement may require.

(4) Notwithstanding the specific provisions of paragraph (1), Federal subsidization of purchases of large wind energy systems by public or private entities under this subsection shall terminate when the Secretary determines, in the annual update of the comprehensive program management plan pursuant to section 107, that large wind energy systems have become competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

(d) In carrying out his duties under subsection (a)(2), the Secretary (1) shall set aside approximately 10 per centum of the funds appropriated to carry out that subsection and use the funds to set aside for the accelerated procurement and installation of large wind energy systems by Federal agencies, and (2) shall enter into arrangements with appropriate Federal agencies (including the Bureau of Reclamation and the Federal power marketing agencies) to carry out such projects and activities (including demonstration projects) as may be appropriate for the demonstration of large wind energy systems which are suitable and effective for use by such Federal agencies.

WIND RESOURCE ASSESSMENT

SEC. 106. The Secretary is authorized and directed to initiate a three-year national wind resource assessment program. As part of such program, the Secretary shall—

(1) conduct activities to validate existing assessments of known wind resources;

(2) perform wind resource assessments in regions of the United States where the use of wind energy may prove feasible;

(3) initiate a general site prospecting program;

(4) establish standard wind data collection and siting techniques; and

(5) establish, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and

Space Administration, and the Administrator of the Environmental Protection Agency, a national wind data center which shall make public information available on the known wind energy resources of various regions throughout the United States.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 107. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this title of research, development, and demonstration activities consistent with the provisions of sections 104, 105, and 106. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Interior, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last prevous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth (with respect to each of the programs under this title) any changes in—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this title, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

CRITERIA FOR PROGRAM SELECTION

SEC. 108. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this title and which are in accordance with the following criteria:

(1) The operations and maintenance costs of wind energy systems shall be minimized.

(2) Programs conducted under this title shall be established with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems.

(3) Preference shall be given in the conduct of activities under this title to those projects in which funds are provided by private, industrial, agricultural, commercial, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 109. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems assisted or installed under this title;

(2) collect, evaluate, and disseminate data and information on the performance and operation of wind energy systems assisted or installed under this title; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when requested) as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this title.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the projected benefits of programs under this title are and will continue to be realized.

UTILIZATION OF CAPABILITIES AND FACILITIES

SEC. 110. The Secretary shall utilize the technological and management capabilities, equipment, and facilities of the National Aeronautics and Space Administration to the maximum extent practicable in carrying out his duties under this title, and shall enter into such additional agreements with the Administrator of such Administration as may be necessary for this purpose.

STUDIES AND DISSEMINATION OF INFORMATION

SEC. 111. (a) The Secretary shall assure that full and complete information with respect to any project or other activity conducted under this title is made available to Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

(b) The Secretary shall—

(1) study the effects, at varying levels of market penetration, of the widespread utilization of wind energy systems on the existing electrical utility system;

(2) determine the necessity for, and make recommendations to the Congress within eighteen months after the enactment of this Act on, a program of incentives to users, in each of the potential markets for wind energy systems, to accelerate the commercial application of wind energy technologies;

(3) investigate the need for financial assistance to the wind energy systems manufacturing industry, and make recommendations to the Congress thereon no later than twelve months after the enactment of this Act;

(4) evaluate the actual performance of wind energy systems in various applications, including but not limited to residential, agricultural, large and small scale irrigation pumping, industrial, commercial, remote nonnetwork utility, and other applications, and report thereon to the Congress within two years after the enactment of this Act; and

(5) study the export potential of wind energy systems and report thereon to the Congress within two years after the enactment of this Act.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

SEC. 112. (a) In carrying out his functions under this title, the Secretary shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this title to the maximum extent practicable.

(b) The Secretary shall, to the maximum extent practicable, use all authority provided by law to protect trade secrets and other proprietary information submitted by small business under this title and to avoid the unnecessary disclosure of such information.

(c) The Secretary shall take such steps as may be necessary to assure compliance with the antitrust laws in the conduct of activities directly or indirectly assisted under this title, and shall implement this title in a manner which will protect against the creation of noncompetitive market situations in the conduct of such activities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 113. There is authorized to be appropriated to the Secretary to carry out this title (1) for the fiscal year ending September 30, 1981, the sum of $100,000,000 (of which $10,000,000 shall be available exclusively for purposes of section 6), and (2) for each fiscal year beginning after that date, such sum as may be authorized by legislation hereafter enacted.

TITLE II—OCEAN THERMAL ENERGY CONVERSION

SHORT TITLE

SEC. 201. This title may be cited as the "Ocean Thermal Energy Conversion Research and Development Act".

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized (ten- to forty-megawatt) pilot plants;

(5) the Federal ocean thermal energy conversion program has grown in size and scope over the past several years and many competent industrial groups have been involved in recent ocean thermal energy conversion research and development activity;

(6) it is in the national interest to accelerate efforts to develop ocean thermal energy conversion by building pilot demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion energy can potentially contribute at least one-tenth quad of energy per year by the year 2000.

(b) Therefore, the purpose of this title is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstrate by 1986 at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal conversion systems;

(2) demonstrate by 1989 at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achieve in the mid-1990's, in the gulf coast region of the continental United States, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources;

(4) establish as a national goal ten thousand megawatts of electrical capacity or

energy product equivalent from ocean thermal energy conversion systems by the year 1999; and

(5) provide for satisfactory cost-sharing arrangements when the Secretary deems appropriate.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 203. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this title of research, development, and demonstration activities consistent with the provisions of sections 204, 205, and 206. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. In addition, such plan shall identify a lead center responsible for technology support and project management.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth (with respect to each of the programs under this title) any changes in—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program elements, management structure, and activities;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this title, a statement on the status of interagency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Ocean Thermal Energy Conversion Advisory Committee established under section 208, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 204. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this title.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 205. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) stationkeeping requirements; and

(4) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this title, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT DEMONSTRATION PLANTS

SEC. 205. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel pilot demonstration projects shall be competitively selected.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity or energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy product; and

(3) the continuous operation of each pilot demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall give full consideration to those projects which will provide energy to United States offshore States, territories, and possessions.

TECHNOLOGY APPLICATION

SEC. 206. (a) The Secretary shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Ocean Thermal Energy Conversion Advisory Committee established under section 208, prepare a comprehensive technology application and market development plan that will permit realization of the ten-thousand-megawatt national goal by the year 1999. Such plan shall include at a minimum—

(1) an assessment of those Government actions required to bring about a two-hundred- to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 202(b)(2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 202(b)(3);

(3) an analysis of further necessary Government actions to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis.

(c) As part of the competitive procurement initiative for design and construction of the pilot demonstration projects authorized in section 210(b), each respondent shall include in its proposal (1) a plan leading to a full-scale, first-of-a-kind facility based on the proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goal.

PROGRAM SELECTION CRITERIA

SEC. 207. The Secretary shall, in fulfilling his responsibilities under this title, select programs and set priorities which are consistent with the following criteria;

(1) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply; and

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this title promotes the development of a United States domestic technology for ocean thermal energy conversion.

ADVISORY COMMITTEE

SEC. 208. (a) There is hereby established an Ocean Thermal Energy Conversion Advisory Committee, which shall, at a minimum, study and advise the Secretary with regard to—

(1) implementation and conduct of the programs established by this title;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(b) The Committee shall be composed of at least seven members appointed by the Secretary from industrial, academic, financial, environmental, and legal organizations and such other entities as he deems appropriate. The appointments shall be made within ninety days after enactment of this Act. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least four times annually notwithstanding sections 10 (e) and (f) of Public Law 92–463, until such time as the demonstration program goals in section 205 are met.

(e) The Committee shall prepare and submit annually to the Secretary a report. Such report shall include at a minimum—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this title; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 203.

(f) The Secretary shall provide sufficient staff and other support as necessary to enable the Committee to carry out the functions described in this section.

DEFINITIONS

SEC. 209. As used in this title, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat which is stored by the sun in the surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier such as ammonia, hydrogen, or molten salts used to transport ocean thermal energy conversion generated energy to shore for use in generation of electricity or as an energy-intensive commodity, and includes fresh water, nutrients for aquaculture, and other resulting commodities;

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

SEC. 210. (a) There is hereby authorized to be appropriated to carry out the purposes of this title the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(b) Funds are hereby authorized to be appropriated to carry out the purposes of section 205 of this Act for plant and capital equipment as follows:

Project 82–ES–1, ocean thermal energy conversion pilot demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only, $15,000,000.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA).

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman's request is for agreement with the Senate amendment with an amendment?

Mr. FUQUA. Yes, Mr. Speaker, and I will then ask to go to conference with the Senate.

Mr. BAUMAN. Are all Senate amendments germane to the bill?

Mr. FUQUA. They are, Mr. Speaker.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5892

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to insist upon the House amendment to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. FUQUA, OTTINGER, BLANCHARD, GLICKMAN, GORE, WYDLER, FISH, and WINN.

APPOINTMENT OF CONFEREES ON H.R. 6942, INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1980

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 6942, the International Security and Development Assistance Act of 1980, with Senate amendments thereto, disagree with the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. ZABLOCKI, FOUNTAIN, FASCELL, HAMILTON, WOLFF, BINGHAM, SOLARZ, MICA, GRAY, BOWEN, BROOMFIELD, DERWINSKI, FINDLEY, BUCHANAN, and WINN.

Solely for the consideration of section 113 of the House bill and modifications committed to conference: Messrs. BOLAND, BURLISON, ASPIN, ROSE, ROBINSON, and ASHBROOK.

PROVIDING FOR CONSIDERATION OF H.R. 6711, YOUTH ACT OF 1980

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 702 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 702

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6711) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. said substitute shall be read for amendment by titles instead of by sections, and each title shall be considered as having been read. and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 702 is the rule providing for the consideration of the bill H.R. 6711, the Youth Act of 1980. It is an open rule, providing 1 hour of general debate. The resolution also makes in order the committee amendment in the nature of a substitute as an original bill for the purpose of amendment, and provides that it will be read for amendment by titles instead of by sections. Finally, the rule provides for two waivers of points of order.

The first waiver is of section 402(a) of the Budget Act because one section of the bill as introduced would allow certain payments to be made in this fiscal year. Since the bill was not reported from committee by May 15 of last year, that section put the bill in violation of the Budget Act. The substitute reported by the committee, however, completely cures the Budget Act violation, so the waiver is purely technical.

There is also a waiver of clause 5 of rule XXI against the substitute that was reported by the committee. The waiver is necessary because of amendments to title IV of CETA that are made by title I of this bill. The current appropriations for CETA are available for more than 1 fiscal year so, to the extent that title I of this bill changes the availability of funds already appropriated, it constitutes an appropriation.

Generally, these kinds of changes in existing programs are very difficult to make without technically involving appropriations, so the waiver was necessary to allow the provisions to be considered by the House.

Mr. Speaker, H.R. 6711, the Youth Act, is important legislation that takes a new approach to a very critical problem—that of youth unemployment. It is clear that the fundamental problems in this area come from two basic causes: Both an absence of marketable skills and an inadequate basic education, particularly among low-income youths. All along we have had numerous employment and training programs on the one hand, and education programs on the other, but they have often been hindered from being as effective as they might have been, due to a lack of coordination and cooperation.

This bill for the first time recognizes the close relationship between the two kinds of programs and, rather than addressing them separately, combines them into one piece of legislation. It builds extensively on what has been learned from experience in order to make both kinds of programs more targeted, more efficient, and more effective than ever.

This is important legislation, Mr. Speaker, that comes at a critical time, as unemployment continues to rise, particularly since young people always suffer rates of unemployment that are much higher than the average. I urge the adoption of this rule in order that the bill might be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

☐ 1050

Mr. Speaker, the rule has been amply explained. The bill itself provides great opportunities for training, education, and employment skills for our young people, so badly needed.

Mr. Speaker, I urge the adoption of the resolution and support the bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I, of course, am in support of the open rule. This will be the first opportunity, I think, that the Congress has ever had to try to force all of those agencies working toward the benefit of a youngster, trying to give him an employable skill. It will be the first time that they have been forced to work together—prime sponsors, local and State governments, educational agencies.

I think there is nothing more expensive to the American taxpayer than to have 45- to 50-percent unemployed youths in many cities, and 25-percent overall; nothing more degrading to a youth than to be unemployed or not having an employable skill. There is nothing more destructive to the American economy than to have this unemployed youth in our country. So, for the first time we are going to try to bring about a program where we are thinking only in terms of what is in the best interests of youth, rather than to have different power structures fighting over a certain amount of money.

I would hope that on Monday we would be able to clearly explain the bill, and then on Tuesday, if that is the setup, we will be able to pass a bill that the President sent, and that the committee rewrote, so that it would be an acceptable and a desirable bill.

Mr. QUILLEN. Mr. Speaker, our young people have been neglected far too long. This measure provides a workable solution, a good solution, and I urge the adoption of the resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 1, not voting 102, as follows:

[Roll No. 352]

YEAS—330

Abdnor
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty

Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.

Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle

Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder

Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Taylor
Thomas
Thompson

Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Bauman

NOTE VOTING—102

Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Badham
Beilenson
Bevill
Boggs
Boland
Bolling
Brademas
Breaux
Brown, Ohio
Buchanan
Burton, John
Cavanaugh
Cheney
Clay
Cleveland
Coelho
Corman
Cotter
Crane, Daniel
Danielson
Daschle
Davis, S.C.
Derrick
Dodd
Donnelly
Edwards, Okla.
Fazio
Fish
Foley
Ford, Mich.

Frost
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Guyer
Hance
Hawkins
Hinson
Holland
Holtzman
Jeffords
Jeffries
Jenrette
Jones, Okla.
Kazen
Kelly
Leach, La.
Leath, Tex.
Lehman
Leland
Lott
Lujan
Lundine
McDonald
McEwen
McKay
Mathis
Mazzoli
Moffett
Moorhead, Calif.
Murphy, N.Y.
Nedzi

Nolan
Panetta
Pashayan
Pepper
Pursell
Richmond
Rodino
Rostenkowski
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
Shannon
Simon
St Germain
Stark
Stewart
Symms
Tauke
Tauzin
Trible
Ullman
Van Deerlin
Vanik
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Young, Alaska

☐ 1100

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Gilman.

Mr. Richmond with Mr. Pashayan.

Mr. Rostenkowski with Mr. Jeffords.

Mr. Boland with Mr. Brown of Ohio.

Mr. Pepper with Mr. Sebelius.

Mr. Panetta with Mr. Schulze.

Mr. Fazio with Mr. Winn.

Mr. Derrick with Mr. Wydler.

Mr. Corman with Mr. Cleveland.

Mr. Cotter with Mr. Daschle.

Mr. Rodino with Mr. Donnelly.

Mr. St Germain with Mr. Lott.

Mr. Wolff with Mr. Lujan.

Mr. Kazen with Mr. McHugh.

Mr. Jenrette with Mr. Moorhead of California.

Mr. John L. Burton with Mr. Young of Alaska.

Mr. Ambro with Mr. Goldwater.

Mr. Bevill with Mr. Guyer.

Mrs. Boggs with Mr. Badham.

Mr. Brademas with Mr. Buchanan.

Mr. Murphy of New York with Mr. Daniel B. Crane.

Mr. Nedzi with Mr. Edwards of Oklahoma.
Mr. Ullman with Mr. Hinson.
Mr. Santini with Mr. Jeffries.
Mr. Russo with Mr. Kelly.
Mr. Breaux with Mr. Leath of Texas.
Mr. Danielson with Mr. Trible.
Mr. Dodd with Mr. Tauke.
Mr. Foley with Mr. Symms.
Mr. Giaimo with Mr. Runnels.
Mr. Hawkins with Mr. Pursell.
Mr. Lehman with Mr. Fish.
Mr. Mathis with Mr. Charles H. Wilson of California.
Mr. Mazzoli with Mr. Stewart.
Mr. Moffett with Mr. Garcia.
Mr. Stark with Mr. Davis of South Carolina.
Mr. Anderson of California with Mr. Frost.
Mr. Cavanaugh with Mr. Clay.
Mr. Cheney with Mr. Holland.
Mr. Coelho with Mr. Hansen.
Mr. Gibbons with Mr. Jones of Oklahoma.
Mr. Ford of Michigan with Mr. Shannon.
Ms. Holtzman with Mr. Leland.
Mr. Simon with Mr. Seiberling.
Mr. Van Deerlin with Mr. Weiss.
Mr. White with Mr. Leach of Louisiana.
Mr. Lundine with Mr. McKay.
Mr. McDonald with Mr. Vanik.
Mr. Nolan with Mr. Beilenson.
Mr. Wright with Mr. Anderson of Illinois.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 715 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 715

Resolved, That during the consideration of the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived: beginning on page 5, lines 9 through 13; beginning on page 9, line 16 through page 16, line 12; beginning on page 16, line 20 through page 17, line 8; beginning on page 19, line 1 through page 20, line 9; beginning on page 20, line 11 through page 21, line 5; beginning on page 22, line 6 through page 23, line 12; beginning on page 24, line 1 through page 26, line 4; beginning on page 32, line 17 through page 33, line 10; beginning on page 38, lines 1 through 5; beginning on page 38, line 18 through page 39, line 12; and beginning on page 39, line 18 through page 40, line 6; it shall also be in order to consider the text of an amendment to be offered by Representative Moakley of Massachusetts, as follows: Page 41, line 17, strike out "$180,000,000" and insert in lieu thereof $187,000,000"; page 41, line 19, after "loans", insert the following: *Provided, further*, That not more than $7,000,000 of such amount shall be made available for the sole purpose of providing disaster loans under section 7(b)(9) of the Small Business Act to any small business which suffered substantial economic injury due to the cancellation of United States participation in the 1980 Summer Olympic Games which shall be deemed an economic dislocation, and all points of order against said amendment for failure to comply with provisions of clause 2, rule XXI, are hereby waived.

□ 1110

The SPEAKER pro tempore (Mr. FARY). The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), and pending that I yield myself such time as I may require.

Mr. Speaker, House Resolution 715 is a rule waiving certain points of order against the bill and an amendment to H.R. 7584, the 1981 appropriation for the Departments of State, Justice, and Commerce, for the Judiciary, and for various related agencies. The bill is, of course, open to amendment and general debate time will be determined by unanimous consent.

The sections of the bill that are subject to the waivers are all identified in the rule, and the points of order that will be waived are those under clauses 2 and 6 of rule XXI. Clause 2 prohibits both unauthorized appropriations and legislation in appropriation bills. Clause 6 prohibits reappropriations.

The clause 2 waivers are necessary primarily because Congress has not yet passed all the 1981 authorizations. In most cases, the authorizing legislation has been reported from committee, and in many instances it has even passed one or both Houses of Congress. But, if the authorizations have not actually been signed into law, the affected sections of the appropriation would be subject to points of order without the waiver.

Waivers of clause 6 were necessary because of several sections of the bill that would transfer, from one line item to another, funds that have already been appropriated. Transfers of appropriated funds are regarded as reappropriations, which violate clause 6 of rule XXI.

Finally, Mr. Speaker, this rule makes in order an amendment to address a specific, one-time problem that has arisen as a result of the U.S. boycott of the Moscow Olympics. The amendment proposes to add $7 million to the Small Business Administration disaster loan fund and to clarify that small businesses who suffered substantial economic injury due to the boycott will be eligible for the loans.

The boycott is a rather unique circumstance that was not anticipated under the current small business laws so, even though disaster loans are available for other kinds of economic injury, it is not clear that injury due to the boycott is eligible. The amendment will clarify that eligibility and, since the clarification constitutes legislation, the waiver was necessary in order to allow the amendment to be offered.

Mr. Speaker, this bill, H.R. 7584, is one of the dozen or so major bills providing appropriations for the next fiscal year. It includes a total of $8.6 billion, which is below the President's request. The money will fund the activities of the State Department, the Justice Department, the Commerce Department and the Judiciary. In addition, there are appropriations for various related agencies, such as the Federal Communications Commission, the Federal Maritime Commission, the International Trade Commission and the Small Business Administration.

This is very important legislation, Mr. Speaker, and I urge the adoption of the rule in order to facilitate consideration of the bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the budget process has held up the appropriations measures of the House. It is time for action. We must get down to business and pass these bills.

This one totals over $8.5 billion but represents savings of some $211 million under what the President requested. It is going to be a controversial measure in some instances, with many amendments.

Mr. Speaker, I urge adoption of the resolution.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 10, not voting 98, as follows:

[Roll No. 353]

YEAS—325

Abdnor
Akaka
Albosta
Alexander
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boner
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.

Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Taylor
Thomas
Thompson
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Bauman
Bethune
Broomfield
Crane, Daniel
Crane, Philip
Hansen
Hollenbeck
Kramer
Levitas
Weaver

NOT VOTING—98

Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Badham
Beilenson
Bevill
Boggs
Boland
Bolling
Bonior
Brademas
Breaux
Brown, Ohio
Burton, John
Cheney
Clay
Cleveland
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Derrick
Dodd
Donnelly
Edwards, Ala.
Edwards, Okla.
Fazio
Fish
Frost
Garcia
Giaimo
Gibbons
Goldwater
Guyer
Hall, Ohio
Hance
Hinson
Holland
Holtzman
Jeffords
Jeffries
Jenrette
Jones, Okla.
Kazen
Kelly
Leach, La.
Leath, Tex.
Leland
Lott
Lujan
Lundine
McDonald
McEwen
McKay
Mathis
Mazzoli
Moffett
Moorhead, Calif.
Murphy, N.Y.
Nedzi
Nolan
Panetta
Pashayan
Pepper
Pursell
Richmond
Rodino
Rose
Rostenkowski
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
Shannon
Simon
St Germain
Stark
Symms
Tauke
Tauzin
Trible
Ullman
Van Deerlin
Vanik
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Young, Alaska

☐ 1130

The Clerk announced the following pairs:

Mr. Fazio with Mr. McDonald.

Mr. Brademas with Mr. Badham.

Mr. Rodino with Mr. Guyer.

Mr. Addabbo with Mr. Hinson.

Mr. Boland with Mr. Pashayan.

Mr. Corman with Mr. Pursell.

Mr. Cotter with Mr. Jeffords.

Mr. Derrick with Mr. Kelly.

Mr. Charles H. Wilson of California with Mr. Lott.

Mr. Wolff with Mr. Lujan.

Mr. St Germain with Mr. Cleveland.

Mr. Santini with Mr. Daschle.

Mr. Russo with Mr. Donnelly.

Mr. Rostenkowski with Mr. Edwards of Alabama.

Mr. Pepper with Mr. Fish.

Mr. John L. Burton with Mr. Moorhead of California.

Mrs. Boggs with Mr. McEwen.

Mr. Breaux with Mr. Edwards of Oklahoma.

Mr. Leach of Louisana with Mr. Brown of Ohio.

Mr. Mazzoli with Mr. Goldwater.

Mr. Murphy of New York with Mr. Hall of Ohio.

Mr. Panetta with Mr. Jeffries.

Mr. Giaimo with Mr. Leath of Texas.

Mr. Hance with Mr. Runnels.

Ms. Holtzman with Mr. Schulze.

Mr. Danielson with Mr. Tauke.

Mr. Dodd with Mr. Trible.

Mr. Richmond with Mr. Winn.

Mr. Rose with Mr. Young of Alaska.

Mr. Shannon with Mr. Seiberling.

Mr. Stark with Mr. Sebelius.

Mr. Kazen with Mr. Symms.

Mr. Jenrette with Mr. Tauzin.

Mr. Mathis with Mr. Wydler.

Mr. Moffett with Mr. Vanik.

Mr. Nedzi with Mr. Nolan.

Mr. Wright with Mr. Weiss.

Mr. Anderson of California with Mr. Beilenson.

Mr. Bevill with Mr. Holland.

Mr. Ambro with Mr. Simon.

Mr. Bonior of Michigan with Mr. Cheney.

Mr. Clay with Mr. Gibbons.

Mr. Garcia with Mr. McKay.

Mr. White with Mr. Davis of South Carolina.

Mr. Coelho with Mr. Frost.

Mr. Jones of Oklahoma with Mr. Andrews of North Carolina.

Mr. Leland with Mr. Lundine.

Mr. Van Deerlin with Mr. Ullman.

Mr. LEVITAS changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7584.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7584), making appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois (Mr. O'BRIEN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. THOMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 4, answered "present" 1, not voting 105, as follows:

[Roll No. 354]

YEAS—323

Abdnor
Akaka
Albosta
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua

Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsna
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Taylor
Thompson
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—4

Broomfield
Lloyd
Mitchell, Md.
Thomas

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—105

Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Applegate
Badham
Bevill
Boggs
Boland
Bolling
Brademas
Breaux
Brown, Ohio
Burton, John
Cheney
Clay
Cleveland
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Derrick
Dingell
Dodd
Donnelly
Eckhardt
Edwards, Ala.
Edwards, Okla.
Fazio
Frost
Garcia
Giaimo
Gibbons
Goldwater
Gonzalez
Gramm
Guyer
Hance
Hinson
Holland
Holtzman
Jeffords
Jeffries
Jenrette
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Leach, La.
Leath, Tex.
Leland
Livingston
Lott
Lujan
Lundine
McDonald
McEwen
McKay
Mathis
Mazzoli
Mica
Moffett
Moorhead, Calif.
Murphy, N.Y.
Nedzi
Nolan
Panetta
Pashayan
Patterson
Pepper
Pursell
Richmond
Rodino
Rostenkowski
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
Shannon
Sharp
Simon
St Germain
Stockman
Stokes
Symms
Tauke
Tauzin
Trible
Ullman
Van Deerlin
Vanik
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Young, Alaska

□ 1150

Mrs. COLLINS of Illinois changed her vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7584, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will try in about 2 minutes, I think, to explain the rationale that we used in marking up this bill.

The bill provides $8,587,725,000 in new budget authority for the Departments of State, Justice, and Commerce, the Judiciary and 19 related agencies. The administration had requested for these departments and agencies a total of $8,798,899,000, an increase of 9.2 percent over fiscal year 1980, to take care of inflation and some adjustments in program levels. We reduced their requests by $211,174,000.

This is the way the committee proceeded in marking up the bill. We tried to limit their increases to 5 percent instead of 9.2 percent, or to last year's dollar level. Now, understand, that gives them a program reduction because it would take at least 9.2 percent to maintain the same program level. In most cases, we stayed within either the 5 percent, which would represent a 4-percent reduction in program level, or in some cases to last year's dollar level, which would be a 9-percent reduction in program level. There are, however, some exceptions, and I will point them out.

The biggest increase over last year's dollar level is in State Department. The amount here is 12 percent over last year's dollar levels. The reason for that, however, is largely for two reasons. One is some substantial increases in costs of security in overseas positions. I think it is obvious why that would be needed following what happened in Iran. The other is that there is an amount in here for contribution to the ILO. We were not making a contribution a year ago, but it has been decided that we will rejoin the International Labor Organization.

In the Justice Department, the increase above the general formula is in the area of bankruptcy positions. They have underestimated the requirements, and they just need more people to get the job done. That is all there is to it.

In the Commerce Department, we gave them some additional program level for the Inspector General and in the area of patents. As the Members all know, they have been running far behind on patents, and that does not really serve the Nation well.

The Board for International Broadcasting needed some new transmitters, and we gave them some extra money over last year's amount for this.

The EEOC wanted new positions in order to get into Federal sector problems to a greater extent, and they were approved.

For the SEC, there are some additional funds to initiate a market oversight surveillance system.

For the SBA, disaster loan fund increases are included. They made requests above what they made last year, but I am sure they will not be sufficient. However, we gave them the exact amount of money they asked, which is more than the amount they had requested last year.

There are two or three matters that I am sure Members will have questions about, and it is just as well to bring them up now. One is LEAA. We had over a period of years cut LEAA from about $1 billion down to last year, when we had $443 million. We were fairly well satisfied with that level. I think we got most of the water out of the program, and there was plenty of water in it prior to last year. However, in the January budget the administration asked for a $79 million increase. Then, in April they asked that it be cut back to $127 million. When we voted here on the floor—here on the budget resolution, there was the suggestion that there be no money for LEAA.

We have provided in here the amount of money that was asked in the April request. We felt that that was probably what the majority of the Members want. We are trying to accommodate the Members and do what we believe the majority want.

Out of the $127.8 million, $100 million would be used for juvenile justice. I think that they have been using not only $100 million, but they have really been spending, out of the other funds, probably another $75 million. So there is a considerable reduction, really, for this particular function. But, we recommended the $100 million and earmarked it. The total amount also includes the $12.5 million requested for public safety officer benefits. That leaves $15.6 million for executive direction, administrative costs, and other purposes. They had $19 million last year for administration of the whole program. I do not think they will need all of the $15.6 million this year, but we cannot seem to find out exactly what they will need.

It is true that they will have to administer some grant applications that are already pending, but nevertheless it seems to me that there will be some money left out of that remaining $15.6 million for whatever purpose seems to be the greatest.

But anyway, that is what we did. We provided $127,845,000 for LEAA, thinking that is what the majority probably wants to do in the House.

We deferred action on EDA. However, we included funds for some unauthorized programs that will continue essentially as they were last year. We deferred EDA because it has been in conference for now a year or two, and if we appropriated any money, we would be getting involved in disputes that are still in conference.

For the Legal Services Corporation we provided $321.3 million, although the agency wanted $353 million originally. They had $300 million last year. So this provides them about a 5-percent increase.

□ 1200

Actually what we have in here is the amount that is needed for very minimal legal services. To cut below this amount means that they do not have legal services in some parts of the country. We have felt for several years that we ought to have minimum legal services, and that it would be discriminatory to deny any part of the country this service when other parts of the country have it. So we have in here $321.3 million. That is the minimum amount for legal services.

So overall, as I say, we have cut this $211 million.

I want to say at this point that a good share of the hearings were held by our late friend and colleague, the esteemed gentleman from West Virginia (Mr. Slack). This subcommittee carried on after he left us, and we just tried to do what we could do to carry out what I think he would have wanted done essentially in this bill. He was a great chairman of this subcommittee, and we are just trying to carry on in his stead.

Mr. Chairman, at this time I would like to yield briefly to the gentleman from West Virginia (Mr. HUTCHINSON), who took Mr. Slack's place as the Member from his district.

Mr. HUTCHINSON. Mr. Chairman, as the House begins consideration of the State, Justice, Commerce appropriations bill, I feel it incumbent upon me to make my first rhetorical contribution as a Member.

On March 17, this body, the Congress, The State of West Virginia, and the Nation lost a valued friend and a fine leader with the untimely passing of John Slack. Two and one-half weeks ago the people of the Third Congressional District of West Virginia, who John served so long and so well, elected me to fill the remainder of his term. It is a high honor, of course, to serve in the "people's body," but it is also a high honor and challenge to be the successor to a great Representative.

The respect and admiration this man commanded from his colleagues and constituents is the greatest testament to the service he rendered. A quick reading of the Journal from March 17 through March 27 will convince anyone that John Slack was an uncommon man and an accomplished legislator.

Since my arrival in Washington on the 10th of this month, and even before, I have been besieged by many of John's friends with offers of support and assistance. Each time this happens, I am touched, for I know it is in his memory that the offer is made.

For many years I worked closely with John on Federal City matters, and I know that much of what we achieved was the result of his exceptional ability, and his unyielding devotion to the people of our district. His help to me and to the district has not yet ended. The immense good will he generated during his 21½ years of service in the House is still paying big benefits. Today, the bill which was closest to his heart is before us for consideration.

Since our colleague, Mr. SMITH, who was John's dear friend, has assumed the role as acting chairman, we will not be lacking for leadership. Nevertheless, I am sure my colleague will join with me in saying that the loss of a man like John is not easily overcome. You have entrusted him to carry on John's work here and the people of the Third District have done the same for me with respect to his seat. He has left for both of us a high standard of excellence to achieve and I am committed to representing my district, my State, and our Nation in a manner which John would be proud.

I am pleased to stand in support of this bill.

Mr. SMITH of Iowa. Mr. Chairman, I think I speak on behalf of the entire House when I say that every Member here agrees with every word the gentleman said about John Slack.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, I thank my colleague for yielding. I would like to ask the gentleman a question, if I may.

Is it correct that the committee recently approved a reprograming request within the National Oceanographic and Atmospheric Administration to allow for the continued funding of the National Marine Recreational Fishery Statistics Survey?

Mr. SMITH of Iowa. Yes; we approved $625,000.

Mr. GINN. Mr. Chairman, since the committee rejected the added request of $825,000 for the survey in fiscal year 1981, is it fair to assume that the committee believes that the survey can continue to be funded from other accounts which have significant unobligated balances?

Mr. SMITH of Iowa. Yes, I think that is true. I believe that the intent of the committee was made clear when the reprograming request was approved.

Mr. GINN. I note in the committee report that the "Promote and Develop" account has available resources which will exceed program costs by an estimated $19 million. I am referring, of course, to the program entitled "Promote and Develop Fisheries Products and Research Pertaining to American Fisheries." In light of the fact that the committee has already directed that this account be drawn on to fund other high priority items, does the committee feel that it would be appropriate to utilize excess moneys in this account to continue the funding of the recreational fishery survey?

Mr. SMITH of Iowa. Yes; the committee feels that NOAA could submit a reprograming request for this purpose should additional resources be deemed necessary.

Mr. GINN. Mr. Chairman, I thank the distinguished chairman of the subcommittee.

Mr. O'BRIEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I speak to the issues of this particular bill, I would like to pay my compliments to a member of the committee staff who is leaving us. It is my understanding Mr. Dempsey Mizelle is leaving the staff after 15 years of excellent service. He is going to the State Department, where I am sure he will help the average, with all his many qualities of professionalism, not the least of which is a great sense of fair play. We will miss him.

Very briefly, to the general points raised by our subcommittee chairman, the gentleman from Iowa (Mr. SMITH), let me add one bottom line. As most of us know, the cost of living, and prices generally are up approximately 18 percent this year. This entire budget, which I recognize is about $8.5 billion, is up approximately 1.3 percent over last year. In a practical sense, we can say that it is a reduction in services. This is a very minimal increase when compared with prices generally.

I would like to speak specifically to two particular issues that I think will get more attention later on. Let me refer the Members, first, to the portion of the bill that deals with the Federal Trade Commission. As many of us know, the Federal Trade Commission is conducting an investigation of the automobile industry, its structure, its conduct, and its performance.

As all of us know, the American automobile industry is under duress. In addition to the curiosity of the FTC, the Department of Transportation is required by statute to file annual reports on the condition of the industry, and the National Highway Traffic Safety Administration has already funded numerous studies of the industry.

To that end and for that reason, a distinguished member of our committee, the gentleman from Texas, Mr. JACK HIGHTOWER, and myself have joined in expressing certain comments to the FTC to take into consideration what our industry is going through. As we know, we are trying to help Chrysler Corp. with $1.5 billion in loan guarantees. I might remind the Members that there are 235,000 auto workers currently on indefinite layoff, with nearly a threefold ripple possible in other industries. At the same time—and I ask the Members to note this—auto imports are taking an increasing share of our market. Imports were 17 percent in 1978, 23 percent in 1979, and they are now 28.7 percent in the first 5 months of 1980, while our production is going down.

Let me give a few examples of our competition. In 1956 the Japanese produced 32,000 cars; in 1970, 5 million; in 1979, 9.5 million; and in 1980 it is projected that they will produce 11 million cars, 45 percent of which are anticipated to be sold in the U.S. market.

Mr. Chairman, I think it is fair to state that the gentleman from Texas (Mr. HIGHTOWER) and myself, and indeed the entire committee, are concerned that the ongoing investigation by the FTC may impose additional and possibly crippling burdens and expenses on an already beleaguered, vital American industry that will prove to be, extremely counterproductive.

Therefore, it is the recommendation of the gentleman from Texas (Mr. HIGHTOWER), myself, and the committee, if the FTC proceeds with its study of the automobile industry, that it devote considerable attention to conditions abroad that have contributed to the success of foreign producers, including the interrelationships of foreign firms with their governments. While "devote considerable attention" is committee language, I would personally prefer to substitute "focus and concentrate" when characterizing the attention the FTC should pay to the foreign production and sales successes.

Second, I would like to talk to the Members about the Legal Services Corporation.

□ 1210

I would like to refer to the opinion of Mr. James J. Kilpatrick, a distinguished writer who has never been too high on the Legal Services Corporation. As a matter of fact, he started out 7 years ago much opposed to it. But now he has come to the conclusion that the funding of the Legal Services Corporation is indeed an important item among our national concerns, and provides valuable care to those of our citizenry who are less advantaged than you and I. I agree with that. And we are now trying to guarantee minimum access of the less advantaged Americans to legal services where they need them, where they need them in domestic relations cases, where they need them in landlord-tenant cases and in a multitude of situations. And that minimum access, mind you, is not lavish. The formula is 2 lawyers per 10,000 people. Imagine, 2 to 10,000. That is literally minimum access.

So, I think we are doing a pretty good job here. We on the committee have agreed to fund this corporation to the maximum amount requested by the administration. I think the figure is $321 million. But I must draw attention to a little problem that I find real and serious and I consider it from the standpoint of believing that charity begins at home. A couple of years ago, Legal Services provided legal service to recognized illegal aliens on our shores, who came in from Haiti, as I recall it, and a part of their services involved filing lawsuits against the Immigration Service, against the Director, against the U.S. Govenment, in some cases for as much as $100,000 in damages, for perhaps not treating them as they might wish to be treated, were they born to the purple. I find that type of expenditure of taxpayer dollars in this day and age simply unconscionable.

Last year we added an amendment to this appropriation which in effect said that none of this money will be expended in behalf of aliens "known to be illegal aliens." And the issue that drew our attention was this Haitian experience which I have described. The idea was, as I envisioned it—and I think we can all determine what the legislative intent was by the end of the day—to see to it that while no stranger was abused, that taxpayers' money was not expended for people who did not belong here.

What has happened since? Well, attorneys for the Legal Services Corporation have undertaken to determine what is meant by "known to be illegal." They have decided that you are known to be illegal when you are practically on the way to the boat, after the conclusion of deportation proceedings, and after the conclusion of the appeals. I deem that to be an extension of legislative intent far beyond what Congress had in mind. As a matter of fact, if that rule were followed, the very case that provoked the amendment would clearly be entitled to legal services.

So I leave it to the House as to whether we should not spend our money on our own people first, without any lack of respect or affection for our neighbor nations, keeping in mind that spending our money at the rate of 2 lawyers per 10,000 of our impoverished citizenery is really not overgenerous.

Mr. Chairman, I must say that I have enjoyed my experience in this committee. I think its membership is of top quality, and I reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 8 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I should not say what I am going to say, because any time that we discuss truly controversial questions around here we usually wind up wishing that we had simply kept our mouth shut. But I would like to raise a couple of questions about an agency which is being funded in this bill, namely, the FBI.

I think my activities around this place indicate that I have very little patience with inappropriate conduct which reflects on the integrity of this institution. And I must say that nothing angers me more than the abuse of public trust by public officials. But I was drawn to politics, in the first instance, because of my concern for civil liberties and individual rights back during Joe McCarthy's heyday in my own State. I have always been concerned about how vulnerable any citizen of this country can be in any confrontation with powerful and anonymous agencies of the Government.

So I am simply rising to ask the subcommittee and, in a sense, the House itself a couple of larger questions surrounding the FBI whose budget is in this bill.

I am no lawyer. And perhaps there are fine legal points which are escaping me on this point. I am happy to see the gentleman from Illinois (Mr. McCLORY) is on the floor at this time, because he is a very thoughtful man and he holds a very responsible position on the Judiciary Committee. But I must say that, even though I am not a lawyer, I am somewhat troubled by the methods which were used by the FBI in the Abscam investigation. I am not addressing my remarks to the question of what is legal. I am addressing my remarks to the question of what ought to be public policy and how best to guarantee that individual liberties are always protected in a very complicated age.

If any Member of Congress—and I want to make this clear—is guilty of criminal conduct. I obviously believe, as any other rational Member does in this place, that he ought to be prosecuted. But I want to ask a question: In determining the appropriateness of methods used by any investigative agency, including the FBI, is there not a distinction which ought to be made between, on the one hand, infiltrating an ongoing criminal operation, and one the other hand, creating the conditions under which a criminal act might be committed?

Maybe there is not. And if I am wrong on this, I would ask other Members of the House to educate me on the subject. But I am always suspicious of Government power, especially Government legal power. I would simply suggest that we ought to be asking a number of questions. The fact that Members of Congress were the targets of this particular investigation, to me, is irrelevant. That is not what I am concerned about, although there are certain interesting questions that are raised by that aspect, as well.

I would ask, for instance: Are there FBI operations going on now which would manufacture a conspiracy in order to test the purity of small businessmen, for instance?

I find it kind of interesting that an OSHA inspector, for instance, can be required to have a warrant before he steps on a businessman's premises to determine whether he is in violation because of the position of a ladder on a wall. But in something which is far more serious, there seem to be far fewer limitations on Government power.

I simply ask the question: Do we really want an agency of Government which, even if it is on an occasional basis, is in the business of testing the purity of individual American citizens? And I question: Is that not approaching the point at which the use of investigative power becomes the potential abuse of investigative power?

Now, some will say "If a Member of Congress uses his office for personal gain, that is an abuse of power." Of course it is. But I raise the question: If John Mitchell or J. Edgar Hoover had conducted this kind of operation, what would the civil libertarians and what would the liberals be saying in this country about the implications of that kind of an investigation? Would they not be calling for John Mitchell's head because of the possibility of using that kind of an investigation or that kind of an operation politically and selectively against political enemies?

I do not know what the answer is, and I am not saying that the FBI was right or wrong on this occasion, because, as I say, I am not a lawyer and I am really not qualified to make those kinds of distinctions.

☐ 1220

But there is in this bill $629 million for the operations of the FBI. That is one awful lot of power. I would hope that this committee would be asking those kinds of questions, and I would certainly hope that the Committee on the Judiciary would be asking those kinds of questions as well as thoughtful members of the press and other academic types and people within the bar itself.

How did the FBI, how does the FBI in instances like this determine who they will try to test? And who makes those choices? What are the guidelines that guarantee that this kind of power cannot eventually be used selectively against business groups that an administration does not like, against labor leaders that an administration does not like? I think these are some very fundamental questions.

I know Members of Congress are reluctant to raise them, because some people will accuse one of trying to hide the crooks, but that is not what we are trying to do here at all. That is certainly not what I am trying to do.

I simply think it is essential in our role as representatives of the public and under the oath we take to defend the Constitution and the individual liberties that that Constitution is supposed to protect to raise these questions. I think we have to ask them. I think we had better come up with some very thoughtful answers.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I am so happy that the gentleman has raised this question, because, like the gentleman in the well, I am not a lawyer. I have no hesitation in questioning it. When the entrapment, which I presume the gentleman is questioning, when that system was used and it involved Members of the House, one of my colleagues said that is a terrible system to use against Members of the House. If it is legal against counterfeiters and drug runners, it is legal against Members of the House. I think it is time that we began to question it.

I do agree that we must be very careful of legal process, and I think it is hopeful that the gentleman raised this question here.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I support H.R. 7584, and I would like to express my particular concern for the survival of the Legal Services Corporation.

Every year, attacks are launched against the Corporation by Members who think that it has been too zealous in its defense of the rights of the poor. As a result, the Legal Services Corporation has been subjected to numerous limitations. I believe that this agency has served an important purpose in our society and I would hope that my colleagues would cease in their attacks on legal services.

America is a country which takes the fundamental rights of its citizens very seriously. Justice cannot be reserved for the rich. We have to insure that the poor, who suffer the most injustice, can defend themselves. These legal problems, with which the Corporation assists the poor, are primarily simple in nature. They deal with things like child custody, disputes over welfare eligibility, or fighting evictions. While a few endeavors of legal services attorneys may offend some of my colleagues, these isolated incidents should not provide the grounds for attacking an agency which has done so much good for our Nation's poor.

The proposed level of appropriations for fiscal year 1981, $321.3 million, merely maintains current services. Any reductions in this amount will severely impair the ability of this organization to carry out its mission of providing a minimal amount of legal assistance to the poor.

We must not risk the further alienation of low-income persons in our society by denying them the means to obtain justice. I urge my colleagues to resist any attempts to reduce funding or in any way further limit the activities of the Legal Services Corporation.

Mr. O'BRIEN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, at the appropriate time I will be offering an amendment which will add $4.9 million to restore 160 border patrol agent positions, which, believe it or not, the administration wants to delete or to cut from the present program.

We currently have authorized 2,348 total positions. We provided the money for them in last year's budget, in the current year's budget, but the administration refuses to spend it.

We have 2,120 aboard, which means we are 228 short right now.

Now, the facts are that this administration, indeed this Congress, has no coherent, understandable immigration policy. I am not talking about the boat people. I am not talking about the Cuban refugees. I am not talking about the Haitians. I am talking about the steady flow of 2,000 to 3,000 per day every single day crossing the United States-Mexican border between Texas and California.

Last year, and I cite evidence of this, 879,000 were apprehended at the border with a miniscule border patrol force.

Now, for every one that is apprehended, it is estimated that at least two or three were not apprehended and did, indeed, enter the country.

Now, they do not all stay. They go back and forth because it is so easy. Now, why do they come, and what do they do here? Well, they come for the same reason our forefathers came here. They come for opportunity to work, except of course it happens to be illegal. By and large, they are decent, hard-working people, and in many cases we need them; but it is still illegal. They do not have the total protections of the law, and they should have. We ought to have some kind of a policy. Why do they stay? They stay because it is not against the law to hire them. There is no penalty. One can hire all of the illegal aliens one wishes. Somebody might come and catch them and haul them away, but there is no penalty to the employer. It is perfectly legal to hire an illegal alien, or the other term is "undocumented worker."

Now we need legislation and we need a national policy. We need it desperately. I, along with many of my colleagues on both sides of the aisle, have introduced year after year comprehensive legislation which would not build a wall at the Mexican border. Indeed, we think that is not possible nor is it desirable. But it would make the traffic manageable. It would regularize the flow. We would ask for a guest worker program. We used to have it back in the sixties.

I would point out that any prospective employer would have to advertise publicly for American help first before they could ask the Department of Labor to admit these foreign nationals. Well, at another time we will discuss that legislation.

In the meantime, we have some 5,000 miles of Canadian and Mexican border, with a total at any one time of 350 officers on duty—350. The traffic on the Canadian border is not all that heavy, but believe me, from Texas to California, it is heavy indeed. We are asking the border patrol to do an impossible task. I am not naive enough to suggest that 160 more border patrol agents are going to stem the tide, but it is going to send an important message to the border patrol, whose morale is at an alltime low. They are forgotten, they think. They are abandoned, they think. They do not have enough funds to run their automobiles, to buy gasoline, or to repair their vehicles.

Just let me quote one sentence. Herbert Walsh, president of the Border Patrol Supervisors Association and chief of the patrol in Tucson, Ariz., said, and I quote:

> We do not have any control of this border right now.

I do not know what more evidence we would need. Now we will hear later in the debate a study is being conducted. It will be finished in March of 1981, on basic immigration policy. Good show. It is years late perhaps, but we need it. But in the meantime, for heaven's sakes, let us do our best to try to enforce the law until we can establish some kind of new law. When we do not enforce the law, we breed contempt for it. That is wrong. We need our Mexican neighbors, and they need us; but we have got to do it in a fashion that is legal, that is manageable, and that makes some kind of sense.

I ask my colleagues to join me when I offer the amendment.

Mr. O'BRIEN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. First of all, Mr. Chairman, I would like to support the position of the gentleman from Illinois (Mr. O'Brien) with respect to his comments regarding the Federal Trade Commission. I have introduced legislation to establish a commission to consider what effect the antitrust laws have on our international trade and our relations with foreign companies and the FTC's determination to enforce our antitrust laws against American concerns which are undertaking to do business with overseas corporations. It is most distressing to see the grave harm that is being done to American industry and frequently to the advantage of the foreign competitor.

However, my reason for asking for a few moments here in general debate is to suggest that the legislation presented to us here today is imperfect in that it omits funds for the grant programs of the Law Enforcement Assistance Administration. I might say that they are part of the Omnibus Crime Control and Safe Streets Act that we passed back in 1968, at a time when we recognized that the problem of street crime, the problem of crime in America was, indeed, a national problem.

□ 1230

We established the LEAA in order to indicate national support for endeavoring to reduce crime and to help in the fight against crime at the local and community areas. Just last year, we restructured the whole program to solve the problems in the program, to meet all the criticisms, and to evaluate locally developed programs and monitor them so that they could be utilized in communities throughout the entire country.

We reduced the appropriation for the current program from almost $1 billion to less than $500 million. This year it was even suggested that we reduce the grant program further.

This bill that is before us essentially eliminates all the grant programs to the community level, which is the place where the crime occurs in our Nation. It is my hope that through my amendment we can reprogram to restore $100 million of funds to accommodate those purposes. We will transfer $20 million from the juvenile delinquency programs and the balance of $80 million will be transferred from the general appropriation of $2.2 billion, which goes to the Department of Justice.

I know that the committee had very effective and very supportive testimony in support of the LEAA program and in support of the purpose behind the amendment that I am offering. I want to assure you that the members of the Committee on the Judiciary are in strong support of this. My colleague, the gentleman from North Carolina (Mr. Gudger) is joining me in this amendment. I am hoping that it will not be resisted by the Committee, but will have overwhelming support of the members. I am confident that it is in the best interests of our Nation and in the extremely difficult problem of crime in America and focuses primarily in the area where crime occurs—that is in the neighborhoods and in the communities, where LEAA grant programs enable people to work together, including the churches, the schools, the law enforcement personnel, the judges and many others who are interested in helping to fight this terrible plague of crime.

This amendment, if adopted, will enable us to continue that program.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I thank the gentleman for yielding.

I rise only for the purpose of concurring in the gentleman's remarks and commending the gentleman for his very excellent statement as to the general concerns that so many of us share about the future of the LEAA program and its need to be continued on an adequate funding basis, which we contend and believe is not contained in this present bill. We share the concerns of the gentleman and our comments will be more complete hereafter during the course of debate when the gentleman offers his amendment.

I thank the gentleman for his comments.

Mr. McCLORY. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, I thank the gentleman very much for yielding me this time.

First, I would like simply to say that after the introduction of the amendment by my friend and colleague, the gentleman from California (Mr. Burgener), I will be offering an amendment to his amendment to increase the number of the border patrol that he proposes, as well as to add inspectors to the immigration and naturalization service.

Mr. Chairman, the bill before us accepts the administration premise that efforts to improve our border control should await the recommendations of the Select Commission on Immigration and Refugee Policy, of which I am one of the Commissioners.

These recommendations are not due to the Congress and to the administration until March of 1981.

Surely legislative action will thereafter take the better part of another year.

Knowing that illegal alien apprehensions are running at the rate of over 1 million a year, mainly at our borders, and hearing, as we have earlier, from the gentleman from California (Mr. Burgener) that there is a ratio that has been talked about in terms of 2 or 3 to 1 at worst, and conservatively 1 to 1, of those who successfully enter illegally for every 1 apprehended, are we ready to do nothing about this problem for 2 years?

My colleagues, the American people are presently concerned over our generous refugee policy. They are even more concerned over the presence of so many Cubans in our country; yet illegal entry amounts to many, many times the numbers of refugees and asylum petitioners in our Nation.

It seems to me that this is an issue we can do something about today. We can particularly address the revolving door of our Mexican borders.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to commend the gentleman for the recognition on his part about the need to do something about the lack of border patrol.

I happened to visit that area, and I think we absolutely need to increase the numbers of our border control.

I thank the gentleman for his efforts.

(By unanimous consent, Mr. Fish was allowed to speak out of order.)

STATEMENT OF HON. HAMILTON FISH, JR., ON THE DECISION BY THE ADMINISTRATION TO EXTEND PAROLE OF BOTH CUBANS AND HAITIANS FOR 6 MONTHS

Mr. FISH. Mr. Chairman, the decision by the administration this morning to extend the parole of both Cubans and Haitians here now for a 6-month period pending special legislation as to their status appears to make the best out of a bad situation.

It would have been harmful stretching of the language of the Refugee Act of 1980 to make an administrative determination that the Cubans and Haitians on our shore are refugees. While processing applicants for asylum will continue, it has proven to be a lengthy and cumbersome process and most agree not generally applicable.

A basic reason for a change in classification is that applicants for asylum are not entitled by law to benefits. The new classification will make these aliens—limited I might add to those now here—eligible for SSI, medicaid and AFDC. It will also make possible grants to resettlement agencies not heretofore available.

The announcement recognizes certain basic facts. First, that many Cubans and Haitians simply do not qualify under the law for asylum. Second, although they are undocumented aliens, they are here and most will stay and eventually be resettled. Third, special legislation as to status which is the ultimate solution is simply not in the cards this year. Fourth, by limiting status and benefits of Cubans and Haitians at this time, the policy minimizes the magnet effect of encouraging others to attempt entry. Fifth, financial assistance provisions are moving through Congress to defray the costs of the Federal agencies involved and to eliminate the burden on State and local governments.

While I would prefer the administration use the term "extended voluntary departure" instead of "parole" with respect to the temporary status of the Cubans and Haitians, as this has worked in the past in the case of Chileans and Argentines in the United States. The decision does seem to be the only practical solution. What is not clear is whether the administration has vigorously attempted to internationalize resettlement. In permitting entry to occur in the first place, it stands subject to criticism.

I hope that we have learned from this experience of being a country of first asylum and will not allow a repetition. The Caribbean and Central and South America, I think will pose the greatest pressures of migration to our shores in the coming decades. We have allowed the law to be flaunted and should take steps to see that this does not reoccur.

This afternoon in room 2154 there will be a staff briefing by the executive branch on this change in policy.

Mr. O'BRIEN. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. Rudd).

Mr. RUDD. Mr. Chairman, at an appropriate time I will ask unanimous consent to insert extraneous material.

Mr. Chairman, let me take this opportunity to commend the distinguished chairman, the gentleman from Iowa (Mr. Smith), and our colleague, the gentleman from Illinois (Mr. O'Brien), the ranking minority subcommittee member, for the hard work they have put into this bill.

I continue to have serious concerns about the activities of the U.S. Metric Board, which are apparently designed to promote and where possible to impose metric conversion upon the American people.

These concerns were spelled out in detail in hearings of both the Science and Technology Committee, which conducted Metric Board oversight hearings on November 26, 1979, and before the Appropriations Subcommittee during consideration of the Board's fiscal year 1981 appropriation earlier this year.

The Metric Board has repeatedly been instructed not to promote metric conversion.

The intent of Public Law 94-168, which created the Board, was clearly for the Board to act as a neutral body, taking neither a "pro" nor "con" position on the subject of metric usage.

The Board's limited mandate is simply to respond to private sector requests for assistance in coordinating and planning metric conversion, only when such conversion is initiated by citizens, businesses, or entire industries.

The committee report accompanying this bill again instructs the Metric Board to reassume this limited mandate, and not to continue carrying out promotional activities for metric conversion.

In light of the Metric Board's track record to date—a record of missionary zeal in imposing metric upon the American people—instructions in a report from Congress may not be sufficient to obtain the Board's compliance with congressional intent.

It is most unfortunate that the Board is unwilling to follow the lead of the people and their productive enterprises on the question of metric usage, but seems determined to use its own bureaucratic resources and those of other Federal Government agencies to force a very costly change to metric that is unwanted by the vast majority of citizens.

Again, I commend the committee for its diligence in considering this problem, and in instructing the Metric Board to cease its advocacy and promotional role.

If the Metric Board continues to ignore these instructions, my bill, H.R. 739, to abolish the Metric Board, which has been referred without action to the Committee on Science and Technology, should certainly receive priority consideration.

Mr. Chairman, I would like to include my additional views concerning the activities of the U.S. Metric Board at this point in the Record:

[From House Report 96-1091, Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Bill, Fiscal Year 1981, pages 77-78]

Additional Views of Honorable Eldon Rudd Concerning Activities of the United States Metric Board

The Committee, and particularly Subcommittee Chairman Neal Smith and Ranking Member George O'Brien, deserve special commendation for the long and hard work on all matters brought to its attention in connection with this appropriations bill.

The Subcommittee paid particular attention to activities of the United States Metric Board, and graciously received testimony from me during its deliberations concerning problems brought to my attention by American citizens throughout the country.

The Committee last year expressed concern that the Metric Board had gone beyond its legislative mandate (Public Law 94-168) by advocating and promoting conversion to the metric system, rather than acting to help coordinate and plan metric conversion only when elements of the private sector indicated a desire to convert by their own initiative.

In its report accompanying FY 1980 appropriations, the Committee stated—

"The Comptroller General has recommended that the Metric Board initiate a program to inform the American people that conversion to the metric system is strictly voluntary and that the national policy as mandated by the Congress does not favor the metric system over the customary system or vice versa. The Committee is concerned that the Board, in its policies and actions, is becoming an advocate of the metric system and is giving the impression that our official national policy is to convert to the metric system albeit voluntarily. The Committee believes that the proper role for the Board, as mandated by the Congress, is to educate the public concerning the metric system, including its disadvantages as well as its benefits, and to offer help and guidance to those segments of our society, industries and other groups who want to convert. The Committee, therefore, expects the Board to implement the recommendations of the Comptroller General and review its policies and programs to ensure that it provides complete information about the metric system and about all aspects of the conversion process."

Despite this clear declaration from the Committee last year, the Metric Board has not ceased its advocacy and imposition of metric usage and changeover through Federal Government action.

The Metric Board has violated both the spirit and the letter of its organic act and the subsequent directive from Congress in at least 10 specific ways, which I included in my testimony before the Subcommittee (FY 1981 Hearings, Part 10, pp. 48-58, 87-93), and which are summarized as an addendum at the conclusion of these comments.

COMMITTEE ACTION

The Committee has again recognized the apparent missionary objective of the current Metric Board to advocate and, however possible, to impose metric conversion upon the American people, despite the overwhelming public opposition to metric conversion as registered in nationally-renowned public opinion surveys.

The Committee has commendably denied the Board's request for 12 additional positions and an additional $891,000 over FY 1980 appropriations, with which the Board intended to increase its metric advocacy efforts through monthly rather than the current bi-monthly meetings throughout the country and other promotional activities.

Restating its intention that the Metric Board cease such promotional activities, the Committee has stated in this report—

"The Committee believes that these program increases are not justified in light of the growth of the Board's budget since its inception two years ago, the need to hold down Federal spending, *and the need to ensure that the Board follow its limited mandate to co-ordinate and plan for voluntary conversion to the metric system, and not to promote conversion to the metric system.*" [Emphasis added.]

In spite of this repeated position of the Committee, the Metric Board has demonstrated its unwillingness to accept or implement these directives from Congress. While the Board has given lip-service to "voluntary metric conversion," Board actions over the past two years have been clearly geared to promoting metric conversion as national policy and implementing metrication within a self-imposed 10-year timetable.

If it is the will of Congress that the Metric Board refrain from invoking the power and resources of the Federal Government to promote and impose conversion to the metric system, it therefore seems necessary to require this course of action through an appropriate proviso in this bill.

I reserve the right to offer such a proviso as an amendment when the House considers this appropriations legislation.

Eldon Rudd.

□ 1240

Mr. O'BRIEN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague from Illinois for yielding this time. I join the many friends of the former colleague of ours, John Slack, in honoring his memory and the service of John in this body to his district and to his country. He was, of course, chairman of this subcommittee until his passing in March. Filling the responsibility and the chairmanship has not been easy, but his good friend, the gentleman from Iowa (Mr. Smith), has done an excellent job in coming into a very difficult role.

I rise to speak about the operation of our American Institute in Taiwan. As we all remember, the Institute was created by Congress to take care of the Embassy responsibilites in Taiwan when, unfortunately, this country broke relationship with the Taiwanese Government. But I do not think that the intention of Congress is being carried out in the operation of the Institute in Taiwan.

I do not want to blame or fault the people who are attempting to carry out that responsibility. The guidance they are receiving from our State Department renders their operation almost imposible They cannot help American business people that are trying to carry out a business relationship with Taiwan.

I have one instance that I bring to the attention of the committee and hope in the future that we can give some strong encouragement or direction to the State Department. I realize that it takes legislation really to make any change, but I think through the power of the purse we can do something.

A constituent of mine is a large employer. That large employer employed a Taiwanese gentleman as a systems analyst. He has been doing his job, and he and his wife are in the process of becoming U.S. citizens. But it became necessary earlier this year for them to renew their visa. They tried to do it in Washington, but were refused help. I suggested they go to Canada to get their visa renewed through our Embassy in Ottawa. The Embassy there said they were too busy to handle the request.

These people were forced, and the lady was pregnant, about to deliver, but they were forced to fly back to Taipei to renew their visa. It took them a week away from their job with the expense of flying back to Taiwan to get their visa renewed.

I think the State Department of ours needs to be addressing problems like this. They were legal in this country, and they were working on a work visa. I think they should have been assisted.

So I think the Institute in Taiwan is doing as good a job as they can, but they are getting very little help from the State Department. I hope next year when the State Department comes before this committee that the members of the committee can give them some strong instructions that this Institute should do a better job in serving this country's needs in Taiwan.

Mr. O'BRIEN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Chairman, the members of our committee have worked hard to bring you the best bill we could in the tradition of our late colleague and chairman, John Slack. We have tried to honor the commitments to a balanced budget the Congress has made in its recent deliberations.

I and other members of the committee would have liked to include more funding in some areas, but recognizing the restraints our people have asked us to exercise in Federal spending we did not do so.

There is one matter in connection with this bill to which I would particularly like to draw your attention. I believe the committee report makes our recommendation clear but, I would simply like to restate the position here for the record.

The Economic Development Administration is a highly successful economic tool working for balanced development throughout the Nation. EDA has a work force dedicated to helping our people improve their job, business and industrial opportunities. We want to see EDA continue the good service it has given our people.

The fact that this bill contains no recommendations on program funding for EDA should not be taken as an indication of any dissatisfaction with the agency or its programs. As the committee's report clearly states, we deferred action on the EDA programs budget request because work on the authorization has not been completed. We, at this time, do not know enough about the shape of the EDA programs which will be authorized for fiscal year 1981 to make the kind of sound recommendations the House has a right to expect from the Committee on Appropriations.

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Chairman, I had not planned to speak at this time. But since I have heard that some amendments to be offered will increase the spending in this particular bill, I felt it necessary to convey the message that I had not planned to offer the 2-percent amendment reduction that I have at the desk. But I will be compelled to offer it if I find the other amendments will increase the spending in this particular bill an appreciable amount.

I understand there are several amendments that will increase the bill substantially. If they are not approved, I do not expect to offer the 2-percent reduction, because the committee has increased only 1.3 percent over the spending from last year. That means that they really had to hold the line.

But it is possible to blow this bill right through the roof by the amendments that could be offered. They could practically destroy the bill as far as I am concerned.

The total amount of the bill is $8.5 billion and the nonmandatory section of the bill that the 2-percent amendment would reduce amounts to $7.9 billion. The 2-percent reduction would be about $160 million.

The U.S. budget has increased in the last 5 years. For example, in 1976, we had a $415 billion budget. It has grown to a proposed budget for 1981 of $697 billion. We have increased the budget that much in 5 years.

☐ 1250

We have interest on the national debt in this budget of approximately $79 billion. That comes out to about $217 million a day interest alone on the national debt. I wanted to convey the message that if we do have amendments that increase the bill, I propose to offer the 2-percent reduction.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I appreciate the gentleman's position. I have generally been very supportive of the gentleman's amendments in terms of attempting to restore some fiscal sanity to our country. Probably I will support the gentleman on this bill. It remains to be seen whether any amendments will or will not be adopted and if so in what amount. The one I am offering, for example, is $4.9 million, a whale of a lot of money but percentagewise minuscule in terms of the overall bill.

The gentleman mentioned 2-percent would equal $160 million. Should additions be made in that amount, I would be inclined to support the gentleman's amendment.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman also from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. As the gentleman knows, I generally support the gentleman's amendments to cut appropriations either 2 percent or 5 percent, whichever figure the gentleman offers at any given time.

The gentleman states to the House that if, on this appropriation, amendments on the floor are offered to exceed $160 million that the gentleman will then offer a 2 percent reduction across the board at the end of the bill?

Mr. MILLER of Ohio. That is correct.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's comment. Since I normally do not vote for too many increases, I would be glad to join the gentleman in his effort. I hope that the Members of the House are mindful of the gentleman's suggestion to keep any additions below that amount.

What if it gets to $150 million, will the gentleman offer the amendment then or is the gentleman making this an absolute number?

Mr. MILLER of Ohio. I would rather keep the options open. It depends upon the type of amendment and what the money is for.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's comments. I know the gentleman is an active member of this committee and pays a lot of attention to these general expenses that have escalated in the last 3 to 5 years. I compliment the gentleman on his effort. I hope it will not be necessary for the gentleman to offer the amendment. I am not sure it would not be a good thing because we all know there is always fat in the budget.

Mr. Chairman, I have been informed by another member of the Committee on Appropriations who sits on another subcommittee that they were informed suddenly this week that the administration did not need $400 million in some area. This suddenly came up. Mr. Chairman, I am always convinced there is some place we can save 2 percent.

Mr. SMITH of Iowa. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For neceessary expenses of carrying out the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292–300), $118,432,000, to remain available until expended.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILIP M. CRANE: On page 3, line 8, after "until expended" strike the period and insert the following ": *Provided, however*, That no more than $1,000 may be used to operate or maintain an embassy in Israel which is not located in the city of Jerusalem."

Mr. PHILIP M. CRANE. Mr. Chairman, beneath the boldly lettered quote of Harry S. Truman "To me, party platforms are contracts with the people, and I always looked upon them as agreements that had to be carried out," the 1976 National Democratic Platform states unequivocally:

> We recognize and support the established status of Jerusalem as the capital of Israel, with free access to all its holy places provided to all faiths. As a symbol of this stand, the U.S. Embassy should be moved from Tel Aviv to Jerusalem.

While not in the habit of encouraging compliance with the Democratic Platform, I emphatically urge my colleagues on both sides of the aisle to heed this succinct and persuasive policy statement. My amendment will effect the relocation of the U.S. Embassy in Israel to that faithful ally's capital city, Jerusalem.

In 1948, the United States was the first nation in the world to acknowledge the new State of Israel. Since then the United States has enjoyed a warm and most reliable ally in the Middle East. Although upheavals in this turbulent region have tested those ties, Israel, as a free nation sharing most of our fundamental values, has remained a close friend and strategic asset to the United States. We have been particularly grateful, in recent years, to Israel for her service as an effective counterweight to the Soviet Union's threat to western oil supplies.

Despite our close ties to Israel, the State Department has never recognized Jerusalem as the country's seat of government. Instead, the U.S. Embassy remains in Tel Aviv thus complicating both communication and diplomacy, the primary functions of an embassy.

On December 5, 1949, the State of Israel declared west Jerusalem its capital. On January 23, 1950, the Israeli Parliament, meeting in the city, proclaimed that "Jerusalem was and had always been the capital of Israel." On July 12, 1953, the Israeli Foreign Ministry transferred from Tel Aviv to Jerusalem. Many nations objected to the move, but by 1967 40 percent of all diplomatic missions were located in the city. Other nations have already recognized the reality that Israel's capital is Jerusalem. It is time for the United States to recognize that reality.

The Democratic Platform states that the capital of Israel, Jerusalem, should be open with "free access to all its holy places." On June 27, 1967, following the Israeli conquest of east Jerusalem, the Knesset guaranteed universal access to the city's shrines. On November 29, 1968, this right was specifically extended to citizens of all Arab States, including those which still considered themselves at war with Israel. Visits of pilgrims from each of the three major world religions, Christianity, Judaism, and Islam, that revere Jerusalem as a holy city, have increased steadily since those declarations. Since Israel has lived up to our expectation that the city should be open to pilgrims of all faiths, we should now reconsider the aging decisions that keep our Embassy on the coast separate from the inland capital of Israel.

I suggest that a part of that reconsideration should be a reawakening to the vital importance of Israel to U.S. interests in the Middle East. The paramount U.S. interest in this region of turmoil is to prevent the Soviet Union from exploiting the unrest to choke off the oil supplies upon which much of the Western world depends. Indeed our own inept policies of regulating energy prices have made us reliant on the Middle East for up to 40 percent of our petroleum imports. In light of this reliance we cannot allow the Soviet Union to capitalize further on its massive military buildup by securing a stranglehold on the Middle East. There is no question that the Soviet Union is asserting its military power at both ends of the Middle East.

Already they operate from bases and naval facilities in Iraq, Syria, South Yemen, Ethiopia, and Libya. Moreover I need not remind this body that the seizure of Afghanistan places Soviet armed divisions within easy striking distance of the Gulf of Oman and even the Strait of Hormuz. Without an ally in Iran, Israel may be the last strong military deterrent to Soviet domination in the region. Other pro-Western states in the region, Saudi Arabia and the smaller gulf states are vulnerable to Soviet might.

Due to Israel's democratic political system and our common Judeo-Christian heritage, we do not have to fear radical political instability or anti-American sentiments to boil over in Israel as they did in Iran. Israel has continually provided us with insights and intelligence concerning Soviet adventurism in the area. Israel's forces are equipped to maintain, service, and repair U.S. military equipment, including the most sophisticated aircraft. Moreover, her naval bases and airfields could provide a secure point of access if ever required in an emergency.

Perhaps, in summary, I might be permitted to quote former California Gov. Ronald Reagan, since I have based my remarks largely upon the Democratic platform. Governor Reagan has said:

> It is foolheardy to risk weakening our most critical remaining regional strategic asset. Yet if administration policies should serve to weaken Israel . . . the tasks of Kremlin planners dealing with the Middle East would be enormously eased and a determined barrier to Soviet expansionism in the region would have been withdrawn.

We should, therefore, seek every opportunity to strengthen our relations with this valuable ally. After 32 years we need to acknowledge the capital of Israel and heed the policy of the Democratic party that "the U.S. Embassy should be moved from Tel Aviv to Jerusalem."

☐ 1300

Mr. SMITH of Iowa. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I think this matter of where an embassy should be located is a policy matter. I listened to the gentleman's statement, but I do not know where it ought to be located. I assume that possibly no one knows. I have been there, and I assume that maybe the fact that it takes some time to get from the major airport to Jerusalem has something to do with it, but I do not know if that is the case. Anyway, it is a matter that I would hope we would not settle on appropriations bills. I am not going to argue for one location versus another. It just seems to me that if we start this, we are going to have our appropriations bills determining the location of embassies and consulates in the various countries. A better forum would be in an authorizing bill or somewhere else.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. Yes, I yield.

Mr. PHILIP M. CRANE. I thank my distinguished colleague for yielding. I would argue that actually this is not policy. It is a simple limitation on an expenditure that is involved in the amendment. That is why I do not think that it is out of order, the language of the amendment.

Mr. SMITH of Iowa. I have not challenged it.

Mr. PHILIP M. CRANE. I realize that, and I thank the gentleman for it, but what I am attempting to argue is that I do not think that there is policymaking involved in the amendment; that the amendment does conform, and in that sense this is a legitimate and reasonable manner in which to express this effort at achieving a desired goal that I think Republicans share with our Democratic colleagues.

Mr. SMITH of Iowa. Mr. Chairman, I urge the rejection of the amendment.

Mr. DOUGHERTY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I request permission to be identified with the comments of the gentleman from Illinois. I believe it is about time that the United States reaffirm its commitment to Israel, and this Congress should support the location of the capital in Jerusalem.

The CHAIRMAN pro tempore (Mr.

Foley). The question is on the amendment offered by the gentleman from Illinois (Mr. Philip M. Crane).

The question was taken; and the Chairman pro tempore announced that the nays appeared to have it.

Mr. PHILIP M. CRANE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 355]

Abdnor
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fuqua
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Taylor
Thompson
Trible
Udall
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1320

The CHAIRMAN pro tempore (Mr. Foley). Three hundred twenty Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that the pending vote be vacated and that there be allowed 10 minutes of debate on this, 5 minutes on each side.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. PHILIP M. CRANE. Mr. Chairman, could I make a unanimous-consent request that the amendment be reread before the call for the recorded vote?

Mr. ANNUNZIO. Mr. Chairman, I object.

The CHAIRMAN pro tempore. The gentleman could have made such a unanimous-consent request. Does the gentleman wish to make a unanimous-consent request that the amendment be re-reported?

Mr. PHILIP M. CRANE. Mr. Chairman, I just wanted it reread so that every Member could understand it, and I understand there has been an objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Illinois (Mr. Philip M. Crane) for a recorded vote.

In accordance with the Chair's previous announcement, if a recorded vote is ordered, the Chair will reduce to 5 minutes the time in which Members may record their votes by electronic device.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 252, not voting 101, as follows:

[Roll No. 356]

AYES—80

Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Broomfield
Burgener
Campbell
Carney
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Dannemeyer
Davis, Mich.
Deckard
Dornan
Dougherty
Erdahl
Fary
Forsythe
Frenzel
Gilman
Gingrich
Goodling
Grassley
Green
Hansen
Harsha
Heckler
Hollenbeck
Hopkins
Horton
Howard
Hyde
Kindness
Lagomarsino
Latta
Lee
Lent
Lewis
McDonald
Maguire
Miller, Ohio
Mitchell, N.Y.
Mottl
Nelson
Petri
Porter
Price
Quayle
Quillen
Regula
Rhodes
Rinaldo
Roe
Roth
Rousselot
Royer
Rudd
Sawyer
Sensenbrenner
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stewart
Taylor
Vander Jagt
Whitehurst
Whittaker
Yates
Young, Alaska
Young, Fla.

NOES—252

Abdnor
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holt
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Moakley
Mollohan
Montgomery
Moore
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Peyser
Pickle
Preyer
Pritchard
Rahall
Railsback

Rangel
Ratchford
Reuss
Ritter
Roberts
Robinson
Rose
Rosenthal
Roybal
Sabo
Satterfield
Scheuer
Schroeder
Sharp
Shelby
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Stack
Stanton
Steed
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Synar
Thompson
Traxler
Udall
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—101

Addabbo
Anderson, Calif.
Anderson, Ill.
Badham
Bevill
Biaggi
Boland
Bolling
Boner
Brademas
Breaux
Brown, Calif.
Brown, Ohio
Broyhill
Burton, John
Cheney
Clay
Cleveland
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Derrick
Dodd
Donnelly
Edwards, Okla.
Fazio
Frost
Garcia
Gaydos
Giaimo
Gibbons
Goldwater
Guyer
Hance
Hinson
Holland
Holtzman
Hubbard
Ichord
Jeffries
Jenrette
Jones, Okla.
Kazen
Kelly
Kramer
Leach, La.
Leath, Tex.
Leland
Lott
Lujan
Lundine
McEwen
McKay
Marlenee
Mathis
Mazzoli
Mitchell, Md.
Moffett
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Nolan
Nowak
Panetta
Pashayan
Pepper
Pursell
Richmond
Rodino
Rostenkowski
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
Shannon
Simon
St Germain
Staggers
Stark
Stokes
Symms
Tauke
Tauzin
Thomas
Trible
Ullman
Van Deerlin
Vanik
Walgren
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler

□ 1330

The Clerk announced the following pairs:

On this vote:

Mr. Pursell for, with Mr. Addabbo against.

Mr. Symms for, with Mr. Richmond against.

Mr. Tauke for, with Mr. Brademas against.

Mr. Wydler for, with Mr. Cleveland against.

Mr. Goldwater for, with Mr. Sebelius against.

Messrs. CLINGER, STOCKMAN, LEHMAN, COURTER, BLANCHARD, MARTIN, MICA, HUTTO, and STACK, Mrs. COLLINS of Illinois, and Mrs. BOGGS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SOLARZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just cast what was for me the most politically difficult vote that I have ever been obligated to cast in the course of my 6 years in this House. Because there may possibly be some misunderstandings on the part of my colleagues or my constituents about what this vote signifies, and also because there were a lot of Members who came up to me during the course of the vote knowing of my own deep commitment to Israel and of the fact that I represent a district which has the largest Jewish population in the country, who wanted to know how I was going to vote, I thought I ought to take this opportunity to explain why I opposed the amendment, in spite of the fact that I believe it would be entirely appropriate for the United States to recognize Jerusalem as the capital of Israel.

No one has to tell me of the complete commitment on the part of Israel and of Jewish people all over the world to Jerusalem as the capital of that country. For 100 years it has had a Jewish majority. Since 1967, people of all faiths and religions have been free to worship in their most holy shrines. Access to the city has been unimpeded, and there are very few people who would argue that we should go back to the status quo.

I certainly think it would be entirely appropriate for us to recognize that Jerusalem, which has been the capital of Israel since it was first established in 1948, is the capital of Israel today, but this is not the way to go about it. This really has to be one of the most incredibly irresponsible approaches to an extraordinarily complex problem which has ever been put before this House.

No effort was made by the sponsor of this amendment to consult with those Members of the House who have been most closely and deeply involved in this issue. No effort was made to touch base with the various groups around the country for whom this is a matter of the most vital importance.

Perhaps most importantly, no notice or notification whatsoever was given to the Members of this body sufficiently in advance of the time the amendment was offered so we could have an opportunity to put our heads together and somehow agree upon a constructive approach to the problem. But worst of all—and this is why I voted against this amendment, and it is why I think most of the Members voted against it—the amendment provides that not more than $1,000 from this legislation may be used to operate or maintain an Embassy in Israel which is not located in the city of Jerusalem.

Now I may think the American Embassy should be in Jerusalem, and many of the Members may think the American Embassy should be in Jerusalem, but we all know that the administration is not about to go in and move the Embassy to Jerusalem. So what would be the consequence of the adoption of this amendment? It would not be to move the American Embassy to Jerusalem. It would be to close down the American Embassy in Tel Aviv. And the last thing any of us want to do is to close down the American Embassy in Israel.

So, I simply want it on the record that I voted against this amendment, and I think many others voted against this amendment, not because they are opposed to an American diplomatic presence in Jerusalem, but because they are opposed to an incredibly irresponsible amendment, the net effect of which would have been to have forced us to close down our diplomatic establishment in Tel Aviv.

□ 1340

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding and I thank him for his words. I think they were very much needed in this House. We all know the position that our colleague has taken and that many of us share with him. I honor him for his words.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I thank the gentleman from New York. I, too, would like to adopt the gentleman's words and his language and his reasoning at this time.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to congratulate the gentleman on his excellent statement. I know I and many other of my colleagues are very strongly committed to seeing the United States move its Embassy to Jerusalem.

The gentleman is absolutely correct. The effect of this amendment would have been to close down our Embassy in Israel. It would not have been effective in achieving that purpose. I think pointing that out to the House was very important.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. OTTINGER, and by unanimous consent, Mr. SOLARZ was allowed to proceed for 5 additional minutes.)

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield further, I think it was very regrettable that those on the other side objected to our having a small amount of debate on this matter before the vote was taken.

I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I also want to commend the gentleman for his statement.

I want to point out to the gentleman and to my colleagues how appalled I am at the cheapness of this attempt to embarrass the foreign policy of this Government. Whether Republicans like the fact it is a Democratic President or not, in foreign policy questions we have always acted as one Nation with the interest of this country foremost in mind. This terribly awkward amendment whose purpose is to embarrass the conduct of foreign policy by the administration and the Democratic party I thought sank to a new low level.

I do not know how many people were aware that being distributed in the House chambers was a copy of the National Democratic Platform from 1976. That platform set out appropriately the goal of recognizing Jerusalem as the capital of Israel. That is a goal to be worked out in the conduct of the role of the United States in foreign policy, not just to bring about the recognition of Jerusalem, but to bring about peace in the Middle East.

I just want to mention my outrage at the issue of Israel's capital being used as a political stunt, perhaps for partisan gain, but nevertheless doing a disservice to this country and to the very sensitive issues that may well mean the difference between war and peace and the future of this country's involvement in another series of hostilities.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I thank my colleague for yielding.

I wish to associate myself strongly with the words of the gentleman from New York and also the words of the gentleman from California.

This amendment, coming as it does out of the blue, without any advance preparation or notice of the members of the relevant committee not only shortcircuits the major primary responsibility of our President and our Secretary of State for the making of foreign policy, but also assuming that the Congress has a proper and legitimate role in foreign policymaking—the amendment shortcircuits the proper exercise of the congressional role in foreign policy formation. It would be quite appropriate for the Committee on Foreign Affairs in the authorization process to consider this matter. It would be quite appropriate for the Committee on Foreign Affairs in the authorization process to consider this matter. It would be quite appropriate for the Foreign Affairs Committee to give the Congress and the country the benefit of hearings and I hope the Committee on Foreign Affairs does look into this matter in the next fiscal year. But to shortcircuit both the executive branch and our own proper legislative processes, including the initial matter of open public hearings, is unjustifiable and unacceptable.

We all ought to respect the integrity of this House and the integrity of our processes.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, I rise in support of the gentleman from New York.

I wish to speak in opposition to any amendment which would prejudice issues that are affected by the Camp David peace negotiation process. Although I would like nothing better than to see our Embassy moved to Jerusalem, and I fully endorse the national Democratic platform to recognize the established status of Jerusalem as the capital of Israel with free access to all its holy places provided to all faiths, and as a symbol of this stand moved the U.S. Embassy from Tel Aviv to Jerusalem, nevertheless, the appropriations bill is not the place to decide this substantive issue. The amendment would in effect close down our Embassy in Israel. This is not a responsible expression of concern about the location issue and would merely exacerbate an already highly sensitive peace process. American diplomatic personnel and services are essential to the ongoing peace process, and this amendment would undermine the continuity necessary for diplomatic discourse. Jerusalem is the proper place for our American Embassy, but this matter should not be addressed in the context of the State-Justice appropriations bill.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, I thank the gentleman from New York for yielding.

I want to congratulate the gentleman on his courageous and appropriate statement and associate myself with his remarks.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, would the distinguished chairman clarify a point for me? Does the gentleman mean in his remarks to ascribe a pusillanimous, partisan, political, evil motive, to every one of these votes there on the board?

The gentleman from Pennsylvania (Mr. KOSTMAYER) and others are saying yes.

I would ask the gentleman to address his answer to Mr. SID YATES in that Embassy with me 2 weeks ago, and also to the gentleman from New York, Mr. BEN GILMAN.

Does the gentleman in the well ascribe an evil motive to my vote?

Mr. SOLARZ. Mr. Chairman, if the question is, do I ascribe a pusillanimous, political motive, to each and every one who voted for this amendment, the answer is I do not ascribe such a motive to each and everyone of the people who voted for it.

Mr. DORNAN. Mr. Chairman, I thank the gentleman. I move to strike the last word.

The CHAIRMAN pro tempore. The Chair has not recognized any Member.

The time of the gentleman from New York has expired.

Mr. DORNAN. Mr. Chairman, I had the floor. I moved to strike the last word.

The CHAIRMAN pro tempore. The Chair did not recognize the gentleman to strike the last word. The gentleman from New York had the floor and his time has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. SOLARZ was allowed to proceed for an additional 3 minutes.)

Mr. WALKER. Will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I voted with the gentleman and I think in many ways the gentleman's remarks are right on target; except I would like to point out to the gentleman that, in all fairness, if the offering of this amendment on the floor of the House of Representatives is to be described as incredibly political or incredibly irresponsible, it seems to me that by that same logic, we have to consider what was done on the Democratic platform in the same light. This is the thing that I really did not appreciate about the gentleman's remarks. This wording was in the Democratic platform. It was done to appeal to a particular group in society and I think that we ought to describe those words as just as incredible. I, too, considered this to be an inappropriate action to take in connection with this bill at this time. However, if we are going to label it as incredibly irresponsible, then the Democratic platform of 1976 must be labeled the same way.

Mr. SOLARZ. Mr. Chairman, I would like to clarify the intent of that remark, because I did not mean to suggest that it was the substance of the amendment itself that was incredibly irresponsible. I think it is entirely legitimate. If a Member wants to offer such an amendment, it is clearly his right to do so. What I felt was incredibly irresponsible was the way in which the amendment was offered, without any advance notification, without any effort to touch base with people who are deeply involved in this issue, without any effort to determine its viability, without any effort to see if a way could be found to secure the support of responsible Members of the House, who share the concerns of the Member who offered this amendment. But to come out of the blue and offer an amendment like this on a highly complex and controversial question, without any consultation whatsoever is, in my opinion, highly irresponsible.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. SOLARZ. Yes.

Mr. WALKER. I appreciate the gentleman's explanation, but I think the assumption on this side of the aisle would have to be that an awful lot of study was given to that kind of language prior to its inclusion in the Democratic platform, to which the gentleman's party ascribes.

The platform was not written in a vacuum. The language must have been studied extensively.

I would point out to the gentleman that a number of us agree with the fact that the details were irresponsible, but it is an issue that has been debated widely before it is certainly not new and should not come as a shock.

It would appear to me that there is a distinct difference among Democrats about what they say and what they are actually willing to do.

Mr. SOLARZ. There is a fundamental difference I would say to the gentleman, between calling for the American Embassy to be moved to Jerusalem on the one hand and offering an amendment which would, in effect, require the American Embassy in Tel Aviv to be closed down if it was not moved to Jerusalem on the other, particularly when we all know that it is not about to be moved to Jerusalem.

☐ 1350

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I certainly am concerned about the allegations that the distinguished gentleman from Illinois (Mr. PHILIP M. CRANE) in presenting this amendment, did it only for political purposes. I have known the gentleman from Illinois to be a long, stalwart supporter of the State of Israel. And, as a matter of fact, he did discuss this resolution with Members of both sides of the aisle yesterday.

The CHAIRMAN pro tempore (Mr. FOLEY). The time of the gentleman from New York has again expired.

(At the request of Mr. GILMAN and by unanimous consent, Mr. SOLARZ was allowed to proceed for 3 additional minutes.)

Mr. SOLARZ. I yield to the gentleman.

Mr. GILMAN. I thank the gentleman for yielding.

The fact that any resolution or amendment having to do with foreign affairs had not been fully discussed with our colleagues prior to this debate certainly is not relevant to the argument before us. Over the years, in this Chamber, we have had many foreign affairs issues that have been before us without prior or adequate notice.

Yes, I certainly agree that the resolution of the issue on Jerusalem as the capital city of Israel will have to come about in the context of negotiations, and that this may not have been the best way to raise the issue. But I do think it is important that the issue be fully aired and debated in this body and if this is the vehicle for such a debate then let us not shrink from our responsibility in examining this critical issue.

Just yesterday a representative of Saudi Arabia, in West Germany, had no compunction about raising the issue of Jerusalem before a world body. It has been raised week after week by the Arab world. I think therefore that it is appropriate that this body consider our Nation's policy with regard to that important issue.

It is for that reason that I supported the amendment, not for any political motivation, but I felt that it is an extremely important issue concerning Israel and the Middle East and that we should be giving a signal to the world of how our deliberative body feels about that critical issue.

Jerusalem is the ancient capital of Israel. Jews have always lived there and have constituted the largest single group of inhabitants since the 1840's. For many Jews, a Jewish state without Jerusalem as its center would have little religious or political meaning. The dream of a return to the City of David, expressed in countless rites and symbols of Jewish life, has kept alive a sense of identity and a hope through generations of dispersal and persecution.

On February 14, 1949, then President Chaim Weizmann opened the first session of the Israeli Constituent Assembly, or Knesset, in Jerusalem and proclaimed Jerusalem as its capital. Since that time 13 countries have recognized Jerusalem as Israel's capital and maintain their embassies there. These countries are Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, the Netherlands, Panama, Uruguay, and Venezuela. It should be noted that two of these countries—Venezuela and Ecuador—are both members of OPEC and have found no problem in dealing with their Arab partner.

I for one believe that the United States should also recognize Jerusalem as the capital of Israel and so indicate by moving our Embassy there. It makes no sense to continue this double standard of support for Israel with its capital in Jerusalem, while our Ambassador remains in Tel Aviv.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding. I thank him for his participation in the well.

I also would like to say, with my colleague who has just spoken, that I do not believe that we should give over to partisan feelings when someone, in frustration, brings an issue to the floor that they have been trying to bring to the floor for a long time. So I certainly do not impugn the motives of the person who brought this amendment to the floor.

I would simply like to say that I voted against the amendment because I felt that it was not properly drawn and not enough attention had been given to it. I agree with the gentleman in the well that that is certainly true.

I would like, though, to console everyone here on both sides of the aisle by telling them that we will have opportunities to do this, because at 4:30 this morning, I would like my colleagues to know, in the draft of the 1980 platform of the Democratic Party, Jerusalem is again recognized as the capital of our hearts, of religion, and as a symbol of the capital of Israel.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Florida.

Mr. MICA. I would like to take this opportunity to associate myself with the comments of the gentleman from New York and say, as a new Member here, I have tried my very best to work with both sides of this aisle and I am furious at the way this is presented. Confusion did reign on this floor. There were pieces of information being passed out to indicate that this was a Democratic position that was being done by Democrats.

This was not debated, and I came in on this floor just in time to see at least two Members say, "Let us talk about it for 5 minutes," and it was shouted down. I think it may have been a political approach.

I think, further, that if it was not, it was done out of ignorance or as an insidious attack.

The CHAIRMAN pro tempore. The time of the gentleman from New York has again expired.

(At the request of Mr. RITTER and by unanimous consent, Mr. SOLARZ was allowed to proceed for 2 additional minutes.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman.

Mr. RITTER. For those who are calling this pusillanimous politics, I would simply like to point out for the record that the Republican vote was split virtually in half. Thank you.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am surprised that my good colleague from New York would take the floor and tell us that this is a "new issue." I am also surprised at my colleagues who say adequate time was not given to debate.

Those of us who spend some time on the floor know that it was debated. I am sorry the gentleman from New York was not here and present at the time. Mr. SOLARZ should have supported the Crane amendment. Maybe if we could make sure our committees are not meeting while these important issues are being discussed on the floor. Those now absent Members would hear when we debate important issues like this in the Whole House. That is why many times I object to committees sitting while we do have these important issues before us such as today.

I want to say to my good colleagues, this has been a clear issue before this Congress and before our Nation, and many of us have legitimately believed that our Embassy should be in Jerusalem. I object very strongly to somebody saying this is just a partisan matter. I think it is an international matter that relates to our country and our relationship with that part of the world and an important ally.

I am surprised that the gentleman attributes all amendments to be totally motivated by politics just because it happened to be in the 1976 Democratic platform. It is now in many people's minds that this change should be made. I am surprised that my colleague would believe that we cannot even discuss it just because he was not here on the floor at the time the issue was brought up. Maybe he should offer the amendment next time.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I now yield to my colleague from California for a comment.

Mr. DORNAN. Mr. Chairman, I do not ascribe a political motive on this last vote to any Member of this House. I for one did not know this vote was coming up today. I was having lunch with a constituent downstairs and when I came on the floor to vote I thought we had before us a very clear choice. It did not for a minute occur to me that intense hand wringing would take place on the majority side of the aisle.

There are Jewish-American Members on both sides of the aisle who voted for this. My party was split by a vibration that went out on the majority side that there was some deviousness attached to the amendment. I still am amazed at this wrenching post mortem and excuse making and attacking of motives. So I, too, feel moved to defend myself on my vote. I certainly hope the gentleman from New York (Mr. SOLARZ) was not including me in the category of those offering pusillanimous or politicized support to a U.S. Embassy move.

I was just 3 weeks ago in the U.S. consulate office in Jerusalem with several gentlemen that are now present, and one of them is Jewish American, proud, I'll bet, to have voted for this last amendment. My colleagues, we now have two Embassies in Israel, and it is a nightmare. There are Members in this House nodding confirmation.

I cannot yield to the distinguished gentleman from New York. Would the gentleman yield to the gentleman from New York?

Mr. ROUSSELOT. No. I have another comment I want to make. But I will be glad then to yield.

(At the request of Mr. DORNAN and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DORNAN. There were two, not one, but two embarrassing and peculiar occurrences in the consulate's quarters in Jerusalem last month. We have a consulate office there that does not answer to our Embassy in Tel Aviv and that is a unique situation on the entire face of this globe for our American Embassies. It is a dangerous situation. Our consulate in Jerusalem, in East Jerusalem, is upsetting the Israeli Government a lot.

I have spoken to several members of the Knesset who feel they have a serious problem right there inside Jerusalem of American people working at cross-purposes to harmonious relations.

Mr. ROUSSELOT. If the gentleman will let me interrupt at this point, as I understand it, our U.S. consulate in Jerusalem reports directly to Washington and not through our regular U.S. Embassy in Tel Aviv; is that not correct?

Mr. DORNAN. That is absolutely correct, and that is unique in all the world for U.S. consulates. They always have a chain of command through the U.S. Embassy in each country.

Mr. ROUSSELOT. That is a highly unusual procedure especially when we are now told today that it would be so disruptive to have a full Embassy in Jerusalem.

Mr. DORNAN. In other words, we have two foreign policies in the tiny State of Israel with only 3 million people. It is causing great ill feelings on the side of the Israelis. Understandably our loyal friends are deeply hurt.

Now, I know there is a great amount of hand wringing over there, and I do not use that description pejoratively. I know many of you faced a tough decision. I know it was a brutal decision for my good friend at the leadership desk who was with me in Jerusalem. I know a lot of people's consciences bored into their rationale on the majority side . . . whether a vote either way would endanger Israel, whether it would worsen the situation there. Somebody even mentioned it could bring us to the point of Middle East war again. I simply do not believe that.

I can tell you this, and as a non-Jew, you do not speak for most Israelis. They want our embassy in their capital city. Period. However, they are afraid that they are going to be Formosa-ized, Nicaragua-ized, Vietnam-ized, and unceremoniously dumped for oil. What shocked and also hurt the hearts of the Israeli people was to see in 1974 that a once-noble European nation and ally the State of the Netherlands turn its back on a friend. This land where Anne Frank and her family were hidden, and where almost all Dutch people united in support for the Jews of Holland against Hitler, and also Denmark where everybody wore a Jewish star in the street to say "we are all Jewish brothers" during this Nazi occupation, those once friendly countries and others for a few dollars worth, of Sunday driving gasoline, turned their backs on the Nation of Israel.

The members of the Knesset that I speak with on every trip want our Embassy in the capital of Israel now. I am going to bring one of them over here to talk to some of the Jewish Members of this House—Menachem Savidor—he told me he is sick of liberal American Congressmen espousing love for Israel and but continually gutting the American defense budget. I am saying this for the fourth or fifth or sixth time on this floor.

If my side of the aisle did not build M-60 tanks, and Phantoms, and Skyhawks and F-15 Eagles, and their Sidewinder and Sparrow missiles, then Israel would not at this minute possess these weapons for defense. There would be no fighter aces like the ones I visited with at the Ekron Air Base 2 weeks ago, who downed eight MIG's with mixed missile and gun victories over Lebanon last year.

☐ 1400

Fine young heroes who depend on us. You cannot gut the American defense budget without jeopardizing the survival of Israel. These young fighter pilots and Israeli Knesset members asked me, "When is America, our shield of strategic defense going to stand tall and resume its role of unequivocal world leadership?"

Mr. Chairman, I know my vote was not wrong, however, I will counsel with other Members on this. Maybe you will convince me it was wrong, I doubt it. I know one thing, I do not have to go back to Israel, wringing my hands and apologizing for this vote of conscience. I am proud of my "yes" vote.

Jerusalem has been used as a capital city only by the Jewish people throughout all of history. Thousands of years. Never by the Philistines, or the Assyrians, or the Egyptians, the Babylonians, or the Romans or the Byzantines or the cruel, despotic and corrupt Ottoman empire. No Arab nation, not even Jordan. No people has ever made Jerusalem a capital but the Jewish people, and it has been their capital, again, since 1948, going into a third millenium. The Jewish people plead to have it recognized by their friends as their holy capital. As Mr. SOLARZ has recognized on this House floor many times in the past. If your vote of conscience is to say no today then I respect that, but do not tell me, and I think I can speak for most of the others voting "yes" on this, that we are playing political games over the city of Jerusalem. We took a stand. And as a matter of fact so did the Democratic Platform Committee last night. How about some consistency here today and less "nervous nellie" waffling. If we lose some gasoline over it, so be it. My God, we have one fighting ally with guts and a superbly trained defense force that is willing to back us up in the Middle East or anywhere else we need them and if we ever cut them off cold as we have our friends who believed in us it will be the sorriest day in the history of our Nation.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for his contribution.

Mr. Chairman, I want to remind my colleagues that there are 13 countries that recognize Jerusalem as Israel's capital. I think the United States should. These other countries maintain their embassy in that capital. These countries are Bolivia, Chile, Columbia, Costa Rica, Dominican Republic, Equador, El Salvador, Guatemala, Haiti, the Netherlands, Panama, Uruguay, and Venezuela.

Mr. Chairman, I think our country should be there and I think that we should support that effort to get it done

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SCHEUER, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I thank my colleague from California for yielding.

Mr. Chairman, I agree with the gentleman's position on the issue. I agree with my other colleague from California (Mr. DORNAN) with whom I had the honor and pleasure to visit Israel but a few short weeks ago, on his position on the issue and on his statement of the extraordinary meeting that we had with the American Ambassador and the American consul. The gentleman from California, myself and the gentleman from Illinois (Mr. YATES) noted on at least three occasions, when the American consul stated what our policy was on the West Bank, that he was tactfully corrected by our Ambassador Sam Lewis and after each correction he in effect in just about so many words told our Ambassador to "bug off."

I ask my colleague from California if that is not the truth.

Mr. ROUSSELOT. The gentleman from California (Mr. DORNAN) indicated "yes."

Mr. SCHEUER. It was an extraordinary performance and I think Secretary of State Muskie and the President must face up to that incredible conflict in the presentation and statement of our national policy and I think they ought to take appropriate action to make it clear that Ambassador Lewis articulates U.S. policy for all State Department personnel in Israel, and that the consulate in Jerusalem is not an independent fiefdom sailing in its own celestial orbit, out of the gravitational pull of the authority of the President, the Secretary of State, or the U.S. Ambassador to Israel.

Mr. Chairman, I have but one last word. The word "pusillanimous" has been flying around this Chamber this afternoon.

Mr. ROUSSELOT. The gentleman and I did not introduce it.

Mr. SCHEUER. No.

I want to say, Mr. Chairman, I know many of my friends who voted differently on this issue are men of high character. Mr. Chairman, the word "pusillanimous" means fainthearted, it means fearful. I do not think that definition applies to them, and I am sure if it is applied to my colleague from California (Mr. DORNAN) who accompanied me on the trip to Israel, such application is ludicrous and aberrational. Whether or not one agrees or disagrees with the gentleman from California (Mr. DORNAN) any application of the word "pusillanimous" to Mr. DORNAN is an outrageous misuse of the English language and is a gross distortion of the clear meaning of words.

As the Red Queen said in Alice in Wonderland:

> A word means what I want it to mean, neither more nor less.

Anyone applying the word "pusillanimous" to the gentleman from California (Mr. DORNAN) had better join the Red Queen in the annals literary of the unreal and the absurd.

Mr. ROUSSELOT. Mr. Chairman, I will just close my brief remarks by saying I think there were excellent and good reasons for voting for the amendment of my colleague from Illinois (Mr. PHILIP M. CRANE). I think it was an excellently placed amendment and I hope our Nation establishes its full Embassy in Jerusalem at an early date.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. OBERSTAR: Page 3, line 8, strike out "$118,432,000" and insert in lieu thereof "$118,640,000".

Mr. OBERSTAR. Mr. Chairman, the purpose of this amendment is to add $208,000 to the appropriations for the State Department to keep open the U.S. consulate in Goteborg, Sweden. The consulate in Goteborg was the first consulate established by the fledgling United States in 1797, the first consulate we established in our then just-beginning foreign service. It has remained a consulate throughout these 183 years.

Goteborg is located in western Sweden, is on the western coast of Sweden, and is Sweden's second largest city of 700,000 population. The origins of this city go back over 700 years. Its present location was finally established in 1619. It is a city with a distinguished tradition, and a very vigorous economy. It is Sweden's largest trade and industrial center. It is an air, rail, and port center for Sweden. We have enormous commercial interest there. And yet the U.S. Government has decided that it should close this only consulate we have outside of Stockholm.

Mr. Chairman, it puzzles me because 43 other countries have consulates located in Goteborg. It puzzles me because shortly after efforts a year ago were made, which this Congress stopped, to close that consulate in Goteborg, the Russians opened up negotiations with the Swedes and are now underway with construction of a $6 million trade and cultural center in Goteborg where they will locate their new consulate with 50 employees. We have 12 in the U.S. consulate in Goteborg. It costs us a mere $208,000 to operate that consulate in this world's most peace-loving country, in this foremost nation of peace in the world.

More significantly, Mr. Chairman, at a time when all over the other world other nations are saying, "Yankee go home," Gothenburgers are saying. "Yankee stay here."

Mr. Chairman, some 350,000 citizens, half the population of Goteborg signed a petition to the Government of the United States and to the people of the United States and the Lord Mayor of Goteborg transported it himself to this country a year ago. It was presented to Members of the House and Senate and to the State Department, appealing for the United States to continue its consulate. Three hundred and fifty thousand Gothenburgers signed a petition urging the United States to stay in their town and in their country.

Mr. Chairman, there are very few countries in the world where you can get the natives, the nationals of that country to ask the Americans to stay. Having a consul there certainly makes sense to the Gothenburgers and it makes sense to the 14 million Americans of Swedish descent. Somehow it does not make sense to this administration. I hope it will make sense to this committee and to this Congress.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the gentleman, my colleague from Minnesota. I would like to associate myself with the gentleman's statement. I think it is very important, if we are going to be realistic about dealing with our balance of trade and these other problems, maintain these consulates in areas that have proved to be as productive as this one.

Mr. Chairman, I thank the gentleman for his statement.

Mr. OBERSTAR. I thank the gentleman from Minnesota, my colleague.

☐ 1410

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Let it be made clear, what the amendment does is to increase the amount for the State Department budget. Even if we put the money in there, they probably will not use it for this purpose. As I understand it, the consulate is already closed down. They have said that they do not want to use it for this purpose.

I just do not think we ought to increase the State Department budget, just with the statement that what we intend to do is require them to reopen the consulate, when I know that they will not reopen it anyway.

I would ask for a vote opposing this amendment.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment for reasons similar to those of the chairman. With due respect to my colleague from Minnesota, I nevertheless feel that this is a management responsibility of the State Department, and at this particular place and time, in this type of legislation, it is not appropriate for Congress to meddle.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The question was taken; and on a division (demanded by Mr. OBERSTAR) there were—ayes 9; noes 17.

So the amendment was rejected.

Mr. SMITH of Iowa. Mr. Chairman, I am not aware of any amendments that are pending up to line 17 on page 12. I would ask unanimous consent that the bill be considered as read up to line 17, page 12.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, one of my colleagues does have an amendment, I think in this area. Could the gentleman hold off in asking that for just a minute?

Mr. SMITH of Iowa. I guess we could read. I just thought we could save a little time.

Mr. ROUSSELOT. I understand that. I am not standing in the way of that effort. I am just saying that I believe one of my colleagues has been waiting patiently, when we came into that last long discussion.

Mr. SMITH of Iowa. Does the gentleman know what the amendment is to?

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield.

Mr. O'BRIEN. It is my understanding that Mr. CONTE has an amendment on page 8. I am not exactly sure of the identity.

Mr. SMITH of Iowa. Mr. Chairman, I ask that the Clerk continue to read.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

> SEC. 104. Obligated balances in the account under the heading "Missions to international organizations" may be transferred to and merged with the accounts under the headings "Salaries and expenses", "Representation allowances", and "International conferences and contingencies", in amounts determined by the Director of the Office of Management and Budget.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: On page 9, after line 12 add the following new section:
>
> "SEC. 105. No more than 90 percent of the

funds appropriated by this title shall be expended, except for any sums appropriated for the payment to the American Institute in Taiwan."

Mr. ASHBROOK. Mr. Chairman, on June 5 this House went on record in favor of a 10-percent cut in the level of funds authorized for foreign assistance. Today the House can make sure the bureaucrats at Foggy Bottom are held to similar budgetary levels. In a year when America's taxpayers are being told they must suffer $90 billion in additional taxes this House should hold the line on spending. The State Department bureaucracy is certainly one of the most deserving of funding restraint.

Since July of 1979, when a similar amendment was adopted by this House, the State Department has distinguished itself by consistently advocating policies totally adverse to the interests of the United States and its allies. Among the dubious accomplishments of the State Department has been the creation of the crisis in Iran by exposing diplomatic personnel to the mobs in Tehran without proper security precautions. The State Department also distinguished itself by pressing for the SALT II treaty and downplaying Soviet intentions in south Asia right up to the day of the Afghanistan invasion. These two examples alone are enough to justify a vote of no confidence by this Chamber.

The never ending string of failures by the State Department is reflected in its actions that have had less immediate cataclysmic results. The press for aid for the Marxists in Nicaragua and for aiding other governments which are openly helping Soviet and Cuban aims in the world has erroded America's credibility with its allies and weakened America's resolve to stand up to Communist tyranny. This week the President is in Europe trying to shore up the faltering alliance between the United States and NATO. Our allies have been continually dismayed at America's erratic behavior toward its friends and foes. Thanks to the State Department it may take years if not decades to rebuild the loss of trust and faith America has encountered in just 3½ years of blundering.

The State Department has also shown a knack for hiring individuals whose world view is questionable at best. One prime example of such personnel is the Deputy Assistant Secretary for Inter-American Affairs, James Cheek. On a visit to Central America last month, Mr. Cheek succeeded in alienating major segments of the private sector in Guatemala, El Salvador, and throughout the region. His press for his version of modern capitalism caused such outrage that the Civic Foundation of Guatemala took out full page ads in Latin American papers to ask, "With what allies will you count on if you destroy your friends and deliver them one by one to communism?" Cheek's response was to lash out at the reactionary capitalism of Latin America. Is this the kind of foreign policy leadership the Congress should subsidize?

I have included one exemption in my amendment which reflects another sad chapter in the saga of failure at Foggy Bottom. Because of State Department policy we now have an American Institute in Taiwan instead of formal relations with that sovereign nation. In recent weeks the State Department pressed for the obliteration of the very name of that valiant ally at the request of the Communists in Peking. Only after a mountain of criticism appeared from the Congress did the State Department back off from its dishonorable plan of action. Is this the act of a nation that was once considered the leader of the free world? Thanks to the present State Department bureaucracy this title is indeed only something of history now. The State Department has actually cut the funds for the remnants of our relations with Nationalist China, therefore I have spared this last vestige from the provisions of my amendment.

I expect that some of my colleagues will rise in opposition to this amendment. Like last year they will state this amendment cuts into the meat of the State Department. This is not the case. According to figures from the Congressional Budget Office this State Department Budget represents increases of as much as 156 percent over the projected rate of inflation. The largest category, that of wages and expenses, has an increase of over 9 percent above inflation. In March the CBO projected the rate of growth of the State Department bureaucracy for the next 5 fiscal years. If this House adopted the present funding levels included in this legislation it will have mandated funding at a level above fiscal year 1983. Therefore this amendment is, if anything, a very modest proposal.

America deserves better from its representative overseas. As long as the State Department is not held accountable for its disastrous policies through the budget process our nation will continue to slide into isolation from its allies and into disrespect from its adversaries. Unless the House wants to see future tragedies as those unfolding in Iran and Afghanistan it should vote to hold the line on spending and send Foggy Bottom a message.

□ 1420

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think a 10-percent cut is too severe, and I point out that the State Department does have some security problems. We have given them some increases that will largely be used for that purpose.

We have already cut them 5 percent below their request, and by the time they take care of their increased security problems in overseas posts, they will have to eat a considerable share of the increase in cost of living, and will actually have a lower program level. I think we have done enough with the funding in title I.

I also want to say this, Mr. Chairman, if the Members will listen carefully, that if we can dispose of this amendment and read the next paragraph, I would move that the Committee rise.

I think this issue is very clear. It is just a matter of this: Shall we cut the State Department 10 percent, or shall we not?

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio

Mr. ASHBROOK. Mr. Chairman, I will stipulate that what the gentleman said is exactly correct. The gentleman has stated the question accurately.

Mr. SMITH of Iowa. We can vote on this amendment, and then, after we read the next paragraph, I will move that the Committee rise.

Mr. O'BRIEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I believe the chairman of the subcommittee has stated the case well. It seems to me we have looked at the State Department with a hard, cold eye, and we have tried to keep it down as much as we could.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 357]

Abdnor
Akaka
Albosta
Ambro
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brodhead
Brooks
Broomfield
Buchanan
Burgener
Burlison
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Gilman

Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Holt
Hopkins
Horton
Howard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Rahall
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Taylor
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

☐ 1430

The CHAIRMAN pro tempore. Three hundred Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair announces that pursuant to clause 2, rule XXIII, he will reduce to a minimum of 5 minutes the time in which any vote by electronic device, if ordered, will be taken on the amendment now pending.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 157, not voting 125, as follows:

[Roll No. 358]

AYES—151

Abdnor
Albosta
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Bouquard
Broomfield
Burgener
Byron
Campbell
Carney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fithian
Florio
Forsythe
Frenzel
Gaydos
Gilman
Gingrich
Ginn
Goodling
Gradison
Gramm
Grassley
Grisham
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Hillis
Holt
Hopkins
Horton
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jones, Tenn.
Kemp
Kindness
Kostmayer
Lagomarsino
Latta
Levitas
Lewis
Loeffler
Luken
Lungren
McDade
McDonald
Madigan
Marks
Marriott
Martin
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Murphy, Pa.
Myers, Ind.
Paul
Petri
Pickle
Porter
Quayle
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Taylor
Trible
Vander Jagt
Walker
Wampler
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wyatt
Wylie
Yatron
Young, Alaska

NOES—157

Akaka
Ambro
Annunzio
Anthony
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boggs
Bonior
Bonker
Bowen
Brodhead
Brooks
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Collins, Ill.
Conte
Conyers
de la Garza
Dellums
Dicks
Dingell
Dixon
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Ertel
Fascell
Fenwick
Ferraro
Fisher
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Gephardt
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Howard
Hutchinson
Johnson, Calif.
Kastenmeier
Kildee
LaFalce
Leach, Iowa
Lederer
Lehman
Lent
Lloyd
Long, La.
Long, Md.
Lowry
McClory
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Peyser
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Rhodes
Roberts
Roe
Rosenthal
Roybal
Sabo
Scheuer
Skelton
Smith, Iowa
Solarz
Stack
Staggers
Stark
Steed
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Vento
Volkmer
Waxman
Williams, Mont.
Wilson, Bob
Wirth
Wolpe
Yates
Young, Mo.
Zablocki

NOT VOTING—125

Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Badham
Bevill
Biaggi
Boland
Bolling
Boner
Brademas
Breaux
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill
Burton, John
Butler
Chappell
Cheney
Clay
Cleveland
Coelho
Corman
Cotter
Crane, Philip
Danielson
Daschle
Davis, S.C.
Derrick
Dodd
Donnelly
Dougherty
Drinan
Edwards, Okla.
Fary
Fazio
Frost
Garcia
Giaimo
Gibbons
Goldwater
Gudger
Guyer
Hance
Harsha
Heftel
Hinson
Holland
Hollenbeck
Holtzman
Hubbard
Jeffords
Jeffries
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kogovsek
Kramer
Leach, La.
Leath, Tex.
Lee
Leland
Livingston
Lott
Lujan
Lundine
McEwen
McKay
Marlenee
Mathis
Mattox
Mavroules
Mazzoli
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nichols
Nolan
Panetta
Pashayan
Pepper
Pursell
Quillen
Railsback
Reuss
Richmond
Rodino
Rose
Rostenkowski
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
Shannon
Simon
Snowe
St Germain
Stewart
Symms
Tauke
Tauzin
Thomas
Ullman
Van Deerlin
Vanik
Walgren
Watkins
Weiss
White
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Young, Fla.
Zeferetti

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Fazio against.

Mr. Badham for, with Mr. Boland against.

Mr. Livingston for, with Mr. Addabbo against.

Mr. Cheney for, with Mr. Brademas against.

Mr. Philip M. Crane for, with Mr. Clay against.

Mr. Guyer for, with Mr. Cotter against.

Mr. Lott for, with Mr. Corman against.

Mr. Hinson for, with Mr. Dodd against.

Mr. Butler for, with Mr. Drinan against.

Mr. Kramer for, with Mr. Garcia against.

Mr. Symms for, with Mr. Lee against.

Mr. Schulze for, with Mr. Winn against.

Mr. Sebelius for, with Mr. Richmond against.

Mr. Jeffries for, with Mr. Rodino against.

Mr. Kelly for, with Mr. Mavroules against.

Mr. GRISHAM and Mr. PORTER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 9, after line 12 add the following new section:

"SEC. 105. No more than 95 percent of the funds appropriated by this title shall be expended, except for any sums appropriated for the payment to the American Institute in Taiwan."

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. FOLEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

□ 1450

REPORT ON RESOLUTION PROVIDING FOR PROCEDURE FOR RESPONSE TO SUBPENAS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1116) on the resolution (H. Res. 722) providing for a procedure for response to subpenas, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FURTHER PROCEDURES DURING CONSIDERATION OF HOUSE RESOLUTION 722, PROVIDING FOR PROCEDURE FOR RESPONSE TO SUBPENAS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1117) on the resolution (H. Res. 723) providing further procedures during the consideration of the resolution (H. Res. 722) providing for a procedure for response to subpenas, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for 1 minute for the purpose of inquiring of the acting majority leader the program for next week.

Mr. FOLEY. Will the distinguished minority whip yield?

Mr. MICHEL. I am happy to yield.

Mr. FOLEY. This concludes the business for today and this week.

We will meet on Monday, June 23, at noon. That is District Day. There are no bills. All recorded votes will be postponed until Tuesday, June 24.

There are four bills on suspension. H.R. 6982, Uniformed Health Services Professional Pay Act; H.R. 6671, inland navigational rules; H.R. 6242, Towing Safety Advisory Committee; and H.R. 7018, Federal insecticide, fungicide, and rodenticide extension.

There is also H.R. 6711, the Youth Act of 1980, open rule, 1 hour of debate. The rule has already been adopted. We will have general debate only.

On Tuesday, June 24, the House will meet at noon. There will be one suspension bill, H.R. 3567, the Soft Drink Interbrand Competition Act. We will also have recorded votes on suspensions debated on Monday.

We also have for consideration H.R. 7584, the State-Justice appropriations, continuing consideration to completion of consideration.

Also we will consider H.R. 7590, the Energy and Water Appropriations for fiscal 1981, House Resolution 521, making additional funds available by transfer for the Selective Service, H.R. 6711, the Youth Act of 1980, to complete consideration, H.R. 6790, the Foreign Service Act of 1980, an open rule, 2 hours of debate. Also H.R. 7265, the Department of Energy authorizations of Defense programs, an open rule, 1 hour of debate, the rule having already been adopted.

Then we will consider H.R. 7115, the National Science Foundation Authorization Act for 1981, to complete consideration, and H.R. 7235, the Rail Act of 1980, open rule, 3 hours of debate.

On Wednesday, June 25, the House will meet at 10 a.m. and consider H.R. 7583, the Treasury-Postal appropriations for fiscal 1981;

H.R. 7593, the legislative appropriations for fiscal 1981;

H.R. 7262, the Housing and Community Development Act, open rule, 2 hours of debate, the rule having already been adopted.

Then H.R. 7152, the intelligence authorizations, open rule, 1 hour of debate,

And H.R. 6899, the Maritime Omnibus Act of 1980, subject to the rule being granted.

On Thursday we will meet at 10 a.m. on the conference report on S. 932, the Defense Production Act amendments, otherwise known as the synfuels bill.

Then we will consider H.R. 6591, the Agriculture appropriations for fiscal 1981.

On Friday, June 27, the House will meet at 10 a.m. and consider the conference report on S. 1308, the Priority Energy Project Act, which is known as the fast-track energy bill. Also H.R. 7592, the military construction appropriations for the fiscal year 1981.

The House will adjourn by 3 p.m. on Friday, and adjournment times on all other days will be announced.

Conference reports, of course, may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. Might I inquire if the gentleman has any kind of intelligence as to what is meant by adjournment time on all other days being announced, recognizing that on Wednesdays all Members have been alerted from the very beginning of the year to work late at night? Does the gentleman expect that it will be a late night every night next week beyond Monday, for example?

Mr. FOLEY. If the gentleman will yield further, I cannot suggest that there will be a late night every night but, as the gentleman can tell, this is an extraordinarily heavy program for next week. Also the following week will be a limited work schedule week of 3 days because of the pending adjournment for the Republican National Convention.

Consequently, it will be necessary, if we are going to complete the program, for the leadership to have some flexibility next week on adjournment times on days other than Friday.

There is an assurance that the 3 p.m. time will be observed on Friday, but I have to say that Members cannot be assured of a 5:30 adjournment on any other night except Monday.

Mr. MICHEL. I am sorry the chairman of the Appropriations Committee left the floor, because I wanted to inquire whether or not, with a number of appropriation bills intersperced in between some of the other legislation, whether there would be any priority given to those money bills, because we are now getting, as the gentleman indicated, toward the end of June and then conventions. We had one bill that was delayed or put off from today until next week, the agriculture bill. I would hope that it would be the policy of the majority side to push the appropriation bill so that we can get that really urgent legislation out of the way.

Mr. FOLEY. The leadership intention is to complete the appropriation bills that are announced for the next week as scheduled. Of course, it is the leadership's intention to complete all the work scheduled by next week, if possible.

Mr. MICHEL. That is going to be a pretty heavy plate, as I said, and I would hope that the Appropriation Committee bills would have priority.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Along the same line, we had 22 bills scheduled this week for action to be completed and we completed only six. We are carrying over a bill they tell me that has more than or at least 12 amendments. Now, this will be taken up on Tuesday.

I wonder about the priority, if we do go only on the appropriations bills next week, then that is all we are going to get done after Monday. Would it be the intention of the leadership to take them in the order they are on the program, disregarding, of course, the day, because we can see on its face that it is impossible to complete the State-Justice appropriation bill on Tuesday as well as the Energy and Water appropriations bill. Then we have two scheduled for Wednesday. If we went to midnight, we would not be able to finish both of these. The backlog we are going to develop by Wednesday will be great, and are we going to take these up in the order they are on the program or are we going to jump all around like we did this past week?

Mr. FOLEY. If the gentleman will yield further, it is the intention at this to take them up as announced.

Mr. MYERS of Indiana. In the order they are announced but, of course, not necessarily on the day they are announced; is that correct? We dropped agriculture today and we jumped back. I wonder if that is the intention next week.

Mr. FOLEY. The intention of the leadership is to proceed with the schedule as announced. It is the concern of the leadership that appropriation bills have a high priority, and they will be given attention as priority matters in any adjustment of the schedule.

Mr. MYERS of Indiana. Except we kept jumping around this week.

Mr. FOLEY. I cannot tell the gentleman that the bills will be taken up one after the other serially without regard to other bills. The bills that are scheduled will be taken up and completed, if possible.

Mr. MYERS of Indiana. If the gentleman will continue to yield, we have 21 bills now in the program for next week, only six of which are appropriation bills. Why does the leadership put in other legislation on the program when we know full well it is an impossibility to get to it? It seems to me it is unfair to the membership, it is unfair to the public who expect their bills to come up. Why do we not just go on and take care of appropriations bills, which is the constitutional responsibility of this body? I think we ought to get down to serious business and take this other stuff off the calendar.

Mr. FOLEY. I assure the gentleman, if the gentleman from Illinois will yield, it is not the gentleman from Indiana's suggestion that the House has no responsibility to consider appropriate legislation other than appropriation bills. We are going to give priority to appropriation bills. It is important to signal to the House the schedule that the leadership feels indicates some priority of consideration for other bills as well. If we cannot complete the entire schedule, the very great likelihood is that there will be a priority given to completing the appropriation bill schedule.

But, as the gentleman knows, the following week begins a recess, which will be the first of two recesses because of national conventions. It is not possible for the leadership to assure the gentleman that we will proceed merely on a routine schedule in terms of hours. We have other legislation that is important in addition to the appropriation bills and, to the extent that the leadership can, frankly, I would say my colleagues should expect a rather heavy week next week.

Mr. MYERS of Indiana. If the gentleman will continue to yield, I am not suggesting we do not have other requirements besides the appropriations. But we do know we have a legal requirement to complete the appropriations bills, not only constitutionally, but by the Budget Control Act. We have a time to complete them. Last year we were up in September still considering first action on appropriation bills. We are even further behind this year.

☐ 1580

I suggest while the majority does not consult the minority about programing, that the majority might give some consideration to getting important required legislation out of the way, then, time permitting, to do something with these other bills. The first action required by the Constitution and by the rules of this House should be to get these appropriation bills out of the way. It does not seem to me the leadership is taking this into consideration this year as they did not last year.

Mr. FOLEY. I think it has been taken into consideration but I would be glad to convey to the leadership the kind suggestions of the gentleman from Indiana.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. With regard to the listing of the FIFRA suspension Monday, is this the same bill the House rejected by majority vote this week?

Mr. FOLEY. No, it is the intention of the committee leadership, of which I can speak with some authority, that this will be a motion to suspend the rules with an amendment so the bill will not be the same bill as considered by the House on Tuesday, last.

Mr. BAUMAN. Mr. Speaker, could the gentleman from Washington tell us at least the substance of the amendment? Does this meet the objections of the opponents who were here earlier this week?

Mr. FOLEY. I understand what will be offered is a proposal for a two-House veto and that this will be supported by the gentleman from Georgia (Mr. LEVITAS), considering that this particular legislation has unusual provisions in preregulation clearances that are not found in customary programs.

Mr. Speaker, I do not want to speak for the gentleman from Georgia (Mr. LEVITAS) on the floor today, but it is my understanding that, considering the fact that the Committee on Agriculture in previous legislation had provided for consultation with the Department of Agriculture, the EPA and an independent scientific community, and notice to committees before any regulations are issued under FIFRA, that together with that, the gentleman feels that he can support a two-House veto rather than a one-House veto and I am informed that the gentleman will so state on the floor.

Mr. BAUMAN. That amendment has been approved by the Committee on Agriculture?

Mr. FOLEY. No, that amendment has not been approved by the Committee on Agriculture, as such, but the committee will be advised of the intention on both sides of the aisle, of course, of the intention of the bill manager to offer such an amendment.

Mr. BAUMAN. A further question if the gentleman would yield:

I notice as the gentleman from Indiana very correctly underscored, that we have a very heavy program for Tuesday through Friday at 3 o'clock and probably several nights in between. I notice that on Monday there are no votes and undoubtedly we will probably be out of session by 2 o'clock or so. Is there some reason why we should not work on Monday and have rollcalls and do the people's business? Are these events elsewhere that require the Members' attendance of which the House is not aware?

Mr. FOLEY. I think the fact is that the House will be in session as the gentleman knows and it will be debating a number of bills on Monday. There are four suspensions and general debate on the Youth Act. Depending on how long those debates proceed, I would think it would constitute a reasonable day's work.

Whether Members will be in as great attendance on Monday with votes being transferred to Tuesday as they would otherwise be, I will leave to the experience of the gentleman to judge, but it has been the practice in recent weeks because of very heavy scheduling on other days, that Members would have some opportunity to make a judgment about whether their official responsibilities outside of Washington could be expanded a bit to a Monday session if there were no votes to be taken. I might say that policy has not met with general objection from either side of the aisle.

Mr. BAUMAN. I understand that. I would only say to the gentleman, the gentleman from Maryland as always will be here and I hope that those who are not here on Monday and who have some occupation to follow, some activity——

Mr. FOLEY. Official business.

Mr. BAUMAN. Official business, that they find important, may perhaps even score a hole in one.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for responding to my questions and the sundry other questions raised.

ADJOURNMENT TO MONDAY JUNE 23, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SALE OF RICE TO MEXICAN GOVERNMENT

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I rise today to express my concern over recent news accounts reporting that the U.S. Government has made direct sales of rice to the Mexican Government. This signals a policy shift within the U.S. Department of Agriculture to one of support of government-to-government sales of U.S. agricultural commodities.

Mr. Speaker, this shift raises many questions. Many farmers do not want the Commodity Credit Corporation established as the Federal marketing agent for U.S. grain. Many feel it is in the best interest of American farmers that sales of agricultural commodities be carried out in the private sector and not limited or bound by government-to-government arrangements. I still believe that this is the case.

Although press reports indicate that the Department does not favor a National Grain Board, I would like to share with my colleagues language in the agreement between the United States and Mexico which would suggest otherwise. For example, the first line of the agreement states:

> The government of the United States of America, through the Commodity Credit Corporation, hereby agrees to sell or arrange for sale to the Government of United Mexican States, that it will utilize the full scope of the legal authority of the Commodity Credit Corporation to provide directly or indirectly these commodities as well as the other commodities mutually agreed upon.

Mr. Speaker, it seems obvious to me that this language clearly places the U.S. Government in the position of being the seller of an agricultural commodity, and thus the Government becomes, in effect, a de facto grain board. This raises several questions in my mind. Why was this type of agreement made between the United States and Mexico? What is the precedent for government-to-government agreements? Under what authority did the administration make such an agreement? Was there any consultation with the Congress? Are there any other agreements of this nature being negotiated? Is this a signal that the administration is planning to actively seek such agreements in the future? And what mechanism is there to insure congressional approval or disapproval? Has there been a thorough analysis by the administration of all the potential impacts of this new policy direction?

Mr. Speaker, I have written the Secretary of Agriculture expressing my concern regarding this matter. I feel strongly that this policy decision rests in Congress, or at the very least in very close consultation with Congress. I look forward to finding out the answers to the questions which have been raised. This is a matter which I will be closely monitoring in the coming weeks and months.

AFGHANISTAN

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, on December 27, 1979, amidst a Soviet military buildup, a Soviet airborne brigade was airlifted into Kabul, Afghanistan to violently overthrow the regime of President Hafizollah Amin. Within hours, the Soviet troops had captured and executed Amin and seized control of the capital. Within days, Soviet troops were fanning out across Afghanistan to occupy major population centers, airbases and strategic lines of communication. Soon thereafter analysts in this country and around the free world became convinced that the Soviet military action represented a massive and long-term commitment by the Soviet Union to crush the Muslim rebellion against the Communist regime and to insure an Afghan Government favorable to Moscow.

The Soviet action marked the first direct military intervention abroad since the invasion of Czechoslovakia in 1968 and the first direct Soviet military intervention in a country outside the Soviet bloc since the end of World War II.

The Soviet invasion brought widespread worldwide response and prompted President Carter to call for specific U.S. responses including the boycott of the Moscow summer Olympics.

But despite the gravity of the situation, other events—the attempted rescue of our hostages in Iran, the Presidential primaries, the state of our economy—have overtaken and overshadowed the situation in Afghanistan.

It is not my intention today to criticize this administration's response or the actions taken by our allies, but only to take this opportunity and subsequent ones to focus the attention of my colleagues on Afghanistan—what's happening to the country, its people, its refugees.

It is also fortuitous for me that the best American, nongovernmental resource for information on Afghanistan is at the Center for Afghanistan Studies at the University of Nebraska—Omaha. Tht center has achieved increased importance as direct communications from Afghanistan are now severely curtailed. I intend to share with my colleagues information made available to me. Therefore, periodically over the next several months, I will routinely be addressing the House to focus on particular events and concerns in Afghanistan: the genocide within Afghanistan, the plight of Afghan refugees in Pakistan, and activities in this country planned around Afghanistan Relief Week.

POSTAL RATE COMMISSION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, the Postal Rate Commission, not particularly renowned for its speed in processing postal matters, now apparently has the capability of presenting tomorrow's news today.

For the past week or so, the Commission has been advising the public, through a recorded telephone message, that its next regular meeting will be June 26, when the Commission will elect a new Vice Chairman. Up until now, I had assumed the election of the Vice Chairman was a democratic process conducted at a public meeting with input from all five Commissioners. The June 26 meeting will be public, but pro forma. In an arrogant display of power, the three-member clique now dominating all Commission activities already has decided Commissioner Simeon M. Bright will succeed James H. Duffy as Vice Chairman.

Duffy first learned of the development on June 18, when he received stationery listing him as "Commissioner." At the same time, Bright was given stationery identifying him as "Vice Chairman."

Duffy and Commissioner Kieran O'Doherty, whose term expires October 14, have been at odds with Chairman A. Lee Fritschler and Commissioners Clyde DuPont and Bright. Charges and countercharges were exchanged by both sides as a result of the Commission's controversial 3-to-2 decision on a Postal Service proposal involving electronic services.

The same Commission forces which are dictating the election of Bright are either clairvoyant or have little regard for the important work of the Senate. While the Senate has the responsibility for consenting to Presidential nominees to the Commission, stationery already has been printed for Mrs. Janet D. Steiger. President Carter has nominated Mrs. Steiger to succeed O'Doherty, but hearings have not yet been scheduled on the nomination.

I am sure Mrs. Steiger will be a valuable addition to the Commission, but I do not think it is good form for the Commission to be getting stationery for her nearly 4 months in advance of the time when she can begin serving on the Commission. What if Ronald Reagan chose her as his running mate? This would leave the Commission saddled with an unnecessary expense and a bundle of unused stationery.

It required congressional intervention to speed of the Commission's decision procedure on postal rate cases. Until Congress imposed a 10-month deadline on postal rate decisions the Postal Service was denied much needed revenue because of the length of Commission proceedings.

I wish the Commission would respond with the same concern and dispatch on postal problems that it has exhibited in making sure that its stationery is before the fact.

BILL TO CLARIFY IRS APPLICATION OF ERISA VESTING REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 20 minutes.

● Mr. ASHBROOK. Mr. Speaker, I have introduced legislation to clarify the vesting requirements under section 411 of the Internal Revenue Code which was added by section 1012(a) of the Employee Retirement Income Security Act of 1974 (ERISA). This action has become a necessity because of the disregard of congressional intent shown by the Internal Revenue Service in their proposed vesting regulations—published at 45 FR 24201 and 45 FR 39869 on April 9 and June 12, 1980, respectively. As my colleagues are well aware, these proposals have generated a firestorm of protest by all segments of the private pension plan community.

Let me state at the outset that legislative action over this issue should not have become necessary. However, in the past several months the Internal Revenue Service, in exercising its regulatory authority, has twice chosen to ignore the result intended by Congress that so-called "4/40" vesting be made acceptable as a "safe-harbor," except where actual abuse is found in accordance with the standard set forth in section 411(d)(1)(A) of the Internal Revenue Code.

Rather than carry out the compromise position which was arrived at after considerable discussion by the ERISA conferees in 1974, the regulation writers in the Internal Revenue Service and the Department of Treasury who hold an unfavorable view of the conferees' decision have seized upon a single word in the ERISA conference report and misconstrued its meaning in order to further their own view of what constitutes appropriate public policy in the vesting-nondiscrimination area. The conferees clearly stated their concern in the conference report that—

> The law in this area has been administered on a case-by-case basis without uniform results, in fact, situations of a similar nature.

As a result, the conferees gave a clear directive to the Internal Revenue Service not to require a vesting schedule more stringent than "4/40" except "in cases where actual misuse of the plan occurs in operation." The IRS regulations ignore the synonomous meaning of "misuse" and "abuse" in order to disregard "4/40" vesting as a safe-harbor and to require more stringent vesting for plans beyond the "pattern of abuse" situations provided for under section 411(d)(1)(A) of the Internal Revenue Code.

The objectionable results of the proposed regulations, including the June 12, 1980, modification, are twofold. First, the regulations, if allowed to go into effect as proposed, would totally undermine the expressed congressional desire to achieve a degree of certainty for plan sponsors through the uniform application of the nondiscrimination standards in connection with vesting. In fact, the regulations as amended do not provide a "safe harbor" for any plan, thus re-creating the uncertainty attendant with the discretionary administration by local IRS offices which existed prior to ERISA. The revenue procedures currently applicable to this area (Rev. Proc. 75–49 and 76–11) provide at least some measure of certainty by guaranteeing a favorable IRS determination letter to those plans adopting 4/40 vesting. The new regulations would negate even this practice and place nearly one-half million pension plans in jeopardy of losing their tax-exempt status on a prospective or even retroactive basis.

Second, the proposed regulations are particularly offensive since the Congress, by means of the conference report, intended to reserve to itself the authority to require more stringent vesting standards in connection with the nondiscrimination rules to the extent that further studies show a need for additional safeguards. The Department of the Treasury and the Internal Revenue Service have ignored the conference report directive to supply the Congress with information as to patterns of benefit loss under the various vesting schedules and, instead, have taken an impatient "we know better" attitude in an attempt to preempt congressional authority by regulation.

The purpose of my proposed legislation, the text of which follows, is to restore congressional prerogative in setting vesting standards in connection with the nondiscrimination rules under section 411(d)(1) of the Internal Revenue Code by: First, codifying the result intended by the ERISA conferees that "4/40" vesting be considered a "safe harbor", thus preventing plan disqualification except in the event there is found to be a "pattern of abuse" (see new section 411(d)(1)(B)(iii)); and second, codifying as "safe harbors" the "present value" and "cross-section" tests contained in the June 12, 1980, revision to the proposed regulations (see new sections 411(d)(1)(B)(i) and 411(d)(1)(B)(ii), respectively).

It is expected that for purposes of new section 411(d)(1)(B)(i) the term "officers" will be defined in accordance with the principles of revenue rule 68–300, 1968–2 C.B. 159, to include only those persons, regardless of title, who perform substantive duties in the nature of "top management." Thus, persons who have titles solely for convenience but whose administrative and management duties are nominal, sporadic, or inconsequential would not be considered "officers". By the same token, persons who exercise substantive duties of "top management" but who do not have corporate titles should be considered "officers" for purposes of this test.

It is also expected that new section 411(d)(1)(B)(ii) will be interpreted consistently with the principles of Rev. Rul. 70–200, 1970–1 C.B. 101, Rev. Rul. 74–255, 1974–1 C.B. 93, and Rev. Rul. 74–256, 1974–1 C.B. 94. However, for purposes of this test, only persons who are plan participants should be taken into account and not persons who are properly excluded under section 410 from participation in the plan.

Proposed Legislation To Amend Section 411(d)(1) of the Internal Revenue Code to Clarify ERISA Vesting Standards

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 411(d)(1) of the Internal Revenue Code of 1954 (relating to coordination with section 401(a)(4) with regard to minimum vesting standards) is amended to read as follows:

"(1) Coordination with section 401(a)(4).—

"(A) In general.—A plan which satisfies the requirements of this section shall be treated as satisfying any vesting requirements resulting from the application of section 401(a)(4) unless—

"(i) there has been a pattern of abuse under the plan (such as a dismissal of employees before their accrued benefits become nonforfeitable) tending to discriminate in favor of employees who are officers, shareholders, or highly compensated, or

"(ii) there have been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of employees who are officers, shareholders, or highly compensated.

"(B) Application of subparagraph (A)(ii).—In the case of any plan, no accrual of benefits or forfeiture which tends to discriminate as described in clause (ii) of subparagraph (A) shall be considered to have taken place, and there shall be considered no reason to believe that any accrual of benefits or forfeiture which so tends to discriminate will take place, if—

"(i) the total of the present values of the benefits which are nonforfeitable of the employees each of whom is—

"(I) an officer, or

"(II) a shareholder who owns (determined by applying the attribution rules of section 1563(e) without regard to section 1563(e)(3)(C)) more than 5 percent in value of the stock of the employer,

is less than the total of the present values of the benefit which are nonforfeitable of all other employees,

"(ii) the class of employees having nonforfeitable benefits (considered without regard to other employees) would qualify under a classification described in section 410(b)(1)(B) by constituting a reasonable cross-section of plan participants, or

"(iii) the plan provides that an employee who has competed at least 4 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of service:	Nonforfeitable percentage
"4	40
"5	45
"6	50
"7	60
"8	70
"9	80
"10	90
"11 or more	100"

Sec. 2. The amendments made by this Act shall apply with respect to plan years beginning after September 2, 1974.●

AIR TRAFFIC CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to again refer to what I spoke of last week and the week before, what I consider to be a very dangerous situation with respect to air traffic control, not only in my district, but coincidentally in the District of Columbia. I have brought this to the attention of the proper FAA authorities and the local authorities, but it is reminiscent of a fight that I initiated the first year I was in the Congress when decision was made on a political basis to consolidate the air traffic control centers in the city of Houston and thereby creating what I continue to say is a sustained and continuing danger to air passenger traffic in the District.

Mr. Speaker, after the first inquiry and the first speech to the House a week before last, there was a near collision involving a commercial flight, a 727, and a small Cessna and it reveals, that incident reveals very disturbing patterns which I have alleged have existed and which existence has been denied.

RUSSIAN ROULETTE OVER SAN ANTONIO AND WASHINGTON, D.C.

I have been concerned, about the adequacy of air safety over San Antonio ever since 1962, when the air traffic control operation was moved from San Antonio to Houston. Now I am more concerned than ever.

Last April 2 I wrote the Administrator of the Federal Aviation Administration (FAA) raising questions about the adequacy of air traffic control over San Antonio, because of persistent reports of near-misses. Since then I have discovered that a near-miss took place over San Antonio on May 19, and this incident leads me to think that we may, indeed, be playing Russian roulette over San Antonio.

In the May 19 incident, we had a fairly typical day. There was a 60-percent overcast, traffic was fairly light—it being about 12:55—and you would not expect any traffic control problems. Braniff flight 369 was headed in for a landing, and got instructions to come down to 3,000 feet. The cloud cover was above that, at 3,200 feet. When the Braniff flight broke through the clouds, the flight engineer saw a Cessna directly in the flight path. The pilot of the Braniff plane made a 30-degree left turn and managed to miss the Cessna by several hundred yards. There is no sign that the pilot of the Cessna ever saw the Braniff plane.

The FAA confesses that the light plane had taken off from San Antonio, but claims that it declined radar service. The Cessna took off, made a turn, and this turn put it right in the path of the Braniff plane.

The FAA confesses that the radar operator did not see the light plane. They claim that the plane's image on the radar screen could have been obscured by alphanumerics—the markers that identify the various targets on the radar. If that is so, then the radar was not working properly.

I have requested complete information from the FAA about this incident. When I get the voice tapes and other records, I will have them analyzed to see exactly what did happen.

Obviously something is wrong when a light plane is allowed, on a slow day—or any time of any day—to wander directly into the path of a commercial airliner. Either the procedures were not being followed or there is something wrong with the equipment and procedures in San Antonio. I intend to find out, and to get corrective action taken. Russian roulette with airplanes is intolerable.

JUNE 12, 1980.

Hon. LANGHORNE M. BOND,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR MR. BOND: In my letter of May 27, 1980, I asked for your early response to my original inquiry of April 2, and I regret to say I have had no further word from you on this matter. This is an important query to me and I feel there has been ample time for you to develop a reasonable response.

You will recall that in my letter of May 27, I referred to a near-collision at the San Antonio Airport on May 19th, involving Braniff Flight No. 396 and a privately owned aircraft, identified as a CESSNA. Since I understand that an investigation of this incident was conducted, I would appreciate having from you, at the earliest possible time, a complete copy of the incident report. In addition, I request that you preserve certain original records pertaining to this incident, as follows:

(1) The original voice recorder tapes for all positions of operation in the San Antonio Tower and Approach Control Facility;

(2) The original voice recorder tapes for all positions of operation in the Stinson Municipal Tower;

(3) The original ARTS computer tapes for the San Antonio Tower; and

(4) The original NAS SAR tapes from the Houston ARTC Center.

Please preserve these records for a two-hour period commencing one-hour prior to the incident of May 19th and continuing for one-hour after the incident.

Please also advise me when these records might be made available for inspection and possible copying of the originals.

Your assistance and cooperation will be much appreciated.

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

[From the Washington Post, June 12, 1980]

NATIONAL UNSAFE FOR JUMBO JETS, PILOTS TELL PANEL

(By Donald P. Baker)

A proposal to allow wide-body jets to use National Airport would result in "unacceptable risks to pilots and passengers," the Air Line Pilots Association told a congressional hearing yesterday.

The introduction of the newer, quieter jumbo jet, some capable of carrying 380 passengers, has been proposed by the Federal Aviation Administration as part of a plan to reduce the number of takeoffs and landings at National.

The agency has said its plan would meet the growing demands of passengers who like the convenience of the airport and the outcries of residents angered by the roar of planes in its flight paths. The FAA also maintains that use of the jumbos at National would be safe.

John J. Ruddy and Lawrence A. Horton, ALPA's two top safety coordinators for the Washington area, told the House subcommittee on aviation that neither the wide-body planes nor National Airport alone are unsafe.

"But we believe the combination . . . will mean an acceptable level of safety cannot be assured with reasonable confidence," they said.

The big problem, they said, is that the jumbo jets cause a "wake vortex" problem for other aircraft following in their flight paths. Wake vortex is horizontal, a tornado-like turbulence generated at each wing tip.

Among ways to avoid the wake vortex of a jumbo jet is to stay up to 10 miles behind it, or maneuver around it, but restrictions on where planes can fly in the crowded airspace surrounding National make those actions dangerous, they said.

In bad weather, the Potomac River approach to National, flying south over the river near Georgetown and Rosslyn, "is one of the most difficult and demanding approaches in the U.S.," said Ruddy and Horton, who together have more than 50 years of experience flying into National.

The question of safety overshadowed other concerns voiced during the day-long hearing about traffic congestion, noise pollution and takeoff and landing curfews at National.

Rep. Joseph L. Fisher (D-Va.) said facilities at National "already are outdated, overcrowded and increasingly dangerous."

The FAA plan to allow the number of passengers using National to increase from its current annual 15 million to 18 million by 1990 would pose "a severe safety hazard," warned Fisher, who did not limit his concern to wide-bodies.

"I would hate to wait until there is a terrible accident to transfer" some flights to Dulles, Fisher said.

The FAA which operates both National and Dulles airports, was not represented at the hearing. But a spokesman said later that "before we even proposed the use of two- and three-engine wide-bodies at National, our Office of Aviation Standards thoroughly reviewed the safety aspects of the wide-bodies, and was satisfied that their operation in and out of National was indeed safe."

Pilots Ruddy and Horton said the only test landings of jumbo jets at National were "purely cosmetic demonstration flights of the A300 and DC10 in the fall of 1978," which they said were carried out under ideal weather conditions.

With the aid of films produced by the FAA and NASA, Horton showed that the wake vortex of a DC10 was powerful enough to shake and throw off course planes as large as twin-jet DC9s or Learjets trailing the jumbo by as much as five miles.

"The larger and heavier the aircraft, the larger and more violent is the vortex," said Horton.

Ruddy said that in May 1972 a DC9—a widely used medium-range passenger jet—was following a DC10 onto a runway at Fort Worth during a training flight, went out of control and crashed because of the jumbo's wake vortex.

"It is only logical that wide-body flights and future traffic growth should be limited to Dulles and Baltimore-Washington International airports," the pilots said.

Subcommittee chairman Glenn M. Anderson (D-Calif.) asked the spokesman for the nation's major airlines, Norman Philion, what his organization thought about the safety question raised by the pilots.

"The final decision should be made by the airline industry and the airport manager, after permitting the two- and three-engine wide-bodies to demonstrate their ability to operate at National," said Philion, who is executive vice president of the Air Transport Association.

Philion said after the hearing that the jumbos are "operating safely at every other major airport in the country."

The use of wide-bodies at National, as one way of reducing the number of daily flights, was either supported or not opposed by the half a dozen area members of Congress and a dozen other local officials or representatives of citizens' groups who testified. But most of them spoke before the pilots raised the question of safety.

One idea that was supported by Fisher and several other witnesses was the removal of National and Dulles from the jurisdiction of the FAA.

Neither the transfer of authority nor reduction of flights will come without a battle. Rep. Marilyn Lloyd Bouquard (D-Tenn.), a member of the subcommittee, has gathered the names of more than 70 House members on a resolution that opposes any reduction in service at National, and several of them will testify when the hearing resumes this morning.

RESOLUTION ADOPTED CONCERNING THE PLIGHT OF THE HUNGARIAN MINORITY IN ROMANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Polish-Hungarian World Federation and affiliates board of directors met on May 24 in Chicago, and I extend my greetings to Dr. Karol Ripa, president, and to all the members of this fine organization who have worked for the past 16 years in defense of freedom for the Polish and Hungarian peoples.

Excerpts from a progress report of the May 24 meeting follow, as well as a copy of the resolution adopted concerning the plight of the Hungarian minority in Romania.

PROGRESS REPORT BY PRESIDENT OF THE POLISH-HUNGARIAN WORLD FEDERATION DR. KAROL RIPA AT A MEETING OF BOARD DIRECTORS HELD IN CHICAGO ON MAY 24, 1980

Sixteen years ago 50 Polish and Hungarian leaders—also Clergymen—met in Chicago and decided to form an organization to be called—Polish-Hungaria Federation later changed to Polish Hungarian World Federation. They did it, because for a thousand years Poles and Hungarians have lived together as brothers, working for national independence and freedom. They have always helped each other in times of danger and calamity.

Today the Federation is a world-wide organization with thousands of members and political friends. Has 77 delegates in the United States, Canada, Mexico, Argentina, Brazil, England, Venezuela, France, West Germany, Italy, Holland, Sweden, Norway, Australia, South Africa and Colombia. The Federation has chapters in Australia and Brazil, where recently the inauguration took place with hundreds of prominent persons and delegations of ethnic groups participating.

Among members of the Federation are over 60 universities professors and physicians, 69 Clergymen of various denominations, among them 5 Bishops and 8 Monsignori, 8 members of the U.S. Congress, among them Clement Zablocki, chairman of the Foreign Relations Committee of the House of Representatives.

The Federation has friendly cooperation on the part of Bulgarians, Croatians, Albanians, Lithuanians, Latvians, Slovenians and Estonians.

WHAT IS OUR GOAL?

First of all it is to fight for freedom and independence of Poland and Hungary, to help other nations of East and Central Europe and the Baltic States to achieve freedom. Our goal is to deepen the friendship and cooperation of nations whose countries are occupied by Soviet Armed Forces.

The Federation is also fighting the Treaty of Trianon, which has done a terrific injustice to Hungary depriving it of millions of compatriots, given to other nations, Rumania in particular. The policy of the Federation is to warn mankind, that if it is to be saved from complete slavery of the red dictatorship, it is high time to look back and reexamine the historc blunders of the last 41 years.

The Federation is emphasizing in our conferences and conversations with prominent people in the United States and abroad, that the first step should be made at the very spot where the tragic mistakes were made, that is in Central and Eastern Europe.

The people of that part of Europe started recently regaining their senses—in particular in Poland—the fight for their freedom is going on openly and secretly—notwithstanding the pressures of terror and misery—which have weighed heavily on them no matter the tongue they speak.

COOPERATION BETWEEN ETHNIC GROUPS

The Polish-Hungarian World Federation by its activities shows the need for cooperation between the different ethnic groups. It became an urgent necessity for those who share the same geographical units torn up today by the boundaries of past mistakes. We in the Federation are of the opinion that these people in East and Central Europe—also the Baltic States—must be given the opportunity to rebuild their former political and economic life—which they shared—built and enjoyed together.

Only our unity here in America and elsewhere can restore safety, self-respect and dignity to every citizen no matter what language he speaks or to what church he goes. This is and will remain our basis of action. Our goal no matter how remote it may seem—must be the federation of nations of East and Central Europe—against any aggression from West or East.

THE AUDIENCE WITH POPE JOHN PAUL II

An important event took place in the recent history of the Polish-Hungarian World Federation—which uplifted the prestige of our organization—it was the private audience with Pope John Paul II on October 5, 1979—the only audience the Pope granted during his 2 days stay in Chicago.

Many papers in the United States, in South America, Europe and Australia brought the news—stressing the importance of our Federation's activities. The Pope gave to the president of the Federation his Apostolic Blessing and repeated it twice from the Vatican.

Our contact with our delegates also with leaders of various organization was frequent. In the year 1979–80 the Federation received close to 1300 letters and has sent out over 1400.

The number of members is steadily increasing—and hardly a week is passing without new applications for membership. This is heart-warming—this makes our Treasurer happy—but more has to be done—many more members are needed to increase the power of our world organization.

I am convinced that with persistent efforts, and cooperation we shall succeed and our goals stated at the beginning of Process Report will be achieved—with God's help.

RESOLUTION

(Resolution adapted by the meeting of directors and delegates of the Polish-Hungarian World Federation and affilkates held in Chicago on May 24, 1980, concerning the plight of the Hungarian minority in Rumania)

Whereas: The discrimination against the Hungarian and other minorities in Transylvania is continuing and worsening.

Whereas: The Rumanian Government is waging a carefully planned war against the Hungarians, by suppressing their language, churches, breaking up the national entities, falsifying the historical and statistical datas, confiscating cultural archieves and make it more and more difficult for them to have satisfactory education.

Whereas: If the tide of Rumanian chauvinism is not turned soon by the intervention of the United States, based on its Human Rights Policy, this tide will develop into complete Cultural Genocide.

Therefore, be it resolved: That the Polish-Hungarian World Federation, as our contribution to the cause of human freedom and dignity, is strongly protesting on behalf of the suppressed Hungarians in Transylvania.

Be it resolved: That proper action be undertaken in defense of the Hungarians in Transylvania for the purpose of reinstating their legal status, concerning the use of the national language and cultural and civil rights.

Be it further resolved: That we appeal to the American Administration and Congress to take the necessary steps—maybe even rescinding the Most Favored Status of Rumania—to effect fundamental changes of Rumanian policies toward the Hungarians to eradicate discrimination and create an acceptable legal and constitutional status in Transylvania, whereby all the people there can work out their destinies without the cultural annihilation of the Hungarian minorities.●

H.R. 7566—TAX TREATMENT OF FOREIGN CONVENTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on June 12, 1980, I introduced, along with my colleague from California (Mr. CORMAN), H.R. 7566, legislation to simplify and improve the current income tax rules concerning the deductibility of expenses for attending foreign conventions. Because of the considerable number of inquiries that I have received with respect to this legislation, I would like to insert at this point in the RECORD the language of that bill as well as a detailed fact sheet. I hope that my colleagues and interested members of the public will find this information helpful.

The material follows:

H.R. 7566

A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenses in attending foreign conventions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at foreign conventions, etc.) is amended to read as follows:

"(h) ATTENDANCE AT CONVENTIONS, ETC.—

"(1) IN GENERAL.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

"(A) the purpose of such meeting and the activities taking place at such meeting,

"(B) the purposes and activities of the sponsoring organizations or groups,

"(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

"(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

"(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NORTH AMERICAN AREA.—The term 'North American area' means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada, Mexico, and Bermuda.

"(B) CRUISE SHIP.—The term 'cruise ship' means any vessel sailing within or without the territorial waters of the United States.

"(4) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

"(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such indiviaual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included."

SEC. 2. The amendment made by the first section of this Act shall apply to conventions, seminars, and meetings beginning after December 31, 1981.

FACT SHEET ON H.R. 7566

(Mr. ROSTENKOWSKI and Mr. CORMAN—Legislation to revise the foreign convention rules of sec. 274(h) of the Internal Revenue Code of 1954)

PRESENT LAW

Prior to the Tax Reform Act of 1976, a deduction was allowed for traveling expenses paid or incurred to attend a foreign convention if the traveling expenses were reasonable and necessary in the conduct of the taxpayer's trade or business.

The 1976 Act provided specific rules limiting the deduction for expenses of attending conventions, seminars or similar meetings held outside the United States. These rules apply not only to the individual attending the convention but also to an employer who pays the expenses. Under these rules:

(1) No deduction is allowed for expenses paid or incurred in attending more than two foreign conventions in any year.

(2) With respect to the two allowable conventions, the amount of expenses that can be deducted for transportation and subsistence are limited. A deduction for transportation expenses outside the United States may not exceed the coach rates charged by a commercial airline. The deduction for subsistence may not exceed the dollar per diem rate established for federal employees at the location in which the convention is held.

(3) No deduction is allowed for subsistence expenses unless (a) a full day or half day of business activities is scheduled on each day during the convention, and (b) the individual attends at least two-thirds of the hours of the daily scheduled business activities or, in the aggregate, attends at least two-thirds of the total hours of scheduled business activities at the convention.

(4) The taxpayer must comply with certain reporting requirements. For example, information must be furnished to indicate the total days of the trip and the number of hours of each day devoted to business activities. In addition, the taxpayer must attach a statement to his income tax return, signed by an appropriate officer of the sponsoring organization, which must include a schedule of the business activities of each convention day, the number of hourly related activities that the taxpayer attended each day, and any other information required by regulation.

(5) A deduction for the full amount of expenses of transportation (subject to the coach or economy rate limitation) to and from the site of a foreign convention is allowable only if one-half or more of the total days of the trip are devoted to business-related activities.

PROPOSED LEGISLATION

This bill would replace all the complex requirements and related reporting provisions of current law with a single rule. The rule would require a taxpayer attending any convention held outside the United States, Canada, Mexico or Bermuda to establish that the meeting was directly related to his business or to an income-producing activity and that it was as reasonable for the meeting to be held outside these areas as within them in order to deduct the expenses incurred in attending the meeting.

The bill specifies several factors which are to be considered in determining the reasonableness of the site including:

Purpose of meeting and of sponsor;
Activities at meeting and of sponsor;
Residences of members;
Past and future meeting sites; and
Other relevant factors presented by the taxpayer.

No deduction would be allowed for expenses incurred in attending a meeting on a cruise ship.

This bill would apply to conventions beginning after December 31, 1981.●

SUBCOMMITTEE ON CRIME TO HOLD HEARING ON PARENTAL KIDNAPING BILL, H.R. 1290, AND OTHER RELATED BILLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary, which I chair, will hold a hearing on June 24, 1980, at 1:30 p.m. in room 2237, Rayburn House Office Building. The subject of this hearing will be H.R. 1290 and related bills which criminally and/or civilly prohibit and remedy the interstate "snatching" of children in violation of State court custody decrees.

Witnesses presenting testimony on this subject are Marilyn Armstrong and Sandra Coleman, mothers who were victims of child snatching; Arnold Miller, president of Children's Rights, Inc.; Mark Richard, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; Frances Mullen, Executive Assistant Director, Federal Bureau of Investigation; Louis B. Hays, Deputy Director, Office of Child Support Enforcement, Department of Health and Human Resources; and Dr. Doris Jonas Freed, chairperson, Committee on Child Custody, American Bar Association.

Individuals wishing to submit a statement for the record should address their requests to the Subcommittee on Crime, House Committee on the Judiciary, 207-E Cannon House Office Building, Washington, D.C. 20515 or telephone 202/225-1695.●

CORRECTION IN WASHINGTON POST CONCERNING HON. JOHN P. MURTHA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 5 minutes.

● Mr. GAYDOS. Mr. Speaker, I call to the attention of my colleagues the following correction which appeared in this morning's edition of the Washington Post:

CORRECTIONS

A story in yesterday's editions of The Washington Post was incorrect in quoting sources as saying government prosecutors were considering an offer to let Rep. John P. Murtha (D-Pa.) plead to a charge in exchange for his possible resignation from Congress and testimony against two other House members indicted in the Abscam bribery investigation. No such offer is or was planned, Murtha's attorney, Walter J. Bonner, said yesterday, on behalf of himself and Justice Department officials. The Post regrets the error.●

EASING OF EMBARGO ON GRAIN TO U.S.S.R.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 15 minutes.

Mr. HARKIN. Mr. Speaker, on January 7 of this year, President Carter ordered an embargo on certain feed and food grains to the Soviet Union from this country in response to the Soviet Union invasion of Afghanistan.

Many of us at that time felt that that move was ill timed and fated never to succeed, just as embargoes in the past have never succeeded.

Farmers in this country since that time have experienced about a 40-percent decline in their income.

Mr. Speaker, at the time of the embargo, the Department of Agriculture, this administration, had made informal agreements with the U.S. grain companies that they would neither sell grain from this country nor from any other country to the Soviet Union.

□ 1510

However, today, in a release that just came over the wires this morning:

EXPORTERS MAY SELL NON-U.S. ORIGIN GRAIN TO U.S.S.R.

WASHINGTON, June 20.—The U.S. Agriculture Department gave U.S. grain companies permission to sell non-U.S. origin grain to the U.S.S.R. through foreign affiliates, a Cargill Grain Co. executive told Reuters.

USDA notified Cargill this week that the Carter administration was lifting its request that U.S. companies keep their foreign affiliates from trading grain to the U.S.S.R., he said.

The request had been made in January when the U.S. announced sanctions on trade with the U.S.S.R.

The request to keep foreign affiliates from selling to the U.S.S.R. threatened to erode the marketing position of U.S. companies. The Cargill official said.

The administration might have come to realize that the embargo, "was not having any practical impact on the U.S.S.R.'s access to non-U.S. origin grain," he said.

So, what has happened today? Believe it or not, this administration has said that Cargill, for example, can sell all the grain that it wants that is grown in Argentina, or Brazil, or Canada, or South Africa or any other country in the world—sell all that grain they can get to the Soviet Union, but they cannot sell U.S. grain.

Now, I have heard of Alice in Wonderland-type solutions to problems, and responses to crises, but this one is the most ridiculous I have heard of yet since this embargo was placed on our farmers. We have the situation that our farmers cannot sell to the Soviet Union, but the Brazilians can, the Canadians can, and they can sell through the grain companies located in this country.

Now, if that is not the most baffling thing that this administration has ever done on this grain embargo, I do not know what is, except putting the embargo on in the first place.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, first of all I appreciate the gentleman's bringing this to our attention. I am one of these fellows that endorsed what the President did, and I come from the largest wheat-producing State in the country. I endorsed it wholeheartedly, and what I said was, well, it is better not selling them wheat than going to war. It is better not selling them wheat than contemplating a nuclear holocaust, and would you feed your enemies. So I said, "OK, we will do whatever we can," and we began, and I will give the President the benefit of the doubt.

Then, we proceeded to see a situation where the administration did not know how to handle the embargo; did not know how to buy the grain off the market; did not know where to store it; did not know when to service the market anywhere. All these bad things were happening. I still gave them the benefit of the doubt because somebody has to show these Russians that they cannot move wherever they want to, and they certainly have acted most aggressively, but I am certain perhaps that in hindsight maybe it had to do with how they proceeded from the beginning, whether we were going to sell them grain or not.

But this action that the gentleman from Iowa brings to our attention, and I would like to repeat something he read in his news release:

> The request to keep foreign affiliates from selling to the U.S.S.R. threatened to erode the marketing position of U.S. companies.

What about the marketing position of U.S. farmers? Was that ever considered? I do not blame the major grain companies; they have got a lot of clout in this world. They are out to make a buck, and I applaud them for it. It just shows us, however, how little influence farmers have in terms of the U.S. Department of Agriculture policy, and how much influence the major grain companies have, which again I do not fault them for.

It shows in my mind what I probably now have come to the conclusion that as much as I felt the United States should show a firm position against the Russians, we have so botched the embargo, and now with the most ironical-type situation, are now permitting the sale of non-U.S. grain by our companies to the Russians, that the whole thing is an utter disaster. So, I applaud the gentleman's efforts, and I think he has proposed legislation to try to deal with the problem.

Mr. HARKIN. I thank the gentleman. Before the House adjourns today, I am dropping in a bill that was earlier dropped in by the gentleman from South Dakota (Mr. ABDNOR). We had worked out an agreement to introduce this legislation jointly. He had to catch a plane to go back to his State, but I am dropping in a bill for myself, the gentleman from Kansas (Mr. GLICKMAN), and the gentleman from Missouri (Mr. VOLKMER). I would hope that Members who may be watching on their monitors in their offices would also get on this legislation. All it says basically is that, and it is very simple:

> Any restrictions which have been imposed by the President on exports of agricultural commodities to the Union of Soviet Socialist Republics under the Export Administration Act of 1979 and which are in effect immediately before the date of enactment of this Act shall terminate on such date of enactment.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, I think the point should be made clear that we in this Congress and we among the people of the United States want to do whatever we possibly could to show some unity behind the President of the United States in trying to tell the Russians to stop it. I think that accounted for the fact that most people in this country supported the President's actions, but when they reach a point that they are utterly inconsistent with each other, and now permit U.S. grain companies to sell non-U.S. origin grain, we cannot in good conscience tell our farmers that, well, we are just being patriotic, anymore.

I applaud the gentleman's efforts.

Mr. HARKIN. I thank the gentleman from Kansas, with whom I have worked very closely on the Agriculture Committee. I would also second what he said about responding to the Soviet Union invasion of Afghanistan. It cannot be tolerated, but we have to make the right response, the proper response. I know that in Iowa, the farmers in Iowa backed the President in January when they went to the political caucuses, and backed him on the embargo, thinking that this administration would come through to support those prices and help the farmers that were being hurt.

I forgot to mention also that my colleague from Iowa (Mr. BEDELL) is also on this bill we are dropping in today. I yield to my friend and colleague from the Sixth District of Iowa.

Mr. BEDELL. Mr. Speaker, I thank my colleague from Iowa. I want to again commend him for his work in bringing this shocking development to the attention of the House and I rise in strong support of the legislation he is introducing immediately to terminate the embargo. I would like to reiterate many of the statements made by my colleague from Kansas.

Immediately following the embargo, I went all around my district, and took votes in my farm advisory committees regarding what the response should be. My farmers voted overwhelmingly at that time not to rescind the embargo once it had been put in place. They all realized they were going to be penalized and hurt by the embargo, but they said, "We are willing to shoulder the burden if it will show the Russians that they cannot violate another country's sovereignty and citizenry with impunity as they did in Afghanistan."

Now, what has happened? First of all, we found out that the Argentine people, the Argentine farmers, were getting significantly more for their corn and wheat than they did at the time of the American embargo, whereas the American farmers are getting significantly less. What follows is a copy of a letter I wrote to Secretary Bergland on May 1—to which I have as yet received no response—in which I pointed out the extent of the American farmers' loss.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 1, 1980.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR BOB: On page 9 of your recently-issued Foreign Agriculture Circular on Grains dated April 14th, I find the following information.

For number 3 yellow corn at U.S. Gulf ports, the price was $118 per metric ton on January 3rd. On April 10th this price was $112, for a decrease of $6 per ton.

For Argentina the figure on January 3rd was $123, and on April 10th $160 for an increase of $37 per ton.

These figures bear out the fact that the price of corn in Argentina has increased by 30 percent since the embargo, while it has decreased by 5 percent in the United States.

Wheat prices in this country have fallen by 11 percent since the embargo, while they have increased by 20 percent in Argentina.

In your letter to me of March 25, 1980, you indicated that "The stated position of the Argentine government is that it does not intend to take advantage of the suspension, and will monitor shipments to the Soviet Union but not to interfere in the private marketing of agricultural commodities to the USSR . . ."

Later in the letter, you said: "We do not believe that Argentina . . . will offset the 17 million tons of grain denied by the United States to the USSR." Despite your earlier assertions, however, it seems safe to assume that Argentina has profited from the imposition of the embargo, while the American farmer has suffered great economic loss.

Mr. Secretary, if the price of corn in this country, instead of going down 5% since the embargo, had gone up 30 percent as it did in Argentina, my farmers would be receiving over $2.80 per bushel, and the entire Midwestern area, indeed, the entire United States, would be in a much healthier state today.

It is ironic, Mr. Secretary, that after the embargo was imposed, my farmers, as well as the rest of American agriculture, accepted the need for the action. Your own assurances, plus those of the President, that the farmer would not have to bear a disproportionate share of the cost, was accepted in good faith. I believe that the figures cited earlier lead one to believe that this pledge has not been kept. From the information available, it would appear that the effect upon the Soviet Union has been minimal at best. Argentine farmers have benefited greatly. And the effect upon the American farmer has been disastrous. I believe that the embargo, once all of the costs and benefits have been tallied, was a mistake.

I hope that our country would learn from this mistake. It appears quite clear to me from the above figures, that the embargo was instituted without adequate consultation with other grain exporting countries, and without adequately weighing the total impact of the embargo upon our country, as well as the Soviet Union.

I firmly believe that the interconnection between Argentina's greatly improved grain prices and the United States' drastically depressed grain prices, and the reason for it makes clear the need for two immediate actions on the part of our government. First, the loan rate on corn should be increased to no less than $2.40 per bushel. Second, there should be a comprehensive reassessment of United States' policy with regard to the importation of Argentine beef, with an eye toward its cessation.

I look forward to your response to this letter wish great interest, Bob.

Thanking you in advance for your consideration, I am,

Sincerely,

Berkley Bedell.

We found that when the Department of Agriculture moved to respond to the embargo, it appeared that it was most concerned about making sure that the grain companies were not hurt financially, even going so far as to pick up their contracts in full.

How did the average farmer come out? As we all know, they came out on the short end. I have been talking to the Department of Agriculture today. "Well," they said, "it was said by Argentina that since the grain affiliates are an Argentine company, they are going to have to do what Argentina tells them to do."

So, they could not do anything other than let them do it. This is absolute nonsense. The grain companies should be told that if they are going to operate in America, they are going to have to operate according to American laws; that if they want to operate in America they absolutely cannot ship Argentinian wheat or corn to the Soviet Union. If the grain companies cannot accept that, then they can go to Argentina and operate. I say this to the multinational grain companies: "Do not come to the United States and say that we are going to ship Argentinian corn to the U.S.S.R. and then expect to operate in the United States but not ship American grain to the U.S.S.R." That is why I wholeheartedly support this bill.

If we are going to ship it from around the world, then sure as heck we ought to ship it from America. I know how mad my farmers are going to be when they hear about this, I can tell the gentleman in the well, and justifiably so.

Mr. HARKIN. I can tell my colleague from Iowa that I am going back to my district tomorrow, and I will be out there for a couple of days, and I will be glad to get out without getting lynched when they read this. They cannot sell grain to the Soviet Union, but Argentinians can, Canada and every other country can, and through our grain companies. Our grain companies can go out and sell foreign grain to the Soviet Union, but not the grain grown by farmers from Iowa. So, I thank my colleague from Iowa for being on this legislation.

I ask again that any other Members that may be watching on their sets in their offices, if they would help us on this and cosponsor this legislation.

□ 1520

I might also just add one little item to show that doublespeak is alive and well. There was a statement that came out from a high official of the Department of Agriculture today in response to this, and let me read it for the record, as follows:

> To prevent leakage of uncommitted 1979 crop grain to the Soviet Union, major grain exporters operating in the United States complied with an informal request by USDA in January not to sell third country grain to the U.S.S.R.
>
> The agreement had its desired effect and the grain has been sold elsewhere. Inasmuch as other major exporting countries have developed specific policies to limit sales of 1980 crop grain to the U.S.S.R., the companies were informed that trade consistent with those countries' policies would be consistent with our general policy of restraining sales to the U.S.S.R.

And listen to the last sentence:

> This represents no change in U.S. policy toward the U.S.S.R.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield on that point?

Mr. HARKIN. Yes, I yield to the gentleman. Could the gentleman from Kansas tell me what that means?

Mr. GLICKMAN. Mr. Speaker, I have heard a lot of interesting and even outrageous things on this House floor, but I have never heard anything that makes such utter nonsense as what the gentleman just read. I think it speaks for itself. It does not mean anything.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, if we read that statement, it says that the other countries have policies that restrict grain sales to the Soviet Union. I would ask somebody to state what the restrictions are that Argentina has on selling grain to the Soviet Union. As I pointed out, the price in Argentina has escalated substantially, and the price here has dropped substantially.

Mr. HARKIN. Yes. Mr. Speaker, as the gentleman pointed out, Argentina sold all the grain they wanted to sell to the U.S.S.R. and now they are coming up here to buy our grain.

Mr. BEDELL. But they are buying our grain at a lot cheaper price then the price at which they sold their grain to the Soviet Union.

Mr. HARKIN. The gentleman is absolutely correct, and he makes a precise statement. They are selling grain to the Soviet Union at a price that is more than what they are paying for our grain.

So this statement by the official of Cargill, I think, just summed it up pretty well when he said that the administration might have come to realize that the embargo "was not having any practical impact on the U.S.S.R.'s access to non-U.S. origin grain."

Mr. Speaker, I thank my colleagues for their help and assistance.

INFLATION AND THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Carr) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, while older Americans deserve our attention, it's clear that the problems of older Americans are not uniform. Yet many times we attempt solutions which do not differentiate between problems. As a result of this imprecise targeting of government responses we waste money. Daniel S. Hamermesh, a distinguished professor of economics at Michigan State University, recently had a point of view not frequently expressed. They were delivered on May 22, 1980, on WKAR in East Lansing. I commend his remarks to my colleagues:

Inflation and the Elderly

(Radio talk by Daniel S. Hamermesh, professor of economics, Michigan State University)

Nearly every week one is assaulted by statements about how inflation has really hurt our older citizens. Don't believe them! To the extent that older Americans' income is composed of Social Security benefits, they have done better than younger citizens in the past year. This is because those benefits are indexed: On July 1 Social Security recipients will get a 14.3 percent increase in benefits, due to the 13.3 percent inflation of the past year. The Social Security recipient is beating inflation. At the same time, the average worker in the private sector saw his wage rate rise by 2½ percent less than prices; he lost out to inflation. Because benefits are indexed, the Social Security recipient improves his position compared to the worker, so long as wages grow less than one percent faster than prices.

That the increased generosity of Social Security and the growth of private pensions have been effective is made clear by a perusal of the data. In 1969 the average household headed by a person 65 or over had only 51 percent of the income of the average U.S. household. By 1977 this had risen to 57 percent. Among families in which the head is between 55 and 64, the income was actually 2 percent above the national average in 1969, and it rose to 8 percent above the average in 1977.

I have no gripe about older persons improving their relative economic position: Too many older persons, having failed to plan for an unexpectedly long retirement, require the income just to survive. It is, though, disingenuous of politicians to cater to the older voter by decrying the effects of inflation on them. In fact, the interaction of inflation, slow economic growth, and Social Security has improved the economic condition of older persons relative to others in the population.●

IGNORING COAL

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, last week the gentleman from Illinois (Mr. Simon) wrote a column for the newspapers of the 24th District of Illinois entitled "Ignoring Coal." He succinctly describes the abundance of words and the paucity of action. I agree with his analysis 100 percent.

Following is the article:

Ignoring Coal

(By Paul Simon)

There is an abundance of speeches proclaiming that coal is the energy source of the future, that we must rely on it more. But the speeches ring hollow, because comparing the speeches with action is like comparing a giant and a dwarf.

We have a little legislation, but we lack a national coal policy.

We could be producing 100 million more tons of coal a year with our present capacity, yet those mines are not worked or are partially worked, and 20,000 coal miners are out of work—1,000 of them in southern Illinois.

What irritates me on top of that is to recognize that basic research on mining is taking place on only a minimal scale, and there is far too little evidence of solid advances in other areas.

The Carbondale coal research center—one of the few places where mining research is occurring in this country—is designed for 100 people to do research, but only about 25 are working. Really vigorous action to move on research on sulfur, on scrubbers, on fluidized beds is lacking; we are doing just enough to claim that we are doing something, but not enough to be meaningful.

One of the top officials of the Department of Energy has told me that if I am really serious about wanting to go ahead on coal research that coal should be taken out of the Department of Energy. Preposterous as that sounds, he may be right, for the former secretary, James Schlesinger, clearly had no coal orientation (other than speeches) and despite pleasant words I have renewed fears that the new secretary, Charles Duncan, may be following the same incredible path.

A recent memorandum from the secretary of energy which the press somehow secured shows an anti-coal bias. I have just learned that while we are finally moving ahead at the congressional level on the coal gasification plants in Southern Illinois and Ohio—with lip-service support from the Department of Energy—the 1982 Department of Energy budget which has been submitted by the secretary to OMB (which is not supposed to be public knowledge until after the election) contains money for more analysis, but none for procurement and construction and the solid steps which we must take.

It is a wheel-spinning budget.

The one major coal proposal which has been recommended—subsidizing utilities to move from oil to coal—seems to be going nowhere and does not appear to be a high priority of the administration.

Generally I have the uneasy feeling that the Department of Energy does not understand the gravity of the energy crisis and certainly does not see coal as any major answer to it.

What should be done?

Let me mention a few things briefly:

(1) Utilities now consume 1.5 million barrels of oil a day. That's almost 20 percent of our import of oil. We have a grid system of electricity which permits utilities to share electricity which could eliminate 90 percent of that oil usage in one year, if the administration really started working on it.

(2) Basic research needs to be pushed, and not just on the exotic things. How can we get cleaner air, safer mining, etc.?

(3) Recognize the problem of labor-management relations in coal, and do more to get the two sides working together so that productivity can be increased and so that coal is viewed as a more reliable energy source. We cannot have 110-day strikes (as we did in 1978) and expect heavy coal usage.

(4) The administration should ask each state to allow utilities to pass on, through utility bills, the costs for building scrubbers to remove pollutants. Right now in Illinois, for example, you can add the cost of transporting coal from Montana to Illinois (up to $40 a ton) to a utility bill, but if you put in scrubbers so that Illinois coal is used, and so that energy is not wasted on long railroad hauls, that cannot be added to the fuel bill without long proceedings. The net result is use of western coal, higher costs to the consumer and a needless waste of energy.

(5) Get going on some concrete things like coal gasification. South Africa recently started its third major coal gasification plant at a cost of $3.8 billion. The United States, with more coal than any nation on the face of the earth, has yet to have its first major coal gasification plant. We're making progress, but much too slowly.

There are times when I think the Department of Energy should be renamed the Department of Inertia.

Coal is here. It is not a theory. It is time we recognized its reality and its potential.●

THE 100TH ANNIVERSARY OF ST. LUKE A.M.E. CHURCH, EAST ST. LOUIS, ILL.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, I was among those privileged to be present at the observance of the 100th anniversary celebration of St. Luke A.M.E. of East St. Louis, Ill., on May 25, 1980. It is my pleasure to share with my colleagues in the House the remarks of Dr. Richard Allen Chappelle, Sr., general secretary, African Methodist Episcopal Church, on that occasion:

REMARKS BY DR. RICHARD ALLEN CHAPPELLE

The mistress of Ceremony, Miss Brenda Watson; Pastor John Q. Owens, member of the General Board of the African Methodist Episcopal Church; Congressman Melvin Price; Mr. Carl Officer, Mayor of this fine city of East St. Louis, those assembled here on the dais, my sisters and brothers in Christ.

We greet you in the name of our Lord and Savior, Jesus the Christ. We come at this hour to congratulate you on your historic anniversary celebration. The more than two million members of the African Methodist Episcopal Church would have me to say to you "keep on keeping on". It is our prayer that you and the world will survive long enough to celebrate many more historic occasions such as this.

I'm greatly impressed by your long and glorious history; by the long list of persons who have, from your inception up to this very hour, made things happen in positive ways. When I was contacted by your Pastor to be a participant on this program as the Speaker, I wrestled with many thoughts and ideas as to what could be said to the people of St. Luke African Methodist Episcopal Church, and the people of East St. Louis in particular that would be meaningful. I toyed with the idea of maybe telling some jokes. Then it dawned upon me that you could have stayed home watching T.V. and getting a better performance. I thought about singing a song, even though I'm not a singer like my predecessor, Dr. Russell S. Brown, Sr., of Chicago, Ill. But I realized that for me to attempt such a thing would prompt you to recall him as General Secretary. However, in as much as the political, economic, social and religious community is in such dire straits, it's time to be very serious. This fact, coupled with the revelation from Pastor Owens that many of you skipped the 11 a.m. worship service today, gives me an out.

Most of my training is in theology, therefore, it is really no accident that what I'm about to say will be colored by my references to God's word. For this I do not apologize, and suggest that the Pastor station his stewards at the doors preparing them to receive from you your tithes and offerings. St. Luke A.M.E. Church is and is not unique. It is unique because of the particular personalities who have played a part in its historic march into the 21st century. It is not unique for there are countless others who, too have on this Christian journey, experienced moments of joy and heartache, moments of grandeur and despair, moments of happiness and shame, moments of faith and doubt, moments of hope and uncertainty. And so today, as we pause to commemorate this 100th anniversary, I wish to use as a subject:

LOOKING BACK AIN'T WHERE IT'S AT

We're using as a reference the 11th and 12th Chapters of the Epistle to the Hebrews. Before anyone gets upset about the inference of my subject, permit me to say that I would be one of the first to agree that:

(A) There should be, there must be a deep appreciation of and for past history, if we are to understand and become actively involved in the present and future, but,

I would be one of the first to agree that:

(B) It doesn't hurt to sit down every now and then and recount your blessings, which is really to look back.

James Weldon Johnson, in his memorable prayer captured this idealistic concept when he penned:

God of our weary years
God of our silent tears
Thou who has brought us safe
Thus far along the way,
Thou who has by thy might
Led us into the light
Keep us forever in the path we pray.

But I still maintain that looking back ain't where it's at.

I would be one of the first to agree that it is significant, and it is important to every now and then call the roll of some of the persons who have helped us get to this station in life. Names such as Roland Hayes, Paul Lawrence Dunbar, Paul Roberson, Marion Anderson, Frederick Douglas, Morris Brown, Richard Allen, George Washington Carver, Benjamin Banneker, Christopher Attucks, Martin Luther King, Jr., Malcolm X, A. Phillip Randolph, Ralph Bunche, Jessie Owens, Jackie Robinson, Roy Wilkins, and Thurgood Marshall. It is significant and important because too many of us have failed to tell our children about these great personalities, who in their way, helped us to come to this point in life. We somehow have failed to express to our youth the realities of how we really got over.

The problem that is created in looking back is that there is a tendency to become so obsessed and possessed with the past, and a desire to live in the past and on past performances, until very little gets done in the present. There is the tendency in past looking to become complacent and satisfied over past achievements to the detriment of the present and future. We, in looking back, tend to criticize and ostracize the present as we nostalgically compare it with things we think happened in the past. When new and innovative concepts and ideas are presented, we tend to resist them with the phraseology, "we've been doing it like this for lo these many years, and now you want to change it." "If it was good enough for Mamma, it's good enough for me". We look back too much and tend to look for the "good old days". But looking back ain't where it's at.

I think it was Will Rogers who was credited with the saying "Things ain't what they used to be, and probably never was". The "Good old Days"—of the icebox rather than the frost free refrigerator, the flat iron rather than the steam and dry iron, the dust roads rather than the divided, paved roads; the cotton, wool and silk over the knits, polyester, double knits; the wood stove rather than the gas and the electric range. Children dying of measles, mumps and chicken pox to name a few.

You can go back if you want, but as for me, looking back ain't where it's at.

By faith, Abraham, when he was called to go into a place which he should receive for an inheritance, obeyed, and went out not knowing whither he went.

By faith Moses, when he was come of years refused to be called the son of Pharoah's daughter, choosing rather to suffer affliction with the people of God.

By faith Isaac, blessed Jacob and Esau concerning things to come.

By faith Jacob, when he was dying blessed both the sons of Joseph and worshipped leaning upon the top of his staff.

Now faith is the substance of things hoped for, the evidence of things not seen. For by it the elders obtained a good report.

By faith Marion Anderson sang on the steps of the National Shrine when the Daughters of the American Revolution refused to let her sing in Carnegie Hall.

By faith Richard Allen walked out of St. George Methodist Church when he was refused the dignity of manhood.

By faith George Washington Carver, with the peanut, forever revolutionized the economy of the South.

By faith Jesse Owens, won four gold medals at the Berlin Olympics in spite of Adolph Hitler and the racist Third Reich.

By faith Martin Luther King, Jr., had a dream that, one day men would not be judged by the color of their skin, but by the content of their character. That one day Jews and Gentiles, Protestants and Catholics, would join hands and sing the old Negro spiritual, "Free at Last, Free at Last! Thank God almighty we're free at last."

By faith Thurgood Marshall, argued against the concept of separate but equal education before the supreme court of the land, and won.

But the writer of the Epistle did not become obsessed, nor possessed, or overly impressed by the achievements or the achievers of the past, but did as we must do; pay homage to their faith and achievement. We can't take if from them nor deny their personhood. That was their day and their glory.

"We must today serve the present age our calling to fulfill, O may it all our powers engage to do our Master's will."

We, as the writer of the Epistle, must become consciously aware that we are today encompassed, surrounded by a huge crowd of men and women of faith watching us from the grandstands. Let us strip ourselves of anything that slows us down or holds us back; especially those sins that wrap themselves so tightly around our feet and trip us up. And let us run with patience the particular race that God has set before us.

Now preacher, you have made a point of saying, Looking back ain't where it's at! Where then shall we look?

We look—

"Looking to Jesus, the author and finisher of our faith" who has promised to go with us, be with us, be our guide and director. Looking until Jesus who has, and will go on ahead of us to make the way.

"I've a message from the Lord
(Hallelujah)
  The message unto you I'll give
Tis recorded in His word
(Hallelujah)
It is only that you look and live

I've a message full of love
(Hallelujah)
  A message, O my friend, for you
Tis a message from above
(Hallelujah)
  Jesus said it and I know tis true

Look and Live my brother live
  Look to Jesus now and live
Tis recorded in His word
(Hallelujah)
  It's only that you look and live.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Wolff (at the request of Mr. Wright), for today, on account of official business.

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Mr. Fary (at the request of Mr. Wright), after 1:30 p.m. today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Fish) to revise and extend their remarks and include extraneous material:)

Mr. Ashbrook, for 20 minutes, today.

(The following Members (at the request of Mr. Harkin) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rostenkowski, for 10 minutes, today.

Mr. Conyers, for 5 minutes, today.

Mr. Gaydos, for 5 minutes, today.

Mr. Harkin, for 15 minutes, today.

Mr. Carr, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Fish) and to include extraneous matter:)

Mr. Goodling.
Mr. Wylie.
Mr. Carter in two instances.
Mr. Derwinski in two instances.
Mr. Royer in two instances.
Mr. Broomfield.
Mr. Coughlin.
Mr. Porter.
Mrs. Fenwick.
Mr. Ashbrook in two instances.
Mr. Erlenborn.
Mr. Hyde.
Mr. Gilman.

(The following Members (at the request of Mr. Harkin) and to include extraneous matter:)

Mr. Edwards of California.
Mrs. Schroeder.
Mr. Luken.
Mr. Scheuer.
Mr. Shelby.
Mr. Miller of California.
Mr. Benjamin.
Mr. Albosta.
Mr. McDonald.
Mr. Sabo.
Mr. Lehman.
Mr. Stokes.
Mr. Bonker.

ADJOURNMENT

Mr. BEDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 3 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, June 23, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4665. A letter from the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations), transmitting a draft of proposed legislation to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business; to the Committee on Armed Services.

4666. A letter from the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics), transmitting notice that a study has been conducted of the guard services function at the Naval Fuel Depot, Jacksonville, Fla., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4667. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the proposed sale of two naval vessels to a foreign government, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4668. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to provide an improved and expedited mortgage foreclosure procedure with respect to multifamily mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

4669. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the 1979 annual report of the Corporation, pursuant to section 607(a) of Public Law 95–557; to the Committee on Banking, Finance and Urban Affairs.

4670. A letter from the Secretary of Education, transmitting proposed final regulations for the Law School Clinical Experience program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4671. A letter from the Secretary of Education, transmitting a closing notice for the Rehabilitation Short-Term Training program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4672. A letter from the Acting Secretary of Education, transmitting a revision to the final regulations amending the Family Contribution Schedules for use during the 1980–81 award period under the basic educational opportunity grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4673. A letter from the Acting Secretary of Education, transmitting proposed final regulations amending the 1979 regulations governing the national direct student loan, college work-study, supplemental educational opportunity grant, guaranteed student loan, and basic educational opportunity grant programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4674. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the Internal Energy Program to be held on June 24, 1980, in Paris, France; to the Committee on Interstate and Foreign Commerce.

4675. A letter from the Chairman, Securities and Exchange Commission, transmitting the ninth annual report of the Securities Investor Protection Corporation, pursuant to section 7(c)(2) of Public Law 91-598; to the Committee on Interstate and Foreign Commerce.

4676. Communication from the President of the United States, transmitting a statement of policy, an assessment of the Nation's renewable resources, and the Secretary of Agriculture's recommended program for Forest Service activities, pursuant to section 8(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (Public Law 93-378); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 85. A bill to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes; with amendment (Rept. No. 96-172, Pt. III). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 6899. A bill to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States; with amendment (Rept. No. 96-935, Pt. III). And ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7020. A bill to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes; with amendment (Rept. No. 96-1016, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 999. A bill to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes; with amendment (Rept. No. 96-1115). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 722. Resolution providing for a procedure for response to subpenas (Rept. No. 96-1116). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 723. Resolution providing further procedures during the consideration of House Resolution 722 providing for a procedure for response to subpenas (Rept. No. 96-1117). Referred to the House Calendar.

Mr. RODINO: Committee on the Judiciary. H.R. 3567. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; with amendment (Rept. No. 96-1118). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 7632. A bill to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

By Mr. ASHBROOK:

H.R. 7633. A bill expressing the sense of Congress with respect to certain withholding taxes; to the Committee on Ways and Means.

By Mr. BENJAMIN:

H.R. 7634. A bill to amend the Clean Air Act with respect to noncompliance penalties, and for other purposes, to the Committee on Interstate and Foreign Commerce.

By Mr. HARKIN (for himself, Mr. Glickman, Mr. Volkmer, Mr. Evans of Georgia, and Mr. Bedell):

H.R. 7635. A bill terminating the restrictions imposed by the President on exports of agricultural commodities to the Soviet Union; to the Committee on Foreign Affairs.

By Mr. SABO (for himself, Mr. Beilenson, Mr. Coelho, Mr. Fazio, Mr. Kogovsek, Mr. McHugh, Mr. Oberstar, and Mr. Porter):

H.R. 7636. A bill to amend the Internal Revenue Code of 1954 to allow nonrecognition of gain on certain rollovers of principal residences where the cost of purchasing the new residence is less than the adjusted sales price of the old residence, to extend to 60 months the period for the rollover of a principal residence, to allow a deduction for contributions to savings accounts established for the purpose of purchasing a home, and to deny the interest deduction to the extent the interest is on home loans in excess of $150,000; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 7637. A bill to provide for the exchange of certain lands within Tuolumne County, Calif.; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FOLEY:

H.R. 7638. A bill for the relief of Allen H. Platnick; to the Committee on the Judiciary.

By Mr. PRITCHARD:

H.R. 7639. A bill for the relief of Kai-Mee Chen; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1180: Mr. Hyde.

H.R. 4796: Mr. Oberstar and Mr. Moffett.

H.R. 5610: Mr. Symms.

H.R. 7019: Mr. Corrada, Mr. Carr, Mr. Jeffords, Mr. Lundine, Mr. Whittaker, Mr. Dellums, Mr. Lehman, Mr. Brown of California, Mr. Seiberling, and Mr. Edgar.

H.R. 7085: Mr. McDade.

H.R. 7211: Mr. Brooks, Mr. Atkinson, Mr. Hansen, Mr. Moorhead of California, Mr. Stockman, Mr. Stump, Mr. Lee, Mr. Stanton, Mrs. Holt, Mr. Dickinson, and Mr. Hopkins.

H.R. 7309: Mr. Simon and Mrs. Boggs.

H.R. 7319: Mr. Hughes, Mr. Panetta, Mr. Roe, Mr. Simon, Mr. Tauke, and Mr. Whitehurst.

H.R. 7337: Mr. Albosta and Mr. Bauman.

H.R. 7365: Mr. Sharp, Mr. Blanchard, Mr. Tauke, and Mr. Fithian.

H.R. 7378: Mr. Ertel, Mr. McHugh, and Mr. Oberstar.

H.R. 7391: Mr. Neal.

H.R. 7436: Mr. Brademas.

H.R. 7548: Mr. Ichord, Mr. Volkmer, Mr. Smith of Iowa, Mr. Jenrette, Mr. Traxler, Mr. Jones of North Carolina, Mr. Brinkley, Mr. Whitley, Mr. Simon, Mr. Jeffords, Mr. Skelton, Mr. Andrews of North Dakota, Mr. McEwen, Mr. Stangeland, Mr. Albosta, Mr. Johnson of California, Mr. Hinson, Mr. Broyhill, Mr. Findley, Mr. Lee, Mr. Anthony, Mr. Coelho, Mr. Bethune, Mr. Rose, Mr. Corcoran, and Mr. Mollohan.

H.J. Res. 417: Mr. Rodino, Mr. Pursell, Mr. Albosta, Mr. Duncan of Oregon, Mr. Boland, Mr. Donnelly, Mr. Phillip Burton, Mr. Bedell, Mr. Gray, Mr. Carr, Mr. Matsui, Mr. Jones of North Carolina, Mr. Nowak, Mr. Miller of Ohio, Mr. Clinger, Mr. Hyde, Mr. Murphy of Illinois, Mr. Devine, Mr. Anderson of California, Mr. John L. Burton, Mr. Drinan, Mr. Hawkins, Mr. Miller of California, Mr. Mitchell of Maryland, Mr. Oberstar, Mr. Pickle, Mr. Weiss, Mr. Hollenbeck, Mr. Dingell, Mr. Breaux, Mr. Tauzin, Mr. Davis of Michigan, Mr. Coughlin, Mr. Nolan, Mr. Ottinger, Mr. Ambro, Mr. Baldus, Mr. Bingham, Mr. Early, Mr. Hubbard, Mr. Stokes, Mr. Yates, Mr. Steed, Mrs. Chisholm, Mr. Wolff, Mr. Murtha, Mr. McKay, Mr. Long of Maryland, Mr. Addabbo, Mr. Patten, Mr. Roybal, Mr. Bob Wilson, Mrs. Boggs, Mr. Ginn, Mr. Dixon, Mr. Stewart, Mr. Patterson, Mr. Brown of California, Mr. Johnson of California, Mr. McCormack, Mr. Moakley, Mr. Moorhead of California, Mr. Pepper, Mr. Rose, Mr. Scheuer, Mr. Markey, Mr. Grassley, Mr. Annunzio, Mr. Maguire, Mr. McCloskey, Mr. Ichord, Mr. Waxman, Mr. Won Pat, Mr. Gephardt, Mr. Mavroules, Mr. Corman, Mr. Gaydos, Ms. Mikulski, Mr. Solarz, Mr. Charles H. Wilson of California, Mr. Collins of Illinois, Mr. Sawyer, Mr. Vander Jagt, Mr. Jenrette, Mr. D'Amours, Mr. Davis of South Carolina, Mr. Shannon, Mr. Stangeland, Mr. Barnard, Mr. Bafalis, Mr. Dellums, Ms. Oakar, Mr. Perkins, Mr. Rahall, Mr. Zablocki, Mr. Robinson, Mr. Fuqua, Mr. Mineta, Mr. Stockman, and Mr. Hamilton.

H.J. Res. 471: Mr. Archer, Mr. Chappell, Mr. Simon, Mr. Watkins, and Mr. Waxman.

H.J. Res. 516: Mr. John L. Burton and Mr. Kramer.

H. Con. Res. 344: Mr. Kindness, Mr. Ritter, Mr. Sharp, Mrs. Holt, Mr. Carney, Mr. Miller of Ohio, Mr. Grassley, Mr. Burgener, and Mr. Coelho.

H. Con. Res. 369: Mr. Long of Maryland and Mr. Ottinger.

H. Res. 690: Mr. Gray.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

374. By the SPEAKER: Petition of the annual conference of the West Central Wardens and Superintendents Association, Vancouver, British Columbia, relative to funding for correctional programs; to the Committee on the Judiciary.

375. Also, petition of the City Council, Philadelphia, Pa., relative to funding for the

treatment of drug addicts; to the Committee on Interstate and Foreign Commerce.

376. Also, petition of the New York Conference United Church of Christ, New York, N.Y., relative to torture; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7583

By Mr. WINN:

—Page 8, after line 22, insert the following:

Sec. 103. None of the funds appropriated by this title shall be used to implement, administer or enforce the withholding of any tax on interest or dividend income.

—Page 43, after line 5, insert the following:

Sec. 614. No part of any appropriation contained in this Act shall be available to implement, administer or enforce the withholding of any tax on interest or dividend income.

H.R. 7584

By Mr. COURTER:

—Page 36, line 17, strike out "$419,000,000" and insert in lieu thereof "$437,379,000".

By Mr. SKELTON:

—Page 19, line 18, strike out "$115,000,000" and insert in lieu thereof "$116,000,000".

By Mr. WALKER:

—On page 43, line 6:

"Sec. . No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980."

SENATE—*Friday, June 20, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the third verse of the fifth Psalm.

My voice shalt Thou hear in the morning, O Lord; in the morning will I direct my prayer unto Thee, and will look up.—Psalms 5: 3.

Let us pray.

Our Father-God, we beseech Thee to refresh us with the life-renewing strength of Thy Holy Spirit. Give us clean hands, pure hearts, and worthy motives. Shed Thy light upon our daily tasks. Give up quick perception of Thy will and promptness in doing it. Reconcile every estrangement in human relations. Heal every inward pain and consolidate our efforts for the betterment of this Nation. Grant us the higher wisdom of Thy kingdom and abide with us until our work is done. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 20, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

RECOGNITION OF SENATOR JAVITS

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

THE VENICE SUMMIT AND STRAINS IN THE ALLIANCE

Mr. JAVITS. Mr. President, the President of the United States is now in Rome on his way to the Venice summit.

I think it very important that the President have some concept from us here in the Senate, which is constitutionally charged with a foreign relations responsibility, as to how we feel about where he is and what he is going to do there.

According to reports, the Soviet Union is having a difficult time for itself in attempting to "pacify" Afghanistan and its move into that country may well prove in the long run to have been a serious and costly error in its Asian policy.

President Carter has stated the view that the Soviet military occupation of Afghanistan has created the gravest crisis since World War II. While such a statement may be an exaggeration in respect of the Soviet effort to take over physically a neighboring neutral country, the Soviet invasion of Afghanistan has brought on the gravest crisis—in the West and for the West—since World War II; that is, the very threatening fissures in the Western alliance which have come to the surface in the relations between the United States and its allies. These fissures may produce a result in Europe which is beyond the wildest expectations of the cautious, aging Kremlin leadership.

Before the Russian revolution, Lenin predicted that the Communist road to Paris would proceed through Shanghai and Calcutta. Things have not worked out that way. But, his prophecy could be coming true in another form; that is, that the road to Paris proceeds through Kabul.

The very idea of a breakup of the alliance—of NATO and the OECD—is so astounding and so far reaching in its implication that serious men and women on both sides of the Atlantic and Pacific may not yet have grasped the seriousness of the situation in which we have unexpectedly found ourselves.

In this country there has been far too much concentration on identifying the motes in the eyes of our allies and not nearly enough attention to the Biblical injunction to first cast out the beam in our own eye. I have my own list of grievances and deficiencies which I perceive in the deeds and misdeeds of our allies and I will mention some of them in the course of this statement.

But first, I am obliged to point out some of the causative mistakes which have been committed by the United States which have contributed so heavily to bringing about this most dangerous crisis since World War II—that is, the internal divisions within the alliance. One of the biggest mistakes begins right here in the Senate. I am referring to our failure to take up the SALT II treaty. Votes are not there in the Senate and the deferral of its consideration is pragmatic but we must understand that there is a costly fallout nonetheless.

It would be a grave mistake, in my judgment, for any Senator to underestimate the consequences in our relations with our NATO Allies, as well as with the Soviet Union, which flow directly from the Senate's failure to act affirmatively on the SALT II treaty. In the eyes of both our friends and our adversaries, this failure has come to symbolize the alleged inconsistency and volatility in U.S. foreign policy in high global issues.

It has, moreover, upset the domestic balance of power in many of the Western European democracies and forced allied governments to scurry and improvise vis-a-vis their own political opinions by removing a basic stepping stone underlying their own domestic political strategies for putting through such vital programs as theater nuclear force modernization and increases in NATO spending levels.

Moreover, what is perceived in Europe as the very arbitrariness of the U.S. criterion for putting aside SALT II, has raised basic fears that this action will both enhance Soviet military pressure on Western Europe while also undermining faith in the reliability and constancy of U.S. policy as Europe's security guarantor.

In this country there has been far too much concentration, Mr. President, on identifying the motes in the eyes of our allies, and not nearly enough to the biblical injunction to first cast out the beam in our own eye.

I have my own list of grievances and deficiencies with respect to some of the actions of our allies. There is no question about the fact that the position of the European Common Market countries respecting the Middle East, could abort the Camp David accords and the Arab-Israel peace agreement. This is most ill-advised, and even mischievous in its implications. There is no doubt about the fact that the failure to back the United States especially in respect of commercial credits and commercial terms of trade, in respect of its sanctions against the Soviet Union following the invasion of Afghanistan, is very ill-advised on the part of our allies, and self-defeating in the longer run.

We have every right to expect a far

more vigorous and united support on these and other issues.

But, Mr. President, perhaps the biggest mistake of all has been ours in failing to see that we could not have it all our way; that our allies had problems, grave problems, of their own respecting oil supply and the operation of their industrial economies, their geographic contiguity to the Soviet Union, and the state of concern about risk taking which must exist in Europe. It extends as well as to the improvidence of commitments undertaken by the United States, all of which bear upon the ability of our allies to rely with certainty upon our participation in their security as required by NATO and many other agreements between us.

As any American which has had conversations with his European counterparts in recent months knows, U.S. failure to act on SALT II is the cause of real consternation. For, the sad and dangerous fact is that the United States has not only infuriated the U.S.S.R. by this move, it has also dismayed its closest and most important friends and allies.

In my judgment, there is nothing inevitable about the divisions which have arisen within the alliance, and I include Japan most emphatically in that conceptual grouping because economically and from a security viewpoint Japan is a premier element of the alliance.

Many of our problems are the result of the success of past policies and not the result of failures. This is especially true in the trade and monetary field. The post-World War II monetary and trading system has produced by far the greatest surge in wealth and well-being ever to have occurred on this planet. The role of the United States in creating and energizing that system is one of the greatest accomplishments in the international field in modern history.

In the early years, we probably put more into than we got out of it and we certainly enjoyed basking in the glory of our founder-leader role. It is also true, however, that in recent years, as U.S. productivity has sunk to dangerous lows and as we used our position in monetary affairs to pump out part of the deficit financing of the Vietnam war onto the world monetary system, we have been accused by our allies of abusing our leadership position. Clearly, we are no longer the Santa Claus/industrial prodigy we once liked to think of ourselves as being. And, nations we helped to rebuild and design their policies—especially Germany and Japan—are now proving to be very tough trade competitors for an out-of-condition America.

It may give solace to our bruised ego to bad mouth the new boys but it certainly would do us and the world a lot more good if we concentrated instead on getting ourselves back into top condition.

Aside from the threat of Soviet expansionism, which is certainly a common threat to all members of the alliance, there is another threat which is equally common to us all—and that is our common dependency on Persian Gulf oil. The very commonality of the problem suggest that we should be working together on it rather than at cross purposes as so often seems the case. We criticize the highly vulnerable Europeans of currying favor with the Arabs and Iran to gain a favored position on oil. The Europeans denounce the United States for its continued energy profligacy which greatly aggravate the problems of supply and price.

Frankly, both criticisms are right. It will truly be a test of the mettle of Western civilization to see whether we can join together to transcend the energy problem, rather than being pushed out of the history's driver's seat by our bickering and ineffectuality in taking the radical steps necessary to retool and reorient our styles of life onto an energy self-sufficient road.

The problems which are mounting up are indeed the gravest which have confronted the West since World War II. I cannot see emerging the leadership and vision on either side of the Atlantic that will be necessary to meet this challenge and maintain Western security and primacy in the world. Most of all, I am not happy to have to say that too much of the blame falls on this side of the Atlantic. The leadership of this country has been woefully shy of the mark. This is not the result of bad intentions. It is the product of inadequate policies, inadequate vision, inadequate skill and experience in dealing with our friends and adversaries alike. It is not good enough for America to "have tried." There must be accountability too. The leadership of this Nation, including the U.S. Senate has not discharged its duties to the American people and to the world. The time to begin to do better is today.

President Carter is now on his way to the Venice summit. I would like to make the following recommendation to him. Highest priority at the Venice summit should be given to reuniting the Western alliance. This will require some adjustments of U.S. policy to reassure and convince our partners that we do take account of their views and their special interests in the formulation and execution of our policies. Having demonstrated this, the United States will be in a position to expect great solidarity from our allies in support of U.S. policies respecting the great global issues of peace, security, energy, trade, and monetary policy—which all now swirl in a giant nexus around the pivot of the Mideast and Persian Gulf.

As the President of the United States prepares for the Venice summit, I hope very much—because he should be purposeful and should be decisive and should be precise—that he will realize beyond everything else that, in my judgment, and I believe it is shared by others, the really great aspect of the crisis which we face is the crisis of tension in the alliance which may cause fissures in the alliance, which can make a basic change in the history of the world for the future and that the key to this summit ought to be an effort to understand and to find how we can accommodate the policy of our allies and, at the same time, stick to the basic efforts which we feel are absolutely essential.

It may be sharing of sacrifice, it may be consideration of their own public opinion, it may be other amendments to the measures which we have urged and many of which we, ourselves, have taken.

In my judgment, it will also be in the feeling that Americans are pulling up their socks and determining that we are going to have a vigorous and precise policy and determining that certain risks have to be taken; that we cannot march up the hill and down again as, for example, in respect to our determination to use force to repel any threat to the Persian Gulf. That has been challenged on the question of whether we really have the military means. I think we would, in a joint effort with our allies. Without that, it makes a rather hollow sound in terms of what we can or cannot do.

These are the considerations which I believe should prevail at the Venice summit. Beyond everything else, let us remember the adage of one of the Founding Fathers. Mr. President, that adage was:

> If we don't hang together, we will hang separately.

So I believe the No. 1 priority of the President of the United States in Venice is to see to the harmony of the alliance. We know it cannot necessarily be a harmonious symphony without some atonal sounds, but we can do a lot better than we are doing. If there is a peril, and I believe there is, to our country, that peril consists of the fact that unwittingly and as a dreadful fallout of the existing situation such deep strains may rise in the alliance which we have with the other industrial countries of the world as to break down its essential strength and its essential integrity. If that should happen, Mr. President, freedom will have suffered a devastating blow from which it may never recover.

Mr. President, that would be a ghastly development, considering the fact that it is remediable and what needs to be done can be done with full recognition and understanding of the needs and ideas and foreign policy views of our Government and people.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. JAVITS. Of course.

Mr. MOYNIHAN. Mr. President, I thank my revered senior colleague.

Mr. President, I rise in what is almost a mode of presumption to congratulate my senior colleague for a masterful tour de raison, if I may use the French term, of the affairs and concerns that will confront the leaders of the Western nations as they convene today in Venice.

There is not another Member of this body who could have put as much experience and wisdom and information into as compact a statement. It only reminds me of the singular fortune this body has in his membership, his being among us.

The Senator suggested that there may be some atonal sounds emerging from the lagoons of Venice. That has never been the case with JACOB JAVITS. His voice has been clear, precise; it has a very considerable range, but it is never atonal.

I would like to take this opportunity from across the aisle to congratulate him on his overwhelming renomination by his party in the State of New York yesterday for a new term in what is already the longest period of service any Senator from the State of New York has had in this body. He knows how much he is revered in our State, and especially by his junior colleague.

Mr. JAVITS. I thank my colleague very much.

Mr. President, I say to my colleague that, as he rose to speak, I did not know what he was going to say, but I had a vision of another occasion, knowing my colleague as I do. This is not for flattering him; it is the truth.

There was another Senator who served with me for years, a very close friend named John Sherman Cooper of Kentucky, who sat next to me for years. He was one of the most respected and beloved Senators of this century. On one occasion, on some other subject, I made a speech here. He rose with a text and he shook it in front of the Senate and he said, "I came here this morning to say exactly the same thing that my colleague from New York said."

Knowing Senator MOYNIHAN as I do, when he rose, I kind of half expected that he had come here to do exactly what I was doing, to try to guide our President as he went to the summit as to what was his real problem.

I thank my colleague.

Mr. RANDOLPH. Mr. President, will my colleague from New York yield?

Mr. JAVITS. I yield.

Mr. RANDOLPH. Mr. President, the Senator spoke of something not being flattery, but the truth. I think flattery and the truth can go together often. Flattery, the real expression of the word as shown often in the dictionary, means admiration, esteem.

I simply add to what has been said by my colleague, Senator MOYNIHAN, to Senator JAVITS, as I think I have said it personally very often, that there is no more articulate or able Member of this Senate than the senior Senator from New York, Mr. JAVITS.

Mr. JAVITS. I thank my colleague.

PUBLIC BUILDINGS ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2080, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2080) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments, as follows:

On page 2, line 2, strike "1979" and insert "1980";

On page 2, beginning with line 3, strike through and including page 43 line 19, and insert in lieu thereof the following:

SEC. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished, and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

SEC. 101. The Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall have sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

SEC. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Commissioner of Public Buildings who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5332).

SEC. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5332). The Supervising Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Commissioner of Public Buildings may designate.

SEC. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

SEC. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

SEC. 106. The head of any Federal agency delegated authorities pursuant to section 105 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any such agency shall not submit the report required in section 109 but shall submit the information required in section 109 to the Administrator for inclusion in his records and reports.

SEC. 107. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information, or report under his jurisdiction.

(b) Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95–452 that pertain to problems, abuses, or deficiencies arising under this Act, shall be transmitted simultaneously to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 108. (a) The Administrator shall conduct systematic research and post-occupancy evaluation and is authorized to undertake demonstration projects to determine and improve the effectiveness of existing and planned public buildings in providing productive, safe, healthful, economical, conveniently located, energy efficient, and architecturally distinguished accommodations for Federal agency offices.

(b) In complying with the provisions of subsection (a), the Administrator shall consult from time to time with appropriate Government agencies, private individuals, and organizations having suitable expertise.

SEC. 109. (a) The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include, but is not limited to—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under this Act, whether or not such projects meet the criteria established in section 803 of this Act;

(6) a list of all delegations of authority made by the Administrator pursuant to section 105 of this Act;

(7) a report on activities undertaken pursuant to—

(A) section 108 and titles IV and V of this Act;

(B) section 210(a)(6) of the Federal Property and Administrative Services Act of 1949, as amended, or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

(b) The Administrator shall collect and maintain such information as may be necessary to keep the Congress fully and currently informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of this Act. Within one year after enactment of this Act, the Administrator shall assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased under section 102 of the Public Buildings Cooperative Use Act of 1976, as amended,

(C) building operations costs,

(D) income derived for the Federal Buildings Fund,

(E) needed repairs and renovation,

(F) energy consumed,

(G) whether it is fully accessible to handicapped persons,

(H) the percent of the building leased by the Government,

(I) the total amount of funds that have been expended in improvements or alterations to each leased building, and

(J) the term of any leases in effect and their expiration dates.

(2) (A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

SEC. 110. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or other public or private enterprise and also means the physical space in which the work of the component is conducted, including, but not limited to clerical offices, laboratories, warehouses, industrial plants, and garages.

(4) The term "officers and employees of the Government" means all persons included under section 2104 and 2105 of title 5 of the United States Code.

(5) The term "locality" means a city, county, town, parish, village, or other area governed by a general purpose political subdivision of a State.

(6) The term "acquire" or "acquisition" includes purchase, payment for an option to purchase, condemnation, donation, and exchanges of real property, or interests therein, excluding leaseholds.

(7) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the use or architectural design of a public building.

(8) The term "historic, architectural, or cultural significance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(9) The term "handicapped person" includes any individual with a physical impairment that precludes such person's use of a building to the same extent as an individual with unimpaired mobility.

(10) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement throughout, and use of a building by handicapped persons and the incorporation of the most scientifically advanced research, technology and equipment to assure access to a building by handicapped persons and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such research, technology, and equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(11) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractual or other agreement under which it will be owned by the United States Government at some certain date in the future, that accommodates, did accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, research and academic centers, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except as provided for under section 2002(d) of the Postal Reorganization Act, or buildings or installations of the Tennessee Valley Authority, or buildings: on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, on or used in connection with housing and residential projects, or on the United States Capitol grounds delineated in section 193(a) of title 40, United States Code.

(12) The term "public buildings needs" means the requirements of Federal agencies for suitable space, whether or not in a Government-owned building, to accommodate offices that may be located in a public building as defined in subsection (11) of this section, and includes requirements for space in accordance with section 102 of the Public Buildings Co-operative Use Act of 1976, as amended.

(13) The term "National Capital region" has the same meaning that it bears in section 71(b) of title 40, United States Code.

SEC. 111. The Administrator shall be responsible for the interpretation of all contracts entered into on behalf of the United States Government to carry out the purposes of this Act, and shall be responsible for the approval of materials, workmanship, and services supplied pursuant to such contracts, approval of changes in contracts, certification of vouchers for payments due contractors, and final settlements.

SEC. 112. Nothing in this Act shall be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

SEC. 113. The Public Buildings Act of 1959, as amended, is repealed.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

SEC. 201. (a) The headquarters offices of each department and major independent establishment in the executive branch shall be located within the National Capital region in conformance with the comprehensive plan prepared and adopted pursuant to the National Capital Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

(b) Regional, district, area, or local offices of Federal agencies shall be located so as to be centrally located with respect to, in proximity to, or within easy transportation access of, residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physicial communication.

(c) Federal agency offices other than those that are located pursuant to subsections (a) or (b) of this section, or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, shall be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

SEC. 202. After conforming with section 201, the Administrator shall, in consultation with local officials, take into account the following factors in locating Federal agency offices—

(1) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(2) the proximity of existing or planned public transportation facilities;

(3) the proximity of public amenities and commercial facilities;

(4) the availability, nearby or within reasonable public transportation commuting distance, of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

SEC. 203. In responding to the public buildings needs of Federal agencies and in planning for future such needs, the Administrator shall first comply with sections 201 and 202 and shall—

(1) review needs to determine if they can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate Federal agency offices in—

(A) existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

B) in buildings of historic, architectural, or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent, taking into account cost, expected date of occupancy, and the potential for the conservation of energy, compared with construction of a public building, and if such building space is not available, then

(C) in existing buildings acquired by the Administrator and renovated if need be, or in new buildings constructed by the Administrator under the provisions of this Act, and if such building space cannot be made available in time to meet urgent public buildings needs, then,

(D) in building space leased by the Administrator in accordance with the provisions of title VII of this Act, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance.

SEC. 204. Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and

generally so that resulting public buildings needs may, to the maximum extent possible, be met by using existing public buildings, by constructing or acquiring buildings similar in scale to buildings predominating or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

SEC. 205. (a) In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within thirty days in accordance with the provisions of this title, and shall nullify the decisions only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the

Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event that the Director of the Administrative Office of the United States Courts determines that the location asigned to an office of the judicial branch by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the Director shall report such determination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 206. (a) Nothing in this Act shall be construed to require the relocation of any Federal agency office from its location on the date of enactment of this Act.

(b) Any action to locate or relocate any Federal agency office subsequent to the date of enactment of this Act shall be undertaken in conformance with the provisions of this Act.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

SEC. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

SEC. 302. Except as provided in section 303, public buildings shall be of such design and construction as to approximate commercial buildings of the first quality that serve similar purposes.

SEC. 303. Whenever the Administrator designs and constructs—

(1) a general purpose office building expected to attract significant public use in any locality that serves as a center of its geographical region or area, or

(2) a headquarters building for any Federal agency,

such public building shall be designed and constructed to higher standards of quality than that provided for in section 302 of this Act and such design and construction shall symbolize the dignity of the United States Government through the quality or scale of some or all of its architectural details, internal and external materials, public entrances, corridors, rooms, lobbies, and courtyards: *Provided*, That this section shall not apply to public buildings described in clause (1) of this section whenever the Administrator determines that there already exists in the locality a public building of the quality described in this section.

SEC. 304. In the design, construction, acquisition, renovation, and management of public buildings, the Administrator shall assure that, to the maximum extent possible, such buildings—

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide sufficient parking space for Government motor vehicles, visitors, and handicapped employees, and such other parking space for employee vehicles as is consistent with a general policy of transportation efficiency; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass shall be employed wherever possible to carry out the purposes of this paragraph.

SEC. 305. The Administrator shall provide for employees and visitors, sheltered and secure locations and equipment for parking bicycles at public buildings and leased buildings, and may also provide suitable support facilities.

SEC. 306. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the health, safety, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

SEC. 307. (a) Notwithstanding any other provision of the Act of August 12, 1968, as amended, commonly known and hereinafter referred to as the Architectural Barriers Act of 1968, and of section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792)—

(1) in order to assure consistency in the application of the minimum guidelines and requirements established by the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as "the Board") pursuant to section 502(b)(7) of such Rehabilitation Act, the standards described in sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968 shall be submitted by the head of the Federal agency concerned to the Board as proposed standards not later than one hundred and eighty days after the date of the enactment of this Act, and such proposed standards shall become final on the nineteenth day after they are so submitted unless the Board—

(A) issues an order approving such standards prior to the ninetieth day in which case they shall become final on the day approved and be published immediately as final standards in the Federal Register by such Federal agency head;

(B) issues an order disapproving such standards with a specification of reasons for such action and recommendations for appropriate revisions in order to assure consistency with such guidelines and requirements, in which case the standards shall become final at the time such Federal agency head publishes them in the Federal Register as final standards (not later than ninety days after Board action) with a specification of the grounds for rejection of any of the Board's reasons and recommendations; or

(C) issues an order approving such standards with revisions in order to assure consistency with such guidelines and requirements, with a specification of the reasons for such action, in which case such Federal agency head shall immediately publish such revised standards in the Federal Register as final standards;

(2) no action may be taken under section 6 of the Architectural Barriers Act of 1968 to modify or waive a standard issued under such Act unless—

(A) such modification pertains to (i) a building to be leased, or (ii) a building to be constructed, altered, or acquired and the need for such modification was not reasonably foreseeable when the design for such building was approved; or

(B) the Board has (i) received prior notification of such proposed modification, and (ii) made a determination that the Federal agency concerned has established and is implementing the system of surveys and investigations required by section 6(2) of such Act;

(3) the adherence by any Federal agency to any standard prescribed pursuant to the Architectural Barriers Act of 1968 and this Act, with respect to any building to which the Architectural Barriers Act of 1968 applies, shall be presumed to satisfy the nondiscrimination obligation of such Federal agency under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), with respect to the physical accessibility of any program or activity conducted by such Federal agency; and

(4) for the purposes of the Architectural Barriers Act of 1968, the term "physically handicapped persons will have ready access to, and use of, such buildings" means that such buildings shall be fully accessible to handicapped persons.

After publication of the final standards described in subsection (a) of this section, the Board shall annually review and recommend to the Federal agency head concerned such revisions as may be necessary to assure that the standards continue to reflect use of the most advanced research, technology, and equipment.

(b) Not later than one hundred and eighty days after publication of the final standards described in subsection (a) of this section, the Federal agency head concerned shall prescribe such regulations as may be necessary regarding design, construction, and contracting to assure that all construction, acquisition, and renovation of buildings to which the Architectural Barriers Act of 1968 applies conform to such standards. In the list of completed projects required in section 109 (a)(3) of this Act, the Administrator shall include a certification that each such project has been carried out in accordance with such standards.

(c) The annual plan submitted to the Congress by the Administrator in accordance with section 801 of this Act shall include a schedule for making all then existing public buildings conform to the final standards described in subsection (a), and the regulations described in subsection (b), of this section. Such schedule shall include an estimate of the cost of carrying out the plan, and include a list, in priority order, of the projects recommended to be undertaken, in the year for which the annual plan is submitted.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

SEC. 401. This title may be cited as the "Public Buildings Cooperative Use Act Amendments of 1980".

SEC. 402. Section 102 of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

"(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

"(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construction and lease space suitable for such activities: *Provided*, That the amount of space so leased in any public building—

"(A) shall be determined by the Administrator after undertaking studies to determine the market or need for such activities in the interest of promoting commerical or cultural activities in the vicinity of the building or serving the employees and visitors in the building; and

"(B) shall not exceed 25 per centum of the space in the public building, or 50 per centum of the space in a public building fifty or more years old so long as any amount over 25 per centum of the space in the building is occupied by a nonprofit cultural or educational institution and that at least one-third of the space occupied by such an institution is used for exhibits, performances, libraries, or other activities intended primarily for the general public;

"(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1980.

"(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.".

SEC. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed and sections 104 and 105 are redesignated as sections 103 and 104, respectively.

SEC. 404. Section 103(a) of the Public Buildings Cooperative Use Act of 1976 and the Federal Property and Administrative Services Act of 1949 are amended by amending section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended). The Administrator shall establish rental rates for such leased space equivalent to the prevailing commercial rates for comparable space devoted to similar purposes in the vicinity of a public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;".

SEC. 405. Section 104 of the Public Buildings Cooperative Use Act of 1976 is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The terms 'public building' and 'Federal agency' have the same meaning as is given them in the Public Buildings Act of 1980.".

TITLE V—EXHIBITIONS AND WORKS OF ART

SEC. 501. This title may be cited as the "Federal Buildings Enhancement Act of 1980".

SEC. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for publc serivice;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve; and

(3) Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architecture of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings. It is the further purpose of this Act to enhance existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

SEC. 503. (a)(1) The Administrator, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art loaned or leased under this subsection shall be organized into exhibitions and circulated by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, and with other not-for-profit traveling exhibition services shall utilize existing exhibitions and develop new exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or the continuing development of the Nation's art, culture, society, science, and industry.

(A) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(B) The Administrator shall reimburse the Smithsonian Institution and other traveling services an amount not less than the cost to the Institution or to such other services of carrying out the provisions of this subsection.

(b)(1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate arts agencies at State and local levels, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings or temporarily installed in leased buildings. The preliminary planning and design of each new Federal building shall include planning for such commissions, which may include a variety of compatible works. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to keep and preserve such works of art in a state of high quality.

(2) Whenever the Administrator commissions a work of art for a new Federal building pursuant to paragraph (1) of this subsection, he shall instruct that such work shall be an integral part of the architectural design. In the case of an existing public or leased building, such work shall be appropriate to the setting and space available. The administrator shall seek to avoid the development of an official style either in architecture or associated works of art. Federal commissions should give expression to the vitality and diversity of American life.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate arts agencies at State and local levels, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and shall give full consideration to the participation of local artists.

(c)(1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1981 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings, and one-twentieth of 1 per centum of the sums available for the lease of buildings.

(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section: *Provided*, That not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection (a) of this section, and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b).

(d) For the purpose of this title—

"(1) the term 'Federal buildings' means public or leased buildings, under the jurisdiction of the Administrator of General Services, that attract, or are expected to attract, significant public use;

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'works of art' includes, but is not limited to, paintings, sculptures, crafts, works on paper, and environmental works.".

TITLE VI—ARCHITECTURAL SERVICES

SEC. 601. The Administrator shall employ professionally trained architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Commissioner of Public Buildings may designate, but in any case to provide the kind and number of projects necessary annually to enable such employees to utilize their professional skills and training.

SEC. 602. (a) Those architectural designs not prepared pursuant to section 601 shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949, as amended, and, with respect to at least half of the public building construction and renovation projects expected to cost no less than $5,000,000 each year, the Administrator shall conduct a design competition among no fewer than three qualified architectural firms.

(b) The Administrator shall indicate each year, in the program submitted pursuant to section 801 of this Act, on which public building construction and renovation projects he proposes to conduct design competitions. The projects selected shall reflect a mixture of large and small projects to the extent possible.

(c) With respect to a significant portion of the competitions conducted each year, the competitions shall last no longer than sixty days from the date the Administrator provides the firms with a competition program and the competitions shall elicit from each firm preliminary design concepts only.

(d) The Administrator shall negotiate first with the firm judged at the conclusion of each competition to have demonstrated the best design approach to the project. The Administrator shall make public and provide to the competing firms at the time a selection is announced under any of the provisions of this section, a brief report describing the reasons for the selection made.

(e) The Administrator shall provide, in total stipends or prizes to all of the firms that take part in any one competition conducted under this section, a sum equal to no more than one-half of one percent of the expected cost of the design and construction of the project, and shall conduct each competition under such rules and procedures as will assure that fair compensation for work required from the firms does not exceed that amount.

(f) The Administrator is authorized to acquire the services of privately employed architects, engineers, and other citizens on a temporary basis to serve on panels to assist in selecting and judging architectural firms under the provisions of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1968.

TITLE VII—LEASING

SEC. 701. It is the policy of the United States to house offices of officers and employees of the Government in public buildings and space shall be leased primarily to accommodate the emergency or temporary requirements of the Government, to provide space in locations where the size of Government activities do not warrant providing a public building, and to take account of temporary economic conditions that render infeasible or disadvantageous to the Government construction or acquisition of necessary public building space.

SEC. 702. Any other provision of this Act notwithstanding, the annual plan submitted to Congress by the Administrator in accordance with section 801 of this Act, shall assure that—

(1) within ten years of the date of enactment of this Act, no fewer than 60 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(2) within twenty years of the date of enactment of this Act, no fewer than 75 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(3) to the maximum extent possible, the percentage of officers and employees of the Government whose offices are provided under this Act having their principal offices in public buildings is maintained uniformly throughout the Nation, and that priority is accorded to construction, acquisition, and renovation of such public buildings as may be necessary to achieve such uniformity.

SEC. 703. (a) Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator shall not make any agreement or undertake any commitment that will cause the construction of any building, other than a public building.

(b) No option to purchase a building shall be paid for unless the payment for such option is made separately from any lease payment and unless such payment has first been authorized under the provisions of title VIII of this Act.

SEC. 704. No space shall henceforth be leased to accommodate, except as may be necessary to meet immediate and urgent requirements that cannot be met in public buildings—

(1) major computer operations;

(2) offices that conduct secure or sensitive activities related to the national defense or security, except to the extent that it would be inappropriate to locate such offices in public buildings or in other facilities identified with the United States Government;

(3) offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased; or

(4) permanent courtrooms, judicial chambers, or administrative offices for any United States court.

SEC. 705. (a) For the purposes of this Act, sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding 105 per centum of the average commercial rates and charges for space and services of nearest comparable quality.

SEC. 706. (a) The Administrator shall publicly solicit competitive bids to procure space by lease for the Government. Each such solicitation shall specify any special requirements of building designs, configuration, or location.

(b) In evaluating competing bids, the Administrator shall take into account proposed rental costs and services offered overall quality and safety of the buildings, energy efficiency, and their relative conformity to the requirements of titles II and III of this Act.

SEC. 707. The Administrator shall provide a copy of the lease agreement between the Government and the owner of each leased building, and subsequent additions or revisions to the lease agreement, to the highest ranking official in the leased building of each Federal agency occupying space in the building.

SEC. 708. (a) The Administrator shall provide along with the list of lease and lease renewal actions proposed for authorization under section 801(a)(3) of this Act, the name of each principal owner of each building or other space and biographical information. In carrying out the provisions of this subsection, in any case in which the Administrator does not know the name of any principal owner of a building or space to be leased at the time the list required under section 801(a)(3) is submitted to the Congress, the Administrator shall transmit to the Congress the information required by this subsection at least thirty days prior to the date on which the Administrator intends to approve the lease on behalf of the Government.

(b) The Administrator shall require, prior to executing any contract which would obligate funds authorized pursuant to subparagraphs (1) through (5) of subsection (a) of section 803 of this Act, a sworn statement stating under penalty of law that such contractor has no business or employment relationship or interest that might constitute a conflict of interest in his capacity as contractor to the United States, and that the contractor has paid no fee, nor benefited by reason of political activity or influence in securing such contract with the United States.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SEC. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program for the next succeeding fiscal year of projects and actions which the Administrator deems necessary in carrying out his duties unde this Act. Such program shall include but is not limited to—

(1) a five-year plan for accommodating the public building needs of the United States,

(2) a list, in priority order, of construction, renovation, and acquisition projects for which authorization for appropriations are requested for the next succeeding fiscal year, including a description of the project and the number of square feet of space involved,

(3) a list, in priority order, of lease and lease renewals for which authorization for appropriations are requested for the next fiscal year,

(4) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of,

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a year by year program and costs to meet the provisions of section 702 of this Act, together with an analysis of costs and savings of alternative programs,

(7) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act and the estimated annual and total cost of each project and lease.

(b)(1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that he has held a public hearing, or afforded the opportunity for such hearing, in the locality or proposed locality of each major construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformance with sections 202, 204, and titles III and IV of this Act: *Provided*, That, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

SEC. 802. (a) No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in accordance with this title.

(b) No public building construction, renovation, or acquisition shall be commenced unless an appropriation has first been made for the estimated cost of completion of such construction, renovation, or acquisition in the fiscal year for which such appropriation is authorized. No lease shall be entered into unless an appropriation has first been made for the maximum cost of such lease over its entire term in the fiscal year for which such an appropriation is authorized.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 803. (a) There is hereby authorized to be appropriated for fiscal year 1981 not to exceed in the aggregate, the amount of $2,279,690,399 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the real property management and related activities of the Public Buildings Service of which:

(1) Not to exceed $15,792,000 shall be available for fiscal year 1981 as follows:

(A) For construction of additional major public buildings (including funds for sites and expenses) and the acquisition of major existing buildings and sites for public buildings at the following locations and at the following maximum construction and acquisition costs:

Federal Annex, Atlanta, Georgia	$5,000,000
Terminal Annex, Dallas, Texas	4,457,000
Post Office and Courthouse, Lafayette, Louisiana	2,250,000
Post Office, Manchester, New Hampshire	2,000,000
Post Office and Courthouse, Peoria, Illinois	1,400,000

(B) $685,000 for construction of minor public buildings of less than twenty-five thousand gross square feet of space and the acquisition of buildings and sites for public buildings of a value of $1,000,000 or less.

(2) Not to exceed $232,670,399 shall be available for fiscal year 1981 as follows:

(A) For major renovations and repairs of public buildings at the following locations and at the following maximum project costs:

California, Pasadena, Federal Center	$9,864,000
District of Columbia, Agriculture South	11,229,152
District of Columbia, GSA Regional Building	4,299,079
District of Columbia, HEW North Building	8,842,981
District of Columbia, International Trade Building	5,541,778
District of Columbia, Justice Building	3,454,934
District of Columbia, Mary Switzer Building	6,011,105
District of Columbia, New Post Office	12,339,000
Florida, Miami, Post Office/Courthouse	5,451,000
Florida, Tampa, Federal Building/Courthouse/ Post Office	2,008,000
Georgia, Savannah, Federal Building/Courthouse	1,644,000
Kentucky, Lexington, Post Office/Courthouse	1,763,000
Louisiana, New Orleans, Hale Boggs Federal Building/Courthouse	1,425,000
Maryland, Suitland, Federal Building Number 3	1,919,476
New York, New York, One Bowling Green	28,746,000
New York, New York, 201 Varick Street	9,428,405
Oregon, Portland, New Courthouse	7,187,000
Texas, Houston, Federal Building/Courthouse	2,446,000
Virginia, Arlington, Pentagon	6,855,518
Virginia, McLean, CIA Headquarters	5,047,823
Washington, Seattle, Federal Building/Courthouse	3,989,000

(B) $82,343,000 for minor renovations and repairs of public buildings at project costs of less than $1,000,000;

(C) $835,000 for major alterations of leased buildings; and

(D) $10,000,000 for alterations of leased buildings, the maximum cost to a single building being less than $250,000.

(3) Not to exceed $1,349,000,000 shall be available for fiscal year 1981 as follows:

(A) $418,000,000 for new major lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of fifty thousand or more square feet;

(B) $336,000,000 for new lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of less than fifty thousand square feet; and

(C) $595,000,000 for payments in fiscal year 1981 on leases entered into prior to fiscal year 1981.

(4) Not to exceed $0 shall be available for fiscal year 1981 for obligations to the Treasury under section 902(a) of this Act for the acquisition, construction, or renovation of public buildings (including funds for sites and expenses).

(5) Not to exceed $3,000,000 shall be available for fiscal year 1981 for planning and preliminary design of construction, renovation, alteration, and repair projects.

(6) Not to exceed $498,901,000 shall be available for fiscal year 1981 for real property operations.

(7) Not to exceed $71,953,000 shall be available for fiscal year 1981 for program direction.

(8) Not to exceed $108,374,000 shall be available for fiscal year 1981 for payment of principal, interest, taxes, and any other obligation for public buildings acquired by purchase contract or pursuant to section 902 (c) of this Act.

(b) Funds appropriated under subsections (a)(1), (a)(2), (a)(3), and (a)(4) of this section shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided*, That construction, renovation, or acquisition has been commenced, or lease entered into, pursuant to section 802(b) of this Act.

(c) Ten percent of the funds made available to the Public Buildings Service for renovation, alteration, and repair of public buildings and leased building and for execution of lease renewals, pursuant to paragraphs (a)(2) and (3) of this section shall be available for repair or alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from changing or additional programs of Federal agencies not anticipated at the time the program required by section 801 of this Act was submitted. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

SEC. 804. (a) When the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act, the Administrator is atuhorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost atuhorized under section 803 of this Act to such an extent that action under subsection (a) of this section is not sufficient to meet such excess cost, the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administrator may not take any action to continue the project, other than the action authorized by subsection (a) of this section, unless such action has been authorized by the Congress in accordance with this title.

TITLE IX—PUBLIC BUILDING FINANCING

SEC. 901. Section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, is amended by deleting the existing second sentence thereof and inserting the following sentence: "Such rates and charges shall be established for each public building, and for each building containing space leased by the Administrator on behalf of the United States, no more frequently than once each year at a level approximating commercial rates and charges for space and services of comparable quality, but in no case less than the anticipated costs of providing space and services (including amortized construction costs or leasing costs).

SEC. 902. (a) The Administrator is authorized to issue obligations to the Secretary of the Treasury, to the extent and in such amounts as are provided in annual appropriations Acts, in order to obtain funds necessary to finance the acquisition, construction, or renovation of any public building when he determines the best interest of the United States will be served. The Secretary of the Treasury is authorized to purchase such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. The repayment of loans made under this section shall be for terms up to thirty years and on such conditions as may be prescribed by the Secretary of the Treasury. In prescribing such terms and conditions, the Secretary of the Treasury shall take into account the useful life of the building for which funds are to be borrowed and shall not require that repayment begin until the building is ready for occupancy. Such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities.

(b) An obligation may be issued under subsection (a) to acquire, construct, or renovate a public building, only if such acquisition, construction, or renovation has been authorized by the Congress, pursuant to title VIII of this Act.

(c) The payment of principal and interest on such obligation issued under subsection (a) shall be payable from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949. There are authorized to be appropriated from the fund in each fiscal year such amounts as are authorized pursuant to section 803(a)(8) to carry out the purposes of this subsection.

SEC. 903. Section 210(f)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(2)) is amended by inserting immediately after "activities" a comma and the following: "and for payments in connection with the financing of the acquisition, construction, or renovation of public buildings as authorized by section 902 of the Public Buildings Act of 1980".

TITLE X—EFFECTIVE DATE

This Act shall become effective on October 1, 1980.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Environment and Public Works be granted the privilege of the floor during consideration of and voting on S. 2080, the Public Buildings Act:

Mr. John Yago, Mr. Bailey Guard, Mr. Robert Peck, Mr. Richard Harris, Ms. Nina McClain, Mr. Stevens Swain, Mr. Joe Bowman, Mr. Michael Burns, Mr. Hal Brayman, Miss Ann Garrabrant, Mr. Ric Fenton, Miss Charlene Sturbitts, Miss

Judy Bardacke of my staff, Mr. Victor Maerki of Senator STAFFORD's staff, and Bill Shore of Senator HART's staff.

Mr. President, in addition, I ask unanimous consent that the following members of the staff of the Committee on Labor and Human Resources be permitted floor privileges during the debate and votes on S. 2080, the Public Building Act of 1980: Steve Sacher, Letitia Chambers, Jerry Lindrew, Denny Medlin, Joan Wilson, Henry Hoberman, and Mike Goldberg.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, this is an event for which the Committee on Environment and Public Works has prepared for a long while, and which it has looked forward to with great anticipation. We rise today to present to the Senate the unanimous proposal of our committee, the Public Buildings Act of 1980, a matter on which we have been engaged for the better part of 2 years.

We do so with what we hope is pardonable pride in craftsmanship, and with a consciousness that we are introducing the first such legislation in the history of the American Government—not an everyday event hereabouts, and certainly not with respect to an activity which is coequal with the Government itself.

Mr. President, the committee is honored, as always, to have on the floor our beloved chairman, the senior Senator from West Virginia, a man whose experience in this Chamber and the House commences to challenge the duration of the Republic itself, and who will speak to us with experience unequaled today in the Congress.

It is my understanding that he does not wish to make an opening statement but is, as is his wont, omnipresent when the concerns of his committee are involved—always on the floor, always watching, always hopeful that we shall perform to the level of his standards, and never publicly disappointed when inevitably we fail.

I see, Mr. President, that the ranking member of the committee is present. It is our peculiar practice to refer to him as chairman also, it being the case that the senior Senator from Vermont, in the absence of the Senator from West Virginia, automatically assumes the gavel in our committee, it being one in which partisanship rarely appears.

Considering the regard we hold for Senator STAFFORD, it would never occur to us that anyone else would serve as chairman in the absence of Senator RANDOLPH.

In that spirit of hierarchy and deference, I wonder if the Senator from Vermont would like to make the opening statement.

Mr. STAFFORD. Mr. President, I certainly thank the distinguished Senator from New York, who has been our leader in this effort to write the Public Buildings Act of 1980. I say to my dear friend (Mr. MOYNIHAN) that I would be glad to defer to him or to the chairman of the full committee for an opening statement.

Mr. RANDOLPH. Mr. President, I would like to add for the record that, as Senator STAFFORD has indicated, the leadership in the matter of the legislation which is before us has been within the keeping of the junior Senator from New York (Mr. MOYNIHAN). We have no subcommittee, as such, at the present time, but the full committee has acted. We have looked, very frankly, as Senator STAFFORD and I both agree, to the Senator from New York to move these matters through careful hearing processes and counseling with all members of the committee.

So we present from the committee today a measure that, in a sense, is unique. The provisions call for changes that are long overdue. We have recognized our responsibility to the taxpayers of the United States. They, in the final analysis, should be the first to be considered.

Later, if it is convenient, I will have some remarks, but I believe Senator STAFFORD, the ranking minority member, and I, would like Senator MOYNIHAN to set the stage.

Mr. MOYNIHAN. I thank my chairman and the Senator from Vermont.

Mr. President, the comprehensiveness and significance of this legislation suggest that an opening statement in some detail is in order and I will proceed.

Mr. RANDOLPH. May I interrupt again?

Mr. MOYNIHAN. Please do.

Mr. RANDOLPH. I also want to add that in our committee, a committee of 14 members, 8 Democrats and 6 Republicans, the effort the Senator from New York has carried forward has had the very constructive cooperation of one of the newer members of our committee, Senator SIMPSON, of Wyoming.

I know that his leadership is shared with the leadership of the Senator from New York in the remarks here today. I would like the record to show that.

Mr. MOYNIHAN. I would like the record to show that the cooperation with Senator SIMPSON is rather like the cooperation of one of those broncos they have in a western rodeo. You can keep your seat but you have to keep your wits to do so. It is an enlivening form of cooperation and not without its advantage to those of us who have become a little chair-bound in the exercise of public duties.

I see the Senator is on his feet.

Mr. SIMPSON. Mr. President, I thank the senior Senator from West Virginia and the junior Senator from New York. I have enjoyed my participation in the Environment and Public Works Committee. I think that has become obvious. It is a spirited group and our meetings are full of vim and vigor.

I will make further comments when I offer my amendment.

The Senator has indicated the insistence of the junior Senator from Wyoming. Someone said one time that it is a lot like the kind of assistance or support when having the Boston strangler massage your neck.

Mr. MOYNIHAN. Mr. President, in recent years the Committee on Environment and Public Works has become increasingly concerned over mounting indications that the public buildings program of the Government, as administered by the General Services Administration, has ceased to work in the best interests of the Government or the Nation. On March 6, 1979, following committee deliberations over renewal of a long-term lease, the background and purpose of which the committee found questionable, and cognizant of reports and criminal proceedings alleging misfeasance in the GSA, the committee voted unanimously to impose a moratorium on further authorizations of nonemergency public building projects.

The committee agreed at that time to undertake a comprehensive review of the public buildings program and to develop comprehensive remedial legislation, which we bring to the floor today.

During the succeeding year, the committee conducted nine separate hearings, and members and staff met with private experts in the fields of real estate, construction, and design, and with officials of the General Services Administration and the General Accounting Office.

The development of this legislation was a bipartisan effort, as is always the case in our committee. Senator STAFFORD, our ranking minority member was, as usual, diligent and steadfast in attacking the problems we uncovered—problems to which he first drew attention. Senator CHAFEE, my counterpart in managing the committee's public buildings affairs, contributed major sections of the bill.

As I have said, our beloved chairman (Mr. RANDOLPH) attended every one of our sessions and was generous in allocating the committee's time and resources to its effort.

At the conclusion of the proceeding today, Mr. President, I should like to speak to the contribution of our staff and its singularly able director, John Yago.

As reported by the committee, S. 2080, the Public Buildings Act of 1980, reforms and reorganizes the public buildings program of the GSA—it does not refer to the Tennessee Valley Authority—under which close to 1 million Federal employees are provided working space at a cost, in fiscal year 1981, of about $1.4 billion.

If I may just interject, these numbers become familiar to us. A billion minutes ago, St. Peter was 10 years dead. These are large sums.

The bill requires, for the first time in the history of the Government's building program, continual long-range planning to foresee and meet the Government's building needs, and provides Congress with systematic annual procedures for authorizing and overseeing the operations of the program.

We have, in effect, decided that the American Government is here to stay, and that it can think in terms at least as long as those of average householders attending to their private affairs. We are taking this enterprise out of its random routine, if you can speak of such, of the preceding century.

It also establishes policies and priorities to be followed in locating Federal offices and administering the program, sets up organizational and procedural frameworks that promote better architectural design, legislates a limit on the amount of leased space that can be used to satisfy the Government's permanent office needs, and creates a borrowing authority to help finance needed construction and acquisition of public buildings.

Inasmuch as the point might be made later on, I should like to say that there is an aspect of this bill which could be appropriately described as the "truth in renting bill." It is our wish to avoid the false notion that while a 20-year lease costs you only what you pay in rent the first year, a 15-year building costs you, the entire value of the building the first-year.

Under current law, the Public Buildings Act of 1959, building projects are effectively authorized by resolutions adopted by both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Such resolutions approve a specific prospectus, submitted by GSA, describing the need for construction, repair, or alterations of a public building, if the undertaking is expected to cost more than $500,000.

The committee receives these prospectuses throughout the year. Their arrival at the committee is unscheduled and unanticipated. A pro forma declaration in each prospectus asserts the projects' importance to the efficient functioning of the Government, but the committee is provided no information on the relative priorities among the proposals.

Mr. President, this is the task of Government. There is no building I can readily imagine that does not have some utility. The question is: which has the most, which has more, which has less? Making these judgments is the task of our committee.

It may be there will not emerge that clear priorities are present. Certainly, at this time, none have been established within the Government.

In testimony before the committee, GSA officials conceded that there is no long-range planning or overall program guiding the substance or timing of prospectus submissions. Given the ad hoc nature and unpredictable timing of prospectus proposals, it is next to impossible for either GSA or the Congress to devise rational public buildings budgets.

Moreover, prospectuses are brought before the committee at such an early stage of project development—prior to site selection, detailed building programing, or design—that committee approval is practically a blank check to the agency to carry out a project. Committee members can know little about the nature of a project when called upon to vote on it, nor do they later receive a report on how, or if, it was accomplished.

Mr. President, I cannot make too much of this matter. A decision about a building project would, I think, in the mind's eye of most Members of this body, assume a place where a building of a certain size, shape, and design will be located. That is not what our committee approves. Our committee approves a license to find the site, pick a design, and build a building. Well, we are capable of better judgment than that, especially with regard to the questions of siting and design.

S. 2080 would replace the prospectus procedure with a number of measures that will permit the GSA to undertake long-range planning and permit the Congress to practice its proper role of oversight and policy formulation—divesting it of the housekeeping chore of deciding when a specific lease should be renewed, or a building's roof repaired.

The committee, under the present arrangements, finds itself quite unable to make a choice about a site location of a building that will affect the course of a whole city, while it must, in specific detail, discuss the question of whether we should fix the roof of a building in Laguna, Calif., which is leaking all over the 1980 census documents, imperiling the congressional representation of the State, and God knows what else. GSA can fix the roofs that are leaking. We have larger concerns.

Section 801 requires GSA to submit a public buildings plan to the Congress each year, including a 5-year projection of the Government's public buildings needs. In section 109, GSA is required to submit to Congress an annual report of its buildings operations. Together, these documents will help Congress and the Executive plan and budget for and systematically review the public building program.

The point here is that we are adopting a successful mode, one which has been in place for some years in the military construction program. We are thus fortunate in having Admiral Freeman, the Administrator of the GSA, and Admiral Marschall, the Commissioner of Public Buildings, men with military experience in precisely this field.

Title VIII establishes building authorization procedures much like those in use in the military construction program. It establishes an annual authorization for the entire public buildings program, and not just for specific buildings, so that Congress can oversee program management and establish priorities. Lump-sum authorizations are provided for minor projects, and major projects are authorized for appropriation only after preliminary planning and design have been accomplished. This gives the public works committees and the full Congress the advantage of having detailed cost estimates prior to their being called on to approve multimillion dollar projects. The procedure also affords the reconciliation process of a Senate-House conference, together with the responsibility of final approval by the President, that goes along with full congressional approval of an authorizing bill.

But, Mr. President, this happens once a year. It is not a random event that is continuously taking place.

Title II establishes siting priorities that take into account the need to locate Federal offices where they can best carry out their responsibilities and, where appropriate, be most conveniently visited by the public. The title also establishes planning criteria by finding space for Federal agencies. It reinforces previous efforts by the committee to make sure that intensive use is made of existing Government building inventory before space is sought elsewhere and it reflects the committee's long-standing efforts to have permanent Federal functions placed in Government-owned buildings. The policy of purchasing and adapting existing, and particularly historic buildings, established by Congress in the Public Buildings Cooperative Use Act of 1976, is clarified and strengthened. Leasing space for Federal activities is accorded the lowest preference, and, as further articulated in title VII, is generally reserved for temporary or emergency needs.

In the past few decades, the quality of design of Federal buildings has been held in low repute by architectural critics. During the 19th century and well into this century, Federal buildings often ranked among the finest buildings the country produced, and they often led the way in architectural innovation. Many are still in active use and continue to be regarded by citizens as a welcome sign of local affiliation with the National Government. In 1916, the chairman of the House Committee on Public Buildings and Grounds could state:

> No youth or citizen ever looked upon a Federal building in which the business of his country was being conducted but that he became a better American.

Mr. President, we paid particular attention to the quality of Federal design which has been the concern of American citizens, the architectural community, and this body for a number of years, it having been the case that during the early years of this Nation, the Federal Government led in architectural design, and we treasure those buildings.

We found them not long ago, as we were about to tear them down. We looked at them and understood what treasures we had.

There is no reason that this ought not continue to be the case. It is our intention that it should.

Several provisions of the bill reported by the committee are intended to make such a statement appropriate to the buildings constructed or renovated under the bill. Title III establishes design criteria for Federal buildings. Rather than establishing an official style, which the bill expressly prohibits, these criteria enumerate some aspects of good design, including attention to energy conservation and access by the handicapped. Title VI provides for a competitive method of selecting the private architects who design most Federal buildings. The competitions would emphasize the search for high quality and imaginative design. Title IV, by elaborating mixed use design standards, promotes the design of buildings that contribute to the economic and social betterment of their neighborhoods. In title I, the position of Supervising Architect is established to place at a high level in the Public Buildings Service an individual whose background and responsibilities will combine to support a drive for improved design quality. Further, section 108 requires the GSA to undertake systematic research and evaluation aimed at refining and improving design and construction standards.

For over a decade, a concern of the committee has been with a practice of the Federal Government, which began in the late 1960's, to lease space rather than to build it.

For over a decade, there has been little Federal office building construction. The lack of rational planning and budgeting for public buildings needs and a tendency to tout false economies in annual budgets by avoiding capital expenditures, have caused a skyrocketing increase in the amount of space leased for Federal agencies and a virtual shutdown of any program to build or buy permanent workspace. In fiscal year 1980, lease payments account for over 39 percent of the entire Public Buildings Service budget—which includes maintenance, cleaning, guards, and nearly 20,000 employees—while construction accounts for just over 1 percent. Fifty-two percent of the 915,000 Federal employees housed by the GSA are in leased space.

Leasing has the immediate budgetary advantage in any one year of requiring a fraction of the outlay required to construct or purchase a building. But the GAO reports that when one compares construction expenditures to leasing costs over a period equivalent to the expected life of a Federal building, construction looks more favorable on Federal accounting sheets.

Today, Mr. President, the majority of the Federal employees housed by GSA are in leased space. The majority of Federal employees no longer work in Federal buildings.

This has a cosmetic advantage to the Federal budget makers, and it has an ephemeral political advantage to the political officers of the Government, both in the executive and the legislative. But like a cosmetic advantage, an ephemeral advantage is brief.

In the end, the American taxpayer suffers in a most direct way. Leasing is far more expensive than construction, and we are just beginning to realize how very much more expensive it is.

Within 3 years, Mr. President, the rent check stubs of the Federal Government will amount, at the end of each year, to more than $1 billion. We shall have at the end of the year $1 billion worth of rent stubs and not another square foot of property.

There has got to be a limit. We are calling that limit in this bill.

As reported by the committee, S. 2080 would require GSA to diminish the relative size of its leased inventory. Title VII of the bill requires that, within 10 years after its passage, 60 percent of Federal employees housed under the purview of the act be located in Government-owned space. Within 20 years, 75 percent of employees must be housed in Government buildings. Using worst case assumptions, including annual inflation of 10 percent and a 28-percent increase in Federal employment during the 20-year period, GSA estimates that the 75-percent requirement can be reached by building an additional 108 million square feet of Government building space. At an average current cost of $100 per square foot, this would cost the Government about $10.8 billion in constant dollars. At the same time, the Government would trim its leased inventory by nearly 40 million square feet—costs already exceeding $20 a square foot. The overall savings to the Government could take more than 20 years to be realized. One thing is clear: Investment in each square foot built and occupied will bring immediate savings in escalating lease costs. As any family knows, it is better to build or buy than to rent. The bill requires somewhat more spending in the near-term to provide an economical and fiscally responsible building program for the future.

This will save the Government money. It will save the taxpayers money. It will create a legacy, rather than a debt, for the future. This is the purpose of this legislation.

In brief, the legislation will now be expanded, but with the singular authority and insight of the man whose inspiration this legislation has been from the beginning, the senior Senator from Vermont.

Mr. STAFFORD. Mr. President, first I congratulate the distinguished Senator from New York (Mr. Moynihan) on the extraordinarily articulate and lucid explanation of the legislation which we are presenting to the Senate today. I think it has been a masterful statement.

Mr. President, I ask unanimous consent that Marion Morris, of the staff of Senator Mathias, be granted privilege of the floor during consideration and votes on the pending legislation, the Public Buildings Act. I make same request for Jacqueline Schafer of the staff of the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I have been very glad to develop S. 2080 with my friend from New York (Mr. Moynihan), who has just spoken so well, and with the assistance, as always, of the distinguished chairman of the Environmental and Public Works Committee, whom I consider one of the best friends I have ever had (Mr. Randolph), and Senator Chafee and Senator Simpson, who have contributed so much to the work to develop this very important piece of legislation.

As Senator Moynihan said, it was unanimously ordered reported from our committee. I heartily commend the bill to all of my colleagues in this body.

It has now been more than a year since—determining that it could no longer with any confidence approve GSA proposals—the committee imposed a moratorium on approval of all nonemergency prospectuses of the Public Buildings Service.

Mr. President, I ask unanimous consent that the article about the moratorium of March 13, 1979, from the Washington Star and the editorial of March 16, 1979 from the Washington Post be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 16, 1979]

A Sharp Look at Federal Building

At last some members of Congress are seriously trying to overhaul federal building policies. The Senate Public Works Committee started with a jolt Monday by voting not to consider any nonemergency construction, leasing or major repair proposals from the General Services Administration until new policies and safeguards are in place.

This is a drastic step. While not affecting projects already under way, it does put in abeyance, perhaps for the rest of the year, about 20 projects already submitted to Congress—including the Government Printing Office's long-debated new plant, now priced at $171 million. The freeze could also delay more than 100 other proposals all over the country that are now in various stages of administrative planning and review. All told, the committee may be holding hostage more than $1.2 billion in building commitments. That should put real force behind their demands for policy change.

The freeze, initiated by Sens. Daniel P. Moynihan (D-N.Y.) and Robert T. Stafford (R-Vt.), was probably precipitated by revelations of corruption in GSA and uncertainty about what may happen when administrator Jay Solomon departs. But questions about the agency's building and property-management policies have been piling up for years. There are particular concerns about leasing, which has become so popular that GSA now pays over $500 million per year to rent almost half of the working space it manages for federal agencies nationwide. Many people have wondered whether buying or building permanent facilities might be a better bargain for the taxpayers. GSA has also been assailed for possibly violating its own rules in some cases—for instance, by negotiating pre-construction leases for buildings that would not otherwise have been built.

Of course, Congress has had a major hand in all of this—and not just by failures of oversight. Many members of Congress, past and present, have urged various federal building projects on the agency and encouraged GSA to look favorably on certain contractors and developers. Building a new federal structure, or at least renaming one, has become a common going-away present for departing congressmen. And if a pet prospectus gets stalled by the executive branch or the public works committees, influential lawmakers simply bypass regular procedures and tuck the money into an appropriations bill. Last year the administration asked for $17 million in GSA construction funds. Congress approved $114 million.

One major question, then, is what role Congress ought to play in the federal building business. Before that can be debated sensibly, though, the public works committees have to do what they should have been doing all along: Dig into this multi-billion-dollar subject, identify the problems and recommend more prudent policies. Sens. Moynihan and Stafford and their colleagues have a big job ahead. We commend them for tackling it and urge them on.

[From the Washington Star, Mar. 13, 1979]

Senate Committee Freezes GSA's Ability To Build and Lease

A Senate committee, upset by disclosures of corruption and General Services Administration building-leasing policies, has moved to halt all new agency construction or leasing arrangements of $500,000 or more.

"We're sending a signal to GSA that we want their act cleaned up," Sen. Robert T. Stafford, R-Vt., a member of the Senate Environment and Public Works Committee, said yesterday. "I can't see how we can avoid getting their attention this time."

The action freezes several hundred million dollars worth of projects already submitted to the committee, but neither Stafford nor a GSA spokesman could estimate the exact amount.

Millions more in planned new leases for buildings not owned by the government would be affected, too, Stafford said, "and, in my opinion, lease renewals, too."

He said GSA, which handles the federal government's building construction and leasing nationwide, comes before the committee seeking approval for "maybe a hundred items a year" worth more than $500,000.

The freeze—the committee calls it a moratorium—"will continue, in my opinion, until we are reasonably satisfied that . . . the taxpayers' money is being used as it was intended and no corruption is involved," he said.

Stafford, who noted that he and several other senators introduced legislation yesterday to change leasing procedures, said he had been upset for some time about "some large leases we were asked to okay on buildings which never became ours. We in effect paid for a building over 20 years, and then it was someone else's."

He and other senators already were unhappy about GSA's handling of such situations "before all the disclosures of difficulties and downright corruption began to show up."

More than 60 current or former GSA employees and agency contractors have been indicted and nearly half that many have pleaded guilty in investigations over the past years to allegations of widespread fraud and payoffs at the agency.

A number of members of Congress have expressed disapproval of the expected resignation soon of GSA Administrator Jay Solomon, credited with being the force behind much of the current investigation.

Stafford said Solomon's expected resignation was not behind the backing of the committee move, but he added, "I think it's mighty poor timing to let him go when this effort to clean up GSA was in progress, especially when he's the man who instigated the cleanup, at least in the public view."

Solomon announced his intention to leave his post this spring after the news reports in January disclosed that White House officials were looking for his replacement without his knowledge.

Mr. STAFFORD. Mr. President, since imposition of the moratorium the committee has devoted effort and thought to legislation which could help remedy the severe and continuing problems of the Public Buildings Service. The basic corrective actions must first be administrative and require first of all effective management. But we in Congress have a responsibility to provide a statutory framework which gives clear direction and which will provide the checks and balances and the orderly procedures enjoyed by other Federal programs.

The important purpose of the Public Buildings Act of 1980 is to reduce waste in the public buildings activities of the General Services Administration—whether that waste derives from confusion and disorder, or from vulnerability to pressures and improprieties.

First, we know from testimony and experience that there is now no Federal building policy, no effective program, and almost no planning. Proposals are developed ad hoc, work their way forward to the House and Senate committees without reference to any national purpose or plan, and without priority except that stimulated by the sponsors or beneficiaries of the project. That is a wasteful process. The bill, S. 2080, sets forth purposes and established national goals and priorities for the public buildings program, including the kinds of buildings sought, their location and design. The Government's housing program will have no sense of direction or continuity without such long-range standards and goals.

Second, we have learned that there is sufficient oversight and ineffective budgetary control of the Public Buildings Service. Major construction, repair, and lease proposals arrive in the Congress scattered throughout the year, unscheduled and unanticipated, some in a great rush, others casually. When authorized by prospectus in this way—that is, by committee resolutions adopted throughout the year—these major projects bypass the congressional budgeting process. Furthermore, except for these large projects sent up for committee approval, the great bulk of the public buildings program escapes congressional oversight, except for whatever attention the Appropriations Committees can give to the lump sum categories.

The prospectus system defies annual programing, budgeting control, and programmatic agency oversight. It is an invitation to waste. The bill, S. 2080, replaces the prospectus system with annual authorizations—of the kind familiar to nearly every other agency and committee—providing the orderly basis for planning, for budgetary control, and for effective oversight. Title VIII, providing annual authorizations, is central to this reform bill.

Third, the most specific attack on waste in S. 2080 is its command to get the agency out of leasing permanent space. The bill states that, as a basic policy, leases should be utilized only when Federal space needs cannot be otherwise accommodated satisfactorily in Government-owned space. In the long run, this will hold down Federal costs and reverse the current trend of ever increasing rental expenses. Annual lease payments by the GSA in the span of the last dozen years increased from $131 million to $520 million.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. STAFFORD. I yield.

Mr. MOYNIHAN. Will the Senator repeat those numbers? It seems to me that they describe the setting in which this measure comes before us.

Mr. STAFFORD. I will be glad to repeat them.

Annual lease payments by the GSA in the span of the last dozen years increased from $131 million to $520 million. The annual rental budget will exceed $1 billion within 3 years at its current pace.

In view of this Senator, a major reform in the bill is to prohibit the so-called lease-construction method of acquiring space. This method of acquisition is not to be utilized in the future. The agency's lease-construction device is a program unblessed by statute which leaves the Government holding a stack of rent receipts. The high stakes and speculative nature of lease-construction may also invite pressure, influence, favoritism and improper inducement in the selection of the winning developer. This concern is heightened under the current practice of selection on the basis of closed negotiations.

The Public Buildings Act of 1980 would substitute for that system a new form of "purchase contract" authority. This authority spreads outlays over a term of years, but provides a true Federal building, rather than guaranteed occupancy of a private commercial building.

Fourth, to this Senator from Vermont, one of the most essential provisions of the bill fights waste and the misdirection of funds by requiring competitive bids for all lease acquisitions. The bill insists upon having the public business openly and publicly done. We know the Inspector General of the General Services Administration considers leasing so vulnerable that it heads his list for investigations. The committee has also learned from every lease prospectus it has closely examined, including those audited by the Inspector General at the request of the committee, how questionable many of these proposals are.

The bill before the Senate today is the product of work extending over many months and includes provisions which were subjects of bills introduced earlier in this Congress. I am pleased that the reported bill includes the chief provisions of three bills introduced earlier by me (S. 494, S. 460, and S. 461), of two bills authored by Senator SIMPSON (S. 1321 and S. 1324) and of the bill (S. 1791) introduced by Senator CHAFEE.

Mr. President, if I may repeat: The chief purpose of S. 2080 is to prevent waste and restore order. It should also produce buildings we can be proud of—buildings which will efficiently house a government work force convenient to the public served. But most important, this legislation, if firmly adhered to and strengthened where need be, can help build an agency and a program that we and the country can again be proud.

Mr. President, I ask unanimous consent that the article of December 25, 1979, from the Washington Post and the editorial of May 12, 1980, from the St. Petersburg Times be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 25, 1979]

BILL TAKES AIM AT UNCLE SAM'S RISING RENT COSTS

(By Ward Sinclair)

If you think you've got problems with the cost of house and home, consider what is happening to the federal government: its annual rent bill, now about $600 million, is expected to hit one billion in 1983.

The rising rent flows from a decision made 13 years ago in the Johnson administration primarily to lease rather than build new office space. It was done mainly to make the budget look smaller; annual rents are less awesome than full construction costs. It has proved a bonanza for landlords, and finally has set off alarm clocks in Congress, where members are worried about money lost down the rental drain.

Since Johnson started the rental policy, leased space has more than doubled, while federal white-collar employment has increased only by about 110,000. The situation has reached a point where about half of the federal labor force of 2.7 million works in leased quarters.

Congressional concern is such that a bill introduced by Sens. Daniel Patrick Moynihan (D-N.Y.) and Robert T. Stafford (R-Va.) to drastically overhaul the federal building program has drawn quick support.

The Moynihan-Stafford bill proposes to get the government fully back into the far more economical business of building its own quarters, and sets a goal of getting 80 percent of the work force into federally owned space in 10 years.

Their Public Buildings Act of 1979, cosponsored by all 14 members of the Environment and Public Works Committee, is expected to be approved quickly by the panel early next year.

The bill envisions a shakeup at the General Services Administration, which oversees federal buildings, through a top-to-bottom revamping of building policy that goes beyond the issue of leasing.

Shaken by the GSA fraud and corruption scandals and unable to get a clear picture of the huge federal building management program, the committee earlier this year put a ban on all but emergency construction and leasing.

One offshoot of the moratorium is the Moynihan-Stafford bill, an amalgam of various legislative proposals aimed at shaping up the GSA and its Public Buildings Service, which this year has a $1.4 billion budget.

In addition to curbing lease arrangements, the bill would require GSA to submit to Congress, for review by both chambers, a year building and maintenance plan.

GSA currently operates without plan and needs only approval by the House and Senate Public Works committees to start a new building—a sort of "spoils" approach that has allowed the most influential members of Congress to get buildings for their home districts.

The bill would finance new construction by allowing GSA to borrow money from the Treasury, as a homeowner might deal with a bank, and require competitions to select private architects to design new structures.

Unwritten between the lines of the legislation is a story of one of the most controversial, informal and influence-ridden programs of the federal government: building and leasing activities.

With virtually no congressional oversight during the past 20 years (it has seemed "tedious and without much reward," Stafford says), the building program has gone in its own wavering direction.

Politics help to determine which cities get new federal buildings. Leases go to friends of politicians and GSA officials. Sites are sometimes chosen without regard to convenience. Top-security programs are lodged in porous rental buildings.

But the heart of the Moynihan-Stafford bill is aimed at ending the leasing arrangements that are lucrative for building owners, but which leave the government with only a stack of rent stubs.

Under one form, called lease-construct, GSA agrees to long-term occupancy of a privately owned building that an entrepreneur erects. With the GSA commitment in hand, financing comes easily and a profitable enterprise is on its way.

A recent General Accounting Office study pointed up the costliness of this approach. GAO noted that federally constructed buildings recover their cost by their 14th year. Every year after that is, in effect, money saved for Uncle Sam.

For example, GSA is considering a lease-construct plan to build a new headquarters for the Nuclear Regulatory Commission. If built by GSA, it would cost $79 million. On lease-construct, it would cost the government $120 million in rent alone over 20 years.

"We must do something about this situation," says Moynihan. To get around that construction outlay problem, the bill instructs GSA to borrow fom the Treasury and pay the money back with interest.

A similar financing proposal has been introduced in the House by Rep. Elliott H. Levitas (D-Ga.), but it does not include the other sweeping provisions of the Moynihan-Stafford package.

[From the St. Petersburg Times, May 12, 1980]

FEDERAL RENT WASTED

To the real estate industry, U.S. stands for Uncle Sap.

Here are some reasons why:

The General Services Administration (GSA) wasted more than $500,000 in rent on three floors of a New York office building. The offices stood vacant for two years of the three-year lease while the GSA dawdled at remodeling them (another $228,000) for use by the Social Security Administration. Though GSA auditors charged malfeasance, nobody was disciplined.

In Washington, the GSA ran up $1.7-million in rent on idle space for which it had failed to pin down enough government tenants. It is also remodeling this building, at a cost of $831,000, even though the lease lasts only until 1986 and there is no option to renew it.

In New York, the GSA failed to act on one agency's notification that it no longer needed leased space costing $338,000. Meanwhile, it could find no quarters for another agency, which finally gave up and moved to a motel.

Nationwide, the GSA pays more than half a billion dollars each year for space it does use. When the leases run out, however, the taxpayers will have nothing to show for them but rent receipts.

At Tampa, the government is paying $625,800 a year for space in a building that was constructed hastily after GSA agreed to lease it. Agencies that were forced to move in complain that it is shoddy. This does not bother the owners, to whom it represents a highly depreciable tax shelter.

The GSA's customary foolishness and knavery is to blame for some of this. But by no means all.

The real problem, according to members of the Senate Committee on Environment and Public Works, is that successive Congresses and presidential administrations have been playing a deceptive game with the budget.

Rather than spend what it takes to construct buildings for federal agencies to use, the government has resorted more and more to renting them.

It looks cheaper. It isn't.

According to the General Accounting Office, which is the auditing arm of Congress, a building built and owned by the taxpayers pays for itself in 14 years. A leased building never does.

Since 1966, the GSA has more than doubled the space it leases on behalf of other federal agencies. The annual rent, once $131-million, has quadrupled to $520-million.

"The annual rental budget will exceed $1-billion within three years at its current pace," warns Sen. Daniel Patrick Moynihan, D–N.Y. "In other words, our Public Buildings Service is fast becoming a 'private buildings service.'"

In bipartisan outrage, the entire Public Works Committee is cosponsoring a bill by Moynihan that would commit the government to building most of the buildings it needs.

The Treasury would sell bonds to pay for construction. Agencies that use the facilities would pay rent to retire the bonds, in exactly the same way that they now pay rent to private investors who pay off their private mortgages.

The bill would stop sweetheart deals in which developers put up buildings solely to lease them to the GSA.

It even requires the government to purchase historic buildings if they are available and federal agencies could use them.

The Moynihan bill (S–2080) makes great good sense. Florida Senators Lawton Chiles and Richard Stone should support it.

Mr. STAFFORD. Mr. President, there is one other provision of the bill that I wish to call to the attention of my colleagues. Section 307 of the bill requires that all buildings built under the authority of the Public Buildings Act of 1980 be fully accessible to handicapped individuals.

Mr. President, as my colleagues are aware, I have been deeply concerned with the rehabilitation and reemployment of handicapped individuals since I came to the Senate. It has been my privilege to sponsor and work actively for passage of the Rehabilitation Act of 1973 as well as the subsequent amendments to it in 1974, 1976, and 1978. One of the troubling aspects of that law has been that, although we have made every effort to insure compliance with the Architectural Barriers Act of 1968 through the creation and subsequent reinforcement of the Architectural and Transportation Barriers Compliance Board, we have not been successful in fostering close cooperation between GSA and the other agencies responsible with the Board to assure that the space they build or lease is fully accessible to handicapped persons. Mr. President, as a result, we have in this bill provided for the first time a bridge to connect all the authorities in Federal law which pertain to the removal of architectural barriers. Through this connection, the committee intends to remedy the lack of cooperative effort and provide that the law will be more stringently adhered to.

Standards of accessibility—the ANSI standards—were first recommended for Federal Government use in 1961. The Architectural Barriers Act was enacted in 1968. Yet the Government has continued to build and lease inaccessible space. The record of adherence and enforcement has been at best uneven. Yet Federal law has required accessibility for the last 12 years. We are not then, in this bill, creating a wholly new requirement. We are not requiring massive expenditures of funds. We are merely trying to bring some order to the chaos of uneven application and enforcement of the several statutes now in place through coordination and a cooperative process.

Mr. President, through the language of section 307, the committee wants one thing to be clear: The Federal Government should not, ever again, permit a building built at taxpayers expense that is not accessible to all the people, no matter how severe their mobility impairment. I wish to stress again that this will not require massive new expenditures. Experts in this matter estimate that the cost added to a building to make it fully accessible is perhaps no more than one-half of 1 percent. What is needed then to assure full access is a thoughtful application of good sense and a practicality in design stages which is then carried uniformly through the construction phase in order to assure that all the people will be able to enter, use, and be employed in Federal buildings despite their mobility impairment.

Mr. President, the original Rehabilitation Act prohibited those who receive Federal funds or do business with the Government to discriminate against any otherwise qualified individual solely on the basis of a handicapping condition. In 1978, the Congress wisely applied that law explicitly and directly to the agencies themselves. This has required them to look more closely at the buildings and facilities that they occupy to assure that, by the lack of physical access they are not denying services unlawfully to individuals with mobility impairments.

In order to meet that requirement, this bill, and the earlier regulatory requirements, section 307 provides the presumption that if the agencies meet the requirements of this section, they will have met the physical access requirements under the Rehabilitation Act with respect to their own programs and facilities. This will preclude the need for the issuance of two sets of regulations, as well as assure that there is complete coordination between that law and this provision. A particularly crucial point if the spirit and intent and letter of this section is to be adhered to.

Mr. President, in the case of leased space, section 307 no longer permits an agency to waive the accessibility standards that it has in force for a particular building; a particular kind of building; or a particular group of buildings. This authority to waive the use of any standard of access as a matter of convenience has been the cause for much of the mischief in the law to date. An agency still may modify the access standard used in a building, but it may only do so in a building that is leased or in one which is being built which has some peculiarity in structure or site that may require it. It may seek that modification only in advance from the Board and it must be fully justified before it can be approved.

While the bill sets a timetable for decreasing the number of Federal employees working in leased space, when that process is completed, leased space will still make up a significant portion of the Government's space inventory. The bill contemplates that leased space should meet as stringent a requirement as for any that are built under the authority provided in this bill. The modification procedure is provided because the committee is cognizant that such a goal may not be attainable in every case. But I wish to stress that the modification process should only be employed when there is no demonstrable alternative.

Mr. President, there has been criticism of late that perhaps the handicapped individuals of this Nation ask too much, that they are confusing "rights" with "privileges," and that it is becoming too expensive not to make the distinction. It is my opinion, and one which I hope my colleagues share, that this section provides nothing more to handicapped persons than a basic right; the ability to treat with the agencies of the Federal Government on an equal basis with their nonhandicapped peers. It is important to have the Federal Government lead the way in making our mobility impaired citizens as much a part of the rhythm and pattern of normal life.

This bill will help do that because it will bring uniformity and consistency to the accessibility of public buildings. That does not require more than an ordinary effort on our part. The fact that handicapped individuals are willing to make an extraordinary effort to lead an ordinary life in a society that often designs ways to frustrate their efforts should serve as an incentive for us to make that ordinary—and relatively inexpensive—effort. Providing a more coherent plan to allow the mobility impaired to enter, use, and be employed in public buildings is a step in the right direction.

Mr. President, many Senators and their able staffs were of great help to me in the formulation and drafting of section 307. They include the distinguished chairman, Senator RANDOLPH, the majority whip, Senator CRANSTON, as well as the able floor manager, Senator MOYNIHAN. I thank them all for their efforts and their concern. I hope that the efforts they lent to this will lead to a more accessible Nation. That is my hope and the reason section 307 is included in this bill.

Mr. MOYNIHAN. Mr. President, I should like, once again, to acknowledge the mastery of this subject which the Senator from Vermont has acquired over the years of increasing concern about it.

I ask him if I am correct in describing a process that has particularly disturbed him—the lease construction mode.

If I understand it correctly—and thanks to the Senator from Vermont, I believe I do—a prospective builder obtains from the GSA an agreement that if he constructs and provides a building, the GSA will rent it for 20 years, shall we say, at a given rent. This is a document which a contractor can then take to a bank, as if it were a commercial paper, and say, "I have here the guarantee of Federal funds in this amount, over this period of years. Will you lend me money against that guarantee?" Any normal bank, if it has any loan funds available, will do so. It is a Federal guarantee.

The contractor proceeds to erect the building. Twenty years go by; the Federal payments have been made. The building has been paid for. The Federal Government owns nothing. The contractor has a building on F Street.

Mr. STAFFORD. The distinguished Senator has described exactly the sort of situation from which we want to get away.

Mr. MOYNIHAN. I might more accurately ask the Senator this: Why did we not get into that business 20 years ago?

Mr. STAFFORD. I am unable to answer the Senator's question.

I know that we became increasingly concerned in our committee, because the distinguished chairman and the Senator from Vermont were having to sign the prospectuses for the committee, and we went along; and we became more and more uneasy as disclosures of difficulty within GSA became apparent to us.

It is worth adding to what the Senator has said that two disturbing features of this sort of process are that the process runs on an ad hoc and unprogramed basis.

First of all, these 20-year leases were negotiated in private, without the public view and without competitive bidding to see who might be the winning lessor.

As the Senator from New York has pointed out, at the end of 20 years, the lessor very well could own the building outright, as a result of the rental he had received; and if he were so inclined, he then could give us what in the military we used to call a "Dear John" letter and tell us to get out of his building. So he could use it for something else, and all we would have to show for 20 years would be a neat pile of rent receipts.

Mr. MOYNIHAN. One last comment, before we get into the more general business of the morning, as we have other members of the committee in the Chamber who wish to address this matter.

I should like to mention to the Senate a sensitive matter which need not be expanded here; we can discuss it in closed session, if the Senate wishes.

We have found ourselves leasing buildings that house some of the most sensitive activities of the American Government.

I will not expand on that matter save to say it has commanded our attention as few things have done.

If any Member of the Senate present or any Member of the Senate who reads the RECORD and is concerned about that will address himself to the committee chairman, we will see that he has a full briefing on this matter.

Let me briefly say that matters of high security that concern the U.S. Government should be housed in U.S. Government buildings and nothing else. I think the Senator from Vermont will agree with me on this.

Mr. STAFFORD. I agree.

Mr. BAKER. Mr. President, during my membership on the Senate Environment and Public Works Committee, it has become increasingly obvious—to the members of the committee, the full Senate, and indeed the public itself—that procedures implemented by the General Services Administration in approving new building authorizations have been less than satisfactory.

Over the years, they have become increasingly susceptible to fraud and mismanagement. As a practical matter, these procedures have so little accountability as to permit approval of new buildings without benefit of preliminary plans and designs, or site locations. In effect, this amounts to approval of blank checks for unspecified projects. This is clearly not good business.

Over the years I have encouraged the committee to undertake a graduated approval procedure—in conjunction with the General Services Administration—so that the posture would be one of private clients seeking the best value for their money.

I am thus especially pleased to join Senator STAFFORD and my other colleagues on the Environment and Public Works Committee in full support of the bill we are considering today, the Public Buildings Reform Act, S. 2080. Painstaking efforts have been made in drafting this measure to provide for the accountability which will enable the General Services Administration—in conjunction with the committee—to set-aside the short-sighted project-by-project approach of the past and provide responsible accountability.

S. 2080 requires GSA to carry out annual program and policy reviews and to submit to the Congress, along with the President's budget, a 5-year plan for housing Federal agencies. Such provision will enable GSA to be fully cognizant of the owned and lease space for which it is responsible, together with the revenue and expense records for each building. Further, it will enable the committee to evaluate major projects after preliminary planning has been completed and to work with the General Services Administration in projecting future priorities.

In my view, this measure takes a substantial step forward in addressing past deficiencies. I believe this measure provides needed accountability and its implementation would be an important step in filling the void which now exists between the Congress and the General Services Administration, and toward restoring the confidence of the public in matters involving the public buildings program.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, does the Senator from Rhode Island have an amendment?

Mr. CHAFEE. No; I just have a brief statement.

Mr. STAFFORD. Mr. President, if the Senator will yield, I wish to welcome the Senator from Rhode Island, who contributed to this measure as the counterpart to the junior Senator from New York, whom we have already acknowledged at length, and without whose work we would not be here today.

Mr. ZORINSKY. I yield to the Senator from Rhode Island for a brief statement if I may be recognized after that.

The PRESIDING OFFICER. The Senator has the floor.

Mr. ZORINSKY. I yield to the Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wish to thank the distinguished Senator from Nebraska. My statement is brief.

First, I wish to pay tribute to the junior Senator from New York and the senior Senator from Vermont for their work on this bill. Both of them have taken a great deal of interest and it has been a subject of deep concern to them for many years.

I think the resulting legislation is good and I commend it to my colleagues.

Mr. President, I support the bill before us, S. 2080, and commend it to my colleagues. The Public Buildings Act of 1980 is comprehensive legislation, containing new and revised authorities for the multibillion dollar Public Buildings Service of the General Services Administration. It is the culminaton of work extending over more than a year and a half by the Committee on Environment and Public Works. Since 1978, responsibility for public buildings matters has been handled by the Senator from New York (Mr. MOYNIHAN)—with whom I have been pleased to serve as the minority counterpart—and exercised directly by the full committee with active participation of the chairman, Senator RANDOLPH, and the ranking minority member, Senator STAFFORD.

The development of this legislation started in 1977 with hearings, followed by the introduction of a number of bills in 1978 and 1979. On April 3, 1978, I introduced a bill—S. 2739—to enhance the utility and ambience of Federal buildings by works of art and by circulating throughout the United States exhibits of art and history among public buildings managed by the General Services Administration, cited as the Federal Buildings Artistic Enhancement Act of 1978.

The bill was reintroduced in the 96th Congress—S. 1791—and I am pleased that it has been incorporated as title V of this bill, S. 2080.

The title authorizes one-half of 1 percent of the funds available in each fiscal year for design, construction, repair, renovation, alteration, and acquisition and one-twentieth of 1 percent of the funds available for leasing to be utilized for permanent art works and traveling exhibitions. Seventy-five percent of these funds may be utilized for GSA's "art-in-architecture" program with the remaining 25 percent reserved for traveling exhibitions.

The works of art commissioned for permanent installation in public buildings are to be an integral part of the architectural design and appropriate to the setting and space available. Such commissions will represent diverse artistic media and equitably distributed within the United States and its territories.

In conjunction with the Secretary of the Smithsonian Institution, and other traveling exhibition services, GSA is to utilize and circulate existing and newly developed exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States. Preference is to be given to showing the exhibitions in Federal buildings in communities lacking access to museums of art and history.

Mr. President, in my view one of the most significant and important revisions in current practices occasioned by the bill is the change in congressional authorization procedures and oversights. Presently, building projects for construction, acquisition, alteration, repair, and leasing are referred to the Senate Committee on Environment and Public Works one by one, throughout the year, without regard to the availability of appropriations or an explanation of priorities. Further, projects are considered and authorized one by one by separate resolutions adopted by the Senate Committee and the House Committee on Public Works and Transportation.

Lost in this piecemeal approach is the overall picture or program of the Public Buildings Service. The committee becomes caught in the necessity to approve specific leases or repair projects without the benefit of shaping overall policies or priorities that led to the submission to the Congress by GSA of particular building prospectuses. Contrary to this procedure or system, I believe it is the role of the Congress to develop policies and oversee programs rather than to decide when a specific building should be painted or a lease renewed.

The system adopted in this bill would allow the Congress to evaluate GSA's overall program once a year, and to enact an annual authorization bill as the orderly framework for the agency's annual appropriation. It would also enhance congressional oversight.

Concern has been expressed that the committees would lose some of their jurisdiction and clout when the present prospectus system is abandoned. To the contrary, the bill would enhance committee oversight of and control over the agency. For example, at present the committees receive and act upon major projects only—projects exceeding $500,000 in cost. This legislation would provide authorization and oversight of the entire program and retain specific project authorizations of the large projects.

Presently, prospectuses are submitted to the committees prior to planning and design. Consequently, the committees have very little information and a very sketchy impression about a project when they are asked to act on prospectuses. Generally, prospectus approval of construction projects constitutes only approval of a building at a maximum estimated cost. Not known are the site, layout, design, number of floors or other important considerations. Under authority of the bill, about 25 to 30 percent of design should be completed when proposals are submitted for authorization. This would give the Congress more detailed cost and other information with which to evaluate and review proposals.

Mr. President, another important provision of the bill—title IX—would establish a permanent financing mechanism whereby GSA could borrow funds from the Treasury for major building projects. A similar financing mechanism—"purchase contract"—has been successfully utilized in the past and could again assist the agency in carrying out its mission to provide quality office space for the Federal Government.

Mr. President, in conclusion, this is comprehensive legislation covering a variety of issues. Overall, I support it and believe it will assist the Congress and the General Services Administration in the performance of their responsibilities.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. MOYNIHAN. Mr. President, will the Senator from Nebraska yield?

Mr. ZORINSKY. I yield.

Mr. MOYNIHAN. Mr. President, I move adoption of the committee amendments and ask unanimous consent that they be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to and considered as original text.

Mr. MOYNIHAN. I thank the Chair, and I thank the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I wish to congratulate my colleagues for their wisdom and foresight in bringing forth the Public Buildings Act of 1980. I know Senator MOYNIHAN and Senator STAFFORD have worked long hours trying to rectify problems that have existed for many years within our rental, disposition, and attaining Federal space.

They are to be commended for their foresight and their ability to bring before this Senate a very comprehensible, understandable, and commonsense approach to the further utilization of office space for Federal employees.

UP AMENDMENT NO. 1206

Mr. ZORINSKY. Mr. President, I now send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an unprinted amendment numbered 1206.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 8, delete "$2,279,690,399" and insert in lieu thereof "$2,320,423,399" and, on page 83, line 13, delete "$15,792,000" and insert in lieu thereof $56,525,000"; and on page 83, following line 20, amend section 803(a) (1) (A) by adding to the list of locations and maximum costs:

"Nebraska, Omaha______________$40, 733, 000"

Mr. ZORINSKY. Mr. President, I offer this amendment today in order to provide the necessary authorization in this bill for a Federal office building in Omaha, Nebr. Specifically, the amendment will authorize $40.7 million thereby allowing the General Services Administration to proceed with plans to construct a new building—or renovate an existing historical and culturally significant building—for use as a Federal office facility in Omaha, Nebr.

Since my arrival in Washington 3½ years ago, I have attempted to gain Senate authorization for a Federal office building in downtown Omaha.

In 1978, the House Committee on Public Works and Transportation approved a resolution authorizing the Omaha Federal office building—pursuant to an 11–B report submitted to that committee by GSA. It was during the time that the Senate Environment and Public Works Committee was holding hearings on the Omaha proposal, that the Senate committee placed a moratorium on all construction of Federal buildings with costs in excess of $500,000.

Mr. President, I point out that the 11–B report prepared by GSA for committee approval several years ago, totally conforms with the criteria and philosophy set forth in S. 2080.

The major objective of the Public Buildings Act of 1980 is reduce leasing cost to the Federal Government by building more federally owned space. Although this will result in a high initial cost, it is less expensive than leasing in the long term. The GSA reports that if it were to rent additional space in Omaha, the long-run cost to the Government would be greater than it would be either by new construction or by a combination of construction, acquisition and renovation.

The bill also articulates architectural policy to govern new construction, and sets forth a policy to locate Federal facilities where both urban revitalization and agency efficiency will be improved.

According to an excellent GAO report, the Federal Government annual rent budget for leasing Federal office space will exceed $1 billion within 3 years if allowed to continue at its current pace.

In Omaha alone, nearly $900,000 is spent annually on leased space for Federal agency use.

Mr. President, I cannot understate the deplorable conditions which currently exist in Omaha with overcrowded Federal buildings and burgeoning leased office space. Omaha's three existing Federal buildings and rented space are desperately overcrowded and the overcrowding cannot be lessened now or in the future by using other federally owned property.

I would also like to emphasize that we now have less than a 10 percent vacancy rate for class "A" office space in the metropolitan area with our central business district having less than 2 percent vacancy. In addition, failure to house Government services in a single location imposes a burden on lower income citizens and on the physically handicapped.

To point out the critical need for more office space in the central business district, GSA reports that currently 27 different agency activities are now leasing space in 17 different buildings scattered throughout the city; 10 of the 17 are located outside the central business district.

Mr. President, many of these agencies are not located anywhere near the areas or constituents they are supposed to be serving. Lack of public transportation to many of these agencies inhibits access by the citizens to Federal agencies that are mandated by law to serve them.

The chances for renovation of an historically or culturally significant building in downtown Omaha are excellent. A study completed by GSA in conjunction with the Council for Historic Preservation 2 years ago proposed three such buildings which could be suitable for use as a Federal building—any of which would help preserve the unique character of downtown Omaha.

Since 1965, Omahans have invested more than $275 million in the city's central business district. Of that amount, nearly $192 million has been private investment. Additionally, local government has provided support services and facilities.

Thanks to this private and public sector cooperation, there has been significant growth in office and administrative facilities, which, in turn, has increased downtown Omaha's ability to function as a regional service and employment center. Obviously, local government officials and private citizens are committed to revitalizing the city's core area. In view of the administration's professed desire to halt decay in the quality of life in America's cities, a new or renovated Federal office building would be consistent with the urban revitalization program.

In summary, Mr. President, this amendment, authorizing a Federal office building in downtown Omaha has several advantages—it would provide for more efficient services to those people served by Federal agencies; allow greater accessibility to Federal agencies; reduce the pressure on private office space—now overcrowded; provide a key ingredient for downtown revitalization; and reduce the long-term cost to the taxpayer by reducing the amount of Government-utilized leased space in Omaha.

I understand this amendment is acceptable to both the majority and minority managers of the bill. Once again, I would like to thank the distinguished Senator from New York, and the distinguished Senator from Vermont for their support—and I urge their acceptance of this amendment.

Mr. President, I wish also to add that this is a time period that our office building in Omaha has been caught in limbo. We have been working on this office building for 6 years. And at the time the moratorium was imposed we had already held one favorable hearing, and we had another hearing just recently. It is within the concurrent budget resolution and with the construction or renovation, whatever is in the best interests of the taxpayers of this country, 90 percent of the Federal employees will be occupied in a Federal facility which I think is an indication that this bill can and will work if allowed to do so.

Mr. MOYNIHAN. Mr. President, I rise to say that the Senator from Nebraska is entirely correct in his description of the committee's proceedings in this matter. We held a hearing on this project in the fall of 1978. It is clearly within the best interests of the U.S. Government to proceed with this project. It was the most important project which fell in view of the moratorium which we subsequently put in place and now we simply revive a matter which has been 6 years in planning.

The Senator from Nebraska has been indefatigable in making this case. He has made it to the full advantage of the Senator from New York.

I note that he accepts the thought that either new construction or the rehabilitation of a historical building would be satisfactory.

He brought to Washington recently a group of distinguished Omahans. The Senator has to correct me. "Omahans" I think is the way they represent themselves.

Mr. ZORINSKY. The Senator is correct.

Mr. MONIHAN. Those are folks from

the banks of the Missouri who care a lot about their central city, who have engaged the help of the Chamber of Commerce official who is obviously a most dynamic leader, who have a central business district that is coming back as they are doing all over the country. They want a Federal building that will anchor it. I think they are right.

It is my disposition to accept the Senator's amendment with thanks for his forebearance and patience and for the leadership he has given to this enterprise.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. BOSCHWITZ. What is the cost of the building?

Mr. MOYNIHAN. The cost of the building in the prospectus is $40 million.

Mr. BOSCHWITZ. The new building.

Mr. MOYNIHAN. That could be a different sum if an historical building in the region is chosen. There are at least three.

Mr. ZORINSKY. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I yield.

Mr. ZORINSKY. Mr. President, I am positive that the wording is such not to exceed $40 million which indicates a renovation of an existing building obviously will be less.

Mr. MOYNIHAN. Might be less.

Mr. BOSCHWITZ. $40 million. What is the square footage of the building, the office space?

Mr. MOYNIHAN. We can obtain that. I do not know if we have that precise document in the Chamber. We can have it in the Chamber within 20 minutes.

Mr. ZORINSKY. I say it is in excess of 300,000 square feet. I will get the exact footage for the Senator. Also this is expressed in 1983 new construction terms. If it should be a new office building that is the top.

Mr. MOYNIHAN. I am correct. The Senator from Vermont as usual has the precise facts.

Mr. STAFFORD. Mr. President, it is due to good staff work frankly that I can tell the distinguished Senator that the total square footage of occupiable space will be approximately 319,800 square feet.

Mr. BOSCHWITZ. I thank the Senator.

Mr. STAFFORD. Mr. President, for the minority I am pleased to advise the Chair that we are prepared also to accept this amendment.

This is a rather red-letter day, I think, because this will be the first time since 1959 that the Senate has acted to authorize a building. This process is the way it should be done, and I think it is a matter of some relief to the distinguished chairman of our committee, Senator RANDOLPH, as I am sure it is for the Senator from Vermont, that we will not be asked to sign a prospectus for the construction of this building, but we can share the responsibility in the oversight with the entire Senate.

Mr. RANDOLPH. Mr. President, if I may have the opportunity in connection with the mention of the date of 1959, only as a matter pertinent to this discussion, I will say that I was elected in 1958 to fill the unexpired term of Senator Matthew Neely of West Virginia and I was sworn into this body not formally as we do down the aisle and taking the oath at the desk but by the Secretary of the Senate.

I became a Member of the Congress in November, just 2 days after I had been elected or a few days afterward in West Virginia, and then as the new Congress began in 1959 I was here. I had some seniority because of those 7 weeks that I had been here before the class of 1958 came down this aisle, but I was a member of the then Public Works Committee in 1959 and participated in what you have discussed in the year that has been mentioned.

It is since the year 1959 really until now—and this is a date long to be remembered, because I think we are very responsible as we take this action today as at that time we thought we were moving toward a better alinement and an understanding and a responsibility to American citizenry of this constantly growing Government and how to house the workers within it.

Mr. MOYNIHAN. Mr. President, I will note finally that this indeed is a special occasion, and there is nothing more appropriate than the Senator from Nebraska having given rise to it, considering his singular understanding of the city of Omaha over which he presided as a mayor. I understand the construction problems in Omaha. You do not have doors on your offices in city hall. We are going to have doors, and that is one of the specifications.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1207

The PRESIDING OFFICER (Mr. RIEGLE). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I send an unprinted amendment to the desk and request that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes an unprinted amendment numbered 1207.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. RIEGLE. Without objection, it is so ordered.

The amendment is as follows:

Strike section 708 beginning on page 79, line 16, and on page 53, line 19 insert (a) after "section 111" and after line 25 insert the following:

"(b) The Administrator shall require, prior to executing any lease or other contract which would obligate funds in excess of $10,000 authorized pursuant to this Act, a certification from the owner of the space to be leased or the contractor. Any owner or contractor who fails to complete such certification required under this subsection shall not be eligible to receive a lease or contract award. Such certification shall include, but need not be limited to, statements, declaring under penalty of law provided under 18 U.S.C. § 1001 or elsewhere, that such owner or contractor, or any of his officers or principal employees:

"(1) has no business or employment relationship or interest or holding which constitutes a conflict of interest with his capacity as a lessor or contractor with the United States;

"(2) has not offered or promised anything of value to a public official with the intent to influence any official act or to induce the official to perform, or to omit to perform, any act in violation of his lawful duties or to offer or give anything of value to a public official for performing an official act;

"(3) has not been debarred or suspended from the award of public contracts;

"(4) has not had a public contract terminated for default;

"(5) has not been convicted, within ten years prior to the date of the solicitation, of, or is not currently under indictment for or otherwise charged with:

"(A) a criminal offense incident to obtaining or attempting to obtain a public (Federal, state, or municipal) or private, contract or subcontract thereunder, or in the performance of such a contract or subcontract;

"(B) a violation of the Organized Crime Control Act of 1970;

"(C) a violation of Federal Antitrust statutes arising out of the submission of bids or proposals or;

"(D) embezzlement, theft, forgery, bribery, falsification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

"(c) The Administrator shall provide in the annual report required under section 109(a) of this Act, the name of each principal owner of each building or other space leased pursuant to § 803(3)(A) during the fiscal year covered by the report.".

Mr. SIMPSON. Mr. President, I am very pleased to be a cosponsor of the Public Buildings Act of 1980—a bill which indeed does reform and reorganize the public buildings program—and to have voted to report that bill from the Environment and Public Works Committee. I might add, Mr. President, the bill holds the distinction of being unanimously reported.

I am so very pleased to see the efforts of my colleagues, Senator MOYNIHAN and Senator STAFFORD, come to this fruition. It is long overdue and is something that has demanded my attention from the very first weeks I came here in 1979. I was personally alarmed at the procedures we used to approve the leasing and construction of public buildings. I am very pleased, and I thank the majority and minority members of the committee for accepting substantive provisions of two bills introduced by me earlier in this Congress that are incorporated within this legislation—one requiring certain information concerning the principal owners of any building or space leased, and a bill requiring the Inspector General of GSA to conduct periodic audits of financial transactions authorized under the Public Buildings Act.

The Senator from New York (Mr. Moynihan) and the Senator from Vermont (Mr. Stafford), my colleagues on the committee, all deserve the commendation and admiration of the Members of this body for this outstanding piece of work, which seriously and sincerely overhauls the Federal buildings policies and injects needed integrity into the program.

Let me pay particular attention to the chairman of the committee, Jennings Randolph. He has been and is a most extraordinary chairman. I might add, since he was going back to the history of the chronology, that he was elected to the U.S. House of Representatives on my first birthday. Of course, the lack of hair may give you the impression that I appear to be older than I actually am. [Laughter.]

He is a most respectful man. He has respected my opinion in this area, and I have had some rather serious concerns to which he has listened—especially in the area of "polling out" these particular issues, which we no longer do. The Committee on Environment and Public Works has held lengthy hearings, and has now placed this legislation before the entire Senate for consideration. That alone is a tremendous achievement, and Senator Randolph has been most fair and most courteous and very patient with the freshman Senator from Wyoming. He is a fine friend and a worthy adversary. I frankly prefer the former with him. I also commend Senator Chafee, who has been of such admirable assistance.

I do believe that the most important thing—and I am confident the bill will do this—is that S. 2080 will begin to restore confidence in the GSA. In my mind if ever there was an agency with a cavalier attitude towards leasing and contracting it was GSA. Attempting to get answers from them was an extraordinarily difficult procedure.

I believe Admiral Freeman is on the right track, along with Admiral Marshall joining him there. I trust they are going to make some significant changes.

The floor managers of the bill will recall our discussions in the markup of S. 2080 with regard to section 708, which I originally sponsored. That particular section simply required that certain background information be compiled by the principal owner of any space prior to entering into a lease agreement with the Government. At the time it was presented in committee there was some concern expressed about the language. While time did not permit the committee to provide specific new language before reporting the bill, a consensus was reached concerning the committee's intent. The amendment I am now offering is that consensus, and I thank the very able staff members of the majority and the minority, especially the staff director, John Yago.

This amendment reflects the newly-adopted regulation issued for the Federal Supply Service of GSA. It was written by the Office of the Inspector General of GSA in coordination with the Office of Acquisition Policy. This regulation—adopted by GSA on April 17, 1980—will be utilized for contract solicitations by GSA for goods and services when the contract exceeds $10,000. My amendment would expand the applicability of the regulation to solicitations of the Public Buildings Service as well, when contracts for construction or alteration and repair, and leases exceed $10,000.

Specifically, the provision would simply require a certification as to whether, within the past 10 years, the prospective lessor or contractor has been convicted of certain criminal offenses or is currently under indictment or had been previously debarred or suspended from the award of public contracts or has had contracts terminated for default.

Failure to complete the certification required under this provision would disqualify an offeror from receiving a contract or lease award. Falsification of the certification would be subject to penalty of law provided under section 1001 of title 18 of the United States Code. I believe this was critical of the determination in the committee—falsification of the certification would throw it back under existing criminal law under the United States Code and this will resolve the conflicts that the committee has observed. All of my colleagues who have an interest will want to examine what Senator Moynihan has been saying. If any Senators wish to review some interesting records of the committee with regard to a highly sensitive building and the individual lessors there and some of my concerns in reviewing this matter, please do so.

I think with that explanation, Mr. President, I would also like to say that while certainly most lessors are quite reputable, that is assuredly not to say there exist no scoundrels involved or lurking in the arena of Government participation.

Let me add this final note: In the annual report submitted pursuant to existing law, section 109(a) of the bill, the name of each principal owner of blocks of space of 50,000 or more square feet will be recorded. Congress must have this information to perform responsible oversight functions—and that is what this legislation really does.

I am very pleased to have assisted with this proposal and, very pleased with the patience of the members of the committee with this freshman Senator from Wyoming. I trust that if we do nothing else, we will restore the credibility of the GSA, the credibility of the contracting process and the accountability of the GSA as we here in this distinguished Chamber approve public buildings from this day forward.

Mr. MOYNIHAN. Mr. President, this matter comes to the floor in a form of an amendment, but I hope the Senate will consider it as part of our bill.

The Senator from Wyoming proposed this at the time we were marking up. It was immediately evident to the committee that it was a sound proposal. There was a time constraint in our bringing a full bill to the floor under the Budget Act. But, because this was a quasi-legal matter, we wanted to make sure—and no one more than the Senator from Wyoming—that it was drafted to the precise standards that he would expect, such that there would be a minimum of paperwork, that courts would uphold it, that the agencies would understand it, and that it would be consistent with good business practice and good government practice.

This is a part of our bill for which there was a delay is the drafting. There is no majority or minority in our committee, but on this side of the aisle we are happy to accept the amendment.

Mr. STAFFORD. Mr. President, for this side of the aisle, we are pleased to accept the amendment. We think it strengthens the bill as it has been reported to the Senate.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me add that that is certainly a very appropriate reference to this amendment. The only reason it was presented now was a matter of timing. There was simply a necessity to tie it in with the criminal provisions of the United States Code.

I appreciate the staff's fine work in doing that. The amendment does tie in very appropriately with the United States Code, and that was the sole reason for the delay.

I thank the comanagers of the bill for their support.

Mr. MOYNIHAN. Mr. President, while saying this is a part of the bill, let it be clear that it is distinctly a part of the bill contributed by the Senator from Wyoming.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming (Mr. Simpson.)

The amendment (UP No. 1207) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair will next recognize the Senator from Maine.

UP AMENDMENT NO. 1208

Mr. MITCHELL. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Maine (Mr. Mitchell), for himself and Mr. Cohen, proposes an unprinted amendment numbered 1208.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 83, line 8, delete "$2,279,690,399" and insert in lieu thereof "$2.283,099,399"; and on page 83, line 13, delete "$15,792,000" and insert in lieu thereof "$19,201,000"; and

on page 83, following line 20, amend section 803(a)(1)(A) by adding to the list of locations and maximum costs:

"Border Station, Houlton, Maine ---------------------- $3,409,000"

Mr. MITCHELL. Mr. President, my amendment provides funds for the construction of a new border patrol station at Houlton, Maine.

Houlton is located along the United States-Canadian border in eastern Maine and has a population of about 8,100. It is the port of entry at the northern terminus of I-95 and the eastern terminus of U.S. 2, and is located adjacent to New Brunswick, Canada. Houlton serves as the local trading center for an agricultural community with principal industries of forestry and potato farming.

In 1979, over 2 million people made use of the Houlton Border station, an increase of 30 percent over the last 5 years.

Houlton clearly has become a significant port of entry into the northeastern United States for commerce and travel.

The need for a station at Houlton to provide for the expanded space requirements of the Federal inspection agencies has existed for a number of years but was not previously proposed due to the necessity of coordinating construction with the planned relocation of Interstate Highway 95 (I-95) on which the border station is situated. The relocated highway which will bypass the existing border station is now under design by the State of Maine.

The proposed project will satisfy the special purpose space requirements of the Departments of Justice, Treasury, and Agriculture for carrying out their required inspection operations at the United States-Canadian border. The new border station, which will be located in the I-95 right-of-way median strip, will provide a total of about 34,790 gross square feet and an occupiable area of about 27,975 square feet including a customs warehouse, a garage, an animal inspection station, a truck parking and maneuvering area, parking for official vehicles and visitors, and primary and secondary inspection lands. The warehouse, garage, animal inspection station, truck maneuvering and parking area will be located on land adjacent to the highway. The proposed site will encompass an area of approximately 143,000 square feet.

I ask unanimous consent that a table detailing the project cost be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. The GSA asked for the building authorized by this amendment.

I urge the Senate to adopt my amendment.

I have discussed this amendment with Senator COHEN. He supports this proposal and I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

	Square feet	
	Gross	Occupiable
Approximate area required:		
(1) Building area: Including warehouse, garage, animal inspection station, canopies, truck maneuvering, and parking	34,790	27,975
(2) Site area (approximate square feet)	143,000	

	Estimated project cost[1]
Site and relocation (survey and soil tests only)	$7,000
Architectural/engineering drawings and specifications	205,000
Estimated construction cost (October 1981)	3,021,000
Estimated construction contract award	(2,827,000)
Reservations	(72,000)
Art-in-architecture	(12,200)
Landscaping	(12,200)
Balance of reservation	(47,600)
Contingencies	(122,000)
Management and inspection	176,000
Total project cost	3,409,000

[1] Escalated to October 1981.

Mr. BOSCHWITZ. Mr. President, may I ask the Senator from Maine what it is that is being built?

Mr. MITCHELL. Mr. President, this is a new border patrol station in Houlton, Maine, which is located on the United States-Canadian border in eastern Maine and has become a significant port of entry into the United States.

Mr. BOSCHWITZ. Is it in the form of an office building?

Mr. MITCHELL. It will be used for more than offices. It will be used for an office, customs warehouse, a garage, an animal inspection station, truck parking, and other vehicle parking, and primary and secondary inspection lands.

Mr. BOSCHWITZ. Mr. President, how many square feet of offices are there in this building?

Mr. MITCHELL. Mr. President, the total occupiable area is just under 28,000 square feet. I am not certain of the total square footage.

Mr. MOYNIHAN. Mr. President, may I interrupt? It is a gross square footage of 34,790 feet.

Mr. BOSCHWITZ. And 28,000 square feet of that is occupiable, other than garages and so forth?

Mr. MOYNIHAN. Twenty-eight thousand square feet.

Mr. BOSCHWITZ. What is the cost of the building?

Mr. MOYNIHAN. The cost of the building is $3,409,000.

The Senator from Minnesota may wish to know, and the Senate may wish to know, that this relocation is brought about by the new location of U.S. Interstate Highway I-95, which meets Route 5 in New Brunswick across Canada.

If the Senator from Minnesota is concerned about the particular details, the new highways are being built and there is a new crossing into Canada. A border station must be made.

Mr. President, this is an appropriate and necessary expenditure, one in which careful attention has been paid to the concerns of the committee. For this side of the aisle, we accept the amendment.

Mr. STAFFORD. Mr. President, this side of the aisle also accepts the amendment.

Mr. MOYNIHAN. Mr. President, before moving the adoption of the amendment, I wish to thank the Senator from Maine (Mr. MITCHELL) for his courtesy and his alertness in this matter. No system is perfect, and perhaps that is why we have Senators. We were about to have a superhighway sweep into Canada and one sweep into the United States and no border station. The Senator from Maine, possibly because he is from Maine, took cognizance of this oversight, and we are grateful to him.

He has once again shown the alertness and enterprise which has marked him from the moment he entered this Chamber. We thank the Senator.

Mr. MITCHELL. Mr. President, I thank the Senator from New York.

Mr. President, I request this amendment be in order, even though it amends a figure previously amended.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. MITCHELL).

The amendment (UP No. 1208) was agreed to.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Ted Mannen of my staff be permitted the privileges of the floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1209

Mr. STEVENSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1209.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 8, strike out "$2,279,690,399" and insert in lieu thereof "$2,282,150,399".

On page 83, line 13, strike out "$15,792,000" and insert in lieu thereof "$18,252,000."

On page 83, after line 20, add at the bottom of the list of items the following new item:

"Courthouse and Parking Facility, East Saint Louis, Illinois -- $2,460,000"

Mr. STEVENSON. Mr. President, this amendment would authorize $2,460,000 for construction of a courthouse and parking facility in East St. Louis, Ill. This project was originally authorized in 1975 and funds were appropriated for fiscal 1977.

However, construction was unable to begin because of uncertainty associated with judicial redistricting in Illinois. That uncertainty has now been resolved.

Its headquarters status for the new southern district of Illinois requires the East St. Louis Courthouse to house additional judges and judicial personnel for whom more space in the new facility will be needed.

The funds authorized in my amendment would be used to provide this additional space and to cover cost increases which have occurred since approval of the original authorization.

Mr. President, I have discussed this amendment with the distinguished managers of the bill, and I am hopeful they will accept it.

Mr. MOYNIHAN. Mr. President, this is a matter which has been a considerable time aborning. In December of 1974 and in July of 1975 the House and then the Senate Public Works Committees, respectively, approved a prospectus for construction of a United States Courthouse in East St. Louis, Ill. With one thing and another it has not been built. The consequence, as the Senator has observed, has been an increase in the cost of this building, which will now be some $7,825,000, according to the prospectus before us.

On the other hand, changes in the judicial arrangement, in particular, the passage of the omnibus judgeships bill and Bankruptcy Reform Act, have established beyond dispute the need for the courthouse. No question of this need has come to our committee. The Senator from Illinois, when he speaks of such a matter, speaks with authority that is singular in that respect.

We are prepared to accept this courthouse. We think it is a good thing for the judicial system and a good thing for East St. Louis.

Mr. President, may I ask unanimous consent, at this time, that amendments to lines 18 and 13 of page 83 of our bill be in order?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. STAFFORD. Mr. President, on behalf of this side of the aisle, the minority, we are also prepared to accept the amendment after questions by the Senator from Minnesota.

Mr. BOSCHWITZ. Do I understand that the $2,460,000 is to cover increased cost or, is that the entire building?

Mr. STEVENSON. It is not just increased cost because of inflation, if I understand the question. It is because of the redistricting in Illinois which now makes this the headquarters of the new southern district.

Mr. MOYNIHAN. If the Senator will yield, the occupiable space is increased by 30 percent. Additional judgeships have been created and there have been administrative changes which makes this an appropriate measure.

Mr. BOSCHWITZ. What is the cost of the building?

Mr. MOYNIHAN. From the prospectus, the maximum cost permitted will be $7,825,000.

Mr. BOSCHWITZ. What is the square footage of the building, not including garages, and so forth?

Mr. MOYNIHAN. The actual occupiable space is 42,100 square feet with basement parking and parking facilities which will just about double that.

Mr. BOSCHWITZ. The total cost is how much?

Mr. MOYNIHAN. The total cost is $7.8 million. It is a courthouse. As the Senator will know, it is designed to standards which are not those simply of providing office space.

Mr. STAFFORD. If the Senator will yield for a further comment, a 30-month delay occurred in the construction of this courthouse as a result of administrative problems in the Department of Justice and the possibility of a redistricting, as I understand it of Federal courts in that part of Illinois.

Mr. MOYNIHAN. If I may make a general comment which the Senate may wish to know. In the aftermath of the passage of the omnibus judgeships bill, it has fallen to the committee to provide judicial chambers and courtrooms, occasionally courthouses, across the country. The Senator from Minnesota, who has special expertise in these matters, should know that through the whole of the 1970's no new Federal judgeships were created. Then recently, for reasons which escape me, there was an almost 25-percent increase in the number of judges.

So this measure is before us. This request was part of the GSA prospectus for 1980. If it had not been for the moratorium legislation, it would have proceeded.

Mr. President, under these circumstances, I move adoption of the amendment of the Senator from Illinois.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the Senator from Illinois for his great care and persistence in this matter.

Mr. STEVENSON. Mr. President, I thank the distinguished junior Senator from New York and the Senator from Vermont (Mr. STAFFORD) for their cooperation and assistance.

UP AMENDMENT NO. 1210

(Purpose: To designate the Federal Building located in Topeka, Kansas, as the Frank Carlson Federal Building)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 1210.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 22, strike out "effective date" and insert "miscellaneous".

On page 90, line 23, insert "Sec. 1001." before "This".

On page 90, after line 23, add the following new section:

SEC. 1002. The Federal Building located at 444 Southeast Quincy, Topeka, Kansas, shall hereafter be known and designated as the "Frank Carlson Federal Building". Any reference in any law, map, regulation, document, record or other paper of the United States to that building shall be held and considered to be a reference to the "Frank Carlson Federal Building".

Mr. DOLE. Mr. President, this amendment is offered for my distinguished colleague, Mrs. KASSEBAUM, and myself.

Mr. President, the Senator from Kansas is pleased that the Senate Committee on Environment and Public Works has agreed to accept my amendment. This amendment will designate the Federal building located at 444 Southeast Quincy in Topeka, Kans., as the Frank Carlson Federal Building.

SENATOR FRANK CARLSON

Senator Frank Carlson was born on a Concordia, Kans. farm on January 23, 1893. He attended the public schools, Concordia Normal and Business College and Kansas State College at Manhattan, Kans.

Senator Carlson's life and political career has been a long, unique and distinguished one. After serving in the Army during the First World War, Frank Carlson was elected to the Kansas House of Representatives in 1929. From 1932 to 1934 he was State chairman of the Republican Party, and in 1935 he was elected to the U.S. Congress. Carlson served five successive terms in Washington as Representative from Kansas, but in 1946 he was not a candidate for reelection. Instead he was elected Governor of Kansas in that year.

Frank Carlson served as Governor of the State of Kansas until his election to the U.S. Senate in 1950 to fill the unexpired term of Senator Clyde M. Reed.

Carlson was then elected to the U.S. Senate for a full term in 1951 and continued to be reelected until his decision not to be a candidate in 1968.

DISTINGISHED CAREER

Mr. President, there are many in this body who will agree with me that there have been few Members of the Congress who have exceeded my friend and colleague's dedication in serving the people of this Nation.

Senator Frank Carlson has a solid record of accomplishment and achievement. Patiently, quietly, but sure of step and sure of himself, Frank Carlson has both represented the interests of Kansas and the Nation and established a definite place for himself among American statesmen.

Frank Carlson's career of service additionally extended beyond elected office. He served as chairman of both the Interstate Oil Compact Commission and vice chairman of the President's National Safety Conference. He also found time to become a leader and active participant in the Senate prayer breakfast meetings.

Mr. President, whether an issue concerned the farmer, the businessman, the blue-collar worker, or the consumer, Frank Carlson was there to provide his service as well as friendship. An individual highly concerned with people from all walks of life, he was always willing to devote his time on any level, to anyone.

Mr. President, Frank Carlson, whose record of dedicated public service has been at almost every level of government spanning over four decades, has resulted in high respect and praise from every circle.

FITTING TRIBUTE

Mr. President, in view of Frank Carlson's dedicated career of service to the people of his community, the State of Kansas and the Nation, it is only appropriate that this body name the Federal building in Topeka, Kans. in honor of Frank Carlson, a truly great American from the State of Kansas.

Mr. President, I know of no objection to the amendment.

Mr. President, there would be minimal cost, if any at all.

Mr. MOYNIHAN. Mr. President, there are no costs involved, but there are benefits. The U.S. Senate should be proud of an opportunity to name a Federal building in Topeka for a distinguished Member of this body who served with honor and distinction and is remembered by so many. The action proposed by the senior Senator from Kansas and his junior colleague seems to be altogether appropriate. On behalf of the committee, we are not only happy but honored to have the proposal before us.

Mr. STAFFORD. The Senator from Vermont is also prepared to accept the amendment of the distinguished Senators from Kansas. The Senator from Vermont recalls with great pleasure the time the distinguished Senator Frank Carlson was serving in this body.

Mr. RANDOLPH. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. RANDOLPH. Mr. President, it was my privilege to serve with Frank Carlson for many years in this body. It is not inappropriate to say that he was the leader for many years in our Senate prayer breakfast group. It is good to know that he is in excellent health. He visits the Capitol from time to time with a fond hello to those who are here who served with him. He always visits our colleagues, of course.

This is an appropriate amendment. We do well in honoring Senator Carlson.

A little later today I will propose an amendment which has something to do with not just a memorial but what I call a living memorial that I will explain in reference to these Federal buildings and structures that we have throughout the United States, that, in the final analysis, are the places where we are doing the people's business. We must not forget that. It is not a monument on a corner with a plaza. It is the people's business that is being transacted in many types of offices, including Postal Service. That building must be a building of activity and strength and unity in whatever community it is either leased or has been constructed by the Federal Government.

Mr. DOLE. Mr. President, I thank my distinguished colleague from West Virginia (Mr. RANDOLPH), who was one of Senator Carlson's closest friends. He is familiar with the amendment which has been offered.

I yield back my time.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair advises the Senators seeking recognition, so we may proceed in orderly fashion, I understand that the Senator from Kentucky has a matter that he thinks will take 2 minutes, as the Chair understands. The Chair has spoken with the Senator from Iowa, who has been waiting for some time to bring up a matter of some importance to him which, apparently, will take some period of time. The Chair inquires what other matters there may be, because the Chair would like to accommodate everyone in proper order.

The Chair inquires, before locking us in, who else will seek to offer an amendment?

Mr. PROXMIRE. Mr. President, I have an amendment I can offer that will only take about 3 or 4 minutes.

Mr. GLENN. Mr. President, I may have an amendment; I am not certain yet. I want to discuss it with the floor managers briefly. Then I may have an amendment to offer.

The PRESIDING OFFICER. The Chair inquires of the Senator from Iowa, since he has approached the Chair and is on the list here, and has been very patient—does the Senator from Iowa feel he can accommodate two or three items that have been raised here?

Mr. MOYNIHAN. Mr. President, if I may say, I believe there are only two of that order.

Mr. PROXMIRE. The two Senators from Wisconsin have one amendment.

The PRESIDING OFFICER. Does the Senator from Ohio have a matter to raise?

Mr. GLENN. We are working out an arrangement at the present time, Mr. President. I am not certain yet, but I would like to reserve some time.

Mr. MOYNIHAN. May I say to the Senator from Ohio, there will be all the time he requires; to Senator JEPSEN, all the time he requires; and Senator BOSCHWITZ.

Mr. BOSCHWITZ. Mr. President, I should like to engage in a series of questions with the distinguished manager of the bill and the ranking minority member. I have also been quite patient in listening to the amendments with considerable interest, I might say. So I would like to do that before Senator JEPSEN proceeds.

The PRESIDING OFFICER. I inquire of the Senator from Iowa, who did approach the Chair, if he feels he can accommodate the Senators.

Mr. FORD. Mr. President, it is perfectly all right. He can take all afternoon. I can go away and come back as long as the time limit does not expire.

Mr. BOSCHWITZ. But if the Senator has a 2-minute amendment——

The PRESIDING OFFICER. If the Senator from Kentucky, who indicated he has a 2-minute item he wants to raise, wants to do so at this time, the Chair would certainly be prepared to accommodate him.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask recognition.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. RANDOLPH) is recognized.

May we have order in the Chamber so the Senator from West Virginia may be heard?

The Senator may proceed.

Mr. RANDOLPH. I thank the Chair.

Mr. President, I have some remarks which I should like to present to my colleagues on the pending very important legislation. I think in a sense it is epochmaking legislation—I do not want to overdo the use of that word. I think this is a crossroads, really. It is a benchmark. It is more highly important than, I think, even the membership of the Senate knows, but they will, of course, have access to the record and the people of the country will be benefited.

Mr. President, the Committee on Environment and Public Works has jurisdiction over a myriad of Federal programs in six Cabinet-level departments and eight independent agencies In addition to extension of existing program authorities and formulation of new ones, the committee maintains continuous oversight over program implementation. This oversight process has periodically resulted in the formulation of legislation making widespread changes in programs under our jurisdiction. S. 2080, the Public Buildings Act of 1980, is such a measure.

S. 2080, as reported by the committee, reforms and reorganizes the public buildings program of the General Services Administration. This is an enormous program, under which nearly 1 million Federal employees are provided working space at a cost in fiscal year 1981, of nearly $1.4 billion.

The public buildings program of this country has been ephemeral and unstructured from its beginning. From the first Congress until early in this century, new Federal buildings were authorized by location and cost in separate legislation. From 1902 to 1959, omnibus bills were passed sporadically authorizing building construction in certain locations. The first major attempt to codify a buildings program was in the Public Buildings Act of 1959.

That act provided for the authorization of building construction through resolutions adopted by both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. GSA was required to submit to the committees prospectuses describing the need for construction, repair, or alteration of public buildings, if the estimated cost for such work was in excess of $500,000. In 1972, the act was amended to require prospectuses and subsequent committee approval of new leasings or lease renewals of $500,000 or more.

In the more than 20 years since this procedure was adopted, it has proven both inadequate and ineffective. Prospectuses are submitted to the committee in a haphazard manner. Some of them require immediate action. Their content does not provide enough information to properly inform the committee of the details of the projects. Committee approval of such projects is, in effect, a blank check to GSA to carry out a project about which little detail is known. Projects are authorized with no clear indication of whether there will be appropriations to undertake them.

GSA appears to have no system of long-range planning, overall program priorities, or control over the substance or timing of prospectus submissions.

These considerations last year prompted the Committee on Environment and Public Works to declare a moratorium on further authorizations of nonemergency public building projects, pending committee review of the program and the development of comprehensive remedial legislation. This was the first indepth investigation of the program in 20 years.

Mr. President, S. 2080 is the result of more than a year of committee deliberations. Extensive hearings were held. Members of the committee and its staff held lengthy meetings with executive branch officials and experts from the private sector.

S. 2080, as reported, constitutes a major reformation and reorganization of the public buildings program of the General Services Administration. The bill requires, for the first time in the history of the Federal Government's building program, continual long-range planning. It provides Congress with systematic annual procedures for authorizing and overseeing the operation of the program. It establishes policies and priorities to be followed in locating Federal offices.

The existing unsatisfactory prospectus system is eliminated. Instead of sporadic submission of individual prospectuses, the bill requires the General Services Administration to submit to the Congress on an annual basis, a program for the next succeeding fiscal year and a 5-year plan projecting the public buildings needs of the Nation. The annual report is to include a thorough evalution of needs and plans for the coming year, as well as a priority listing of building construction, acquistion, renovation, new leases, and lease renewals. A listing is also required of all public buildings proposed to be vacated, exchanged, or disposed of by GSA.

Following submission of the annual report, the Committee on Environment and Public Works will develop a bill authorizing all approved building projects, regardless of cost. This will give the committee oversight of the entire buildings program, including the smaller projects over which no congressional control was previously exercised. Lump-sum authorizations will be provided for minor projects, and major projects will be authorized for appropriations only after preliminary planning and design have been completed. No appropriation can be made by the Congress or obligated by the GSA Administrator without authorization in an annual bill.

S. 2080 also addresses the growing problem of Federal leasing versus construction. From fiscal year 1966 to 1979, there was no appreciable increase in the amount of federally-owned office space, while leased space increased by more than 100 percent. Annual lease payments by GSA in that period increased from $131 million to $520 million. At its current pace, the annual rental budget will exceed $1 billion within the next 3 years. As it is, lease payments in fiscal year 1980 account for over 39 percent of the public buildings service budget, while construction funds constitute just over 1 percent of that budget.

Mr. President, this is false economy. Leasing has an immediate budgetary advantage in any one year of requiring a fraction of the outlay required to construct or purchase a building. But when one compares construction expenditures to leasing costs over a period equivalent to the expected life of a Federal building, construction is far more cost effective.

As reported by the committee, S. 2080 requires GSA to diminish the size of its leased inventory, which now houses 52 percent of GSA-controlled Federal employees. The bill requires that, within 10 years of passage, 60 percent of Federal employees under the act be located in Government-owned space. Within 20 years, 75 percent must be housed in Government buildings.

The legislation expresses the committee's intent that leasing should only be utilized when Federal space needs cannot otherwise be met in Government-owned space. This will hold down Federal costs in the future.

As chairman of the Subcommittee on the Handicapped of the Committee on Labor and Human Resources, I wish to highlight section 307 of S. 2080. This section coordinates, for the first time, all existing authorities relating to accessibility of Federal buildings to the handicapped. It provides for uniformity with respect to physical access to public buildings and a mechanism to simplify and integrate the achievement of that uniformity. This coordinative approach will enhance the even implementation of the law throughout all appropriate Federal agencies.

Title VI of the bill is intended to improve the quality and design of Federal buildings. Currently, nearly all of the design work of GSA is carried out by privately employed architects and engineers. GSA staff is not actively involved in actual design. Section 601 requires the administration of GSA to designate a certain number of construction and renovation projects to be designed by in-house staff. The agency has indicated they could handle up to 20 percent of such work on an annual basis.

In addition, title VI requires design competitions to be held with respect to at least half of the remaining construction and renovation projects expected to cost in excess of $5 million each year. This is intended to produce a higher quality of Federal architecture than has been the case for many years.

Mr. President, I commend the members of the Committee on Environment and Public Works who worked hard for over a year in the development of this legislation. While all members took active part in its consideration, special mention must be made of the efforts of Senator DANIEL PATRICK MOYNIHAN and the able Senator from Rhode Island, JOHN CHAFEE, who have primary responsibility for buildings matters in our committee.

Together with Senator ROBERT STAFFORD, our ranking minority member, they devoted much time, effort, and imagination to this measure. Their contributions have helped in a significant manner to make this truly one of the most carefully developed and important bills to come before the Senate this year. I thank them and all other members of the committee.

Mr. President, I urge the Senate to overwhelmingly adopt S. 2080.

UP AMENDMENT NO. 1211

(Purpose: To authorize appropriations for the construction of a Federal Building/Courthouse at Madison, Wisconsin)

Mr. PROXMIRE. Mr. President, I send to the desk an amendment for myself and Mr. NELSON to S. 2080, the Public Buildings Act of 1980.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself and Mr. NELSON, proposes an unprinted amendment numbered 1211.

Mr. PROXMIRE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 8, strike out "$2,279,690,399" and insert "$2,287,513,399".

On page 83, line 13, strike out "$15,792,000" and insert "$23,615,000".

On page 83, after the matter following line 20, add the following:

Federal Building/Courthouse,
Madison, Wisconsin $7,823,000

Mr. PROXMIRE. Mr. President, this amendment authorizes $7,823,000 in fiscal year 1981 for construction of a new Federal building/courthouse in Madison, Wis.

Our amendment would amend section 803(a) by adding $7,823,000 to the total authorization of the bill and by adding $7,823,000 to the subtotal for new construction.

Mr. President, I shall not go into all the background leading up to this request. But let me review briefly some of the most important recent history.

The Senate and House Public Works Committee approved a prospectus for the construction of a new U.S. courthouse in Madison in the year 1976. The land that is needed to initiate construction has been acquired, but the amount suggested in that earlier prospectus is no longer adequate. Several factors have led to a need for the sum requested in this amendment. These factors include: inflation; an increase in the number of Federal judges in Madison from two to three; and further duties for Federal magistrates and referees in bankruptcy.

The sum that we request in this amendment is the minimum needed to construct an adequate building.

The courthouse facilities now being used are clearly overburdened. It is vital that we begin construction on the new courthouse as soon as possible. For that reason, I urge the adoption of this amendment.

Mr. President, I want to express my thanks to Senator MOYNIHAN and Senator STAFFORD for accepting this amendment.

Let me add words of praise, too, to both these Senators and to Chairman RANDOLPH for this outstanding reform legislation. It will result in cost savings and an efficient, orderly approach to the construction of public buildings. These Senators are to be congratulated for their leadership in bringing about this important reform.

Mr. President, I understand that this amendment has been discussed with the managers and they were agreeable.

Mr. NELSON. Will the Senator yield to me for 2 minutes?

Mr. PROXMIRE. Yes.

Mr. NELSON. Mr. President, I am delighted to cosponsor this amendment with the distinguished senior Senator from Wisconsin. I express our appreciation to Senator MOYNIHAN and Senator STAFFORD for their willingness to accept this amendment.

In 1976, the Senate and House Public Works Committees approved a prospectus for the construction of a new U.S. courthouse in Madison. The parcels of land necessary to begin construction have been acquired. However, constant inflation, an increase in the projected number of Federal judges in Madison from two to three, and new responsibilities for Federal magistrates and referees in bankruptcy have rendered it necessary that additional funds be authorized in order to construct an adequate building.

It is our understanding that the General Services Administration agrees that the funds should be authorized. The only question is when they will be authorized. Very shortly there will be three Federal judges sitting in Madison. The present courthouse facilities are plainly overburdened and inadequate, and it is urgent that construction begin as soon as possible on the new courthouse.

Placing the authorization of $7,823,000 for the courthouse in this bill will speed its completion. The people of the western district of Wisconsin urgently require a new courthouse and I urge the adoption of this amendment.

Mr. MOYNIHAN. Mr. President, I rise to express the appreciation of the committee to Senator PROXMIRE and to Senator NELSON for their patience and persistence in this matter. I note that, precisely as the Senators from Wisconsin have said, there is an increase in the occupiable square feet of this project of 42 percent. A 42-percent increase in the size of the occupiable square feet here corresponds to a 50-percent increase in the number of judges, I suppose.

Mr. PROXMIRE. Which is what we have, a 50-percent increase in the number of judges, that is correct.

Mr. MOYNIHAN. That is exactly what has happened.

Mr. President, I should like to make a point to the Senate that, with respect to the provision of judicial chambers and courthouses, the Senate is under an obligation to a coequal branch of the Government. The Congress creates these judgeships and having done so, we have a responsibility to meet the needs of the judiciary which is beyond that of comity, which, I should go so far as to say, is constitutional—constitutional provisions that Federal judges have a life tenure, and that their emoluments may not be reduced.

We go to the independence of the judiciary and it seems to me a distinct corollary that they need not be required to hold court in a tent in downtown.

They have a right to courts that are dignified and adequate to the purpose. We have a responsibility to provide them.

I believe this meets that responsibility.

It is a rare occasion for the senior Senator from Wisconsin to be on his feet asking for a Federal expenditure of any kind. We know it is one of necessity and constitutional probity, and I think this is.

Mr. STAFFORD. Mr. President, the Senator from Vermont is prepared for the minority to accept the proposed amendment, subject to the Senator from Minnesota asking a question or two.

Mr. PROXMIRE. If the Senator will yield for 1 more minute, I neglected to state my great admiration for the way Senator MOYNIHAN, Senator STAFFORD, Senator RANDOLPH, and others on the committee, handled this legislation.

I think it is very constructive. It will save the Federal Government billions of dollars as the years goes on. It is very sound. I think it is an innovation that will be very helpful to this.

Mr. MOYNIHAN. That is high praise coming from the Senator.

Mr. RANDOLPH. Mr. President, who has the floor?

Mr. MOYNIHAN. Mr. President, I believe I have the floor, and if the Senator from West Virginia wishes the floor, it will be his.

Mr. RANDOLPH. I want to make this observation in connection with the increased number of judges and a structure that can adequately do the job, the witnesses can be heard, for the people who come into the courtroom to do the people's business.

We remember when the judges appeared.

Mr. MOYNIHAN. Yes.

Mr. RANDOLPH. And the group coming from Florida. I will not go into details of the conditions in a certain Federal building in which the judicial system was operating. And justice is certainly what the Senators from Wisconsin would want and all of us would want.

Really, justice was, in a sense, hindered by the very fact that the court could not operate effectively, as the Senator will recall.

Mr. MOYNIHAN. Yes.

Mr. RANDOLPH. I was delighted on that occasion, the editor of the Miami Daily News came with the people, not just writing an editorial, but coming to present the facts.

It was very helpful to us. It is good to know in this particular instance that there is merit, of course, in the amendment, and in doing at one location what we are doing.

It is not a matter of luxury for judges involved, but it is that the business of the court, the business of serving people, can go forward.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of, the Senator from Wisconsin.

The amendment (UP No. 1211) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1212

(Purpose: To exempt from the provisions of the Davis-Bacon Act and certain other statutes at least 10% of the projects authorized under this Act for the purpose of determining cost savings)

Mr. JEPSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN), for himself and Messrs. SIMPSON, THURMOND, GOLDWATER, PRESSLER, and DOLE, proposes on unprinted amendment numbered 1212.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88, between lines 16 and 17, insert the following:

SEC. 805. (a) The Administrator shall select at least 10 percent of the projects for which appropriations are authorized under this Act in each fiscal year for the conduct of the study required under subsection (b). In selecting projects under this subsection, the Administrator shall select a representative sample from such projects in each fiscal year which contains an equal distribution of projects by type of project, dollar amount of project, and geographic distribution of project.

(b)(1) Notwithstanding any other provision of law, the Administrator shall carry out the projects selected pursuant to subsection (a) without regard to the provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; 40 U.S.C. 276c).

(2) The Administrator shall monitor and record the costs of carrying out the projects selected under subsection (a) and the costs of carrying out all other projects for which appropriations are authorized under this Act for the same fiscal year. The Administrator shall compare and analyze the costs recorded pursuant to the preceding sentence and shall report to the Committees on Environment and Public Works and Labor and Human Resources of the Senate and the Committees on Public Works and Transportation and Education and Labor of the House of Representatives concerning the differences in costs incurred in carrying out, with and without regard to the provisions of law referred to in paragraph (1), projects for which appropriations are authorized pursuant to this Act.

(c) The provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; U.S.C. 276a–276a–5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; U.S.C. 276c) shall not apply to any project selected by the Administrator under subsection (a).

Mr. JEPSEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1213

(Purpose: To exempt from the provisions of the Davis-Bacon Act and certain other statutes at least 10% of the projects authorized under this Act for the purpose of determining cost savings)

Mr. JEPSEN. Mr. President, I now send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes a substitute unprinted amendment numbered 1213 to amendment numbered 1212.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 805. (a) The Administrator shall select at least 10 percent of the projects for which appropriations are authorized under this Act in each fiscal year for the conduct of the study required under subsection (b). In selecting projects under this subsection, the Administrator shall select a representative sample from such projects in each fiscal year which contains an equal distribution of projects by type of project, dollar amount of project, and geographic distribution of project, including minority and small business representation.

(b)(1) Notwithstanding any other provision of law, the Administrator shall carry out the projects selected pursuant to subsection (a) without regard to the provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; 40 U.S.C. 276c).

(2) The Administrator shall monitor and record the costs of carrying out the projects selected under subsection (a) and the costs of carrying out all other projects for which appropriations are authorized under this Act for the same fiscal year. The Administrator shall compare and analyze the costs recorded pursuant to the preceding sentence and shall report to the Committees on Environment and Public Works and Labor and Human Resources of the Senate and the Committees on Public Works and Transportation and Education and Labor of the House of Representatives concerning the differences in costs incurred in carrying out, with and without regard to the provisions of law referred to in paragraph (1), projects for which appropriations are authorized pursuant to this Act.

(c) The provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; U.S.C. 276a—276a–5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; U.S.C. 276c), shall not apply to any project selected by the Administrator under subsection (a).

Mr. JEPSEN. Mr. President, I announced my intention to offer this amendment some time ago. It requires the Administrator of the General Services Administration to exempt at least 10 percent of the building projects authorized by this act from the provisions of the Davis-Bacon Act, and the Copeland Act. These two laws are most frequently cited as being responsible for increasing the cost of Federal building projects far above the cost of a comparable building built in the private sector.

Nine studies by the U.S. General Accounting Office made between 1962 and 1979 have shown that the Department of Labor's prevailing wage determinations are frequently above true prevailing wages. A typical example was recently brought to my attention by the Henningsen Construction Co. of Atlantic, Iowa. Henningsen pointed out that the Department of Labor's prevailing wage determination was 55 percent higher than what he was paying for laborers, 46 percent higher for truck drivers, and 82 percent higher for equipment operators. In other words, he would have had to increase his wage rates by these amounts in order to bid on a Federal building project.

The problem is, of course, that if the Department of Labor errs on the low side in its wage determinations, it is of no consequence because contractors will continue to pay whatever wages they were already paying. But when the Department sets a wage which is higher it becomes the minimum wage which can be paid and becomes an added cost of business which ultimately is passed on to the U.S. taxpayer. Thus most studies put the cost of Davis-Bacon at 5 percent to 15 percent of all Federal building. This amounts to more than $700 million per year.

Now, I understand that the advocates of Davis-Bacon claim that it results in higher productivity. But we do not really know whether this offsets the higher labor costs or not. The only way we could know would be to build two identical buildings and have Davis-Bacon apply to one and not to the other. If, when they were completed and each determined to be of equal quality, it was found that the one with Davis-Bacon cost 10 percent more, then, I think, we might finally have the answer.

Then, the only question left to be answered would be whether the other alleged benefits of Davis-Bacon justified their cost. I hear a lot about how Davis-Bacon protects workers. But I am not at all clear on what they are protected from. Today's economy is totally different in every way from what existed at the time the Davis-Bacon Act was enacted. In 1931 it may have been desirable, as a matter of public policy, to help maintain local wage rate structures by discouraging outside competition, at a time when the Federal Government accounted for 60 percent of all new construction. But today things are totally different. The vast majority of all building is done in the private sector and no one worries about whether construction workers on purely private projects are protected from competition. Of course not. It is totally unnecessary because we have all manner of unions and minimum wage laws in effect already. Moreover, construction workers' wage circumstances are such that they could hardly suffer from elimination of Davis-Bacon.

In 1978 the average hourly wage for construction workers was $8.65 per hour. This compares to $4.66 for workers in retail trade, $4.90 for workers in finance, insurance, and real estate, $5.53 for workers in nondurable goods industries, $6.58 for workers in durable goods industries, and $5.69 for all private sector workers.

Thus we come back to the question of cost. As I said, many studies have been done which put the cost of Davis-Bacon quite high. But unfortunately, none of them were definitive. As a result, the debate goes on, seemingly without end.

I proposed to end the debate once and for all, by commissioning what I believe would be a definitive study. As I said, my amendment proposes setting up a controlled experiment, in which 10 percent of the projects authorized by the Public Buildings Act would be exempted from Davis-Bacon for the purpose of conducting a study of cost differentials. With luck, we might get a situation in which two essentially similar buildings are built within the same geographic area, one with Davis-Bacon and one without. Then we could simply look at the difference in cost between the two and chalk the difference up to Davis-Bacon.

Some people have implied that because my amendment specifies that the Administrator of GSA set aside not less than

10 percent, rather than a fixed percent, that this means I am really just trying to open the door to total repeal. This is incorrect. My only goal is to give the administrator the maximum flexibility in choosing the projects necessary to develop a definitive study. Furthermore, it is unnecessary for me to open the door to repeal since the President already has the power to suspend Davis-Bacon across the board if he so chooses—an action previously taken by both Presidents Franklin Roosevelt and Richard Nixon. But if any of my colleagues are so concerned about my specifying at least 10 percent, rather than a fixed amount, I would be willing to modify my amendment to specify exactly 10 percent or some other figure sufficient to conduct an adequate study.

I have also included in the substitute amendment that assurance be given that this body be truly representative, by including minority group contractors as well as small business contractors.

Others may be concerned about my inclusion of the Copeland Act. Here again, my only interest is in giving maximum flexibility to produce an adequate study. It really makes no sense to suspend Davis-Bacon without also suspending the Copeland Act, since there would be no point in submitting payroll records showing compliance with Davis-Bacon.

My only interest is in settling the Davis-Bacon argument once and for all. I am not trying to do anything through subterfuge; I announced my intention to offer this amendment last April in a letter to all my colleagues. I would welcome the opportunity to work with the chairman of the Labor and Human Resources Committee and the chairman of the Environment and Public Works Committee to devise a method whereby we can settle the issue. I have thought about the problem and, as I said, setting up the kind of experiment contemplated by my amendment is the best way. Once we know with certainty what Davis-Bacon is costing us then we can decide whether its alleged benefits are worth it.

We may discover that the cost savings are such that more buildings can be built with the same amount of money. This means that more construction jobs would be available when Davis-Bacon does not apply than when it does.

Another thing we might discover is that more small businesses and minority businesses will be able to bid on Government construction contracts, which they are prevented from doing now. It is well-known that one effect of Davis-Bacon is to give preference to union firms in bidding on Federal projects, regardless of their geographical location. Small businesses and minority businesses, which tend to be nonunion, are either frozen out of the process altogether or are forced to throw out their existing wage structures.

Mr. President, I trust that the debate on this matter can be very brief. We have discussed it time and time again over the years.

In summary, I point out what my amendment would do. It would authorize the administrator of the General Services Administration to exempt not less than 10 percent of the building projects authorized under S. 2080 from the provisions of the Davis-Bacon Act and the Copeland Antikickback Act.

Why? The purpose of this amendment is to conduct a study to determine how much money would be saved when these laws do not apply to Federal construction projects.

Basically, it sets up a situation without Davis-Bacon prevailing wage rates in effect, so that the Government can study actual cost differentials.

Contrary to organized labor's allegations—I want to make this perfectly clear—the Jepsen amendment does not seek to repeal Davis-Bacon through the back door. The President already has the power unilaterally to suspend Davis-Bacon if he wishes. Nor does the Jepsen amendment affect any of the following, which have been presented to the rank and file of labor throughout this country in recent weeks:

It does not affect the Fair Labor Standards Act. It does not affect the Service Contracts Act. It does not affect OSHA or any other Federal labor law. All it simply does, in the name of fairness, in the name of commonsense, is to say, let us settle the quarter-of-a-century argument and discussions, the myriad and legion of studies, and simply set aside 10 percent of the building projects authorized under S. 2080 from the provisions of the Davis-Bacon Act, so that we can truly get some figures and comparisons.

The amendment has been carefully structured to include oversight and participation by the various committees involved. It has been careful to word the instructions to the administrator so that we truly get a representative sample, so that minority groups and small businesses be included, with geographical distribution.

It is an amendment which, simply stated, is one of fairness, one of common-sense, and one that would bring to this august body the facts, finally, so that we could make a positive and an accurate decision on what action, if any, should be taken on the Davis-Bacon Act.

Mr. MOYNIHAN. Mr. President, I express the appreciation I feel—and the appreciation I believe the Senator from Vermont feels—for the thoughtful and constructive way in which the amendment offered by Senator JEPSEN has been set forth by him. I oppose the amendment, in which I hope will be a comparable tone.

I say to the distinguished Senator from Iowa that this is not a new matter to me; but, rather, it is one to which I bring a concern that goes back two decades—from the time I was an assistant Secretary of Labor in the administrations of President Kennedy and President Johnson.

At that time, I had my deep concerns about the impact of the Davis-Bacon Act. My concerns did not arise exclusively from the fact that it was an enactment of a Republican Congress and a Republican administration but, rather, that they had a more general origin. I have to say that after a number of years of real skepticism, I became a true supporter of this program. In one sense, this is not hard to do.

The Federal Government has a long and not undistinguished history in the maintenance of stable employment conditions in the construction industry, which, by definition, is an industry very much involving the Federal Government. Architecture, as we have said in our hearings, is the one necessary Federal art. From the earliest times in the Republic, we have had these matters before us.

In the middle of the 19th century we began the series of 8-hour days, for example, which established a standard. The Federal Government was the first employer to establish such a standard, and not without some difficulty. When the 8-hour day was established in the 1870's here in Washington, the Secretary of the Navy, if I recall correctly, found his workmen's hours at the Washington Naval Yard reduced from 10 hours to 8 hours time on the job and he reduced their pay by 20 percent. Ulysses S. Grant reversed that ruling.

We have in the Chamber the man who knows more about this subject than any other person in the Senate, the chairman of the Committee on Labor and Human Resources.

First, the least understood aspect of the Davis-Bacon Act has to do with the wage rates it establishes. It does not establish union building trades scales. In recent residential construction, for example, in 77 percent of the counties where Davis-Bacon rates were established they were of so-called open-shop, nonunion labor rates and in only 17 percent of counties were they union labor rates—the remaining 6 percent were mixed.

Second, and I wish to make this point with great clarity, the concern of the committee in this legislation from the beginning has been with probity and correctness in the award and construction of Federal buildings, and our concern arose out of fear that this might not be the case.

We observed criminal indictments and allegations. We observed aspects of bidding and private awards that alarmed us, alarmed us to the point where we put a moratorium on the construction of new Federal buildings. This moratorium has held through 15 months at very considerable discomfort to our colleagues. We are sorry to have caused this, but felt it understandable especially in light of our concern for probity. Let me introduce the word "honesty." Immediately, questions come to mind: Do we have regular proceedings open and standard to the market, standard to the industry, standard to the craft? There is just no way to avoid the temptations to corrupt government; those temptations are universal, they are as old as the literature of the species. Our Republic has not escaped them any more than it has escaped the human condition. But we have controlled them. It was not for nothing that we put a 15-month moratorium on construction; rather it was to get proceedings that we could say were open and honest and would sustain the scrutiny of the most exacting auditors, the most exacting courts and juries, and the most exacting members of the public.

And one of the things we do not want to bring back into public building is the artificial low bid from the contractor with political influence who can get away with cheap labor and cheap construction because he has access through the bureaucratic and political world to favoritism. Having attained a condition of favoritism, he can proceed to do an ill-service to the Nation by lower standards: Lower safety standards, lower health standards, lower construction standards, and lower design standards. There is a pattern here. Bad design and cheap construction go together, and cheap labor, bad construction, bad location, and wrong priorities have all gone together. We did not put a 15-month moratorium on this legislation on buildings, to the great discomfort of our fellows, for the purpose of lowering the standards of the Federal construction program and building service. We did it to maintain, even to raise, and certainly to insure those standards. I think this would be seen as a contrary signal, Mr. President, one which would baffle those who thought we were in the process of putting in place a system that the public would be proud of and the Government could point to as a success of the deliberative and legislative process.

There is one matter I wish to bring before turning to the chairman of the Committee on Labor and Human Resources, and that is simply that we have a letter to our distinguished and beloved chairman from the Secretary of Labor, and he says in simple terms:

> We do not believe that the Jepsen Amendment would provide a true test of the impact of the Davis-Bacon Act and related acts. The projects constructed under the Public Buildings Act make up a small part of the total Federal and federally-assisted construction covered by these acts.

That is a fair point. We have not a massive program here. We simply have an important one.

Second, he states that, and this I think the Senator from Iowa will be pleased to hear:

> The Department of Labor is developing a research project in cooperation with the Office of Management and Budget and the Council of Economic Advisers which would continue to protect the workers while developing answers to questions concerning possible inflationary effects of the Davis-Bacon and related acts. The study will include surveys of wages, evaluations of alternative methods for making wage determinations and analysis of the impact of the Davsi-Bacon and related acts on construction wage rates.

I wish to say in this Chamber that I will see to it that that study is done and presented in due course, and that its findings are related not only to the Committee on Environment and Public Works but also to this chamber. It is a matter with which I can claim the experience of the executive branch, and of a concern that I once had as the Senator from Iowa has today, and of the persuasion of experience and knowledge that we have sound legislation of a half century's duration which should not be tampered with at this point.

Mr. President, I ask unanimous consent to have printed in the RECORD the Secretary of Labor's letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 4, 1980.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter concerns legislation which I understand will be proposed as an amendment to S. 2080—the Public Buildings Act of 1979. That bill is expected to be considered on the floor of the Senate in the near future.

My understanding is that Senator Jepsen intends to propose an amendment which would waive the application of the prevailing wage provisions of the Davis-Bacon Act, the weekly payroll reporting requirements under the Copeland Act, and the daily overtime pay provision of the Contract Work Hours and Safety Standards Act for 10 percent (or more) of the projects financed under the Public Buildings Act. The Department of Labor is vigorously opposed to the enactment of the Jepsen Amendment and urges your support to help defeat it. The apparent purpose of the Jepsen Amendment is to authorize the Administrator of the General Services Administration to study the inflationary impact of the statutes mentioned above by comparing the cost differential between the projects exempted and the other projects which would remain subject to these statutes.

We do not believe that the Jepsen Amendment would provide a true test of the impact of the Davis-Bacon Act and related acts. The projects constructed under the Public Buildings Act make up a small part of the total Federal and federally-assisted construction covered by this acts.

Prospective bidders would submit their bids on the 10 percent (or more) exempt projects knowing the basic labor standards provisions would not apply on the construction work. This could lend itself to manipulation, such as contractors purposely underbidding costs and thus foreordaining the outcome of the projected GSA study. In addition the proposal would not measure the costs in terms of economic disruption and destabilization in the construction industry and local communities across the country.

We also believe it is dubious public policy and certainly inequitable to deny necessary labor standards protections to a small segment of the affected workers using an invalid test to determine whether the standards for all covered workers are desirable and necessary.

The Department of Labor is developing a research project in cooperation with the Office of Management and Budget and the Council of Economic Advisers which would continue to protect the workers while developing answers to questions concerning possible inflationary effects of the Davis-Bacon and related acts. The study will include surveys of wages. evaluations of alternative methods for making wage determinations and analysis of the impact of the Davis-Bacon and related acts on construction wage rates.

For the foregoing reasons, we urge defeat of the Jepsen Amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. WARNER. I am a supporter of Senator Jepsen's amendment. It seems to me that he asks for a very simple and fair objective test, which the Secretary of Labor now has said is not the best course of action to pursue. As an alternative, the Secretary has said he is going to make another study. I listened carefully but I did not hear the time frame of that study. When might we expect to receive the benefits of that study?

Mr. MOYNIHAN. May I say that is a perfectly legitimate question to which I do not have an answer. That is why I said I will see that it is done in a timely fashion and that I will report to this Chamber as well as to our committee on what is done.

But it is entirely within our capacity at this point to call the Secretary of Labor and find out, and I will attempt to do that and have the Senator an answer within the next 20 minutes.

It would seem to me that a study of this kind would be the work of 12 to 18 months if it is done carefully, because we do not construct that many courthouses. We do one in the Middle West and one in the Southwest over a continent. We would have to include federally subsidized housing which is where we get our construction volume.

Mr. WARNER. Given the Senator's expectations of 12 to 18 months of study, it will probably take another 12 to 18 months for the bureaucracy in Washington to study the study and, therefore, we would not expect any results for 3 years.

Mr. MOYNIHAN. The Senator from New York will guarantee that before his term is expired—he may not have a second—he will be in the Chamber talking about this subject.

I think these are legitimate questions. I think that the right way to go about it is the way the Secretary of Labor proposes.

Mr. WARNER. I certainly respect the Senator from New York's integrity when he makes a promise. But it does seem to me this is an indefinite solution that could cover a span of 2 or 3 years.

Mr. MOYNIHAN. May I say that the Senator from Virginia is correct in what he says could be, and left to its natural instincts, what the bureaucracy will produce. We are here for the purpose of resisting the natural instincts of bureaucracy, and with what success others may have to judge.

Mr. WARNER. I thank the Senator from New York.

Mr. President, report after report has been published citing the inflationary impact of the Davis-Bacon Act. In its report of April 27, 1979, entitled, "The Davis-Bacon Act Should Be Repealed," the General Accounting Office stated that the act results in unnecessary construction and administrative costs of several hundred million dollars annually—and has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole. The report also called on Congress to repeal the Davis-Bacon Act.

In 1979, the Senate Select Committee on Indian Affairs issued a report on Indian Housing. The report states:

> Whether or not Davis-Bacon wage rates are engines of inflation on HUD Indian homes, one thing is clear: As presently administered, the Davis-Bacon program bars local unemployed Indians from working on their own housing projects.

The Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee stated in its April 1978 pamphlet, "The Cost of Government Regulations of Business," that:

> A variety of studies have shown that these federally mandated wage rates (under Davis-Bacon) are often above those that actually prevail in the labor market where the work is to be done.

Numerous other Federal and private reports exist that offer the same conclusion: the Davis-Bacon Act is highly inflationary.

Yet, each report is challenged by proponents of the act, who claim that the inflationary findings are not accurate because they were not based on a representative sample of Davis-Bacon projects nationwide.

My distinguished colleague, ROGER JEPSEN, of Iowa, has introduced an amendment to S. 2080 that will provide for an accurate and representative study of Davis-Bacon construction costs. The amendment allows the Administrator of the General Services Administration to exempt 10 percent of a representative sample of the projects authorized pursuant to S. 2080 from the Davis-Bacon Act for the purpose of conducting a study to determine if any money is saved when Davis-Bacon rates do not apply to Federal construction.

I find this approach particularly appealing because the data and accompanying cost study must be submitted annually to Congress for review. The U.S. Senate and the U.S. House of Representatives will be able to scrutinize the numbers and then we can determine our subsequent course of action with respect to the Davis-Bacon question.

I intend to support the Jepsen amendment to S. 2080 because I believe the time has come for the Congress to mandate that the Davis-Bacon Act be studied objectively. I urge my colleagues to support the amendment for the same reason.

Mr. MOYNIHAN. The Senator from New Jersey is here, the distinguished chairman of the committee with the responsibility for this legislation—the committee that protects the legislation and the working men and women for whom it was designed.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from New Jersey.

Mr. WILLIAMS. I am very grateful for the generous remarks of the Senator from New York. But I must disclaim being the only knowledgable person with respect to the Davis-Bacon Act in this Chamber. Indeed, the Davis-Bacon Act has been ingrained within our institution over many years, on many acts. This is almost the 50th anniversary of the act. It was enacted in 1931, and it was created, as the Senator from New York has so completely and eloquently described, to bring to contruction workers on Federal projects the protections that will insure that they will not be used and abused, as they work on projects for all the people of this country, under conditions and standards and at wages that are below those prevailing for other workers. It was so established in 1931, and it has been part of our Government's policy ever since.

It is interesting to note that we speak from this side of the aisle in earnest defense of Davis-Bacon. Davis-Bacon was brought to this Chamber by Senator Davis, a Republican from Pennsylvania. In the other body it was brought by Representative Bacon, a Republican from New York. They sat on the other side of the aisle from where I would have sat. Yet here today we have a joining in bipartisan support of the act. I know the most distinguished and able ranking minority member of the committee, who manages with the Senator from New York the debate on the public buildings bill, will join us in saying, "Let us not destroy in any way, in any degree, this protection that has been ingrained into so many acts providing for Federal construction, enabled through the public monies."

I did want to open differently and to just state a word of personal gratitude for this legislation and for the efforts of those who made it possible, certainly the chairman of the committee (Mr. RANDOLPH), the Senator from New York (Mr. MOYNIHAN), the Senator from Vermont (Mr. STAFFORD), who have brought to us what must be described as epic law in this area. Over many years we have progressed to the point where this bill directs us toward attaining excellence in our public buildings, the central symbols of our public life, the buildings that house our Federal governmental activities.

I have always believed that the efforts of our Federal Government should be directed toward excellence of our Federal buildings. In many ways this committee has brought to us a measure that will direct us to attaining excellence in our Federal buildings which stand as symbols of our Nation.

I would especially like to compliment the distinguished floor manager of the bill on the important acts initiative contained in title V of the bill. The Committee on Labor and Human Resources has enjoyed working with the Committee on Environment and Public Works in this important matter, and we believe that title V of the public buildings bill will make a significant contribution to the development of a national arts policy, a subject over which the Committee on Labor and Human Resources enjoys continuing interest and jurisdiction.

Mr. MOYNIHAN. May I say the Senator is entirely correct in that matter, and he has taken the lead in this matter in the body of whole. It falls inevitably to the Public Works Committee that with respect to public buildings they are the necessary public art, and we have tried to respond to his leadership.

Mr. WILLIAMS. Yes. Title V is just one of the many ways in which the committee has taken a major step to assure a vitality of excellence in public construction and that I applaud.

It would seem to me so very tragic in this epic bill to bring in an alien proposition, one that would have us go back, back to the very bad old days of 1931, when workers were not only exploited, but were exploited on public projects funded with the moneys of all our people. If any building should be a model of excellence in all respects, it should be one that is funded by the people and the symbol of our Government

Before 1931 these buildings were not models of excellence, they were models of the abuse that was permitted, where a hunger for jobs could be used for undercutting wages, and the ability to cut wages could be the principle factor in winning the contract for the building. We have matured to the point where we now say that the ability to cut wages will not be the primary factor in winning bids. We have advanced to the point where workers are assured of at least the prevailing wages within the area of the bid for Federal construction.

So for myself—and I believe I speak for most within our Committee on Labor and Human Resources—there is strong opposition to the amendment that is offered by our good friend, the most distinguished Senator from Iowa. The amendment mandates that the Administrator of the General Services Administration must exempt at least 10 percent of the projects authorized by this bill from much of our basic labor standards legislation.

I have only mentioned the Davis-Bacon protection, but this amendment is broader than that. Workers on at least 10 percent of these projects would lose the protection of not only the prevailing wage requirements of the Davis-Bacon Act, but they would lose the protection of the Copeland Anti-Kickback Act. What the proponents of this amendment have described as a narrow amendment to study the Davis-Bacon Act is in reality a broadening of the attack by opponents of our basic labor standards legislation aimed toward ultimately dismantling the legislation carefully designed to promote the stability of our construction industry.

To understand the full implications of this amendment, I believe that it is necessary to briefly review the laws that it would exempt from coverage.

The Davis-Bacon Act is part of our basic labor standards legislation which has been the law of the land for decades. That act protects local construction contractors and workers by preventing contractors from basing their bids on wages lower than those prevailing in the area where the construction is to take place. The act serves as a basic affirmation that when the Government undertakes federally assisted construction, these projects are not undertaken at the expense of the workers who labor on them.

We are all familiar with the issues surrounding the Davis-Bacon Act. The Davis-Bacon Act has been repeatedly endorsed and supported on a bipartisan basis since 1931, nearly 50 years. It has been supported not only by construction workers, but by construction contractors as well, including the National Electrical Contractors Association, the Tile Contractors Association, the Masonry Contractors, and so many others.

The Davis-Bacon Act has been extensively discussed and thoroughly debated in committees and on the floor of the Senate. In vote after vote, the Senate and the House of Representatives as well have repeatedly endorsed the principles of the Davis-Bacon Act.

Now we are facing yet another vote, but this time not only on the Davis-Bacon Act, but also on the Copeland Anti-Kickback Act.

The Copeland Anti-Kickback Act works hand in hand with the Davis-Bacon Act to protect workers on our federally assisted construction contracts. The Copeland Anti-Kickback Act assures that our workers will not be coerced into making kickbacks of a portion of their pay by the use of "force, intimidation, or threat of procuring dismissal or by any other manner whatsoever." Violators of the provisions of the Copeland Anti-Kickback Act are subject to a fine of $5,000 and 5 years in prison, or both.

Mr. MOYNIHAN. Will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. MOYNIHAN. Mr. President, I thank the Senator for raising this question. I raised my voice earlier in this Chamber and I did not want to do that. I apologize if I did it in a way that was inappropriate.

May I say that not for nothing did we impose an 18-month moratorium on new construction. We were concerned about kickbacks. We were concerned about contracts that would not sustain scrutiny. We were concerned about such behavior. We brought forth this legislation designed to put an end to it. To amend this legislation to abolish an anti-kickback, or to impair a Federal prohibition against illegal behavior in the construction industry, a statute which has been on the books for a longtime—if I recall correctly, the Copeland Act was effective in 1934—would seem very wrong. Do we come to the floor to undo what the committee has accomplished in 18 months of work?

Mr. WILLIAMS. Mr. President, while this amendment has been described as an amendment dealing with Davis-Bacon, I think Members should know that it goes far beyond that into other areas that are so important to assuring the fair treatment of workers on the job.

This amendment would make certain projects exempt from the reporting requirements of the Copeland Anti-Kickback Act.

These requirements are simple to comply with but they are effective. Under regulations of the Department of Labor, contractors and subcontractors with contracts of $2,000 or more are merely required to file a weekly statement setting forth the amount of wages paid to employees and affirming that no illegal kickbacks or rebates have been made. Then, contract officers routinely review these statements for accuracy. The reporting requirements of the Copeland Anti-Kickback Act serve a vital enforcement function both for that act as well as the prevailing wage requirements of the Davis-Bacon Act because they provide the only reliable check on the mobile and often changing contractors who characterize the construction industry.

These reporting requirements in no way impose an inordinate burden on contractors or on Government agencies. The weekly reporting requirement requires no more than a certified report showing name, job classification and wages received by each worker. There is not even a need for the contractor to transfer records to special Government forms. In fact, there are no mandatory forms at all.

Within the Committee on Labor and Human Resources, we have had extensive hearings on the reporting requirements of the Copeland Act and we now know that the procedures for compliance are no heavy burden. Every contractor maintains a payroll. And the payroll normally shows the hours of labor, wages, and other necessary information required by these reports. Compliance is simply a matter of reporting the same payroll information reported required for other purposes, such as taxes.

Mr. MOYNIHAN. Mr. President, if the Senator will yield, it is a payroll which the employer keeps primarily for his own purposes.

Mr. WILLIAMS. The Senator is absolutely right. There it is.

The only other requirement of the Copeland Act is that these forms be maintained for a period of 3 years. Since the Fair Labor Standards Act already requires that employers keep all payroll records for at least 3 years, the Copeland retention requirement adds no extra burden.

There is no stronger evidence of the simple nature of the reporting requirements under the Copeland Anti-Kickback Act than the testimony of contractor associations whose members are subject to the reporting requirements. In the course of hearings before the Senate Labor and Human Resources Committee, representatives of the National Electrical Contractors Association testified that most contractors comply with the law by simply xeroxing their own payroll records, adding a statement of compliance on the top, and mailing the package to the contracting agency.

Yet, this minimal reporting requirement is invaluable for assuring that workers are properly paid the wages that are due them. Last year the Department of Labor conservatively estimated that at least 600 firms per year are found in violation of the Copeland Anti-Kickback Act.

According to the Department of Labor—

> Without the vital enforcement tool provided by the weekly payrolls, many contracts would be paid off with no one aware of employees having been paid improperly.

This amendment repeals not just the reporting requirements; it repeals the Copeland Anti-Kickback Act itself for these workers, and the need for that act, I will tell my colleagues, has never been a matter of controversy here.

The need for the prevailing wage protections of Davis-Bacon is especially great as we enter a period of economic slowdown. I think it is important at any time to resist any erosion of Davis-Bacon. It is particularly important that we succeed in resisting these attempts in this period of economic slowdown.

The construction industry remains one of the most volatile sectors in our economy, tending to magnify the cyclical fluctuation of our Nation's economy. When the rest of the industry enters an economic recession, the construction industry enters an economic depression.

Construction workers pay a particularly heavy price during these fluctuations. When there is an economic slowdown, the unemployment rate in the construction industry tends to rise to extremely high levels.

At the peak of the last recession, the unemployment rate for construction workers reached depression levels of 21.6 percent in May 1957. That is over 20-percent unemployment at a time when the unemployment rate for all workers was 9.1 percent. As we enter the current recession, the unemployment rate of construction workers has already reached levels of 17.5 percent, well over twice the national average of 7.8 percent.

Moreover, the builders economic council survey has recently projected that the unemployment rate of construction workers will reach a peak of 24 percent, well above the unemployment rates in the last recession. If the unemployment rate, in fact, reaches levels of 24 percent, as projected, this would be the highest unemployment rate in the construction industry in the history of seasonally adjusted statistics. With up to 1.1 million construction workers unemployed, the potential for wage-cutting competition under these circumstances is obvious. The need for the wage stabilizing effects of the Davis-Bacon Act is equally apparent.

To exempt even a portion of the Federal public buildings construction from the Davis-Bacon Act and our other basic labor standards statutes under these circumstances would be an extremely perilous adventure. Under the guise of partial exemption, we risk further destabilization of the already rocky construction industry. We have a responsibility for assuring that, when the Government undertakes large-scale construction projects, such as our public building projects, these projects are not undertaken at the expense of the workers who labor on them or of the stability of the local construction market.

This amendment has the very real potential for disrupting the construction industry at a time of crisis for that industry. We could very easily see the already unstable construction industry racked by wage-busting and union-busting battles which we had thought were decades behind us. Members of minority groups and women, who are just beginning to make inroads into the construction industry job market, would lose the opportunity for meaningful participation in our public building initiatives.

At the same time, our vital public building construction projects could themselves be physically endangered by the utilization of unskilled workers that substandard wages would attract. Windfall profits would no doubt accrue to unscrupulous contractors who thrive on substandard wages and working conditions. The productive work of thousands of highly skilled construction workers would no doubt be lost in the resulting disruption of local economies.

The proposed amendment is fundamentally flawed in conception and design. Not only would it needlessly jeopardize the livelihood of construction workers and the survival of local construction industries, but it would accomplish no meaningful end. For example, the amendment purports the selection of a representative sample of public building projects to assess the costs of the Davis-Bacon Act and the other basic labor standards acts.

Yet, the projects constructed under S. 2080 are, by definition, public buildings such as office buildings, courthouses, and similar facilities. Projects selected from such a universe could in no way be representative of the Federal and federally assisted construction covered by Davis-Bacon and related acts, which include the broad breadth of construction ranging from residential construction to bridges, dams and highways.

Far from setting up a carefully controlled experiment, prospective bidders would submit their bids knowing in advance that the basic labor standards provisions would not apply. Such an approach would invite manipulation by contractors purposely underbidding costs in an effort to influence the outcome of the so-called study.

The amendment is further flawed by the absence of realistic controls on the number of projects or their time duration. By its terms, the amendment would allow the exemption of at least 10 percent of the projects authorized by S. 2080, with no upper limit provided and thus no upper limit on the number of workers whose livelihoods would be imperiled.

The Administrator of the General Services Administration would apparently have unbridled discretion to exempt any percentage of the projects above this level. Moreover, no time limits are specified in the amendment, suggesting that there would be no inner or outer limits for the duration of the authority for exempting projects.

While purporting to promote an objective study of the Davis-Bacon Act and related labor standard statutes, the amendment would not even propose a cursory attempt to measure the many benefits of these acts. For example, the amendment would make no attempt to measure the role of the Davis-Bacon Act and related labor statutes in helping to maintain the high quality of the construction labor force and equal opportunity in the construction industry by encouraging bona fide training programs on Federally-funded construction. The amendment would make no attempt to assess the role of these basic labor standards laws in helping to assure quality construction in Federally-financed construction programs. Yet, it has long been recognized that properly paid workers help to provide front end quality which helps to avoid future excessive maintenance, rebuilding, project defaults, and deteriorated living environments.

In addition, the proposal would obviously make no attempt to measure its costs in terms of disruption of local economies and destabilization of the construction industry resulting from the exemption that would be authorized.

But, perhaps the most fundamental flaw of this amendment is the callous disregard with which it would jeopardize the livelihood of workers on the exempted projects. In the interests of a patently invalid study, this amendment would needlessly deprive workers on the exempted projects from the fundamental protections accorded their counterparts in similar federally assisted construction. I believe that it would be a reprehensible public policy to engage in such inequitable and insensitive acts under the guise of experimentation, risking the well-being of workers for purposes of a purported "study."

Mr. President, this amendment is certainly not the narrow, carefully controlled study of the Davis-Bacon Act that its proponents would have us believe. It represents a broadening of the attack on our basic labor standards statutes.

Moreover, it would set a dangerous and unsavory precedent for so-called experimentation with the livelihood of our workers. Such an amendment would serve neither the public interest nor the construction industry and the workers in that industry. I urge that the Senate reject this amendment.

Mr. President, I applaud the thoroughness of the Senator from New York in addressing this amendment. I hope these remarks will help to adequately underscore the importance of this issue. We must resist exempting even a portion of our public buildings from the acts in a period of relative economic decline. We must assure that our Federal public buildings, the symbols of our Government, are also symbols of excellence and public responsibility in their construction.

If we take away the Davis-Bacon and Copeland Anti-Kickback Acts, the building that so proudly bears the symbol of the U.S. Government could easily become a symbol of the exploitation of those artisans who did the work.

That, to me, would not be the way I should want to look at a Federal building, knowing that it stood as a symbol of undercutting the community's stability in wages.

Mr. MOYNIHAN. Mr. President, we could not have made our case better than has the distinguished chairman. We are grateful to him for his work.

Mr. STAFFORD. Mr. President, I shall be very brief so that, if the Senators wish, we can get to a vote on this matter speedily. I am concerned about the presence of this possible amendment upon the legislation which we have worked so hard to bring together and before the Senate this morning.

I have some personal concern that the amendment is particularly inappropriate on this bill and that the purposes which the Senator from Iowa desires will not be readily or quickly served by placing the amendment on this bill.

The Senator from Vermont suggests that the amendment might fit better on a military construction bill or on a highway construction bill, where the construction program is large.

The fact is that there is not a single new construction project authorized in this bill beyond the amendments which have been accepted this morning by the Senate and that only about $82 million worth of alteration and repair is included in the bill. So the opportunity to test Davis-Bacon, I suggest to my good friend from Iowa, is not substantial in the legislation in front of us.

Let me make one last point: The Public Buildings Act of 1980, if the House agrees with the Senate—and I believe it will—will become permanent law. As I understand the amendment of the distinguished Senator from Iowa, that amendment, therefore, would also, in amending the act, become permanent law. It provides for no cutoff date for the 10-percent exemption.

If I could have the attention of the Senator from Iowa for just a moment to settle a point, I would say to my good friend that, the Public Buildings Act is to become permanent law—assuming it gets through all the legislative hurdles—and the amendment of the Senator from Iowa has no cutoff date. Did the Senator from Iowa intend that this 10 percent exemption serve without a cutoff date as permanent law, even though he is proposing this as a demonstration operation to ascertain the impact of Davis-Bacon?

Since the amendment has no cutoff date and would, inevitably, become a permanent part of the law as it is now in front of the Senate, I ask the Senator if he would care to clarify that for a moment before we get to the vote.

Mr. JEPSEN. The intention, in response to the question of the distinguished Senator from Vermont, of the amendment is not to make any permanent type of thing, but to establish the data. It is the opinion of the people who drafted this that it refers to the appropriations which are authorized pursuant to this act.

Mr. STAFFORD. Would the distinguished Senator want to limit the life of his amendment to 1, 2, or 3 years?

Mr. JEPSEN. The Senator from Iowa would do that, yes.

Mr. STAFFORD. The Senator from Vermont suggests that the amendment be modified by the Senator to have a termination date of 2 or 3 years.

Mr. JEPSEN. Mr. President, the Senator from Iowa suggests the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, I modify my substitute amendment at the desk as follows: In line 3, include after the word "percent," the words "but not more than 25 percent." That would read, then:

> The Administrator shall select at least 10 percent, but not more than 25 percent, of the projects for which appropriations are authorized—

The PRESIDING OFFICER. The Senator has the right to modify his substitute amendment.

The amendment, as modified, is as follows:

> In lieu of the language proposed to be inserted, insert the following:
>
> Sec. 805. (a) The Administrator shall select at least 10 percent, but not more than 25 percent, of the projects for which appropriations are authorized under this Act in each fiscal year for the conduct of the study required under subsection (b). In selecting projects under this subsection, the Administrator shall select a representative sample from such projects in each fiscal year which contains an equal distribution of projects by type of project, dollar amount of project, and geographic distribution of projects, including minority and small businesses representation.
>
> (b)(1) Notwithstanding any other provision of law, the Administrator shall carry out the projects selected pursuant to subsection (a) without regard to the provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; 40 U.S.C. 276c).
>
> (2) The Administrator shall monitor and record the costs of carrying out the projects selected under subsection (a) and the costs of carrying out all other projects for which appropriations are authorized under this Act for the same fiscal year. The Administrator shall compare and analyze the costs recorded pursuant to the preceding sentence and shall report to the Committees on Environment and Public Works and Labor and Human Resources of the Senate and the Committees on Public Works and Transportation and Education and Labor of the House of Representatives concerning the differences in costs incurred in carrying out, with and without regard to the provisions of law referred to in paragraph (1), projects for which appropriations are authorized pursuant to this Act.
>
> (c) The provisions of the Act of March 31, 1931, as amended, commonly known as the Davis-Bacon Act (46 Stat. 1494; U.S.C. 276a–276a-5), and the Act of June 13, 1934, commonly known as the Copeland Anti-Kickback Act (48 Stat. 948; U.S.C. 276c), shall not apply to any project selected by the Administrator under subsection (a).

Mr. JEPSEN. Mr. President, I do that in response to the remarks I made in my opening remarks. Again, I state that this is a study for facts. I said I would be willing to modify the amendment if it bothered some of my colleagues with regard to specifying at least 10 percent with no cap. I do not believe, as a practical matter, that would have affected it, but in the interest of assuring the good faith of this amendment, I do modify the amendment to that extent.

Mr. President, I yield to Senator Pressler from South Dakota.

Mr. PRESSLER. Mr. President, I rise in strong support of the Jepsen amendment.

Mr. President, I am pleased to join my distinguished colleague from Iowa, Senator Jepsen, in sponsorship of his amendment to S. 2080, which provides for a test of the inflationery effects of the Davis-Bacon Act.

This amendment would require the General Services Administration to annually select a representative sample consisting of 10 percent of the buildings to be constructed under authority of S. 2080, to be exempt from the requirement of Davis-Bacon.

The amendment further provides guidelines for the careful selection of the 10-percent sample so as to make certain that comparisons can be made on similar buildings, constructed under similar circumstances. Cost comparisons on those projects required to meet the prevailing wage requirements on the Davis-Bacon Act and the 10 percent that are exempt would then be available to demonstrate the actual costs of this act.

This would provide, for the first time, selected by GSA, so that the Members of Congress and the public will know the increased taxpayer costs due to the wage provisions of the Davis-Bacon Act.

Mr. President, I believe this to be a moderate proposal, affecting only a small number of the total construction projects that are federally aided, that would provide the needed data and information to help resolve the controversy over this act.

Past attempts which I have supported to reform Davis-Bacon have failed. This is in spite of the Government Accounting Office's report in which the U.S. Comptroller General estimated that repeal of this act would save the taxpayers many millions of dollars annually.

Mr. President, the Comptroller General recommended in his report of last year that the act should be repealed because—

> Significant changes in economic conditions, and the economic character of the construction industry since 1931, plus the passage of other wage laws, make the act unnecessary.
>
> After nearly 50 years, the Department of Labor has not developed an effective program to issue and maintain current and accurate wages determinations; it may be impractical to ever do so.
>
> The act results in unnecessary construction and administrative costs of several hundred million dollars annually (if the construction projects reviewed by GAO are representative) and has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole.

I am fully aware of the opposition which is present to repeal of Davis-Bacon, particularly as represented in past votes in the Senate. That is why I have encouraged Senator Jepsen in his proposal. The measure before us does not repeal the act but would give us concrete data upon which to cast future votes. It could provide the answer of the questions of opponents of reform of Davis-Bacon.

During the Great Depression, many local construction workers were being displaced by migrant workers who were willing to work for lower than normal wages. So, in 1931, the Davis-Bacon Act was enacted to protect local construction workers' jobs by discouraging the employment of itinerants on federally financed or federally assisted construction projects of over $2,000.

Davis-Bacon, the Nation's first Federal law affecting minimum wages for private sector employees, required the Secretary of Labor to determine prevailing wages in areas where Federal construction was to take place. Wages paid to workers on these Federal jobs could not legally fall below prevailing wage levels determined by the Labor Department.

Because of difficulty in collecting wage data, the Labor Department's prevailing wage determinations have often been erroneous. In many cases, the Labor Department has determined prevailing wage rates for nonunion rural areas on the basis of union wages in urban areas more than 100 miles away. The chief result of these erroneous determinations has been serious inflation in the construction industry. Instead of preventing local wages from being undercut, Davis-Bacon has actually forced wages upward. And instead of insuring that Federal contracts would go to the local contractor, the act has tended to give advantage in bidding to larger, urban contractors at the expense of the small local contractor.

Mr. President, conditions which existed nearly 50 years ago are quite different today. Therefore, I think it is entirely reasonable to examine this provision of the law. The measure which I am cosponsoring is a proper step in this direction. I urge its most serious consideration by my colleagues.

Mr. JEPSEN. Mr. President, did somebody ask for recognition?

Mr. RANDOLPH. Mr. President, if it is agreeable.

Mr. JEPSEN. The Senator is privileged to yield the floor for remarks by the distinguished Senator from West Virginia (Mr. Randolph).

Mr. RANDOLPH. Mr. President, Senator Jepsen, who offered this amendment and has now modified his amendment, is a Senator whom I have often listened to very carefully in connection with legislation he has sponsored, or supported, or opposed, in this body.

I cannot agree to a modification of the amendment any more than I can agree to the amendment as it was originally presented.

I do not feel, that on this type of legislation, we should dip into the Davis-Bacon Act.

It would move toward the elimination of the basic purpose of the act itself.

I have memories of those days when President Herbert Hoover signed this legislation into law. That was on March 3, 1931. It has been my privilege to be on the Hill 37 years of that 50 years since the beginning of the act.

I have served as a member of the Labor Subcommittee, as our able chairman of the committee, Senator Williams knows since 1959. I served on the Labor Subcommittee in the House of Representatives for 15 years. I have, I think, appreciation of not only the Davis-Bacon Act as the law, but the important contribution that law has made to the productivity and the efficiency in the construction industries.

It has provided a sound framework for stability in labor relations in a previously volatile industry.

The considerations which motivated the Congress to bring into being the Davis-Bacon Act, and that was 1931, remain.

I do not believe we should attempt to modify it. I know it is well intentioned, that the Senator from Iowa wants to modify it. It is a questionable approach that I cannot endorse as sound public policy.

If we are to amend the Davis-Bacon Act, or defeat it, let us bring it in the Senate and have a full-dress debate on it.

I question whether it is reasoned to strip the protections of the act from any group of workers to conduct, and I say this kindly, an experiment while our Department of Labor is moving ahead with a research project in conjunction with the Office of Management and Budget and the Council of Economic Advisers, to develop answers to questions concerning the effects of the act, which the purported experiment advocated by this amendment would seek to answer.

The stability engendered by this act has facilitated the development of apprenticeship programs.

It has augmented the quality and efficiency of production in the construction industries.

The act merely identifies wage and fringe benefit rates prevailing locally and requires that Federal construction conform to the local standards, we must realize that. As such, the act not only protects workers, but also responsible contractors that are working on Federal contracts.

I hope that the amendment, or the modified amendment, will not be approved.

I am grateful for the opportunity to add my words to this subject matter.

Mr. METZENBAUM. Mr. President, I rise to express my strong opposition to this amendment which exempts at least 10 percent of the projects carried out under provisions of this bill from the Davis-Bacon Act.

The purpose of this amendment, as stated by its sponsor, is to determine the construction cost differential of such an exemption. However, the amendment is yet another thinly veiled assault on Davis-Bacon. The sponsor of this amendment states further that by adopting this amendment we can finally put to rest the debate on Davis-Bacon. The Senate has expressed its will on numerous occasions regarding this issue. On each occasion the Senate has decided that Davis-Bacon was to remain in effect for all Federal construction.

Mr. President, I doubt whether any amendment could be introduced at such an inopportune time.

Currently, unemployment among construction workers is running at 17 percent and it is projected to climb to 24 percent by October.

The average wage has been eroded by inflation.

And the housing industry is in a nose dive as a result of this administration's monetary policy.

It would be cruel and harsh to the 4 million building and construction trades workers to experiment with their livelihood while they are taking the full brunt of this programed recession.

The Davis-Bacon Act tends to remove the destabilizing effects in this otherwise fragmented, seasonal and cyclical industry. We should not use Federal funds to further destabilize an already crippled industry. The long-term effects could be much graver than anticipated by the sponsor of this amendment.

At first glance this amendment seems to apply to only 10 percent of the projects. But in fact, the amendment gives the Administrator of GSA discretion to go far beyond this seemingly modest level. The only guidance given to the Administrator is to take a representative sample of all projects and make sure there is an equal distribution by type, dollar amount and geographic distribution. In theory, 50 percent of all projects could be exempt from Davis-Bacon for experimentation under this amendment.

The impact of such experimentation could lead to a disruption of local wage and construction market conditions, deterioration of a high quality labor force and a general decline in quality construction.

The purpose of Davis-Bacon is as valid today as when it was passed in 1931. That purpose was to prevent the Federal Government from causing or contributing to the erosion of established local wage conditions through its construction programs.

It has been stated that by exempting construction projects from the Davis-Bacon Act, the Government would realize large savings. And it has been argued that it is in the public interest to build Federal construction with the cheapest labor available. This could not be further from the truth if the results are:

Limiting opportunities for minorities; labor unrest and a decline in the productivity and quality on Federal projects.

It is inconceivable that an action by the Federal Government which would produce these reactions could be in the public's best interest.

Mr. President, there have been numerous attempts to repeal Davis-Bacon. However disguised, these attempts are not in the best interest of this country's working people and contribute further instability in an industry that is already carrying more than its fair share of sacrifices. For these reasons, I urge my colleagues to reject this ill-advised amendment.

Mr. THURMOND. Mr. President, I am pleased to support the amendment offered by Senator JEPSEN, exempting at least 10 percent of the projects authorized under this act from the Davis-Bacon Act and certain other statutes.

Mr. President, I have long advocated that the Davis-Bacon Act should be repealed or substantially modified. A recent Government Accounting Office study noted that the act should be repealed because:

First, the economic character of the construction industry has changed.

Second, other wage laws make the act unnecessary.

Third, the Department of Labor has not developed an effective program to issue and maintain current and accurate wage determinations.

Fourth, the act results in unnecessary construction and administrative costs.

Fifth, the act has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole.

Mr. President, we have often debated here in the Senate the increased cost considerations of the Davis-Bacon Act. It has been estimated that the Davis-Bacon Act adds approximately $700 million annually to the cost of Government construction projects alone and an estimated $1.8 billion in higher construction costs in the private sector. The amendment offered by Senator JEPSEN would require that a study be undertaken to compare and analyze the comparative costs for projects completed under the provisions of Davis-Bacon and those exempted from such coverage.

This amendment would provide for an objective study of the effectiveness and appropriateness of the Davis-Bacon Act. and I urge my colleagues to support this amendment.

Mr. MOYNIHAN. I move to table the amendment of the distinguished Senator from Iowa and I ask for the yeas and nays.

Mr. JEPSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator from New York specify which of the two pending amendments he wishes to table?

Mr. MOYNIHAN. I wish to table the amendment as modified, is that the purpose of the Chair's inquiry?

The PRESIDING OFFICER. It is a first degree amendment, and a second degree amendment, as modified.

Mr. MOYNIHAN. I wish to table—may I suggest the absence of a quorum, Mr. President, as there is a procedural matter to be settled——

The PRESIDING OFFICER. Does the Senator withhold his motion to table?

Mr. JEPSEN addressed the Chair.

Mr. MOYNIHAN. Mr. President, it appears to me that I may have been unintentionally discourteous to the Senator from Iowa who wished to speak some more. If that is the case, I withdraw my present motion.

When I make it, it will be to table the amendment in the second degree. But I will not make it until the Senator from Iowa has had the opportunity to conclude his statement.

Mr. JEPSEN. I thank the Senator from New York.

Mr. President, I will be brief. I want to bring this to a vote.

The issue is not whether we do another study based on existing data. The GAO and others have done studies.

My amendment, very simply, honestly,

and fairly, is to create hard data through controlled experiments which will settle this issue once and for all.

Mr. President, I now ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second on the request of the Senator from Iowa?

Mr. MOYNIHAN. Mr. President, I move to table the amendment in the first degree.

Mr. JEPSEN. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. On the tabling motion, it is my purpose it be directed to the amendment in the first degree.

The PRESIDING OFFICER. And has the Senator asked for the yeas and nays?

Mr. MOYNIHAN. I believe the Senator from Iowa did me the courtesy of asking for me.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, before the rollcall commences, I express my deep desire that no unintentional discourtesy was shown the Senator.

The PRESIDING OFFICER. Debate is not in order on the motion to table.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. JEPSEN. The yeas and nays had been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment in the first degree of the Senator from Iowa. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Georgia (Mr. Talmadge), and the Senator from Iowa (Mr. Culver) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. Huddleston) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) would vote "yea."

Mr. BAKER. I announce that the Senator from Maine (Mr. Cohen), the Senator from Missouri (Mr. Danforth), the Senator from New Mexico (Mr. Domenici), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Levin). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 48, nays 34, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—48

Baucus
Bellmon
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Durenberger
Durkin
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stewart
Tsongas
Weicker
Williams
Zorinsky

NAYS—34

Armstrong
Baker
Boren
Boschwitz
Byrd, Harry F., Jr.
Cochran
Dole
Exon
Garn
Hatch
Hatfield
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Percy
Pressler
Pryor
Roth
Schmitt
Simpson
Stennis
Stevenson
Stone
Thurmond
Wallop
Warner
Young

NOT VOTING—18

Bayh
Bentsen
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Gravel
Huddleston
Kennedy
Long
McGovern
Stevens
Talmadge
Tower

So the motion to table Mr. Jepsen's amendment (UP No. 1212) in the first degree was agreed to.

The PRESIDING OFFICER. The motion to table is agreed to, which takes with it the second-degree amendment.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1214

(Purpose: To add funds for construction of courthouse and federal building)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford), for himself and Mr. Huddleston, proposes an unprinted amendment numbered 1214.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 8, delete "$2,279,690,399" and insert in lieu thereof "$2,286,628,399"; and on page 83, line 13 delete "$15,792,000" and insert in lieu thereof "$22,730,000"; and on page 83, following line 20, amend section 803 (a) (1) (A) by adding to the list:

"Kentucky, Ashland........... $6, 938, 000"

Mr FORD. Mr. President, this amendment is offered on behalf of Mr. Huddleston and myself. Mr. Huddleston is unable to be here and I wish for the remarks I am about to make to be credited to the senior Senator from Kentucky.

Those remarks are as follows:

This amendment provides for the construction of a new Courthouse and Federal Building in Ashland, Kentucky at a cost of $6,938,000 Construction of this facility is needed to consolidate and provide adequate space for federal agencies and operations of the U.S. District Court for the Eastern District of Kentucky.

The present courthouse, built in 1910 and located six miles west of Ashland, in Catlettsburg, Kentucky, is unsafe and totally inadequate for normal court proceedings. There are no fire escapes in the building and ingress and egress is by means of one stairway or small elevator.

There is also no space for consultation rooms for counsel or assembly room for jurors. Consequently, jurors often come in contact with defendants, witnesses and the public. Security and the ability to insure a fair trial are severely compromised under these conditions.

The Catlettsburg Courthouse could not be made adequate or safe without major renovation. However, General Service Administration personnel determined in 1972, while performing minor remodeling, that total renovation was not warranted owing to the limited space and weight bearing capacity of the structure.

I strongly urge the Senate to endorse the Management Review recommendations of the Administrative Office of the U.S. Courts and to approve this amendment.

Mr. President, I ask unanimous consent that a statement by Judge Howard Hermansdorfer, of the U.S. District Court for the Eastern District of Kentucky, testifying to the urgent need for the courthouse, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Management Review of the United States District Court for the Eastern District of Kentucky

CATLETTSBURG

Court offices are located on the second, third, and fourth floors of the United States Courthouse and Post Office Building. This is a four-story building with the postal service occupying the first floor.

A lack of adequate space presents a critical problem in the Catlettsburg facility. No space is available for consultation rooms for counsel or an assembly room for jurors. It is not uncommon to find the jurors standing in the public corridors outside the courtroom while the court hears motions or evidence which must be outside the jurors' hearing. During this period there is no insulation of jurors from public contact, with the jurors in many instances standing shoulder to shoulder with defendants, witnesses, and members of the public. Furthermore, it is not uncommon to find prisoners escorted by the United States Marshals' Service past the jurors who may be standing in the corridors. The only access to the marshal's office is through common stairs and elevators which compromise security and a fair trial for defendants. The women's restroom facility located on the third floor was also inadequate. The facility contains only a single toilet and when court is in session it is used not only by court employees, but by jury members, counsel, spectators and witnesses.

The Catlettsburg facility underwent some minor renovations in 1972, at which time General Services Administration personnel determined that major renovations could not be completed because of space limitations and the limited weight bearing capacity of the facilities. Plans for construction of a hearing room for the full-time magistrate were also drawn under the direction of General Services Administration in 1976. No progress has been made toward completion of this project.

The Catlettsburg facility is totally inadequate and cannot be made adequate, safe, or comfortable without a total remodeling of the present building which is over 68 years old. An alternative to this would be to recent act of Congress, Public Law No. 95–408, authorized the holding of court at Ashland. Space requirements for a new courthouse at Ashland, six miles west of the present courthouse at Catlettsburg, have been forwarded to the Administrative Office of the United States Courts, with approval reccmmended by the United States Court of Appeals of the Sixth Circuit. The Administrative Services Division of the Administrative Office is presently looking into these matters.

RECOMMENDATION

That the court request the Administrative Services Division to keep judicial personnel advised of the progress being made towards meeting the space and facilities needs in Catlettsburg, including the possible construction in the future of a new courthouse in Ashland.

Mr. FORD. Mr. President, I endorse the amendment offered by my colleague, the senior Senator from Kentucky. In April the House Committee on Public Works and Transportation unanimously approved the prospectus for construction of a new Federal building at Ashland, Ky., and I urge that the project be approved on this side of the Congress.

As detailed in the report of the General Services Administration, construction of a new courthouse and Federal office building is needed to provide court facilities and to consolidate Federal activities in the county. The courthouse is most urgently needed.

A compelling factor is the high rate of unemployment in the Ashland area. In January the rate was 8.8 percent. The construction project would employ an average of 20 persons at all times and would generate a sizable cash flow within the community.

The project would cost a little under $7 million and would bring lasting benefits to an area that carries a large share of the burden of producing energy for this Nation in its pursuit of energy independence.

Mr. MOYNIHAN. Mr. President, I rise to state that this side of the aisle considers this a sound and necessary proposal which we hope will be adopted.

Without repeating at length a statement made earlier today, I call attention to the fact that this is both a courthouse and Federal office building. It will have mixed use.

Nine scattered lease sites will be consolidated. But the point I would like to repeat is that when Congress adopted the Omnibus Judgeship Act 2 years ago, it fell to our committee to provide space, appropriate space, for the Federal judgeships so created. It increased the number of judges by about one-quarter. We have seen in our committee that we have a constitutional responsibility at least of comity to the judicial branch of the Government that, having established the judgeships, it follows that we will provide the courtrooms and the chambers. We are happy to do this in Ashland, in eastern Kentucky. It is an altogether appropriate measure; it has the support on this side, and I think it will, too, have that of my distinguished associate.

Mr. STAFFORD. Mr. President, for the benefit of the distinguished Senator from Minnesota, the total cost is $6,938,000; the gross square footage involved for the courthouse and Federal office building and surface parking for 50 vehicles will be 62,040, the occupiable space will be 41,000 souare feet.

Having said that, if the Senator from Minnesota has no other questions, the Senator from Vermont would accept the proposed amendment on behalf of the minority.

Mr. FORD. I will say to both of my colleagues that since 1972 this building has been inadequate, without fire escapes. The jurors mingle with the witnesses and the general public, and now we have three additional judges in that area since that time, and for 8 years this has been a fire hazard, a fire trap. A fair trial is very, very important in my view, and this particular courthouse has not been the type of building for this type of operation that——

Mr. MOYNIHAN. We thank Senators FORD and HUDDLESTON. We thank them for the adequacy of this modest project.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1215

(Purpose: To include authorization of funds for major renovations and repairs of the Little Rock, Arkansas Federal Post Office-Courthouse)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1215.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, line 6, strike out "$232,670,399" and insert in lieu thereof: $240,850,399".

On page 84, after the matter following line 10, add the following:

"Arkansas, Little Rock Federal Post Office-Courthouse ------------------8, 180, 000".

On page 83 , line 8, strike out $2,279,690,399" and insert in lieu thereof $2,287,870,399".

Mr. BUMPERS. Mr. President, this amendment is very similar to the one the Senator from Kentucky proposed and which the Senate just adopted.

Mr. MOYNIHAN. Mr. President, we do not have order, and the Senator from Arkansas is speaking on a very important matter.

The PRESIDING OFFICER. The Senator is correct. Will the Senator from Arkansas withhold for a moment. The Senate will be in order.

The Senator may proceed.

Mr. BUMPERS. Mr. President, we have a U.S. post office and courthouse in Little Rock. It is all combined in one building. We have three courtrooms and we now have four district judges full time, one on senior status carrying a full caseload, and soon, hopefully, we will have another judge confirmed. That gives us six judges and three courtrooms.

What we are asking for here is about $8.1 million to build additional courtrooms. The precise figures are: for the courtrooms and the extension of the building $3,610,000; for the renovation of the building $4,570,000; or a total of $8,180,000.

It is crucial. We are trying to clean up the caseload there. We have the judges but we do not have the facilities to try these cases. GSA is ready to go on this, as the distinguished floor manager knows.

Mr. MOYNIHAN. Mr. President, as I said before, I am happy to repeat the fact that there is a pattern for the projects we are taking up today. The Senator from Arkansas, the distinguished senior Senator and former Governor, is uniquely qualified to speak to the concerns of the capital of Arkansas; he knows that this project was in the 1979 budget request of the General Services Administration. It ran into the 15-month moratorium which we imposed on new projects as we developed the Public Buildings Act which we have before us today.

The validity and the desirability of the project have never been questioned in our minds. Once again I draw attention to what I believe to be the shared view of the committee of the responsibility of Congress to its coequal branch, the Federal judiciary, to provide suitable and appropriate accommodations for Federal judges wherever they sit.

In the present instance, although it might seem to some that we are adding courthouses here and courtrooms there, it is not so simple as that. Yes, 2 years ago we increased the size of the Federal judiciary by approximately one-quarter, but we did so after a decade in which there has been no increase of any kind.

It, therefore, thereupon fell on the Committee on Public Works to provide the facilities for our new judges. We conducted hearings on this matter last July and heard testimony from many distinguished Federal judges, among them Judge Robert E. Maxwell, who hails, as they say, from Elkins, W. Va., the hometown of our beloved chairman (Mr. RANDOLPH).

This is not an option with us. This is our responsibility which derives from the power to create judges, and the responsibility to see that their emoluments are not reduced while they are in office. Their tenure is for life. For my part, and I am sure for my distinguished associate in these matters, I am quite prepared to accept this amendment and am happy to do so.

Mr. STAFFORD. Mr. President, for the minority I have listened to the description of the building in question and we are prepared to accept the amendment.

Mr. MOYNIHAN. Would the Senator from Minnesota like to know the square footage?

Mr. BOSCHWITZ. I would like to know the square footage.

Mr. MOYNIHAN. This is not as easy as it can be because the existing building has 141,000 square feet. We are adding occupiable space of 19,800. There is to be an extension of the existing building, as well as renovation of an existing building.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. I want to thank both of the floor managers for their assistance.

Mr. MOYNIHAN. I thank the Senator.

Mr. DURENBERGER. Mr. President, before moving to vote on the bill, and while the discussion on Davis-Bacon and its relationship to the construction of Federal buildings is still fresh in our minds, I would appreciate——

Mr. MOYNIHAN. Mr. President, I hesitate to interrupt, but the Senator from Minnesota wishes to have a colloquy and not be heard by himself. We are anxious to hear him if Senators would only listen to him.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURENBERGER. Mr. President, I have a few brief comments and several questions about Davis-Bacon and its implications.

I do not believe there is any issue of public policy which has caused me more concern since I have come to the Senate. I think the concern was pointed out fairly well in the debate which took place on the amendment proposed by the Senator from Iowa. It is a constant effort to find and evaluate the facts, particularly on an issue as complex and controversial as the Davis-Bacon Act. What are the facts? What is a prevailing wage? How are wage determinations made, and on what are they based?

This absence of information, this absence of fact, in either a particular or a general case, has, in my opinion, unfortunate consequences for what I believe was and still is a good public policy, the issue of prevailing wage.

On several occasions in the last 1½ years I have supported efforts to maintain Davis-Bacon even though I was strongly tempted to go the other way because somehow a message needs to get through to those people in Government who are responsible for providing facts, who are responsible for making timely determinations based on facts, and who are responsible for applying this public policy in a way that is relative to specific parts of my State and to specific communities all over this country.

So again today, because I did not believe that the Jepsen amendment would provide a true test of the impact of Davis-Bacon, because I did not believe that it was an accurate basis for prospective bidders to do what the Senator believed should be done, and because I felt it was somewhat dubious public policy and inequitable to deny necessary labor protections to even a small segment of affected labor, I voted in favor of the motion to table.

My question is: What is going on in this Government? What is going on in the appropriate department of this Government with the responsibility for carrying out this very important public policy to determine fact, to do something about the equitability of rate determination, particularly in rural areas of a State, to look at alternative methodology for making these determinations? If it is appropriate, I would address that general question to the manager of the bill.

Mr. MOYNIHAN. It is certainly altogether appropriate. The senior Senator brings to this subject the honest perplexity and open spirit of inquiry which either elicits or produces intellectual disaster.

Earlier I had the occasion to say that as Assistant Secretary of Labor under the administration of Presidents Kennedy and Johnson, I seriously considered the matter. I was very skeptical about it. I then began to find its perplexity.

May I say this was not formulated in the minds of a certain type of person as a New Deal measure to support the building trades.

It was, in fact, a Hoover administration proposal to maintain the stability of local contractors at a time when there was a great deal of mobility and a sheer desperate search for work by all kinds of persons. So much for the uninherited unwisdom.

The thing about the Davis-Bacon Act is that it will apply to circumstances so very different. The Federal Government subsidizes in some measure about 10 percent of the residential construction in this country. Residential construction is not a unionized activity. The prevailing wages are overwhelmingly those of the nonunion work force.

However, the construction of a courthouse in the capital of Arkansas the Senator may be sure will be a building trades enterprise, as it would be in any other city.

I can tell the Senator this will never be resolved simply as an issue of principle. It is always an issue of fact as well as of principle.

The Department of Labor has organized a study. The Secretary of Labor wrote us to this effect. It was not a very good letter and I doubt that the Secretary of Labor ever saw it. He did not tell us much. It took two pages to tell us nothing, as a matter of fact.

We have talked to the Department. They have set aside from their research funds about $2 million for this study. It will take longer than I had hoped, about exactly what the junior Senator from Virginia thought. He said 3 years and the estimate is 30 to 36 months. It is not too long a period for a serious study which is so fundamentally empirical. You just have to go out and ask: "How much do you pay the glazier? How much do you pay the plumber?"

We will get that work done. I do not think it is likely to come in with a yes-no answer. We will get a big study, but I think you can honestly have the study.

The question is, does it serve to inflate building costs above what they would be? If that is so, how much? If that is not so, let us hear that. What other benefits and costs are associated?

We may be sure there are costs and we hope there are benefits. A public policy which has sustained itself for half a century has a certain claim on our respect and our skepticism.

I do not know that I can honestly give the Senator a better answer to what are very open and to my mind admirable inquiries.

Mr. DURENBERGER. Let me ask a clarifying question. In the course of the Senator's exchange with the Department of Labor, does it appear to be their intent to look at specific areas of the country, specific geographical locations, and to determine by wage survey of all mechanics in construction from this sort of example, if you will, or this test, if you will, information about wage distribution?

Mr. MOYNIHAN. It is my understanding that that is the basic pattern. I would like to suggest to the distinguished Senator that that is what the Congress is for. If that is what we want, that is what we should ask for. We will have to appropriate the money, approve projects, and review the results.

Is it his judgment that that is how it should proceed—that, at a minimum, we begin with that basis? It would be mine. I should like to make it a part of the legislative history of this bill that we expect, inter alia, that this is what will come out of this study.

Is that the kind of approach the Senator would like to see?

Mr. DURENBERGER. Yes, very definitely.

I think, Mr. President, there are other areas of need. Just the basic impact that Federal construction has on wage rates in a given area is also important information. I think the principal thing, however, is that all of this shows to someone that there is a better way to make the determination involving prevailing wage than the one that exists at the present time.

My only concern, and perhaps the Senator from New York has explained this concern, is whether or not the Department of Labor is the best place to undertake this kind of study.

Mr. MOYNIHAN. May I say first the study would be contracted out. But second, the Department is an absolutely superb place for getting the information and obfuscating the results. All you have to do is read the information and you can have your own results.

Mr. DURENBERGER. Would the information, as well as the obfuscation, be shared with the Congress of the United States?

Mr. MOYNIHAN. The one thing I can say is that the numbers that come out of the Department of Labor are straight. They are the oldest series we have in the Federal Government, the oldest economic series. They work the family budget figures and so on. They have an impeccable reputation for integrity in data and for obfuscation in analysis.

Mr. DURENBERGER. I thank the Senator very much.

Mr. MOYNIHAN. Mr. President, I should like to make it part of the legislative history of this act that what the Senator from Minnesota has asked is part of the expectation of this body. I ask the ranking member to indicate his agreement to that—he has.

We shall send this information tomorrow to Mr. Nik B. Edes, the Deputy Under Secretary for Legislation, and ask that he understands this to be the understanding of the U.S. Senate and the expectation, if the cloud cover could lift just a little bit on the analysis—we must not ask too much at once from a very old Department—but just a little bit.

I suggest to the Senator from Minnesota that when he gets short of patience with the Department of Labor, he spend a little time with the Department of State.

Mr. DURENBERGER. Mr. President, I thank the Senator from New York and share his commitment.

I share one other thing; that is, that in light of this dialog, this colloquy that has taken place, I am sure none of us is going to wait with bated breath for the end of the 30th or 36th month, and each of us will continue his own individual efforts to change the way the Depart of Labor administers this important building policy.

I thank the Senator very much.

Mr. MOYNIHAN. The committee is in debt to the senior Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I should like to speak on the bill and ask the distinguished floor leader of the bill and the ranking minority member some questions as I go along.

I see the senior Senator from Colorado standing. Does he wish to speak at length?

Mr. HART. If the Senator will yield, it was the purpose of the Senator from Colorado to offer a brief amendment, which is acceptable to both the majority and minority sides. I shall do that at whatever time is convenient. It will take but a moment or two.

Mr. BOSCHWITZ. Fine. I should like to preserve my position, then.

UP AMENDMENT NO. 1216

Mr. HART. I thank the Senator from Minnesota.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself and Mr. CHILES, proposes an unprinted amendment numbered 1216.

Mr. HART. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 61, After line 6, insert the following: (6)

(a) The Administrator of the General Services Administration, in consultation with the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, and other appropriate agencies shall—

(1) establish practical and effective methods for estimating and comparing life cycle costs for energy intensive products used in Federal public buildings including, but not limited to, products listed in paragraph (1) through (14) of section 322(a) of the Energy Policy and Conservation Act (PL 94-163).

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

(b) When acquiring energy intensive products for use in Federal public buildings, the Administrator of General Services shall, whenever practicable and in accordance with the methods established under subsection (a), acquire the product having the lowest life-cycle cost.

(c) Two years after the date of enactment of this Act, the Administrator shall report to Congress on the feasibility of extending life cycle costing procurement methods to items other than energy intensive products.

On Page 53, after line 18, insert the following:

(14) The term "life cycle cost" means the total cost of an item to the Government during the time of ownership, including its fuel and energy costs, taking into account the costs of acquisition, operation, maintenance, support, and disposal or replacement, as far as these costs can reasonably be determined;

Mr. HART. Mr. President, I wish, first, to thank my friend from Minnesota.

I also thank the Senator from New York who has labored on an innovative and pioneering piece of legislation. It represents a great deal of personal effort on his part. I think all Senators are appreciative of his willingness to delve into an area that has been neglected in the past and, really, to innovate and break some new ground. I, for one, want to add my word of thanks.

Mr. President, this bill seeks to establish Federal policies on buildings that would be designed to promote economy productivity and energy efficiency. I am proud to be a cosponsor of the legislation. What I should like to do with this amendment, Mr. President, is add to the bill energy efficient life cycle cost standards for energy intensive products which the Federal Government buys for use in those Federal buildings.

I am pleased to be joined in this effort by the Senator from Florida (Mr. CHILES). As Chairman of the Senate Subcommittee on Federal Spending Practices, he, of course, has a long record of leadership in this area.

Mr. President, as I have said, I commend Senator MOYNIHAN for the legislation he has brought to the Senate floor today, which establishes Federal public building policies designed to promote economy, productivity, and energy efficiency. I am offering this amendment which, like the bill, will reform and substantially improve the way the General Services Administration spends the taxpayers' money. This amendment, nearly identical to legislation I introduced in 1976 and 1977, will require the Federal Government, whenever practicable, to purchase articles that consume large amounts of energy on the basis of the lowest total long-run cost of ownership to the Government, instead of merely on the basis of cheapest initial price. This procurement technique, known as life-cycle costing, will save money, reduce energy consumption, and encourage the commercial development of more energy-efficient consumer goods.

Life-cycle costing is a technique whose time has come. It provides a means by which a potential buyer can determine and compare, in advance of purchase, the alternative costs of owning and operating various models of a particular item over its entire lifetime. It forces the purchaser to consider the expenses involved in buying, operating, maintaining, and disposing of a particular product throughout its useful life, rather than make a decision based solely on its initial cost.

For example, in an experimental procurement run by the Federal Supply Service for the purchase of air-conditioners, one model was offered to the Government for the price of $300. Another model was slightly more expensive and cost $301.19. Under the old method, the supposedly cheaper model would have been bought, but it would not have been the best buy. When an evaluation of operating costs was conducted, the cheaper air-conditioner had an operating cost of $436, whereas the slightly more expensive model cost only $304 to run. In this rather dramatic case, the Government by buying the slightly more expensive model, actually saved over $100 for each air-conditioner.

Mr. President, an experimental program underway at GSA since 1977 has demonstrated that substantial savings can be reaped from the use of life-cycle costing. GSA estimated that it has saved some $4 million by purchasing just a few consumer products—refrigerators, air-conditioners, and water heaters, for example—on a life-cycle basis. But independent evaluators from the Stanford Research Institute believe that the savings from this pilot program have been grossly underestimated. They estimate that $15 million or more has already been saved and that the potential for additional savings is enormous. By mandating, rather than merely permitting, life-cycle costing procedures to be applied whenever practicable, the Government can benefit on a broad scale from lessons already learned.

Substantial progress has already been made in promoting the life-cycle cost technique. In the National Energy Conservation Policy Act of 1978, the Congress mandated that the life-cycle cost method be used by GSA in making decisions about the design and construction of all new Federal buildings.

The amendment I offer today, requiring the Federal Government to use life-cycle costing when procuring energy-intensive products, such as air-conditioners, furnaces, water heaters and other items, used in Federal public buildings, represents a sound and logical next step forward.

Since 1978, the Department of Energy has worked very closely with the National Bureau of Standards in devising methods for calculating and applying life-cycle costing guidelines for Federal building construction. A great deal of progress has been made in the complex task of devising means of calculating life-cycle cost guidelines. Moreover, since 1977, GSA has been training Federal purchase agents in life-cycle cost analysis and its application. The Federal Government is ready to adopt the economic and energy-efficient approach embodied in this amendment.

It should be noted that Public Law 94–163, the Energy Policy and Conservation Act, passed by this body in the 94th Congress, requires the National Bureau of Standards to develop tests that will show the annual operating costs of 14 different categories of energy-intensive goods. It is these very 14 classes of goods that are covered by this amendment. Since the Government is already paying for the research in order to help consumers make more informed buying judgments, the Government should also take advantage of this information, in order to make the best buys possible.

Mr. President, one of the most important aspects of this life-cycle costing amendment is that it will require the Government to take into consideration the amounts of energy utilized by the products it purchases. Apart from initial purchase price, spending for energy represents the major outlay for such products. Life-cycle costing will encourage research and development of energy-efficient products because products that waste energy will not be purchased by the Federal Government.

The more efficient consumer goods that this research will produce will benefit every citizen, and will decrease our reliance on foreign sources of energy. The days of unlimited cheap energy are behind us. At a time when this Nation remains heavily dependent upon foreign oil, it is vital that we inject this awareness into the Federal procurement process.

Mr. President, high rates of inflation and increased energy costs have forced every American family to purchase energy-intensive consumer products more carefully and to seek the best buy. It is time to impose that same sense of discipline and prudence on the Federal Government. That is what this amendment will do, and I urge my colleagues to support it.

This amendment is a modest step, Mr. President, in the direction I think we ought to be going. The Federal Government ought to be the pioneer in this area. It will stimulate the techniques of life-cycle costing which this country is going to need in the eighties and nineties.

Congress mandated, in the Energy Policy and Conservation Act of 1978, that the life-cycle costing method be used by the GSA in making decisions about the design and construction of new buildings. This amendment represents a step forward in that effort in Federal public buildings.

I hope the committee can accept this amendment, Mr. President. I appreciate their consideration of it and I urge its adoption.

Mr. MOYNIHAN. Mr. President, I rise only to take the most gentle exception to the remarks of the Senator from Colorado that this is a modest proposal. It is anything but a modest proposal. It is a new idea and a very powerful idea, one that, as he knows, as a sponsor of the legislation before us, is wholly consonant with the effort we make in the legislation at large to think in terms of life cycle, in terms of the full experience of the leasing or the constructing of buildings.

Public buildings are not small things; they are not passing phenomena. They are what most civilizations are remembered for, as a matter of fact—or forgotten. If we go around as we grow up in life, what are we told to do to see what happened in life? We are told to go around and see the public buildings of previous civilizations. Whether anyone will want to see ours, we do not know.

We have tried, as my friend from Vermont said, to introduce the concept of truth in leasing. We have previously acted as if, when we lease a project—the public accountants have said that while we only have to carry the year's cost of leasing, we have to carry the life cost of constructing. So, we find ourselves on the edge of having almost $1 billion of rent to pay each year.

Life cycle costing for energy-potential projects is a compatible, parallel, and supportive idea to the purpose of this legislation. I think it is an innovative idea. I think the Senators from Colorado and Florida are to be congratulated. I thank them and I am certainly prepared to accept this amendment.

Mr. STAFFORD. Mr. President, I agree with the statement of my distinguished friend from New York.

For the minority, after examining the amendment, which I think is a very good one, we accept it, also.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I thank both the majority and minority managers on this amendment for their cooperation and I thank the Senator from Minnesota again for his courtesy in yielding.

Mr. BOSCHWITZ. Mr. President, I wish to make some comments about the bill. Before I do, however, I want to join in the comments made by the very distinguished chairman of the committee, Senator JENNINGS RANDOLPH, who is one of the first Senators I got to know when I arrived here 1½ years ago, and who is certainly among the most considerate men I have had the pleasure of meeting. He is most courtly, indeed, carrying on the traditions of this body in a most impressive manner.

I yield a moment to my distinguished colleague from Virginia (Mr. WARNER).

Mr. WARNER. Mr. President, I should like to associate myself with the remarks of my distinguished colleague from Minnesota with respect to our distinguished colleague, JENNINGS RANDOLPH. I know of no Member of the Senate who has shown more courtesy and more help to freshman Members of the Senate than this distinguished American.

Mr. BOSCHWITZ. Mr. President, early on in the course of the discussion of this bill, the GSA was mentioned. Of course, I have read many articles about the GSA.

Recently, I had a matter with one of my constituents with the GSA. While they are much maligned, and perhaps rightfully so in some regards, my connection with them and my association in this particular matter was handled very skillfully, very promptly, and very satisfactorily, in my judgment; and I think in the best interests both of the Government and the constituent involved.

As we talk about buildings that are owned or leased by the Federal Government, I also remember the remarks that the distinguished junior Senator from New York made about buildings in which sensitive operations of the Government are conducted. None of my remarks are directed to buildings of that nature. I think that is highly specialized and other questions enter into it.

But, Mr. President, the junior Senator said that after 20 years, what do we have to show after we have been a tenant for 20 years except a pile of receipts?

Of course, there are many things we do not have to show for that. Those are the costs of running that building, the cost which the landlord pays, in the event it is a privately held building, for taxes. In the event we own the buildings, as the Government, those taxes, of course, are abated.

There is absolutely no question in my mind, Mr. President, that if the Government begins to build buildings, that it will increase the cost of occupancy.

Whenever I have gone from city to city, I have always noticed, and I am sure many of my colleagues have, as well, that if we look at private office space and then at office space built by the Federal Government, that, indeed, the Government spends much more in the building of that space. That is an item that has not been mentioned on the floor today: That it costs more for the Government to construct a building than a private contractor. There is no way to escape those costs, whether it is the Government or a private businessman.

I have some notes, Mr. President, made as we went along, when we talked about courthouses.

I do not think they are principally directed against courthouses, but principally at the 77 million square feet of space rented by the Federal Government in every corner of the country.

Courthouses are not a good example

because courtrooms are different. But they occupy only a very small part of a courthouse.

I was going to ask the distinguished junior Senator from New York what the costs of the last five buildings built by the Government were. But now, in a way, I can project that a bit because I have listened about various buildings.

One of 41,000 feet, a courthouse, is going to cost somewhat under $7 million—$6,938,000. That is approximately $175 a square foot, $170 a square foot. That is absolutely enormous.

We cannot simply go out and buy some building, commercial building for that unless, of course, we build a skyscraper in downtown Manhattan. However for $100 a foot, we are building a first-rate building in any city, the most expensive type that could possibly be built.

Here we see one courthouse, $175 a square foot; another, in another State, 42,000 square feet, will cost $7,823,000.

Again, that is approximately $185 a square foot.

Those are enormous costs, Mr. President.

Another building of perhaps more indicative size was 320,000 square feet. That, undoubtedly, was an office building type, without courtrooms—if there are, the cost would be melded into such a large space. But even there, the cost was approximately $135 a square foot to build. That is an enormous cost.

I am not sure from the discussion of that building whether or not that included the ground.

Here is another courthouse which is $170 a square foot. There were a great deal of delays because of redistricting and uncertainty about that, and cost increases, and one thing led to another.

One of the Senators stated, and there is no question in my mind, that the way we build buildings in the Federal Government, by attaching amendments to a large bill like this, is not the way to go about it.

There was an interesting study, the only one I am aware of, a cost and performance study comparison of federally and privately constructed office buildings, completed for the GSA in July 1976.

In that, it stated, in a brief summary, that, "Although the Government constructed office space may be less expensive than space leased from the private sector in certain circumstances, this is generally not the case. In the only definitive comparative construction cost study"—referring to the study that was made—"it was determined that the average cost of federally constructed office buildings exceeded the average cost of privately constructed buildings by 55 percent."

Mr. President, I remind the distinguished Senator from New York, somebody has to pay for that, somebody has to pay the interest on it, and the interest has to be paid back over a number of years.

There is no question that if the private sector can build something for 55 percent less than the Federal Government, that the Government certainly should not go into that business.

Mr. President, I ask the Senator from New York, in the event a building is built, one of the courthouses, how does it affect the budget; is it an outlay? Is the entire cost of the building in the year built an outlay? Is that correct?

Mr. MOYNIHAN. First, I hope this will be a colloquy and we can answer back and forth without yielding.

Mr. BOSCHWITZ. Certainly.

Mr. MOYNIHAN. I understood the Senator to say he found that the——

Mr. BOSCHWITZ. If the Senator will yield, perhaps the Senator from Ohio would like to join this colloquy, as well.

Mr. GLENN. I thank the distinguished Senator very much.

My line of questioning was going to be along the same line. That is why I rose, to perhaps get in on this colloquy.

I agree that the study showed a cost difference of a 55-percent increase for Government buildings, for a variety of reasons, which I can detail.

My question was going to be on the same line.

What basis of building cost was used in this study, civilian building cost or normal Government building cost; which are we talking about?

Mr. MOYNIHAN. Let us get that clear. The study to which the Senator refers said that Federal buildings cost 55 percent more. The Senator later said the commercial buildings cost 55 percent less.

Mr. GLENN. In any event, the Federal buildings cost a substantial amount more.

Mr. MOYNIHAN. More.

Mr. GLENN. Plus or minus 55 percent, whichever way we figure it.

Mr. MOYNIHAN. Right.

I say that with respect to this study about which we are talking the comparison was between those few Federal buildings being constructed at that time and what were basically speculative office buildings that were also being constructed, as against corporate headquarters and serious matters like that.

I wish to make the case, and to make it clearly, that Federal buildings are more expensive to build because they are intended to last many, many years longer.

Sometimes this is inappropriate. For example, the commercial tax law permits the depreciation of a commercial building in 20 years.

I think the Senator would find that if he asked for a rule of thumb from the GSA architects, they think that even a routine building should be thought of as lasting 40 to 50 years and nonroutine buildings as lasting centuries.

We are in a building that has been around a long time. The British tried to burn it, but they did not succeed completely. If we do not do something about the west front, however, it may not be around much longer.

Mr. STAFFORD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. STAFFORD. On this question of relative cost, a Government-owned building, under a GAO report of July 1980, indicates that buildings being built for the Government, as the Senator from New York has said, are built for 50 years. The average commercial building is built for a 20-year life expectancy.

The Government-owned building recoups that cost of its construction, according to this study, through agency payments into the Federal building fund, in its 14th year, and has a remaining life expectancy of more than 40 years.

In the 14th year of a lease, the Government has nothing to show for its expenditures but 14 years of rent receipt stubs and their expectation that the next year, they will have to pay the full rent, perhaps at an inflated rate.

We have figures on GSA's outlook for construction of an NRC building, and construction by the Federal Government will cost $110 million. A lease arrangement over 20 years will cost us $300 million.

Mr. MOYNIHAN. Mr. President, as long as anybody wishes to have this conversation, we will have it; but I hope it is understood that we have spent 15 months on this matter.

The Senator from Minnesota says we have authorized these courthouses on the floor this morning. I point out that this is the first time in 21 years that this has been done, and it has been done only because we have had this moratorium of the last year, and because we regard those courthouses as an obligation.

I wish to make the point that the Senator from Vermont made as well. The GSA, in its dealings and in its independent studies, feels that it gets back its construction costs in the 14th year of use. It rents to individual agencies, in effect, and places those "rents" in a revolving fund.

It says to us that wholesale leasing is simply a product of fiscal cosmetics of the Vietnam war, a practice which was stable and which was mixed—and I shall return to this point—and it will remain mixed. Suddenly, it was discovered that if you leased a building and did not build it, the budget was that much less.

We held on until, suddenly, 15 years later, we looked at a situation no one anticipated, with fewer than half of our people in public buildings.

I want the Senator from Ohio and the Senator from Minnesota to understand that we still contemplate a very large amount of leasing. We have over half of our employees in leased space now.

I wish to make one other point. With respect to Federal standards, sections 302 and 303 of our bill do say that there is a difference between the appropriately ceremonial building that represents the Federal Government and the utility building. GSA has not always made that distinction, and it should.

Mr. GLENN. It seems to me that what we should be shooting for is the most cost effective mix we possibly could have.

When we just say that 60 percent will be in in 10 years or 75 percent will be in in 20 years, it puts us in a straitjacket that leaves us very little flexibility.

I am concerned about the building costs and the way we are mandating this; because I can see developing in a few years a nation with an array of Hart office buildings, far up in cost, tripling the expenditures from what they were at the outset.

Another item I should like to put into the colloquy is this: Why did we not go with the lease with option purchase arrangements? Private industry uses that to tremendous advantage. They lease and then have part of that lease money—albeit a little higher lease—but more money is applied to a purchase arrangement when we know it is going to be permanent. We know there is not going to be a move. We want to stay in that place. Then, part of the lease money or rent money is applied to the purchase of the building.

It is a balloon payment on the end or a payment of some kind over many years, but it is used to great advantage in business and industry.

Yet, as I read the proposed legislation, that would almost be prohibited, because the option arrangement would have to be bought in toto, starting out the agreement, if that is the correct interpretation.

It would be rare that we would want to establish an option high enough that would give you an option over a 10- or 20-year period in advance. The most advantageous thing for the Government, it seems to me, is to have a lease-purchase arrangement of that kind and apply it on the monthly payments, but that is not permitted by the proposed legislation, as I read it.

Mr. BOSCHWITZ. I say to the Senator from New York that I have the floor, and I yielded to him to answer a question.

Mr. GLENN. I am sorry.

Mr. BOSCHWITZ. It is all right.

Mr. MOYNIHAN. The arrangement to which you refer would be permanently authorized in section 703. We expect that this will become an active program in the GSA. It is not permitted by law at all right now.

I have to tell the Senator from Ohio that we got stuck into this leasing business, and the few purchase contracts that were authorized by legislation in 1972 were used up quickly and then dropped.

While the Senator from Ohio is concerned about a batch of new Hart buildings—and I voted against the Hart building every chance I had—what has overwhelmed us in that we are 3 years away from a $1 billion annual rental cost.

We think that leasing with an option to buy is a good idea. Our committees are going to be very much disposed to authorizing it and exercising the option when the GSA makes a business judgment that that is a good thing to do.

Mr. GLENN. As I understand it, this will be possible only with a balloon payment on the front end.

Mr. MOYNIHAN. That is not my understanding, but I could be wrong.

Mr. GLENN. On page 59 of the report, it says that this provision does not permit the GSA to enter into any option agreements that would increase the lease payment. In other words, you could not have this amortized over a period of time, as private industry does to great advantage.

Mr. MOYNIHAN. This clears it up. It is not a question that the balloon payment must be made but, rather, must be identified. It does not have to be made until the business judgment of the GSA says now is the time to do so. We want to identify what it is.

Mr. GLENN. It says that the provision does not permit the GSA to enter into any option agreement that would increase the lease payment period. So it does not say it is permitted if it is identified. It just says it is not permitted.

Mr. MOYNIHAN. The Senator's point goes to putting the purchase in the annual lease. Is that it?

Mr. GLENN. Various arrangements are made in private business. Sometimes you have an increased monthly payment, which gives you part of your capital cost of the building.

Mr. MOYNIHAN. The Senator makes a good point.

Now I have the answer for the Senator, and he will forgive me if we have been less than explicitly clear.

It is the clear understanding—and it should be the legislative history of this measure—that if the purchase component of, say, a monthly or quarterly payment is identified as the purchase component, it may be negotiated and paid.

Mr. GLENN. Is GSA to understand, then, they have that option now in spite of what is said here on page 59?

Mr. MOYNIHAN. It is exactly my understanding that GSA has that option. I wish the Senator from Vermont to confirm it because what we are trying to do—and the Senator from Ohio should wish to know what we have been trying to do—is to get all the costs out into the open and identified, and if they were monthly payments, the payments would be (a) for the rent and (b) for the ultimate purchase.

Mr. GLENN. I thank the Senator, and I have taken up too much time of the Senator from Minnesota already.

Mr. MOYNIHAN. I want the Senator to be clear on this. The Senator from Minnesota has the floor.

Mr. GLENN. I have additional questions, but I shall wait until after the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I am pleased to have that point clarified, and perhaps the Senator from Vermont wishes to respond.

Mr. STAFFORD. Mr. President, I am simply going to say that my understanding of the legislation as we have it in front of the Senate is the same as just expressed by Senator MOYNIHAN.

Mr. GLENN. That can be corrected, then, in the legislative history.

Mr. MOYNIHAN. I think the legislative history should be explicit to the matter that the Senator from Ohio raised and it will be.

Mr. GLENN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, perhaps the Senator from New York could expound a little bit on the other question that was raised by the Senator from Ohio, whether or not we should be locked into certain dates for 60 percent and then 75 percent occupancy. Also, if he then would return to my question as to how budgetarily the outlays for buildings are treated.

Let me point out to the Senator from Vermont that with all due respect he made a very unfair comparison when he said that the building that they are going to build is going to cost how much—$110 million?

Mr. STAFFORD. I do not think that was an unfair comparison, with all due respect to my friend from Minnesota. I was simply quoting to him the figures which GSA currently has, and they will have to speak to their authenticity, but the figures in front of GSA are for construction of a Federal building to Federal standards $110 million, for leasing a similar facility over 20 years $300 million.

Mr. BOSCHWITZ. But I remind my distinguished colleague from Vermont that he is not including interest. When I lease a building it is normally 1 or ¼ percent a month of the value of that building. Leasing this for 240 months—I do not normally lease office buildings—I do not know what the terms of the lease are, what the obligations are, what the obligations with respect to insurance are, what the obligations with respect to the care of the premises are, or what the obligations with respect to maintenance and cleaning of the premises are.

So that really to compare a rental that includes some of those expenses, most particularly interest, with the construction costs is not an appropriate comparison.

Mr. STAFFORD. Mr. President, if the Senator will yield 1 minute further, all the Senator from Vermont claims for these figures is that they are the figures which GSA has turned over to us. It may very well be, as the Senator from Minnesota has said, that in the $300 million figure there must be included interest charges and other costs of operating the building which the owner would undergo, but I simply close with this observation: There is no doubt but that at the end of 14 years a Federal building would be paid for, according to the GSA study I quoted a few moments ago, and it would have 36 years of life remaining to the Federal Government in that building. The other privately constructed building after 20 years would belong to the builder and all the Federal Government would have and our taxpayers would have would be 20 years of rent receipts.

Mr. MOYNIHAN. If I may respond to the Senator from Minnesota, confirming the judgment of my colleague from Vermont and asking the attention of the Senator from Ohio to this, we have been confirmed in our judgment through 15 months of hearings in every direction, and just most recently after this bill had been in print and on the calendar since May 15 the Securities and Exchange Commission has come to us and asked for help and the consideration of the committee in finding a building. The SEC is now in scattered site housing around Washington in the manner that tends to be the experience of agencies.

This is a study, dated May 1, 1980, by Gladstone Associates, economic consultants here in Washington, and it is entitled "Future Occupancy Cost Analysis, Securities and Exchange Commission."

There is a bar chart here which is quite striking. These are present value comparisons of 30-year occupancy costs and residual values. The first bar chart is the status quo which is the continued leasing of multiple locations and it estimates $262 million, of which almost half is what they call a penalty cost for being in too many places. This is a cost one can easily understand.

Mr. BOSCHWITZ. Almost half is what?

Mr. MOYNIHAN. A penalty cost for the multiple locations. They estimate the SEC is scattered around too many places and this is an added cost to its operation.

The second is, "lease new consolidated space," one building: $168 million.

The third is "lease existing consolidated space," which is some variation: $142 million.

The fourth shows the cost of building new space: $126 million minus an unguaranteed residual value of $52 million, which reduces the cost to $74 million. Then it says, "acquire and own an existing building" which, with an unguaranteed residual value of $36 million, curiously is more expensive, $88 million if one subtracts.

If one sees this chart, the argument of Gladstone Associates is: Get the Federal Government to build itself a building and pay rent to GSA.

To the Senator's question of 60 percent and 75 percent, I cannot emphasize too much that we feel we have come upon what is very close to deceptive budgetary practices, the idea of not putting the full cost of something in the budget but only 1 year's cost. It just turns out that long practice meant if one were going to build, he had to put up every penny that first year, but on a long lease he had only to put up the first year's rent; and that has made construction, to the OMB, what measles was to the South Sea islanders.

Why are we using this 60 percent goal?

Mr. BOSCHWITZ. Let me comment on that.

Mr. MOYNIHAN. Please do, because the Senator from Minnesota knows from his personal business career a very great deal about this subject.

Mr. BOSCHWITZ. That indeed is correct.

Let me say to the Senator that many large companies, as K-Mart, hardly own a building they occupy. I own some, and I lease others. They decide that it is better to have that small lease payment, as the Senator points out, rather than having a large investment of their capital.

I point out to the Senator from New York that we are going to have to expense the entire cost of the building as it is paid out, as I understand the budgetary process, not to pay it off over a period of years. In paying it off over a period of years we are paying interest and, of course, we are going to have to pay interest on that building, which is probably not considered in those comparisons because we are also paying interest on the Federal debt. The reason that we do it in business is we do not want to invest our capital.

I do not think that the U.S. Government should invest its capital either, particularly when we have many programs that are going wanting in the Federal Government, many programs that are supposed to help the people in New York, Minnesota, Vermont, and Ohio, and elsewhere. And we are taking, and we must when we build a building under Government budgetary practices, that money goes out right now, rather than little pieces. In business we like to take it out by little pieces and we like to rent, to preserve and conserve our capital. Again, that has to be considered. In addition the fact that we are paying interest on the indebtedness of the Federal Government probably is not considered again in that SEC comparison.

Perhaps we should go back to Senator MOYNIHAN to get a better understanding of why we are locking ourselves in at 60 percent and 75 percent by a time certain. That removes some flexibility.

I understand that the Government, while it has been a very expensive builder, has been a very proficient renter. For instance, an example that I was given this morning is in Atlanta a building that was built during the last crunch in 1974–75. It was standing open until the Social Security Administration came in and rented it for $7 a square foot.

Man, that is a bargain. That is a third of today's market value, and they leased it on a long-term basis. When compared to $100 or $133 a foot, or the interest on $133, which would be in today's marketplace $16 or $17, I think we should let the GSA continue some of the practices of renting.

The statistics I have seen say that the Government rents 77 million square feet. The Federal Government is presently leasing 77 million square feet of office space in privately owned buildings.

The Senator pointed out, and with some dismay, that the cost of renting those buildings has gone from $131 million—when was that, 12 years ago——

Mr. STAFFORD. Twelve years ago, $131 million.

Mr. BOSCHWITZ (continuing). To $520 million, and Senator MOYNIHAN points out it is going to be $1 billion in 3 years. As we know, we both serve on the Budget Committee, the budget has gone up more than that. It has gone up more than four times in that 12-year period. So the rise in rent, in a sense, is not out of order.

But if you consider the fact that you rent 77 million square feet and pay $520 million, that is $6.75 a square foot a year. That is a bargain, it is really cheap.

Having just rented some warehouse space at $3.75, not office space but store space, in a minor shopping center, and having to pay the taxes on top of it, so that my cost would be $4.50 a year, I know that is not bad for office space.

So while the Government seems to be inept at building, the Government seems to be quite skillful in renting space.

I wonder if the Senator could now discuss the 60 and 75 percent.

Mr. MOYNIHAN. First of all, just a correction on numbers. The fiscal 1981 budget for leasing will be $680 million. That is a $106 million increase in 1 year.

Second, the question is asked: Does the Government study that is cited by Senator STAFFORD, which states that the Federal building fund recoups the cost of construction in the 14th year of a life expectancy of 40 as against lease costs, include interest costs? The answer is, yes.

Third, from the point of view of an economist, may I say that from the macroeconomic perspective it does not make a difference in the economy whether capital is diverted by Federal Government construction or private industry. It has the same effect on capital. Capital is put to that purpose and not to some other, so there are marginal costs and advantages.

But to the 60 percent: I want to pick up a phrase which the Senator from Minnesota stated when he asked why GSA cannot be allowed to do some of the things it now does.

The answer is: It is, it will be. We are talking about a very long stretch here. At the end of 20 years, we expect to be back at about the ratios we were in 20 years ago when this budget gimmickry began. I am sorry, it was gimmickry. It was L. B. J., God love him, but if it would cost you $60 million to build a building and $2 million to rent it—or $10 million to rent it—in those years we rented.

Why do we ask for 60 percent? I need not tell one of the great astronauts, one of the great heroes of American history, human history, that you have to set goals sometimes. The Senator from Minnesota asks are we locking ourselves in. Yes, we would not want anybody in GSA to think we have anything but the intention that over 10 years they go from 48 percent to 60 percent. But, at the same time, we are asking for 5-year plans, we are asking for an annual estimate, we are putting some order into the system. If it turns out we cannot do it, we can change it, and we will; and if it turns out that once past 60, 75 looks too high, we can change that.

But we are only going back. By the year 2000 we hope to be back to about where we were in 1960, which we consider a nice balance and a flexible one.

The Senators will be surprised at how much a Federal building which is a very special sort of building costs. Both the Senator from Minnesota and the Senator from Ohio had experience with special types of building, but a social security building today, a regional center—and we are just in the process of building the fifth, and then we will build the sixth—is as special as an airdrome or a large department store or a particular kind of factory. It is designed to carry out a very special function, which is processing and mailing 5 million or 6 million checks a month. You just do not go downtown and find a building filled with lawyers and accountants and say, "That looks like a good one for the Social Security Administration." You have to build one with the weight for the computer and the files and the flow of immense amounts of paper, and we think they do it pretty well. We have four going, and they seem to be quite effective.

Those buildings are not for lease anyway. But I answer your question by saying 60 percent seems to us a reasonable interim goal. Seventy-five percent is the historic ratio. They are subject to change, and we put in place a system which anticipates the future enough we hope that such changes can be made.

I would rather hear from the Senator from Ohio and the Senator from Minnesota, both of whom have very special knowledge in this field.

Mr. GLENN. Mr. President, will the Senator from Minnesota yield?

Mr. BOSCHWITZ. If I may, the Senator from West Virginia has requested that he would like to enter a couple of short amendments. He has people waiting for him. Then I will yield to the Senator from Ohio.

I yield to the Senator from West Virginia.

UP AMENDMENT NO. 1217

(Purpose: To authorize a study of the Federal Buildings to determine the feasibility and capability of converting heating facilities to coal)

Mr. RANDOLPH. I am very appreciative of the consideration and the cooperation of my able colleague from Minnesota.

I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 1217.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

The amendment is as follows:

On page 49, after line 25, insert the following:

"(c) The General Services Administration shall furnish to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives by April 30, 1981, a survey report describing all of the steam generating units it owns or operates with a heat input rate of 50 million Btu/hr or greater. The report will include for each facility:

a. description of the proposed facility after fuel substitution (i.e., number of units, name plate capacity, fuel choice);

b. the estimated total cost of conversion or replacement to coal;

c. the oil and gas savings which would reresult from such a conversion or replacement;

d. the net annual fuel cost savings which would result from such a conversion or replacement;

e. the project payback period using accepted life cycle costing procedures.

The report shall also include proposed funding schedules for conversions and replacements that could be undertaken immediately.".

Mr. RANDOLPH. Mr. President, in the Power Plant and Fuels Use Act of 1978 and the Fuels Conservation Act of 1980 currently pending on the Calendar of the Senate, we have set forth a national policy which provides for the direct burning of coal in our utility and industrial sectors to reduce our dependence on imported oil.

Environmentalists and utilities and coal miners and industry are now forming a responsible coalition to see to it that these objectives are carried forward.

As we look to the future energy requirements of our country and think of the strength of our economy, our environment and our national security demand that we make these conversions from natural gas and oil to coal.

If we mandate such conversions for the utility and industrial sectors of our country, it is equally necessary that agencies of the Federal Government with construction authority or control over substantial amounts of Government space consider the replacement of old oil- and gas-fired boilers with coal.

Existing facilities with coal capacity should use coal. We should require all new construction, wherever economically feasible, to be coal capable.

Currently—and I think these are alarming figures—of the some 10,000 buildings under the control of the General Services Administration, only 102 are fired with coal. This ratio should be and must be improved.

So, Mr. President, I offer this amendment to the Public Buildings Act of 1980, which would expand the study to include a survey report which would identify all of the steam generating units owned or operated by the General Services Administration with a heat input rate of 50 million Btu's per hour, or greater. That survey should include an analysis of which of these generating units currently burning oil and gas could be converted to coal.

The report also could and should include schedules for coal conversions and replacements that could be undertaken almost immediately.

Mr. MOYNIHAN. Mr. President, the amendment proposed by our beloved chairman is altogether consistent with the purposes of this act and of other legislation which has been adopted is being adopted by this Congress. I would propose that it be adopted.

Mr. STAFFORD. Mr. President, I certainly accept the amendment.

Mr. WARNER. Mr. President, may I ask a question of the sponsor of this amendment?

I would like to ask the sponsor——

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. RANDOLPH. Yes, I yield to my colleague from Virginia.

Mr. WARNER. There are certain areas, principally the greater metropolitan area of the Nation's Capital here, where there is such a concentration of Federal buildings that we should be careful to determine what the impact on the environment might be with such a large concentration. As the distinguished Senator from West Virginia knows, I have regularly worked with him on promoting greater use of coal, but I just want to pause for a moment to make certain that we are not asking for too many buildings in one locality to convert too quickly.

Mr. RANDOLPH. I will reply, if I might. The Federal structures in the District of Columbia, where there is this congestion of structures, are heated, not separately, but from two central heating plants. I will make that distinction, that there is some difference. But even then, I am not saying more than that we survey the situation.

Mr. WARNER. Would the distinguished Senator amend his amendment in such a way that we can put in a request that it be examined in those areas where there is a substantial number of Federal buildings?

Mr. RANDOLPH. The environmental laws must be complied with wherever these buildings are. I believe the well-intentioned amendment is not necessary under our present law.

Mr. WARNER. Will the distinguished Senator accept it as a fact that the legislative history which we are creating at this moment would certainly indicate that it is his intent in proposing this amendment that that basic subject be embraced within this study?

Mr. RANDOLPH. I will answer in the affirmative.

Mr. WARNER. I am happy to accept that. I thank the distinguished Senator.

Mr. STAFFORD. If the distinguished sponsor of the bill is ready to move the amendment, we are ready to accept it.

Mr. RANDOLPH. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1218

(Purpose: To authorize the Administrator of GSA to designate public buildings for distinguished persons and to create a memorial to honor that person)

Mr. RANDOLPH. With the indulgence of my friend from Minnesota, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 1218.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, after line 20, insert the following:

"SEC. 308. (a) The Administrator is authorized, pursuant to subsection (b) of this section, and upon the request of appropriate local and State officials, to name any public building after, and establish a memorial in any public building in honor of, any person who has made notable contributions to government, science, industry, education, the arts, or other fields of human endeavor. Such person, if living, must be at least seventy years of age and, except within the National Capital Region, must be from the region of the country in which the building is located. No public building shall be named for a sitting Member of Congress or for a former Member of Congress who holds any other elective public office.

"(b) The Administrator is authorized to expend, out of any funds available to him in any fiscal year, an amount equal to but no greater than contributions provided by State or local governments or private entities or individuals, and in no event greater than the sum of $10,000, for the design and construction of a memorial to a person designated pursuant to subsection (a) of this section, or designated by an Act of Congress.

"(c) The Administrator, in consultation with appropriate local and State officials and other interested citizens, shall determine the form and location of such memorials. The memorials shall be fountains, gardens, walks, stained glass windows, or other building appurtenances visible and accessible to visitors, and in harmony with the architectural and landscape design of such building. The Administrator shall provide the highest level of permanent maintenance for such memorials.

"(d) The Administrator may conduct a competition to select a desinger for the memorial authorized by this subsection. Such competition shall be open to landscape and other architects, artists, artisans, and designers."

Mr. RANDOLPH. Mr. President, I am very interested in memorials because they are a part of living history. That is why I want very, very much what I call a living memorial amendment to this legislation. I believe it can be incorporated into title 2, where we consider design and management of public buildings.

The purpose of the amendment is to invite local initiative and participation in the naming of public buildings under the jurisdicton of GSA.

The living memorial proposal will provide clear statutory guidelines for the naming procedure. It would incorporate a procedure which could be an integral aspect of building planning and design into the Public Buildings Act of 1980.

I call the attention of Senators MOYNIHAN and STAFFORD to the point that I believe through these procedures there could be the creation of the living memorial which would further honor or call attention to the individual for whom the building is named.

I propose a system by which the public building identification finds its origin in the communities. Public buildings should relate to the environment in every way possible, as envisaged in S. 2080.

It is appropriate to expand this program to determine public building identification.

The key to the realization of such memorials is a local impetus.

The money raised would match the $10,000 in Federal funds which would not be available unless the local money is generated.

The local people would be encouraged to participate in the choice of location and the type of memorial to be dedicated.

If there is no local initiative or funds raised, then the building should be named for some indigenous characteristic, or carry no specific name.

The word "living," as I envision it, is used to describe such memorials to encourage some type of activity around these honorary areas. So often, the traditional plaque and bust is set off to one side of the lobby where they attract little attention. It is hardly noted.

My amendment proposes the use of more innovation designs for memorials which would enhance the buildings and their surroundings. We would go beyond the routine bust and plaque to other architectural or landscape embellishments such as attractive fountains, beautiful gardens, stained glass windows, and other beautification with the living memorial idea. These memorials should symbolize the significance of the life and work of the individual being honored.

Just a name on a plaque is not enough, Mr. President. The people who come there by hundreds of thousands should know about that individual, know about that citizen, know what he or she has done that makes it appropriate for the memorial to be there.

These memorials would be ongoing projects, keeping alive the dedication of that individual to his or her field. We would have the opportunity to uphold in an artistic physical manner the ideals of our country.

I cannot think, very frankly, of a more enlightening and better fitting way in which we could honor great Americans, men and women, when we associate their names with buildings constructed by the Federal Government.

Mr. President, I am thinking now of the beauty and the utility of the Federal Building and plaza in my home community of Elkins, W. Va.

Government business, including facilities and postal services, are part and parcel of that beautiful structure. It is a people's building. Thousands of men and women and children gather each year for exhibitions, concerts and meaningful programs. And, Mr. President, my amendment envisages the living memorial concept for Federal buildings.

In Elkins, as you enter the Davis and Elkins College grounds, there is to me a "living" memorial to one of the founders of the institution, Henry Gassaway Davis. That statesman and builder is shown in bronze, riding a horse. Why a horse? Mr. Davis, a U.S. Senator and later a Vice Presidential candidate, was a lover of the outdoors. He rode and loved horses. At the base of that memorial, in native stone, are the words embodying the spirit and character of a great leader. I quote:

> He worked as if he were to live forever. He lived as if he were to die tomorrow.

Yes, we can keep history and heritage vibrant through the concept of living memorials.

Mr. MOYNIHAN. Mr. President, I could not think of a more eloquent statement of that important and enduring reality. It could not come from a person who better understands or is more appropriate to be the person to introduce the amendment. I know that, for our side of the aisle, we are happy to support the amendment.

Mr. STAFFORD. Mr. President, we also are more than happy to accept this amendment on behalf of the minority.

Mr. MOYNIHAN. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote, Mr. President.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I should like to make some additional comment on the bill at this time. We had comments before about the Office of Management and Budget requesting GSA to make a study considering the magnitude of cost differentials between public and private building construction. That study concluded that the average cost of Federal buildings exceeded the average cost of the private buildings examined by some 55 percent. The cost differences were attributed as follows:

Thirty-nine percent of the overall differential was attributed to scope differences between the two groups of buildings. That is, the Federal buildings contained more things, more items, more details.

Twenty-one percent of the difference was attributed to quantitative variances; that is, variations in the way the building spaces and volumes were put together. Federal buildings generally had lower floor area efficiency ratios and volume ratios; that is, more of the gross area of the building was not usable for office space, which is what we are trying to provide. More of the building was used for other purposes.

Floor-to-floor heights were greater, for another thing.

Additionally, 31 percent of the differential was attributed to qualitative differences; that is, quality of materials used. Nine percent of the differentiation was attributed to unidentified causes.

This study also listed additional costs which Federal buildings would bear due to consideration other than just bricks, mortar, hardware, and configuration.

I shall not go into details on all these, Mr. President, but there are such things as labor standards, the Davis-Bacon Act, Walsh-Healy Act, Copeland Act, equal employment opportunity requirements, which should apply to every contracting agency, of course. We had the ban on proprietary specifications, which results in Federal building specifications containing performance specifications which are lengthy and which lead to validation problems when specific products and systems are proposed by bidders. The GAO has stated that this requirement results in higher costs on some items, such as windows, acoustical materials, hardware, roofing, plumbing, drains, waterproofing, piles, exterior facing, equipment, elevators, and air conditioners.

Then, as a Government building, it also has to come under the Buy American Act, the small business setasides, documentation and reporting requirements, procurement quality and standards, selection of design consultant requirements.

All of these may be very laudable goals, Mr. President, and I do not quarrel with those laudable goals. But I think when we say that these have to be taken into consideration in competing with private industry, we can see no direction that the costs will go but up.

Along with this, and another major factor, one which we have had some experience with on the Hart Office Building over here, is time delays. There is a very significant difference between the public and private sectors in the time it takes from the commencement of a building project to the start of construction. An extended period of time is required in the typical Federal building schedule for the approval process, which includes: funding authorizations, program approvals, conceptual design analysis, detail design analysis, procurement actions and the contract award. In addition, Federal projects often experience delays and consistently outstrip budget authorizations, with reauthorizations creating further delays and further costs in a process which feeds on and repeats itself.

I think it is crucial to understand that there are fundamental differences between the objectives of building construction programs in the private and in the public sectors. The private sector builds for the purpose of making a return on an investment, whereas the Federal Government builds to satisfy a space need for employees and programs. Under that area of time delays, I add that I think in modern history, there has only been one building in our Nation's Capital, certainly, and maybe one major Federal building in the whole country, that has been built that came in ahead of time and under budget. That was the Air and Space Museum, and I believe that was built under contract by the Smithsonian. I do not believe they went through GSA in that one. I believe it was contracted for independently.

Mr. President, this puts a different cast on this whole thing, it seems to me. I appreciate the fact that 18 months have gone into a study of this subject, but I would ask, with regard to all those items of increased Federal expenditures, are we providing anything in this bill that does, in fact, cut down the cost overruns and the cost excesses that have become common in GSA construction and with Government contracting for Government buildings?

Let me get into that for just a moment. I think this bill does nothing to reduce the extra costs of Federal construction. Rather, the bill contains provisions that will further increase the costs of Federal construction over private construction. What we are trying to put in place here is more office space, building space to house Federal employees in satisfactory quarters. But let me go ahead with this.

Section 301 provides:

> The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

Now, I certainly do not quarrel with that. I want our public buildings to be decent structures and to be attractive.

I continue. Section 302 states:

> Public buildings shall be of such design and construction as to approximate commercial buildings of the first quality that serve similar purposes.

Then section 304 provides:

> to the maximum extent possible, such buildings—(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions.

Listen to this:

> Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass shall be employed whenever possible to carry out the purposes of this paragraph.

I know the distinguished floor manager of the bill was for a long time the Ambassador to India. I know he would appreciate it that I wish we could go back and see what had to be done to build the Taj Mahal. But I doubt it included any wording that was any more glorious than that where we are calling for:

> Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass shall be employed wherever possible to carry out the purposes of this paragraph.

We go ahead in other parts of the bill and say in title 5:

> Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for public service;
>
> (b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings.

I do not disagree with having art works in Federal buildings. But I think when we put all these things together and then presume we somehow will be able to save money, our most notable example here on Capitol Hill is that we have tripled the original cost of one built here. Perhaps these buildings on Capitol Hill should be built for the centuries rather than for decades. I agree with that. As the distinguished floor manager from New York has already pointed out, our Capitol is built for the centuries and not just for the decades.

I also say that on a 55-percent additional cost, as opposed to a 20-, 40-, or 50-year-old Federal building, I do not know but what Federal employees might be better in a more modern building, built every 20 years, rather than one that lasts 40 or 50, since the cost will be about the same, with the 55 percent additional at the outset.

Another factor that might be taken into consideration, we know certain buildings are exempted from local and State taxes. I do not know whether there is any function of shared revenue, or something like that, that might be incorporated in this. I did not see anything in the bill about it; perhaps there is.

But I question very much mandating the building of all this $20 billion program at 1980 prices—$20 billion at 1980 prices—and we can fully expect that to probably at least double over the next 20 years. So we are talking about $40 billion or $50 billion unless we have better control over inflation than I think we will have.

So, to be realistic, I think some lease option arrangements, lease purchase arrangements, that we could encourage, would be better.

But I find it difficult to accept the fact. With GSA's record so far—with GSA's record so far—being not in line with what this bill is proposing, we are going to be lucky beyond our imagination if we reach the objectives of this bill.

I know this bill also calls for some reorganization within GSA. But I say that I think it would probably be far better, would we go ahead and reorganize GSA, get them functioning, so we can bring forth Federal buildings on time and under budget. Then perhaps entrust them with this 20-year program.

But to say now that should this go into place, with the record GSA has, with the overruns almost guaranteed to be written in by the requirements of the legislation, it just leaves me in doubt as to how this can be done, and very difficult to accept.

I would be glad to hear any response to this.

But I really question whether we should be setting these objectives, or not. I question GSA's ability to get up to the objectives. We will probably wind up, if we consider the past GSA record of building construction and cost overruns, as any trial bargain, we will wind up with far greater expenditures eventually than we will if we go ahead and make leasing, rental or lease, option to purchase arrangements, instead of the thrust the bill is taking.

Mr. MOYNIHAN. Mr. President, I do not find much to disagree with in this matter raised by the Senator from Ohio.

I would like to point out that this committee has responded to the very real inadequacy of the GSA arrangements at this time.

A recent Inspector General study of 35 leases sent 4 to the U.S. attorney and kept 21 for continued investigation.

We have a system that is not working very well, and that is what this legislation, which we have been 15 months in preparing, is about.

With respect to the difference in cost, there is a 45-percent variation in cost between private speculative and Federal buildings—for a 45-percent increase. But the costs for private buildings which are owner occupied are much closer to Federal costs—about 26 percent less.

We are not building 20-year buildings. When the Federal Governments builds, it builds for a longer period.

But I cannot emphasize too much that there is going to continue to be a very large amount of leasing of speculative buildings and leasing of buildings with an option to purchase.

We are not getting the Federal Government out of this business at all. We are only trying to stop the downward slide and bring us back to a historic level by the end of this century. Not tomorrow.

The estimate by the Congressional Budget Office of $20 billion in spending over 20 years has a corresponding estimate of a saving in leasing of $10 million.

So we are talking about a $500 million per year expenditure.

This, in the context of a rent bill which will soon be $1 billion.

We are trying to make responsible decisions on investments here. We have to set up a review process which, if the GSA does not learn to bring things in on time and schedule, will enable our committee to find out why.

The Senator is correct; the system has not worked as it should. This is an attempt to establish a system that will work. We do not know a more orderly approach to the matter. We are following what we think has been a successful experience in the armed services.

With respect to the art in Federal buildings, we have authorized one-half of a 1 percent figure. That figure has been in place from the time President Kennedy, in 1962, established the guiding principles for Federal architecture.

Mr. MATHIAS. Mr. President, this is a very interesting dialog, one that involves very large sums of money and very large questions. I have a very small subject, involving a small sum of money.

Mr. MOYNIHAN. Mr. President, the Senator has a matter which is very important. It involves fixing the roof of a Federal building that was built a century ago.

Mr. MATHIAS. That is right.

Mr. MOYNIHAN. Which we are going to continue to use, possibly for another century, if only we fix its roof.

I believe that what the Senator from Maryland is asking is whether he can introduce an amendment. I wonder whether the Senator from Ohio can find a moment for that.

Mr. GLENN. How much time?

Mr. MATHIAS. I think it would not take more than 2 minutes, perhaps not more than 1.

Mr. GLENN. Mr. President, I yield for that purpose, and I will seek recognition after that. I reserve my right to the floor.

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may have the floor, without prejudicing the rights of the Senator from Ohio.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

AMENDMENT NO. 1899

Mr. MATHIAS. Mr. President, I call up amendment No. 1899.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 1899.

Mr. MATHIAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, line 6, delete "$232,670,399" and insert in lieu thereof, "$234,670,399".

On page 84, amend the list of locations and maximum costs following line 10 by inserting after

"District of Columbia, New Post
Office .... 12,399,148"

the following:

"District of Columbia, Pension
Building .... 2,000,000.".

On page 85, line 1, delete "$82,343,000" and insert in lieu thereof, $80,343,000".

Mr. MATHIAS. Mr. President, this amendment would provide for immediate steps to be taken to protect the integrity of a registered historic landmark here in Washington—the Pension Building.

This historic and architecturally significant building, designed by Gen. Montgomery Meigs in 1882 to house the 1,500 employees of the U.S. Pension Office, is owned and managed by the General Services Administration. Currently, the building houses part of the staff of Heritage Conservation and Recreation Service and the staff of the Museum of the Building Arts.

The building's most remarkable feature is its enormous court marked by eight 76-foot-high Corinthian columns. That court has been the scene of nine inaugural balls over the years as well as the scene of a variety of exhibits related to the building arts and sciences.

The Pension Building court and anterooms have hosted the Fourth Federal Design Assembly; a retrospective on the art and architecture of DeStijl, a design movement originating in the Netherlands; two building fairs, which were working exhibits of the building trades; new life for the Federal triangle, displaying three proposals for enhancing the design of Washington's 11-block Federal triangle area; and exhibit of photos, plans, and drawings honoring National Historic Preservation Week; Canada: History Through Architecture, a retrospective on Canadian architectural types; and a lecture series by prominent American architects on recent Washington architecture.

The Pension Building roof is in a terrible state of repair and threatens many of the types of exhibits and activities both in the courtyard as well as the safety of Federal employees of HCRS who work in the building.

If any of my colleagues have been to the Pension Building recently, they cannot have helped to see the large plastic nets which undersling the interior roof in a jerry-rigged fashion. The plastic sheeting is there to prevent water leakage and spills from the roof and to catch crumbling plaster.

The replacement of the roof is of paramount importance. Fortunately, the General Services Administration has conducted a current conditions survey as well as a design concept study for the building. These surveys and cost estimates were undertaken at the behest of myself and Senators PELL, STAFFORD, JAVITS, CASE, MORGAN, CHAFEE, HEINZ, LEAHY, CRANSTON, MOYNIHAN, and RANDOLPH through Senate Joint Resolution 143 introduced June 29, 1978.

That design concept study is in anticipation that the Pension Building will one day house a National Museum of the Building Arts.

Mr. President, the GSA estimates that roof replacement will cost $1.4 million; existing skylight replacement will cost $100,000; and new flashing will cost $125,000. My amendment would shift $2 million under the GSA "minor renovation and repair" account to "major renovation and repair" for replacement of the Pension Building roof.

Mr. MOYNIHAN. Mr. President, we are happy to accept this amendment. It adds no additional funds to the fiscal year 1981 authorization. It maintains that magnificent building, as they are already doing, thanks to the Senator from Maryland, for an appropriate use. It preserves a treasure in this city, and it fixes the roof.

Mr. MATHIAS. The Senator from New York has said it better than I could.

Mr. STAFFORD. Mr. President, the minority is prepared to accept the amendment, also.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON addressed the chair.

The PRESIDING OFFICER. The Senator from Ohio is entitled to the floor.

Mr. GLENN. Mr. President, I yield to the Senator frcm Califronia.

Mr. CRANSTON. I thank the Senator. I will try to be as fast as the Senator from Maryland.

UP AMENDMENT NO. 1219

(Purpose: To authorize appropriations for the construction of a border station at Otay-Mesa, Calif.)

Mr. CRANSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. HAYAKAWA, proposes an unprinted amendment numbered 1219.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 8, strike out "$2,279,690,399" and insert "$2,291,796,099".

On page 83, line 13, strike out "$15,792,000" and insert "$27,897,700".

On page 83, after the matter following line 20, add the following:

Border Station, Otay-Mesa, California $12,105,700

Mr. CRANSTON. Mr. President, a second border crossing between San Diego County, Calif., and Baja California has been discussed for more than 15 years, because the present international border crossing at San Ysidro is inadequate to meet the demands of commercial and tourist traffic between Mexico and the United States.

The congestion at this site is so heavy that U.S. citizens visiting the neighboring border state of Baja California have experienced more than 3-hour waits to reenter the United States. Although the 24-gate facility at San Ysidro was rebuilt in 1973 to better accommodate passenger and pedestrian traffic, no commercial traffic facilities were provided in anticipation of their location at the proposed Otay-Mesa crossing. Commercial vehicles are restricted to the Virginia Street gate, approximately one-half mile west of the passenger vehicle facility. The truck and commercial vehicle backup is time-consuming, wasteful, and adds to pollution.

The amendment I am offering with my colleague, Mr. HAYAKAWA, would authorize the construction of a much needed border station at the international port of entry to be established at Otay-Mesa in San Diego County. This new facility would become the main commercial inspection station for San Diego and will also have primary and secondary inspection capability. This will allow for much of the passenger vehicle traffic to be diverted away from the heavily traveled port of entry at San Ysidro. Yearly traffic estimates by the Immigration and Naturalization Service state that 35 million people and approximately 12 million vehicles cross the international boundary northbound through San Ysidro.

Mr. President, the city and county of San Diego have determined the second border crossing to be a central element in their development strategy for Otay-Mesa. This is based on two assumptions. The first assumption is that by constructing the crossing, and thus facilitating trade between Mexico and the United States, both Mexican and American private investment on the Otay-Mesa will be stimulated. Second, Federal and State spending for construction of the crossing will become available and the roads leading up to the border gate will increase employment and create the climate to induce further investment. In this way, the high unemployment rate of San Ysidro can be brought down.

The Mexican Government also believes the second border crossing to be a crucial element in their development strategy for the Mexican border region. Implementation of three major public projects have been underway since 1976 within Tijuana. The projects, Rio Tijuana, Mesa de Otay, and Ciudad Industrial Nueva Tijuana, are all contingent in some way on the construction of the new border gate.

The General Services Administration has studied the overall problems confronting the San Diego border crossing and has recommended construction of the Otay-Mesa border station and has submitted their findings to both House and Senate committees. The station is included in the President's budget for 1981 at a cost of $12.1 million.

I ask unanimous consent that the prospectus/executive summary on the need for this second border station be printed in the RECORD following my remarks, and I ask favorable consideration of my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

(Otay Mesa Area, San Diego, Calif.—Border Station)

BACKGROUND

The San Diego Border Station consists of a passenger vehicle facility and a separate commercial vehicle facility. The location of these crossings requires all northbound and southbound traffic to travel directly into downtown Tijuana, Mexico. Long lines of vehicles back up onto Mexican streets, resulting in increased air pollution, wasted fuel, accidents, and other negative impacts. The existing facilities will not be able to handle the increased commercial traffic which will be generated by the Tijuana industrial park, now under development, nor will they be able to handle the increased long distance passenger and commercial vehicle traffic projected by the Departments of Treasury and Justice.

PROPOSAL

Construct a new commercial truck facility and additional primary and secondary inspection facilities on a site to be acquired on the Otay Mesa, an area approximately 4 miles east of the main crossing. The new crossing will serve as the primary border crossing point for long-distance commercial vehicles. The existing commercial gate will remain open to accommodate local commercial vehicles.

Approximate areas: Gross square feet, 148,300; occupiable square feet, 124,100.

Building area (includes canopies, booths and dock):

Site, approximately 22 acres.

Total Estimated Maximum Cost, $12,105,700.[1]

SPECIAL FEATURES

Special purpose space to meet the requirements of the Departments of Agriculture, Justice, Treasury, and Health, Education and Welfare.

Primary and secondary vehicle inspection facilities.

Primary commercial vehicle inspection facilities including dock and maneuvering areas.

Parking for official, employee, visitors, and handicapped person's vehicles.

Landscaping compatible with the community.

Full accessibility for the physically handicapped.

Adherence to fire safety, security, environmental requirements, and OSHA safety and health standards.

Art-in-Architecture.

ALTERNATIVES CONSIDERED

Utilization of Government-owned buildings—congestion problems would remain unresolved.

Acquisition of historically, architecturally, or culturally significant buildings—none available at required location.

Lease—no space available at proposed location.

Federal construction—recommended.

[Prospectus number: PCA-79005]

PROSPECTUS FOR PROPOSED CONSTRUCTION UNDER THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

Border station facility, Otay Mesa area,
San Diego, Calif.

1. Introduction: This prospectus proposes the construction of a border inspection facility at the United States-Mexican border at a site on the Otay Mesa. The site is approximately 4 miles east of the existing facilities, which are in the San Diego community of San Ysidro. The existing passenger facility is located on Interstate 5 at the border and the commercial facility is on Virginia Street at the border. The new facility will provide commercial truck inspection facilities, primary and secondary vehicle inspection facilities, and space for the Departments of Justice (Immigration and Naturalization Service), Treasury (Customs Service), Agriculture (Animal and Plant Health Inspection Service), and Health, Education, and Welfare (Food and Drug Administration).

The existing facilities will continue to be used by local traffic. The estimated maximum cost of the project is $12,105,700.

2. Findings: a. Project need: The city limits of San Diego and Tijuana, Mexico, meet at the International Border. The main commercial and downtown areas of San Diego are located approximately 20 miles north of the crossing. However, a commercial district known as San Ysidro serves the American side of the border at the crossing. The main commercial and business areas of Tijuana are located adjacent to the border crossing. The new industrial area of Tijuana is located about 4 miles to the east. Access between the two cities is via Interstate 5. This highway carries traffic into San Diego and connects with points to the north by Interstate 5 and Interstate 805. Interstate 5 connects with Mexican highways which leads south to Ensenada and east to Mexicali and Tecate.

The major problem is heavy traffic congestion on Mexican streets because the location of the crossing requires all southbound and northbound traffic to use roads leading directly into and out of downtown Tijuana. Much of the southbound traffic is headed for points other than downtown Tijuana and much of the northbound traffic, especially commercial traffic, is coming from areas to the east and south of downtown Tijuana. The heavy traffic congestion also results in increased fuel consumption, air pollution, accidents, and other negative impacts.

Immigration and Naturalization Service statistics show that about 34.5 million people (passengers and pedestrians) crossed the border northbound in Fiscal Year 1978, an average of nearly 94,500 people per day. This was an increase of over 22 million people since 1956 and over 14 million since 1966. Total passenger vehicle traffic in Fiscal Year 1978 was nearly 9 million, an increase of 5 million vehicles from 1956 and 3 million vehicles from 1966.

The Customs Service estimates that an average of about 80,000 commercial vehicles entered the United States at San Diego annually from 1973 through 1977. This figure increased about 20 percent in 1978 to 96,000 vehicles. Future growth is estimated at about 10 percent per year. Because of this large amount of commercial traffic and the inadequacies of the commercial crossing, it is not unusual for 60 trucks to be waiting for inspection. This interferes with the inspection of passenger vehicles by causing both commercial and passenger vehicles to back up in the downtown area of Tijuana. The traffic congestion will become worse as the traffic increases according to established trends. A new facility is needed to divert the bulk of long-distance commercial and some passenger traffic which now crosses at the San Diego Border Station.

b. Description of proposed project: This prospectus recommends the construction of a new commercial truck complex and additional primary and secondary inspection facilities. The new facilities will be located at a new International Port of Entry proposed for the Otay Mesa area of San Diego County, along the United States-Mexican Border. The new complex will serve as the primary border crossing point for long-distance commercial vehicles thereby reducing traffic at the existing border crossing. The present commercial San Diego crossing will continue to accommodate local commercial vehicles.

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[1] See Cost Analysis for detailed breakdown.

The new crossing will consist of a commercial truck facility of approximately 36,500 occupiable square feet, including a vehicle storage building, and primary and secondary inspection facilities consisting of office, storage, and related special type space of approximately 21,600 occupiable square feet. The facility will also have related canopies, truck docking areas, a seized vehicle impound lot, paved areas for parking about 128 official, employee, visitor, and handicapped persons' vehicles, and maneuvering and landscaped areas. There will be eight primary inspection lanes, 24 secondary lanes, and two bus lanes. The new facility will require the acquisition of a site of approximately 22 acres on the border at Harvest Road.

Access to the crossing will be by Otay Mesa Road/Harvest Road. The city and county of San Diego have cooperatively financed highway engineering designs and environmental studies and have budgeted funds for right-of-way acquisition in Fiscal Year 1980 to improve Otay Mesa Road/Harvest Road. They have also approved the use of $5,345,000 of Federal Aid funds for construction of the roads and they expect to award a construction contract in June 1981.

Mexican officials have approved funding for design of border crossing facilities to be constructed on land owned by the Mexican government. The alignment of their roads is being coordinated with the city and county of San Diego.

c. Approximate building area required:

	Occupiable sq. ft.	Gross sq. ft.
Commercial facility (including a vehicle storage building)	36,500	46,100
Primary and secondary facilities (including office, storage and special areas)	21,600	32,800
Canopies, dock space, etc.	66,000	69,400
Total area	124,100	148,300

d. Minimum site area:

	Acres
Primary and secondary inspection areas, buildings, and courtyards	3
Parking areas	1
Truck compound	3
Vehicle storage area, including storage building	3
Access roads, maneuvering areas, etc.	6
Landscaping	6
Total	22

e. Reserve for expansion: Included in the occupiable area of 124.100 square feet are 11,326 square feet of unfinished reserve space for future expansion.

f. Estimated project cost escalated to October 1981:

Site	$210,000
Architectural/engineering drawings and specifications	[1] 678,000
Estimated construction cost (10/81)	10,762,300
Estimated construction contract award	9,986,700
Art-in-Architecture reservation	49,000
Landscaping reservation	50,000
Other reservations	271,800
Contingencies	494,800
Management and inspection	455,400
Total project cost	12,105,700

[1] See Cost Analysis for detailed breakdown of architectural/engineering and consultant fees.

3. Community data: The Otay Mesa is an unincorporated area of San Diego County located east of the existing San Diego Border Station along the International Border. The area is undeveloped, primarily agricultural land. The city and county of San Diego are studying proposals which will alter the present land use. These studies include land rezoning, utility expansion, construction of new roads, and other types of development. Some of the proposed developments are industrial parks, an international airport, and a state prison. The current San Diego County population is estimated to be 1,700,000, an increase of over 20 percent since 1970. By 1985, the county population is expected to be over 2,000,000 people.

The Otay Mesa in Mexico is under an official Mexican development plan called "The New Tijuana." This plan is implementing the Mexican Government's domestic policy to extend urban development towards the International Border area. Commercial, residential, and institutional developments are substantially underway in this area and ground has been broken nearby for the first assembly plant in the new industrial park. The present population of Tijuana is more than 500,000, an increase of over 30 percent since 1970. By 1985, the Tijuana population is projected to be about 1,300,000.

Major economic ties between the two countries include the industrial and commercial interchange of agricultural and manufactured goods and services, labor supplies, and tourism. The establishment of a free trade zone in Tijuana has encouraged the flow of both domestic and international trade. This zone functions with a dual plant system which allows goods to enter the area without the payment of custom duty. These goods can then be stored or shipped to a plant in Mexico for processing. The goods are then reshipped to the country of origin and custom duty paid on the value added. This policy has established an important economic and social link between the United States and Mexico.

Continued population and economic growth within the Otay Mesa is guaranteed by the positive actions taken by both the local and national Governments of both countries to control and stimulate its development.

4. Discussion of alternatives: a: Utilization of existing Government-owned space: The San Diego Border Station was renovated and enlarged in 1973. The complex provides about 135,000 square feet of office, storage, and special type space in the main building which houses inspection agencies of the Departments of Treasury (Customs Service), Justice (Immigration and Naturalization Service), and Agriculture (Animal and Plant Health Inspection Service). A renovated older structure provides about 14,500 square feet of office space. A temporary modular structure occupied by the Customs Service provides an additional 10,000 square feet of office space. A modular-type storage building also occupied by the Customs Service provides about 2,000 square feet of storage for contraband items. The main crossing contains 24 primary inspection lanes, 60 secondary inspection spaces, a bus lane, and a pedestrian walkway. It provides adequate inspection facilities for passenger vehicles, buses, and pedestrians.

Commercial vehicles enter the United States at the existing border station through the Virginia Street gate, a one-lane street a short distance to the west of the passenger vehicle entrance. The existing truck compound contains about 2.5 acres. When the border station was enlarged in 1973, no action was taken to enlarge this area because of the anticipated need to construct a new commercial crossing elsewhere. However, this area was renovated in 1976 to provide for the increasing commercial traffic generated between the United States and Mexico. A new modular-type building containing approximately 9,500 square feet of office and storage area was erected for the Customs Service and the Plant and Animal Health Inspection Service. The truck dock also was enlarged to accommodate 34 trucks at its docking area but only limited parking and maneuvering areas were provided. The Customs Service estimates that current commercial activity requires a truck dock for 50 trucks with backup parking for 60 trucks. Alterations to the site could increase inspection efficiency and traffic flow but it could not eliminate the chronic congestion.

Continued utilization of the Virginia Street gate as the only commercial border crossing in the area is not an acceptable alternative. It cannot handle the current or estimated future commercial traffic. The existing facilities will accommodate local vehicles after the new facility is constructed.

b. Acquisition of historically, architecturally, or culturally significant buildings: There are no buildings in the required area. The area is agricultural.

c. Acquisition of leased space: This is not a realistic alternative because the proposed facility requires a specific site at the United States-Mexican Border. The proposed site is located in an unincorporated and undeveloped area. No structures or space of any type are available.

d. Federal construction: Alternatives a, b, and c would not meet the long range needs for permanent Government activities. This project has a site location which is remote from any intensely developed areas. It has special space arrangements and will require long term agency occupancy. Therefore, direct Federal construction is in the best interest of the Government.

Federal ownership will give the Government the flexibility required to assign, operate, alter, expand, and otherwise provide for efficient and economical border operations. It will ensure that agency space is adequate with respect to provisions for handicapped persons, fire safety features, energy conservation, Art-in-Architecture, primary and secondary vehicle inspection facilities, truck inspection facilities and maneuvering areas, and parking.

5. Costs at existing crossing: Costs at the existing crossing will not be substantially reduced when the proposed project is constructed because the new facility will be a new and completely independent operation which will supplement, not replace, the existing border station.

6. Proposed space plan for housing Federal agencies: The proposed housing plan for the Federal agencies to be housed at the new border station is attached as Exhibit A.

7. Other supplemental data: Other supplemental data are attached.

8. Statement of need: It has been determined that (1) the need for space for the Federal Government in this area cannot be satisfied by utilization of existing facilities now owned by the Government, (2) suitable rental space is not available, and (3) the most feasible means of providing space to meet Federal needs in this area is by construction of a new border station facility.

I. Planning coordination: As required by the Intergovernmental Cooperation Act of 1968 (P.L. 90–577) and Executive Order 12072, the development of this project has and is being coordinated with Federal, State, county, city and Mexican governmental jurisdictions. Development of the proposed complex will be compatible with local plans for this area as proposed by local U.S. and Mexican representatives. All governmental jurisdictions agree that the proposed project is desirable.

II. Parking: There are no zoning regulations regarding parking in this rural area of the county. However, about 128 onsite parking spaces will be available for Government-owned employee and visitor vehicles.

III. Standard level user charge (SLUC): Space to be provided in the proposed facility will have four major classifications: office, warehouse storage, light industrial (canopies and booths), and parking. The estimated FY 1981 SLUC rates for the proposed border station are as follows:

Office (per square foot)	$12.21
Warehouse	2.15
Light industrial	9.25
Parking (outside)	.92

IV. Environmental data: At present the city of San Diego is preparing a new General Plan for the Otay Mesa area. An environmental assessment will be prepared as part of this planning process. Once the Otay Mesa General Plan is adopted by the city, an environmental impact report will then be prepared. Also, GSA is joining the San Diego city and county governments, the California Department of Transportation, and the Federal Highway Administration in the preparation of an environmental impact statement/report on the access road and border station. GSA and the Federal Highway Administration are assuming joint lead agency responsibility for preparation of the environmental impact statement.

V. Housing: When the new crossing is opened, it is anticipated that 33 employees will be relocated from the existing truck compound. Also, of the 116 proposed employees about 15 will be GS Grade 12 or above. Since the number of potentially affected employees is less than 100, we have not asked the Department of Housing and Urban Development to prepare a housing report under the terms of the DHUD/GSA Memorandum of Understanding. Previous data obtained for the San Diego area revealed that adequate low and moderate income housing is available within the South Bay area of San Diego County, which includes the Otay Mesa area.

VI. Consideration under the Rural Development Act of 1972 (P.L. 92-419): As required under this act, priority consideration was given to the location of this facility in a rural area. The special purpose nature of the proposed project can only be satisfied in the Otay Mesa and the Otay Mesa is in a rural portion of San Diego County.

VIII. Floodplain management: In accordance with Executive Order 11988, dated May 24, 1977, it has been determined that the proposed site is not within a floodplain.

COST ANALYSIS, AS OF OCTOBER 1981—U.S. BORDER STATION, OTAY MESA AREA, SAN DIEGO, CALIF.

	Gross (G)	Occupiable (O)
1. Square feet	148,326	124,148

Cost item	Thousands	Per square foot	
		G	O
2. Estimate summary:			
Construction cost October 1981	$10,762.3	$72.56	$86.69
A/E drawings and specifications	678.0	4.57	5.46
Management and inspection	455.4	3.07	3.66
Site and relocation	210.0	1.41	1.69
Total	12,105.7	81.61	97.50
3. Estimated cons. cost:			
(a) Contract award	$9,896.7	$66.72	$79.71
(b) Reservation	370.8	2.50	2.99
(c) Contingencies	494.8	3.34	3.99
Total	10,762.3	72.56	86.69

Cost item	Thousands	Percent of ECCA
4. Estimated A/E drawings and specifications cost:		
A. Allocated to A/E:		
(1) Basic fee	$550	5.55
(2) Consultants	35	.35
(3) Soil testing	19	.19
(4) Travel	2	.02
Subtotal	606	6.12
B. Allocated to GSA:		
(1) Design review	50	.50
(2) Advertising and printing	15	.15
(3) Travel	7	.07
Subtotal	72	.72
Total A/E	678	6.85
5. Estimated management and inspection cost:		
A. Allocated to GSA:		
(1) Adm. and inspection	424.1	4.28
(2) Material testing	24.8	.25
(3) Travel and moving expenses	6.5	.07
Total, M & I	455.4	4.60
6. Estimated site cost:		
A. Land cost	210	
Acquisition	0	
Relocation	0	
Total	210	

Mr. MOYNIHAN. Mr. President, the distinguished majority whip is entirely correct. This is part of the President's program. It is one that is overdue. The need is elemental and pressing. We will be happy to accept this amendment.

Mr. STAFFORD. Mr. President, the minority is persuaded not only by the sponsor of the amendment but also by the eloquence of the majority manager of the bill, and we accept the amendment, also.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank both Senators very much.

Mr. MOYNIHAN. Mr. President, I thank the senior Senator from California, who has been patient but persistent in obtaining this necessary border facility, which means a great deal not only to his State but also to the Nation and to our neighbor, Mexico.

Mr. CRANSTON. I thank the Senator.

UP AMENDMENT NO. 1220

(Purpose: To strike specific goals for occupancy of public buildings by Federal officers and employees)

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment, on behalf of myself and Senator BOSCHWITZ, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN), for himself and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 1220.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, beginning at line 20 strike out through line 16 on page 77, and insert in lieu thereof the following:

"SEC. 702. Any other provision of this Act notwithstanding, the annual plan submitted to Congress by the Administrator in accordance with Section 801 of this Act, shall assure that—

"(1) to the extent practicable and feasible, officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

"(2) to the maximum extent possible, the percentage of officers and employees of the Government whose offices are provided under this Act having their principal offices in public buildings, is maintained uniformly throughout the Nation, and that priority is accorded to construction, acquisition, and renovation of such public buildings as may be necessary to achieve such uniformity."

Mr. GLENN. Mr. President, I have made the main points I want to make with regard to this amendment.

Basically, this amendment centers around this: I question whether Congress should establish specific goals for periods of 10 and 20 years that will have the effect of requiring the construction of more monumental Federal buildings.

The purpose of my amendment, then, is not to change the basic thrust of this bill but simply to remove the mandate contained in section 702 that 60 percent of the officers and employees of the Federal Government be housed in public buildings by 1990 and that 75 percent be so housed 10 years later. Instead, I state that public buildings be used to the extent practicable and feasible.

We should not tie GSA's hands but, rather, should permit it the flexibility to operate in the most economical way and with the most economical mix that meets acceptable standards.

I have spoken at length about why I believe this is necessary; and at whatever time the floor managers decide, I will be prepared to yield back the remainder of my time. I hope they can accept this amendment. If not, we will have to go to a vote.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I have a very brief statement on my part and for the minority. Then, unless there is other comment, I shall be prepared to go to a vote.

The minority, at least this Senator and the committee minority, are unable to accept the amendment of the Senator from Ohio. The Senator from Vermont simply reminds my good friend, the distinguished Senator from Ohio, that we have attempted to establish goals as something to be attained by GSA. I think our committee believed rather strongly that we had to establish goals if we were to get progress toward them in a reasonable way. Ten years seemed to the Senator from Vermont and his colleagues on the committee to be a reasonable period of time in which to achieve the first goal of 60 percent.

I remind my distinguished friend, a former astronaut, that in 1960 the then-President of the United States, Jack Kennedy, set a 10-year period for flight to the Moon. That was achieved, and without that goal we might still be trying to get to the Moon.

So we believe on the committee that a 10-year goal is a reasonable one in which to achieve 60 percent of Federal occupancy of federally owned buildings.

Mr. GLENN. If the Senator will yield, I think that is a very good analogy because he also recalls that after that goal was set it was necessary to appropriate massive amounts of money, large, large amounts of money to reach that goal, which we did.

I think in this case to reach the goal of 60 and 75 percent at the end of 20 years, as is provided in this, we will be seeing, for the reasons I gave a while ago in my statement, at least $20 billion and probably with inflation and the other factors I mentioned there of the architectural way we want these buildings built here, taking several times that, perhaps just as the Hart Office Building under GSA has gone up to triple its original projected cost.

Mr. STAFFORD. The Senator from Vermont replies that, given the choice of going the route of owning the buildings or going the lease route to spend all that money and own nothing, leaves the Senator from Vermont preferring the route enabling the Government to own 60 percent of the buildings after 10 years.

Mr. MOYNIHAN. Mr. President, if the Senator will yield, the Hart Building is not being constructed by GSA, and that is not the responsibility of our committee. The responsibility of our committee is for the GSA. We have grown increasingly concerned about the leasing arrangements. I repeat: of 35 lease arrangements recently looked at by the Inspector General of GSA four have already been sent to a United States Attorney.

Mr. President, I think we have had a good discussion. I shall move to table the amendment if the Senator from Ohio is finished.

Mr. GLENN. If the Senator will yield, I go back to a previous statement of the Senator from New York that the appropriate committees of Congress would monitor GSA's performance in this regard. I have just been corrected here by staff that tell me that the Hart Office Building is not a good example of GSA performance because it is being built on Capitol Hill monitored by Congress. So perhaps the guarantee that appropriate congressional committees will monitor expenditures under the provisions of this act is a little harder for me to accept even than GSA, because we apparently are the ones who permitted this to triple in expenditures up to approaching $150 million at the present time when the original was $46 million, as I recall now, and with appropriate committees of Congress monitoring supposedly all along the way what these costs would be. So I am perhaps even more persuaded of the amendment that I have just submitted.

Mr. MOYNIHAN. With great respect, I say that the Senator makes a point to which I have no adequate reply. Congress, when it comes to the provision for Congress, has been notable. The example of the Rayburn Building is there for all to see. I have consistently voted against the Hart Building for exactly those reasons, but it is not the same subject to my view.

Mr. STAFFORD. If the majority manager will yield a second in response, I say to the Senator from Ohio, I think one of the reasons for changes in cost of the Hart Building was constant changes in the design and engineering concepts. That added considerable expense to the original proposal to simply complete the original Dirksen Building instead of building a new Taj Mahal on the end of it.

Mr. GLENN. I agree that the changes have added tremendously to that, but I also submit it is a rare Federal office building that gets built that does not go through a number of changes in the process more than in the average civilian construction building, I might add. They do not all follow the same process as the Hart Building. I agree the Hart Office Building is not a fair example and I admit that to the floor leaders of the bill because it is being built, should we say, for the ages. It is supposed to be here as long as the Capitol, the Russell Building, and the Dirksen Building and long after all of us have departed this mortal world. So it is not a fair example of the type of construction, on the average at least, when we are talking about across this country.

Did I call for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MOYNIHAN. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator withhold the motion to table?

Mr. MOYNIHAN. I am happy to withhold.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays are ordered on the amendment.

The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, Senator WARNER has asked to be a cosponsor to this amendment of Senator GLENN and myself. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, in closing, I cite something that I am sure the majority manager of the bill will recall. I might say I was flabbergasted when he said he had no adequate response to Senator GLENN, because the Senator from New York normally has such great adequacy of response, and I enjoy listening to him. But there is that famous Professor Parkinson and, as the Senator knows, he came with his first law which said that expenses rise to meet income. His second law concerned work filling the time allotted to it. The third rule, predicated on his observation of the British admiralty before and after the First World War, was that space is also consumed, that as one builds more space people come and fill that space.

Frankly, I have found in building buildings, if commercial buildings are only supposed to last for 20 years I hope we will inform the Internal Revenue Service. One of my friends who just built an office building said the IRS made him depreciate it over 55 years. And most of the buildings I own are depreciable over 35 and 40 years. Certainly they are built to stand up to that period of time.

But there is no question that when one builds a building they say: Well, we may as well add a few extra thousand square feet. That is always done and, indeed, that will be done much more readily than if they go out and rent a building when they are much more cognizant of their needs and it comes about much quicker.

So I have always found that when one builds a building he builds it a little bigger, with a result that he is going to fill that space. Filling that space is a hidden cost, perhaps, in the buildings that the Federal Government is yet to construct.

And so, Mr. President, I join with my good friends Senator GLENN and Senator WARNER in presenting this amendment and I hope my colleagues will vote not to table it.

Mr. STAFFORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. It is the understanding of the Senator from Vermont that no motion to table has yet been made.

The PRESIDING OFFICER. The Senator is correct. It was made but withdrawn.

Mr. STAFFORD. In that event, the Senator from Vermont does not want to cut off any further discussion, but if there is none, the Senator from Vermont now moves to table the amendment of the Senator from Ohio and asks for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the

Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (M. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. NUNN). Have all Senators in the Chamber voted?

The result was announced—yeas 48, nays 31, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—48

Baker
Baucus
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cranston
Dole
Durkin
Exon
Ford
Hart
Heflin
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Mathias
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Williams
Zorinsky

NAYS—31

Armstrong
Bellmon
Boschwitz
Byrd, Robert C.
Durenberger
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Matsunaga
McClure
Packwood
Percy
Roth
Sasser
Schmitt
Thurmond
Tsongas
Wallop
Warner
Weicker
Young

NOT VOTING—21

Bayh
Bentsen
Bradley
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Schweiker
Stevenson
Talmadge
Tower

So the motion to lay on the table Mr. GLENN's amendment (UP No. 1220) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, may I have attention of Senators?

Mr. President, many Senators are asking about the program for the rest of the week. The Senate has before it at the moment the Public Buildings Act. When the Senate completes action on the Public Buildings Act, it will proceed to the consideration of the housing and community development bill. Senator WILLIAMS and Senator GARN have been prepared all day to go to that bill and are ready as soon as action is completed on the Public Buildings Act.

Obviously, we shall not be able to finish that bill today without a lot of luck. As a matter of fact, the Public Buildings Act has been no longer than we had hoped. But that is no criticism of anybody. It takes time. That being the case, the Senate will have to continue its work on the housing and community development bill tomorrow.

Let me state again to Senators the workload that needs to be accomplished before the July 4 break. Counting tomorrow, Saturday, and counting the next Saturday, the 28th, the Senate has only 10 days remaining to complete its workload before the Senate goes out for a period of 17 days.

Then, of course, when it reconvenes, it will only be in 2 weeks before it goes out again for the August break.

Yet to be disposed of are housing and community development bill; flood management and rural housing, both of which will be attached as amendments to the housing bill; the Higher Education Act amendments; the National Science Foundation; supplemental appropriations; urban mass transportation; debt limit extension; Clean Water Act; Nuclear Regulatory Commission; Securities and Exchange Commission.

These are expiring authorizations and have to be done.

There are the Department of Treasury, international affairs, coal conversion, which is one of the very important energy bills that we must act on and we shall act on and shall take it up next Tuesday; the mental health services bill; the Department of Defense military procurement bill, the Energy Mobilization Board conference report. In this instance, the House has to act on that conference report before the Senate, but the Speaker has indicated that the House will act next week, no later than Friday. I have urged earlier action, if possible by the House on that very important energy conference report. There may be a reconciliation bill; Mr. HOLLINGS has not decided whether or not he will want a reconciliation bill before the July break, but in all likelihood, I think he might; and the Coast Guard bill.

That is saying nothing about appropriations bills and the supplementals, and there will, undoubtedly, be some appropriations bills ready.

(Mr. ZORINSKY assumed the chair.)

Mr. ROBERT C. BYRD. The Senators can see the enormity of the workload that remains for us to do. May 15 was the deadline on reporting many of these bills from committees, that being the deadline under the Budget Reform Act. On May 15, there were several pages added to the calendar because the committees had reported out bills to meet the Budget Reform Act deadline.

Then, of course, we had the first concurrent budget resolution, which, under the law, had to be disposed of. Otherwise, points of order could have been made on several bills on the calendar. So we are faced with this glut. There is simply no way to get this done unless we stay in late in the evenings, come in early, and are in session the next two Saturdays, including tomorrow and a week from tomorrow. I see no way under heaven to avoid it.

If we are able to complete this workload by Monday, a week from next Monday, then we shall not be in on the Tuesday and Wednesday we are supposed to be in. In other words, what I am saying is that if we can get time agreements on these measures, work early and late and Saturdays, instead of going out on July 2, possibly, we could go out on July 1. If we get the work done before that, we could go out on June 30.

So any gains that we can make can be made up for on the other end of the 10 days that we have remaining. But we have to get this work done.

When we get back after the recess, we have the Alaska lands legislation, and I am sure we shall have a great number of appropriations bills by then. They will have come over from the House. We have had to wait on them to come over from the House.

So we have an enormous workload. I can see no way other than being in tomorrow and the following Saturday. That being the case, I would not suggest that the Senate stay in late tonight, because we have been in late two or three nights this week. I do not think we ought to stay in late and come in tomorrow. I would suggest that we go until about 6:30 today, not later than 7, on the housing bill, and come back in tomorrow and try to complete the action on that bill tomorrow.

I hope that Senators will continue to be understanding and cooperative. It would help the Senate enormously if we could achieve time agreements on these remaining measures and be able to sequence them so that managers and ranking managers on the bill could know when their bill is coming up, be prepared, and we could move into these one after the other, with time agreements, as I say.

Mr. JACKSON. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JACKSON. The Senator from Washington commends the majority leader for being realistic about the legislative program that must be addressed between now and the scheduled recess at the conclusion of business on July 2. I think it is better for each Member to know now that there will be Saturday sessions. I think it is a lot better than to try to go until midnight every night and come back so early in the morning that we cannot, really, handle our legislation in an orderly manner.

I think it is clear, Mr. President, that we are going to have a lot of Saturday sessions after we come back on July 21, so that we go but, adjourn sine die, as I understand the leadership program, the first week in October, October 4.

I commend the majority leader. It is better that the Members known in advance exactly what the program is going to be, rather than waiting until sometime late Friday and then we do or do not—we do not know until the last minute whether there will be a Saturday session.

Some Members, as the majority leader knows, have to travel all the way across the United States. It is better to advise all parties concerned that we cannot be there on Saturdays. I think we shall all be better off with this kind of approach.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Let me say with respect to the October 4 date, it is the intention of the leadership in both Houses—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. Nunn). Will the Senator suspend? The Senate will be in order.

Mr. ROBERT C. BYRD. The leadership met with the leadership of House earlier this week and agreed that, no later than October 4, the Congress is going to adjourn. Whether Congress adjourns sine die or not on October 4 depends on whether the work is done. But we are going out. If the Congress has completed its work, Congress will go home and not come back until January. But if Congress has not completed its work, Congress will still go out on the 4th of October and will come back after the election.

So it behooves us all to keep that in mind and to be as cooperative as we possibly can in helping to get time agreements and shorten the action on the measures and move the measures as expeditiously as is reasonably possible.

Mr. NELSON. Mr. President, that was one of the questions I was going to ask the leader. It has been partially answered.

If we have not finished the business by October 4 and we then recess, has any decision been made as to the date we then would return after the election?

Mr. ROBERT C. BYRD. The decision has not been made, but the leadership of the two Houses will get together and determine that after we can talk with our Members.

Mr. NELSON. One other point. I want to commend the leader for what he did for this whole first part of year, all the way through May, and I believe last year the same——

Mr. ROBERT C. BYRD. Last year through June.

Mr. NELSON. That was the first time last year, and this year the second time, in the almost 18 years I have been here, that we have been able to plan the way we were able to plan in the past 2 years.

I want to thank the leader for it.

We had absolutely no notion in previous years whether we would be in on a Friday, a Saturday, or have votes on a Monday.

The agreement that we would not vote earlier than 2 o'clock on Monday and that there would be no votes on Friday was a great help to the Republicans and Democrats alike in being able to make some sensible plans.

Furthermore, I do not think it handicapped us in proceeding to get our business done. In some ways, it probably helped.

Furthermore, we did not formerly know when we were going to recess. I can remember on occasions, at one time, making plans for a vacation with my family over the Fourth of July and could not get a clear answer whether we could be gone 10 days. So I canceled plans with my family.

We did not have a vote for 17 days. But there was no way any of us got any notice.

So I think the leader is to be commended for the way he has been planning, and the cooperation, of course, with the minority leader (Mr. Baker), also.

One further point, and no reflection on the leader. We understood on Monday there may be a Saturday session. Certainty in these matters, as I am sure the leader knows, is very important to all of us.

If I had been certain, as I am at this moment, that there would be a session on Saturday, it would have been a whole lot more convenient for me to have canceled meetings that I had, a meeting I had for tonight, about five for tomorrow, and it would have been more convenient for me, my staff out there that must cover some of these, and for the people involved.

So I know the leader's intent was to say that we will be in Saturday if we can finish what we have in mind.

I had hoped, as I know many others did, that we would finish and not be in on Saturday. But I was not able to make that decision to cancel until a couple of hours ago. So I thank the Senator for making it clear we will be in.

So there is no misunderstanding, I understand the leader to say that we will be in a week from tomorrow, that is the following Saturday, regardless, unless we have finished all of the business that has to be finished prior to the scheduled July 2 recess; is that correct?

Mr. ROBERT C. BYRD. That is correct, unless we have finished all this workload.

I supplied this workload sheet to the distinguished minority leader a couple of days ago. We have had a good week up to this point.

But it would be helpful if the minority and the majority could work out a program and agree on it, and lock it in, and put the bills into sequence, enough bills, and hopefully time agreements on as many of those bills as possible, so we would know what the program is and know we have got enough bills scheduled to run us through Saturday.

My problem has been that I have not been in a position to know, myself, what we could have on Saturday, or whether we could have anything on Saturday. It will be helpful if the minority and majority can work together to sequence enough bills, get time agreements on them, so that we can anticipate and predict what the actions will be.

I say to the Senator "yes," I see no way out of being in on Saturday. We will be in on Saturday.

I have to cancel a meeting myself in West Virginia with the VFW on tomorrow, and it is a big West Virginia Day celebration in West Virginia tomorrow, because on June 20, 1863, West Virginia became a State.

Today is the anniversary, I believe.

Mr. RANDOLPH. Today.

Mr. ROBERT C. BYRD. The 20th.

Mr. RANDOLPH. Yes.

Mr. ROBERT C. BYRD. So today is the anniversary, but I cannot be there.

But we have to take our choice, we either go to the State or stay here, and for my part——

Mr. LEAHY. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. LEAHY. I wonder, the leader talked about finishing up somewhat earlier this evening and then coming back tomorrow.

This is not in any way discourteous to the majority leader and the minority leader—and notwithstanding the fact that I suspect all Members of the Senate would like nothing better than to spend Saturday here in close collegiality, but for those few who might stray off the reservation and be gone tomorrow, for whatever reason, diligence notwithstanding, might it not make some sense, because there are some like that, to go fairly later tonight, get as many things disposed of tonight, and less tomorrow?

I mention that only because I heard it on the minds of others, not that I have any personal stake in it at all.

Mr. ROBERT C. BYRD. Well, we have stayed so many nights this week, I have had several Members urging me not to stay late, as we will be in session tomorrow.

It would help if we could get a time agreement on the pending matter that would see us complete the work on it.

I express the hope that we can get together and work out a time agreement on the housing bill. I know Senator Garn is very willing to do that, and Senator Williams, the managers, and the distinguished minority leader, are making efforts to. I hope we can do that.

Mr. BAKER. Mr. President, before we proceed, let me take just a moment to advise the majority leader that we have, indeed, on this side, been shopping for the prospects of a time agreement. We put together a number of suggestions that already add up to about 15 hours. That is not padding. That was the work that was done by the Senator from New Jersey (Mr. Williams) and the Senator from Utah (Mr. Garn). That is their best appraisal, and they are not halfway through the amendment list yet.

But I must tell the majority leader, in all candor, I do not now see the prospect for the next little while for getting a time agreement on that bill. I am not saying we cannot, and I will continue to explore that possibility. But I wanted him to know that, in my judgment, it is not possible to do it at this moment.

What time does the majority leader intend to come in on tomorrow?

Mr. ROBERT C. BYRD. Nine o'clock.

Mr. BAKER. Is there some possibility that the majority leader would consider the suggestion of the Senator from Vermont and stay a little later, say, than 6:30 or 7?

Mr. ROBERT C. BYRD. It is perfectly agreeable with me, yes.

Mr. BAKER. All right. It seems to me, if there is some prospect to trade later tonight for earlier tomorrow afternoon, that some people on our side might be attracted to that.

But I will not try to negotiate that with the majority leader on the floor, but rather, just to suggest that is an alternate possibility for scheduling that we might consider.

Mr. ROBERT C. BYRD. I am very willing to cooperate with the minority leader. I hope we can work out an agreement.

May we have third reading?

PUBLIC BUILDINGS ACT OF 1980

The Senate continued with the consideration of the bill (S. 2080).

Mr. CRANSTON. Mr. President, I support S. 2080, the proposed Public Buildings Act of 1980. I congratulate the distinguished Senator from New York (Mr. MOYNIHAN) for his characteristically able handling of this measure today.

I want to specifically speak in support of section 307 of the reported bill which deals with standards of physical accessibility of Federal buildings to handicapped persons. Section 307 was authored jointly by Senator STAFFORD and myself and represents the culmination of a great deal of time and effort. I congratulate Senator STAFFORD on his effective advocacy of this needed provision, and also want to thank the chairman of the committee, Mr. RANDOLPH, himself a great champion of the needs of handicapped individuals, and the principal author of this legislation, my friend from New York, (Mr. MOYNIHAN), for their assistance with section 307, which is of great importance to me.

Over the past several years Congress, and indeed the Nation, has begun to recognize the basic equality of disabled individuals with the nondisabled population of this country.

We are aware of the stark reality that a change in our lives can take place in the twinkling of an eye, and that in an instant we—instead of the other person—could be virtually shoved out of the mainstream of society. This is an important realization. We are no longer willing to say to a disabled person: "You and I were entitled to equal protection of the laws of this country until you had an unfortunate accident that left you in a wheelchair; or, you were entitled to make use of the U.S. Post Office Building until you were paralyzed by a bullet during World War II."

Mr. President, we passed out of the darkness of ignorance regarding disabilities when we enacted the provisions of the Architectural Barriers Act, and the Rehabilitation Act, and other provisions of law which guarantee the civil rights of handicapped individuals.

The Architectural Barriers Act of 1968 was clearly intended to require that all general purpose Federal buildings be built to afford ready access to all handicapped persons. And, the Rehabilitation Act prohibits discrimination—by federally funded facilities and programs—against an individual solely on the basis of a handicap. This would quite clearly include discrimination which necessarily results from the denial of physical access.

Unfortunately there has been difficulty in getting these laws implemented and the difficulties are attributable to many factors. One factor is that there are still some who seem unwilling to accept the tenets of basic human equality and who are incapable of comprehending their own vulnerability and fraility in terms of the tricks of time and risks of accidents. But another fundamental barrier to the implementation of these laws has resulted from an oversight by Congress. That is, there are currently three different pieces of Federal law with related provisions affecting the physical accessibility of Federal buildings to persons with physical disabilities but which have not been adequately linked together.

Section 307 of the pending measure designed to lace a common thread through these bodies of law in order to provide a mechanism by which the Federal efforts in this area may be drawn together.

During the preliminary stages of development of S. 2080, and soon after Senator STAFFORD shared the results of a study conducted by his committee staff with the Senate through a report entitled, Architectural Barriers in Federal Buildings—Implementation of the Architectural Barriers Act of 1968 (Comm. Print No. 96–8). His staff and mine began working to develop an answer to some of the problems uncovered by the report. This legislation, which as introduced attempted to deal briefly with accessibility of public buildings to handicapped individuals, was the most logical and appropriate place to set the record straight.

I should like to take just a short time to explain to my colleagues exactly what section 307 is designed to accomplish and how.

The bodies of Federal law which control physical accessibility of Federal buildings are the Architectural Barriers Act of 1968, the Rehabilitation Act of 1973, as amended, and indirectly, through definitions and general administrative provisions, the Public Buildings Cooperative Use Act of 1976. Although there are currently no explicitly overlapping responsibilities resulting from these three pieces of law, some confusion has resulted from their use of different terms which have similar, but not identical, meanings and from the fact that the process for assuring accessibility in Federal buildings requires reliance on three separate acts.

Under the Architectural Barriers Act of 1968 as originally conceived, the Administrator of the General Services Administration, in consultation with the Secretary of HEW—now Health and Human Services—is to develop standards which govern accessibility to public buildings housing Federal programs and the Secretary of HHS is to consult with the heads of specific agencies in order to develop standards which will apply to buildings under the control of or owned by those agencies.

The Rehabilitation Act of 1973 and its subsequent amendments make clear Congress intent that the Architectural and Transportation Barriers Compliance Board (section 502) is to serve as a focal point for coordination of Federal activities in this area. This Board was created to, among other things, assure that there would be some uniformity in the accessibility requirements being placed on Federal agencies. In order to promote this uniformity, the Board was initially authorized in 1973, in section 502(b)(1) of the Rehabilitation Act to:

> Insure compliance with the standards prescribed pursuant to the . . . Architectural Barriers Act of 1968 . . . including but not limited to enforcing all standards under that act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such act and this section.

In the 1978 amendments to the act, now section 502(b)(7), the Board was also mandated to establish minimum guidelines and requirements for the standards that are issued pursuant to the Architectural Barriers Act of 1968. Although the Board's enforcement and coordination authority in the area of accessibility has been clearly developed in the Rehabilitation Act of 1973 and its subsequent amendments, the fact that the Architectural Barriers Act of 1968 makes no mention of the Barriers Board has been confusing to some persons.

Section 307 of S. 2080, as reported, clarifies the existing responsibilities of the Administrator of the General Services Administration, and other agency heads—such as the Secretary of HUD, the Secretary of Defense, and the Postmaster General—vis-a-vis the Board.

This is accomplished through the establishment of a specific process for the promulgation of standards which requires the agency in question to consult and cooperate with the Board. Section 307 would require all Federal agencies governed by the Architectural Barriers Act and the Rehabilitation Act to submit their proposed standards for accessibility to the Board for its approval, and possible revision, to assure that those standards are consistent with the minimum guidelines and requirements that the Board has established.

In a further attempt to coordinate the requirements of the various bodies of law which treat the issue of accessibility, section 307 creates a conclusive presumption of compliance with section 504 of the Rehabilitation Act, for any agency which fulfills its requirements for full accessibility under the Architectural Barriers Act of 1968 and the requirements for the issuance of standard contained in section 307.

Finally, section 307 serves as a reinforcement of the clear requirements of Federal building accessibility which were adopted in the Architectural Barriers Act of 1968 and were strengthened by the nondiscrimination provisions of the Rehabilitation Act of 1973. In 1968, Congress declared that all buildings leased or acquired after August 12, 1968, must be designed in a manner which provides "ready access" to handicapped individuals. The act provides room for leeway in the form of waivers or modifications of standards in certain circumstances. Congress made a new statement about its intent with regard to physical accessibility in 1973 when it enacted provisions in title 5 of the Rehabilitation Act providing clearly that Federal programs which are not accessible discriminate unlawfully against persons with physical disabilities.

In 1978, Congress further amended title 5 of the Rehabilitation Act—specifically section 504, nondiscrimination in federally-assisted programs—so as to apply that section directly to the activities of the Federal Government itself, rather than just to its grantees. Thus, although practicality would indicate that some modification of accessibility standards, as initially provided for in section 6 of the Architectural Barriers Act of 1968, may be necessary in certain narrow circumstances, and with certain procedural safeguards, a full waiver of standards should no longer be permitted, and would not be under the new provision.

I have been intimately involved, over the years, in numerous legislative and other efforts to assure disabled individuals of the rights and benefits to which they are entitled. One of the most basic needs of disabled individuals—without which many other rights become meaningless—is physical accessibility. Section 307, while it does not add substantive rights for handicapped persons, is tremendously important in providing for a valuable process for the application of the spirit and letter of the body of Federal law affecting physical accessibility of Federal facilities to handicapped individuals.

Mr. President, I am most pleased to offer my strong support fcr this legislation.

Mr. President, I ask unanimous consent that excerpts from the committee report regarding section 307 of S. 2080, be printed in the RECORD.

The excerpts follow:

SECTION 307—ACCESSIBILITY OF THE HANDICAPPED

SUMMARY

Section 307(a) states that notwithstanding other provisions of the statutes affected by this section, the Architectural Barriers Act of 1968, as amended (Public Law 90–480) and the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), the Federal agencies named in the Architectural Barriers Act of 1968, as amended, (the General Services Administration, Department of Housing and Urban Development, Department of Defense and the U.S. Postal Service), are to seek approval of the standards they propose under this section from the Architectural and Transportation Barriers Compliance Board (the Board) to assure that such proposed standards are not inconsistent with the minimum guidelines and requirements for accessibility standards that the Board has established under the authority of section 502(b)(7) of the Rehabilitation Act.

The head of each agency is to propose standards to the Board within 180 days after enactment of this bill and the Board, within 90 days of that submission, must take action or the proposed standards shall become the final standards of that agency. The actions that the Board may take are: (A) issue an order approving the proposed standards prior to the end of the 90-day period, in which case the standards become final and are to be published promptly by the Federal agency head in the Federal Register; (B) issue an order disapproving of the standards proposed by the Federal agency head concerned because they are not consistent with the minimum guidelines and requirements, and provide specific reasons for disapproval and recommendations for revisions to make the proposed standards consistent with the Board's guidelines and requirements; the agency head proposing the standards is to publish, not later than 90 days after the issuance of a disapproval order and after considering the Board's action, final standards in the Federal Register, and must specify in that publication, why it rejected any or all of the Board's recommendations for change to the standards; or (C) issue an order approving, with revisions, the standards proposed to it by an agency head in order to make them consistent with the minimum guidelines and requirements and specifying the reasons for such action; the Federal agency head shall immediately publish the revised standards in the Federal Register as final.

Clause (2) provides that no modification of a standard issued under the Architectural Barriers Act of 1968 and approved in conformance with this subsection is to be permitted unless (A) the Federal agency is seeking the modification for a building to be leased by it for its use or the use of another Federal agency or the agency demonstrates that at the time it designed, constructed, altered, or acquired the building for which the modification is sought, it was not foreseen that the modification would be required; or (B) the agency notifies the Board in advance of the need for modification, and the Board is assured that the agency seeking the modification has implemented the survey and investigation requirements of section 6(2) of the Architectural Barriers Act of 1968, as amended. The effect of the provision is to restrict tightly any modification permissible under section 6(1) of that Act and to eliminate any authority to "waiver".

Clause (3) provides that, when a Federal agency has had standards approved and issued pursuant to this subsection, it is presumed to have satisfied its obligations with respect to physical accessibility nondiscrimination under section 504 of the Rehabilitaton Act of 1973, as amended by Public Law 95–602.

Clause (4) conforms the terms "ready access" and "use of buildings by the physically handicapped" under sections 2, 3, 4, and 4(a) of the Architectural Barriers Act of 1968, as amended, to the definitions of "handicapped persons" and "fully accessible" in paragraphs (9) and (10) of section 110 of this bill.

Section 307(b) requires that, after publication of the standards under the procedures in subsection (a) of this section, the Federal agency head concerned is to issue regulations to assure that all contracts for design, construction, acquisition and renovation to be carried out under the authority of the bill contain sufficient information to permit all persons performing such design, construction, acquisition and renovation to be fully aware of the responsibility to perform such work so that it is fully accessible to handicapped persons as defined by this bill. The Administrator of General Services is to certify that each project listed as completed in section 109(a)(3) of this bill has been carried out in accordance with such standards. Each agency affected is to publish the regulations required by this subsection no later than 180 days after the enactment of this bill.

Section 307(c) requires the Administrator to list, in the annual plan required by section 801 of this bill, in order of priority, and with the estimated cost, the renovations to be made on existing buildings in order to make them fully accessible to handicapped persons in conformance with the final standards published under subsection (a) of this section and the regulations prescribed under subsection (b) of this section. The term "building" as used in subsection (c), as well as in the second sentence of subsection (b), refers to those structures defined as "public buildings" in the bill. Its meaning in subsection (a) and the first sentence of subsection (b) includes that definition as well as the definition of "building" in the Architectural Barriers Act of 1968, as amended.

DISCUSSION

As introduced on December 5, 1979, S. 2080 contained a provision (section 306) to require the Administrator of the General Services Administration to establish and publish design and construction standards which would make buildings fully accessible to handicapped persons.

During consideration of the bill on March 24, 1980, the committee adopted the language now contained in section 307 as an amendment in the nature of a substitute for that language. The substitute was adopted to take into consideration comments the committee received during and after hearings. These comments expressed the need for uniformity between accessibility requirements proposed in this legislation, the accessibility requirements of the Rehabilitation Act of 1973, as amended (Public Law 93–112), and the Architectural Barriers Act of 1968, as amended (Public Law 90–480). Further, the new language was drafted with the intent of ensuring that this section would not conflict with or undermine congressional intent as set forth in either of those Acts.

Section 307 establishes a bridge to connect for the first time all the authorities pertaining to fully accessible public buildings. It provides for uniformity with respect to physical access of public buildings and a mechanism to simplify and integrate the achievement of that uniformity. This coordinative approach in the same law that will govern the construction of future Federal public buildings, will greatly enhance the even implementation of the law throughout the Federal Government.

Handicapped individuals have relied for more than ten years on a policy statement of the Congress requiring full accessibility and for more than twenty years on the same basic standards of access. Findings of the General Accounting Office and the Committee make clear that this is simply not enough. Every person, whether physically handicapped or not, has an equal right to deal with the agencies of government in an equal way. Those rights cannot be abridged any longer by physical obstacles erected thoughtlessly by that same government. One overriding concern led to the adoption of this section: the Federal Government should not, ever again, build a building which is not fully accessible to all of the people. The fact that some taxpayers are more equal than others, in terms of access to their government, because they have the physical ability to climb a flight of stairs is repugnant to the notion of equal rights and equal protection. Physically handicapped persons should not be denied access to the agencies of government.

This section is intended to assure that they are not.

The Architectural Barriers Act of 1968 is the cornerstone of all other Federal statutory efforts to prevent discrimination by the denial of physical access to Federal buildings because of a handicapping condition. The record of adherence to that law is, at best, uneven. The history of the Act clearly suggests that the Congress intended that all general purpose Federal buildings be built to afford ready access to all handicapped persons. That has not been the result.

Congress has amended that law twice. In 1970, it included the Metro Subway System of the District of Columbia within the ambit of the law (Public Law 91-205). In 1976, as a result of profound defects in the administration and implementation of the original Act found by the GAO, it revised the definition of the term "building" and instituted a system of investigation and surveys (Public Law 94-541). Inclusion of this section in this bill stems in part from a belief that the original Act is still sufficiently vague as to hinder uniform enforcement and compliance.

In 1973, Congress passed the Rehabilitation Act. It provided, in section 502, for the creation of the Architectural and Transportation Barriers Compliance Board. The Board is the instrument through which the Architectural Barriers Act of 1968 is to be enforced throughout the Federal Government. Subsequent amendments to the Rehabilitation Act in 1974, 1976, and 1978 have added other functions and responsibilities to the Board's statutory mandate and the addition of 11 public members appointed by the President have expanded the Board from its original membership of the heads of Federal agencies (including the U.S. Postal Service, added in 1976 by Public Law 94-541). The Board now not only has responsibility for the enforcement of the Act of 1968, but also renders technical assistance, and is charged with the responsibility of setting minimum guidelines and requirements for standards issued under the Act by all Federal agencies.

Section 307 is designed to foster closer coordination between the Board and GSA as well as the other agencies named in the 1968 Act. Thus, each of those Federal agencies is required by this section to submit its proposed standards for accessibility to the Board for its approval and possible revision to assure that those standards are consistent with the minimum guidelines and requirements that it has established. This requirement will assure that agencies do not issue standards that are less stringent than those minimum guidelines required by the Board.

The bill does not intend to diminish the Board's statutory enforcement power, and should an agency choose public standards inconsistent with the Board's minimum guidelines and requirements, the Board still retains the citation authority provided in the Rehabilitation Act with respect to any structure that is built by that agency. Thus, if an agency chooses to construct, renovate, or acquire a building which is not accessible, the Board still may bring an action as provided for under section 502(d)(2) of the Rehabilitation Act. The Board may, as well, still bring an action even though the agency has approved standards published if it finds that the agency has constructed, altered or acquired a building which does not meet those standards.

The Board's guidelines are minimal standards for agencies, and the Committee urges that more stringent standards be developed. The GAO found in its 1975 study that perhaps no more than one tenth of one percent of cost is added when full accessibility is designed into buildings prior to construction (GAO Report No. FPCD-75-166, July 15, 1975). What is needed is not a massive expenditure to meet a new requirement, but rather a thoughtful application of good sense and practicality in the design and construction of new buildings.

Prior to the submission of new standards, GSA and other affected agencies should look to the model standards already adopted in some states and consult closely with the Board. The committee's own study of the current law concluded that the standards now in use by GSA are inadequate (Report No. 96-8 of the U.S. Senate Committee on Environment and Public Works, "Architectural Barriers in Federal Buildings, Implementation of the Architectural Barriers Act of 1968," November, 1979). Those standards, with minor variations, are the same as those being used by the other agencies as well, and have been in use since 1968. They were developed in 1961, nearly twenty years ago. Based on the experiences of some state governments, most notably North Carolina and California, it is clear that there has been much innovation in this area in the intervening years.

Although the Board has yet to publish its minimum guidelines and requirements, it has assured the committee that they will be issued by the end of the calendar year 1980. As long as that deadline is met, they will be in place prior to the deadline for the proposal of standards required by this section—180 days after enactment of the bill.

The Rehabilitation Act originally provided in section 504 that no qualified individual be discriminated against in federally assisted programs solely on the basis of a handicapping condition. In the 1978 amendments (Public Law 95-602), that section was amended to apply directly to Federal agencies as well. This requirement was designed to cause Federal agencies to look to their own physical access standards to assure that by denying access to a building or facility owned or under their control, they are not in violation of that provision. In order to prevent confusion in this area, and to preclude the need to issue two sets of regulations to achieve the same purpose, section 307 establishes a presumption that, if an agency fulfills its requirements for full accessibility under this bill and the Architectural Barriers Act of 1968, and the requirement for the issuance of standards contained in this section, it will be in compliance with the requirements of section 504 of the Rehabilitation Act with respect to the physical accessibility of its own facilities. A desire to achieve uniformity with respect to this legislation and the nondiscrimination provisions of the Rehabilitation Act led to the adoption of this approach. During hearings on S. 2080, the Administrator of the General Services Administration testified to the same effect, stating the GSA ". . . would like to suggest . . . that the language of the bill specifically reference both the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973 in order to provide uniformity with respect to all Federal programs." The substitute language adopted subsequent to that suggestion fulfills that need to uniformity.

It should be clear that "fully accessible" as defined in this Act is to have the broadest and most stringent application. It does not mean that in the future buildings will be generally accessible. It does not mean essentially accessible. It does not mean partially accessible. It means that buildings are to be designed, constructed and renovated so as to be as accessible as it is humanly possible to make them so that no matter what, or how severe, the nature of the physical impairment that an individual may have, full and dignified access shall not be denied in any building built with public funds. It also means that as new methods of achieving easier access are developed they should be incorporated into the designs of new buildings and major renovations of acquired buildings.

The "fully accessible" standard is embodied in the definition of that term found in section 110(10) of the bill. That definition states in effect that no person, because of a physical impairment, shall be denied equal access to a building. The term includes those individuals who have a communications impairment as well. The definition is intended to assure that those persons shall have the same opportunity to visit, use or be employed in that building as other individuals who do not have such an impairment. The agencies required to publish standards are expected to carefully consider the scope of those standards before they are proposed to the Board as well as the number of such adaptations that must be made in order to achieve full accessibility and the kinds of adaptations.

At the same time, the requirement to incorporate new technology and the most advanced methods of access does not mean that each time a new implement of access is invented it must be retrofitted to buildings already completed. But it does mean that, as the implements of access in those buildings already completed wear out, or as buildings undergo an otherwise normal renovation process, new technology shall be incorporated into them, provided it has been accepted as part of the standards that the agency is then using.

Of particular concern as well is the full accessibility of leased space. Currently, GSA makes a significant distinction between what is considered as acceptable levels of accessibility in leased space and what is acceptable in space owned and under its control. This bill sets a timetable for decreasing the number of Federal employees in leased space. Even when that process is completed, leased space will continue to be a significant portion of the Government's space inventory. Leased space should meet requirements for full accessibility as stringent as those for space constructed under the authority of this bill, but conditions may preclude achievement of that goal. The section therefore provides a process which allows for modification of a standard for leased space when there is no demonstrable alternative.

The bill does not give, as did the Act of 1968, the authority to "waive" the entire access standard in any building, whether leased or not. It only provides that certain parts of the final agency standards may be modified on a case-by-case basis, and that the modifications are subject to the prior approval of the Architectural and Transportation Barriers Compliance Board and may be made only in leased buildings or due to unforeseen design problems in a new building after the building has been approved. Before granting the modification of a standard, the Board must satisfy itself that the agency requesting the modification has implemented the system of investigations and surveys that it has been required to institute by law since 1976 (Public Law 94-541). This is designed to ensure that such modifications are consistent with an overall policy and program. At present, it does not appear that GSA is doing all that it can to locate fully accessible leased space or to encourage building owners to make space fully accessible as a condition to Federal leasing.

Existing Federal buildings which are not fully accessible should be made so. The bill requires that as part of the annual plan submitted in accordance with section 801 of the bill the Administrator list in order of priority, and with estimated costs, those buildings to be brought into conformance with the final standards for accessibility in the year for which the plan is being submitted. GSA has a target date for bringing all buildings now owned and under its control into compliance with the present standards, and has obligated money for that purpose. Requiring some retrofitting to meet a more stringent standard is not viewed unduly costly since there has been a clear requirement to make buildings accessible to some degree for 12 years.

Section 401—Public Buildings Cooperative Use Act Amendments

SUMMARY

Section 401 cites this title as the "Public Buildings Cooperative Use Act Amendments of 1980."

DISCUSSION

This title amends the Public Buildings Cooperative Use Act of 1976 (Public Law 94–541).

Section 402—Amendment of Section 102 of the Public Buildings Cooperative Use Act

SUMMARY

Section 402 amends section 102 of the Public Buildings Cooperative Use Act so that section 102(a) requires GSA, in constructing operating, maintaining, altering, and otherwise managing or acquiring space, to:

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities. The amount of space that may be leased in any public building is to be determined by studying the market or need for such activities in the interest of promoting commercial or cultural activity or serving the employees and visitors in the building but cannot exceed 25 percent of the space in the building, or 50 percent of the space in a public building fifty or more years old as long as any amount over 25 percent of the space in the building is occupied by a non-profit cultural or educational institution which uses at least one-third of the space for exhibits, performances, libraries, or other activities intended primarily for the general public;

(3) provide space, facilities, and activities. which encourage public access to and traffic through public buildings, and permit cooperative improvements to and uses of the area between the buildings and street.

Mr. BAKER. It is my understanding that the effect of this bill and its definitions of "public building" and "public buildings needs" is to permit TVA solely to provide for all of its own building and leasing needs directly in accordance with the provisions of the TVA Act of 1933. Is my understanding correct?

Mr. MOYNIHAN. Yes, that is the effect of the bill. TVA, and TVA alone, would now provide for all of its own building and leasing needs directly through its own authority. The Committee on Environment and Public Works would, of course, continue to have oversight jurisdiction over these activities as it does over all TVA activities.

Mr. BAKER. In addition, the location provisions of title II and the leasing provisions of title VII would not apply to TVA, would they?

Mr. MOYNIHAN. No, they would not.

TVA REGIONAL ARTS PROGRAM

Mr. BAKER. I am delighted to hear that the Board of Directors of TVA has recently approved a regional arts program that would restore TVA to a position of leadership in the field of arts and crafts. This program is similar in certain ways to the provisions for arts and architectural embellishments in S. 2080. TVA's primary focus, unlike that of S. 2080, is on utilizing the arts and crafts as economic development tools, putting to use the Valley's valuable human resources—its talented artists and craftspeople. However, TVA's secondary goal, similar to the main thrust of S. 2080, is to provide for a more pleasing, harmonious and efficient work environment for the employees of TVA and the public.

Are Federal agencies that are not covered by S. 2080, like TVA, being encouraged to undertake similar arts program to enhance the working environment of their employees and increase the utility and ambience of their facilities for the public?

Mr. MOYNIHAN. Yes, it is the intent of the committee to encourage those Federal agencies not covered by S. 2080 to develop and institute art programs which parallel the provisions of this act.

Mr. BAKER. One-half of 1 percent of the funds for the construction of TVA's people-occupied space and 1 percent of the funds for leasing space will be set aside for handcrafted structural building features to be incorporated into the architectural design and construction of new TVA facilities which is similar to the provisions in section 304 of S. 2080. These funds will be used also for the purchase of works of art to decorate TVA office buildings which is similar to the provisions of title V of S. 2080. TVA's program would be of regional scope supporting the Valley's craftspeople and artists, whereas S. 2080's scope is national.

TVA's program, like title V, includes incorporating the planning for arts into the preliminary design stages of new TVA facilities to insure better integration, the incorporation of a diversity of art forms, seeking the advice and assistance of other appropriate arts agencies, and reaching into communities with limited access to cultural institutions and activities.

TVA's program encourages the cooperative use of their facilities just as title IV of S. 2080 does. TVA facilities would be open to regional cultural organizations to use available space for exhibitions, performances, and other appropriate activities. In the past 3 years, the cultural heritage series, an exhibit program in TVA facilities throughout the Tennessee Valley, has provided educational, promotional, and sales opportunities for regional cultural organizations.

TVA's regional arts program is not really a new endeavor for TVA. Since TVA was initiated in 1933, the agency has shown concern for all aspects of human resource development, both for employees of TVA and for valley residents. As part of this development, TVA established a woodworking shop in Norris, Tenn., in 1934 in which craftsmen and employees produced furniture based upon designs reflecting the antiques of the area. TVA contracted with the U.S. Agricultural Extension Service to develop crafts through community clubs and other county organizations; and in 1934, TVA studied the existing area craft organization, the Southern Highland Handicraft Guild, to determine its needs. This study resulted in the opening of sales outlets at Norris Dam and on the plaza of Rockefeller Center in New York.

TVA's primary goal is to provide for better economic opportunities for the artists and craftspeople of the valley, and in doing so TVA will also enhance its work environment. I believe that the objectives of TVA's program tie in very well with those of S. 2080. Both are encouraging healthy and simulating environments that will enable increased efficiency and productivity.

Mr. STAFFORD. Mr. President, I have three unanimous-consent requests to make.

Mr. President, I ask unanimous consent that the statement of the Committee on Environment and Public Works about the committee's moratorium on prospectus approvals—contained in its "Report to the Senate Committee on the Budget" of March 1979—be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Moratorium

On March 12, the committee voted unanimously to impose a moratorium on all nonemergency prospectus approvals by the committee. The moratorium will remain in effect for the duration of the 1st session of the 96th Congress.

This action was based upon committee concerns and questions which might be put on three levels. First the committee questions the soundness of the present national building policies and programs. Second, the committee is concerned about how effective are the adimnistrative arrangements within the General Services Administration in carrying out these policies—whether present policies or prospective ones. Third, the committee wishes to review the prospectus approval process and the proper congressional role in building projects.

There have been recent disclosures of waste, mismanagement, and corruption within GSA, which have been reviewed in hearings before the Subcommittee on Spending Practices of the Governmental Affairs Committee. The Committee on Environment and Public Works has been and continues to be disturbed by disclosures. While much attention has focused on abuses in the supply area, significant problems exist also within the Public Buildings Service. Until the agency and the Congress has time to develop a policy and provide safeguards, the committee is greatly concerned that it has no assurances that projects which it approves for construction, acquisition, leasing, and alteration and repair, will be carried out with integrity and without waste and mismanagement.

The committee is aware that the agency has initiated a program to institute new management procedures, controls, and reforms within GSA to assure that past abuses not only are corrected but also do not recur in the future. The committee applauds this effort and stand ready to assist by revising appropriate statutes, or enacting new legislation where necessary.

The committee has long discussed and intends to pursue its objective, to enact new legislation and to conduct thorough oversight of the Public Buildings Service, and it is confident that a policy can be developed and adopted, logical defined and clearly enunciated. To protect its integrity the committee is confident also that safeguards can be provided to assure that the chosen policy and program is then carried out and firmly adhered to.

It is the committee's hope and expectation that this process can be undertaken soon and complete during the first session of the 96th Congress. If so the moratorium need not impact on the fiscal year 1980 program of the agency or upon its 1980 budget which does not commence until October 1, 1979. The committee recommends a 1980 budget at the same level as requested by the President.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the supplemental views of the Senator from Vermont—contained in the "Report to the Senate on Several Public Building Projects" of August 1978 from the Committee on Environment and Public Works—also be printed in the Record.

There being no objection, the supplemental views were ordered to be printed in the Record, as follows:

SUPPLEMENTAL VIEWS OF MR. STAFFORD

I was glad to sponsor, with Senator Moynihan, the two new committee procedures described in this report. Following discussion by the committee, the first part of our proposal was adopted unanimously and the second part by a vote of 9–3. These first two steps should be viewed, however, as only the constructive beginning of the measures which must be taken.

As the ranking minority member of the committee, I have long believed that the prospectus process may no longer be adequate or appropriate. I have been equally concerned over the proper congressional role in building projects.

Our committee should carefully review not only the Nation's buildings policy, but specifically GSA management procedures and controls over building construction, leasing, alteration, and repair. I believe and expect the committee will pursue its concerns in these areas—areas that have been neglected by both the Executive and the Congress. To this end, I expect to introduce legislation which I hope will serve as a focal point for discussion, and a point of departure for full oversight of the agency's buildings program, its management controls and procedures, and the Nation's building policy.

There has not been, so far as I have observed, a coherent Federal policy on buildings. The policies that do exist appear to be in a state of continual change, if not increasing disarray and advanced deterioration. This lack of direction, and of defined policy, may be a failure of successive administrations and Congresses, as well as of the agency itself. It is painfully clear however, that a policy must now be developed and adopted, logically defined and clearly enunciated. To protect its integrity, safeguards must be provided to assure that the chosen policy and program is then carried out, and firmly adhered to.

Before a coherent buildings policy can emerge, a number of issues must be addressed. I hope they may receive the prompt and close attention not only of the committee but also of the executive branch. Among the questions that may have a profound effect on the management of GSA and the buildings program are these:

Is the Federal buildings fund functioning in the manner intended when established by the Congress in 1972? If not, why, and what should be done?

What is the first purpose of a building policy, and which are the ancillary purposes, or compatible subsidiary goals? For example, how should functional efficiency, work effectiveness, urban policy, and "consolidation" rank in priority?

Is the prospectus process satisfactory, or the best choice as a management tool, for the executive branch? If it is useful to the Congress, does it provide controls and safeguards commensurate with the responsibility it imposes? What should be the congressional role in this or an alternate approval process?

What are the consequences of the proliferating construction authorities among numerous agencies?

Should not the Congress and the executive branch establish some common ground with respect to financing space acquisition—which involves budgetary impacts as well as comparative costs?

These questions are not exhaustive of the subjects that should be examined, or that may arise during oversight hearings. I believe they are instructive, however, of the task before the Congress and the administration.

The recent disclosures of improprieties and management failures, even if not at levels directly responsible to the Committee on Environment and Public Works, illustrate also the need to assure safeguards, proper procedures, and competent management in the very important field of building construction, leasing, alteration, and repair—where the committee is asked to assume initial approval responsibility for projects exceeding $500,000 in cost.

In the long run, only a coherent policy, clearly defined programs, and firm execution of those decisions backed by consistent authority, will fill the policy vacuum which otherwise attracts confusion and influence, if not exorbitant waste, favoritism, and scandal.

ROBERT STAFFORD.

Mr. STAFFORD. Mr. President, this bill is the culmination of work by the Environment and Public Works Committee extending over more than a year and a half. Extensive hearings were held during that period.

Mr. President, I ask unanimous consent that a discussion of these hearings and the bills from both sides of the aisle which were incorporated into S. 2080 be printed in the Record, followed by an analysis of the cost of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

EXPLANATION

Following is the explanation from the Committee Report of hearings on the bill. It identifies the bills considered at the hearings and during development of S. 2080—the chief provisions of which have been incorporated in the bill reported to the Senate.

In the 96th Congress they were: 3 bills introduced by Senator Stafford (S. 494, S. 460, S. 461); 1 bill introduced by Senator Chafee (S. 1791); 1 bill introduced by Senator Simpson (S. 1321).

In the 95th Congress: 10 bills introduced by Senator Stafford (S. 2402, S. 3570, S. 3571, S. 3572, S. 3573, S. 3574, S. 3575, S. 3576, S. 3577, S. 3621); 1 bill introduced by Senator Chafee (S. 2739).

HEARINGS

The Committee on Environment and Public Works has general jurisdiction over public buildings matters of the Government, and, under the provisions of the Public Buildings Act of 1959, must approve certain public buildings projects. Both oversight hearings and hearings on specific building projects conducted by the committee and its subcommittees over the past several years have contributed to the development of this legislation.

The Committee considered, at its hearings and during the development of S. 2080, the following bills—the chief provisions of which have been incorporated in the bill the Committee recommends to the Senate.

In the 96th Congress:

S. 494, February 26, 1979, Mr. Stafford, and Messrs. Randolph, Chafee, and Moynihan.

A bill to amend certain provisions of the Public Buildings Act of 1959, and for other purposes, cited as the "Public Buildings Amendments of 1979."

S. 460, March 12, 1979. Mr. Stafford, Mr. Sasser, March 13, 1979; Mr. Craston, May 22, 1979; Mr. Tsongas, June 24, 1979.

A bill to encourage bicycling and physical fitness by assuring greater safety for bicycles parked at Federal office buildings.

S. 461, February 22, 1979. Mr. Stafford.

A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings, cited as the "Architectural Excellence Act of 1979."

S. 1321, June 12, 1979. Mr. Simpson.

A bill to amend Section 7(a) of the Public Buildings Act of 1959 to require certain information concerning each principal owner of any building or space to be leased by the Federal Government.

S. 1791, Mr. Chafee, and Messrs. Monynihan, Randolph, Stafford, Baker, Burdick, Pressler, Pell, and Gravel. Mr. Kennedy, September 25, 1979.

A bill to enhance the utility and ambience of Federal Buildings by circulating exhibits of art and history among public buildings managed by the Administrator of General Services, to define and continue the existing arts-in-architecture program maintained by the Administrator, and for other purposes, cited as the "Federal Buildings Enhancement Act of 1979."

In the 95th Congress:

S. 2402, Mr. Stafford, Messrs. Randolph and Moynihan, February 22, 1978.

A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings, cited as the "Architectural Excellence Act of 1978."

S. 3570, Mr. Stafford and Messrs. Randolph and Gravel, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, to authorize the financing of the acquisition and construction of public buildings, and for other purposes.

S. 3571, Mr. Stafford and Mr. Randolph. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional control over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3572, Mr. Stafford and Mr. Randolph, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3573, Mr. Stafford and Mr. Randolph. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government.

S. 3574, Mr. Stafford and Messrs. Randolph and Gravel. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (amending section 7 of the Public Buildings Act of 1959, in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3575. Mr. Stafford and Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (adding a new section to the Public Buildings Act in order to establish criteria by which the Administrator shall be guided for the construction, acquisition, assignment, reassignment, and utilization of office buildings and space under his jurisdiction).

S. 3576, Mr. Stafford, and Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (repealing the authority contained in the Public Buildings Act of 1959 that enables the Administrator to name or to rename any building under his custody, regardless of whether it was previously named by statute).

S. 3577, Mr. Stafford and Mr. Randolph. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (directing GSA to file two studies which are being undertaken annually by GSA, but which were not sent to the Congress).

S. 3621, Mr. Stafford, October 14, 1978.

A bill to assure greater safety for bicycles parked at Federal office buildings.

S. 2739, Mr. Chafee, April 3, 1978, and Messrs. Moynihan, Stafford, Randolph, Anderson, Brooke, Burdick, Gravel, Haskell, McClure, Morgan, Pell and Wallop. Messrs. Church, Inouye and Danforth, Clark Kennedy, and Mathias.

A bill to enhance the utility and ambience of Federal buildings by circulating throughout the United States exhibits of art and history among public buildings managed by the General Services Administration, cited as the "Federal Buildings Artistic Enhancement Act of 1978."

Since 1978. responsibility for public buildings matters has been exercised directly by the full committee. Senators Daniel Patrick Moynihan and John Chafee manage the committee's public buildings responsibilities, with the active participation of the chairman, Senator Jennings Randolph and ranking minority member, Senator Robert T. Stafford.

In addition to hearings on specific projects, starting in 1977 the committee has held eight oversight hearings on the public buildings program. In 1977, a hearing was conducted on the need for architectural improvement in the design of Federal buildings. In 1978, a hearing looked into GSA efforts to implement the Public Buildings Cooperative Use Act of 1976. In 1979, following the committee's declaration of a moratorium on public building approvals and announcement of its intent to develop legislation to reform the public buildings program, five days of oversight hearings were held. The first hearing solicited recommendations for improvement of the program from the outgoing GSA Administrator; the second was concerned with public building location policies; the third with leasing practices and policies; the fourth with Federal building financing and user charges; and the fifth with architectural competitions. In 1980, one hearing was held to look into the amount of vacant space under lease to the Government and a second to hear the Inspector General of GSA report on his investigation into several leases referred to him by the committee.

On January 29 and February 1, 1980, hearings were conducted on S. 2080. On January 29, the committee heard witnesses from the General Services Administration, Treasury Department, General Accounting Office, and Advisory Council on Historic Preservation. On February 1, it heard witnesses from the Building and Construction Trades Department, AFL–CIO; Associated General Contractors of America; Committee on Federal Procurement of Architect-Engineer Services; National Urban League; Partners for Livable Places; and League of American Wheelmen. All of the witnesses supported the major general policies embodied in the bill, although a few objected to specific provisions aimed at implementing those policies.

COST OF THE BILL

Following is the letter from Alice Rivlin, Director of CBO, which is required by the Budget Act and printed in the Committee Report.

The Committee reduced GSA's budget by about 7.5 percent when it filed its recommendations with the Budget Committee on March 15.

At the markup on S.2080, the Committee agreed to include authorization figures for fiscal year 1981 generally equivalent to what it had previously recommended to the Budget Committee.

Therefore, this bill falls within the President's *program* of $1.6 billion, though the total authorization figure in the bill is $2.3 billion. The difference is a change in accounting occasioned by the new bill, not a program change. In the past only construction projects have been "full funded". The bill requires full funding for leasing and alteration and repair as well.

For example, the NRC building would cost $113 million to construct and the full amount would appear in the first-year budget. But under present practice, a lease commitment for 20 years would show only $15 million a year for 20 years instead of the commitment to spend $300 million over the life of the contract. The bill would require that the total commitment be shown up front for all projects. This policy change is fully supported by the Budget and Appropriations Committees as a better means to control future costs and reflect accurate commitments when made. It also skews decisions away from construction and introduces a bias in favor of constantly escalating lease commitments. It may reverse the longstanding bias of successive administrations against construction and for leasing. The failure to reflect the extent of the GSA commitment now understates by a factor of ten the impact on budget authority of the GSA leasing commitment.

The bill requires that 60 percent of employees be in Government-owned space in ten years and 75 percent in 20 years. You could be asked what such a construction program would cost.

GSA provides one estimate: Assuming a 28 percent increase in Federal employment over 20 years (which assumes it will continue to grow as fast as it has in the past and may be high) the 75 percent requirement may be reached by building an additional 108 million square feet of space. At an average current cost of $100 per square foot, this would cost about $10.8 billion in constant dollars. At the same time, the Government would trim its leased inventory by nearly 40 million square feet—costs already exceeding $20 a square foot for new leases.

CBO provides another estimate: About $20 billion will have to be spent over 20 years; however, leasing expenses would decrease about $10 billion. The net increase is $10 billion over 20 years or an average of $500 million per year. Once the 75 percent goal is reached and new construction is required only to maintain this ratio, about $1 billion less would be spent annually than would be if the current ratio of owned to leased space (48/52) were maintained.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. That report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 15, 1980.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2080, the Public Buildings Act of 1980, as ordered reported by the Senate Committee on Environment and Public Works, March 24, 1980.

The purpose of the bill is to make certain changes in the funding procedures for the activities of the Public Buildings Service of the General Services Administration (GSA). The bill also requires that within 10 years of enactment, 60 percent of all federal employees whose offices are provided under this bill shall be housed in public buildings, and that within 20 years, 75 percent shall be in public buildings.

The bill would require an annual authorization of funds for the activities performed by the Public Buildings Service before funds may be made available through appropriation action from the revenues collected in the Public Buildings Fund. The bill authorizes an appropriation of $2.3 billion from the fund, which represents full funding of most of the activities, including new construction and acquisition, renovations, alterations, repairs, and new lease agreements. Current practice is to fully fund construction projects and fund only one year's obligations for other activities. The $2.3 billion authorized in the bill would actually represent a decrease in some activities proposed in the President's budget for fiscal year 1981, even though the amount requested by the President is only $1.6 billion.

The requirement contained in the bill that 60 percent of the officers and employees must have their offices in public buildings within 10 years, and 75 percent within 20 years will cause a change in expenditures. Presently, approximately 48 percent are housed in government-owned space, and 52 percent in leased space. In order to attain the goals set forth in the bill, approximately $20 billion will have to be spent over the next 20 years for the construction of additional space over what would be spent to maintain the current ratio of leased to owned space. However, leasing expenses would decrease by approximately $10 billion over the same 20-year period, resulting in a net increase in expenditures of only $10 billion over the period (an average of $500 million per year). Additional outlays during the first few years will be less than the average, because of lags associated with building construction. However, once the 75 percent goal is reached and new construction is required only to maintain this ratio of owned to leased space, approximately $1 billion less would be spent annually than would be if the current ratio of owned to leased space (48/52) were maintained.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STAFFORD. Mr. President, although I earlier indicated I would not, I think with everybody here it would now be appropriate—in view of the debate we had all day—that we have a rollcall vote on final passage of the pending legislation. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. TSONGAS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 71, nays 8, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—71

Baker
Baucus
Bellmon
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Dole
Durenberger
Durkin
Exon
Ford
Garn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tsongas
Wallop
Weicker
Williams
Young
Zorinsky

NAYS—8

Armstrong
Boschwitz
Glenn
Hatch
Helms
Jepsen
Roth
Warner

NOT VOTING—21

Bayh
Bentsen
Bradley
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Schweiker
Stevenson
Talmadge
Tower

So the bill (S. 2080) was passed, as follows:

S. 2080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Buildings Act of 1980".

SEC. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished, and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

SEC. 101. The Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall have sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

SEC. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Commissioner of Public Buildings who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5332).

SEC. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5332). The Supervising Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Commissioner of Public Buildings may designate.

SEC. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

SEC. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

SEC. 106. The head of any Federal agency delegated authorities pursuant to section 105 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any such agency shall not submit the report required in section 109 but shall submit the information required in section 109 to the Administrator for inclusion in his records and reports.

SEC. 107. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information, or report under his jurisdiction.

(b) Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95–452 that pertain to problems, abuses, or deficiencies arising under this Act, shall be transmitted simultaneously to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 108. (a) The Administrator shall conduct systematic research and post-occupancy evaluation and is authorized to undertake demonstration projects to determine and improve the effectiveness of existing and planned public buildings in providing productive, safe, healthful, economical, conveniently located, energy efficient, and architecturally distinguished accomodation for Federal agency offices.

(b) In complying with the provisions of subsection (a), the Administrator shall consult from time to time with appropriate Government agencies, private individuals, and organizations having suitable expertise.

SEC. 109. (a) The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include, but is not limited to—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under this Act, whether or not such projects meet the criteria established in section 803 of this Act;

(6) a list of all delegations of authority made by the Administrator pursuant to section 105 of this Act;

(7) a report on activities undertaken pursuant to—

(A) section 108 and titles IV and V of this Act;

(B) section 210(a)(6) of the Federal Property and Administrative Services Act of 1949, as amended, or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

(b) The Administrator shall collect and maintain such information as may be necessary to keep the Congress fully and currently informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of this Act. Within one year after enactment of this Act, the Administrator shall assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased under section 102 of the Public Buildings Cooperative Use Act of 1976, as amended,

(C) building operations costs,

(D) income derived for the Federal Buildings Fund,

(E) needed repairs and renovation,

(F) energy consumed,

(G) whether it is fully accessible to handicapped persons,

(H) the percent of the building leased by the Government,

(I) the total amount of funds that have been expended in improvements or alterations to each leased building, and

(J) the term of any leases in effect and their expiration dates.

(2)(A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

(c) The General Services Administration shall furnish to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives by April 30, 1981, a survey report describing all of the steam generating units it owns or operates with a heat input rate of 50 million Btu/hr or greater. The report will include for each facility:

(1) description of the proposed facility after fuel substitution (i.e., number of units, name plate capacity, fuel choice);

(2) the estimated total cost of conversion or replacement to coal;

(3) the oil and gas savings which would result from such a conversion or replacement;

(4) the net annual fuel cost savings which would result from such a conversion or replacement;

(5) the project payback period using accepted life cycle costing procedures.

The report shall also include proposed funding schedules for conversions and replacements that could be undertaken immediately.

SEC. 110. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or other public or private enterprise and also means the physical space in which the work of the component is conducted, including, but not limited to clerical offices, laboratories, warehouses, industrial plants, and garages.

(4) The term "officers and employees of the Government" means all persons included under sections 2104 and 2105 of title 5 of the United States Code.

(5) The term "locality" means a city, county, town, parish, village, or other area governed by a general purpose political subdivision of a State.

(6) The term "acquire" or "acquisition" includes purchase, payment for an option to purchase, condemnation, donation, and exchanges of real property, or interests therein, excluding leaseholds.

(7) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the use or architectural design of a public building.

(8) The term "historic, architectural, or cultural significance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(9) The term "handicapped person" includes any individual with a physical impairment that precludes such person's use of a building to the same extent as an individual with unimpaired mobility.

(10) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement throughout, and use of a building by handicapped persons and the incorporation of the most scientifically advanced research, technology and equipment to assure access to a building by handicapped persons and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such research, technology, and equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(11) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractual or other agreement under which it will be owned by the United States Government at some certain date in the future, that accommodates, did accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, research and academic centers, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except as provided for under section 2002(d) of the Postal Reorganization Act, or buildings or installations of the Tennessee Valley Authority, or buildings: on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, on or used in connection with housing and residential projects, or on the United States Capitol grounds delineated in section 193(a) of title 40, United States Code.

(12) The term "public buildings needs" means the requirements of Federal agencies for suitable space, whether or not in a Government-owned building, to accommodate offices that may be located in a public building as defined in subsection (11) of this section, and includes requirements for space in accordance with section 102 of the Public Buildings Cooperative Use Act of 1976, as amended.

(13) The term "National Capital region" has the same meaning that it bears in section 71(b) of title 40, United States Code.

(14) The term "life cycle cost" means the total cost of an item to the Government during the time of ownership, including its fuel and energy costs, taking into account the costs of acquisition, operation, maintenance, support, and disposal or replacement, as far as these costs can reasonably be determined;

SEC. 111. (a) The Administrator shall be responsible for the interpretation of all contracts entered into on behalf of the United States Government to carry out the purposes of this Act, and shall be responsible for the approval of materials, workmanship, and services supplied pursuant to such contracts, approval of changes in contracts, certification of vouchers for payments due contractors, and final settlements.

(b) The Administrator shall require, prior to executing any lease or other contract which would obligate funds in excess of $10,000 authorized pursuant to this Act, a certification from the owner of the space to be leased or the contractor. Any owner or contractor who fails to complete such certification required under this subsection shall not be eligible to receive a lease or contract award. Such certification shall include, but need not be limited to, statements, declaring under penalty of law provided under 18 U.S.C. § 1001 or elsewhere, that such owner or contractor, or any of his officers or principal employees:

(1) has no business or employment relationship or interest or holding which constitutes a conflict of interest with his capacity as a lessor or contractor with the United States;

(2) has not offered or promised anything of value to a public official with the intent to influence any official act or to induce the official to perform, or to omit to perform, any act in violation of his lawful duties or, to offer or give anything of value to a public official for performing an official act;

(3) has not been debarred or suspended from the award of public contracts;

(4) has not had a public contract terminated for default;

(5) has not been convicted, within ten years prior to the date of the solicitation, of, or is not currently under indictment for or otherwise charged with:

(A) a criminal offense incident to obtaining or attempting to obtain a public (Federal, state, or municipal) or private contract or subcontract thereunder, or in the performance of such a contract or subcontract;

(B) a violation of the Organized Crime Control Act of 1970;

(C) a violation of Federal Antitrust statutes arising out of the submission of bids or proposals or;

(D) embezzlement, theft, forgery, bribery, falisification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

(c) The Administrator shall provide in the annual report required under section 109(a) of this Act, the name of each principal owner of each building or other space leased pursuant to section 803(3)(A) during the fiscal year covered by the report.

SEC. 112. Nothing in this Act shall be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

Sec. 113. The Public Buildings Act of 1959, as amended, is repealed.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

Sec. 201. (a) The headquarters offices of each department and major independent establishment in the executive branch shall be located within the National Capital region in conformance with the comprehensive plan prepared and adopted pursuant to the National Capital Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

(b) Regional, district, area, or local offices of Federal agencies shall be located so as to be centrally located with respect to, in proximity to, or within easy transportation access of, residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

(c) Federal agency offices other than those that are located pursuant to subsections (a) or (b) of this section, or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, shall be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

Sec. 202. After conforming with section 201, the Administrator shall, in consultation with local officials, take into account the following factors in locating Federal agency offices—

(1) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(2) the proximity of existing or planned public transportation facilities;

(3) the proximity of public amenities and commercial facilities;

(4) the availability, nearby or within reasonable public transportation commuting distance, of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

Sec. 203. In responding to the public buildings needs of Federal agencies and in planning for future such needs, the Administrator shall first comply with sections 201 and 202 and shall—

(1) review needs to determine if they can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate Federal agency offices in—

(A) existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(B) in buildings of historic, architectural or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent, taking into account cost, expected date of occupancy, and the potential for the conservation of energy, compared with construction of a public building, and if such building space is not available, then

(C) in existing buildings acquired by the Administrator and renovated if need be, or in new buildings constructed by the Administrator under the provisions of this Act, and if such building space cannot be made available in time to meet urgent public buildings needs, then,

(D) in building space leased by the Administrator in accordance with the provisions of title VII of this Act, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance.

Sec. 204. Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and

generally so that resulting public buildings needs may, to the maximum extent possible, be met by using existing public buildings, by constructing or acquiring buildings similar in scale to buildings predominating or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

Sec. 205. (a) In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within thirty days in accordance with the provisions of this title, and shall nullify the decision only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event that the Director of the Administrative Office of the United States Courts determines that the location assigned to an office of the judicial branch by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the Director shall report such determination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Sec. 206. (a) Nothing in this Act shall be construed to require the relocation of any Federal agency office from its location on the date of enactment of this Act.

(b) Any action to locate or relocate any Federal agency office subsequent to the date of enactment of this Act shall be undertaken in conformance with the provisions of this Act.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

Sec. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

Sec. 302. Except as provided in section 303, public buildings shall be of such design and construction as to approximate commercial buildings of the first quality that serve similar purposes.

Sec. 303. Whenever the Administrator designs and constructs—

(1) a general purpose office building expected to attract significant public use in any locality that serves as a center of its geographical region or area, or

(2) a headquarters building for any Federal agency,

such public building shall be designed and constructed to higher standards of quality than that provided for in section 302 of this Act and such design and construction shall symbolize the dignity of the United States Government through the quality or scale of some or all of its architectural details, internal and external materials, public entrances, corridors, rooms, lobbies, and courtyards: *Provided*, That this section shall not apply to public buildings described in clause (1) of this section whenever the Administrator determines that there already exists in the locality a public building of the quality described in this section.

Sec. 304. In the design, construction, acquisition, renovation, and management of public buildings, the Administrator shall assure that, to the maximum extent possible, such buildings—

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide sufficient parking space for Government motor vehicles, visitors, and handicapped employees, and such other parking space for employee vehicles as is consistent with a general policy of transportation efficiency; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass shall be employed wherever possible to carry out the purposes of this paragraph.

(6)(A) The Administrator of the General Services Administration, in consultation with the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, and other appropriate agencies shall—

(I) establish practical and effective methods for estimating and comparing life cycle costs for energy intensive products used in Federal public buildings including, but not limited to, products listed in paragraphs (1) through (14) of section 322(a) of the Energy Policy and Conservation Act (Public Law 94–163).

(II) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

(B) When acquiring energy intensive products for use in Federal public buildings, the Administrator of General Services shall, whenever practicable and in accordance with the methods established under subsection (a), acquire the product having the lowest life-cycle cost.

(C) Two years after the date of enactment of this Act, the Administrator shall report to Congress on the feasibility of extending life cycle costing procurement methods to items other than energy intensive products.

Sec. 305. The Administrator shall provide for employees and visitors, sheltered and secure locations and equipment for parking bicycles at public buildings and leased buildings, and may also provide suitable support facilities.

Sec. 306. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the health, safety, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

SEC. 307. (a) Notwithstanding any other provision of the Act of August 12, 1968, as amended, commonly known and hereinafter referred to as the Architectural Barriers Act of 1968, and of section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792)—

(1) in order to assure consistency in the application of the minimum guidelines and requirements established by the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as "the Board") pursuant to section 502(b)(7) of such Rehabilitation Act, the standards described in sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968 shall be submitted by the head of the Federal agency concerned to the Board as proposed standards not later than one hundred and eighty days after the date of the enactment of this Act, and such proposed standards shall become final on the ninetieth day after they are so submitted unless the Board—

(A) issues an order approving such standards prior to the ninetieth day in which case they shall become final on the day approved and be published immediately as final standards in the Federal Register by such Federal agency head;

(B) issues an order disapproving such standards with a specification of reasons for such action and recommendations for appropriate revisions in order to assure consistency with such guidelines and requirements, in which case the standards shall become final at the time such Federal agency head publishes them in the Federal Register as final standards (not later than ninety days after the Board action) with a specification of the grounds for rejection of any of the Board's reasons and recommendations; or

(C) issues an order approving such standards with revisions in order to assure consistency with such guidelines and requirements, with a specification of the reasons for such action, in which case such Federal agency head shall immediately publish such revised standards in the Federal Register as final standards;

(2) no action may be taken under section 6 of the Architectural Barriers Act of 1968 to modify or waive a standard issued under such Act unless—

(A) such modification pertains to (i) a building to be leased, or (ii) a building to be constructed, altered, or acquired and the need for such modification was not reasonably foreseeable when the design for such building was approved; or

(B) the Board has (i) received prior notification of such proposed modification, and (ii) made a determination that the Federal agency concerned has established and is implementing the system of surveys and investigations required by section 6(2) of such Act;

(3) the adherence by any Federal agency to any standard prescribed pursuant to the Architectural Barriers Act of 1968 and this Act, with respect to any building to which the Architectural Barriers Act of 1968 applies, shall be presented to satisfy the nondiscrimination obligation of such Federal agency under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), with respect to the physical accessibility of any program or activity conducted by such Federal agency; and

(4) for the purposes of the Architectural Barriers Act of 1968, the term "physically handicapped persons will have ready access to, and use of, such buildings" means that such buildings shall be fully accessible to handicapped persons.

After publication of the final standards described in subsection (a) of this section, the Board shall annually review and recommend to the Federal agency head concerned such revisions as may be necessary to assure that the standards continue to reflect use of the most advanced research, technology, and equipment.

(b) Not later than one hundred and eighty days after publication of the final standards described in subsection (a) of this section, the Federal agency head concerned shall prescribe such regulations as may be necessary regarding design, construction, and contracting to assure that all construction, acquisition, and renovation of buildings to which the Architectural Barriers Act of 1968 applies conform to such standards. In the list of completed projects required in section 109(a)(3) of this Act, the Administrator shall include a certification that each such project has been carried out in accordance with such standards.

(c) The annual plan submitted to the Congress by the Administrator in accordance with section 801 of this Act shall include a schedule for making all then existing public buildings conform to the final standards described in subsection (a), and the regulations described in subsection (b), of this section. Such schedule shall include an estimate of the cost of carrying out the plan, and include a list, in priority order, of the projects recommended to be undertaken, in the year for which the annual plan is submitted.

SEC. 308. (a) The Administrator is authorized, pursuant to subsection (b) of this section, and upon the request of appropriate local and State officials, to name any public building after, and establish a memorial in any public building in honor of, any person who has made notable contributions to government, science, industry, education, the arts, or other fields of human endeavor. Such person, if living, must be at least seventy years of age, and except within the National Capital Region, must be from the region of the country in which the building is located. No public building shall be named for a sitting Member of Congress or for a former Member of Congress who holds any other elective public office.

(b) The Administrator is authorized to expend, out of any funds available to him in any fiscal year, an amount equal to but no greater than contributions provided by state or local governments or private entities or individuals, and in no event greater than the sum of $10,000, for the design and construction of a memorial to a person designated pursuant to subsection (a) of this section, or designated by an Act of Congress.

(c) The Administrator, in consultation with appropriate local and State officials and other interested citizens, shall determine the form and location of such memorials. The memorials shall be fountains, gardens, walks, stained glass windows, or other building appurtenances visible and accessible to visitors, and in harmony with the architectural and landscape design of such building. The Administrator shall provide the highest level of permanent maintenance for such memorials.

(d) The Administrator may conduct a competition to select a designer for the memorial authorized by this subsection. Such competition shall be open to landscape and other architects, artists, artisans, and designers.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

SEC. 401. This title may be cited as the "Public Buildings Cooperative Use Act Amendments of 1980".

SEC. 402. Section 102 of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

"(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

"(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrians access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities: *Provided*, That the amount of space so leased in any public building

"(A) shall be determined by the Administrator after undertaking studies to determine the market or need for such activities in the interest of promoting commercial or cultural activity in the vicinity of the building or serving the employees and visitors in the building; and

"(B) shall not exceed 25 per centum of the space in the public building, or 50 per centum of the space in a public building fifty or more years old so long as any amount over 25 per centum of the space in the building is occupied by a nonprofit cultural or educational institution and that at least one-third of the space occupied by such an institution is used for exhibits, performances, libraries, or other activities intended primarily for the general public;

"(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1980.

"(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.".

SEC. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed and sections 104 and 105 are redesignated as sections 103 and 104, respectively.

SEC. 404. Section 103(a) of the Public Buildings Cooperative Use Act of 1976 and the Federal Property and Administrative Services Act of 1949 are amended by amending section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended). The Administrator shall establish rental rates for such leased space equivalent to the prevailing commercial rates for comparable space devoted to similar purposes in the vicinity of a public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;".

SEC. 405. Section 104 of the Public Buildings Cooperative Use Act of 1976 is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The terms 'public building' and 'Federal agency' have the same meaning as is given them in the Public Buildings Act of 1980.".

TITLE V—EXHIBITIONS AND WORKS OF ART

SEC. 501. This title may be cited as the "Federal Buildings Enhancement Act of 1980".

SEC. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve; and

(3) Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architecture of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings. It is the further purpose of this Act to enhance existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

SEC. 503. (a)(1) The Administrator, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art loaned or leased under this subsection shall be organized into exhibitions and circulated by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, and with other not-for-profit traveling exhibition services shall utilize existing exhibitions and develop new exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or the continuing development of the Nation's art, culture, society, science, and industry.

(A) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(B) The Administrator shall reimburse the Smithsonian Institution and other traveling services an amount not less than the cost to the Institution or to such other services of carrying out the provisions of this subsection.

(b)(1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate arts agencies at State and local levels, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings or temporarily installed in leased buildings. The preliminary planning and design of each new Federal building shall include planning for such commissions, which may include a variety of compatible works. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to keep and preserve such works of art in a state of high quality.

(2) Whenever the Administrator commissions a work of art for a new Federal building pursuant to paragraph (1) of this subsection, he shall instruct that such work shall be an integral part of the architectural design. In the case of an existing public or leased building, such work shall be appropriate to the setting and space available. The administrator shall seek to avoid the development of an official style either in architecture or associated works of art. Federal commissions should give expression to the vitality and diversity of American life.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate arts agencies at State and local levels, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and shall give full consideration to the participation of local artists.

(c)(1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1981 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings, and one-twentieth of 1 per centum of the sums available for the lease of buildings.

(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section: Provided, That not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection (a) of this section, and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b).

(d) For the purpose of this title—

"(1) the term 'Federal buildings' means public or leased buildings, under the jurisdiction of the Administrator of General Services, that attract, or are expected to attract, significant public use;

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'works of art' includes, but is not limited to, paintings, sculptures, crafts, works on paper, and environmental works.".

TITLE VI—ARCHITECTURAL SERVICES

SEC. 601. The Administrator shall employ professionally trained architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Commissioner of Public Buildings may designate, but in any case to provide the kind and number of projects necessary annually to enable such employees to utilize their professional skills and training.

SEC. 602. (a) Those architectural designs not prepared pursuant to section 601 shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949, as amended, and, with respect to at least half of the public building construction and renovation projects expected to cost no less than $5,000,000 each year, the Administrator shall conduct a design competition among no fewer than three qualified architectural firms.

(b) The Administrator shall indicate each year, in the program submitted pursuant to section 801 of this Act, on which public building construction and renovation projects he proposes to conduct design competitions. The projects selected shall reflect a mixture of large and small projects to the extent possible.

(c) With respect to a significant portion of the competitions conducted each year, the competitions shall last no longer than sixty days from the date the Administrator provides the firms with a competition program and the competitions shall elicit from each firm preliminary design concepts only.

(d) The Administrator shall negotiate first with the firm judged at the conclusion of each competition to have demonstrated the best design approach to the project. The Administrator shall make public and provide to the competing firms at the time a selection is announced under any of the provisions of this section, a brief report describing the reasons for the selection made.

(e) The Administrator shall provide, in total stipends or prizes to all of the firms that take part in any one competition conducted under this section, a sum equal to no more than one-half of one percent of the expected cost of the design and construction of the project, and shall conduct each competition under such rules and procedures as will assure that fair compensation for work required from the firms does not exceed that amount.

(f) The Administrator is authorized to acquire the services of privately employed architects, engineers, and other citizens on a temporary basis to serve on panels to assist in selecting and judging architectural firms under the provisions of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1968.

TITLE VII—LEASING

SEC. 701. It is the policy of the United States to house offices of officers and employees of the Government in public buildings and space shall be leased primarily to accommodate the emergency or temporary requirements of the Government, to provide space in locations where the size of Government activities does not warrant providing a public building, and to take account of temporary economic conditions that render infeasible or disadvantageous to the Government construction or acquisition of necessary public building space.

SEC. 702. Any other provision of this Act notwithstanding, the annual plan submitted to Congress by the Administrator in accordance with section 801 of this Act, shall assure that—

(1) within ten years of the date of enactment of this Act, no fewer than 60 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(2) within twenty years of the date of enactment of this Act, no fewer than 75 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(3) to the maximum extent possible, the percentage of officers and employees of the Government whose offices are provided under this Act having their principal offices in public buildings is maintained uniformly throughout the Nation, and that priority is accorded to construction, acquisition, and renovation of such public buildings as may be necessary to achieve such uniformity.

SEC. 703. (a) Notwithstanding the provisions of section 210(h)(1) of the Federal

Property and Administrative Services Act of 1949, as amended, the Administrator shall not make any agreement or undertake any commitment that will cause the construction of any building, other than a public building.

(b) No option to purchase a building shall be paid for unless the payment for such option is made separately from any lease payment and unless such payment has first been authorized under the provisions of title VIII of this Act.

SEC. 704. No space shall henceforth be leased to accommodate, except as may be necessary to meet immediate and urgent requirements that cannot be met in public buildings—

(1) major computer operations;

(2) offices that conduct secure or sensitive activities related to the national defense or security, except to the extent that it would be inappropriate to locate such offices in public buildings or in other facilities identified with the United States Government;

(3) offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased; or

(4) permanent courtrooms, judicial chambers, or administrative offices for any United States court.

SEC. 705. (a) For the purposes of this Act, sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding 105 per centum of the average commercial rates and charges for space and services of nearest comparable quality.

SEC. 706. (a) The Administrator shall publicly solicit competitive bids to procure space by lease for the Government. Each such solicitation shall specify any special requirements of building design, configuration, or location.

(b) In evaluating competing bids, the Administrator shall take into account proposed rental costs and services offered, overall quality and safety of the buildings, energy efficiency, and their relative conformity to the requirements of titles II and III of this Act.

SEC. 707. The Administrator shall provide a copy of the lease agreement between the Government and the owner of each leased building, and subsequent additions or revisions to the lease agreement, to the highest ranking official in the leased building of each Federal agency occupying space in the building.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SEC. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program for the next succeeding fiscal year of projects and actions which the Administrator deems necessary in carrying out his duties under this Act. Such program shall include but is not limited to—

(1) a five-year plan for accommodating the public building needs of the United States,

(2) a list, in priority order, of construction, renovation, and acquisition projects for which authorization for appropriations are requested for the next succeeding fiscal year, including a description of the project and the number of square feet of space involved,

(3) a list, in priority order, of lease and lease renewals for which authorization for appropriations are requested for the next fiscal year,

(4) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of;

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a year by year program and costs to meet the provisions of section 702 of this Act, together with an analysis of costs and savings of alternative programs,

(7) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act and the estimated annual and total cost of each project and lease.

(b)(1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that he has held a public hearing, or afforded the opportunity for such hearing, in the locality or proposed locality of each major construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformance with sections 202, 204, and titles III and IV of this Act: *Provided*, That, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

SEC. 802. (a) No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in accordance with this title.

(b) No public building construction, renovation, or acquisition shall be commenced unless an appropriation has first been made for the estimated cost of completion of such construction, renovation, or acquisition in the fiscal year for which such appropriation is authorized. No lease shall be entered into unless an appropriation has first been made for the maximum cost of such lease over its entire term in the fiscal year for which such an appropriation is authorized.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 803. (a) There is hereby authorized to be appropriated for fiscal year 1981 not to exceed in the aggregate, the amount of $2,361,399,099 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the real property management and related activities of the Public Buildings Service of which:

(1) Not to exceed $89,260,700 shall be available for fiscal year 1981 as follows:

(A) For construction of additional major public buildings (including funds for sites and expenses) and the acquisition of major existing buildings and sites for public buildings at the following locations and at the following maximum construction and acquisition costs:

Federal Annex, Atlanta, Georgia	$5,000,000
Terminal Annex, Dallas, Texas	4,457,000
Post Office and Courthouse, Lafayette, Louisiana	2,250,000
Post Office, Manchester, New Hampshire	2,000,000
Post Office and Courthouse, Peoria, Illinois	1,400,000
Omaha, Nebraska	$40,733,000
Border Station, Houlton, Maine	3,409,000
Courthouse and Parking Facility, East Saint Louis, Illinois	2,460,000
Federal Building/Courthouse, Madison, Wisconsin	7,823,000
Ashland, Kentucky	6,938,000
Border Station, Otay-Mesa, California	12,105,700

(B) $685,000 for construction of minor public buildings of less than twenty-five thousand gross square feet of space and the acquisition of buildings and sites for public buildings of a value of $1,000,000 or less.

(2) Not to exceed $242,850,399 shall be available for fiscal year 1981 as follows:

(A) For major renovations and repairs of public buildings at the following locations and at the following maximum project costs:

Arkansas, Little Rock Federal Post Office-Courthouse	$8,180,000
California, Pasadena, Federal Center	9,864,000
District of Columbia, Agriculture South	11,229,152
District of Columbia, GSA Regional Building	4,299,079
District of Columbia, HEW North Building	8,842,981
District of Columbia, International Trade Building	5,541,778
District of Columbia, Justice Building	3,454,934
District of Columbia, Mary Switzer Building	6,011,105
District of Columbia, New Post Office	12,339,148
District of Columbia, Pension Building	2,000,000
Florida, Miami, Post Office/Courthouse	5,451,000
Florida, Tampa, Federal Building/Courthouse/Post Office	2,008,000
Georgia, Savannah, Federal Building/Courthouse	1,644,000
Kentucky, Lexington, Post Office/Courthouse	1,763,000
Louisiana, New Orleans, Hale Boggs Federal Building/Courthouse	1,425,000
Maryland, Suitland, Federal Building Number 3	1,919,476
New York, New York, One Bowling Green	28,746,000
New York, New York, 201 Varick Street	9,428,405
Oregon, Portland, New Courthouse	7,187,000
Texas, Houston, Federal Building/Courthouse	2,446,000
Virginia, Arlington, Pentagon	6,855,518
Virginia, McLean, CIA Headquarters	5,047,823
Washington, Seattle, Federal Building/Courthouse	3,989,000

(B) $80,343,000 for minor renovations and repairs of public buildings at project costs of less than $1,000,000;

(C) $835,000 for major alterations of leased buildings; and

(D) $10,000,000 for alterations of leased buildings, the maximum cost to a single building being less than $250,000.

(3) Not to exceed $1,349,000,000 shall be available for fiscal year 1981 as follows:

(A) $418,000,000 for new major lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of fifty thousand or more square feet;

(B) $336,000,000 for new lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of less than fifty thousand square feet; and

(C) $595,000,000 for payments in fiscal year 1981 on leases entered into prior to fiscal year 1981.

(4) Not to exceed $0 shall be available for fiscal year 1981 for obligations to the Treasury under section 902(a) of this Act for the acquisition, construction, or renovation of

public buildings (including funds for sites and expenses).

(5) Not to exceed $3,000,000 shall be available for fiscal year 1981 for planning and preliminary design of construction, renovation, alteration, and repair projects.

(6) Not to exceed $498,901,000 shall be available for fiscal year 1981 for real property operations.

(7) Not to exceed $71,953,000 shall be available for fiscal year 1981 for program direction.

(8) Not to exceed $108,374,000 shall be available for fiscal year 1981 for payment of principal, interest, taxes, and any other obligation for public buildings acquired by purchase contract or pursuant to section 902(c) of this Act.

(b) Funds appropriated under subsections (a)(1), (a)(2), (a)(3), and (a)(4) of this section shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided*, That construction, renovation, or acquisition has been commenced, or lease entered into, pursuant to section 802(b) of this Act.

(c) Ten percent of the funds made available to the Public Buildings Service for renovation, alteration, and repair of public buildings and leased buildings and for execution of lease renewals, pursuant to paragraphs (a) (2) and (3) of this section shall be available for repair or alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from changing or additional programs of Federal agencies not anticipated at the time the program required by section 801 of this Act was submitted. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

SEC. 804. (a) When the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act, the Administrator is authorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act to such an extent that action under subsection (a) of this section is not sufficient to meet such excess cost, the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administrator may not take any action to continue the project, other than the action authorized by subsection (a) of this section, unless such action has been authorized by the Congress in accordance with this title.

TITLE IX—PUBLIC BUILDING FINANCING

SEC. 901. Section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, is amended by deleting the existing second sentence thereof and inserting the following sentence: "Such rates and charges shall be established for each public building, and for each building containing space leased by the Administrator on behalf of the United States, no more frequently than once each year at a level approximating commercial rates and charges for space and services of comparable quality, but in no case less than the anticipated costs of providing space and services (including amortized construction costs or leasing costs).

SEC. 902. (a) The Administrator is authorized to issue obligations to the Secretary of the Treasury, to the extent and in such amounts as are provided in annual appropriations Acts, in order to obtain funds necessary to finance the acquisition, construction, or renovation of any public building when he determines the best interest of the United States will be served. The Secretary of the Treasury is authorized to purchase such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. The repayment of loans made under this section shall be for terms up to thirty years and on such conditions as may be prescribed by the Secretary of the Treasury. In prescribing such terms and conditions, the Secretary of the Treasury shall take into account the useful life of the building for which funds are to be borrowed and shall not require that repayment begin until the building is ready for occupancy. Such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities.

(b) An obligation may be issued under subsection (a) to acquire, construct, or renovate a public building, only if such acquisition, construction, or renovation has been authorized by the Congress, pursuant to title VIII of this Act.

(c) The payment of principal and interest on such obligation issued under subsection (a) shall be payable from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949. There are authorized to be appropriated from the fund in each fiscal year such amounts as are authorized pursuant to section 803(a)(8) to carry out the purposes of this subsection.

SEC. 903. Section 210(f)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(2)) is amended by inserting immediately after "activities" a comma and the following: "and for payments in connection with the financing of the acquisition, construction, or renovation of public buildings as authorized by section 902 of the Public Buildings Act of 1980".

TITLE X—MISCELLANEOUS

SEC. 1001. This Act shall become effective on October 1, 1980.

SEC. 1002. The Federal Building located at 444 Southeast Quincy, Topeka, Kansas, shall hereafter be known and designated as the "Frank Carlson Federal Building". Any reference in any law, map, regulation, document, record or other paper of the United States to that building shall be held and considered to be a reference to the "Frank Carlson Federal Building."

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I know that my esteemed neighbor and friend will join me in saying that this we feel to be a major event in the history of the American Government's programs of construction of public buildings, an aspect of large concern to Government, and it could not have been brought through the 15 months of effort without the extraordinary assistance, guidance, and support we have had from John Yago, Bailey Guard, Richard Harris, Steve Swain, Joe Bowman, Nina McClain, Ann Garrabrant, Mimi Feller, and Michael Burns.

And I shall be forgiven if I ask a special word of thanks to Mr. Robert Peck, an attorney who has concerned himself with architectural matters with great creativity and precision and with extraordinary durability in a long and difficult matter.

Finally, I wish to say that were it not for the granite hard integrity of the senior Senator from Vermont we should not have embarked upon this course and were it not for his seaborne knowledge of how to navigate a difficult strait, we might not have arrived in port so safely. Seventy to eight is a tribute to Robert Stafford, of Vermont, which I wish him to know.

Mr. STAFFORD. Mr. President, the Senator from Vermont hardly deserves the accolade from the distinguished Senator from New York who has so graciously led us in this struggle through the 18 months. So I think this bill is a great tribute to him and to the members of the staff whom he mentioned and others who have not been up front but have given us real help in engineering this bill and bringing it through the Senate.

Mr. MOYNIHAN. I thank the Senator.

Mr. STAFFORD. I started my first statement on the bill by expressing my deep appreciation to our beloved leader of the full committee, Senator RANDOLPH, who had guided us all the way through, to Senator SIMPSON on my side and Senator CHAFEE on my side and the others who helped us get what I think is a landmark bill through the Senate this afternoon.

Mr. MOYNIHAN. Mr. President, echoing those remarks about our beloved chairman, I finally ask unanimous consent that 200 copies of the bill as passed be printed for the use of the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. WILLIAMS. I yield to the Senator from West Virginia.

WEST VIRGINIA IS 117 YEARS YOUNG TODAY

Mr. RANDOLPH. Mr. President, I am grateful to Senator WILLIAMS, manager of the Housing, Community and Neighborhood Development legislation who, with Senator GARN of the minority, for permitting me to speak on another theme.

My colleagues, this day marks the 117th anniversary of West Virginia statehood. Abraham Lincoln, with his pen, brought us into being. We were not bereft of the Commonwealth of the Old Dominion State, Virginia. In fact our two States could work alongside one another, and we have done so. One is named Virginia and one is named West Virginia. I recall some of the heartfelt feelings that I have toward Virginia as well as West Virginia. I have a priority for West Virginia, the State in which I was born, and the homeland of my family—my ancestors.

Sitting at his desk is the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and also at his desk is my beloved friend, the junior Senator from Virginia (Mr. WARNER). I feel he realizes that the soil of West Virginia and Virginia are often mingled together.

From West Virginia to Virginia went Harry Byrd, Sr., the father of the present able Senator. Harry Byrd, Sr. was born in Martinsburg, W. Va. We are happy to claim him not only because he was born on our side of the line but because his interests and concerns were so much in our Shenandoah Valley—a lovely land covering West Virginia and Virginia.

I remember so very well when I was first a candidate for Congress in 1930 in the House, I was campaigning in the late afternoon in Jefferson County during apple-picking time. I was shaking hands with men and women who were busy in the boxing of the apples, and waving to those who were on the ladders in the trees. A very kindly gentleman said, "Mr. RANDOLPH, we are very happy to have you with us, but knowing that you are a candidate for Congress from West Virginia, we should tell you that you are one-half mile into the State of Virginia."

I will never forget, as he smiled and indicated they were glad to have me there but that I was asking for votes in the wrong State. I smiled, and responded "I know that all of you have many relatives in West Virginia."

The Byrds have graced this Senate. Tradition, heritage, and public service have been their hallmark.

During our years here I recall Senator Willis Robertson of Virginia, who also was born in West Virginia at Martinsburg. His service here brought credit to his career and to both of our States and to the Nation.

I well remember that Senator Robertson was against our Appalachian Commission bill in 1965. He spoke against it and voted against it. The day following passage of that good and needed bill he called on the phone and said, "JENNINGS, now that the Appalachian Commission is going to become law, I have just the project that fits into that program. I want to tell you about it."

That was the spirit of Willis Robertson.

I recall another distinguished Governor of Virginia. James Price, who was a native of West Virginia. He was elected in 1937 and served with distinction during 1938 and 1939.

West Virginians have had the pioneering spirit throughout their valleys, their hills, and on their mountaintops. During these troubled times in which our Nation and the world are faced with almost insurmountable challenges, I recall, it was George Washington who said:

> Leave me but a banner to plant upon the mountains of West Augusta (West Virginia) and I will gather around me the men who will lift our bleeding country from the dust and set her free.

That expression characterized his confidence in our people.

We have a good heritage and a good history. Our forebears crossed the rugged Appalachians to pioneer the western exploration. West Virginia's richest resource is its people.

We have had many problems through the years. We have solved some of them and we continue to work now.

Our State has made significant progress in recent years—registering the second highest per capita income growth rate in the Nation during the 1970's. West Virginia is on the threshold of its greatest challenge—to provide increased energy from its coal rich veins over the critical years ahead. We will face this challenge and the Mountain State will be among the Nation's economic leaders during the decade ahead.

It is in these positive terms that I call attention to our 117th birthday in this forum.

Members of the West Virginia State Society of the District of Columbia today celebrated our anniversary with an appropriate luncheon and program. I had wanted to be there, but Senate business kept me here. Thanks for understanding our devotion to West Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a comment?

I want to thank the distinguished Senator from West Virginia for his very generous and kind remarks about my father, who was not only my father but my dearest friend. I am very grateful for what the Senator from West Virginia (Mr. RANDOLPH) had to say.

I want to join with him in congratulating the State of West Virginia on its 117th anniversary. I might say those of us in Virginia would like very much to have the splendid citizens of West Virginia as citizens of our State, which until 117 years ago they were. But we know that that cannot come about.

I think that a mark of the wisdom of the people of West Virginia lies in the fact of the two Senators who have been elected to represent that great State, the senior Senator, Mr. RANDOLPH, who is the chairman of the Environment and Public Works Committee, and the distinguished majority leader of the U.S. Senate, Mr. ROBERT C. BYRD. The people of West Virginia can be proud of the splendid representation which Senator RANDOLPH and Senator ROBERT C. BYRD are giving to that State on its 117th anniversary. I commend the citizens of West Virginia, and I commend the leadership of that State as represented by Senator RANDOLPH and Senator ROBERT C. BYRD, two friends for whom I have great admiration.

Mr. WARNER. Mr. President, I rise to join the senior Senator from Virginia in extending congratulations to the citizens of West Virginia on the occasion of their State's 117th birthday. The citizens of this great State have distinguished themselves by providing leadership in the Senate through the untiring and dedicated service of both Senator ROBERT C. BYRD and Senator JENNINGS RANDOLPH.

I also have a family connection with the State of West Virginia since my father, in 1903, left Virginia to become a schoolmaster in Charles Town, W. Va. He enjoyed many happy years in that State, and it was the citizens of that community who encouraged him to become a doctor of medicine—a career he pursued with great distinction until his death in 1946.

Senator RANDOLPH enjoys the highest esteem among the freshman Senators from both sides of the aisle, for he is always willing to share his unparalleled wisdom and skills on how to achieve sound legislative goals. In fact, he has gained the nickname "Tutor" from many of the admiring and respectful freshmen. I will look forward each year to sharing this colloquy with the distinguished Senator from West Virginia on the occasion of his State's birthday.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2719, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes.

The Senate proceeded to the consideration of the bill.

Mr. WILLIAMS. Mr. President, before we begin our opening statements on the housing bill I ask unanimous consent that the names of the staff members I left at the desk be given the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I bring before the Senate at this time S. 2719, the Housing and Community Development Act of 1980. This legislation is one of the most comprehensive and complex housing measures that the Senate Banking Committee has approved in the last 10 years. It contains reauthorizations for all of our Basic Housing and Community Development Programs, including the community development block grant program, the UDAG program, FHA authorities for single-family and multifamily housing, and the section 8/public housing programs. In addition, it permanently extends the Home Mortgage Disclosure Act, rewrites and redirects the section 701 comprehensive planning program, extends and revises the section 223(f) program for refinancing insurance, establishes a program of energy conservation block grants for localities, dramatically changes the way FHA mortgage limits are applied, initiates a new program to spur the construction of badly needed rental housing, and adopts for the first time a set of minimum standards to ameliorate some of the worst practices of conversion to cooperative and condominium ownership.

This legislation results from eight separate hearings, including one field hearing, and is based to a substantial degree on the administration's proposed reauthorization bill, S. 2383.

Before I continue with my explanation and comments on the legislation, I want to take a moment to extend my sincere appreciation and commendation to the distinguished banking committee chairman (Mr. PROXMIRE) for the indispensable role he played in shaping this year's housing legislation and in moving it to the floor. No finer job could have been done.

I also want to thank my counterpart in managing the bill, my good friend, the distinguished ranking minority member of the committee (Mr. GARN) for his own valuable contributions. This is our third time together as managers of a housing bill in the space of a year, and I look forward to a continued cooperative effort on this measure.

Mr. President, S. 2719, is designed to come to grips with some of the most pressing housing and community development issues facing our people today, including urban economic development, energy conservation, adequacy of homeownership opportunities, the decline of rental housing, and condominium/cooperative conversion.

Many of our communities exist in a continuous state of recession. Others with basically sound economies contain pockets of poverty where high unemployment and substandard living conditions are daily facts of life. As the national economy slides deeper into recession, we can expect these areas, which are already distressed, to suffer even more. To help these areas achieve a reasonable measure of economic progress, and to reclaim deteriorated, blighted neighbors, S. 2719 provides a 3-year reauthorization of the community development block grant program (CDBG), the urban development action grant program (UDAG), and the section 312 rehabilitation loan program. These programs are the workhorses of our community development effort. The CDBG program would receive $3.95 billion for fiscal year 1981, $4.1 billion for fiscal year 1982, and $4.25 billion for fiscal year 1983. UDAG would continue at a level of $675 million each year for the next 3 years during the period of authorization, and the section 312 program would be funded at $124 million, $129 million, and $134 million for fiscal year 1981–83, respectively.

A number of revisions have been made in our community development programs to heighten their effectiveness and attune them more to local needs. Small communities joining urban counties in order to receive block grants would be required to remain with their counties for 3 years, instead of 1 year, as at present. This would facilitate the program's administration and encourage its stability. Block grant applicants using block grants money for community economic development would be required to use their funds to benefit low and moderate people more directly. Applicants would also have to take into greater account the potential displacement effects of local community development activities. Under the UDAG program, Indian tribes would be eligible to compete for funding along with small cities. Section 312 loan limits for basic residential units would be raised to $35,000, and special loan limits of $15,000 and $25,000 would be established respectively for single room occupancy structures and congregate housing projects.

In recognition of the enormous influence that local governments can have on energy conservation, through local building codes, traffic patterns, and zoning and development decisions, the legislation would create a 2-year program of energy conservation block grants from HUD to localities and States. These block grants would be used to defray the costs of energy-use assessments, and the development and implementation of comprehensive conservation proposals. For fiscal year 1981, the funding will total $75 million, to come from the solar and conservation reserve fund, and allocated according to the existing block grant dual formula. Through this program, we can alter the patterns of local energy use, help reduce dependence on foreign energy sources, and eventually realize a substantial cost saving for localities. Because the program would operate through the existing community development block grant program, any new regulatory requirements would be markedly reduced. The Senator from Massachusetts (Mr. TSONGAS), who has served with such distinction on the Banking Committee, deserves recognition for his work in ths area.

S. 2719 also takes a broad range of actions to bolster our sagging rental housing sector, through measures to preserve existing rental structures, and to construct new ones. The most dramatic initiative in this regard is the redirection of our housing assistance programs. Under the bill, as many as 410,000 families can be assisted for a total budget authority of $29.99 billion. Of this number, 286,000 units would be assisted under the section 8 and public housing programs, distributed according to a nationwide mix of 43 percent new and substantially rehabilitated units, to 57 percent moderately rehabilitated and existing units.

In addition, 124,000 units would be newly constructed or substantially reprogram of rental housing that would involve subsidizing mortgage interest down to a national average of 6 percent. These section 14 units would be aimed at people whose incomes range up to 130 percent of median area income, although it is expected that a mix of income groups will occupy the section 14 projects, including section 8 assisted persons, who must comprise 20 to 25 percent of the households in these projects. Due to the shift of section 8 assistance to cover more existing units, we would be able to provide more rental units overall, both new as well as existing, while saving $3 billion in long-term budget obligations in the secton 8 and GNMA tandem programs.

Rental housing today suffers from a variety of ills. Developers are discouraged from investing in the field, and existing owners find it increasingly difficult to maintain their properties. As a result, vacancy rates have plummeted to record, and dangerous lows, and the rental stock is actually shrinking, even as demand continues to grow. The committee bill is designed to attack this crisis directly, but at a reduced cost to taxpayers. We know that in many markets, low-, moderate-, and middle-income residents often compete for the same units. We also know that although there are many people living in substandard housing, the greatest majority of low-income people needing housing assistance are those who live in decent shelter but bear intolerable rent burdens. By placing more emphasis on providing rent relief for low-income persons in existing housing, and by initiating a program of multifamly housing construction, we can provide greater assistance to low-income people, increase the overall stock of rental housing, and help reduce the long-term costs of the section 8 program.

The legislation takes steps to preserve the rental housing stock by revising FHA's section 223(f) refinancing program. The section 223(f) program was originally designed to facilitate refinancing of apartment buildings by owners facing balloon mortgage payments, wishing to rehabilitate without the need for large rent increases, or wishing to reestablish full mortgage interest deductions. As interest rates have soared, the program has become almost unusable except to aid in cooperative conversion. S. 2719 would authorize the Secretary of HUD to use $30 million in GNMA tandem purchase authority to subsidize section 223(f) loans for smaller apartments in urban areas. It would also apply restrictions on the use of the program for cooperative or condominium conversion, in order to assure that the preservation purpose of the program is not thwarted.

Another important rental housing provision would seek to assure that all multifamily rental housing projects, including unsubsidized ones, acquired by the Department, are properly managed and disposed of. Present law's requirements for management and disposition of the HUD inventory covers only those projects subsidized under the section 236, section 221(d)(5), and section 101 rent supplement programs. Among the requirements are that the Department keep the property in safe and sanitary condition during the period of ownership and appropriately provide for any tenants involuntary displacement during HUD ownership, or as a result of disposition.

Moreover, the bill would require that except under limited conditions, the buildings must remain rental in character for a set period of years following disposition. This last provision is necessary to prevent the loss of valuable existing rental stock and the necessity of constructing much more expensive replacement housing.

In the area of single family housing, the legislation extends all of our FHA insurance authorities for another year, and would make a number of significant changes in single family housing programs. Among the most far reaching of the provisions is the establishment of a new FHA mortgage limit. Instead of the present nationwide ceiling of $67,500, the FHA mortgage limit would be the higher of $67,500, or 95 percent of the median area house sales price for a single family unit. Two- to four-family units would receive proportionate increases. This provision would allow the Secretary to set limits much more in accord with local market conditions and keep FHA programs as a responsive tool for moderate income home buyers.

The legislation would also increase basic mortgage limits for the section 235 homeownership assistance program by 25 percent, and an additional 10 percent to accommodate specially added features for the handicapped. It would also allow FHA multifamily housing programs' mortgage limits to be increased by up to 20 percent to cover the actual cost of new energy conservation features.

S. 2719 contains two major provisions involving consumer rights—the extension of the Home Mortgage Disclosure Act, and a set of national standards governing rental units converted to condominium or cooperative ownership, and condominium recreation facilities leases, which feature long-term escalation clauses.

S. 2719 would make the home mortgage disclosure act a permanent statute. HMDA is presently scheduled to expire on June 28, 1980. Because of the integral relationship of the disclosure statements by lending institutions made under HMDA to enforcement of the fair housing act, and to implementation of the community reinvestment act, this section is essential for equal opportunities in housing and for the health of cities and communities. In fact, civil rights groups view this legislation as a basic concept; neighborhood groups view it as a bill of rights. This section of the bill would also require the Federal Financial Institutions Examination Council to compile annually aggregate data for all depository institutions covered by the act. This would provide a comprehensive perspective of lending patterns within SMSA's to assist in understanding and evaluating the lending patterns of individual institutions, and to assist local elected officials in developing constructive policies and programs to meet emerging housing and community development needs.

Title V of S. 2719 contains the first substantive Federal response to the rapidly growing national phenomenon of condominium and cooperative conversions. Title V's provisions set forth only the most fundamental rights and protections for the tenants of converting structures. This is in keeping with the committee's views that States and localities must bear the primary responsibility for fashioning more comprehensive and appropriate action. In fact, under an amendment adopted by the committee, any State or locality possessing the power to enact similar protections could act to remove itself from title V's conversion provisions within 1 year of S. 2719's enactment.

Specifically, the standards would first require that anyone converting a rental property containing five or more units provide notice of that conversion to his tenants at least 120 days before they will be required to vacate. Also, each tenant would have the first right to purchase the unit he resides in for 90 days after receiving notice of the impending conversion.

Title V also seeks to assure that each tenant have the basic information on which to make a knowledgeable purchase decision, by requiring the provision of an engineer's report on the building's condition, and notice of any uncured code violations. It also requires that a converter warrant any repairs or rehabilitation he undertakes for 1 year.

Finally, section 510 of the bill provides a right of judicial review to tens of thousands of retirees, most residing in the State of Florida, burdened by long-term, escalating lease arrangements of questionable conscionability. Such arrangements have been banned in Florida since 1975—but the State courts have denied the retroactive application of relief which the Florida legislature has attempted to provide.

Thus the committee has decided to respond affirmatively to the plea for relief so eloquently conveyed by the two Senators from Florida (Mr. STONE and Mr. CHILES) by the present and past Governors and attorney generals, by all of the Congressmen representing the affected areas, and by the White House. This provision of the bill is structured in a way to encourage the negotiated resolution of the disputes surrounding these leases, rather than immediately inundating the courts with lawsuits.

In summary, title V will extend basic protections to tenants who may be caught up by conversions of their buildings, and also provides a means of final resolution for a problem which has placed a financial and emotional strain on older Americans burdened with escalating lease arrangements.

Other important provisions of S. 2719 include:

First. A 1-year authorization of $862 million for public housing operating subsidies;

Second. The amount of $31.1 million for the troubled multifamily housing projects program;

Third. A new interest reduction program under GNMA, to aid in the construction of multifamily housing projects;

Fourth. A delay of up to 2 years in the promulgation of energy conservations in buildings standards, and transfer of responsibility for enforcing those standards to the Department of Energy from HUD;

Fifth. Provisions to increase mobile home loan limits in high cost areas;

Sixth. State usury ceiling overrides for individual homeowners who sell their dwelling; and

Seventh. HUD research authorization of $52.1 million for fiscal year 1981.

Mr. President, as you have heard, this is a most detailed and comprehensive measure. It conforms fully to the budget resolution, and even provides less in some instances. It presents what the committee believes to be fair, reasonable, and responsible answers to pressing problems in housing and community development, and I urge its approval.

Mr. GARN. Mr. President, we have before us today a very complex piece of legislation, S. 2719, the Housing and Community Development Act of 1980 which deals with much more than the traditional HUD housing and community development programs as the title would suggest. Senator WILLIAMS has gone through the individual provisions of the bill and I shall not take further time to go through those same provisions. I shall concentrate my remarks on those items which are of particular concern to me.

This bill contains several important provisions which I wholeheartedly support, like the reauthorizations of the community development block grant program, section 701 comprehensive planning, section 312 rehabilitation programs, and the basic FHA insuring activities; a 25 percent increase in the maximum mortgage limits for the section 235 low income homeownership program; a provision to minimize discount points on FHA insured loans, and a delay for up to 2 years in the promulgation of the building energy performance standards (BEPS) to allow additional time for the Department of Energy to make sure that the BEPS are reasonable and designed to achieve maximum practicable improvements in building energy efficiency.

There are other provisions adopted by the committee, however, such as the new middle income subsidy program, the permanent status of the Home Mortgage Disclosure Act, and the condominium conversion provisions, that I so strongly oppose that I, along with several other minority members of the Banking Committee, voted against reporting this bill out of committee after a particularly rigorous 10-hour markup session. This is not a position I relish, because, as the ranking minority member of both the full committee and the Housing Subcommittee I, with my staff, have worked long and hard to try to develop a housing bill that I hoped I could support in good conscience. Later today, I shall propose individual amendments dealing with my specific concerns.

Let me begin by saying that my major concern with this legislation is not a problem associated with the cost of the bill which is in line with the recent budget resolution conference agreement. My concerns are directed more toward what is really the proper role of the Federal in areas of assisted housing, condominium conversions and the Home Mortgage Disclosure Act.

I am concerned that the new provisions adopted in the committee bill are moving U.S. housing policy in the wrong direction. The committee precipitately adopted a new major assisted housing program that redirects the Federal Government's efforts in housing assistance away from low-income public housing and section 8 in favor of a new subsidy program for middle-income rental housing. I have an amendment which I will bring up later to strike this new program and put all the budget authority back into the existing section 8 and public housing programs. Our primary responsibility is to first assist lower income families given the limited Federal resources available. For us to now take part of the money originally intended to assist lower income families and use it to subsidize moderate-income families is totally inconsistent, unfair, and unwise.

We are all aware of the fact that Federal legislation has generally become far too costly and excessive. While I do not oppose the reauthorization of the Home Mortgage Disclosure Act, I do have a series of amendments that I will offer to, first, provide a 5-year sunset period for HMDA rather than making it a permanent statute as in the committee bill; second, to limit the reporting requirements to those institutions who, in fact, are significant participants in the home lending market by changing the exemption, currently based on asset size, to one based on home improvement loan and mortgage lending activity; and, third, to reduce the burden of HMDA reports in essentially rural areas by allowing lending institutions to record HMDA data by county for properties located in low-population counties of standard metropolitan statistical areas.

My final amendment deals with title V of the bill and would strike all the provisions dealing with condominium conversions. I have not been persuaded that condominium conversion activity requires even minimum Federal regulation at this time. Federal protective legislation is only warranted when abuses exist that become national in scope and nature, and where State or local governments have proven unwilling or unable to address those abuses. These circumstances do not exist now. As with the most sudden developments, the recent boom in condominium conversions has been associated with problems. However, where conversions prove disruptive to a community's housing policies and goals, they can be and have been more effectively and appropriately addressed by State and local legislation.

Now that I have pointed out my major concerns with this legislation, I will conclude my remarks so that we can begin to discuss the individual provisions of the bill.

Mr. CRANSTON. Mr. President, I take this opportunity to commend the distinguished managers Senators Williams and Garn for their excellent leadership and handling of this bill. The chairman of the Banking, Housing, and Urban Affairs Committee, Senator Proxmire, has also lent his invaluable expertise to this bill, S. 2719, the Housing and Community Development Act of 1980.

S. 2719 offers a comprehensive approach in providing assistance to the housing industry at a time when it is in its worst crisis since World War II. We all know the difficulties that the housing industry is facing. The May figures on housing starts show that production has fallen 11 percent since the previous month. This represents a 49 percent decrease in starts since May of last year. The National Association of Home Builders predicts a low of 1,058,000 starts in 1980. This represents a 40 percent decline in starts since 1979.

The gloomy predictions on housing starts are not the only troubling figures that are indicative of a serious crisis in the housing industry. Nationwide vacancy rates for rental housing dipped below the critical 5 percent level. In my own State of California it is around 3.2 percent. In the city of San Francisco the vacancy rate is around 1 per cent while in Los Angeles it is below 1 percent. The number of California households in 1978 was 8,062,800, in 1990 we can expect that figure to increase to 10,680,000. This means that by 1990 we must create, in California alone, some 3.8 million new housing units to satisfy the shelter needs of our citizenry.

NEW RENTAL HOUSING PROGRAM

Mr. President, S. 2719 is an excellent step in the direction of solving our Nation's housing problems. Among the provisions included in this bill that will foster the production and preservation of our Nation's housing stock is the new rental housing production program that will increase the amount of assisted rental housing to 410,000 units for low-, moderate-, and middle-income people. The program provides for 286,000 units of assisted housing for low- and moderate-income people while also authorizing another 124,000 units that will receive a shallow subsidy that is intended for middle-income people. True, the new middle-income component of the plan represents a change of emphasis in our approach to rental housing.

However, that change does not mean that our commitment to low- and moderate-income people has wavered because the plan provides more units for low- and moderate-income people than any other proposal that is or was seriously discussed this year. The middle-income component of the new plan will help increase our rental housing production while holding down long-term budget costs. In tight rental areas it should lessen the competition between low-income and middle-income people for rental housing units.

PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

The multifamily rental housing stock must be preserved if we are ever to meet our Nation's goal of decent safe and affordable housing. HUD currently has an inventory of 36,000 rental housing units in default. Some of that inventory has in the past been sold to investors and then converted into cooperatives or condominiums. S. 2719 provides that the HUD inventory must be preserved as rental housing upon disposition for at least 20 years. However, if the project is acquired by a tenants organization representing a majority of the households in the project, the continuance of the property as rental would have an undesirable or deleterious effect on the surrounding neighborhood, or if it is determined that there is no longer a need in the community for the units, the Secretary may permit the units to be converted to cooperative or condominium units.

PRESERVATION OF RENTAL HOUSING THROUGH FHA SECTION 233 (f)

Another provision that will help preserve and rehabilitate our rental housing stock is the proposal to link the FHA section 223(f) multifamily mortgage insurance program, a program that I authored, with targeted tandem funds under GNMA program 27. Section 223(f) mortgage insurance gives lenders an incentive to refinance multifamily properties. The insurance allows multifamily property owners to refinance a loan so that funds can be obtained easily to perform moderate rehabilitation of the property while at the same time removing the balloon payments on the old loan. If this financing mechanism were not available it would be very difficult to refinance these kinds of projects. In such cases owners often convert to condominium or cooperative or even abandon the property.

Targeted tandem funds will be used to subsidize the interest rates on section 223(f) loans in older and declining urban neighborhoods. This will facilitate the use of the section 223(f) program as a device to preserve and rehabilitate rental housing in marginal areas where deterioration and abandonment are potential problems. I am hopeful that this new component to the 223(f) program will make it more effective.

UPDATE OF CRANSTON-BROOKE PROGRAM AND REVISION OF THE SECTION 235 PROGRAM

I am most pleased to cosponsor the amendment offered by my good friend Senator Williams which updates the Cranston-Brooke program and revises the section 235 program so that more than 100,000 single family units can be produced requiring no new budget authority. This amendment is substantially the same provision that the Senate passed earlier this session as S. 2177.

I am pleased to have been the coauthor of the Emergency Home Purchase Assistance Act of 1974, commonly referred to as the Cranston-Brooks tandem program. This program was intended to be a temporary cyclical shot in the arm to the homebuilding and construction industry when housing starts are low, little or no mortgage credit is available, interest rates are high, and recession and unemployment are having an adverse impact on the housing industry.

When the program is turned on it helps to stabilize the housing market against cyclical downturns by increasing the supply of reasonable priced credit to stimulate the purchase of new and existing single family and multifamily units. Cranston-Brooke provides mortgage assistance by allowing GNMA to issue commitments to purchase privately written below market interest rate mortgages.

We are updating this program in case the President chooses to turn it on; it will be reflective of current market cost conditions. The proposed modifications of the program would strike the mortgage amount for single family housing and revise the sales price limitation to 90 percent determined by the Secretary of HUD. This formula would allow the program to reach more people than the old limit of $48,000 and also take into consideration regional disparities of home costs, whereas the old limit did not. Other significant revisions include a discretionary triggering mechanism for the program and expanding eligibility under the program to manufactured housing.

The section 235 program is also revised to give the Secretary the discretion to change temporarily the existing 235 program so that an emergency shallow interest subsidy would be provided to promote the production of at least 100,000 single family units. This new program would subsidize the interest rate down to 11 percent and the mortgage limits would be $60,000 or 80 percent of mean area sales price, whichever is greater. Mr. President, I strongly urge that the Senate adopt these provision.

FHA SINGLE FAMILY MORTGAGE RATES

Another essential provision of the bill is the concept of using a formula to compute the FHA 203(b) mortgage limit. In the past the 203(b) ceiling limits were set at a fixed figure, $67,500. The formula recommended by the Banking Committee would set the limit at $67,500 or 95 percent of the median single family house sales price in the area, as determined by the Secretary, whichever is greater. The old nationwide limit had an unfair effect of insuring loans on luxury or near luxury homes in some areas while the program was not high enough to reach moderate price houses in high cost areas.

MANUFACTURED HOUSING LOAN LIMIT INCREASE

Mr. President, another measure that I believe is important is the 11-percent increase over existing loan insurance limits for manufactured housing. The limits recommended are $20,000 for single wide manufactured homes and $30,000 for the double wides. All of the other categories of limits for manufactured homes have been increased by 11 percent as well. This increase is needed to keep up with inflation. The cost of construction materials and land have risen sharply and we must increase the limits in order to keep pace with the rest of the economy. The increase is consistent with an amendment that I sponsored to the proposed Veterans Disability Compensation Act of 1980, S. 2649, which increased the maximum VA guarantee to $20,000 and $30,000 respectively for the single and doublewide manufactured home models.

However, S. 2719 goes a step further. The committee agreed with me that there should be a discretionary high-cost area exception to increase further the loan limits for manufactured home lots and manufactured home and lot combinations. Presently, in some areas of the country the limits are too low and render the program inoperable even with the 11 percent across-the-board increase. This is because of the unusually high land development costs in these areas. According to one study, the cost of raw undeveloped land in the west ranges from approximately $8,000 to $9,000 for a lot approximately 6,000 square feet. The average price for a developed lot of the same size is around $16,200. This provision would permit the participation of eligible borrowers, living in high cost areas, in the FHA manufactured housing loan program.

INDIAN ELIGIBILITY FOR UDAG

I am particularly pleased that the committee agreed with me that Indian tribes should become eligible to receive Urban Development Action Grants (UDAG). Extension of UDAG eligibility to Indian Tribes will provide an extremely valuable tool to stimulate economic development activities for these recipients. Many Indian tribes desire to improve their economic condition, and this provision will help them do so.

Currently, Indian tribes are only eligible for grants from the Secretary's Discretionary Fund. Under this proposal, the Secretary would be authorized to make UDAG awards to an Indian tribe if the tribe is not located within a city or an urban county; meets minimum standards of distress, as the Secretary may prescribe; and has submitted an application meeting UDAG funding requirements.

The requirement that a tribe, in order to be eligible, must not be located in an urban county or city is designed to avoid the potential complications of competing applications from Indian tribes and the units of government in which they are located. This legislation does not preclude an urban county from submitting an application on behalf of an Indian tribe. I hope that some counties might see fit to do just that or, at least, to take into consideration the needs of the Indian tribe when the county is preparing its UDAG application, whenever it is feasible to do so.

COMMUNITY ENERGY BLOCK GRANTS

I am very pleased that title II of the Community Energy Act, of which I am a cosponsor, has been incorporated into this legislation. By providing direct assistance to local as well as State Governments to plan and initiate energy programs, the act fills an important void in our current national energy efforts. Many California communities have expressed to me their strong interest in energy planning—they are eager to participate directly in conserving energy and using renewable energy resources to ment our Nation's energy goals. The community energy block grant program will help provide the financial assistance communities need to implement constructive energy programs, and is a necessary supplement to a State energy management partnership program to encourage comprehensive State energy conservation and development.

HOME MORTGAGE DISCLOSURE ACT

Last but certainly not least, I shall make a few comments about the Home Mortgage Disclosure Act reauthorization which is contained in title III of S. 2719. I believe HMDA has demonstrated its use as an important tool to help promote community investment. HMDA requires certain depository institutions to disclose annually the number and dollar amount of mortgage and home improvement loans made and purchased in their community development data is used at the local level by citizens to learn where funds are deficient for revitalization. It is also used at the Federal level as an essential tool by the Federal financial regulatory agencies in enforcing the Fair Housing Act and implementing the Community Reinvestment Act.

Additionally the data is also used to provide important protections and safeguards from violations of other laws prohibiting mortgage credit discrimination. I urge my colleagues in this body to adopt the HMDA legislation as it is recommended by committee.

Mr. President, S. 2719 will not by itself solve all of our housing woes, but it is an important step toward both producing and preserving the housing and community development that this Nation desperately needs. However, we must continue to find new and more efficient ways to increase our housing stock. I hope that the Senate will pass this bill expeditiously so that the provisions it offers will soon be made available.

UP AMENDMENT NO. 1221

(Purpose: To insure that assistance under the troubled projects program may be made available to maintain the financial viability of section 236 projects)

Mr. PELL. Mr. President, I am extremely thankful for the courtesy and kindness of my colleagues from New Jersey and Utah in letting me present these amendments at this time.

Mr. President, I send the first unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 1221.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, between lines 13 and 14, insert the following:

(c) (1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "maintain the financial soundness," the following: "to prevent projects from becoming financially unsound.".

(2) Section 201(d)(1) of such Act is amended by inserting after "maintain the financial soundness of the project" the following: ", or prevent a project which has a substantial number of tenants paying more than 50 per centum of their incomes for rent from becoming financially unsound,".

(3) Section 201(f)(1)(B) of such Act is amended—

(A) by inserting "or preventing" after "moderate-income character of the project by reducing"; and

(B) by inserting before the semicolon at the end thereof the following: "or which would be substantially likely to occur because of the high rent-to-income ratios in the project".

Mr. PELL. Mr. President, I am offering an amendment to help close a gap in an overlooked housing program, the Department of Housing and Urban Development's "section 236" program. Over the past few years, it has come to my attention that a number of elderly and handicapped residents of federally assisted housing developments in my State are paying an extremely high percentage of their incomes for rent. In fact, the Providence HUD office has estimated that 85 percent of the presently unassisted elderly and handicapped residents of section 236 projects are paying more than 50 percent of their incomes in rent alone.

I have examined existing HUD programs and concluded that, under present law, there is no remedy which can sufficiently assist the people who fall into this gap. What I am proposing will modify the "Troubled Projects" category, to permit the Secretary to channel assistance to section 236 projects containing a substantial number of tenants paying more than 50 percent of their incomes for rent. The "Troubled Projects" program is designed to prevent federally insured developments from falling into default, and I am sure my colleagues will agree with me that any project containing a substantial number of tenants paying over half their incomes in rent alone is not financially sound.

I believe my amendment is a reasonable and limited response to what has been a very serious problem in my State, and is very much in keeping with the commitment which has already been made to provide housing assistance for the elderly and handicapped. I urge my colleagues to accept the amendment, which I am pleased to add is cosponsored by my colleague, Senator CHAFEE.

Mr. WILLIAMS. Mr. President, I am pleased to accept an amendment by the distinguished senior Senator from Rhode Island. In testimony before the Housing Subcommittee, Senator PELL brought to our attention the plight of many fixed-income residents living in section 236 projects who are not receiving rent supplements. In response to spiraling operating costs, the rents charged to these unsubsidized section 236 tenants, most of whom are elderly or disabled, have risen steadily. Senator PELL reported to the Housing Subcommittee that 85 percent of the unassisted section 236 tenants in Rhode Island were paying in excess of half their income for rent.

Senator PELL's amendment amends the flexible subsidy program to allow projects to qualify for assistance if a substantial number of tenants are paying more than 50 percent of their income for rent. This provision does not involve any additional authorization for the flexible subsidies program. Many of those projects in which a significant number of tenants are paying over 50 percent of their income in rent are in serious jeopardy of defaulting due to rental delinquencies.

At present, these projects cannot receive flexible subsidies until the threat of default becomes a reality. This measure will not only benefit many severely distressed households living on fixed incomes, but it also will improve the capability of the flexible subsidies program to prevent defaults of federally sponsored rental projects. Senator PELL has provided us with a helpful amendment that will benefit the elderly, disabled, and other low income groups while contributing to the maintenance of low and moderate income rental housing.

Mr. GARN. Mr. President, on behalf of the minority, I am willing to accept the amendment.

Mr. WILLIAMS. Mr. President, I accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1222

(Purpose: To specify eligible block grant activities)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk which clarifies the definition of eligible activities under the community development block grant program, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 1222.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 2 and 3, insert the following:

ELIGIBLE ACTIVITIES

SEC. 105. Section 105(a) (2) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "parks, playgrounds, and recreational facilities" the following: "(including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river where such assistance under other Federal laws or programs is determined to be unavailable)".

Renumber succeeding sections accordingly.

Mr. PELL. Mr. President, I ask unanimous consent that the junior Senator from Massachusetts be added to this amendment as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I am offering an amendment which simply clarifies the definition of eligible activities under the community development block grant program. For some time, there has been uncertainty about the scope of eligible activities connected with parks, playgrounds, and other recreational facilities presently eligible for block grant funding. My amendment does not add any new category of eligible activities, and specifies the eligibility of reclamation and other construction activities which are necessary in connection with parks and recreational facilities funded by the block grant program. The amendment further specifies that funding for these purposes must be unavailable under existing Federal programs.

One of our most neglected urban problems is the blight connected with the network of inland waterways which flow through our oldest cities. This amendment will enhance the value of block grant projects carried out on the banks of our urban rivers, and I urge my colleagues to adopt this clarification of the block grant program.

Mr. WILLIAMS. Mr. President, speaking for the majority, I am pleased to accept the amendment offered by my friend and colleague from Rhode Island.

Many of our Nation's cities are located on rivers. Waterfronts of these urban areas are special and important places. They are often cultural and historic resources, and the sources which serve as the focal point for community and urban economic development goals. They are places which demonstrate that economic development and environmental quality interests can be mutually supportive.

Urban waterfronts are an important focus for Federal and local initiatives and partnerships as part of our national urban policy. The amendment will help to clarify the role of community development activities for parks, playgrounds, and recreational facilities established as a result of reclamation or other activities on urban river waterfronts.

Mr. GARN. Mr. President, I accept the amendment on behalf of the minority.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The Senator from New Jersey.

UP AMENDMENT NO. 1223

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1223.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 58, line 12, insert the following immediately after the word "law":

"*Provided*, That the objectives set forth in subjection (a)(1) and the requirements set forth in subsection d(2) (B) and (C) shall not apply to formerly unsubsidized projects in which the majority of units are not occupied by low- and moderate-income households at the time of acquisition: *Provided, further*, That the requirements set forth in subsection (d)(2) (B) and (C) shall apply to low- and moderate-income tenants in such projects".

Mr. WILLIAMS. Mr. President, this amendment to section 319 of the bill corrects an inconsistency between the committee bill and the provisions of section 203 of the Housing and Community Development Amendments of 1978. Under present law, section 203 sets out certain obligations of the HUD Secretary with regard to acquired, subsidized multifamily projects. These obligations include maintaining the property in decent, safe, and sanitary conditions, maintaining the project fully occupied, and avoiding or minimizing displacement.

Section 319 of the committee bill expands these requirements to acquired projects that had not formerly been subsidized and which may or may not include low-income persons or residents. This is a sound action because it will assure that HUD keeps all acquired properties in decent conditions avoiding deterioration, waste and displacement. Certain elements, however, of the section 203 requirements are not directly suited to the needs of formerly unsubsidized projects or their middle income tenants.

The technical amendment I am offering today is requested by the Department and would exempt such projects and tenants from these inappropriate references. These requirements are: First, the objective of maintaining the project for low and moderate income tenants, since they are not presently serving this need; second, the obligations to provide section 8 or other assistance to tenants who are displaced; and third, the obligation to make available units in other HUD acquired properties for displaced tenants. Since all of these requirements relate to the needs of lower income tenants or to benefits for which they are eligible, these requirements are not relevant to middle-income tenants regardless of the income character of the acquired property.

It was not the intent of the committee bill to bestow any unnecessary benefits or impose any inappropriate requirements on the Secretary, and I do not believe that the committee language is deficient in this regard. However, in order to clarify any ambiguity and leave no question about its impact, I offer the amendment and hope it will be agreed to.

Mr. GARN. Mr. President, the minority is willing to accept this amendment. It is satisfactory.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who seeks time?

Mr. GARN. Mr. President, I intend today to introduce three amendments to S. 2719, containing legislation reported by the Banking Committee to sunset the Home Mortgage Disclosure Act. The first amendment would sunset HMDA in 5 years. The second amendment would allow lending institutions to record HMDA data by county for properties located within essentially rural areas of standard metropolitan statistical areas. The third amendment would insure that HMDA's regulatory reporting burden would fall upon those lenders who are significant participants in the home lending market by changing the exemption, currently based on asset size, to a home loan flow measure.

I want to preface my discussion of these amendments with a few remarks concerning redlining. The problem of neighborhood disinvestment by private lenders cannot be isolated from the multifaceted problems of urban decline. Singling out lending institutions as a sole, or primary, contributor to neighborhood deterioration ignores both the causes and complexities of the problem. To encourage reinvestment in communities, we must improve neighborhood conditions. Legislation designed to upgrade public services, increase housing opportunities, improve land use and preserve neighborhood stock and diversity most effectively revitalizes our urban neighborhoods.

Certainly, private lenders have an important role to play in developing our Nation's cities by lending to communities in a nondiscriminatory manner. Congress recognized this role by enacting the Community Reinvestment Act and fair housing laws to prohibit discriminatory lending practices, including redlining, and require lenders to meet local community credit needs. These laws are enforced by the four Federal financial regulatory agencies—the Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Comptroller of the Currrency, and Federal Reserve Board—which conduct periodic consumer compliance examinations of all lending institutions, not only lenders subject to HMDA.

For those lending institutions covered by HMDA, compliance with antiredlining statutes can also be monitored by individuals and community organizations using the disclosure statements provided by HMDA data. However, there are disturbing indications that the vast majority of lenders experience little public interest in the HMDA reports they are required to compile.

For example, a comprehensive survey of savings and loan associations conducted by the U.S. League of Savings Associations revealed that 71 percent of the 9,143 associations responding had not received one single request for their HMDA disclosure statement. Ninety-nine percent of those associations received five or fewer requests. This finding was substantiated by a HMDA study commissioned by the FDIC and Federal Home Loan Bank Board, which concluded that there was little public interest in the HMDA report. Lenders, who often spend several thousands of dollars every year to collect, geocode, and compile HMDA information, view this as an unjustifiable and frivolous expense given the lack of interest in the resulting report.

I am not opposing reauthorization of the Home Mortgage Disclosure Act. However, I am opposed to some aspects of the legislation as reported out of the Banking Committee. The act was made permanent, although HMDA reports are widely unrequested and unused by the public, and the regulatory agencies may soon be able to replace HMDA with information retrieved from newly installed data systems. The essentially meaningless census tract designations in rural areas of standard metropolitan statistical areas are still required under the present bill.

Most importantly, despite clear evidence that public interest in HMDA reports has been minimal, the present legislation failed to release many lending institutions, who are insignificant participants in the home lending market, from the regulatory reporting requirements under the act.

Therefore, the amendments I introduce today will:

First, sunset HMDA in 5 years, as recommended by the administration, so Congress can again evaluate the utility, costs, and benefits of the act;

Second, allow lenders to report by county, rather than by census trace, for counties which are essentially rural in character, because census tract information in rural counties is far less meaningful than in urban areas;

Third, require lending institutions which are prominent participants in the lending market to report, while releasing from HMDA reporting requirements those lenders who do a small volume of home improvement and mortgage lending.

UP AMENDMENT NO. 1224

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1224.

Mr. GARN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, strike out line 6 and insert in lieu thereof:

"(b) Section 310 of such Act is amended by striking out 'four years after its effective date' and inserting in lieu thereof 'at the close of September 30, 1985.' ".

Mr. GARN. Mr. President, this amendment would sunset the Home Mortgage Disclosure Act in 5 years as recommended by the administration. As a general legislative principle all laws imposing a regulatory impact should be periodically reviewed to insure that their benefits and effectiveness continue to outweigh their administrative costs and burdens.

HMDA should not be exempted from the wisdom of sunset legislation under the mistaken guise that it is "civil rights" legislation. The act does not create substantive civil rights—it creates regulatory reporting requirements imposed on lending institutions. These requirements should be reviewed to assure Congress that HMDA remains a necessary and effective tool to enforce substantive civil rights under the fair housing laws.

Furthermore an additional 5-year period would allow the proponents of the Home Mortgage Disclosure Act to clearly establish both the utility of HMDA data and the extent of its use, which are currently unclear and highly controversial.

The four Federal financial regulatory agencies—the Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, and Federal Reserve Board—are the primary users of HMDA reports. HMDA reports once provided the only source of information identifying geographic loan placement, alerting the regulators to possible geographic loan discrimination. However, several agencies have recently implemented home loan data systems which collect far more information than HMDA reports. In the future, the regulatory agencies' use of HMDA reports may be supplanted by information retrieved from the data systems.

Disclosure of HMDA reports to the public has been greeted, so far, with minimal interest, for the vast majority of lending institutions subject to the act.

The comprehensive HMDA study conducted by the FDIC and Federal Home Loan Bank Board concluded that:

> Individual citizens infrequently request the statements;
>
> Citizens groups appear to use the statements but the extent of their usage is uncertain; and
>
> Depository institutions seldom use the data.

The American Bankers Association and Independent Bankers Association of America report that their institutions experience very little interest in the HMDA statements made available to the public. A survey conducted by the U.S. League of Savings Associations revealed that 71 percent of 1,943 associations had not recieved one single request for their 1978 HMDA reports. However, community organizations and officials at the Department of Housing and Urban Development argue that the number of users, and the types of uses for HMDA reports will increase in the future.

In short, the utility of HMDA data and the extent of its use to private citizens, community organizations, public officials, and the regulatory agencies is changing and still developing. Before we cast this act in the cement of permanent legislation, we should sunset HMDA in 5 years, then review the act to assure ourselves that its promises have been fulfilled and its benefits and usefulness have been proven.

When we first enacted this legislation, Mr. President, I offered an amendment that would have allowed a test study of the utility of this information and that rather than having it in 288 SMSA's, we would limit it to 20, the 20 largest in the United States, where most redlining has occurred, in the larger cities such as New York and Chicago.

That amendment was turned down, and we have imposed this reporting burden on all 288 SMSA's.

I am not fighting the fact that some of this information has been utilized and has been very helpful to various groups and to some individuals. My problem is that it has not been really as well utilized as it might be, as it possibly should be.

Therefore, the reports are made despite the fact that 71 percent, as I quoted, have not had any requests at all. I am not saying we should kill it at this time. I merely say in this amendment that in 5 years we would review it. It is still developing.

We will, obviously, have much better data on which to decide over a period of years of how useful it has been, how helpful it has been, and whether it is cost effective, or not.

I do not think it is an unreasonable proposal. I was surprised the committee turned down the amendment. In all fairness, the amendment I offered in committee was a 3-year sunsetting. The administration's proposal was to sunset it at the end of 5 years. So on the floor, my amendment has been modified to say that in 5 years we will review the law.

The value of this I believe is such that sometimes we pass legislation that does not work very well, sometimes it does, but without being forced to review it we let it go on and on and on.

I think this is an amendment that should be accepted, should not have to go to a rollcall vote, that merely says that without changing any provisions of the HMDA Act by this amendment, that in 5 years the Congress of the United States would review it, just as we have this year. That is all I seek to do.

Mr. PROXMIRE. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Utah. I do that although, as a general principle, I am very much in favor of sunset legislation. I think it is sound and I think we should move in that direction.

However, in this case, this sunset amendment is particularly inappropriate. The Home Mortgage Disclosure Act should be made a permanent law.

This civil rights legislation, we should no more sunset than equal employment opportunity, fair housing, or any other civil rights legislation.

The Home Mortgage Disclosure Act, which was enacted in 1975, requires banks and savings and loan associations to annually disclose mortgage lending patterns by neighborhood. It is an essential tool for promoting and facilitating reinvestment efforts, and making sure there is not the kind of discrimination we know existed in the past.

Discrimination has been well documented. I think almost all people who believe in civil liberties, civil rights, and equal opportunities, recognize it must be overcome.

Earlier this year, the Banking Committee held extensive hearings on the Home Mortgage Disclosure Act. We received oral testimony from 27 witnesses, including representatives of the administration, Federal financial regulatory agencies, the U.S. Commission on Civil Rights, community groups, civil rights, labor and other public interest groups, and witnesses from the banking and savings and loan industries.

There was powerful testimony documenting that the Home Mortgage Disclosure Act is used widely at the local level. Many witnesses testified on their own use of disclosure data. Many others submitted written statements detailing their own use of disclosure data. HUD reported on the results of its own survey of Home Mortgage Disclosure Act data used by approximately 300 organizations in 112 cities.

Types of organizations at the local level which have used the data include community groups, civil rights groups, consumer groups, State and local government agencies, planning and research organizations, academicians, and lenders. Indeed, the testimony indicated that use of the data has increased dramatically in the last 2 years, and can be expected to continue to increase. New uses of the data at the local level, such as use in connection with a city's community development block grant program, are now being seen. In addition, increasingly lenders are using the data as a tool in developing and implementing constructive voluntary reinvestment programs.

Of equal significance, home mortgage disclosure data is an essential tool to the Federal financial regulatory agencies in enforcing the Fair Housing Act and in implementing the Community Reinvestment Act. The data is used in investigating possible discriminatory practices and in assessing the record of banks and savings and loan associations in helping to meet community credit needs.

In addition, the Banking Committee received testimony based on a study conducted by the Bank Board and the FDIC, that the cost of complying with the act is only $1.42 per loan.

When we consider these are mortgage loans which average $40,000, $50,000, $60,000, $1.42 is virtually insignificant.

Further, most banks, and all savings and loans, which are covered by the act are required to collect and record information by census tract pursuant to other requirements. Thus as was very forcefully pointed out at our hearings by the representative of the AFL-CIO, the marginal cost of complying with the act is only a small fraction of the $1.42 per loan.

I say that even if we did not have this act, we would have to have information gathered and data kept, and the marginal cost is literally only a few cents, maybe less than 10 cents.

To a large extent, the act merely requires lenders to publicly disclose data which they already have in any event.

Mr. President, the amendment offered by my good friend, the Senator from Utah (Mr. GARN), to impose another sunset period in the law was offered in committee and rejected by the committee after considerable discussion.

There were a number of reasons why the committee concluded that the Home Mortgage Disclosure Act should be a permanent statute. Three of the four Federal agencies that regulate banks and savings and loans, the Federal Home Loan Bank Board, the Office of the Comptroller of the Currency, and the FDIC, all urged that the law be made permanent. These agencies testified that the Home Mortgage Disclosure Act is an essential tool for enforcing the Fair Housing Act and implementing the Community Reinvestment Act, both of which are permanent statutes. Thus, the Home Mortgage Disclosure Act is an integral part of a permanent statutory framework.

Other organizations which have vigorously urged that the Home Mortgage Disclosure Act be made permanent—these are the agencies which, in all fairness, I can say are opposed to the amendment of the Senator from Utah—include the U.S. Commission on Civil Rights, the Leadership Conference on Civil Rights, the National Urban League, the National Urban Coalition, the U.S. Conference of Mayors, the National League of Cities, the League of Women Voters of the United States, the AFL-CIO, the U.S. Catholic Conference, the National Low Income Housing Coalition, the Consumer Federation of America, the National Governors' Association, numerous community group leaders from all over the country, and many, many others.

Mr. President, as I have indicated, as

a general principle I am a strong supporter of the sunset concept. But I do not believe that we should sunset legislation that involves basic rights. Civil rights groups view the Home Mortgage Disclosure Act as basic civil rights legislation. Neighborhood groups view the act as a bill of rights for neighborhoods—the right to know what is happening in their neighborhood.

It must also be emphasized that the amendment offered by the Senator from Utah is not part of broad sunset reform legislation designed to impose a systematic review of agencies, programs, and regulations over a period of years. The Home Mortgage Disclosure Act is the only significant piece of bank regulatory legislation I am aware of which is currently sunsetted. The amendment to impose a new sunset period thus unfairly singles out the Home Mortgage Disclosure Act. This is particularly inappropriate, given the close connection with basic rights and the fact that the act has already gone through the sunset review period and been found to be highly useful with minimal regulatory impact. The act has passed its test.

Mr. President, now is surely not the time to retreat from our full commitment to civil rights. I urge my colleagues in the Senate to follow the Banking Committee's lead and to reject the amendment offered by the Senator from Utah.

Mr. GARN. Mr. President, with all due respect to my distinguished chairman, this debate has been going on for some years. When I first came to the Banking Committee, almost 6 years ago, I made a statement about redlining, that it did exist. As a former mayor, there was no doubt in my mind that in some cities around the country, redlining did exist, and there was no excuse for that.

What we have disagreed on all these years is how best to combat the problem of redlining.

I stated in my opening remarks that I was not opposed to a test of the Home Loan Mortgage Disclosure Act in 20 SMSA's. We often are so pushed in this body because of what we perceive to be the social good that we have no knowledge of how much it will cost, what the regulatory burden will be, who will benefit, or who is going to pay the bill.

When this was first enacted, I asked that we test it in 20 SMSA's. I believe that if we had done that, we would now be much better able to devise a bill that would do all the things the distinguished chairman wants it to do.

Statistics can be used on one side or the other. Despite what the chairman used, the most telling ones show that 71 percent of more than 1,900 institutions have never had a request for the data. Yet, we are forcing them to comply and fill out the forms.

Mr. PROXMIRE. The Senator said 71 percent of the institutions never had a request.

Mr. GARN. Yes.

Mr. PROXMIRE. That was for the 1st year. We know that this legislation has come a long way since 1975, when it was first put on the books, and the biggest increases have been in the last 2 years. It is an entirely different picture if you take the whole 5-year sweep.

Mr. GARN. There is no doubt that there has been some increasing use. Basically, it is very minimal. A lot of people are trying to increase its use.

We are not arguing the substance or the specifics. We now have come to civil rights. With all respect to my friend—and we know we are friends—to wrap this now in the cloak of a civil rights bill is one of the more ridiculous arguments I have heard made.

Civil rights give rights to human beings. They prevent discrimination—for example, with respect to going to a restaurant. I am not going to go through all the Civil Rights Acts of 1964 and all that.

What we have here is a regulatory procedure; and on this particular amendment, that is not at issue. I will have some other amendments about which the Senator can make those arguments, about how good the data is.

This amendment does not touch on any of the provisions of this bill. It simply says that in 5 years, we will review it. To say that this is a denial of civil rights, because we are going to have a regulatory burden of paperwork to be filled out, and if we put a sunset provision on that, to look at it in 5 years, we are denying somebody their civil rights is ridiculous—the bill will go on.

I do not know of any bill in the regulatory field that should be exempt from taking a look at it, to lock it into perpetuity. I believe that if the Senator and I are still here in 5 years, we will have completely new data on the usage; and I may be the one standing here saying this is a great bill and we should continue it; we should make it permanent. But I do not know that at this point, and the Senator from Wisconsin does not know it.

With respect to these organizations opposing taking a look at it in 5 years, I do not understand the willingness to say that we have created something now that possibly has started to work and possibly not, that $6 million is involved, a year overall. Whether it is $1.42 a request or not, how unreasonable can Congress be, to say that in 5 years we are not willing to take a look at it? That is exactly what we have done and what Congress is going to do before this day is over—to decide to continue this. I fully expect my amendments to be defeated, and it will go on and be strengthened from what it was.

What does the Senator fear, in 5 years, by taking a look at not a civil rights bill, but a regulatory bill, and seeing whether it is doing what he wants it to accomplish? If it does, I will stand here and say, "Senator PROXMIRE was correct. Let us make it permanent." But we should be willing to take a look at it.

Mr. PROXMIRE. I say to the Senator from Utah that the testimony by the Federal Deposit Insurance Corporation and the Comptroller of the Currency, neither of whom is emotional or an ardent civil rights advocate—and I believe their judgment can be trusted in this respect—is that this is essential to the enforcement of fair housing. I believe that fair housing is a very vital part of the kind of civil rights progress this country has so proudly made in the last 20 years.

I say to the Senator that I agree wholeheartedly that we might very well consider sunsetting all banking regulation, but we are not doing this. We are singling out this particular kind of regulation, which relates to fair housing and civil rights and the enforcement of civil rights, and we are sunsetting that and that alone.

It seems to me that that is wrong. That is why the Civil Rights Commission and all the other groups I listed are against sunsetting this particular provision uniquely.

Mr. GARN. The chairman knows that I would be willing to a sunset provision on every regulatory bill we have, not only in the Banking Committee but all of them, and requiring Congress to take a look at what havoc they have wrought.

Mr. PROXMIRE. That is not what the Senator's amendment would do. It singles out the Home Mortgage Disclosure Act.

Mr. GARN. This bill is before us, and it is the only bill before us. As the Senator knows, there are many other sunset bills that are much more comprehensive, for which both he and I have voted.

I am not singling out this one. I have voted in other areas, as the Senator knows. But here we are singling out one to put it in perpetuity, not being willing to take a look.

Where is the fear? Is there some fear that it will not work the way the Senator thinks it will and in 5 years Congress will not continue it? I doubt that very much.

Mr. PROXMIRE. The Senator knows my position as I have indicated and has been proven by the testimony overwhelmingly in favor of it. We received very little opposition to it. It costs very little. It is essential if we are going to get the kind of information we need on fair housing.

For that reason it seemed to me to put a sunset provision in it does single it out unfairly.

I have no doubt in my mind that the amendment by the Senator from Utah would not end the Home Mortgage Disclosure Act, but I do think it is a bad precedent to confine to this particular narrow civil rights field.

I can understand the very strong feeling of civil rights organizations.

Mr. GARN. Once again, if the Senator is correct and it has done so well and been so used by so many people in 5 years the evidence would be more overwhelming. That is why I do not understand the reluctance where it does nothing but say we will reexamine it. As the Senator knows, I am an advocate. I think that there are many bills and many pieces of legislation, and, in fact, I have made a statement in the Chamber many times that if we really want some progress in making this Government efficient for every time we passed a new bill, we should be required to repeal two.

And the author of the Golden Fleece Award should know more than anyone else in this Chamber how many silly laws, rules, and regulations which he gives his prize for every month that should be removed, and if we had sunset provisions rather than just giving an award, then he would have the opportunity to get out here in the Chamber and say we should change that or say that it has worked well.

But the Senator is not willing to take a look in 5 years, and I do not understand that reluctance. This is a game we often play in this Chamber. I believe it could not be justified. There are a number of areas I wish to change, apart from this 5-year extension. It is often that we make motherhood issues and we call it a civil rights bill, what a beautiful package and handle it so that any of us who happen to be opposed on substantive reasons or just want to take a look at it suddenly are anti-civil rights.

I frankly resent those kinds of implications, but that is what is done and will be marked up in these indexes that we get as an anti-civil-rights bill. So suddenly we are antiminority.

The Senator from Wisconsin knows my record on that. He knows my record in housing as a mayor, and that just is not true. But that is the implication. This bill has been cast as civil rights legislation to bludgeon some of our colleagues into not being willing to sunset because they would be blamed as being anti-civil rights. That is what the civil rights designation is all about.

Mr. PROXMIRE. Mr. President, if the Senator will yield, there is no question the Senator feels strongly about civil rights and has a great commitment to it. I do not question that for 1 minute.

But I point out that being opposed to his amendment and opposed to his position is not only the Senator from Wisconsin, not only the majority of the committee, but there is the U.S. Commission on Civil Rights, Chairman Arthur Fleming, one of the most distinguished civil rights leaders in our country—we have great respect for Mr. Fleming—the National Urban League, the National Urban Coalition, as well as these other organizations that also have a deep interest that I have listed in civil rights.

So it is something that the civil rights organizations themselves have examined carefully and feel is essential to civil rights.

It was their testimony, not only the statement by one Senator, that this is civil rights and goes to the heart of civil rights protection.

Mr. GARN. Again we are really arguing a different issue than sunset. The Senator is arguing the merits of the HMDA data and how it can be construed that a 5-year sunset to review it may be to improve it. Some of these groups might find after 3 or 4 years that there are some places we could improve it and a sunset provision might be the very vehicle forcing Congress to take a look at it because it is going to expire if they do not improve it for civil rights purposes. It is a blind opposition I do not understand.

I do understand the opposition to my other amendment, but this one just seems entirely unreasonable, and I believe it may come back to bite them some day and they will say we wish we had a sunset that would force Congress to take a look because we would like to make some amendments, we would like to improve the usage of this data in behalf of civil rights.

But I understand why most people are against it. Civil rights is a great cloak to wrap around it. So is motherhood. Let us put the American flag and everything else we can, including apple pie, so that we can make it permanent law and not be willing to come back and take a look at it.

(Mr. HARRY F. BYRD, JR. assumed the chair.)

Mr. TSONGAS. Mr. President, I rise in strong opposition to the amendment by the Senator from Utah for a 5-year sunset of the Home Mortgage Disclosure Act.

This legislation was enacted in 1975 to stem the tide of disinvestment and discrimination in lending practices, which in many cases contributed to the decline of our older urban neighborhoods. The purpose of the legislation was to insure that depository institutions fulfill their statutory responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

The law provides citizens and public officials with a method for determining whether certain depository institutions are meeting the housing needs of the neighborhoods and communities in which they are located. It requires that the institutions disclose the number, dollar amount, and location of home mortgages and home improvement loans that they originated or purchased.

Since the law was enacted, we have heard that the disclosures are too costly, that they are of little use to the public, and that in fact redlining is no longer a problem—thus antiredlining disclosure requirements are no longer necessary. I strongly support permanent extension of the Home Mortgage Disclosure Act, and I believe that the charges put forward in opposition to the act are as unsound today as they were when we were writing this legislation back in 1975.

I spend a lot of my time working with the mayors, the community groups, and the business and banking leaders in the cities of my State. My message is always the same. The only way we can hope to bring our cities back is to use scarce Federal resources in tandem with significant private resources. Now that our Federal resources for many crucial urban programs have either been cut out altogether, or are waiting on death row for congressional execution, we are even more dependent on those private resources to do the job.

In my dealings with the financial bastions of our older urban communities, this message about private investment is particularly urgent. Although my dealings with the banks in my State are beginning to yield some fruit, we have a long way to go. While it is true that they have contributed to the revitalization efforts of some of our downtowns and some of our neighborhoods, there is still an enormous gap between community investment in lending institutions and banking reinvestment in communities. When Congressman BINGHAM testified before the Senate Banking Committee last spring, he indicated that less than two-thirds of 1 percent of accumulated savings which originated in the Northwest Bronx was reinvested in the community through home mortgage loans. This startling statistic makes it clear that although the banks have the power to facilitate an urban renaissance, a great many neighborhoods will be threatened with total extinction without tough Federal legislation to compel lending institutions to consider the sound investments available in poorer sections of urban areas.

The Northwest Bronx, the South Side of Indianapolis, or Boston's Dorchester neighborhoods are all evidence that there is still a clear pattern of lending discrimination on the basis of income, on the basis of age of housing, and on the basis of race. I believe that the Home Mortgage Disclosure Act, used in tandem with the Community Reinvestment Act, is our most essential tool for dealing with those discrimination problems on a systematic and continual basis.

I do not believe that we can put a time limit on discrimination. We cannot solve this problem in 5 years or 10 years. Our neighborhoods are constantly undergoing change, for the bad as well as for the good. We are talking about a moving target. Even if we solve problems in some areas in 5 years, there will be new areas which are the victims of lending practices which promote deterioration and decay.

The great civil rights legislation of the 1960's has not outgrown its usefulness. In fact, we are attempting to put more teeth in the legislation, particularly in the enforcement area. The Home Mortgage Disclosure Act is in fact an enforcement tool for civil rights—because civil rights are not just legal rights—they are economic rights and the rights for economic opportunities.

I think that it would be tragic for us to put a time limit on solving the problem of lending discrimination. If we do, we are sending a message to the banks that all they have to do is hold on a few more years, and then they can go back to business as usual.

In closing, I would also like to point out that I listen with great dismay to the argument that very few people use the information generated in the disclosure statements, and that they are therefore useless. I want to make two quick points in refutation of that charge. Quantity has never been, and is not in this case, an indication of the usefulness of information. One request for the information, made by a group with the time and resources to act on behalf of hundreds of other groups, can have tremendous impact. We cannot judge the impact of this act by the number of requests. We have to judge it by the results.

Again you cannot judge the effectiveness of HMDA data on the number of

CRA challenges which are brought using HMDA data as evidence. In Massachusetts we are beginning to move beyond the politics of neighborhood/banking confrontation, and have moved into the politics of productive negotiation. Using HMDA data, community groups can often go to a bank and get them to reverse their lending policies without court suits.

I know that the ability of groups to negotiate with banks on responsible community investment practices in based solidly on the fact that Federal law has given community groups the power to hold banks accountable. If we weaken that law, or send out a message that the law is set to expire in a few years, that whole positive dynamic will be destroyed.

Mr. President, the experience which Massachusetts has had with the Home Mortgage Disclosure Act is positive, and speaks clearly to the issue of why this act must be made a permanent part of our country's laws.

Mr. President, I ask unanimous consent to have printed in the RECORD various articles with reference to Massachusetts activities relating to the Home Mortgage Disclosure Act.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the American Banker, Oct. 17, 1979]

STATE ST. QUITS BID TO SHUT UNIT

BOSTON.—State Street Bank & Trust Co. here has withdrawn its request to close a neighborhood branch after opposition from area businessmen and consumer groups.

The bank wanted to close its oldest branch in the Fenway section at the busy corner of Massachusetts Ave. and Boylston St.

Bank officials said they first want to talk with more groups in the area.

Daniel Morley, vice president of public affairs, said the bank asked Gerald T. Mulligan, State Commissioner of Banks, to postpone a hearing on the closing. "There was some concern in the community regarding the implications of this," Mr. Morley explained.

Mr. Mulligan, however, said he is treating the request as a withdrawal.

"The bank has handled this relationship very poorly," he said, believing the request for postponement came because "they realized they had mishandled it."

The Massachusetts Urban Reinvestment Advisory Group, a consumer-oriented group which monitors bank activities, helped lead community opposition to the scheduled closing.

James Carras, MURAB director, said that while his group is happy that State Street has, for now, changed its mind, the neighborhood would be willing to let the bank close its huge structure in the Fenway area if another branch would be opened nearby.

Mr. Morley, however, said "I don't know if we feel this is a situation that requires a compromise," and pointed out that even if the Fenway branch closed that it would be consolidated with another branch five blocks away in Copley Square.

Mr. Carras said his group and others will continue to watch what State Street does about the branch. If the bank persists in trying to close it, he added, the group will challenge its future requests for branches or mergers under the Community Reinvestment Act.

"I don't think they are waiting for this to cool off. They know we are out there. What we are really looking for is a compromise," he said.

The bank wants to close its branch primarily to sell the structure to a nearby music school, and Mr. Carras said MURAB is willing to let that sale go unchallenged if State Street does not pull out of the area entirely.

Hugh McCormack of MURAB said State Street has never disputed the branch is profitable. "What they are saying is that it is not profitable enough."

According to statistics compiled by MURAB, the total amount lent in adjacent Fenway census tracts by Boston banks from July, 1976, to July, 1978, was $14.051 million.

Of that amount, he asserted, $36,989 has been lent by State Street in mortgages and home renovation loans.

Mr. Carras said a subsequent survey of 35 area small businesses has shown only one received a business loan from State Street while nearly one-half the merchants complained they were actively discouraged by bank officials when filling out applications.

Mr. Carras said, "They told me, 'I went in, I was discouraged.' Most didn't even know the bank was closing and the ones who went in to see State Street said they had really bad problems."

Bank officials have contended that there was sufficient legal notice as required by law, and that all its branches had notices stating there was a request pending to close the Fenway branch.

[From the American Banker, Oct. 15, 1979]

STATE ST. SEEKS TO CLOSE BRANCH

BOSTON.—The State Street Bank & Trust Co., one of Massachusetts' largest commercial banks, has asked Gerald T. Mulligan, Commisioner of Bank's for permission to close its oldest branch in the city's Fenway section.

The request has been challenged by neighborhood groups and the consumer activist Massachusetts Urban Reinvestment Advisory Board, which will be reviewed at an Oct. 16 public hearing scheduled by Mr. Mulligan.

Daniel Morley, vice president of public affairs for State Street, said the bank has been unable to compete with mutual savings banks in the area and that its huge building at the corner of Massachusetts Ave. and Boylston St. "makes it economically unfeasible to operate."

State Street opened the branch 75 years ago and if it is allowed to close, it will follow the First National Bank of Boston in leaving an area where merchants and community groups are trying to revitalize the economy and buildings.

Hugh McCormack of MURAB said the branch still has 580 existing commercial accounts and showed an increase in deposits last year of $1 million to a total of $6 million although bank officials have cited "low profitability expectations."

Opponents also said State Street wants to leave in order to sell the building to the nearby Berklee School of Music and realize the profit from that sale. Mr. McCormack charged also that the bank did not adequately notify residents of its intentions, except through required legal advertisements, an assertion disputed by Mr. Morley who said there were notices in the bank's 15 branches.

Mr. McCormack also contends the bank is doing everything it can to discourage customers from banking there in an attempt to prove the branch's unprofitability. "They've refused safe deposit boxes and use it as a teller training area to discourage people," he added.

He said the bank's request is contrary to Federal Community Reinvestment Act guidelines requiring banks to meet community needs "They've done no outreach in the community. They've done nothing for it," he said.

Mr. Morley, however, maintains that customers can be retained without keeping the branch open and that the area, composed mainly of students and small businesses along a busy strip surrounded by universities, schools, and the huge Christian Science church complexes, is not establishing itself as a profitable area for banks.

He said the bank has had a "strong campaign" in recent years to identify new accounts and that some deposits are credited to the branch which should not be because "we're trying to justify some profitability to the branch."

"Part of the problem with these groups is that they don't understand a bank doesn't need branches to meet the needs of the community," Mr. Morley said. "This is a very difficult competitive problem for commercial banks."

Mr. Morley added that if the branch is allowed to close—he hopes by the yearend—customers could be served by State Street's nearby Copley Square branch, less than a mile away down Boylston St.

Groups opposing the closing also include the Massachusetts Ave. Board of Trade, whose president, Morey Glazer, a shoe store owner, has been a depositor there for 31 years.

"Up until now I've found them marvelous and very cooperative," he said. "I've established a good credit rating and borrowed money and paid it back on time or ahead of time. If they get out, I, and I mean we here, have to turn around and establish new credit in a new bank. Everybody on the street does.

A meeting of community groups has been planned for next Wednesday to prepare for the hearing before Mr. Mulligan. According to Mr. McCormack, they have support from Sen. Paul A. Tsongas, D., Mass., and will point out that only a small branch of the Shaw-area to offer commercial bank services.

"We do not want to lose that bank," Mr. Glazer explained.

[From the Boston Globe, Nov. 17, 1979]

WHO SHOULD SERVE WHOM?

When the Provident Institution for Savings was established 163 years ago, a broadside heralding the event was circulated. The bank was forming, the sheet explained, "to encourage the industrious and prudent, and to induce those who have not heretofore been such"; its services would "be particularly useful to seamen, bound on a voyage, or soldiers, or other persons who come in possession of money."

In other words, the Provident, like most savings institutions established subsequently, was not to be the bank of the monied interests or of the highfalutin; it was to be the bank of the workingman. On the evidence of the hearing this week on the bank's application to open a branch in Newton, the Provident has, somewhere along the way, forgotten its heritage.

Such branching applications were once routine and rather closed affairs; opposition, if any, came only from other banks fearing competition. That has all changed now. As an outgrowth of the neighborhood-based antiredlining movement, new criteria have been established at both the state and federal levels for assessing branching applications. They require as a condition of approval that a bank demonstrate it has served the customers of its existing outlets.

Underlying those new standards is, first, the irrefutable notion that the availability of credit, especially mortgage money, is key to the survival and renewal of urban neighborhoods; and, second, the altogether reasonable view that banks, chartered and regulated by the society, have an obligation, within the constraints of prudent financial management, to meet those credit needs. After all, those needs are the needs of the people who put their money in the bank in the first place.

At this week's hearing on the Provident's application, the Massachusetts Urban Reinvestment Advisory Group (MURAG), a public interest outfit, came prepared for a rough and tumble scrimmage over this key issue of public policy; the Provident, it seemed, came to play tiddlywinks.

The Provident virtually ignored the fundamental issues, striking the pose of Lewis Carroll's Tweedledee: "Contrariwise, if it was so, it might be; and if it were so, it would be; but as it isn't, it ain't. That's logic."

It will be up to the state's Board of Bank Incorporation, headed by King administration Banking Commissioner Gerald T. Mulligan, to decide whether the issue of bank accountability to local neighborhoods is serious business or nonsense. The Provident application has prompted the first big community challenge to banking policy to come before Mulligan.

MURAG's testimony this week was detailed and damning. It contended, for instance, that from July 1978 through June 1979, the Provident, Boston's largest savings bank, had granted only eight mortgages and two home-improvement loans in the Roxbury-Mission Hill area. A Provident spokesman reported proudly that a bank representative had addressed the Roxbury Kiwanis Club "on the changing banking environment" and subsequently promised the Roxbury Multi-Service Center "to help them raise funds."

In East Boston, MURAG said, the Provident from mid-1978 to mid-1979 made only two home improvement loans totalling about $14,000. The Provident noted it has sent two bilingual employees to the East Boston Area Planning Council to discuss "banking services, how to establish credit and practical information on job interviews."

MURAG alleged that the Provident has a lower percentage of its assets in Boston-area mortgages than any other major savings institution in the region; that, for example, it last year loaned less mortgage money in all of Boston than a competitor with one-third the assets loaned in Dorchester alone; that its board of trustees is "more representative of the Myopia Hunt Club than of a mutual institution" because it has no members from Boston's workingclass neighborhoods and is dominated by residents of Beverly Farms, Dover, Lincoln and Hamilton.

The Provident cited its sponsorship of Christmas decorations in Brighton and a girls little league softball team and declared that it had donated prizes and premiums to church groups. In the view of the bank, that was grounds enough for a spokesman to proclaim solemnly: "What we do for the community, we do because the Provident is committed to the community."

There is no doubt that all savings banks are now in a squeeze, forced to carry long-term and low-interest mortgages, limited on the interest they can pay on new deposits, losing deposits to more attractive investments. In this environment it is hard for any savings bank to look great.

But it is in such an environment that savings banks like the Provident just might find that their best market is where it was in the beginning. That is with moderate-income households that do not have the volume of savings needed to make more attractive investments and that are looking for a neighborhood bank that is governed in part by people from the neighborhood and is aggressive in its efforts to meet the credit needs of the neighborhood.

[From the Boston Globe, Feb. 23, 1980]

BANK TO RESERVE LOANS FOR LOW-INCOME AREAS

(By Bruce A. Mohl)

New England Merchants National Bank yesterday signed a contract with a state-subsidized lobbying group in which the bank agreed to put 25 percent of its mortgage and home improvement loan money into one-to-four family structures in low- and moderate-income areas of Greater Boston.

The contract was the first of its kind in the Northeast, and several officials of the Massachusetts Urban Reinvestment Advisory Group called it a breakthrough in the organization's efforts to promote "affirmative action" mortgage lending in marginal neighborhoods.

"I think it's going to be a model agreement for other financial institutions," said advisory group Chairman Hugh F. MacCormack.

"This agreement doesn't mean the massive reallocation of bank funds to such neighborhoods," said Roderick M. MacDougall, New England Merchants chairman. "But it also doesn't mean business as usual."

Under the contract, Merchants agreed to several points concerning its loan policies. In return, the advisory group agreed not to challenge a merger between Merchants and the Massachusetts Bay Bancorp., a bank holding company in Lawrence whose subsidiaries include the Bay State National Bank in Lawrence and the Cape Ann Bank & Trust Co. in Gloucester.

The merger is pending before the Massachusetts Board of Bank Incorporation and the Federal Reserve Board.

Last November, the advisory group, citing a dismal lending record in poor city neighborhoods, fought a proposal by The Provident Institution for Savings to open a branch in Newton. State Banking Comr. Gerald T. Mulligan agreed and rejected the Provident's application.

That decision was widely regarded as the first significant test of the federal Community Reinvestment Act of 1977, a legal device designed to encourage banks to take "affirmative action" in lending in marginal neighborhoods. Its enforcement comes into play mostly when a bank seeks to expand.

Shortly after the Provident decision, Merchants approached the advisory group and work began on the contract, MacCormack said.

"The banking industry began to see the atmosphere (created by the Provident decision) was real," he said.

Merchants, however, played down any link to the Provident decision. "Sure, it had some impact, but it wasn't a trigger," MacDougall said.

In an initial news conference at the Merchants building and a second one to accommodate late-arriving television cameras, MacDougall stressed that Merchants' credit terms would not be changed by the contract.

Currently, Merchants charges 13½ percent interest on mortgages, plus 2 percent (called points) in cash of the loan's value.

Although Merchants officials said there may be some relief for low-income households from state and federal loan aid, one quipped: "We did not sign an agreement that will combat inflation."

Yesterday's contract put no dollar figure on lending to one-to-four-family structures, but Merchants officials said it would amount to about 100 more loans a year. No specific low-to-moderate-income areas were targeted for loans inside the Merchants lending area, encircled by Rte. 495.

Merchants figures obtained by the advisory group show the bank made 542 mortgage loans last year on one-to-four-family structures, a total of $32.6 million. Of that total, loans totaling $1.45 million were made in the city of Boston and $31.2 million outside. Of the $1.45 million inside Boston, nearly one-third, $439,000, went to West Roxbury.

The seven-page contract is significant in several respects. It entitles the advisory group to check on Merchants' compliance and also calls for "joint venture partnerships" between Merchants and community-based organizations.

Several parts concerned women. For example, the contract states that in the absence of a credit history—as often happens with divorced women—records of rental payment and employment will be used.

The contract also says all income of a loan applicant and the applicant's spouse, including part-time income, will be calculated as effective gross income in a mortgage application.

Merchants also agreed to establish a loan counseling program, to eliminate its $25,000 minimum on home mortgages, to stress loans to small businesses and to pay 5¼ percent interest on tax escrow accounts.

The bank also agreed that its mortgage application fees "will not exceed the direct costs incurred by its processing the application."

Mr. TSONGAS. Mr. President, let me say that when this issue first came up I was a supporter of a notion that HMDA did not need a permanent authorization because of the progress that was being made. Subsequently I spent a great deal of time looking into the issue. I would say there is probably no other Member who spends as much personal time as I do on the issue of urban revitalization, and actually it is the thing that I enjoy doing the most.

When we had hearings on the bill, the value of the HMDA data was an issue. Congressman BINGHAM testified before the Senate Banking Committee that in the northwest Bronx two-thirds of 1 percent of the accumulated savings which originated in that sector was reinvested back into the community.

Anyone who has walked through parts of New York City, and they are in very serious shape, and indeed goes through a number of other communities understands, given the balanced-budget scenario, given the withdrawal in many cases of the Federal Government from the solutions of the problems in the inner cities, that the work has to be done through the private sector, and the best vehicle for doing that are moneys invested by the banks. If the citizens of the north Bronx will be getting two-thirds of 1 percent of a neighborhood's moneys coming back in investment, then obviously there is such a major hemorrhaging of capital that there is no way in the world that neighborhood will ever come back.

In addition, I spent a great deal of time talking to people back in Massachusetts, where we have made a great deal of progress, about whether we could indeed sunset this legislation, and the answer I got back from the broad spectrum of participants, not only neighborhood groups and activists but also from concerned bankers as well, was, in fact, this is a mechanism just now being used and absent this mechanism there is, in fact, no way that any kind of serious private sector reinvestment can take place in our neighborhoods, and they made pleas that this particular piece of legislation would remain intact.

I think the time has come when the answer to urban problems is increasingly going to depend on what the banks do to work with community groups on neighborhood investment. We are beginning to see a lot of progress in Boston, and these articles which have been printed in the RECORD go to that issue.

We are making progress, and to sunset this particular piece of legislation at this point I think would be a step in the wrong direction.

I have changed my position on it and I am totally convinced that the positions taken by the Senator from Wisconsin and the Senator from New Jersey are quite correct.

Mr. GARN. Mr. President, if the Senator will yield, I wish to make one remark and then I am ready to vote on this amendment.

The distinguished Senator from Wisconsin mentioned names of groups that opposed the 5-year sunsetting.

I wish to say at this point that when we get to my amendment that would change his new program the groups he was citing are also included and opposed to what he wants to do.

So when he quotes them as opposed to mine I want him to know that they are also opposed to his, and we will talk more about that later when we get to that other amendment.

Mr. WILLIAMS. Mr. President, do I understand the Senator from Utah has them for one purpose and our chairman has them for another?

Mr. GARN. That is right.

I wish to make sure the Senate knows that even where he quotes them they are on a different side on the next issue.

Mr. WILLIAMS. Mr. President, I believe most of the points have been made on this amendment. I am in opposition to the amendment that is offered by my comanager of this bill.

Mr. President, I rise in opposition to the amendment offered by Senator Garn.

While it might be reasonable to set a provision whereby the Congress would be required to review legislation which had a substantial regulatory impact on some part of the private sector, that is not the case here. The Home Mortgage Disclosure Act does not regulate the way in which lending institutions practice. It does not require institutions to make loans in one area and not in another. It does not, in any way, predetermine the way in which a lending institution conducts its business.

Rather, HMDA permits the citizens who are the depositors of lending institutions, and who are their neighbors, to learn about the practices of these lenders. HMDA sets disclosure standards which serve as the basis for depositors to determine if they wish to be associated with certain institutions based upon their investments in the community.

HMDA serves as an instrument for local elected officials to review disinvestment patterns within their jurisdictions. Such information is critical to any mayor and city council in determining where abandonment problems are likely to increase, and where local government actions will be necessary to stimulate reinvestment to revitalize a community.

Finally, HMDA serves as a basic tool toward the enforcement of fair housing requirements and the Community Reinvestment Act. Without the data made available through HMDA, effective enforcement of title VIII, the Fair Housing Act, would be rendered almost impossible.

We know that discriminating credit practices are not going to abruptly terminate in 5 years. Discrimination has, unfortunately, been a persistent problem in this country. It has been with us for over 200 years. In 1866, the Congress passed the Civil Rights Act to demonstrate its intent to guarantee equal rights in housing. As my colleagues know, for the person who is handicapped, for the mother with four children to raise, for the black American, for the Indian, and for the neighborhoods in which these Americans live, housing and mortgage credit discrimination is a solid wall preventing access to minimum human rights. Would that we could sunset this discrimination in 5 years. Would that my colleagues could suggest an amendment to terminate redlining of people's neighborhoods 5 years from the date of enactment of this bill. That is an amendment I would willingly support and advocate.

It is ironic, is it not, that we should have to consider an amendment to terminate basic disclosure requirements on very large financial institutions, but that we are singularly unable to sunset redlining with its human impact on thousands of Americans within 5 years.

Mr. President, I am not alone in my profound concern about this issue. Three of the few regulatory agencies that regulate banks and savings and loans support permanency.

The United States Conference of Mayors does, the U.S. Commission on Civil Rights, the Leadership Conference on Civil Rights, the National Urban Coalition, and individual mayors and community leaders across the Nation believe that this issue is important enough to make the statute permanent. They believe, as I believe, that human values transcend business convenience.

Our committee has had the difficult task of observing the results of disinvestment and redlining. We have heard from the victims. We have seen the homes and the buildings that have been abandoned, boarded up, and burned. We have attempted to provide what assistance we could to help these communities get back on their feet.

But it is distressing to see these resources wasted. It is discouraging trying to help communities which were abandoned by lenders within those same communities, especially when these communities could have been preserved through a more equitable distribution of lending practices.

In New York, Boston, Atlanta, Cleveland, Kansas City, Chicago, and other cities, community organizations have used HMDA data to reach agreements with lending institutions and to develop affirmative lending programs. Every agreement means that there is reduced pressure from the Congress for Federal regulations to dictate to lenders how they should conduct their practices.

I appreciate Senator Garn's concerns. But I believe the minimal duty of disclosure is far less onerous than the burden which otherwise devolves upon us to rehabilitate forgotten neighborhoods. The minimal duty of disclosure is a small price to pay for the dignity of the families who make up neighborhoods across this country.

I join Chairman Proxmire in opposing this amendment, and I very much hope others will similarly oppose it.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, the Senator from Maryland, I believe, seeks recognition on this amendment.

Mr. SARBANES. Mr. President, I rise in opposition to the amendment, and I think that Members of the Senate should consider very carefully the implications of sunsetting the Homeowners Mortgage Disclosure Act. This matter was gone over very carefully in the committee and at some length.

The Home Loan Bank Board, the Office of the Comptroller of the Currency, and the FDIC have joined community and local government organizations in recommending that the act be made permanent. I think they regard it as an integral part of a permanent statutory framework and as an essential tool for enforcing the Fair Housing Act and implementing the Community Reinvestment Act, both of which are permanent statutes.

I do not really think it goes to one's basic attitude on the sunset concept because I think we have always recognized that there are certain, particularly statutory, frameworks in areas such as this in which some sense of degree of permanency and stability is important.

Since this measure was first enacted in 1975, it has worked well. That was really a trial period, and I strongly urge my colleagues to maintain the status given to this act and this legislation which was agreed to by the committee after careful deliberation.

● Mr. LEVIN. Mr. President, I oppose the amendment offered by my distinguished colleague from Utah.

I believe that his amendment will seriously weaken the reauthorization of the Home Mortgage Disclosure Act, and would bring into question this body's commitment to help achieve fair access to credit. In addition, the amendment could needlessly irritate the relationship between lenders, city governments, and community organizations by requiring us all to focus our energies on the passage of this legislation in 3 more years, rather than concentrating on the real task at hand: rebuilding our communities, preserving our communities, and assisting our lenders to meet all of a community's credit needs.

What can we hope to gain from a sunset provision? Will we find, 3 years hence, that the information contained in the HMDA disclosure forms is no longer necessary? This is highly unlikely, since we have testimony from the regulatory agencies showing that this information is needed by their examiners to check compliance with the provisions of the Community Reinvestment Act, the Fair Housing Act, and the Equal Credit Opportunity Act. Surely we have no intention of repealing these valuable statutes. Thus we have no good reason to believe that need for HMDA information will disappear.

Indeed, the regulatory agencies themselves agree—three of them testified in favor of permanent reauthorization before the Senate Banking Committee. An independent study conducted for the FDIC and the Federal Home Loan Bank Board concluded that if HMDA information were not available, the regulatory agencies would have to invent it.

Let me make another point. We have valuable testimony from mayors and city council members that the HMDA has been helpful in creating an objective basis of information from which productive cooperative relationships can be hammered out with private lenders. Since HMDA data "tells it like it is," city governments can objectively assess the credit picture. They can sit down and discuss this picture with lenders, and explore without rancorous arguments how the public and private sectors can work together to fill gaps in the credit picture. City governments testified that they use HMDA information to evaluate city-run programs, to see whether public investments actually do attract more private investments. I cannot think of a more productive use of data. And I cannot imagine the need for it disappearing in just 3 years.

Similarly, community organizations and individuals have testified that access to HMDA information has enabled them to spot credit problems before they spell doom for a community. The information has provided a basis from which to discuss solutions with city government and private lenders. It provides an easy and accurate way to gage whether or not improvements have been successfully made, or whether additional or different strategies are necessary to insure adequate amounts of credit.

My colleague may argue that the law must be reviewed on a regular basis, and therefore defends the sunset provision as a means to this end. I agree that most Federal legislation should be periodically reviewed. My position on the Committee on Government Operations is one from which I carry out this responsibility for many programs. But much legislation including some civil rights legislation is exempted from many sunset proposals and Congress uses oversight hearings to make sure it is serving its purpose. Necessary revisions to the statute can be effected through amendment. Indeed, major amendments to the Fair Housing Act are currently being considered by the Judiciary Committee. Yet surely few would urge that we sunset the Civil Rights Act of 1968 simply to facilitate the review process?

I urge my colleagues to vote against this amendment. It will weaken the HMDA. It will serve no particular purpose other than to require this body to reauthorize the act in another 3 years. It will divert attention in our communities away from constructive discussions about solving problems, and focus it instead on the question of recurring reauthorization battles.

The HMDA has been operating for over 4 years. The FDIC/FHLBB study says that it does work. Citizens, local government, and even some lenders have testified to this Congress that it works. The Federal regulatory agencies say they need the HMDA information to complete congressionally mandated reviews of regulated lenders, reviews we are not even thinking of ending. It is time to recognize these voices and vote against the pending amendment and for permanent reauthorization of the Home Mortgage Disclosure Act.●

Mr. GARN. Mr. President, before we vote I just want to make one very quick comment. The distinguished Senator from Maryland was not on the floor during most of the debate. There was certainly not any argument about the merits or demerits of HMDA. I have other amendments on that. It was simply that we thought it best to take a look at it.

I made the remark that the various groups who support this legislation might very well wish they had a sunset some time in the future because they might find as we learn much more about how the data are used, collected, and summarized or how some of the new provisions we added to the bill work, that they might wish they would have a deadline which would say to the Congress, "All right, it expires at this time until you come back and reapprove it and make some changes." That is exactly what has happened this year. The reapproval has added some strengthening provisions that most of the groups who support this wanted.

So I really do not understand the blind opposition to a simple review in 5 years. It can work either way. But I think the point has been well argued, and I am certainly willing to go to a vote at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY), the Senator from Indiana (Mr. BAYH), and the Senator from Louisiana (Mr. LONG) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

Mr. BAKER. Mr. President, regular order.

The PRESIDING OFFICER. Does any Senator desire to change his vote?

Mr. PROXMIRE. Regular order, Mr. President.

The yeas and nays resulted—yeas 37, nays 37, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—37

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Dole
Durenberger
Exon
Ford
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Percy
Pressler
Roth
Schmitt
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Zorinsky

NAYS—37

Baucus
Biden
Boren
Burdick
Byrd, Robert C.
Cannon
Cranston
Durkin
Glenn
Hart
Hatfield
Heflin
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stewart
Tsongas
Weicker
Williams

NOT VOTING—26

Bayh
Bentsen
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Pell
Pryor
Schweiker
Simpson
Stevenson
Talmadge
Tower
Young

The PRESIDING OFFICER. On this vote, there are 37 yeas, 37 nays. The amendment is not agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. On a tie vote, may a Member on either side move to reconsider?

The PRESIDING OFFICER. A Senator may move to reconsider if he has voted on the prevailing side.

Mr. METZENBAUM. Mr. President, I therefore raise the point of order that the Senator from Utah was not on the prevailing side.

Mr. HEINZ. There is no prevailing side.

Mr. METZENBAUM. There is a prevailing side when a motion fails.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

The PRESIDING OFFICER. The Senator from New York voted on the prevailing side. The Senator may move to reconsider.

Mr. BAKER. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment of the Senator from Utah was rejected. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG), the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present, and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

The PRESIDING OFFICER. Does any Senator desire to vote? Does any Senator desire to change his vote?

The result was announced—yeas 38, nays 36, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—38

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Dole
Durenberger
Exon
Ford
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Packwood
Percy
Pressler
Roth
Schmitt
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—36

Baucus
Boren
Burdick
Byrd, Robert C.
Cannon
Cranston
Durkin
Glenn
Hart
Hatfield
Heflin
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stewart
Tsongas
Weicker
Williams

NOT VOTING—26

Bayh
Bentsen
Biden
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Pell
Pryor
Schweiker
Simpson
Stevenson
Talmadge
Tower

So the motion to reconsider the vote was agreed to.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Utah (Mr. GARN).

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are automatic.

The question is on agreeing to the amendment offered by the Senator from Utah (Mr. GARN). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Iowa (Mr. CULVER) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Mr. LONG), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 36, nays 38, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—36

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chiles
Cochran
Dole
Durenberger
Exon
Ford
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Percy
Pressler
Roth
Schmitt
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—38

Baucus
Biden
Boren
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Glenn
Hart
Hatfield
Heflin
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stewart
Tsongas
Weicker
Williams

NOT VOTING—26

Bayh
Bentsen
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Pell
Pryor
Schweiker
Simpson
Stevenson
Talmadge
Tower

So Mr. GARN's amendment (UP No. 1224) was rejected.

Mr. LEAHY. Mr. President, I wish to make a unanimous-consent request.

The PRESIDING OFFICER. Will the Senator wait until we have order?

The Senator may proceed.

Mr. LEAHY. Mr. President, I will make a unanimous-consent request, but before doing so I shall mention that it has been discussed with Senator WILLIAMS, Senator GARN, the majority and minority leaders. I do not think there is any objection to it. But let me simply spell it out.

I ask unanimous consent that I be allowed to bring up an amendment on behalf of myself, Mr. WILLIAMS, Mr. PROXmire, Mr. McGovern, and Mr. Moynihan; that Senator Garn then be allowed to bring up an amendment in the nature of a substitute against which a point of order will not lie; and that we have a time limitation on each side——

Mr. GARN. Of one-half hour.

Mr. LEAHY. Of a half hour on each side, and I advise my colleagues I will use only a small fraction of that time; that we then go to a yea and nay vote on Senator Garn's amendment in the nature of a substitute; and that we immediately go to a vote, although not required to be a yea and nay vote, on the underlying amendment following Senator Garn's amendment.

Is that basically it?

Mr. GARN. Mr. President, reserving the right to object, and I do not intend to object, I simply explain that we undoubtedly will not take a half hour on each side.

Senator Leahy and I could have been in a 3- or 4-hour battle over these two amendments parliamentarywise and we could keep Senators here until very late. I know no one will object. We have worked it out so that each of us will have an opportunity to be heard. Prolonged debate I do not think would make any difference. We advise Senators to stay close to the Chamber because I would not think it would take more than 10 minutes on each side.

Mr. JAVITS. Mr. President, reserving the right to object, I wish to reserve the right on the Leahy amendment to break out one part of it—it is severable—in order perhaps to have it separately voted on.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to ask him one question?

Mr. LEAHY. Yes.

Mr. ROBERT C. BYRD. Will he not include the yea and nay vote in his request?

Mr. LEAHY. I will include it on Senator Garn's amendment in the nature of a substitute. I will not include it on mine.

Mr. ROBERT C. BYRD. Let me state myself a little more clearly. I do not want the Senator to order the yeas and nays by unanimous consent.

Mr. LEAHY. Certainly.

Mr. ROBERT C. BYRD. Will he cut that out?

Mr. LEAHY. Certainly. I will so modify my request that way.

Reserving the right to object to my own request, I wonder if the distinguished Senator from New York might be accommodated if he were shown as a cosponsor of that part of my amendment that he is interested in because if he were to take it out or seek to have it divided here, I see no way that this unanimous-consent request that we are talking about could be entered into. In fact, I see no way of him working through the thicket without quite a number of rollcall votes to get back to the position that we are in now, and it is in trying to avoid 3 or 4 hours of rollcall votes that I propose this unanimous-consent request.

Mr. JAVITS. Mr. President, will the Senator yield to me? I have no desire to interfere with the arrangements made but there is a very important part of the amendment, and I have to be sure that I am satisfied. We will look it over now, and if I am satisfied, then I am willing to be a cosponsor of the Senator's amendment and that will settle the matter because I do not think I can be a cosponsor of one piece of it. But I will do the whole thing, provided I am satisfied, because this is a matter of great importance. We spent a lot of time and work on it respecting one part of the bill which relates to what will happen to the support of a given program if that program does not work, and if there is just money available where is it going and what is going to be done with it.

We have read the amendment, and it is satisfactory, so if you will add me as a cosponsor of your amendment, that will settle it, and I ask unanimous consent that I be so added.

Mr. LEAHY. Then I will also include in my unanimous-consent request, I will just add the Senator as a cosponsor of it.

Mr. BAKER. Mr. President, I have a couple of points on reservation, Mr. President. I assume while there was no mention made of time for appeals or points of order, if such are submitted to the Senate, that that would not affect any other amendment or any other appeal or point of order that might be offered or submitted in respect to this bill otherwise; and that we made no provision for that in this amendment, and none is anticipated, I assume, but I want to make it clear on this reservation that by not so providing that we have not impaired to any degree the right of the Senate to debate fully and without restriction any appeal or point of order that might be submitted to the Senate on any other amendment other than this one.

Mr. LEAHY. I so modify my request to do that.

Mr. BAKER. I do not think it is necessary to do so, but as long as we are clear on this point I have no objection.

Mr. GARN. Mr. President, I would not agree to the unanimous-consent request on the amendment if that were the case. It only applies to these two amendments and nothing else in the bill. I would be prejudicing my own case if I did not so understand it.

Mr. BAKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. Stone). The Senator will state it.

Mr. BAKER. Is the Senator from Tennessee correct that the unanimous-consent request as formulated and put by the Senator from Vermont did not have the effect of restricting debate on any appeal, point of order, if such is submitted to the Senate, on any other amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Vermont is recognized.

UP AMENDMENT NO. 1225

(Purpose: To modify the multifamily housing production program)

Mr. LEAHY. Mr. President, I send to the desk my amendment on behalf of myself, Mr. Williams, Mr. Proxmire, Mr. McGovern, Mr. Moynihan, and Mr. Javits.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. Leahy) for himself, Mr Williams, Mr. Proxmire, Mr. McGovern, Mr. Moynihan, and Mr. Javits proposes an unprinted amendment numbered 1225.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 5, strike out "25" and insert in lieu thereof "30".

On page 29, line 7, before the period, insert the following: ", except that the Secretary may allow a higher maximum than 30 per centum, but not to exceed 40 per centum, if the Secretary determines that such higher maximum is necessary for a particular project—

"(1) in order to make the project marketable; or

"(2) in the case of a project involving substantial rehabilitation, in order to avoid displacement of lower income persons.".

On page 30, line 5, after the period, insert the following: "In establishing rates in accordance with the preceding sentence, the Secretary shall give special consideration to the needs of those nonmetropolitan areas and other areas which are disproportionately burdened by the relationship between development costs and household incomes.".

On page 31, line 5, after the period, add the following: "In establishing any ceiling other than 130 per centum of the median income for any area, the Secretary shall establish the ceiling as low as is feasible without endangering the objective of allowing adequate marketability for projects in the area.".

On page 32, line 21, after the period, insert "If the Secretary determines that any amount allocated pursuant to this subsection to an area within a State, or to a State housing finance or State development agency (as defined in section 802(b)(2)(A) of the Housing and Community Development Act of 1974), is not likely to be utilized prior to the close of a fiscal year, the Secretary, to the maximum extent feasible, shall make such amount available in such area or to such agency for contracts pursuant to section 8 in accordance with the desires of local governments regarding the allocation of assistance among new, substantially rehabilitated, and existing housing units.".

On page 33, line 11, after the period, insert double quotation marks and a period.

On page 33, strike out lines 12 through 17.

Mr. LEAHY. Mr. President, I wonder if the distinguished Senator from Utah, before he offers his substitute, will permit me just to take 3 or 4 minutes to explain the underlying basis of my amendment.

Mr. President, many concerns about the proposed multifamily housing program contained in S. 2719 have been raised. People are understandably concerned about the implications of the addition of a new moderate income, rental housing program to the basic HUD-assisted housing authorization. The Federal housing policy has traditionally focused on our lower income citizens, and this expansion is understandably suspect. While inflation and higher living costs of recent years have undoubtedly placed a burden on moderate-income families, those same factors have intensified the already heavy burdens of daily living for our low-income citizens.

In addition, as chairman of the Rural Development Subcommittee, I am concerned that the new program have adequate provisions to be able to operate in nonmetropolitan areas.

The amendment I am introducing today, cosponsored by my colleagues, Senators PROXMIRE, WILLIAMS, MCGOVERN, MOYNIHAN, and JAVITS addresses these concerns. I want to commend my colleagues for recognizing these potential problems and working in good faith toward their resolution.

My amendment is designed to insure that the multifamily units are converted back to section 8 within a timely fashion if HUD finds that a State or substate area will be unable to use all of its new multifamily units within a given fiscal year.

The area fungibility aspect to the amendment is critical, especially in rural and small communities located in Northern States where weather conditions restrict the construction season to a few short months, unlike those States that enjoy long and even year-round construction seasons.

As reported from the committee, S. 2719 allows for the multifamily units to be reconverted to section 8 units "* * * prior to the close of a fiscal year, the Secretary may make that part of such authorities available for contracts persuant to section 8."

Because this is an untested program, the cosponsors of this amendment and I think that this section of the act needs to be strengthened. The ability to convert the new multifamily, moderate-income program must be made mandatory should the new program be slow to start, and the ability to switch funds from the new program to section 8 should be given to a State or substate agency administering a multifamily, moderate-income housing project. This amendment achieves both of these purposes.

The amendment protects specific areas from the possible failure of the program to operate while giving those areas flexibility in deciding whether to use these funds for either new or existing section 8 assistance, once the Secretary determines an area's multifamily moderate-income housing units will not be used in a fiscal year.

We cannot assume that the multifamily housing program will experience a quick and easy start-up. Rather, the experience of the section 8 program, which is now running with reasonable smoothness, tells us that we should be prepared for HUD to need as much as 3 years to develop workable regulations, for "developer acceptability" to emerge, as well as to see if the proposed program, in fact, even works.

In the meantime, Congress must face the responsibility of seeing that rental housing construction does not cease due to transition difficulties. To lose any new housing units that could be constructed under section 8 would put even more pressure on the housing supply situation, as well as cause construction costs to be even higher, once production begins.

I intend to hold oversight hearings at regular intervals to monitor HUD's progress in getting this program off the ground, as well as to insure that the multifamily units are converted back to section 8 in a timely fashion, if necessary.

My amendment also concerns income ceilings and is designed to insure housing for as many low-income families as possible, without jeopardizing the financial integrity and, ultimately, the success of the project. We want to discourage developers from enjoying the benefits of low interest rates while providing housing for only those people at the upper range of eligible incomes at the expense of those families of greater, and often more desperate, need at the lower range of the eligible incomes.

The "nonmetropolitan area" aspect of the amendment is designed to insure that the Secretary will be sensitive to the fact that rural areas are often disproportionately burdened by high development costs and low household incomes, relative to metropolitan areas. For example, in New England's nonmetropolitan areas, the ratio of development and operating costs to household incomes is significantly higher than in the metropolitan areas. This is a function of factors like smaller number of units per project, transportation costs for construction materials, and lower median incomes.

We project that in order for rents to be low enough to be affordable in many areas and small communities, interest rates of 3 and 4 percent will be necessary. This will be true of many inner-city projects as well. Projections suggest that for many projects, even a 3-percent interest rate will not be low enough to build rental housing people within the eligible income range, can afford.

Finally, the amendment will increase the ceiling of required section 8 units per proposed project from 25 percent to 30 percent. The amendment will also provide the Secretary with the ability to waive the ceiling of 30 percent to allow as much as 40 percent in certain cases where it has been demonstrated to be essential to make the project marketable or in order to avoid displacement of lower income persons. This is of special importance in projects involving substantial rehabilitation of existing structures.

Mr. President, this is a good amendment that will work toward protecting lower-income people as well as insure that the program can function in our nonmetropolitan areas which have significantly lower-income levels, and generally higher development and operating costs than metropolitan areas. Most importantly, the area fungibility provisions will protect America's housing needs should this new program fail or is slow to start up.

As I mentioned earlier, in an effort to insure that the transition between the proposed multifamily housing program and the section 8 go as smoothly as possible, as well as to see that low-income people are not overlooked, I intend to hold oversight hearings by the Rural Development Subcommittee at regular intervals. Of particular concern will be to identify whether the multifamily units need to be reconverted to section 8 units so that we can get on with the business of constructing adequate low- and moderate-income housing units.

In summary, this amendment is designed to provide for the protection of low-income needs for rental housing and to facilitate the operation of this proposed program in our nonmetropolitan areas. And it provides adequate protections against our shared doubts that this program can start up quickly.

I applaud Senator PROXMIRE for his initiative to seek new alternatives to the costly section 8 program. However, I am extremely concerned that we not jump into a new program with no protections. This proposed program is untested. Indeed, there is much evidence suggesting that it just will not be able to provide affordable housing for the people who are most in need of it.

Mr. President, this amendment will improve the program and calm considerable fears that it will not work.

I reserve the remainder of my time.

UP AMENDMENT NO. 1226

(Purpose: To remove new middle income housing subsidy programs and restore funds to the present housing assistance programs)

Mr. GARN. Mr. President, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1226 to unprinted amendment numbered 1225.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of language proposed, insert the following:

"Beginning on page 27, strike sections 201 and 202 and insert the following:

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" after "October 1, 1978" in the first sentence;

(2) by inserting after "October 1, 1978," in the first sentence the following: "by $1,419,707,000 on October 1, 1980,";

(3) by inserting after "October 1, 1978," in the second sentence the following: "but prior to October 1, 1980,";

(4) by inserting after the second sentence the following: "In utilizing the additional

authority provided under this subsection on and after October 1, 1980, the Secretary, to the maximum extent practicable consistent with carrying out the objectives of this Act, shall accommodate desires of local governments regarding the allocation of assistance among new, substantially rehabilitated, and existing housing units. The total budget authority associated with such additional authority shall not exceed $30,927,500,000."; and

(5) by adding at the end of the first paragraph the following: "Of the additional authority to enter into contracts provided on October 1, 1980, and approved in appropriation Acts, $321,343,000 shall be available only for units assisted under this Act, other than under sections 8 and 14 (not less than $75,000,000 of which shall be available for modernization or substantial rehabilitation of such units).".

INCREASE IN GNMA MORTGAGE PURCHASE AUTHORITY

SEC. 202. Section 305(c) of the United States Housing Act of 1937 is amended by inserting immediately before the period at the end thereof ', and by $200,000,000 on October 1, 1980'.".

Mr. GARN. Mr. President, I ask for the yeas and nays on the substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARN. Mr. President, I propose an amendment to correct a serious misstep in U.S. housing policy proposed in S. 2719, the Housing and Community Development Act of 1980. We must basically decide, at a time of great need to make the best use of Federal taxpayers' dollars, whether or not to create a new housing subsidy program for middle-income apartments which is paid for by reducing funds devoted to the present lower-income housing assistance programs. I believe this is a move in the wrong direction and consequently offer this amendment to eliminate the proposed new program and restore the budget authority in S. 2719 to the ongoing section 8 and public housing programs.

There are four basic problems with the proposal in S. 2719 that call for its deletion from the housing authorizations for fiscal year 1980. These problems can be summarized by saying that: First, it is unfair to the poor to create a new middle income program by reducing funding for lower income housing programs; second, serious disruption of the present housing assistance programs will result from the charges required by the bill; third, there are serious questions about whether the new program will work as described by its proponents, and fourth, this shift in direction of housing assistance cannot be justified as a cost-saving measure.

Our first responsibility is to assist those families most in need of Federal subsidies. This bill moves completely in the opposite direction by taking nearly $2.4 billion in budget authority from the present housing programs for lower income families in order to fund a new apartment subsidy program for middle income families. This new program will provide subsidies of about $1,800 per year to families with income up to 130 percent of the median income in the area or about $24,700 on a national average. It is inequitable and unfair to provide these subsidies to middle income families while most lower income families will receive no housing assistance at all.

The second problem with this new program is that it will seriously disrupt one of the better features of the present housing assistance programs. Currently the types of housing units funded are based on housing needs determined locally through the Housing Assistance Plan (HAP's). Those HAP's indicate that local housing conditions require that 60 percent of additional lower income units should be in new construction or substantial rehabilitation and 40 percent in existing housing units. This bill turns those local plans completely around by shifting the lower income housing programs to a mix of 43 percent new construction and 57 percent existing housing.

We in Washington cannot assess the housing situation in all the varied local housing markets around the country. That, though, is what this bill claims. Local officials say in the HAP's that lower income housing needs require 60 percent construction units. The bill says we in Washington know better and localities will have to make do with only 43 percent for new construction. We should reject this mandated shift to existing housing units because the local HAP's indicate it will not work in many parts of the country. The existing housing units simply are not available. Further use of existing housing under section 8 will only increase the pressures on rental markets that already have extremely low vacancy rates.

The third major problem with the approach in S. 2719 is that there are serious questions about whether the new middle-income program will work as described by its proponents. The funds in the bill will not produce the number of units claimed by the Banking Committee unless developers are willing to build the units at the average 6-percent interest rate assumed in the bill. A May 5, 1980, report by the Congressional Research Service on the original form of this new program concluded that "with this interest rate and these income limits, it is doubtful whether many developers will be interested." Even though the interest rate has been lowered to 6 percent and the income limits raised to 130 percent of area median income in the committee bill, the only comments we have heard from builders or developers indicate that the interest rate must be lower than 6 percent in their area. The result of lowering the rate will be fewer units than promised.

This new middle income housing program is also promised to relieve the additional pressure put on already tight rental markets by the shift to more use of section 8 existing housing. This certainly will not work because the new middle income units will not be available until long after lower income tenants are looking for the additional section 8 existing housing units.

With all the time it will take for HUD to develop new regulations and train its field staff, and for developers to assess the program and decide whether to apply for it, at least a year will be lost in the production of HUD-assisted multifamily housing.

The final problem with the approach in S. 2719 is that it will do little or nothing to reduce the costs of assisted housing programs. This has been a major purpose behind Senator PROXMIRE's work on this. I, too, am very concerned about the escalating costs of assisted housing, but this approach will not solve that problem and most likely will end up costing the taxpayers more. The Congressional Budget Office estimates that the housing assistance proposal in S. 2719 will result in higher outlays in fiscal year 1982 through fiscal year 1985 than under the housing program provided under this amendment. Outlays would be $130 million higher in fiscal year 1982, $172 million higher in fiscal year 1983, $167 million higher in fiscal year 1984, and $205 million higher in fiscal year 1985. In total, this amendment would save $575 million over the next 5 years.

Over the long run, the new middle income program may well cost even more than the nearly $2.4 billion authorized by this bill. The program requires the interest subsidy be gradually eliminated between the 10th and 20th year after the apartment is built. All experience with various housing programs indicates this will not work. Even under programs with a low fixed interest rate for the whole life of the mortgage, HUD has experienced massive defaults and foreclosures because the tenants could not afford the rent increases necessary to cover higher operating costs. These foreclosures have led to further subsidies under the so-called troubled projects program and the loan management and property disposition policies under section 8. Under the new program those rent increases will be even more rapid because the mortgage payments will go up after the 10th year. If we authorize this new program, we are likely also setting the stage for another expensive troubled projects bailout program in the 1990's.

In summary, the new middle income subsidy program should not be adopted. The approach in S. 2719 which takes funds from housing for the poor, runs counter to local decisions about the type of housing needed, may prove unfeasible, and will increase outlays. I know there are certainly problems with the present programs, but at least additional housing will be built for lower income people. Our efforts should focus on improving these ongoing programs rather than creating a new middle income program.

Thus my amendment will simply take the budget authority from the new program and restore funding to the present section 8 and public housing programs. Of the total $31.01 billion housing program budget authority in the bill, $30.93 billion would be provided under this amendment for the current public housing and section 8 programs.

The corresponding annual contract contributions authority of $1.45 billion is also provided. These funds will assist 255,000 additional public housing and section 8 units at the mix of 60 percent new construction units and 40 percent existing housing units required by local

Housing Assistance Plans. The amendment also provides $200 million additional authority for the Government National Mortgage Association (GNMA) to purchase mortgages on section 8 new construction projects; $83 million budget authority is associated with these mortgage purchases. The Congressional Budget Office has prepared two memoranda explaining these figures in more detail. I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the memoranda were ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: Phil Sampson, Senate Banking Committee.

From: Martin Levine, Congressional Budget Office.

Re funding projections for alternative housing assistance proposals.

This memo compares the Administration's fiscal year 1981 housing assistance funding proposal with the funding plan incorporated in S. 2719 and with an alternative that you outlined to me earlier this week. The first section of the memo describes the three proposals. The second section presents 5-year funding projections for the assistance plan implicit in S. 2719 and for the alternative you outlined.[1]

THE ALTERNATIVE FUNDING PROPOSALS

The Administration's Proposal. The Administration's 1981 budget submission requested an appropriation of $33.2 billion in budget authority to assist what the Administration estimated would be an additional 300,000 lower-income households under the Section 8 and public housing programs. The budget called for assistance to be provided at a mix of 60 percent newly built or substantially rehabilitated units and 40 percent existing housing, consistent with the mix expected to be requested in locally prepared housing assistance plans. Applying CBO assumptions concerning increases in housing costs between now and fiscal year 1981, it is estimated that the Administration's funding request would be sufficient to support 283,000 commitments at the proposed mix (see Table 2).

TABLE 1.—ESTIMATED NUMBER OF HOUSING UNITS ASSISTED AND PROGRAM MIX UNDER ADMINISTRATION'S FISCAL YEAR 1981 BUDGET SUBMISSION, S. 2719, AND ALTERNATIVE FUNDING PROPOSAL

Program	Administration proposal reestimated by CBO	S. 2719[1]	Alternative proposal
Lower-income housing assistance:[1]			
Sec. 8 new construction/substantial rehabilitation:			
Sec. 202 housing for the elderly and handicapped	18,000	18,000	18,000
Farmers Home Administration financed units	9,000	9,000	9,000
State Housing Finance Development Agency	28,000	20,000	28,000
Other sec. 8 new construction substantial rehabilitation housing	75,000	36,000	58,000
Sec. 8 moderate rehabilitation	38,000	38,000	34,000
Sec. 8 existing housing	75,000	125,000	68,000
Public housing	40,000	40,000	40,000
Total, lower-income assistance	283,000	286,000	255,000
GNMA Tandem mortgage assistance for sec. 8 new construction/substantial rehabilitation projects	(2)	(2)	(2)
Mortgage-Interest subsidies for newly built or substantially rehabilitated rental housing			
With tax-exempt bond financing		[3] 72,000	
Without tax-exempt financing		[3] 88,000	
(Units also receiving sec. 8 new construction/substantial rehabilitation subsidies)		[3] (36,000)	
Total, mortgage-subsidy units not also receiving sec. 8 assistance		[3] 124,000	
Total, all programs	283,000	410,000	255,000

[1] Estimate of the number of lower-income rental units that could be assisted under S. 2719 is based on the amount of budget authority that the bill would authorize.

[2] The administration's budget submission calls for providing GNMA tandem assistance for $1,500,000,000 in sec. 8 new construction/substantial rehabilitation project loans and $300,000,000 in mortgages on moderate-income rental housing in distressed cities under the targeted tandem program. The assistance plan implicit in S. 2719 is assumed to provide no tandem assistance for sec. 8 projects but maintain the $300,000,000 in targeted tandem aid. The alternative proposal would provide tandem assistance for $800,000,000 in sec. 8 projects as well as for the $300,000,000 in moderate-income rental housing under the targeted tandem programs.

[3] The estimate of the number of units that could be assisted under the mortgage subsidy program is based on an assumption of a Federal Housing Administration (FHA) interest rate on multifamily rental housing equal to 10 percent as of fiscal year 1983 when it is assumed that construction will be complete and the mortgages closed. The interest rate on tax-exempt bonds—for projects financed in that matter—is assumed to average ¾ of the FHA rate. Higher interest rates would result in fewer units being assisted. If the multifamily FHA interest rate were 12 percent, for example, the amount of funding provided under S. 2719 would be sufficient to aid an estimated 112,000 housing units.

Source: CBO reestimate of the administration's fiscal year 1981 budget. Specifications for alternative proposal provided by Senate Banking Committee staff.

The Administration's 1981 funding proposal also calls for providing supplementary financing subsidies to a share of the newly built and substantially rehabilitated Section 8 units through the Government National Mortgage Association (GNMA) tandem mortgage assistance program. The Department of Housing and Urban Development's budget proposes making tandem assistance available to $1.5 billion in Section 8 mortgages and to $300 million in mortgages on moderate-income rental housing in distressed cities under the so-called targeted tandem program.

S. 2719. The funding plan implicit in S. 2719 as reported by the Senate Banking Committee consists of three principal elements:

S. 2719 would authorize $28.643 billion in budget authority to fund Section 8 and public housing assistance commitments at a program mix of 43 percent newly built or substantially rehabilitated units and 57 percent existing housing. The numbers of public housing units, Section 8 units financed through Farmers Home Administration (FmHA) or Section 202 loans, and moderately rehabilitated Section 8 units would be held at the levels estimated to be supportable under the Administration's funding request. Applying CBO's current economic assumptions, this level of funding at the proposed mix would be sufficient to assist 286,000 additional lower-income households.

The funding plan implicit in S. 2719 would do away with the GNMA tandem mortgage assistance proposed by the Administration for 1981 to aid privately-financed Section 8 projects but would retain the targeted tandem aid for moderate-income rental housing in distressed cities.

S. 2719 would provide $2.368 billion in budget authority to fund a new program of mortgage-interest subsidies for newly built or substantially rehabilitated rental housing. Under this program, the government would pay a share of the debt-service costs on market-rate mortgages, reducing the property owners' financing expenses for the first 10 years to what would be borne on 40-year mortgages with annual interest rates averaging 6 percent. The assistance payments would be phased out from the 11th through the 20th year of the mortgages, with the property owner paying the full debt-service cost thereafter. Between 20 and 25 percent of the units aided under this program are assumed to also receive Section 8 assistance, and 72,000 of the units are assumed to be aided as well by state or local tax-exempt bond financing. Assuming market interest rates averaging 10 percent when the first mortgages are closed, the proposed funding level is estimated to be sufficient to assist up to 160,000 housing units.

Alternative Proposal. The alternative proposal you outlined would require the same amount of budget authority in 1981 as would be made available under S. 2719 but would do away with the mortgage subsidy program that would be authorized by S. 2719 and would, instead, use all of the spending authority to subsidize Section 8 and public housing units. The overall mix among lower-income rental programs is assumed to be 60 percent new construction/substantial rehabilitation and 40 percent existing housing, as proposed by the Administration. The numbers of public housing assistance commitments and Section 202-, FmHA-, and State Housing Finance Agency-financed newly built or substantially rehabilitated Section 8 units would be held at the levels that CBO estimates could be funded under the Administration's 1981 request. Some portion of the budget authority provided under the alternative you outlined would be used to fund GNMA tandem mortgage assistance for $800 million in Section 8 projects not expected to be receiving other financing subsidies.

Applying these specifications, the alternative plan you outlined would aid approximately 255,000 additional lower-income households in fiscal year 1981.

PROJECTED FUNDING REQUIREMENTS

The funding plan implicit in S. 2719 and the alternative plan you outlined would each require about $31.0 billion in budget authority in fiscal year 1981—or $30.0 billion net of a $1 billion rescission proposed by the Administration under the largely-inactive rent supplement program (see Table 2). S. 2719 and the alternative proposal would result in nearly identical fiscal year 1981 outlays of $5.9 billion. If the level and mix of assistance called for in S. 2719 were provided in each of the next four years as well, budget authority needs would rise to $43.2 billion by 1985 and outlays would grow to the $12.2 billion. If the alternative proposal were adopted in 1981 in each of the next four years as well, budget authority requirements would increase to $44.2 billion in 1985 and outlays would rise to $12.0 billion.

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[1] The funding projections reported here do not constitute formal CBO cost estimates as called for under Section 403 of the Budget Act and should not be construed as such.

TABLE 2.—5-YR FUNDING PROJECTION FOR HOUSING ASSISTANCE PROPOSAL IMPLICIT IN S. 2719 AND ALTERNATIVE ASSISTANCE PLAN

[Fiscal years, dollar amounts in millions][1]

Funding plan	1981	1982	1983	1984	1985
S. 2719:					
Subsidized Housing:[2]					
Budget authority	$28, 643	$31, 289	$33, 980	$36, 743	$39, 595
Outlays	5, 494	6, 972	8, 475	10, 024	11, 539
GNMA tandem assistance:[3]					
Net budget authority				19	73
Outlays	409	782	560	143	197
Mortgage subsidy program:[4]					
Budget authority	2, 368	2, 636	2, 911	3, 204	3, 517
Outlays			79	264	431
Total:					
Budget authority	31, 011	33, 925	36, 891	39, 966	43, 185
Outlays	5, 903	7, 754	9, 114	10, 413	12, 167
Alternative funding proposal:					
Subsidized housing:[4]					
Budget authority	$30, 928	$33, 922	$36, 967	$40, 149	$43, 478
Outlays	5, 493	6, 842	8, 222	9, 770	11, 338
GNMA tandem assistance:[3]					
Net budget authority	83			644	705
Outlays	409	782	720	576	624
Total:					
Budget authority	31, 011	33, 922	36, 967	40, 793	44, 183
Outlays	5, 902	7, 624	8, 942	10, 346	11, 962
Savings in outlays from alternative funding proposal (figures provided by Banking Committee staff	1	130	172	67	205

[1] All funding projections assume that the same level and mix of assistance estimated to be supportable in 1981 will be provided in each of the next 4 fiscal years as well.

[2] The budget authority figures reported for fiscal year 1981 do not include the effect of a $1,050,000,000 rescission in rent supplement funds proposed by the administration. If the rescission occurs, the total net budget authority requirement under each proposal would be reduced by this amount.

[3] The budget authority figures reported for GMNA tandem mortgage assistance represent estimates of the net additional budget authority required (in the form of new borrowing from the Treasury) to fund the level of assistance called for in 1981 and to sustain that annual assistance increment through 1985. The net additional budget authority may not correspond to the amount of additional loan purchase authority authorized in legislation.

[4] Outlay projections assume that subsidy commitments would begin to be made at the start of fiscal year 1981 and that 2 years would be required between the time of commitment and the completion of construction.

Source: CBO estimates.

Lower-Income Housing Assistance. S. 2719 would provide $28.6 billion in budget authority to fund lower-income housing assistance commitments, resulting in fiscal year 1981 outlays of $5.5 billion.[2] If the same number of additional households that CBO estimates could be assisted with that level of funding were aided in each of the next four fiscal years as well, budget authority requirements for lower-income housing assistance alone would grow to $39.6 billion by fiscal year 1985 and outlays would rise to $11.5 billion. Under the alternative plan you—outlined, if the same level of additional assistance that could be provided in 1981 were provided in each of the following four years as well, budget authority requirements would increase from $30.9 billion to $43.5 billion and outlays would grow to $11.3 billion. Fiscal year 1985 outlays attributable to fiscal year 1981 subsidy commitments alone would total $1.17 billion under S. 2719 and $1.22 billion under the proposal you outlined.

If the assistance increment that could be funded under S. 2719 were adopted and repeated annually through 1985, 3.9 million households would be receiving Section 8 or public housing assistance by then, with approximately 910,000 of those households receiving aid as the result of subsidy commitments made in 1981 or thereafter; the comparable figures for the proposal you outlined would be 3.7 million total households receiving assistance in 1985, with 710,000 aided under subsidy commitments made in fiscal year 1981 or thereafter. The average cost per additional household receiving assistance in 1985 as a result of subsidy commitments made between 1981 and 1985 would be $3,300 under the funding proposal implicit in S. 2719 and $3,900 under the proposal you outlined.

GNMA Tandem Assistance. S. 2719 would require no net additional budget authority in fiscal year 1981 to fund GNMA tandem mortgage assistance, compared to $83 million that would be required under the proposal you outlined. Sustaining through 1985 the annual $300 million targeted tandem assistance increment that would be provided under S. 2719 (adjusted for the effect of rising housing costs) would require $73 million in net budget authority in that year. Sustaining both the $300 million in targeted tandem assistance and the $800 million in Section 8 tandem assistance that would be provided under your proposal (again, adjusted for the effect of rising housing costs), would require $705 million in budget authority by 1985. Outlays would amount to $197 million by 1985 if the assistance increment assumed in S. 2719 were provided annually through that year, compared to $621 million if the plan you outlined were adopted in 1981 and for each of the next four years.

The Mortgage Subsidy Program. S. 2719 would authorize $2.368 billion in fiscal year 1981 to finance assistance commitments under a new mortgage subsidy program.[3] Subsidizing the same number of additional units that could be aided in 1981 for each of the next four years would require an estimated $3.5 billion in budget authority by fiscal year 1985. Outlays under the new program might begin to occur in fiscal year 1983 as construction is completed on the first units and mortgage payments commence. By 1985, outlays are estimated to amount to $431 million. None of these costs would occur under the proposal you outlined.

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[2] The figures reported here do not include public housing operating subsidies, which would be the same under the two funding alternatives because each would assist the same number of additional public housing units each year.

[3] The number of units that could be assisted under this program would depend on assumptions made by the administering agency at the time that commitments are made concerning what the market interest rate will be when the mortgages are closed two or more years thereafter. Depending on the particular funding procedures used, additional budget authority might be required in subsequent years to amend earlier assistance agreements if eventual interest rates exceed projected levels. Higher-than-anticipated market interest rates would also result in greater-than-expected outlays. Lower-than-anticipated market rates would have the opposite effect.

MEMORANDUM

To Phil Sampson, Senate Banking Committee.

From Martin Levine, Congressional Budget Office.

Re Funding comparison for alternative housing assistance proposals.

This memo compares the housing assistance funding requirements under S. 2719 and the alternative proposal you outlined to me earlier this week.[1] The first section of the memo compares the levels of funding authorized and the net funding expected to be used to finance lower- and moderate-income rental assistance commitments under each proposal. The second section describes funding needs associated with the Government National Mortgage Association (GNMA) tandem mortgage assistance that would be provided under each plan.

Total net funding requirements are estimated to equal $29,993 million under each proposal, but components differ substantially (see Table 1).

TABLE 1.—FUNDING COMPARISON FOR HOUSING ASSISTANCE PROVISIONS IN T. 2719 AND ALTERNATIVE PROPOSAL

[Dollar amounts in millions]

Funding element	Budget authority		Contract authority	
	S. 2719	Alternative proposal	S. 2719	Alternative proposal
Fiscal year 1981 housing assistance commitments:				
Authorized for sec. 8 and public housing subsidy commitments	28, 642. 5	30, 927. 5	1, 395. 8	1, 419. 7
Authorized for moderate-income rental housing subsidy commitments	+2, 368. 0		+157. 9	
Permanent authority expected to be available[1]	+32. 5	+32. 5	+32. 5	+32. 5
Rescission proposed by administration[2]	−1, 050. 0	−1, 050. 0	[4] NA	[4] NA
Net funding for fiscal year 1981 assistance commitments	29, 993. 0	29, 910. 0	1, 586. 2	1, 452. 2
GNMA tandem mortgage assistance:				
Additional loan-purchase authority provided		200. 0	[4] NA	[4] NA
Estimated net budget authority to be used[3]		83. 0	[4] NA	[4] NA
Estimated total net funding requirement	29, 993. 0	29, 993. 0	1, 586. 2	1, 452. 2

[1] Administration estimate of the amount of budget authority and contract authority expected to be available from permanent appropriation to fund public housing lease adjustments.

[2] Administration estimate (as of January 1980) of the amount of budget authority expected to be rescinded under the rent supplement program as the result of converting outstanding rent supplement commitments to sec. 8 assistance.

[3] The net budget authority figures reported for the GNMA tandem mortgage assistance program are estimates of the net additional borrowing from the Treasury that wil! be required of GNMA to finance new loan-purchase commitments.

[4] Not applicable.

Source: CBO estimates based on provisions in S. 2719 as reported by the Senate Banking Committee and description of alternative proposal provided by staff of the committee.

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[1] My memo to you of June 13, 1980 describes each proposal in greater detail.

FUNDING FOR NEW HOUSING ASSISTANCE COMMITMENTS

Both funding proposals would provide long-term budget authority to cover the 15- to 40-year costs of Section 8 and public housing subsidy commitments expected to be made in fiscal year 1981 to aid lower-income renters. S. 2719 woud also authorize and fund long-term assistance commitments under a proposed mortgage subsidy program for newly built or substantially rehabilitated moderate-income rental housing—a program not included in the proposal you outlined.

S. 2719. S. 2719 would provide $28,642.5 million in budget authority to fund what CBO estimates would be 286,000 additional Section 8 and public housing subsidy commitments in fiscal year 1981 at the program mix of 43 percent existing-housing assistance and 57 percent new construction/substantial rehabilitation specified in the report accompanying the bill. S. 2719 would also authorize $2,368 million in budget authority to fund the proposed moderate-income rental housing program. (Under a range of assumptions concerning future mortgage interest rates, this level of funding would be sufficient to aid between 112,000 and 160,000 households—20 to 25 percent of whom would also be receiving Section 8 assistance.) An additional $32.5 milion in budget authority is assumed to be available through a permanent appropriation to cover adjustments in the costs of certain public housing leases. Partly offsetting the current-year and permanent authorizations would be the Administration's proposed $1,050 million rescission resulting from converting outstanding subsidy commitments made under the largely-inactive rent supplement program to Section 8 assistance. Assuming the availability of the proposed current-year and permanent authority as well as the rent supplement rescission, the funding provided under S. 2719 to support new housing assistance commitments would increase outstanding Federal obligations by an estimated $29,993 million.

S. 2719 would authorize $1,395.8 million in contract authority for the Section 8 and public housing programs and $157.9 million in contract authority for the proposed mortgage subsidy program to pay the annual subsidy cost assumed to be associated with the fiscal year 1981 assistance commitments. Combined with the $32.5 million in permanent authority, this would make a total of $1,586.2 million in contract authority available for obligation.

The Alternative Proposal. The alternative proposal you outlined would authorize $30,927.5 million in budget authority to fund what CBO estimates would be an additional 255,000 Section 8 and public housing assistance commitments at an assumed program mix of 60 percent new construction/substantial rehabilitation and 40 percent existing-housing assistance. Assuming the availability of the $32.5 million in permanent authority and the $1,050 million rent supplement rescission, this amount of additional funding could increase outstanding Federal housing assistance obligations by $28.910 million.

The proposal you outlined would provide $1,419.7 million in contract authority to pay the annual subsidy costs associated with the fiscal year 1981 assistance commitments. Combined with the permanent authority assumed to be available, this would make a total of $1,452.2 million in contract authority available for obligation.

FUNDING FOR GNMA TANDEM MORTGAGE ASSISTANCE

S. 2719 and the alternative proposal you outlined both assume that GNMA tandem mortgage assistance will be available to provide financing subsidies for newly built or substantially rehabilitated rental units. Under the tandem program, GNMA—an agency of the Department of Housing and Urban Development—issues commitments to purchase privately written reduced-interest mortgages, buying the loans at face value and reselling them as market-yield instruments, absorbing the price difference as a financing subsidy. Budget authority is required to fund new loan purchase commitments when they are issued; however, some of that authority is recaptured when the loans are sold. The net budget authority required to support any year's tandem activity is the difference between the dollar-volume of new purchase commitments issued and the amount of mortgage-purchase authority recaptured through loan sales and is made up by GNMA through borrowing from the Treasury. Because of the manner in which tandem assistance is financed, both the level of additional loan purchase authority needed to support a given amount of activity and the eventual net budget authority requirement for the year can only be estimated.

S. 2719. The funding plan implicit in S. 2719 assumes that GNMA assistance will be available under the "targeted tandem" program to subsidize $300 million in mortgages on moderate-income rental housing located in distressed cities. This is the same level of assistance proposed in the Administration's 1981 budget request. Because S. 2719 would fund many fewer newly built or substantially rehabilitated Section 8 projects than the Administration's proposal would have, however, the Banking Committee bill would not provide tandem assistance for $1.5 billion in Section 8 project loans as proposed by the Administration. No additional loan-purchase authority would be provided to cover the targeted tandem assistance commitments expected to be made in fiscal year 1981 because sufficient authority is assumed to be available to GNMA at the beginning of the year to cover the $300 million in new purchase commitments. It is estimated that GNMA will sell a sufficient volume of loans in 1981 to avoid having to borrow additional funds from the Treasury to cover the new loan purchase commitments; therefore, no net additional budget authority would be required under S. 2719 to fund tandem assistance.

The Alternative Proposal. The alternative proposal you outlined would provide the same level of targeted tandem assistance assumed in S. 2719 and would also aid $800 million in Section 8 project mortgages not expected to receive supplementary financing assistance through either reduced-interest federal loans or tax-exempt bonds. The $200 million in additional loan-purchase authority provided in the proposal you outlined is assumed to be sufficient to cover both the targeted tandem and Section 8 loan-purchase commitments. The net additional borrowing needed to cover the fiscal year 1981 tandem activity—and, thus, the net budget authority requirement—is estimated to be $83 million.

Mr. GARN. Finally, Mr. President, I urge my colleagues to support this amendment. We avoid a precipitous misstep to a new program that diverts funds from lower income housing assistance, and we will save over one-half billion dollars over the next 5 years.

Mr. President, let me briefly summarize what the amendment does.

It strikes the new middle-income apartment subsidy program.

It keeps total budget authority the same as in S. 2719, which is within the budget resolution level.

It will assist 255,000 additional housing units under the public housing and section 8 programs.

The reason for support of the amendment is:

The middle-income subsidy program is unfair.

It takes funds intended to assist lower income families and diverts them to families with up to 130 percent of median income.

Subsidized middle-income families will pay a lower proportion of income for rent than lower income tenants in public housing and section 8 projects.

The amendment maintains local determination of needs through housing assistance plans which call for 40 percent existing units and 60 percent new construction units for lower income families. Existing units are not available to support the 57 percent existing 43 percent new construction mix in S. 2719.

The new middle-income program may not be feasible.

Builders indicate the interest rate must be lower than 6 percent, reducing the number of units.

Inevitable delays in implementing this new program will mean that at least 1 year of assisted housing production will be lost.

The middle-income units would not be built soon enough to relieve the additional pressure on tight rental markets from the shift to existing housing in S. 2719.

The amendment will reduce outlays by $575 million for fiscal year 1981 through fiscal year 1985 according to Congressional Budget Office estimates.

Mr. President, I ask unanimous consent to have printed in the Record a letter from James McIntyre and Charles Shultze of the White House, dated May 6, 1980, addressed to Senator Proxmire.

There being no objection, the letter was ordered to be printed in the Record as follows:

The White House,
Washington, D.C., May 6, 1980.

Dear Senator Proxmire: As you know, in January President Carter recommended that the Congress provide assistance to subsidize 300,000 housing units for low- and moderate-income households in 1981, a 25 percent rise above the 1980 activity level. This significant increase reflects the importance the President attaches to meeting the housing needs of low-and-moderate income Americans and to assuring a continued Federal commitment to the adequacy of the rental housing stock. In view of the increased interest in the Congress in developing a new multifamily housing production program, we want to take this opportunity to affirm the Administration's strong support for 300,000 units of traditional low- and moderate-income housing.

Last fall the Administration considered the advisability of a middle-income rental subsidy program similar in structure to the proposal currently under review within the Senate Banking Committee. The Administration subsequently decided against recommending such a program. The Administration has reviewed that position carefully and has concluded that the reasons for opposition are still valid. As the Senate Banking Committee moves toward final action on this issue, we want to set forth for your consideration some of the reasons behind the Administration's position.

We are deeply concerned about the equity problems inherent in shifting funds from low- and moderate-income households to higher income groups. Since middle-income households pay a much lower percentage of their income in rent than do lower income households, shifting subsidies to middle-income renters cannot be justified on the basis of relative need. The apportionment of Federal subsidies on a first-come-first-served basis necessarily involves inequities; such inequities become an even greater concern when it is likely that most families earning less than 80 percent of median will be denied Federal assistance while households at 120 percent of median are accepted for assisted units.

A new middle-income rental housing subsidy program poses a significant potential budget threat. At a time when we have joined together to seek major cutbacks in other programmatic areas, the Congress should be wary of creating a new subsidy program for which the vast majority of this Nation's households would be potentially eligible. Under present conditions, our view is that the Federal Government should create new programs serving new constituency groups only under the most compelling circumstances and on the basis of the most careful evaluation of the longer-run budget tradeoffs. The breadth of the constituency served by a middle-income subsidy would create strong pressures for an expansion of program activity levels.

Although a new program would not require an increase in budget authority above the Administration's recommended 1981 level, outlays would be concentrated over a much shorter period under the new proposal than under the Section 8 program. Thus this proposal would require significantly higher outlays over the coming decade than would the Administration's recommendations.

A Federal program targeted at the middle and upper part of the renter income spectrum is more likely to be a substitute for, rather than an addition to, private production than is a lower-income program. The beneficiaries are those households most likely to demand, and to be able to afford, new unassisted units. This inefficient use of budget resources carries the threat that, over time, Federal programs will largely supplant private production.

The Administration is concerned about assuring appropriate levels of multifamily housing production during the current high interest rate period. This new initiative, however, will not serve a countercyclical purpose, since construction would begin primarily in 1982 and beyond.

We are sensitive to legitimate concerns about the cost of constructing housing for low- and moderate-income households, and about the need for adequate production levels of multifamily housing in the 1980's. But in the Administration's view these concerns must be approached in a manner consistent with the principle that Federal subsidies should continue to go to those with the greatest need.

Sincerely,

JAMES T. MCINTYRE, Jr.,
CHARLES L. SCHULTZE.

Mr. GARN. Mr. President, I will read an excerpt from the letter:

> Last fall the Administration considered the advisability of a middle-income rental subsidy program similar in structure to the proposal currently under review within the Senate Banking Committee. The Administration subsequently decided against recommending such a program. The Administration has reviewed that position carefully and has concluded that the reasons for opposition are still valid.

They simply do not want to shift away from the very low-income groups to a new expensive moderate income.

I would also say that I am with rather strange bedfellows after 6 years on the Banking Committee. It is not often that the White House supports the position that I take, so that is a rarity.

What is even more rare is the list of organizations I will quickly read which support Senator GARN's position. They are as follows:

National Low-Income Housing Coalition, League of Women Voters, National Urban Coalition, National Urban League, National Housing Law Project, Housing Assistance Council, Rural America, Consumer Federation of America, Americans for Democratic Action—that may be the first time the ADA has ever supported me on anything—American Friends Service Committee, National Hispanic Housing Coalition, National Rural Housing Coalition, National Conference of Catholic Charities, Center for Community Change, National Association of Realtors, AFL–CIO—which is another great rarity—National Housing Rehabilitation Association, U.S. Catholic Conference, National Council of LaRaza, National Association of Social Workers, National Committee Against Discrimination in Housing, Inter-religious Coalition for Housing, United Methodist Church—Board of Global Ministries, and National Association of Housing Cooperatives.

If I cannot win with that list, I can never win an amendment in this body.

Mr. President, I am happy to yield to the Senator from Vermont.

Mr. BELLMON. Will the Senator from Utah yield to me for 5 minutes?

Mr. GARN. I yield.

Mr. BELLMON. Mr. President, I support the Garn amendment.

Mr. President, S. 2719, the Housing and Community Development Act of 1980, is consistent with the aggregate totals assumed in the fiscal year 1981 first concurrent budget resolution. Full funding of authorizations for programs in titles I and IV of the bill could exceed the function 450, community and regional development, first budget resolution totals. In all, the bill authorizes budget authority of $26.86 billion in fiscal year 1981 and outlays of $928 million. I congratulate the Banking Committee for its spending restraint in dealing with the programs under its jurisdiction.

Nevertheless, I have serious concerns over the effectiveness of the programs established in this bill in meeting the Nation's housing objectives. There are two major new thrusts:

First, to refocus the section 8 rental assistance program from new construction to existing homes, and

Second, to tilt the programs more toward middle-income assistance.

Viewed separately, these alterations could be efficient ways of reducing costs while meeting national housing needs—but together they pose the prospect of a significant budget wedge. That is, they may serve to increase out year budget expenditures. By extending rental assistance to middle-income renters, this bill opens up a new constituency which previously has been more able to afford existing housing and has, in fact, been able to rent with a lesser proportion of their income expended than low-income individuals. Furthermore, by outlaying the same budget authority more rapidly, as is the case with existing housing, outlays grow more rapidly.

The section 8 program has been fraught with problems which have not been eliminated by this bill. The General Accounting Office has found that even without altering the target population 40 percent of the Nation's 16 million households are eligible for some form of housing assistance. Of these, 30 percent, or 18.3 million households are eligible for section 8 assistance. This will put HUD in the position of making decisions of a nonentitlement nature. Many choices will be arbitrary and unfair. The recipient group should be narrowed, not increased. I will support the amendment offered by Senator ARMSTRONG for this very reason.

But even more fundamentally, GAO has found instances of $500-a-month rental subsidies, improper checking of recipient income data, excessive amenities and luxury, and instances where fair market rents have grown six times the rate of growth of the Consumer Price Index. I think it is time we recognize that no agency, no matter how well intentioned, can implement a nationwide housing program with such complexity and diversity of goals as the section 8 program. GAO has concluded that expanded use of public housing and local financing by means of passthrough securities would be better mechanisms.

Mr. President, combining the movement toward middle-income assistance with emphasis on existing housing poses a longer term problem as well. The so-called "trickle down" theory of housing, where directly aiding upper income families benefits lower income families by opening up existing units for rental, only works when the housing stock is being increased. The program proposed in S. 2719 reduces emphasis on expanding the housing stock. The result is that, in the long run, significant inflationary pressures will be put on the housing market. This will occur since both middle- and upper-income families will be bidding for the existing housing stock. On the supply side, there will have been less emphasis on increasing the number of total housing units.

The loser in this shift, I am afraid, Mr. President, will be the low-income renter and eventually, the private housing market in this country. I do not believe that sufficient information is available to adequately establish the distribution of recipient income and needs to make, such a fundamental shift in the subsidized housing program. Therefore, I support the amendment by Senator GARN to eliminate the new middle-income rental subsidy program proposed by section 202 of the bill. As I understand it, the amendment would reallocate the $2.368 billion of budget authority allocated for this program and would reallocate the funds to section 8 new construction and rehabilitation.

Mr. President, I believe we all realize that Federal housing policy is at a major crossroads—and, I might add, housing policy consists of more than the subsidized housing programs we are considering today. The budget contains nearly $50 billion of on-budget authority for housing related programs, another $50 billion of off-budget aids to housing (such as the Federal National Mortgage

Association, Freddie Mac, and the Federal Home Loan Bank System); and about $30 billion of housing related tax expenditures. Also last year local governments tendered about $50 billion of tax exempt mortgage revenue bonds for housing finance. I believe it is time that the Senate looks at all of these programs together to determine whether or not our housing objectives are being met with the programs we have established. We can then decide whether or not to take this critical step in realining our present subsidized housing program.

It is for these reasons, Mr. President, that I strongly support the Garn amendment.

Mr. PROXMIRE. Mr. President, will the Senator from Vermont yield to me?

Mr. GARN. Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I shall yield to the Senator from Wisconsin. First, I just want to point out that Senator GARN has read an impressive list of credentials. I would point out though, that if they liked the amendment of the Senator from Utah, if they had had time to look at mine, they would have loved it. I do not mean to be facetious. I only wish to point out that the amendment which I have offered, to which the amendment from the Senator from Utah is a substitute, was only put into final form this morning. My amendment falls between the committee bill and Senator GARN's amendment. It allows for a substantial increase in low-income housing assistance provided by S. 2719, improves the operation of the program in nonmetropolitan areas, provides a safety release should the new, moderate-income, multifamily housing program fail and adds no cost to the program.

Mr. President, I would like to speak briefly to the points raised by Senator GARN against the new multifamily program. Frankly, I share many of the concerns and fears of Senator GARN regarding the new program. However, my amendment, which will be considered should the Garn amendment fail, alleviates much of this anxiety. I hope that my colleagues here today will consider the significant changes that would be made in the multifamily housing program should my amendment be adopted before they vote on the Garn amendment now before us.

Senator GARN claims that the new program created by S. 2719 will leave fewer low-income people and assist people of high incomes. I would point out that, though reducing assistance for low income new construction under section 8, S. 2719 actually increases the total number of low-income families assisted by 3,000 units above the administration's proposal and by 36,000 units as compared to the Garn amendment. While the numbers reveal that low-income people get more housing units under the committee bill, my colleagues should not overlook the additional assistance given to low-income people should my own amendment be adopted.

My amendment would substantially increase assistance to low-income people within the new progam. It does this by increasing from 20 to 25 percent to 20 to 30 percent the number of section 8 assisted low-income families that must be placed in each new project under this program. Further, it provides that new multifamily housing projects may provide section 8 assistance to up to 40 percent to a project's occupants if a project's construction dislocated low-income families or if it proved to be unmarketable. In essence, this section of my amendment expands the low-income focus of the new program and provides protections for low-income families.

In order to make the program more affordable to low-income people who are ineligible for section 8 assistance and yet are in dire need of housing assistance—those people generally between 80 and 100 percent of an area's median income—a second provision in my amendment directs that the Secretary give special consideration to the needs of rural areas, small communities, and other areas having high development costs and low-income populations. The intent of this proviso is to direct the Secretary to lower the interest rates of the new program in areas where the low- and moderate-income population could not possibly afford to rent units if constructed at the bill's mandated 6 percent national interest rate average.

Recognizing that S. 2719 allows the Secretary to change the eligibility criteria for the program from 130 percent of an area's median income for many reasons, and knowing that this criteria is likely to be raised and lowered frequently, my amendment provides that whenever this average median income is changed the Secretary is directed to establish the new eligibility criteria at as low a ceiling as is feasible and does not endanger the marketability of a project.

In summary, Mr. President, the contention that the Garn amendment will serve more low-income people than S. 2719 is incorrect. The provisions of my amendment would make the new multifamily housing program serve even more low-income families, in many instances reduce the eligibility ceiling, reduce the rents in many project's thereby making the units affordable to more low-income people, and improve the operation of the program in nonmetropolitan areas.

Finally, Mr. President, I share the concerns of many of my colleagues that this new multifamily housing program may not work; that needy Americans will be left without housing assistance for an entire year should the program fail. After all, it is an untested idea. However, the final section of my amendment guards against this danger.

This last section of my amendment allows for area fungibility. In other words, if the program does not work in a given substate area, for whatever reason, the State finance agency, State development agency, or whoever is administering the program would be allowed to convert the assistance received under the multifamily housing program to section 8 assistance. This could be either new or existing section 8 assistance.

The determination of allowing such a conversion is left to the Secretary of HUD. As chairman of the Rural Development Subcommittee and a member of the HUD Appropriations Subcommittee I will watch the application of this provision very closely to insure that the conversion be allowed in an area as soon as possible. If my amendment is adopted, I will use these forums and others to make certain that areas, especially nonmetropolitan areas where a quick startup and widespread marketability of the new program is in some doubt, are not caught in a housing crisis because the multifamily housing program fails to operate.

Mr. President, the marketability of the new program in rural areas and small communities as well as its ability to serve the needs of low-income people has been seriously questioned. I would only hope that Senators will consider the significant improvements made in the program by my amendment before voting on the amendment offered by Senator GARN.

Mr. PROXMIRE. Mr. President, I rise in opposition to the amendment of the Senator from Utah. The amendment by the Senator from Utah, as compared with the amendment that we have, as modified by the Senator from Vermont, would result in less housing construction, less low-income housing. The Garn amendment would result in less housing in every State.

I call the attention of every Senator to the fact that we are Xeroxing and putting on every desk a copy of the effect of this amendment in every State. There is not a single State that would not have less housing if the Garn amendment is passed. The cost is virtually the same.

How do we do that?

The key to the proposal in the committee bill is to move toward more of a separation between subsidies for lower income families and subsidies for new multifamily rental construction. From a cost perspective, if we assume the two objectives of providing housing assistance for lower income people and also increasing the overall supply of rental units, it was the committee's view that it is more efficient to rely more on existing housing to subsidize lower income people, and undertake a new program involving a shallower subsidy to spur multifamily rental production.

So the multifamily production would be provided primarily in the private sector with a smaller amount of incentive from the Federal Government. That would hold down the cost and result in far more construction in every State in the Union.

For the section 8 and public housing programs, the committee bill assumed a mix of 43 percent for new construction and substantial rehabilitation, and 57 percent for section 8 existing housing. However when the new program units are added in, the overall mix is 60 percent for new construction and substantial rehabilitation, and 40 percent for existing housing. The committee bill would provide an estimated 286,000 units for lower income families, and 410,000 units overall. This would be accomplished while still saving $3 billion in budget authority compared to the administration's budget proposal, at the same cost as the Garn proposal.

The amendment offered by the Senator from Utah would eliminate the new approach, and go back to business as usual, with its emphasis on the high cost section 8 new construction program.

For a number of reasons, I urge my colleagues to oppose the amendment. First, the Garn amendment would reduce the number of lower income families assisted by approximately 30,000 families. Whereas the committee bill would assist an estimated 286,000 lower income families, the Senator's amendment would reduce this number to approximately 255,000 families. The Senator from Utah argues that the committee's approach diverts subsidy funds from lower income families. But I think this is very misleading, since the committee bill would assist approximately 30,000 more families than would be assisted if the Senator's amendment were passed. A more accurate description of the committee bill would be that it spends funds for lower income housing much more efficiently than what would prevail under the Garn amendment, so that the net effect is that many more lower income families would be assisted by the committee bill at substantially less cost, and the savings from this more efficient assistance are sufficient to pay for the new program.

Second, the Senator's amendment would reduce the total number of units assisted by about 155,000 units, from an estimated 410,000 units down to approximately 255,000 units, without saving any budget authority.

Third, the amendment would reduce the number of units for new construction and substantial rehabilitation by about 94,000 units, from an estimated 247,000 units down to an estimated 153,000 units. Both the committee bill and the Senator's amendment assume an overall mix of units assisted at 60 percent for new construction and substantial rehabilitation, and 40 percent for existing. However, the committee bill would provide for 60 percent of a much larger number.

Finally, the Senator's amendment would eliminate a promising new approach to stimulate construction of mixed income housing. One of the important features of the new program is the requirements that at least 20 percent of the units in each project must be section 8 assisted assistance. Thus the new program will promote economic integration. The Senator's amendment would scuttle this effort.

Mr. President, I believe that the approach adopted by the committee is an innovative approach to make efficient use of subsidy dollars at a time of scarce resources and tight rental markets. The amendment offered by the Senator from Utah would derail this effort. I urge the Senate to reject it.

Finally, Mr. President, as the Senator from Vermont properly pointed out, these groups have not had a chance to see the amendment as modified by the Senator from Vermont, so it is not totally clear that they all would oppose it.

Furthermore, our approach, with full knowledge, is supported by the National Association of Homebuilders, by the Council of State Housing Agencies, by the National Association of Housing and Redevelopment Officials, by the National Leased Housing Association—all groups that have been deeply concerned and have great expertise in this area. They all feel it is a sounder approach, a more productive approach, as well as a more economic approach.

Mr. GARN. Mr. President, I certainly did not say these groups would oppose the amendment. What I did say was that it is an incredible list of people who have, for all of their existence, supported the poor in low-income housing.

I am not going to get in a statistical battle with my distinguished chairman and trade lots of figures.

I only go back to that list of people who compared the new program and decided to support my amendment on the idea that it would produce more housing for the poor, rather than shifting it to the almost rich, if you can call it that—I shall read just a few samples and then insert more of these figures in the RECORD, rather than take the time of the Senate.

There are two problems with the amendment other than those that I have suggested as proposed by the distinguished chairman of the Banking Committee. One is that it takes away authority from the local housing agencies to decide on what mix should be in their own area. No one will ever convince me, as a former mayor, that the housing problems of Salt Lake City are the same as those of Denver, Chicago, or Philadelphia. But we are going to cut down the local unit's capability of deciding what mix that is. There are a lot of areas in this country, in the big city areas, that do not have enough existing housing to make that formula work.

Let me give some brand new vacancy rates: Chicago, 1 percent. But we are going to mandate a new program that tends to go more to existing housing than new construction.

Ann Arbor, Mich., 1.57 percent; Montgomery, Ala., 2 percent; Denver, Colo., 2.3 percent; Corpus Christi, Tex., 1.7 percent; Los Angeles, 1 percent, Minneapolis, 4.5 percent in rental housing.

Where is the existing rental housing, even in the big cities, to make this program work?

Even an updated list shows 1.8 percent in Los Angeles, 4.1 percent in San Francisco. There is very little rental housing.

The new program income limits, and I hope all my colleagues will listen to this—when we are talking about helping the poor and disadvantaged and minority groups to get into adequate housing, the new limits based on median income in Atlanta would be $24,830; Chicago, $28,080; Cleveland, $26,260; Detroit, $27,040; Minneapolis, $27,300; Washington, D.C., $31,460. We want to create a new program in a budget year that is tight and we are having a difficult time balancing it, we want to create a new program for people who make $28,000, and $31,000 a year, when we cannot have a big enough pie to take care of all of them?

It seems to me my amendment makes a great deal of sense, particularly this year, and that with very poor people having inadequate housing, we should not be creating an expensive new program that will help people up to those income limits. Only 10 years ago, my total salary as a city commissioner in Salt Lake City was $12,000 a year. Yet we are going to have existing programs for people in those income groups, I read.

Mr. President, I submit these figures and ask unanimous consent to have them printed in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

VACANCY RATES AND PUBLIC HOUSING WAITING LIST FOR IMPACTED AREAS

City	Rental housing vacancy rates		Waiting list	
	1975	1979	Public housing	Sec. 8
✓ 1. Los Angeles	7.4	1.8	828	16,350
2. Orange County	8.1	1.8	----------	1,252
+ 3. Houston	8.4	6.6	4,439	2,550
✓ 4. San Diego	5.7	3.1	----------	8,019
✓ 5. San Francisco	9.0	4.1	8,000	3,000
6. Washington, D.C	4.5	2.8	7,000	238
Fairfax County	NA	3.7	863	(1)
Arlington County	NA	1.5	----------	524
Prince George County	NA	4.5	4,133	820
Montgomery County	NA	2.7	4,435	3,000
7. San Jose area	NA	2.4	----------	747
8. New Orleans area	7.8	2.5	8,000	980
9. Portland, Oreg. area	7.1	3.0	2,306	461
10. Seattle	5.8	1.9	2,504	1,453
✓ 11. Denver	9.3	2.5	936	1,004
✓ 12. Minneapolis-St. Paul area	6.0	7.0	2,048	1,948
13. Honolulu	5.5	2.4	2,023	2,201
14. Philadelphia area	7.0	NA	12,933	6,425
✓ 15. Chicago	6.6	4.6	18,071	44,096
16. Oklahoma City area	14.0	5.5	1,097	275
17. Des Moines area	NA	3.0	450	703
18. North Suburban, Ill	NA	3.0	1,557	2,300
19. Harrisburg area	NA	3.5	912	610
20. Dallas	13.9	5.0	5,586	1,446
21. New York, N.Y	5.2	2.9	55,500	90,000
22. Milwaukee area	3.6	1.8	5,767	5,969
23. Pensacola	NA	6.0	259	504

[1] Combined list.

NA=not available.

✓ =higher than 6/80 (or dropped).

INCOME LIMITS FOR NEW MIDDLE-INCOME HOUSING PROGRAM FOR SELECTED METROPOLITAN AREAS

City	Median income[1]	New program income limits[2]
Atlanta, Ga	$19,100	$24,830
Baltimore, Md	19,800	25,740
Boston, Mass	19,400	25,220
Chicago, Ill	21,600	28,080
Cleveland, Ohio	20,200	26,260
Dallas/Fort Worth, Tex	18,500	24,050
Denver, Colo	19,200	24,960
Detroit, Mich	20,800	27,040
Kansas City	19,100	24,830
Los Angeles, Calif	18,800	24,440
Milwaukee, Wis	20,200	26,260
Minneapolis/St. Paul	21,000	27,300
New York, N.Y	18,600	24,180
Philadelphia, Pa	18,800	24,440
Phonezix, Ariz	17,100	22,230
Richmond, Va	18,700	24,310
Salt Lake City, Utah	17,100	22,230
Seattle, Wash	20,000	26,000
Washington, D.C	24,200	31,460

[1] Estimated 1979 median incomes according to HUD. Prepared by HUD, Office of Economic Affairs, July 1, 1979.

[2] 130 percent of area median incomes as proposed in new program.

Selected vacancy rates

[In percent]

ILLINOIS	
Chicago	1
Rockford	3.6
Springfield	6.1
NORTH CAROLINA	
Raleigh	2.3
Durham	2.0
Greensboro	2.5
Charlotte	2.5
MICHIGAN	
Detroit	8.7
Ann Arbor	1.57
Grand Rapids	3
MARYLAND	
Baltimore	3.3
Montgomery County	3.1
Annapolis	2.8
ALABAMA	
Montgomery	2
MASSACHUSETTS	
Boston (city; 3.0 area)	5.3
Springfield	3.8
SOUTH CAROLINA	
Columbia	5.1
Charleston	3.5
GEORGIA	
Atlanta	3.4
LOUISIANA	
Baton Rouge	2.87
NEBRASKA	
Lincoln	2.1
Omaha	5
COLORADO	
Denver	2.3
TEXAS	
Corpus Christi	1.7
Houston	10.0
CALIFORNIA	
Los Angeles (down from 1.8 in Dec. 1979)	1
San Francisco	2
San Diego	2.9
MINNESOTA	
Minneapolis:	
Rental housing (down from 7 in Dec. 1979)	4.5
All housing	2.0
VERMONT	
Burlington (1978)	0.6
NEW HAMPSHIRE	
Montpelier (1979)	1.6

SOURCE.—National Association of Realtors survey of HUD area offices. Most data is from Q4, 1979. Rates should be less today than that shown above.

Mr. WILLIAMS. Mr. President, just very briefly, let me describe how we started this year. My position as a Senator on the committee and chairman of the Subcommittee on Housing was to try to proceed along the course we had been on—section 8, public housing—as our basic assisted housing programs for lower income people. I believe that the first notice I had that we would have to be doing some changing and some creative thinking was really prompted by the Budget Committee, which saw dangers down the road that we were on. I recall that it was the chairman of our committee, the Senator from Wisconsin (Mr. PROXMIRE), who came to our committee with a creative idea, a new production idea, that has made it possible for us to come here this afternoon with this bill, that does much more for lower income people in assisted housing than we could have done under the executive approaches of section 8 public housing.

The bottom line is on everybody's desk. The bottom line shows that under the committee bill, which includes the proposal that was created by Senator PROXMIRE, we have under the new production program and under section 8 and public housing, a total of 410,000 units of assisted housing, 286,000 under section 8 public; and 124,000 under the new production program.

This compares to assisted units possible under the Garn approach of 255,000.

So we have a tremendous new response to what we all know is our crisis in housing for lower income people.

The rental housing situation is desperate. We all know lower income people, with all the pressures of inflation and reduction of housing units, really are in the bind.

We get farther, more humanely, more for our money. Both approaches are within the budget, but we get more housing from this than in the bill, more housing than from the substitute that is offered.

Several Senators addressed the Chair.

Mr. LEAHY. Mr. President, I am prepared to yield back the remainder of my time. I would only add that I hope the Senators will consider the changes that will be made in this program should my amendment be adopted.

Mr. TSONGAS. Mr. President, 1 year ago, we stood on the floor of the Senate and fought efforts to decrease funds for low-income housing. At that time I pointed out to my colleagues that funding for housing had been cut 42 percent over 3 years, and urged that the funds be dramatically increased.

This year, the battlelines are drawn differently. That is because two major things have happened. One, the President has decided to balance the budget. Although he has not recommended decreases in assisted housing, his overall balancing the budget strategy has incited riot in the budget rooms and the appropriations rooms of Congress.

The Senate Budget Committee was recorded earlier this year in an 8-to-8 tie vote to eliminate all new funds for assisted housing programs. We were literally one vote away from wiping out 47 years of Federal commitment to house the poor.

I support a balanced budget, but we have opened up the floodgates to those who have been waiting for an opportunity to cut social programs—they now have an excuse. This means we are no longer fighting to increase, but to protect what we have from serious cuts or total elimination.

The second thing that has happened is not as dramatic, or easy to pinpoint, but it is equally important. The cost of the section 8 new construction program has risen dramatically, and its impact on the Federal budget is increasingly large, as more and more units come on line. As the GAO, administration, and private studies come flooding in, it is clear that we will have to take some steps away from new construction and toward existing housing, to keep costs in line.

We now have a choice: We can go along as we are, and let the Budget Committee control Federal housing policy, perhaps by eliminating it altogether. Or we can, with reluctance, accept the fact that we need a greater emphasis on section 8 existing housing, in order to house more people with constant program dollars.

The important thing to understand here is how close we came this year to losing control of Federal housing policy altogether. The budget cutting mentality, now that it is in full swing, is going to get even worse. If recent social program cuts are any measure, I would guess that next year is going to make this year look like the good old days. If we do not take some steps to cut costs, without cutting our commitment to house the poor, cuts will be made by those who only care about cost, regardless of the impact on low-income people.

The program which the Senate Banking Committee passed must be considered in the context of what I have just said. It is not pleasant, but it is reality.

Now, let us be clear about the new program. It does not cut units for low-income people. In fact it provides more units, by shifting the mix of new construction and existing. In addition, it recognizes the fact that if you are seeking to rely more on existing stock, you have provide relief from pressure on tight rental markets, and do something to replace units which we are losing to abandonment and condominium conversion. The program provides up to 401,000 units of housing; 285,000 of those units are for low-income people; 124,000 units are market rate housing.

In addition, the program provides significant flexibility, so that if funds cannot be used for market rate housing, they can be used for section 8 housing. The proposal has come a long way since the administration first suggested it last fall, and since my distinguished colleague from Wisconsin introduced it in the Banking Committee 2½ months ago. Those changes are constructive, and they maximize the potential for making the program work. I believe that the proposal deserves the support of the Senate, and I urge them to vote against the proposal which has been made by the Senator from Utah.

Mr. GARN. Mr. President, I am just about prepared to yield back my time.

I close by saying that the bottom line

is on everybody's desk. It is a summary of the arguments for my amendment and the list of people who support it.

I say again, these groups who have traditionally been the greatest supporters of low-income housing, I doubt very much would be supporting my amendment, the ADA and all these coalitions, if they really thought my amendment produced less lower income housing.

What the committee bill does essentially is produce more housing but it will be for the higher income groups, by taking it away from the lower income groups to the higher income groups.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment in the nature of a substitute of the Senator from Utah. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Wyoming (Mr. SIMPSON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 23, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—47

Armstrong
Baker
Bellmon
Biden
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Chafee
Cochran
Dole
Durenberger
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Nelson
Nunn
Packwood
Roth
Schmitt
Stevens
Stone
Thurmond
Wallop
Warner
Weicker
Zorinsky

NAYS—23

Baucus
Byrd, Robert C.
Cannon
Chiles
Cranston
Javits
Leahy
Levin
Melcher
Mitchell
Morgan
Moynihan
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stewart
Tsongas
Williams

NOT VOTING—30

Bayh
Bentsen
Boren
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Goldwater
Gravel
Hollings
Huddleston
Kennedy
Long
McGovern
Pell
Percy
Pressler
Pryor
Schweiker
Simpson
Stevenson
Talmadge
Tower
Young

So the amendment (UP No. 1226) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont, as amended.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, it is agreed on all sides, I believe, that there will be no more rollcall votes tonight.

The Senate will come in at 9 a.m. tomorrow morning. There will be an amendment pending. Rollcall votes are requested on tomorrow.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VENICE SUMMIT

Mr. ROBERT C. BYRD. Mr. President, President Carter has departed on an important European trip that will include stops in Rome, Belgrade, Madrid, and Lisbon, in addition to the Venice Summit on June 22 and 23.

The President's trip and the Venice Summit come at a time when international affairs have been buffeted by a series of significant developments and crises. The seven industrialized powers face major political, security, and economic issues.

The Venice meeting is the sixth in a series of annual summit meetings, and I hope that it will lead to a stronger and more concerted effort to confront the difficult issues which beset us.

Many of the issues to be considered at Venice revolve around the continuing problems related to the fifteenfold increase in oil prices in the last 7 years and the serious impact this has had on international economic stability.

At Venice, the United States will urge our allies to continue the effort to exercise monetary and fiscal restraint in the fight against inflation. Recent actions taken by the Congress are indicative of our own efforts in this regard.

In the energy area, I hope there will be an agreement to strengthen U.S. coal exports, a step that would be important for many reasons—including the lessening of Western dependence on the oil-producing nations. Such an agreement would commit our allies to a given level of imports, and commit the United States to developing the infrastructure necessary to get our coal to foreign markets.

Also on the agenda will be the issue of improving relations between North and South nations and efforts to increase the world food supply and slow population growth.

In the trade area, the question of subsidized export credits is a serious U.S. concern. U.S. exporters have been disadvantaged for some time by the financing subsidy which their competitors can offer prospective buyers. We have long been urging the other industrialized market countries to provide export credits at market rates. I hope that some progress can be made on this front, as well as in any bilateral negotiations held with Japan on the problems of the U.S. auto industry.

President Carter and the other leaders of the industrial democracies are facing a number of complex issues. It is a challenging time in international affairs and the President's meetings on this European trip could be highly significant in our efforts to meet these challenges.

I want to wish the President well and to express my hope that it will be a highly successful trip.

SMALL BUSINESS

Mr. STEWART. Mr. President, I wish to draw to the attention of my colleagues a column that appeared in the Thursday, May 29, edition of the New York Times which discusses the efforts of the Senate Small Business Committee to address the technology assessment, transfer, and development needs of the small business community.

Under the leadership of Senator GAYLORD NELSON, chairman of the Small Business Committee, the Senate approved legislation last year which allocated $750,000 to begin a small business innovation center program. A proposal is now pending before the agency to implement that congressional mandate. It is the Small Business Committee's intention that four innovation centers will be selected and begin operations before the close of current fiscal year.

The article by Steve Lohr describes the innovation center being operated out of Butte, Mont., after which the new SBA center would be modeled.

Mr. President, I ask unanimous consent that the column, "The Marketing of Inventions," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MARKETING OF INVENTIONS

(By Steve Lohr)

In recent months, a modest project in Butte, Mont., called the Center for Innovation, has received visitors and inquiries from scores of scientists, inventors and government officials from both nearby towns and such far-flung outposts as Pago Pago, American Samoa.

The three-year-old program is one of fewer than a dozen similar operations throughout the world, including ones in Denmark, West Germany and Japan, and is the only one of its kind in the United States.

The Butte unit sends its representatives to evaluate the technology and the commercial potential of new-product ideas, usually those of individual inventors or small businesses. If the idea seems promising, the center's technical experts can help the budding entrepreneur tailor his invention for the marketplace and arrange outside financing.

The center has brought 20 products to market so far, and about 50 more are being readied, according to Clyde W. LaGrone, manager of the center. Over the last three years, the products—some sold to existing companies under licensing arrangements, and others produced as new ventures—have generated an estimated $70 million in revenues and created 150 jobs. The center is financed by the Old West Regional Commission, a five-state economic development group backed by the Department of Commerce. To date, the Butte operation has received roughly $1.5 million in public money.

Its performance has attracted increasing attention from Washington. Three months ago, the Senate Select Committee on Small Business held hearings on the concept. At the session, testimony was taken from Jerry D. Plunkett, managing director of the Montana Energy Research and Development Institute, a nonprofit corporation affiliated with the innovation center.

The Senate committee is now prodding the Small Business Administration to use $750,000—which has already been appropriated for the current fiscal year to nurture innovative ventures by small businesses and individuals—for the creation of four additional centers patterned after the Butte operation.

"We've met with S.B.A., and we've made it clear that what we want is a replication of the Butte model elsewhere," said Allen Neece, legislative counsel of the committee.

Mr. Plunkett of the Montana Energy Institute had a meeting three weeks ago with A. Vernon Weaver, administrator of the S.B.A., and came away impressed by Mr. Weaver's apparent support for spreading the innovation center concept nationally.

"All things considered, I think the S.B.A. has been quite receptive, once they noticed us," said Mr. Plunkett, an engineer with a Ph. D. from the Massachusetts Institute of Technology.

Under the current plan, Mr. Plunkett and his staff would help start the new units, but leave them within two years. The sites for the additional centers have not yet been selected, but Mr. Plunkett said 28 states had expressed an interest in having one.

"Our hope is that these new units would be a solid first step toward eventually establishing a network of them across the country," said Mr. LaGrone, the Butte center's manager.

All this activity comes amid growing recognition that small businesses, particularly young high-technology ventures, play a central role in creating new jobs and fostering innovation. The White House Conference on Small Business, held in January, seemed to signal political recognition of this fact. And there has been a gathering academic consensus in recent years that small ventures are often the most productive in advancing technology.

The Butte center, in the words of one staff member, "is not a 'white coat' operation at all." The workdays of the eight-person staff are frequently long, and the work has its frustrating side: 90 percent of the ideas that come over the transom are quickly rejected as impractical or unmarketable. And, occasionally, the suggested breakthroughs come from people who are "not entirely balanced," said one worker at the center.

"What we do is like looking for gold nuggets in sand," noted Mr. Plunkett. "There's a lot of sand."

Then, too, the center officials sometimes travel long distances assisting inventors. Almost two years ago, for instance, Mr. LaGrone trundled off to a farm outside Larimore, N.D., next to the Canadian border. There, roughly 1,000 miles from Butte, a farmer had come up with a new implement for thinning weeds from soybean fields and harvesting the crop using a series of horizontal blades. With the center's aid, the device was patented and licensed to a company in North Dakota.

Other center-backed products include a new type of solar energy collector, a temperature-control device, a plastic coating for food packaging and a chain-saw sharpening device. Roughly 60 percent of the items submitted are energy-related.

"The majority of the items we receive are not what you'd really call high-technology inventions," Mr. LaGrone said. The reason, he suggested, is geography—namely, Butte is not thought of as a technological hotbed. "We feel that if we branch out into, say, the New York or Silicon Valley areas, you'd see plenty of high-technology ideas come through the door," he said.

CHEMICAL WASTE

Mr. STEWART. Mr. President, communities across the country are just now discovering that they have been dumping grounds for hazardous chemical waste. These chemical wastes have been shown to pose a major health hazard to the people who live in these communities. The small town of Triana, Ala., is one of the communities that has just recently found that a stream bordering it had been used to dispose of waste from a plant producing DDT.

The people of Triana are primarily low income and have relied on the stream as a source of food and in some cases drinking water. This has resulted in residents of the town displaying the highest levels of blood DDT ever found in humans. While we must be sympathetic to all the communities across the country who have been victimized by the dumping of chemical waste in their midst without their knowledge, the case of Triana is particularly disturbing because the chemical wastes in question were discharged from an Army-owned building with the full knowledge of Army officials.

Clearly the Congress needs to take strong steps to insure that citizens of this country are not placed in jeopardy by the careless disposal of hazardous chemical waste. A June 15, 1980, article in the Washington Post points out the devastating consequences of the reckless disposal of hazardous chemicals in Triana.

I ask that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PERSISTENCE OF A POISON: EFFECTS OF CHEMICAL PLANT STILL PLAGUE ALABAMA TOWN

(By Mike Hollis)

TRIANA, ALA., June 14.—Felix Wynn, like nearly all of Triana's residents, used to eat fish caught from the Tennessee River and Indian Creek, both a few minutes' walk along any of the town's half-dozen or so one-lane streets.

That was before this mostly black and low-income community found out that the cheap source of protein carries extremely high levels of DDT, though it has been a decade since Olin Corp. shut down its insecticide plant on the Army's nearby Redstone Arsenal.

As a result, Wynn, an 85-year-old retired farmer, has more DDT in his blood—3,300 parts per billion—than ever was found in anyone, according to the federal Center for Disease Control in Atlanta.

CDC found that the average DDT level in the blood of Triana's residents is almost 10 times the 16.7 parts per billion found in the general population.

Now, CDC researchers say they also have found polychlorinated biphenyls (PCBs), a group of once widely used industrial chemicals closely linked to cancer in animal studies, in 500 blood samples of Triana residents and families of area commercial fishermen.

Long-term risks to their health are unknown, says Dr. Kathleen Kreiss, the CDC physician heading the agency's Triana project. However, Kreiss warned at a communitywide meeting today that the PCB contamination could account for high blood pressure and high cholesterol levels among some of them.

These twin factors, she said, increase their risk of heart disease, strokes and kidney problems, although CDC has not tied any specific disease or illness in Triana to either chemical.

The agency says its findings here, including abnormal results in some liver function tests, justify additional study, especially because PCB levels averaging 22.5 parts per billion among Triana residents are in the range "probably found" in the general population.

Yet Kreiss says the population of the northern Alabama town is too small to present meaningful figures on any possible relationship between PCB exposure and cancer rates.

Mayor Clyde Foster reflects one commonly held belief of his townspeople when he says, "God didn't make this body to carry this burden" of chemicals.

Calabama Corp. started making DDT more than 30 years ago in a vacant Redstone Arsenal building leased from the Army Corp of Engineers. The plant was used in the manufacture of the poison gas lewisite during World War II, and started turning out the insecticide in 1948.

Olin Corp. bought out Calabama and continued to use the building to make perhaps as much as 25 million pounds of DDT annually, according to an Army study.

Water used to process the DDT ran out of the plant into an 800-year-long ditch that drained into Huntsville Spring Branch, which empties into Indian Creek several miles upstream from Triana.

Time started running out for the plant in the early 1960s with the publication of the late Rachel Carson's "Silent Spring," which blamed insecticides in the loss of wild life. By 1969 the Nixon administration had announced that it was planning to ban the use of DDT.

Army officials at Redstone started pressuring Olin in the late summer of 1969 to cut back on DDT discharges from the plant, according to Army spokesman David Harris. Less than a year later Olin announced that it was voluntarily giving up manufacture of the chemical at Redstone, shortly after it was sued by three environmental groups seeking to close the plant.

At the time, federal agencies had already found DDT in ducks on Wheeler National Wildlife Refuge, which extends onto the arsenal, and area hunters were warned about the contamination, Harris said.

State officials found DDT in goldfish, carp and gar after fish kills in the early 1970s in Huntsville Spring Branch. They told the Army they did not know if DDT was responsible, according to Harris.

A 1971 study done for the Alabama Department of Conservation found DDT and PCBs in low levels in fish samples taken at several sites along the Tennessee River in north Alabama.

"We tried to circulate a copy of the study to everyone," recalls Sam Spencer, chief of the department's fisheries section. "But nobody got excited about it then."

In 1977 the Army found DDT at almost 500 parts per million in a fish taken from Indian Creek at Triana. That is about 100 times the tolerance level set by the U.S. Food and Drug Administration.

The U.S. Environmental Protection Agency and the Army issued warnings widely publicized in this area in September 1977, but Mayor Foster says he did not hear about the problem until the Tennessee Valley Authority made a similar announcement more than a year later.

TVA officials also estimate that slightly more than 4,000 tons of DDT are on the bottom of Huntsville Spring Branch, and the Mobile District of the Corps of Engineers is almost through a $1.25 million study of how best to handle the contamination.

TVA and Corps officials say dredging the creek might cost $50 million and make matters worse by stirring up the DDT deposits.

About 50 area commercial fishermen claim they can no longer make a living out of the river because no one will buy fish heavily laced with DDT. They are suing Olin for $50 million.

That is small fry compared to the $1 million sought by each of 850 residents of the Triana area in another suit against the company. An Olin spokesman said the company has no comment on the suit.

Percy Grays, 60, has lived in Triana all his life and fished for his living until DDT put an end to that.

Gray's DDT level is 450 parts per billion. "It's something to worry about, and I've got grandchildren 1 to 9 years old. And it's something to worry about them."

Former commercial fishermen Donald Malone recalls when he occasionally made as much as $700 a week from the river.

"I was born and raised on the river," said Malone. "We made our living off it, and that's been taken away from every commercial fisherman.

"We drank river water for years and years and years. We didn't think nothing about it, but now look what kind of shape it's in."

Of the possibility of clearing the DDT from the river, he said:

"I don't believe they'll ever get it out of the Tennessee River. They'll probably never get it out of the fish."

A UKRANIAN MAN RESISTS GENOCIDE

Mr. PROXMIRE. Mr. President, the Nazi reign of terror is history's most chilling example of genocide. Yet, even in the bloody annals of Nazi Germany, individual accounts of heroism remain to inspire us.

Many people in the Nazi occupied lands were not personally affected by the terrors inflicted on the Jews. It was possible for men and women to go about their business—unaware, uncaring, or afraid to protest the persecution and murder of their neighbors.

Most men and women did just that. Those who protested or gave aid to Jews faced death.

The genocide spread to Russia as Germany advanced. In 1942 the plight of the Jews in one city, Tarnpol, was particularly desperate. Out of that desperation came examples of inspiring heroism.

In one such case, several Jewish men and women pleaded with a Ukranian doorkeeper to let them hide in the large abandoned attic of an office building.

The situation was critical. The ground floor was occupied by Gestapo. They were surrounded. All avenues of escape were closed.

This old man was their last hope. If he refused, it meant certain death. Yet he agreed.

He agreed despite the fact that he had everything to lose and nothing to gain.

He agreed despite the fact that the decision put his life in peril.

He agreed despite the fact that his life would be on the line every second of every day. An unaccounted-for noise—a loud whisper—or even the unlucky chance that a Gestapo agent should get curious and go exploring might have caused his secret to be revealed at any instant.

Mr. President, can we do any less?

Today we have the opportunity to gain much and lose little.

Today we have the opportunity to take a stand against this heinous crime.

Today we should ratify the Genocide Convention so there can be no doubt of our commitment.

Mr. President, I urge my colleagues to ratify the Genocide Convention.

ADMIRAL HAYWARD CALLS FOR RETURN OF THE DRAFT

Mr. HELMS. Mr. President, yesterday the Chief of the Naval Operations broke with President Carter and called for a return to the military draft. In this morning's Washington Post, Admiral Hayward is quoted as saying, "The All-Volunteer Force is gradually slipping into a failure mode."

I commend Admiral Hayward for speaking his mind on a military issue. The Joint Chiefs are supposed to be the advisers to the Secretary of Defense, the President, and—I may say incidentally, to the Congress—giving their best military judgment without tempering that judgment by politics.

The issue of the draft is one that has been dominated by political considerations. Yet the sad truth is that the "Volunteer Arm" has failed. It has failed to provide soldiers of the necessary quality and motivation to do the job. The deterioration in quality has had a devastating effect on the morale of our dedicated career military men, and has accelerated the resignation of highly trained and experienced officers and noncommissioned men from the services. Moreover, the high costs of attracting volunteers has made it difficult to increase financial incentives to get our experienced men to stay.

Needless to say, the impact of this deterioration on our capability to defend ourselves could be quite serious. While the Senator from North Carolina recognizes the hazards that any limitation on personal freedom might have in a free society, the blunt truth is that we will not have any freedom unless we are willing to defend it. I have confidence that the young people of our country will respond to the challenge, just as previous generations have done so. I look back to my own service in the U.S. Navy as a time of proud dedication.

I believe that Admiral Hayward is courageous in speaking out publicly, even though he must know that the President would frown on him speaking his mind. His conduct stands out in sharp contrast to that of another officer whom we discussed on this floor last evening.

Mr. President, I ask unanimous consent that the article from this morning's Washington Post, "Navy Chief Breaks With Carter, Urges Return to Military Draft," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAVY CHIEF BREAKS WITH CARTER, URGES RETURN TO MILITARY DRAFT

(By George C. Wilson)

The nation's number one naval officer yesterday broke with President Carter and became the first member of the Joint Chiefs of Staff to come out for a return to the draft.

Adm. Thomas B. Hayward, chief of naval operations, said he has changed his mind about the staying power of the all-volunteer force that replaced the draft after the Vietnam war.

"The all-volunteer force is gradually slipping into a failure mode," Hayward said at a breakfast meeting with reporters.

"It's the recession that's making it look a little better than it probably is below the surface," said Hayward of the AVF, as young people sign up with the military services for want of jobs in the civilian market.

But as soon as the economy improves, Hayward predicted, the armed services will run short of people to fill their ranks, as they did last year. He doubted military pay raises and educational benefits now before Congress would be enough to save the AVF.

More important than filling the ranks, said Hayward, is the national commitment to defense that a return to conscription would represent.

"The time has come for the country to get mobilized in its attitude about national security. A commitment through national military service would not disappoint me. Philosophically, I'm in favor of the draft. That's a change from a year and a half ago."

Carter, in pressing Congress this year to require 19 and 20 year olds to register, insisted that he had no intention of drafting anybody in peacetime. He said the AVF is working satisfactorily.

Pentagon spokesman Thomas B. Ross said yesterday that this is still the administration's position.

Hayward's remarks will be welcomed by such members of Congress as Chairman John Stennis (D-Miss.) of the Senate Armed Services Committee and Rep. G. V. (Sonny) Montgomery (D-Miss.) a member of the House Armed Services Committee, who have been pressing for the draft.

Although Hayward is the first chief of a service publicly to endorse conscription, others have been leaning that way. Commandant Robert H. Barrow of the Marine Corps has said the military is running low on quality volunteers while Gen. E. C. Meyer, Army chief of staff, has said conscription would have mixed results, solving some problems and causing others.

Gen. Lew Allen Jr., chief of staff of the Air Force which is the service experiencing the fewest recruiting problems, has, along with the other chiefs, endorsed requiring young people to register for the draft but not conscription itself.

Hayward, in acknowledging yesterday that his remarks had taken him out front on the draft issue, said, "I'm not going to be out beating the drum for the draft."

Instead, he said he was sharing a conclusion reached in weighing the AVF against conscription. Since the AVF came into being in 1973, said Hayward, "the average family in the United States has simply said, 'We won't worry about that. We'll let somebody else worry about that.'

"I think the day has come when that philosophy is wrong," continued the nation's top naval officer. "Military service has never hurt anybody that I'm aware of. I think it would be a good thing for our young people to serve.

"We've got to recognize that as a leader of the free world we've got to have the country unified and a strong commitment to national defense. I think conscription would help that, not hurt it."

Hayward's endorsement of the draft is sure to fuel organized efforts to persuade young people to refuse to register for the draft. Under legislation passed by the House and Senate, men, but not women, born in 1960 and 1961 would have to fill out draft registration forms at local post offices this year. Failure to do so risks being fined up to $10,000 and going to jail for five years.

As for taking the next step to conscription, Hayward said, "I'm absolutely confident that there would be a lot of youth organizations that would protest. But would they in fact represent the national consensus? I don't think they would,"

Asked if he favored a selective draft to bring more highly educated people into the military, Hayward said he had not thought through the details, adding:

"It's got to be 100 percent fair and square. We sure could make it a lot fairer than it used to be, by light years."

Reminded that Army Secretary Clifford L. Alexander has repeatedly argued that the military would not get any higher quality people through the draft than it is through volunteers, Hayward said that is "a subjective call. I think all services would come up some."

Last November Hayward said he opposed returning to the draft because "I can see all the dissidents coming out of the woodwork and going through all that trauma" of the Vietnam era. "I don't want that."

FOREIGN AID

Mr. TSONGAS. Mr. President, at the end of the debate on the International Security and Development Cooperation Act of 1980, an article by Prof. P. T. Bauer concerning foreign assisstance was printed in the RECORD. Senators did not have an opportunity to review the contents of the article during the debate. However, now that I have had an opportunity to read the article, I cannot let it go unanswered.

Mr. President, Professor Bauer's article consists of three columns of straw men marching through paragraphs of misleading statements, outdated theories and assertions without supporting evidence. Let us deal first with the most damaging and misleading points in the article.

Professor Bauer states that in 1978, U.S. foreign economic aid of $6.5 billion was almost one half of our current account balance of payments deficit. This assertion is misleading in five ways.

First, it ignores the fact that 100 percent of the Public Law 480 and 75 or 80 percent of the development aid money is actually spent in the United States and has no negative balance-of-payments impact.

Second, the statement does not take into account the fact that multilateral banks spend $1.57 in the United States for each $1 we contribute to them. Their balance-of-payments impact is positive.

Third, the $6.5 billion figure is gross, not net of repayments. In 1978, repayments of loans totaled about $800 million.

If you subtract Public Law 480 and 75 percent of the development aid funds spent in the United States and add in the repayments on previous loans, the actual balance-of-payments impact is $1.7 billion. That figure does not even count the positive impact of the multilateral banks and much of that $.17 billion is funds related to the Middle East peace process.

Fourth, the professor's statement does not take account of the fact that successful development programs help countries buy food and other items from the United States. Developing countries are our fastest growing export market. They purchase more from us than Europe and Japan combined.

Finally, attributing half of the current account deficit to one item in the balance of payments statistics is like saying one particular drop of rain caused the flood. In 1978, aid outflows equaled 1 percent of our imports. Rising imports totaled $175 billion. That is the cause of our current account deficit.

Professor Bauer asserts that the $6.5 billion aid program was one-seventh of the Federal deficit. Attributing one-seventh of the Federal deficit to a program which accounts for 1 percent of Federal spending is, to say the least, interesting arithmetic.

Professor Bauer states that "official aid does not go to poor people, it goes to their rulers." Professor Bauer appears to be peering backward to the 1950's and 1960's when that statement was all too true. The new directions policies initiated by Congress in 1973 and similar policies adopted by the World Bank have directed aid toward poor people in poor countries. Certainly we negotiate with their governments, but the programs are designed to help the people.

The article states that multilateral aid does not take into account the political interests of donors, because the Soviet bloc is represented in the international agencies and can therefore influence the allocation of multilateral aid. However, the Soviet Union is not a member of any of the multilateral banks, which are the largest source of aid—about $14 billion per year. Furthermore, if the author had examined the list of recipients of aid by the major development banks, he would see U.S. friends such as Korea, Turkey, and Mexico at the top of the list.

Now, let us review Professor Bauer's parade of straw men:

> Aid often envisaged as an instrument of global redistribution.

Who is seriously talking about worldwide income redistribution? The total flow of aid from developed to developing countries is about $20 billion, or $6 per person per year. That is hardly income redistribution.

> Massive wealth transfers to the Third World are often advocated on the grounds that, like the Marshall aid of the 1940's, this would transform the recipients.

The Marshall Plan was the Marshall Plan. It worked because conditions in Europe were unique. Who believes that a new Marshall Plan would transform the Third World?

> Many Third World societies are richer than some groups in the West.

Many Third World societies are richer than some groups in the West. But they do not get aid. Western nations, and particularly this Nation, spend far more to help their poor than to help poor in other countries. And so it should be.

> Without foreign aid there is no Third World.

The Third World is the Third World because 1 billion people are hungry and because half of humanity shares aspirations for a better life. Aid can help but the Third World exists with or without it.

Mr. President, I would not end this comment on Professor Bauer's article without agreeing with at least one point in it. He states, "Ideally, official aid should be terminated." I could not agree more. Ideally, each nation will be able to earn its own way in the world. Ideally, all people will be free from hunger, disease, and illiteracy. Ideally, there will be no more need for aid. Mr. President, I can only hope that the ideal world comes soon.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on June 19, 1980, he had approved and signed the following joint resolution:

S.J. Res. 183. Joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day."

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 2245. An act to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes; and

S. 2363. An act to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes; and that the House recedes from its amendment to the title of the bill.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces, with amendments; that the House insists upon its amendments to the amendments of the Senate to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. NICHOLS, Mr. MOLLOHAN, Mr. ASPIN, Mr. DAVIS of South Carolina, Mr. BOB WILSON, Mr. MITCHELL of New York, and Mr. EMERY were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it request the concurrence of the Senate:

H.R. 6883. An act to amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales.

At 1:56 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6942) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ZABLOCKI, Mr. FOUNTAIN, Mr. FASCELL, Mr. HAMILTON, Mr. WOLFF, Mr. BINGHAM, Mr. SOLARZ, Mr. MICA, Mr. GRAY, Mr. BOWEN, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. FINDLEY, Mr. BUCHANAN, and Mr. WINN were appointed managers of the conference on the part of the House, and Mr. BOLAND, Mr. BURLISON, Mr. ASPIN, Mr. ROSE, Mr. ROBINSON, and Mr. ASHBROOK, solely for consideration of section 113 of the House bill, and modifications committed to conference.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7474. An act to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes; and

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 6883. An act to amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales; to the Committee on Finance.

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; to the Committee on Appropriations.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 7474. An act to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4068. A communication fom the President of the United States, transmitting, pursuant to law, a Statement of Policy, an Assessment of the Nation's Renewable Resources, and the Secretary of Agriculture's Recommended Program for Forest Service activities; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4069. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the function of motor vehicle maintenance at U.S. Army Communications and Electronics Material Readiness Command, Fort Monmouth, N.J., and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4070. A communication from the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, and Installations), transmitting a draft of proposed legislation to amend section 404(d) of title 37, United States Code, relatings to per diem expenses of member of the uniformed services traveling on official business; to the Committee on Armed Services.

EC-4071. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the ninth annual report of the Securities Investor Protection Corporation (SIPC) covering the year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-4072. A communication from the Executive Director, Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the Corporation's annual report for 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-4073. A communication from the General Counsel, Department of Energy, reporting, pursuant to law, on a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4074. A communication from the Deputy Assistant Secretary of Defense; transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4075. A communication from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, a copy of the proceedings of the meeting of the Judicial Conference of the United States, held in Washington, D.C., on March 5 and 6, 1980; to the Committee on the Judiciary.

EC-4076. A communication from the Acting Secretary of Education, transmitting, pursuant to law, final regulations amending regulations published in 1979 which implement part A, subparts 1 and 2, and parts B, C, E, and F of title IV of the Higher Education Act of 1965, as amended; to the Committee on Labor and Human Resources.

EC-4077. A communication from the Secretary of Education, transmitting, pursuant to law, the closing date notice for the rehabilitation short-term training program; to the Committee on Labor and Human Resources.

EC-4078. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for part 150, law school clinical experience program; to the Committee on Labor and Human Resources.

EC-4079. A communication from the Acting Secretary of Education, transmitting, pursuant to law, a revision to the final regulations amending the family contribution schedules for use during the 1980-81 award period, under the basic educational opportunity grant program (20 U.S.C. 1070a, subpart I of part A of title IV of the Higher Education Act of 1965, as amended); to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-774. A resolution adopted by the House of Representatives of the State of Oklahoma; to the Committee on the Judiciary:

"RESOLUTION No. 1062

"Whereas, this great nation has an established immigration history so that oppressed persons seeking freedom may enjoy a democratic and prosperous life in the United States; and

"Whereas, thousands upon thousands of refugees from Cuba have recently been admitted to the United States and currently reside in temporary relocation centers; and

"Whereas, due to the lax admission policies during the refugee crisis, this nation has admitted an untold number of persons who may be criminal or otherwise undesirable; and

"Whereas, this has recently been shown by the numerous Cuban refugees who have encouraged or who have in fact rioted, thus hindering the orderly relocation of the many Cubans who truly seek the freedom offered by this great nation; and

"Whereas, it is imperative that those aliens who have instigated, or participated in, any of the riots, be promptly identified and immediately deported; and

"Whereas, it is necessary that the citizens at or near the relocation centers have a right to safety in their own homes and as they pursue their daily activities: Now, therefore, be it

Resolved by the House of Representatives of the 2nd session of the 37th Oklahoma Legislature:

"SECTION 1. The Oklahoma House of Representatives memorializes and strongly urges the President and the Congress of the United States to take all action necessary to identify and to deport immediately all Cuban aliens who have encouraged or participated in riots at or near the relocation centers and to take all steps necessary to preserve the safety of the citizens of the United States and Oklahoma during the relocation period. The Oklahoma House of Representatives urges that an effort to meet these two goals be given top priority, and that all necessary personnel and supplies for such operations be immediately dispatched.

"SEC. 2. Copies of this Resolution shall be dispatched to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and the Oklahoma Congressional delegation."

POM-775. A resolution adopted by the Council of the City of Philadelphia, Pa., memorializing the President of the United States to reconsider the reduction of federal funding appropriated for the treatment of drug addicts in Philadelphia; to the Committee on Appropriations.

POM-776. A resolution adopted by the Council of the City of Philadelphia, Pa., memorializing the Congress of the United States to approve H. Res. 122, which calls for the Congress to urge the British Government to embark on a new initiative for Ireland; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services, without amendment:

S. Res. 471. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6974. Referred to the Committee on the Budget.

By Mr. STENNIS, from the Committee on Armed Services, with an amendment:

H.R. 6974. An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes (together with additional views) (Rept. No. 96-826).

By Mr. METZENBAUM, from the Committee on the Judiciary, with amendments:

S. 2357. A bill to eliminate the amount in controversy requirement for Federal question jurisdiction (together with minority views) (Rept. No. 96-827).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

S. 1420. A bill to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects, and for other purposes (Rept. No. 96-828).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. MCGOVERN, Mr. ZORINSKY, Mr. PRESSLER, Mr. YOUNG, Mr. JEPSEN, Mr. WALLOP, Mr. MCCLURE, Mr. BELLMON, and Mr. EXON):

S. 2855. A bill to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JAVITS:

S. 2856. A bill relating to the terms of office of certain members of Boards of Visitors to service academies, and for other purposes; to the Committee on Armed Services.

By Mr. PACKWOOD:

S. 2857. A bill to amend the Social Security Act to provide for interfund borrowing between old-age, survivors, disability, and hospital insurance trust funds; to the Committee on Finance.

By Mr. HART:

S. 2858. A bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241); to the Committee on Energy and Natural Resources.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. STAFFORD, and Mr. WILLIAMS):

S. 2859. A bill to promote the further development of public library services, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. MCGOVERN, Mr. ZORINSKY, Mr. PRESSLER, Mr. BELLMON, Mr. YOUNG, Mr. JEPSEN, Mr. WALLOP, Mr. MCCLURE, and Mr. EXON):

S. 2855. A bill to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics; to the Committee on Banking, Housing, and Urban Affairs.

RESCIND THE AGRICULTURAL COMMODITY EXPORT EMBARGO TO THE UNION OF SOVIET SOCIALIST REPUBLICS

● Mr. DOLE. Mr. President, I am today introducing a bill to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics.

On January 4 of this year, President Carter announced that 17 million tons of wheat, corn, and soybeans originally to be sold to the Soviet Union would be embargoed. This action was intended to punish the Soviet Union for its invasion of Afghanistan.

I have opposed such embargoes for many years and immediately announced my opposition to the embargo on the evening of January 4 in Des Moines, Iowa.

Before the embargo was actually imposed, and there were only rumors, I said in Des Moines that the embargo of grain sales to the Soviet Union would be an ineffective tool for the United States in dealing with Russian foreign policy and would be a disastrous move for American farmers.

I said that farmers in Iowa and elsewhere should not have to pay the total price for the lack of leadership and 3 years of drifting foreign policy which was the result of a lack of cohesiveness and credibility of the Carter foreign policy.

I also said farmers will do their part in times of national emergency and that this was not the time to penalize farmers because the Russians do not take President Carter seriously.

After the embargo was imposed, on the evening of January 4, I issued a statement from Des Moines, Iowa, saying the embargo of grain sales to the Soviet

Union will hurt the United States more than it will hurt the Soviet Union.

American farmers will suffer financially as grain prices and production drops, the U.S. balance of payments will suffer and the value of the dollar will continue to decline, and the Soviet Union will replace much of the grain from other countries.

I said at the time, the embargo was one of the worst economic decisions in the history of our country. I thought then, and still do, that the decision was irresponsible.

On Saturday, January 5, I said the fact of the matter is that President Carter took a poke at the Soviet Union and knocked out the American farmer. I called upon the President then, and I still do, to rescind this ill-advised action.

UNPATRIOTIC

At that time Republicans who criticized the embargo as ineffective, unfair, and more damaging to the United States than to the Soviet Union, were criticized as unpatriotic. I and many others believe that the Republicans were right. Many experts agree the U.S. sanctions against Russia have been a flop. They are not working except to the detriment of the American farmer. The punishment that President Carter sought has been further diluted by the noncooperation of America's allies.

EMBARGO FALLING APART

The embargo action is falling apart. There are too many holes in the system. Many believe the embargo is now very counterproductive. We have put our farmers and exporters in a straight jacket, while all the others run around free to sell.

I do not believe we should let the damage from this action get worse. The time to end the embargo is now. It should be recognized for the failure it has been.

U.S.S.R. REACTION

Since the embargo, to meet feed and food needs, the U.S.S.R. has:

First. Drawn on its own reserve stocks.

Second. Succeeded in buying grain and meat on the world markets, often at premium prices. Purchases of grain were shifted from the United States to Argentina, Canada, West Europe, neighbors in East Europe and even China. As a result, international grain prices rose, as the United States price declined. The USDA's April 1980 report shows that there would be about 7 million fewer tons of grain available to the U.S.S.R.—only 3 percent less than Russia had the year before—than there would have been in the absence of the suspension. There are some reports which state that they have found all the grain they want.

In addition, the Russians are buying soybean meal in Europe from U.S. produced soybeans.

Third. Reduced exports to satellites, which in turn purchased grain from the United States.

Fourth. Adjusted livestock feeding.

U.S. IMPLICATIONS

The implications of all this are severe for the United States:

First. The U.S. farmer, the soybean worker at the processing plant, the U.S. transportation industry, and the U.S. economy have been dealt a severe economic blow. The recession has been steepened and the balance of payments worsened.

Second. American grain exporters have been forced to try to find new markets and have been denied access to the world's largest, most important grain importer.

Third. The U.S. taxpayer has had to absorb a greater financial burden totaling around $3 billion.

Fourth. The Russians got most of the grain they needed this year, and no doubt will make sure in the future that they will never again rely on the United States as a dependable supplier. There are reports the Soviets may not buy the 8 mmt we have offered them under the fifth year of the grain agreements.

Fifth. Various governments around the world will question our ability to honor our commitments, and this will increase their determination to be more self-sufficient in food.

Sixth. Other countries will expand production and find a ready market. This will have long-run effects to reduce U.S. markets.

Seventh. USDA estimates that the net farm income was down by 37 percent in the second quarter of 1980, compared to the same quarter in 1979. Grain prices have been lowered. There is now support for higher grain support prices and acreage controls.

For the 1980, it is probable that net farm income will be down about 30 percent or more. Prices of corn, wheat, and soybeans are down sharply below the levels they would have attained in the absence of the embargo.

BILL TO END EMBARGO

The bill I am introducing states that any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979 are terminated effective on the date of enactment of this act.

I urge my colleagues to support this bill. The embargo needs to be ended now.

I ask unanimous consent to have printed in the RECORD some articles that have appeared concerning the embargo.

The articles are: First. "U.S. Grain Embargo Against the Soviets Is Facing Growing Opposition in Canada," the Wall Street Journal, June 20, 1980.

Second. "Soviets Circumvent Embargo by Buying U.S. Meal in Europe," the Wall Street Journal, June 2, 1980.

Third. "Argentina Shipping More Grain to U.S.S.R. in Trade Expansion," Milling & Baking News, May 27, 1980.

Fourth. "U.S. Sanctions Against Russia—a Flop," U.S. News & World Report, June 16, 1980.

Fifth. "Soviets Find Grain To Buy: Foil U.S. Embargo for Now," the Sun, May 5, 1980.

Sixth. "Expert Says Russia Getting by Despite U.S. Embargo on Grain," Farmland News, May 15, 1980.

Seventh. "The Soviet Grain Embargo: Another Carter Disaster . . ." first Monday, May 1980.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal,
June 20, 1980]

U.S. GRAIN EMBARGO AGAINST THE SOVIETS IS FACING GROWING OPPOSITION IN CANADA

(By Norman Peagam)

The U.S. grain embargo against the Soviet Union could be jeopardized by mounting opposition from Canadian farmers to their government's support of the embargo.

President Carter is expected to urge Canadian Prime Miinster Pierre Trudeau to maintain current restrictions on Canadian grain exports to the Soviets when the two leaders join other Western heads of state in Venice this weekend for an economic summit.

Since January, when the Carter administration imposed the embargo in response to the Soviet invasion of Afghanistan, Canada and Australia have restricted their grain shipments to the Soviet Union to "normal and traditional" levels. The two big grain exporters refrained from filling the gap created by Washington's decision to withhold 17 million metric tons of grain that had been slated for delivery to Russia by September. In return, they were assured that the U.S. wouldn't unload the excess grain on the world market. A metric ton is 39.4 bushels of corn or 36.7 bushels of wheat or soybeans.

Washington has already asked both Canada and Australia to continue supporting the embargo. The Canadian government's position isn't yet known and Australian officials have indicated they are likely to do what Canada does.

But, the Canadian government agency that handles the country's grain exports has joined the Western farmers in lobbying against continued trade restrictions. "We should terminate our support for the embargo by the end of July" when Canada's new crop year begins, says Ted Turner, president of the Saskatchewan Wheat Pool, the largest farmers' cooperative in Canada.

Mr. Turner and other critics of the embargo say that, apart from depressing prices and disrupting the world market, it just isn't working. The U.S. is exporting record quantities of corn and near-record amounts of wheat this year and it is widely believed that some of it is ending up in the Soviet Union despite the boycott. "I just don't think the U.S. can control the movement of grain once it leaves North American shores," Mr. Turner says.

"What really upsets me is the fact that U.S. grain exports to Eastern Europe are at record levels," Mr. Turner complains. U.S. officials insist that Eastern Europe genuinely needs the grain, though they concede there may be some "leakage" to the Soviets. But Canadian critics contend that even if the grain is being consumed in Eastern Europe, it is merely replacing Soviet exports and thus making a mockery of the embargo.

"(Canadian farmers) are being suckered if in fact U.S. grain is finding its way into the U.S.S.R.," Mr. Turner says.

Canadian farmers are also peeved at Australia which, by coincidence, agreed to supply the Soviets with a record amount of grain before the embargo was announced.

But the main villain, in their view, is Argentina, which refused to go along with the embargo. As a result, it is currently supplying the Soviets with large amounts of grain, sometimes reportedly at a premium of as much as $50 a metric ton above the world price. "(The Soviets) have bought up nearly everything Argentina can export," says Bill Demaria, an economist with the International Wheat Council in London.

U.S. officials estimate that the Soviet Union produced between 190 million and 220 million tons of grain during the crop year ending June 30, 1980, far below their needs. To make up the shortage, State Department officials say, the Soviets took about seven million tons from their stockpile and imported a further 30 million tons. The main suppliers were: the U.S. (15.3 million tons, mostly shipped before the embargo), Argentina (5.5 million tons), Australia (3.9 million tons), and Canada (3.8 million tons).

With the International Wheat Council forecasting a record world wheat crop of about 450 million tons in the 1980–81 season, up from 424 million tons in the current year, and Soviet demand for grain increasing yearly, apart from the embargo, it seems certain that major exporting countries like Canada will be anxious to sell their production, and political considerations may take a back seat.

"Everybody is probably engaged in rethinking (the embargo) right now," says an official at Canada's Department of External Affairs.

But, in the U.S., a white House spokesman says President Carter has "absolutely no intention of lifting the embargo. There's no question of returning to business as usual" with the Soviets.

[From the Wall Street Journal June 2, 1980]

Soviets Circumvent Embargo by Buying U.S. Meal in Europe

Chicago.—The Soviet Union has found another way to get around the U.S. suspension of grain exports to that country.

The Soviets have agreed to purchase by this fall as many as one million metric tons of soybean meal from European processors that have made the meal from U.S.-grown soybeans, according to the American Soybean Association, a St. Louis growers' group. About 400,000 metric tons of the high-protein animal feed already have been shipped to the Soviets, said a trade source, who confirmed the transactions. A metric ton equals 2,204.6 pounds.

In Washington, a Commerce Department spokesman said the European meal sales to the Russians violated Export Administration Act regulations imposed after President Carter suspended U.S.-Soviet grain trade Jan. 4. Any re-export to the Soviets of U.S.-produced products requires a U.S. license, which would have been denied, the spokesman said.

The American grain trade suspension enhanced the appeal of soybean meal to the Soviets, contends Richard Bell, executive vice president of Riceland Foods Inc., a farm marketing cooperative, and a former government grain trade negotiator. Soybean meal is a protein-rich extender for other feeds such as corn, which has been in short supply in the U.S.S.R. since the cutoff by the U.S., the world's principal corn exporter, Mr. Bell says.

The Soviets also have bought Argentine grain and sorghum and a small amount of Thai manioc, a root used in making tapioca, to stretch their feed supplies, the trade source said.

The U.S. feed cutoff apparently has had some effect on Soviet livestock herds, the Agriculture Department says. Although Soviet meat production during the first four months of 1980 rose 3% from the year before, the rate of herd growth for cattle and poultry fell. The number of hogs, sheep and goats on feed also dropped during the same period.

The Agriculture Department has raised its estimate of Soviet grain imports for the year ending in June to about 30 million metric tons, down about five million tons from estimates made before the trade suspension. Recent brisk Soviet demand for soybean meal has caused trade sources to raise their private estimates of U.S. soybean exports this year about 4% to 860 million bushels from the official government estimate of 825 million bushels, Mr. Bell said.

[From the Milling and Baking News, May 27, 1980]

Argentina Shipping More Grain to U.S.S.R. in Trade Expansion

Buenos Aires, May 26.—Argentina expects to ship some 5 million tonnes of grain to the Soviet Union this year, according to the Argentine National Grain Board, which noted that the U.S.S.R. purchased slightly more than half of the country's grain exports in the first quarter of 1980.

Camilo Aldao, Argentine Agriculture Secretary, said U.S.S.R. purchases in the quarter totaled 1,950,000 tonnes. Argentina, he said, shipped a total of 3,860,000 tonnes in the period, with Brazil taking 820,000 tonnes and China buying 449,000 tonnes.

Mr. Alado said that "despite the U.S. call for a grain boycott, it has been the Argentine position not to interfere in transactions handled by the private grain trade."

He noted that the Soviet grain purchases are part of a stepped-up flow of trade between the two nations. Value of that trade in 1979, he said, was about $400 million, with Argentine exports according for $370 million of the total. In contrast, Mr. Aldao said, Argentina had a negative balance of trade with the U.S. last year of some $1.3 billion.

The Soviets already have become Argentina's largest meat importer, with purchases of 24,000 tonnes in the first three months of 1980, compared with 29,000 tonnes purchased by the U.S.S.R. from Argentina in the first 11 months of 1979.

The two nations recently agreed to begin joint research on Argentina's fisheries resources, which, Argentina believes, could lead to Argentine-Soviet fishing enterprises producing for the U.S.S.R. market.

[From U.S. News & World Report, June 16, 1980]

U.S. Sanctions Against Russia—A Flop

(By Jeff Trumble)

President Carter's campaign to punish the Soviet Union for its invasion of Afghanistan so far is hurting Americans more than Russians.

The punishment that Carter sought has been diluted by the noncooperation of America's allies. Moreover, the President's campaign has had no apparent effect in its basic objective—inducing the Russians to withdraw troops from Afghanistan.

These conclusions emerge from a study of the impact of sanctions imposed by Washington five months ago.

Restrictions on trade have caused little more than inconvenience for the Russians, but have resulted in substantial losses to American farmers and to some industrial firms.

More difficult to assess are the effects of sanctions on cultural and scientific exchanges.

Debatable, too, is the impact of Carter's drive to mobilize an international boycott of the Moscow Olympic Games. Some observers write it off as a failure since most of America's allies intended to participate. Others maintain that enough nations are staying away to make a travesty of the games.

BEHIND THE STAND

Why is the United States persisting with its crackdown if Americans are suffering more than Russians? Administration officials maintain that sanctions, though falling short of expectations, are achieving significant results.

This explanation from a Commerce Department executive: "No one ever pretended that sanctions would bring the Soviet Union to its knees. What we are trying to do is to make a point—that the United States disapproves of the invasion and won't resume normal relations with Russia until the situation in Afghanistan changes."

Many U.S. businessmen, farmers, scientists and educators disagree. Businessmen and farmers, for instance, point to the practical effects of the economic sanctions, which have killed hopes of making 1980 a record-breaking year in exports to the Soviet Union.

The expectation was that sales to Russia would go up by more than 1 billion dollars, to 4.8 billion this year. Grain deliveries of 25 million metric tons were supposed to account for more than two thirds of total exports.

Now, estimates of 1980 sales to the Soviets have been scaled down to 1.5 billion dollars as a result of the embargo on 17 million metric tons of grain deliveries and strict control over sales of industrial products.

To cushion the loss for American farmers, the federal government plans to spend between 2.5 and 3 billion dollars to buy part of their unsold grain surpluses. The government also is attempting to find alternative foreign markets. Even if these measures succeed, farmers complain they are being penalized by a drop in grain prices.

For the Russians, the grain embargo so far seems to have done little more than disrupt purchase plans. Canada and Australia have agreed to limit sales to Moscow to normal levels, avoiding increased deliveries to compensate for shipments denied by the U.S. However, several other countries—most notably, Brazil and Argentina—are expanding sales to Russia to provide an additional 6 million metric tons.

As for Carter's stringent restrictions on the export of high-technology industrial equipment: American companies say that the result will be about a 50 percent drop in total nonagricultural deliveries to Russia this year, to about 400 million dollars.

They expect to lose two thirds of the 150 million dollars in previous orders for high-technology products. Seven hundred export licenses or applications were suspended by the Commerce Department in January, and are being reviewed now on a case-by-case basis.

NEW PARTNERS

The Soviets have minimized the adverse effects of the U.S. ban by developing substitute suppliers in Western Europe and Japan. Example: The French corporation Creusot-Loire is expected to bid on a contract for a 350-million-dollar steel mill south of Moscow that America's Armco felt obliged to abandon.

Allied governments in Western Europe and Japan not only are unwilling to match U.S. limits on exports, but also are spurning Carter's call to cut government-guaranteed credits to Russia.

West Germany, in fact, moved at the end of May to reinforce its trade with Moscow by concluding an agreement involving an exchange of industrial goods for Soviet oil and natural gas.

Thus, the restrictions on high-technology exports appear, like the grain embargo, to have caused less distress among Russian industrial managers than among their U.S. counterparts.

Outside of economic relations, Soviet-U.S. cooperation is in a deep freeze.

The second strategic-arms-limitation treaty, signed last June by Carter and Soviet President Leonid Brezhnev, has been shelved in the Senate at the request of the administration. But the White House is urging Moscow to join in honoring the terms of the unratified accord.

In abeyance are negotiations between the two countries dealing with a proposed ban on weapons to attack space satellites, limits on conventional-arms sales and restrictions on superpower naval strength in the Indian Ocean.

SCIENTIFIC EXCHANGES

The State Department is attempting to maintain the framework for cooperation in science and technology. But, in view of budget cuts and cancellation of many joint meetings, department officials are pessimistic about future prospects. As one put it: "You can keep a pipeline open only so long with nothing going through it before it breaks down."

Overall, scientific exchanges dropped by 80 percent since January.

Most cultural exchanges have been suspended since the expiration of an agreement in 1979. One conspicuous cancellation: A tour of the U.S. by an exhibit of art from the Hermitage in Leningrad.

Student exchanges, however, are continuing. Each government sends 50 students a year to the other country to study science and the humanities.

SPORTS CONTROVERSY

The sanction that is having the most dramatic impact is Carter's call for an international boycott of the Moscow Olympics. Of the 10,500 Americans who had booked tours to the games, 7,500 have canceled since the U.S. team withdrew.

With the U.S. and at least 50 other nations refusing to participate, says the influential London journal the *Economist:* "The sports contests that are to start on July 19 in Moscow and other Soviet cities will be called, but will not be, Olympics."

Question: How has all this affected the Kremlin's policy in Afghanistan?

Diplomatic observers say that there has been little, if any, discernible effect so far. The Soviets, they point out, show no sign of withdrawing or even reducing their forces in Afghanistan.

Nevertheless, administration officials argue that sanctions should be continued until the Afghanistan situation improves—whatever the cost to the U.S.

"If we removed the sanctions now," says a State Department official, "it would be interpreted as a sign that we are willing to let business with the Soviets return to normal. That isn't the case."

[From the Sun, May 5, 1980]

Soviets Find Grain To Buy; Foil U.S. Embargo for Now

(By Anthony Barbieri, Jr.)

Moscow.—A worldwide search for grain by Soviet traders seems to have succeeded, for the short term, in blunting the major effects of the American grain embargo.

But that is only a small part of the battle. The rest is up to the Soviet farmer, who this summer is facing a critically important harvest that will be the real test of how well the Soviet Union can manage without large imports of American grain.

Last year's harvest of 179 million tons was dismal, largely because the Soviets got precisely the wrong weather at precisely the wrong time. An unusually mild winter this year probably will prevent a repetition of that bad harvest, and at this point experts are predicting a relatively strong harvest of 220 million to 225 million tons.

Much, however, still can go wrong to upset that prediction—a bad seeding season, early summer drought, too much rain during the crucial harvesting weeks.

"The biggest factor is how this year's crop will look," a Western agricultural expert said when asked to evaluate the effects of the American grain embargo.

"If they get a crop of 220 million to 225 million tons, they'll get along. They'll still be hurting, but they would have been hurting without it [the embargo]. But if they have another bad harvest this year, they are really going to be in trouble."

The Carter administration already has announced that it will maintain the reduced level of grain sales to the Soviet Union next year. Under a Soviet-American grain agreement still in force, the Soviets will be able to count on only 8 million tons of American grain.

The Soviets had hoped to import about 34 million tons of grain this year—25 million tons from the United States and the rest from other sources. Western analysts now say the total Soviet need for imported grain may be closer to 37 million tons, and that the Soviets could fall some 6 million tons short of desired levels despite the often frantic efforts to find other sources.

The Russians say they have made up all but a small portion of the 17 million tons embargoed by President Carter and that, in any case, there will be no shortage of bread, the staple of the Russian diet.

Shortly after the embargo was announced last January, there was some "panic" buying of flour, but that subsided. Now flour-supply problems have returned to normal—a shortage of containers.

There also are reports in Moscow that managers of bread stores have been told they cannot count on additional supplies toward the end of the working day. But it is said that this is a result of a shortage of bread trucks and not of bread.

It is meat, not bread, that is the measure of both the effectiveness of Soviet agriculture and the punishing power of an American grain embargo. The Soviets are expected to fall short of their goal of increasing meat production by 2.5 percent a year through 1985, mainly because of their continuing inability to manage agriculture but at least partly because of the disruption—if not the shortages—caused by the Carter embargo.

Since the early 1970s, the Soviet Union has been dependent on imported grain to maintain its cattle herd, its hogs and its poultry.

Lean years like 1975, when there was a crop failure, have hit the herds hard and resulted in "distress slaughtering" caused by a lack of feed grain. It is only recently that Soviet herds—and therefore the growth potential in meat and dairy production—have begun to recover from the 1975 slaughtering.

Another bad harvest this year, following last year's poor crop, could be a disaster because the American embargo has now removed the safety cushion of U.S. grain.

This puts even more pressure on Soviet agriculture, the segment of the economy least able to bear it.

The Soviet Communist Party already has ordered a sharp increase in the production of fodder for animal feed and has complained that far too much grain is being used for this purpose.

It called for the irrigation and cultivation of another 2.4 million acres of land for fodder production, increased irrigation of existing fields and the creation of reserve stocks of fodder.

To show that it meant business, the party coupled its usual plea for greater ideological motivation with the prospect of more tangible rewards—cars, motorcycles, vacations—for those who produce.

"They are in a tight situation right now," a Western expert said. "This year's harvest is crucial."

It takes ideal conditions—the right weather, reliable machinery and labor, good transport—for the Soviet Union to attain a bumper crop harvest of 235 million to 240 million tons. These conditions are not likely to materialize this year.

At late spring in some parts of the country has delayed planting and therefore cut down on the already short growing season. In other parts of European Russia, a lack of heavy snow cover has damaged winter wheat crops, though this damage was far smaller than that sustained last year.

In all, though the weather has been much kinder to Soviet farmers this year. Last year, cold weather killed some 20 percent of the winter wheat; early spring floods made seeding the fields difficult; a hot, dry spring stunted the growth of the crops that survived the floods, and rain during the late summer made the harvest difficult.

This year, a harvest of some 220 million to 225 million tons is needed to support the herds and avoid another buying binge of the international grain market. Even at that, the promise of the Soviet leadership to put more meat in the stores probably is several years from becoming a reality.

Soviet success in getting around the grain embargo by finding other sources has not made itself evident in the marketplace. Many Soviet shoppers believe firmly that, notwithstanding statistics to the contrary, the supply of meat and dairy products in state stores has gotten steadily worse during the last 10 years, regardless of the size of the domestic harvest or the amount of grain available abroad.

Much of the fresh meat sold in state-run shops would be called meat only in the Soviet Union. It is fatty, poorly cut, with an appalling percentage of bone and cartilage. Still, even this meat is scarce, and Russians line up for hours to buy it.

In the uncontrolled peasant markets, meat is tasty, well butchered and readily available, but two or three times more expensive than in the state's stores.

Shoppers stocking up for the long May Day holiday weekend found chicken selling for about $8 a pound. Lamb was $10 a pound and beef about $6 a pound. These prices are relatively low. An increase in the slaughtering of hogs, calves and chickens during the first two months of 1980 has increased meat supplies somewhat in state stores and driven down the prices in the peasant markets.

Dairy products also have been in shorter supply. Around Easter, many shops ran out of eggs. Since then there have been persistent shortages of milk, cottage cheese and sour cream late in the shopping day.

How much of this is the result of the grain embargo and how much is the result of age-old inefficiency in this country's farms and shops is impossible to tell.

The government press dealt with such shortages by informing consumers that no shortages existed—only problems of distribution. The Kremlin has only grudgingly acknowledged that it ever made large-scale grain purchases from the United States, and then it always took pains to point out that the Soviet Union was an exporter of grain, too.

One day the press publishes urgent appeals to increase grain production and make this year's important harvest a good one; the next day it scoffs at the Carter embargo and boasts that the Soviet Union is immune to such threats.

"The cynical calculations about a deterioration of the food situation in the Soviet Union as a result of the refusal to sell grain to the U.S.S.R. are based on absurd notions of our economic potential," the Communist Party daily *Pravda* said not long ago.

The Kremlin contends it is the American farmer, not the Soviet consumer, who is being hurt by the embargo.

"The White House behaves as if it were giving us corn as a gift, because of our blue eyes," the newspaper *Sovietskaya Rossiya* wrote. "It ought not to deceive itself. We buy what we consider necessary when we find it necessary. . . . No corn sold, no money to the American farmer for selling it."

Carter administration officials initially predicted that Soviet meat production would decline this year between 10 percent and 20 percent because of the grain embargo. That prediction seems high, especially in view of the success the Soviets have had in buying grain from other sources.

On the other hand, there is no doubt the grain embargo has caused hardship. The necessity to find new suppliers in places like Argentina, where the Russians have not done a lot of business, has caused delays of up to two months in some deliveries, forcing the Soviets to draw on their grain reserves.

"Getting grain from the United States was easy," an agricultural analyst said. "The quality was high. The good ports were there. The shipping capacity was there."

Costs also have gone up. The Russians have been willing to pay premium prices for grain from their new sources—sometimes from $5 to $20 a ton higher than the world market price.

"We definitely do not see any distress slaughtering, but it [the grain embargo] will bite," a Western analyst said. "The effect of this whole operation will probably make it impossible for the Soviets to meet the meat production targets that Brezhnev promised.

"Those seem out of the question now."

[From the Farmland News, May 15, 1980]

Expert Says Russia Getting by Despite U.S. Embargo on Grain

(By Frank A. Bartonek)

The embargo on the shipments of U.S. grain to Russia have created very minimal problems for the Soviet Union, says Dr. Roy Laird, University of Kansas professor of political science. He has studied Soviet agriculture some 25 years in forecasting probable Russian harvests.

He said the crucial indicator will be the harvest of the 1980 crop year. It has not been a very severe winter for Russia, although a late spring delayed getting into the fields. These conditions could affect the Russian grain crops unless rains are timely and adequate, he added.

An earlier report by Dr. Laird on the Soviet's grain outlook was published in the Jan. 31 *Farmland News*.

Dr. Laird explained that as the embargo was announced, Russia was able to get considerable supplies of feed grains from Argentina which had a sizable surplus. When harvests were generous, the Soviets built up reserves, which they can now utilize if necessary.

Dr. Laird also pointed out that Russia buys primarily feed grains from the U.S. for their livestock. The embargo pinch will be reflected more in the amount of meat available rather than in grain products.

Although there has been some distress slaughtering of livestock, Dr. Laird said, "It has been minimal and nowhere what it was in 1963."

He added that the embargo did not affect the U.S. exports to Russia included in the 5-year contract that is still in effect. That contract calls for six to eight million tons of grain annually.

President Carter's embargo has cut off the purchases of feed grains above the original contract, Laird said. "It doesn't really have much effect on Russia," he repeated.

"In fact, it's like shooting an arrow at the Soviets, but hitting the American farmer in the pocketbook instead," Laird observed.

However, a USDA report in late April said the embargo against exports to the Soviets is beginning to be felt there. "The net effect of the U.S. action is that the Soviets will import a third less grain than they had expected to import for the first half of 1980," according to Howard Hjort, USDA director of economics. The Soviets have begun to draw on reserves to offset the harvest shortfall. A new record drawdown will be necessary until supplies from their 1980 grain harvest become available in July.

The USDA report indicates that the embargo will leave the Soviets seven million tons short of the 37.5 million tons of grains they had expected to import from all sources between July 1979, and June 1980.

An unsuccessful 1980 winter grain harvest would cause sharp reduction in Soviet livestock inventories and in Soviet meat production for 1980. A harvest close to 1978's record, on the other hand, would relieve much of the pressure on Soviet feed supplies.

The Soviet Grain Embargo: Another Carter Disaster . . .

(By Roger Clegg)

On January 4 of this year, President Carter announced that 17 million tons of wheat, corn, and soybeans originally to be sold to the Soviet Union would be embargoed. This action was intended to punish the Soviet Union for its invasion of Afghanistan. Many argued then that the real problem lay in the Carter Administration's mishandling of foreign policy and defense—and that the embargo was an inadequate and ineffective response. But when Republicans criticized the embargo as ineffective, unfair, and more damaging to the United States than to the Soviet Union, they were criticized as unpatriotic farm-vote mongers. It is becoming apparent, however, that the Republicans were right.

THE EMBARGO DIDN'T WORK

For any embargo to work, it is essential that the targeted nation be unable to buy its grain elsewhere. It is difficult to secure such cooperation from other grain exporting nations. As Time magazine pointed out soon after the embargo, "Economic sanctions have rarely been successful. There are too many middlemen for supplies to be effectively shut off—they can simply be rerouted through friendly countries" Nevertheless, the Administration assured Americans that this time it would be different, that Jimmy Carter had provided for a concerted embargo on grain to the Soviet Union.

Recent reports belie this. Although Administration officials initially announced that Argentina and Brazil would cooperate, these countries later said that they would not. Argentina's officials stated that they were unhappy with Carter's repeated criticism of its human rights record, and with his failure to consult with them ahead of time about the embargo. Argentina's refusal is a classic illustration of how President Carter has mismanaged American foreign policy.

Without the cooperation of key grain exporting countries, the inevitable happened. The Department of Agriculture increased its initial estimate of three million tons of grain "leakage" to the Soviet Union to five million tons, and then to "from five to nine million tons." The Reuters News Service quoted a State Department source as saying that the Administration had "realized too late Argentina's importance in the world market." Though the Department of Agriculture initially assumed that Argentina would not be in a position to supply much of the Soviet demand, one Western ambassador says it now appears that virtually all of Argentina's twelve million tons could find its way to Russia. Similar miscalculations occurred for other countries, notably Canada.

Ultimately, United Nations spokesman Edouard Saouma stated flatly that the embargo would have "no effect" on the Soviet Union. Off the record, a Department of Agriculture expert has admitted that the effect will be "not much." Other Administration officials have also beaten a hasty retreat, but still argue that the Russians may have to pay more for the grain they get. Yet according to the Baltimore Sun, "farm analysts outside the government . . . believe, almost uniformly, that the Soviet Union will get other help and hardly feel the impact of the blockade . . . These analysts assert that the American farm industry will suffer most from the government's limits on agricultural trade."

THE EMBARGO HAS HURT AMERICA SEVERELY

When Department of Agriculture economist Howard J. Hjort was asked how much the embargo would cost, he pointedly refused to comment. But the American Agricultural Movement and the American Farm Bureau Federation have each estimated the loss to the American farmer at around $3 billion. This does not include the long-term damage which embargoes do to American trade: following an embargo, trading partners will of course look askance at dealing with the United States. Allan Grant, President of the American Farm Bureau Federation, declared, "Mr. Carter took aim at the Russians with a double-barreled shotgun, pulled the trigger and hit the U.S. farmer."

Furthermore, it appears now that the Administration has broken not only its promise not to embargo in the first place, but even its later promise that the farmers would not have to bear the brunt of the embargo. According to a recent UPI wire: "When President Carter embargoed 13 million tons of corn and four million tons of wheat bound for the Soviet Union in retaliation for the invasion of Afghanistan, he promised that the grain would be removed from the market. The Administration has been slow in keeping its word. Action still has not been completed on corn more than three months after the embargo." Action on other grains has been slow, too. Corn, wheat, and soybean prices all dropped to low levels and stayed there.

In the meantime, many farmers have already gone under. The combination of the embargo, declining farm prices and increasing production costs, soaring inflation, and tightening credit has been too much. Yet

Secretary of Agriculture Bob Bergland has announced that there will be no wheat or corn crop diversion this year, and the Administration has lobbied strongly against a Senate bill providing for such a measure. Republicans, on the other hand, have supported this and other actions designed to give the American farmer more relief than Jimmy Carter apparently feels they deserve.

Finally, it should be pointed out that America is really in a heads-you-win, tails-I-lose situation thanks to President Carter. To the extent that the Administration finally does help farmers—and it should, must see to it that no one group pays a disproportionate share of the embargo's cost—the American taxpayer necessarily suffers. The money, unfortunately, must come from somewhere to pay for Carter's latest bungling. Moreover, the government spending necessary to help the farmer will increase inflation, and the government borrowing to finance it will keep interest rates high for everyone.

THE EMBARGO SMACKED OF INCOMPETENCE

Even the implementation of the embargo smacked of the Carter Administration's characteristic bungling and incompetence. Consider:

(1) In failing to secure the cooperation of the other grain exporting nations in the embargo, President Carter has shown again that he lacks the diplomatic finesse and foresight to lead a great nation.

(2) The embargo was not consistent even on its own terms. Though President Carter embargoed 17 million tons of American grain, he allowed millions more to be delivered into Soviet hands.

(3) The Administration only belatedly realized that it was pointless to embargo grain without also embargoing the fertilizers used to enhance grain production. Again, the Administration failed to show even elementary foresight. Moreover, the phosphate embargo ultimately was implemented with the same haphazard incompetence as the grain embargo.

(4) After years of foot-dragging on gasohol development, the Administration suddenly announced that five million tons of embargoed corn would be used to produce 500 million gallons of ethanol (which is mixed with gasoline to make gasohol). Yet after three years of delay, this country is now completely unprepared to meet such an unrealistic goal. The present annual distilling capacity is only 80 million gallons. According to Senator Larry Pressler (R-S.D.), the Department of Energy did not even have plans for interested farmers on how to make gasohol.

(5) Finally, there is strong evidence that, in embargoing grain headed for Russia without embargoing grain to Eastern Europe, the Administration was guilty of another elementary oversight. It should have foreseen the problem of leakage from Eastern Europe to the Soviet Union. The facts are these: production of corn (the key crop in the embargo, since the Russians produce more wheat than they consume) in Eastern Europe last year actually increased by 5.4 percent, yet it is importing nearly three times as much corn from the United States—over a million metric tons more. Does it occur to Jimmy Carter that perhaps some of this corn might find its way to Russian livestock? Or is that too complicated and far-fetched for him?

JIMMY CARTER'S BROKEN PROMISES

Jimmy Carter promised repeatedly that he would not embargo grain (he did). He then said that he had received assurances that all other principal grain exporting nations would cooperate (he hadn't and they didn't), and that the adverse impact on the American farmer would be minimized (it wasn't).

Of all the paradoxes posed by Jimmy Carter, the most puzzling and inexplicable is that he continues to be perceived as a man who can be trusted.•

• Mr. McGOVERN. Mr. President, I am pleased to join as a cosponsor of this highly desirable and innovative effort.

The grain embargo of 1980, as I have said on many occasions, places an unfair burden on the Nation's farmers. Agricultural exports account for over 75 percent of our trade with the U.S.S.R. Farmers account for less than 4 percent of the Nation's population. Therefore, 4 percent of the people are asked to bear the burden of 75 percent of the trade response as a result of the invasion of Afghanistan. No one deplores this act of international banditry on the part of the Soviets more than I. On the other hand, I think it only basic equity that the economic burden of this response should be borne evenly—not by that small band of farmers who are already in a severe cost/price squeeze and who are called upon to feed a nation of well over 200 million and still provide 38 billion dollars of our agricultural trade. Oftentimes this superhuman task is performed under conditions where the price of the product is below the basic costs of production.

Despite well intentioned commitments from the administration that farmers would not suffer because of the suspension in trade of over 17 milion tons of wheat and feed grains, prices received by farmers are still at points well below the levels of January 4, 1980, when the embargo was implemented. Though grain traders have not suffered, farmers obviously have.

History treats agricultural embargoes poorly. Four times in the last decade one administration or another has suspended trade on exportable agricultural commodities. In each instance, farmers have suffered from a long and protracted period of lower prices. When 1 acre in 3 of harvested corps in the United States ends up in international trade, it should be obvious that any meaningful trade suspension would have a corresponding and deleterious effect on farm prices.

I agree that the legislation introduced today is drawn on a tenuous constitutional basis. I do want to point out, however, that the President in imposing the embargo cited the authority given to him by Congress under the Export Administration Act. He cited in particular those sections of the act which give him this authority on matters of foreign policy as well as for reasons of national security. With that in mind, it would seem that Congress is the body which should determine if foreign policy objectives have been furthered or if the Nation has become more secure as a result of the actions taken by the Chief Executive. I have an open mind on these questions but in my view, they are questions that should be asked and evaluations that should be made by the Congress. I thus view the legislation at hand as an opportunity for Congress to perform these functions.

Congress is the body that gave the Chief Executive the authority to perform designated acts under designated circumstances. Is it not reasonable for that body from which power flows to act responsibly in determining if the acts have in fact had the desired result? Should it prove that the Soviet embargo has been ineffective in delivering the desired economic blow to the enemy, why should the agricultural community be required to bear the enormity of prolonged and depressed prices? If the blow we are attempting to strike is less than the blow we are called upon to absorb, it seems to me that this is a senseless effort. It is in this spirit that I think that the dialog should proceed. •

By Mr. JAVITS:

S. 2856. A bill relating to the terms of office of certain members of Boards of Visitors to service academies, and for other purposes; to the Committee on Armed Services.

• Mr. JAVITS. Mr. President, I introduce today a bill relating to the Board of Visitors for each of the Military, Naval, and Air Force Academies.

These Boards consist of members of the Senate and House and six persons designated by the President. I am currently one of the Senate representatives to the Board of Visitors of West Point.

The Boards have important responsibilities to inquire in each case into the morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the academy that the Board decides to consider. Each Board must hold at least one annual visit and such additional visits as are deemed appropriate. Each Board must report annually to the President on its actions, views, and recommendations.

In recent years, the Boards of Visitors have made increasingly important contributions to the academies and have considered an increasingly broad range of subjects, as reflected in the annual reports of such Boards to the President. Boards and individual members of such Boards have paid several visits to their respective academy during each year and have made increasingly important contributions to the administration of the academies and to the evaluation of the academies by the respective service Secretaries, the Secretary of Defense, and the President. Many of these functions are carried out by the six Presidential appointees who are able to devote greater time to this activity than the Members of Congress with whom they serve.

Under existing law, the terms of the members expire at the end of the third calendar year for which the Presidential members are designated. Unless new members have been designated prior to that time, two vacancies immediately arise until new designations are made; during that period of time, only four Presidential appointees are in office since the statute contains no provision for continued service prior to the qualification of a successor.

In recent years, competing demands

for the attention of the President and his staff have resulted in appointments to the Board invariably being made after the commencement of the calendar year—in some cases several months after such commencement.

The result—and the problem addressed by the bill—is that, on a continuing basis, there is a time early during each calendar year when only four Presidential designees are available to the academies. This is the very time when academy activities are at their most active—the middle of the academic year.

My bill provides for the continuation in office of Presidential designees until the appointment and qualification of successors. Such provisions are in conformity with existing law applicable to many other presidentially appointed bodies including the principal independent agencies of Government. For example, under section 154 of title 47 of the United States Code, members of the Federal Communications Commission are appointed for terms of 7 years "and until their successors are appointed and have qualified," subject to a maximum holdover term ending at the expiration of the next session of Congress. Under section 41 of title 15 of the United States Code, members of the Federal Trade Commission are appointed for a term of 7 years with the proviso "that upon the expiration of his term of office, a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified."

Under section 11 of title 49 of the United States Code, Interstate Commerce Commission members are appointed for 7 years with the provision that "upon the expiration of his term of office, a commissioner shall continue to serve until his successor is appointed and shall have qualified." Under section 78d of title 15 of the United States Code, members of the Securities and Exchange Commission are appointed for 5 years "and until his successor is appointed and has qualified," with the same restriction relating to the next session of Congress which applies to the FCC. Only with respect to the National Labor Relations Board does the law (section 153 of title 29 of the United States Code) provide for a fixed term of 5 years without a provision for continued service.

No provision is made in the proposed law with respect to Boards of Visitors to the U.S. Coast Guard Academy and to the U.S. Merchant Marine Academy since the structure of those Boards differs from those covered by the proposed legislation. In both cases, the law provides for an annual Board of Visitors consisting only of members of the Senate and House of Representatives having legislative jurisdiction over such academy and for an additional advisory board consisting of not more than seven persons appointed by the respective Secretary for 3 years. Thus, the provisions relating to these academies do not parallel those applicable to the military service academies.●

By Mr. PACKWOOD:

S. 2857. A bill to amend the Social Security Act to provide for interfund borrowing between old-age survivors, disability, and hospital insurance trust funds; to the Committee on Finance.

● Mr. PACKWOOD. Mr. President, today I am introducing a legislative change to the social security trust fund which was recommended yesterday by the Board of Trustees of the Federal old-age and survivors insurance (OASI) and disability insurance trust funds, and earlier this year by the administration. This proposal will permit interfund borrowing between the old-age and survivors insurance, disability insurance and health insurance trust funds. Currently, interfund borrowing among these three social security trust funds is not permitted.

The purpose of the bill is to help assure that the social security system can continue to pay full benefits to recipients beyond 1981 or 1982. The 1980 annual report just issued by the Trustees estimates that the old-age and survivors insurance trust fund will be unable to fully pay promised benefits by 1981 or 1982 unless the changes proposed in this bill are adopted.

In 1977, the Congress enacted important financing changes for social security, including a massive tax increase. Estimates provided to Congress at that time were that these changes would provide adequate financing through the year 2000. However, the estimates failed to anticipate the unprecedented inflation and recession that has plagued the economy since then. The poor economy has undercut these 1977 assumptions, necessitating further corrective legislation, such as I am introducing today.

If this bill is adopted, barring a continued deep recession, the three trust funds will be able to provide promised benefits through at least 1990. However, we should not delude ourselves into thinking this is a cure-all. If the recession and inflation continue, further corrective steps will be required by the mid-1980's. Thus, the best long-term answer we have to this problem is to balance the budget, reduce inflation, and get the economy back in order.

In the meantime, every responsible government official shares an unwavering commitment to keeping the trust fund fully solvent. I certainly do. Our millions of elderly and disabled citizens deserve it and must be able to count on it.

I should point out that in addition to the interfund borrowing recommendation, the OASI trustees also recommended a reallocation of taxes from the disability insurance trust fund to the old-age and survivors trust fund. This change was approved earlier this week by the Senate Finance Committee for inclusion in reconciliation legislation to be considered by the Senate pursuant to the first concurrent budget resolution for fiscal year 1981. I hope the Senate will continue swift action on this second proposal because it is not fair to social security recipients for us to approve only half the needed changes. Half a loaf is not enough.

I look forward to prompt, careful consideration of my own proposal as an important step to carrying out our commitment to those who have contributed and earned the right to depend on the social security system.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INTERFUND BORROWING BETWEEN OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE, DISABILITY INSURANCE, AND HOSPITAL INSURANCE TRUST FUNDS

SECTION 1. (a) Section 201 of the Social Security Act is amended by adding at the end the following new subsection:

"(j)(1) If in any month the assets of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund are less than 25 per centum of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Board of Trustees may, prior to fiscal year 1986, direct the Managing Trustee to borrow from the other Trust Fund, or from the Federal Hospital Insurance Trust Fund established under section 1817, for deposit in the deficient Trust Fund, an amount not to exceed the difference between the assets of the deficient Trust Fund and 25 per centum of the amount so disbursed.

"(2) There shall be transferred from time to time, from the deficient Trust Fund to the lending Trust Fund, interest, with respect to the loan, at a rate equal to that which the lending Trust Fund would earn if the loan were an investment under subsection (d).

"(3) If the assets of the deficient Trust Fund in any month equal or exceed 30 per centum of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the lending Trust Fund, except so much as shall be required to maintain the assets of the deficient Trust Fund at 30 per centum of the amount so disbursed, until the loan under this subsection is repaid.

"(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (except as interest) under this subsection.".

(b) Section 1817 of that Act is amended by adding at the end the following new subsection:

"(d)(1) If in any month the assets of the Federal Hospital Insurance Trust Fund are less than 25 per centum of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Board of Trustees may, prior to fiscal year 1986, direct the Managing Trustee to borrow from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, established under section 201, for deposit in the Federal Hospital Insurance Trust Fund, an amount not to exceed the difference between the assets of the Federal Hospital Insurance Trust Fund and 25 per centum of the amount so disbursed.

"(2) There shall be transferred from time to time from the Federal Hospital Insurance Trust Fund to the lending Trust Funds, interest, with respect to the loan, at a rate equal to that which the lending Trust Fund would earn if the loan were an investment under subsection (c).

"(3) If the assets of the Federal Hospital Insurance Trust Fund in any month equal or exceed 30 per centum of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the lending Trust Fund, except so much as shall be required to maintain the assets of the Federal Hospital Insurance Trust Fund at 30 per centum of the amount so disbursed, until the loan under this subsection is repaid.

"(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (except as interest) under this subsection.".●

By Mr. HART:

S. 2858. A bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241); to the Committee on Energy and Natural Resources.

OIL SHALE LEASES

● Mr. HART. Mr. President, today I am introducing a bill which will make a very modest change in the law concerning the leasing of lands related to oil shale. This change will allow the Department of the Interior, under very limited circumstances, to lease additional lands to permit the construction of processing facilities or for storing excess materials adjacent to lands already leased for shale mining.

Under existing law, the Department of the Interior is prohibited from leasing land for this purpose. This legislation would allow land to be leased, provided various economic, environmental and resource conservation criteria are satisfied.

Additional off-tract lands may be needed for economic reasons if the modified in-situ process is used, because the weight of the processing plant used to treat the shale rock brought to the surface may prevent the mining operations for in-situ processing underneath it. Alternatively, in the event that open-pit mining is undertaken, off-tract lands will be needed to hold overburden and spent shale as well as providing additional room for processing facilities.

Oil shale companies holding leases under the Department of the Interior's prototype lease program are now developing designs for above-ground processing plants. They need to know now if these plants can be sited off the existing tract so designs can be developed accordingly. This legislation will allow the companies to initiate construction of these early processing plants during 1981 and 1982.

The use of land for off-tract excess material deposits must be environmentally sound for the Department of the Interior to be able to enter into a lease. This legislation requires that a lease contain provisions for revegetation, protection of fish and wildlife, recreational and agricultural values, and air and water quality. This legislation would not change the need for environmental assessments or environmental impact statements under the existing National Environmental Policy Act.

This country has no greater need than to reduce its dependence on imported oil. The production of shale oil in Colorado will be able to add a substantial amount of domestic production in the mid to late 1980's. We need to proceed with all deliberate speed to demonstrate the economic and environmental viability of various oil shale technologies. By passing this legislation this year, the Congress will be making it possible for oil shale companies under the prototype lease program to initiate construction of surface processing facilities next year.

Mr. President, this is not a major departure in this Government's leasing policy. However, it is vitally important for the economically practical development of the prototype lease tracts. I hope that my colleagues will support this proposal.

I ask unanimous consent that this bill, supporting factsheet, and supporting document be printed at this time.

There being no objection, the bill and material was ordered to be printed in the RECORD, as follows:

S. 2858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a new subsection (d) is hereby added to section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241), reading as follows:

"(d) The Secretary of the Interior is hereby authorized to grant to any person, association, or corporation, currently holding a lease for oil shale under the existing prototype leasing program, and under the provisions of subsection (a) of this section, additional leases for lands outside the oil shale lease lands for any purpose, other than the actual mining of oil shale, connected with operations pursuant to that oil shale lease except that no additional leases may be granted for lands excluded from disposition by the provisions of section 1 of this Act. Any lease issued under this subsection (d) shall be granted only in connection with a specific oil shale lease issued under subsection (a) and only to the same parties as those owning that specific oil shale lease; the total land which may be leased under this subsection (d) in connection with any one oil shale lease issued under subsection (a) shall be not more than sixty-four hundred acres. Any lease under this subsection for any lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and subject to such terms and conditions as that other Federal agency may prescribe. The additional land leased pursuant to this subsection may be used only for such purposes as the Secretary may prescribe in the lease which may include the disposal of oil shale waste and other materials removed from the lands leased under subsection (a), the building of plants, reduction works, and other facilities connected with the operations under the oil shale lease, and any other purposes connected with lease operations (except mining) which the Secretary may deem advisable. No mining of any kind may be performed under leases issued pursuant to this subsection. The Secretary shall not grant an additional lease (i) unless the Secretary has consulted with the Governor of the State in which the lands to be leased are located, (ii) unless the oil shale lessee shall demonstrate to the Secretary's satisfaction that the additional land is needed for proper operations under the oil shale lease and that he will be able to conduct all operations on the land leased under this subsection in an environmentally proper manner, and (iii) unless the Secretary shall determine that the issuance of the additional lease is in the public interest. Any lease issued under this subsection shall provide for the payment to the United States of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revision as may be needed from time to time to continue to reflect the fair market value. The leases issued under this subsection shall be for such periods of time as the Secretary may determine to be necessary for the purposes for which they are granted and shall contain such provisions as may be needed for proper environmental protection, including provisions requiring appropriate measures to restore and revegetate affected land and to protect fish and wildlife, recreational and agricultural values, and air and water quality. Lands leased under this subsection shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the lease issued under this subsection.".

FACTSHEET: OFF-TRACT LANDS FOR OIL SHALE

LEGISLATIVE PROPOSAL

This proposal would allow the Department of the Interior to lease additional acreage to a company which is already holding an oil shale lease under the Prototype Leasing Program. This additional lease will be for the purpose of siting a processing plant or for storing waste or overburden material. Before issuing such an additional lease, the Secretary of Interior must determine that the additional acreage is needed for the proper operation of the existing oil shale lease, that the decision is environmentally sound and in the public interest, and that the decision is made in consultation with the Governor of the affected state.

LEGISLATION NEEDED FOR OFF-TRACT LANDS

Additional, "off-tract" lands may be needed if the modified in-situ process is used because the processing plant may prevent insitu processing underneath it. In the event that open-pit mining is undertaken, off-tract lands will be needed to hold overburden and spent shale as well as providing additional room for processing facilities.

Oil shale companies are developing designs for above-ground processing plants. They need to know now if these can be sited off the existing tract so designs can be adjusted accordingly. This legislation will provide short-term relief until enactment of the Department of the Interior's new oil shale policy. (Please see pages 4 and 5 of the attached memorandum of Interior's new oil shale leasing policy, which supports authority for off-tract lands.)

ENVIRONMENTAL CONSIDERATIONS

Leasing for off-tract excess material deposit must be environmentally sound in order to allow the Department of the Interior to enter into a lease. Provisions will be made for revegetation, protection of fish and wildlife, recreational and agricultural values, and air and water quality. An environmental assessment or environmental impact statement will be required under the National Environmental Policy Act.

RESOURCE CONSIDERATIONS

Off-tract siting of the processing facilities will make more resource available from the existing tract, but will not prevent resource recovery under the off-tract site at a later date.

Oil shale companies will pay an annual fee for the off-tract lease which shall reflect fair market value of the rights granted.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., May 27, 1980.

MEMORANDUM

To: Secretary, Solicitor, Assistant Secretaries, Deputy Under Secretary.
From: Under Secretary.
Subject: Decisions on the Oil Shale Secretarial Issue Document.

On May 20, 1980, I conducted a decision meeting on the Oil Shale Secretarial Issue Document, attended by the Solicitor-designate, Assistant Secretaries Martin and Davenport, Deputy Assistant Secretary Ross, Acting Assistant Secretary Mills, Steve Freudenthal, Steve Quarles, and others. I would like to thank all who participated for the lively and thorough discussion of the issues presented in the SID. In response to the President's program to accelerate the development of a synthetic fuels industry and in full consideration of the potential and problems associated with the development of oil shale resources of the public lands, I have reached the following decisions regarding federal leasing for oil shale development:

I have chosen options A–2, B–2 and B–2.3, a combination of C–1 and C–2, E–2, E–3, F–2, F–3, F–4, G, H–3, and I–2, with the alterations and additional guidance provided below.

ADDITIONAL LEASING UNDER THE PROTOTYPE PROGRAM

The Department will lease up to four new tracts under the Prototype Program. Assistant Secretary Martin, after consulting with Assistant Secretary Davenport should submit to me within two weeks the proposed organization and members of a task force to recommend the number and possible location of leases which might be offered, the technologies which should be encouraged through new lease sales and, more generally, how best to accomplish the additional leasing. The proposal should describe how the Area Oil Shale Supervisor, the Oil Shale Environmental Advisory Panel, the affected States and local governments, the industry, and environmentalists will participate in the work of the task force or otherwise make their views known to the task force. The proposal should also contain a three month schedule for completion of this initial step.

Figures compiled by each of three Federal agencies—this Department, the Department of Energy, and the Environmental Protection Agency—suggest that the President's 1990 goal of 400,000 BBL/day production of oil shale may be met from facilities on private lands, Federal research projects, and existing prototype lease tracts. Those projections, however, are based on several favorable assumptions. By modest additional leasing under the Prototype Program, we can both provide a measure of insurance against the failure of one or more of those assumptions to occur and foster additional production in the early 1990's during the transition to a permanent leasing program.

My decision to call for additional leasing under the Prototype Program, however, is not based solely or primarily on a need to give immediate encouragement to additional oil shale production. Of equal or greater importance is the need to strengthen the Prototype Program. I would characterize the Program's record to date as one of only qualified success. It has provided us, and without additional leasing, could continue to provide us, with supervisory experience and technical and environmental information on only one technology in only one area of the oil shale region. Additional leasing under the Program will permit us to gain the valuable broader experience first sought in the Program when the six lease tracts were selected and offered in 1974.

Accordingly, the recommendations of the task force must be consonant with the purposes of the Prototype Program. The tract or tracts ultimately chosen to be leased must be designed and located so as to provide us with the broader experience envisioned under the Program. The task force should review the technologies presently being employed or proposed to be employed in the existing prototype leases and all other oil shale projects and recommend which technologies should be encouraged in the additional leasing. The tract or tracts to be offered for sale should be delineated so as to invite bids from those companies that plan to use the technology or technologies which I decide, on the basis of the task force's recommendations, should be encouraged within the limited new prototype leasing. Although I do not wish to constrain lease bidders or lessees with lease terms which stipulate the technology to be employed, I would like the task force to recommend to me other technologies, in addition to delineation of tracts on resource bases suitable for particular technologies, which would encourage companies to thoroughly consider use of targeted technologies. On the basis of the SID, I can stipulate at this time that from among the up to four tracts which may be leased, at least one will be delineated to encourage multi-mineral development. For this technology only, I will consider, on the basis of task force recommendations, the use of lease stipulations which will require multi-mineral development.

For two purposes—reducing adverse environmental and socioeconomic impacts, and providing supervisory and operating experience with recovery methods under different conditions—tracts to be offered for lease should not be sited in a concentrated manner.

PERMANENT LEASING PROGRAM

Although I have determined that modest renewed leasing under the Prototype Program is sufficient at this time to encourage additional experience in, and production from, oil shale development, I believe that we must not permit the President's 1980 production goal to become frozen for subsequent years. For the health of a maturing industry and the energy security of the Nation, oil shale production should continue to expand in the 1990's and beyond. As the largest and richest portions of the resource are in Federal ownership, increased production beyond 1990 will be largely dependent on further leasing. As leasing with the primary objective of achieving additional production is not fully consonant with the several purposes of the Prototype Program, leasing to meet production objectives beyond 1990 should be conducted not under the Program but instead under a comprehensive, permanent leasing program.

Development of a new permanent program will permit the full scrutiny and analysis required for such a significant initiative. Preparation of a permanent leasing program must begin immediately. It should include the following:

1. A review of the Prototype Program;
2. An extensive program of consultation with the affected States and local governments, industry, the environmental community, and other interested members of the public;
3. Consideration of a full range of leasing alternatives (including the alternatives of no further leasing and no near term leasing); and
4. Full compliance with the National Environmental Policy Act of 1969, including preparation of a programmatic environmental impact statement.

The constantly changing national and international outlook for liquid hydrocarbons requires that a permanent leasing program be developed and put in place within the next two years. Failure to immediately initiate development of a permanent program poses the distinct risk that an emergency situation in the future would require the quick development and implementation of a poorly designed, crash leasing program, without adequate safeguards.

Assistant Secretary Martin should conduct the review of the Prototype Program and report its results to me in 4 months. Within 3 weeks, I would like to receive a plan for the review, recommendations on how best to proceed with the program development effort, if the task force concerned with additional prototype leasing is not assigned this responsibility, a list of those who will participate in the review, including those parties previously mentioned in relation to the task force.

EXCHANGES

I have decided not to give special emphasis to the execution of exchanges. The Department is obligated to fully consider each exchange application we receive as expeditiously as possible, and we intend to fulfill this obligation. However, the Department will place the greater priority in personnel and funding an additional leasing under the Prototype Program and preparations for development of a permanent program. Exchanges simply fail too many tests as a desirable resource management tool. As we cannot condition exchanges of fee title, as we do leases, with diligent development and information sharing requirements, we cannot be at all confident we are either assuring greater production within any given period or increasing our knowledge of oil shale opportunities or issues. We may be doing nothing more than increasing companies' reserve bases without committing the firms to oil shale development. We would obtain no revenues from the selected tracts in the form of bonuses, rents or royalties. Furthermore, the affected States and local governments would not receive shared Federal mineral revenues from selected tracts as they would from leased tracts. By emphasizing exchanges, the Federal government would be less able to disperse oil shale development and influence its timing and State and local governments would have fewer funds with which to mitigate adverse environmental and socioeconomic impacts, thus increasing the potential intensity of those impacts.

Most important, however, no matter how much effort is made in streamlining exchange procedures, they are a highly, inefficient and costly method of placing Federal resources in the hands of private developers. Too many times the Federal government does not receive in exchanges leasable or immediately leasable tracts. In those instances, the Government must analyze at least two tracts to assist the development of one. Several recent proposals for exchanges of both oil shale and coal lands have involved the offer to exchange several small parcels for one large Federal tract. These exchanges would require the analysis of numerous tracts in order to make one tract available for development. A similar effort, applied to leasing, could place several more tracts in the same development position. For these reasons, while we will fulfill our obligation to consider exchange applications, we will concentrate our resources on leasing rather than exchanges.

EXISTING ACREAGE CONSTRAINTS

Present statutory acreage limitations could seriously limit our ability to conduct additional leasing under the Prototype Program. First, the 5,120 acre limitation prevents the leasing of tracts of a sufficient size to mine economically by themselves in many areas of the oil shale region. Second, as we possess no authority to permit off-lease siting of processing facilities or disposal of spent shale, even within the richest areas the tract size limitation may prevent the most efficient mining of tracts which must accommodate not only the mining but also the processing facility and the spent shale. Finally, the limitation of one tract per state for each company may serve as a disincentive to early entry of firms in oil shale development. Firms may wish to avoid prototype leases, learn from prototype lessees' experiences, and lease later under a permanent program where they can develop their single lease tract in each state to its fullest commercial potential.

We will seek legislation which would remove all three constraints by providing the Department with authority to designate each lease tract of a size sufficient to sustain long-term commercial operations on the oil shale resource base within the tract, to issue permits to lessees for fair market value to provide for the off-lease disposal of shale and siting of processing facilities, and to permit a firm to hold a maximum of four leases nationwide and two leases per state, with an additional lease per state if the company is producing on the first two leases within that state and is within 10 years of completing production on one of them.

To eliminate the impression that conclusions may have already been reached about the specifics of a permanent program, our legislative proposal should limit the application of the two off-lease authorities to leases already issued and to be issued under the Prototype Program. If these authorities are determined to be necessary for a permanent program during subsequent permanent program development efforts, amendments could then be proposed to make those authorities applicable to all oil shale leasing under section 21 of the Mineral Leasing Act.

As the need for a larger acreage for certain lease tracts has already been conclusively demonstrated and as the removal of the one lease per state limitation from all future leasing is necessary now in order to encourage the most active possible interest in renewed prototype leasing, we will propose that the larger-acreage and more-leases-per-state authorities not be limited to Prototype Program leases and, instead, be made applicable immediately to all section 21 oil shale leasing.

ADDITIONAL MULTIPLE MINERAL LEASING AUTHORITY

The Solicitor has determined that the Department possesses authority under existing law to lease lands for multi-mineral development. Because some have questioned our authority and because we will propose legislation to eliminate acreage constraints, there is no reason not to seek confirmation of our existing authority in that legislation. As we do possess the authority for multi-mineral leasing, we should proceed with the decision to lease at least one multi-mineral tract in the renewed protoype leasing irrespective of whether the proposed legislation has been enacted.

MINING CLAIMS

On the issue of settlement of the oil shale mining claims disputes, I adopt the uniform recommendation of the Departmental offices that no decision be made whether to seek to settle the oil shale mining claims cases until after the Supreme Court has ruled in *Shell Oil v. Andrus*, the oil shale mining claims discovery standard case. It is not in the public interest to seek settlement at the present time. The pending resolution of that case might wholly moot any settlement negotiations, or any agreed upon settlement that required legislative authority to consummate. Even if the Supreme Court does not rule on the case in a wholly dispositive manner (i.e., even if it rules on Congressional ratification but not on estoppel against the United States), its decision will require significant if not total adjustment of any strategy for settlement or any concessions made prior to the decision in negotiations for settling these disputes.

This decision responds to the order of the U.S. District Court for the District of Colorado in *The Oil Shale Corp. v. Andrus*, issued August 30, 1979, and answers the settlement proposals thus far made and discussed in response to that Order. I have seriously considered both the Order and the settlement proposals and conclude that it is not in the Department's or the public's interest to seek settlement now.

I reserve the opportunity, of course, to reopen this decision, and wholly reconsider the question, after the Department has examined the Supreme Court's decision and what it portends for prompt resolution of the disputes between the Department and the oil shale mining claimants.

NONLEASING METHODS OF OBTAINING PERFORMANCE INFORMATION

Assistant Secretaries Martin and Davenport should seek to expand our information exchanges with other Federal, State and local government agencies and the industry. Memoranda of Understanding and other formal documents should be prepared as necessary, but no additional legislative authority will be sought.

JAMES A. JOSEPH,
Under Secretary.●

By Mr. JAVITS (for himself, Mr. Kennedy, Mr. Randolph, Mr. Pell, Mr. Stafford, and Mr. Williams):

S. 2859. A bill to promote the further development of public library services, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL LIBRARY AND INFORMATION SERVICES ACT

Mr. JAVITS. Mr. President, today I am introducing, joined by Senators Kennedy, Randolph, Pell, Stafford, and Williams, the National Library and Information Services Act, a comprehensive bill to provide for coordination of interlibrary resource sharing and to expand the Federal Government's support of public library services for all segments of the population. Our bill, which is based on legislation, S. 1124, which I introduced on May 14 of last year, with Senators Kennedy and Randolph, for the purposes of study by the delegates to the White House Conference on Library and Information Services, is the culmination of many months and years of work in preparation for the Conference, which was held in November 1979. It incorporates the principal legislative recommendations approved by the Conference delegates, and is intended to replace the existing mechanism of Federal support for public libraries, the Library Services and Construction Act, which expires in 1982.

The purpose of our initial legislation, S. 1124, was to provide a focus for debate of the key issues facing libraries in connection with the White House Conference, including relationships among the State, local, and the Federal governments in providing funding, interlibrary cooperation, planning, construction, and the methods of meeting special user needs. S. 1124 served that purpose as a fulcrum for consideration of these and other critical issues at the Conference, and the current bill represents a broad consensus of all the major library and information organizations which so far addressed the issue of comprehensive legislation. With the recommendations of the White House Conference in hand, and the expiration of the Library Services and Construction Act shortly upon us, the time is now ripe for full congressional hearings and final amendment prior to enactment.

THE NEED FOR THIS LEGISLATION

The Nation's library system has not kept pace with the information needs of present-day America. We require a bold new initiative on both national and State levels to make better use of existing resources and to develop new techniques for information access and sharing.

Many local public libraries across the country are in deep trouble. Sharp inflationary cost increases, combined with budget cuts, have forced staff layoffs, reduced hours, and lower purchasing of library materials, books and periodicals in many communities. Local taxpayer revolts against regressive property and sales taxes (like California's proposition 13) have increased the pressure to close branches and retrench generally.

Meanwhile the demand for library services has been surging. Older citizens are jamming reading rooms of public libraries as never before. People out of work have learned that libraries can help them with job information and career changes. Adult self-learners have joined college and high school students in using public libraries as study and research centers. The poor, the disabled, the illiterate, the non-English speaking, the institutionalized—all are hungering for the information and library services that are as rightfully theirs as they are of the affluent and middle income members of society.

Over 80 percent of the cost of the Nation's public libraries is borne by local government. The State and Federal Governments together pay less than 20 percent. Yet public libraries provide services which plainly should be available to all, regardless of race, creed, or economic status. Such services should be funded fairly with the goal of guaranteeing adequate library services for the residents of every city, town, village, hamlet, and farm of every State in the land.

GENERAL PROVISIONS OF THE BILL

The bill brings together in one comprehensive piece of legislation the principal suggestions made by various library groups over the course of several years. Most of the provisions are familiar to those who are active in the field. The major provisions of the bill will accomplish the following: First, expand the responsibilities of the U.S. Department of Education in providing support for coordinated library and information services nationally and internationally while preserving local control over State and local library services; second, provide funding for local, regional, national and international information networks linking all publicly funded libraries and all private libraries who wish to participate; third, authorize Federal matching funds to support public library services; fourth, provide matching funds to spur public library construction and renovation; fifth, specifically authorize Federal grants to meet the special needs of library users, such as rural residents, the functionally illiterate, handicapped, disadvantaged; and sixth, support State planning and public awareness programs and the training of local personnel in library skills.

BASIC PROVISIONS

The bill redefines the responsibilities of the Department of Education's Office of Library and Learning Technologies to coordinate research into innovative library techniques and to plan and coordinate sharing of information and resources. The functions of the proposed agency incorporate many of the recommendations of the White House Conference as well as those of the American Library Association. The bill makes it clear that what is intended is a service agency with no direction or control over local library administration, selection of personnel, or the purchase of library books and materials. It is contemplated that the office will come under the jurisdiction of an Assistant Secretary for Library and Information Services when and if that post is established.

TITLE I. INTERLIBRARY COOPERATION

Federal funds appropriated under this title would be used for planning, development, and maintenance of cooperative library networks on local, State, regional, and national levels; pooling the resources of different kinds of libraries (including school, academic, public, and special) for joint access and exchange of materials; and providing financial aid for research libraries whose collections are used by the general public.

TITLE II. OPERATING FUNDS FOR PUBLIC LIBRARIES

The Federal share of matching funds would be based on the Hill-Burton formula, taking into account the economic resources of the various States. A maximum of 5 percent of the funds authorized by this title could be used to meet State administrative costs, and the balance would be distributed to local public libraries on the basis of population, with appropriate adjustments provided for by State regulation. The funds would be used for general library operating expenses, including acquisitions, staff, heat, light, and similar costs. This would be continuing year-to-year support, rather than short-term demonstration grants as under present limited LSCA funding.

TITLE III. PUBLIC LIBRARY CONSTRUCTON

There have been no Federal construction funds for libraries for the past several years, and the need for renewal of this assistance, particularly for unserved and underserved communities, is very real. All construction grants would be joint Federal-State matching funds, again based on the Hill-Burton formula, and would permit acquisition of existing structures and conversion for library purposes.

TITLE IV. PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

People who live in rural, sparsely populated, and impacted areas would be eligible for special library funds under this title, which is also intended to fund special services to meet problems not uniform in the general population—problems like illiteracy, high unemployment, inability to speak English, physical handicaps, people who are institutionalized, the economically and educationally disadvantaged, and other groups with special needs. These special library service grants would be financed entirely out of Federal funds allocated under State plans.

TITLE V. PLANNING AND DEVELOPMENT

Grants under this title are to be used for planning and strengthening of State library systems, public awareness programs, and training of library personnel in the local communities, including trustees.

Mr. President, I ask unanimous consent that an index to the National Library Services and Information Services Act, and a cross-reference from the relevant resolutions adopted by the White House Conference to the sections of the act be printed in the RECORD. I also ask unanimous consent that the Senate submit portfolio, containing the signatures of delegates and alternates to the Conference petitioning the Congress and the President to enact a National Library Act, to be made part of the National Archives, and that the statement of purposes for this petitioning be made part of the RECORD.

I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material and bill were ordered to be printed in the RECORD, as follows:

NATIONAL LIBRARY AND INFORMATION SERVICES ACT INDEX AND CROSS-REFERENCE GUIDE

(The following is an index to the sections of the proposed National Library and Information Services Act, together with a cross reference to relevant resolutions adopted by the White House Conference on Libraries and Information Services, using the letter and numbering code employed in the final report on Conference Resolutions adopted by the Committee of the Conference in Chicago on January 5, 1980.)

DECLARATION OF POLICY AND PURPOSE

Section 2(a) Policy of U.S. to promote universal library and information services; provide all persons access to information on public programs; access to government information repositories on public issues; and free, equal and open access to all publicly funded library and information services.

(b) Purpose of act to promote and assist inter-library cooperation; public library services, construction, and special programs; and strengthen state library agencies and library personnel.

(c) Purpose to preserve the tradition of local control.

DEFINITIONS

Section 3. The following terms are defined: Agency; Administration of the Act; Annual Program; Basic State Plan; Criteria for determining adequacy of public library services; Construction; Director; Disadvantaged persons; Functionally illiterate; Interlibrary cooperation; Library; Library materials; Library service; Long-range program; Physically handicapped; Network; Public Library; Public library services; Research library; State; State Advisory Council on Libraries; State institutional library services; State library administrative agency; and Strengthening the State library administrative agency.

AUTHORIZATION OF APPROPRIATIONS

Section 4. (a) General authorization provisions for appropriations: "such sums as may be necessary" for titles II, IV and V; $20,000,000 for title I; $150,000,000 for Title III.

(b) Provision for forward funding of expenditures into following fiscal years.

ALLOTMENTS TO STATES

Section 5. (a) Procedure for allotting appropriation to states.

(b) Authorization for reallotment of unexpended funds.

PAYMENTS TO STATES

Section 6. (a) Requirements for States to ratify for funding: a basic State plan, an annual program, and a long-range plan, plus maintenance of local and State funding.

(b) Federal share of costs under titles I, IV and V to be 100%; under titles II and III a sliding scale from 33% to 66%, based on each State's per capita income.

FUNCTIONS OF THE AGENCY

Section 7. Department of Education library agency to have responsibilities in these areas: (1) financial assistance programs under the Act; (2) network planning including a national periodical system and national lending library; (3) interlibrary cooperation; (4) information transmission for library users; (5) access to government information; (6) national standards; (7) hardware and software compatability; (8) new technology; (9) exchange with foreign libraries; (10) preservation of special collections; (11) public awareness campaigns; (12) library-community interaction; (13) National Indian Library Center; (14) government publications; (15) statistical data; (16) National Clearinghouse on Library and Information Service; and (17) Federal institutional library services.

ADMINISTRATIVE PROVISIONS

Section 8. (a)(c) Technical provisions relating to administration of library agency, including provision for the appointment of advisory committee by Secretary of Education.

STATE PLANS AND PROGRAMS

Section 9. (a)-(b) Provisions relating to requirements for the basic State plan and long-range program to qualify for Federal funding.

TITLE I—INTERLIBRARY COOPERATION AND NETWORK SUPPORT

Section 101. Grants to be made to States based on annual program for interlibrary cooperation between school, public, academic, and special libraries and information centers.

Section 102. (a) Funds to be used for: (1) network planning; (2) establishing and operating networks; and (3) special financial assistance to resource libraries;

(b) Up to 15 percent of funds may be used for international, multistate etc. networks;

(c) Participating libraries must agree to share resources.

Section 103. Requirements for State annual program for funds under Title I.

TITLE II—PUBLIC LIBRARY SERVICES

Section 201. Grants to be made to States based on an annual program for the provision, extension and improvement of public library services.

Section 202. Funds to be used for distribution to public libraries for general support purposes.

Section 203. Requirements for State annual program for funding under Title II. Funds to be distributed on a population basis, subject to adjustment.

TITLE III—PUBLIC LIBRARY CONSTRUCTION

Section 301. Grants to be made to States for construction of public libraries.

Section 302. Funds to be used for new construction, acquisition and conversion of existing structures, and remodelling to conserve energy.

Section 303. Requirements for State Annual program for funding under Title III.

TITLE IV—PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

Section 401. Grants to be made to States for public library programs to meet special user needs.

Section 402. Funds to be used for: (1) rural, sparsely populated, and impacted areas; (2) literacy training; (3) job information services; (4) English language instruction; (5) the aging, disabled and physically handicapped; (6) patients, residents and inmates of institutions; (7) outreach programs; (8) technical services for special groups; (9) information and referral centers; (10) Indian library assistance; and (11) joint library programs with public agencies and cultural organizations.

Section 403. Requirements for State annual program for funding under title IV.

TITLE V—PLANNING AND DEVELOPMENT

Section 501. Grants to be made to States for planning and development.

Section 502. Funds to be used for: (1) state agency costs for planning, research and coordination; (2) strengthening state agencies and staff; (3) public awareness programs; and (4) in-service training and community recruitment of library personnel.

Section 503. Requirements for State annual program for funding under Title IV.

CROSS REFERENCE OF W.H.C. RESOLUTIONS TO SECTIONS OF PROPOSED NATIONAL LIBRARY AND INFORMATION SERVICES ACT

A. GOALS AND OBJECTIVES—TITLE AND PAGE

Approved in General Session:

A–1 The First Amendment and Public Issues 2(a); 7(5); 7(11); 402(9); 502

A–2 National Information Policy 2(a); 2(b); 2(c); 7(3)

A–3 National Policy for Free Access 2(a)

A–4 Literacy 402(2); 402(11)

A–5 Access to Library and Information Services 2(a); 2(6); 7(5); 102(c); 202; 302; 402(6); 7(1)

A–6 Public Awareness 7(11); 7(12); 502(3); 512(4)

Approved by Paper Ballot:

A–7 Intellectual Freedom and Contemporary Writing

A–8 Intellectual Freedom and Censorship

A–9 Local Control 2(c)

A–10 Access to Information

A–11 Access to Public Agency Information 2(a); 402(3)

A–12 Basic Legal Information

A–13 Public Library Association Mission Statement 502(4)

B. ORGANIZATION AND FINANCE—TITLE AND PAGE

Approved in General Session:

B–1 Assistant Secretary for Library and Information Services See 7

B–2 A National Library Act 3; 6(b); 8(a)(5); 402(1)

B–3 Federal Resources for Library and Information Services 7(12); 6(b); 9; 102(a)(3); 203; 402(1)

B–4 Archives and Historical Records

B–5 Tax Incentives for Donations of Authors and Artists

B–6 Pricing of Basic Federal Government Publications See 7(14)

B–7 State and Local Funding for Library and Information Services

Approved by Paper Ballot:

B–8 National Clearinghouse in Department of Education See 7(16)

B–9 Federal Funding Formulas 402(1)

B–10 Training Research and Development 7(12); 7(16); 502(4)

B–11 Preservation and Use of Research Collections 7(10)

B–12 Institute for Scientific and Technological Cooperation

B–13 Tax Exempt Status for Independent Libraries

B–14 Postal Rates

B–15 Postal Privilege

B–16 Delivery of Library Materials

B–17 A Federal Relations Network

C. TECHNOLOGY, RESOURCE SHARING AND EDUCATION—TITLE AND PAGE

Approved in General Session:

C–1 Technology and Uniform Standards 7(6); 7(7); 7(8)

C–2 Networking 7(2); 7(3); 102

C–3 School Libaries

Approved by Paper Ballot:

C–4 Technology for the Promotion of the Common Good

C–5 How to Effectively Use Computer Technology

C–6 Technology Transfer § 402(8)

C–7 Technology and Federal Programs 7(5); 7(6); 7(7); 7(8)

C–8 Technological Standards Research

C–9 Preservation of Library and Information Resources/Materials

C–10 Interagency Cooperation 7(5)

C–11 Elimination of Publication

C–12 Telecommunication Networks. See title I

C–13 Interlibrary Cooperation. See title I

C–14 Cooperative Standards and Networking

C–15 Continuing Education for Librarians

C–16 Library Skills Instruction

C–17 Specialist Staff for State Library Leadership and Development 502(a)(2)

C–18 Training and Continuing Education and Staff Development § 502(4)

D. SPECIAL CONSTITUENT CONCERNS—TITLE AND PAGE

Approved in General Session:

D–1 Special Constituencies: Library Services to the Disabled and Hearing impaired 402(5)

D–2 National Indian Omnibus Library Bill Sec 7(13); 402(10)

D–3 Information Systems in U.S. Territories

Approved by Paper Ballot:

D–4 Minority Needs 402(4); 402(7); 502(4)

E. INTERNATIONAL ISSUES—TITLE AND PAGE

Approved in General Session:

E–1 International Information Exchanges 7(9); 102(6)

E–2 Federal International Communication and Accountability

Approved by Paper Ballot:

E–3 International Conference

E–4 Center for International Studies

E–5 Establish an International Youth Library

E–6 International Copyright Agreement

(None under F "Conference Followup and Commendation")

NATIONAL LIBRARY ACT

This portfolio contains the signatures of Delegates and Alternates to the White House Conference on Library and Information Services, petitioning the President and Congress of the United States to enact a National Library Act to provide permanent funding for the nation's public libraries. The proposal, introduced in study bill form by Senator Jacob K. Javits of New York and Senator Edward M. Kennedy of Massachusetts in May 1979, marks a milestone in one of America's major free institutions.

The nation's first free public library was established in Salisbury, Connecticut, in 1803, and received its first support from town funds in 1810. For 175 years public libraries have operated as local institutions, receiving primary support from the taxpayers of the community. With the expansion of private and governmental information services, along with citizen information needs, and the increasing demands on local taxpayers to fund many essential services, the time finally has arrived when significant and continuing Federal-State financial support for public libraries has become essential to their survival.

The National Library Act is designed to guarantee equitable funding for all public libraries in communities large and small, rich and poor, while preserving the independence of library decisionmaking in the hands of local citizens, trustees and administrators.

The movement for a National Library Act was initiated by two non-profit citizens organizations, the Urban Libraries Council and the National Citizens Emergency Committee to Save Our Public Libraries, and many other citizens and citizen committees. These signatures reflect the exercise of one of the American citizens' most highly prized constitutional rights—the right to petition the government for redress.

WASHINGTON, D.C. *November 1979.*

S. 2859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Library and Information Service Act".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. (a) (1) It is the policy of the United States to establish, support and expand educational opportunities for individuals of all ages and conditions through the promotion of universal library and information services; to provide all persons ready and convenient access to information relative to publicly supported programs designed to provide assistance to those in need, including particularly programs concerned with health, employment, social security, education, recreation, and the elderly; to implement the constitutional guarantees of free speech and free press through public access to all Government repositories of nonclassified information, especially information about public processes and the various sides of public issues; and to provide to all persons, without regard to their educational attainment, individual ability or economic condition, free, equal and open access to all publicly funded library and information services.

(2) In order to achieve the policy set forth in subsection (a) of this section, it is essential that a national program be established to insure that an adequate level of library and information services is made available in all communities accessible to all residents thereof, and to encourage government agencies at all levels to work together toward the goal of library and information services for all.

(b) It is the purpose of this Act to assist the States (1) in promoting interlibrary cooperation among all types of libraries; (2) in the provision, extension and improvement of public library services; (3) in public library construction; (4) in the provision, extension and improvement of public library programs to meet special user needs, including library services for physically handicapped, institutionalized, functionally illiterate, unemployed, persons with limited English language skills, and economically and educationally disadvantaged individuals; and (5) in strengthening State library administrative agencies and library personnel.

(c) (1) It is further the purpose of this Act to preserve the tradition of local control over the selection and purchase of library materials and the furnishing of library and information services. The administration of libraries, the selection of personnel and library books and materials, and, insofar as consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and the units of local government of the States.

(2) Nothing in this Act shall be construed to interfere with State and local initiative and responsibility for the conduct of library services.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Annual program" means the projects which are developed and submitted to describe the specific activities to be carried out annually toward achieving fulfillment of the long-range program. The annual programs shall be submitted in such detail as required by regulations promulgated by the Secretary.

(2) "Basic State plan" means the document which provides assurances—

(A) that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this Act; and

(B) that the policies, priorities, criteria, and procedures of the State necessary to the implementation of all programs under the provisions of this Act will be established and implemented; and which is submitted for approval as required by regulations promulgated by the Secretary.

(3) "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

(4) "Criteria for determining adequacy of public library services" means the standards adopted by the State and approved by the Secretary to determine services or resources of public libraries which are inadequate and for which funds under this Act may be expended.

(5) "Disadvantaged persons" means persons who have educational, socioeconomic, cultural, or simliar disadvantages that prevent them from receiving the benefits of library services.

(6) "Functionally illiterate" means persons who do not possess the necessary skills to read, write and comprehend sufficiently to fulfill their own objectives as family and community members, citizens, consumers, job-holders, and members of social, religious, and other associations of their choosing.

(7) "Interlibrary cooperation" means the establishment, expansion and operation of local, regional, and interstate cooperative library networks.

(8) "Library" means any school, public, academic, or special library or information center which provides library services, whether publicly or privately funded.

(9) "Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, and processed video and magnetic tapes; printed, published, audiovisual materials, and nonconventional library materials designed specifically for the handicapped, and materials of a similar nature.

(10) "Library service" means the performance of all activities of a library relating to the collection and organization of library materials and to making the materials and information of a library available to a clientele.

(11) "Long-range program" means the comprehensive five-year program which identifies the library needs of the State and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this Act. Each long-range program shall be developed by the State library administrative agency and shall specify the policies, criteria, priorities, and procedures of the State consistent with this Act as required by the regulations promulgated by the Secretary. Each long-range program shall be updated as library progress requires.

(12) "Network" means a formal arrangement under which materials, information and services provided by a variety of types of libraries and other organizations are made available to all potential users and is designed to provide for the systematic and effective coordination of the resources of school, public, academic and special libraries and information centers to achieve improved service to the users thereof. A network may serve a community, metropolitan area, region covering portions of more than one State, or region within a State, or be statewide, multi-State, national or international in scope.

(13) "Office" means the Office of Libraries and Learning Resources in the Department of Education.

(14) "Physically handicapped" means persons who have restricted physical capabilities which impair their ability to use library materials, including the blind, visually handicapped, and hearing impaired persons.

(15) "Public library" means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds.

(16) "Public library services" means library services furnished by a public library free of charge.

(17) "Research library" means a public library which—

(A) makes its services available to the public free of charge;

(B) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through other public libraries;

(C) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(D) is not an integral part of an institution of higher education.

A public library which is also a research library has the same basic entitlement to funds under this Act as any other public library.

(18) "Secretary" means the Secretary of Education.

(19) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(20) "State Advisory Council on Libraries" means an advisory council for the purposes of clause (3) of section 9(a) of this Act which shall—

(A) be broadly representative of the public, school, academic, and special libraries in the State, and of persons intended to be served by such libraries, including disadvantaged persons within the State;

(B) advise the State library administrative agency on the development of, and policy matters arising in the administration of, the State plan; and

(C) assist the State library administrative agency in the evaluation of activities assisted under this Act.

(21) "State institutional library services" means the providing of books and other library materials, and of library and information services, which would normally be provided by a public library, to (A) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (B) students in residential schools for the physically handicapped (including mentally retarded, hearing impaired, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired individuals who by reason of such impairment require special education) operated or substantially supported by the State.

(22) "State library administrative agency" means the official agency of a State charged by law of that State with the extension and development of public library services throughout the State, and which has adequate authority under the laws of the State to administer State plans and annual programs in accordance with the provisions of this Act.

(23) "Strengthening the State library administrative agency" means improving the capacity of the agency in the administration of programs and projects assisted under this Act to meet Federal requirements.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a)(1) There are authorized to be appropriated for the purpose of making grants to States to carry out interlibrary cooperation programs under title I, $20,000,000 for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(2) There are authorized to be appropriated for the purpose of making grants to States for public library services under title II, such sums as may be necessary for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(3) There are authorized to be appropriated for the purpose of making grants to States for public library construction under title III, $150,000,000 for the fiscal year 1983, and for each of the succeeding fiscal years ending prior to October 1, 1987.

(4) There are authorized to be appropriated for the purpose of making grants to States for public library programs to meet special user needs under title IV such sums as may be necessary for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(5) There are authorized to be appropriated for the purpose of making grants to States to carry out planning and development, public awareness, and library personnel training programs under title V, such sums as may be necessary for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(b) Notwithstanding any other provision of law, unless enacted in express limitation of the provisions of this subsection, any sums appropriated pursuant to subsection (a) shall—

(1) be included in the Act making appropriations for the fiscal year prior to the fiscal year in which such sums are obligated,

(2) be made available for expenditure prior to the beginning of such fiscal year, and

(3) subject to regulations of the Secretary promulgated in carrying out the provisions of section 5(b), remain available for obligation and expenditure for the year specified in the appropriation Act and until the close of the following fiscal year.

ALLOTMENTS TO STATES

SEC. 5. (a) (1) From the sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4 (a) for any fiscal year the Secretary shall allot the minimum allotment as determined under paragraph (3) of this subsection to each State. Any sums remaining after minimum allotments have been made shall be allotted in the manner set forth in paragraph (2) of this subsection.

(2) From the remainder of any sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4(a) for any fiscal year, the Secretary shall allot to each State such part of such remainder as the population of the State bears to the population of all the States.

(3) For the purposes of this subsection, the "minimum allotment" shall be—

(A) with respect to appropriations for the purposes of title I, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(B) with respect to appropriations for the purposes of title II, $200,000 for each State, except that it shall be $40,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(C) with respect to appropriations for the purposes of title III, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(D) with respect to appropriations for the purposes of title IV, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(F) with respect to appropriations for the purposes of title V, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

If the sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4(a) for any fiscal year are insufficient to fully satisfy the aggregate of the minimum allotments for that purpose, each of such minimum allotments shall be ratably reduced.

(4) The population of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(5) There is authorized for the purpose of evaluation (directly or by grants or contracts) of programs authorized by this Act, such sums as Congress deems necessary for the fiscal year 1983, and for each of the succeeding fiscal years ending prior to October 1, 1987.

(b) The amount of any State's allotment under subsection (a) for any fiscal year from any appropriation made pursuant to paragraph (1), (2), (3), (4), or (5) of section 4 (a) which the Secretary determines will not be required for the period and the purpose for which such allotment is available for carrying out the State's annual program shall be available for reallotment from time to time on such dates during such year as the Secretary shall fix. Such amount shall be available for reallotment to other States in proportion to the original allotments for such year to such States under subsection (a) but with such proportionate amount for any such other States being reduced to the extent that it exceeds the amount which the Secretary estimates the State needs and will be able to use for such period of time for which the original allotments were made. The total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection for any fiscal year shall be deemed to be a part of its allotment for such year pursuant to subsection (a).

PAYMENTS TO STATES

SEC. 6. (3) From the allotments available therefor under section 5 from appropriations pursuant to paragraph (1), (2), (3), (4), or (5) of section 4(a), the Secretary shall pay, to each State which has a basic State plan approved under section 9 (a)(1), an annual program and a long-range program, an amount equal to the Federal share of the total sums expended by the State and its political subdivisions in carrying out such plan, except that no payments shall be made from appropriations pursuant to such paragraph (2) for the purposes of title II to any State (other than the Trust Territory of the Pacific Islands and the Northern Mariana Islands) for any fiscal year unless the Secretary determines that—

(1) there will be available for expenditure under the programs from State and local sources during the fiscal year for which the allotment is made—

(A) sums sufficient to enable the State to receive for the purpose of carrying out the programs payments in an amount not less than the minimum allotment for that State for the purpose, and

(B) not less than the total amount actually expended, in the areas covered by the programs for such year, for the purposes of such programs from such sources in the second preceding fiscal year; and

(2) there will be available for expenditure for the purposes of the programs from State sources during the fiscal year for which the allotment is made not less than the total amount actually expended for such purposes from such sources in the second preceding fiscal year.

(b)(1) For the purpose of this section, the Federal share for title I of this Act shall be 100 per centum of the cost of carrying out the State plan.

(2)(A) For the purpose of this section, the Federal share for title II and title III of this Act shall be 100 per centum less the State percentage, and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands), except that (i) the Federal share shall in no case be more than 66 per centum or less than 33 per centum, and (ii) the Federal share for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 per centum and (iii) the Federal share for the Trust Territory of the Pacific Islands and the Northern Mariana Islands shall be 100 per centum.

(B) The Federal share for title II and title III for each State shall be promulgated by the Secretary within 60 days after the beginning of the fiscal year ending September 30, 1982, and of every second fiscal year thereafter, on the basis of the average per capita incomes of each of the States and of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands), for the three most recent consecutive years for which satisfactory data are available to him from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years beginning after the promulgation.

(3) For the purpose of this section, the Federal share for title IV shall be 100 per centum of the cost of carrying out the State plan.

(4) For the purpose of this section, the Federal share for title V shall be 100 per centum of the cost of carrying out the State plan.

OFFICE OF LIBRARIES AND LEARNING TECHNOLOGIES

SEC. 7. (a)(1) There is established in the Department of Education an Office of Libraries and Learning Technologies.

(2) The Office shall be headed by a Deputy Assistant Secretary.

(b) In order to carry out the purposes of this Act, the Secretary, through the Office, shall—

(1) carry out financial assistance programs authorized by titles I, II, III, IV, and V of this Act;

(2) encourage and assist comprehensive planning, coordination and development of multitype library and information networks and exchange programs, including—

(A) both profit and not-for-profit libraries from the public and private sector,

(B) the Library of Congress,

(C) a national periodicals system, and

(D) a national lending library for print and nonprint materials.

in cooperation with State library agencies and such other agencies, organizations, or libraries as are involved in such networks and programs, except that the operation of such networks shall be controlled at the State or regional level and shall be accessible equally to benefit all individuals;

(3)(A) encourage and assist interlibrary cooperation among libraries of all kinds, including national and regional library and information resource centers, State library agencies, creation of interinstitutional catalogues, exchange of library materials, transmission of bibliographic information, and joint operation of communications facilities, and

(B) encourage and support low rates for postal and telecommunication charges for such services;

(4) encourage and assist the transmission of information to public libraries for the benefit of individual users concerning Federal and State publicly supported programs designed to provide assistance to individuals in need, including particularly programs concerned with health, employment, social security, education, recreation, and the elderly;

(5) encourage and assist the development and implementation of procedures to insure convenient, speedy and free access to all nonclassified information and materials in Government repositories, especially information about public processes and the various sides of public issues, including information and materials maintained by federally funded libraries and information services, whether operated by Federal agencies or established under Federal law;

(6) encourage and assist the development and implementation of procedures to facilitate participation by all federally supported libraries and information services and appropriate Federal agencies in the development, review, adoption and implementation of national and international standards for publishing, producing, organizing, storing, and transmitting information using established and recognized procedures and institutions;

(7) encourage and assist the establishment and implementation of standards which address hardware and software compatibility, computer and communications network protocols, and machine readable information;

(8) encourage and conduct research programs into development of new technologies to permit convenient and economic media conversion between conventional print and other formats for storage, retrieval, and transmission, including formats specially designed to serve hearing impaired, blind, and other physically handicapped persons;

(9) encourage and assist the establishment of cooperative library exchange programs with foreign libraries, including the translation and distribution of library materials and the international exchange of library and information services, including international networking;

(10) encourage and assist the development and improvement of the library resources of the United States, including acquisition of foreign materials, establishment of special collections to preserve local history and ethnic and cultural heritage, including American Indian culture, improved cataloguing procedures, conservation and archival preservation of library materials, and technological advances;

(11) plan and implement campaigns and programs to increase public awareness of library and information services on the national level in coordination with the States as appropriate;

(12) encourage and assist measures to improve library-community interaction, including community needs assessment projects, cultural awareness projects, age-level consultant projects, and youth incentive projects;

(13) cooperate with and assist the Bureau of Indian Affairs in their establishment and operation of a National Indian Library Center and, upon request of the Bureau, assist in—

(A) the preservation, production, collection and distribution of materials to Indian libraries;

(B) the operation of a clearinghouse and referral center for collections of Indian cultural, language and historical materials;

(C) the provision of technical assistance to Indian libraries;

(D) the provision of network services to Indian libraries, including access to information on Government assistance programs for Indians, including health, social services, economic development and job training; and

(E) the provision and coordination of pre-service and in-service training and certification of Indian library workers, in collaboration with higher education agencies and the several Indian tribes, Alaska Natives and Aleuts;

(14) encourage and assist the planning and implementation of a national plan for the distribution of Government publications to ensure convenient access to all Government publications by all citizens, including financial assistance to participating libraries to aid in the maintenance collections, facsimile transmission, and other technical facilities where appropriate, and the maintenance of a low price structure for the purchase of Government publications;

(15) coordinate the collection and dissemination of statistical data relating to library services;

(16) establish and operate a National Clearinghouse on Library and Information Services to—

(A) plan and implement demonstration programs and research in innovative and improved library programs and information services,

(B) collect information on innovative and improved library programs and information services in the United States and elsewhere in the world,

(C) publish and distribute information of special value in developing or improving library programs and services, and

(D) encourage and assist the exchange and circulation of cultural programs, exhibits, and other special materials to enrich library service to the public;

(17) advise and assist Federal departments and agencies which have responsibility for the institutional care, treatment or custody of persons, including correctional facilities and hospitals, to plan for and provide adequate library and information services to individual residents in such institutions; and

(18) administer grants appropriated for the purpose of assisting in the implementation of the foregoing purposes.

ADMINISTRATIVE PROVISIONS

SEC. 8. (3) In order to carry out the functions of this Act, the Secretary is authorized to—

(1) prescribe such regulations as he deems reasonably necessary;

(2) appoint and fix the compensation of such personnel as may be necessary;

(3) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it will be used for the purposes of the Office, and to use, sell, or otherwise dispose of such property for the purpose of carrying out the functions of the Office under this Act;

(4) receive, and use, sell, or otherwise dispose of, in accordance with paragraph (3) money and other property donated, bequeathed, or devised to the Office with a condition or restriction including a condition that the Office use other funds of the Office for the purpose of the gift;

(5) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as the Secretary deems desirable to advise the Office with respect to its functions under this Act, which advisory committee or committees shall have the same representative composition and functions on the national level as the State Advisory Council on Libraries have pursuant to section 3 of this Act;

(6) secure from any Federal agency, including any independent establishment or instrumentality of the United States, or from any State or political subdivision thereof, information, estimates and statistics required in the performance of functions under this Act;

(7) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(8) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by section 5703 of title 5, United States Code;

(9) enter into contracts, grants, or other arrangements, or modifications thereof to carry out the provisions of this Act;

(10) provide for the making of such reports (including fund accounting reports) and the filing of such applications in such form and containing such information as the Secretary may reasonably require;

(11) make advances, progress, and other payments which the Secretary deems necessary to carry out the provisions of this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(12) make other necessary expenditures.

(b) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount not to exceed the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, as determined by the Secretary for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

(c) Upon written request made by the Secretary of Education, each Federal agency, independent establishment or instrumentality is authorized and directed to furnish such cooperation, assistance, access, information, estimates, and available statistics, to the greatest practicable extent, to the Office in the performance of its functions.

STATE PLANS AND PROGRAMS

SEC. 9. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall—

(1) have in effect for such fiscal year a basic State plan which meets the requirements set forth in subsection (b),

(2) submit an annual program for the purposes for which allotments are desired, meeting the appropriate requirements set forth in titles I through V,

(3) submit, not later than July 1, 1982, a long-range program for carrying out the purposes of this Act as specified in subsection (d), and

(4) establish a State Advisory Council on Libraries which meets the requirements of section 2(20).

(b) A basic State plan under this Act shall—

(1) provide for the administration, or supervision of the administration, of the programs authorized by this Act by the State library administrative agency;

(2) provide that any funds paid to the State in accordance with a long-range program and an annual program shall be expended solely for the purposes for which funds have been authorized and appropriated and that such fiscal control and fund accounting procedures have been adopted as may be necessary to assure proper disbursement of, and account for, Federal funds paid to the State (including any such funds paid by the State to any other agency) under this Act;

(3) provide satisfactory assurance that the State agency administering the plan (A) will make such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this Act and to determine the extent to which funds provided under this Act have been effective in achieving the State's criteria for adequate services, including reports of evaluations made under the State plans, and (B) will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) set forth the criteria to be used in determining the adequacy of public library services in various geographical areas and for various groups of persons in the State for titles I through V.

(c) (1) The Secretary shall not approve any basic State plan pursuant to this Act for any fiscal year unless—

(A) the plan fulfills the conditions specified in section 3(20) and subsection (b) of this section and the appropriate titles of this Act;

(B) the Secretary has made specific findings as to the compliance of such plan with requirements of this Act and he is satisfied that adequate procedures are contained in the plan to insure that any assurances and provisions of such plan will be carried out, including the receipt and acceptance of reports as required by subsection (b)(3) of this section.

(2) The State plan shall be made public as finally approved.

(3) The Secretary shall not finally disapprove any basic State plan submitted pursuant to subsection (a)(1), or any modification thereof, without first affording the State reasonable notice and opportunity for hearing.

(d) The long-range program of any State for carrying out the purposes of this Act shall—

(1) set forth a program under which the funds received by the State under the programs authorized by this Act will be used to carry out a long-range program of library services and construction covering a period of not less than three nor more than five years;

(2) be annually reviewed and revised in accordance with changing needs for assistance under this Act and the results of the evaluation and surveys of the State library administrative agency;

(3) set forth policies and procedures (A) for the periodic evaluation of the effectiveness of programs and projects supported under this Act, and (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects; and

(4) set forth effective policies and procedures for the coordination of programs and projects supported under this Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools and with other public or private library services programs, and for cooperation among local libraries to meet the needs of the people of the community.

Such program shall be developed with the advice of the State Advisory Council and in consultation with the Secretary and shall be made public as it is finally adopted.

(e) Whenever the Secretary, after giving reasonable notice and opportunity for hearing to the State agency administering a program submitted under this Act, finds—

(1) that the program has been so changed that it no longer complies with the provisions of this Act, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions or with any assurance or other provisions contained in the basic State plan,

then, until he is satisfied that there is no longer any such failure to comply, after appropriate notice to such State agency, the Secretary shall make no further payments to the State under this Act or shall limit payments to programs or projects under, or parts of, the programs not affected by the failure, or shall require that payments by such State agency under this Act or with his final action under subsec- library agencies not affected by the failure.

(f) (1) If any State is dissatisfied with the Secretary's final action with respect to the approval of a plan submitted under this Act or with his final action under subsection (e) such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon take new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

TITLE I—INTERLIBRARY COOPERATION AND NETWORK SUPPORT

GRANTS TO STATES FOR INTERLIBRARY COOPERATION AND NETWORK SUPPORT PROGRAMS

SEC. 101. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9 (c) and have submitted a long-range program under section 9 (d) and an annual program under section 103 for interlibrary cooperation and network support programs among school, public, academic, and special libraries and information centers.

USES OF FEDERAL FUNDS

SEC. 102. (a) Funds appropriated pursuant to paragraph (1) of section 4 (a) shall be available for grants to States from allotments under paragraphs (1) and (3) of section 5 (a) for the purposes of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 103. Such grants shall be used for—

(1) planning for, and taking other steps leading to the development and maintenance of, cooperative library networks on an intrastate, statewide, regional, multistate, and national basis;

(2) establishing, expanding, and operating intrastate, statewide, regional, multistate, and national cooperative networks of libraries to provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers to achieve improved service to the users thereof, including bibliographic access, communications, and delivery systems, and including the conversion of existing collections and catalogs to machine-readable data bases; and

(3) special financial assistance for collection maintenance or development to resource libraries identified in the State plan, including research libraries, major academic libraries, and where appropriate, privately funded library collections which are heavily used as library resources by public libraries in the State.

(b) Notwithstanding any other provision of this Act, the Secretary is authorized to set aside not to exceed 15 per centum of the funds appropriated under paragraph (1) of section 4(a) for the purpose of making discretionary grants for assistance to regional, multistate, national or international cooperative networks which benefit the libraries in one or more States but which extend beyond the jurisdiction of any single State, including research, system development, operations, and capital costs.

(c) No school, public, academic, special library or information center, or resource library may receive assistance or network services under this title unless the school, public, academic, special library or information center, or resource library has agreed to share its own library and information resources on a fair and equitable basis with other participating libraries in the appropriate cooperative network program.

STATE ANNUAL PROGRAM FOR INTERLIBRARY COOPERATION AND NETWORK SUPPORT

SEC. 103. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for interlibrary cooperation and network support. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation, and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 4(a) will be used, consistent with its long-range program for the purposes set forth in section 102, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE II—PUBLIC LIBRARY SERVICES

GRANTS TO STATES FOR PUBLIC LIBRARY SERVICES

SEC. 201. The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a) (1) to States which have had approved basic State plans under section 9(c) and have submitted a long-range program under section 9(d) and an annual program under section 203 for the provision, extension, and improvement of public library services.

USES OF FEDERAL FUNDS

SEC. 202. Funds appropriated pursuant to paragraph (2) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 203. In order to provide, extend, and improve public library services, each State library administrative agency shall distribute funds received under this title directly to the public libraries in that State for general support purposes.

STATE ANNUAL PROGRAM FOR PUBLIC LIBRARY SERVICES

SEC. 203. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for public library services. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation, and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (2) of section 4(a) for that year will be used, consistent with its long-range program, to provide, extend, and improve public library services on a fair and equitable basis to all citizens including children, students, adult learners, and older readers throughout the State;

(2) set forth a program for any statewide public library services to be performed by or furnished by the State library administrative agency;

(3) set forth the criteria used in allocating funds paid to the State from appropriations pursuant to such paragraph (2), which criteria shall insure that (A) the funds will be distributed among public libraries in the State on the basis of population, subject to such adjustments as may be provided for in reasonable standards and regulations adopted by the State library administrative agency, and (B) the State will expend from State and local sources an amount not less than the amount expended by the State from such sources for library services during the second preceding fiscal year;

(4) provide assurances that any public library receiving funds from appropriations made pursuant to paragraph (1) of section 4(a) will share its resources on an exchange basis with other public libraries in the State, and set forth procedures for the establishment of a statewide library network based upon the sharing of such resources;

(5) provide assurances that the State will use not more than 5 percent of the funds received by the State under this Act to pay the costs of activities required by this Act for a State to qualify for assistance and necessary for meeting Federal reporting and compliance requirements;

(6) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program;

(7) include an extension of the long-range program, taking into consideration the results of evaluations; and

(8) provide assistances that the State will submit a substantially complete annual program for each title of this Act under which funds are being sought within 90 days after the Secretary has notified the State of the availability of funds, and that such reports as may be due will have been submitted to the Secretary before the annual program is to be considered.

TITLE III—PUBLIC LIBRARY CONSTRUCTION

GRANTS TO STATES FOR PUBLIC LIBRARY CONSTRUCTION

SEC. 301. The Secretary shall carry out a program of making grants to States which have had approved a basic State plan under section 9(c) and have submitted a long-range program under section 9(d) and an appropriately updated annual program under section 303 for the construction of public libraries.

USES OF FEDERAL FUNDS

SEC. 302. Funds appropriated pursuant to paragraph (3) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of construction projects carried out under State plans submitted and approved under sections 9 and 303. Such grants shall be used solely for the construction of public libraries as defined in section 3 and for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, for the acquisition and conversion of existing structures for use as libraries, and for remodeling designed to conserve energy in the operation of public libraries under approved State plans.

STATE ANNUAL PROGRAM FOR THE CONSTRUCTION OF PUBLIC LIBRARIES

SEC. 303. Any State desiring to receive a grant from its allotment for the purpose of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit such project as the State may approve and are consistent with its long-range program. Such projects shall be submitted at such time and contain such information as the Secretary may require by regulation and shall—

(1) for the year submitted under which funds are paid to the State from appropriations pursuant to paragraph (3) of section 4(a) for that year, be used, consistent with the State's long-range program, for the construction of public libraries in areas of the State which are without the library facilities necessary to provide adequate library services;

(2) follow the criteria, policies, and procedures for the approval of applications for the construction of public library facilities under the long-range program;

(3) follow policies and procedures which will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency; and

(4) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE IV—PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

GRANTS TO STATES FOR PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

SEC. 401. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9(c) of this title and have submitted a long-range program under section 9(d) and an annual program under section 403 of this title for public library programs to meet special user needs.

USES OF FEDERAL FUNDS; FEDERAL SHARE

SEC. 402. Funds appropriated pursuant to paragraph (4) of section 4(a) of this title shall be available for grants to States from allotments under section 5(a) of this Act for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 403. Such grants shall be used for—

(1) Library services for rural, sparsely populated, and impacted areas to supplement services funded under title II;

(2) literacy training programs for the functionally illiterate;

(3) job information services and career counseling in high unemployment areas;

(4) English language instruction;

(5) library services for the aging, the developmentally disabled, those with learning disabilities, and the physically handicapped;

(6) extension library services for patients, residents and inmates of mental and general hospitals, correctional facilities, and other publicly supported institutions, which may include State institutional library services;

(7) outreach programs and other services to serve the economically and educationally disadvantaged;

(8) technical and reference services to serve business, employee, scientific, or other special groups;

(9) information and referral centers established in cooperation with other community and educational institutions and public and private agencies;

(10) assistance to library and information services in Indian country; and

(11) library programs developed in cooperation with public agencies; public broadcasting; nonprofit arts, cultural, archival, and historic preservation organizations; and publicly supported museums, schools, colleges, and adult education programs.

STATE ANNUAL PROGRAM FOR PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

SEC. 403. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for public library programs to meet special user needs. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (4) of section 4(a) of this Act will be used, consistent with its long-range program for the purposes set forth in section 402 of this title, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 404. In carrying out the program of grants authorized by this title, the Secretary shall consult with the heads of other appropriate Federal agencies for the purpose of coordinating, wherever practicable, the programs assisted under this title with the activities of such agencies.

TITLE V—PLANNING AND DEVELOPMENT

GRANTS TO STATES FOR PLANNING AND DEVELOPMENT

SEC. 501. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9 (c) and have submitted a long-range program under section 9 (d) and an annual program under section 503 for planning and development.

USES OF FEDERAL FUNDS

SEC. 502. (a) Funds appropriated pursuant to paragraph (5) of section 4(a) should be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under section 503. Subject to such limitations and criteria as the Secretary shall establish by regulation, grants under this title may be used for—

(1) meeting the costs of State library administrative agencies for planning and evaluation, studies and research, coordination with other Federal library grant programs, planning for State network development, and coordination with regional and national networks;

(2) strengthening the capacity of State library administrative agencies for meeting the needs of the people of the State, including development of staff, which may include specialists in adult, young adult, and children's services, and the continuing education of State library administrative agency personnel;

(3) funding statewide public awareness programs to educate the citizens of the State as to the availability and use of library and information services and the value of such services in meeting individual needs, such public awareness programs to be coordinated with any similar programs undertaken on the national or local community levels; and

(4) providing in-service training, continuing education, and career incentive programs for local library personnel, supplementing programs under the Higher Education Act, and including the recruitment and training on the local level of community liaison workers, public information officers, learners' advisors, literacy instructors, information specialists, trustees, and other library personnel who are representative of the constituencies in the community being served.

(b) Funds provided under this title may be transferred for use by institutions of higher education to carry out programs described in subsections (a) (2) and (4) of this section.

STATE ANNUAL PROGRAM FOR PLANNING AND DEVELOPMENT

SEC. 503. Any State desiring to receive a grant from its allotment to the purpose of this title for any fiscal year shall, in addition to having submitted and having had approved a basic State plan under section 9, submit for that fiscal year an annual program for planning and development. Such program should be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (5) of section 4(a) would be used, consistent with its long-range program for the purposes set forth in section 502, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE VI—MISCELLANEOUS PROVISIONS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect October 1, 1981.

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. MATHIAS, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE CONCURRENT RESOLUTION 103—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE SALE OF NUCLEAR FUEL TO INDIA

Mr. HARRY F. BYRD, JR., submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 103

Resolved by the Senate (the House of Representatives concurring), That the Congress does not favor the President's proposal to overturn the May 16, 1980, decision of the Nuclear Regulatory Commission by authorizing the export of nuclear fuel and related materials to India as stated in Presidential Message 216, the message transmitted to the Congress by the President on June 19, 1980.

SALE OF NUCLEAR FUEL TO INDIA

Mr. HARRY F. BYRD, JR. Mr. President, yesterday President Carter announced that he will approve the sale of 38 tons of enriched uranium to India.

This action overrules a unanimous decision of the Nuclear Regulatory Commission and violates the most fundamental principle of American nonproliferation policy, namely, the principle of no exports without safeguards.

I send to the desk a resolution of disapproval which will prevent the President from carrying out this unwise and dangerous sale of nuclear materials which can be used in a program of nuclear weapons production.

Such a sale would be highly questionable under any circumstances, but it is even more so when the recipient of the enriched uranium is the only nation in the world known to have diverted nuclear fuel from an allegedly civilian program to manufacture and explode an atomic device.

India did this in 1974, using plutonium byproduct from a Canadian-supplied powerplant. Moreover, in the time since that explosion, India has refused all entreaties to accept international safeguards against diversion of nuclear fuel to weapons; indeed, India has stridently insisted upon her right to carry out a nuclear weapons program as she so chooses.

President Carter, after years of insistence on safeguarding exported nuclear materials, has now capitulated in a critical test of American nuclear export policy. The alleged justification for the abrupt reversal is the need for "improved relations" with India in the wake of the Russian invasion of Afghanistan and after the break in diplomatic relations with Iran.

The United States has been seeking "improved relations" with India for decades and has nothing to show for its efforts.

The recalcitrance and outright hostility of the Indian Government toward the United States comes after decades of American generosity in assistance for that nation.

We have sent India billions in direct aid, and we have been the chief contributor to the multinational development banks from which India has received over $10 billion—more than 10 percent of all of those banks' payments over the years of their existence.

Just this last week, the Senate approved legislation to furnish the International Development Association, India's foremost multilateral benefactor, with a replenishmentof $3.24 billion. And in separate foreign aid legislation, programs were approved which will furnish at least $135 million in direct, bilateral aid from the United States to India in 1981.

Yet India under Prime Minister Gandhi appears to move ever closer to the Soviet camp.

India has just concluded a $1.6 billion arms deal with Russia which is highly unusual in its terms. Normally, Russia finances arms sales through loans of relatively short terms, usually 8 to 10 years. In the case of India, however, Moscow decided that especially favorable terms were warranted.

India is required to pay back the $1.6 billion loan over a 17-year term at 2.5-percent interest. Obviously these terms are exceptionally favorable.

But there are further concessions. The prices of the military equipment to be supplied to India are deflated far below the value of the weapons to be transferred. For example, the tanks included in the transaction are selling at about one-third their value in Western markets.

The actual value of the Russian military credits provided to India far exceed the face value of the loan made. Moreover, India will not be required to repay the loan in cash. Instead, India will pay off its debt by providing textiles and other commodities to Russia, again providing an opportunity for obtaining a further concessional advantage.

Far more disturbing than the terms of the loan are the items of military hardware which will be supplied to India. India already has 70 T–72 tanks and even before the new loan transaction had ordered an additional 148 T–72's. The T–72 is far more advanced than any tank now in the U.S. inventory except the first few XM–1's which have just entered into production. In fact, we only have four of these new tanks. India will acquire massive numbers of T–72's under the $1.6 billion deal with Russia.

India already has three Nanuchka guided missile boats. Again, under the loan agreement, India will acquire substantial numbers of additional vessels of that class. India already has three Russian Kaskin class ships and will acquire more under its deal with Russia.

The Hindustan Aircraft Co. in Bangalore already manufactures Mig fighter aircraft. Under the new Russian loan package, the Hindustan Aircraft Co. will be equipped to manufacture the advanced Mig–23B Flogger fighter.

The billions of dollars of equipment that Russia is providing to India will cement Indian dependence on Russia in security matters. In the United States to provide India with nuclear fuel which can be converted for use in atomic weapons against that background of facts is unwise in the extreme.

As I see it, 38 tons of enriched uranium will do no more to buy Indian friendship than have the many billions of American tax dollars lavished year after year on the vast Indian bureaucracy.

The refusal of the Gandhi government to open Indian nuclear facilities to international inspection is, in itself, strong evidence that India has much to hide. There is no valid reason why the United States should assist India in a surreptitious weapons program. After having caved in to Indian demands, the U.S. Government will seem clearly hypocritical in denying nuclear exports to other nations.

India's refusal to sign the Nuclear Non-Proliferation Treaty or to permit international inspection is compounded by India's refusal to agree on a bilateral basis with the United States not to reprocess spent nuclear fuel at Tarapur for the purposes of obtaining plutonium.

India is demonstrably capable of disregarding its present limited safeguard agreement with the United States, and if permitted to produce plutonium, could easily divert plutonium to weapons use in the same manner as was done in 1974.

The principle at issue in controlling nuclear materials exports is, however, much broader than simply the particular case involving India. Nuclear materials must be made subject to full safeguards as intended by Congress under the Nuclear Non-Proliferation Act; otherwise, the inevitable result will be the spread of nuclear weaponry to ever-increasing numbers of countries and governments. That potential outcome should be avoided at all cost.

The United States as a matter of paramount national policy should strive to contain the number of countries armed with nuclear weapons and to inhibit the development of nuclear weapons by any country which does not now possess them.

On Friday, May 16, the Nuclear Regulatory Commission determined that the proposed export of nuclear material and equipment to India did not satisfy the requirements of the Nuclear Non-Proliferation Act. By its decision, the Nuclear Regulatory Commission upheld its clear congressional mandate and acted prudently and correctly, notwithstanding administration support for the transaction.

Despite all this, the President has elected to override the decision of the Nuclear Regulatory Commission and permit the sale of nuclear fuel to India.

This act of appeasing India at the expense of the basic principles of nuclear nonproliferation must be reversed.

It is essential that the Congress act promptly to prevent the President from carrying out his intention of sending nuclear materials to India.

In this highly dangerous nuclear age, we must do everything possible to prevent the spread of nuclear weaponry.

I ask unanimous consent to insert in the RECORD two editorials from the Washington Post and an Associated Press dispatch from New Delhi.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 20, 1980]

WAITING FOR ANOTHER BOMB?

The five members of the Nuclear Regulatory Commission, who hardly ever agree on anything, voted 5–0 last Friday. They concluded that two proposed exports of nuclear fuel destined for India did not meet the requirements of the Nuclear Non-Proliferation Act of 1978 and therefore could not be approved. The export licenses now go to the president, who may override the NRC. Several aspects of the NRC decision, however, should make the president rethink his announced intention of approving the exports.

The central pillar of the administration's non-proliferation policy, and of the law Congress enacted in support of it, and of the landmark Non-Proliferation Treaty, is reliance on an international system of controls and inspections known as safeguards. The NPT requires its signatories to put *all* of their non-military nuclear facilities under safeguards. However, many recipients of U.S. nuclear supplies have not signed the NPT. The fundamental contribution of the 1978 law was its requirement that an absolute condition of future U.S. nuclear exports would be the functional equivalent of NPT membership: full safeguards.

Congress allowed a two-year grace period so exports could continue to nations that did not meet the safeguards requirement. That period expired on March 10. However, in asking for the NRC's approval, the Department of State argued that the two Indian licenses should be considered as falling within the allowed grace period because the shipping date that India had intended fell before March 10. After extensive review of the legislative history of the law, the NRC unanimously disgreed.

Its decision puts the proposed exports in a new light, because now presidential approval would require the first waiver of the law's central principle—and for the very nation that exploded a nuclear weapon in 1974 and whose government now regularly asserts its right to repeat that event if it so chooses.

Congress, which also plays a role in approving these licenses, must also reassess the Indian exports. For if the safeguards requirement is waived for India, all hope for getting other nations to comply—Argentina and South Africa, for example—dissolves.

It has been reported that the president has already assured Prime Minister Indria Gandhi that he will approve the licenses. It will therefore be difficult for him not to. It will be even more difficult, however, for him to explain the undoing, at his hands, of his non-proliferation policy. What is Mr. Carter waiting for—another Indian bomb?

[From the Washington Star, May 28, 1980]

SOVIETS AGREE TO PROVIDE INDIA $1.63 BILLION IN NEW WEAPONRY

NEW DELHI, INDIA.—The Soviet Union has agreed to provide $1.63 billion worth of new weapons and hardware for the Indian army, navy and air force on easy terms, the United News of India reported yesterday.

It said the agreement was signed last week in Moscow by an Indian Defense Ministry delegation, and described it as the biggest single pact in the $3.1 billion of military aid accords India has concluded with other countries.

No immediate confirmation was available of the press agency report, attributed to Defense Ministry sources. Specific items were not mentioned. An order of modern Soviet T–72 battle tanks was believed included.

S.S. Siddhu, secretary in the Defense Ministry, led the delegation, which visited major Soviet military installations and conferred with Marshall Dmitri Ustinov, the Soviet defense minister, and the chiefs of staffs of the Red army, navy and air force.

The Indians were given 17 years to repay the credit at an annual interest rate of 2½ percent, compared to 10-year credit available from Western countries, UNI said.

Unlike Western countries, the Soviet Union accepts Indian rupee currency spendable in India for Indian products.

Another Indian military procurement mission left yesterday on a 17-day visit to Italy, France and Hungary.

The group, headed by Defense Ministry secretary K.P.A. Menon, will discuss the purchase of electronic equipment from Italy and missiles and planes—including the Mirage 2000—from France, and will visit military bases in Hungary, UNI said.

[From the Washington Post, June 1, 1980]

A SEAMLESS ARMS-SALES WEB

India has just made a sweetheart of an arms purchase, not its first, from the Soviet Union—$1.6 billion in weapons on giveaway terms. The timing is especially scandalous. The Soviet Union obviously feels it is buying India's sympathetic and tolerant understanding of its invasion of Afghanistan. The contrast with the recent American military-aid offer of $200 million (at 11 percent interest) that Pakistan rejected as "peanuts" is, presumably, one that a smirking Moscow would like everyone to draw. On its part, India is acquiring yet more of the means to confirm its unchallengable position as the dominant power of the Asian subcontinent. Prime Minister Indria Gandhi is showing again that she can deal in the international big leagues.

The new Indian-Soviet deal is bad enough. It not only further weakens the anti-invasion consensus. It also is bound to push closer toward desperation a Pakistan already deeply fearful that India, with Soviet approval, is gearing up to wipe it off the map. The Indians deny having anything faintly resembling that in mind. The record is plain, however, that each major (and sometimes not so major) increment of arms on the subcontinent feeds the spiral that has already produced three wars. In regional terms, the latest package, unaccompanied by even a formal bow to the requirement of political conciliation, is more kerosene on the fire.

The trouble is that this particular Asian military package is not the only one tied up in the last few days. In Washington, the door through which China acquires military equipment from the United States has just been cracked open a bit wider. Washington is not, or not yet, selling arms to Peking, but it does plan to sell selected technology plus "non-lethal" items like air defense radars. The rationale for the new steps is the Soviet invasion of Afghanistan, which has made the notion of containing Soviet power more urgent, and more saleable, and more swallowable by an administration that came into power with very different ideas.

The world of arms sales is practically seamless. The Kremlin invades Afghanistan. The Pakistanis then look to the United States for arms. India takes the occasion to go to Moscow; strategically, Indians divide into those preoccupied by Pakistan and those preoccupied by China. The Chinese, seeing the Soviet moves in Afghanistan and, no doubt, in India, arrive in Washington. The Kremlin, eyeing the Chinese . . . But you get the idea: Rube Goldberg could sketch it best.

The world is not coming to an end. But as the countries making up this particular cat's cradle narrowly pursue their separate national interests, they are losing increments of control over their common destiny. It is not possible for the United States alone to check the drift. That would be hard even if this were a vigorous administration early in its term of power. But neither it is possible for the drift to begin to be checked unless the United States takes a serious comprehensive approach to the politics of the region as a whole. Simple slogans about cooperation or, for that matter, about confrontation won't do the job.

SENATE RESOLUTION 471—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 471

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6974, a bill to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 6974, as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL ELECTION CAMPAIGN ACT—S. 2325

AMENDMENT NO. 1904

(Ordered to be printed and referred to the Committee on Rules and Administration.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 2325, a bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor organizations.

NUCLEAR WASTE POLICY ACT—S. 2189

AMENDMENT NO. 1905

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

DISABLED VETERANS REHABILITATION ACT—S. 1188

AMENDMENT NO. 1906

(Ordered to be printed and ordered to lie on the table.)

Mr. PRESSLER (for himself and Mr. HEINZ) submitted an amendment intended to be proposed by them, jointly, to S. 1188, a bill to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

● Mr. PRESSLER. Mr. President, when S. 1188, the Disabled Veterans Rehabilitation Act of 1980, comes to the floor of the Senate, Senator HEINZ and I intend to offer an amendment. Our amendment would establish a Vietnam veteran career development, advancement, and training program aimed at resolving the unemployment and underemployment problems of Vietnam veterans.

The Vietnam war ended over 7 years ago. We committed 8 million of our young people to a war that was unpopular by all standards. The registration system used to draft participants was unfair at best. Our Armed Forces were comprised largely of the working class, the lower middle socioeconomic strata of society.

When the war was over, Americans attempted to remove all reminders of a conflict that had no resolution. In forgetting the war, we forgot its veterans. Americans recognized no heroes. There were no bands and the only parades available were marches on college campuses against the war. As a result, the returning veteran had no way of venting his frustrations and his bitterness. In past wars, when soldiers returned home, their service provided them with the bond necessary to share their experiences with those around them. Because few people wanted to talk about Vietnam, few wanted to talk with its veterans. When the country ignores problems, so does Congress.

As a result, conservative sources estimate that as many as 500,000 veterans have psychological, readjustment problems severe enough to warrant treatment. Vietnam era veterans unemployment has risen by 140,000 in the last year, bringing the total to almost 500,000. These statistics are especially staggering when we consider that the war ended over 7 years ago. A large percentage of Vietnam veterans have not made productive readjustments to society because Congress has failed to enact programs which deal with the special nature of the war or its veterans. Our amendment initiates a program which would take into account the background and needs of those veterans who have not readjusted under current VA programs.

The Vietnam veterans career development program would allow veterans to use their GI bill entitlement to reimburse employers who provide them with substantive career opportunities.

To date, the employment programs that Congress has provided the Vietnam veteran are ineffectual, short-term welfare programs, such as CETA. As a veteran who served in the military in Vietnam, I find it appalling that we offer our veterans temporary social welfare employment programs. The unique nature of the problems faced by the Vietnam veterans demands a program able to deal with these problems. Our amendment would do that. By allowing the veteran to use GI bill entitlement to provide training and employment in a substantive career, this program adapts itself to the special needs of individual veterans, especially those that have fallen outside of the scope of past programs. A more thorough description of the amendment follows in the section-by-section analysis printed below. Basically, however, it authorizes the same level of funding for employer reimbursement as is presently offered to veterans using the GI Bill for educational purposes.

The career development, advancement, and training program will cost approximately $3,000 per veteran. This is far less than the cost of institutional training under the GI bill ($10,000), CETA public service employment ($7,800) or unemployment compensation to unemployed or underemployed veterans. The career development, advancement and training program is:

Drawn entirely upon existing entitlements;

"Sunsetted" and will terminate within 4 years after the effective date;

Needs tested, as veterans must be unemployed or underemployed to participate and be making less than $13,000 at the time of application to participate;

Designed to use existing delivery systems, generate a minimum of paperwork, and require no new staff other than those temporarily needed to handle applications for the program; and

Far less costly and more effective than the alternatives, which include education and training with no employment, opportunities under the current GI bill, unemployment, underemployment, public service employment, and the major social, economic, and personal costs stemming from the failure of Vietnam veterans to make productive readjustment to society.

In order to participate in the program, employers must agree that the employment will continue once the funding has ended. Because the program is designed to provide a meaningful, long-term career opportunity, it removes the structural inadequacies in past training and educational program: the career continues after the Government funding expires. It allows Vietnam veterans who choose not to use their GI bill entitlement for educational purposes to provide themselves with a readjustment tool. Although the program is no guarantee for instant success, it offers businessmen an incentive to hire Vietnam veterans.

The Congressional Budget Office estimates that there will be 100,000 participants in this program at a 5-year cost of $220 million. This is one-third the cost of public service employment for an equal number of participants. The amendment would also defer the effective date of the 10-percent benefit increase in S. 1188 from October 1, 1980, to January 1, 1981. This will insure that both initiates will fit within the Senate's first fiscal year 1981 budget.

Mr. President, today the average Vietnam veteran is 35, married, and has two children. He is not asking for a handout. He is not demanding that we provide him with a program that is better than those provided to veterans of past wars. He is simply asking for a different program—one which allows him to assume the role in society he would have assumed if he had not given several years of his life in service to his country.

It has been 7 years. It is too late for parades and too late for bands, but it is not too late for Congress to provide a program that encourages productivity. Our amendment would allow Vietnam veterans to make final readjustments to society.

I encourage my colleagues to study this amendment, consider cosponsorship, and support its passage on the floor.

Mr. President, I ask unanimous consent that the text of the amendment and a section-by-section analysis, be printed in the Record.

There being no objection, the amendment and material were ordered to be printed in the Record, as follows:

AMENDMENT No. 1906

On page 71, between lines 3 and 4, insert a new title as follows:

TITLE III—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

ESTABLISHMENT OF CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE PROGRAM USING EDUCATIONAL ASSISTANCE ENTITLEMENT

Sec. 1001. (a) Part III is amended by adding at the end thereof the following new chapter:

"Chapter 45—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

"Subchapter I—Purpose; Definitions

"Sec.
"2101. Purpose.
"2102. Definitions.

"Subchapter II—Eligibility and Entitlement

"2103. Establishment of program.
"2104. Eligibility; entitlement; duration.
"2105. Time limitations for completing a program of career development or training.
"2106. Occupational and vocational counseling.

"Subchapter III—Enrollment

"2111. Selection of program.
"2112. Applications; approval.
"2113. Disapproval of enrollment in certain program.
"2114. Discontinuance for unsatisfactory conduct or progress.

"Subchapter IV—Payments to Eligible Employers

"2121. Career development and advancement and career development and training allowances.
"2122. Computation of career development and assistance allowances.
"2123. Payment of career development and advancement or career development and training assistance allowances.

"Subchapter V—Approval

"2131. Approval of programs.
"2132. Authority for approval.
"2133. Approval of career development and training programs.
"2134. Notice of approval of programs.
"2135. Disapproval of programs.
"2136. Overpayments to eligible employers.
"2137. Discontinuances of allowances; examination of records; false or misleading statements.
"2138. Change of program.
"2139. Compliance surveys of employers.
"2140. Duties of the Secretary of Labor.
"2141. Veterans information and outreach.
"2142. Termination dates.

"Subchapter I—Purpose; Definitions

"§ 2101. Purpose

The Congress hereby declares that the career development, advancement, and training program created by this chapter is for the purpose of—

"(1) extending the benefits of a meaningful career to qualified and deserving veterans who might otherwise be unable to attain a meaningful career opportunity;

"(2) providing vocational readjustment and restoring lost career opportunities to those individuals whose careers have been interrupted or impeded by reason of active military service after August 4, 1964;

"(3) aiding such individuals in attaining the vocational and occupational status which they might normally have aspired to and obtained had they not served their country; and

"(4) Provide an opportunity for such individuals to attain their full employment capability to increase their earned income, and to attain economic self-sufficiency.

§ 2102. Definitions

"For the purposes of this chapter—

"(a) (1) The term 'eligible veterans' means a veteran who—

"(A) served on active duty for a period of more than one hundred and eighty days, any part of which occurred after August 4, 1964, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable;

"(B) contracted with the Armed Forces and was enlisted in or assigned to a Reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than one hundred and eighty days, any part of which commenced within twelve months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable;

"(C) was discharged or released from active duty, any part of which was performed after August 4, 1964, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.

"(2) For purposes of paragraph (1)(A) of this subsection and section 1661(a) of this title, the term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve, Marine Corps Reserve, or Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty of a continuous period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

"(b) The term 'eligible employer', when used with respect to the employment of a veteran, means any public or private employer who meets the criteria set forth in this chapter and such other criteria as the Administrator considers necessary and appropriate.

"(c) The term 'dependent' means—

"(1) a child of an eligible veteran;

"(2) a dependent parent of an eligible veteran;

and

"(3) the spouse of an eligible veteran.

"Subchapter II—Eligibility and Entitlement

"§ 2103. Establishment of program

"(a) The Administrator shall establish a program in accordance with this chapter to assist eligible veterans in selecting and pursuing career development and advancement programs and career development and training programs.

"(b) A career development and advancement program is a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment or to advance in such veteran's chosen career and to increase such veteran's earned income and economic self-sufficiency through a partial subsidy of such veteran's wages and benefits.

"(c) A career development and training program is a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment, to advance in such veteran's chosen occupation, and to increase such veteran's earned income and economic self-sufficiency through a subsidy of training costs and partial subsidy of such veteran's wages and benefits.

"§ 2104. Eligibility; entitlement; duration

"(a) Subject to section 2122 of this chapter, an eligible veteran is entitled to a career development and advancement allowance or a career development and training allowance under this chapter in an amount equal to the amount of the entitlement of such veteran, and for the period of the entitlement of such veteran, remaining under the provisions of section 1661 or section 1631 of this title, as the case may be.

"(b) Entitlement under this chapter in the case of any eligible veteran may not exceed the number of months specified in section 1622 (a) of this title.

"(c) A veteran described in clause (A) or (B) of paragraph (1) of section 2122 (a) of this title whose annual income exceeds $13,000 at the time of application for assistance under this chapter may not participate unless the Administrator determines that the participation of such veteran is necessary and appropriate for such veteran's readjustment, rehabilitation, or productive employment.

"§ 2105. Time limitations for completing a program of career development or training

"Notwithstanding the provisions of section 1662 of this title, an eligible veteran may pursue a program of career development and advancement or a program of career development and training under this chapter if such veteran otherwise meets the eligibility criteria set forth in this chapter.

"§ 2106. Occupational and vocational counseling

"The counseling to be made available under section 1663 of this title shall include such occupational skills assessment counseling and assistance as the Administrator determines to be necessary and appropriate for the effective implementation of this chapter.

"Subchapter III—Enrollment

"§ 2111. Selection of program

"Subject to the provisions of this chapter, an eligible veteran may select a program of career development and advancement or a program of career development and training with an eligible employer for the purpose of assisting such veteran in attaining an occupational, professional, or vocational objective or advancing in such veteran's chosen career field (approved in accordance with the provisions of this chapter) selected by the eligible veteran, if such eligible employer hires such veteran into its regular workforce with the expectation by the employer of permanent employment of the veteran after the training and career development assistance ends.

"§ 2112. Applications; approval

"An eligible veteran who desires to undertake a program of career development and advancement or career development and training under this chapter shall submit an application for such program to the Administrator in such form and containing such information as the Administrator may prescribe. The Administrator shall approve such an application unless the Administrator finds that the veteran is not eligible for or entitled to the career development and advancement or career development and training assistance applied for, that the veteran's program of career development and advancement or career development and training applied for fails to meet the requirements of this chapter, that the veteran is already qualified, or that such veteran's readjustment or employment would not be assisted or advanced by participation in such program.

"§ 2113. Disapproval of enrollment in certain program

"The Administrator may not approve the enrollment of a veteran in a program for employment—

"(1) which consists of seasonal, intermittent, or temporary jobs, except that the Administrator may approve enrollment in a program for employment on a seasonal basis if the Administrator determines such action appropriate under all the circumstances;

"(2) which pays less than $4 per hour (exclusive of benefits and other nonmonetary remuneration) unless the Administrator determines in a particular case that this clause shall not apply;

"(3) which is outside the United States or its territories or possessions;

"(4) under which commissions are the primary source of income;

"(5) which involves political or religious activities;

"(6) which is in an industry in which a substantial number of experienced and able workers are unemployed;

"(7) under which the job is above entry level, except when applicable personnel procedures and collective bargaining procedures regarding the advancement of currently employed workers are complied with;

"(8) which would result in the displacement of any currently employed worker (including partial displacement such as a reduction in the amount of non-overtime work); or

"(9) in a job which if filled would replace any worker who is on layoff or on strike.

"§ 2114. Discontinuance for unsatisfactory conduct or progress

"(a) The Administrator shall discontinue the career development and advancement allowance or the career development and training allowance of a veteran if the Administrator finds that, according to the standards that the Administrator may prescribe or the regularly prescribed standards of the eligible employer, the conduct or progress of the veteran is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the veteran is not progressing at a rate that will permit the veteran to complete training, retain such employment, or advance in such career field according to criteria set forth in this chapter or in agreements certified to the Veterans' Administration or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations.

"(b) The Administrator may renew the payment of a career development and advancement allowance or the career development and training allowance suspended under subsection (a) of this section only if the Administrator finds that—

"(1) the cause of the unsatisfactory conduct or progress of the veteran has been removed; and

"(2) the program which the veteran now proposes to pursue (whether the same as the program originally pursued or revised) is suitable to the aptitudes, interests, and abilities of the veteran.

"Subchapter IV—Payments to Eligible Employers

"§ 2121. Career development and advancement and career development and training allowances

"The Administrator shall, in accordance with the applicable provisions of this title, pay to each eligible employer on behalf of each eligible veteran pursuing a program of career development and advancement or career development and training under this chapter with such employer a monthly allowance (computed under section 2122 of this title) to meet, in part, the expenses of such veteran's wages, benefits, and training and other necessary or appropriate costs.

"§ 2122. Computation of career development and advancement and career development and assistance allowances

"(a)(1) Subject to the provisions of subsections (b) and (c) of this section, the amount of a career development and advancement or career development and training allowance to be paid under section 2121 of this title may not exceed the applicable amount provided under section 1682(a)(1) of this title in the case of a veteran whose eligibility is derived under chapter 34 of this title and who is pursuing a full-time program of institutional training as determined by the veteran's dependency status. Such assistance shall be paid for a period of—

"(A) twelve months, for an eligible veteran with a service-connected disability who served on active duty during the Vietnam era and is entitled to disability compensation under laws administered by the Veterans' Administration;

"(B) nine months, for an eligible veteran who served on active duty in the Indochina theater of operations or Korea during the Vietnam era.

"(2) Assistance under this chapter shall be paid for a period of eighteen months in the case of an eligible veteran who, after counseling under section 1663 of this title, is found to be experiencing serious rehabilitation, readjustment, or employment problems that require an extension of the time period authorized under the second sentence of paragraph (1) of this subsection in order to allow the veteran to pursue and satisfactorily complete a program of career development and advancement or a program of career development and training under this chapter.

(b) The amount of a career development and advancement allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed one-third of the gross wages and benefits paid by such employer to such eligible veteran; and

"(2) may not exceed the amount of increased gross wages and benefits of any eligible veteran whose career has been advanced under this program.

"(c) The amount of a career development and training allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed the actual cost of the training as provided in section 2133 of this title plus an amount equal to one-fourth of the amount in wages and benefits paid by such employer to such eligible veteran, except that the total amount may not exceed an amount equal to 50 per centum of the wages and benefits paid by such employer to such eligible veteran, unless intensive training or additional training arrangements are necessary for veterans with severe employability problems, particularly for disabled veterans; and

"(2) may not exceed by more than twice the annual amount of increased gross wages and benefits of any eligible veteran whose career and income have been advanced through training under this program.

"(d) A career development and advancement allowance or career development and training allowance paid under this section shall be charged against the period of entitlement of the eligible veteran under section 1661(a) or section 1631(a) of this title, as appropriate.

"§ 2123. Payment of career development and advancement or career development and training assistance allowances

"(a) Payment of a career development and advancement allowance on behalf of a veteran for any period may not be made to an eligible employer employing such veteran until the Administrator has received—

"(1) from such veteran, a certification as to such veteran's actual employment with such employer and attendance during such period; and

"(2) from the employer, a certification (or an endorsement on the eligible veteran's certification) that such veteran was satisfactorily employed and pursuing a program of career development and advancement during such period.

"(b) Payment of a career development and training allowance on behalf of a veteran may not be made to an eligible employer employing such veteran until the Administrator has received—

"(1) from such veteran, a certification as to such veteran's actual employment, attendance, and training with such employer during such period; and

"(2) from the employer, a certification (or an endorsement on the veteran's certification) that such veteran was employed and progressing satisfactorily while pursuing a program of career development and training during such period.

"Subchapter V—Approval

"§ 2231. Approval of programs

"An eligible employer may be paid a career development and advancement allowance or a career development and training allowance on behalf of an eligible veteran participating in a career development and advancement program or a career development and training program offered by such employer only if such program is approved in accordance with this chapter.

"§ 2132. Authority for approval

"Subject to the provisions of this title and such regulations the Administrator may prescribe, a program of career development and advancement or career development and training may be approved—

"(1) by the Administrator, the Secretary of Labor, by a prime sponsor designated under section 101 of the Comprehensive Employment and Training Act or, in the case of a program of career development and training involving apprenticeship, by an approving agency meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (commonly referred to as the 'National Apprenticeship Act') (29 U.S.C. 5a); or

"(2) by such other means as the Administrator may consider appropriate.

"§ 2133. Approval of career development and training programs

"(a) Any entity having authority under section 2132 of this title to approve programs under this chapter (hereinafter in this chapter referred to as an 'approving agency') may not approve a program of career development and training (other than a program of apprenticeship) unless it finds that the career which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training (including cooperative training, as defined in section 1682(a)(2) of this title), and not on factors such as length of service and normal turnover, and that the provisions of subsections (b), (c), and (d) of this section are met.

"(b) The employer or training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate approving agency a written application for such approval which, in addition to furnishing such information as is required by the approving agency, shall contain a certification that—

"(1) the wages and benefits to be paid to veterans participating in a program under this chapter are not less than the wages and benefits normally paid for the job for which the veteran is to be trained;

"(2) the amount of the career development and training allowance to be paid to such employer on behalf of a veteran does not exceed the actual cost of the training plus an amount equal to one-fourth of the amount in wages and benefits paid to the veteran, except that the total amount may not exceed an amount equal to 50 per centum of the wages and benefits paid to the veteran, unless intensive training or additional training arrangements are necessary for veterans with severe employability problems, and particularly for disabled veterans; and

"(3) there is reasonable certainty that the career or position for which the veteran is to be trained will be available to such veteran at the end of the training period.

"(c) Before approving a program of career development and training (other than a program of apprenticeship), the approving agency must find (upon investigation) that the following criteria are or will be met by the employer applying for approval:

"(1) The training content of the course is adequate to qualify a veteran participating in the program for appointment to a position in the career field for which such veteran is to be trained.

"(2) The career field or position customarily requires full-time training for a period of not less than four months.

"(3) The length of the training period under the proposed program is not longer than that customarily required by employers and training establishments in the community to provide a person with the required skills and to arrange for the acquisition of job knowledge, technical information, and other facts which a veteran will need to learn in order to become competent in the career field or position for which the veteran is being trained.

"(4) Provision is made for related instruction for individual veterans who may need related instruction.

"(5) There is in the training establishment or place of employment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"(6) Adequate records will be kept to show the progress made by each veteran participating in the program toward such veteran's career objective.

"(7) The course of training will not be given to veterans who are already qualified by training and experience for the career or position.

"(8) A signed copy of the training agreement for each eligible veteran, including the training program and wage scale as approved by the approving agency, will be provided by the employer to the veteran, the Administrator, and the approving agency.

"(9) Reasonable efforts will be made to provide special training and employment opportunities and working conditions for disabled veterans.

"(10) The program meets such other criteria as may be established by the approving agency.

"(11) There is a reasonable certainty that a position for which a veteran was hired, or a position to which a veteran is intended to be promoted, will be reasonably available for the veteran at the end of the period for which a career development and advancement allowance was paid to the eligible employer.

"(d) Before approving a program of career development and advancement, the approving agency must find (upon investigation) that the following criteria are or will be met by the employer applying for approval:

"(1) The program offered by the employer is not one described in section 2113 of this title.

"(2) The selection of eligible veterans for hiring, upgrading, promotion, or advancement will be based upon the potential and qualifications of such veterans for the career or advancement the veterans are seeking.

"(3) The program will provide eligible

veterans with reasonable progression, resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the employment of such employer.

"(4) Adequate personnel, attendance, and progress records will be maintained.

"(5) The program is designed so that, to the extent feasible, additional vacancies will be created for new entry level employment and training opportunities for women and members of appropriate minority groups (as determined by the Administrator in consultation with the Director of the Office of Personnel Management).

"(6) Compensation will be paid by the employer at rates, including periodic increases, considered by the approving agency to be reasonable, considering such factors as industry practice, skill requirements, individual proficiency, geographical region, and a veteran's dependency status, age, and previous work experience.

"(7) The employer is financially sound and capable of fulfilling its commitments.

"(8) A comprehensive job description is available for each job or position for which approval is requested.

"(9) The employer will not exceed enrollment limitations as established by the approving agency.

"(10) If a career development and advancement program is for or from positions covered by a collective bargaining agreement, arrangements with the employer to carry out the program have the concurrence of labor organizations representing employees in such positions.

"§ 2134. Notice of approval of programs

The approving agency, upon determining that an eligible employer has complied with the requirements of this chapter, shall issue a certification to such employer setting forth the jobs or positions which have been approved for a program of career development and advancement or a program of career development and training for the purpose of this chapter and shall furnish a copy of such certificate and any subsequent amendment of such certificate to the Administrator and to the Secretary of Labor. The certificate of approval shall be accompanied by a copy of a catalog or bulletin of the eligible employer, as approved by the approving agency, and shall contain the following information:

"(1) The date of certification and the effective date of approval of programs.

"(2) The name and address of the employer.

"(3) The authority for approval and the conditions of approval, referring specifically to the approved catalog or bulletin published by the eligible employer.

"(4) The name and description of each job, career, position, or advancement opportunity approved.

"(5) If applicable, limitations with respect to enrollment, hiring, and advancement.

"(6) The signature of responsible official of the appropriate approving agency.

"(7) Such other provisions as are considered necessary by the appropriate approving agency.

"§ 2135. Disapproval of programs

"Any program of career development and advancement or career development and training approved for the purposes of this chapter which after such approval fails to meet any of the requirements of this chapter shall immediately be disapproved by the appropriate approving agency. An eligible employer which has its program disapproved by an approving agency under this section shall be notified of such disapproval by a certified or registered letter of notification, and a return receipt shall be secured.

"§ 2136. Overpayments to eligible employers

"Whenever the Administrator finds that an overpayment has been made to an eligible employer under this chapter as the result of (1) the willful or negligent failure of such employer to report, as required by this chapter and applicable regulations, to the Administrator excessive absences from work or discontinuance or interruption of a program of career development and advancement or career development and training by such veteran, or (2) false certification by an eligible employer, the amount of such overpayment shall constitute a liability of such employer and may be recovered in the same manner as any other debt due the United States, and such employer shall be suspended from further participation in any program under this chapter. This section shall not preclude the imposition of any civil or criminal liability under any other law.

"§ 2137. Discontinuances of allowances; examination of records; false or misleading statements

"(a)(1) The Administrator may discontinue a career development and advancement or career development and training allowance paid to an eligible employer on behalf of an eligible veteran if the Administrator finds that the program of career development and advancement or career development and training or any job, career, or position in which such veteran is enrolled or employed fails to meet any of the requirements of this chapter or applicable provisions of this title, or if the Administrator finds that the employer offering such program or employment has violated any provision of this chapter or fails to meet any of the requirements of this title.

(2) Any action by the Administrator under paragraph (1) of this subsection to discontinue (or suspend) assistance provided to an eligible employer on behalf of an eligible veteran under this chapter shall be based upon evidence that the eligible employer or eligible veteran is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall immediately provide written notice to such employer and such eligible veteran of such discontinuance, including a statement of the reasons therefor.

"(b) Notwithstanding any other provision of law, the records and accounts of eligible employers pertaining to eligible veterans who have received career development and advancement or career development and training assistance under the provisions of this chapter or applicable provisions of this title, as well as other records which the Administrator determines necessary to ascertain compliance with the requirements of this chapter, shall be available at a reasonable time for examination by authorized representatives of the Government.

"(c) Whenever the Administrator determines that an eligible employer has willfully submitted a false or misleading claim, or that a veteran, with the complicity of an employer, has submitted such a claim, the Administrator shall make a complete report of the facts thereof to the appropriate approving agency and, if considered advisable, to the Attorney General of the United States for appropriate action.

"§ 2138. Change of program

"(a) Except as provided in subsections (b) and (c) of this section, an eligible veteran may make not more than one change of program of career development and advancement or career development and training under this chapter, but an eligible veteran whose program has been interrupted or discontinued due to the veteran's own neglect, or the veteran's own lack of application, shall not be entitled to make any such change.

"(b) The Administrator may approve one additional change in program (or an initial change in the case of a veteran not eligible to make a change under subsection (a) of this section) if the Administrator finds—

"(1) that the program of career development and advancement or career development and training which the veteran proposes to pursue is suitable to the veteran's aptitudes, interests, and abilities; or

"(2) in any instance where the eligible veteran has interrupted, or failed to progress in, the veteran's program due to the veteran's own misconduct, the veteran's own neglect, or the veteran's own lack of application, that there is a reasonable likelihood with respect to the program which the eligible veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Administrator may also approve additional changes in the program if the Administrator finds such changes are required by circumstances beyond the control of the veteran.

"(d) As used in this section, the term 'change of program of career development and advancement or career development and training' shall not be considered to include a change from the pursuit of one program to pursuit of another when the first program is a prerequisite to, or generally required for, entrance, promotion, or advancement into pursuit of the second.

"§ 2139. Compliance surveys of employers

"The Administrator shall periodically conduct compliance surveys of employers offering one or more programs of career development and advancement or career development and training approved for the enrollment of eligible veterans under the provisions of this chapter. Such surveys shall be made to assure that the eligible employer and the approved programs are in compliance with applicable provisions of this title.

"§ 2140. Duties of the Secretary of Labor

"(a) The Secretary of Labor shall provide for the participation of eligible veterans in career development and advancement and career development and training programs authorized under this Act and under section 121(b)(2)(A) of the Comprehensive Employment and Training Act. In carrying out this responsibility, the Secretary of Labor shall consult with and solicit the cooperation of the Administrator. Actions by the Secretary of Labor under this section shall include the development of career development and advancement and career development and training programs, supportive services, technical assistance and training, support for community-based veterans programs, and such other programs as are necessary to serve the unique readjustment, rehabilitation, and employment needs of eligible veterans.

"(b) The Secretary of Labor shall make special efforts to acquaint eligible veterans with the career development and advancement and career development and training opportunities available under this chapter and to coordinate such opportunities with those job opportuniites authorized under chapters 41 and 42 of this title and other similar job opportunities offered by other public agencies and organizations.

"(c) Entities which are prime sponsors under the Comprehensive Employment and Training Act shall provide such arrangements (to include program approval) as may be necessary and appropriate to promote maximum feasible development and use of career development and advancement and career development and training programs and opportunities authorized under this chapter.

"§ 2141. Veterans information and outreach

"The Administrator (in consultation and cooperation with the Secretary of Labor and the Secretary of Health and Human Services) shall provide for an outreach and public information program utilizing, to the maximum extent feasible, the facilities of the Department of Labor to carry out efforts to develop career development and advancement and career development and training programs and opportunities for eligible veterans and to inform such veterans about employment, job development, advancement, and training opportunities under this title and other provisions of law and to inform prime sponsors, Federal contractors and subcontractors, Federal agencies, labor unions, educational institutions, and employers of their legal responsibilities and opportunities with respect to such veterans and to provide them with technical assistance and training in meeting those responsibilities.

"§ 2142. Termination dates

"A veteran may not apply for a program of career development and advancement or career development and training under this chapter after the end of the eighteen-month period beginning on the effective date of this chapter. A career development and advancement or career development and training allowance may not be paid to an eligible employer on behalf of an eligible veteran after the end of the thirty-six-month period beginning on the effective date of this chapter.".

(b) The table of chapters preceding part I and the table of chapters at the beginning of part III are amended by adding after the item relating to chapter 43 the following new item:

"45. Veterans Career Development, Advancement, and Training Assistance_2101 "

and insert in lieu thereof the following:

SEC. 408. (2) Except as provided in subsections (b), (c), and (d), the provisions of this Act shall become effective on October 1, 1980.

(b) In the case of veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on September 30, 1980, the Administrator of Veterans' Affairs—

(1) shall formulate individualized written plans of vocational rehabilitation under section 1507 of such title (as amended by section 101(a) of this Act) for such veterans to the extent that and at such times as the Administrator of Veterans' Affairs determines that the formulation of such plans is feasible, and shall formulate such plans on the basis of such priorities as the Administrator of Veterans' Affairs shall prescribe; and

(2) may extend the eligibility of any veteran under section 1503(c) of title 38, United States Code (as amended by section 101(a) of this Act), or the period of vocational rehabilitation under section 1505(c) of such title (as amended by section 101(a) of this Act) without regard to the requirements for a determination of a serious employment handicap.

(c) (1) The amendments made by title III of this Act shall become effective on March 1, 1981, in the case of veterans who have service-connected disabilities and who have serious readjustment, rehabilitation, or employment problems, and in the case of veterans who served in the Indochina theatre of operations or Korea during the Vietnam era (as defined in section 101 (29) of title 38, United States Code) unless sufficient funds are made available before such date to carry out the provisions of chapter 45 of title 38, United States Code, as added by title III of this Act, in which event the effective date in the case of such veterans shall be the first date on which such funds become available for such purpose (as determined by the Administrator of Veterans' Affairs).

(d) The amendments made by sections 210, 211, and 212 shall become effective on January 1, 1981, unless sufficient funds are made available to carry out such amendments before such date, in which event the effective date shall be the first date on which such funds become available for such purpose (as determined by the Administrator of Veterans' Affairs).

SECTION-BY-SECTION ANALYSIS

CAREER DEVELOPMENT ADVANCEMENT, AND TRAINING AMENDMENT

The amendment establishes a new chapter 45 at the end of part III of title 38 United States Code to provide for a program of "Veterans Career Development, Advancement, and Training Assistance".

SUBCHAPTER I—PURPOSE; DEFINITIONS

Section 2101—Purpose. Section 2101 defines the purpose of the Career Development Advancement, and Training to:

1. Extend the benefits of a meaningful career to eligible veterans and persons who might otherwise not be able to attain such career opportunities,

2. Provide vocational readjustment and restore lost career opportunities to persons whose careers were interrupted or impeded by active military duty during the Vietnam era.

3. Aid such veterans in attaining the vocational or occupational status they might normally have aspired to and obtained had they not served their country;

4. Provide an opportunity for Vietnam veterans to attain their full employment capability and increase their earned income and economic self-sufficiency.

The purpose of the Career Development, Advancement and Training Program is the same objective as the educational assistance provided veterans under the GI Bill except the Career Development, Advancement and Training Program guarantees a veteran a job whereas institutional training provides him with education and training which may help him acquire a job. A meaningful career, or career advancement is the ends which the GI Bill was intended to be the means towards, but until the Career Development, Advancement and Training Program, could not insure.

Section 2102—Definitions. Defines "eligible veteran" as a veteran who served between August 4, 1964 and before January 1, 1977 and would otherwise be eligible for GI Bill benefits under chapters 31 or 34 of title 38 U.S.C.

(2) Defines "eligible employer" as any public or private employer excluding self employment that meets the criteria set forth in the program.

(3) Defines "dependent" as:

(a) a child of an eligible veteran;

(b) a dependent parent of an eligible veteran; and

(c) the spouse of an eligible veteran.

(4) A "Career Development and Advancement" program means a program that will assist an eligible veteran to obtain full-time permanent emplovment or advancement in their chosen career field and increase their earned income and economic self-sufficiency by partially subsidizing an employer's cost of the veterans wages and benefits (excluding training).

(5) A "Career Development and Training" program means a program that will assist an eligible veteran to obtain full time employment, advance in their chosen occupation, and increase their earned income and economic self-sufficiency through the partial subsidization of an employer's training costs, and a partial subsidization of the cost of the veterans' wages and benefits (including training).

SUBTITLE II—ELIGIBILITY AND ENTITLEMENT

Section 2103—Entitlement.

Entitles a veteran to the amount of readjustment or rehabilitation entitlement they have earned under chapters 34 (Veterans Educational Assistance) or chapter 31 (Vocational Rehabilitation), and still have remaining for periods ranging from 6 to 18 months.

The Career Development, Advancement and Training Program draws solely from the readjustment or rehabilitation benefits veterans have already earned either for vocational rehabilitation (63 months of entitlement) or for education and training (45 months of entitlement). The vast majority of veterans (estimated 90 percent) have sufficient entitlement remaining to participate in the program if they are otherwise eligible. No veteran participating in the program would receive any more benefits than he has already earned or more than any other similarly circumstanced veterans not participating in the program is entitled to.

(b) Limits the entitlement to eighteen months payable at the rate the veteran would be paid (including applicable dependency status) if he were attending school full time under the GI Bill.

Thus an employer participating in a Career Development, Advancement and Training Program would receive in maximum subsidies no more a month than the veteran would receive each month if he were attending college.

(c) Imposes income limitations on veteran applying to participate in the program: $13,000 annual income for disabled and Indochina theater of operations veterans. The Administrator is authorized to wave the income ceilings if he determines a veterans participation in the program is necessary and appropriate for the veterans readjustment, rehabilitation and/or productive employment.

The income ceilings will insure that the program is targeted to needy unemployed and underemployed veterans. The VA contends that 70 percent of Vietnam era veterans have incomes in excess of $13,000, thus unless they demonstrated need they would be ineligible to participate. This will limit the cost of the program while only having a small effect on program effectiveness. Under the current GI Bill many of the most needy and deserving veterans can not afford to participate in training, while many veterans who are less needy are receiving full benefits for attending community colleges at night. The use of the current GI Bill has been and still is inverse to the need for readjustment assistance. The Career Development, Advancement and Training Program's use will be directly related to unemployed and underemployed veterans who have the greatest needed for employment, training, and advancement assistance.

Section 2104 Waiver of time limitation for program completion.

This section waives the 10 year "delimiting period" for use of readjustment benefits.

This provision will insure that needy veterans who are otherwise eligible will be able to participate in the Career Development, Advancement and Training Program notwithstanding that they have been separated from the service for more than ten years.

Section 2105 Occupational and vocational counseling.

This section entitles eligible veterans to vocational and occupational counseling authorized under chapter 34 and such additional counseling as may be necessary and appropriate for an effective Career Development, Advancement and Training Program.

SUBCHAPTER III—ENROLLMENT

Section 2111 Selection of program.

This section authorizes a veteran to select a program provided it complies with the provisions of this act and results in fulltime permanent employment after the employer's Career Development, Advancement and Training subsidy ends.

Section 2112. Applications and approval.

Authorizes the Veterans Administrator to devise application forms containing relevant requests for information to determine eligibility, and to disapprove persons who are ineligible or already qualified.

Section 2113. Disapproval in certain programs.

This section precludes Career Development, Advancement and Training Programs for:

1. Seasonal, intermittent, or temporary jobs.
2. Jobs that pay less than $4.00 an hour.
3. Jobs outside the United States and its possessions.
4. Jobs where commissions are the primary source of income.
5. Jobs that involve political or religious activity.
6. Jobs found in industries with substantial numbers of experienced and able workers who are unemployed.
7. Jobs above entry level unless collective bargaining and applicable personnel procedures are complied with.
8. Jobs that would displace currently employed workers.
9. Jobs that would replace workers on layoff or strike.
10. Self-employment.

Section 2114 Discontinuance for unsatisfactory conduct or practice.

Authorizes the Administrator to discontinue payments for unsatisfactory progress, and establishes criteria for renewing payments.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE EMPLOYERS

Section 2121. Authority for payment of allowances to employers.

This section authorizes to pay eligible employers Career Development, Advancement and Training Allowances.

Section 2122. Computation of allowance payments.

A Career Development and Advancement Allowance will be paid to an eligible employer to partially subsidize the wages of an eligible veteran who is permanently employed by such employer for a period of 6 to 18 months. The allowance can not exceed one third of the monthly wages paid to the veteran or the monthly amount the veteran would receive in chapter 34 (educational) benefits for full time training predicated upon his or her dependency status.

The sliding scales would provide incentive for employers to hire disabled and combat veterans and advance veterans to higher paying positions because of greater Federal subsidization: Maximum allowances under the program would be:

(A) Veterans and eligible persons determined after counseling to have serious rehabilitation, readjustment or employment problems up to eighteen months of entitlement would be permitted:

1. No dependents, $5,598.
2. One dependent, $6,660.
3. Two dependents, $7,596.
4. Each additional dependent, $468.

(B) Disabled veterans would be entitled to 12 months of assistance:

1. No dependents, $3,732.
2. One dependent, $4,440.
3. Two dependents, $5,064.
4. Each additional dependent, +$312.

(C) Veterans who served in the Indochina Theater of Operations and Korea and eligible persons would be entitled to 9 months of assistance:

1. No dependents, $2,799.
2. One dependent, $3,330.
3. Two dependents, $3,800.
4. Each additional dependent, +$224.

The majority of veterans would fall into category (D) thus the cost per veteran placed, advanced or trained would be kept to a minimum.

The allowance could not exceed the amount of wage increase in the case of a veteran whose career is advanced through promotion under the program. A promotion from a $12,000 job to a $13,500 job would entitle an eligible employer to a career advancement allowance of $1,500.

A career development and training allowance will be paid to cover the actual cost to training and a partial wage subsidization not to exceed fifty percent of the wages and benefits paid to an eligible veteran or person. Exceptions are permitted where intensive training or additional training arrangements are necessary for persons with severe employability problems particularly disabled veterans. Criteria for approval are established in the legislations. The training allowance cannot exceed twice the annual amount of increased wages of a person whose career and income is advanced under this program.

Thus the VA could pay up to $4,000 if that were the actual cost of training to increase a $10,000 career to $12,000.

The career development advance and training allowances paid eligible employers will be drawn against the existing GI Bill entitlement of eligible veterans and persons in the amount used.

Section 2123. Payment of career development advancement and training allowances.

No employer will be paid a career development and advancement allowance or a career development and training allowance unless the Veterans Administrator has received:

1. from the veteran or eligible person a certification or voucher certifying his/or employment attendance and wages during the period for which payment is sought.
2. from the employer a certification, voucher or endorsement of the eligible veterans or persons voucher or certification of such persons employment, attendance and wages.

Where the program involves training the certification or voucher must also attest to satisfactory progress in the required training.

This system of employee-employer checks and balance will preclude abuse of and fraud in the program and is compatible with the system used in VA OJT and Apprenticeship benefit programs.

SUBCHAPTER V—APPROVAL

Section 2131. Approval of programs.

Provides that no career development, advancement or training payments shall be made unless programs are properly approved.

Section 2132. Authority for approval.

Subject to the provisions of program, title 38 and such regulations as the Administrator may prescribe a program may be approved by:

1. A State Approving Agency authorized under chapter 36 of title 38.
2. The Secretary of Labor.
3. A CETA prime sponsor subject to the provisions of this act.
4. An approving agency meeting the standards of apprenticeship publicized by the Secretary of Labor.
5. By such other means as the Administrator deems necessary and appropriate.

Section 2133. Approval of career development and training programs.

Establishes a comprehensive standard for approval of career development and training programs to insure quality training programs and preclude abuse. The standards are comparable to those required for Veterans Administration on the Job Training Programs.

Establishes comprehensive standards for the career development and advancement program to insure program effectiveness and preclude abuse. Assures that high standards in hiring and promotion are adhered to. The criteria are similar to those required of CETA skill upgrading programs.

Section 2134. Notice of approval of programs.

Provides for the announcement of approved programs, and a discretion of career development and advancement and career development and training opportunities offered by such employers.

Section 2135. Disapproval of programs.

Provides for the disapproval of programs failing to meet the requirements of the program, and notification of disapproval.

Section 2136. Overpayments to eligible employers.

Provides for the collection of overpayments as a result of willful misconduct or false certification on the part of an employer in the manner of debt owed to the United States.

Section 2137. Discontinuance of allowances; examination of records; false or misleading statements.

This section grants the necessary authority to insure program quality, prevent abuse, and make necessary evaluations. It also grants the Administrator the authority to prevent and take action against false and misleading statements.

Section 2138. Change of program.

Authorizes one change of program. Provides sanctions and counseling provisions for veterans who are not satisfactorily progressing in their programs.

Section 2139. Compliance surveys.

Authorize the Administrator to make compliance surveys of participating employers.

Section 2139. Cooperation.

Requires extensive and comprehensive cooperation and coordination with the Department of Labor in the implementation of the program to include:

1. Approval of eligible employers.
2. Development and enforcement of approval standards.
3. Development of informational material as may be necessary for the program.

Section 2140. Department of Labor responsibilities.

Requires the Secretary of Labor to take appropriate steps to provide for participation of eligible veterans and persons in career development and advancement and career development and training programs; in cooperation with the Veterans Administration. Such steps include program development, supportive services, technical assistance and training, support for community based veterans programs, and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation and employment needs of veterans. These steps are mandated Department of Labor Responsibilities under CETA.

This section requires CETA prime sponsors to develop in cooperation with the VA approval arrangements.

Section 2141. Veterans information and outreach.

Requires the Veterans Administration in cooperation with other Federal agencies to carry out a comprehensive outreach and information program to develop career development and advancement and career development and training opportunities for eligible veterans.

Section 2142. The effective date of this program is: March 1, 1980. The amendment would move the effective date of the 10 percent GI Bill increase from October 1, 1980 to December 1, 1980.

● Mr. HEINZ. Mr. President, I am particularly honored and pleased to join in sponsoring this amendment. It is our intent, by offering the amendment, to address the very real and serious residual problems encountered by our Vietnam veterans.

The purpose of this amendment is to assist veterans in developing stable and meaningful careers. The amendment allows a veteran to utilize his or her earned GI bill entitlement toward a career development program. The program provides for the Veterans' Administration to reimburse employers for the cost of providing employment or job training to eligible veterans. This program does not artificially create jobs for veterans, but rather it seeks to provide employers with adequate incentives to hire, train, and advance veterans in the private sector. Such a program will persuade more employers to aid veterans in obtaining better positions, from which they may gain the necessary experience and skill needed to establish rewarding careers.

It is not the purpose of this amendment to replace current efforts to assist Vietnam veterans or to discredit their worth. Many of these programs have been successful in providing aid to a number of needy veterans. However, my concern is for those still unaffected and unreached by these programs. It is my view that many of them are simply unreachable under current approaches. This amendment attempts to offer a meaningful program that can reach these veterans who would otherwise be without help.

Let there be no mistake, Mr. President, the need is great. The Vietnam veterans unemployed have risen by 140,000 in the last year, bringing the total to 480,000. The GI bill alone cannot be expected to resolve the current situation. This fact becomes abundantly clear when considering that over half of the veterans who served in Vietnam are now denied access to their earned GI bill benefits because of the 10-year delimiting period. Furthermore, the only employment and training programs available to veterans have too often proven to be ineffectual, temporary, and expensive. Social welfare programs such as CETA, targeted jobs tax credit, and the on-the-job-training programs can neither provide sufficient incentives to encourage employer participation nor reach a large enough number of Vietnam veterans to effectively resolve the problems facing many of them.

It is totally unacceptable, Mr. President, to ignore the sizable segment of Vietnam veterans who are either unemployed, underemployed or only marginally employed. This amendment attempts to create a program for career development which will give veterans the opportunity to obtain marketable skills and realize their potential. I believe that such a program would be invaluable in aiding the readjustment of the Vietnam veteran by reinforcing his or her psychological sense of self-worth in the labor market, and by building the veteran's confidence concerning his potential to develop a career commensurate with his aspirations, abilities, and financial needs.

The persistent readjustment problems which face our Vietnam veterans must be addressed immediately. For many, the time is growing near when they will not be able to take advantage of the benefits we can offer.

The salvaging of possible careers and even more importantly, that of meaningful lives, becomes increasing more difficult as many veterans reach the point where they are frozen into whatever career possibilities exist in their present position.

The Vietnam veteran served his country in a difficult period in its history. We cannot, in good conscience, deny the men and women who served so unselfishly in our Armed Forces the opportunity to develop meaningful futures.●

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, that the hearing previously scheduled for June 25 and June 26 on S. 2829, a bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians has been rescheduled for Tuesday, July 1, 1980, beginning at 10 a.m. in room 1202 of the Dirksen Senate Office Building, and Wednesday, July 2, 1980, beginning at 10:00 a.m. in room 318 of the Russell Senate Office Building.

Questions regarding this hearing should be directed to Tim Woodcock of the committee staff at 224-2251.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct an oversight hearing on SBA's surety bond guarantee program.

The hearing will begin at 9 a.m., on Monday, June 30, 1980, in room 424 of the Russell Senate Office Building.●

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

● Mr. MELCHER. Mr. President, I wish to announce that the Senate Agricultural Subcommittee on Environment, Soil Conservation, and Forestry has scheduled a hearing to review the program and assessment report on the Forest and Rangeland Renewable Resources Planning Act. The report was submitted to the Congress on June 20.

The hearing will be held on Friday, June 27, at 9:30 a.m. in room 324 Russell.

Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. STEWART. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Research and General Legislation will hold a follow-up hearing on the recent price collapse in the silver futures market. The subcommittee has invited Walter Goldschmidt and Norton Waltuch of Conti-Commodities, Inc. to appear as witnesses.

The hearing will be held on Thursday, June 26 beginning at 9:30 a.m. in room 324 Russell.

Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, that the oversight hearing scheduled by the committee for July 2, 1980, on the topic of Indian housing has been postponed until further notice.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hear administration and non-Government officials on various treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BROOKE ASTOR

● Mr. JAVITS. Mr. President, one of New York City's great friends through the years, and a dear personal friend of my own, was the subject last Sunday of a feature piece in the New York Times. There is a picture of Brooke accompanying the article which cannot be reproduced here. It captured also a measure of her elegance and grace that have made her so effective a public benefactor.

As president of the Vincent Astor Foundation, Brooke Astor has made a life work of philanthropy. The gifts made by the foundation under her aegis have been a great benefit to libraries, universities, and other institutions throughout New York City. To date, as the article notes, she has overseen the giving of over $82 million to various New York City projects.

I ask that the article about Brooke Astor be printed in full in the RECORD and I commend it to the attention of my colleagues.

The article follows:

[From the New York Times, June 15, 1980]

BROOKE ASTOR: THE PRIVATE MOMENTS OF A PUBLIC BENEFACTOR

(By Judy Klemesrud)

Brooke Astor leaned back on a sofa in her red lacquered library high above Park Avenue, fingered the grape-sized pearls around her neck, laughed a throaty laugh and began talking about "the development of a foolish young girl into a public monument."

She was talking about herself.

Mrs. Astor is the sleekly elegant and outspoken philanthropist about whom former Mayor Beame once said, "She has done more for New York City than any other one person." As president of the Vincent Astor Foundation, founded by her late husband, Mrs. Astor has overseen the giving of $82 million to various New York City projects.

In her self-described public monument status, she also serves on the boards of some of the city's most prestigious institutions: the Metropolitan Museum of Art, New York Public Library, New York Zoological Society, Rockefeller University, Pierpont Morgan Library and WNET, Channel 13.

Mrs. Astor, who is somewhere in her mid-70's (she refuses to say exactly where), has written candidly about her life, including the foolishness as well as the philanthropy, in her new book of memoirs, "Footprints," which is being published Wednesday by Doubleday.

She wrote it all herself, she said, "in bathtubs and airports, whenever I had a free moment." The book was inspired, Mrs. Astor said, by her 18-year-old goddaughter, Mary Armour Reid, a student at Brown University. "Growing up is difficult in any age," Mrs. Astor said, "and I wanted Mary to know about the viscissitudes and trials of growing up."

MARRIED AT 16

Most of Mrs. Astor's self-described foolishness came in her younger years. The sheltered daughter of a career Marine officer and his wife, she was married at the age of 16 to J. Dryden Kuser, a young man she met at her first prom at Princeton. Today she says that her disastrous first marriage is the one thing in her life that she regrets—even though it did produce her only child, Anthony Marshall, now 54, a former Ambassador to Kenya who is now a consultant on Africa for New York businesses.

"I certainly wouldn't advise getting married that young to anyone," she said. "At the age of 16, you're not jelled yet. The first thing you look at, you fall in love with."

Her second marriage, to Charles H. (Buddie) Marshall, a Wall Street broker, was "perfect," she said, and lasted 20 years. During this time, she went to work as an editor at House and Garden magazine for eight years. Mr. Marshall collapsed and died of a heart attack in front of her at their weekend home in Tyringham, Mass., in 1952.

Eleven months later, she wed Vincent Astor, the moody, complex, twice-married multimillionaire whose holdings, at one time or another, had included the St. Regis Hotel, the United States Line and Newsweek magazine. He was the first son of John Jacob Astor 4th, who went down with the Titanic in 1912.

In her book, Mrs. Astor writes much more glowingly about her marriage to Mr. Marshall than she does about the one to Mr. Astor, who called her "Pookie." They were married for five and one-half years before he died in 1959.

"They had such different natures," Mrs. Astor said, sipping on a cup of hot water with lemon. "Buddie and I had a true love match, something not many women have in their entire lifetimes. Things were different with Vincent because he had a dreadful childhood, and as a result, had moments of deep melancholy. But I think I made him happy. That's what I set out to do. I'd literally dance with the dogs, sing and play the piano, and I would make him laugh, something no one had ever done before. Because of his money, Vincent was very suspicious of people. That's what I tried to cure him of."

He must have trusted her, because he left her the Vincent Astor Foundation, then worth about $65 million. Today Mrs. Astor regards running the foundation as the high point of her life.

"I really love it," she said, "getting to meet all types of people and being able to enhance the quality of life for New Yorkers. It's just the right kind of job for somebody at my age. I wouldn't have liked it at 30, but now, I'm totally happy. Knock on wood." Then she knocked on a nearby wooden table for luck.

During her presidency of the Vincent Astor Foundation, the foundation has given $5 million to the public library, $1.5 million to the Bedford-Stuyvesant Restoration Corporation, $1 million to the Episcopal Church, two $1 million chairs to Rockefeller University and $2.9 million to the current Chinese garden court project at the Metropolitan Museum of Art.

The foundation has also financed many smaller projects, such as uniforms and instruments for a Bronx drum and bugle corps; free care at the Animal Medical Center for pets of indigent old people over 65; training for two dogs used by the New York City Police Department to detect bombs, and remodeling the Astor Place subway station.

When asked whether being Mrs. Astor, the philanthropist, had changed her life, she smiled and said, "It's had an effect on me. That's one of the reasons I try to dress nicely whenever I visit one of the projects we're funding. If I go up to Harlem or down to Sixth Street and I'm not dressed up or I'm not wearing my jewelry, then the people feel I'm talking down to them."

She said she would have no qualms about wearing what she had on—a black and white silk dress by Chanel, the grape-sized pearl necklace, pearl and diamond earrings, a gold bracelet encrusted with diamonds, a gold watch trimmed with diamonds, a gold ring decorated with diamonds and rubies—to any neighborhood in the city.

Mrs. Astor smiled as she recalled some of the odder requests she has received for money over the years. "One woman said she was the Virgin Mary and wanted money so she could go to Florida and have her baby down there," she said. "Another young man wanted a new car. I told them we never give grants to individuals."

Mrs. Astor, who looks much younger than her years, says she stays slim and healthy by doing t'ai chi exercises every day, eating very little meat and never drinking coffee, tea or cola drinks. She said she thought the caffeine in those beverages might have contributed to a brief spell of deafness she suffered two years ago. "I drink hot water with lemon or rose hip tea now," she said.

She spends most weekends at her country place in Briarcliff Manor, near Tarrytown, N.Y., where she takes long walks in the woods with her dachshund, Frederick the Great, and her schnauzer, Jenny, and swims in her pool. "I usually don't see a soul all weekend," she said. Sometimes, however, her 27-year-old twin grandsons, Philip and Alexander Marshall, come to visit. "They were hippies to begin with," she said with a laugh, "but now they've emerged, and they both have paying jobs."

In "Footprints," Mrs. Astor writes that she always believed she was a woman who needed a husband in order to be happy. Since Mr. Astor died, she said, she has had "lots of proposals," but that she didn't intend to marry again.

"I'd have to marry a man of a suitable age and somebody who was a somebody," she said, "and that's not easy. Frankly, I think I'm unmarriageable now. I'm too used to having things my way." She paused for a moment, smiled, and said, "But I still enjoy a flirt now and then."●

BONUSES FOR THE SENIOR EXECUTIVE SERVICE

● Mr. RIBICOFF. Mr. President, just 2 years ago the Civil Service Reform Act of 1978 was enacted. That legislation constituted the most important overhaul of our civil service system in nearly 100 years. Its cornerstone was the establishment of the senior executive service. Much of the success of this statute rests with creating a personnel system where top Government executives would be held directly accountable for programs and employees under their supervision. In addition to providing for the demotion and removal of senior managers, the act established that career executives may be eligible for incentive bonuses and awards based on performance—a practice typical in the private sector.

Recent action by the House of Representatives to deny bonuses threatens the success of this program. Thousands of career employees joined the SES voluntarily. To do so, they relinquished vested rights and tenure for the promise of recognition of their performance and their contributions to the Federal Government. Denial of the bonuses and awards does much more than breach a commitment made when the Civil Service Reform Act was passed. It will eliminate from the Federal civil service a healthy spirit of competitiveness designed to provide incentives for productivity and economies far greater than the value of an individual award. In these times of fiscal austerity, it is ever more important that the Congress take actions to encourage savings and performance rather than discourage accomplishment.

I ask that an editorial from this morning's Washington Post be printed at this point in the Record.

The editorial follows:

DOING WRONG BY CIVIL SERVANTS

After years of general hand-wringing about the civil service system, some fairly major reforms were enacted in 1978. For top-level federal managers, the new Senior Executive Service offered the chance of large pay bonuses in return for outstanding effort and an increased risk of penalties for inadequate work. The new rules for these 7,000 or so senior career officials have been getting arranged for nearly two years now, and the first decisions on who deserves a bonus are just being made. Enter the House of Representatives, which threatens to undo the whole system by eliminating almost all of the bonus money.

This is a truly stupid thing to do. Senior career executives are working right now for considerably less money than their colleagues in the private sector, and one purpose of the bonus provision was to provide the genuinely exceptional among them a reason to stick with the government. For years, federal salaries have been artificially restrained by a congressionally imposed ceiling, which now stands at $50,112. Eighty-six percent of the senior executives are at that ceiling. Some 80 percent would, if paid at the level their jobs draw in private industry, earn more than the $52,750 the House has set as its limit on the combination of pay and bonus.

This issue is an easy prey for demagogues, because not many people in the country make $50,000. But it should be remembered that the size of some of these jobs is staggering. We are talking about some of the most responsible executives in the country.

In addition to keeping some of the best people from leaving, the penalty-and-reward structure of the reform was also intended to encourage those who had not been working very hard or very effectively to get with it. Actions like those of the House committee are likely to incline them, instead, only to dig in their heels.

There is, inevitably, a tension in government between the political people—legislative and executive—and the career civil servants. Success in running the government requires taking positive advantage of that tension, with career staff providing the analytic work, the institutional background and continuing management capacity, and the political officials providing the judgment of how to get things done and which things to try to do. The senior career executives are the bridge between the political staff and the vast operational apparatus. They have seen administrations come and go, and are like the legendary British civil servants who, it is said, serve all political masters with equal loyalty and disdain. It makes no sense to tip the balance further toward disdain and cynicism by reneging on an agreed-upon change in the terms of employment after they have given up their security and before they have had a chance to reap any benefit. The funds should be restored.●

ADDITIONAL EVIDENCE ON AGENT ORANGE

● Mr. HEINZ. Mr. President, on a number of occasions I have brought the attention of the Senate to the lingering problems connected with agent orange, the herbicide used widely as a defoliant in the Vietnam war. Veterans of that war continue to suffer long-term damage from exposure to dioxin, a major constituent of agent orange. Two articles in today's Washington Post raise further questions not only about the effects of agent orange but also about the wide range of powerful toxins to which we have allowed our troops to be exposed.

I would like to share these articles with my colleagues and urge them to consider whether our treatment of veterans of the Vietnam war has measured up to our concern for those who faithfully served their country in other, more popular wars. Last year I offered an amendment which would provide VA benefits for Vietnam-era veterans suffering from dioxin-related diseases, and for those of their children who have birth defects caused by dioxin exposure. That initiative gained the support of many of you, but not enough for passage. I continue to be concerned about this issue, especially in light of recent findings noted in these articles that many other poisons may also be involved in the tragic blighting of many Vietnam veteran lives.

I will soon introduce legislation aimed at relieving some of this suffering. We cannot undo the damage which we as a nation have unwittingly inflicted on our soldiers, but we cannot in justice ignore their plight any longer. I urge my colleagues to read these articles and to join me in doing what we can to alleviate this tragic situation.

The articles follow:

[From the Washington Post, June 20, 1980]

VA To Review Skin Problem Connected to Agent Orange

(By Peter Elkind)

The Veterans Administration plans to reexamine Vietnam veterans who show symptoms of chloracne, a skin problem linked to the controversial herbicide Agent Orange.

The VA, which has never acknowledged a claim of chloracne—or any other disease—caused by Agent Orange, agreed to the review at the request of Sen. Alan Cranston (D-Calif.) "It obviously wasn't our idea," said VA spokesman Bob Putnam.

The VA now is reviewing 800 to 850 medical files on veterans who claimed to have skin problems and already have been examined. Those who show signs of chloracne will be invited to a local VA facility for reexamination by a dermatologist.

Dr. Barclay Shepard, the VA's Agent Orange coordinator, said he expects the review to result in no more than 40 invitations for reexamination. Individual veterans will be contacted by their local VA facility as they are identified as potential chloracne cases Shepard said. He expects examinations to begin next month.

Agent Orange was the most widely used of several defoliants sprayed in areas of Vietnam to kill crops and expose hideouts of North Vietnamese and Viet Cong troops.

Veterans have filed suit against the VA to win disability benefits for treatment of medical problems they say are caused by the herbicide.

The Pentagon and the Dow Chemical Co., the manufacturer of Agent Orange, have said no scientific evidence conclusively links the herbicide to any known disease.

Chloracne, said Shepard, is "one condition that has been well-documented as resulting from exposure to dioxin," a toxic chemical contained in the herbicide, although chloracne can occur from other causes.

Discovery of a number of chloracne cases during the upcoming reexaminations would "raise the index of suspicion" about Agent Orange, Shepard said.

The herbicide has been blamed for causing cancer, impotence, weight loss, headaches and other medical problems, as well as chloracne.

During congressional hearings last year veterans also claimed that their exposure to Agent Orange has caused their children to be born with birth defects.

[From the Washington Post, June 20, 1980]

Agent Orange May be Just One Garnish in a Toxic Cocktail

(By Adrian Peracchio)

Michael Gross, a University of Nebraska chemist under federal contract to search for highly toxic dioxin in fat samples from Vietnam veterans who may have been exposed to the defoliant Agent Orange, found the samples so heavily contaminated with the poisons PCB and DDT that the traces of dioxin were at first obscured.

In Chicago, a toxicologist testing hair samples from 41 Vietnam veterans was puzzled when he found abnormally high traces of poisonous metals in the samples. John Bederka of the University of Illinois Medical Center discovered the results were such a departure from the norm that he is repeating the tests, using hair samples from nonveterans as a control.

In Kalkaska, Mich., Dr. Guy Arnold, a 37-year-old veterinarian who is partly paralyzed and going blind, tells of working as a scout-dog handler in Vietnam and swabbing dogs with chlordane, a powerful pesticide, to rid them of ticks and fleas. An Army study found that dogs in 20 out of 22 dog-scout platoons in Vietnam died because of internal hemorrhaging. Today, Arnold suspects that his exposure to the pesticide was responsible for his ills.

For countless Vietnam veterans, the words "Agent Orange" have become a symbol for the delayed price of war. The code name for the jungle herbicide conjures up apocalyptic visions of chronic illness and tormented lives. Agent Orange has given bitter focus to the anguish of a veteran's previously unexplainable fatal tumor or his deformed child.

But the explanation may turn out to be too simple. In the midst of the controversy over Agent Orange, evidence is emerging that the veterans' ills may be related to exposure in South Vietnam to a far more complex "toxicological cocktail," as one scientist put it with grim whimsy.

Scientific studies point to the toxic potential of a variety of chemical and biological substances to which American servicemen were exposed. Although the toxic potential for some of these substances is well known, no one has studied their combined effect or what scientists call "synergism"—the ability of two or more substances together to produce effects greater than they would individually.

"There has been undue preoccupation with Agent Orange," says Dr. Samuel Epstein, author of "The Politics of Cancer," a professor of occupational and environmental medicine at the University of Illinois' School of Public Health. "To base all conclusions about toxicity in Vietnam veterans on Agent Orange is simplistic."

Epstein, a critic of the government's cancer research, has refused to join the veterans in their legal battle over Agent Orange because he thinks that the focus on dioxin alone is misguided. "You have a dozen toxic agents in Vietnam. Some, like chlordane, are unequivocally carcinogenic, others like dapsone, an experimental anti-malarial drug, are very suspect. What you had in Vietnam was a toxicological cocktail. It's impossible, on theoretical grounds, to make predictions on exactly what the eventual effects of all the chemicals could be. From an epidemiologist's point of view, it would be a nightmare."

In some instances, military authorities used chemicals they were convinced would have no ill effects on troops, though later studies caused them to discontinue their use, as in the case of Agent Orange. In other instances, the dangers were taken into account but the risk-benefit trade-offs were accepted as a price to pay in waging war.

The use of dapsone, for example, generated serious internal debate within the U.S. military command in Vietnam when it was first adopted in 1966 and at least one top surgeon serving with the Marine Corps opposed its use.

Dapsone, used successfully for decades to control leprosy, was given daily in the form of white tablets to most combat troops beginning in 1966 to ward off a type of malaria thought to be resistant to the standard orange chloroquine tablets. The use of dapsone was discontinued after 16 soldiers became ill with agranulocytosis, a kind of bone-marrow disorder resulting in abnormal white-blood-cell production, and eight of them died of the disorder, which was linked to dapsone use.

In the mid- and late-1970s, studies here and abroad showed the chemical to be a potential carcinogen in male laboratory rats, though it did not affect female rats or mice.

Veterans who say they were exposed to Agent Orange had complained of having suffered skin rashes, changes in skin pigmentation, sudden loss of appetite, insomnia, blurred vision, dizziness and ringing in the ears in Vietnam. The same symptoms were reported among the effects of dapsone in a scientific paper by Dr. Walter R. Graham of the University of Pennsylvania's School of Medicine.

But toxic dangers in Vietnam did not only come from chemical agents. The troops' presence in Vietnam exposed them to toxic dangers in the tropical environment. Eating native rice contaminated with mold may have exposed soldiers to one of the few naturally occurring carcinogens known, aflatoxin.

"Aflatoxin occurs as a fungus on native rice in Vietnam, and it was a problem on all cereal grains in Vietnam," said U.S. Air Force Maj. Alvin Young, a plant physiologist with the epidemiology division of the U.S. Air Force School of Aerospace Medicine at Brooks Air Force Base in San Antonio. "In combat, troops ate what they could find. And sometimes they ate moldy native rice.

"Look, war is hell, okay? But we tried to use techniques to save our own lives. Who knows how many troops were saved from malaria because we used dapsone and sprayed 400,000 gallons of malathion [an insecticide] from 1967 on? We used what was available at our level of technology at that time."

In all, a dozen or more potentially toxic agents may need to be studied and related to Vietnam veterans' individual exposure.

The Veterans Administration, which will

ultimately have to handle the problem, is not ready yet to deal with the question of synergism.

"We've talked about it, taken account of it," said Dr. Barclay Shepard, special assistant for Agent Orange to the VA's chief medical director. "But we just can't study that question in depth here. We have to limit ourselves to what causes the most public concern, and that's Agent Orange: We have our hands full with that."

Some scientists are skeptical the VA has the expertise to deal with the question of interaction of toxic substances. "They are incapable of doing that kind of work," said Bederka, who has done tests on hair samples from veterans for arsenic related to Agent Blue, a herbicide used to kill rice crops. "We are talking about a vast array of chemicals that is so pervasive that it would be comparable to what people are finding at Love Canal.

"In fact, some of the Vietnam veterans are showing the same problems as the Love Canal people. To me, its an impossibility to separate the effects of dioxin from all the rest. It would not be at all surprising to find additive or even synergistic effects."●

SENATOR PRYOR ADDRESSES AMERICAN COLLEGE OF PHYSICIANS

● Mr. CHILES. Mr. President, as the senior Senator from Florida and the chairman of the Senate Special Committee on Aging, I am certainly aware of the growing numbers of elderly persons in our population. Consequently, I am also aware of how this increasing number is affecting many societal programs, especially health care programs.

Another member of the Committee on Aging, Senator PRYOR from Arkansas, is also very knowledgeable about the impact of the elderly population on our society. Having served 8 years in the House of Representatives and 4 years as Governor of Arkansas, he has always had a keen interest in policies and programs which would benefit our elderly. He has certainly continued this interest as a member of the Senate and has proven a valuable and effective member of the Committee on Aging.

Recently, Senator PRYOR addressed the American College of Physicians and focused his remarks on the need for the health care industry to respond to the needs of an aging society. I think Senator PRYOR's remarks reflect his sincere interest in our elderly and express a challenge to all health professionals. I ask that Senator PRYOR's speech to the American College of Physicians be printed in the RECORD.

The speech follows:

SPEECH OF SENATOR PRYOR TO THE AMERICAN COLLEGE OF PHYSICIANS

The first thing I want to do today is congratulate the American College of Physicians for tackling this most difficult subject and for convening this forum. I believe that meetings like this can have a very positive impact on the quality of care that we are providing our elderly citizens.

As I was preparing to come here I was thinking about the changes that I have seen in the past ten years in the field of aging. I was reminded of an experience I had a couple of years ago in New Orleans. I was addressing a national convention of AARP/NRTA, with a huge crowd of elderly in attendance. At the end of my speech, the session adjourned and as I was coming down from the stage, I was met by several folks who wanted to visit. One gentleman in the crowd was 101 years old. I said to him, "I guess in your lifetime you have seen a lot of changes take place in our society." The bright-eyed old fellow looked me right in the face and said, "Yea, sonny, I have—and I've been against every damn bit of it."

Well, unlike that gentleman, I have seen some changes in nursing home care in the past 10 years and I have been in favor of nearly all of it. Since my early days of involvement in this issue in the House, we have seen some progress made in nursing home reform. They look better—sometimes; they are safer—sometimes; they smell better—sometimes; and most importantly, they are providing better care—sometimes. If I sound a little cynical today, it is because I am frustrated that our progress has not been greater and of more substance.

Hardly a day goes by that we don't hear something about fraud, abuse or some other scandal involving a nursing home. There are those who dismiss this by saying that in a program of this magnitude, both in dollars and people, such things are inevitable. I couldn't accept that argument ten years ago and it is even less acceptable today. The main reason it is less acceptable today is that we know the demand for nursing home care cannot do anything but grow in the years to come. I don't want to bore you with statistics today, but the facts simply cannot and must not be ignored.

The most recent figures I have seen graphically illustrate the growth of the aging population in our society. The 1971 census figures projected that in the year 2000 there would be 28.8 million older Americans. However, due to a significant reduction in the death rate among older persons, that figure was revised in 1977 to 31.8 million. Perhaps even more startling is the fact that 1.7 million of those persons are projected to be 80 years of age or older.

It should be obvious to all of us that this growth is also going to bring a greater demand for nursing home care. Some recent figures I saw from my own state are very sobering. In Arkansas today, we have about 22,000 nursing home beds. By 1985, state officials estimate they will need some 30,000 beds.

As we use these statistics, it is extremely important that we not equate age with need. We must recognize the diversity of people that these statistics represent. Consequently, the policies we develop and programs we implement must respect this diverse nature of our aging population. Simply put, we cannot talk about "the aging" any more than we can talk about "the black", "the Hispanic", etc.

Frankly, these statistics alarm me primarily because I don't think the Congress, the medical profession or our society is ready—we are not prepared for the consequences these figures indicate are forthcoming. The time to start preparing for this greying or aging of our society is now. We must break our habit of responding to a crisis which all too often has been our way of reacting to major changes in our society. The course we must pursue is to act responsibly now—not react irresponsibly later.

There are some encouraging signs that we are at least trying to act or maybe anticipate the need for services in years to come.

In Arkansas, in 1978 we initiated a small pilot project designed to divert people from being inappropriately admitted into a nursing home. The hypothesis, simply stated, was that too many people were being admitted to nursing homes who didn't really need such acute and I should add, expensive, care. The main objective was to intervene with the family and the physician to try to find an alternative to the nursing home. Like most pilot or model projects, it only tells you what can be done in that specific area on that scale.

However, in my opinion, the results were dramatic. This project was carried out in a rural, four county area in south Arkansas for a period from March through August. Preliminary findings showed that 25 to 30 percent of all nursing home applicants could, for some period of time ranging from one month to three years, remain out of the nursing home with this program. During this five-month period, 534 persons were referred for nursing home care through the regular social services channels; 230 of these cases were diverted from nursing home admission.

Again, this project is not the only answer, but we were impressed enough with the results that in October of 1978, as Governor, I directed that this program be implemented on a statewide basis.

I am certain there are other efforts going on in other states and probably with similar results. My point is simply to illustrate that there are ways to meet the growing demand for services to the elderly population without opting for nursing home care when it is not really indicated.

In this spirit of being creative, innovative and sensitive to this diverse group in our society we call "the aging", I would like to put some challenges to you. I don't want you to feel that I am "picking" on the medical profession today, because I believe you must play a very critical role in helping our aging society meet the challenges ahead.

The reason I am challenging you today is because whether you like it or not, or want it or not, the primary responsibility for care of the elderly is yours. In our society, you physicians and health professionals in this room play the role that is described in many circles as that of a "gatekeeper". I am sure most of you are familiar with the term and I am sure it means different things to each of us. However, in the context I am using it today, it means one who stands in a strategic position to provide access to services for those in need. Maybe in your individual capacities as internists or teachers or whatever, you don't feel this responsibility personally. However, I am addressing this challenge to you, your organization and your colleagues in the medical profession in the broader sense of a corporate or social responsibility. My main point in raising the responsibility or gatekeeper issue is to demonstrate to you that you need not assume this burden alone.

As the result of a series of actions taken by the Congress, the Administration on Aging and state governments over the past seven or eight years, there is now a vast network of aging programs throughout this country. I am today challenging you to recognize and use this network in bettering the quality of life for older Americans. Through the state and area agencies on aging, local senior centers and meals programs, there are many community resources and support systems that you as physicians can bring into your repertoire of services and include in a treatment plan.

Again, the Arkansas experiment I spoke of earlier was not perfect, but it did serve as one example of how this vast network can be tapped.

I realize that to accept this challenge will require a broadening of one's view of the traditional role a physician should play. I don't want to stereotype the medical profession any more than I want us to stereotype the elderly, but I do believe we must look beyond the patient and the doctor to the broader range of services and supports that are available in the community.

It's fine to talk about developing alternatives to nursing homes for those who don't need it. But what about those who are already there and those who will need it in years to come, as my earlier statistics indicated? Herein lies a second challenge—how do we upgrade the quality of nursing home care? Through tighter regulations, stricter reimbursement practices and other reform efforts over the past few years, I believe the quality of care has improved. However, as I said earlier, it is not time to rest on past accomplishments. I don't have many answers, but it is obvious to me that regulations and procedures are not going to be enough. Misdiagnosis, over-medication, inappropriate admissions are some problems in nursing home care that come immediately to mind. You as health professionals and your organization are again in a key position to focus on improving the present quality of care. Forums such as this today are an important step forward.

A final area which I invite your attention to is my concern about the lack of geriatric medical care for our growing elderly population. I realize this is somewhat of a controversial subject but I believe we must take a serious look at this issue. As the birth rate continues to decline and the aging segment of our society continues to grow, I am concerned that we have not moved further along in recognizing the unique medical problems of this group. In Arkansas, which ranks second to the state of Florida in the percentage of our population that is age 60 or older, I personally only know of one physician who is what I would call a "geriatrician." Dr. Larry Wright is here with you today. He came back to Arkansas after finishing his training at the Jewish Institute for Geriatric Care in New York and set up practice in the heaviest populated area for retirees in our state. I am looking forward to working with Dr. Wright on trying to meet the health care needs of our older Arkansans and older Americans.

In closing today, I want to again stress the importance of meetings like this not only for your organization, but also for us in Congress. I know this comes as no surprise to you, but we don't have all of the answers in Washington. We must have the benefit of ideas and recommendations from you and groups like yours in order to address the complex problems which face our society today. Therefore, I challenge you to get in a dialogue with your elected representatives here in Washington. As you uncover obstacles to better services to our aging population, communicate these findings and concerns to the Congress. Let us today begin a partnership to overcome these difficulties and provide a higher standard of care and a better quality of life for our present and future aging generations. Thank you.●

CLOSING OF THE FORD ASSEMBLY PLANT AT MAHWAH, N.J.

● Mr. WILLIAMS. Mr. President, as of today the operations of the Ford Motor Co.'s assembly facility at Mahwah, N.J. will cease permanently after 25 years of operation. As a result, nearly 4,000 workers from New Jersey and New York will be thrown into the swelling ranks of the auto industry's unemployed, and the area's economy will suffer a devastating blow as a $90 million annual payroll is lost. Alternative uses for this facility are still being explored, and I have pledged my full support for any proposal which offers a hope that some of these laid-off employees can continue to work in the Mahwah plant.

I am heartened by yesterday's announcement that a joint study will be undertaken by the Economic Development Administration and the State of New Jersey to thoroughly assess the impact of this plant's closing, and to pinpoint the strategies needed for an effective regional recovery plan. This small but significant step, developed from a proposal advanced by Congressman ROBERT ROE, will open up avenues for future Federal assistance, and will provide some measure of immediate relief for the affected families and communities.

While the burden of this closing will be temporarily cushioned for Mahwah's employees by unemployment compensation, Trade Assistance Act aid, and UAW funds—although, in this last instance, the latest reports indicate that union funds may be depleted in less than 3 months due to the massive scope of the layoffs—such help will provide only temporary relief for these men and women. Further, it will do nothing to secure productive new employment, or to heal the trauma which this closing will inflict on families and communities, or to deal with the serious crisis confronting the American automobile industry.

Mr. President, the tragedy of Mahwah's closing is a situation of a type which many of my colleagues are, unfortunately, increasingly familiar with. As of today, more than a quarter million UAW members are unemployed, with two-thirds on indefinite layoff status. Facilities have shut their doors in Ohio, Michigan, Indiana, Missouri, California, and other States; and the closings of suppliers and dealers have touched every corner of the Nation. On Wednesday, I joined with 90 of my colleagues in voting for Senate Concurrent Resolution 101, stressing the critical importance of responding coherently and comprehensively to the auto crisis, and declaring it be a national goal to maintain economic superiority in this sphere of commerce.

It is crucial that we follow up on this fine declaration with substantive action to insure that this goal is met. The Banking Committee, on which I serve, is already most familiar with the situation in the industry as a result of our effort to fashion an effective and responsible assistance package for the Chrysler Corp., as well as continuing attention to its overall problems and challenges. I am certain that all members of the committee will accord the highest priority to carrying out the intent of Resolution 101.

It was also my privilege to participate recently in a meeting of labor and management representatives of the auto industry, called by the administration. It is my hope that there will develop from the present situation a new spirit of cooperation and understanding between business, government, and labor, as well as the foundation for a strategy of revival and further evolution for America's basic industries. This is certainly an area in which we should take some lessons from our economic rivals, who owe much of their economic growth to a stress on harmonious coordination of these sectors. In those instances where individual plants must be closed to promote national goals, I believe that we should have laws in place to give adequate notice and reasonable options to their employees.

Mr. President, in closing, I just want to reiterate my full support for expeditious actions to respond to the crucial situation of the auto industry. I thank my colleagues for this opportunity to note that the worsening unemployment statistics translate into financial and emotional disaster for communities and individuals.●

COMMUNICATIONS ACT AMENDMENTS OF 1980—SECTION-BY-SECTION ANALYSIS

Mr. CANNON. Mr. President, on June 12, the Senator from South Carolina (Mr. HOLLINGS) for himself, me, and others introduced S. 2827, the Communications Act Amendments of 1980. I ask that a section-by-section analysis of the bill be printed at this point in the RECORD.

The section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS OF S. 2827

Section 1. This Act amends the Communications Act of 1934, as amended and may be cited as the "Communications Act Amendments of 1980".

Section 2. The bill sets forth certain Congressional findings explaining the changed conditions in telecommunications which make the traditional regulation required by the 1934 Act for all aspects of telecommunications both unnecessary and counter-productive. Rapid technological advances are making conventional economic and legal approaches obsolescent; reliance on marketplace forces under certain safeguards will result in greater benefits to the general public.

TITLE I—GENERAL

Section 101. Technical amendments to Sections 1 through 5 of Title I of the 1934 Act (by redesignation as 101 through 105) are made to conform to the numbering system of the remaining titles of the 1934 Act, as amended.

Section 102. Section 101 of the 1934 Act, as redesignated, is amended to delete reference to regulation as a primary purpose. This amendment is consistent with the findings of new Section 201 that regulation should be invoked only when a full and fair competitive environment is inadequate to ensuring the fundamental goal of the 1934 Act, reiterated in the bill. ". . . to make available so far as possible, to all the people of the United States . . . rapid, efficient, nationwide telecommunications services . . ." with adequate facilities at reasonable charges. Other goals set forth in the 1934 Act, relating to the national defense and safety, and delegation of authority to the Federal Communications Commission, remain unchanged. A new purpose of promoting competition among and within telecommunications media in interstate and international commerce is added.

Section 103. Section 102 of the 1934 Act, as redesignated, is amended to extend the jurisdiction of the Commission, from all matters affecting interstate telecommunications, to all matters affecting telecommunications between local exchange areas, regardless of location. The Commission's jurisdiction with respect to international telecommunications is clarified. The Commission is empowered to exercise jurisdiction over all radio transmissions which originate or are received in the United States. The authority of the Commission to license radio stations is unchanged by this amendment. Archaic references to the Canal Zone are deleted.

Parallel to extending Commission jurisdiction to the exchange boundary, the bill leaves to the States authority to regulate (or forebear from regulating) matters which are solely intraexchange and which are not functionally inseparable from or essential to interexchange telecommunications. New provisions added to Title II of the 1934 Act empower the Commission to exercise oversight or regulation over the boundary or interface between exchange and interexchange communications. For example, new Section 207 mandates non-discriminatory and reasonable interconnection of exchange and interexchange facilities as well as interconnection of terminal and other equipment (including customer-premises equipment) necessary to originate or terminate international or interexchange telecommunications. Section 210 revises procedures whereby the Commission reviews the charges and other conditions for facility interconnections. Section 222 provides a new mechanism for devising and reviewing exchange access costing and charging methods and for supporting continued provision of basic exchange services.

Forbidden to all levels of government, with certain limited and specified exceptions, is any direct regulation of information services, the regulation of rates charged subscribers of cable television and other information services, telecommunications regulation of terminal equipment and regulation of the content of programming carried on cable television systems and other similar multiple-channel broadband systems. (See new Sections 204 and 238.)

Regulation of telecommunications equipment (including customer-premises equipment and switching equipment) is precluded to both the Federal Communications Commission and the State regulatory commissions, with specified exceptions. (See Section 234). Any combined offering, whether interstate or intrastate, of telecommunications equipment and transmission services must be on an unbundled basis. The States may regulate intraexchange provision of telecommunications equipment only to the extent basic equipment is offered as a part of a basic residential "life-line service," and may not impose any regulation or restriction on telecommunications equipment which does not apply as well to other electronics equipment (e.g., safety standards, warranties, etc.). The Commission is given primary authority to ensure compliance with this "unbundling" provision by both interexchanges and local exchange carriers.

As is the case under the 1934 Act today, the bill retains in full the Commission's spectrum licensing and management authority over exchange telecommunications by radio. Certain new provisions touching upon local radioexchange telecommunications are added in new Section 231 of Title II.

Section 104. Section 103, as redesignated, is amended to change certain existing definitions and to add certain new definitions to the 1934 Act in order to make such definitions consistent principally with amendments to Titles II and III. The entire section is reordered alphabetically.

Several new definitions are especially important. "Affiliate" expresses any relationship of ownership or control between or among entities or parts of any telecommunications carrier. Thus, for example, separate corporate subsidiaries of a parent corporation are affiliates of each other, as well as of the parent. Any division or other less distinct organizational part of the parent corporation is also considered to be affiliated to the parent. The neutral term "entity" is used to convey a purpose to include any sort of organizational unit and not necessarily a corporate or other conventional legal organization, and not necessarily a carrier. Thus, an entity would include a partner, or an accounting or other functional or organizational division within a corporation. The terms "basic telephone service", "basic telecommunications service", and "regulated telecommunications services", particularly Sections 201 (statement of policy guaranteeing provision of basic telecommunication services, under regulation if necessary) and 208 (requiring provision of any regulated service upon request), and 236 (establishing a procedure for determining future regulated basic services), describe the types of telecommunications activities which may, but need not, continue to be provided under regulation. Regulation of telecommunications facilities for which there are no reasonable alternatives will continue.

"Broadcasting" is defined as telecommunications for the general public, thereby distinguishing conventional Title III broadcast stations from multi-point distribution service, direct broadcast-to-home satellite service, and similar broadband services yet to become fully operational, as well as encoded portions of subscription television service. The term "cable television service" denotes conventional community antenna television service (retransmission of broadcast signals delivered over coaxial cable to end subscribers and the usual form of "pay cable" service which "piggybacks" on the basic cable service—i.e., one-way video programming delivered to end subscribers who pay an additional fee on a per channel or per program basis (including sports, news, public affairs, and other programming similar to what is presently delivered over conventional broadcast stations). Excluded from this definition would be any two-way or switched system which delivers information other than or in addition to retransmitted broadcast signals and one-way video entertainment. A conventional cable system, insofar as it engages in telecommunications service other than those specified in this definition, would be treated as a telecommunications carrier under this bill.

Definitions of "exchange telecommunications" and "interexchange telecommunications" are necessitated by the shift in the jurisdictional authority of the Commission and the States, and reflect the new demarcation between Federal and State jurisdiction. The term "information service" describes both active and passive functions of generating, acquiring, and otherwise manipulating information, and recognizes certain minimal overlapping with telecommunications where certain information functions are used in support of telecommunications functions. (See also Section 234(d).) A "telecommunications carrier" may bear little or no resemblance to a "common carrier", which term is eliminated. Certain "common carrier" obligations remain for newly classified "regulated carriers" and "dominant-regulated carriers". (See Section 203.)

The term "regulated telecommunications service" describes the outer regulatory bounds of the Commission within which it has direct and immediate responsibilities (such as to ensure the universal availability at reasonable rates of basic services where non-regulatory means are inadequate). Regulated services include regulated "basic services", defined in Section 103 (3) and (4) and as may be further expanded under Section 236 and the provision of "bottleneck" facilities (i.e., for which there are no reasonably available alternatives. Other indirect responsibility of the Commission include supervision of the relationships between dominant-regulated carriers and their fully separated affiliates (see Section 227) and the manner in which non-dominant carriers provide unregulated telecommunications and other services (see Sections 205(b), 220, 234, etc.).

The term "telecommunications service" does not include the provision of telecommunications equipment (also defined). Regulation of equipment is generally prohibited, except where otherwise specifically provided (See Sections 234 and 235.). "Telecommunications equipment", which includes terminal and other equipment, also includes switching equipment, direct regulation of which (except under Section 214) is prohibited unless the provision of switching equipment is essential to transmission facilities, and under common ownership or control with transmission facilities.

Section 105. Section 104, as redesignated, is amended to make certain conforming terminological changes. Moreover, the provisions of Subsection (b) thereof are amended to limit the reach of the financial conflict-of-interest prohibition only to certain senior Commission employees and to expand its application to ownership interests in companies which are either regulated or substantially affected by the activities of the Commission.

Section 106. The Commission is directed to study and report to Congress on license fees in 9 months. The report is to identify each service and class of license enjoying private commercial benefit from use of the electromagnetic spectrum and the method or methods for measuring the value of that benefit in excess of the costs of regulation.

TITLE II—DOMESTIC AND INTERNATIONAL TELECOMMUNICATIONS, RURAL TELECOMMUNICATIONS DEVELOPMENT

Section 201. Subsection (a) sets forth certain findings relating to the current situation and changing circumstances in telecommunications which necessitate Congressional action, as well as reaffirming basic goals contained in the 1934 Act.

Subsection (b) sets out key elements of a transition plan, which is incorporated into amended Title II of the 1934 Act, by which marketplace competition, and concurrent deregulation, will be allowed to substitute for routine Federal Governmental intervention in the areas of international and interexchange telecommunications. Intertwined with such deregulation is the establishment of certain structural, organizational and behavior safeguards (some of which entail continued regulation or oversight by the Commission) designed to ensure full and fair marketplace competition.

Section 202. The heading for Title II is revised to conform to new terminology, to make explicit the inclusion of international telecommunications, and to reflect the addition of a new subpart for rural telecommunications development. The term "common carrier" of the now superseded title heading is no longer used. While some elements of "common carriage" remain, the bill reflects a revised regulatory (and deregulatory) plan under which only a few telecommunications carriers will be treated as traditional "common carriers."

Those carriers are referred to as regulated carriers, a subset of which are classified as dominant-regulated carriers. Moreover, even as to those few exceptions, carrier rights and duties will not completely conform to traditional legal and economic concepts of common carriage, or to conventional regulation of public utilities.

Section 203. New Section 201 completely supersedes Section 201 (relating to services and charges) with a statement of policy for Title II. The essence of this new policy is to encourage competition in the provision of telecommunications services, to ensure that competition is "full and fair" by establishing certain organizational and behavioral safeguards against anticompetitive practices, to ensure that ratepayers of regulated services do not finance unregulated competitive ventures, and to guarantee the provision of basic telecommunications services, whether regulated or not, and the continued availability of "bottleneck" facilities.

Elements of the superseded Section 201 (relating to provision of regulated services upon reasonable request, just and reasonable charges, and interconnection) reappear in other sections of Title II, principally new Sections 207 and 208. Provisions relating to classification of wire or radio communications are deleted. However, similar authority is granted to the Commission in amended Section 203 (relating to classification of carriers) and new 236 (determination of basic telecommunications services). The provision dealing with contractual relationships between regulated carriers and carriers not subject to the 1934 Act is deleted. Such relationships are subject to new Sections 207, 209, 210, 211, and others. The provision relating to carrier reporting of ship positions is deleted as unnecessary. The provision authorizing the Commission to prescribe rules and regulations is deleted as duplicative of other sections of the 1934 Act empowering the Commission to make rules and regulations to execute its functions. (See, e.g., Sections 104(i) (as redesignated); Section 303(r).)

Section 204. Section 202 of the 1934 Act is completely replaced with a new Section 202 setting forth the authority of the Commission under Title II and directing the Commission to conform its spectrum policies, practices and procedures under Title III to the new policy of Title II stated in new Section 201. Subsection (b) makes clear the affirmative obligation of the Commission to regulate carriers which control "bottleneck" transmission facilities and which provide other regulated services, as defined in Section 103(35). New authority is given the Commission in Subsection (c) to employ noneconomic selection methods in licensing telecommunications carriers which use the spectrum. This authority is discretionary. Use of economic selection methods, such as auctions or sealed bids, is specifically barred.

The provisions of superseded Subsection (a) of Section 202 (relating to discrimination and preferences) are found in slightly revised form in new Section 208. Superseded Subsection (b) is deleted. Section 103(35), (44) and (48), as redesignated, provides new definitions which include the definitional elements of superseded Subsection (b). Subsection (c) is deleted. Forfeitures for carrier violations are covered generally under Section 503(b) of the 1934 Act, as amended by Section 411 of the bill.

Section 205. Section 203 of the 1934 Act (relating to schedules of charges) is entirely superseded by a new section concerning classification of carriers. The classification scheme set forth in new Section 203 contemplates two different types of activity. Subsections (a) and (b) require a listing of a readily determinable set of telephone companies which participate by deriving revenues from an existing industry-managed plan to distribute revenues from the provision of basic telephone service. Included in this list are the Operating Companies of the Bell System, its Long Lines Division, and the approximately 1,500 independent telephone companies which are engaged in interexchange telecommunications but which are not purely local carriers. Any carrier which does not receive revenues from this industry plan (such as Western Union and specialized common carriers) is excluded from the initial classification of "regulated carriers". (Local exchange carriers, commonly regulated at non-Federal levels of government, and known informally as "2(b)(2) carriers" under superseded Section 2 of the 1934 Act, are subject to certain provisions of amended Title II, but local exchange operations would remain under State regulation, if any.) Any carrier not listed is to be considered an unregulated carrier, subject only to those provisions of new Title II specifically covering "any unregulated carrier", "every telecommunication carrier", or "any person" or other similar terms, and those other sections of the 1934 Act (for example, Section 312 (b), relating to cease and desist proceedings, and 503(b), relating to forfeitures) which affect any person subject to the 1934 Act.

The class of regulated carriers is not distinct from the class of dominant regulated carriers; rather dominant carriers are a subclass of regulated carriers, and are subject to certain additional or different requirements.

On the same or separate listing the Commission is directed in Subsection (b) to identify certain of these regulated carriers as "dominant-regulated" carriers initially by using a simple threshold measurement of telephones served.[1]

The second classification scheme is an ongoing process. After this initial classification task has been performed, the Commission is directed in Subsection (d) to classify or reclassify, as the case may be, whether necessary or appropriate, any unregulated carrier as a regulated carrier and vice versa. A more discrete standard is to be used—ownership or control of "bottleneck" telecommunications facilities and/or engagement in the provisions of regulated basic telecommunications services (See definitions in Section 103 (3), (4) and (35), as redesignated, and new Section 236). Classification or reclassification of dominant-regulated carriers is also authorized. A special identification is provided for certain regulated international carriers in Subsection (c) which own, control, or lease international telecommunications facilities (defined at Section 103(21)).

The provisions of superseded Subsections (a) and (c) of Section 203 are generally recaptured in Section 209—relating to the filing of information. Superseded Subsection (b) is made unnecessary by the changes in new Section 210—relating to effective dates of tariffs. The provisions of superseded Subsection (c)—requiring adherence to published rates—are generally to be found in new Section 209(c).

Section 206. Section 204 (relating to hearings on new charges and suspension of charges) of the 1934 Act is superseded by a new section concerning resale of telecommunications services. Resale, defined in Sections 103(36) as the for profit reoffering of any service, is generally deregulated, except for resale activities of the United States Postal Service (USPS) which is accorded special treatment. Special provision is made in Paragraph (3) to permit the Commission to regulate the provision of telecommunications services on any basis by the United States Postal Service, to ensure that the USPS, benefiting from a statutory monopoly in the delivery of hard-copy messages and other advantages, does not unfairly extend its pervasive monopoly into new services, such as electronic mail and electronic funds transfer, which are, or may become highly competitive. For example, the USPS is foreclosed from engaging in "Generation III" operations—that is, the electronic delivery of messages from end to end. The USPS, through a regulated fully separated subsidiary may, if the Commission so allows, engage in "Generation II" delivery (i.e., initial electronic receipt and forwarding, hardcopy physical end delivery) in conjunction with carriers, subject however to the 1934 Act. Under the definition, a resale entity need not modify in any manner the underlying transmission capacity initially obtained.

While resale activities are not generally subject to regulation of the Commission, the provision by a regulated carrier of the underlying telecommunications services which are subsequently resold to an affiliate or nonaffiliate fall within the Commission's purview, as provided in Paragraphs (2) and (3) of Subsection (a). The Commission retains full authority over the practices of the carrier making available its telecommunications services on a resale basis, to both affiliated or unaffiliated entities, including the authority to require the filing of tariffs. Moreover, as to dominant-regulated carriers, the Commission may oversee the relationship between that carrier and its fully separated resale affiliate. The requirement that a dominant-regulated carrier engage in resale activities solely through a fully separated affiliate parallels the requirements of Subsection (e) of Section 234 (relating to dominant-regulated carrier provision of unregulated services). The sharing of facilities among unregulated carriers or private systems would remain unregulated under this bill.

The provision of superseded Section 204 relating to hearing and suspension procedures for charges are substantially modified and recast in new Section 210. A discussion of those changes may be found in the analysis of Section 210.

Section 207. Section 205—relating to prescription of charges—is superseded. Elements of superseded Section 205 are incorporated into new Section 210, relating to tariffs. A discusison of those changes may be found in the analysis of Section 210.

New Section 205—covering prescription of carrier requirements—empowers the Commission to exercise residual authority, in addition to specific powers set forth in other sections, to carry out the purposes of the 1934 Act and the policy of Title II. Subsection (a) generally directs the Commission to particularize its oversight and regulation of carriers subject to its jurisdiction, taking into account the individual position of each carrier with respect to control of facilities, market position, and the nature of services offered. Regulation of unregulated interexchange or international carriers is barred, except as specifically allowed (See, e.g., Section 209).

Paragraph (1) of Subsection (b) serves as a residual provision of Title II enabling the Commission to adjust its regulation of reguated carriers to ensure compliance with the 1934 Act and regulations prescribed thereunder. An illustrative listing of powers established separately in other sections of Title II is provided in paragraph (1). Paragraph (2) requires a hearing before the Commission can act to impose requirements on organization, operation or practices in addition to those mandated by the terms of the 1934 Act, as amended. Included within the general authority of the Commission under this paragraph is the power to require greater or lesser degrees of operational and oganizational safeguards than are expressly set forth in Section 227—relating to fully separated entities and their affiliated regulated carriers. The Commission may not impose additional structural requirements or advance the timetables specified in Section 228—relating to interim arrangements for Western Electric Company and Bell Telephone Labs and other units of AT&T—prior to full separation of certain competitive activities.

Paragraph (3) limits the powers granted in paragraph (2) as to regulated carriers which are not classified as dominant-regulated carriers, but enables the Commission to impose any combination of behavioral and organizational separations criteria of Section 227, short of imposing all of those criteria.

Section 208. Section 206 is redesignated Section 206(a) and the heading amended to include the heading of Section 207, which is combined into new Section 206.

Section 209 (a). Section 207 is redesignated Section 206(b). Terminological changes are made as well.

(b) In lieu of Section 207, redesignated Section 206(b), a new section relating to interconnection of facilities and equipment is added. All regulated carriers are required to offer non-discriminatory access by inter-connecting all their telecommunications facilities upon reasonable request. Access must be afforded to any carrier, private communications system, or any other person. Interconnection includes coupling to transmission facilities and associated switching equipment and terminal or other customer premises equipment. The identical interconnection requirements apply to any exchange carrier—whether or not owned or controlled by another carrier—which owns or controls "bottleneck" exchange facilities (defined as facilities for which there are no reasonably available alternatives). All interconnection arrangements are subject to the tariff review process of new Section 210.

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[1] Dominant-regulated carriers under the initial identification scheme of this subsection are the following 6 carriers and their affiliates: AT&T; General Telephone and Electronics Corporation; United Telecommunications, Inc.; Continental Telephone Corporation; Central Telephone and Utilities Corporation; and Mid-Continent Telephone Company.

Subsection (b) adds special interconnection requirements applicable to internal interconnection points between functionally distinct, but integrated parts of any regulated carrier. These arrangements must be clearly articulated and filed with the Commission under new Section 211. Different tariffing treatment is accorded to different internal interconnection points.

Section 210 (a) and (b). Section 208 is redesignated as Section 225(a) and its heading amended to include the heading of Section 209. A technical change in terms is made.

(c) A new Section 208 replaces redesignated Section 208 and incorporates some of the provisions of superseded Subsection (a) of Section 202. "Regulated service" is defined in Section 103(35) and includes use of or access to "bottleneck" transmission facilities and associated switching equipment as well as the provision of basic service requiring regulation.

Section 211. Section 209—relating to orders for payment of money—is redesignated as Section 225(b) and a terminological change is effected. A replacement Section 209—relating to the filing of information on operations, charges and practices incorporates certain of the requirements of superseded Section 203. Superseded subsection 203(c) reappears in new Subsection (c) of Section 209. (See analysis of bill Section 205.) A new general filing requirement (Subsection (a)) applies to unregulated as well as regulated carriers. The Commission is directed to develop relaxed requirements for small carriers to avoid excessive paperwork burdens. A parallel filing requirement—relating to contractual and other arrangements—is found in Section 211.

Section 212. Section 210—relating to franks and passes—is redesignated as Section 230. A change in terminology is made, thereby broadening the scope of newly redesignated Section 230 to all carriers.

An entirely new Section 210 establishes procedures for consideration by the Commission of tariffs by regulated carriers. A new definition is added in newly redesignated Section 103(43) defining the term "tariff". Superseded Sections 203, 204, and 205 are partially incorporated into new Section 210.

New Section 210 creates alternative tariff review procedures for regulated telecommunications services. The principal difference relates to the effective date by which a filed tariff may go into effect. Subsection (a) requires prior affirmative action by the Commission. Provision is made for designating a tariff for hearing, upon petition after public notice of the Commission's initial action on a tariff. In order to expedite final decisions on contested tariffs and to reduce opportunities for meritless dilatory motions by parties opposed to a tariff filing, the Commission is directed to decide the matter as expeditiously as possible. Under Subsection (b) a tariff may go into effect on the date specified by the carrier, unless the Commission orders up to a 30-day delay. Under existing Section 203(b)(2), the Commission may delay the effectiveness of a tariff for no longer than 90 days; thereafter, unless the Commission suspends operation of the tariff under existing Section 204(a), the tariff goes into effect, subject to rejection, prescription or other action which the commission may take under existing Sections 204 and 205.

Specific statutory recognition is made of informal negotiation procedures whereby a carrier filing a tariff and other affected parties may meet under the auspices of the Commission to develop mutually agreeable revisions to the tariff under review. The Commission may, if appropriate, act to expedite the entire tariff review procedure by resorting to informal negotiations instead of less flexible and more time consuming hearings. The provision requires the Commission to take action within a set time, allowing the Commission some flexibility to elicit information necessary to reach a supportable decision.

Subparagraph (B) of paragraph (2) of Subsection (a) sets forth those options available to the Commission. The bill makes clear the Commission's existing authority (in Sections 204 and 205) to select from this specified range and new authority to condition acceptance of a tariff upon "requirements necessary to carry out the policy" of Title II. This subparagraph builds upon the Commission's power today (under Section 204(b)) to condition tariffs upon an accounting order or to grant partial or temporary authorization. Under Clause (ii) of Subparagraph (B), the Commission may conditionally accept a tariff upon compliance with such other requirements as are appropriate to a tariffing proceeding and as the Commission is otherwise authorized to impose under Title II (including requirements relating to carrier organization, operation or practices (See new Section 205). The Commission's authority to suspend a tariff (under Section 204) is subsumed under this Clause (ii).

The authority of the Commission to reject a tariff is clarified and circumscribed by the language added in Clause (iii) of Subparagraph (B). Upon rejection of any revised tariff for a continuing service, any lawful tariff in effect for such service on the date of filing remains in effect. If there is no previously effective lawful tariff, the Commission, if it desires the tariffed service to continue to be provided, may invoke its powers to condition or prescribe, rather than to reject a new tariff covering that service.

An alternate tariffing procedure is made available to the Commission in Subsection (b). Tariffs filed under this alternative approach go into effect no later than 30 days after the date specified by the carrier filing such tariff. Opportunity for a hearing is afforded interested parties which are able to demonstrate a prima facie case for disapproving or otherwise modifying the proposed tariff after hearing. In effect, the initial burden of producing evidence falls upon the petitioning party. Once a prima facie case has been made, the Commission may assign the burden of persuasion as appropriate. The Commission is required to take speedy action upon petitions for hearings in order to minimize any deleterious effects arising from provision of services in violation of the provisions of Title II. The scope of the Commission's review is limited to those matters raised by petitioners deemed by the Commission to raise serious questions. This alternative review procedure is automatically available to any non-dominant international carrier and to any other carrier whose tariffs the Commission determines do not require the closer scrutiny of the procedure of Subsection (a). The alternative procedure is prescribed for certain internal interconnection points under Section 207(b)(2).

Section 213. Minor terminological amendments are made in Section 211, and reference is made to filing of agreements or arrangements reached internally by functionally distinct parts of dominant-regulated carriers, conforming to the cross-reference in Subsection (b) of new Section 207.

Section 214. Minor changes in terms are made in Section 212, relating to interlocking directorates and officials dealing in securities.

Section 215. Amendments to Subsections (a) and (c) of Section 213 are made to create ancillary authority in the Commission to carry out its responsibilities under new Section 222—relating to exchange access charges and a universal service pool. Subsection (e) is amended to effect a minor terminological change; Subsection (g) is repealed as no longer relevant.

Section 216. Section 214 is amended by broadening the scope of the Commission's review of facilities construction, acquisition, and operation to include all interexchange transmission facilities and associated switching equipment, in addition to lines. The heading for revised Section 214 is amended to reflect this change. Commission review of such practices for nondominant-regulated carriers is permissive, and is generally mandatory only for dominant-regulated carriers. However, Section 205(b) grants the Commission the power to require any non-dominant regulated carrier first to obtain a certificate under this section. A new Subsection (b)(2) creates authority for Commission review of long-term facilities plans in order to simplify administration of large-scale construction projects extending over long time periods. Revised is modified by new Section 241(g)(2)—relating to the construction, operation or use of international telecommunications facilities planning.

A new Subsection (e) is added relating to meetings held under the auspices of the Commission (which the Commission may require to be made public) by carriers desiring to undertake jointly the development and management of networks. This subsection affords all carriers providing telecommunications services, either jointly or competitively, a form within which they may plan the operation of a joint end-to-end facility networks. The subsection may not be construed to grant any immunity for actual conspiracy or for other prohibited anticompetitive conduct, whether joint or individual. Nor should this subsection be read to imply any right to participate in any meeting. The Commission is authorized to make its good offices available for such meetings and is not by this section required to pass upon any decision arising from these sessions.

A new Subsection (g) requires dominant-regulated carriers to file with the Commission technical network design and other information. Such information may not be shared with any competitive subsidiary or unit of the dominant-regulated carrier until filed.

Sections 217, 218, and 219. Terminological amendments are made to Sections 215, 217 and 218 of the 1934 Act.

Section 220. A new Paragraph (2) is added to Subsection (a) of Section 220—relating to accounts and depreciation. The Commission is directed to establish, within 1 year of the date of enactment of the bill, a new accounting system which will clearly identify revenues and costs associated with goods and services which a carrier offers in a competitive unregulated market and those offered under regulation. The Commission may require additional accounting separations as necessary.

Subsection (b) of Section 220 is amended to make the Commission's prescription of classes of property permissive and to effect a terminological change. Added at the end of Subsection (b), relating to the Commission's authority to determine proper depreciation charges, is language designed to alleviate problems arising for carriers operating in evolving environments under depreciation schedules designed for regulated public utility purposes.

Subsection (d) is repealed, as violations of the provisions of Title II are to be subject to the general forfeiture provisions of Section 503 (except as provided under Section 219). Subsection (g), redesignated as Subsection (f), is amended to encourage the Commission to lighten paperwork burdens for small carriers lacking the resources of larger carriers to comply with the detailed and thorough accounting and recordkeeping requirements mandated by the changes made in this bill. A new subsection (j) is added to require certain carriers to allocate costs in a uniform manner, unless the Commission otherwise permits.

Section 221. Section 221 of the 1934 Act is amended to apply its terms to telecommunications carriers, not just to telephone companies.

Section 222. (a). Section 222 of the 1934 Act ceases to have any effect on the first of January 1981. The State of Hawaii is made a domestic telecommunications point as of the date of enactment, and continues to be fully regarded as one of the several States under the 1934 Act after such repeal by reason of Section 103(40) which defines the "United States." As a result of the repeal of Section 222—and subsection (a) of Section 240, international carriers may engage in domestic telecommunications and domestic carriers may provide international telecommunications. Certain international carriers are subject to additional requirements contained in Sections 240 and 241.

(b). A new Section 222, relating to exchange access charges and a universal service pool, is added.

Telecommunications messages which originate in the exchange area of one carrier and terminate in the exchange area of another carrier require arrangements for calculating the costs of providing the origination and termination service. New section 222 replaces existing arrangements, provides a system of access charges, and creates a universal service pool which will consist of surcharges on those access charges to ensure the continuation of basic service at reasonable rates.

Subsection (a) directs the Commission to establish a joint board at the earliest practicable date. The new joint board is given two functions: (a) assisting the Commission in establishing, in consultation with the telecommunications industry, uniform practices for measuring and apportioning costs and; (b) assisting the Commission in managing the universal service pool.

Subsection (b) directs the Commission to establish practices to ascertain and apportion costs of providing access to exchange facilities for the origination and termination of interexchange service. Existing methods of allocating costs among exchange, intrastate toll, and interstate services (commonly referred to as jurisdictional separations) would be replaced by the new procedures. The Commission is directed to establish record-keeping requirements for exchange carriers which will provide data sufficient for identifying and apportioning costs.

Subsection (c) requires each exchange carrier to develop access charges for the use of its services for the origination or termination of interexchange messages. The access charges are to be filed as tariffs with the Commission and are to be paid by anyone who interconnects with the exchange carrier for the origination or termination of messages. Thus, the access charge would be applied to interexchange carriers, international carriers, affiliates of the exchange carrier, or private telecommunictions systems. The access charges are required to be reasonble, nondiscriminatory, and to recover those costs which vary directly with providing the origination or termination of service and the associated joint and common costs. In addition, the Commission may establish regulations for the orderly phasing out of the exchange network facilities for interstate access agreement (ENFIA) and require that access charges reflect the conditions required in those regulations. While the allocation of joint and common costs requires some judgment and can never be an exact science, the intent of this section is to require the Commission, in consultation with the joint board and the telecommunications industry, to develop a fair and reasonable method of apportioning costs so that the resulting access charges will accurately reflect the costs of exchange carriers.

Subsection (d) provides that the access arrangements of small exchange carriers (those serving not more than 50,000 telephones) may be regulated by the state commission within which the exchange carrier operates. The state commissions are, however, to regulate exchange access in accordance with practices established by the Commission. The Commission is given the power to override the state commission and to prescribe access arrangements where a showing is made that regulation by the state commission is not consistent with the general practices prescribed by the Federal Communications Commission.

Subsection (e) deals with the establishment of a universal service pool and the surcharges which finance the pool.

Paragraph (1) requires the Commission to establish a schedule of surcharges for the purpose of ensuring the continued universal availability of basic telephone service at reasonable rates. The amount to be collected in surcharges may not exceed the total amount transferred from long distance to local carriers for origination and termination of toll service in 1980 minus the revenues of local carriers from access charge during the current year. In addition to this amount of money, the surcharges may recover additional amounts not to exceed $500 million.

Paragraph (2) provides that the surcharges shall be nondiscriminatory, and paragraph (3) provides that the amounts collected by each exchange carrier in the form of surcharges shall be separately identified and accounted for and shall constitute the universal service pool. Based on the priorities set out in paragraph (4), the joint board is directed to authorize transfers of the funds between and among carriers.

Paragraph (4) sets forth the criteria under which the joint board will approve distribution of the revenues from the surcharge. The first priority is to provide funds to any exchange carrier sufficient to ensure that the exchange carrier's total revenues from long distance service do not fall below the level of revenues received in 1980. Thus, any exchange carrier whose access charges do not yield revenues equal to the amount that carrier received in 1980 from settlements for toll origination and termination, is entitled to receive the difference from the universal service pool. A second priority for transfers are to carriers which demonstrate that funds are necessary to ensure that local rates do not unreasonably increase; to reduce unreasonably high access costs; or to offset unusually high cost of rural connecting links. These funds are available first to small exchange carriers (serving less than 50,000 main or equivalent stations). Carriers which receive funds to reduce unreasonably high access charges are required to use those funds to actually reduce such charges on a nondiscriminatory basis.

Paragraph (5) requires the Commission to establish procedures to ensure the prompt transfer of funds to eligible carriers. Paragraph (6) provides that the joint board, prior to approving payment of funds, shall verify the accuracy of claims, the reasonableness of allocations, and ensure that transfers are applied to maintain reasonable rates.

Paragraph (7) provides additional criteria for the Commission to consider in transferring funds from the pool. These include the overall rate of return of the applicant and the applicant's . . . service. These criteria would be relevant where the applicant seeks to show that funds are required to avoid unreasonable rate increases or to reduce unreasonably high access costs under paragraph (4)(B).

Subsection (f) requires the Commission to review and approve plans for cooperative arrangements among carriers. To the extent that the surcharges collected under this section are distributed among carriers through a "clearinghouse" mechanism, Commission approval is required in order to prevent any cross-subsidies that might otherwise occur.

Subsection (g) provides the timing for this overall section. It provides that, two years after the date of enactment of this bill, existing methods for allocating the costs among services (jurisdictional separations) will be replaced by the procedures developed under section (b). At that same time, procedures for compensating exchange carriers for the use of their services (settlements and divisions of revenues) will be replaced by the access charges and surcharges developed under sections (c) and (d).

Section 223. Section 224—relating to pole attachments—is amended in several respects. The exclusion of certain utilities is eliminated. A specific obligation to grant access to poles for attachments is created, in addition to the requirement of existing Section 224, which requires only that any attachments voluntarily allowed by the utility must be in conformity with this section's provisions. The Section is also amended to extend pole attachment rights to carriers, not just cable system operators.

Certain of the newly included utilities are exempted from the Commission's jurisdiction, but not from the general duty to grant pole access. Those exempt entities are railroads, electric power co-operative organizations, federally-owned utilities such as the Tennessee Valley Authority, and State, county or local public utilities. Subsection (c) of Section 224 is amended to make clear that no State may act to absolve any defined utility from the obligation imposed under this bill to grant pole access.

Section 224(a). Several new sections are added to Part I of Title II.

Exchange areas

A new Section 226—relating to configuration of exchange telecommunications areas—is added. Authority to redefine the area of its regulatory jurisdiction over essentially exchange matters is reposed in each State, subject to the criteria set forth in Subsection (b), and the review authority of the Commission and specified review procedures pursuant to Subsection (c). Paragraph (1) of Subsection (b) allows some overlapping of exchange areas. It is expected that State commissions could develop different service area configurations reflecting technical and operational differences among various types of telecommunications services. For example, the service area of a radioexchange carrier may be different from the boundaries of a wire-line carrier's exchange area, yet still encompass an area serving common social, economic and other purposes.

The criterion of Paragraph (2) that every point within a State fall within a service area is designed to conform to the provisions of Part C—relating to rural telecommunications development—whose purposes include improving the availability of services in areas presently benefitting from no or inadequate telecommunications service. For example, Section 261 establishes a grant program for the States to identify telecommunications needs in all areas of the State and to configure service area on regional, countywide or other bases so as to ensure that all areas of a State are included in an economically viable and technically feasible service area. The criterion also serves one of the fundamental goals of the 1934 Act and the bill of fostering universally available telecommunication services, including social services which may be provided more effectively through use of advanced telecommunication technologies. Additionally, the criterion interrelates with loan criteria set forth in Section 271 by which applicants for rural telecommunications facilities construction funds must represent to the Secretary of Agriculture that services will be made available to all persons within the applicant's service area.

The outer boundary of any exchange area is defined in Paragraph (3) of Subsection (b) by reference to standard metropolitan statistical areas.

Under Paragraph (4), with the approval of the Commission, State commissions of contiguous or regionally related states may coordinate functions in areas where common social economic and other purposes encompass areas lying within two or more states.

An advisory role is given in Subsection (d) to the joint board established under Section 222 to assist the Commission in administering exchange access and support matters. Generally the Commission may alter any new configurations found to be inconsistent with the 1934 Act, as amended. Existing area configurations are presumed consistent.

Fully separated affiliate

A new Section 227 defines the organizational and operational characteristics of a fully separated affiliate and the relationships which that entity may have with its parent and other affiliates. Dominant-regulated carriers are required by Sections 203, 229, 234, and 240 to establish fully separated subsidiaries meeting the organizational and operational requirements of Section 227 prior to offering unregulated services. The elements of full separation set forth in this new section also describe some of the regulatory requirements which the Commission may impose pursuant to Section 205, where no other provision of Title II mandates full separation.

Subsection (a) describes certain organization characteristics of a "fully separated affiliate." Subsections (b), (c), and (d) describe certain rules governing operations and practices by which the fully separated affiliate deals with any other corporate part. No entity may be considered "fully separated", unless it complies with all of the requirements of Subsection (b), (c) and (d), as well as Subsection (a). The Committee is authorized to impose additional organizational and/or behavioral criteria or to relax the criteria set forth as circumstances may dictate pursuant to Section 205(b).

Thus, the Commission may tighten the constraints of the full separation relationship, where necessary, to prevent anti-competitive abuse or may relax the requirements enumerated in Section 227 in order to permit a carrier to enjoy benefits of vertically integrated operations which will not likely result in unfair competitive advantage.

While the parent maintains full ownership control of its fully separated entity, all transactions—for example, extension of services or facilities, or debt or equity financing—between the parent and its fully separated competitive affiliate must be based upon "fair market value" which, in some instances where there is no market other than the internal exchange itself, may have to be approximated. The Commission retains the power to require that certain goods or services supplied to a fully separated affiliate also be made available to others on a non-discriminatory basis. (See also Section 228(h)). Proper cost allocation, is required in the context of full separation, as it is for other unseparated internal transactions for non-dominant regulated carriers not required by this bill or ordered by the Commission to separate (organizationally and operationally) regulated from unregulated service offerings. The organizational and operational separations of new Section 227 are intended to complement a rigorous accounting system which will readily identify costs among and between different services and products.

The operational criteria of Subsection (b) require that any entity which is required by this Act to be a fully separated entity (for example, pursuant to Sections 203 and 240)), or by order of the Commission (under Section 205) deal with its affiliate on an "arms-length basis" requiring full compensation for any exchange of goods or services at fair market value. Certain transfers or joint activities, whether or not arms length, are further prohibited or restricted in Subsections (c) and (e).

The intended operational effect of full separation may be summarized as follows:

(1) Dominant-regulated carriers may not directly offer any service which is not a regulated basic telecommunications service, but such carriers may engage in unregulated services through a fully separated entity insulated from the monopoly characteristics of its parent.

(2) A fully separated subsidiary is free to engage in any unregulated telecommunications service or provide any product; provided, however, that any underlying telecommunications service received from its monopoly parent must be equally available to others under Sections 207 and 208. (See also Section 228—relating to equipment.) Thus, a competitive subsidiary of AT&T could offer ACS ("Advanced Communications Service") or other data processing service based upon circuits leased from AT&T Long Lines. The terms and conditions of that lease would have to be made available to anyone else. After a transition period applicable to installed equipment (Section 236), AT&T may offer telecommunications equipment only through a separate subsidiary.

(3) A monopoly parent may not favor its competitive affiliate, and vice versa, as supplier or as customer.

(4) A fully separated affiliate may not share any operating, marketing, installation and maintenance personnel in common with its regulated parent or other regulated affiliates.

(5) No joint marketing is allowed. Tying arrangements (coupling the offer of a monopoly communications service with a competitive service or product) and joint billing are consequently not allowed. Joint advertising is permitted only if each party pays its pro-rata share. The Commission may not prohibit such advertising.

(6) Commercial research and development (derived from the monopoly carrier's relationship with consumers of regulated basic services) may not be made available to the fully separated subsidiary, unless the same information is made available to others under the same terms and conditions. (See Subsection (f)).

(7) Financial transfers, either by investment in equity or debt capital or by guarantee of third party loans or credit, must be on a basis generally approximating marketplace conditions. The standard is "fair market value"; the purpose is to prevent such investments from subsidizing competitive activities from a monopoly base. Any transfer of assets to a fully separated affiliate is to be valued by the assets evaluation board authorized under paragraph 5 of Subsection (g) of Section 228.

Section 227, as it relates to AT&T, must be read in conjunction with Section 228 (Interim disaggregation arrangement for manufacturing, research and development functions of the Western Electric Company and Bell Telephone Labs, Inc.). While Section 227 sets forth continuing conditions for dominant-regulated carriers and fully separated affiliates, Section 228 describes a transitional arrangement for the interim internal relationships within AT&T for a 10-year period and the relationships thereafter between the regulated portions of AT&T and the fully separated affiliate or affiliates. Certain characteristics of those post-transition relationships exceed the continuing relationship of Section 227 which apply generally to other dominant-regulated carriers (and in part to other regulated carriers by Commission order pursuant to Section 205(b)). The most significant instance of this difference involves software development. While the parent AT&T (and any of its nonfully separated affiliates) may jointly perform and share software work for each other (under the strictures of subsection (c)), after the 10-year transition period all transfers to the separate affiliate of basic research, basic components, equipment design information or software programming would be prohibited (except for certain products uniquely produced by the Bell System and unless the Commission otherwise may allow under Section 205). After the transition, software design or development work for a fully separate subsidiary must be undertaken by the subsidiary (or another fully separated subsidiary) or by an outside contractor. (See subsection (h).)

Interim arrangements for Western Electric, Bell Telephone Labs and related units of the Bell System

New Section 228 relates to interim arrangement relating to research, development and manufacturing activities of AT&T's transition to full separation.

Section 228 establishes a series of rules for transactions and business dealings within AT&T and between AT&T and any fully separated subsidiaries which may be created. The proposal requires identification of manufacturing and R&D activities which are related to regulated network markets and a separate identification of those activities those which are related to the unregulated markets in which the fully separated subsidiaries will operate. These latter activities must be combined within one or more competitive support divisions, within two-years of enactment of this bill. Under Section 234 AT&T must establish no later than 2 years from the date of enactment a fully separated subsidiary to market unregulated telecommunications equipment and other unregulated services. The same strictures apply to transactions between any competitive support division and any fully separate affiliate. Any conduct of any specified business between any two of these three entities creates an obligation to do business in a similar manner with unaffiliated firms. For example, any products, facilities, services or research that move from the regulated portion of Western Electric or Bell Labs to the competitive support division or to any fully separated subsidiary, or from the subsidiary to local Bell Telephone companies, would have to be made available to non-AT&T firms at the same rates, terms and conditions.

A "prudent business judgment" exeception to this arms length dealing requirement is created. The organization involved would be permitted to exercise the same type of business discretion in refusing to deal that unaffiliated firms normally make in the marketplace in dealing with other unaffiliated companies. AT&T would have the burden of justifying refusals to do business under this provision. These mandatory sales to outsiders are intended to operate as a marketplace check on any attempt to flow cross-subsidies to the unregulated side of the firm through joint R&D or manufacturing.

Any transactions which do not cross these lines between regulated and "unregulated" sides or between a competitive support division and a fully separated affiliate are subject to accounting requirements that they be fully auditable and fully compensatory. (Any transactions crossing those lines are likewise auditable.) Therefore, AT&T can avoid having to sell to outsiders to the extent that it reorganizes to eliminate transactions between regulated and separated portions and thereby keeps the R&D and manufacturing for competitive products apart from those for network products.

Exemptions from this scheme include basic research which cannot be targeted to specific products, equipment, services or class of service or equipment. All recipients must pay their allocable share of research costs. The Commission is directed to ensure that the competitive support divisions pay their properly allocable share of management costs, while allowing these activities to be conducted jointly. Any basic component which crosses from regulated to "unregulated" sides need not be made available to others, but would have to move at prices that are fully compensatory and no less than marketplace prices; however, unique components essential to competitor interconnection would have to be made available to unaffiliated parties.

These transaction rules are supplemented by several specific information flow requirements, both in this section, Section 227, and Section 214(g). AT&T, as all dominant carriers, would have to disclose to other firms information about changes in and interconnection with the basic regulated network. Information about the capacity of services and products to interconnect with the network could not be shared across any restricted line until filed with the Commission. Under subsection (e) of Section 227 commercial information acquired by AT&T in its provision of basic regulated service could not be shared with the "unregulated" side of Western Electric or Bell Labs, or with the fully separated subsidiaries, unless the Commission determines that certain categories of commercial information should be shared with everyone, including outside firms, under reasonable, nondiscriminatory rates, terms and conditions.

The proposal also contains certain procedural and transitional provisions interrelated with Section 227 (requirements for full separation). Under Section 227(d) and subsection (e) of this section, the Commission would be authorized to ensure that AT&T properly complies with the statute's organizational requirements for fully separated subsidiaries and with transactional requirements of this Section 228 before it markets products or services on a deregulated basis.

Subsection (g) establishes a transition plan to provide for the orderly and complete physical separation of those research, development and manufacturing facilities which directly support Bell System operations in the regulated and deregulated sectors.

The plan contemplates a 10-year transition to a reorganization of certain competitive support functions, one including a fully separated subsidiary which does not rely on Western Electric and Bell Laboratories for support of its competitive activities. This 10-year period is marked by four phases at each of which significant degrees of separation are required in Bell System operations.

Failure to comply with any of the requirements of this section could result in invocation of the Commission's cease and desist powers under Section 312 precluding further operations in competitive service and product markets until the conditions of this section and regulations prescribed thereunder are fully met. The Commission retains full investigative and regulatory authority under other provisions of the Act to minimize the possibility that any cross-subsidy or other anti-competitive acts may occur in the limited integrated operations permitted during the transition period.

The term "final assembly" refers to those manufacturing operations which, when completed, result in a finished product ready for delivery to a customer. Typically such operations include the wiring of subassemblies, cables and connectors into cabinets or housings, installation of displays, switches, controls, keyboards, faceplates and similar hardware; testing of completed units; and, packaging.

As an incentive for compliance with the specified timetables the bill limits the availability of deregulation to only those services, facilities and products where the required separation has been achieved. On the fourth anniversary of enactment the Bell System may no longer offer terminal products or services which have been deregulated under the Act unless it has deployed a fully separated subsidiary and unless it has moved the final assembly of terminal and data processing products out of the competitive support division and into the fully separated affiliate.

After the sixth anniversary of enactment all design information and software programming must be generated within the fully separated subsidiary or obtained from unaffiliated sources. Shared development tools, including computers and other computer-based design aids, will have to be duplicated and necessary laboratory facilities constructed.

Similarly, software development—that is, the writing and testing for the sequence of computer-like instructions which are incorporated in terminal equipment like PBXs and modern key systems—must also be separated because of the close collaboration with hardware designers entailed in its development.

After the eighth anniversary of enactment, all subassemblies incorporated within terminal, data processing products and other unregulated equipment would be manufactured within the fully separated subsidiary or would be obtained from unaffiliated sources (or from Western Electric as if it were totally unaffiliated).

Subassemblies are combinations of components and other small devices which have a unique identity and perform discrete functions but which are not, by themselves, end products offered for sale to customers. The manufacturing operations for subassemblies include such processes as punching, stamping, drilling, placing components, soldering, fastening, and the like. Examples of subassemblies found in telecommunications products include relays, switches, circuit packs, power supplies, fuse assemblies, mounting plates, cabinets, and housings.

The tenth anniversary of enactment marks the end of the transition period. By that date all research, development and manufacturing which supports the Bell System's fully separated subsidiary will be integrated within it or acquired from a non-affiliated source. (See subsection (g) (4) B.)

It is the deadline for the restructuring of activities relating to the design and manufacture of components. By that date Western Electric and Bell Laboratories will no longer support the fully separated subsidiary's requirements for components. (See subsection (h).) Examples of components include silicon integrated circuits, hybrid integrated circuits, microprocessors, memory devices, optical display devices, and printed wiring boards.

The Commission is empowered under Paragraph (6) of subsection (g) to extend the fixed time limits of this subsection if, in spite of a good-faith effort, there are practical obstacles to the timely implementation of this plan. The obstacles specified are: strikes, a war or civil disorder, severe economic depression, and Acts of God. Extensions may be granted for a maximum six months each; no more than two extensions for each transition phase are permitted.

Consent decree

A new Section 229 partially modifies the consent decree involving the anti-trust suit filed in 1949 by the United States against AT&T and its affiliated entities. Section 229 would affect only those provisions of that decree which restrain AT&T from engaging in any business other than a "common carrier communications services" subject to regulation by the Commission and/or State commissions (Section V of the Final Judgment).

Modification of the decree is wholly contingent upon two conditions: (1) creation of fully separated entities to engage in certain unregulated activities; and (2) compliance with the requirements of Section 228—relating to approval of and compliance with interim arrangements governing conduct of business between AT&T and its fully separated affiliates. Such entities must comply in full with the elements of separation set forth in Section 227 and any modifications which the Commission may make to those requirements pursuant to Section 205.

Section 224(b). Section 230—relates to franks and passes (existing Section 210 as redesignated, amended to extend to all telecommunications carriers).

Radioexchange

Section 231 sets forth certain provisions relating to regulation of radioexchange telecommunications by the Commission and the States. The term radioexchange carrier is defined in redesignated Section 103(32), which tracks the definition found in the rules and regulations of the Commission. It includes provision of paging and radio telephone services to the public. The States may configure radioexchange areas, under Section 226, as well as this section, and may continue to award exclusive or non-exclusive franchises for radioexchange operations which originate or terminate within those areas. Rate regulation and quality of service matters likewise remain under exclusive State jurisdiction; however, it is also made clear that the States have authority to re-regulate or to forebear from regulating radioexchange telecommunications whenever it is their judgment any such action is deemed appropriate.

Commission regulation of common carrier mobile services has been based upon a shared responsibility with the States. (See Section 221(b) of the 1934 Act.) Under new Section 231, the Commission continues to fulfill its exclusive functions, granted under amended and redesignated Section 102 of the Act (which refers to FCC jurisdiction over all transmission of electromagnetic energy by radio) of allocating and licensing radio spectrum for the services provided by radioexchange carriers and will assume a more clearly defined role, under Section 207, in regulating the interconnection arrangements between radioexchange carriers and other colocated regulated carriers and between radioexchange carriers and private systems as well as interexchange services.

In Subsection (b)(1), new direction is given to the Commission to exercise its regulatory authority over radioexchange operators under the 1934 Act so as to promote opportunities for competition at the local exchange level in the delivery of radioexchange services.

While the States may continue to exercise jurisdiction over entry, actions of the Commission, mandated under subsection (b), in revising spectrum policy to facilitate competition will make unnecessary continued State regulatory barriers to entry of new radio common carriers. Regulation is only appropriate in those markets where there is no potential for new entrants due to lack of available frequencies. As long as there are unused frequencies, State commissions should not restrict new entrants.

While entry regulation of radio common carriers is in practice shared by the Commission and the States, this provision is not intended to preclude the Commission from exercising exclusive jurisdiction over entry of carriers employing new technologies, such as cellular radio telephone telecommunications systems, in order to promote intermedia competition and resultant expanded availability of diverse services in the local exchange, and to foster innovative and efficient spectrum uses.

Special provision is made in Paragraph (2) of subsection (b) relating to separation of services and accounting covering situations in which wireline exchange carriers are permitted to engage in co-located radio-exchange telecommunications.

Section 225. This section details the rights guaranteed to employees of dominant regulated carriers who are transferred to a fully separated affiliate. Subsection (b) of this section states that a transferred employee shall not be deprived of his employment, salary, wages or seniority rights during the five-year period following the date of their transfer. Subsection (c) entitles a transferred employee to travel expenses, above his regular salary or wages, if that transfer is more than 35 miles from his new work location.

Subsection (d) states that benefits earned by an employee shall not be restricted due to the transfer of that employee. Subsection (e) guarantees that any labor agreement entered into by an employee of dominant-regulated carrier will remain in effect for a transferred employee for the duration of the collective bargaining agreement, unless the employee of the separated affiliate enters into a new collective bargaining agreement after the transfer.

Subsection (f) provides that a regular employee transfered to a fully separated affiliate and subsequently discharged for other than cause within seven years after a transfer is entitled to the compensation he would have received had there been no transfer. Subsection (g) states that if a transferred employee is laid off within seven years after his transfer then within the first two years after his layoff, the employee shall have the first right of rehire within his occupational specialty or its equivalent.

Subsection (h) prohibits a dominant-regulated carrier from reducing the salary or terminating employment for other than cause during the six-month period preceding the establishment of the fully separated entity, unless the employee consents. Subsection (i) states employees will not be entitled to provisions of this section if they are transferred more than seven years after the creation of a separated affiliate. Subsection (j) guarantees the right of a dominant-regulated carrier or affiliate to discharge or discipline an employee for cause. Subsection (k) insures that employees will be entitled to all remedies provided by the National Labor Relations Act.

The NLRB is charged with administrative enforcement of Section 226. The Commission has no enforcement powers under this section.

Section 226. Added is a new Section 233—relating to protection and restoration of essential domestic and international telecommunications services and facilities. Section 233 gives both the Commission and the President responsibility to ensure that facility construction and utilization programs provide capacity and operational flexibility to satisfy national security and emergency and disaster assistance needs. These additions reflect the purpose of Section 1 (redesignated as Section 101) of the Communications Act to provide for the national defense.

The Commission's authority is limited to facilitating arrangements among regulated carriers to respond to emergency or disaster situations. Related to this Section is new subsection (e) of Section 214, which authorizes carriers, including unregulated carriers, to meet under Commission auspices to accomplish these and other purposes.

Subsection (b) of new Section 233 builds upon Section 606 of the 1934 Act to authorize the President to require any carrier to provide support for Federal agencies under specified situations. Section 606(e)—requiring just compensation for use of services or facilities under Presidential order—is made applicable to Section 233. The President has also assigned a role in coordinating programs for telecommunications facility survivability and to provide for participation of unregulated carriers as regulated carriers in any such Government program.

Customer—Premises equipment and information services

Subsection (a) of new Section 234 generally precludes the Commission from regulating specified activities which are often incidental to telecommunications. Any fully separated affiliate of a carrier is likewise free of Commission regulation of those incidental activities. However, the Commission retains regulatory oversight over all transactions between the carrier and its fully separated entity, as provided in other provisions of Title II, in particular Sections 205, 210, 211, 227, and 228.

Regulation by the States of the production and offering of customer premises equipment (CPE), and information services is prohibited. This provision precludes the States from requiring carriers to offer terminal equipment under tariff. A minor exception is allowed to enable States to regulate a combined basic CPE/telecommunications "lifeline" service to residential customers of an exchange carrier. Customers may obtain CPE services from a variety of sources and, under Section 207, have a right to connect their CPE to a carrier's facilities.

Subsection (b) requires compliance by all but unregulated carriers with separate pricing regulations covering combined offerings of CPE or other unregulated incidental services with telecommunications services. This provision is designed to assist customers in choosing among a variety of sources for CPE and to reduce opportunities for carriers providing basic telecommunications services to subsidize the provision of CPE from revenues derived from those basic services.

This unbundling requirement would not relate to fully separated entities providing unregulated services, but would apply to dominant-regulated carriers during the 2-year grace period established by subsection (e), and to any dominant-regulated carrier providing unregulated services under safeguards other than full separation as permitted under Section 205. While exchange carriers must unbundle any combined service, nothing in subsection (b) precludes any State commission from allowing such combined services, as, for example, for simple residential "lifeline" services.

Subsection (c) supports the provisions of subsection (a) of Section 207 (relating to CPE interconnection) by explicitly confirming the authority of the Commission to develop a registration program whereby any CPE meeting minimum uniform technical standards may be connected with the facilities of any regulated interexchange international or exchange carrier. The Commission may also establish additional consumer information requirements. Related to this section is the expression of policy (at Section 201) by which the Commission is directed to ensure that any uniform technical standards or other requirements established under this section do not dampen competititve opportunities for services and equipment incidental to telecommunications.

Under subsection (e) dominant-regulated carriers are precluded from engaging in unregulated activities if they do not create fully separated subsidiaries (pursuant to new Section 227) to provide unregulated services and/or to market to the public and telecommunications equipment or information services (defined in redesignated Section 103 (18)). Provision is made in Section 205 for the Commission to permit such activities under conditions of less than full separation, or under other appropriate safeguards against potential anti-competitive abuse. No "new" competitive activity may be conducted except through a fully separated subsidiary. (See Section 235.)

Section 234 does not require non-dominant regulated carriers to form fully separated entities as a precondition to engaging in unregulated services. However, such carriers are fully subject to other provisions of Title II, such as Section 220 (relating to separate accounting for regulated and unregulated goods and services), bearing upon their unregulated activities. Moreover, the Commission may impose any other requirement relating to carrier oganizations, operations or practices, subject only to the limitation specified in Section 205(b)(3).

Subsection 234(e) is closely interrelated with, and made subject to, new Section 229, which requires, as a precondition to entry into any newly deregulated service market or any service market which has not been subject to regulation, that AT&T and any affiliated part or entity of the Bell System may engage in any unregulated service only by means of a fully separated entity. The Commission is not empowered to relax this precondition at the outset, although it may subsequently modify any of the separations criteria of Section 227 which the Commission determines are unnecessary to guard against competitive abuse.

Any service or equipment which any dominant-regulated carrier is providing on the date of enactment continues under the full panoply of the Commission's regulatory powers until such time as the dominant-regulated carriers creates a fully separated entity to provide the unregulated service or equipment, or until the Commission permits otherwise, under other safeguards. Any service or equipment which is deregulated either immediately by dint of the Committee bill (e.g., information services and telecommunications equipment) or by subsequent action by the Commission (under Section 202 or Section 235—relating to certain transitional deregulation of telecommunications services and equipment), after a 2-year grace period for carriers other than AT&T, may no longer be provided under regulation by the dominant-regulated carrier, but must be transferred to a fully separated subsidiary or entity.

Any new unregulated service (including equipment and information services) which is developed and offered by any dominant-regulated carrier subsequent to the date of enactment must be offered through a fully separated entity.

Transfer of functions for offering unregulated services must take place on or before the second anniversary of the date of enactment of the Committee bill. Except for AT&T and related entities of the Bell System, the Commission may, at any time during or after such 2-year period, consider petitions to relax the full separation requirement of this section, as provided in Subsection (b). For AT&T and related entities, the Commission may consider petitions for relaxation only subsequent to formation and functioning of fully separated entities.

Subsection (f) is added to this section to make clear that while dominant-regulated carriers (except AT&T) have a 2-year grace period during which they may continue to offer unregulated or deregulated services under any organizational arrangement they choose, such grace period does not apply to any such service which was not offered in the date of enactment and does not apply to any dominant-regulated carrier which may come into existence during the 2-year period.

Transitional provision of certain facilities and services

In order to avoid unnecessary disruption of services which may result from certain deregulatory provisions of the bill (chiefly Sections 204 and 234), Section 235 provides for continued (although not necessarily under tariff) interconnection arrangements by otherwise unregulated carriers for up to 2 years. This provision allows sufficient time to permit the interconnected customers of these carriers to find alternative services from other carriers or persons. This requirement arises only where a customer is able to make a showing to the Commission of hardship. In no case would any unregulated carrier have to provide interconnection unwillingly 2 years after date of enactment of the Committee bill.

Similarly under subsection (b), regulated carriers, shall continue to provide an otherwise unregulated service (on an unbundled basis as required by Section 234(b)) subject to the tariff approval procedures of either subsection (a) or (b) of Section 210. This requirement ceases after 2 years, unless the Commission orders an extension .

At the end of the 2 year period the Commission must have defined precisely which of those grandfathered services must be provided thereafter on an unregulated basis and which of such services will continue to be offered under regulation as integral features to regulated basic telephone service or to the offering of "bottleneck" transmission and switching services. No such grandfathered service which is not fundamentally integral to a regulated basic telephone service or "bottleneck" service may be offered by a dominant-regulated carrier other than through a fully separated entity. Subsection (c) provides for continued provision of existing CPE period .

Determination of basic telecommunications services

Section 236 establishes a mechanism whereby the Commission, upon petition, may consider additions or refinements to the definitional concepts set forth in the Committee bill at Section 103(4) and (5) of "basic (voice) telephone service" and "basic telecommunications Service". These determinations are in addition to the determinations required in subsection (b) of Section 235 relating to grandfathered unregulated telecommunications services offered in combination with basic (voice) telephone service. Section 235(b) requires the Commission to make such determinations, whereas this Section allows the Commission that role, only upon the initiative of another party able to make a sufficient showing.

The determinations permitted under this section are bifurcated. The Commission, in order to determine that any new, additional substitute, or enhanced service must be regulated, must determine: (1) that such service is generally necessary; and (2) whether universal availability under reasonable terms can only be ensured through regulation. A check against any tendency toward unnecessary regulation is created by a presumption in favor of marketplace competition.

Ownership and control of cable television services

New Section 237 empowers the Commission to adopt, or continue in force, regulations and policies governing multiple and cross-ownership of cable television systems. Subsection (a) explicitly confirms the authority of the Commission, which has been generally viewed as stemming from powers ancillary to its jurisdiction over broadcasting stations under Title III, to prohibit or limit cross-ownership patterns with television networks, co-located television broadcast stations, and newspapers and other media interests. This subsection is not intended to address the issue of the Commission's authority to prohibit or restrict alien ownership. Uncertainty as to whether the Commission has authority to set overall limits on multiple ownership are dispelled by this subsection. Subsection (a), as well as the other subsections of new Section 237, furthers the purposes of the Act, set forth in Section 101, to promote competition among and within telecommunications media by empowering the Commission to create wider opportunities for diversity of ownership and control and to avoid excessive concentrations of power over information delivery systems, as well as control over selection of information carried by telecommunications media.

Subsection (b) states a general policy against permitting telecommunications carriers to own and operate co-located cable television systems without a showing that specified public benefits will be realized in terms of media diversity and competition and wider availability of services. The second such benefit is presumed for co-owned, co-located carrier-cable systems in sparsely settled rural areas. Accordingly, an exemption from the general prohibition is established in Section 272, and carriers operating in those areas need not obtain a waiver from the Commission.

For non-rural areas, the Commission may prescribe procedures for blanket or individual waivers which accord with the requirements of this subsection relating to showings, functional separation of services, unbundling of prices and other safeguards which the Commission may prescribe or order under Section 205. Additional, specific direction is given to the Commission to require any grantee of a waiver to set aside channel capacity for use by unaffiliated persons in order to reduce concerns of excessive concentration of editorial control in joint system operation. The Commission shall review the rates, terms and conditions whereby such capacity is made available and may, where necessary to discourage anticompetitive abuse of the waiver, require such rates, terms and conditions to be filed as tariffs pursuant to either Subsection (a) or (b) of Section 210, in the discretion of the Commission.

Subsection (d) relates specifically to AT&T and its affiliated entities, and bars their direct provision of cable television services, except in rural areas.

Prohibitions

New Section 238(a) contains restrictions on the regulatory powers of Federal, State and local agencies affecting the content or amount of programs carried, or the rates charged for providing cable television services and other information services over cable systems or other (similar) multichannel broadband systems. The General Revisions to the Copyright Act (Public Law No. 95–553) are unaffected by this section.

Regulation of the rates and terms for provision of broadcast retransmission, pay cable services (whether on a per-channel, per-program, or other subscription basis) and any other information service (See also Section 234) is expressly forbidden to any Federal, State or local regulatory body, except as specifically provided in Paragraph (3), and except as provided in Sections 207 and 210—relating to interconnection of facilities and equipment and tariffing.

Subsection (b) prohibits the Commission from adopting or continuing, in force, regulations restricting retransmission of radio and television signals (e.g., network nonduplication, syndicated program exclusivity, "must-carry" rules, Subparts D and F of Part 76 of the Rules, except upon evidentiary showing by parties seeking protection from cable or broadband competition. Based upon a sufficient showing, the Commission may order special relief in any particular case or adopt more generalized rules of limited applicability to particular markets, types of parties seeking relief (e.g., small market UHF stations; "unwilling" super-stations) or types of programs.

International telecommunications carriers

Section 240 clearly establishes that any telecommunications carrier (domestic and international) may provide any telecommunications service, including international telecommunications service. Western Union, which is now precluded from offering international telecommunications services, and AT&T which is presently restricted to offering voice telephone service, will be able to offer any telecommunications service. Western Union will be permitted to offer these services as of January 1, 1981. In addition, Comsat, which is now limited to the provision of satellite circuits, may offer any telecommunications service.

AT&T and Comsat are classified as dominant-regulated carriers for the provision of international service. All other carriers are classified as regulated international carriers. AT&T is required to offer all international services, except basic international telephone service, through a fully separated affiliate which can be the same affiliate that provides domestic competitive services. Comsat must offer any telecommunications service or equipment (other than the provision of telecommunications facilities) through a fully separated affiliate.

Any regulated international telecommunications carrier shall interconnect with other carriers or persons upon reasonable request, and in doing so, arrange for the collection and delivery of that traffic if it is similar to the traffic covered by the operating agreement that the regulated international telecommunications carrier has with the foreign correspondent.

Telecommunications carriers that enter into operating agreements, must submit such agreements to the Commission for review to ensure that they do not discriminate against other carriers.

International telecommunications facilities planning: Private sector representation; transborder data flow

Under new Section 241 the Commission is required to adopt a facilities planning process which emphasizes the primary role of the carriers in negotiating with foreign correspondents for the construction and use of cables and satellites. This process is similar to the Commission's present planning procedures.

Applications for the construction and use of such facilities filed in accordance with the Facilities Plan developed by this process must be approved by the Commission within 90 days.

Private industry representatives are exempt from federal conflict-of-interest requirements when serving on international telecommunications delegation.

A United States policy regarding the free flow of information across international boundaries is established. A report to the Congress is required.

Part II. Rural Telecommunication Policy

Section 229. Bill Section 229 sets forth certain Congressional findings which underlie new Part C of Title II of the 1934 Act, generally relating to the need for improved Federal and State Government involvement in the provision by telecommunications to rural areas.

Section 230. A new Part C of Title II is added, consisting of three subparts. Section 230 adds a new Section 251 setting forth the purposes of Part C to encourage wider use of telecommunications technology and co-ordination of revision in Federal policies and programs. Co-operation among Federal, State, and other governmental bodies and public participation in telecommunications policy-making are required. Under Subsection (b), the Commission is mandated to monitor the effects of the amendments made by this bill to provide against unreasonable rural toll rate increases for rural subscribers of basic services. Moreover, the Commission is authorized to require rate averaging to avert such a result. The Commission is also required to assess the overall effects of Sectoin 222—relating to exchange access charges and a universal service pool—in particular, Subsection (e) (4) (B) of Section 222.

A new Section 252, which comprises all of Subpart 1, establishes a Rural Telecommunications Interagency Task Force to co-ordinate Federal policies and programs. Its membership and certain administrative responsibilities are detailed. Reports to the Congress for each agency member of the Task Force are required. (Sections 253 to 259 of Subpart I are reserved.)

New Sections 261 and 262 comprise Subpart 2 of Part C and establish a Rural Telecommunications Planning Program, to be administered by the Secretary of Commerce, who also plays a central role in advising the President on general telecommunications and information policy. Under this program, grants are made to State agencies to develop State-wide or region-wide plans for delivery of telecommunications and other services by means of telecommunications facilities, with general emphasis on serving rural areas. (Sections 263 through 269 are reserved.)

Subpart 3 consists of two new sections. New Section 271 provides additional guidelines to the Secretary of Agriculture in administering loan programs already assigned to his or her duties. The new criteria do not apply to loans under the Rural Electrification Act of 1936. Criteria set out in this new section generally parallel the objectives of Part C, as well as the Congressional purposes of bill Section 229; these guidelines are also intended to serve purposes co-ordinate with the activities of the Federal Rural Telecommunications Interagency Task Force established in Section 252 and the functions of the Rural Telecommunications Planning Program set up in Section 261. Of special note are the requirements of Subsection (c), by which loan applicants must demonstrate compliance or projected plans to meet other overall goals of the bill and amended Title II—including universal service, coordination with relevant State and/or local plans, access to essential facilities by competitors, and allowance for use of funded facilities by non-affiliated persons so as to avoid excessive concentration of editorial control over information services. The Congress will have an opportunity to review the effectiveness of these new loan criteria at the end of FY 1981.

FCC regulations affecting rural telecommunications

Section 272 requires the Commission to undertake a continuing review of rules and policies affecting rural telecommunications. Not later than 90 days after the date of enactment, the Commission is to publish a listing of those regulations and policies which in the judgment of the Commission have significant rural impact. The purpose of this procedure is to compel a simultaneous, wide-ranging review of regulations or policies with a narrow focus or impact on specific telecommunications users or communities in rural areas. On its own motion or upon sufficient petition of another party, the Commission may undertake inquiries or rulemakings looking toward revision or elimination of rules or policies which hinder the purposes set forth in Subsection (a) of new Section 272. Moreover, the Commission is directed to take affirmative action in adopting new rules as necessary to promote these purposes.

In revising or eliminating any rule, regulation or policy, or in prescribing any new rule, regulation, or policy, which prohibits or restricts: full utilization of a telecommunications technology; the common ownership or control of technolgically dissimilar telecommunications facilities; or the provision of dissimilar telecommunications services over commonly owned or controlled telecommunications facilities, the Commission should weigh the benefits to the public from diversity of ownership or control of telecommunications and other media and the benefits of intermedia competition with the public interest to be served by permitting common ownership or control in areas where, absent special permission telecommunications and other public services, would not likely become available.

Consistent with the purposes set forth in this section, the bill, at Section 305, amends Section 318 of the 1934 Act to relax statutory requirement for a certain kind of translator station operator, which unnecessarily increases the expense of operations.

Subsection (b) establishes an across-the-board waiver of the cable television cross-ownership prohibition of Section 237 for sparsely settled areas. The Commission is given the discretion to select the most appropriate method for determining such rural areas—either on a subscriber per route-rule or other basis. Likewise, the Commission may adjust its methodology in the future to reflect changing circumstances in ownership patterns, presence of additional telecommunications delivery systems, and other factors bearing upon the likelihood of entry by other telecommunications carriers or other users of telecommunications media.

An advisory role is given to the Interagency Task Force established in Section 253 in recommending rule and policy changes to the Commission and in assisting in the coordination of licensing, loan grant, and other functions carried out by separate agencies of the Federal Government.

TITLE III—PROVISIONS RELATING TO RADIO

Section 301. Section 301 amends Section 301 of the 1934 Act to permit the Commission to exempt certain classes of radio stations from the requirement of receiving individual licenses. This exemption would apply only to service classes where individual operators share allocated frequencies, for example, CB operators. No other change in the provision of Section 301 is intended.

Section 302(a). Subsection (a) of Section 302 amends Section 307(d) to extend the limits of license terms in all services from the present 3 years for radio and television stations and 5 years for all other classes. Those limits are changed to 5 and 10 years respectively.

(b) A minor terminological change is made to conform to changes affected in titles I and II of the 1934 Act relating to "common" carriers.

(c) A new subsection (f) is added to Section 307 to allow the Commission to distribute expiration of license terms for co-located stations across the 5-year term. This change would allow the Commission to arrange for a more orderly review of license renewal application and to accommodate more readily any changes in review procedures.

Section 303. This section adds a new subsection (i) to Section 309 to permit the Commission to employ random selection methods to chose among qualified applicants for radio and television station licenses to operate on newly available frequencies. Any applicant participating in a lottery or similar random selection scheme would have first established its qualifications under Section 308(b) (relating to citizenship, character, and financial, technical and other qualifications which the Commission prescribes, and other information which the Commission may require. The Commission may consider other public interest factors in this instance, such as minority ownership and participation in the applicant entity. Accordingly, the Commission must make its public interest finding—as required by Subsection (a) of Section 309—with respect to the composition of the lottery (or similar) pool of eligible applicants. The substantive or procedural rights of applicants operating under the comparative licensing procedures in effect on the date of enactment are unaffected.

This added flexibility should aid the Commission in the orderly, expeditious, and nonadjudicatory processing of an expected substantial increase in applications for spectrum assignment, many of which will involve competing applicants. This increase will arise from current Commission policies to encourage wider and more efficient spectrum use (e.g., recently concluded or pending dockets involving clear channel AM stations, reduction of AM band width, low-power TV stations, and TV translators, long-range needs for UHF-TV, subscription television, a proposed electronic message service, cellular mobile communications systems). This provision furthers the purpose of revised Section 101 to encourage competition among and within telecommunications media, including broadcasting media.

A new Subsection (j) is added to require the Commission to adopt policies and procedures specially related to the comparative renewal process and not to employ indiscriminately all of the policies and procedures which the Commission has developed for comparative initial licensing. The immediate effect of this provision is to overturn the decision of the United States Court of Appeals for the District of Columbia Circuit in *Citizens Communications Center* v. *FCC*, 447 F.2d 1201 (D.C. Cir. 1971). That decision, relying upon *Ashbacker Radio Co.* v. *FCC*, 326 U.S. 527 (1945) read Section 309 to require the Commission to afford an applicant challenging an incumbent renewal applicant an opportunity for a full hearing. Operating under this procedure the Commission must designate mutually exclusive applicants for a consolidated comparative hearing at which the Commission must weigh their respective merits in order to select the best or better qualified applicant to serve the public interest. The essential defect in this procedure is that evaluation of an incumbent renewal applicant's record of service over the proceeding term is not comparative in nature. No competing applicant will have developed such a record for the same service area. Therefore, the Commission's 1965 *Policy Statement on Comparative Broadcast Hearings* (developed for comparative hearings for *new* facilities) are in most respects inappropriate in a comparative renewal proceeding. It is argued that the comparative renewal hearing process has been, in many cases, a wasteful expenditure of resources on the part of incumbent licensees, competing applicants and the Commission. Other recent court decisions have injected additional complications and heightened the uncertainty of the incumbent licensee. (See, e.g., *Central Florida Enterprises* v. *FCC*, 598 F.2d 37 (D.C. Cir.), modified Slip. Op. No. 76–1749, January 12, 1979.)

New Subsection (j) does not mandate any specific alternative comparative renewal procedure; rather the Commission is free to adopt procedures which best serve the dynamic and sometimes conflicting purposes of the 1934 Act, and is likewise free to modify these procedures to accommodate changing circumstances. There are numerous alternatives which have been widely discussed in recent years in the literature. The Congress has also actively attempted to address the problem. See, e.g., *Report of the Senate Committee on Commerce on H.R. 12993*, Sept. 27, 1974, Rept. No. 93–1190. Among the various mechanisms proposed is a two-step process by which the renewal applicant's past performance is measured against some (qualitative or quantative) standard. Only if the incumbent fails to meet this threshold would the challenging application be considered in a comparative context. The bill avoids endorsement of any one of the numerous techniques available to the Commission to inject the comparative renewal process with renewed stability and appropriate recognition of the "legitimate renewal expectancies" of licensees demonstrating some form of "meritorious" public service over the expired license term. Definitional problems will remain; however, Subsection (j) does furnish an opportunity for the Commission to dispel the conceptual and practical confusion steming from past Commission and judicial decisions in this area.

(1) Section 315 is amended by expanding the bona fide new events exception to the "equal opportunities" requirements of Subsection (a)(4). The purpose of this amendment is to ratify those portions of the Commission's decision in *Aspen Institute*, 55 FCC.2d 697 (1975), *affirmed sub nom. Chisholm v. FCC, 538* F.2d *349* (D.C. Cir. 197), relating to non-studio debates.

(2) A technical amendment is made to conform the term community antenna television system operator to the term used in the definition of cable television services of Section 106(7).

(3) A new paragraph to subsection (d) is added to extend the right of legally qualified candidates for Federal elective office now existing under Section 312(a)(7). Such candidates are accorded a similar right of "reasonable access" to operator-dominated cable systems in areas of poor, conventional television service.

Section 305. Section 318 of the 1934 Act requires licensing of operators of the transmitters of broadcast stations. The Commission is authorized to waive this operator license requirement except for translator stations (which are engaged "primarily" in rebroadcasting the signals of a broadcast station). The Commission has interpreted the word "primarily" very narrowly, with the result that any translator station exceeding minimal amounts of locally originated programming no longer is eligible for waiver of the expensive, licensed operator requirement. Moreover, advances in equipment technology have substantially reduced the need for continuous or frequent, licensed operator on-site monitoring of translator transmitting equipment.

* * * * *

Section 307. A new section is added to Title III directing the Commission (in Subsection (a)) to undertake a comprehensive review of its rules, regulations and policies on commercial broadcast radio regulation. Three areas are singled out for particular focus: specific categories of programming; commercialization; and program logs. This new requirement parallels a radio deregulation proceeding currently pending at the Commission (Docket No. 79–219). The bill directly bans the Commission from adopting or continuing in force any policy or rule involving radio program formats, thereby reversing a judicially established policy expressed in a series of recent cases culminating in *WNCN Listeners Guild* v. *FCC*, 610 F.2d 838 (D.C. Cir. 1979). This ban applies in all situations, not just proceedings involving transfer or assignment applications, and is a particularized expression of the ban on Commission censorship contained in Section 236 of the 1934 Act. The bill changes the operative effect of the Commission's commmunity ascertainment procedures and policies, now embodied in detailed ascertainment "primers" (e.g., 27 FCC 2d 650 (1971); 57 FCC 2d 418 (1975) (for renewal applicants); 58 FCC 2d (1976) (for noncommercial applicants)). The effect of this provision on ascertainment would be to eliminate procedural formalities which have in the past been raised to the level of decisional tests of an applicant's public trusteeship. The Commission may continue to publish instructional ascertainment primers to assist applicants to identify community problems, needs and interests. Departures from a primer's recommendations would not constitute a matter upon which a hearing issue may be designated. The Commission must employ techniques which, while effecting deregulation as specified, will enable it to ensure any deregulation is not producing consequences adverse to the public interest.

In subsection (b) the Commission is generally encouraged to effect more extensive deregulation of radio than as directed in subsection (a) and to revise, reduce, or eliminate unnecessary regulation of television as competition (intermedia as well as intramedia) develops. The Commission is to review spectrum policies and rules to foster wider, more effective and innovative uses resulting in increased diversity and multiplicity of broadcast services to the consumer.

Reports to the Congress on the Commission activities in implementing the pro-competitive and deregulatory policies as well as their impact on the public of this section are required at specified times.

Amateur radio

The Commission is authorized to delegate the preparation and administration of license exams to disinterested persons or organizations.

Assignment of land

Frequency coordination by industry committees in particular geographic areas is authorized. A co-ordinated application will be granted if the Commission fails to act within the time specified.

Section 308. This section makes a minor technological change consistent with the amendments effected to title II relating to regulated telecommunications carriers.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401 (a). Under Section 401(a) the responsibilities of the Secretary of Education for the administration of the Telecommunications Demonstration Program are reassigned to the Secretary of Commerce. Certain administration provisions are set forth to accomplish this transfer.

(b) a minor technological change to the heading of subpart B of title III is made.

(c)(1)–(3). Subsections (a) and (b) of Section 395 are amended to expand the purpose of subpart B to include promoting the development of broadcast as well as nonbroadcast facilities and services development, and to eliminate restrictions on use of facilities or equipment to health, education or public or social service information. The definition of "telecommunications services" which applies to this subpart is that appearing in Section 103 and not Section 397 (relating to "public telecommunications services"). It is made clear that the authorization of this subpart extends to the Secretary of Commerce, who already exercises extensive authority in developing telecommunications and administering the Public Telecommunications Facilities Program, pursuant to Sections 391 through 394, and who under this bill is assigned new duties under the Federal Rural Telecommunications Interagency Task Force established in Section 252 and the Rural Telecommunications Planning Program under Sections 261, the Secretary is directed to place special emphasis on rural development.

(4) The class of telecommunications facilities (as defined in subsection (e)) which may be supported under this section is expanded to include translator stations and mobile radio facilities consistent with the expanded purposes of this section.

(5) Equitable distribution of grants among the States is required.

(6) Minor technical changes are made, and co-ordination of the Secretary's functions with those of the Interagency Task Force established under Section 253 is mandated. Co-ordination with the Corporation for Public Broadcasting is no longer mandated; the purpose of the demonstration program authorized in this section is no longer necessarily related to noncommercial educational telecommunications.

(7) Authorizations for three consecutive fiscal years are made.

Sections 402 through 410(b) and Sections 411 and 412. These sections make relatively minor terminological amendments, consistent with the jurisdictional changes affected by this bill over carriers engaged in interexchange telecommunications, replacing the term "common carrier" with "regulated carrier" and "interstate" with "interexchange".

Section 410(c). Section 506 of the 1934 Act, commonly referred to as the Lea Act, is repealed as no longer necessary. Its purposes are served by provisions of the Section 8(b)(6) of the Labor Management Relations Act.

TITLE V

Sections 501 and 502. These sections effect technical and conforming changes to other statutes.

Section 503. The Communications Satellite Act of 1962 is amended to clarify the role of the President in supervising the relationship of COMSAT with other governments or international bodies.

Section 504. Section 504 provides for the continuing effectiveness of Commission rules, orders and other official acts promulgated prior to the date of enactment of this bill.

Section 505. The authority of the Secretary of Commerce to assist United States entities in their foreign negotiations for telecommunications trade rights is clarified.

Section 506. This section provides that nothing in this bill, the "Communications Act Amendments of 1980", may be considered as constricting or expanding the applicability of the antitrust laws to telecommunications carriers or any other entities affected by this bill. Furthermore, nothing in the bill is intended to have any affect on any pending antitrust litgation or other litigation. The position is one of strict neutrality as to pending suits. Arguments or defenses available to plaintiffs or defendants under the antitrust laws before enactment of the bill are unaffected.

Section 507. The Commission is instructed to prepare a report to the Congress relating to transborder data flow.

Section 508. The Commission is authorized to establish performance standards for television receivers with regard to their susceptibility to radio frequency interference.

Section 509. The Commission is directed to establish ceilings for franchise fees paid by cable television system operators.

Section 510. The effective date of the bill, except where otherwise specified, is the date of enactment.

FEDERAL GIVEAWAY PROGRAMS

● Mr. SASSER. Mr. President, on two recent occasions I have reported to my colleagues about the activities being conducted by the Government Printing Office—at the direction of the Library of Congress and the Smithsonian Institution—under an obscure law with its antecedents dating back to the 19th century.

Under section 1719 of title 44 of the United States Code, over 1.6 million copies of 20,441 publications are printed for distribution to foreign governments, including the governments of the Soviet Union, Cuba, and Iran. This Federal giveaway program costs the taxpayer at least $1.1 million a year. In return for the 1.6 million copies we print for shipment overseas, we receive 275,486 in return, or a 6-to-1 disadvantage.

ORIGINAL INTENT

Apparently, this citation in title 44 was originally intended for the exchange of official journals, parliamentary documents, and literary publications.

There may be some justification for sending such documents as the CONGRESSIONAL RECORD, the Federal Register, and the Public Papers of the President to foreign countries in exchange for similar documents published by those countries.

However, Mr. President, I can see no justification for sending such sensitive publications as Army field manuals and Armv technical manuals (including the publication "Field Artillery Battalion, LANCE") to the governments of the Soviet Union, Cuba, and others. Most of these documents are being sent automatically with no thought as to how they may be used.

VIETNAM WAR ERA EXAMPLES

Mr. President, today I found out that the United States shipped military manuals on jungle training techniques and the use of chemical warfare agents to the Soviet Union during the Vietnam war.

It is inconceivable that the Government would send sensitive materials such as these to a country which was supporting forces engaged in combat with U.S. soldiers.

Nevertheless, I have received from the Government Printing Office a list of nine documents which could have been helpful to enemy forces during the Vietnam war and which were sent to the Soviet Union between 1965 and 1970.

The documents are "Jungle Operations," January 1970; Jungle Training and Operations," December 1965; "Air Ground Operations System," 1970; "Field Fortifications," February 1965; "Troop Movement Guide"; "Employment of Chemical and Biological Agents," March 1966; "Field Wire and Field Cable Techniques," June 1970; "Tactical Communications Doctrine," August 1968; "Viet Cong Terror Tactics in South Vietnam," 1967.

There is no way of knowing whether these documents were given to the North Vietnamese, but the Soviets were providing active support to North Vietnam at the time.

These latest disclosures about documents sent to the Soviet Union during the Vietnam war are the most shocking things I have learned yet about this program.

It is appalling to think that enemy forces fighting U.S. soldiers may have been helped through blindly stuffing documents into boxes to be shipped to other countries.

PURPOSE OF TRANSFER PROGRAM

Mr. President, section 1719 of title 44, United States Code, provides for the distribution of Government publications, Including the CONGRESSIONAL RECORD, to foreign governments which "agree to send the United States similar publications of their governments for delivery to the Library of Congress."

As I have earlier indicated, the United States ships numerous military manuals, Defense Intelligence Agency publications to the Soviet Union and 30 other foreign powers. We do not receive Soviet KGB or military manuals in return.

H.R. 7302

Mr. President, on June 3, the House of Representatives passed H.R. 7302 which would transfer to the Superintendent of Documents the function of distributing Government publications to foreign governments. Mr. President, I am opposed to the continuation of this program in its present form in which we appear to be receiving far less than what we get. I believe this program is fraught with abuse, waste, error and confusion—especially confusion. Moreover, I can see no good reason why a program such as this would be shifted from the executive branch to the legislative branch. The legislative branch of Government should not be placed in the position of having to decide which Executive Branch Agency (DIA, CIA, DOD, FBI) documents should be shared with other countries. That is an executive and administrative function.

CONCLUSION

I am hopeful that those who now have the responsibility for the distribution of these U.S. Government publications to foreign powers will exert some measure of discipline so that the appropriate balance can be struck between what we give and what we get. I am in no way opposed to the concept of the exchange program and, indeed, believe if conducted properly, it can be a healthy and positive contribution to mutual understanding among nations. However, this program, as it now stands, appears to fall far short of that goal and the intent of Congress. I believe it ought to be cleaned up, that Federal agency officials should carefully screen any documents sent overseas, and that it should be left where it is in the executive branch.●

CORRECTING THE RECORD ON THE CBO REPORT ON TRANSPORTATION FOR DISABLED INDIVIDUALS

● Mr. CRANSTON. Mr. President, my colleagues from Nebraska (Mr. ZORINSKY and Mr. EXON) have recently sent a "Dear Colleague" letter announcing their intention to offer a "local option" amendment, regarding accessibility for handicapped persons to ground transportation, to S. 2720—the authorization act for the Urban Mass Transportation Act of 1964. They state in their letter that they think it is "commendable" to prohibit discrimination against disabled persons, but that to do so with regard to transportation is too expensive.

In order to assist my colleagues in evaluating the arguments presented on this issue, I would like to share some information with them. The "Dear Colleague" letter places heavy reliance on a report from the Congressional Budget Office, which is filled with erroneous assumptions regarding the cost of equal access to ground transportation for disabled people. The Department of Transportation has written a detailed set of comments on the CBO report, explaining where the CBO report is in error.

I do not fault my colleagues for being concerned about the cost of Federal requirements in this time of fiscal constraint. I share those concerns. However, I urge my colleagues to evaluate the data carefully before they support this amendment. I believe it is wrong to deny civil rights—and that is the issue here—because the dollar cost of equal protection may be high. But it would be even more tragic for this body to deny equal protection of the law in reliance on faulty arguments.

Mr. President, I ask that the comments of the Department of Transportation be printed in the RECORD at this point, and I very much hope that my colleagues will study these comments carefully.

The comments follow:

COMMENTS ON CONGRESSIONAL BUDGET OFFICE REPORT ON URBAN TRANSPORTATION FOR HANDICAPPED PERSONS

On Friday, November 9, the Congressional Budget Office (CBO) released a report entitled "Urban Transportation for Handicapped Persons: Alternative Federal Approaches." The report analyzes three approaches to meeting the urban transportation needs of handicapped persons. One approach is based on the Department of Transportation's regulation implementing section 504 of the Rehabilitation Act of 1973 (nondiscrimination against handicapped), requiring accessibility of fixed route transit systems. The two other approaches involve the subsidized use of taxis and the provision of adapted automobiles to many persons permanently confined to wheelchairs.

Using substantially different assumptions than had been used by the Department of Transportation, the CBO report arrives at substantially different conclusions. Specifically, the CBO report concludes that accessibility to fixed route urban mass transit systems, as required by the Department's 504 regulation, is more expensive and serves fewer severely disabled persons than the two alternative approaches analyzed by CBO.

In developing its final regulation on this subject, DOT examined the relative cost-effectiveness of accessible fixed-route systems and demand-responsive paratransit systems (such as taxis) in meeting the transportation needs of handicapped persons, and found that fixed-route systems could serve those needs at a lower cost per trip. There are two major reasons for the difference in the DOT and CBO conclusions: predictions of the latent handicapped travel demand, and estimates of the costs to make existing transit systems accessible.

LATENT HANDICAPPED TRAVEL DEMAND

The primary source for both DOT and CBO predictions of latent handicapped travel demand is the "National Survey of Transportation Handicapped People", which was conducted for the Urban Mass Transportation Administration (UMTA) in 1978. That survey generated two demand projections. Recognizing the tendency of surveys to exaggerate the potential use of a new service, DOT used the smaller of these two estimates in its analysis. This lower estimate eliminated as potential users certain persons who said they would use accessible transit but who do not use existing systems. The persons eliminated were those who identified any difficulty that prevents them from using the existing system, even if it prevents use only "some of the time", if that difficulty would not be removed in the accessible system. (There were other conservative assumptions in the demand estimate.)

CBO, on the other hand, concluded that actual usage would likely be about half the low estimate which DOT used. That conclusion is based on analysis of handicapped usage of existing special services and accessible transit systems—data which was generally available to DOT in its analysis leading to the 504 regulation. Data on such usage is very variable and of limited applicability to the alternatives CBO examined because of severe eligibility and service restrictions and because of the larger, generally inaccessible environment in which such services operate. Moreover, some of the data cited in the CBO report actually suggest that the estimate used by DOT is too low.

Lower ridership would increase the cost per trip for the DOT regulation, which is more capital-intensive than the other CBO alternatives. The cost per trip of the CBO alternatives does not vary significantly with the number of rides. This is generally true for demand-responsive transit. Thus, the effect of the CBO assumptions regarding demand is to reduce the cost-effectiveness of the 504 regulation vis-a-vis the CBO alternatives.

COSTS FOR FIXED ROUTE TRANSIT ACCESSIBILITY

CBO and DOT estimates are at variance for the cost of both bus and rail transit accessibility. By far the biggest difference is in the bus estimates. This is the case because DOT included only the incremental cost of the regulation. With respect to buses, the 504 regulation only slightly speeded up the pre-existing requirement for the purchase of accessible buses, and therefore did not have a major cost impact. CBO, on the other hand, includes the entire 30-year cost of acquiring, maintaining and operating the lifts. For the reasons discussed below, CBO's estimated 30-year cost of $4.8 billion for bus accessibility is much higher than DOT's estimated 30-year cost of $1.8 billion.

LIFT MAINTENANCE

CBO estimates that maintenance costs associated with the lift will be $1800 in the first year of bus life and a perpetual $800 annually after that, increases of 12 percent and 5 percent, respectively, in the total maintenance cost of a bus merely to maintain the lift. Experience with bus lifts has been extremely varied, with some cities having a high out-of-service ratio and others finding little or no increase in bus maintenance costs due to lifts. DOT estimated that for the first several years the cost would be $800, but after that, it would fall to about $300. The effect of this difference, over the 30-year estimating period, is about $735 million.

FLEET EXPANSION

CBO has added an estimated cost for a 3.5 percent expansion of the total bus fleet to cope with (a) assumed additional maintenance (2 percent), and (b) lost seating capacity (1.5 percent).

Regarding the assumed two percent fleet expansion because of maintenance requirements, the nation's bus fleet currently has about a ten percent maintenance float. We do not believe that, after an initial phase-in and shakedown period, there will be any need for a perpetual expansion of the bus fleet's maintenance float.

Regarding lost seating capacity, buses seldom operate at full seating capacity except during rush hour and then the critical consideration is total bus capacity, including standees. Since provision for wheelchair space on the bus does not affect total (seating and standing) capacity, we do not believe an estimate for expansion for lost seating is justified.

CBO's inclusion of costs for this 3.5 percent fleet expansion accounts for about $2 billion of the $7.1 billion CBO estimate of the cost of the regulation.

RAIL

CBO's estimates differ somewhat from DOT's for the cost of rail transit accessibility. CBO has tended to rely heavily on the operators' estimates of capital costs, which were not well supported and appeared to DOT to be exaggerated. However, since only "key" station costs are included and since CBO has assumed that half the rail cities will obtain waivers, the difference does not have a major effect on the final estimate.

SUMMARY

In the final chapter of the report, CBO discusses the sensitivity of its conclusions to variations in the cost and demand estimates. Using bus costs (fleet expansion plus lift maintenance) slightly higher than those which DOT assumed to be reasonable, CBO's estimate of the cost of the Department's regulation over 30 years falls to $4.2 billion, which is less than the estimated cost for either of the other two alternatives CBO examines. DOT's own estimate of the cost of the 504 regulation with bus costs included is $3.2 billion.

When the alternatives are compared under estimates of cost and demand nearer to those which DOT used, the cost differential becomes even more favorable to the 504 regulation: its estimated total cost is only 36 percent of the estimated cost of the paratransit/adapted auto alternative. However, CBO notes that the cost per trip by "severely disabled" persons still favors the paratransit alternative. That comparison ignores the benefits to the majority of handicapped persons who do not meet CBO's definition of "severely disabled." When the costs are spread over all the beneficiaries, the cost per trip for DOT's 504 regulation is lower than for the paratransit alternatives.

A COMPARISON OF CONGRESSIONAL BUDGET OFFICE AND DEPARTMENT OF TRANSPORTATION ESTIMATES FOR FIXED ROUTE ACCESSIBILITY

[In millions]

	CBO	DOT
Costs over 30 yr:		
Bus:[1]		
Lifts:		
Capital	$1,380	$1,300
Maintenance[2]	1,200	465
Fleet expansion:		
Maintenance float[3]	344	33
Lost seating capacity[4]	1,782	
Kneeling feature on all buses[5]	78	
Total, bus	4,784	1,798
	(For ½ of key stations)	(For all key stations)
Rail:[6]		
Rapid rail:		
Capital	$475	$593
O. & M	83	103
Connector bus service *	90	280
Commuter rail:		
Capital	201	236
O. & M	48	39
Light rail:		
Capital	21	29
O. & M	5	9
Total, rail	923	1,289
Paratransit alternative[7]	1,404	
Interim accessible service[8]		140
Total cost	7,111	3,227
Total usage over 30 yr:[9]		
Trips by all handicapped	769	1,489
Trips by severely disabled[10]	158	NA
Cost per trip over 30 yr by all handicapped	$9.25	$2.17

* CBO included this cost under bus costs, but it is more appropriately included under rail costs.

[1] DOT only included the incremental cost of the regulation in its original bus estimate. With respect to buses, the 504 regulation only slightly speeded up the pre-existing requirement for the purchase of accessible buses and, therefore, did not have a major cost impact. CBO, on the other hand, included the entire 30-year cost of acquiring, maintaining, and operating the lifts. To permit comparison, the bus estimates shown for DOT are the estimates for a full 30 years of buying, maintaining, and operating lifts on the entire bus fleet.

[2] CBO estimated that maintenance costs associated with the lift would be $1,800 in the 1st year of bus life and a perpetual $800 annually after that, increases in total bus maintenance cost of 12 percent and 5 percent, respectively. DOT estimated that for the 1st several years (3 years were used in the table) the cost would be $800 but that, after that, it would fall to about $300.

[3] CBO estimated that the maintenance float for the bus fleet would have to increase from 10 percent to an average of 12 percent over 30 years for assumed additional maintenance due to the lift and added the capital cost of that expansion to the estimated cost. During the initial phase-in and shakedown period, DOT estimated that the retirement of existing buses might be delayed during the 1st 3 years to provide extra spares but that there would be no permanent expansion of the bus fleet's maintenance float.

[4] CBO estimated that the bus fleet would expand by 1.5 percent to make up for lost seating capacity. Since CBO assumed these buses will have to be bought and operated, capital and O. & M. costs are added to the estimated cost. Because provision for wheelchair space on the bus does not affect total bus capacity, DOT did not assume such an expansion of the bus fleet due to the lift.

[5] Although not required by the 504 regulation, CBO included costs for a special suspension that lowers the front steps for all new buses to its estimate. Most buses currently being put into service in the United States have this feature, but not as a result of DOT's 504 regulation, and therefore, the cost was not included in DOT's estimate.

[6] While CBO's estimated costs for rail modifications appear lower than DOT's, they are actually significantly higher since they are based on the assumption that rail facilities in only half the cities will be modified and the other cities will obtain waivers from the requirement. In developing its estimate, CBO tended to rely heavily on the operators' estimates of capital costs, which were not well-supported and appeared to DOT to be exaggerated. Since both CBO and DOT included costs to modify only key stations, the impact of the differing estimates is reduced.

[7] For those cities with rail transit systems that CBO assumes will obtain waivers, costs for providing dial-a-ride vans for wheelchair users and taxi subsidies for all handicapped persons who request them were included in CBO's estimate. Since the estimated cost for the paratransit alternative over 30 years is 52-percent higher than CBO's estimated cost for modifying the rail facilities and since that disparity will increase after 30 years

when the capital-intensive rail modifications have been completed, it is unlikely that half the rail cities would choose such an alternative over making the rail systems accessible.

[8] DOT's 504 regulation includes a requirement that interim service must be provided, if program accessibility is not reached within 3 years of the effective date of the regulation, until rograem accessibility is achieved. Localities are to spend up to n percent of their section 5 assistance on such services. DOT's 2estimat included a cost for this that assumed 2 percent of all UMTA's section 5 moneys would be spent on interim services for 7 years. The CBO report takes note of this requirement, but CBO's estimate did not include the cost to meet it.

[9] Both CBO and DOT depended primarily on the "National Survey of Transportation Handicapped People," which was conducted for UMTA in 1978. That survey generated 2 demand projections. Recognizing the tendency of surveys to exaggerate the potential use of a new service, DOT used the smaller of these 2 estimates in its analysis. This lower estimate eliminated as potential users any persons who said they would use accessible trans it but who donot use existing systems and who identified any difficulty that prevents them from using the existing system, even if it prevents use only "some of the time," if that difficulty would not be removed in the accessible system. (There were other conservative assumptions in the demand estimate.) CBO, on the other hand, concluded that actual usage would likely be about half the low estimate which DOT used. That conclusion was based on analysis of handicapped usage of existing special services and accessible transit systems—data which was also considered by DOT in its analysis leading to the 504 regulation. Data on such usage is very variable and of limited applicability to the alternatives CBO has examined because of severe eligibility and service restrictions and of the larger, generally inaccessible environment in which such services operate. Moreover, some of the data cited in the CBO report actually suggests that the estimate used by DOT is too low.

[10] The CBO report emphasizes a portion of the handicapped population which it calls severely disabled, and costs per trip were computed for this group. Basically, this group is defined as those transportation handicapped persons who do not currently use public transit, based on their responses in the National Survey. The National Survey report does not address severity of disability. While it is likely that there is some correlation between those handicapped who do not use transit and those whose disability is severe by some objective standard, the extent of that correlation cannot be determined with information currently available. Further, as discussed in note 9 above, the method of correcting for potential overstatement in the National Survey was to eliminate as potential users any persons in this group who said they would use accessible transit but identified any difficulty which would prevent them from using it as much as they would like. Thus, the methodology employed in the National Survey to correct for general overstatement very likely overcorrected for the group on which CBO focused, and it is likely that CBO's estimate of travel demand for this group is especially understated. ●

THE AVIATION TRUST FUND

● Mr. BAUCUS. Mr. President, I endorse the views of my colleague from Nevada, Senator CANNON, on the need to bring the aviation trust fund more in line with the intent of Congress as prescribed in the Airport and Airway Development Act. I also want to commend Senator CANNON for his efforts as chairman of the Senate Commerce Committee to improve and enhance the safety of airports throughout the Nation and for his diligent work in trying to see that airport development moneys are spent for the purposes for which they were intended.

The Senate recently passed S. 1648, a bill I supported, to extend and modify the Airport and Airway Development Act. When this legislation was first enacted in 1970, the aviation trust fund was created and aviation-related taxes were imposed to provide funds necessary to support airport and airway safety and capital improvements. Since then, more than $10 billion have been collected in aviation taxes.

The bill we are now considering, H.R. 7477, would extend those aviation taxes at present levels for 3 months to allow us time to consider the tax levels that should be imposed during the next 5 years of the airport development aid program. Without this extension, as I understand it, the aviation taxes now going into the trust fund would expire or be reduced on June 30. I understand the need for continuing the present level of aviation taxes during this brief, 3-month interim period, and I do not object to the passage of H.R. 7477.

At the same time, I hope that we in the Senate Finance Committee will act promptly in our deliberations on these aviation taxes. I hope, too, that we will seriously consider reducing the present level of these taxes. In conjunction with S. 1648, a reduction in these taxes would put the aviation trust fund in better balance in the next few years.

The basic purpose of the aviation trust fund is to provide revenue for airport and airway development. At the present time, the trust fund contains a surplus of $3.5 billion. Assuming S. 1648 expenditure levels, the surplus will grow to more than $10 billion by fiscal year 1985—unless the present tax levels are reduced in some manner.

In my view, the present surplus represents an overpayment of taxes and is contrary to congressional intent. The aviation trust fund money is supposed to be used to develop badly needed airport and airway capital improvements, primarily to enhance a safer air transportation system within the United States. It is not supposed to be used as a device to balance the budget.

At the same time that the trust fund maintains a huge surplus, the needs of communities, especially rural communities, for airport development and improvement are left wanting. In my State of Montana, for example, there are instrument landing systems at only 7 of our 15 air carrier airports, and radar and VOR navigation coverage is sorely deficient. Big Sky Airlines, a Montana commuter, will soon replace Frontier Airlines as the carrier serving seven Montana and two North Dakota communities, not one of which has an instrument landing system. My constituents are rightly asking: Why is there such a huge surplus in the aviation trust fund when Montana cannot come anywhere near meeting the needs of communities for airport improvements?

The imbalance between the trust fund and the taxes imposed to sustain it will continue unless we act responsibily to redress it. We should spend the money necessary for needed airport and airway capital and safety improvements and set the taxes at levels that are appropriate to generate the revenues to support them. Clearly, there is enough surplus to reduce the backlog of safety related projects now going unfunded, to alleviate a tax inequity, and to insure the future solvency of the aviation trust fund. ●

SOVIET GRAIN EMBARGO

● Mr. PRESSLER. Mr. President, I am pleased to join with my distinguished colleague from Kansas, Senator DOLE, in support of legislation to rescind the Soviet grain embargo.

Last January when the embargo was first imposed, I wrote to the President to indicate my opposition. It was extremely unfair, and imprudent, to single out the agricultural sector as an economic protest against the Soviet Union. The President ignored many other types of exports, including machinery, when he laid down this embargo.

The embargo appeared unworkable when imposed and recent data have showed it to be a charade. It was today revealed that the Department of Agriculture is allowing U.S. companies to sell foreign-grown grain to the Soviet Union. To do this at a time when the U.S. embargo remains in force, and at a time when 17 million tons of U.S. grain is being withheld from the market and is depressing our markets, is absolutely unacceptable.

We continue to sell manufactured goods to the Soviets to help them grow grain of their own, while calling on our own farmers to take depressed grain prices because of the process.

This latest development—allowing U.S. corporations based in the United States to sell foreign grain to the Soviet Union—shows that the embargo is a total failure.

Mr. President, I urge my colleagues to give this legislation the early consideration which it clearly deserves. ●

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, after conferring with the managers of the bill I understand there may be some amendments that can be accepted by voice vote, so I ask that the Senate return to the consideration of the housing bill.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

The Senate continued with the consideration of S. 2719.

UP AMENDMENT NO. 1227

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1227.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 20, after the period, insert the following: "For the purpose of this subsection, a consortium of units of local governments within an urban county which has a population in excess of 200,000 in its unincorporated areas may be treated by the Secretary as a metropolitan city if such consortium (A) has an aggregate minimum population of at least 200,000 persons, (B) submits an application which complies with the requirements of subsection (b), and (c) demonstrates that the units of local government which are represented by such application have given full approval and certification to the application and are not otherwise applying for assistance under this section."

Mr. CRANSTON. Mr. President, this noncontroversial amendment, which is designed to affect only Orange County, Calif., has been shared with the distinguished floor managers of the bill and with the author of the Community

Energy Act, part of which is included in this bill—the only section to which my amendment applies. There appears to be no objection to it.

I am very pleased to support the efforts of the distinguished junior Senator from Massachusetts (Mr. TSONGAS) to enact this particular title of the bill, and I am pleased to say that I am advised that he has no objection to my amendment.

Very simply, my amendment is designed to permit a consortium of cities with a joint population as large as most counties in the Nation, within a county where there is no single, large, dominant city, and which meets the other criteria for entitlement funding under the energy efficiency title of this bill, to make application for such funding. Only in a county where the population in unincorporated areas exceeds 200,000 would a city consortium be eligible for funding.

Orange County, with its large number of very sizable cities and large incorporated towns, and where the population in unincorporated areas is over 200,000, is, so far as I know, the only county in the country to which this amendment would apply, and it is at the express behest of the people of Orange County that I am offering this amendment. It is because of the unique population arrangement of Orange County that the additional flexibility supplied by my amendment becomes desirable and necessary.

In Orange County, a consortium of cities has already been working together to achieve energy conservation by pooling resources and is anxious to continue to cooperate together as a consortium in making maximum beneficial use of the very important community energy efficiency provisions of this bill.

My amendment would have no significant budgetary impact.

It is carefully drafted to avoid double eligibility.

It would simply meet the unique needs of this particular area by providing an optional approach to seeking funding under this bill.

I believe this amendment may be acceptable to the managers.

I reserve the balance of my time.

Mr. WILLIAMS. Mr. President, I am happy to agree to this amendment. It is shown to be helpful to the community that is involved, and on behalf of the majority I am willing to accept the amendment.

Mr. GARN. Mr. President, on behalf of the minority I am willing to accept the amendment.

Mr. CRANSTON. I thank both Senators very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

UP AMENDMENT NO. 1228

(Purpose: To continue the public housing security program)

Mr. CRANSTON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. SARBANES proposes an unprinted amendment numbered 1228.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, between lines 14 and 15, insert the following:

SECURITY PROGRAM FOR PUBLIC HOUSING

SEC. 209. (a) This section may be cited as the "Public Housing Anti-Crime Amendments of 1980".

(b) The Congress finds that—

(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

(2) funding to provide more security for public housing can be used to leverage funding from other sources and thereby produce more successful anti-crime efforts;

(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more cotargeting of Federal and local anti-crime resources;

(4) as authorized by the Public Housing Security Demonstration Act of 1978, the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on such Program have provided useful suggestions which now can be implemented.

(c) It is, therefore, the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Program so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects.

(d) Section 207 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out subsection (c)(4) and inserting in lieu thereof the following:

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, ACTION, the Community Services Administration, and State and local agencies.

"(5) In order to assess the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under the United States Housing Act of 1937, other than under section 8 of such Act.";

(2) by striking out "this Act" in the first sentence of subsection (e) and inserting in lieu thereof "the Housing and Community Development Act of 1980"; and

(3) by adding the following new sentence at the end of subsection (f): "Of the budget authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5 (c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may utilize up to $10,000,000 of such authority to carry out this section.".

Mr. CRANSTON. Mr. President, this amendment is to authorize the continuation of the public housing anticrime program. In the 1978 housing bill, the Department of Housing and Urban Development was directed to develop a new approach to combating rising crime in public housing. The result of this mandate is the public housing security demonstration program which is now operating in 39 of the neediest public housing projects across the country.

The program coordinates action on the part of Federal agencies, local governments, local public housing authorities and citizens that reside in public housing projects by: Improving housing design that is especially sensitive to security; providing employment programs for youths geared toward helping youths to understand the consequences of crime; improving services for victims of crime as well as for drug abusers who frequently commit crimes; and providing additional police and law enforcement capability. The public housing demonstration program is in danger of being lost as the authority for this program expires September 30.

My amendment gives the Secretary of HUD the discretion to use up to $10 million from set-aside funds contained in the 1981 budget authority from the assisted housing program to continue implementation of this program. In 1978, $12 million was set aside for this program. HUD leveraged an additional $33 million from 13 Federal agencies, all of which has come from existing appropriations. Local governments have contributed $8 million, which is more than 30 percent of the total funds acquired. The combination of resources from various crime prevention programs has enabled HUD to undertake a comprehensive effort to improve security and reduce crime in public housing projects. Currently, other Federal agencies would like to contribute more funds to the program but will not do so if HUD cannot contribute its share. With increased funding, even more public housing projects will be able to participate in the program.

In addition to HUD, participating Federal agencies include the Law Enforcement Assistance Administration, HEW, the Department of Labor, the Community Services Administration, ACTION, and the Departments of the Interior and Commerce. Public housing agencies implementing the program at the local level tailor the resources of these agencies to fit the needs and problems in their individual communities.

I believe that we should assure the continuation of the anticrime demonstration program, which responds to the roots of the crime problem by integrating the criminal justice system with urban, neighborhood, economic and human development.

Mr. WILLIAMS. Mr. President, this amendment has strong support, I know, of those members of the committee, and it is worthy. I agree to accept it.

Mr. GARN. Mr. President, the minority is willing to accept the amendment of the distinguished Senator from California.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. I thank both Senators.

UP AMENDMENT NO. 1229

(Purpose to clarify that certain public housing resources may continue to be counted as the nonfederal share for certain programs)

Mr. STEWART. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 1229.

Mr. STEWART. Mr. President, I ask unanimous consent that the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, between lines 14 and 15, insert the following:

PAYMENT OF NONFEDERAL SHARE

SEC. 209. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"PAYMENT OF NONFEDERAL SHARE

"SEC. 15. Any of the following may be used as the nonfederal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8 or 14:

"(1) development or modernization cost financed with loans or debt service annual contributions under this Act;

"(2) annual contributions under this Act for operation of the project; or

"(3) rental or use-value of buildings or facilities paid for, in whole or in part, with the assistance specified in clause (1) or (2) of this sentence.".

Mr. STEWART. Mr. President, the amendment I am offering is a technical one, aimed at making it statutorily clear that resources of public housing authorities can be used as the local match for other Federal grant-in-aid programs, such as title XX of the Social Security Act. The amendment is necessary because of the recent uncertainty voiced by the Department of Health and Human Services (HHS) over whether public housing moneys can be used in this manner.

This amendment will achieve better coordination of Federal resources which serve the low-income tenants of public housing projects, a goal which we all support. It will insure that local public housing authorities (PHA's) can continue to have access to Federal programs which provide essential services to their tenants, such as day care for working mothers, and nutritious meals for elderly residents.

The title XX program, which provides funding for a variety of social service programs, requires a local match that can either be cash or an in-kind contribution. PHA's have normally provided a match for services to their tenants, either from operating funds or through the use of their facilities. For example, many authorities have provided the buildings in which day care or senior citizen programs are located. The authorities have been able to claim the fair market value of the donated space as a certified public expenditure, which is used to help meet the local matching requirement.

This arrangement has been occurring for a number of years, with the full understanding and approval of the administering agencies, the Department of Housing and Urban Development (HUD) and the Department of Health, Education, and Welfare (now HHS). However, it has recently been called into question by a ruling from the Atlanta regional office of HHS, which determined that the public housing resources were considered Federal moneys. The regional office concluded that these resources were therefore not eligible to be used as the local match, unless there was specific legislation indicating that they could be used in this manner.

The amendment I am offering provides for this legislative clarification, by stating that public housing authority facilities and funds are eligible to be used as the local match for other Federal grant-in-aid programs, such as the social service activities funded under title XX. I have discussed this matter with HUD and HHS, and both agencies support my amendment as a way of clarifying the purposes for which public housing resources can be used.

At present, this problem has materialized primarily in Alabama, where several public housing authorities have been denied title XX services because of HHS's revised interpretation about the eligibility of their facilities. However, the potential for this difficulty exists in other parts of the country as well, because there has always been uncertainty over how to categorize the resources of public housing authorities. PHA facilities are constructed and maintained through a variety of funding mechanisms, including federally guaranteed loans, annual contributions, operating subsidies, and tenant rents. This amendment avoids the tricky problems which might otherwise be faced by State social service agencies, local PHA's and HHS in determining which funds and facilities should be considered as Federal or local resources.

In closing, I just want to emphasize how important this change is for housing authorities in my State. Without this clarification, a large number of them will be forced to drastically curtail or eliminate a range of services they are currently providing their residents. In Birmingham, for instance, 11 day care centers, providing services to close to 800 children, have for years been using PHA facilities as their in-kind matching requirement for title XX. Now, as a result of HHS's recent ruling, they face a shortfall of close to $100,000. In these fiscally difficult times, there is simply no way that either the local or State government will be able to provide this additional revenue, and clearly the tenants in the project cannot afford to make additional contributions. So the alternatives facing the PHA are grim: Seeking assistance from other sources—and they have literally been relying on aid from charitable groups in the city in recent days—or closing down the centers. I think my colleagues will agree that we should be doing everything possible to facilitate the provision of services to some of our neediest citizens, and I therefore urge the adoption of my amendment.

I would point out that the Department Health and Human Services as well as the Department of Housing and Urban Development are in favor of the amendment. It would just clear up a technical matter that would aid the housing authorities not only in my State but around the country.

It is my understanding that this amendment will be accepted by both the majority and minority managers of the bill.

Mr. WILLIAMS. Mr. President, the Senator from Alabama has brought us a most necessary and useful amendment for which he should be congratulated, and I am happy to accept it. The amendment would clarify present law to allow public housing facilities or funds to be considered a local match in order to secure services for project residents in connection with a number of Federal grant-in-aid programs that require these matches. Services would include meals, day care, transportation, personal care, and other related services.

It has been common practice for public housing agencies to use their facilities or the funds they receive from various sources as the local in-kind or cash contributions required as a match by certain Federal programs. However, a recent ruling of the Atlanta Regional Office of the Health and Human Resources Department has brought this practice into question. As a result, public housing agencies may no longer be able to use their funds or facilities as local matches, and badly needed services may be terminated as this ruling is repeated in other areas.

Mr. President, public housing agencies are encouraged to provide services to residents, yet they are often severely strapped for funds as operating subsidies fail to meet actual costs. Such Federal programs as title XX often provide project residents with their only opportunity to secure decent nutrition, or adequate health care, or the child day care they need to allow them to get jobs. To allow these services to end would be unthinkable from a human standpoint, as well as an economic standpoint. Clearly, the extent to which these services help public housing residents avoid placement in a nursing home, to allow them to go to work instead of remain on welfare, these programs save enormous Federal expenditures, and promote individual dignity and independence.

I understand that the administration strongly supports this amendment, and again I want to commend the Senator for his interest and his concern.

Mr. GARN. Mr. President, this amendment has been cleared on this side and we are happy to accept it.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. **STEWART**. Mr. President, I thank the managers of the bill.

UP AMENDMENT NO. 1230

(Subsequently Amendment No. 1907)

(Purpose: To modify the emergency home purchase assistance authority, and for other purposes)

Mr. **WILLIAMS**. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1230.

Mr. **WILLIAMS**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VI—EMERGENCY HOME PURCHASE ASSISTANCE

SHORT TITLE

SEC. 601. This Act may be cited as the "Emergency Home Purchase Assistance Authority Amendments of 1980".

EMERGENCY HOME PURCHASE ASSISTANCE

SEC. 602. Section 313 of the National Housing Act is amended—

(1) by inserting "and if the Secretary determines that the implementation of this section will not significantly worsen inflationary conditions," after "1968," in the first sentence of subsection (a) (1);

(2) by inserting ", and to promote the construction of multifamily rental housing" before the period at the end of the second sentence of subsection (a) (1);

(3) by adding at the end of subsection (a) the following:

"(4) The program authorized by this section may not be activated unless the most recently available four-month moving average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Director of the Bureau of the Census is less than 1,600,000.

"(5) The program activated pursuant to paragraph (4) shall be terminated whenever the most recently available four-month moving average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Director of the Bureau of the Census is 1,600,000 or more.";

(4) by inserting "or loans" before "(1) which cover" in the first sentence of subsection (b);

(5) by inserting "including mobile homes" after "four-family residences" in the first sentence of subsection (b) (2);

(6) by inserting "or a mobile home" after "four-family residence" in clause (A) of the second sentence of subsection (b);

(7) by striking out all that follows "such mortgage involves an original principal obligation not to exceed" in clause (B) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", for that part of the property attributable to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured or, in the case of a mobile home loan, the limitation contained in section 2(b) of this Act which would apply to such loan if insurance with respect to an obligation representing such loan were provided under section 2 of this Act;";

(8) by striking out clause (C) of the second sentence of subsection (b) the words "such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this section, but in no event shall such rate exceed the lesser of (i) 7½ per centum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 203(b) of the National Housing Act" and inserting in lieu thereof the following: "such mortgage involves an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but if such mortgage is executed to finance the acquisition of a one-to-four family residence, it may not bear interest at a rate lower than 3 percentage points below the average contract commitment rate for single family, thirty year conventional mortgages with loan-to-value ratios of 90 per centum in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released, and if such mortgage is executed to finance the acquisition of a more than four-family residence, it may not bear interest at a rate lower than 4½ percentage points below such average contract commitment rate";

(9) by striking out all that follows "such mortgage involves a principal residence the sales price of which does not exceed" in clause (D) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", in the case of a one-family residence, 90 per centum of the average new one-family house price in the area, as determined by the Secretary; or in the case of a two-family residence, 100 per centum of such average; or in the case of a three-family residence, 120 per centum of such average; or in the case of a four-family residence, 140 per centum of such average";

(10) by striking out "enactment of this section" in subsection (e) and inserting in lieu thereof: "the issuance of the commitment to purchase the mortgage";

(11) by striking out "the lesser of (A) the per unit amount specified in subsection (b) (B), or (B)" in subsection (h) (1);

(12) in subsection (h)—

(A) by inserting "and" at the end of clause (3);

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4); and

(13) by adding at the end thereof the following new subsection:

"(i) The Association may not purchase under this section any mortgage or loan which was executed or made (1) to finance the conversion of an existing rental housing project into a condominium or cooperative project, or (2) to finance the purchase of an individual unit in a condominium project or the purchase of a share in a cooperative project, in connection with such a conversion.".

SECTION 235 OF PROGRAM

SEC. 603. Section 235 of the National Housing Act is amended by adding at the end thereof the following:

"(q)(1) Notwithstanding any other provision of this section, where the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments on behalf of homeowners, to mortgagees holding mortgages (A) which cover dwellings the construction of which is completed on or after the date which was one year prior to the date of enactment of this subsection and which have never been sold, (B) which meet the requirements of this subsection, and (C) which are executed, or for which the commitments have been made, on or after the date of enactment of this subsection and prior to March 1, 1981. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection.

"(2) A mortgage to be assisted under this subsection shall—

"(A) where the Secretary deems appropriate, provide for graduated payments pursuant to section 245;

"(B) involve a principal residence the sales price of which does not exceed 80 per centum of the average new one-family house price in the area, as determined by the Secretary, or $60,000, whichever is greater;

"(C) involve a principal residence the sales price of which does not exceed the appraised value of the property, as determined by the Secretary; and

"(D) bear interest at not to exceed such rate and contain such other terms and conditions as the Secretary may prescribe.

"(3) The amount of the assistance payments shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to mortgages insured under section 203 and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of 11 per centum per annum.

"(4) The Secretary shall recertify the mortgagor's income at intervals of not more than two years for the purpose of adjusting the amount of assistance payments payable under this subsection.

"(5) Assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made only during such time as the mortgagor continues to occupy the property which secures the mortgage.

"(6) The Secretary shall provide, upon disposition of the property, for recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale and any increase in the loan balance as of the time of sale over the original loan balance. In providing for such recapture, the Secretary shall, to the extent necessary, provide incentives for the borrower to maintain the property in a marketable condition.

"(7) The Secretary shall establish income limits applicable to mortgagors to be assisted pursuant to this subsection. In setting such limits, the Secretary (A) may prescribe different limits for different areas, taking into account variations such as prevailing levels of construction costs, usually high or low median family incomes, or other factors, and

(B) shall, to the maximum extent feasible consistent with the emergency purpose of this subsection, assure that the assistance payments pursuant to this subsection shall be used to promote homeownership opportunities for moderate income homebuyers.

"(8) The Secretary may not make assistance payments under this section with respect to any dwelling which does not meet all minimum property standards applicable under this Act. The Secretary shall allocate funds under this subsection so that preference is given to areas where housing construction activity is most in need of stimulation, as measured by factors such as population, the relative decline in building permits, and such other factors as the Secretary may deem appropriate. Section 213 of the Housing and Community Development Act of 1974 shall not apply to this subsection. A mortgage which meets the requirements of this subsection may be eligible for assistance under this subsection irrespective of how many other mortgages covering dwellings in the same subdivision will be assisted under this section.

"(9) The aggregate amount of contracts entered into under this subsection shall be limited to the amount of contract authority available under subsection (h)(1) and shall not exceed $135,000,000 per annum.".

Mr. WILLIAMS. It is not my intention, Mr. President, to move forward to conclusion on this amendment but I wanted it to be in place for first consideration when this bill again comes up on tomorrow.

NASA AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representative on S. 2240.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2240) entitled "An Act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development," for the following programs:

(1) Space shuttle, $1,878,000,000;

(2) Space flight operations, $769,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $370,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $49,700,000;

(7) Space applications, $386,700,000;

(8) Technology utilization, $13,100,000;

(9) Aeronautical research and technology, $295,800,000;

(8) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(9) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(10) Rehabilitation of electrical switchgear, engine research building, Lewis Research Center, $1,700,000;

(11) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(12) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(13) Various locations as follows:

(A) Modification of twenty-six meter antenna, DSS-44, Canberra, Austalia, $1,200,000;

(B) Replacement of azimuth radial bearing, DSS-14, Goldstone, California, $950,000;

(14) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(15) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(16) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(17) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(18) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(19) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management," $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility. the estimated cost of which, including collateral equipment, exceeds $250,000. unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriation made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (18), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upon 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (19) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2), he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Commitee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized

for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CANNON, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT conferees on the part of the Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders No. 900, 859, 869, 890, 896, and 897.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the purpose of the reservation is to advise the majority leader that each of the calendar items identified by him have been cleared on our side and we have no objection to their passage.

BUDGET ACT WAIVER

The resolution (S. Res. 454) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1972, a bill to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp., was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1972. Such waiver is necessary because due to the time constraints of committee business meetings prior to May 15, 1980, and the large number of authorization bills included on the committee agenda, the Committee on Energy and Natural Resources was unable to consider S. 1972 until June 4, the first general business meeting after May 15. The amount authorized by S. 1972 is not significant enough to adversely affect the congressional budget.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SANGRE DE CRISTO DEVELOPMENT CORP.

The PRESIDING OFFICER. The clerk will report the next bill by title.

The assistant legislative clerk read as follows:

S. 1972, a bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1231

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an unprinted amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. SCHMITT proposes an unprinted amendment numbered 1231.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12, strike the word "There" and insert the following phrase:

"Effective October 1, 1981, there"

Mr. ROBERT C. BYRD. Mr. President, this is a technical amendment necessary to comply with the requirements of section 402(a) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to reimburse persons who are determined by the Secretary to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation for subdivision lots on the Pueblo of Tesuque Indian Reservation near Santa Fe, New Mexico. The Secretary is authorized to reimburse such persons for the amounts they have expended in the acquisition of a sublease or subleases and upon receipt of such compensation such persons must relinquish all claims or rights, if any, they may have arising from their sublease.

(b) Applications for reimbursement under this Act shall be in such form and contain such information as the Secretary of the Interior, by regulation, shall prescribe. No application for reimbursement shall be considered by the Secretary unless it is submitted on or before the date of expiration of the twenty-four-month period following the date of enactment of this Act.

(c) The Secretary shall reimburse those applicants who are determined to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation, pursuant to its master lease with Tesuque Pueblo initially approved May 24, 1970, by the Bureau of Indian Affairs and subsequently disapproved on August 24, 1977. As used in this Act, the term "bona fide purchasers" shall mean anyone who purchased a sublease in an arm's-length transaction, for value and without notice.

(d) Within the one-hundred-and-eighty-day period following the date of the enactment of this Act, the Secretary of the Interior shall take such action as may be necessary to inform purchasers of such subleases from the Sangre de Cristo Development Corporation of the fact that the Secretary of the Interior has authority to reimburse any such person determined by the Secretary to be a bona fide purchaser of such sublease for the amounts expended by such purchaser in the acquisition of such sublease. The Secretary shall further inform such purchasers that any application for reimbursement must be submitted on or before the date of expiration of the twenty-four-month period following the date of the enactment of this Act.

SEC. 2. Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-798), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1972) to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corporation, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

S. 1972 would authorize the Secretary of the Interior to reimburse persons who are determined by the Secretary to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation for subdivision lots on the Pueblo of Tesuque Indian Reservation near Santa Fe, New Mexico.

BACKGROUND AND NEED

In April 1970, the Governor of the Tesuque Indian Pueblo executed a lease with the Sangre de Cristo Development Corporation for the development of a residential subdivision. The lease was approved by the Bureau of Indian Affairs in May 1970. Sales of subleases began in 1971 and, by September 1972, 212 lots had been sold.

When the lease was approved the Department of the Interior's position was that the National Environmental Policy Act did not apply to such actions concerning Indian lands.

In October 1971 that position was challenged by persons opposed to the potential Colonias de Santa Fe development. The Court of Appeals for the Tenth Circuit on November 24, 1972, held that compliance with the National Environmental Policy Act prior to lease approval was, as a matter of law, required. On remand from the appellate court, the District Court on January 31, 1973, enjoined the Secretary from taking any action affecting the development until the Act had been complied with.

A final environmental statement was issued in July 1977. After meetings with the Pueblo council and the developers and sublessees, the Under Secretary of the Interior, on August 24, 1977, decided to disapprove the master lease in light of information regarding the environmental effects of the projects. Subsequent to this disapproval, the Sangre de Cristo Development Corporation went bankrupt and the sublessees, through no fault of their own, lost all the money they had put into the purchases of subleases from the Corporation.

The United States is not liable in money damages to any of the parties involved in this situation. It is not a party to the lease arrangement and the Supreme Court has held that departmental approval does not give rise to a contract implied in law through which the Court of Claims may have jurisdiction under 28 U.S.C. 1491.

However, it is unclear whether the disapproval of the master lease may have affected sublease purchasers who under the law may be considered bona fide purchasers. Although there may not be any monetary liability to those purchasers, they may nevertheless be able to enter the lands and utilize them with the United States and the Pueblo being unable to prevent their doing so as long as they are not otherwise in violation of the sublease terms. This would result in a chaotic situation where the sublessees may have little, if any interest in developing their parcel, but may be compelled to do so in order to force resolution of their rights.

It should be noted that like the United States, the Tesuque Pueblo is itself immune from a money damages action in this instance. But if the Tesuque Pueblo were to commence litigation against the sublessees, it may, in doing so, waive its immunity.

There are equitable considerations involved in this matter as well. The sublessees stand on much firmer equitable grounds than others the original and successor developers, who suffered losses related to the Tesuque Pueblo lease.

S. 1972 would authorize compensation to the sublessees for the amounts they actually expended, out of pocket, for the acquisition of their subleases. This would include their down payment and subsequent cash payments on principal, interest and rent, or, if all cash was paid at the time of purchase, the amount so paid. If a sublease were conveyed in exchange for the performance of services to the developers, such a sublessee would be viewed as a creditor and consequently not entitled to compensation. The total amount paid by the sublessees was $600,000 so that amount is the maximum total amount that would be provided in exchange for a surrender of the right, title, and interest of the sublessees.

SHIPPING VESSEL "KAILUA"

The bill (S. 2476) to provide that the shipping vessel *Kailua* have the right to engage in coastwide trade, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 883 of the Merchant Marine Act of 1920, the vessel known as "Kailua", registration number AK-7716-B, shall be held and considered to have been owned only by persons who are citizens of the United States and therefore may lawfully engage in the coastwide trade.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-801), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Committee on Commerce, Science, and Transportation to which was referred the bill (S. 2476) to provide that the shipping vessel *Kailua* have the right to engage in coastwide trade having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 2476 would authorize documentation of the vessel, *Kailua,* as a vessel of the United States so that she may operate in the domestic coastwide trades.

BACKGROUND AND NEED FOR THE LEGISLATION

The *Kailua* is a 33-foot Owens cabin cruiser owned by E. W. Christiansen, a resident of Alaska. Mr. Christiansen purchased the *Kailua* from Leonard C. Laurance in January, 1980 for the purpose of taking out fishing parties on a charter basis.

During the first several years of Mr. Christiansen's ownership, the demand in Alaska for fishing charter boats increased which brought about a corresponding expansion in the number of boats providing this service. A charter boat association was formed in order to improve the coordination of charter services. The association published a small folder describing the boats, facilities, and experience of skippers that were available. Shortly after this folder was distributed, the Coast Guard informed each skipper that if his boat was over 30-feet in length it was, in all probability, in excess of 5 tons and, therefore, had to be documented in order to engage in charter fishing for hire. Upon receipt of this information, Mr. Christiansen immediately contacted the Coast Guard which informed him of the procedure for documentation.

Several months later the Coast Guard informed Mr. Christiansen that, based upon their own examination, the *Kailua* was. in fact, over the 5-ton mark. The necessary documentation forms were then prepared and turned into the Ketchikan, Alaska Coast Guard Office.

Months later, Mr. Christiansen was advised that there was a problem with the *Kailua*'s title which prevented the issuance of documentation necessary for her use in charter fishing. Specifically, at the time Mr. Laurance sold the *Kailua* to Mr. Christiansen, Mr. Laurance was not a citizen of the United States, although he was in the process of obtaining such status. Section 27 of the Merchant Marine Act of 1920 prohibits vessels which have been foreign-owned from thereafter acquiring the right to engage in the coastwise trades.

The cabotage laws represented in section 27 are designed for the protection of domestic labor and industry. In this case, however, the *Kailua* was never under foreign registry, she was built by a U.S. manufacturer in Baltimore, Md., and she has never been re-built or repaired in a foreign shipyard.

It is, therefore, the judgment of the Committee that in the specific circumstances of this case, equity dictates that Mr. Christiansen be allowed to document and operate the *Kailua* in the coastwise trades. The Committee accordingly recommends that S. 2476 receive favorable Senate consideration.

GASOHOL COMPETITION ACT OF 1980

The PRESIDING OFFICER. The clerk will state the next bill by title.

The assistant legislative clerk read as follows:

S. 2251, a bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Gasohol Competition Act of 1980".

SEC. 2. The Clayton Act is amended by renumbering the present "SEC. 26" as "SEC. 27", and inserting the following new section as section 26:

"SEC. 26. It shall be unlawful for any person engaged in commerce, in the course of such commerce, directly or indirectly to impose any condition, restriction, agreement, or understanding that—

"(i) limits the use of credit instruments in any transaction concerning the sale, resale, or transfer of gasohol or other synthetic motor fuel of equivalent usability where there is no similar limitation on transactions concerning such person's conventional motor fuel: *Provided,* That nothing in this section or in any other provision of law in effect on the date of enactment of this Act and which is specifically applicable to the sale of petroleum products, shall preclude such persons from imposing a reasonable fee for credit on the sale, resale, or transfer of the gasohol or the other synthetic motor fuel if such fee equals no more than the actual costs to such person of extending that credit; or

"(ii) otherwise discriminates against or unreasonably limits the sale, resale, or transfer of gasohol or other synthetic motor fuel of equivalent usability where such synthetic or conventional motor fuel is sold for use, consumption, or resale within the United States or any territory thereof or the District of Columbia, or any insular possession or other place under the jurisdiction of the United States: *Provided,* That nothing in this section shall—

"(a) preclude such person from requiring reasonable labeling of pumps dispensing the gasohol or the other synthetic motor fuel to indicate, where appropriate, that such gasohol or other synthetic motor fuel is not manufactured, distributed or sold by such person; or

"(b) preclude such person from issuing appropriate disclaimers of product liability for damage resulting from use of the gasohol or the other synthetic motor fuel; or

"(c) require such person to provide advertising support for the gasohol or the other synthetic motor fuel; or

"(d) require such person to furnish or provide, at such person's own expense, any additional pumps, tanks, or other related facilities required for the sale of the gasohol or other synthetic motor fuel.".

● Mr. THURMOND. Mr. President, all of us have a very strong interest in finding solutions to our acute energy problems, and certainly gasohol appears to be one of several potential keys toward solving these problems. The interests that were expressed at the Judiciary Committee hearings toward the production and use of gasohol were very gratifying. The support for such a law as S. 2251—the Gasohol Competition Act—by many witnesses, including farmers, farmer interest groups, several major oil companies, and consumers was encouraging. Obviously, without the support of such groups, the possibilities for energy development through gasohol and other fuels would not exist.

Mr. President, I was especially interested in the positive approaches submitted with respect to the distribution and use of these alcohol fuels and to the technological progress that has been made in recent years. The point was made at the hearings, however, that we must accelerate the research and development efforts to overcome the problems that still remain.

A survey by my staff of the persons affected by the use, production or distribution of gasohol, or ethanol, revealed they either supported the gasohol program or raised no objections. Also, Mr. President, we must consider what is best for the everyday needs of the consumer who must be supplied with this fuel at a price he can afford. Certainly the development and production of gasohol at a competitive price will aid that cause.

Mr. President, energy problems continue to plague our Nation in an increasingly serious manner. It is important that we seek appropriate ways to solve these problems. I am pleased to be a cosponsor of the Gasohol Competition Act and I believe it is a positive step in the right direction. I urge my colleagues to give careful consideration to this bill and I encourage them to join me in supporting this meaningful proposed legislation.●

● Mr. METZENBAUM. Mr. President, I am pleased that the Senate has been able to act so expeditiously on this important piece of legislation.

S. 2251, the Gasohol Competition Act of 1980, amends the Clayton Act to prohibit those engaged in petroleum refining and marketing from discriminating against or unreasonably limiting the sale of gasohol or other synthetic motor fuels. The bill is cosponsored by 29 Senators representing every section of the country and every segment of the political spectrum. Even the oil industry itself believes the bill in its current form will accomplish the worthy goal of promoting the marketing of gasohol, and they have worked to expedite its passage into law.

In February of this year, Members of Congress learned that several major oil companies were not permitting their credit cards to be used for the purchase of gasohol. Although this policy was ultimately altered in the glare of adverse national publicity, concerns remained that similar policies would be invoked once again as soon as the reaction subsided. Moreover, further investigation revealed other more subtle forms of discrimination against gasohol.

As a result on February 4, 1980, 17 Senators introduced S 2251. Since that time an additional 12 Senators have joined as cosponsors. On March 5, 1980, joint hearings on S. 2251 were held by the Senate Judiciary Committee on Antitrust, Monopoly and Business Rights and the Senate Select Committee on Small Business. Ten Senators, from both sides of the aisle, attended and heard testimony from farmers, gasoline retailers and marketers, the Automobile Association of America—which endorsed the bill —a panel of experts on the production of gasohol, and representatives of several major oil companies. After the hearing, in response to comments received from many different sources, including the oil companies themselves, a substitute bill was drafted. On June 17, the substitute bill was ordered favorably reported by the full Judiciary Committee by unanimous consent.

In favorably reporting this bill to the floor so expeditiously, the members of the Judiciary Committee have recognized this country's urgent need for the rapid and effective development of viable alternative fuels to offset our dangerous dependence on insecure and costly sources of foreign oil. No one can doubt the commitment of this Congress and the administration to the rapid development of gasohol and other synthetic fuels. But consumers must have the freedom to choose such alternative fuels if our efforts to encourage their development are to be successful. It is the premise of this bill that the public must have access to gasohol and other synthetic fuels immediately, and that the product must be as accessible to the consumer as is conventional motor fuel.

I should emphasize that this bill is not designed to force anyone into marketing, selling or purchasing gasohol or other synthetic fuels, nor is it designed to place burdensome requirements on those companies which choose not to market gasohol themselves. The bill is simply intended to remove any potential obstacles that may be raised by major oil companies to dealers who desire to market gasohol and other synthetic fuels of a similar quality and acceptability. Although the cosponsors of this bill believe strongly in the role gasohol can play in the country's conservation effort, we do not wish to force our beliefs on those with different views.

We must begin to explore new methods of conserving our use of conventional products made from imported fuels. Gasohol and other synthetic fuels will not accomplish our conservation goals overnight. In fact, they are unlikely ever to replace conventional fuels entirely. But their use definitely will contribute to the enhancement of our energy independence.

Obstacles to the promotion of gasohol as an alternative to conventional gasoline have been and may again be erected by major oil companies. S. 2251 will eliminate those obstacles and permit the rapid development of gasohol and its counterpart synthetic fuels.

I urge my colleagues to join in supporting this worthy measure.●

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed.

RUTH YOUNG WATT

The resolution (S. Res. 465) to pay a gratuity to Ruth Young Watt, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruth Young Watt, widow of Walter Watt, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

CHANG HIE GRIFFITH

The resolution (S. Res. 466) to pay a gratuity to Chang Hie Griffith, was considered, and agreed to, as follows:

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Chang Hie Griffith, widow of Howard W. Griffith, an employee of the Senate at the time of his death, a sum equal to nine and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

The Senate continued with the consideration of S. 2719.

Mr. ROBERT C. BYRD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is the amendment of the Senator from New Jersey.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and that Mr. TSONGAS may call up his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object and I will not object, the procedure that we are about to follow has been described to me and I, in turn, have described it to the staff of Senator GARN, who assures me that there is no objection to this arrangement.

It is also my understanding that as soon as we proceed with this step, we will return to the consideration of the amendment that was pending before this request was made.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1232

(SUBSEQUENTLY AMENDMENT NO. 1908)

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 1232.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following section:

Sec. . (a) The first sentence of Section 5A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1424 a(b) is amended—

(1) by striking out "and" "(E)"; and

(2) by inserting before the period at the end thereof the following: "; (F) to such extent as the Board may approve as liquid, highly-rated corporate debt obligations with

3 years or less remaining until maturity; and (G) to such extent as the Board may so approve, highly-rated commercial paper with 270 days or less remaining until maturity".

Mr. TSONGAS. Mr. President, the amendment is simple. It allows two additional categories of assets to qualify as liquidity investments for members of the Federal Home Loan Bank System. My amendment is uncontroversial. The liquidity agencies involved have agreed that such a change in the definition of liquidity is acceptable.

My amendment warrants enactment. This redefinition of liquidity will allow Federal Home Loan Bank Board members to improve, albeit modestly, their earnings position. Given the difficulties that so many thrift institutions are presently experiencing, we are compelled to pursue all measures, if they are demonstrably prudent, that promise some relief to these institutions.

More specifically, the amendment does the following:

At present, the Federal Home Loan Bank Act provides that assets qualifying as liquidity investments include cash, certain bank deposits and obligations of the U.S. Government, agencies, any State or its political subdivisions and balances maintained in a Federal Reserve bank or passed through a Federal home loan bank or another depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act.

My amendment would add two additional categories of qualifying assets, namely, corporate obligations with a maturity of 3 years or less, and commercial paper.

This amendment is a prudent measure. It is motivated in recognition of the fact that investments in high-grade corporate obligations and commercial paper provide a high degree of liquidity while at the same time affording investors the opportunity to earn high yields. The amendment would help thrift institutions in the current high-interest-rate environment by allowing institutions holding corporate bonds and commercial paper to use these higher yielding investments to meet liquidity requirements. This, in turn, would partially alleviate the earnings pressures now experienced by thrifts.

Let me state that my amendment has the full support of the Federal Home Loan Bank System, the regulatory agency responsible for implementing this change. At this time, I send to the desk a letter of support for this amendment, from the Federal Home Loan Bank Board.

The amendment would apply to savings and loan associations and savings banks which are members of the Federal Home Loan Bank System. Virtually all savings and loans, including all federally chartered savings and loans, are members of the Bank System. Currently, approximately 114 savings banks are Bank System members. All federally chartered savings banks will be members of the Bank System.

In conclusion, my amendment will aid thrifts' earning powers, is supported by the regulatory agency that will administer it, and is particularly positive, today, in light of the thrift industry's difficult earnings position.

UP AMENDMENT NO. 1233

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1233 to unprinted amendment numbered 1232.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment add the following:

SEC. . (b) Section 916 of the "Housing and Urban Development Act of 1970" (Public Law 91-609; 84 Stat. 1770) is amended by adding at the end thereof the folllowing sentence:

"In addition, to the extent as the Federal Home Loan Bank Board may so approve, unpledged deposits in the Savings Banks Trust Company, New York, New York, may be considered assets for the purposes of meeting the liquidity requirements of Section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b))."

Mr. JAVITS. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Massachusetts. It is a good amendment and one that is entirely consistent with the purposes and objectives of the Depository Institutions Deregulation and Monetary Control Act which we enacted earlier this year. Adding corporate obligations and commercial paper to the list of investments eligible to be counted toward the Federal Home Loan Bank System's liquidity requirements is a useful step. It will, in a limited way, assist members of the system in increasing the yield on their investment portfolios without impairing in any way the safety and soundness of the System. In turn, institutions will be better able to pay market rates to savers. The Senator's amendment is a good amendment and I am pleased to cosponsor it.

However, I offer an amendment to his amendment in order to correct the ambiguity concerning the liquidity requirements as they are applied to an institution in my State of New York. The amendment that I offer today would allow the Federal Home Loan Bank Board to permit savings banks that are members of the Bank System to count toward the liquidity requirements their unpledged deposits in the Savings Banks Trust Co.

The Savings Banks Trust Co. is a "bankers' bank," organized under the laws of New York and wholly owned by the mutual savings banks of New York State. It was created in 1933 with the active cooperation of the New York State Banking Department and concerned Federal authorities in order to provide savings banks access to the resources of the then-existing Reconstruction Finance Corporation. In addition, the trust company was to act as a central bank and liquidity agency for the savings banks.

Although the RFC is now but a memory, the trust company continues in its functions as a central bank and liquidity agency for New York savings banks. In addition, this $1.4 billion institution provides a variety of other important services to savings banks. These include check clearing, investment services, and the buying and selling of Federal funds.

Being a bankers' bank, the trust company accepts deposits solely from mutual savings banks and their related agencies. It has never accepted deposits from the general public and thus it has neither needed nor sought Federal deposit insurance. But, unfortunately, the lack of Federal deposit insurance has barred savings banks which are members of the Federal Home Loan Bank System from counting their deposits in the trust company toward the liquidity requirements of the System. Although the statute includes in the list of eligible liquidity investments, deposits in commercial banks, the Bank Board has, by regulation, limited eligibility to deposits in commercial banks insured by the FDIC.

My amendment would correct this situation by specifically allowing unpledged deposits in the trust company to be used to meet the Bank System's liquidity requirements. It should, however, be stressed that under this amendment, the Bank Board will have complete authority to regulate the use of such deposits for liquidity purposes. I would add that the pendancy of this amendment has been brought to the attention of the Federal Home Loan Bank Board, and Chairman Janis has indicated that the Board has no objection to the amendment.

In closing, I want also to note that this amendment does not represent a novel approach. To the contrary, there is a direct precedent. In 1970, the Congress adopted legislation which specified that unpledged deposits in the Bank for Savings and Loan Associations, Chicago, Ill., could be considered assets for meeting the liquidity requirements of the Federal Home Loan Bank Act. The bank for savings and loan associations is similar in many respects to the savings banks trust company. It, too, is a non-FDIC-insured State-chartered commercial bank which provides services exclusively to financial institutions. Thus, my amendment seeks only to provide the savings banks trust company and its constituent savings banks parity in treatment with that already accorded the Bank for Savings and Loans and savings and loan associations.

I urge acceptance of this amendment.

Mr. President, just to supplement what has been said by Senator TSONGAS, this amendment is designed to provide the New York savings banks, that is, the savings banks in New York City, with the same liquidity situation as the savings banks elsewhere.

My amendment seeks to include in their liquidity what they have on deposit with an organization or institution called the savings banks trust company, which is a banker's bank organized by these various savings banks in which they have a certain amount of their securities and paper deposits.

This just seeks to conform the Tsongas amendment so that it is effective as to the New York savings banks.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New York is agreed to.

Without objection——

Mr. BAKER. Mr. President, reserving the right to object, might I inquire?

Mr. WILLIAMS. Mr. President, as I understood it, we were not going to proceed to final consideration of this matter at this time. It would be the pending amendment.

Mr. TSONGAS. It makes no difference to me.

Mr. WILLIAMS. I am willing to have this as the pending amendment, if it is all right with Senator JAVITS.

Mr. JAVITS. If the Senator will yield, I will go right along with Senator TSONGAS.

Mr. BAKER. Mr. President, I have no preference, but it is my understanding that one way or another this matter would be taken up tomorrow and not tonight, not disposed of tonight.

Mr. WILLIAMS. That is correct.

Mr. BAKER. Mr. President, I would hope that we can get unanimous consent to store the pending amendment so that it can be the pending amendment tomorrow and deal with it when we reconvene tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Chair will inquire of the Senator from Tennessee. Before the reservation of the right to object by the Senator from Tennessee, the Chair indicated that the amendment of the Senator from New York to the amendment of the Senator from Massachusetts was agreed to. Was it the Senator's intention to undo that ruling of the Chair?

Mr. BAKER. It was my intention to interrupt the Chair before that was done. I ask unanimous consent now that it be in order——

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BAKER. Yes.

Mr. JAVITS. Our purpose was, because it is a special situation to have this on Senator TSONGAS' amendment where it belongs, and his amendment and mine will depend upon what happens to his amendment.

Mr. BAKER. Mr. President, I made a commitment, at least to the staff and minority manager of this bill, that while we would put it in place we would not finally dispose of it until tomorrow.

Mr. JAVITS. The Senator will not finally dispose of it.

Mr. BAKER. As I understand it, Mr. President, the Chair already ruled that the Tsongas amendment has been agreed to.

The PRESIDING OFFICER. No. The Chair ruled the amendment of the Senator from New York has been agreed to, not that the amendment of the Senator from Massachusetts had been agreed to.

Mr. BAKER. Then I apologize. I misunderstood.

As it stands at this moment, then, my unanimous consent request is that the amendment of the Senator from New Jersey be restored as the pending amendment, as the first order of business tomorrow, and that the amendment of the Senator from Massachusetts, as now amended by the amendment of the Senator from New York, will be further disposed of sometime in the course of tomorrow.

Mr. TSONGAS. Mr. President, reserving the right to object, the reason it is not being facilitated tonight is simply because there has to be a colloquy before this can be passed. The Senator from Tennessee is quite correct.

MOTOR CARRIER ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2245.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2245) to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes.

(The amendment of the House is printed in the RECORD of June 19, 1980 beginning at page 15644.)

Mr. CANNON. Mr. President, I am delighted to call up S. 2245, the trucking regulatory reform bill, for final passage today. The House passed this bill yesterday by an overwhelming margin. It does not go as far as the Senate had wished, particularly with respect to the transportation of processed foods, but it is still a sound and very strong bill.

In many, indeed, most respects the version of S. 2245 that the House has sent back to us is either very similar or identical to the Senate version. The two bills are close enough that I am urging my colleagues to pass the House version today without any changes so that we may send this important legislation to the President very quickly.

By and large the Senate report on S. 2245 states our position on the final bill. This is particularly true with respect to the sections on congressional findings, the policy statement, entry policy, restriction removal, ratemaking, rate freedom, collective ratemaking, private carriage, contract carriage, insurance requirements—indeed virtually everything except for the exemption section where the main differences between the two bills lie. That Senate report will certainly be part of the legislative history on the legislation.

At this time I would like to compliment the leadership of the House Public Works Committee for their outstanding efforts in developing and moving this legislation. We worked closely with BIZZ JOHNSON, JIM HOWARD, BILL HARSHA, and BUD SHUSTER. There would be no bill without their impressive efforts.

Mr. PACKWOOD. Mr. President, I would like to ask the distinguished chairman of the Commerce Committee about certain parts of the bill that we are now considering. I notice that the genral entry provisions in the House bill are somewhat different from those in S. 2245. Does the Senator think the differences are of great substance?

Mr. CANNON. Definitely not. I think the entry sections of the two bills are very much similar and I would not recommend that the Senate adopt the House bill if I did not. The House goes into a little more detail as to what constitutes a prima facie case for an applicant, but otherwise the thrust is very much the same. I would expect the ICC to read this entry section, not in contrast with the Senate bill, but in contrast with existing law. Under existing law there is a positive test that public convenience and necessity must be required before the application is approved. The House bill, in contrast, changes that standard to consider simply whether the application would be inconsistent with the public convenience and necessity. It therefore preserves intact the presumption in favor of entry and competition contained in our version of the legislation.

Mr. PACKWOOD. I would agree with that statement. Some have expressed concern, however, that the House bill is really insufficient change or no change at all. I think these people are very misdirected. The language is dramatically different from the existing statute and the Commission should be fully aware of that. The bill simply says that there must be a minimum case presented by the applicant that the service would fulfill a public need or satisfy a demand for the service. That showing can be made by anyone—including the applicant all alone if the applicant so chooses. There will no longer be the requirement of showing specific shipper support in every geographical area of the service proposal.

The Commission should not refuse to grant an application simply because there is not specific shipper support evidence for every aspect of the service. Usually shipper support, or even the evidence of existing operations, will be indicative of a much broader potential support for the proposed services and should be considered by the Commission as such. Indeed, there need be no specific showing of shipper support at all if the applicant can show other factors that prove a public need. Among those factors that could be raised are that competition would be increased, or service would be improved. The House report says that shipper support would still be effective evidence, but that there should be no restriction on how carriers should prove their cases. I would agree.

Mr. CANNON. Indeed, that is right. In the legislation we admonish the ICC to follow the direction of the new law faithfully—and we mean it. We intend to hold oversight hearings at least once a year for the next 5 years. During these hearings, the Senate Commerce Committee will carefully monitor the Commission to be sure that our new liberalized entry policy is implemented promptly and effectively. We expect the end of long delays, the end of narrowly granted authority, the end of expensive litigation, the end of virtually all oral hearings, the end of frivolous protests, and the beginning of a new era in which those who feel that they have a service to offer to the public have an opportunity to do so. The fact that another carrier is performing the service is no longer an obstacle to acquiring new authority.

Those who want to offer new or innovative services will not have to provide countless statements of shipper support—indeed they need not provide any specific shipper support at all if they themselves can show the need or demand for such service.

Mr. PACKWOOD. The House report on the legislation is unequivocal on that point. In fact, I think it is worth quoting the House report language to underline the congressional intent. In the first place, the House states that the showing of public demand or need may be made by anyone in support of the application—including the applicant itself. While the House Public Works Committee notes that shipper support is, in their view, the most effective way to demonstrate public demand, the report clearly states that this is not the only way a case can be made. According to the report:

> The Committee does not intend to restrict the Commission in which factors it can consider in determining whether the proposed service is responsive to a public demand or need.
>
> These factors include the following: A need or demand for new services, innovative quality or price options, increased competition, greater fuel efficiency, improved service for small communities, improved opportunities for minorities, and any other benefits that would serve a useful public purpose.

Any one or more of these factors will be sufficient to create a presumption that an application should be approved. Once again quoting from the House report, there is—

> A presumption that the grant of the application is consistent with the public convenience and necessity if the applicant demonstrates that the proposed service will serve a useful public purpose. The committee believes that placing the burden of proof squarely on persons opposing issuance of the certificate is clearly required by today's conditions in the motor carrier industry.

I want to assure the Commission that these views also reflect the views of the Senate on this very important issue.

Mr. CANNON. I would also agree. In addition, I would think the Commission should read the new entry standards in conjunction with the restriction removal section. In other words, the grants of authority under the new law should not continue to be the extremely narrow geographic and commodity grants that are noted throughout the hearing record. Under the restriction removal section, existing carriers have the opportunity to rationalize their operating authority and be able to serve wider areas and carry more commodities. Certainly we would expect no less for new applicants.

Mr. PACKWOOD. I would certainly agree with that. I would be terribly disappointed to see a continuation of the restrictive type of certificates that so many carriers have now. In addition, the new law gives the ICC the kinds of procedural tools to greatly expedite applications and to reduce the paperwork and expense associated with pursuing applications. I hope that the Commission will take full advantage of these procedural provisions. There should be no burdensome requirements that the applicant must provide notice to any carriers who might wish to object. The notice requirements are clearly placed upon the Commission. The applicant should not be placed in the position of having to provide notices which would merely generate opposition to the application. Moreover, the restriction removal section in particular should not be read narrowly. It is meant to be strong and meaningful—and should be implemented at face value.

Mr. CANNON. Some argue that the House bill and the Senate bill are quite different, and that the difference is with respect to transportation of processed foods. Naturally I had hoped the House would adopt the Senate approach, but they chose not to do so. Instead, they adopted a modified provision that would provide opportunities to certain independent owner-operators to haul processed food. This is a positive step, but if it is to benefit the users of this transportation and ultimately consumers, then the Commission must bend over backwards to simplify procedures for those applying for such authority.

The House report on this provision indicates that there should be a minimum of regulation of this type of carriage. We expect the ICC to implement this by proving simple forms for entry applications, the most minimal tariff filing requirements possible, and by instructing enforcement personnel to do nothing that would discourage participation by currently exempt carriers. Our intention is to provide opportunities for owner-operators and to lower food transportation costs. We will examine the operation of this provision next year and if, for any reason, it is not providing the healthy competition intended; we will consider legislation to revise it.

Mr. PACKWOOD. One other point I would like to make. The House put in the statute language that we had in our committee report clarifying that the removal of antitrust immunity for single-line rates does not apply to joint rates or general rate increases. That leaves the current law intact for those categories. Of course, the ICC will continue to examine rate bureau agreements to insure they are consistent with the national transportation policy. If any such agreement is used to subvert the intent of the statute to have full price competition—without collusion—in individual single-line rates after 1984, then we expect the ICC to use its authority to disapprove such an agreement.

Mr. CANNON. The Senator is absolutely right about that. I have another concern that has not really been addressed in the debate to any great extent, and that is the question of carrier fitness. I actually did not think this was a problem at all, but recent decisions by the ICC give me pause for concern about how it will judge fitness of carriers under the new legislation.

I think we have to make it crystal clear that the fitness test is not intended to become a barrier to entry in lieu of the traditional public convenience and necessity test. The Commission should not make a fitness finding on the basis of whether it likes or dislikes the applicant, or whether the applicant is applying for wide-scale authority or narrow authority, or on the basis of rumors that are not substantiated in the record and which the applicant cannot rebut. The fitness test should be one concerning whether the applicant is likely to harm the public or violate the law.

The Commission should remember its own stated policy—the fitness test should not be used as a punitive measure directed against an applicant's past conduct, but instead used as a prospective safeguard to protect the public from a carrier which demonstrates its unwillingness to operate in conformity with the Commission's requirements. I would think that shipper satisfaction with a carrier would play an extremely important part in the fitness test as well. I was, quite frankly, very concerned to read about a carrier that has had no violations of Commission regulations for the past 2 years and absolutely no shipper complaints, and yet was found to be unfit by the Commission. I hope this does not signal a new restrictive entry policy by the ICC or a warning that women and minorities are not welcome to join the trucking industry.

Mr. PACKWOOD. I must say that I could not agree more with the distinguished Senator from Nevada. If there is one thing that the Commission must be sensitive to above all, it is the need to provide an atmosphere where small carriers, minorities, and women who want to get into the business do not have the insurmountable barriers that they have faced throughout the years. I think that it bears repeating so that the Commission fully understands.

The legislation sets new standards for entry—not merely new evidentiary rules. A new era is beginning. Congress is not simply rubber-stamping existing Commission policy. We have designed a new policy for the future and one that stands independently. The ICC must throw away. There has always been a balance implementation of the new law right away. There has always been a balance between pricing freedom and entry freedom. In the absence of regulation of prices, competition is the force that is necessary for keeping prices at reasonable levels. The Commission must be sensitive to this fact. The House bill before us provides wide pricing freedom even sooner than the Senate bill did. Thus there is even more need for effective competition or potential competition right away than there was with the Senate bill.

Mr. CANNON. Once again, I completely agree with the distinguished ranking minority member of the Commerce Committee.

Mr. PACKWOOD. I have a question about another section of the bill which deals with intercorporate hauling. In section 9 of S. 2245 we included in subsection (b) an amendment to section 10102(13) of the Interstate Commerce Act. We did so to eliminate any argument that motor carrier members of a corporate family could be excluded from providing transportation services for compensation to their corporate family members under subsection 9(a) on the same terms as other companies. The House bill eliminated the amendment altogether. If the House version is enacted, could that exclude motor carriers from the right to engage in intercorporate hauling under section 9(a)?

Mr. CANNON. We have looked into this question carefully. We are satisfied that the result would be the same under our final amended version of subsection 9(b) in S. 2245 or under the House bill. Section 9(a) does not exclude motor carriers from the category of persons who may engage in intercorporate hauling and therefore they may do so. The language in the amendment to which you refer is, accordingly, not necessary. As the Senator will recall, it was intended to clarify the initial language of subsection 9(b) which would have amended section 10102(13) in other respects. Once the entire amendment is dropped, as in the case of the House bill, there is no basis for an argument that motor carriers would be excluded from engaging in intercorporate hauling under the provisions of section 9(a).

Mr. PACKWOOD. One final thing. I am concerned about the independent owner-operator section relating to transportation of processed foods. I can see from the House report that there is no intention that that section be read narrowly. For example, if a truck is owned by a husband and wife, either should be allowed to drive the truck, or if a partner owns a significant interest in the truck, that person should be able to drive the vehicle. I would also expect that the provision would not be limited to owner-operators already hauling exempt produce. New owner-operators are welcome to use the provision and the ICC should give these new entrants, as well as present exempt haulers, at least a year to develop a balanced series of hauls to fall within the 50-percent limitation of the provision. Business cycle and seasonal variations are among the important factors affecting the ability of the trucker to balance loads of processed and unprocessed foods. Measurement of balance, for both current and new operators should reflect this reality.

One point regarding the House insurance provision. The Secretary of Transportation is required to report to Congress on the ability of the insurance industry to provide the coverage required in the bill—$750,000 for bodily injury and property damage liability. I want it to be clear that the Secretary is to examine the impact on the competitive market for commercial motor vehicle insurance rather than residual markets which are operated under the laws of some States. If the Secretary considers the residual market, motor carriers with good safety records may end up subsidizing less safe motor carriers. Does the Senator agree with this interpretation?

Mr. CANNON. Yes, I agree.

Mr. MELCHER. Mr. President, I am still opposed to the bill, particularly as there is no provision made to set uniform weights and lengths standards for trucks operating on our Nation's interstate highways. It is my understanding after talking with Congressman JAMES HOWARD that it is the intention of the House committee to consider the truck safety bill as passed the Senate which has a provision for these uniform weights and lengths standards. I anticipate an opportunity for consideration of this matter by the House and appreciate Chairman CANNON's interest in this measure.

Mr. CANNON. I have spoken to Congressman HOWARD and received a similar assurance that the House committee will consider the truck safety measure with uniform weights and lengths in this Congress. I share the Senator's strong desire to see this Congress address this very important issue—particularly with regard to uniform weights and lengths—and I will work with him to see an equitable solution reached in this Congress.

Mr. WARNER. Mr. President, we have witnessed four major pieces of deregulation. During the last session of the Congress it was the airline industry. This is trucking, No. 2.

We anticipate that in this session we will completely deregulate for railroads and communications.

Mr. President, these legislative steps were taken in response to what we in Congress perceive as a nationwide desire to proceed toward greater deregulation. I have, as one Senator, given my support to this movement, but I also promise Americans that I, as one Senator, will be acting in oversight of these pieces of regulation to make certain that the pendulum has not swung too far.

We are now witnessing, in the airline industry, quite a substantial rise in the cost for air travel. I think it will soon become the obligation of Congress to determine the cause for this increase in expense to travelers. That is one example of how we must, in our oversight responsibility, examine what we have done in connection with the deregulation bill.

● Mr. LONG. Mr. President, I congratulate the Members of the House of Representatives on their passage of H.R. 6418. On the whole, this legislation would accomplish essentially the same changes in regulatory approach to the motor carrier industry as would occur under S. 2245.

I endorse the balanced approach to changes in the area of entry which are contained in H.R. 6418. H.R. 6418 recognizes that healthy competition is an important objective that should be fostered as one of our important national transportation policy objectives. This new objective is to be carefully weighed along with other important objectives such as a productive energy efficient industry, the ability to attract adequate capital and to earn reasonable profits and fair working conditions and wages for industry employees. Service to small communities and to small shippers is also prominent among the objective which are to be carefully considered by the ICC in its decisionmaking process.

In sum, H.R. 6418 provides a balanced approach to change which should not lead to disruption of this essential industry. Through this approach there should be adequate opportunities for those who seek to fulfill the transportation needs of our economy and the assurance that we will continue to have a responsive motor carrier industry able to respond to all of the needs of our changing economy.

With regard to section 8 of S. 2245, which was retained by the House in amended form, this section is intended to clearly establish that cost-justified customer pickup allowances may be offered in the distribution of food and grocery products sold under a uniform zone pricing system. The purpose of this provision was to cut costs for retailers and consumers by saving energy and improving efficiencies in transportation through additional encouragement to customer pickup in the form of greater discounts than presently available. The example found on page 20 of the House report would result in the "actual" allowance granted being less than the "average" cost of transportation to the three customers in the example. That would be an unusual situation. The determination of "actual" costs should be based on the actual costs the seller would have incurred had the seller performed his obligation of delivery under the uniform zone delivery price. In other words, if a common carrier would have provided the service, the published common carrier rate could be used. If a contract carrier would have performed the service, the contract rate could be used. If the seller leases trucks or uses its own trucks, it should know its own actual costs and those could be used.●

● Mr. KENNEDY. Mr. President, the Senate has today passed legislation which will substantially reduce and reform Federal regulation of the interstate trucking industry. Senate passage of S. 2245, the Motor Carrier Reform Act of 1980, follows action by the House of Representatives yesterday. I want to commend the leadership of the House, and particularly Congressmen JIM HOWARD of New Jersey and BIZZ JOHNSON of California, for their dedicated efforts to insure passage of this legislation.

The House bill is closely similar to its earlier Senate counterpart. Because the two bills differ in only minor areas of interpretation, I urged that the Senate adopt the House version in order to avoid the necessity of a conference with the House, and that we proceed with the important business of infusing a measure of competition in this industry that it has not seen in 45 years.

The legislation Congress has now enacted embraces the most essential elements of needed reform in the current system of Federal trucking regulation which I have been urging for several years:

It liberalizes entry into the trucking business;

It removes unnecessary and fuel-wasteful restrictions on carrier operations;

It restricts the application of antitrust immunity for ratemaking activities;

It allows carriers considerable latitude in establishing new rates.

In sum, the Motor Carrier Reform Act of 1980 gives the trucking industry the competitive tools with which it can meet the economic challenges of the eighties.

While the bill represents a major achievement for this Congress, we should remember that its enactment does not complete our work in this area. In addition to the strict oversight responsibilities which are imposed on Congress to insure that the ICC faithfully implements the reforms the bill calls for, there are remaining issues which will again be before us in the years to come. Indeed, the Senate and House chose not to address at this time several of the most difficult and controversial aspects of trucking regulation, deciding instead to refer them to a newly-created Presidential commission for further study and recommendation. These issues include the need to eliminate antitrust immunity for the setting of all kinds of rates, single as well as joint-line, and the need to reform the process by which industrywide rate increases are discussed and considered.

Despite these omissions, the Motor Carrier Reform Act of 1980 is an important first step on the road to full reform of trucking regulation. I believe it will stand as one of the most important accomplishments of the 96th Congress. I am proud to have been a part of this effort; and I intend to continue to work to insure that the American economy reaps the benefits of a fully competitive trucking industry.●

Mr. BAYH. Mr. President, under the entry, it will be incumbent upon the Commission, and I repeat Commission, to balance the various factors in the National Transportation Policy.

This will include assurance of service to small communities and small shippers, increased opportunities for minority entrepreneurs, and fair wages and working conditions.

Certainly, these objectives can be attained through a fair administration of the act and at the same time have an industry of healthy competitors. However, competition in and of itself—the total deregulation approach—is not to be the objective of this law.

My view is not only reflected in the act itself, but the floor managers of the House bill have similar views.

Thus, in a discussion between Congressmen Howard and Harsha, the following was said:

> Mr. Harsha. While competition is an important factor, additional competition, in and of itself, is not necessarily a sufficient basis for granting new authority.
>
> I would ask the gentleman from New Jersey (Mr. Howard), am I making a correct statement as to the intent of the committee and as to the manner in which we expect the ICC to administer this legislation?
>
> Mr. Howard. I would say essentially the gentleman is absolutely correct in his statement.

A corollary of this is that an applicant for operating authority must show shipper support to establish a prima facie case.

Finally, it is my understanding the ICC is in the process of establishing rules to implement this legislation. I would urge the agency to measure these proposals within the framework which is the basis of this legislation—balance and fairness to shippers, those who work in the industry, those who use the industry, and the consuming public.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESUMPTION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the period for routine morning business, and that Senators may speak therein not to exceed 1 minute.

TOM BETHELL WINS JOURNALISM AWARDS

Mr. HATCH. Mr. President, it was with great sorrow that I read of the financial demise of Harper's magazine. It has been reported that the Minneapolis Star and Tribune Co. has been unable to find a buyer for the magazine and will stop publication of Harper's after the August issue. Harper's is widely recognized for its excellence, but because of the rising costs of paper and postage, the magazine is unable to survive financially. I will sorely miss Harper's. It has carried many superior analyses of current, public issues.

One of the main reasons for Harper's distinction in recent years is the writings of Tom Bethell, a Washington editor of the magazine. Tom's articles in the field of economics have explained some of the most complicated issues as clearly as any I have read. And while educating the reader on the issue, Tom also entertains him with eloquent prose. In a short period of time, Tom Bethell has established himself as one of the best writers in journalism today.

Tom's accomplishments have not gone unnoticed. Already he has won three awards for two of the articles he published in Harper's during 1979. His article, "The Gas Price Fixers," in the June 1979 issue of Harper's won first prize in the 1979 Media Awards for Economic Understanding, sponsored by the Amos Tuck School of Business Administration at Dartmouth College. These awards seek to encourage and reward noteworthy contributions of media which effectively explain aspects of the American economic system to the average reader viewer. His article, "Fooling With The Budget: How Congress Causes Inflation," in the October 1979 issue of Harper's has won two awards. The John Hancock Awards for excellence in business and financial journalism program gave it first prize in the national magazines category. It has also won an honorable mention from the Gerald Loeb Awards for distinguished business and financial journalism, often referred to as the "Pulitzer of financial journalism."

I congratulate Tom Bethell for these distinguished awards and commend his writings to my colleagues. I am sure that, despite the demise of Harper's, we will be seeing a lot more of Tom Bethell's writings in other publications. I ask unanimous consent to have printed in the Record copies of Tom's award-winning articles and the announcements of the various awards.

There being no objection, the articles were ordered to be printed in the Record, as follows:

THE GAS PRICE FIXERS

From time to time, American politicians assume the responsibilities of businessmen by adjudicating the price at which this or that commodity shall be sold. We can be grateful that this does not happen more often. When politicians decide to wrest control of the market, they are inclined to discover in themselves great funds of virtue and compassion, in consequence of which they decide to set a "fair" price, a "just" price, which usually turns out to be a low price. This is because the consumers of a given commodity will always heavily outnumber the producers of it, while all alike have one vote. The resulting low price tends to discourage the producers, who may well go into a new line of business—preferably one that has been overlooked by the politicians. A shortage of the original commodity results.

The foregoing is a brief history of natural-gas production in the United States in the past quarter-century. Some may notice that the description equally applies to apartments in cities where rent control has been enacted; it applies also to numerous other commodities in various centuries and countries. Robert Schuettinger and Eamonn Butler, in their recent book *Forty Centuries of Wage and Price Controls*, demonstrate that time and again price controls have led to shortage. In the United States this began with the American Revolution, when a food shortage at Valley Forge was brought about by regulated prices that had, according to the historian Albert Bolles, "precisely the opposite effect to that intended, for prices were increased rather than diminished by the adoption of the measure."

At first sight an arid topic, no doubt of interest only to legal specialists and fine-print readers, natural-gas pricing turns out upon examination to be among the most ideological issues of our time; the subject (according to one estimate) of the most protracted and heated Congressional debate since World War II (the voting on this issue alone constitutes a fairly accurate litmus test of the ideological composition of Congress); its history offering an unrivaled glimpse of the way good legislative intentions can turn into a nearly insoluble bureaucratic muddle. It is the regulatory case history *par excellence*.

PRODUCTION AND PRICING

Natural gas—methane, in its most common form—is an efficient, high-Btu (British thermal unit) fuel, used in industrial boilers and, to a lesser extent, for domestic consumption (space heating and cooking). It is similar to, but not to be confused with, old-fashioned low-energy coal gas (used to light streetlamps in Sherlock Holmes' London). On a Btu-equivalent basis, natural gas accounts for about 30 percent of U.S. energy use, and is distributed through 200,000 miles of pipelines, representing assets of $26 billion. It is by far the most desirable source of energy from the point of view of environmental cleanliness. For this reason, the deregulation of natural-gas prices has been supported by the Sierra Club and other environmental groups, on the theory that higher prices would force conservation of the fuel. About 20 trillion cubic feet (Tcf) of natural gas is consumed annually in the United States.

In discussing price, the unit normally used is 1,000 cubic feet (Mcf), an amount of gas with the same energy as one-sixth of a barrel of oil. Thus, the energy in a barrel of oil selling for $12 could be replaced at the same cost by natural gas if the gas were sold for $2 per Mcf. The question of natural ags "reserves" will be taken up later, but suffice it to say that according to almost all estimates, it is now believed that there is more natural gas still underground than anyone imagined a few years ago. According to the Pitts Energy Group (of independent procedures) in Dallas, "vast supplies" of natural gas remain to be produced (the word produced in gas industry parlance means "taken out of the ground"). The Pitts study reports that "over 20 years of low prices have left 98 percent of prospective sediments untouched by drilling." Writing in a recent issue of The Public Interest, Rep. David Stockman of Michigan noted that 97 percent of the natural-gas resource base "has yet to be disturbed by a production well bore."

Natural gas was first discovered in conjunction with oil-well drilling after the first world war, primarily in Texas, Oklahoma, and Kansas; but it did not become an important source of energy until after World War II. In the early years it was simply "flared off" at the wellhead, because without pipelines and a system of distribution, there was no way the gas could be used. Toward the end of the 1930s, however, such a distribution system was under construction, and in 1938 Congress passed the Natural Gas Act, which brought interstate pipelines under the control of the Federal Power Commission (FPC). Since consumers obviously could not easily switch to a different utility company, the FPC was empowered to regulate pipeline and utility prices. But the wellhead price—the price of the gas coming out of the ground—was not regulated.

This changed in 1954, with the Phillips Petroleum Co. v. Wisconsin case, a landmark decision embedded in the consciousness of oil- and gasmen everywhere. Phillips Petroleum wanted to raise the price of natural gas to 4 cents per Mcf—up from 3 cents (an almost unbelievably low price, showing how Americans easily became accustomed to the idea of energy as a practically free commodity). The city of Milwaukee objected to this increase, however, and appealed to the FPC. The commission ruled that it could not control wellhead prices, but this decision was appealed to the U.S. Supreme Court, which reversed the finding and ruled that the FPC did indeed have the authority to control the wellhead price.

Almost immediately, there was a move in Congress to amend the Natural Gas Act specifically to exempt the gas producers—i.e., those who were out in the field drilling for oil and gas—from price regulation. The desired amendment, called the Harris-Fulbright bill, duly passed Congress in 1956. Then came another development that the gas industry looks back on with a good deal of wistfulness. President Eisenhower vetoed the bill. The problem was that the Republican Senator from South Dakota, Francis Case, told the Senate that he had been offered a $2,500 campaign contribution by a representative of the Superior Oil Company of Texas—payable on the understanding that he would vote for the bill.

Eisenhower liked the idea of natural-gas deregulation, he emphasized, but he nevertheless vetoed it, pointing out as he did so that "a body of evidence has accumulated indicating that private persons, apparently representing only a very small segment of a great and vital industry, have been seeking to further their own interest by highly questionable activities."

In the next twenty-two years, attempt after attempt would be made to deregulate natural-gas prices, in almost every Congress. But never again would the measure pass both Houses.

In Senate debate of the Harris-Fulbright bill, Sen. Thomas C. Hennings of Missouri, who opposed deregulation along with thirty-seven others, including Sen. John F. Kennedy, pointed out that "the greatest enemy within the country of a truly competitive free enterprise is the creeping, and hidden, and camouflaged monopolist who, year in and out, has sought to fix prices. . . . That is what the real originators, within the big oil companies, of the pending measure aim to do. . . ."

There was a double irony here, and indeed there still is, because much of the same, "big oil monopolist" rhetoric is heard today, and in fact has never ceased being a part of public oratory ever since oil companies came into existence. The irony was that to avoid an alleged monopoly, that of "big oil," the Senator urged refuge in a true monopoly, that of government pricing.

The other irony, and it is a sad one, is that natural-gas production never was anything remotely resembling a monopoly, nor is it today (even if it is true—as it is—that the largest natural-gas producers are also oil companies). It is important to clarify this because the image that we all semiconsciously tend to share when the words "natural gas" are uttered is the cartoon image of . . . the hand on the valve. A pipeline is heading off into the distance, a cactus beside it, perhaps, or a sand dune, and in the foreground there is a big wheel valve, and standing nearby there is a large Texan smoking a cigar (or more likely, these days, an Arab wearing a burnoose)—with his hand on the valve. And you understand that he is shutting it off. Then he will wait for the price to go up. (Similar fantasies have long been entertained about shipping magnates ordering their freighters to wait offshore for a month or two.)

Now, as far as the Arab countries are concerned, where monarchs with medieval power run the whole show, the hand-on-the-wheel image undoubtedly has a good deal of truth to it. But for Texas—or Louisiana, which is now the most important natural gas-producing state—the image of the single pipeline with the strategically placed valve is utterly wrong. It would be more accurate to think of the pipeline systems in the Gulf-states area as resembling the diagram of the New York subway system metastasized a hundredfold: shut one valve off and there are still a thousand alternative ways the gas can flow to its destination.

It is instructive that no one knows exactly how many natural-gas producers there are in the United States—there are so many of them. It is estimated that in the 1950s, however, before the wellhead price was effectively regulated, there were 20,000 independent producers. With price regulation, this number dropped to about 10,000 in the early 1970s; today the number is up again, to perhaps 12,000 independents (defined as companies that produced less than 10 billion cubic feet annually).

The industry is highly competitive, with an entry cost that is low compared with that of many industries—$4 or $5 million, according to David Foster, president of the Natural Gas Supply Association in Washington, D.C. "All you need," he said, "is enough capital to buy a lease, hire a geologist, a rig, and a drilling crew." By 1960, there were 5,600 producers selling gas to the interstate pipeline system. The twenty-two largest sellers in 1961 sold 55 percent of interstate gas, which is a lower level of concentration than is found in the average manufacturing industry. Sales by the largest producer have never exceeded 9.2 percent of the market (achieved by the Humble Oil Company in 1971).

Despite these facts, the Federal Power Commission (following orders from the Supreme Court) set about the task of regulating the wellhead price of gas, and was so successful that the price of new gas contracts actually was somewhat lower in 1968 than it had been in 1960. The inevitable result of rigid price controls was soon felt.

By September, 1968, Robert B. Helms noted, in a booklet entitled Natural Gas Regulation: An Evaluation of FPC Price Controls, that the commission was slowly becoming aware of a looming shortage of natural gas. In fact, 1968 was the first year the American Gas Association reserve data showed annual consumption to be larger than additions to reserves. . . . By 1971 the FPC had gone to great lengths to document the shortage situation brought about by declining exploratory drilling and growing demand.

But there was another element to the story, and it is what has made natural gas a favorite topic for students of government regulation. As long as the gas did not leave the state in which it came out of the ground, it was not subject to price controls. This was called intrastate gas: produced, for example, in Morgan City, Louisiana, and sold in Baton Rouge, Louisiana. Thus, by the late 1960s a dual market had developed: a market for gas that crossed state lines (regulated); and a free market for gas that did not. Until the mid-Sixties, the interstate price of gas was about 2 cents per Mcf higher than the intrastate price (16 cents and 14 cents per Mcf respectively). This ensured that new gas discoveries were constantly committed to the interstate market—i.e., were "signed up" for delivery to the big consuming areas of the Northeast. The critically important changeover occurred in about 1970, when, because of growing demand in the producer states (especially the movement of many petrochemical companies to Texas and Louisiana), the free-market price of gas (by then about 20 cents) moved above the regulated price (18 cents). At that point, new gas was rarely committed to the interstate market. It was kept in its home state whenever possible. That was really the beginning of the "energy crisis."

This dual market is of particular interest because it has in addition had the unintended effect of creating a "controlled experiment" in the realm of government regulation. The effect of price regulation in the interstate market could be compared with the behavior of a free market in the same commodity.

THE DUAL MARKET

The threatening energy crisis of the early 1970s was hastened along because many of the long-term contracts that interstate pipeline companies had signed with the gas producers in the 1950s were beginning to expire as the '70s progressed. The dual market meant that the pipeline companies began to encounter considerable difficulty in buying new gas to replace the old—not because it wasn't there to be had, but because the gas producers did not want to sell it to the interstate pipelines at a low price when they could sell it within the state at a high price. By 1974, for example, the disparity between the two markets was equivalent to a factor of four: 26 cents per Mcf interstate; more than $1 in the free market. Less gas began to flow through the interstate pipelines, therefore, and shortages developed. Demand for the fuel nevertheless remained high because of its artificially low price.

In the realm of natural gas, then, this dual market and its inevitable economic effect simply became the "energy crisis." That was all there was to it. But this was rarely understood, because whenever someone began to suggest that the energy crisis was not "real"—as in a way it was not if it was merely the product of government folly—then many people would interpret this to mean that the crisis was unreal in the sense that the gas producers were "withholding" the fuel from markets. This was perfectly true, of course, but not in quite the way that the skeptics imagined. But before examining these two senses of "withholding," it is important to realize that there was another cause of the energy crisis as it affected natural gas: the quadrupling of prices in 1973 by OPEC.

Many people have failed to understand the pyschological effect of this, because they have imagined that whatever oil and natural gas is still underground in this country is no doubt "owned" by some half-dozen huge oil companies. (People are inclined to believe this, because when they say "fill 'er up" at the gas station, they are likely to be dealing with Exxon or Texaco or any one of a small handful of large companies.) But, in fact, oil and natural gas "in place" are owned by a combination of landowners and those who own mineral rights to these lands. Many of these rights are indeed leases owned by "big oil." But many are not. It is estimated that as many as 1.2 million Americans are "royalty owners" of oil and gas: people who own the geologically appropriate land or have leased such land (about one-third of these royalty owners are in Texas).

The effect of the OPEC price increase was for these landowners and leaseholders—often lawyers or otherwise fairly wealthy people who were not in desperate need of ready cash—to mentally join OPEC. They knew that their own oil and gas, even though still under the ground, was now "worth" the new high price.

There was, however, a strong incentive for them to keep it under the ground, because the government in its wisdom was telling them that they could sell it only for a fraction of what they perceived its true value to be. (They perceived correctly, too, in view of the subsequent failure to produce "alternative energy" below OPEC prices; this is another way of saying that OPEC's price increase itself was not, as some seem to think, "excessive.")

This outlook—mentally joining OPEC—applied to oil as well as gas, of course, because oil's price had been frozen domestically in the wage-price controls imposed by President Nixon in 1971, and these price controls were still in effect at the time of the OPEC price increase. Precisely because of this price increase, it then became politically difficult to remove the domestic price controls on oil, which remain in effect to this day—President Ford, having refused to avail himself of an opportunity to remove them in 1975 (perhaps the most serious economic error of his Presidency). President Carter has now promised to decontrol oil over the next two years. He also wants to tax away much of the "windfall profits," on the peculiar theory that Americans will feel better about paying more for oil if the money goes to the government rather than to oil companies.

Government policy has therefore skewed the oil market in favor of foreign rather than domestic production (there are additional, complex reasons for this), but government policy even more seriously skewed natural-gas production in favor of the free rather than the regulated market. Leaseholders and land-owners who wanted to sell their wares were quite happy to do so—as long as the pipeline to which the well was connected did not cross a state line. For example, in 1973 Gov. Edwin Edwards announced that a large natural-gas field had been discovered in Plaquemines Parish, in southern Louisiana. It contained enough gas to fill all of New Orleans's energy needs for fifty years. The problem was that the only pipeline anywhere near the field went heading straight off to Washington and New York. The governor announced that the field would not, therefore, be developed until it could be reached by an intrastate pipeline. Why send the gas to the very people who were ordering that it be sold at a fraction of its value?

The South had lost the other war between the states, but this skirmish they were determined not to lose. Since the most important producing states were in the South, government policy had indeed created new hostilities. The way many residents of Texas, Oklahoma, and Louisiana saw it—and not just oilmen in those states but almost anyone who read the newspapers—the people up there in New York and Washington and Boston were reluctant to look for oil and gas themselves, especially offshore, because to do so might spoil their view or pollute the beach or make the air dusty. "Thanks, but no thanks," the northerners were perceived as saying to the South. "You go on drilling up your bayous or swamps or whatever it is you have down there, and go on sending us the stuff at one-eighth of its true value!"

One might interpolate here the basic point that the energy crisis has often not been understood because people find it hard to believe that quite ordinary economic incentives (sometimes disparaged as "lemonade-stand economics") apply on the large scale of the natural-gas industry just as much, and in precisely the same way, as on the small scale of the individual. The problem has been that a number of quite influential people—Congressmen, for example—believe this ought not be the case, even if in fact it is. Pro-regulation liberals in Washington—people who may in some instances have arrived in the capital during the Kennedy Administration, bought a house there in 1961, and since seen the value of that house increase by a factor of eight—would perfectly well understand that a "housing shortage" would result if President Carter, taking pity on newcomers, were somehow to decree that no house in the capital could be sold above a certain (low) price.

Houses would not be sold, and a "housing crisis" would ensue. In the same way—just the same way—there was an energy crisis. With energy, however, the advocate of regulation is inclined to say that things ought to be different. Perhaps he is right, but in reality they are not different. Nor will they be until the day comes when the government passes laws compelling landowners to extract their natural gas, compelling them to sell it on the interstate market, and so on. Perhaps, then, the problem has been that some lawmakers have not fully appreciated how much the economic system depends on—and is at the mercy of—voluntary behavior.

As a result, bumper stickers began appearing in the South recommending that Yankees should be allowed to "Freeze in the Dark." Congressmen, "consumer advocates," and a new breed of "energy activists" from the big consuming regions of the Northeast then began retaliating with accusations that natural gas was being "withheld" from the market. Perpetual confusion has surrounded this point, since there are two senses in which "withholding" can occur. To their own detriment, the oil and gas companies have not done a satisfactory job of explaining the difference between the two.

"1001 YEARS OF NATURAL GAS"

The confusion arises because the companies have denied (truthfully, as far as anyone has been able to show) that any illegal withholding of gas resulted—that is to say, "shutting in" wells that were already delivering gas under contract. But there was another sense in which of course withholding occurred, in which newly discovered gas was committed to the intrastate market (as nearly all new gas was) or simply was never taken out of the ground at all. Gas industry spokesmen call this "economic withholding," and it has been widely practiced ever since the disparity between the two pieces opened up in the early 1970s.

The moral here seems to be that as long as government has only a tenuous or partial grip over an industry (as was the case, of course, with the FPC's control over the natural-gas industry) the result is likely to be chaotic. Better to have a complete grip (which in this case would involve the power to order people to take oil and gas out of the ground), or no grip at all (which would have entailed deregulation of the wellhead price).

The deregulation "option" was continually resisted, however, by many Congressmen and consumerists, who had by this time become falsely persuaded that we were "running out" of natural gas (in which case rationing, not the free market, became the moral imperative).

To many people, the conclusion that we were running out of fossil fuel has always seemed reasonable, because it is based on a premise that is self-evident although misleading. Natural gas is "finite" and "nonrenewable" (so the argument runs), therefore we are running out of it. No one seems to have pointed out what a coincidence it was that we should find ourselves to be "running out" of natural gas just at the time when a large gap opened up between the regulated and the free-market price.

Again, the industry did not help its own cause here by casually releasing figures dealing with "natural-gas reserves"—figures that the industry understood, but that journalists, many of them grappling with "energy" for the first time, did not. Typical of many such cases was a cover story in Newsweek in January, 1973, complete with photographs, headlined: U.S. fuel reserves: how long will they last? Superimposed on a picture of a natural-gas pipeline was the figure: eleven years. (In the main text, the reader was admonished that "with but 6 percent of the world's population, the U.S. guzzles 33 percent of the globe's energy.") The reader was not told what the word reserves meant, however. The problem with it is that it suggests to the unwary a known quantity, arrived at after every conceivable subterranean cavity has been reconnoitered, measured, and its contents quantified.

There are three categories of reserves—"proved," "probable," and "possible"—and the figures that we hear whenever the energy crisis is discussed are proved reserves: very conservative figures that describe a working inventory of natural gas in wells that have already been drilled. As the cost of drilling a gas well is now more than a quarter of a million dollars, on average, and as with any given bore there is only a one-in-ten chance of finding gas, it does not come as a surprise to learn that the vast majority of potential gas-bearing sediments have not been drilled at all. The misleading nature of the figure given in Newsweek (and in many other journals at that time) becomes apparent when one considers that now, six years later, U.S. proved reserves amount not to a 5-year supply but to a 10.74-year supply.

The point is that, as with any other commodity, producers and sellers do not need to keep more than a certain amount of "inventory" on hand. It is not economical to do so. Reserve figures therefore tell us not so much about what is underground so much as about what projected future demanding only enough to have a sufficient supply "in reserve," just as A&P managers must decide how large a supply of Yuban or Maxwell House they shall have "in reserve." When all of this is taken into account, and especially when the incentive provided by market prices is included, the Wall Street Journal's 1977 estimate of "1001 years of natural gas" seems closer to the mark.

THE CONGRESSIONAL DEBATE

This, then, was the situation when the Carter Administration came to Washington: a lot of natural gas available—at a price—in the producing states; a growing scarcity in the consuming states. In 1976 Carter had made a campaign promise to deregulate natural gas, but in retrospect it seems clear that he just said that because he was in Oklahoma that day. Most probably he didn't understand the issue at all—the world of oil independents, roughnecks, and wildcatters being about as remote from his safe little squared-away, government-regulated, government-subsidized world of peanut storage as it is possible to imagine. And to the extent that Carter might have understood the oil and gas industry he would have thoroughly disapproved of it as a manifestation of entrepreneurial reckness very much akin to gambling: fortunes made or lost at the turn of a drill—a fundamentally immoral world, not at all like the safely incremental climate of civil servitude (5 percent per annum increase for every one) in which he had spent his entire life. Not surprising, then, that he soon perceived the energy crisis to be the moral equivalent of war. He smote the oil companies hip and thigh, denounced the special interests, and vowed to veto anything resembling a deregulation bill that might come out of Congress.

He brandished a National Energy Plan, in which the intention was to do away with the dual natural-gas market by extending price controls to the intrastate market. Professor Edward Mitchell, a frequently consulted expert on energy matters, has called this a "shortage policy." Carter, of course, was by this time surrounded by advisers for whom shortages were a dream come true: nice shortages. (Now you see why this is such an ideological issue!) With shortages, people could be exhorted to make sacrifices; taxes could be imposed to encourage conservation; and then these taxes could be repaid to the needy or the worthy—people who insulated their houses, for example. At any rate, the Carter team would have a lot of tax money to redistribute, by way of favors. In short, energy could be made into another income redistribution program.

There were, it was true, one or two clouds on the horizon, such as the director of the U.S. Geological Survey, Dr. Vincent McElvay, who did a naughty thing, giving a speech in Boston in which he said that domestic natural-gas reserves were huge ("about ten times the energy value of all [previous] oil, gas, and coal reserves of the United States combined"). He was fired shortly after that (they implied he was too old), as was Dr. Christian Knudsen, the author of a study released by the Energy Research and Development Administration concluding that at $2.25 per Mcf the nation would be "awash" with natural gas.

The only problems remaining were to get Congress to approve the taxes, and to pass a bill extending price controls to the intrastate market. Sen. Russell Long put a stop to the taxes after the House had gone a long way toward approving Carter's plan: the nation will remain permanently in the Louisiana's Senator's debt for this achievement—a rare instance in which Congressional seniority was actually put to good purpose.

As for the extension of price controls, this turned out to be difficult, too. The price in the intrastate market had by now risen to about $2 per Mcf, and at this price more and more drilling and more drilling rigs were being set up—in fact there weren't enough rigs to go around—and more and more gas was being found. More states were becoming "producer" states, too—not just in the South. Several Western states were finding a lot of gas: Montana, Colorado, and Wyoming, for example. Thus, political support for deregulation was inevitably growing with time.

Nevertheless, the House of Representatives took Speaker Thomas P. ("Tip") O'Neill's advice and passed the natural-gas bill as the Administration had proposed it. The Senate went in the opposite direction, however, despite tremendously delaying tactics by Sens. James Abourezk of South Dakota and Howard Metzenbaum of Ohio, who kept the Senate up all night at one point, so fearful were they that a deregulation bill would pass. But pass it did. Thus, the House-Senate conference committee would have to reconcile two bills that wholly opposed each other: one removing price controls, the other extending them nationwide.

Meanwhile, there was an interesting development in Texas. By the end of 1977, the high intrastate price had produced so much new gas that the price "turned around" and started to drop well below the $2 mark. The market system was working exactly as it was supposed to, in other words, but this had its alarming aspect, as Congress by this time was debating a compromise bill that would unify the two markets at a regulated price of $1.75 (as of April 20, 1977, the price would be adjusted for inflation so that by 1979, when such a bill would become law, the price would run to approximately $2 per Mcf). If however, the free market price fell much below this, there would be a danger that Congress would perceive it was now setting the regulated price too *high:* a "floor" price, in other words, rather than a "ceiling" price. There would inevitably be a move by the liberals in Congress to lower the legislated price below the new intrastate level. (Indeed, there was such a move.)

The Texas Railroad Commission, which has authority over oil and gas production rates in the state, came to the rescue at this crucial hour, putting into effect a "conservation" measure limiting output of gas, thus shoring up the price. (The rationale for this, as natural-gas industry spokesmen never tire of explaining, is that for obsecure geological reasons more gas can in the long run be extracted from a well if it is taken out of the ground slowly.)

Be that as it may, the intrastate price then held steady at about $1.95, and the Congressional debate continued undisturbed by distant price fluctuations. A coalition of centrists led by Sen. Henry Jackson of Washington supported the new Natural Gas Policy Act, which was in turn opposed by an unusual alliance of conservatives from the producing states (who didn't want the government interfering with their—comparatively free markets), and those on the ideological Left, such as Senators Metzenbaum and Edward F. Kennedy (who thought the proposed new regulated price was too high).

CONSUMER VERSUS PRODUCER

The transcript of the natural-gas debate in the 95th Congress covers hundreds of pages of the Congressional Record. But one frequently heard argument deserves to be rescued from the archives and examined before it is entirely lost from view. This is the claim by those who opposed deregulation—and Senator Kennedy was typical in this respect—that they were looking out for the interests of "consumers" by preventing the price from climbing.

The significant point is that when a customer in Massachusetts, for example, buys natural gas, only 20 percent of his bill pays for gas; the rest helps to pay for the pipeline that brought the gas almost 2,000 miles to his home. Thus, an increase in the wellhead price of gas adds only a small fraction to domestic gas bills. But—because the pipeline must be amortized anyway—if gas supplies are interrupted or reduced, as they were in the 1970s (because of the diversion of new supplies to the intrastate market), then the consumer's bill will rise considerably because the constant pipeline costs must be "loaded" onto a diminished number of customers. Therefore, regulated prices have hurt the consumer, not helped him.

This was pointed out by Warren T. Brookes in a column in the Boston Herald-American. He described a case in which:

> The total price of gas to the consumers rose in two years from $1.72 to $3.38, while the price of the raw fuel went up only 20 cents. Of the $1.66 increase, $1.44 was in the rising cost of the pipeline service. The main reason for this rise was the decline in the flow of natural gas through the nation's major pipeline. . . . This is why a study done for Brooklyn Union Gas Company in 1975 showed that if new natural gas were deregulated, and the pipelines were kept full by new gas costing $2.50, Brooklyn Union's cost to the consumer would be $3.98; but if regulation remained and the downward trend in natural gas production from the West continued, the consumer price would be $4.45.

Despite uncontroverted arguments such as this, Senator Kennedy persisted in his denunciation of higher wellhead prices, saying that they have been "burdening consumers directly and indirectly with billions of dollars in higher costs. I could not vote to saddle them with additional billions of dollars in still higher costs." A typical statement by someone favoring regulation, with the dollar-and-cents reality obscured by the rhetoric of billions.

Similar arguments were made by Senator Kennedy's former aide James Flug (who runs a well-financed anti-oil company operation out of Washington). Ralph Nader, Reps. Toby Moffett and Rev. Robert Drinan, and many others, all of whom alleged that they had the consumers at heart. This may legitimately be doubted, however, in view of the facts about pipeline costs. If only these men had taken more interest in the price paid by the consumers, rather than the price charged at the wellhead, it would be so much easier to believe their consumerist rhetoric. As it is, one is left with the distinct impression that they are more interested in making life difficult for the producers than easy for the consumers.

In any event, the "conference report" compromise passed the Senate by a vote of 57–42 on September 27, 1978, and the House later concurred by a margin of 231–168. President Carter signed the Natural Gas Policy Act into law on November 9, 1978. It extended price controls to the intrastate market, with the distant promise of deregulation in 1985—but, of course, by then a new Congress would be in Washington, and one in no way bound by the actions of its predecessors.

The new act is a lawyer's dream and a legal nightmare—sixty-two pages of fine print establishing twenty-four different categories of gas. Here is Category 6, for example:

> New Onshore Production Wells Deeper than 5000 feet: gas from new wells in an old reservoir within 2½ miles of an old well provided that new well is outside existing proration unit (applied to well begun 2/19/77 and thereafter capable of commercial production).

As Sen. Ernest Hollings of South Carolina said in the course of the debate, "We all could become gas lawyers." According to one report, some of the independents, unable to afford the necessary legal advice, have given up in disgust and gone into other lines of business—bowling alleys, for instance. The majors, of course, can easily afford the lawyers, and so one undoubted effect of the bill, as with so much of what Congress does, will be to make life harder for the small-business entrepreneur. At the same time, of course, it will make life relatively easier for the majors, all of which have plenty of lawyers on their payrolls and which will therefore be in a position to pick up any pieces of the market abandoned by the independents.

Earl Turner, executive vice-president of the Texas Independent Producers and Royalty Owners Association, says that as of March, 1970, the new gas act has been "a little short of disastrous." There has been a 15 percent decline in drilling, he said, "because of confusion in meeting requirement obligations," i.e., red tape. He said that there were 300 unused drilling rigs "stacked up," with "about 250 new rigs coming on line from the manufacturers." Before the bill was passed, of course, rigs had been hard to find. Independents, Turner explained, drill 90 percent of the exploratory wells in the United States. Most of these companies employ only half-a-dozen to a dozen people most of the time. "Now they've been asked to look at a complex law," Turner said, "and most of them simply threw up their hands."

Another fear is that it will take a long time for the new, higher regulated prices allowed under the act to take effect. By a 3–2 decision earlier this year, the Federal Energy Regulatory Commission (which has now replaced the old FPC) ruled that the price-escalator clauses written into old natural-gas contracts would not be automatically "triggered" by the new ceiling prices now allowed. "What this means," said David Foster, of the Natural Gas Supply Association, "is that the decision wiped out what some say is 70 percent of the price incentives we thought we were getting. The matter then came up for rehearing, and Energy Secretary James Schlesinger sent over some testimony saying that Chairman Curtis of FERC had been wrong. Then the commission, by a 4–1 vote, did modify its interpretation somewhat. But lawyers believe it will take three years of legal maneuvering for ceiling prices to be applied to existing contracts."

The interesting thing is that if and when these "ceiling prices" are arrived at, they very probably will turn out to be higher than the free-market price would have been. Then and only then will Senator Kennedy and his friends come out for deregulation, just as they did last year with the airlines.

There are already indications that the wellhead prices under the new act are turning out to be higher than the free-market price. The Oklahoma legislature, for example, has now passed a bill keeping the price of some gas sold within the state below the price ceiling allowed by the new act. Cal Hobson, the Oklahoma state legislator who introduced this bill, says that under the Natural Gas Policy Act "price ceilings are turning out to be price floors, because whenever they can, the producers have been claiming the highest price." There is little incentive for the state regulatory agencies responsible for ruling on these price claims to turn them down, because the higher the prices are (in some cases) the higher the state "severance" taxes are—taxes on oil and gas taken out of the ground. Most people seem to agree that this is the eventual fate of the regulated price; it becomes a price that no producer has any incentive to undercut. In the end, then, prices turn out to be higher than they would have been without regulation.

Meanwhile, there is still another provision of the new act that seriously disturbs the gas industry. This is the so-called incremental pricing requirement, which is a plan to charge large industrial users of gas more than domestic users. A few years ago, of course, this seemed like a good idea. We were then still mesmerized by the Club of Rome and the "era of limits." But after the inter- and intrastate markets were unified, a "bubble" of one trillion cubic feet of excess supply was discovered in the intrastate market. At that point, Energy Secretary Schlesinger tried to get the industrial market back. Schlesinger urges shift to gas use was the surprising New York Times headline in January this year. But the act was passed by this time, the damage was done, and plans go ahead to charge industries using natural gas a higher price.

The fear is that many industries may already have turned to oil—fed up as they are with interrupted gas supplies, low priority if it is short, and now the threat of higher prices. Rush Moody, a former FPC commissioner, spoke before the Gas Men's Roundtable of Washington in November 1978, and he said: "I have an intuitive feeling that a substantial portion of the traditional natural-gas industrial market has already disappeared and is not likely to return even though more gas has now become available." He attributed the surplus gas "bubble" to a fall-off in demand resulting from this "pressure against the industrial gas user," adding: "Though the commission is oft-times accused of inconsistency, I would have to say the one consistent philosophic guidepost which has remained steady through changes in commission personnel over the past eight years has been the very simple notion that boiler fuel consumption of natural gas is inherently immoral and must to the maximum extent of the commission's abilities be eliminated."

The result of this policy has been to force the industrial user into the market for imported crude oil. Petroleum has moved from 21.9 percent of the industrial market in 1973 to a 26.7 percent share in 1977. "How ironic," Moody concluded, "that a government avowedly dedicated to reducing U.S. dependence on imported fuels is engaged in policies which have had as their only result a greater U.S. dependence on imported fuels."

The worst effect of a continued shift of industrial users away from natural gas, however, will be once again to force domestic consumers to pay greatly increased prices for the diminished quantities of gas traveling in the pipeline. (At present, only one-third of the natural gas consumed is put to domestic use.) In effect, then, households rather than industries will be compelled to amortize the enoromus cost of pipeline construction, which, incidentally, has gone up from $120,000 per mile in 1965 to $1.7 million per mile in 1977. It was for this reason, then, that James Schlesinger recently urged industries to go on burning natural gas in their boilers.

It may be seen, then, that the government involvement in natural-gas pricing has been a disaster. It is particularly discouraging to consider how much larger the natural-gas market might have grown, as a percentage of U.S. energy needs, if the rigid price controls of the 1960s had not been in place, resulting frequently in the shunning of new gas customers. And if the market had grown, we would now be that much less dependent on foreign oil. A large part of the problem, it is now apparent, stems from the clamorous activism inherent in the word policy. Time and again, in recent years, we have been told that the United States must adopt an "energy policy." Somebody must do something about energy, and nobody seems to have appreciated that for years and years thousands of people in the oil and gas industry have been doing something, namely delivering oil and gas to U.S. consumers at the lowest price in the world. But small, and then larger, interferences in the market resulted in inequalities of supply and demand, which in turn led to the appeal that government should do even more. A Department of Energy was formed, thus creating jobs for a lot of people who had been crying out for an "energy policy," and these policymakers will be almost bound to introduce further distortions in the market. Because of their high salaries, they will not be content to do nothing, although that would probably be the best energy policy the government could adopt.

When one reads the protracted legislative debate on natural-gas pricing, it becomes apparent that the main reason legislators are unable to do anything useful in this realm is that they do not know what they are talking about. They do not have enough information at their disposal; they do not understand the business they are attempting to regulate, they are unable to act quickly enough in response to movements in the market. By no means all legislators are to blame. Many Representatives and Senators—and in recent years this has meant almost exactly half of each body—instinctively realize their shortcomings, and these are the ones who vote to deregulate. Having satisfied themselves that the industry in question is competitive, they are then prepared to let it get on with the job.

But the other half, the dangerous half, is really of a more totalitarian cast of mind, believing in their hearts that a monopoly indeed is a good thing: a government monopoly. They don't know as much as the oil and gasmen, they may concede, but they are possessed of purer motives and therefore deserve to prevail. They are concerned about consumers, not profits. They have good intentions, they know, and characteristically they find it very, very hard to believe that good intentions can produce anything but excellent results. And so they vote themselves the power to interfere—just enough to keep supply and demand out of whack.

The evidence is by now overwhelming that self-interested producers competing with one another end up serving the customer far more handsomely than idealistic legislators ever can, but unfortunately it has been difficult to persuade voters of the truth of this in recent years—especially voters with a college education. This really is the "crisis of capitalism"; until we can perceive that the independent driller whose goal in life is to become a millionnaire works to our advantage more effectively than the selfless "consumer advocate" in Washington, whose true goal surely is the attainment of personal power (even if he does call it "fairness"), then we will always have an energy crisis on our hands.

Fooling With the Budget: How Congress Causes Inflation

(The state is that great engine by which everyone seeks to live at the expense of everyone else—Frederic Bastiat)

On April 23, in the course of a debate in the United States Senate, Sen. William Proxmire of Wisconsin introduced an amendment to balance the federal budget. His plan was simple—to cut federal spending by the amount of the anticipated deficit, namely $29 billion. He made an interesting speech in favor of his proposal, asking at one point:

> Who comes to Washington to ask us to cut a particular program? You will wait a long time for an answer. Who comes? No one. Not ever. But hundreds come purporting to represent millions, asking us to increase spending for programs. Businessmen who come here from our states are never asking us to cut a particular program but asking for spending for defense contracts or home-building or public-works programs. Farmers never ride their tractors pleading for cutting anything. They come here asking for more price supports. Labor unions represent workers who suffer severely from inflation and government waste. But like business they come here to ask us to increase government spending. Governors and mayors often make great fiscal responsibility speeches and blame the squandermania of the federal government, but when they come here it is always, and I mean always, for more spending for them.

For years, in other words, all sections of society have been petitioning Congress for relief from their pressing financial needs. And Congress, which saw itself at first in the role of servant—the elected servant of the people—duly paid out as much as it was able to scrounge from the taxpayers. At first this worked well, and it seemed as though it would work forever. Farmers demanded subsidies to protect them from the rigors of free-market price movements. Businessmen persuaded Congress that it was better to bail out a large corporation than to allow any increase in unemployment, however temporary that increase might prove to be.

As long as the economy was growing sufficiently, this passing around of money from taxpayers to tax recipients seemed to be a satisfactory way for Congress to do business. Everyone seemed to be living at everyone else's expense, and hardly anyone worried or even noticed that an increasing percentage of this money was coming straight off the printing press—money with no commensurate wealth to back it up.

Slowly it became apparent to more and more people that there was a problem with this method, an increasing sluggishness. The economy was becoming alarmingly politicized. The government's share of the nation's income grew slowly but steadily. The federal budget—in deficit for nineteen of the past twenty years—reached a half-trillion dollars. Inflation proved intracable. And, so it seemed, one day we woke up (with a hangover) and our duly elected representative in Washington was no longer our servant. He was behaving as if he owned the manse.

It was in response to this transformation that the balance-the-budget movement slowly began to develop momentum. People saw that it no longer did any good to go to Washington with hands outstretched. That was how the problem began, after all. They gave you money, most of the time, but it was more and more frankly paper money, of declining value, and usually it had strings attached, too (environmental-impact statements, affirmative-action plans, forms to fill out).

By early 1979, then, it was Washington's turn to awaken with a start. Thirty states petitioned Congress for a constitutional convention that would mandate a balanced budget. This was impudence, it was generally agreed in the Capital, but it was nevertheless preferable to the earlier, related attack on Washington, the tax-cut movement of 1978. The proposals to cut the federal income tax offered by Sen. William V. Roth, Jr. (R.-Del.), Rep. Jack Kemp (R-N.Y.), Sen. Sam Nunn (D.-Ga), and others had been beaten back, but they had made for some uncomfortable moments

The Washington policy makers and Congressional leaders could at least see in the balanced-budget drive some relief from pressure. Not that they liked it. But the nice thing about a balanced budget (as the citizenry did not seem to realize) was that there were two very different ways of balancing it. You could cut spending (as Proxmire would try to do) or . . . when you thought about it . . . you could raise taxes.

THE PRINCIPAL VILLAIN

You might reply, They would not dare do a thing like that, would they? Increase taxes, so soon after Proposition 13? But if you think that, you haven't grasped Washington's cunningly devised fiscal machinery. The point is that the legislators in Washington don't have to perform the most unpopular task facing legislators elsewhere: namely, vote for tax increases. Taxes are steadily increasing all the time, thanks to the combination of inflation and the "progressive" tax code. This is a valued mechanism, because it is very nearly invisible. (On the other side, the taxpayers are becoming more and more restless because they can't quite see what is actually happening to them.)

When you get a cost-of-living pay increase (as a result of which your financial position remains the same) you are simultaneously shifted into a higher tax bracket—one in which you must send a higher percentage of your earnings to Washington. In this way, the amount of money that Washington has exacted of taxpayers in the past decade has grown astronomically (see Table 1). Bear in mind when looking at these figures that they have grown without Congress's having voted a single income-tax increase. The last year federal income-tax rates were increased was 1952. (Table 2 shows how low and high marginal tax rates have fluctuated because of legislated changes since World War II.)

TABLE 1.—U.S. BUDGET: 1970-80 ESTIMATES

[In billions of dollars]

	Revenues	Outlays	Deficit	Federal debt
1970	194	197	3	383
1971	188	211	23	410
1972	209	232	23	437
1973	232	247	15	468
1974	265	270	5	486
1975	281	326	45	544
1976	300	366	66	632
1977	358	403	45	709
1978	402	451	49	780
1979	461	494	33	830
1980	509	532	23	887

Source: Office of Management and Budget.

TABLE 2.—U.S. INCOME TAX STRUCTURE: LEGISLATED CHANGES IN LOW AND HIGH MARIGNAL TAX RATES SINCE WORLD WAR II

[By percentage]

	Low	High
World War II	23	94
1945	19	86
1948	16	82
1950	17	84
1951	20	91
1952	22	92
1954	20	91
1964	16	77
1965	14	70

Source: U.S. Treasury Department.

In the late 1960s there was a Vietnam war surtax of 10 percent, but that was phased out after two years; and there have been occasional increases in Social Security taxes—particularly last year's increase, the major impact of which won't be felt until January, 1981. Otherwise, there have been no increases in the tax rates. In fact, there have been tax cuts, most recently in 1978, when the Congress voted at the last minute a "package" of decreases including the Steiger Amendment to lower the capital-gains tax.

Therefore, although the schedule of tax rates is actually lower than it was in 1962, the average person has been pushed up higher into the schedule by inflation and consequently is taxed at higher rates. Inflation, then, is the great anonymous tax collector. That is the beauty of the system.

Consider for a moment the following figures from a Library of Congress study. They show how rapidly we are being moved up into higher tax brackets by inflation. Between 1965 and 1975, the number of people in the 20-percent tax bracket rose from 19 percent of the population to 53 percent. The proportion of the population in the 25-percent bracket increased from 7 to 29 percent of the population. In other words, many more of us are being treated by the Internal Revenue Service as well-to-do, or moderately so, even when all we are doing is keeping abreast of inflated prices.

Many voters are understandably befuddled by this invisible tax-escalator, which seems to operate independently of any legislator. The frustrated taxpayers would like to get even with the elected representative responsible for the design and smooth functioning of this devilish machinery, but they can't find him. All they know is that their man in Washington occasionally votes for a modest tax cut. The resulting frustration of the population at large has been the principal driving force behind the balance-the-budget movement.

A good many Congressmen and Senators have long since calculated that they are not threatened by any of these taxpayer revolts, however, because the recipients of federal money in their districts are grateful to them in particular, while taxpayers in their districts merely experience a generalized frustration at "the system."

So the principal villain is inflation. Without it, legislators would have to vote for tax increases. It is clear, then, that inflation is the quiet ally of big-spending legislators. Do they cause it? What is the connection between budget deficits and inflation?

When a deficit is incurred, the U.S. Treasury doesn't simply default on its debts. It borrows money from the private sector, from individual savers. in effect selling them pieces of paper called "bonds" in return for dollars. In the past four years the government has borrowed more than $200 billion which, according to Harvard economist Martin Feldstein, is about 40 percent of total private savings.

The government thus swills from the pond of private capital, and the immediate effect is to make it more expensive for people who want to borrow money to do useful things such as build factories and houses. In short, the heavy government borrowing drives up interest rates. (One of the reasons the federal budget is so large these days is that almost 11 percent of it, $56 billion, or ten times the amount spent on science, space, and technology, is required to make the interest payments to private-sector lenders.)

The increased interest rates promptly make life difficult for others in the economy who also want to borrow money, whether to start businesses or buy homes. At this point the Federal Reserve Bank comes under "pressure" (although its appointees are supposedly immune from direct political influence, inasmuch as they are not running for office and cannot be fired by the President before their terms expire) to reduce the interest rate. And here is where the truly inflationary act takes place: the Federal Reserve responds to pressure by buying back the pieces of paper called "bonds"—repurchasing them with freshly minted dollar bills. This new money enlarges the available quantity of capital, back to something like its former level, and down go interest rates again.

One could say, then, that federal budget deficits are not in themselves inflationary provided the economy is prepared to swallow high interest rates. But if one concedes that high interest rates are intolerable, then deficit spending is by far the most important cause of the expansion of the money supply, which in turn translates into generally higher price levels a year or two later.

One of the great scandals of recent and current government rhetoric is that there has been a concerted attempt by the economic leadership to deny that budget deficits lead to inflation (or play anything more than a minimal role in inflation). The government consistently tries to maintain that price increases are the cause of inflation. This is like saying that meals cause hunger.

A little demagoguery here goes a long way, of course. The public can easily see and get annoyed at the price increases at the grocery store; however, the chicanery in Washington aimed at giving politicians large amounts of money to hand out to their constituents, and the complex way of paying off the debt thus incurred, cannot readily be observed. Similarly, the "wage and price controls" approach to inflation is michief analogous to try to prevent the expansion of a balloon into which air is being pumped by putting the balloon into a box and shutting the lid.

The only way to stop inflating the balloon is to stop pumping it up. But that is a course the politicians and those other functionaries who make up Official Washington do not want to take. They could do that by abolishing deficits. But they won't. The reason they won't when all is said and done, is that they enjoy spending other people's money. It gives them a sense of power—it gives them power.

A TRANSFER OF POWER

Before joining the Senators in their deliberations, we must first go back a few years, to 1974, when the new Budget and Impoundment Control Act was passed by huge margins in both House and Senate. The vote in the Senate was 88-0. When votes are unanimous, something devilishly tricky has almost certainly escaped notice. Such was true of the Budget Act.

The idea behind the legislation was to reorganize and (as was said) to "rationalize" the "budget process." Whatever that might mean, it seemed like a good idea at the time. The budget then was increasingly going into the red, although by far smaller amounts than would later be the case; and it was argued that the problem was as follows: hitherto, legislators had appropriated money in the different spending categories (defense, health, transportation, et cetera) separately.

There was no one controlling hand, no preliminary overview, whereby the Congressmen and Senators could determine exactly how much money they had at their disposal to spend; and so, in their individual enthusiasms for different spending programs, they would be found collectively to have spent more than they had taken in. The result was always attributed to inadvertence, an excess of enthusiasm, or compassion.

With the "budget process" reorganized in 1974, this would not happen again, it was said. The world reform appeared in a New York Times headline. Hosannas filled the air, Fortune magazine saw a "Noble Experiment" in budgeting. The new Budget Act involved the creation of two new committees on Capitol Hill, a Senate Budget Committee and a House Budget Committee, and a brand new organization called the Congressional Budget Office, which would provide "analyses of alternative fiscal, budgetary, and programmatic policies." In other words, the CBO would advise the Budget Committees that spending so-much on defense would decrease unemployment by X percent, increase inflation by Y percent. The CBO, once it was launched in 1975, would provide unemployment for 219 people, mostly economists, a good many of them fresh out of college and eager to put the world right.

In light of the CBO's analyses, the budget committees would then set the overall totals in the various budget categories, fully aware of how much these totals would add up to, and, on the other side of the equation, of how much tax revenues were expected to amount to.

For example, the Senate Budget Committee might decide that $10 billion would be spent next year on natural resources and environment. Then, later on, the Appropriations Committee would meet and agree that, say, $30 million of this would be spent on a dam in Montana. (Incidentally, that explains why it is politically desirable to be on the Appropriations Committee; the Budget Committee by contrast has very little political appeal. One cannot "deliver" an aerospace contract or reclamation project to one's district; one merely delivers to the nation as a whole.)

One of the main reasons the CBO and the two Budget Committees were established was to transfer power away from the Executive branch, just one element in the great shift of power away from the White House that has gone on all through the 1970s. Congress could now do its own budgets without relying on the figures furnished by the Executive. President Nixon provided the main impetus for this when he appointed a man to head the Office of Economic Opportunity and told him explicitly not to spend the moneys appropriated by Congress for its poverty programs. This attempt at "impoundment," a direct challenge to Congress, provoked many a howl and assured the new Budget Act easy passage through Congress.

Both conservatives and liberals were eager to vote for the act because, in the first place, conservatives believed that the liberals were going to feel uncomfortable voting for explicit budget deficits, as they now would have to do for the first time, with the Budget Committees and the CBO in situ. They thought this would embarrass the liberals. But the liberals thought differently. They knew that they indeed would go on voting for budget deficits, and that hardly any of their constituents would object. As they foresaw it, correctly, the CBO would come to the rescue by developing "scientific" rationales for spending just as much money as they wanted to spend; and this in turn would be more money than last year, no matter what phase the economy might be in. In a recent issue of Policy Report, Paul Craig Roberts explained the kind of thinking that could be expected from the CBO as follows:

> Recessions justify deficits to get the economy moving again; recoveries justify deficits to keep the recoveries going; good times justify deficits to ward off the downturn that is predicted to be around the corner. Signs can be found upon which to predict a recession.

And that is the way it has turned out, five years later. Almost the only one who saw it coming was Rep. Joe Waggonner (D.-La.), who said during the debate on the bill on December 5, 1973:

> I am constrained to say that this is not going to do anything to make this body responsible, in my personal opinion, because we are not controlling expenditures. We will be using all the devices we use now to keep spending. I hope I am wrong, and that there will be some restraint in the Congress, . . . but I cannot help believing . . . that we are going to do anything but go ahead and just keep increasing spending and the debt ceiling. . . . This Congress does not have the courage to balance expenditures with revenues. That is our problem now.

Waggonner was dismissed as one of those country bumpkins, but he was correct.

THE KEYNESIAN MODEL

The director of the Congressional Budget Office is Alice Rivlin—who was appointed to the post in February, 1975, with the backing of such members of Congress as Sen. Edmund Muskie (D.-Maine). By this time Muskie was the chairman of the newly created Senate Budget Committee. He had lobbied hard and given up his seat on the Foreign Relations Committee to get the job.

The New York Times, at the time of her appointment, noted that Alice Rivlin's "intellectual credentials are outstanding." Be that as it may, income redistribution was her political and economic philosophy in a nutshell, picked up somewhere along the line between Bryn Mawr, Radcliffe (Ph.D. in economics), the Department of Health, Education, and Welfare (where she was an Assistant Secretary in the Johnson years), and the Brookings Institution, where she became a senior fellow.

As the new Congressional budget procedure came closer to enactment in 1974 and it became apparent that Congress would soon be looking for someone to direct the CBO, Rivlin was fortunately able to promote her cause in that expedient Washington way, by writing several quite lengthy articles for the Washington Post op-ed page. In this forum she could keep her name before Congressional leaders and, at the same time, establish her credentials as a reliable proponent of spending.

In October, 1974, for example, following a speech by President Ford on economic policy, Rivlin sadly noted that:

> All strong measures were rejected. The President called for netiher gasoline rationing nor a stiffer gasoline tax . . . He condemned wage and price controls, even, asserting, contrary to evidence, that controls were ineffective in World War II.

She recommended that the tax burden be further shifted "from lower to higher income groups."

In short, she made no bones about her political philosophy. But when she was appointed to head the CBO not long after this (she consulted with John W. Gardner, the founder of Common Cause, before taking the job), she was asked by a New York Times reporter what she thought of President Ford's budget.

"I can't think of a worse question to start off with" she replied. The CBO, she added, was meant to be "nonpartisan. . . . My personal reactions to the President's budget are therefore irrelevant."

Then she went underground in a manner of speaking, in her new and important job, even though her office was on the fourth floor of the House Office Building Annex No. 2. On the sixth floor they had the computers where the figures could be "massaged" (that's what the man on the sixth floor said they did to the figures). It wouldn't take her long to work out how to dress up her personal reactions as differential equations, feed them into the computers, and triumphantly display them to any doubting Senators or Congressmen on Capitol Hill. ("You are against full employment, Senator? See what the latest technology has to show us." That's what econometric modeling is for, after all.

The economic "model" (favorite word of up-to-date economists) within which the CBO, and Congress itself, operates is essentially Keynesian in character. This may sound complicated, but it is really simple. John Maynard Keynes, Cambridge economist and Bloomsbury figure, published The General Theory of Employment, Interest and Money in 1936, and his basic idea was that it is perfectly all right to stimulate the economy by government spending on public-works programs. This might result in a budget deficit, but it would put people back to work, put money in their pockets, and thus create a demand for goods that would then be met by supply. In short, demand creates supply.

Keynes's theory was well attuned to an economy recently plunged into depression. His theory worked, and did not lead to inflation, because the money supply had previously been held down tight. Second, there was considerable "excess capacity" in the economy. That is, there were unemployed resources that could be put to work without having to pay higher prices to bid them away from other uses. In addition, taxes were low (because nominal incomes were low) and Washington's regulatory police force barely existed. All the conditions for a renewed burst of productivity existed.

Under these circumstances, the prescription "Stimulate demand!" was a sensible one. Moreover, Keynes, who was himself a fiscal conservative by today's standards, recommended that the budget deficits incurred by public-works spending should be balanced by budget surpluses once the economy was on the move again.

In retrospect, however, we can see that this theory led directly to today's problem: A government that finds it can spend its way out of economic depression has tasted a potent drug indeed, and one that suits only too well the tastes of politicians. As a result the remedy has proven impossible to discard, even though we now live in a very different time.

Now the factories are at full capacity (which means that in order to build new ones money must be invested, and, before that, saved), unemplyoment is relatively low, regulators are marching about the land in search of people who might be making things without their permission, taxes are getting higher and higher, and the prestige of businessmen is dismal.

In short, the supply side of the economy, and of economic theory, has fallen into terrible disrepair. If you think about inflation for a moment ("to much money chasing too few goods") you see that there are two obivous ways of fighting it: reduce the amount of money, or increase the number of goods. The obvious remedy for the current "stagflation" is for a government policy that will stimulate supply. Economic conditions are not merely different from those of Keynes's day: the two are practically the reciprocals of each other. Therefore a new theory is needed, as bold as Keynes's seemed at the time.

Such a thory is at hand, and it assumes that tax cuts, by encouraging people to work harder, would stimulate the economy, create new jobs, and, paradoxically, broaden rather than shrink the tax base. Therefore, inflationary budget deficits would not result any more than they did when government spending was increased in the 1930s.

Keynes wanted to stimulate demand by allowing the government to spend money it didn't yet have; Roth, Kemp, and others now recommend that we stimulate supply by giving people the incentive to make more things. Although this initially entails keeping money out of the reach of politicians, the politicians would end up with more money at their disposal.

Despite the likely outcome, the idea of tax cuts tends to be very unpopular in Official Washington, which pouts at the very mention of the words. Did someone say "tax cuts"? There are several hundred people in Washington whose job it is to rush forth with explanations why this is not a good idea. Inflation will balloon, employment drop, deficits soar, the economy stagnate, and so on.

When the tax cuts were enacted in 1964 and 1965 (see Table 2), the Treasury Department estimated that they would result in a revenue loss of $89 billion over six years. In fact, there was a $54-billion revenue increase.

The main reason tax cuts are not considered to be particularly stimulative, in the reigning economic dogma of Washington, is that the incentive effects of allowing people to keep more of the money they earn are deemed not to exist. They are therefore not "factored in" to the models; that is, they are not included among the assumptions that are computed by the government's computers. Alice Rivlin has even suggested that people are likely to work less hard after a tax cut, because they will be able to earn the same amount of money in a shorter time. The contrary assumptions ought to be tested.

However, even if an incentive effect were conceded, heresy though that would be, no one would quite know what the exact "coefficients" for the variables would be, and so they would remain beyond reach of mathematics and therefore not allowed for in the CBO's economic forecasting. None of the econometric models used by the CBO takes into account the incentive effect of tax cuts. This again reflects Keynesian thinking, which considers only the demand side of the economy; supply factors are neglected as a matter of course.

Tax cuts are, in any event, less appealing politically than spending increases, because government spending promises quick symptomatic relief to economic problems, comparable to a junkie's fix. By contrast, giving people the incentive to work harder and thus ultimately stimulating supply is the equivalent of withdrawal from addiction. It takes time and is painful. The new factories don't get built for a while. Also, politicians lose influence.

In the all-encompassing environment of government, with high taxes, controls, regulations, and so on, the politician becomes an important figure. A politicized economy, such as we increasingly have, does much for the politician. He is empowered—and needed—to allocate, ration, administrate, to hand out coupons to this group, permits to that, federal dollars to the other.

In a politically controlled economy, Paul Craig Roberts has written, "a person's relations with government become more important to his success than his market performance. . . . As people find it more difficult to save, they become more dependent on transfer payments, and they lose their financial independence.

"In short," Roberts concluded, in a somber note that at first sounds vaguely paranoid but plausible, "government hasn't much to gain from a stable, growing economy. In such an economy, there is no need for all the government programs and controls that inflation and unemployment justify. When people are enjoying widespread individual success they don't need the government."

ECONOMIC ASSUMPTIONS

In a politicized economy, the Congressional Budget Office under Alice Rivlin's command has played its intended role, reliably providing the House and Senate Budget Committees with good excuses for spending.

The CBO issues reports and analyses, which "usually take the form of published studies comparing present policies and programs with alternative approaches," according to a CBO brochure. Everywhere you turn in the CBO literature, you will see it affirmed that "the office does not make recommendations in matters of policy." Its job is to "present the Congress with options for consideration." A White House aide does not make recommendations when he presents, as three options to the President: 1) Bomb Moscow; 2) Surrender; 3) Spend $98.5 billion on defense.

In a less extreme form, that is how the CBO presents options to Congress. In addition, the dollar amounts they present for consideration are skewed in the direction of greater spending. "They might present four options," says an aide who has worked on the staff of the Senate Budget Committee. "One will analyze the effects of a $10-billion cut, one considers 'current policy,' the remaining two a $10-billion and a $20-billion increase in spending respectively. The two extremes—the tax cut and the $20-billion increase—are presented as highly inflationary, 'current policy' as bad for the employment picture. That leaves the $10-billion increase as the path to heaven."

Let us look at the CBO projections in a little more detail, because they are really at the heart of the matter. In comparing for example, the effects of a $10-billion tax cut with its alternative, government spending of $10 billion, the CBO argues that it is better for government than for citizens to spend the money, on the whole, because when government spends, the money "multiplies" faster in the economy than when private citizens do.

The analysis comes right out of Paul Samuelson's *Economics*, by the way: "Dollars of tax reduction are almost as powerful a weapon against mass unemployment as are increases in dollars of government expenditure." The key word is "almost."

In a CBO publication it is put this way: "Generally speaking, [government] purchases of goods and services have more impact per budget dollar on output and employment than broadly based tax changes or changes in income-support programs."

In another background paper, the CBO explicitly argues (with charts and figures) that $10 billion spent on public-service employment stimulates both employment and the growth of the economy more than a $10-billion tax cut.

This seems implausible, especially when one considers the make-believe nature of many public-service jobs (paying people wages to do things for which there is no apparent need or demand).

What, then, is the precise reasoning behind the bias in favor of government spending? How are the figures arrived at? The answer really does disclose the fundamental bacterium growing at the heart of the culture of Washington. Government spending is more stimulative than private spending, the government analysts say, because the government will spend all of that $10 billion. Private citizens, on the other hand, will save part of it. Savings—such is the state of the economic art in Washington—are thought of as money withdrawn from the economy and stuffed in a paper bag underneath the mattress.

It seems hard to believe. A meritorious impulse of the hard-working man is actually impugned, presented as a disservice to the nation. The man who forgoes consumption, thriftily putting money aside for hard times or retirement, is told that he is really doing more harm than good. (Current tax policy reflects this bias, as in the low ceiling on savings interest rates, the reporting of interest to the IRS, and the Social Security system itself, which in effect tells people that they don't have to save for retirement.)

Government policy today is such as to dissuade all but the most tenacious saver. This is so despite a high correlation between countries with high savings rates and high economic growth. (In ignoring this correlation, does Washington not betray that it really is not—despite its rhetoric—pursuing policies of economic growth?)

The CBO's economic assumptions and philosophy have not escaped unscathed within the economics profession. Mike Evans, while he was president of Chase Econometrics last year, told the Joint Economic Committee on Capitol Hill that "the CBO study is actually a landmark in incompetency."

Rep. John Rousselot (R.-Calif.) replied: "But in our budget process we base a lot of our great decisions on that."

Later on, at a Budget Committee hearing, Sen. S. I. Hayakawa (R.-Calif.) asked Mike Evans: "If the CBO logic is accurate, why is it that countries like Japan, with a savings rate of 25 percent, grow more rapidly than we?"

"That CBO report received a certain amount of notoriety since it came out," Evans replied. "It has been widely discredited."

"It has been discredited?" Senator Hayakawa asked.

"Yes," Evans said. "There is an almost perfect correlation between the rate of growth and productivity and GNP and the proportion of national resources devoted to savings. As you mentioned, Japan has a 25 percent savings rate, and they have a rate of growth of 10 percent a year, compared to our growth of 4 percent. It is not only Japan. If you ranked the eleven major industrialized countries in the world, there is a perfect correlation between the amount of savings and the amount of growth. The United States comes in dead last in both of those."

"Why do most other countries have a greater savings rate than we?" Hayakawa asked.

"The tax policies of those countries are different than ours," Evans replied, "and they encourage more savings."

Sen. Henry Bellmon of Oklahoma then asked: "Is the fact that we spend $120 billion in defense and Japan spends only very little—does that have anything to do with this?"

"I don't think it has much to do with it," Evans said. "The defense spending represents only about 6 percent of the total GNP now, and we are talking about a difference in savings rates between the U.S. and Japan which is far greater than 6 percent."

Notice that it was Henry Bellmon, *Republican*, who tried to come to the defense of the reigning Keynesian orthodoxy.

The single most valued adjective in the CBO's thesaurus is "nonpartisan." The CBO is nonpartisan in its brochures and nonpartisan on the front page of the *Washington Post*. How can such an ideological institution make this claim and get away with it? The answer has a horrible simplicity. An institution, program, or idea that wins *bi*partisan support can justly claim to be *non*partisan in nature. Therefore, the most valuable supporters of the CBO's analyses have been not Democrats but Republicans. If they were ever to withdraw their support—even if they still lost all key committee votes—they would be in a good position to accuse the CBO of promulgating partisan economic theories.

Republican Henry Bellmon's support of the "budget process" has therefore been of great value, not just to the CBO but to Edmund

Muskie and his majority committee staff, to the Carter Administration, and to proponents of big-government spending everywhere. Bellmon is the "ranking" minority member of the Senate Budget Committee (the senior Republican, in other words), and the minority staff of twelve of his staff, just as Muskie's majority staff of forty is appointed by Muskie. Bellmon's support of the budget deliberations has therefore resulted in a united Washington front. Rather than resist the spend-more philosophy, he assented to it, made it unanimous.

Bellmon's willingness to go along here is an indication of the general collapse of Republican morale in Washington. The Republican leadership these days reminds one of the Vatican in the 1960s. It has shown itself ready to throw out the old traditions and sing along with the New Trend just at the moment when people were beginning to doubt whether Liberation was the true path to happiness. If only they had stayed on course, most of their former congregation would in the end have returned to the fold. But in the GOP leadership position up popped Sen. Howard Baker of Tennessee, and he spotted a trend going over the horizon, Keynesianism, and he ran after it. So did Henry Bellmon.

In return for his "cooperation," Bellmon somehow received glowing press notices. The *Tulsa World* wrote that Bellmon had made "commonsense compromises" on the Budget Committee. The *Daily Oklahoman* praised him for performing a "thankless task" as a member of a "largely unappreciated committee," one that "puts a lid on spending."

In addition, Muskie did a great job of sharing the laurels with Bellmon. At every budget deliberation he would congratulate his "friend and partner in this budget process." On one occasion he applauded his "courageous votes for fiscal responsibility." By claiming that the budget process itself was of overriding importance Muskie distracted attention from the budget deficits, which were larger than they had been before the process began.

As far as the Budget Committee staffs are concerned, it is not surprising that Muskie's merry majority likes to devote its day to arguing for more government spending. The course of fiscal appeasement is appealing to the minority staff not because they are big spenders at heart, necessarily, but because it is the path of least effort. If the minority staff accepts the recommendations of the majority staff, the Republican staffers have most of their work done for them. On the other hand, to resist is to visit upon oneself the mighty task of coming up with *different* forecasts, alternative five-year projections, different "modeling"—a paper blizzard of one's own. It takes a lot of time and effort, involving staying on late at night—and keeping the Senators at their desks for longer hours, too. Only the zealous are prepared to do that, and the Republicans have largely had the zeal knocked out of them.

Besides, the Republican who goes along is more likely to find that the money is spent in his district and to his advantage with grateful constituents. The diehard fighter might find the money drying up. So it is fairly easy to postpone worrying about America, the nation as a whole, until after the next election.

There are, of course, a few zealots on the Republican side, mostly relative newcomers. One such who went onto the Senate Budget Committee this year is Sen. Orrin Hatch of Utah. Another is Sen. William Armstrong of Colorado. Most of the GOP members of the Budget Committee are relatively junior, because the Republicans have a "mutually exclusive" rule, preventing Senators from serving on two of the five most important committees. (The other four are Finance, Appropriations, Armed Services, and Foreign Relations.) The effect of this rule is to prevent Republicans from accumulating much seniority on the Budget Committee. This also makes it difficult for them to resist the expertise, or become familiar with the ways, of the opposition, because the Democrats have no such rule.

At one point this year, Senator Hatch proposed a cut in one of the budget categories, and he was asked if he had "five-year projections" of the effect of such a cut on inflation, employment, and so on. Five-year projections! Congress in its budgetary aspects is gradually being transformed into a Central Planning Bureau by such tactics. The CBO, of course, does five-year projections. How can Hatch, trying to work independently of the huge bureaucratic professoriate at the disposal of Senator Muskie and his majority staff predict the effect of a specified budget cut on inflation in 1984? (How can anyone, for that matter?)

But if he so desires, Hatch can have all the expertise he wants. "Bring your proposals to us and we'll cost them out for you," a friendly majority staffer will say to Hatch before the budget deliberations begin. Come into my parlor. . . . Of course, the costing-out will probably look bad for the employment picture, and for economic growth if it involves anything but a cut in defense spending.

At the beginning of this year's budget deliberations, Sen. William Armstrong proposed that revenues be considered before spending. In other words, he suggested, let us find out how much money we have to spend before we allocate it. This was not a popular idea. Sen. Daniel P. Moynihan (D.-N.Y.) said: "It seems to me that the better argument is to decide society's needs and find out what that costs and then decide whether or not it is feasible to raise that much. . . . You don't decide in advance how much you are going to spend and fit your defense budget into it. You find out how much you need for defense." This of course was precisely the form of budgeting that the 1974 Budget Act was supposed to prevent. But Senator Armstrong's proposal was defeated, 11–1. Armstrong's fellow freshmen Republicans on the Budget Committee, Sens. Nancy Landon Kassebaum of Kansas, Rudy Boschwitz of Minnesota, and Larry Pressler of South Dakota, in addition to Senator Bellmon, all voted against Armstrong's sensible proposal.

An analogous maneuver took place in the House of Representatives. In 1978, Rep. Marjorie Holt of Maryland very nearly succeeded with an amendment that would have forced across-the-board spending cuts and simultaneous tax cuts. After the 1978 elections, the Democratic leadersip became convinced that Holt's amendment, if offered again, would pass. So they changed the rules on her. Now you cannot propose amendments that cut aggregate spending figures without specifying exactly where spending will be cut. This gives an opportunity for those who would be affected by such cuts to come up and lobby on Capitol Hill against the proposal. Such a rule change, of course, blatantly disregards the spirit and letter of the Budget Act.

THE JIGSAW PUZZLE

By the time the budget debate began on the Senate floor this year, the Senate Budget Committee had succesfully fought off virtually all budget cuts. On the other hand, many spending categories had been increased (by law, in some cases) to allow for inflation. As a result, the nation is faced with a budget of which an increasing percentage is said to be "uncontrollable." Of course, this percentage (currently about 76 percent) is not really uncontrollable, because Congress could always change the law. The appeal of the concept from the point of view of the spender is that it gives the impression that a shrinking proportion of the budget is at the mercy of the budget cutter and that the only changes that can be made are spending increases, since there is no law against that. In this way, then, the "income security" category went up this year to $183.3 billion (last year it was $159.3 billion). Defense spending was up; international affairs spending was up; so was spending on natural resources and environment; transportation; education, training, employment, and social services; health, justice; and general government. And there was a big increase in the federal interest payment (up from $48 billion to $56 billion) because of the rapidly mounting national debt.

Overall, when the Senators began their deliberations, the budget outlays under discussion (now fattened up to accommodate inflation, and more) were about $45 billion higher than in the previous fiscal year. Meanwhile—and it is important to bear this in mind—federal revenues were moving ever upward thanks to inflation. Whenever there was a new estimate of revenue, it was higher than the earlier one. At the time of the Second Concurrent Budget Resolution, in October, 1978, federal revenues were estimated at $449 billion. But by the time the books were closed on fiscal 1979, the figure had jumped to $461 billion. By the time of President Carter's budget message in January, 1979, federal revenues for fiscal 1980 were estimated to be $503 billion. Then, by the time of the First Concurrent Resolution for fiscal 1980, in May of 1979, revenues were estimated to be up again, to $509 billion. (A year later, with no tax cut, they will have soared to $583 billion.)

In any event, at the time of the budget debate in April, the Senators could see that they were facing a deficit of $29 billion. (Spending: $532 billion; revenues then estimated at $503 billion.) And people all across the country were beginning to speak up for a balanced budget. The more canny Senators could see that as long as they didn't vote for any tax cuts, the budget would balance itself before too long. It wouldn't be necessary to cut spending either. (In fact, down the road—as long as inflation didn't let up—there looked to be some nice possibilities for spending increases.)

The Senate then declared its good intentions by voting that the Budget Committee should "report" a balanced budget in fiscal 1981. But "report" did not mean "compel," or even "recommend." Then they voted to increase the debt ceiling, up now to $830 billion. (They have to vote this increase every year, to prevent the government from being legally "in default" on its debts.)

Senator Muskie read his own speech about the budget, a real tearjerker it was, too, full of such phrases as "fiscal discipline," "take the heat," "tolerate the pain." And he quoted President Carter's phrase to describe the fat, profligate budget: "Lean and austere." Muskie sent his annual bouquet to Bellmon ("my good friend and longtime and indispensable associate on the Budget Committee"). And Bellmon praised Muskie ("cool-headed, evenhanded. . . . He was able to bring about a consensus").

Enter Senator Proxmire, amendment in hand. It had a beautiful simplicity: "On page 2, line 24, strike out '$532,400,000,000' and insert in lieu thereof '$503,600,000,000'. On page 3, line 5, strike out '$28,800,000,000' [the deficit], and insert '$0'." Well, for some time the Senators had been shedding tears about how terrible it was that the budget wasn't in balance, and here was their chance to balance it with an across-the-board spending cut of about 5 percent. Proxmire had worked out where the cuts could be made, including such items as a $6.8 billion reduction in revenue sharing ("the federal government has no revenue to share," Proxmire said) and a $1.3 billion cut in foreign aid ("mostly an extension of the public works and highway lobby abroad").

"Any Senator who says we cannot cut even 5 percent of the bloated more than half-trillion federal budget . . . is not even trying," Proxmire said. "Five percent. That is all we need to achieve a balanced budget in 1980. Mr. President, this is a democracy. Does anyone seriously doubt that this amendment is what an overwhelming majority of Americans want us to do?"

He went on to say that now was the time to balance the budget, when the economy was growing and more people than ever had jobs. "If we cannot move to a balanced budget now we are not ever likely to do so without the kind of constitutionally mandated restraint that most of us deplore."

"I want a balanced budget," said the Senate majority leader, Robert C. Byrd of West Virginia. "Everyone wants a balanced budget." But this was not true, as the vote against the Proxmire amendment, 67–23, showed.

All subsequent attempts to cut the budget on the floor of the Senate were defeated, with the exception of a small cut of $400 million at the end of the debate (after several increases larger than that had been added on). The Senate couldn't even bring itself to vote for an amendment by Senator Hatch, cutting $1.1 billion from federal travel, payroll, and film-making expenses. The vote on this was close, 44–41. Opposing the proposal were not merely the Senators one might expect, such as John Culver of Iowa, Donald Riegle of Michigan, and Edward Kennedy of Massachusetts, but, surprisingly, a small but crucial constellation of members from southern states who give every appearance of having caught Potomac Fever (Donald Stewart of Alabama, Bennett Johnston of Louisiana, and both David Pryor and Dale Bumpers of Arkansas—the latter's voting record somewhat resembling Senator Kennedy's).

Incidentally, Kennedy's role in the budget debate amounted to advocating widespread tax increases at one point. This might not be worth mentioning, except to draw attention to the extraordinarily devious language in which he addressed the Senate. Kennedy said that although the budget resolution contained "reductions in some forms of federal spending, it requires no reductions at all in tax spending. . . . For fiscal year 1980, federal spending through tax laws will reach the record total of $168 billion."

The man is devious. What does "tax spending" mean? It means "tax loopholes" (sometimes called "tax expenditures" in the jargon he prefers). Kennedy is really saying: If we are going to cut spending, let us also consider closing tax loopholes, i.e., raising taxes. Kennedy betrays himself as believing that when the government grants you permission to keep a little bit more of your money, through a specified tax reduction, it is really the government's money you are spending. It is as though he believes that all money belongs to the government in the first place.

That is what sometimes happens to people who have been in government as long as Kennedy. They get so used to spending other people's money that they end up thinking it's their own. And that also is surely the key to the problem when you think about the vote on the Proxmire amendment. Those sixty-seven Senators who voted against it weren't voting against a balanced budget because they thought it would be politically unpopular to do so. Proxmire is a politician, too—very much so. He was quite right when he said that "an overwhelming majority of Americans" would be in favor of his proposal, and it was no doubt perfectly safe, politically, to vote for it.

Why, then, did sixty-seven Senators take the politically unpopular course? Some of the conservatives who opposed it didn't like the fact that the amendment included defense cuts of about $6 billion. A few of the others may even genuinely have believed the fantastic claim by the CBO that government spending is more stimulative than private-sector spending, that savings are a drag on the economy, and so on.

But surely the underlying reason is that it is very hard indeed for a lawmaker to vote for diminishing his own power. And that is what a spending cut ultimately entails: a reduced level of dependence on government for all citizens. Our dependence is their power, and that is what most politicians don't want to reduce.

The press delivered an ovation after it was all over. After the First Concurrent Resolution passed by a vote of 64–20 in the Senate, the Budget Committee put out a press release headlined: Senate adopts stringent budget resolution.

The truth was that the budget had grown by nearly 10 percent over the year before, and 18 percent over the past two years. Revenues had grown much faster—up by 26 percent in two years. And so the budget was indeed coming into balance—on a swiftly rising tide of taxes.

On June 1, 1979, the *Washington Post*, which earlier had termed the proposal to balance the budget in 1981 "draconian," commended the "responsible budgeting that Congress is now learning to do." The next day *New York Times* published an editorial applauding the "sweeping reform of the Congressional budgetary process."

We may surmise that, reading the papers, the wily old Muskie put his arm around the Budget Committee's press secretary, Jim Conroy, and congratulated him on a job well done.

Meanwhile there was the Second Concurrent Resolution to be thinking about, the one in September with the binding budget totals. The spending totals would no doubt be adjusted upward by then—especially if there was any indication of a recession coming. Any signs of that? Ah, here we are: on the front page of the *Washington Post*, June 10, 1979:

MAJOR RECESSION NOW FORECAST BY HILL BUDGET OFFICE

(By Art Pine)

The nonpartisan Congressional Budget Office has privately warned Congress to expect a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate rising to 7.5 percent.

One read on expectantly until one discovered that the final piece of the jigsaw puzzle had fallen into place:

If the CBO forecast proves accurate, it could add at least $6 billion, and potentially a good deal more, to the budget deficit next year and dash plans by Congress and the administration to balance the federal budget in fiscal 1981.

Tom Bethell of Harper's Magazine Wins National Media Award

New York, N.Y.—Editor, Tom Bethell of Harper's Magazine, New York, New York, has been named recipient of a $5,000 first prize in the 1979 Media Awards for Economic Understanding. He was cited for his series, "The Gas Price Fixers", which was judged the best entry in the Magazines category.

Announcement of all 1979 award winners, including Tom Bethell, was made at a luncheon held here today.

Now in its third year, the Media Awards for Economic Understanding is a national competition created to improve the quality and increase the quantity of economic reporting in the general media. Prizes totaling $91,000 were awarded.

The Amos Tuck School of Business Administration of Dartmouth College, Hanover, New Hampshire, acted as the sole and independent administrator of the program. Final selection of winners was made by a panel of distinguished judges representing the media, business, labor and education.

Sponsored by Champion International Corporation, the program aims to encourage and reward noteworthy contributions of media which effectively explain aspects of the American economic system to typical audiences—in terms that have meaning for the average reader or viewer.

In his article, Mr. Bethell, in clear sequences, presents an account of the energy crisis which describes the rationale of gas producers, the concerns of government agencies, the role of pipelines, intrastate versus interstate price convolutions, the programs of environmentalists, the needs of industry, the impact of OPEC, political flip-flops, and the ins and outs of the Natural Gas Policy Act. Through this critical history of the ongoing energy controversy in America, readers are given a new vantage point from which to understand an issue which directly concerns so many.

Cash prizes totaling $105,000 were offered by syndicates and wire services, and other media, including newspapers, magazines, radio and television. First and second prizes of $5,000 and $2,500 were available in each of 14 media categories, competitively grouped according to circulation and size of market. In addition, a $1,000 special citation prize was awarded in the category for newspapers with circulations of 100,000–250,000.

All awards were not made in every category as, in the judges' opinions, entries did not meet desired standards of excellence.

John Hancock Life Announces Awards for Excellence Winners

Boston, April 8.—Winners in the 13th annual Awards for Excellence in Business and Financial Journalism program, sponsored by John Hancock Mutual Life Insurance Co., were announced today by Edwin Matz, chairman and chief executive officer.

Cash awards will be presented in recognition of the work of 13 journalists judged to have contributed significantly to improved understanding of business and finance during 1979. They are John Hanchette, William Schmick and Carlton Sherwood of Gannett News Service; Tom Bethell of Harper's; Gordon Williams, John Campbell and William Wolman of Business Week; Richard Longworth and William Neikirk of the Chicago Tribune; Arnold Garson and Larry Fruhling of the Des Moines Register; and William Roesgen of the Billings Gazette, with Dr. Thomas Brown.

Winners were selected by a panel of judges consisting of Dr. A Benton Cocanougher, Dean of the School of Business, University of Houston; Toni House, staff reporter for the Washington Star and president of the Washington Press Club; Robert Dallos, financial reporter for the Los Angeles Times and president of the New York Financial Writers Association; Phil Dessauer, managing editor of the Tulsa Daily World and president of Sigma Delta Chi; and D. Raymond Kenney, business-financial editor of the Milwaukee Sentinel and president of the Society of American Business and Economic Writers.

Hanchette, Schmick and Sherwood took top honors for Gannett News Service in the syndicated and news service writers category for a 1979 series which detailed how a small order of monks was able to raise and borrow close to $20 million in bonds, loans and charitable donations for construction of a shrine in rural Pennsylvania with only $2 million at best spent on the shrine and the balance reportedly funded into dubious business ventures.

Bethell won his award for an article on

how Congress causes inflation which was included in a special issue of Harper's entitled "Fooling With The Budget."

Williams, Campbell and Wolman headed a staff in the preparation of the 50th anniversary issue of Business Week which gave some new insights into how the United States and the world fell into the Depression, how we struggled out of that traumatic time and where we now seem to be headed economically and socially.

Longworth and Neikirk were honored for their series in the Chicago Tribune on "The Changing American Worker" highlighting the widening gap between Americans and their jobs. The series took first place in the above 300,000 circulation newspaper category.

Winning entry in the newspapers with circulation of 100,000 to 300,000 category was a series by Garson and Fruhling in the Des Moines Register on what a decade of inflation has done to the lives of ordinary Americans using a typical Iowa town—Fort Dodge—as their reporting laboratory.

A series on competition in the medical industry by William Roesgen and Dr. Thomas Brown in the Billings Gazette was the award winner in the newspapers with circulation under 100,000 category. The series focused on the purchase of redundant equipment, surplus facilities and higher than necessary costs for services resulting from competition.

THE G & R LOEB FOUNDATION,
Los Angeles, Calif., May 29, 1980.
Mr. TOM BETHELL,
Harper's Magazine, Two Park Avenue,
New York, N.Y.

DEAR MR. BETHELL: I am pleased to inform you that the Advisory Board of the 1980 Gerald Loeb Awards for distinguished business and financial journalism has selected your entry, "Fooling with the Budget," for Honorable Mention in Category C, a single article in a national magazine, for work published in calendar year 1979.

As you know, the Loeb Awards were established in 1957 by the late Gerald Loeb to honor writers who make important contributions of the furtherance of public understanding of the business and financial community. Past recipients of awards have included some of the best-known journalists in the country. The awards have often been referred to as the "Pulitizer of financial journalism."

An Honorable Mention entry will receive a cash award of $500 and a plaque. The awards will be given at a dinner, to be held this year on October 7, at the Beverely Wilshire Hotel in Los Angeles. We hope that you will be our guest and we will be sending you additional details about this evening in the near future.

Meanwhile, we would appreciate it if you would forward to us a copy of your vita and a recent photograph. These will be published in the Program for the awards dinner.

Congratulations on winning this prestigious award. We look forward to hearing from you.

Sincerely,

J. CLAYBURN LAFORCE,
Dean, Graduate School of Management.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION AND WOMEN IN SCIENCE ACT

Mr. HATCH. Mr. President, the research and development efforts of our country have been on the decline for several years. Our Nation's lead in science and technology, relative to our foreign competitors in the market and our adversaries in the political and military arenas, is shrinking to a dangerous level. I think all of my colleagues in the Congress acknowledge that this is an issue for which we must find effective solutions. Presently, there are few, if any, real incentives for the longrun risk-taking required for meaningful research and development activity.

The lack of incentive is also evident in the human aspects of our scientific and technological problem. It has become clear that there are many barriers discouraging women from the pursuit of science and engineering careers. I agree with my distinguished colleague from Massachusetts, who took the initiative to propose legislation to help women overcome some of these barriers, that we cannot overlook the great potential of women to contribute significantly to the general base of knowledge in the sciences or to advances in state of the art technologies.

However, Mr. President, I would like to see the maximum of funds authorized, and eventually appropriated, go directly to women. I have introduced to a bill on this subject, an amendment, in the nature of a substitute, which I believe will disperse greater funds outside of Washington and impersonal establishments as well as insure a fair and efficient administration of this new program.

My amendment includes a major effort for encouraging young girls' and students' interest in the sciences. The provisions for visiting women scientists, workshops, field trips, and other projects for the elementary and secondary levels are essentially the same as in S. 568. The higher education level activities are also the same with the exception that the Hatch substitute specifically incorporates the undergraduate level among those eligible to benefit from the authorized activities.

The most significant difference between S. 568, as reported, and my substitute is in the public understanding section, part C. I was not convinced that such authorized activities as a special center for women in science, media projects, the subsidized development of books and instructional materials, mandated research on the topic of women in science itself, or an undefined community outreach program would actually assist girls and women in science. It seems to me that these types of activities only invest money in institutions. I think the aim of the women in science program ought to be to invest money in individuals and their ideas. Their contributions in science and technology can mean a lot to our future .

Of what good are millions of dollars spent on media to inspire public awareness of women in the sciences if young high school girls cannot secure the money to attend college? I am sympathetic, Mr. President, to the need and the desire for greater public recognition for the capabilities and achievements of women in science. I myself have probably not been as cognizant as I should have been about the role of women in all fields of our labor force and I will be much more sensitive to this in the future. I do not think, however, that the advertisement for women in science, or the special books, or the community projects, will "sell" women in science to the public any better than women themselves can through their research and their ideas.

A recent study by Dr. Better M. Vetter, executive director of the Scientific Manpower Commission, summarized by the author in the January 4 issue of Science magazine, found that the number of women scientists and engineers is increasing. The number of women obtaining bachelors degrees has almost doubled and the number of Ph. D.'s has nearly tripled since 1960. This is encouraging and, with the boost the educational provisions this bill provides, there can be even greater progress.

Dr. Vetter's principal findings, however, were more disturbing. First, at degree level, unemployment for women scientists has remained almost a full 3 percent above the unemployment rate for men for the last 6 years. Second, in every field of science, at every level of experience, at every degree level, and for every type of employer, except for baccalaureate graduates in engineering, salary levels for women are lower than for men in comparable categories. Dr. Vetter has even found that the differential has increased in some instances. Third, the study determined that the upward mobility of women is much slower than for men with the same academic credentials and experience.

This information should tell us that what is really needed are opportunities for women to perform meaningful research and establish their credentials as principal investigators. More often than not, women have been thrust into support positions for male scientists and, therefore, have not been able to build the reputation prerequisite for membership in the "old boys' club."

This is a classic catch-22 situation. Women need track records to be accepted as peers of male scientists in university or corporate settings. The opportunities to forge such a record have been few and far between.

My substitute would seek to correct this by concentrating most of the entire $23 million authorization for fiscal 1981 and $27 million for fiscal 1982 into a research opportunities program for women who have just earned their doctorates or who are reentering the field after a break in their careers. In my estimation, Mr. President, this is the best way to assist promising women scientists.

Further, Mr. President, my substitute would incorporate the suggestions put forth during hearings on the women in science proposal by Dr. Ann Reynolds, provost of Ohio State University, testifying on behalf of eight national organizations involved with higher education. Her principal concern was that the funding mechanism for the title II—Women in Science provisions reduced the amount authorized for each of NSF's research directorates. Indicating that there is shortage of tenure line career openings for prospective faculty as well as demand for increasingly complex research without commensurate support for either investigators or replacement of outmoded or deteriorating instruments and equipment, Dr. Reynolds implied that the prorated reduction in funding for the research directorates may prove counterproductve for women. The nature of the awards suggested by Dr. Reynolds are included in S. 568, as reported.

The difference in my amendment is simply that I have mandated the complete $23 million and $27 million for fiscal year 1981 and fiscal year 1982, respectively, to be expended out of the research directorates and not as a separate line item. One-third of the total women in science authorization for each year has been put back into the science education directorate for the activities authorized in part B of title II. Two-thirds has been equally divided among the remaining research directorates. Hopefully, this formula will prevent unnecessary difficulty in NSF's resource planning as well as guarantee a significant expenditure for a worthwhile emphasis program.

Mr. President, I hope all Senators will join me in support of this substitute, recognizing that the objectives of S. 568 have not been changed, but that the funding arrangement and direction of funds have been improved.

Mr. President, I should like to add that either version of title II will require the adequate oversight of the committee and the top leadership of NSF. As I mentioned earlier, there has been some lack of sensitivity for the obstacles facing women in science. It will be incumbent on the administration of NSF to implement title II fairly and efficiently, hopefully developing its own awareness of these particular difficulties. NSF's success in doing so will enable an eventual phaseout of the emphasis program altogether.

To reiterate my remarks from the committee's report, I feel strongly that any emphasis program, for women, minorities, or any group or class of people, should ideally serve as a springboard for sound competition with those not eligible for participation in a federally sponsored program. Currently, there is a need to provide greater opportunities for women in science. This need should be absolved in time. If NSF fails to carry out the intent of Congress upon passage of either my substitute, which I sincerely believe the better vehicle to accomplish these goals, or S. 568, as reported, then we will have created just another wasteful, bottomless pit for the taxpayers' money without any benefit to women, to science, or to our country.

It is envisioned that NSF will work directly with the organizations involved in education, science, and the status of women since these private sector organizations have already conducted considerable research and have important views on this issue. Though many of these groups have expressed their ideas during hearings held on the women in science proposal, their input on implementation may save NSF from reinventing the wheel as well as help NSF gage its progress toward meeting program goals.

Again, Mr. President, I urge adoption of the amendment.

I thank the Chair and I thank my good friend, the majority leader.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there is a convening hour for Monday, is there not?

The PRESIDING OFFICER. There is, and it is 10 a.m.

Mr. ROBERT C. BYRD. And does the order provide for recessing from Saturday over to Monday?

The PRESIDING OFFICER. There is only an order that the Senate convene on Monday at 10 a.m., after a recess.

Mr. ROBERT C. BYRD. No question about it?

The PRESIDING OFFICER. The Chair has none because the Parliamentarian has none.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for recognizing Senators tomorrow?

The PRESIDING OFFICER. There are none.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Will the Chair close morning business, please?

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the order entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to and, at 7:33 p.m., the Senate recessed until tomorrow, Saturday, June 21, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 20, 1980:

Administrative Conference of the United States

Reuben B. Robertson, of the District of Columbia, to be Chairman of the Administrative Conference of the United States for a term of 5 years, vice Robert Armstrong Anthony, resigned.

In the Air Force

The following officer for temporary appointment in the U.S. Air Force to the grade indicated, under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. John A. Collins, [redacted]FR (lieutenant colonel, Regular Air Force, Chaplain), U.S. Air Force.

In the Navy

Vice Adm. Willard P. Arentzen, Medical Corps, U.S. Navy (age 58), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Samuel L. Gravely, Jr., U.S. Navy (age 57) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Lando W. Zech, Jr., U.S. Navy, for appointment as Chief of Naval Personnel in the Department of the Navy for a term of 4 years pursuant to title 10, United States Code, section 5141.

Rear Adm. Zech having been designated for command and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

The following named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Edward S. Briggs, U.S. Navy.

The following named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. William P. Lawrence, U.S. Navy.

The following-named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. William H. Rowden, U.S. Navy.

In the Marine Corps

Lt. Gen. Philip D. Shutler, U.S. Marine Corps, age 53, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The Judiciary

David Vreeland Kenyon, of California, to be U.S. district judge for the central district of California, vice Albert Lee Stephens, Jr., retired.

Consuelo B. Marshall, of California, to be U.S. district judge for the central district of California, vice Robert Firth, retired.

Council of Economic Advisers

Stephen M. Goldfeld, of New Jersey, to be a Member of the Council of Economic Advisers, vice Lyle E. Gramley.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. William Burns Caldwell, III, [redacted] (age 54), Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert Haldane, [redacted], U.S. Army.

EXTENSIONS OF REMARKS

REVOLVING RAMSEY CLARK A NATIONAL EMBARRASSMENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. HYDE. Mr. Speaker, most of us find the activities of Ramsey Clark an embarrassment to our country.

Columnist Patrick Buchanan, in a June 17 article from the Chicago Tribune, reveals an interesting side to Mr. Clark that I am pleased to share with my colleagues:

CLARK FLIPS OVER FBI, THEN FLOPS

WASHINGTON.—Off inspecting hurricane damage in the Rio Grande Valley of Texas, President Johnson dispatched his attorney general, Ramsey Clark, to the national convention to the Society of Former Special Agents of the FBI. The choice was inspired. Before thousands, Clark laid it on with a trowel:

"Of all the institutions of government, there is none in our time in this hour of great concern about crime that we are so fortunate to have of such excellence . . . The American people can be grateful that it is the FBI they can depend on for both their personal security and their liberties . . .

"About the man you honor today, there is nothing I can think to say more appropriate than that, as Ralph Waldo Emerson noted in the simple days before the Civil War, 'Every institution is but the lengthened shadow of a single man.' It seems incredible to me that this could still be true in our day of such complexity and vast numbers.

"But it is true, because, to a degree that I do not know to exist in any other institution, public or private, the great Bureau of Investigation is the lengthened shadow of John Edgar Hoover."

Accepting the bouquet, Hoover returned the compliment but privately referred to Clark as a "jellyfish." "You can never tell which way Ramsey Clark will flop, but you can be sure he will flop. He is completely expedient and opportunistic."

Hoover was prophetic. The same Ramsey Clark who was hunting down anti-war activists and prosecuting Dr. Benjamin Spock for LBJ, four years later turned up on Hanoi as the big draw in a tribunal investigating "U.S. war crimes," some of which were supposedly committed under the President Clark served as chief law enforcement officer of the United States.

Among the highlights of Ramsey's summer of '72 was a visit with 10 POWs. Their health, he said, "is better than mine, and I am a healthy man;" their "living conditions could not be better." Clark was "particularly touched" by the hygienic conditions at the camps. These 10, he said, were "unquestionably humanely treated, well treated."

With his old contacts, perhaps Clark can be prevailed upon to return to Southeast Asia and describe life in Laos, Cambodia, and South Viet Nam after five years of "independence, freedom and peace."

Clark brought home a letter from Hanoi describing the South Vietnamese government as a "stooge." The choice of term, and the choice of messenger, shows a trace of humor in the Hanoi politburo. After all, the American message boy from Hanoi had carried briefs for LBJ; he would one day become U.S. advance man for the Ayatollah, and last week he announced that leaving the fate of the 53 hostages to the Iranian parliament "sounds like good government to me."

The Republican leadership has made itself fairly clear about the junket Clark and the Tehran Ten took to investigate America's crimes against the Iranian people: "Contemptible," said Henry Kissinger. "Despicable," said former President Ford. "Seditious,' added Sen. John Tower of Texas.

But the administration is divided. Ed Muskie seemed to say: Let this cup pass away. The President then brushed aside his secretary of state with the dismissive comment, "I don't think Ed Muskie has any legal responsibility for determining who to prosecute or not to prosecute." The Justice Department says its decision to indict or not to indict will not be influenced by the President's views.

The administration and the Democratic Party have a problem. By racially integrating the delegation, Clark and his fellow travelers have made their indictments a political problem for the President—either way the Department of Justice goes. But, then as Clark said of the indictment of Dr. Spock, "The attorney general must enforce the law as he sees it," and the law that Clark mocked and defied was passed by a Democratic Congress, signed and invoked by President Carter. Will the Carter administration tell us, by its inaction, that Clark is above the law, by virtue of the exalted position he once held as LBJ's favor to his father, the Supreme Court justice?●

THE LEGAL SERVICES CORPORATION: FISCAL YEAR 1981

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. GARCIA. Mr. Speaker, I rise in support of the recommendation of the House Appropriations Committee and the Subcommittee on State, Justice which includes $321.3 million for the Legal Services Corporation for fiscal year 1981. These funds provide an important service for aliens and I cannot agree that the immigration suit brought by the east Texas legal services program was inappropriate.

Last year at this time I stated my strong opposition to the rider attached to the Corporation's appropriation which prohibited service to aliens known to be in the United States in violation of the immigration laws. I still remain very much opposed to such a restriction on the ability of Legal Services attorneys to represent indigent aliens who desperately need access to our court system for the protection of their legal rights. Prohibitions on service to aliens has the effect of discriminating against all persons of Hispanic heritage, citizens and aliens alike.

This lawsuit is a perfect example of such discrimination. U.S. citizens and lawful permanent resident aliens allege that they were subjected to unconstitutional searches and seizure by INS and local law enforcement agents because they were of Latin ancestry even though there was no reasonable basis for believing that their presence in this country was unlawful. This lawsuit in no way violates the existing prohibition on service to illegal aliens.

The ability of poor persons to go to court to stop such blatant violations of their constitutional rights is essential. Without the assistance of Legal Services lawyers, equal access to our system of justice will never become a reality. I oppose any effort to cut back the recommended level of funding for the Legal Services Corporation which is absolutely necessary if they are to continue this vital service.●

ANNIVERSARY OF THE SOWETO RIOTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1980

● Mr. EDWARDS of California. Mr. Speaker, we are indebted to the gentleman from New York, Mr. DOWNEY, for the opportunity to address the House on this anniversary of the Soweto riots. As a member of the ad hoc monitoring group on South Africa and one person who has visited South Africa in the past, I have a deep and personal commitment to working for social justice in that tragic country.

It is with disbelief and sorrow that I view the developments in South Africa since my visit in December of 1978. During my stay there I was fortunate to meet many exceptional people who were striving for a peaceful transition to democratic rule and social justice. Among these individuals I count Rev. David Russell, Editor Percy Qoboza, and Shun Chetty. Perhaps an illustration of the persecution these individuals have endured in the 1½ years since my visit will help to indicate the policies of racism and tyranny the government continues to impose.

At the time of my visit, Reverend Russell was banned by the government. Despite his ban, he continued to be an active and effective critic of the policies of apartheid. On February 28, the Pretoria government sentenced Father Russell to 3½ years in prison for violating the banning orders; 2½ years of his sentence were suspended providing he does not again break those orders during a period of 5 years. It is unconscionable that such an individual can be sentenced to prison for working peacefully to eliminate those evils of South African society which will otherwise be extirpated by force.

Percy Quoboza, the editor of the Transvaal Post, has been subjected to constant surveillance and is one of the targets of a new law being debated in the South African Parliament which would restrain reporting of terrorists activities and police countermeasures. Anyone familiar with South African laws concerning terrorism recognizes the scope of this proposed legislation.

Shun Chetty is a very talented colored civil rights lawyer and a native South African. He has left the country since my visit, having been forced into exile by the conditions in South Africa.

These are all people who I respect and admire. The treatment they have received at the hands of the South African Government is simply abhorrent.

I would also like to mention my concern over the treatment of the many other talented South Africans who I did not have a chance to meet due to the banning orders imposed on them by the South African Government. Conditions for these people are deteriorating as police restrictions on banned persons increase. In particular I would like to mention my concern and admiration for Dr. Ramphele who did much to help initiate the black consciousness movement in concert with the late Steve Biko.

Upon my return from South Africa, I issued a statement in which I condemned the government for its—

> Enslavement through apartheid of 22 million darker skinned persons by three and a half million super-race whites;
>
> A system of law wherein the whims of the legislature and bureaucrats are not subject to a Bill of Rights or judicial review;
>
> Preventive detention for years ordered by a single bureaucrat with no trial, no hearing, no higher review;
>
> "Banning", without a hearing or a bill or particulars, meaning confinement to one's home and neighborhood for years, with communication limited to a single visitor.

The list of outrages against human freedom continue today. Despite continuing pressure from the international community, and internal pressure from South Africans, the government of a few million white citizens persists in attempting to impose its will through force.

Time is running out for peaceful change in South Africa. If the government continues to ignore lessons from the past, if they continue to pursue a policy of apartheid, they will succeed in further radicalizing those blacks who are attempting to achieve social justice through peaceful means. I fear the only result of this will be further violence in southern Africa.●

TRIBUTE TO GERTRUDE WILKS

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. ROYER. Mr. Speaker, on June 28, 1980, many of the friends of Gertrude Wilks will be gathering at the New Sweet Home Church of God in Christ in East Palo Alto, San Mateo County, Calif., to honor Councilwoman Gertrude Wilks on Gertrude Wilks Day. It is fitting that Gertrude have a day set aside in her honor because she is truely one of San Mateo County's great leaders.

The daughter of a Louisiana sharecropper, Gertrude has almost singlehandedly created a positive educational climate in East Palo Alto and saved a generation of youths from a lifetime of ignorance and illiteracy. Her Nairobi School and Mothers for Equal Education have set the standard, nationwide, for black self-help educational programs.

Her achievements have not escaped the attention of the national media. Gertrude has been profiled in such prominent publications as the Reader's Digest, the New York Times, the Palo Alto Times, and the Black Monitor.

A lifelong, devout Christian, Gertrude has brought the precepts of her faith to her work, and the results have been magnificent. One can feel the tangible results of her spirituality as she goes about her many daily tasks.

Gertrude has also been a powerful civic force in her community. East Palo Alto is a predominantly black, unincorporated area in San Mateo County. Years ago the East Palo Alto Municipal Council was established so that this community could, to the greatest extent possible, become self-governing. Gertrude has been a member of that council for many years and is leading the drive to develop an adequate tax basis so that the area can be incorporated as a city.

As a member of the board of supervisors of the county of San Mateo I was privileged to work with Gertrude for many years. I share her goal of independence for the community. During my tenure as a supervisor, I supported the many steps that have been taken toward that goal and since I have been in Congress, I have, with my respected colleague Representative PAUL N. MCCLOSKEY, JR., continued to assist in that regard.

I therefore ask you, my colleagues, to join with me in extending congratulations to Gertrude and wishing her many more days when we can recognize her fine leadership.●

MASSACHUSETTS GUN LAW EXPERIENCE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. PORTER. Mr. Speaker, I want to draw my colleagues' attention to a very interesting article in today's Wall Street Journal discussing the pros and cons of the experience Massachusetts has had with its mandatory gun law. The article follows:

MANY ARE PRAISING MASSACHUSETTS LAW CONTROLLING GUNS

(By Charles W. Stevens)

BOSTON.—Five years ago, the Massachusetts legislature passed the toughest gun control law of the land. Called the Bartley-Fox law, it requires a one-year mandatory minimum prison term for anyone caught carrying a firearm without a permit.

Naturally, pro-gun forces damn the law. But because of its harshness and failure to ban handguns, the measure even draws fire from gun control advocates. But if Bartley-Fox isn't widely loved, its supporters can say this much for the law: It seems to be working.

What makes the Massachusetts law unique is that it mandates a one-year prison term for toting a sidearm away from home or place of business without a permit irrespective of any involvement in a crime. Laws in other states require prison sentences only for using a gun in the commission of a felony; and some states apply such measures only against second offenders. (New York and Connecticut are currently considering gun control bills similar to, and just as stiff as, Massachusetts'.)

Not surprisingly, Bartley-Fox has been a failure in the eyes of such groups as the National Rifle Association. "It only affects the lawful gun owner, who is turned into a criminal," says Andy Kendzie, and NRA spokesman. And strangely enough, the Bartley-Fox law isn't even welcome in the anti-gun camp. Says Middlesex County Sheriff John J. Buckley, a leader of the Bay State's anti-gun movement: "I'm very much in favor of gun control; but I'm very much opposed to mandatory sentencing."

And yet, says Philip J. Cook, associate professor of public policy studies and economics at Duke University, "We have more persuasive evidence that Bartley-Fox is working than we do for any other state ordinance." Mr. Cook is involved in a Justice Department study of the criminal misuse of handguns.

To be sure, Bartley-Fox hasn't completely remedied rising crime rates and violence in Massachusetts. And the law isn't working without side effects. But according to three studies of its consequences, both the amount and kind of violent crime seem to have changed in Massachusetts since Bartley-Fox, and the trend appears to be continuing.

Assaults with guns are diminishing. In the two years that preceded Bartley-Fox, gun assaults in the Bay State were rising by 35 percent. Two years later, they had dropped by 19 percent, compared to a 4 percent decline in the rest of the country.

A similar trend in the same periods is apparent in murder rates in the state's largest city, Boston, where homicides dropped 39 percent, following the law, compared with a 16 percent decrease in all other big, U.S. cities.

While murder-rate statistics are subject to wide year-to-year swings, the lower level in Boston seems to have persisted. In 1979, for example, there were 92 murders in the city, 31 percent fewer than five years earlier. In Philadelphia, a much larger city but having similar demographics, there were 385 murders last year, only 13 percent fewer than were reported five years earlier. Gun laws there aren't nearly as strong as in Massachusetts.

According to a study by Northeastern University's Center for Applied Social Research here, Bartley-Fox is responsible for the difference in murder rates. "It didn't necessarily reduce the overall amount of violence," says Glen L. Pierce of the center, "but it definitely reduced the amount of gun violence," which in turn, reduced the death rate because guns are more often lethal than other weapons.

The law also changed the habits of noncriminals who sometimes carry guns, says Mr. Pierce. "It forced the casual carrier to ask himself when he walked out the door in the morning, 'Should I carry my gun?' A lot of people decided not to," he says.

The fear hasn't been borne out that otherwise upstanding citizens would be sent to prison because of Bartley-Fox. "The law has clearly been bent from time to time," says James A. Beha II in a study of the Massachusetts law done for Harvard Law School's Center for Criminal Justice. And a Boston University Law School study concludes that in some instances, "The judge's sympathy to the defendant, or antipathy to Bartley-Fox, played a role" in having the gun-carrying charges reduced or dismissed. "Some judges do favor defendants in Bartley-Fox cases," the BU study found. The study concluded that "at most" 40 people each year were sentenced under Bartley-Fox who, prior to the law, wouldn't have received any prison term.

Consider what happened recently to a New Hampshire businessman. While catching a plane at Boston's Logan International Airport, he was arrested while complying with federal law in notifying airline security of the presence of his gun. Although the weapon was registered in his home state, he couldn't produce any papers for carrying it in Massachusetts when asked by state police at the airport. In court, the judge reduced his charge from unlawful carrying to unlawful possession of a firearm and gave him probation.

Among the law's side effects has been a further clogging of the state's already crowded courts. Now, nearly all gun-law convictions are appealed because of the inevitable penalty. Before the mandatory prison terms, such appeals were rare, studies show.

In addition, although the gun control law has reduced the chances that a mugging victim will be killed, it has raised the chance that he will be injured. A Justice Department report says, for example, that victims of assaults are 54 percent more likely to be harmed when a knife or blunt instrument is used than when a gun is the weapon.

Another effect of the law is that robbers now attack women and the elderly more frequently because they offer less resistance. Gun-brandishing bandits, on the other hand, prefer male targets, because they tend to carry more money.

But as criminals choose their weapons with serious consequences to their victims, some Bay Staters have their own particular preferences. Says James Q. Wilson, a Harvard government professor and criminal justice specialist: "I'd rather take my chances with a black eye than a slab in the morgue any day."●

IN HONOR OF THE SONS OF ITALY

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mrs. HECKLER. Mr. Speaker, long before 1492 Italy was contributing to a nation that had yet to be born—a nation that would give new birth to the democratic ideals developed and refined in ancient Rome. The discovery of America in that year by Christopher Columbus was but one more point on the continuum of Italy's endowment to America. The Sons of Italy are the heirs of this rich tradition and have invested their inheritance wisely. For three-quarters of a century they have selflessly dedicated themselves not only to the Italian community but to the Nation as a whole.

In a land as ageless as Italy, 75 years is but a moment in time, but in a land as young as America, 75 years is an eon—an opportunity to contribute significantly to the culture and education, the strength and structure and direction of a nation. The Sons of Italy have made this contribution, and they have done so with purpose and determination. They have shared their heritage; they have enriched our lives; to the American melting pot they have added the leaven that raises us as a nation to a higher standard.

I join with my colleagues in expressing our admiration and our appreciation to the Sons of Italy.●

CRIMINAL PENALTIES FOR CONCEALING HAZARDS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. MILLER of California. Mr. Speaker, over 40 Members of the House have already cosponsored my legislation to establish strict criminal penalties for corporate officials who knowingly conceal health and safety hazards from their employees and the public.

These bills, H.R. 4973 and H.R. 7040, have been the subject of extensive hearings by the House Judiciary Subcommittee on Crime. Throughout the course of these hearings, the legislation has been supported by organizations of consumers, labor, lawyers, physicians, and workplace safety experts.

Opponents of this legislation in the business community have misrepresented its scope and intent. They claim it would increase Government intrusiveness, which it would not. Instead, the legislation would place responsibility with the company rather than depending on Government investigators and inspectors. Enactment of this bill would not compel a single additional company employee; it establishes no bureaucracy of compliance; it mandates no additional testing of products or manufacturing processes.

This legislation merely requires that when a company official, who has significant responsibilities for health and safety, recognizes that a potential serious health or safety hazard exists in a product or process, that the official notify affected employees and regulatory agencies which have the obligation to protect the public. Compliance requires nothing more than a post card notice.

None of the authors of this legislation mean to imply that American industry in general ignores or conceals known hazards to workers and the public. This legislation is directed at the very small number of cases where we know such coverups to have occurred.

In the past, I have related the extensive history of the concealment of hazards associated with asbestos exposure dating from the 1930's. Yet as late as the 1960's, many workers were not made aware of the carcinogenic effects of inhaling asbestos fibers; warning labels were not put on products; workers were not informed or irregularities disclosed through company X-ray programs and were not relocated within the asbestos factory. As late as 1978, international asbestos manufacturers were discussing ways to avoid having to place warning labels on asbestos-containing products destined for the European market.

These coverups in the asbestos industry have been thoroughly documented in several different hearings before subcommittees of the Congress, including the Subcommittee on Labor Standards, the Subcommittee on Compensation, Health and Safety (in the 95th Congress), and the Subcommittee on Crime.

During hearings on H.R. 4973 and H.R. 7040, we have learned of many other cases of corporate officials having concealed known hazards involving automobiles, tires, chemicals, pesticides, and other products.

In the last few weeks, there have been two additional developments which the Congress should note regarding this very serious situation. I had noted several months ago that I had obtained possession of documents from the Ford Motor Co. which indicate a serious design flaw in the automatic transmissions of many cars manufactured in the early 1970's. The design defect permits these cars to suddenly and unexpectedly slip from neutral into reverse. If the car has been left running, the effects of this slippage are obvious: a stationary car suddenly bolts backward.

The memo disclosing this flaw is dated June 30, 1971. It was signed by Ford's principal engineer for chassis safety systems, D. R. Dixon. After drawing a representation of the defect, Mr. Dixon warned Ford officials, "It is recommended that forward design and development be directed toward a feasible alternative."

Dixon warned that "this condition of careless shift lever actuation is occurring frequently in the field with actual high accident incidence." This memo was not Dixon's last warning to Ford officials. In December 1971, he again wrote "to alert you to the increasing number of customer complaint letters pertaining to the transmission control operation." Dixon recommended immediate work on a new design.

Now we learn the scope of Ford's coverup. In an account published in the New York Times on June 16, 1980, the National Highway Traffic Safety Administration (NHTSA) estimated that as many as 16 million cars might be fitted with the flawed transmission. The cars were made between August 1972 and October 1979, well after Dixon's warnings to Ford officials.

Dixon's warnings of high accident rates proved farsighted. According to NHTSA, there have been 6,000 accidents, 98 fatalities, and 1,710 injuries related to the transmission problem, as well as 23,000 consumer complaints.

NHTSA may be able to compel the recall of only a small portion of the 16 million dangerous transmissions because of the expiration of the statute of limitations, according to the Times. For millions of purchasers of Ford automobiles, as a result, there is no recourse but to abandon their potentially dangerous vehicles or fix them at their own expense.

I find it incredible that the manufacture of these flawed transmissions took place years after the danger was noted and alterations in design were recommended by the chief of the design unit at Ford. Perhaps this is another situation like the Pinto, where internal Ford memos—which were not admissible in the recent Indiana trial—showed that Ford ran a cost/benefit analysis of the expense of repairing explosion-prone Pintos versus the anticipated loss of life, and decided to do nothing to repair the faulty gas tank design.

FAULTY IUD DESIGN

Another example of corporate indifference was reported in the Washington Post on Tuesday, June 17, 1980. A Colorado judge refused to reduce a $6.8 million judgment against the A. H. Robins Co. for having marketed a poorly designed intrauterine birth-control device. The judgment had been awarded to a woman who had almost died after using the Dalcon Shield, whose sale was later restricted in the United States—although large numbers were subsequently sold abroad.

The findings of the court are very important in this case. This was not a situation in which we discovered, long after the product was in use, that there were serious potential problems which resulted in the removal of the product from the market.

Instead, the judge in the Colorado case found, the decision to distribute the IUD—

> Was characterized by a conscious decision * * * to market an inadequately tested, dangerous product by unethical and improper means, using false and misleading advertising.

The court specifically addressed the key concept in H.R. 7040, the question of knowingly exposing innocent people to extreme risk.

> The evidence showed that once the company was made specifically aware of the numerous dangerous side effects of the device * * * it suppressed the information, made additional false claims, and then resorted to an effort to coverup the facts.

These two situations, involving Ford transmissions and the Dalcon Shield, are only the two most recent examples of a reprehensible series of corporate decisions which endanger the health and safety of millions. I do not believe, and neither does any other sponsor of my legislation, that these kinds of decision are often made by corporate leaders, the overwhelming percentage of whom would decry such practices as strongly as I do.

In fact, the president and chairman of Monsanto Chemical, recently said,

> There have been cases—too many of them * * * Individual managers who knowingly and recklessly conceal clear and ongoing conditions of serious worker or consumer dangers should be recognized as the villains they are.

The case for H.R. 7040 could not be stated any better.

It has been facetiously suggested that the proponents of this legislation wish us to live in a risk-free society. I presume that everyone would like to live in a risk-free society, but proponents of H.R. 7040 realize like everyone else that certain dangers are unavoidable. Others are not.

What I do believe is that workers and consumers—the potential victims of these risks—have the right to know as much about the nature and severity of the risks and the corporate leaders who are subjecting us to danger. Then the worker can decide whether he wants to work around asbestos, instead of discovering 30 years later that he has asbestosis or lung cancer and he cannot collect his unemployment compensation because he took early retirement.

Then the consumer could decide if he wanted to buy a Ford with a faulty transmission instead of having to sue for injuries caused by transmission slippage.

Then a woman could decide to use a different type of birth control instead of nearly dying because she purchased, in good faith and on the basis of misleading advertising, a product whose manufacturers knew could kill her.

To advocate criminal penalties for these kinds of corporate decisions is not to be antibusiness. It is an effort to hold people accountable for the conscious decisions they make to subject another person to unreasonable, known risks. The mentality of the corporate executive who markets a product he knows to be unsafe, or who allows his employees to work in dangerous conditions, is no different in my mind than the mentality of a mugger who waits in the dark alley, and they deserve similarly harsh treatment.

It is not enough to point to product liability and negligence laws. Those laws insulate the responsible individual. Those laws require years of litigation on individual cases in order to achieve a measure of justice.

We choose to take a different route: To hold the responsible person accountable, not the amorphous corporation. Someone makes a decision to expose innocent people, and we have the evidence in too many cases, and in each situation, with the corporate letterhead across the top.

We live in a complex technological society. Marketing decisions, or decisions in the industrial field, can affect tens of millions of people. I would cite the kepone contamination of the James River and Chesapeake Bay, or the pollution of the groundwater aquifer underlying the San Joaquin Valley because of the improper discharge of chemical pesticides. Both these actions endanger very significant ecologies as well as crucial food sources. Both may result in millions of innocent people ingesting dangerous chemicals.

We need tough laws to deter this kind of behavior, and stiff fines and jail terms for responsible officials are the appropriate penalties. I hope that these latest tragic revelations will stimulate the public into demanding that the Congress enact H.R. 7040 as a step toward ending such unconscionable behavior in the future.●

FATHER DRINAN

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. KOSTMAYER. Mr. Speaker, it is with great regret that I rise today to bid farewell to our colleague from Massachusetts, ROBERT DRINAN.

Father DRINAN has served his country and his district well here in Congress for the past 10 years. In that time we have all witnessed his personal and political courage. Most recently we have seen that courage in Father DRINAN's reaction to the Pope's pronouncement on the political activity of priests. It is not surprising that he has so gracefully complied with the Pope's wishes, yet I know what a difficult decision this must have been for him to accept for he obviously relished his work here in Congress on behalf of his constituents and his country.

It has been my privilege to serve with Father DRINAN on the House Subcommittee on Government Information and Individual Rights where he has been an outspoken defender of the rights of the individual and an opponent of unwarranted Government intrusion. I remember very well during my freshman term when Father DRINAN was one of the first on the subcommittee to speak out against the Supreme Court's decision in Zurcher against the Stanford Daily, a decision which clearly threatens the freedom of the press as well as the privacy of all citizens.

Few of us who followed the House Judiciary Committee's impeachment hearings will forget Father DRINAN's efforts to impeach Richard Nixon not only for the obstruction of justice in the Watergate affair, but also for the secret, illegal bombings of Cambodia during the Vietnam war.

BOB DRINAN is one of those few people whose actions are consistent with his convictions, no matter how difficult adherence to those convictions may be. Because of this firmness, we often find BOB taking tough, uncompromising stands on the most difficult, controversial issues we face.

A diligent Member of Congress; a vociferous advocate of human rights; a good friend: BOB will be greatly missed. We will miss his voice here in this Hall, yet I know it will be heard elsewhere where it will no doubt inspire others as much as it has inspired those of us privileged to have served with him.●

RESOLUTION TO DISAPPROVE NUCLEAR SHIPMENT TO INDIA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. MARKEY. Mr. Speaker, today I am introducing a resolution of disapproval in the House to override the President's Executive order that gives the green light to ship nuclear fuel to India.

On May 16, by a unanimous decision, the Nuclear Regulatory Commission voted to deny export licenses for 38 tons of enriched uranium destined for the Tarapur powerplant in India. Last week, 62 Members of this body joined me in sending a letter to the President urging him not to capitulate to demands of the Indian Government to ship uranium fuel—demands that are made in the face of India's recalcitrant refusal to accept full scope safeguards and inspections on all its nuclear facilities.

In spite of this, Mr. Speaker, today the President issued an Executive order which reverses the NRC decision. India is the only known country to have exploded a nuclear device using nuclear materials from a civilian program. India has adamantly refused to sign the Nuclear Non-Proliferation Treaty, and continues to assert its right to future atomic tests. Knowing all this, Mr. Speaker, President Carter is willing to succumb to Indian pressure in the wake of the Afghanistan invasion.

The choice is simple. Do we allow the President to make an exception for India, which has explicitly reserved its option to continue using civilian materials to produce nuclear weapons? Or, do we say that the United States will stand by its principles and defend its antiproliferation policy?

I urge my colleagues to join me in this resolution which has already been signed by the following Members:

Henry Waxman, Jack Kemp, Shirley Chisholm, Dave Bonior, Mickey Edwards, Vic Fazio, Richard Ottinger, Parren Mitchell, Fortney Stark, Andrew Maguire, Jon Hinson, James Oberstar, Joseph Addabbo, Bruce Vento, John Porter.

William Ratchford, Dick Nolan, Arlen Erdahl, Ted Weiss, Robert Drinan, Howard Wolpe, Gerald Solomon, Stewart McKinney, Bill Green, Bill Royer, George Brown, Bob Edgar, Peter Kostmayer, and Ron Mottl.

If the United States is to uphold its commitment to nonproliferation, the line must be drawn with India. The following article which was published last week in the Washington Post further expounds upon my strong feelings on this issue.

The article follows:

[From the Washington Post, June 9, 1980]

A TOUGHER STAND—STARTING WITH INDIA

(By Edward J. Markey)

"The Buddha is smiling," read a coded cable sent in the early morning hours of May 18, 1974, to the Indian government in New Delhi. India had successfully exploded an atomic bomb. It thus became the sixth member of the nuclear bomb club, and the only member to have used plutonium from a civilian nuclear program—in this case, a Canadian-supplied research reactor with American-supplied coolant.

The explosion ripped apart U.S. non-proliferation policy. Pakistan, India's rival to the north, announced it would finance an atomic bomb even if "its people had to eat grass or leaves, or go hungry." Argentina, Brazil, South Korea, Turkey, Spain, South Africa and other countries announced expanded civilian programs with the unstated intent to develop "peaceful" nuclear explosives—the euphemism India attached to its atomic test.

India's explosion was a major test for nonproliferation policy. Canada moved swifty to cut off all nuclear cooperation with India as punishment for diverting the peaceful atom to explosive use. The United States chose to continue selling enriched uranium, reactor parts, maintenance services and other forms of nuclear cooperation in the hope of negotiating assurances that no further tests would occur. The U.S. decision proved to be a large mistake.

Six years have passed. The U.S. negotiations with India have been an obvious failure. India has not accepted international controls and inspections, has not signed the Nuclear Non-Proliferation Treaty and has explicitly stated that it may conduct future atomic experiments, regardless of U.S. opinion. The back of India's hand has been offered to U.S. pleadings on nuclear tests.

There is hope for change. A major congressional debate is brewing over U.S. proliferation policy toward India. The president and the State Department will square off against the Nuclear Regulatory Commission and members of Congress in a political donnybrook over U.S. efforts to curb the spread of nuclear weapons.

At issue are two 200-megawatt reactors in the Tarapur Atomic Power Station just north of Bombay on the arid coast of the Arabian Sea. The Tarapur reactors, sited at a small fishing village, were built by General Electric and Bechtel and financed by U.S. AID dollars. They have been operating since 1969 and are the largest reactors in Asia. Utilization of over 200 tons of U.S.-supplied enriched uranium as fuel at Tarapur has created a byproduct of 1,500 pounds of plutonium for India—enough plutonium for hundreds of atomic bombs.

On May 16, 1980, the Nuclear Regulatory Commission voted unanimously to disapprove export licenses for 38 additional tons of enriched uranium (about two years' supply of fuel) destined for the Tarapur reactors. The commission determined that the shipment did not meet the criteria of the Non-Proliferation Act of 1978 because of India's persistent refusal to open its nuclear facilities to international inspection and guarantee that U.S.-supplied material would not be used for nuclear explosions—"peaceful" or otherwise.

The president may override the NRC decision and approve the shipment of uranium to India by executive order. Under the language of the Non-Proliferation Act, both houses of Congress may then vote to override the president and approve or disapprove the shipment. The State Department has apparently successfully urged the president to sidestep his strong non-proliferation policy and approve the shipment to India because of "foreign policy" considerations.

It is my personal view that the Indian shipment should not, and will not, go forward. A bi-partisan alliance of congressmen has joined me in a letter sent to the president in opposition to the Indian shipment. Democrats such as Mo Udall, Jonathan Bingham, Benjamin Rosenthal and George Brown, along with Republicans such as Dave Stockman, Jack Kemp, Mickey Edwards and John Buchanan, jointly signaled their objections, The letter concludes:

"Since India is the only known country to have exploded a nuclear device using nuclear materials from a civilian program, and since India steadfastly asserts its right to future atomic tests, we urge you to draw the line with India and support the NRC decision to deny shipment of uranium fuel."

The State Department will argue that we cannot afford to offend India because of the Soviet invasion of Afghanistan—that it is better to acquiesce than to anger Prime Minister Gandhi. However, the recent billion-dollar arms deal signed with the Russians shows that India will keep close ties with the Soviet camp regardless of the enriched uranium shipment.

A second State Department argument, used ever since the days of John Foster Dulles, is that nuclear proliferation is inevitable—that the genie is out of the bottle—

and nothing the United States can do will prevent a determined country from acquiring nuclear weapons. To a certain extent, the State Department is correct. Damage has been done. For 30 years the United States has spread atomic hardware and expertise around the globe without adequate goals.

It is too late, however, for the United States to reverse the damage done. A new, tougher policy on non-proliferation should emerge from the administration, starting with India. Nuclear cooperation should be halted immediately with any country that has not agreed to give up all experiments with atomic explosions. No more enriched uranium, no more heavy water, no more reactor sales, no more advisory services and no more financial assistance for nuclear projects should be allowed until India makes a firm commitment to dismantle its atomic testing program. The same strict standard should then be applied to Argentina, Brazil, Egypt, Israel, Spain, Taiwan and Turkey if they continue to refuse a pledge of "no nuclear explosives." Countries must be shown that nuclear proliferation will cost them dearly.

If we do not strictly apply sanctions against countries such as India that have manufactured nuclear explosives from civilian activities, then we face a collapse of U.S. non-proliferation policy. Our opposition to the spread of atomic bombs will be ignored by country after country. Nuclear threats could emanate from virtually every region of the world.●

IN HONOR OF PHILIP E. McDONALD—FOR HIS DISTINGUISHED SERVICE AWARD

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. LUKEN. Mr. Speaker, at a time in our Nation's history when many would rather take than give, we find a man who has devoted his time and effort to developing innovative broadcasting methods that have greatly benefited the entire Cincinnati community.

Philip E. McDonald, vice president and general manager, WCKY radio, Cincinnati, received the prestigious Abe Lincoln Award this year for his outstanding service to the industry and to his home community. I would like to take this opportunity to congratulate him on his honor and commend his efforts.

Mr. McDonald has contributed to the cultural life and awareness of Cincinnatians through public service broadcasting and sponsorship of the Cincinnati Symphony Orchestra. He has created an identity and pride between the public and its local businesses by distributing significant amounts of local business stock to Cincinnati residents. In addition, Mr. McDonald has been responsible for forming a media advisory board for the Cincinnati police which links the public's understanding of police responsibilities to its own well-being.

We in Cincinnati are privileged to have a citizen that takes such pride in his community and seeks to promote its name and help his fellow citizens. I am sure that communities across the Nation will benefit from Mr. McDonald's original broadcasting ideas.●

FORD'S PROTECTIONIST STAND DEFENDED

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. WYLIE. Mr. Speaker, I recently received a letter from Mr. Bob Keim, a prominent Ford dealer in my district, who enclosed with his letter an article from Automotive News by A. S. Plotkin. Mr. Plotkin relates an interview with Fred Secrest, Ford executive vice president and an Ohio State University graduate. The recent unemployment figures reveal that Ohio and Michigan are hardest hit and that there is a direct relationship between the increase in unemployment in those States and the plight of the U.S. automotive industry. It seemed to me that Mr. Plotkin's article merits review by those of us in Congress. The Department of Commerce revealed that Japanese auto production established a new record in April when 1,001,322 so-called knockdown export units came into the United States. The contents of the article follow:

FORD'S PROTECTIONIST STAND DEFENDED

CAMBRIDGE, MASS.—A Ford Motor Co. official warned at a seminar here that it may be difficult to wean American buyers back from Japanese cars, even if their differential with U.S. products disappears and American productivity of small fuel-efficient cars makes quantum leaps.

Fred Secrest, Ford executive vice president for environment, safety and industry affairs, noted that "brand loyalty is very strong in the U.S. market and the loss of dealers may limit the speed with which some of the American makers can expect to get their customers back.

"So, in my view, even full product equality with the Japanese may not resolve the American competitive system," Secrest said.

Secrest spoke at seminars on the future of the automobile as part of a long-range study at the Massachusetts Institute of Technology.

Secrest took note of the warning, issued by an earlier MIT seminar speaker, Harvard Business School Prof. William Abernathy, that within 10 to 15 years cars produced in the U.S. and Canada could make up only a small fraction of new-car sales here unless trade relations with foreign producers are changed.

There is a strong possibility, Secrest said, that the Japanese will supply a major share of U.S. automotive needs during a period when American firms cannot build enough similar fuel-efficient vehicles—"even if the U.S. government should decide to assume some responsibility for their conversion efforts."

"There is not enough time," he said.

Secrest cautioned against adoption of a cynical attitude toward the present plight of the U.S. automotive industry, of saying, "So what—that's the way the cookie crumbles."

Such indifference, he said, fails to take into account what would happen to the workers in the automotive, steel, rubber, glass, machine tool and paint industries.

That attitude, Secrest said, also neglects to consider the national defense implications of "allowing such a major industry to wither away."

Harvard's Abernathy and others, he continued, "see that every other major nation that is a significant user of motor vehicles has found it wise and appropriate to take at least some steps to limit the extent of foreign competition—tariffs, local-content requirements, balance-of-trade commitments, various forms of orderly marketing agreements.

"Only the U.S. has been and remains wide open, except for our nominal 2.9 percent tariff," Secrest said.

Secrest conceded there are many arguments against any fundamental change in automotive trade policy, and that they deserve serious replies.

"No manager of a great multinational corporation like Ford, built in large part on liberal trade policies, enjoys advocating programs that sound like protection," he said.

Secrest listed some of the basic arguments against trade policy revision, then offered brief rebuttals, as follows:

Inflation—"Any limits on American access to low-cost imported cars might drive up prices."

But the U.S. also cannot stand prolonged trade deficits to which motor vehicles will contribute about $13 billion this year, second only to oil, Secrest said.

Oil—"Fewer Japanese cars and trucks may mean more American cars and trucks, but those American vehicles use more fuel, and that's intolerable."

But the replacement U.S. cars are no longer gas-guzzlers, they're 60 percent more fuel-efficient than 1974 cars, Secrest said. And the oil-use penalty is equal to only 6½ minutes a month of U.S. oil consumption for each additional 250,000 Japanese cars.

Retaliation—"If we restrict auto imports in any way, other folks will do nasty and unpleasant things to us in return."

But all the "other folks" already have national auto trade policies that are much more restrictive than those of the U.S., Secrest said.

Self-Correction—"It's a hell of a problem, but good old American ingenuity will fix it."

"I hope it's true, but if it proves false it may be too late to look for alternatives," Secrest said. "At an absolute minimum, self-correction requires completion of an enormous retooling program" by the U.S. industry, which can be privately financed only if it keeps selling lots of vehicles.

The alternative, government subsidies to pay for the retooling, is not "self-correction," he said.

Competition—"It's all a scheme to limit the number of the competitors, or at least the intensity of the competition in the U.S. market."

This ignores the nature of what will occur if Prof. Abernathy's scenario comes true, Secrest said. "The number of competitors won't change, but the location of the factories will change."

Ford and its U.S. competitors could organize to bring in high-volume products from lower-cost foreign bases.

"We don't want to go this way, frankly, because we really doubt whether it would be acceptable in terms of the long-run U.S. national interest," he said. Ford is also reluctant to sponsor such massive dislocations of people.

The present U.S. law that prevents combining imported and U.S.-made cars to determine CAFE compliance discriminates against American-based companies "while having zero restraining effect of firms with no American production," Secrest said.

"The U.S. is the only country that has chosen to protect an industry by restraining only its own firms. It seems likely that this absurdity will prove temporary, and that eventually everyone will work under the same set of rules."

Government role—"You're asking the government to do something to bail you out—and that's bad—the government will then have a new excuse to regulate you, and choke you and stomp on you."

Secrest answered: "I don't relish a larger federal role in my industry. But I think it is naive (and demonstrably untrue anywhere else in the world) that an industry of this magnitude can function in a world of OPEC oil control and volatile international currency movements without relying on governmental policies and plans."

Secrest observed that the subject of automotive trade policy is too complex "to be handled with black-and-white buzzwords like 'free trade' or 'fair trade' or 'protection' or other short cliches."

"I believe it would be stupid to ban Japanese cars, or to require that 100 percent of every U.S. motor vehicle be built in America," he continued. "I know of no serious person who proposes either long-term or short-term U.S. restraints nearly as stiff as those now imposed by Brazil or Mexico or Spain or, until quite recently, by Japan."

For the short term, he said, what is needed are U.S. government actions to obtain immediate Japanese governmental restraints that will "achieve reasonable levels" of auto exports to the U.S.

And for the long term, "all major importing companies might well be required to meet whatever value-added rules were being applied to domestic producers, such as today's 75 percent rule in the fuel-economy law."

He continued, "Maybe we should look at rules that would fluctuate as the dollar-yen relationship changes.

"Maybe some thought should be given to a U.S.-Japan automotive trade agreement, to establish a set of bilateral terms that would not give either nation 100 percent of what it wants, but—like the U.S.-Canadian automotive trade agreement dating back 15 years—could provide a rational framework for harmonizing different interests on an equitable and flexible basis."

Secrest was asked, following his address, about the public perception here of better quality in foreign-made cars than in the domestic products.

He replied that it is "incredible" that the U.S. auto makers cannot match the quality levels of the imports. He acknowledged that because of the present "enormous concentration" on financial and engineering problems, "we as an industry are experiencing what we call 'fit and finish' problems, which are serious but solvable," and not necessarily worse than they used to be.

However, he added, the "basic guts" of the U.S. cars are better than those of the German or Japanese products.

Secrest said he doubted that it is possible, much less desirable, for the U.S. government to become involved in assurance of automotive product quality.●

CHILD NUTRITION: PAYING THE PRICE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. GOODLING. Mr. Speaker, as you probably know, the first concurrent resolution of the budget for fiscal year 1981 instructs the Committee on Education and Labor to recommend changes in laws within its jurisdiction providing entitlement authority to cause a total reduction in spending for fiscal year 1981 of $850 million. Over $500 million of this cut is supposed to come out of the child nutrition program. No one who has been following the issue should be surprised.

From the start of this year's budget process, a number of us on the education subcommittee dealing with child nutrition warned the committee that the programs would be cut. Our concern was that the cuts be accomplished in such a way as to avoid severe impact on the children most in need of the food programs. In fact, many of us warned that if serious proposals for reducing Federal spending, and which avoided removing children from the program, were rejected, that our committee would never get its bill onto the House floor for consideration. This is exactly what has happened.

For example, I strongly supported the efforts of my able colleague from Michigan, Mr. FORD, in a bipartisan effort to improve the child nutrition program and obtain a Federal savings without cutting the amount of money for food to children. This commodity letter of credit proposal would have replaced the current outmoded, inefficient and costly food commodity system serving the child feeding programs. In its place the commodity letter of credit system would have provided vouchers to local school districts to purchase locally the same commodities which they now receive from USDA.

This proposal would, by some estimates, save the Federal Government between $20 and $30 million in the first year. And, equally important, local school districts, which have been faced in recent years with the severest of financial situations, would enjoy a savings of $130 million at a minimum. Still more savings to the Federal Government could be achieved if full cost accounting guidelines were adopted. Schools have been expending a considerable amount of their own funds to store and reprocess the so-called free commodities they have been receiving. This may be why the National School Boards Association has supported the letter of credit proposal.

Many opponents of this proposal attacked the idea because it tampered with the current commodity program and because, they said, it threatened to destroy the old agriculture—child nutrition coalition. We were told that this coalition was instrumental in blocking any cuts in the child nutrition program, especially in the donated commodity section. It is interesting to note that the Senate Agriculture Committee reported a $526 million cut in the child nutrition program including a $107 million reduction in commodity assistance to the school lunch and breakfast programs—so much for the "sacred commodity cow" which used to be protected by the coalition.

We must now pay the price for not reporting a more realistic set of child nutrition amendments. My only hope is that, as a committee, we can develop a package of responsible program reductions without doing substantial harm to good programs such as the National School Lunch Act.●

AIR FORCE SAVES OVER $1 MILLION ON SUGGESTIONS FROM SCOTT AFB SERGEANT

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. PRICE. Mr. Speaker, I would like to share with my colleagues an article that appeared in the June 17 edition of the St. Louis Globe-Democrat in reference to an individual who, I am proud to say, lives in my congressional district.

Senior M. Sgt. Garay D. Holland is a mangagement specialist at Scott Air Force Base, Ill., and thanks to his suggestions the Air Force has saved over $1 million.

I think my colleagues will enjoy this article about a dedicated public servant.

The article follows:

SCOTT AFB HAS A MILLION-DOLLAR SERGEANT

(By Kathy O'Dell)

Thanks a million.

The taxpayers have that much and more to appreciate about Senior Master Sgt. Garay D. Holland, a management specialist at Scott Air Force Base near Belleville, whose hobby is suggesting ways for the Air Force to save money.

In his 19-year career, Holland has received awards for 15 money-saving ideas. His latest award, received in late March, was for an antenna system that an Air Force validation study showed has saved the taxpayers more than $1.1 million.

He was given a $2,700 bonus for that one.

"The money is nice," he said, but "what matters more to me is knowing that my total Air Force pay, benefits and eventual retirement have been more than equaled by the money my ideas have saved."

Holland figures that his Air Force career has not cost the taxpayers a cent. The 38-year-old Abilene, Texas, native loves the Air Force and likes to make suggestions to save money and improve safety.

The idea that saved $1.1 million was to make use of a weather satellite tracking system that had been operated under a civilian contract and was scheduled for the salvage heap.

"We made it fit our needs instead of paying $3.5 million to rebuild and upgrade the older system," Holland said.

Another Holland suggestion now under review at the Pentagon is designed to improve retention of service personnel and save millions of federal dollars in military and civilian vocational training.

He recommended that the Air Force offer vocational-technical school scholarships—similar to educational opportunities offered to college students in Reserve Officer Training Corps (ROTC) programs. In exchange, recipients would commit themselves to four to six years in the Air Force.

The result, Holland said, would save the Air Force training costs, increase use of civilian vocational schools and give the military more productive service time from volunteers coming through the program.

"One of the greatest incentives we have in the military is education," Holland said. While in the service, he earned a vocational education degree from Southern Illinois University-Carbondale.

Holland considers it part of his job to make suggestions. He thinks it's sad that some of his colleagues talk about ideas but never submit them.

In the Air Force suggestion system, every idea is evaluated within a specific time. The originator can request a re-evaluation if the idea is rejected, he said.

"Suggestions falling within your scope of your (job) responsibility you cannot be paid for," he added.

Holland received his first cash award for a suggestion in 1962. He was given two awards that year, one for saving $70,000 on a radar control modification and another for using base personnel to remove some equipment rather than bringing in an engineering unit.

Several of his awards were for safety and technical changes that could not be translated into dollar savings. Some of his other suggestions concerned equipment maintenance, installation and operation.

Holland has been at Scott Air Force Base since March 1977. He is assigned to the Air Force Communications Command Inspector General's Office, and travels around the world as part of a management evaluation team.

In his spare time he is working on a master's degree in education counseling.●

TRIBUTE TO T. R. LAMMERS, DIRECTOR, DISTRICT 4, CALIFORNIA DEPARTMENT OF TRANSPORTATION

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. ROYER. Mr. Speaker, on the evening of June 27, 1980, many friends will join together to recognize Tom Lammers for his 30 years of service to the people of California.

Tom Lammers began his career with the California Division of Highways in 1946, when he worked during four summer vacations while studying for his engineering degree. He received his bachelor of science degree in civil engineering from the University of California at Berkeley in 1950 with honors.

In 1950 Tom began working as a civil engineer in the construction and design departments of the division of highways. In 1958 he became the design engineer for much of the Interstate 80 project over the Sierras between Sacramento and Reno, including the difficult Donner Summit portion.

Tom Lammers spent most of the 1960's in the Los Angeles District Office of the Division of Highways. He headed a special task force for the design and right-of-ways for Interstate 105 (Century Freeway). This was the first project in California to use a multidisciplined approach throughout its design and construction. This minimized the freeways disruption of surrounding communities.

Since his present position as director of district 4 began in 1972, he has shown great integrity and leadership in overseeing the maintenance and construction of complex transportation systems in the bay area. Early projects under his jurisdiction were the construction of segments of Interstates 280, 580, and 680. Later projects include the Antioch and Dumbarton Bridges, Interstate 180, 980, Route 101 Gilroy Bypass and the completion of the 680-280-101 interchange in the San Jose area. These have all attested to his ability to develop and implement programs.

Tom Lammers has also been the prime mover in negotiations with the Southern Pacific Railway in securing the continuation of the San Francisco Peninsula commute service.

He has promoted the use of public and shared transit, implementing priority passage for carpools and buses on a number of major transportation corridors in the bay area. Above all, Tom Lammers has been a leader in innovative highway design and esthetics and in meeting the San Francisco Bay area transit needs.

Tom Lammers is truly an outstanding public servant and deserves the recognition he will receive at his farewell dinner. I am proud to join his many friends in paying him tribute.●

GLOOMY SCENARIO GIVEN FOR NUCLEAR ATTACK ON THE UNITED STATES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. CARTER. Mr. Speaker, some 2 years ago, Hon. Paul Rogers, who was chairman of the Subcommittee on Health and Environment, on which I served as ranking member, held extensive hearings on the health effects of radiation from atomic blasts. The first blasts, of course, occurred in 1945 in New Mexico.

After World War II, experimentation continued. The first series of blasts were held above ground. The danger of radiation was finally recognized and then the bombs were exploded far beneath the surface of the Earth. Even these blasts proved to be dangerous, for at least one blew through the Earth's crust, contaminating the area. Not only do atomic blasts affect those in the immediate area, but radioactive particles have been found in our country which came from blasts in China. Many scientists have watched with horror as larger and more harmful weapons for human destruction have been invented.

It has been my fortune to have talked with Japanese who were well acquainted with the effects of the blasts at Hiroshima and Nagasaki early in August of 1945. These blasts were very small compared to those which our country and other civilized countries are capable of delivering today.

If you can imagine the urban and suburban areas of our cities being destroyed with most of the citizens being killed and the few remaining burned beyond recognition, then you can begin to comprehend the effects of atomic warfare.

Mr. Speaker, it seems to me that civilized people should ban the use of nuclear weapons by an international agreement.

After World War I, phosgene and mustard gas were banned and have not since been used. Surely the civilized people of the world should realize that nuclear war means world devastation. Radioactive particles from atomic blasts in other countries may well get into the jet stream and fall upon this country and may cause leukemia, lymphoma, thyroid cancer, and other cancers.

I enclose for the perusal of the Members an article by Cristine Russell which appeared in the Washington Star today.

The article follows:

GLOOMY SCENARIO GIVEN FOR NUCLEAR ATTACK ON UNITED STATES

(By Cristine Russell)

Two-thirds of the nation's population live in areas considered "high-risk" in the event of nuclear attack, experts said yesterday at a Senate hearing.

At the hearing on the short- and long-term risks of nuclear war, Federal Emergency Management Agency division director, William K. Chipman, admitted that existing evacuation plans cover only 8 percent of Americans, and it could take another decade to complete the rest.

However, the Health subcommittee chairman, Sen. Edward M. Kennedy, D-Mass., questioned how valuable such plans would be should an attack be launched by the Russians. He warned that "we are at the edge of a new cold war that in the years ahead could flare into nuclear conflagration."

Other witnesses appearing at the hearing painted a gloomy scenario suggesting that those who managed to survive a nuclear war "would envy the dead."

Dr. Howard Hiatt, dean of Harvard's School of Public Health, projected the following effects if a one-megaton bomb were dropped on the White House:

Within a 1½-mile radius, no building or monument would be left standing, and there would be few, if any survivors. The center of the city's subway system would be destroyed.

Three miles from the center, past the Arlington Cemetery, concrete buildings would be destroyed and exposed people would be critically burned. Winds would blow at more than 300 miles an hour.

In Bethesda, McLean and Alexandria, nearly nine miles from the blast, brick and wood-frame buildings would be moderately damaged, and exposed skin would blister.

Beyond this distance for up to 40 miles, people would be burned and, if they glanced at the blast, blinded.

Estimates from the United States Arms Control and Disarmament Agency suggest that one-quarter of the region's 2.5 million inhabitants would be killed within three weeks of the explosion, and one in three residents would be injured.

These numbers could be reduced significantly, according to Chipman, if residents were given time to leave the city. "A week would be desirable" for evacuation, according to Chipman, who said that many intelligence experts believe that there would indeed be advance warning.

But Kennedy wondered "how realistic that type of scenario would necessarily be."

Most of the hypothetical talk was about one-megaton bombs, which are 80 times more powerful than the bomb dropped on Hiroshima. But they are far from the largest weapons in the Soviet or U.S. nuclear arsenals.

Medical experts testifying at the hearing gave gloomy projections about the calamity doctors and survivors would face in the event of an attack. According to Dr. H. Jack Geiger, professor of community medicine at the City College of New York, there would only be about one doctor for every 1,700 surviving persons. It might be four weeks before everyone who needed a doctor could be seen and "most would have died by then."

Geiger talked further of long-term health hazards and warned of severe water scarcity and an invasion of disease-carrying organisms.

"Relative to humans, the cockroaches will survive—so will the flies and the mosquitoes," since they are less susceptible to radiation effects, he said.

And the short-term "radiation sickness" would be followed by a lifetime risk of contracting cancers such as leukemia—a risk already demonstrated in followup studies of Japanese survivors of the first nuclear bombs.

Yesterday, four of them told of the horrifying events after the first atomic bomb was dropped on Hiroshima on Aug. 6, 1945.

Gene Masanori Fujita, then a highschool student, hid in a bomb shelter. When he came out afterward, he saw "skeletons of buildings standing" and people walking about in a daze, "skin hanging from their hands." He recalled that there was "no way you could even walk through the dead people, the casualties."

Shigeko Sasamori, who was 13 years old at the time, remembered seeing the plane overhead and the bomb drop before the impact left her unconscious. When she awoke, "it was a different world, completely changed, a hell." She wandered for four days before being found by her parents.

They hardly recognized her. The burns covering her face, hands and chest later took 36 plastic surgery operations to repair. "I have a mission to tell the people how horrible it is," said Sasamori, now a Newton, Mass., resident.●

A SALUTE TO JOHN F. COVE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. STOKES. Mr. Speaker, thank you for providing me with this opportunity to salute John "Jack" Cove, the former Associate Director for Defense of the House Budget Committee. Over the past 6 years, I have grown to respect not only his professionalism, but also his dedication as a public servant.

As you know, the budget process has evolved in recent years, into one of the most important mechanisms available to the Congress for the setting of national priorities and policies. Jack has been an integral part of this evolution, as his knowledge and acumen regarding defense budgetary issues, as well as staff leadership, has significantly contributed to the solidification of the process.

While many times my position with respect to the defense budget has differed with that of many of my fellow colleagues on the Budget Committee, I have always found Jack's analyses of defense-elated issues to be honest, objective, and candid. This is a truly admirable commentary especially in light of the extremely sensitive and controversial nature of U.S. defense policy. I am sure that my personal views are shared by present and former members of the Budget Committee, and he will be greatly missed.

At this time, Mr. Speaker, I would like my colleagues to join me in saluting John Cove, and wishing him well.●

ABE STOLAR FAMILY: RUSSIAN HOSTAGES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mrs. SCHROEDER. Mr. Speaker, I want to share with my colleagues a letter I received recently regarding the case of Mr. Abe Stolar, an American citizen currently being held hostage in the Soviet Union. Today marks the fifth anniversary of Mr. Stolar's wait for a visa to allow him and his family to leave the U.S.S.R. The interests of human freedom demand that we put the spotlight on this case and others like it. Let us give the Stolars hope that their next anniversary will be a true celebration.

The letter follows:

DEAR CONGRESSWOMAN SCHROEDER: I know of your interest in civil rights and am happy that you have been in the forefront of the effort to protect the liberty of people all over the world. Our great American Civil Rights leader, Martin Luther King, said "Injustice anywhere is a threat to justice everywhere." In light of this, I would like to bring your attention to a very special anniversary that will take place June 19, 1980. It is not the type that one celebrates—but rather, it is a day marked in infamy for freedom loving people—especially for the citizens of the United States who value liberty.

In case you are wondering—the anniversary of which I write is that of Abe Stolar, an American citizen, living in the U.S.S.R., who, after receiving permission to leave that country with his wife and son on June 19, 1975 was abruptly removed from the plane and returned to Moscow. They were informed they would have to wait two more years since they claimed his wife Riga had been engaged in work of high security at her engineering plant. (At the time their visas were attained her employer has confirmed that this was not true—otherwise the visa would not have been granted.)

The two years of waiting for the Stolars has now grown into five. Since the Stolars had received official government sanction to leave, they sent all their furniture and personal belongings ahead. Hence, when this displaced family returned to Moscow they had to start life anew, depending on the help of friends to keep them alive.

Abe Stolar, a U.S. citizen, born in Chicago, Illinois, was brought to the U.S.S.R. by his parents in 1932 when he was 19 years old. The family soon realized the mistake in returning to Russia, when his father was arrested and disappeared in the Stalinist Purge of 1937. His mother died in 1949. Abe served in the army in World War II. He was wounded, but never received a pension. With the new surge of anti-semitism, he was dismissed from his subsequent employment with Radio Moscow. He survived as a lathe operator until Stalin died. At that time, he said his faith was at a low ebb, and all his idealism had been spent. However, he accepted a new position with Radio Moscow in 1955, from which he retired in 1974. Today, Abe, his wife Riga, a retired chemist, and son Michael live in limbo, in their Moscow apartment.

Can you imagine how it would be to live as a hostage in a non-democratic country for five years? Only a man such as Abe could survive! For his goal, in spite of all odds—detention, harassment, interception of mail—has been, and still is—to reach freedom.

Abe has many friends here, and in freedom loving countries all over the world. I am proud to be one of them.

In a recent letter to one of his Colorado friends, Abe stated, "It is difficult to have faith when one is dealing with specialists in crippling faith, but that is where our heritage comes in. Can you imagine how hopeless it would seem without the support of our own kind—our own kith and kin!

We citizens of the U.S. are Abe's kith and kin. Abe needs our help! You can put real meaning into our forthcoming Independence Day by helping this fellow citizen and his family gain their freedom.

Please Mrs. Schroeder, let's change this June 19th anniversary from one of dispair to one of hope and freedom for Abe and his family.

It has been said, "If you save one life it is as if you have saved the world." You can help make this difference. Abe is counting on you, and so am I!

Hopefully and with continued gratitude to you for your work in "The struggle for Human Rights."

MIRA LEE GOLDSTEIN.●

COMMUNIST AND NONCOMMUNIST DICTATORSHIPS: THERE IS A DIFFERENCE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. ASHBROOK. Mr. Speaker, many liberals have criticized earlier administrations for preferring anti-Communist dictatorships over Communist ones. They have succeeded in reversing this order, so that today President Carter protests the failing of a handful of dissidents in Chile, but literally hugs the persecutor of millions, Leonid Brezhnev, to his breast.

Liberals justify this discrimination in terms of so-called national interests. Their logic makes some sense, but their conclusion is exactly backward. National interest dictates that, if we must favor one group or the other, it should be the anti-Communist we favor. The reason for this is perfectly obvious: The Communists have made it perfectly clear that their goal is to destroy our freedom and our way of life. No non-Communist country has made any such threat.

We should always favor freedom over any kind of tyranny, but there are not only practical but moral limits on our ability to dictate to other countries. To give an obvious example, we have every right to use the force of the Federal Government to force a south Texas town to give Americans the right to vote. But we have no right at all to force a border Mexican town to give everybody this right. We have a moral obligation to enforce voting rights in Montpelier, Vt., but not in Ottawa, Canada. But in the unlikely event that Canada were taken over by totalitarian enemies of our very national survival, we have every right and obligation to do something about it.

Cuba makes it clear that it is the enemy of the United States, and of freedom throughout the world. It is a base for the forces of Communist Russia, whose announced goal is our destruction. Duvalier, who is a backward and vicious tyrant, is not in any way a threat to this country. This difference affects both our right to counteraction and our obligation to defend our people from declared enemies.

However objectionable they may be from our point of view, we have not the right to impose our way of life on sovereign states by force. But we do have the right to defend ourselves. That is the moral difference between Communist and non-Communist tyranny. We should always work to encourage freedom abroad. But our primary moral obligation is to protect our country against those who seek to destroy it.●

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The May 1980 list includes:

NATIONAL DEFENSE

Reserves' Reported Facilities Backlog Now Exceeds $2 Billion: Acquisition Planning Questioned. Acc. No. 112341, LCD-80-45, May 19.

Is the Joint Air Force/Navy Alternate Engine Program Workable? GAO Thinks Not as Presently Structured. Acc. No. 112328, PSAD-80-40, May 9.

Direct Commissary Support System Should be Expanded to Include More Army Commissaries in Europe. Acc. No. 122342, LCD-80-55, May 20.

"SARs"-Defense Department Reports That Should Provide More Information to the Congress. Acc. No. 112285, PSAD-80-37, May 9.

Letter reports

The Congress does not have adequate information for determining how much money should be made available to other countries to purchase Defense training. Acc. No. 112279, FGMSD-80-58, May 7.

Defense's requirement to develop a new Nuclear Forces Communications Satellite has not been justified. Acc. No. 112313, LCD-80-59, May 9.

The Army can save millions by reducing projected material requirements by the full amount of forecasted returns. Acc. No. 112304, LCD-80-64, May 15.

Air Force's watercraft program needs increased management attention. Acc. No. 112340, LCD-80-60, May 19.

The Air Force does not anticipate problems as a result of dividing operations at the Arnold Engineering Development Center, Tullahoma, Tenn., among three contractors. PSAD-80-51, May 22.

INTERNATIONAL AFFAIRS

Implementing the Panama Canal Treaty of 1977—Good Planning But Many Issues Remain. Acc. No. 112305, ID-80-30, May 15.

GENERAL SCIENCE, SPACE AND TECHNOLOGY

Letter reports

Tracking and data relay satellite system will change NASA's operating mode of low, earth-orbiting spacecraft. Acc. No. 112397, PSAD-80-47, May 28.

ENERGY

Prospects for a Stronger United States-Mexico Energy Relationship. Acc. No. 112200, ID-80-11, May 1.

Slow Progress and Uncertain Energy Savings in Program to Weatherize Low-Income Households. Acc. No. 112303, EMD-80-59, May 15.

Rural Electrification Administration Loans to Electric Distribution Systems: Policy Changes Needed. CED-80-52, May 30.

Emergency Allocation Rules Fail to Recognize Needs of Petrochemical Industry. Acc. No. 112355, EMD-80-39, May 21.

Letter reports

The Department of Energy does not have an effective long-range planning process to meet program goals. Acc. No. 112292, EMD-80-61, May 7.

New York State's gasoline sales tax accounted for slightly higher gasoline prices at United Refining Company retail stations. Acc. No. 112396, EMD-80-77, May 22.

NATURAL RESOURCES AND ENVIRONMENT

Some Issues Affecting Southern California Outer Continental Shelf Oil and Gas Lease Sale 48. Acc. No. 112267, EMD-80-47, May 5.

Federal Land Acquisitions by Condemnation-Opportunities to Reduce Delays and Costs. Acc. No. 112295, CED-80-54, May 14.

Industrial Wastes: An Unexplored Source of Valuable Minerals. Acc. No. 112300, EMD-80-45, May 15.

Contracts to Provide Space in Federal Reservoirs for Future Water Supplies Should Be More Flexible. Acc. No. 112329, CED-80-78, May 16.

International Trade and Export Policies in the Ferrous Scrap Market. Acc. No. 112365, ID-80-36, May 20.

Developing Markets for Fish not Traditionally Harvested by the United States: Problems and Federal Role. Acc. No. 112252, CED-80-73, May 7.

COMMERCE AND HOUSING CREDIT

ICC's Enforcement Program Can be more Effective in Halting Violations and Preventing Their Recurrence. Acc. No. 112331, CED-80-57, May 19.

Ship Manifest Laws Need to be Administered in a More Consistent, Less Burdensome Manner. Acc. No. 112264, GGD-80-22, April 10.

HUD Should Make Immediate Changes in Accounting for Secretary-Held Multi-family Mortgages. Acc. No. 112330, FGMSD-80-43, May 16.

The Coast Guard's Programs of Aids to Navigation Along Louisiana's Coast Could be more Effective. Acc. No. 112265, CED-80-58, April 11.

Letter reports

The Maritime Administration's emergency plan appears well structured but lacks detailed emergency procedures at the working level. Acc. No. 112085, LCD-80-52, April 17.

Using an exemption permitting the sale of privately placed securities without registration with the Securities and Exchange Commission. Acc. No. 112277, FGMSD-80-55, April 28.

TRANSPORTATION

Millions of dollars are spent each year to purchase and operate locomotives and it is imperative that management be improved. Acc. No. 112286, LCD-80-58, May 12.

The Transportation Safety Board could improve its planning process. Acc. No. 112383, CED-80-101, May 28.

SOCIAL SERVICES

Efforts to Control Fraud, Abuse, and Mismanagement in Domestic Food Assistance Programs: Progress Made-more Needed. Acc. No. 112294, CED-80-33, May 6.

U.S. Efforts to Educate and Train the Poor in Developing Countries. Acc. No. 112224, ID-80-18, May 5.

Letter reports

The Chicago Housing Authority needs to improve its management and controls over purchasing. Acc. No. 112199, CED-80-93, April 28.

Comparison of data on older people in three rural and urban locations. Acc. No. 112366, HRD-80-83, May 23.

HEALTH

Health Maintenance Organizations Can Help Control Health Care Costs. Acc. No. 112291, PAD-80-17, May 6.

Letter reports

A number of problems exist with Health Care Planning Administration's procedures used in computing proposed home health care reimbursement limits. Acc. No. 112293, HRD-80-84, May 8.

VETERAN'S AFFAIRS

Problems in Administering Servicemen's Group Life Insurance Program in the Ready Reserve. Acc. No. 112352, FPCD-80-45, May 1.

ADMINISTRATION OF JUSTICE

Examination of Financial Statements of the Federal Prison Industries, Inc., For the Fiscal Year 1979. Acc. No. 112384, GGD-80-48, May 27.

From Quantity to Quality: Changing FBI Emphasis on Interstate Property Crimes. Acc. No. 112287, GGD-80-43, May 8.

GENERAL GOVERNMENT

Civil Service Reform—Where it Stands Today. Acc. No. 112290, FPCD-80-38, May 13.

Kennedy Center's Financial Problems Are Serious. Acc. No. 112276, GGD-80-39, April 24.

Action Needed to Better Protect Investors from Fraud in Purchasing Privately Placed Securities. Acc. No. 112326, FGMSD-80-56, May 14.

Reduced Communications Costs Through Centralized Management of Multiplex Systems. Acc. No. 112301, LCD-80-53, May 14.

GAO Findings on Federal Internal Audit—A Summary. Acc. No. 112381, FGMSD-80-39, May 27.

More Stringent Revenue Sharing Act Requirements are Upgrading State and Local Governments' Audits. Acc. No. 112327, GGD-80-35, May 16.

Audit of the Senate Restaurants Revolving Fund October 1, 1978 to September 29, 1979. Acc. No. 112325, GGD-80-56, May 16.

Audit of the Bureau of Engraving and Printing Fund for the Year Ended September 30, 1979. Acc. No. 112223, GGD-80-47, May 5.

Letter reports

No documentary evidence was found supporting allegations against Bristol Electronics, Inc., New Bedford, Mass. Acc. No. 112382, PSAD-80-45, April 19.

Proposition 9's effect on Federal funds to California cannot be determined. Acc. No. 112257, GGD-80-63, April 29.

GAO makes recommendations to improve financial reporting at the Naval Supply Systems Command. Acc. No. 112197, FGMSD-80-42, April 30.

Summary of actions taken by central agencies in compliance with OMB's automated systems security programs. Acc. No. 112219, LCD-80-56-I, April 30.

Unsupported year-end obligations overstate the progress of assisted housing. Acc. No. 112278, PSAD-80-41, April 30.

State Department officials should not participate in contract negotiations that exclude some Americans from participating on the basis of religion, race, sex or national origin. Acc. No. 112303, ID-80-37, May 13.

Mr. Speaker, the monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 1518, 441 G Street NW., Washington, D.C. 20548. Phone (202) 275-6241.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 61 Orange County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and properous life in their new homeland:

ORANGE COUNTY

Alex Wanchi Li, Esther Teitelbaum, Krikor Mihran Hosepian, Zenaida Lazaro Acocella, San-San Wu Yu, Harvey Hsien-Cheng Yu, Ricardo Collazo, Hermer Anibal Rodriguez, Maria Norma Kovalesky, Maria Eugenia Blazeski, Monique Swindell, Kathleen Ann Kolmer Klein on behalf of Scott Christopher Klein, Herta Von Der Grun Toneatto, Nicholas Edward Gleason on behalf of Allison Nicole Gleason.

Rose Anne Grover on behalf of Kimberly Ann Maire Grover, Margaret Kanzinger, Christina Bogumila Kryzaniwsky, Barbara Joan Elias, Edward Matthew Elias, Luigi Fratto on behalf of Antonio Fratto, Luigi Fratto on behalf of Ross Fratto, Samuel H. Cohen on behalf of Jonathan Isaac Cohen, Samuel H. Cohen on behalf of Joseph Hiam Cohen, Robert John Haeussler on behalf of Marc Anthony Haeussler, Theodore Alvin Harden on behalf of Terry Park Harden.

Robert Walton Van Asdale on behalf of Kristie Lee Van Asdale, Darlene Lynn Garland on behalf of Rayna Marie Kathryn Garland, Karen Sue Coplan on behalf of Gregory Edward Coplan, Ronald R. C. Harold on behalf of Amy Catherine Harold, Elba Lucrecia Paratore, Maria Florisse Neri Raypon, Ramon Quiem Raypon, Gisela Maria Ashcroft, Laura Harth, Domenico Franciamore, Juhan Jaan Raudsepp, Maria de la Rosa.

Ovidio de la Rosa, Ekaterini Spiliotis, Rosa Macchiarolo, Madhuben Hasmukhbhai Patel, Yashvant Dahyabhai Patel, Atiat Shafik, Elizabeth Rajeena Zacharia, Saney Bridges, Doreen Anita Pickett, Ann Lynn Rymarczyk, Teresa Rymarczyk, Margaret Mary Lennon on behalf of Christine Kyung Mee Lennon.

Mohammad Arif Muslim, Thelma Ileana Yong Swana, Evelyn Patricia Novak, Steven Prekas, Joan Hsing-Chu Kiang Hsu on behalf of Joseph Yu-Soh Hsu, Sieglinde Maria Sanger, Seyedeh Mehr Banoo Crossley, Spiros Panteloukas, Paul Martin McDowell, Kasam Chalermvong, Komkuy Chalermvong, Julio Alberto Andujar.●

TAX POLICY—HOUSING

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. SABO. Mr. Speaker, today I am introducing a bill that changes three provisions in our Tax Code as it relates to housing. The existing law, I believe, works against the development of a rational housing policy in this country.

The first two provisions of my bill make it easier for people to own their own homes and help expand the capital available for home construction. And since I am a firm believer that when we spend money, we should also try to raise some funds to offset that expenditure, the third provision will raise a little money and, I hope, have a dampening effect on inflation in high-priced housing.

Sections one and two of the bill are also contained in H.R. 7378 which I introduced May 15. They provide that an individual can defer the capital gains on the sale of his home even if he reinvests in a home of lower value than the one he sold. Existing law allows an individual who sells his home to defer capital gains taxes only if he buys a home of higher value.

In my judgment, this law creates some serious distortions in our housing market. By requiring that people pay capital gains taxes unless they buy up, we create incentives for people to buy larger houses than they need. This incentive can result in inefficient land use and energy consumption. The second problem with this provision is that many middle-aged couples whose children have left home are penalized with capital gains taxes if they buy a smaller, less expensive home. In my judgment, we should be providing incentives to free up these homes for younger families who need more space.

An additional problem arises today because of the interaction of this provision with our current high interest rates. We will experience serious mobility problems if the current situation does not change soon. Homeowners who are required to move today find themselves in a serious dilemma. The price of money makes it very difficult to buy a new home for the same price they sell their old home, yet we penalize them with capital gains taxes if they buy a less expensive home.

My bill addresses these problems by neutralizing the effects of the Tax Code in these situations. Section 1 provides that capital gains which are realized on the sale of a home can be deferred when the seller purchases a new home even if the cost of purchasing the new home is below the sales price of the old home. Section 2 extends the time allowed for reinvestment in a new home from 18 months to 30 months. This extension, in conjunction with the proposed capital gains change, should alleviate some of the mobility problems we are experiencing.

Section 3 of the bill establishes individual housing accounts for people who are trying to accumulate money to make the down payment on a first home. This section is modeled on a law passed by the State of Minnesota this year. The bill allows an individual to set up an account similar to an individual retirement account (IRA) for the accumulation of a downpayment on his or her first home. There would be no tax on the contributions to and earnings of this account so long as the funds are not used for other purposes. An individual would be allowed to deposit up to $4,000 in this account per year. Total accumulation could not exceed $20,000. If the money is withdrawn for any purpose other than to make a down payment on a home, the withdrawal will be taxed as ordinary income and penalized in the same manner as early withdrawals from an IRA.

The final section of this bill deals with a part of our Tax Code which I feel has contributed significantly to inflation in the price of housing. This provision allows taxpayers who itemize deductions to deduct the amount of money spent on mortgage interest from their taxable income. This law produces the single largest Government subsidy for housing in the country today. The Treasury Department estimates that this subsidy amounted to $12.8 billion in 1978 and $13.8 billion in 1979. This provision of the Tax Code provides a direct incentive for individuals to buy more expensive homes than they could otherwise afford. It has the effect of turning housing into an important tax shelter for middle- and upper-income people. While I would not recommend repealing this law, I think it is time to cut back on this subsidy. My bill limits this deduction to mortgage interest on the first $150,000 of principal. At that level it will not adversely affect most home buyers, but will reduce the Government's subsidy of expensive homes, and hopefully, will help neutralize the effect of tax policy on housing decisions at the high end of the price spectrum.

The combined effect of these changes will be to neutralize tax effects on a variety of housing choices which are now penalized, provide some tax assistance to young people who are trying to break into the housing market, and reduce tax expenditures at the high-priced end of the housing market where Federal subsidies are not needed. The first three sections of this bill will help increase the availability of capital for home construction while simultaneously assisting young people who are trying to break into or remain in the housing market. And the provisions in section 4 should help offset the increased tax expenditures in the earlier part of the bill.●

NICARAGUA'S LIBERATION HEROES: CASTRO, ARAFAT, AND CARTER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. McDONALD. Mr. Speaker, the Castroite regime in Nicaragua of the Sandinist National Liberation Front (FSLN) has invited well-known figures "who participated in our people's liberation process" to attend the first annual celebration of the FSLN takeover on July 19. FSLN Commander Daniel Ortega has named them as including Fidel Castro, Yasir Arafat, and President Carter. It is curious how some of the most unpleasant truths work their way to the surface.

Attached for the interest of my colleagues who voted in support of sending U.S. taxpayers money to aid the FSLN regime is this ACAN-EFE wire service report datelined Managua, June 16, 1980:

> During the news conference in which ACAN-EFE asked Commander Daniel Ortega Saavedra, member of the junta of the Government of National Reconstruction, about the possibility of Carter, Castro and Arafat visiting Nicaragua, he said: "The Nicaraguan revolutionary government and the Sandinist National Liberation Front (FSLN) National Directorate have been sending invitations to personalities who participated in our people's liberation process." He added that other persons who are participating in the national reconstruction process, following the July 19, 1979 Sandinist victory, have also been invited. He added that many leaders from Latin America and other parts of the world are also receiving invitations.
>
> "At this moment we cannot make everything depend on a few names (Carter, Castro, and Arafat). Instead, we want to stress the government's general policy aimed at strengthening the relations of the Nicaraguan revolution with other countries and peoples," Commander Daniel Ortega Saavedra indicated.
>
> Over the weekend, local newspapers carried long reports on the possibility of Carter, Castro, and Arafat coming to Nicaragua. Meanwhile, official sources have confirmed that the Nicaraguan Government had invited them, but so far, no answer has been received confirming or denying the visit of those world leaders to Nicaragua on July 19.●

CLEAN AIR ACT

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. BENJAMIN. Mr. Speaker, I am introducing legislation today to clarify the intent of the Clean Air Act regarding the use of offsets for noncompliance penalties.

This legislation would require that EPA comply with the intent of Congress to allow a reduction of the penalty for payments made to place a source in compliance.

Section 120 of the Clean Air Act, enacted by the Clean Air Act Amendments of 1977, establishes noncompliance penalties for any facilities not in compliance with the Clean Air Act which shall be no less than the economic value which the delay in compliance may provide for the owner of such source.

The purpose of these noncompliance penalties, which are automatically imposed in addition to the other civil or criminal penalties under the act, is to remove any economic incentive for failure to comply with the Clean Air Act. The imposition of continuing penalties on a source which is in the process of installing facilities to achieve compliance and is spending money for the installation of these facilities is completely counterproductive.

Section 120(d)(2)(B) of the Clean Air Act should be interpreted to provide full dollar-for-dollar credits against noncompliance penalties for expenditures made for the purpose of bringing the source into compliance with the requirements of the act. The intent of Congress was to encourage and expedite the installation of pollution control facilities—not to provide an additional source of Government revenue.

Noncompliance penalties under this section should only be imposed if a source is not constructing a facility on as rapid a schedule as has been determined feasible for the facility.

H.R. 6161 (Clean Air Act Amendments of 1977) provided that the amount of any expenditure made by the owner or operator of that source should be deducted to the extent that it was not considered in the calculation of the penalty.

The House committee report carefully explains that this provision means that the source's liability may be offset by the amount of any expenditure to bring the source into compliance.

The Senate committee report did not attempt to explain the offset provision of the bill.

The conference committee report includes the House provision allowing for a reduction from the penalty for payments made to place a source in compliance.

Mr. Speaker, the final version of the 1977 amendments and the conference report clearly indicate that the cost of compliance should offset the noncompliance penalty. Despite the clear intent, the EPA did not provide a dollar-for-dollar offset in its regulations and is clearly in violation of congressional intent by refusing to do so now.

This misconstruction of section 120 is particularly critical to the steel industry. Today, the number of hourly workers in the steel industry is at its lowest level since June 1933. Unfortunately, the domestic steel employment is destined to slip further this summer. The industry is depressed beyond recognition and import penetration is extremely high. We desperately need a comprehensive, coordinated and comprehendible national steel policy now.

In the publication, "Steel at the Crossroads," a revitalization program is recommended to encourage capital recovery, reduce non-income-producing, notably environmental, demands and assure an orderly market arrangement on imports.

Recent an ongoing studies by the OTA and Department of Commerce are expected to support this scenario.

While I hope that we can persuade the administration to coalesce its efforts to develop a reasonable national steel strategy leading to the revitalization of the industry and reindustrialization of our Nation, it is imperative that we invoke the legislative process to remedy any misapplication of existing law. The first and most obvious step is to immediately correct the section 120 misinterpretation.

I personally hope that we can accomplish this first step through a meaningful dialog with EPA. If that is not possible, I intend to restrain expenditures in the HUD and independent agencies appropriations bill to achieve compliance with congressional intent. Meanwhile, I hope that logic and reason will persuade cosponsorship of the bill I am introducing today and hearings at the earliest possible moment.

I would appreciate the support of my colleagues in an effort to insure prompt consideration of this matter. Thank you.●

LEARNING FROM THE PAST—THE 40TH ANNIVERSARY OF THE SOVIET INVASION OF LITHUANIA

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. ERLENBORN. Mr. Speaker, we are all familiar with the adage, "Learn from the past or be doomed to repeat it." These words are particularly applicable to the recent examples of Soviet aggression in Afghanistan. Afghanistan is but the most recent in a long list of independent nations which have been overrun by the Russian military machine, forcibly annexed, and subjected to Communist rule.

We must not forget that a similar example of Soviet expansionism occurred 40 years ago this week. On June 15, 1940, the independent nation of Lithuania was ruthlessly invaded and forcibly incorporated into the Soviet Union. Its sister states, Latvia and Estonia, were similarly annexed.

Therefore, a systematic campaign of oppression was launched to break the spirit of these proud Baltic people. Their rich culture was effectively outlawed. Attempts were made to crush all outward signs of resistance. Those who spoke out in the name of freedom were either ruthlessly purged or deported to Siberian labor camps. In the country of Lithuania alone, it is estimated that over one-half million people, out of a total population of 3 million, died at the hands of the Soviet occupation.

This campaign of suppression continues even today. The Sovet regime blatantly denies the fundamental tenets of human rights to which it agreed by ratifying the Helsinki accords of 1975.

Yet despite the overwhelming efforts of the Soviet Government to snuff out the Baltic republics, the strength and dignity of the Baltic people have survived. Their proud heritage and unique culture have not been lost. Their fight for freedom goes on.

As a nation which was founded upon the principles of individual freedom and national sovereignty, the United States must not let the plight of the Baltic people be forgotten. We must do all we can to keep the spirit and hope of freedom alive in these nations around which the Iron Curtain has been so tightly drawn.

Mr. Speaker, as foreign policymakers, we must learn from the past. It is clear that the underlying motives of the Soviet Union have not changed in the last 40 years. If allowed, the Soviet Union will not hesitate to use military force to extend its repressive system of government. The expansionary goals of the Soviet Union constitute a threat against every free nation of the world.●

SALE OF NUCLEAR FUEL TO INDIA MUST BE STOPPED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. BONKER. Mr. Speaker, the President's decision to ship 38 tons of enriched plutonium to India reflects a policy that is now riddled with inconsistency and confusion, and it makes a mockery of candidate Carter's commitment to do something about nuclear proliferation. More disturbingly, it represents a setback to our earlier efforts to stem the worldwide nuclear arms race. Back in 1974, in a previous Indira Gandhi government, India flagrantly violated sovereign agreements with the United States and Canada by detonating a nuclear bomb. Since that time, the Government of India has not retreated from asserting its right to conduct atomic tests in the future and from its persistent refusal to allow the application of international safeguards on the diversion of nuclear materials for military purposes.

This House should not hesitate for a moment to nullify the President's Executive order by approving a resolution of disapproval. Otherwise, we will have removed the last restraint on the indiscriminant sale and transfer of deadly nuclear material to Pakistan and other countries seeking nuclear power, particularly in areas of traditional hostilities.

My disappointment and opposition to the proposed sale are contained in a letter to President Carter which is included at this point in the RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 20, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your message to Congress yesterday approving the sale of enriched uranium to India saddens me greatly. I have previously supported your policy of non-proliferation and must in all candor inform you of my surprise and disappointment over this action. As a Member of the House Foreign Affairs Committee, I will strongly back the resolution of disapproval, and as a Carter delegate assigned to the Democratic Platform Committee, I also plan to push for recommitment to a policy of non-proliferation, particularly as it relates to the proposed sale to India.

Sincerely,

DON BONKER,
Member of Congress.●

HIGH-ENERGY PHYSICS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. SCHEUER. Mr. Speaker, the Nation's basic energy research programs will be drastically affected if the cuts proposed by the Subcommittee on Energy and Water Development for the Department of Energy programs in long-range research—high-energy and nuclear physics and basic energy sciences, and in magnetic fusion energy—are enacted into law. The proposed cuts are contrary to the national interest in promoting every possible avenue of self-sufficiency in energy.

Cutting funds for high-energy physics to an extent which requires major research facilities to be shut down for several months of the year will bring into serious question the viability of continuing this system of national research centers, that is Fermi National Accelerator Laboratory in Illinois, Brookhaven National Laboratory in New York, and Stanford Linear Accelerator Center in California. These centers are essential to the research of all major U.S. universities—over 60 institutions. One experiment at such a center may involve 10 to 40 physicists plus a comparable number of support people including engineers, technicians, and computer personnel. Experiments now require over 2 years of planning and 2 years for running. These research centers also support the work of many other areas of science including that of health scientists, ecologists, material scientists, and chemists. It is estimated that the proposed reduction would result in personnel decreases by roughly 2,500 people out of whom one-half are professionals.

An effective research and development program is essential to our energy security. We cannot develop successful energy alternatives without increasing our basic understanding of matter. High-energy physics is at the frontier of such studies. Without long-range planning and commitment we will not be able to develop new and improved energy sources and systems to use energy efficiently. A policy which turns activity on and off from one year to the next completely destroys the concept of a team: Once dismantled they take years to rebuild. The complexity of high-energy research requires the team approach. Furthermore, research at the frontier of science has a perplexing uncertainty to it and uncertainty in funding support destroys morale and discourages researchers from pursuing such endeavors.

High-energy physics is an area in which the United States has held preeminence. Four American high-energy physicists—Glashow, Richter, Ting, Weinberg—have received Nobel prizes in the recent past. The Europeans are spending an amount of money in this area equivalent to at least double our funding. If we do not even appropriate moneys for a minimal program in this area we will not only jeopardize our energy future but also our international status in science.●

DISCRIMINATION FOR SOMEONE MAY MEAN DISCRIMINATION AGAINST SOMEONE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. ASHBROOK. Mr. Speaker, it is impossible to be for equal opportunity and affirmative action at the same time. To give one person preference for a job or an education means taking that job or education away from someone else. This is commonsense, but commonsense is precisely what is lacking in liberal policy.

The belief that Government can somehow give preferential treatment to some without denying it to others is a belief in a kind of magic. Liberal belief in this kind of governmental hocus-pocus is at the basis of much that passes for liberal thinking in Washington. Another belief in this sort of governmental magic is represented by Federal minimum wage laws. Minimum wage laws are based on the idea that if Government requires that people be either fired or paid a minimum wage, the money needed to pay them will magically appear, and no one will be fired. In the real world, the minimum wage simply means that unskilled people, especially young people, will not be able to find a job.

If liberal magic worked, we would all be rich. All we would have to do would be to make the minimum wage $100 an hour, and every worker would be making at least $200,000 a year. What would actually happen, of course, would be that only a fraction of a percent of American workers could find a job. This, again, is commonsense, and anyone advocating $100 an hour minimum wage would be laughed out of politics. But liberals insist that this sort of commonsense does not operate at the lower end of the wage scale. Minimum wage logic is just as absurd at $2 an hour as it is at $200. Unfortunately for millions of Americans, people do not laugh at this nonsense.

In exactly the same way, we could all be rich if governmental magic worked in the case of affirmative action. Liberal logic says that we can discriminate against favored minorities without hurting the rest of Americans. This would mean that, simply by requiring discrimination in favor of one group, that group would magically get more jobs, and the rest of America would have the same number of jobs. That would be wonderful. It would mean that, if we just declared everybody a favored minority, there would be more jobs all around. Anybody who advocated this latter proposition would be laughed out of politics. Once again, the tragedy is that not enough people see the nonsense of this logic when it is applied only to favored minorities.

When Government tries to perform magic, all you end up with is a curse. Youth unemployment and racial discrimination are two curses which liberal hocus-pocus has brought on the American people.●

CONGRESS SHOULD DISAPPROVE SALE OF NUCLEAR FUEL TO INDIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. BROOMFIELD. Mr. Speaker, the President's recent decision to ship nuclear fuel to India dramatically represents yet another backpedaling zigzag in his approach to foreign policy. The President once called nonproliferation one of mankind's most pressing challenges, stating that "we have failed miserably" in our policy of support for nonproliferation objectives. Making nonproliferation the keystone of his foreign policy, the President has now made an exception for India, a nation which in May 1974 detonated a nuclear device constructed from unsafeguarded plutonium produced in a Canadian reactor which may have contained some U.S.-origin heavy water. Since that fateful explosion, India has refused to sign the Nuclear Non-Proliferation Treaty, to place its nuclear equipment and materials under safeguards, and to make any promises about not constructing nuclear bombs. Moreover, under the strains of political-military events in a unstable Southwest Asia, India has recently announced a $1.6 billion weapons deal with the Soviet Union, a country with which India has enjoyed a close relationship.

With these circumstances fully in mind, Mr. ZABLOCKI, the chairman of the Committee on Foreign Affairs and I have periodically cautioned the administration in advance that the congressional climate was insufficient to permit the shipment of nuclear fuel to India. Despite our admonitions and despite the unanimous Nuclear Regulatory Commission's decision for nonapproval, the President has decided to move ahead with nuclear nearsightedness—utilizing a doubtful and contradictory rationale to reach his present decision.

It is my firm belief that at this time nothing could be more destabilizing to Southeast Asia than further supplies of uranium to India without safeguards. The development of Indian nuclear weapons can only further exacerbate tensions with Pakistan—which, despite warnings, is taking steps to explode a nuclear device—and with the People's Republic of China—which successfully completed its first major international ballastic missile tests. Moreover, if the United States yields to India, whose current Prime Minister incidentally was a chief proponent of the 1974 explosion, it will be increasingly difficult for our country to induce other nations to accept nuclear safeguards.

Given these persuasive conditions against the sale, the chairman of the committee and I, as ranking minority member, in unprecedented fashion, have both signed a resolution to disapprove the shipment of uranium to India. In doing this, it is my belief that our national and international security interests can best be served not only by a policy more consistently adhered to but also by a policy whereby America finally takes a stand.●

MOVING AHEAD TO FAIR HOUSING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. EDWARDS of California. Mr. Speaker, the following editorial from the New York Times of June 20 describes well the issues surrounding the fair housing bill pending in the U.S. Senate.

Moving Ahead to Fair Housing

By a margin of one vote, the House has kept largely intact a tough fair housing bill long sought by civil rights groups. Housing discrimination, though illegal for a decade, persists everywhere. And part of the fault has been with the law, which authorized conciliation of complaints but allowed suits by the Justice Department only where it found patterns of discrimination.

The House bill would allow the Housing and Urban Development Department to bring complaints on behalf of individuals, and the Justice Department to use administrative law judges to adjudicate them. The idea now passes to the Senate, whose Judiciary subcommittee would assign such cases to magistrates in the Federal district courts. That approach is seriously flawed and deserves defeat.

At present, when conciliation fails, individual victims of discrimination face two unpromising choices. They can try to persuade the Justice Department that a pattern of discrimination covers their case and then hope that it takes an interest. Or they can risk the expense and time of going to court alone.

The fair housing forces originally wanted H.U.D. not only to present the cases but also to manage the enforcement machinery. That stirred much opposition among congressmen who feared that, with H.U.D.'s personnel bringing complaints and its administrative judges deciding them, fair housing cases might become too secretive or clubby. The worthy bill that has cleared the House leaves enforcement to Justice but allows H.U.D. to trigger a Government interest.

It makes little sense, however, to move these issues as far from H.U.D. as the Senate subcommittee proposes. It would assign even preliminary hearings to Federal magistrates. They are so burdened with criminal arraignments and other matters that they are unlikely to become very knowledgeable about fair housing laws or to feel much concern for the discrimination complaints of home-seekers.

There is also some support in the Senate for enforcement by a Fair Housing Review Commission appointed by the President. But why create a new bureaucracy when two existing ones can handle the business? And a new commission would invite the same spirited opposition that impelled the House to shift the administrative judges from H.U.D. to Justice. Now that a workable measure has cleared the House, fairer housing is an urgent opportunity in the Senate.●

THE BENEFITS OF COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. RAHALL. Mr. Speaker, I submit for the Record my remarks presented before the Democratic National Convention's platform committee last week.

I addressed the committee on the importance of coal in overall energy picture, and would hope that my colleagues take a moment to review my comments.

Statement of U.S. Congressman Nick J. Rahall

I would first of all, like to thank the Democratic National Committee for holding these platform hearings, and for providing me the opportunity to appear this afternoon.

In the history of this Nation, the American people have always turned to the Democratic Party for leadership in challenging times. 1980 is a time of challenge, particularly in the area of energy, and I would like to relate to you today, that the key to a comprehensive energy policy is within our grasp. That key is, coal.

As a Member of Congress from the Fourth District of West Virginia, and as Chairman of the Congressional Coal Group, I want to stress to this committee the importance of moving coal to the forefront of our Nation's energy picture.

I have no doubt that the decade of the 1970's will be looked back upon as the time in which the American people developed an awareness about energy. As the decade ended with the crisis in the Persian Gulf, we have come to realize even more the urgency of making the United States energy self-sufficient.

This urgency was intensified by the report of the President's Coal Commission, made last March, and I quote:

"Survival of America as a free and powerful nation demands strong measures to reduce the foreign oil dependence that threatens the Nation's security and is having a devastating effect on the domestic economy."

True as this observation may be, it does not tell the whole story.

Last year, the United States sent nearly $95 billion dollars to foreign nations to buy more than 2.9 billion barrels of their oil per year. At the time, almost 8,000 coal miners in West Virginia alone were put out of work due to the decreased demand for coal.

The American consumer, who is paying more in utility bills; the coal miner, who is out of work; the small mine operator who has had to shut down his operation; elected representatives and millions of people all over this country are asking, "Why Not Coal?"

It is a good question, particularly when the following facts are taken into account:

Coal is the most abundant of our domestic fuel resources. It constitutes nearly 82 percent of the total energy reserves of the United States. With one-third of the world's entire coal supply beneath our own soil, America is not energy poor, it is energy rich.

Coal costs less than half the price of imported oil as a fuel for producing electricity. Consider just how enormous the price differential has become. A typical American utility spends roughly $35 for a ton of coal delivered, and another $25 to meet existing air and water pollution standards, a total cost of $60. The equivalent amount of crude oil would cost $165.

Coal is not imported. It does not weaken the dollar. It is not a drain on our balance of payments.

Coal is reliable. Although in the past wildcat strikes hampered production, the 1978 coal labor contract has initiated a new atmosphere of labor harmony. Productivity incentives are now in effect, and grievances and strikes have been dramatically reduced. In short, the miners and the operators realize that they are in this together, and only by working together their industry can be a success.

Coal can now be burned cleanly, contrary to anti-coal propaganda. At the present time, modern technology is advancing new methods to allow for the greater utilization of coal in a clean and efficient manner. Coal washing, wet and dry scrubbers, precipitators, and a fluidized bed combustion process being developed at Georgetown University, will enable industrial and utility users of coal to reduce sulphur emissions and meet current EPA standards.

Coal mining is safer as an occupation. Since the Federal Coal Mine Safety Act was passed in 1969, the number of fatal accidents per year has been cut to less than half and is decreasing every year. Today science, medicine, technology and experience are bringing us to the threshold of a time when mining could, if these resources are used to the fullest extent, be made as safe and healthful as other occupations. Further, the strained relationship which often existed in the past between members of the mining community in relation to safety and health is giving way to a strong spirit of cooperation. It is through this spirit of cooperation and the recognition of miner's safety and health as a shared responsibility that the goal of a safe and healthful mining environment can become a reality.

Coal is available now. The industry has a current surplus capacity of 100 million tons per year. This capacity, when utilized can replace the equivalent of 12 percent of our current oil imports.

And in the much-heralded World Coal Study, which was released early last month, it was concluded that coal will be vital to sustain any kind of real economic growth in the world between now and the year 2000, and it "can be mined, moved and used at the most stringent environmental protection standards and at acceptable costs."

These are pluses on the side of coal. Is there a catch? Yes, and it is the lack of a commitment to a firm coal policy. I ask the Democratic Party to set one.

President Carter's Coal Commission recommended, and I sponsored a bill in the House of Representatives to, replace oil and natural gas now used in generating electricity and in large industrial boilers to coal. Our efforts are facing tough going at the present time.

Funding for energy research and development fell victim to the balanced budget axe, and as long as the temperatures in the Nation's Capital hover near 90 degrees in the summer, it is very difficult to expose the benefits of coal to those who do not want to listen. But the time of passive attacks on the energy crisis have long since passed. The American people demand action, and we as the party committed to the American people, must act.

The coal conversion plan is greatly needed. It is needed to reduce our addition to foreign oil; it is needed to fight inflation; it is needed to put miners back to work; and it is needed to protect our national security.

I urge the Democratic Party to voice their support for this proposal.

I also ask the Democratic Party to take one more step, and that is to express a commitment to coal. To push for greater coal production and for expanded coal utilization.

We have a saying in my home State of West Virginia, that "when, men and mountains meet, great things happen."

I would like to paraphrase that to say, "When a great political party meets, the best interests of the American people are served."

I appreciate this opportunity to come before you this afternoon, and am confident that the Democratic Party will lead this nation to a better and more secure energy future, with coal at the forefront.●

MOM AND POP STROBEL

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1980

● Mr. SHELBY. Mr. Speaker, 1942 is a long time ago but there are a lot of former Air Force men who were cadets at Craig Air Force Base in Selma, Ala., who have fond and vivid memories of that year because of two wonderful individuals—Mr. and Mrs. Henry Strobel.

For it was Mom and Pop Strobel who opened their home, the nearby riverbanks, and their kitchen to scores of Air Force cadets every weekend clear into the 1950's. These young men were able to swim, dance, eat, and relax from military regimen under the kind auspices of the Strobels. If their ration coupons did not buy enough hot dogs, the Strobels put on a feast of boiled eggs freshly laid by the farm chickens.

Now 89 and 78 respectively, Mr. and Mrs. Strobel still hear regularly from many of the cadets they entertained over the years. Two airmen were married at their home, one young Frenchman went on to head the French Air Force. Pop Strobel continues to turn out handmade chairs, cedar chests, and napkin rings; Mom Strobel continues to spread her goodwill throughout local hospitals and nursing homes.

My hat is off to these two dear people who found it in their hearts to make the lives of many Air Force cadets a little more bearable and a lot more fun.●

SENATE—*Saturday, June 21, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

God of all life, Creator Spirit, we thank Thee for another day, for work to do and strength with which to do it. Abide in us and guide us by the wisdom of Thy Word. Preserve the warm friendships of this place. Give us patience for the needful extra efforts of these trying times. Grant us diligence in the things that matter and abundant grace for unexpected events. Support us through hours of toil until our work is done then in Thy mercy grant us a holy rest and peace at the last.

As we pray for the Members of this body so also we ask Thee to uphold the President on his difficult mission. Support and strengthen all others in the service of this Government.

We pray in Thy holy name. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 21, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock on Monday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

MEMORIAL SERVICES FOR CHARLES H. (CHUB) SMITH III

Mr. BAKER. Mr. President, memorial services are being held today in Knoxville, Tenn., for Charles H. "Chub" Smith III, the president and publisher of the Knoxville Journal until his untimely death this past Wednesday.

Chub Smith was a distinguished representative of the news media, having devoted his entire career to that profession. His tenure as president and publisher of the Knoxville Journal was marked by an extensive revitalization of the Journal's service to the people of east Tennessee.

Chub Smith was a great patron of the University of Tennessee and a great benefactor of a host of charitable and civic activities.

Chub Smith was a dear friend, Mr. President.

Were it at all possible for me to, with a clear conscience, be absent from the Senate today, I would most assuredly attend that memorial service.

But the matter before us today, the Housing and Community Development Act of 1980, is of such paramount importance to so many thousands of Americans I simply cannot be away from this Chamber. To do so would be to forsake my responsibility to the Senate and to the people of Tennessee.

As one who devoted his entire adult life to the promotion of better government and a better way of life for so many of our fellow Tennesseans, I trust Chub would understand.

Mr. President, I yield back the remainder of my time under the standing order.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2719, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 1907

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 1907 by the Senator from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, this amendment would reiterate the Senate's serious concern about a continuing housing crisis in this country. It would add to the housing bill provisions of S. 2177, the bill the Senate passed last April to create a new emergency housing program and to update the Brooke-Cranston program.

It is unfortunate that we are required to again act on this important legislation. We are now several months into a continuing crisis in the housing sectors of our economy. Several months ago, as this crisis began to materialize, the Senate started to take necessary action to send a rescue line out to this vital industry that has been in danger of drowning in a flood of unprecedented high interest rates.

In February, as housing starts began to show a clear pattern of decline, the housing subcommittee had hearings on what was happening to the market, and whether our basic countercyclical housing program, known as Brooke-Cranston, would be an effective response. Soon thereafter the Banking Committee reported S. 2177 as a bill to revise and update the interest rate limits and sales price limits of Brooke-Cranston so the program would be ready if the market continued to decline.

In April, as interest rates soared and starts continued to plummet, the Senate passed S. 2177, with the addition of a special emergency program to provide stopgap assistance to the housing market in a manner more consistent with this year's budgetary concerns. This special emergency program, part of the section 235 moderate income homeownership assistance program, would provide mortgage assistance to help make a home purchase more affordable for 100,000 or more homebuyers.

Mr. President, the quick response by this body to a national housing crisis has unfortunately not been matched by our counterparts in the House. They have taken no special action to enact any special program. Instead, they have included a version of the Brooke-Cranston update and the emergency 235 program in their annual housing bill—effectively taking the position that there is no hurry to implement this new program, since invariably our housing confectively taking the position that there is also inherent in their approach the view that recent drops in interest rates will quickly turn the market around and put the housing industry back on its feet.

Mr. President, I strongly disagree with this view. I believe that the most recent set of housing statistics bear out the fact that the recovery of the housing market is anything but certain, and in any case, the recovery is a long way away, with a great deal of economic dislocation still to occur as a result of the slump.

The continuing drop in housing starts—down to a frightening annualized level of 920,000 in May—means that Congress should act to provide some rapid spur to the market.

I believe that this action should happen as soon as possible. I urge the House to take up legislation separately to help the housing market in this continuing crisis. In the event, however, that the House fails to take separate action, adding the provisions of S. 2177 to the Senate housing bill will insure that the differences in the House and Senate approach can be fully discussed in the housing conference.

The amendment I am offering, with the cosponsorship of my distinguished colleagues, Senators PROXMIRE, CRANSTON, and GARN, would add the language of S. 2177, with minor changes, to the housing bill.

Let me briefly review the elements of S. 2177. The following changes would be made to the Emergency Home Purchase Assistance Act (Brooke-Cranston):

The existing cap of 7½ percent on interest rates would be removed, allowing the Secretary to establish a rate up to the FHA rate.

The existing mortgage and sales price limits would be removed for single family housing in favor of a new method keyed to area price differentials. The price limit would be 90 percent of area average new house price—with corresponding increases from 2 through 4 unit houses. Multifamily housing—whether FHA or conventional—would be subject to the mortgage limits of the comparable FHA program.

The program could not be implemented unless the 4-month average housing start rate has dropped below 1.6 million. It would also be automatically deactivated when the average rate goes above 1.6 million.

The Secretary must find that implementation of the program would not significantly worsen inflationary conditions.

To the extent feasible and consistent with the main purpose of the section, the Secretary would have the discretion to direct a portion of assistance to promote construction of multifamily housing.

The authority of the Secretary to inhibition regarding use of this program is clarified

The bill also expands the existing prohibition regarding use of this program to purchase blanket or individual mortgages in a conversion of a rental building to condominium ownership.

Since it became clear to both the administration and many Members of Congress that initial high costs involved in implementation of the Brooke-Cranston program would threaten the achievement of a balanced budget for fiscal year 1981, it became necessary to develop proposals to spur housing production that would have little or no budgetary impact.

The emergency section 235 program created in S. 2177 would use up to $135 million of the remaining contract authority for that program to create a relatively shallow mortgage subsidy program targeted to moderate-income persons. Depending on interest rates, this program could result in assisting 100,000 newly constructed homes by subsidizing a portion of the interest payment on the mortgage. A graduated payment feature could be added to further reduce monthly payments in the early years of the mortgage. The program would apply to homes with a sales price of 80 percent of the area average home price, but not less than $60,000.

The one change made in this amendment from the program as passed in S. 2177 would be the activation of the program subject to the Secretary's discretion if he finds there is a substantial need for emergency stimulation of the housing market. Under S. 2177, the program would have been activated unless terminated by the Secretary.

This change is appropriate because of the current uncertainty with regard to interest rates. The continuing slump in housing makes it necessary to have this program available. Its actual use should be based on how it would interplay with market forces.

Another change from S. 2177 as passed is the deletion of section 4 of that bill regarding override of usury limits on business and agricultural loans under section 512 of the Depository Institutions Deregulation Act. The text of that section has already been included in S. 2719.

Mr. President, it is important that we maximize the ability of Congress to provide assistance if this housing crisis does not soon abate. Adoption of this amendment will accomplish that goal.

Mr. President, the amendment that is pending is exactly the measure that was earlier passed by the Senate. We passed this measure, which is a refinement and updating of the section 235 program of homeownership.

It was passed when the housing recession began to develop with more serious proportions. It was our response as a helpful stimulant to home construction.

It did pass here. It was not taken up in the House.

It is probable, possible or probable, that if that measure is added to this bill it will have earlier action in the other body. Therefore, in an abundance of caution and hope, I have offered it as an amendment to this bill which, of course, will be in conference with the House.

Senator GARN and I worked on this measure when we first brought it to the Senate some weeks ago, and I believe he supports this approach to including it here in the bill at this time.

Mr. GARN. Mr. President, the Senator from New Jersey has certainly outlined this well.

It is a bill that was overwhelmingly supported by the Senate earlier this year. Not only am I willing to accept it on behalf of the minority, we support it overwhelmingly.

Mr. President, I am willing to accept it.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 1907) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

AMENDMENT NO. 1908

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of amendment No. 1908, by the Senator from Massachusetts (Mr. TSONGAS), and an amendment by the Senator from New York (Mr. JAVITS).

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, the Senator from North Carolina (Mr. MORGAN) has an amendment; and I am going to propose that we use the procedure here that we used with the Tsongas amendment, by asking unanimous consent to set aside the pending amendment, to give him an opportunity to offer his amendment. I ask unanimous consent that the pending amendment be set aside temporarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MORGAN. I inquire if the proper procedure would be to offer S. 2711 as an amendment to the bill, or should we pass it and offer it as an amendment before third reading?

The ACTING PRESIDENT pro tempore. It can be added to the bill at this point as an amendment.

UP AMENDMENT NO. 1234

Mr. MORGAN. Mr. President, I offer the provisions of S. 2711 as an amendment to the pending bill.

The ACTING PRESIDENT pro tempore. Will the Senator please send it to the desk?

Mr. MORGAN. Yes.

I ask the clerk to make the necessary alterations.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1234.

Mr. MORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

AUTHORIZATIONS AND EXTENSIONS

SECTION 1. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $4,484,000,000 with respect to fiscal year ending September 30, 1980" in subsection (a) and inserting in lieu thereof "not to exceed $3,772,600,000 with respect to the fiscal year ending September 30, 1981";

(2) by striking out "not less than $3,070,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,120,000,000";

(3) by striking out "not more than $38,000,000" in subsection (a)(2) and inserting in lieu thereof "not more than $25,600,000";

(4) by striking out "not to exceed $48,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980" in subsection (b)(2) and inserting in lieu thereof "not to exceed $50,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1981";

(5) by striking out "not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980" in subsection (b)(3) and inserting in lieu thereof "not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1981"; and

(6) by striking out subsection (b)(4) and inserting in lieu thereof the following:

"(4) not to exceed $2,000,000 for the purposes of section 525(a) for the fiscal year ending September 30, 1981; and".

(b) Section 513 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Of the amount approved pursuant to subsection (a), the Secretary may use not more than $100,000,000 during the fiscal year ending September 30, 1981, for guaranteed loans.".

(c) Section 515(b)(5) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(d) Section 517(a)(1) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(e) Section 523(f) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(f) Section 523(g) of such Act is amended by striking out "and not to exceed $1,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "not to exceed $1,000,000 for the fiscal year ending September 30, 1980, and not to exceed $4,000,000 for the fiscal year ending September 30, 1981".

(g) Section 521(a)(2) of such Act is amended by adding at the end thereof the following:

"(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than $518,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1981, except that such amount shall be reduced by any amount approved in appropriation Acts for use pursuant to section 521(a)(1)(C).".

(h) Section 521(a)(1)(C) of such Act is amended—

(1) by striking out the second sentence thereof and inserting in lieu thereof the following: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $100,000,000."; and

(2) by striking out "1980" in the third sentence thereof and inserting in lieu thereof "1981".

REFINANCING FOR CONSUMER COOPERATIVE

SEC. 2. Section 515 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfer of membership in the cooperative upon such terms and conditions as low- and moderate-income persons can reasonably afford; except that such loans shall not be made upon terms more favorable than are authorized under section 521(a), and that the total loan to a cooperative under this section shall not exceed the value of the property.".

CONTINUED ELIGIBILITY OF CO-OP MEMBERS

SEC. 3. (a) Section 515(a) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

(b) Section 515(b) of such Act is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and"; and

(3) by inserting the following new paragraph at the end thereof:

"(6) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary;".

SURPLUS FEDERAL LAND

SEC. 4. The first sentence of section 414 of the Housing and Urban Development Act of 1969 is amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development or the Secretary of Agriculture at the request of either such Secretary for sale or lease by such Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low or moderate income, assisted under a Federal housing assistance program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture or under a State or local program found by the appropriate Secretary to have the same general purpose, and for related public commercial or industrial facilites approved by either such Secretary.".

INTEREST CREDITS

SEC. 5. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "may provide" and inserting in lieu thereof "shall provide".

DISPLACEMENT

SEC. 6. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g)(1) The programs authorized by this title shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided.

"(2) In any case where, in connection with an activity assisted by a program authorized by this title, the Secretary determines that such involuntary displacement is unavoidable, the Secretary shall take all reasonable steps to assure that adequate replacement housing and relocation services and assistance are made available as provided by law.".

Mr. MORGAN. Mr. President, the provisions of the amendment I have just sent to the desk contain the provisions of S. 2711, which was the rural housing and development bill. It has been our normal procedure in the committee that this bill would be attached to the main housing bill.

The bill as originally introduced by me on May 5, 1980, would extend, amend, and authorize appropriations for the fiscal year 1981 for housing and related programs administered by the Farmers Home Administration of the Department of Agriculture.

This year's rural housing bill would limit the Farmers Home Administration's capacity to insure and guarantee loans to a maximum of $3.77 billion during fiscal year 1981. This is $700 million below the amount authorized last year. This reduction in authorized lending authority reflects the committee's determination to move toward a balanced budget.

The bill would require that no less than $312 billion, over 80 percent of the loan total, be used to assist low income persons, those whose incomes are 80 percent of the median income of the area, or less Such loans would be made in conjunction with mortgage interest credits or rental assistance payments to rural residents who need such assistance in order to secure decent, affordable housing.

Up to $100 million of the total authorized would be available to continue the loan guarantee program for home buying families whose incomes are above the median.

The remaining authority would be utilized to enable moderate income families to purchase homes in rural communities.

Title I of the bill also would authorize:

First, $50 million for repair loans and grants to low income rural residents;

Second, $50 million in loans and grants for critically needed farm labor housing;

Third, $100 million for homeownership assistance payments; and

Fourth, $518 million for rental assistance payments (except that this total would be reduced by the amount approved in Appropriations Acts for homeownership assistance.)

In addition to these authorizations, $5 million would be authorized for self-help housing activities, $4 million for self-help housing land development revolving fund and $2 million for the technical assistance program, including comprehensive counseling, conducted by the Farmers Home Administration.

The committee bill would, in addition to reauthorizing Farmers Home Administration programs through fiscal year 1981, make five changes in the rural statute in order to improve the operation of existing programs.

The first of these would specifically authorize the Secretary of Agriculture to provide refinancing for rural housing cooperatives. Such refinancing would enable consumer housing cooperatives to transfer memberships to low- and moderate-income persons who otherwise would probably be unable to secure membership, because they could not satisfy the accumulated equity downpayment required.

The second change also would encourage rural housing cooperatives by permitting continued occupancy by families whose incomes may, during the period of their membership, have risen above the income level established by the Farmers Home Administration of eligibility. The change would make clear that such cooperative homeowners should not be forced to leave, and give up their homeowners equity simply because their incomes have passed some arbitrarily set income ceiling.

The third change would authorize the General Services Administration to transfer Federal surplus property to the Department of Agriculture under the same terms that govern transfers to the Department of Housing and Urban Development.

The committee bill also contains two provisions clarifying existing Federal policies. The first makes clear that the Farmers Home Administration should provide mortgage interest credits to enable low- and moderate-income families to purchase homes. At the present time, the Farmers Home Administration does not make interest credits available to families earning more than $11,200 yearly. Recent testimony, however, clearly shows that this restriction has, because of the current inflation, effectively barred many families with incomes in the $15,000 range from purchasing homes even in rural areas. As a result, an unintended "gap in service" has developed in the Farmers Home Administration's homeownership program. The provision contained in the committee bill would make clear that the Farmers Home Administration should use its interest credit authority to eliminate the present gap in service.

The second clarifying amendment would make clear that the Farmers Home Administration should conduct its programs in a manner that minimizes involuntary displacement and to take all reasonable steps to assure persons who are required to move as a result of FmHA actions that replacement housing and relocation services, as provided by law, are available.

Mr. President, this year's rural housing bill is, I will acknowledge, less than I would like it to be. It provides less lending authority than was provided by last year's legislation, particularly for loans to "moderate-income," those earning between $11,000 and $16,000 annually. The reduction in the proposed lending authority does not reflect a reduction in the need for housing in rural America. Nor does it reflect a lower estimate of the effectiveness of Farmers Home Administration. In North Carolina, we have a very high regard for the job the Farmers Home Administration is doing and, I might say, our regard for HUD also is growing as a result of its rural initiatives program.

Mr. President, while this year's bill is not fully what I or my colleagues on the Banking and Housing Committee want, it is the best bill we believe possible, under our present difficult budget circumstances.

Mr. President, I have conferred with the Senator from Utah (Mr. Garn), and we have inquired of our colleagues. To my knowledge, there is no controversy at all about this matter.

Mr. GARN. Mr. President, this amendment is acceptable to the minority.

The Senator from North Carolina has outlined the matter correctly. I know of no opposition at all to this amendment; and if there were, Senators still would have the opportunity to offer amendments. I know of no such controversy, so I am willing to accept this.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1908

Mr. TSONGAS. Mr. President, let me begin by adding Senator Cranston as a cosponsor of the pending amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TSONGAS. I ask unanimous consent that a letter dated June 10, 1980 to me from John H. Dalton, Acting Chairman of the Federal Home Loan Bank Board, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Federal Home Loan Bank Board,
Washington, D.C., June 10, 1980.

Hon. Paul E. Tsongas,
U.S. Senate,
Washington, D.C.

Dear Senator Tsongas: This is in reply to your letter of June 9 to Chairman Janis, concerning a statutory amendment which would provide that high-grade corporate debt obligations could be counted as liquidity under Federal Home Loan Bank System requirements.

As you know, the Bank Board has supported such an amendment, provided that we have the regulatory flexibility to decide which debt obliagtions and which maturities of those obligations could count toward the liquidity requirement. Your amendment would provide that corporate debt obligations with a maturity of three years or less would be eligible for liquidity to the extent the Bank Board permits under its regulations.

We would support this amendment. While we share some of the concerns expressed by Chairman Volcker that only high-grade assets and obligations should count as liquidity, we are persuaded that the amendment is drafted in broad-enough language so that a statutory restriction to obligations with a maturity not exceeding one year would be unnecessary. While it is true that the shorter the term of the obligation, all other things being equal, the more liquidlike is that obligation, we are convinced that adequate regulatory flexibility is provided under your amendment to allow the Bank Board to impose such a restriction administratively, if we considered it to be prudent.

Best wishes.

Sincerely,

John H. Dalton,
Acting Chairman.

Mr. GARN. Mr. President, I believe this amendment will be acceptable to the minority.

I would like to ask the distinguished Senator from Massachusetts a couple of questions about his amendment. The amendment would allow "highly rated" corporate debt obligations and commercial paper to be used in satisfying the liquidity requirements of the members of the Federal Home Loan Bank system. What does "highly rated" mean in this context?

Mr. TSONGAS. If the Senator will yield, after a conversation that we had with the Federal Home Loan Bank Board, and pursuant to the letter that was placed in the Record, I believe the phrase "highly rated securities with 3 years or less remaining until maturity" was sufficient to communicate the Senate's sentiment that these securities be both safe and highly liquid.

The Federal Home Loan Bank Board in its letter indicates that it seeks flexibility in administering this change in regulations. Nonetheless, I understand the concern expressed and, perhaps, we could have the Federal Home Loan Bank Board provide a letter of clarification for the Senate before the conference takes place.

We might also, in response to the Senator's other concern, ask for the same thing vis-a-vis the time of maturity, given the fact that the Federal Reserve Bank has suggested 1 year and the Federal Home Loan Bank has suggested 3.

Mr. GARN. The distinguished Senator is so confident that he has anticipated my second question and answered both of them in one answer.

So that the record is clear, I will ask a question after the answer so that the colloquy is correct. Your amendment provides that the corporate debt obligations must pay the remaining maturity of 3 years or less. It is my understanding that the Federal Reserve Board favors a maturity of 1 year or less. You have answered why the 3-year maturity is more desirable.

With those clarifications, I am certainly willing to accept the amendment of the distinguished Senator from Massachusetts.

Mr. TSONGAS. I thank the distinguished Senator from Utah.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

UP AMENDMENT NO. 1235

Mr. METZENBAUM. Mr. President, I send to the desk an unprinted amendment.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1235.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

(a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio, and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued but unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have againt the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

Mr. METZENBAUM. Mr. President, this amendment is similar to a bill which I introduced a few weeks ago but which has been redrafted. This bill specifically requires that the President of the Government National Mortgage Association—Ginnie Mae—forgive the outstanding debt on the mortgage it holds for the Valley Homes Mutual Housing Corp. in Lincoln Heights, Ohio. This language has been drafted with the assistance of the Department of Housing. It is more specific than the original language and makes this loan forgiveness mandatory. I have been informed that this language has been accepted by the majority and minority.

This amendment is needed to correct a case of discrimination that occurred more than 25 years ago. Valley Homes has 350 units and about 1,700 residents. It was originally built in 1941 to house defense workers at the Wright Aeronautical Plant during World War II and was sold back in 1953 as war surplus housing to the Valley Homes Black Veterans Cooperative. According to a 1953 appraisal discovered in the Public Housing Administration's records, that project was appraised at $1,005,200, but was actually sold by the Federal Government to the black veterans for $1.4 million—an overcharge of $400,000. This was at a time when most of the surplus property sold under the Lanham Act was sold for 40 percent below the appraised market value. Despite that overcharge, and other evidence that the citizens of that community have been discriminated against, Ginnie Mae officials contend that they are legally unable to forgive the outstanding debt. That refusal has only served to compound the original injury to the people of Valley Homes. This amendment would not only give Ginnie Mae the authority to forgive that outstanding debt, but would also require them to do so.

I would like to add that important as this forgiveness is, there is much more that needs to be done at the Valley Homes project. The Valley Homes board of directors has applied to the Department of Housing for section 8 assistance to rehabilitate the project, but has been denied in that effort so far. I believe that the administration should make every effort to provide that assistance so that the people who live at Valley Homes will be able to live comfortably and safely in this housing which they will now own outright.

I commend the administration for supporting this amendment, and I urge the administration to continue its efforts to assist the people of Valley Homes. I also would again like to thank the committee for its assistance in this matter.

Mr. WILLIAMS. Mr. President, the distinguished Senator from Ohio has discussed this matter with me, and I am happy to accept it for the majority. I understand that the proposal has also been cleared on the minority side and that the Department of Housing and Urban Development has no objection as well.

This amendment seeks to correct a clear inequity that has been imposed on residents of the Valley Home Housing projects in Lincoln Heights, Ohio. When the property was originally sold to the cooperative that owns the building, it was appraised at $1 million, but the sale price was $1.4 million. The purchasers were never told that the Government was selling them a project for 40 percent more than its market value, and the fact has only recently come to light. If the sale price had equaled the appraised value, the project would have been paid off almost 12 years ago. As it is, the residents, who generally earn very low incomes, still owe $400,000.

This amendment would require GNMA, the current holder of the mortgage loan balance remaining on Valley Homes, to forgive the outstanding mortgage indebtedness, thereby bringing to an end the unfair treatment that the residents have endured as a result of the overcharge.

I am happy to accept the amendment, and congratulate the Senator from Ohio for bringing it to us.

Mr. GARN. Mr. President, the amendment of the Senator from Ohio is acceptable to the minority.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1236

Mr. METZENBAUM. Mr. President, I send to the desk another unprinted amendment.

The ACTING PRESIDENT pro tempore. The Clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1236.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

The amendment is as follows:

Section 201 of S. 2719 is amended by—

(1) inserting "(a)" immediately after "Sec. 201." on page 27, line 13;

(2) adding at the end thereof on page 28, immediately following line 15, the following:

"(b) Section 13 of such Act is amended by striking out subsection (a) and inserting in lieu thereof the following:

"'(a) In utilizing the additional authority provided under section 5(c) on or after October 1, 1980, and made available for modernization or substantial rehabilitation of projects assisted under this Act, other than under sections 8 or 14, the Secretary shall establish standards which provide for energy conserving improvements in such projects which, to the extent practicable, shall be consistent with the Minimum Property Standards for Multifamily Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards where the Secretary determines that such higher standards are appropriate.' ".

Mr. METZENBAUM. Mr. President, the amendment I am offering is not lengthy, but I believe it is significant. It has one simple objective: To weatherize and retrofit the Nation's 1.2 million public housing units as quickly as possible. I have been informed by staff that this amendment has been accepted both by the majority and minority.

This amendment requires the Secretary of HUD to develop standards that will make public housing units energy-efficient as part of the overall modernization program that is included in this legislation. The modernization program is targeted in this bill for a major increase in funds, reflecting the concern that we all have for preserving this existing stock of housing that serves low-income citizens. That modernization will make those units safe, decent and sanitary, but the bill language does not mention the need to weatherize and retrofit those units. I believe such a full-scale weatherization program should be included as an integral and essential part of any modernization effort.

According to HUD, a full-scale weatherization program would save hundreds of millions of dollars in fuel bills that are now paid by the Federal Government to the Nation's public housing authorities. If all of the public housing units were weatherized today, HUD estimates we would have more than $500 million each year on energy bills paid by the Federal Government, based on a daily savings of 47,000 barrels of oil. That cost savings of $500 million in public housing operating expenses is based on a conservative price of oil at $28 per barrel. We are already paying $32 per barrel as a result of the latest round of OPEC price increases. Those oil prices will undoubtedly be reflected in higher prices to the public housing agencies around the country and outlays from the Treasury for higher PHA operating expenses.

In this amendment, we are really telling the Federal Government—and the public housing agencies that it subsidizes—to do what we have been telling private homeowners in this country to do for almost a decade. We are telling the Government to weatherize its housing properties to make them energy efficient. The cost of operating public housing has risen drastically in the past decade, with a larger portion of those increased costs directly attributable to the rising cost of energy. In 1968, utility costs were 25 percent of the total operating expenses for PHA's. That figure remained constant through 1973, but by 1978 the utility expenses consumed 34 percent of the operating funds, and the percentage is still rising.

The administration has taken a few modest steps to weatherize public housing. It established a $25 million set-aside in fiscal 1980 to convert oil-fired heating equipment in PHA units to less costly fuels, primarily natural gas. In addition, it set aside $5 million in 1980 to install energy-conserving devices which would otherwise not be installed under the normal modernization program.

But much more obviously needs to be done. Under the current level of funding. HUD estimates it would take 15 years to completely weatherize its existing units. But we cannot wait 15 years—the costs are too great. Weatherization must be made mandatory and immediate. This amendment does that. Under this language, the Secretary shall be required to insure that any PHA unit that is modernized under the expanded program must also be made energy-efficient.

This can best be accomplished by requiring the PHA to submit a weatherization and retrofit plan which is based on the energy audits that must be conducted under regulations recently published by the Department. Under guidelines and standards established by this amendment, the Secretary would then require the PHA to weatherize units undergoing modernization in a way that is cost efficient.

Conserving energy in the Nation's public housing units will save energy, it will save money, and it should be done on a priority basis. Too often the Federal Government expects the American people to do their duty to conserve, but it does little on its own to save energy. The weatherization program that we are talking about does not require any technological breakthroughs. It requires the same improvement the average homeowner must make—insulation, storm doors, flow restrictors, replacement of water heaters and the like.

I would like to emphasize that this program has the prime advantage of paying for itself within a very quick period of time. HUD has estimated that a full-scale weatherization program in 1980 dollars would cost $1.3 billion. Again, such a program would save $500 million annually in fuel costs. Obviously, the pay-back period for a full-scale program would be only 3 years or less. based on current energy prices. And, of course, these are cost savings that repeat themselves year after year and become even more significant as oil prices continue to rise.

Mr. President, again I would like to thank the distinguished floor manager of the bill, Mr. Williams, and the minority manager, Mr. Garn, for their cooperation and assistance. I believe this is a meaningfull amendment, one that will help the Federal Treasury, the public housing agencies, and the low-income tenants whom they serve.

Mr. WILLIAMS. On behalf of the majority, I am pleased to accept the amendment offered by my colleague from Ohio (Mr. Metzenbaum).

I know that he has been deeply concerned about energy loss in public and assisted housing and has been a leader in this body in working to reduce the utility costs to the Federal Government and of families who reside in multifamily rental housing.

The amendment offered by Senator Metzenbaum does not go as far as he or I would like it to go. The Department has estimated that we could save 47,000 barrels of oil a day if we were able to bring public housing up to multifamily minimum property standards—an enormous savings of Federal dollars and a much needed reduction of foreign oil imports.

This amendment is designed to further the objective of energy conserving improvements in existing public housing in as efficient a manner as possible. Where an applicant proposes to use contract authority provided through this act, the applicant would be required, to the extent practicable, to insure the Secretary that the improvements would meet either HUD's minimum property standards for multifamily housing or such higher energy standards as the Secretary might deem appropriate.

I congratulate the Senator and am pleased to support his amendment.

Mr. GARN. I am willing to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I would like to express my appreciation to the floor managers of this bill, Senator Williams, of New Jersey, and Senator Garn, of Utah. I thank them both.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to express my appreciation to the members of the committee who have brought this bill to the floor.

I know many of us are concerned about the housing needs of this Nation, in fact, probably all the Senators. We do not always have the opportunity to express our concern in every format that is presented to us. I think the Senator from Utah (Mr. Garn), in presenting his amendment last night, has certainly addressed the problem of housing for the poor, and I am proud to say that I cast my vote in support of that amendment. But I must also indicate I had voted originally "no" on that amendment, not that I was opposed to housing for the poor but I felt the committee bill, as presented by the Senator from Wisconsin (Mr. Proxmire), addressed another area of our housing needs which, I think, needs great attention, and that is the housing problem for the middle-income group.

The Government has traditionally been more willing to, of course, address the needs of housing for the poor in various public housing programs we have had over the years. But increasingly, I think as we look about us, as we look about the countryside, we are aware of the increased costs of money, the increased costs of land, the increased costs of housing generally, and this is becoming increasingly a middle-income problem as well as the problem of the poor. I am not sure we are in a position under budgetary constrictions at the moment to address the entire problem of housing as far as providing incentives and subsidies and what have you.

But I do want to comment that in voting for Senator GARN's amendment in no way lessens my concern for the problems of the housing for the middle income. I did not want a negative to show on the record that I voted against housing programs, because I think this, frankly, is the No. 1 social problem in our country today. Whether you talk about racial problems, ethnic problems, the problems of the poor, the problems of the city, or whatever social problem you talk about today or address, you must ultimately relate that problem back to a common denominator, and that common denominator is housing, the inadequacy of housing.

Therefore, I hope that one of these days we are going to be able to address that total issue, that total problem, so that all of the people of this Nation may have an opportunity for decent housing.

I think it is also important to comment at this time that this Nation made a commitment to the housing needs in an act only a few years ago in which they committed themselves to 26 million new units over a decade. That would work out to 2.6 million units a year. I am not sure that we ever reached that goal in any one year.

Some part of that problem and that failure to meet that goal of 2.6 million per year was due, in part, to the failure of the Government to address the needs in providing material to construct the housing. In other words, I come from a State that produces more timber products than any other State in the Union. In producing those timber products, they are basically geared for the housing market.

And because 51 percent of my State is owned by the Federal Government and in that Federal ownership is where some of the greatest forests are located, the Government, through its responsibilities under the Federal forests and other such agencies of Government, never related the production of material to the housing commitments. And you cannot make a commitment to build new houses in this country without relating it to the source of material and the availability of that material.

At one time, the Federal forests had a backup of 4 million acres of forestland because they had not properly managed those forests.

There are a lot of other factors besides material to meet housing needs. But, at the same time, that is one of the most important. The Federal Government has, in effect, tried to talk out of both sides of its mouth at the same time and not related the problem and integrated the problem to the total picture.

So I want to commend the Senator from Utah (Mr. GARN) for his ingenuity in bringing forth this amendment. I am sure it is going to be very helpful to those in the lower income brackets.

But, again, I just want to speak up today for the needs of the middle-income groups, as well, who are increasingly finding it difficult to buy and own their homes.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I thank my distinguished colleague from Oregon for his support last evening and for his remarks. I completely agree with his analysis of the problem. The middle-income people are being hurt tremendously by the rapidly increasing price of homes. The committee has recognized that.

I have tried very hard, through cosponsorship of the expanded section 235 program and also the Housing Opportunity Act of last year, to address that problem. This is a total problem, not just of the poor.

The thing that disturbed me about creating a new program this year for middle-income families was that where we have a limited budget, there simply was not enough money to both aid poor families and create a new middle-income program. If we do have limited money, obviously, at least it was obvious to me, we should try to take care of the poorest of the poor first and as the economy gets better we can, I hope, do more in the middle-income areas the Senator has spoken about.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. HATFIELD. Mr. President, I agree with the Senator's analysis. When we have to set priorities, he has set the priorities correctly. I subscribe to the same value system.

Would not the Senator also, though, agree that, when we talk about these housing programs, the overall record in public housing has not really been what you could call a successful program? I do not think we can rate public housing programs—I am talking now over a span of time—as a great success.

I am sure the Senator knows that those public housing units that have been destroyed and had to be torn down, they were either occupied and found wanting or they were never occupied in some instances and still demolished.

I wonder if the Senator has any thoughts about the kind of public housing programs that we create, if we have any way to, hopefully, guarantee more success in the future. I have heard people say, "Well, if there were some way to help these people and provide these people the opportunity to help construct their own home, they would have more care, more pride, more interest in them than to construct them and dump them into them, so to speak."

Does the Senator have any observations about how we can make them more successful in the future than we have experienced in the past?

Mr. GARN. Mr. President, the Senator is correct outlining the problems. As a former mayor, I am very knowledgeable of those particular problems.

I found several things that helped. One the Senator touched on is neighborhood self-help projects. There are instances in Baltimore, Pittsburgh, and throughout the country where through neighborhood housing services, people are given the opportunity to improve their own neighborhood with money to help buy materials and the aid of skilled journeymen. It is rather amazing. Many more people should go up and see the experiment in Baltimore and see how well it has worked.

So one of the keys is home ownership. Definitely, if they owned and had equity in their housing, it is much more successful, much better taken care of than rental housing. So providing those kinds of incentives has been very helpful.

There is another area that I have long been advocating, and that is a major rehabilitation. We have a large housing stock in this country of very good, older housing that does not meet building codes—electrical, plumbing, fire codes—particularly occupied by low- and moderate-income people.

I will give you one example that I had in my own city. We had an elderly couple living in one of those typical 900-square-foot post-World War II homes. They had wall heaters and above the wall heaters the paper was burned. So for $3,000, through the city, we were able to dig a partial basement, put in a furnace, central heating, and provided an adequate home for as long as they lived with a $3,000 expenditure; compared to going out and having to spend $50,000 or $60,000 for a new home.

In one area, for $117,000 we were able to do over 100 homes and put them in a condition that people could live in them.

So rehabilitation and home ownership, are areas that I think we should emphasize, rather than just rush to build new subsidized multifamily dwellings that often are not taken care of.

Mr. HATFIELD. Mr. President, I thank the Senator. He certainly has outlined some very excellent thoughts here.

I do hope that, in the housing agency of the executive branch, we might give far more attention to this possibility of developing homeownership. I cannot help but feel that it would be more economical in the long run for us to provide these housing units to these people who are qualified under the income levels on a long term, even if it is interest free or so low an interest that it becomes a matter that they can handle it, even if it is only $10 a month, that they have the homeownership, because, to me, this matter of public ownership and someone expecting then to take that personal pride and care in that property is just not realistic. This has been based on experience.

I believe there are cultural values we have to address, too. With people who have lived in poverty, people who have lived in filth, in such conditions, you cannot expect those cultural values to change by merely ushering them into a brand new housing unit and expect the unit to be maintained.

I do not know whether the Senator is aware of the Lincoln National Life Insurance community project they have helped to develop, in which they have helped these people to reform cultural values through peer pressure, and just providing them the opportunities, the training, and the assistance, to maintain a high level of attractiveness in their house after they have acquired it. If someone in this particular community begins to let his lawn get seedy, and what have you, the peer pressure of the community is brought to bear, to bring that person back into the community value system. It has been a remarkable experience.

I think these could be duplicated in many ways across this country if we gave focus to the entire problem, not just building materials but the cultural values involved, in that generation upon generation which have known nothing but abject poverty. But we are not going to just change those value systems by ushering them into a new environment and expect them to be able to adapt automatically.

Mr. GARN. The Senator is correct. One of the problems that we found, in talking about the Neighborhood Housing Services, NHS, in Baltimore, Pittsburgh, and other areas, is how to take a small neighborhood project and expand it without killing it through institutionalizing it. We have found many times that when we try to expand projects nationwide, to put them in HUD, in a HUD demonstration, they do not seem to work as well as they did in the demonstration project. We have been careful not to put in too much money too fast, but to try to keep the projects local, so that they are proud of the neighborhood and they are not displaced.

It is a hard question to decide where that line should be drawn, and how big and how fast you expand the program. We have seen too many of them in the years I have served on this committee literally ruined because of their being institutionalized in a bureaucratic nightmare of rules and regulations, and so on.

Mr. HATFIELD. Sometimes there is a gigantic structure. And then people who have lived in a hovel, but the hovel has been identified with a community or a neighborhood, are squeezed into a big project and we expect them to have a sense of community. It is difficult for people with any kind of a cultural system.

It seems to me that when we see people who drift back to the hovels out of these public housing units, we ask, "Why do they not appreciate something as nice as those public units?" But we have destroyed, oftentimes, in the configuration of our public housing, or made difficult, the opportunity to sustain the community they had in their poverty. The people's value is that they would much rather relate to friends, neighborhood, and community than to be lost in some gigantic cave or boxes in the area that go up 30, 40, or 50 stories.

I thank the Senator for his sensitivity to this. I do hope we can address this matter in terms not only of the middle-income brackets and the poor alike, but also in the configuration of these housing programs so that we can strengthen the communities and support the upgrading of values which will maintain the units once they are developed.

I hear my taxpayer constituents, as I am sure the Senator from Utah does, say that they see on television the blowing up of these units that have been built for public housing, demolishing them, and they have cost millions of dollars. They have never fulfilled the reason for which they were constructed.

Taxpayers get very irate. It is a terrible waste.

I think this gets back to the problem of planning and being sensitive to all these human needs. We have been looking for boxes to put people into rather than housing which gives them a home.

Mr. GARN. I thank the Senator for his as usual very pertinent remarks.

UP AMENDMENT NO. 1237

Mr. STEWART. Mr. President, I have an amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 1237.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

That section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $74,000,000 for the fiscal year 1980" and inserting in lieu thereof the following: "not to exceed $74,000,000 for fiscal year 1980. and not to exceed $61,591,000 for fiscal year 1981".

Mr. STEWART. Mr. President, this amendment is the bill S. 2716, a simple authorizing bill to provide funds in fiscal year 1981 for required flood mapping studies.

Under the law, the Federal Insurance Administration is required to survey and map flood prone areas by August 1, 1983. At the present time, FIA reports that it is better than half way through this job, and it anticipates that it will meet the legislated deadline.

In order to continue the necessary work, the Administration has requested the sum of $61.6 million for the fiscal year 1981 studies.

As you know, this has been a very costly year in flooding terms. In 1979, flood losses covered by the Federal insurance program amounted to some $38 million a month on the average. In the first 8 months of this year, average losses have run at $44 million per month, and we are now approaching the critical fall months when flood damage could be unusually high. Flood maps are clearly needed if we are to reduce future losses and place the Federal insurance program on a sound financial footing.

The committee recommends that the $61.6 million be authorized, and has reported S. 2716 for favorable action by the Senate.

I urge my colleagues to agree to this amendment.

Mr. President, the Subcommittee on Insurance received testimony this year indicating that the flood insurance program is on the right track. Several witnesses, however, pointed out the need for monitoring the program closely in the years ahead in order to determine its effectiveness. As chairman of the subcommittee, I hope once again to examine how well the law is actually being carried out, particularly in avoiding the further development of flood prone areas.

Mr. WILLIAMS. Mr. President, I will state for the majority of the committee that we are willing to accept this amendment as part of the legislation. I commend the Senator from Alabama for the work he has done on this.

Mr. GARN. The minority is willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 1238

(Purpose: To make clear that the bill does not reopen buy-out agreements entered into before the date of enactment)

Mr. STONE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1238.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, between lines 20 and 21, insert the following:

Nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners, seeking a judicial termination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, prior to the date of enactment of this title, reached a binding legal agreement with a holder of such lease or leases setting forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or association.

Mr. STONE. Mr. President, this amendment is of a clarifying nature. I have been an introducer of the provisions of section 501 of this bill, which I fully endorse, of course, which provides at last a chance for a day in court for many thousands of retired persons in the State of Florida and elsewhere who are burdened with long-term and other leases, the cost of which escalate frequently, or at least sometimes even without regard to the actual costs of sustaining or maintaining the facilities in those leases, and which they had to accept as a condition of purchase of their cooperative unit or condominium unit. I believe that we are making great progress to redress those severe grievances.

Section 510 is structured in a fair and comprehensive way in order to encourage negotiated settlements of these longstanding disputes, and, where that is not feasible, to provide reasonable final adjudications in Federal court.

This amendment is in keeping with the spirit of section 510, and it is designed to foreclose a possibility that it might be construed in a manner which reopens amicable negotiation and settlement of such leases which have already been negotiated, or which will be negotiated during the lifetime of this bill if it becomes law.

Some condominum and cooperative associations in Florida have reached agreement on "buy-out" arrangements, whereby they have either acquired these leases or will do so at the end of a set period of years for agreed prices. The purpose of this amendment is simply to maybe clear that, where such an agreement has been reached in a binding fashion, section 510 should not read to permit a reopening of the "buy-out" agreement. That would be contrary to the twin purposes of section 510—to encourage negotiated settlements, and to avoid litigation to the greatest extent possible, wherever agreements can be arranged.

And, of course, this section does that. This amendment helps to do that. I ask for its immediate consideration.

Mr. WILLIAMS. Mr. President, I commend the Senator from Florida for this amendment, which is clearly in keeping with the spirit of section 510 and with the committee's intent. Senator STONE, as well as Senator CHILES, have done an outstanding job in bringing the serious abuse of long-term leasing arrangements to the committee's attention. It is a problem which has existed for many years. Though the Florida Legislature has now fully banned such arrangements, and has tried in several ways to provide this day in court, those efforts have been frustrated. Section 510 is the response to the hopes of so many retired persons in Florida, who moved from my own State and many others anticipating well-deserved golden years, but, instead, have found the roofs over their heads threatened by those constantly rising and very questionable charges.

This amendment is an excellent clarification of our thinking in this matter, and for my part, I am pleased to accept it.

● Mr. CHILES. Mr. President, I support the standards for consumer protection in condominium conversion projects which are provided in S. 2719, the Housing and Community Development Act of 1980. These standards establish necessary minimum protection for the tenants of rental units which are facing conversion.

I am very pleased that the Committee on Banking, Housing and Urban Affairs, has recognized the need for consumer protection in conversion projects. The rapid growth of conversion activity in this country certainly warrants minimum standards of protection for the tenants, many of whom never receive adequate information and/or notice about the intent to convert their rental building.

S. 2719's protection for the tenant include: First, 1-year warranties on all repairs and rehabilitation of units or community space; second, a 120-day notice of intent to convert a building to a condominium; and, third, a first option to purchase to the tenant occupying a unit 90 days after notice of intent to convert with a prohibition of offering the unit at a higher price for the next additional 30 days.

Mr. President, in 1978, I chaired hearings of the Senate Committee on Aging in Florida on condominiums. During those hearings I became even more acquainted with the emotional traumas elderly people must face when they receive short notice regarding conversion of rental buildings to condominiums. As chairman of the Committee on Aging, I have found this trauma is certainly not limited to Florida. As the popularity of condominiums continues to grow and the demand for condominium ownership increases, we are going to see more and more buildings transformed from rental status to ownership. This is an acceptable progress but it does not have to be at the expense of consumer protection. S. 2719 offers protection to the tenants for adequate notice which many States have failed to provide.

Several States, including Florida, do offer some form of tenant protection in conversion projects. The minimum protections provided in S. 2719 are not intended to supercede the existing State standards unless those State standards are below the Federal stipulations. Therefore, the standards set forth in the 1980 housing bill are not intended to preempt existing State or local laws, but merely offer standards which can guarantee minimum protection for the tenants.

Mr. President, the Subcommittee on Housing and Urban Affairs, as well as the full committee, spent many hours of hearings and deliberations on title V of S. 2179, condominium and cooperative conversion protection and abuse relief. I appreciate the many efforts of Senators WILLIAMS and PROXMIRE and their staffs and feel that the committee's counsel on this issue is sound and justifiable. I urge my colleagues to support title V as approved by the committee.●

Mr. GARN. Mr. President, on behalf of the minority, I am pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STONE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

UP AMENDMENT NO. 1239

(Purpose: To target section 8 assistance to families of very low income)

Mr. EXON. Mr. President, I call up the Armstrong amendment which should be at the desk.

The PRESIDING OFFICER. There is no amendment at the desk.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I should like to engage in a colloquy with my friend from Colorado if he is agreeable.

I ask my friend from Colorado, it is my understanding that the Senate desk has not received the Armstrong amendment. In the Senator's absence, I called up the amendment. I believe the Senator has a copy of the amendment over there.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I am pleased to send to the desk an amendment which I offer on behalf of myself, the Senator from Nebraska (Mr. EXON), and the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER (Mr. MITCHELL). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. EXON, and Mr. PERCY, proposes an unprinted amendment numbered 1239.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, between lines 14, and 15, insert the following:

SEC. 209. (a) (1) Section 8(a) and section 8(b) (2) of the United States Housing Act of 1937 are amended by striking out "lower-income" and inserting in lieu thereof "very low income".

(2) Section 8(c) (4) of such Act is amended by striking out "lower income" and inserting in lieu thereof "very low income".

(3) Section 8(c) (7) of such Act is repealed.

(4) Section 8(f) of such Act is amended by striking out paragraph (1).

(5) The section caption of section 8 of such Act is amended by striking out "LOWER-INCOME" and inserting in lieu thereof "VERY LOW INCOME".

(b) The amendments made by this subsection do not affect the eligibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing subject to an annual contributions contract on the effective date of this section.

Mr. ARMSTRONG. Mr. President, during the last 5 years, Congress has quietly committed the Nation's taxpayers to spending $128 billion or more for the new section 8 housing subsidy program.

Only a tiny portion of the money has been spent thus far. So few members of the public and, for that matter, not many Members of Congress realize the enormity of the obligation which has been created.

Possibly such funding could be justified for a well-managed, carefully controlled program which truly fulfilled housing needs of the Nation's poor. But far from being an efficient and well managed program, section 8 has been plagued with high costs, poor management and inequities which have prompted severe criticism and which have caused the General Accounting article to recommend that Congress consider less costly housing programs in an audit report soon to be released.

In January 1973, Federal housing programs were suspended because costs were out of control. Section 8 programs emerged as the new housing "reform" initiative. In theory, section 8 would reduce housing costs, provide public housing tenants greater choice in living quarters, encourage racial and income integration and provide subsidies which rise with increases in operating costs. Under section 8, tenants pay no more than 25 percent of their income toward rent; HUD pays the difference through "assistance payments" to local housing authorities which either directly or with private developers provide housing.

Despite the best of intentions, section 8 is plagued with the same problems—high costs, poor management control, severe inequities—which crippled earlier housing programs.

According to a GAO report soon to be released, section 8 costs are quadruple those costs of previous housing programs. For example, under previous housing programs some families received annual subsidies of as much as $1,850. Today, an annual section 8 subsidy of $5,000 to $7,000 is commonplace.

As high as direct subsidies are, they do not reflect indirect costs. These indirect costs include mortgage interest subsidies for private developers, foregone tax revenues from tax-exempt revenue bonds, and special tax breaks available only to investors in subsidized rental housing.

Even more unfathomable, however, is that these direct and indirect costs badly understate the future costs of section 8 which our children and grandchildren must pay. Section 8 is creating a future unfunded liability not unlike that plaguing social security.

Here are the facts: About 50 percent of section 8 units are either newly constructed or substantially rehabilitated. Long-term costs vary according to the length of Federal funding commitments and tenant contributions toward rent. The Congressional Budget Office says one unit of section 8 new construction under a 30-year funding commitment will cost between $161,200 to $343,000, depending on the rate of inflation. Under a 40-year commitment, costs range from $242,600 to $710,300, depending on the rate of inflation. But hold your breath. What is CBO's "worst case" rate of inflation—7.3 percent—less than half of 1979 and 1980 inflation rates?

Assuming per unit long-term costs rise only to $710,000, that alone is three times the amount of funding HUD has requested and received from Congress for each unit. HUD so badly underestimated costs that a $745 million fiscal year 1980 supplemental is now pending before Congress to partially pay 1979 section 8 commitments.

Relatively few options are available to Congress and to the administration for controlling future costs for section 8 units already built. That is the result of Federal contractural agreements expensive and morally unethical to break. Most cost-control options which are available will make public housing unavailable or more costly for the truly needy. For example, providing section 8 units to those with higher incomes would reduce costs. Under section 8, tenants are charged fixed percentages of their incomes for rent. In other words, the higher the incomes, the higher the rents paid by tenants—requiring less Federal subsidies. Section 8 costs will be less if a unit is provided to a person whose income is, say, $16,000 rather than a person who earns $4,000—present average for the program. Essentially, such a policy—under consideration by the administration—takes a federally subsidized unit from a poor person, and gives it to a moderate income person. One top HUD official was quoted by National Journal that "Congress has never said that we have to offer section 8 to the poorest first."

Indeed, section 8 serves only a fraction of the poor needing housing. According to the Office of Management and Budget, only 1 of every 13 Americans earning less than $6,000 benefits from housing subsidies. GAO estimates that 31 million of the Nation's 76 million households could receive a section 8 subsidy. The inequity of such broad eligibility is summed up so well by Irving Wellfield in "American Housing Policy: Perverse Programs by Prudent People":

> Our present public housing approach is highly inequitable. Rather than treating those in equal circumstances equally, it arbitrarily selects only a few low-income families to live in federally supported housing, while ignoring others. Moreover, the few often get a new home, while many other families—including those who pay the taxes to support these programs—must make do with inferior older housing . . . The present approach is also very wasteful, for it concentrates on the most expensive means of housing for the poor, new buildings.

In other words, section 8 is a lottery, where few strike it rich, leaving the rest of us—including those who earn even less than those receiving the benefits—paying for it.

The exorbitant costs, broad eligibility and inherent inequities could be excused if section 8 were the best means to provide housing, or if it were under tight management control. It is not, and it has not been since its inception, a fact underscored by numerous congressional investigations.

A January 1977 GAO report said section 8 was providing inadequate housing because, first, owners, public housing agencies and developers were reluctant to participate; second, program requirements were too complex to be understood; third, it was poorly administered. A March 1979 GAO study concluded that there were inadequate controls for preventing duplicate payments to section 8 tenants. The Congressional Budget Office in 1979 reported that HUD was badly underestimating future costs of the program. A New England newspaper has uncovered possible political payoffs in the section 8 program. National publications are now beginning to focus on possible abuse of the program.

GAO is about to release two more section 8 studies. According to press reports, GAO will conclude that HUD ought to use public housing, rather than section 8, as the primary method for producing housing.

There is no doubt that quality, reasonably priced section 8 units are now operating. But the extraordinary administrative flexibility which exists in section 8 invokes possible fraud or abuse. Consider the following facts:

First. Some section 8 units are of exceptionally high caliber: individual air-conditioning, balconies, wood parquet floors, all season swimming pools, tennis courts, 24-hour security service, billiard rooms, underground garages. Some rent for more than $2,000; with average tenant contributions of $200—the Federal Government is paying subsidies of more than $8,000 annually.

Second. There is inadequate verification of tenant incomes and allowances. One recent survey showed that HUD failed to adequately verify 64 percent of all tenants surveys.

Third. During one 4-year period, fair market rents—developed and used by HUD to determine the portion of a tenant's rent it will pay—on average increased 52 percent. Yet the Consumer Price Index for rent increases show only a 32-percent increase during the same time period.

Fourth. Section 8 has been used to bail out projects begun under other Government housing programs, and which experienced severe financial difficulty.

With more than $128 billion in future spending already committed, these findings, and others soon to be released, raise serious doubt about whether section 8 merits the $28.5 billion in future funding commitments contained in this legislation.

Mr. President, I am pleased to yield to the Senator from Nebraska to discuss the amendment, after which I shall enter into a colloquy with him.

Mr. EXON. I thank my colleague from Colorado.

Mr. President, I rise to speak in behalf of the Armstrong-Exon amendment to limit section 8 housing subsidies to low-income families.

Before I speak specifically to this amendment, let me say a few words about the section 8 program in general. I have been concerned about this housing program for some time, since I am convinced that its long-range costs could seriously threaten the very financial integrity of the U.S. Government. I am not alone in expressing my concern about section 8 rental subsidies: The General Accounting Office has raised questions as to the wisdom of continuing this program as it is currently structured. I emphasize the words "as it is currently structured."

I am therefore pleased that the Senate is now engaging in serious discussion on the matter of where section 8 is taking us. Although I do not agree with all of the provisions of S. 2719, I nevertheless compliment the Committee on Banking, Housing, and Urban Affairs, and its distinguished chairman, for bringing a bill to the floor which allows for the full discussion and possible redirection of the section 8 program.

I cannot support the committee bill as it stands, however, because it contains a fundamental contradiction. The bill purports to have money by making more people eligible for Government housing subsidies. I do not believe the American people are going to accept this rationale, nor should the Senate. I was pleased to see adoption of the Garn amendment on yesterday.

This leads me back to the Armstrong-Exon amendment. In the long run, the way to get costs under control is to limit the eligibility of housing subsidies to those who are truly needy. While it can be said that assisting middle-income or near-poor families is less expensive than assisting those who are truly needy, this approach is, in my opinion, completely contrary to the purpose of Federal programs to help the less fortunate in our society. The Armstrong-Exon amendment, on the other hand, would make sure that whatever moneys are made available to help meet the housing needs of low-income families will actually wind up in the hands of those most needy. Does it make good sense to help middle-income families before we help the poor? I think not.

Furthermore, passage of the Armstrong-Exon amendment will restore a measure of public confidence to the section 8 program. One of the major problems with section 8 housing is that poor people who are paying taxes but not receiving housing benefits are helping to pay the housing bills of higher income families who are participating in section 8 programs. The Armstrong-Exon amendment would tend to eliminate such situation. It is one thing not to be able to aid all those who, by virtue of their low income, are eligible to participate in housing subsidy programs. It is quite another to provide moneys without insuring that the most needy are the first served.

I am sure most Senators are aware that this amendment, which would eliminate eligibility to those families who fall below 50 percent of the median income for their area, was offered on the floor of the Senate last year. I supported that amendment, along with 35 other Senators. One reason the amendment was not passed last year, according to testimony in the Record, was that its implications were not fully comprehended by some Members of this body. Since that time, many more Senators and interest groups who follow Federal housing programs have become familiar with the merits of the Armstrong-Exon amendment. The amendment has a broad spectrum of support, including Senators from both sides of the aisle, liberals and conservatives, and such groups as the Low Income Housing Coalition, which speaks for many of our Nation's families who have inadequate housing.

I urge my colleagues to adopt this amendment. It is a commonsense amendment, one which will help remedy some of the problems connected with the section 8 program, and will be understood and appreciated by the vast majority of the American people.

Mr. President, I yield the floor.

Mr. STEWART. Will the Senator yield for a question at this time?

Mr. EXON. I would prefer to yield to my friend from Colorado.

Mr. ARMSTRONG. Mr. President, I am happy to defer my statement and yield to the Senator from Alabama.

Mr. STEWART. No, Mr. President, I am glad to hear the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the courtesy of both the Senator from Nebraska and the Senator from Alabama. I shall be quite brief, first, because I appreciate the constraints of time on this weekend session and, second, because the Senator from Nebraska has really summed up the issue so admirably that there is little I can add. He has correctly characterized this amendment as a targeting amendment and has pointed out that the real issue we are trying to address in this amendment is to insure that those who are most in need receive benefits first. That is the real question.

The present law directs section 8 housing subsidies to families with incomes below 80 percent of median income.

The amendment which the Senator from Nebraska and I have offered directs housing subsidies to families with income below 50 percent of median income.

Some 15 million American families will qualify for housing subsidies under this criterion, a number which is substantially more than is proposed to be funded.

So we are talking about allocating a scarce resource, and my suggestion and that advanced by the Senator from Nebraska and Senator Percy, is that we serve those most in need first.

I direct the attention to my colleagues to a recent GAO report which points out that, in a sense, section 8 is like a lottery, because a few struck it rich while the rest of the people who might be termed eligible and, in many cases, who earn less than those who receive benefits, actually receive nothing.

I also direct the attention of Senators to a communication which has been addressed to the U.S. Senate by a distinguished former colleague, Edward Brooke, on behalf of the National Low Income Housing Coalition.

I will quote briefly from Mr. Brooke's letter:

> The Senate should adopt the amendment to limit eligibility for section 8 and public housing to households with incomes below 50 percent of median when they move in.
>
> We have watched with dismay over the past four years as the number of low income housing units approved by the Congress has steadily declined. We estimate that the number of rental units in the housing stock which low income people can afford is declining at the rate of at least one-half million units annually. The result, clearly, is that each year their housing problems become more and more acute.
>
> So long as this is the case, we support measures which will effectively direct housing assistance to those whose needs are greatest. We therefore, urge you to vote for the amendment proposed by Senator Armstrong, to limit eligibility for Section 8 and public housing to households with incomes below 50 percent of median. Tenants with incomes above 50 percent of median, as defined by HUD, could, of course, remain in subsidized projects if their incomes increased after they moved in.

Mr. President, in summary, this is an amendment which is supported by those who are most in need. I think it also would be supported by those who are paying for it since it represents a more efficient and highly targeted and directed use of taxpayer money.

Mr. STEWART. Mr. President, I rise in opposition to the amendment offered by Senator Armstrong and Senator Exon to limit the eligibility of section 8 recipients to those families with incomes at 50 percent of the area median income or below. My colleague has offered this amendment in similar form in committee and on the floor each of the past 2 years, and while I commend him for his persistence, I once again cannot support his amendment.

I think we all share Senator Armstrong's goal of targeting the Nation's housing subsidies to those residents most in need of assistance, especially when there are a limited amount of Federal dollars available to meet what is a tremendous need for such aid. However, I think the Senator's amendment will have a number of undesirable effects on the section 8 program, and for this reason I oppose it.

First of all, it should be emphasized that there is no real need for this targeting amendment, since the vast majority of section 8 recipients right now are our very poorest citizens. In fact, HUD's statistics indicate that only 6.7 percent of all section 8 units are occupied by households with incomes between 50 percent and 80 percent of the area median: the remainder are families with incomes below 50 percent. Other figures shows that the average income of a section 8 recipient is less than one-third of the national average income. So clearly, the bulk of our section 8 subsidies are already going to very needy households.

Moreover, a change enacted in our housing bill last year provides that preference in our section 8 program be accorded to those living in substandard housing or those paying too large a share of their income for rent. So we are already targeting our aid to those among the eligible who are most needy. There are many Americans, with incomes at or just above the poverty level, who have acute housing needs and who are very deserving of assistance, who would be excluded from receiving aid if the Armstrong amendment is enacted.

I would like to expand on this for a moment, because I think one of the most objectionable features of the Armstrong amendment is its unfairness to the poorer areas of the country, such as the South. The latest figures I have seen indicate that in 1976, the median-family income level in Alabama was $7,600; in many rural counties in my State, this figure was less than $5,000. I know the situation is quite similar in a number of other States in my region of the country.

HUD, when it determines eligibility levels for section 8 assistance for a family of four, takes a percentage of this median level—under the Armstrong amendment, it would be 50 percent. To determine the eligibility level for a single person household, HUD uses a figure that is 70 percent of the eligibility level for a family of four.

What this means, in plain and simple terms, is that when we talk about targeting aid to those families who have less than 50 percent of area median income, we are talking about excluding a lot of very poor and needy folks, especially in our Southern States. In some rural counties for instance, elderly residents living alone, with incomes of $3,500, would not be eligible for section 8 aid. Certainly, the Federal Government cannot be accused of being extravagant for aiding households with incomes of $4,000 or $5,000 per year, or senior citizens who earn less than $3,500 a year.

I would also like to point out another problem which is raised by the Armstrong amendment, one that has also been mentioned by my colleague from New Jersey. By presently permitting section 8 assistance to go to families with up to 80 percent of the area median income, we actually lower the costs the Government incurs in operating the section 8 program. This results from a simple fact: The higher the income of the tenants, the greater the contribution they can make toward their rents, and the lower subsidy required by the Federal Government. As operating costs for multifamily housing projects continue to rise, as they undoubtedly will, this consideration will become even more important. I think Senator ARMSTRONG, who is quite concerned about getting a handle on the long-term costs of the section 8 program, should be especially sensitive to the fact that this amendment raises the cost of the section 8 program.

Senator ARMSTRONG's amendment also creates problems because it will deny HUD the flexibility which is often necessary to assure the long-term stability of its housing projects. Having a greater income mix of tenants is not only financially sound, but it also facilitates acceptance by the surrounding community. I am sure all of us are aware of the resentment frequently encountered by recipients of housing assistance from other Americans, whose income levels are not significantly greater and who are struggling to meet rapidly escalating housing costs. Senator ARMSTRONG's amendment would only serve to exacerbate these tensions. And by restricting the income spread of section 8 recipients, Senator ARMSTRONG's amendment would impair the goal of economic integration that we seek to achieve so often in our housing and community development programs.

In short, Mr. President, while I respect Senator ARMSTRONG's goals in offering this amendment, I believe that it will deny assistance to many needy Americans, and hamper the effectiveness of our section 8 program. I therefore urge my colleagues to vote against it.

Mr. WILLIAMS. Mr. President, I understand the arguments that have been advanced by the Senator from Alabama. I recall that he has made the same presentation as to the needs of some very poor people who would be shut out by this amendment. He described the situation the last time we had this amendment up, and it was effective and it was understood by the Senate—that by fixing it at this absolute 50 percent median, it would shut out from eligibility some very poor people in many parts of our country; that going to 80 percent would give some opportunity for some poor, working poor, to be eligible for this amendment.

Mr. President, this is the second time in less than 1 year that the Senate has considered this issue. On the last occasion, the Senate rejected a similar amendment by a vote of 34 to 55. Although the Senator deserves to be commended for his perseverance and devotion to his cause, I must say that I find the amendment only slightly improved over the original, and I must oppose it.

In spite of its laudable intent, to target Federal assistance on the most needy, the amendment would not be conducive to an effective housing assistance program. First of all, the amendment is unnecessary. Last year, the conference committee on the 1979 housing authorization bill retained the 80 percent of median area income eligibility ceiling, but accepted a House provision requiring that preference in section 8 and public housing be accorded those who either live in substandard housing, or pay too large a share of their income for rent. This provision more sharply focused the program, sending to the end of the line people who may be income eligible but who do not experience serious deficiencies in the way they are housed. This kind of targeting makes the most sense to me.

The amendment would tie HUD's hands in the proper delivery of housing services, diminish HUD's ability to protect the feasibility of the projects it assists, and upset a major goal of the Federal housing program. While it is true that more than 90 percent of the people now served by section 8 and public housing earn below 80 percent of median income for their area, it does not strike me as sound policy to eliminate entirely people between 50 and 80 percent of median, and thereby abandon totally the law's stated objective of economic integration. Moreover, in some projects, a more diversified tenant grouping promotes project stability, particularly in a social sense, and can enhance community acceptance of the project.

This last is especially important, for the acceptance by the public is crucial to the long-term existence to our federally assisted housing programs. Flexibility in applying these programs can make the difference between public support, and public indifference. There are literally millions of Americans who work full time and pay taxes, yet earn only modest or near poverty incomes—too high to be considered truly poor, but far too low to be considered financially secure. It is unfair and inaccurate to argue that these persons, without exception, are in such good shape that they should be denied any access whatsoever—and that is the effect of this amendment—to the housing assistance that in a number of cases would be completely necessary and fully justified. To adopt this amendment would create a situation for which Congress is often condemned—providing for people at both ends of the income scale while doing nothing for those in the middle.

The section 8 and public housing programs now concentrate on people with the lowest incomes, but they also provide that small amount of flexibility to assure that we will not cast aside those whose incomes may be little higher, but whose housing needs are acute.

Mr. President, it might be useful to see what kinds of incomes would render families inteligible under this amendment. It makes good press copy to talk about subsidizing "the housing of people in the $12,000, $15,000, $18,000 bracket," as the distinguished sponsor of the amendment described the effect of current eligibility during debate on this issue last year. However, in actuality, amendment would have greatest impact on people whose yearly incomes are far, far lower.

The poverty level for a family of four in 1978 was $6.662 a year. Yet in that year, in 1,600 of the Nation's 2,600 nonmetropolitan counties, a family earning 50 percent of the median area income would be earning less than the National poverty level. In other words, in more than 60 percent of our nonmetropolitan counties, only people earning below the poverty level would be eligible for housing assistance. In fact, according to HUD in one-fifth of these counties, the income eligibility ceiling would be 25 percent below the poverty level. Using median income data for 1979 for selected cities we discover that a family of four in Florence, S.C., would have to earn below $6,650 a year to qualify, or in Elmira, N.Y., below $7,800 a year. One dollar more and the family is ineligible.

The amendment's effect on the elderly who comprise the bulk of assisted housing residents is devastating. These individuals usually live alone. Since the eligible level of income for a single person in assisted housing is set at 70 percent of the figure for a family of four, in some places single elderly persons earning about $3,500 a year would be barred from the program.

Mr. President, public housing would be relegated to the poorest of the poor, thereby perpetuating the kinds of financial and other problems that plague public housing today. This is because public housing eligibility ceilings are set at 80 to 90 percent of the section 8 limits for the area in question in order to accommodate differences in the way admission income is defined. Thus, in an area where 50 percent of the median income is say $7,000 for a four-member family, single individuals earning above $4,500 would be denied access to public housing. This is unnecessarily and arbitrarily harsh. Mr. President, I ask unanimous consent that, at this point in the Record, a table be printed showing the effect that this amendment would have on households in a number of communities across the country.

There being no objection, the table was ordered to be printed in the Record, as follows:

EFFECT OF ARMSTRONG-EXON AMENDMENT

State	Local housing authority	Income limit based on 50 percent of area median		Area median income
		1 person	4 persons	
Arizona	Flagstaff (Conconino County)	$5,200	$7,450	$14,90
Arkansas	Texarkana (SMSA)	4,750	6,750	13,500
California	Fresno (SMSA)	5,150	7,350	14,700
Do	Riverside County (SMSA)	5,350	7,650	15,300
Do	Eureka (Humbolt County)	5,200	7,450	14,900
Colorado	Denver (SMSA)	6,700	9,600	19,200
Florida	St. Petersburg (SMSA)	5,000	7,150	14,300
Georgia	Athens (Clark County)	5,400	7,700	15,400
Illinois	Danville (Vermilion County)	5,750	8,200	16,400
Indiana	Marion (Grant County)	5,800	8,250	16,500
Iowa	Charles City (Floyd County)	5,300	7,550	15,100
Kentucky	Scottsville (Allen County)	3,250	4,650	9,300
Louisiana	Shreveport (SMSA)	5,050	7,200	14,400
Michigan	Kalamazoo County (SMSA)	6,450	9,200	18,400
Mississippi	Natchez (Adams County)	4,400	6,250	12,500
Nebraska	Lincoln (SMSA)	6,150	8,750	17,500
New York	Elmira (SMSA)	5,450	7,800	15,600
North Carolina	Winston-Salem (SMSA)	5,900	8,450	16,900
Do	Rockingham (Richmond County)	4,500	6,450	12,900
Do	Fayettsville (SMSA)	4,750	6,800	13,600
				0
Ohio	Harrison County	$4,800	$6,850	$13,700
Oklahoma	Oklahoma City (SMSA)	5,850	8,350	16,700
Do	Muskogee (Muskogee County)	4,250	6,100	12,200
Pennsylvania	Altoona (SMSA)	4,950	7,050	14,100
Do	York (SMSA)	5,800	8,250	16,500
South Carolina	Columbia (SMSA)	5,700	8,150	16,300
Do	Florence (Florence County)	4,650	6,650	13,300
Tennessee	Shelbyville (Bedford County)	4,500	6,450	12,900
Do	Knoxville (SMSA)	5,200	7,450	14,900
Texas	Stockdale (Wilson County)	3,900	5,600	11,200
Virginia	Norfolk (SMSA)	5,600	8,000	16,000
Do	Portsmouth (SMSA)	5,600	8,000	16,000
Do	Roanoke (SMSA)	6,000	8,550	17,100
West Virginia	Wheeling (SMSA)	5,400	7,700	15,400
Do	Spencer (Roane County)	3,750	5,350	10,700
Wyoming	Douglas (Converse County)	5,550	7,950	15,900

Note.—All median family incomes are as of 1979.

Mr. WILLIAMS. Mr. President, the sponsors of the amendment should be aware that the amendment would increase subsidy costs and outlays. This is because it is more expensive to subsidize those earning less than 50 percent of median income.

This amendment will not improve our assisted housing programs, but would actually build in a kind of inflexibility that could create unfortunate inequities and anomalies. It should be rejected.

Mr. President, I applaud the Senator from Alabama for bringing this matter home to us in the most meaningful way, as he did last year, as he is doing this year, in indicating what 50 percent of median income can be in some parts of our country. For working people, it can be about $3,000 a year, and it would shut them out from any eligibility opportunity by this amendment.

At one time in the committee, we did have an amendment that moved it down a bit from 80 percent, up a bit from 50 percent. I believe the Senator from Massachusetts might be adjusting this through an amendment.

I can say that other Members—present Members and former Members—support our position on this. I can say that the Senator from Massachusetts (Mr. Tsongas), who has left our committee but is very active in all its activities, even though he is no longer a member, will be here to support the position that the Senator from Alabama and I have taken on this matter.

Mr. TSONGAS. Mr. President, will the Senator yield, so that I can fulfill his prophesy? [Laughter.]

Mr. WILLIAMS. The Senator from Massachusetts is here, to speak much more eloquently for his viewpoint than I can.

Mr. TSONGAS. Mr. President, I should like to raise one issue in addition to the facts that have been presented by the Senator from New Jersey, and it is this: I believe that the Members of the Senate have the responsibility to look at the issue of housing not only in terms of a new, shining building but also in terms of how a particular housing project is going to survive over the long term.

We have come a long way from the 1960's, when we used to build these projects and then, 15 years later, have to tear them all down.

In Massachusetts, at this time, the Boston Housing Authority has six housing projects that are in desperate condition, and they have spent a lot of time at HUD trying to get funds for rehabilitation.

We have learned over the years, in a rather bitter lesson, that you cannot ghettoize a housing project and expect it to be viable over the long term. The only way, in fact, that you can keep any kind of housing situation intact is to have a mix. I do not believe that anybody who is an expert in the field would dispute that fact today. The only way you can get a mix is to have flexibility built into the system in such a way that, in essence, you sprinkle a particular housing project with enough diversity that there is a dynamic in that project that, over the long term, allows that project to remain viable.

I understand fully that the amendment offered by the Senator from Nebraska and the Senator from Colorado is very appealing on its face. When I first saw it in the Banking Committee last year, I was inclined to support it. But the fact is that what we are dealing with today is not what I think is the rather easy question of where we would like to cap the funding but whether we want to set in motion a chain of events that will insure that, 15 years down the road, the projects we are so proudly passing out today will have to be demolished because the internal dynamic has collapsed.

In the city of Boston and a number of older communities around Massachusetts, those areas where we have achieved success in housing have been exactly those areas where we have achieved a mix of ethnic groups, income levels, that kind of thing. In those areas where, in essence, very narrow housing groups have been attracted, they have simply deteriorated.

So what we are looking at here is not what is attractive for the year 1980 but what, in fact, we will look back on 15 or 20 years from now. If this amendment is adopted in its current form, it means that we will ghettoize these projects and that our successors, down the road, will have to provide the money either to rehabilitate them or to tear them down.

I think anyone who has had a lot of experience in how we get people to live together in harmony, in peace, and some kind of vitality understands the need for mixture.

So I ask my colleagues to look beyond

the obvious appeal which I recognize of this amendment on its face and try to consider and ponder the long-term implications of what is being done, and I look forward to the substitute amendment to be offered by the Senator from Alabama.

UP AMENDMENT NO. 1240

Mr. STEWART. Mr. President, I offer an amendment to the Armstrong-Exon amendment at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Alabama proposes an unprinted amendment numbered 1240 to the Armstrong unprinted amendment numbered 1239:

Strike out lines 3–15 and insert in lieu thereof the following:

"Section 209(a) Section 8(f)(1) of the United States Housing Act of 1937 is amended by striking out '80' both places it appears and inserting in lieu thereof '70'."

Mr. TSONGAS. Mr. President, if the Senator will yield, will the Senator add me as a cosponsor to this amendment?

Mr. STEWART. Mr. President, I ask unanimous consent that the Senator from Massachusetts be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the amendment that has just been offered I will oppose because it is another classic example of the wasted time and effort that we continually go through here in the Chamber.

Therefore, this one upmanship we have seen taking place in the Chamber in ever-increasing numbers to basically stay away from an up-or-down vote on an amendment that has been well thought out and offered previously I suggest is probably not the best and most expeditious manner in which the Senate should move forward.

There are those in the Chamber who with probably good reason, and I am sure they are very sincere, do not agree with the amendment offered by the Senator from Colorado and myself, and all that I am saying is that I am very much concerned, as I said in my opening remarks, that the section 8 housing program is getting out of line from the standpoint of the ability of the Federal Government to finance all the good or possibly good programs that are designed to help the poor.

I emphasize once again that the basic thrust of the amendment offered by my friend from Colorado and myself has been to help the really poor individuals.

Now, if we are going to go on and say that we can continue to pour money into section 8 and many other good programs that certainly started out well intentioned, then I would say I would urge my Members to vote for the amendment that has been offered by my friend from Alabama.

But at this time, Mr. President, I wish to read only a cover page of three paragraphs from a GAO report to Congress on the section 8 housing program. It is entitled "Section 8 Subsidized Housing—Some Observations on Its High Rents, Costs, and Inequities."

Like the subsidized housing programs which preceded it, the Department of Housing and Urban Development's Section 8 Rental Assistance Program is costly and serves only a fraction of the millions of households in need. Since its inception in 1974 the program's rents and costs have risen at rapid rates and to significant levels. While much of this increase is justified in light of housing market conditons, a portion of it is the result of program or administrative weaknesses.

There are no easy or inexpensive solutions to the problem of providing housing assistance to the poor but efforts must be made to ensure that available dollars are spent in ways that allow meaningful assistance to be provided to the maximum number of households.

There are some actions the Secretary of Housing and Urban Development can take to hold down individual unit costs of section 8, provide greater program equity, and create a more acceptable program image.

Mr. President, I ask unanimous consent that the remainder of the GAO summary report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

The Department of Housing and Urban Development's (HUD's) Lower Income Rental Assistance Program—the Section 8 Program—costs more than it should and is serving only a fraction of those in need. There are actions HUD should take to hold down costs and extend the program to more households. GAO did find that the projects it visited were having a positive impact on the neighborhoods in which they were located and were providing adequate housing to the families living in them.

At the end of fiscal year 1979, just over 750,000 existing, newly constructed, and substantially rehabilitated housing units were occupied by tenants being assisted by section 8. Expenditures were running at the rate of about $2 billion annually. Budget authority for these units, and an additional 250,000 units which are expected in fiscal year 1980, has been set at about $128 billion. (See p. 5.)

The Section 8 Program and its associated costs are tied very closely to so-called fair market rents which are (1) established by HUD for each major housing market in the Nation, (2) updated at least annually, and (3) computed separately for existing and newly constructed/substantially rehabilitated units. Fair market rents are supposed to be based on actual rents of comparable, modest type housing. They are the principal basis for determining maximum gross rents (including utilities) permitted to be paid for initial occupancy of dwelling units assisted under section 8. Additionally, eligible households must have incomes of no more than 80 percent of the area median income. Households have been required to pay at least 15 but no more than 25 percent of their incomes toward rent, with the Federal Government subsidizing the difference between what the households pay and the contract rents.

In recent years it has become very costly to build or rent new housing—subsidized or not. Factors contributing to these high costs are many and varied, and often the result of economic, social, and political considerations for which HUD cannot be held accountable. It is not these costs and this type of situation with which GAO is concerned in this report. Rather, GAO's review of the establishment of program rents and its visits to selected projects disclosed instances, controllable by HUD, where rents and costs were greater than they should have been. It is these costs with which GAO is concerned.

SHARPLY RISING RENTS IN HIGH PROGRAM COSTS

A contributing factor to the high program costs has been the manner in which HUD has determined fair market and gross rents. Although GAO made no effort to determine whether the rents are substantially higher than needed to achieve program goals, and although the rents were initially criticized for being too low, they have since risen at rates and to levels which could in the future provoke serious challenges to the very existence of the program. Fair market rents, for example, for newly constructed/substantially rehabilitated 2-bedroom walk-up units in San Francisco, California, went up 121 percent during the 4-year period from 1974 to 1978; in Cincinnati, Ohio, the increase was 95 percent; and in Atlanta, Georgia, the increase was 72 percent. The average increase for the 17 cities GAO sampled was 53 percent. Similar and even more noticeable increases were experienced in the existing housing portion of the program.

Fair market rent increases from 1974 to 1978 in 8 of the 17 cities for which data was available outpaced increases relating to each of the cities in the overall Consumer Price Index, the housing component of the Consumer Price Index, and two reputable indexes which measure construction costs. While these individual indexes do not account for all rental market conditions, time differences, and other factors which have an effect on the costs of constructing and operating housing, collectively the indexes do provide some gauge against which the rise in fair market rents can be compared.

Fair market rents published in 1979 generally followed the same rising trend as the previous 4 years and have reached rather lofty heights. For newly constructed/substantially rehabilitated housing, $400 to $600 monthly rental levels for various sizes and types of units in many locations were commonplace. In New York City and San Francisco, two high cost areas, levels for some 3- and 4-bedroom units were set at $900 to almost $1,100.

Fair market rental levels for existing housing units were considerably less; generally ranging from $150 to $400 per month depending on the size, type, and location of the units.

Although gross rents are not supposed to exceed fair market rents except in special circumstances, they were found to be higher in 68 percent of the projects GAO sampled.

The magnitude of currently established fair market and gross rents suggests high potential annual subsidy payments for some units. In its annual budget justifications, HUD estimated for fiscal year 1979 the average annual unit cost (not considering any tenant contribution toward rent) for the existing housing segment of the program to be $2,670; for new construction about $4,300; and for substantial rehabilitation about $4,700. GAO's analysis disclosed some families receiving housing subsidies as high as $5,000 to $7,000 per year and even higher.

OTHER FACTORS LEADING TO HIGH PROGRAM COSTS

Although GAO did not identify all of the reasons for the high costs of section 8, the following additional factors were noted as having some impact.

Little show of concern for the program's high rental and subsidy levels on the part of some HUD officials involved in the rent-setting processes. This was reflected in many instances by a lack of administrative care and discipline.

Too few market rent comparables to use in establishing the rents have forced those making the determinations to use less refined and reliable methods.

Too much emphasis by HUD headquarters on meeting production goals and not enough emphasis on costs.

A generous HUD attitude regarding features and amenities not normally expected in subsidized housing. Such housing is costly to produce, involves high unit rents, and invites resentment on the part of the taxpaying public who see their subsidized neighbors living in better accommodations than they themselves can afford.

Failure of owners and public housing agencies to properly verify tenant income and allowances.

Most of the housing presently being provided by section 8 is from the costly new construction/substantial rehabilitation program segments. The high cost of this housing has, in many instances, blocked the achievement of a program goal of promoting economically mixed housing. The housing is often so costly that moderate and even middle income unassisted households cannot afford to live in it.

The Housing and Community Development Amendments of 1979 authorized, among other things, an increase in the maximum rental contribution required from program beneficiaries from 25 to 30 percent of income. HUD, however, considered the provision to be discretionary and rejected it because of the agency's feeling that it would place an added burden on lower income tenants. HUD's position, however, ignores the large number of needy households for which there are currently no subsidized housing dollars.

The Section 8 Program is inequitable in the sense that there is insufficient funding available to help the millions of households in need of housing assistance. This inequity is further exacerbated by the disparities in the quality of housing provided under the program. Some families are assisted with housing modest in nature, while others are assisted with housing which, at least, approaches the luxury category.

GAO solicited advice from a variety of sources concerning what might be done to improve the way in which housing assistance is provided to the poor. While most experts agreed that section 8 costs too much and serves too few, there was no consensus regarding what should be done. Suggestions offered were varied and ranged from slight modifications in the way in which the assistance is now provided to more substantive changes.

RECOMMENDATIONS

Recent changes in HUD regulations should help to reduce costs within the program and thereby enable more households to be assisted. To further help in this effort, the Secretary of HUD should:

Issue a notice to all program personnel outlining the economic, social, and political reasons why section 8 costs must be curbed and why greater equity and uniformity in the distribution of benefits is needed.

Ensure either through strengthened procedures or better monitoring of established procedures that fair market and contract rents are properly established.

Strengthen the procedures used in verifying tenant income and allowances.

Increase tenant contributions toward rents as authorized by the 1979 legislation.

Establish a work group within HUD to conduct socioeconomic research directed to finding ways in which section 8 and other federally subsidized housing costs can be reduced and a greater degree of equity achieved among the many households determined to be in need.

AGENCY COMMENTS

HUD disagreed generally with GAO's observations on the Section 8 Program's high rents, costs, and inequities. HUD attributes the costs of the program very simply to the fact that today it costs more to build new housing and to subsidize low-income families living in that housing. HUD indicated that it has generally done all that can be done to ensure program efficiency, economy, and effectiveness. HUD stated that the report raises a critical question for those concerned with Federal housing policy:

"Is a program which combines a production subsidy for a new housing construction with a rent subsidy to enable low income families to live in that new housing too costly and troublesome to be politically and socially desirable?"

Regarding GAO's recommendations that a higher degree of section 8 cost consciousness be stimulated within HUD and that procedures should be strengthened or better monitored to ensure the proper establishment of fair market and contract rents, HUD denied that there had been a lack of concern within the agency regarding high program rental and subsidy levels. HUD conceded that errors in the rent-determining processes were sometimes made. HUD provided no specifics as to how GAO's recommendations in these matters had been addressed. GAO believes that its recommendations warrant careful attention by HUD and that guidance and direction from HUD headquarters to its field offices on the need for greater attention to establishing fair market and contract rents is necessary.

HUD agreed with GAO's findings and recommendations regarding the need for greater verification of tenant incomes. It outlined several procedures, notices, and training courses which it had developed or is developing which answer GAO's recommendations. In response to GAO's recommendation that there is a need within the agency for socioeconomic research in the subsidized housing area, HUD stated it is constantly challenging and re-evaluating its programs in light of their objectives and their success in achieving those objectives.

GAO does not believe that HUD has adequately recognized the potential which exists for better containing costs of the Section 8 Program through more effective administration nor of the need for more intensive research of ways to achieve both cost reductions and a more equitable distribution of program benefits.

ABBREVIATIONS

BLS—Bureau of Labor Statistics.
CBO—Congressional Budget Office.
CPI—Consumer Price Index.
CRS—Congressional Research Service.
FMRs—Fair market rents.
GAO—General Accounting Office.
HUD—Department of Housing and Urban Development.
MIS—Management Information System.
OMB—Office of Management and Budget.
PHAs—Public Housing Agencies.

Mr. EXON. Mr. President, I wish to emphasize once again that those of us who have studied the section 8 program, while we are for it for the legitimate poor, the true needy, the program, as so many other Government programs, has grown and grown and grown and has not been properly administered, as I see it, in the manner in which Congress intended when the worthy program first started out.

Therefore, Mr. President, I urge the defeat of the amendment offered by the Senator from Alabama.

Mr. STEWART. Mr. President, I wish to respond to a couple of statements that were made by the good Senator from Nebraska with regard to our amendment.

He indicated that there had been a lot of thought and effort put into the amendment both by him and by the Senator from Colorado, and I am confident that is true.

But there has also been a good deal of thought and consideration that has been put into this amendment that I offered in the second degree to their amendment and that was done by the committee that has the responsibility for handling the housing programs in the Senate, and it came out of the Banking Committee in that form last year.

So to say that we are doing something now that has not had proper consideration would be to ignore the consideration that took place in that committee.

I am quite sure the Senator from Nebraska might not be aware of that but it took place there, and I will say to him that in addition I am not trying to one up anyone here today.

This body is a deliberative body. We have the right to offer here, and I am sure he knows that and understands that, in the way of a compromise which I think is, a compromise proposal which the Senate can act on and do so just as well as act on his amendment.

I am not trying to one up him at all; I am simply trying to offer some kind of reasonable compromise.

I say finally to him that I know he has the GAO study but the statistics that I mentioned a minute ago talk about the increasing cost of section 8. His amendment would certainly not deter that increasing cost. In fact, it would increase the cost of the section 8 housing program.

I say to him that if he would listen or take a look at the report that was made to the Banking Committee when we were considering the housing proposal by the new Secretary of HUD he would understand the reason why the program in the multifamily housing area is growing.

The private sector is slowly but surely leaving that program, I say to the Senator from Nebraska, and those costs are going to increase in the future no matter what he does with the formula in this particular bill.

I finally say to the Senator from Nebraska, in all good faith, that my job here is to represent the people of my State just as his job is to represent the people of his State, and I know he does it well, but when he sets a figure in a program that cuts out of that program as far as eligibility is concerned—I will say this while the good Senator from Tennessee is in the Chamber because there are going to be a lot of folks from Tennessee, I say to the Senator from Nebraska, who are not going to be eligible for this housing program if his amendment passes—when he cuts those people out who make $3,500 in my State and many of them would be cut out by this amendment, I am going to offer whatever amendatory language I feel I have to protest those interests. I am going to continue to speak out against this amendment and to fight it.

Mr. ARMSTRONG. Mr. President, I associate myself with the observations of the Senator from Nebraska both on the substantive amendment and also in sharing his regret that we are presented with a second degree amendment at this time.

The practice of offering second degree amendments, of course, is a proper one, and the Senator from Alabama is entirely within his rights to do so. And, of course, no one objects to this or criticizes it as a proper exercise of his duty to advocate the point of view he believes in, and as he has characterized it, to advocate the interest of his constituents at home. That, of course, is proper.

But I say to the Senate that I think as a general matter we have permitted the parliamentary options which are available to be used to excess. The ultimate effect of trying to find every parliamentary intricacy and bring it to bear on a particular policy issue frequently is to make our work unnecessarily complex and in fact cloud the issues.

A few days ago, and again this morning before we began debate on this amendment, I discussed with my staff and with representatives of the staff of the Senator from Nebraska whether or not indeed we should offer our amendment in a way that would come before the Senate as a second degree amendment.

That has often been done in this Chamber, and it is a perfectly proper tactic for Senators who wish to get an up or down vote on the merits of their proposition.

It was our decision that we would not do that but somehow it just seemed a little too cute and was going a little too far on a Saturday morning to try to find some way to do this and to anticipate that someone would try and deprive us of our vote on it, an up or down vote on the question of whether or not we should limit eligibility in the section 8 housing program at the 50-percent level.

So we decided not to do it. That is another reason why I regret the Senator from Alabama has offered this amendment.

Even after he served notice of his intention to do so, I had in my hand an amendment which I could have offered to preempt his opportunity to offer that amendment. Even at this moment I could and it would be proper and within my rights and within the parilamentary rules and within the established customs of the body to move to table his amendment. I am not going to do that either.

I do think, however, that as a matter of practice we have gone too far, not so much this morning, but just in general, in trying to find ways to avoid voting on policy issues by offering amendments and motions which tend to obscure rather than to sharply focus the issues.

So I am hoping that Senators will agree with the Senator from Nebraska and me and vote down the substitute and then proceed to adopt the Armstrong-Exon-Percy amendment.

Let me take just a moment to sum up the debate as I see it. First of all, may I just correct for the RECORD a possible misunderstanding. The Senator from Alabama pointed out that this was the same amendment offered last year. That, in fact, is not the case. It is different in a very significant respect.

Last year when I proposed a similar amendment it included a $12.000 limitation on persons receiving section 8 housing; that is, it contained both a percentage limitation and a dollar limitation, which seemed to me to be wise.

I was persuaded, in offering the amendment with the Senator from Nebraska this year, to drop the flat dollar limit on the grounds that it was too inflexible, because it did not take into consideration the practicality of the rate of inflation, the high cost of money in trying to get such an amendment passed, so this is a different amendment. It takes a different approach and, in fact, I still believe in the $12,000 ceiling because I happen to represent, since we are talking about representational interests here this morning, quite a few people who work hard and pay a lot of taxes and who are making less than $12,000 a year, and who, frankly, cannot understand why somebody making $12,000, $14,000, $18,000, $20,000, $22,000, a year ought be receiving subsidies from some Government housing program.

I just cannot reconcile myself to believing that it is fair to people who are making $8,000 a year to subsidize people making $18,000 or $20,000.

I dropped this figure in hopes of getting a proposal that would be broadly accepted.

Second, the question has been raised: Why do we really need this amendment? After all, we have been told a high percentage—I believe I heard the figure 86 percent—of the people who are receiving subsidy under the section 8 program already conform to the intent and, in fact, to the language of the Armstrong-Exon amendment. In other words, they are already people in the below 50 percent of median income category, and that is correct. Well then, what is the need for this amendment?

It is very simple. The Department has proposed regulations which would change that and which would begin to redirect the limited resources of this subsidized program to people of higher income and, as a matter of fact, Secretary Landrieu has announced publicly that he favors eliminating all public housing income eligibility standards because it is his opinion that to have any eligibility standards based on income places a stigma on the program and stigmatizes recipients of it.

Well, I do not happen to believe that is true. Secretary Landrieu may believe or other administrators may think we ought to pay housing subsidies to people who earn $25,000, $40,000, $50,000, $60,000, $200,000, $300,000, or $400,000 a year, but I do not believe that. I do not think Howard Hughes ought to get a subsidy. I do not believe the wealthy ought to get a subsidy.

In any event, that is the need for this amendment. It is to put Congress on record as saying that people who are going to receive subsidies under a limited program should be those who are most needy. That was the issue as the Senator from Nebraska expressed it at the outset, and he was right on target. This is an amendment that simply says so long as we have scarce resources, a limited amount of money, we ought to be sure that those who need it the most get the first benefits.

In that regard I would like to give you some statistical documentation of how thin really our approach to the need is. Section 8 serves only a fraction of poor people who need better housing. According to the Office of Management and Budget only 1 in 13 Americans earning less than $6,000 annually benefits from housing subsidies. The GAO estimates that 31 million of the Nation's households would be eligible potentially for the section 8 housing program.

I do not favor the extension of the housing program on anything approaching that scale. I think it is just impossible of financing by the Government on any terms that make sense from an economic standpoint. But when we have got 31 million families eligible, and we are talking about in this bill funding way less than 1 percent of that potential need, it just seems essential to me to target it for the people who need it most.

Finally, I would like to respond very briefly to the argument that by having higher income people in subsidized housing we lessen the cost of the program. That, of course, is true. If we put nobody but millionaires in these housing units, they would not cost anything, but also they would not be serving the poor people they are intended to help out in the first place.

So, Mr. President, these are the reasons why I am for the amendment, and I am sure they are exactly the same reasons that caused the National Low-Income Housing Coalition and the National Tenants Association to endorse the amendment.

To recap the parliamentary situation, if you are for this amendment to target assistance to low-income people below 50 percent of the median income, you would first vote "no" on the substitute amendment by Mr. STEWART, and then vote "aye" on the Armstrong-Exon amendment.

Mr. SARBANES. Mr. President, I rise very briefly in strong support of the Senator from Alabama with respect to the issue of not drastically restricting the income eligibility for the section 8 program to 50 percent of median income as the amendment by the Senator from Colorado and the Senator from Nebraska proposes to do.

The very alarming statements that have been made by the proponents of the 50-percent figure today such as, "Do you want to subsidize people who are making $40,000, $50,000, $100,000 or $200,000 in income?" are absolutely not the issue here. The substitute proposal of the Senator from Alabama, which requires section 8 participants to be below 70 percent of median income, is in contrast to the figure of 50 percent proposed in the previous amendment which would greatly reduce the number of participants in this housing program at a time when an increasing number of people cannot afford adequate housing. By definition 50 percent of the population is above the median income and 50 percent is below, median income is the middle point. So an eligibility figure of 70 percent of the median income means you are talking about the lower 35 percent of the population in income.

There was one particular point the

Senator from Alabama made that I think is extremely important. If there are areas in a State where the question of the rural poor is important, then you must look at the distribution of income in the lower half of the population range to make some judgment about the equity of where the cutoff line should occur.

I have counties in my State which have a very heavy bunching of the poor in the lower range of the bottom half. If the standard is set at the 35-percent level you will be able to include within the eligible category individuals who are very close to one another in their incomes. I think a greater sense of equity and fairness can be achieved and essentially the same basic problem be addressed with the 70-percent figure than will be achieved with the lower figure of 50 percent which is being proposed in the amendment offered by the Senator from Nebraska and the Senator from Colorado.

Everyone has conceded that the amount of adequate housing we can provide falls far short of the need, whatever the formula income figure is, therefore, you have to look at some of these other questions. I think that the Senator from Alabama raised an important point and was very clear in presenting the situation as it existed in his part of the country and as he perceives the impact of the amendment which would lower the eligibility to 50 percent of median income.

But I know from my own situation that the 50-percent figure would create some very clear perceptions of inequities in some of the rural counties of my State because of the nature of the income distribution of the population.

I think that this is an additional argument over and above the other ones that have been made here today in support of the position taken by the Senator from Alabama.

So I hope very much that Senators will consider carefully when we come to a vote the nature of the rural areas of their States and, in addition, the nature of the income distribution within those rural areas in terms of how this program would impact.

Therefore, I support the position of the Senator from Alabama and hope his amendment to the amendment will carry.

Mr. ARMSTRONG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on both amendments by one show of hands? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I suspect that we will have a long and very hard day. I certainly think this issue has been discussed here. I think it is generally understood. As far as I am concerned, I am ready to proceed with the votes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (Mr. STEWART) to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The PRESIDING OFFICER (Mr. MOYNIHAN). Are there any Senators in the Chamber who have not voted?

Mr. CHILES. Mr. President, can the well be cleared?

The PRESIDING OFFICER. The Senator is correct. Will Senators please clear the well?

Mr. HATCH. Mr. President, regular order.

The PRESIDING OFFICER. Regular order has been called for. The clerk will tally the vote.

The result was announced—yeas 30, nays 34, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—30

Baucus
Biden
Burdick
Byrd, Robert C.
Cannon
Chiles
Cranston
Ford
Hart
Heflin
Inouye
Jackson
Johnston
Magnuson
Matsunaga
Melcher
Mitchell
Morgan
Moynihan
Nelson
Nunn
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stewart
Stone
Tsongas
Williams

NAYS—34

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cochran
Dole
Durenberger
Exon
Garn
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Mathias
McClure
Metzenbaum
Packwood
Pressler
Proxmire
Roth
Schmitt
Stevens
Thurmond
Warner
Weicker
Zorinsky

NOT VOTING—36

Bayh
Bentsen
Boren
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Glenn
Goldwater
Gravel
Heinz
Huddleston
Javits
Kennedy
Leahy
Long
Lugar
McGovern
Pell
Percy
Pryor
Sasser
Schweiker
Simpson
Stennis
Stevenson
Talmadge
Tower
Wallop
Young

So Mr. STEWART's amendment (UP No. 1240) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ARMSTRONG. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. What is the vote upon, the motion to reconsider or the tabling motion?

The PRESIDING OFFICER. The vote is on the motion to lay on the table the motion to reconsider.

Mr. JOHNSTON. Mr. President, I ask for a 10-minute vote. May we do that?

Mr. ROBERT C. BYRD. On a tabling motion? I have no objection.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that this be a 10-minute vote.

Mr. BAKER. No, Mr. President, I cannot do that. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President.

The PRESIDING OFFICER. The rollcall is in progress.

The Chair wishes to correct that. No one has answered.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, just in the interest of saving time for the Senate, I ask unanimous consent to withdraw my tabling motion so that, as I understand it, if that unanimous-consent request were agreed to, the motion then pending would be the motion of the Senator from Ohio to reconsider the vote.

The PRESIDING OFFICER. The Senator is correct.

Does the Senator so move?

Mr. ARMSTRONG. I do, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. The question is on the matter of vitiating the motion to table.

The PRESIDING OFFICER. That is correct.

Is there objection?

Mr. FORD. Mr. President, I wish the Senators would use their microphones. Some of us in the back do not know what is going on.

The PRESIDING OFFICER. The Senator is correct. The Senate is trying to be in order and the Senators will use their microphones.

Objection is not heard.

The question now is on agreeing to the motion to reconsider the vote by which the amendment of the Senator from Alabama was rejected.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum

The PRESIDING OFFICER. The lack of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, during the interim, a number of us have been consulting; the Senator from Ohio (Mr. METZENBAUM), the Senator from Alabama (Mr. STEWART), have been meeting with the Senator from Nebraska (Mr. EXON), and myself.

It is our belief that the way to expedite this proceeding and strike a reasonable balance between what Senator EXON and I propose, and present law, is to strike a balance not at 70 percent or 50 percent, but at 65 percent.

That is to say that, in the future, persons would be eligible for subsidy under the section 8 housing program if they fell below the 65 percentile of median income.

So the Senator from Ohio (Mr. METZENBAUM) has suggested privately, and I think is now prepared to suggest to the Senate, a procedural means by which we could do that. If there is general agreement, we could do that in just a moment and avoid two or three rollcalls.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the motion to reconsider be adopted by voice vote, and that immediately thereafter an amendment be agreed to, also by voice vote, at 65 percent instead of 70 percent, as presently provided for in the Stewart amendment.

The PRESIDING OFFICER. The Senator is asking for——

Mr. WEICKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I do not understand what machinations are going on regarding this particular piece of legislation.

There are those of us here against both the amendment just voted on and the amendment of Senator ARMSTRONG, leaving the program where it is at 80 percent, and we are prepared to attempt to vote down the Armstrong amendment.

I do not see, really, what has been achieved by this compromise proposed by the Senator from Ohio, to bring the percentage rate to 65 percent.

Mr. METZENBAUM. Mr. President, in response to my good friend from Connecticut, I recognize his position as being opposed to the 50-percent figure or the 80-percent figure or any change at all. However, there seems to be a strong body of sentiment here that wants to bring the number down.

I have not suggested that by unanimous consent we adopt the 65-percent figure but that, by unanimous consent, we accept, by voice vote, the motion to reconsider, and then by voice vote we act upon the 65-percent amendment.

Mr. WEICKER. Mr. President, reserving the right to object, I will agree to that, so long as we have a rollcall vote on the 65 percent.

The PRESIDING OFFICER. Will the Senators have the kindness to allow the Chair to suggest a procedure at this point? [Laughter.]

The Chair states that if the Senator from Ohio obtains unanimous consent to withdraw his motion to reconsider, another amendment is in order to the amendment of the Senator from Colorado and may be considered.

Mr. METZENBAUM. If that procedure is more acceptable to the Senator from Connecticut, I am perfectly happy to ask unanimous consent to vitiate the rollcall vote on my motion to reconsider.

Mr. ROBERT C. BYRD. The Senator should ask unanimous consent to withdraw his motion to reconsider.

The PRESIDING OFFICER. The Chair understands that there is a request to withdraw the motion to reconsider. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, I understand that this is part of an overall grand strategy. It is my understanding that a substitute will be offered which will set the figure at 65 percent. The only thing I object to is that I do not want that to occur by voice vote. I have no objection so long as that is understood.

The PRESIDING OFFICER. The Senator from Connecticut may have a rollcall vote on any motion.

Is there objection to the request to withdraw the motion to reconsider? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1241

Mr. METZENBAUM. Mr. President, I send to the desk an unprinted amendment to reduce the amount in the previous amendment to 65 percent.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1241.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for a rollcall vote.

Mr. ARMSTRONG and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Will Senators desist for one moment? A question of procedure has to be discussed.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, to clarify the situation, is an amendment now pending?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1241 to the Armstrong amendment, numbered 1239:
>
> Strike out lines 3 to 15 and insert in lieu thereof the following:
>
> "Section 209(a) section 8(f)(1) of the United States Housing Act of 1937 is amended by striking out '80' both places it appears and inserting in lieu thereof '65'."

Mr. BAKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, the 65 percent is far from satisfactory to me. But in consideration of some give and take on the other side, of people who do not want to come down at all, I have agreed to support the 65 percent. It seems to me that that is a realistic compromise of both the policy situation and the parliamentary situation.

So I encourage all those who previously were disposed to support my amendment for a 50-percent limitation to support the 65 percent.

Mr. EXON. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the substitute amendment offered by the Senator from Ohio.

I associate myself with the remarks of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent, if it is agreeable to the sponsors of the amendment, that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Boren), the Senator from New Jersey (Mr. Bradley), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pell), the Senator from Arkansas (Mr. Pryor), the Senator from Tennessee (Mr. Sasser), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. Huddleston) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Missouri (Mr. Danforth), the Senator from New Mexico (Mr. Domenici), the Senator from Pennsylvania (Mr. Heinz), the Senator from New York (Mr. Javits), the Senator from Indiana (Mr. Lugar), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Wyoming (Mr. Simpson), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) and the Senator from Illinois (Mr. Percy) would each vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 60, nays 6, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—60

Armstrong
Baker
Baucus
Bellmon
Biden
Boschwitz
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Dole
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Schmitt
Stafford
Stevens
Stewart
Stone
Thurmond
Wallop
Warner
Williams
Zorinsky

NAYS—6

Chafee
Durenberger
Mathias
Ribicoff
Tsongas
Weicker

NOT VOTING—34

Bayh
Bentsen
Boren
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Goldwater
Gravel
Heinz
Huddleston
Javits
Kennedy
Leahy
Long
Lugar
McGovern
Pell
Percy
Pryor
Sasser
Schweiker
Simpson
Stennis
Stevenson
Talmadge
Tower
Young

So Mr. Metzenbaum's amendment (UP No. 1241) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

Mr. BAKER. Mr. President, will the Senator withhold for just a brief moment?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think the Senator from Colorado has a unanimous-consent request with respect to a rollcall vote, if the Chair will recognize him for a moment.

Mr. ARMSTRONG. I thank the Senator from Tennessee. I believe the pending business now is my amendment, as amended.

The PRESIDING OFFICER. The Senator from Colorado is correct.

Mr. ARMSTRONG. On which a rollcall has been ordered.

I ask unanimous consent to vitiate the request for the rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. And I call for the question on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Colorado.

The amendment, as amended, was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 1242

(Purpose: To delete authorization for the Department of Housing and Urban Development and to make community energy block grants)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) proposes an unprinted amendment numbered 1242.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 3 through 25.

On page 3, strike lines 1 through 16.

On page 3, line 17, strike "(b)" and insert "Sec. 101(a)".

On page 4, line 7, strike "(c)" and insert "(b)".

On page 12, after line 15, strike all of section 111 and renumber subsequent sections accordingly.

On page 27, strike lines 4 through 6.

On page 27, line 7, strike "(1)" and insert in lieu thereof "(k)".

Mr. JOHNSTON. Mr. President, this amendment simply strikes section 111 of the bill establishing a grant program for units of local government in HUD with respect to energy programs.

The reasons we have this amendment is by agreement, the striking of this section 111, because it is covered in the subject matter of the so-called EMPA bill, the energy management partnership, S. 1280, which is now pending on the Senate calendar and on which we will soon get action.

AMENDMENT NO. 1910

We have worked out an arrangement on S. 1280, represented by this amendment which I now send to the desk, and ask to be printed. It is an amendment to S. 1280 and, of course, will not be considered on this bill.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. JOHNSTON. This amendment, as I say, the amendment just sent to the desk, and asking for it to be printed, authorizes DOE to order the Department of Energy to enter into an agreement with HUD to get the best delivery of funds for localities.

The thought has been by those on the Banking Committee that HUD is best able through its delivery mechanism to furnish these funds to localities.

This amendment which we will introduce as part of S. 1280, will allow that to take place; it fully authorizes it and, in fact, encourages that that take place.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. This procedure and result have occurred after the most constructive negotiations and cooperative negotiations between our committee and the committee chaired by Senator JACKSON, and in consultation, of course, with the Senator from Louisiana (Mr. JOHNSTON). I certainly commend them for their bringing to the calendar and shortly on the floor, I am sure, the energy management bill.

Under this arrangement the approach to energy conservation at the local level that the Senator from Massachusetts (Mr. TSONGAS) and I advanced it within our committee—and the use of community resources to develop conservation through the opportunities of the HUD personnel in the region, and consultation with the Department of Energy are all wrapped together in this amendment that has been suggested by the Senator from Louisiana be part of the Energy Management Partnership Act when that is taken up.

Our objective, as we advanced it, we see in this approach is the proper approach and, therefore, acquiesce with a positive feeling that the result will be obtained through the other bill when that is brought up.

Mr. President, I am willing to accept the amendment offered by Mr. JOHNSTON.

One of the most serious challenges facing communities today is devising strategies to alleviate the misery and hardship of escalating fuel costs. Public housing authorities are forced to defer needed maintenance to meet utility bills. Landlords, in increasing numbers, can no longer afford utility costs. Abandoned multifamily buildings are a common sight in our Nation's cities at a time when we are in the depths of a devastating multifamily rental housing crisis. For many landlords, arson is the only way to respond to heating oil costs. Thus, in New York City, we see 12 multifamily buildings abandoned or burned a day.

I would ask my colleagues who are concerned about the energy crisis, who are concerned about housing elderly persons and low-income families, and who are concerned about reducing Federal expenditures, to think about this abandonment and the enormous waste it represents. A waste of scarce energy resources, a waste of scarce housing, and a tragic loss of shelter for people in need. Each abandonment represents a new burden for the Federal Government.

I believe that we can conserve and save much of our precious housing stock. Already, many cities are using HUD community block grant funds in innovative ways to meet the primary objective of the community development program—the development of viable urban communities through providing decent housing, a suitable living environment, and the expansion of economic opportunities, principally for persons of low and moderate income. But each of these purposes and objectives is being undermined by OPEC fuel increases. It is essential for communities, as they reexamine zoning codes, and building codes, as they rehabilitate housing, as they make public improvements, as they provide public services, to assess their actions in terms of their impact on energy needs and conservation goals.

The Energy Committee, under the leadership of Senators JACKSON, HATFIELD, and JOHNSTON, shares our committee's views and has made significant contributions. I have made a joint effort with Senator TSONGAS to work with members of the Energy Committee. Thus, the energy block grant section of our bill was written in coordination with a staff member of the Senate Energy Committee. I appeared before the Energy Committee to express my concerns and explain the provisions of the legislation which Senators TSONGAS, JACKSON, PERCY, and I introduced.

Both committees have now acted to adopt a program which takes steps, for the first time ever, of making local governments an integral part of a comprehensive national energy conservation policy. The funding level is inadequate, but the concept is needed and good.

Both Senators JACKSON and JOHNSTON merit commendation for their roles in steering S. 1280 through the Energy Committee. I would hope we can expect and look to their leadership in assuring that an entitlement energy conservation program for local units of government will be signed into law in the very near future.

I know the Senator from Massachusetts has played a significant role in both committees, and certainly on this subject, and he has something to say.

Mr. TSONGAS. Mr. President, let me try to just take a minute and suggest what the RECORD shows at this point. We now have a situation where the Community Energy Act is contained in both the housing bill and the EMPA legislation which is coming down the pike. Under the bill now before the Banking Committee there is an energy block grant approach to local communities. The 3-year authorization is at $75 million per year. HUD is the administering agency, and the block grant is on an entitlement basis.

Under the bill that is before the Energy Committee, the EMPA bill, what we have is a local energy grant situation, a 5-year authorization, at $80 million a year from fiscal year 1982 on, with the money in fiscal year 1981 left open. DOE would be the administrative agency in that case, and there is a very different formula of allocation under the Energy Committee version.

In essence, what is happening here is that the section relating to the HUD bill is to be deleted and a kind of amalgam put together that would be introduced by the Senator from Louisiana (Mr. JOHNSTON) would be applicable to the Energy Committee version.

The question under the compromise of who, the "who" in this case would be that the Secretary of DOE would be directed to enter into an interagency agreement with the Secretary of HUD; and that may include the delegating of responsibility for administering the program, but that is for them to work out. The White House is going through their own machinations at this point to figure out exactly how to do it.

As to the question of how much, the authorization contained in the HUD bill is deleted and we would leave intact the figures that were contained in the EMPA bill.

The other point I would raise is that I think that this version may, in fact, be better than either of the other two, because we now have, as I understand it, within the administration a commitment to move ahead on this concept. I suspect that next year we will find even the possibility that some reorganization where the various conservation programs, the hospitals and the schools programs, may indeed be brought under one. Probably in the long term what the Senator from Louisiana has put together may, in fact, be the best of all worlds. I commend the various parties for this compromise.

Mr. GARN. Mr. President, the minority is happy to accept this amendment.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Louisiana (Mr. JOHNSTON).

The amendment (UP No. 1242) was agree to.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

UP AMENDMENT NO. 1243

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.), for himself and Mr. WARNER, proposes an unprinted amendment numbered 1243.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, is is so ordered.

The amendment is as follows:

Page 22, after line 20, insert the following:

INCLUSION OF CERTAIN INDEPENDENT CITIES IN DETERMINING COMMUNITY DEVELOPMENT GRANT AMOUNTS FOR URBAN COUNTIES

SEC. 111. Section 106 (b) (4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

"(A) is not part of any county;

"(B) is not eligible for a grant pursuant to subsection (b) (1);

"(C) is contiguous to the urban county;

"(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

"(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible for a grant under subsection (c) or (e) with respect to such fiscal year."

Page 16, strike out lines 19 through 21 and redesignate the subsequent subsections accordingly.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment is offered by myself and my colleague from Virginia, Senator WARNER. We offer this amendment to S. 2719, the Housing and Community Development Act of 1980. We have discussed this amendment with the ranking minority member of the Committee on Housing and Urban Affairs, the managers of the bill.

This proposal applies only to Fairfax County, Va. I understand it is acceptable to the managers of the bill.

The purpose of the amendment is to correct a situation existing in Fairfax County, Va., an urban county participating in the community development block grant program. Our amendment would allow inclusion of the population and other demographic characteristics of the cities of Fairfax and Falls Church in determining the county's community development block grant entitlement. The participation by these two cities in Fairfax County's program would be strictly voluntary.

Under the provisions of current law (the Housing and Community Development Acts of 1974 as amended), CDBG entitlement urban counties may include the population of nonentitlement incorporated localities within their jurisdiction unless the locality chooses to "opt out" of the county's CDBG program. This is accomplished through a cooperation agreement between the county and the locality. In keeping with this provision, the Fairfax County Redevelopment and Housing Authority (FCRHA) has existing cooperation agreements with the towns of Herndon and Clifton. The county receives additional CDBG funds based upon their population and other demographic characteristics and is undertaking specific CDBG projects in each town.

The FCRHA also has existing cooperation agreements with the cities of Fairfax and Falls Church for specific housing and community development projects which are being carried out within these cities. Under State law, however, Virginia cities are independent of counties and, therefore, ineligible to participate in urban county CDBG programs in the same manner as incorporated towns. As nonentitlement cities, Fairfax and Falls Church may compete with similar cities for discretionary CDBG funds, but, under current law, have no mechanism for assuring annual CDBG funding based upon their population.

One amendment is a matter of simple equity. Since Fairfax County is already conducting housing and community development activities in the cities of Falls Church and Fairfax it ought to be given credit for the demographic characteristics of these two cities in the calculation of its entitlement amount.

I have been advised by Fairfax County and the National Association of Counties that, as far as can be determined, and it is therefore my intention, that this amendment apply only to Fairfax County, Va.

I urge its adoption by the Senate.

I yield to my distinguished colleague.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join with the senior Senator from Virginia in offering this amendment to the Housing and Community Development Act of 1980, which I have discussed with the distinguished chairman of the Subcommittee on Housing and Urban Affairs and with the distinguished ranking member of that subcommittee.

This amendment is intended to correct an inequity in the community development block grant program as it applies to Fairfax County, Va. Fairfax County participates in this program as an urban county and the Fairfax County Redevelopment and Housing Authority provides essential housing and redevelopment services to the independent cities of Fairfax City and Falls Church under a cooperative agreement worked out by all three jurisdictions.

Under the provisions of current law—the Housing and Community Development Acts of 1974 as amended—urban counties which are entitled to community development block grants may include the population of incorporated localities within their jurisdiction which are not entitled to block grant funds, unless the communities choose not to participate in the county's community development block grant program. This type of participation in the block grant program is worked out in a cooperative agreement between the county and the locality. In keeping with this provision, the Fairfax County Redevelopment and Housing Authority has existing agreements with the towns of Herndon and Clifton. The county receives additional block grant funds based upon the population and demographic characteristics of these two towns and is operating projects in both towns.

The Fairfax County Redevelopment and Housing Authority also has existing cooperation agreements with the cities of Fairfax and Falls Church for specific housing and community development projects in these cities. Under Virginia State law, however, Virginia cities are independent of counties and, therefore, are ineligible to participate in urban county community development block grant programs in the same manner as incorporated towns. Thus, these two cities have no way of assuring annual block grant funding based upon their populations.

This amendment is a simple matter of equity. Because Fairfax County is now conducting essential housing and community development activities in these two cities, the county ought to receive credit for the demographic characteristics of these two cities in the entitlement to its block grant.

I offer this amendment with the support of the cities of Fairfax and Falls Church, Fairfax County, and the National Association of Counties. And I would like to reemphasize that the wording of the amendment and my intention in offering it are that it should apply to Fairfax County, Va., only.

Mr. WILLIAMS. Mr. President, I am pleased to accept the amendment that has been offered by the Senators from Virginia. This amendment makes the allocation of community development block grants in Virginia consistent with the program as it works in 49 of the other States in response to the way we amended the bill last year. This puts the Virginia situation into the same pattern that prevails elsewhere.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the minority is happy to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The amendment (UP No. 1243) was agreed to.

UP AMENDMENT NO. 1244

Mr. GARN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1244:

On page 106, line 14, insert the following: Strike "one-year" and insert the following: "three-year".

Mr. GARN. Mr. President, this is a very simple amendment agreed to by the majority, a simple change in the State override period from 1 year to 3 years.

Mr. WILLIAMS. Mr. President, this question of the length of time has been in full discussion with members of the committee. I have had the opportunity to talk it through with my good friend and colleague here and understand the problems that arise because of the meeting times of State legislatures. This is designed, in part, to meet the exigencies of the States and their procedures for State legislative meetings; am I correct?

Mr. GARN. Mr. President, that is correct.

As an example, in my own State, and many of the smaller States, they do not meet continuously. We have a 1-year legislative session; the next year it is only a budget session. So it will facilitate particularly the small States having legislative sessions and giving them an opportunity to consider this.

Mr. WILLIAMS. And the situation, before there is any action at the State or local level, would be that until there is positive action to override the Federal provisions, the provisions that we have in this bill will be in effect and prevail?

Mr. GARN. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. GARN).

The amendment (UP No. 1244) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I wish to thank the managers of the bill on both sides of the aisle for directly taking from legislation that I first introduced, together with Senator CHILES, in April of 1978 and reintroduced in this Congress as S. 612, the Condominium Act of 1979, and which now forms title V of S. 2719. This title provides that certain long-term leases, either "net-net" or "gross," containing automatic rent increase clauses tied to a cost-of-living index, entered into by the developer while in control of the owners' association, and which had to be accepted by the purchasers as a condition of purchase, may be found to be unconscionable in a court case brought by a two-thirds vote of the unit owners. The bill also sets forth standards for the court to consider in making a determination of unconscionability. In such cases the court, using its equity powers, could grant relief such as rescission or reformation of all or part of the existing lease to achieve a fair result. This section would become effective 1 year from enactment to allow time for out-of-court settlements. And effective immediately upon enactment, the bill would make any further automatic increases in these leases unenforceable. This action today is the culmination in the Senate of all the efforts that Senator CHILES and I have made to resolve this longstanding problem and finally grant relief to those that continue to be subject to these leases.

I do wish to thank the managers of the bill and the committee for seeing to it that this much-needed relief is included in the bill and will go to conference and, with good efforts on the Senate's side, will be adopted in conference.

I again thank both managers for their help in this measure.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT NO. 1245

Mr. GARN. Mr. President, I ask unanimous consent that three technical amendments be sent to the desk and be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1245.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, line 24, before the period, insert the following: ", except that a successor to a developer through foreclosure shall have no liability under section 505, 506 or 507, for any violation which occurred prior to his succession to the interest.".

On page 100, line 12, after "government," insert "by any corporate instrumentality of the United States,".

This section exempts from the Act a cooperative or condominium unit sold or offered for sale by state or local governments or offered for sale by state or local governments or their agencies. The Federal Home Loan Mortgage Corporation is an "agency" of the federal government for only a few purposes. This language is necessary to make it clear that we are not reaching secondary mortgage market operations of the mortgage corporation.

On page 100 after line 5, insert the following:

"(33) 'residential' means principal place of residence."

Mr. GARN. Mr. President, the first of these amendments will be to make clear that successors to developers, by reason of foreclosure, are not subject to civil liability under certain provisions of title V.

The second amendment exempts from the act a cooperative or condominium unit sold or offered for sale by State or local governments or offered for sale by State or local governments or their agencies. The Federal Home Loan Mortgage Corporation is an agency of the Federal Government for only a few purposes. This language is necessary to make it clear that we are not reaching secondary mortgage market operations of the mortgage corporation.

The purpose of the third amendment is to clarify that the provisions of this title, except as provided in section 510, apply only to a condominium or cooperative project that was, at any time before the first conveyance of a unit to a purchaser, wholly or partially occupied as a principal place of residence by persons other than purchasers and persons who occupy as a principal place of residence with the consent of purchasers. This title—except for section 510—should not apply, for example, to a project that was wholly occupied by persons as a vacation or second home residence since the object of the legislation appears to be to protect from conversion existing rental housing projects used as primary or first home residences. The definition created by this amendment has long been recognized, and is widely accepted, in the real estate industry as a means of clarifying whether a person's "residence" is a primary or secondary, that is, vacation, home.

Mr. President, I understand the majority is willing to accept these three amendments.

Mr. WILLIAMS. Mr. President, these technical amendments have been worked out to our satisfaction, and we agree to accept them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1245) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1246

(Purpose: Amendment to the Housing Act of 1974 to remove the mandatory requirement of income mix in elderly housing)

Mr. DURENBERGER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 1246.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 201, insert:

(b) Section 6(c)(4)(A) of such Act is amended by inserting immediately after "(A)" the following:

"Except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families,"

Mr. DURENBERGER. Mr. President, the Housing Act of 1974 contains the requirement that all public projects for families and the elderly contain an income mix of residents. The law was not enforced until last year. The effect of that enforcement, particularly in my State, has been to create a rather substantial problem for the low-income elderly. It is a problem that exists both in the large metropolitan areas such as Minneapolis, St. Paul, and Duluth, for example, and in the small communities.

In each case, the problem is simply this: There are long waiting lists of low-income elderly waiting to get into the projects. But in order to qualify under the mix provisions of the law, these projects must provide housing to the elderly nonpoor in order to accommodate the low-income or elderly poor.

The result is that a lot of communities are just stonewalling this area of HUD.

I think the objective of the law is not being adequately effected. In our State we have a State housing finance agency that has done substantial things to provide mix, both of the elderly and the poor, and also mix in terms of urban-suburban housing.

Basically, what this amendment is designed to do is to give the Secretary of Housing and Urban Development the authority to work with individual communities and, where appropriate, to grant waivers from the mix requirement.

I have discussed this matter with both the majority and minority and understand they will agree to it. As far as HUD is concerned, I understand that they will not oppose this measure.

Mr. WILLIAMS. Mr. President, I wonder if the Senator from Minnesota would listen to this and see if our understanding is accurate.

As we read it, the amendment would do no more than assure that when vacancies occur in projects or portions of projects designed for elderly people, very low-income persons already on public housing waiting lists would not be obligated to wait while the public housing agency fulfilled the legislative requirements to seek out an eligible person or persons with somewhat higher income to carry out the goal of economic integration.

Is that accurate?

Mr. DURENBERGER. Yes, that is the purpose of the amendment. Discretion is given to the Secretary to make that determination.

Mr. WILLIAMS. And as I understand it, this amendment does not render ineligible for assistance those whose incomes are between 50 and 80 percent of the median for the area. Is that right?

Mr. DURENBERGER. That is my understanding.

Mr. WILLIAMS. The amendment does not overturn the goal of economic integration. It just brings some sense to present law assuring that individuals who are elderly and poor will not experience unwarranted delays in gaining access to units that should be available to them.

Mr. DURENBERGER. I would say that well states the purpose of the amendment.

Mr. WILLIAMS. Part of this was written before it was agreed to accept the amendment so I had to pause and delete part of my statement.

I do accept the amendment with a good feeling. It is a worthy amendment.

Mr. GARN. Mr. President, this is a good amendment which I support and accept on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1246) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1247

(Purpose: Redefine the coverage of the Home Mortgage Disclosure Act by replacing the current exemption, measuring the asset size of a lending institution, with an exemption based upon an institution's lending activity. Lenders would have to meet two tests to be exempt from reporting: A lender must (1) have a mortgage loan portfolio less than $10,000,000, and (2) make fewer than 200 mortgage and home improvement loans every year)

Mr. GARN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1247.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

The amendment is as follows:

On page 56, between lines 16 and 17, insert the following: "(f) The second sentence of section 309 of the Home Mortgage Disclosure Act of 1975 is amended to read as follows:

"Any depository institution which (A) has a mortgage loan portfolio aggregating less than $10,000,000 at the close of its most recent full fiscal year, and (B) made fewer than 200 mortgage loans during such year, is exempt from the provisions of this title.".

Mr. GARN. Mr. President, this amendment would redefine the coverage of the Home Mortgage Disclosure Act by replacing the current exemption, based upon the asset size of a lending institution, with an exemption based upon an institution's lending activity, measured by its home loan portfolio and the number of loans it originates.

The purpose of the Home Mortgage Disclosure Act is to evaluate the volume and placement of home purchase and home improvement loans originated or purchased by lending institutions. Therefore, an exemption from HMDA's regulatory reporting requirements should logically relate to mortgage loan activity, rather than the asset size of an institution. The present asset-size exemption has a particularly discriminatory effect upon those commercial banks primarily active in the commercial, nonhousing, loan market. Many banks are now required to compile HMDA reports, even though they make few home loans every year.

This amendment would change current law, exempting from reporting lenders with less than $10 million in total assets, to a two-test exemption: lenders who first, have less than $10 million in their home loan portfolio including home improvement loans and also second, originate less than 200 home purchase loans and home improvement loans each year would be exempted from HMDA reporting requirements. Applying the $10 million loan portfolio test, commercial banks and savings and loan associations required to report would hold in their portfolios 96.1 percent of the amount of all SMSA home loans, a reduction in portfolio coverage of only 3 percent from the current coverage under the asset-size exemption.

The second, "200 loan," test is based upon an extensive FDIC/Federal Home Loan Bank Board study of HMDA which concluded that institutions originating less than 200 loans incurred a significantly higher per loan reporting expense. This second test requires lenders who originate more than 200 loans per year to report, even if their home loan portfolio is less than $10 million.

Finally, the real value of HMDA reports lies in their use by regulatory agencies during consumer compliance examinations, and this amendment would not interfere with compliance examiners' analysis of a lender's performance under the civil rights laws.

Two approaches are available to monitor a lending institution's compliance with civil rights responsibilities under the fair housing laws and Community Reinvestment Act: from the outside, individuals, community organizations and public officials review the HMDA reports to detect possible discriminatory lending practices; and from inside the banking system, the regulators use HMDA data during periodic consumer compliance examinations conducted to detect discrimination.

Of the two approaches, consumer compliance examinations—not public disclosure—have been the most effective method to insure lending practices are consistent with the fair housing laws. The regulators—not outside individuals and organizations—have been the primary users of the data.

Mr. President, this amendment will not affect the continuance or effectiveness of compliance examinations, which evaluate all lenders and not just those subject to HMDA. Compliance examiners would evaluate the home lending performance of lenders exempt from reporting by analyzing individual loan files, as they already do for hundreds of lenders located in non-SMSA areas currently exempt from HMDA.

Just to summarize this amendment, Mr. President, currently, those institutions that have less than $10 million of assets are exempt from reporting. This does not make a great deal of logical sense to me, because, obviously, you can have some financial institutions with less than $10 million in assets which could be engaged in a considerable amount of loan activity in the home loan business and yet be exempt from the reporting requirements. Yet, we certainly have institutions that have well over $10 million worth of assets which do little or, in some cases, no mortgage lending.

It seems to me that a true test of whether an institution should report, rather than basing it on an arbitrary asset figure, would be to base it upon the amount of loan volume that they do. The reason I put two tests in this amendment—first of all, a total portfolio of $10 million is one test. The second one would be that even some institutions with less than that, if they did a considerable amount of activity, more than 200 loans a year, would be required to report.

I think this would actually enhance the reporting requirements of HMDA by stressing that the reports would be made by those institutions that are primarily engaged in the mortgage lending business rather than asset size, that may or may not have anything whatsoever to do with the amount of loans being granted.

(Mr. SARBANES assumed the chair.)

Mr. PROXMIRE. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Utah. Frankly, I do not see any justification for the reduction in coverage of the act which would result from this amendment. Existing law already exempts most depository institutions from the Home Mortgage Disclosure Act because of existing exemptions for institutions located outside of metropolitan areas and institutions which have less than $10 million in assets.

The bill, as reported by the Banking Committee, does not alter that coverage. As I say, we, under present law, already have exempted most of the banks from coverage. The amendment offered by the Senator from Utah would significantly weaken existing law by drastically reducing the number of banks now covered.

Changing the $10 million in assets cutoff to $10 million in mortgage and home improvement loan portfolio would not significantly alter the coverage of savings and loan associations, because most of the assets of savings and loans are in mortgages. However, it would seriously affect the coverage of commercial banks. A commercial bank of $50 million, $70 million, or even $100 million in assets or more might easily have a mortgage portfolio of less than $10 million. According to testimony before the committee, the effect of the amendment offered by the Senator from Utah would be to reduce the number of commercial banks covered under the act and—get this now—from over 5,000, 5,160, to be exact—to 1,394. In other words, it would cut them by more than two-thirds, a reduction of 73 percent.

If the Senator's amendment were accepted, fully one-third of all mortgage and home improvement loans held by commercial banks would be exempt from the act's coverage. At the present time, 82 percent are covered; under the amendment by the Senator from Utah, we would reduce that 82 percent down to 67 percent. So this would go very far to reduce the coverage and the protection which is afforded by the act at the present time.

While it might be argued that individually these banks do not make large numbers of mortgage and home improvement loans, collectively they do add up. It appears that commercial banks that would be exempted by the Senator's amendment have mortgage and home improvement loan portfolios exceeding $10 billion.

Mr. President, the Home Mortgage Disclosure Act has proven to be of great value to regulatorys, community and civil rights groups, local governments, and many other types of organizations.

The cost of compliance is very minimal. It seems to me if we are going to reduce the coverage here, we ought to be able to show that there is a serious burden. But as I say, the cost of compliance is minimal.

To a large extent, the act merely requires institutions to publicly disclose data already in their possession. The exemptions in existing law are already very substantial. I see no basis for a reduction in coverage.

The Senator from Utah argues that it does not make sense to base an exemption on asset size if the requirement is to report data on mortgage loans. But this misses the basic point of the exemption as originallv contemplated. The logic behind the exemption in current law is that it is designed to relieve reporting burdens, as minimal as they are, on small institutions. It was an exemption for small institutions and the small banks—not for larger institutions that happen to make relatively few mortgage loans. In any event, if a larger institution makes a small number of loans, the cost will be negligible, since the cost per loan is so small. Obviously, the larger institution is in a postion to take care of it. They have the manpower, they overwhelmingly have the efficiency. They do not have the burden, and there has been no record in the hearings that they are suffering from this.

Mr. President, the amendment offered by the Senator from Utah was offered by the Senator in committee, was discussed in committee, and it was rejected by the committee. I urge my colleagues in the Senate also to reject the amendment.

As I say, Mr. President, this would go far in reducing the coverage of the Mortgage Disclosure Act and it would mean that the practice of discrimination would be less likely to be detected and to be prevented. The saving in cost to the bank would be negligible, and the only banks that would be affected, obviously, are the larger institutions that can well afford it.

Mr. GARN. Mr. President, once again, we are getting into a similar argument to the one we had last night on an entirely different subject, on sunsetting. In all of my political and business career, I have attempted to look at things logically. The arguments that the Senator makes, once again, for the most part are getting away from the point of what we want to cover.

The whole point of HMDA is to find out if redlining exists; that is, that there are patterns and practices of discrimination in communities where lending institutions are refusing to loan in particular areas of a community—mortgage loans. That is what it is for. No other purpose.

I do not disagree with that purpose, but with the total illogic of saying that asset size of an institution is the best way to decide what the reporting threshold is, when institutions with less than $10 million of assets can make a considerable number of mortgage loans and be excluded. On that point, my amendment would include some smaller institutions that are excluded on an asset test that, by loan volume, would be included and would be required to report, that do not report now.

Again, I repeat, the purpose is to find out where those mortgage loans are going. It seems incredibly logical to me that you have a test for a threshold if you are going to have any exclusions based on loan volume, not on assets size.

That is why there is a two-tier test; why it is not only lower portfolio, but it is number of loans made during a year.

I do not want to exclude large institutions if they are making more than 200 loans a year, more than about 17 or 18 a month. They will have to report regardless of their portfolio.

It seems to me, it just makes logical sense that if we are having any exemption whatsoever, it ought to be based on the number of loans made, a test that does not relate to loan volume, therefore excluding small institutions now making mortgage loans, and the very purpose, as the distinguished chairman wants to accomplish, being excluded in those areas.

I repeat, he can talk about numbers of institutions. Yes, it does reduce a large number of institutions from reporting. But it would still cover 96 percent of the loan volume.

That is what we are talking about, quantity of institutions.

Numbers are meaningless to the purposes of this act.

If my amendment passes, we will be covering 96 percent of the volume in this country by relieving institutions from reporting that do little or no activity in home mortgage business.

Mr. PROXMIRE. Mr. President, the fact is that commercial banks making substantial mortgage loans, the mortgage portfolios of about $10 billion would be exempted under the amendment by the Senator from Utah.

The fact is that fully one-third of all mortgage and home improvement loans held by commercial banks would be exempt, although at the present time only 18 percent is exempt, and those are held by small institutions and banks located outside of metropolitan areas.

I have yet to hear any case made by my good friend from Utah, certainly none in the committee by any witness, that there is a burden on the institutions to report this.

For the life of me, I cannot understand why we should weaken this legislation that does affect, and seriously affect, the fair housing statutes and the enforcing antidiscrimination laws in housing.

An example is, suppose we have a bank in a city like Chicago or Milwaukee, or any large city, primarily concerned with loans to industry. It makes a modest amount of loans on home mortgages. This is fairly typical of the large banks in the large cities. It is certainly true in Milwaukee, and I am sure it is all over the country.

What the amendment of the Senator from Utah would do would be to exempt those banks. They are the very ones, in big cities, that have most loans made to industry. But they do make some mortgage loans and can practice redlining. In many cases they do not, in many cases they do.

There has been absolutely no case made at all that those banks in the large cities in our country would be burdened in any significant way by having to continue with what they are doing now.

They have experience under the law. It is not as if we were imposing new legislation or requirements. It is precisely what they have been doing for years. They did not say they were burdened or this was a difficult suggestion.

The Senator from Utah opposes redlining. So do I. He indicates he agrees some has occurred. There is no question of that. We have it documented. It is being done in cities all over the country.

This would exempt large banks in the

big cities which happen to have a relatively small portfolio of mortgage loans.

I can see no reason whatsoever to exempt those large banks.

For that reason, Mr. President, I hope the amendment by the Senator from Utah will be rejected.

Mr. GARN. Mr. President, I would appreciate it if my distinguished colleague from Wisconsin would address himself to the two-tier. We keep repeating ourselves. But he has yet to address himself to the fact. He keeps saying the big banks will be exempted.

So what, if they do no significant loan volume?

That is exactly why there are 2 portfolios and 200 loans. Two hundred loans are not very many to trigger the reporting requirement, very, very few, a little less than 20 per month. The small savings and loan institutions do far more than that, even many banks of less than $10 million of assets.

My second question, Could the Senator please explain the logic of picking an arbitrary asset fee, which certainly cannot convince the Senate or me that asset size has any relationship to the mortgage loan volume of any financial institution, other than savings and loans and, obviously, that is their primary function?

But in banking, will someone tell me how an arbitrary asset figure of $10 million excludes everybody below $10 million of assets without any knowledge whatsoever of the amount of loan business they do?

I have not had an answer in committee or on the floor.

Mr. PROXMIRE. I have not had an answer as to why this would be any burden on these banks. If a bank has $9 million in mortgage loans, a large bank, in cities like Milwaukee and Salt Lake City, why should they not be covered?

Mr. GARN. That is total portfolio over a number of years. So that is not very much. If we get over, that is $9 million or $10 million a year. That is portfolio.

Mr. PROXMIRE. I understand.

I say, if they make $9 million over the years, I agree with that. That may not be called very substantial. But, nevertheless, it represents an opportunity for a minority family to get a loan in the bank, it is much more convenient to them, it is their bank, and it may well be that they are being discriminated against, and by other large banks that happen to have a portfolio of less than $10 million. This would affect $10 billion, a very substantial amount.

Mr. GARN. The second test of more than 200 loan applications per year, or mortgages granted. There is a two-tier test.

Mr. PROXMIRE. We have not gotten any documentation at all that that 200 cutoff would affect any significant amount of institutions. No record of that.

Mr. GARN. Would the Senator tell me how many mortgage loans are being excluded and minority groups being redlined by institutions with currently less than $10 million of assets that do a considerable amount of loan business?

Mr. PROXMIRE. As the Senator well knows, we do not have the precise determination of how much redlining there is. We know it exists, but we have not been able to specify what that is, and the Senator knows we cannot tell.

We know that some minority families who want to borrow money for mortgages are not given loans. We have seen that documented again and again. The Senator, as a distinguished mayor, is familiar with that. We all are.

I cannot say the precise amount. I cannot say how many people exceed the 55-mile-an-hour speed limit, but I am sure there are a lot.

Mr. GARN. Is it not logical to assume there are small institutions with less than $10 million in assets primarily engaged in this business and not covered under the act?

Mr. PROXMIRE. Yes; there are. The Senator is correct. We excluded them. No argument on that. I am sure the Senator does not want to cover them——

Mr. GARN. I said, they are engaged in redlining, making 400 or 500 loans a year, but less than $10 million in assets.

Mr. PROXMIRE. The Senator is absolutely right.

Mr. GARN. But the Senator is content to exempt them?

Mr. PROXMIRE. Unfortunately, we were not, and the Senator is not proposing that, to try to cover every institution in the country that makes mortgage loans.

We are already providing an exemption in existing law. We think the exemption is very substantial. It exempts a very large number of institutions, and there is some redlining going on because of it.

But the Senator's proposal would widen the opportunity for redlining without showing any real purpose for doing so, because the banks exempted by the Senator's proposal have not shown there is any burden here.

Mr. GARN. If the Senator from Utah thought he was widening the exemption, I would not be offering it.

I make the point once again: An asset test has no relationship to the amount of mortgage loan business a financial institution does. I am trying to pick up in the areas below $10 million, those smaller institutions that do make significant numbers of mortgage loans, and exclude the larger institutions that are not basically involved in the mortgage loan business.

So do not let the record show that I think I am broadening it. I am tightening it, while relieving some regulatory burden.

Mr. PROXMIRE. It may be helpful to Members of the Senate to know what the testimony shows.

As I understand it, the following groups oppose the Garn amendment: the U.S. Commission on Civil Rights, the Leadership Conference on Civil Rights, the National Urban League, the National Urban Coalition, the U.S. Conference of Mayors, the National League of Cities, the National Governors Association, the League of Women Voters of the United States, the AFL–CIO, the U.S. Catholic Conference, the National Low-Income Housing Coalition, the Consumer Federation of America, and numerous community group leaders from all over the country. They feel that this is legislation we need, and the record we have indicates that that is the case.

Mr. GARN. I point out two things. First of all, the organizations the Senator just enumerated supported my amendment last night, in opposition to the amendment of the Senator from Wisconsin. He did not agree with them last night.

Mr. PROXMIRE. The Senator won.

Mr. GARN. The second thing I point out is that that opposition from those groups came before we included home improvement loans on the asset test.

I am not married, necessarily, to $10 million of portfolio. Certainly, 200 loans or less per year is not a significant volume of mortgage loans.

Mr. PROXMIRE. I also point out that on this issue HUD and the administration are clear. They also oppose the amendment of the Senator from Utah. They have the responsibility for enforcing it. They have more expertise in this area. They feel that the amendment of the Senator from Utah is a mistake in moving away from the kind of civil rights legislation we now have in the law.

Mr. GARN. As a former mayor who has worked with HUD, do not talk to me about the expertise of the Department of Housing and Urban Development, or we may be here for 3 days, and the Senator will have to hear all my speeches about HUD that he has heard for 5 years. An endorsement from HUD does not convince me that I am in the wrong position. [Laughter.]

I think the chairman will have to admit that it is difficult to support either of our positions with exact numbers and figures. That is a fair statement. We are using estimates by various groups. Nobody really knows exactly what is going on.

I should like to get back—if the chairman will answer me—to the logic of using a flat asset test, forgetting numbers for the moment. Having served with the chairman for 6 years, I cannot imagine that, with his keen mind, he would not agree that some level, not necessarily mine, but some exemption, based upon a loan volume test rather than an asset test, makes more sense.

Mr. PROXMIRE. I live in a State which has many small towns, and I have talked with my smalltown bankers, and they have made a good case that while a big bank has little difficultly complying with regulations, a small bank does. They have few people; all their people are doing the job the bank has to do, keeping their records, and so forth. I believe that the exemption of banks by size, under these circumstances, is not perfect but it makes some sense.

So I feel that the smaller institutions should be exempt because they are small, because it is hard for them to comply. The larger institutions are located, typically, in bigger cities. They have the staffs and the ability to comply.

Under these circumstances, it makes sense—it may not be completely and thoroughly logical in every way, but it does recognize the difficulty of a small institution in complying with Federal regulations.

Mr. GARN. I respond to the distinguished Senator from Wisconsin by saying that my amendment, as he has indicated, would exempt more small banks. I agree that they should be. The small ones in the small towns are basically the ones I am aiming at.

Mr. PROXMIRE. They are exempt now.

Mr. GARN. It would exempt more under a loan volume test than under a flat asset test.

There are not many large banks in this country. We all know the giants—Chase Manhattan, Bank of America, and so forth. There are only one or two banks in my State that have more than $100 million in assets. I am talking about loan volume.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. GARN. I yield.

Mr. LEVIN. The Senator from Utah indicated a number of different estimates as to how many banks would be excluded, under his test, which are presently included, and I agree. What is the number of banks that would be excluded, under his test, which presently are included?

Mr. GARN. The chairman's estimates are probably as good as anyone's.

My point was—I do not know whether the distinguished Senator from Michigan was in the Chamber—that the number of banks is not the test we should be looking at. It is the loan figure. The best figure I have is that, regardless of the number of banks excluded under my amendment, 96 percent of the loan volume would be included in the act, in the 200 SMSA's.

Mr. PROXMIRE. If the Senator will permit me, I point out the statistics we have, which have not been challenged, that the amendment of the Senator from Utah would reduce the number of banks covered under the act from 5,160 to 1,394. Furthermore, it would exempt $10 billion in mortgage portfolios.

Mr. GARN. I challenge the last figure.

Mr. LEVIN. Will the Senator from Utah also agree that although these disclosures make a contribution from these large commercial banks, as it may be relative to small ones, it nevertheless has a contribution to the credibility in our community?

Mr. GARN. That is true. But I make the point that we are not talking about large banks. If the Senators think that the Bank of America is going to be excluded, with a $10 million loan portfolio and 200 per year, let us not kid ourselves. We are talking about small banks, basically under $100 million of assets. The Bank of America has thousands and thousands of loans, undoubtedly with a portfolio of hundreds of millions of dollars or more, and certainly would not be touched by my amendment.

Mr. PROXMIRE. It is true that the large giants would not be excluded. Nevertheless, banks which have $50 million and $100 million in assets would be excluded. These banks, many of them located in large cities, many that do make loans up to $10 million, would be excluded by the amendment of the Senator from Utah.

Mr. GARN. If they make less than 200 loans a year.

Mr. PROXMIRE. That is right.

Mr. GARN. Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Louisiana (Mr. LONG), and the Senator from Rhode Island (Mr. PELL), would each vote "nay."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER), is absent due to illness.

On this vote, the Senator from Wyoming (Mr. SIMPSON) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Illinois would vote "nay."

The PRESIDING OFFICER. Are there any other Members in the Chamber who have not voted who desire to vote?

The result was announced—yeas 22, nays 45, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—22

Armstrong
Baker
Bellmon
Byrd,
  Harry F., Jr.
Cochran
Garn
Hatch
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Melcher
Nunn
Pressler
Roth
Schmitt
Stevens
Thurmond
Wallop
Warner

NAYS—45

Baucus
Biden
Boschwitz
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Dole
Durenberger
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Johnston
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—33

Bayh
Bentsen
Boren
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Goldwater
Gravel
Huddleston
Kennedy
Leahy
Long
Lugar
McGovern
Morgan
Pell
Percy
Pryor
Sasser
Schweiker
Simpson
Stennis
Stevenson
Talmadge
Tower
Young

So Mr. GARN's amendment (UP No. 1247) was rejected.

Mr. WILLIAMS. I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1248

(Purpose: To facilitate conversion of surplus schools to efficient, alternate uses)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Pennsylvania.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1248.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

TITLE VI—CONVERSION OF SURPLUS SCHOOLS TO EFFICIENT, ALTERNATE USES

SHORT TITLE

SEC. 601. This title may be cited as the "Surplus School Conservation Act of 1980".

FINDINGS AND PURPOSES

SEC. 602. (a) The Congress finds that—

(1) declining school enrollments and population migration have caused many school closings throughout the country;

(2) the school buildings that have been closed represent valuable resources and should be maintained and operated for other productive uses;

(3) local governments lack the necessary funds to adequately maintain and operate closed school buildings; and

(4) the Federal government has a stake in ensuring that the resources which these closed schools represent are conserved and maintained.

CONVERSION PROJECTS ELIGIBLE USES OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

SEC. 603. Section 105(a) of the Housing and Community Development Act is amended by, at the end of paragraph (15), striking the ".", inserting in lieu thereof a ",", and adding the following language:

"(16) renovation of closed school buildings for uses otherwise eligible under this section.".

Mr. HEINZ. Mr. President, the purpose of this amendment which, I believe, is consistent with the intent of current law, is to clarify the fact that it is in fact within the authority of those who receive community development block grant funds to use those funds for the conversion of surplus schools and that that, in fact, is an eligible activity.

By making this clarification, the amendment insures that as declining enrollments and population shifts result in school closings, these buildings are maintained and operated for other productive purposes.

As justification for this amendment, consider the following:

Projections by the Department of Education indicate a decline of over 4 million youngsters in grades kindergarten through 12 in the next 10 years. And the problem of a declining school age population has been magnified by outmigration from some areas.

Once a school has been closed, it does not mean that its productive life has ended or should end. Instead, there is considerable evidence that abandoned school buildings can be put to good alternative uses. For example:

In Dayton, Ohio, a 2,200-student high school was converted to a center for manpower training, adult basic education, and community recreation;

In Kalamazoo, Mich., a large high school was turned over to the city for use as a senior citizens center, among other purposes;

In Ithaca, N.Y., a building was sold to an entrepreneur who recycled it for use as a shopping center, housing for the elderly, and private offices;

In Claremont, Calif., an old school is now a shopping center;

In Allentown, Pa., an elementary school has been converted into apartments. I ask unanimous consent that an article from the Allentown Morning Call describing this conversion be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SECOND LIFE FOR OLD SCHOOL A PLUS FOR CITY

(By Larry Thompson)

Dr. Leo H. Hastings, Jr., had operated out of the cramped office at 453 N. 6th St., Allentown, for 18 years, and he wanted to move. He never suspected the move he finally made in 1973 would be used by another Pennsylvanian to promote a national program for converting abandoned school buildings into valuable community resources.

Dr. Hastings moved his practice into basement offices in the renovated Hunsicker Elementary School in the 300 block of N. 6th Street.

The school, abandoned for four years because of declining enrollments, was converted into 16 low-cost apartments by the Allentown Housing Development Corporation (AHDC), a private, non-profit organization that rehabilitates abandoned buildings for housing.

Sen. H. John Heinz III, R-Pa.—the other Pennsylvanian—introduced two bills in the last session of Congress to set up a program in the U.S. Department of Housing and Urban Development (HUD) which would support communities trying to salvage abandoned schools. Sen. Heinz's staff said he is examining a similar bill now in the House or he may reintroduce the bills during this session of Congress.

The first bill, the Surplus School Conservation Act, would provide grants for up to 80 per cent of the costs to renovate a school building into "day care centers, dental clinics, walk-in centers for drug abuse and other counseling, medical clinics or facilities, and pre-schools, according to Sen. Heinz.

The second bill, the Surplus School Conversion Act, would provide special tax incentives to encourage private industry to buy the old school buildings and use them for manufacturing or retailing. The Senator said he hopes this would help slow urban decay, bring profit-making companies into towns, provide jobs and get the buildings back on the tax rolls.

Sen. Heinz promoted the approach in a recently published Medical Tribune article. In the article, Sen. Heinz said AHDC's projects have been successful, and in the case of Dr. Hastings, managed "to help a valuable doctor remain in the city."

For Dr. Hastings: "It was a tremendous deal. It's worked out beautifully for us, and I think it's helped keep this area stable for the people who live and work here," he said.

Dr. Hastings's old practice has been two blocks north on 6th Street, but the office was crowded and poorly designed—a patient had to walk through one examining room to get to the next.

He had considered moving but it would have been too expensive for him to build a new office in the area, he said. If he moved to the new doctor's office buildings in the suburbs, he would have lost some of his neighborhood patients.

Dr. Hastings said he heard about the Hunsicker renovation through a patient who was the architect designing the new apartments. The architect said the building's basement was unsuitable for apartments but was suitable for an office.

Dr. Hastings took it.

Besides being able to retain all his old neighborhood patients, Dr. Hastings doubled his office space and gained a parking lot, which the old place did not have. He said his rent has remained stable for two years—now at $500 a month which includes electricity, heat, hot water and snow shoveling.

On top of those advantages, Dr. Hastings set up his own floor plan. "We designed it so there are no problems with the layout," he said.

The 2,200 square feet of office space is divided into six clean, brightly lighted examining rooms on the two outer walls. The center of the office is dominated by a small lab and drug storage area, a nurse's station and a records section. There also is a waiting room, a staff lounge and a bookkeeper's office.

All the remodeling in the 77-year-old building was done by students from the Lehigh County Area Vocational-Technical School under a special state grant. AHDC purchased the building in 1972.

The vo-tech students converted the old classrooms into eight efficiency apartments and eight one-bedroom apartments, besides the doctor's office.

Thomas E. Barnes, AHDC executive director, said all the apartments are rented to people on fixed incomes or who qualify for housing assistance grants.

Dr. Hastings said his patients are often "walk-ins" from the neighborhood, some from the school building, and some even come from out-of-town theater groups.

AHDC's Tom Barnes said the project has worked out well. "We supplied him (Dr. Hastings) with some space," Barnes said. "If we hadn't, he might have moved out to one of those medical centers, which would have been a shame because there are few doctors in the downtown area."

AHDC has converted two other schools. One is all low-cost apartments, and the other combines low-cost apartments and a day-care center.

"It's the best of so many worlds," Barnes said of the converted school buildings. "All three schools are back on the tax base; they provide housing for those who need it; Hunsticker provides medical care in the N. 6th Street area, and 200 to 300 vo-tech kids in the special program which renovated the buildings got back into the mainstream of school," he said.

Barnes said seven more schools will become available in the Allentown School District in the next several years. He said AHDC will try to acquire as many as it can afford.

Mr. HEINZ. To this list might be added a host of other "success stories." But for every such satisfactory solution, there are scores of instances of abandoned school buildings serving no useful purpose.

By making such conversions an eligible use of CDBG funds, my amendment would enable communities to maintain and operate—in the most efficient, creative, and economical manner possible—closed school buildings for other productive purposes as determined by the communities themselves.

I have discussed the amendment with the ranking member on our side and with Senator WILLIAMS, the chairman of the subcommittee handling this bill, and I understand they have no objection to the amendment.

Mr. WILLIAMS. Mr. President, this certainly is acceptable to me, as the manager of the bill. I have not discussed it with the Senator from Utah, and I am not sure about how he feels. But here we have surplus schools which can lend themselves, in my judgment, very constructively to the scheme of community development, and certainly should be eligible for that purpose.

Mr. HEINZ. I thank the Senator.

Mr. GARN. Mr. President, on behalf of the minority I am willing to accept the amendment of the Senator from Pennsylvania.

Mr. HEINZ. I thank my colleague from Utah.

Mr. SARBANES. Mr. President, will the Senator yield? I want to commend the Senator from Pennsylvania for this amendment.

We have had some experience in Baltimore with the conversion of schools into residential units in areas of declining population. It has worked extremely well. It helps to preserve the neighborhood. It provides housing.

They have done some first-class conversions. In fact, at one point the President visited Baltimore and visited such a site to actually see what was taking place.

I think making this very clear in terms of the authority is a very important contribution to the effort that is taking place, particularly in some of our central cities.

Mr. HEINZ. I thank the Senator from Maryland.

We have a lot in common between our States. There have been, because of declining school enrollment and population shifts, many of these schools which have been boarded up and closed, and if they are not rescued relatively quickly they become a liability in the neighborhood. They become not only a physical liability but a psychological liability as well when people who should not be in those abandoned buildings start using them for purposes we would not want them to be used for.

For many years people have been coming to me in my State and many other States saying, "What can we do about this situation?"

I appreciate the support of my colleagues for this amendment.

The PRESIDING OFFICER (Mr. Sarbanes). The question is on the amendment of the Senator from Pennsylvania (Mr. Heinz).

The amendment (UP No. 1248) was agreed to.

UP AMENDMENT NO. 1249

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself and Mr. Moynihan, proposes an unprinted amendment numbered 1249.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, line between lines 20 and 21, insert the following:

(e) Section 501(a) (1) (A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by inserting after the phrase "where the loan, mortgage, or advance is used to finance the acquisition of such stock" the following: "or the refinancing of an existing loan, mortgage, or advance secured by a first lien on all such stock allocated to the dwelling unit if the proceeds are used to finance the rehabilitation or improvement of the dwelling unit or if the rate of interest on the new loan, mortgage, or advance is less than the rate of interest on the existing loan, mortgage, or advance."

Mr. JAVITS. Mr. President, the amendment I am proposing is of technical nature to the Depository Institutions Deregulation and Monetary Control Act of 1980 (Public Law 96–221) which the Congress enacted earlier this year. At that time the Congress legislated a total preemption of State usury laws for mortgage loans secured by first liens on residential real properties. However, for reasons that remain unclear, it provided a more limited preemption of State usury laws for loans secured by first liens on stock in residential cooperative housing corporations. This limited preemption for refinancing of cooperative apartments authorizes a preemption of State usury ceilings on all loans not to exceed 1 percent above the Federal Reserve discount rate.

This situation is anomalous for several reasons. First, residential cooperative housing is specifically excluded from application of State usury laws along with other residential real property in section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980. But the law also states that the preemption only applies to loans, mortgages, credit sales, or advances secured by a first lien on stock in a co-op where the loan, mortgage or advance is used to finance the acquisition of such stock. In other words, the preemption applies only to the original purchase of co-op shares, not to the refinancing of such property. This is puzzling since no such restrictions exist on refinancing other real residential property such as residential manufactured homes.

The partial preemption is also anomalous since by being tied to the Federal Reserve discount rate, the usury ceiling is linked more closely to the vagaries of monetary policy than to the conditions and needs of the housing market.

Mr. President, the limited preemption on co-op refinancing not only discriminates against consumers by prohibiting them from recasting their debt structure over a longer period to reduce their payments, or refinancing at a lower interest rate, but it also makes no sense from the point of view of housing policy. Refinancing should be encouraged, not discouraged. Refinancing is one method used to obtain needed money for substantial or moderate rehabilitation of properties. Such a change would be especially useful to older properties which are in greater need of renovation.

I understand that some concern may have been expressed during consideration of the Depository Institutions Deregulation and Monetary Control Act of 1980 that total preemption of co-op refinancing might give rise to certain abuses by property owners who could refinance existing debt in order to divert the new funds into areas not related to the original housing investment. Mr. President, despite the fact that no such limitation exists on refinancing other residential property, I have included language in this amendment which would assure that the usury ceiling will not be preempted if such refinancing occurs for reasons other than to rehabilitate the property or to refinance the debt at a lower interest rate.

Mr. President, this amendment would benefit all participants in the cooperative housing market. It would benefit consumers who could rehabilitate or improve their property with the funds. And it would also benefit lenders that have portfolios of old, low-yielding co-op apartment loans and who could replace such loans with higher yielding refinanced loans. And finally, the quality of co-op housing would be enhanced with the resulting infusion of new funds.

Mr. President, we have had this amendment under discussion with the managers and Senator Proxmire's staff. What it does is deal with an anomaly. We do not understand how the anomaly came about, but it is there.

The law now provides, when we preempted the usury ceilings of various States, that for financing an original piece of property and refinancing, the usury ceiling is preempted, but with respect to cooperative apartments, which are quite usual in New York City, for example, while the original financing is covered by the law, the refinancing is not.

This is an anomaly, and it certainly is not consistent with what is applicable to other residential properties. We do not know of any reason why it should apply to refinancing this type of property.

In the negotiations to try to deal with the subject, we considered for what purposes there should be refinancing. Senator Proxmire's staff felt that the purposes should be stated. After some consideration and discussion, we arrived at two purposes: First, where there is to be rehabilitation of the cooperative apartment and the renewal loan or refinancing is for that purpose; and, second, where there is a lower interest rate in the refinancing than the interest rate on the original financing.

I am hopeful that, with that—I do not see Senator Proxmire here, I am sorry to say—particular provision in it, and that is the way the amendment reads, the committee may look with favor on it.

Mr. GARN. Mr. President, while we are waiting for the Senator from Wisconsin to come in the Chamber, I am willing to accept the amendment and tell the Senator from New York that we do need some additional data from the Federal Home Loan Bank Board. But I am willing to accept and gather that data before we go to conference.

Mr. JAVITS. Mr. President, I will tell the Senator why that will be necessary, in addition. What I wanted was a rubric which would say, "For the rehabilitation of a co-op and to reduce the debt burden."

Now, the reason that Senator Proxmire felt he wanted to say reduce the interest rate—just reducing the interest rate may not really be practical. because with new types of financing called creative financing, they may give a guarantee of a rollover; that is, the lender may give the guarantee of a rollover. When the rollover comes, it may be at a higher rate, but it will be a lower principal.

So I was going to, in a colloquy—and I am delighted the Senator raised it—make clear the fact that we hope that, once the principle is accepted, there should be consistency for refinancing and financing; that when the Home Loan Bank Board gives the Senator its opinions, et cetera, whatever needed to be done to make it practically applicable would be done in conference. I was perfectly satisfied with that.

Mr. GARN. I appreciate that. On that

basis, I am willing to accept the amendment.

Mr. MOYNIHAN. Mr. President, I would like to thank the Senator from Utah for accepting the amendment which my colleague and I have proposed.

It is my understanding that the Senator from Wisconsin is agreeable to this matter. He is not in the Chamber. Of course, we could always revise our action, if that should turn out to be appropriate later during the day.

Mr. JAVITS. Senator PROXMIRE's staff told us it was all right.

Mr. MOYNIHAN. That is our exact understanding.

Mr. JAVITS. Mr. President, I will not move to reconsider and leave the question open.

Mr. WILLIAMS. Mr. President, I am convinced that this is understood and approved by the chairman of the Banking Committee, Senator PROXMIRE. Therefore, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

The amendment (UP No. 1249) was agreed to.

UP AMENDMENT NO. 1250

(Purpose: To provide for a feasibility study of the collection of the delinquency data by HUD area offices)

Mr. LEVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1250.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, between lines 14 and 15, insert the following:

COLLECTION OF DELINQUENCY DATA

SEC. 329. The Secretary of Housing and Urban Development shall conduct a study to determine the feasibility and cost of developing and implementing a system, utilizing existing data collection systems, for the collection of data pertaining to all home mortgage delinquencies for the area covered by each area office of the Department of Housing and Urban Development, and shall, as soon as practicable, but not later than the date of submission of the fiscal year 1982 budget request, transmit to the Congress a report containing the results of such study.

Mr. LEVIN. Mr. President, in 1975 the Congress adopted the Emergency Homeowners Relief Act, which was designed to help people who became unemployed through no fault of their own with their mortgage payments. It was never effectuated because HUD never adopted a so-called trigger which was subtle enough so that any of the regions of this country could be benefited by it.

Congress left the determination of how and when to actually activate the program to the discretion of the Secretary of HUD and the mortgage provisions of the act were never implemented.

The statute required HUD to report to Congress every 60 days on the rate of delinquencies and foreclosures, default trends, and the actions taken by HUD to make assistance available to homeowners, among other things. In its first report to the Congress, HUD stated its belief that the program should be based on a national trigger, rather than on regional data. The Department maintained that it would be difficult, if not impossible, to implement the program on a regional basis because reliable local data about the rate of delinquencies and foreclosures was not available. Thus, while certain metropolitan areas of the country were experiencing mortgage foreclosure rates much higher than the national trigger set by HUD, assistance was never made available to homeowners under this act.

Mr. President, my amendment would require the Secretary of HUD to do a cost feasibility study on the development and implementation of a system for the collection of regional delinquency data. Today, HUD collects national data from supervisory agencies and trade associations—but there is no uniform and reliable delinquency data which Members of Congress can rely upon as an indicator of the number of homeowners faced with foreclosure as a result of rising unemployment.

With regard to the 1975 recession, a national delinquency survey prepared by the Mortgage Bankers Corp. stated:

> Increases in delinquency rates and foreclosure rates generally lag behind increases in the unemployment rate. The deepening recession and still escalating unemployment rate suggest further increase in long-term delinquency and foreclosure rates in coming months.

The same situation no doubt exists today.

Delinquency rates are not unusually high now—even in areas of the country where unemployment is high. But the fact is that as unemployment continues, unemployment benefits decrease or run out altogether and homeowners draw upon their savings until there is no more savings left. These unemployed workers are faced with a desperate situation when they are no longer able to meet their mortgage payments. We need to know more about the lag between high unemployment and mortgage delinquencies, and in particular, we need to know more about the problems faced by homeowners in different parts of the country, should the economic situation worsen and a program like the Emergency Homeowners Relief Act be considered by the Congress again.

Mr. President, my amendment simply directs HUD to assess the cost involved in the collection of regional delinquency data so that the Congress can determine whether the Secretary should be required to implement a regional data collection system.

The purpose of this amendment, which I understand has been accepted by the managers of the bill, is to require the Secretary of HUD to do a cost feasibility study on the development of a system for the collection of regional delinquency data so that we can determine next year whether or not we want to adopt this kind of a program to help unemployed people and whether we want to do it on a regional basis rather than do what HUD did a few years ago, which was to adopt a national trigger so high that the purpose of the Emergency Homeowners Relief Act of 1975 was totally undercut.

This is totally a study which is required by this amendment and will help us determine the costs. It does not bind us in any way to adopting a regional trigger if we decide that it is financially feasible.

I do understand that the managers of the bill are going to accept this amendment.

I ask unanimous consent that material prepared by the Congressional Research Service entitled "Is There a Need for An Emergency Homeowner Relief Bill?" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IS THERE A NEED FOR AN EMERGENCY HOMEOWNER RELIEF BILL?

During periods of recession and the accompanying unemployment there has been a marked tendency for the rate of homeowner mortgage delinquencies and foreclosures to rise. The Emergency Homeowners Relief Act of 1975 was enacted by Congress to provide relief to homeowners, who during the recession of that year might have lost their homes as a result of unemployment or an otherwise unforeseen reduction in earnings.

The act was never implemented because the Department of Housing and Urban Development determined that the level of foreclosure was not severe enough to warrant the large scale Federal intervention called for by the program. The act gave HUD the power to decide on the implementation figure. Noting the administrative and program costs of a decision to activate the program, the administration determined that the implementation of the program should be dependent upon foreclosures reaching a level where large numbers of families were being hurt and where there was a deleterious effect on the liquidity of mortgage holders and real estate markets. It is a matter of judgment as to when that point is reached.

MARKET CONDITIONS AND OTHER FACTORS THAT DETERMINE FORECLOSURE RATES

At the present time, experts monitoring mortgage payments see little need for a national program of mortgage relief. Nationally, the U.S. League of Savings Associations in their February 1980 report says that delinquencies and foreclosures were occurring at record low rates.[1] This is probably the result of severe inflation, which has tended to push up real estate prices well above mortgage debts, inducing homeowners to maintain payments on their mortgages, or, if necessary to sell their homes at a profit. However, it is possible that certain sections of the country may see a substantial rise in foreclosures, and this may revive consideration of a program like the Emergency Homeowners Relief Act.

Even in times of relatively high employment, there are sometimes massive layoffs occurring in particular industries (e.g. autos or steel). Some sort of aid has been suggested for areas particularly hard hit by foreclosures stemming from this type of unemployment. The relationship between unemployment and foreclosure, however, is not quite as precise as might be expected, and there are numerous offsetting factors.

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[1] News Release, United States League of Savings Associations, March 24, 1980.

In this connection, a look at the Youngstown, Ohio and Detroit, Michigan areas may be instructive. Both areas are centers of large older American industries. Since 1977, Youngstown, in the heart of the steel industry, has seen the shutdown of numerous steel plants and the loss of literally thousands of jobs. However, because it is an older community which had a number of employees with long service records, many individuals were given the option of early retirement, and others had substantial equity in their homes. In addition, those affected by the first wave of shutdowns were entitled to Federal Trade Adjustment Assistance. The impression of people monitoring the situation in Youngstown is that these factors prevented a dramatic increase in foreclosures. However, if a new wave of plant closings were to occur, many of these employees would not be eligible for trade assistance, and this could result in a rise in foreclosures. Further, the trade assistance to the original group of employees is due to run out.

Similarly, the Detroit area has experienced massive layoffs in the auto industry. The general unemployment figure in the Detroit area in January 1980 was 10.6 percent, much higher than the national average. Detroit has not yet had an increase in foreclosures probably because of the combination of unemployment compensation and union negotiated supplementary unemployment benefits. However, some of these benefits are due to run out. An official at Detroit's First Federal Savings and Loan says that at present most foreclosures are the result of family dissolution (i.e., divorce, separation or death), but that she expects to see an increase stemming from unemployment sometime in the summer.

Transitions in our economy, (from North and East to South and West, from manufacturing to services, and from older industries dependent on natural resources and a skilled, stable workforce to high technology industries that are more flexible in their requirements) may portend problems for particular regions or areas of the country. A case is argued that programs like the Emergency Homeowners' Relief Act could be implemented as a means of alleviating some of the problems caused by these transitions. In other words, such relief may be more appropriate in connection with structural unemployment than with cyclical rises in joblessness.

There are of course several factors contributing to a decision by a bank or mortgage company to foreclose. Foreclosures present costs to banks in terms of actual dollars and goodwill. The last should not be discounted in an area of consumer activism and organization.

As for the dollar costs of foreclosure, this in large part depends on state law. In some states it is more costly to foreclose than in others, and this could play a large role in a lender's decision. Then there is the question of the local real estate market. An official of HUD's Financial Analysis section recalled the example of Seattle in 1969, when the real estate market collapsed as the result of massive layoffs at Boeing, and unemployment reached 20 percent. Banks found it in their best interests to forbear on delinquent debts rather than take over the ownership and management of depreciated property.

THE HOMEOWNERS LOAN CORPORATION

The 1975 act was not unique legislation, but was a direct descendant of the Homeowners' Loan Corporation.[2] The HOLC came into being in 1930 and lasted until 1951. The program provided for the exchange of bonds that would guarantee the interest and principal for mortgages in default or cash loans for payment of taxes and refinancing.

Born in the depths of the depression, it provided mortgage relief for fully 10 percent of all home borrowers at a time when some estimates had 50 percent of all 1–4 family mortgagors in default. (The HOLC when terminated was able to show a profit).

The nation, despite recurrent recessions, has not approached the level of default experienced during the 1930's. Typically the rate of foreclosures has remained well under 1 percent.

PROBLEMS IN IMPLEMENTATION

When the Emergency Homeowners' Relief Act was passed, the Department of Housing and Urban Development was given responsibility for implementing this new program. (No one was sure how deep the recession would be or if the program would be needed).

In 1975 HUD set a figure of 1.20 percent of outstanding loans in foreclosure to trigger the program. This was slightly higher than the most severe foreclosure rate of the postwar period and was not reached during the life of the 1975 legislation.

A CRS report analyzing HUD's decision pointed out that the decision to implement the program "must be judgmental." The report noted that experts felt that an additional 169 to 180 thousand foreclosures above the 139 thousand foreclosures of the 1969 base year would have to occur if the program was to be implemented. "In any event, there is need for a more carefully considered determination of when the program should be activated than taking a number whose sole justification is that it is higher than any rate previously reached."[3]

PROBLEMS WITH DATA

In order to use the 1.20 percent trigger point, HUD had recourse to seven possible sources of data: the Federal Home Loan Bank Board, the Federal Housing Administration, the Veterans Administration, the Mortgage Bankers Association, the United States League of Savings Associations, the American Life Insurance Association, and the National Association of Mutual Savings Bank. The four private associations survey their members periodically (monthly or quarterly) on the state of their mortgage holdings. These mortgage holders provide loans for conventional, V.A. and FHA borrowers. HUD used a weighted measure utilizing, data from the four private organizations.

HUD, in its report to the Congress, described the difficulty of using such varied source material.[4] There is, first of all, a great deal of overlapping among the various organizations. The private reporting companies handle V.A., FHA, and conventional loans, and there is a tendency to overemphasize or deemphasize particular loans. HUD claims this is the major difficulty with the reports of the Mortgage Bankers Association, which show FHA and VA loans to be delinquent at higher rates than is indicated by the other surveys.

Typically the reporting organizations conduct surveys of their members nationally, and make no effort to break the figures down on a regional basis. Only two of the seven sources of data are broken down by region. One, the Federal Home Loan Bank Board, had little confidence in their figures and, according to HUD, was reluctant to release them. The other source is the Mortgage Bankers Association, whose data, HUD claims, places too much emphasis on the southern and western sections of the country.[5]

Because the various reporting organizations tend not to have the same reporting dates or in fact the same criteria for delinquencies or foreclosures, HUD was forced to develop a composite measure utilizing data from the four organizations. The possibility of using regional breakdowns was therefore eliminated. There is a further difficulty resulting from the fact that the data of the different organizations were not always in synch, and in fact the data of one report would occasionally show a different trend than the data of the other reports.

It is important to remember that HUD was not able to set up a more adequate reporting system given the emergency nature of the act. The act provided for its own expiration less than two years after it was passed. Arguably, HUD should be given a mandate to improve its statistical resources if legislation of a similar nature is considered in the future.

The use of national data by HUD was defended by the department on grounds of equity. A CRS report explained and lent support to HUD's position: "Under a regional program homeowners in different locations, but with the same reduction in income because of unemployment, would be treated differently, because the number of other persons in each locality who were unemployed would differ. . . . It is not unreasonable to hold that individual entitlements should provide the same assistance to individuals in the same circumstances across the country, and might indeed make HUD subject to suit if this were not done."

As a proxy for local foreclosure rates, levels of unemployment could be used by local labor market area. In August 1975, a recession year, 133 of 150 labor market areas had unemployment above 6 percent. Had HUD used these figures to trigger the program the result still would have had national implications, and would not necessarily have indicated the extent of foreclosures.[6]

PRESENT PROGRAM

Since 1976, a program similar to the Emergency Homeowners Relief Act has been administered by HUD. This program applies only to FHA borrowers who because of an unforeseen reduction in earnings are in danger of foreclosure.

Of the approximately 5 million FHA borrowers—who tend to be higher risks than conventional borrowers—60,732 have made application to the program since its inception, 32,194 applicants rejected for failing to meet the standards set forth by the regulations, 13,123 were referred back to the lender because it was felt that more could be done to aid the borrower, 12,149 were accepted into the program, with the remainder currently being processed.[7]

A NEW PROGRAM?

At the present low rate of foreclosure, there seems to be little use for a national program of mortgage relief. Moreover, high risk (FHA) borrowers already have a means of obtaining some relief. In addition some might question the equity of assisting homeowners, while not affording the same benefits to renters, farmers or businessmen. However, predictions of another recession continue, while some local labor and real estate markets have experienced increased pressure as the result of high unemployment. Should this pressure result in increased foreclosures, a program similar to the Emergency Homeowner's Relief Act might be considered.

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[2] For a full discussion of the HOLC see C. Lowell Harriss, *History and Policies of the Home Owners' Loan Corporation*. (National Bureau of Economic Research New York, 1951).

[3] For a fuller discussion see Grace Milgram, "Issues Raised by HUD's" First Report on the Emergency Homeowners' Relief Act," Congressional Research Service, September 25, 1975.

[4] See HUD's "First report to the Congress on the Emergency Homeowners' Relief Act," August 29, 1975 (appendix b.)

[5] Evidence produced by HUD during hearings prior to passage of the act came from the MBA and showed northeastern states to have a delinquent rate twice that of the rest of the nation, this may reflect the inherent bias of the MBA survey.

[6] See table 2 in appendix B of "HUD's First Report on the Emergency Homeowners" Relief Act 1975."

[7] See "Administration of the Home Mortgage Assignment Programs", A HUD Handbook, 1979.

Mr. WILLIAMS. Mr. President, this amendment would direct the HUD Secretary to conduct a study as to whether or not it is feasible for HUD to gather data on an area office basis with respect to home delinquencies.

With the recession deepening, and the certainty that unemployment will increase, and delinquencies will rise, it makes sense to begin now to collect the data that will determine the degree and shape of any response.

Mr. President, during the last recession we enacted legislation to assist delinquent homeowners who had lost their jobs but the law was never implemented because the threshold for percentage of delinquencies, set on a national basis, was set too high. As a result, people in some localities with very high delinquencies did not receive relief.

This amendment is necessary to see if we can secure data by area, and thus be more responsive if Federal delinquency assistance should be called for.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan (Mr. LEVIN).

The amendment (UP No. 1250) was agreed to.

UP AMENDMENT NO. 1251

(Purpose: To provide for the development of mortgage-backed securities)

Mr. HEINZ. Mr. President. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1251.

Mr HENIZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VI—DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

SHORT TITLE

SEC. 601. This title may be cited as the "Mortgage-Backed Securities Development Act of 1980".

FINDINGS AND PURPOSES

SEC. 602. (a) The Congress finds that—

(1) the ability to purchase a home depends upon the availability of mortgage funds;

(2) financial and thrift institutions are currently experiencing difficulty withstanding th financial consequences of lending on long-term mortgages;

(3) private pension plans are an important source of capital, controlling assets of over $236,000,000,000;

(4) only $1,000,000,000 or four-tenths of one per centum of these pension fund assets are invested in residential mortgages;

(5) the potential for pension fund investment in residential mortgages is great and should be pursued, especially in view of the need for additional sources of mortgage finance;

(6) other potentially great sources of residential mortgage investment include life insurance companies and the Eurodollar market;

(7) a major obstacle to investment in residential mortgages by pension funds, life insurance companies, and the Eurodollar market is the absence of security instruments backed by residential mortgages and attractive to large investors;

(8) the Federal National Mortgage Association has under consideration a proposal for a conventional mortgage-backed securities program;

(9) that program has several positive features which could help overcome many of the obstacles encountered in attracting pension funds and life insurance companies into the residential mortgage market.

(b) The purposes of this title are to direct the Federal National Mortgage Association to develop as soon as possible a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers and ultimately to attract more capital from large institutional investors into the residential mortgage market.

DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

SEC. 603. The Federal National Mortgage Association shall, at the earliest possible date, develop a proposal for a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers. The Secretary of Housing and Urban Development and the Secretary of the Treasury shall, within 90 days after development of such proposal, approve such proposal or transmit to Congress a report explaining why this proposal was not approved.

Mr. HEINZ. Mr. President, this is the first of two amendments that I intend to offer that deal with an issue that has been disturbing me for some time, which has been what has been happening to our housing industry and, most importantly, because of what has been happening to the American dream of homeownership.

We know that the combination of slow economic growth inflation and, most importantly, high mortgage interest rates have made home ownership a remote possibility for all but a select few Americans.

To deal with this problem, a number of us in Congress have considered a variety of proposals. These include some mortgage subsidy programs which are not cheap. And, although these are short-run programs dealing with the high interest rates, the fact is that any subsidy program has the potential, although we hope to avoid it, of, in the long run, making inflation worse.

So it is for this reason I am taking a slightly different approach in these amendments, and that is to expand the pool of mortgage money that would be available for home mortgages and to do so in a way that we do not have to rely on a Federal subsidy to do it.

There are enormous amounts of money, notably pension funds, but also life insurance companies and Eurodollar markets which are available to large institutional investors which could invest much more heavily in home mortgages.

As just one example of the potential for these large institutional investors to provide a more stable and extensive source of mortgage finance, consider the case of pension funds.

Private pension funds, which are a very important source of capital, control assets of over $236 billion. Yet of these assets—over a quarter of a trillion dollars—only $1 billion, less than four-tenths of 1 percent, are invested in residential mortgages. Why is that?

There are two problems: one is that in some cases, because of Department of Labor regulations, there is what amounts to an outright prohibition. That will be the subject of my second amendment. But a more practical problem that exists for many of these pension funds is that there simply are not appropriate vehicles for them to invest it with or through. So the amendment that I have at the desk, Mr. President, would seek to address the problem of the almost total lack of pension fund investment in home mortgages by directing the expeditious development of a mortgage backed security to be attractive to large investors, and specifically that the Federal National Mortgage Association develop such an instrument.

Those securities would be marketed to the large institutional investors and others by the same intermediaries that do this kind of thing now, essentially investment bankers, and those who market other corporate securities. These securities, although backed by pools of home mortgagees, would be assembled in a form familiar to those large investors, the pension funds, hopefully, who might normally shy away from investing in mortgages.

As an example of the potential for mortgage backed securities to attract new sources of money into the mortgage market, I understand that Freddie Mac, the Federal Home Loan Mortgage Corporation, already has a mortgage-backed security. Further, I am told that three-quarters of Freddie Mac's securities are held by nonthrift institutions, exactly the kind of institutions we want to get investing in the more conventional mortgage market here, through this amendment. It fact, it turns out that a large proportion of those nonthrift institutions are pension funds.

That is why we do need the creation of a similar mortgage-backed security by FNMA. We know it will work. We have Freddie Mac to go by. We know that this would be attractive to institutional investors, as, again, Freddie Mac demonstrates.

Indeed, I understand that Fannie Mae has not been asleep at the switch in this regard. They have developed a proposal for a mortgage-backed security but, unfortunately, approval of that has been languishing down at either HUD or the Treasury, or perhaps both. The practical effect of my amendment would be to expedite the review and, hopefully, the approval process so that we could get on with the task of meeting the dream of affordable home ownership for the average American.

Mr. JAVITS. Mr. President, the Senator from Pennsylvania has, I think, properly identified the major problem in the housing field and in the field of investment. It is now felt that the amount which is invested by pension funds is the greatest single influence on the market price of securities in the United States. This goes for the New York Stock Exchange as well.

The idea that they should get into the mortgage field, incidentally, goes back with me to about 1947 or 1948 when I was retained as a lawyer by a large builder to induce one of the New York banks which had $10 billion or $20 billion in pension funds to invest in mortgages. It was considered a big victory when, I think, we had $1 million placed with that bank. So I am sympathetic with this.

Also, if I remember correctly, the Senator from Texas has been very interested in how to direct pension funds towards investment, which could be socially useful. After all, this is social money.

The thing that bothers me about this is to have a law mandate that they develop a proposal for a mortgage-backed security. What I would suggest, if the managers are interested—and I would love to join the Senator with Senator WILLIAMS—is to call for a study, to give them a year, or a shorter period, if we choose, in which to report back with how these vast pools of social capital can be utilized to help America be better housed.

Mr. HEINZ. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. HEINZ. As I understand the Senator's proposal, and I hope he will correct me if I am wrong, he is seeking the addition of the report. Or is he seeking the substitution of the report for the language in the amendment?

Mr. JAVITS. I am seeking the substitution because I think it is not wise to mandate an agency in a manner of this kind and will get us no further than to develop a proposal. What I would rather say is that the FNMA is directed to study this issue, after giving our objective and purpose, and to report within a given time as to how this may be effectuated.

Mr. HEINZ. Will the Senator yield further?

Mr. JAVITS. Yes.

Mr. HEINZ. First let me say that FNMA has already developed a proposal for a mortgage-backed security. They have submitted, as they should, this proposal to Treasury and HUD for clearance. It is very important that they have Treasury clearance. This proposal, I am told, has been languishing downtown. Hence, the operative language in the amendment is as follows: That Fannie Mae shall, at the earliest possible date, develop a proposal for a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers.

That has already been done. The important operative sentence is—

> The Secretary of Housing and Urban Development and the Secretary of the Treasury shall, within 90 days after the development of such proposal, approve such proposal or transmit to the Congress a report explaining why this proposal was not approved.

Mr. JAVITS. I think we get to the same place without these mandates, especially if we crank in what the Senator said but which is not in this provision. That is, what is our purpose. After all, our purpose is not to produce mortgage-backed security instruments attractive to large investors and marketable by private sector bankers. Our purpose is to get more investment in housing mortgages from pools of capital. I name the pension funds, which are essentially drawn from the people, social pools of capital. Said that way, plus the 90 days, which is fine with me—the Senator can pick the time—I think we will get more than we will by a narrow mandate which will be construed narrowly.

Mr. HEINZ. If the Senator will yield further, how does the Senator propose to expedite the decision by the Treasury Department and HUD?

Mr. JAVITS. By having 90 days.

Mr. HEINZ. The Senator agrees to the 90-day requirement?

Mr. JAVITS. Absolutely. Let us write it with the thrust being not to the mortgage banks but to the provision of housing.

Mr. HEINZ. I have no objection to that. It seems to me what the Senator is doing is simply supplementing what I am doing here and making some textual changes without changing the mandate to the Treasury Department and to HUD to get on with it.

Mr. JAVITS. That is right, they have to get on with it; that is the point. All I am trying to do is give the thrust, which we should be interested in, which is not to have suitable investment instruments but to have more housing and more mortgage money for housing out of a proper pool.

Mr. HEINZ. The Senator's objective and mine are precisely the same. Is there some language the Senator wishes to use?

Mr. JAVITS. I shall take a minute to change it. I think what we have to do first is ascertain if the managers are interested.

Mr. HEINZ. We have discussed that, Mr. President.

Mr. GARN. Will the Senator from Pennsylvania yield for a question?

Mr. HEINZ. Yes, I am pleased to yield.

Mr. GARN. I believe we shall be able to accept this amendment, but I want to ask a question for clarification.

If the IRS does not approve the FNMA proposal or does not approve FNMA's status as an "independent trustee" for tax purposes, it is my understanding that FNMA would not be mandated, under this amendment, to in fact, develop and issue a mortgage-backed security.

Mr. HEINZ. The Senator is entirely correct.

Mr. GARN. I thank the Senator.

Mr. WILLIAMS. Mr. President, with that additional understanding, we accept the amendment.

Mr. GARN. Mr. President, I am happy to accept the amendment for the minority.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE. Mr. President, I have an amendment I should like to call up, if I may.

Mr. JAVITS. If the Senator can arrange it with the Senator from Pennsylvania.

Mr. HEINZ. Will the Senator from New York yield?

Mr. JAVITS. Of course.

Mr. HEINZ. I shall ask unanimous consent that my amendment be temporarily laid aside. I do not believe it has been acted on.

Mr. President, I ask unanimous consent that the Heinz amendment be temporarily laid aside and that it be the pending order of business as soon as Senator PROXMIRE's amendments is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Pennsylvania. This will take only a very few minutes, I think.

UP AMENDMENT NO. 1252

(Purpose: To facilitate public access to data)

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1252.

Mr. PROXMIRE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 53, strike out lines 13–25, and on page 54, strike out lines 1–5 and insert in lieu thereof the following:
>
> "(f) The Federal Financial Institutions Examination Council, in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each standard metropolitan statistical area. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such standard metropolitan statistical area."
>
> On page 55, line 13, after the period, insert the following:
>
> Disclosure statements containing data for each such mortgage for a standard metropolitan statistical area shall, at a minimum, be publicly available at the central depository of data established pursuant to section 304 (f) for such standard metropolitan statistical area.

Mr. PROXMIRE. Mr. President, my amendment is strongly supported by the administration. This amendment would provide that the Federal Finanical Institutions Examination Council—that is the council that includes all the bank regulatory bodies—FDIC, Comptroller of the Currency, Federal Reserve Board, National Credit Union Administration, and so forth—that council, in consultation with HUD, shall implement a system to facilitate access to home mortgage disclosure data. Such system shall include arrangements for a central depository of data in each SMSA, where individual disclosure statements would be kept.

This provision is intended to correct a problem with the existing statute which has created an undue and unnecessary burden for users of the data. Under the existing law, if a local community group or local government agency wants to conduct a study of the lending patterns of, say, 20 banks and savings and loans in its community, it must collect disclosure statements for each institution individually. Clearly, this has not stopped the disclosure data from being used, since, indeed, the use has been widespread. But it can pose a significant burden on users and undoubtedly has discouraged full use of the data in a number of cases.

When this provision was considered by the Banking Committee, the committee decided not to adopt the provision because questions concerning the feasibility of implementing the system had not been fully worked out. However, the view of the committee clearly was that such central depositories should be established. Thus, the committee report clearly recognized that, if HUD could provide sufficient information in advance of consideration of this bill on the floor, a floor amendment to provide for these central depositories would be appropriate.

We have information now, so I think it is fair to say that the committee would support the amendment.

Mr. President, we have received a report from HUD on the questions raised. I ask unanimous consent that the text of a letter from HUD Undersecretary Victor Marrero, and a copy of the report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., June 17, 1980.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: During the Senate Banking, Housing and Urban Affairs Committee's mark-up of the Housing and Community Development Act of 1980, the Committee expressed concern about the feasibility of an amendment for the central collection of Home Mortgage Disclosure Act data. Specifically, the Committee wanted to know what the actual costs of implementing this amendment would be and whether there were offices at the local level which would be willing to act as repositories. The Department of Housing and Urban Development agreed to provide information to the Senate on these two issues.

Attached is our report on the feasibility of this amendment. Based on our analysis, we believe that the proposal for central collection can be easily implemented at negligible costs to the Federal government, the local collection points, and data users.

We are also sending this report to Senator Jake Garn.

Sincerely,

VICTOR MARRERO.

REPORT

BACKGROUND

The Administration, in its Home Mortgage Disclosure Act (HMDA) Amendments of 1980 (S. 2290), proposed to require central availability of HMDA statements at one place in each SMSA. Currently, those wishing to use the information must collect it individually from every financial institution required to prepare a statement. Data users have complained that this is a very time-consuming and arduous task. Thus the amendment, which would require that all statements for an SMSA be kept in one place in the SMSA (in addition to being available at the institution), was designed to solve this problem.

Such points could be local governments, local offices of federal agencies, public libraries or government depository libraries. In proposing this amendment, we believed that the collection system need not be costly. For example, lenders could be required to make one more copy than they currently make, maintain the current distribution, and, depending on the system implemented, send the extra copy either directly to the central collection point or to the appropriate regulatory agency. In the latter case, the regulatory agency could assemble all the statements for a given SMSA and forward them to the collection point. The costs of such a system would include the cost to each lender of copying and mailing an extra copy and the cost to the regulatory agencies of sorting the reports by SMSA, and mailing them.

When the Senate Banking, Housing and Urban Affairs Committee considered this amendment during its mark-up of the Housing and Community Development Act of 1980, it was concerned that the feasibility of this amendment had not been sufficiently explored. Specifically, the Committee wanted to know what the actual costs of implementing this amendment would be and whether there were offices at the local level which would be willing to act as repositories. The Department of Housing and Urban Development agreed to provide information to the Senate on these two issues.

COST OF CENTRAL COLLECTION

There are several cost components involved. These costs are for copying, mailing, packaging the statements, local handling and maintenance of the data, and copying by data users. A discussion of each of these components follows.

A. Copying Costs to Prepare the Statement:

As described above, no additional work would be required of the financial institution beyond making an extra copy and sending it to the appropriate Federal financial regulatory agency or local collection point. It should be noted through this report that we have designed the collection system based on submission of these reports to the regulatory agencies rather than directly to the local collection points because the regulatory agencies have a greater capability to implement it than the local collection points do. This system is also the one envisioned by the Federal Home Loan Bank Board.

We asked the Federal Home Loan Bank Board to provide us with information on copying costs, based on the information they gathered in the three SMSA FHLBB/FDIC study. While no actual page count of HMDA statement is 5 to 15 pages long, with twenty FHLBB and FDIC and one division in the FHLBB estimate that an average HMDA statement is 5 to 15 pages long, with twenty census tracts per page. They estimate (and telephone calls to four S&Ls confirm) that the copying cost per page is 8–10 cents. Thus, the cost of copying an extra copy of a HMDA statement can be estimated to range from 40 cents–$1.50. We have not estimated the labor cost of copying an extra copy, which given the short period of time involved to make one extra copy, would be infinitesimal.

B. Mailing Costs to Send Statement to the Regulatory Agency:

Based on an average size statement of 5–15 pages, we estimate that the postage would be 15–30 cents. Again staff time to type the envelope on the cost of the envelope itself has not been estimated, because it would be negligible.

C. Packaging HMDA Statements by Regulatory Agencies:

Once the statements have been sent to the appropriate regulatory agency, it would be the responsibility of that agency to package all the statements for each SMSA. Packaging could either be done in Washington, D.C. or at the regional offices of these agencies. Obviously, staff costs would be minimized if this were done at the regional offices, because less statements would have to be handled. Staff activities involved would include sorting the statements, notifications to lenders who had not provided their statements on a timely basis, and mailing the statements from each SMSA to the repository. We have not been able to estimate the staff cost of these activities, which are dependent upon the number of institutions in an SMSA and the tardiness of institutions in filing their statements. This is a clerical function and would not be particularly costly.

D. Local Handling and Maintenance of the Data:

These costs vary depending on which office would act as the repository. If a library acts as the repository, the only measurable cost involved would be for cataloguing the document under the Dewey Decimal System. This activity can only initially be done by a librarian and, based on discussions with librarians, we estimate that the cataloguing costs for the first year would be $15 per library. Subsequent cataloguing can be performed by nonprofessional staff and would average about $7 per year. The cost of keeping the document on the shelf is negligible (i.e., the facility cost spread over one additional document), as would be the staff cost involved (i.e., putting it on the shelf, getting it down if it is in a section that the public can't enter). Space costs of the document would only become costly, if the repository were required to retain documents for all previous years. Even with 100 institutions in an SMSA, the size of the document would range from 500 to 1000 pages. This represents a document approximately 2 inches thick; or no larger than a standard-sized book.

If another office (e.g., CD office, title registry office, local office of a Federal agency, a 701 agency) acts as the repository, the costs are even less. There would be no cataloguing cost and again the cost of maintaining the data (i.e., putting it on a shelf and retrieving it) would be negligible. In order to confirm this, we contacted city officials in twenty five SMSAs, who all agreed that no measurable costs would be involved. Staff costs could be absorbed within the normal functions of the person who hands out other city documents and refiles them.

E. Copying by the Public:

Reasonable costs of copying should, as in the case of copying HMDA statements at financial institutions, be allowed to be passed on to the consumer. Staff costs for copying would only result if the repository required its own staff to make the copies. In libraries, the staff do not make the copies, nor do they in the cities we surveyed.

SELECTION OF REPOSITORIES

The Administration's proposed amendment on central collection allowed for a variety of specific collection points, depending on local circumstances. We have attempted to assess the feasibility of using each type of collection point and the likely coverage across SMSAs. It should be noted that we have not identified a collection point in every SMSA because we saw our role as ascertaining the general feasibility of this amendment rather than the actually implementing it. We suggest that the range of cities in which collection points have been identified attests to the feasibility of the amendment. We also suggest that the ease with which we identified these points and received non-binding commitments (actual commitments must be made only with the regulatory agencies)—less than one week of work was involved—shows that this activity will not involve a major staff commitment by the regulatory agencies.

Methodology

We contacted local government officials in 25 SMSAs, which were not HUD field office cities, to determine their willingness to act as repositories. These cities included Allentown, Pa., Gulfport, Miss., Daytona Beach, Fla., Lawton. Okla., and Takoma, Wash. Only one city had any qualms and suggested that the county government act as the repository. Most officials felt that the community development office was the appropriate repository, while a few suggested a human relations division or a title or deed registry office. What was most notable was the enthusiasm with which these officials accepted the responsibility. This is particularly important since most of them were not long time users of the data and had, in fact, not even been identified in our data users study. The response of these officials highlights the growing importance of HMDA in city planning, and development activities.

We also contacted the Government Printing Office (GPO) about using regional depository and government libraries as collection points. There are regional depository libraries in SMSAs which are required to accept every document published by the Federal government. While the details of this mechanism would have to be worked out, it is clear that these libraries could serve as collection points.

We also confirmed, here at HUD, that our area and servicing offices can serve as repositories. We do not think that our valuation stations should serve as repositories, because these tend to be very small offices (two to four person offices) with staff out most of the time on travel. There are 68 field offices that could serve as repositories.

COLLECTION POINTS

We have identified the type of following collection points:

1. Local Governments—All cities have some type of title, deed or permit registry office. All central cities of SMSAs, by definition, are eligible for the Community Development Block Grant Program, and thus most will have established a community development office. All SMSAs have at least one public library. Thus it is probable that a local government collection point can be identified in every SMSA.

2. HUD Offices—There are 68 such offices.

3. Regional Depository Libraries—There are 33 such libraries in SMSAs.

4. Government Depository Libraries—There are approximately 1,200 of these libraries (two in every Congressional District). They may select the government publications they wish and would have to be negotiated with on an individual basis, should any be chosen as collection points.

5. Regional Offices of the Regulatory Agencies—The FHLBB has 12 regional offices; the Comptroller of the Currency has 14; the FDIC has 14 and the Federal Reserve Board has 10.

We have prepared the attached chart which shows which of these collection points are available in each SMSA. Because there is at least one local government office in each SMSA that might act as the repository, we have only included those cities with which we made direct contact or those in which we know that an office of the local government is using the data.

As we stated above, while we have not identified specific repositories in all SMSAs, we believe that the range of options and types of SMSAs in which repositories were identified attests to the feasibility of this amendment.

ALTERNATIVE PROPOSAL

We understand that the Federal Reserve Board (FRB) has submitted an alternative proposal for increasing availability of the data. The minority staff of the Senate Banking, Housing and Urban Affairs Committee asked that we comment on the feasibility of this proposal in this report. Under this proposal there would be no central collection points but those who want the data could, upon written request, receive a copy. Financial institutions would be required to provide these copies and charge for copying and postage.

We believe that this is a much more complicated and perhaps costly system for all involved. Under the Administration proposal, each institution would be required to make one additional copy of its HMDA statement at the same time it is making the currently required copies. Under the FRB proposal, an institution could be required to make a much larger number of copies. While the copying costs could be passed on to the consumer, the staff cost for copying might not. Dependent on the number of copies and whether the individual requests were coordinated or one copy was made each time a request was received (e.g. in New York City we know of 10 data users; in the San Francisco SMSA we know of 6 users), this could become a bother to the institution. This proposal should in no way be construed as one which minimizes the paperwork burden on institutions. This system is also not particularly efficient for data users who must take the time to write to every institution (as opposed to using one book containing data from all institutions), and pay postage and copying costs. While they would have to pay these costs under the Administration's proposed system, they could, under our system, also conduct their analyses at the repository and thus not need to pay these costs.

We suggest that this is no improvement over the current system and in fact probably a regression. Currently users can visit an institution, examine the data and pay for its copying. Under the FRB proposal, while the visit wouldn't be necessary, users would have to spend time writing letters and money mailing them. This proposal will also not resolve the problem of eliminating the need for requests from individual lenders in order to compile the HMDA data for an area. In short, this proposal will save no one, neither the institutions nor the users, time or money.

SUMMARY

Based on the above analysis, we believe that the Administration's proposal can be easily implemented at negligible costs to the Federal government, the local collection points, and data users.

POTENTIAL REPOSITORIES FOR HMDA DATA

	City agency #	Reg. Dep. Libr.	HUD Ofc.	Reg. Agency Ofc.	Govt. Dep. Libr.
Abilene, Tex					×
Akron, Ohio					×
Albany, Ga					×
Albany-Schenectady-Troy, N.Y		×	SO		×
Albuquerque, N. Mex		×	SO		×
Alexandria, La					
Allentown-Bethlehem-Easton, Pa.-N.J.	APO or library				×
Altoona, Pa					×
Amarillo, Tex					
Anaheim-Santa Ana-Garden Grove, Calif.			SO		×
Anchorage, Alaska					×
Anderson, Ind					×
Ann Arbor, Mich					×
Anniston, Ala					
Appleton-Oshkosh, Wis					×
Asheville, N.C					×
Atlanta, Ga			AO	1, 2, 3, 4	×
Atlantic City, N.J	County *				
Augusta, Ga.-S.C					×
Austin, Tex		×			×
Bakersfield, Calif					×
Baltimore, Md			AO		×
Baton Rouge, La		×			×
Battle Creek, Mich					
Bay City, Mich					
Bay County, Fla					
Beaumont-Port Arthur-Orange, Tex					×
Beloit-Janesville, Wis					×
Billings, Mont					×
Biloxi-Gulfport, Miss	CD				
Binghamton, N.Y.-Pa					×
Birmingham, Ala			AO		×
Bismarck, N. Dak					×
Bloomington, Ind					×
Bloomington-Normal, Ill					×
Boise City, Idaho			SO	1, 2, 3, 4	×
Boston, Mass		×	AO		×
Bradenton, Fla					
Bridgeport, Conn	CD				×
Bristol, Conn					
Brockton, Mass					
Brownsville-Harlingen-San Benito, Tex.					
Bryan-College Station, Tex					×
Buffalo, N.Y			AO		×
Burlington, N.C					
Caguas, P.R					
Canton, Ohio					×
Cedar Rapids, Iowa					
Champaign-Urbana-Rantoul, Ill					×
Charleston-North Charleston, S.C	(*)				×
Charleston, W. Va			SO		×
Charlotte-Gastonia, N.C					×
Chattanooga, Tenn.-Ga					×
Chicago, Ill			AO	1, 2, 3, 4	×
Cincinnati, Ohio-Ky.-Ind			SO	2	×
Clarksville-Hopkinsville, Tenn.-Ky					×
Cleveland, Ohio	(*)		SO	1, 4	×
Colorado Springs, Colo	Library, CD or APO				×
Columbia, Mo					×
Columbia, S.C	(*)		AO		×
Columbus, Ga.-Ala					×
Columbus, Ohio		×	AO	3	×
Corpus Christi, Tex					×
Dallas-Fort Worth, Tex			AO/SO	1, 3, 4	×
Danbury, Conn					×
Davenport-Rock Island-Moline, Iowa-Ill.					×
Dayton, Ohio	APO or HRC				×
Daytona Beach, Fla	CD				
Decatur, Ill					×

See explanation of abbreviations at end of table.

	City agency #	Reg. Dep. Libr.	HUD Ofc.	Reg. Agency Ofc.	Govt. Dep. Libr.
Denver-Boulder, Colo		X	AO	1, 4	X
Des Moines, Iowa	(*)		SO	2	X
Detroit, Mich	(*)	X	AO		X
Douglas, Kans					
Dubuque, Iowa					X
Duluth-Superior, Minn.-Wis					X
Eau Claire, Wis					X
El Paso, Tex					X
Elkhart, Ind					
Elmira, N.Y					X
Erie, Pa					X
Eugene-Springfield, Oreg					X
Evansville, Ind.-Ky	(*)				X
Fall River, Mass.-R.I	CD				
Fargo-Moorhead, N.D.-Minn		X			X
Fayetteville, N.C					X
Fayetteville-Springdale, Ark					X
Fitchburg-Leominster, Mass					
Flint, Mich			SO		X
Florence, Ala					X
Fort Collins, Colo					X
Fort Lauderdale-Hollywood, Fla					X
Fort Myers, Fla					
Fort Smith, Ark.-Okla					
Fort Wayne, Ind					X
Fresno, Calif			SO		X
Gadsden, Ala					X
Gainesville, Fla		X			X
Galveston-Texas City, Tex					X
Gary-Hammond-East Chicago, Ind	HRC				X
Grand Forks, N.D.-Minn		X			X
Grand Rapids, Mich			SO		X
Great Falls, Mont					X
Greeley, Colo					X
Green Bay, Wis					X
Greensboro - Winston - Salem - High Point, N.C.			AO		X
Greenville-Spartanburg, S.C					X
Hamilton-Middletown, Ohio					X
Harrisburg, Pa	(*)	X			X
Hartford, Conn	(*)	X	AO		X
Honolulu, Hawaii		X	AO		X
Houston, Tex			SO		X
Howard, Ind					
Huntington-Ashland, W.Va.-Ky. Ohio	CD or APO				X
Huntsville, Ala					X
Indianapolis, Ind	(*)	X	AO	2	X
Jackson, Mich					X
Jackson, Miss			AO		X
Jacksonville, Fla			AO		X
Jersey City, N.J	CD				X
Johnson City - Kingsport - Bristol, Tenn.-Va.					X
Johnstown, Pa					X
Kalamazoo-Portage, Mich	(*)				X
Kankakee, Ill					X
Kansas City, Mo.-Kans	(*)		AO	3, 4	
Kenosha, Wis					
Killeen-Temple, Tex					X
Knoxville, Tenn			AO		
Kokomo, Ind					
LaCrosse, Wis					X
Lafayette, La					X
Lafayette-West Lafayette, Ind					X
Lake Charles, La					X
Lakeland-Winter Haven, Fla					X
Lancaster, Pa					X
Lansing-East Lansing, Mich		X			X
Laredo, Tex					X
Las Vegas, Nev	(*)		SO		X
Lawrence, Kans		X			
Lawrence-Haverhill, Mass.-N.H					
Lawton, Okla	CD or library				
Lewiston-Auburn, Maine					X
Lexington-Fayette, Ky	CD or housing	X			X
Lima, Ohio					
Lincoln, Nebr		X			X
Little Rock-North Little Rock, Ark			AO	2	X
Long Branch-Asbury Park, N.J					
Longview, Tex					X
Lorain-Elyria, Ohio					X
Los Angeles-Long Beach, Calif			AO	1	X
Louisville, Ky.-Ind			AO		X
Lowell, Mass.-N.H					X
Lubbock, Tex		X	SO		
Lynchburg, Va					
Macon, Ga					X
Madison, Wis		X		3	X
Manatee, Fla					
Manchester, N.H			SO		X
Mansfield, Ohio					
Mayaguez, P.R.					
McAllen-Pharr-Edinburg, Tex					X
Melbourne-Titusville-Cocoa, Fla					X
Memphis, Tenn.-Ark.-Miss			SO	3,4	X
Meriden, Conn					
Miami, Fla			SO		X
Midland, Tex					
Milwaukee, Wis		X	AO		X
Minneapolis-St. Paul, Minn.-Wis	(*)	X	AO	3,4	X
Mobile, Ala					X
Modesto, Calif					
Monroe, La					X
Montgomery, Ala		X			X
Muncie, Ind					X
Muskegon-North Shores-Muskegon Heights, Mich.					X
Nashua, N.H					X
Nashville-Davidson, Tenn			SO		X
Nassau-Suffolk, N.Y					X
New Bedford, Mass	Deeds or library.				
New Britain, Conn					X
New Brunswick-Perth Amboy-Sayreville, N.J.					X
New Haven-West Haven, Conn	(*)				X
New London-Norwich, Conn.-R.I					X
New Orleans, La			AO		X
New York, N.Y.-N.J	(*)		AO	1,2,3,4	X
Newark, N.J	(*)	X	AO		X
Newport News-Hampton, Va					X
Norfolk-Virginia Beach-Portsmouth, Va.-N.C.	APO				X
Northeast Pennsylvania					X
Norwalk, Conn					
Odessa, Tex					
Oklahoma City, Okla		X	AO		X
Omaha, Nebr.-Iowa			AO	3	X
Orlando, Fla			SO		X
Owensboro, Ky					X
Oxnard-Simi Valley-Ventura, Calif					X
Panama City, Fla					
Parkersburg-Marietta, W. Va.-Ohio					X
Pascagoula-Moss Point, Miss	CD				
Paterson-Clifton-Passaic, N.J	(*)				X
Pensacola, Fla					X
Peoria, Ill	CD				X
Petersburg-Colonial Heights-Hopewell, Va.					X
Philadelphia, Pa.-N.J			AO	3, 4	X
Phoenix, Ariz		X	SO		X
Pine Bluff, Ark					X
Pittsburgh, Pa			AO	2	X
Pittsfield, Mass	(*)				
Polk, Minn					
Ponce, P.R					
Portland, Maine					X
Portland, Oreg.-Wash		X	AO	4	X
Poughkeepsie, N.Y					X
Providence-Warwick-Pawtucket, R.I.-Mass.			SO		X
Provo-Orem, Utah					X
Pueblo, Colo					X
Racine, Wis					X
Raleigh-Durham, N.C					X
Rapid City, S. Dak					X
Reading, Pa					
Reno, Nev		X	SO		X
Richland-Kennewick, Wash					
Richmond, Va	(*)		AO	3, 4	X
Riverside-San Bernardino-Ontario, Calif.					
Roanoke, Va					
Rochester, Minn					
Rochester, N.Y					X
Rockford, Ill					X
Sacramento, Calif		X	SO		X
Saginaw, Mich					X
St. Cloud, Minn					X
St. Joseph, Mo					X
St. Louis, Mo.-Ill	(*)		AO		X
Salem, Oreg					X
Salinas-Seaside-Monterey, Calif					X
Salt Lake City-Ogden, Utah			SO		X
San Angelo, Tex					X
San Antonio, Tex			AO		X
San Diego, Calif	(*)		SO		X
San Francisco-Oakland, Calif			AO	1, 2, 3, 4	X
San Jose, Calif					X
San Juan, P.R					
Santa Barbara-Santa Maria-Lompoc, Calif.					X
Santa Cruz, Calif					X
Santa Rosa, Calif					X
Sarasota, Fla					X
Savannah, Ga					X
Seattle-Everett, Wash	CD		AO	1, 2	X
Sherman-Denison, Tex					X
Shreveport, La			SO		X
Sioux City, Iowa-Nebr					X
Sioux Falls, S. Dak					X
South Bend, Ind	CD				X
Spokane, Wash			SO		X
Springfield, Ill		X			X
Springfield, Mo					X
Springfield, Ohio					X
Springfield-Chicopee-Holyoke, Mass.-Conn.	CD				X
Stamford, Conn	CD or town clerk.				X
Steubenville-Weirton, Ohio-W. Va					X
Stockton, Calif					X
Syracuse, N.Y	CD				X
Tacoma, Wash	CD				X
Tallahassee, Fla					X
Tampa-St. Petersburg, Fla	(*)		SO		X
Terre Haute, Ind					X
Texarkana, Tex.-Texarkana, Ark					X
Tipton, Ind					
Toledo, Ohio					X
Topeka, Kans				2	X
Trenton, N.J					X
Tucson, Ariz		X	SO		X
Tulsa, Okla			SO		X
Tuscaloosa, Ala	CD				X
Tyler, Tex					
Utica-Rome, N.Y					X
Vallejo-Fairfield-Napa, Calif					
Vineland-Millville-Bridgeton, N.J					
Waco, Tex					X
Washington, D.C.-Md.-Va	(*)	X	AO		X
Waterbury, Conn					X
Waterloo-Cedar Falls, Iowa					X
West Palm BeachBoca Raton, Fla-					X

POTENTIAL REPOSITORIES FOR HMDA DATA—Continued

	City agency #	Reg. Dep. Libr.	HUD Ofc.	Reg. Agency Ofc.	Govt. Dep. Libr.
Wheeling, W. Va.-Ohio					
Wichita, Kans					×
Wichita Falls, Tex					×
Williamsport, Pa					×
Wilmington, Del.-N.J.-Md	(*)				×
Wilmington, N.C					×
Worchester, Mass					×
Yakima, Wash					×
York, Pa					×
Youngstown-Warren, Ohio					×

EXPLANATION OF ABBREVIATIONS

City agencies: #—Represents the 25 cities contacted for this report or cities where HUD knows that HMDA analyses have been undertaken. CD—Community Development. HRC—Human Relations Commission. APO—Areawide Planning Organization. *—CD has undertaken collection and analysis but verification of willingness to act as repository not confirmed.

Reg. Dep. Libr.: Regional Depository Library.

HUD Office: AO—Area Office. SO—Servicing Office.

Reg. Agency Ofc.: Regulatory Agency Office: 1. Federal Reserve Board. 2. Federal Home Loan Bank Board. 3. Federal Deposit Insurance Corporation. 4. Comptroller of the Currency.

Govt. Dep. Libr.: Government Depository Library.

Mr. PROXMIRE. Mr. President, I think the report provides a solid basis for accepting the amendment. For example, one of the questions raised was how easy it would be to identify offices which would be willing to act as depositories in each SMSA. I believe the report amply demonstrates that it will not be difficult to establish such depositories. For example, in 68 SMSA's, the HUD field offices could serve as depositories.

It would appear, however, that the most attractive alternative is local government offices. In preparing its report, HUD contacted local government officials in 25 SMSA's, none of which were HUD field office cities, and none of which had been identified in the earlier data users study by HUD. According to the report, only one city had any qualms, and suggested that the county government act as the depository. Most officials indicated that the community development office would be the appropriate depository. According to the report:

> What was most notable was the enthusiasm with which these officials accepted the responsibility. This is particularly important since most of them were not long-time users of the data and had, in fact, not even been identified in our data users study. The response of these officials highlights the growing importance of HMDA in city planning, and development activities.

While local government offices seem like the most attractive alternative, the report also notes the availability of 33 regional depository libraries and 1,200 Government depository libraries which are available as backups if there are a few cities where it turns out the local government agencies are not the best alternative.

The report also reveals that the costs involved in the system are very minimal indeed. For the banks and savings and loans the cost would be between 55 cents and $1.80 per year per lender—that is, per bank. In addition, costs of storing the data by the central depositories are hardly even calculable. The report indicates that the average disclosure report is 5 to 15 pages long. It states:

> Even with 100 institutions in an SMSA, the size of the document would range from 500 to 1,000 pages. This represents a document approximately 2 inches thick; or no larger than a standard-sized book.

Mr. President, based on the information provided, I think it is clear that my amendment is feasible. It is also clear that it would substantially facilitate use of the data. My amendment is strongly supported by the administration.

I have discussed it with the distinguished Senator from Utah (Mr. GARN). I am sure the Senator from New Jersey (Mr. WILLIAMS) is aware of the amendment, and I hope the Senate will adopt it.

Mr. GARN. Mr. President, the Senator from Utah is reluctantly willing to accept this amendment but, nevertheless, accepts it on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. GARN. Mr. President, if the Senator will withhold.

Mr. JAVITS. I do.

UP AMENDMENT NO. 1253

(Purpose: To remove some of HMDA's reporting burden by allowing lenders to record loan information by county, rather than by census tract, in non-urban counties)

Mr. GARN. Mr. President, I send an unprinted amendment to the desk——

The PRESIDING OFFICER. Under the unanimous-consent request, the question recurs on the amendment of the Senator from Pennsylvania. Does the Senator from Utah seek to set the unanimous-consent agreement aside?

Mr. GARN. I do, Mr. President. This is an amendment that will take about 1 minute. I ask unanimous consent that we set that other unanimous-consent agreement aside and take care of this and then the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Pennsylvania will be set aside temporarily to consider the amendment of the Senator from Utah, after which we shall revert to the amendment of the Senator from Pennsylvania.

The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1253.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 52, delete lines 21–23, and insert in lieu thereof the following:
>
> "(2) by amending subsection (a) (2) (A) to read as follows:
>
> "(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000 within that standard metropolitan statistical area, otherwise, by county, for mortgage loans secured by property located within any other county within that standard metropolitan statistical area.".

Mr. GARN. Mr. President, this amendment would limit census tract reporting to those counties with a population greater than 30,000. The geographic placement of home loans in counties which are essentially rural in nature would be designated by county, rather than by census tract.

The Home Mortgage Disclosure Act was designed for urban communities, and requires the disclosure of home loan placement by census tract within the boundaries of standard metropolitan statistical areas (SMSA's). However, many SMSA's encompass counties which are essentially rural in character. For example, the Atlanta SMSA is composed of 15 counties, but 2 of the central counties contain two-thirds of the population. The 10 outer counties are primarily rural in character.

Urban census tracts are formed to reflect the race, national origin, family income, and housing stock of urban neighborhoods. On the other hand, census tracts within rural areas do not contain the same demographic and housing characteristics as their urban counterparts, so that comparisons between lending patterns and rural census tracts are far less meaningful.

Geocoding information by census tracts constitutes a large part of the cost to prepare the HMDA report. Lenders should not be required to spend the time and money recording census tract information for loans placed in rural areas.

Finally, this amendment still requires the reporting of HMDA information by counties, so that a lender's volume of urban lending can be compared with rural lending.

Mr. President, this is an amendment which is very simple, would exclude counties in SMSA's that have less than 30,000 population within that county. I believe the chairman of the Committee on Banking will also reluctantly accept this amendment, as I reluctantly accepted his.

Mr. PROXMIRE. Mr. President, the Senator from Utah has the proper adverb; I reluctantly accept his amendment. I do think that because, while I would prefer not to have the amendment accepted, the fact is that the Senator has compromised his original amendment, reduced it substantially. We have taken a look at the number of counties that would be affected. There are not many. It would reduce the population of 50,000 to 30,000—is that correct?

Mr. GARN. That is correct, Mr. President.

Mr. PROXMIRE. For that reason, and under the circumstances, and I understand the manager of the bill (Mr. Williams) agrees, we accept the amendment.

Mr. WILLIAMS. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1251, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Chair. In just a few seconds, I shall send a modification of my amendment on behalf of myself and Senator Javits, a cosponsor of the amendment, to the desk. Senator Javits, a few minutes ago, entered into a very helpful colloquy with the Senator from Pennsylvania. Senator Javits has been very concerned and very involved in this area and offered several helpful suggestions in the wording of the amendment. As soon as the drafting is completed, Mr. President, I shall send it to the desk.

Let me say to the managers of the bill that it does not change the substance of the amendment at all. I shall read the change so that my colleagues are aware of it.

It simply substitutes on line 29 of the amendment, after the word "for," striking all through the period and inserting in lieu thereof "attracting pension funds and other large institutional investors into the residential mortgage and home construction market."

So, Mr. President, I send the modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes a modification.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is modified accordingly.

The amendment (UP No. 1251), as modified, is as follows:

At the end of the bill, add the following:

TITLE VI—DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

SHORT TITLE

Sec. 601. This title may be cited as the "Mortgage-Backed Securities Development Act of 1980".

FINDINGS AND PURPOSES

Sec. 602. (a) The Congress finds that—

(1) the ability to purchase a home depends upon the availability of mortgage funds;

(2) financial and thrift institutions are currently experiencing difficulty withstanding the financial consequences of lending on long-term mortgages;

(3) private pension plans are an important source of capital, controlling assets of over $236,000,000,000;

(4) only $1,000,000,000 or four-tenths of one per centum of these pension fund assets are invested in residential mortgages;

(5) the potential for pension fund investment in residential mortgages is great and should be pursued, especially in view of the need for additional sources of mortgage finance;

(6) other potentially great sources of residential mortgage investment include life insurance companies and the Eurodollar market;

(7) a major obstacle to investment in residential mortgages by pension funds, life insurance companies, and the Eurodollar market is the absence of security instruments backed by residential mortgages and attractive to large investors;

(8) the Federal National Mortgage Association has under consideration a proposal for a conventional mortgage-backed securities program;

(9) that program has several positive features which could help overcome many of the obstacles encountered in attracting pension funds and life insurance companies into the residential mortgage market.

(b) The purposes of this title are to direct the Federal National Mortgage Association to develop as soon as possible a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers and ultimately to attract more capital from large institutional investors into the residential mortgage market.

DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

Sec. 603. The Federal National Mortgage Association shall, at the earliest possible date, develop a proposal for attractive pension funds and other large institutional investors into the residential mortgage and home construction market. The Secretary of Housing and Urban Development and the Secretary of the Treasury shall, within 90 days after development of such proposal, approve such proposal or transmit to Congress a report explaining why this proposal was not approved.

Mr. HEINZ. Mr. President, I understand that Senators Javits, Garn, and Williams are prepared to accept the amendment.

I do thank all Senators for their assistance.

Mr. WILLIAMS. That is correct.

Mr. JAVITS. If the Senator will yield, I think this is a very creative move we are making.

I have been against, heretofore, the idea of a percentage of pension funds that have to be invested. For example, at one time we considered 10 percent of pension funds for investment in low-income housing.

I think this is a much more businesslike approach. Except that I rise only to say that I hope in designing its program to meet this amendment, that the FNMA and the Treasury will bear in mind our interest in low-income housing and middle-income housing, and other homebuilding, and, realizing the social implications, give consideration to the fact that no one element that needs housing might be shut out.

I believe that would be the purpose I have in mind and, hopefully, so would my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania, as modified.

The amendment (UP No. 1251), as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

UP AMENDMENT NO. 1254

(Purpose: To authorize the Secretary of Labor and the Secretary of the Treasury to waive certain limitations on the investment of pension fund assets in order to encourage the investment of those assets in residential mortgages, and to require the Secretaries to report to the Congress if they do not waive such limitations and to explain the reasons for not waiving them)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes an unprinted amendment numbered 1254.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE VI—INVESTMENT OF PENSION FUNDS IN MORTGAGES

SHORT TITLE

Sec. 601. This title may be cited as the "Residential Mortgage Pension Fund Investment Act of 1980".

FINDINGS AND PURPOSES

Sec. 602. (a) The Congress finds that—

(1) the ability to purchase a home depends upon the availability of mortgage funds;

(2) financial and thrift institutions are currently experiencing difficulty withstanding the financial consequences of lending on long-term mortgages;

(3) private pension plans are an important source of capital, controlling assets of over $236,000,000,000;

(4) only $1,000,000,000, or 4 tenths of 1 percent, of these pension fund assets are invested in residential mortgages;

(5) the potential for pension fund investment in residential mortgages is great and should be pursued, especially in view of the need for additional sources of mortgage finance;

(6) real estate mortgages provide comparatively high yields with minimal risk and meet the prudent investment standards required under the Employee Retirement Income Security Act of 1974;

(7) that Act has been interpreted to prohibit transactions involving certain types of residential mortgage investments; and

(8) these prohibited transactions include agreements between a pension fund and a financial institution obligating the pension fund to purchase mortgages which are se-

cured by homes constructed by contributing employers.

(b) It is the purpose of this title to grant a class exemption to these prohibited transactions under the Employee Retirement Income Security Act of 1974, and parallel provisions of the Internal Revenue Code of 1954, thereby allowing pension fund investment in residential mortgages.

RESIDENTIAL MORTGAGE INVESTMENT OF PENSION FUND ASSETS

SEC. 603. (a) It is the sense of the Congress that within 90 days after the date of enactment of this Act the Secretary of Labor and the Secretary of the Treasury should grant an exemption under section 408(a) of the Employee Retirement Income Security Act of 1974 and section 4975(c)(2) of the Internal Revenue Code of 1954, from the prohibitions contained in section 406 of the Employee Retirement Income Security Act of 1974 (relating to prohibited transactions) and the taxes imposed under section 4975 of the Internal Revenue Code of 1954 (relating to tax on prohibited transactions), respectively, for the investment of pension plan assets in residential mortgages which, absent such exemptions, would constitute a prohibited transaction under section 406 of such Act and section 4975(c)(1) of such Code.

(b) The requirements of the last 2 sentences of section 408(a) of the Employee Retirement Income Security Act of 1974, and the last 2 sentences of section 4975(c)(2) of the Internal Revenue Code of 1954, shall not apply with respect to any exemption granted pursuant to subsection (a) of this section.

(c) If the Secretaries do not grant the exemptions described in subsection (a) within 90 days after the date of enactment of this Act they shall each report to the appropriate committees of the Congress their reasons for not granting the exemptions.

Mr. HEINZ. Mr. President, I understand this amendment may be controversial. But I do believe the thrust of the amendment is absolutely essential to accomplishing this, in one way or another, and much sooner rather than later.

What this amendment does is to remove yet another barrier to investment in residential mortgages by pension funds. The amendment would free up for residential mortgage investment the assets of pension funds covered under ERISA, the Employee Retirement Security Act.

The problem is this. Although construction industry pension funds have traditionally invested in home mortgages, much of this activity has been precluded by a broad interpretation of the prohibited transactions section of ERISA and the Internal Revenue Code pertaining to parties in interest.

At present, for example, pension plans, as a rule, do not have the authority to purchase residential mortgages from mortgage bankers in which mortgage loans are made to plan participants.

My amendment would direct the Secretary of Labor and the Secretary of the Treasury to make a ruling as to whether such transactions ought to be exempt from the prohibited transactions clauses, and to do so within 90 days. At that point, Congress could hold oversight hearings and decide what sort of legislative remedy, if any, might be necessary.

Mr. President, it is not my intent to trespass on the jurisdiction of the Committee on Human Resources, nor, indeed, on my own Finance Committee, on this bill that is out of my Banking, Housing, and Urban Affairs Committee.

But I must say, I am deeply concerned about the fact that federally insured pension plans are, for all intents and purposes, because of the regulations issued by the Department of Labor, precluded from being available for investment in a way that would ultimately stimulate the construction of homes for people. That, it seems to me, is the bottom line.

It is not my intention in offering this amendment to in any way undercut necessary conflict-of-interest safeguards.

I do not object in any way, shape, or form to the necessity of having careful rules governing the conduct of parties in interest.

But it is my very strong conviction that the current regulations and their current interpretation, in particular, have just gone way too far and have, of necessity, locked out of the market, that might be available for people who are seeking home mortgages, a huge amount of money, in the tens, maybe hundreds of billions of dollars.

So I am deeply concerned about this problem. I understand there are many other people in this body who are, too.

I hope we find a way to get action on this problem. Of course, that is the thrust of this amendment.

Mr. WILLIAMS. Mr. President, the basic purpose, as I understand it, is to reach what has been described earlier, the application of pension funds to a very worthy social purpose, really, in making it possible for those who are beneficiaries of a pension plan to participate in a residential home opportunity.

That is certainly to be applauded and to be sought, and it is currently possible, under law as it is, for this kind of investment by pension moneys, to be made and also meet all the tests of fiduciary responsibility and prudence in terms of the investment.

The problem that arises, as I see it, with the amendment, in reaching that objective, is that it sweepingly deals with another area. That is the problem of conflict of interest which we, in law, protect against through a very complex method of procedure under sections dealing with prohibited transactions that say parties in interest cannot be dealt with in the pension funds.

The whole complexity of prohibited transaction has been before our Labor and Human Resources Committee. We have thoroughly studied it, understand the problems of administration, and the unnecessary delays and difficulties.

What we have tried to do is create a method of cutting through some of these problems, the administrative problems. We have included our answers to this in a bill, S. 209, that has been reported from our committee.

This whole subject matter under that bill, entitled the ERISA Improvements Act of 1979, last year, is now a matter that our partner committee, I would hope, could analyze, study, and see if we cannot move together on these provisions that will be part of the improvement of the protections under the prohibited transactions sections of ERISA.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. HEINZ. I thank the Senator for his statement, because, as I understand his statement, he agrees that we have some problems in this area. He may disagree with the particular approach I am taking. My understanding is that he shares with me the belief that we have interpretations and regulations that unduly restrict by being unnecessarily sweeping in their attempts to avoid not only conflict of interest or the appearance of conflict of interest but also even the appearance of the appearance of conflict of interest.

I should like to work with the Senator, as a member of one of two committees having jurisdiction over this issue, the Finance Committee, in resolving this matter in a more thorough and thoughtful way.

Mr. WILLIAMS. It impresses me that we are in the position of good fortune with the Senator from Pennsylvania, who is doing much constructive and helpful work in this area; and because of the Senator's membership on the Finance Committee, we can look forward, I hope, to action there, to resolve some of the problems we see under the prohibited transactions section.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. JAVITS. Mr. President, I join Senator WILLIAMS in the caution that is here expressed. Indeed, I hope Senator HEINZ will consider withdrawing this amendment at this time, for two reasons.

One, the reasons already stated: Prohibited transactions was one of the most diligently pursued and difficult problems we had to deal with in ERISA. We have to be very careful about the side effects, because one of the worst things about pension funds and their trustees was this matter of prohibited transactions.

I should like to give another reason: I believe that previous amendment adopted opens the door to a creative recommendation. That is why I wanted so much to have that language. It is very wide now. It includes homebuilding and home mortgages.

So I think that insofar as this amendment would help us to arrive at a better resolution of the mortgages on the homes of beneficiaries, we can accomplish the same thing without treading this minefield, in this amendment today, of prohibited transactions.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HEINZ. Does the Senator's committee have any plans to look further into this question?

Mr. JAVITS. My answer is "yes," for this reason: As Senator WILLIAMS has intimated—perhaps the Senator from Pennsylvania did not grasp the implications of it—we reported the ERISA bill mainly to deal with multiemployer transactions. The Finance Committee reported a somewhat different version. We are engaged in reconciling those versions now.

It is a very timely moment, if there can be agreement to fit something in with this suggestion. If so, it will move very fast.

Mr. HEINZ. As I understand the Senator, what we will try to do is to address this issue—we will work together, the three of us and any other interested Senators—to address this issue with the objective of including it in the ERISA bill, with the Senators' committee and mine.

Mr. JAVITS. Exactly. I must warn that we are under terrible time pressure with respect to ERISA, but there is no other inhibition whatever.

Mr. HEINZ. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania is withdrawn.

Are there further amendments to the bill?

UP AMENDMENT NO. 1255

(Purpose: To prohibit the use of Social Security cost-of-living adjustments in determining the rate of rent paid by public housing residents)

Mr. BAKER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1255.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

TITLE VI—TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES UNDER CERTAIN HOUSING LAWS

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

SEC. 601. Notwithstanding any other provision of law, social security benefit increases occurring after May 1980 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this subsection, the term "social security benefit increases occurring after May 1980" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program becoming effective after May 1980 pursuant to section 215(i) of such Act, or any other increase in benefits under such program, enacted after May 1980, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such Act.

(b) Subsection (a) of this section shall be effective only with respect to assistance which is provided under the Acts referred to in the first sentence of such subsection for periods after September 30, 1980.

Mr. BAKER. Mr. President, the amendment I offer would eliminate an unfair defect in our housing assistance programs. It would insure the social security recipients would no longer have their rent increased solely on the basis of cost-of-living adjustments.

This proposal has received overwhelming support in the House. It was introduced last year as an amendment to the Housing and Community Development Act of 1979 by Representative JOHN DUNCAN of Tennessee and carried impressively by a vote of 311 to 79. In 1978, it was adopted by an equally wide margin of 256 to 38. Representative DUNCAN will offer this amendment to the House version of S. 2719, and it will undoubtedly be adopted again this year.

Under present law, public housing residents are penalized with an increase in rent when their income increases. We are, in fact, giving with one hand and taking away with the other.

Each year in July, social security recipients receive a cost-of-living increase but by and large, local public housing authorities choose this time to raise the rent for the upcoming year. The result is to substantially reduce and in some cases eliminate what little has been gained by the increase.

My amendment would allow social security recipients in public housing to keep the entire increase, an increase which only restores their purchasing power to the congressionally mandated minimum.

All too often, Federal policy is characterized by contradictions. We call for increases in productivity and drown American industry in a quagmire of bureaucratic mandates which are cost inefficient and counterproductive; we encourage our citizens to save, yet we tax savings income and permit the deductions of the cost of debt.

There are many other examples, but I think that the point is clear. Increasing rent for recipients of cost-of-living adjustments defeats the very purpose of the adjustments. In my view, it defeats the very purpose of social security.

Our goal in funding social security is to provide a minimum standard of living for the elderly. Inflation eats away at this minimum. The cost-of-living adjustment restores, but does not increase, the purchasing power of their fixed incomes. To increase rent predicated on a cost-of-living adjustment which is by definition, not an increase in income, misdirects our efforts in an unacceptable manner.

A few years ago, Congress reviewed and corrected a similar problem faced by our Nation's veterans. At that time, a veteran receiving social security benefits and a veteran's pension was placed in a cruel quandary. As his social security benefits went up, his pension went down.

The commitment that we have made to the elderly must be no less firm than that which we made to our veterans. We dishonor that commitment when a cost-of-living adjustment is provided by one arm of the Government and taken away from another.

It is sometimes difficult to honor a commitment. It is sometimes costly and more often than not politically inconvenient. But I do not think that we can turn our backs and say that we cannot afford it.

I cannot dispute the fact that housing costs are rising. But, before we put the burden of these increased costs on our Nation's elderly, we would do well to remember the cause of these rising costs.

Should we punish the elderly for waste which has repeatedly and shamefully characterized public housing programs? Should we punish the elderly for the unending failure of the administration's economic policy? Should we punish the elderly for the Congress inability to target and allocate resources efficiently and control the growth of Federal spending and borrowing?

These mistakes should be paid for by those who made them, not by the powerless elderly who need these adjustments to pay for food, clothing, energy, and transportation. These adjustments should be more than a single transfer of funds from one arm of the Federal Government to another.

There are other ways to attack the flaws that mark our public housing efforts and I am proud to say that many have been offered from this side of the aisle in this debate. I believe that our commitment to the elderly is consistent with this amendment and with the other changes we have made and will enhance our efforts to help the most needy in our society.

The amendment that I offer today will be but one more step in our continuing effort to improve the lot of our Nation's elderly poor. I hope my colleagues will join in support of it.

Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. JEPSEN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I reluctantly rise in opposition.

I very rarely oppose the distinguished minority leader, the Senator from Tennessee, but in this case I must. Social security increases would not be counted under his amendment as income for public housing. It is the same as the House position reflected in the conference last year which was rejected. It would raise housing assistance allowance and discriminate against non-social-security income.

So I must oppose it.

Mr. WILLIAMS. Mr. President, I am in position to join with the Senator from Utah in opposition—reluctantly, yes, but for many, many reasons I must.

Mr. BAKER. Mr. President, I am prepared to vote.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the amendment of the Senator from Tennessee.

(Putting the question.)

The amendment was rejected.

UP AMENDMENT NO. 1256

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1256.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, after line 20 insert:

"Section 511 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by renumbering paragraph (b) as paragraph (c) and inserting Section 511(b) as follows:

Sec. 511. (b) For purposes of this part—

(1) the term "loan" includes all secured and unsecured loans, credit sales, forebearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes.

(2) the term "interest" includes any compensation, however denominated, for a loan.

(3) the term "organization" means a corporation, governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity.

(4) the term "person" means a natural person or organization.

Mr. PROXMIRE. Mr. President, this is a clarifying amendment to the usury preemption provisions of the Depository Institutions Deregulation and Monetary Control Act applying to business and agricultural loans.

The amendment which I offer is a technical clarifying amendment making no substantive changes in the usury preemption provisions but merely makes clear the congressional intent that the term "loan" covers all extensions of credit whether by loan, credit sale, forbearance, advance, renewal or other means. The amendment also clarifies the meaning of the terms interest, organization, and person.

Mr. President, this amendment is noncontroversial. Its adoption by the Senate will provide the clarity that the business community needs to conduct its business under statutes that are now ambiguous and thus disruptive of existing business practices and does not needlessly require businesses to change these practices at prohibitive cost without any good public purpose for doing so.

I hope my colleagues will agree to this technical amendment.

Mr. GARN. Mr. President, I am happy to accept this amendment.

Mr. WILLIAMS. Mr. President, I likewise am very happy to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I had intended to offer an amendment dealing with the tax-exempt mortgage revenue bonds. It would not meet the test of germaneness. However, I think it would be helpful to have in one place in the Record the amendment, together with a list of the cosponsors of my original bill (S. 2064) along with the cosponsors of this amendment which I am not going to introduce. I wish to have this amendment printed in the Record for Members to see, together with an explanation of the amendment, and I so ask unanimous consent.

There being no objection, the material was ordered to be printed in the Record, as follows:

At the end of the bill, insert a new title as follows:

To amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Mortgage Revenue Bonds.—

"(1) In general.—Except as provided in paragraph (3), any mortgage revenue bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) Definitions.—For purposes of this subsection—

"(A) Mortgage revenue bonds defined.—The term 'mortgage revenue bond' means any obligation—

"(i) which is issued as part of an issue any portion of the proceeds of which constitute single family housing proceeds, and

"(ii) the payment of principal or interest on which is not secured by the general obligation of any State, territory, or possession of the United States, or any unit of general local government.

"(B) Single family housing proceeds.—The term 'single family housing proceeds' means that portion of the proceeds of any issue which are to be used directly or indirectly to make or purchase loans (including mortgages and other owner-financing) with respect to single family residences.

"(C) Single family residence.—The term 'single family residence' means any owner occupied residence consisting of not more than four dwelling units or any owner occupied unit in condominium or cooperative-owned housing.

"(D) Families of low and moderate income.—The term 'families of low and moderate income' means any family with income not in excess of the greater of—

"(i) 120 percent of the area median family income (as determined by the Secretary of Housing and Urban Development pursuant to section 8 of the Housing Act of 1937), or

"(ii) the minimum income permissible under the rural housing guaranteed loan program provided for by section 517 of the Housing Act of 1949.

"(E) Qualified housing agency.—The term 'qualified housing agency' means any political subdivision of a State, or any department, agency, or other entity established by or pursuant to State law and acting on behalf of a State or political subdivision thereof, which is authorized to issue obligations for one or more of the purposes set forth in paragraph (6).

"(F) State.—The term 'State' includes a State, a territory or possession of the United States, or the District of Columbia.

"(3) Exceptions.—Paragraph (1) and subsection (b) shall not apply to any mortgage revenue bond which is part of an issue—

"(A) with respect to which—

"(i) all of the proceeds (other than proceeds used for necessary reserves or administrative expenses) constitute single family housing proceeds which are used under a program described in paragraph (4), (5), or (6), or

"(ii) if all of such proceeds do not constitute single family housing proceeds which are so used, that portion of the proceeds not so used is used for a purpose described in subsection (b)(4)(A), and

"(B) the single family housing proceeds of which may not be used to finance, directly or indirectly, the purchase of any unit in condominium or cooperative-owned housing if such unit was occupied by a renter (other than the purchaser) during the 1 year period before the issuance of such issue.

"(4) Assisted state and local housing, redevelopment, and renewal programs.—

"(A) In general.—A program is described in this paragraph if under the program all of the single family housing proceeds are to be used in connection with a housing assistance, redevelopment, or revitalization program with respect to which a program contribution is made from the proceeds of any Federal grant in an amount equal to at least 5 percent of such single family housing proceeds.

"(B) Program contribution.—For the purpose of this paragraph, the term 'program contribution' shall include payments made as part of such housing assistance, redevelopment, or revitalization program, or by another governmental unit, for—

"(i) funding of a portion of any loans or obligations made from or purchased with such single family housing proceeds;

"(ii) interest subsidies, discounts, fees, or supplemental financing in connection with such loans or obligations;

"(iii) establishing reserves for the insurance or guarantee of such loans or obligations, except that in the case of reserves created to insure, secure, or guarantee a pool of loans or obligations which includes loans or obligations which are not made from such single family housing proceeds, the amount of the program contribution shall be that proportion of the initial amount of such reserves which bears the same ratio to such initial amount as the amount of loans or obligations made from such single family housing proceeds bears to the total amount of loans or obligations which are insured, guaranteed, capable of being insured, or capable of being guaranteed by such reserves;

"(iv) costs of originating, purchasing, servicing, or insuring loans or obligations made from such single family housing proceeds or the costs of issuance of the issue of which the mortgage revenue bond is a part;

"(v) capital expenditures or other direct subsidies for the construction or rehabilitation of residences to be financed with such loans or obligations;

"(vi) the funding of all or a portion of any loans or obligations made by the issuer to serve those families and individuals who, by reason of lack of adequate income or assets, cannot qualify for loans financed from such single family housing proceeds, except that such a program contribution must be made no earlier than 6 months prior to the issuance of the issue of which the mortgage revenue bond is a part and no later than the day on which all of such single family housing proceeds available for funding of loans or obligations are disbursed; and

"(vii) public improvements which are provided under a comprehensive redevelopment or renewal program, except that such a program contribution must be made no earlier than the date of such approval and no later than 3 years after the date of issuance of the issue of which the mortgage revenue bond is a part and must be attributable only to that portion of the public improvement which is located within the geographic area covered by such approved program and primarily serves the beneficiaries of such issue. The issuer shall not be precluded in any way from recovering the program contribution provided that recovered funds are used for other purposes eligible under the terms of the Federal grant or this paragraph.

"(C) Limitation.—A program shall not be considered a program described in this paragraph unless the program describes a comprehensive plan and strategy to alleviate physical and economic distress in a manner consistent with meeting the housing needs of families of low and moderate income, especially families already residing in the area in which such single family housing proceeds will be used.

"(5) STATE PROGRAM.—A program is described in this paragraph if the issue from which the single family housing proceeds are derived is issued by a State, or an instrumentality, commission, authority, agency, or public corporation of a State which has power to act throughout the State and which—

"(A) is authorized by State law to directly or indirectly originate, finance, or purchase loans which finance the acquisition, ownership, rehabilitation, or improvement of residential real property for persons and families who meet the eligibility requirements designated by, or established pursuant to such law;

"(B) has its directors, trustees, or other governing officers appointed by the legislative body or an executive officer of the State;

"(C) reports to the legislative body or an executive officer of the State at least annually on its financial affairs and the achievement of its legislative objectives; and

"(D) maintains a full-time staff responsible for overseeing the issuance of the indebtedness required to finance its programs, monitoring the processing of applications for financial assistance, and supervising the resulting loans.

"(6) LOW- AND MODERATE-INCOME HOUSING PROGRAM.—A program is described in this paragraph if the issue from which the single family housing proceeds are derived—

"(A) is issued by a qualified housing agency and all of the single family housing proceeds are to be used—

"(i) to provide rehabilitation loans to families of low and moderate income—

"(I) in an amount and for a term and purpose eligible for insurance pursuant to title I of the National Housing Act; or

"(II) in an amount such that at least 50 percent of the principal amount of such loan is to be used for rehabilitation expenditures and not more than 50 percent of such loan is to be used to discharge existing indebtedness on the related owner-occupied residence;

"(ii) to provide directly or indirectly for the construction or ownership of residences other than through refinancing for families of low and moderate income under a program authorized by law and implemented by a qualified housing agency; or

"(iii) for both of the purposes described in clauses (i) and (ii);

"(B) which provides by its terms that at least 50 percent of the single family housing proceeds shall be made available to families whose income does not exceed the area median income;

"(C) contains a certification by the Secretary of Housing and Urban Development that the use of such single family housing proceeds will not promote the displacement of residents of the localities in which such proceeds are to be used; and

"(D) is comprised of an amount of single family housing proceeds, which, when added to the single family housing proceeds of mortgage revenue bonds described in paragraph (3) previously issued by the issuing authority during such calendar year, does not exceed 20 percent of the average annual aggregate principal amount of mortgages (other than mortgages used for a purpose described in subsection (b)(4)(A)) executed during the immediately preceding 3 calendar years for single family residences which are located within the jurisdiction of the issuing authority.

"(7) (A) IN GENERAL.—The Secretary of the Treasury, the Secretary of Housing and Urban Development, and the Comptroller General of the United States shall jointly conduct a study of—

"(i) the effectiveness of tax exempt mortgage revenue bond programs as compared to existing private and Federal mortgage activities in terms of providing community rehabilitation, revitalization, and housing assistance programs, especially with regard to families of low and moderate income,

"(ii) the extent to which tax exempt mortgage revenue bond programs have been directed toward those who would not otherwise have home ownership opportunities, and

"(iii) the degree to which issuers have taken specific steps to alleviate substantial displacement in the development of mortgage revenue bond programs as they would impact families of low and moderate income.

"(B) REPORT.—Not later than 2 years after the date of the enactment of this Act, the findings and recommendations of this study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.".

(b) The amendment made by subsection (a) shall apply to obligations issued on or after the date of the enactment of this Act.

LIST OF COSPONSORS

Cosponsored by 18 Senators: Cranston, *Baucus, *Chafee, Javits, Tsongas, Randolph, *Bradley, *Wallop, Melcher, McGovern, Magnuson, *Durenberger, Jackson, Simpson, Stewart, Thurmond, Bayh, and Levin.

Supported by:

National Association of Homebuilders.

National Association of Housing and Redevelopment Officials.

Council of State Housing Agencies.

Mr. WILLIAMS. Mr. President, I am pleased to offer an amendment to establish a Federal policy to promote the targeted use of tax exempt mortgage revenue bonds. This policy is intended to insure that the issuance of these bonds will advance the production of affordable housing and the revitalization of urban communities.

Over the past several months, the Housing Subcommittee has consulted with the many groups which would be affected by legislation to restrict tax exempt mortgage revenue bonds—traditional lenders, cities, redevelopment agencies, State housing agencies, State legislatures, builders, unions, municipal bond counsels, and so forth. The amendment we are introducing today is the product of these efforts.

Under this legislation tax exempt treatment of mortgage revenue bonds would be allowed in three basic situations, which I believe further valid public purposes.

First, it would allow localities to use tax exempt mortgage bonds as part of local redevelopment programs utilizing Federal funds. A commitment of Federal funds equal to 5 percent of the amount of the bond issue would be required. By making this commitment of Federal funds, the purposes of the bond issue would be consistent with the goals of existing Federal programs—such as UDAG or community development block grants—while avoiding the necessity for new levels of Federal regulation. Moreover, the allocation of a sizable portion of Federal grant funds available to a locality would require hard choices at the local level. This tie-in between the requirements of Federal programs and the local political process would insure that the redevelopment program utilizing mortgage bonds reflects responsible local decisionmaking. While families receiving mortgages as a result of such bond issues would not be precluded from participating on the basis of income, their mortgages could be used only in areas connected with an overall community revitalization program.

Second, this legislation would allow tax exempt treatment of mortgage bond issues by State housing agencies. States have been involved with the issuance of mortgage revenue bonds for years. These bond issues have been targeted in many ways, each expressing the collective wisdom of the State legislatures. Some have responded to the difficult problems of urban distress, while others have spoken to family needs which would otherwise go unmet. In the State of West Virginia, for example, tax exempt bonds have been used to assist in the development of elderly housing, while in Wyoming and other Western States, bond proceeds are being used to relieve the intense pressures on local housing supplies that can accompany energy development projects.

Finally, the legislation would provide for targeted and limited use of tax exempt issues in jurisdictions which are not served by State agencies or find it impossible to contribute Federal funds toward a bond issue that local housing needs demand. These jurisdictions, which would tend to be smaller cities and towns, should have the opportunity to serve those families which do not have full access to traditional mortgage markets. Consequently, the legislation would allow communities to issue tax exempt mortgage revenue bonds, without a commitment of Federal funds under certain conditions. Proceeds must be used by families whose incomes do not exceed 120 percent of median area income and at least half of such proceeds must go for households earning below the median income for given area. In order to assure that this type of bond issue does not become predominant, it would be limited to a specific percentage of annual mortgage activity in the issuing community.

It is important to point out that this bill deliberately does not affect current law on the issuance of tax exempt bonds for multifamily rental housing. The Nation is experiencing a crisis in rental housing, detailed most recently in a devastating General Accounting Office report which declared:

> The rental housing problem is so severe that it requires the immediate attention of and action by the Congress and the Administration.

I strongly urge my colleagues to support this consensus approach. By doing so, we can stop the issuance of mortgage bonds that promote narrow interest, and allow programs which truly serve the broad national interest—better housing and urban environments for all Americans.

● Mr. TSONGAS. Mr. President, I am pleased to join my colleague from New Jersey on this amendment to establish a policy for the use of tax exempt mortgage revenue bonds.

The amendment represents a balanced, sensible approach to an issue of

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* Finance Committee members.

great importance to all of us: Providing access to homeownership opportunities, and expanding the supply of affordable housing for low and moderate income persons.

The legislation sets out a fair policy. It corrects past abuses while continuing to provide a key financing mechanism to deliver quality housing at a reasonable cost to families without the means to obtain conventional financing for home purchase.

When the discussions on this issue began in the Congress over a year ago, we did not have the same housing situation we are facing today. The President, Treasury officials, Congressman ULLMAN, and others began their discussions in a tax and monetary policy context. Whatever the original framework or premise for limitations on mortgage revenue bonds, I suggest that we cannot avoid dealing with the issue now in the context of our pressing housing needs.

Tax exempt mortgage revenue bonds, carefully targeted to avoid credit substitution and minimize revenue loss, are an integral part of the solution we are seeking to our housing crisis. Mortgage revenue bonds are an important supplement to the conventional market, and they provide opportunities to individuals who have been traditionally underserved or excluded from conventional markets. Now, with the cost of construction money and a serious downturn in our housing industry, mortgage revenue bonds will play an increasingly important role.

Millions of moderate-income Americans have been denied access to home purchase by rising costs. They are caught in the double pincers of inflation and interest rates.

Overall housing costs are increasing twice as fast as earning capacity, and in 12 months, the principal and interest payments on a median-priced home escalated three times faster than income.

Existing Federal programs, both for homeowners and renters are simply not adequate to meet the demands and provide the necessary relief. In multifamily housing, we have cut our starts over 50 percent in the past 3 years and we are fast approaching a de facto moratorium on assisted housing. Our homeowner programs are in many cases woefully underfunded, and even with FHA and VA subsidized interest rates, these programs are still beyond the means of many families, or not competitive with conventional rates and current sale prices.

I believe that a carefully targeted mortgage revenue bond program is absolutely crucial to compensate for the high costs of housing for low- and moderate-income people.

Senator WILLIAMS has gone into the provisions of this amendment, and I will not repeat his effort, but I want to highlight some of the key provisions which are of greatest importance.

This amendment will carefully target funds in three basic ways:

First. The legislation permits local jurisdictions to issue mortgage revenue bonds to support housing in areas where other physical revitalization activities are being carried out, and requires that 5 percent of the bond value be contributed from Federal funds being used to carry out those revitalization activities. Thus, a city undertaking a comprehensive neighborhood revitalization program using perhaps a combination of block grant, EDA, UDAG, or similar funds, would contribute 5 percent of the face value of the bond from one of these sources. This provision will provide much needed access to mortgage funds for people in areas where there is little or no access to conventional financing. It will also insure that the bonds are clearly tied to a public purpose, and will insure that the bonds will be subject to controls built into existing Federal regulations.

Second. The legislation would permit State housing agencies to issue mortgage revenue bonds. At this point we have over 33 State housing agencies involved in single-family housing. Since 1970 150,000 mortgages for low- and moderate-income persons have been provided by those agencies. I think it is especially important to clarify the past participation by State agencies in mortgage revenue bonds. When we talk about $150,000 condominiums in Redondo Beach, we are clearly not meaning to indict the State agencies, where there has not been abuse.

These agencies have a statutory restriction targeting to low- and moderate-income people, and they have done a fine job of delivering and fulfilling that obligation. The States regulate their programs closely, they control all aspects of bond issuance, loan underwriting and servicing, they establish income limits, they carefully monitor, and in most cases forbid substitution for conventional credit: in short they are clearly dedicated by law and practice, to serving households needing affordable housing.

In Massachusetts, a recent survey of State agency lending activities revealed that 84 percent of the clients were first-time buyers, all had low income or moderate income, the average mortgage amount was less than $27,000, and at least 50 percent of the mortgages were made with only 5 to 10 percent downpayment.

The State agencies are doing exactly what the Congress intends them to do with these bonds, and they should be permitted to continue this valuable service.

Third. The legislation permits jurisdictions which are not served by a State agency, or which are not involved in extensive Federal revitalization efforts to issue mortgage revenue bonds to assist low- and moderate-income home buyers, with strict limitations on both income and lending limits.

This amendment continues the tax exemption of interest on mortgage revenue bonds for multifamily housing. I simply cannot stress enough the crucial role which the Federal Government is playing here. We are the primary producers of multifamily housing in this country, and the continued use of tax exempt financing for multifamily housing is absolutely essential.

This amendment has many virtues, not the least of which is that it will not burden our overloaded system with a truckload of implementing regulations. It is a good solution to an important problem. I urge my colleagues to give it their full support.●

● Mr. CHILES. Mr. President, I would like to call special attention to an aspect of the legislation before us today, S. 2719, which is extremely important to thousands of condominium and cooperative owners in my State. These individuals, many of whom are elderly, are suffering serious financial losses and emotional distress as a result of abusive long-term leases which tie rental fees for recreational or other project-related facilities to increases in the Consumer Price Index. The Housing and Community Development Act of 1980 would offer these unit owners the opportunity for relief from unfair leasing arrangements. I want to thank the members of the Senate Banking, Housing, and Urban Affairs Committee for focusing attention on the problems associated with abusive recreation leases and for addressing these concerns in this legislation.

Long-term, escalating recreation leases were the number one consumer problem identified in a 1975 HUD condominium/cooperative study. Since that time several congressional committees have looked into the troublesome recreation lease issue in an effort to find an effective solution to this problem. As chairman of the Senate Special Committee on Aging, I have had the opportunity to conduct hearings on this matter and have heard firsthand about problems posed by escalating rental fees for leased facilities.

One particularly outrageous instance that was brought to my attention during the hearings involved a facility which cost $200,000 to construct, returned more than $300,000 in fees to the developer in the first year, and will cost owners more than $700 million over the term of the lease assuming only 5 percent annual inflation. However, long before the 99 years have expired, the recreation facilities will need to be replaced, the condominium units will be unsalable and the project will be forced into bankruptcy.

Florida law now bans abusive escalating recreation leases, however, unit owners who purchased units prior to enactment of State law remain entrapped by the terms and conditions of the leases. State efforts to provide relief to these individuals have not been successful, and unit owners saddled with unfair leases now look to Federal legislation for relief. S. 2719 would offer the opportunity for relief by providing condominium and cooperative owners in long-term, escalating lease situations access to Federal courts. Provisions in the bill set forth certain conditions under which leases should be found unconscionable, and the Federal judiciary would have the power to revise the terms of unconscionable leases. In addition, the legislation would freeze automatic rent increases clauses in certain leases.

Many unit owners associations have attempted to negotiate with developers to purchase their recreation leases, but here too abuses are rampant. One developer is asking $31 million for a facility which was constructed 10 years ago at a cost of $750,000. Clearly, equitable recreation lease buyouts represent a solution to the problems associated with these unfair leases. I am concerned, however, about situations where a fair and reasonable price has not been negotiated and, as a result, unit owners must continue to bear the burden of rising recreation lease payments. A primary purpose of the proposed legislation is to encourage good-faith negotiations and facilitate resolution of the recreation lease problem.

Again, I want to thank the Members of the Senate committee for the time and attention given to the recreation lease issue. I hope we will see positive action taken by the House of Representatives as well to provide appropriate relief for individuals committed to unconscionable leasing arrangements.●

NEED TO DELAY BUILDING ENERGY PERFORMANCE STANDARDS

● Mr. DOLE. Mr. President, the Senator from Kansas supports the provision contained in S. 2719, the Housing and Community Development Act of 1980, which will delay the implementation of the building energy performance standards until August of 1982.

Mr. President, I have received numerous letters and calls from individuals and businesses which would be subject to the complex, and in the long run costly standards that are contained in 61 pages of the Federal Register. These standards are written in highly technical procedures, requirements, and certifications which make it virtually impossible for the average homebuilder or local code official to understand. These standards would require each house to be run through a computer program in order to determine compliance with the BEPS and will of course require builders to hire additional architects and engineers to design each new home or building.

NO REDUCTION IN CONSUMPTION

When the Congress acted on this measure initially in 1976, an energy savings of the equivalent of 12.5 million barrels of oil per day by 1990 was projected. Since that time however, the Department of Energy has determined that by 1990 the use of BEPS will more likely conserve under 216,000 per day or less than 2 percent of the 1976 estimate. Essentially, the BEPS will not significantly contribute to a reduced consumption of crude oil products in the United States.

COSTS OF IMPLEMENTATION

It is estimated by the National Home Builders Association that the implementation of the standards, or the costs of applying the standards to the average home, could run as high as $1,500. The home building industry, as we all know, today is in a slump and the application of the costs of BEPS to this industry would cause greater disadvantage to the industry and at the same time compound the question as to whether the standards are of the quality to make the energy savings which are claimed by the Department of Energy.

Mr. President, the Senator from Kansas understands that the Department of Energy supports the 2-year delay so that it may make the needed and necessary changes to make the standards energy and cost effective. I would urge my colleagues in the Senate and House to support this delay and carefully review the standards which will be presented in 1982.

Mr. President, I ask that the following article from the National Journal, appearing May 10, titled "Energy Standards for Buildings—Easier To Write Than Enforce?" by Dave Ranii be printed in the RECORD.

The article follows:

ENERGY STANDARDS FOR BUILDINGS—EASIER TO WRITE THAN TO ENFORCE?

(By Dave Ranii)

After four years of work and nearly $30 million in costs, the Energy Department is finally on the verge of issuing standards for regulating the total energy consumption of new buildings, as Congress called for in 1976.

Conservation and consumer groups, on the one hand, and the home-building and electrical utility industries, on the other, have been following development of the proposed building energy performance standards (BEPS) closely—so closely, in fact, that the complex, highly technical standards don't seem to be pleasing anyone.

The conservation groups argue that the standards are too lenient and lack incentives for consumers to use modern energy technology. But while they have reservations, they want to see them implemented as soon as possible and then gradually made more stringent.

The politically potent National Association of Home Builders prefers to see the standards dropped entirely. Its complaint is that they would raise the cost of housing in an already crippled market and generally confound the home builders. The electrical utilities contend that the standards, by virtually banning the use of electric baseboard heating, would encourage more consumption of imported oil and gas.

"The constituency is so big," said David Strom of the Conservation Foundation, "that it is very difficult for BEPS."

Joseph Sherman, director of energy, building technology and standards at the Housing and Urban Development Department (HUD), which turned over development of the standards to the new Energy Department in 1977, puts it more strongly: "All that everyone is doing is bitching. I haven't heard anything good about it. . . . Meanwhile, the issue of what BEPS is trying to do is being obscured."

In the crossfire, the standards could be delayed. The Energy Department may miss the Aug. 14 deadline that Congress set for the final rules, and even then, the standards will not apply to restaurants, mobile homes and industrial buildings because of a lack of research in those areas. As the issue drags on, the home builders and the utilities have had some success in making their cases against the standards, especially provisions to discourage the use of electricity.

There is also a question about how much teeth the standards will have when they are promulgated. In the 1976 Energy Conservation and Production Act (90 Stat. 1125), Congress included tough sanctions against states that don't comply. But now there is little support for the sanctions in Congress.

COMPLEXITIES

It is doubtful that Congress expected the Energy Department to produce 61 pages of proposed conservation regulations backed by more than 2,000 pages of "technical support documents."

But Congress had little doubt that the potential benefits of regulating energy consumption in new buildings would be considerable. Energy Department studies estimated that at least a third of the total energy consumed in the United States is used for heating, air conditioning, lighting and hot water for homes, commercial buildings and factories, and later studies showed that as much as 40 percent of the energy used in buildings is wasted.

The Energy Department issued advance notice of its standards in the Federal Register in November 1978. It revised its proposals a year later. Department officials say they are moving at full speed with the standards for residential and commercial buildings but concede that they may miss the August deadline because of technical questions. Opponents are pushing for a delay while the department works out the bugs in the rules.

After the standards are finally issued, Congress has a self-imposed 90-day deadline to determine whether it wants to impose sanctions. If it goes ahead, any state that does not comply with BEPS would lose federal financial assistance for construction of commercial or residential buildings, including "any form of loan, grant, subsidy" or any other form of assistance except general revenue sharing and formula grants. According to the Energy Department, the sanctions could prohibit federally regulated lending institutions from making construction or mortgage loans.

Resistance to the regulations is understandable, because the law calls for performance standards, which are very different from any builidng standards currently enforced at the state or local level.

Traditionally, building codes have been based on either prescriptive standards—which could require, for example, that all exterior walls of a building contain at least six inches of a certain type of insulation—or component-performance standards—which could stipulate that all outside walls be capable of retaining a certain amount of heat inside the building, but would permit the builder to decide how to meet that requirement.

The proposed performance standards take another approach. Builders would be required to limit the total amount of energy consumed per square foot, but would be free to meet that limit in any way. The advantage of performance standards, according to its proponents, is that they allow innovation and creativity by architects and engineers.

Since 1977, the Energy Department has spent nearly $30 million to develop its standards, with almost all the research done by contractors, a method made necessary because the department has only four full-time staff members working exclusively on BEPS. The research has produced 1,326 proposed "energy budget levels"—maximum building energy consumption levels—for single-family homes and 16 types of commercial structures in 78 geographic locations.

These energy budget levels would be applied to a specific building to determine its estimated annual rate of energy use, or its "design energy consumption." The consumption level must not exceed the building's annual permitted rate of consumption, which is called the "design energy budget."

Calculating energy consumption in this manner is a foreign practice to most home builders, however. "To tell me that in Detroit, using gas as a source of heat, my energy budget is 40.8 thousand Btus [British thermal units] per year doesn't tell a builder anything," said Donald L. Carr, director of technical services for the home builders association. "They don't deal with Btus per year."

The Energy Department has developed what it calls a standard evaluation technique for making such calculations. According to one of the Conservation Foundation's "BEPS Grams," which provide detailed analyses of the proposed regulations, "the standard evaluation technique will be in the form of a computer program designed to take blueprints of a proposed building in a given location and calculate the design energy consumption." The Energy Department has proposed three computer programs to accomplish this.

This computer-age aspect of BEPS has attracted the wrath of the building industry. In testimony on the standards at recent hearings, home builders association president Merrill Butler complained that the standard evaluation technique would be "impractical for residential and commercial construction [and] beyond the capability of builders and building officials but also most of the design professionals in this country." Butler said the home builders are afraid they would have to pay design professionals to determine if their buildings complied with the standards.

Department officials counter that work is under way to translate BEPS into the language of commonly used building codes based on prescriptive or component-performance standards, such as the HUD Minimum Property Standards and the standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

The department has also promised to provide model equivalent codes or standards and a manual of recommended practice in a format familiar to builders and building code officers. Officials contend that these aids will enable builders to continue to operate under standards familiar to them—albeit stricter standards—but allow those who want to take advantage of the design freedom offered by performance standards to do so.

All buildings in excess of 50,000 gross square feet, however, would be required to be evaluated on the performance standards. "Because these designs customarily require the services of architects or engineers, the requirement should not constitute an undue added burden," notes the department.

REACTION

There is more bothering the home builders about BEPS than an unfamiliar technology. For many builders, the very idea of federally mandated standards for energy savings in buildings is anathema, particularly in the midst of the current housing slump. "I feel the marketplace should determine the type of building I build," said Washington-area builder Gordon V. Smith. "That is the type of decision that I, as a builder or entrepreneur, should be allowed to make."

Smith contends that the energy-efficient homes he has built in the past few years—with increased insulation, "double glazing" for windows, "chinking" to fill cracks between windows and walls, ducting for fireplaces to prevent hot air from escaping and installation of energy-efficient dishwashers and hot water tanks—have improved the homes he builds so that they meet or exceed the proposed standards.

Implementing the standards would produce "little or no savings" in energy, Smith contended. "Builders are not dumb. If people want energy-efficient homes, we're going to build them. The standards assume the builder and the market are ignorant."

The building industry has found an ally in the White House's Regulatory Analysis Review Group, which issued a report contending that in light of the decontrol of energy prices and legislation designed to induce homeowners to conserve energy, building practices may have improved to the point that the standards are obsolete. The report claims that "the desirability of BEPS is open to question."

Maxine Savitz, deputy assistant Energy secretary for conservation, disputes this. "According to a Tennessee Valley Authority survey of 6,000 homes, 20 per cent had no ceiling insulation, 85 per cent had no floor insulation and 80 per cent had single glazing (only one layer of glass in windows). I think that answers that criticism."

Mark Cooper, research director at the Consumer Energy Council of America, said the home building industry is too decentralized to respond quickly to market pressures. "If it takes 10 years for builders to respond to market pressures, that is 15 million energy-inefficient homes that will be built—and these homes will last 60 years."

The Energy Department has its own estimates of the energy savings that would be realized. The department estimates that, if implemented immediately, the standards could save 29 quads of energy (a quad is one quadrillion Btus) in the next 40 years. By comparison, total U.S. energy consumption in 1977 was 76 quads.

Besides questioning the need for the standards, the home building industry, at public hearings in Washington and five other cities during March and April, raised numerous technical objections. Builders argued that the standards would be more stringent for smaller homes, that they could not be used to determine energy levels for homes with basements or with baseboard heating with thermostats in each room and that they would be "inconsistent and inequitable" because they would require builders to employ much more stringent conservation methods than the prevailing practices in some geographic areas while in others they would be considerably more lenient than the prevailing practice.

At the heart of their complaints are the added costs that the standards would impose. The Energy Department estimates that they would add up to $1,500 to the cost of an average house, and says the extra expense should be recovered in two to eight years through decreased energy bills.

The home builders association estimates that total increased costs would be twice that much, an "extreme first-cost penalty [that] will reduce the number of homes and apartments that can be built and either sold or rented."

But Cooper argues that even if the building industry's estimate is correct, the resulting increase for an average home would be less than the increase that occurred when the mortgage interest rate jumped from 14 to 15 per cent.

John Millhone, the Energy Department's director of buildings and community systems, said: "The home builders say they don't need BEPS, that they are building energy-efficient homes, that the market is solving the problem. We are also being told, often by the same [builders], that BEPS is so stringent that it is impossible to meet and if we go ahead with BEPS we will drive them out of business because people will not be able to afford new homes."

WEIGHTING FACTORS

In addition to calling for "maximum practical improvement in energy efficiency" in buildings, Congress also dictated that there be "increases in the use of nondepletable sources of energy." In an effort to accomplish this goal, the Energy Department has proposed to weigh the various energy sources according to their relative importance. The "weighting factors" are the most controversial single aspect of BEPS.

The weighting factor for each energy source is based on its national average price projected for 1985, with a premium added to oil and gas in recognition of their scarcity. Despite this premium, the system of weighting factors makes electricity almost three times as "expensive" as natural gas for single-family homes and almost twice as expensive as oil.

The electric utility industry has stridently condemned the weighting factors, as have the home builders. They contend that the Energy Department has exceeded its authority by encouraging the use of oil and gas—contradicting the policies set forth by President Carter and Congress.

"If you use the weighting factors, you are using more oil and natural gas, . . . which will have a detrimental effect on our balance of payments," said Paul C. Greiner, vice president for consumer relations at Edison Electric Institute, an association of privately owned utilities. Greiner said the weighting factors, in effect, ban the use of electricity for heating.

"To say electricity has a blanket national impact when consumed is obviously erroneous because electricity comes from many different sources," said W. E. Lee, director of consumer services of the American Public Power Association. "The true significance of utilizing electrity lies in the source that created it."

It is widely believed that the Edison Electric Institute will sue the Energy Department if weighting factors are not removed from the standards, and, Greiner acknowledged, "That's probably the case."

The Energy Department appears ready to modify—if not eliminate—the weighting factors. Millhone said the department is considering using state and local prices, rather than national prices, to reflect the different fuel sources of electricity. He added that the department is "not locked in completely to the idea of the weighting factors themselves."

Many conservation groups see no need to modify the weighting factors, saying that electric utility plants consume three Btus of energy for every Btu they deliver to the home.

In fact, the conservation and consumer groups have relatively few complaints about what is included in the standards: they're more worried about what they leave out.

Generally, these groups complain that the standards are too lenient, particularly for commercial buildings, and contend that the technology exists for much more energy-efficient buildings that would actually save money for their owners.

"BEPS always errs on the side of caution rather than the side of conservation," said Cooper, who argues that the standards should encourage builders to use solar energy.

Alan S. Miller, an attorney for the Natural Resources Defense Council Inc., said that builders and designers using solar equipment would continue to do so under the new standards, but added that "there are no incentives for people unaware of solar technology."

The conservation groups support the standards anyway. "BEPS, lenient as it is, will be an important contributor to energy savings," said Grant Thompson, senior associate at the Conservation Foundation.

The conservationists are also well aware that the law requires periodic updating of the standards. They have hopes for more stringent standards in the future.

PROMULGATION

The Energy Department isn't ready to issue its standards just yet, and officials admit the August deadline may be missed. The department plans to publish equivalent standards and codes for BEPS at the same time the rules are promulgated, and this "may cause us to delay a few months," Savitz said.

Outsiders speculate that the department is under political pressure to issue the standards in August. "I'm quite doubtful that they will delay the standards," said William J. McKee Jr., staff director of the National Society of Professional Engineers. "I think that they are under strong pressure from the Administration and from Congress. It is part of the whole pressure to get something done in the energy area."

But pressure from the opposite direction is being exerted by the home builders group, which is urging that Congress extend the deadline while the Energy Department conducts a pilot program" to test whether the standards would be economically feasible.

Even if the rules are promulgated in August, the 90-day deadline Congress has given itself to consider the question of sanctions makes the chances of it dealing with the issue this year remote.

"We have mixed feelings about that," said Miller of the Natural Resources Defense Council. "If you expect a Reagan Administration, all the rules of the game are out and we have to start from scratch."

Miller believes sanctions are the key to the success of the standards. "Although BEPS would be the law of the land, there is not much behind them until Congress approves sanctions."

The sanctions are so harsh that congressional approval in the face of strong opposition from the home builders—and its own current anti-regulatory fevor—is unlikely. "I can't think of anyone in the House or Senate who supports the sanctions," said a House staff member.

Even some of the conservation groups don't support sanctions. The Conservation Foundation said they are "equivalent to sending policemen out in patrol cars, equipped only with fragmentation bombs. . . ." The foundation suggests, as an alternative, the imposition of less extreme penalties coupled with incentives to persuade the states to implement the new rules.

Energy Department officials say they are still pondering whether to recommend sanctions. A department official said there is "a great deal of interest in a voluntary program for a couple of years with provisions for mandatory sanctions" later.

The Regulatory Analysis Review Group's report said sanctions may not be necessary because even without them, the standards would "apply to federal governmental and certain other directly federally financed buildings, which may effectively induce industry-wide compliance efforts."

In addition to deciding the question of sanctions, Congress must also choose which government department will work with the states to implement the standards.

When the Energy Department was created, Congress transferred technical development of the standards to the department but left implementation up to HUD. The two departments eventually concluded that this was an inefficient division of labor, and entered into an agreement delegating the implementation process as well to the Energy Department.

So the Energy Department is developing preliminary implementation plans while Congress ponders approval of the transfer of authority. Bills calling for the transfer are still in House and Senate committees and, in the House at least, there is some resistance to the move.

Regardless of who is in charge, implementation will be a gargantuan task.

"To make BEPS work, we consider the educational process very important," said Hank Wakabayashi, director of energy programs for the National Conference of States on Building Codes and Standards.

"It's a long, drawn-out educational process," said David R. Miller, energy coordinator for the Massachusetts Building Code Commission. He noted that in Massachusetts alone there are 600 building inspectors, 4,000 registered architects, 13,000 registered engineers and countless unlicensed designers. "You have to get the word out to them," he said.

Savitz, who helped write the law requiring the standards, said of the process: "It was easier to write the legislation than to write the rules. It was easier to write the rules than it will be to implement them."●

Mr. JAVITS. Mr. President, I intend to cast my vote in favor of S. 2719, the Housing and Community Development Act of 1980. This bill would amend and extend Federal law as it relates to housing, community and neighborhood development and preservation, programs with which I have long been identified and for which I have worked to enact.

This year the Banking Committee proposed a major modification of the housing assistance program, which was intended to provide more units of housing for low income persons and to establish a program of moderate income housing assistance.

I joined with the Senator from New Jersey (Mr. Williams) and the Senator from Wisconsin (Mr. Proxmire) in supporting the moderate income housing program proposed in S. 2719.

I listened very attentively to the argument that this was a dilution of section 8 funds, but I agree that it would have brought about an increase in the number of section 8 low-income assisted housing units, the main purpose of our Federal housing assistance programs. At the same time, the new programs would have provided some housing assistance to persons of moderate means, especially the working poor. Moreover, this new program could have caused an increase in the stock of rental housing, thereby easing the tight rental housing market, particularly in the cities.

I have long worked to secure improved housing assistance for low income persons—to insure that our Nation's poor have decent housing.

The section 8 moderate income proposal contained in the committee bill was, in my judgment, an innovative approach protecting, indeed enhancing, Federal low income housing assistance. Under this package, every State in the Nation would be able to assist more low income families than under the present section 8 program, and at less cost. Remaining funds could then be channeled to a moderate income new construction program.

I supported this package because it provided more units of assisted housing to low income persons than if all of the assisted housing moneys were directed to the low income program; while at the same time providing assistance to moderate income persons. For New York this would have meant 52,480 units as opposed to 32,640 under the present program—a difference of 20,000 units. And in this era of budgetary constraints, this would be accomplished at lower overall cost.

It is for this reason, Mr. President, that I voted against the amendment of the Senator from Utah. Because the Senate adopted that amendment, however, the moderate income housing assistance proposal has been rejected, and we will have a section 8 program as modified by the amendment of the Senator from Ohio (Mr. Metzenbaum).

Let us not forget, however, that the section 8 program remains, as the centerpiece of our Federal effort to provide housing assistance for low income persons.

Mr. President, there is another matter I would like to mention briefly—the availability of flexible subsidy funds for State-assisted housing projects. This year such funds have become available to State-assisted projects, along with federally insured projects.

Congress has not, however, provided any direction to the Department as to how funds are to be allocated between State and federally insured projects.

HUD has taken steps to implement the program for both federally insured and State-insured projects, but I am concerned that HUD's proposed allocation formula may have a serious shortcoming.

HUD's allocation formula for flexible subsidy assistance between HUD-insured and uninsured projects seems to be based upon the number of eligible projects in each group. This system could be particularly harmful to those areas with larger projects containing a large number of units, which is generally the case with State-assisted projects. In these areas the projects are most needed and State and local governments have themselves provided the largest contributions to the projects' viability.

Now I had a lot to do with our insuring that States be eligible for the flexible subsidy program, so I want to urge HUD that in making its allocation between uninsured and insured projects it consider a basis which recognizes the present tilt against State-financed projects. We are not in a position to suggest a precise formula which addresses this problem now, I know that HUD is working on this issue. I simply want to express my concern that it do so on a basis which more fairly reflects this situation.

Mr. PROXMIRE. Mr. President, reluctantly I will vote "No" on this bill. I will do so with great reluctance, believe me, because I think the managers of the bill, Senator Williams and Senator Garn, did an outstandingly good job. They deserve great credit. It is a most complicated and difficult bill to handle and they handled it very, very well indeed.

I also shall vote "No" in spite of the fact that it has some very favorable and helpful provisions with respect to the Home Mortgage Disclosure Act, made some real advances in that respect, and I think it advanced civil rights in the process of doing so.

But, Mr. President, I will vote "No" because the bill, as it came out of committee, was a bill that provided for 247,000 new construction units and substantial rehabilitation compared to 153,000 as we have it now in the bill.

Now, at a time when the housing industry is flat on its back, it seems to me for the Senate to come forward with something that costs no less and gives us 94,000 fewer housing units constructed is a serious mistake.

In the second place, I will vote against the bill because I think it was a mistake for us to cut assistance for total units for lower income persons from 286,000 down to 255,000. So the poor are less well taken care of in the bill as it has been amended.

Finally, Mr. President, overall assistance, assisted housing units, dropped from 410,000 down to 255,000, with no savings in money. It does not make any sense to me at all.

On March 25, I came before the Senate with this proposal that would have provided, in my judgment, a far better housing program. I must say, I ran into some disagreement—and very sensible disagreement—from my colleagues on the committee, Democrats on the committee, to begin with. They were greatly won over and, I am happy and proud to say, that all nine of the Democrats on the committee voted for our position. It took time, because it was new, it was a change, and it was different. It was hard to appreciate and accept.

I have talked to some of the people in the low-income housing coalition. They are beginning to see the light on this thing. I do hope, as time goes on, that Senators will keep their minds open, because it makes no sense at all for us not to provide as much housing as we can in this country at the lowest possible cost. Is that not what we are here to do?

That is why, on a bill which I think, in many respects, was a very good bill and was extremely well handled by Senator WILLIAMS and Senator GARN, I very reluctantly will vote "no."

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MELCHER), and the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Wyoming (Mr. SIMPSON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote.

The result was announced—yeas 63, nays 4, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—63

Baker
Baucus
Bellmon
Biden
Boschwitz
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Dole
Durenberger
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pressler
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stafford
Stevens
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—4

Armstrong
Byrd,
  Harry F., Jr.
Helms
Proxmire

NOT VOTING—33

Bayh
Bentsen
Boren
Bradley
Bumpers
Church
Cohen
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Goldwater
Gravel
Huddleston
Humphrey
Kennedy
Leahy
Long
Lugar
McGovern
Melcher
Morgan
Pell
Percy
Pryor
Sasser
Simpson
Stennis
Stevenson
Talmadge
Tower

So the bill (S. 2719), as amended, was passed as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Act of 1980".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

SEC. 101. (a) Section 102(b) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof of the following new sentence: "Notwithstanding any other provision of law, for the fiscal years 1981, 1982, and 1983, (1) no data derived from the 1980 Decennial Census, as provided for in subchapter II of title 13, United States Code, except those relating to population and poverty, shall be taken into account for purposes of section 119 or the allocation of amounts under section 106, and (2) no revision to the criteria for establishing a metropolitan area or defining a central city of such an area published after January 1, 1980, shall be taken into account for purposes of this title, except that any area or city which would newly qualify as a metropolitan area or a central city of such an area by reason of any such revision shall be so considered.".

(b) Section 102 of such Act is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 103 (a)(1), the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(6)(B) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible as a separate entity, unless the grant to the urban county is disapproved or withdrawn prior to or during such three-year period. During any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year.

"(e) Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(B)(i), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

"(f) In the case of a metropolitan city which is located in whole or in part within the jurisdiction of an urban county designated pursuant to subsection (a)(6), the Secretary is authorized, upon the joint request of such city and urban county, to provide for (1) the addition of the amount allocated to such city pursuant to section 106(b)(1) to that allocated to such urban county pursuant to section 106(b)(2), and (2) the inclusion, to the extent and in the manner prescribed by the Secretary, of such city in such urban county for purposes of grants made pursuant to section 106(b).".

AUTHORIZATIONS

SEC. 102. (a) The second sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for these purposes amounts aggregating not to exceed $19,350,000,000 for fiscal years prior to the fiscal year 1981, and additional amounts not to exceed $3,950,000,000 for the fiscal year 1981, not to exceed $4,100,000,000 for the fiscal year 1982, and not to exceed $4,250,000,000 for the fiscal year 1983.".

(b) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $285,000,000 for the fiscal year 1981 shall be added to the amount available for allocation under section 106(c) and shall not be subject to the provisions of section 107.".

(c) Section 103(c) of such Act is amended to read as follows:

"(c) There are authorized to be appropriated for supplemental grant assistance under section 119 amounts aggregating not to exceed $1,475,000,000 for fiscal years prior to the fiscal year 1981, and additional amounts not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983.".

CONSIDERATION OF DISPLACEMENT EFFECTS IN APPLICATIONS

SEC. 103. Section 104(a)(2) of the Housing and Community Development Act of 1974 is amended by striking out clauses (B) and (C) and inserting in lieu thereof the following: "(B) indicates resources other than those provided under this title which are expected to be made available toward meeting its identified needs and objectives, including activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons, (C) takes into account the effect of the activities referred to in clause (A) which could involuntarily displace low- and moderate-income persons from their immediate neighborhoods, and (D) takes into account appropriate environmental factors;".

CERTIFICATION REQUIREMENT FOR ECONOMIC DEVELOPMENT PROJECTS

SEC. 104. The first sentence of section 104(b)(2) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end thereof the following: ", and if the object of any part of the program is economic development and unless the program comprises only one specifically identified project involving economic development, that such part, of the program has been developed so as to benefit principally low- and moderate-income persons through either services to low- and moderate-income neighborhoods or job opportunities primarily for low- and moderate-income persons".

ELIGIBLE ACTIVITIES

SEC. 105. Section 105(a)(2) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "parks, playgrounds, and recreational facilities" the following: "(including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river where such assistance under other Federal laws or programs is determined to be unavailable)".

PRO RATA REDUCTION OF GRANTS

SEC. 106. Section 106(m) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "fiscal year 1978, fiscal year 1979, or fiscal year 1980" and inserting in lieu thereof "any fiscal year";

(2) by striking out "and hold-harmless" wherever it appears; and

(3) by striking out "(d)(2)" and "(f)(1)(B)" and inserting in lieu thereof "(c)" and "(e)", respectively.

DISCRETIONARY FUND

SEC. 107. Section 107(a) of the Housing and Community Development Act of 1974 is amended by striking out "of authority to enter into contracts approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980" and inserting in lieu thereof "approved in an appropriation Act under section 103(a)(1) for any fiscal year.".

REHABILITATION LOANS

SEC. 108. (a) Section 312(c)(4) of the Housing Act of 1964 is amended—

(1) by striking out in subparagraph (A) "$27,000" and inserting in lieu thereof "$35,000";

(2) by striking out "and" at the end of subparagraph (A);

(3) by redesignating subparagraph (B) as subparagraph (D); and

(4) by inserting after subparagraph (A) the following:

"(B) in the case of residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility where meals can be served to the occupants of such residential property, $25,000 per dwelling unit;

"(C) in the case of residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, $15,000 per dwelling unit; and".

(b) The first sentence of section 312(d) of such Act is amended by striking out "and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979" and inserting in lieu thereof "not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979, not to exceed $124,000,000 for the fiscal year beginning on October 1, 1980, not to exceed $129,000,000 for the fiscal year beginning on October 1, 1981, and not to exceed $134,000,000 for the fiscal year beginning on October 1, 1982".

(c) Section 312(h) of such Act is amended by striking out "1980" each place it appears and inserting in lieu thereof "1983".

(d) Section 312(f) of such Act is amended by inserting before the period at the end thereof the following: ", except that no loan may be made under this section to refinance existing indebtedness unless the Secretary determines that such loan is necessary and appropriate".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 109. The first sentence of section 705 of the Housing and Community Development Amendments of 1978 is amended by inserting immediately after "1980" the following: ", and not to exceed $10,000,000 for the fiscal year 1981".

URBAN HOMESTEADING

SEC. 110. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (g)".

ELIGIBILITY OF INDIAN TRIBES FOR URBAN DEVELOPMENT ACTION GRANTS

SEC. 111. (a) Section 194(a) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "section 106 or" the following: "to a city or urban county pursuant to".

(b) Section 107(d) of such Act is amended by inserting immediately after "Indian tribe" in the first sentence the words "under this title".

(c) Section 119(e)(1) of such Act is amended—

(1) by inserting immediately after "for the purpose of making grants" the following: "to cities, urban counties or Indian tribes";

(2) by inserting immediately after "selection criteria which must include (A)" a comma and the following: "in the case of cities and urban counties, (i)";

(3) by striking out "(B)" and "(C)" and inserting in lieu thereof "(ii)" and "(iii)", respectively; and

(4) by inserting immediately before the period at the end thereof a semicolon and the following; "and (B) in the case of Indian tribes, such criteria as the Secretary deems appropriate".

(d) Section 119(k) of such Act is amended by inserting immediately before the period at the end thereof the following: "and for Indian tribes as provided in subsection (n)".

(e) Section 119 of such Act is amended by adding the following new subsection at the end thereof:

"(n)(1) The Secretary is also authorized to make grants to Indian tribes as provided in this section, except as modified by this subsection.

"(2) The Secretary may not approve a grant to an Indian tribe unless such Indian tribe—

"(A) is located outside a city or urban county;

"(B) meets such minimum standards of distress as the Secretary may prescribe;

"(C) has submitted an application which includes documentation of eligibility for grants in accordance with the standards referred to in clause (B) of this paragraph and meets the requirements of subsection (c) (2) through (6), except for the provisions of paragraph (2) thereof requiring the urban development action program to be consistent with the provisions of section 104 (a) (2) and (4); and

"(D) has submitted an application for assistance under section 107(a)(7).".

INCLUSION OF CERTAIN INDEPENDENT CITIES IN DETERMINING COMMUNITY DEVELOPMENT GRANT AMOUNTS FOR URBAN COUNTIES

SEC. 112. Section 106(b)(4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

"(A) is not part of any county;

"(B) is not eligibile for a grant pursuant to subsection (b)(1);

"(C) is contiguous to the urban county;

"(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

"(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible for a grant under subsection (c) or (e) with respect to such fiscal year.".

TECHNICAL AMENDMENTS TO THE BLOCK GRANT PROGRAM

SEC. 113. (a) Section 102 of the Housing and Community Development Act of 1974 is amended by striking out "Office of Management and Budget" each place it appears in subsection (a)(3), (4), and (8) and subsection (b) and inserting in lieu thereof "Department of Commerce".

(b) Section 103 of such Act is amended by striking out subsection (f) as redesignated by section 111 of this Act.

(c) Section 104 of such Act is amended—

(1) by striking out "106(a)" in the first sentence of subsection (c) and inserting in lieu thereof "106(b)"; and

(2) by striking out "(d)(2)" and "(f)(1)(B)" wherever they appear in subsections (d) and (e) and inserting in lieu thereof "(c)" and "(e)", respectively.

(d) Section 106 of such Act is amended by striking out subsections (c), (g), (h), (i), (j), and (l) and redesignating subsections (d), (e), (f), (k), and (m) as subsections (c), (d), (e), (f), and (g), respectively.

(e) The second sentence of section 106(a) of such Act is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "subsection (d)"; and

(2) by striking out "aggregate", "the greater of" and "or its hold-harmless amount computed pursuant to subsection (g)".

(f) Section 106(b)(4) of such Act is amended by striking out "(A) which are entitled to hold-harmless grants pursuant to subsection (h), or (B)".

(g) Section 106(c) of such Act, as redesignated, is amended—

(1) by striking out the following: "allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be";

(2) by striking "subparagraph" each place it appears in the second sentence of paragraph (1), as amended, and inserting in lieu thereof "clause";

(3) by redesignating paragraph (3) as paragraph (2);

(4) by striking out in paragraph (2), as redesignated, "paragraph (2)" wherever it appears and inserting in lieu thereof "paragraph (1)";

(5) by striking out the second sentence of paragraph (2), as redesignated; and

(6) by striking out in the final sentence of paragraph (2), as redesignated, ", Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h)" and inserting in lieu thereof "and Indian tribes".

(h) Section 106(e) of such Act, as redesignated, is amended—

(1) by striking out in the first sentence of paragraph (1) the following: "allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h); and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be";

(2) by redesignating in the first sentence of paragraph (1) "(i)" and "(ii)" as "(A)" and "(B)", respectively, and "(I)", "(II)", and "(III)" wherever they appear as "(i)", "(ii)", and "(iii)", respectively;

(3) by striking out in the second sentence of paragraph (1) "(i) of subparagraph (B)" and "(ii) of subparagraph (B)" and inserting in lieu thereof "(A)," and "(B)", respectively;

(4) by striking out in the third sentence of paragraph (1) "subparagraph (B)" and inserting in lieu thereof "this paragraph", and striking out "subparagraph" wherever else it appears in paragraph (1) and inserting in lieu thereof "paragraph";

(5) by striking out the second sentence of paragraph (2);

(6) by striking out in paragraph (2) "paragraph (1)(B)" wherever it appears and inserting in lieu thereof "paragraph (1)";

(7) by striking out in the last sentence of paragraph (2) the following: "units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) and"; and

(8) by striking out "paragraph (1)(B)" in the first sentence of paragraph (3) and inserting in lieu thereof "paragraph (1)".

(i) Section 108 of such Act is amended—

(1) by adding immediately after "commitments to guarantee" in the first sentence of subsection (a) the following: ", only to such extent or in such amounts as provided in appropriation Acts."; and

(2) by striking out in subsection (k) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "The".

(j) Section 116 of such Act is amended—

(1) by striking out subsections (b), (f), and (h) and redesignating subsection (g) as subsection (b); and

(2) by striking out in subsection (b), as redesignated, "or from a unit of general local government for a grant pursuant to section 106(h)".

(k) Section 106(i) of such Act is amended by striking out "section 106(d)(2)" and "section 106(f)(1)(B)" and inserting in lieu thereof "section 106(c)" and "section 106(e)(1)", respectively.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

Sec. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" after "October 1, 1978" in the first sentence;

(2) by inserting after "October 1, 1978," in the first sentence the following: "by $1,419,707,000 on October 1, 1980,";

(3) by inserting after "October 1, 1978," in the second sentence the following: "but prior to October 1, 1980,";

(4) by inserting after the second sentence the following: "In utilizing the additional authority provided under this subsection on and after October 1, 1980, the Secretary, to the maximum extent practicable consistent with carrying out the objectives of this Act, shall accommodate desires of local governments regarding the allocation of assistance among new, substantially rehabilitated, and existing housing units. The total budget authority associated with such additional authority shall not exceed $30,927,500,000."; and

(5) by adding at the end of the first paragraph the following: "Of the additional authority to enter into contracts provided on October 1, 1980, and approved in appropriation Acts, $321,343,000 shall be available only for units assisted under this Act, other than under sections 8 (not less than $75,000,000 of which shall be available for modernization or substantial rehabilitation of such units).".

(b) Section 13 of such Act is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) In utilizing the additional authority provided under section 5(c) on or after October 1, 1980 and made available for modernization or substantial rehabilitation of projects assisted under this Act, other than under section 8, the Secretary shall establish standards which provide for energy conserving improvements in such projects which, to the extent practicable, shall be consistent with the Minimum Property Standards for Multifamily Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards where the Secretary determines that such higher standards are appropriate.".

(c) Section 6(c)(4)(A) of such Act is amended by inserting immediately after "(A)" the following: "Except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families.".

INCREASE IN GNMA MORTGAGE PURCHASE AUTHORITY

Sec. 202. Section 305(c) of the United States Housing Act of 1937 is amended by inserting immediately before the period at the end thereof ", and by $200,000,000 on October 1, 1980".

PUBLIC HOUSING OPERATING SUBSIDIES

Sec. 203. Section 9(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "on or after October 1, 1978,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $862,000,000 on or after October 1, 1980".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

Sec. 204. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "and" after "the fiscal year 1979,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $31,100,000 for the fiscal year 1981".

(b) Section 236(f)(3)(B) of the National Housing Act is amended by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "September 30, 1981".

(c)(1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "maintain the financial soundness," the following: "to prevent projects from becoming financially unsound,".

(2) Section 201(d)(1) of such Act is amended by inserting after "maintain the financial soundness of the project" the following: ", or prevent a project which has a substantial number of tenants paying more than 50 per centum of their incomes for rent from becoming financially unsound,".

(3) Section 201(f)(1)(B) of such Act is amended—

(A) by inserting "or preventing" after "moderate-income character of the project by reducing"; and

(B) by inserting before the semicolon at the end thereof the following: "or which would be substantially likely to occur because of the high rent-to-income ratios in the project".

SECTION 235 AMENDMENTS

Sec. 205. Section 235 of the National Housing Act is amended—

(1) by striking out, in the last proviso in subsection (b)(2), $32,000", $38,000", $38,000", and $44,000" and inserting in lieu thhereof $40,000", $47,500", "47,500", and $55,000", respectively;

(2) by striking out, in subsections (i)(3)(B) and (i)(3)(C), "$32,000", $38,000", $38,000", and $44,000", wherever they appear, and inserting in lieu theerof $40,000", $47,500", $47.500", and $55,000", respectively;

(3) by striking out in subsection (i)(3)(D) "$44,000" and $49,000" and inserting in lieu thereof "$55,000" and $61,250", respectively; and

(4) by adding at the end thereof the following new subsection:

"(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

CONGREGATE SERVICES PROGRAM AMENDMENT

Sec. 206. (a) Section 405(c) of the Housing and Community Development Amendments of 1978 is amended by inserting immediately after "for assistance" the following: "to provide congregate services to elderly residents".

(b) Section 405(d) of such Act is amended by inserting immediately after "this title" in the first sentence the following: "for the provision of congregate services to elderly residents".

(c) Section 405(e) of such Act is amended—

(1) by striking out in paragraph (1) all that precedes "if any, designated by appli-

cable State law" and inserting in lieu thereof the following: "A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped residents shall consult with the appropriate agency,"; and

(2) by striking out "local" immediately after "such appropriate" in the first sentence of paragraph (2).

CONGREGATE HOUSING

SEC. 207. Section 403 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "or" after paragraph (1)(A);

(2) by adding at the end of paragraph (1) the following: "or (C) housing which is assisted under section 8 of the United States Housing Act of 1937, which is occupied solely by handicapped persons, which is owned and operated by a nonprofit sponsor, and which is designed to provide congregate services;"; and

(3) by inserting before the period at the end of paragraph (9) the following: ", or any other nonprofit sponsor of a project assisted under section 8 of the United States Housing Act of 1937 which provides congregate housing to the handicapped".

REPORT ON HOUSING ASSISTANCE BLOCK GRANT PROGRAM

SEC. 208. Not later than March 31, 1981, the Secretary shall submit a comprehensive feasibility study of a housing assistance block grant program as an alternative to the fiscal year 1982 budget for categorical housing assistance programs. Such study shall include, but not be limited to—

(1) simplified and expedited application and review procedures;

(2) an equitable allocation formula which reflects both current program experience and identified needs; and

(3) such other recommendations as the Secretary deems appropriate.

SECURITY PROGRAM FOR PUBLIC HOUSING

SEC. 209. (a) This section may be cited as the "Public Housing Anti-Crime Amendments of 1980".

(b) The Congress finds that—

(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

(2) funding to provide more security for public housing can be used to leverage funding from other sources and thereby produce more successful anti-crime efforts;

(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more co-targeting of Federal and local anti-crime resources;

(4) as authorized by the Public Housing Security Demonstration Act of 1978, the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on such Program have provided useful suggestions which now can be implemented.

(c) It is, therefore, the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Program so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects.

(d) Section 207 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out subsection (c)(4) and inserting in lieu thereof the following:

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, ACTION, the Community Services Administration, and State and local agencies.

"(5) In order to access the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under the United States Housing Act of 1937, other than under section 8 of such Act.";

(2) by striking out "this Act" in the first sentence of subsection (e) and inserting in lieu thereof "the Housing and Community Development Act of 1980"; and

(3) by adding the following new sentence at the end of subsection (f): "Of the budget authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may utilize up to $10,000,000 of such authority to carry out this section.".

PAYMENT OF NONFEDERAL SHARE

SEC. 210. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"PAYMENT OF NONFEDERAL SHARE

"SEC. 15. Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8 or 14:

"(1) development or modernization cost financed with loans or debt service annual contributions under this Act;

"(2) annual contributions under this Act for operation of the project; or

"(3) rental or use-value of buildings or facilities paid for, in whole or in part, with the assistance specified in clause (1) or (2) of this sentence.".

SECTION 8 ASSISTANCE TO FAMILIES OF VERY LOW INCOME

SEC. 211. (a) Section 8(f)(1) of the United States Housing Act of 1937 is amended by, striking out "80" both places it appears and inserting in lieu thereof "65".

(b) The amendments made by this subsection do not affect the eligibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing subject to an annual contributions contract on the effective date of this section.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1980" in the first sentence and inserting in lieu thereof "October 1, 1981".

(b) Section 217 of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1980" in the fifth sentence and inserting in lieu thereof "September 30, 1981".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(f) Section 244(d) of such Act is amended by—

(1) striking out "September 30, 1980" in the first sentence and inserting in lieu thereof "September 30, 1981"; and

(2) striking out "October 1, 1980" in the second sentence and inserting in lieu thereof "October 1, 1981".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1980" where it appears and inserting in lieu thereof "September 30, 1981".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY AND MINIMIZATION OF DISCOUNT POINTS

SEC. 302. Section 3(a) of Public Law 90-301 is amended—

(1) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1981"; and

(2) by inserting after the first sentence thereof the following: "When effective interest rates on home mortgages are rising, the Secretary shall exercise the authority conferred by the preceding sentence with sufficient frequency to promote the objective that discount points payable in connection with mortgages insured pursuant to such programs should be minimized to the maximum extent feasible.".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1981".

RESEARCH AUTHORIZATIONS

SEC. 304. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $50 300.000 for the fiscal year 1980" and inserting in lieu thereof "not to exceed $50.300.000 for the fiscal year 1980, and not to exceed $52,100,000 for the fiscal year 1981".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 305. Section 5190(f) of the National Housing Act is amended by striking out all that follows "General Insurance Fund not to exceed" and inserting in lieu thereof "$1,738,000,000.".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION INTEREST REDUCTION GRANT DEMONSTRATION

SEC. 306. Title III of the National Housing Act is amended by adding at the end thereof the following:

"DEMONSTRATION PROGRAM

"SEC. 317. In carrying out the purposes set forth in section 301(b) of this Act, the President may, under this section, authorize the Association to make payments to financial institutions for the purpose of subsidizing below market rate loans which are secured by mortgages insured under title II of this Act covering properties consisting of five or more dwelling units. The amount of any payment made with respect to any loan shall be in an amount necessary, as determined by the Association, to compensate the financial institution for the difference in yield between making such loan at an interest rate determined by the Association and making such loan at a market rate. There are authorized to be appropriated for the purpose of carrying out this section not to exceed $30,000,000 for the fiscal year ending September 30, 1981, to remain available until expended.".

INCREASE IN CERTAIN MAXIMUM MORTGAGE AMOUNTS FOR ENERGY CONSERVING MEASURES

SEC. 307. (a) The last sentence of section 207(c)(3) of the National Housing Act is amended by striking out "therein" and inserting in lieu thereof "or residential energy conservation measures (as defined in section 210(11)(A) through (G) and (I) of Public Law 95–619) therein".

(b) Section 213 of such Act is amended by adding at the end thereof the following:

"(p) Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) therein.".

(c) Section 220(d)(3)(B)(iii) of such Act is amended by inserting before the semicolon at the end thereof the following: ": *And provided further*, That the Secretary may further increase any of the dollar amount limitations which would otherwise apply for the purpose of this clause by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) therein".

(d) Section 221 of such Act is amended by adding at the end thereof the following new subsection:

"(k) With respect to any project insured under subsection (d)(3) or (d)(4), the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) therein.".

(e) Section 231(c)(2) of such Act is amended by inserting immediately before the semicolon at the end thereof ": *Provided*, That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) therein.".

(f) Section 232(d)(2) of such Act is amended to read as follows:

"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, including—

"(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

"(B) a solar energy (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619).".

(g) Section 234 of such Act is amended by adding at the end thereof the following new subsection:

"(j) The Secretary may further increase the dollar amount limitations which would otherwise apply under subsection (e) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619) therein.".

(h) Section 242(d)(2) of such Act is amended to read as follows:

"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project including—

"(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and

"(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619).".

(i) Section 1101(c)(2) of such Act is amended by inserting immediately after "the boundaries of the property," the following: "a solar energy system (as defined in subparagraph (3) of the last paragraph of section (a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95–619),".

TITLE I CLAIMS COLLECTIONS

SEC. 308. Section 2(c) of the National Housing Act is amended by adding the following new paragraph at the end thereof:

"(3) The Secretary, in collecting or compromising claims or obligations under this section, is authorized to contract with private business concerns or agencies for payment for services rendered by such concerns or agencies in assisting the Secretary in making such collection or compromise. Contracts under this subsection entered into by the Secretary for assistance in the collection or compromise of claims or obligations as signed to or held by the Secretary shall provide that attempts to collect or compromise such claims or obligations shall be conducted in accordance with the Fair Debt Collection Practices Act.".

DEFINITION OF MORTGAGE UNDER THE NATIONAL HOUSING ACT

SEC. 309. Section 201(a) of the National Housing Act is amended by striking out "having a period of not less than fifty years to run from the date the mortgage was executed" and inserting in lieu thereof "having a period of not less than ten years to run beyond the maturity date of the mortgage".

SECTION 220 MORTGAGE INSURANCE IN AREAS OF CONCENTRATED DEVELOPMENT ACTIVITIES

SEC. 310. (a) Section 220(d)(1)(A) of the National Housing Act is amended by inserting after "pursuant to section 117 of the Housing Act of 1949" the following: ", or (v) an area, designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation".

(b) Section 220(d)(3(B)(iv) of such Act is amended by inserting after "urban renewal plan" the following: "or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation or preservation".

SINGLE FAMILY FEDERAL HOUSING AUTHORITY MORTGAGE LIMITS

SEC. 311. (a) Section 203(b)(2) of the National Housing Act is amended by striking out everything through "or $107,000 in the case of a four-family residence;" and inserting in lieu thereof the following:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed, in the case of property upon which there is located a dwelling designed principally for a one-family residence, $67,500, or 95 per centum of the median one-family house price in the area, as determined by the Secretary, whichever is greater; in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes), $76,000, or 107 per centum of such median, whichever is greater; in the case of a three-family residence, $92,000, or 130 per centum of such median, whichever is greater; or in the case of a four-family residence, $107,000, or 150 per centum of such median, whichever is greater;".

(b) Section 222(b)(2) of such Act is amended to read as follows:

"(2) involve a dwelling designed principally for a one-family residence or a one-family unit in a condominium project;".

DELETION OF REFERENCES TO REMAINING ECONOMIC LIFE

SEC. 312. (a) Section 203(b)(3) of the National Housing Act is amended by striking out the following: "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, whichever is the lesser".

(b) Section 220(h)(2)(iv) of such Act is amended by striking out the following: "or three-quarters of the remaining economic life of the structure, whichever is the lesser".

(c) Section 221(d)(6) of such Act is amended by striking out ": *Provided*, That no mortgage insured under subsection (d) (2) shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements".

(d) Section 221(i)(2)(iv) of such Act is amended by striking out "the lesser of" and by striking out "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements".

(e) Section 234(c) of such Act is amended by striking out the following: "or three-fourths of the Secretary's estimate of the remaining economic life of the project, whichever is the lesser".

(f) Section 240(c)(5) of such Act is amended by striking out the following: "or three-quarters of the remaining economic life of the home, whichever is the lesser".

PARTICIPATION BY LOWER INCOME PERSONS AND SOCIALLY AND ECONOMICALLY DISADVANTAGED FIRMS IN ASSISTED PROJECTS

SEC. 313. Section 3 of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "residing in the area of such project" in paragraph (1); and

(2) by striking out all of paragraph (2) which follows the words "Small Business Administration," and inserting in lieu thereof the following: "that to the greatest extent

feasible contracts for work to be performed in connection with any such project be awarded to socially and economically disadvantaged individuals or to firms owned and controlled by such individuals, including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair.".

RELIEF OF THE CITY OF SPRINGFIELD, ILLINOIS

SEC. 314. Notwithstanding the provisions of title VII of the Housing Act of 1961 or any other law, the transactions under which land acquired by the city of Springfield, Illinois, in connection with Open-Space Projects Numbered Ill.-OSC-171 (DL) and Numbered Ill.-OSC-246 (DL) was transferred by such city to the United States Department of the Interior for the Lincoln Home National Historic Site shall be deemed to have been made in accordance with all provisions of title VII of such Act and of any other law and with any regulations or other requirements in implementation thereof.

TRANSFER OF ENERGY-RELATED FUNCTIONS

SEC. 315. (a) Section 303 of the Energy Conservation and Production Act is amended—

(1) by striking out clause (1) and inserting in lieu thereof the following:

"(1) The term 'Secretary' means the Secretary of Energy,"; and

(2) by striking out clause (11) and redesignating clauses (12) and (13) as clauses (11) and (12), respectively.

(b) Section 304 of such Act is amended by striking out the word "Administrator" the first time it appears in subsection (a)(1) and (2) and inserting in lieu thereof "Secretary of Housing and Urban Development".

(c) Sections 304(c) and 310 of such Act are amended by striking out "the Administrator," the first time it appears in each section.

(d) Section 304 of the Department of Energy Organization Act is amended—

(1) by striking out subsection (a); and

(2) by striking out the subsection designation "(b)".

ENERGY STANDARDS FOR NEW BUILDINGS

SEC. 316. Paragraphs (1) and (2) of section 304(a) of the Energy Conservation Standards for New Buildings Act of 1976 are amended by striking out "within 6 months after the date of publication of the proposed standards" in the last sentence of each such paragraph and inserting in lieu thereof "by August 1, 1982".

MODERATE REHABILITATION OF SMALL GROUP HOMES AND SIMILAR FACILITIES FOR THE HANDICAPPED

SEC. 317. (a) Section 202(h) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after "(h)";

(2) by inserting "(A)" after "loans for" in the first sentence of such subsection;

(3) by inserting after the word "persons" in the first sentence of such subsection the following: ", and (B) the acquisition of existing housing and the rehabilitation, alteration, conversion, or improvement of such housing to meet the needs of handicapped (primarily nonelderly) persons";

(4) by striking out "The Secretary shall take such steps as may be necessary to assure the—" in the second sentence of such subsection and inserting in lieu thereof the following:

"(2) The Secretary shall take such steps as may be necessary to assure that—"; and

(5) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B).

(b) Section 202(d)(3) of such Act is amended by adding at the end thereof the following: "In the case of housing described in subsection (h)(1)(B), such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation, thereof, and the cost of the land on which the housing and related facilities are located.".

HOME MORTGAGE DISCLOSURE ACT AMENDMENTS

SEC. 318. (a) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended—

(1) by striking out "Office of Management and Budget" in subsection (a)(1) and inserting in lieu thereof "Department of Commerce";

(2) by amending subsection (a)(2)(A) to read as follows:

"(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000 within that standard metropolitan statistical area, otherwise, by county, for mortgage loans secured by property located within any other county within that standard metropolitan statistical area."; and

"(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

"(e) The Board shall prescribe a standard format for the disclosures required under this section.

(3) by adding at the end thereof the following:

"(f) The Federal Financial Institutions Examination Council, in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each standard metropolitan statistical area. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such standard metropolitan statistical area.".

(b) Section 310 of such Act is repealed.

(c) Such Act is amended by adding at the end thereof the following:

"COMPILATION OF AGGREGATE DATA

"SEC. 310. (a) Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each standard metropolitan statistical area, aggregate data by census tract for all depository institutions which are required to disclose data under section 304 or which are exempt pursuant to section 306(b). The Council shall also produce tables indicating, for each standard metropolitan statistical area, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

"(b) The Board shall provide staff and data processing resources to the Council to enable it to carry out the provisions of subsection (a).

"(c) The data and tables required pursuant to subsection (a) shall be made available to the public by no later than December 31 of the year following the calendar year on which the data is based.

"DISCLOSURE BY THE SECRETARY

"SEC. 311. Beginning with data for calendar year 1980, the Secretary shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of this title and which is not exempt pursuant to section 306(b), with respect to mortgage loans approved by the Secretary for insurance under title I or II of the National Housing Act. Such data to be disclosed shall consist of data comparable to the data which would be disclosed if such mortgagee were subject to the requirements of section 304. Disclosure statements containing data for each such mortgagee for a standard metropolitan statistical area shall, at a minimum, be publicly available at the central depository of data established pursuant to section 304(f) for such standard metropolitan statistical area. The Secretary shall also compile and make publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the information required to be made publicly available in accordance with section 310.".

(d) The Federal Financial Institutions Examination Council, in consultation with the Administrator of the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of such study, together with recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives not later than March 1, 1981.

(e) To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lendlaws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the House Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system.

MANAGEMENT AND PRESERVATION OF HOUSING AND URBAN DEVELOPMENT-OWNED MULTIFAMILY HOUSING PROJECTS

SEC. 319. (a) Section 203(a) of the Housing and Community Development Act of 1978 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(6) maintaining, to the maximum extent feasible and appropriate, the rental character of multifamily rental housing projects.".

(b) Subsection (b)(1) of such section is amended by striking out "considering the low- and moderate-income character of the project" and inserting in lieu thereof the following: "considering the number of units in the project occupied by low- and moderate-income persons".

(c) Subsections (e), (f), and (g) of such section are redesignated as subsections (f), (g), and (h), respectively.

(d) Such section is amended—

(1) by inserting after subsection (d) a new subsection (e) to read as follows:

"(e) In disposing of any multifamily rental housing project, the Secretary shall require that the project remain rental in character for a period of at least twenty years from the date of disposition, except (1) in the case of a conversion of the project to a condominium or a cooperative form of ownership sponsored by a bona fide tenants' organization representing a majority of the households in the project, or (2) where the Secretary finds (A) that the continuance of the project as a rental housing is clearly not necessary to assure adequate rental housing opportunities in the community for low- and moderate-income people, or (B) that the continuation of the project as rental housing will have an undesirable and deleterious effect on the surrounding neighborhood."; and

(2) by striking out subsection (g), as redesignated, and inserting in lieu thereof the following:

"(g) For the purpose of this section, the term 'multifamily rental housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964, or which is acquired by the Secretary pursuant to any other provision of law: *Provided*, That the objectives set forth in subsection (a)(1) and the requirements set forth in subsection d(2)(B) and (C) shall not apply to formerly unsubsidized projects in which the majority of units are not occupied by low- and moderate-income households at the time of acquisition: *Provided further*, That the requirements set forth in subsection (d)(2) (B) and (C) shall apply to low- and moderate-income tenants in such projects.".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 320. The Neighborhood Reinvestment Corporation Act (title VI of the Housing and Community Development Amendments of 1978) is amended—

(1) by striking out "National" in section 603(a);

(2) by striking out "supervising" in the first sentence of section 606(a)(1) and inserting in lieu thereof the word "monitoring"; and

(3) by striking out "and not to exceed $12,000,000 for fiscal year 1980" in section 608(a) and inserting in lieu thereof the following: "not to exceed $12,000,000 for fiscal year 1980, and not to exceed $13,426,000 for fiscal year 1981".

FEDERAL NATIONAL MORTGAGE ASSOCIATION AMENDMENTS

SEC. 321. (a) Section 302(b)(2) of the National Housing Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For the purpose of this section, the term 'conventional mortgages' shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant stockholder or resident-member of a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement; or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage of the increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of this Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

(b) Section 302(b) of such Act is amended by adding at the end thereof the following:

"(4) The corporation is authorized, with the approval of the Secretary of Housing and Urban Development, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for improvements to properties as to which the corporation may purchase a mortgage. To be eligible for purchase, any such loan (other than one described in paragraph (3)) not insured under title I of this Act shall be secured by a lien against the property to be improved.".

(c) When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by subsection (b), the Secretary of Housing and Urban Development shall respond with comments within ninety days.

FEDERAL HOME LOAN MORTGAGE CORPORATION MAXIMUM LIMITATIONS

SEC. 322. Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the last sentence and inserting in lieu thereof the following: "The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage of the increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages of property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of the National Housing Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

RENTAL HOUSING PRESERVATION

SEC. 323. (a) The Congress finds that—

(1) the national rental vacancy rate is hovering at a historically low level, and there has been a susbtantial decline in multifamily rental housing production;

(2) millions of low- and moderate-income people are paying an exorbitant share of their incomes for rent;

(3) the leveraging of private investment for the rehabilitation and refinancing of low- and moderate-income rental housing in older, declining urban areas is a cost-effective strategy to maintain decent housing and prevent the decline of urban neighborhoods; and

(4) the Department of Housing and Urban Development should increase its role in the conservation of existing low- and moderate-cost rental housing stock.

(b) Section 223(f) of the National Housing Act is amended—

(1) by inserting "(1)" after "(f)";

(2) by inserting "(2)" at the beginning of the second sentence and redesignating that sentence as a new paragraph;

(3) by inserting "the purchase or" after "In the case of" in paragraph (2) as so redesignated;

(4) by inserting after "located in an older, declining urban area, the Secretary shall" in paragraph (2), as so redesignated, the following: "make available an amount not to exceed $30,000,000 of available purchase authority pursuant to section 305 of this Act, to reduce interest rates on low- and moderate-income rental housing which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall";

(5) by striking out "(1)" before "the refinancing" in paragraph (2), as so redesignated and inserting in lieu thereof "(A)" and by striking out "and" after the semicolon;

(6) in paragraph (2) as so redesignated, by striking out "(2)" before "during" and inserting in lieu thereof "(B)", by inserting "and maintain reasonable profit levels" before "approved by the Secretary", and by striking out the period at the end thereof and inserting in lieu thereof "; and";

(7) by adding after subparagraph (B), as so redesignated, the following:

"(3) For any multifamily housing project purchased or refinanced with a mortgage insured under this subsection which, because of mortgage amount, does not qualify for the Government National Mortgage Association Mortgage-Backed Securities Program, the Secretary shall, in the case of default, pay the lender in cash, at 99 cents on the dollar, the amount of outstanding mortgage debt that is insured by the Federal Housing Administration.

"(4) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after the date of enactment of this provision, the Secretary may not accept an offer to prepay or request refinancing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of twenty years from the date on which the insurance was provided unless the Secretary finds that—

"(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization of the households in the project;

"(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

"(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood"; and

(8) by inserting "(5)" before the sentence beginning "In the case of refinancing of an existing hospital" and redesignating that sentence as paragraph (5).

(c) Section 802(a) of the Housing Act of 1954 is amended by adding at the end thereof the following: "The Secretary shall include in such report a description of the status of the existing rental housing stock which shall include, but not be limited to—

"(A) an analysis of the demand for and availability of low- and moderate-cost rental housing in the United States;

"(B) an analysis of the current role of Federal, State, and local governments in the conservation of decent and affordable rental housing; and

"(C) recommendations for effective Federal, State, and local government strategies and programs to conserve decent and reasonably priced rental housing, including but not limited to, improved implementation of existing programs, strategies for leveraging private sector investment in rental housing, modification to Federal, State, and local tax laws, and alternative financing strategies.".

AMENDMENTS RELATING TO MANUFACTURED HOUSING

Sec. 324. (a) Section 2(b) of the National Housing Act is amended—

(1) by striking out "$18,000 ($27,000 in the case of a manufactured home composed of two or more modules)" in the first sentence and inserting in lieu thereof "$20,000 ($30,000 in the case of a manufactured home containing two or more modules)";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof tho following:

"(A) involve an amount not exceeding (i) $26,675 ($36,675 in the case of a manufactured home composed of more than two modules); and";

(3) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $30,550 ($40,550 in the case of a manufactured home composed of two or more modules); and"; and

(4) by striking out "$6,250 in the case of an undeveloped lot, or (ii) $9,375" in the fourth paragraph and inserting in lieu thereof "$6,950 in the case of an undeveloped lot, or (ii) $10,425".

(b) Section 2(b) of the National Housing Act is amended by adding the following new sentence at the end of the last paragraph: "In other high-cost areas, the Secretary may, by regulation, increase any such dollar amount limitation to—

"(1) $33,300 (or $45,700 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and an undeveloped lot;

"(2) $38,100 (or $50,600 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and a developed lot; and

"(3) $11,125 (or $16,675 with respect to a developed lot) in the case of a lot in which to place a manufactured home.".

(c)(1) The National Housing Act is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home."

(2) Section 235(a)(2)(B) of such Act is amended by striking out "mobile homeowner" and "mobile homeowner's" and inserting in lieu thereof "manufactured homeowner" and "manufactured homeowner's", respectively.

(3) The United States Housing Act of 1937 is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home".

(4) Title VI of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" each place it appears and inserting in lieu thereof "Manufactured Home" and by striking out "mobile home" each place it appears, other than in section 601, and inserting in lieu thereof "manufactured home".

(5) Section 601 of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" and inserting in lieu thereof "Manufactured Housing".

(6) Section 501(e)(4) of Public Law 96-221 is amended by striking out "mobile home" and inserting in lieu thereof "manufactured home".

(d) Section 603(6) of the Housing and Community Development Act of 1974 is amended by striking out "eight body feet or more in width and is thirty-two feet or more in length" and inserting in lieu thereof "more than eight body feet in width, is more than forty body feet in length in the traveling mode, or contains four hundred or more square feet in interior space when erected on site".

(e) Not later than January 1, 1982, the Secretary of Housing and Urban Development shall develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes, and where available data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. Such reports shall contain, to the maximum extent feasible, sales price information for the Nation, each census region, for each State on an annual basis and selected Standard Metropolitan Statistical Areas having sufficient activity on an annual basis.

AMENDMENT TO SECTION 235

Sec. 325. Section 235(n) of the National Housing Act is amended to read as follows:

"(n) The Secretary may, by regulation, require that no mortgage be insured under this section on a unit in a subdivision which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan as determined by the Secretary. The Secretary may, at his discretion, modify the 40 per centum subdivision limit to encourage the production of safe and affordable housing.".

ELIMINATION OF SECTION 8 CONDITION ON GNMA PURCHASE OF CERTAIN MULTIFAMILY MORTGAGES

Sec. 326. The second sentence of section 302(b)(1) of the National Housing Act is amended—

(1) by striking out "(1)"; and

(2) by striking out ", and (2)" and all that follows through "1937".

USURY PROVISIONS

Sec. 327. (a) Section 512 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended—

(1) by inserting "(a)" after "Sec. 512."; and

(2) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and which bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more; or

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more.".

(b) The amendments made by subsection (a) take effect on April 1, 1980.

(c) Part B of title V of such Act, as amended by subsection (a), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

(d) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following; ", and any individual who finances the sale or exchange of residential real property which such individual owns and in which such individual is or has been an occupant as a principal resident".

(e) Section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by inserting after the phrase "where the loan, mortgage, or advance is used to finance the acquisition of such stock" the following: "or the refinancing of an existing loan, mortgage, or advance secured by a first lien on all such stock allocated to the dwelling unit if the proceeds are used to finance the rehabilitation or improvement of the dwelling unit or if the rate of interest on the new loan, mortgage, or advance is less than the rate of interest on the existing loan, mortgage, or advance".

DEFINITIONS

Sec. 328. Section 511 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by renumbering paragraph (b) as paragraph (c) and inserting section 511(b) as follows:

Sec. 511. (b) For purposes of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forebearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity;

"(4) the term 'person' means a natural person or organization."

MUTUAL HOUSING ASSOCIATION DEMONSTRATION

Sec. 329. (a) The Congress—

(1) recognizes the significant potential of mutual housing associations for helping make multifamily housing in the United States more affordable; and

(2) commends and encourages the efforts being made in connection with the national demonstration program of mutual housing association being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank with the cooperation of the Department of Housing and Urban Development.

(b) The Neighborhood Reinvestment Corporation, in conjunction with the National Consumer Cooperative Bank and the Secretary of Housing and Urban Development, shall transmit a report to the Congress on the findings and conclusions reached as a result of the demonstration program described in subsection (a)(2) together with legislative recommendations, not later than September 30, 1981.

VALLEY HOMES MUTUAL HOUSING CORPORATION

Sec. 330. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation.

its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000.

COLLECTION OF DELINQUENCY DATA

SEC. 331. The Secretary of Housing and Urban Development shall conduct a study to determine the feasibility and cost of developing and implementing a system, utilizing existing data collection systems, for the collection of data pertaining to all home mortgage delinquencies for the area covered by each area office of the Department of Housing and Urban Development, and shall, as soon as practicable, but not later than the date of submission of the fiscal year 1982 budget request, transmit to the Congress a report containing the results of such study.

TITLE IV—PLANNING ASSISTANCE

AMENDMENT TO THE HOUSING ACT OF 1954

SEC. 401. Section 701 of the Housing Act of 1954 is amended to read as follows:

"PLANNING ASSISTANCE

"SEC. 701. (a) The Congress finds that—

"(1) the general welfare requires that action be taken to promote the conservation and the orderly and efficient growth and development of the Nation's communities, and to increase housing and employment opportunities for its citizens;

"(2) addressing these needs requires effective and coordinated planning efforts at all levels of government;

"(3) national policy objectives are required to guide common planning among States, areawide planning organizations, and local governments; and

"(4) it is also important that these planning efforts be carried out in a manner that facilitates Federal actions in support of the developmental decisions of States, areawide planning organizations, and local governments.

"(b) The Congress hereby declares the following to be national policy objectives—

"(1) the conservation and improvement of existing communities, particularly the improvement of those communities faced with fiscal, economic, or social distress;

"(2) an increase in housing and employment opportunities and choices, especially for lower income persons, minority persons, women, the elderly, the handicapped, and other disadvantaged groups; and

"(3) the promotion of orderly and efficient growth and development of communities, regions and States, taking into consideration the necessity of conserving energy.

"(c) It is the purpose of this section to help achieve these objectives by—

"(1) encouraging the joint efforts of State and local governments and areawide planning organizations in developing State and areawide strategies; and

"(2) assuring that strategies developed pursuant to this section will lead to implementation activities by States, areawide planning organizations and local governments, and to the encouragement of a coordinated response by all levels of government to carry out such strategies.

"(d) As used in this section—

"(1) the term 'Secretary' means the Secretary of Housing and Urban Development;

"(2) the term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(3) the term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State;

"(4) the term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512);

"(5) the term 'metropolitan area' means a metropolitan statistical area, established by the Department of Commerce, except that, to the extent the Secretary deems appropriate to carry out the purposes of this section, the Secretary may modify or extend such an area, but such modification or extension shall not affect the boundaries of any metropolitan statistical area for any other purpose; and

"(6) the term 'areawide planning organization' means any multijurisdictional unit which is established under State law, interstate compact, or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region, which is formally charged with carrying out the provisions of section 401 of the Intergovernmental Cooperation Act of 1968, which, in the absence of State law to the contrary, has at least a majority of elected officials from local governments on its governing body, and which meets such other standards as the Secretary may prescribe by regulation.

"(e) The Secretary is authorized by contract to make, and to make, grants approved in accordance with the provisions of this section to—

"(1) States, for statewide activities;

"(2) States, for the provision of assistance to (A) metropolitan areawide planning organizations, where administration of assistance is to be carried out by the State pursuant to an agreement between the State and the affected metropolitan areawide planning organizations, and is approved by the Secretary; (B) nonmetropolitan areawide planning organizations; (C) units of general local government (except counties) having a population of less than fifty thousand according to the latest decennial or middecade census, as appropriate; (D) counties, other than urban counties as defined under title I of the Housing and Community Development Act of 1974; and (E) any group of adjacent units of general local government having a total population of less than fifty thousand (according to the latest decennial or middecade census, as appropriate) and having common or related planning problems and opportunities;

"(3) metropolitan areawide planning organizations;

"(4) Indian tribes; and

"(5) the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"(f) A State may provide for the administration by areawide planning organizations of assistance provided through the State to units of general local government, except that responsibility for adherence to the requirements of this section and other applicable laws shall remain with the State.

"(g)(1) Contracts to make grants pursuant to subsection (e) shall contain such terms and conditions as the Secretary may prescribe, and may include provision for periodic release of grant funds on the basis of the progress of grantees in accomplishing the specific actions and activities for which grants were made, except that the Secretary may not approve a grant for any year after the first year in which a grant pursuant to this subsection is made to a recipient unless the Secretary determines that—

"(A) additional funds are required to assist in the development of the activities and programs pursuant to subsection (i); and

"(B) substantial progress has been made in the development and implementation of the activities and programs pursuant to subsection (i) or components of such activities and programs.

To assist the Secretary in making such determinations, the applicant shall submit to the Secretary such information as the Secretary may require, including the performance report required pursuant to subsection (k)(2), except that at least triennially the Secretary shall require the applicant to submit a detailed evaluation of the progress it has made during the preceding three-year period toward the development of such activities and programs and their implementation.

"(2) A grant made under subsection (e) shall not exceed two-thirds of the estimated cost of the work for which the grant is made.

"(3) The Secretary is authorized by grant, contract, or otherwise to provide technical assistance to the entities referred to in subsection (e) to carry out the purposes of this section, and to make studies and public information directly related to furthering such purposes.

"(4) There are authorized to be appropriated for purposes of this section an amount not to exceed $40,000,000 for the fiscal year 1981, not to exceed $40,000,000 for the fiscal year 1982, and not to exceed $40,000,000 for the fiscal year 1983. Any amounts appropriated shall remain available until expended.

"(h) Prior to submission of an application for assistance by a State for statewide activities, the State shall afford a reasonable opportunity, as prescribed by the Secretary, to units of general local government and areawide planning organizations located within the State to comment on the strategy statement, if any, and the action program proposed for inclusion in the application, and on the consistency of such strategy and program with the plans and activities of such entities. Each areawide planning organization applying for assistance directly from the Secretary or through the State shall afford the same opportunity to units of genera local government participating in such organization, and additionally, in the case of an application submitted by a metropolitan areawide planning organization seeking assistance directly from the Secretary, to the State or States in which such organization is located. Each State, areawide planning organization or other entity receiving assistance under subsection (e) shall also provide for citizen participation in the development of its strategy statement, where required, and the actions and activities to be carried out with such assistance, in accordance with regulations of the Secretary.

"(i)(1) A grant may be made to a State for statewide activities, or to a metropolitan areawide planning organization seeking assistance directly from the Secretary, if an application has been submitted to the Secretary in which the applicant—

"(A) either sets forth a strategy statement which identifies policies and programs over at least a three-year period which address the major issues and problems of the applicant's jurisdiction and are clearly designed to carry out each of the national policy objectives described in subsection (b), or indicates that the application is based upon a previously approved strategy statement which is in effect, as provided in subsection (m)(4);

"(B) formulates an action program which describes specific actions and activities to be undertaken to implement the strategy statement;

"(C) establishes a timetable for the achievement of specific results under the action program;

"(D) submits all comments received pursuant to subsection (h) and indicates the modifications, if any, made to the strategy statement or action program as a result thereof;

"(E) certifies that the strategy statement and action program proposed in the application are consistent with other plans and activities of the applicant, and, in the case of an areawide planning organization, certifies that such strategy statement and action program are consistent with an approved State strategy statement;

"(F) certifies that it has the authority to implement and execute the actions and activities described in the action program, or, if it does not have such authority, otherwise demonstrates, by means of implementation agreements or other documentation, specific steps the applicant will take to assure implementation;

"(G) provides satisfactory assurances that the action program will be conducted and administered, and that the strategy statement is, in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284); and

"(H) meets such other requirements as the Secretary may prescribe by regulation.

"(2) A grant may be made to a State, for the provision of assistance to areawide planning organizations, if an application has been submitted to the Secretary in which the State—

"(A) specifies the manner in which assistance provided under subsection (e) will be distributed among such areawide planning organizations;

"(B) certifies that each such organization has submitted or, as a condition for receiving assistance, will submit to the State an application which meets the comment and citizen participation requirements of subsection (h) and the application requirements of paragraph (1) of this subsection;

"(C) certifies that, prior to providing assistance to any such organization, a strategy statement for such organization has been approved by the Secretary; and

"(D) meets such other requirements as the Secretary may prescribe by regulation.

"(3) A grant may be made to a State, for the provision of assistance to units of general local government, if an application has been submitted to the Secretary in which the State—

"(A) specifies the manner in which assistance provided under subsection (e) will be distributed among such entities;

"(B) certifies that the actions and activities to be carried out by such entities, as a condition for receiving assistance, address the major issues and problems of their jurisdictions and are clearly designed to carry out the national policy objectives;

"(C) certifies that the actions and activities to be carried out are or will be, as a condition for receiving assistance, consistent with any existing approved strategy statement of the State and of the areawide planning organization in which any such entity is located.

"(D) provides satisfactory assurance that the actions and activities to be carried out will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284); and

"(E) meets such other requirements as the Secretary may prescribe by regulation.

"(4) A grant may be made to an entity described in subsection (e)(4) or (e)(5), if an application has been submitted to the Secretary in which the applicant—

"(A) sets forth actions and activities which address the major issues and problems of the applicant's jurisdiction and are clearly designed to carry out the national policy objectives;

"(B) certifies that it has the authority to implement and execute the proposed actions and activities, or if it does not have such authority, otherwise demonstrates, by means of implementation agreements or other documentation, specific steps the applicant will take to assure implementation;

"(C) provides satisfactory assurance that the proposed actions and activities will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352) and title VIII of the Civil Rights Act of 1968 (Public Law 90-284) or in the case of Indian tribes, in conformity with title II of the Civil Rights Act of 1968; and

"(D) meets such other requirements as the Secretary may prescribe by regulation.

"(5) A grant may also be made to a State or to an areawide planning organization as provided in subsection (e) for the purpose of revising an existing approved strategy statement. Applications for grants under this paragraph shall contain such information and meet such requirements as the Secretary may prescribe by regulation.

"(6) States may submit consolidated applications under this subsection requesting assistance for any purpose or combination of purposes as provided under subsection (e).

"(j) In providing assistance to areawide planning organizations under subsection (e), the Secretary (or the State, in the case of assistance provided through the State) may give preference to, and may provide additional funding for, organizations which provide for voting rights among their members weighted in proportion to the population of the areas represented by such members.

"(k)(1) The Secretary shall, by regulation, establish criteria for the evaluation and approval of strategy statements and applications for grants under subsection (i), including applications for grants through States, and for the awarding of grants pursuant thereto. Such criteria shall, among other things, take into account—

"(A) the degree to which a strategy statement submitted for approval furthers attainment of the national policy objectives and can be used in connection with program decisionmaking by Federal agencies and State and local governments;

"(B) the extent to which an action program, where required, will make significant progress in implementing the strategy statement and such objectives;

"(C) the extent to which a strategy statement and action program respond to the concerns expressed in comments submitted pursuant to subsection (h), particularly comments from distressed communities; and

"(D) the extent to which grantees have demonstrated progress in carrying out actions and activities assisted under subsection (e).

"(2) For each year in which actions or activities assisted under subsection (e) are being carried out, each State and other entity receiving assistance directly from the Secretary shall submit to the Secretary a performance report concerning the actions and activities carried out with such assistance. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether a recipient of funds under subsection (e) has carried out actions and activities substantially as described in its application, whether such actions and activities conformed to the requirements of this section and other applicable laws, and whether the recipient has a continuing capacity to carry out such actions and activities in a timely manner. The Secretary shall adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits.

"(3) Insofar as they relate to funds provided under this section, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

"(l)(1) Grants pursuant to subsection (e) of this section shall only be used to carry out planning and management actions and activities which are clearly related to the national policy objectives.

"(2) Grant assistance under this section shall not be used to defray the cost of the acquisition, construction, repair, or rehabilitation of, or the preparation of engineering drawings or similar detailed specifications for, specific housing, capital facilities, or public works projects, nor shall assistance provided under this section be used to finance routine administrative responsibilities of any State or local government.

"(m)(1) The Secretary is authorized to approve a strategy statement submitted by a State or an areawide planning organization independent of an application for assistance under subsection (i). The Secretary is also authorized, with the consent of a State or areawide planning organization, to approve a strategy statement submitted in connection with an application for assistance under such subsection, notwithstanding disapproval of a funding request. In either case, such strategy statement must meet the comment and citizen participation requirements of subsection (h) and the application and review requirements applicable to strategy statements contained in subsections (i) and (k).

"(2) The Secretary shall utilize, to the maximum extent feasible, strategy statements approved by the Secretary under this section to guide policy and funding decisions with respect to the programs and activities of the Department of Housing and Urban Development which affect the geographical areas covered by such strategy statements.

"(3) The Secretary is encouraged to work with other appropriate Federal departments and agencies in order to (A) develop standards and criteria for the review and approval of strategy statements for use on an interagency basis, (B) encourage use of such strategy statements, consistent with their program authority, as all or part of the planning requirements of such departments or agencies, and (C) undertake cooperative efforts for the development of State and areawide strategy statements which can be utilized by such departments and agencies in their program decisionmaking.

"(4) A strategy statement approved by the Secretary under this section shall remain in effect for a maximum of three years following the date of its approval. Any extension of a strategy statement beyond such three-year term, or any major modification, as determined by the Secretary, of a statement during such term, shall meet the comment and citizen participation requirements of subsection (h) and the application and review requirements applicable to strategy statements contained in subsections (i) and (k), and must be approved by the Secretary. Any proposed modification shall be submitted to the Secretary prior to its incorporation into the strategy statement.

"(n) The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, providing for cooperative effort and mutual assistance in the development of strategy statements and in the implementation and execution of actions and activities undertaken with assistance provided under subsection (e) of this section, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.".

EFFECTIVE DATE

SEC. 402. The amendment made by section 401 shall become effective on the effective date of regulations implementing such amendment, but in no case later than two hundred and seventy days following the date of enactment of this Act.

TITLE V—CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF

SHORT TITLE

SEC. 501. This title may be cited as the "Condominium and Cooperative Conversion Protection and Abuse Relief Act of 1980".

FINDING AND PURPOSE

SEC. 502. (a) The Congress finds and declares that—

(1) there is a shortage of adequate and affordable multifamily housing throughout the Nation;

(2) the utilization of the condominium and cooperative forms of ownership can preserve and increase the supply of such housing and expand the opportunities for homeownership, particularly for low- and moderate-income and elderly persons and families;

(3) the number of conversions of rental housing to condominiums and cooperatives is accelerating, is a significant contributing factor to the national shortage of such units, which is restricting the shelter options of low- and moderate-income and elderly persons and families, and can be subject to abuse in the context of this national shortage of adequate and affordable multifamily housing.

(4) there is a Federal involvement with the multifamily and ownership housing markets through the operation of Federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other Federal activities; that a portion of conversions of rental housing to condominiums and cooperatives is undertaken by business organizations operating on an interstate basis; and that it is a national priority to maintain adequate supplies of available and affordable rental and ownership housing; and

(5) abuses have occurred in the cooperative and condominium industries through the use of unconscionable long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities; that State governments are unable to provide adequate relief; that these abuses have caused economic and social hardships for cooperative and condominium owners, which threaten the continued use and acceptability of these forms of ownership and which interfere with the interstate sale of cooperatives and condominiums; and that adequate relief from these abuses requires Federal action.

(b) The purpose of this title are to provide minimum rights and disclosure of information to the tenants of rental properties undergoing conversion to condominium or cooperative projects and to organizations representing such tenants, and to correct and prevent continuing abusive use of long-term leasing of recreation and other cooperative- and condominium-related facilities.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (A) is a general partner, officer, director, or employee of the developer, (B) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (C) controls in any manner the election of a majority of the directors of the developer, or (D) has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if (i) the developer is a general partner, officer, director or employee of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "agent" means any person who represents, acts for or on behalf of, or in concert with, a developer in selling or offering to sell any interest in a cooperative or condominimum unit, but such term does not include an attorney at law whose representation consists solely of rendering legal services;

(3) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at some percentage rate or the rate of a recognized economic index;

(4) "common elements" means all portions of the cooperative or condominum project, other than the units;

(5) "condominium association" means the organization, whose membership consists exclusively of all the residential unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(6) "condominium project" means real estate in a single structure which (A) has five or more portions designated as residential units for separate ownership and the remaining portions designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (B) is or has been offered for sale or sold, directly or indirectly, through use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(7) "condominium unit" means a portion of a condominium project designated for separate ownership;

(8) "convey or conveyance" means (A) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation, or (B) the acquisition by a purchaser of a leasehold interest for more than five years;

(9) "cooperative association" means the organization that owns the record interest in the residential cooperative property or a leasehold of the residential property of a cooperative project and that is responsible for the operation of the cooperative project;

(10) "cooperative parcel" means a cooperative unit, together with the undivided share in the assets of the cooperative association which is appurtenant to the unit;

(11) "cooperative project" means real estate in a single structure (A) within which there are five or more residential cooperative parcels subject to ownership by one or more owners, and the ownership is evidenced by a membership or share interest in the association and a lease or other muniment of title or possession granted by the cooperative association as the owner of all the cooperative property, and (B) which is or has been offered for sale or lease or sold, or leased directly or indirectly, through use of any means or instruments of transportation or communication in interstate commerce or of the mails;

(12) "cooperative property" means the lands, leaseholds, and personal property subject to cooperative ownership and all other property owned by the cooperative association;

(13) "cooperative unit" means a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents;

(14) "cooperative unit owner" means the person having a membership or share interest in the cooperative association and holding a lease or other muniment of title or possession of a unit that is granted by the cooperative association as the owner of the cooperative property;

(15) "cooperative unit owners' association" means an organization composed of cooperative unit owners which is contractually obligated, for the benefit of its members, to pay rent under a lease;

(16) "developer" means any person who offers to sell or sells his interest in a unit not previously conveyed, any successor of such person who offers to sell or sells units in a cooperative or condominium project and who exercises special developer control in the project including the right to add, convert, or withdraw real estate from the cooperative or condominium project, maintain sales offices, management offices and rental units; exercise easements through common elements for the purpose of making improvements within the cooperative or condominium; or exercise control of the owners' association;

(17) "ground lease" means a lease, in a leasehold condominium or cooperative project, of the real estate on or in which one or more of the units are located, the termination or expiration of which will terminate the condominium or cooperative project or reduce the number of units in the cooperative project;

(18) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication, or exchange;

(19) "lease" includes any agreement or arrangement containing a condominium or cooperative unit owner's obligation, individually, collectively, or through an association to make payments for a leasehold interest or for other rights to use or possess real estate, or personal property, or to receive services, not including mortgages or other such agreements for the purchase of real estate;

(20) "leasehold condominium project" means a condominium project in which all or a portion of the real estate is subject to a lease, the termination or expiration of which will terminate the condominium project or reduce the size of the condominium project;

(21) "leasehold cooperative project" means a cooperative project in which all or a portion of the real estate is subject to a lease, the termination of expiration of which will terminate the cooperative project or reduce the size of the cooperative project;

(22) "offer" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a condominium or cooperative unit, other than as security for an obligation;

(23) "person" means a natural person, corporation, partnership, association, trust or other entity, or any combination thereof;

(24) "purchaser" means any person, other than a developer, who by means of a volun-

tary transfer acquires a legal or equitable interest in a unit, other than (A) a leasehold interest (including renewal options) of less than five years, or (B) as security for an obligation;

(25) "real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage or law pas with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(26) "sale", "sale of a cooperative unit" or "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a cooperative or condominium unit, excluding options or reservations not binding on the purchaser;

(27) "special developer control" means any right arising under State law, cooperative or condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners' association or its executive board. A developer's right to exercise the voting share allocated to any condominium or cooperative unit which he owns is not deemed a right of special developer control if the voting share allocated to that condominium or cooperative unit is the same voting share as would be allocated to the same condominium or cooperative unit were that unit owned by any other unit owner at that time;

(28) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(29) "conversion project" means a condominium or cooperative project that was, at any time before the first conveyance of a unit to a purchaser, wholly or partially occupied by persons other than purchasers and persons who occupy with the consent of purchasers;

(30) "tenant" means any person who has the temporary use and occupation of real property owned by another person, the duration and terms of his tenancy being fixed by a lease. Such term also means any person who has the temporary use and occupation of real property contained within a rental housing project in which more than 10 per centum of the occupied units are subject to a general or month-to-month tenancy;

(31) "tenants' organization" means a bona fide organization representing a majority of the rental units which are occupied or sublet by tenants of a rental housing project as of the date on which a developer provides notice under section 506(a)(2)(A) of this title;

(32) "rental housing project" means any real estate consisting of a single structure which has five or more portions designated as units for residential occupancy by tenants, or of multiple such structures provided that they are located on contiguous or adjacent parcels of land and title to each is held by the same person; and

(33) "residential" means principal place of residence.

EXEMPTIONS

SEC. 504. The provisions of sections 505, 506, 507, and 509 of this title shall apply only to conversion projects. The provisions of this title shall not apply to—

(1) a cooperative or condominium unit sold or offered for sale by the Federal Government, by any State or local government, by any corporate instrumentality of the United States, or by any agency thereof; or

(2) a cooperative or condominium project in which all units are restricted to nonresidential purposes or uses.

PROHIBITIONS

SEC. 505. (a) It shall be unlawful for any developer or agent in selling or offering to sell to a tenant any condominium or cooperative unit in any conversion project—

(1) to employ any device, scheme, or artifice to defraud;

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading; or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

(b) Any provision in any lease or management agreement, entered into after the date of enactment of this title, requiring unit owners or the owners' association in any conversion project subject to this title to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorney's fees or money judgments, in a suit between unit owners or the owners association and the developer arising under the lease or agreement, are against public policy and void.

NATIONAL STANDARDS FOR CONSUMER PROTECTION IN CONVERSION PROJECTS

SEC. 506. (a) In a conversion project subject to this title, a developer, with respect to the tenants of such project—

(1) shall warrant and guarantee against defects any repair, addition, or improvement which the developer or an affiliate of the developer makes to the plumbing, electrical, mechanical, structural, or any other components constituting any of the unit or common elements. The developer shall assure tha subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms of this paragraph. Such warranties and guarantees shall (A) with respect to a unit have a duration of at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser, if such conveyance occurs within two years of the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, and (B) with respect to the common elements have a duration of at least one year from the date of completion of each common element or the date of conveyance or the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law; and

(2) shall—

(A) give to each of the tenants and any of the subtenants notice of the intent to convert no later than one hundred and twenty days before the developer will require the tenants and any subtenant in possession to vacate. The notice shall set forth clearly and conspicuously the rights of tenants and subtenants under this section, and shall be hand delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than one hundred and twenty days' notice, except by reason of nonpayment of rent, waste, or conduct which disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a developer to give notice as required by this section constitutes a defense to an action for possession. Nothing in this subparagraph permits termination of a lease by a developer in violation of its terms; and

(B) for ninety days after delivery or mailing of the notice described in subparagraph (A) of this paragraph offer to convey each unit or proposed unit occupied for residential use to the tenant who leases or occupies that unit. If a tenant fails to purchase the unit during that ninety-day period, the developer may not offer to convey an interest in that unit during the following thirty days at a price or on terms more favorable than the price or terms offered to the tenant. This subparagraph does not apply to any unit in a conversion project if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(b) This section shall not apply to a conversion project to which the developer has acquired legal title prior to the effective date of this title.

ENGINEER'S REPORT; DISCLOSURE

SEC. 507. (a) In the case of a conversion project, the developer shall provide to the tenants of such project not later than six weeks after delivery or mailing of the notice of intent to convert required by section 506 of this title—

(1) a report, or a statement by the developer based on such report, prepared by an independent licensed architect or engineer, describing the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of the conversion project;

(2) a statement by the developer of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in this regard; and

(3) a list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with a good faith estimate of the cost of curing those violations.

(b) A tenants' organization shall have the right, after receiving the information required pursuant to section 507(a), and within ninety days of the delivery or mailing of the notice of intent to convert required by section 506 of this title, to have the intended conversion project inspected by a licensed architect or engineer, for the purpose of preparing a report to describe the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of such project.

(c) The developer, at the time of conveyance to a tenant, shall disclose to the tenant any material change in the information previously furnished as required by this section.

(d) All information required by this section shall be in writing and shall be fully, accurately, and simply stated.

(e) This section shall not apply to—

(1) a conversion project to which the developer has acquired legal title prior to the effective date of this title; or

(2) a condominium or cooperative unit restricted to commercial or industrial purposes.

STATE AND LOCAL JURISDICTION

SEC. 508. Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection or disclosure established under this title. Notwithstanding the preceding sentence, the provisions of this title, except for the application of section 510 to leases entered into prior to the date of enactment of this title, shall not apply in the case of any State or local government which has the authority to enact and enforce such a law, ordinance, or code, if, during the three-year period following the date of enactment of this title, such State or local government enacts a law, ordinance, or code, or amendments thereto, stating in substance that such provisions of this title shall not apply in that State or local government jurisdiction.

OPTIONAL TERMINATION OF SELF-DEALING CONTRACTS

SEC. 509. (a) Any contract which is entered into after the effective date of this title, and which—

(1) provides for operation, maintenance, or management of a condominium or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners;

(2) is between such unit owners or such association and the developer or an affiliate of the developer;

(3) was entered into while such association was controlled by the developer through special developer control or because the developer holds a majority of the votes in such association; and

(4) is for a period of more than two years,

may be terminated without penalty by such unit owners or such association.

(b) The termination may occur at any time following termination of special developer control or when the developer ceases to hold a majority of the votes in such association.

(c) A termination under this section shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

CIVIL ACTIONS; UNCONSCIONABLE LEASES

SEC. 510. (a) Cooperative and condominium unit owners may bring an action seeking a judicial determination that a lease or leases, or portions thereof, whether or not the lease or leases are net or gross, are unconscionable if each lease has all of the following characteristics:

(1) it was made in connection with a cooperative or condominium project;

(2) it was entered into while the cooperative or condominium owners' association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners' association;

(3) it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project;

(4) it is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years; and

(5) it contains an automatic rent increase clause.

Such action must be authorized by the cooperative or condominium unit owners through a vote of not less than two-thirds of the owners of the units other than units owned by the developer, or an affiliate of the developer, and may be brought by the cooperative or condominium unit owners as a group or through the unit owners' association.

(b) In making its determination in an action under this section as to whether a lease is unconscionable, the court shall consider, but not be limited to—

(1) any gross disparity between the obligation incurred and the value of the benefit derived by the lessees, including consideration of (A) the obligations to pay rent, taxes, and insurance, and to maintain, repair, and replace the property, (B) the value of the leased property, (C) the price at which comparable property could have been acquired, and (D) the developer's or lessor's rate of return on investment in the leased property and in the cooperative or condominium project as a whole; including, in particular, the degree to which the developer's or lessor's profit in the project as a whole is derived from such lease, the degree to which such financial design permitted the marketing of units in the project by the developer at substantially lower prices than would otherwise have been possible, and the reasonableness of the total rate of return on such project as of the time of filing of a suit under this section;

(2) the unequal bargaining position of the parties to the lease;

(3) the adequacy of disclosure of the existence and terms of the lease to purchasers and the ability of purchasers to comprehend their rights and obligations thereunder;

(4) the identity of interest, if any, of original parties to the lease; and

(5) subsequent ratification or amendment to the lease agreed to by a majority of the unit owners other than the developer or an affiliate of the developer.

(c) If it is established that, in addition to the characteristics of subsection (a) of this section, the lease—

(1) creates a lien subjecting any unit to foreclosure for failure to make payments; and

(2) contains provisions requiring the lessees to asume all or substantially all obligations and liabilities associated with maintenance and use of the leased property;

then the court in making its finding, shall consider the lease to be unconscionable, unless proven otherwise by a preponderance of the evidence to the contrary under the standards in subsection (b).

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court shall exercise its authority to grant remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. Such relief may include, but shall not be limited to rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the position taken by the plaintiff is not supported by this title or by a good faith argument for its extension, modification, or reversal, and is therefore frivolous, malicious, or lacking in substantial merit.

(e) Notwithstanding the provisions of subsections (a) through (d) of this section, exercise of any automatic rent increase clause shall be unenforceable against cooperative or condominium unit owners or the respective owners' association as to future increases in rental payments occurring after the effective date of this title in a lease having all of the following characteristics:

(1) It contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property.

(2) It was entered into while the owners' association was controlled by the developer through special developer control or because the developer held a majority of votes in the owners' association.

(3) It had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project.

(f) Any provision in any lease or management agreement requiring unit owners or the owners association in any condominium or cooperative project subject to this section to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorney's fees or money judgments, in a suit between unit owners or the owners' association and the developer arising under the lease or agreement, are against public policy and void.

(g) It is the express intent of Congress that the provisions of this section shall apply to leases regardless of execution date, except that subsections (c) and (e) shall not apply to—

(1) any ground lease entered into prior to the enactment of this title; or

(2) any ground lease which the lessor has entered into in an arms-length transaction with the developer, without there being an identity of interest between the lessor and the developer. Such identity of interest includes, but is not limited to, situations where the lessor is the developer, an agent of the developer, an affiliate of the developer or is a member of the immediate family of the developer or affiliate of the developer.

(h) Nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners, seeking a judicial termination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, prior to the date of enactment of this title, reached a binding legal agreement with a holder of such lease or leases setting forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or association.

CIVIL ACTIONS; ADDITIONAL REMEDIES

SEC. 511. (a) A developer, or agent or successor thereto subject to this title, may be sued at law or in equity by any person aggrieved by a violation of this title, except that a successor to a developer through foreclosure shall have no liability under section 505, 506, or 507, for any violation which occurred prior to his succession to the interest.

(b) Unless otherwise specified, actions authorized under this title may be brought by one or more purchasers in a condominium or cooperative project, or by a tenants' organination or owners' association in its own right or as representing all or part of the members of such organization or association. In a class action under this title brought by one or more tenants or unit owners as representative of other tenants or unit owners in a condominium, cooperative, conversion, or rental housing project, the complaint shall be verified and shall allege with particularity the efforts the plaintiff has made to have the tenants' or owners' association bring such action on behalf of all the tenants or unit owners. The class action may not be maintained if plaintiff has failed to notify the officers of the organization or association of the intention to file the suit, or if such organization or association is seeking in a pending suit to enforce the rights alleged in the plaintiff's action.

(c) In any action authorized by this section for a violation of section 505, 506, or 507, where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable. The court in awarding relief shall consider, but not be limited to, the contract price of the unit, the amount paid by the purchaser on the contract, the cost of any improvements or necessary repairs paid by the purchaser, the fair market value at the time of sale to the purchaser, the fair market value of the unit at the time the action was brought, and the fair market value of the unit at the time of judgment, as well as all tangible and intangible losses suffered individually and collectively by tenants as a result of violations of this title.

(d) In any action alleging misrepresentations or omissions of disclosure requirements in violation of section 505 or 507, the plaintiff must prove that such sections were violated and that the misrepresentations were material and that the defendant acted intentionally or with gross negligence.

(e) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(f) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the position taken by the plaintiff is not supported by this title or by a good faith argument for its extension, modification, or reversal, and is therefore frivolous, malicious, or lacking in substantial merit.

JURISDICTION

SEC. 512. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this title and, concurrent with State courts, of actions at law or in equity brought under this title without regard to the amount in controversy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party.

LIMITATION OF ACTIONS

SEC. 513. No action shall be maintained to enforce any right or liability created by this title unless brought within six years after such cause of action accrued, except that an action pursuant to section 510 involving a lease in existence at the time of enactment must be brought within four years of enactment of this title.

CONTRARY STIPULATIONS VOID

SEC. 514. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this title shall be void.

ADDITIONAL REMEDIES

SEC. 515. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

CONSUMER RESEARCH, EDUCATION, AND INFORMATION

SEC. 516. The Secretary of Housing and Urban Development is authorized, by contract or otherwise, to undertake research, education, and technical assistance activities designed to inform, assist, and protect tenants and consumers in the purchase of condominium and cooperative units and projects, and in the management of such projects.

SEPARABILITY

SEC. 517. If any provisions of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title shall not be affected thereby.

FEDERAL HOUSING ADMINISTRATION INSURANCE

SEC. 518. Where an application for mortgage or loan insurance in connection with a conversion or purchase of a rental housing project being undertaken by a tenants' organization is submitted, the Secretary of Housing and Urban Development shall expedite the processing of the application in every way and shall make a final decision on such application at the earliest practicable time.

EFFECTIVE DATE

SEC. 519. The provisions of this title shall become effective upon enactment, except that subsections (a) through (d) and subsection (f) of section 510 shall become effective one year after enactment.

LIQUID, HIGHLY-RATED CORPORATE DEBT OBLIGATION

SEC. 520(a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b) is amended—

(1) by striking out "and" before "(E)"; and

(2) by inserting before the period at the end thereof the following "; (F) to such extent as the Board may approve as liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity; and (G) to such extent as the Board may so approve, highly rated commercial paper with 270 days or less remaining until maturity".

(b) Section 916 of the "Housing and Urban Development Act of 1970" (Public Law 91-609; 84 Stat. 1770) is amended by adding at the end thereof the following sentence: "In addition, to the extent as the Federal Home Loan Bank Board may so approve, unpledged deposits in the Savings Banks Trust Company, New York, New York, may be considered assets for the purposes of meeting the liquidity requirements of section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)).".

TITLE VI

AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL FLOOD INSURANCE ACT

SEC. 601. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $74,000,000 for the fiscal year 1980" and inserting in lieu thereof the following: "not to exceed $74,000,000 for fiscal year 1980, and not to exceed $61,591,000 for fiscal year 1981".

TITLE VII—EMERGENCY HOME PURCHASE ASSISTANCE

SHORT TITLE

SEC. 701. This title may be cited as the "Emergency Home Purchase Assistance Authority Amendments of 1980".

EMERGENCY HOME PURCHASE ASSISTANCE

SEC. 702. Section 313 of the National Housing Act is amended—

(1) by inserting "and if the Secretary determines that the implementation of this section will not significantly worsen inflationary conditions," after "1968," in the first sentence of subsection (a)(1);

(2) by inserting ", and to promote the construction of multifamily rental housing" before the period at the end of the second sentence of subsection (a)(1);

(3) by adding at the end of subsection (a) the following:

"(4) The program authorized by this section may not be activated unless the most recently available four-month moving average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Director of the Bureau of the Census is less than 1,600,000.

"(5) The program activated pursuant to paragraph (4) shall be terminated whenever the most recently available four-month moving average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Director of the Bureau of the Census is 1,600,000 or more.";

(4) by inserting "or loans" before "(1) which cover" in the first sentence of subsection (b);

(5) by inserting "including mobile homes" after "four-family residences" in the first sentence of subsection (b)(2);

(6) by inserting "or a mobile home" after "four-family residence" in clause (A) of the second sentence of subsection (b);

(7) by striking out all that follows "such mortgage involves an original principal obligation not to exceed" in clause (B) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", for that part of the property attributable to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured or, in the case of a mobile home loan, the limitation contained in section 2(b) of this Act which would apply to such loan if insurance with respect to an obligation representing such loan were provided under section 2 of this Act;";

(8) by striking out in clause (C) of the second sentence of subsection (b) the words "such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and admininstrative costs under this section, but in no event shall such rate exceed the lesser of (i) 7½ per centum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 203(b) of the National Housing Act" and inserting in lieu thereof the following: "such mortgage involves an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but if such mortgage is executed to finance the acquisition of a one-to-four family residence, it may not bear interest at a rate lower than 3 percentage points below the average contract commitment rate for single family, thirty year conventional mortgages with loan-to-value ratios of 90 per centum in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released, and if such mortgage is executed to finance the acquisition of a more than four-family residence; it may not bear interest at a rate lower than 4½ percentage points below such average contract commitment rate";

(9) by striking out all that follows "such mortgage involves a principal residence the sales price of which does not exceed" in clause (D) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", in the case of a one-family residence, 90 per centum of the average new one-family house price in the area, as determined by the Secretary; or in the case of a two-family residence, 100 per centum of such average; or in the case of a three-family residence, 120 per centum of such average; or in the case of a four-family residence, 140 per centum of such average";

(10) by striking out "enactment of this section" in subsection (e) and inserting in lieu thereof: "the issuance of the commitment to purchase the mortgage";

(11) by striking out "the lesser of (A) the per unit amount specified in subsection (b) (B), or (B)" in subsection (h)(1);

(12) in subsection (h)—

(A) by inserting "and" at the end of clause (3);

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4); and

(13) by adding at the end thereof the following new subsection:

"(i) The Association may not purchase under this section any mortgage or loan which was executed or made (1) to finance the conversion of an existing rental housing project into a condominium or cooperative project, or (2) to finance the purchase of an individual unit in a condominium project or the purchase of a share in a cooperative project, in connection with such a conversion.".

SECTION 235(q) PROGRAM

SEC. 703. Section 235 of the National Housing Act is amended by adding at the end thereof the following:

"(q)(1) Notwithstanding any other provision of this section, where the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments on behalf of homeowners, to mortgagees holding mortgages (A) which cover dwellings the construction of which is completed on or after the date which was one year prior to the date of enactment of this subsection and which have never been sold, (B) which meet the requirements of this subsection, and (C) which are executed, or for which the commitments have been made, on or after the date of enactment of this subsection and prior to March 1, 1981. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection.

"(2) A mortgage to be assisted under this subsection shall—

"(A) where the Secretary deems appropriate, provide for graduated payments pursuant to section 245;

"(B) involve a principal residence the sales price of which does not exceed 80 per centum of the average new one-family house price in the area, as determined by the Secretary, or $60,000, whichever is greater;

"(C) involve a principal residence the sales price of which does not exceed the appraised value of the property, as determined by the Secretary; and

"(D) bear interest at not to exceed such rate and contain such other terms and conditions as the Secretary may prescribe.

"(3) The amount of the assistance payments shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to mortgages insured under section 203 and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of 11 per centum per annum.

"(4) The Secretary shall recertify the mortgagor's income at intervals of not more than two years for the purpose of adjusting the amount of assistance payments payable under this subsection.

"(5) Assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made only during such time as the mortgagor continues to occupy the property which secures the mortgage.

"(6) The Secretary shall provide, upon disposition of the property, for recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale and any increase in the loan balance as of the time of sale over the original loan balance. In providing for such recapture, the Secretary shall, to the extent necessary, provide incentives for the borrower to maintain the property in a marketable condition.

"(7) The Secretary shall establish income limits applicable to mortgagors to be assisted pursuant to this subsection. In setting such limits, the Secretary (A) may prescribe different limits for different areas, taking into account variations such as prevailing levels of construction costs, unusually high or low median family incomes, or other factors, and (B) shall, to the maximum extent feasible consistent with the emergency purpose of this subsection, assure that the assistance payments pursuant to this subsection shall be used to promote homeownership opportunities for moderate income homebuyers.

"(8) The Secretary may not make assistance payments under this section with respect to any dwelling which does not meet all minimum property standards applicable under this Act. The Secretary shall allocate funds under this subsection so that preference is given to areas where housing construction activity is most in need of stimulation, as measured by factors such as population, the relative decline in building permits, and such other factors as the Secretary may deem appropriate. Section 213 of the Housing and Community Development Act of 1974 shall not apply to this subsection. A mortgage which meets the requirements of this subsection may be eligible for assistance under this subsection irrespective of how many other mortgages covering dwellings in the same subdivision will be assisted under this section.

"(9) The agreement amount of contracts entered into under this subsection shall be limited to the amount of contract authority available under subsection (h)(1) and shall not exceed $135,000,000 per annum.".

TITLE VIII—DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

SHORT TITLE

SEC. 801. This title may be cited as the "Mortgage-Backed Securities Development Act of 1980".

FINDINGS AND PURPOSES

SEC. 802. (a) The Congress finds that—

(1) the ability to purchase a home depends upon the availability of mortgage funds;

(2) financial and thrift institutions are currently experiencing difficulty withstanding the financial consequences of lending on long-term mortgages;

(3) private pension plans are an important source of capital, controlling assets of over $236,000,000,000;

(4) only $1,000,000,000 or four-tenths of one per centum of these pension fund assets are invested in residential mortgages;

(5) the potential for pension fund investment in residential mortgages is great and should be pursued, especially in view of the need for additional sources of mortgage finance;

(6) other potentially great sources of residential mortgage investment include life insurance companies and the Eurodollar market;

(7) a major obstacle to investment in residential mortgages by pension funds, life insurance companies, and the Eurodollar market is the absence of security instruments backed by residential mortgages and attractive to large investors;

(8) the Federal National Mortgage Association has under consideration a proposal for a conventional mortgage-backed securities program;

(9) that program has several positive features which could help overcome many of the obstacles encountered in attracting pension funds and life insurance companies into the residential mortgage market.

(b) The purposes of this title are to direct the Federal National Mortgage Association to develop as soon as possible a mortgage-backed security instrument attractive to large investors and marketable by private sector investment bankers and ultimately to attract more capital from large institutional investors into the residential mortgage market.

DEVELOPMENT OF MORTGAGE-BACKED SECURITIES

SEC. 803. The Federal National Mortgage Association shall, at the earliest possible date, develop a proposal for attracting security-backed funds and other large institutional investors into the residential mortgage and home construction market. The Secretary of Housing and Urban Development and the Secretary of the Treasury shall, within 90 days after development of such proposal, approve such proposal or transmit to Congress a report explaining why this proposal was not approved.

TITLE IX

AUTHORIZATIONS AND EXTENSIONS

SEC. 901. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $4,484,000,000 with respect to fiscal year ending September 30, 1980" in subsection (a) and inserting in lieu thereof "not to exceed $3,772,600,000 with respect to the fiscal year ending September 30, 1981";

(2) by striking out "not less than $3,070,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,120,000,000";

(3) by striking out "not more than $38,000,000" in subsection (a)(2) and inserting in lieu thereof "not more than $25,600,000";

(4) by striking out "not to exceed $48,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980" in subsection (b)(2) and inserting in lieu thereof "not to exceed $50,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980";

(5) by striking out "not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980" in subsection (b)(3) and inserting in lieu thereof "not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1981"; and

(6) by striking out subsection (b)(4) and inserting in lieu thereof the following:

"(4) not to exceed $2,000,000 for the purposes of section 525(a) for the fiscal year ending September 30, 1981; and".

(b) Section 513 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Of the amount approved pursuant to subsection (a), the Secretary may use not more than $100,000,000 during the fiscal year ending September 30, 1981, for guaranteed loans.".

(c) Section 515(b)(5) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(d) Section 517(a)(1) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(e) Section 523(f) of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(f) Section 523(g) of such Act is amended by striking out "and not to exceed $1,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "not to exceed $1,000,000 for the fiscal year ending September 30, 1980, and not to exceed $4,000,000 for the fiscal year ending September 30, 1981".

(g) Section 521(a)(2) of such Act is amended by adding at the end thereof the following:

"(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than $518,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1981, except that such amount shall be reduced by any amount approved in appropriation Acts for use pursuant to section 521(a)(1)(C).".

(h) Section 521(a)(1)(C) of such Act is amended—

(1) by striking out the second sentence thereof and inserting in lieu thereof the following: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $100,000,000."; and

(2) by striking out "1980" in the third sentence thereof and inserting in lieu thereof "1981".

REFINANCING FOR CONSUMER COOPERATIVE

SEC. 902. Section 515 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfer of membership in the cooperative upon such terms and conditions as low- and moderate-income persons can reasonably afford; except that such loans shall not be made upon terms more favorable than are authorized under section 521(a), and that the total loan to a cooperative under this section shall not exceed the value of the property.".

CONTINUED ELIGIBILITY OF CO-OP MEMBERS

SEC. 903. (a) Section 515(a) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

(b) Section 515(b) of such Act is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by inserting the following new paragraph at the end thereof:

"(6) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary;".

SURPLUS FEDERAL LAND

SEC. 904. The first sentence of section 414 of the Housing and Urban Development Act of 1969 is amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development or the Secretary of Agriculture at the request of either such Secretary for sale or lease by such Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low or moderate income, assisted under a Federal housing assistance program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture or under a State or local program found by the appropriate Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by either such Secretary.".

INTEREST CREDITS

SEC. 905. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "may provide" and inserting in lieu thereof "shall provide".

DISPLACEMENT

SEC. 906. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g)(1) The programs authorized by this title shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided.

"(2) In any case where, in connection with an activity assisted by a program authorized by this title, the Secretary determines that such involuntary displacement is unavoidable, the Secretary shall take all reasonable steps to assure that adequate replacement housing and relocation services and assistance are made available as provided by law.".

TITLE X—CONVERSION OF SURPLUS SCHOOLS TO EFFICIENT, ALTERNATE USES

SHORT TITLE

SEC. 1001. This title may be cited as the "Surplus School Conservation Act of 1980".

FINDINGS AND PURPOSES

SEC. 1002. (a) The Congress finds that—

(1) declining school enrollments and population migration have caused many school closings throughout the country;

(2) the school buildings that have been closed represent valuable resources and should be maintained and operated for other productive uses;

(3) local governments lack the necessary funds to adequately maintain and operate closed school buildings; and

(4) the Federal government has a stake in ensuring that the resources which these closed schools represent are conserved and maintained.

CONVERSION PROJECTS ELIGIBLE USES OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

SEC. 1003. Section 1003. Section 105(a) of the Housing and Community Development Act is amended by, at the end of paragraph (15), striking the ".", inserting in lieu thereof a ",", and adding the following language:

"(16) renovation of closed school buildings for uses otherwise eligible under this section.".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I am going to be much more brief than I would like to be in expressing an appreciation for all the work and cooperation that has gone into developing this legislation, coming through the committee and then coming to the floor and for the proceedings here in the Senate Chamber.

Certainly, this is the third time within, really, a calendar year that I have had the opportunity to work with the Senator from Utah as a comanager. It is, in the legislative world, a very pleasant experience. We might differ on some particular provisions within the legislation, but we still worked constructively toward the goal of major housing legislation, and I think, with friendship and a constructive attitude throughout. I have enjoyed it completely.

I wish to add my appreciation to all of the staff, led by our staff director of housing, Al Eisenberg. I wish to thank as well: David Yudin, Frank Shafroth, Steven Rohde, Shelly Turcotte, Annie G. Jones, Lesselie Barlou, Phillip Sampson, Claire Southerland, Kaarin Nockleby, Kenneth MacLean, Danny Wall, Robert Woods, Robert Malakoff, Missy Greeley, Phillip Corwin, Steve Sacher, and Scott Brown.

The staff has my very complete and heartfelt appreciation for the diligence, hard work, and ability that they applied to this legislation.

Mr. GARN. Mr. President, I know everyone is anxious to leave, but I cannot conclude this bill without echoing the statements of my colleague from New Jersey.

We do have disagreements on some of the issues, but we certainly have not had any personal disagreements. In the last year, it has been an extreme pleasure to have the opportunity to work with Senator WILLIAMS and Senator PROXMIRE.

I am also very pleased with the staff work done on my side of the aisle. They put in a great deal of time and effort over a number of weeks, a lot of late hours, getting a large, major piece of housing legislation prepared to come to the floor. Then we brought it to the floor a couple of days earlier than they had anticipated. I think they all performed very well.

I would once again like to thank my colleague, Senator WILLIAMS.

Mr. PROXMIRE. Mr. President, I want to pay tribute to Steve Rohde of the Banking Committee, who did an outstanding job in this respect and was really the principal author of the proposal I made, which I referred to before, which would have provided far more housing at far less cost than the administration proposal. In fact, it would have saved $3 billion in obligational authority for next year in housing and would have provided more housing than would have been provided by the proposal of the Senator from Utah—at the same cost, but far less housing, as I pointed out. But Steve Rohde deserves great commendation on that because he did a lot of work on it and persisted with it. I think he has done a fine job, and we are in his debt.

Mr. ROBERT C. BYRD. Mr. President, today, the Senate has completed its consideration of the Housing and Community Development Act of 1980, S. 2719.

The bill which has been before the Senate is a complicated measure. It is the major authorizing legislation for the Department of Housing and Urban Development in fiscal year 1981. It contains both authorizations for and amendments to a number of major programs including urban development action grants, community development block grants, section 8 rental housing, FHA mortgage insurance, and rural housing assistance.

Provisions in the legislation will touch the lives of many Americans, and Members have found themselves of different minds in consideration of the issues raised. The questions involved in balancing the need for fiscal restraint against the need for housing assistance—for the poor and the elderly living on fixed incomes, for both rural and urban residents facing different problems in finding a place to live, for middle-income residents unable to find adequate rental shelter—cannot and will not be easily resolved.

The Subcommittee on Housing and Urban Affairs held 9 days of hearings on the various aspects of the legislation; the full Banking Committee held 2 days of hearings. The committee, under the leadership of Senator WILLIAMS, chairman of the subcommittee, and Senator PROXMIRE, chairman of the full committee who also serves as chairman of the HUD Appropriations Subcommittee, reported some new and untried modest initiatives.

These initiatives have been controversial. The authorization bill itself is truly a lean bill in comparison to recent years and this has caused controversy. The Senate has not agreed to all of the bill's provisions as reported from committee. However, the legislation was a good bill when it was reported from the Banking Committee and it is a good bill now. The legislation makes a serious effort to address the pressing and urgent housing needs of citizens who, without its benefits, would not be able to find a decent place to live at a price they could afford.

I wish to thank the able manager of the bill, Mr. WILLIAMS, for his patience in guiding the legislation through the Senate today, during one of our infrequent Saturday sessions.

Special thanks should also be extended to the distinguished ranking minority member (Mr. GARN) who, along with the other minority members worked diligently to successfully complete action on this legislation. I believe that Members of the Senate have benefited from the resulting debate.

The new, complex issues of a rental housing crisis and condominium conversion will have to be faced again. In the last few years conversion of apartments to condominiums has been doubling annually on a national level and will increase significantly this year. In the meanwhile, the rental housing shortage should only grow worse, with further and deeper net decreases in the Nation's stock of rental housing. The cost questions involved in providing low-income rental subsiides will also have to be reexamined as new studies demonstrate the current problems in administering the section 8 program.

The bill passed by the Senate today represents a reasonable and responsible approach to addressing current housing needs within the context of a balanced budget. The members of the Banking Committee deserve recognition for their contributions to the measure. Additionally, Mr. STEWART and Mr. MORGAN deserve special acknowledgment for their handling of the two bills related to housing, that were passed as amendments to the legislation.

The emergency home purchase assistance legislation passed by the Senate in April was also added to the bill in an effort to facilitate a conference with the House. The revised section 235 program, as passed by the Senate, could be implemented quickly with a minimum of redtape, and should provide necessary relief to both homebuilders and home buyers alike. I would urge that conferees to this legislation work for the best conference agreement possible, as quickly as possible. While the housing downturn continues I do not want to see this program sitting on the sidelines. I want to see the Senate act on a conference report as soon as possible.

Mr. BAKER. Mr. President, I will take this opportunity to briefly express my deep appreciation to the managers of this bill. Senator WILLIAMS, as majority manager, has done his usual skillful job.

I may say as the representative for the minority that I believe I speak for everyone on this side when I say he is not only skillful but pleasant to work with. I want him to know that we appreciate the courteous way in which he conducts the management of the majority point of view in matters of this sort.

The distinguished Senator from Utah has shown once again his great skill as a legislator, but maybe more the point in this case is he also showed his executive skills, because the management of a bill on the floor, indeed, does require a degree of coordinative effort and management that reflects that requirement for administrative talent.

It may be that the Senator from Utah profited more than we even knew because of his experience as mayor of Salt Lake City.

He showed his talents in managing this bill to a successful conclusion earlier than had been expected in the course of this day and earlier than had been expected in the course of the schedule. He accommodated himself very quickly to the need of managing this bill at this time on this set. I know he canceled schedules that were very important to him to enable him to be here for that purpose.

Mr. President, I wish to thank the staff on both sides for their good work and to express my appreciation to the majority leader for his consideration in the matter of scheduling.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his remarks. I thank him also for his cooperation in scheduling this bill.

I thank Mr. WILLIAMS and Mr. GARN for the special effort that they had to make to schedule the bill on yesterday afternoon and today. It has been some inconvenience to both Senators. I express my appreciation and appreciation in behalf of the majority to both of these able men for their cooperation and skillful work.

ORDER TO INDEFINITELY POSTPONE S. 2716 AND S. 2711

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Orders Nos. 766, S. 2716, and 774, S. 2711, be indefinitely postponed.

The PRESIDING OFFICERS. Without objection, it is so ordered.

SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, at this time I should like to compliment the Members of the Senate on both sides of the aisle upon the work that has been accomplished just this week.

The following measures are among those that have been disposed of this week: The International Monetary Fund, the International Development Association, bilateral foreign assistance, Small Business Administration conference report, Department of Justice; biomedical research, National Institutes of Health; housing and community development, flood mapping, rural housing, synfuels conference report, and the Public Buildings Act.

That is an extraordinary amount of work done by the Senate on very important legislation within 1 week's time.

Mr. President, remaining to be done before the scheduled July break, which begins as of the close of business on Wednesday, July 2, a period of 9 workdays, including next Saturday, are the following measures: higher education amendments on Monday; coal conservation utility backout on Tuesday; supplemental appropriations; debt limit extension; National Science Foundation; urban mass transportation; Clean Water Act; Nuclear Regulatory Commission; Securities and Exchange Commission; Department of Treasury international affairs; mental health services; Energy Mobilization Board conference report; Department of Defense military procurement; reconciliation bill, military construction, if ready; Coast Guard.

Most of these are expiring authorizations.

Mr. BAKER. Will the majority leader yield, Mr. President?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I noticed the Department of Energy authorization bill was not included on that listing as a matter yet to be attended to before the July recess. I wonder if the majority leader means that the matter will probably not be considered until after we return.

Mr. ROBERT C. BYRD. The Senator is correct. That matter will go over until after the July break.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, that is the workload. It will obviously require long daily sessions next week and the Saturday session. But I will say this, that in the event the workload can be completed prior to July 2, the Senate will recess for the break to that extent. In other words, if the work is done by July 1, the Senate will not be in on July 2. If the work is completed by June 30, the workload I have laid out, the Senate will not be in on July 1.

That is, I would think, an incentive for us to work early and late, and to cooperate as much as we possibly can in expediting the workload.

I would hope that time agreements can be obtained on some of the measures where they would be helpful. In any event I hope that Senators will schedule their days accordingly and be present in the Senate early and late so that the Senate can complete its workload prior to the recess.

The Senate has completed a very good week. I express my appreciation to the minority leader and to all Members of the Senate on both sides of the aisle for the cooperation and the hard work that has been given by all Senators.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING THE WORLD A SAFER PLACE

Mr. PROXMIRE. Mr. President, Joop Westerville was a solitary figure of humanity and compassion in a world gone mad with killing. He was a schoolteacher in occupied Holland who sacrificed his career, his home, and ultimately his life in order to save Jews from the Nazi genocide.

In 1942, Westerville, then a middle-aged father of four, joined the Dutch Socialist underground and launched a series of bold expeditions to smuggle Jews out of Holland. He would lead small groups of Jewish children across the low countries, through France, and over the Pyrenees Mountains into Spain where they could obtain passage to Palestine. The trip took 4 days and 4 nights, every minute of which his life was in danger. But he knew no fear—save the fear that without his help, Holland's Jews would perish.

Unfortunately, Westerville met the sad fate of most who resisted the Nazis. In the summer of 1944, he was captured and killed by German border guards.

The Jews who survived because of Westerville's efforts did not forget him. They planted a forest in his memory in Israel. The saplings grew firm and now bear the sweet fruit of a people delivered from genocide.

I am not here today to ask that the Senate authorize funds for a "Joop Westerville Memorial Forest." Nor am I here to ask that the Senate declare the first Monday of a particular month "Joop Westerville Day." I am here to ask the Senate to ratify the International Convention on the Prevention and Punishment of Genocide.

This treaty will broadcast to the world our firm commitment to resist genocide whenever and wherever it occurs. It will provide a vehicle for international measures aimed at preventing the slaughter of innocent men, women, and children. God willing, it will make the world a safer place to live.

We can do more than just remember Joop Westerville. We can do more than just decorate the Senate Chamber with words of praise for his heroic deed. We can take action to prevent genocide from happening again. We can join the 83 other nations that have already adopted the Genocide Convention and, together, insure that Westerville did not die in vain.

Let us finally ratify the Genocide Convention.

Mr. President, I yield the floor.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 2860. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 2860. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

● Mr. MELCHER. Mr. President, today I am introducing legislation designed to disentangle the overlapping jurisdiction of the Occupational Safety and Health Act (OSHA) and the Mine Safety and Health Act (MSHA) where surface construction on mine property is concerned.

As matters now stand, both OSHA and MSHA apply to any construction above grade on land that happens to be owned by mine operators on surface construction intended to support mine operations.

What that means is that two different laws, with their own sets of regulations, and two entirely different inspection and enforcement agencies have duplicative—not complementary—authority to perform identical functions.

It does not make sense. It is wasteful. It undermines the effectiveness of both. And it imposes a needless drain on limited resources. This is a clear example of regulatory authority run amok.

What happens to a company that must respond both to OSHA and MSHA? Well, it must respond to two different sets of enforcement operations. It must cope with two different penalty systems. It must attempt to interpret—and after attempts to reconcile—two overlapping series of rules and regulations. And it must attempt to conform to the requirements of two separate and distinct review commissions and appeal procedures.

What is gained? In my view, nothing. All that the dual jurisdiction accomplishes is to double the regulatory burden without increasing employee health and safety. That is hardly a plus, hardly a gain.

There are however, some very real minuses in the current situation. One of the minuses is that the efficiency of both OSHA and MSHA suffers. After all, the resources of both are limited. If both are going to do the same job, then there is a very real risk that neither will do the job completely. It is not difficult to imagine the number of overlooked health hazards because inspections that should be performed elsewhere will not be performed in many cases, while two inspections of the same facility for essentially the same purpose will be performed in other cases.

The purpose of the legislation I am introducing today is to eliminate the dual jurisdiction of OSHA and MSHA and thus to avoid the minuses.

The fact is that MSHA is qualified to have jurisdiction over shaft, slope, or underground construction or over repair and modification of equipment in the handling or processing of ore. Under those circumstances employees are exposed to mining and milling hazards within MSHA's regulatory experience.

Surface construction, though it may be on mine property and designed to support mining operations, is wholly unlike underground construction. That type of construction falls within OSHA's experience and should be assigned where it belongs, to OSHA. That is the purpose of this legislation.

Included in this bill also is the text of S. 1692, to eliminate States, counties, townships, and municipal governments from coverage under the Mine Safety and Health Act. Senator Muskie and I introduced S. 1692 on August 3, 1979. To date there are seven additional cosponsors: Senators Young, Cochran, Simpson, Burdick, Pressler, Hatfield, and Jepsen.

There is a need for an effective mine safety and health agency. There is no need for such an agency to dissipate its resources in a power grab such as this bill will correct, merely for the purpose of empire building within the bureaucracy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. That (a) section 3 of the Federal Mine Safety and Health Act of 1977 is amended—

(1) by amending subsection (d) to read as follows:

"(d) 'operator' means (1) any owner, lessee, or other person who operates, controls, or supervises a coal or other mine, or (2) controls, or supervises a coal or other mine, or (3) any independent contractor performing services at such mine, except for a construction contractor;" and

(2) by adding at the end the following new subsection:

"(p) 'construction contractor' means any independent contractor—

"(1) whose primary business is in the contract construction industry; and

"(2) who is engaged by an operator for (A) the construction, repair, or alteration of structures, facilities, utilities, or private ways or roads, located on (or appurtenant to) the surface area of any coal or other mine; (B) excavations attendant to the activities described in clause (A); or (C) the installation of equipment attendant to the activities described in clause (A).".

(b) Section 109 of the Federal Mine Safety and Health Act of 1977 is amended by adding at the end the end the following new subsection:

"(e) Whenever any construction activity is undertaken by a construction contractor at any coal or other mine subject to this Act, the operator of such mine shall provide notice of the type of activity and number of employees involved to appropriate personnel of the area office of the Occupational Safety and Health Administration with jurisdiction regarding such activity.".

Sec. 2. That (a) section 3(d) of the Federal Mine Safety and Health Act of 1977. as amended (30 U.S.C. 802(d)), is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "but does not include any State or political subdivision of a State.".

(b) Section 4 of such Act is amended by inserting immediately before the period at the end thereof a comma and the following:

"except that in no case (other than as provided for in section 117 of this Act) shall any coal or other mine owned by any State or political subdivision thereof be subject to the provisions of this Act".

Sec. 3. Title I of the Federal Mine Safety and Health Act of 1977, as amended, is amended by adding at the end thereof the following new sections:

"Sec. 116. Upon the request of any State or political subdivision thereof which owns or operates any coal or other mine, the administration is authorized to make available to such State or subdivision safety and health training opportunities and materials and other data for use for such State or subdivision in the operation of such mines.

"Sec. 117. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any mandatory health or safety standard issue involving a coal mine or other mine owned by such State or a political subdivision thereof.

"(b) Any State which, at any time, desires to develop and enforce any mandatory health or safety standards established by or pursuant to this Act in connection with coal mines and other mines owned by any such State or political subdivision therein may submit a State plan to the Secretary for the development of such standards and their enforcement.

"(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

"(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of mandatory health and safety standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) will be at least as effective in providing safe and healthful employment and places of employment as the mandatory health and safety standards promulgated pursuant to this Act which relate to the same issues;

"(3) provides for a right of entry and inspection of all work places subject to such State standards which is at least as effective as that provided in this Act for mines subject to the provisions of this Act, including a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards; and

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive training and education program for operators, agents, and miners involved in State-owned coal and other mines.

"(d) If the Secretary rejects a plan under this section, he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.".●

ADDITIONAL COSPONSORS

S. 2823

At the request of Mr. Boschwitz, the Senator from South Dakota (Mr. Pressler), and the Senator from Colorado (Mr. Armstrong) were added as cosponsors of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

AMENDMENT NO. 1908

At the request of Mr. Tsongas, the Senator from California (Mr. Cranston) was added as a cosponsor of amendment No. 1908 proposed to S. 2719, an orginal bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

TAX EXEMPT MORTGAGE REVENUE BONDS—S. 2064

AMENDMENT NO. 1909

(Ordered to be printed and referred to the Committee on Finance.)

Mr. RANDOLPH (for himself and Mr. Robert C. Byrd) submitted an amendment intended to be proposed by him to S. 2064, a bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax.

ENERGY MANAGEMENT PARTNERSHIP ACT—S. 1280

AMENDMENT NO. 1910

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON (for himself, Mr. Jackson, Mr. Williams, and Mr. Tsongas) submitted an amendment intended to be proposed by them, jointly, to S. 1280, a bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes.

ADDITIONAL STATEMENTS

EMB—EVEN MORE BUREAUCRACY

● Mr. MELCHER. Mr. President, the Senate will vote within a week or two on the conference report on S. 1308, the "Priority Energy Project Act of 1980". This controversial bill is the product of more than 14 months of deliberation. Throughout the process, those of us who have raised concerns about the powers the Board will be authorized to execute, have seen this legislation go from bad to worse. In its final form, S. 1308 is unacceptable and should be recommitted to the conference for further overhaul.

While the issue of the procedure provided in the bill for Energy Mobilization Board and the President to waive Federal law has commanded much of the public's attention, there are numerous other problems this legislation will create. Whether or not you favor giving the Board the authority to initiate the waiver of laws, you should give serious consideration to the points addressed in this letter.

As originally intended, the Energy Mobilization Board would be authorized to review pending energy proposals to coordinate permitting processes and set timetables for governmental agencies, to take court actions against foot-dragging regulatory agencies, and to eliminate duplication and delays.

But, the so-called fast-track bill is not as much a streamlining of the permit process as it is additional layers of bureaucracy and further delay for essential energy projects. I believe that the Board's initial 200 employees, each having to justify their positions by taking an active part in routine matters will successfully treat a need for additional personnel of several thousand with a much larger budget. As its bureaucracy grows, the paperwork will increase for the project sponsors as a new generation of complicated forms begin to pour forth.

The U.S. Chamber of Commerce recently analyzed the guidelines and procedures of the Board and determined they, "actually may result in further impediments to energy facility siting and construction—a result that was and is counter to the goals set by Congress for the E.M.B." I have completed a similar review and I believe the Chamber's view is a bit optimistic.

I have compiled the time frame of final decisions in four controversial procedures in the bill. Those time frames involve not only the regulatory features of the Energy Mobilization Board but also the use of the options to pursue litigation. I shall briefly describe these procedures, but at the conclusion of my remarks I shall submit for the Record the details of the long and convoluted process in and out of court.

Pursuant to the provisions of this bill, a project sponsor must submit an application for priority energy project status which leads to the establishment of a project decision schedule. This process could require up to 195 days. Then, regulatory agencies will have about 1 year to process permits. If the Board determines that an agency may fail to meet a deadline, it can expedite a procedure whereby it makes the decision in lieu of the agency. This "bump-up" process could consume between 205 and 655 days as agency challenges, court petitions, hearings, and decisions are completed. This is in addition to the 1 year and the 195 days already passed.

If the Board chooses to seek a court enforcement of an agency's decision, that might require from 270 to 675 additional days to complete. These complicated steps will demand public hearings, court cases and spell further delay for energy projects and higher capital costs. The time required for exercise of the "grandfather authority" is somewhere between 315 and 855 days. But, none of these procedures will take as long as the hallowed "waiver" power does.

It is conceivable the project would not be granted the waiver of a regulation any sooner than 475 days after it files a petition and the bureaucratic and legislative machinery slowly grinds away. In fact, the delay could reach up to 1225 days. That represents three sessions of Congress. Is this what we want to force upon our energy industry at a time when we are besieged with demands to cut Government redtape and eliminate costly bureaucratic delays? Instead of creating a fast track Board, we are designing an "ox-cart" and fitting the yoke around the neck of industry under the guise of doing them a favor.

If we adopt this bill, I predict some future Congress will be saddled with the burden of dismantling it to free up the energy companies to conduct their business. What we do not need, is yet another Department of Energy. I believe we should send this report back to conference before it is unleashed upon an already overburdened industry.

The details follow:

TIME FRAME OF FINAL DECISIONS

Time required for so-called "bump-up" procedure to expedite action by a foot-dragging agency (in addition to time allowed under Project Decision Schedule for agency decision if litigation options are pursued).

1. Agency fails to make decision on time.
2. Board notifies agency and Congress of determination to bump-up, 15 days.
3. Agency challenges—files action in TECA (special federal court) 10 days.
4. TECA decides whether bump-up is permissible, 60 days plus possible 3 30-day extensions; total, 150 days.
5. File petition for certiorari with Supreme Court, 30 days.
6. Decision on petition, 15–180 days.
7. Argument heard, 60–90 days.
8. Supreme Court decides, 15–180 days.
9. Assuming Board proceeds to complete record and make decision in lieu of agency during time for judicial challenge, Board decision takes effect. If no Board decision reached, more time necessary.

Total, 205–655 days or .56–1.80 years.

10. Board decision in lieu of final agency decision subject to judicial review, with appeals, 270–690 days.

Time required for procedure to waive Federal law (in addition to time required for decisions to be made by agency if litigation options are used.)

1. Board commences to exercise authority to suspend, modify, amend existing laws—notice to project, affected agencies, Congress—publish notice in Federal Register.
2. Informal public hearing, 45+ days.
3. Board makes required findings, analysis, to send recommendation of suspension, modification or amendment to President, 90–270 days.
4. President receives public comments, consults, makes own findings and sends recommendation to Congress, 30–180 days.
5. Congress receives recommendation, both Houses pass resolution approving recommendation, 60 days.
6. Joint resolution transmitted to President for action, 10 days.
7. Challenge filed in TECA on ground that recommendation violates specific prohibitions (TECA is a special Federal Court), 60 days.
8. TECA decides, 60–180 days.
9. TECA decision challenged; petition for cert filed in Supreme Court, 30 days.
10. Decision on petition, 15–180 days.
11. Argument heard, 60–90 days.
12. Supreme Court decides, 15–180 days.
13. Final agency decision, based on suspended, modified or amended law, is made.

Total, 475–1,225 days or 1.30–3.36 years.

14. Final agency decision subject to judicial review, with appeals, 270–690 days.

Time required for exercise of the grandfather authority (if litigation options are used).

(Suspension, modification, amendment of new law, statute, regulation, rule or standard)

1. New Federal, State or local law enacted which presents substantial impediment to implementation of a Project.
2. Board commences to exercise Grandfather authority; Notice to Project, affected agencies, Congress; Publish notice in Federal Register.
3. Informal public hearings; hearing completed, 45 plus days.
4. Board considers Grandfather; Consultation with responsible agency; Board makes required findings; Board determines precise terms of suspension, modification or amendment, 60–120 days.

(During this period the Board may stay agency decision which is based on new law for 90 days.)

5. Board issues Grandfather order.
6. Challenge to Board order brought in TECA (special federal court), 30 days.
7. Time for TECA to decide, 60–180 days.
8. TECA decision challenged; petition for certiorari filed in Supreme Court, 30 days.
9. Decision on petition, 15–180 days.
10. Argument heard, 60–90 days.
11. Supreme Court decides, 15–180 days.
12. Final agency decision, based on suspended, modified or amended law is made.

Total, 315–855 days or .86–2.34 years.

13. Final agency decision subject to expedited judicial review, with appeals, 270–690 days.

Time required for court enforcement of schedule deadlines:

1. Board decides agency has missed or is likely to miss deadline.
2. Board gives agency and parties to agency proceedings notice of its determination.
3. Informal Public Hearing, 45+ days.
4. After hearing, Board decides whether to pursue court action, 30–90 days.
5. District Court decides case, 60–120 days.
6. Court decides agency should have complied with deadline, issues order.
7. Agency appeals to TECA (special federal court), 30 days.
8. TECA decides, 60–180 days.
9. TECA decision appealed; petition for certiorari to Supreme Court, 30 days.
10. Decision on petition, 15–180 days.
11. (Assume Supreme Court denies cert;) Final agency decision pursuant to District Court order.

Total, 270–675 days or .74–1.85 years.●

THE AUTO INDUSTRY

● Mr. HAYAKAWA. Mr. President, just a few days ago a resolution was brought before this body to improve the competitive position of the U.S. auto industry. At that time I expressed my concern that we were rushing to isolate ourselves from the world of trade and preparing the way for tariff protectionism. After listening to statements from my colleagues pertaining to this issue, and reading statements which were subsequently put into the CONGRESSIONAL RECORD I am even more concerned. What was seemingly an innocuous resolution, expressing support for a U.S. industry, has become all things to all people, but only as an "expression of support." However, it has now come to my attention that there are various pieces of legislation about to be introduced which will place tariffs on imported autos, or limit imports.

Some of my most profound concerns were echoed by Eric Ridder, and appeared in his column in the Journal of Commerce yesterday, June 20, 1980. Mr. President, I ask that Mr. Ridder's article be allowed to be printed in the RECORD in full. Also, I urge my colleagues to look at the severity of the situation with which we are faced, in terms of our economy, and the world economy, and resist the urge to look for a "quick-fix." The problems that exist within the automobile industry are many, and complex. I have often spoken about the declining productivity in our country. There is a great need at this time for industry and government, management and union to work together to find solutions to the many problems plaguing this industry and restore its strength.

The article follows:

THOSE SIX GOLD PENS

It is being widely recalled right now that 50 years ago this month Congress passed one of the most appalling economic measures in U.S. history in the belief it was just being helpful.

The economy was lurching down some unexpected steps, more than 4 million were unemployed, and since a tariff bill had failed to pass the previous year, congressional leaders decided a new and bigger one would be just what the doctor ordered. It passed and the president signed it with six gold pens.

Horse-trading had been so furious in the final days of debate that while everyone knew of something that was in the bill, few (if any) knew everything it contained or what its impact would be. That would become all too clear later.

It is easy to look back and proclaim that while that act would have been a blunder at any time, in mid-1930 it was sheer poison. Far from arresting the business slide, it accelerated and prolonged it by provoking crushing foreign reprisals against U.S. exports.

Why was it left to this and other newspapers and the universities to warn of the consequences?

It wasn't that President Hoover and the more responsible government and business leaders of the country were unaware of the danger. They were caught in a dilemma of their own and could find no way out.

The tariff act was not originally touted as an antidepression measure. Sen Reed Smoot of Utah saw it as a means of endowing the country with a "high degree of self-sufficiency." Rep. Willis C. Hawley of Oregon, co-author of the act, saw it as making the nation "self-contained and self-sustaining."

But by June 1930, the public associated it with the hope for better times. Any public figure warning that it would only make things worse would bring on the stigma of undermining public confidence.

The unwritten rule was to maintain a stiff upper lip. The more highly an individual was placed in government or business, the more he was expected to exude confidence and optimism at all times.

The late and highly perceptive Will Rogers was keenly aware of the dilemma on high. "There has been more optimism talked and less practiced," said he, "than at any time in our history."

President Hoover was unhappily aware of his own dilemma. He continued to express a dogged brand of confidence, just as did so many business leaders. Some would later wince at hearing their optimistic statements of 1930-32 read back to them.

The pervasive nature of this dilemma proved a godsend to the new tariff act. No business or government leader felt very comfortable in arguing it was bound to deepen and widen a depression they didn't want to admit to be a reality in the first place.

As it happened, public confidence was pretty well shattered anyway. The depression not only deepened, but became worldwide. Had it not been for the outbreak of the European war in 1939, who can say when that sad era would have passed into history?

By 1939, of course, the Tariff of 1930 had been largely replaced by the Trade Agreements Act passed four years previously. But the damage it had done still lingered. Despite

New Deal spending, the depression lingered up to the time the British-French war orders began pouring in.

A sobering thought to bear in mind when the economy is sliding and someone proposes a raft of new curbs on imports.

ORDER FOR RECOGNITION OF MR. ZORINSKY ON MONDAY, JUNE 23, 1980, AND CONSIDERATION OF S. 1839

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the two leaders have been recognized under the standing order, Mr. ZORINSKY be recognized for not to exceed 15 minutes, after which the Senate proceed to the consideration of Calendar Order No. 784, S. 1839, Higher Education Act amendments.

Mr. BAKER. Mr. President, reserving the right to object and I will not object, the purpose of the reservation is to advise the majority leader, as I have previously advised him unofficially, that we have no objection to the scheduling of the higher education bill as he suggests on Monday next. I would anticipate that it will be a fairly lengthy debate. I would hope that all Members on this side who have amendments to the bill would make that known to the managers so that we can get on with the business at hand as soon as possible on Monday.

Mr. ROBERT C. BYRD. Mr. President, I think the minority leader has made a very timely suggestion which could be well observed by not only the Members on his side of the aisle, to whom he has referred, but also to the Members on my side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 23, 1980, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previously entered order, that the Senate stand in recess until the hour of 10 o'clock on Monday morning.

The motion was agreed to; and at 2:42 p.m. the Senate recessed until Monday, June 23, 1980, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Saturday, June 21, 1980*

CONFERENCE REPORT ON S. 1308

Mr. STAGGERS submitted the following conference report and amendment on the bill (S. 1308) to provide for an expedited and coordinated process for decisions on non-nuclear energy projects, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–1119)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1308) to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses, as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Priority Energy Project Act of 1980".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

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TITLE III—PRIORITY ENERGY PROJECTS

Sec. 301. Application for designations.
Sec. 302. Designation of Priority Energy Projects.
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Sec. 306. Extension of deadlines.
Sec. 307. Effect of Act on agency obligations.
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Sec. 309. Termination of designation.
Sec. 310. Relation to the National Environmental Policy Act of 1969.
Sec. 311. Voluntary expedited Federal agency procedures.
Sec. 312. Mandatory expedited Federal agency procedures.
Sec. 313. Voluntary expedited non-Federal agency procedures.
Sec. 314. Court enforcement of the Project Decision Schedule.
Sec. 315. Board decisions or actions for agencies failing to comply with the Project Decision Schedule.
Sec. 316. Project specific grandfather authority.
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TITLE IV—JUDICIAL REVIEW

Sec. 401. Procedures governing judicial review.
Sec. 402. Actions subject to judicial review in the Temporary Emergency Court of Appeals.
Sec. 403. Actions not subject to judicial review.
Sec. 404. Judicial review of actions under section 315.
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TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Certification of completed agency review.
Sec. 502. Reports of the Board.
Sec. 503. Water law.
Sec. 504. The Alaska Natural Gas Transportation System.
Sec. 505. Authorization of appropriations.
Sec. 506. Expedited decisions for onshore drilling permits.
Sec. 507. Expedited decisions for activities on onshore Federal lands.
Sec. 508. Effective date.
Sec. 509. Separability.

TITLE I—GENERAL PROVISIONS

PURPOSES AND FINDINGS

SEC. 101. (a) The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce urgently require a program that will ensure that Federal, State, and local agencies will expedite consideration of certain energy projects and coordinate their activities concerning such projects.

(b) The purposes of this Act are to utilize to the fullest extent the constitutional power of Congress to regulate interstate and foreign commerce and to provide for the national security in order to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions, and reduce the Nation's dependence upon imported oil. These purposes can be served by providing a coordinated, prompt, and simplified process for consideration of certain nonnuclear energy projects, including projects which will facilitate conservation of energy, energy production, and energy research and development, that are determined to be in the national interest and designated as Priority Energy Projects.

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "Agency" means a Federal or non-Federal agency;

(2) "Agency decision or action" means any decision or action by any Federal or non-Federal agency affecting an energy project;

(3) "Board" means the Energy Mobilization Board established under section 201 of this Act.

(4) "Energy project" means any project or device to be used, or activity to be carried out, by any person or by any Federal or non-Federal agency for purposes of—

(A) exploration for, or

(B) development, transportation, production, processing, storage, commercialization, conservative or efficient use, of

any form of energy. The term includes: any equipment, building, structure, facility, mine, well, rig, pipeline, transmission line, processing project, research and development, project refinery, transportation or transportation-related device, structure which incorporates active or passive solar devices or both, manufacturing project or installation, facilities for the conservation or efficient use of energy in products used by consumers, or any combination of the foregoing, to be used for any purpose specified in the preceding sentence. The term does not include any project referred to in section 103.

(5) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of title 5, and the Executive Office of the President.

(6) "Independent Federal regulatory agency" means an agency or instrumentality of the United States which is composed of a collegial board, commission, or panel, the members of which—

(A) are appointed by the President for a fixed term of years, and

(B) are not subject to the direction of the President in the conduct of their regulatory functions.

(7) "Indian tribe" means a tribal organization, as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)), of an Indian tribe, as defined in section 4(b) of such Act (25 U.S.C. 450b(b)), when that organization exercises the powers of self-government, as defined in section 201(2) of the Act of April 11, 1968 entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes." (82 Stat. 73; 25 U.S.C. 1301 (2)).

(8) "Non-Federal agency" means any State agency, local agency, interstate or regional authority, or Indian tribe.

(9) "Local agency" means any general or special purpose agency or instrumentality of a political subdivision of a State.

(10) "Person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any other entity organized for a common purpose. The term does not include a Federal or non-Federal agency.

(11) "Priority Energy Project" or "Project" means an energy project which is designated pursuant to section 302.

(12) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(13) "State agency" means any general or special purpose executive agency, and any independent regulatory agency, of State government, including the Governor.

NUCLEAR ENERGY PROJECTS NOT COVERED

SEC. 103. Nothing in this Act shall apply to any project for the production of nuclear

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974.

TITLE II—ENERGY MOBILIZATION BOARD

ORGANIZATION OF THE ENERGY MOBILIZATION BOARD

SEC. 201. (a) There is hereby established an agency to be known as the Energy Mobilization Board.

(b) The Board shall consist of three members who shall be appointed by the President, by and with the advice and consent of the Senate. One member of the Board shall be designated by the President as the Chairman by and with the advice and consent of the Senate. The Chairman shall hold office at the pleasure of the President. Members (other than the Chairman) shall be appointed for a term of two years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, one on February 1, 1981, and one on February 1, 1982. Any member appointed to fill a vacancy occurring before the expiration of the term shall serve for the remainder of such term. At the expiration of their terms, members shall continue to serve in their positions at the pleasure of the President until their successor has been appointed by the President and confirmed by the Senate.

(c) The President shall select the members of the Board from among individuals who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board.

(d) Members shall serve as full-time employees of the Board. The Chairman shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule. Members other than the Chairman shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as individuals employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) The members shall not engage in any other employment, or hold any other office or position in the Federal Government, during the period of their employment with the Board.

(f)(1) The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for offices and positions at level IV of the Executive Schedule.

(2) Notwithstanding the provisions of title 28, United States Code, or any other provision of law, the Board, except as provided in paragraph (3), shall be represented by the General Counsel of the Board (or any attorney or attorneys within the Board designated by the General Counsel) who shall supervise, conduct, and argue any civil litigation concerning any action of the Board taken pursuant to this Act relating to Priority Energy Projects or concerning any challenge to the validity of this Act in any court of the United States or in any other court, except the United States Supreme Court. The Board shall consult with the Attorney General concerning any litigation, and the Attorney General shall provide, on request, such assistance to the General Counsel in the conduct of such litigation as may be appropriate.

(3) Nothing in this subsection shall be construed to preclude the Board from requesting the Attorney General to conduct any litigation of the Board either on a case-by-case basis or pursuant to an agreement between the Board and the Attorney General. The Attorney General shall, to the maximum extent possible, conduct such litigation when requested by the Board pursuant to this paragraph.

(g) The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act.

(h)(1) Except as otherwise expressly prohibited by law, the Board and the Chairman may delegate any of their respective functions under this title to members of the Board or to officers and employees of the Board and may authorize such successive delegations of such functions as necessary or appropriate. Nothing in this paragraph shall be construed to preclude additional delegations where determined appropriate by the Board.

(2) Final actions by the Board to designate an energy project as a Priority Energy Project pursuant to section 302, and other final decisions and actions authorized to be made or taken by the Board under title III, IV, or V of this Act shall be taken by majority vote with a quorum present.

ADMINISTRATION OF THE BOARD

SEC. 202. (a) The Board shall have the authority to—

(1) hold such hearings, sit and act at such time and places, take such testimony and receive such evidence, as may be necessary to carry out its function under this Act;

(2) subject to subsection (c) (where applicable)—

(A) enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with Federal and non-Federal agencies and private organizations and persons, and

(B) make such payments (in lump sum or installments, and by way of advance reimbursement)

as may be necessary or appropriate to carry out the functions of the Board;

(3) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Board and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for individuals serving without compensation;

(4) subject to subsection (c) (where applicable), acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act; and

(5) prescribe such orders and regulations as it deems necessary governing the operation and organization of the Board.

(b) The Board shall not construct, maintain, or operate any energy project.

(c) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(d) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail, in such manner, and for such reasonable period of time as shall be prescribed by the Board. Such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purposes of such audit and examination.

(e) The Board may request any Federal or non-Federal agency to provide information, suggestions, estimates, statistics, and technical assistance to the Board for the purpose of carrying out the Board's functions under this Act. Subject to applicable law, each agency shall make the information, suggestions, estimates, statistics, and technical assistance referred to in the preceding sentence available to the Board expeditiously and directly upon request.

(f) Upon request of the Board, the head of any Federal or non-Federal agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this Act.

(g)(1) The Chairman shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including the supervision of personnel employed by, or assigned to the Board, the distribution of business among personnel and among administrative units of the Board, and the procurement of services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) The Chairman shall have responsibility for scheduling, announcing, and conducting all Board meetings. The Chairman shall also have responsibility for determining the agenda of such meetings.

(3) The Chairman shall have responsibility for managing and conducting all negotiations conducted by the Board.

(h)(1) In carrying out the provisions of this Act, the Chairman is authorized to appoint such personnel, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service, as may be necessary. Each member of the Board may select and supervise personnel for such member's personal staff.

(2) The Chairman may appoint not to exceed thirty individuals without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the Senior Executive Service, and, without regard to the provisions of such title relating to classification and pay rates, fix the pay of such individuals at rates not in excess of the rate of basic pay payable for GS–18 of the General Schedule.

(3) The Chairman shall appoint an Executive Director who shall exercise such powers and duties as may be delegated to him. The Executive Director shall receive compensation at the rate provided for in level IV of the Executive Schedule.

(i)(1) The Chairman may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. The attendance of witnesses and production of such evidence may be required from any place within the United States, a State, or a judicial district at any designated place of hearing within the United States, a State, or a judicial district.

(2) If a person or an agency issued a subpena under this subsection refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person or agency is found or resides or transacts business may (upon application by the Board) order such person or agency to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person or agency required to be served resides or may be found.

(3) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(j) Whenever the Board submits to the President or the Office of Management and

Budget any legislative recommendation or testimony, and whenever the Board comments on any legislation prepared for submission to the Congress, the Board shall concurrently transmit a copy of such recommendation, testimony, or comments to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

(k) (1) Upon the request of the Congress or any committee thereof, the Board shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information requested which—

(A) is in the possession of the Board or any of its employees, and

(B) relates to the functions and responsibilities of the Board under this Act.

(2) The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully and currently informed concerning its activities.

APPLICATION OF THE SUNSHINE ACT

SEC. 203. (a) (1) The provisions of section 552b of title 5 of the United States Code (other than subsection (e) thereof) shall apply to meetings of the Board referred to in subsection (b). The provisions of section 552b of title 5 of the United States Code shall not apply to any other meeting of the Board.

(2) This section shall not be construed to mean that the Board should close to the public meetings of the Board other than meetings referred to in subsection (b).

(b) (1) The Board shall from time to time determine the actions of the Board which shall be taken at a meeting subject to section 552b of title 5 of the United States Code (other than subsection (e) thereof) and give notice of that determination.

(2) In addition to any actions of the Board referred to in paragraph (1), each of the following final actions taken by the Board shall be taken at meetings subject to the provisions of section 552b of title 5 of the United States Code (other than subsection (e) thereof):

(A) A determination under section 302 whether or not to designate an energy project as a Priority Energy Project.

(B) The establishment or modification under section 305 of a Project Decision Schedule.

(C) A determination under section 310 that a detailed statement is required.

(D) A determination under section 310 to designate a lead agency.

(E) A determination under section 312 to require Federal agencies to adopt modified procedures.

(F) A determination under section 314 to enforce a Project Decision Schedule.

(G) A determination under section 315(b) (1) (A) to make a decision or take an action in lieu of an agency decision or action.

(H) A decision made or action taken by the Board under section 315(b) (1) (B) in lieu of the agency decision or action.

(I) A determination under section 316 to issue an order for a suspension, modification, or amendment.

(J) A determination under section 317 to make a recommendation to the President.

(c) The Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of meetings described in subsection (b).

(d) For the purpose of this section, the term "meeting" has the same meaning as provided in section 552b of title 5, United States Code.

APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT

SEC. 204. (a) Except where this Act establishes different procedures, and except as provided in subsection (b), chapter 5 of title 5 of the United States Code shall apply to the Energy Mobilization Board.

(b) (1) Matters relating to public property, loans, grants, benefits, or contracts shall be subject to section 553 of title 5, United States Code, notwithstanding the exception in section 553(a) (2) of title 5, United States Code.

(2) Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency may provide information to the Board and consult with the Board relating to any Priority Energy Projects at any time and in any manner.

(3) The provisions of sections 554, 556, and 557 of title 5 of the United States Code shall not apply to any order of the Board.

(c) The following actions of the Board shall be carried out by order and shall not be treated as a rule subject to the provisions of section 553 of title 5 of the United States Code—

(1) A determination under section 302 whether or not to designate an energy project as a Priority Energy Project.

(2) The establishment or modification under section 305 of a Project Decision Schedule.

(3) A determination under section 310 that a detailed statement is required.

(4) A determination under section 310 to designate a lead agency.

(5) A determination under section 314 to enforce a Project Decision Schedule.

(6) A determination under section 315 (b) (1) (A) to make a decision or take an action in lieu of an agency decision or action.

(7) A determination under section 316 to issue an order for a suspension, modification, or amendment.

(8) A determination under section 317 to make a recommendation to the President.

Nothing in this section shall be construed to imply that the Board may not make any other decision or take any other action by order in accordance with applicable law.

TERMINATION OF THE BOARD

SEC. 205. (a) The authority of the Board under section 301 to receive applications, and the authority of the Board under section 302 to designate Priority Energy Projects, shall expire eight years after the date of enactment of this Act.

(b) Ninety days after the later of—

(1) the expiration of the eight-year period specified in subsection (a), or

(2) initial commercial operation, or termination of the designation, of all Priority Energy Projects designated by the Board,

the Board shall terminate. Upon such termination, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the operation of the Board, and the enforcement authority of the Board under section 316, shall be transferred to such agencies of the Federal Government in such fashion as the Director of the Office of Management and Budget shall determine.

(c) (1) No suit, action, or other proceeding commenced by or against the Board or any officer acting in his official capacity as an officer of the Board shall abate by reason of the termination of the Board. No cause of action by or against the Board or any officer, acting in his official capacity as an officer of the Board shall abate by reason of the termination of the Board.

(2) If, before the date of the termination of the Board, the Board is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget or his designee substituted.

TITLE III—PRIORITY ENERGY PROJECTS

APPLICATION FOR DESIGNATIONS

SEC. 301. (a) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board, in accordance with the procedures and criteria established under this section, by any person, or by any Federal or non-Federal with respect to the energy project.

(b) (1) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project. The procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

(A) enable it to make a designation under section 302,

(B) identify each agency which may make an agency decision or take an agency action with respect to the energy project,

(C) assist agencies in identifying the agency decisions or actions with respect to the energy project, and

(D) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

(2) Where known to the applicant, any application may identify—

(A) any duplicative, overlapping or conflicting requirements, or other requirements which would substantially delay a final decision or action relating to the energy project, and

(B) the critical regulatory problems likely to be encountered by the applicant, with recommendations for the resolution of such problems.

(c) The Board shall require any person or Federal or non-Federal agency making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) a design proposal for the energy project;

(2) economic data on the costs and benefits of the energy project; and

(3) an analysis of the environmental impacts of the energy project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

(d) (1) Promptly, but not later than fifteen days, following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate Federal and non-Federal agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the filing of such application.

(2) The Board shall afford forty-five days after publication of such notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration. The Board shall keep on file and make available for public inspection and copying at the main office of the Board, and in such other places as the Board deems appropriate, the full application to the extent consistent with section 552(b) of title 5 of the United States Code.

(e) Denial of an application for designation of an energy project as a Priority Energy Project shall not preclude the applicant from submitting another application for the designation of such project.

DESIGNATION OF PRIORTY ENERGY PROJECTS

SEC. 302. (a) Not later than forty-five days after expiration of the public comment period referred to in section 301(d) (2), the Board shall—

(1) issue an order designating the energy project as a Priority Energy Project if it de-

termines that such project is of sufficient national interest to be so designated, or

(2) deny the application.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Committee on Energy and Natural resources of the United States Senate and the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the United States House of Representatives and to the Governor of any State in which any portion of the Priority Energy Project is, or is proposed to be, located.

(c) In determining whether to make a designation, or to deny an application, under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to the project;

(3) the extent to which the energy project would make use of renewable resources;

(4) the extent to which the energy project would conserve energy;

(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(6) the time that would normally be required to obtain all necessary agency decisions and actions;

(7) the adverse impacts that would result from—

(A) the designation of the energy project as a Priority Energy Project, or

(B) any delay in completion of the energy project which would result from the failure to make such a designation;

(8) the extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources;

(9) the comments received concerning the energy project;

(10) the effect on regions of the country that will be most directly affected by the energy project;

(11) the availability of significant economic, environmental, or technical data; and

(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

Any order designating an energy project under this section shall contain a statement of the basis on which such designation was made and such other information as the Board deems appropriate.

(d) The Board shall encourage prospective applicants under this section to contact the Board and to file applications for any agency decision or action with the appropriate agencies as soon as possible in order that any eventual decision or action may be expedited.

(e) After receipt of an application for the designation of an electric powerplant as a Priority Energy Project, the Board shall designate such powerplant as a Priority Energy Project pursuant to procedures established by the Board if the Board determines that such powerplant will use coal or a coal derived fuel as the primary energy source either through—

(1) the conversion of an existing powerplant from the use of oil or natural gas as the primary energy source; or

(2) the construction of a new powerplant to replace an existing powerplant which uses oil or natural gas as the primary energy source.

The provisions of section 301 (b)(2) and (c) shall not apply to an application for designation pursuant to this subsection. For purposes of this subsection, the term "electric powerplant" has the same meaning as in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978.

STATE PARTICIPATION

SEC. 303. (a) Upon designation of any energy project as a Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is, or is proposed to be, located. Each such Governor may appoint a nonvoting representative to participate in matters respecting such Project. Section 201(d) shall not apply to the representatives appointed under this section.

(b) Each Governor's representative, to the extent the representative has access to the Board's materials, shall be subject to nondisclosure laws as if the representative were a Federal employee.

AGENCIES TO TRANSMIT INFORMATION

SEC. 304. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each Federal and non-Federal agency having authority to make any agency decision or take any agency action with respect to such Project or any part thereof, shall transmit to the Board—

(1) a compilation of—

(A) all significant agency decisions and actions required to be taken by such agency with respect to such Project or any part thereof,

(B) the procedural requirements applicable to such agency decisions and actions,

(C) all significant decisions and actions required to be taken by the applicant with respect to such Project or any part thereof;

(2) a tentative schedule for such decisions and actions;

(3) a statement of the amount of funds and personnel available to the agency to make such decisions and take such actions and of the effect that making such decisions and taking such actions will have on other decisions and actions required to be taken by the agency respecting other matters, together with a statement as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Where it deems appropriate, the Board may request the Governors concerned to assist in obtaining information to be provided by non-Federal agencies under this section.

ESTABLISHMENT AND MODIFICATION OF THE PROJECT DECISION SCHEDULE

SEC. 305. (a) Not later than thirty days after agencies are required to transmit information under section 304, the Board, in consultation with the appropriate agencies, and the Governors of affected States or their representatives, shall publish in the Federal Register a Project Decision Schedule for all agency decisions and actions relating to such Project, except such decisions and actions which the Board in its discretion, deems not necessary to include on the Project Decision Schedule in order to carry out the purposes of this Act. The Project Decision Schedule and any modification thereof shall clearly identify the deadlines applicable to such decisions and actions.

(b) Upon the request of an agency referred to in subsection (a), the Board shall afford the agency an opportunity to present its views at a public hearing concerning any deadline to be established for the agency on the Project Decision Schedule. The hearing shall be conducted pursuant to such procedures as the Board in its discretion may establish. The hearing shall be initiated and completed prior to the time required for establishment of the Project Decision Schedule.

(c) A Project Decision Schedule and any modification thereof may suggest concurrent review of applications for agency decisions and actions and joint hearings by agencies.

(d) Where possible, the Board shall negotiate and enter into written cooperative agreements with each affected non-Federal agency concerning the establishment of deadlines on a Project Decision Schedule.

(e) In consultation with the Priority Energy Project and with appropriate agencies, the Board shall include on the Project Decision Schedule for such Project deadlines for the submission by the Project of applications and other information to the appropriate agencies.

(f) The objective of the Board in setting or modifying any Project Decision Schedule shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, each final agency decision or action subject to such Schedule is made or taken within twelve months from the date on which application is submitted for such decision or action by the Project.

(g)(1) The Project Decision Schedule or any modification thereof shall—

(A) except as authorized in paragraph (2), be consistent with the tentative schedules transmitted to the Board under section 304;

(B) be reasonably designed to ensure that the agency is able to comply with all applicable laws (as may be modified pursuant to this Act); and

(C) ensure that the agency is able to afford adequate participation as required by all applicable laws (as may be modified pursuant to this Act).

(2) A deadline on the Project Decision Schedule may require that agency decisions and actions be made or taken within a shorter schedule than would be possible or required if the energy project were not a Priority Energy Project. If the Board determines that a schedule different than any tentative schedule transmitted to the Board under section 304 would expedite agency decisions and actions, the Board may establish a shorter schedule than—

(A) the tentative schedule transmitted by the agency, or

(B) the schedule or the deadline required or authorized by other provisions of law.

Notwithstanding any other applicable provision of law which requires or authorizes a schedule or a deadline for an agency decision or action, such shorter deadline established by the Board shall apply in lieu of any schedule or deadline otherwise applicable and shall be binding on the agency and on all persons and agencies subject to the Project Decision Schedule. The Board shall publish its reasons for establishing the shorter deadline or schedule.

(3) The Project Decision Schedule, and any modification thereof, and each agency decision and action for which a deadline is specified on the Project Decision Schedule, and any modification thereof, shall be consistent with all applicable laws (as may be modified pursuant to this Act).

(h)(1) At any time, upon its own motion or upon petition of an agency, the Project, or any party to an agency proceeding, the Board may, as the Board deems necessary, modify the Project Decision Schedule as it applies to such agency or to the Project. No modification may be made unless the Board determines that—

(A) such modification would further the purposes of this Act; or

(B) continued adherence to the Project Decision Schedule—

(i) would be impractical, taking into account the personnel and funds available to the agency for complying with such Schedule, or

(ii) would not be in the public interest.

(2) In the case of a request for a modification by an agency, in addition to the requirements of paragraph (1), no modification may be made unless the agency has exercised due diligence in attempting to comply with section 304 and with the Schedule, taking into account the personnel

and funds available to the agency for complying with such Schedule.

(3) In the case of a request for a modification by a Project, in addition to the requirements of paragraph (1), no modification shall be made unless the Project has exercised due diligence in attempting to comply with the Schedule.

(4) Any modification of the Project Decision Schedule shall be published in the Federal Register.

EXTENSION OF DEADLINES

Sec. 306. The Board may extend the time—

(1) for providing notice of receipt of an application under section 301,

(2) for receiving comments under section 301,

(3) for making its determination under section 302,

(4) for agencies to transmit information under section 304, and

(5) for publication by the Board under section 305 of a Project Decision Schedule.

Any extension under this section shall be consistent with the purposes of this Act and shall be for only such period as the Board deems necessary.

EFFECT OF ACT ON AGENCY OBLIGATIONS

Sec. 307. (a) Nothing in this Act shall be construed as exempting any Priority Energy Project from any applicable requirement established by, or pursuant to, Federal, State, or local law (as may be modified pursuant to this Act).

(b) Nothing in this Act shall be construed to mean that any agency or Board decision or action should be favorable or unfavorable toward a particular Priority Energy Project.

(c) Except as otherwise provided in this Act, this Act shall not be construed to affect the authority or independence of any independent Federal regulatory agency.

MONITORING COMPLIANCE

Sec. 308. (a) The Board shall monitor compliance with the Project Decision Schedule by the agencies and the Project subject to the Schedule and may require such agencies and the Project to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for carrying out its functions under this Act.

(b) If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and the Project of its determination.

TERMINATION OF DESIGNATION

Sec. 309. (a) At any time after an energy project has been designated as a Priority Energy Project, the Board may by order terminate the designation if—

(1) the Board determines that the Project has not exercised due diligence in attempting to comply with the Project Decision Schedule;

(2) the Board determines that the Project has not attempted in good faith to comply with any applicable law governing the Project's actions with respect to agency decisions or actions which are subject to the Project Decision Schedule;

(3) the Board determines that the designation is no longer necessary to carry out the purposes of this Act; or

(4) the Project has requested that the designation be terminated.

(b) (1) If the Board terminates the designation of any energy project as a Priority Energy Project, after the date of such termination the provisions of this Act applicable to Priority Energy Projects shall no longer apply to such Project, except as provided in paragraph (2).

(2) All final agency decisions and actions, and all final decisions and actions of the Board (except those under section 302 and section 305), relating to a Priority Energy Project which were taken or made before the termination shall not be affected by such termination and such decisions and actions shall remain subject to the provisions of this Act.

(c) No order under this section shall prohibit any energy project from reapplying for designation as a Priority Energy Project.

RELATION TO THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Sec. 310. (a) A determination by the Board to designate an energy project as a Priority Energy Project, a determination by the Board to terminate the designation of a Priority Energy Project, and the establishment or modification by the Board of any Project Decision Schedule for any Priority Energy Project, shall not be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule—

(1) the Council on Environmental Quality (hereinafter referred to as "the Council") shall determine whether any Federal agency decision or action with respect to the Priority Energy Project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969; and

(2) if the Council determines that any such decision or action is such a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969.

If the Council fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

(c) The lead agency designated as provided in subsection (b) shall be responsible for preparing a detailed statement required to be prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 in accordance with—

(1) such Act and any applicable regulations issued thereunder;

(2) the applicable procedures of the lead agency; and

(3) the Project Decision Schedule, including deadlines for decisions and actions pursuant to this section.

(d) The lead agency designated as provided in subsection (b) shall require such assistance from other Federal agencies in the preparation of the detailed statement as may be appropriate. All Federal agencies shall cooperate with the lead agency with respect to the preparation of such statement.

(e) Notwithstanding any other provision of law, the Board may require any two or more Federal agencies to consolidate any or all aspects of their proceedings for preparing the detailed statement referred to in this section.

(f) (1) Where an agency decision or action has been determined as provided in subsection (b) to be a major Federal action, and where a lead agency has been designated as provided in subsection (b), the Board may, notwithstanding any restrictions on ex parte communications—

(A) determine that one detailed statement be prepared by the lead agency for any or all Federal agencies considering a Priority Energy Project; and

(B) upon such determination require that such statement be used by any or all such agencies to satisfy section 102(2)(C) of the National Environmental Policy Act of 1969

(2) Notwithstanding any other provision of law, the Board may require for any Priority Energy Project that a detailed statement prepared as provided in this section be used by any or all non-Federal agencies to substitute for any comparable statement required by State or local law. If the Board requires that such statement substitute for a comparable requirement of State or local law—

(A) such statement shall include a discussion of all matters required under the comparable State or local law; and

(B) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law.

(3) The Board shall not require a statement substitute for a comparable State or local requirement unless the Board determines that the lead agency has been unable to negotiate, within forty-five days after establishment of the Project Decision Schedule, an agreement for voluntary State and local cooperation with the lead agency in preparing the consolidated detailed statement in accordance with applicable law.

(g) For the purposes of this section, the term "lead agency" means the Federal agency designated pursuant to subsection (b) to supervise the preparation of a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969.

VOLUNTARY EXPEDITED FEDERAL AGENCY PROCEDURES

Sec. 311. (a) (1) Any Federal agency which is, or may be, subject to a Project Decision Schedule established by the Board for any Priority Energy Project may, at any time and in its discretion, adopt changes in the procedures applicable to such agency's decisions and actions for energy projects. The changed procedures adopted under this subsection shall be consistent with all applicable laws, except that the changed procedures shall apply solely to Priority Energy Projects and the Federal agency may—

(A) to the maximum extent practicable—

(i) consolidate its proceedings respecting agency decisions and actions subject to the Project Decision Schedule with the proceedings of other agencies involving the Project, and

(ii) hold such proceedings in the vicinity of the Priority Energy Project;

(B) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and to the maximum extent practicable provide for uniform collection, analysis, and reporting of data obtained from such permits, licenses, and other filings;

(C) substitute legislative-type hearings for trial-type hearings, except that in those proceedings for which—

(i) a formal hearing, including an opportunity for cross-examination, is authorized by any other law, and

(ii) the agency determines that there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing,

the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the law providing for such hearing;

(D) provide that at hearings, other than the hearings conducted pursuant to subparagraph (C), concerning any agency decision or action subject to the Project Decision Schedule—

(i) any party to such hearing may submit such written data, views, or arguments and responses thereto, as such Federal agency or its presiding employee may specify; and

(ii) any party to such hearing making an oral presentation shall be limited to brief oral arguments with respect to such written submissions and responses;

(E) establish procedures for final Federal agency decisions and actions—

(i) in which the presiding employee at any hearing may be required to—

(I) certify the hearing record to the agency for decision without any initial, tentative, or recommended decision, or

(II) submit the hearing record to the agency without any initial, tentative, or recommended decision, but with such analysis of such record as the agency may specify; and

(ii) which provide that when the agency makes the decision without having presided at the reception of the evidence, the agency may omit a tentative or recommended decision if the agency determines that due and timely execution of its functions so require;

(F) shorten time periods for Federal agency decisions and actions; or

(G) utilize any combination of the procedures referred to in subparagraphs (A) through (F).

(2) Any hearings modified by a Federal agency pursuant to subparagraph (C) or (D) of paragraph (1) shall be adequate for the purposes for which they are held and shall meet the due process requirements of the United States Constitution. Subparagraphs (C) and (D) of paragraph (1) shall not be construed as authority to exclude persons from appearing or participating in such hearings.

(3) Subparagraph (E) of paragraph (1) shall not apply to any independent Federal regulatory agency.

(b) Each Federal agency utilizing the authority of this section shall ensure that the procedures used to adopt changes authorized by this section are consistent with applicable law with public participation.

(c) Any changes in procedures adopted under this section shall apply solely to Federal agency decisions and actions concerning Priority Energy Projects.

MANDATORY EXPEDITED FEDERAL AGENCY PROCEDURES

SEC. 312. (a)(1) The Board may require Federal agencies to adopt procedures in accordance with this section.

(2) This section shall not apply to any independent Federal regulatory agency.

(b)(1) Not later than one hundred and eighty days after all members of the Board have been confirmed by the United States Senate and from time to time thereafter, the Board shall—

(A) identify those Federal agencies which are likely to be subject to a Project Decision Schedule, and

(B) recommend, as the Board deems appropriate, for each such agency the adoption of changes in the procedures applicable to the decisions and actions of such agency concerning energy projects.

Such recommended changes shall apply solely to that agency's decisions and actions concerning any Priority Energy Project. The recommendations and reasons for such recommendations shall be public.

(2) Upon receipt of the Board's recommendations under paragraph (1), each such agency shall promptly examine the agency procedures identified by the Board in its recommendations to determine what changes in such procedures should be made.

(3) If, after a reasonable period, not to exceed sixty days, following receipt of the recommendations referred to in paragraph (1), the Federal agency fails to initiate pursuant to paragraph (2) the changes recommended by the Board, the Board may issue an order to the agency to proceed to adopt the Board's recommendations.

(4) Upon completion of the agency process required by paragraphs (2) and (3) of this subsection, the agency shall adopt the changes specified by the Board or any modification thereof, unless such agency determines, based on the record, that such changes or modifications thereof should not be adopted. The agency shall notify the Board of any such determination. Upon receipt of such notice, the Board, if it disagrees with the agency's determination, may, by order, require the agency to adopt the changes specified by the Board. The Board shall state the reasons for its order.

(c) The changes made pursuant to this section shall be consistent with all applicable laws, except that the changed procedures shall apply solely to Priority Energy Projects and the Board may recommend and require pursuant to subsection (b) that the Federal agency—

(A) to the maximum extent practicable—

(i) consolidate Federal agency proceedings respecting decisions and actions subject to the Project Decision Schedule with the proceedings of other agencies involving the Project, and

(ii) hold such proceedings in the vicinity of the Priority Energy Project;

(B) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and to the maximum extent practicable, provide for uniform collection, analysis, and reporting of data obtained from such permits, licenses, and other filings:

(C) substitute legislative-type hearings for trial-type hearings, except that in those proceedings for which—

(i) a formal hearing, including an opportunity for cross-examination, is authorized by any other law, and

(ii) the Federal agency determines that there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing,

the Federal agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the law providing for such hearing;

(D) provide that at hearings, other than the hearings conducted pursuant to subparagraph (C), concerning any Federal agency decision or action subject to the Project Decision Schedule, any party to such hearing shall be limited to submitting written data, views, or arguments and responses thereto and to brief oral arguments with respect to such written submissions and responses;

(E) establish procedures for final Federal agency decisions and actions—

(i) in which the presiding employee at any hearing may be required to—

(I) certify the hearing record to the agency for decision without any initial, tentative, or recommended decision, or

(II) submit the hearing record to the agency without any initial, tentative, or recommended decision, but with such analysis of such record as the agency may specify; and

(ii) which provide that when the agency makes the decision without having presided at the reception of the evidence, the agency may omit a tentative or recommended decision if the agency determines that due and timely execution of its functions so require;

(F) shorten time periods for Federal agency decisions and actions; or

(G) utilize any combination of the procedures referred to in subparagraphs (A) through (F).

(2) Any hearings modified by a Federal agency pursuant to subparagraph (C) or (D) of paragraph (1) shall be adequate for the purposes for which they are held and shall meet the due process requirements of the United States Constitution. Subparagraphs (C) and (D) of paragraph (1) shall not be construed as authority to exclude persons from appearing or participating in such hearings.

(d) Each Federal agency shall ensure that the procedures used to adopt changes authorized by this section are consistent with applicable law with public participation.

(e) Any changes in procedures adopted under this section shall apply solely to Federal agency decisions and actions concerning Priority Energy Projects.

VOLUNTARY EXPEDITED NON-FEDERAL AGENCY PROCEDURES

SEC. 313. (a) The Board may make recommendations for changes in the procedures applicable to the decisions and actions of non-Federal agencies which are, or may be, subject to a Project Decision Schedule established by the Board for any Priority Energy Project. The Board is not authorized to require that such agencies adopt such recommendations.

(b)(1) Any non-Federal agency which is, or may be, subject to a Project Decision Schedule established by the Board for any Priority Energy Project may, at any time and in its discretion, adopt changes in the procedures applicable to such agency's decisions and actions for energy projects. The changed procedures adopted under this subsection shall be consistent with all applicable laws, except that the changed procedures shall apply solely to Priority Energy Projects and the non-Federal agency may—

(A) to the maximum extent practicable—

(i) consolidate its proceedings respecting agency decisions and actions subject to the Project Decision Schedule with the proceedings of other agencies involving the Project, and

(ii) hold such proceedings in the vicinity of the Priority Energy Project;

(B) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and to the maximum extent practicable, provide for uniform collection, analysis, and reporting of data obtained from such permits, licenses, and other filings;

(C) substitute legislative-type hearings for trial-type hearings, except that in those proceedings for which—

(i) a formal hearing, including an opportunity for cross-examination, is authorized by any other law, and

(ii) the agency determines that there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing.

the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the law providing for such hearing;

(D) provide that at hearings, other than the hearings conducted pursuant to subparagraph (C), concerning any agency decision or action subject to the Project Decision Schedule—

(i) any party to such hearing may submit such written data, views, or arguments and responses thereto, as such non-Federal agency or its presiding employee may specify; and

(ii) any party to such hearing making an oral presentation shall be limited to brief oral arguments with respect to such written submissions and responses;

(E) establish procedures for final non-Federal agency decisions and actions—

(i) in which the presiding employee at any hearing may be required to—

(I) certify the hearing record to the agency for decision without any initial, tentative, or recommended decision, or

(II) submit the hearing record to the agency without any initial, tentative, or recommended decision, but with such analysis of such record as the agency may specify; and

(ii) which provide that when the agency makes the decision without having presided at the reception of the evidence, the agency may omit a tentative or recommended decision if the agency determines that due and timely execution of its functions so require;

(F) shorten time periods for non-Federal agency decisions and actions; or

(G) utilize any combination of the procedures referred to in subparagraphs (A) through (F).

(2) Any hearings modified by a non-Federal agency pursuant to subparagraph (C) or (D) of paragraph (1) shall be adequate for the purposes for which they are held and shall meet the due process requirements of the United States Constitution. Subparagraphs (C) and (D) of paragraph (1) shall not be construed as authority to exclude persons from appearing or participating in such hearings.

(c) Each non-Federal agency utilizing the authority of this section shall ensure that the procedures used to adopt changes authorized by this section are consistent with applicable law with public participation.

(d) Any changes in procedures adopted under this section shall apply solely to non-Federal agency decisions and actions concerning Priority Energy Projects.

COURT ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

SEC. 314. (a) If any Federal or non-Federal agency has failed, or is reasonably likely to fail, to comply with any deadline on the Project Decision Schedule, the Board may bring an action in the appropriate United States district court to enforce such deadline. Such action may be brought by the Board only after the Board has—

(1) notified the agency and the parties to the agency proceedings that the agency has failed, or is reasonably likely to fail, to comply with the deadline and that court action is contemplated; and

(2) conducted an informal public hearing.

A transcript shall be kept of the hearing conducted under paragraph (2). The hearing shall be completed within forty-five days after the date on which notice is provided under paragraph (1). The Board may extend such period in its discretion.

(b) In any court action brought under subsection (a), the court shall have authority to issue such orders as it deems necessary to enforce the applicable deadline on the Project Decision Schedule, except that the court may not make a decision or take an action in lieu of the agency decision or action. In any court action brought under this section, the court may review whether the agency could comply with all applicable laws (as may be modified pursuant to this Act).

(c)(1) Notwithstanding the provisions of title 28, United States Code, or any other provision of law, any Federal agency may, in its discretion, be represented by the General Counsel or other chief legal officer of the agency (or any attorney or attorneys within the agency designated by the General Counsel or other chief legal officer) who shall supervise, conduct, and argue any civil litigation concerning any action of the Board pursuant to this section or section 315 in any court of the United States, except the Supreme Court. The agency shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance to the agency in the conduct of such litigation as may be appropriate.

(2) Nothing in this subsection shall be construed to preclude the agency from requestioning the Attorney General to conduct litigation of the agency either on a case-by-case basis or pursuant to an agreement between the agency and the Attorney General. The Attorney General shall, to the maximum extent possible, conduct such litigation when requested by the agency pursuant to this paragraph.

BOARD DECISIONS OR ACTIONS FOR AGENCIES FAILING TO COMPLY WITH THE PROJECT DECISION SCHEDULE

SEC. 315. (a) The provisions of this section shall not be used for any final agency decision or action, except where a Federal or non-Federal agency has failed to comply with a deadline for such final agency decision or action on the Project Decision Schedule.

(b)(1) If any Federal or non-Federal agency has failed to comply with such deadline on the Project Decision Schedule, the Board may, in accordance with this subsection—

(A) determine by order to make the decision or take the action in lieu of the agency, and

(B) make such decision or take such action in lieu of the agency.

(2) Whenever the Board determines under paragraph (1)(A) to make a decision or take an action under this section in lieu of a Federal or non-Federal agency, the Board shall—

(A) notify the agency of its determination, and

(B) order the agency to transmit to the Board such records as the Board deems appropriate concerning the applicable agency proceeding.

The Board shall send a copy of the order to the Priority Energy Project, the Speaker of the United States House of Representatives, the President of the United States Senate, and in cases concerning a non-Federal agency decision or action, to the Governor of each State in which any portion of the Priority Energy Project is, or is proposed to be located.

(3) Upon receipt of an order under paragraph (2), the agency shall promptly transmit to the Board the records which are the subject of the order. If the agency does not promptly transmit to the Board such records, the appropriate United States district court shall have authority to issue an order, upon petition of the Board, requiring the agency to comply with the order of the Board.

(c) Whenever the Board determines to make a decision or to take an action in lieu of a Federal or non-Federal agency decision or action, the Board shall take whatever action is necessary to obtain an adequate record to support the final Board decision or action. Any final decision or action of the Board under this section in lieu of an agency decision or action shall be consistent with applicable Federal, State or local law (as may be modified pursuant to this Act) and the Temporary Emergency Court of Appeals shall have original and exclusive jurisdiction to review under such law such final decision or action of the Board, except as provided in section 401(e).

(d) An agency receiving notification from the Board pursuant to subsection (b)(2)(A) shall not thereafter exercise the authority to make the agency decision or take the agency action which the Board has notified the agency that it proposes to make or take in lieu of the agency. Any agency decision or action in violation of this subsection shall not be valid. Nothing in this subsection shall prevent an agency from making an agency decision or taking an agency action whenever the decision or action is remanded to the agency pursuant to title IV.

(e)(1) If the Governor of an affected State certifies to the Board, prior to establishment of the Project Decision Schedule for any Project, that such State has a single process for siting energy projects which establishes binding deadlines (which may be modified pursuant to this Act) for agency decisions or actions applicable to the Project, and if the Board determines that the State has such a process, the Board shall not exercise its authority under this section with respect to that State's decisions and actions under that State's process before the last deadline on the Project Decision Schedule for Federal and non-Federal agency decisions and actions.

(2) The provisions of paragraph (1) shall not apply to non-Federal agency decisions and actions which are a prerequisite for a Federal agency decision or action subject to the Project Decision Schedule.

PROJECT SPECIFIC GRANDFATHER AUTHORITY

SEC. 316. (a)(1) This section applies to Federal, State, and local statutes, rules, regulations, and standards which present a substantial impediment to the implementation of a Project, as determined by the Board.

(2) On its own motion or upon petition of a Priority Energy Project, the Board may, in its discretion, issue an order in accordance with this section to suspend, modify, or amend any Federal, State, or local statute, rule, regulation, or standard as it applies to the Priority Energy Project if such statute, rule, regulation, or standard was enacted or promulgated during the period specified in subsection (b). The order shall apply for such period of time as the Board determines appropriate. The period may be—

(A) a temporary period of years to enable the Project to achieve good faith compliance with the Federal, State, or local statute, rule, regulation, or standard subject to such order, or

(B) the life of the Project.

(3) On its own motion or on petition of the Priority Energy Project, the Board may, in its discretion, issue an order to modify or extend any suspension, modification, or amendment ordered under paragraph (2). A modification or extension under this paragraph shall be subject to the provisions of this section applicable to the issuance of an order under paragraph (2).

(4) The Board may exercise its authority under this section to issue an order under paragraph (2), or to issue a modification or extension under paragraph (3), only during the period beginning on the date of designation of the energy project as a Priority Energy Project and ending on the date of initial commercial operation of the project, as determined by the Board.

(5) Each order issued pursuant to this section shall apply to only one Priority Energy Project.

(b)(1) The Federal, State, and local statutes, rules, regulations, and standards subject to suspension, modification, or amendment under this section are as follows—

(A) In the case of any Project which commenced construction before the date of enactment of this Act: any Federal, State, or local statute, rule, regulation, or standard which was enacted or promulgated on or after the date of enactment of this Act.

(B) In the case of any Project which commenced construction on or after the date of enactment of this Act: any Federal, State, or local statute, rule, regulation, or standard which was enacted or promulgated after the earlier of the date on which—

(i) construction of such Project commenced; or

(ii) application is submitted for designation of the Energy Project as a Priority Energy Project.

The application referred to in clause (ii) is the application which results in designation of the energy project as a Priority Energy Project.

(2) This section shall not apply to any Federal, State, or local statute, rule, regulation, or standard which is enacted or promulgated after the date of initial commercial operation of the Project, as determined by the Board.

(c) For the purposes of this section, the term "commenced construction" means with respect to any Priority Energy Project, that the Project has—

(1)(A) obtained necessary preconstruction approvals or permits required, if any, by applicable law that are not subject to deadlines on the Project Decision Schedule or are not precluded from being issued until one or more agency decisions or actions subject to such Schedule are taken or made; and

(B) begun or caused to begin a continuous program of physical onsite construction of the Project; or

(2) begun or caused to begin a continuous program of physical onsite construction of the Project where no such preconstruction approvals or permits are required, except as part of the Project Decision Schedule; or

(3) entered into binding written agreements or contracts with respect to the Project to undertake substantial physical onsite construction or acquisition of significant components for the construction or operation of the Project, and such agreements or contracts cannot be canceled or modified without substantial financial loss to the Project.

In the case of Projects which do not involve construction, the term "commenced construction" means that the Project has entered into binding written agreements or contracts, or has made substantial financial commitments, with respect to the Project, which agreements, contracts, or commitments cannot be canceled or modified without substantial financial loss to the Project.

(d)(1) Whenever the Board commences, on its own motion or upon petition, to exercise its authority under this section, the Board shall—

(A) notify the Project, the affected Federal and non-Federal agencies, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Governor of each State in which the Project is, or is proposed to be, located, and

(B) publish notice in the Federal Register.

(2) The notice referred to in paragraph (1) shall identify the Federal, State, or local statute, rule, regulation, or standard that will be considered by the Board for suspension, modification, or amendment pursuant to an order under subsection (a), set forth the date and place of the hearing referred to in paragraph (3) of this subsection, and provide a brief summary of the possible need for such order. At the time the Board provides such notice, the Board need not indicate the action, if any, it will take under this section.

(3) After notice under paragraph (1), the Board shall conduct an informal public hearing. The hearing shall be completed within forty-five days following the date such notice is provided, unless the Board determines, in its discretion, that a longer period is necessary. The hearing shall be conducted in accordance with such procedures as the Board may prescribe, except that—

(A) the hearing shall be conducted in the vicinity of the Project unless the Board determines that another location would be more convenient;

(B) a transcript of the hearing shall be maintained; and

(C) any interested person, the Project, and any affected agency shall have an opportunity to present oral and written testimony.

The purpose of the hearing shall be to gain information for the Board to consider in exercising its authority under this section. Sections 554, 556, and 557 of title 5 of the United States Code shall not apply to the hearing.

(4) The Board may issue an order under subsection (a) only after the Board has consulted with the agency or agencies responsible for administering the Federal, State, or local statute, rule, regulation, or standard which may be subject to the order.

(e) The Board may not issue an order under subsection (a) unless it finds, after the hearing and consultation required by this section that—

(1) the Federal, State, or local statute, rule, regulation, or standard to which the proposed order applies was enacted or promulgated within the period specified in subsection (b);

(2) the Federal, State, or local statute, rule, regulation, or standard presents a substantial impediment to the implementation of the Project;

(3) there is substantial evidence that implementation of the order will not result in substantial harm to public health or safety (taking into account (A) the purposes for which the Federal, State, or local statute, rule, regulation, or standard was enacted or promulgated and the terms and (B) conditions imposed by the Board pursuant to subsection (f) concerning health and safety);

(4) the order is not prohibited in whole or in part under subsection (j); and

(5) the order is in the national interest and will further the purposes of this Act.

(f) Each order of the Board under subsection (a) shall identify the Project to which the recommendation applies, contain an identification number, and provide—

(1) a detailed identification of the Federal, State, or local statute, rule, regulation, or standard to be suspended, modified, or amended;

(2) a precise statement of the suspension, modification or amendment; and

(3) such terms and conditions as the Board deems necessary—

(A) to mitigate any adverse effects which are anticipated to result from the order, including any such effects on public health, safety, welfare, and the environment (including fish and wildlife and related resources); and

(B) to enhance the environment—

(i) related to the Project, and

(ii) affected by the suspension, modification, or amendment.

(g) Each order of the Board under subsection (a) shall be accompanied by—

(1) a statement of the findings referred to in subsection (a), as well as the basis for each finding;

(2) a statement of the Board's reasons for issuing the order; and

(3) a summary of the views of the agencies consulted by the Board in connection with the issuance of the order.

(h) Any suspension, modification, or amendment ordered under subsection (a) shall have the force and effect of law and shall take effect as provided in the order.

(i) The Federal or non-Federal agency with primary authority for administering the Federal, State, or local statute, rule, regulation, or standard which is the subject of an order under subsection (a) shall enforce the order. If, after providing notice as provided in the first sentence of subsection (d)(1) and after an informal public hearing conducted in accordance with subsection (d)(3), the Board determines—

(1) the Project has failed to comply with the order; and

(2) the agency is unwilling or unable to enforce the order;

the Board may, during its existence and in its discretion, enforce such order in consultation with the agency, by bringing an action in the appropriate United States district court, with appeal to the Temporary Emergency Court of Appeals.

(j)(1) No order may be issued under subsection (a) and no such order may take effect if the order would—

(A) suspend, modify, or amend any Federal, State, or local statute, rule, regulation, or standard which relates to—

(i) the rights, working conditions (including health and safety), compensation, pensions, or hours of employment of workers or their representatives;

(ii) civil rights;

(iii) securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934, or State and local securities laws;

(iv) the Internal Revenue Code of 1954; or

(v) antitrust laws, as defined in section 3(1) of the Public Utility Regulatory Policies Act of 1978; or

(B) cause a violation of any primary air quality standard established under the Clean Air Act;

(C) impair or abridge the rights of any person under the United States Constitution;

(D) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(E)(i) suspend, modify, or amend the criminal sanctions of any Federal, State, or local criminal code; or

(ii) suspend, modify, or amend a criminal sanction in any Federal, State, or local law, unless the recommendation also suspends, modifies, or amends the provision of law which is punishable by such criminal sanction.

(2) No order may be made under this section, and no such order may take effect, if the order would have the effect of reversing or modifying a final Federal or non-Federal agency decision or action made or taken at any time specifically for the Priority Energy Project identified in such order.

(3) The prohibition contained in paragraph (2) shall not apply to an order under subsection (a) which would have the effect of reversing or modifying a final agency decision or action as provided in paragraph (2) if the final agency decision or action is stayed pursuant to this paragraph and the Board issues the order during the period such stay is in effect. If a final agency decision or action is taken or made—

(A) after the date on which the Board provides notice under subsection (d)(1) that it is considering the suspension, modification, or amendment of a Federal, State, or local statute, rule, regulation, or standard on which such agency decision or action is based, and

(B) before the Board issues an order under subsection (a),

the Board may issue an order staying the application of that agency decision or action. A stay under this paragraph may be issued only after such agency decision or action becomes final and before the Board issues an order under subsection (a). The stay shall apply for no longer than ninety days.

PROJECT SPECIFIC EXPEDITED CONGRESSIONAL REVIEW

SEC. 317. (a)(1) This section applies to Federal statutes, rules, regulations, and standards which present a substantial impediment to the implementation of a Project, as determined by the Board.

(2) On its own motion or upon petition of a Priority Energy Project, the Board may, in its discretion, recommend to the President, in accordance with this section, the suspension, modification, or amendment of any Federal statute, rule, regulation, or standard as it applies to the Priority Energy Project if such Federal statute, rule, regulation, or standard was enacted, or promulgated, during the period specified in subsection (b).

(3) The Board may exercise its authority under this section to make a recommendation under paragraph (2) only during the period beginning on the date of designation of the energy project as a Priority Energy Project and ending on the date of initial commercial operation of such Project, as determined by the Board.

(b)(1) The Federal statutes, rules, regulations, and standards subject to suspension, modification, or amendment under this section are as follows—

(A) In the case of any Project which commenced construction before the date of enactment of this Act: any Federal statute, rule, regulation, or standard which was enacted or promulgated before the date of enactment of this Act.

(B) In the case of any Project which commenced construction on or after the date of enactment of this Act: any Federal statute, rule, regulation, or standard which was enacted or promulgated on or before the earlier of the date on which—

(i) construction of the Project commenced; or

(ii) application is submitted for designation of the energy project as a Priority Energy Project.

The application referred to in clause (ii) is the application which results in designation of the energy project as a Priority Energy Project.

(2) This section shall not apply to any Federal statute, rule, regulation, or standard which is enacted or promulgated after the date of initial commercial operation of the Project, as determined by the Board.

(c) For purposes of this section, the term "commenced construction" has the meaning provided by section 316(c).

(d)(1) Whenever the Board commences, on its own motion or upon petition, to exercise its authority to make a recommendation under subsection (a)(2), the Board shall—

(A) notify the Project, the affected Federal and non-Federal agencies, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Governor of each State in which the Project is, or is proposed to be, located, and

(B) publish notice in the Federal Register.

(2) The notice referred to in paragraph (1) shall identify the Federal statute, rule, regulation, or standard that will be considered by the Board for suspension, modification, or amendment pursuant to a recommendation under subsection (a)(2), set forth the date and place of the hearing referred to in paragraph (3) of this subsection, and provide a brief summary of the possible need for such recommendation. At the time the Board provides such notice, the Board need not indicate the action, if any, it will take under this section.

(3) After notice under paragraph (1), the Board shall conduct an informal public hearing. The hearing shall be completed within forty-five days following the date such notice is provided, unless the Board determines, in its discretion, that a longer period is necessary. The hearing shall be conducted in accordance with such procedures as the Board may prescribe, except that—

(A) the hearing shall be conducted in the vicinity of the Project unless the Board determines that another location would be more convenient;

(B) a transcript of the hearing shall be maintained; and

(C) any interested person, the Project, and any affected Federal or non-Federal agency, shall have an opportunity to present oral and written testimony.

The purpose of the hearing shall be to gain information for the Board to consider in exercising its authority under this section. Sections 554, 556, and 557 of title 5 of the United States Code shall not apply to such hearing.

(e) The Board may not make a recommendation under subsection (a)(2) unless it finds, after the hearing required by this section, that—

(1) the Federal statute, rule, regulation, or standard to which the recommendation applies was enacted or promulgated during the period specified in subsection (b);

(2) the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended presents a substantial impediment to the implementation of the Project;

(3) there is substantial evidence that implementation of the recommendation will not result in substantial harm to public health or safety (taking into account (A) the purposes for which the Federal statute, rule, regulation, or standard was enacted or promulgated and (B) the terms and conditions imposed by the Board pursuant to subsection (f) of this section concerning health and safety);

(4) the recommendation is not prohibited in whole or in part under subsection (o); and

(5) adoption of the recommendation is in the national interest and will further the purposes of this Act.

(f) Each recommendation of the Board under subsection (a)(2) shall identify the Project to which the recommendation applies, contain an identification number, and provide—

(1) a detailed identification of the Federal statute, rule, regulation, or standard to be suspended, modified, or amended;

(2) a precise statement of the suspension, modification or amendment; and

(3) such terms and conditions as the Board deems necessary—

(A) to mitigate any adverse effects which are anticipated to result from the proposed suspension, modification, or amendment, including such effects on public health, safety, welfare, and the environment (including fish and wildlife and related resources); and

(B) to enhance the environment—

(i) related to the Project, and

(ii) affected by the suspension, modification, or amendment.

(g) Each recommendation of the Board under subsection (a)(2) shall be accompanied by—

(1) a statement of the findings referred to in subsection (e), as well as the basis for each finding; and

(2) a statement of the Board's reasons for making the recommendation.

(h)(1) Upon transmittal to the President, the Board shall publish its recommendation under this section in the Federal Register and shall transmit copies to the Speaker of the United States House of Representatives, the President of the United States Senate, and the Governor of each State in which the Project is, or is proposed to be, located.

(2) The President shall not act upon such recommendation prior to the expiration of at least thirty days from the date of publication of the recommendation in the Federal Register. During such thirty-day period, or such longer period as the President may specify, the public may submit written comments upon such recommendation for the consideration of the President.

(i) The President after considering public comments submitted pursuant to subsection (h) may, in his discretion—

(1) transmit to Congress the Board's recommendation, or any modification thereof;

(2) remand the recommendation to the Board for further consideration;

(3) take no action with respect to the Board's recommendation; or

(4) reject the Board's recommendation.

(j) The President may recommend to Congress a suspension, modification, or amendment pursuant to subsection (i) only if the President determines that—

(1) the Federal statute, rule, regulation, or standard to which the recommendation applies was enacted or promulgated during the period specified in subsection (b);

(2) the adoption of the recommendation is in the national interest and will further the purposes of this Act;

(3) the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended presents a substantial impediment to the implementation of the Project;

(4) the recommendation is not prohibited in whole or in part under subsection (o);

(5) there is substantial evidence that implementation of the recommendation will not result in substantial harm to public health or safety (taking into account (A) the purposes for which the Federal statute, rule, regulation, or standard was enacted or promulgated and (B) the terms and conditions to be imposed by the President under subsection (k) concerning public health and safety); and

(6)(A) to the extent the President's recommendation incorporates the recommendation of the Board, there is substantial evidence to support the Board's recommendation and the findings made by the Board in connection with such recommendation;

(B) to the extent the President's recommendation modifies the recommendation of the Board, there is substantial evidence to support the President's modification.

(k) Any recommendation submitted by the President to the Congress under this section shall identify the Project to which the recommendation applies, contain an identification number, and provide—

(1) a detailed identification of the Federal statute, rule, regulation, or standard to be suspended, modified, or amended;

(2) a precise statement of the suspension, modification, or amendment recommended;

(3) terms and conditions—

(A) to mitigate any adverse effects which are anticipated to result from the proposed suspension, modification, or amendment, including such effects on public health, safety, welfare, and the environment (including fish and wildlife and related resources);

(B) to enhance the environment—

(i) related to the Project, and

(ii) affected by the proposed suspension, modification, or amendment; and

(C) for the imposition of less stringent requirements or other alternatives to the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended; and

(4) for enforcement of the recommendation.

(l) Each recommendation of the President to the Congress under this section shall be accompanied by—

(1) a statement of the determinations referred to in subsection (j);

(2) a statement of the President's reasons for making the recommendation, including the reasons for any modification of the Board's recommendation; and

(3) a summary of any agency views received by the Board or the President with respect to the recommendation.

(m)(1) Any recommendation of the President transmitted to Congress under this section shall be transmitted to both Houses of Congress on the same day while such Houses are in session. Immediately following its transmittal, the recommendation shall be referred to the committee having jurisdiction over the Federal statute, rule, regulation, or standard concerned. Upon such transmittal, the President shall publish the recommendation in the Federal Register. The President may not amend or modify the recommendation after its transmittal to Congress.

(2) Subject to section 406, any recommendation of the President transmitted to Congress under this section shall be effective and have the force and effect of law only if approved in accordance with this subsection. A recommendation transmitted pursuant to this section may be considered approved in accordance with this subsection only if—

(A) the Senate and House of Representatives pass a joint resolution described in paragraph (4)(B)(i) approving such recommendation during the period beginning on the day after the date of its receipt by the Senate and House of Representatives and ending upon the expiration of sixty calendar days of continuous session of Congress; and

(B) such joint resolution thereafter becomes law.

(3) For purposes of this subsection—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty calendar day period.

(4) (A) This paragraph is enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subparagraph (B) of this paragraph; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(B) For purposes of this section, the term "resolution" means only a joint resolution described in clause (i) or (ii) of this subparagraph.

(i) A joint resolution of either House of Congress—

(I) which is entitled: "Joint resolution relating to Presidential recommendation numbered for Priority Energy Project .",

(II) which does not contain a preamble, and

(III) the matter after the resolving clause of which is: "That the Congress of the United States approves the recommendation for Priority Energy Project , numbered and transmitted by the President to the Congress on , 19 .", the blank spaces therein appropriately filled.

(ii) A joint resolution of either House of Congress—

(I) which is entitled: "Joint resolution relating to Presidential recommendation numbered for Priority Energy Project .",

(II) which does not contain a preamble, and

(III) the matter after the resolving clause of which is: "That the Congress of the United States disapproves the recommendation for Priority Energy Project , numbered and transmitted by the President to the Congress on , 19 .",

the blank spaces therein appropriately filled.

(C) A resolution once introduced in accordance with the provisions of this section with respect to a Presidential recommendation shall immediately be referred to the committee having jurisdiction over the Federal statute, rule, regulation, or standard recommended to be suspended, modified, or amended (and all resolutions with respect to the same recommendation shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(D) (i) If any committee to which a resolution has been referred under this paragraph has not reported a resolution of approval described in subparagraph (B) (i) at the end of forty calendar days of continuous session of Congress after its referral and if such committee has not adopted, before the expiration of such forty calendar day period, a motion not to report such resolution in accordance with this subsection, it shall be in order to move either to discharge such committee from further consideration of that resolution or to discharge such committee from further consideration of any other resolution with respect to such recommendation which has been referred to such committee.

(ii) Any motion not to report a resolution of approval described in subparagraph (B) (i) to the appropriate House from the committee under clause (i) may be adopted only by an affirmative vote of a majority of the full membership of the committee at a meeting at which a quorum is present. When such motion is adopted by a committee of either House of Congress, the chairman of the committee shall notify the presiding officer of that House. A quorum for such purposes shall be determined according to the same rules that apply in the committee for purposes of reporting a bill. At any time during the sixty-calendar-day period referred to in paragraph (2) (A) and after adoption by the committee of a motion not to report from the committee a resolution described in subparagraph (B) (i), it shall be in order in the committee to move to approve such resolution. Upon submission of written notice to the chairman by three or more members of the committee requesting a meeting of the committee to consider such resolution, the chairman shall order a meeting of the committee prior to expiration of the forty-calendar-day period referred to in clause (i) at which meeting it shall be in order to consider and adopt a motion to report a resolution under this subsection or to consider and adopt a motion not to report such resolution.

(iii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged, and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. Except as provided in subparagraph (G) (i), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(iv) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Presidential recommendation.

(E) (i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(ii) Debate on the resolution referred to in clause (i) shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. Except to the extent provided in subparagraph (G) (ii), an amendment to, or motion to recommit, the resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(F) (i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(ii) Appeals from the decision of the chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(G) With respect to any recommendation transmitted by the President to the Congress under this section—

(i) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such recommendation, it shall be in order after debate allowed for under subparagraph (D) (iii) to offer an amendment in the nature of a substitute for such motion—

(I) consisting of a motion to discharge such committee from further consideration of a resolution described in subparagraph (B) (i) with respect to any recommendation, if the discharge motion sought to be amended relates to a resolution described in subparagraph (B) (ii) with respect to the same such recommendation, or

(II) consisting of a motion to discharge such committee from further consideration of a resolution described in subparagraph (B) (ii) with respect to any recommendation, if the discharge motion sought to be amended relates to a resolution described in subparagraph (B) (i) with respect to the same recommendation.

An amendment described in this clause shall not be amendable. Debate on such an amendment shall be limited to not more than one hour, which shall be divided equally between those favoring and those opposing the amendment.

(ii) In the consideration of any resolution on any such recommendation which has been reported by a committee, it shall be in order after the debate allowed for under subparagraph (E) (ii) to offer an amendment in the nature of a substitute for such resolution—

(I) consisting of the text of a resolution described in subparagraph (B) (i) with respect to any recommendation, if the resolution sought to be amended is a resolution described in subparagraph (B) (ii) with respect to the same such recommendation, or

(II) consisting of the text of a resolution described in subparagraph (B) (ii) with respect to any recommendation, if the resolution sought to be amended is a resolution described in subparagraph (B) (i) with respect to the same such recommendation.

An amendment described in this clause shall not be amendable. Debate on such an amendment shall be limited to not more than one hour, which shall be divided equally between those favoring and those opposing the amendment.

(iii) If one House receives from the other House a resolution with respect to a recommendation, then the following procedure applies:

(I) the resolution of the other House with respect to such recommendation shall not be referred to a committee;

(II) in the case of a resolution of the first House with respect to such recommendation, the procedure with respect to that or other resolutions of such House with respect to such recommendation shall be the same as if no resolution from the other House with respect to such recommendation had been received; but on any vote on final passage of a resolution of the first House with respect to such recommendation a resolution from the other House with respect to such recommendation which has the same effect shall be automatically substituted for the resolution of the first House.

(iv) Notwithstanding any of the preceding provisions of this paragraph, if a House has approved a resolution with respect to a recommendation, then it shall not be in order to consider in that House any other resolution under this section with respect to such recommendation.

(n) (1) There shall be a separate Presidential recommendation and a separate joint resolution for each Federal statute, rule, regulation, or standard to be suspended, modified, or amended pursuant to this section.

(2) Each recommendation submitted by the President and each joint resolution adopted pursuant to this section shall apply to only one Priority Energy Project.

(3) During a single Congress, the President may not transmit recommendations for suspensions, modifications, or amendments pursuant to this section identifying more than twelve Priority Energy Projects.

(o) (1) No Board or Presidential recommendation may be made under this section and no such recommendation may take effect if the recommendation would—

(A) suspend, modify, or amend any Federal statute, rule, regulation, or standard which relates to—

(i) the rights, working conditions, (including health and safety), compensation, pensions, or hours of employment of workers of their representatives;

(ii) civil rights;

(iii) securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934, or State and local securities laws;

(iv) the Internal Revenue Code of 1954; or

(v) antitrust laws, as defined in section 3(1) of the Public Utility Regulatory Policies Act of 1978; or

(B) cause a violation of any primary air quality standard established under the Clean Air Act;

(C) impair or abridge the rights of any person under the United States Constitution;

(D) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(E) (i) suspend, modify, or amend the criminal sanctions of any Federal, State, or local criminal code; or

(ii) suspend, modify, or amend a criminal sanction in any Federal, State, or local law, unless the recommendation also suspends, modifies, or amends the provision of law which is punishable by such criminal sanction.

(2) No recommendation may be made under this section, and no such recommendation may take effect, if the recommendation would have the effect of reversing or modifying a final Federal or non-Federal agency decision or action made or taken at any time specifically for the Priority Energy Project identified in such recommendations.

(3) (A) The prohibition contained in paragraph (2) shall not apply to a recommendation under this section which would have the effect of reversing or modifying a final agency decision or action as provided in paragraph (2) if the final agency decision or action is made or taken after the Board transmits to the President a recommendation with respect to the Federal statute, rule, regulation, or standard on which such agency decision or action is based.

(B) The prohibition contained in paragraph (2) shall not apply to a recommendation under this section which would have the effect of reversing or modifying a final agency decision or action as provided in paragraph (2) if the final agency decision or action is stayed pursuant to this subparagraph and the recommendation is approved during the period the stay is in effect. If a final agency decision or action is taken or made—

(i) after the date on which the Board provides notice under subsection (d) (1) that it is considering the suspension, modification, or amendment of a Federal statute, rule, regulation, or standard on which such agency decision or action is based, and

(ii) before the Board transmits, or determines not to transmit, the recommendation to the President under this section,

the Board may issue an order staying the application of that agency decision or action. A stay under this subparagraph may be issued only after such agency decision or action becomes final and before the Board transmits the recommendation to the President under this section. The stay shall apply only for such period as determined by the Board to be necessary for the Board, the President, and the Congress to act.

TITLE IV—JUDICIAL REVIEW

PROCEDURES GOVERNING JUDICIAL REVIEW

SEC. 401. (a) The Temporary Emergency Court of Appeals established under section 211(b) of the Economic Stabilization Act of 1970 shall have the power of a circuit court of appeals with respect to the jurisdiction conferred on it by this Act. The court shall exercise its powers and prescribe rules governing its procedures in such manner as to expedite the determination of cases over which it has jurisdiction under this Act.

(b) In any proceeding before the Temporary Emergency Court of Appeals, the chief judge of the Temporary Emergency Court of Appeals shall designate to sit on the panel presiding over the proceeding at least one judge from the circuit or a district in the circuit in which the Priority Energy Project or a significant portion thereof, is, or will be, located. The court shall conduct its proceedings in such circuit unless the court determines that another location would facilitate an expedited decision and be fair to all parties.

(c) (1) Except as otherwise provided in this Act and except where other applicable law provides a shorter period, any petition referred to in section 402(a) which is brought in the Temporary Emergency Court of Appeals or in any State court shall be brought not later than thirty days following the date of the final Board or agency decision or action concerned or shall be barred.

(2) All appeals to the Temporary Emergency Court of Appeals from any other court pursuant to this Act shall be brought not later than thirty days following the date of entry of judgment or the order appealed from or the appeal shall be barred.

(3) The Temporary Emergency Court of Appeals shall have original and exclusive jurisdiction over any petition for review of any agency decision or action authorized or required pursuant to section 311, 312, or 313 or for review of any Board order under section 312. Such petition shall be brought not later than sixty days after the final agency decision or action or the final Board order, as the case may be, or the petition shall be barred.

(d) In any review under this Act, if the Temporary Emergency Court of Appeals determines that the record compiled by the agency is inadequate for the court to reach a decision, the court may remand the matter, appoint a master, or order an appropriate district court to complete the record, or exercise such other authority as the court may have to obtain a record adequate for decision by the court. Any district court to which a case is referred under this subsection shall have jurisdiction over such case only for the purposes specified by the Temporary Emergency Court of Appeals.

(e) Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States circuit court of appeals as provided in section 1254 of title 28, United States Code.

(f) Except in conjunction with a final judgment, neither the Temporary Emergency Court of Appeals in reviewing any action brought pursuant to this Act nor any State court exercising jurisdiction over any action referred to in section 402(a) may issue any injunction lasting longer than one hundred and twenty days. More than one such one hundred and twenty-day injunction may be issued, but each injunction may not be extended beyond one hundred and twenty days.

(g) Notwithstanding any other law, the Temporary Emergency Court of Appeals shall continue to function for the purposes of this Act until—

(1) the Board has been abolished pursuant to this Act.

(2) the time limitations in this Act for petitions for review of agency actions and decisions within the jurisdiction of the court have expired, and

(3) the court has finally disposed of all cases pending before it pursuant to this Act.

ACTIONS SUBJECT TO JUDICIAL REVIEW IN THE TEMPORARY EMERGENCY COURT OF APPEALS

SEC. 402. (a) Except for review in the United States Supreme Court, and except as otherwise provided in this Act, the Temporary Emergency Court of Appeals shall have original and exclusive civil jurisdiction over any petition—

(1) for review of final agency decisions or actions subject to the Project Decision Schedule;

(2) for review of final agency decisions or actions required to be taken by this Act;

(3) alleging that a Federal or non-Federal agency has failed to take an action, or make a decision, necessary to the completion and initial commercial operation of a Priority Energy Project;

(4) challenging the constitutionality of this Act;

(5) for review of—

(A) any regulation or order of the Board. and

(B) any other action of the Board where so specified in this Act; and

(6) for an interlocutory appeal from agency decisions or actions where the Temporary Emergency Court of Appeals will have jurisdiction over the final decision or action, and where the Temporary Emergency Court of Appeals determines that interlocutory review is appropriate in accordance with applicable law.

In all other cases review shall be in the United States district court or other court as provided in other provisions of law.

(b) Where the exercise of jurisdiction by a court of the United States over any petition referred to in subsection (a) would be impermissible under the limitations contained in the United States Constitution, the appropriate State court shall have jurisdiction over such petition.

(c) If any action for judicial review pursuant to this Act which is within the exclusive jurisdiction of the Temporary Emergency Court of Appeals is pending before any other court at the time such jurisdiction vests in the Temporary Emergency Court of Appeals, such other court shall retain jurisdiction over such action, unless the Temporary Emergency Court of Appeals determines that transferring such action to the Temporary Emergency Court of Appeals would expedite judicial review of the action and would serve the interests of justice. In any such case, the Temporary Emergency Court of Appeals may issue an order to such other court transferring the action to the Temporary Emergency Court of Appeals.

(d) Except as provided in section 401(e), the Temporary Emergency Court of Appeals shall have exclusive jurisdiction over appeals from any action brought in a United States district court under—

(1) section 314 or section 202(1) of this Act, or

(2) section 552b of title 5 of the United States Code where such action in the district court was brought with respect to a meeting of the Board subject to such section 552b as provided in section 203 of this Act.

(e) The Temporary Emergency Court of Appeals may stay that portion of any proceeding in any other Federal, State, or local court, other than the Supreme Court of the United States, which involves a petition for review which is within the exclusive jurisdiction of the Temporary Emergency Court of Appeals pursuant to the provisions of this Act.

(f) Any action which is within the exclusive jurisdiction of the Temporary Emergency Court of Appeals pursuant to this Act shall not be subject to judicial review in any other court.

(g) The Temporary Emergency Court of Appeals shall not have jurisdiction over any action arising under section 506 or 507.

ACTIONS NOT SUBJECT TO JUDICIAL REVIEW

SEC. 403. Except as provided by the Constitution of the United States, the following shall not be subject to judicial review:

(1) The adequacy of an application for designation of an energy project as a Priority Energy Project.

(2) A decision of the Board to designate or not to designate a project as a Priority Energy Project.

(3) Any decision of the Board establishing or modifying a Project Decision Schedule.

(4) Any determination of the Board under section 315 that a State does or does not have a single process for siting energy projects.

(5) Any decision by the Board to discuss strategies concerning the States without participation by the Governor's representative appointed pursuant to section 303.

JUDICIAL REVIEW OF ACTIONS UNDER SECTION 315

SEC. 404. (a) The determination of the Board under section 315(b)(1)(A) to make a decision or take an action in lieu of an agency shall not be subject to judicial review except on the ground that the time available to the agency before the Board's determination under section 315(b)(1)(A) did not give the agency reasonable time to comply with all applicable laws (as may be modified pursuant to this Act).

(b) Only the agency which is the subject of an order of the Board under section 315(b)(1)(A) may petition for review of the Board's determination to make a decision or to take an action in lieu of the agency. The petition for review may only be brought not later than ten days after the agency receives notice of the Board's order under section 315(b)(1)(A). If such petition is not brought within such ten-day period, the petition shall be barred.

(c) Except as provided in section 401(e), the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any petition referred to in subsection (b). In reviewing any such petition, the court shall render its decision within sixty days from the date the petition is filed unless the court determines good cause exists for an extension. In such case, the court may extend the time for its decision by not more than thirty days, and such extension may be renewed no more than two times. In no event shall the court extend the time for rendering its decision beyond one hundred and fifty days from the date the petition is filed.

(d) In review of any petition referred to in subsection (b), the scope of review shall be governed by the provisions of section 706 of title 5 of the United States Code, except that subparagraphs (E) and (F) of paragraph (2) of such section 706 shall not apply.

(e) The court shall not issue any order staying or restraining the Board from making any decision or taking any action pursuant to section 315 except in conjunction with a final order of the court. If the court finds that the time available to the agency before the Board made its determination under section 315(b)(1)(A) did not give the agency reasonable time to comply with all applicable laws (as may be modified pursuant to this Act), the court shall stay any decision or action of the Board under section 315(b) and remand the decision or action to the agency for agency decision or action within a time specified by the court.

(f) If an agency has filed under subsection (b) a timely petition for review of a Board order pursuant to section 315(b)(1)(A), the decision or action of the Board pursuant to section 315(b)(1)(B) shall not take effect until judicial review of the petition in the Temporary Emergency Court of Appeals has been completed as provided in this section.

JUDICIAL REVIEW OF ACTIONS UNDER SECTION 316

SEC. 405. (a) Any order issued by the Board under section 316 shall be subject to judicial review as provided in this section. Except as provided in subsection (c), any petition for review of an order of the Board under section 316 shall be brought in the Temporary Emergency Court of Appeals within sixty days after the Board provides public notice of such order or such review shall be barred.

(b) In any action brought under this section for review of an order of the Board under section 316(a), the court may review the order only to determine whether the Board has—

(1) violated the provisions of subsection (j) of section 316,

(2) complied with the provisions of subsection (b) of section 316, and

(3) complied with the provisions of paragraph (3) of subsection (e) of section 316.

In the review described in paragraphs (1), (2), and (3), the scope of review shall be governed by the provisions of section 706 of title 5 of the United States Code except that paragraphs (E) and (F) of paragraph (2) of such section 706 shall not apply.

(c) (1) Any enforcement action brought by the Board under section 316(i) shall be brought in the appropriate United States district court.

(2) Any acton by the Board to enforce a stay under section 316(j)(3) shall be brought in the appropriate United States district court.

(3) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction, except as provided in section 401(e), over any appeal from an action referred to in paragraph (1) or (2).

JUDICIAL REVIEW OF ACTIONS UNDER SECTION 317

SEC. 406. (a) No recommendation made by the Board to the President under section 317 shall be subject to judicial review.

(b) No recommendation made by the President to the Congress under section 317 shall be subject to judicial review, except as provided in subsection (c).

(c) Any petition for review of a recommendation of the President under section 317 shall be brought in the Temporary Emergency Court of Appeals after the enactment of the joint resolution concerning the recommendation, but not later than sixty days after such date of enactment or it shall be barred. Such review shall be solely for determining whether the recommendation violates the provisions of section 317(o).

(d) Enactment of any recommendation made by the President pursuant to section 317 shall not be deemed an approval by the Congress of any violation of section 317(o) and shall not preclude any action under subsection (c).

(e) (1) Any action by the Board to enforce a stay under section 317(o)(3)(B) shall be brought in the appropriate United States district court.

(2) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction, except as provided in section 401(e), over any appeal from an action referred to in paragraph (1).

TITLE V—MISCELLANEOUS PROVISIONS

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 501. (a) The Board may issue a certification in accordance with this section to a Priority Energy Project. If the Board determines to issue such certification—

(1) the Board and all affected agencies shall identify all Federal and non-Federal agencies having authority to make any decision or to take any action with respect to the completion and initial commercial operation of the Project.

(2) each agency identified as provided in paragraph (1) shall identify the agency decisions and actions which the agency has the authority to make with respect to the completion and initial commercial operation of the Project.

(3) the Board shall include on the Project Decision Schedule all final agency decisions and actions identified as provided in paragraph (2),

(4) each agency identified as provided in paragraph (1) shall notify the Board when it has taken all final actions and made all final decisions subject to such Schedule in accordance with this Act and other applicable law, and

(5) each agency identified as provided in paragraph (1) shall notify the Board when any judicial review (including any appellate review) of final actions and decisions of such agency referred to in paragraph (4) is completed in accordance with this Act and other applicable law.

(b) Whenever the Board determines, after receipt of the notice referred to in subsection (a)(4) and (5), that—

(1) each agency identified as provided in paragraph (1) of subsection (a) has made all final agency decisions or taken all final agency actions in accordance with this Act and other applicable law; and

(2) judicial review (including any appellate review) of final actions and decisions of such agency referred to in paragraph (4) of subsection (a) is completed in accordance with this Act and other applicable law

the Board may issue a certificate to the Project stating that all such decisions or actions are complete and final subject to the terms and conditions thereof and shall notify the agencies referred to in subsection (a)(1). Such certificate shall constitute conclusive evidence in any subsequent administrative or judicial proceeding that all agency decisions and actions necessary to the completion of construction and initial commercial operation of the Project are complete and final. The Board's determination under this subsection and the certificate shall be available to the public.

(c) Nothing in this section is intended to affect the obligation of the Project to comply with the terms and conditions of the final decisions and actions subject to the Project Decision Schedule.

REPORTS OF THE BOARD

SEC. 502. (a) The Board shall review, monitor, and not later than December 31, 1981, report to the Congress on—

(1) the current status of activities and programs being conducted by the Board;

(2) the status of each Priority Energy Project, including any significant delays in the completion of the Project and the causes thereof; and

(3) the need for legislation to expedite the completion of Priority Energy Projects, including the need for legislation to modify, suspend, or amend Federal, State, or local laws.

Such report shall be updated annually thereafter.

(b) Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which—

(1) contains a comprehensive list of all Federal laws that significantly hinder the completion of energy projects; and

(2) includes an analysis of why each law listed in the report is a significant hindrance to the completion of such projects.

(c) The Board shall include in the report submitted under subsection (a), or submit to Congress more often as necessary, information and recommendations concerning specific energy projects, whether or not designated as Priority Energy Projects, which are, in the judgment of the Board, being delayed for any reason. The report shall include the Board's analysis of the causes and reasons for delay in the implementation of energy projects. The purpose of such reports shall be to inform the President and Federal agencies, Congress, and the States about—

(1) the adequacy of actions taken, and resources utilized, by sponsors of energy projects to prepare the projects for approval and to comply with applicable laws in order to avoid delay; and

(2) the financial, institutional, statutory, regulatory, and other constraints upon the implementation of energy projects that con-

tribute to delay, including the adequacy of resources of governmental agencies to review and act upon energy project proposals expeditiously and effectively, taking into account the other responsibilities, including non-energy related responsibilities, of such agencies.

Sec. 503. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 504. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

AUTHORIZATION OF APPROPRIATIONS

Sec. 505. (a) There is authorized to be appropriated annually to carry out the provisions of this Act not more than $2,000,000 for the fiscal year 1980, not more than $9,500,000 for the fiscal year 1981, and not more than $11,000,000 for the fiscal year 1982, such sums to remain available, except for salaries and related expenses of Board members and employees, until expended, as provided in annual appropriations Acts. Annual appropriations for such purposes for fiscal years after the fiscal year 1982 shall be subject to biennial authorizations.

(b) There is authorized to be appropriated to the Temporary Emergency Court of Appeals such sums as may be necessary to carry out its functions under this Act, including such sums as may be necessary for the appointment of additional clerks and employees and the assignment of additional judges.

(c) Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as provided in advance in appropriation Acts.

EXPEDITED DECISIONS FOR ONSHORE DRILLING PERMITS

Sec. 506. (a) Within one hundred and eighty days after enactment of this Act, each Federal agency responsible for issuing decisions granting or denying applications of any Federal lessee for a permit to drill on the lessee's Federal oil and gas leases shall adopt procedures, or revise its procedures, to provide that such decisions be made in accordance with applicable provisions of law and within ninety days after the application for such permit is filed with the agency. The goal for the agency to act shall be thirty days after the filing of the application.

(b) The procedures adopted or revised under this section by a Federal agency shall include provisions for the agency to extend the ninety-day period referred to in subsection (a) to a date certain where the agency—

(1) determines—

(A) that more time is needed to comply with applicable provisions of law, including the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969,

(B) that the application is incomplete, or

(C) both (A) and (B); and

(2) publishes such determination with the reasons therefor.

(c) The procedures adopted or revised under this section shall also provide, to the maximum extent practicable—

(1) a procedure for review of the requirements of State and local governments applicable to such permits to ensure that Federal permit requirements do not duplicate State and local requirements, and

(2) that where an environmental assessment is made concerning such drilling permit, the assessment shall serve as the basic environmental assessment for other applications for drilling permits on the same lease, unless time or changed circumstances require that the assessment be updated or supplemented.

(d) The procedures adopted or revised by a Federal agency under subsection (a) shall be submitted by the agency to the Board for review and shall become final within ninety days after submission to the Board unless the Board determines that the procedures—

(1) do not meet the requirements of subsections (a) through (c), taking into account the provisions of law applicable to approving or denying such applications, and

(2) are not consistent with the purposes of this Act.

The Board shall state the reasons for such determinations and make such reasons public. The Board shall prescribe a reasonable time period for . the applicable Federal agency, in consultation with the Board, to make and adopt corrections in the procedures to meet the Board's concerns expressed in its statement. Nothing in this subsection or subsection (a) shall affect applications pending before any such agency prior to final adoption of the procedures under this section.

(e) Nothing in this section shall apply to any activities on the Outer Continental Shelf which are subject to the Outer Continental Shelf Lands Act.

EXPEDITED DECISIONS FOR ACTIVITIES ON ONSHORE FEDERAL LANDS

Sec. 507. (a) Any Federal agency with discretionary authority to grant or deny, under other applicable provisions of law, an application for—

(1) an exploration permit,

(2) a development lease, or

(3) a mine plan approval,

for production of coal, oil, or gas on Federal land shall expedite all actions necessary to grant or deny such approval in accordance with applicable law.

(b) If the applicant for such permit, lease, or plan approval has filed a completed application for such permit or lease or plan approval and such agency has not acted on such application within twelve months after the date on which the applicant filed such application, such applicant may request a written statement from such agency informing such applicant of the reasons why the application has not been acted upon, including the applicable provisions of law not yet complied with. The agency shall provide the statement within forty-five days after receipt of the request. If the agency states in its response that all applicable laws have not been complied with, there shall be a presumption that the agency is correct. Any challenge under subsection (c) to the agency's statement may be rebutted only by clear and convincing evidence to the contrary. The twelve month period specified in this subsection shall be a twenty-four month period in any case in which detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) After receiving the statement referred to in subsection (b), the applicant may bring an action in the appropriate United States district court. If the court finds that all applicable provisions of law have been complied with, the court shall require the agency to complete its actions on such application within a reasonable time and issue a decision.

(d) Nothing in this section shall affect the discretion of any agency under applicable law to reject or disapprove any application at any time.

(e) This section does not apply to competitive leasing or permits.

(f) Nothing in this section shall apply to any activities on the Outer Continental Shelf which are subject to the Outer Continental Shelf Lands Act.

EFFECTIVE DATE

Sec. 508. (a) The Board shall promulgate regulations for carrying out its functions under this Act (including regulations establishing procedures and criteria under section 301) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate.

(b) The Board shall, prior to the expiration of the 60 days referred to in subsection (a), publish a list of the regulations the Board deems necessary for carrying out its functions before applications may be submitted under this Act. No application may be submitted under this Act for designation of any energy project as a Priority Energy Project before promulgation of such regulations.

SEPARABILITY

Sec. 509. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes.".

And the House agree to the same.

Harley O. Staggers,
John D. Dingell,
Richard Ottinger,
Philip R. Sharp,
Anthony Moffett,
David E. Satterfield,
Phil Gramm,
Jim Santini,
Jim Broyhill,
Clarence J. Brown,
Tom Loeffler,
Managers on the Part of the House.

Henry M. Jackson,
Frank Church,
J. Bennett Johnston,
Dale Bumpers,
Wendell H. Ford,
John A. Durkin,
Howard M. Metzenbaum,
Spark M. Matsunaga,
Mark O. Hatfield,
James A. McClure,
Lowell P. Weicker, Jr.,
Pete V. Domenici,
Ted Stevens,
Henry Bellmon,
Malcolm Wallop,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1308) to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are generally noted below.

TITLE I—GENERAL PROVISIONS

SECTION 101—PURPOSES AND FINDINGS

The Senate bill and the House amendment each contained a statement of purposes. The Senate bill also contained Congressional findings as to how these purposes could be served.

Section 101 of the conference report combines provisions of both the Senate bill and the House amendment.

SECTION 102—DEFINITIONS

This section defines a number of terms used in the legislation. It combines many terms used in both the Senate and House bills. Some of these terms are discussed below.

The Senate bill defined the term "approval". The House amendment used the term "agency decision". The conferees, in section 102(2), defined the term "agency decision or action" to mean any decision or action by any Federal or non-Federal agency affecting an energy project. The term is intended to include the broadest possible range of agency activities affecting such projects, including (but not limited to) any permit, license, lease, certificate, right-of-way, approval of financial assistance, rate, ruling or decision authorized, required, or issued by any such agency.

Section 102(4) of the conference report combines portions of the House and Senate definitions of energy projects. The conferees intend that a group of similar facilities, devices, or activities which are associated with each other and are susceptible to treatment as a group can qualify as one energy project for the purpose of this Act. They also intend that a combination of different facilities, devices, or activities which make a coherent energy project can qualify as one project for the purpose of this Act. However, the conferees intend that designations be made on an energy project by energy project basis.

The Senate bill and the House amendment each defined the term "Priority Energy Project" in a different manner. Section 102(11) of the conference report defines that term to mean an energy project which is designated pursuant to section 302.

SECTION 103—NUCLEAR ENERGY PROJECTS NOT COVERED

The Senate bill defined the term "energy project" to exclude projects involving atomic energy as the term "atomic energy" was defined in section 3(c) of the Senate bill.

The House amendment excluded projects related to the production of nuclear energy.

Section 103 of the conference report is based on the House provision with a clarifying change designed to make it clear that energy projects or activities otherwise eligible under the legislation are not excluded merely because they also may relate to a nuclear facility, such as transmission lines or electricity generated at another facility to serve the nuclear facility. The conferees intend that no nuclear facility be subject to this legislation.

The House amendment also specified that the President would apply the Act or one of its provisions to the so-called Northern Tier Pipeline.

The conferees did not adopt this provision in order to leave the pipeline in the same position as any other energy project.

TITLE II—ENERGY MOBILIZATION BOARD

SECTION 201—ORGANIZATION OF THE ENERGY MOBILIZATION BOARD

The Senate bill and of the House amendment each provided for the establishment of an Energy Mobilization Board and prescribed the membership of the Board. The House called for a 5-member, full time Board. The Senate established a 4-member Board with 3 of its members serving on a part time basis. The House amendment also provided for representation of the Board in certain civil actions by the General Counsel of the Board

Section 201 of the conference report establishes an Energy Mobilization Board consisting of three members appointed by the President, by and with the advice and consent of the Senate who will serve full time. The section provides for the compensation of the Chairman at level II and the other members of the Board at level III. It also provides for a General Counsel and specifies his authority to represent the Board in certain civil actions. The conferees did not want the Board, which can initiate actions against Federal and non-Federal agencies, to become dependent on the Justice Department for initiating such actions or defending the Board, nor did the conferees want the Justice Department to second-guess the Board. Thus, the conferees adopted a modified version of the House provision to enable the Board in civil suits to initiate actions and defend itself in matters relating to Priority Energy Projects or challenges to the Act. However, the conferees recognize the Justice Department's trial expertise and expect the Board to consult with the Justice Department and on occasion to call upon the Justice Department to handle such litigation. Provision is made for interagency agreement for this purpose.

At the same time, the provision does not give the Board a blank check. Litigation regarding the Freedom of Information Act, tort claims, contracts, civil rights, and other such matters is intended to be handled in the traditional manner by the Justice Department.

The section also states that the Board in its discretion may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. The conferees do not intend that the Board, in participating in such agency or court proceedings involving the Project, will advocate the merits of any Priority Energy Project.

SECTION 202—ADMINISTRATION OF THE BOARD

The Senate bill and the House amendment contained provisions concerning the administration of the Board. The provisions also vested certain powers and authorities in the Board and the Chairman of the Board.

Section 202 of the conference report combines the Senate bill and the House amendment. Section 6(g) of the Senate bill prohibited the Board, in carrying out the provisions of this Act, from interfering with labor-management relations and from taking any actions which conflict with the terms of an existing labor-management contract. Since nothing in the conference agreement authorizes the Board to take either of these actions, the conferees did not believe it necessary to include such a provision.

SECTION 203—APPLICATION OF THE SUNSHINE ACT

The House amendment provided that the Sunshine Act applied to the Board, notwithstanding any other provision of law.

The Senate bill had no comparable provision.

Section 203 of the conference report provides that certain final actions of the Board are to be taken at meetings subject to the Sunshine Act (section 552b of title 5 of the United States Code) other than subsection (e) thereof, but that the Act shall not apply to any other meeting of the Board as the term is defined in the Sunshine Act. This provision should not be construed to mean that the Board should close all other meetings to the public.

The conferees intended that the meetings subject to the provisions of the Sunshine Act (except subsection (e)) include bona fide deliberations, and be more than merely a "rubber stamp" final vote. However, the conferees do not intend to require the Board to conduct its preliminary deliberations and negotiations on matters referred to in section 203(b) at meetings which are subject to the aforementioned provisions of the Sunshine Act. The Conferees intend that the Board keep the Congress fully and currently informed concerning its activities and do not intend that the Board use its authority to hold unscheduled meetings to prevent appropriate committees of Congress from being fully and currently informed.

SECTION 204—APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT

The Senate bill provided that the Board would be exempt from sections 553 through 559 of title 5 of the United States Code except that the establishment of procedures by the Board pursuant to the Act would be subject to section 553 of title 5.

The House amendment provided that section 501 of the DOE Organization Act would apply to regulations of the Board in the same manner as the provision applies to the Secretary of Energy.

Section 204 of the conference report provides that, with certain exceptions, chapter 5 of title 5 of the United States Code shall apply to the Energy Mobilization Board. Subsection (c) requires that certain actions of the Board be carried out by order, and shall not be treated as rules subject to section 553 of title 5. The section also provides that section 554, 556, and 557 of title 5 do not apply to orders of the Board.

SECTION 205—TERMINATION OF THE BOARD

Section 205 of the conference report is a modified version of the Senate provision. Under section 205, the Board's authority to designate Priority Energy Projects will expire eight years after the date of enactment. After that date, the Board will retain its authority to expedite agency decisions and actions with respect to Priority Energy Projects which are designated prior to this date until initial commercial operation of the Project.

TITLE III—PRIORITY ENERGY PROJECTS

SECTION 301—APPLICATION FOR DESIGNATIONS

The Senate bill authorized any person planning or proposing an energy project or class of projects to apply for an order designating the project or the class of projects as a Priority Energy Project. The House amendment contained a comparable provision, but did not refer to classes of projects. Both provisions established requirements for applications for priority designations, and required the Board to publish notice when it received a designation request.

Section 301 of the conference report combines the House and Senate provisions. Section 301(c) provides that the Board shall require applicants to file with the Board certain information which the Board deems necessary.

The analysis of environmental impacts referred to in section 301(c) is not intended to be a full-scale, detailed statement similar to the kind required by section 102(2)(C) of the National Environmental Policy Act of 1969.

Section 301(c) provides that a Project can apply for designation even if a previous application for designation has been denied by the Board. The conferees intend to authorize energy projects to apply for priority designation at any time prior to the completion of construction and initial commercial operation of the project. The Conferees expect that some projects will be considered for priority designations and may receive such designations even though many agency decisions and actions with respect to the Project have already been made or taken.

Section 301(d) requires the Board to notify Federal and non-Federal agencies of the filing of an application under section 301. The Conferees do not intend that failure of an agency to receive such notice will provide a basis for a challenge of the Board's actions by any person or agency.

SECTION 302—DESIGNATION OF PRIORITY ENERGY PROJECTS

The Senate bill authorized the Board to designate any energy project as a Priority Energy Project, established procedures and criteria for designating Priority Energy Projects, and provided for the automatic designation of certain projects as Priority Energy Projects. The House amendment contained similar provisions.

Section 302 of the conference report authorizes the Board to designate energy projects as Priority Energy Projects pursuant to criteria and procedures established in the section. The criteria in section 302 are based on the criteria in the House bill. The conferees do not intend that the Board make findings with respect to each subject that the Board is required to consider under this section, notwithstanding any prior legislative history on this subject. The Board should consider both the beneficial and detrimental effects of the project in considering the impact of the project under section 302(c)(10) on regions of the country that will be most directly affected by the project.

Section 302(e) provides for the designation of certain electric powerplants as Priority Energy Projects. The term "replace an existing power plant" in subsection (e)(2) is not intended to require the decommissioning or termination of operation of an existing oil or gas-fired powerplant as a condition for qualifying under this subsection. The fact that certain types of projects receive special treatment under this Act is not intended to imply that other types of projects should or should not be designated as Priority Energy Projects.

Although the conference report does not include section 11(e) of the Senate bill dealing with automatic designations of small hydroelectric power projects, the conferees want to encourage such projects in accordance with the policy expressed in the Public Utility Regulatory Policies Act of 1978. The deletion of the Senate provision is not intended to preclude the designation of such projects in appropriate cases. The new streamlined procedures adopted by the Federal Energy Regulatory Commission in Orders Nos. 11 and 59 mandated by section 405 of the Public Utility Regulatory Policies Act of 1978 to expedite such projects should help to encourage the implementation of these projects.

SECTION 303—STATE PARTICIPATION

The Senate bill and House amendment both provided for State participation in actions and decisions of the Board. Section 303 of the conference report authorizes State Governors to appoint nonvoting representatives to participate in matters respecting Priority Energy Projects. The Conferees do not intend that the representatives' participation will include participation or access to Board discussions of strategies concerning the States.

SECTION 304—AGENCIES TO TRANSMIT INFORMATION

The Senate bill and the House amendment contained provisions for Federal and non-Federal agencies to transmit information to the Board. The agreement of the conferees, which is based primarily on the House provision, is contained in section 304 of the conference report.

SECTION 305—ESTABLISHMENT AND MODIFICATION OF THE PROJECT DECISION SCHEDULE

The Senate bill and House amendment provided for the establishment and modification of Project Decision Schedules. Section 305 of the conference report combines the provisions of both bills.

SECTION 306—EXTENSION OF DEADLINES

The Senate bill and House amendment both authorized the Board to extend certain deadlines established by the Act. Section 306 of the conference report gives the Board similar authority.

SECTION 307—EFFECT OF ACT ON AGENCY OBLIGATIONS

Section 307 of the conference report clarifies the effect of this Act on agency obligations. This section is not intended to preclude the Board from establishing a shorter deadline for a State agency decision or action than the maximum time allowed under a State siting law (i.e. a law establishing a single process for siting energy projects which includes binding deadlines for agency actions and decisions with respect to such projects.)

SECTION 308—MONITORING COMPLIANCE

The Senate bill and House amendment both authorized the Board to monitor compliance with the Project Decision Schedule. Section 308 of the conference report follows the House provision, with certain modifications.

SECTION 309—TERMINATION OF DESIGNATION

The Senate bill and House amendment authorized the Board to terminate the designation of an energy project as a Priority Energy Project.

Section 309 of the conference report combines these provisions with certain modifications.

SECTION 310—RELATION TO THE NATIONAL ENVIRONMENTAL POLICY ACT

Both the Senate bill and House amendment contained provisions dealing with the relationship between S. 1308 and the National Environmental Policy Act of 1969. Section 310 of the conference report contains the agreement of the conferees.

The provision in section 310(a) does not resolve whether the provisions of the National Environmental Policy Act of 1969 apply or do not apply to other actions of the Board.

Section 310(f) authorizes the Board to require that the federally prepared detailed statement substitute for a comparable State or local requirement if the Board determines that the lead agency has been unable to negotiate an agreement for voluntary State and local cooperation. The Conferees encourage the Board and the affected agencies to reach such agreements.

The assignment under this section of responsibilities to the Council on Environmental Quality is not intended to alter the legal status of the Council and is not intended to make the Council subject to any law, including the Sunshine Act and the Administrative Procedure Act, that does not otherwise apply to the Council.

SECTIONS 311, 312, AND 313—VOLUNTARY EXPEDITED FEDERAL AGENCY PROCEDURES, MANDATORY EXPEDITED FEDERAL AGENCY PROCEDURES, VOLUNTARY EXPEDITED NON-FEDERAL AGENCY PROCEDURES

The Senate bill authorized Federal, State and local agencies to adopt special procedures for Priority Energy Projects. The Senate bill authorized the Board to establish special procedures for any Federal agency subject to a Project Decision Schedule. The House amendment did not contain any comparable provision.

Sections 311 and 313 of the conference report authorize Federal and non-Federal agencies to adopt certain expedited procedures on a voluntary basis. Section 312 of the report authorizes the Board, under prescribed procedures, to require Federal agencies (other than independent Federal regulatory agencies) to adopt expedited procedures.

SECTION 314—COURT ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

The Senate bill gave the Board specific authority to obtain court orders enforcing the Project Decision Schedule. The House amendment authorized the Board to initiate court proceedings to carry out its functions under the Act. Both provisions, with modifications, are retained.

Section 314 of the conference report authorizes the Board to seek court enforcement of the Project Decision Schedule.

SECTION 315—BOARD DECISIONS OR ACTIONS FOR AGENCIES FAILING TO COMPLY WITH THE PROJECT DECISION SCHEDULE

The Senate bill and the House amendment each authorized the Board to decide or act in lieu of Federal, State and local agencies that do not comply with the Project Decision Schedule. Section 315 of the conference report contains elements of both provisions with modifications. Any information transmitted to the Board by a Federal or non-Federal agency pursuant to a Board order under subsection (b) shall be subject to the same limitations on disclosure as if the information were still in the possession of the agency.

Subsection (e) applies to State siting laws, including the current laws of Montana, Oregon, and Washington, which provide a single process for siting energy projects.

SECTION 316—PROJECT SPECIFIC GRANDFATHER AUTHORITY

The Senate bill authorized the Board to waive the application of certain requirements to Priority Energy Projects if the requirements were enacted or promulgated after construction of the Project had commenced. The House amendment contained a comparable provision.

Section 316 of the conference report combines the House and Senate provisions. The Board's authority under this section applies only to provisions that present a substantial impediment to the implementation of a Project. In determining what is a substantial impediment, the conferees do not intend that the Board will issue an order under this section where reasonable alternatives exist, even if those alternatives are more costly, or where the delays or costs associated with compliance with any provision would not be unreasonable.

Subsection (a)(4) provides that the Board may exercise its authority under this section during the period beginning on the date of designation of the energy project as a Priority Energy Project and ending on the date of initial commercial operation thereof as determined by the Board. Recognizing the diversity and complexity of energy projects which may qualify for priority designation, the Board shall exercise its discretion, on a case-by-case basis, in determining the point in time at which a Priority Energy Project commences full-scale commercial operation. Prior to such operation, many energy projects require testing and certification. The conferees intend that the Board recognize that Priority Energy Projects may require start-up, testing and preliminary operation before full-scale commercial operation is attained.

In the case of Projects that are not intended to operate commercially, the conferees intend the term "initial commercial operation" to mean full-scale operation of the Project for the purpose for which it is intended.

The conferees intend that the application referred to in clause 316(b)(1)(B)(ii) be a good faith effort to meet the application criteria established by the Board pursuant to section 301.

Subsection (j) places certain limitations on the authority of the Board to issue orders under this section. The prohibition in subsection (j)(2) does not apply to agency decisions and actions of general applicability.

SECTION 317—PROJECT SPECIFIC EXPEDITED CONGRESSIONAL REVIEW

The House amendment provided for expedited congressional review of changes in certain existing laws. The Conferees agreed to a substantially modified version of the House provision in order to accommodate the concerns of conferees from both the Senate and the House of Representatives.

Section 317 of the conference report authorizes the Board to recommend to the President and authorizes the President to recommend to Congress the suspension, modification or amendment of certain Federal statutes, rules, regulations and standards. The recommendation of the President can only take effect if approved by a joint resolution of Congress enacted using the procedures set forth in section 317. The authority under this section applies only to provisions that present a substantial impediment to the implementation of a Project. In determining what is a substantial impediment, the Conferees do not intend that the Board will issue an order under this section where reasonable alternatives exist, even if those alternatives are more costly, or where the delays or costs associated with compliance with any provision would not be unreasonable.

Subsection (a)(3) provides that the Board may exercise its authority under this section during the period beginning on the date of designation of the energy project as a Priority Energy Project and ending on the date of initial commercial operation thereof, as determined by the Board. Recognizing the diversity and complexity of energy projects which may qualify for priority designation, the Board shall exercise its discretion, on a case-by-case basis, in determining the point in time at which a Priority Energy Project commences full-scale commercial operation. Prior to such operation, many energy projects require testing and certification. The conferees intend that the Board recognize that Priority Energy Projects may require start-up, testing and preliminary operation before full-scale commercial operation is attained.

In the case of Projects that are not intended to operate commercially, the conferees intend the term "initial commercial operation" to mean full-scale operation of the Project for the purpose for which it is intended.

The conferees intend that the application referred to in clause 317(b)(1)(B)(ii) be a good faith effort to meet the application criteria established by the Board pursuant to section 301.

Paragraphs (f)(3) and (k)(3) require that the recommendations of the Board and the President contain certain terms and conditions. The Conferees intend that the Board and President include provisions for enforcing these terms and conditions in their recommendations.

Subsection (o) places certain prohibitions on the authority of the Board to issue orders under this section. The prohibition in subsection (o)(2) does not apply to agency actions and decisions of general applicability. These prohibitions are enforceable pursuant to judicial review under section 406.

TITLE IV—JUDICIAL REVIEW

SECTION 401–406

The Senate bill provided for judicial review of actions pursuant to this Act in the Temporary Emergency Court of Appeals. The House amendment provided for judicial review of final agency decisions covered by a Project Decision Schedule in the United States Court of Appeals. Both the Senate bill and House amendment specified procedures governing judicial review under this Act and both bills exempted certain decisions and actions from judicial review.

The conferees combined the Senate and House judicial review provisions with certain additions and modifications. Although the conferees deleted the specific reference in section 27(a) of the Senate bill to the authority of the Temporary Emergency Court of Appeals to set page limits on briefs and time limits for filing briefs, motions and other actions, they intend that the Court may use its existing authority in such fashion where it deems appropriate.

Section 401(b) provides that the Temporary Emergency Court of Appeals shall conduct its proceedings in the circuit in which the Priority Energy Project or a significant portion thereof would be located, but the provision authorizes the Court to hold its proceedings in other locations if such action would expedite the decision and be fair to all parties. The conferees do not intend that convenience to the Court be the sole criteria for determining whether another location would facilitate an expedited decision.

Section 403 identifies actions which are not subject to judicial review. Although the section prohibits judicial review of the Project Decision Schedule, agency decisions and actions subject to the Schedule are reviewable. The Conferees intend that when the Temporary Emergency Court of Appeals or a State court reviews an agency decision or action subject to the Schedule, or a Board decision or action in lieu of the agency under section 315, the Court may consider (1) whether the due process rights of the parties were protected and afforded and (2) whether the agency or the Board decision or action is consistent with all applicable laws (as may be modified pursuant to this Act).

TITLE V—MISCELLANEOUS PROVISIONS

SECTION 501—CERTIFICATION OF COMPLETED AGENCY REVIEW

The Senate bill authorized the Board to certify completion of the agency review process for any Priority Energy Project. The House amendment did not contain a comparable provision. Section 501 of the conference report is a modified version of the Senate provision. The Board and affected agencies must comply with the requirements of paragraphs (1)–(5) of subsection (a) only if the Board determines to issue a certificate.

SECTION 502—REPORTS OF THE BOARD

The Senate bill and House amendment contained provisions requiring the Board to report to Congress on a number of specified subjects. The agreement of the conferees, which combined elements of these provisions, is in section 502. Although the agreement of the conferees does not include section 14(a) of the Senate bill (relating to activities of the Director of the Office of Management and Budget), the conferees intend that the Director, pursuant to the Federal Reports Act and in consultation with the Board, will review the various Federal applications and reporting forms required of Priority Energy Projects in order to consolidate, to the extent practicable, Federal application and reporting requirements and to eliminate duplication.

SECTION 503—WATER LAW

The Senate bill and the House amendment contained identical provisions on the subject of water law which are set forth in section 503 of the conference report.

SECTION 504—THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

The Senate bill and the House amendment contained provisions clarifying the relationship between this Act and the Alaska Natural Gas Transportation Act of 1976. The Conferees agreed to accept the House provision, which is in section 504 of the conference report.

SECTION 505—AUTHORIZATION OF APPROPRIATIONS

The Senate bill and the House amendment authorized appropriations for carrying out this Act.

Section 505 of the conference report authorizes appropriations for carrying out the purposes of this Act, including an authorization for the Temporary Emergency Court of Appeals.

The conferees, in authorizing the Board to enter into contracts and use funds for such purposes, intend that the Board do so without the use of sole source contracts.

SECTION 506—EXPEDITED DECISIONS FOR ONSHORE DRILLING PERMITS

The Senate bill provided for expedited procedures for certain onshore drilling permits. The House amendment did not have a comparable provision. Section 506 of the conference report contains a modified version of the Senate provision. The provisions of this section apply to onshore Federal lands.

Notwithstanding the fact that this provision has not been extended to Federal leases on the Outer Continental Shelf, the conferees intend that the responsible Federal agencies take every effort to expedite decisions on leases for oil and gas in offshore Federal lands consistent with the Outer Continental Shelf Lands Act, as amended, to meet the energy needs of the Nation.

SECTION 507—EXPEDITED DECISIONS FOR ACTIVITIES ON ONSHORE FEDERAL LANDS

The Senate bill required Federal agencies with authority over applications for exploration and development on Federal land in connection with coal, oil or gas production to expedite their actions. The House amendment did not contain a comparable provision.

The Conferees agreed to a substantially modified version of the Senate provision, which is in section 507 of the conference report. The provisions of this section apply to onshore Federal lands.

SECTION 508—EFFECTIVE DATE

SECTION 508 of the conference report contains provisions for the promulgation of initial regulations by the Board.

Representative Anthony Moffett, although he signed the conference report on the part of the House, did so with reservations regarding sections 311, 312, 313, 315, 316 and 317.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
RICHARD OTTINGER,
PHILIP R. SHARP,
ANTHONY MOFFETT,
DAVID E. SATTERFIELD,
PHIL GRAMM,
JIM SANTINI,
JIM BROYHILL,
CLARENCE J. BROWN,
TOM LOEFFLER,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
JOHN A. DURKIN,
HOWARD M. METZENBAUM,
SPARK M. MATSUNAGA,
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PETE V. DOMENICI,
TED STEVENS,
HENRY BELLMON,
MALCOLM WALLOP,
Managers on the Part of the Senate.